



**STATE OF NORTH CAROLINA  
OFFICE OF STATE BUDGET AND MANAGEMENT**

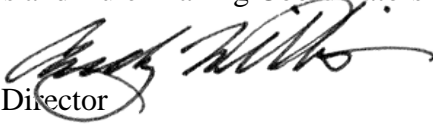
BEVERLY EAVES PERDUE  
GOVERNOR

ANDY WILLIS  
STATE BUDGET DIRECTOR

January 19, 2012

**MEMORANDUM**

TO: Agency Heads and Rule-Making Coordinators

FROM: Andy Willis   
State Budget Director

SUBJECT: Changes to Budget Manual Chapter 7 on Rule Analysis

As part of Governor Perdue's Executive Order No. 70, *Rules Modification and Improvement Program*, and recent changes to the Administrative Procedures Act (G.S. 150B), OSBM has updated its guidance on rule analysis in Chapter 7 of the OSBM Budget Manual. The major changes are highlighted below.

**Major Changes in Chapter 7 of the OSBM Budget Manual**

- **Separate Process for Cabinet and Non-Cabinet Agencies** – The updated guidance separates the rule review process for cabinet agencies and non-cabinet agencies. The main difference is the scope of review.
  - For cabinet agencies, any rule must be approved by OSBM before publication in the *NC Register* and must be certified by OSBM before adoption.
  - For non-cabinet agency rules, only rules with state government impact, local government impact, or substantial economic impact require OSBM review and/or approval before publication in the *NC Register*. Certification by OSBM before adoption is required in very limited circumstances.
- **Certification before Adoption** – For all cabinet agency rules and certain non-cabinet agency rules, OSBM will now require certification that agencies have followed the principles stated in G.S. 150B-19.1 and E.O 70. Certification occurs after publication and public comment period, but before an agency adopts the rule.
- **Types of Rules** – OSBM will no longer categorize rules as “non-significant” and “significant.” Rules will now fall into three categories: “de minimis,” “non-substantial economic impact,” and “substantial economic impact.” Please refer to the OSBM Budget Manual for more detail on each category.

- **Earlier Submission for Local Government Impact Rules** – Agencies proposing rules that have an impact on any local government must now submit the rule to OSBM for review 60 days prior to the intended date of publication in the *NC Register*.
- **Substantial Economic Impact** – A rule is now regarded as having a substantial economic impact if the aggregate impact on all affected persons is at least \$500,000 in a 12-month period. Previously, the substantial economic impact threshold was \$3,000,000 in a 12-month period.

#### OSBM Budget Manual Chapter 7 and E.O. 70 Requirements

Compliance with the procedures in OSBM Budget Manual Chapter 7 will satisfy the review and approval process for all cabinet agency rules. As a result, the updated Chapter 7 replaces the requirement from the February 2, 2011 OSBM memo to cabinet agencies regarding monthly notification to OSBM of rules intended for publication or adoption.

#### Rule Analysis Training

OSBM will be holding training sessions on the new OSBM rule analysis guidance at the Office of Administrative Hearings (OAH) in January and February. Please contact Molly Masich at 919-431-3071 for more information. If any agency has a larger number of individuals that require training on the new guidance, a separate training session can be arranged.

If you have any questions related to the changes in Chapter 7 of the OSBM Budget Manual, please contact Andy Willis at 919-807-4716 or Anca Grozav at 919-807-4740, or [osbmruleanalysis@osbm.nc.gov](mailto:osbmruleanalysis@osbm.nc.gov).