



2010

North Carolina Rules with Economic Impact

- I. Schedule of Anticipated
Rule Actions
- II. Rules that Affected Local
Governments

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

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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 of rules adopted in the preceding fiscal year that affect local governments. 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

Summary

The Summary section contains some statistics on anticipated rule actions in SFY 2010-11 and rules adopted in SFY 2008-09 with projected impact on local governments.

I. Schedule of Anticipated Rule Actions, July 1, 2010 – June 30, 2011

This section provides information on rules North Carolina agencies expect to adopt in SFY 2010-11 that would require a fiscal note approved or reviewed by OSBM under the APA. The information is organized by agency and includes the rule title, North Carolina Administrative Code (NCAC) citation, staff contact information, proposed action, anticipated impact, and a brief description of the rule change.

II. Rules that Affected Local Governments, Adopted July 1, 2008 – June 30, 2009

The last section provides information on rules North Carolina agencies adopted in SFY 2008-09 that have a projected impact on local governments. The information is provided by agency and includes the rule title, NCAC citation, staff contact information, date the rule was adopted by the agency, and expected impact on local government revenues and expenditures over a five-year period.

Summary

State agencies expect to take action on 45 different rules between July 1, 2010 and June 30, 2011. This constitutes an increase from the previous year, when there were 38 anticipated rules. According to information received by OSBM, the Department of Environmental and Natural Resources (DENR) and the Department of Health and Human Services (DHHS) would account for 62 and 24 percent, respectively, of anticipated rule actions in SFY 2010-11 (see Table 1 below). Sixty percent of the 45 rules are anticipated to have an impact on state government, 47 percent would impact local governments, and 22 percent would have a substantial economic impact, i.e. would have an impact of more than \$3 million in a year (see Table 2).¹

In SFY 2008-09, 13 rules were adopted that had an impact on local governments (see Table 3). Table 4 below presents the impact on local governments over a five-year period of the rules adopted in SFY 2008-09. The net present value of the impact on local governments over five years is almost \$1.85 million in benefits.² This positive net present value is due to a couple of rules adopted in SFY 2008-09 that create significant benefits for local governments, in particular the rules on Hospital and Ambulatory Surgical Center Fee Schedule and the Payment, Reporting, and Settlement for LME Systems Management. Moreover, in the last few years, more attention has been given to quantifying benefits, leading to a lower estimated net cost of certain rules.

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 Commerce	1	2%
Department of Environmental and Natural Resources	28	62%
Department of Health and Human Services	11	24%
Department of Insurance	1	2%
Department of Justice	1	2%
Office of Administrative Hearings	1	2%
Office of State Budget and Management	1	2%
Office of State Personnel	1	2%
Total Anticipated Rules	45	100%

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

² The net present values in this report are computed as of July 2009 using a discount rate of 7 percent, as required by the OSBM Manual.

**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	27	60%
Local Government	21	47%
Substantial Economic Impact	10	22%

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

**Table 3. Rules Adopted in SFY 2008-2009 with Local Government Impact,
by Agency**

<i>Agency</i>	<i>Number of Rules</i>	<i>Percentage of Total</i>
Department of Commerce	1	8%
Department of Correction	1	8%
Department of Environmental and Natural Resources	3	23%
Department of Health and Human Services	3	23%
Department of Justice	1	8%
Department of Labor	1	8%
Office of State Personnel	1	8%
Wildlife Resources Commission	2	15%
Total Adopted Rules	13	100%

**Table 4. Rules Adopted in SFY 2008-2009 with Local Government Impact, by Agency
(thousands of \$)***

<i>Agency</i>	<i>SFY 2008-09</i>	<i>SFY 2009-10</i>	<i>SFY 2010-11</i>	<i>SFY 2011-12</i>	<i>SFY 2012-13</i>
Department of Commerce	\$0	\$4,000	\$4,000	\$4,000	\$4,000
Department of Correction	-\$3	-\$3	-\$3	-\$3	-\$3
Dept. of Environmental and Natural Resources	\$0	\$37	-\$3,418	-\$3,418	-\$3,418
Dept. of Health and Human Services	\$470	\$234	\$48	-\$2	-\$2
Department of Justice	-\$1,446	-\$1,446	\$0	\$0	\$0
Department of Labor	\$0	-\$550	-\$550	-\$250	-\$250
Office of State Personnel	\$0	\$0	\$0	\$0	\$0
Wildlife Resources Commission	-\$8	\$0	\$0	\$0	\$0
Total Impact of Adopted Rules	-\$987	\$2,272	\$77	\$327	\$327

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

I. Schedule of Anticipated Rules Actions in SFY 2010-2011

Table 5. Schedule of Anticipated Rule Actions between July 1, 2010 and June 30, 2011

Division	Rule Title and Description	Citation(s)	Contact		Rule Action	Impacts:*		
			Name	Phone		S/	L/	SE
Department of Commerce¹								
Alcoholic Beverage Control Commission	General Review of Rules	04 NCAC 02	Tim Morse Fred Gregory	(919) 779-0700 Ext. 233, 229	Amend	U	U	U
	The ABC Commission intends to perform a general review of the rules that govern it. Such a review has not been conducted since the mid-1990s. Details about which rules will undergo rule-making are currently not available; therefore, it is unclear what impacts these rule actions would have.							
Total Anticipated Rule Actions for Department of Commerce:								1
Department of Environmental and Natural Resources								
Division of Air Quality	Prevention of Significant Deterioration; Sources in Nonattainment Areas	15A NCAC 02D .0530, .0531	Joelle Burleson	(919) 733-1474	Amend	U	U	U
	The rule action would include Greenhouse Gas Tailoring Rule provisions that are similar in nature to the proposed federal Prevention of Significant Deterioration and Title V Greenhouse Gas and Tailoring Rule (published in the Federal Register 74 (26), p. 55292). The US Environmental Protection Agency (EPA) expects to adopt rules subjecting sources of greenhouse gas emissions to permitting, and in some cases control requirements, in March 2010. The intent of this rule action is to phase in the applicability for major sources of greenhouse gases to prevent state and local permitting authorities from being overwhelmed with applications (EPA estimated an increase in orders of magnitude). These actions might impact state and local government staff workload and staff training requirements. The rules might impact sources across the economy both industrial and commercial, including some sources currently not permitted for ambient air quality purposes such as large residential buildings. Also the rules might postpone the burden related to permitting and control technology costs for smaller sources.							
Division of Air Quality	Prevention of Significant Deterioration; Sources in Nonattainment Areas	15A NCAC 02D .0530, .0531	Joelle Burleson	(919) 733-1474	Amend	U	U	U
	This action is in response to the EPA's proposed implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM2.5) (published in 73 FR 28321 on 05/16/2008). The rule would include PM2.5 provisions in the Prevention of Significant Deterioration and Nonattainment New Source Review rules. These rules would affect the construction and modification of stationary air pollution sources. An impact to state and local government authorities might also be created by an increase in staff related costs.							

¹There is a possibility that the rules for the Crisis Housing Assistance Program would be moved from under the Department of Commerce rules on Community Development Block Grants to the Department of Crime Control and Public Safety (CCPS), in which case CCPS might engage in rulemaking.

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

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Division	Rule Title and Description	Citation(s)	Contact		Rule Action	Impacts:*		
			Name	Phone		S/	L/	SE
Division of Air Quality	Prevention of Significant Deterioration; Sources in Nonattainment Areas	15A NCAC 02D .0530, .0531	Joelle Burleson	(919) 733-1474	Amend	U	U	U
	The rule amendment would clarify the notification of Federal Land Managers provision, and it could possibly address background visibility and the need for a regional haze rule. The amendment is in response to EPA Regional Haze Regulations and Guidelines for Best Available Retrofit Technology (BART) Determinations (published in 70 FR 39104 on 07/06/2005) and Prevention of Significant Deterioration of Air Quality Program: Permit Review Procedures for Sources That May Adversely Affect Air Quality in Non-Federal Class I Areas (published in 62 FR 27158 on 05/16/1997).							
Division of Air Quality	Bulk Gasoline Plants; Gasoline Bulk Terminals; Gasoline Service Stations; Gasoline Truck Tanks And Vapor Collection Systems	15A NCAC 2D .0926, .0927, .0928, .0932	Joelle Burleson	(919) 733-1474	Amend	U	U	U
	Revisions to Gasoline Storage, Transport and Stage I Rules are expected in order to update the rules to ensure they are consistent with recent area source Generally Available Control Technology (GACT) requirements promulgated in 40 CFR Part 63, Subparts BBBB and CCCCC. There may be some additional testing at State and local government gas stations that would result in minor costs.							
Division of Air Quality	Municipal Waste Combustors	15A NCAC 02D .1205, .1212	Joelle Burleson	(919) 733-1474	Amend	-	L	-
	The rules would be updated to reflect the most recent Clean Air Act Section 111(d) guideline performance standards for existing municipal waste combustors that should lead to EPA's approval of 15A NCAC 02D .1205 and 02D .1212 as a part of North Carolina's 111(d) plan. There are one large and two small MWC sources operating in North Carolina. They are owned by New Hanover County and operated by WASTECC at a single facility. WASTECC is New Hanover County's Waste-to-Energy Conversion facility. The impact of the rule is estimated to be about \$7,500 in savings to local governments from different testing requirements.							
Division of Air Quality	Hospital, Medical, and Infectious Waste Incinerators (HMIWI)	15A NCAC 02D .1206	Joelle Burleson	(919) 733-1474	Amend	-	-	U
	EPA issued final revisions to new source performance standards (NSPS) and emission guidelines to control emissions from existing HMIWI. The revisions strengthened existing emission limits for all regulated pollutants and added: stack testing requirements for existing and new sources, monitoring requirements for new sources, annual inspections of emission control devices, one-time visible emissions test of ash handling operations, procedures for test data submittal, and revised waste management plan provisions. No impact on State or local governments is expected.							

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Division	Rule Title and Description	Citation(s)	Contact		Rule Action	Impacts:*		
			Name	Phone		S/	L/	SE
Division of Air Quality	Toxic Air Pollutant Procedures: New and Existing Facilities, and Modifications	15A NCAC 02Q .0704, .0705, .0706	Joelle Burleson	(919) 733-1474	Amend	U	U	U
	Section 112(k) of the Clean Air Act specifically mandated EPA to develop a strategy to address public health risks posed by air toxics from sources in urban areas. EPA has developed a series of Generally Available Control Technology (GACT) standards, which NC adopts automatically. The proposed change would be that a source subject to a GACT standard would not be required to automatically get a permit for purposes of North Carolina air toxics program unless a control device is required to comply with GACT. This rule would impact small sources that emit less than 10 tons per year of any individual hazardous air pollutant or 25 tons of combined hazardous air pollutants.							
North Carolina Aquariums	Fee Schedule for NC Aquarium Fishing Pier	15A NCAC 28	David Griffin	(919) 877-5500	Adopt	S	-	-
	The rule would establish a fee schedule for fishing in Nags Head on the North Carolina Aquarium's pier. This rule would result in increased revenue from fees to the state government.							
Division of Environmental Health	FDA Rules for Mammography Facilities	15A NCAC 11 .0117	Jon Granger	(919) 571-4141	Amend	S	-	-
	The Division plans to incorporate by reference US Federal Drug Administration (FDA) rules for mammography facilities. These rules have been enforced for all mammography facilities since October 1, 1994 on an interim basis and were finalized on April, 28, 1999. State government facilities would be impacted by this change. No economic impact is expected, however, since all facilities already have to comply with these rules at the federal level.							
Division of Environmental Health	Industrial Analytical X-ray Facilities	15A NCAC 11 .0502, .0518, .0519	Jon Granger	(919) 571-4141	Amend	S	-	-
	This rule action would amend the requirements for using radiation machines and for training radiographers. There are a few state government educational registrants who would be impacted by these rules.							
Division of Environmental Health	New Requirements for Industrial Radiography Facilities	15A NCAC 11 .0526	Jon Granger	(919) 571-4141	Adopt	S	L	-
	The Division plans to adopt requirements for industrial radiography facilities. A few state and local government medical, educational, and law enforcement registrants would be impacted by these rules.							
Division of Environmental Health	Healing Arts X-ray Facilities	15A NCAC 11 .0602, .0603, .0604, .0605, .0606, .0607, .0610	Jon Granger	(919) 571-4141	Amend	S	L	-
	The rule action would amend requirements healing arts X-rays facilities. A few state government and local government medical, educational, and law enforcement registrants would be impacted by these rules.							

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Division	Rule Title and Description	Citation(s)	Contact		Rule Action	Impacts:*		
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Division of Environmental Health	New Requirements for Healing Arts X-ray Facilities The rule action would result in new requirements for healing arts X-ray facilities. A few state government and local government medical, educational, and law enforcement registrants would be impacted by these rules.	15A NCAC 11 .0611, .0612	Jon Granger	(919) 571-4141	Adopt	S	L	-
Division of Environmental Health	Requirements for Analytical X-ray Equipment These rules would amend the requirements for analytical x-ray equipment. There are a few state government educational registrants that would be impacted by these rules.	15A NCAC 11 .0801, .0802, .0803, .0804, .0805, .0806	Jon Granger	(919) 571-4141	Amend	S	-	-
Division of Environmental Health	New Requirements for Analytical X-ray Equipment These rules would introduce new requirements for analytical x-ray equipment. A few state government educational registrants would be impacted by these rules.	15A NCAC 11 .0807	Jon Granger	(919) 571-4141	Adopt	S	-	-
Division of Environmental Health	X-ray Fees Although the rule would create a new fee for mammography facilities, the Division expects a 20% reduction in facilities' total fee payments as a result of this rule. The new fees would replace the current fees paid by the facilities to the FDA, which are higher than those the Division expects to charge. There are some state government facilities that would be impacted by this change. No additional cost is expected since all facilities have to comply with these rules at the federal level.	15A NCAC 11 .1105	Jon Granger	(919) 571-4141	Amend	S	-	-
Division of Land Resources	Mandatory Standards for Land-Disturbing Activity In response to Session Law 2009-486, the Sedimentation Control Commission is proposing rules that would ensure that land-disturbing activity in the Upper Neuse River Basin would meet the design standards for sedimentation and erosion control. The rules would impact development activities in the Basin. The rule might also have an effect on the time of state government employees tasked with sediment control inspections.	15A NCAC 04B .0107, .0132	Gray Hauser	(919) 733-4574	Amend/ Adopt	S	L	U
Division of Waste Management	Hazardous Waste Transfer Facilities The Waste Management Division is planning to introduce a permanent rule to establish requirements for hazardous waste transfer facilities. The proposed rule would include requirements for: emergency preparedness and prevention, container management, records management, inspections, security, emergency procedure, and additional emergency notification. The Division expects an increase in facility inspections and data management, which would result in staff related costs of about \$5,000 per year (first year costs would be higher).	15A NCAC 13A .0108	Elizabeth Cannon	(919) 508-8534	Amend	S	-	-

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			Name	Phone		S/	L/	SE
Division of Waste Management	Application and Operation Requirements for Transfer Facilities	15A NCAC 13B .0401, .0402	Ellen Lorscheider	(919) 508-8499	Adopt	-	L	-
	The Division intends to adopt rules to replace the current requirements for permit application and operation of waste transfer facilities. The new rules would cover a much larger universe of transfer facilities, including rail and barge facilities, as well as facilities that store, sort, or manage recyclables in addition to waste. A number of local government transfer facilities might be impacted by this rule action.							
Division of Waste Management	Land Clearing and Inert Debris Landfills	15 NCAC 13B .0563-.0566	Ellen Lorscheider	(919) 508-8499	Amend	-	L	-
	The Division plans to amend the rules so that sites that are less than two acres would be covered by the rules. Currently, the sites notify the state authorities before commencing operation. Local governments own and operate approximately a quarter of the 626 notified sites.							
Division of Waste Management	Groundwater Monitoring Requirements	15 NCAC 13B .1630 - .1637	Ellen Lorscheider	(919) 508-8499	Amend	-	L	-
	The Division plans to amend the groundwater rules for solid waste facilities to eliminate the requirement for statistical analysis. Facilities owned and operated by county and local governments are responsible for the largest segment of the facilities covered by groundwater detection monitoring. The elimination of these requirements would result in a cost savings for local governments.							
Division of Water Quality	Falls Lake Water Supply Nutrient Strategy	15A NCAC 02B .0200	John Huisman	(919) 807-6436	Adopt	S	L	SE
	The division plans on adopting a set of rules that would detail the nutrient management strategy for the Falls Lake reservoir, in accordance with the requirements set in Session Laws 2005-190 (S981) and 2009-486 (S1020). The strategy has a staged approach that aims to reduce the nitrogen and phosphorous inputs into the lake by 40% and 77%, respectively, from 2006 levels. The set of rules includes stormwater management requirements for new and existing developments, agriculture operation requirements, waste discharge requirements, options for nutrient offsetting, and fertilizer management. The rules would impact the state government through the Department of Environmental and Natural Resources Divisions of Environmental Health and Water Quality, five county and eight municipal governments, as well as agricultural and livestock operators, developers, and waste water dischargers located in the Falls Lake watershed. The overall economic impact is expected to be substantial.							
Division of Water Quality	Nutrient Offset Payments	15A NCAC 2B .0240, .0274	Suzanne Klimek	(828) 329-0871	Amend	S	L	-
	Under Neuse, Tar-Pamlico, and Jordan nutrient strategies, developers and wastewater dischargers have the ability to achieve partial load reductions under certain conditions through offset payments to Ecosystem Enhancement Program (EEP). This rule amendment would set procedures for complying with nutrient reduction requirements and for establishing actual cost rates for payments to the EEP as part of the Nutrient Offset Payment Program. The Division expects that the lower proposed rate based on actual cost (versus the current rate imposed by legislature) would result in net cost savings to state, local, and federal governments (up to \$6,000 per year in the first year), as well as the private sector (about \$100,000 to \$200,000 per year).							

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Division	Rule Title and Description	Citation(s)	Contact		Rule Action	Impacts:*		
			Name	Phone		S/	L/	SE
Division of Water Quality	Cape Fear River Basin	15A NCAC 02B .0311	Elizabeth Kountis	(919) 807-6418	Amend	U	L	-
	<p>The Division intends to reclassify a portion of the upper Haw River watershed in order to recognize an existing public water supply intake, which has been approved as an emergency water supply source by the Division of Environmental Health for the City of Greensboro but has yet to receive the required public water supply surface water designation. The proposal might impact new development and new discharges in the proposed water supply watershed. Local municipalities with jurisdiction in the proposed watershed might be impacted by this proposal. In addition, new Department of Transportation projects in the proposed watershed might be impacted by the proposal, and thus, the proposal might have an impact on state government.</p>							
Division of Water Quality	Criteria and Standards Applicable to Injection Wells	15A NCAC 2C .0200	Debra Watts	(919) 715-6699	Amend	S	L	U
	<p>Based on potential legislation related to whether the ban on injected waste is changed or lifted, these rule might need to be substantially amended to include changing the permitting process, requiring public hearings, requiring public outreach, etc. If legislation remains the same, the impact would be minimal since the rule changes would mostly involve updates and clarification.</p>							
Division of Water Quality	Local Pretreatment Programs	15A NCAC 02H.0900	Deborah Gore	(919) 807-6307	Amend	S	L	SE
	<p>40 CFR 403 was revised in October 2005 to streamline the implementation of the Pretreatment Program, and as a result the Division plans to amend its Program rules. The purpose of the streamlining was to give the Control Authority more flexibility in regulating the industry. This flexibility could allow for fewer Users to be considered Significant Industrial Users (SIUs), thereby saving time and financial resources (i.e. permit fees, sampling costs) for both the Control Authority and the User. The State would also save time by not having to review permits and/or other documents related to non-SIUs. Other revisions are proposed to clarify various requirements and wording and to allow flexibility in the Division's oversight of Programs, which will result in a better use of Division resources.</p>							
Division of Water Quality	Reclaimed Water Use	15A NCAC 02T .0900; 15A NCAC 02U	Jon Risgaard	(919) 715-6167	Repeal/ Adopt	S	L	SE
	<p>The new section 02U would comprise of existing rules from section 02T, which would be repealed, modified existing 02T rules, and additional language allowing new uses of reclaimed water. Based on the impact analysis, the rule change is expected to have a substantial economic impact. For the greater part, compliance with the rule would be voluntary. The impact to the state government and private sector could be a net benefit of up to \$26,000 and \$3.4 million per year, respectively. The local government could incur a net cost of up to \$1.3 million annually.</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	Routine Monitoring of Surface Waters	15A NCAC 02T.1310-.1311	Keith Larick	(919) 715-6697	Adopt	S	-	SE
	This rule would require routine monitoring of nearby surface waters at most animal feeding operations (approximately 2,200). The projected annual cost is approximately \$1,050 per farm, or \$2.3 million when the rule is fully implemented. State government would be impacted by this rule; there are approximately 12 state-owned animal feeding operations that would be required to perform the routine monitoring.							

Total Anticipated Rule Actions for the Department of Environmental and Natural Resources: 28

Department of Health and Human Services

Division of Health Services Regulation	Confinement of Female Under 18 Years of Age	10A NCAC 14J .0303	John Harkins	(919) 855-3856	Amend	U	L	-
	The rule would require separate sleeping quarters for juvenile female inmates from adult female inmates. Detention facilities that currently do not have such an arrangement will need to ensure inmate safety by providing separate sleeping quarters. The related cost is anticipated to be a one-time occurrence.							
Division of Health Services Regulation	Clothing for Inmates Detained Longer Than 24 Hours	10A NCAC 14J .0706	John Harkins	(919) 855-3856	Adopt	U	L	-
	The rule would require detention facilities to provide a clean change of clothing every four days to inmates detained longer than 24 hours. This rule change would result in facilities needing to purchase additional clothing for inmates, as well as providing laundry services rather than having inmates use lavatories to wash personal items. Local government operated facilities are expected to face an initial cost related to the purchase of additional clothing and a recurring cost for laundry services.							
Division of Health Services Regulation	Reporting Inmate Felon Escapes	10A NCAC 14J .1103	John Harkins	(919) 855-3856	Adopt	U	L	U
	The adoption of this rule would result in a requirement for detention facilities to report inmate felon escapes to the Division of Health Service Regulation within five days. This rule would increase staff related costs and have a small impact on training costs for government operated facilities.							
Division of Medical Assistance	Home Health Services	10A NCAC 22O.0103, .0406	Teresa J. Smith	(919) 855-4116	Amend	S	-	SE
	Home Health is a service that has been covered by Medicaid for years. The amended rules are necessary to: 1) strengthen the guidelines for providers regarding required administrative tasks such as: prior approval, coordination of services, documentation of clinical and progress notes, record retention, physician orders, and plans of care; and 2) require compliance with all Medicaid clinical coverage policies related to home health services. These amendments would not result in any new appropriations or new costs to providers. Current Medicaid expenditures for the Home Health program exceed \$3 million per year, thus it is a program with substantial economic impact.							

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Division	Rule Title and Description	Citation(s)	Contact		Rule Action	Impacts:*		
			Name	Phone		S/	L/	SE
Division of Medical Assistance	Hospice Services Hospice is a service that has been covered by Medicaid for years. These proposed rules are necessary to: 1) strengthen the guidelines for providers regarding required administrative tasks such as prior approval, documentation, transfers, and coordination of care; 2) require compliance with existing rules under 10A NCAC 13K and with 42 CFR 418 guidelines; and 3) require compliance with all Medicaid clinical coverage policies related to Hospice care. These rules would not result in any new appropriations or new costs to providers. Current Medicaid expenditures for the Hospice program exceed \$3 million per year, thus it is a program with substantial economic impact.	10A NCAC	Teresa J. Smith	(919) 855-4116	Adopt	S	-	SE
Division of Medical Assistance	Outpatient Specialized Therapy Services The new rule would document the administrative-related components of the current policy on Outpatient Specialized Therapy Services. (The medical policy related components were originally authorized under S.L. 2001-424.) Outpatient Specialized Therapy Services have been provided for many years and include Physical Therapy, Speech Therapy, Occupational Therapy, and Respiratory Therapy provided in all settings. The annual expenditures exceed \$3 million per year, which constitutes substantial economic impact; however, no new state appropriations would be required.	10A NCAC	Teresa J. Smith	(919) 855-4116	Adopt	S	-	SE
Division of Mental Health, Developmental Disabilities and Substance Abuse Services	Requirements for Provider Endorsement The intent of the rules is to establish criteria to determine the quality of Mental Health, Developmental Disabilities, and Substance Abuse (MH/DD/SA) services rendered by providers and ensure providers comply with state and federal laws and regulations. An endorsement policy that serves as the basis for these rules has been in place for three years. The rules would result in personnel costs to local and state governments from verifying and reviewing endorsement applications and provider operations, as well as from dealing with appeals vis-à-vis endorsement withdrawals.	10A NCAC 26C .0701-.0711	Amanda J. Reeder	(919) 715-2780	Adopt	U	U	-
Division of Mental Health, Developmental Disabilities and Substance Abuse Services	North Carolina Department of Correction: Standards for Mental Health and Mental Retardation The rule amendments would impact the delivery of mental health and mental retardation services within the Department of Correction. It is anticipated that the rules would add requirements for staffing and treatment, which would impact state funds.	10A NCAC 26D (multiple rules)	Amanda J. Reeder	(919) 715-2780	Amend	S	U	-
Division of Mental Health, Developmental Disabilities and Substance Abuse Services	Consumer Fee Schedule for Specific MH/DD/SA Services The rules would establish specific fees required to be paid by the consumers when receiving specific MH/DD/SA services, including Behavioral Health Outpatient services, Intensive Services, Substance Abuse/Mental Health Inpatient and Detox services, and Child Room and Board. These fees would be set on a sliding scale in order to create minimal impact on the consumers; consumers under 300% of the Federal Poverty Guidelines would not be responsible for any copayment. This rule action is not anticipated to have a significant impact on state or local government labor costs, as consumers are routinely screened for financial eligibility for Medicaid. The Division acknowledges that the copayments may create revenue for the state, but notes that no one may be refused treatment for failure to pay the amount; therefore, the Division anticipates minimal revenue to be collected from copayments.	10A NCAC 27A .0501-.0503	Amanda J. Reeder	(919) 715-2780	Adopt	S	L	-

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

I. Schedule of Anticipated Rules Actions in SFY 2010-2011

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	Client Rights Committee The proposed amendment to the rule would impact Local Management Entities (LMEs) by adding minor requirements for their Client Rights Committees' membership, functions, and policy development. The Division anticipates these changes would minimally impact the LMEs in terms of staff related costs. In addition, the rule would require private service providers to create Client Rights Committees, which also create an impact.	10A NCAC 27G .0504	Amanda J. Reeder	(919) 715-2780	Amend	-	L	-
Division of Mental Health, Developmental Disabilities and Substance Abuse Services	Psychiatric Residential Treatment for Children and Adolescents: Operations The facilities affected by this rule, Psychiatric Residential Treatment Facilities (PRTF), are funded on a "cost found" basis at a rate that varies by program. The proposed amendment would increase the maximum number of consumers allowed at the PRTF from 12 to 18. As a result, the Division anticipates that more consumers would reside in state-run PRTFs, so operational and personnel costs would increase. Also, the Division expects more consumers to transfer from other facilities that are partially paid with state funds; thus, the Division anticipates also some saving of state funds, but does not expect a dollar for dollar offset.	10A NCAC 27G .1903	Amanda J. Reeder	(919) 715-2780	Amend	S	-	-
Total Anticipated Rule Actions for Department of Health and Human Services:								11
Department of Insurance								
Building Code Council	2012 NC State Building Codes 2011 National Electrical Code The National Codes (ICC) and Standards (NFPA), which are used as the basis for the NC State Building Codes, are on a three-year amendment cycle. There are portions of the updated Codes that might cause a substantial economic impact, such as the requirement for CO detectors in all new dwellings and the measures to reduce energy by 30% based on the 2009 International Energy Conservation Code requirements (both the State and Federal government are addressing increased energy efficiency through the Economic Recovery Act).	N/A	Barry Gupton	919-661-5880 Ext. 232	Adopt	U	U	SE
Total Anticipated Rule Actions for the Department of Insurance:								1

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

I. Schedule of Anticipated Rules Actions in SFY 2010-2011

Division	Rule Title and Description	Citation(s)	Contact		Rule Action	Impacts:*		
			Name	Phone		S/	L/	SE
Department of Justice								
Sheriffs' Standards Division	In-Service Training Requirements The rule change is an annual revision of in-service training requirements for Deputy Sheriffs, Detention Officers, and Telecommunication Officers for 2011. 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 2011. The impacts of these rules are confined to 2011.	12 NCAC 10B .2005	Julia Lohman	(919) 716 -6450	Amend	S	L	SE
Total Anticipated Rule Actions for Department of Justice:								1
Office of Administrative Hearings								
Hearings Division	Commencement of Contested Case: Notice and Filing Fee The rule would establish procedures and filing fees for contested case hearings before the Office of Administrative Hearings pursuant to Senate Bill 202 (Appropriations Act 2009), Section 21.A.1(a)(b)(c). Emergency and temporary rules on this matter were in effect October 1, 2009 and December 1, 2009, respectively. State and local funds are affected when the petitioner in a contested case is a local government or state agency.	26 NCAC 03 .0103	Gene Cella	(919) 431-3067	Amend	S	L	-
Total Anticipated Rule Actions for Office of Administrative Hearings:								1
Office of State Budget and Management								
N/A	Uniform Administration of State Grants (for non-governmental organizations) The Office is planning to amend existing rules to account for transfer of grant oversight from Office of State Auditor to Office of State Budget and Management and to improve accountability and oversight of state grant funds. Amendments would include possible changes in reporting thresholds and deadlines and additional requirements to standardize grant applications, contracts, and monitoring policies across state agencies. The rule change would impact state agencies by shortening the deadline by which NGO grantees must have reports submitted, adding performance requirements to contracts, and establishing more specific requirements for agency monitoring policies. Impact on local governments is not expected.	09 NCAC 03M (multiple rules)	Erin Matteson	(919) 807-4758	Amend	S	-	-
Total Anticipated Rule Actions for Office of State Budget and Management:								1

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

I. Schedule of Anticipated Rules Actions in SFY 2010-2011

<i>Division</i>	<i>Rule Title and Description</i>	<i>Citation(s)</i>	<i>Contact</i>		<i>Rule Action</i>	<i>Impacts:*</i>		
			<i>Name</i>	<i>Phone</i>		<i>S/</i>	<i>L/</i>	<i>SE</i>
Office of State Personnel								
N/A	Employee Benefits – Vacation Leave	25NCAC 01 E .0200	Pam Bowling	(919) 807-4800	Amend	S	-	SE
The Office of State Personnel is exploring changes to enhance the vacation leave policy. Although, the rule change would not require an additional appropriation, any increase in leave benefits would result in a cost to the State in terms of hours of work foregone.								
Total Anticipated Rule Actions for Office of State Personnel:								1
<u>Total Anticipated Rules for ALL Agencies:</u>								<u>45</u>

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

II. Rules with Local Government Impact Adopted in SFY 2008-2009

Table 6. Rules Affecting Local Governments That Were Adopted between July 1, 2008 and June 30, 2009

Division	Title of Rule Change	Citation(s)	Contact	Date Adopted	Impact on Local Government by SFY (thousands):*				
					2008-09	2009-10	2010-11	2011-12	2012-13
Department of Commerce									
Industrial Commission	Hospital and Ambulatory Surgical Center - Fee Schedule	Section 14 Hospital and Ambulatory Surgical Center, NCIC Medical Fee Schedule	Meredith Henderson (919) 807-2674	1/27/09	\$0	\$4,000	\$4,000	\$4,000	\$4,000
Totals for Department of Commerce:					\$0	\$4,000	\$4,000	\$4,000	\$4,000
Department of Corrections									
N/A	Cost of Copies	05 NCAC 01F .0101, .0102, .0201	Joan Taylor Saucier (919) 716-3368	8/23/08	-\$3	-\$3	-\$3	-\$3	-\$3
Totals for Department of Corrections:					-\$3	-\$3	-\$3	-\$3	-\$3
Department of Environment and Natural Resources									
Division of Coastal Management	Conditional Exception to the Static Line, Coastal Resources Rules (setbacks)	15A NCAC 7H .0306; 15A NCAC 7J .1200	Jeffrey Warren (919) 733-2293	9/26/08	\$0	-\$15	\$0	\$0	\$0
Division of Air Quality	Heavy-Duty Vehicle Idling Restrictions	15A NCAC 02D .1010	Paul Grable (919) 733-1468	5/23/09	\$0	\$52	\$52	\$52	\$52
Division of Environmental Health	Public Water Supply Section Rules	15A NCAC 18C .1301-.1303, .2002, .2004, .2006-.2008, .2201, .2202	Linda F. Raynor (919) 715-3225	6/22/09	\$0	\$0	-\$3,470	-\$3,470	-\$3,470
Totals for Department of Environment and Natural Resources:					\$0	\$37	-\$3,418	-\$3,418	-\$3,418

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

II. Rules with Local Government Impact Adopted in SFY 2008-2009

Division	Title of Rule Change	Citation(s)	Contact	Date Adopted	Impact on Local Government by SFY (thousands):*				
					2008-09	2009-10	2010-11	2011-12	2012-13
Department of Health and Human Services									
Division of Health Services Regulation	EMS and Trauma Rules ¹	10A NCAC 13P .0305, .0511	Donnie S. Sides (919) 855-3964	11/7/08	\$0	\$0	\$0	\$0	\$0
Division of Mental Health, Developmental Disabilities and Substance Abuse Services	Regions for Division Institutional Admissions	10A NCAC 28F .0101	Amanda J. Reeder (919) 715-2780	2/19/09	-\$2	-\$2	-\$2	-\$2	-\$2
Division of Mental Health, Developmental Disabilities and Substance Abuse Services	Payment, Reporting and Settlement for LME Systems Management	10A NCAC 27A .0401-.0404	Amanda J. Reeder (919) 715-2780	5/19/09	\$472	\$236	\$50	\$0	\$0
Totals for Department of Health and Human Services:					\$470	\$234	\$48	-\$2	-\$2
Department of Justice									
Sheriffs' Standards Division	2009 Education & Training Standards	12 NCAC 10B .0103, .0202-.0205, .0304, .0305, .0406, .0703, .0704, .0708, .0709, .0911, .0912, .0919, .0920, .2004, .2005, .2007, .2008	Julie Lohman (919) 716-6450	10/21/08	-\$1,446	-\$1,446	\$0	\$0	\$0
Totals for Department of Justice:					-\$1,446	-\$1,446	\$0	\$0	\$0

¹ The impact to local governments presented in the fiscal note for this rule was in the end absorbed by the DHHS Division of Health Services Regulation.

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

II. Rules with Local Government Impact Adopted in SFY 2008-2009

Division	Title of Rule Change	Citation(s)	Contact	Date Adopted	Impact on Local Government by SFY (thousands):*				
					2008-09	2009-10	2010-11	2011-12	2012-13
Department of Labor									
Occupational Safety and Health Division	Cranes and Derricks Standards	13 NCAC 7F .0901-.0927	Erin T. Gould (919) 733-7885	2/19/09	\$0	-\$550	-\$550	-\$250	-\$250
Totals for Department of Labor:					\$0	-\$550	-\$550	-\$250	-\$250
Office of State Personnel									
Employee Relations Division	Types of Appointments and Duration ²	25 NCAC 11.2002	Drake Maynard (919) 807-4806	2/19/09	\$0	\$0	\$0	\$0	\$0
Totals for Office of State Personnel:					\$0	\$0	\$0	\$0	\$0
Wildlife Resources Commission									
N/A	Big Davis Canal No-Wake Zone	15A NCAC 10F .0305	Joan Troy (919) 707-0038	12/21/08	-\$3	\$0	\$0	\$0	\$0
N/A	Lake Wylie No-Wake Zone	15A NCAC 10F .0333	Joan Troy (919) 707-0038	12/21/08	-\$5	\$0	\$0	\$0	\$0
Totals for Wildlife Resources Commission:					-\$8	\$0	\$0	\$0	\$0
Totals for All Agencies (thousands of dollars):					-\$987	\$2,272	\$77	\$327	\$327

²The agency considers the economic impact to local governments to be minimal and a direct result of statutory change (NCGS 126-1.1); the impact was not captured in a fiscal note.

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