

Office of Regulatory Reform: 2013 Annual Report

Report to Governor Lincoln D. Chafee
and the Rhode Island General Assembly
Submitted May 15, 2014

Rhode Island Office of Management and Budget

Department of Administration, One Capitol Hill, Providence, RI 02908

401-574-8430

www.omb.ri.gov

ABSTRACT

This report reviews the performance and progress of regulatory reform efforts in Rhode Island for 2013.

TABLE OF CONTENTS

EXECUTIVE SUMMARY	2
INTRODUCTION.....	3
REGULATORY REVIEW	4
OMBUDSMAN SERVICES	10
STATEWIDE E-PERMITTING.....	12
OTHER ACTIVITIES OF THE OFFICE	13
NEXT STEPS	18
ENDNOTES	

EXECUTIVE SUMMARY

The Office of Regulatory Reform (ORR) is pleased to present ORR's 2013 Annual Report to Governor Lincoln D. Chafee and the General Assembly. The focus of this report is documenting ORR's activities during calendar year 2013. However, some sections include insight gained during the first quarter of 2014, and are noted as such.

ORR aims to improve Rhode Island's business climate by making it easier for businesses to successfully navigate state and municipal permitting and regulatory environments. ORR facilitates the creation and refinement of a clear, predictable, and reliable regulatory system by removing barriers to economic growth and competitiveness, while protecting taxpayer interests. ORR's work is focused in these areas:

Regulatory Review – analyze rules and regulations impacting businesses to improve state's regulatory environment. In 2013 ORR:

- reviewed and classified the economic impact of 1,089 (66.2 percent of 1,646) regulations,
- identified with regulators 14 regulations to repeal, 57 to amend, and 16 for business accommodations,
- issued 12 recommendations toward improving Rhode Island's regulatory environment, and
- surveyed and met with hundreds of businesses regarding regulatory issues.

Ombudsman Services – assist businesses with navigating regulatory and permitting issues; serve as liaison with state agencies. In 2013 ORR:

- provided 40+ businesses with quality, on-demand guidance through the regulatory system,
- reviewed 45 proposed regulations that were submitted by agencies as part of the normal APA rule-making process for small business impacts and areas for flexibility,
- provided on- and off-site training and support to 10 regulatory agencies regarding the Administrative Procedures Act (APA) process, and
- worked to troubleshoot specific regulatory issues between agencies and businesses. Examples of the Ombudsman's work included:
 - assisted New York food manufacturer with licensing startup at the Department of Health,
 - developed options in complying with third party vendor requirements for a law firm, and
 - apprised local brewery on tax policies and procedures for barrel production exemptions.

Statewide E-Permitting – develop a streamlined electronic permitting process to enhance state response time to businesses. In 2013 ORR:

- process mapped all permits for State Building Code Commissioner and State Fire Marshal,
- secured \$50,000 in support from RI Foundation to upgrade technology for above offices, and
- coordinated a comprehensive RFP with above offices and Office of Digital Excellence.

Going forward, ORR will continue its efforts toward improving state permitting and regulatory processes, by developing and promoting systems designed to complement ORR's work-to-date. Please visit www.omb.ri.gov/reform/ for more information on ORR, including its ongoing regulatory reports.

INTRODUCTION

The Office of Regulatory Reform (ORR) aims to improve Rhode Island's economic climate by making it easier for small businesses to successfully navigate state permitting and regulatory processes. ORR's goal is to create clear, predictable, and reliable regulatory and permitting systems.

The quality of life enjoyed by Rhode Islanders is of primary concern of ORR. For this reason, ORR seeks to reform systems in a manner that continues to protect public welfare, health, safety, and the environment. The best vehicle for reforms involves resolving regulatory and permitting inefficiencies, inconsistencies, and misalignments that needlessly delay or halt opportunities for small businesses to grow and invest. The office's efforts are spread across a variety of fronts.

Rhode Island General Law (RIGL) § 42-35-3.4 enables the office to coordinate the **periodic regulatory review** by each agency of all existing regulations to determine if rules should continue without change, or should be amended or rescinded. This review examines not only if the rules are consistent with the stated objectives of applicable statutes, but also the economic impact of the rules on small businesses.

RIGL § 42-35.1-5 directs the office to designate a **Small Business Ombudsman**. The Ombudsman works with regulatory agencies to provide a voice to small business concerns regarding regulation and its related enforcement activities. The Ombudsman also guides agencies in ensuring small business regulatory fairness and flexibility in administrative procedures.

RIGL § 42-64.13-7(4) gives the office the authority to coordinate with and support the State Building Commissioner and State Fire Marshal to develop and implement a standard statewide process for **e-permitting**, which will include electronic plan review, permit management, and inspection.

Lastly, the office is regularly involved in a number of activities that support the above initiatives:

- ORR continually gauges small business concerns through **direct meetings** with small business leaders, as well as annual online small business **surveying**.
- ORR provides ongoing **agency consultation** on meeting the standard requirements of the APA.
- ORR is working to create a suite of **regulatory guidance documents**, which will promote navigability, readability, and consistency.
- ORR supports **municipal permitting** efforts through Lean training and consultation.
- ORR actively participates in a number of **advisory committees** aimed at simplifying the state's regulatory environment.

This report provides an overview of ORR's activities in calendar year 2013. The reader is encouraged to visit the office's website at <http://www.omb.ri.gov/reform/> for more information, including access to ORR's Regulatory Review and Small Business Survey reports.

REGULATORY REVIEW

In 2013, ORR issued its Period One and Period Two Regulatory Look Back Reportsⁱ. These reports contained twelve recommendations toward improving the state’s regulatory environment, updates on regulatory entity compliance, and a summary of small business impact. The following sections provide an overview on each of these areas. As of this Annual Report, ORR has also issued its Period Three Reportⁱⁱ, which contains one additional recommendation and features the deployment of a more comprehensive small business impact model. These newer items are marked 2014 and have been included in the following summaries for reference.

Report Recommendations

Summary of the Thirteen Recommendations issued in Periods One, Two, & Three

#1 Map the Regulatory Environment: Small businesses’ success – especially when starting or growing a business – is tied to the ability to navigate the regulatory environment. ORR has found no up-to-date map of state government. A map provides direction to outside users on where to obtain information and best resolve concerns. Mapping also provides an opportunity to identify areas of duplication, conflict, or overlap. ORR is developing an interactive, web-based system map.

#2 Eliminate Statutory Exemptions: Regulatory review’s enabling statute excludes certain business types from ORR’s review, because it does not define them as small businesses. These include financial companies, developers, architects, building designers, utilities, and nonprofit institutions. Exemptions create a significant barrier to comprehensive review. Legislation has been introduced (2014 – H 7520, S 2480) to address this issue, as it is important to understand the regulatory landscape in its entirety.

#3 Improve Accessibility to Regulations: Small businesses report needing professional help in order to navigate the more than 26,000 pages of regulation (equal to about 10 copies of *War and Peace*). An estimated one-third of regulation is written at a college level. Additionally, public access is limited when regulatory entities adopt copyrighted material, or material with restrictions on duplication and printing. ORR is developing a “Regulation Manual” to standardize certain regulatory elements, and will work with entities to promote public access where needed.

#4 Remove Duplicative Regulations and “Non-Regulations”: The regulatory environment is cluttered with duplicative regulations and non-regulations (i.e. internal policies). Duplicative regulations should be streamlined, and alternative avenues should be sought for non-regulations. Legal challenges are present, as the law directs entities to adopt these policies as regulations. ORR is consulting with legal staff at the Department of Administration to determine the best approaches to resolving these issues.

#5 Rejoin Separated Regulation: There are several instances of a lengthy regulation being divided into multiple smaller regulations. While this practice may make rulemaking procedures easier, it creates challenges for small businesses that have to seek out and reconstruct the separated pieces into a logical whole. Since ORR first issued this recommendation, some entities have begun the process of rejoining regulations where appropriate; for example, the Coastal Resources Management Council rejoined its 63-regulation “Red Book” back to one single regulation.

#6 Reform the Audit, Inspection, and Enforcement Process: Small businesses report having their greatest difficulties with enforcement. ORR's vision for success calls for reforming the enforcement system to place a greater emphasis on providing advice, education, and training to secure compliance. Within this system, risk assessment would be used to actively direct enforcement to where it can have the most impact on outcomes.

#7 Promote Lawmaker and Small Business Participation in Reform: Regulations are derived from the statutes that empower them. Understanding statutory impact is critical to effective reform. Lawmakers need to become more involved in reform efforts. The perspective of the business community will also prove invaluable in providing regulatory balance. ORR recommends that entities actively seek out small businesses for input. ORR is ramping up its own outreach efforts through ongoing surveying and the development of a web-based "suggestion box."

#8 Support Improved Cost-Benefit Analysis: Data quality is an ongoing concern. Regulatory entities have had difficulty quantifying the number and types of businesses they regulate. ORR is looking for ways to promote better cost-benefit analysis, including training options and enhancing its economic impact tool.

#9 Promote Continuous Process Improvement: Regulatory reform needs to be ongoing to achieve long-term goals. ORR drew from the field of quality improvement for best practices in process improvement. As a result, Lean consultation services are now available for state agencies and municipalities through a Master Price Agreement (MPA). Concurrently, the Department of Environmental Management turned to Lean to streamline its site remediation, wetland, and air resource permits, as well as its underground storage tank fund. These efforts must spread throughout all of government. ORR encourages lawmakers to promote, support, and fund these quality improvement efforts.

#10 Push Regulatory Reform Efforts Beyond Current Performance Levels: ORR commends those entities that have begun the hard work of reform. However, ORR believes that Rhode Island can do better. Thus far, the proposals for reform only address a small portion of overall regulation. As it continues its review, ORR will work with entities to consider small business amendments or accommodations in more areas.

#11 Adjust the APA: Rulemaking Clarifications: There is a need to strengthen the legislative foundation for regulatory reform in the state's Administrative Procedures Act (APA; RIGL § 42-35). ORR has developed a legislative package that eliminates statutory exemptions and reinstates the requirement for the Governor's Office to review regulatory proposals. In addition, ORR recommends requiring regulatory entities to post their economic impact statements online alongside their proposed regulatory changes.

#12 Adjust the APA: Synchronize the Five-Year Periodic Review and Five-Year Refiling of Rules and Regulations: In Period Two, ORR pointed out that Rhode Island has two separate periodic regulatory review requirements. Each occurs at different 5-year intervals. ORR recommends synchronizing both requirements to complement each other, reinforce reform efforts, simplify regulatory entity processes,

and free up regulatory entity resources. Legislation has been introduced to address these synchronization efforts (2014 – H 7703, S 2457).

#13 Promote Performance-Based Regulatory Approaches (2014): Regulation should focus on achieving the desired results. Business leaders have shared with ORR that they could achieve regulatory goals more efficiently and effectively. They argue that some entities seem more concerned with following specific rules, rather than achieving results. ORR believes that Rhode Island needs to shift the balance from command-and-control regulatory approaches to performance-based regulation where appropriate. Performance-based regulation holds businesses accountable for results, but allows them greater flexibility in choosing the best means in achieving those results. This new recommendation is inherently linked to the previous recommendations around enforcement reform, continuous process improvement, and pushing reform efforts beyond current performance.

Compliance

In September of 2012, Governor Chafee accelerated the 4-year periodic review timeframe as passed by the Rhode Island General Assembly. Challenging regulatory entities to “move at the speed of business,” Governor Chafee directed agencies to review 25 percent of their regulations in each of four 120-day timeframes. ORR provided substantial assistance to regulatory entities in each period to support compliance with this aggressive 16-month agency review.

Significant outreach throughout the review helped smaller boards and commissions understand their review requirements and work towards full compliance. Agencies with hundreds of regulations appreciated ORR’s assistance in tracking what was needed each period, given these agencies’ constant real-time regulatory changes. This technical assistance, along with guidance on completing the impact statements themselves, ensured that every regulation subject to ORR review was submitted by the final Period Four deadline.

In Period One 59.6 percent of regulatory entities were compliant with the Governor’s challenge. This rose to 67.3 percent in Period Two, to 83.7 percent in Period Three, and finally to 100 percent in Period Four. See the following table for agency compliance detail by period.

Note that three entities – Board of Education, Board of Elections, and Parole Board – were not considered subject to review in the periods noted with “–” in Table 1. This is due to the Board of Education’s reorganization during Period One, and questions about separation of powers that were not resolved until Period Two (Elections) and Four (Parole). Note also that the Division of Elderly Affairs requested to submit under the Department of Human Services; however, ORR’s analytical framework required that they be reported separately, resulting in noncompliant status for the first three review periods.

Table 1: Regulatory Agency Review Compliance by Period

Regulatory Entities (# of regulations as of Sept. 2012)	Complied P1	Complied P2	Complied P3	Complied P4
Accountancy, Board of (7)	X	X	✓	✓
Administration, Department of (37)	✓	✓	✓	✓
Agricultural Lands Preservation Commission (1)	X	✓	✓	✓
Airport Corporation (6)	✓	✓	✓	✓
Arts, State Council on the (2)	X	X	✓	✓
Batterers Intervention Prog. Standards Oversight Cmte (2)	X	✓	✓	✓
Behav. Healthcare, Devl. Disabilities and Hosp., Dept. of (17)	✓	✓	✓	✓
Building Code Standards Committee (16)	✓	✓	✓	✓
Business Regulation, Department of (112)	✓	✓	✓	✓
Capital Center Commission (2)	X	✓	✓	✓
Cemetery Commission, RI Historical (1)	X	X	✓	✓
Children, Youth and Families, Department of (181)	✓	✓	✓	✓
Clean Water Finance Agency (11)	✓	X	✓	✓
Coastal Resources Management Council (91)	✓	✓	✓	✓
Corrections, Department of (18)	✓	✓	✓	✓
Disabilities, Governor's Commission on (15)	✓	✓	✓	✓
Economic Development Corporation (10)	✓	✓	✓	✓
Education, Board of (21)	-	✓	✓	✓
Education, Department of (1)	X	X	X	✓
Elderly Affairs, Division of (6)*	X	X	X	✓
Elections, Board of (30)	-	✓	✓	✓
Energy Resources, Office of (2)	X	✓	✓	✓
Environmental Management, Department of (187)	✓	✓	✓	✓
Executive Office of Health and Human Services (62)	✓	✓	✓	✓
Fire Safety Code Board of Appeal and Review (1)	✓	✓	✓	✓
Health and Educational Building Corporation (3)	✓	✓	✓	✓
Health, Department of (129)	✓	✓	✓	✓
Higher Education Assistance Authority (5)	X	X	X	✓
Historical Preservation and Heritage Commission (7)	✓	✓	✓	✓
Housing and Mortgage Finance Corporation (26)	✓	✓	✓	✓
Housing Appeals Board (2)	X	X	X	✓
Housing Resources Commission (5)	X	X	X	✓
Human Rights, Commission for (23)	✓	✓	✓	✓
Human Services, Department of (40)	✓	✓	✓	✓
Labor and Training, Department of (45)	✓	✓	✓	✓
Motor Vehicles, Division of (39)	✓	✓	✓	✓
Narragansett Bay Commission (8)	X	X	✓	✓
Parole Board (2)	-	-	-	✓
Personnel Appeal Board (1)	X	X	X	✓
Public Safety, Department of (14)	✓	✓	✓	✓
Public Transit Authority (4)	X	X	✓	✓
Resource Recovery Corporation (10)	X	X	✓	✓
Revenue, Department of (3)	✓	✓	✓	✓
Rivers Council (1)	✓	✓	✓	✓
Student Loan Authority (6)	X	X	✓	✓
Taxation, Division of (217)	✓	✓	✓	✓
Turnpike and Bridge Authority (4)	X	X	X	✓
Transportation, Department of (19)	✓	✓	✓	✓
Water Resources Board (6)	✓	✓	✓	✓
Water Resources Board Corporate (1)	X	X	X	✓

NOTE: "-" = entity not required to submit for notated period(s). * = Elderly Affairs requested to submit under Human Services in Period Four.

Small Business Impact

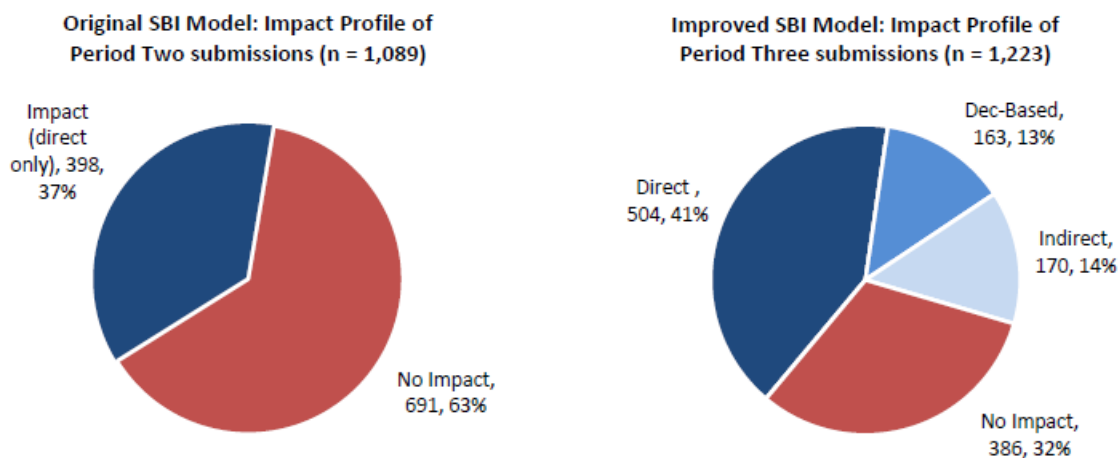
In 2013, ORR reviewed and classified the economic impact of 1,089 (66.2 percent of 1,646) regulations. Initially, ORR classified each regulation as having “impact” or “no impact” on small businesses. However, this model’s limitations arose repeatedly in stakeholder conversations, as well as in ORR’s review. At the close of the second period, ORR developed an enhanced impact model, which added two new impact types, namely “Decision-Based” and “Indirect” impact. This model was deployed in Period Three (2014), leading to a more comprehensive picture of the impact of Rhode Island regulations on small businesses. The following table provides the definitions for each of ORR’s four impact types.

Table 2: Improved Small Business Impact Model

Impact Type	Definition
Direct	Regulations that a small business must adhere to in order to operate
Decision-Based	Regulations that are triggered by a business decision
Indirect	Regulations whose impacts reach small businesses indirectly
None	Regulations with none of the above impacts on small business

Figure 1 below illustrates the effect of the improved impact model and how it informs ORR’s efforts to understand the State’s regulatory environment. Note that the share of regulations with “Direct” impact increases only slightly, from 36.6 percent to 41.2 percent. About one-quarter of all submissions fall under the added categories of Decision-Based or Indirect impact. The portion of submissions without any impact is halved, from 63.5 percent to 31.6 percent.

Figure 1: Comparison of Original (2013) and Improved (2014) SBI Models



This enhanced model has demonstrated to ORR the interconnectedness of regulation, as well as the various ways regulation can have an impact – both positive and negative – on the state economy. The model also highlights the need to carefully consider the different types of impact that both legislation and regulation can have on businesses.

In Periods One and Two, ORR identified the five regulatory agencies that appear to have the greatest impact on small businesses. This finding has been reinforced with “Direct” impact data from all three review periods, as well as through ORR’s 2013 Small Business Survey.

The Top Five Entities (in order by number of regulations as of the end of ORR’s review), are the:

- Division of Taxation (218);
- Department of Environmental Management (190);
- Department of Health (127);
- Department of Labor and Training (47); and
- Coastal Resources Management Council (29).

It should be noted that due to their statutory mandates, some entities must interact more with small businesses than others. The Top Five merit closer analysis. Each period’s Look Back Report includes detailed tables on these five agencies, including a list defining the impact of every submitted regulation (as determined in the agency’s impact statement).

2013 Identified Reforms

In 2013, when asked to amend, repeal, or maintain regulations based on its review, entities recommended to amend 57 regulations, repeal 14 regulations, and provide a small business accommodation in 16 regulations. These numbers increased to 66 amendments, 29 repeals, and 21 accommodations in Period Three.

ORR commends those entities that have begun the hard work of reform. However, ORR believes that Rhode Island can do more for its small businesses. Proposals for reform only address a small portion of regulation. Agencies have already begun to move their identified repeals through the repeal process. To date, 10 regulations have been repealed.

ORR will be following up with entities on these proposals to establish a timeframe for remaining identified action items. During this follow up ORR will continue to encourage greater reform. Agency accomplishments will be highlighted in ORR’s Final Report.

OMBUDSMAN SERVICES

Small Business Ombudsman Services for the 2013 calendar year

In 2012, legislation was enacted which moved the Office of Regulatory Reform, along with the Small Business Ombudsman (SBO), from the then RI Economic Development Corporation to the Department of Administration's Office of Management and Budget. In June 2013, the Office of Regulatory Reform filled the SBO position.

The SBO works for the Director of Regulatory Reform to help create a clear, predictable and reliable state-wide regulatory system. The SBO has two main functions:

- providing assistance to small businesses that may be stuck in a regulatory or permitting process by helping them navigate through agency regulations and permitting procedures, and
- guiding state agencies in complying with the Administrative Procedures Act (APA) with respect to meeting regulatory flexibility requirements, in order to minimize adverse economic impacts on small businesses during the rulemaking process.

The following information outlines where assistance was provided during this timeframe.

Means by Which Inquiries Are Received: Small businesses that need assistance call in or email directly to the SBO; are referred by other entities such as the RI Commerce Corporation, Chambers of Commerce, Building Associations, and/or other manufacturing or trade associations; via outreach activities that the SBO participates in; and word of mouth.

Assistance and Training Provided to Agencies: The following state agencies were provided hands-on assistance and training in complying with the APA with respect to minimizing adverse economic impacts on small businesses. The following agencies were trained to complete Regulatory Flexibility Analyses and Economic Impact Statements prior to the adoption of any proposed regulation that may have an adverse impact on small businesses:

Department of Administration	Department of Labor and Training
Department of Children, Youth & Families	Department of Transportation
Department of Environmental Management	RI Parole Board
Department of Health	RI Resource Recovery Corporation
State Building Code Commission	RI Housing & Mortgage Finance Corporation

Small Business Economic Impact: The SBO reviewed 45 proposed regulations from August through December 2013 that were submitted by agencies as part of the normal APA rulemaking process. Of the 45 submissions, eight regulations were being proposed for repeal. Two proposed amended regulations were determined to have a minimal adverse impact on some small businesses. Three proposed amended regulations actually had a positive impact on some small businesses, since the proposed revisions provided regulatory relief by removing requirements and making new requirements less strict, whereby reducing or lessening the regulatory burden placed upon these businesses. In all three of these instances, the impacted industries were in support of the particular regulation amendments.

Selected Case Summaries: During this period, the SBO worked to troubleshoot specific regulatory issues between agencies and businesses and provided approximately 40 businesses with quality, on-demand services to guide them through the regulatory system. Examples of some of the regulatory issues facing small businesses include:

- **(Client # 20130809-01) Competing in the Bid Process:** A small business was having difficulty interpreting the rules and requirements involved with submitting a sealed bid to the Division of Purchases before the deadline. Client contacted the SBO for assistance. After review of the purchasing regulations, the SBO was able to find information on what type of media was required to submit electronic copies for the bid process. Client was able to submit bid on time complying with the requirements and was able to qualify for the first round of bids.
- **(Client #20130905-01) Alcoholic Beverages:** A new business owner complained to the SBO about having to pay an upfront per-barrel excise tax on beer produced and sold in RI. The SBO found that while the law allows a tax exemption on the first 100,000 barrels of beer for breweries that have been in business for at least 12 consecutive months, the client was not in business long and therefore did not qualify for the exemption. SBO advised the client to contact the Division of Taxation after his first 12 months were completed and the Division would then set up his tax exemption status, whereby refunding any balance due.
- **(Client #20131205-01) Child Daycare Center:** Owner was upset about a recent inspection conducted by the DCYF, and how inspectors were interpreting and enforcing recent amendments in the Child Daycare regulations. SBO researched and compared the current regulations with the past regulations and determined that it appeared the owner was complying with the current regulations since the changes did not affect his current situation. The SBO advised the owner to ask for a meeting with DCYF administrators for the opportunity to explain his situation. DCYF granted a meeting and was able to resolve the issue and found the owner to be in compliance.
- **(Client #20131223-01) Fixed Place of Business:** A hotel received a letter from the DOH regarding the allowance of outside vendors such as barbers, hairdressers, cosmeticians and manicurists to provide services at their location. The hotel operator was not permitted by the DOH as a business to conduct these services. The hotel, as with many other hotels, routinely allowed such services in association with weddings or photo shoots to be held at the establishment. In many instances brides and grooms bring in their own barbers, hairdressers, cosmeticians and manicurists to provide services at the guest hotel. The RI Hospitality Association requested that the SBO identify which laws prohibited these services.

The SBO found that according to current law, barbers, hairdressers, cosmeticians, manicurists & estheticians needed to be licensed and needed to practice in a “fixed place of business” with a license for the shop. Unless the hotel applied for such a license with the DOH, it would not be allowed to continue this practice. Since this law impacted the RI hospitality industry, the RI Hospitality Association asked the General Assembly to modify this law during the 2014 legislation session. A number of bills pertaining to Chapter 5-10 of the RIGL have been introduced for consideration.

STATEWIDE E-PERMITTING

The e-permitting initiative will establish a uniform web-based system for the Rhode Island Building Commissioner and Fire Marshal, to be used by the State, its municipalities and taxpayers for statewide electronic plan review, permit management, and inspection system management.

BACKGROUND:

Governor Lincoln D. Chafee's budgets include \$580,000 in general revenue to fund consultant services and a technology provider to modernize building plans, permit management, and building inspection methods through e-permitting. Since September 2012, ORR, the Building Commissioner, the Fire Marshal, and the Office of Digital Excellence have developed criteria to include, but not be limited to:

- A user-friendly, web-based design that can track user activity and accept electronic signatures;
- Systems for internal and external users to create accounts with multiple security levels;
- The ability to notify users via email of changes or the status of permits;
- Capability to handle prints, photos and plans, as well as process fees online;
- Ability to implement custom workflows by permit type/group and to generate corresponding reports;
- Ability to host a multi-tenant client structure on a single database; and
- Support appropriate associated/peripheral technology, including mobile technology/applications.

ACTIVITY TO DATE:

- All permits for the Building Commissioner and Fire Marshal have been process mapped;
- Participated in question and answer demonstrations of active e-permitting systems;
- Met with 4 communities to discuss and develop best practices for permitting;
- Surveyed 17 communities on current/upcoming plans for online permitting;
- Presented initiative to the League of Cities and Towns;
- Secured \$50,000 in support from the Rhode Island Foundation to upgrade technology used by the Building Commissioner and Fire Marshal in preparation for the new system;
- Identified potential software/technology providers;
- Worked with the Building Commissioner, Fire Marshal, Purchasing and the Office of Digital Excellence to draft and finalize the written and technical aspects of the RFP; and
- Issued RFP in 2014 - bid opening was Thursday, April 28, 2014.

NEXT STEPS:

ORR initially projected a "soft launch" on December 31st, 2013. However, through the work noted above, ORR has learned a great deal of the needs and scope of this project, adjusting accordingly to ensure success. The revised project timeline includes these next steps to be completed in 2014:

- Select a technology provider to establish and test new e-permitting program and train users;
- "Soft Launch" the technology solution; and
- Explore potential uses in other permitting, licensing and inspection operations throughout the state.

OTHER ACTIVITIES OF THE OFFICE

ORR is involved in a number of other activities that support the major initiatives described above, focusing on promoting clear, predictable, and reliable permitting and regulatory processes.

For example, ORR began to conduct annual online surveying in 2013 to complement the feedback it continually receives from direct meetings with small business leaders. This ongoing feedback fuels the office's daily work. As mentioned in the Introduction, ORR also frequently serves in a consultative role to both state and municipal agencies, as well as to small businesses. The office works as a natural conduit between government and small business.

As ORR's interest lies in promoting effective and efficient systems, the Office is also concerned about developing baseline data for measuring the progress of its reforms. A comprehensive baseline picture of Rhode Island's regulatory landscape is anticipated for ORR's Period Four Report.

Small Business Survey

In 2013, ORR surveyed 709 small business representatives asking them to provide feedback on the impact of regulations on their businesses. It was noted at the outset the number of respondents should not be considered a statistically significant sample of Rhode Island businesses. While not statistically significant, ORR was encouraged by the comparability of the survey results to what it hears directly from community businesses. For this reason, the survey results should serve to inform rulemakers, regulators, and reformers on the issues small businesses find most burdensome.

While there appeared to be differences among major industries, health insurance costs were consistently identified as the primary challenge to business, followed by state then federal regulations. Industries reported differing levels of frustration, with the Construction/Utilities and Health Care/Social Assistance sectors reporting the highest levels of overall dissatisfaction. These two industries responded the most negatively on almost every survey question.

The majority of survey respondents had concerns regarding state regulations, stating that there are too many regulations which pose an unnecessary challenge or burden on their business. Indeed, half of respondents estimated their cost of regulatory compliance at greater than \$2,000 annually, and one-third of respondents indicated a need to hire an outside consultant just to understand how to comply. Facing these challenges, just under half of participants stated that state regulations have been a critical factor in deciding to grow or invest in their business.

Of the 298 participants that found regulations to be challenging or overly burdensome, 235 individuals (78.9 percent) provided feedback by identifying which specific regulation they found difficult. Across the board, taxes (sales, property, income, corporate, etc.) were the most identified item with 134 of 409 (32.8 percent) mentions in questions that provided space for open-ended responses.

Sixty-nine (69) regulations were mentioned specifically by identification number; those mentioned two or more times (Table 3 - starting with most mentioned) include:

Table 3: Specific Regulations Identified as Overly Burdensome by 2013 Small Business Survey Respondents

Agency & Subunit (if applicable)	Online ID #	Title & Description
Labor and Training, Department of Professional Regulation	6212	Apprenticeship Programs in Trade and Industry Sets forth labor standards to safeguard the welfare of apprentices, and to prescribe rules about acceptable apprenticeship programs
Labor and Training, Department of Professional Regulation	7107	Division of Professional Regulation, Rules and Regulations Relating to Prevailing Wages Clarification of the Prevailing Wage Law; Specifies work performed on construction projects that is subject to being paid at prevailing wage rate
Fire Safety Code Board of Appeal and Review	7138	Rhode Island Fire Safety Code 2013 Fire Code Safety Regulations. Consolidation of National NFPA codes and standards with Rhode Island amendments
Children, Youth and Families, Department of	1281	Child Day Care Center Sets forth licensing requirements for child day care center to safeguard the well-being of children
Taxation, Division of	4317	Sales and Use Tax – Interstate Sales Guidance on purchase of taxable goods used in interstate commerce
Labor and Training, Department of	7164	Rules and Regulations Relating to Exemptions for Work on Holidays and Sundays Guides employers in the procedure to request exemption from paying premium pay on Sunday and holidays; also lists exemptions that have been granted
Administration, Department of Minority Business Enterprise	716	Regulations Governing Participation by Minority Business Enterprises in State Funded and Directed Public Construction Projects, Construction Contracts, and Procurement Contracts for Goods and Services Sets forth state’s policy of supporting the participation of firms owned and controlled by minorities and women in state funded and directed projects and state purchases of goods and services
Labor and Training, Department of Workers’ Compensation Unit	2858	Workers’ Compensation Rules Pursuant to 28-36-15 (Lack of Insurance) Provides for procedures for the Division of Workers’ Compensation to issue stop work orders. It also direct the method for assessment of penalties against uninsured employers
Business Regulation, Department of Insurance Regulation Division	3143	Insurance Regulation 39: Rate Hearing Procedures on Fire and Marine, Workers’ Compensation and Other Property & Casualty Insurance Filings Establish the hearing procedures that pertain to fire and marine, workers’ compensation and other property and casualty insurance rate filings
Education, Board of	5649	Standards for Approval of Preschool and Kindergarten Programs Establishes standards for early childhood education programs based on Rhode Island’s Early Learning Standards to children between the ages of three and six years of age

Agency & Subunit (if applicable)	Online ID #	Title & Description
Labor and Training, Department of Labor Relations Board	5874	RI State Labor Relations Board General Rules and Regulations Clarifies the RI State Labor Relations Act and the organization and operation of the State Labor Relations Board
Workers' Compensation Court – Medical Advisory Board	6391	Preferred Provider Network Filing, Rules of Procedure Sets forth policy for injured workers in the State of Rhode Island to retain their right to a physician
Public Utilities and Carriers Division of Public Utilities Commission	6498	Rules and Regulations Governing Transportation Provided by Motor Carriers of Property Provides specific and detailed requirements for companies providing non-passenger (property) motor carrier services
Taxation, Division of	6854	Business Corporation Tax / Limited Liability Companies Sets forth annual filing requirements on LLCs and their members
Health, Department of	6992	Food Code Establishes minimum standards for food safety and sanitation in food businesses and food establishments

Permit Timeliness

The following “Permit Timeliness” section provides an overview of data that ORR is gathering to develop a baseline for state permit processes. Making customer service more timely and responsive is critical to OMB’s overall goals, and taxpayers and businesses often specifically mention delays and inefficiencies in receiving permits. ORR will be supporting its colleagues in the Office of Management and Budget’s (OMB) Office of Performance Management as they assist agencies in developing performance measures related to permitting timeliness. The following data from Performance Management represent timeliness for 14 permitting processes.

Agency: Public Safety						Program: Fire Marshal						
Measure	Average time (in days) of plan review process											
Monthly Data	Jan-13	Feb-13	Mar-13	Apr-13	May-13	Jun-13	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13
		33	27	25	27	25	26	30	23	30	24	20
Target	23	23	23	23	23	23	20	20	20	20	20	20

Agency: Environmental Management, Department of				Program: Air Pollution Pre-Construction Permits			
Measure	Average time (in days) to issuance of General Permits						
Quarterly Data	Q1		Q2		Q3		Q4
		71		47		41	
Measure	Average time (in days) to issuance of Minor Source Permits						
Quarterly Data	Q1		Q2		Q3		Q4
	238		200		197		285
Measure	Average time (in days) to issuance of Major Source Permits						
Quarterly Data	Q1		Q2		Q3		Q4
	N/A		N/A		N/A		N/A

Agency: Environmental Management, Department of				Program: Waste Facility Management Permits			
Measure	Transfer Stations – Average Total Time (in days) to Issuance						
Quarterly Data	Q1		Q2		Q3		Q4
		182		N/A		45	
Measure	Compost Facilities – Average Total Time (in days) to Issuance						
Quarterly Data	Q1		Q2		Q3		Q4
	57		42		N/A		N/A
Measure	Construction and Demolition Facilities – Average Total Time (in days) to Issuance						
Quarterly Data	Q1		Q2		Q3		Q4
	N/A		N/A		N/A		49
Measure	Other Facilities (HW Xfr Stations) – Average Total Time (in days) to Issuance						
Quarterly Data	Q1		Q2		Q3		Q4
	30		N/A		N/A		30

Agency: Environmental Management, Department of		Program: Freshwater Wetlands Program Permits			
Measure	Preliminary Determinations – Average Total Time (in days) to Issuance				
Quarterly Data	Q1	Q2	Q3	Q4	
	93	80	74	71	
Measure	Altercation – Average Total Time (in days) to Issuance				
Quarterly Data	Q1	Q2	Q3	Q4	
	N/A	167	168	405	

Agency: Environmental Management, Department of		Program: RIPDES* Permits			
Measure	General Permits – Average Total Time (in days) to Issuance				
Quarterly Data	Q1	Q2	Q3	Q4	
	7	45	8	6	
Measure	Remediation General Permit – Average Total Time (in days) to Issuance				
Quarterly Data	Q1	Q2	Q3	Q4	
	3	N/A	N/A	N/A	
Measure	Multi Sector (90 day auto approval) – Average Total Time (in days) to Issuance				
Quarterly Data	Q1	Q2	Q3	Q4	
	N/A	90	26	5	
Measure	Individual – Average Total Time (in days) to Issuance				
Quarterly Data	Q1	Q2	Q3	Q4	
	N/A	N/A	25	N/A	

*Rhode Island Pollutant Discharge Elimination System

Agency: Narragansett Bay Commission		Program: Permitting			
Measure	Sewer Connection Permits – Average Total Time (in days) to Issuance				
Quarterly Data	Q1	Q2	Q3	Q4	
	2.4	1.9	1.6	1.2	
Measure	Wastewater Discharge Permits – Average Total Time (in days) to Issuance				
Quarterly Data	Q1	Q2	Q3	Q4	
	22	18	18	24	

NEXT STEPS

ORR will continue its efforts toward improving state permitting and regulatory processes. It is the Office's belief that the constant refinement of clear, predictable, and reliable systems will lead to an ever-improving economic climate for Rhode Island small businesses.

ORR will conclude its accelerated review of state regulations with two reports to be released in 2014. First, its *Period Four Report* will provide a comprehensive baseline picture of Rhode Island's regulatory landscape. Second, its *Final Report* which will solidify recommendations, review achievements, and identify next steps in the ongoing reform effort.

Reform will not stop with ORR's Final Report. Lessons learned in this review will be incorporated into ORR's forthcoming tools and guidance to help agencies improve the regulatory environment. Chief among these will be an enhanced economic impact statement and an agency regulatory guidance manual, which will include a rubric for grading regulatory quality. Research from best practices, as well as business and agency input received via the Ombudsman, will strengthen these documents. The Office will then use these to transition agencies into cyclical five-year periodic reviews of all regulation, aligned with the Secretary of State's five-year refile process.

The Ombudsman will continue the ongoing work of helping businesses become "unstuck" in the regulatory environment, and helping agencies comply with both regulatory flexibility requirements and the Administrative Procedures Act. During this ongoing work, the Ombudsman will keep an eye out for opportunities to improve small business support systems. For example, the Ombudsman will be coordinating with RI Commerce Corporation to bolster the pre-application process between businesses and regulatory entities.

The Office will seek to use technology to reinforce its efforts to improve permitting, as well as to strengthen communication. After a technology provider is selected, Phase I of the e-permitting process will facilitate a roll-out of to the State Fire Marshal, the Building Code Commission, and two municipalities by the end of 2014. Starting in 2015, Phase II will further facilitate a roll-out to those remaining municipalities seeking permitting assistance. ORR will strengthen its online presence by deploying both a web-based regulatory "suggestion box" and an interactive government map aimed at providing direction to businesses in need.

Finally, ORR will continue to address and promote those activities that support the above work. This includes providing a greater voice to small business owners through annual surveys, supporting current "Lean" initiatives that streamline government, assisting municipalities as they review their own systems, and collaborating with the Office of Performance Management on regulatory performance.

ENDNOTES

ⁱ **Period One Report:** http://www.omb.ri.gov/documents/reform/regulatory-review/Period%20One_2013.pdf

Period Two Report: http://www.omb.ri.gov/documents/reform/regulatory-review/Period%20Two_2013.pdf

ⁱⁱ **Period Three Report:** http://www.omb.ri.gov/documents/reform/regulatory-review/Period%20Three_2014.pdf