



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

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Transmission by fax: 819-953-4936
Original to follow

Dear Jake Sanderson:

RE: Letter of Offer - Proposal to review Canadian provinces and territories legislations on toxic substances as required under S. 75 of CEPA

Further to our telephone meetings last week, please consider the following letter of offer by the Canadian Environmental Law Association (CELA) to undertake a research project to review legislation focused on toxic substances for the ten Canadian provinces and 3 territories. The total amount requested under this letter of offer is \$23,000 (CDN).

Background:

Under Section 75 of the *Canadian Environmental Protection Act* (CEPA) 1999, it states that the "Ministers shall...cooperate and develop procedures with jurisdictions, ..to exchange information respecting substances that are specifically prohibited or substantially restricted by or under the legislation of those jurisdictions for environmental or health reasons."

This obligation complements activities that are currently being undertaken by Environment Canada and Health Canada to identify and assess substances for their toxicity. Currently, efforts by both departments are focused on completing the categorization for persistence, or bioaccumulation and inherent toxicity for the substances listed under the Domestic Substances List (DSL) is required before September 14, 2006, while consultation processes have been initiated to determine management options for those substances on the priority substances list II determined to be toxic. The information gathered under s. 75 of CEPA 1999 may have a significant impact on the overall framework established in Canada towards the identification, assessment of substances of toxicity and action taken on toxic substances.

Purpose of Project

The overall goal of the project is to provide legislative information on the provinces and territories focus on toxic substances to assist Environment Canada to design a process to consider this information in its efforts to categorize, assess and act on toxic substances.

The project will achieve this goal by:

- 1) Providing Environment Canada with information on current legislations in the ten provinces and three territories in Canada that aim to "severely restrict" and/or "prohibit" toxic substances;
- 2) Determining the rationale used by specific provinces and territories for enacting legislation; and
- 3) Determining the mechanism used by each province and territories to report and communicate activities to achieve the goals of the legislation.

CELA, a non-profit public interest organization established in 1970, is based in Toronto, Ontario. CELA provides legal representation on environmental matters to individuals and organizations with low income and undertakes policy reform activities in five programme areas, including toxics and health. Under this programme, CELA has invested significant resources that focus on federal initiatives to address toxic substances. For example, CELA participated throughout the review of the CEPA between 1994-1999. Since CEPA 1999 was enacted, CELA has been monitoring the efforts by Environment Canada and Health Canada to implement the obligations under the Act. The requirements of section 75 are of particular interest to CELA since the Act attempts to consider the legislative framework on managing toxic substances of other jurisdictions other than the federal level.

The scope of this project proposal and the requirements of section 75 have the potential to expedite the process for identification and assessment of toxicity based on the information collected on the efforts of the provinces and territories to "severely restrict" and/or "prohibit" specific substances. Currently, the process to assess substances for toxicity and then develop and implement options for those found to be toxic is very time consuming and leaves the Canadian population and its ecosystem at considerable risk from exposure to harmful substances. Further, it is known that there are significant gaps in the database for chemical profiles.

If implemented appropriately, CELA believes that the requirements under s. 75 may help to promote efficiency on the overall Canadian federal process of identifying and assessing toxic substances by reducing the time and resources required to undertake this work. At the same time, this section can be an effective tool for applying the precautionary approach to the way Canada addresses potentially harmful substances.

Proposed Workplan

The following workplan aims to provide Environment Canada with research services that will contribute to efforts that reduce the time and resources required to act on problematic substances in Canada.

CELA will review the legislative framework for each of the 10 provinces and three territories.

For each province and territory, CELA will:

- 1) provide brief overview of all legislations (excluding pesticides) that aim to "severely restrict" and/or "prohibit" toxic substances. Consumer products, hazardous wastes, pharmaceuticals, will be investigated.
- 2) Determine what human health and/or environmental considerations were used to provide rationale for a specific legislation;
- 3) Comment on the level of success made to achieve the goal of a legislation
- 4) Provide a brief overview on the mechanism(s) used to report on progress towards the goals of the legislation.
- 5) Develop recommendations to Environment Canada focused on how to incorporate information on toxic substances into the federal process for assessing and developing management options for toxic substances.

The final report to Environment Canada will be presented in a chart format similar to a report prepared by CELA on Pollution Prevention Options for Incineration prepared for the CWS Advisory Committee responsible for reviewing Pollution Prevention Options under the Canada-wide Standard Setting process for Dioxins from incinerators in 2002. Please visit:

<http://www.cela.ca/toxics/422incineration.pdf>

This project reviewed legislation, policy and programs that focused on pollution prevention. The information provided in this report provides an overview of the findings from research but does not provide extensive analysis of the options.

Specific research activities will include:

- 1) Online internet research on legislative framework for each province and territories;
- 2) Design a chart to present the research information. The chart layout will be approved by CELA and Environment Canada to ensure that the information collected is relevant to Environment Canada.
- 3) Review and develop a profile for each province and territories that should include:
 - a) Name of legislation
 - b) Name the toxic substances the legislation target
 - c) Provide contact name, department and contact information
- 4) Develop list of questions for interviewing government departments to discuss current legislation. The questions will focus on the extent of legislative authority for each legislation, determine how the government department exchange information on the specific toxic substance, and to determine if the goals of the legislation have been achieved.
- 5) Approve the list of questions by CELA and Environment Canada;
- 6) Schedule and conduct interviews;
- 7) Synthesis of information collected during the interview process;
- 8) Evaluate information and input into chart

The information collected through this project may be of some interest to international agreements or legislation focused on toxic substances such as the *Rotterdam Convention on Prior Informed Consent (PIC)*. CELA may refer to the PIC to determine what type of

mechanisms are being employed by other jurisdictions in exchanging information on toxic substances.

Timelines

ACTIVITY/ TIMELINES	Dec. 2003	Jan. 2004	Feb. 2004	Mar. 2004
Online research	X			
Design chart for final report	X			
Approve chart by EC and CELA		First week		
Develop a profile for each province and territories		X		
Develop and approve list of questions for provinces and territories		X		
Schedule and conduct interviews		X	X	
Synthesis of information collected			X	
Draft of Report/Chart				First week
Review report				X
Submit final report				March 31

Proposed Budget

Research

\$16,000

Online research \$400/day * 16 days	\$6,400
Developing chart/template for reporting \$400/day * 2 days	\$800
Developing questions \$400/day * 2 days	\$800
Scheduling and conducting interviews \$400/day * 8 days	\$4,000
Draft report (synthesizing information) \$400/day * 6 days	\$2,400
Revising and finalizing report \$400/day * 4 days	\$1,600

Coordination @ \$400/day * 3 days

\$1,200.00

Project Management \$450/day * 4.5 days

\$2,025.00

Miscellaneous Expenses

\$350.00

Overhead (15%)

\$3,450

TOTAL

\$23,025

Payment of Contract (3 equal payments)

- 1st payment (signing of contract)
- 2nd payment (submission of questions and chart)
- 3rd and final payment (submission of final report)

March 30, 2004

If you accept the ter