



CANADIAN INSTITUTE FOR
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February 1, 2010

Alena Grunwald
Project Manager
Ministry of the Environment
Integrated Environmental Policy Division
Waste Management Policy Branch
135 St Clair Avenue West, Floor 7
Toronto Ontario M4V 1P5

Dear Ms. Grunwald:

***Re: 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, EBR Registry
Number: 010-8164***

We are writing on behalf of the Canadian Institute for Environmental Law and Policy (CIELAP) to provide comments on the Ministry of the Environment's discussion paper *From Waste to Worth*, which was released as a part of the province's review of Ontario's *Waste Diversion Act*, 2002. We also encourage the Ministry to refer to the joint statement that CIELAP prepared with other NGOs on this consultation for additional comments that we ask be taken into consideration.

CIELAP was founded in 1970, and has the mission to inform legislative, policy and regulatory outcomes for Sustainability at the national and provincial/territorial levels of government in Canada. CIELAP produces balanced, evidence-based research, and works to bring together a diverse range of stakeholders for constructive dialogue on sustainability issues.

CIELAP has significant research expertise in both solid and hazardous waste management, dating back to the 1980s. Our recent reports include *Waste Bytes! Diverting Waste Electrical and Electronic Equipment in Ontario* (January 2008), *Hazardous Waste in Ontario: Progress and Challenges* (September 2007), and *Ontario's Waste Management Challenge – Is Incineration an Option?* (March 2007). In February 2009 CIELAP published *An Options Paper on Ontario's Review of the Waste Diversion Act* that reflected a series of interviews and the subsequent analysis that we conducted to inform the province's review process. All of our reports are available at www.cielap.org.

Above all else CIELAP would like to congratulate the Government of Ontario for the leadership and vision it has demonstrated in its discussion paper *From Waste to Worth: The Role of Waste*

Diversion in the Green Economy. We applaud that the province is developing a framework intended to: advance sustainable production and consumption; establish a culture of waste diversion in the province; support the development of a green economy; reflect the true costs of waste disposal; and transform our conceptualization of materials from waste to worth. Advancing these concepts will move us towards a more sustainable society and we encourage the government and all parties to continue to use these concepts to inform each stage of the development of the new waste regime.

We are pleased to provide the following comments and recommendations under the categories provided in *From Waste to Worth*.

Outcomes and Principles for Change

CIELAP fully supports the need to develop a common understanding including broad outcomes and principles to guide changes to Ontario's waste diversion framework.

- We agree with the identified principles of responsibility, flexibility, accountability, transparency, competition and predictability. It is important to note that, in addition to the benefits listed in the report, competition can also drive environmental benefits and should be supported by measures that require the full costs of waste disposal to be accounted for.
- We support the four broad outcomes identified in the Minister's Report. However, we would like to see the outcome of increased waste diversion reflect principles of sustainable consumption and production – i.e. that Ontario's waste diversion framework encourages less waste to be produced in the first place rather than simply aiming to divert waste that has already been produced.
- We also submit that the broad concept of sustainability, which includes each of the pillars of economy, environment and society, should be encouraged by Ontario's waste diversion framework. As such, the government may wish to include this explicitly as one of the waste diversion framework's outcomes. Such a statement will provide greater incentive for the framework to encourage health considerations, green jobs, and other priorities essential to a more sustainable society.

Outcomes-based Individual Producer Responsibility

CIELAP commends the government for using an extended producer responsibility framework to make individual producers fully responsible for the diversion of their share of designated materials sold in Ontario.

- We are pleased that the government is proposing to require producers to be responsible for materials sold in both the IC&I and residential sectors.
- We support that individual producers be made responsible for their requirements rather than making a collective responsible and we agree that individual producers be given flexibility for how they meet these requirements.
- We encourage the government to clarify the anticipated intentions of using an EPR framework so that the framework can be developed to truly meet these aims (i.e. is it to secure financial resources for material diversion, ensure that waste is properly dealt with

at its end of life, improve product design, or a combination of these among other intentions).

- We would like to see the EPR framework encourage mechanisms to shift consumption patterns to ones that are more sustainable in addition to addressing production.

Clarify the Concept of Diversion

CIELAP is pleased that the Minister's Report emphasizes the importance of clarifying the concept of diversion and we strongly encourage that a new waste diversion framework should continue to prohibit programs from promoting the burning, landfilling or land application of designated material.

- We strongly support that burning waste should not count as diversion.
- The Ontario government should proceed with caution if it intends to support the use of incineration, and should only consider its use in Ontario for truly residual waste after a strong and effective waste diversion program has been established in the province, and relevant technologies have been clearly shown to be safe. For more information on CIELAP's perspective on this issue, please see our 2007 report, *Ontario's Waste Management Challenge – Is Incineration an Option?*, available at www.cielap.org.

Requiring More Diversion: A Long-Term Schedule

CIELAP is pleased that the Ministry has proposed a long-term schedule to provide greater certainty of what producer requirements are to be put into place. This will allow affected parties to plan appropriately and to make needed investments in reuse and recycling infrastructure. We are also pleased that the Ministry is considering the use of other supporting tools including disposal bans and levies.

- CIELAP generally supports the report's proposed long-term waste diversion schedule and we are glad to see key materials included in this list. We are pleased that these programs will include materials sold into both the IC&I and residential sectors. We would, however, encourage that the government strive to put in place a program for branded organics sooner than the proposed five-year timeframe.
- While other organic materials will not easily fit into an EPR framework we strongly ask that the province put measures in place to develop diversion programs for organics. This could involve requiring major organics producers to pay for their portion of the organics materials put on the market or using levies or other revenue streams to support diversion of this material stream. As organics make up such a large component of the waste stream, successful waste diversion programmes in other jurisdictions have tended to include a strong organic materials component. Diversion of these materials cannot be ignored simply because they do not fit into an EPR framework.
- We also anticipate that a broader master plan or framework, similar to that developed for Nova Scotia and other jurisdictions, would benefit Ontario to provide direction on waste management. Such a plan would include a vision, priorities, targets, timelines, and a framework for monitoring. An integrated waste management strategy that contemplates

environmental, economic and social outcomes, to be revised every few years, would also be of great value in advancing a broader sustainability outcome.

- We are pleased that levies are being proposed for the waste diversion framework as these will help to narrow the gap between the cost of diversion and disposal and shift behaviour toward greater diversion. As proposed by the government, these revenues will increase the province's capacity to reduce waste, increase diversion, strengthen a green economy, and drive innovation. These funds could be used in key areas such as organics diversion and supporting the development of reuse and recycling markets and infrastructure. Nova Scotia's RRFB and its role in providing financial support for innovation and the development of programs to support waste diversion may provide a model for how these revenues can be used.
- It is important that the levy be high enough so as to make diversion financially competitive; however, consideration must be given to mitigating potential negative consequences such as illegal dumping.
- We also support disposal bans to drive diversion. Disposal bans should not be conditional on whether a viable alternative to disposal exists or on whether sufficient processing infrastructure is in place. Bans will help drive the development of alternatives and they will provide greater certainty to promote investment in processing infrastructure.
- We encourage the province to implement its proposal that producers submit a bond as a security when they submit their waste diversion plans.

Effective Oversight

We are pleased that the Minister's Report has proposed clearly delineating the roles of the Minister, Waste Diversion Ontario, and producers and we support the division of responsibilities that has been proposed.

- We agree that the Ministry should maintain overall responsibility for the province's policy framework. We support that the WDO have a strong administrative, oversight and compliance role and it should also regularly monitor and report to the government. WDO and the Ministry will need to be adequately resourced to fulfil their roles. The WDO will also require strong direction and clarity about its roles and responsibilities, commitment to success from the government, and the capacity and authority to penalize and perhaps provide incentives to producers for their performance.
- The selection of the WDO Board of Directors is to be made by the government. This process must be publicly transparent and accountable and not subject to political whim.
- In the past it has been the case that stakeholders have bypassed the WDO to lobby the government directly, leading to hastily made political decisions that have not been in the long-term interest of strong waste management. The new framework should reduce opportunity for political interference.
- We submit that the Ministry should regularly evaluate programs for each of their environmental, economic and social consequences.

- We encourage strong support for the involvement of community groups, including greater education about the revised legislation and resources to participate in advancing waste diversion in the province.
- We also ask that the new waste diversion framework be subject to a 5-year review.

Thank you for the opportunity to comment on the Minister's Report. CIELAP is pleased with the leadership the government has shown in advancing the development of a strong waste management framework for the province. We look forward to continuing to work with the Ministry as the new regime is put into place. Please contact us should if you wish to discuss any of these comments further.

Yours sincerely,



Maureen Carter-Whitney
Research Director



Carolyn Webb
Programmes Manager

Cc: Hon. John Gerretsen, Minister of the Environment
Gord Miller, Environmental Commissioner of Ontario