Office of the Attorney General
Benefit-Cost Analysis for the Rules and Regulations for Regulated Metals
110-RICR-20-00-3

I. Background on Regulation of Regulated Metals

The Office of the Attorney General (the "Office") proposes adoption of the Rules and Regulations for Regulated Metals, 110-RICR-20-00-3. The proposed regulations are intended to establish consistent requirements for conducting regulated-metals business in Rhode Island, to promote consumer protection and to provide appropriate oversight by the Office.

The proposed rulemaking is authorized by R.I. Gen. Laws § 6-11.2, which authorizes the Attorney General to promulgate regulations as necessary to administer the licensing program for regulated metals dealers. The proposed regulations address the license application process, application fee structure, requirements imposed on licensees when conducting business, requirements applicable to sellers seeking to sell property, and the Office's ability to monitor dealer compliance.
The proposed regulations establish a regulatory framework for the regulated-metals trade and provide consistent requirements for regulated-metals businesses in Rhode Island. The proposed regulations mirror provisions similar to existing rules and regulations that govern the trade of precious metals.

II. Description of the Policy Established by the Rule

Specifically, the proposed regulations: establish requirements concerning the regulated-metals license application process; establish an application fee structure; specify requirements imposed on licensees when conducting regulated-metals business; specify requirements applicable to sellers seeking to sell regulated metals; provide for monitoring of dealer compliance by the Office of the Attorney General; and provide consistent requirements for conducting regulated-metals business in Rhode Island and appropriate oversight by the Office.

The proposed rulemaking is intended primarily to promote consumer protection, provide consistent regulatory requirements for the regulated metals regulatory framework, and establish an appropriate framework for the Office's oversight of the regulated-metals trade. The proposal of these regulations does not expand beyond statutory authority, but rather provides clear guidance to dealers and sellers consistent with the applicable state law.

III. Assessment of the Proposed Rule's Benefits and Costs to the State of Rhode Island

a. Benefits to the State of Rhode Island

Consumer Protection - The proposed regulation is intended to promote consumer protection for Rhode Island residents by establishing requirements governing the regulated-metals trade. Clear requirements for licensees and sellers are intended to create consistency in regulated-metals transactions and to reduce the potential for noncompliance with existing applicable law.

Regulatory Clarity and Consistency - The proposed regulation establishes a consistent framework for the regulated-metals trade, including licensing, fees, business requirements, seller requirements, and compliance monitoring. Establishing consistent requirements will assist regulated-metals businesses

in understanding their obligations, while can providing the Office with a defined framework for administration of the certification process.

Improved Administration and Oversight - The proposed regulation expressly addresses the Office's authority to monitor dealer compliance. A defined regulatory structure will facilitate more consistent administration and oversight of regulated-metals dealers and provide the Office with clearer mechanisms for evaluating compliance.

Compliance with Existing Law - The proposed regulation is intended to ensure that persons trading in regulated metals comply with existing law. The Office anticipates that the regulations will support consistent implementation and enforcement of the statutory requirements governing regulated metals, pursuant to R.I. Gen. Laws Chapter 6-11.1.

b. Costs to the State of Rhode Island

The Office anticipates that the direct costs imposed upon regulated dealers by the proposed regulations will be minimal. Potential costs to affected businesses may include administrative time associated with reviewing the proposed requirements, completing the license application, paying the applicable application fee, maintaining compliance with license requirements, and making any necessary changes to business practices or records. The anticipated burden on affected businesses is administrative rather than a requirement for significant capital expenditures. The proposed framework is intended to establish requirements for existing commercial activity, while ensuring that costs of compliance are minimal.

c. Alternative Approaches

R.I. Gen. Laws § 42-35-2.9 requires an agency to consider the benefits and costs of a reasonable range of regulatory alternatives, determine whether a less burdensome alternative would be equally effective, identify any overlapping or duplicative state regulations, and determine whether the benefits of the proposed regulation justify its costs. The Office considered alternatives to the proposed regulation including taking no action, providing non-regulatory guidance, and adopting the proposed regulations. Taking no action would impose no additional burden but would not establish the licensing, fee, business-conduct, seller, and compliance-monitoring requirements necessary to accomplish the objectives of overseeing the regulated-metals trade. Non-regulatory guidance could address certain informational or compliance issues with less burden but would not provide the consistent and enforceable requirements necessary to regulate the regulated-metals trade. There are currently no regulations promulgated by the Office governing regulated metal dealers therefore, a comprehensive rewrite of existing regulations is not applicable.

The Office concludes that proposing new regulations is reasonably expected to accomplish the consumer-protection and regulatory-oversight objectives while minimizing the burden on affected businesses. Accordingly, the Office concludes that the proposed regulations represent the most effective and least burdensome approach to promoting consumer protection and ensuring compliance with the applicable law.

d. D. Duplication of Regulation

The Office considered whether the proposed regulations overlap with or duplicate other state regulations. The proposed regulations concern the regulation of trade in regulated metals under R.I.

Gen. Laws § 6-11.2 and offer similar provisions to the existing rules and regulations governing the trade of precious metals.

Based on the materials reviewed for this rulemaking, the Office is not aware of another state regulation that would make the proposed licensing, fee, business-conduct, seller, and compliance-monitoring provisions unnecessary. The similarities to the precious-metals existing regulatory framework reflects an effort to provide consistent regulatory oversight for related regulated transactions rather than an unnecessary duplication of regulatory programs.

To the extent that the proposed regulations contain provisions similar to the existing precious-metals rules, the Office considers that similarity justified by the common consumer-protection and regulatory-oversight purposes described in the proposed rulemaking materials.

IV. Conclusion: Benefits of the Proposed Rule Justify the Costs

After considering the reasonable regulatory alternatives available, the Office concludes that the proposed Rules and Regulations for Regulated Metals, 110-RICR-20-00-3, provide an appropriate balance between consumer protection and regulatory burden.

The proposed regulations establish a consistent framework for licensing and conducting regulated-metals business, specify requirements applicable to licensees and sellers, establish an application fee structure, and provide for Office monitoring of dealer compliance. These provisions are intended to promote consumer protection and ensure appropriate oversight of the regulated-metals trade.

The Office further concludes that the anticipated consumer-protection, regulatory-clarity, and oversight benefits justify the limited administrative costs anticipated for affected licensees. The Office does not presently have sufficient data to quantify those costs statewide and therefore does not provide an unsupported dollar estimate.

The proposed regulations are intended to achieve the objectives of R.I. Gen. Laws § 6-11.2 in a cost-effective manner while limiting unnecessary burdens on affected private persons. The Office therefore concludes that the proposed regulations represent a reasonable and least-burdensome approach to carrying out the purposes of the authorizing statute.