



CANADIAN ENVIRONMENTAL LAW ASSOCIATION  
L'ASSOCIATION CANADIENNE DU DROIT DE  
L'ENVIRONNEMENT



Conservation Council  
of New Brunswick  
Conseil de la conservation  
du Nouveau-Brunswick

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## Health, safety and environmental laws at risk due to “smart regulation”

Ottawa – Canadians will face greater threats to their health and safety as a result of the implementation of the federal government’s “smart regulation” program, health and environmental groups warn in a submission to the Privy Council Office (PCO).

“For years, the federal government has drifted toward greater promotion of the economic interests of regulated industries, and less emphasis on the protection of public health and safety,” said Hugh Benevides, research associate with the Canadian Environmental Law Association and author of the report. “The government must be firm in its commitment to protective, precautionary regulations. Canadians agree with that priority, but the government has failed to acknowledge it.”

Over 75 public interest groups and individuals, representing thousands of Canadians, have signed on to the paper, demanding that the Government of Canada’s regulatory policy (the rules government departments have to follow in creating regulations) change its focus toward protecting the public.

Specifically, the groups are commenting on a **proposed Government Directive on Regulating (GD-R)**, a new regulatory policy that **fails to make protecting Canadians’ environment and health the overarching priority** of regulation. The GD-R would take effect later in 2006. The GD-R is just one part of the government’s “smart regulation” program, but it will be the most important document when officials sit down to write regulations – or decide to use non-regulatory measures. The GD-R is a central part of the government’s “smart regulation” program. It will impose requirements on government officials to eliminate so-called “trade irritants” with the U.S. It will also impose an economic means test that will weaken health and environmental outcomes.

Cross-country public consultations on a draft version of the proposed GD-R were held in eight cities in November 2005. The Privy Council Office held its final meeting with a "reference group" of private and public interests yesterday in Ottawa. Despite strong and consistent objections to the direction of the “smart regulation” program, “smart regulation” continues to emphasise economic growth and competitiveness, to the detriment of protecting the public.

The groups propose that PCO come forward with a new template for regulation – one that puts a clear priority on public good protection and precaution during the regulatory process. A “Precautionary Framework for Government Regulation” proposed by the groups would encourage the enactment of enforceable regulations that are effective in addressing threats to public goods such as public health, safety and the environment.

A precautionary approach uses regulatory powers – not voluntary measures – consistent with government’s legal mandates. “Regulations are the proven most effective response to hazardous products, new chemicals and pharmaceuticals, climate change and other threats,” said Benevides.

“The priority of the regulatory system is protecting the public good, not protecting the interests of the regulated community. This is the lesson of Justice Krever’s report on the blood supply and the Walkerton Inquiry report,” he added. “In a democracy, regulation is also an essential part of ensuring accountability. So a regulatory policy should not place barriers in the way of making regulations.”

"Our public service seems to have been captured by market logic rather than advancing the common good," said David Coon, Policy Director for the Conservation Council of New Brunswick.

The groups’ main recommendations include the following:

1. Significant changes to regulatory policy should be announced publicly and presented as a White Paper to be debated thoroughly, both publicly and in the House of Commons, before being adopted. Parliamentary committees responsible for tracking the regulatory activities of key regulatory departments, must be involved in the development of any new regulatory policy, before it is finalized and sent to Cabinet for approval.
2. The Privy Council Office should come forward with a new template for regulation – A Precautionary Framework for Government Regulation – that puts a clear priority on public good protection and precaution during the regulatory process. That means using regulatory powers – along with other instruments that are consistent with government’s legal mandates – in response to hazardous products, new chemicals and pharmaceuticals, climate change and other threats.
3. A Precautionary Framework for Government Regulation should encourage the enactment of enforceable regulations (along with complementary measures) appropriate to address threats to public goods.

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Hugh Benevides and David Coon are members of the Reference Group on Regulating: see [www.regulation.gc.ca/default.asp?language=E&Page=smartregint&doc=RefGroup\\_e.htm](http://www.regulation.gc.ca/default.asp?language=E&Page=smartregint&doc=RefGroup_e.htm).

Protection and Precaution: Canadian Priorities for Federal Regulatory Policy  
[www.cen-rce.org/eng/action\\_alerts/050120061.html](http://www.cen-rce.org/eng/action_alerts/050120061.html)

CELA page on “Public Good Regulation: is Smarter than "Smart Regulation  
[www.cela.ca/coreprograms/detail.shtml?x=2017](http://www.cela.ca/coreprograms/detail.shtml?x=2017)

Draft Government Directive on Regulating (“consultation document”):

[www.regulation.gc.ca/default.asp?Language=E&Page=smartregint&doc=GDR2complete\\_e.htm](http://www.regulation.gc.ca/default.asp?Language=E&Page=smartregint&doc=GDR2complete_e.htm)

The NGO submission is supported by the following organizations:

Alberta League for Environmentally Responsible Tourism	Concerned Residents of Winnipeg, Inc.	New Brunswick Partners in Agriculture
Atlantic Salmon Federation	Conservation Council of New Brunswick	Northwatch, Ontario
Bedford Mining Alert, Ontario	Council of Canadians	POLIS Project on Ecological Governance
Beyond Factory Farming Coalition	Council of Senior Citizens Organizations of British Columbia	Prairie Acid Rain Coalition
Breast Cancer Action Montreal	Crooked Creek Conservancy	Reach for Unbleached! Foundation, Whaletown, BC
Bruce Peninsula Environment Group	Society of Athabasca	Resource Conservation Manitoba
Campaign for Pesticide Reduction – New Brunswick	Democracy Watch	Saskatchewan Network for Alternatives to Pesticides (SNAP) Inc.
Canadian Association of Physicians for the Environment	DES Action Canada	Seniors on Guard for Medicare
Canadian Coalition for Health & Environment	Ecology Action Centre, Halifax	Sierra Club of Canada
Canadian Environmental Law Association	Environmental Defence	Sierra Legal Defence Fund
Canadian Health Coalition	Environmental Health Association of Nova Scotia	Slovenian Sports Federation
Canadian Institute for Environmental Law and Policy	Environmental Law Centre, Edmonton	Environmental Group
Canadian Unitarians for Social Justice	Falls Brook Centre, New Brunswick	SOS Eau Water Sankwan, Moncton
Citizens Environment Alliance of Southwestern Ontario	Friends of the Oldman River	Spruce River Research, Prince Albert, SK
Citizens For Renewable Energy, Ontario	Great Lakes United	Stop the Hogs Coalition, Archerwill, SK
Citizens for the Environment and Future in Eastern Ontario	Greenpeace	David Suzuki Foundation
Citizens' Network on Waste Management, Ontario	Lake Wabamun Enhancement and Protection Association, Alberta	Quill Lakes' Watchgroup, SK
Coalition to Save the Assiniboine River, Winnipeg	Learning Disabilities Association of Canada	Transboundary Watershed Alliance
	Medical Reform Group	Under the Sleeping Buffalo Research
	MiningWatch Canada	Women and Health Protection
	National Council of Women of Canada	Yukon Conservation Society

The NGO submission is supported by the following:

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