

## **Bill S-5, *Strengthening Environmental Protection for a Healthier Canada Act***

### **Comments from the Canadian Cosmetics & Personal Care Products Industry**

#### **1. Who We Are**

Cosmetics Alliance Canada is the leading trade association for the Canadian cosmetics and personal care products industry. Our over 150 member companies employ tens of thousands of Canadians and include brand owners, manufacturers, importers, exporters, distributors, retailers, and suppliers of goods and services to the industry.

#### **2. The Products We Represent**

Our industry's products are essential to living better, healthier lives and include everything from soap, shampoo, and toothpaste to moisturizer, antiperspirants, and sunscreen – as well as makeup/colour-cosmetics, hair dyes, fragrances, and more. As the makers of such a diverse range of products millions of consumers use every day, our members are committed to product safety, quality, and innovation – and they take environmental stewardship very seriously.

#### **3. Our Interest in CEPA – Key Legislation Which Governs Our Ingredients**

The *Canadian Environmental Protection Act, 1999* (CEPA) is one of two key pieces of legislation that regulates our products and how we make them, the other being the *Food and Drugs Act* through its' *Cosmetic, Natural Health Product, and Drug Regulations* (all three of which can apply to products like toothpastes, shampoos and even lipsticks).

Simply put, CEPA is the legislation that assesses the ingredients available to our formulators from both a human health and environmental perspective based upon the principles of sound science and risk-assessment. Under the principle of 'Best-Placed Act', the *Food and Drugs Act and its regulations* then provide the tools to implement the CEPA outcomes on our finished products. This is done through prohibitions, restrictions, and limitations on ingredients (i.e. general prohibition, Health Canada's *Hot List*), as well as labelling requirements (i.e. ingredient disclosure, warnings). The *Food and Drugs Act* also requires notification and pre-approval of products (i.e. what is on the market, who is responsible for it), and the power to order product recalls (with the addition of recall authority for cosmetics and natural health products included in Health Canada's Self-Care Framework modernization).

To illustrate the efficiency of this system, ingredients used by our industry that were identified by regulators as either "high" or "medium" priorities have been reviewed through CEPA under the Chemicals Management Plan (CMP) with many being eliminated or restricted. Implementing these decisions was undertaken through the *Food and Drugs Act* and Health Canada's administrative tools. A well-known example was the elimination of plastic microbeads as exfoliants in personal care products of which Cosmetics Alliance was an active supporter of the Federal Government in developing and implementing the required regulation.

These two Acts and the coordinated Chemicals Management Plan they have supported for nearly two decades, as well as decision-making based on sound science and risk-assessment, have made Canada a world leader in effectively managing “in-commerce” and new chemical substances. Any modernization of CEPA should seek to ensure the continuation of this approach.

#### **4. Our Review of Bill S-5, *Strengthening Environmental Protection for a Healthier Canada Act***

*The proposed legislation* seeks to modernize CEPA for the first time in twenty years and make related amendments to the *Food and Drugs Act*. We believe that it is important for all regulatory frameworks to be reviewed from time to time to ensure that their **objectives remain relevant, they operate in a manner this is effective in achieving those objectives and are administratively efficient.**

As to Bill S-5 specifically, we offer the following comments and advice on the proposed Bill:

##### **(a) Maintains Importance of Sound Science & Risk Assessment**

It is important to the credibility of any health or environmental regulatory framework that it be based on the principles of sound science and risk-assessment. On reviewing the Bill as written, we understand that it maintains the science- and risk-based approach which is a foundational underpinning of Canada’s chemicals and environmental management strategy and for which we are a strong advocate.

##### **(b) Re-enforces Important Existing Principles**

The proposed legislation also reinforces important existing principles such as:

- Protecting vulnerable populations;
- Recognizing cumulative effects (important to any sound risk-assessment);
- Supporting alternative assessments (important to the reduction and eventual elimination of testing on animals); and
- Utilizing the precautionary principle.

##### **(c) Modernizes & Updates Various Provisions**

The Bill includes several provisions that we welcome as important to modernization including:

- Creating an enabling mechanism for legitimizing the Revised In-Commerce List;
- Specifically recognizing alternatives to animal testing methods;
- Enhancing the recognition of the principles of ‘Best-Placed Act’ (to prevent duplicative or contradictory requirements under CEPA and the *Food and Drugs Act*); and
- Renaming Schedule 1 (removing reference to ‘toxic’ from the Schedule)

##### **(d) Adds New Provisions and Authorities**

The Bill also introduces several new provisions or authorities for which stakeholders and regulators have had little or no experience in their practical use, but which have the potential to add value to the overall regulatory framework. Consequently, these new legislative authorities will require further discussion and stakeholder engagement prior to their implementation if unintended consequences are to be avoided. This includes stakeholder consultation in the development of any regulations or administrative policies that will be required.

Specifically, these include:

- Introduction of a 'Watch List' for substances that are safe as currently used (but for which new uses or emerging concerns may pose an issue and so require further study and/or monitoring);
- Integration of environmental risk assessment provisions for drugs (which will need to work within Health Canada's new Self-Care Framework and other ongoing drug-related modernization efforts); and
- Further consumer information and labelling requirements (which should be risk/science-based, provide consumers with meaningful information/context, work within existing labelling requirements under the 'Best-Placed Act' principle, and make full use of e-label technology to avoid an increase in packaging/waste and accommodate growing e-commerce sales).

## 5. Recommendations

Cosmetics Alliance Canada welcomes this CEPA modernization effort, and we offer the following two recommendations:

### (a) Support for Bill S-5

It is the view of Cosmetics Alliance Canada that Bill S-5 as written achieves the goal of modernizing CEPA in a manner that will increase Canada's effectiveness in protecting the health and environment of Canadians while providing for efficient administrative mechanisms including the 'Best-Placed Act' approach. Additionally, it rests on a foundation of sound science and risk-assessment which maintains Canada's credibility and well-respected reputation regarding chemicals management.

Consequently, we support Bill S-5 as written and recommend its passage by Parliament.

### (b) Any Proposed Amendments Need to be Carefully Considered

The modernization of legislation that is as complex and far-reaching as *CEPA*, and which must be integrated with the equally complex *Food & Drugs Act*, is no easy undertaking. It requires a detailed understanding of both statutes as well as their administrative workings if unintended consequences or administrative roadblocks are to be avoided.

CEPA modernization has already had the benefit of significant input and policy advice from all stakeholder groups including industry, environmental organizations, representatives of vulnerable populations, etc. The proposed legislation has been drafted utilizing the expertise of department officials – who must administer the legislation - and legal drafters who understand the intricate details of the Acts being amended.

Although there may be demands for amendments from various stakeholders – including from industry and environmental organizations – we recommend that these be avoided unless they clearly have the support of ALL stakeholders and can be demonstrated to be workable within the modernized regulatory framework. It is imperative that unintended consequences or administrative issues not be created by well-intended amendments that are not fully understood.

Consequently, Cosmetics Alliance is neither seeking nor offering our support to any amendments to Bill S-5 at this time.

## **6. Cosmetics Alliance Experience with CEPA, Chemicals Management, and Similar Frameworks Internationally**

Cosmetics Alliance has been actively engaged in the CEPA chemical assessment process for well over a decade and has much experience in the workings of the Act and the Chemicals Management Plan. We are, in fact, one of the few stakeholders to have directly participated in the independent scientific review process mandated under CEPA, that being a Board of Review order by the Minister.

Cosmetics Alliance's Director of Environmental Science & Regulation, Beta Montemayor is an environmental toxicologist and has been involved with CEPA for over 20 years. He currently chairs the CEPA Industry Co-ordination Group (ICG) which is an important forum for regulatory and technical discussions with government. He has served as Co-Chair of Environment Canada and Health Canada's Environmental Assessment Working Group (EAWG) Subcommittee and was an active member of the CMP Stakeholder Advisory Committee. Beta also currently chairs the Society of Environmental Toxicology and Chemistry Global Partners Program (focused on training, capacity building, and collaborative research in advancing excellence in these disciplines).

Our Cosmetics Alliance team has also gained significant insight into the workings of similar chemical assessment processes and legislation from around the world, including the European Union's REACH program. We have been consulted on CMP/REACH dossiers regarding a number of priority ingredients of global interest to the cosmetic and personal care sector (i.e. siloxanes, microbeads, microplastics, sunscreen actives, colorants and preservatives) and we have collaborated on technical issues related to refining methods for the integrated assessment of chemicals and new assessment methodologies (including animal-free testing methods).

Cosmetics Alliance was invited to appear before the House of Commons Environment Committee in 2016 on the topic of CEPA Renewal.

### **For Further Information, Please Contact:**

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