

MEETING – RULEMAKING LIAISONS

January 23, 2004

I. INTRODUCTIONS

Ellen Phillips, Counsel to House Government Operations, Agency Oversight and Administrative Rules Committee

Stephen Cortes, Deputy General Counsel to Governor

Michelle Sutton, Coordinator, Small Business Regulatory Review Committee

Peggy Coe, Managing Editor, SOS/OAR

Rulemaking liaisons and other attendees

II. ACTIVE APA-RELATED BILLS (As of 1/22/04)

SB 889 (Crutchfield) --- PRE-FILED

? Clarifies that, when the tenth day after Register publication falls on a weekend or holiday, the effective date of permanent rules can occur on the tenth day rather than be extended to the first working day following the tenth day.

HB 1818 (Leist) --- CARRYOVER

? Revises emergency rulemaking criteria and procedures

III. 2004 SESSION DATES – This year, the Legislature will convene on Monday, February 2, and must adjourn no later than Friday, May 28.

IV. 2004 RULES – UPCOMING DATES AND DEADLINES

A. **Publishing an NRI** - If your agency is planning permanent rulemaking this year and has not yet filed the NRI(s) for publication in the *Register*, your most imminent deadline is January 23 (yes, that's today) or, if you're lucky, February 6. January 23 is the filing deadline for the February 17 issue of the *Register* and February 6 is the filing deadline for the March 1 issue. If you wait and publish your NRI in the March 1 issue, however, the 30-day comment period will have to run until March 31, leaving you only one day to adopt the rules, complete the paperwork, and file the adopted rules with the Governor and Legislature by April 1 (see also information on the April Fools deadline in C. below).

B. **Estimated final adoption date for "pre-session" filings; earliest possible effective dates** - This year, the estimated final adoption date for permanent rules that were filed for review with the Governor/Legislature **prior to the start of session** (i.e., prior to February 2) is March 24. The earliest possible effective date for these "pre-session" filings, therefore, is April 26 - i.e., if you file with the OAR by March 26 for publication in the April 15 issue. Here are your options this year for submitting permanent rule documents for pre-session filings:

? If you file the permanent rule document by March 26, it will be published in the April 15 issue, and can become effective as early as April 26.

? If you file the permanent rule document by April 9, it will be published in the May 3 issue, and can become effective as early as May 13.

? If you file the permanent rule document by April 23, which is the 30th calendar day following the estimated final adoption date for pre-session filings,* it will be

published in the May 17 issue, and can become effective as early as May 27.

***Note:** The APA allows agencies 30 calendar days following the date of final adoption to prepare and file the permanent rule document with the OAR - and April 23 is the 30th day for rules finally adopted on March 24 (the estimated final adoption date for pre-session filings).

- C. **April Fool's deadline** - April 1 falls on a Thursday this year, rather than on a weekend - so agencies can actually file rules through April 1 this year. Also, since Easter falls in April instead of March this year, it will not impact the availability of filing days immediately before April 1.
 - D. **Easter "break"** - Both houses of the Legislature typically close for Good Friday - and the Senate typically closes on the Thursday before Easter. This year, Easter falls on April 11, so the Senate will probably be closed on Thursday and Friday, April 8 and 9, and the House will probably close on Friday, April 9. Be aware that, if this occurs, these days will not be "legislative days" and should not be included when counting your 30-legislative-day review period.
 - E. **More information on website** - For additional information on "important dates and deadlines" for 2004 rules, go to "Informational Materials" on our website at www.sos.state.ok.us/oar/oar_welcome.
- V. PROPOSED AMENDMENTS TO ARR - The Secretary of State will be announcing proposed amendments to the ARR in an NRI to be published in the February 2 *Register*. The public hearing is scheduled for 9:00 a.m. on Wednesday, March 3 in Room 214 at the Will Rogers Building. The proposed changes should have little, if any, impact on the regulatory agencies. In general, they would eliminate obsolete provisions related to local project announcements and update certain provisions to reflect current statutes and practices related to the distribution of the *Code/Supplement* to county clerks each year, publication of the schedule of filing deadlines for each new volume of the *Register*, and handling of open records requests for *Register* filings that have not yet been "officially" published. The proposals also would change the serialization dates of a "*Register* year" to match the "*Code/Supplement* year." The following is a more detailed description of the proposed revisions:
- ? All requirements and references related to publishing local project funding contract announcements are being deleted as obsolete. Because EO 1995-26 was not continued by Governor Henry last year in EO 2003-7, local project funding contract announcements are no longer required to be published in the Oklahoma Register.
 - ? The provision establishing annual serialization of the Oklahoma Register is being revised so that "Register volumes" match "Code/Supplement years." Instead of running from November 1 to October 31, Register volumes would begin and end each year based on the closing date established by statute [75:256(B)(1)] for the annual Code/Supplement.
 - ? The provision stating that a "schedule of filing deadlines" is published in each issue of the Register is being replaced with a provision identifying the current practice of publishing a "schedule of publication dates and filing deadlines" on the Secretary of State's website.
 - ? A procedure is being added for handling open records requests for copies of documents that have been filed with the Office of Administrative Rules but have not yet been published in the Register as "official."
 - ? Provisions related to the distribution of free copies of the Code/Supplement to county clerks, as set forth in the APA [75 O.S., Section 257.1(B)], are being updated to reflect current methods of implementation. The statute states that county clerks are "entitled to receive" a copy of each year's Code/Supplement, and since the Code/Supplement is now available on

cdrom as well as in print, county clerks are now being given the option each year of either receiving the Code/Supplement in print or on cdrom, or waiving their right to receive a free copy.

VI. WORD PROCESSING UPDATE - The OAR now has Word 2000 . . . so, if you use Word 2000 (or a later version of Word) to create your documents, you can start saving them to the disk in Word 2000 rather than in Word 6 or WordPerfect. If you use an earlier version of Word, you can continue to save your documents to the disk in Word 6 or WordPerfect 6.1, 6.0, or 5x. And, of course, since the OAR still works on the documents in WordPerfect 6.1 (because of our outdated, but functional, tagging software), you can continue to use WordPerfect and save your documents to the disk in WordPerfect 6.1, 6.0, or 5x. For the time being, we continue to have more success with documents that are created using WordPerfect, since there are considerably fewer conversion problems for us. However, we are still anticipating the development of a Word-based filing/tagging process, so we still expect that we'll be switching to exclusive use of Word in the future.

So, what's the bottom line??? If you're using WordPerfect, we prefer you continue to use WordPerfect for now if possible. However, if you're planning for the future, go ahead and switch to Word. And, if you use Word to create your documents, we can now accept them (and prefer them) in Word 2000. If you're not sure about how to proceed, feel free to contact us.

VII. REVISIONS TO "INFORMATIONAL MATERIALS" - Several items under "Informational Materials" on our website were updated recently after being revised for the packets handed out at the annual seminar in December. However, these revisions, which were intended to improve readability and enhance the usefulness of the materials, are fairly insignificant . . . no changes were made to procedures or formatting requirements. In particular, note the following specific enhancements or clarifications:

- ? *Checklist for PERMANENT Rulemaking* - For your convenience, cross references to applicable examples in *Examples of Document Formats* were added throughout the checklist.
- ? *Checklist for EMERGENCY Rulemaking* - Information was added identifying when a Notice of Withdrawal for emergency rules is required and when it is too late in the process to withdraw emergency rules. Also, as with the permanent rule checklist, cross references to applicable examples in *Examples of Document Formats* were added throughout.
- ? *Administrative Rules on Rulemaking* - The table of contents at the beginning, which previously identified only the Subchapters, was replaced with a comprehensive table of contents which identifies all Parts and Sections, so the user can see all the topics without having to go back and forth to each Subchapter. Also, because Local Project Funding Contract Announcements are no longer required to be published in the Register, an Agency Note was added to identify section 655:10-7-45 as an obsolete section.
- ? *Examples of Document Formats* - The five examples of NRI's (2A thru 2E) were changed slightly so that they illustrate all the different options for identifying the proposed rules (i.e., each section, Subchapters only, Chapter only), as well as various wording options for identifying when the rule impact statement will be available (as described in footnote 7). Also, the Local Project Funding Contract Announcement example was deleted, since these are no longer filed with the OAR, and an example called Regulatory Text was added (see Example 14) to illustrate new, amended, amended and renumbered, revoked, and reserved sections, as well as a revoked and reenacted Appendix.

- ? *Typing Requirements and Restrictions* - Under "Word Processing Software," the information about Word 2000 was added (see VI. above).
- ? *Filing PERMANENT Rule Documents - Tips and Reminders*: Information about Word 2000 was added under F.b.
- ? *List of Acronyms* - A list of commonly-used acronyms was added, including acronyms used for the various types of *Register* filings. You can use these acronyms when identifying the type of filing on the diskette submitted with the filing.

VIII. OKLAHOMA LEGISLATIVE INFORMATION SYSTEM - The Senate has announced that it will be conducting two training sessions on the Oklahoma Legislative Information System. The announcement on the Legislative Service Bureau's website says that "[t]he training will consist of web access to bills, committee reports, daily agendas, meeting notices, calendars, and other useful information The sessions are open to all who are interested in learning about the system. You may attend any session and it is not necessary to sign up." The sessions are scheduled for January 20 and January 29 at 10:00 a.m. in Room 419-C at the State Capitol. If you would like to confirm these dates and times prior to attending a session, we recommend checking the LSB's website at www.lsb.state.ok.us.

IX. NEXT MEETING - Our next meeting is tentatively scheduled for March 19. Notices to confirm the date and location of the meeting will be sent to agency liaisons.