THE IMPACT OF FEDERAL REGULATIONS ON
SMALL BUSINESS IN NEW ENGLAND

by

Alvin N. Puryear
Professor of Management
City University of New York

and

Catherine P. Wiggins
Assistant Professor of Public Administration
University of New Haven

Overview

The purpose of this paper is to examine the impact of federal
regulations on small business in Region I. Although some federal
regulations promote small business development (those concerned
with small business procurement of government contracts, for
example), many small business problems result from the impact of
federal regulations not specifically aimed at small businesses.
It is primarily these negative impacts of federal regulations on
small business in Region I which this paper will address.
Clearly, sufficient study and concern has not been devoted to the
impact of federal regulations on small businesses. Much of the
recent concern about the cost of federal regulations and the
impact of increasing federal regulations of business focuses on
large businesses. Available data, however, support the view that
government regulations tend to have a disproportionately adverse impact on small businesses.

In examining the impact of federal regulations on small business in Region I, several problems with respect to adequate data were noted which significantly relate to the question being considered and which will be addressed in the conclusions and recommendations of this paper. First, federal regulation impact data are difficult to obtain. According to the Domestic Council Review Group on Regulatory Reform, economists appointed by the White House to study the impact of federal regulations on the economy indicated that "Seldom do we know the real effect of existing or proposed regulations." This conclusion appears to be especially true with respect to the impact of federal regulations on small business. Changes in the small business sector give evidence that many factors are at work, including the effects of inflation, economies of scale, international competition, union wage rates, and all manner of government factors ranging from taxation and credit policy to regulation. Since many factors work in combination, it is difficult to isolate the specific impacts of any one factor such as regulation.

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Second, much of the impact data which is available is based upon the impact of federal regulations on a specific industry or examines the cost of a specific regulation on business in general and does not focus on the cost to small business. Data from these studies probably underestimate the cost to small businesses since they have more difficulty obtaining capital to comply with regulations and are less successful in passing along costs.

Third, data on the impact of federal regulations on small business are generally not available by federal region. Since the impact of a specific regulation may vary, depending on such factors as the types of industries in the region, size of firms in industries, economic characteristics of the region and geography, more attention needs to be given to regional variation in impact analysis.

Fourth, studies on the cost of federal regulation of business tend to deal mainly with direct costs. Yet, indirect and opportunity costs—time and capital diverted from productive operations—may in the long run have more negative impacts on the firm than immediate direct costs.

Finally, data on the impact of federal regulations on small business should include the combined and cumulative impacts of federal regulations. Data tend to underestimate the costs of federal regulations of small business when the cost of each regulation is considered in isolation of other regulations which have negative impacts and when costs are not considered over a period of time.

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Given these introductory remarks on data availability, the remainder of this paper is organized as follows: Federal regulations and small business; impact of federal regulation on small business in Region I; efforts to alleviate negative impacts of federal regulations on small business; and conclusions and recommendations.

Federal Regulations and Small Business

Introduction

It is difficult to overestimate the current rapid expansion of government regulation of business in the United States. The majority of public policy changes affecting business/government relations in recent years has been in the direction of greater governmental intervention—environmental controls, consumer product safety regulations, job safety, equal employment opportunity enforcement, minimum wage requirements, and recording and reporting of items ranging from employee illness to foreign currency transactions. The increased number and reach of such laws and rules have expanded to such an unprecedented level during the past decade as to create serious concerns for the private sector in general, and concern for the growth and development of small businesses, in particular.
Changes in the Nature of Government Regulatory Agencies

In order to begin to understand current concern about the impact of federal regulations on small business, it is necessary to examine the changing nature of federal regulatory agencies. The standard theory of government regulation of business, which is still in general use and which has dominated professional and public thinking on the subject, is based on the models of the Interstate Commerce Commission (ICC), the Federal Communication Commission (FCC), and the Civil Aeronautics Board (CAB). Under this approach, a Federal body is established to regulate a specific industry, with the related concern of promoting the well-being of that industry. Although this traditional model of federal regulation of business continues to exist and its effects on small business will be addressed in this paper, the new wave of federal regulation follows a fundamentally different pattern and suggests additional problems which these regulations pose for small business.

The relatively new regulatory bodies—the Environmental Protection Agency (EPA), the Equal Employment Opportunity Commission (EEOC), the Occupational Safety and Health Administration (OSHA), the Food and Drug Administration (FDA), and the Consumer Product Safety Commission (SPSC) are not limited to the regulation of a single industry. Each agency's jurisdiction extends to the bulk of the private sector—to all types of businesses and more importantly, for our purpose, to all sizes of business. Yet in comparison to the old regulatory
agencies oriented to specific industries, in many important ways the newer federal regulators operate in a far more narrow sphere. They are not concerned with the totality of a company or industry, but only with a limited segment of operations which fall under their jurisdiction. For example, the ICC is primarily concerned with the trucking industry's basic mission to provide transportation services to the public as it supervises rates and permits entry into the trucking industry. On the other hand, the EPA's interest in the trucking industry is almost exclusively concerned with the effects of the trucking operations on the environment. Thus the newer regulatory agencies assume broader social goals such as improving the quality of life or changing the distribution of income in order to achieve greater equity among the various groups in society. In the absence of any strong opposition to these goals, these new regulatory bodies have expanded in size and influence and have contributed to the present concerns of over-regulation of business. The negative impacts which these regulations may have on business and the special problems which they pose for small business are now beginning to be recognized.
Special Problems of Federal Regulations to Small Business

As pointed out above, in recent years there has been unprecedented growth in the number of regulatory agencies and in the scope of their regulations. For example, from 1969 to 1976 twenty-six new regulatory agencies were created and between 1970 and 1974 twenty-nine major regulatory statutes were enacted. There are now 90 agencies issuing some 7,000 rules each year. As discussed below the number and reach of such laws and regulations have expanded to such a level as to create several problems for small businesses in Region I and throughout the country.

Participation in the Regulatory Process

A significant factor contributing to the negative impact of federal regulations on small business is the disadvantaged position of small businesses in the statutory and regulatory process. Due process provides that firms directly affected by proposed regulations have a right to participate in the rule-making process. Despite this right, however, small businesses often are not aware of their rights nor are they able to exercise them. Notices of hearings appear in the Federal Register which generally is not read by a small businessperson. If an owner is aware of the hearing, manpower and resource constraints make it difficult to appear in Washington at the scheduled time. Some rules go into effect as early as 30 days after they appear in the Federal Register. It has also been suggested that many agencies have already made up their minds when they issue proposed
standards, so that the right to comment on the standard is "pro-forma" only.

The manpower and resource constraints under which small businesses operate contribute to their lack of powerful influence in the regulatory process. At best small businesses tend to be represented through their membership in trade and industry associations. The viewpoints expressed by these associations, however, are more likely to reflect the interest of their larger and more influential members. This general need for stronger advocacy for small business in the statutory and regulatory process has been recognized in recent attempts to strengthen the advocacy role of small business and to place more persons who represent small business organizations on regulatory commissions.

Breakdowns in the regulatory process have increasingly resulted in the courts having to settle disputes between the regulatory bodies and aggrieved parties. When having to turn to the courts, the small businessman, however, is again in a disadvantaged position. Larger firms with capable legal staffs will use the courts to delay the implementation of rulings which adversely affect them. Small businessmen are not as capable of the "manipulation" of the courts to their advantage. Thus the court procedure is too time-consuming and costly a means of reducing the negative impacts of federal regulations for small business. (See the Hertzler
and Phillips paper for a discussion of these issues and legal services for small business).

Knowledge of Laws and Regulations Related to Small Business

Since its inception in 1935, the Federal Register has been the official means of communication between the federal agencies and the public. The problem which this poses for small business with respect to federal regulations is that most small businesspeople do not read the Federal Register and one must question whether they can reasonably be expected to do so given their other responsibilities. In 1976 the Federal Register contained over 57,000 pages and it is estimated that by 1980 the number of pages will be 100,000. The rapidly increasing number of pages in the Federal Register is largely due to the regulatory activities of the newer agencies created in the late 1960's and early 1970's.

Some agencies appear to be aware of the problems which the use of the Federal Register imposes and have attempted to improve communications through direct mailings to the affected business. Other agencies work closely with trade associations to help insure that "word" gets out. Many small firms, however, do not learn of a particular regulation until it is too late.
Understanding Technical Language of Regulations

Once the small business person has discovered a particular regulation, his or her difficulty may be in understanding the technical language which usually appears in these laws and regulations. Often without technical or legal staff to interpret the regulations, the small business person must attempt to understand the requirements or is forced to hire outside assistance.

Some agencies recognize the constraints under which small firms operate in trying to understand the "language" in government regulations. For example, OSHA published a booklet, "OSHA Handbook for Small Business," which includes several helpful suggestions including "Self-Inspection Checklists." This booklet, however, carries the disclaimer: "This booklet is not intended to be a legal interpretation of the provisions of the Occupational Safety and Health Act of 1970 . . . ."26 Thus the ultimate responsibility for understanding the law continues to rest with the small business person.

Understanding Specific Requirements of Federal Regulations on the Firm

Once the small businessperson learns of the regulations, he or she must then determine the specific requirements which the regulations demand of the firm. For example, in some cases small firms may be exempt from compliance. The firm must also determine if it must be in full compliance or only take steps to substantially comply with regulations. In addition, the necessary steps for compliance may be different depending on the size of the firm.

An example of an agency's attempts to isolate the specific requirements which regulations demand of a firm is found in the U.S. Department of Agriculture's (USDA) action concerning the Wholesale Meat Act of 1967. While drafting regulations to implement this Act, USDA determined that a substantial number of small meat plants might be affected adversely. Therefore, in addition to the required action of publishing the new regulations in the Federal Register, the USDA published a guide entitled "Federal Facilities Requirements for Existing Meat Plants." This guide contained the basic regulations printed in italics, followed by an explanation in bold type after each regulation of the steps a small business should take to substantially comply with the regulations.
Insufficient Resources to Comply with Regulations

Once the small businessperson knows and understands the federal regulations which apply to his or her firm, he or she faces the difficult problem of how to comply with the regulations. The special problems of the small firm in dealing with government regulations are both managerial and financial. Government paperwork requirements command large segments of the entrepreneur's time and energy. Regulations requiring technological change may require expertise in certain areas which are not available in the firm, resulting in the need for expensive consulting services. The limited ability of small firms to generate capital to finance compliance and to pass along these costs to the consumer is having a debilitating effect on this segment of the economy. In this regard, Kenneth Childon in recent study stated: "Large capital expenditure requirements to meet environmental or job safety standards above those that would be followed voluntarily may represent merely an uneconomic application of resources for a large firm; but it may literally be a matter of the enterprise's life or death for the small firm." 27

Difficulty in Passing on Cost

Perhaps the greatest difficulty the small business has with respect to federal regulations is its difficulty in passing on cost. A basic assumption behind increased federal regulation is that the cost would be passed on to the consumer. Cost recovery for the small firm, however, is far more difficult than for large firms. Small business is highly dependent on the market to set prices. But when price leaders, who have a smaller per unit cost increase set prices to pass along their costs, it is not a sufficient increase to cover the cost of rise experienced by small business. This finding is supported in the Charleswater Associates' Study which found that while only 29 of the firms studied could pass through "almost all" of the increased cost and 14 percent could pass through "some," over 57 percent could pass through "very little." Thus, small manufacturers who already operate on relatively low profits are forced to absorb much of the cost increase.

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Specific Impact of Federal Regulations on Small Businesses in Region I

Introduction

The impacts of federal regulations as perceived by the small businessperson is shown in reports of random surveys conducted over the past several years by the National Federation of Independent Business (NFIB). When asked the single most important problem facing their firm at the time, small businessmen consistently report government regulation and red tape as their third most important problem (inflation and taxes rank first and second, respectively) with one in ten firms reporting it to be their single most important problem.

Significantly, according to James McKeritt, counsel for NFIB, the survey data indicate that "government regulations is a problem not isolated to any size small business or to any particular sector."

The examination of the specific impact of federal regulations on small business in Region I is done from the following three perspectives:

- Particular economic characteristics of Region I as they relate to federal regulations and small businesses

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The impact of federal regulations on small business in two significant industries in Region I.

The impact of federal regulations on specific firms in Region I.

Region I Economic Characteristics and the Impact of Federal Regulations

Economic reports on Region I show a steady decline in such traditional industries as agriculture, fishing, shoes, and textiles. Although many factors have combined to produce this decline, federal regulations have played a significant role. For example, reductions in barriers to international trade have severely crippled the textile industry. While large firms in the declining textile industries find it difficult to compete with foreign manufacturers, many smaller firms have found it impossible and have been forced out of business. Although the current White House Trade Proposals include special protections for the New England textile industry, some economists feel that the protective measures now being considered are too late to have any positive impact on saving the industry, in general, and the small textile firms, in particular.

High energy costs are also contributing to declines in traditional Region I industries. New England is dependent on high priced petroleum imports for nearly 80% of its total energy supplies. In contrast, the rest of the country relies to a greater extent on cheaper natural gas which, prior to current deregulation of domestic gas, was only about one-third the cost
of imported oil. Inadequate alternative sources of energy, high energy needs based on the types of industries in the region, and the colder climate make the region especially sensitive to federal regulations of energy. (See the Yergin paper on energy for a discussion of its impact on smaller firms in the Region.)

New England industries also report economic hardships due to higher transportation cost based on ICC regulations which have worked to the disadvantage of the region. For example, New England agricultural interests have petitioned the ICC for the elimination of such discriminatory practices as the use of unit train pricing in the Northeast while offering a cheaper multicar rate in the South. The New England dairy, poultry and egg industries, which are very dependent on rail service to transport grain from other regions to feed their livestock, find that the higher transportation costs place them at an economic disadvantage in competing in the market with similar industries in other regions. Higher production costs, combined with other factors such as federal price controls in the dairy, have reduced the ownership of these industries by small concerns and led to increased ownership by large firms and cooperatives. There is speculation that decontrol of gas prices as well as deregulation of transportation services will help place New England in a more competitive position to attract industry previously lost to the south and southwest. A generally improved economy in the region would be expected to have positive spillover effects for small
business. (See the Lief and Molloy paper on transportation for a detailed discussion of these imports).

The types of industries common to Region I and the plants housing these industries are important factors placing the region in a disadvantaged position with respect to federal regulations. Such important New England industries as chemicals, metals, and paper are major polluters. In many cases plants housing these industries are old mill structures, having been built prior to the creation of OSHA, CPSC, and EPA whose regulations significantly impact these industries. Changes in facilities and operations to comply with new regulations are costly. In some cases a firm may decide it is economically more advantageous to relocate—perhaps to another region—than to bring the old plant in compliance with environmental and safety regulations.

Although there are not significant data to document relocations of industries due to pollution abatement costs, studies have found considerable regional variation in cost and benefits associated with achieving national standards. For example, "Toward Regulatory Reasonableness," a study conducted by the United States Department of Commerce, found that the annual costs per unit of pollutant removed from air were several times higher in the New England region than in the other regions. Similarly, the cost for solid waste collection and disposal in the New England region were more than double the cost for the United
States as a whole. The extreme variation between Region I and other regions in terms of cost per unit of pollutant removed may result in part from economics of scale in the removal of pollutants. The overriding factors explaining the regional cost differences, however, are more likely to be the types and quantities of pollutant generated, which are of course depends on the size and structure of the industries in each sector.

Impact of Federal Regulations on the Region I Small Firms in the Fishing and Lumber Industries

In addition to the impacts of federal regulations on small firms suggested by economic characteristics of the region, federal regulations impact significantly upon firms in fishing and lumber, two of the major industries of Region I which traditionally have contained large numbers of small entrepreneurs. In both industries severe hardships are imposed on small business due to federal regulations which aim toward improved management and conservation of the industries. These regulations, in fact, let to a reduction in the number of small businesses and increased concentration of production by large companies.

The fishing industry has traditionally been an important industry to the economy of the New England region. Almost a decade ago, however, the industry began to experience serious

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economic problems. Unregulated increases in the number of persons fishing, pollution problems and competition from foreign fisherman were leading to decreasing yield in the industry. For example, in Massachusetts the number of fishermen doubled whereas the catch per unit effort decreased by almost 50%. In addition to economic hardships experienced by individual fishermen, the continuation of many species was being jeopardized by over-fishing. Thus a traditionally unregulated industry began calling for federal regulations as the only route to survival.

Federal regulation, beginning with the passage of the 200-Mile Limit, provided a "boom" for the New England fishing industry but causes economic hardships for many small fishermen who comprise over 80% of the industry. The 200-Mile Limit gives preferential fishing rights to the United States, restricting foreign fishing off our shores. This reduction of foreign fishing has opened up new markets for New England fishermen and has attracted increased interest in the fishing industry. Clearly two trends are developing which raise concerns about the future survival of the small New England fisherman. First, with less foreign competition there is increased economic incentives for the development of large American fishing companies with big vessels and large crews to fish further from shore. In contrast, smaller boats, many of them old and constantly in need of repair, must stay close to shore. Large fishing companies are able to significantly influence and control prices, reducing competition from the smaller fishermen. Not only do they control larger

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shares of the fishing market, but they are also expanding in their control of the processing and related fishing operations.

Second, there is increased federal regulation of the fishing industry in order to conserve endangered species. Regulations imposed with respect to licensing requirements, restrictions on the numbers of traps which can be fished, legal size of catch, quotas on different species, and reporting requirements on catch pose serious problems for the small New England Fisherman. He is experiencing restrictions on his catch during a period of rapid inflation in which the costs of operating his boat are escalating. Although the SBA, as well as local banks, have been making loans to the small fisherman since the passage of the 200-Mile Limit, reports are that there is less federal money currently available and commercial banks are likely to view loans to the small fisherman as a poor risk.

New England lumber is another significant industry in the region which traditionally has also been controlled by the small entrepreneur. A recent report, however, states that in the last 20 years over one-half of the small sawmills in southern New England have gone out of business. According to the report, "What economic pressures have failed to do, bureaucratic regulation may finally achieve. An ever expanding web of
government controls now poses a real danger to the future livelihood of the New England lumberman."

An example of the increased federal regulation to which the industry is subjected is a federal requirement that all states adopt uniform building codes. Among these codes is a provision which requires that all lumber for structural purposes be stamped and graded. Grading is a procedure involving inspection of the lumber for quality and consistency which was agreed upon by the large firms in the lumber industry in the late 1960's. They felt that standardized grading was imperative to the efficient national marketing of their product. These national codes which make no provisions for regional variations in the economy and social patterns pose severe hardships for the small New England lumberman. For example, in the state of Massachusetts there were 123 sawmills in 1975 when the state adopted the uniform building codes. The majority of these sawmills were small operations (100 of the 123 mills produces less than one-million board feet annually) which could not afford the services of a grading agency. The Massachusetts Wood Producers Association estimated that 20% of these sawmills would be forced to close and other operations would undergo severe hardships unless the grading regulation was changed.

A further impact of federal regulations on small firms in the lumber industry is seen in an examination of the recent rapid

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"The New Englander, Vol, 22, No. 12, April 1976, pp. 16-19."
expansion in the industry in Maine. Federal regulations by the United States Forest Service restricting sale of timber on federal lands to either fully mature or dead trees restricted or severely limited the lumber industry in National Forest in areas in the West and Southwest while providing a boom to the Maine forest industry. Ninety percent of Maine's surface is covered with trees, making it the most heavily forested state in the country, containing more than one-half the commercial forest acreage in Region I. Although the majority of the land prior to 1975 was owned by private individuals, there has recently been an increase in the purchase of these lands by large companies, especially paper companies. Along with the increased ownership of the forest land by large companies, there is a trend for these companies to buy existing lumber and sawmill companies and to build their own mills. A 1977 study by Jonathan Falk for the Maine Department of Conservation reported a decrease in competition in the lumber industry as many small sawmills are driven out of business.\(^2\)

Clearly federal regulation of both forest lands and the fishing industry is needed if these resources are to be conserved. There is, however, a continuing need to evaluate the impacts of these regulations on the small entrepreneur in these industries as they are being placed in increasingly disadvantaged positions in comparison to their larger competitors.

Impact of Federal Regulations on Specific Region I Firms

Officials from small business associations, as well as small business owners in Region I, were able to articulate several examples of how federal regulations impact on small firms in the area. Their responses show that impacts range from what might be described as "nuisances" to severe economic hardships which threaten the survival of the firm. A brief discussion of three small New England firms, the first involved with OSHA and the latter two with EPA, illustrates these findings.

Case A involves one New England firm's battle against OSHA and illustrates the "nuisance factor" and the opposition which many small businessmen feel toward increased government regulation of business. The president of this Maine-based firm built the company that bears his name by designing and building special precision machinery. When issued a $25 fine by OSHA for a safety violation in his plant, he refused to pay. His refusal to pay has resulted in over $3,000 in legal fees for representation in hearings conducted by the OSHA Review Commission. Although the fine was unheld by the Commission, the President of the firm appealed the case, still refusing to pay. According to the President, "It isn't the money, it's the principal."

Case B involves a Massachusetts firm which produces and markets animal drugs and employs twelve persons. Following a routine FDA inspection of the plant, the agency seized one of the firm's products and banned future production and sales. Although
several questions were involved (including an exemption of the drug in question from FDA regulation under the grandfather clause) which have still not been resolved to the satisfaction of the firm's owner, six months after banning the product, the FDA granted permission for it to be remarked. It appears that the decision to allow the product to once again be marketed was based on a mere change in wording on the labeling of the drug—a step that the firm would have taken earlier had it understood the requirement.

Case B illustrates many of the hardships which small firms encounter in an attempt to comply with increasing federal regulations. A few excerpts from a brief documenting the case illustrates these hardships:

During the past year alone, I can recall over six FDA inspectors visiting our facilities—accounting for over twelve days time. In providing documentation for the (drug) alone, we now have over two feet of paperwork!

We built (the company) on the basis of providing quality, time proven products. Many of our products were manufactured prior to 1936 . . . In addition, we have hired consultants. These gentlemen are assisting us in product evaluation, testing and the development of testing procedures so we can meet all FDA requirements. The cost associated with additional testing, record keeping, and legal fees are excessive, as are the costs due to the loss of
customers and sales. While larger companies can absorb such costs by writing them off over a large volume, we cannot.33

Case C illustrates the FDA regulations as reported by a recently incorporated Massachusetts firm. This firm employs about twenty people in the manufacture of radio-active drugs. Among other regulatory problems (the firm is also regulated by several other federal agencies, including the Nuclear Regulatory Commission, as well as State and local agencies), the firm reports persistent problems with the FDA with respect to understanding procedural requirements, including registration, submission of IND and NDA applications, and guidelines for labeling and packaging. According to the President of the firm, "Because we are a small company, we do not have vast financial resources available for on-site counsel or regulatory consultants. Nevertheless, whenever FDA has clarified a requirement, the firm has immediately taken measures to adopt and integrate it where applicable."

In a letter the president of the firm has documented a series of meetings, letters and telephone conversations in which he has attempted to obtain an understanding of FDA requirements for his firm. He reports that there has been a disregard for

33Letter from President of firm to Congressman Drinan, February 22, 1979.
communication and a lack of timely responses which are fair and reasonable. In this regard he states:

This entire situation is cause for our desperation and concern. For a small company with limited resources to exist in a business environment primarily dominated by large corporations, it is imperative that the use of time and personnel be efficient and competent; that the expenditures be meaningful and cost-effective; and that there be absolutely no compromise of product quality or account service. Our interactions with the FDA have severely restricted our growth and development and caused us a tenuous existence.34

Factors Reducing the Negative Impacts of Federal Regulations

An examination of the regulations and operations of regulatory agencies indicates that some agencies are sensitive to small business problems created by regulations and seek to reduce the negative impacts. Some agencies make adjustments in their standards—exemptions, modifications and extensions. Others seek to lessen negative impacts through setting fines relative to the size of the firm. In addition, the Federal government, mainly through the SBA, provides special loans to small businesses to help finance changes in their operations in order to comply with regulations.

34Statement prepared by President of firm for FDA hearing, October 19, 1977.
The practice by which the government regulators adjust regulations to public need and the capacity of certain groups to fulfill that need is known as "tiering." Existing tiering systems have taken on many forms and, in general, they have little in common. Each seems to have been established to meet a specific problem at a specific time, as illustrated by the following examples. The Internal Revenue Service has determined administratively that small employers do not have to deposit payroll taxes as frequently as large employers, thus reducing the burden of regulation for a group defined by payroll size. Congress recently passed a law exempting employers with fewer than 10 employees from certain OSHA reporting regulations. And, finally, companies with fewer than a specified number of employees are not subject to the Equal Employment Commission regulations with respect to hiring of minorities.

In addition to such direct attempts to reduce the negative impacts of federal regulations on small business, problems in gaining compliance and enforcement of regulations indirectly reduce negative impacts. Agencies do not tend to have the manpower and funding to enforce regulations against all firms under their jurisdictions. Therefore, the agency is not likely to aggressively seek compliance against it unless the small firm is a major offender. This finding is supported in the Charleswater Study which found that, although economies of scale suggest that compliance expenditures per unit of output would be inversely proportional to size, the smallest companies face
lesser impacts than larger small companies. The study attributed this finding to regulatory exceptions applicable to very small firms and to less strict enforcement and compliance at the lowest end of the size scale.\textsuperscript{28}

Conclusions and Recommendations

Current concern in Washington about spiraling inflation and the subsequent emphasis on cost/benefit analysis of federal regulations will undoubtedly lead to regulatory reforms and to reduced federal regulation of the business sector. Although small businesses will receive some benefits from these reforms, the special problems which federal regulations pose for small business creates a need for regulatory reform targeted specifically for small business.

The study found a significant need for increased data focusing specifically on the impact of federal regulations on small businesses. While the absence of adequate data reflects a general problem in obtaining reliable impact data, more importantly, it also appears to reflect a lack of focus and concern about this sector of the economy. A reliable data base upon which to recommend legislation to reduce negative impacts of federal regulation on small business and to evaluate current statutes and rulings seems critical.

Available data on the impact of federal regulations on small business in Region I indicate that federal regulations are having

a disproportionately negative impact on small business. Characteristics of the small firm make it difficult, if not impossible, for it to comply to the ever increasing number and scope of these regulations. Small businesses are especially hard hit by these regulations due to their inability to pass along cost. One significant result of the hardships which small businesses in Region I face due to increased federal regulations is a greater control by large companies in industries which traditionally have been composed largely of small entrepreneurs.

Legislation is currently being considered in Congress to require agencies to issue special impact statements on proposed rulings which adversely affect small business and to "tier" the requirements for compliance based on the special problems which the small business would encounter. Although it is beyond the scope of this paper to evaluate specific bills currently being considered on the question to regulatory reform (there are 150 such bills now in Congress), there is a need for reforms which "target" on the special problems of small business. Without such specific reforms, it should not be expected that general reform in the regulatory process will significantly improve the disadvantaged position of small business.

A significant factor contributing to the negative impacts of federal regulations on small businesses is their disadvantaged position in the statutory and regulatory process. Thus attempts to reduce negative impacts need to focus on reform of the process in order to ensure that small business receive better
representation. Most attempts to aid small business with respect to federal regulations take place after statutes and rules have been passed. There is a need, however, to reduce possible negative impacts before laws are passed and rules instituted. Recommendations for reform of the statutory and regulatory process include greater representation of small business persons on regulatory commissions, increased small business participation at hearings, improved communication on the parts of regulatory bodies to small business of proposed regulations, and extended time periods for small businesses to respond to proposed rulings.

The disadvantaged position of small business in the statutory and regulatory process and in complying to federal regulations creates a need for greater small business advocacy in Washington. The SBA seems to be the logical agency to assume a leadership role by advocacy should not be limited to any one agency. Agency heads throughout the federal government, as well as leaders of voluntary business associations, need to become sensitive to small business problems created by federal regulations.
THE IMPACT OF STATE AND LOCAL POLICIES ON SMALL BUSINESS IN NEW ENGLAND

by

Laurence Collins
State House Desk
The Boston Globe

Introduction

New England is a region rich in its lore of small business that made it big. Throughout its long history, which reaches back to the beginnings of the nation itself, the six-state region has demonstrated an unparalleled fertility for the seed of a new idea, whether political, intellectual, or entrepreneurial.

It also has been a region adaptable to change, an often painful process that has seen its economy rise to the crest of prosperity only to sink to the depths of economic stagnation, there to begin the long row back.

Shipbuilding and foundries, textiles and shoemaking, fisheries and agriculture all have had their great days and their sad ones. But each time the cycle has wound down, there has always emerged that person with a new idea who was willing to chance his labor and life savings on the possibility that it would take hold and flourish.

Those persons still are with us, and the products of their imaginations, brought forth barely a generation ago, are dramatic
illustrations of what so-called "small business" can become given the room to grow. (See the Howell paper for an economic history perspective on the region).

From the jewelry, metalworking and instrumentation plants of Rhode Island to the computer, electronic and space age hardware that band Massachusetts' fabled Route 128 and the Southern Tier of New Hampshire, all bear witness to the potential of small business in New England.

This paper addresses itself to state and local policies affecting small business in the six-state region of New England--Massachusetts, Connecticut, Rhode Island, New Hampshire, Maine and Vermont.

Given the Room To Grow

The hallmark of the small business, both the dramatic examples mentioned above and the thousands of others whose success has been more moderate, is summed up in that over-worked -- but nevertheless accurate chestnut -- "rugged individualism." It is an expression that connotes the willingness of a man or woman to confront the hard realities of the marketplace with only his or her ideas, determination and limited financial resources as weapons.

The challenge of the marketplace, however, is an old story. The raising of capital, the establishment of a proper workplace, the availability of skilled labor, the proper distribution network, competition, all these have long been a "given" among
the pitfalls that await any small business in New England or, indeed, anywhere in the industrialized West.

But in the post-World War II period, particularly in the past decade and a half, something new has been added—a maze of Federal, state, and local statutes and regulations.

These laws and regulations were designed to insure a healthy balance between the needs and goals of the business community and the public good. They include consumer protection laws intended to even the odds during the faceoff over the retail counter; workplace safety rules aimed at reducing on-the-job illness and accidents; environmental laws and rules seeking to preserve and better the environment for all of us; equal opportunity measures to bar job discrimination on the basis of sex, race or creed. Those are the big ones, issued from Washington and State Houses all over the nation. (See the Puryear and Wiggins papers for a discussion of Federal regulations and small business.)

But every city and town and, if there are any left, village and hamlet in the nation also has an array of ordinances, rules and regulations which impact on business small and large and its ability to prosper and grow. Such laws include everything from the type of sewage a business can emit to how big a sign can be posted. (See an illustrative chart of State and Local Policies and the problems they create on pages xx-xx).

However senseless or frustrating many of the governmental prohibitions may seem to the small businessmen, few of them were created simply to harass business growth and activity. But there
A growing realization in both business and government that the sheer weight of numbers of laws and rules and regulations impacting on business has created a burden that has become counterproductive.

When, as occurred in Massachusetts recently, a successful manufacturer bellows, "I wouldn't build an outhouse in this state!" because of what he perceived as a thicket of state and local regulations, then it is time to take a close look at what government has wrought.

Three of the states in the region -- Massachusetts, Connecticut, and Rhode Island -- are among the nation's most heavily urban and industrialized states. The other three remain largely rural, depending chiefly on their recreational outlets as the keystone to their economic stability. However, New Hampshire, whose southern border is catching much of the spillover from Massachusetts bustling Route 128 industrial complex, is experiencing in its so-called "Southern Tier" many of the problems with which its more crowded neighbors have long had to contend.

Booming Southern New Hampshire, in the view of many observers, is the product largely of Massachusetts firms that have attempted to flee that state's high taxes and the melange of rules and regulations viewed as roadblocks to business expansion. Ironically, the Granite State, amid an almost uncontrollable burst of economic growth, now finds itself faced with the possibility of having to impose some of the very controls from
which its new and productive residents had sought to escape. And with its recent surge in population, New Hampshire must now be concerned with whether it can provide the services its new citizenry will almost certainly demand without imposing the sales tax and income tax it thus far has managed to avoid.

If ever there were any doubt about it, the recent experience of New Hampshire proves conclusively that once a municipality, region or state chooses the path of aggressive business expansion, new rules and regulations aimed at controlling that growth will not be far behind. It is important for the small businessman to remember that ultimately the cry for such regulation does not spring from some "faceless bureaucrat", so often thought to be the bane of the small business operator, but from the very people that small business serves and, indeed, often employs.

A recent article in the Concord (N.H.) Monitor dealing with Southern New Hampshire's explosive growth summed up this dichotomy when it noted that within the state there are "opposing attitudes of 'increase the (property) tax base' through growth' and 'close the gate now that we're here.'"

Few small business persons would advocate rampant population or business growth in a given community simply because such unchecked growth is counter-productive to what each small business fundamentally requires to prosper: social, economic and political stability.

A newly prosperous town or region, which insists on clinging to the "old ways," soon will find itself confronted with an over-
crowded school system, a rising crime rate, poor fire protection, deterioration of roads and public works and a rapid erosion of the community spirit that contributes so much to that elusive resource known as "quality of life."

Obstacles At State And Local Levels

Every small business person has his or her own particular horror story regarding state or local policies affecting the conduct of their business, but there are a number of common conditions that spawn all of these tales of woe. The conditions exist, in varying degrees, in all six New England states. Let's take a look at them.

Home rule. Each of the New England states has a long and jealously guarded tradition among local communities that provides that the local governmental unit will establish the guidelines for growth in its own community. Interference from the state level inevitably is greeted with howls of protest from some sectors of the local citizenry.

With each community setting its own rules and regulations, the person wishing to establish or expand a small business is faced with a patchwork of laws affecting everything from zoning to lighting to sewage disposal. Within the municipalities themselves, there is often conflict between the rule-setting bodies. A Conservation Board may protest that a Zoning Board is too lenient. A Board of Selectmen may disagree with a Licensing Board's decision because of a disputed ruling by the Board of Health.
"Lay People" as Government. A related problem that small business people frequently encounter, particularly on the local level, is that the people they have to deal with in obtaining licenses or permits frequently are part-time governmental officials, without sufficient knowledge of the problems faced by small business.

Worse still, many of these public spirited government volunteers fail to see the benefits that could accrue to their community through the founding or expansion of a business within their town boundaries. Then, too, there are those towns whose government volunteers are small business operators themselves and who are loathe to upset what they perceive as their town's competitive balance. Many a small business operator has sought to solve the "layman ignorance" problem by himself becoming part of the governmental structure. For the small business person on the outside, this can have both good and bad implications.

Misinterpretation of local and state statutes and regulations. This problem, usually related to the previous condition, actually can run all the way up to the highest state level where, presumably, only the "pros" are functioning. The mass of laws and regulations affecting everything from consumer protection to the environment in recent years has generated broad new employment opportunities for the law profession, simply because in many instances no one can agree on what they mean. The small business, often without the resources to acquire this costly legal assistance, is then left with the dubious option of
accepting "the other side's" interpretation of a regulation, a reading that could negatively impact on the business.

To make matters worse, it is quite possible for a small business person to discover that a great deal of his time, effort, and money are spent trying to resolve conflicting interpretations of a regulation made by the very people who are supposed to enforce it. (See the Wiggins and Puryear paper for a discussion of Federal Regulatory impact on the region.)

Taxes. Frequently when the subject of taxes and business comes up we think only about those taxes which directly impact on business -- corporate, sales, excise taxes, and the like. Any business person would agree that a lowering of these taxes would be good for his or her business. That is still another "given." But a state or local community's overall tax structure -- particularly taxes affecting individuals -- has a more subtle if no less real impact on the prospects for small business growth. And the impact is on both customers and employees. The obvious effect that taxes have on customers is the reduction of their spendable income. The effect on employees is to spur them to look about for a homesite where taxes are less. This done in sufficient numbers can have a devastating effect on the availability of labor. (See the Toscano and Feeney paper on Taxation for a detailed analysis and discussion.)

No more dramatic illustration of how tax policy can affect a regional labor pool exists than the situation now prevalent in Massachusetts. Derided by many as "Taxachusetts," the Bay
State's direct taxes on business are actually less than similarly industrialized states. Massachusetts' organized business community has found more fault with local property taxes, chiefly because in total they are the highest in the continental United States. Frequently a company can work out an advantageous tax program with a community in which it does business and provides jobs. However, the people who are to fill those jobs have to pay the going rate.

"If we want to hire people from out of state, there's no way they're going to come here when they find out the taxes they're going to pay on a house," a Route 128 electronics executive declares.

His remarks are echoed by most of his colleagues in the electronics business who yearly feed hundreds of thousands of dollars into the fat want ad sections of Boston and neighboring newspapers.

Massachusetts is in a particularly vulnerable position because it borders New Hampshire, a state with relatively low local property taxes but also a state with no income or sales tax. Massachusetts has a 5 percent personal income tax (5.75 when its "temporary" 7 1/2 percent surtax is computed) and a limited 5 percent sales tax. Most of New Hampshire's 20-plus percent population increase during this decade can be attributed to emigrants from neighboring "Taxachusetts."
A large number of businesses, taking their cue from this shifting labor pool, also crossed the border between the two New England states.

**Financing** The major problem faced by small business is listed last not because of oversight but because its apparent solution, in the eyes of many small business operators, is a contradiction of all that has been discussed before it. We have seen that "over-regulation" and increased "government intervention," the "red tape" and "faceless bureaucrats" are among the government-spawned obstacles to the growth of small business. And yet state and local governments are increasingly called upon by small business to come up with programs to assist them in locating financing for their enterprises. In the absence of private capital, state and local governments have even been asked to provide the financing. (See the Wetzel paper for a discussion of credit and venture capital.)

In summary, there is a complex array of red tape which appears to indicate that state and local governments on the one hand are setting up too many obstacles to small business growth while on the other are not taking a sufficiently active role in promoting it.
Roots Of The Regulatory Maze

Interviews with government officials in all six states, however, indicate that blame does not rest entirely with bureaucratic insensitivity with the problems of small business.

The observation of one state economic development official echoes a major concern of many of his counterparts: "It's tough to pinpoint the problems of small business. They are so varied that what might be a problem for some may not be for others. Couple this with the fact that many small business people just don't communicate their problems to the right people in government -- they simply point at government and say 'You're the problem' -- and you have what I believe to be a bedrock issue: the lines of communication are fouled up."

But this fact has not escaped the small business operator either. It's a rare small business person who does not have a tale of being shunted from one government agency to another while in search of an answer. Perhaps the most common plea of the small business entrepreneur in regard to his or her relations to government is for some centralized approach to regulation.

The Massachusetts Experience

"There's no question that the single most important thing that could be done in this area is to be able to provide the business person with a concise shopping list so he could at least be assured he was covering all the bases when he wanted to build or expand," says Richard Syron, as economist and vice president of the Federal Reserve Bank of Boston.
Syron also serves as an adviser to Massachusetts Governor, Edward J. King, who shares Syron's belief that governmental red tape has been inhibiting the state's economy.

Governor King has named a commission to review the state's regulatory structure and he has indicated in many of his speeches that its streamlining is among his administration's highest priorities.

The commission's creation was hardly announced when the governor was presented with a lengthy list of proposals from the state's business community. Chart I - State and Local Policies - is illustrative of regulations and the problems they create, from part of a manual entitled "Regulatory Reforms," the result of a preliminary survey conducted by the Greater Boston Chamber of Commerce, Associated General Contractors of Massachusetts, Construction Industries of Massachusetts and the Home Builders Association of Massachusetts.

The business survey took particular note of the scattershot results when multi-layered bureaucracies each issue their own regulations and rules:

"Our review of permitting practices reveal that the current practices of state agencies in promulgating rules contribute to the complexity of the regulatory situation in Massachusetts. Often, in response to statutory mandates, regulations are promulgated by agencies with little consideration as to the requirements of similar programs operated in a different department or secretariat."
Among the proposals made to ease the state regulatory maze were:

-- Require state agencies to disclose all new state regulations which will be required should the state participate in Federal grants or programs prior to application.

-- Require state agencies to disclose the negative effects on economic growth of Federal programs or grants prior to application by the state.

-- Require state agencies to disclose all agencies -- local, state or Federal -- which currently address the subject matter in a proposed rule or regulation prior to a public hearing.

-- Require state agencies to set a strict timetable for decisions on permits.

-- Require state agency advocacy of "responsible" economic growth before local or Federal permit and regulatory bodies.

Although there was a great show of optimism when these proposals were turned over to the governor, one of the businessmen present said afterwards, "The real problems, of course, are at the local level."
CHART I
STATE AND LOCAL POLICIES

MASSACHUSETTS BUSINESS LOOKS AT THE PROBLEM

(Following is a chart illustrating regulatory problems as outlined in a manual entitled "Regulatory Reforms" prepared by the Greater Boston Chamber of Commerce and three major Bay State construction industry trade associations. Although the sample is restricted only to Massachusetts, it reflects the nature of the problems shared by small business throughout New England.)

<table>
<thead>
<tr>
<th>REGULATION</th>
<th>PROBLEM</th>
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<tbody>
<tr>
<td>A. Wetland Protection Act, a state law with regulations issued by Department of Environmental Quality Engineering. Initial enforcement by local Conservation Commissions.</td>
<td>Local boards, which begin review process, largely consist of &quot;lay persons&quot; reviewing highly technical engineering plans and making decisions thereon. Many local commissions, as a result, tend toward orders which overprotect area to prevent errors in judgment.</td>
</tr>
<tr>
<td>B. State Building Code, state regulations administered by state commission and local building officials.</td>
<td>Local building officials have interpretations of state code which differ from state code language or intent. Such differences of opinion have to be appealed to Code Commission. Requests for such code interpretations often unobtainable or greatly delayed, chiefly because of poor staffing at commission.</td>
</tr>
<tr>
<td>REGULATION</td>
<td>PROBLEM</td>
</tr>
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<td>---------------------------------------------------------------------------</td>
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<tr>
<td>C. Building regulations issued by multiple agencies.</td>
<td>There are at least eight state agencies with authority to issue regulations governing the construction or use of buildings. There is no mandated coordination. The result is often overlapping or regulations which contradict each other's requirements.</td>
</tr>
<tr>
<td>D. Subdivision Control: Road and Service Specifications, administered by local officials</td>
<td>Locally promulgated regulations for creation of new ways; services and building sites represents the greatest cost and delay for consumers and development community. Requirements tend to bear little or no relation to the use to which such ways and services will be put and result in needless expense.</td>
</tr>
<tr>
<td>E. Ground Water Testing Period Methods, Title V of State Environmental Code, administered at state level by Department of Environmental Quality Engineering and by local Boards of Health.</td>
<td>On-site sewage systems are required to be no closer than four feet above maximum ground water level to assure drainage and non-pollution of ground water. Most municipalities prohibit tests of ground water level at anytime but March, April and May. From June through February anyone wishing to obtain approval to build must wait up to nine months till Spring high water is present.</td>
</tr>
<tr>
<td>F. Curb cuts for state highways, regulatory action administered by the state Department of Public Works.</td>
<td>Speculation has surrounded the use of curb cut permits as growth controlling devices (Previous administration used this device in attempt to rechannel a shopping center from suburban to urban building site).</td>
</tr>
</tbody>
</table>
REGULATION

G. Local Control of Sand and Gravel Removal.

Each of the state's 351 cities and towns regulates all removal and reclamation activities on all land within town boundaries. Some municipalities act to prohibit such operations even when the fill is needed for a major state project or when fill is located on state-owned land.

H. Local and state road crossing permits for public utility facilities.

Road crossing reviews for utility facility location are being duplicated by state and local authorities. Utility companies must prepare extensive engineering proposals and attend hearings at each level of government.

I. Scenic Roads Act, a legislative act which provides for absolute local control over so-called "scenic roads."

Legislation enacting the Scenic Roads Act grew out of conflict between local communities and the state Department of Public Works over the application of nationwide design standards to projects for the improvement of rural lanes and byways. Under the law, local officials can unilaterally block unwanted development, highway improvements or major regional public works projects by simply designating as "scenic" any town road within the right-of-way of the development.

"Regulatory Reforms", too, recognizes that salient point when it notes: "The objective of achieving useful regulatory reform at the state level is complicated by the interrelationships of different governmental units in the development process. In many
instances, local, state, and Federal policy, programs, and regulations must be addressed in order to achieve a measure of meaningful reform. The significant role of local government through home rule powers is another issue which must be addressed as part of a long-term development strategy to guarantee that projects of statewide and regionwide economic significance are not frustrated at the local level.

Shortly after he took office, Governor King found it necessary to personally intercede in a dispute that a major Massachusetts electronics manufacturer was having with local governmental officials over the placement of a traffic light.

While it would be extreme to suggest that a chief executive routinely perform such an intermediary function, the governor's action did underscore the importance of the state government as a device for removing obstacles in the path of legitimate business expansion.

"It was a waste of my time and an insult that the state would send someone to my office to 'help' me when that person didn't even know what in hell we did here in the first place," one angry chief executive later declared.

There were similar appraisals from other executives.

The root cause of this sort of public policy failure is the general lack of understanding by state government officials of the specific problems faced by small business and the readiness to respond to the lack with a public relation gimmick.
There is usually no shortage of slick brochures and state conferences at which the same people show up which purport to demonstrate state government's concern for the state economy in general and the small business operator in particular. But more often than not a reading of the brochures would leave one with the impression that no problems exist: "Our state has it all--good business climate, great quality of life, fine schools, endless recreation, etc." And the conferences usually, with heady titles like "Striving for partnership between government, labor and industry," too often turn out to be nothing more than encounter sessions with some state official saying afterward, "we learned that we had agreed on a lot more than we had expected to agree on."

Good for racks in the lobbies of state Commerce and Development offices, good for a 30-second spot on the 6 O'clock News and a headline or two, but good for little else.

The Massachusetts experience with attempting to resolve business problems with government points up the fact that often the best intentions can run awry, that some state programs aimed at easing a bad situation frequently can make it worse.

For example, during the administration of Governor Michael S. Dukakis the state's Department of Commerce and Development with much ballyhoo kicked off a program which called for regular "field visits" by the department's staff members to the management of business firms throughout the commonwealth. The ostensible purpose of the visits was to actively ferret out
difficulties each of the companies might be having with state and local government relations.

The businessmen who were subsequently visited, however, began to view the program as just one more unwanted state intrusion or, worse, "busy work" for state workers who otherwise would be sitting idly at their desks.

The state worker, who frequently were unfamiliar with the product of the firm they visited, appeared to be chiefly interested in tallying up an impressive number of official visits for their worksheets rather than zeroing in on any real problems and possible solutions.

Briefly, it became a public relations disaster.

Small business has been successful in communicating to all levels of government its requirements for varied sources of financing. And government has attempted to respond. But small business has been considerably less effective in expressing its legitimate concerns with the other problem areas mentioned in this paper.

The Connecticut Experience

The State of Connecticut to a degree has institutionalized the concept of the state as advocate for business in its Office of State Business Ombudsman, but it stops short of injecting itself into regulatory hassles.

Nevertheless, the Connecticut experiment, part of the most co-ordinated approach to the problems of small business in New England, has proven to be successful.
In Connecticut, there is a small business representative who when asked how things fared in that state actually replied, "Small business in this state is generally pleased with the progress we've made in communicating our needs to state government."

For this writer, that was a first. A small business spokesman who had some favorable things to say about the way his state government was handling its relations with the people he represented. As it turns out, there was good reason for his satisfaction. Of all the New England states, Connecticut by far has the most effective system of communication with its small business community. It has paid off with results.

The satisfied spokesman was Leon L. LeMaire, president of the Connecticut Small Business Federation, a non-profit organization of small business and professional people. The organization maintains a professional staff at its headquarters across the street from the State Capitol in Hartford and also a legislative representative in Washington.

The Federation is not just a sponsor of conferences.

Measured by sheer results alone, the Connecticut Federation of Small Business has proven the value of clear communication—through solid lobbying efforts — in bringing about an awareness of small business problems in state and local government.

But more importantly the State of Connecticut has provided an alert and effective receiver for such communications within its Department of Commerce — the Office of Small Business Affairs.
Established in the summer of 1977, the Office of Small Business Affairs has proven conclusively the validity of consolidating virtually all state governmental functions relating to small business in a single agency.

The list of functions of the Office of Small Business Affairs underscores the similarity of problems faced by the small business operator whether in Maine, Massachusetts or Connecticut.

The functions include:

--Serving as a liaison between Federal, state and municipal agencies on matters affecting small business.

--Advising small business on financing, both private and governmental. The office maintains a close relationship with the Small Business Administration and the SBA's loan program.

--Administers the state's "set-aside" program, under which 15 to 25 percent of state purchasing contracts are directed to small and minority businesses.

--Providing marketing advice and technical assistance.

--Providing contacts with minority vendor programs conducted by large corporations.

--"Sales Contact Center" sessions which put small businesses in contact with purchasing agents from companies throughout the nation.

--Administers a small business development center.

Fundamental to Connecticut's approach to small business is the recognition that it comprises about 80 percent of the state's entire business community. Connecticut, a state also gifted with
extensive big industry, has by no means abandoned its efforts to attract even more such firms within its borders. But while doing so it has not forgotten to nurture the prosperity -- and the potential -- of its home-based spectrum of smaller firms. It has proven that tending one's own does pay off.

It could well become a trend in the rest of New England. While none of Connecticut's regional neighbors have approached the issue in its broad, coordinated fashion, isolated programs in each of the states indicate a growing realization that the problems of small business must be addressed more effectively.

It is up to small business itself to convince state government that a single most effective way to remove the obstacles to small business growth -- and thus increased employment and a healthier state economy -- is through a concentrated and sustained assault.

A hodge-podge of well-meaning but disjointed and often conflicting programs does not even make for good public relations.

The Vermont Experience

Vermont, for example, a state particularly attuned to environmental concerns, through its so-called "Act 250" has produced one of the region's most comprehensive land use and development laws while at the same time substantially simplifying the process of compliance by growth-minded developers and businesses.
Building applications for subdivisions of 10 or more lots and apartment complexes with 10 or more units, in addition to many commercial and industrial projects, are weighed by state authorities on the basis of 10 environmental criteria. These include water pollution, water availability, soil erosion, highway safety and congestion, burden on municipal and educational services, aesthetics, effect on rare and fragile areas, endangered species, compliance with generalized planning criteria and conformance with local or regional plans.

At first glance the formidable list might appear to be a deliberate obstacle course, creating the necessity for a business person to consume hours of valuable time communicating with a myriad of state agencies. In fact, all these applications can be processed at one of five state regional environmental offices.

A description of the application procedure by the Agency of Environmental Conservation states: "Applications including plans are filed through regional offices (5) throughout the state. Applications are forwarded for review to the regional planning commission, local planning commission, local governing body and concerned state agencies. Applications are approved or denied, usually after a hearing is held, by the District Environmental Commission, a three-man appointed board."

C. Harry Behney, Secretary of the Vermont Agency of Development and Community Affairs, praises the procedure as "a workable system that offers little restraint to economic development."
In support of Behney's contention, Brendan J. Whittaker, secretary of the Vermont Agency of Environmental Conservation, supplied a copy of a speech delivered by former Governor Davis in which the ex-chief executive asserted that in the seven years following passage of Act 250 "30 percent more companies have moved to Vermont, there have been four times as many plant improvements, four times as much capital investment and six times as many new jobs created in the state than in the seven years preceding it."

While lauding the effect of Act 250 in particular on Vermont's business climate, Secretary Behney also points out that relations between the state bureaucracy and small business in general are by and large satisfactory. The reason?

"Vermont is a small state and this makes communications easy between officials and (business) applicants....State officials are eager to provide input in the early stages of a project to assure quality and conformance to state requirements. This tone of cooperation establishes a good business climate," says Behney.

The Rhode Island Experience

The benefits of smallness of population, however, do not carry over to geographic smallness, as Rhode Island, the nation's smallest state, can attest. Tiny Rhode Island, a heavily industrialized state, lacks the ease of communication between economic components enjoyed by its neighbor to the north. In fact, one of the chief goals of the administration of Rhode
Island Governor J. Joseph Garrany has been to open up the lines of communication between business, government and labor.

One of the results of the administration's efforts was the founding in Spring, 1979, of the Governor's Small Business Forum, the primary purpose of which is to establish how the State of Rhode Island can best stimulate small business growth.

The creation of the Small Business Forum represented the first, halting step toward government recognition that small business played a vital role in the economy of Rhode Island. Since its initial meeting was held just shortly before the writing of this paper, it was too soon to determine if the effort was to become anything more than a public relations showpiece.

Within the published minutes of that first meeting, however, were the seeds of what could develop into an effective dialogue between small business and state government.

"There was some expression of a need to increase the small business lobbying effort through coordination of the various groups representing Rhode Island small business," the minutes state.

And representatives of the state Department of Business Regulation who attended the meeting "emphasized that their intent was to reduce, where possible, the regulatory load on those businesses and industries which fall within the scope of their current legislative authorization."
Recognizing a problem: Key to Action

When state government does know what a specific problem area is for small business it has proven itself able to act with substance.

In the area of financing, for example, each of the New England states have attempted to pinpoint for the small business person those places where funds may be secured. Each of them also has developed innovative approaches of its own to provide financing to companies which may have run out of options.

The State of Maine, for example, has established the Veterans Small Business Loan Authority which provides loans of up to $30,000 to small business operators who have served honorably in the U.S. Armed Forces. Rhode Island has what it bills as a "one-stop clearing house" for business financing which cuts red tape and provides overall coordination between private and industrial development financing programs. The Massachusetts Industrial Finance Agency, which administers the state's industrial revenue bond program, has been singled out by the state's businessman economic affairs secretary, George Kariotis, as "the single most effective" state agency spark for business expansion.

Recognizing clearly that financing is the Number One problem faced by small business, the six New England states have attempted to supplement other financing programs offered chiefly through the Federal government's Small Business Administration.
But the key word is "recognizing." Once that is accomplished innovation will follow.

Summary

For too long the diversity of small business in New England has been cited by state government officials as the chief reason why centralized programs have been difficult to develop for this most vital sector of their economies. But in attacking the issue in piecemeal fashion state governments have accomplished precisely what they set out not to do -- impede the healthy growth of small business.

But the final irony is that state and local governments -- in spawning a thicket of rules and regulations -- have bound together those diverse elements of small business in familial unity. Small businesses are different from one another, yes, but they now share an identical problem.

State government now has the opportunity -- more, the responsibility -- of melding its isolated skirmishes into a single coordinated attack on the problem.

Policy Recommendations

A. One-Stop Regulatory Data Bank. Business complaints about "government interference" often are exacerbated by the lack of knowledge on the part of small business operators as to just what rules and regulations they must abide by. State government should recognize that the bulk of small businesses cannot afford the high-powered legal talent often necessary to find one's way through the regulatory maze. A more
efficient way for state government to assure that statutes, regulations and administrative rules were being followed would be to establish a regulatory data bank which could supply a comprehensive list of such data as they effect individual businesses. Such a data bank could also expedite accomplishment of Recommendation B.

B. Concerted effort to eliminate regulatory duplication, contradiction et. al. State governments should recognize that "excessive regulation" frequently is not a complaint against regulation itself but the fact that such regulation is too often coming from too many directions. Ironically, it would appear that still another "bureau" is required here. The function of this bureau, however, would be to conduct periodic reviews of various state agencies in an effort to determine where regulatory duplication and/or contradiction occurs. The results of such reviews should be reported to an inter-agency commission which would then take action to eliminate any regulatory aberrations which are discovered.

C. Consolidation of the licensing, permitting procedure at both state and local levels. Ideally, a single state agency or local department should be equipped to issue all necessary licenses or permits needed to establish or expand a business. Since the public hearing process often required in this area would probably preclude such an ideal, agency consolidation would be the next best thing. Vermont, for example, has consolidated virtually all of its state environmental permit
procedures in five regional offices, any one of which is equipped to process a master application.

D. Single stop financing data. Virtually all of the New England states provide extensive information of the various methods of financing small business. Frequently, however, the sources of such information are spread across the spectrum of governmental agencies. In recent years, state governments have taken steps to consolidate this data, making it considerably easier for a small business operator seeking such advice. State officials should seek the assistance of banks and other financial institutions who might, on a voluntary basis, offer additional advice in the private financing sector.

E. Time Lapse Approval. Agencies required to review applications for permits, licenses, etc., should be mandated to come up with their decision within a specified period of time, say, 60 days. If an agency has not produced its decision within that period of time, applicants will be presumed to have received automatic approval.

F. Business Ombudsman. "A deputy or representative, a public official (should be) appointed to investigate citizens' complaints against government agencies..." The State of Connecticut already has proven the efficacy of this idea in regard to business. A brochure put out by that state's Business Ombudsman explains: "Chief purpose of the office is to make Connecticut government more responsive to the needs
of the state's business community." It serves as a clearing house for inquiries and complaints from business people "concerning all types of state agency and agency-related activity. Best of all, it promises action within 72 hours!

G. Coordination of State and local efforts to improve the climate for small business remains the stickiest of issues. Local governments have been known to obstruct the most enlightened state programs on the grounds that "home rule" was being violated. A drastic recommendation here: Perhaps state governments should link a portion of state aid to municipalities to the eagerness with which local government responds to state efforts to improve the economy as a whole.

H. Consolidation of effort has been a key thrust of this paper. No where is such consolidation so important as in the small business community itself. Government responds to effective collective pressure, that is, lobbying. The effectiveness of a broad scale, coordinated lobbying effort by all groups representative of small business can not be overestimated.
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In-person and telephone interviews with state and local officials, academics, newspaper editors, trade association officers, contractors, manufacturers, retailers, bankers, etc.