

From Waste to Worth: The Role of Waste Diversion in the Green Economy

Minister's Report on the Waste Diversion Act 2002 Review

October 2009

Ontario Ministry of the Environment

Protecting our environment.



Ontario

Minister's Message

Every day in this province, we generate more than 34,000 tonnes of waste. Every day, most of us throw something into the garbage that could have been recycled. For individuals, businesses, and industries, waste is a part of daily life and often we think about it as little as possible. But now, that is changing.

Ontario's natural environment is one of our greatest assets. We take pride in our abundant natural resources, and we have a well-established commitment to protecting our environment. We are coming to understand that we can, and must, do better for this and future generations than digging holes in the ground and burying our waste.

There is a growing commitment to waste diversion in this province. Ontarians have made progress in integrating waste diversion into their lives. But we know that we can do more. We know that ways can be found to reduce the amount of waste being generated, from better manufacturing processes to improved methods for reuse and recycling.

There are real economic opportunities in waste diversion, from reclaiming valuable materials that would otherwise have been buried forever, to innovative, economy-driving new recycling technologies. Above all, we know that waste diversion is a critical foundation for the kind of green economy we want in this province, one that protects and conserves natural resources while generating wealth and prosperity for Ontarians. If we are to continue to be one of the best places in the world to live, work, and raise our children, we must establish a culture of waste diversion.

This report reflects what we heard through consultations on the review of the Waste Diversion Act and contains our proposal for improving the way we manage waste here in Ontario. It is guided by a long-term vision of "zero waste" and it is about shifting our thinking from waste to worth.

I am certain that together we can make Ontario a global leader in waste diversion and help build a green and sustainable economy for the benefit of all Ontarians, now and for the future.

John Gerretsen
Minister of the Environment

Executive Summary

From Waste to Worth: The Role of Waste Diversion in the Green Economy is part of the Government of Ontario's dialogue with Ontarians about how we can continue to improve waste diversion in Ontario. This report contains the findings of the government's review of the Waste Diversion Act, 2002 (WDA) and presents proposals for changes to our waste diversion framework that are intended to foster a green and sustainable economy for the benefit of all Ontarians.

Ontario's waste diversion framework was constructed over the last 20 years and reflects our shared values that we should create less waste, and reuse and recycle the waste that we do create. Waste diversion in Ontario is increasing bit by bit. Overall, we divert 22 per cent of our waste from disposal. We are better at home, diverting about 39 per cent of our waste, while at work and play we only divert about 12 per cent.

Over the past couple of years alone, programs have been put in place in Ontario for household hazardous waste, electronic waste, and used tires that will help us achieve even more diversion. Together, these new programs are keeping tens of thousands of tonnes of the most environmentally problematic materials out of our landfills and from being poured down our drains.

Ontarians recognize that we can and we should be doing more to reduce waste and lower the impacts that products and packaging have on the environment. Waste should be managed appropriately and reused and recycled to the greatest extent possible.

Worldwide, jurisdictions are grappling with how best to promote waste diversion and are adopting frameworks based on the principles of extended producer responsibility (EPR). EPR is premised on making those who put products and packaging into the marketplace responsible for managing the waste associated with them. EPR shifts the responsibility for waste diversion to those that are best able to influence and control decisions throughout the lifecycle of a product or package.

Today, we face new challenges and opportunities, such as sustainable production and consumption, efficient use of resources, and addressing climate change. Perhaps most importantly, we live in a world where Ontario is competing for investments and businesses that are new, green, and innovative. Designing our waste diversion framework to address the challenges that we face today and to encourage and harness new opportunities is essential.

WASTE DIVERSION ACT REVIEW

In October 2008, the Ministry of the Environment began the review of Ontario's Waste Diversion Act and launched a public dialogue on how to achieve greater waste diversion and to explore using EPR as the foundation for Ontario's waste diversion framework. Over 200 Ontarians participated in the review including producers, retailers, municipalities, environmental non-governmental organizations, waste management companies and concerned members of the public.

This Minister's Report has been prepared to fulfill the requirement to report publicly on the results of the review and forms the basis for further public dialogue on Ontario's proposal for changes to our waste diversion framework. The report reflects many of the key issues that were raised during the review and recommends a path forward for Ontario that would make us a true leader in waste diversion, and support a greener and more prosperous Ontario.

PROPOSAL

This report lays out proposed changes to Ontario's waste diversion framework:

Outcomes-Based Individual Producer Responsibility

- Making individual producers fully responsible for meeting waste diversion requirements for waste discarded in both the residential and IC&I sectors
- Allowing those individual producers to meet their waste diversion requirements either by joining a materials management scheme or by developing their own individual waste diversion plan
- Requiring individual producers to annually report information on sales into the Ontario marketplace of designated products and packaging
- Requiring that any waste diversion plan must meet outcome-based requirements
- Requiring producers who fail to meet outcome-based requirements to meet prescriptive requirements ("default" option) or face penalties for non-compliance

Clarify the Concept of Diversion

- Clarifying the concept of diversion to allow a wider range of processes and technologies to be used to meet diversion requirements and encourage innovation:
 - Diversion continues to be reduce, reuse, recycle (which includes material recovery)
 - The material value recovered and preserved from all processes and technologies will be counted as diversion

- Burning waste, without recovering material for reuse, would not be counted as diversion

A Long-Term Schedule for Diversion

- Developing a long-term waste diversion schedule for the province that would:
 - Designate materials for diversion including materials discarded in both the residential and IC&I sectors
 - Set consistent timelines and milestones for producer registration, development and implementation of waste diversion plans, and data submission for each designated material
 - Set five-year material-specific collection and diversion targets
 - Trigger a review of targets five years after coming into force
- Including the following materials in the five-year schedule: IC&I generated paper and packaging, additional electronics, construction and demolition materials, bulky items, vehicles, branded organics, and small household items.

Effective Oversight

- Improving oversight by clearly articulating the roles of the Ministry of the Environment and Waste Diversion Ontario:
 - Ministry of the Environment: set the policy framework, including designating materials, setting targets and establishing timelines, setting penalties for non-compliance, and setting environmental standards as appropriate. Maintain enforcement role in those instances where prosecution for offences under the WDA is required.
 - Waste Diversion Ontario: carry out guidance, oversight and compliance, including setting up systems for and conducting compliance checks on registration, waste diversion plans, and annual data submissions; levying administrative penalties for non-compliance, and setting administrative standards as appropriate.

Supporting Producer Responsibility

- Ban designated materials from disposal
- Implementing a disposal levy to narrow the gap between the cost of diversion and disposal, and shift behaviour toward greater diversion
- Using disposal levy revenues to support the waste diversion efforts of businesses, consumers, and municipalities such as measures aimed at design for the environment and consumer education

Transitioning Existing Programs

- Setting phased end dates for each existing program with corresponding

- milestones to move existing programs to the proposed new framework
- Developing transition plans, in consultation with stakeholders, for each program
 - Keeping the current framework in place for existing programs until transition is complete

Please take the time to review the report and provide us with your comments through the Environmental Registry (www.ebr.gov.on.ca registry number 010-8164). We look forward to your feedback.

Contents

| | |
|--|-----------|
| Executive Summary | i |
| 1 Introduction | 1 |
| 2 Purpose | 1 |
| 3 Driving Waste Diversion | 2 |
| 3.1 <i>Sustainable Production and Consumption</i> | 2 |
| 3.2 <i>The “true” Costs of Disposal</i> | 3 |
| 3.3 <i>Waste is Worth: Diversion is Valuable</i> | 4 |
| 4 Ontario’s Current Waste Diversion Framework | 5 |
| 4.1 <i>Provincial requirements</i> | 6 |
| 4.2 <i>Insights into Diversion in Ontario</i> | 8 |
| 5 Extended Producer Responsibility in other Jurisdictions | 10 |
| 6 Ontario’s Waste Diversion Act Review | 11 |
| 6.1 <i>What Participants Told Us</i> | 11 |
| 6.2 <i>Outcomes and Principles for Change</i> | 12 |
| 7 Proposal: A New, Innovative Waste Diversion Strategy | 13 |
| 7.1 <i>Outcomes-based Individual Producer Responsibility</i> | 14 |
| 7.2 <i>Clarify the Concept of Diversion</i> | 18 |
| 7.3 <i>Requiring More Diversion: A Long-Term Schedule</i> | 19 |
| 7.4 <i>Effective Oversight</i> | 23 |
| 7.5 <i>Supporting Producer Responsibility and Diversion</i> | 28 |
| 8 Transition: Moving existing programs to the new framework | 30 |
| 9 Moving Forward | 31 |

1 Introduction

Ontarians are passionate about our natural environment, and we both depend on and take pleasure from our natural resources. Those resources are one of the cornerstones of our prosperity and contribute to our high quality of life. However, as a society, we are consuming these precious natural resources at an unsustainable rate.

Ontario's waste diversion framework — the legal and policy tools that promote waste reduction, reuse, and recycling — was constructed over the last 20 years as a way to give effect to our societal value that we must create less waste and reuse and recycle the waste that we do create. Over the past two decades, municipalities, consumers, and businesses have made real efforts to improve waste diversion, bit by bit increasing the amount of waste that is reused and recycled. However, we continue to generate a significant amount of waste. The vast majority is collected and carted away to landfills where it is buried forever.

We treat waste as a by-product of our lifestyle; as something that has little or no value. We often don't see past the need to simply manage how we discard waste. Yet waste has worth. Materials that we throw away — wood, glass, metals — could be re-entering our lives in new products to be used over and over again. The benefits of waste diversion to Ontarians are immense — reducing, reusing and recycling waste uses resources more efficiently, protects the natural environment, and can be more economically efficient. We can and we will find ways to utilize this value to sustain our environment, our economy and our quality of life.

Today, more than ever before, we know that we do not have to make a choice between the environment and the economy. The successful economies of the future are green economies, ones that reshape and refocus policies, investments and spending to deliver better results for the environment and the economy. Ontario is moving in that direction. Over the past six years, the Ontario government has made important strides to foster our green economy — from supporting innovation in green technologies, to putting in place policies and making investments to reduce climate change impacts, to the Green Energy Act. Making sure that our waste diversion framework contributes to sustaining our environment and creating economic prosperity is a vital part of Ontario's green transformation.

2 Purpose

This Minister's Report has been prepared to report publicly on the results of the Waste Diversion Act (WDA) review as required under clause 44(2)(b) of the act. The review began in October 2008 and this report forms the basis for further public dialogue on the Government of Ontario's proposal for changes to the waste diversion framework. The report examines the economic and environmental challenges and opportunities associated with waste diversion and propose using the principles of

extended producer responsibility (EPR) as the foundation for Ontario's waste diversion framework. The report reflects many of the key issues that were raised during our consultations on the WDA and recommends a path forward for Ontario. This path would make us a true leader in waste diversion, and support a greener and more prosperous Ontario.

Please take the time to review the report and provide us with your comments through the Environmental Registry (www.ebr.gov.on.ca registry number 010-8164). The Ministry of the Environment will also be holding a series of public consultation sessions on the proposal. We look forward to your feedback.

3 Driving Waste Diversion

Ontarians generate more than 12 million tonnes of waste per year, almost a tonne per person. Every year, almost 80 per cent of this waste is disposed of. Of this, we send about 4 million tonnes of waste (about 30 per cent) outside this province. The remaining 6 million tonnes (about 50 per cent) is disposed of in Ontario – the vast majority in landfills, with less than two per cent managed in an energy-from-waste facility.

Currently, only 22 per cent of Ontario's waste is being diverted from disposal. We are better with our home-generated waste, diverting about 39 per cent. But at our places of work and play, we only divert about 12 per cent, and that rate appears to be dropping instead of going up.

While our long-term goal is a zero waste society, our path to get there needs to look at the challenges and well as the opportunities of managing waste.

3.1 Sustainable Production and Consumption

Our traditional production and consumption model involves the extraction and use of raw materials – for example, oil, wood, water and/or aggregates – to create products and packaging. This process, whether taking place here in Ontario, or elsewhere, leads to the generation and eventual disposal of significant quantities of waste; many valuable materials are lost as by-products of the production process, or are thrown away throughout the lifecycle of each product or package.

There are several opportunities through the production and consumption process to make it more sustainable. A sustainable production and consumption model focuses on:

- Creating less waste by using resources more efficiently during the production process
- Lowering environmental impacts by replacing virgin materials with recycled materials, whenever possible

- Designing products and packaging with the environment in mind by using more sustainable materials and making sure packaging is the right size
- Improving consumers' awareness about durability of products, and
- Managing and recovering waste so that it can be reused and recycled into new products and packaging.

3.2 The "True" Costs of Disposal

By and large, businesses today do not account for the full costs of the products and/or packaging that they produce. Environmental impacts from the production of products and packaging waste are not reflected in the prices of a packaged product, nor are the costs of end-of-life management. This means that many of the costs of managing and disposing waste are borne by society and not by the producers or users of a given product or package. In many instances it is municipalities that have taken on the role of paying for the residual costs of waste disposal, in essence providing a societal subsidy. There is little incentive for businesses to divert their waste.

The "polluter pays" principle holds that the party responsible for producing the pollution should also be responsible for undertaking pollution prevention measures and paying for the damage done to the natural environment. Manufacturers that incorporate these costs into their company's cost structure are concerned with both upstream impacts, such as the selection of materials for the products and minimizing environmental impacts during production, as well as downstream impacts including end-of-life management.

Manufacturers that think through the environmental impacts of their products or packaging at various stages of their product or package's lifecycle are more inclined to consider design improvements aimed at pollution prevention (e.g. design for the environment) or processing changes aimed at simplifying end-of-life management (e.g. design for disassembly). When the full end-of-life costs are not accounted for, the remaining costs are insufficient to drive behavioural changes.

Two key examples of societal problems that are exacerbated as a result of unaccounted production costs are landfills and climate change impacts:

Landfills

Landfills have a significant environmental footprint. They are a blight on the landscape and leave potential problems for future generations including greenhouse gas emissions and potential groundwater contamination. Landfills and other disposal facilities are extremely unpopular – everybody uses them but nobody wants them in the neighbourhood. Putting a new landfill in place can be a challenge for the proponent, whether municipal or private sector. The issues are multiplied when we move our waste across municipal boundaries or to other jurisdictions.

Landfills in Ontario, and in many other jurisdictions, provide the lowest cost option to manage waste. On average, waste disposal in landfills is one third to one half the cost of diversion and the cost of waste disposal in Ontario has been influenced by lower disposal costs in other neighbouring jurisdictions. However, the long-term environmental costs of landfills are seldom considered when establishing and operating a landfill. The absence of proper accounting for the true costs of waste results in most waste being disposed of in landfills rather than sent for reuse or recycling – the cost structure is not conducive to diverting waste.

Climate Change and Other Environmental Impacts

As a society we are learning to better manage the climate change impacts of waste, but we would be much better off if we avoided creating the problem in the first place. Climate change is a major challenge facing our society, locally and globally, and there is a clear link between the generation of waste and climate change. Just as waste is created throughout various stages of the lifecycle of a product, products can generate greenhouse gases and emit pollutants.

Reducing waste during the production of products and packaging, as well as reusing and recycling materials in the production process, helps avoid the extraction and use of virgin materials. An approach that focuses on reduce, reuse and recycle uses less energy, thereby reducing the use of fossil fuels and resulting in lower greenhouse gas emissions. Reusing and recycling also reduces the release of pollutants into the environment. To illustrate:

- It takes 95 per cent less energy to recycle aluminium than it does to produce an aluminium can from virgin materials. Recycling six aluminium cans would save enough energy to drive a car eight kilometres.
- Approximately one tonne of recycled paper keeps about 27 kilograms of pollutants out of the atmosphere that would have been produced if the paper had been manufactured from virgin resources. Recycling one tonne of paper would save enough energy to power the average home for six months saving about 26,500 litres of water and 2.5 cubic metres of landfill space, and reducing greenhouse gas emissions by one tonne of carbon dioxide.

3.3 Waste is Worth: Diversion is Valuable

For so long we have treated our wastes as “garbage”. It has taken us a long time to appreciate the real “value” we are losing when we bury waste instead of reusing or recycling it. We’re not just losing the material value when we dispose of waste, but we’re also losing business opportunities when we fail to integrate waste into new products and packaging that can be sold again.

Waste diversion has positive environmental and economic benefits. Ontario's programs, in 2007, resulted in:

- Approximately 946,000 tonnes of waste diverted from landfill
- 2.2 million tonnes of carbon dioxide (CO₂) equivalents avoided globally (nearly 80 per cent from the Blue Box program and 17 per cent from reuse of Waste Electrical and Electronic Equipment)
- A monetary value of \$971 million globally for all environmental benefits, of which \$109 million can be attributed to the value of climate change benefits
- The creation of nearly 7,000 net new full-time equivalent jobs in Ontario, and
- Approximately \$673 million contributed to Ontario's gross domestic product (GDP) annually.

By 2012, these diversion programs are projected to result in more than 7,800 jobs in Ontario and contribute \$770 million annually to Ontario's GDP.

The challenges and opportunities are clear. It is time for Ontario to harness at a much greater level the environmental and economic benefits of waste diversion.

4 Ontario's Current Waste Diversion Framework

Over the past 20 years we have steadily been increasing the overall amount of waste we divert in Ontario, especially in the residential sector. While the trend is positive, overall improvement is slow and gives us much to build on:

- Waste diversion programs have increased recycling of paper and packaging generated in the residential sector. The Blue Box alone has increased its diversion rate by 19 per cent since 2003, reaching 66 per cent diversion in 2008.
- Municipalities have implemented additional diversion initiatives:
 - Overall residential recycling rate was 39 per cent in 2007.
 - 26 Ontario municipalities, including the Greater Toronto Area municipalities, have implemented household organic composting programs.
- Many industries have begun to embrace waste diversion, for example, the CAMI Plant, in Ingersoll, Ontario – a GM and Suzuki joint venture – as of July 2009 has achieved a total annual waste diversion rate of over 97.12 per cent, and has implemented a number of initiatives to reduce packaging and increase the collection of automotive recyclable materials.

4.1 *Provincial requirements*

4.1.1 **The 3Rs Regulations: Regulating Waste Generators**

In the mid-1990s Ontario introduced regulations designed to build and expand on the success of municipally-run blue box programs that emerged in the mid-1980s as a result of municipal-industry partnerships. These regulations under the Environmental Protection Act (EPA), referred to as the “3Rs regulations” (reduce, reuse, recycle), put in place requirements for residential recycling as well as waste diversion efforts in the Industrial, Commercial & Institutional (IC&I) sectors:

- Regulation 101/94 required the expansion of blue box-type programs for residential recycling across the province.
 - Require municipalities with over 5000 people to provide curbside collection of a defined range of packaging and printed paper from households.
- Regulations 102/94, 103/94 and 104/94 put in place the regulatory framework for waste diversion in the IC&I sectors, which accounts for about 60 per cent of Ontario’s waste. The intent was to require large IC&I waste generators to reduce waste, recycle more and dispose less.
 - Require IC&I enterprises to audit their waste disposal practices, develop waste reduction plans, and separate recyclables.
 - Require manufacturers, packagers and importers to audit their packaging practices and develop packaging reduction plans.

4.1.2 **Waste Diversion Act: Producer Responsibility in Ontario**

In 2002, the province introduced the WDA to promote waste reduction, reuse and recycling and to provide the authority to establish waste diversion programs. The WDA sets out the roles and responsibilities of those involved in developing and implementing programs, and sets the groundwork for a type of producer responsibility based diversion.

Since the establishment of the Blue Box Program Plan, the initial program plan under the WDA, the government has approved three phases of the Municipal Hazardous or Special Waste program, two phases of the Waste Electronic and Electrical Equipment program, and a program to manage Used Tires. Together, these new programs are keeping tens of thousands of tonnes of the most environmentally problematic materials out of our landfills and from being poured down our drains.

These latest three programs have all been developed based on the principles of EPR — where a producer of a product or package bears responsibility for appropriate diversion of the product or package.

Blue Box Program Plan (2004):

This program plan entrenched a degree of industry funding for municipal blue box programs that collect packaging and printed paper (newspaper, cardboard, glass, metal, and plastic) from the residential sector. Industry stewards reimburse municipalities 50 per cent of their net cost to collect and recycle these materials. The plan set a five year target of 60 per cent diversion of residential packaging and printed paper, which was reached ahead of schedule. **The Blue Box program covers 11 per cent of waste generated in Ontario and services the residential sector.**

Municipal Hazardous or Special Waste (MHSW) Program (2008 & 2009):

This program manages common hazardous or special household wastes that need to be properly recovered rather than thrown in the garbage or poured down drains. These include paints, solvents, oil filters and containers, single use batteries and antifreeze. Effective July 1, 2010 the program will expand the types of materials collected to include materials such as corrosive chemicals, fluorescent light bulbs, rechargeable batteries, pharmaceuticals and syringes, and will be a full industry responsibility program. **The MHSW program accounts for 0.7 per cent of Ontario's total waste generated and covers the residential sector and a small portion of the IC&I sectors.**

Waste Electrical and Electronic Equipment (WEEE) program (2008 & 2009):

This program manages electronic waste — some of which may contain toxics such as mercury, as well as containing valuable component materials, such as metals. It covers computers, printers, monitors, televisions, and peripherals. Phase 2 of the program will launch on April 1, 2010 and will expand the types of materials collected to include cell phones, cameras, audio-visual equipment, speakers, radios and other electronics. It is fully funded and operated by industry. **The WEEE program accounts for 0.7 per cent of Ontario's total waste generated and covers both the residential and IC&I sectors.**

Used Tires Program (2009):

This program launched in September 2009, and covers all passenger, truck and off-road tires. It ensures that used tires are properly recovered and managed and not stockpiled, and supports a growing rubber recycling industry. The program is fully funded and operated by industry. It is expected to divert 90 per cent of passenger-vehicle tires and almost 50 per cent of off-road tires from disposal. **The Used Tires program covers all tires and accounts for 1.8 per cent of Ontario's total waste generated.**

4.2 Insights into Diversion in Ontario

Overall, diversion rates in Ontario have increased over the past 20 years. Diversion in the residential sector has increased more steadily than in the IC&I sectors for a number of reasons. First, municipalities are required to collect recyclables from people's homes and through the Blue Box program diversion rates have increased. Second, municipalities have seen the value of recycling and have implemented several programs to divert even more waste. For example, municipalities have benefited from increased recycling, including extending the life of landfills because less waste is sent for disposal, and reducing climate change impacts from collection and processing of organics.

Third, early programs under the WDA, such as the Blue Box and MHSW programs, have concentrated on materials (such as metals and newspapers) in the residential sector where municipal infrastructure already exists. More recent programs, such as WEEE and Used Tires, have expanded their reach and producers are fully responsible for their products in both the residential and IC&I sectors.

However, the programs under the WDA, while important, will only result in incremental gains in the provincial waste diversion rate. The materials designated, are significant from a pollution prevention perspective, but represent a relatively small portion of the total waste generated. In total, existing programs target less than 15 per cent of Ontario's waste.

Many producers see the value of implementing EPR type programs. For example:

Sony Canada continues to expand its recycling and trade-in programs to maximize the diversion of end-of-life electronics from landfills. All Sony Style retail stores accept Handheld Sony products for recycling and a network of non-retail collection points have been established across Canada, with the majority in Ontario, to collect large items such as televisions for recycling, at no charge. Sony Style retail stores also offer a Notebook Trade-In Program, providing a reuse and recycling option for old notebook computers of any brand, and enables consumers to receive a credit towards the purchase of a new VAIO Notebook PC. More recently, Sony Style retail stores have introduced a Green Glove Service that includes the delivery of Sony products, removal of packaging for recycling, and removal of any brand of television for recycling. These efforts allow Sony customers in Ontario and across Canada to ensure their end-of-life products are recycled responsibly and do not end up in landfills.

Teknion is a leading international designer, manufacturer and marketer of office systems and office furniture. Teknion has increased its waste diversion rate from 45 per cent to 87 per cent since 2003, and has extensive recycling programs for paper, metal, fabric and wood. Seventy percent of all Teknion standard fabrics include recycled content. In 2006, a total of 13 fabrics were launched, all from 100 per cent recycled polyester. Incorporating recycled polyester results in less waste being landfilled, decreased demand for petroleum products and fewer impacts from the processing of petroleum into polyester. This approach has led to reduced costs and increased efficiency for Teknion.

When it comes to the diversion of other potentially recyclable materials, especially in IC&I sectors, there remain several challenges. The scope of waste in the IC&I sector is significant – in both volume and range of materials. The IC&I community captured by the 3R regulations is large and widespread; the range of businesses and institutions is wide – from large retail complexes and office towers to small corner stores and doctor’s offices. Despite the recent efforts of the ministry, it is difficult to reach each business to provide outreach and education, including resources and information to support compliance. At the same time, there are thresholds in the regulations that ensure that they apply only to enterprises of a certain size. The effect of this is that many small and medium-sized businesses are not captured under the regulations, even though, in aggregate, they probably generate more waste.

Several businesses have gone well beyond their regulatory requirements and have made tremendous efforts to recycle, with great success. For example:

The Hudson’s Bay Company has adopted a number of long-term goals including achieving zero waste at 20 percent of stores by 2012. The Hudson’s Bay Company Simpson’s Tower in Toronto was the first office tower in Canada to be certified by the Zero Waste International Alliance, achieving 96 per cent diversion from landfill. Two additional Hudson’s Bay Company office buildings and sixteen retail locations are also running under the Hudson’s Bay Company’s Zero Waste Program, diverting from landfill approximately 94 per cent of waste generated at these locations.

Exhibition Place has set a goal to divert 80 per cent of its waste by 2010. Some examples of initiatives at its various facilities include: the BMO Field offers Zero Waste Events and all waste is sorted into either plastics and organic compostable for recycling. The Direct Energy Centre uses compostable 100 per cent post-consumer recycled waste hand towels, and operates recycling and recovery programs for items such as batteries, fluorescent lamps, paints and toner cartridges. There is a compostable food packaging recycling program that supplies dishware, including cups, lids, straws, plastics, napkins, utensils and packaging, for all retail concession stands on the grounds. Re-usable cutlery and dishes are the standard for events in the Allstream Centre.

5 Extended Producer Responsibility in other Jurisdictions

Governments around the world are recognizing the need to reform the way they approach waste diversion so that it becomes a fundamental driver in the new green economy. There is worldwide momentum on EPR with many jurisdictions adopting producer responsibility frameworks for waste diversion. These jurisdictions are pushing industry to recognize and harness the environmental and economic value of reusing and recycling materials.

In Canada, the Canadian Council of Ministers of the Environment endorsed Canada-wide principles for EPR in June 2007. Provinces, such as British Columbia, Quebec, and Ontario are well on the road to implementing EPR-based programs. The European Union has been using an EPR framework for the last decade for packaging, waste electronics and automobiles. California and Minnesota both have bills before their legislatures that if passed will implement an EPR framework, and Wisconsin recently passed a bill requiring manufacturers to register and arrange for responsible recycling and disposal of certain consumer electronics including video displays, computers and printers.

There are a few important differences between how Ontario and EU nations have implemented EPR requirements:

- First, in the EU producers are “fully” responsible for diversion of designated waste materials, rather than sharing that responsibility with municipalities.
- Second, in the EU EPR requirements apply to designated waste regardless of where it is discarded, meaning that producers are responsible for waste diversion in both the residential and IC&I sectors.
- Third, diversion outcomes are set in EU directives. Each individual country has the flexibility to implement a framework of their choice to meet outcomes.

In Europe, EPR has contributed to the increase in recycling of product and packaging waste. For example, Austria, Belgium, Germany, and Sweden recycle more than 60 per cent of their packaging waste annually, from both the residential and IC&I sectors. In the UK, the recycling rate for residential and IC&I packaging has increased from 28 per cent in 1997 (the year that producer responsibility regulations were enacted for packaging) to 61 per cent in 2008. This means that in 2008, over 6.6 million tonnes of waste were diverted from landfills in the UK, and over 8.9 million tonnes of CO₂ equivalent emissions were avoided. EPR has also helped boost overall residential recycling rates in the UK from six per cent in 1997 to 22 per cent in 2008.

In addition to packaging waste, Belgium has expanded its EPR recycling requirements to include printed paper, used motor oils and oil filters, used tires, batteries, and waste electrical and electronic equipment like computers, televisions, and

appliances. EPR has also been used to drive recycling beyond traditional materials to cover industrial packaging, vehicles, and used cooking oils generated by the IC&I sectors.

EPR policies have also spurred companies to consider other measures they could take, for example, re-designing their products and packaging in order to reduce overall collection and recycling costs. For example, in the United Kingdom, Marks and Spencer changed the design of some of its food packaging for meat, reducing that packaging by 69 per cent and extending the shelf life of the products. Similarly, in response to European recycling requirements, Coca-Cola has reduced the weight of its soft drink cans by five per cent, potentially saving 15,000 tonnes of packaging a year across the European aluminium can sector.

By making producers responsible for the waste associated with their products, jurisdictions around the world have benefited from better environmental outcomes, like increased recycling and lower greenhouse gas emissions, as well as economic benefits like new investments in the reuse and recycling sector and innovative product design.

6 Ontario's Waste Diversion Act Review

In October 2008 the ministry began its review of the WDA. *Toward a Zero Waste Future: Review of Ontario's Waste Diversion Act, 2002* examined issues related to achieving greater waste diversion, and explored using the principles of EPR as the foundation for Ontario's waste diversion framework. The review was not limited to the scope of the current WDA, but rather examined a number of issues around waste diversion in Ontario.

Over a six-month period, the ministry met with more than 200 stakeholders and members of the public who participated in consultation sessions throughout the province. Participants represented all of the province's regions and covered a wide range of interests, including producers, retailers, municipalities, environmental non-governmental organizations, schools, hospitals, recyclers, waste management companies and concerned members of the public. We also met with more than 30 stakeholders or groups of stakeholders, and received nearly 200 comments on our Environmental Registry posting. The participants in the review shared their experiences and spoke to us about how we could improve Ontario's waste diversion framework.

6.1 What Participants Told Us

Participants in the WDA review had a keen understanding of the challenges and opportunities facing Ontario in our desire to increase waste diversion. We heard a range of views and, while not everyone agreed on what should be changed, many did

agree that it was time to re-visit our framework so that it facilitates waste diversion in a way that leads to sustainable prosperity for Ontario.

Participants did agree that changes to our waste diversion framework should:

- Focus on outcomes rather than process
- Give businesses flexibility to suit their needs – avoid a one-size-fits all approach
- Provide a long-term plan (materials and timelines) – avoid ad hoc material designations and program requests
- Clean up governance - remove overlap in roles and responsibilities
- Provide assistance to businesses to help them understand and meet their obligations
- Make disposal more difficult and costly – provide incentives for diversion

6.2 Outcomes and Principles for Change

We drew on the experiences and input from stakeholders and the public, as well as the ministry's own experience with implementing the WDA, to help shape our proposal for changes to Ontario's waste diversion framework. Based on this, we are proposing that Ontario's waste diversion framework should encourage four broad outcomes:

- Increased waste diversion
- Innovations in sustainable product and packaging design
- Investments in green processes and technologies to grow Ontario's reuse and recycling sector, and
- Opportunities for all Ontarians to meaningfully participate and contribute to increasing waste diversion.

We also believe that changes to Ontario's waste diversion framework should be informed by our vision of zero waste and be guided by the following principles:

Responsibility

Producers – those who put products that result in waste into the Ontario marketplace – must bear responsibility for the proper management and environmental impacts of those products.

Flexibility

Producers who bear responsibility for the management and environmental impacts of waste associated with products they put into the marketplace, should be given the flexibility to decide how best to achieve their legislative and regulatory obligations.

Accountability

The roles and responsibilities of the various parties (government, producers, service providers etc.) must be clearly defined.

Transparency

Those responsible for waste diversion must be required to produce accurate information, through regular reporting, on the products they put into the marketplace that end up as waste and their waste diversion activities and results.

Competition

A preference for competitive approaches in the marketplace that drive benefits such as cost-efficiency, choice and innovation.

Predictability

A clearly articulated long-term approach is needed to encourage investment in the reuse and recycling sector and innovation in product and packaging design.

7 Proposal: A New, Innovative Waste Diversion Strategy

Each section below provides an overview of the current approach, articulates the issues that were discussed by stakeholders, and sets out the associated proposed changes to Ontario's waste diversion framework. In summary, our proposed changes to Ontario's waste diversion framework would:

- Make *individual* producers responsible for meeting diversion outcomes
- Give producers *flexibility* to meet requirements in the ways that best suit their business
- *Clarify the concept of diversion* to support greater investments in green processes and technologies
- Require *more diversion* of a wider range of materials discarded in the *residential and IC&I sectors*

- Make it easy and convenient for people to recycle
- Ensure that there is clear and effective oversight
- Provide a range of supporting measures to encourage greater diversion and to foster green economy investments
- Support greater investment in technology and other approaches to help foster the green economy

We ask that you consider our proposals, how they reflect our principles, and how well you think they would contribute to meeting our desired outcomes.

7.1 *Outcomes-based Individual Producer Responsibility*

Current Approach:

The WDA sets out the process and establishes the roles and responsibilities of the participants involved in creating a waste diversion program: the Minister of the Environment, Waste Diversion Ontario (WDO), and Industry Funding Organizations (IFOs).

Minister of the Environment

- Has the authority to designate wastes - a single material or group of materials
- Requests WDO to develop programs and specifies program details such as:
 - the degree of producer responsibility
 - environmental outcomes, such as diversion targets, (or requests that targets be proposed)
 - consumer convenience and accessibility requirements
 - data collection and reporting requirements
 - program development timelines, and
 - directing WDO to form or work with an industry funding organization to develop waste diversion programs.
- Approves programs, and
- Carries out enforcement.

Waste Diversion Ontario (WDO)

The WDA creates WDO as a not-for-profit organization that is responsible for overseeing the development, implementation, and operation of waste diversion programs. WDO has a Board of Directors that is made up of representatives appointed by industry, municipalities, environmental non-governmental organizations, and the Minister of the Environment. WDO's main roles are to:

- Work with IFOs to develop waste diversion program plans

- Recommend program plans to the Minister
- Monitor efficiency and effectiveness of programs, and
- Advise and report to the Minister as required.

Industry Funding Organizations (IFOs)

IFOs are independent not-for-profit organizations with a Board of Directors selected by industries with commercial connections to designated wastes (i.e. they manufacture or import into Ontario designated products or packaging). The main roles of an IFO are to:

- Develop, implement and operate waste diversion programs that meet the requirements set by the Minister
- Identify and notify obligated producers (those whose industries manufacture or import products or packaging made of designated materials), and
- Establish and collect fees from producers of designated materials to cover the costs of operating the diversion program.

All identified producers of a designated material must pay the set program fees to the IFO. Once an IFO plan is approved, an individual producer, group of producers, or organization may submit an Independent Stewardship Plan for approval as an alternative to the IFO plan.

Key Issues:

We heard from stakeholders that there was general support for the notion of producer responsibility, but that the current framework could be improved to achieve better results.

Aligning Responsibility

The true costs of waste management are not accounted for in the current waste diversion framework. In essence, society subsidizes the cost of waste management, including municipal management of residential waste and the potential future impacts of waste disposal facilities on our environment. Municipalities have little influence over the products and packaging introduced into the Ontario marketplace, yet must manage those products and packages through their waste management systems.

Stakeholders had robust discussions on shifting to full producer responsibility. Moving to a full producer responsibility model in Ontario would shift the full cost of waste diversion from municipal taxpayers and businesses, to producers of products and packaging that end up as waste. Shifting to full producer responsibility puts the onus for waste diversion in the hands of the party most closely connected to the products and packaging introduced into the marketplace.

Many commented that if full financial responsibility for waste diversion were to shift to producers, there also needs to be a corresponding shift in decision-making control. This would allow for the most efficient discharging of obligations for the responsible parties.

Giving Individual Producers Flexibility to meet Outcomes

Other stakeholders commented that the establishment of an IFO to develop and operate a waste diversion program puts decision-making control in the hands of a relatively small number of affected producers. The IFO makes program decisions that affect a wide range of producers, who have limited say in how a program is designed and operated, but are required to pay the costs of the program.

IFOs are also confined by the current approach under the WDA which has focused on initiating a “process” for program development through detailed policy direction. This differs from other approaches to environmental law in Ontario, where government sets desired outcomes and the obligated party has considerable latitude in determining how they will achieve those outcomes. There has been no predictability for producers under the current approach. Programs vary both in approach and administrative requirements. Producers have commented that the lack of predictability presents challenges for longer term business planning. In addition, the program development process itself has a significant resource implication for industries and businesses who participate.

Many stakeholders expressed support for a shift to an outcome-based framework. Setting clear outcomes and placing responsibility on individual producers would provide each producer with the opportunity to select an approach that best fits their business, whether developing their own waste diversion program or joining a scheme that would meet their requirements. This approach would re-orient the focus of the WDA from instructing producers on how to fulfill their requirements to making individual producers responsible for meeting outcomes and letting them decide how to do so. This would result in competition and provide opportunities for innovation and efficiencies that could result in lower costs for diverting waste, or that provide some other business advantage. Where costs could be reduced by using more recyclable materials or re-designing products for easier disassembly, we would also see environmental benefits.

The ministry proposes:

- **Making individual producers fully responsible for meeting waste diversion requirements:**
 - An individual “producer” – a manufacturer, brand owner, or first importer of a product or packaging made with a designated material – is

responsible for ensuring that its share of the materials sold in the Ontario marketplace is diverted.

- Responsibility for diversion extends to all designated materials, including materials discarded in both the residential and IC&I sectors.
- **Allowing those individual producers to meet their waste diversion requirements either by joining a materials management scheme or by developing their own individual waste diversion plan:**
 - A materials management scheme could be any number of producers joining together to meet obligations or a service provider offering waste diversion services to more than one producer. Materials management schemes would be free to operate on a for-profit or not-for-profit basis, and offer any range of services to meet a producer's waste diversion requirements, such as undertaking or arranging collection, processing, marketing and data submission and other compliance requirements.
 - More than one materials management scheme could compete to provide diversion services to producers.
 - Individual producers would remain responsible for their obligation should a material management scheme's plan not achieve compliance. The legal obligation is on the individual producer, not the scheme.
- **Requiring individual producers to annually report information on sales into the Ontario marketplace of designated products and packaging.**
- **Requiring that any waste diversion plan must meet outcome-based plan requirements including:**
 - Material-specific waste diversion targets set out in regulation under the WDA (see section 7.3 for details on targets)
 - Management of wastes in accordance with the concept of diversion (see section 7.2 for details on the concept of diversion)
 - Providing for tracking of material from collection to final destination, including identification of markets and end-uses of collected material
 - Providing for consumer convenience and accessibility through establishment of minimum service standards that must be met where products are sold in Ontario
- **Requiring producers who fail to meet outcome-based requirements to meet prescriptive requirements set out in regulation ("default" option)**

- Producers who are unable to develop their own individual plan, join a materials management scheme, or fail to obtain approval of their waste diversion plan will be required to follow default requirements.
- In British Columbia, specific operational conditions for producers who are unable to develop or join an approved product stewardship plan are contained in regulation. Details on B.C.'s default requirements can be found in the province's Recycling Regulation (B.C. Reg. 449/2004) which can be viewed at <http://www.bclaws.ca> or by clicking [here](#).

7.2 Clarify the Concept of Diversion

Current Approach:

The WDA promotes waste reduction, reuse, and recycling, and prohibits programs from promoting the burning, landfilling, or land application of designated material.

Key Issues:

We heard from stakeholders that our waste diversion framework needs to clarify what can count towards diversion and encourage the development and use of new processes and technologies for waste diversion.

Clarify What Counts Towards Meeting Diversion Targets

Many stakeholders engaged in a robust discussion about how the waste diversion framework could better clarify what activities could count towards meeting diversion targets. Some stakeholders felt that the framework did not adequately foster and encourage the adoption of new and innovative processes and technologies, for example, certain thermal technologies that are currently considered "burning". Stakeholders did not reach a consensus on where to draw the line between what is considered burning with no material recovery, versus other processes and technologies that recover materials by breaking down wastes into reusable or recyclable components.

Some stakeholders were clear that the current lack of clarity around what counts as diversion discourages investments in new and emerging processes and technologies in Ontario. A clearer articulation would send the signal that Ontario welcomes new and emerging processes and technologies that can legitimately recover materials to be reused and recycled into new products and packaging. This would attract new investment and jobs in Ontario's reuse, recycling and material recovery sector and contribute to greater diversion in Ontario.

The ministry proposes:

- Clarifying the concept of diversion to recognize **that** a wider range of processes and technologies could be used to meet diversion requirements and encourage innovation:
 - The material recovered and preserved from all processes and technologies will be counted as diversion
 - Define diversion as the recovery of physical constituents or elements through or in a process or technology, including thermal treatment, for subsequent use.
 - The recovered material would need to be used as is, replace other elements in a product or be incorporated in the production of new products, and it or the resultant products cannot be burned or landfilled.
 - The potential land application of recovered material or resultant products must have demonstrated beneficial uses (for example, compost).
 - Examples of processes through which material can be recovered include anaerobic digestion, which recovers compost from organic material; and pyrolysis, which can recover steel, carbon black and other potential constituents from materials such as used tires.
 - Burning waste, without recovering material for reuse, would not be counted as diversion
 - Only the material recovered in or through the thermal process would count toward meeting diversion outcomes. Any energy recovered, gaseous and particulate emissions, or other residue would not count towards meeting diversion obligations.

We know that there will be a lot of dialogue on the concept of “material recovery” and where the boundaries should lie and we look forward to your feedback.

7.3 Requiring More Diversion: A Long-Term Schedule

Current Approach:

The Minister of the Environment has the authority to designate materials, request programs and to set program development and implementation timelines, on an as-needed basis at any time.

Key Issues:

We heard from stakeholders that our current “ad-hoc” approach to designating materials does not provide the certainty in the marketplace to consistently drive materials to diversion or encourage investments in reuse and recycling infrastructure.

Creating Certainty

Those involved in the development of waste diversion programs have grappled with varying program requirements, expectations and tight timelines. Stakeholders, including producers, municipalities, environmental organizations and the waste management industry have advocated for a clear, strategic plan for waste diversion in Ontario to provide the long-term certainty necessary for strategic business planning, infrastructure development and investments in new/emerging recycling processes and technologies. Providing notice of requirements by identifying priority materials, giving reasonable and predictable implementation timelines, and setting achievable diversion targets in a long-term waste diversion plan will allow stakeholders to plan ahead, possibly leading to product design changes or a switch to more recyclable materials and more and/or improved processing capacity.

Requiring More Diversion

Existing programs under the WDA, while important, will result in only incremental gains in the provincial waste diversion rate. The materials designated are significant from a pollution prevention perspective but represent a relatively small portion of total waste. Existing programs target, in total, less than 15 per cent of Ontario’s waste.

Many stakeholders want to see changes to the framework that result in higher diversion of waste in the IC&I sectors. Only a small portion of IC&I waste is covered in existing programs under the WDA. In other jurisdictions, such as the EU, EPR frameworks require diversion of waste from both the residential and IC&I sectors.

Several stakeholders suggested that producer responsibility should be extended to the IC&I sectors. However, there was also recognition of some of the challenges of diverting waste in the IC&I sectors, including managing a larger volume and a non-homogenous range of materials. Other tools were suggested to support producer responsibility, including continuing to further enforce the 3Rs regulations, and implementing disposal bans of designated materials.

Creating a Climate for Investment and Innovation

Recycling infrastructure and technology is underdeveloped in Ontario because the flow of waste/material has been inconsistent. This makes it difficult to plan and justify investments. The recycled materials that are available range in quality and

available quantity; supply is not always consistent and reliable. Most manufacturers end up buying virgin materials, even when they are more expensive, because they are more readily available than recycled materials. These issues – quality, supply and cost – contribute to a lack of investment in diversion infrastructure and technologies in Ontario. A long term plan would give potential waste diversion service providers, such as municipalities and the waste management industry, advance knowledge and certainty of future materials for which diversion will be required. This would allow for more informed capital investments to build necessary infrastructure to provide competitive services.

Supporting Tools to Help Drive Diversion

Producer responsibility requirements have been put in place but there are few additional tools to drive materials to diversion. Tools that encourage diversion activity at the generator level will not only support EPR requirements, but help reduce the amount of waste destined for landfill thereby extending the life of existing landfills.

Many jurisdictions, such as Nova Scotia and Germany, use disposal bans to encourage diversion. Bans encourage more recycling and reuse, and support investments in a sustainable recycling and reuse sector. There was widespread support amongst stakeholders for banning designated materials from disposal as a means to encourage diversion as well as supporting producer responsibility.

The ministry proposes:

- **Developing a long-term waste diversion schedule for the province that would:**
 - **Designate materials for diversion including those discarded in both the residential and IC&I sectors**
 - To be carried out over a staged timeline, starting with materials with known markets (e.g. blue box materials in IC&I sectors). More challenging, but high volume materials would follow (e.g. construction sector materials).
 - **Set consistent timelines and milestones for each designated material**
 - Producers required to register, submit a waste diversion plan and submit data annually at set dates.
 - Producers and/or materials management schemes required to submit a bond as security against performance when submitting their waste diversion plans.
 - Proposed timelines are as follows:

- (a) **Registration:** Producers and materials management schemes required to register with WDO at a set date before waste diversion obligations start (obligation date is the date by which each producer must be actively diverting waste).
 - (b) **Waste Diversion Plans:** Producers and/or materials management schemes on behalf of producers required to submit a waste diversion plan to WDO that demonstrates compliance with requirements at least **12 months before** obligation date.
 - (c) **Annual Data Submission:** Producers and/or materials management schemes on behalf of producers required to submit data to WDO **12 months following** the date at which obligations come into effect, and annually thereafter.
- **Set five-year material-specific collection and diversion targets**
 - Collection targets set higher than diversion targets.
 - Achieving targets would be the responsibility of each producer, and would require third-party audited/verified annual data submissions.
 - Producers and/or materials management schemes required to demonstrate a satisfactory rate of progress toward meeting diversion obligations in annual data submission or face administrative penalties (see section 7.4).
 - Penalties would be levied on producers and/or materials management schemes who fail to meet their five-year target.
- **Ban designated materials from disposal**
 - Effective at a reasonable time after waste diversion plans are in place and when a viable alternative to disposal exists for a designated material.
- **Provide the authority to carry over plans and targets, and/or to trigger a review of targets five years after coming into force**

The table below outlines our proposed long-term schedule.

| POTENTIAL LONG-TERM WASTE DIVERSION SCHEDULE | |
|--|--------------------------------|
| CRITERIA FOR DESIGNATING MATERIAL: <ul style="list-style-type: none"> • Drives diversion for material that is a significant portion of the waste stream • Contributes to the protection of the environment and human health | |
| MATERIAL | TIMELINES |
| Industrial Commercial & Institutional Packaging and Paper | Short Term – two years |
| Waste Electronic and Electrical Equipment Phase III | Short Term – two years |
| Construction and Demolition Material (e.g., wood, rubble – masonry and concrete, shingles, drywall, metal, fixtures, flooring) | Short Term – two years |
| Bulky Items (e.g. furniture and mattresses) | Medium Term – three/four years |
| Vehicles | Long Term – five years |
| Branded Organics | Long Term – five years |
| Small Household Items (e.g. toys) | Long Term – five years |

We look forward to hearing what stakeholders have to say about the idea of developing a long-term schedule for waste diversion, including the materials included in the schedule, the sequence of requirements, and the diversion targets. We expect there to be ongoing consultation on the development of our long-term waste diversion schedule.

7.4 Effective Oversight

Current Approach:

The roles and responsibilities of the Minister of the Environment, Waste Diversion Ontario (WDO), and Industry Funding Organizations (IFOs) are set out in the WDA (see pages 14 and 15 for a detailed description). In essence the roles are:

- Minister: designates wastes and requests waste diversion programs; provides enforcement.
- WDO: oversees the development, implementation and operation of waste diversion programs.
- IFOs: develop and operate waste diversion programs.

Key Issues:

We heard several concerns from stakeholders that the current governance structure is ineffective and that we need a governance structure that is streamlined, effective and clearly defines the roles and responsibility of the various parties involved in establishing waste diversion programs.

Accountability - Protecting the Public Interest

Clear and effective governance is needed to ensure accountability, remove duplication and protect the public interest. The overlapping roles and responsibilities established in the current WDA can make it difficult to effectively hold parties accountable for results. Right now, WDO and IFOs share many of the same roles in the development of diversion programs. Similarly, both WDO and the government have an oversight role, but both lack the full range of tools to ensure that diversion programs achieve results. For example, programs do not have enforceable targets, and government does not have any direct levers to ensure targets are met.

Setting out clear rules and requirements for producers, as well as ensuring that appropriate compliance mechanisms are in place, such as penalties, should requirements not be met, is essential. Clear lines of accountability and consistent expectations will help ensure that waste diversion programs meet expectations.

Sufficient Resources - Independent and Stable Funding

WDO and IFOs both face resource constraints in fulfilling their roles. Both organizations lack access to stable, independent sources of funding. This makes the process of developing and overseeing diversion programs financially precarious.

The IFO during program development does not have a secure source of funding and must rely on some subset of the steward community for loans or guarantees. Experience has shown that financial institutions are hesitant in providing loans or lines of credit for program development. They see an inherent risk in that any loaned funds can only be repaid by the IFO if a program is approved and operational, and stewards start remitting fees. Even after programs are approved and implemented, fees remitted to IFOs fluctuate. Financial institutions are aware of this and therefore discount steward fees as a secure source of revenue for the IFO.

WDO's only source of revenue is the IFO. In essence WDO runs a "deficit" until such point as it can recover its costs. Again, WDO costs can only be recovered from an IFO if the program is approved and operational.

Appropriate Authority and Oversight

WDO's Board of Directors is representative of the cross section of interests engaged in diversion programs under the WDA. Board members are appointed by stewards (5), municipalities (4), NGOs (1), and the Minister (6). As members of the Board, these appointees bring the views, ideas, and opinions of their member organizations to the table.

The way WDO and IFOs are governed can limit the authority and independence of both organizations. Municipal and industry members that sit on the WDO Board are selected by organizations affected by diversion programs. Some WDO Board members also sit on IFO Boards, further complicating the situation. This structure imbeds potential conflicts, real or perceived, as Board members deliberate and vote on matters that directly affect the interests of their electors.

Shifting the structure of the WDO to appointments based on skills and competencies would ensure that WDO has the right kind of expertise to oversee a range of schemes, and would also go a long way to eliminating the current issues related to potential for conflicts of interest.

The ministry proposes:

- That three main roles be delineated in Ontario's waste diversion framework:

Minister of the Environment: Policy Framework and Enforcement

- Set the policy framework for waste diversion through the WDA and its regulations, including designating materials, setting targets and establishing timelines, penalties for non-compliance and scientific and environmental standards where appropriate (e.g. for processors).
- Maintain enforcement role in those instances where prosecution for offences under the WDA is required.

Waste Diversion Ontario: Administration, Oversight and Compliance

- Oversight and Compliance:
 - Carry out oversight and compliance mandate through six key functions:

1. Guidance: Provide producers and materials management schemes with guidance on how to meet requirements under the WDA.

2. Registration: Manage the registration process for producers and materials management schemes.

- All producers would be required to register: the products and packaging they produce that use designated materials; third-party audited Ontario sales data; and other relevant information as required.
- Materials management schemes would be required to register: materials they plan to divert; basic details on how they plan to divert materials; annual tonnage they will be managing; and other relevant information as required.

3. Waste Diversion Plans: Submission and Compliance Check: check plans submitted by producers and/or materials management schemes for compliance with outcome-based requirements in the WDA and ensure that plans are submitted with a bond to secure against performance.

- In assessing waste diversion plans, WDO may deem that the submission is:
 - a) In compliance; or
 - b) In compliance, as long as conditions specified by the WDO are implemented and met; or
 - c) Not in compliance and is rejected. Allow for re-submission to address inadequacies within a set timeframe.
- When the plan is re-submitted, WDO would have the authority to:
 - a) Grant compliance for the re-submitted plan; or
 - b) Determine that re-submitted plan is not in compliance, and direct the producer(s) to follow the default requirements.

4. Annual Data Submissions: Submission and Compliance Checks: manage an annual data submission system and check submissions for compliance with requirements in the WDA.

- In assessing annual data submissions, WDO may deem that the submission is:
 - a) In compliance; or

- b) Not in compliance, and require that an action plan be submitted that outlines how the producer or materials management scheme would come into compliance.

5. Penalties for Non-Compliance: Levy administrative monetary penalties on producers for administrative and outcome-based non-compliance.

- o In situations where WDO has determined that a producer or materials management scheme is out of compliance, it may assess:
 - o Non-monetary penalties, such as the action plan; and/or
 - o Monetary penalties for: a) administrative non-compliance (e.g. failure to register, submit a plan or to submit data annually); or b) outcomes-based non-compliance (e.g. failure to meet a minimum service standard or diversion target).

6. Setting Standards: Administrative standards to assist producers and materials management schemes in meeting the requirements of the WDA, for example:

- o Establish standards for third party independent audits of sales data and for qualified auditors to verify annual data submissions.

- **Administration:**

- o Selection of WDO Board of Directors to be made by government, and based on desired skills and competencies.
 - o Competency or skills-based knowledge or experience could include, but not be limited to, business management, finance and accounting, public administration, public engagement and education, and waste diversion and management in Ontario.
- o Give WDO authority to charge fees to producers and material management schemes for registration and compliance checks of waste diversion plans and annual data submissions on a cost-recovery basis.

Producers: Meeting Waste Diversion Requirements

- o Under the WDA, allow for the creation of materials management schemes to carry out diversion services for more than one producer.

- Producers and materials management schemes would be required to:
 - Meet obligations in the WDA.
 - Register, submit waste diversion plans and submit data annually. Annual reports must be third party audited to ensure that data is verifiable.

7.5 Supporting Producer Responsibility and Diversion

While stakeholders support a shift to and strengthening of producer responsibility approaches in Ontario, we heard that EPR alone is not enough to drive significant changes in behaviour that lead to increased waste diversion.

Key Issues:

Stakeholders suggested that EPR needs to be supported by other measures that address some of the barriers to diversion.

Make Disposal Less Attractive

Stakeholders acknowledged that the price gap between disposal and diversion is a significant barrier to encouraging and increasing diversion. The fact is that with disposal in Ontario being significantly cheaper than diversion, businesses are not encouraged to divert material when it costs so much less to send waste for disposal. This in turn impacts material processors who are unable to obtain consistent, reliable waste streams for recycling and are therefore unable to make investments in waste diversion processes and technologies.

Cost of waste disposal in Ontario is in range of \$58 to \$75 per tonne.

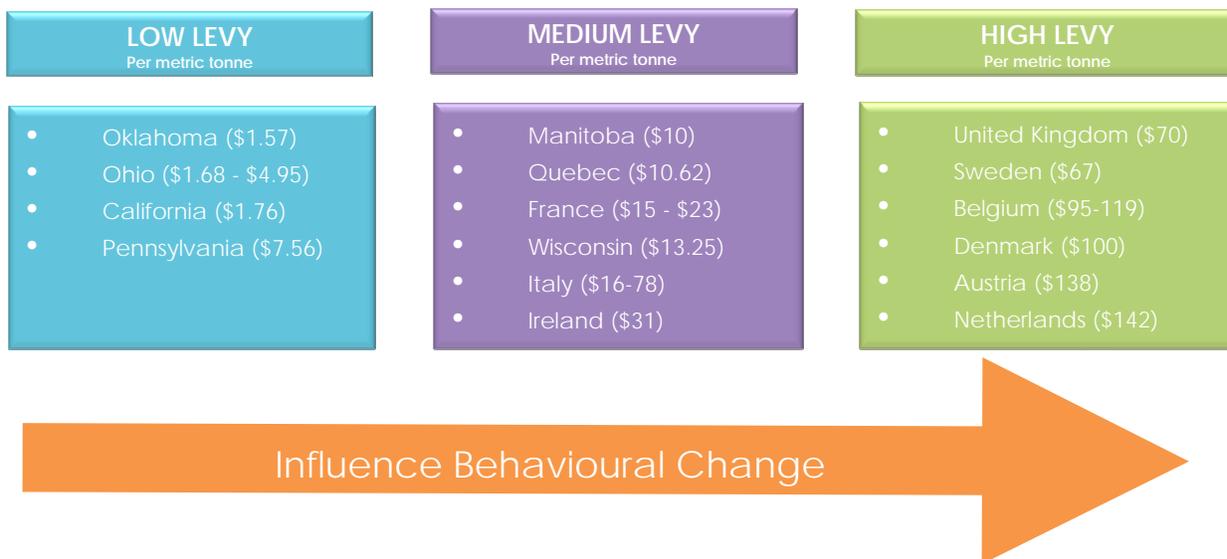
Average net cost to divert Blue Box materials ranges from \$150 to \$180/tonne.

Average cost to divert IC&I waste is around \$95/tonne.

Create Incentives for Diversion

EPR alone is not enough to influence significant changes in behaviour and drive changes like design for the environment. Certain stakeholders put forward the idea of using an economic incentive such as a disposal levy to encourage diversion. Levies are being used to support diversion efforts in other jurisdictions including in our two neighbouring provinces, Quebec and Manitoba as well as several U.S. states including California and multiple European jurisdictions. These levies range from approximately \$1.15 to \$142.00 CAD per metric tonne of waste disposed. Revenues from the disposal levies in some cases are used to encourage and support waste diversion.

A disposal levy places a surcharge on each tonne of waste that is disposed of, essentially narrowing the price gap between diversion and disposal. The expected result, one that has been seen in other jurisdictions, is that waste generators are encouraged to change their behaviour and seek to avoid the added cost. The revenue from the disposal levy could be used to support a range of diversion activities, all designed to improve Ontario's capacity to reduce waste, increase waste diversion, and foster a green economy.



The ministry proposes:

- Implementing a disposal levy to narrow the gap between the cost of diversion and disposal, and shift behaviour toward greater diversion
 - Applying the levy to all waste discarded in both the IC&I and residential sectors.
- Using disposal levy revenues to support the waste diversion efforts of businesses, consumers, and municipalities
- Establishing appropriate oversight and administration mechanisms for the disposal levy revenue

There are many good ideas from other jurisdictions that have been used to improve waste diversion. For example: recyclability forums in France and Belgium aimed at improving communications between producers and waste processors, or the UK's Waste Resource Action Programme's Love Food Hate Waste education and outreach campaign, or California's reuse assistant grants for local authorities. In addition to measures which are intended to encourage behaviour change through "soft" tools

such as education and investment, other “harder” measures such as fiscal incentives could also be considered to support diversion. We want your feedback on the best uses of the revenue from a disposal levy to advance waste diversion in Ontario.

8 Transition: Moving existing programs to the new framework

It is important that our existing programs move to the new framework to promote efficiency, innovation and competition for all waste diversion requirements. We recognize that this transition will necessitate the engagement of many stakeholders, and must be carried out over a reasonable period, allowing all stakeholders sufficient time to plan for and adjust to new roles and responsibilities.

Transition will affect all stakeholders – producers, IFOs, WDO, municipalities, consumers, and the waste management service industry. The transition process must give them the opportunity to participate fully and fairly. Existing IFOs need sufficient time and resources to plan for their potential operation as a materials management scheme under the new approach; consumers should be consulted about familiar and popular collection methods, such as blue box curbside collection and return-to-retail programs under MHSW or WEEE programs; and municipalities must be given sufficient time and support to effectively manage the effect of transition on their investments and infrastructure, their labour contracts and on service levels to their constituents.

We also heard from many stakeholders specifically on the transition of the Blue Box program. Many have mentioned that because of its size, complexity, shared responsibility model and entrenched collection method, the Blue Box program requires some additional focus and time to ensure an effective transition. In particular, attention will need to focus on ensuring that consumers experience minimal disruption of services and that desired diversion objectives continue to be achieved.

The ministry proposes:

- That the government sets regulated phased end dates for each existing program with corresponding milestones and requirements to move existing programs to the proposed new framework with minimal disruption, following consultation with affected parties and the public.
 - Milestones for moving to the new framework (such as registration and plan submission) will work backwards from the current program plan expiry date so that all stakeholders are aware of requirements and have an opportunity to meet them.
- That transition plans be developed, in consultation with stakeholders, for each program

- Address issues such as moving from a monopoly-based model to a competitive individual responsibility model, existing contracts, complaints, IFO transition and public awareness.
- That a unique transition plan be developed for the Blue Box program – recognizing its long history of shared responsibility – to ensure minimal disruption of services, and so that desired diversion objectives continue to be achieved.
- Keeping the current framework in place for existing programs until transition is complete
 - Keep the terms of the existing diversion program plans in place so that commitments and investments that have been made by stakeholders are not undermined.

9 Moving Forward

The proposals outlined in this report are informed by a clear understanding that we must continue to build on our commitment to the environment and our past successes in waste diversion to do even better. They are guided by a long-term vision of zero waste, and rooted in the widely-accepted principle that producers of waste must be responsible for paying to manage it. These proposals were conceived in consultation with stakeholders and members of the public, and they will be refined following additional consultation. We are looking to design a waste diversion framework whose benefits will be felt for years to come. It is an undertaking that must transcend short-term concerns. We know that if we are going to get it right, we have to reflect a wide range of views and concerns. We want to hear from producers, retailers, recyclers and waste management service providers. We also want to hear from municipalities, environmental non-governmental organizations, schools, hospitals, and members of the public. And we want to hear from you.