

Office of Regulatory Reform

Accelerated Regulatory Review Final Report: Results and Next Steps

Report to Governor Lincoln D. Chafee
and the Rhode Island General Assembly
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ABSTRACT

This Final Report summarizes the reform work led by Governor Lincoln D. Chafee and provides transitional guidance to state leaders.

RESULTS OF THE ACCELERATED REGULATORY REVIEW

Governor Lincoln D. Chafee announced, in September 2012, his initiative to accelerate a recently enacted four-year regulatory review process. He directed state agencies to make government more efficient, to streamline processes, and to reduce the regulatory impact on small businesses.

Agencies responded in record time, reviewing in 17 months about 26,000 pages contained in more than 1,600 regulations. Their effort cut 2½ years (62.5 percent) off the timeline set by the General Assembly.

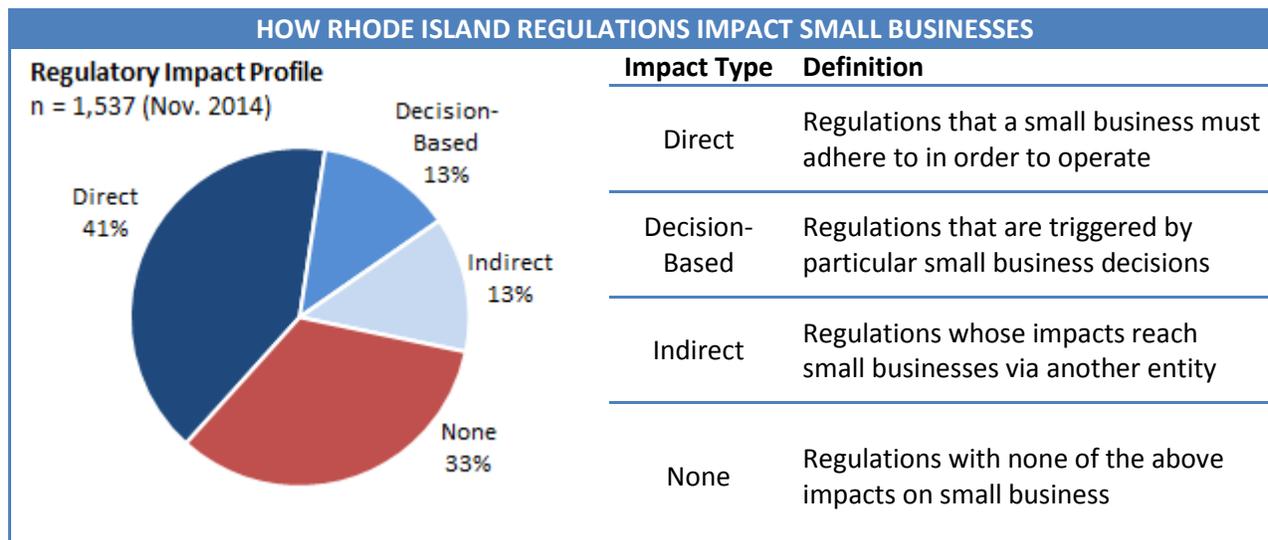
During the review, agencies identified **more than 250 changes** to improve the state’s regulatory system (see below). Almost three-quarters (70.9 percent) of these reforms are complete. Agencies remain on target to complete almost all of the remaining reforms in 2015.

RHODE ISLAND REGULATORY REFORMS
48 repeals of outdated, unnecessary, or obsolete regulation
73 amendments or modifications to improve the regulatory system
133 consolidations or rejoining of regulation

This effort represents an impressive body of work completed on an accelerated timeframe. The Office of Regulatory Reform (ORR) commends agencies on their progress to date. Their work demonstrates Rhode Island’s commitment to its small businesses and to economic development.

REVIEW FINDINGS

Rhode Island has – for the first time – a comprehensive picture of the state’s regulatory landscape. ORR developed a uniform economic impact model to evaluate the small business impact of all regulations. It found that two-thirds of state regulations have impact on small business (figure below).



ORR found a strong link between the content of state law and the content of regulation. Many regulations with business impact come straight from law. To capitalize on this reform effort, a broader initiative will be needed to review and modify existing state laws. To assist lawmakers in setting reform

priorities, ORR has conducted annual small business surveys. Survey findings, supported by data from ORR's small business ombudsman services and online suggestion box, can serve to inform lawmakers on which rules small businesses find burdensome or problematic.

In addition to coordinating this across-the-board review, ORR identified a number of regulatory issues originating in the systems surrounding regulations – not just from the content of rules. For this reason, ORR issued 13 recommendations aimed at improving the state's overall regulatory landscape (pages 5–6). A number of supporting projects, well on their way, have stemmed from these recommendations.

NEXT STEPS FOR REGULATORY REFORM

ORR has developed a three-pronged approach (see page 7) for ongoing regulatory reform. Future reform efforts will fall into one of three categories:

- **Pursue Substantive Law and Regulation Changes** – improving law-based regulation through statutory reforms.
- **Promote Efficient Regulatory Processes** – ensuring that regulations are implemented efficiently in order to achieve regulatory goals with minimal waste.
- **Improve Regulatory Accessibility** – making state regulations easy to find, read, and understand.

Each reform approach ranges in complexity and differs in the impact it can have on Rhode Island's small business climate. Reforms with more impact involve more stakeholders.

ORR will work on numerous projects leading up to the next full regulatory review in 2017. The first involves identifying the underlying laws of regulations that impede economic development. As part of its ongoing work, ORR has collected small business feedback on which regulations are burdensome or problematic. Most of these regulatory items come straight from Rhode Island General Laws. Page 8 sums up these business concerns as three groups: reform to taxes and fees, reform to employment rules and regulations, and other statutory reforms.

ORR also seeks to improve the efficiency of how regulations are implemented. During the review, ORR discovered that a number of regulatory issues originate in systems surrounding regulations (i.e., administrative processes) – not just from the content of rules. The office has developed an analytical regulatory reform “toolbox” that targets specific process issues. These tools include plain language writing, Lean process improvements, and cost-benefit analysis (see page 9).

Finally, projects related to accessibility and process include modernizing the Administrative Procedures Act, developing an online map of government to support business, and establishing a statewide electronic permitting platform (see page 10). These projects were chosen for their system-wide impacts and their potential for improving the entire regulatory environment.

ORR stands ready to continue its work with agencies and state leadership and serve as an advocate for Rhode Island's small business community. For more detail on Rhode Island's regulatory reform effort, including past ORR reports, please visit www.omb.ri.gov/reform/.

EXAMPLES OF REFORM

Provided below are some illustrative examples of recent reform efforts designed to make Rhode Island a better place to do business.

- The **Coastal Resources Management Council (CRMC)** amended its regulations to authorize the restoration of tidal water views to existing hospitality businesses that meet certain criteria, and incorporate a public access plan and conservation easement. The views have been lost over time by the growth of forested wetland vegetation. This amendment seeks to balance the economic importance of the state's waterfront, with the need to preserve this important asset.
- The **Department of Children, Youth, and Families (DCYF)** drafted legislation to remove a redundant reporting requirement for health care facilities. The General Assembly passed the legislation, and Governor Chafee signed it into law in 2013. Because of the statutory change, DCYF was able to repeal the related regulation.
- The **Department of Health (DOH)** repealed two duplicative state regulations covered by federal rules: poison prevention rules related to product packaging and quality standards for mammograms. DOH specifically cited an interest in not adopting more stringent standards. The original rules predated the federal standards.
- The **Division of Motor Vehicles (DMV)** will remove a requirement for inspection stations to use a dynamometer, a large device for testing emissions in older vehicles. Auto shops will save money on equipment and have more space for vehicle repairs. This change is scheduled to occur after the expiration of DMV's current service contract in 2017.
- After hearing from small businesses, ORR's Small Business Ombudsman joined with the **Department of Labor and Training (DLT)** to streamline the application for biweekly pay and make suggested updates to the hazardous substance right-to-know annual renewal registration form. Both forms were placed online to increase ease of access for business.
- The **Division of Taxation (Taxation)** is working to improve the navigability of its regulations by consolidating small groups of related rules. During the review, Taxation consolidated regulations related to commercial farming and food produce.
- In October 2014, the **Department of Environment Management (DEM)** established its new Permit Application Center (PAC). A result of DEM's Lean efforts, the PAC is aimed at streamlining business permitting processes and providing better customer service.

ORR RECOMMENDATIONS: SUMMARY AND STATUS

While coordinating the regulatory review, ORR issued 13 recommendations aimed at improving the state’s regulatory environment. These recommendations are summarized in the following table. Corresponding projects and project status are provided as well. Many projects are complete or near-complete (shaded boxes). In addition, several recommendations will become part of ORR’s two-year work plan.

RECOMMENDATION FINDING	PROJECT	STATUS
#1: Map the Regulatory Environment Lack of a government-wide map to direct small business concerns means businesses have difficulty finding answers	<ul style="list-style-type: none"> • Develop an interactive, web-based map to help small businesses navigate state government 	PROJECTS (see page 10)
#2: Eliminate Statutory Exemptions ORR’s enabling legislation excluded a number of industries from the definition of small business; these exemptions create a barrier to comprehensive review	<ul style="list-style-type: none"> • Accelerated Review: Read and analyze any exempt regulations not submitted voluntarily by agencies 	COMPLETE
	<ul style="list-style-type: none"> • Future Review: Eliminate statutory exemptions 	COMPLETE
#3: Improve Accessibility to Regulations Rhode Island regulations are difficult to read, understand, and navigate	<ul style="list-style-type: none"> • Write Regulatory Manual to guide agencies in creating clear and correctly promulgated regulations; use Regulatory Manual to support all recommendation areas 	JANUARY 2015
#4: Remove Duplicative Regulations & “Non-Regulations” The regulatory landscape is cluttered with duplicative regulations (repeat or overlap other regulations) and “non-regulations” (typically internal policy)	<ul style="list-style-type: none"> • Research potentially duplicative regulations and encourage eliminating/merging them as appropriate; help agencies find alternative, transparent forums for internal policies 	ONGOING
#5: Rejoin Separated Regulation The practice of dividing a complete regulation into separate parts decreases navigability, making it difficult for businesses to find and reconstruct regulatory content	<ul style="list-style-type: none"> • Identify and consolidate/merge separated or related regulations 	ONGOING
#6: Reform the Audit, Inspection, & Enforcement Process Business concerns include lack of guidance, consistency, and customer service regarding audit, inspection, and enforcement	<ul style="list-style-type: none"> • Develop vision for audit, inspection and enforcement success: increase advice, education, and training; use risk assessment to direct enforcement where it can have highest impact 	ONGOING

RECOMMENDATION FINDING	PROJECT	STATUS
<p>#7: Promote Lawmaker/Small Business Participation Regulations are based in law therefore lawmakers are needed for reform efforts; small business input on regulatory issues is invaluable</p>	<ul style="list-style-type: none"> • Seek small business feedback by conducting annual surveys and launching an online Small Business Suggestion Box • Inform lawmakers of business concerns via reports and survey findings 	<p>COMPLETE</p>
<p>#8: Support Improved Cost-Benefit Analysis Regulatory agencies have difficulty quantifying the number and types of businesses they regulate</p>	<ul style="list-style-type: none"> • Revise impact assessment to promote more substantive review • Research ways to improve state’s capacity for cost-benefit analysis 	<p>JANUARY 2015</p>
<p>#9: Promote Continuous Process Improvement Reform must be continuous; ORR promotes Lean and other quality improvement techniques, and encourages lawmakers to support Lean initiatives in state government</p>	<ul style="list-style-type: none"> • Work with others in Department of Administration to include Lean consultation services on state Master Price Agreement • Support agency Lean and quality improvement efforts 	<p>COMPLETE</p>
<p>#10: Push Reform Efforts beyond Current Performance ORR will follow up on identified reforms not yet completed, and work with agencies to identify additional reforms</p>	<ul style="list-style-type: none"> • Complete the reforms identified during Accelerated Review (amendments, consolidations, repeals) 	<p>71% COMPLETE</p>
<p>#11 & #12: Adjust the Administrative Procedures Act (APA) The legislative foundation for rulemaking needs to be updated</p>	<ul style="list-style-type: none"> • Short-Term: Propose legislation to include Governor’s office in review process and to synchronize ORR and SOS review processes • Long-Term: Update the entire APA based on best practices 	<p>COMPLETE</p>
<p>#13: Promote Performance-Based Regulatory Approaches Businesses report that agencies, at times, prioritize following specific rules (command-and-control approach) over achieving set goals (performance-based approach)</p>	<ul style="list-style-type: none"> • Promote performance-based approaches to regulation. 	<p>PROJECTS (see page 10)</p>
		<p>ONGOING</p>

NEXT STEPS FOR REGULATORY REFORM

ORR has developed a three-pronged approach for ongoing regulatory reform. This approach draws upon the findings of the accelerated review and focuses on regulatory access, process, and substance. Future ORR projects will fall into one of three categories of reform:

I. Pursue Substantive Law and Regulation Changes

Many regulations derive their content directly from state law. Regulatory reform must therefore involve substantive changes to law, with the goal of increasing the state's economic competitiveness.

This type of reform should be targeted toward regulations that hamper economic development (i.e., those identified as most burdensome by small businesses and other stakeholders). These regulations often represent key policy areas. For this reason, state leadership will need to vet and prioritize efforts to substantially change law.

II. Promote Efficient Regulatory Processes

The state should ensure that regulations are implemented efficiently in order to achieve regulatory goals with minimal waste in effort or expense.

Agencies can streamline internal processes to reduce staff burdens and improve the customer experience. Agencies can also develop simpler methods for enforcement that encourage regulatory compliance while minimizing costs to the state and its customers.

III. Improve Regulatory Accessibility

The state's regulations should be easy to find, read, and understand. Rhode Island should improve public access to regulations so that businesses and other entities can easily find which rules pertain to them.

Agencies can improve accessibility by eliminating obsolete regulations, consolidating similar regulations, relocating internal policy, standardizing formats, and rewriting regulations in plain language.

The above reform approaches can range in complexity, and differ in the impact they can have on Rhode Island's small business climate. Reforms with more impact tend to involve more stakeholders (e.g., interest groups or lawmakers), and are often, as a result, more complex.

Until the next full regulatory review, starting in 2017, ORR will be working on numerous projects related to improving regulatory access and processes. In addition, to support lawmakers in prioritizing substantive, statutory reforms, ORR has collected feedback on which regulations Rhode Island businesses find to be most burdensome (page 8).

IMPROVING STATE REGULATIONS THROUGH STATUTORY REFORM

Many regulations derive their content directly from state law. Reform of these law-based regulations cannot happen without statutory reform. Statutory reform involves examining existing laws to implement changes in the legal system. It is focused on improving the state's economic competitiveness, while continuing to promote the health, safety, and quality of life of Rhode Islanders.

As part of its ongoing mission, ORR collects small business feedback on which regulations are burdensome or problematic. ORR relays this information to lawmakers through annual reports. The feedback, summarized below, represents the opinions of about 1,000 Rhode Island businesses about where reform should occur. Most of the items they identify are law-based regulations. Therefore, ORR encourages lawmakers to prioritize these items in their future lawmaking efforts.

Sources of ORR's Small Business Feedback:

- Annual Small Business Surveys
- ORR's Small Business Ombudsman
- Small Business Suggestion Box
- Business Meetings and Presentations

SMALL BUSINESS CONCERNS REPORTED TO ORR

REFORM TO TAXES AND FEES

Businesses cite Rhode Island taxes and fees as burdensome and uncompetitive. In ORR's last survey the **business corporate tax** was the top identified item. This year, the corporate tax was reduced from 9.0 percent to 7.0 percent. However, small businesses remain concerned about the \$500 minimum rate. Other taxes identified by business as burdensome include **sales and use tax, property tax, meals and beverage tax, and estate tax (also reformed in 2014)**.

REFORM TO EMPLOYMENT RULES AND REGULATIONS

Businesses believe that Rhode Island rules and regulations related to employment are uncompetitive with other states. In particular, they note that **prevailing wage laws** and ratios contained within **apprenticeship requirements** do not match those of other states. The 2013 **biweekly pay** law designed to help businesses with payroll has been identified as having burdensome requirements.

Businesses also state that costs associated with **unemployment insurance, temporary disability insurance, and workers' compensation insurance** are too high and prone to abuse. Business also expressed concern about **health insurance costs**.

OTHER STATUTORY REFORMS

Many business owners report that the Rhode Island **Fire Safety Code** has become overly restrictive since The Station nightclub fire in 2003. A handful of businesses have expressed concerns about rules contained within the **Food Code** and **child day care** regulations.

Recent media reports have brought attention to burdensome requirements related to **professional licensure**. In one example, it takes about 350 days of training to become a licensed barber. This requirement is set per state law (see RIGL § 5-10-7 through 10), as are many others related to professional licensure.

For complete Small Business Survey information, please find related reports at www.omb.ri.gov/reform.

IMPROVING REGULATORY PROCESSES: REGULATORY REFORM TOOLBOX

ORR discovered that a number of regulatory issues originate from the systems surrounding regulations (i.e., administrative processes) – not just from the content of rules. From its research and review recommendations, ORR has identified three tools that agencies can use in ongoing reform efforts. They are listed in bold below, along with types of regulations that may benefit from the use of a specific tool.

Plain Language Writing

Plain language is a style of government communication designed to be immediately understood by the reader. It is focused on reducing confusion, while increasing transparency and compliance simply because people understand what they should do.

Appropriate Regulations for Reform

Plain language writing is universally applicable to all regulations. However, priority should be given to regulations with significant consequences if misunderstood, regulations where confusion leads to frequent noncompliance, and regulations that apply to wide or diverse audiences.

Lean Process Improvements

Lean process improvement, or “Lean,” is a quality-oriented methodology for the systemic elimination of waste (i.e., non-value-added activities) within a process. It is focused on efficiency and streamlining processes to increase customer satisfaction.

Appropriate Regulations for Reform

Lean process improvements are most appropriate for the customer-facing operations of government. This includes permitting, licensing, audits, inspections, and enforcement. Priority should be given to lengthy processes that stall business operations.

Cost-Benefit Analysis

Cost-benefit analysis is a systematic approach to studying the strengths and weaknesses of particular regulatory policies and policy alternatives. It is focused on creating regulations that maximize benefits and minimize compliance and administrative costs.

Appropriate Regulations for Reform

Cost-benefit analysis is appropriate for regulations that both have a high cost of compliance and a significant amount of regulatory content not contained in law (i.e., agency discretion). Priority should be given to regulations meeting these criteria in high impact agencies as determined in the ORR review.

IMPROVING THE REGULATORY ACCESSIBILITY AND PROCESSES: UPCOMING ORR PROJECTS

ORR has prioritized three projects to improve regulatory accessibility. They were chosen for their system-wide impact and their potential for improving the entire regulatory environment.

Modernize the Administrative Procedures Act

Enacted in 1956, the Administrative Procedures Act (APA) governs the way state agencies propose and establish regulations. Though pieces of the act have been since amended, the act is outdated when compared against modern technology and practice. Comparing the APA against a national model for best practice provides an opportunity to modernize rulemaking procedures and to capitalize on technological advances to increase public transparency and participation.

Develop an Online Map of Government to Support Business

Small businesses report difficulty navigating government. They often do not know where to find help or address concerns. ORR is developing an interactive, web-based system map of the customer-facing functions of government. This site will allow businesses to quickly find which people in government can answer their questions or help with their concerns. This project will be supported by the Office of Digital Excellence and the Rhode Island Public Expenditure Council.

Establish a Statewide Electronic Permitting Platform

The General Assembly has directed ORR to assist the State Building Commissioner in establishing a streamlined, web-based system to be used by the state, its municipalities, and taxpayers for permits and inspections. The goal is to create an electronic permitting system that changes the way the state does business – by speeding up the permit process and providing better and timelier information to decision makers, managers, and staff throughout Rhode Island. The state is currently reviewing vendor RFP responses for a software product.

MOVING TO A MORE CUSTOMER-CENTRIC MODEL OF GOVERNMENT

To be competitive and attractive to economic development, Rhode Island government must be responsive to the needs of customers and stakeholders when delivering programs and services. Businesses will thrive in and seek environments that are clear, predictable, and reliable. For this reason, ORR encourages all public entities to integrate the ideas of public service and customer service, always striving to increase public satisfaction with services.

To achieve this vision, the state should provide customer service training to front-line staff, establish centralized customer service centers, actively implement efficiency-based quality improvement initiatives, and take advantage of available information technologies. Promoting these improvements will require the prioritization of resources and support from state leadership.

ORR Timeline

ORR's 2015 to 2016 work plan is presented below. Included are the projects outlined in this report. Throughout this period ORR will continue its work with agencies and state leaders in identifying additional regulations for reform.

2015	
1 st Quarter (Jan – Mar)	- Publish Regulation Manual - Publish New Regulatory Impact Assessment (RIA) - Begin E-Permitting Phase I - Begin Government Mapping Phase I
2 nd Quarter (Apr – Jun)	- Publish 2014 Annual Report - Publish 2015 Small Business Survey Results
3 rd Quarter (Jul – Sep)	- Conclude Government Mapping Phase I
4 th Quarter (Oct – Dec)	- Conclude E-Permitting Phase I - Begin Government Mapping Phase II
2016	
1 st Quarter (Jan – Mar)	- Begin E-Permitting Phase II - Provide General Assembly with Administrative Procedures Bill
2 nd Quarter (Apr – Jun)	- Publish 2015 Annual Report - Publish 2016 Small Business Survey Results
3 rd Quarter (Jul – Sep)	- Conclude Government Mapping Phase II
4 th Quarter (Oct – Dec)	- Prepare Agencies for 2017 Regulatory Review

PROJECTS WITH PHASES

E-Permitting

- Phase I – Develop system for permits from the Building Code Commission, the Office of the State Fire Marshal, and trade permits (e.g., building, mechanical, electrical) in up to 10 pilot municipalities.
- Phase II – Expand to additional municipalities and state agencies for state-wide rollout.

Government Mapping

- Phase I – Research and compile initial content, publish for business use.
- Phase II – Launch interactive, web-based system map.