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FOOD AND DRUGS ACT

# Regulations Amending the Food and Drug Regulations (Labelling, Packaging and Brand Names of Drugs for Human Use)

P.C. 2014-683 June 12, 2014

His Excellency the Governor General in Council, on the recommendation of the Minister of Health, pursuant to subsection 30(1) (see footnote a) of the *Food and Drugs Act* (see footnote b), makes the annexed *Regulations Amending the Food and Drug Regulations (Labelling, Packaging and Brand Names of Drugs for Human Use)*.

## REGULATIONS AMENDING THE FOOD AND DRUG REGULATIONS (LABELLING, PACKAGING AND BRAND NAMES OF DRUGS FOR HUMAN USE)

### AMENDMENTS

**1. The portion of section A.01.016 of the *Food and Drug Regulations* (see footnote 1) before paragraph (*a*) is replaced by the following:**

**A.01.016.** All information that is required by these Regulations to appear on a label of a food or a drug, other than a drug for human use in dosage form, shall be

**2. The Regulations are amended by adding the following after section A.01.016:**

**A.01.017.** Every label of a drug for human use in dosage form shall meet the following conditions:

(*a*) the information that is required by these Regulations to appear on the label shall be

(i) prominently displayed on it,

(ii) readily discernible to the purchaser or consumer under the customary conditions of purchase and use, and

(iii) expressed in plain language; and

(*b*) the format of the label, including the manner in which its text and any graphics are displayed on it, shall not impede comprehension of the information referred to in paragraph (*a*).

**3. (1) Subparagraphs C.01.004(1)(*c*)(iii) and (iv) of the Regulations are replaced by the following:**

(iii) adequate directions for use of the drug, except in the case of a drug to which section C.01.004.02 applies,

(iv) a quantitative list of the medicinal ingredients of the drug by their proper names or, if they have no proper names, by their common names, except in the case of a drug to which section C.01.004.02 applies,

**(2) Subsections C.01.004(1.1) to (1.5) of the Regulations are repealed.**

**(3) The portion of subsection C.01.004(2) of the Regulations before paragraph (*a*) is replaced by the following:**

(2) In addition to the requirements of subsection (1), the outer label of a drug shall display the following information:

**4. (1) The Regulations are amended by adding the following after section C.01.004:**

**C.01.004.01** (1) Every label of a drug for human use in dosage form shall display the following:

(*a*) a telephone number, email address, website address, postal address or any other information that enables communication with a contact person in Canada; and

(*b*) a statement to the effect that any injury to a person's health that is suspected of being associated with the use of the drug may be reported to the contact person.

(2) Subsection (1) does not apply to the labels of a drug that is listed in Schedule C or D to the Act and that is in dosage form.

**(2) Subsection C.01.004.01(2) of the Regulations is replaced by the following:**

(2) Subsection (1) does not apply to

(*a*) the labels of a drug that is listed in Schedule C or D to the Act and that is in dosage form; or

(*b*) the inner and outer labels of a drug to which section C.01.004.02 applies.

**5. The Regulations are amended by adding the following after section C.01.004.01:**

**C.01.004.02** (1) In addition to the requirements of section C.01.004, the outer label of a drug for human use in dosage form shall display, either one bilingual table, placed on any panel, that contains only the following information in both English and French or one table in English and one table in French, each of which is placed on any panel, that contains only the following information:

(*a*) adequate directions for use of the drug;

(*b*) a quantitative list of the drug's medicinal ingredients by their proper names or, if they have no proper names, by their common names;

(*c*) the drug's non-medicinal ingredients listed in alphabetical order or in descending order of predominance by their proportion in the drug, preceded by words that clearly distinguish them from the medicinal ingredients; and

(*d*) the information referred to in subsection C.01.004.01(1).

(2) If a package is too small to accommodate an outer label that displays one bilingual table that lists all of the drug's non-medicinal ingredients or two unilingual tables, each of which lists all of the drug's non-medicinal ingredients, the list of non-medicinal ingredients shall be displayed in both English and French on a tag, tape or card that is attached to the package.

(3) If pharmaceutical ink, a fragrance or a flavour has been added to the drug, the following expressions may be included in the list of non-medicinal ingredients to indicate that those ingredients have been added to the drug, instead of listing them or combinations of them individually:

(*a*) in the case where a bilingual table referred to in subsection (1) is displayed, the expressions "flavour/saveur", "fragrance/parfum" and "pharmaceutical ink/encre pharmaceutique"; or

(*b*) in the case where two unilingual tables referred to in subsection (1) are displayed, the expressions

(i) "encre pharmaceutique", "parfum" and "saveur" in the table in French, and

(ii) "flavour", "fragrance" and "pharmaceutical ink" in the table in English.

(4) If the composition of the drug varies from one lot to another,

(*a*) in the case where a bilingual table referred to in subsection (1) is displayed, the table shall include a reference to all non-medicinal ingredient alternatives that may be present in the drug, preceded by the symbol "+/–" or "±" or the expression "or/ou" or "may contain/peut contenir"; or

(*b*) in the case where two unilingual tables referred to in subsection (1) are displayed,

(i) the table in French shall list all nonmedicinal ingredient alternatives that may be present in the drug, preceded by the symbol "+/–" or "±" or the expression "ou" or "peut contenir", and

(ii) the table in English shall list all nonmedicinal ingredient alternatives that may be present in the drug, preceded by the symbol "+/–" or "±" or the expression "or" or "may contain".

(5) For the purposes of paragraphs (3)(*a*) and (4)(*a*), the French terms in the expressions may appear first.

(6) Subsections (1) to (5) do not apply to

(*a*) prescription drugs;

(*b*) drugs that are permitted to be sold without a prescription but that are administered only under the supervision of a practitioner; and

(*c*) drugs that are represented as being solely for use as a disinfectant on hard non-porous surfaces.

**C.01.004.03** In addition to the requirements of section C.01.004, the inner label of a drug to which section C.01.004.02 applies shall display on any panel

(*a*) adequate directions for use of the drug;

(*b*) a quantitative list of the drug's medicinal ingredients by their proper names or, if they have no proper names, by their common names; and

(*c*) the information referred to in subsection C.01.004.01(1).

**6. Section C.01.010 of the Regulations is replaced by the following:**

**C.01.010.** If it is necessary to provide adequate directions for the safe use of a parenteral drug or prescription drug that is used in the treatment or prevention of any disease, disorder or abnormal physical state mentioned in Schedule A to the Act, the disease, disorder or abnormal physical state may be mentioned on the drug's labels, including any package insert and any document that is provided on request and that sets out supplementary information on the use of the drug, and, in that respect, the drug is exempt from subsections 3(1) and (2) of the Act.

**7. (1) The portion of subsection C.01.014.1(2) of the Regulations before paragraph (*a*) is replaced by the following:**

(2) An application under subsection (1) shall be made to the Director in writing and shall include the following information and material:

**(2) Paragraph C.01.014.1(2)(*g*) of the Regulations is replaced by the following:**

(*g*) an indication of whether the drug is for human use or veterinary use;

**(3) Paragraphs C.01.014.1(2)(*m*) and (*n*) of the Regulations are replaced by the following:**

(*m*) in the case of a drug for veterinary use, the written text of every label to be used in connection with the drug, including any package insert and any document that is provided on request and that sets out supplementary information on the use of the drug;

(*m.1*) in the case of a drug for human use, mock-ups of every label to be used in connection with the drug — including any package insert and any document that is provided on request and that sets out supplementary information on the use of the drug — and mock-ups of the drug's packages;

(*n*) the name and title of the person who signed the application and the date of signature; and

(*o*) in the case of a drug for human use, an assessment as to whether there is a likelihood that the drug will be mistaken for any of the following products due to a resemblance between the brand name that is proposed to be used in respect of the drug and the brand name, common name or proper

name of any of those products:

(i) a drug in respect of which a drug identification number has been assigned,

(ii) a radiopharmaceutical, as defined in section C.03.201, in respect of which a notice of compliance has been issued under section C.08.004 or C.08.004.01, and

(iii) a kit, as defined in section C.03.205, in respect of which a notice of compliance has been issued under section C.08.004 or C.08.004.01.

**8. Section C.01.014.3 of the Regulations is replaced by the following:**

**C.01.014.3** The manufacturer or importer, as the case may be, or a person authorized by the manufacturer or importer, shall, within 30 days after the day on which the drug is first sold in Canada, date and sign the document referred to in subsection C.01.014.2(1) and return it with a statement set out on it that the information it contains is correct and with an indication of the date on which the drug was first sold in Canada.

**9. Subparagraph C.01.062(5)(*e*)(ii) of the Regulations is replaced by the following:**

(ii) all labels to be used in connection with the drug, including any package insert and any document that is provided on request and that sets out supplementary information on the use of the drug, make proper claims in respect of the drug,

**10. (1) Subsection C.08.002(1) of the English version of the Regulations is amended by adding "and" at the end of paragraph (*b*) and by replacing paragraph (*c*) with the following:**

(*c*) the notice of compliance in respect of the submission has not been suspended under section C.08.006.

**(2) Paragraph C.08.002(1)(*d*) of the Regulations is repealed.**

**(3) Paragraph C.08.002(2)(*j*) is replaced by the following:**

(*j*) in the case of a new drug for veterinary use, a draft of every label to be used in connection with the new drug, including any package insert and any document that is provided on request and that sets out supplementary information on the use of the new drug;

(*j.1*) in the case of a new drug for human use, mock-ups of every label to be used in connection with the new drug — including any package insert and any document that is provided on request and that sets out supplementary information on the use of the new drug — and mock-ups of the new drug's packages;

**(4) Subsection C.08.002(2) of the English version of the Regulations is amended by striking out "and" at the end of paragraph (*m*) and by replacing paragraph (*n*) with the following:**

(*n*) in the case of a new drug intended for administration to food-producing animals, the withdrawal period of the new drug; and

**(5) Subsection C.08.002(2) of the Regulations is amended by adding the following after paragraph (*n*):**

(*o*) in the case of a new drug for human use, an assessment as to whether there is a likelihood that the new drug will be mistaken for any of the following products due to a resemblance between the brand name that is proposed to be used in respect of the new drug and the brand name, common name or proper name of any of those products:

(i) a drug in respect of which a drug identification number has been assigned,

(ii) a radiopharmaceutical, as defined in section C.03.201, in respect of which a notice of compliance has been issued under section C.08.004 or C.08.004.01, and

(iii) a kit, as defined in section C.03.205, in respect of which a notice of compliance has been issued under section C.08.004 or C.08.004.01.

**11. Subparagraph C.08.002.01(2)(*b*)(i) of the Regulations is replaced by the following:**

(i) the information and material described in paragraphs C.08.002(2)(*a*) to (*f*), (*i*) to (*m*) and (*o*),

**12. Subparagraphs C.08.002.1(2)(*a*)(i) and (ii) of the Regulations are replaced by the following:**

(i) paragraphs C.08.002(2)(*a*) to (*f*), (*j*) to (*l*) and (*o*), in the case of an abbreviated new drug submission, and

(ii) paragraphs C.08.002(2)(*a*) to (*f*), (*j*) to (*l*) and (*o*), and subparagraphs C.08.002.01(2)(*b*)(ix) and (x), in the case of an abbreviated extraordinary use new drug submission;

**13. (1) Subsection C.08.003(1) of the English version of the Regulations is amended by adding "and" at the end of paragraph (*b*) and by replacing paragraph (*c*) with the following:**

(*c*) the notice of compliance in respect of the supplement has not been suspended under section C.08.006.

**(2) Paragraph C.08.003(1)(*d*) of the Regulations is repealed.**

**(3) Subsection C.08.003(2) of the Regulations is amended by adding the following after paragraph (*g*):**

(*g.1*) in the case of a new drug for human use, its packages;

**(4) The Regulations are amended by adding the following after subsection C.08.003(3):**

(3.1) A supplement to a submission referred to in subsection (1) shall contain, as the case may be,

(*a*) if, due to a matter specified in subsection (2) — other than the brand name of a new drug for human use — that the supplement concerns, it is necessary to modify a new drug's labels:

(i) in the case of a new drug for veterinary use, a draft of every label to be used in connection with the new drug, including any package insert and any document that is provided on request and that sets out supplementary information on the use of the new drug, or

(ii) in the case of a new drug for human use, mock-ups of every label to be used in connection with the new drug — including any package insert and any document that is provided on request and that sets out supplementary information on the use of the new drug — and mock-ups of the new drug's packages; or

(*b*) if the supplement concerns the brand name of a new drug for human use:

(i) an assessment as to whether there is a likelihood that the new drug will be mistaken for any of the following products due to a resemblance between the brand name that is proposed to be used in respect of the new drug and the brand name, common name or proper name of any of those products:

(A) a drug in respect of which a drug identification number has been assigned,

(B) a radiopharmaceutical, as defined in section C.03.201, in respect of which a notice of compliance has been issued under section C.08.004 or C.08.004.01, and

(C) a kit, as defined in section C.03.205, in respect of which a notice of compliance has been issued under section C.08.004 or C.08.004.01, and

(ii) mock-ups of every label to be used in connection with the new drug — including any package insert and any document that is provided on request and that sets out supplementary information on the use of the new drug — and mock-ups of the new drug's packages.

## TRANSITIONAL PROVISIONS

**14. The following definitions apply in sections 15 to 32:**

"submission"
*« présentation »*

“**submission**” means any of the following:

(*a*) a new drug submission that is filed under section C.08.002 of the ***Food and Drug Regulations***;

(*b*) an extraordinary use new drug submission that is filed under section C.08.002.01 of those Regulations;

(*c*) an abbreviated new drug submission that is filed under section C.08.002.1 of those Regulations; or

(*d*) an abbreviated extraordinary use new drug submission that is filed under section C.08.002.1 of those Regulations.

“supplement”
*« supplément »*

“**supplement**” means a supplement to a submission that is filed under section C.08.003 of the ***Food and Drug Regulations***.

**15.** Subsection C.01.014.1(2) of the ***Food and Drug Regulations***, as it read immediately before the day on which section 1 comes into force, applies to an application for a drug identification number that is made under subsection C.01.014.1(1) of those Regulations before the day on which section 1 comes into force.

**16.** Subsection C.08.002(2), subparagraph C.08.002.01(2)(*b*)(i) or paragraph C.08.002.1(2)(*a*) of the ***Food and Drug Regulations***, as the case may be, as the applicable provision read immediately before the day on which section 1 comes into force, applies to a submission that is filed before the day on which section 1 comes into force.

**17.** Section C.08.003 of the ***Food and Drug Regulations***, as it read immediately before the day on which section 1 comes into force, applies to a supplement that is filed before the day on which section 1 comes into force.

**18.** If a document referred to in subsection C.01.014.2(1) of the ***Food and Drug Regulations*** is issued for a drug in respect of an application referred to in section 15 or a submission referred to in section 16, section C.01.014.3 of those Regulations, as it read immediately before the day on which section 1 comes into force, applies in respect of the drug.

**19.** If a notice of compliance is issued under section C.08.004 or C.08.004.01 of the ***Food and Drug Regulations*** for a drug in respect of a submission referred to in section 16, paragraph C.08.002(1)(*d*) of those Regulations, as it read immediately before the day on which section 1 comes into force, applies in respect of the drug.

**20.** If a notice of compliance is issued under section C.08.004 or C.08.004.01 of the ***Food and Drug Regulations***, for a drug in respect of a supplement referred to in section 17, paragraph C.08.003(1)(*d*) of those Regulations, as it read immediately before the day on which section 1 comes into force, applies in respect of the drug.

**21.** In sections 22 to 32, “drug” means a drug for human use in dosage form other than a drug that belongs to one of the following classes:

(*a*) prescription drugs; or

(*b*) drugs that are permitted to be sold without a prescription but that are administered only under the supervision of a practitioner.

**22.** Section A.01.016 of the ***Food and Drug Regulations***, as it read immediately before the day on which section 1 comes into force, applies in respect of a drug during the period that begins on the day on which section 1 comes into force and that ends immediately before the day on which section 3 comes into force.

**23.** Section A.01.017 of the ***Food and Drug Regulations***, as enacted by section 2, and

**section C.01.004.01 of those Regulations, as enacted by subsection 4(1), do not apply in respect of a drug during the period that begins on the day on which section 1 comes into force and that ends immediately before the day on which section 3 comes into force.**

**24. Paragraph C.01.014.1(2)(*m*) of the *Food and Drug Regulations*, as it read immediately before the day on which section 1 comes into force, applies to an application for a drug identification number in respect of a drug that is made under subsection C.01.014.1(1) of those Regulations during the period that begins on the day on which section 1 comes into force and that ends immediately before the day on which section 3 comes into force.**

**25. Paragraph C.08.002(2)(*j*) of the *Food and Drug Regulations*, as it read immediately before the day on which section 1 comes into force, applies to a submission in respect of a drug that is filed during the period that begins on the day on which section 1 comes into force and that ends immediately before the day on which section 3 comes into force.**

**26. If a document referred to in subsection C.01.014.2(1) of the *Food and Drug Regulations* is issued for a drug in respect of an application referred to in section 24 or a submission referred to in section 25, section C.01.014.3 of those Regulations, as it read immediately before the day on which section 1 comes into force, applies in respect of the drug.**

**27. If a notice of compliance is issued under section C.08.004 or C.08.004.01 of the *Food and Drug Regulations* for a drug in respect of a submission referred to in section 25, paragraph C.08.002(1)(*d*) of those Regulations, as it read immediately before the day on which section 1 comes into force, applies in respect of the drug.**

**28. If a notice of compliance is issued under section C.08.004 or C.08.004.01 of the *Food and Drug Regulations* for a drug in respect of a supplement that is filed during the period that begins on the day on which section 1 comes into force and that ends immediately before the day on which section 3 comes into force, paragraph C.08.003(1)(*d*) of those Regulations, as it read immediately before the day on which section 1 comes into force, applies in respect of the drug.**

**29. Paragraphs C.01.014.1(2)(*m.1*) and (*o*) of the *Food and Drug Regulations*, as enacted by subsection 7(3), do not apply to an application referred to in section 24.**

**30. Paragraphs C.08.002(2)(*j.1*) and (*o*) of the *Food and Drug Regulations*, as enacted by subsections 10(3) and (5) respectively, do not apply to a submission referred to in section 25.**

**31. If a notice of compliance is issued under section C.08.004 or C.08.004.01 of the *Food and Drug Regulations* for a drug, paragraph C.08.003(2)(*g.1*) of those Regulations, as enacted by subsection 13(3), does not apply in respect of the drug during the period that begins on the day on which section 1 comes into force and that ends immediately before the day on which section 3 comes into force.**

**32. Subsection C.08.003(3.1) of the *Food and Drug Regulations*, as enacted by subsection 13(4), does not apply to a supplement referred to in section 28.**

## COMING INTO FORCE

**33. (1) These Regulations, other than section 3, subsection 4(2) and section 5, come into force on the day that is twelve months after the day on which they are registered.**

**(2) Section 3, subsection 4(2) and section 5 come into force on the day that is three years after the day on which these Regulations are registered.**

## REGULATORY IMPACT ANALYSIS STATEMENT

(*This statement is not part of the Regulations*.)

### Executive summary

**Issues:** Today, millions of Canadians rely on non-prescription and prescription drugs to maintain and improve their health. Although drugs can offer patients significant benefits, they also come with risks and uncertainties. In Canada and internationally, studies and health literacy research indicate that over-crowded and confusing drug labels, unclear instructions, and similarities between packages and names contribute to medication errors. Examples include accidental overdose, taking or giving the wrong drug, and not knowing how to take the drug properly. Although the reduction of medication errors is a system-wide and shared responsibility involving industry, health professionals, patients and caregivers, Health Canada has an important and early role in product and label review. Prior to making these amendments, the existing *Food and Drug Regulations* did not take into account ways to better reflect current knowledge of medication use and ways to minimize opportunities for confusion with labels, packages or names. Other international regulators have identified similar issues and have taken steps to improve drug safety; this proposal aims for alignment with international best practices.

**Description:** The *Regulations Amending the Food and Drug Regulations (Labelling, Packaging and Brand Names of Drugs for Human Use)* [the Regulations] consist of targeted amendments to further emphasize the importance of plain language labelling. With the objective of improving the safe and effective use of drugs, the Regulations consist of five targeted amendments (and consequential amendments) including a general requirement for clear, understandable, plain language labels; and four pre-market requirements (i.e. contact information on labels to report problems, standard table format for nonprescription drug outer labels, submission of label and package mock-ups, and look-alike/sound-alike [LASA] name assessments). These Regulations apply to human drugs, specifically non-prescription and prescription, pharmaceutical and biologic drugs. The Regulations are focused on outcomes and have been written in a manner which is intended to provide industry flexibility regarding how to implement the changes, and so that Health Canada guidance and operations will be able to adjust to innovations over time.

**Cost-benefit statement:** These Regulations will result in a benefit to Canadians; the net present value of the benefit is estimated at $72.4 million. The quantified benefits relate primarily to the cost savings to the health care system and the economic value of the reduced risk of death due to preventable medication errors.

“**One-for-One” Rule and small business lens:** Due to the nature of the Regulations, incremental cost, if any, will be attributed to compliance. Given that the “One-for-One” Rule only considers administrative burden, it does not apply to these Regulations. The small business lens does not apply to these Regulations, as few if any market authorization holders would meet the small business definition.

**Domestic and international coordination and cooperation:** These Regulations are designed to align with international best practices and trading partners, and also support the collaborative efforts of the Regulatory Cooperation Council.

## Background

Drug safety and the communication of information to support the safe and effective use of drugs are complex issues involving many stakeholders in the health system. Drug labels, including affixed and supplementary information, such as package inserts, are one of the primary vehicles for communicating important information to health professionals, patients and consumers about the safe and proper use of drugs. Evidence has demonstrated that the design of drug labels, packages and names, including format and colour, contribute to the safe and appropriate use of a drug and are important aids in identification, selection and administration.

For health professionals, the information on labels is used to assist them in prescribing, preparing, dispensing or administering drugs to patients and to counsel patients on the appropriate use of a medication. For consumers, this information needs to support the proper selection and use of the drug, and to help inform their decisions when there is limited interaction with a health professional.

In Canada and internationally, studies and health literacy research indicate that over-crowded and confusing drug labels, unclear instructions, and similarities between packages and names contribute to medication errors. Examples include accidental overdose, taking or giving the wrong drug, and not knowing how to take the drug properly.

As a regulator, Health Canada (the Department) assesses drugs and their labels in a pre- and post-market environment. This work is an important step along the continuum of information that is disseminated through the health care system and is achieved through a combination of mandatory label requirements, guidance and review practices.

In response to the high rate of medication errors observed in the health system, and in recognition of the role of the label, significant work was undertaken in Canada and internationally to identify opportunities to improve the clarity and accessibility of drug labels. In 2011, the Department conducted consultations to seek input on options to improve the product information intended for consumers. The Department also developed guidance for industry and conducted consultations on the submission requirements for drug labels and the assessment of drug names.

Since the late 1990s, regulatory bodies in the United States and Europe have created or amended the regulator authority to improve drug labels, packages and names. These changes have focused on standardizing non-prescription drug labels with a “Drug Facts” table in the United States; improvements to prescription drug labelling; assessment of names, labels and packages for confusion; processes for seeking and assessing evidence of user comprehension of labels; and ability to require changes to labels in response to new safety information. The U.S. Food and Drug Administration (FDA) also established the Safe Use Initiative in 2009, a collaborative project to help improve medication safety and reduce preventable harm. These jurisdictions have also published guidance on labelling; packaging and naming; and readability and medication errors.

In Australia, the Therapeutic Goods Administration (TGA) conducted consultations in 2012 on proposals to improve medicine labels and packages, including proposals similar to the U.S. FDA’s “Drug Facts” table; look alike/sound alike (LASA) assessment of drug labels, packages and names; as well as the prominence of active ingredient names and space on labels of dispensed prescription drugs. The TGA also has a best practices guideline, as well as regulatory guidelines for prescription and non-prescription drugs.

## Issues

Today, millions of Canadians rely on non-prescription and prescription drugs to maintain and improve their health. Although drugs can offer significant benefits, they also come with risks and uncertainties. Too often, people experience avoidable harm as a result of confusing drug labels, packages and names.

Although the reduction of medication errors is a system-wide and shared responsibility involving industry, health professionals, patients and caregivers, the Department has an important role in product and label review which contributes to the safe and effective use of drugs.

The *Food and Drug Regulations* outline requirements for industry, including for labelling and packaging. Part A of the *Food and Drug Regulations* includes general requirements for labelling and requirements for security packaging of a drug. Part C of the *Food and Drug Regulations* provides (in Divisions 1 and 8) a number of general and specific requirements for drugs. Embedded in these Divisions are drug name, labelling and packaging submission requirements that companies must meet. The amended Regulations build on these requirements to ensure that labels better reflect current knowledge of medication use and minimize opportunities for confusion with labels, packages or names.

## Objectives

These changes to the *Food and Drug Regulations* have been made to improve the safe and effective use of drugs and reduce the number of medication errors resulting from confusing drug names, labels and packages, and to reduce compliance costs to the extent possible by enabling the changes to be implemented within the natural cycle of label revisions. These objectives are met through the targeted requirements to the *Food and Drug Regulations* which would also align Canada with international best practices.

More specifically, these Regulations

- introduce general requirements for plain language labelling to explicitly link readability of the label to certain elements, such as clear writing, colour contrast, font size, and layout of text;
- standardize the format for non-prescription drug labels in a table to help users locate important information; and
- require all manufacturers to provide the Department with mock-ups of labels and packages, so that information filed with submissions accurately represents the information that consumers and health professionals will see, to provide evidence that a drug would not be confused with another drug because of similar names, and to require contact information on labels so that users can report a problem (e.g. a medication error that led to taking the wrong drug or the wrong dose or at the wrong time).

## Description

The Regulations address drug names, labels and packages within Part A and Part C (Divisions 1 and 8). The Regulations include five core requirements to the *Food and Drug Regulations*, as well as associated adjustments to ensure consistent terminology and clarification of scope. The scope of the Regulations covers human drugs, specifically non-prescription and prescription, pharmaceutical and biologic drugs.

### *General plain language requirement*

The Regulations require that labels of drugs for human use in dosage form be in plain language and that the format or presentation of labels not impede end-user comprehension (e.g. poor layout or design, or distracting or confusing graphics or information).

### *Pre-market requirements*

In order to ensure that labels and packages are clear and easy to understand, the Regulations require the manufacturer to submit the following during the pre-market submission process:

- Contact information on labels to report problems: The amendments require the manufacturer to provide end-users with a clear and transparent mechanism to contact someone who is responsible for the product in Canada, should they experience a problem (e.g. medication error that led to taking the wrong drug or the wrong dose or at the wrong time) or have a question or concern using more modern means of communication such as choosing a toll-free number, email address, or Web site.
- Standard table format for non-prescription drug labels: The amendments require certain information to appear in a table format on the outer label, in order to help users locate important information. The information in the table is required in both English and French. The table must include “adequate directions for use” which typically includes indications or uses, recommended single and daily dose, route of administration, storage conditions, warnings and precautions, a list of the medicinal (or active) ingredients and non-medicinal (or inactive) ingredients, and the contact information to enable users to report problems. The objective of grouping information in a manner that is distinct from other information is to help users locate and read critical information about a product and make informed decisions at the point of selection and purchase. Distinguishable information facilitates readability, thereby enhancing safe and effective use of drugs.
- Submission of mock-ups of labels and packages: These amendments require manufacturers to submit scaled mock-ups of the label and package as an accurate representation of what will be available on the market. The Department will now receive and review a mock-up of drug packages and labels, including an accurate representation of colour, scale, content and format, graphics and design. Operationally, this would continue to be an iterative process, through which the Department works with manufacturers throughout the submission review in order to achieve agreement on what the final packages and labels will look like. The Regulations repeal the requirement to submit final labels after the drug is available for sale as this will have been accomplished as part of the review. Any significant changes to the label and package affecting safety following authorization will also require the submission of the label and package mock-up.
- Submission of an assessment that a drug will not be confused with another drug because of similar names: These amendments codify current policy in regulation — i.e. they formalize the requirement for the submission of an assessment done by a manufacturer that a drug would not be confused with another drug. For drug names, manufacturers will be required to submit an assessment that the brand name of their drug would not be likely to be mistaken for the brand, common or proper name of a

different authorized drug. The Department provides guidance and tools for how to conduct such an assessment.

Based on stakeholder comments received following prepublication in the *Canada Gazette*, Part I, three types of changes have been made to the Regulations. First, the standard table format for non-prescription drugs is now required for outer labels only instead of for both inner and outer labels. Second, the transitional period for prescription drugs has been extended from 6 months to 12 months. The three-year transitional period for non-prescription drugs is clarified to apply to all applicable provisions. Third, technical changes have been added to clarify the requirements for mock-ups and brand name assessments for supplemental new drug submissions. A technical change for clarity and accuracy regarding the reference to “radiopharmaceuticals” has been made by including “kits.”

## Regulatory and non-regulatory options considered

The Department has assessed regulatory and non-regulatory options (detailed below) and has taken into account government initiatives for international regulatory cooperation and for red tape reduction, the small business lens, and the appropriate level of oversight. In summary, the evidence and analysis indicate that Canadians will benefit from the Regulations, which have been designed to offer high levels of protection while streamlining processes for companies, aligning with key trading partners, and supporting timely and transparent approval and change processes.

### *Option 1: Status quo*

The status quo would maintain current regulatory authority for drug labels and packages. This option was rejected for several reasons. Research has shown that medication harm is a significant source of preventable injury and that over-crowded labels, unclear instructions and confusing names are factors that can make drug labels difficult to read, can lead to product confusion and can ultimately contribute to serious patient harm. This option would not have addressed the gaps in the current regulatory framework, which were not adequately mitigated by non-regulatory options such as guidance. Specifically, this option would not have codified the requirement in the regulations for manufacturers to submit assessments of names for potential confusion with other products, or to submit a mock-up of the final label and package with an accurate visual representation of the proposed market label. Further, this option would not have reflected international regulatory alignment and would have continued to lead to inconsistencies across the industry.

### *Option 2: Voluntary improvement through the updated guidance*

Under this option, regulations of labelling and packaging would have continued as is under the previous Regulations (status quo) with a view to implementing new policy objectives and achieving voluntary improvements through updated guidance.

While updated guidance would be the appropriate mechanism to provide direction, establish details and flexibility, important safety requirements would not have been made mandatory and would have continued to lead to inconsistencies across the industry. This option would not have addressed the gaps in the outdated regulatory framework, where previous experiences have demonstrated that voluntary approaches do not achieve the intended outcomes in a timely manner. Further, this option would have provided only a limited opportunity to align internationally and benefit from the regulatory work done in other jurisdictions to advance plain language labelling and better packaging. As a result, this option was rejected.

### *Option 3: Amending the* Food and Drug Regulations *— Selected option*

This option amends the *Food and Drug Regulations* in order to add requirements that address the highlighted gaps, including a general plain language labelling requirement, a new requirement for contact information on labels to report problems, a new requirement to standardize format elements of the label for nonprescription drugs, a requirement to submit mock-ups of labels and packages, and new codified submission requirements to support the assessment of names for clarity and potential for confusion. This option was chosen because it represents the most efficient and effective approach for addressing the existing gaps in the previous *Food and Drug Regulations*. The Regulations will be supported by non-regulatory mechanisms, such as guidance, best practices and collaborative approaches with other stakeholders that have a role to play in the development and dissemination of important drug safety information.

Through selecting this option, Health Canada would achieve the desired outcomes for patients, consumers and health care professionals by having the appropriate level of oversight and requirements through regulation. This option was developed in consultation with stakeholders and based on best practices from other regulators. Further, this option is consistent with regulatory reform initiatives to reduce burdens and encourage operational efficiencies.

## Benefits and costs

The Regulations consist of five targeted amendments within the current regulatory structure (refer to the "Description" section above for further detail). This cost-benefit analysis focuses on the pre-market submission requirements of the proposal to determine the economic impact on stakeholders relative to the current regulatory environment.

The Department has designed the Regulations to focus on areas where improvements can be made, to align with international best practices, and to provide flexibility for future innovation with as little burden as possible. A one-year and a three-year transition period will enable the industry to properly plan and adjust to the new regulatory requirements within the natural cycle of label revisions. The phased transition period is described in greater detail in the "Implementation, enforcement and service standards" section.

As the key elements of these Regulations are already in place in other countries, and have been a matter of policy and practice in Canada, the industry is familiar with these elements, and many have already been implemented by companies in other jurisdictions.

The total net present value benefit of the Regulations is estimated at approximately $72.4 million for the 10 years between 2013 and 2022.

The complete cost-benefit analysis is available upon request.

*Cost-benefit statement*

| **Quantified impacts (in dollars)** | | | | | |
|---|---|---|---|---|---|
| | | Base Year | Final Year | Total (PV) | Average Annual |
| Benefits | Canadians and the health care system | $1.9M | $1.9M | $13.3M | $1.9M |
| | • Cost savings to the health care system<br>• Economic value of reducing risk of deaths due to medication errors | $8.9M | $8.9M | $62.6M | $8.9M |
| | Total benefits | $10.8M | $10.8M | $75.9M | $10.8M |
| Cost | Industry — Compliance cost (to adjust over-the-counter label and package design) | $1.2M | $0 | $3.5M | $0.5M |
| Net benefits | | $9.6M | $10.8M | $72.4M | |

**Qualitative impacts**

- Reduction in preventable medication errors that are currently being caused from confusion or mix-ups due to a drug's name, label or package.
- Reduction in the number of emergency department visits and number of hospitalizations and the length of stays.
- Reduction in cases of morbidity and mortality as a result of drug-related adverse events.
- Reduction in the dispensing error rate in community pharmacies. Studies have suggested it could be as high as 22%, of which 3% were potentially harmful.
- Possible reduction in number of tort cases relating to medication errors before court.
- Improvement of drug names, labels and packages to reduce opportunities for confusion.
- Improvement of over-the-counter (OTC) product selection and use.
- Improvement of the drug information tool that Canadians rely on when they are most vulnerable — e.g. parents with sick children; seniors with deteriorating eye sight or memory; health care professionals under stressful situations.

- More efficient consumer search and compare mechanisms to distinguish among products with similar ingredients, names and uses.

## Benefits

### *Reduction in avoidable medication errors*

Avoided medication errors and hospital visits benefit both Canadians and the health care system. According to the Canadian Institute of Health Information (CIHI), Canadians made approximately 15.8 million trips to the emergency departments in 2011, with an estimated 1.9 million trips relating to preventable medication errors. Based on available data, an emergency visit incurs an estimated median wait time of two hours for patients and caregivers and an average cost to the emergency department of $218 per visit, with an estimated annual cost of $527 million to the Canadian economy.

Other costs associated with preventable medication errors include, but are not limited to, preventable prolongation of hospital stays or avoidable hospital admissions and the economic cost of morbidity and mortality, where as many as 2 131 (see footnote 2) annual deaths in Canada are attributable to preventable medication errors. The proposed amendments are expected to help reduce these quantifiable costs.

### Costs

As the general plain language labelling requirement will provide clarity and set clear boundaries for the interpretation of various definitions within the context of plain language, this analysis focuses on the proposed pre-market requirements and associated costs.

### *Contact information on labels to report problems*

Industry is already required to provide their name and address on labels and has generally gone beyond the minimum by providing additional contact information such as an email address on its labels voluntarily (and aligning with requirements from the United States). Therefore, no incremental cost to both internal and external stakeholders is expected as a result of the new requirement to have contact information on the label.

### *Standard table format for non-prescription drug labels*

This requirement is strictly related to the format of information on the outer label and does not change label content requirements for non-prescription drug labels. In Canada, there are slightly over 3 000 over-the-counter (OTC) drug products for human use available which are regulated under the *Food and Drug Regulations*. Prior to this amendment, reviewers used a number of tools to conduct label reviews, including the draft guidance document *Labelling of Pharmaceutical Drugs for Human Use*, the *Guidance for Industry: Product Monograph*, the U.S. Food and Drug Administration *Guidance for Industry — Labeling OTC Human Drug Products Using a Column Format*, as well as *Nonprescription Drugs: Labelling Standards*.

In the United States, the FDA has required all OTC drug products to have a standardized “Drug Facts” table since 1999. The United States was the first to introduce the standard drug information panel and its industry was the first to be asked to meet the then new requirements.

The U.S. FDA estimated the one-time compliance cost for its industry to be about $57.5 million for approximately 100 000 OTC drug products affected at that time. This was comprised of $19.4 million for label redesign and $38.1 million for packaging change. In 2012 dollars, the original amount of $19.4 million (1999) would be equivalent to approximately $47 million once the discount rate of 7% is applied.

Health Canada rarely receives submissions for new nonprescription drugs. For the switch from prescription to nonprescription status, the average is one submission per year. Nevertheless, nearly one-third of label submissions for non-prescription drugs received by Health Canada already include a standard drug information panel. With the new requirements, the Department would be aligning with requirements and processes in place internationally.

Given the historical precedence of the “Drug Facts” table in the United States and the global nature of the

business, the incremental cost for this proposal on a per-product basis should be much less in magnitude since the industry has already transitioned to a standard format in the United States, and almost one-third of Canadian submissions already include a standard table panel.

Because the Regulations do not require any new information requirements for the standard drug panel, nor are they overly prescriptive regarding the format, the Department does not expect any changes in label or package size as a result.

Based on the U.S. economic assessment model, (see footnote 3) the one-time compliance cost to the industry is estimated to be about $3.5 million over a three-year transition period. The total net present value benefit of the proposed amendments would be approximately $72.4 million for 10 years, between 2013 and 2022.

*Submission of label and package mock-ups before versus after regulatory approvals*

At present, the Department receives written text or drafts of the label at the time of submission, and the mock-ups of the final version (also known as “trade dress”) following regulatory approvals. From an incremental cost perspective, the Regulations will not theoretically require additional work on the part of the sponsor. Rather, they will change the timing, and possibly reduce some of the procedural steps during review — i.e. the review of the mock-ups would occur prior to the relevant submission approval rather than afterward. Thus, these changes will eliminate the need for the submission of draft text and another (duplicative) submission of final versions after marketing. The requirement aligns Canada with the practice of other regulators, such as the European Medicines Agency (EMEA).

*LASA name assessments*

To estimate the burden related to LASA name assessments, it is important to note that the Canadian Look-alike Sound-alike policy has been in effect since 2006 when the Department first published the guidance for industry on *Drug Name Review: Look-alike Sound-alike (LA/SA) Health Product Names*. Thus, the Regulations in this case merely codify the process in regulation to ensure uniformity.

Lessons learned over the past seven years of LASA experiences have recently been used to revise the guidance, and industry has been anticipating these updates following consultations that took place February to April 2013.

## “One-for-One” Rule

Due to the nature of the Regulations, incremental cost, if any, would be attributed to compliance. Given the “One-for-One” Rule only considers administrative burden, it does not apply to these Regulations.

## Small business lens

The small business lens applies to regulatory proposals that impact small business and that have nation wide cost impacts of over $1 million annually. The Treasury Board Secretariat defines small business as any business, including its affiliates, that has fewer than 100 employees or between $30,000 and $5 million in annual gross revenues. This definition is based on commonly used definitions for what is considered a “small” business in Canada.

In this case, only market authorization holders (MAHs) of human prescription and non-prescription (OTC) drugs are affected by the Regulations. Due to their revenue generation and capital-intense characteristics, few if any of the MAHs would meet the small business definition.

## Consultation

The proposed Regulations, which were published in the *Canada Gazette*, Part I, on June 22, 2013, build on the feedback received in the technical discussions on regulatory modernization (2011) and plain language labelling (2012) consultations, as well as incorporated best practices from discussions with international counterparts. Following publication in *Canada Gazette*, Part I, Health Canada received comments from 34 stakeholders submitted during the 75-day comment period. Thirty-three stakeholders expressed support for

the plain language labelling policy objectives but provided comments on the proposal. One stakeholder did not support the plain language policy objectives. These comments and responses are summarized below.

*General plain language requirement*

Readability

Three industry stakeholders and a patient group requested that a definition for “plain language” be included in the Regulations. One health care professional and an academic stakeholder also suggested that “plain language” standards for readability (e.g. standard font size and level of language) should be included in the Regulations.

In response, Health Canada has set out the elements in provision A.01.017 for plain language labelling. In addition, the guidance documents will provide the requested level of detail, including definitions and examples of readability, needed to meet plain language requirements.

*Legibility and dispensing procedures*

One stakeholder suggested that Health Canada’s approach to regulating plain language labelling is too narrowly focused on one discrete aspect of medication errors and does not address other well-documented causes (e.g. legible handwriting, or poor dispensing procedures). This stakeholder made several suggestions to amend the Regulations in order to address these causes.

Health Canada agrees with the comment and the prevention of medication errors is a system-wide issue; however, issues such as handwriting and poor dispensing procedures are outside Health Canada’s purview and fall under provincial jurisdiction.

*Application/non-application*

Various comments were received regarding the application and non-application of the Regulations to different products. Two stakeholders commented that non-prescription drugs and “cosmetic like” drugs should be excluded from the Regulations. Other stakeholders requested clarification of the relevance of including labelling and packaging requirements for prescription drugs as they are not always provided at time of dispensation in pharmacies to consumers. One stakeholder commented that natural health products should be included within the scope of the Regulations.

Following consideration of these comments, Health Canada determined that the Regulations should apply to prescription and non-prescription drugs to fulfill the policy objective of the Plain Language Labelling initiative as currently drafted. The Regulations address the issues related to preventable medication errors and plain language labelling and packaging for all end users (including consumers, health care professionals and patients). These issues were identified through research and information obtained through consultations.

*Contact information on labels to report problems*

Physical space on the package

Four industry stakeholders indicated that the lack of physical space on the package and label is a well-recognized issue. Bilingual requirements amplify this issue for Canadian drug manufacturers.

Health Canada is aware of the impact of all mandatory labelling requirements on available package and label space. It is essential that Canadian consumers and health care professionals are provided with a means to report injury or suspected injury to the drug manufacturer in both official languages. Health Canada will continue to assess best practices to provide guidance on this requirement regarding how to best present this information on the label respecting space.

Contact information expectations

Industry stakeholders requested clarity regarding the type and amount of contact information that is required (i.e. phone number, mailing address) and whether this information needs to be duplicated on every label. Stakeholders suggested that contact information should appear only on package inserts and only when

patients receive Health Canada approved label information. Several stakeholders requested that clarity be provided regarding the type of wording needed to achieve the requirement of “a statement to the effect that any injury to a person’s health that is suspected of being associated with the use of the drug may be reported to the contact person.”

In response, Health Canada maintains that the intent of the Regulations is to allow companies to determine the best means to direct end users to contact the drug manufactures to report problems or suspected problems. Health Canada will still require the address of the manufacturer to be on the label as per C.01.004(1)(*c*). Health Canada believes that all labels must carry the contact information to ensure that consumers have access to the information even when packaging has been disposed of. Guidance documents will provide further examples that can be used to achieve this objective.

### Health Canada contact information

Two industry, one health professional association, two from academia, and two patient and consumer group stakeholders stated that consumers should have Health Canada contact information to be able to report adverse drug reactions directly.

Health Canada encourages individuals to report adverse drug reactions using the MedEffect™ Canada program. At the same time, it is important that the company responsible for the drug receives all relevant safety information in a timely manner so that they can pool the information and take corrective action, if needed. Under existing regulatory obligations, a manufacturer is required to report to Health Canada in a specified time and manner relevant safety information.

## *Standard table format for non-prescription drug labels*

### Inner and outer label requirements for facts table

Because of lack of space and bilingual requirements, six industry stakeholders requested that the facts table be aligned with the United States “Drug Facts” table and not apply to both the inner and outer labels. One patient/consumer group supported that the facts table be present on all labels. A few industry stakeholders requested consideration for small containers and specifically requested an exemption if a container does not have an outer label.

Health Canada has considered these comments and, similar to the United States, will require the standard table format to be placed on the outer label only. The outer label is primarily used by consumers in making informed decisions at point of selection and purchase. The current exemption for small packages will continue to apply to both prescription and non-prescription drugs.

### Adequate directions for use

Other stakeholders representing health care professionals and academia requested clarity, rationale and inclusion in Regulations regarding “adequate directions for use.” The rationale for inclusion on the inner and outer labels was also requested. Academic stakeholders requested that clear directions be included in the facts table when consumers need to seek medical attention in the event of serious reactions or overdose symptoms. One stakeholder suggested that the bilingual requirement should only allow for two separate unilingual tables.

Health Canada has provided clarity and details regarding “adequate direction of use” and the use of statements “when to stop the drug and seek medical attention” in its guidance documents. Regarding bilingual requirements, the non-prescriptive approach in the Regulations allows for various options to be chosen provided they meet the plain language principles, such as readability. Consequently, no additional changes were made to the Regulations.

### Application of the standard table format

Stakeholders representing industry requested an exemption from the requirement for the facts table for “cosmetic like” drugs because they consider these to be “low risk.” Health care professionals and a patient and consumer group provided comments to include the facts table requirement for insulin and prescription drugs on the basis that the restriction to non-prescription drugs fails to address safety problems associated with

these groups of drugs.

Prescription drugs, drugs sold without a prescription but supervised by a practitioner (e.g. insulin) and drugs for use as a disinfectant on hard non-porous surfaces are excluded from the standard table format requirement. To address stakeholder comments, the Regulations target specific issues related to plain language labelling and packaging for non-prescription drugs, as these products are available directly to the consumer without a health care professional intermediary. Health care professional intermediaries typically provide information and monitor for safe use for prescription drugs and drugs like insulin.

### Cost-benefit analysis

Three industry stakeholders commented that the costs associated with the facts table should be based on the number of products sold (Stock Keeping Unit [SKU]) rather than the number of Drug Identification Numbers (DINs) available.

Health Canada's analysis of industry practices shows that different packaging of drugs with the same DIN varies primarily by size. Consequently, Health Canada concludes that the number of DINs, rather than SKUs, better captures the cost associated with the standard table format.

## *Submission of mock-ups of labels and packages*

### Definitions of mock-up, label and package insert

Four industry stakeholders requested additional clarity regarding the definitions of label, package insert, mock-up and the product monograph. One stakeholder suggested that the term "package insert" should be removed from the Regulations. Another stakeholder requested that the term "significant change" be defined.

The definition of "label" in the *Food and Drugs Act* applies to these Regulations. The definition for package insert is already defined in guidance documents, and the description of mock-ups will also be provided in guidance documents. In recognition of stakeholder feedback, Health Canada will continue to provide direction regarding significant changes in guidance. For greater clarity, the Regulations will identify when mock-ups of labels and packages are required.

### Application

Two industry stakeholders commented that the mock-up requirement should not be applied to drugs that go directly to health care professionals. Another industry stakeholder requested an exemption for mock-ups be provided for non-prescription drugs or, alternatively, be provided only on request.

Health Canada does not agree with limiting the application of this regulatory requirement to certain products. In the past, packages and labels present on professional use drugs have led to injuries (e.g. look-alike labels or packages not designed for proper use) which could have been prevented through the review of the mock-ups. The exemption or alternative "on request only" of mock-ups for non-prescription drugs is not supported by scientific literature regarding preventable medication harms due to lack of clarity and readability. Consequently, no changes were made to the Regulations.

Three industry stakeholders requested clarification on whether all labels are required for review, specifically the package insert, or whether one representative label mock-up would be sufficient. One industry stakeholder felt that design components and format of labels, such as colour, size, and graphics, should not be reviewed as part of plain language labelling.

Health Canada considers design components and format to be important elements of the label which may impact plain language labelling requirements, such as readability.

### Application for supplemental new drug submissions

Several stakeholders sought clarification regarding the requirements of label and package mock-up and brand name assessment for supplemental new drug submissions (SNDS).

Following the written comments, and further discussions with the interested stakeholders, it was determined

that the proposed language was confusing. As a consequence, this section was redrafted to provide clarity with respect to the requirements for SNDS.

### Review process

Many industry stakeholders expressed concern about the operational review process and requested clarity around the process and timelines. Three industry stakeholders commented that clarity needed to be provided regarding the approach for “private label” non-prescription drugs. It was suggested that there be an exemption or simplified regulatory approach for these products.

Operationally, Health Canada will continue to strive to meet its performance targets for review as required under the Cost Recovery Initiative. The current iterative label review process will continue whereby Health Canada works with manufacturers through the submission review to achieve agreement on what the final packages and labels will look like. In addition, Health Canada will continue to provide direction with respect to non-prescription drugs through guidance documents.

### *Submission of an assessment that a drug would not be confused with another drug because of similar names*

Two industry stakeholders representing non-prescription drugs were opposed to brand name assessments for similarity with other authorized drugs in the Regulations. Several industry stakeholders requested clarity on the application and non-application of this requirement, including submission type and exemption for non-prescription drugs and their line extensions. It was also suggested that this requirement be aligned internationally and be “on request only” for non-prescription drugs.

Health Canada does not agree with excluding non-prescription drugs from this requirement in the Regulations, as it addresses a significant gap regarding prevention of medication errors based on confusion regarding drug names. However, Health Canada will continue to provide direction through guidance documents on this requirement and with respect to non-prescription drugs.

In response to the stakeholder comments regarding clarity on submission types, guidance will further clarify that brand name assessment is required for the following: new drug submissions and supplements; abbreviated new drug submissions and supplements; DIN application types wherein a brand name is being proposed or a change to an existing brand name is being proposed.

### *Coming into force*

Two industry stakeholders requested clarity for the transitional provisions, asking specifically if they were applicable to new drug submissions and their supplements and existing approved products. Five industry stakeholders suggested various coming into force periods for both prescription and non-prescription drugs.

Health Canada considered the various suggested transitional periods and subsequently extended the coming into force from six months to twelve months for prescription drugs. The transitional requirements apply to the following submission types under Division 8: new drug submissions; abbreviated new drug submissions; extraordinary use new drug submissions; as well as abbreviated extraordinary use new drug submissions and their respective supplements. The transitional provisions apply to Division 1 drugs and their respective submission types. However, these Regulations will not be applied retroactively to drugs already approved. Enforcement will be based on audits and other compliance and enforcement activities currently utilized by Health Canada.

The coming into force for provisions applicable to nonprescription drugs will remain at three years and are clarified in the Regulations. Based on international experience, Health Canada considers that three years is sufficient time to implement these Regulations, which is consistent with transition periods granted by other regulatory counterparts.

### *Other comments*

### Scannable codes

Two industry stakeholders proposed that, instead of text on a label, a scannable link such as a Quick Response (QR) Code be permitted on labels to allow users with a camera phone equipped with the correct

reader application to connect to a wireless network and open a page with the proper information in the phone's browser.

Health Canada rejected this proposal since not all Canadians have the ability to use or access to use such technology at this time.

### Cost to industry and Health Canada

Several industry stakeholders suggested that the cost to the industry and Health Canada to implement the regulatory proposal will be significant.

Health Canada has consulted extensively with all stakeholders, including industry, to obtain their views and to enable them to prepare for the Plain Language Labelling initiative. Health Canada has confirmed that many of the industry association members have already implemented similar initiatives in other jurisdictions and it is expected that the cost will be minimal. More details are available in the full cost-benefit analysis. Many of the operational and review processes are already in place at an operational level at Health Canada, and it is expected that incremental cost will not be significant.

### Cost to manufacturers and consumers

Some industry stakeholders commented that the cost for non-prescription packages to include the drug facts table will result in manufacturers offsetting the cost by increasing the cost of products for consumers.

Based on the U.S. cost model, Health Canada generated a higher cost scenario when estimating the impact on industry. For example, in calculating the impact to industry, Health Canada did not take into account the deflationary effect on cost of technological advances in design and production for label changes since the U.S. FDA introduced its "Drug Facts" table. In net present value calculations, Health Canada assumes cost growth of 7% annually, while the inflation rate in Canada has grown less than 3% on an annual basis since the year 2000.

### Evidence of medication errors

Two industry stakeholders commented that there is a lack of evidence presented that implementation by U.S. FDA has made any impact on medication errors in the U.S. since 1999.

Health Canada is not aware of any follow-up study or research on the U.S. FDA implementation of its "Drug Facts" table. However, there is an abundance of scientific literature indicating that drug labels and packaging that are not plain language can result in medication errors. A reduction in medication errors would have a substantial positive financial impact on Canadians and the health care system. For example, emergency room (ER) visits alone are estimated to cost the Canadian economy $527 million annually. See the cost-benefit analysis for more details.

### Post-market authorities

A health care professional association commented that post-market authorities should be included in the regulatory proposal.

Health Canada recognizes the need to advance work in this area and is advancing post-market authorities separately through legislative modernization efforts.

### Implementation

An industry stakeholder recommended implementing a pilot project to understand the impact of the regulatory proposal on the submission review process, timing of approvals, drug development cost to industry and accessibility of medicines to patients.

Health Canada has taken the impact of the Regulations into consideration when determining the transitional periods. As a result of the comments, the coming-into-force dates of all provisions related to prescription drugs are extended from six months to twelve months. All provisions related to non-prescription drugs will come into force three years after registration of the Regulations. Health Canada has developed comprehensive guidance

documents to raise awareness and assist industry.

### Other drug safety issues

A patient and consumer group and an academic commented that the regulatory proposal was not comprehensive enough to address all health and safety issues related to the use of drugs.

Health Canada is pursuing a phased approach to modernizing its regulatory frameworks to address emerging and identified safety issues. The scope of these Regulations is narrow to address specific safety issues regarding plain language labelling.

### More drug information on labels

Two stakeholders representing academia and one Member of Parliament suggested the use of symbols to convey information about the potential harms associated with certain types of drugs, particularly those that are new to the market. They also recommended disclosure of information regarding clinical trial results and efficacy of the drug.

Health Canada is assessing good practices with regards to the use of symbols by working with other international regulators and other experts. Disclosure of clinical trial results is outside of the scope these Regulations.

An individual stakeholder commented on requiring the active ingredient and brand name on drug labels to be equal in font size.

This issue may be assessed as part of good practices and addressed in guidance documents.

An individual stakeholder suggested that labels should include information on the safe disposal of drugs.

Proper disposal of drugs is a concern to Health Canada and covered through specific instructions for consumers (in Part III of the Product Monograph).

### Enforcement approach

A patient and consumer group requested clarification on the enforcement approach for the regulatory proposals and also disagreed with providing manufacturers with flexible regulatory approaches related to the requirements.

Health Canada will implement the Regulations using current enforcement practices. In the past, prescriptive regulatory approaches have hindered the use of emerging best practices in the area of health and safety. Health Canada considers an outcome-focussed regulatory framework is better suited to meet the important policy objectives while allowing best practices to be utilized.

### Product Monograph

An individual stakeholder commented on addressing the quality of Product Monograph Part III (consumer information) and that the product monographs for both brand and generic drugs should be uniform.

Health Canada has made available on the Health Canada Web site a revised Product Monograph Part III, which incorporates improvements. The Generic Timely Labelling Update project addresses synchronizing generic and innovator product monograph information.

### Drug Product Database

An individual stakeholder also commented that the Drug Product Database (DPD) and Health Canada's Web site is not user- friendly and that education and public campaign strategies are required.

Health Canada is establishing a product register that will provide Canadians with patient-centric access to all Health Canada approved regulatory information that is available in the public domain. This will include regulatory directives such as policies, guidance documents, fact sheets, procedures, and forms. The intent is to make it much easier for Canadians to get important information and improve Health Canada's ability to be

open and transparent in the process. Health Canada will continue to maintain a patient-friendly Web site (www.healthycanadians.gc.ca), where up-to-date safety information about health products is available.

### Summary of comments

Overall, the majority of stakeholders generally support the Plain Language Labelling initiative and policy objective. Health Canada has adjusted some provisions of the Regulations based on the stakeholder comments and provided clarifications where appropriate. Health Canada guidance documents will also provide further clarification.

## Regulatory cooperation

The Regulations take into account ways to better reflect current knowledge of medication use and minimize opportunities for confusion with labels, packages or names. Other regulators have taken similar steps to improve drug safety, and the Regulations aim to align Canadian practices with international best practices, while also considering the Canadian context and the least burdensome approach for transition and implementation. The Regulations better align Canadian requirements with those of the United States, Europe or Australia, as follows:

| Regulatory proposal | United States | Europe | Australia |
|---|---|---|---|
| **Plain language labelling** | ☑ | ☑ | ☑ |
| **Submission of mock-ups** | ☑ (on request) | ☑ | X |
| **LASA name assessment** | ☑ | ☑ | X* |
| **Standard table format for OTCs** | ☑ | X | X* |
| **Contact information to report harm** | ☑ | X | X |

* Proposals under consultation and consideration in Australia.

The Regulations also support and build on the Government initiative of the Regulatory Cooperation Council (RCC), which has already resulted in work with the U.S. FDA on Common Monographs for over-the-counter drugs. An example of this work is the use of the U.S. “Drug Facts” table on sunscreen labels in Canada.

International alignment improves the efficiency of the regulatory system, while also enhancing the level of oversight of the drug products that Canadians use. The Regulations would help minimize regulatory differences with key partners through a flexible regulatory structure (e.g. outcome-based requirement for common format of non-prescription drug label panels) and through a phased transition period.

## Rationale

Improving the safe and effective use of drugs and reducing the number of medication errors resulting from confusing drug names, labels and packages will be achieved through the Regulations and associated updates to guidance and operational implementation. The approach is intended to benefit patients, consumers and health care professionals by having the appropriate level of oversight and requirements in the Regulations. This approach was chosen because it provided the most targeted means of addressing regulatory gaps as they related to labelling and packaging risks and preventable harm. The Regulations will be supported by nonregulatory instruments such as guidance, best practices and collaborative approaches with other stakeholders that have a role to play in the development and dissemination of important drug safety information. Overall, the total net present value benefit of the Regulations will be approximately $72.4 million over 10 years, between 2013 and 2022.

## Implementation, enforcement and service standards

The coming into force of the Regulations will be phased, with a one-year transition period for prescription drugs and a three-year transition period for non-prescription drugs respecting certain provisions. This delayed implementation period is intended to provide time for industry to plan for and adjust to the new regulatory requirements, and to provide Health Canada time to update its processes and train staff. The existing *Food and Drug Regulations* will remain in force until the date of coming into force of these Regulations.

Guidance documents created by Health Canada will be available to help regulated parties to comply with the

Regulations. For submission-related processes, Health Canada will adhere to existing service standards as provided in the *Guidance for Industry: Management of Drug Submissions*.

These Regulations will not alter existing compliance mechanisms under the provisions of the *Food and Drugs Act* and the *Food and Drug Regulations* enforced by the Health Products and Food Branch Inspectorate.

## Contact

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Footnote a
S.C. 2012, c. 19, s. 414

Footnote b
R.S., c. F-27

Footnote 1
C.R.C., c. 870

Footnote 2
The estimation is based on the estimated number of deaths attributed to medical errors multiplied by percentage considered preventable multiplied by percentage relating to medication errors (Baker and Norton).

Footnote 3
There were a number of cost-benefit analyses carried out by the U.S. FDA that were published in the *Federal Register*. For the purpose of this exercise, it was based on the information published in the *Federal Register*, Vol. 64, No. 51, March 17, 1999, under “Rules and Regulations.” The present value and the difference in number of the products available on the market and other factors were taken into consideration. See the cost-benefit analysis for more details.

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