Listening • Learning • Leading

A Framework for Regulatory Excellence

Cary Coglianese
Background

The Alberta Energy Regulator (AER) serves as the single regulator of energy development in Alberta, Canada, overseeing the “efficient, safe, orderly and environmentally responsible” development of oil, natural gas, coal, and oil sands throughout the province. Not content simply to go about regulation as usual, the AER’s leadership committed the organization to deliver and sustain a high level of public value – in short, to achieve regulatory excellence.

The AER’s highly laudable vision, announced soon after the AER was created in mid-2013, is to be “recognized as best-in-class, ensuring the safe, environmentally responsible development of energy resources for the benefit of all Albertans.” The AER’s leadership has announced it is seeking to fulfill this forward-looking vision by delivering “protective, effective, efficient, and credible” regulatory performance.

In support of its strategic vision, the AER announced in mid-2014 that it was launching a Best-in-Class Project. The AER observed “that Alberta’s resource development landscape requires a world leading regulatory organization that has a best in class mind-set, attitude, capabilities and regulatory systems to deliver superior performance.” As the AER noted, “the question then becomes, what is a ‘best in class’ regulatory agency?”

The AER’s Best-in-Class Project, convened independently under the auspices of the Penn Program on Regulation (PPR) at the University of Pennsylvania, constituted a process designed to help inform the AER and other regulators around the world about how to answer to the question of what makes a best-in-class or excellent regulator. PPR convened four major dialogue sessions, including two in Alberta, involving more than 150 participants with extensive knowledge of and interest in the regulation of oil and gas production in Alberta or regulation more generally. PPR’s faculty conducted face-to-face or phone interviews with more than 60 individuals interested in the work of the Alberta Energy Regulator.

PPR team members and outside experts produced an original study of regulators’ strategic plans and wrote five other research papers synthesizing existing research on
major facets of regulatory operations. In addition, as part of the project, leading experts from around the world produced more than fifteen papers, each addressing the question of what makes a regulator excellent. Numerous other related seminars and meetings sponsored by PPR during the duration of the project, including seminars at the University of Pennsylvania Law School and a day-long meeting with sitting, high-level U.S. regulators in Washington, D.C., helped inform the project as well.

Findings

The AER called for a final convener's report “offering high-level principles to the field of regulatory management and practice.” This report responds to that call by addressing the following questions:

1. What are the attributes of regulatory excellence?
2. To what do these attributes apply?
3. How can a regulator become or remain excellent?
4. How can a regulator measure its progress toward or its attainment of excellence?

The answers to each of these questions have been richly informed by the extensive discussions held with both Albertans and international experts during the course of this project, as well as by the literature reviews and research conducted under the auspices of the AER’s Best-in-Class Project. This following summary provides the answers that have emerged to each of these questions.

1. What are the attributes of regulatory excellence?

Literally hundreds of attributes have been used to describe ideal or excellent regulators, both in our discussions with experts and citizens alike as well as in the myriad reports and research papers reviewed as part of this project. Some of these attributes include: transparent, smart, fair, firm, consistent, flexible, accountable, adaptive, trustworthy, effective, credible, equitable, efficient, timely, responsive..., and so forth. The list could go on.

Although this convener’s report documents all the adjectives the PPR team came across that describe an excellent regulator, just knowing all of these terms is not useful. To create a framework for excellence that can be practically applied by the AER and other regulators, this report distills the essence of all these adjectives to three core attributes of excellence:

1. **Utmost Integrity.** This is about much more than just a lack of corruption; it is also about the regulator’s commitment to serving the public interest, to respecting the law, and working with duly elected representatives.

2. **Empathic Engagement.** This is about transparency and public engagement, but also about how respectfully the regulator and its personnel treat regulated entities, affected landowners, and other concerned citizens.

3. **Stellar Competence.** This is about the actual delivery of outcomes that maximize public value and the capacities built and actions taken to achieve a high level of performance.

These three core attributes – or “atoms” in a “molecule” we call “RegX” – capture and encompass all the other attributes reflected in the research literature and in our interviews and dialogue sessions. The adjectives “utmost,” “empathic,” and “stellar” indicate that although even good regulators need integrity, engagement, and competence, the excellent regulator needs these to the highest degree.
In addition to distilling the attributes of excellence into these three core elements, the PPR team’s expansive research and discussions lead to nine essential tenets of regulatory excellence. These nine tenets constitute the most significant, comprehensive but still compact aspirational statements of regulatory excellence of any that we have encountered. They also helpfully align, as should be apparent, with the three core “RegX” attributes.

**Nine Tenets of Regulatory Excellence**

*An excellent regulator consistently holds itself to the highest standards of integrity.*

1. **Fidelity to law:** An excellent regulator seeks to comply faithfully with all legitimate laws.

2. **Respect for democracy:** An excellent regulator recognizes and seeks to fulfill its role in a democratic system by yielding to clear and proper commands by elected officials, and also by seeking as needed to initiate or contribute to productive public dialogue on issues relevant to the regulator’s mission.

3. **Commitment to public interest:** An excellent regulator strives to serve the public interest first and foremost, not to succumb to expediency nor to display bias toward select private interests.

*An excellent regulator engages empathically with all segments of society when making decisions and exercising authority.*

4. **Even-handedness:** An excellent regulator engages fairly with all affected interests, recognizing that sometimes even-handedness will require affirmative outreach to ensure that otherwise poorly represented views are adequately heard.

5. **Listening:** An excellent regulator hears what everyone who has values or interests at stake in its decisions has to say, seeking to understand how its decisions will affect others and trying to make decisions that benefit from the different knowledge distributed throughout society.

6. **Responsiveness:** An excellent regulator responds to concerns and explains its decisions fully and sincerely, being transparent not merely by providing access to information but also by giving reasons for its actions (including decisions not to act) and addressing all important arguments for and against its chosen course of action.

*An excellent regulator demonstrates consistently stellar competence by using its available resources to maximize public value.*

7. **Analytical capability:** An excellent regulator seeks out reliable data and conducts analysis sincerely with the aim of synthesizing the best available evidence to support its decisions, seeking to reduce and manage risks smartly (even though risk may never be eliminated entirely).

8. **Instrumental capacity:** With a sufficiently-funded and highly-trained staff working in a supportive organizational culture, an excellent regulator uses the best tools and technologies available to solve problems and it earnestly seeks continuous improvement through regular performance measurement and evaluation.

9. **High performance:** An excellent regulator consistently delivers significant positive public value, something which is not necessarily the same as making everyone happy (the latter which may be unattainable or undesirable anyway).

Although other propositions about regulatory performance might well be offered, these nine tenets distill the essence of...
regulatory excellence. A regulator that is not aligned well with all nine tenets might be a good regulator; it could not be said to be an excellent regulator.

2. To what do these attributes apply?

In discussing regulatory excellence and in reading what others have written about regulatory performance, the PPR team noticed that different people – or even sometimes the same people, speaking or writing at different times – offer three distinct types of answers to the question, “What makes a regulator excellent?” They conceptualize regulatory excellence in terms of whether the attributes of excellence apply to the (1) traits of the regulatory organization, (2) its actions, or (3) the outcomes of its actions. Taken together, these three ways of thinking about excellence are called the “TAO” of Regulatory Excellence:

• **Traits.** Some people think of excellence in terms of the traits of a regulator as an organization. They focus on the general “state” of the regulator or its general posture. Participants in the Alberta dialogues in particular spoke of fostering a “culture” or an “ethos” of excellence that pervades a regulatory organization.

• **Actions.** Another way to think of excellence lies in the types of actions the regulator takes in the course of regulating, whether in issuing new rules, inspecting regulated firms, responding to incidents, or undertaking other regulatory-related actions. Those who emphasize excellence in terms of action focus on whether regulators select the appropriate tools for the job or whether they use “best practices” in prioritizing risks and solving problems.

• **Outcomes.** Ultimately the traits of a regulator as well as its actions, should lead to publicly valued outcomes, such as reduced safety risks or improved market efficiencies. After all, that is what makes people want to define excellence in terms of certain traits and actions, because they think those traits and actions are connected to excellent outcomes. Some outcomes are substantive ones (e.g., reducing pollution, saving costs, etc.), while other outcomes are process-oriented (e.g., building trust, strengthening legitimacy, etc.). The key is to see that to be truly excellent, the regulator needs to exhibit utmost integrity, empathic engagement, and stellar competence in the traits of its organization, in its actions, and in the outcomes of its actions. Although each of these are distinct ways of thinking about how to apply the attributes of excellence to a regulator, the regulator’s traits, actions, and outcomes will in reality have a close bearing on each other. Regulatory excellence occurs when these three are well-connected and in sync with each other, reflecting the three core RegX attributes and the nine tenets of regulatory excellence.
3. How can a regulator become or remain excellent?

Just defining the core attributes and tenets of regulatory excellence is not enough to guide a regulator on a path toward excellence. How does the regulator ensure that its traits, actions, and outcomes can align with those core attributes and tenets? While no simple formula or common recipe can be offered that will apply to all regulators at all times, it is possible to offer a general model for a regulator seeking to pursue excellence. That model can be visually represented as a causal chain, as illustrated below, that begins with the regulator as an organization (on the left) and proceeds to desired outcomes in the world (on the right).

A regulator becomes – or remains – excellent by working on making sure that this regulatory “chain” operates in a way that aligns with the core attributes and tenets of regulatory excellence. As should be apparent, the “TAO” of Regulatory Excellence corresponds to three main parts of this model or chain: traits of the organization; actions; and outcomes in terms of behavioral changes, perceptual outcomes, and substantive outcomes (collectively, the regulator’s “performance”).

Embedded in the first two steps on this chain are actually four key facets of a regulator’s organization and actions that affect its performance: internal management, external engagement, priority-setting/decision-making, and problem-solving. This report offers guidance for how a regulatory can approach each of these key facets of its operations in order to pursue a path towards excellence:

(1) Internal management. Key organizational or management considerations include maintaining mission clarity, ensuring adequate resources, building strong human capital, and maintaining appropriate autonomy. Management is key to ensuring that the regulator has a solid basis for making sound decisions and executing appropriate, effective actions.

(2) External engagement. All things being equal, greater and earlier opportunities for public engagement are better. Such engagement should be empathic. Listening is essential. But so too is reason-giving. Especially if a regulator must make a decision that will be opposed or disfavored by some, the public deserves a full and forthright account of the policy reasons underlying the decision.

(3) Priority-setting/decision-making. An excellent regulator should rely consistently on careful, evidence-based decision making and should set priorities informed by consideration of risks. An excellent regulator should also be clear about which policy principles it uses when choosing how to prioritize different risks and make decisions.
(4) **Problem-solving.** Flexible regulatory approaches promise more cost-effective outcomes, as they give regulated entities the opportunity to choose lower-cost means of achieving regulatory outcomes. At their best, these approaches also achieve the regulator’s ideal of leveraging the advantages regulated firms possess in knowing how best to solve the problems created by their activity. But flexible instruments will not work well under all circumstances. The ultimate test for problem-solving lies in finding the right tool for the purposes and circumstances at hand.

Taken together, how a regulator manages its organization, external engagement, priority-setting/decision-making, and problem-solving actions will affect the ultimate performance it achieves.

In improving these four factors and perfecting the chain of regulatory excellence, as shown in the model on the previous page, regulators ultimately need to develop “people” excellence. Not only do they obviously need to ensure that the people serving in their organizations are technically knowledgeable and competent, but importantly they also need to ensure those people possess the utmost integrity and the skills needed to engage empathically with others. The excellent regulator works to establish an organizational culture that fosters and reinforces humility, empathy, and a steadfast commitment to public service on the part of the people who serve in the regulator’s name—and on behalf of the public to which the regulator is accountable. Only if the people working in a regulatory authority are committed to doing their utmost to deliver public value, and to learning and improving their ability to deliver that value in a manner that demonstrates respectful engagement with others, can a regulator expect to achieve true excellence.

4. **How can a regulator measure its progress toward or its attainment of excellence?**

To assist in making progress on a path toward excellence, regulatory leaders can benefit from instituting systems for measuring regulatory performance. The proper design of any regulatory performance measurement system will depend ultimately on its purpose. Measurement is a good tool for learning, and learning should be a core part of the excellent regulator’s culture. But the point is not merely learning for learning’s sake. Regulatory leaders need to be strategic about measurement. They need to determine clearly the purposes—internal and external—for measurement, and then plan a system that meets that purpose.

There exists no one-size-fits-all “best” measurement system, and no single measure can capture all that a regulator must accomplish to become excellent nor all that a regulator might seek to learn with measurement. Measurement can focus either (A) narrowly or broadly on (B) (i) the regulator’s organizations and actions, or (ii) conditions in the world, including industry behavior. More narrow measurements can be used to inform the regulator about specific conditions or problems (e.g., air pollution emissions) or about how specific policies, regulations, and programs are working (e.g., an air pollution regulation). Broader measures might help policymakers understand general patterns and trends in conditions or problems, such as with measures of overall ambient air quality. Or they can help provide a wide-angle picture of what the regulatory organization as a whole is doing, such as with measures of its total budget or the annual number of inspections. Very broad measures can inform a regulator’s top leadership as well as political overseers and the public about the performance of the regulator as a whole. Excellent regulators need a range of measures, narrow and broad, on the regulator as well as on the world.

The broadest approach to measurement might be an overall “excellence assessment.” Such an assessment of excellence is different from the strategic use of measurement any excellent regulator puts in place in order to run its operations well. Measurement of excellence, in other words, is different from measurement for excellence, and it may call for a different approach to measurement. For example, measurement of excellence must be comprehensive. It seeks to provide an overall account of how well the regulator is doing. Toward this end, the regulator seeking to determine if it is excellent needs to consider not merely whether it is getting better at aligning its organization, actions, and performance with the RegX core attributes and the tenets of excellence, but also whether it has done so overall to an extent that rises
above a threshold of excellence. Such a task would require stipulating or coming to an agreement on what weights to be given to different aspects of the regulatory model and attributes of excellence. In other settings, such as health care administration, accreditation systems have emerged that have achieved a professional consensus on such weighting and the necessary thresholds, so in principle such a system could be developed for a regulator as well.

Some public officials and members of the public might reasonably desire to compare regulators with each other. Such a task, though, must overcome at least four hurdles. First, not all regulators – even in the same general field – face the same problems, the same social and economic environments, or the same kinds of firms. The settings within which regulators operate can differ most dramatically across different regulatory jurisdictions. Second, different regulators also use different data systems, which complicates comparisons. Third, the available data that are comparable – such as the rules “on the books” – are not always the most meaningful measures. Finally, just because a regulator benchmarks well against other regulators doesn’t necessarily mean it is an excellent regulator. It could just be that the regulator is simply better than a lot of mediocre regulators.

Although performance measurement certainly must factor into any larger transformational effort of a regulatory organization, regulatory leaders should be realistic about performance measurement’s role. Performance measurement systems depend on strong, active organizational leadership, and an organization should have a widely diffused “buy-in” to a performance measurement system if it is to induce meaningful organizational change. Furthermore, measurement for excellence should almost surely take precedence over measurement of excellence.

To use measurement for the purpose of achieving excellence, a regulator should include in its measurement portfolio some evaluation research that aims to trace out causal connections between the regulator’s actions and outcomes in the world. Only causal evaluations can definitively answer persistent questions about whether and how well regulation is working. Of course, causal evaluation – conducted in a manner that approximates a randomized controlled experiment – is usually much more resource- and time-intensive than non-causal forms of performance measurement – as challenging as those measurement approaches can be. Consequently, no regulator can subject everything to careful, ex post causal evaluation research.

When it comes to being strategic about measurement, the regulator also needs to take pains to avoid what is known as the “lanppost problem.” It must start by determining what broad attributes of excellence it aims to improve, and then proceed to define specific attributes, find indicators and obtain data sources, choose methods, and determine when third-party evaluators or peer review may be needed. Along the way, the regulator should exhibit empathic engagement in its selection of measures and design of measurement systems. Especially if the regulator intends at least some of its performance measures to speak to an external audience and serve a purpose of telling the regulator’s story to others outside its organization, the measures selected and the ways they are analyzed will be more credible if they are based on input from members of that audience.

**Recommendations**

Regulatory excellence is like the summit of a mountain. But like real mountains, there is not necessarily a single way to the top. Some routes may be well-traveled, but new routes can be explored and invented too. Given the vital role that
regulators play in the global economy, making sure that they can get to the top of their field is one of the most pressing imperatives facing the world today.

Defining regulatory excellence is itself the first step for regulatory leaders who seek to reach the top. We have seen that no shortage of definitions or attributes of excellence exist for regulators. Think of anything good that a regulator can do, and it will factor into someone’s definition of regulatory excellence. But after probing deeply into the various attributes and definitions that exist – as well as listening carefully to all that we heard at PPR’s dialogues and interviews – it became clear that the essence of all of these attributes can be distilled to three – utmost integrity, empathic engagement, and stellar competence – along with a set of nine core “tenets of regulatory excellence.”

What these essential attributes and tenets mean operationally, day-to-day, will vary from regulator to regulator – both because of the differences in different regulator’s missions as well as in the political, economic, and social milieus in which they are situated. Context matters. Moreover, a regulator’s excellence is ultimately interdependent. It cannot be defined completely by the leaders of a regulatory organization themselves. The very definition of successful, excellent performance depends on the publics which the regulator serves and on elected officials. Moreover, the achievement of excellence does not depend entirely on what regulators do, but it also is shaped by the conduct of regulated entities whose interests are not always fully aligned with the regulator’s mission and whose behavior may be overseen by but cannot be completely determined by the regulator.

Although the precise meaning of excellent or high-quality regulation might be interdependent and vary from regulator to regulator depending on their mission and the type of entities they regulate, experts and members of the public alike do recognize and agree on a number of common attributes of excellent regulators. These attributes bear directly on the regulator’s outward relationships (empathic engagement), its overall performance (stellar competence), and its inner virtues (utmost integrity). The excellent regulator is one that meets this three-part “RegX” test on a consistent basis and is ever-striving to learn how to improve. The excellent regulator, in short, is the one that listens, learns, and leads.

**Recommendations.** The outreach, dialogue, research, and analysis underlying this report informs the following five strategic recommendations for any regulator who seeks regulatory excellence:

**Recommendation 1. Align strategic priorities around all three core attributes of regulatory excellence.**

Based on our study of regulator’s strategic plans from around the world, it would seem that most regulators give more attention to stellar competence than to empathic engagement or to utmost integrity. Obviously, there is nothing wrong with regulators aiming for competence, as they most emphatically should. But too often regulators today view regulation as primarily a technical enterprise and underappreciate the essentially social nature of regulation, which demands more than just stellar competence but also a high level of integrity and truly empathic forms of public engagement too.

**Recommendation 2. Align organizational culture with the three core attributes of regulatory excellence.**

The regulator’s aim should not be just to make regulatory excellence a strategic priority for the next year, or even the next five years, but to bake regulatory excellence into the entire culture of the organization. Although cultural change never comes easily or quickly, it is essential for the regulator’s leadership to set the example by “walking the walk” and by establishing management practices that appropriately align employee incentives with the attainment of all three RegX objectives. In addition, achieving excellence is not something that a regulator simply “accomplishes” but it is an ongoing effort to strive toward perfection along all three dimensions.

**Recommendation 3. Build human capital that maintains stellar technical competence as well as ensures empathic engagement and continued commitment to professional and public integrity.**

Regulatory excellence is ultimately “people excellence.” The RegX attributes of integrity, empathy, and competence are not merely virtues of an excellent regulatory organization,
they are virtues that each individual who works for a regulator should strive to exhibit at the highest level. The technical demands for expertise are daunting for a regulator and much effort must be given to ensuring stellar competence, but the kinds of people skills required for empathic engagement should also be reinforced through training and the overall organizational culture. Integrity – of the deep kind that makes up the RegX molecule – is about people too, and about much more than avoidance of corruption. Integrity is a kind of character that places the public and its needs above those of the individual staff member and the organization.

Recommendation 4. Involve the public in operationalizing regulatory excellence and in identifying management priorities.

As regulators’ missions are ultimately interdependent ones – that is, neither defined entirely by the regulator’s leadership nor solely achievable by the regulator alone – the best regulators master empathic engagement in all that they do. The regulator’s strategic management should be no exception. Even with the insights and frameworks provided in this report, the AER and any other regulator will still need to undertake additional work to manage toward excellence. They must operationalize the three core attributes of excellence, giving them content and definition that matches the distinctive mission and operational environment that each regulator faces, making strategic choices about improvement priorities and performance measurement. These will be important choices for the future of the regulator and the public it serves. As a result, the public will benefit – as it will with any choices facing the regulator – from open public input and engagement.

Recommendation 5. Take a strategic approach to performance measurement and evaluation.

Evaluation and performance measurement is both itself a vital component of regulatory excellence – a high-integrity regulator is one that wants to learn how it is doing so as to strive to do better – and it can also be used as a vehicle or tool for ensuring progress toward or maintenance of excellence. Only with robust evaluation and performance measurement can a regulator know how well it is doing in terms of attributes of public engagement and substantive performance. But just because measurement and evaluation are central to regulatory excellence, this does not mean that merely counting beans will do. The excellent regulator must take a strategic approach to evaluation and performance measurement. Its leaders need to define the purposes of evaluation and performance measurement clearly, and then build learning systems to meet those purposes. No one single measure will serve all purposes; overall performance measurement is a portfolio that needs to be managed strategically.

Putting It Into Action. What concrete steps should a regulator take to align itself better with the core RegX attributes and the nine tenets of regulatory excellence articulated earlier in this report? The following five steps forward are recommended for any regulator seeking to move toward – or continue to maintain – regulatory excellence.

Step 1: Self-awareness. The first step in determining how to improve must be to make a full mapping out of the regulator’s organizational capacities, suite of activities, and current levels of performance. A regulator’s managers will
likely already have a considerable degree of familiarity with their organization, but even the most thoughtful and conscientious regulatory leaders may well focus on only certain pieces of the overall picture of what the regulator is, does, and achieves. Regulatory excellence is “big picture” work.

**Step 2: Scoping.** For each box in the model of regulatory organization, action, and performance (see page v above), the regulator’s managers should ask themselves how well aligned the regulator is with the RegX core attributes and with the nine tenets of regulatory excellence. This second step effectively would entail a process that, either literally or heuristically, involves “filling in” something like the following matrix.

Although this figure provides completeness and shows the conceptual structure that grows out of the analysis in this report, it should not be taken to suggest that the cells can be filled in with anything like precise, quantitative measures. The purpose at this step is one of scoping, to identify where the regulator’s leaders should put their focus going forward. It would similarly be mistaken to take from the above framework the inference that every cell will matter equally.

**Step 3: Strategic action.** Based on a broad self-assessment and scoping, regulatory leaders then should select priorities for further investigation, and then move toward identifying improvement strategies and making performance measurement or evaluation plans. This step would likely benefit, even more than the first two, from input from others with whom the regulator interacts and serves.
Step 4: Evaluation and continuous improvement. The regulator must keep evaluating how well the improvement strategies selected work and then, repeating the cycle, seek continuous improvement. The goal, after all, is not merely to reach a single summit of regulatory excellence, but also to continue along down the trail to the summits of the further peaks that always lie off in the distance.

An “Excellent” Checklist for Regulators. A regulator’s leaders will, of course, need to be selective in where to place their strategic emphasis. Toward that end, the following checklist provides a practical frame of reference for how to use the four key facets discussed on page v to align better their organization, actions, and outcomes with the RegX attributes and tenets of regulatory excellence.

Internal management (e.g., mission clarity, resources, autonomy, human capital, culture)

1. Does the regulator possess and communicate a clear, well-defined mission that aims boldly to maximize public value within the scope of the regulator’s mandate?

2. Does the regulator have adequate financial resources and information technologies to deliver on its mission?

3. Does the regulator possess sufficient levels of autonomy to ensure its decisions are made consistently with expert judgment and in the long-term public interest?

4. Does the regulator have enough staff members who are highly-trained and keep up with developments and emerging trends within their scope of work?

5. Does the organizational culture support and value learning, innovation, and public service?

6. Does the regulator’s culture align well with all three core RegX attributes and all nine regulatory excellence tenets?

External engagement (e.g., transparency, public engagement)

7. Does the regulator provide open access to its information in a manner that is accessible and comprehensible both to industry users and to the broader public?

8. Does the regulator provide, whenever feasible, full drafts of regulatory decisions when it invites public comment?

9. Does the regulator generally provide opportunities for participation by any member of the public that is concerned or will be affected by its decisions?
10. Does the regulator reach out to and welcome input by all individuals, organizations, and communities that are interested in or affected by its decisions?

11. Does the regulator provide well-reasoned explanations for its decisions that acknowledge and respond to all pertinent concerns expressed by members of the public?

12. Does the regulator ensure that its entire workforce interacts fairly, respectfully, and empathically with all segments of the public?

**Priority-setting/Decision-making (e.g., scientific and economic analysis and how it informs decisions)**

13. Does the regulator seek out state-of-the-art evidence before making both regulatory and management decisions, and then does it incorporate that evidence in good faith into its decision-making and its reasons for its decisions?

14. Does the regulator actively investigate and seek to generate new knowledge of poorly understood risks, potential areas of concern, and regulatory impacts?

15. Does the regulator have in place adequate procedures for preserving the integrity of scientific information, including suitable processes of peer review?

16. Does the regulator ground its decisions on a solid understanding of the industry it is regulating, including an ongoing awareness of technological innovations?

17. Does the regulator understand and articulate clearly the normative principles it uses in combination with risk analysis to make decisions (i.e., what it means to be “risk-based” or “risk-informed”)?

18. Does the regulator engage in analysis of its own rules and practices, including rigorous causal evaluation, in order to learn what works and what could work better?

**Problem-solving (e.g., regulatory instrument design, inspection and enforcement strategies)**

19. Does the regulator consistently determine that new regulations are really needed (and that non-regulatory solutions would not be as effective) before adopting new rules and directives?

20. Does the regulator select and apply regulatory instruments that equitably maximize net benefits (or, if specified by law, that meet other policy criteria)?

21. Does the regulator consider and, when appropriate, use a full range of regulatory instruments that will best achieve relevant policy goals, including regulatory instruments that preserve flexibility?

22. Does the regulator target its inspections in such a manner as to maximize the chance of finding and reducing significant regulatory violations?

23. Does the regulator deploy enforcement tools responsively, calibrating consequences so as to assure compliance and promote positive cooperation?

24. Does the regulator manage its own operations with efficiency, minimizing unwarranted delays in decision-making?

**Conclusion**

Regulating is hard work. Just doing it well is demanding and difficult. To achieve excellence at regulating requires still more. It requires consistently and superlatively mastering all the technical, analytic, and social tasks needed to solve public problems. It demands the utmost, the empathic, the stellar. It even requires boldness and vision – seeing ahead to where the puck will be, to use the famous Wayne Gretzky cliché, and then moving forward. The excellent regulator cannot stay in one place, content to have mastered solving the problems of the past. The world changes, its problems change, its economies change, and its social concerns change. Excellence as a regulator requires forward momentum, not static achievement.
Best-in-Class Regulator Initiative

bestinclassregulator.org