

Orientation to Compliance and Enforcement

**Regulatory Operations and Enforcement Branch (ROEB)
Health Product Compliance Directorate (HPCD)**

January 2021

YOUR HEALTH AND SAFETY... OUR PRIORITY.



Overview

- Role of the Health Product Compliance Directorate (HPCD)
- HPCD Partners
- Current Status of Health Canada's (HC's) Regulatory Oversight of Natural Health Products (NHPs)
- Why we are here today?

Overview

- Compliance and Enforcement (C&E)
- Where does an Inspector's Authority Come From?
- Responsibilities of the Regulated Party
- Inspection as a C&E tool
- What to Expect During a NHP Good Manufacturing Practices (GMP) Inspection
- NHP Inspection Case Studies
- Transparency
- Questions

Health Product Compliance Directorate

The Health Product Compliance Directorate (HPCD) is one of 8 directorates in the Regulatory Operations and Enforcement Branch (ROEB) of Health Canada.

We are a virtual organization with over 200 employees located from coast to coast; our staff work at locations in:



- Burnaby
- Calgary
- Edmonton
- Winnipeg
- Hamilton
- Toronto
- Scarborough
- Ottawa
- Longueuil
- Halifax
- St. John's

Organizational Structure



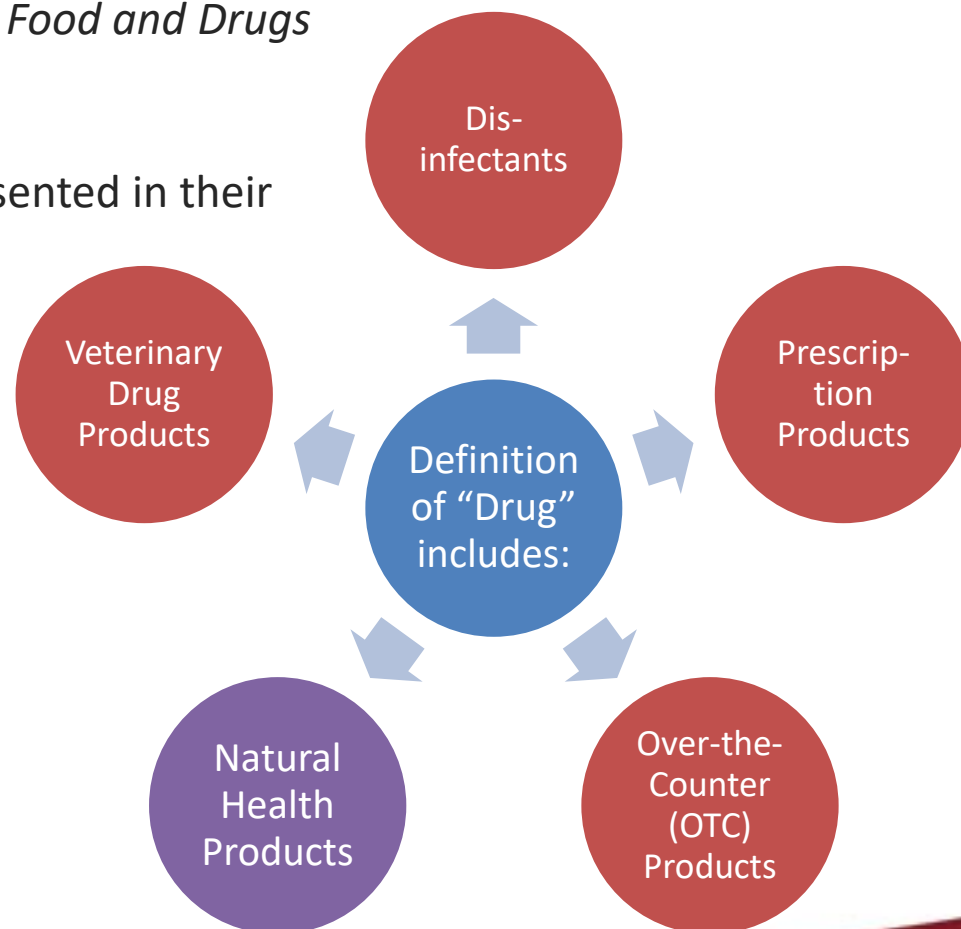
Responsibilities under the Food and Drugs Act

HPCD administers a national compliance and enforcement program to verify compliance and prevent non-compliance for a subset of “drug” products under the *Food and Drugs Act (FDA)*.

“Drugs” are further subdivided and represented in their own subsets of regulations.

Food and Drugs Act

- Applies to all drugs, whether *manufactured* in Canada or imported,
- Covers safety, quality and efficacy of drugs, and
- Provides broad discretionary powers to persons designated as inspectors



Health Product Inspection and Licensing Division:

Disinfectants, OTCs, Prescription, Veterinary Drug Products

Food and Drug Regulations, Part C
specifically regulate
the lifecycle of a drug
from clinical trial
through to post-market

*Food and Drug Regulations,
Part C, Division 1A provides the
framework for drug
establishment licensing*

*Food and Drug Regulations, Part
C, Division 2 establishes Good
Manufacturing Practices (GMP)
requirements for the production of
drug products*

Health Product Compliance and Risk Management Division:

Natural Health Products

Natural Health Products Regulations, Parts 1, 2, 3, 4, 5 specifically regulate the lifecycle of a NHP from clinical trial through to post-market

Natural Health Products Regulations, Part 3 establishes Good Manufacturing Practices (GMP) requirements for the production of NHPs.

Item	Natural Health Product Substances
1	A plant or a plant material, an alga, a bacterium, a fungus or a non-human animal material
2	An extract or isolate of a substance described in item 1, the primary molecular structure of which is identical to that which it had prior to its extraction or isolation
3	Any of the following vitamins: Biotin, folate, niacin, pantothenic acid, riboflavin, thiamine, vitamin A, vitamin B ₆ , vitamin B ₁₂ , vitamin C, vitamin D, vitamin E, vitamin K ₁ , vitamin K ₂
4	An amino acid
5	An essential fatty acid
6	A synthetic duplicate of a substance described in any of items 2 to 5
7	A mineral
8	A probiotic

NHP Compliance & Enforcement: Program Partners

- HPCD regularly works with the following program partners to deliver a compliance and enforcement program for NHPs

Natural and Non-Prescription Health Products Directorate

Provides regulatory oversight for Parts 1 and 2 of the Natural Health Products Regulations, scientific and technical expertise for health risk assessments with NHPs, input into risk management strategies, and collaboration on proactive risk management projects

Health Product Compliance Directorate

Marketed Health Products Directorate

Post-approval safety surveillance, including adverse reaction reporting

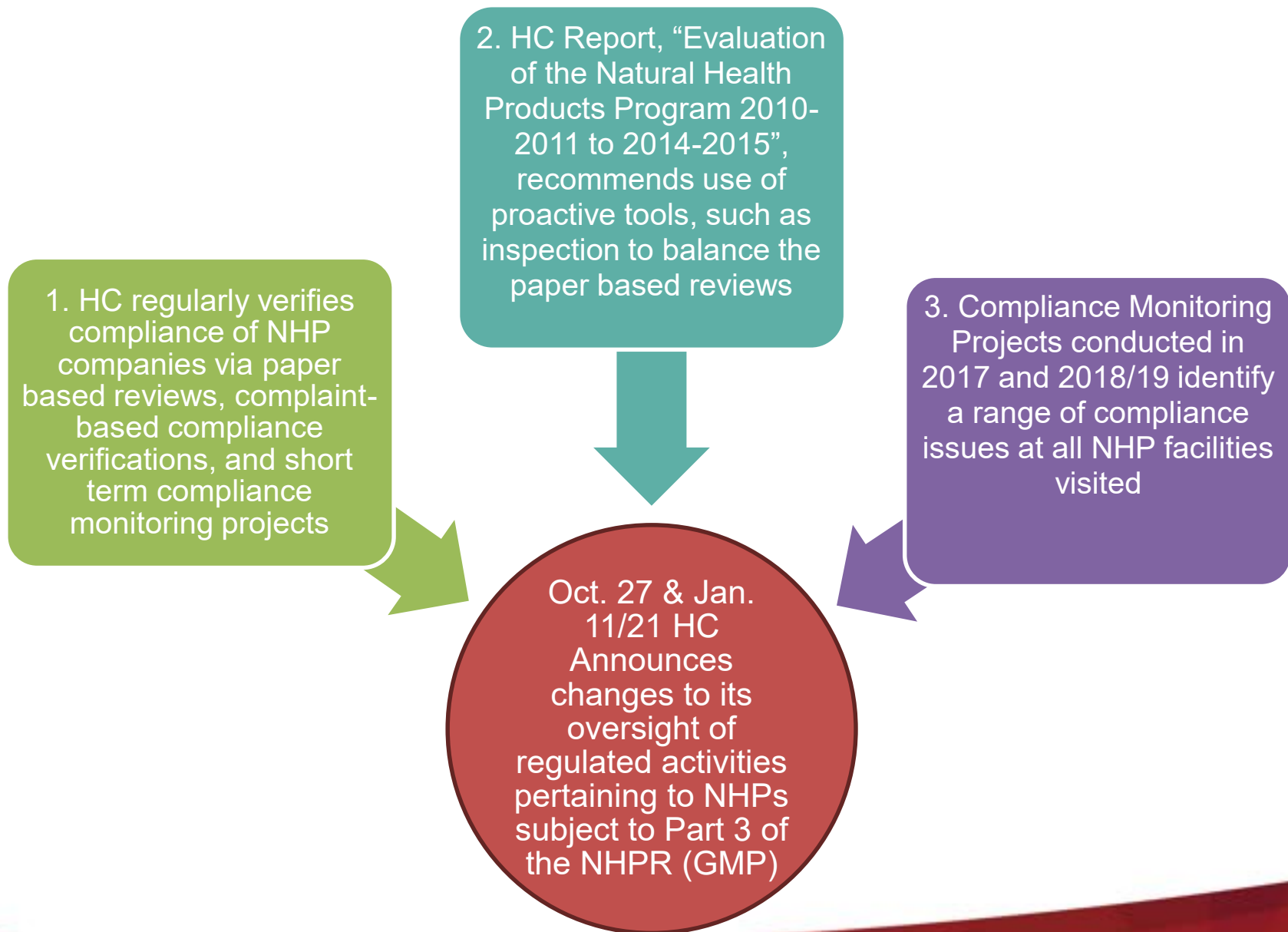
Medical Devices and Clinical Compliance Directorate

Provides enforcement and surveillance activities for NHPs at ports of entry

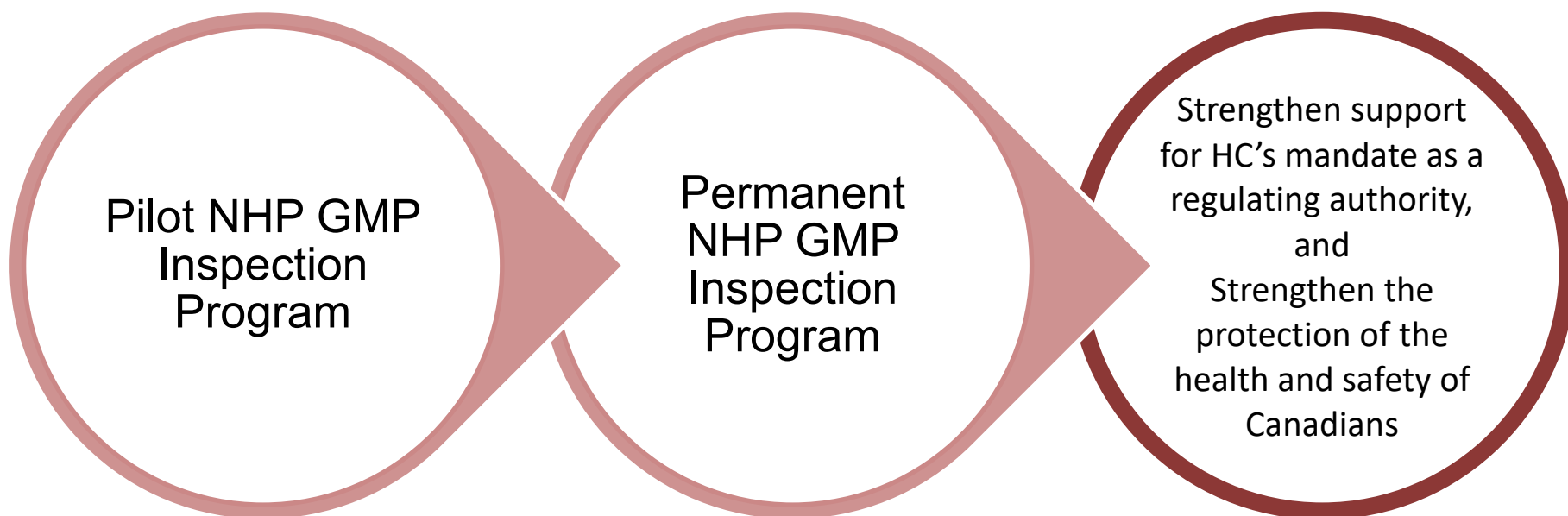
Canada Border Services Agency

Refers shipments of health products such as NHPs at the border to Health Canada inspectors

Progression of Regulatory Oversight for NHPs:

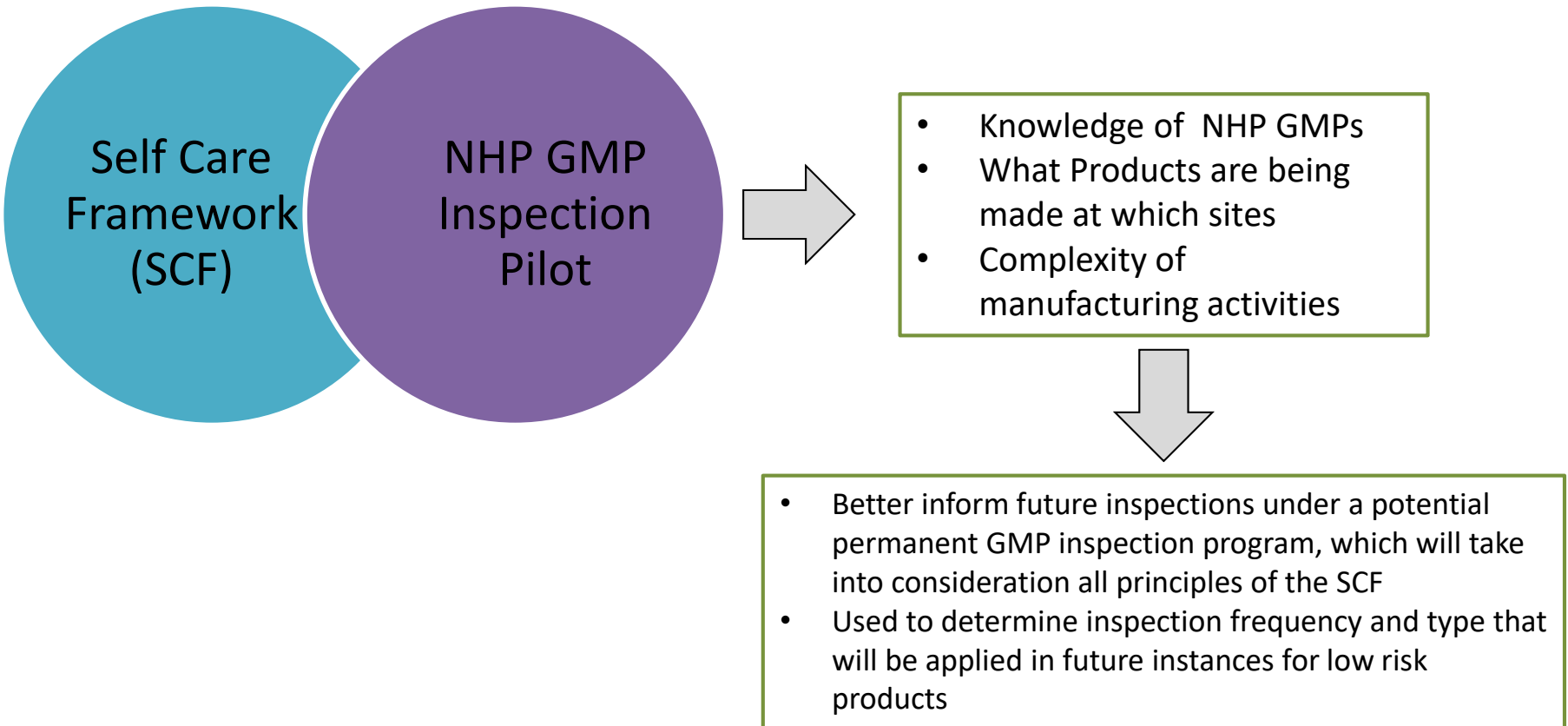


Health Canada's Proposal:



A Word About The Self Care Framework

- As we develop the NHP GMP inspection framework we are in close contact with the Self Care Framework team to ensure alignment of both initiatives
- Through the Self Care Framework, Health Canada is looking to update its current approach to regulating NHPs, which has always included the implementation of NHP GMP inspections.



Why We Are Here Today?

In response to the October 27/20 announcement it was requested that the NHP industry receive an orientation to ROEB's C&E tools, specifically inspection, as well as to Part 3 of the NHPR

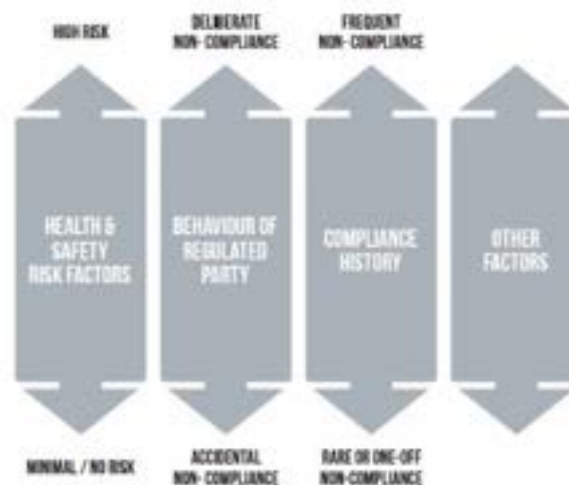
Today's Webinar is the first in a series, which will be offered to NHP stakeholders prior to the first NHP GMP pilot inspections being conducted

Next week a Webinar is being offered, which will review the requirements of Part 3 of the NHPR (NHP GMPs).

Overview of POL-0001: Compliance and enforcement policy for health products

- Health Canada manages the risk posed to public health and safety by health products through various types of compliance and enforcement activities.
- Health Canada chooses the actions and tools that are most appropriate for the situation, based on a number of factors

Information pertaining to non-compliance



- Some activities are designed to help regulated parties understand their responsibilities under the Act. Others are designed to induce or compel compliance with the law.

Overview of POL-0001

Respond to
Non-Compliance

Enforcement
Risk Communication/Risk Management

Compliance Monitoring

Reduce Non-
Compliance

Compliance Promotion

C&E Activities/Actions/Tools

- Recommend prosecution
- Conduct criminal investigations or refer to law enforcement

- Apply for injunctions
- Impose financial penalties
- Undertake activities related to seizure, detention and forfeiture of products
- Prevent sale, import, advertisement, manufacture of NC products
- Cancel/suspend licences/market authorizations
- Issue orders for recalls and stop sale of products
- Add terms and conditions to licences
- Issue Warning Letters
- Enter into compliance agreements with industry
- Pursue voluntary recalls or other measures
- Publish alerts, advisories or other risk communications
- Disclose information (e.g., inspection reports)

- Carry out inspections
- Product sampling
- Market surveys
- Border blitzes
- Risk intelligence
- International monitoring
- Compliance monitoring projects

- Develop and provide education, guidance and information (e.g., webinars, stakeholder notices)
- Collaborate and consult with regulated parties

Where does an Inspector's Authority Come From?



- Any person designated as an inspector for the purpose of the enforcement of the Food and Drugs Act (FDA) under subsection 22(1).
- Per subsection 22(1) the Minister may designate any person as an inspector.
- Per subsection 22(2) an inspector shall be given a certificate in a form established by the Minister attesting to the inspector's designation and, on entering any place pursuant to subsection 23(1), an inspector shall, if so required, produce the certificate to the person in charge of that place.

What Can an Inspector Do?

- Subsection 23 (1) of the FDA outlines **powers of inspectors**. An inspector may, for a purpose related to verifying compliance or preventing non-compliance with the provisions of this Act or the regulations, **enter any place**, including a conveyance, in which they believe on reasonable grounds
 - (a) An activity that may be regulated under this Act is being conducted;
 - (b) Any article to which this Act or the regulations apply is located, or
 - (c) An activity could be conducted under an authorization, including a licence, for which an application is under consideration by the Minister.

- Per subsection 23(3), an inspector is considered to have entered a place when they access it **remotely** by a means of telecommunication and per subsection 23(4) an inspector who enters remotely, by a means of telecommunication, a place that is not accessible to the public **shall do so with the knowledge of the owner or person in charge of the place** and only for the period necessary for the purpose referred to in subsection 23(1).

After an inspector enters a place they may per SS. 23(2) of the FDA:

Test anything

Examine any article

Remove, for examination or copying, any copies made or extracts taken

Open and examine any receptacle or package

Seize and detain for the time that may be necessary any article

Remove anything from the place for the purpose of examination, conducting tests or taking samples

Take photographs and make recordings and sketches

Take samples of any food, drug, cosmetic, device or anything

Examine – and reproduce or cause to be reproduced – any electronic data that is contained in or available to a system

Use, or cause to be used, any computer system or telecommunication system

Cause to be reproduced any electronic data

Examine – and make copies of or take extracts from – any record, report, electronic data or other document

If they believe on reasonable grounds that it is something to which the Act or regulations apply.

NHP GMP vs. Drug GMP

Similarities	Differences
Sterile NHPs and Drugs are held to the same drug GMP standard.	NHP GMPs do not require validation
NHP GMP inspections will follow a similar process to drug GMP inspections	NHP GMPs do not require a continuing stability program
NHP GMP inspections will be prioritized based on risk	NHP GMPs do not require the person in charge of the quality control department and manufacturing department to hold a Canadian university degree or a degree recognized as equivalent by a Canadian university or Canadian accreditation body in a science related to the work being carried out

Responsibilities of the Regulated Party:

- Per subsection 23(13) of the FDA, the owner or other person in charge of a place entered by an inspector under subsection 23(1) and every individual found there shall
 - (a) Give the inspector all reasonable assistance; and
 - (b) Provide the inspector with any information that the inspector may reasonably require, including information that is necessary to establish their identity to the inspector's satisfaction.
- Per subsection 24(1), no person shall obstruct or hinder, or knowingly make any false or misleading statement either orally or in writing to, an inspector while the inspector is engaged in carrying out his duties or functions under this Act or the regulations.
- Per subsection 24(2), Except with the authority of an inspector, no person shall remove, alter or interfere in any way with anything seized under this Part.

Inspection as a Compliance and Enforcement Tool

- Defined as monitoring and assessment against the applicable requirements of the FDA and its associated regulations. Inspections are routinely conducted based on risk to assess compliance and prevent non-compliance.
- May be conducted on-site, remotely using various means of telecommunication (e.g., teleconference, videoconference) or a combination of both on-site and remote (e.g., hybrid inspection) depending on circumstances.

What to Expect from a Pilot NHP GMP Inspection

- Due to various restrictions in place across Canada as a result of the COVID-19 pandemic, NHP GMP inspectors will initially be conducting inspections of importers virtually/remotely.
 - Initial contacts with sites will be via telephone/email.
 - Meetings/interviews with sites will be conducted via teleconference and/or videoconference (MS Teams or Webex)
 - Document review will be conducted remotely by the inspector
 - Documents will be shared via ePost Connect.
 - Sites may be asked to provide pictures of equipment, NHP storage locations, etc.

What to Expect from a Pilot NHP GMP Inspection

- As the pilot progresses we will start to include inspection of manufacturers and will introduce a hybrid approach to inspection
 - Initial contacts still by telephone/email
 - Some meetings/interviews conducted via teleconference and/or videoconference
 - Document review conducted remotely by inspector
 - Documents shared via ePost Connect
 - Pictures may still be requested.
 - Brief onsite visit by inspector to review key manufacturing processes

What to Expect from a Pilot NHP GMP Inspection

Timeline	Inspection Activity
≥ 4 wks prior to inspection	• Senior official of establishment conducting licensable activities (importation or manufacture) will be contacted by an inspector to arrange date/time of inspection • <i>Notification of Inspection</i> issued to senior official by inspector confirming date/time of inspection and providing information on inspection preparations (via email)
2 wks prior to inspection	• Deadline for establishment to provide inspector with information requested in <i>Notification of Inspection</i>
Date of Inspection	• Inspection starts with an <i>Opening Meeting</i> between site officials and inspector followed by a site tour, a documentation review and interviews with site staff, as applicable.
Last day of inspection	• Inspector holds a <i>Closing Meeting</i> with site officials where regulatory deficiencies identified during inspection are reviewed in draft form.
Within 20 working days of last day of inspection	• The draft <i>Inspection Exit Notice</i> (IEN) is written and undergoes an internal review for consistency and determination of overall site compliance with the FDA and Part 3 of the NHPR. • An <i>Exit Notice Meeting</i> is held between site officials and inspector where the draft IEN is reviewed (via teleconference).

What to Expect from a Pilot NHP GMP Inspection

Timeline	Inspection Activity
Site found to be compliant with the FDA and Part 3 of the NHPR	
Within 5 working days of Exit Notice Meeting	- Final <i>Inspection Exit Notice</i> is issued to the site with a cover letter requesting a Corrective Action/Preventive Action (CAPA) plan along with timelines for implementation As part of the Pilot, compliance ratings (“compliant” or “non-compliant”) will not be formally assigned to sites
Within 20 working days of date of IEN	CAPA plan due to inspector from the site (can be sent via email).
Within 20 working days of receipt of CAPA plan	- Inspector reviews CAPA plan and determines whether it is adequate or if more information is required. - If more information is required, a follow-up (FU) letter is issued to the site by the inspector. - If the CAPA is adequate, an <i>Inspection Closure Letter</i> is issued to the site by the inspector and the inspection process is completed.
Within 10 working days of date of FU letter (if issued)	Additional information provided to inspector by the site (can be sent via email)

What to Expect from a Pilot NHP GMP Inspection

Timeline	Inspection Activity
Site found to be compliant with the FDA and Part 3 of the NHPR (cont'd)	
Within 15 working days of receipt of FU letter	- Inspector reviews additional information and determines whether the CAPA plan is now adequate. - If CAPA is adequate an <i>Inspection Closure Letter</i> is issued to the site by the inspector and the inspection process is considered complete. - If CAPA is still inadequate the file is transferred to NNHPD for action, as appropriate, and the site is notified of this step via a letter from the inspector. There is no further interaction with the inspector at this point in the process.
Within a reasonable timeframe	- For major issues: <i>S.39</i> and/or <i>S.18 Notices (Intent to Suspend)</i> for the site and/or product licence(s) may be issued by NNHPD. - For minor issues: A simple follow up with the site may be conducted by NNHPD.
Within 90 calendar days of date of the <i>S.39</i> and <i>S.18</i> Notice(s)	- Company responds to NNHPD with information requested in the Notice(s). - Failure to respond/inadequate response can lead to issuance of <i>S.40</i> and/or <i>S.19 Notices (Suspension)</i> for the Site and/or Product Licence(s).
Within 90 calendar days of date of <i>S.40</i> and <i>S.19</i> Notice(s)	- Respond to NNHPD with information requested in the Notice(s). - Failure to respond/inadequate response can lead to a <i>Cancellation</i> of the Site and/or Product Licence(s).

What to Expect from a Pilot NHP GMP Inspection

Timeline	Inspection Activity
Site found to be non-compliant with the FDA and Part 3 of the NHPR	
Within 5 working days of Exit Notice Meeting	- Final <i>Inspection Exit Notice (IEN)</i> is issued to the site with a cover letter and a <i>S.39 Notice (Intent to Suspend Site Licence)</i> attached. - If it is determined that there is an immediate risk to health of consumers the final <i>IEN</i> and cover letter is issued with a <i>S.40 Notice (Suspension of Site Licence)</i> along with a <i>S.18 Notice (Intent to Suspend Product Licence)</i> or a <i>S.19 Notice (Suspension of Product Licence)</i>, as applicable.
Within 90 calendar days of date of the S.39 or S.18 Notice	- Respond to Inspector with information requested in the Notice. - Failure to respond/inadequate response to a <i>S.39 Notice</i> can lead to issuance of a <i>S.40 Notice (Suspension of Site Licence)</i> - Failure to respond/inadequate response to a <i>S.18 Notice</i> can lead to issuance of a <i>S.19 Notice (Suspension of Product Licence)</i>
Within 90 calendar days of date of S.40 or S.19 Notice	- Respond to Inspector with information requested in the Notice. - Failure to respond/inadequate response to <i>Suspension Notices</i> can lead to issuance of <i>Cancellation Notices</i> for Site and/or Product Licences, as applicable.

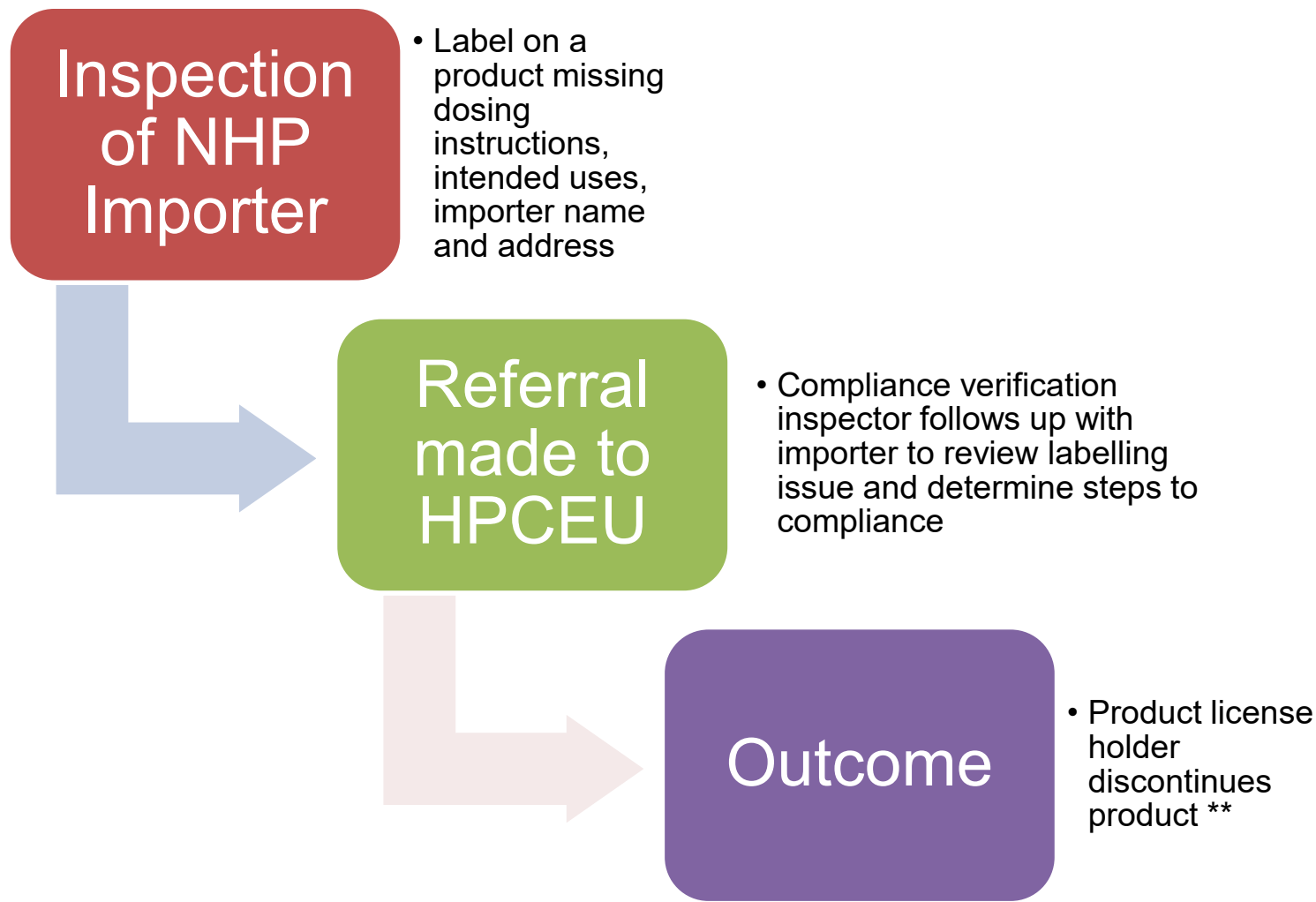
C&E Activities/Actions an Inspector Might use on Inspection Include:

- If, during the course of an inspection, an inspector identifies non-compliance with the FDA or Part 3 of the NHPR, which is considered high risk (e.g., a manufacturing suite is covered in mold, which has led to contamination of product), immediate enforcement actions/activities may need to be taken with affected products to mitigate risk to health of consumers. For example, the inspector may, in line with POL-0001:
 - Sample product(s) for analysis at Health Canada labs.
 - Request a Stop Sale of products
 - Conduct a Seizure or Detention of products

C&E Activities/Actions an Inspector Might use on Inspection Include:

- If the inspector has identified regulatory deficiencies during the inspection, but they are considered to be medium to low risk (e.g., a product label is missing some required information or packaging does not have an expiry date on it), the inspector may make a referral to the Health Product Compliance and Enforcement Unit for follow-up action and correction by a compliance verification inspector. This may trigger:
 - An on-site visit to verify the issue and collect information
 - Product sampling
 - Product stop sale/recall/seizure
 - Publishing of public advisories/alerts

Case Study #1



** This is a worst case scenario, which could have had other potential outcomes.

Case Study #2

Inspection of
NHP
Manufacturer

- Wide spread unsanitary conditions (rust on equipment) with evidence of cross contamination of product
- Lack of adequate quality control measures to ensure product safety and quality (testing, product stability, record keeping)

Immediate
action taken
on site

- Stop sale of all products requested

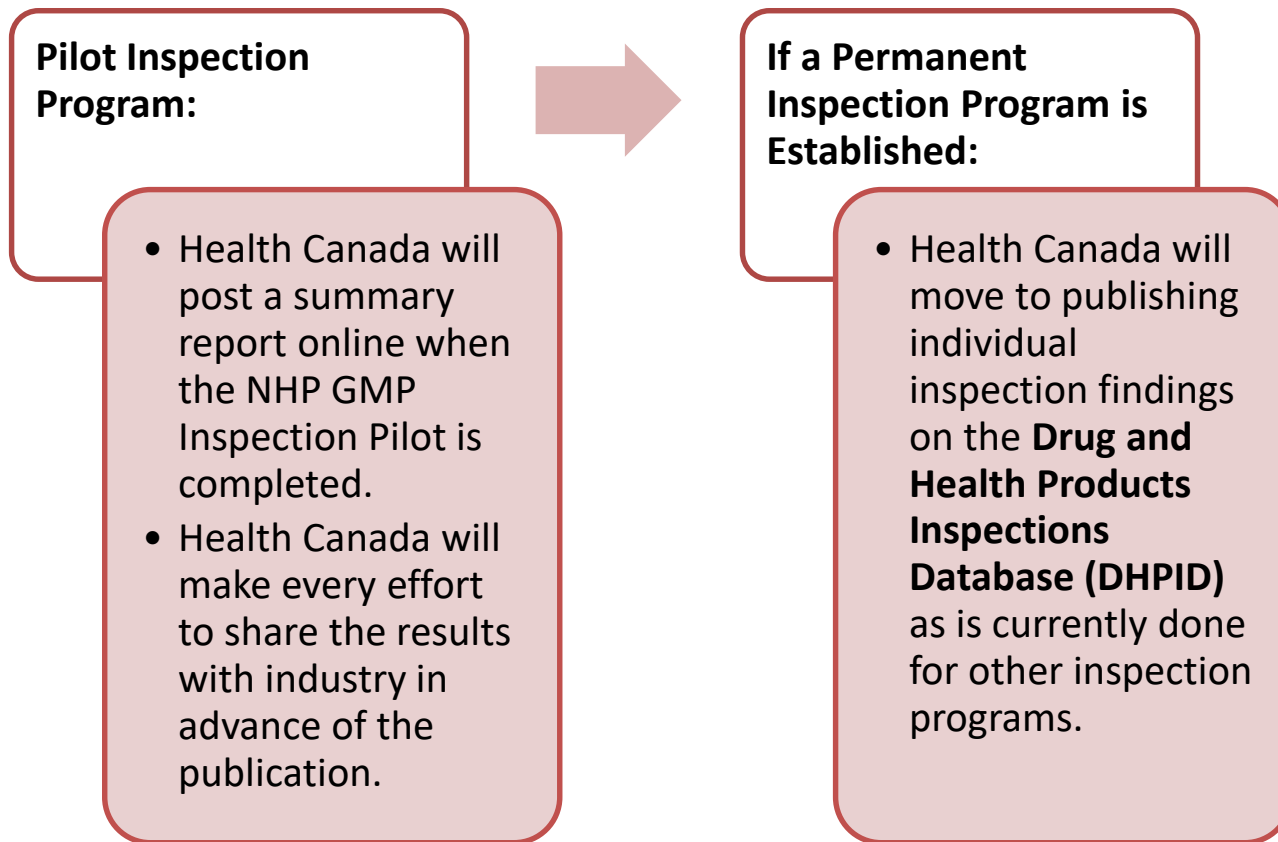
Referral to
HPCEU and
Action by
NNHPD

- Product stop sales tracked
- Request initiation of product recall
- Recall alert published to notify the public of product concerns
- Immediate suspensions of product and site licenses issued

Outcome

- Recall initiated by company
- Product/Site Licenses cancelled due to no response from company

Health Canada's Commitment to Transparency



QUESTIONS



References

- [Compliance and Enforcement Policy for Health Products \(POL-0001\)](https://www.canada.ca/en/health-canada/services/drugs-health-products/compliance-enforcement/good-manufacturing-practices/policies-standards/compliance-enforcement-policy-0001.html): <https://www.canada.ca/en/health-canada/services/drugs-health-products/compliance-enforcement/good-manufacturing-practices/policies-standards/compliance-enforcement-policy-0001.html>
- [Compliance and Enforcement Policy Framework](https://www.canada.ca/en/health-canada/corporate/mandate/regulatory-role/what-health-canada-does-as-regulator/compliance-enforcement-framework.html): <https://www.canada.ca/en/health-canada/corporate/mandate/regulatory-role/what-health-canada-does-as-regulator/compliance-enforcement-framework.html>
- [Drug and health products inspections database](https://www.canada.ca/en/health-canada/services/inspecting-monitoring-drug-health-products/drug-health-product-inspections.html): <https://www.canada.ca/en/health-canada/services/inspecting-monitoring-drug-health-products/drug-health-product-inspections.html>
- [Regulatory Transparency and Openness Framework and Action Plan 2015-2018](https://www.canada.ca/en/health-canada/corporate/transparency/regulatory-transparency-and-openness/regulatory-transparency-openness-framework-action-plan-2015-2018.html): <https://www.canada.ca/en/health-canada/corporate/transparency/regulatory-transparency-and-openness/regulatory-transparency-openness-framework-action-plan-2015-2018.html>
- [Food and Drugs Act](https://laws-lois.justice.gc.ca/eng/acts/f-27/): <https://laws-lois.justice.gc.ca/eng/acts/f-27/>
- [Part 1, 2 & 3 of Natural Health Products Regulations](https://laws-lois.justice.gc.ca/eng/regulations/sor-2003-196/): <https://laws-lois.justice.gc.ca/eng/regulations/sor-2003-196/>
- [Health Canada Decision Making Framework For Identifying, Assessing and Managing Health Risks – August 1, 2000](https://www.canada.ca/en/health-canada/corporate/about-health-canada/reports-publications/health-products-food-branch/health-canada-decision-making-framework-identifying-assessing-managing-health-risks.html): <https://www.canada.ca/en/health-canada/corporate/about-health-canada/reports-publications/health-products-food-branch/health-canada-decision-making-framework-identifying-assessing-managing-health-risks.html>
- Health Canada's "[Evaluation of the Natural Health Products Program 2010-2011 to 2014-2015](https://www.canada.ca/en/health-canada/corporate/transparency/corporate-management-reporting/evaluation/2010-2011-2014-2015-natural-health-products-program.html)": <https://www.canada.ca/en/health-canada/corporate/transparency/corporate-management-reporting/evaluation/2010-2011-2014-2015-natural-health-products-program.html>

Health Canada Contact Information

NHP GMP Inspection Program (General Enquiries):

[hc.hpcrm.nhpinspection-
inspectionpsn.cpsgr.sc@canada.ca](mailto:hc.hpcrm.nhpinspection-inspectionpsn.cpsgr.sc@canada.ca)

Natural and Non-Prescription Health Products
Directorate (NNHPD):

hc.nnhpd-dpsnso.sc@canada.ca

Disclaimer

This presentation does not constitute part of the *Food and Drugs Act* (the Act) or its regulations and in the event of any inconsistency or conflict between the Act or regulations and this presentation, the Act or the regulations take precedence. This presentation is an administrative document that is intended to facilitate compliance by the regulated party with the Act, the regulations and the applicable administrative policies.