

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

STANDING COMMITTEE ON PUBLIC ACCOUNTS

NON-HAZARDOUS WASTE DISPOSAL AND DIVERSION

(Section 3.09, 2010 Annual Report of the Auditor General of Ontario)

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The Honourable Steve Peters, MPP
Speaker of the Legislative Assembly

Sir,

Your Standing Committee on Public Accounts has the honour to present its Report and commends it to the House.

Norman W. Sterling, MPP
Chair

Queen's Park
May 2011



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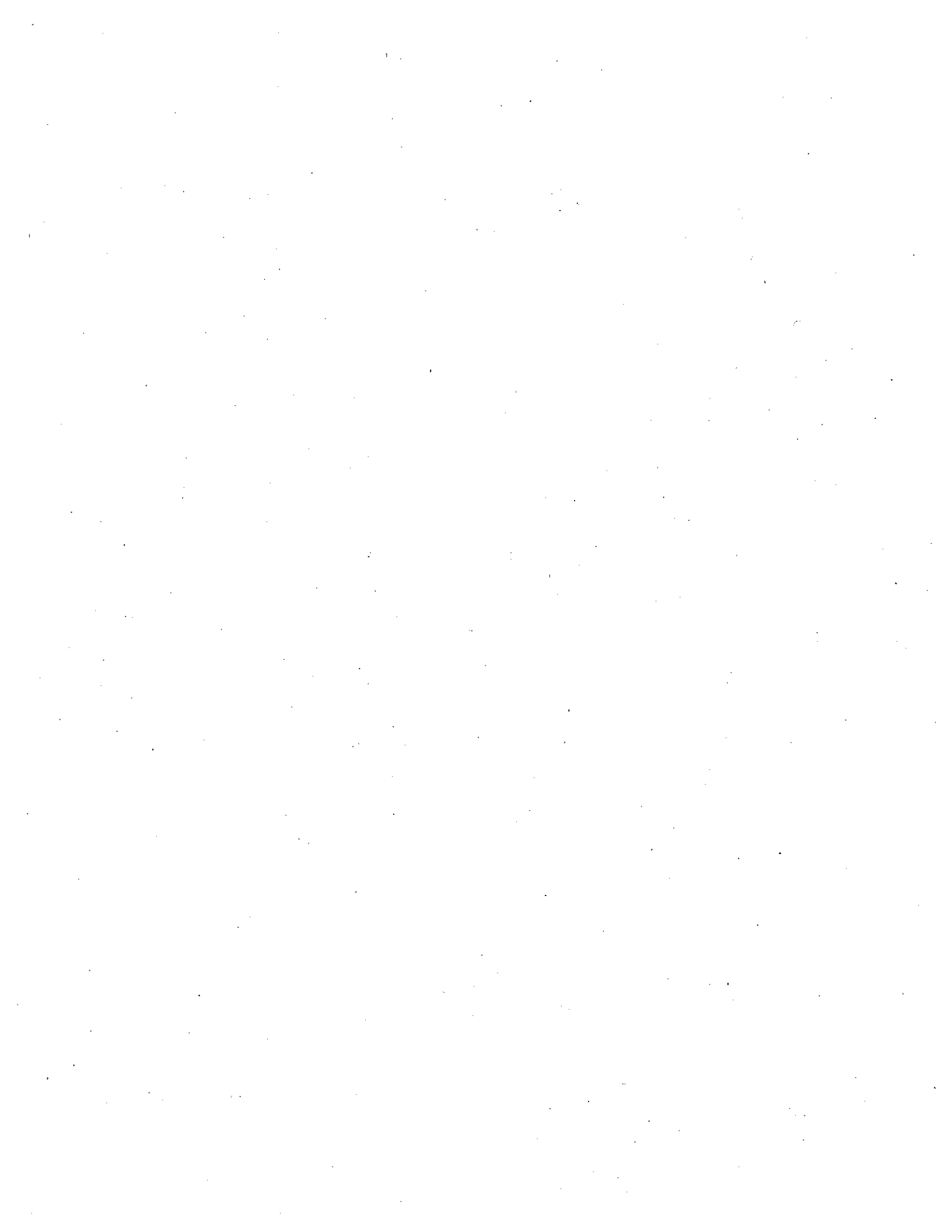
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PREAMBLE

In 2004 the government of Ontario set a goal to divert 60% of Ontario's waste from landfills by the end of 2008. According to the Auditor General of Ontario (Auditor), the combined residential, and industrial, commercial and institutional (IC&I) sector diversion rate was about 24%, based on the latest available information at the time of his audit. The overall diversion rate for residential waste was about 40% and for IC&I sector waste, about 12%. The Auditor said that many of the issues identified by the government in 2004 as key to achieving its diversion goal have yet to be successfully addressed.

In February 2011 the Standing Committee on Public Accounts held public hearings on the Auditor's report on Non-hazardous Waste Disposal and Diversion (s. 3.09 of the Auditor's *2010 Annual Report*). Senior officials from the Ministry of the Environment (Ministry) and Waste Diversion Ontario (WDO) participated in the hearings. (For a transcript of the Committee proceedings please see Committee *Hansard*, February 23, 2011.)

The Committee endorses the Auditor's findings and recommendations and in this report presents the Committee's findings, views, and recommendations. The Committee requests that the Ministry and Waste Diversion Ontario provide the Committee Clerk with written responses to the recommendations within 120 calendar days of the tabling of the report with the Speaker of the Legislative Assembly, unless otherwise specified in a recommendation.

Acknowledgments

The Standing Committee on Public Accounts extends its appreciation to officials from the Ministry of the Environment and Waste Diversion Ontario for their attendance at the hearings. The Committee also acknowledges the assistance provided during the hearings and report writing deliberations by the Office of the Auditor General, the Clerk of the Committee, and staff in the Legislative Research Service.

OVERVIEW

Objective of the Auditor's Audit

The objective of the Auditor's audit was to assess whether the Ministry has adequate procedures in place

- to encourage the sound management of non-hazardous waste, including compliance with related legislation, regulations and policies; and
- to reliably measure and report on its effectiveness in this regard.

The Auditor's staff interviewed staff and reviewed files at the Ministry's head and district offices and met with staff at WDO. A survey was sent to Ontario

municipalities with populations greater than 15,000 on residential waste challenges and the response rate was about 60%. The Auditor's staff met with officials from environment ministries in British Columbia and Nova Scotia, two provinces that have a much higher overall non-hazardous waste diversion rate than Ontario.

Background

Non-hazardous waste includes non-recyclable and recyclable materials generated by households, and businesses and organizations in the IC&I sector. The IC&I sector generates about 60% of this waste; households generate 40%. Options for disposal of it are landfills (two-thirds goes to Ontario landfills and most of the rest, to U.S. landfills) or other means such as incineration (about 1%). Options for diversion are reducing, reusing or recycling waste.

Municipal governments manage most residential waste; the IC&I sector and most multi-unit residential buildings manage waste they produce, often using private-sector companies. The Ontario government, primarily through the Ministry, sets standards for the management of non-hazardous waste through legislation, such as the *Environmental Protection Act* (EPA) and the *Waste Diversion Act, 2002* (WDA) and regulations.

Waste Diversion Ontario (WDO) is an arms length organization that is funded almost entirely by industry and develops, implements and operates waste diversion programs for certain wastes, as designated by the Minister of the Environment, and monitors the programs. It does this in conjunction with Industry Funding Organizations (IFOs) comprised of industry "stewards." These stewards partially or entirely fund diversion programs for designated wastes. For example, the total net cost of the blue box program is equally shared between municipalities and the stewards whose products generate the waste.

According to the Ministry, Ontarians currently generate about 12 million tonnes of waste every year; nearly 3 million tonnes of it is diverted from landfills annually. In 2007, Ontario's existing waste diversion programs resulted in 2.2 million tonnes of avoided greenhouse gas emissions. The Ministry estimates environmental benefits totaling \$971 million and that diversion creates seven jobs for every 1,000 tonnes of waste recycled. It said that diversion is helping transform Ontario into a more sustainable economy, based on green technologies.

ISSUES RAISED IN THE AUDIT AND BEFORE THE COMMITTEE

Ontario's Waste Diversion Goal

Overview

The Auditor noted that the government's 2004 document titled "Ontario's 60% Waste Diversion Goal: A Discussion Paper," listed many of the issues that would need to be considered to meet the 60% goal. However, the Auditor noted many of these issues had not yet been resolved, such as building sustainable markets for

recyclable materials, more effective enforcement of regulations, and the need for a province-wide waste diversion strategy. The Committee asked when the Ministry would reach that goal. The Ministry replied that it could not give a date for achieving it.

The Ministry said that it implements the policies, programs, legislation and regulations that the government puts in place to support waste management. Ontario's waste policy involves a mix of both regulatory and non-regulatory tools which need to be continuously examined for effectiveness. The Ministry relies on many partners and shares responsibility for waste management with Ontario's municipalities, industry, producers, businesses, the waste management sector, non-government organizations such as the Recycling Council of Ontario, as well as individual Ontarians. It said that awareness around the importance of dealing with waste is growing and that businesses are now looking much more closely at waste reduction as part of their balance sheets.

The Ministry's programs have their origins in the *Waste Diversion Act* passed in 2002. In addition, there is a series of four regulations that cover the IC&I sector and municipal diversion under the *Environmental Protection Act*. The Ministry said that its job is to implement the legislation and regulations. Within that framework, it has been working to increase diversion. (See Review of the *Waste Diversion Act* section below for further information.)

Ministry initiatives (for example, voluntary programs) have included working

- collaboratively with the grocery sector on the reduction of plastic bags;
- with the Recycling Council of Ontario in an expanded diversion program called Take Back the Light (for fluorescent lamp recycling); and
- in a partnership with the LCBO and the Ministry of Finance in a program called Bag it Back (for returning eligible beverage alcohol containers for a full deposit refund).

The Ministry has provided the Recycling Council of Ontario with funding for setting up a voluntary certification program for the IC&I sector. The Council is targeting not just big business or big facilities but small and medium enterprises. This program focuses on such issues as education on how waste recycling can be done effectively and how it can improve a business's bottom line.

According to the Ministry, one-third of the waste being sent to landfills is packaging. It said that throwaway single-use packages are ubiquitous, and that the need to provide convenient methods of collection adds to the challenge of waste management. The Ministry said that the Canadian Council of Ministers of the Environment has agreed to a national sustainable packaging strategy. The Ministry championed the development of this Canada-wide strategy. It noted that business needs a common set of standards and a country-wide framework in order to reduce packaging in a cost-effective way.

Residential Sector Waste

Residential Diversion Rate

The Ministry reiterated the Auditor's recognition that the most recent data available from WDO at the time of the hearings showed continued improvement in Ontario's overall residential waste diversion rate with the residential diversion rate increasing from 38% in 2006 to 44% in 2009. About five million households in Ontario have access to blue box recycling, and more than 870,000 tonnes of waste are diverted annually. The Auditor noted that the Ministry had reported that it had exceeded its target of a 60% diversion rate for the residential blue box program by 2008, with an actual 66% rate achieved for the program in 2008. That year, residential blue box waste constituted approximately 11% of the total waste generated in Ontario.

Variation in Municipalities' Waste Diversion Rates

The Auditor (citing data available from the survey at the time of his audit) noted that about one-quarter of municipal survey respondents reported a diversion rate of between 20%-40%; one half, 40%-60%; and, the remaining quarter, over 60%. Rate variations were influenced by a number of factors including the frequency and quantity of waste collection in municipalities and whether a municipality can market its blue box and organic recyclable waste. The Auditor noted that larger municipalities with significant volumes of recyclable materials and organic waste are more successful in securing markets and can therefore encourage greater recycling.

The Ministry confirmed that large municipalities do have certain advantages in diverting waste but also said that blue box funding requirements under the WDA have provided both smaller and larger municipalities with access to greater resources for delivering recycling programs. Waste diversion programs administered by IFOs have facilitated the ability of smaller municipalities to successfully offer collection depots or diversion events to their citizens.

Industrial, Commercial, and Institutional (IC&I) Sector Waste

The Auditor noted that the IC&I sector predominantly relies on private-sector waste management companies to dispose and divert its waste and that the Ministry has no information on the amounts for each. He added, citing Statistics Canada information, that the IC&I sector's waste diversion rate was only 12% in 2006, a decline from 19% in 2002.

According to the Auditor, the Ontario Waste Management Association (the association that represents the private sector waste management companies) said that barriers that contribute to low IC&I sector recycling rates include the fact that landfill disposal is cheaper than recycling, and that regulations under the EPA only apply to large generators and are difficult to enforce. Small and medium sized businesses which generate approximately 60% of the IC&I waste in Ontario are not covered by the current regulations. The Auditor noted various initiatives

considered by the government for the IC&I sector to achieve the province's 60% diversion goal, but said that it had not acted on any.

His recommendations included one stating that, in order to increase waste diversion in the IC&I sector, the Ministry should gather information on the amount and type of waste generated by small and medium-sized businesses and organizations that are not regulated under the EPA, and consider what actions could be taken to reduce the amount of waste they send to landfills. He also recommended that the Ministry require those large entities that are regulated under the EPA to publicly report their waste diversion rates.

The Ministry said that while residential waste diversion has been steadily increasing, similar progress has not been made in the IC&I sector. Data from 2008 indicate that the diversion rate of all non-residential waste, including waste from institutions, commercial and industrial establishments, and the construction and demolition sector, is 12.7%. The Ministry said that waste diversion in business is largely driven by the bottom line (with some large corporations viewing it as a corporate social responsibility or sustainability issue). It added that over the last decade there have been more landfill developments outside Ontario and that they offer low rates.

Committee Recommendations

The Standing Committee on Public Accounts recommends that:

- 1. The Ministry of the Environment shall report back to the Standing Committee on Public Accounts on when the Ministry will reach its goal for 60% diversion of Ontario's waste from landfills and if any additional tools are required for the Ministry to achieve this goal.**
- 2. The Ministry of the Environment shall report back to the Standing Committee on Public Accounts on the key aspects of the Ministry's strategy to increase the rate of waste diversion in the industrial, commercial and institutional (IC&I) sector. The Ministry should specify a diversion target and timeline for the IC&I sector and how those businesses and organizations that are not regulated under the *Environmental Protection Act* will be motivated to improve their diversion rates and be monitored.**

Compliance in the IC&I Sector

The Auditor noted that the Ministry lacks information on the actual number of companies or organizations in IC&I segments covered by the EPA regulations and does not track which segments generate the largest amounts of waste in order that these may be prioritized for inspection. He also said that ministry inspections in 2009/10 revealed significant cases of non-compliance with EPA regulations in many segments, and that a recent Ontario Chamber of Commerce survey of a sample of larger IC&I entities reported that 45% of the respondents were not even aware of the regulations under the EPA related to waste diversion.

The Auditor recommended that the Ministry gather data on the number of businesses subject to waste diversion regulations and on which are the largest waste generators to assist in Ministry inspection activities and policy decisions and to ensure that businesses are aware of the requirements of regulations.

The Ministry said that the framework that governs the IC&I sector requires the sector to develop a waste audit and a waste reduction plan, to source-separate (this is a facility requirement), and to make best efforts. In order to increase diversion in the IC&I sector, the Ministry has been working with the regulated community to improve its performance. Ministry efforts have included enforcement as well as outreach and education, working with corporate offices to ensure they understand and act on their obligations. The Ministry said there has been a steady improvement in compliance and diversion under this approach, adding later that this improvement was not yet captured in Statistics Canada data.

The Ministry has a team of environmental officers dedicated to increasing compliance with IC&I recycling regulations. These officers work closely with businesses, schools, hospitals and other institutions to increase waste diversion.

The Ministry team initially focused on the construction and demolition segment. It said there is a market for some of this waste and, therefore, a business opportunity if waste is viewed as a resource rather than something requiring disposal. The tool kit developed by the Ministry for the segment includes best practices to promote waste reduction and diversion, as well as a waste audit and waste reduction work plan to assist individual sites in providing effective ways of diverting waste that may be generated at that site. The Ministry worked with the segment to ensure that the toolkit was relevant for it.

It is now expanding that tool kit for use by others, such as schools and hospitals. The Ministry said that the Ontario Hospital Association (OHA) has set up a green hospital champion fund, where hospitals are offered an incentive to conduct audits at their individual facilities. The guides were rolled out in September 2010 and hospitals are expected to have completed their waste audits and waste reduction work plans by June 2011. The focus is on non-hazardous waste such as paper, office supplies and organics that is generated in any facility.

The Ministry added that it is working, at a corporate head office level, with all of the IC&I segments on compliance and on source separation. Corporate head offices are developing corporate waste diversion plans which extend to their facilities including, in many cases, non-regulated facilities. The Ministry cited examples of progress and good corporate leadership including the following:

- Woodbine Entertainment Group has achieved a 93% diversion rate and is expanding its organics and source separation programs under an environmental management program that it has deemed on track to achieve zero waste to landfill.

- Honda Canada's Alliston Plant is working to achieve 100% recycling, which would make it Honda's first facility in North America to achieve this standard.

The Ministry has worked with "big box store" or retail complex corporate head offices and indicated that programs for these corporations will exceed compliance; initiatives will be applicable corporation-wide, to smaller facilities in smaller communities. In its work with segments such as construction and demolition, hotels and motels, office buildings, retail shopping complexes and retail shopping establishments, restaurants and multi-unit residential complexes the Ministry found, based on information from return inspections, increased compliance in all but one case. The Ministry added that in upcoming inspection plans it will return to individual facilities that it first approached a year or two ago to follow up. The improved statistics cited earlier were sector wide. The Ministry will now be focusing on individual facilities.

Greening Government Operations

The Ministry of the Environment has been working in partnership with the Ministry of Government Services to help green government operations. The Ministry of the Environment has worked voluntarily to reduce its environmental footprint, including improving its waste diversion record at corporate head offices. The Ministry is increasingly being asked to help green others' operations. Some of its officials were, for example, seconded to assist with implementation of the G20 meeting in Toronto to provide advice on this matter.

Committee Recommendation

The Standing Committee on Public Accounts recommends that:

- 3. The Ministry of the Environment shall report back to the Standing Committee on Public Accounts on its plans to obtain adequate information on the number of businesses to which the waste diversion regulations apply and on which of these are the largest waste generators.**

Scope of Inspections in the IC&I Sector

The Auditor said that inspections have not been particularly effective in increasing the sector's waste diversion rate, largely because the Ministry's inspections of IC&I businesses and organizations primarily focus on whether the required Waste Audit and Waste Reduction Work Plan have been prepared, as opposed, for example, to checking that the information in these documents reflects actual processes or the extent to which businesses and organizations have actually acted on the plans. The Auditor added that half the inspection files reviewed lacked documentation that inspectors reviewed the Waste Audit or Waste Reduction Work Plan.

Further inspections to ensure that IC&I businesses and organizations have programs to source-separate waste for reuse or recycling do not generally address how effective a facility's source-separation program is and whether source-separated waste is recycled and not simply disposed in a landfill after the waste management company picks up the source separated waste. A number of files reviewed by the Auditor contained no evidence the inspector checked that the waste management company was operating under a valid certificate of approval. The Auditor recommended that the Ministry increase the scope of its inspections to include an assessment of the extent to which businesses have implemented their Waste Audits and Waste Reduction Work Plans and whether there has been any increase in the amount of waste diverted.

The Ministry said that as a result of the Auditor's review and recommendations it is examining how it conducts waste inspections of non-hazardous wastes. It said that it was rolling out protocols for field inspectors in February 2011 and that training was being conducted in March 2011. The protocols include the need for inspectors to conduct a review of plans and follow up on their inspections. The Ministry said that it has also improved its record-keeping and its internal databases.

Committee Recommendation

The Standing Committee on Public Accounts recommends that:

4. The Ministry of the Environment shall report back to the Standing Committee on Public Accounts on the new protocols that it introduced for field inspectors in 2011 noting

- **whether the inspectors follow a risk-based approach for their inspections;**
- **whether they target the largest waste generators for inspection;**
- **how the Ministry tracks whether businesses have implemented their Waste Audits and Waste Reduction Work Plans; and**
- **how the Ministry determines whether businesses and organizations are source-separating waste and the source-separated waste is being recycled.**

Organic Waste

The Auditor said that residential and IC&I organic waste represents almost a third of the total non-hazardous waste generated in Ontario, but that there is no province-wide organic waste diversion program or target. He noted that about 15% of Ontario's municipalities collect organic waste for diversion from about 40% of the province's households. The Auditor recommended that the Ministry work with municipalities, businesses and organizations, and private-sector waste management companies to phase in a province-wide organic waste diversion program for both the residential and IC&I sectors. He also recommended that the

Ministry work in conjunction with these stakeholders to ensure that there is sufficient capacity to process the additional organic waste and that a sustainable market exists for the processed waste.

The Ministry cited the following progress in organics diversion in recent years:

- Many municipalities have successfully implemented green bin and other organic waste diversion programs.
- Approximately 2.2 million households in Ontario now have access to curbside collection programs through green bins or other collection methods.
- According to Waste Diversion Ontario organics diversion has increased by 35% from 2006 to 2009, and municipalities continue to expand their organics diversion efforts.

The Ministry also noted challenges to increasing organic waste diversion. Capacity at composting facilities has been a significant barrier. There are 45 municipal and private composting facilities in Ontario. It said that it needs to increase that number to boost waste diversion rates.

The Ministry has been consulting with municipalities, businesses and other stakeholders and is developing new guidelines that will increase the opportunity for investment in organics diversion facilities by both municipalities and the private sector. The guidelines will facilitate investment by the private sector in expansions of operations of composting facilities.

The Ministry said the existing guideline for composting facilities was drafted in 1991-92 and is inadequate for modern facilities which compost a wide range of materials using new technology. The Ministry's new guidelines will provide better direction to the Ministry on approvals and will guide operators and municipalities on such issues as operation sites and collection systems.

The Ministry also consulted on a proposal to update the standards for compost output from these facilities. Currently it has one standard that does not take into account the value that different grades of compost may have in the marketplace. The Ministry has proposed a series of gradations similar to those of the Canadian Council of Ministers of the Environment.

Committee Recommendation

The Standing Committee on Public Accounts recommends that:

5. The Ministry of the Environment shall report back to the Standing Committee on Public Accounts on how the Ministry's new guidelines will increase organics diversion. The Ministry should specify

- **how the guidelines will help increase capacity to process organic waste in Ontario;**

- **how organic waste processing capacity will be monitored and measured; and**
- **whether the guidelines will include an organics waste diversion target.**

Review of the Waste Diversion Act

In October 2008 the Ministry began a review of the *Waste Diversion Act*. According to the Auditor, the Ministry had prepared a report on its WDA review that proposed significant changes to Ontario's waste diversion framework, including a proposal for extended producer responsibility (EPR), which would make stewards fully responsible for waste diversion in both the residential and IC&I sectors. To further increase waste diversion in the residential sector, the Auditor recommended that the Ministry work with municipalities, industry stewards, and other stakeholders to increase the availability of reliable and sustainable markets for recyclable and organic waste, increase capacity within the province to process both, and review the current funding formula for the blue box program to ensure that it achieves its objective of municipalities and stewards equally sharing costs.

The Committee asked whether the Ministry would require new legislation and new regulation to reach its 60% diversion goal. The Ministry replied that it did not, at the time of the hearings, have clear enough information and analysis to say with certainty that it would require this.

The Ministry said that the WDA review provided it with the opportunity to examine Ontario's waste diversion framework to see whether changes to the WDA could improve waste diversion in both the residential and non-residential sectors. As part of the review the Ministry held a series of public consultations and released a discussion paper outlining its review and approach to improving waste diversion. It described the review and consultations as extensive and as providing significant feedback and advice. Some ideas included proposed regulatory or legislative changes. The Ministry is analyzing and evaluating suggestions made and is also reviewing successful programs in other jurisdictions to determine whether or not those programs could be imported into Ontario.

The Ministry added that it conducted a special review of the Municipal Hazardous or Special Waste (MHSW) diversion program and has asked for changes in governance under the WDA. For example, it wants IFOs set up under the WDA to include a consumer perspective in programs and policies.

The Ministry has made improvements to the recycling regulatory framework including

- exempting certain recyclable materials from waste approvals;
- streamlining the approvals process for waste-to-energy pilot and demonstration projects;

- exempting from approvals the use of certain waste biomass to make ethanol and bio-diesel for use as a renewable fuel alternative to fossil fuels; and
- exempting from approvals the use of wood waste as fuel.

Committee Recommendation

The Standing Committee on Public Accounts recommends that:

6. The Ministry of the Environment shall report back to the Standing Committee on Public Accounts the outcome of the Ministry's public consultations and review of the *Waste Diversion Act, 2002*. The Ministry should specify

- **what regulatory or legislative changes were proposed during the consultations and review;**
- **whether the Ministry believes any streamlining of responsibilities for waste diversion are possible; and**
- **if so, what type of legislation or regulation would be required.**

Waste Diversion Ontario

Waste Diversion Ontario, an arms length agency governed by a 13-member Board of Directors, is responsible for the following four diversion programs: the municipal blue box program and the Municipal Hazardous or Special Waste (MHSW) Program under the Stewardship Ontario IFO; the Waste Electrical and Electronic Equipment (WEEE) Program, under the Ontario Electronic Stewardship IFO; and the Used Tires Program, under the Ontario Tire Stewardship IFO.

Funding of Diversion Activities

The Auditor noted that fees collected from industry stewards are meant to fund half the total costs incurred by municipalities in operating their blue box programs. He said that about 80% of the municipalities with a blue box program received less than 50% of their program's net costs. Some municipalities only received 25%. Over half of the municipalities that responded to the Auditor's survey indicated that the funding they received under the current formula to offset some of their costs for managing the blue box program was not sufficient. The Auditor said that about half the funds collected from stewards are set aside and provided only to those municipalities able to demonstrate efficiencies in their blue box program operations.

According to the Ministry, the blue box funding split between municipalities and waste producers is administered by Stewardship Ontario. A committee comprising producers and municipalities draws up the funding formula and administers the allocation to municipalities. The Ministry said that, according to its most recent statistics at the time of the hearings, industry or producers are funding about \$92

million to \$93 million worth of recycling programs in municipalities. Monitoring and auditing is done through the financial reporting of Stewardship Ontario.

According to the Auditor, collectively, these designated wastes constitute about 15% of Ontario's total waste stream. He said bringing these programs under WDO has facilitated the establishment of province-wide diversion targets for these waste streams and shifted responsibility for diversion costs onto stewards whose products generate the waste. The IFOs also fund almost all of WDO's operations from proceeds collected from stewards. For example, the total net cost of the blue box program is equally shared between municipalities and the stewards whose products generate the waste.

The Auditor recommended that the Ministry review its operating agreement with WDO to ensure that it contains sufficient accountability provisions to require WDO to provide an action plan when waste diversion targets are not being met and ensure that waste diversion information submitted by municipalities and IFOs is objectively assessed.

The Ministry said that the *Waste Diversion Act, 2002* which governs WDO and the IFOS requires them to be not-for-profit. The Ministry has asked that WDO refocus its board to make sure that members reflect the skills necessary to govern waste diversion programs and to avoid potential conflicts of interest. (See also "Review of the Waste Diversion Act" above.)

It said that new programs under WDO such as WEEE, MHSW and the Used Tires Program are all in their infancy and that it takes time to build momentum and perfect programs to get people participating. An independent third party audit of all programs under WDO will be completed by the end of the year; the information will be made public.

The Ministry also said that diversion programs under WDO take accessibility issues into consideration, particularly those relevant for rural or more remote parts of the province, and develop related targets and goals. The stewardship organizations such as the Ontario Electronics Stewardship, the Ontario Tire Stewardship, and Stewardship Ontario fund municipal collection sites and collection events. They also work with retailers to establish drop-offs and provide incentives for this.

Program Targets

The Committee asked whether targets set for WDO diversion programs were actually more projections than targets. The Ministry agreed that they were, specifying that the targets for the individual programs, such as WEEE, are not anchored in the Ministry's overall 60% waste diversion goal. The program targets are based on the expertise and due diligence of the industry organization that developed the program.

In the case of WEEE, the due diligence comprises consultations with stakeholders, such as the companies that make and sell TVs, to determine the

number of units that will be sold into the marketplace and how long they will be used. An estimate is made, for example, of the cost of handling and dismantling a TV and removing mercury switches or other contaminants inside. Information such as this is used to determine the fee (see “Waste Diversion Program fees” section below for further information). Better information becomes available over time.

Used Tires Program

At the time of the hearings the Ministry said that results were not fully tallied for first year diversion under the Used Tires Program, but that it believed that 130,000 tonnes of material had been diverted from landfills and that the program would meet its first-year target of diverting 70% of the 12 million waste tires generated in Ontario each year. (The Auditor noted that the program’s diversion target for on-road tires was 91% by 2009/10 and for off-the-road tires was 14.25% by 2009/10.¹)

The Committee wished to know how program objectives are set. The Ministry replied that IFOs are responsible for this. In the case of the Used Tires Program the Ministry said that targets are set as a percentage of tires being sold. The Ministry said that it also works closely with the Ontario Tire Stewardship to prioritize the cleanup up of stockpiles of tires at various sites.

Program Implementation and Performance Monitoring

The Auditor noted that when stewards pass costs onto retailers and then retailers pass these costs onto consumers, neither the Ministry nor WDO monitors whether the costs passed onto consumers are the same as the costs originally charged by the stewards. The Auditor found, for example, that instead of charging a fee of \$7.80 for a desktop computer, one retailer charged \$13.44 (an older, expired, fee); another did not show the fee as a separate charge which meant the consumer could not determine the amount paid. The Auditor recommended that where retailers are charging a specific fee, the Ministry should also reconsider whether they should be required to disclose the amount of the fee on the customer receipt.

Waste Diversion Program fees (“eco fees”)

According to the Ministry the particular program fee, as noted earlier, is set by the IFO that is responsible for managing the entire diversion program and is based on forecasts, sales, costs, etc. The fee is levied on the brand owners and the stewards. It is then a business choice whether any of the fee is recovered through the supply chain.

The Ministry said that it has established and deployed a special team to look into incorrect or misleading fees that retailers may charge and attribute to waste diversion programs. The Ministry reviews and, as appropriate, looks into consumer concerns reported to the consumer protection hotline that is run by the Ministry of Consumer Services.

¹ Ontario, Office of the Auditor General, *2010 Annual Report* (Toronto: The Office, 2010), p. 230.

The Ontario Tire Stewardship Example

The Ministry used the Ontario Tire Stewardship (the IFO for used tires) and the Used Tires Program to illustrate the program fee process. It said that the Ontario Tire Stewardship's board of directors is made up of the stewards of tires – tire producers or the first importers of tires – and that the Ontario Tire Stewardship board and the organization's staff developed the used tires diversion program under the auspices of the *Waste Diversion Act*.

The program developers estimated what was necessary to collect and properly manage and divert tires away from a landfill. They also estimated the cost of delivering the program, using a formula based on a producer's or a steward's portion of the sales into the province. Cost was partitioned amongst the producers based on the cost of diversion. Some tires – very large off-road heavy construction tires – are a lot more expensive to manage at end-of-life than others, such as a tire on a compact car.

The fee for a steward of regular passenger tires is approximately \$5.87 per tire. Tire stewards such as manufacturers like Bridgestone or Pirelli pay that \$5.87 into the Ontario Tire Stewardship program. No fees are collected by the Ministry of Finance or the Ministry of the Environment. Individual stewards then decide whether or not to pass the cost on to their wholesale or retail chain (and retailers in turn would decide whether or not to pass the cost onto customers).

The Ministry added that in addition to using the monies collected from producers for running the diversion programs, many of the diversion programs also use fees to undertake market research and to provide incentives for the development of innovative recycling methodologies. The person who collects the tires; the company that takes the tire and cuts it into small pieces; and those who use the components to make a new product all receive a portion of the fee. As discussed earlier the goal for passenger tires is to recycle nearly all of them, with almost no tires deposited in landfills, illegal tire sites, or illegally dumped.

Committee Recommendations

The Standing Committee on Public Accounts recommends that:

7. Waste Diversion Ontario (WDO) shall report back to the Standing Committee on Public Accounts on how WDO monitors progress by its diversion programs in meeting their diversion targets and what steps WDO would take to address any setbacks in meeting these targets. WDO should specify the measures in place to objectively assess waste diversion information submitted by municipalities and the Industry Funding Organizations (IFOs).

8. The Ministry of the Environment shall report back to the Standing Committee on Public Accounts on how the Ministry will improve its accountability oversight of Waste Diversion Ontario (WDO), especially when waste diversion targets are not being met. The

Ministry should also comment on whether it will consider having the Parliamentary Assistant to the Minister of the Environment or a senior representative, such as a Ministry Assistant Deputy Minister, sit on WDO's board of directors.

Waste Disposal

The Auditor noted that at the time of the audit, waste that was generated in Ontario was disposed in one of approximately 1,100 active landfills in the province or in landfills in the states of Michigan and New York. He said that larger municipalities were to stop cross-border shipments of municipally managed waste (residential waste exported by municipalities, not IC&I waste exported by waste management companies) to Michigan by the end of 2010.

The Ministry explained that it worked with all of the large municipalities who were shipping waste to Michigan to develop a plan that had been executed over the past three to four years to stop shipments of waste to Michigan, and that it was successful in ending those shipments by its goal date of December 2010.

Landfill Capacity in the Province

The Auditor said that according to the Ministry's Landfill Inventory Management System's estimate, in 2008 the remaining capacity in the 32 largest landfills was expected to last approximately 25 years at the then-current fill rate. He added that capacity will be exhausted sooner given the end of Michigan waste exports as specified above. The Auditor recommended that the Ministry should take a leadership role in working with municipalities and other stakeholders to research and adopt alternative waste disposal technologies such as the thermal treatment facilities that are in use in other jurisdictions.

The Ministry said that subsequent to completion of the Auditor's report it had approved the environmental assessment for a York/Durham energy-from-waste facility, that it is continuing to receive applications, and that it is working with other parts of the sector to increase capacity for organic processing. The Ministry said that, when looking at availability in the province, it is necessary to look not just at landfills but also at the energy-from-waste sector, diversion and organics processing.

Monitoring of Waste Disposal Sites and Waste Management Systems

Reviewing Certificate-of-Approval Applications

The Auditor noted that the Ministry has no service delivery standard for the time to review a non-hazardous waste certificate application. Based on a review of a sample of files by the Auditor's staff for certificates issued in 2008 and 2009, the average length of time to issue a certificate from the date of the application was 10 months. By comparison, the Ministry's standard for reviewing certificates for hazardous waste facilities was 50 days. The Ministry said that it has recently successfully cleared a backlog of certificates of approval in the Ministry and is

modernizing its approvals system. It hopes to complete this modernization in two years. That in turn will enable the Ministry to process applications for approval of facilities in a far more timely fashion and help expedite the development of the infrastructure to support both organics diversion and other diversion activities.

Committee Recommendation

The Standing Committee on Public Accounts recommends that

9. Six months after completion of the modernization of its certificate of approvals system the Ministry of the Environment shall report back to the Standing Committee on Public Accounts on the average time that it takes under the new system to approve a certificate of approval application. The Ministry should also specify whether it has introduced a service delivery standard for the time to review an application.

CONSOLIDATED LIST OF RECOMMENDATIONS

The Standing Committee on Public Accounts recommends that:

1. The Ministry of the Environment shall report back to the Standing Committee on Public Accounts on when the Ministry will reach its goal for 60% diversion of Ontario's waste from landfills and if any additional tools are required for the Ministry to achieve this goal.
2. The Ministry of the Environment shall report back to the Standing Committee on Public Accounts on the key aspects of the Ministry's strategy to increase the rate of waste diversion in the industrial, commercial and institutional (IC&I) sector. The Ministry should specify a diversion target and timeline for the IC&I sector and how those businesses and organizations that are not regulated under the *Environmental Protection Act* will be motivated to improve their diversion rates and be monitored.
3. The Ministry of the Environment shall report back to the Standing Committee on Public Accounts on its plans to obtain adequate information on the number of businesses to which the waste diversion regulations apply and on which of these are the largest waste generators.
4. The Ministry of the Environment shall report back to the Standing Committee on Public Accounts on the new protocols that it introduced for field inspectors in 2011 noting
 - whether the inspectors follow a risk-based approach for their inspections;
 - whether they target the largest waste generators for inspection;
 - how the Ministry tracks whether businesses have implemented their Waste Audits and Waste Reduction Work Plans; and
 - how the Ministry determines whether businesses and organizations are source-separating waste and the source-separated waste is being recycled.
5. The Ministry of the Environment shall report back to the Standing Committee on Public Accounts on how the Ministry's new guidelines will increase organics diversion. The Ministry should specify
 - how the guidelines will help increase capacity to process organic waste in Ontario;
 - how organic waste processing capacity will be monitored and measured; and
 - whether the guidelines will include an organics waste diversion target.
6. The Ministry of the Environment shall report back to the Standing Committee on Public Accounts the outcome of the Ministry's public consultations and review of the *Waste Diversion Act, 2002*. The Ministry should specify

- what regulatory or legislative changes were proposed during the consultations and review;
- whether the Ministry believes any streamlining of responsibilities for waste diversion are possible; and
- if so, what type of legislation or regulation would be required.

7. Waste Diversion Ontario (WDO) shall report back to the Standing Committee on Public Accounts on how WDO monitors progress by its diversion programs in meeting their diversion targets and what steps WDO would take to address any setbacks in meeting these targets. WDO should specify the measures in place to objectively assess waste diversion information submitted by municipalities and the Industry Funding Organizations (IFOs).

8. The Ministry of the Environment shall report back to the Standing Committee on Public Accounts on how the Ministry will improve its accountability oversight of Waste Diversion Ontario (WDO), especially when waste diversion targets are not being met. The Ministry should also comment on whether it will consider having the Parliamentary Assistant to the Minister of the Environment or a senior representative, such as a Ministry Assistant Deputy Minister, sit on WDO's board of directors.

9. Six months after completion of the modernization of its certificate of approvals system the Ministry of the Environment shall report back to the Standing Committee on Public Accounts on the average time that it takes under the new system to approve a certificate of approval application. The Ministry should also specify whether it has introduced a service delivery standard for the time to review an application.

APPENDIX A
DISSENTING OPINION
OF THE
NEW DEMOCRATIC MEMBER OF THE COMMITTEE

Dissenting Opinion

**NON-HAZARDOUS WASTE DISPOSAL AND DIVERSION
AUDITOR GENERAL'S 2010 ANNUAL REPORT - s. 3.09***

On page 10 of the report the text reads:

The Ministry has made improvements to the recycling regulatory framework including

- exempting certain recyclable materials from waste approvals;
- streamlining the approvals process for waste-to-energy pilot and demonstration projects;

I don't accept that accelerating the approval of incinerator, waste-to-energy, projects is an improvement and believe that the wording of the report should read:

The Ministry has made changes to the recycling regulatory framework including...

Otherwise I accept the recommendations of the report.

Peter Tabuns
MPP
NDP Environment Critic