

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 70

RULES MODIFICATION AND IMPROVEMENT PROGRAM

WHEREAS, rulemaking is one of the most significant public policy actions government can take, directly affecting businesses and citizens alike; and

WHEREAS, improved rulemaking provides more effective protections for public health, safety, welfare, and the environment; and

WHEREAS, outdated, unnecessary, or vague rules often impose unnecessary costs and burdens on local governments, small businesses, and other regulated entities; and

WHEREAS, North Carolina citizens deserve better access to regulatory information; and

WHEREAS, rules, as defined by N.C. Gen. Stat. § 150B-2(8a), are required for a functioning market economy; and

WHEREAS, the development of rules should be informed with rigorous analysis; and

WHEREAS, in promulgating rules, agencies should seek to achieve statutory goals as effectively and efficiently as possible; and

WHEREAS, public comment is encouraged for all rules, including both new and existing rules; and

WHEREAS, N.C. Gen. Stat. § 150B-21.26 requires a preliminary review of certain rules before the proposed text is published in the North Carolina Register; and

WHEREAS, for the last fifteen years, the Office of State Budget and Management has reviewed all significant rule changes before the proposed text is published in the North Carolina Register under N.C. Gen. Stat. §150B-21.4.

NOW, THEREFORE, by the power vested in me as Governor by the laws and Constitution of the State of North Carolina, **IT IS ORDERED:**

Section 1. Scope of Executive Order

This Executive Order applies to all Cabinet agencies and all boards and commission with rule-making powers located within the Cabinet agencies.

The Governor urges the heads of Council of State agencies, the Board of Governors of the University of North Carolina, the State Board of Community Colleges, the State Board of Education, and all other boards with rule-making authority to participate in this Order.

Section 2. Statement of Regulatory Principles

1. The following principles shall guide the drafting, adoption, modification and review of any rules and regulations:
 - a. Rules shall only be adopted when required by federal or state law or when deemed necessary by the agency to serve the public interest.
 - b. Rules shall not impose undue burden upon those persons or entities who must comply with the rules.
 - c. Rules shall be clearly written, relevant and up-to-date.
 - d. Rules shall be based on sound, reasonably available scientific, technical, economic, and other relevant information. Agencies shall cite this information in support of regulatory proposals.
 - e. Rules shall be designed to achieve their regulatory objective in a cost-effective and timely manner.
2. All agency heads shall implement the following requirements to ensure that regulations are drafted and adopted in accordance with the above principles.
 - a. Rules shall be subject to periodic evaluation and review in accordance with the procedures described in this Executive Order.
 - b. Agencies shall encourage public comment and involvement on all rules by posting new rule actions and rule analysis and fiscal notes online.
 - c. Agencies shall ensure citizens have better access to timely and accurate rule information.
 - d. Fiscal notes and rule analysis shall be updated to reflect any significant changes before the rule is adopted.

- e. Approved rule actions shall be completed in a timely manner to ensure proper protection of the public and clear implementation of law.
- f. Agencies shall coordinate rule actions with other agencies where rules, policies and programs overlap.
- g. Agencies shall quantify the costs and benefits to all parties of a rule to the greatest extent possible. The level of analysis shall be proportional to the significance of the rule.
- h. Agencies shall identify and assess available alternatives to regulation, including the use of economic incentives, information disclosure requirements, and performance standards.
- i. Each agency head will be held accountable for ensuring that the policies and objectives in this Executive Order are put into effect and that information requested in connection with the requirements of this Executive Order is provided on a timely basis.

Section 3. Review of Existing Rules

A Rules Modification and Improvement Program (“RMIP”) shall be established to annually evaluate, reform, expand, or, where necessary, repeal existing rules and associated requirements in order to promote the goals of this Executive Order. The Office of State Budget and Management (“OSBM”) shall coordinate and oversee the RMIP. OSBM shall consult with experts, stakeholders and other relevant parties in implementing the RMIP.

1. The RMIP shall accomplish the following within the first 30 days after publication of this Executive Order:
 - a. Invite comment on whether any existing rules, implementation processes and associated requirements are unnecessary, unduly burdensome, or inconsistent with the goals of this Executive Order. Comments may include modifying, expanding, or rescinding existing rule programs or the rule review and publication process.
 - b. Direct agencies to undertake an internal review to identify existing rules and associated requirements that are unnecessary, unduly burdensome, or inconsistent with the goals of this Executive Order.
2. The RMIP shall continue to invite and consider comment on rule reforms beyond the first 30 days after publication of this Executive Order. Comments received during the first 30 days will inform the first annual report required by paragraph 8 of this section, while comments received after the first 30 days will inform future reports.

3. The State Chief Information Officer shall ensure that there is a single web portal for receiving public comments and tracking agency progress on any resulting rule reform actions.
4. OSBM shall assemble and evaluate the reform suggestions resulting from the public comment process and internal agency reviews.
5. Agencies, as requested by OSBM, shall review the merits of the reform suggestions.
6. Agencies shall prepare a report, in a form designated by OSBM, on whether reform suggestions have potential merit and justify further action. The report shall be submitted to OSBM by January 31 each year.
7. OSBM shall make final determinations on which reform suggestions have potential merit and justify further action. OSBM shall also consider and propose recommended improvements to the rule process to the Governor, including any legislation that may be necessary to achieve reforms.
8. OSBM shall publish by April 30 every year an annual report summarizing all reform comments and any resulting actions taken or planned.
9. OSBM shall receive assistance, services, or data from any state agency as it determines is reasonably necessary to carry out the purposes of this Executive Order.
10. The State CIO shall coordinate and consolidate systems across state government required to comply with existing rules at the direction of OSBM.

Section 4. Review of New Rules

Rule improvement efforts shall extend beyond an evaluation of existing rules to the current process used to promulgate new rules. Given the significant impact of rules, rule decisions shall be informed by a careful assessment of the likely consequences of rule action.

1. During OSBM's review and approval process for fiscal notes and rule analysis under N.C. Gen. Stat. §150B-21.4, OSBM shall ensure agencies adhere to the principles outlined in Section 2 of this Executive Order.
2. For significant rules, agency heads shall certify completion of a fiscal note and rule analysis and submit them to OSBM for review under N.C. Gen. Stat. § 150B-21.4 and other related statutes, at least 60 days prior to rule publication.
3. In order that an independent analysis can be made, state agencies shall not request OSBM to prepare a fiscal note and rule analysis under N.C. Gen. Stat. § 150B-21.4(b1) until the agency, working with OSBM, has exhausted all resources, internal and external, to otherwise prepare the required analysis.

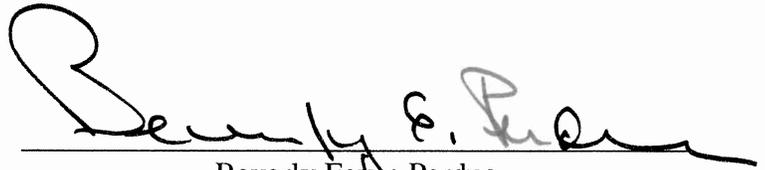
4. OSBM, as part of the Office of the Governor, shall conduct the preliminary review in N.C. Gen. Stat. § 150B-21.26 on behalf of the Governor.
5. Consistent with N.C. Gen. Stat. § 150B-21.26, agencies shall submit the required rule information to OSBM at least 60 days prior to rule publication for rules that impact local governments.

Section 5. Effect and Duration

This Executive Order is effective immediately and shall remain in effect until rescinded. It supersedes and replaces all other executive orders on this subject.

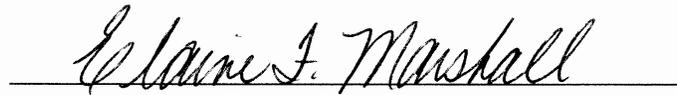
IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twenty-first day of October in the year of our Lord two thousand and ten and of the Independence of the United States of America the two hundred and thirty-fifth.





Beverly Eaves Perdue
Governor

ATTEST:



Elaine F. Marshall
Secretary of State