



NRCS approach to the development of Technical Regulations

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2 June 2015

Points of discussion

- **Introduction**
 - General concepts
 - The NRCS
- **The South African technical infrastructure and regulatory approach**
- **NRCS mandate**
- **The NRCS's value chain**
- **General focus of technical regulations**
- **The development and amendment procedure to create Technical Regulations**



Essence of a presentation



NRCS Regulatory Research and Development (RR & D)

- NRCS conducts regulatory research:
 - ✓ Government policies, priorities and possible effects on NRCS's mandate.
 - ✓ Identify new areas of regulatory interventions.
 - ✓ Risk- and impact assessments to assess the feasibility of the proposed technical regulations (TRs) or Compulsory specifications (VCs).
 - ✓ Optimise or improve the regulatory effort:
 - Benchmarking of the NRCS regulatory activities against those of other regulators
 - New technology or standards

Regulatory Research and Development (RR & D)

- Why regulate?
- ✓ Free market economy – some things falling through the cracks?
- ✓ Market failures?
- ✓ Await failures, or anticipate failures?
- ✓ The role of externalities on regulatory decision making
- ✓ Command and control approach? –Thou shall not..
- ✓ Regulatory standard appropriate (to risk)
- What about the international community –WTO TBT

Regulatory Research and Development (RR & D)

- Why regulate?
- ✓ Good science involved in regulation
- ✓ Regulations - economic sense
- ✓ Public perceptions - a main regulatory driver
 - ✓ Public requirements - higher degree of control than economically efficient cost?
- ✓ Justice Hand: Negligence exists if the loss caused by the negligence times the probability of damage, exceeds the cost of preventing the loss.
 - ✓ Level of liability damages also reflects the cost of prevention

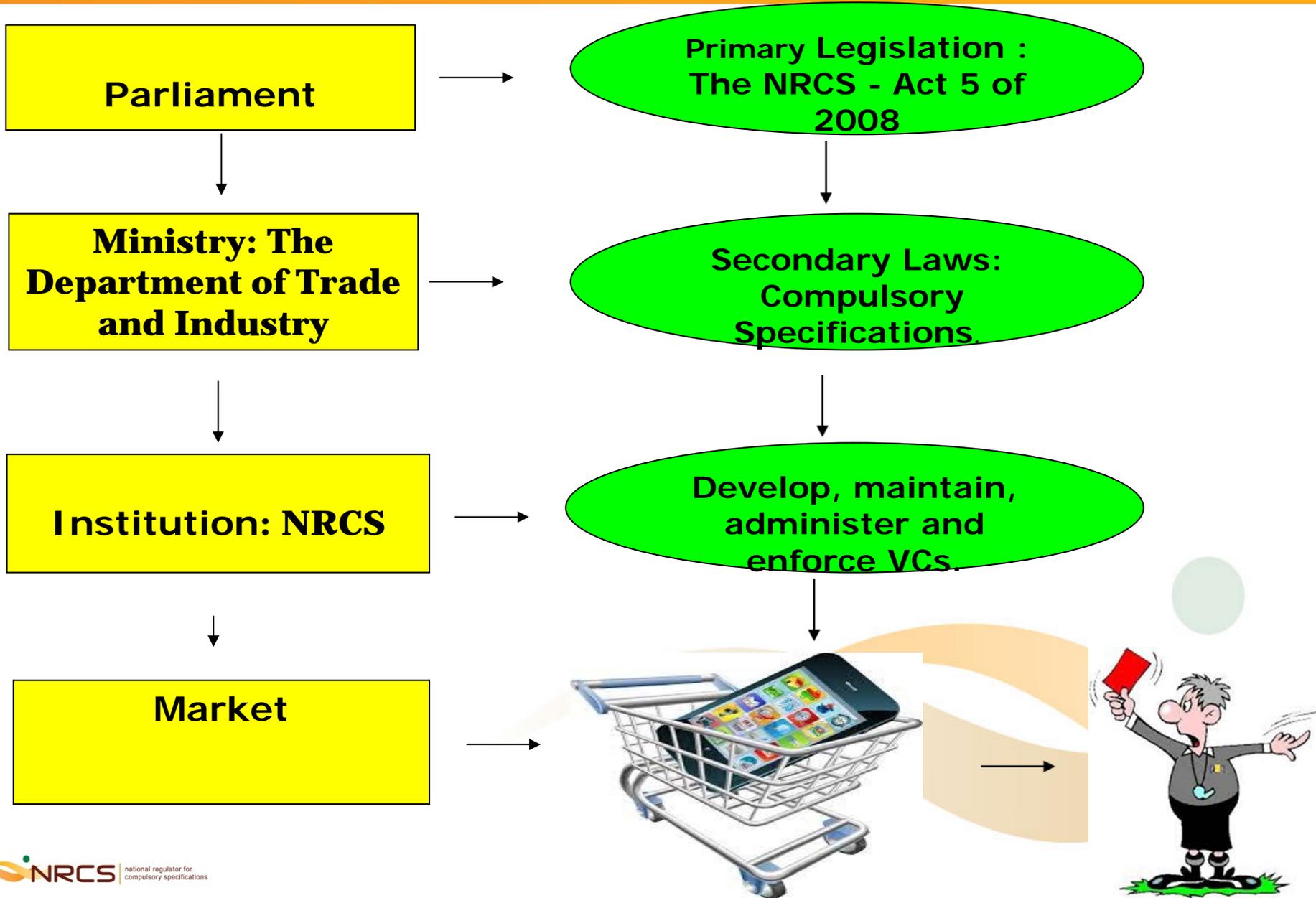
Regulatory Research and Development (RR & D)

- ✓ How much should be spent to regulate?
- ✓ Breakeven point - non compliance damage vs cost of control
- ✓ Regulating at an economical efficient level
- ✓ The regulatory challenge –Policy analysis
 - **Cost benefit**
 - **Cost effective (metrics - how many lives saved)**
 - **Least cost analysis (lowest cost to reach a fixed target)**
- ✓ Role of Scientists, economist and other experts
- ✓ Interception point of perceptions of damage, cost of control, fairness and irreversibility

- Facilitate :
 - ✓ Development of new Compulsory Specifications (VCs) and Technical regulations (TRs)
 - ✓ Amendment of existing VCs and TRs.
 - ✓ Repeal of obsolete VC's.



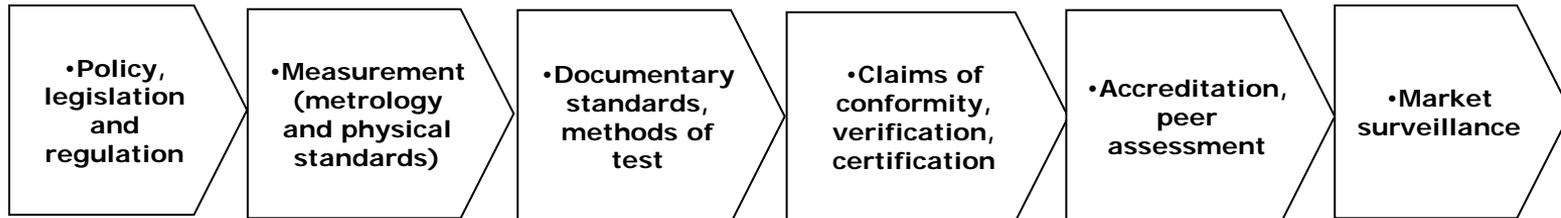
LEGISLATIVE STRUCTURE



NRCS : PART OF THE SOUTH AFRICAN TECHNICAL INFRASTRUCTURE ENTITIES OF THE DTI



South Africa's quality infrastructure and its international linkages



•Parliament, Government departments, Industry groups, Consumer groups



•and other standards writers and professional bodies



• Audit, Calibrate, Evaluate, Examine, Inspect, Test



•Government, inspections, certification and accreditation bodies and laboratories

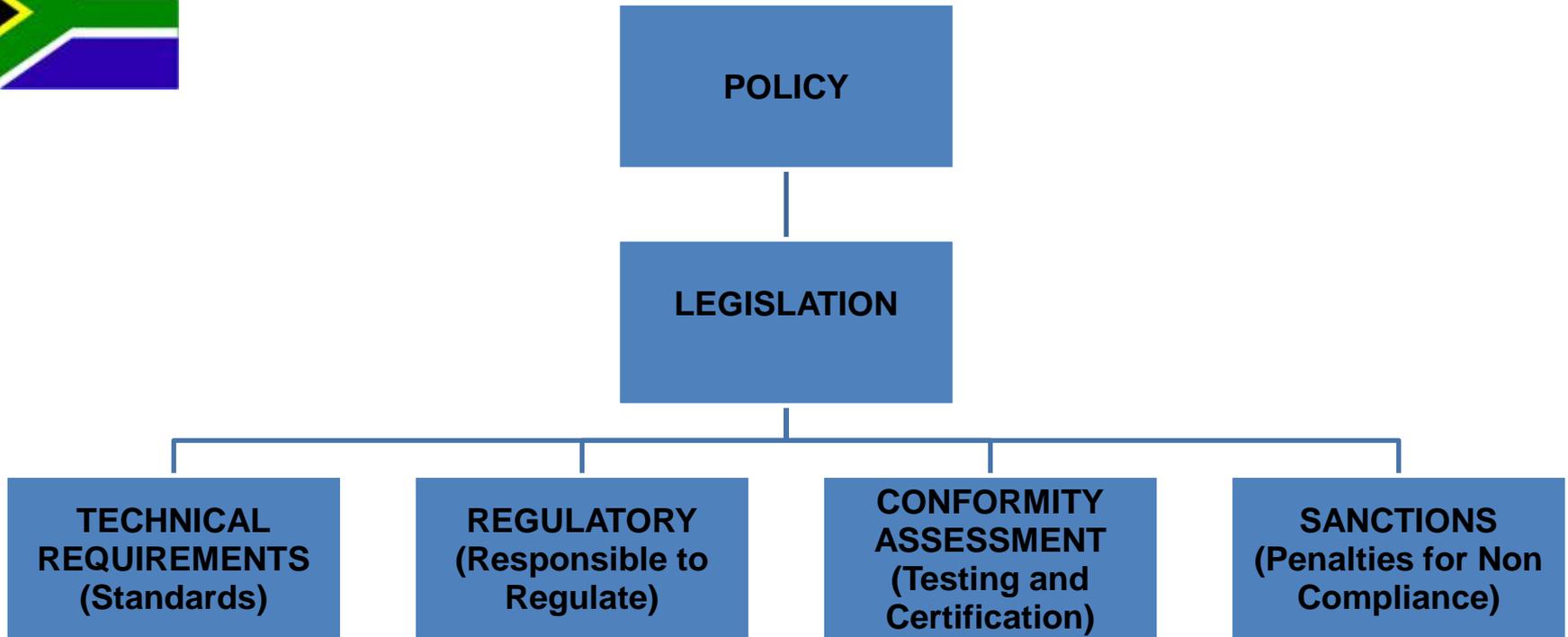


• Other government Regulators

•Technical outcomes that society can trust, and use in decision making



Technical Infrastructure: REGULATORY SUPPORT



THE NRCS MANDATE

- Established through the National Regulator for Compulsory Specifications Act in 2008 (Act 5 of 2008).
- Previously, the Regulatory Division of the South African Bureau of Standards (SABS).
- Develop, maintain and administer of technical regulations including Compulsory Specifications (VC) to:
 - Protect public health and safety,
 - Protect the environment (sustainability)
 - Ensure that national and international trade is fair and based on reliable measurements of quantity (Mass, Volume, Length and Area – Legal Metrology Act, 2014).
 - Administer National Building Regulations under the NBR Act, 1977.

Compulsory Specifications mandate

“Compulsory specifications”

13. (1) The Minister may, on the recommendation of the Board, in respect of any commodity, product or service which may affect public safety, health or the environment, by notice in the *Gazette*—

(a) declare a SANS or a provision of a SANS to be a compulsory specification —

(i) by referring to the **title and the number of that standard only**, without indicating the year or edition number, and if that SANS is amended, the amended SANS is deemed to have been incorporated; or

(ii) by referring to the **title, number and year or edition number of that SANS**;

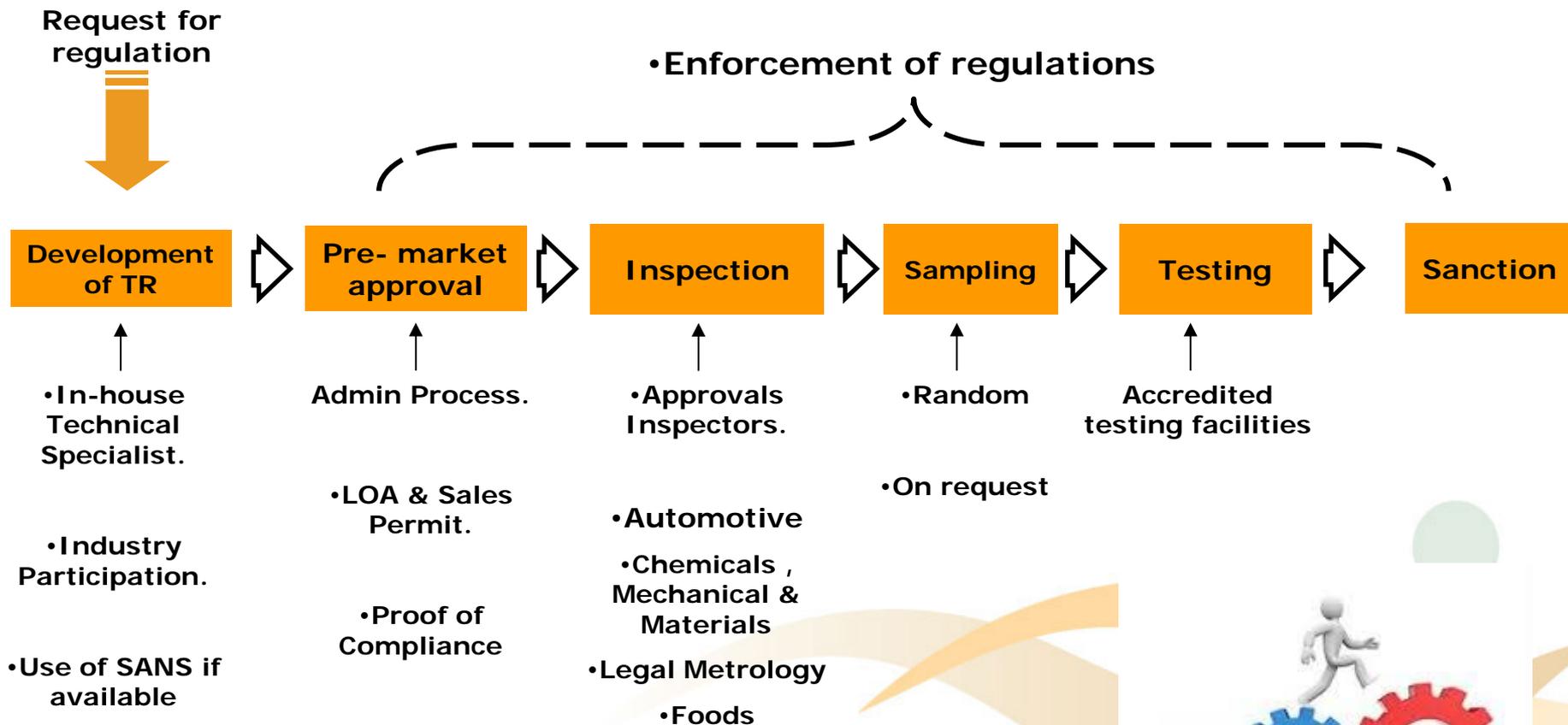
(b) declare an **amended SANS or an amended provision of a SANS** to be a compulsory specification if the original declaration was made in terms of subsection (1)(a)(ii);

(c) **declare or amend a compulsory specification if a SANS or a provision of a SANS is not available** in terms of paragraphs (a) and (b); or

(d) **withdraw** a compulsory specification.

The NRCS Technical Regulations Value Chain

Process Flow



GRP:

- ✓ Regulation must meet the objective :
 - Set functional and performance requirements for **products and services** that address specific **risks** to public health and safety and/or to the environment, promote **fair trade** and **consumer protection**.
 - Include administrative requirements e.g. Application for approval processes.



GRP - National Technical Regulatory Framework (NTRF)

Core principles for the NTRF include:

- ✓ Transparency;
- ✓ The use of the least trade restrictive measures;
- ✓ Internationally harmonised measures;
- ✓ Necessity;
- ✓ Proportionality; and
- ✓ Non- discrimination.



The DTI – Responsible for WTO matters

- Dti responsible for WTO matters
- WTO/TBT Agreement states the need for National Enquiry Points to handle enquiries & notifications on technical regulations
- The dti mandated SABS to manage the SA National Technical Barriers to Trade (TBT) Enquiry & Notification Point
- The dti mandated DAFF to manage the SA National Sanitary and Phyto-sanitary (SPS) Enquiry & Notification Points

CSP 350: Development and approval of technical regulations

Request to NRCS CEO/Research Manager



Feasibility of request by Approvals Committee (AC) – **YES/NO**



Appoint project Manager from Research department



Project proposal to AC



Technical stakeholder working group meeting



Risk Assessment (Report to AC) – **YES/NO**



Technical stakeholder working group meeting



Draft technical regulation



Regulatory Impact Assessment (Report to AC) – **YES/NO**



NRCS

national regulator for
compulsory specifications

Full stakeholders' meeting



CSP 350: Development and approval of technical regulations



Draft second version of technical regulation & circulate



Finalize technical regulation (to AC for signing off)



Submit to NRCS Executive for review and approval



To dti for Ministers' approval



First gazetting for comments (60 days)

Inform WTO



Comments review meeting



To dti for final gazetting!



Consultation process – Regulatory participation in National Standards process

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NRCS process compared to RIA

- Key steps of a RIA
 - ✓ Define problem and set goals
 - ✓ Define and refine problem and drivers to ensure broadest range of possible solutions
 - ✓ Establish a baseline status
 - ✓ Set goals for public policy
 - ✓ Select Option and collect data
 - ✓ Informal consultation with experts
 - ✓ Select options to be considered
 - ✓ Select method, scope and depth

