



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

16 August 2004

BY FAX: (613) 943-5071

Gaétan Lussier, Chair, and Members
External Advisory Committee on Smart Regulation
c/o Privy Council Office, Government of Canada
Suite 1155 - 155 Queen Street
Ottawa, ON
K1P 6L1

Dear EACSR Members,

Canadians recognize the need for strengthened government capacity to implement and enforce existing regulations, and for fewer barriers to new regulatory initiatives. The research you commissioned over the past year reflects this reality.

We, the undersigned individuals and organizations, are therefore writing to urge the External Advisory Committee on Smart Regulation (EACSR), in your report to the federal government, to confirm that the highest priority of regulation is “protection of human health, safety and the environment.”

The values and wishes of Canadians, including current public opinion research referenced in your consultation document, consistently identify protection as the overarching priority of health, safety and environmental regulation. No other values (including “innovation”, “competition”, or Canada’s “strategic advantage”) deserve status equal to “protection” in the regulatory process.

Well-documented regulatory failures involving water, blood and meat contamination, among others, demonstrate what happens when governments’ public health and environmental protection mandates are compromised by other values and priorities. Canadians understand that a protection mandate, untrammelled by other objectives, helps in preventing such regulatory failures.

Second, we urge you to emphasize in your report the need for scientific, regulatory and enforcement capacity in the federal government. Capacity to fulfil existing regulatory responsibilities, and respond to emerging threats, is absolutely essential.

Third, we urge you in your report to be absolutely clear that regulations – not voluntary or other initiatives – are the foundation for ensuring the protection of the public. Canadians already participate in and support countless non-regulatory initiatives, but they know that enforceable regulations are the primary motivator for behaviour by individuals and corporations alike.

Finally, much greater attention must be paid to injecting precautionary measures into both risk assessment and risk management processes. Rather than applying precautionary measures in exceptional circumstances as your consultation document proposes, precautionary approaches must be integrated much more fully into conventional risk-based practices.

Following Walkerton, North Battleford, SARS and other events, Canadians recognize the need for strengthened government capacity to implement and enforce existing regulations, and the need for fewer barriers to new regulatory initiatives that are needed to address health, safety and environmental hazards on a precautionary basis. Your committee has an obligation to reflect this reality.

We consider your report to be a very important mechanism for promoting the role of governments in protecting citizens. We look forward to reading it.

Sincerely,

NATIONAL ORGANIZATIONS

Canadian Environmental Law Association	Democracy Watch	Canadian Institute for Environmental Law and Policy
Sierra Legal Defence Fund	Corporate Responsibility Coalition	Environmental Defence
West Coast Environmental Law Association	Canadian Health Coalition	Council of Canadians
MiningWatch Canada	Pembina Institute for Appropriate Development	Beyond Factory Farming Coalition
Canadian Nature Federation	Greenpeace Canada	Canadian Association of Physicians for the Environment
Sierra Club of Canada	David Suzuki Foundation	

LOCAL AND REGIONAL ORGANIZATIONS

Toronto Environmental Alliance

Time to Respect Earth's Ecosystems (TREE) (Winnipeg)

Tusket River Environmental Protection Association (Nova Scotia)

Citizens Environment Alliance of Southwestern Ontario

Saskatchewan Environmental Society

UTSB (Under The Sleeping Buffalo) Research (Banff)

Healthy Community Partners (Prince Edward Island)

Eastern Co-operative Health Organization/ Organisme coopératif de la santé de l'est (Prince Edward Island)

Poetical Asylum (Prince Edward Island)

The Gaia Group (Saskatchewan)

Living Oceans Society (British Columbia)

Stop the Hogs Coalition (Archerwill, Saskatchewan)

Citizens for the Environment and Future in Eastern Ontario (CEFEO) / Citoyens pour l'environnement et l'avenir de l'Est ontarien (CEAEO)

New Brunswick Partners in Agriculture

INDIVIDUALS

Eva Ligeti, Executive Director, Clean Air Partnership (Ontario)

Chris Tollefson, Associate Professor and Executive Director, Environmental Law Centre, Faculty of Law, University of Victoria (British Columbia)

Professor Sharon Mascher, College of Law, University of Saskatchewan

Professor David VanderZwaag, Canada Research Chair in Ocean Law and Governance, Dalhousie Law School (Nova Scotia)

Professor Moira McConnell, Director, Marine and Environmental Law Institute

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Meinhard Doelle, Assistant Professor and Associate Director, Marine and Environmental Law Institute, Dalhousie Law School (Nova Scotia)

Professor Marcia Valiante, Faculty of Law, University of Windsor (Ontario)

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Dr. James Orbinski, Research Scientist & Associate Professor, St. Michael's Hospital, University of Toronto and Former international

president, Médecins sans Frontières (1998-2001) (Ontario)

Peter Miller, Senior Scholar, Philosophy and Centre for Forest, Interdisciplinary Research (C-FIR) University of Winnipeg (Manitoba)

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