

## 4

### UPDATE ON THE REVIEW OF THE WASTE DIVERSION ACT AND BLUE BOX MATERIAL MANAGEMENT ISSUES

**The Environmental Services Committee recommends the adoption of the recommendation contained in the following report dated January 5, 2010, from the Commissioner of Environmental Services.**

#### 1. RECOMMENDATION

It is recommended that:

1. Regional Council endorse York Region and local municipal staff comments on the *Waste Diversion Act* and Blue Box Material Management Issues and send a letter of endorsement to the Minister of the Environment, Waste Diversion Ontario and to the Association of Municipalities of Ontario.

#### 2. PURPOSE

York Region and local municipal staff collaborated to prepare consolidated comments as input to the current Provincial reviews of the *Waste Diversion Act* and Blue Box Material Management Issues. This report documents the outcome of the collaborative review and requests that Council endorse staff comments.

#### 3. BACKGROUND

##### **Ministry of the Environment proposes changes to Ontario's waste diversion framework**

The *Waste Diversion Act* was established by the Province of Ontario in June of 2002 with the purpose of promoting the 3R's (i.e. Reduce, Reuse and Recycle) in diversion plans for designated wastes. Section 44 of the Waste Diversion Act, 2002 (WDA) requires the Minister to undertake a review of the Act, to inform the public of the review, prepare a written report on the review and make the report available to the public. On October 28, 2009, the MOE posted their discussion paper entitled *From Waste to Worth: The Role of Waste Diversion in the Green Economy, A Minister's Report on the Review of Ontario's Waste Diversion Act, 2002* (the Minister's Report) as part of their public consultation process and requested comments be submitted on the Environmental Registry before February 1, 2010. The Minister's Report conveys the results of the 5 year WDA review and launched a public dialogue on the Government of Ontario's proposal for changes to the waste diversion framework. The report examined economic and environmental

challenges and opportunities associated with waste diversion, and using extended producer responsibility as the foundation for Ontario's waste diversion framework.

### **Waste Diversion Ontario reports back to the Minister of the Environment on two blue box material management issues**

Waste Diversion Ontario (WDO), a non-crown corporation, was created under the *Waste Diversion Act* and is responsible for developing diversion programs for designated materials. WDO reports directly to the Ontario Minister of the Environment. Industry funded waste organizations in Ontario including Stewardship Ontario, Ontario Electronic Stewardship, and Ontario Tire Stewardship report to WDO (*Attachment 1*).

In 2008, the Ministry conducted the mandated fifth year review of the *Waste Diversion Act* which revealed significant areas for improvement in the Blue Box Program Plan. On August 14, 2009, Waste Diversion Ontario received correspondence from the Minister that directed Waste Diversion Ontario to report back to the MOE by February 28, 2010 on the review of two such issues related to Blue Box material management issues; namely *Greater Consistency of Recyclable Material Collection* and *Recommended Process to Identify and Address Printed Papers and Packaging that are Problematic for Recycling Programs*.

### **Concurrent reviews provide an important opportunity for stakeholders to shape future waste management policy in Ontario**

Municipalities across Ontario have identified a number of issues with the current *Waste Diversion Act* and Blue Box Material Management Issues that have been highlighted in previous discussion papers such as the “*Association of Municipalities of Ontario (AMO) and Association of Municipal Recycling Coordinators (AMRC) Discussion Paper on the Five Year Review of Waste Diversion Act, August 2007*”, presented to Council on October 18, 2007. Further discussion papers were released by municipalities regarding the Blue Box Program Plan in the “*AMO and AMRC Discussion Paper for An Alternative Approach to Ontario’s Blue Box Funding Model, August 2008*”. Some issues previously identified include the need to:

- Provide better consistency, clarity of direction and comprehensive rules for all stakeholders.
- Incorporate the use of the waste management hierarchy in developing diversion plans for designated materials.
- Develop legislation which requires periodic re-evaluation and encourages a culture of continuous improvement for Waste Diversion Ontario, Stewardship Ontario, industry stewards and Ontario municipalities.
- Create a cost-sharing formula within the regulation governing the specific designated material so that future funding is not limited to 50%.
- Implement a procedural mechanism for enhanced consultation so that all parties affected are consulted in advance of imposing any new policy changes.

- Implement an appeal mechanism in the form of an independent tribunal to ensure balanced dispute resolution at the WDO board; and
- Revise the WDA to allow for imposition of visible user fees on consumer products.

### **Opportunity for recent reports on extended producer responsibility and sustainable packaging to shape future waste management policy in Ontario**

The Canadian Council of Ministers of the Environment (CCME) recently released their final Canada-Wide Action Plan for Extended Producer Responsibility (EPR). The EPR plan supports a 4R waste management hierarchy where recovery of energy is promoted as a method to reduce the environmental impact of products and outline their vision for a Federal EPR program.

Staff recognize the importance of the CCME Canada Wide Action Plan for EPR and Sustainable Packaging strategies as valuable guides for the provincial government in implementing EPR in the province of Ontario. These documents support consistent and extensive program delivery, oversight and communications strategies.

## **4. ANALYSIS AND OPTIONS**

### **York Region's leading-edge diversion experience will be of benefit to the Province**

In 2008, York Region ranked first in diversion performance in WDO's category of Large Urban Municipalities for the second year in a row, and second overall in Ontario with its diversion rate of 53%. In addition, York Region waste diversion initiatives received three Gold level Waste Minimization awards in 2008 from the Recycling Council of Ontario (RCO). As an established leader in diversion in Ontario, York Region is greatly interested in proposed legislative changes as they have the potential to significantly influence future waste management directions in York Region and across Ontario. Our leading edge experience in waste diversion will be of benefit to the Province in shaping and implementing future regulatory initiatives. Responses were developed and submitted to the Ministry and WDO within the required timeframes. However, the required deadlines necessitated submitting comments in advance, with follow-up Council review and approval.

### **York Region and local municipal staff met to review proposed legislative changes in late 2009**

York Region and waste management staff from the nine local municipalities worked together to develop comments on both the *Waste Diversion Act* review and the two Blue Box material management issues.

By open invitation, York Region conducted a workshop with local municipal waste management staff on November 30, 2009 to discuss the Minister's Report on the Waste Diversion Act. Additionally, York Region staff attended the WDA consultation session hosted jointly by the Association of Municipalities of Ontario and the Ministry of the Environment on December 8, 2009. A draft response was circulated to local municipal waste management staff for their review prior to the document being finalized. Environmental Services staff also incorporated comments provided by the Community and Health Services Department. Comments were submitted to the MOE on February 1, 2010 (*Attachment 2*).

WDO posted their program plan review documents on the two Blue Box Materials Management Issues on November 17, 2009. Waste Management staff attended the consultation session held by WDO on November 24, 2009 to discuss these documents. Staff comments were submitted to WDO on December 15, 2009 (*Attachment 3*).

## **Waste Diversion Act Review**

### **Staff commented on seven key areas of change to the Waste Diversion Act**

In recognition of the importance of the revised Waste Diversion Act and its potential to significantly impact waste management in Ontario, York Region and local municipal waste management staff met in December 2009 to discuss proposed changes to the Waste Diversion Act. Discussion sessions resulted in comments under 7 major themes:

1. Defining the "Zero Waste" Society
2. Producer Responsibility
3. Defining Diversion
4. Long-Term Schedule for Diversion
5. Effective Oversight
6. Supporting Producer Responsibility
7. Transitioning Existing Programs

### **Staff support adoption of 4R waste management hierarchy**

In December 2005, the Association of Municipalities of Ontario (AMO) endorsed the European model of integrated waste management known as Lansink's Ladder. This hierarchy, like the 4R's hierarchy, prioritizes methods of managing waste depending on its characteristics (*Attachment 4*). Unlike the 4Rs hierarchy, however, this hierarchy specifically acknowledges the Zero Waste philosophy of environmentally conscious product design and puts it into context with other waste management options as shown below:

1. Prevention
2. Enhanced Design for Reduction or Reuse
3. Product Reuse
4. Material Recycling and Composting

5. Resource Recovery
6. Disposal via an Energy from Waste Facility
7. Disposal via Landfill

Hierarchies similar to AMO's have been endorsed by a number of member countries in the European Union. AMO also asserts that communities with an integrated approach to waste management are more successful at diverting waste from landfill, reducing costs, and preserving the natural environment. Regional staff support the AMO endorsed hierarchy given the consistency between it and the Region's integrated waste management system. However, York Region views waste processed in an Energy-from-Waste facility as a method of recovery, not disposal.

This hierarchy has subsequently been adopted by the MOE in their proposed Policy Statement on waste management master plans (*Policy Statement on Waste Management Planning: Best Practice for Waste Managers, June 12, 2007*). Staff suggest that the *Waste Diversion Act* be amended to ensure development of diversion plans for designated materials consider this waste management hierarchy.

The Canadian Council of Ministers of the Environment (CCME) recently released their final Canada-Wide Action Plan for EPR in which they support a 4R waste management hierarchy where recovery of energy is promoted as a method to reduce the environmental impact of products. Regional staff support both the CCME 4R and Lansink Ladder approach to waste management.

**Waste prevention through increased producer responsibility measures is a top priority with due consideration for compensation to avoid municipal "stranded assets"**

Consensus was reached by staff that producers need to be made financially responsible for the end of life of products they produce. This means being responsible for 100% of costs to collect and process their materials at the end of their use in a responsible manner. Incentives need to be in place whereby recycling and reuse are financially more advantageous to producers than disposal.

It has been suggested that full cost steward responsibilities might lead to assumption of program delivery and service by the steward organizations. Staff expressed concern that this may present a negative impact on delivery of important waste management services to residents related to customer service, service delivery and accessibility. If program delivery is to be assumed by industry stewards, municipalities would have to be provided assurance that our level of service and environmentally responsible decision-making will not be compromised. In addition municipalities would need to be appropriately compensated for stranded waste management assets, including the Region's Material Recovery Facility (MRF). Further discussions will be required should producers wish to use York Region's waste processing infrastructure under a new EPR model.

### **Industrial, commercial and institutional (ICI) sector suggested as the first phase of extended producer responsibility in Ontario**

Staff identified that there are two different types of IC&I sectors under consideration for this section of the discussion paper. There are the IC&I *producers* of products and the IC&I *generators* of waste (i.e. schools and restaurants).

Staff acknowledged the IC&I waste *generators* as having the potential to provide relatively clean streams of divertible materials that are currently not being captured through a provincially coordinated program. Staff support application of EPR to this sector as the first phase of a provincial phased EPR program.

### **Staff advocate for continued municipal role under EPR**

Staff noted that a clear municipal role was lacking in the Minster's Report and advocated that a municipal role be included and well defined, especially with respect to waste management in the residential sector. Staff expressed support for participation of municipalities in the development and implementation of EPR, recognizing that compensation for waste management infrastructure would be required should 100% full EPR be implemented.

### **WDO Blue Box Program Plan Review**

#### **Consistency in blue box materials collection across municipalities is beneficial**

York Region currently collects all materials the WDO has proposed to be collected consistently across Ontario via the York Region Blue Box program and York Region depots. Under the current WDO proposal, it is staff's understanding that there will be no change in the list of blue box materials for curbside collection. The proposal also recommends that plastic film and expanded polystyrene foam continue to be collected in a depot setting. Staff reached consensus that once full EPR/Industry funding is in place, the type of materials collected should be consistent across municipalities.

Staff support product labelling as an effective mechanism to improve consumers understanding and awareness of the impact of purchasing choices on the environment. Building on this concept staff suggest that product labelling standards be established incorporating a life cycle analysis perspective and accounting for a sustainable waste management hierarchy in the impact assessment.

#### **Staff support for problematic materials steering group and EPR for problematic packaging**

Staff support the proposal by WDO that a Problematic Materials Steering Group, reporting to WDO, be developed to address problematic materials in the Blue Box

program and strongly supported substantial and active participation of municipal representation from a cross-section of Ontario. The proposal identifies problematic materials as those that create difficulties or inefficiencies in collection, sorting, processing, marketing and product quality.

Staff strongly support tools such as take-back programs and the concept of making producers responsible for products they produce that can not be recycled in the Blue Box, and that minimum environmental standards be established for producers to design packaging that is easily recycled and fits within an environmentally sustainable framework.

Encouragement for MOE and Federal government collaboration was provided to implement packaging regulations and enforce standards to prevent problematic printed papers and packaging from entering Ontario's marketplace

### **Next Steps**

The Province has not committed to any specific changes or timelines for revisions to the *Waste Diversion Act*. Staff will continue to monitor and remain engaged in the Province's review process.

The Minister's August 14, 2009 letter instructed WDO to report back to the MOE by April 30, 2010 on the following items:

1. Establishing a diversion target of 70% to be achieved by December 31, 2011
2. Improving the methodology for calculating diversion by including additional avenues where residential Blue Box materials are collected; and
3. Including packaging-like materials, sold as products, that are compatible with current collection and management systems.

It is anticipated that WDO will issue discussion documents and consult further with stakeholders on the majority of these and other issues related to the Blue Box Program Plan later in 2010. Staff will continue to monitor and remain engaged in the Blue Box Program review process.

## **5. FINANCIAL IMPLICATIONS**

There are no immediate financial impacts on York Region that result directly from the review of the *Waste Diversion Act* and Blue Box Materials Management Issues. However, it is recognized that potential long term financial impacts arising from changes to Provincial waste management policies may include stranded assets.

## **6. LOCAL MUNICIPAL IMPACT**

Under the two tier service delivery model, York and the local municipalities share the potential effects of changes to Provincial waste management policy. It is in this context of shared responsibility that York and the nine local municipalities have collaborated on developing this input to review of the *Waste Diversion Act* and Blue Box Materials Management Issues. York Region and local municipal staff continue to advocate for a customer focused service delivery model that ensures program consistency for the end user.

## **7. CONCLUSION**

Staff have consulted with the local municipalities and submitted comments to the MOE and Waste Diversion Ontario which urge the Province to move towards a fair, holistic and more sustainable approach to waste management which builds upon the successes of current programs and continues to achieve additional, real environmental benefits in the future. Staff request that council approve these comments and send a letter of endorsement to the Minister of the Environment, Waste Diversion Ontario and to the Association of Municipalities of Ontario.

For more information on this report, please contact Laura McDowell, Director of Environmental Promotion and Protection at (905) 830-4444 Ext. 5077.

The Senior Management Group has reviewed this report.

*(The four attachments referred to in this clause are attached to this report.)*

# Ontario Municipal Waste Management Reporting Relationships

**Canadian Councils of Ministers of Environment (CCME)**  
2009 proposed Federal EPR

**Ontario Minister of the Environment**

**CCME** is comprised of the environment ministers from the federal, provincial and territorial governments. The CCME focus is on achieving environmental results through cooperative action. The responsibility for implementing any decision of CCME rests with each Minister.

**Waste Diversion Act**  
Under review 2009 – EPR proposed

The **Waste Diversion Act** empowers the Minister to designate a material for which a waste diversion program is to be established. Once the Minister has designated a material through a regulation under the Waste Diversion Act, the Minister asks Waste Diversion Ontario, working co-operatively with stewards, to develop a diversion program.

**Waste Diversion Ontario**

**Waste Diversion Ontario (WDO)** is a non-crown corporation created under the Waste Diversion Act (WDA) established to develop, implement and operate waste diversion programs for a wide range of materials outlined below.

The **Continuous Improvement Fund (CIF)** was established by Waste Diversion Ontario, the Association of Municipalities of Ontario, Stewardship Ontario and the City of Toronto Ontario in January 2008. It is guided by an Operations Plan (2008) which remains in effect for up to 2 years and was ultimately approved by Waste Diversion Ontario. The fund operates as a committee of the Municipal-Industry Programs Committee (MIPC) of WDO with direction from the CIF Committee, which includes:

- 2 Ontario municipalities representatives (1 from AMO and 1 from City of Toronto);
- 2 members from Stewardship Ontario;
- 1 Independent member-at-large (1);
- 2 observers, which include the Executive Director of WDO and Director of the CIF;
- a non-voting independent Chair.

Association of Municipalities of Ontario

**Continuous Improvement Fund**

City of Toronto

## Industry Funding Organizations

Stewardship Ontario  
BBPP & MHSW

Ontario Electronic Stewardship  
WEEE

Ontario Tire Stewardship  
Tires

StewardEdge

In Ontario, **StewardEdge** works on behalf of Stewardship Ontario and Ontario Electronic Stewardship to support and deliver product stewardship programs for the Blue Box, MHSW and WEEE programs.



Environmental Services Department  
Environmental Promotion and Protection Branch

February 1, 2010

Ms. Alena Grunwald, Project Manager  
Ministry of the Environment  
Waste Management Policy Branch  
135 St. Clair Avenue West, 7<sup>th</sup> Floor  
Toronto, ON M4V 1P5

Dear Ms. Grunwald:

**RE: Consultation on the Minister's Report on the Waste Diversion Act 2002 Review**

York Region is pleased to provide the following staff comments on "From Waste to Worth: The Role of Waste Diversion in the Green Economy - Minister's Report on the Waste Diversion Act 2002 Review" – EBR Registry Number: 010-7325. Due to the Ministry's consultation schedule and EBR comment deadline, these comments will be considered by Regional Council on February 10, 2010. A copy of the Council recommendations will be provided to the Ministry after that date. As one of the top performing municipalities in diversion, the Regional Municipality of York is greatly interested in commenting on the proposed waste management regulatory changes as these have the potential to significantly change and shape the future of waste management in York Region and the Province of Ontario.

York Region staff comments are provided in depth below however York Region staff consider it critical to emphasize the IC&I component of the comments. York Region staff strongly support the application of EPR to the IC&I sector as the first phase of a provincial phased EPR program. The residential sector currently has well established diversion programs operated by Regional/Municipal governments however the waste generated by IC&I are currently not being captured and/or tracked through a provincially coordinated program. As IC&I sectors have the potential to provide relatively clean and marketable streams of divertible materials, York Region staff consider the IC&I sector to be the most appropriate starting point for an EPR program.

**Joint Comments to the Ministry of Environment on the Minister's report "From Waste to Worth: The Role of Waste Diversion in the Green Economy."**

The Regional Municipality of York is made up of nine local municipalities (Aurora, East Gwillimbury, Georgina, King, Markham, Newmarket, Richmond Hill, Vaughan, and Whitchurch-Stouffville) and provides services to over 1 million residents, 25,000 businesses and 395,000 employees. The two-tier government structure provides services to residents which includes collection and processing of divertible materials and residual waste.

In recognition of the importance of the revised Waste Diversion Act and its potential to significantly impact waste management in Ontario, waste management coordinators and managers from York Region and our nine local municipalities met in November and December 2009 to discuss the proposed changes to the Waste Diversion Act. The discussion sessions provided comments under 7 major themes:

1. Defining the “Zero Waste” Society
2. Producer Responsibility
3. Defining Diversion
4. A Long-Term Schedule for Diversion
5. Effective Oversight
6. Supporting Producer Responsibility
7. Transitioning Existing Programs

These comments represent staff views collected through consultation with internal York Region staff and waste management staff from our nine local municipalities.

## **1. Defining Zero Waste**

York Region recognizes and supports the term “Zero Waste” as defined by the Greenpeace publication “Zero Waste” (R. Murray, Greenpeace Environmental Trust, London, Feb.2002), whereby manufacturers strive to eliminate waste by establishing waste reduction as a priority when designing products and packaging. This term has been often misinterpreted as a goal of 100% waste diversion through municipal recycling efforts. As such, York Region staff recommend that the Greenpeace definition be adopted and communicated.

If the product cannot be reused, repaired, recycled or composted, the Zero Waste philosophy dictates that industry should not be manufacturing such a product. Emphasis on Extended Producer Responsibility and waste prevention during the product design process puts the responsibility for waste management back in the hands of the manufacturer at the beginning of the product’s life cycle to achieve a “cradle to cradle” waste management approach.

York Region staff support the endorsement made by the Association of Municipalities of Ontario (AMO) in December, 2005 for the European model of integrated waste management known as Lansink’s Ladder. This hierarchy prioritizes methods of managing waste depending on its characteristics. Unlike the 3Rs hierarchy, however, this hierarchy specifically acknowledges the Zero Waste philosophy of environmentally conscious product design and puts it into context with other waste management options as shown below.

- 1) Prevention
- 2) Enhanced Design for Reduction or Reuse
- 3) Product Reuse
- 4) Material Recycling and Composting
- 5) Resource Recovery
- 6) Disposal via an Energy-from-Waste Facility
- 7) Disposal via Landfill

This hierarchy has subsequently been adopted by the Ministry in their proposed Policy Statement on waste management master plans (*Policy Statement on Waste Management Planning: Best Practice for Waste Managers, June 12, 2007*). York Region staff suggest that the *Waste Diversion Act* be amended to ensure development of diversion plans for designated materials consider this waste management hierarchy, and use of an Energy-from-Waste facility be viewed as recovery, not a disposal method.

The Canadian Council of Ministers of the Environment (CCME) recently released their final Canada-Wide Action Plan for EPR in which they support a 4R waste management hierarchy where recovery of energy is promoted as a method to reduce the environmental impact of products. York Region staff support both the CCME 4R and Lansink Ladder approach to waste management given the consistency between both and the integrated waste management plan under development by the Region.

## 2. Producer Responsibility

### Definition of EPR:

York Region staff stress the critical importance of defining EPR as broadly as possible to promote responsible full life-cycle management of products and their packaging; from conception, design and development to production, usage, and final handling of end-of-life goods in both the divertible and residual waste streams. Realization of true, full life cycle EPR can create an environment where producers are competitively motivated to minimize waste generation and the full costs of product and packaging life cycle management is directly associated with each product, facilitating wise consumer choices.

York Region staff strongly support the core concept of shifting the financial burden for managing all materials associated with the life cycle of consumer products away from the municipal tax base and onto the producers. Concern was raised by York Region staff that producers may shift additional waste management costs onto consumers by way of “environmental fees”, much like the current Waste Electrical and Electronic Equipment program. York Region staff are strongly opposed to consumers paying for waste management through both their taxes and external fees from producers. Requiring producers to incorporate the full life cycle cost of consumer products will encourage design for the environment and will support a green, competitive economy.

York Region staff appreciate the efforts of the MOE in leading this important review process and preparing its draft report. York Region staff generally agree with much of the information presented in the Minister’s Report: From Waste to Worth, however, there are also a number of matters of concern that have been identified below.

Concern was expressed regarding the potential for profound impacts on the public and the environment dependent on the EPR model that is advanced from this review process. Regardless of the EPR model adopted, fundamental principles should be defined to ensure:

- Current service level expectations by the public are maintained and ideally enhanced in the future through commitment to continual improvement;
- The primary environmental objectives of material recycling are supported by enforced regulatory targets; and
- Accountability to the public for the effectiveness of the system is maintained.

Producer Reporting Responsibility:

Staff agree that producers be required to report information on sales of designated products and packaging, and must meet outcome-based plan requirements. Reporting requirements that include total cost accounting of health and environmental impacts would better reflect true costs. An example of how this could be accomplished is through modeling similar to Health Canada, Air Quality Benefits Assessment Tool, which could demonstrate the human health benefits of waste diversion.

Integrating Health & Environmental Aspects

Waste diversion is an important component of several York Region initiatives including the Corporate Air Quality Strategy and Sustainability Strategies. As identified in the Ministry's 2008 discussion paper on the Review of Ontario's Waste Diversion Act, waste costs include the environmental impact of disposing waste and the health costs associated with hazardous materials. Reducing the burden of illness from health hazards in the environment is a priority of the York Region Public Health Branch.

To support the province's commitment to waste diversion, York Region staff recommend that the province build on synergies between this review of the Waste Diversion Act, and other recently enacted provincial policies and legislation including the Toxics Reduction Act, the Green Energy Act, the Pesticides Act, the Nutrient Management Act and Ontario's Climate Change Action Plan. While these separate pieces of legislation address various components of our environment, collectively they present a significant opportunity to reduce exposures to toxics substances in our environment.

York Region staff agree that producers should be required to report information on sales of designated products and packaging, and must meet outcome-based plan requirements. Reporting requirements that include total cost accounting of health and environmental impacts would better reflect the true cost of waste.

Municipal Role:

If program delivery was to be assumed by industry stewards, municipalities would have to be appropriately compensated for existing long term investments in existing infrastructure along with assurance that the level of customer service and environmentally responsible decision making is not compromised. Further discussions will be required should producers wish to utilize York Region processing capability under EPR.

Municipalities currently deliver a fully integrated waste management program. Service delivery impacts of removing selective components of the waste management system could be detrimental to the diversion successes that have been achieved to date. York Region staff strongly support thorough consultation with municipalities in developing EPR and diversion programs to ensure a high level of customer service, seamless program delivery to local residents and continued success of residential diversion.

Federal and Provincial Government Roles:

York Region staff emphasize the importance of better life cycle analysis for product designs before allowing products to enter the market while recognizing that certain packaging may be required by

health and import laws. Consensus was reached by York Region staff for a more thorough Federal Government role with respect to providing pressure on first importers to reduce packaging and to make required packaging more recyclable.

CCME has recently released their Canada-Wide Action Plan for EPR in which they provide a framework of how Extended Producer Responsibility can be implemented nationally. Earlier this year, York Region staff submitted comments to the CCME stating support for this action plan that included support for a federally driven EPR program to direct provincial waste management systems. It was recognized that Ontario is a comparatively small marketplace to drive changes in the manufacturing industry and that provincial partnerships, advocacy and involvement with Federal bodies was needed to drive product design changes and full life cycle management of products and their packaging.

#### Program Delivery:

It has been suggested that full cost steward responsibilities might lead to assumptions of program delivery and service by steward organizations. York Region staff have expressed concern that this may present a negative impact on delivery of critical waste management services to residents. York Region staff strongly support maintaining or improving current service delivery levels to residents with respect to customer service standards and accessibility and maintain that convenience drives diversion.

Concern was expressed at the staff level about allowing too much flexibility for producers to develop material management schemes that meet the producer's needs rather than those of the consumer. York Region staff shared a belief in a harmonized set of principles, guidelines and infrastructure for Ontario to promote an integrated approach to managing products and packaging to ensure that consumers understand and support the program.

York Region staff stress the importance of consumer engagement and acceptance in program delivery. The selected implementation strategy should be consistent nationally and build upon existing municipal infrastructure to continue to increase the participation successes currently established. York Region staff suggest that producers continue to utilize the municipal depot network and community environmental centres that have been providing convenient and accessible services to our local residents.

York Region staff recognize the importance of the CCME Canada Wide Action Plan for EPR and Sustainable Packaging strategies as valuable guides for the provincial government in implementing EPR in the province of Ontario and strongly support the program delivery and communications strategies outlined below:

- o Development of education and communication strategies to inform all participants in the product chain, including consumers, about EPR and enlist their support and cooperation in preparing consistent promotion and education materials
- o Development of clear labeling system for recyclable packaging, with the recognition that the mobius loop is confusing when applied to plastic packaging

York Region staff recognize that confusion can arise from inconsistent collection of materials between neighbouring jurisdictions and strongly support province-wide communication as outlined in the CCME Sustainable Packaging Strategy which includes:

- o Use of an “approved” list of images and words that can be used in all municipal promotion and education campaigns to ensure consistent messaging province-wide.
- o Development of a provincial committee, including municipal representation, to develop messaging built upon the successes that have been achieved thus far.

#### Inclusion of IC&I Sectors in EPR:

York Region staff identified two different categories related to the IC&I sector: IC&I producers of products (ie. Procter and Gamble) and IC&I generators of waste (ie. schools and restaurants). York Region staff were not certain which category of IC&I were being discussed within the MOE “Waste to Worth” document and suggest that this section be clarified in the final document to ensure that future discussions are focused on the specific IC&I sector waste stream being targeted for diversion.

Responsibility can be extended to IC&I producers by requiring a minimum standard of recyclability, to be defined by government, on the products and packaging they produce before allowing them into the Ontario marketplace. York Region staff communicated that Federal and Provincial governments need to work together to better regulate standards for packaging materials so that they fit within the fundamental waste reduction and diversion goals. It was also recommended that if producers were required to publicly report their waste reduction and diversion efforts, pressure would be put on the IC&I sector to be more environmentally responsible for their product and packaging design choices. A similar strategy was used in the province’s recently enacted Toxics Reduction Act, whereby public reporting of toxic use and release is anticipated to drive toxic use reduction.

The IC&I sector that generates waste (ie. schools and restaurants) needs to have the tools and incentives in place to better promote compliance with the current regulations. York Region staff recommended that consistent and ongoing enforcement be carried out by the Province and that cost incentives be created to recycle rather than dispose.

York Region staff acknowledge the IC&I sectors that generate waste as having the potential to provide relatively clean streams of divertible materials that are currently not being captured through a provincially coordinated program. York Region staff strongly support the application of EPR to this sector as the first phase of a provincial phased EPR program.

### **3. Defining Diversion**

York Region staff expressed the need for a clear definition of diversion from the Ministry. Through several consultation sessions and the development of the Joint Waste Diversion Strategy, York Region staff and staff from its nine local municipalities have agreed to define diversion as the amount of waste diverted from landfill disposal captured through the 4R waste management hierarchy; reduce, reuse, recycle and recover.

York Region and our nine local municipalities formed the Inter-municipal Waste Diversion Committee (IMWDC) to prepare the Joint Waste Diversion Strategy. The Joint Waste Diversion Strategy provides direction when considering diversion activities for the Regional and local waste diversion systems based on the following principles:

- The initiative has the potential to divert at least an additional 1% of the total waste stream;
- The initiative has been proven to achieve results;

- There is a reliable market/end use for materials diverted through the initiative (ie. At least 2 or more domestic markets with stable operational history and financial security);
- The capital and operating cost to implement the program is economically feasible;
- It is accessible to the public; and
- It demonstrates leadership in diversion.

York Region staff recommend that these same principles be applied at the provincial level when defining diversion and prioritizing diversion programs.

York Region was recently ranked #1 within the category of Large Urban Municipalities in WDO's recent release of the 2008 diversion rates and this success can be largely attributed to aggressive diversion programs targeted for the low hanging fruit or divertible materials that are easily captured. York Region staff recognize that in York Region, and in the majority of large municipalities, extensive efforts will be required to achieve further diversion success in the residential sector.

York Region staff support a clear definition of diversion for the province and consistent methods for measurement and reporting to be implemented and monitored under a revised Waste Diversion Act. Staff at the local municipal level have expressed a preference for diversion to be measured as percent curbside capture, while York Region staff have stated a preference for diversion calculation following complete processing.

York Region staff support the theory of inclusion of materials recovered from an Energy from Waste facility in the diversion calculation; however, suggest that this term be clearly defined in the final Waste Diversion Act to ensure that all stakeholders are measuring and reporting recovery consistently.

York Region staff maintain that municipalities are in need of a solution to manage the remaining solid waste after diversion (residual or post diversion waste). With the potential shortage of landfill capacity over the long term, landfill must always be a long term disposal contingency option. York Region staff expressed the critical need for Ministry leadership in determining the most appropriate methods for handling residual waste and stress the importance of including recovery (energy from waste) as a valuable tool in minimizing the amount of waste disposed in landfills in Ontario.

#### **4. A Long-Term Schedule for Diversion**

The rationale for selecting and prioritizing materials to be designated has not been made clear in the "Waste to Worth" document; however, York Region staff agree that one of the criteria for designating material include protection of human health and the environment. York Region staff expressed the need to better understand waste composition in Ontario to identify if the waste streams recommended by the Ministry for short or long term designation are appropriate with respect to diversion. Detailed comments regarding the long term schedule for diversion are not possible without knowing which sectors are producing the most waste in Ontario or the contribution of each waste stream to the provincial total.

York Region staff further support comprehensive analysis of potential programs to assess whether they are appropriate for EPR and to define the role of the various actors in the product chain.

York Region staff suggest that diversion plans for designated materials consider the 4Rs waste management hierarchy and the protection of human health and the environment.

## 5. Effective Oversight

The municipal role is critical as it relates to the residential sector and needs to be well defined in the WDA. York Region staff support the participation of municipalities in the development and implementation of EPR, recognizing that compensation for waste management infrastructure would be required should 100% full EPR be implemented.

York Region staff acknowledged that there is a need for clear definitions of the roles and responsibilities for waste diversion within the federal, provincial and municipal governments and the private sector. York Region staff agreed that Waste Diversion Ontario (or a similar organization) could fulfill the need of a multi-stakeholder Provincial waste management body by broadening its mandate to include a full scope of integrated waste management issues.

York Region staff recognized that there needs to be empowerment of different government bodies to work together to achieve waste diversion/reduction goals (ie. Federal or Provincial jurisdiction over packaging laws). York Region staff further supported the development of a uniform municipal authority to support the standardization of programs provincially, enhance public participation and encourage effective stewards program delivery.

York Region staff support the oversight options provided within the CCME Canada wide Strategy for EPR to be implemented in Ontario and nationally, such as:

- o Participation and support from all actors involved – including federal, provincial and municipal governments, producers and consumers.
- o One-window reporting portal to reduce regulatory burdens for producers and allow for easier management of data and measurement of national progress towards packaging sustainability
- o Harmonization of EPR programs under common principles with similar regulatory frameworks to allow for consistent monitoring and reporting of common key performance indicators and common standards for equivalency measures.

Consensus was garnered at the staff level that the responsibility for compliance, labeling, enforcement and pressure on manufacturers should be that of the Federal government to allow for consistency nationally and to provide for a unified national message to manufacturers to design with the environment in mind.

York Region staff support the monitoring role of WDO to ensure that producers are involved in the program and that they adhere to the program plans they submit. York Region staff recognize the need for critical oversight and auditing of reports under the WDO and that secure and sustained funding is required for the WDO to carry out this governing role.

## 6. Supporting Producer Responsibility

York Region staff conveyed that the Waste Diversion Act should have stronger emphasis and incentives for reduction and reuse programs. This could be achieved by positive initiatives such as rewarding and encouraging product designs that move away from single usage convenience products and where product single usage is required for health and safety reasons that the product and

packaging be composed of fully recyclable materials. York Region staff expressed the importance of promotion for reuse networks to encourage reduction of waste.

York Region staff acknowledge that the true cost of landfill disposal should be recognized, however, are not fully supportive of the implementation of disposal bans and landfill levies to achieve this goal without clarification on how these mechanisms would be monitored and enforced to ensure that producers are financially responsible for the management of wastes they produce rather than placing the financial burden on taxpayers.

Should levies or penalties be implemented under EPR, York Region staff support Waste Diversion Ontario in taking on the role of ensuring monies are collected from the appropriate producer parties and are used to support waste diversion activities. York Region staff stress that all penalties should be appropriately punitive to ensure the scheme does not become a “fee for polluting”.

## **7. Transitioning Existing Programs**

York Region staff strongly support the development of transition plans in consultation with municipalities to ensure that service levels are maintained for our residents and stress the importance of accessibility and convenience as critical forces in driving diversion. If significant program changes are implemented under EPR (ie. moving away from curbside collection to a depot based system), York Region staff acknowledged that participation and diversion rates may be negatively affected.

Concern was expressed by York Region staff that residents may not be aware of the dramatic changes the waste management industry is currently assessing and that the Ministry work with producers to develop education and promotion campaigns to inform the public on extended producer responsibility and what it may mean for them in terms of accessibility, fees and participation.

York Region staff recognize that a competitive market for waste management has the potential to increase efficiency and cost effectiveness; however, York Region staff expressed that producers should harmonize material management schemes as much as possible to avoid increasing the overall carbon footprint for waste management by using their own haulers and processors.

In order to allow for a seamless transition, York Region staff stressed that material designation is in line with available markets and processors and that sufficient time be allowed to renegotiate municipal contracts for collection and processing.

York Region, for the second consecutive year, was ranked #1 within the category of Large Urban Municipalities in WDO’s recent release of the 2008 diversion rates. A major part of this success can be attributed to the historical and on going investment in capital infrastructure and promotion and education by the Region and its nine local municipalities, which has led to enthusiastic public participation in our waste management programs. York Region staff trust that the MOE and future waste management stewards will build upon this long-term investment to progressively advance waste management in Ontario.

As a municipal diversion leader, York Region staff acknowledges the contributions of Ontario’s steward organizations to share in the obligation of meeting the environmental objectives underlying diversion, especially those related to full life cycle management of products and their packaging.

As EPR has the potential to impact the future of municipal waste management significantly, York Region and our local municipalities appreciate the opportunity to provide comments and look forward to being involved in future discussions regarding producer responsibility for waste management in Ontario.

Sincerely,

Laura McDowell  
Director, Environmental Promotion and Protection

BM/hf

1289889-v2



Environmental Services Department  
Environmental Promotion and Protection Branch

December 15, 2009

Ms. Glenda Gies Executive Director  
Waste Diversion Ontario  
45 Sheppard Avenue East,  
Suite 920, North York, ON M2N 5W9

Dear Ms. Gies:

**Re: Waste Diversion Ontario Consultation On Consistent Collection and Problematic Materials**

Regional Municipality of York staff appreciate the opportunity to review and comment on Waste Diversion Ontario's recently posted documents "Report on Greater Consistency of Recyclable Material Collection" and "Recommended Process to Identify and Address Printed Papers and Packaging that are Problematic for Recycling Programs".

These documents are released in a time of great change in Ontario's waste management industry with the recent release of the Waste Diversion Act review proposing the implementation of Extended Producer Responsibility (EPR). It is of critical importance that sufficient time for consultation and thorough discussion is provided to discuss these proposed initiatives. Typically, with any regulatory review, York Region staff collaborates with our nine Local Municipalities through workshops to review and compile valuable feedback with the goal to continue excellent waste management services to our residents. The comment period for these documents did not allow sufficient time for this collaborative approach with our Local Municipalities. As a result, York Region staff comments contained in this letter will be summarized in a report to the Environmental Services Committee and Regional Council in February 2010 and circulated to our Local Municipalities.

**York Region Waste Management and Recycling Background:**

The Regional Municipality of York is made up of nine local municipalities (Aurora, East Gwillimbury, Georgina, King, Markham, Newmarket, Richmond Hill, Vaughan, and Whitchurch-Stouffville) and provides services to over 1 million residents. The two-tier government structure provides services to residents and some businesses which includes collection and processing of waste and divertible materials.

In 2008, York Region generated over 344,000 metric tonnes of waste, of which 53% was diverted from disposal. This ranked York Region first in diversion performance in WDO's category of Large Urban Municipalities for the second year in a row, and second overall in Ontario<sup>1</sup>. As an established leader in diversion in Ontario, York Region staff are greatly interested in commenting on the proposed options as these have the potential to significantly shape waste management in York Region and across Ontario.

Consistent with previous comments provided in 2008 on the Blue Box Program Plan review and the initial phase of review of the Waste Diversion Act, our comments are offered with a focus on the following guiding principles:

- Ensuring continued excellence in solid waste management for the residents of York Region and Ontario with a progressive drive towards increasing environmental sustainability;
- Maintaining and improving upon the service levels currently enjoyed by the people of York Region and Ontario; and,
- Shifting of the financial burden for full life cycle management of consumer packaging and products waste from the municipal taxpayer to the producers. This is an essential mechanism to motivate fundamental change in how our society manages resources and waste.

**Comments on the Report on Greater Consistency of Recyclable Material Collection:**

- The definition for Extended Producer Responsibility should be as broad as possible to ensure responsible and environmentally sustainable decision-making for the full life-cycle management of consumer products and packaging from conception, design and development through production, usage, recycling, recovery and final disposal. A narrow view of EPR that is focused exclusively on one portion of the life-cycle, for example the recycling phase, creates strong motivations to shift materials and costs to other stages of the life-cycle such as final disposal.
- York Region staff support the definition of consistency for printed paper and packaging provided on page 4 of the document and recognize that once full EPR/Industry funding is in place, standardization of materials collected should be consistent across municipalities.
- York Region staff strongly support the concept that product and packaging designs include better life cycle analysis before allowing them to enter Ontario's marketplace, further York Region staff request that the analysis and approval process include substantial and active participation of Ontario's municipal waste managers.
- York Region staff agree that product labeling is an effective mechanism to improve consumers understanding and awareness of the impact of their purchasing choices on the environment. Building on this concept York Region staff suggest that product labeling standards be established incorporating a life-cycle analysis perspective and accounting for a sustainable waste management hierarchy in the impact assessment.
- York Region staff support the four principles for selecting materials for consistent collection, as outlined on page 5 of the document. Further, York Region staff suggest that

<sup>1</sup> Waste Diversion Ontario, 2008 Datacall.

a 5<sup>th</sup> principle be added stating a preference for North American processing facilities to minimize greenhouse gas emissions and to ensure processing takes place in jurisdictions where environmental and health and safety standards similar to or better than Ontario standards. A supplementary approach that should also be considered is to establish a certification process for environmentally and socially responsible processing of blue box recyclables, similar to that which is already in-place for waste electronics.

- York Region staff support the majority of materials suggested for consistent collection in Tables 4.1 and 4.2 as most are collected through our Blue Box residential curbside program or at our depots. The exceptions are listed below.

**Table 4.1:**

- Aluminum packaging and foil have significant challenges associated with processing and marketing. These aluminum materials are separated from aluminum cans through a manual sorting process and can create marketing difficulties.

**Table 4.2:**

- York Region staff have identified aerosol and paint cans as problematic materials for processing as aerosol cans can be made from either aluminum or steel and paint cans can be made from either plastic, steel or composite. Due to the inconsistency in the material composition, the consistent collection of this material type should be re-evaluated.
- Sorting, processing and marketing of Thermoform PET (#1), Polystyrene Crystal (#6) and other Rigid Plastics (#7) pose specific challenges and York Region staff agree that further steward supported research is necessary to resolve barriers to recycling and the development of reliable markets for these materials.
- York Region staff support the future collection of LDPE/HDPE Film (#2, #4) and Polystyrene Foam (#6) at depots rather than inclusion in curbside programs.

**Table 4.3:**

- York Region staff have identified spiral wound containers containing paper laminates, metal and/or plastic as problematic material for processing and request clarification on the classification and proposed handling of these types of containers in the absence of a viable market.
- York Region staff request clarification of materials that have been excluded from consistent collection versus those that are considered problematic. It is suggested that criteria be specified for what constitutes the differences between the exclusions and problematic materials. Specific clarification is requested for Polylactic Acid (PLA) materials since these have neither been excluded from consistent collection nor identified as a problematic material.
- York Region staff agree that steward supported research is required for compostable packaging to develop best practices for management of these types of materials outside of the blue box program and avoid resident confusion on what goes where.
- York Region staff agree in principle with the requirement to provide consistent collection (whether curbside or depot/return to vendor in both Southern and Northern Ontario for populations of 5,000 people or more).

- York Region staff recognize that confusion can arise from inconsistent collection of materials between neighbouring jurisdictions and strongly supports province-wide communication.
- York Region staff would support the use of an “approved” list of images and words that can be used in all municipal promotion and education campaigns to ensure consistent messaging province-wide.
- York Region staff strongly suggest that a provincial committee be struck to develop this messaging and that a representative cross-section of Municipal waste managers be involved to build on the successes that have been achieved thus far.
- York Region staff appreciate the flexibility afforded for municipalities to collect and recycle additional materials if local capacity exists.
- York Region staff support the materials suggested for recycling by IC&I producers as outlined in Table 6.1.
- A higher cost structure for disposal (i.e. added disposal fee) should be established to reduce or eliminate the financial incentive for disposal only if this can be linked to a mechanism to ensure that the higher cost component is paid by the producers of packaging and products consistent with the concept of full-life cycle EPR. Imposition of increased disposal costs in the absence of a direct linkage to consumer products and packaging will fail to create a disincentive for disposal and will simply increase municipal taxes.
- York Region staff support stronger enforcement of Ontario Regulation 103/94 and suggest that IC&I producers be subject to the same standardized requirements for imported products.

**Comments on the Recommended Process to Identify and Address Printed Papers and Packaging that are Problematic for Recycling Programs:**

- York Region staff support the definition of problematic materials as provided on page 2 of the document. The definition for Extended Producer Responsibility should be as broad as possible to ensure responsible and environmentally sustainable decision-making for the full life-cycle management of consumer products and packaging from conception, design and development through production, usage, recycling, recovery and final disposal.
- York Region staff support the development of a Problematic Materials Steering Group, reporting to WDO, and strongly support the substantial and active participation of a representative cross-section of Ontario’s municipal waste managers in this group.
- York Region staff review of Section 3, Steps for Addressing Problematic Materials for Recycling Programs, found the process for identifying problematic materials to be very onerous on the processors (i.e. municipalities), it is recommended that a proactive and collaborative exercise be undertaken by the creator of the packaging issues (i.e. producers) to further reinforce the concept of extended producer responsibility.
- York Region staff strongly support the setting of fees for the stewards of problematic materials to ensure that the stewards of the materials causing the problem will pay for the management of their material.

December 15, 2009

RE: Waste Diversion Ontario Consultation On Consistent Collection and Problematic Materials

- York Region staff strongly support tools such as take-back programs and the concept of making producers responsible for products they produce that can not be recycled in the Blue Box, and that minimum environmental standards be established for producers to design packaging that is easily recycled and fits within an environmentally sustainable framework.
- York Region staff strongly encourage the Ministry of the Environment and the Federal government to collaborate to implement packaging regulations and enforce standards so that problematic printed papers and packaging cannot enter the Ontario's marketplace.

A major part of the success that has been achieved in waste diversion in Ontario can be attributed to historical and continuing investment of Municipal tax dollars in capital infrastructure and promotion and education, which has led to enthusiastic public participation in our waste management programs. York Region staff trust that WDO, and the MOE, will build upon this long-term investment to progressively advance waste management in Ontario.

As a municipal diversion leader, York Region staff acknowledges the contributions of Ontario's steward organizations to share in the obligation of meeting the environmental objectives underlying diversion, especially those related to recyclable packaging. Consistent with the core principles of sustainability, York Region staff look forward to the fundamental social changes that will begin to occur as Ontario moves to realize the full life-cycle concept of EPR. York Region staff encourage the WDO to keep driving in this direction and urge the stewards to continue to support this progressive vision.

Sincerely,

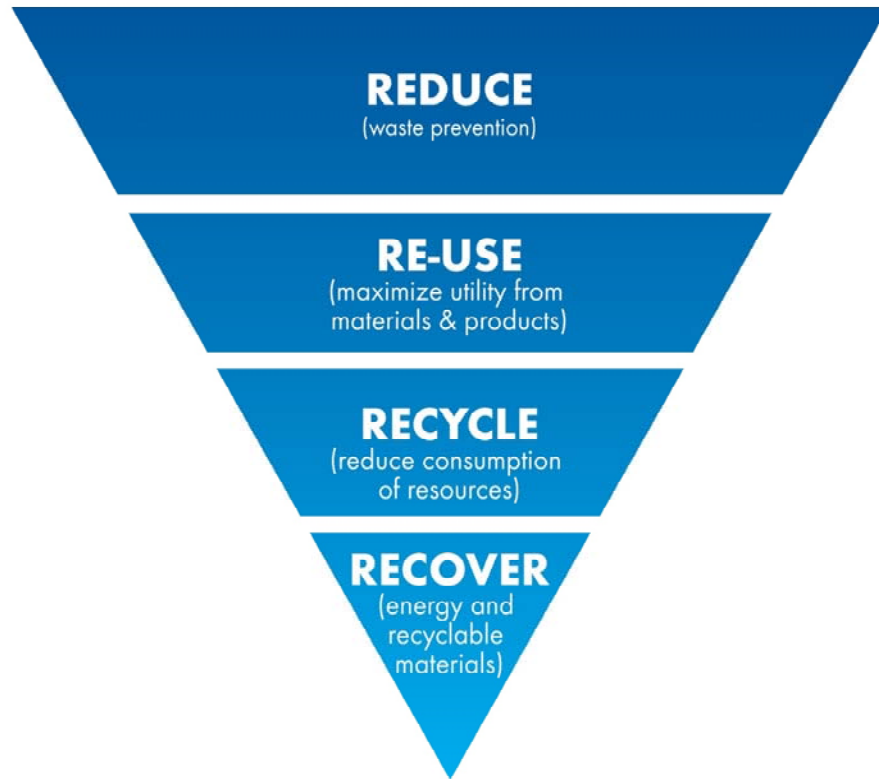
Laura McDowell  
Director, Environmental Promotion and Protection

NM/BM/hf

1297006-v1

# Waste Management Models: The 4R's and Lasink's Ladder

4R's Model



MINIMUM LANDFILL DISPOSAL

Lansink's Ladder

