STATE OF WASHINGTON
GOVERNOR'S EXECUTIVE POLICY OFFICE
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November 17, 2010

TO: Agency Directors
Statewide Elected Officials
Presidents of Higher Education Institutions
Boards and Commissions

FROM: Kari Burrell
Director

SUBJECT: **IMPLEMENTATION OF EXECUTIVE ORDER 10-06, SUSPENDING NON-CRITICAL RULE DEVELOPMENT AND ADOPTION**

Our country and our state are in the worst recession in 80 years. Small businesses are struggling. State and local governments have experienced severe revenue losses which have led to significant budget cuts. Both small businesses and governments benefit from having a stable and predictable regulatory environment in these difficult times.

Governor Chris Gregoire's Executive Order 10-06 directs state agencies to suspend development and adoption of rules for the next 12 months. The Governor is directing agencies to suspend rule making that is not immediately necessary. She recognizes, however, that agencies should not suspend all rule making, as rule making is an essential government operations tool. She has asked the Office of Financial Management to provide guidance as to circumstances in which rule making should proceed.

This Executive Order applies to all cabinet agencies and boards, commissions and other agencies that report to the Governor. All other elected officials, institutions of higher education, agencies, boards, commissions and other entities with rule making authority are invited to follow the requirements of the Executive Order and these guidelines.

This memorandum provides guidelines for agencies to use when determining whether rule making should proceed:

Guidelines

1. Agencies shall review all rules in progress and their proposed rule making agenda for next year and identify those rules that can be suspended until after December 31, 2011.

2. In determining whether a rule should be suspended, agencies shall recognize the benefits of a stable regulatory environment. Where possible, agencies should redirect scarce resources away from rule making to front-line service delivery, including implementing and enforcing existing rules.

3. Rule making proceedings are non-critical unless the rule is:

    a. required by federal or state law or required to maintain federally delegated or authorized programs;

    b. required by court order;

    c. necessary to manage budget shortfalls, maintain fund solvency, or for revenue generating activities;

    d. necessary to protect public health, safety, and welfare or necessary to avoid an immediate threat to the state's natural resources; or

    e. beneficial to or requested or supported by the regulated entities, local governments or small businesses that it affects.

4. If an agency decides to proceed with a rule that has a small business impact or an impact to local government, the agency must consult with small businesses and/or governments on how the impact can be mitigated.

5. Agencies may continue to adopt rules that have been the subject of negotiated rule making or pilot rule making that involved substantial participation by interested parties before the development of the proposed rule. Agencies can also proceed to finalize permanent rule making that has previously been covered by emergency rules.

6. Agencies may continue to adopt expedited rules under RCW 34.05.353 where the proposed rules relate only to internal governmental operations.

7. Each agency shall report by January 31, 2012 the number of rules eliminated or suspended in response to this order as well as the number of and justification for rules that proceeded through development and/or adoption.