

2021 RULEMAKING ACTIONS - IMPORTANT DATES AND DEADLINES

SESSION DATES

The 2021 legislative session will convene on Monday, January 5, and will recess until Monday, February 1. The Legislature will adjourn sine die no later than Friday, May 28.

PUBLISHING NRI'S FOR 2021 RULEMAKING

For 2021 permanent rules, agencies should publish their Notices of Rulemaking Intent (NRI) in the Register by **February 16¹ (submission deadline January 25)**, to have enough time to complete a 30-day comment period, hold a public hearing, adopt the rules, and submit them to the Legislature and Governor via the State Online Filing System by April 1¹ (see APRIL FOOL'S DEADLINE below). However, be aware that, in some cases, an even earlier publication date may be needed (see ² below).

¹ Although not recommended, it is theoretically possible to publish an NRI as late as March 1 this year (submission deadline February 8). HOWEVER, you would not only have to schedule your hearing and the close of your comment period for March 31 or April 1, but you would have to be prepared to follow that up by adopting the rules and filing them online with the Governor/Legislature by the next or same day (April 1).

² If your agency's rules are adopted by a board or commission, rather than an individual officer (like the State Treasurer or Secretary of State), the meeting schedule of the board/commission must also be considered. In some cases, because of board/commission meeting dates, the February 16 issue may be too late for publishing the NRI --- e.g., if the board or commission is not scheduled to meet between March 18 (the last day of the 30-day comment period for an NRI published on February 16) and April 1, the NRI would need to be published in an earlier issue of the Register, to allow enough time for the 30-day comment period/public hearing to be completed and the board/commission to adopt the rules by April 1. [For earlier issue dates/deadlines for NRI's, see Schedules of Register Publication Dates/Filing Deadlines Volume 38 - For All Other Documents (other than Permanent Rule Documents) at <https://www.sos.ok.gov/forms/oar/DEADLINE21.pdf>.]

EXECUTIVE ORDER 2019-11 REMINDER

Pursuant to Executive Order 2019-11, every agency must, simultaneously with filing an NRI with the OAR, email the proposed permanent rule(s) and the NRI to the agency's Cabinet Secretary and the Governor's office.

APRIL FOOL'S DEADLINE/REVIEW PERIODS

Each year, April 1 is a critical date in the permanent rulemaking process:

- **REVIEW PERIOD if filed on or before April 1** - If proposed permanent rules are adopted and submitted for legislative review on or before April 1 (and within 10 days after adoption), the Legislature will have until the end of the current legislative session to review the rules.
- **REVIEW PERIOD if filed after April 1** - If proposed permanent rules are adopted and submitted for legislative review after April 1 (and within 10 days after adoption), the Legislature will have until the end of the next legislative session to review the rules.

LEGISLATIVE APPROVAL/DISAPPROVAL

Proposed permanent rules can be approved or disapproved, in whole or in part, by joint or omnibus resolution of the Legislature³ at any time during the review period (to determine "review period," see April Fool's Deadline above).

³ Note, however, that joint and omnibus joint resolutions must not only be passed by both houses of the Legislature, but must also be signed by the Governor before the rules can be considered approved/disapproved - or, if a resolution is vetoed by the Governor, the Legislature must override the gubernatorial veto. So, the mere passage of a joint or omnibus resolution approving/disapproving your rules by both the House and the Senate does not constitute legislative approval/disapproval of your rules.

FINAL ADOPTION

The rules are considered finally adopted when the Governor signs the Legislature's joint or omnibus resolution approving the rules - or when both houses of the Legislature have voted to override a veto of the resolution. However, if the Legislature fails to send an omnibus resolution to the Governor prior to the end of any legislative session, the Governor may issue a Governor's Declaration declaring proposed permanent rules submitted by April 1 to be approved and finally adopted as of the date the Declaration is signed by the Governor. By law, a Governor's Declaration must be published in the Register no later than July 17. In 2021, the mid-July issue of the Register will be published on July 15, with a submission deadline of June 25. Therefore, if a Governor's Declaration is needed in 2021, the Governor will need to issue and submit the Declaration to the OAR by June 25.