

## Administrative Procedures – Final Proposed Rule Filing

### **Instructions:**

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms requiring a signature shall be original signatures of the appropriate adopting authority or authorized person, and all filings are to be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

**PLEASE REMOVE ANY COVERSHEET OR FORM NOT  
REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!**

**Certification Statement:** As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

**Child Care Licensing Regulations: Center Based Child Care and Preschool Programs**

\_\_\_\_\_/s/ Michael K. Smith\_\_\_\_\_, on 6/8/2020  
(signature) (date)

**Printed Name and Title:**

Michael K. Smith, Secretary  
Agency of Human Services

RECEIVED BY: \_\_\_\_\_

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary

1. TITLE OF RULE FILING:

**Child Care Licensing Regulations: Center Based Child Care and Preschool Programs**

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

20P-002

3. ADOPTING AGENCY:

Vermont Agency of Human Services, Department for Children & Families

4. PRIMARY CONTACT PERSON:

*(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).*

Name: Melissa Riegel-Garrett, Policy Director

Agency: Vermont Agency of Human Services, Department for Children & Families, Child Development Division

Mailing Address: NOB1, 280 State Drive, Waterbury, VT 05671-1040

Telephone: 802 989 - 9685 Fax: -

E-Mail: melissa.riegel-garrett@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://dcf.vermont.gov/cdd/laws-regs>

5. SECONDARY CONTACT PERSON:

*(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).*

Name: Christel Michaud

Agency: Vermont Agency of Human Services, Department for Children & Families, Child Development Division

Mailing Address: NOB1, 280 State Drive, Waterbury, VT 05671-1040

Telephone: 802 224 - 6940 Fax: 802 241 - 0848

E-Mail: christel.michaud@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

*(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE EXEMPTING IT FROM INSPECTION AND COPYING?)* Yes

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

Section 658H of the Child Care and Development Block Grant Act of 2014 (42 U.S.C. 9858f)

**PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:**

The law cited above governs criminal background checks for child care staff members. In complying with this federal law, the department may only provide the result of the background check to the program without revealing the basis for the decision. Background check results or information will not be publicly available.

**7. LEGAL AUTHORITY / ENABLING LEGISLATION:**

*(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).*

The legal authority/enabling legislation for these regulations is 3 V.S.A. § 801(b)(11) and 33 V.S.A. §§ 105(b) and 3502.

**8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:**

33 V.S.A. 105(b)(2) states that the Commissioner has the authority to "fix standards and issue regulations necessary to administer" the laws assigned to the Department. Under 33 V.S.A. § 3502, the Department is responsible for regulating child care facilities.

**9. THE FILING HAS CHANGED SINCE THE FILING OF THE PROPOSED RULE.**

**10. THE AGENCY HAS INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.**

**11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE NOT RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.**

**12. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.**

**13. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.**

**14. CONCISE SUMMARY (150 WORDS OR LESS):**

The proposed rule reduces duplication and adapts the rules for Public School Prekindergarten Programs (PSPP) and/or any Center Based Child Care and Preschool Programs (CBCCPP) located in a public school building.

## Final Proposed Coversheet

In addition, the department is making necessary changes to the breastfeeding regulations, background clearance regulations, CPR and first aid regulations, lead water testing regulations, provisional licensure regulations, and updating the name of the Community College of Vermont's professional development system. As a result of these amendments, the section 1.3 of CBCCPP regulations was amended to align with these changes.

### 15. EXPLANATION OF WHY THE RULE IS NECESSARY:

The Agency of Human Services is required to maintain and enforce these regulations by state statute. They are necessary to protect the health and safety of children in Center Based Child Care and Preschool Programs and to ensure that positive child development and learning are promoted in those programs.

### 16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

The proposed rule changes are based on the state and federal laws governing child care programs, and feedback from child care programs.

### 17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

All independent providers of out-of-home care not otherwise exempt from regulation;

Public schools that provide care to children of pre-kindergarten age;

Vermont Department for Children and Families in the Vermont Agency of Human Service

Vermont Department of Health in the Vermont Agency of Human Services;

Vermont Division of Fire Safety in the Vermont Department of Public Safety;

Vermont Crime Information Center in the Vermont Department of Public Safety;

Vermont Department of Environmental Conservation in the  
Vermont Agency of Natural Resources;

Vermont Agency of Education

Children, birth to 13 years, and their families.

18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

Vermont's 737 CBCCPPs are a critical support for many families in the workforce across Vermont. The operation of CBCCPPs requires an investment in space, equipment, materials and staffing. Most of the proposed revisions are based upon practice changes with minimal financial impacts. We anticipate both cost savings as well as minor additional costs related to these proposed revisions.

New Costs to child care programs include costs associated with meeting lead in drinking water regulations.

New Costs to the Department include: revisions to and production of the regulation manual and guidance document for licensing staff and providers, modifications of Bright Futures Information System (BFIS) data system.

19. A HEARING WAS HELD.

20. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 3/5/2020  
Time: 06:00 PM  
Street Address: 280 State Drive  
Zip Code: 05676

Date: 3/6/2020  
Time: 01:00 PM  
Street Address: 280 State Drive

Final Proposed Coversheet

Zip Code: 05676

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

3/13/2020

**KEYWORDS** (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

child care licensing

pre-kindergarten

child care licensing regulations

non-recurring programs

early childhood programs

child care

preschool

## Administrative Procedures – Adopting Page

### **Instructions:**

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

---

1. TITLE OF RULE FILING:

**Child Care Licensing Regulations: Center Based Child Care and Preschool Programs**

2. ADOPTING AGENCY:

Vermont Agency of Human Services, Department for Children & Families

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment as long as the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

**Adopting Page**

Log # 16-019, Child Care Licensing Regulations: Center Based Child Care and Preschool Programs, effective 09/01/2016

# Administrative Procedures – Economic Impact Analysis

## **Instructions:**

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

---

### 1. TITLE OF RULE FILING:

**Child Care Licensing Regulations: Center Based Child Care and Preschool Programs**

### 2. ADOPTING AGENCY:

Vermont Agency of Human Services, Department for Children & Families

### 3. CATEGORY OF AFFECTED PARTIES:

*LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:*

Center based Child Care and Preschool programs:  
independent providers of out-of-home care not otherwise exempt from regulation including Public schools that provide care to children of pre-kindergarten age and Programs providing child care services to non-recurring clientele

## Economic Impact Analysis

- o Costs per CBCCPP rule 5.10.2.1.2. which requires at least one (1) outlet meet the Vermont lead in drinking water standards or bottled water to be used for drinking, cooking purposes and brushing teeth. Costs will vary by program depending on mitigation needs which can include: no mitigation required, ongoing use of bottled drinking water, and/or replacing a tap and the associated plumbing.
- o Savings per CBCCPP rule 6.2.1.8 which allows designated auxiliary staff to not have to complete 15 hours of annual professional development training for the department's Child Development Division.
- o Savings per CBCCPP rule 7.4.4 reducing the occurrence of substitutes having to complete 15 hours of annual professional development training for CDD. This is much more significant (than previous item) and applies to all CBCCPP including those who have sought variances for this due to the limited number of times a substitute is used during the year.
- o Savings to all multi-site licensees who may now all use the notarized affidavit in place of making duplicate copies of staff's files to have at all sites a staff member may work.

Vermont Department for Children and Families in the Vermont Agency of Human Services

Costs: Printing new CBCCPP regulations and guidance manuals

Savings: Elimination of department staff payroll for processing partner staff variances due to changes of CBCCPP rule 2.2.52

#### 4. IMPACT ON SCHOOLS:

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:*

Costs per CBCCPP rule 5.10.2.1.2. which requires at least one (1) outlet meet the Vermont lead in drinking water standards or bottled water to be used for drinking, cooking purposes and brushing teeth. Costs

## Economic Impact Analysis

will vary by program depending on mitigation needs which can include: no mitigation required, ongoing use of bottled drinking water, and/or replacing a tap and the associated plumbing.

Cost savings for public schools who may more easily use principals as the program director and not have to declare a business manager per CBCCCPP rules 8.2.7 - 8.2.9

Cost savings per CBCCCPP rule 6.2.1.8 which allows designated auxiliary staff to not have to complete 15 hours of annual professional development training for department's Child Development Division.

Cost savings per CBCCCPP rule 7.4.4 reducing the occurrence of substitutes having to complete 15 hours of annual professional development training for CDD. This is much more significant (than previous item) and applies to all CBCCCPP including those who have sought variances for this due to the limited number of times a substitute is used during the year.

### 5. ALTERNATIVES: *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

The proposed rules are based upon practice changes that reduced duplication and/or adapted regulations for Public School Prekindergarten Programs (PSPP) and/or any CBCCCPPs located in a public school building. The alleviation of unintended challenges for CBCCCPPs has positive financial impacts for local school districts. No alternatives to the rule would reduce or ameliorate costs to local school districts.

### 6. IMPACT ON SMALL BUSINESSES:

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):*

Center based Child Care programs are small businesses that are independent providers of out-of-home care not otherwise exempt from regulation.

o Costs per CBCCCPP rule 5.10.2.1.2. which requires at least one (1) outlet meet the Vermont lead in drinking

## Economic Impact Analysis

water standards or bottled water to be used for drinking, cooking purposes and brushing teeth. Costs will vary by program depending on mitigation needs which can include: no mitigation required, ongoing use of bottled drinking water, and/or replacing a tap and the associated plumbing.

Savings per CBCCPP rule 6.2.1.8 which allows designated auxiliary staff to not have to complete 15 hours of annual professional development training for the department's Child Development Division.

- o Savings per CBCCPP rule 7.4.4 reducing the occurrence of substitutes having to complete 15 hours of annual professional development training for the department's Child Development Division. This is much more significant (than previous item) and applies to all CBCCPP including those who have sought variances for this due to the limited number of times a substitute is used during the year.

- o Savings to all multi-site licensees who may now all use the notarized affidavit in place of making duplicate copies of staff's files to have at all sites a staff member may work.

### 7. **SMALL BUSINESS COMPLIANCE: *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.***

Reducing Cost/burden of compliance with the Lead in Drinking water regulation will take place on an individual business level. Options for mitigation will vary by program and may include ongoing use of bottled drinking water and/or a single tap replacement.

Most of the proposed rule changes will either have a neutral or positive economic impact on small business child care programs, and therefore, an evaluation of ways a business can reduce the cost/burden of compliance is inapplicable.

### 8. **COMPARISON:**

*COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:*

The economic impact of this rule amendment is positive

## Economic Impact Analysis

compared to no rule change. If these changes were not adopted, CBCCPPs would not receive the positive impact of reduced duplication and/or adapted regulations for Public School Prekindergarten Programs (PSPP) and/or any CBCCPP located in a public school building.

### 9. SUFFICIENCY: *EXPLAIN THE SUFFICIENCY OF THIS ECONOMIC IMPACT ANALYSIS.*

These revisions are based upon practice changes and as such have minimal financial impacts. Cost savings cannot be enumerated in dollar amounts because salaries are different, volume of staff impacted is different, and scope is different for every program. Therefore, the departments focus on type of financial impact as compared to dollars to evaluate the economic impact on parties impacted by the adoption of this rule change is sufficient.

# Administrative Procedures – Environmental Impact Analysis

## **Instructions:**

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

---

### 1. TITLE OF RULE FILING:

**Child Care Licensing Regulations: Center Based Child Care and Preschool Programs**

### 2. ADOPTING AGENCY:

Vermont Agency of Human Services, Department for Children & Families

### 3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*

No impact.

### 4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*

No impact.

### 5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*

No impact.

### 6. RECREATION: *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*

No impact.

Environmental Impact Analysis

7. **CLIMATE:** *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*

No impact.

8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*

No impact.

9. **SUFFICIENCY:** *EXPLAIN THE SUFFICIENCY OF THIS ENVIRONMENTAL IMPACT ANALYSIS.*

The proposed rule relates to the health and safety standards to meet child care licensing requirements and has no impact on any of the above areas, and therefore, this analysis sufficiently captures that there will be no environmental impact.

## Administrative Procedures – Public Input

### **Instructions:**

In completing the public input statement, an agency describes the strategy prescribed by ICAR to maximize public input, what it did do, or will do to comply with that plan to maximize the involvement of the public in the development of the rule.

This form must accompany each filing made during the rulemaking process:

---

#### 1. TITLE OF RULE FILING:

**Child Care Licensing Regulations: Center Based Child Care and Preschool Programs**

#### 2. ADOPTING AGENCY:

Vermont Agency of Human Services, Department for Children & Families

#### 3. PLEASE DESCRIBE THE STRATEGY PRESCRIBED BY ICAR TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE:

Collect feedback from those impacted by the rule, hold stakeholder committee meetings, and distribute information about proposed changes to those impacted by the rule.

#### 4. PLEASE LIST THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

Feedback Collector Tool: Hosted on the Divisions website is an ongoing opportunity for public input into existing child care regulations. Comments submitted on the on-going collector tool were considered by the Stakeholder Committee in their process to make recommendations on revisions to these Rules. This Step has been completed.

<https://dcf.vermont.gov/cdd/laws-regs/childcare>

Public School Prekindergarten Program Stakeholder Committee Meetings: This work group met from November 2018 until April 2019 to review regulations. The work

## Public Input

group consulted with content experts and proposed revisions. This step has been completed.

Distribution of information about proposed changes:

The draft of proposed regulation revisions has been with all work group members and stakeholders. The department will post the proposed regulation revisions on the Child Development Division's website with information on the current phase of the promulgation process and with a survey collector tool to collect written feedback on the regulations.

### 5. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

28 Public School Prekindergarten Program stakeholders participated in a work group to recommend regulation revisions to the Division. Prekindergarten Program stakeholders from around the state included individuals from Public School Prekindergarten Programs (licensed under the CBCCPP regulations) and representatives from Let's Grow Kids, Agency of Education and Head Start Programs.

The department's Child Development Division has also consulted with representatives from Vermont Department of Health, Agency of Education, Agency of Natural Resources, Division of Fire Safety, and other content experts.

All Center Based Child Care and Preschool Programs licensed by the Division will be notified of the proposed regulation revisions and provided opportunities to respond to the proposed revisions.

