



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

February 9, 2007

By facsimile and mail

Yosh Imahori, Senior Policy Coordinator
Waste Management Policy Branch, Hazardous Waste Policy Section
Ministry of Environment
135 St. Clair Avenue West
Toronto, Ontario, M4V 1P5

EBR REGISTRY NUMBER: RA07E0001
DRAFT REGULATION: TO BAN THE BURNING OF USED OIL IN SPACE HEATERS

Dear Mr. Imahori:

The Canadian Environmental Law Association (CELA) is a non-profit organization founded in 1970 for the purpose of using and improving laws to protect the environment and conserve natural resources. Funded as a legal aid clinic specializing in environmental law, CELA represents individuals and citizen's groups before trial and appellate courts and administrative tribunals on a wide variety of environmental issues. CELA also undertakes public education, community organization, and law reform activities funded by government and private foundations.

Background

The purpose of this brief is to provide CELA's comments on the Draft Regulation to ban the burning of used oil in space heaters, placed on the Environmental Bill of Rights Registry for public notice and comments (EBR Registry Number RA07E0001), with a comment period ending on February 10, 2007. The posting is related to EBR Registry Number PA8E0008, an information posting under EBR s. 6, regarding a hold on approval of burning used oil in space heaters announced in 1998. It is our understanding that the Draft Regulation will also amend Regulation 345, made under the *Environmental Protection Act* (EPA), to designate used lubricating oil as a waste.

CELA has undertaken research and published numerous briefs and submissions to government on a great number of proposed environmental legislative and policy reforms concerning the protection of our air, and on hazardous waste management issues. As such, CELA appreciates the opportunity to provide comments on the Draft Regulation to ban the burning of used oil in space heaters.

General Comments

CELA strongly supports the Ministry's proposal for banning the burning of used oil in space heaters in principle, and its purposes of helping protect our air and promoting re-refining and other preferred management options for used oil. CELA welcomes the Draft Regulation as yet another positive step in the government's efforts to enhance and strengthen environmental protection in Ontario, subject to the following comments.

Specific Comments

1. Northern Ontario Exemption

CELA does not support the exemption for Northern Ontario, from the ban on the burning of used oil in space heaters. According to a News Release from the Ministry of the Environment, dated January 11, 2007, the practice of burning used oil in space heaters will be allowed to continue in northern Ontario "since the north has limited options for disposing of waste oil." However, Minister Broten noted in her announcement of the ban, "used oil is not meant to be burned at low temperatures in space heaters, so we're taking action to protect Ontarians and our environment." The Northern Ontario Exemption would suggest that residents of Northern Ontario are less deserving of environmental protection than those in Southern Ontario, which is clearly not the case.

While it is recognized that there may be more problems associated with the collection of used oil in the north, these problems are surely not insurmountable, and should be the focus of immediate attention. The priority issue should not be the limited options for disposing of waste oil in the north, but the nature of the waste substance involved, and its affect on the health of Ontarians and the environment in general.

Recommendation #1:

The ban on the burning of used oil in space heaters should be extended to the entire province, with the north not being exempted.

2. Agricultural Operations Exemption

CELA does not support the exemption for agricultural operations, from the ban on the burning of used oil in space heaters. The draft regulation exempts from the ban agricultural operations that burn their own used oil, since EPA Regulation 347 defines "agricultural waste" as including used oil from farm operations.

Given that in most of Ontario, options for the collection and re-refining of oil are readily available, an exemption for agricultural operations would seem to be unsupportable. Agricultural operations may need a specialized option for the collection of used oil. However, as in the north, the focus should be on solutions to allow for the extended protection of our air by eliminating the emissions that result from burning used oil.

Recommendation #2:

The ban on the burning of used oil in space heaters should be extended to include agricultural operations that burn their own used oil.

3. Phased-in ban on the burning of oil in space heaters

CELA supports the phase-in of the ban in principle, but is concerned that the time provided is longer than necessary. Approval of small used oil space heaters has been on hold since an announcement by the Ministry of the Environment to that effect in 1998, and yet it is proposed that the ban will not take effect until June 1, 2009 for facilities with existing air certificates of approval issued under section 9 of the EPA. In CELA's opinion, a one-year phase-in period would allow ample time for members of the affected industry sector to make the changes necessary in order to comply with the new regulation.

Recommendation #3:

The proposed ban should take effect on June 1, 2008 for facilities that have received an air certificate of approval issued under section 9 of the *Environmental Protection Act*.

Conclusion:

Thank you for the opportunity to submit these comments. CELA strongly supports the Draft Regulation to ban the burning of used oil in space heaters in principle, subject to the recommendations and modifications noted in this brief. CELA's recommendations are summarized below:

Recommendation #1:

The ban on the burning of used oil in space heaters should be extended to the entire province, with the north not being exempted.

Recommendation #2:

The ban on the burning of used oil in space heaters should be extended to include agricultural operations that burn their own used oil.

Recommendation #3:

The proposed ban should take effect on June 1, 2008 for facilities that have received an air certificate of approval issued under section 9 of the *Environmental Protection Act*.

Sincerely,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION



Marlene Cashin
Counsel

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c.c. Toronto Environmental Alliance