

Slide 1 Stakeholder Engagement: Webinar

Part I: The Regulatory Development Process for the
Government of Canada

Part II: Making Technical Regulations Under the Accessible
Canada Act

Winter 2019

Accessibility Secretariat, ISSD, ESDC

Slide 2 Purpose of this Presentation

- Introduce you to the regulatory development process for the Government of Canada.
- Engage you on how technical regulations under the Accessible Canada Act will be made.

Slide 3 Part I:

**The Regulatory Development Process for the
Government of Canada**

Slide 4 What are Regulations

- **Regulations...**
 - Are rules that guide behaviour.
 - Apply generally to groups of people and organizations.
 - Are laws that can be enforced.
- **Regulations can be a mix of rules that:**
 - Give rights to do things.
 - Prohibit against doing things.
- **Regulations can have different levels of detail.**
 - Some regulations are very precise and tell people exactly what to do.
 - Some regulations are performance-based and set goals that people need to meet.

Slide 5 Legislation vs. Regulation

- **Legislation...**

- Is passed by Parliament.
- Provides the legal framework for making regulations.
- Sets out:
 - Who is allowed to make regulations.
 - Who is allowed to enforce the regulations.
 - Who the regulations apply to.

- **Regulations...**

- Are made by:
 - The Governor in Council (i.e., Treasury Board).
 - A minister.
 - An agency or other body of government.
- Are made via a process internal to Government and are not passed by Parliament.
- Are legal texts that contain the actual rules.

Slide 6 The Development of Regulations

- Having the authority to make a regulation does not justify making a regulation; other solutions must be assessed.
- If regulation is determined to be the best option, the regulation-maker follows a thorough process of planning, analysis and public consultation.
- This process is detailed in the Treasury Board Secretariat's (TBS) Cabinet Directive on Regulation (CDR).
- The CDR sets out the principles for making federal regulations (e.g., protect and advance the public interest and support good government; support a fair and competitive economy).
- By following all of the steps set out in the CDR for regulatory development, it takes a minimum of 24 months to make a regulation.

Slide 7 Regulatory Development Process

This slide contains an image of a flow chart that illustrates the 12 steps involved in the process for developing regulations:

- 1) Policy development (consultation);
- 2) planning/triage;
- 3) develop regulatory impact analysis;
- 4) draft proposed regulations;
- 5) review of the regulatory submission;
- 6) approval for pre-publication by Treasury Board (cabinet decision-making);
- 7) pre-publication (in Canada Gazette, Part 1);
- 8) address comments/revise package;
- 9) review of the final regulatory submission;
- 10) final approval by Treasury Board (cabinet decision-making);
- 11) registration and publication in Canada Gazette; Part 2;
- 12) Standing Joint Committee for the Scrutiny of Regulations.

Slide 8 Policy Development

- **The first step in making regulations requires developing policy.**
- **This means thinking about:**
 - The approach to address an issue.
 - Which objectives need to be set.
 - How stakeholders, including Indigenous peoples, will be consulted.
 - The social benefits, risks and cost.

Slide 9 Consultations and Engagement

- When making regulations, the Government is responsible for consulting and engaging with impacted stakeholders.
- Engagement with stakeholders typically occurs in two stages:
 - Pre-consultation:
 - Takes place during the policy development phase.
 - Involves representative stakeholders.
 - Is an informal exchange of ideas that helps inform the regulations.
 - Formal consultation:
 - Takes place after draft regulations have been published in *Canada Gazette*, Part I.
 - Open to the Canadian public at large.
 - Feedback is provided and informs the final draft regulations.
 - Required under the CDR.

Slide 10 Planning / Triage Statement

- **Regulation-makers are required to conduct an early assessment of their regulatory proposal. This is called a triage statement.**
- **The triage statement determines the expected impact level of the proposed regulations on:**
 - Canadians (including persons with disabilities).
 - Businesses.
 - Government.

Slide 11 Regulatory Impact Analysis

- **Regulatory Impact Analysis (RIA) is required for all regulatory proposals.**
- **The RIA:**
 - Provides rationale for the proposed regulations.
 - Examines social benefits, risks and costs, including administrative burden.
 - Summarizes the results of consultation.
 - Discusses implementation.
- **The RIA is written in clear, non-technical language and gets published in the *Canada Gazette* with the actual regulatory text.**
- **The main objective of the RIA is to demonstrate that the benefits of the proposed regulations outweigh the costs**

Slide 12 Draft Proposed Regulations

- Regulations are legal texts and are not written in plain language.
- They are written by lawyers from the Department of Justice.
- Throughout the drafting process, the Department that proposes the regulation answers any technical questions that the lawyers have

Slide 13 Central Agency Review and Governor in Council Approval

- Before pre-publication in Part I of the *Canada Gazette*, proposed regulations must be reviewed by:
 - Treasury Board Secretariat.
 - Clerk of the Privy Council and Deputy Minister of Justice.
 - Regulatory Affairs and Orders in Council Secretariat of the Privy Council.
 - Regulations Section of the Department of Justice (on behalf of the Deputy Minister under the *Statutory Instruments Act*).
- Before it can be pre-published in the *Canada Gazette*, a regulatory proposal must be approved by the Treasury Board (a committee of Cabinet).

Slide 14 Pre-publication

- **Draft regulations, including the RIA, are pre-published in Part I of the *Canada Gazette*.**
 - The *Canada Gazette* is the official newspaper of the Government of Canada.

This slide contains a screenshot of the Landing page of the Canada Gazette website.

- **Pre-publication gives the public an opportunity to provide comments.**
 - The standard comment period following pre-publication is 30 days, but can provide for longer

Slide 15 Post Pre-publication: Revision, Review and Approval

- **The Government examines and addresses the comments it receives during the comment period, and revises the regulatory package accordingly.**
- **The Regulatory Impact Analysis is then updated to include:**
 - A summary of the comments received during the pre-publication period.
 - The rationale for the department's response.
 - Any actions that were taken to address those comments.
- **The amended proposed regulation must undergo further reviews and follow the approval process set out on slide 13.**

Slide 16 Registration, Coming into Force and Scrutiny

- **The regulations need to be sent to the Clerk of the Privy Council so they can be registered.**
 - Registration is a crucial step because it determines when the regulations will take effect.
- **Regulations are published in Part II of the *Canada Gazette*.**
 - This signals that a regulation has officially been made.
- **Regulations come into force on the day they are registered, unless the enabling act or the regulations themselves specify another date.**

Slide 17 Part II:

Making Technical Regulations

Under the Accessible Canada Act

Slide 18 Purpose of this Presentation

- Explain the purpose of technical regulations in implementing the Accessible Canada Act.
- Define the role of the Accessibility Secretariat to make technical regulations for approval by Treasury Board.
- Introduce the role of stakeholders in the making of technical regulations.
- Engage on how you are to be consulted throughout the process to make technical regulations.

Slide 19 Why are Regulations Needed?

- **Regulations are a key part of implementing the Accessible Canada Act.**
- **Regulations will mean:**
 - Organizations are required to improve accessibility.
 - There will be rules for the Accessibility Commissioner and other regulators to enforce.
 - Individuals will be able to make accessibility complaints.
- **Regulations will be made in three stages:**
 - Technical regulations.
 - Initial accessibility regulations.
 - Ongoing regulations.

Slide 20 Technical regulations will go through the same regulatory process as discussed earlier.

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2) planning/triage;

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Slide 21 What are Technical Regulations?

- **Technical regulations establish requirements under the Accessible Canada Act for:**
 - Accessibility Plans.
 - Feedback Processes.
 - Progress Reports.
 - Administrative Monetary Penalties (AMPs).
- **The first set of regulations are to be made within two years of the Act coming into force, as a result of the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities (HUMA).**

Slide 22 Stakeholder Participation in Making Technical Regulations

- **How organizations follow technical requirements is determined by a combination of:**
 - Requirements in legislation.
 - Requirements in regulation.
 - Voluntary guidance on how to implement.
- **Stakeholder feedback is critical in shaping the development of effective regulations.**
- **Stakeholders for accessibility regulations include: the disability community; regulated entities (the federally regulated private sector); and government bodies.**
- **There will be opportunities for stakeholders to participate in the process to make technical regulations.**

Slide 23 Role of Accessibility Secretariat

- **To make technical regulations, the Accessibility Secretariat is responsible for:**
 - Conducting consultations with organizations representing:
 - People with disabilities.
 - Regulated entities (i.e., industry, government departments).
 - Other implicated groups (e.g. labour, etc.).
 - Analysing the costs and benefits of proposed regulations.
 - Completing a Regulatory Impact Analysis Statement.
 - Coordinating with government bodies.
 - Finalizing regulations for approval by Treasury Board.

Slide 24 Role of Stakeholders

- **Stakeholder feedback is needed to:**
 - Improve the concepts being proposed for regulation.
 - Identify and understand how regulations could impact individuals and organizations.
- **Stakeholder organizations are encouraged to:**
 - Represent their organizations by providing feedback on concepts, proposals, etc.
 - Identify implementation challenges and operational realities.
 - Validate/correct assumptions.

Slide 25 What Stakeholders can Expect from Engagement on Regulations

- **Scope of first engagement on regulations will be focused on technical rule making.**
- **Engagement activities will be made as accessible as possible, but there are known challenges.**
 - Regulations are not written in plain language.
- **The final decision on regulations is made by the Treasury Board.**
 - Consultations are an important part of understanding how the decision to regulate can impact different stakeholders.

Slide 26 Stakeholder Engagement Plan

Stakeholder Engagement Plan:

This slide contains a flow chart that illustrates the plan for engaging stakeholders on technical regulations. The plan is made up of four steps.

The first step is the webinar, which is taking place today. This Presentation and discussion that explains:

- A) How technical regulations will be made.
- B) The regulatory development process.

The second step is a teleconference to take place in March in which the proposed technical regulations will be discussed. This presentation will cover

- A) Technical regulations will include requirements for: accessibility plans, feedback processes, progress reports
- B) administrative monetary penalties.

The third step in the plan is an additional teleconference to be held in Mid-April The discussion will:

- A) Summarize stakeholder comments.
- B) Provide a final opportunity for stakeholders to comment on the main elements prior to drafting.

The final step in the plan is a meeting or teleconference in May. The presentation and discussion will:

- A) Explain how stakeholders' input was used to shape the regulations.
- B) Share information about next steps.

Slide 27 Next Steps

- **Schedule next event on technical regulations:**
 - Teleconference #1: Presentation and discussion on proposed technical regulations:
 - a) Accessibility plans, feedback processes and progress reports.
 - b) Administrative monetary penalties.

Slide 28 Annex: References

This slide contains hyperlinks to the following references:

[Guide to Making Federal Acts and Regulations](#)

[Policy on Regulatory Development](#)

[Cabinet Directive on Regulation](#)

[Canada Gazette](#)