

## Consultation Document

# Government Directive on Regulating

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**Our Commitment to Canadians** 

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The Government of Canada will work with Canadians and other governments to ensure that its regulatory activities provide the greatest overall benefit to present and future generations of Canadians.

When regulating, the federal government is committed to:

- ✦ **Serve and advance the public interest** as expressed by Parliament in legislation in such areas as health, safety and security, the quality of the environment, and the economic and social well-being of Canadians;
- ✦ **Instill trust and confidence** at home and abroad in federal regulation, Canadian products and services, and Canadian markets and government institutions;
- ✦ **Support a fair and competitive market economy** that encourages entrepreneurship, trade, investment and innovation by Canadians and businesses;
- ✦ **Make decisions based on evidence** and the best available knowledge and science in Canada and worldwide;
- ✦ **Create more accessible, understandable and responsive** regulation through greater inclusiveness, transparency and public scrutiny;
- ✦ **Promote effectiveness** by ascertaining that over time the benefits of regulation justify the costs, by focusing human and financial resources where they can do the most good, and by demonstrating tangible results to Canadians; and
- ✦ **Facilitate timeliness, efficiency and policy coherence** through cooperation and coordination across the federal government, with other governments in Canada and abroad, and with businesses and Canadians.

**Accountabilities of Departments and Agencies** 

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**I. Context** 

In Canada, regulating takes place within the context of our parliamentary democracy, federalism and the rule of law. Regulations are a form of law – they have binding legal effect and usually set out rules that apply generally, rather than to specific persons or situations.

Often referred to as *delegated* or *subordinate legislation*, regulations are not made by Parliament. They are made by persons or bodies to whom Parliament has delegated authority, such as Cabinet (the Governor in Council), a Minister or an administrative agency. Authority to make regulations must be expressly delegated in legislation.

86 Legislation that authorizes the making of regulations is called *enabling legislation*.  
87 Enabling legislation generally sets out the framework of a regulatory scheme and  
88 delegates the authority to develop the details and express them in regulations.

89  
90 Although enabling legislation and regulations are made separately, they are linked in  
91 several ways:

- 92 • Parliament creates legislation and through it authorizes regulations;
- 93 • regulations must strictly conform to the limits established by the enabling  
94 legislation that authorizes them; and
- 95 • many legislative schemes depend on regulations to make them work.

96  
97 For more information on making legislation, see the *Cabinet Directive on Law Making*.  
98

## 99 **II. Scope of Application** 🍁

100  
101 The *Government Directive on Regulating* applies to all government officials involved in  
102 the federal regulatory process. It sets out the accountabilities involved when the  
103 government decides whether to use regulation, what form of regulation to use and how  
104 to ensure that regulation achieves the intended objectives. The Directive applies to all  
105 stages of regulatory management – development, implementation, evaluation and  
106 review.

107  
108 Departments and agencies are responsible for abiding by this Directive when they:

- 109 • consult Canadians and affected parties on regulatory issues;
- 110 • identify and assess public policy issues that may require regulatory responses;
- 111 • select, design and assess regulatory responses to manage public policy issues;
- 112 • assess the impact of the proposed options;
- 113 • plan for implementation of and compliance with the recommended option; and
- 114 • measure, evaluate and review regulation.

115

### 116 Regulatory Significance and the Allocation of Resources 🍁

117

118 The resources and effort committed to managing regulation should reflect the  
119 significance of the public policy issue and the level of regulatory intervention involved.

120

121 In consultation with the Privy Council Office, departments and agencies are expected to  
122 assess at an early stage the significance of a regulatory proposal in a consistent, open  
123 and transparent manner and according to the following factors:

- 124 • the magnitude of the risks being addressed by the regulation;
- 125 • the potential impact of the regulation on health, safety and security, the quality of  
126 the environment, and the economic and social well-being of Canadians;
- 127 • the cost of implementation and compliance by government, business and  
128 Canadians; and
- 129 • the degree of interest and contention among Canadians.

130

131 Emergency situations – when there is an immediate and serious risk to the health and  
132 safety of Canadians – may require an expedited process so that the government can  
133 respond in a timely way. In these cases, departments and agencies are expected to  
134 consult and work with the Privy Council Office.

135

136 **III. Regulatory Analysis** ✦

137

138 **A. Consulting Canadians** ✦

139

140 Meaningful and effective consultations help government, Canadians and affected parties  
141 fully understand public policy issues and the possible consequences of government  
142 action or inaction.

143

144 Departments and agencies are responsible for providing opportunities for Canadians  
145 and affected parties to participate in open, transparent and balanced consultations on  
146 the development, implementation, evaluation and review of regulation. They are also  
147 responsible for ensuring that any legal obligation to consult with Aboriginal peoples is  
148 fulfilled.

149

150 When developing a consultation strategy, departments and agencies are expected to  
151 provide information and opportunities for Canadians and affected parties to contribute to  
152 the following processes:

- 153 • identifying and assessing public policy issues and setting policy objectives;
- 154 • developing and assessing regulatory options;
- 155 • developing compliance plans; and
- 156 • evaluating and reviewing regulatory performance.

157

158 When undertaking consultations, departments and agencies are expected to:

- 159 • inform Canadians of the nature and implications of the public policy issue based  
160 on available evidence, science or knowledge;
- 161 • inform Canadians of the policy objectives of regulation;
- 162 • set out the process and timelines in a clear manner to enable affected parties to  
163 organize and provide input; and
- 164 • provide timely feedback to Canadians and affected parties on the outcome of the  
165 consultations and on the priorities considered in decision making.

166

167 For all new or amended regulations, departments and agencies are expected to pre-  
168 publish regulatory proposals in the *Canada Gazette*, allow for a public comment period  
169 and take all comments received into consideration. The standard comment period is 30  
170 days, but it can vary based on legislative requirements, international obligations and the  
171 urgency of the situation.

172

173 With regard to trade obligations, departments and agencies are expected to pre-publish  
174 proposals for new or changed technical regulations that may affect international trade for  
175 a comment period of 75 days and to take into account the comments received.

176

177 **B. Identifying and Assessing Public Policy Issues** ✦

178

179 Departments and agencies are responsible for assessing public policy issues and  
180 demonstrating through the best available evidence and knowledge that government  
181 intervention is needed, and that regulation should be considered as part of the mix of  
182 government instruments to achieve policy objectives.

183

184 Increasingly, public policy issues are characterized in terms of “risk,” a term that can  
 185 have both positive and negative connotations. Governments have to make decisions on  
 186 whether to intervene in situations and what action to take. These situations involve  
 187 varying degrees of uncertainty regarding what is going on now and what may happen in  
 188 the future. Understanding and quantifying risk can help decision makers cope with the  
 189 uncertainty inherent in government activities, focus public policy analysis and foster  
 190 more rational approaches to regulating. To address a public policy issue appropriately,  
 191 government needs to understand the dynamics of risk – will the risk increase or  
 192 decrease over time, and how quickly? Understanding the dynamics of risk helps decision  
 193 makers determine the type and effect of government intervention.

194  
 195 When assessing public policy issues, departments and agencies are expected to:  
 196 • analyze and document the issue and its context, including its immediate and  
 197 long-term impacts on health, safety and security, the quality of the environment,  
 198 and the economic and social well-being of Canadians;  
 199 • review wherever possible the assessments or analyses from provincial and  
 200 territorial governments and from major international partners;  
 201 • explain fully to decision makers and Canadians the nature of the issue and how  
 202 its impacts change over time; and  
 203 • describe the scientific and empirical evidence and public perceptions of the  
 204 public policy issue.

205  
 206 When assessing public policy issues and demonstrating the need for government  
 207 intervention, departments and agencies are expected to set out the policy objectives or  
 208 expected results clearly, and identify the degree to which these objectives help them  
 209 manage or mitigate the issue or risk over time. As part of this process, departments and  
 210 agencies are to set performance indicators for measuring the degree to which the  
 211 intended results are being achieved.

212  
 213 **C. *Selecting, Designing and Assessing Regulatory Responses* 🍁**

214  
 215 Selecting the Appropriate Mix of Government Instruments for Action 🍁

216  
 217 Departments and agencies are responsible for assessing the effectiveness and  
 218 appropriateness of regulatory and non-regulatory measures for achieving policy  
 219 objectives. It is also their responsibility to demonstrate that regulation should be part of  
 220 the mix of government instruments used to manage public policy issues.

221  
 222 Departments and agencies are expected to:  
 223 • identify the appropriate instrument or mix of instruments before submitting a  
 224 regulatory proposal;  
 225 • demonstrate that the regulatory response is designed to address policy  
 226 objectives and advance the public interest as outlined in legislation;  
 227 • demonstrate that the regulatory response represents the necessary level and  
 228 form of government intervention, and that it is proportional to the degree and type  
 229 of risk to Canadians and Canada’s natural environment;  
 230 • demonstrate that the regulatory response will not unduly affect areas that it was  
 231 not designed to address; and  
 232 • design regulation from the perspective of those who must administer or comply  
 233 with it.

234  
 235 When developing or changing technical regulations, particularly regulations affecting  
 236 trade, departments and agencies are expected to:

- 237 • specify, where possible, technical regulatory requirements in terms of their
- 238 performance rather than their design or descriptive characteristics to ensure that
- 239 regulations do not restrict trade any more than necessary to fulfill the intended
- 240 policy objectives; and
- 241 • make use of voluntary consensus-based standards or guides when they
- 242 adequately fulfill intended policy objectives.

243  
 244 Assessing Legal Implications ✦

245  
 246 When designing regulation, departments and agencies are responsible, with assistance  
 247 from the Department of Justice, for assessing the legal implications of regulation,  
 248 ensuring it is legally sound and determining whether a legal obligation to consult with  
 249 Aboriginal peoples is triggered.

250  
 251 Departments and agencies are therefore expected to take measures to ensure that  
 252 regulations are:

- 253 • authorized by enabling legislation or other law;
- 254 • not inconsistent with *The Constitution Act, 1982*, including the *Canadian Charter*
- 255 *of Rights and Freedoms* and *The Canadian Bill of Rights, 1960*; and
- 256 • well drafted and able to operate effectively with other related laws, particularly
- 257 legislation of general application such as the *Statutory Instruments Act*.

258  
 259 Assessing Compliance with International Obligations ✦

260  
 261 Departments and agencies are responsible for being aware of and respecting Canada's  
 262 international obligations in such areas as, for example, international trade, human rights,  
 263 health, safety and the environment, and for implementing their provisions in all stages of  
 264 regulatory activities.

265  
 266 In doing so, departments and agencies are expected to assess regulatory proposals for  
 267 compliance with international obligations as agreed to by the Government of Canada.

268 Departments and agencies are expected to seek the advice and assistance of:

- 269 • Foreign Affairs Canada and the Department of Justice on compliance with
- 270 international agreements; and
- 271 • International Trade Canada – which is responsible for coordinating the
- 272 implementation of the World Trade Organization (WTO) Agreement and the
- 273 North American Free Trade Agreement (NAFTA) – and the Department of
- 274 Justice's Trade Law Bureau on compliance with international trade obligations.

275  
 276 With regard to international trade obligations, departments and agencies are expected to  
 277 comply with provisions referring to regulations and standards in:

- 278 • the WTO Agreement, particularly the Agreement on Technical Barriers to Trade,
- 279 the Agreement on the Application of Sanitary and Phytosanitary Measures, the
- 280 General Agreement on Tariffs and Trade, and the General Agreement on the
- 281 Trade in Services;
- 282 • NAFTA; and
- 283 • other multilateral, regional and bilateral agreements.

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For example, with respect to technical regulations, standards, conformity assessments, and sanitary and phytosanitary measures, departments and agencies are expected to:

- ensure technical regulations and conformity assessment procedures treat products from one jurisdiction no less favourably than like products from other countries;
- use available international standards, guidelines and recommendations as a basis for technical regulations and for conformity assessment procedures where they achieve the intended regulatory objectives;
- consider accepting as equivalent the technical regulations and conformity assessment procedures of other countries, even if different, provided they achieve the intended regulatory objective and offer an equivalent level of assurance of conformity with domestic technical regulations and standards;
- have in place a process to review complaints concerning conformity assessment procedures, and take corrective action when justified;
- ensure that sanitary and phytosanitary measures are based on science, that they do not arbitrarily or unjustifiably discriminate against other jurisdictions where identical or similar conditions prevail, and that they are based on international standards, guidelines or recommendations where they exist; and
- accept the sanitary and phytosanitary measures of other countries as equivalent even if different, provided they achieve Canada’s appropriate level of sanitary or phytosanitary protection.

307 Assessing Opportunities for Coordination and Cooperation ✱

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*Coordinating across the Government of Canada*

311 Federal departments and agencies are responsible for working together to develop and  
312 implement regulation, and minimize the aggregate and unintended impacts of regulation  
313 on Canadians and the economy. To do so, departments and agencies are expected to:

- identify and consult with other federal departments and agencies that have a specific interest in the proposed regulation;
- identify similar or related regulatory requirements — either existing or proposed — in the area being regulated; and
- assess these requirements to determine the likelihood for aggregate impacts and the potential for complementary and cooperative approaches.

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*Cooperating with the Provincial and Territorial Governments*

323 Departments and agencies are responsible for cooperating with provincial and territorial  
324 governments in the development and implementation of regulation. To improve  
325 cooperation across federal, provincial and territorial governments, departments and  
326 agencies are expected to:

- work with provincial and territorial counterparts and consult them on federal regulatory initiatives;
- assess federal, provincial and territorial requirements to determine if there is the potential for cooperative arrangements, the mutual recognition of requirements, or the adoption of voluntary consensus-based standards; and
- assess the potential to establish national standards or common conformity assessment procedures to support and facilitate internal trade.



334

335 *Cooperating with Aboriginal Peoples of Canada*

336

337 It is a federal government policy and priority to work with Aboriginal peoples so that they  
 338 can participate fully in national life and share in Canada's prosperity. Departments and  
 339 agencies are responsible for involving Aboriginal peoples in the development and  
 340 implementation of regulations as early as possible. To foster cooperation with First  
 341 Nation, Inuit and Métis peoples, departments and agencies are expected to work with  
 342 national and regional Aboriginal organizations:

- 343 • where legal obligations exist;
- 344 • when regulatory initiatives may affect land to which Aboriginal peoples claim  
 345 existing Aboriginal rights;
- 346 • when obligations are clearly described in modern treaties and self-government  
 347 agreements.

348

349 *Cooperating Internationally*

350

351 International regulatory cooperation is an integral component of an effective and efficient  
 352 regulatory system. Cooperation can help countries achieve high standards of  
 353 environmental, health and citizen protection, and build dynamic, growing economies.

354 Cooperation also allows Canada to promote its best regulatory practices internationally  
 355 and leverage the best knowledge worldwide. Departments and agencies are responsible  
 356 for considering international cooperation at every stage in the management of regulation.

357

358 To do so, departments and agencies are expected to take advantage of opportunities for  
 359 cooperation, either bilaterally or through multilateral forums, by:

- 360 • reviewing international best practices, sharing knowledge, adopting or  
 361 contributing to the development of international standards and conformity  
 362 assessment procedures, and developing and pursuing compatible approaches  
 363 with major international partners;
- 364 • limiting the number of specific Canadian regulatory requirements or approaches  
 365 to instances where they are merited by specific Canadian circumstances and  
 366 when they result over time in the greatest overall benefit to Canadians; and
- 367 • identifying the rationale for their approach, particularly when specific Canadian  
 368 requirements are proposed.

369

370 ***D. Analyzing Impacts and Ensuring Benefits Justify Costs*** ✳

371

372 Before recommending regulation, departments and agencies are responsible for  
 373 assessing the benefits and costs of the proposed regulation and its alternatives from the  
 374 point of view of Canadian society as a whole. This involves analyzing and weighing the  
 375 social, environmental and economic impacts, both positive and negative.

376

377

378 Using these assessments, departments and agencies are then expected to analyze the  
 379 benefits and costs of the various options and develop a recommendation. They should  
 380 look at the overall benefits and costs to Canadians, business and government, and  
 381 choose the option that is the most appropriate, not necessarily the one that offers the  
 382 greatest benefit at the lowest cost.

383

384 Assessing Social Impacts 🍁

385

386 Departments and agencies are responsible for assessing the scope, nature and  
387 significance over time of the potential social impacts of the proposed regulation and its  
388 alternatives, and for managing, mitigating or, where possible, eliminating the adverse  
389 social impacts of regulation.

390

391 Consequently, departments and agencies are expected to:

- 392 • identify the potential positive and negative social impacts of regulatory proposals
- 393 in such areas as health, safety and security, ethical considerations, the quality of
- 394 the environment, and the social and economic well-being of Canadians;
- 395 • quantify how these social impacts may vary across specific groups, regions or
- 396 sectors of society and the economy;
- 397 • assess how these impacts may evolve over time; and
- 398 • take measures to mitigate the adverse and enhance the positive social impacts.

399

400 Assessing Environmental Impacts 🍁

401

402 Departments and agencies are responsible for assessing the scope, nature and  
403 significance over time of the potential environmental impacts of the proposed regulation  
404 and its alternatives, and for managing, mitigating or, where possible, eliminating the  
405 adverse environmental impacts of regulation.

406

407 According to the *Cabinet Directive on the Environmental Assessment of Policy, Plan and*  
408 *Program Proposals*, departments and agencies are expected to conduct a preliminary  
409 scan to determine whether important environmental impacts, either positive or negative,  
410 are likely to arise from implementing the proposed regulation and its alternatives.

411

412 If so, departments and agencies are expected to:

- 413 • identify the potential positive and negative environmental impacts of regulatory
- 414 proposals;
- 415 • identify how these impacts interact with the natural environment over time;
- 416 • quantify, where possible, the scope and nature of these interactions over time;
- 417 and
- 418 • take measures to mitigate the adverse and enhance the positive environmental
- 419 impacts.

420

421 Departments and agencies should consult the *Cabinet Directive on the Environmental*  
422 *Assessment of Policy, Plan and Program Proposals* for further guidance.

423

424 Assessing Economic Impacts 🍁

425

426 Departments and agencies are responsible for assessing the scope, nature and  
427 significance over time of the potential economic impacts of the proposed regulation and  
428 its alternatives. Departments and agencies are also responsible for minimizing the  
429 adverse impacts of regulation on the capacity of the economy and the environment to  
430 generate wealth and employment for Canadians, and for demonstrating that no  
431 unnecessary regulatory burden will be imposed on Canadians and businesses.

432

433 Departments and agencies are expected to:

- 434 • identify and quantify the potential positive and negative economic impacts of
- 435 regulatory proposals on Canadians, business and the economy;
- 436 • limit the administrative burden and impose the least possible cost on Canadians
- 437 and business that is necessary to achieve the intended policy objectives;
- 438 • consider the specific needs of small business and identify the least burdensome
- 439 but most effective approach to addressing those needs;
- 440 • ensure that regulatory restriction on competition is limited and proportionate to
- 441 what is necessary to achieve the intended policy objectives; and
- 442 • take measures to mitigate the adverse and enhance the positive impacts of
- 443 regulation on competitiveness, trade and investment, and the ability of the
- 444 economy to generate jobs and wealth.
- 445

#### 446 Analyzing the Benefits and Costs of Regulation ✦

447

448 When making a recommendation, departments and agencies are responsible for

449 choosing the option that (i) results over time in the benefits justifying the costs to

450 Canadians, business and government; and (ii) that helps focus limited human and

451 financial resources where they will do the most good.

452

453 Departments and agencies are expected to demonstrate that the recommend option

454 maximizes the benefits in relation to costs and results over time in greater overall

455 benefits than any other type of regulatory or non-regulatory action. To assist them in this

456 work, departments and agencies are expected to use the information generated from the

457 social, environmental and economic impact assessments to:

- 458 • identify and, where possible, quantify the benefits and costs to Canadians,
- 459 business and government of the proposed regulation and its alternatives;
- 460 • link benefits to the intended policy objectives and show how they advance the
- 461 public interest as defined in legislation;
- 462 • identify how the benefits and costs are distributed across the affected parties,
- 463 the economy and society, and whether one particular group may experience the
- 464 benefits or bear the cost more than others;
- 465 • weigh the benefits against their costs and use this weighting to rank the options
- 466 and make a recommendation; and
- 467 • identify and describe uncertainties wherever possible.
- 468

#### 469 ***E. Planning for Implementation and Compliance*** ✦

470

##### 471 Planning for Compliance ✦

472

473 When proposing new or changed regulation, departments and agencies are responsible

474 for informing affected parties about the proposal in a manner that is timely and easily

475 understood. Departments and agencies are responsible for facilitating compliance by

476 designing regulation from the perspective of those who must administer or comply with

477 it.

478

479 Departments and agencies are responsible for developing and implementing compliance

480 plans for all regulatory proposals. When submitting a regulatory proposal for approval,

481 departments and agencies are expected to have compliance plans that:

- 482           • use an appropriate range of tools to address the many variables that influence  
 483 compliance; and  
 484           • include an assessment of the human and financial resources required to  
 485 implement the regulatory proposal.  
 486

487 Planning for Implementation ❁

488  
 489 A highly skilled regulatory community, in concert with the appropriate allocation of  
 490 human and financial resources, helps ensure that regulation achieves its intended  
 491 objectives. Departments and agencies are responsible for putting in place the processes  
 492 to implement regulatory programs and to manage human and financial resources  
 493 effectively.  
 494

495 Departments and agencies are expected to demonstrate they have developed  
 496 implementation plans that:

- 497           • identify program objectives, program delivery specifications, timelines and  
 498 delivery control procedures;  
 499           • consider opportunities for implementation and delivery coordination with other  
 500 departments and agencies regulating in the same sector;  
 501           • analyze the human and financial resources that the recommended option would  
 502 require for implementation, including those needed for compliance and  
 503 enforcement activities; and  
 504           • ensure that those charged with carrying out regulatory responsibilities have the  
 505 necessary skills and abilities to do so.  
 506

507 ***F. Measuring, Evaluating and Reviewing Regulation*** ❁

508  
 509 Measuring and Reporting on Performance ❁

510  
 511 In accordance with Treasury Board policies, departments and agencies are responsible  
 512 for measuring and monitoring the extent to which regulation has attained the intended  
 513 policy objectives, and for providing an accurate account of progress and results to  
 514 Canadians. They are also responsible for using performance information to set priorities  
 515 and a regulatory agenda, and to make sound and more effective decisions.  
 516

517 Departments and agencies are expected to:

- 518           • identify the intended results of regulation in managing or mitigating a public policy  
 519 issue, and develop time-based performance indicators for significant regulatory  
 520 activities before submitting a regulatory proposal;  
 521           • integrate performance measures that can be used to adjust compliance plans as  
 522 needed; and  
 523           • collect performance information on the results of existing regulation and provide  
 524 Canadians with this information in a timely manner.  
 525

526 Evaluating and Reviewing Regulation ❁

527  
 528 Departments and agencies are responsible for ensuring that regulation continually meets  
 529 its initial policy objectives and, when necessary, for developing improved approaches  
 530 that contribute to the greatest overall benefit for Canadians. In doing so, departments

531 and agencies are expected to take into account the evidence provided by performance  
532 measurement and the priorities identified in collaboration with affected parties.

533

534 Departments and agencies are expected to evaluate their regulatory activities and  
535 review their regulatory frameworks to:

- 536 • assess whether regulation serves the public interest in attaining the intended  
537 policy objective in the areas of health, safety and security, the quality of the  
538 environment, and the economic and social well-being of Canadians;
- 539 • determine whether the regulation is relevant, effective, sufficient and uses an  
540 appropriate level of intervention;
- 541 • assess the effectiveness of compliance strategies, the flexibility in meeting  
542 regulatory requirements and the appropriateness of the compliance burden;
- 543 • examine whether the regulation as drafted is clear and accessible to users; and
- 544 • assess whether the regulation supports a fair and competitive market economy  
545 that encourages entrepreneurship, trade, investment and innovation by  
546 Canadians and businesses.

547

#### 548 **IV. Responsibilities for Planning and Reporting to Canadians** ✦

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550 Departments and agencies are responsible for developing regulatory agendas and  
551 setting regulatory priorities. They are also responsible for including information on  
552 planned regulatory initiatives in their annual *Report to Parliament on Plans and Priorities*  
553 and for reporting on the results of regulatory plans in the annual *Departmental*  
554 *Performance Report to Parliament*.

555

556 Departments and agencies are expected to:

- 557 • prepare regulatory agendas for the coming year(s);
- 558 • publicly report on plans, priorities, performance and regulatory review;
- 559 • plan for and allocate the human and financial resources necessary to carry out  
560 their regulatory initiatives for all stages of the regulatory process, including the  
561 development, implementation, evaluation and review of regulation; and
- 562 • plan regulatory activities so that as legislation is developed, reviewed and  
563 changed, the accompanying changes are made to regulation.

564

#### 565 **V. Key Departments and Agencies involved in the Regulatory Process** ✦

566

##### 567 **A. The Privy Council Office** ✦

568

569 The Privy Council Office (PCO) is responsible for ensuring that the analysis provided by  
570 departments and agencies on policy and regulatory proposals is consistent with the  
571 commitments and directions set out in this Directive and supports informed decision  
572 making by Ministers. PCO is also responsible for promoting policy coherence among  
573 new proposals, existing policies and the government's policy agenda.

574

575 PCO secretariats are expected to assess memoranda to Cabinet and legislative  
576 proposals with regard to instrument selection, regulatory implications and consistency  
577 with this Directive and the *Cabinet Directive on Law Making*.

578

- 579 PCO's Regulatory Affairs Division (PCO-RAD) is responsible for monitoring the  
 580 implementation of this Directive. In doing so, PCO-RAD is expected to:
- 581 • provide advice and support to departments and agencies concerning the  
 582 development of regulatory proposals and the implementation of this Directive;
  - 583 • work closely with departments and agencies to provide Ministers and the  
 584 Cabinet committee responsible for Governor in Council decisions with the  
 585 necessary information to make decisions on the issues before them;
  - 586 • review regulatory proposals, challenge departments and agencies on the quality  
 587 of regulatory analyses and advise them when the directions set out in the  
 588 Directive have not been met;
  - 589 • promote regulatory reform and be a centre of expertise on regulatory  
 590 governance; and
  - 591 • assess the effectiveness of the Directive and its implementation.

593 **B. The Department of Justice** ✳

594  
 595 The Department of Justice is responsible for providing legal advice to departments and  
 596 agencies on the legality of proposals for enabling and subordinate legislation, and the  
 597 legal requirements of the regulatory process.

598  
 599 In doing so, the Department of Justice is expected to provide drafting services to  
 600 departments and agencies and, under the *Statutory Instruments Act*, examine all  
 601 proposed regulations to ensure that they are:

- 602 • legally authorized to be made;
- 603 • not inconsistent with the *Canadian Charter of Rights and Freedoms* and the  
 604 *Canadian Bill of Rights, 1960*;
- 605 • not an unusual or unexpected use of the enabling authority; and
- 606 • drafted in accordance with established standards.

607  
 608 The Department is also expected to provide departments and agencies with legal tools  
 609 and advice on the appropriate use of government instruments, regulatory techniques,  
 610 international standards, and compliance and enforcement techniques.

611  
 612 The Department is also responsible for advising departments and agencies on Canada's  
 613 international obligations and their domestic legal effect, including their implementation in  
 614 Canadian law.

616 **C. The Treasury Board Secretariat** ✳

617  
 618 The Treasury Board Secretariat (TBS) supports the Treasury Board in its role as the  
 619 government's management board by advising on policies, regulation and expenditure  
 620 management. The Treasury Board manages the government's financial, personnel and  
 621 administrative resources to achieve the highest standards of public management, ensure  
 622 that resources support government priorities, and ensure the effective control, oversight  
 623 and monitoring of public expenditures.

624  
 625 In this role, the TBS is expected to:

- 626 • advise departments and agencies on resource management related to regulatory  
 627 proposals; and

- 628 • advise departments and agencies on other management policies relevant to the  
629 management of regulation.

630

631 The TBS is also responsible for advising departments and agencies on reporting to  
632 Canadians and Parliament about the government's performance. In doing so, the  
633 Secretariat is expected to:

- 634 • ensure a common, government-wide approach to the collection, management,  
635 and reporting of financial and non-financial performance information;  
636 • provide a standard basis for reporting to Canadians and Parliament on the  
637 alignment of resources, program activities and results; and  
638 • strengthen public sector management and accountability in keeping with the  
639 Secretariat's policies, guidelines and frameworks.

640

## 641 **VI. Consistency with Other Federal Government Policies and Legislation** ✦

642

643 When regulating, departments and agencies are responsible for ensuring that relevant  
644 legislation and directions from Cabinet and Treasury Board are followed, including:

- 645 • *The Statutory Instruments Act*,  
646 • *The User Fees Act*,  
647 • *The Financial Administration Act*,  
648 • *The Cabinet Directive on Law Making*;  
649 • *The Cabinet Directive on the Environmental Assessment of Policy, Plan and*  
650 *Program Proposals*; and  
651 • *The Framework for the Application of Precaution in Science-based Decision*  
652 *Making about Risk*.

653

## 654 **VII. Implementing the Government Directive on Regulating** ✦

655

656 This Directive is supported by a series of frameworks and documents providing detailed  
657 guidance for government officials on the regulatory process and regulatory analysis.

658 These frameworks can be found at [www.regulation.gc.ca](http://www.regulation.gc.ca).

659

660 Departments and agencies are responsible for meeting the commitments and directions  
661 set out above. To do so, they are expected to develop and maintain an appropriate  
662 system for managing the regulatory process and documenting how these commitments  
663 and directions are met for each proposal to create or amend regulation.

664

665 A review of the Directive will be conducted within five years of its coming into force.  
666 Accordingly, departments and agencies are expected to submit a report to their senior  
667 management and PCO-RAD on how they have met the commitments and directions set  
668 out here. As well, PCO will work with departments and agencies to develop a  
669 performance measurement and evaluation strategy and to monitor the implementation of  
670 the Directive.

671

## 672 **VIII. Enquiries and Further Information** ✦

673

674 Regulatory Affairs and Orders in Council Secretariat, Privy Council Office

675 Telephone: (613) 943-5076

676 Facsimile: (613) 943-5071

677 [www.regulation.gc.ca](http://www.regulation.gc.ca)