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# Explosives Regulatory Review

## Spring 2022

**Presentation to the Canadian Explosives  
Association**

**April 27, 2022**

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# Regulatory Review

Regulatory Review launched in February 2021 to modernize the Explosives Regulatory Regime

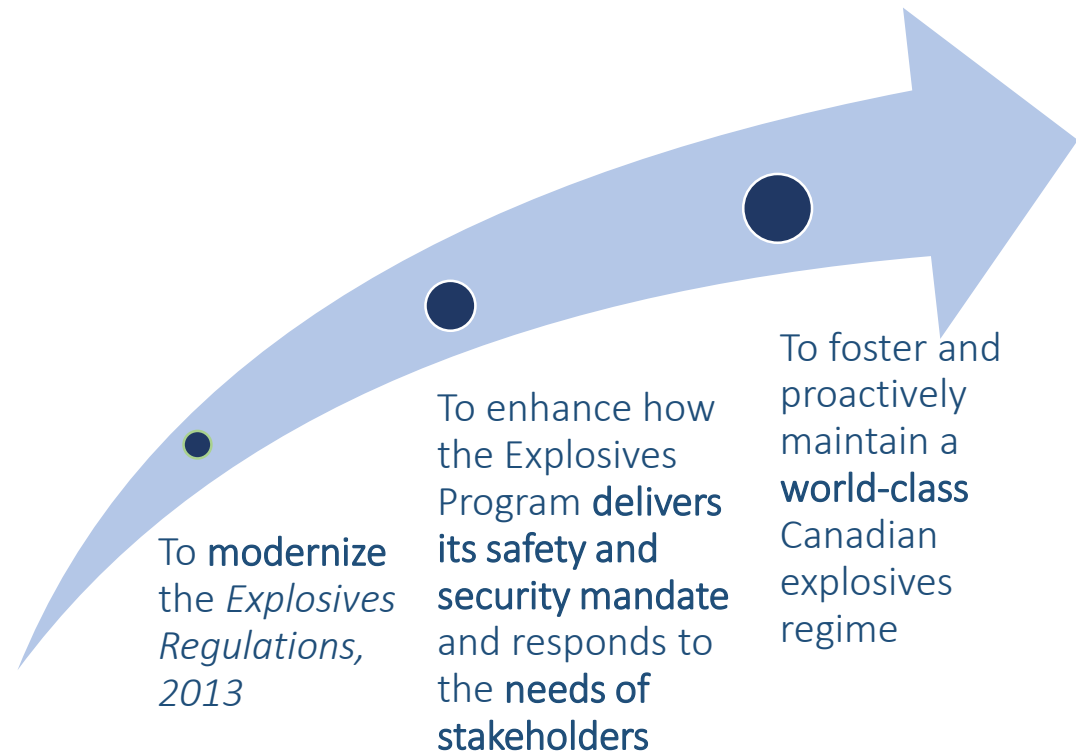
## Primary Lenses:

- **GoC Modernization Agenda**

Recognition of the need to keep pace with change, for more efficient service delivery, and the flexibility to address diverse risks and innovation

- **COVID-19**

Focus on removing unnecessary barriers to economic recovery



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# Phase 2 Plan

Bring forward two consecutive omnibus regulatory amendment packages

## 1. **Amendments Package #1: Economic Growth and Enhancing Safety**

- Improve efficiency by reducing admin burden, aligning with partners, clarifying intent
- Address safety and security risks

## 2. **Amendments Package #2: Program Modernization**

- Update licensing and fee regimes
- Explore new requirements and innovation



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# Package #1 Consultation Plan

#1 Amendments to Parts 16, 17, 18  
**Fireworks/Pyrotechnics**

March

#2 Amendments to Part 9 and Miscellaneous  
**Transportation and General Updates**

April

#3 Amendments to Parts 12, 13, 14  
**Propellant Powders, Cartridges, Kits etc.**

May



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# Transportation and General Updates

- ✓ The Reg Review Team received **approximately 130 recommendations** to clarify Part 9 (Transportation) and to 'clean up' the *Explosives Regulations, 2013*.
- ✓ Almost all recommendations that require a regulatory amendment, and fit under Package 1 themes, were accepted resulting in a **total of 122 proposed amendments**.
- ✓ Outstanding recommendations will be addressed as part of Package 2.
- ✓ Those recommendations that represent amendments to policies or guidance will be addressed in Phase 3 of the Regulatory Review.
- ✓ 'Clean up' includes updates, wording fixes, and alignment with other government departments and current sector practices.
- ✓ Part 9 was largely streamlined and requirements updated and refined.



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# Examples of General Updates

- Removing the requirement for fax numbers from application forms
- Updates to better reference Transport Canada's *Transportation of Dangerous Goods Regulations*
- Clarification of labelling requirements and signage
- Allowing other packages or containers to be open two at a time in a magazine, as opposed to one at a time

**Proposed amendments to note include...**



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# Miscellaneous Amendments

## Minimum Age

- Allow persons **under the age of 18 to possess** small arms cartridges and black powder cartouches at federal or provincial/territorial sites that hold a Division 2 Factory Licence for the purpose of conducting sanctioned demonstrations or **historical re-enactments**.
- Align with Labour Canada proposal by raising the **minimum age for visitors and workers** at Division 1 and 2 factories/sites to **18 years old**.



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# Miscellaneous Amendments

## Annual Reports

- Remove requirement for Part 7 **annual reporting**, and fine-tune pre-existing record keeping for manufacturing requirements.
- Replace requirement to submit **an annual report of marine flare** destruction with requirement to keep records
- Replace requirement to submit **annual inventory of ammonium nitrate** with requirement to keep records



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# Miscellaneous Amendments

## Part 8 Screening

- Expand **the definition of “equivalent document”** to include a security clearance issued by another competent authority that has not been suspended or withdrawn, and specifically list the US Alcohol, Tobacco and Firearms clearance.
- Require a **non-resident of Canada to include a confirmation letter from the employer in Canada, with their application for an approval letter** for a high hazard explosives licence.
- Require a non-resident of Canada to include **a certified police certificate from their country of origin, or a valid Canadian work permit**, with their application for an approval letter for a high hazard explosives licence.
- Allow **the Minister to refuse an approval letter** for a high hazard explosives licence if a false statement is made, or if there is a risk to the safety or security of persons, or **to cancel an approval letter** if conditions of the approval letter are no longer met.
- Allow **the Minister to refuse or cancel a licence, permit or certificate** if there are reasonable grounds to believe there is a risk to the safety and security of people.



# Amendments to Part 9 Transportation

- Clarify and streamline requirements for a **vehicle of sound mechanical condition and for towing of vehicle** carrying explosives, including adding a new exception for towing undamaged vehicles after an incident.
- Allow an exception for the transportation of **perforating guns** if they are transported according to certain standards or in accordance with an Equivalency Certificate issued by Transport Canada, and if they are protected from theft.
- Reduce the exception for **Mobile Processing Units to be equipped with tracking and communication systems** to those that remain at a mine site or quarry.
- Clarify distance and security requirements for a **driver of a vehicle transporting explosives who must stop en route or park overnight**.
- Clarify reporting and notification requirements in the event the driver of a **vehicle transporting explosives is delayed or in an accident**.



# What We Heard from CEAEC

## 6 General Policy Suggestions for Change

- 4 will be addressed as part of Package #2
- 2 have been addressed, in full or in part, as part of Package #1

## 32 Specific Suggestions for Change

- 5 will be addressed as part of Package #2
- 27 have been accepted, addressed or not accepted at this point in time.



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# What We Heard from CEAEC – General Policy

1. We are currently required to provide annual reports as well as enter transaction records when renewing import or export permits. We should eliminate the import and export reporting upon renewal and submit everything in the Annual Report.

Addressed in part. As part of Package 1, we propose removing the requirement to submit various annual reports and to hold records instead. Import/Export permits will be reviewed as part of Package #2.

2. Submit one Annual Report per Company, not per licence. NRCan would get the same information in the end without undue clerical burden on the Company.

Addressed. As part of Package 1, we propose removing the requirement to submit various annual reports and to hold records instead.





# What We Heard from CEAEC – Specific Suggestions

1. Add an exemption for MPU's to be considered “not a manufacturing process”.

NRCan's position is that an MPU represents a manufacturing process or activity. In Package #2 we will be reviewing manufacturing from a licence and fee perspective that may impact this regime.

2. Remove “altering or remaking an explosive substance or explosive article by modifying its chemical composition...or by subjecting it to physical processes with the input of energy...” from the list of activities considered manufacturing.

NRCan's position is that an MPU represents a manufacturing process or activity. In Package #2 we will be reviewing manufacturing from a licence and fee perspective that may impact this regime.

3. Remove “a description of each MPU to be used” from the Division 1 Licence application form and replace it with “as set out on the MPU List submitted by the Licence holder and amended from time to time”.

NRCan prefers to have the description of the MPU on the Division 1 licence rather than resurrect the “MPU list”.



# Specific Suggestions continued

4. Allow for training of employees at a factory or satellite site to be given by a person deemed competent by the licence holder.

Competent person is defined in the Regulations to ensure that the person giving employee training is indeed able to impart how to carry out duties in a manner that is safe, lawful and ensures the security of the site.

5. Remove requirement to keep record of the properties of explosives.

Accepted. As part of Package #1 we propose removing requirements to keep records of the properties of explosives.

6. Provide an exception for MPUs that contain explosives to be attended in person unless they are at a factory or satellite site, or are awaiting towing or repair and are secured in an access controlled mine site or quarry.

Accepted. As part of Package #1 we propose this exception for MPUs.



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# Specific Suggestions continued

7. Remove the requirement to keep records of explosives' properties for MPU licence holders.

Accepted. As part of Package #1 we propose removing requirements to keep records of the properties of explosives.

8. Replace “logbook” with “maintenance record” to record maintenance for an MPU.

Accepted. This change is proposed as part of Package #1.

9. Replace “logbook” with “maintenance record” for progressive cavity pumps.

Addressed. As part of Package #1 we propose to clarify that for each progressive cavity pump, a separate logbook that sets out the operating history of the pump and a maintenance record that sets out the maintenance and repair work done to it must be kept at the factory for the life of the pump.

10. Change the requirement that a MPU may be used to manufacture explosives at a client site, but only if the unit is on the MPU list, rather than specified in the Division 1 licence.

NRCan prefers to have the description of the MPU on the Division 1 licence rather than resurrect the “MPU list”.



# Specific Suggestions continued

11. Allow other packages or containers to be opened in a magazine for inspection or to remove explosives, without having each opened one at a time.

Accepted. As part of Package #1 we propose to clarify that no more than two other packages or containers may be open at a time.

12. Allow an “equivalent document” to include an equivalent security clearance issued by the Competent Authority of another country, and to include a US ATF Employee Possessor or Responsible Person Clearance.

Accepted. As part of Package #1 we propose to expand the definition of equivalent document to include the US ATF Clearance and to clarify that it may be a security clearance issued by another country.

13. Remove all regulatory overlap and use the accepted TDGR vernacular for references to the consignor (shipper) and consignee (receiver).

Addressed in part. As part of Package #1 there should no longer be any regulatory overlap. However, we have decided to keep the wording in the transportation section as is since it is more user friendly.





# Specific Suggestions continued

14. Clarify that a carrier of explosives by vehicle must ensure that the portion of the vehicle that contains explosives is either an intermodal container or is fully enclosed and fire resistant and is constructed of material that prevents sparking and does not increase the likelihood of an ignition.

Accepted. This will be proposed as part of Package #1.

15. Clarify that the shipper and carrier must ensure that things other than explosives are not transported with explosives unless the vehicle contains no more than 10 kg, instead of 2000 kg, of explosives, and in the case of a vehicle that contains more than 10 kg, instead of 2000 kg, the vehicle has been authorized to transport things by a permit.

Addressed in part. While not addressing this issue directly, we feel that the other changes we've proposed to Part 9 will address any safety and security concerns. We will be reviewing permits as part of Package #2.



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# Specific Suggestions continued

16. Include that a vehicle containing explosives must be attended in person or attended remotely through technology.

Accepted. As part of Package #1 we propose to clarify that a vehicle containing explosives may be monitored by a person using electronic means if the following requirements are met:

- The vehicle, including the portion of the vehicle containing explosives, must be:
  - locked,
  - parked in a secure, access controlled location,
  - under video surveillance, and
  - have a device or system in place that will ensure that the vehicle is immobilized and an alarm will alert the driver and carrier if an attempt is made to steal the explosives or tamper with or steal the vehicle; and
- In the case of an emergency, the driver or carrier contacts the appropriate authorities as soon as practicable.

17. Allow up to 25 kg of packaged explosives, instead of high explosives, and up to 100 detonators to be left unattended in a vehicle

The word “packaged” would confuse requirements, including those for perforating guns.



# Specific Suggestions continued

18. Clarify and streamline the steps to take when a vehicle that contains explosives is involved in an accident or incident

Accepted. As part of Package #1 we propose to clarify that the driver of the vehicle must:

- Notify the shipper and the carrier at their first opportunity if the vehicle is delayed for any reason, including road conditions or mechanical issues, or
- Notify the police, the shipper and the carrier at their first opportunity if the vehicle is involved in a road accident or incident that results in:
  - the theft, attempted theft or loss of an explosive; a fire, spill or accidental explosion; an injury or death; or any accidental property or vehicle damage.

And as soon as the circumstances permit, the carrier must:

- Notify an inspector of the accident or incident,
- Ensure that any damaged explosives are transported to any location that the Minister designates and any undamaged explosives are transported to their destination or to a safe and secure location, and
- Provide the Chief Inspector of Explosives with a written report about the accident or incident that includes the likely cause of the accident or incident and the steps that the carrier will take to prevent an accident or incident of that nature from happening again.



# Specific Suggestions continued

19. Clarify and streamline requirements for overnight parking of a vehicle with explosives.

Accepted. As part of Package #1 we propose to have the same requirements as for attending the vehicle in person or by electronic means.

20. Allow a seller to sell industrial explosives only to a buyer who holds a licence or a manufacturing certificate or who is authorized by a competent provincial/territorial authority to not only store industrial explosives at a mine site or quarry, but to use and keep those explosives as well.

Accepted. This will be proposed as part of Package #1.

21. Add an exception so that the requirement for a seller to not sell more industrial explosives to a buyer than the buyer is authorized by their licence, certificate or provincial/territorial authorization to store, does not apply to explosives in bulk that are loaded into prepared boreholes.

Accepted. This will be proposed as part of Package #1.





# Specific Suggestions continued

22. Require a magazine holder to mark the licence number on packages for materials received out of the country.

Accepted. As part of Package #1 we propose that a magazine holder must mark the number of the buyer's licence, manufacturing certificate or prov/terr authorization on packages for explosives received from out of the country:

- on the outer packaging or container of the explosives if the outer packaging or the container is sealed, or
- on the inner packaging of each explosive or each reel of detonating cord if the outer packaging or the container is not sealed;

The above requirements do not apply to:

- the outer packaging or containers of explosives if the number is contained in a barcode or matrix code that is printed on the packaging or container;
- containers holding explosives in bulk;
- intermediate bulk containers holding explosives in bulk; or
- plastic bags that meet the requirements of UN packaging code 5H4.



# Specific Suggestions continued

23. Clarify that a seller of industrial explosives must keep records of the varieties and quantities of explosives sold instead of the type, product name and dimensions and name of person who obtained authorization, and the quantity of explosives sold under each product name.

NRCan requires the detailed record to be kept.

- 24-27. Remove Part 10, Parts 13, 14, 15 and Parts 16, 17, 18 and Part 20 to create standalone document.

The focus of the Review is on updating provisions not on formatting the Regulations. The time and effort it would take to redraft the Regulations into separate instruments would be substantial and would not align with Red Tape Reduction goals of reducing regulatory titles.



# Next Steps

- Submit views or comments on this set of amendments by May 17
- Heads-Up: We will be seeking input and validation to support our Cost-Benefit Analysis for Package #1
- Next month you will receive the final set of amendments for Package #1
- After external consultations
  - Drafting Instructions
  - Drafting
  - Finalize Impact Analysis
- Goal: *Canada Gazette Part I* in February/March 2023



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