

MEETING – RULEMAKING LIAISONS  
April 8, 2005

I. INTRODUCTIONS

Ted Rossier, Counsel to House Government Reform, Agency Oversight and Administrative Rules Committee  
Stephen Cortes, Deputy General Counsel to Governor  
Don Hackler, Coordinator, Small Business Regulatory Review Committee  
Peggy Coe, Managing Editor, SOS/OAR  
Rulemaking liaisons and other attendees

II. ACTIVE APA-RELATED BILLS (AS OF 4/7/05)

**HB 1550** (Wright; Easley) --- **4/6/05 Do Pass as amended Judiciary Committee (Senate)**

- # Requires agencies that are exempt from all or part of the APA to conduct an internal review of rules by December 31, 2005.
- # Provides Legislature 30 legislative days, rather than 30 calendar days, from the start of the next legislative session to disapprove preemptive rules.
- # Provides for distribution of Code and supplements on compact disc, as an alternative to print, to those officials entitled to receive copies at no charge.
- # Requires distribution of copies of Code and supplements at no charge to chair and vice-chair of House's Government Reform, Agency Oversight, and Administrative Rules Committee
- # Reduces number of persons needed to demand a hearing, when one is not already scheduled, from "at least 25 persons" to "at least 10 persons."

**HB 1323** (Young; Leftwich) --- **3/21/05 Do Pass Business and Labor Committee (Senate)**

- # Amends references in Small Business Regulatory Flexibility Act to reflect new names of Senate and House committees.

**SB 473** (Capps; Braddock) --- **3/9/05 Referred to Rules Committee (House)**

- # Removes a limited Article 2 exemption for OPM.

**SB 537** (Adelson; Balkman) --- **3/22/05 Referred to Health and Human Services Committee (House)**

- # Authorizes Health Care Authority to promulgate preemptive rules.

III. LEGISLATIVE DAYS; EFFECT OF DISCREPANCY BETWEEN HOUSE AND SENATE CALENDARS - So far this year, the House has met two more days than the Senate - Friday, March 11 and Thursday, March 24 (before Easter). However, because "legislative approval" of rules requires approval by both houses of the Legislature, and because "legislative approval" occurs following the expiration of a 30-legislative-day review period (if not otherwise specifically approved or disapproved), the calendar of the legislative body which has met the fewer number of days is used to determine the date on which rules are considered approved by the Legislature. So, at this point, we are using the Senate's calendar to confirm the legislative approval date of rules. And,

March 30. And, for rules filed from January 4 through February 4, the confirmed legislative approval date was March 31. For rules filed after February 4, check the schedule on our website ([www.sos.state.ok.us/oar/oar\\_info.htm](http://www.sos.state.ok.us/oar/oar_info.htm)). This schedule is periodically updated with newly-confirmed dates; estimated dates are *italicized* and confirmed dates are **bolded**. *[Note that the final adoption date is usually the same day as the legislative approval date, since the Governor's 45-calendar-day review period is typically shorter than the Legislature's 30-legislative-day review period.]*

- B. **Earliest possible effective dates** - A schedule of earliest possible effective dates for 2005 permanent rules, based on the *Register* issue in which the permanent rule document will be published, is also available on the website. For "early submissions" (i.e., rules filed with the Legislature on or before February 4 and considered finally adopted on March 30 or 31), the earliest possible effective date is May 12 - **IF** the finally adopted rules are filed with the OAR by April 8 for publication in the May 2 issue of the *Register*.

*[Note: To find the earliest possible effective date for rules filed with the OAR after April 8, check the schedule of Register publication dates and filing deadlines under "Informational Materials" on our website. Based on the date you intend to file your finally adopted rules with the OAR, find the issue in which the rules will be published. Then check that issue date in the schedule of Earliest Possible Effective Dates to determine the earliest possible effective date for those rules.]*

- C. **Expiration of emergency rules** - A reminder for agencies with emergency rules that will expire on July 15, 2005 . . . . To avoid a gap in effectiveness between the emergency rules and the permanent rules that are intended to supersede them, you need to file the finally adopted permanent rules with the OAR **by June 9**, as well as within 30 calendar days after final adoption. If filed by June 9, the rules can be published in the July 1 issue of the *Register*, with an effective date of July 11, 12, 13, 14, or 15.

- V. **FILING PERMANENT RULE DOCUMENTS** - Each year, over 90% of all permanent rule documents are filed by agencies in April, May, and June, so this is a good time to remind everyone about "Tips and Reminders for Filing Permanent Rule Documents" and "Typing Requirements and Restrictions" on our website. In particular, note a couple of things that might save you a return trip to the OAR:

- A. Remember to bring a **disk copy** of your filing. And, try opening the file from the disk before leaving . . . if the file or disk is corrupted, you'll have saved yourself another trip to the OAR.
- B. Remember to return the **red-marked pages (RMP's) or format-approved pages (FAP's)** with the filing. You should have received these from us during,

disapprove rules at any time, so the expiration of the 30-legislative-day review period does not ensure that rules will not be disapproved. And, if a resolution to disapprove the rules has already been introduced, there is a greater likelihood that disapproval will occur. If the agency, therefore, waits the 30 calendar days allowed, rather than rushing to file the finally adopted rules for publication, the possibility of disapproved rules being incorrectly published as approved rules is greatly reduced.

- VII. MULTIPLE ACTIONS ON THE SAME RULE** - If your agency has initiated more than one permanent action on the same Section or Appendix this year, please call the OAR as soon as possible. If caught early enough, there may be something we can do to avoid later confusion and to help ensure the outcome desired by the agency.
- VIII. LIAISON EMAIL ADDRESSES** - If you aren't yet on our email list, and you would like to be, give us a call and we'll be happy to send you the form for signing up.
- IX. NEXT MEETING** - Since it is very difficult to find meeting rooms during May (the last month of the legislative session), we typically wait until July to schedule our next meeting. As usual, notices to confirm the date and location of the meeting will be sent to agency liaisons.

**Are you interested in attending the NASS/ACR conference in July???**

*The Administrative Codes and Registers (ACR) Section of the National Association of Secretaries of State (NASS) was originally organized for the editors and publishers of Codes and Registers, since the responsibility for publishing the Code and Register falls under the jurisdiction of the Secretary of State in the majority of the states. However, over the last several years, the ACR group has made a real effort to expand its membership to include regulatory agencies and rule reviewers.*

*ACR holds annual summer conferences that offer a full schedule of meetings and presentations, covering many different aspects of the rulemaking process. Networking among state rules personnel is an important objective of these conferences, and the expanded membership and focus has definitely improved the dialogue. I've attended a number of conferences, and always come away with new ideas and a better understanding of what other states are doing. I've learned that we - i.e., Code/Register offices as well as regulatory agencies in the various states - are all facing surprisingly similar problems and challenges . . . keeping up with (or more accurately, trying to keep up with) technological advances and expectations, adjusting to changes in the makeup of*

## FILING PERMANENT RULE DOCUMENTS - TIPS AND REMINDERS . . .

- A. **Taglines are not required in preambles . . .** When listing section numbers in the preamble, you don't have to include taglines --- if you do, however, they must be accurate and they must include any strikeouts and underscoring being used to amend those taglines.
- B. **Are there 30 or more sections/appendices???** When a rule document contains 30 or more sections and/or appendices, you don't have to list all the numbers in the preamble --- instead, you can simply identify the Chapter number and heading, and its status (i.e., [NEW], [AMENDED], or [REVOKED]). If you do elect to list all the affected sections/appendices, however, they must be accurate.
- C. **Did you include any applicable Subchapters/Parts???** When listing the affected rules under RULES in the preamble, include any applicable Subchapter and Part numbers and headings and, if a heading is being amended in the regulatory text, it must be shown with those same strikeouts and underscoring when listed in the preamble.
- D. **Are any emergency rules being superseded???** If any emergency rules will be superseded by the permanent rules, remember to include this information under SUPERSEDED EMERGENCY ACTIONS (and its four subheadings) in the preamble. It's critical for OAR and the public to know that the permanent rules will supersede emergency rules.
- E. **Is your formatting up-to-date???** If your agency has set up some kind of standard forms or templates to use when preparing rule document preambles (or any other filings for the OAR), and you've been using the same ones for a couple of years, please take the time to check them against the formatting in the most recent *Examples of Document Formats*. OAR staff spend a considerable amount of time correcting the formatting of filings, and since we try to rarely, if ever, reject a filing, we fix these problems for the agencies instead of calling or returning the filings. Here are some of the more common formatting errors:
1. *Information under headings* - Information supplied under a heading or a subheading in the preamble (as well as in notices) should begin under the heading or subheading (i.e., on the line below the heading/subheading), rather than on the same line - and only the first line of each block of information supplied under a heading/subheading should be indented.
  2. *Capitalization in rules listed* - Chapter, Subchapter, Part, and Appendix headings, when listed under RULES in a preamble or a notice, should be in initial caps, not all caps. And, unless usage requires otherwise, only the first word of a Section tagline is in initial caps. Statuses that follow headings and taglines (i.e., [AMENDED], [NEW], [REVOKED], etc.) should be in all caps.
  3. *Bolding in rules listed* - Chapter, Subchapter, Part, Section, and Appendix numbers and headings/taglines, when listed under RULES in a preamble or a notice, should not be bolded. Statuses should also not be bolded.
- F. **And, before you head out . . .** Before heading over to file your documents with the OAR . . .
1. Check the disk to make sure the files you've saved will actually open - it could save you another trip.
  2. Check to make sure you have everything you must file for each permanent rule document:
    - a. Two sets of paper copies of the following, and each set should be compiled in the following order:
      - i. the transmittal sheet, and
      - ii. the permanent rule document, which contains:
        - < a document heading
        - < a preamble
        - < an enacting clause
        - < the regulatory text

