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WORKING DOCUMENT

**Consumer Fireworks Regulations
Final Report**

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Research, Statistics and
Evaluation Directorate**

**Wendy Gordon
Marie-Andrée Roy
Privy Council Office (Justice)**

1995

WD1995-4e

UNEDITED

**Research, Statistics and Evaluation Directorate/
Direction générale de la recherche,
de la statistique et de l'évaluation**

**Civil Law and Corporate Management Sector/
Secteur du droit civil et gestion ministérielle**

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solely those of the authors and do not necessarily
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EXECUTIVE SUMMARY

The Explosives Branch of the Department of Natural Resources, the Department of Justice (Privy Council Office Section of Justice; Programs Directorate; Research, Statistics and Evaluation Directorate) and the Regulatory Affairs Division of Treasury Board Secretariat developed a partnership to redraft a portion of the *Explosives Regulations* in plain language and to test and evaluate the process. The *Consumer Fireworks Regulations* were chosen as the subject of the pilot project. This project presented an ideal situation for combining the approaches of plain language drafting of regulations, public legal education and information (PLEI), and the principles of modern compliance theory.

A Department of Justice (DOJ) team, comprised of a researcher and two drafters (one for the English version and one for the French version), worked on this project. This report discusses the consultations that were conducted, the procedures followed in revising the Regulations, the results of usability testing, the advantages and disadvantages of various procedures employed (both internal and external to the federal government), and the possible next steps for other plain language projects.

This pilot project illustrates that regulations can be rewritten into plain language. It also illustrates the usefulness and value of consultations and usability testing with the various stakeholders who use a given piece of legislation. The involvement of the drafters in the consultation process, which provides information on the actual use and understanding of the regulations, contributes to the success of the revisions. The usability testing examines whether the revisions have made the regulations clearer and easier to understand.

Although it is possible that the short-term cost of developing plain language regulations is greater than the cost to develop other regulations (because it includes consultations and usability testing), there are a number of long-term benefits and savings:

- ! there is a much diminished need to develop secondary documents to explain the regulations;
- ! since the product is of better quality, it will not need to be revised as frequently;
- ! there should be less time spent answering questions concerning the document;
- ! the consultations allow the drafters to understand the context of the regulations better, allowing for more informed drafting;
- ! since the user group is involved in the development of the product, it should be of better quality and there should be a higher degree of commitment; and,
- ! the usability testing will ensure that individuals understand the document and that there are no gaps.

1.0 INTRODUCTION

This report describes the process involved in conducting the plain language pilot project for the *Consumer Fireworks Regulations*. Plain language drafting of legislation is an important aspect in achieving compliance with the law. Modern compliance theory, often referred to as positive compliance¹, envisages compliance techniques that apply progressively more stringent measures to progressively more resistant segments of the regulated population. The aim is to achieve compliance by using the least intrusive measures, and at the least cost.

The first step in a positive compliance program is information. In positive compliance theory it is assumed that the vast majority of any regulated sector will comply with the law if they know and clearly understand it. Therefore, much non-compliance occurs because of simple ignorance about the law. This project represents a situation in which the old Regulations were complicated and not clearly written, and thus not comprehensible to the regulated public. An additional problem was that in view of the large number of retail outlets, traditional approaches to enforcement were virtually impossible because of the potential cost and number of enforcement personnel required. Therefore, this was an ideal situation for combining the approaches of plain language drafting of regulations, public legal education and information (PLEI), and the principles of modern compliance theory. Based on the concept of PLEI, a plain language drafting approach was used to achieve compliance with the Regulations. Then, the effectiveness of this approach was examined.

Producing documents in plain language means more than just changing the words and style of presentation. It is also the "process" by which the words and presentation are changed, which involves the key elements of policy clarification and usability testing. The plain language process involves producing readable documents that can be understood by their intended readers and that serve their intended purpose. Therefore, the key features of a plain language approach to drafting are to:

- ! identify the intended readers;
- ! know what information needs to be communicated;
- ! choose words that the intended readers can understand;
- ! present the text clearly; and,
- ! test to see if the legislative purpose has been achieved.

This project attempted to meet these plain language objectives. Since this was a pilot project, the report discusses the consultations that were conducted, the procedures followed in revising the Regulations, the results of usability testing, the advantages and disadvantages of various procedures employed (both internal and external to the federal government), and the possible next steps for other plain language projects.

¹ Barr, E. (1991). Positive compliance programs: Their potential as instruments for regulatory reform. Department of Justice, Ottawa.

2.0 BACKGROUND

The Explosives Branch of the Department of Natural Resources, the Department of Justice (Privy Council Office Section of Justice; Programs Directorate; Research, Statistics and Evaluation Directorate) and the Regulatory Affairs Division of Treasury Board Secretariat developed a partnership to redraft a portion of the *Explosives Regulations* in plain language and to test and evaluate the process. The *Explosives Regulations* were difficult to understand and poorly organized, making it difficult for stakeholders to comply with the law. Natural Resources saw this as an opportunity to use plain language concepts and approached Treasury Board officials for support. Natural Resources began redrafting by dividing the *Explosives Regulations* into approximately 16 individual regulations, one of which was the *Consumer Fireworks Regulations*. The *Consumer Fireworks Regulations* were chosen as the subject of the pilot because of the broad spectrum of users and the relatively non-technical nature of the Regulations.

As of May 1994, a Department of Justice (DOJ) team, comprised of a researcher and two drafters (one for the English version and one for the French version), began consultations with Natural Resources officials and representatives of the consumer fireworks industry. From these consultations, a rationale for the revised Regulations was developed and a revised draft was prepared using a plain language approach. Finally, in addition to receiving comments from individuals within Natural Resources, DOJ and the plain language community, usability testing was conducted with users of the Regulations.

The remainder of this report describes the results of the pilot project.

3.0 CONSULTATIONS

The DOJ team consulted with representatives of various stakeholders in the consumer fireworks industry in Canada (i.e., inspectors, importers, distributors, retailers). The objective of the consultations was to identify compliance problems and issues that should be addressed in redrafting the Regulations. A background paper which describes the results of the consultations is attached as Appendix A.

The consultations provided the team with the following:

- ! an understanding of the fireworks distribution process and the primary players in it in Canada;
- ! confirmation that there is little data on fireworks-related accidents in Canada;
- ! the realization that, although manufacturers and importers understand the Regulations well and are motivated to (and do) comply with them, there is less understanding, motivation and compliance further down the hierarchy (e.g., retailers);
- ! the realization that there is a great deal of variation in interpretation of the Regulations (e.g., what is a "safe distance");
- ! confirmation of the need to amend and clarify the existing Regulations;
- ! the realization of the need to educate various groups about the Regulations (i.e., retailers, customs officials); and,
- ! the realization that enforcement is very difficult (especially at the corner-store level) due to the small number of inspectors and is further complicated by the regional variation caused by differing municipal-level requirements.

3.1 Revisions Following Consultations

The drafters analysed the draft Regulations submitted by Natural Resources in light of the consultations to see if the department's objectives were met and whether the proposed means of meeting those objectives was realistic. The drafters were free to choose the format and means of communicating the standards established by Natural Resources. The drafting team relied on academic texts on plain language, and consulted with proponents of plain language (including Nicole Fernbach, Susan Krongold and John Mark Keyes) and experts on usability testing (Janice Redish and Regulatory Consulting Group Inc.).

Following the consultations, in some areas identified as requiring further decisions on policy issues, Natural Resources reconsidered its position; in some cases to add precision where the Regulations were vague and in others to identify the officer responsible for making certain decisions and the criteria on which a decision had to be based. The team preferred the latter approach in preference to imposing a strict and inflexible standard that would not respond to individual cases. In some instances, the consultations showed that

certain requirements in the Regulations were not viewed as realistic by the users (e.g. no smoking, keeping unattended fireworks locked up). However, in the interests of safety, Natural Resources maintained its position. Plain language strives to express standards clearly to the intended audience, it does not mean conforming to the standards that the audience finds acceptable.

a. The following features were incorporated into the plain language draft of the Regulations to help users find information:

- ! table of contents (but not as part of the Regulations);
- ! marginal notes;
- ! additional headings;
- ! bolding of defined terms; and,
- ! graphics/icons.

b. The following features affecting structure and content of the text were employed:

(i) use of a background information note and summary to:

- ! accompany the Regulations at publication (they cannot actually be part of the Regulations as they contain information not appropriate in regulations);
- ! establish where the Regulations fit in the context of the *Explosives Act* and related regulations made under that Act;
- ! include key definitions from the Act that cannot be repeated in the Regulations themselves; and,
- ! provide the address to contact for further information;

(ii) elimination of unnecessary cross-references;

(iii) use of examples to assist the reader's understanding;

(iv) use of a clear and concise style of expression instead of archaic legalese and unduly technical language;

(v) reorganization of text to avoid long, dense blocks of text;

(vi) use of a more direct approach by using the term "you";

(vii) use of "must" instead of "shall";

(viii) elimination of the need for two titles; and,

- (ix) design the Schedules to the Regulations to be 'ready-made' instructions so that it is easier for users to comply. Key retailer information is summarized in Schedule 1 in the Safe Sale and Storage Instructions for Retailers which distributors must give to retailers. Similarly, retailers must now give consumers the information contained in Schedule 2 (Safety Instructions for Consumers).

4.0 INTERNAL CONSULTATIONS

Once a plain language draft of the Regulations was completed, copies were sent to individuals within Natural Resources and to plain language specialists throughout Canada, via ACJNet (a computer bulletin board), to obtain preliminary feedback. Input was also sought from within DOJ, specifically: the Civil Law Sector, the Administrative Law Section, the Litigation Sector, the Legislation Section, PCO(J) and jurilinguists. Private sector lawyers were also given an opportunity to comment.

Within PCO(J) and the Legislation Section, most lawyers, revisors and editors expressed a great deal of interest in any departures from the traditional drafting protocol. Many supported the cleaner, less legalistic approach shown in the draft Regulations and the inclusion of marginal notes and a table of contents. Concern was expressed, however, about the potential loss of the uniform, well-defined, traditional drafting protocol. People were concerned that departing from the established rules of drafting would lead to a lack of uniformity and the disadvantages that implied. They questioned whether a regulation containing terms or style of presentation that differs from the empowering Act could jeopardize the interpretation of the regulation. Questions were also raised about the use of "must", when only "may" and "shall" are addressed in section 11 of the *Interpretation Act* dealing with imperative and permissive construction. The use of "you" was contentious and seen to be in possible conflict with the concept that laws must be of general application.

During 80% of the drafting process, the French and English versions of the draft Regulations were presented in side-by-side format and not, as is usually the case, in separate documents. This side-by-side presentation was very valuable in facilitating the co-drafting process and was supported by the lawyers, editors, revisors and client department. However, it was difficult and time-consuming to achieve this format due to the limitations of WordPerfect. Also, having only one document slowed down the word processing because the French and English versions could not be processed independently. Unfortunately, the side-by-side development of the document was abandoned because of these practical difficulties. The drafting team suggests that the ability to have side-by-side presentation during drafting should be a consideration when determining the software needs of the Legislation Services.

The drafters were cautious in departing from the terminology used in the *Explosives Act*. Although a different, plainer style has been used in drafting the *Consumer Fireworks Regulations*, the drafters believe that it does not impede or confuse the legal message of the Regulations.

Only changes judged to be essential were made following the internal consultations in order to preserve the text until the users in the industry had an opportunity to give feedback.

5.0 USABILITY TESTING

Once a final draft of the Regulations was completed, formal testing was conducted to examine the usability of the Regulations. The testing attempted to determine whether those who currently use the Regulations were able to understand them clearly and found them easy to use. The following describes the methodology employed and the results obtained from the usability testing (for a more indepth discussion of the usability testing, see the technical document entitled Consumer Fireworks Regulations Usability Testing, Department of Justice, 1995).

The usability testing was conducted in three sites (one in each of British Columbia, Ontario and Quebec) and with four user groups (consumers, retailers, distributors and officials²). Each group was tested on the part of the Regulations relating to them.

The consumer group was tested on Schedule 2 of the Regulations, the Safety Instructions for Consumers. Individuals were asked to explain in their own words what each of the instructions meant and to match the pictograms from Schedule 2 to each instruction.

Retailers were provided Schedule 1 of the Regulations, the Safe Sale and Storage Instructions, and asked to explain in their own words each instruction and to answer a number of questions based on the Schedule (e.g., how do you have to store fireworks when you do not have them on display in your store?). This Schedule was chosen for testing because it was most likely the information retailers would actually see in their day-to-day business.

Distributors and officials were provided with the full *Consumer Fireworks Regulations* and asked a number of questions based on situations that could occur in their jobs. They also participated in a taped group discussion (distributors and officials separately) where individuals discussed whether it was easy to find information, the wording and their opinions regarding how difficult it may be to follow the revised Regulations.

The usability testing showed that:

- a. potential consumers:
 - ! found the safety instructions clear and fairly easy to understand;
 - ! understood the pictograms and matched them fairly well;
 - ! had some problems with the ordering of the instructions; and,
 - ! had a few interpretation problems with words (e.g., pièces pyrotechniques).

- b. retailers:
 - ! didn't understand the purpose of the Schedule (i.e., that it is based on the *Consumer Fireworks Regulations* which they must follow);

² "Officials" refers to police officers and firefighters.

- ! didn't distinguish well between instructions for display and those for storage;
- ! had difficulty understanding certain terminology (e.g., storage unit); and,
- ! had problems in understanding how fireworks need to be stored (e.g., many French retailers believed they would need to construct a different storage unit).

c. distributors and officials:

- ! found the wording of the Regulations fairly clear;
- ! found it was necessary to jump around to find the answers;
- ! found the Schedules, Table of Contents and definitions very useful;
- ! did not notice the Background Information note;
- ! found the information on storage to be the most problematic - they were not able to find the correct sections;
- ! distributors were concerned about the potential liability as set out in the new Regulations (e.g., if they are required to provide the Schedule, can they be held liable for something that happens if the retailer doesn't follow the Regulations?) and that these Regulations could lead to more trailer sales if the retailers stop selling because the Regulations were too strict; and,
- ! officials were concerned that there were no powers of search and seizure laid out in the Regulations and that the lack of precision would make it difficult to enforce.

One of the issues the team wanted to resolve through the testing was the use of "you" in the Regulations, compared to a more neutral phrasing (i.e., "every person"). This is an important issue because some plain language drafters prefer using "you", whereas most legal documents are written using more neutral phrasing. Among the French retailers, the majority appeared to prefer the neutral phrasing because they said it was simpler. However, among English retailers, as well as among distributors and officials, there was a mixed reaction: about one-half preferred "you" because it was faster and spoke directly to them, while one-half preferred the neutral phrasing because it was concise and more familiar. It seems that they liked whatever was simpler - depending on the context "you" and the neutral terms were found to be "simple".

Overall, the usability testing demonstrated that the respondents found the wording of the plain language Regulations fairly clear. In addition, they liked the Schedules, Table of Contents and definitions. However, it also suggested that the background information should be located near the beginning of the document and that the organization of the Regulations still needed some work.

5.1 Revisions After Usability Testing

Based on the results of the usability testing and subsequent changes to Natural Resources' policy position, the Regulations were again revised. Appendix B is a copy of the

drafted *Consumer Fireworks Regulations*. For comparison purposes, Appendix C contains a sample of the current *Explosives Regulations*. The most significant changes were:

- ! elimination of the use of "you" in preference for the more familiar approach;
- ! combining the summary and background information into one note entitled "Important Information" placed immediately before the Regulations so that it is not overlooked; and
- ! reorganization of text so that storage is clearly distinguished from sale and provisions relating to either subject are grouped for ease of reference. Doing this was more repetitious but clearer.

6.0 EVALUATION OF THE PROCESS

The following provides an evaluation of the various components of this pilot project:

6.1 Consultations

Overall, the consultations provided a great deal of important information. We suggest that this is an essential step in any plain language drafting project. The inclusion of drafters at this stage in the process gave them the unique and important opportunity to see the realities the Regulations had to address. In addition to providing information directly from the user group, the consultations allowed the team to ask more relevant questions concerning the Regulations, resulting in a better quality product. Furthermore, the consultations gave the team the opportunity to observe the regulatory scheme objectively.

In terms of the groups that were consulted, in hindsight there probably could have been more consultation at the higher levels (i.e., manufacturers, importers) and less at the lower levels (i.e., distributors, retailers). Because of the number of distributors initially consulted (particularly in the Ottawa/Hull area), finding different distributors to be used in the usability testing was more difficult. However, it should be noted that it may not be easy to decide on the correct amount of consultation at the outset of future projects.

Consultations were conducted only in the Ottawa/Hull area. It was felt that, since these were preliminary in nature, the limited focus was appropriate and was balanced by including the input of Natural Resources inspectors from all regions.

6.2 Revisions

Revisions to the Regulations, using the plain language process, have made the Regulations easier to use and more realistic. The consultation and usability testing features in the process enabled the drafters to better address the realities in the consumer fireworks industry. Some of the more successful and important changes to the text are:

- ! removing legalese, avoiding unnecessary cross-referencing and providing examples in text;
- ! including the section "Important Information" to help the reader find related information that is not included in the Regulations; and,
- ! reorganizing the Regulations and adding the Table of Contents, Schedules and marginal notes.

Although it will still be necessary to develop compliance policy documents to accompany the Regulations, the need for secondary documents (such as explanatory pamphlets) has been greatly diminished.

6.3 Internal Consultations

Since this was a pilot project, the drafters experimented with a number of different approaches to the formatting, wording, etc. of the Regulations. In addition, a wide variety of groups were sent drafts to elicit their opinion on these approaches and extensive follow-up was required. As a result, the timeframe for the internal consultation was substantially longer than anticipated. In addition, there was little or no feedback from some groups. This may have been due to the timing, approach used in contacting people, lack of interest or necessary turnaround time. It is necessary to develop a better strategy to facilitate and accelerate consultations in any future projects.

In the future, it might be more efficient to target specific individuals (the plain language specialists or experts in the particular field). In this way, the consultations would be narrower in focus, but the quality of the comments would probably not suffer. Furthermore, since some major issues have now been addressed in the area of plain language (e.g., use of a table of contents, marginal notes, etc.), in the future, both the revision and internal consultation stages should be considerably shorter.

Although the internal consultations took more time than anticipated, this stage enhanced the quality of the final product.

6.4 Usability Testing

Overall, the usability testing went very well and was a very important step in revising the Regulations. Based on comments by those who actually use the Regulations, the team re-examined the Regulations in terms of structure, wording and policy implications. The revisions made because of the usability testing have resulted in a better product.

The usability testing was conducted in Ontario, Quebec and British Columbia, primarily based on information about provincial differences obtained from the inspectors. The inclusion of Quebec was essential, not only from a French language standpoint, but also because it provided different substantive results from Ontario and British Columbia. However, after examining the results, it may not have been necessary to conduct testing in both Ontario and British Columbia. If time permits in future projects, it may be worthwhile to investigate provincial or regional differences before testing.

During the testing it was somewhat difficult to get groups together for the group sessions, in particular the distributors. This may have been due to time constraints or, more likely, the fact that these individuals are in direct competition with one another. Although the group sessions added more context than the questionnaires alone would have, future

usability testing should probably examine more closely who the user group is and whether this may pose a problem.

As was the case with most of this project, the usability testing required more time than was originally anticipated. In the original plan, less than two weeks were allotted for the usability testing. It is important to build more time into the process for preparing a testing strategy, developing questions, pretesting the questions, contacting participants, conducting the testing and writing the results.

6.5 Entire Process

The DOJ team, in addition to those from Natural Resources, worked very well together and the work conducted by each individual complemented that of the others. Although the team approach may take more time and effort, it enhances the quality and comprehensiveness of the product. However, it requires a great deal of commitment from each team member and depends on each member doing their job. In this instance, it was felt that the team approach was very effective.

The initial timeframe for this pilot project was estimated at three months. In reality, the project took about twice that long for several reasons, some of which are discussed above (i.e., more time was necessary for the revisions, internal consultations and usability testing). The timeframe has also been affected by the policy development and adjustments necessary to address comments received throughout the process, particularly after usability testing. It is critical that policy be determined at the outset of a project and, where necessary, throughout the process to avoid comprehensive changes in the later stages of drafting. In addition, the project was conducted during the summer, which is peak season for those working in the area of consumer fireworks, and which also impacted on the timeliness of receiving comments in the internal consultations. Although future projects will probably require less time, there is a need for informed decisions about the timeframe prior to beginning. This would include discussing whether the policy is sufficiently developed and clear, what changes may be necessary, what type of usability testing is necessary, and what obstacles are likely to be encountered.

The research component of this project was considered to be very cost-effective. Until now, resources for conducting usability testing have not normally been budgeted into the drafting of regulations. This procedure should be considered a standard element of the plain language process. The internal costs for supporting the drafting team were more than anticipated, due to the timeframe of the project. Since this project helped determine some approaches for use in plain language drafting, future plain language drafting will be more efficient as many major features will have been established. However, some thought should be given to building in resources for usability testing.

7.0 POSSIBLE NEXT STEPS

At this point it is unclear to what extent people will read the revised Regulations compared to before, or whether they will comply more readily if they understand the Regulations. In order to address these and other issues, some areas that could be examined in relation to the revised *Consumer Fireworks Regulations* are:

- ! follow-up research at selected sites and times to examine the effectiveness of the revised Regulations (e.g., is enforcement easier, do groups understand the Regulations better, is it easier to comply, is there greater compliance, are they satisfied);
- ! follow-up research into awareness of revised Regulations (e.g., are target groups more aware of the Regulations than before, is information being passed on more often);
- ! examine the development of an educational component (for public, retailers, etc.);
- ! examine the issue of enforcement (i.e., is there a need for greater enforcement of the Regulations among various groups, is there a need to increase the number of inspectors); and,
- ! examine jurisdictional overlap (i.e., is there a need for partnership between federal, provincial and municipal Regulations, communication between these groups).

The Consulting Group on Plain Language, comprised of representatives from various federal departments, provincial governments and the private sector, as well as Legislation Section, PCO(J) and Regulatory Affairs Division of Treasury Board Secretariat, was recently formed to consider the comprehensive impact of plain language on legislation. The Consulting Group on Plain Language will consider the impact of changes in format and traditional drafting on the federal legislative system, including the issue of uniformity and the maintenance of databases. The recommendations of the Group will influence the direction of plain language initiatives in the federal regime.

8.0 CONCLUSION

This pilot project illustrates that regulations can be rewritten into plain language. It also illustrates the usefulness and value of consultations and usability testing with the various stakeholders who use a given piece of legislation. The consultation process provides information on the actual use and understanding of the regulations. The usability testing examines whether the revisions have made the regulations clearer and easier to understand. In addition to involving those who will use the documentation in the early stages of the process, both the consultations and usability testing make the user group more aware of the regulations that they should be following and perform a "marketing" role. They may also increase commitment to the regulations since the users have been involved in the entire process.

Although future plain language projects would likely be shorter than this pilot project, it is probably unrealistic to assume that they can be accomplished in as little as three months. The duration depends on a number of things (i.e., whether the policy has been determined, length of the document, number of stakeholders, etc.). In addition, a sufficient length of time must be provided for making comments on the revised document and for a usability test to be developed and implemented.

Based on the results of the usability testing, as well as on comments received on the draft document, it appears that plain language regulations and statutes are worthwhile. Although it is possible that the cost of developing plain language regulations is greater than the cost to develop other regulations (because it includes consultations and usability testing), there are a number of long-term benefits and savings:

- ! there is a much diminished need to develop secondary documents to explain the regulations;
- ! since the product is of better quality, it will not need to be revised as frequently;
- ! there should be less time spent answering questions concerning the document;
- ! the consultations allow the drafters to understand the context of the regulations better, allowing for more informed drafting;
- ! since the user group is involved in the development of the product, it should be of better quality and there should be a higher degree of commitment; and,
- ! the usability testing will ensure that individuals understand the document and that there are no gaps.

APPENDIX A

Consumer Fireworks Regulations

Background Study

Background

The Department of Justice (Privy Council Office Section, PLEI Program, Access to Justice Research), the Office of Regulatory Affairs, the Treasury Board Secretariat and the Explosives Branch of Natural Resources, have developed a partnership to draft a portion of the Explosives Regulations in plain language and test and evaluate the process. This project, entitled "Consumer Fireworks Regulations", will be a pilot project to identify the advantages and disadvantages of drafting legislation in language comprehensible by the major user group and the general public.

The regulations regarding consumer fireworks (commonly referred to as "family fireworks") are currently difficult to understand and poorly organized, making it difficult for stakeholders to comply with the law. Due to this, the regulations are being redrafted, which presents an excellent opportunity to apply plain language concepts. Policy will then be developed concerning the cost and benefits (both internal and external to the federal government) of drafting regulations and, eventually, statutes in plain language.

As of May 1st, a researcher and a team of two drafters began consultations with officials in Natural Resources, manufacturers/importers, distributors, and retailers. The objective was to identify compliance problems and issues that should be addressed in redrafting the regulations. From this, a rationale for the revised regulations can be developed and, where appropriate, built into the regulations.

The following describes the findings to date, including the findings of the consultations, what various stakeholders need to know about the regulations; issues that need to be addressed; what changes should be made to the regulations; and the next steps of the project.

Consultations

Consultations were held with individuals representing various stakeholders in the fireworks industry in Canada. These included individuals who inspect fireworks, import fireworks, distribute fireworks to retailers, and sell fireworks to the public. The goals of the consultations were to:

- better understand the process involved in the distribution of fireworks in Canada, as well as identify the primary players;
- find any statistics regarding sales of fireworks or fireworks-related accidents;
- receive information concerning the problems associated with fireworks and fireworks regulations;
- find out whether individuals at the various levels are aware of the current regulations and, if so, whether they follow them.

The findings of the consultations are discussed below.

1. Inspectors:

A meeting was held with representatives from Natural Resources, including regional explosives inspectors. Two inspectors attended the meeting (Ontario, Atlantic), two provided written responses (Pacific, Western), and one provided his response at a subsequent meeting (Quebec). The main comments were:

- there are not enough inspectors (only five regional), and only a very small percentage of their time is spent on family fireworks (majority spent on blasting explosives). Inspectors concentrate on sites with the highest risk, and other inspections are conducted as time permits.
- non-compliance with regulations is not a problem among large scale importers and manufacturers, but seems to be more problematic at lower levels (i.e., jobbers). There also appears to be a breakdown in the passing on of key information from distributors to corner stores (resource limitations prevent knowing the extent of the problem).
- corner store retailers and consumers often don't know the regulations. Among retailers, the most common compliance problems are sales to minors and keeping fireworks properly stored and displayed. For consumers, problems arise from disregard of the law and not using common sense (i.e., not supervising children). Public education may help in this area (however, need information in more than just the official languages).
- smuggling is most problematic in B.C., but there is growing evidence of it in other provinces.
- provincial and municipal laws are usually based on federal regulations, but often are more strict.
- there are significant cumulative costs due to firework damage, but they are dispersed over so many insurance brokers/companies that it's not evident.
- there are not any reliable formal statistics regarding accidents in Canada (some for USA), however there are many anecdotal accounts. They think they are not informed about a large number of minor fireworks accidents (in their opinion there are many more disfigurements caused to children in a given year using fireworks than are caused in 10 years in the blasting industry).
- the interpretation of the existing regulations is difficult because they are vague, thereby creating the inspectors' main problem - lack of enforceable standards.

2. Manufacturers/Importers:

In Canada, the three main manufacturers/importers are HANDS Fireworks Inc. (manufacturer); BEM Fireworks and Ampleman (importers). A meeting was held with one of the major importers. The main comments were:

- there are very few fireworks-related accidents in Canada (less than 5 per year, compared to 10,000 per year in the USA). This is because Canada has the highest safety standards for manufacturing fireworks in the world.
- the biggest problems were: sale of unauthorized fireworks (e.g., chinese fireworks smuggled from the USA) which is dangerous; lack of knowledge (among consumers who bring illegal goods from USA and among officials, such as customs, police, etc.); and sales to children under 18 years of age.
- he provides a high quality product, explains the regulations to the purchaser (mostly distributors), and provides safe use information (no smoking sign, age limit sign, poster describing effect of the fireworks).
- his company delivers to his clients (follows Transportation of Dangerous Goods Regulations).
- packaging includes "blister packs" and "shrink wrap", which limits access and he suggests may be sufficient to satisfy the regulatory requirement to keep goods "inaccessible to the public".
- a public awareness program is necessary to sensitize the public on how to use fireworks around the time they are permitted to use them.
- differences in time periods, set by municipalities, for selling fireworks causes a safety problem because people buy them and store them for later. Fireworks sales should either be allowed all year round or banned altogether.

3. Distributors:

There appear to be two different types of distributors - those that sell only fireworks; and those that sell novelty items, including fireworks ("jobbers"). Also, distributors differ in who their major clients are (e.g., service clubs, chain stores, retail stores). Four fireworks distributors were individually interviewed. The main findings were:

- all said there are very few fireworks-related accidents in Canada, due to the quality of fireworks and the strict regulations.
- although some importers/manufacturers sell very good quality goods, others aren't as demanding.
- problems regarding fireworks include: varied interpretation of regulations; lack of knowledge by consumers; some provisions in regulations are excessive (e.g., have to ship sparklers as dangerous goods); sales to minors; illegal goods entering Canada; and understaffed inspectors.

- distributors appear to comply with the regulations (in addition, they supply manuals, signs and information to their clients), while some jobbers may not adhere as well. This may be even more problematic among less well established jobbers.
- the relationship with manufacturers/importers appears to be quite good - some manufacturers/importers voluntarily provide a great deal of information about products and safety (e.g., offering a specialized training course).

4. Retailers:

There are two main types of retailers who sell fireworks: service clubs and retail stores. Service clubs are primarily charity organizations that sell fireworks from trailers for one or two weeks every year (Quebec does not appear to have these types of sales). Coordinators from three service clubs were individually interviewed. As well, 14 respondents from retail stores in Ottawa/Hull and surrounding areas were individually interviewed. The responses from these two types of retailers differed substantially.

The main findings from service clubs were:

- they sell fireworks for one main holiday only (i.e., Victoria Day), but sell fairly large quantities (e.g., \$10,000 wholesale).
- they were quite familiar with the regulations regarding fireworks (e.g., smoking, age limits, storage, display, etc.) and appeared to follow the regulations quite strictly. They also were visited often by local fire chiefs or police.
- the main problems they saw were: unlicensed vendors selling illegal and/or unsafe products; lack of clarity in the regulations (need better definitions); non-compliance among some vendors (e.g., selling to children); customers not being knowledgeable about the products; descriptions of products not being very accurate; and packaging could be safer.

The main findings from retail stores were:

- they tend to sell small amounts of fireworks (e.g., \$300-\$600 a year), although in Quebec the sales are larger (e.g., \$1,500-\$2,000) because they sell all year.
- they were aware of some regulation requirements (i.e., age limits, smoking), but not others (i.e., storage, display). They also did not tend to follow the regulations regarding storage (i.e., the area was not clean or well ventilated) or display (fireworks were not inaccessible to the public).
- main problems they saw were: children trying to buy fireworks; smuggling/illegal sales; parents not supervising children; and lack of knowledge on the part of consumers.

What Stakeholders Need to Know

The following describes what various groups within the fireworks industry need to know about the regulations, as well as describing what investment they have in the area, and what regulations should require of them:

Inspectors - including other officials (i.e., firefighters, police, customs officials) need to be aware of the regulations pertaining to fireworks, including differences in municipal by-laws. Inspectors have a large investment in the fireworks industry because they are responsible for enforcing the regulations. Proposed regulations must be written so as to enable them to correctly and consistently interpret and enforce the regulations. A complimentary component may involve passing on the information to individuals at all levels of the hierarchy.

Manufacturers/Importers - must be aware of the regulations pertaining to producing, purchasing, importing, transporting, handling, and storing fireworks. Importers are responsible for ensuring that the packaging requirements of the products comply with Canadian standards, so they should be aware of packaging regulations and what information is required on products (i.e., bilingual, operating instructions, etc.). Further, since manufacturers and importers sell their products to distributors, they must be aware of regulations regarding selling (e.g., quantities) and shipping fireworks to customers. Some manufacturers/importers also have retail outlets, so must be aware of the regulations pertaining to displaying and selling fireworks to the public.

Manufacturers and importers are the stakeholders with the most invested in the fireworks industry. Since they could be held liable for accidents resulting from defective products, they also have great incentive to comply with the regulations. Because of this, they are probably the most aware of the regulations, next to the inspectors. The regulations should require that manufacturers/importers promote safe use by ensuring that information filters down the chain to other groups. Since they are at the top of the hierarchy and easily identifiable, they are also the most likely to be inspected.

Distributors - must be aware of the regulations pertaining to purchasing, handling, storing, selling, and transporting fireworks. Distributors (especially jobbers) probably have less invested in the fireworks industry than manufacturers/importers, because fireworks are not necessarily the only product they distribute and so are not their main source of income. While inspections are conducted of the licenced and larger distributors, this is not as often the case among the smaller distributors who are not as easily identifiable. After receiving relevant information on regulations from manufacturers/importers, the regulations should require distributors to pass them on to retailers. However, they have an economic disincentive for stressing the danger associated with fireworks or the proper regulations for storage and display because this may make retailers reluctant to buy the product (if it's too difficult, it's not worth buying).

Retailers - should be aware of regulations pertaining to purchasing, handling, storing, displaying and selling fireworks to consumers. Retailers have even less invested in the fireworks industry than distributors because they sell fairly small quantities. For instance, fireworks are just one product among many in corner stores; and they are just one source of revenue for service clubs. Further, due to municipal by-laws, some retailers only sell fireworks for one or two weeks per year. Due to resource constraints on inspectors, retail stores are rarely inspected for fireworks, making non-compliance difficult to enforce. Retailers should receive relevant information on regulations from distributors, and the regulations should require them to follow safe storage and display practices, and pass on safety information to consumers (through posters or handouts).

Consumers - should be aware of regulations pertaining to purchasing, handling and storing fireworks, as well as basic safety information regarding use (e.g., supervise children). The consumer group has a negligible investment in the fireworks industry, other than as purchasers. Their incentive to follow regulations only comes from the potential accidents that come from non-compliance. However, it is unclear how knowledgeable this group is about the dangerous consequences of misuse. Consumers should read safety information, follow operating instructions, supervise children, and follow common-sense when using fireworks. Public education regarding the safety aspects of fireworks may be necessary.

Issues

The following issues were seen to be related to the consumer fireworks regulations:

1. **Changes to the regulations** - is there a need for:
 - a. amendments to the substance of the regulations (additions, deletions, changes, sub-classes)?
 - b. clarification of the wording to the existing standards?

2. **Understanding** - is there a need to:
 - a. educate various groups regarding the regulations (i.e., inspectors/officials, importers/manufacturers, distributors, retailers, consumers)?
 - b. provide information in languages other than English and French?
 - c. provide specialized training for individuals selling fireworks?

3. **Enforcement:**
 - a. what problems are most prevalent (e.g., smuggling, non-compliance regarding storage/display, age limits, etc.)?
 - b. is there a need for greater enforcement of the regulations among various groups?
 - c. is selective enforcement of particular regulations necessary and, if so, what are the priorities?
 - d. is there a need to increase the number of inspectors?

4. **Regional variation:**
 - a. is there a need to examine federal, provincial and municipal differences in the regulations?

5. **Cost/Benefit Analysis:**
 - a. are fireworks-related accidents or fires a problem in Canada?
 - b. can the safety record regarding fireworks-related accidents or fires be improved upon?

Suggested Changes to Regulations

- restructure the "architecture" of the existing regulations.
- tighten vague terminologies for consistent interpretation.
- fill in gaps in responsibility/obligation chain.
- make the regulations more "user-friendly".

Next Steps

1. Decide on revisions to existing regulations
2. Draft new regulations
3. Determine testing methodology for regulations
4. Test new regulations (appropriateness, understanding)
5. Assimilate test results
6. Revise regulations
7. Examine effectiveness of revised regulations (e.g., is enforcement easier, do groups understand the regulations better, is it easier to comply, is there greater compliance, are they satisfied) and possibly educational component (are groups more aware of regulations, is there greater compliance, are there fewer accidents, is information being passed on more often)
8. Prepare final report

Prepared by S. Trevethan

APPENDIX B

This Appendix is not presently available

APPENDIX C

This Appendix is not presently available