

Regulatory Development Process – Overview

Meeting with Rights4Vapers

December 2, 2021

YOUR HEALTH AND SAFETY... OUR PRIORITY.



Delegated legislation (or subordinate legislation) is a term used to describe **regulations** and **orders**

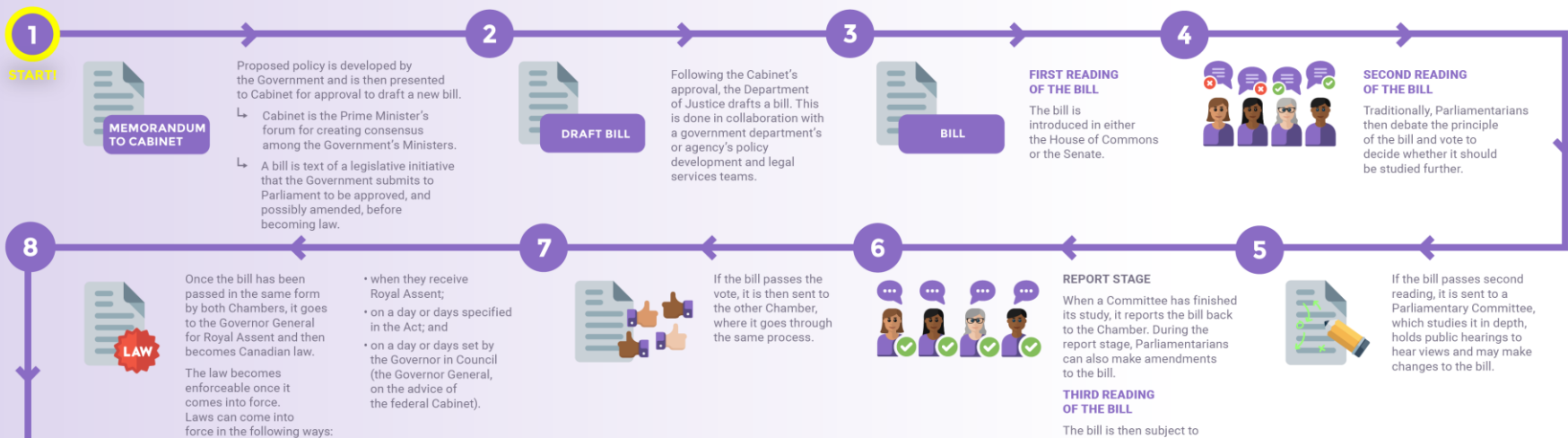
- Some acts of Parliament, like the *Tobacco and Vaping Products Act*, delegate to the Governor in Council* the power to make and apply subordinate legislation described only in general terms in the acts
- Parliament scrutinizes delegated legislation to ensure that their provisions do not exceed the powers approved by Parliament itself

* **Governor in Council** is the Governor General acting on the advice of Cabinet to make regulations. In this case, Cabinet is the Treasury Board

How new laws and regulations are created

THE LEGISLATIVE PROCESS

Legislation is a written law that provides rules of conduct. To become law, legislation must be approved by Parliament. Proposed legislation is introduced in Parliament in the form of a bill which provides the basis to amend or repeal existing laws or put new ones in place. Canada's legislative process involves all three parts of Parliament: the House of Commons (elected, lower Chamber), the Senate (appointed, upper Chamber), and the Monarch (Head of State, who is represented by the Governor General in Canada). These three parts work together to create new laws.



THE REGULATORY PROCESS

Regulations provide support to the new laws and are enforceable by law.

Unlike legislation, regulations are not made by Parliament but rather by persons or bodies that Parliament has given the authority to make them in an Act, such as the Governor in Council or a Minister. This is why regulations are developed under a separate process from Acts.



Purpose

The *Cabinet Directive on Regulation* sets out the Government of Canada's expectations and requirements in the development, management, and review of federal regulations.

Guiding Principles

It is the duty of the Government of Canada **to respect Parliament and the authorities granted by Parliament**, as expressed in legislation and **to ensure that regulations result in the greatest overall benefits to current and future generations** of Canadians. In fulfilling this duty, departments and agencies are to be guided **by four principles**. (*see next slide*)

See [Cabinet Directive on Regulation](#)

The Four Guiding Principles of the Federal Regulatory Policy

1. Regulations protect and advance the public interest and support good government:

Regulations are justified by a clear rationale in terms of protecting the health, safety, security, social and economic well-being of Canadians, and the environment.

2. The regulatory process is modern, open, and transparent:

Regulations, and their related activities, are accessible and understandable, and are created, maintained, and reviewed in an open, transparent, and inclusive way that meaningfully engages the public and stakeholders, including Indigenous peoples, early on.

3. Regulatory decision-making is evidence-based:

Proposals and decisions are based on evidence, robust analysis of costs and benefits, and the assessment of risk, while being open to public scrutiny.

4. Regulations support a fair and competitive economy:

Regulations should aim to support and promote inclusive economic growth, entrepreneurship, and innovation for the benefit of Canadians and businesses. Opportunities for regulatory cooperation and the development of aligned regulations should be considered and implemented wherever possible.

See [Cabinet Directive on Regulation](#)

Key Steps in Regulation-making Process

A: Determination of Regulation	
	<ol style="list-style-type: none"> 1. Issue identification / Problem definition 2. Instrument choice 3. Forward regulatory plan 4. Consultation prior to pre-publication 5. Engage Treasury Board Secretariat (TBS); Triage Statement
B: Regulatory Impact Analysis Statement	
	<ol style="list-style-type: none"> 1. Description of issue (incl. supporting evidence) 2. Analysis of benefits and costs 3. Impacts on the environment 4. Gender-based analysis plus (GBA+) 5. Burden on business 6. Regulatory cooperation 7. Incorporation by reference 8. Modern treaty implication 9. International obligations
C: Drafting and Treasury Board Approval	
	<ol style="list-style-type: none"> 1. Drafting of regulations 2. Examination by DoJ and blue stamping of regulations 3. Review by TBS 4. Ministerial approval of regulatory package (RIAS, proposed Regulations, communication plan, etc.) 5. Submission of signed regulatory package to Privy Council Office 6. Approval of regulatory package by Treasury Board Ministers
D: Publication and consultation	
	<ol style="list-style-type: none"> 1. Pre-publication (<i>Canada Gazette</i>, Part I) and public consultation 2. (Possibility of exemption from pre-publication in some cases) 3. Final publication (<i>Canada Gazette</i>, Part II)

A: Determination of Regulation

1. Issue identification / Problem definition
2. Instrument choice
3. Forward regulatory plan
4. Consultation prior to pre-publication
5. Engage Treasury Board Secretariat on Triage Statement and get approval on triage statement

B: Regulatory Impact Analysis Statement

1. Description of issue (incl. supporting evidence)
2. Analysis of benefits and costs
3. Impacts on the environment
4. Gender-based analysis plus (GBA+)
5. Burden on business
6. Regulatory cooperation
7. Incorporation by reference
8. Modern treaty implication
9. International obligations

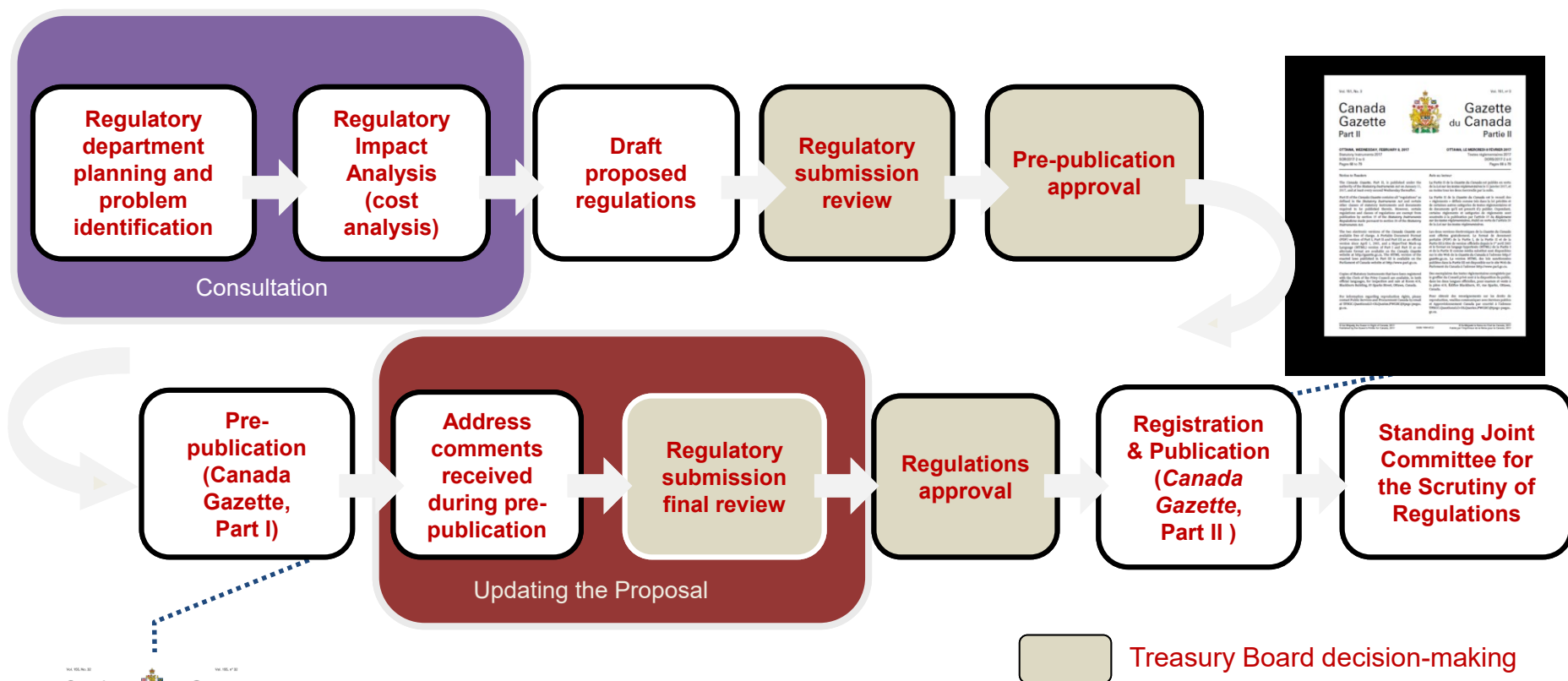
C: Drafting and Treasury Board Approval

1. Drafting of regulations
2. Examination by Department of Justice and blue stamping of regulations
3. Review by Treasury Board Secretariat
4. Ministerial approval of regulatory package (RIAS, proposed Regulations, communication plan, etc.)
5. Submission of regulatory package to Privy Council Office (*PCO supports the PM and Cabinet*)
6. Approval of regulatory package by Treasury Board Ministers (*TB is a Cabinet committee*)

D: Publication and consultation

1. Pre-publication (*Canada Gazette*, Part I) followed by public consultation
2. (Possibility of exemption from pre-publication in some cases)
3. Final publication (*Canada Gazette*, Part II)

High Level Overview of Regulatory Development Process



- The **Canada Gazette** is the official newspaper of the Government of Canada and is used to provide information to the public.