



Billing Code 3110-01

OFFICE OF MANAGEMENT AND BUDGET

Request for Information

AGENCY: Office of Information and Regulatory Affairs, Office of Management and Budget.

ACTION: Request for Information (RFI).

SUMMARY: The Office of Information and Regulatory Affairs (OIRA), within the Office of Management and Budget, is seeking public input on how the Federal Government, under the auspices of the United States-Canada Regulatory Cooperation Council, may reduce or eliminate unnecessary regulatory differences between the United States and Canada. This request for information (RFI) may inform agencies' development of regulatory reform proposals to modify or repeal existing agency requirements to increase efficiency related to economic activity with Canada, reduce or eliminate unnecessary or unjustified regulatory burdens, or simplify regulatory compliance, while continuing to meet agency missions and statutory requirements. OIRA also seeks public comment to identify ongoing or emerging areas for which cooperation could reduce the risk of divergence between U.S. and Canadian regulations. OIRA plans to make all submissions publicly available on www.regulations.gov.

DATES: Written comments and information are requested on or before [INSERT DATE 30 DAYS AFTER PUBLICATION].

ADDRESSES: Interested persons are encouraged to submit comments, identified by “US-Canada RCC RFI,” by any of the following methods: *Federal Rulemaking Portal*: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Email: *International-OIRA@OMB.eop.gov*. Include “US-Canada RCC RFI” in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Vlad Dorjets, Office of Information and Regulatory Affairs, 725 17th Street NW, Washington, DC 20503. Telephone: 202-395-7315.

SUPPLEMENTARY INFORMATION:

I. Request for Information

To help promote U.S. regulatory cooperation activities with Canada, OIRA seeks public comment on how to reduce burdens through the reduction of differences between U.S. and Canadian regulatory requirements, conformity assessment procedures, sub-regulatory guidance, and other related policies and procedures. In addition, OIRA invites comment on specific issues and sectors in which future cooperation would prove fruitful, including proposals to align regulatory systems, streamline bilateral cooperation, and improve stakeholder engagement. Although some agencies that participate in the U.S.-Canada Regulatory Cooperation Council (RCC) or are otherwise engaged in regulatory cooperation with Canada have previously sought regulatory reform ideas from the public, this RFI seeks broader input on regulations with respect to which international regulatory cooperation might be beneficial across all agencies, even those not presently engaged in such endeavors.

OIRA intends to communicate regulatory reform suggestions received in response to this RFI for consideration by the appropriate U.S. Federal agencies. OIRA may also communicate suggestions to the Treasury Board of Canada Secretariat (TBC) to get a broader perspective on these policy areas, including the potential cost reductions that could result from cooperation. Suggestions from the public may also inform discussion of these issues at public meetings sponsored by the RCC or participating agencies.

OIRA has identified some key topics on which stakeholder insights would be most helpful, though input on opportunities for international regulatory cooperation beyond these topics is also welcome:

- (1) Particular sectors or issues for which the RCC should consider future regulatory cooperation or further regulatory alignment to reduce burden or other cost, including for emerging technologies that are not yet regulated.
- (2) Particular forms, surveys, or other information collections that exist in both the United States and Canada where consolidation could reduce burden or increase practical utility.
- (3) The appropriate role for stakeholders in furthering international regulatory cooperation and how stakeholders can best engage with Canadian and U.S. regulators on regulatory cooperation opportunities.
- (4) Cooperative mechanisms or arrangements such as co-development, co-funding, or co-piloting which can be used to promote future international regulatory alignment.
- (5) Potential alternatives to direct regulation or innovative and flexible approaches to regulation, including for emerging technologies.

(6) Whether the RCC should continue the existing set of work plans and/or whether activities in the work plans should be revised better to reflect developments in the relevant sectors.

When providing comments, OIRA requests that commenters identify the relevant regulatory agency or agencies and also specify the regulation, guidance document, form, or reporting requirement at issue, providing legal citation or form number and OMB Control Number where available. Please identify, where applicable, the relevant statutory or regulatory provisions for each jurisdiction (or an indication that such provisions do not exist in one or both jurisdictions). OIRA also requests that commenters provide as much detail as possible in describing the issue or unnecessary difference, as well as an explanation of how and why agencies could align, modify, streamline, or repeal the regulatory requirements, while still achieving their regulatory and/or statutory objectives. OIRA also requests that commenters include, wherever possible, supporting data or other quantitative information such as information about the burdens or cost resulting from the regulatory divergence and the possible burden or cost reduction from alignment, details on measurable benefits for industry, government, or consumers, and an assessment of the net benefits of enhanced regulatory alignment. Please specify the time period over which impacts have or are projected to accrue.

II. Background

A. The Regulatory Cooperation Council

The United States and Canada share many regulatory objectives, including reducing unnecessary or duplicative regulatory costs that discourage economic activity. The two countries, however, often select different approaches for achieving their policy objectives. These divergent approaches can lead to different regulatory requirements in the two countries, hindering national and cross-border economic activity, and imposing unnecessary costs on citizens, businesses, and economies. Even when the two countries opt to address a policy objective in the same way, implementation may result in duplicative paperwork requirements or procedures on both sides of the border. In many cases, these differences are unavoidable due to different statutory or legal requirements or additional policy considerations. In other cases, however, these differences may be avoidable and thus impose unnecessary burdens.

To identify, and reduce or eliminate, these unnecessary regulatory differences and duplicative procedures, as well as to increase regulatory transparency, the United States and Canada created the RCC in 2011. Several months after its creation, the two countries released Terms of Reference (2011 TOR) setting out the RCC's mandate, organization, and guiding principles.¹ The RCC is chaired by OIRA and TBC. As the regulatory oversight bodies of the United States and Canada, OIRA and TBC provide strategic direction to their respective regulatory agencies on regulatory cooperation initiatives. The 2011 TOR acknowledged that each country would maintain its sovereign power to regulate and that regulatory outcomes for consumer protection, health, safety, security, and the environment would not be compromised. At its founding, the RCC understood

¹ Available at www.trade.gov/rcc/us-canada_rcc_terms_of_reference.pdf.

that unnecessary regulatory differences “do not increase regulatory benefits, and instead impose needless additional burdens and costs for both businesses and consumers.”

1. Following successful implementation of the 2011 Joint Action Plan—which set out 29 initiatives covering a wide range of regulatory work, from transportation and agriculture to nanomaterials²—the RCC issued a Joint Forward Plan (JFP) in 2014, which summarized lessons learned from the preceding three years and laid out a plan for the following years.³ Specifically, it called for regulatory agencies on both sides of the border to develop Regulatory Partnership Statements (RPSs). These statements are public documents that outline the framework for how partner agencies manage cooperation activities. The JFP also called for the partner agencies to issue public “work plans” which set out commitments to cooperate in specific areas of regulatory activity. The most recent set of 23 work plans was released in 2016 and cover a variety of topics relating to public health (e.g., pharmaceutical and biological products, over-the-counter products, pesticides, workplace chemicals), plant and animal health (e.g., meat inspections, food safety), automobiles (e.g., connected vehicles, motor vehicle standards), aviation (e.g., unmanned aerial vehicles), chemical management, medical devices, locomotives (e.g., rail safety, locomotive emissions), pipeline safety, and marine safety. The full set of work plans is available for review (together with related Regulatory Partnership Statements) at www.trade.gov/rcc/.

² Available at <https://www.trade.gov/rcc/2011-Joint-Action-Plan.pdf>

³ Available at <https://obamawhitehouse.archives.gov/sites/default/files/omb/oira/irc/us-canada-rcc-joint-forward-plan.pdf>.

In February 2017, the Joint Statement of President Trump and Prime Minister Trudeau committed the two governments to “continue our dialogue on regulatory issues and pursue shared regulatory outcomes that are business-friendly, reduce costs, and increase economic efficiency without compromising health, safety, and environmental standards.” To that end, on June 4, 2018, OIRA and TBC signed a new Memorandum of Understanding (MOU) on regulatory cooperation.⁴ The MOU reaffirms the principles and commitments of the RCC and of regulatory cooperation in general. It also included, as an Annex, a new RCC Terms of Reference (2018 TOR) which lays out an updated understanding on principles, mandate, and stakeholder engagement. The 2018 TOR also identified characteristics of sectors in which regulatory cooperation may prove most fruitful:

1. Sectors that are characterized by high levels of integration and a history of cooperative regulatory approaches and supporting activities;
2. Sectors that have well-developed pre-existing regulatory frameworks that are designed to achieve similar outcomes but that are currently a barrier to increased integration and activity;
3. Sectors that offer significant, emerging growth potential and that are characterized by rapidly evolving technologies where regulatory approaches are anticipated or are currently in early stages of development; and

⁴ Available at <https://www.whitehouse.gov/wp-content/uploads/2018/06/US-CanadaMOU.pdf>.

4. Sectors where regulatory cooperation is intended to support export growth in North America.

B. Executive Order 13771

On January 30, 2017, the President issued Executive Order 13771, “Reducing Regulation and Controlling Regulatory Costs.”⁵ That Order states that “the policy of the Executive branch is to be prudent and financially responsible in the expenditure of funds, from both public and private sources.” The Order states, “[I]t is essential to manage the costs associated with the governmental imposition of private expenditures required to comply with Federal regulations.” The Order also requires that, for each fiscal year, agencies must identify in their Regulatory Plans⁶ offsetting regulations for each regulation that increases incremental cost and “provide the agency’s best approximation of the total costs or savings associated with each new regulation or repealed regulation.”

In issuing guidance to agencies on the implementation of EO 13771, on April 5, 2017, the Office of Management and Budget recognized that international regulatory cooperation may serve deregulatory functions and help agencies achieve the objectives of Executive Order 13771.⁷

D. Executive Order 13609

⁵ Available at <https://www.gpo.gov/fdsys/pkg/FR-2017-02-03/pdf/2017-02451.pdf>.

⁶ See Exec. Order No. 12,866, 58 Fed. Reg. 51735 (Sept. 30, 1993).

⁷ Available at <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/M-17-21-OMB.pdf>.

Executive Order 13609, “Promoting International Regulatory Cooperation,” signed on May 4, 2012, acknowledges the importance of international regulatory cooperation and recognizes that “differences between the regulatory approaches of U.S. agencies and those of their foreign counterparts might not be necessary and might impair the ability of American businesses to export and compete internationally.” This RFI advances the Executive Order’s objective by identifying unnecessary differences between U.S. and Canadian regulatory approaches.

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