

**Vermont Agency of Human Services**  
**Department of Corrections Final Adopted Rule #11-002**  
**DOC Policy #259**  
*Procedure and Criteria for Obtaining an Exemption from*  
*the Sex Offender Internet Registry - Out of State Convictions*  
**Effective: February 3, 2011**

**1. AUTHORITY**

2010, No. 66, §4, eff. July 1, 2010; 13 V.S.A. §5401, Subchapter 3 of Chapter 167 *et seq.*, “Sex Offender Registration; Law Enforcement Notification”.

**2. PURPOSE**

The purpose of this administrative rule is to expand the list of sex offenders who are eligible to petition for an exemption under §11(3)(C) of Act 58 of the 2009 legislative session, granting an exemption from the Sex Offender Internet Registry to eligible offenders who have successfully reintegrated into the community.

**3. APPLICABILITY/ACCESSIBILITY**

This rule is applicable to all individuals and groups affected by the operations of the Vermont Department of Corrections, the Sex Offender Registry, and the Vermont Criminal Information Center. Anyone may have access to this rule.

**4. DEFINITIONS**

Commissioner: The Commissioner of the Department of Corrections.

Department: The Department of Corrections.

Eligible Offender: A person, convicted of a sexual crime prior to July 1, 2009 in any jurisdiction of the United States other than Vermont, including a state, territory, commonwealth, the District of Columbia, or military, federal, or tribal court who is not under the supervision of the Vermont Department of Corrections and whose conviction requires compliance with the terms of subchapter 3 of chapter 167 of Title 13.

Index Offense: The offense(s) that require(s) compliance with the terms of subchapter 3 of chapter 167 of Title 13.

Petition: The application form and supplemental materials that must be filed by an eligible offender with the Sex Offender Review Committee in order to be considered for an exemption from the Sex Offender Internet Registry. An incomplete petition will not be considered.

Sex Offender Review Committee: The Committee established in Section 5 of the Department of Corrections APA Rule #05-013, *Determination of High Risk and Failure to Comply with Treatment for Purposes of Sex Offender Internet Registry*.

Sex Offender Internet Registry: The database of information, maintained by the Department of Public Safety pursuant to 13 V.S.A. §5411(a), that is publicly accessible through the Internet.

**5. POLICY**

a. The Commissioner will review all determinations of the Sex Offender Review Committee on offender petitions for exemption from the Sex Offender Internet Registry.

b. The Commissioner will consider the decision of the Sex Offender Review Committee using the following criteria to assess whether the eligible offender has successfully reintegrated into the community.

i. Whether the offender has any charges, plea agreements, or convictions for a period of five (5) years prior to the effective date of the final version of this rule, of any of the following:

a) A felony offense

b) An offense with a sexual element

c) A furlough/probation/parole/protection order violation;

ii. Whether the offender has complied with, and successfully completed all treatment recommended by any jurisdiction in which a prior offense was committed;

iii. Whether the offender has any sex offense convictions in any jurisdiction prior to the index offense;

iv. Whether the offender's family and other social supports are positive and prosocial;

v. Whether the offender's employment and residence status are stable.

c. If an eligible offender is included on a Sex Offender Internet Registry in another jurisdiction, the offender will not be entitled to an exemption under this rule unless one (1) of the two (2) criteria below applies. The offender will not be posted on the Vermont Internet Registry, per 13 V.S.A § 5411a, if:

- The offender's index offense was a misdemeanor punishable by less than six (6) months of imprisonment, or

- The offender's index offense was a criminal act solely due to the age of the victim and the offender was under the age of eighteen (18) and the victim at least twelve (12) years old at the time of the offense.

**6. PROCESS**

a. The eligible offender is responsible for submitting a complete petition, including the following items:

i. Available information and documentation regarding the nature and circumstances of the offense and sentence from the jurisdiction where the offense occurred;

- ii. Documentation of residence and employment for the previous five (5) years.
    - iii. Actions undertaken by the Committee and the Commissioner are based on the information provided by the eligible offender. An offender's failure to provide complete and up-to-date information may result in posting on the Sex Offender Internet Registry even if an exemption may apply.
  - b. The Sex Offender Review Committee shall make written findings on each petition for an exemption after review of a completed petition. The Sex Offender Review Committee shall deliver to the Commissioner its written findings within one (1) week after its findings are made.
  - c. Where the preponderance of the evidence supports the Sex Offender Review Committee's conclusion over whether the eligible offender has successfully reintegrated into the community, the Commissioner will approve the Sex Offender Review Committee's decision. The Commissioner will review each written decision from the Sex Offender Review Committee within thirty (30) days of receiving the decision.
  - d. The Commissioner shall return to the Sex Offender Review Committee any decision in which the Committee has not provided a sufficient basis for review. The Committee shall provide the Commissioner additional written explanation of the evidence upon which it relied within fifteen (15) days. The Commissioner will then render a decision.
  - e. The Commissioner shall deliver to the Sex Offender Review Committee, the Department of Public Safety, and the eligible offender his/her determination, as well as the Sex Offender Review Committee's written findings.
  - f. *Appeal*: Where an eligible offender's petition for exemption from the Registry is denied, an appeal to Vermont Superior Court is available through Vermont Rule of Civil Procedure 75.