

Checklist for PERMANENT Rulemaking

under
Oklahoma's Rulemaking Process

*For use with the Secretary of State's
Administrative Rules on Rulemaking [OAC 655:10]*

Revised 12-16-16

(to correct cross reference in Step 8 on page A-4)

These checklists are NOT RULES, but have been prepared by the Office of Administrative Rules to assist rulemaking entities in meeting their obligations under Administrative Rules on Rulemaking (ARR) and the Administrative Procedures Act (APA). These checklists are illustrative only and should not be considered to prescribe any original rulemaking. ***Rulemaking entities are advised that use of the checklists for rulemaking does not validate the rulemaking, nor does it relieve the rulemaking entity of its legal responsibility to fully comply with all provisions of the APA and OAC.***

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INSTRUCTIONS

HOW TO PROCEED THROUGH CHECKLIST:

Marking the steps. Mark each step (designated 1, 2, 3, etc.) upon its completion and follow the instructions for proceeding.

- If a step consists of **two or more requirements** (connected by "- AND -"), each requirement should be completed before marking the step as complete.
- If a step consists of **two or more alternatives** (separated by "- OR -"), the appropriate alternative(s) should be completed before marking the step as complete.

"[if applicable]" designations. If an italicized heading is followed by "[if applicable]", the agency should complete the step or steps listed below the heading only if they are applicable. If not applicable, proceed to the next italicized heading.

Statute/rule citations. Citations to related statutes or rules are given throughout the checklist.

- Citations which begin with "75:" refer to sections of the Administrative Procedures Act (Title 75, Sections 250 et seq.) in the Oklahoma Statutes.
- Citations which begin with "OAC" refer to rules in *The Oklahoma Administrative Code*.

SCOPE OF RULEMAKING ACTION (one Chapter only):

Each "rulemaking action" is limited in scope to **one Chapter** (i.e., Sections/Appendices from more than one Chapter may not be combined in a single notice or permanent rule document). [For further information on scope of a rulemaking action, see OAC 655:10-7-50 through 655:10-7-54]

WITHDRAWAL/CANCELLATION OF RULEMAKING ACTION:

If an agency wishes to **withdraw a permanent rule** from the rulemaking process at any time *after adoption* [step 12] and *prior to final adoption* [step 24], the agency must notify the Governor and the Legislature [see 75:308(F)] via the State Online Filing System. The agency must also prepare a Notice of Withdrawn Rules [see OAC 655:10-7-33 and Example 7 in *Examples of Document Formats*] and submit one paper copy and one CD/DVD copy to the OAR. Agencies may not withdraw a rule from the rulemaking process after the rule becomes finally adopted [step 24].

If an agency wishes to **cancel or continue a comment period or hearing** announced in a published Notice of Rulemaking Intent, the agency should prepare a Notice of Cancelled Hearing or Comment Period [see OAC 655:10-7-27 and Example 3 in *Examples of Document Formats*] or a Notice of Continued Hearing or Comment Period [see OAC 655:10-7-28 and Example 4 in *Examples of Document Formats*] and submit one paper copy and one CD/DVD copy to the OAR.

DEFINITIONS:

When used in this checklist:

- "**ARR**" means Administrative Rules on Rulemaking [Title 655, Chapter 10 of *The Oklahoma Administrative Code*].
- "**OAC**" or "**Code**" means *The Oklahoma Administrative Code*.
- "**OAR**" means the Secretary of State's Office of Administrative Rules.
- "**Register**" means *The Oklahoma Register*.
- "**Rules**" means any new, amended, revoked, renumbered, or reserved Sections and Appendices included in the rulemaking action (rules from more than one Chapter may not be combined in a single "rulemaking action").

*This checklist is **NOT A RULE**, but is prepared to aid rulemaking entities in meeting their obligations under the Administrative Rules on Rulemaking and the Administrative Procedures Act. This checklist is illustrative only and should not be considered to prescribe any original rulemaking. **Rulemaking entities are advised that use of this checklist for rulemaking does not validate the rulemaking, nor does it relieve the rulemaking entity of its legal responsibility to fully comply with all provisions of the APA and OAC.***

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DRAFTING [75:251(B)-(D); OAC 655:10, Subchapters 3 and 5]

- ___ 1. Agency drafts new, amended, revoked, renumbered, or reserved rule or rules (hereinafter referred to as "rules" or "regulatory text") in same format as is required for later publication of rules in the *Register*. **Proceed to step 2.** [For requirements on formatting regulatory text, see OAC 655:10, Subchapter 3 (relating to numbering and codification), Subchapter 5 (relating to rule drafting), and specifically, 655:10-5-2 through 4 (relating to use of strikeouts and underscoring to identify new, amended, and revoked rules). For examples of new, amended, and revoked rules, see Example 12 in Examples of Document Formats.]
- When drafting new rules, note the following:
- If agency has not been assigned a Title number in The Oklahoma Administrative Code, agency must send written request to OAR for assignment of Title number [see OAC 655:10-3-21].
 - If agency is adding a new Chapter in its Title, agency must contact OAR for approval of Chapter number [see OAC 655:10-3-22].
 - If agency is adding new rules (i.e., Sections or Appendices) in an existing Chapter, agency may contact OAR for guidance in locating new rules.

IMPORTANT NOTE ABOUT RULES RELATED TO FEES

Agencies may not "establish or increase fees, except during such times as the Legislature is in session, unless specifically mandated by the Legislature or federal legislation, or when the failure to establish or increase fees would conflict with an order issued by a court of law" [74:3117]. [See step 8 for notification requirements]

RULEMAKING RECORD [75:302(B)]

- ___ 2. Agency opens official rulemaking record [see 75:302(B) for required contents]. **Proceed to step 3.**

RULE IMPACT STATEMENT WAIVER [if applicable] [75:303(D)(3)]

- ___ 3. If agency determines that rule impact statement is *unnecessary or contrary to the public interest*, or if agency is required to implement a statute or federal requirement that does not require [the] agency to interpret or describe the requirements [75:303(D)(3)], agency may request waiver of such requirement from Governor. Written waiver must be received prior to publication of Notice of Rulemaking Intent [steps 6 and 7]. **Proceed to step 4.**

SUBMISSION OF NOTICE OF RULEMAKING INTENT [75:303(A)-(C)]

- ___ 4. Agency prepares Notice of Rulemaking Intent [see OAC 655:10-7-26 and Examples 2A through 2E in Examples of Document Formats] and transmittal sheet [see OAC 655:10-7-6 and Example 1 in Examples of Document Formats]. Agency submits one paper copy of each and one CD/DVD copy of the Notice to OAR for publication in *Register*, and submits additional paper copies if agency wishes to receive copies stamped "received" and "accepted." In the Notice, agency provides for public comment pursuant to the following:
- ___ A. COMMENT PERIOD: Announce comment period for receiving public input. The comment period must run for at least 30 days after publication of the Notice in the *Register*.
- AND -
- ___ B. HEARING or REQUESTS FOR HEARING: Announce public hearing, or how persons may request a public hearing, as follows:
- ___ i. If announcing a public hearing, the hearing must be scheduled for a date which is at least 30 days following the date the Notice is published in the *Register*. **Proceed to step 5.**
- OR -
- ___ ii. If not scheduling a hearing, announce [t]he time when, the place where, and the manner in which persons may demand a hearing [75:303(B)(9)]. Allow minimum of 30 days from the date the Notice is published in the *Register* to receive requests for a hearing. **Proceed to step 5.**

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SUBMISSION TO GOVERNOR AND CABINET SECRETARY [EO 2013-34]

- ___ 5. Simultaneously with filing the Notice of Rulemaking Intent in step 4, agency emails proposed rules to Governor and agency's Cabinet Secretary. **Proceed to step 6.**
Note: The Governor and Cabinet Secretary have 45 days to review proposed rules. Agencies may continue the rulemaking process if no written disapproval is received during the 45 day review period. *No agency may adopt any proposed rule(s) if, within forty-five (45) days of providing the above referenced copies, the agency receives express written disapproval from Governor or Cabinet Secretary* [EO 2013-34].

PUBLICATION OF NOTICE OF RULEMAKING INTENT [75:303]

- ___ 6. OAR reviews Notice of Rulemaking Intent, as submitted in step 4, for format compliance [OAC 655:10-11-1], and accepts or rejects pursuant to **one of the following:**
- ___ A. OAR accepts for publication in *Register*. **Proceed to step 7.**
- OR -
- ___ B. OAR rejects for publication in *Register*. [**Note:** OAR rarely rejects filings. Most problems can be worked out with a phone call to the agency.] OAR returns one copy to agency, along with written explanation. Agency proceeds pursuant to **one of the following:**
- ___ i. Discontinue proposed rulemaking. [*Note: Notice of Withdrawn Rules is NOT required.*]
Do NOT proceed; except, agency may return to step 1.
- OR -
- ___ ii. Revise Notice and **return to step 4.**
- ___ 7. Notice of Rulemaking Intent is published in first possible issue of *Register* following acceptance by OAR [see schedule of *Register Publication Dates and Filing Deadlines for All Filings EXCEPT Permanent Rule Documents*, OAC 655:10-9-3, and OAC 655:10-15-1]. OAR sends proof of publication to agency's liaison. **Proceed to step 8.**

NOTIFICATION OF FEES OR FEE INCREASES [if applicable] [74:3117]

- ___ 8. If proposed rules establish or increase fees, agency notifies Governor, Speaker of House, President Pro Tempore of Senate, and House Administrative Rules and Agency Oversight Committee via the State Online Filing System at https://www.ok.gov/state/filings/state_filing.php [74:464]. Notification must be submitted *prior to the establishment or increase of a fee* and must include *justification for the fee or fee increase and all supportive documentation* [74:3117]. [See also "Important Note About Rules Related to Fees" on page A-3] **Proceed to step 9.**
Note: Pursuant to 74:464, agencies are required to electronically submit any document required by law to be submitted to the Governor, Speaker of the House, or President Pro Tempore of the Senate. The State Online Filing System was created as a one-stop filing location for receiving these filings. Fee notifications are routed to all four receiving parties (Governor, Speaker, President Pro Tempore, and House Administrative Rules and Agency Oversight Committee). However, if the agency "determines that [the notification] cannot be filed electronically," the agency can file a "printed copy in lieu of such electronic filing" and "include an explanation of the reason that the document could not be filed electronically."

NOTIFICATION TO INTERESTED PARTIES [75:303(B)]

- ___ 9. Prior to or within 3 days after Notice of Rulemaking Intent is published in *Register* [step 7], agency mails *copy of notice . . . and rule impact statement, if available* [see step 10], to all persons who have made a timely request . . . for advance notice of . . . rulemaking proceedings **OR** electronically notif[ies] interested persons that a copy of the proposed rule[s] and the rule impact statement, if available, may be viewed on the agency's web site [75:303(B)]. **Proceed to step 10.**

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RULE IMPACT STATEMENT [applicable unless waived by Governor] [75:303(D)]

- ___ 10. Within 15 days after publication of Notice of Rulemaking Intent [step 7], and as stated in Notice of Rulemaking Intent [step 4], agency issues rule impact statement [see 75:303(D) for required contents] and makes it available for public review, unless requirement to prepare rule impact statement has been waived in writing by Governor in step 3. **Proceed to step 11.**

Note: Rule impact statements are not filed with the OAR, and formatting requirements for rule impact statements are not defined by statute or rule.

PUBLIC COMMENT / HEARING [75:303(A)-(C)]

- ___ 11. Upon completion of comment period, or comment period and hearing, as announced in Notice of Rulemaking Intent [see steps 4, 6, and 7], agency proceeds pursuant to **one of the following**:

- ___ A. If agency did not announce hearing in a published Notice of Rulemaking Intent, as described in step 4Bii, AND if hearing is requested by qualifying persons or group, as set forth in 75:303(C)(1), **return to step 4.**

- OR -

- ___ B. If agency receives no written or oral public comment, **proceed to step 12.**

- OR -

- ___ C. If agency receives written and/or oral public comment, agency reviews comments and proceeds pursuant to **one of the following**:

- ___ i. Agency revises proposed rules in response to comments. **Proceed to step 12.**

- OR -

- ___ ii. Agency revises proposed rules in response to comments, but determines that additional public comment on proposed revisions should be solicited. **Return to step 4.**

- OR -

- ___ iii. Agency does not revise proposed rules in response to comments, and determines to continue with rules as proposed. **Proceed to step 12.**

Note: A summary of the comments received by the agency, as well as an "explanation of the changes **or lack of any change** made in the adopted rules as a result of testimony received at all hearings or meetings held" [75:303.1(E)(9)] must be identified in the Agency Rule Report [see steps 13B and 15B].

- OR -

- ___ iv. Agency discontinues rulemaking action. **Do NOT proceed; except, agency may return to step 1.**

ADOPTION [75:303(E)]

- ___ 12. If agency has not received written notification of disapproval from the Governor or the agency's Cabinet Secretary within 45 calendar days after the proposed rules were submitted in step 5, agency adopts rules. **Proceed to step 13.**

Note: Statutes do not define a time limit for adopting rules following comment period/hearing.

AFTER THIS POINT, A NOTICE OF WITHDRAWN RULES IS REQUIRED IF THE AGENCY DISCONTINUES THE RULEMAKING ACTION.

If an agency discontinues a rulemaking action after the rules are adopted (step 12) and prior to final adoption (step 24), the agency must submit a Notice of Withdrawn Rules to the OAR [see OAC 655:10-7-33 and Example 7 in Examples of Document Formats]. If discontinued after submission to the Governor and Legislature in step 13 and prior to final adoption in step 24, the agency must also notify the Governor and Legislature [75:308(F)].

SUBMISSION TO GOVERNOR AND LEGISLATURE / AGENCY RULE REPORT [75:303.1; 74:464]

- ___ 13. ELECTRONIC SUBMISSION TO GOVERNOR, HOUSE, AND SENATE: Within 10 days after adoption, agency submits **each of the following** (PDF format) to Governor, Speaker of the House

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of Representatives, and President Pro Tempore of the Senate via the State Online Filing System at <https://www.ok.gov/state/filings/logout.php> [74:464]:

Note: Pursuant to 74:464, agencies are required to submit proposed rules electronically to the Governor, Speaker of the House, and President Pro Tempore of the Senate. The State Online Filing System was created as a one-stop filing location for receiving these filings. Each online filing is routed to all three receiving parties (Governor, Speaker, and President ProTemp), as well as to the OAR for conducting the required format/numbering review. However, if the agency "determines that [the rules] cannot be filed electronically," the agency can file a "printed copy in lieu of such electronic filing" and "include an explanation of the reason that the document could not be filed electronically." In such instances, the agency must comply with the APA requirement to submit two copies of the rules and agency rule report to the Governor, two copies to the Speaker, and two copies to the President ProTempore.

- ___ A. Regulatory text, as adopted in step 12. Above the regulatory text, identify the Title and Chapter in a document heading [OAC 655:10-7-3]. Do NOT include a preamble, enacting clause, or attestation at this time - they will be included in the "permanent rule document" filed in step 25 after final adoption of the rules. A transmittal sheet is also not required, but may be submitted, at this time. [For requirements on formatting regulatory text, see OAC 655:10, Subchapter 3 (relating to numbering and codification), Subchapter 5 (relating to rule drafting), and specifically, 655:10-5-2 through 4 (relating to use of strikeouts and underscoring to identify new, amended, and revoked rules). For examples of new, amended, and revoked rules, see Example 12 in Examples of Document Formats.]

-AND -

- ___ B. Agency rule report [see 75:303.1(E) for required contents], including rule impact statement prepared in step 10.

Note: Agency rule reports are not filed with the OAR, and formatting requirements for rule reports are not defined by statute or rule.

- AND -

- ___ C. Any supporting documentation (optional). **Proceed to step 14.**

- ___ 14. ELECTRONIC RETURN RECEIPT: If agency submitted the rules via the State Online Filing System in step 13, agency receives an "electronic return receipt" [74:464], which confirms successful transmission of the rules and provides a record of the file date, in lieu of a received-stamped copy, for the agency's rulemaking record. **Proceed to step 15.**

Note: If the agency was not able to submit the rules electronically in step 13, the agency is advised to obtain a received-stamped copy from the receiving parties for the agency's rulemaking record.

OAR'S FORMAT REVIEW
("RED-MARKED PAGES" AND "FORMAT-APPROVED PAGES")

When proposed rules are filed with the Governor and Legislature in step 13, the State Online Filing System forwards a copy of the proposed rules to the OAR. The OAR reviews the rules for compliance with the ARR's numbering and formatting requirements, and returns "format approved pages" (FAP's) or "red-marked pages" (RMP's) directly to the agency. Agency retains FAP's or RMP's for use when preparing "finally adopted" rules for submission to OAR in "permanent rule document" in step 25.

SUBMISSION TO ADVISORY COMMITTEE [if applicable] [75:303.1(B)]

- ___ 15. If agency determines in the rule impact statement . . . that the proposed rule[s] will have an economic impact on any political subdivisions [as defined in 75:250.3 as a county, city, incorporated town or school district] or require their cooperation in implementing or enforcing a proposed permanent rule [75:303.1(B)], agency submits, within 10 days after adoption, one paper copy of **each of the following** to Oklahoma Advisory Committee on Intergovernmental Relations :

- ___ A. Regulatory text [as described in step 13A].

- AND -

- ___ B. Agency rule report [as described in step 13B]. **Proceed to step 16.**

Note: The Oklahoma Advisory Committee on Intergovernmental Relations "may communicate

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any recommendation that it may deem necessary to the Governor, the Speaker of the House of Representatives and President Pro Tempore of the Senate during the period that the permanent rules are being reviewed" [75:303.1(B)].

STATEMENT OF SUBMISSION [75:303.1(C)]

- ___ 16. Upon submission of rules to Governor and Legislature in step 13, agency prepares Statement of Submission of Adopted Rules to Governor and Legislature [see OAC 655:10-7-29 and Example 5 in *Examples of Document Formats*] and transmittal sheet [see OAC 655:10-7-6 and Example 1 in *Examples of Document Formats*]. Agency submits one paper copy of each and one CD/DVD copy of the Statement to OAR, and submits additional paper copies if agency wishes to receive copies stamped "received" and "accepted." **Proceed to step 17.**
- ___ 17. OAR reviews Statement of Submission of Adopted Rules to Governor and Legislature for format compliance [OAC 655:10-11-1], and accepts or rejects pursuant to **one of the following**:
 - ___ A. OAR accepts for publication in *Register*. **Proceed to step 18.**
 - OR -
 - ___ B. OAR rejects for publication in *Register*. [**Note:** OAR rarely rejects filings. Most problems can be worked out with a phone call to the agency.] OAR returns one copy to agency, along with written explanation. Agency must **return to step 16.**
- ___ 18. Statement of Submission of Adopted Rules to Governor and Legislature is published in first possible issue of *Register* following acceptance by OAR [see Schedule of Register Publication Dates and Filing Deadlines, 655:10-9-3, and 655:10-15-1]. OAR sends proof of publication to agency's liaison. **Proceed to step 19.**

LEGISLATIVE ACTION [75:308]

IMPORTANT --- LEGISLATIVE REVIEW PERIOD

If rules are received by the Legislature [step 13] **on or before April 1**, the Legislature has until the last day of the current session to review the rules. If rules are received **after April 1**, the Legislature has until the last day of the next regular session to review the rules [75:308(A)].

- ___ 19. Legislature approves or disapproves rules, in whole or in part, pursuant to **one of the following**:
 - ___ A. **APPROVALS**:
 - ___ i. **JOINT RESOLUTION**: Legislature approves rules by joint resolution during the review period. **Proceed to step 20.**
 - OR -
 - ___ ii. **OMNIBUS JOINT RESOLUTION**: Legislature approves rules by failing to disapprove in omnibus joint resolution during the review period. **Proceed to step 20.**
 - ___ B. **DISAPPROVALS**:
 - ___ i. **JOINT RESOLUTION**: Legislature disapproves rules by joint resolution during the review period. **Proceed to step 20.**
 - OR -
 - ___ ii. **OMNIBUS JOINT RESOLUTION**: Legislature disapproves rules by omnibus joint resolution during the review period. **Proceed to step 20.**
 - OR -
 - ___ iii. **FAILURE TO ACT**: Legislature fails to pass a joint or omnibus resolution approving rules during the review period. **Do NOT proceed beyond this step UNLESS proposed permanent rules are approved and finally adopted by Governor's declaration in Step 24Ci.**

GUBERNATORIAL ACTION [75:308]

TIMELINE FOR GUBERNATORIAL ACTION ON RESOLUTIONS

A joint or omnibus joint resolution cannot become law until it is either approved by the Governor or a veto is overridden by two-thirds of the House and the Senate. The Governor has five days (excluding Sundays) to sign or veto the resolution. If not signed or vetoed within those five days, the resolution "shall be a law as if [the Governor] has signed it." However, if the Legislature adjourns sine die prior to the end of those five days, the Governor has fifteen days after such adjournment to either sign or veto the resolution, and the resolution "shall not become a law without the approval of the Governor." The failure of the Governor to sign the resolution within that fifteen days constitutes disapproval, which is commonly referred to as a "pocket veto." [OK Const., Art 6, Section 11]

- ___ 20. After joint or omnibus resolution passes both branches of the Legislature in steps 19A, 19Bi, or 19Bii, the Governor acts pursuant to **one of the following**:
 - ___ A. **APPROVES JOINT OR OMNIBUS RESOLUTION APPROVING RULES** – Upon Legislature's approval of rules by joint or omnibus joint resolution in step 19A, Governor approves joint or omnibus joint resolution in its entirety (Governor may not line-item veto these resolutions). [See "Timeline for Gubernatorial Action on Resolutions" above] **Skip to step 24A.**
 - OR -
 - ___ B. **VETOES JOINT OR OMNIBUS RESOLUTION APPROVING RULES** – Upon Legislature's approval of rules by joint or omnibus joint resolution in step 19A, Governor vetoes joint or omnibus joint resolution in its entirety (Governor may not line-item veto these resolutions). [See "Timeline for Gubernatorial Action on Resolutions" above] If veto **IS** overridden by Legislature, **skip to step 24A.** If veto is **NOT** overridden:
 - ___ i. **JOINT RESOLUTION:** Do **NOT** proceed unless proposed permanent rules are later approved by omnibus resolution in step 19Aii.
 - OR -
 - ___ ii. **OMNIBUS JOINT RESOLUTION:** Do **NOT** proceed beyond this step UNLESS proposed permanent rules are approved and finally adopted by Governor's declaration in **step 24Ci.**
 - OR -
 - ___ C. **APPROVES JOINT OR OMNIBUS RESOLUTION DISAPPROVING RULES** – Upon Legislature's disapproval of rules by joint or omnibus joint resolution in steps 19Bi or 19Bii, Governor approves joint or omnibus joint resolution in its entirety (Governor may not line-item veto these resolutions). [See "Timeline for Gubernatorial Action on Resolutions" above] **Proceed to step 21.** [See also "Effect of Disapprovals on Related Emergency Rules" below]
 - OR -
 - ___ D. **VETOES JOINT OR OMNIBUS RESOLUTION DISAPPROVING RULES** – Upon Legislature's disapproval of rules by joint or omnibus joint resolution in steps 19Bi or 19Bii, Governor vetoes joint or omnibus joint resolution in its entirety (Governor may not line-item veto these resolutions). [See "Timeline for Gubernatorial Action on Resolutions" above] If veto **IS** overridden by Legislature, **proceed to step 21.** [See also "Effect of Disapprovals on Related Emergency Rules" below] If veto is **NOT** overridden, **skip to step 24B.**

EFFECT OF DISAPPROVALS ON RELATED EMERGENCY RULES

"Any effective emergency rule which would have been superseded by a disapproved permanent rule [is] deemed null and void on the date the Legislature disapproves the permanent rule" [75:308(C)]. [Note: The "date the Legislature disapproves the permanent rule" is the date the joint or omnibus joint resolution disapproving the rules is approved by the Governor, or the date the Legislature overrides a veto by the Governor (see steps 20C and 20D).]

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NOTICE OF LEGISLATIVE DISAPPROVAL [if applicable] [75:308(C) and OAC 655:10-7-32]

- ___ 21. Upon Legislature's disapproval of rules by joint or omnibus joint resolution in steps 19Bi or 19Bii, AND Governor's approval of the resolution in step 20C or Legislature's override of Governor's veto in step 20D, agency prepares Notice of Legislative Disapproval of Rules [see OAC 655:10-7-32 and Example 6 in *Examples of Document Formats*] and transmittal sheet [see OAC 655:10-7-6 and Example 1 in *Examples of Document Formats*]. Notice identifies if any emergency rules were made ineffective by the disapproval [see 75:308(C) and "Effect of Disapprovals on Related Emergency Rules" above]. Agency submits one paper copy of Notice of Legislative Disapproval, one paper copy of transmittal sheet, one paper copy of resolution, and one CD/DVD copy of Notice to OAR. Agency submits additional paper copies if it wishes to receive copies stamped "received" and "accepted." **Proceed to step 22.**

- ___ 22. OAR reviews Notice of Legislative Disapproval for format compliance [OAC 655:10-11-1], and accepts or rejects pursuant to **one of the following:**
 - ___ A. OAR accepts for publication in *Register*. **Proceed to step 23.**
- OR -
 - ___ B. OAR rejects for publication in *Register*. [**Note:** OAR rarely rejects filings. Most problems can be worked out with a phone call to the agency.] OAR returns one copy to agency, along with written explanation. Agency must **return to step 21.**

- ___ 23. Notice of Legislative Disapproval is published in first possible issue of *Register* following acceptance by OAR [see schedule of *Register Publication Dates and Filing Deadlines for All Filings EXCEPT Permanent Rule Documents*, OAC 655:10-9-3, and OAC 655:10-15-1]. OAR sends proof of publication to agency's liaison.
 - ___ A. If rules were disapproved by joint resolution in step 20C, **do NOT proceed beyond this step.**
- OR -
 - ___ B. If rules were disapproved by omnibus joint resolution in step 20C, **do NOT proceed beyond this step UNLESS proposed permanent rules are approved and finally adopted by Governor's declaration in step 24Cii.**

FINAL ADOPTION [75:308(F)]

- ___ 24. The rules are deemed finally adopted upon occurrence of **one of the following:**
 - ___ A. Legislature approves rules by joint or omnibus resolution, and joint or omnibus resolution is approved by the Governor or is vetoed by Governor and veto is overridden by Legislature. **Proceed to step 25.**
- OR -
 - ___ B. Legislature disapproves rules by joint or omnibus resolution, and Governor's veto is NOT overridden by the Legislature. **Proceed to step 25.**
-OR-
 - ___ C. Governor issues a Governor's Declaration pursuant to the **one of the following:**
 - [Note: Governor's Declaration must be published in *Register* by July 17.]
 - ___ i. If "*the omnibus joint resolution fails to pass both houses of the Legislature and be signed by the Governor or is found by the Governor to have a technical legal defect preventing approval of administrative rules intended to be approved by the Legislature, the Governor may declare all rules to be approved and finally adopted.*" [75:308.3(D)(4)] **Proceed to step 25.**
- OR -
 - ___ ii. If "*an agency believes that a rule has not been approved by [omnibus joint resolution of] the Legislature and should be approved and finally adopted, the agency may seek the Governor's declaration approving the rule.*" The agency must "*submit a petition to the Governor that affirmatively states: a. the rule is necessary, and b. a citation to the*

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source of its authority to make the rule." If the Governor finds that the necessity exists and the agency has the authority to promulgate the rule, the Governor may then declare the rule to be approved and finally adopted. [75:308.3(D)] **Proceed to step 25.**

AFTER THIS POINT, AGENCY MAY NOT WITHDRAW RULES.
After final adoption (step 24), agency may no longer withdraw rules from the rulemaking process, and **MUST proceed to step 25.**

PERMANENT RULE DOCUMENT / PUBLICATION [75:251(B); OAC 655:10, Subchapter 7, Parts 1 and 3]

- ___ 25. Within 30 calendar days after rules become finally adopted [step 24], agency prepares the rules in a permanent rule document for publication in the *Register*, and submits the number of copies identified of **each of the following** to the OAR:
- ___ A. Two paper copies of each of the following:
- Note:** Agency submits additional paper copies if it wishes to receive copies stamped "received" and "accepted."
- ___ i. Transmittal sheet [see OAC 655:10-7-6 and Example 1 in *Examples of Document Formats*].
- AND -
- ___ ii. Permanent rule document [see specific OAC cites following each component below, and Examples 9 and 10 in *Examples of Document Formats*], which consists of **each of the following**:
- ___ I. Document heading [OAC 655:10-7-3].
- AND -
- ___ II. Preamble [OAC 655:10-7-11].
- AND -
- ___ III. Summary, IF text of rules is more than 75 pages in length [OAC 655:10-7-12].
- AND -
- ___ IV. Enacting clause [OAC 655:10-7-13].
- AND -
- ___ V. Regulatory text [OAC 655:10-7-14]. With the exception of changes necessary to bring the rules into compliance with provisions of the OAC [75:251(B)(2)(i)], as identified in any "red-marked pages" returned to the agency after being filed with the Governor and Legislature in step 13 [see "OAR's Format Review" below step 14], or as otherwise identified by the OAR, *the text of the rule submitted for publication shall be the same as the text of the rule that has been finally adopted* [75:308.1(B)], as submitted in step 13A.
- AND -
- ___ VI. Attestation [OAC 655:10-7-16].
Note: Prior to OAR's acceptance of agency's attestations, agency must have a letter on file with the OAR identifying persons authorized to sign attestations [see OAC 655:10-1-6 and 655:10-7-16].
- AND -
- ___ B. The "Red-marked pages" or "Format approved pages" that were returned by OAR to the agency after the rules were submitted to the Governor and Legislature in step 13 [see "OAR's Format Review" below step 14].
Note: The agency should retain a copy of the "red-marked pages" or "format-approved pages" for the rulemaking record [see step 2 and 75:302(B) for information about the "rulemaking record."]
- AND -
- ___ C. One CD/DVD copy of the permanent rule document (without attestation). **Proceed to step 26.**
- ___ 26. OAR reviews permanent rule document for format compliance [OAC 655:10-11-1], and accepts or rejects pursuant to **one of the following**:

Checklist for PERMANENT Rulemaking

- ___ A. OAR accepts for publication in *Register*. **Proceed to step 27.**
- *OR* -
- ___ B. OAR rejects for publication in *Register*. [**Note:** OAR rarely rejects filings. Most problems can be worked out with a phone call to the agency.] OAR returns one copy to agency, along with written explanation. Agency must **repeat steps 25 and 26.**

- ___ 27. Permanent rule document is published in first possible issue of *Register* following acceptance by OAR [see schedule of *Register Publication Dates and Filing Deadlines for Permanent Rule Documents*, OAC 655:10-9-3, and OAC 655:10-15-1]. OAR sends proof of publication to agency's liaison. **Proceed to step 28.**

PROMULGATION [75:250.3(14)]

- ___ 28. Upon publication in *Register*, rules are considered promulgated. **Proceed to step 29.**

EFFECTIVENESS [75:304(B)(1)]

- ___ 29. Rules are effective upon date stated by agency in preamble of published permanent rule document [step 25AiiII]. Effective date must be at least 10 days after publication in *Register*.