

April 5, 2016 statement from Jim Puckett of Basel Action Network

BAN believes, based on a legal opinion already obtained in a similar case, that Illinois lawmakers are misguided. Our advisors tell us that a state such as Illinois can not tell a voluntary business association created in the State of Washington what their membership or certification criteria can be and cannot prevent us from expelling members based on their voluntarily not meeting the criteria. If a company does not wish to meet the high bar of e-Stewards then they can always leave the program. As written this rule would appear to violate our basic rights of speech and association and moreover would attempt to do so outside of its own jurisdiction.

Now, if Illinois wished to mandate that all recyclers operating in Illinois MUST use landfill storage cells, then in that case e-Stewards operating in Illinois would be forced to oblige, and as adherents to our standard, must always obey applicable law. However as long as legal options exist, e-Stewards can continue to prefer certain options over others. It is within our rights to do so. This view has not been tested in the courts but it is our strong belief that if tested our view would prevail.