

31 May 2016

Hon. Minister B. Duguid
Minister of Economic Development, Employment and Infrastructure
8th Floor, Hearst Block
900 Bay Street
Toronto, Ontario M7A 2E1

Delivered via email: redtapechallenge@ontario.ca

Dear Minister Duguid,

Re: Ontario's Red Tape Challenge

CELA is concerned that the Ontario government's "Red Tape Challenge" will reduce environmental oversight and weaken regulations designed to protect Ontarians' health and safety.

The Red Tape Challenge is not an appropriate consultation tool for assessing the broad range of regulatory provisions it covers. For example, under the environmental category of the automotive parts manufacturing sector consultation, participants are asked to provide their comments on legislation and policy areas as disparate as the *Toxics Reduction Act*, *Clean Water Act*, waste management policies, and greenhouse gas reporting regulations. The Red Tape Challenge website mentions the Ontario Government's commitment to outcome-focused and evidence-based regulations, and reiterates the need to protect environmental and health standards. The current format invites critiques of regulatory burdens without also inviting a balanced perspective on the benefits of the regulatory provisions. The result is likely to be a shallow consultation process that provides limited utility to government.

Our quarrel is not with the careful amendment or reduction of redundant, poorly drafted or unnecessary regulations. But legislators already have the power to amend or repeal regulations without the Red Tape Challenge. Previous experience has shown that when governments reduce "red tape" they can go too far, and the environment, human health, and worker safety may suffer.

As the Province is likely aware, the Report of the Walkerton Inquiry found that then then-in-place Red Tape Reduction Commission played an important part in creating the conditions that led to seven deaths and 2,300 illnesses in Walkerton, Ontario. In the Commission's words:

I am satisfied that the regulatory culture created by the government through the Red Tape Commission review process discouraged any proposals to make the notification protocol for adverse drinking water results legally binding on the operators of municipal water systems and private laboratories. On several

occasions, concerns were expressed by officials in the Ministry of Health, as well as in the MOE, regarding failures to report adverse water results to local Medical Officers of Health in accordance with the ODWO protocol. **Despite these concerns, the government did not enact a regulation to make notification mandatory until after the Walkerton tragedy. The evidence showed that the concept of a notification regulation would likely have been “a non-starter,” given the government’s focus on minimizing regulation** [emphasis added].¹


When the government passed the *Red Tape Reduction Act, 1998*, it removed and/or delegated numerous permitting requirements under the *Conservation Authorities Act*, the *Lakes and Rivers Improvement Act*, and the *Public Lands Act*. Cutting “red tape” can even endanger our democratic processes. Schedule C to the *Red Tape Reduction Act, 1998*, enabled the Chief Legislative Council to revise statutes without approval by the Legislature, essentially giving away the Legislature’s right to make laws.²

CELA is concerned that current provincial focus on reducing “red tape” could again lead to deregulation that could endanger the health, and even lives, of Ontarians, as occurred in Walkerton. A lack of regulatory oversight was also implicated in the 2013 railway accident that killed forty-seven people in Lac Mégantic, Québec.³ In worst-case scenarios, deregulation kills.

Many of Ontario’s regulations and policies would no doubt benefit from an update. In order for the consultation process to result in evidence-based conclusions it cannot be conducted from the perspective that regulations must be removed just for the sake of reducing their numbers. A variety of interests must be consulted, including environmental and Indigenous groups.

Yours truly,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION



Erica Stahl, Counsel



Barbora Grochalova, Student at Law

¹ DR O’Connor, *Report of the Walkerton Inquiry: The Events of May 2000 and Related Issues, Part one*, (Toronto, Queen’s Printer for Ontario, 2002) online:

<http://www.archives.gov.on.ca/en/e_records/walkerton/report1/pdf/WI_Chapter_01.pdf> at 33.

² Kathleen Cooper, “Guide to Environmental Deregulation in Ontario - Updated Chronology,” (1999) 24:1 *Intervenor*, online: Canadian Environmental Law Association <<http://www.cela.ca/article/environmental-deregulation-ontario-1996-2000/guide-environmental-deregulation-ontario-update>>.

³ Transportation Safety Board of Canada, *Railway Investigation Report R13D0054*, online:

<http://www.tsb.gc.ca/eng/rapports-reports/rail/2013/r13d0054/r13d0054.asp> at 3.0; see also Kim Mackrael and Grant Robertson, “Lax Safety Practices Blamed for Lac Mégantic Tragedy” *The Globe and Mail* (19 August 2014), online: <<http://www.theglobeandmail.com/news/national/tsb-releases-final-report-on-lac-megantic-rail-disaster/article20106828/>>; and Bruce Campbell, *Oil profits, pipelines and the human cost of regulatory capture*, online: The Canadian Centre for Policy Alternatives <<http://behindthenumbers.ca/2016/05/20/oil-profits-pipelines-and-the-human-cost-of-regulatory-capture/>>