



Small Business Lens

Presentation to RCC Stakeholder Dialogue Session

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Overview of the initiative

As Canada-US regulatory alignment is advanced under the RCC, ensure implementation of tools designed to minimize burden on small business do not inadvertently result in misalignment

| Milestone | Canada | U.S. | Status |
|------------------|---|--|-------------------------------------|
| 3-6 months | <ul style="list-style-type: none"><i>Publish the Small Business Lens</i> | <ul style="list-style-type: none"><i>Add new features and content to Business.USA.gov</i> | <input checked="" type="checkbox"/> |
| 6-12 months | <ul style="list-style-type: none"><i>Discuss tools used to consider and minimize regulatory burden on small business</i> | | <input checked="" type="checkbox"/> |
| 12-18 months | <ul style="list-style-type: none"><i>Highlight examples of regulatory flexibility for small businesses</i> | <ul style="list-style-type: none"><i>Help small businesses engage in the rule making process and find rules with international impacts</i> | In progress |
| Beyond 18 Months | <ul style="list-style-type: none"><i>Consider how to use regulatory process tools to achieve greater alignment of regulatory practices, and assist small businesses engaged in cross-border trade</i> | | In progress |



Progress: US and Canadian tools to drive small business sensitivity align

The working group has confirmed a high degree of commonality in how the countries 'hard-wire' sensitivity to small business impacts of regulation

| Key Regulatory Process Requirements | Canada (Small Business Lens) | U.S. (Regulatory Flexibility Act) |
|--|-------------------------------------|--|
| Identify the number of small businesses impacted and the estimated costs | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Consider flexible regulatory alternatives for small businesses | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Small businesses are consulted in the regulatory process | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Flexible alternatives must not compromise risk protection | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Results publicly available in regulatory impact analysis | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |



Progress towards the longer term goal has also been achieved

- *Recent introduction of Canadian forward regulatory plans gives small business an early warning of upcoming regulations that may impact them*
 - *For the first time, small businesses on both sides of the border have tools to identify and engage on regulations impacting their business*
- *While the U.S. Regulatory Flexibility Act has required federal agencies to consider the effects of their regulatory actions on small businesses since 1980, U.S. regulators are currently developing new ways to engage small businesses in rulemakings that may affect trade with Canada*
 - *Now that both countries have similar mechanisms to gauge regulatory impact on small businesses, the next step is to explore ways in which these tools can be used together to ensure flexible approaches work for small businesses engaged in cross-border trade*



Next steps

12-18 month milestones:

- *Canada to highlight examples of regulatory flexibility for small businesses in an Annual Scorecard Report, starting in Fall 2013*
- *U.S. to help small businesses engage in the rule making process and find rules with international impacts*

Beyond 18 month milestone:

- *As experience builds with application of the Small Business Lens, countries will share lessons learned and explore how Canadian and U.S. tools to provide flexibility for small business can be used together*



Questions

- 1. How can small business leverage the new regulatory process tools that have been developed (e.g. small business lens, forward plans)?*
- 2. How can we use the web to raise small business awareness of these tools?*
- 3. How can small businesses better engage in the rulemaking process?*
- 4. Which small business concerns with the federal rule-making process warrant closer U.S. and Canada collaboration?*



Annex 1: U.S. Regulatory Flexibility Act and other Flexibility Mechanisms

Regulatory Flexibility Act, 1980 (RFA) arose from Congressional recognition that “one size fits all” regulations had resulted in disproportionate effects on small entities.

- Federal agencies are required to consider the effects of their regulatory actions on small entities and where possible, mitigate them.
- Federal agencies must perform initial and final regulatory flexibility analyses for every rule published for notice and comment. (Generally, where a rulemaking is economically significant meaning that it will have an annual effect on the economy of \$100 million or more.)

Small Business Regulatory Enforcement Fairness Act 1996 (SBREFA), to amend the RFA

- Provides for judicial review of federal agency compliance with key RFA sections.
- Directed certain federal agencies to convene panels with small entity representatives when the agency is developing a rule where a flexibility analysis would be required.

Presidential Memorandum, “Regulatory Flexibility, Small Business, and Job Creation”, 2011

- Emphasizes federal agencies’ responsibility toward small businesses under the RFA.
- Directors agencies to explicitly justify any decisions not to provide flexibility for mall businesses.



Annex 2: Canada's Small Business Lens

Part of the Government's *Red Tape Reduction Action Plan*, the *Lens* 'hardwires sensitivity' to the impact of regulations on small business:

- **Departments have to demonstrate that they have considered small business impacts at the earliest stages of regulatory design**
 - Application of the Lens is triggered when regulatory proposals have total costs of over \$1M annually and that are expected to impact small business. Costs can be either administrative or compliance costs
- **The Lens requires regulators to:**
 - Complete a 20-point checklist and consult small business throughout regulatory design
 - Develop an alternative implementation option that provides risk-appropriate flexibility for small business
 - Demonstrate to decision-makers that the recommended option best minimizes burden without compromising risk protection
- **Results of the Lens' application are publicly available in *Regulatory Impact Analysis Statements* for new or amended regulations in the Canada Gazette, at www.canadagazette.gc.ca**



Annex 3: Forward Regulatory Plans in Canada - Environment Canada Example

Environment Canada

Canada

Explore the Topics ▾ Acts and Regulations ▾ Resources ▾

Home ▸ Acts & Regulations ▸ Forward Regulatory Plan ▸ Forward Regulatory Plan: 2012-2014

Acts & Regulations

Acts
Agreements
Permits
Regulations
CEPA Environmental Registry
World Class Regulator
Forward Regulatory Plan
Service Standards

Forward Regulatory Plan

Chemicals Management

Proposed Regulatory Initiatives

- [Regulations Amending the Prohibited Substances Regulations \(PBDEs \[including decaBDE\] and other PBDEs\)](#)
- [Export of Substances on the Prohibited Substances List \(List\) - Endosulfan Amendment](#)
- [Regulations Amending the Chemicals Management Regulations](#)
- [Products Containing Mercury Regulations](#)
- [Regulations Amending the Prohibited Substances Regulations \(Responsibility for Mercury in Lead-Acid Batteries\)](#)
- [Regulations Amending 2-Butoxyethanol](#)
- [Transboundary Movement of Hazardous Waste](#)
- [Regulations Amending the Prohibited Substances Regulations \(PCP\)](#)
- [Regulations Amending the Environmental Protection Act \(Omnibus regulations\)](#)

Products Containing Mercury Regulations

Enabling Act

[Canadian Environmental Protection Act, 1999 \(CEPA 1999\)](#)

Description

Mercury is a naturally occurring chemical element that is persistent, bioaccumulative and toxic even at very low levels. The government has taken action over the past several years to reduce the risks to health and the environment posed by mercury and its compounds.

These regulations will prohibit the manufacture and import of products containing mercury or any of its compounds, with some exemptions for essential products with no viable alternatives (e.g., light bulbs, certain medical and research applications, and dental amalgam). Environment Canada has examined measures taken in other jurisdictions and has sought alignment where possible.

The regulations will impact some subsectors within Canada's manufacturing sector, such as the electric lighting and equipment manufacturing subsector, and the sign manufacturing sub-sector.

Indication of Business Impacts

There may be business impacts. The "One-for-One" and/or the Small Business Lens may apply.

Public Consultation Opportunities

Environment Canada published the [proposed regulations](#) in the *Canada Gazette*, Part I on February 26, 2011, for a 75-day comment period that ended on May 12, 2011.

A [Response to Comments document](#) was published in November 2011.

Contact(s)

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Flag for potential small business impacts

Link: www.ec.gc.ca

All Government of Canada forward plans available at: <http://www.tbs-sct.gc.ca/tbs-sct/ar-lr/gwfrp-ppreg-eng.asp>

Term Prosperity Initiative



Annex 4:



- A new “no wrong door” internet platform for small businesses to quickly connect to the government services, resources and information they need.
- Assists small businesses find rulemakings and regulations by providing links to resources such as www.regulations.gov.
- Also includes resources related to accessing financing; beginning to export or starting a business; disaster assistance, and; hiring.

The screenshot displays the BusinessUSA website. At the top, the logo 'BusinessUSA' is accompanied by the tagline 'Discover. Connect. Grow.' and navigation links for 'Tour', 'Resources', 'Events', 'About Us', and 'Contact Us'. Below this is a search bar with the placeholder text 'Start Searching...' and a magnifying glass icon. To the right of the search bar are buttons for 'BusinessUSA Website' (with a dropdown arrow) and 'Receive e-mail updates', followed by a 'Go' button. The main content area features a grid of 12 colorful tiles, each with an icon and a label: 'Start a Business' (blue play button), 'Grow Your Business' (orange bar chart), 'Access Financing' (green dollar sign), 'Begin Exporting' (brown globe), 'Expand Exporting' (yellow arrow), 'Help with Hiring Employees' (red person icon), 'Find Opportunities' (pink keyhole), 'Browse Resources For Veterans' (purple ribbon), 'Seek Disaster Assistance' (orange plus sign), 'Learn About New Health Care Changes' (teal heart rate line), 'Learn About Taxes and Credits' (grey calculator), and 'Invest in the USA' (olive map of the USA). Below the grid, a section titled 'You Searched for: regulations' lists search results. Each result includes an icon, a title, and a brief description: 1. 'Regulation of Surface Coal Mining and Surface Effects of Underground Coal Mining' (green checkmark icon, 'GRANTS' label) with category 'Environment, Natural Resources'. 2. 'Commerce's Commitment to Eliminating Regulatory Burdens in Support of Growth, Competitiveness and National Security' (blue pencil icon, 'BLOG' label) with a link to a White House blog post. 3. 'Business Law Advisor' (orange flag icon, 'SERVICE' label) with a text snippet about legal consultation. 4. 'Regulations.gov' (grey gear icon, 'TOOLS' label) with a URL. 5. 'Help Navigating Department of Labor Laws and Regulations' (grey gear icon, 'TOOLS' label) with a text snippet about DOL resources. 6. 'Food Safety and Inspection Service' (orange flag icon, 'SERVICE' label) with a text snippet about public health protection.