



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
**DEPARTMENT OF ADMINISTRATION**

**OFFICE of REGULATORY REFORM**

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TO: Governor Gina M. Raimondo  
House Speaker Nicholas A. Mattiello  
Senate President Dominick J. Ruggerio  
FROM: Erik Godwin, Director of the Office of Regulatory Reform  
SUBJECT: Office of Regulatory Reform Quarterly Report: FY 2017 Q1

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## FY 2017 Quarter 1 Report: July 1, 2016 – September 30, 2016

### Quarterly Summary Data

#### Total Submissions by Type of Rulemaking

- Regular Rulemaking, Pre-Comment Review: 13
- Regular Rulemaking, Post-Comment Review: 13
- Direct Final Rulemaking: 3
- Emergency Rulemaking: 3
- Codifications: 0

#### Unique Regulations by Type of Action

- Adoption: 2
- Amendment: 13
- Repeal: 1
- Technical Revisions: 0

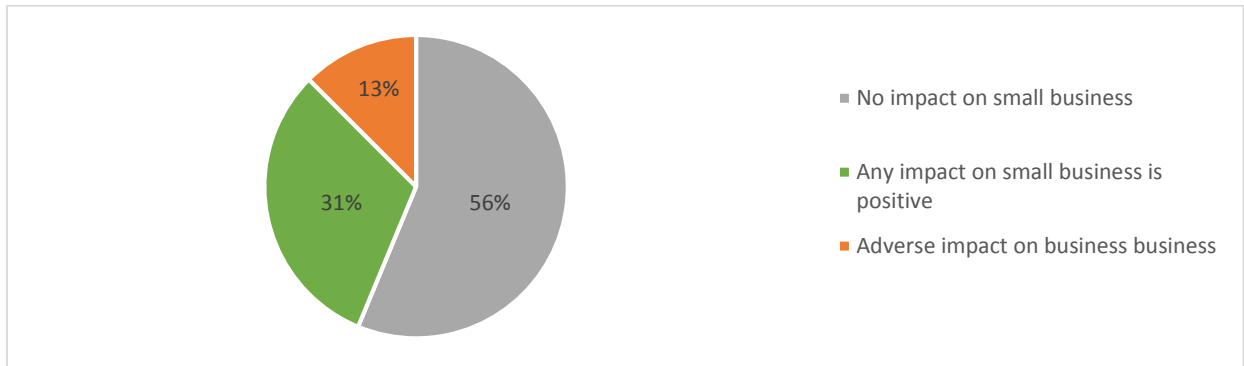
#### ORR Review Time by Type of Rulemaking

- Regular Rulemaking, Pre-Comment Review: 12.1 days
- Regular Rulemaking, Post-Comment Review: 3.1 days
- Direct Final Rulemaking: 1.3 days
- Emergency Rulemaking: 6.0 days

#### ORR Interventions

- Submissions where analysis was changed: 18.8%
- Submissions where regulatory language was changed: 18.8%

## Small Business Impact Analysis



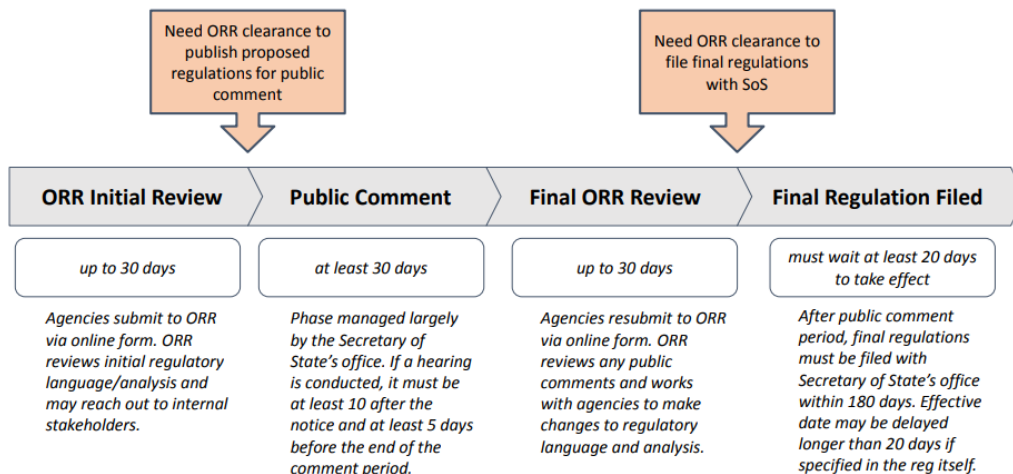
## Regulatory Oversight

As part of the Office of Management and Budget, the Office of Regulatory Reform’s (ORR) mission is to review new and amended regulations with a focus on minimizing adverse impacts on Rhode Island businesses, large and small. Since February 2015, ORR has been operating under [Executive Order 15-07](#), which requires all Executive Branch regulations to be reviewed by ORR using a model similar to the federal regulatory model. EO 15-07 outlines a process to ensure regulations are not imposing unnecessary burdens on businesses and citizens.

Prior to EO 15-07 the Director of Regulatory Reform had the authority to intervene on any individual regulatory or permitting issue. With the new process dictated by Executive Order agencies must submit all of their proposed regulatory actions to ORR providing a systematic way to address regulatory issues. ORR reviews an agency’s regulatory package, and if approved, those proposed rules and impact statements go through a public comment process. Any input from that process goes directly back to ORR for final consideration. Below is an outline of the ORR’s role in the regulatory review process. The second round of review is primarily to ensure the agencies take into consideration public comments and amend the regulation as necessary.

## Regular Rulemaking and ORR Review

While this is the official process outlined in Executive Order 15-07, ORR frequently works with agencies early by reviewing draft regulations and assisting with the development of regulatory analysis.





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**Regulatory Submissions Reviewed By ORR**

The following regulatory submissions were cleared by ORR during the fiscal year quarter covered by this report. Regulations cleared by ORR are not immediately effective, regulations must go through the formal rulemaking process administered by the Secretary of State’s Office (SOS). In some cases regulations cleared by ORR are not filed with SOS.

The information in this table (except Days Under Review and Clearance Date) is self-reported by regulatory agencies with their submissions, although ORR can suggest changes to agency’s submissions. Please note that for any post-comment entries with empty cells, the agency was not required to resubmit this information because the regulation received no public comment and no changes were made to the proposed regulation. Emergency regulations might also have missing data because these submissions are exempt from some reporting requirements.

| Review Stage              | Agency                   | Regulation Title   | Rulemaking Action | Days Under Review | Reason for Regulatory Action  | Small Business Impact Determination | Clearance Date |
|---------------------------|--------------------------|--|-------------------|-------------------|---|-------------------------------------|----------------|
| <b>Post-Comment Draft</b> | Business Regulation      | Rules and Regulations for the Board of Examiners of Landscape Architects | Amendment         | 0                 |   |                                     | 2016-07-01     |
| <b>Emergency</b>          | Environmental Management | Aquaculture of Marine Species in Rhode Island Waters                     | Amendment         | 5                 | This rulemaking was required in order to amend Section 12.3.6 (B) to clarify that all shellfish products must be delivered to a licensed dealer no later than five (5) hours following harvest. This five hour mandate is consistent with the requirement set out in Section 12.3.1. However, this clarifying amendment to Section 12.3.6 (B) was required to address concerns expressed by the State Department of Health in its preparation for an audit by the FHA. A determination of noncompliance by the FHA could result in the declaration that Rhode |                                     | 2016-07-06     |

| Review Stage              | Agency  | Regulation Title   | Rulemaking Action | Days Under Review | Reason for Regulatory Action  | Small Business Impact Determination                | Clearance Date |
|---------------------------|---|--|-------------------|-------------------|---|--|----------------|
|                           |   |  |                   |                   | Island shellfish cannot be marketed out of State thereby crippling the State's shellfish industry even if infectious diseases are immediately created by the prolonged exposure of shellfish product to virus.  |  |                |
| <b>Post-Comment Draft</b> | Executive Office of Health and Human Services | Medicaid Code of Administrative Rules, Section #1310, "Rhody Health Partners for MACC Group Adults - 19 to 64" | Amendment         | 7                 | To incorporate home stabilization provisions  | NO, this regulation DOES NOT IMPACT small business | 2016-07-06     |
| <b>Post-Comment Draft</b> | Executive Office of Health and Human Services | Medicaid Code of Administrative Rules, Section #1309, "Rlte Care Program"                                      | Amendment         | 7                 | To incorporate home stabilization provisions into the rule  | NO, this regulation DOES NOT IMPACT small business | 2016-07-06     |
| <b>Post-Comment Draft</b> | Administration                                | RULES AND REGULATIONS PERTAINING TO DIRECT DEPOSIT PAYROLL SYSTEM FOR STATE EMPLOYEES                          | Adoption          | 0                 | R.I. Gen. Laws § 35-6-1(e) requires the State Controller to establish a Direct Deposit Payroll System for State Employees and to promulgate rules and regulations as necessary for the implementation and administration of the Direct Deposit Payroll System.  | NO, this regulation DOES NOT IMPACT small business | 2016-07-12     |
| <b>Preliminary Draft</b>  | Environmental Management                      | Farmland Acquisition Rules and Regulations   | Adoption          | 27                | The purpose of these proposed regulations is to establish the procedure by which the DEM will purchase farmland in danger of being converted to non-agricultural use, and to facilitate the affordable sale or lease of such land to qualified small business farmers with the funds generated from these sales/leases being returned to the program account for re-use to acquire additional properties. | NO, any small business impact is POSITIVE          | 2016-07-14     |
| <b>Post-Comment Draft</b> | Environmental Management                      | Rhode Island State Pilotage Commission Rules and Regulations   | Amendment         | 7                 | All proposed changes were adopted as posted with the exception of minor language  | YES, there is ADVERSE IMPACT on small business     | 2016-07-15     |

| Review Stage             | Agency                   | Regulation Title  | Rulemaking Action | Days Under Review | Reason for Regulatory Action   | Small Business Impact Determination                                     | Clearance Date |
|--------------------------|--------------------------|---|-------------------|-------------------|--|---|----------------|
|                          |                          |   |                   |                   | changes except for the pilotage fee increase proposed in Section 15.13. The proposed Section 15.13 suggested an increase in the pilotage fee of 2% beginning 1/1/2017, 2% beginning 1/1/2018, and 2% beginning 1/1/2019. The Commission voted to approve an amendment to Section 15.13 such that the pilotage fee would increase 2% beginning 1/1/2017, 1% beginning 1/1/2018, and 2% beginning 1/1/2019 thereby decreasing the total rate increase from the proposed 6% over 3 years to 5% over this 3 year period. The available data that was initially provided to support the 6% increase would equally support the 5% increase during this period. | (continue on to complete the requirements of RIGL § 42-35.1-3 and 1-4). |                |
| <b>Preliminary Draft</b> | Environmental Management | RI Hunting Regulations for the Waterfowl Season 2015-2016 | Repeal            | 7                 | The Director of the Department of Environmental Management (DEM) hereby proposes to repeal RI Hunting Regulations for the Waterfowl Season 2015 – 2016 (ERLID # 8153) via a Direct Final Rule pursuant to Section 42-35-2.11 of the General Laws of 1956, as amended. The Director believes that this proposed action is noncontroversial and anticipates that no objection will be received to this proposed repeal given the fact the Part V of RI Hunting Regulations for the 2016 - 2017 Season (ERLID # 8332) governs the hunting of waterfowl that is the subject of the regulations proposed to be repealed. The RI Hunting                       | NO, this regulation DOES NOT IMPACT small business                      | 2016-07-20     |

| Review Stage              | Agency  | Regulation Title   | Rulemaking Action | Days Under Review | Reason for Regulatory Action   | Small Business Impact Determination                | Clearance Date |
|---------------------------|---|--|-------------------|-------------------|--|--|----------------|
|                           |   |  |                   |                   | Regulations for the 2016 - 2017 Season (ERLID # 8332) were filed with the Office of the Secretary of State on July 11, 2016.   |  |                |
| <b>Post-Comment Draft</b> | Human Services                                | Starting Right Child Care Assistance Program   | Amendment         | 2                 | Removal of the sunset date regarding Back to Work RI Pilot, now called Child Care for Training. Updated Provider Rates along with reorganizing CCAP Maximum Weekly Reimbursement Rates by provider type. Application of the 2016 Federal Poverty Level guidelines, along with the revision of the CCAP Eligibility and Cost-Sharing levels by Gross Income Adjusted for Family Size. | NO, any small business impact is POSITIVE          | 2016-07-21     |
| <b>Post-Comment Draft</b> | Executive Office of Health and Human Services | Medicaid Code of Administrative Rules, Section 0399.21 entitled, "Program for All-Inclusive Care for the Elderly"  | Repeal            | 1                 |  |  | 2016-07-22     |
| <b>Post-Comment Draft</b> | Executive Office of Health and Human Services | Medicaid Code of Administrative Rules, Section #0374/0375, "Community Supported Living Arrangements and Integrated Care Program"                                       | Repeal            | 1                 |  | NO, this regulation DOES NOT IMPACT small business | 2016-07-22     |
| <b>Post-Comment Draft</b> | Executive Office of Health and Human Services | Medicaid Code of Administrative Rules, Section #1475, "Managed Care Service Delivery Options for Elders and Adults with Disabilities and Long-Term Care Beneficiaries" | Adoption          | 1                 | EOHHS is adopting this new rule to describe the managed care service delivery options for Elders and Adults with Disabilities and long-term care beneficiaries. It will replace existing Medicaid Code of Administrative Rules, Sections #0374/0375.   | NO, this regulation DOES NOT IMPACT small business | 2016-07-22     |

| Review Stage             | Agency              | Regulation Title  | Rulemaking Action | Days Under Review | Reason for Regulatory Action   | Small Business Impact Determination                | Clearance Date |
|--------------------------|---------------------|---|-------------------|-------------------|--|--|----------------|
| <b>Preliminary Draft</b> | Business Regulation | Insurance Regulation 87 – Annual Financial Reporting                    | Amendment         | 17                | The proposed amendments would update the regulation to the National Association of Insurance Commissioners model act to add discussion of internal audit function.   | NO, this regulation DOES NOT IMPACT small business | 2016-07-24     |
| <b>Preliminary Draft</b> | Business Regulation | Commercial Licensing Regulation 8 Liquor Control Administration (CLR 8) | Amendment         | 23                | Update, simplify, clarify, and "lean." Areas amended due to inconsistency with statutes some of which have changed since the last amendment of this regulation: hours restrictions, line cleaners, duplicate licenses fees, licensee records retention, and reporting change in ownership. Areas amended for simplification and clarification: provisions regarding lottery product sales, inaccurate cross-references to Taxation requirements, recognizing LLCs as a form of license holder. Changes that "lean" the application requirements for licensees: codify interpretation that no newspaper/mail notice is required for licensee moving within the same lot and plat number; remove requirements for manufacturers and wholesalers of separated office space, dedicated phone line, financial information submission, and mandatory truck transportation. DBR also proposes to merge the separate Brew on Premises license regulation into this regulation and "lean" the requirements by removing the requirements of a stenographer for the hearing and submission of floor | NO, any small business impact is POSITIVE          | 2016-07-24     |

| Review Stage             | Agency                                 | Regulation Title   | Rulemaking Action | Days Under Review | Reason for Regulatory Action  | Small Business Impact Determination                | Clearance Date |
|--------------------------|--|--|-------------------|-------------------|---|--|----------------|
|                          |  |  |                   |                   | plan at renewal even when no change.  |  |                |
| <b>Emergency</b>         | Children, Youth and Families           | Foster and Adoptive Regulations for Licensure                        | Amendment         | 0                 | The emergency revisions to the Foster Care and Adoption Regulation for Licensure will allow DCYF to hold families with a foster child in the home to the same safety standards as other Rhode Island families. This will ensure that children in the care of DCYF are living with kin in fully licensed homes and there is an adequate supply of family foster and adoptive homes. Without this regulation, DCYF will have to consider placing children in a home that is too restrictive for the child's needs. Moving forward, these updated regulations will help DCYF license kinship homes in a timely manner and remove a significant barrier towards recruiting and licensing foster and adoptive parents. | NO, this regulation DOES NOT IMPACT small business | 2016-07-29     |
| <b>Preliminary Draft</b> | Education - Council of Elem and Sec Ed | Regulations Governing the Certification of Educators in Rhode Island | Amendment         | 7                 | To provide more flexibility to school districts, RIDE is proposing the elimination of two (2) current required permits: Athletic Coach and Substitute Teacher. For Fiscal Year 2016, these two permits were identified for elimination during a statewide OMB review; (R.I.G.L. 16-11.1-1) was modified to eliminate the RIDE coach permit requirement. RIDE is also proposing a change to the Career and Technical Educator Preliminary Certificate time-frame in order to eliminate a barrier in seeking qualified teachers for school district positions. Finally,   | NO, this regulation DOES NOT IMPACT small business | 2016-07-29     |



| Review Stage              | Agency                               | Regulation Title   | Rulemaking Action | Days Under Review | Reason for Regulatory Action  | Small Business Impact Determination                | Clearance Date |
|---------------------------|--------------------------------------|--|-------------------|-------------------|---|--|----------------|
|                           |                                      |  |                   |                   | RIDE is removing the Preparation Program Approval Standards to reduce redundancy, due to the adoption of separate program approval standards regulations in 2013.   |  |                |
| <b>Preliminary Draft</b>  | Labor and Training                   | Workers' Compensation Medical Fee Schedule   | Amendment         | 10                | Add sections to address compound medications and massage therapy  | NO, this regulation DOES NOT IMPACT small business | 2016-07-29     |
| <b>Post-Comment Draft</b> | Environmental Management             | Rules and Regulations Governing the Administration of Federal Groundfish Disaster Funds -- Phase Three Program fro Rhode Island      | Adoption          | 4                 | Adopt regulations enabling DEM to administer federal groundfish disaster aid to assist commercial fishermen who were adversely impacted by 2012 federal disaster declaration (third and final phase of overall program).  | NO, any small business impact is POSITIVE          | 2016-07-31     |
| <b>Preliminary Draft</b>  | Environmental Management             | RHODE ISLAND MARINE FISHERIES REGULATIONS Commercial and Recreational Saltwater Fishing Licensing Regulations                        | Amendment         | 13                | Annual review of Licensing regulations for exit/entry ratios; relocation of terms to Part 1 - Definitions; easing of regulatory requirements to RI licensed commercial fishing regarding ion regarding Issuance of New Licenses upon Sale of Vessel and Gear; easing of regulatory requirements to RI licensed commercial fishing regarding ion regarding Activity Standard requirement | NO, any small business impact is POSITIVE          | 2016-08-15     |
| <b>Preliminary Draft</b>  | Environmental Management             | RHODE ISLAND MARINE FISHERIES REGULATIONS - Part 1 Definitions   | Amendment         | 13                | Consolidation of terms into a single regulation for improved ease of read.  | NO, any small business impact is POSITIVE          | 2016-08-15     |
| <b>Preliminary Draft</b>  | Coastal Resources Management Council | RI Coastal Resources Management Program - Management Procedures (Section 4.2 - Information Requirements, Application Forms and Fees) | Amendment         | 18                | The purpose of the proposed regulatory action to add new Section 4.2.1 of the CRMC Management Procedures is to provide for expedited CRMC permit review procedures for residential construction projects that voluntarily include the Fortified   | NO, this regulation DOES NOT IMPACT small business | 2016-08-15     |

| Review Stage              | Agency         | Regulation Title  | Rulemaking Action | Days Under Review | Reason for Regulatory Action  | Small Business Impact Determination  | Clearance Date |
|---------------------------|----------------|---|-------------------|-------------------|---|--|----------------|
|                           |                |   |                   |                   | Home™ Program standards and techniques for coastal hazard resilient construction.   |  |                |
| <b>Post-Comment Draft</b> | Administration | Rules, Regulations, Procedures and Criteria Governing Certification and Decertification of MBE Enterprises by the State of Rhode Island                         | Amendment         | 2                 | The purpose behind the proposed regulatory amendments is to effective the requirements of the Rhode Island Bridge Replacement, Reconstruction and Maintenance Fund Act of 2016, as enacted in Public Law 2016, ch. 3 (H7409 Substitute A, as amended); to modify the MBE certification economic disadvantage criteria to be consistent with the US DOT DBE certification criteria governed by 49 CFR 26; and to implement the recommendations as a result of the MBE Certification LEAN review process in order to decrease the processing time for applications for certification. | NO, any small business impact is POSITIVE  | 2016-08-18     |
| <b>Preliminary Draft</b>  | Health         | Rules and Regulations Pertaining to Dentists - Dental Hygienists -and Dental Assistants   | Amendment         | 6                 | Update dental CEU requirements; add two new license categories (mandated by statute); update requirements for consistency with current professional standards   | YES, there is ADVERSE IMPACT on small business (continue on to complete the requirements of RIGL § 42-35.1-3 and 1-4). | 2016-08-22     |
| <b>Preliminary Draft</b>  | Health         | Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health [R23-1-17-Fee] | Amendment         | 1                 | These amendments add fees associated with the licensing of Public Health Dental Hygienists and DAANCE-Certified Maxillofacial Surgery Assistants  | YES, there is ADVERSE IMPACT on small business (continue on to complete the requirements of RIGL § 42-35.1-3 and 1-4). | 2016-08-31     |

| Review Stage              | Agency                        | Regulation Title   | Rulemaking Action | Days Under Review | Reason for Regulatory Action   | Small Business Impact Determination                | Clearance Date |
|---------------------------|-------------------------------|--|-------------------|-------------------|--|--|----------------|
| <b>Post-Comment Draft</b> | Business Regulation           | "Commercial Licensing Regulation 8 Liquor Control Administration (CLR 8)."         | Amendment         | 1                 |  |  | 2016-09-01     |
| <b>Emergency</b>          | Human Services                | Supplemental Nutrition Assistance Program  | Amendment         | 13                | This is an annual adjustment to the cost of living allowance as required by federal regulations along with an annual update to the Standard Utility Allowance (SUA) which is a deduction from a customer's gross income for heating and cooling expenses that are incurred. The SUA used to determine a customer's net income and eligibility for SNAP benefits. The amount of the SUA will be decreased due to a decrease in the cost of fuel and utilities as calculated by the annual Consumer Price Index (CPI). |  | 2016-09-14     |
| <b>Preliminary Draft</b>  | Health Insurance Commissioner | Regulation 2: Powers and Duties of the Office of the Health Insurance Commissioner | Amendment         | 7                 | To adopt use of aligned measure sets by commercial Health Insurers in their contracts with health care providers and to propose modifications to the limitation on price inflation for hospital inpatient and outpatient services.   | NO, this regulation DOES NOT IMPACT small business | 2016-09-16     |
| <b>Preliminary Draft</b>  | Energy Resources              | Commercial Renewable Energy Tangible Tax Value for Municipalities                  | Adoption          | 8                 | This new regulation was apart of the Governor's renewable energy legislative proposals that were passed by the General Assembly in June 2016   | NO, this regulation DOES NOT IMPACT small business | 2016-09-20     |
| <b>Direct Final</b>       | Environmental Management      | Rules and Regulations Governing Importation and Possession of Wild Animals         | Amendment         | 1                 | The reason for this regulatory change is to make a minor change to make an exemption for Licensed Falconers able to posses Native Wildlife, Falcons without violating the regulations.   | NO, this regulation DOES NOT IMPACT small business | 2016-09-27     |

| Review Stage              | Agency                   | Regulation Title                               | Rulemaking Action | Days Under Review | Reason for Regulatory Action   | Small Business Impact Determination                | Clearance Date |
|---------------------------|--------------------------|--|-------------------|-------------------|--|--|----------------|
| <b>Direct Final</b>       | Environmental Management | RI Falconry Regulations                        | Amendment         | 1                 | The purpose for this Regulatory Action / Change is to establish regulations for the practice of falconry in the State of Rhode Island  | NO, this regulation DOES NOT IMPACT small business | 2016-09-27     |
| <b>Post-Comment Draft</b> | Environmental Management | Hazardous Waste Regulations                    | Amendment         | 7                 | These changes are proposed to rectify inconsistencies between state and federal rules regarding changes made in 2014. Also, after working with stakeholders, certain requirements were judged to be unnecessarily burdensome to the regulated community and/or used excessive resources of the Department without providing sufficient benefit to the environment. Therefore, these requirements were modified or removed. | NO, any small business impact is POSITIVE          | 2016-09-27     |
| <b>Direct Final</b>       | Environmental Management | Park and Management Area Rules and Regulations | Adoption          | 2                 | To clarify language in the existing regulations for undeveloped State Parks.   | NO, any small business impact is POSITIVE          | 2016-09-28     |