



CANADIAN ENVIRONMENTAL LAW ASSOCIATION
L'ASSOCIATION CANADIENNE DU DROIT DE L'ENVIRONNEMENT

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Team Leader
Waste Management Policy Branch
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Dear Team Leader:

Re: Public Comment on Proposal
EBR Registry Number: RA03E0011

Proposal Title: *Waste Diversion Program for Blue Box Waste / Designating Regulation for Stewardship Ontario*

The Canadian Environmental Law Association (“CELA”) is a public interest law group founded in 1970 for the purpose of using and improving laws to protect the environment and public health and safety. Funded as a legal aid clinic specializing in environmental law, CELA lawyers represent individuals and citizens’ groups in the courts and before tribunals on a wide variety of environmental protection and resource management matters.

This comment relates to EBR Registry Notice pertaining to the *Waste Diversion Program for Blue Box Waste / Designating Regulation for Stewardship Ontario*. CELA submits that there are many inherent problems with the plan. As such, CELA recommends that the Minister of the Environment should reject the Plan as provided for in section 26(3) of the *Waste Diversion Act*.

A summary of CELA’s concerns are as follows:

The Need for Concrete Waste Diversion Targets: One of the hallmarks for success of a good plan is the identification and commitment of concrete targets for waste diversion. There are no such targets in this plan except for 2003. Ambitious waste diversion targets should be a key driver to both the industry and the consumer to undertake the necessary changes to ensure those targets can be met. They are the key accountability mechanism under the plan since one can only determine the success of the plan by comparing the actual waste diversion to the target. It is our understanding that firm targets were asked for by the Minister’s Program request letter forwarded in September of 2002.

Weaknesses of the Industry Pay-In and Funding Model: CELA also has serious concerns about the Industry Pay-In and Funding Models. With respect to the Pay-In model, CELA's concern is that industry levies do not give sufficient incentive for brand owners to choose highly recyclable packaging. In fact, it may actually lead to a disincentive.

There is also concern that Stewardship Ontario will not be in a position to meet its financial obligations to municipalities owing to the low fees set for industry. Without sufficient funding, the obligation to pay 50% of the blue box costs will not be met. In other words, the lack of appropriate funding fees will lead to the demise of the program itself.

Materials Included in the Plan: The proposed plan defines blue box waste as packaging and printed materials. CELA recommends that the plan be amended to include all blue box wastes and at least those listed in Regulation 273.

Reporting Requirements: In our view, the plan does not have sufficient reporting requirements including data on sales of blue box materials. There should be requirements in the plan to require industry to submit data necessary to understand whether the waste diversion targets are being met, including quantities of waste being reused, recycled and materials sent to landfill. These reporting requirements are important public accountability mechanisms. CELA also supports that this information be made public in an easily accessible format.

CELA thanks the Ministry for this opportunity for comment on this very important proposal. However, the solid waste situation in the province is so important that it deserves the most aggressive 3R approach possible. It is CELA's hope that the Ministry improves on the present efforts to make the plan the most ambitious as possible.

Yours truly,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION



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