

**TITLE 29**  
**State Government**  
**General Regulations for State Agencies**  
**CHAPTER 104. REGULATORY FLEXIBILITY ACT**

**§ 10401. Short title.**

This chapter shall be known and may be cited as the "Regulatory Flexibility Act."

64 Del. Laws, c. 51, § 1.;

**§ 10402. Declaration of policy.**

(a) The General Assembly finds and declares that:

(1) Numerous instances of obtaining compliance with state regulatory and reporting requirements impose inequitable demands on individuals of limited means and on small businesses.

(2) Regulatory efforts to protect the state's health, safety and economic welfare have imposed burdensome legal, accounting and consulting costs upon individuals, organizations and businesses of limited resources and are adversely affecting competition in that sphere of the marketplace.

(3) The scope and volume of regulations already in effect have created high entry barriers in many small industries and has discouraged potential entrepreneurs from introducing beneficial products and processes.

(4) The practice of treating all regulated individuals, organizations and businesses in uniform manner for purposes of regulatory and reporting requirements has led to inefficient use of regulatory agency resources, enormous enforcement problems and, in some cases, action inconsistent with the legislative intent of health, safety and economic welfare legislation.

(5) Government information collection has not adequately weighed the privacy rights of individuals and organizations against the government's need for information because the design of the regulatory process has encouraged regulators to treat information as a free good.

(6) The deep public dissatisfaction with the regulatory process has stemmed in large part from a public perception of burdensome regulations failing to correct key state problems.

(b) It is the purpose of this chapter to establish as a principle of regulatory policy that regulatory and reporting requirements fit the scale of those being regulated, that fewer, simpler requirements be made of individuals and small businesses and that to achieve these ends agencies be empowered and encouraged to issue regulations which apply differently to individuals and small businesses than to larger entities.

64 Del. Laws, c. 51, § 1.;

**§ 10403. Definitions.**

As used in this chapter:

(1) "Agency" means any authority, department, instrumentality, commission, offices, board or other unit of state government authorized by law to make regulations or issue licenses. Agency does not include the General Assembly, courts, municipalities, counties or other political subdivisions, joint state-federal, interstate or inter-municipal authorities or their agencies.

(2) "Individual" means any natural person; provided, however, that the term "individual" shall not include any natural person who is affected by a regulation in such person's capacity as an officer, director or employee of an organization which is not a small business.

(3) "Small business" means any not-for-profit enterprise, sheltered workshop or business enterprise which is engaged in any phase of manufacturing, agricultural production or personal service, regardless of the form of its organization, when such enterprise or workshop employs less than 20 persons, has gross receipts of less than \$4,000,000 and is not owned, operated or controlled by another business enterprise.

64 Del. Laws, c. 51, § 1.;

#### **§ 10404. Consideration of possible exemptions.**

(a) Prior to the issuance of any rule or regulation an agency shall consider whether it is lawful, feasible and desirable for the agency to exempt individuals and small businesses from the effect of the rule or regulation or whether the agency may and should promulgate a rule or regulation which sets less stringent standards for compliance by individuals and/or small businesses.

(b) The agency's consideration should include the following factors:

(1) The nature of any reports and the estimated cost of their preparation by individuals and/or small businesses which would be required to comply with a new rule;

(2) The nature and estimated costs of other measures or investments that would be required by individuals and/or small businesses in complying with a rule;

(3) The nature and estimated cost of any legal, consulting and accounting services which individuals and/or small businesses would incur in complying with a rule;

(4) The ability of individuals and/or small businesses to absorb the costs estimated under paragraphs (1), (2) and (3) of this subsection without suffering economic harm and without adversely affecting competition in the marketplace;

(5) The additional cost, if any, to the agency of administering or enforcing a rule which exempts or sets lesser standards for compliance by individuals and/or small businesses; and

(6) The impact on the public interest of exempting or setting lesser standards of compliance for individuals and/or small businesses.

64 Del. Laws, c. 51, § 1.;

#### **§ 10405. Transmission of rule to General Assembly standing committees; comments.**

The agency prescribing such rule shall transmit such rule to, and obtain the comments, if any, of, the appropriate standing committees of the General Assembly with oversight responsibilities for legislation affecting that agency with respect to the impact on individuals and/or small businesses resulting from implementation of such rules.

64 Del. Laws, c. 51, § 1.;

#### **§ 10406. Application of exemption.**

Whenever the results of such consideration by an agency indicate that it is lawful, desirable and feasible to exempt individuals and/or small businesses or to set lesser standards of compliance by individuals and/or small businesses, the agency shall issue a rule or regulation containing an appropriate exemption for such individual and/or small businesses or setting lesser standards for compliance by individuals and/or small businesses.

64 Del. Laws, c. 51, § 1.;

**§ 10407. Review of preexisting rules and regulations.**

Each agency shall, during the 5-year period beginning with July 1, 1983, review agency rules which were published for comment, issued or in effect prior to such date and consider exemptions permitted by this chapter.

64 Del. Laws, c. 51, § 1.;

**§ 10408. Interagency cooperation.**

Every agency of state government is authorized and required to furnish upon request such advice and assistance to any other agency considering exemptions pursuant to this chapter.

64 Del. Laws, c. 51, § 1.;