



Association of
Municipalities of
Ontario



Sent via e-mail: alena.grunwald@ontario.ca

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Ministry of the Environment
Integrated Environmental Policy Division
Waste Management Policy Branch
135 St Clair Avenue West, 7th Floor
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Dear Ms. Grunwald:

Re: Association of Municipalities of Ontario, Regional Public Works Commissioners of Ontario and Municipal Waste Association comments on EBR #010-8164

The Association of Municipalities of Ontario (AMO), the Regional Public Works Commissioners of Ontario (RPWCO) and the Municipal Waste Association (MWA) are pleased to provide you with our comments in response to EBR #010-8164.

Background

The Association of Municipalities of Ontario (AMO) is a non-profit organization representing almost all of Ontario's 444 municipal governments and provides a variety of services and products to members and non-members.

The members of the RPWCO plan, design, build, operate and maintain the public infrastructure (transportation, water, wastewater, solid waste, parks and public buildings) that serve the vast majority of citizens and visitors to the province of Ontario. Members of the RPWCO are generally comprised of upper tier municipalities and those cities and single tier municipalities with a population of over 100,000.

The Municipal Waste Association, formerly known as the Association of Municipal Recycling Coordinators, is an incorporated not-for-profit organization formed in 1987 by Ontario

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municipal waste management professionals to facilitate the sharing of municipal waste reduction and recycling information and experience.

Members of the AMO, RPWCO and MWA finalized our comments regarding EBR #010-8164 and include them here within.

Outcomes-Based Individual Producer Responsibility

- We support the proposal to make individual producers fully and financially responsible for ensuring that their share of all designated materials sold in the Ontario marketplace are diverted from disposal in both the residential and Industrial, Commercial & Institutional (IC&I) sectors. This responsibility should extend to all materials produced even if they end up in residual waste or source separated organics stream.
- We support the designation of all packaging and printed paper sold in the Ontario marketplace for inclusion in the program.
- We support the concept of allowing flexibility for producers in how a program is established, designed and operated, as long as it's not at the expense of resident convenience or accessibility to the recycling program and does not compromise current residential diversion rates achieved in the existing packaging and printed paper recycling program.
- We recommend flexibility for municipalities to have an opportunity to participate in the delivery of services in the new system on a contract basis.
- We are concerned that the flexibility in program design for individual producers could lead to fragmentation of the collection systems for residential packaging and paper, which could compromise program convenience, accessibility and success. We are concerned that changes could lead to resident confusion about the recycling program for residential packaging and paper and diminished program participation rate from the existing Blue Box program. Changes must not result in more items in the disposal stream (residual waste) or increases in residual waste management costs for municipalities. Changes must also not come at the expense of residential access to the existing Blue Box program.
- We recommend creation of a single steward organization for residential printed paper and packaging, at least during the transition period. No other individual steward schemes should come into effect until the transition period is complete (please see our comments on a transition period below).
- Resident convenience, program accessibility and existing program performance/success must be maintained to ensure a smooth transition. We support consultation with all stakeholders, including residents, IC&I sector and municipalities, on this aspect of the program. We recommend **a full and immediate development of a transition plan** by stakeholders to ensure resident convenience and program success is maintained, prior to any program launch.

- Stewards should be financially responsible for all printed paper and packaging sold in the Ontario marketplace including those materials collected as litter, organics or residual waste. If designated materials end up in the residual waste stream, municipalities will be financially responsible through disposal levies (as outlined in section 7.5 Supporting Producer Responsibility and Diversion). Stewards should pay the disposal levy on the portion of designated waste that goes to disposal.
- Implementation of IC&I diversion programs should not lag behind residential diversion targets and timelines.
- There should be separate diversion targets for IC&I and residential designated materials. Annual reports must reflect performance in residential; IC&I and combined programs.
- We recommend the use of the existing Waste Diversion Ontario (WDO) Municipal groupings by requiring diversion targets by community type. Oversight and review of programs by WDO must consider this aspect as a critical component of Producer Plans.
- Diversion targets should be material-specific (e.g., a newsprint target, an aluminum target). Where applicable there should also be consideration for targets within specific material types, such as within plastics (e.g., a HDPE target, a PET target).

The following table is a summary of what the proposed roles and responsibilities of the various parties should be under a full Extended Producer Responsibility (EPR) system.

Roles & Responsibilities		
Brand Owners/ Stewards/First Importers of Designated Materials	Service Provider on behalf of Steward (Collector/Processor could be municipal or private contractor)	Municipalities (if not service provider)
<p>100% financially responsible for all designated materials sold in Ontario.</p> <p>Create material management scheme or develop an individual waste diversion plan after transition period</p>	<p>Contracted by stewards or collective schemes to provide collection and processing services and marketing for designated materials</p>	<p>Managing residual waste including designated materials within residual waste stream</p>
<p>Responsible for meeting diversion targets and obligations under the Waste Diversion Act (WDA)</p> <p>Register and submit waste diversion plans and data annually</p>	<p>Collect and report tonnage data for Stewards/Collective schemes.</p> <p>Data for tonnage collected, processed, recycled and residue for disposal should be clear and transparent.</p>	<p>Waste audits and enforcement of designated material bans at first point of resident disposal at curbside (e.g. transfer stations and disposal sites) on behalf of Stewards.</p> <p>Municipalities should be financially compensated for audit and enforcement work.</p>

Paying of disposal levies for unrecovered materials Reimburse municipalities for disposal levy costs.	Managing items banned from disposal according to schemes/waste diversion plans developed by Stewards.	Manage integrated municipal waste management infrastructure and manage material bans at curbside, transfer stations and disposal sites. Municipalities should be financially reimbursed for managing designated materials in residue (targets not met by Stewards)
Promotion and Education relating to their materials management scheme or individual waste diversion plan	Providing customer service functions.	P&E and customer service functions not related to Steward schemes and waste diversion plans.

- We recommend that the Province:
 - Work with the Federal government to clarify their respective roles and responsibilities with respect to packaging design,
 - Ask the Federal government to develop a nation-wide consistent extended producer responsibility (EPR) program for packaging and printed paper,
 - Ask the Federal government to develop a national sustainable packaging strategy,
 - Ask the Federal government to take a stronger position in regulating imported packaging to ensure imported packaging is compatible with Ontario's and other provincial recycling systems.

Clarify the Concept of Diversion

- We agree that the beneficial use of materials, such as metals, glass and ash that are physically recovered and preserved through processes, such as aerobic composting, anaerobic digestion, pyrolysis and thermal treatment, should be counted as diversion. However, clarity is needed on what qualifies as a beneficial use of these recovered materials.
 - Additional grades of compost should be considered diversion, not disposal.
 - Final diversion rate should be net of end market residue from secondary processing at, for example, paper mills and Material Recovery Facilities (MRF).

Requiring More Diversion: A Long-Term Schedule

- We support the implementation of a long-term waste diversion schedule for future designated materials, with the following recommendations:

- IC&I Packaging & Printed Paper
 - We support the short term implementation timeline for this material.
 - Clarity should be provided on the distinction between IC&I and consumer packaging.
 - The diversion rate for IC&I and residential should be measured to the same target and timeline, but should not be blended together to a single figure. A blended rate would mask if one sector is under or overachieving.

- Waste Electronic and Electrical Equipment (WEEE) Phase III
 - We agree with the short term implementation timeline for this material.
 - We recommend the inclusion of White Goods (e.g. household appliances) in WEEE Phase III.

- Construction and Demolition Material
 - We support the designation and the short term implementation timeline for this material.

- Bulky Items
 - We support the designation and medium term implementation timeline for this material.
 - Clarity should be provided for the specific categories of materials that would be designated as “Bulky Items”. Categories might include the following:
 - Furniture (e.g. mattresses, box springs, couches, chairs, tables, dressers, etc.).
 - Large home & garden items (e.g. shovels, ironing boards, luggage, pool equipment, light fixtures, etc.).
 - Sporting equipment (e.g. skis, bicycles, hockey sticks, etc.)

- Vehicles
 - We support the designation of vehicles in the long term waste diversion schedule. However, this is not a priority category for municipalities and the timeline for implementation of this category should not come at the expense of delaying the other categories listed here for designation.

- Branded Organics
 - We support the designation of branded organics in the waste diversion schedule. However, since this is a material that municipalities deal with on a daily basis, it should be considered a higher priority material. We recommend an earlier implementation for this designation (e.g., medium term – three years).
 - Any designated branded organics managed through a municipal program should be eligible for full cost recovery, irrespective of whether they are managed through a Blue Box program or a Green Bin program.

- Municipalities should not be required to accept all branded organics in their Green Bin programs (e.g., some Green Bin programs cannot accept pet waste products, diapers, etc.).
- Clarity should be provided on the definition of the specific materials that would be designated as “branded organics”. Categories may include the following:
 - Paper towels, napkins, coffee filters, tea bags;
 - Disposable diapers;
 - Pet waste management products (e.g. kitty litter, rabbit shavings, dog waste bags);
 - Personal care items (e.g. tissue, feminine care products etc.); and
 - Soiled paper food packaging (e.g. paper-based ice cream boxes, fast food containers, french-fry containers, etc.).
- Small Household Items
 - We support the designation and long term implementation timeline for this material.
 - Clarity should be provided on a definition of the specific categories of materials that would be designated as “Small Household Items”. Categories might include the following:
 - Personal items (e.g. toothbrushes, razors, inhalers, brushes);
 - Cooking utensils and cutlery;
 - Small toys;
 - Hobby and craft paraphernalia;
 - Home office supplies (e.g., pens, staplers, etc.); and
 - Small home & garden items (e.g., umbrellas, gardening tools, hoses, flower pots/trays, holiday decorations).

Disposal Bans

- We support the concept of disposal bans for designated materials to help drive diversion, however we recommend clarity be provided on:
 - thresholds for allowable de minimus of designated materials in the waste stream and when and where the ban would apply (e.g., transfer station, landfill, curbside collection, first point of disposal, etc.);
 - enforcement of a ban (e.g., who enforces the disposal ban, refusal of disposal load vs. surcharges, how will a load refused for disposal be dealt with, fines for non-compliance and compensation to municipalities for enforcing provincial legislation related to a ban); and
 - Where municipalities cannot enforce disposal bans (e.g., material is not directly coming to municipal landfills), consistent enforcement by the Ministry to enforce bans at other points of disposal (e.g. direct haul to United States).
- The implementation of a landfill ban when a sustainable market has been established for a particular material type is beneficial. However, it is also necessary to implement landfill bans, using a phased-in approach, for materials where no sustainable market is

currently available. This approach would encourage market development and more sustainable packaging and product design.

- We support a “towards a zero waste” philosophy that encourages producers to redesign products and packaging to be readily recyclable.
- We recommend that, if municipalities are enforcing bans, producers not be able to use perceived municipal failure to effectively enforce bans as a justification for their failure to meet individual producer diversion targets.

Effective Oversight

- We recommend meaningful representation of municipalities on the WDO board to provide feedback on implementation and operational issues related to the program. Municipalities are key stakeholders that should have input into program design, as we are the closest government that can make recommendations related to the program. Municipalities will continue to be responsible for other components of the waste management system (e.g. organics, waste) and must be provided a role in the governance of waste management in the Province including oversight in the design and implementation of EPR programs as they may impact the remaining programs.
- Clarity needs to be provided on how Stewards’ schemes will be approved, what organization will have the role of approval, what criteria will be used to determine if a scheme is approved and what will happen if a scheme is not approved.
- WDO needs sufficient and sustainable independent funding.

Supporting Producer Responsibility and Diversion, and Disposal Levies

- We support the implementation of a disposal levy to shift behavior towards diversion. If the levy does apply to municipally-collected waste, municipalities must be fully reimbursed for any levy costs incurred and any levy cost that is for designated waste that ends up in the municipal waste stream be paid by the stewards.
- In order for the disposal levy to be equitable and effective:
 - a plan must be developed for the administration, collection and redistribution of levy funds;
 - municipalities should have access to the levy funds in an amount proportionate to the amount they have contributed to the disposal levy;
 - the levy amount should be high enough to make diversion programs cost competitive to landfill disposal;
 - the amount of the levy should be ratcheted up each time a new material class is designated under the program and if it becomes apparent that diversion performance is lagging; and
 - The levy revenue should be allocated to fund waste diversion initiatives that are not funded through an existing EPR program.

- We support a third party organization to be designated as responsible for assessing, collecting, administering, and distributing levies and penalties for diversion targets not met by stewards. There should be clarity and transparency in the collection, distribution and administration of the disposal levies and penalties for producer failure to meet diversion targets.
- The levy amount should be sufficiently punitive to drive diversion performance and to discourage disposal-based options.
- We recommend that WDO annually engage an independent third party auditing organization to assess, collect **and make recommendations on**, administering, and distributing levies and funds from penalties for producer failure to meet diversion targets.

Transition: Moving Existing Programs to the New Framework

- We recommend that transition planning begin as soon as possible and not be delayed until the introduction of the revised Act. Some municipalities are delaying implementing capital and operational improvements due to uncertainty surrounding changes to the Act. Providing as much direction as possible early on in the process will allow municipalities and recycling operators to make decisions on necessary infrastructure preparations for a smooth transition to a new system.
- Municipal assets stranded as a result of this plan should be assessed and appropriately compensated for based on a number of factors, including the value of the Certificate of Approval, infrastructure and operational equipment, and land value which includes appropriate Official Plan designation and zoning.
- Municipal collection, processing and disposal contracts stranded or shortened as a result of this plan should be assessed and compensated for based on a number of factors including the value of the contract, fines and penalties that may arise as a result of shortened contracts.
- Full EPR for the residential Blue Box program should be phased in over a five-year transition period. This transition would proceed in three stages: a planning stage, a negotiation and re-organization period with full financial EPR, with an end to the in-kind contribution arrangement from CNA/OCNA, during which Stewards pay 100% of actual municipal net diversion costs while existing contracts are still in operation, and a final stage with implementation of full EPR for the physical Blue Box system with opportunity for municipal participation on a contractor basis.
- An organization with decision making power that can speak on behalf of the stewards needs to be identified, at least for the duration of the transition period, as the body that municipalities can work with during the Blue Box program transition period.

If you have any questions about the issues raised in this letter, please contact Milena Avramovic, Senior Policy Advisor with AMO at (416) 971-9856 ext. 342; Andrew Pollock co-chair with RPWCO solid waste subcommittee at 905 685-4225 ext. 3642, Geoff Rathbone co-chair with RPWCO solid waste subcommittee at 416 392-4715; or Vivian De Giovanni, Executive Director with MWA at (519) 588-9363.

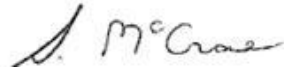
Sincerely,



Peter Hume
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