



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ADMINISTRATION

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TO: Governor Gina M. Raimondo, House Speaker Nicholas A. Mattiello, and Senate President Dominick J. Ruggerio
FROM: Erik Godwin, Director of the Office of Regulatory Reform
SUBJECT: FY2016 Annual Report on the Activities of the Office of Regulatory Reform

REGULATORY REFORM EFFORTS UNDER GOVERNOR RAIMONDO

[July 2015 to June 2016]

EXECUTIVE ORDER 15-07

On February 17, 2015, Governor M. Raimondo issued Executive Order 15-07 *Improving Rhode Island's Regulatory Climate to Create Opportunity* (EO 15-07).¹ A part of Governor Raimondo's continuing efforts to attract new businesses to Rhode Island and to encourage the state's existing businesses to expand and grow, EO 15-07's goal was to ensure that regulations do not impose unnecessary burdens on businesses and residents.

During FY2016, EO 15-07 has demonstrably reduced regulatory burdens in Rhode Island. New regulations (i.e. adoptions and amendments) were reduced by 46% this year when compared to the yearly average of the previous administration. In addition, there were 24 regulatory repeals in FY2016. These repeals accounted for 15% of all regulatory actions in FY2016, compared to a yearly average of 10% from FY2012 to FY2015. Finally, the use of emergency regulations decreased significantly. There were 14 emergency actions in FY2016, accounting for 10% of all regulatory actions. This was down from a yearly average of 12% from FY2012 to FY2015.

The EO 15-07 process has significant value across the regulatory landscape, particularly for the business community. During regulatory review, 31% of regulatory submissions were changed to improve either regulatory language or the accompanying analyses. The bulk of those changes specifically address ways to reduce the burden on regulated communities like small businesses and specific sectors of the economy. Thus, EO 15-07 has improved the state's regulatory climate by reducing number and improving the quality of regulations that agencies promulgate, all while ensuring that state agencies continue to meet statutory mandates to protect the health, safety, and welfare of Rhode Islanders.

In July 2015, ORR launched an online regulatory submission portal to support and streamline the review process for state agencies. Prior to the launch of this portal, ORR averaged 12 days of review for each regulatory action. In addition to saving state agencies time in submission, the new portal has helped ORR reduce its average review time to 9 days (15% of maximum possible review time) for each regulatory action. Finally, during FY2016 ORR trained all Executive Branch State Agencies on both the portal submission process as well as how to conduct benefit-cost analyses.

¹ RI Exec. Order No. 15-07. (2015). http://www.governor.ri.gov/documents/orders/ExecOrder%2015-07_02172015.pdf

ADMINISTRATIVE PROCEDURES ACT INITIATIVE

In December 2014, ORR issued a Final Report² for its first retrospective regulatory review. In this report, ORR recommended that the state undertake a comprehensive update of Rhode Island's Administrative Procedures Act (APA). The APA governs the process for how state agencies may propose and establish regulations. Simply stated, it contains the rules for making rules. ORR believed that updating the 1956 law would provide Rhode Island with an opportunity to streamline its rules, modernize rulemaking, and improve public participation and transparency through better use of technology.

In 2015, ORR consulted the Uniform Law Commission's 2010 Model State Administrative Procedures Act to create a draft act based on nationally recognized best practices. The draft act sought to resolve the following issues with the state's regulatory environment:

Issue 1: Rhode Island's regulatory environment is difficult to navigate relative to other states.

Rhode Island lacks a codified system for its 27,000 pages of regulations. It is one of only four states nationally, and the only New England state, that lacks a regulatory code. Without an online, searchable code, new and existing businesses struggle to locate (and comply with) the regulations that pertain to them.

Issue 2: Rhode Island's regulatory environment is needlessly cluttered.

Outdated and unenforced rules are jumbled together with active rules. In addition, Rhode Island's regulations contain many provisions that are not regulatory in nature, including agency descriptions, general guidance documents, and internal policies and operating procedures. This impedes the ability of the public to locate and understand what requirements actually apply to their lives and businesses.

Issue 3: Rhode Island's regulatory process consumes considerable state agency resources, even for trivial, non-controversial rules.

Current law requires agencies to use the full administrative process for every new regulatory adoption, amendment, or repeal. This practice fails to recognize the proportional effects of each rule and requires a substantial amount of time and energy where it is not needed.

Issue 4: Rhode Island's current law lacks modern practices that improve transparency and increase participation opportunities for the public.

Statutory mechanisms do not exist for agencies to proactively gather information from the public prior to rulemaking. Agency regulatory agendas are only provided semiannually. Public rules related to shaping agency regulatory decisions are opaque. Simply put, technology is not being used to its full potential to inform the public and encourage civic participation.

The update to the APA corrects these issues through several mechanisms. First, the update establishes a web-based Rhode Island Code of Regulations (RICR). This code organizes all regulations into an easily searchable classification system, freeing up time for businesses to engage in commerce. Second, a mandatory opt-in process will remove any regulation not entered into the new RICR. This provision will

² Office of Regulatory Reform. (2014). *Accelerated Regulatory Review Final Report: Results and Next Steps*. <http://www.omb.ri.gov/documents/reform/regulatory-review/ORRFinalReport2014.pdf>.

eliminate many outdated and unenforced rules. ORR estimates that the provision will result in the removal of more than 3,000 pages of existing regulations.

Next, the update creates a streamlined approach for non-controversial rules and provides a non-regulatory mechanism for an agency to advise the public. These new practices will allow agencies to better focus their limited resources. Finally, the update expands on practices to obtain public participation by providing live rulemaking agendas, as well as a mechanism to create public regulatory workshops.

On June 29th, 2016, the General Assembly passed and Governor Raimondo signed the above referenced update to the Rhode Island Administrative Procedures Act.³ The Act provides for a transition period, allowing agencies until December 31st, 2018 to resubmit all existing rules with the Secretary of State for publication into the Rhode Island Code of Regulations. ORR is currently working with the Secretary's Office to coordinate this effort to overhaul the state's regulatory landscape.

E-PERMITTING

The e-permitting initiative seeks to establish a streamlined, uniform web-based system to be used by the State, its municipalities, and taxpayers for statewide permit management, inspection management, and electronic plan review.

The first phase of the initiative includes common trade permits (e.g. building, fire, electrical, plumbing) from the State Building Commissioner, the State Fire Marshal, and 10 pilot municipalities. Pilot communities include Cranston, Newport, North Kingstown, North Providence, North Smithfield, Pawtucket, Warwick, West Warwick, Westerly, and Woonsocket.

On July 7th, 2015, a final contract was signed with ViewPoint Government Solutions, Inc. That same month, the Rhode Island Office of Digital Excellence (ODE) kicked off the project by meeting with municipal leaders in the pilot communities, as well as state building and fire officials. That Fall, mapping of municipal permitting processes was completed and used to start the development of a base statewide permit template. By Spring 2016, the test online instances for permits under the State Building Commissioner and State Fire Marshal were completed. After systems testing, integration, and stabilization, as well as user training, the state was able to successfully go-live with online permits for the Building Commissioner and Fire Marshal on June 27th, 2016.

With two instances up and running without issue, the remaining pilot communities should launch quickly. It is anticipated that half of the ten pilot cities and towns will go-live by the end of 2016 with the remainder finished by March 2017.

³ Rhode Island Public Law 2016, Chapters 203 and 206.

<http://webserver.rilin.state.ri.us/BillText/BillText16/SenateText16/S3015aa.pdf>.

<http://webserver.rilin.state.ri.us/BillText/BillText16/HouseText16/H7395A.pdf>.