



## New Substances Program Advisory Note 2006-03

### ***Submission of a Sworn Affidavit to Support Eligibility for the Domestic Substances List***

This Advisory note is to inform manufacturers and importers of new substances and other stakeholders of the option to submit a sworn affidavit to satisfy the Minister that one or more substances are eligible for the Domestic Substances List.

#### **Background**

Persons wishing to have a substance that is a chemical, biochemical, polymer or biopolymer added to the Domestic Substances List (DSL) under subsection 66(1) of the *Canadian Environmental Protection Act, 1999* (the Act) must satisfy the Minister of the Environment that between January 1, 1984, and December 31, 1986, the substance was:

- a) manufactured in or imported into Canada by any person in a quantity of not less than 100 kg in any calendar year; or
- b) in Canadian commerce or used for commercial manufacturing purposes in Canada.

Persons wishing to have a substance that is a living organism added to the DSL under subsection 105(1) of the Act must satisfy the Minister that between January 1, 1984, and December 31, 1986, the organism:

- a) was manufactured in or imported into Canada by any person; and
- b) entered or was released into the environment without being subject to conditions under any Act of Parliament or of the legislature of a province.

#### **How to Satisfy the Minister that a Substance is Eligible for the Domestic Substances List**

Persons reporting a substance must provide credible and relevant documentation related to the substance in order to satisfy the Minister that it meets the eligibility criteria outlined in the Act for addition onto the DSL. In recognition that complete documentation from the 1984-1986 time period may be difficult to provide, a sworn affidavit with available supporting evidence may be submitted.

#### **A) Documentation**

Documentation provided must be related to the substance. It may include bills of sale, invoices, receipts, dated product literature, permits, audit records, letters and articles from scientific or trade journals.

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If the substance was sold as an ingredient in a commercial product, information linking the substance name to the commercial product name is also relevant.

## **B) Sworn Affidavit**

If the documentation provided does not provide sufficient credible or relevant information, a sworn affidavit attesting to the eligibility of the substance under subsection 66(1) or 105(1) of the Act may be filed. The affidavit must be accompanied by all available supporting evidence. The affidavit must be signed by an officer of the company intending to import or manufacture the substance. When the Importer of Record is a foreign company possessing “Canadian Importer Status”, the Canadian Agent, as well as an officer of the company must sign the affidavit. The sworn affidavit must contain the following:

In respect of the person(s) involved:

- the name and position of the person(s) attesting to the substance’s eligibility;
- the name and civic or mailing addresses of the company or person that manufactured or imported the substance between 1984 and 1986 including the name and civic or mailing addresses of the Canadian Agent if applicable;
- the link between the person attesting to the substance’s eligibility and the aforementioned company or person between January 1, 1984, and December 31, 1986;
- the link between past and present company names, if applicable;

In respect of the substance<sup>1</sup>:

- the name of the substance;
  - for chemicals, biochemicals, polymers and biopolymers, the name established in accordance with the nomenclature rules of the International Union of Pure and Applied Chemistry or the Chemical Abstracts Service, and, if available, the Chemical Abstracts Service Registry Number (a.k.a the CAS Number);
  - for enzymes, the name established in accordance with the International Union of Biochemistry and Molecular Biology nomenclature conventions;
  - for living organisms, a valid taxonomic name to the species and strain levels;
- the name of the commercial product containing the substance (if applicable);
- links between past and present product names (if applicable);
- uses of the substance between 1984 and 1986;

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<sup>1</sup> If a company needs to attest eligibility of a multiple number of substances, one sworn affidavit referencing all the substances can be submitted.

In respect of the eligibility of the substance:

- for chemicals, biochemicals, polymers and biopolymers, a statement of eligibility regarding quantity manufactured or imported in a given year between January 1, 1984 and December 31, 1986; or a statement of eligibility regarding commercial use in Canada between January 1, 1984 and December 31, 1986;
- for living organisms, a statement of eligibility regarding the import or manufacture of the organism in Canada and its subsequent unconditional release into the Canadian environment between January 1, 1984 and December 31, 1986; and

Any additional information:

- Any information which supports the eligibility of a substance, including:
  - the names of clients, customers, and suppliers of the substance between 1984 and 1986;
  - the names and civic or mailing addresses of scientific authorities with current knowledge of the substance's past and present product development.

The standard affidavit form prescribed in the *Federal Courts Act Rules* (see Form 80A) can be found at the link below:

<http://lois.justice.gc.ca/en/F-7/SOR-98-106/228144.html#rid-228149>

## **Verification**

Environment Canada will review the documentation submitted, including any sworn affidavits, for acceptance as credible and relevant proof of activities pursuant to the provisions of subsection 66(1) or 105(1) of the Act. Persons reporting a substance may be asked to clarify information provided as part of this verification process. Further inquiries may be conducted by Environment Canada to validate the information contained in the sworn affidavit.

## **Contact Information**

New Substances Notification Information Line  
Telephone: 1-800-567-1999 (toll-free in Canada)  
1-819-953-7156 (outside Canada)  
Facsimile: 1-819-953-7155  
E-mail: [nsn-infoline@ec.gc.ca](mailto:nsn-infoline@ec.gc.ca).

For additional information or documentation regarding the *New Substances Notification Regulations (Chemicals and Polymers)* or the *New Substances Notification Regulations (Organisms)*, please visit the New Substances Web Site at <http://www.ec.gc.ca/substances>.

***Original signed by***

Bernard Madé  
Director  
New Substances Division  
Environment Canada

Signed on November 14, 2006