



REGULATOR'S CODE OF PRACTICE

Integrity in Pursuit of Compliance

July 2011

This Regulator's Code of Practice: Integrity in Pursuit of Compliance was developed by the Ministry of Economic Development and Trade/Open for Business in consultation with Ontario's regulatory ministries.

MESSAGE FROM THE SECRETARY OF THE CABINET

Across the broader public sector, we are creating a competitive, streamlined and modern system of government that above all maintains the safety of all Ontarians. To achieve this, government is constantly evaluating how we provide regulatory oversight to business and other members of the regulated community.

The *Regulator's Code of Practice* builds on the *Code of Professionalism*, which has been adopted by a number of regulatory ministries. The *Code of Professionalism* is based on OPS Organizational Values and contains elements of professionalism such as honesty, integrity, confidentiality and respect as well as service standards governing interactions between operations staff and regulated entities.

The *Regulator's Code of Practice* will replace the *Code of Professionalism*. It preserves the elements of professionalism and service standards and in addition sets out best practices for regulatory compliance staff to use in the development, implementation and, in some circumstances, enforcement of regulatory laws.

To reflect the modernization of regulatory compliance in Ontario, this *Regulator's Code of Practice* promotes a **compliance-focused approach** that is risk-based and focuses on the desired outcome—a **safe, healthy and fair Ontario**. This new approach for Ontario regulators will help provide a consistent approach to those we regulate—individuals and businesses, and other types of regulated entities. The result? Safe and healthy Ontarians and organizations that can concentrate on growing their businesses, within the requirements of our laws, generating economic growth for the province and providing jobs.

As members of the regulatory compliance community in Ontario, each one of you plays an important role in promoting **compliance with the laws that protect the public interest**. In creating this new *Regulator's Code of Practice*, we have built upon a solid foundation of existing principles and practices that continue to support regulatory compliance, and have made enhancements based on best practices from jurisdictions around the world and through consultation with regulators and business.

This *Code* provides Values, Elements of Professionalism, Field Staff Service Principles and Best Practices to help improve your compliance work through a greater focus on support and guidance, and guide you in promoting a transparent, fair, consistent, streamlined and focused regulatory environment. By encouraging regulators to be compliance-focused rather than enforcement-focused, **without undermining their discretion when exercising their statutory powers**, the *Code* supports the economic vitality of local communities. It also enables all individuals, businesses and other regulated entities to better understand and comply with the rules, to better pursue their social, economic and recreational activities in a safe, productive and responsible manner.

I am confident our *Regulator's Code of Practice* will continue to serve us well and will be an important support to our goal to ensure that we are *Doing the Right Thing*, an initiative created to guide public servants through the day-to-day complexities of their jobs. I encourage you to review this *Code* and adopt its principles so that we may continue to promote regulatory compliance in Ontario.



Shelly Jamieson

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PROTECTING THE PUBLIC INTEREST

Our goal of modern regulatory compliance reform is to develop a comprehensive, regulator-wide compliance-focused approach that is risk-based, stakeholder-centered and committed to protecting the interests of all Ontarians by ensuring that public safety is a priority. This will support Ontario's objective to strengthen public protection while reducing costs to individuals and business, and supporting a competitive economic climate.

Ontario is focused on achieving this goal by promoting a modern system of government. Our model includes four areas of regulatory reform:

- i. Involving stakeholders in policy and legislative development from the outset
- ii. Developing high quality legislation (effective with the minimal burden possible)
- iii. Changing government's approach to facilitating compliance
- iv. Helping and supporting the regulated community's compliance

As important members of the regulatory compliance community, you can help change our approach to compliance and work with the regulated community to enhance the level of compliance. While the majority of individuals, businesses and other regulated entities in Ontario comply with our laws, some may have difficulty in complying due to misunderstanding the requirements of the legislation, errors in taking steps to achieve compliance, or lack of available resources. Unfortunately there are also some—by far the minority—who refuse to comply.

When looking to increase compliance, legislation development staff and those who create guidance material should do so with an eye to making compliance as easy as possible for the regulated entity.

The compliance strategy that is used by a regulator in respect of a regulated entity should be based on the facts gathered, as well as the training and existing policies of your organization. For example:

- For those who are in **full compliance**, consider providing compliance assistance.
- For situations where there is **no previous history of non-compliance**, consider providing compliance assistance as well as progressive compliance and enforcement action, where appropriate.
- For situations where there is **repeated history of non-compliance**, consider using progressive compliance and enforcement actions.
- For situations where the level of **risk is immediate and serious**, use your organization's appropriate enforcement actions.

These strategies are discretionary and are intended to complement and enhance as opposed to replace existing compliance strategies that have been implemented by provincial regulators.

The *Regulator's Code of Practice* will support our implementation of regulatory reform and the ongoing process of creating a modern government, helping to improve the overall compliance level of Ontario's regulated community.

What is the Regulator's Code of Practice?

Compliance staff in Ontario undertake a wide range of activities that are critical to protecting the public interest by ensuring that health, safety, environmental, resource and fiscal legislation and polices are complied with. Some of the areas of responsibility include:

- Health and safety of workers
- Commercial vehicle safety
- Financial sector oversight
- Consumer protection
- Long-term care facility licensing
- Tax compliance
- Public health
- Child care facility licensing
- Animal health and welfare
- Environmental protection
- Food safety
- Building design and construction
- Protection of natural resources
- Fire safety
- Residential landlord and tenant oversight
- Alcohol and gaming licensing
- Private school licensing

The Government of Ontario is creating a competitive, streamlined and modern system of government that will above all maintain the safety of all Ontarians. To reflect the modernization of Ontario's regulatory compliance services, this document promotes a **compliance-focused approach** that is risk-based and focuses on the desired outcome—a safe, healthy and prosperous Ontario. The *Code* provides a consistent set of Values, Elements of Professionalism and Service Principles for regulatory compliance staff. The Best Practices provide a framework for regulators, as an entire organization, to approach their compliance goals. Some elements of the Best Practices may not be relevant to your role or may only be relevant in the exercise of certain functions, but as a whole they speak to the comprehensive role your organization plays as a regulator.

Remember, **this document is a guide, not a corporate directive or policy and must be used as such.** The *Code* is not to be used by either the employer or employee in any disciplinary proceedings or for purposes of performance evaluation.

What is a Compliance-Focused Approach?

A compliance-focused approach asks regulators to **focus on the objectives of regulatory law and policy** and then consider the most innovative, efficient and effective method of achieving compliance. This shift in focus can lead to proactive approaches to compliance based on prevention, such as compliance assistance, guidance and education, rather than solely focusing on the investigation of compliance failures. When combined with **risk-based targeting**, this new approach can help achieve maximum compliance. The aim is to have greater effect with less burden.

What is a Risk-Based Approach?

Risk management is the process of identifying potential hazards and undesirable events, understanding the likelihood and consequences of the undesirable events, and taking steps to reduce their risk. This approach to compliance forms the basis of our regulatory enforcement by:

- Ensuring a consistent approach to compliance across Ontario regulators.
- Identifying threats as well as opportunities for compliance improvements.
- Allowing for more effective resource allocation, resulting in improved public safety.
- Highlighting regulatory gaps or overlaps that should be addressed.
- Informing the appropriate enforcement strategy, based on objective criteria including, but not limited to, legislation, high-risk activities and history of compliance.

Who is the *Regulator’s Code of Practice* For?

The *Code* is applicable to ministries/organizations that are involved in regulatory compliance, including legislative development, policy, compliance promotion/communication, licensing, audit, inspection, investigation, and enforcement activities. Unlike the *Code of Professionalism* that this document replaces, training in this latest version is **mandatory** for regulatory compliance staff across Ontario’s regulatory spectrum. This includes staff stretching from policy staff to investigators and includes regulatory compliance management and support staff. Additionally, ministries can decide to extend this *Code* to transfer payment agencies and delegated administrative authorities under their mandate.

Management				
Policy and Other Staff Involved in Legislation Development	Guidance Material Development, Consultation and Prevention Staff	Licensing, Approvals, Permits Staff	Auditors, Inspectors, Compliance Officers	Investigators
Supporting Staff				

This *Code* **does not apply** to Crown Counsel and paralegals, the legislative branch, the judiciary, the Human Rights Commission, tribunals, police, internal regulators (i.e., government regulating work of other government bodies), or federal and municipal regulators). Additionally it does not apply to compliance work with regard to transfer payment agencies unless considered relevant and appropriate by the responsible ministry.

Regulator’s Code of Practice

The *Code* provides a set of Organizational Values, Elements of Professionalism, Service Principles and Best Practices to support compliance activities and to promote a consistent level of service excellence for the citizens of Ontario. The *Code* will also ensure that businesses and the public are treated fairly and with respect when they are being licensed, inspected, investigated, audited or otherwise regulated. Consistent, professional and efficient service in regulatory compliance activities respects individuals and allows businesses to better focus on increasing competitiveness and economic growth while complying with Ontario’s rules and regulations.

All public servants must follow the provisions of the *Public Service of Ontario Act* (PSOA) which provides the legislative framework to foster and support the key OPS values of professionalism, integrity, accountability and excellence. The PSOA does two things: Sets out the ethical framework for all public servants and the human resource management framework for public servants in ministries and Commission public bodies.

<p>OPS Organizational Values (See Appendix A)</p>	<ul style="list-style-type: none"> • Trust • Diversity • Creativity • Efficiency 	<ul style="list-style-type: none"> • Fairness • Excellence • Collaboration • Responsiveness
<p>Elements of Professionalism</p>	<ul style="list-style-type: none"> • Honesty and Integrity • Objectivity • Timeliness 	<ul style="list-style-type: none"> • Respect • Confidentiality • Knowledge

<p>Field Staff * Customer Service Principles</p>	<ul style="list-style-type: none"> • Introduce yourself and your ministry/ organization. • Provide general information regarding the inspection, audit or enforcement process, including identifying the criteria that will be used in the evaluation. • Identify the statutory authority for the inspection, investigation or audit. 	<ul style="list-style-type: none"> • Inform the stakeholder about the formal complaint mechanisms and appeal procedures relevant to that regulator. • Provide a contact number should further information or feedback be required.
<p>Regulatory Best Practices</p>	<ul style="list-style-type: none"> • Evaluate risk. • Protect the public interest and support economic progress. 	<ul style="list-style-type: none"> • Provide guidance. • Keep information requirements as simple as possible.

** Field staff include auditors, compliance officers, inspectors and investigators and other staff where relevant.*

The OPS Organizational Values and Elements of Professionalism should also always be followed. The Field Staff's Service Principles apply to staff with field duties.

The level to which you use the Best Practices may vary according to your role, the existing regulatory compliance needs and the regulatory task at hand. The Best Practices are meant to enhance your existing training and should be used with common sense and the understanding that they are tools to improve outcomes, not to affect enforcement discretion.

Elements of Professionalism

In addition to the Organizational Values that govern all public servants (see Appendix A), elements of professionalism have guided Ontario’s regulatory staff in carrying out their responsibilities at the highest level since 2001.

Honesty and Integrity

Definition	Conduct duties in such a manner as to inspire confidence and respect for the position of public trust held by all regulatory compliance staff by always using honesty and fairness.
Intent	Staff will not engage in activities that are, or could appear to be, incompatible with their responsibilities and duties, or call into question their objectivity, integrity and impartiality. Staff will conform to the conflict of interest rules for current and former public servants, Ontario Regulation 381/07, <i>Public Service of Ontario Act, 2006</i> (see Appendix B).
Regulatory Compliance Staff	<ul style="list-style-type: none"> • Follow and apply program policies and procedures in all interactions with the public, as well as both internal and external stakeholders. • Fully explain the rationale behind a decision/action. • Do not be critical of your organization in conversation with others. • Anticipate and actively avoid situations where there is a real or perceived conflict of interest. • Compile information from all parties accurately and completely in an unbiased fashion. • Base decisions on current and relevant information, as supported by the government’s and your organization’s policies and procedures. • Ensure that you are viewed as above reproach and impartial by all parties. <p>In addition, public-facing staff should:</p> <ul style="list-style-type: none"> • Fully explain options (e.g., for appeal) and provide details of the investigative process and the legislative provisions governing licensing, an investigation, inspection or audit. • Share fully and transparently all relevant information with the public, where appropriate, while complying with legislative requirements related to confidentiality and anonymity.

Respect

Definition	Treat everyone with respect by being courteous at all times and in all situations.
Intent	Staff will be respectful, courteous and professional at all times, no matter how difficult or strained the situation.

Respect continued

Regulatory Compliance Staff

- Listen carefully and recognize internal/external stakeholder's concerns/complaints.
- Where appropriate, make consistent eye contact with the individuals in order to develop rapport.
- Recognize the province's diversity and treat each person with respect.
- Maintain an even, calm composure at all times.
- Adjust personal demeanour and presentation to the individual's circumstances.
- Where appropriate, take into account personal sensitivities, difficulties and specific circumstances.
- Where appropriate, acknowledge the difficulties caused by disruptions to routines (e.g., interrupting an important phone call).
- Deliver decisions, orders and/or official documents in a way that is sensitive to possible adverse individual reactions.
- Exit temporarily from escalating situations, as appropriate.

Objectivity

Definition

Perform all duties impartially and objectively, without favour or ill will.

Intent

Staff will treat all internal/external stakeholders and situations with objectivity and impartiality, and make decisions based on relevant legislation, standards and your organization's policies and procedures.

Regulatory Compliance Staff

- Keep our organization's regulatory and compliance goals in mind when interacting with both internal and external stakeholders.
- Focus on the issues of a situation rather than the personality or personal preferences of either the individual(s) or yourself.
- Regardless of your role and the corresponding authority, use communication skills to enhance the effectiveness of the encounter when interacting with internal and external stakeholders.
- Treat all individuals fairly.
- Ensure decisions are informed by legislation, training, policies, procedures and the facts at hand.
- Immediately disclose any possible conflict of interest to your manager.
- Consider all sides of the argument and/or viewpoint from the parties involved.
- Base decisions solely on relevant and available information.
- Avoid personalizing situations when making decisions.
- Never allow an aggressive individual to negatively impact your work.

Confidentiality

Definition	Treat all confidential information obtained by any means in confidence unless performance of duties or legal provisions require otherwise.
Intent	Staff, where applicable, adhere to freedom of information rules to ensure that confidentiality and sensitivity of stakeholder information is respected (see Appendix C). Staff will collect, use and share all internal and external information in compliance with applicable legislation, regulations, policies and procedures.
Regulatory Compliance Staff	<ul style="list-style-type: none">• Recognize and respect legal rules regarding the collection, use and disclosure of information (e.g., in statute, <i>Freedom of Information and Protection of Privacy Act</i>, other privacy legislation, <i>Canadian Charter of Rights and Freedoms</i>).• Consciously monitor and ensure control and custody of all documents and speech communication.• Ensure that all personal, confidential and sensitive information is not discussed with, or disclosed to, unauthorized persons, knowingly or unknowingly.• Advise individuals that some of the information they are providing may be accessible by others under the <i>Freedom of Information & Protection of Privacy Act</i> or the <i>Municipal Freedom of Information & Protection of Privacy Act</i> (see Appendix C).• For Freedom of Information requests, direct individuals to your organization's Freedom of Information coordinator.

Knowledge and Competencies

Definition	Enhance and improve the level of knowledge and competence of regulatory compliance staff.
Intent	Staff and managers will ensure they are knowledgeable through a commitment to continuous learning and are competent when executing their responsibilities.
Regulatory Compliance Staff	<ul style="list-style-type: none">• Continually monitor your state of job knowledge and competency, and be self-motivated in seeking learning opportunities and materials.• Consistently update yourself on relevant legislation, policy, terminology and procedures.• Proactively monitor community and mass media on an ongoing basis for developments, trends and events which may impact a specific sector/regulated community.• Serve as an information resource to coworkers.

Timeliness

Definition	Conduct and conclude activities in a timely fashion.
Intent	Staff adhere to legislative requirements, policies and procedures to ensure that established timelines are met and meet all internal and external time commitments.
Regulatory Compliance Staff	<ul style="list-style-type: none">• Respect internal and external timelines (e.g., legislative timelines).• Organize yourself using appropriate time management tools and/or other resources.• Establish reasonable timelines for self and clearly communicate same to co-workers and the regulated community.• Promptly communicate and negotiate any timeline changes with internal/external stakeholders, if allowable within established authority.• Promptly respond to internal/external stakeholders regarding an inquiry.• Ensure decisions are made and communicated to the involved individual(s) according to legislation, policies and procedures, or as soon as possible.

Field Staff Service Principles

Regulatory compliance staff must uphold the public trust and provide the highest level of quality service consistent with their duties (see Appendices A, B). Field staff include auditors, compliance officers, inspectors and investigators and other staff who interact with the public and exercise compliance and enforcement powers.

The success of the Ontario regulatory regime is measured not only by its success in achieving compliance with provincial law but also by how each employee conducts him/herself when engaged in compliance activity. The degree of professionalism displayed by every employee is a critical factor in the determination of how successfully the whole organization is perceived.

When regulatory compliance field staff interact with the regulated community, it is important that additional principles are followed in order to provide a high level of service and consistency.

On initial contact with a regulated community, regulatory compliance field staff will:

- Introduce yourself and your ministry/organization.
- Provide general information regarding the inspection, audit or enforcement process.
- Identify the statutory authority for the inspection, investigation or audit.
- Inform the individual(s) about the formal complaint mechanisms and appeal procedures relevant to that regulator.
- Provide a contact number should further information or feedback be required.

Regulatory Best Practices

These regulatory best practices include elements that i) continue to protect the interests of the people of Ontario, ii) reflect a compliance-focused and risk-based approach to regulatory adherence and iii) support economic growth within the province.

While these best practices apply to staff involved in planning and undertaking compliance activities, the level to which you use them may vary according to your role, the existing regulatory compliance needs, the legislative and policy context and the current task at hand.

Support Economic Progress – Not Applicable to Field Staff

Definition	Regulators should recognize that in addition to protecting the public interest, a key element of their activity will be to encourage, when possible and appropriate , economic progress.
Intent	Good legislation and its enforcement enable economic activity by creating a level playing field for the regulated community. However, regulation that imposes unnecessary burdens can stifle enterprise and undermine economic progress for both an enterprise and the province without increasing the intended outcomes of the regulation. Regulators should balance the interests of all stakeholders when determining general policies or principles and developing legislation.
Regulatory Compliance Staff	<ul style="list-style-type: none">• Review your regulatory activities and interventions based on the extent to which it would be appropriate to remove or reduce the economic burdens associated with the legislation.• During the legislative development phase, consider the minimum economic burden necessary to achieve the desired outcome.• Regulatory requirements should be regularly reviewed to ensure they are relevant and effective, continue to be a priority and impose the minimum economic burden.• Consider the size of the regulated entity and the nature of the activity when evaluating the consequence of a proposed legal requirement, ensuring that it is proportionate to the specific harm against which the requirement is intended to protect.• Review best practices in the development of legislation, where appropriate, such as drafting performance-based rather than prescriptive rules, alternatives to regulation, regulatory impact assessment and the use of plain language.

Evaluate Compliance and Risk

Definition	Consider the public interest and the management of risk when planning and undertaking compliance activities.
Intent	Regulatory compliance staff will target efforts on high-risk and/or non-compliant areas and use compliance tools that are flexible and proportionate to the level of risk and the nature and circumstances of the contravention.
Regulatory Compliance Staff	<ul style="list-style-type: none">• Clearly communicate the desired outcome to the regulated community.• Prioritize assignments with respect to risks posed to individual(s) (i.e., workers) and public.• Foster compliance by building and utilizing partnerships to provide information, training and education.• Identify high-risk entities and activities by using appropriate operational/program plans to best utilize time and make these publicly available.• Identify individuals/employers/sectors for investigation by reviewing material provided by related sources and partners targeting known risks (e.g., sectors, type of work, companies).• Draw on your experience (e.g., automatic applied knowledge of business, legislation, past experiences with individuals or employer/business process, awareness of environment, and people and skills processes) to make linkages with all information during investigation.• Benchmark the regulated entity's compliance by reviewing their history.• Deal with particular issues by assessing all relevant information and determine the optimal approach.• Evaluate the available compliance options/tools and choose the best option/tool for the circumstances (e.g., a first versus repeat offender) based on individual ministry's compliance policies.• Issue appropriate actions consistent with policies, procedures and directives.• Assist the regulated entity in achieving compliance by monitoring the steps taken or by developing compliance plan where legally permissible.• Develop and publish outcome based targets and/or related performance measures in key public protection areas.• Continually monitor, evaluate and improve the organization's regulatory work.

Provide Guidance

Definition	Regulators should provide compliance assistance and educational materials, which are easily accessible and in plain language.
Intent	Regulators can improve compliance through greater focus on support and assistance, providing information and other types of compliance assistance in plain language to enhance knowledge and understanding of relevant legal requirements for regulated entities. Guidance services should generally be provided free of charge.
Regulatory Compliance Staff	<ul style="list-style-type: none">• Ensure that all legal requirements which are posted on Ontario's e-Laws website and published in the <i>Ontario Gazette</i> are promptly communicated or otherwise made available to relevant stakeholders by the regulatory ministry.• Provide information, assistance and guidance in clear, concise and accessible language through appropriate communication channels (e.g., face-to-face interaction, telephone helpline, online guidance, field visit reports) to maximize the reach, accessibility and effectiveness of assistance while ensuring efficient use of resources.• Ensure that regulated entities can reasonably seek and access assistance and guidance in achieving compliance from the regulator without directly triggering an enforcement action where allowed by legislation and policy. <p>In addition, guidance material development staff should also:</p> <ul style="list-style-type: none">• Involve regulated entities in developing both the content and style of compliance assistance and educational materials.• Assess the effectiveness of available information and support services by monitoring regulated entities' awareness and understanding of legal requirements, including the extent to which these entities rely on external assistance to understand and comply with legal requirements.• Ensure that assistance or guidance support aimed at making outcome-based improvements clearly distinguishes between minimum statutory requirements and best practices.• Guidance should be made available in written format.

Keep Information Requirements as Simple as Possible

Definition	Be aware that providing information to regulators can be a burden to those we regulate.
Intent	It is important to balance the collection of information from regulated entities with the burdens (e.g., time, cost, personnel resources) that will result.
Regulatory Compliance Staff	<p>When determining the costs and benefits of required information, regulators should give explicit consideration to reducing burdens to regulated entities through:</p> <ul style="list-style-type: none">• Adjusting information requests according to risk, where legally permissible.• Reducing the frequency of information collection, where legally permissible.• Obtaining required information from other sources (e.g., Single Business Number, or information sharing agreements using the <i>Regulatory Modernization Act</i>, cross appointments, or other legally authorized methods).• Allowing electronic submission of information to the regulator.• Consulting with regulated entities to better understand the burden of information collection requirements and address these concerns, where legally possible.• Accepting required information from the regulated entity in the format provided except where format specified in legislation (e.g., prescribed forms).• Collecting information in a format that is compatible with other regulators who collect similar information.

The Table of Eleven – A Tool To Help Improve Regulatory Work

To promote outcome-based thinking necessary for successful regulatory work, the Table of Eleven is a tool for thinking about compliance and for increasing the likelihood of regulatory compliance. While this tool can help all staff involved in the regulatory compliance field in how they think and approach their work, **it is particularly relevant to policy staff and staff creating regulatory guidance material.**

In 1994, the Dutch Ministry of Justice started to monitor compliance with government legislation. Out of this project arose the Table of Eleven, a tool that is based on research from the behavioural sciences and practical field experience from regulators. The tool was developed to ensure that the greatest compliance possible with legislation can be achieved by providing criteria to measure draft or current legislation and policies to see whether or not it is possible to enforce them and whether the objectives of the legislation will be realized.

Spontaneous Compliance Dimensions

These are factors that affect the incidence of voluntary compliance—that is, compliance which would occur in the absence of enforcement. They include the level of knowledge and understanding of the rules, the benefits and costs of complying, the level of acceptance of the ‘reasonableness’ of the regulations, general attitudes to compliance by the target group and ‘informal control’, and the possibility of non-compliance being sanctioned by non-government actors.

Control Dimensions

This group of factors determines the probability of detection of non-complying behaviour. The probability of detection is directly related to the level of compliance. The factors considered are the probability of third parties revealing non-compliance, the probability of inspection by government officials, the probability of inspection actually uncovering non-compliance and the ability of inspection authorities to target inspections effectively.

Sanctions Dimensions

The third group of factors determines the expected value of sanctions for non-compliance, that is, the probability of a sanction being imposed where non-compliance is detected and the severity and type of likely sanctions.

The Table of Eleven takes eleven aspects of a regulation, each of which will impact the likelihood of compliance. In considering how to develop, communicate and enforce the details of the regulation, Table of Eleven helps identify areas that are likely to increase compliance, so that adjustments can be taken to make compliance more likely and the regulations as self-enforcing as possible.

The eleven factors are:

Spontaneous Compliance Dimensions

1. Knowledge of the regulation in the regulated community
2. Costs of compliance/benefits of non-compliance
3. Degree of stakeholder acceptance of the regulation
4. Natural adherence to rules of the regulated community
5. Extent of informal monitoring

Control Dimensions

6. Probability of report through informal channels
7. Probability of inspection
8. Probability of detection
9. Selectivity of the inspector

Sanctions Dimensions

10. Chance of sanctions
11. Severity of sanctions

CONCLUSION

The regulatory compliance community's commitment to uphold the *Regulator's Code of Practice* is a key step to modernizing Ontario's regulatory compliance activities. The move towards a modern system of government, specifically the modernization of Ontario's regulatory compliance services, will help ensure that our regulatory compliance outcomes are met, and the best interests of all Ontarians are safeguarded while creating an environment in which our business community can grow.

For more information, please contact your manager.

FREQUENTLY ASKED QUESTIONS

Why is the Regulator's Code of Practice being implemented?

The Government of Ontario is planning for the future by creating a competitive, streamlined and modern system of government that above all maintains the safety of all Ontarians. To reflect the modernization of Ontario's regulatory compliance services, this document promotes a **compliance-focused approach** that is risk-based and focuses on the desired outcome—a safe, healthy and fair Ontario.

How does the Code relate to the existing Code of Professionalism?

The *Regulator's Code of Practice* will replace the *Code of Professionalism*. It preserves the elements of professionalism and service standards and in addition sets out best practices for regulatory compliance staff to use in the development, implementation and, in some circumstances, enforcement of regulatory laws.

How will the Code help me do my job?

The *Code* provides a consistent set of Organization Values, Elements of Professionalism and Service Principles for regulatory compliance staff. Additionally, the Best Practices will help guide all regulatory staff, including policy, guidance development, consultation and prevention staff in implementing a compliance-focused approach to regulatory adherence and providing a consistent level of service excellence.

How do businesses and the public benefit from the Code?

The public benefits from the high level of professionalism practiced by all regulatory compliance staff. The *Code* further ensures that businesses and the public are treated fairly and with respect when they are being licensed, inspected, investigated or audited. Consistent, professional and efficient service in regulatory compliance activities permits businesses to better focus on increasing competitiveness and economic growth. Additionally, applying the elements found in the Best Practices can promote greater compliance amongst business, other regulated entities and the public while achieving the goal of the regulator and protecting the public interest.

How is the Code different from what regulatory compliance staff did previous to its implementation?

While in the past some regulatory compliance work has had a solely enforcement-based focus, this document redirects regulators to focus on the desired outcomes—a safe, healthy and fair Ontario. The *Code* formalizes the high level of professionalism expected from the regulatory compliance community and it reinforces organizational values. The goal of the *Code* is to provide a consistent set of expectations for regulatory compliance staff and a consistent level of service excellence for the public, business and other regulated entities with the key aim of promoting a compliance-based approach through a focus on outcomes that protect the public interest.

When will the enhanced Regulator's Code of Practice be launched?

The *Code* will be rolled-out in a phased approach starting Summer 2011. The lead trainer is the Ministry of Revenue, Learning and Workforce Planning Office:

- All regulatory ministries: Beginning Summer 2011
- Participating Agencies, Boards, Commissions and Delegated Administrative Authorities: Upon guidance from the responsible ministry

What staff are required to be trained in the Regulator's Code of Practice and who will determine this?

The *Code* speaks to the full spectrum of regulatory compliance. To truly modernize regulatory compliance it is necessary to include all staff, from those who develop the rules, to those who communicate and explain them, to those who inspect and enforce them. For that reason this *Code* is for all staff involved in regulatory compliance. See *Ontario Regulatory System* chart on next page.

Ontario Regulatory System

Management				
Policy and Other Staff Involved in Legislation Development	Guidance Material Development, Consultation and Prevention Staff	Licensing, Approvals, Permits Staff	Auditors, Inspectors, Compliance Officers	Investigators
Supporting Staff				

Ministries can decide to extend this Code to transfer payment agencies and delegated administrative authorities under their mandate.

Who will determine who will be trained in the Regulator's Code of Practice?

Management of regulatory organizations will be tasked with determining which of their staff are required to take the training. The number of staff required to take the training on the *Code* shall be reported to the Ministry of Revenue, Learning and Workforce Planning Office who has the lead on training for this initiative.

What happens if I don't adhere to the Code?

Remember, this document is a guide, not a corporate directive and must be used as such. This message is especially important to regulatory compliance staff exercising their statutory powers, such as enforcement staff. The Best Practices are not meant to affect your enforcement discretion.

If duties of my position conflict with some of the Best Practices, how can I comply with them in this situation?

The Best Practices section of the document **applies to staff only where appropriate**. The level to which you use them may vary according to your role, the existing regulatory compliance needs and the current task at hand. The Best Practices are meant to be used with common sense and the understanding that they are tools to improve outcomes, not to affect enforcement discretion.

Does this Code apply to internal interactions between co-workers or between employees and managers?

The *Code* was implemented to provide a consistent set of expectations for regulatory compliance staff and a consistent level of service excellence for the public while communicating the importance of a compliance-focused approach. The principles and elements emulated by the *Code* serve to supplement legislation, policies and directives already in existence and which govern our interactions with each other. The *Code* is not to be used by either the employer or employee in any disciplinary proceedings or for purposes of performance evaluation.

Does the Code change how I do my job?

In essence, the *Code* is a formalization of the high level of professionalism expected from regulatory compliance staff. The addition of the Best Practices aims to communicate the importance of a compliance-focused approach and this could change how we as a whole do our jobs. It does not affect statutory powers and duties and the exercise of enforcement discretion.

How will enhanced information sharing help me and other regulators, as well as the regulated community?

Increased access to already held information may reduce the need to obtain the same information from the regulated entity, making it easier and faster for you to complete your task and less burdensome and frustrating for the regulated community.

What if the Code doesn't have the answer?

There may be occasions when the *Code* does not have the answer to the question, situation, or difficult judgment call you are faced with. In these cases, consult with your manager who will provide appropriate direction.

APPENDIX A: ONTARIO PUBLIC SERVICE ORGANIZATIONAL VALUES

Trust

We act honourably and honestly in all our relationships with the people we serve, work with and who rely on us. We do our best to keep our commitments and fulfill expectations.

Fairness

We deal with others in an open, impartial and non-discriminatory manner. We ensure that the processes we use and the decisions we make are fair and seen to be fair.

Diversity

We celebrate our differences and draw on the strengths and capabilities of all of Ontario's communities. We welcome and respect divergent points of view to inform and enlighten us. We depend on and value each other.

Excellence

We strive for and recognize competence and excellence. We work hard to provide the best policy advice and the highest quality services that respond to the needs of Ontarians.

Creativity

We create new solutions by listening and learning and by being innovative and open to new ideas and approaches.

Collaboration

We work with team members, colleagues and partners to build consensus, solve problems and share responsibility.

Efficiency

We make careful, prudent and effective use of the hard earned public dollars, assets and resources entrusted to us.

Responsiveness

We engage with clients, stakeholders, bargaining agents, the general public and our staff to find out how we can do better. We monitor and measure to make sure we are meeting our goals.

APPENDIX B:

PUBLIC SERVICE OF ONTARIO ACT INFORMATION FOR ALL PUBLIC SERVANTS

Public Service of Ontario Act – What You Need To Know

The *Public Service of Ontario Act* (PSOA) replaces the *Public Service Act* (PSA) and affects all public servants in ministries, ministers’ offices and public bodies*, including appointees. The PSOA provides the legislative framework to foster and support the key OPS values of professionalism, integrity, accountability and excellence.

The PSOA does two things: Sets out the ethical framework for all public servants and the human resource management framework for public servants in ministries and Commission public bodies.

The term ‘public servant’ includes:

- Employees of ministries
- Appointees and employees of public bodies
- Ministers’ staff

The ethical framework addresses:

- Disclosure of wrongdoing
- Conflict of interest
- Political activity
- Oath of Office and Oath of Allegiance

The human resource management framework addresses:

- Employment categories
- Human resource management authorities and responsibilities

Key Components	What it Means For You
<p>NEW Disclosure of Wrongdoing The PSOA provides a process for all public servants in ministries, ministers’ offices and public bodies to disclose serious wrongdoing with protection against reprisal.</p>	<ul style="list-style-type: none"> • A disclosure can be made internally to the ethics executive or directly to the Integrity Commissioner. • Disclosures can be about breaking a law or regulation, grave and unreasonable danger to a person or the environment, gross mismanagement, or directing someone to commit one of the first three. • If a disclosure is accepted by the Integrity Commissioner, the Commissioner will refer the matter to the appropriate ethics executive for investigation, without revealing the discloser’s identity. • Anyone guilty of reprisal could face disciplinary action, up to and including dismissal.

<p>Conflict of Interest The PSOA clarifies existing rules to ensure that public servants' private interests are not in conflict with their public service responsibilities.</p>	<ul style="list-style-type: none"> • Rules for ministries remain the same. • NEW Rules apply to all current and former public servants in both ministries and public bodies. • Conflict of interest rules also apply to public servants in ministers' offices. • NEW Public bodies can develop their own rules for approval by the Conflict of Interest Commissioner.
<p>Political Activity Rights The PSOA clarifies existing rules to balance neutrality of the public service with individuals' ability to engage in political activity.</p>	<ul style="list-style-type: none"> • The rules have not changed but their application has. • The rules for ministries remain the same. • NEW Basic rules now apply to all employees and appointees of public bodies. • NEW Modified rules apply to ministers' staff. • Additional rules apply to the "specially restricted" class.
<p>Employment Categories The PSOA simplifies employment categories.</p>	<ul style="list-style-type: none"> • NEW There are now only two types of employee: regular or fixed term. • NEW Terms like "civil servant", "crown employee", "classified" and "unclassified" are no longer used.
<p>Human Resource Management Responsibilities The PSOA streamlines human resource management in the OPS.</p>	<ul style="list-style-type: none"> • NEW The Civil Service Commission is renamed the Public Service Commission (PSC). • NEW The PSC has the authority to manage all non fiscal human resource matters in the OPS, with the power to delegate. • HR management will be delegated to deputy ministers for ministry staff. • NEW For those public bodies over which the PSC has HR management authority (known as "Commission public bodies"), the PSC can delegate that authority to a deputy, a chair or another person for their respective public body staff.
<p>Oath of Office and Oath of Allegiance</p>	<ul style="list-style-type: none"> • NEW The PSOA requires that all public servants swear or affirm an Oath of Allegiance and an Oath of Office (no longer just for ministry employees).
<p>What Has Not Changed</p>	<p>What it Means For You</p>
<p>Salaries and Benefits</p>	<ul style="list-style-type: none"> • Existing salaries, benefits and conditions of employment are maintained in new directives of the Management Board of Cabinet and the Public Service Commission.
<p>Collective Agreements</p>	<ul style="list-style-type: none"> • There are no changes to any provisions of collective agreements.

For more information, refer to the *Public Service of Ontario Act (PSOA)* and the *Guide to Public Service Ethics and Conduct*.

* A list of public bodies is provided in a regulation under the PSOA.

This information is provided as a convenience only and should not be relied on as authoritative. For the authoritative text of the law, see the official volumes and official consolidations printed by Publications Ontario.

APPENDIX C: FREEDOM OF INFORMATION

The *Freedom of Information and Protection of Privacy Act* (FIPPA) provides individuals with a right of access to certain records and personal information under the custody or control of institutions covered by the *Acts*.

The purposes of the FIPPA are as follow:

1. To provide a right of access to information under the control of institutions in accordance with the principles that,
 - Information should be available to the public,
 - Necessary exemptions from the right of access should be limited and specific,
 - Decisions on the disclosure of information should be reviewed independently of the institution controlling the information; and
2. To protect the privacy of individuals with respect to personal information about themselves held by institutions and to provide individuals with a right of access to that information.

Freedom of Information (FOI) means the right to access information under the control of an Ontario organization defined in one of two *Acts*:

- *Freedom of Information and Protection of Privacy Act* (FIPPA)
- *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA)

The information covered by the *Acts* can be personal or non-personal information recorded by any means— print, film, electronic, etc. Examples include:

- Drawings, diagrams
- Pictorial or graphic works
- Memoranda
- Books (if not published)
- Plans, maps
- Photographs or digital images
- Films, microfilms
- Sound recordings, videotapes

FIPPA and MFIPPA govern personal information protection and access to information held by thousands of provincial and local public sector organizations, for example:

- Ontario government ministries.
- Provincial agencies, boards and commissions, local library boards, police service boards, school boards and municipalities.
- Universities and community colleges .
- Any other publicly funded organization that has been named as an “institution” under section 2 of FIPPA or MFIPPA or their regulations.

For a list of the organizations governed by FIPPA and MFIPPA, please refer to the *Directory of Institutions*.



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