



The Regulatory Policy and Process

Regulatory Affairs
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Introduction

- The *Cabinet Directive on Streamlining Regulation* requirements
- The Regulatory Process
- Triage Questionnaire
- The Treasury Board Briefing Cycle
- Regulatory Impact Analysis Statements (RIAS)
- TBS-RAS's Role
- PCO-OIC's Role
- Resources





The *Cabinet Directive on Streamlining Regulation* Requirements

- Stakeholders are consulted prior to pre-publication
- A problem or risk is defined, federal intervention is warranted
- Regulating is the best way to support the policy or the program
- Benefits > Costs
- Minimize adverse economic impacts
 - Consider special circumstances of small business
 - Limit information and administrative requirements





The *Cabinet Directive on Streamlining Regulation* requires...

- Respect international & intergovernmental agreements
- Systems to manage regulatory resources effectively
 - Regulatory Process Management Standards
- Consistency with other Cabinet Directives and horizontal policy (e.g., Gender-based analysis, privacy impact assessment)





Overview of the Regulatory Process

1. Regulatory planning
2. Triage
3. Development and drafting regulations (consultations)
4. Treasury Board approval for pre-publication
5. Pre-publication in the *Canada Gazette*, Part I
6. Review of comments and updating the proposal after pre-publication
7. Final approval by Governor in Council
8. Registration and Publication in *Canada Gazette*, Part II
9. Parliamentary review by Standing Joint Committee for the Scrutiny of Regulations
10. Evaluation and Review of regulatory programs



The Regulatory Process

- Establish a plan
 - Identify problem – seek policy approval if necessary
 - Look at alternatives to regulating
 - Decision to regulate
- Agree with Treasury Board Secretariat-Regulatory Affairs Sector (TBS-RAS) on the Triage
- Analysis and consultations
- Drafting instructions & draft regulations
- Examination by Justice
 - TBS-RAS review of draft RIAS and exercise challenge function
- Submit proposal for pre-publication
 - PCO-OIC ensures proposal is complete
 - TBS-RAS prepares TB briefing note



The Regulatory Process, cont'd...

- Pre-publish regulations & RIAS
- Review comments (department)
- Update regulations & RIAS
- Seek final approval
 - PCO-OIC ensures proposal is complete
 - TBS-RAS prepares TB briefing note
- TB approval
- Governor General's signature
- Registration
- Publication





Triage questionnaire

- Provides an **outline** of:
 - What the issue or the problem is that gave rise to regulating
 - What is the proposed regulatory solution
 - How this solution will address the issue or problem
- Lays out **assumptions on impacts** of the regulations related to Health and Safety; Economy; Social issues; Security; federal-provincial-territorial issues
- Indicates **legal challenges or novelties** that may be brought by the proposed regulations

(see Triage Framework for Regulatory Submissions)



The Purpose of the RIAS

- RIAS has dual role: decision-making and information
- Description, impact and justification of the proposal
- Summary of analysis and process that led to the proposed regulations
 - alternatives considered
 - cost-benefit analysis and other impacts
 - consultations





Challenge function

- Is the information accurate, timely and complete?
- Are the RIAS, communication plan, etc., informative?
- Does the draft Regulatory Impact Analysis Statement explain the proposed regulations adhere to CDSR requirements?

Basic Questions asked...

What is the nature, magnitude and evolution of the public policy issue?

Is federal government action needed?

What policy objectives is the government pursuing?

What are the options for reaching these objectives?

What are the advantages and disadvantages of the main options?

What are the likely social, environmental and economic impacts of the regulations?

What are the best ways to ensure compliance and enforcement?

How could future evaluation be conducted?



TBS-RAS's Role

- Works with Departments to ensure that the Governor in Council (GIC) and Ministerial regulations are in compliance with the requirements pursuant to the Regulatory Policy;

Provide early and ongoing guidance to Departments in regulatory development process

Triage regulatory proposals in terms of low, medium and high impact to determine the level of analysis required

Challenge regulatory proposals to ensure that decision-makers are presented with the best information available

- Facilitates interdepartmental regulatory coordination;
- Provides briefing to and supports decision-making by TB, the body that act as "council" to the GG and advises on the making of federal regulations and orders;
- Provides input and advice on regulatory issues, such as best practices and process management
- Supports implementation and development of Regulatory Policy



▶ PCO-Orders in Council's Role

- Receives proposals;
- Ensures documentation is complete
- Works closely with TBS-RAS on GIC proposals and scheduling
- Register and arrange for publication in *Canada Gazette*
- Produce and distribute approved OICs
- Other duties – e.g., organizes swearing-in ceremonies.



TB Briefing Cycle

Three
weeks
prior to
TB
meeting

SUN	MON	TUE	WED	THU	FRI	SAT
				Deadline PCO-OIC		
	Received in TBS-RAS		Roundtable		sent translation	
		Final notes			Briefing Books out	
				TB Meeting		
						CGI
			CGII	Publication every second week		

Publication
every week



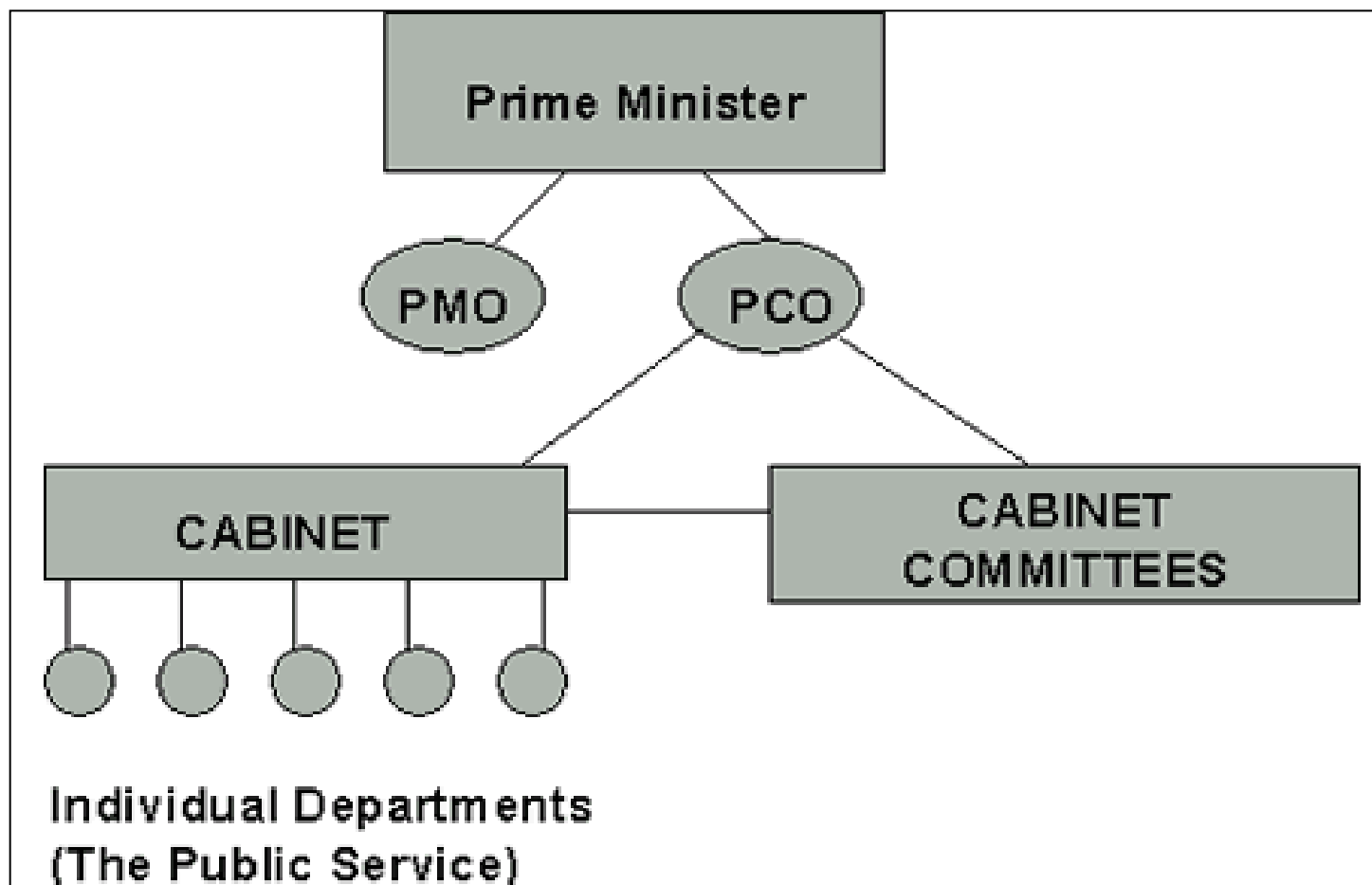


Resources

- Regulatory Affairs Website
 - www.regulation.gc.ca
 - www.tbs-sct.gc.ca/ri-qr/ra-ar
- Orders in Council Website
 - www.pco-bcp.gc.ca/oic-ddc/
 - List of approved OICs since 1990
 - Access to text of Orders approved since November 1, 2002



How Canada's government works



Source: *How Government Works: A Primer*, Chapter 2, Public Service Commission of Canada





About the Treasury Board

- The Treasury Board is a Cabinet committee of the Queen's Privy Council of Canada. It was established in 1867 and given statutory powers in 1869. Vic Toews is the current President.
- The Treasury Board is responsible for accountability and ethics, financial, personnel and administrative management, comptrollership, approving regulations and most Orders-in-Council.
- The formal role of the President is to chair the Treasury Board. He carries out his responsibility for the management of the government by translating the policies and programs approved by Cabinet into operational reality and by providing departments with the resources and the administrative environment they need to do their work.
- The Treasury Board has an administrative arm, the Secretariat, which was part of the Department of Finance until it was proclaimed a department in 1966.

<http://www.tbs-sct.gc.ca/tbs-sct/abu-ans/tb-ct/abu-ans-eng.asp>





The *Canada Gazette*

canadagazette.gc.ca

- As the official newspaper of the Government of Canada published since 1841, the *Canada Gazette* is one of the vehicles that Canadians can use to access the laws and regulations that govern their daily lives.
- Government departments and agencies as well as stakeholders from the private sector are required by law to publish certain information in the *Canada Gazette*. The official newspaper is published under the authority of the *Statutory Instruments Act* and of the *Statutory Instruments Regulations*.
- The *Canada Gazette* contains formal public notices, official appointments, proposed regulations, regulations and public Acts of Parliament from government departments and agencies. It also contains miscellaneous public notices from the private sector.
- The *Canada Gazette* serves as a consultative tool between the Government of Canada and Canadians. It gives Canadians the opportunity to provide their comments on the proposed regulations published in the *Canada Gazette*, Part I. For each of the proposed regulations listed, there is a contact name from the relevant department or agency and a closing date for comments. Anyone who may be affected by the proposed regulations can also request background information from the issuing department.
- The *Canada Gazette* plays an important role in Canada's regulatory process. Not only does it serve as official notice to Canadians, it also allows participation in the regulatory process by voicing opinions or providing comments as befits our democratic system.

