

RE: Prioritizing regulations

From: "Spakowski, Mark (MAG)" <mark.spakowski@ontario.ca>
To: "Greenberg, Martha (CAB)" <martha.greenberg@ontario.ca>, "Madhany, Shamira (CAB)" <shamira.madhany3@ontario.ca>
Cc: "Pena-Orr, Sonia (MAG)" <sonia.pena-orr@ontario.ca>, "Armstrong, Ralph (MAG)" <ralph.armstrong@ontario.ca>, "Bromm, William (CAB)" <william.bromm2@ontario.ca>, "Shin, Linda (MAG)" <linda.shin@ontario.ca>
Date: Wed, 14 Feb 2018 10:51:08 -0500
Attachments: Complete Priority List.xlsx (66.7 kB)

I'm just passing on a copy of the list with the right hand columns populated and columns for priority and description. This is still not finished but getting closer to what we envisage circulating to ministries.

Looking forward to discussing this tomorrow, hopefully. (For scheduling purposes I can reschedule anything other than my 11:30 meeting.)

From: Greenberg, Martha (CAB)
Sent: February 13, 2018 7:33 PM
To: Spakowski, Mark (MAG) <Mark.Spakowski@ontario.ca>; Madhany, Shamira (CAB) <Shamira.Madhany3@ontario.ca>
Cc: Pena-Orr, Sonia (MAG) <Sonia.Pena-Orr@ontario.ca>; Armstrong, Ralph (MAG) <Ralph.Armstrong@ontario.ca>; Bromm, William (CAB) <William.Bromm2@ontario.ca>; Shin, Linda (MAG) <Linda.Shin@ontario.ca>
Subject: RE: Prioritizing regulations

Thanks Mark, I'll connect with Shamira if she is free before 9am tomorrow otherwise we'll look for time Thursday morning as for sure we want to do this together. We can talk more then but I am fully on board with using this to prioritize, and William did explain that purpose early on so we are aligned on that. With respect to what information you have available vs creating new, was just a question so by no means do I think it is worth taking time away from priority drafting.

I think CO can absolutely play a helpful role in prioritizing, we are quite used to having discussions with ministries about their priorities vs PO priorities and working to find common ground and this is very much aligned with that.

We can discuss more and if we can't do before 9am tomorrow I'll have my office find us time Thursday morning.
Thanks!
martha

From: Spakowski, Mark (MAG)
Sent: February-13-18 6:52 PM
To: Greenberg, Martha (CAB); Madhany, Shamira (CAB)
Cc: Pena-Orr, Sonia (MAG); Armstrong, Ralph (MAG); Bromm, William (CAB); Shin, Linda (MAG)
Subject: RE: Prioritizing regulations

Hi Martha

I can speak before 9 am tomorrow or on Thursday. I'm not sure how you are coordinating with Shamira but I'll let you work that out at your end.

A few initial responses to your comments, which we could discuss further, of course:

Yes, the idea is that each Ministry would get just their portion of the list.

Re your question about what other information would be useful, here are a few comments:

- We are trying to find a way to do this by using the information we already have in our OIS. Generating and collecting information on status/estimates of drafting involved, etc. and keeping that information up to date would not be something we could do at this stage – particularly if hundreds of files are involved. Collecting some limited additional information may be possible, but doing that takes away from the time we can spend drafting – which could be counterproductive unless the additional information enables significant files to be removed as files we would otherwise be working on.
- It may also be useful to discuss, and be clear on, what the purpose of the exercise is and how OLC or others would be using the priority categories that come out of this. We were proposing this, not as a tool for tracking progress, but as a way to distinguish high priority items from lower priority items so we can make sure we spend our time on the right things. I'm envisaging that we'll use this to figure out which files to work on and, perhaps most importantly, which files to set aside. In particular it would be very useful to have information that will allow us to prioritize Health's 77 files against MTO's 66 files against Finance's 68 files, for example.

In discussions here at OLC, and in thinking further about this, at least a couple of things have arisen that we should particularly discuss:

- It would also be good to discuss other sources of information that will help to better prioritize among all these files. For example, when we discussed this here at our office we thought Cabinet Office might be able to make use of the tracking information you have on government priorities to help determine the level of priority we should give to particular drafting files.
- In discussions here we have been struggling a bit about how to articulate the different priority levels we'd be asking ministries to assign and Cabinet Office to confirm. That is something on which Cabinet Office input will be particularly useful. That is also particularly important because the process, at least as I've proposed it, would involve Cabinet Office in making sure ministries don't over prioritize their files. We also would be using the priorities to stop work on one ministry's lower priorities to divert resources to another ministry's higher priorities – which makes it important to make sure that each ministry is using the same scale, more or less.

Mark

From: Greenberg, Martha (CAB)
Sent: February 13, 2018 5:59 PM
To: Spakowski, Mark (MAG) <Mark.Spakowski@ontario.ca>; Madhany, Shamira (CAB) <Shamira.Madhany3@ontario.ca>
Cc: Pena-Orr, Sonia (MAG) <Sonia.Pena-Orr@ontario.ca>; Armstrong, Ralph (MAG)

<Ralph.Armstrong@ontario.ca>; Bromm, William (CAB) <William.Bromm2@ontario.ca>; Shin, Linda (MAG) <Linda.Shin@ontario.ca>
Subject: RE: Prioritizing regulations

Thanks Mark, this is awesome and from my perspective a really useful exercise.

Would the idea be to create a separate document for each ministry and send them just their cut? The last columns you reference are helpful but I admit not sure if they are as informative to all as not knowing if the reg is substantial or not, amount of time spent is relative? What I've found really helpful is perhaps the "dummies" version meaning whether you have received instructions and whether from your perspective it is complicated or straight forward.

Would be great to talk about next steps and get this moving this week given, as you note, time is of the essence.

Unfortunately tomorrow I am not around much but could talk before 9am or have lots of flex on thursday?

William had mentioned this to us so I have given a heads up to my team who are eager to assist as well.

Thanks!
Martha

From: "Spakowski, Mark (MAG)" <Mark.Spakowski@ontario.ca>
Sent: Feb 13, 2018 5:26 PM
To: "Greenberg, Martha (CAB)" <Martha.Greenberg@ontario.ca>; "Madhany, Shamira (CAB)" <Shamira.Madhany3@ontario.ca>
Cc: "Pena-Orr, Sonia (MAG)" <Sonia.Pena-Orr@ontario.ca>; "Armstrong, Ralph (MAG)" <Ralph.Armstrong@ontario.ca>; "Bromm, William (CAB)" <William.Bromm2@ontario.ca>; "Shin, Linda (MAG)" <Linda.Shin@ontario.ca>
Subject: FW: Prioritizing regulations

Hi Martha/Shamira

We've looking into this a bit at our end to get ready to move this along quickly once we get the go ahead. Attached is an initial output from our database that shows the open regulations files. This will give you an idea of what we can produce in the way of information and the format and how it is laid out, etc. The last four columns won't be done until tomorrow. A bit of explanation of those columns:

- LRC column: we're still thinking about the LRC column and whether it would be useful.
- Sealed column: this would give the date we've sealed the regulation, if it we have sealed it. A sealed regulation is usually finished as far as OLC work is concerned (unless the Ministry has second thoughts, which does happen from time to time) so this might be useful to have handy. There is no need to prioritize such files unless the Ministry will be having second thoughts.
- Total hours column: this would be the total drafter hours we have docketed to the file since it was opened. This might give an idea of the resources already invested.
- Hrs past 60 days: this would be the total drafter hours we have docketed in

the last 60 days. This might give an idea of whether the file is currently active.

Let me know when you are available to discuss this. This prioritizing exercise will be more useful the sooner we can begin.

Mark

From: Bromm, William (CAB)
Sent: February 12, 2018 12:53 PM
To: Spakowski, Mark (MAG) <Mark.Spakowski@ontario.ca>; Shin, Linda (MAG) <Linda.Shin@ontario.ca>
Subject: Re: Prioritizing regulations

Thanks Mark, I have talked to Deputy Davidson in CO policy and they would very much like to be involved. Martha Greenberg and Shamira Madhany would be the main contacts.

I will send your email to them and suggest they get in contact with you.

W

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Spakowski, Mark (MAG)
Sent: Monday, February 12, 2018 11:57 AM
To: Bromm, William (CAB); Shin, Linda (MAG)
Subject: RE: Prioritizing regulations

I'm getting back to report back on what I've done at my end and to see whether and how to move this along.

My quick, light consultation suggests that this might be useful but it will depend on being able to distinguish the different levels of priority, especially as between ministry priorities and government priorities. A ministry's assessment of the priority of its own items will likely be quite high. So I think a key aspect of this is the extent to which Cabinet Office can ensure that the priority levels a ministry gives should be the ones that we work towards. This is what I was referring to when I spoke of Cabinet Office "challenging" a ministry's ranking. I'm imagining that Cabinet Office will make sure the priority rankings make sense and will lower them when they don't.

For this to make much difference we should also get this started ASAP, otherwise we risk finding out what the government priorities are after it is too late to do much about them. At our end we could get this started as early as tomorrow or Wednesday but I think a few things are needed first:

- We need Cabinet Office buy-in to the process, particularly since they will have a central role.
- We need the Cabinet Office contact where ministries should send their rankings or new items. (We'll also need to work with that person to establish a good way for them to pass on to us whatever changes they have.)
- We'll need some help from Cabinet Office in how to articulate what each ranking

means.

For convenience I've highlighted the parts of my possible approach below that relate to the points noted above.

From: Bromm, William (CAB)
Sent: February 8, 2018 9:19 AM
To: Spakowski, Mark (MAG) <Mark.Spakowski@ontario.ca>; Shin, Linda (MAG) <Linda.Shin@ontario.ca>
Subject: Re: Prioritizing regulations

Makes sense to me, particularly if you have a sense of who the key ministries are.

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Spakowski, Mark (MAG)
Sent: Thursday, February 8, 2018 9:16 AM
To: Bromm, William (CAB); Shin, Linda (MAG)
Subject: RE: Prioritizing regulations

If it might be useful, I can run this past a couple of legal directors, perhaps MAG policy, to get their perspective on how this might play out at ministries. But I don't want to get too far ahead. Let me know if you think that might be useful.

Mark

From: Bromm, William (CAB)
Sent: February 8, 2018 9:14 AM
To: Spakowski, Mark (MAG) <Mark.Spakowski@ontario.ca>; Shin, Linda (MAG) <Linda.Shin@ontario.ca>
Subject: Re: Prioritizing regulations

Thanks Mark. I can speak to CO folks about this.

Linda, I am home sick, but we can chat Monday.

W

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Spakowski, Mark (MAG)
Sent: Thursday, February 8, 2018 8:54 AM
To: Shin, Linda (MAG)
Cc: Bromm, William (CAB)
Subject: Prioritizing regulations

Hi Linda

This is further to the DAG's direction that we should work on what we might do to

prioritize regulations. I've given this some thought and below I've sketched out a suggestion.

To make much difference this would have to be put into place soon. At our end we could produce reports and circulate to Ministries in a day or so. I don't think it would be unrealistic to require Ministry to turn around replies within one week. (But we could consult with a few ministries to see about that.)

(William: copying you because I think Linda was going to get in touch – but I don't know if she has done that yet.)

Mark

Possible approach to prioritizing regulations

Assumptions

- Immediate challenge is regulations that are needed before the election period begins
- (Usually prioritizing among regulations will be more challenging because the regulations will be tracking to different completion dates - sometimes very different - for example, small, moderate priority regulations tracking for next month v. large high priority regulations tracking for next year, with consultation period in four months)
- That all regulations will be tracking, more or less, to the same timelines helps to simplify the prioritizing exercise.

Suggestion:

A. OLC prepares reports from our OIS to list the open regulation files.

We could give a report on all open regulations files (which would give a lot, including a lot of files that are dormant), or filter that list to have a shorter list (open files opened within last six months or active within last two months)

- To give a sense of numbers, here's what OLC has:
 - Over 500 open regulations files
 - Almost 300 open files that were opened since August 1, 2017.
 - Over 250 regulations files that had some docketed drafter time in 2018 (virtually all of those files will still be open)

B. OLC to circulate report to responsible ministry

C. Ministry to indicate priority on a numbered scale to indicate Gov't priority or ministry priority.

Priority to be priority for drafting work to be done before the election period begins. Rankings could be, for example:

1: Top government priority

2: Secondary government priority

3: Top ministry priority but not government priority

4: Secondary ministry priority but not government priority

5: Neither government nor ministry priority.

(Some further guidance might be needed on what is the difference between top priorities and secondary priorities. Perhaps Cabinet Office can assist.

Top, as opposed to secondary, might be - top perhaps either firm public commitment, significant legal or policy problems if not made, top officials (Premier or senior PO officials, SOC or DM policy) are aware and have given an indication, or will agree, that should be a top priority))

- D. Ministry to provide short description/justifications for regulations in #1 and #2 rankings (items identified as government priorities)
- E. Ministry to send rankings and description/justifications to Cabinet Office, copy OLC.
- F. Cabinet Office to "challenge" the items identified as Government priorities and change rankings as necessary.
- G. Cabinet Office to pass finalized rankings to OLC
- H. New regulation files from Ministry must indicate ranking, if ranked as a government priority, then must also inform Cabinet Office so that they can "challenge" those top items
- I. OLC to use rankings to prioritize work (OLC would focus on #1 and #2, do lesser priorities as able)

OLC would use the initial ministry rankings to prioritize and change that as Cabinet Office changed rankings.