

Comments on Proposals:

Draft Strategy for a Waste-Free Ontario: Building the Circular Economy

Bill 151, the *Waste-Free Ontario Act*, 2015

Including the

Resource Recovery and Circular Economy Act (RRCEA)

and

Proposed Waste Diversion Transition Act

EBR Registry numbers 012-5832 and 012-5834

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Overview

Previous generations viewed “waste” as shameful, to be avoided by prudent purchasing, reducing, reusing, repurposing, recycling and composting. Affluence and conspicuous consumption overtook thrift, and we’ve the waste and toxic outfall to prove it. The Ontario government is therefore to be commended for explicitly recognizing that economic and environmental concerns converge on trash and what happens to it, and for aspiring to a truly circular, resilient economy.

It is hoped that human health will be similarly recognized, as wastes and their diversion involve diverse toxicants, harming human health and also potentially hampering a circular economy.

The introduction of recycling programs in the 1980s and the promotion of the 3Rs and zero waste philosophies restrained but did not curtail growth in the quantities of waste requiring disposal. Ontarians generate on average over 700 kg of waste per capita annually, while national diversion rates (reuse, repurposing and recycling) for all wastes (residential plus industrial, commercial and institutional (ICI)) have stalled at around 25%. Ontario faces particular challenges with large quantities of ICI waste generation and little diversion. The existing *Waste Diversion Act* has not effectively addressed these challenges, and has long been broadly considered to be in need of replacement.

The Strategy for a Waste-Free Ontario: Building the Circular Economy sets out broad policies to support enhanced waste diversion, while the proposed legislation puts in motion positive changes and sets out key principles that are worthy of support, including:

- Disbanding existing Industry Funding Organizations (IFOs) and transitioning them into a new approach based on individual producer responsibility; and
- Replacing Waste Diversion Ontario with a Resource Productivity and Recovery Authority (RPRA) to oversee the new regime.

The legislation is a “skeletal” Act that enables and anticipates future formulation and implementation of policies and regulations. Aspirations expressed in the draft strategy are not all evident in the proposed *Act*, and clarity is lacking on some major elements.

We take this opportunity to comment on the following topics:

- Missing features in the proposed *Act*;
- Requirements of “producers” regarding qualities of products for sale, and for end-of-life management of products and packaging;
- Stewardship and fate of Industrial, Commercial and Institutional (IC&I) waste;
- “Waste-to-energy” type facilities in waste disposal; and
- Roles of municipalities and implications of uncertainty.

Features missing from the proposed Act

Recognition of Human Health as a Provincial Interest

While Provincial Interests (S.2.) include environmental protection and greenhouse gases in particular, the proposed *Act* is silent on human health. Certainly human health impacts abound, from products (destined to be waste), waste diversion and waste disposal facilities – from landfill gases to pollution from incinerators. Human health must be recognized as a Provincial Interest.

Public participation

With the “devil in the (yet to be disclosed) details,” fulsome public participation is necessary at every stage, including policy development and approvals, and environmental assessments. For example, when the *Planning Act* was revised, the Provincial Policy Statements were included.

Definitions and timelines

“Diversion” is in the title of the Act, but it is not defined. Definitions of “diversion” and “disposal” are required, specifying that incinerators and similar facilities that destroy materials do not count towards diversion targets.

The proposed *Act* and Strategy are unclear which producers will be accountable, and what materials will be designated for recycling. It is important to avoid a perverse incentive to shift to undesignated materials. Ontario should adopt, at a minimum, the common definition of producer to mean manufacturers, brand owners and first importers into the province.

Ambitious diversion targets and timelines, and methods for tracking and reporting should also be specified.

Thorough Environmental Assessment, and associated housekeeping

Waste disposal facilities require thorough assessment for environmental and health impacts and alternatives, not within a “streamlined” process. Relevant Acts should be amended to ensure thorough assessments, and that the intent of the circular economy is not undermined by readily-available disposal options requiring ongoing feedstocks.

Thus, we agree with colleagues in the Ontario Zero Waste Coalition the *Environmental Assessment Act*, O.Reg. 101/07, Part V of the *Environmental Protection Act*, and O.Reg. 206/97 require amendments. As well, the Authority must be fully subject to the Freedom of Information

and Protection of Privacy Act. The *Resource Recovery and Circular Economy Act* must also be subject to the *Ombudsman Act*, and must be a prescribed statute for the purposes of Parts II, IV, V, and VII of the *Environmental Bill of Rights*.

Generating Less Waste – producing less, and having products and packaging that are more readily recyclable and do not contaminate the environment

Virtually everything that is eventually disposed of as municipal solid waste, was purchased from producers, by consumers and commercial businesses. The proposal to make producers responsible for the end-of-life management of the products and packaging that they put on the market is a commendable, fundamental shift in the responsibility for wastes towards those who have the best ability to design and make the products, to produce less waste, that is less hazardous or toxic and more readily recyclable.

Building a circular economy is only possible by travelling “upstream” to ensure that:

- All unnecessary waste is eliminated
Products are long-lived (perhaps with mandatory minimum time period guarantees). Packaging is minimized.
- No waste is valueless for recycling or better
Products are made with and packaged in readily reusable or recyclable materials and containers (e.g. thick “egg carton” cardboard forms rather than Styrofoam – elimination of Styrofoam would be a good early step).
Materials are identified and items are readily recyclable into equivalent products. This is difficult if packaging contains multiple materials or is contaminated.
- Undesirable contaminants do not build up in recycled streams
E.g. recycled paper is increasingly contaminated with bisphenol-A from store receipts, posing risks from this endocrine disrupting chemical.

Design for the Environment

Efficient, effective, long term, sustainable solutions for a circular economy require clear, stringent standards for all things that will eventually enter the waste stream. “Design for the Environment” is an essential component of waste management strategies. Products that become waste or are diverted for recycling may contain numerous contaminants of concern such as flame retardants and poly-fluorinated chemicals, problematic plastics (e.g. polyvinyl chloride, Styrofoam and “unknown” including polycarbonate), nanomaterials, organic matter, and materials that are supposed to be (but are not always) collected as hazardous waste.

... Particularly plastics

The inability to divert products from disposal has led to small pieces of plastic impacting our oceans and lakes, and harming entire food-chains (right up to us) [e.g. as described [here](#)]. Be they microbeads (slated to be declared toxic under the *Canadian Environmental Assessment Act* (1999)) or merely degraded bits of bags and miscellaneous items, plastic lingers in the environment with resultant harm from accumulated toxins as well as physical effects. This is particularly important for compost quality, as jurisdictions deal with diapers and incontinence products, bags with compost, and even plastic-coated throw-away food containers. The well known effects in aquatic ecosystems [see [here](#)] are playing out on land as well [e.g. see 2016 research [here](#)].

Implications of Trade Agreements

We hope that Ontario will be emboldened to institute wide-ranging “Design for the Environment” requirements, and will examine carefully the impact of the upcoming trade agreements on sovereignty over what is on retailers’ shelves, in our homes and businesses, and in our trash. The Canadian Council of Ministers of the Environment (CCME) has been considering such issues, and we encourage Ontario to work at this level for a united front, demanding clear, stringent standards for products and packaging, as in Europe.

Industrial, Commercial and Institutional (ICI) waste

Diversion, reuse and recycling are particularly weak in the ICI sector, and the consultation documents offer little on this topic.

The legislation and regulations should more directly target the ICI sectors by, at a minimum, identifying certain problematic waste streams and industry sectors. For example, dining establishments, supermarkets and grocery brand owners could be made directly responsible for the composting of the food waste that they generate, and commercial establishments for the transportation packaging that they use.

Demolition waste

Construction and demolition waste is a huge part of the waste stream, demolition waste is potentially contaminated with toxins such as asbestos and lead paint, and more needs to be done to address this area. The legislation could require, for example, the recovery of waste concrete and re-bar from demolitions. Construction sites of certain size could be required to source separate the large quantities of corrugated cardboard and wood that they typically generate. There are two regulations that affect designated projects in the Construction and Demolition industry: Ontario Regulation 102/94 requires construction and demolition companies to conduct waste audits and develop and implement waste reduction work plans, and Ontario Regulation 103/94 requires source separation (recycling) programs for specified wastes. To our understanding, neither of these regulations has been promoted or stringently enforced. Municipalities presently have no powers in this regard. Reform might include that enforcement of these two regulations be delegated to consenting municipalities that issue demolition and building permits. The costs of the enforcement would be added to the permit costs charged to the applicants.

“Waste-to-Energy” and Related Processes

“Waste-to-Energy” is expensive, polluting, merely “disposal,” and a distraction from diversion

The Strategy refers to reducing reliance on landfills, but it is disappointing that the *Act* is silent on large, expensive plants to combust/gasify/convert waste to energy or chemicals. These plants have a history in Ontario of being polluting, emitting carcinogens such as dioxins and toxic metals. We strongly believe that these should be explicitly banned or at least highly discouraged. Both the Strategy and *Act* must specify clearly that processes that destroy refined materials such as plastic (these entail a great deal of greenhouse gases and energy for manufacturing), count as “disposal” rather than “diversion” and are not desirable in a circular economy.

For example, not only was it polluting, Ottawa’s “Plasco fiasco” never operated reliably, only met monthly pollution targets by operating very rarely, distracted from and forestalled true waste diversion efforts for a decade or more, and resulted in unpaid obligations (including to previous employees) and a contaminated site and building. The Durham facility that was just green-lighted, exceeded ash releases, but nevertheless is operating.

These facilities are by far the largest capital investment that can be made in waste management, and ongoing costs for operation are also much greater than all other options. In order to be operated in a sufficiently stable and efficient manner that might reduce regular releases of toxic chemicals, the feedstock must be highly selected and prepared, as is the case with Edmonton’s Enerkem facility. After implementing thorough “design for the environment” and waste diversion, there should be nothing or very little left for these facilities.

Clarity required at the soonest, Dissuading “Energy-from-waste” developments

Entrepreneurs may be keen to be involved with the large sums of money with “waste-to-energy” facilities, and proponents may see that the window is closing for approvals of such plants, so clarity is required sooner rather than later. Once commissioned, these facilities’ long term, ongoing requirements for large quantities of waste have a perverse effect on waste diversion. Dry materials such as fibre and plastic, with high embodied energy, are likely to be shunted to disposal, and recycling is undermined in the public mind. We are concerned that during Ottawa and online consultations, such facilities were depicted as possible short-term, bridging solutions, whereas they are in fact long term, expensive infrastructure investments of dubious reliability.

Provincial and Municipal Roles, and Implications of Uncertainty

Waste management has long term, serious implications for human health and the environment, and large, monied interests are promoting “solutions” that, as discussed above, are not aligned with a true circular economy. If such proposals are not quashed at the outset, they must be subject to full environmental assessment, including thorough consideration of alternatives. In this context, we have misgivings about decisions merely being held to the standard of “having regard to” provincial policies that are yet to be developed, with disputes being heard by quasi-judicial bodies, and

unclear environmental assessment requirements. We believe that the MOECC must retain control over this file. At a bare minimum, decisions must be “consistent with” strong policies. Considerably more clarity is required on oversight responsibilities and the respective roles of the proposed RPRA and the MOECC, as well as municipal governments.

During a long transition, municipalities may delay important actions. The provincial government must be cognizant of such perverse effects, as next steps are planned.

For example, the City of Ottawa delayed serious waste diversion efforts for close to a decade, with the alchemistic, low-cost waste promise offered by Plasco. Now, inevitable uncertainties over the current proposed strategy and legislation, and hopes of improved funding of the blue box program, are excuses for further delay of waste management planning and improvements.

In contrast, some major Canadian municipalities are taking unilateral action on waste issues. Montreal’s proposed ban of single use plastic bags is a dramatic example. Other cities, especially in Ontario, have been reluctant to take similar steps, although *The City of Toronto Act* provides some scope to impose charges on certain products (e.g. plastic bags and plastic cup lids). To avoid a patchwork of practices, it is important that the Province enact top-notch requirements, bringing all municipalities to a high standard. No jurisdiction should go “backwards.”

In summary, *Prevent Cancer Now* believes that a true, least-toxic approach to a Circular Economy is essential for our children and planet. Recognition of Human Health, and further clarity, refinement, and ambitious targets and timelines are required. Industrial waste disposal options should be excluded. We look forward to our commercial enterprises and citizens enthusiastically embracing all that will be involved in this important initiative for our health, environment and economy.

Respectfully Submitted,

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Prevent Cancer Now is a Canadian national civil society organization including scientists, health professionals and citizens working to stop cancer before it starts, through research, education and advocacy to eliminate preventable causes of cancer.