Regulatory Essentials – August 18, 2021

Health Updates

Important Update on PFAS Information Request from CHPSD

Further to our "Urgent Development Notice" issued late last week concerning a new information request issued by the Consumer and Hazardous Products Safety Directorate (CHPSD) regarding polyfluoroalkyl substances (PFAS), CA Canada has been able to secure some important clarifications in the scope and intent of the data gathering notice as issued late last week, as well as to whom the notice was sent. Based on these clarifications, CA Canada is pleased to provide members with this follow-up update and recommendations as to how those in receipt of this information request should respond.

BACKGROUND

As previously reported, this past June, a paper entitled *"Fluorinated Compounds in North American Cosmetics"* was published in Environmental Science and Technology Letters (Whitehead *et al.*, 2021) wherein it was reported that a number of cosmetics in Canada and the US were found to contain PFASs, which are a large group of chemicals that are often characterized as 'forever chemicals', given their potential environmental persistent properties. Although this may certainly be the case for some perfluorinated substances, work is on-going presently under the Canadian Chemicals Management Plan (CMP) to more appropriately sub-delineate this large grouping of chemicals, as it is acknowledged not all PFASs necessarily would present the same environmental risks. Gaining a further understanding of the multitude of different type of related chemical classes that are commonly characterized as PFASs is an important part of the regulatory due process that Environment and Climate Change Canada and Health Canada recently outlined in their Notice to Stakeholders, identifying a 2-year plan to more appropriately direct any corresponding risk mitigation efforts, moving forward.

The information gathering initiative CHPSD launched last week is intended to address three very distinct points for follow-up in relation to this study.

1. Labelling verification (given that the study opening identifies potential concerns related to product labelling);
2. Confirmation of current market status in Canada (i.e., are products identified in the study sold in Canada); and
3. Information gathering (to gain insights and provide supplemental context to the study findings to help inform future risk assessment and management activities).

Unfortunately, the overall context underpinning these initiatives is not clear in the notice that was issued last week. Originally, multiple information asks were contemplated; however, in the end, CHPSD decided to combine everything into one communique. Regretfully, in their bid to simplify and streamline the notice into a single ask, some of the underlying context for these information gathering initiatives was lost.

As members are no doubt aware, interests regarding the potential environmental risks of PFAS is an emerging global issue of concern across all industry sectors (including cosmetics and personal care). In Canada, PFASs are the subject of a large group of over 4,200 substances to which the Government of Canada is presently addressing under the Chemicals Management Plan. As outlined previously, a corresponding Action Plan was published in April 2021 outlining science investigations and information gathering approaches aimed at focusing corresponding follow-up risk assessment and management activities. In this regard, this information request from CHPSD serves as an important first opportunity to provide insights that can further inform these initiatives and shape how ECCC and HC could approach this large class of substances in the future.

Therefore, with this clarification in the overall scope and intent of these early initiatives, voluntary engagement of our sector in such initiatives will be helpful and potentially influential, and consequently responding to this information request is supported.

RECOMMENDATIONS – RESPONDING TO SURVEY AND NEXT STEPS

At this juncture, Health Canada will NOT be re-issuing their information requests.

WHO (should receive request):

Information requests were sent out ONLY to cosmetic/personal care companies whose Brands were identified in the study.

WHAT (information to provide):

Members in receipt of this request will have received 1 of 2 template letters (depending on whether the sampled product is notified in the Cosmetic Notification System, CNS).

[Specific products/brands that were sampled were not openly disclosed in the study, information reflected in the requests are based on Health Canada's follow-up with the study authors, who shared the list of implicated products directly with officials]

Irrespective of the letter received, the information requests outlines 3 specific asks (as excerpted below):

1. Comments on the findings of the study with respect to the identified products
2. Confirmation whether the product is available for sale in Canada, and if so, to confirm a cosmetic notification has been submitted to Health Canada (and/or whether the product has been or plans to be discontinued); and
3. A copy of the product labels for review

Regarding ASKS 2 and 3 (per above):

TIMELINE FOR RESPONSE TO ASKS 2 and 3:

- Members should respond as soon as possible (or at a minimum, communicate intent to respond within a reasonable timeline, if a bit more time is required – given the timing of this request)
- Notionally, Health Canada would appreciate receiving input within the next couple of weeks (as in their estimation this information should be readily available)

The information covered under these two asks are intended to help officials respond to inquiries from the Director Generals and Assistant/Deputy Minister's offices, in relation to possible pressures from political committees. The need for the Department to show some form of action in response to the study is of significant interest, particularly, considering some of the operational critiques that the Auditor General's Office (AGO) presented in their audit of the cosmetic program a few years ago.

Although responses to this information request is voluntary, members are encouraged to follow-up as recommended, below:

For products for which a CNF Reference is identified:

- The letter will specifically identify the corresponding Cosmetic Notification Reference related to the sample product in question
- Health Canada is looking to confirm:
    - That the identified Cosmetic Notification is current (note: there should be no need to confirm that a cosmetic notification has been filed as HC has already confirmed this to be the case)
    - Whether or not this product is currently in market in Canada
    - Whether or not there are plans to discontinue this product in Canada (along with a reminder, that if the product is (or intended to be) discontinued, that there is an obligation to report this change in status [note: NO specific action is required if no such plans are in place or even being considered at this time; these updates are only required once the product is discontinued]

In addition, a copy of the label is requested (provided electronically)

- To highlight any PFASs intentionally included in the product (and hence identified on label)
- To indicate that any PFASs detected may be present as an impurity (in which case identification on label is not necessary)

For products **NOT** found with a CNF:

- The letter will generically identify the product (without reference to Cosmetic Notification Reference)
- Health Canada is looking to confirm:
    - That product is not available for sale in Canada (and as such no Notification is required)
    - If the product is marketed in Canada, to verify notification status, as appropriate
    - In the event that the product is marketed in Canada, the provision of a copy of the label to similarly confirm PFAS labeling (as outlined above) is also requested

As for ASK 1 (per above):

TIMELINE FOR RESPONSE TO ASK 1 (information to be provided to Cosmetics Alliance):

- Please provide insights directly to regulatory@cosmeticsalliance.ca [subject line: PFAS Follow-Up]
- Input should be shared as soon as possible (but no later than close of business [17:00 EDT] Friday, September 10, 2021).

In consultation with Health Canada, Cosmetics Alliance has agreed to consolidate a **single generic response on behalf of industry**.

- Any input provided will be kept in the strictest of confidence
- Cosmetics Alliance will consolidate and anonymise information, so to identify 'big picture' trends for discussion and follow-up

This ask should considered by **ALL MEMBERS** – irrespective of whether brands/products are identified in study.

In this regard, we are requesting the following input from **ALL MEMBERS**

- An indication as to whether PFAS ingredients are INTENTIONALLY USED in your products (complete the table below):

Specific PFAS	**Product Class/Type (e.g., foundation, mascara, etc.)**	**Function(s) in Product**

Information outlined in this table will be used to prioritize possible PFASs or PFAS classes that may have functional/benefit profiles of potential interests in products. This data would also be helpful in identifying possible alternatives and/or substitution strategies that could look to minimize or mitigate potential PFAS releases to the environment

- Thoughts on possible formation or presence of PFAS in formulations as an unintentional impurity; and possible mechanisms to minimize or mitigate formation *in situ.*
- Strategic considerations to facilitate delineating between different classes of PFASs (distinguishing those PFASs or class of PFASs that may present the greatest concerns in terms of relative or overall persistence) to see if certain PFASs may present different risk profiles to those of highest potential concern; and/or
- Any research ideas or supplemental data gathering efforts that may ultimately help shape prioritisation, categorization/sub-grouping, risk assessment (including alternative assessment) and potential risk management

- Given the relative complexity of this specific information ask, CHPSD has acknowledged that more time should be allowed to allow for industry to contribute to this follow-up more comprehensively. You will see that we have worked out a more expansive response window to allow for the coordination of this information from across our membership.

POSSIBLE FUTURE RELATED SURVEYS

The present activities are exclusively focused on Brands/Members with products identified in the study. Broader follow-up action may be contemplated by ECCC and Health Canada and additional follow-up information gathering initiatives can be anticipated over the course of the next few months.

We would also note to members that in addition to such Government-lead information gathering exercises; there are several on-going global industry collaborations and science-based

dialogues regarding PFAS. CA Canada is aware of and actively participating in many of these discussions, as we look to identify similar information gathering efforts across jurisdictions to socialize a common and/or aligned approach, as much as possible.

This is only just the beginning – please stay tuned, as additional information gathering efforts are inevitable in the next few months/years to come.

Questions? Please touch base with your CA Canada Science, Regulatory and Market Access team, so we can help navigate these information requests and maximize opportunities to help shape future strategic considerations and program initiatives under the CMP and abroad.

DEL Bulletin LEPP No. 117 Health Canada transitions interim order to the FDR for importing, selling, & advertising drugs in relation to COVID-19

Health Canada amended the *Food and Drug Regulations on March 18, 2021,* to transition authorizations and drug establishment licences (DEL) issued under the *Interim Order Respecting the Importation, Sale and Advertising of Drugs for Use in Relation to COVID-19* (ISAD Interim Order).

The new and transitional provisions allow for the continuation of the expedited and agile pathway for DEL applications in relation to COVID-19 drugs once the ISAD Interim Order expires on September 16, 2021.

What does this mean for DEL holders?

Until September 16, 2021:

- Notify Health Canada if you wish to maintain a DEL issued under the ISAD Interim Order.
- All provisions related to DEL and Good Manufacturing Practices (GMP) under the ISAD Interim Order remain in force.
- Health Canada will remit DEL fees for applications submitted under the ISAD Interim Order.

After September 16, 2021:

- Unless notified, all DELs issued under the ISAD Interim Order will be automatically cancelled, effective September 16, 2021.
- The review, authorization, and oversight of COVID-19 drugs will be conducted under the *Food and Drug Regulations*.
- DEL fees will apply to the review of applications submitted under the *Food and Drug Regulations* in relation to a COVID-19 drug.

Applications submitted under section 20 of ISAD Interim Order and not issued before its expiry will be automatically transitioned. These applications will continue to be reviewed as though they were submitted under the *Food and Drug Regulations* and DEL fees will not apply.

How to maintain your DEL issued under the ISAD Interim Order

DEL holders who wish to maintain their licence (or part of their licence) issued under the ISAD Interim Order, **must notify Health Canada by September 16, 2021**. Guidance is available on how to maintain your DEL issued under the ISAD Interim Order, including details on what information to include in your notification. Failure to notify Health Canada by September 16, 2021, will result in the DEL being automatically cancelled.

DEL Bulletin LEPP No. 118 - Notice of Publication - GUI-0050

On August 10, 2021, the Health Product Compliance Directorate posted the GUI-0050 – Annex 11 to the GMP Guide. This guide is an annex to the *Good manufacturing practices guide for drug products* (GUI-0001). This annex applies to all forms of computerized systems used as part of Good Manufacturing Practices (GMP) regulated activities. These guidelines apply to the following product categories:

- pharmaceutical
- radiopharmaceutical
- biological
- veterinary

These guidelines interpret the requirements for good manufacturing practices (GMP) in Part C, Division 2 of the *Food and Drug Regulations*. The annex will be implemented immediately as it describes the necessary requirements and controls which should be included in computerized systems to ensure GMP compliance.

Please note GUI-0050 is a revised version of the currently posted document replacing *PIC/S Annex 11: Computerised Systems 'Guide to Good Manufacturing Practice for Medicinal Products' (*April 5, 2007).

Key changes to the revised document include:

- Addition of four new sections (Risk management, Periodic Evaluation, Electronic Signature and Archiving)
- Update to the new structure and formatting requirements for publication on the Health Canada website
- Aligning with Pharmaceutical Inspection Cooperation Scheme (PIC/S) guidance and international partners
- Adapting the text of the PIC/s document to meet Canadian requirements.

DEL Bulletin LEPP No. 119 - Introducing the new DEL Bulletin Webpage

Health Canada has created a new Drug Establishment Licensing (DEL) Bulletin webpage. As of August 10, 2021, all new DEL Bulletins will be posted to the webpage. DEL bulletins were not available on Health Canada website previously however with the new webpage contains all current and previous DEL bulletin will be available soon. Releases of new DEL Bulletins will still be notified through email.

Return to Normal Performance Standards for Disinfectants on October 1, 2021

With the pandemic the Natural and Non-prescription Health Products Directorate was focused on expediting applications to meat the demands of the pandemic. Starting on October 1, 2021, NNHPD will be returning to normal performance standards for disinfectant drugs as there are adequate disinfectants on market to meet demand. Submissions received prior to October 1, 2021, will continue to be prioritized as per the expedited timelines. Normal performance standards will be applied to any new submissions received on or after October 1, 2021.

https://www.cosmeticsalliance.ca/return-to-normal-performance-standards-for-disinfectants-on-october-1-2021/

Consultation Extension: Proposed Regulations to Improve NHP Labels

The Natural and Non-prescription Health Products Directorate (NNHPD) recently launched Phase 1 of the implementation of the Self-Care Framework with the "pre-publication" in Canada Gazette Part 1 of a proposal to amend the Natural Health Product Regulations with respect to labelling. NNHPD has extended the consultation period on its Proposed regulations amending the Natural Health Products Regulations - Improving labelling for natural health products. The proposal, issued June 25 and open to public comments for 70 days, is intended to deliver upon the government's long- standing commitment to improve labelling for health products while ensuring the alignment of labelling requirements for similar risk products within the Self-Care Framework. The consultation period that opened on June 26, 2021, has now been extended from September 4, 2021, to September 24, 2021.

Cosmetics Alliance will be submitting comments to the consultation and will be working with the Product Compliance & Market Access (PCMA) Committee. If you would like to take part in this consultation you can directly submit comments or join our PCMA committee.

Paving the Way for Application of Next Generation Risk Assessment to Safety Decision-making for Cosmetic Ingredients is Now Published in Regulatory Toxicology and Pharmacology

Paving the Way for Application of Next Generation Risk Assessment to Safety Decision-making for Cosmetic Ingredients was recently published in the Regulatory Toxicology and Pharmacology Volume 125 in Science Direct. It is a follow-up paper to the publication in J. Computational Toxicology (2018) which outlines the principles of the integration of next generation risk assessment tools to support safety assessments of cosmetic ingredients and cosmetics. This paper is the outcomes from the Montreal Workshop held in conjunction with ICCR-14 (2019). It provides an overview of two case studies discussed in detail at the workshop (coumarin and phenoxyethanol) as a means to illustrate that the principles as outlined in the 2018 paper are fit for purpose and practical as a means to support regulatory safety decision-making without the use of animals. This an important step in advancing non-animal testing methods and to demonstrate how NGRAs can be applied to support safety assessments moving forward.

Below are some of the key outputs from the case study review and ICCR workshop:

- Principles as outlined in 2018 are by enlarge sound and practical
- Examples and case studies are available, but more are needed to continue to build confidence in methods and approaches
- Additional efforts are needed to show how these new tools can be applied to different regulatory decision contexts
- A number of areas for further collaboration and follow-up are identified to continue to explore and refine a robust and protective approach

This is an important first step in continuing to socialize practical application of Next Generation Risk Assessments (NGRA) to support safety decisions and to illustrate how these non-animal methods can be leveraged moving forward. Work will continue to better understand practical application of next generation toxicology and risk assessment to further confidence in these methods to support safety and regulatory decisions in the future.
Importantly, the publication of the paper represents a significant collaboration between regulatory, industry and non-governmental scientists. This demonstrates how joint stakeholder interests can come to the fore to promote and advance confidence in regulatory application of NGRAs and NAMs in support of cosmetic/cosmetic ingredient safety assessment.

Release of Draft Revised Guidance Documents on Post-Notice of Compliance (NOC) Changes – Quality, for Stakeholder Consultation

For those of you who are interested Health Canada is inviting stakeholders to comment on the revised guidance documents on Post-Notice of Compliance (NOC) changes for Quality. The draft guidance documents are linked below for your reference. The consultation is targeted for Sponsors of pharmaceutical, biologic, or radiopharmaceutical drugs. The consultation will close on November 4, 2021.

Post NOC Changes Framework

Post NOC Changes Guidance – Biologics

Post NOC Changes – Overall Quality Document

Post NOC Changes Guidance for Human Pharmaceuticals

Post NOC Guidance for Schedule C drugs

Call for proposals for Health Canada Stakeholder Scientific and Technical Session Nitrosamines

Health Canada is holding a virtual Stakeholder Scientific and Technical Session on Nitrosamines on October 20, 2021, from 9 am - 12 pm, EST. This webinar is intended to provide an opportunity for industry stakeholders to present new technical developments and scientific progress, which could facilitate the risk assessment and control of nitrosamine impurities in human pharmaceuticals.

There will only be limited number of presentations, please email by August 23, 2021 to indicate if your association / company would like to be a presenter and include the proposed topic by sending a response to hc.bps.enquiries.sc@canada.ca.

Cosmetics Alliance will be attending the Technical Session.

Environmental Updates

CMP Terpenes and Terpenoids Post-Licence Information Request

CA Canada received a confidential advanced notice confirming that the Natural and Non-prescription Health Products Directorate (NNHPD) will soon be reaching out to stakeholders to gather information on Terpenes and Terpenoids found in licensed natural health products. This information gathering follow-up is part of the CMP initiatives regarding this grouping of CMP priorities and is intended to help inform the Final Screening Assessment Report (FSAR) currently being worked on by officials.

As you may recall, Cosmetics Alliance submitted comments to the Draft Screening Assessment of Monoterpenes Grouping back in December 2020. In our comments, we highlighted revised risk characterizations for the three terpenes that were proposed to be “CEPA Toxic” (Turpentine Oil, Rose Oil and Tangerine/Mandarin oil) that illustrated that the draft ‘CEPA-Toxic’ designations are NOT supported at least for the use patterns related to cosmetics. Correspondingly, the proposed ‘CEPA Toxic’ designations would solely be driven by specific uses in NHPs as MIs and NMIs.

This follow-up information gathering exercises (which is specific to uses of terpenes/terpenoids) in NHPs products will provide for the opportunity to refine exposure refinements and possibly show that actual use concentrations in NHPs may not necessarily support the proposed "CEPA Toxic" designations. To ensure accurate concentrations of use are submitted to NNHPD, kindly note that any use concentrations reported in response to this follow-up survey should be specific to the actual concentration of the constituent oil and NOT the fragrance or ingredient as a whole. If you do not have the concentration of the constituent oil, we strongly recommend working with your ingredient supplier(s) to ensure that reported concentration data is based on the constituent oil itself.

Furthermore, vigilance data can be used to demonstrate that post-market experience has not revealed any safety concern to date which can support the conclusion that post market experience does not support conclusion of 'CEPA Toxic'.

At this juncture, Cosmetics Alliance does not have any additional insights as to specifically when this outreach initiative will officially be released; nor do we have any details as to specifically whom Health Canada will be reaching out to. Nonetheless, we anticipate that formal release of this follow-up survey will likely be published shortly. Please be on the look out for a corresponding Notice, particularly if you declared an interest in the terpenes and terpenoids grouping (through previously related CMP activities); at least from the perspective of NHPs containing such substances.

Cosmetics Alliance will share this information gathering survey once it is officially available. In the interim, if you have any questions or concerns, please reach out to your CA Regulatory Team at regulatory@cosmeticsalliance.ca.

Post-Consumer Waste Updates

Learn More about Your Requirements as a Blue Box Producer

On **Wednesday, August 18 from 10:00a.m. to 11:30 a.m.,** the Authority is hosting a webinar for Blue Box producers to help them understand and meet their obligations under the new Blue Box Regulation.

During this webinar, they will walk through the regulatory requirements for producers of Blue Box materials and cover topics such as registration and reporting, and working with PROs.

Sign up here