

3

APPLICATIONS FOR APPROVALS PRIVATE WASTE MANAGEMENT FACILITIES

The Solid Waste Management Committee recommends the adoption of the recommendations contained in the following report, March 9, 2005, from the Commissioner of Transportation and Works:

1. RECOMMENDATIONS

It is recommended that:

1. The Commissioner of Transportation and Works be authorized to respond directly to the Ministry of the Environment with comments on applications by companies for approvals and/or approval amendments for waste management facilities, provided that there are no concerns expressed by the affected local municipality, and if it is the opinion of the Commissioner that there are no aspects to the application that may be of particular interest to Regional Council.
2. The Regional Clerk forward copies of this report to the Ministry of the Environment and the respective Clerks of the nine local municipalities.

2. PURPOSE

The purpose of this report is to establish a new policy on providing comments to the Ontario Ministry of the Environment with respect to approvals applications submitted by companies for private waste management facilities.

3. BACKGROUND

If a company wishes to establish a facility for the management of solid or liquid waste, it must first obtain a Provisional Certificate of Approval from the Ministry of the Environment (MOE) in accordance with the *Environmental Protection Act*. Furthermore, if a company wishes to make significant operational changes or physical modifications to an existing approved facility, then it must make application to the MOE for an amendment to the Certificate. Examples of such facilities include transfer stations, material recovery facilities, and composting facilities.

4. ANALYSIS

4.1 Environmental Protection Act

The MOE normally requests both the Region and the host local municipality to provide comments on the applications with respect to facilities located in the Region. It is understood that the MOE considers these comments in deciding whether or not to grant the Certificate or amendment, and in deciding the operational conditions that form part of the Certificate.

The practice has been for Regional staff to prepare reports to the appropriate Committee, which contain recommendations with respect to the Region's comments to the MOE. At the present time, the reports are usually submitted to either the Solid Waste Management Committee or the Transportation and Works Committee.

Furthermore, in most cases the Region's reports contain the comments of the host local municipality. This is done so that the Region can develop a position that supports the position taken by the local municipality.

Since 1990, Regional Council has considered approximately 80 applications made by companies. This involved the preparation of an estimated equal number of reports by Regional staff.

In recent years, for most reports, Regional staff have used standard wording in their recommendations to address the following key issues:

- The establishment or existence of a process to collect data to monitor diversion rates to assess the Region's progress toward diversion targets.
- The minimization of the risk of an accidental leak or spill.

However, within the past six months, Committee and Regional Council have added a recommendation to address the need for companies to provide the MOE with adequate financial assurance that can be used by the MOE to clean up problem sites.

The recommendations are presented generically as follows:

- The company submit to the Commissioner of Transportation and Works, at three-month intervals, sufficient records to document the quantities of materials received and processed by the facility; the municipalities of origin of these quantities; and the quantity of waste transferred to disposal facilities.
- All discharges from the operation to the sanitary and storm sewer systems meet the requirements of The Regional Municipality of York's By-Law No. S-57-92-155 and any existing and/or future amendments to it.
- The MOE undertake a detailed analysis of the cost for the clean up, transportation, disposal and supervision of all quantities of waste on the site at any one time as a

result of any occurrence requiring such action including, but not limited to, fire, spills, or any other emergency and ensure that it requires and maintains sufficient financial assurance for site clean up as per Section 131 of the *Environmental Protection Act*.

- The Regional Clerk forward copies of this report to the company, the Clerk of the local municipality, and the MOE.

The MOE generally advises companies that applications for approvals can be processed within 60 days. Furthermore, when the MOE requests the Region or the local municipalities to provide comments on applications made under the *Environmental Protection Act*, they include the following statements in their letters:

- “It is requested that the Regional Municipality of York make comments with respect to the application. In lieu of a Council Resolution, please ensure the report is signed and dated by the Commissioner of Planning or the Commissioner of Works, or their respective equivalent.
- The Director has the discretion under Section 32, Part V of the *Environmental Protection Act* (EPA) to hold a public hearing regarding applications for waste disposal facilities. Municipalities or affected members of the public have the right to request that the Director consider calling a hearing with respect to any application submitted under Part V of the EPA. Any submissions in this regard must be accompanied by valid reasons and supporting technical justification.”

The time required by the MOE to process applications from companies within the Region is usually much longer than 60 days. The reason for this delay is the normal seven-week cycle that reports must go through, from the time of the initial draft by Regional staff until it has been adopted by Regional Council. This seven-week period is usually extended several more weeks because:

- The MOE’s letter requesting comments arrives at the Region in the middle of a report cycle.
- The Region’s practice is to wait until the matter has first been dealt with by the Council of the host local municipality.

The Region as well as other Ontario municipalities are under pressure to reduce the quantity of waste that is exported to the State of Michigan for disposal in landfills. This problem could be mitigated somewhat if waste management companies, particularly those with waste diversion initiatives, could obtain their approvals quicker. Therefore, it is recommended that the Commissioner of Transportation and Works be authorized to respond directly to the MOE with comments on applications by companies for approvals and/or approval amendments for waste management facilities, provided that there are no concerns expressed by the affected local municipality, and if it is the opinion of the

Commissioner that there are no aspects to the application that may be of particular interest to Regional Council.

It is noted that there may be other indirect benefits to the Region if the MOE is able to issue approvals quicker as a result of the above recommendation. They include:

- The efficiency of waste management companies would be increased, which would increase the overall economy of the Region
- Waste management companies would be able to offer upgraded services to the other businesses and institutions in the Region in a more timely manner.
- Regional staff would save time if the number of reports to Committee and Regional Council were reduced, and the time saved could be expended to establish new programs or improve the operation of existing programs.

4.2 Environmental Assessment Act

Due to the closure of the Keele Valley Landfill Site at the end of 2002, the existing private transfer stations located within the Region have had increasing demands placed upon them. In order to deal with these demands, some of them have made applications to the MOE for Certificate of Approval amendments that would allow significant increases to the quantity of waste received and stored at their respective facilities. In general, the MOE takes the position that new or expanded waste transfer stations, which handle greater than or equal to 300 tonnes per day, may be considered for designation under the *Environmental Assessment Act*. Such designation, would require the company to prepare an environmental assessment for Minister and Cabinet's approval under the *Environmental Assessment Act*.

The MOE has requested the Region to provide comments twice in the past six months, as to whether or not an application should be designated under the *Environmental Assessment Act*. These situations are infrequent, but have the potential to be contentious. Therefore, it is the opinion of Regional staff that any *Environmental Assessment Act* non-designation request should continue to be addressed by Committee and Regional Council through the consideration of a report by Regional staff.

It is noted that the establishment of any new solid waste landfill or incinerator would be subject to an environmental assessment.

5. FINANCIAL IMPLICATIONS

There are no definitive financial implications associated with this report. However, as mentioned previously, Regional staff would save time if the number of reports, with respect to waste management facility approvals to Committee and Regional Council, were reduced. The time saved could be expended to establish new programs or improve the operation of existing programs.

6. LOCAL MUNICIPAL IMPACT

As explained previously, the recommendation is to authorize the Commissioner of Transportation and Works to provide comments directly to the MOE provided that there are no concerns expressed by the affected local municipality. Accordingly, if there are concerns expressed by the affected local municipality, then Regional staff would address them in a report to Committee and Regional Council, and the report would contain a recommendation with respect to an appropriate response to the MOE.

7. CONCLUSION

This report provides recommendations for a new policy that will streamline the process by which the Region provides comments with respect to approvals applications submitted to the MOE by private waste management companies. The recommendations of this report, if adopted, will:

- Enable companies to obtain their approvals from the MOE quicker.
- Allow Regional staff time to be redirected to other programs.

The Senior Management Group has reviewed this report.