



# OFFICE OF MANAGEMENT & BUDGET

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## MEMORANDUM

**To:** The Honorable Daniel J. McKee, Governor  
The Honorable K. Joseph Shekarchi, Speaker of the House  
The Honorable Dominick J. Ruggerio, President of the Senate

**From:** Erik Godwin, Deputy Director

**Date:** August 4, 2022

**Subject:** Office of Regulatory Reform Quarterly Report: FY 2022 Q4

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### ORR Annual Report: FY 2022

*July 1, 2021 to June 30, 2022*

#### Introduction

As a part of the Office of Management and Budget (OMB), 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. During fiscal year 2022, ORR maintained this mission by updating current processes and providing training opportunities for agencies as they resumed normal rulemaking activities following the COVID-19 pandemic.

[Executive Order \(EO\) 15-07](#) requires ORR to review all Executive Branch regulations using a model similar to the federal regulatory model. Signed in February 2015, EO 15-07 outlines a process to ensure regulations are not imposing unnecessary burdens on individuals and businesses. ORR is responsible for the review and approval of all proposed regulatory actions by agencies under the Governor's purview.

For all regulatory actions proposed by these agencies, ORR reviews and approves those regulation drafts at two points: 1) before the regulation is posted for public comment, and 2) after public comments are received and before the agency publishes the final rule. This review ensures that regulatory actions align with the Governor's priorities, and all internal stakeholders receive notice of the proposed regulation. It also ensures that agencies have completed the legally required cost-benefit, municipal, and small business impact analyses, to ensure the benefits justify the costs. Additionally, ORR frequently works with agencies early by reviewing draft regulations and assisting with the development of regulatory analyses.

In today's complex regulatory environment, it is more important than ever to have up-to-date, transparent regulations based on rigorous analyses to balance the health, safety, welfare, and the environment with the need to minimize regulatory burdens on Rhode Island businesses and individuals. The EO 15-07 process has significant value across the regulatory landscape, particularly for the business community. During the review, regulatory submissions are

frequently revised to improve either language or the accompanying analyses. The bulk of those changes specifically address ways to reduce the burden on regulated entities, such as small businesses and specific sectors of the economy.

In Fiscal Year 2022, ORR reviewed and cleared 298 total agency submissions of new or amended regulations, averaging approximately 25 per month. For initial regulatory submissions (excluding repeals), ORR revised the regulatory text or analyses of 29.3% of the submissions during the EO 15-07 review. Additionally, only 1% of agency submissions submitted during FY22 were recorded as having an adverse impact on small business while 18% had only positive impacts and 81% had no impact on small business.

### Leadership Transition

In October 2021, Brian Daniels became the new Director of the Office of Management and Budget. Director Daniels has reorganized and redirected ORR to reflect the changing regulatory needs of government in two ways. First, ORR's interagency review process now places greater emphasis on the creation and tracking of key data-driven metrics to track policy impacts throughout the lifecycle of each regulation. This shift reflects OMB's increasing commitment to performance management throughout the division's portfolio of responsibilities (Budget, Audit, Regulatory Review, and Performance Management). Second, ORR is assisting agencies in harmonizing state regulations with the increasingly complex landscape of federal and municipal laws. The profound economic, social, and policy shifts brought on by COVID-19 have challenged regulatory systems in ways not previously considered. This has forced federal, state, and local regulatory entities to amend regulatory structures to keep pace and to do so at a speed that increases the risk that different levels of regulation will institute contradictory requirements. Director Daniels has made it a priority to assist state agencies in their efforts to identify, analyze, and harmonize Rhode Island's regulations with those of federal and municipal authorities.

### Regulating During COVID-19

During fiscal years 2020 and 2021, ORR maintained the mission of the office while overseeing the State's regulatory response to the COVID-19 pandemic. From March 2020 through the end of fiscal year 2021, ORR reviewed 311 COVID-related rulemaking actions. Of these actions, 64 were unique regulations, 63 were amendments to existing emergency rules, and 184 were extensions of existing emergency rules. The emergency regulations reviewed were from 11 unique agencies, boards, or commissions.

ORR provided guidance to executive branch agencies that had promulgated emergency rules in response to the COVID-19 public health crisis. The guidance requested that agencies who anticipated needing the emergency regulatory provisions long-term begin pursuing the regular rulemaking process to make the rules permanent (with the ability to repeal or amend them as needed later). ORR worked with the agencies to determine which COVID-19 regulations would need codifying and assisted in moving those rule packages through the regular rulemaking process.

## Training Agency Regulatory Staff

This spring, as the state agencies began to resume normal rulemaking activities, ORR provided a refresher about the analyses that must accompany rulemaking. Communications with agencies outlined the requirements set forth in the [Administrative Procedures Act](#) (APA) and [Executive Order 15-07](#), including regulatory analysis, fiscal notes, and small business analysis. ORR highlighted that failure to comply with statutory requirements can leave regulations vulnerable to being ruled invalid and unenforceable in the event of a legal challenge. Agencies were provided with legal citations and guidance documents to assist in the completion of the regulatory requirements.

Additionally, ORR conducted training on the regulatory review process and the analytical requirements in March. During this training, ORR announced that beginning Monday, March 28, ORR would implement a new pre-review check prior to accepting a regulatory submission into the online Wufoo system. This step applies to all the rulemaking actions that require OMB clearance, including regular rulemaking (pre-and post-comment), direct final rulemaking, and emergency rulemakings (initial filings and 60-day extensions). Prior to submitting a proposed regulation to Wufoo, agencies are required to email [omb.regsubmission@omb.ri.gov](mailto:omb.regsubmission@omb.ri.gov) with the following:

- A copy of the regulatory language is attached,
- A copy of the cost-benefit analysis (if a standalone analysis is required for OMB review) and/or fiscal note attached,
- If a post-comment period submission, the public comments attached, and
- In the body of the email specifying the legal authority for the rulemaking

This new step requires the ORR analyst to review the submission for completeness as quickly as is practicable (typically within three business days) and to then either inform the agency that the submission is incomplete or provide the agency with a password for officially submitting the regulation via Wufoo. The OMB 30-day review period begins when the submission is determined to be complete. With the institution of the pre-review process, ORR anticipates review times to continue to decrease. ORR review periods are currently averaging 13 days – well short of the 30-day limit.