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Maryland Is Undergoing Meaningful Regulatory Reform

by

Randolph J. May* and Michael J. Horney**

In December 2017 Maryland's Regulatory Reform Commission (RRC) released its final report recommending ways Maryland can improve its regulatory climate. This report supplements the findings of the RRC's 2015 and 2016 reports and it provides further recommendations for how Maryland can reduce unnecessary regulatory burdens and foster more economic activity in the state. As Governor Larry Hogan enters the last year of his gubernatorial term, the RRC's report provides evidence of another solid effort by the Hogan Administration to achieve meaningful regulatory reform. Indeed, the new report recommends the removal or modification of over 650 of Maryland's outdated and unnecessary regulations.

In July 2015 Governor Hogan established the RRC with the expressed goal of streamlining government, stimulating economic activity, and creating jobs. Since then, the Commission has published three reports in 2015, 2016, and 2017.

In January 2016 we published a *Perspectives from FSF Scholars* titled "Achieving Efficient Government and Regulatory Reform in Maryland." Referring to the RRC's 2015 report, we provided recommendations explaining how Maryland could consolidate government agencies, improve regulatory processes, and reduce or eliminate the burdens caused by occupational licensing, fees, and other unnecessary requirements. Then, in a January 2017 *Perspectives from FSF Scholars* titled "Regulatory Reform in Maryland: A Good Start but More Work to Do," Randolph May discussed the recommendations in the RRC's 2016 report and the need for Maryland to create additional regulatory retrospective (or "look-back") reforms and *ex ante* (or before-the-fact) regulatory process reforms.

The 2017 Report

The RRC's 2015 report provided general recommendations for process reform. Then, the 2016 report gave 187 specific examples of regulations, licenses, or fees considered to be overly burdensome, unnecessary, or outdated. Now, the 2017 report builds off of the 2016 report and identifies an additional 657 specific recommendations for reform. The 657 recommendations fall under one of four reform categories: streamlining and clarifying revisions; modernization and electronic submissions; obsolete references; and state and federal statutory requirements.

See the tables below for a breakdown of the 657 regulatory recommendations by category (top) and by department/agency (bottom).

Category	**Number or Recommendations**
Streamlining and Clarifying Revisions	158
Obsolete References	449
State or Federal Statutory Requirements	45
Modernization and Electronic Submissions	5
Total	**657**

Department/Agency	**Number of Recommendations**
Agriculture	2
Assessment and Taxation	24
Budget and Management	17
Environment	48
Governor's Office for Children	3
Health	268
Human Service	20
Insurance Administration	14
Labor, Licensing, and Regulation	32
Natural Resources	5
Board of Contract Appeals	23
Transportation	103
Planning	10
Governor's Coordinating Offices	88
Total	**657**

As the tables show, the recommendations range across many different categories and state department/agencies. Some simply remove clearly outdated laws or change words that no longer make sense, which could reduce compliance costs for entrepreneurs and/or reduce wasteful spending. For example, several recommendations simply would eliminate regulations that require duplicative printed documents for department Secretaries.

Various other recommendations would make more substantive changes to regulations or licensing requirements. When implemented, these changes will directly benefit the entrepreneurs and consumers in that specific marketplace.

Here are three examples.

- Veterinarians in Maryland are required to take eighteen hours of continuing education classes annually. The RRC recommends increasing the maximum hours that may be completed online from six to nine, thus making it easier and less costly for veterinarians to renew their licenses.

- The RRC recommends eliminating the $500 permit fee for Maryland towing companies. Removing this start-up fee should encourage more competition in the towing market and put downward pressure on towing prices.

- The RRC also recommends removing the limit on the number of hair utensils that cosmetologists can use. This regulation provides no demonstrable health or safety benefits and stifles the ability of cosmetologists to adequately perform their services.

Importantly, Governor Hogan announced that his administration will implement all 657 recommendations. It is difficult to estimate the extent of the impact implementation of these recommendations will have on Maryland's economy, but it certainly will be positive. In fact, Governor Hogan's efforts to implement regulatory changes and tax reform already have impacted Maryland's economy positively. A CNBC study titled "America's Top States for Business" ranked Maryland 25th in 2017, moving the state up eleven spots in the ranking since Governor Hogan took office in January 2015. Once the recommendations from the 2017 report are implemented, the overall reduction in regulatory costs and licensing burdens should encourage more entrepreneurial and economic activity throughout the state.

Additional Process Reforms Needed

In the January 2017 *Perspectives from FSF Scholars*, Randolph May discussed why Maryland needs regulatory look-back reviews (like the ones the RRC did in this report). Governor Hogan's efforts in this regard already have been helpful. It is also important that Maryland implement additional *ex ante* (before-the-fact) review processes to ensure that unnecessary regulations, fees, and licenses are not adopted in the first place.

In last year's *Perspectives*, Randolph May proposed that the Hogan Administration create a central entity within the executive branch tasked with reviewing proposed regulations:

> Repealing outdated and unnecessary regulations is an important step. But this type of "lookback" retrospective review does not address the imposition of new regulations. Thus, the Hogan Administration also needs to continue focusing on *ex ante* regulatory reforms, specifically including my suggestion for the need of some "central entity within the executive branch to review regulations before they are promulgated to determine that the projected benefits outweigh the costs and they are not inconsistent with other regulations."

When analyzing a regulation's cost-effectiveness, the first questions that should be asked and answered are: Does the regulation address a market failure or systemic problem? If it does, how does it propose to address the perceived market failure or systemic problem? Are there less restrictive, less costly alternative solutions than those proposed? And do the benefits of the proposed regulatory solution outweigh the costs?

At the federal level, the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget currently performs this type of regulatory analysis for all proposed economically significant (an economic impact of $100 million or more) regulations. In Maryland, a centralized review office within the executive branch, staffed with only a very few persons with expertise in regulatory economics, could evaluate proposed rules which are estimated to have a substantial impact on Maryland's economy, say an economic impact of at least $4 million.

In 2015 the Maryland General Assembly created the Advisory Council on the Impact of Regulations on Small Businesses, which acts as a central entity within the Department of Commerce and reviews proposed regulations to determine the potential impact on small businesses. The Advisory Council has adopted guidelines for estimating and minimizing the economic costs of regulations on small businesses, but Maryland agencies are not required to follow these guidelines. Moreover, the Council should perform impact analyses to determine how all parties in Maryland are affected, including *all* businesses, consumers, taxpayers, students, and others.

The RRC's 2017 report recommends that Governor Hogan issue an Executive Order requiring Maryland agencies to follow the Council's guidelines. This is a sound recommendation. But if issued by Governor Hogan, the Executive Order also should require each state agency to produce an annual report assessing how, in fact, the Advisory Council's guidelines and analyses impacted the agency's regulatory decisions in the past year.

Conclusion

Implementing all 657 recommendations, or even a significant number of them, should encourage more economic activity and increase business opportunities in Maryland without compromising public health or safety. The long-run positive economic impacts should enhance consumer welfare and job creation.

Each year, the Hogan Administration has taken important steps towards achieving its goal to "transform Maryland into a business-friendly state." While there is always more work to be done, there is little doubt that Governor Hogan's regulatory reform efforts are moving the state in the right direction.

* Randolph J. May is President of the Free State Foundation, an independent, nonpartisan free market-oriented think tank located in Rockville, Maryland.

** Michael J. Horney is a Research Associate of the Free State Foundation.