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What We Heard: Report on Regulatory Modernization

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What We Heard: Report on Regulatory Modernization



Notice to Readers

This report reflects the input received from stakeholders prior to the COVID-19 pandemic and may not fully reflect their current positions. As it is being posted a year after the date of the consultation, the Government of Canada may have already taken action on some of the initiatives outlined in the report. See the [Modernizing regulations web page](#) for updates on regulatory modernization initiatives.

On this page

- [Executive summary](#)
- [Overview of regulatory modernization consultations](#)
- [Horizontal themes](#)
- [Targeted Regulatory Reviews \(round 2\)](#)
- [Clean technology](#)
- [Digitalization and technology-neutral regulations](#)
- [International standards](#)
- [Additional comments on the Regulatory Reviews](#)

- [The Red Tape Reduction Act](#)
- [Exploring options to legislate changes to regulator mandates](#)
- [Suggestions for the next Annual Regulatory Modernization Bill](#)
- [Conclusion](#)

Executive summary

Effective regulations:

- promote social and economic well-being
- protect health, safety, security and the environment
- foster economic growth and innovation

In recent years, the Government of Canada has undertaken a number of initiatives to:

- modernize the Canadian regulatory system
- improve its performance for Canadians and businesses

In summer 2019, the Treasury Board of Canada Secretariat (TBS) launched consultations on the following [four regulatory modernization initiatives in the Canada Gazette](#):

- targeted Regulatory Reviews (round 2)
- review of the Red Tape Reduction Act
- options to legislate changes to regulator mandates
- suggestions for the next Annual Regulatory Modernization Bill

TBS received a total of 109 written responses from businesses, industry associations, academia and Canadians. *What We Heard: Report on Regulatory Modernization* provides a detailed summary of stakeholder feedback on the four regulatory modernization initiatives outlined above.

Stakeholders often commented on more than one regulatory modernization initiative and raised a number of horizontal issues, such as:

- the need to make regulations less prescriptive

- the need to limit regulatory overlap and cumulative burden
- the need to foster regulatory harmonization
- a desire for improved stakeholder engagement

1. Targeted Regulatory Reviews (round 2)

The second round of Regulatory Reviews was launched in June 2019. Based on recommendations by the External Advisory Committee on Regulatory Competitiveness, the second round of [Regulatory Reviews](#) focuses on clean technology, digitalization and technology-neutral regulations, and international standards.

Of the 109 submissions received, 93 submissions were relevant to the targeted Regulatory Reviews. Stakeholders provided input to inform each of the review areas:

- **Clean technology:** Stakeholders highlighted a desire for outcome-based regulations, and the importance of both streamlining federal regulatory requirements and advancing federal, provincial and territorial regulatory cooperation. Stakeholders also proposed examining novel regulatory approaches and initiatives to promote and support innovation in the clean technology space.
- **Digitalization and technology-neutral regulations:** Stakeholders noted a need for new digital compliance and reporting tools. They also recommended more flexible regulatory approaches to allow for the safe testing of new technologies in the Canadian market. Stakeholders noted the importance of ensuring that regulations do not prescribe the use of a specific technology and enable the adoption of new technologies.
- **International standards:** Stakeholders suggested enhanced use of international standards and that the standards be adopted in a timelier manner, including to support regulatory cooperation and trade objectives. At the same time, the importance of ensuring Canadian health, safety and environmental protections was recognized. Stakeholders also commented on the importance of increased Canadian leadership in the development of new international standards, and the need to ensure broad-based stakeholder engagement.

2. Review of the Red Tape Reduction Act

Of the 109 submissions received, 51 submissions were relevant to the review of the *Red Tape Reduction Act* (RTRA). Stakeholders:

- provided feedback on the definitions of administrative burden and red tape as set out in the RTRA
- raised the need to expand the scope of the RTRA
- suggested changes to the application of the legislation's one-for-one rule
- commented on the importance of:
 - having accurate administrative cost estimates
 - engaging in meaningful stakeholder consultation
 - monitoring and evaluating red tape reduction results

3. Exploring options to legislate changes to regulator mandates

In the *Fall Economic Statement 2018*, the Government of Canada announced that it will review legislation to:

- assess opportunities for legislative changes to integrate the assessment of regulatory efficiency and economic growth into regulator mandates
- ensure that Canada's regulatory system continues to prioritize the health, safety, security, and social and economic well-being of Canadians, and a sustainable environment

Stakeholders raised a number of key considerations, including establishing benchmarks and indicators to measure cumulative burden, regulatory efficiency and competitiveness. They also suggested some key principles to guide regulator mandates, such as:

- predictability
- high achievement of service standards
- interjurisdictional cooperation
- digitalization
- reduction of burden
- accountability

4. Suggestions for the second Annual Regulatory Modernization Bill

The Annual Regulatory Modernization Bill is a new mechanism designed to:

- remove outdated and redundant requirements embedded in legislation
- modernize requirements and practices

Outdated and redundant requirements impede federal regulators from making regulatory changes to keep pace with innovation and technology.

TBS sought input from stakeholders to identify specific areas of legislation that currently prevent regulations from being agile and responsive. Stakeholders recommended changes to 16 acts relevant to sectors such as agriculture and agri-food, health and bio-sciences, and transportation.

A number of key themes emerged as part of the recommendations, including the need to:

- reduce administrative burden
- increase regulatory flexibility and opportunities for experimentation
- enhance harmonization with major trading partners
- remove duplicative, redundant and unclear requirements in legislation

For a more detailed summary of the stakeholder feedback received as part of the 2019 consultations, consult *What We Heard: Report on Regulatory Modernization*.

Overview of regulatory modernization consultations

The Government of Canada is pursuing a number of initiatives to:

- modernize the Canadian regulatory system
- improve its performance for both Canadians and businesses

In summer 2019, the Treasury Board of Canada Secretariat (TBS) launched consultations on the following four regulatory modernization initiatives through the *Canada Gazette*:

1. targeted Regulatory Reviews (round 2)
2. review of the *Red Tape Reduction Act*

3. options to legislate changes to regulator mandates
4. suggestions for the next Annual Regulatory Modernization Bill

TBS received a total of 109 written responses from businesses, industry associations, academia and Canadians. Input received has been summarized in the following report and will be used to determine the direction of each of the four regulatory modernization initiatives. The following is not an exhaustive list of all issues; rather, it represents a high-level synopsis of the broad themes that stakeholders raised as part of these consultations.

Horizontal themes

Stakeholders often commented on more than one regulatory modernization initiative and raised a number of horizontal themes.

1. Making regulations less prescriptive

- Stakeholders encouraged regulators to develop outcome-based regulations that:
- give businesses greater flexibility in meeting regulatory requirements
- enable the adoption of innovative products or processes
- Stakeholders noted that overly prescriptive regulations could hinder digitalization and the development of clean technologies. Where prescriptive regulations are necessary, stakeholders asked that there be a clear process for requesting exemptions.

2. Reducing regulatory overlap and duplication

Stakeholders commented that overlapping regulatory requirements create a burden for industry. The overlap includes different regulations that affect the same industry, and federal and provincial or territorial regulations that cover the same industry. In some cases, stakeholders recommended coordinating reporting requirements and deadlines for similar federal regulations (such as sulphur and benzene in gasoline) to reduce burden. Stakeholders also suggested that the government should work with

provinces and territories to clarify responsibilities on clean technology adoption to reduce regulatory duplication.

3. Considering cumulative burden

Industry and business stakeholders expressed concern that regulators do not consider the cumulative impact of regulations on competitiveness and economic growth. The stakeholders noted that cumulative regulatory burden should broadly capture:

- compliance costs and administrative costs arising from regulatory decisions and activities
- requirements imposed by all government departments, agencies and Crown entities
- legislation, regulations, policies, memos, manuals, approvals, licences and certifications
- burden introduced by all orders of government in Canada (federal, provincial or territorial, municipal)

4. Measuring cumulative burden

Stakeholders indicated that cumulative burden should be measured by doing a sector-by-sector analysis and engaging industry experts and academics. It was suggested that the External Advisory Committee on Regulatory Competitiveness should be mandated to develop options for measuring federal cumulative regulatory burden. Some stakeholders recommended that Regulatory Impact Analysis Statements should include a competitiveness analysis that is published in the *Canada Gazette*, Part I, to allow for expert comments.

Stakeholders also noted the need to develop a baseline against which to measure the change of burden over time. Some stakeholders suggested employing a requirement count to establish a baseline measure of cumulative burden. They recommended that the Government of Canada explore existing methodologies, such as those developed by the Mercatus Center and the governments of British Columbia and Manitoba.

In some instances, stakeholders recommended comparing the growth of Canadian industries with that of their counterparts in other countries, particularly key trading partners and jurisdictions that have similar regulatory regimes, in order to obtain a sense of cumulative burden and its impact on competitiveness.

5. Enhancing regulatory harmonization

Stakeholders noted the importance of regulatory harmonization, both within Canada and with international trading partners, including in the clean technology sector. At the interprovincial level, some stakeholders recommended aligning energy product classifications and policies related to clean energy vehicle adoption across Canada. They also conveyed that discrepancies in clean technology standards:

- raise compliance costs
- increase complexity
- hinder businesses from bringing innovative solutions to market

Stakeholders identified incorporation by reference of international standards in Canadian regulations as a key tool for promoting regulatory cooperation.

6. Meaningful stakeholder engagement

Stakeholders raised the need for regulators to conduct meaningful consultations throughout the regulatory development process. Some expressed concern about the bypassing of *Canada Gazette*, Part I, consultations for certain regulations, and raised cases in which they were not consulted to inform regulatory impact analysis and cost-benefit analysis. Stakeholders also noted instances where regulators did not seem to take into consideration the comments received after *Canada Gazette*, Part I. They indicated that greater collaboration between stakeholders and regulators would help better inform regulators' estimates of administrative burden.

Stakeholders highlighted the importance of stakeholder engagement and consultation, both with respect to standards development and the adoption of standards in regulation.

Targeted Regulatory Reviews (round 2)

Background on second round of Regulatory Reviews

[Budget 2018](#) announced funding over three years for TBS to coordinate targeted reviews of regulatory requirements and practices that are bottlenecks to economic growth and innovation. The focus of the targeted Regulatory Reviews is to examine the existing stock of regulations in order to support regulatory modernization and identify opportunities for novel approaches. The Regulatory Reviews are not meant to re-examine regulations that have recently been approved, or those that are under development. Where issues identified by stakeholders cannot be addressed, an explanation or rationale will be provided.

The first round of targeted Regulatory Reviews focused on three high-growth sectors:

- agri-food and aquaculture
- health and bio-sciences
- transportation and infrastructure

In June 2019, [Regulatory Roadmaps were published](#) for the first round of Regulatory Reviews. These roadmaps propose a suite of actions to address stakeholder feedback and advance modernized regulatory approaches.

Based on [recommendations from the External Advisory Committee on Regulatory Competitiveness](#), the second round of Regulatory Reviews was launched in June 2019. The Committee brings together business, academics and consumer representatives from across the country to provide advice to the Treasury Board on how to improve regulatory competitiveness while protecting health, security, safety and the environment. Among other tasks, the Committee provides advice and recommendations on the targeted Regulatory Reviews. The second round focuses on the following areas:

- clean technology
- digitalization and technology-neutral regulations
- international standards

Overview of stakeholder feedback on the second round of Regulatory Reviews

Of the 109 stakeholder submissions received from the 2019 *Canada Gazette* consultations on regulatory modernization, 93 submissions commented on the targeted Regulatory Reviews. Many stakeholders took the opportunity to comment on more than one review area. Comments pertaining to each Regulatory Review are outlined below.

Clean technology

Clean technology is defined as any process, product or service that reduces environmental impacts. Clean technology is used in many sectors of the economy, including energy, natural resources, agriculture, transportation, industry, manufacturing, water and waste management.

The Clean Technology Regulatory Review is examining how the regulatory system may enhance clean technology innovation and adoption, as well as the competitiveness of the sector in Canada, while maintaining or improving environmental protection and outcomes. Of the 93 submissions commenting on Regulatory Reviews, over 50% touched on clean technology. Most submissions were from clean technology adopters that are typically larger, regulated companies, as well as clean technology producers that face challenges with scaling up and commercializing their innovations. The following three themes emerged.

1. Regulatory experimentation and innovation in the clean technology sector

Stakeholders proposed novel regulatory approaches and initiatives to promote and support innovation in the clean technology space. They noted that policies or regulatory frameworks that focus on advancing a circular economy would help promote investment and innovation in clean technology. A circular economy moves away from a “take, make and dispose” way of doing business, to one where goods are produced, distributed, and consumed in a way that retains the value of the products and resources for as long as possible.

Several stakeholders noted the importance of undertaking regulatory pilot programs involving regulators and businesses. According to stakeholders, such pilots:

- would enable the government to gain a better understanding of regulatory impacts on industry
- could lead to the development of more flexible regulatory approaches, particularly when testing new technologies

Stakeholders identified plastic recycling and water management as potential areas for regulatory sandboxes to support innovation in the clean technology sector. Regulatory sandboxes are controlled spaces that enable the testing of new products and services that would otherwise be prohibited under existing regulations.

2. Regulatory certainty in the clean technology space

Some stakeholders highlighted a need for greater regulatory certainty, particularly for emerging areas of clean technology, such as waste and plastics. For instance, business stakeholders raised concerns about the uncertainty and costs associated with changing labelling requirements; they also noted that changing labelling requirements can negatively affect the uptake of their products by clean technology adopters.

3. Competitiveness of the clean technology sector

Stakeholders expressed concern about the impact of specific legislation and regulations on the competitiveness of Canadian clean technology companies. Some stakeholders noted that proportional and consistent enforcement measures are important in maintaining a level playing field and promoting competitiveness. For instance, stakeholders called for commensurate consequences for those who physically or electronically remove diesel-emission-reducing devices. Some stakeholders also requested that the government create opportunities for producers to sell excess renewable energy, as this would enable them to capitalize on the advantages of renewable energy and increase their competitiveness within the clean technology space.

Digitalization and technology-neutral regulations

Digitalization is the development, adoption, and support of digital tools and processes. The Digitalization and Technology-Neutral Regulations Review aims to advance digitalization in the federal regulatory space and identify opportunities to make regulations technology neutral. Technology-neutral regulations do not prescribe the use of a particular technology to achieve a regulatory objective, thereby enabling businesses and Canadians to adopt the technology that is best suited to meet their regulatory requirements. By examining the use of digitalization in regulations, as well as the facilitation of digital processes via regulations, there are opportunities to simplify the regulatory process and reduce burden. Technology-neutral regulations can also encourage businesses to adopt new and more efficient solutions to comply with regulations, while meeting health, safety, security and environmental outcomes.

Of the 93 submissions commenting on Regulatory Reviews, over 40% touched on digitalization and technology-neutral regulations. The following four themes emerged.

1. Improving data-sharing

Many stakeholders highlighted the need for improved data-sharing:

- across government departments
- between different levels of governments
- between government and businesses

Stakeholders emphasized the desire for single-window platforms to enhance digital reporting capabilities among regulators. A single-window platform would enable Canadians and businesses to “tell us once.” However, some stakeholders indicated that consent should be obtained prior to information-sharing, and that sensitive information should continue to be appropriately protected.

2. Usability of Government of Canada digital platforms

Stakeholders noted that government websites can be outdated and challenging to navigate, adding unnecessary time and complexity to the regulatory compliance process. Business stakeholders recommended a greater focus on users when designing websites, and emphasized the importance of making regulatory requirements, guidance, and forms straightforward and simple to access. Some stakeholders indicated that the option to submit paper versions of required documents should be maintained, as access to technology and digital literacy varies throughout Canada.

3. Technology-neutral regulations

Stakeholders noted that overly prescriptive regulations may hinder technological advancements and result in outdated requirements. They noted the need for regulations to be updated to reflect changes in technology and operating practices.

Stakeholders also called for more flexible regulatory approaches to enable the safe testing of new technologies, including:

- recommendations for pilots
- staged approval processes
- regulatory sandboxes

Stakeholders suggested that the government publish detailed guidance documents to complement flexible regulations by providing additional clarity and continuing to maintain or improve protections.

4. Outdated and paper-based processes

Stakeholders reported that regulatory requirements or practices based on outdated technology or processes create burden and impede regulatory efficiency. The mandated use of faxes, wet signatures, or courier, as well as manual inspection practices in the energy and transportation sectors were among the examples raised. Stakeholders also raised concerns about outdated record-keeping requirements, as they cause delays in processing times and hinder Canadian businesses' ability to use digital solutions.

International standards

The Standards Council of Canada notes that standards provide a set of agreed-upon rules, guidelines or characteristics for activities or their results. The use of international standards can:

- enhance regulatory alignment between jurisdictions
- reduce barriers to trade
- support a regulatory system that is responsive to innovation and new technologies

The International Standards Regulatory Review is examining opportunities to better incorporate international standards in the regulatory system in a manner that maintains Canada's robust requirements for health, safety, security and environmental protection. Further, the review is exploring strategic opportunities to enhance Canadian participation and leadership in the development of international standards.

Of the 93 submissions commenting on Regulatory Reviews, over 60% touched on international standards. The following five themes emerged.

1. Enhancing the use of standards in Canadian regulations

Several stakeholders highlighted the value of referencing standards in regulations to comply with policy and regulatory objectives. Some expressed that deviations in Canadian regulations from international standards can increase costs and duplication, reducing the competitiveness of Canadian businesses. For example, stakeholders noted that misalignment between Canadian regulations and international standards with respect to precious metals markings leads to increased administrative burden and limited market access for industry.

Stakeholders identified industries or sectors where they wish to see further adoption of international standards in Canada, including manufactured goods, aviation, food safety, natural resources and electricity. Additionally, stakeholders noted that the adoption of international standards could support the development of new technologies, particularly in the clean technology and energy sectors.

2. Timeliness of standards adoption

Stakeholders commented on the length of time needed for regulators to adopt standards in Canada. They emphasized the importance of adopting international standards in a timely way, noting that a delay in adopting standards used in other jurisdictions can create a burden for Canadian industry.

Stakeholders also emphasized the importance of keeping standards referenced in regulations up to date. It was noted that, in some cases, the Canadian regulatory process does not keep pace with the latest versions of international standards, which can lead to outdated references in regulations. As an example, stakeholders noted that updates to international standards for the transportation of dangerous goods are developed more quickly than are reflected in Canadian regulations.

3. Canadian leadership in standards development

Stakeholders encouraged the government to take a greater leadership role in the development of standards. There may be strategic opportunities for Canada to become the standard setter, particularly in sectors or industries where Canada is leading innovation or has a strong regulatory reputation. Some of the examples cited by stakeholders were:

- hemp-based products and cannabis
- standards for food products
- telecommunications
- transportation
- crop protection products

4. Availability and accessibility of standards

Stakeholders suggested that international standards incorporated by reference should be readily available and accessible. For instance, some stakeholders noted that the standards of the International Maritime Organization, a specialized United Nations agency, are not freely available online. Some stakeholders recommended

creating a tool to provide industry with access to standards referenced in Canadian regulations.

5. Concerns about international standards

Some stakeholders raised concerns about the use of international standards. For example, some non-government organizations noted that aligning with international standards could place downward pressure on Canada's regulatory protections. For instance, there was a particular concern to ensure that environmental protections remain strong as Canada maintains robust standards compared to other countries. Stakeholders also highlighted the importance of considering the suitability of international standards to the Canadian context.

In addition, stakeholders noted the potential burden and complexity associated with the certification process for international standards. They highlighted the importance of ensuring that the adoption of international standards does not increase administrative burden, particularly for small and medium-sized businesses.

Additional comments on the Regulatory Reviews

In commenting on the targeted Regulatory Reviews, stakeholders raised additional issues in the following three areas.

1. Comments focused on issues related to the first round of Regulatory Reviews

Some of the issues raised by stakeholders included comments related to the first round of Regulatory Reviews, which focused on agri-food and aquaculture, health and bio-sciences, and transportation and infrastructure. Examples include:

- the Hazardous Products Act and the Hazardous Products Regulations: workplace chemicals
- pesticide regulations: maximum residue limits
- Patented Medicines Regulations
- labelling, including the true copy of a label

2. Comments on regulations under development, new regulations and new legislation

Some comments received from stakeholders were linked to recent or ongoing regulatory initiatives and processes undertaken by departments and agencies. While the targeted Regulatory Reviews are not intended to re-examine or reopen recent or proposed legislation or regulations, the stakeholders' comments have been shared with the relevant federal departments and agencies. These comments relate to the following:

- output-based pricing system and clean fuel standard
- the Pan-Canadian Framework on Clean Growth and Climate Change
- regulations under the *Cannabis Act*
- cumulative impact of the *Impact Assessment Act*

3. Comments on issues unrelated to the second round of Regulatory Reviews

In some cases, stakeholders raised issues that did not pertain to the areas of clean technology, digitalization and technology-neutral regulations, or international standards. Examples of these include:

- Canada's immigration and foreign worker programs
- taxation
- procurement
- Internet and broadband access
- regulator resources and capacity

The Red Tape Reduction Act

The *Red Tape Reduction Act* (RTRA), brought into effect in 2015, sets out requirements for federal departments and agencies to control the growth of administrative burden on business when developing regulations (that is, the one-for-one rule). When a new or amended regulation increases the administrative burden on business, the rule requires that the cost be offset by other regulatory changes. The rule also requires

that an existing regulation be repealed each time a new regulation that imposes new administrative burden on business is brought into force. Since 2015, annual reports have been published listing the results of the one-for-one rule and the application of its exemptions.

To inform a legislated review of the *Red Tape Reduction Act*, stakeholders were asked to provide input on:

- the Act
- its design and implementation
- recommendations for improvement

TBS received 51 submissions with responses that were relevant to the RTRA review. The vast majority of respondents were industry associations (77%) followed by businesses. Approximately 5% of responses were provided by academics and public policy think tanks. The following five themes emerged.

1. Impact of the Red Tape Reduction Act

The objective of the RTRA is to control the administrative burden that regulations impose on business. Most stakeholders reported that the Act has had little to no impact in reducing regulatory burden. Stakeholders suggested that the limitations in the RTRA's scope, as well as the exemptions from the one-for-one rule (outlined below), restricted the ability to achieve meaningful impact.

Some stakeholders noted that, despite the rule being in force, they perceived an increase in the amount of burden imposed on their sector. To have greater impact, stakeholders suggested that the government should take a holistic approach that involves rethinking existing regulatory frameworks for long-term and meaningful change, as opposed to focusing on stand-alone initiatives such as the RTRA. They also called for an improvement in the way that regulators estimate and define administrative burden, which will be discussed below.

2. Expanding the scope of the *Red Tape Reduction Act*

Administrative burden is defined in the RTRA as “anything that is necessary to demonstrate compliance with a regulation, including the collecting, processing, reporting and retaining of information and the completing of forms.” Industry stakeholders expressed a desire to see the scope of the RTRA expand. In particular, they noted that the RTRA should no longer exempt regulations related to tax or tax administration given the large administrative burden that tax compliance represents. They also suggested broadening the RTRA to include costs imposed on all citizens, not just business. Some stakeholders noted that burden was not only imposed by regulation; they noted that significant burden to business was also generated through requirements that exist under legislation, departmental policies and guidance. They expressed a desire to see the RTRA expanded to all requirements regardless of the source.

Many stakeholders expressed that the focus of the RTRA on administrative burden is too narrow and could be expanded to account for broader regulatory burdens, including:

- compliance assessment burden, such as costs associated with:
 - assessing the potential cost and impact of a new regulation
 - identifying regulatory compliance options
 - developing compliance processes
- compliance burden, such as the costs to comply with the requirements, including the costs of providing workplace training on regulatory compliance
- burden from delays in regulatory implementation (this burden is not necessarily related to the regulatory design itself, but to the capacity of the regulator to efficiently administer regulations), such as the costs that result from:
 - poor customer service
 - delays in receiving required approvals, licences or certifications
 - the resolution of legal disputes or challenges to regulatory approval processes
- burden from duplication, such as the costs that stem from duplicating or doing similar activities to address duplicative or overlapping requirements across jurisdictions
- information burden, such as the costs associated with the time spent:

- understanding requests for information and forms
- seeking clarification in cases where such requests are unclear or difficult to understand
- cumulative burden, such as the cumulative costs of processes, regulations or requirements that apply to a single project

3. Administrative cost estimates

Industry and business stakeholders conveyed that estimates of administrative costs were often not aligned with their experience or consistent with industry data. In several cases, stakeholders noted that regulators underestimate the costs related to proposed regulations, noting the narrow focus on administrative burden or lack of meaningful consultation with industry as possible causes. It was recommended that cost-benefit analysis aim to better incorporate the costs of regulatory implementation. Some stakeholders suggested the creation of an independent panel similar to the United Kingdom's Regulatory Policy Committee to review and help improve estimates produced using cost-benefit analysis.

Stakeholders suggested that the methodology for calculating administrative burden should:

- be simple
- use accurate data
- fit the Canadian business environment
- include a cumulative assessment of burdens and costs

To obtain accurate data, stakeholders suggested having a baseline count of administrative burden in all government regulations, legislation and policies. They also called for publication of administrative cost calculations to allow stakeholders to share costing information and comment on calculation methods and assumptions.

Stakeholders also suggested that government agencies and departments examine the systems that other jurisdictions have put in place to measure and reduce administrative burden. For example, the one-stop window approach used by the Alberta Energy Regulator has allowed for more efficient collection and use of data.

In general, stakeholders expressed a willingness to share costing data with regulators, but they called for clear and coherent requests for data that include the context and purpose of the required information.

4. Application of the one-for-one rule and proposed changes

Stakeholders noted that it was not always clear whether departments and agencies were adhering to the one-for-one rule. They identified examples where the Regulatory Impact Analysis Statement (RIAS) stated that administrative burden was not expected to increase, despite industry indication of substantive administrative burden.

Some stakeholders encouraged the government to require that new regulation that imposes an administrative burden on business be **simultaneously** offset by removing another regulation impacting the same sector. Currently, the rule allows 24 months for the administrative burden to be offset and the reconciliation is managed by departmental portfolio.

Some stakeholders proposed legislating a new two-for-one rule in order to reduce, as opposed to control, administrative burden. Others also called for a two-for-one rule but only on a **temporary** basis over the next five years. A third group of stakeholders raised fundamental concerns about the one-for-one rule and suggested that it should be repealed entirely. They emphasized that the rule created an unnecessary constraint on regulators, jeopardizing their ability to prioritize health, safety and the environment.

5. Monitoring and evaluating red tape reduction results

Stakeholders indicated the need to increase regulatory departments' and agencies' accountability for red tape reduction efforts. For example, stakeholders noted that TBS should monitor the progress of regulators in meeting their regulatory stock review objectives. Some stakeholders suggested that elements of the annual scorecard reports (which were discontinued after 2015) should be renewed and incorporated into the Annual Report to Parliament in order to drive regulators' compliance with the requirements of the [*Cabinet Directive on Regulation*](#).

Other recommendations included:

- incorporating red tape measurement
- monitoring and tracking regulators' mandates
- setting up a user-friendly website disclosing red tape reduction efforts, reports, data and dashboards from all regulators

Exploring options to legislate changes to regulator mandates

In the *Fall Economic Statement 2018*, the Government of Canada announced that it would review legislation to assess whether opportunities exist to integrate the assessment of regulatory efficiency and economic growth as an integral part of regulators' mandates.

In response, TBS is considering the development of key principles related to efficiency and economic growth that would become part of the required analysis that regulators must perform as part of the regulatory development process.

Departments and agencies would receive guidance on the expectations for this analysis through policy documents and the central regulatory oversight function performed by the Treasury Board.

TBS received 55 submissions with responses that were relevant to the review on exploring options to legislate changes to regulator mandates. The vast majority of respondents were industry associations (69%) followed by businesses. The following two themes emerged.

1. Key considerations for integrating greater consideration of regulatory efficiency and economic growth into regulatory mandates

Most industry and business stakeholders expressed their support for legislating regulatory efficiency and economic growth as an integral part of regulator mandates. Stakeholders raised some key considerations that should be taken into account when exploring options to legislate changes to regulator mandates, including:

- a benchmark should be established, and results and performance should be measured against it
- whole-of-government mechanisms should be put in place to monitor red tape reduction results and ensure accountability
- economic indicators, such as the value of investments, imports and exports, and the burden on trade-exposed value chains relative to competitor jurisdictions, should be considered
- the introduction of competitiveness considerations in regulator mandates should avoid adding unnecessary administrative burden to regulatory departments and agencies themselves
- regulatory objectives (that is, objectives to protect or improve health, safety, security, social and economic well-being, and the environment) must remain the priority of regulator mandates

Stakeholders suggested that key principles guiding regulatory mandates should include:

- predictability
- high achievement of service standards
- interjurisdictional cooperation
- digitalization
- reduction of burden
- accountability

Some stakeholders raised the United Kingdom's *Growth Duty*, which requires regulators to consider the importance of promoting economic growth when exercising a regulatory function, alongside the delivery of the protections set out in the relevant legislation. Views were mixed on its use as a model for Canada. Some stakeholders expressed that this model should be used to incorporate competitiveness and economic considerations throughout the regulatory life cycle; others disagreed that it should be emulated or suggested that, if used, it should be limited to the development stage of regulations (not administration or enforcement).

2. Concerns about legislating changes to regulator mandates

Some stakeholders expressed disagreement with legislating economic considerations in regulator mandates, noting that regulatory mandates should unambiguously prioritize health, safety and the environment. Concerns about potential regulatory capture and the jeopardizing of the public interest were some key reasons cited for not supporting this initiative in the Canadian context.

Suggestions for the next Annual Regulatory Modernization Bill

Announced in the [*Fall Economic Statement 2018*](#), the Annual Regulatory Modernization Bill (ARMB) is a new, annual mechanism that is designed to remove outdated and redundant requirements embedded in legislation that impede federal departments and agencies from making regulatory changes to keep pace with innovation and technology. The annual bill will enable the subsequent modernization of associated regulations to better reflect the realities of today's fast-paced economic environment.

TBS sought input from Canadians to identify specific areas of legislation that currently prevent regulations from being agile and responsive. TBS received 48 submissions that referred to the ARMB; however, most of these responses were not within scope as they proposed changes to the regulations rather than the legislation.

Stakeholders recommended changes to 16 acts relevant to sectors, such as:

- agriculture and agri-food
- clean technology
- health and bio-sciences
- transportation

The following four themes emerged.

1. Changes to legislation to reduce administrative burden

Stakeholders raised concerns about administrative burden associated with legislative requirements. For instance, several stakeholders suggested the removal of the requirement to retain a true copy of a label as outlined in the *Hazardous Products Act*. Stakeholders conveyed that the removal of this requirement would improve Canada's business environment and reduce significant administrative and economic burdens on industry. Conversely, some stakeholders called for the retention of the true copy label requirement to protect workers' health and safety.

2. Changes to legislation to increase regulatory flexibility and opportunities for experimentation

There were also suggestions to increase regulatory flexibility and opportunities for experimentation by following risk-based approaches. Some stakeholders, for instance, recommended changes to the *Food and Drugs Act* to enable exceptions regarding the distribution of samples of prescription and non-prescription drugs and natural health products. Stakeholders conveyed that such flexibilities could support regulatory sandboxes, as well as increased clinical trials and sampling practices.

3. Changes to legislation to enable harmonization with major trading partners

Stakeholders highlighted a number of legislative changes that seek to enable harmonization with major trading partners, such as the United States of America and the European Union. For example, some stakeholders called for increased harmonization of the *Canadian Environmental Protection Act* with United States legislation regarding emissions-related repair and recall processes. Stakeholders also proposed legislative changes that would enable the use of incorporation by reference in regulations.

4. Changes to legislation to remove duplicative, redundant and unclear requirements

There were several recommendations to amend acts for consistency and clarity. For example, some stakeholders identified the need for consistency in the definitions of "food," "food commodity," and "food additive" in the *Safe Food for Canadians Act*

and the *Food and Drugs Act*. There was also a suggestion to amend the *Motor Vehicle Safety Act* to remove duplication and overly prescriptive requirements that would be better placed in the regulations.

Conclusion

The Government of Canada would like to thank stakeholders who took the time and effort to provide feedback and comments to inform the regulatory modernization consultations. Stakeholder feedback has been provided to relevant departments and agencies, and will be taken into consideration.

For updates on the Government of Canada's regulatory modernization initiatives, visit the [Federal regulatory management and modernization](#) web page. To keep up with the Regulatory Reviews specifically, visit the [Targeted Regulatory Review](#) web page.

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