



**2011**

## **North Carolina Rules with Economic Impact**

- **Schedule of Anticipated  
Rule Actions**
- **Rules that Affected Local  
Governments**

Prepared by the North Carolina Office of State  
Budget and Management,  
Office of the Governor

March, 2011

## Background

On May 17, 1994, Governor James B. Hunt Jr. issued the Executive Order No. 49 entitled “Fiscal Notes on Administrative Rules Affecting Local Governments.” The Executive Order set forth policies and procedures for state agencies to follow when proposing permanent rules with an impact on local governments. Through Session Law 1995-415, the General Assembly incorporated these policies, as well as other changes, in G.S. 150B-21.28 of the Administrative Procedure Act (APA). The revised APA increases state agencies’ awareness of the effect proposed rules would have on local governments and enables local governments to be more involved in estimating the fiscal impact of permanent rules on local budgets.

According to requirements in the APA, the North Carolina Office of State Budget and Management (OSBM) prepares annually a report containing a schedule of anticipated rule actions in the upcoming fiscal year, as well as a summary of the projected fiscal impact on local governments of rules adopted in the preceding fiscal year. OSBM provides a copy of this annual report to the Governor, the General Assembly, the North Carolina Association of County Commissioners, and the North Carolina League of Municipalities, as required by the APA.

## Outline

### *I. Summary*

The Summary section contains some statistics on anticipated rule actions in SFY 2011-12 and rules adopted in SFY 2009-10 with projected impact on local governments.

### *II. Impact of Executive Order No. 70*

Section II provides an overview of Executive Order No. 70 on Rules Modification and Improvement Program, as well as a brief discussion on how the E.O. would impact anticipated rule actions for the following fiscal year.

### *III. Schedule of Anticipated Rule Actions, July 1, 2011 – June 30, 2012*

This section contains information on rules state agencies expect to adopt in SFY 2011-12 that would require a fiscal note be approved or reviewed by OSBM under the APA.<sup>1</sup> The information is organized by agency and by North Carolina Administrative Code (NCAC) citation. The information also includes the rule title, staff contact information, proposed action, anticipated impact, and a brief description of the rule change.

### *IV. Rules that Affected Local Governments, Adopted July 1, 2009 – June 30, 2010*

The last section provides information on rules North Carolina agencies adopted in SFY 2009-10 that have a projected impact on local governments. The information is organized by agency and by adoption date. The information also includes the rule title, NCAC citation, staff contact information, and expected impact on local government revenues and expenditures over a five-year period.

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<sup>1</sup> G.S. 150B-21.4 requires that OSBM approve or review a fiscal note if the proposed rule change would result in affecting: a) state government expenditure of distribution of funds; b) local government revenues or expenditures; or c) would create a substantial economic impact, defined as an aggregate financial impact to all parties involved of \$3 million or greater over a 12-months period.

## I. Summary

State agencies expect to take action on 51 different rules between July 1, 2011 and June 30, 2012. According to information received by OSBM, the Department of Health and Human Services (DHHS) and the Department of Environmental and Natural Resources (DENR) would account for 39 and 25 percent, respectively, of anticipated rule actions in SFY 2011-12 (see Table 1 below). Almost 70 percent of the anticipated rules would have an impact on state government and more than a third are expected to create a positive or negative impact on local governments. Only four out of 51 rules (less than 8%) are expected to have a substantial economic impact, i.e. create an impact of more than \$3 million in a 12-months period (see Table 2).<sup>1</sup>

In SFY 2009-10, 12 rules were adopted that had an impact on local governments, and three quarters of the total were adopted by DENR (see Table 3). Table 4 below presents the impact on local governments over a five-year period of the rules adopted in SFY 2009-10. The net present value of the impact on local governments over five years is almost \$17.29 million in costs.<sup>2</sup>

**Table 1. Number of Anticipated Rules with Economic Impact, by Agency**

<i>Agency</i>	<i>Number of Rules</i>	<i>Percentage of Total</i>
Department of Administration	4	8%
Department of Commerce	1	2%
Department of Crime Control and Public Safety	1	2%
Department of Environmental and Natural Resources	13	25%
Department of Health and Human Services	20	39%
Department of Justice	7	14%
Department of Revenue	3	6%
Substance Abuse Professionals Practice Board	2	4%
<b>Total Anticipated Rules</b>	<b>51</b>	<b>100%</b>

**Table 2. Number of Anticipated Rules with Economic Impact, by Type of Impact\***

<i>Type of Impact</i>	<i>Number of Rules</i>	<i>Percentage of Total Rules</i>
State Government	35	69%
Local Government	31	61%
Substantial Economic Impact	4	8%

\* Note that unknown (“U” in Table 5 below) impacts were not counted.

<sup>1</sup> Note that the percentages do not add up to 100% because rules can have more than one type of impact (see Table 5).

<sup>2</sup> The net present values in this report are computed as of July 2010 using a discount rate of 7 percent, as required by the OSBM Manual.

**Table 3. Rules Adopted in SFY 2009-2010 with Local Government Impact,  
by Agency**

<i>Agency</i>	<i>Number of Rules</i>	<i>Percentage of Total</i>
Board of Environmental Health Specialist Examiners	1	8%
Department of Environmental and Natural Resources	9	75%
Department of Justice	2	17%
<b>Total Adopted Rules</b>	<b>12</b>	<b>100%</b>

**Table 4. Rules Adopted in SFY 2009-2010 with Local Government Impact,  
by Agency (thousands of \$)\***

<i>Agency</i>	<i>SFY 2009-10</i>	<i>SFY 2010-11</i>	<i>SFY 2011-12</i>	<i>SFY 2012-13</i>	<i>SFY 2013-14</i>
Bd. of Environmental Health Specialist Examiners	\$0	-\$10	-\$10	-\$10	-\$10
Department of Environment and Natural Resources	-\$2,795	-\$3,715	-\$3,286	-\$3,341	-\$3,395
Department of Justice	-\$1,447	-\$1,447	\$0	\$0	\$0
<b>Total Impact of Adopted Rules</b>	<b>-\$4,242</b>	<b>-\$5,171</b>	<b>-\$3,295</b>	<b>-\$3,351</b>	<b>-\$3,405</b>

\* Note that positive values constitute a benefit to local governments and negative values are costs.

## **II. Impact of Executive Order No. 70**

Governor Perdue signed Executive Order No. 70 on Rules Modification and Improvement Program (RMIP) into effect on October 21, 2010. The Executive Order sets out rulemaking principles, provides a framework for reviewing existing rules, and ensures new rules are subject to a comprehensive review.

The review of existing rules is an annual process through which rules are evaluated to determine whether they are timely, necessary, and do not create an unnecessary burden on the regulated community. The RMIP lays out a two-prong process, where agencies perform an Internal Review of Rules and the public submits comments on rules that should be modified, repealed, or expanded.

As the RMIP evolves, rule changes will likely be necessary to implement identified repeals, modifications, and other improvements. Section 3 includes these anticipated rule changes identified by agencies to potentially require a fiscal note be approved or reviewed by OSBM under the APA. Further information about recommended rule changes will be included in the first annual report on the RMIP, scheduled for April 2011 publication.

### III. Schedule of Anticipated Rules Actions in SFY 2011-2012

**Table 5. Schedule of Anticipated Rule Actions between July 1, 2011 and June 30, 2012**

Division	Rule Title and Description	Citation(s)	Contact		Rule Action	Impacts:*		
			Name	Phone		S/	L/	SE
<b>Department of Administration</b>								
Division of Purchase and Contract	<b>Purchase and Contract</b>	01 NCAC 05A; 01 NCAC 05B; 01 NCAC 05D	William E. H. Creech	(919) 807-2344	Unknown	U	U	U
	The Division of Purchase and Contract recently began a comprehensive “Procurement Transformation” initiative to, among other things, address strategic sourcing, review statutes, rules and policies, and to develop recommendations for implementing best practices across State government. The initiative may require some rules to be repealed, amended, or adopted. It is unclear when the changes are likely to be made, though hopefully in the coming year. While impacts are currently unknown, any such changes would be made in an effort to positively impact State government and to have a positive, substantial economic impact.							
State Construction Office	<b>Documentation</b>	01 NCAC 06D; 01 NCAC 06E; 01 NCAC 06F; 01 NCAC 06G	William E. H. Creech	(919) 807-2344	Unknown	U	U	U
	A subgroup of the State Building Commission is currently reviewing the rules, which might lead to some repeals, amendments, or adoptions. It is unclear at this point what the effect of these changes will be.							
Division of Motor Fleet Management	<b>Mileage Rates</b>	01 NCAC 38 .0103	John Massey	(919) 733-6540	Amend	S	-	U
	The first sentence of paragraph (c) may misinterpret authority granted in statute (G. S. 143-341(8)i) and the substance of the rule is already controlled by the existing statute, making the rule unnecessary.							
Office of Historically Underutilized Businesses	<b>Documentation</b>	01 NCAC 44A .0202	Bridget Wall-Lennon	(919) 807-2330	Amend	S	-	-
	The agency intends to remove paragraph (b) of the rule, which describes circumstances when a site visit is required. The change allows the Division to select the most appropriate review method (e.g. desk audit or site visit) under the facts and circumstances. The change would lessen staff travel and associated transportation costs.							
<b>Total Anticipated Rule Actions for Department of Administration:</b>								<b>4</b>

\* S = State Impact, L = Local Impact, SE = Substantial Economic Impact of > \$3 million in a 12-months period, U = Impact Unknown.

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Division	Rule Title and Description	Citation(s)	Contact		Rule Action	Impacts:*		
			Name	Phone		S/	L/	SE
<b>Department of Commerce</b>								
N/A	<b>Industrial Development Fund</b>	04 NCAC 01I .0101	Mark N. Poole	733-4907	Amend	S	L	-
<p>Agency intends to amend the rule to make it reflect legislation that was passed last year, which specified that units of local government may request grant funds equal to up to \$10,000 per job (capped at \$500,000). This change would have a positive impact on local governments since the new rule would effectively double the allowable amount per job. The change would enable local governments to request a larger grant in support of a company creating jobs; therefore, using less local funds in support of this type of job-creating projects.</p>								
<b>Total Anticipated Rule Actions for Department of Commerce:</b>								<b>1</b>
<b>Department of Crime Control and Public Safety</b>								
State Highway Patrol Division	<b>Safety of Operation and Equipment</b>	14A NCAC 09J .0101	Casandra White	(919) 733-2126, ext. 236	Amend	U	U	-
<p>The agency intends to amend the rule to bring certain weight restrictions of commercial motor vehicles into compliance with federal law (49 CFR, Part 350) as it pertains to operation of such vehicles in intrastate Commerce. The proposed change would not result in any increase in penalties for size and weight violations at weigh stations, as those penalties are set by the legislature; nor would the change increase the cost of permits, as those fees are set by DOT. It is conceivable that the proposed change could result in less damage to the roads, which would potentially benefit the state and local governments. Failure to amend the rules could result in the state losing federal funding.</p>								
<b>Total Anticipated Rule Actions for Department of Crime Control and Public Safety:</b>								<b>1</b>
<b>Department of Environmental and Natural Resources</b>								
Division of Water Quality	<b>Jordan Water Supply Nutrient Strategy</b>	15A NCAC 02B .0265-.0267, .0270-.0271	Rich Gannon	(919) 807-6440	Amend	S	L	-
<p>All rulemaking actions will be an administrative step to incorporate requirements mandated by Session Laws 2009-216 and 2009-484 into either existing rules or a new rule. The session law mandated the incorporation of "substantively identical" provisions to its requirements into either amended rules in the case of those it did not disapprove or, for the disapproved 2B .0266, a new rule. Changes mandated by the statute are not expected to increase the economic impact that was originally predicted for the existing or replaced rule. Per 40 CFR 130, these rules have been developed to implement control measures to attain the State's water quality standards.</p>								

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Division	Rule Title and Description	Citation(s)	Contact		Rule Action	Impacts:*		
			Name	Phone		S/	L/	SE
Division of Water Quality	<b>Protection and Maintenance of Existing Riparian Buffers; Riparian Buffer Mitigation</b>	15A NCAC 02B .0290-.0295	John Dorney	(919) 733-9646	Adopt	S	L	-
	<p>The agency proposes to consolidation Existing Riparian Buffer Rules (15A NCAC 02B .0233, .0250, .0259, and.0267) and Riparian Buffer Mitigation Rules (15A NCAC 02B .0242, .0244, .0260, .0268, .0609 and .0252) into one set of Protection and Maintenance of Existing Riparian Buffer Rules (.0290-.0294) and one Riparian Buffer Mitigation Rule (.0295). The fiscal analysis has not been completed; however, it is expected that there would be minimal costs to the local governments associated with updating ordinances. There would also be minimal state costs associated with variance processing; however, there are potential savings in that more properties may be able to avoid the variance process. Per 40 CFR 130, these rules have been developed to implement control measures to maintain and attain the State's water quality standards.</p>							
Division of Water Quality	<b>Assignment of Stream Classifications</b>	15A NCAC 02B .0300	Dianne Reid	(919) 807-6427	Amend	S	L	U
	<p>The amendment proposes several reclassifications to High Quality Waters, Outstanding Resource Waters, Trout and Water Supply in the French Broad, Cape Fear, Roanoke, Little Tennessee, Yadkin, New, and Neuse River Basins. These classifications have land use restrictions and/or local ordinance requirements that can have minimal costs to state and local governments to implement. Depending on development activity in the area, these changes could have a substantial economic impact. The Federal Clean Water Act, as codified in 40 CFR 130 and 131, requires the proper identification, designation, and protection of all existing and designated uses. These reclassifications implement these federal regulations and the state rule [15A NCAC 18 C .0202 &amp; .0710(5)] requirement that all surface waters to be used for human consumption be classified for Water Supply.</p>							
Division of Air Quality	<b>Sulfur Oxides</b>	15A NCAC 02D .0402	Joelle Burluson	(919) 733-1474	Amend	S	U	-
	<p>On June 2, 2010, EPA strengthened the primary National Ambient Air Quality Standard (NAAQS) for sulfur dioxide (SO2) by replacing the current 24-hour and annual standard with a new 1-hour SO2 standard at a level of 75 (ppb), based on the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. This action amends the State standard to be consistent with the Federal Standard. It is uncertain how units of local government funds may be affected. The State Air Quality Agency funds may be impacted if Federal funding is not provided to set up and operate additional monitoring sites.</p>							
Division of Air Quality	<b>Nitrogen Dioxide</b>	15A NCAC 02D .0407	Joelle Burluson	(919) 733-1474	Amend	S	U	-
	<p>On January 22, 2010, Environmental Protection Agency (EPA) strengthened the health-based National Ambient Air Quality Standard (NAAQS) for nitrogen dioxide (NO2). EPA is supplementing the existing annual standard for NO2 of 53 parts per billion (ppb) by establishing a new short-term standard based on the 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations. EPA is setting the level of this new standard at 100 ppb. This action amends the State standard to be consistent with the Federal Standard. It is uncertain how units of local government funds may be affected. The State Air Quality Agency funds may be impacted if Federal funding is not provided to set up and operate additional monitoring sites.</p>							

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			Name	Phone		S/	L/	SE
Division of Air Quality	<b>Maximum Achievable Control Technology</b> When the Division of Air Quality (DAQ) received delegation of the federal permitting program, it adopted the federal hazardous air pollutant regulations by reference in 02D .1111. As state resources continue to dwindle and the implementation burden of the federal rules continues to increase, the agency continues to evaluate the federal rules to assess their environmental and resource impacts for North Carolina. In its efforts to use staff resources most efficiently, the agency is currently investigating potential de-delegation or exclusion of the Reciprocating Internal Combustion Engine (RICE) Generally Achievable Control Technology rule. If this amendment is successful, it would result in cost savings to the State Air Quality Agency.	15A NCAC 02D .1111	Joelle Burleson	(919) 733-1474	Amend	U	-	-
Division of Water Quality	<b>Laboratory Certification</b> These Rules apply to Commercial, Industrial, Municipal, and Field laboratory facilities that perform monitoring analyses used to report compliance data to DENR on: Groundwater, Solid and Hazardous Waste, Surface Water, Waste Not Discharged to Surface Waters, Point Source Discharges to the Surface Waters, and all wastewater treatment plant laboratories having Local Pretreatment Programs. Laboratory Certification is required through statute. The Laboratory Certification's current annual fees can no longer sustain the operating costs of the laboratory certification program. The proposed rule changes are intended to add clarity and consistency for the regulated community and to keep pace with the many changes in technology, methodologies, and Federal regulations as they continually evolve (see modifications per 40 CFR 136 Guidelines Establishing Test Procedures for the Analysis of Pollutants).	15A NCAC 02H .0800	David Livingston	(919) 733-3908 ext. 272	Amend	S	L	-
Division of Coastal Management	<b>AECs Within Ocean Hazard Areas (OEA)</b> The Coastal Resource Commission is proposing to make three changes to Areas of Environmental Concern (AECs) within OEAs: 1) Change the formula used to determine the setback distance for development on the oceanfront. This change would expand the permitting jurisdiction of the Division. Local governments that issue minor permits for residential development might be required to process more applications, but they would be reimbursed by the Division for processing minor permits. Local governments and state agencies siting development within the expanded OEA might be required to apply for permits where they were not previously. 2) Lift the unvegetated beach designation instated for Hatteras Village in 2004 after Hurricane Isabel destroyed the natural vegetation line used for calculating oceanfront setbacks. The vegetation line has recovered and can now be used for setback determinations. In most cases, the vegetation line has moved seaward allowing oceanfront development in areas previously unbuildable. Local governments might also see an increase in their tax base. 3) Remove the Inlet Hazard Area designation for the area formerly known as Mad Inlet, which was closed in 1997. Removal of the designation lifts the additional restrictions not normally associated with oceanfront development. Local governments might see increased minor permit applications as a result.	15A NCAC 07H .0304	Mike Lopazanski		Amend	S	L	-
Division of Environmental Health	<b>Safety Requirements for Industrial Radiography Operations</b> These rules that are proposed to be amended deal safety requirements for facilities operating with analytical x-ray machines. The rule change would impact a few state government educational registrants that use such x-ray machines.	15A NCAC 11 .0502, .0518, .0519	John Granger	(919) 571-4141 ext 226	Amend	S	-	-

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Division	Rule Title and Description	Citation(s)	Contact		Rule Action	Impacts:*		
			Name	Phone		S/	L/	SE
Division of Environmental Health	<b>Industrial Radiography Facilities</b>	15A NCAC 11 .0526	John Granger	(919) 571-4141 ext 226	Adopt	S	L	-
	The new rule targets industrial radiography facilities. There are a few state and local government medical, educational, and law enforcement registrants that would be impacted by this rule.							
Division of Environmental Health	<b>Dental X-ray Machines</b>	15A NCAC 11 .0600	John Granger	(919) 571-4141 ext 226	Adopt	S	L	-
	This new rule would address hand held dental x-ray machines and may impact some state and local governments that choose to purchase this technology.							
Division of Environmental Health	<b>Requirements for Analytical X-ray Equipment</b>	15A NCAC 11 .0801-.0806	John Granger	(919) 571-4141 ext 226	Amend	S	-	-
	The changes proposed by the agency in these rules would affect a few state government educational registrants.							
Division of Environmental Health	<b>Analytical X-ray Facilities</b>	15A NCAC 11 .0807	John Granger	(919) 571-4141 ext 226	Adopt	S	-	-
	This new rule would target analytical x-ray facilities. There are a few state government educational registrants that would be impacted by this adoption.							

**Total Anticipated Rule Actions for the Department of Environmental and Natural Resources: 13**

#### Department of Health and Human Services

Division of Health Service Regulation	<b>Resident Contract, Information on Home and Resident Register and Resident Contract and Information on Home</b>	10A NCAC 13F .0704; 10A NCAC 13G .0704	Erin Glendening	(919) 855-3848	Amend	-	L	-
	This rule specifies the information that must be shared by the facility with the resident upon admission or when there are changes to the information. The amendment would require a statement from the facility as to whether the legal representative of a resident with Alzheimer's Disease or other form of dementia wishes to be notified of the resident's refusal of a medication dose. The change would create some costs for local governments in terms of the time required to write the statement and the time needed to notify legal representatives when residents refuse medication.							
Division of Health Service Regulation	<b>Report of Felon Escapes</b>	10A NCAC 14J .1103	Erin Glendening	(919) 855-3848	Adopt	-	L	-
	Currently, jails are not required to report escapes to the Jails and Detention Unit which has led to the failure to correct the problem that allowed the initial escape. The only impact on local governments would be in terms of the time to complete a one page report and submit the report within five days of the escape. The report can be submitted by e-mail, fax, or U.S. mail.							

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Division	Rule Title and Description	Citation(s)	Contact		Rule Action	Impacts:*		
			Name	Phone		S/	L/	SE
Division of Health Service Regulation	<b>Confinement of Males Under 18 Years of Age</b>	10A NCAC 14J .0303	Erin Glendening	(919) 855-3848	Amend	-	L	-
	Currently, jails are required to house males, less than 18 years of age, separately from adults during sleeping hours. However, female inmates under the age of 18 are not covered under these same guidelines. This rule change would give juvenile female inmates equal protection. Smaller county and municipal jails would have a fiscal impact mostly due to existing limited space that is designated for females. When they have a juvenile female, they would have to make arrangements to transport and house the juvenile inmates at another facility. The average rate to house these inmates at another facility is approximately \$50.00 per day.							
Division of Health Service Regulation	<b>Inmate Clothing</b>	10A NCAC 14J .0706	Erin Glendening	(919) 855-3848	Adopt	-	L	-
	There are no standards in the current rules for jails to follow in reference to the type of clothes that inmates are issued or the frequencies which clean clothes are distributed. There is inconsistency throughout the state on what type of clothes inmates are allowed to possess and how the clothes are cleaned. Inmates have been observed washing clothes in sinks and toilets. Also, undergarments are normally not issued. Indigent inmates often do not receive undergarments. This change would have a fiscal impact on the local jails due to the need to purchase additional clothing and laundry supplies.							
Division of Mental Health, Developmental Disabilities and Substance Abuse Services	<b>North Carolina Department of Correction: Standards for Mental Health and Mental Retardation</b>	10A NCAC 26D	Amanda J. Reeder	(919) 715-2780	Amend	S	-	U
	The amendments propose to update the rules to reflect current best practice methods and ensure that inmates needing mental health and mental retardation treatment are provided the same in a clinically appropriate manner. The amendments would likely increase costs to the Department of Correction to provide the treatment. The Commission for MH/DD/SAS anticipates some costs would be offset by lowering the recidivism rate, as the rules intend to address and prevent issues related to treatment needs encountered by inmates with mental health or mental retardation diagnoses after release.							
Division of Mental Health, Developmental Disabilities and Substance Abuse Services	<b>Requirements for the Transmission of Data</b>	10A NCAC 26E .0603	Amanda J. Reeder	(919) 715-2780	Amend	S	-	-
	The agency is amending the rules to comply with a legislative mandate contained in Session Law 2009-438 (SB 628), that increases the requirement for the frequency of reporting by pharmacies dispensing controlled substances. The change would create minimal costs for state government and private sector pharmacies; however, these costs were already incurred by these entities when the state law became effective.							
Division of Mental Health, Developmental Disabilities and Substance Abuse Services	<b>General Definitions</b>	10A NCAC 27G .0105	Amanda J. Reeder	(919) 715-2780	Adopt	S	-	-
	This rule change would define terms used within G.S. 122C-23. That statute confers upon the Secretary of DHHS the authority to deny licensure applications to certain individuals (such as principal, owner, or affiliate of another facility that lost their license due to malfeasance). The statute does not define those terms, which makes it difficult to apply the statute uniformly. Adopting this rule would impact state government in a positive way, as it will make it easier to review applications and make determinations under the requirements of the statute.							

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Division	Rule Title and Description	Citation(s)	Contact		Rule Action	Impacts:*		
			Name	Phone		S/	L/	SE
Division of Mental Health, Developmental Disabilities and Substance Abuse Services	<b>Clients Rights Committee</b> In 2009, the General Assembly through G.S. 122C-64 granted authority to the Commission for MH/DD/SAS to require individual provider agencies to create Client Rights Committees. The amendment would require additional reviews of those committees by the Local Management Entities and Division staff. Many provider agencies across the state have already formed Client Rights Committees pursuant to the requirements of their accrediting bodies; therefore, while the Division does anticipate that the provider community would encounter some cost to establish these committees, it does not anticipate the amendment would result in a substantial economic impact to the community.	10A NCAC 27G .0504	Amanda J. Reeder	(919) 715-2780	Amend	S	L	-
Division of Mental Health, Developmental Disabilities and Substance Abuse Services	<b>Waiver of Licensure Rules</b> Currently, all waivers of licensure rules are effective for the licensure year, and are granted after review by Department agencies, as well as input from the Local Management Entity. The amendment would allow providers who request a waiver of licensure rules related to building design and equipment to renew the waiver every 10 years, rather than on an annual basis. The Division anticipates a cost savings for the state and local government, as well as the private sector.	10A NCAC 27G .0813	Amanda J. Reeder	(919) 715-2780	Amend	S	L	U
Division of Mental Health, Developmental Disabilities and Substance Abuse Services	<b>Operations</b> The agency proposed to amend the rule to allow psychiatric residential treatment facilities (PRTFs) to increase the maximum number of consumers allowed at the facility from 12 to 18. The state anticipates that more consumers would stay at in-state PRTFs and more consumers would transfer from other facilities (which are also paid for partially with state funds) and move to PRTFs. The Division anticipates incurring costs from this amendment due to the higher cost of providing care at PRTFs than other facilities. To that end, the Division anticipates that this rule change will have a significant impact upon state and federal funds.	10A NCAC 27G .1903	Amanda J. Reeder	(919) 715-2780	Amend	S	-	U
Division of Mental Health, Developmental Disabilities and Substance Abuse Services	<b>Substance Abuse Services for DWI Offenders</b> The proposed amendments would strengthen treatment by increasing the number of hours each client must complete, add a requirement for drug screening, and make other programmatic requirements. The changes would increase the amount providers would expend in providing the services, and increase the amount that individuals would spend to receive the services. The state would see some cost savings from reducing the frequency of monitoring DWI programs and from allowing appeals to go directly through the Office of Administrative Hearings (OAH) without a review at the Division level.	10A NCAC 27G .3800	Amanda J. Reeder	(919) 715-2780	Amend	S	-	SE
Division of Mental Health, Developmental Disabilities and Substance Abuse Services	<b>Non- Medicaid Appeals Process: Scope</b> The agency intends to amend the rule to reduce the cost of appeals to the consumer, their treatment team, and the Local Management Entities (LMEs), while ensuring consumers' right to an appeal is safeguarded. The Division believes these amendments will result in cost savings for the state and local governments, as well as the private sector. The amendment would allow for a the Hearing Officer to convene the hearing, thus saving on costs of mailing documents to the Panel and paying for Panel members' travel costs and per diems for the hearing. This change would also reduce travel cost for the LMEs and consumers (travel costs could be potentially eliminated if hearings are conducted via telephone). The proposed amendments would further limit the number of appeals heard by not allowing appeals related to eligibility changes mandated by legislation or to the lack of available funding for non-entitlement services. In cases where LMEs made a decision to terminate, deny, suspend, or reduce services in accordance with its Standard Benefit Plan, the Division would conduct administrative reviews, rather than in person hearings.	10A NCAC 27I .0601-.0602, .0605-.0609	Amanda J. Reeder	(919) 715-2780	Amend	S	L	U

\* S = State Impact, L = Local Impact, SE = Substantial Economic Impact of > \$3 million in a 12-months period, U = Impact Unknown.

### III. Schedule of Anticipated Rules Actions in SFY 2011-2012

Division	Rule Title and Description	Citation(s)	Contact		Rule Action	Impacts:*		
			Name	Phone		S/	L/	SE
Division of Public Health	<b>Ryan White HIV Care Program</b>  The rule needs to be updated since the program delivery model for HIV/AIDS care network has changed per federal standards and new state implementation plan. While the program is fully federally funded, state and local governments may be impacted through the networks of care in the new program delivery model.	10A NCAC 39A .0900	Bob Martin	(919) 707-5179	Amend	U	U	-
Division of Public Health	<b>Control Measures - Tuberculosis</b>  The proposed amendment would reduce the requirement to declare an individual “noninfectious” from three to two consecutive sputum specimens. This change would permit a more timely release of patients from respiratory isolation with fewer burdens on the patient and local health department staff. Also, the State Laboratory of Public Health would experience some savings from a reduced number of specimens they would need to analyze. The rule change has been deemed medically and programmatically appropriate by the North Carolina Tuberculosis Medical Director (Dr. Jason Stout) as well as by program staff at the Centers for Disease Control and Prevention. (A temporary amendment is currently in process.)	10A NCAC 41A .0205	Bob Martin	(919) 707-5179	Amend	S	L	-
Division of Public Health	<b>Certification, Certification Renewal and Fees</b>  The agency plans to change certification criteria and the fee structure for laboratories seeking certification to perform analyses of public water systems. The rule amendment would increase state revenue for performing certifications and renewals. Municipalities, local health department, and privately owned laboratories that are in the certification program might be impacted from an increased cost for certification and renewals.	10A NCAC 42D .0233	Bob Martin	(919) 707-5179	Amend	S	U	-
Division of Public Health	<b>Authorized WIC Vendors</b>  Changes to this rule are required to conform to new federal USDA requirements in 7 CFR 246. The amendment is anticipated to reduce state government and local government administrative costs related to the compliance of WIC authorized food vendors.	10A NCAC 43D .0706	Bob Martin	(919) 707-5179	Amend	S	L	-
Division of Public Health	<b>Child and Adult Care Food Program</b>  The amendment is necessary per 7 CFR 226 to introduce local North Carolina standards. Current federal regulations are incorporated in full in NC rule. The amendment would implement specific requirements around program integrity and clarify general federal requirements and define their application in NC. The amendment could potentially impact the state program, local level sponsor, and authorized vendors through administration requirements that are specific to the NC program implementation. These costs are not yet know.	10A NCAC 43J .0101	Bob Martin	(919) 707-5179	Amend	S	L	U
Division of Public Health	<b>Payment Programs</b>  The agency proposed to make technical changes required to account for program payment processing to align with NCTracks requirements (a new DHHS MMIS multi-payer claims processing system). Impacts to the state and local healthcare providers of specific public health services would result from aligning the payment structure with NC Medicaid guidelines.	10A NCAC 45A .0101-.0102, .0201-.0204, .0301-.0305, .0401-.0403	Bob Martin	(919) 707-5179	Amend	S	L	U

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### III. Schedule of Anticipated Rules Actions in SFY 2011-2012

Division	Rule Title and Description	Citation(s)	Contact		Rule Action	Impacts:*		
			Name	Phone		S/	L/	SE
Division of Public Health	<b>Local Health Department Accreditation</b>	10A NCAC 48A; 10A NCAC 48B	Bob Martin	(919) 707-5179	Amend	U	U	-
	The board overseeing local public health department accreditation is in process of revising the accreditation standards and criteria. Depending on these changes, the local health departments could face increased costs to achieve accreditation and the state could see cost increases in supporting their accreditation efforts.							
Division of Social Services	<b>State Adoption Assistance</b>	10A NCAC 70M .0401-.0403	Kevin Kelley	(919) 334-1135	Amend	S	L	-
	Adoption Assistance Vendor Payments for children adopted from foster care and State Adoption Assistance for families who adopted children with special needs would no longer be available for adoptions finalized after a certain date. While this rule change would lead to cost savings for the Division in the amount of about \$200-300,000 per year, this would constitute a loss in revenue for families. Local governments might also incur some cost savings.							

**Total Anticipated Rule Actions for Department of Health and Human Services: 20**

#### Department of Justice

Criminal Justice Standards Commission	<b>Basic Law Enforcement Training</b>	12 NCAC 09B .0205	Teresa Marrella	(919) 716-6475	Amend	S	L	-
	This rule outlines the topic of instruction in the Basic Law Enforcement Training (BLET) Program. A new two hour topic of instruction, Human Trafficking, has been added to the BLET curriculum. The addition of a new topic would require a new lesson plan to be developed by the NC Justice Academy. Sixty-one community colleges offer BLET. Each of the colleges would have to pay an instructor for two hours of instruction. Six municipal law enforcement agencies run a BLET academy. They will also have to pay an instructor for two hours of instruction each time the BLET course is offered.							
Sheriff's Education and Training Standards Commission	<b>Basic Law Enforcement Training Course for Deputies</b>	12 NCAC 10B .0502	Julia Lohman	(919) 716-6450	Amend	-	L	-
	The amendment would increase the minimum course hours requirement from 618 to 620. The change would increase local government costs related to providing two extra hours of training.							
Sheriff's Education and Training Standards Commission	<b>Detention Officer Certification Course</b>	12 NCAC 10B .0601	Julia Lohman	(919) 716-6450	Amend	-	L	-
	The amendment would increase the minimum course hours requirement from 162 to 168 hours of instruction. The change would increase local government costs related to providing four extra hours of training.							
Sheriff's Education and Training Standards Commission	<b>Evaluation for Training Waiver</b>	12 NCAC 10B .0603	Julia Lohman	(919) 716-6450	Amend	-	L	-
	The agency proposes to reduce the number of hours required for correction officers who are transferring to detention officer positions. The reduction in the course hours requirement would translate into savings for the local governments.							

\* S = State Impact, L = Local Impact, SE = Substantial Economic Impact of > \$3 million in a 12-months period, U = Impact Unknown.

### III. Schedule of Anticipated Rules Actions in SFY 2011-2012

Division	Rule Title and Description	Citation(s)	Contact		Rule Action	Impacts:*		
			Name	Phone		S/	L/	SE
Sheriff's Education and Training Standards Commission	<b>Comp Written Exam - Detention Officer Certification Course</b> The amendment would change the format from a single comprehensive scored exam to a four part exam, each part requiring a minimum score of 70% to pass. The exam format change would require local governments to expend some resources.	12 NCAC 10B .0606	Julia Lohman	(919) 716-6450	Amend	-	L	-
Sheriff's Education and Training Standards Commission	<b>Trainee Attendance</b> The change in the rule would allow absences for religious reasons as required by the Dept. of Community Colleges. At this moment, it is unclear what impact, if any, this change would have on state or local governments.	12 NCAC 10B .1305	Julia Lohman	(919) 716-6450	Amend	U	U	-
Sheriff's Education and Training Standards Commission	<b>In-Service Training for Justice Officers</b> The agency makes annual revision to in-service training requirements for Deputy Sheriffs, Detention Officers, and Telecommunication Officers. Local governments would be impacted due to the time and effort required to conduct the training. State government would also be impacted, though to a lesser extent. Without these rule changes there would be no training requirements for 2012. The impacts of these rules are confined to 2012.	12 NCAC 10B .2000	Julia Lohman	(919) 716-6450	Amend	S	L	SE

**Total Anticipated Rule Actions for Department of Justice: 7**

#### Department of Revenue

N/A	<b>Shoe Repairmen</b> The amendment is necessary to make the rule conform to the current sales tax statute. The rule currently allows shoe repairmen to collect and remit tax on 40% of the combined price or charge made for the materials, labor, and services as representing the retail charge for the materials furnished. The proposed rule change would require the actual labor, if separately stated on the invoice, to be exempt from tax. This change would impact state and local sales tax revenue.	17 NCAC 07B .1002	Thomas L. Dixon, Jr.	733-4433	Amend	S	L	-
N/A	<b>Watch: Clock and Jewelry Repairmen</b> The amendment is necessary to make the rule conform to current sales tax statute. The rule currently allows watch, clock, and jewelry repairmen to collect and remit tax on 10% of the combined price or charge made for the materials, labor, and services as representing the retail charge for the materials furnished. The proposed rule change would require the actual labor, if separately stated on the invoice, to be exempt from taxation. This rule change would impact state and local sales tax revenue.	17 NCAC 07B .1003	Thomas L. Dixon, Jr.	733-4433	Amend	S	L	SE
N/A	<b>Tire Recapping Materials</b> The current rule allows tire recappers to collect and remit tax on 40% of the combined price or charge made for the materials, labor, and services as representing the retail charge for the materials furnished. The proposed rule change would result in tax charged on the total sales price of the recapped tire, therefore impacting state and local sales tax revenue. The amendment is necessary to make the rule conform to current sales tax statute.	17 NCAP 07B .1901	Thomas L. Dixon, Jr.	733-4433	Amend	S	L	SE

**Total Anticipated Rule Actions for Department of Revenue: 3**

\* S = State Impact, L = Local Impact, SE = Substantial Economic Impact of > \$3 million in a 12-months period, U = Impact Unknown.

### III. Schedule of Anticipated Rules Actions in SFY 2011-2012

Division	Rule Title and Description	Citation(s)	Contact		Rule Action	Impacts:*		
			Name	Phone		S/	L/	SE
<b>Substance Abuse Professionals Practice Board</b>								
N/A	<b>Supervised Practicum for Certified Substance Abuse Counselor and Licensed Clinical Addictions Specialist</b>	21 NCAC 68 .0204	E. Ann Christian	(919) 755-9229	Amend	S	L	-
	The rule formalizes the amount of time a practitioner needs to be supervised, although there is currently no set amount for supervision in the rule. The rule change would, in effect, decrease the amount of time supervisors spend with "supervisees," thus reducing costs to state or local governments and private practices. The impact is small because a clinical supervisor is on site already performing many other tasks and this rule change would simply result in a time savings for that staff member.							
N/A	<b>Method of Discipline</b>	21 NCAC 68 .0605	E. Ann Christian	(919) 755-9229	Amend	-	L	-
	The Board proposes to change disciplinary actions taken by the Board, including extension of the period of time disciplinary actions may be imposed. The only impact the Board could contemplate would apply to a single county Local Management Entity (LME) that might experience some negligible impact. The extension of time is extremely rare and applicable in circumstances beyond the disciplined practitioner's control. For example, this might apply if a disciplined individual were in a serious car accident prior to completion of all conditions contained in the Consent Order.							

**Total Anticipated Rule Actions for Substance Abuse Professional Practice Board: 2**

**Total Anticipated Rules for ALL Agencies: 51**

\* S = State Impact, L = Local Impact, SE = Substantial Economic Impact of > \$3 million in a 12-months period, U = Impact Unknown.

IV. Rules with Local Government Impact Adopted in SFY 2009-2010

Table 6. Rules Affecting Local Governments That Were Adopted between July 1, 2009 and June 30, 2010

Division	Title of Rule Change	Citation(s)	Contact	Date Adopted	Impact on Local Government by SFY (thousands):*				
					2009-10	2010-11	2011-12	2012-13	2013-14
<b>Board of Environmental Health Specialist Examiners</b>									
N/A	Authorized Expenditures and Fees	21 NCAC 62 .0405	Jeff French (336) 348-6770	5/12/10	\$0	-\$10	-\$10	-\$10	-\$10
<b>Totals for Board of Environmental Health Specialist Examiners:</b>					<b>\$0</b>	<b>-\$10</b>	<b>-\$10</b>	<b>-\$10</b>	<b>-\$10</b>
<b>Department of Environment and Natural Resources</b>									
Division of Water Quality	Well Construction Standards	15A NCAC 02C .0102-.0103, .0105, .0107-.0114, .0116-.0119	Debra Watts (919) 715-6699	7/9/09	-\$233	-\$467	-\$467	-\$467	-\$467
Division of Water Quality	Groundwater Standards for Arsenic	15A NCAC 02L .0202	Sandra Moore (919) 807-6417	9/10/09	-\$1,990	-\$2,107	-\$2,107	-\$2,107	-\$2,107
Division of Water Quality	Groundwater Standards Triennial Review	15A NCAC 02L .0202	Sandra Moore (919) 807-6417	9/10/09	\$0	-\$1,089	-\$653	-\$708	-\$762
Division of Air Quality	Ambient Levels of Acrylonitrile	15A NCAC 02D .1104, 15A NCAC 02Q .0711	Joelle Burleson (919) 733-1474	11/19/09	\$0	\$0	\$0	\$0	\$0
Division of Waste Management	Performance Standards for Underground Storage Tanks	15A NCAC 02N .0901, .0903	Ruth Strauss (919) 733-1330	11/19/09	-\$8	-\$8	-\$8	-\$8	-\$8
Division of Environmental Health	Swimming Pool Rules	15A NCAC 18A .2508-.2511, .2514-.2516, .2518, .2521, .2523-.2524, .2528, .2531-.2532, .2535, .2539	Jim Hayes (919) 715-0924	2/17/10	-\$545	\$0	\$0	\$0	\$0
Division of Land Resources	Sediment Control Self-Inspections	15A NCAC 04B .0131	Gray Hauser (919) 733-4574	2/18/10	-\$12	-\$46	-\$46	-\$46	-\$46
Division of Water Quality	Randleman Buffer	15A NCAC 02B .0250, .0252	Amy Chapman (919) 733-1786	3/11/10	-\$7	-\$5	-\$5	-\$5	-\$5
Division of Air Quality	Municipal Waste Combustors	15A NCAC 02D .1205, .1212	Paul Grable (919) 733-1468	5/18/10	\$0	\$7	\$0	\$0	\$0
<b>Totals for Department of Environment and Natural Resources:</b>					<b>-\$2,795</b>	<b>-\$3,715</b>	<b>-\$3,286</b>	<b>-\$3,341</b>	<b>-\$3,395</b>

\* Note that positive values are benefits to local governments and negative values are costs.

#### IV. Rules with Local Government Impact Adopted in SFY 2009-2010

Division	Title of Rule Change	Citation(s)	Contact	Date Adopted	Impact on Local Government by FY (thousands):*				
					2009-10	2010-11	2011-12	2012-13	2013-14
<b>Department of Justice</b>									
Sheriffs' Education and Training Standards Commission	2010 Education and Training Standards	12 NCAC 10B .0205, .0305, .2006-.2007	Julia Lohman (919) 716-6450	10/16/09	-\$1,446	-\$1,446	\$0	\$0	\$0
Sheriffs' Education and Training Standards Commission	2010 Education and Training Standards	12 NCAC 10B .2004	Julia Lohman (919) 716-6450	1/15/10	-\$1	-\$1	\$0	\$0	\$0
<b>Totals for Department of Justice:</b>					<b>-\$1,447</b>	<b>-\$1,447</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Totals for ALL Agencies:</b>					<b>-\$4,242</b>	<b>-\$5,171</b>	<b>-\$3,295</b>	<b>-\$3,351</b>	<b>-\$3,405</b>

\* Note that positive values are benefits to local governments and negative values are costs.