

New Substances Notification Advisory Note #03-96

Change in Policy: Interpretation of "Person"

Section 81 of the *Canadian Environmental Protection Act, 1999 (CEPA, 1999)*

Section 81 of *CEPA, 1999* applies to the "person" manufacturing or importing a new substance into Canada. Since the New Substances Notification (NSN) Regulations of *CEPA, 1999* were implemented on July 1, 1994, the interpretation of "person" was restricted to a single corporate entity (the original notifier). This implied that the "transitional" status of substances was lost when sale of assets occurred and transitional substances had to be re-notified as non-transitional substances by successors. Successor owners of non-transitional substances had to re-notify these as new substances and could only commence importing or manufacturing the new substance after the assessment period had expired.

As of November 1, 1996, Environment Canada has adopted a change in policy regarding the interpretation of "person" under s. 81 of *CEPA, 1999*. The change in policy is as follows:

"Where one corporation has provided information to Environment Canada under the NSN Regulations concerning a new substance, Environment Canada will consider a successor corporation to be the same "person" as the original corporation for the purposes of s. 81 of *CEPA, 1999* and the NSN Regulations," under the conditions imposed by the Certification Form.

This change in policy applies to both ss. 81(1) and (2) of *CEPA, 1999* (non-transitional and transitional substances). It will reduce duplication of work for both industry and the departments of Environment and Health. For transitional substances, the change in policy will remove the requirement for a company to notify at higher schedules, and the associated costs to industry, which would be associated with the loss of "transitional status" for a notification upon change of ownership of the substances. For non-transitional substances the change in policy will permit successors to continue importing or manufacturing a new substance without having to "re-notify" and thus wait for the assessment period to have expired.

The change in policy is effective as November 1, 1996. For already existing successors the change in policy applies only to new substances that have not yet been "re-notified"

Successors wishing to take advantage of the change in policy must sign the attached Certification Form. The form must be signed by an officer of the successor corporation. A Certification Form must be completed for each substance to which the change is meant to apply.

Please contact Environment Canada using the toll free number (800) 567-1999 (within Canada) or at (819) 953-7156 if you have any questions.

Yours sincerely,

J. A. Buccini
Director
Commercial Chemicals
Evaluation Branch

**Interpretation of "Person" - Section 81 of
the Canadian Environmental Protection Act, 1999 (CEPA, 1999)**

Certification Form

Where one corporation has provided information to Environment Canada under the New Substances Notification (NSN) Regulations concerning a new substance, Environment Canada will consider a successor corporation to be the same "person" as the original corporation for the purpose of s. 81 of *CEPA, 1999* and the NSN Regulations:

| | | | | | |
|------------------------------|----------|---------------|-----------------------------|----------|---------------|
| Successor Corporation | | | Original Corporation | | |
| Street | | | Street | | |
| City | Province | Postal Code | City | Province | Postal Code |
| Telephone No. | | Facsimile No. | Telephone No. | | Facsimile No. |

| | | | | | |
|--|----------|---------------|---|----------|---------------|
| Successor proposed site of Manufacture or Port of Entry | | | Canadian Agent (if successor is not within Canada) | | |
| Street | | | Street | | |
| City | Province | Postal Code | City | Province | Postal Code |
| Telephone No. | | Facsimile No. | Telephone No. | | Facsimile No. |

The successor corporation certifies to Environment Canada that:

1. the original Corporation has provided to Environment Canada and to the successor corporation all information required by the NSN Regulations to the time of change of ownership;
2. the successor corporation has acquired all, or material portion, of the business of the original corporation;
3. the continued operation of the acquired business includes the manufacture or import of the substance notified under NSN #: _____; and
4. the successor corporation agrees to be bound by all of the obligations of the original corporation under *CEPA, 1999* and the NSN Regulations in relation to the above mentioned substance, including conditional orders, prohibitions and other requirements under s. 84 of *CEPA, 1999*.

I have the authority to sign this certification statement on behalf of:

Name of Successor Corporation

Signature: _____

Name typed: _____

Title: _____

Date: _____