

Obstacles to Waste Diversion



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Key Obstacles: Overview

- **Funding**
- What is waste?
- Approvals
- Liability
- Zero tolerance



New funding realities

- Drummond Report
 - large, long term gov't deficits
 - **Full cost recovery, user pay**
- Auditor General
 - prevention and polluter pay
- Budget
 - MOE to shrink: \$536M to \$486M
- World wide economic challenges



Funding

- MOE Waste Policy #1 focus
 - per Greg Sones
- Persistent deficits in most MHSW
 - total \$3,572,960 to 2011
- MOE picked up the slack after Ecofee
- Now what?



MHSW - O.Reg. 11/12

- Amends O.Reg. 542/06 (WDA) as of 4/1/12
 - Does not apply to Blue Box
- New method to finance MHSW
- Stewardship Ontario (SO) must recover operating costs, plus past deficits
- No longer unit/volume - now steward share



MHSW - O.Reg. 11/12

- SO will invoice stewards based on actual operating costs starting in Q2 2012
- Same for deficit share
- SO to report quarterly (not annual)
- More detailed reviews of IFO's
 - e.g., budget & performance monitoring; incentive pricing programs
 - Stewards pay costs of increased oversight costs
 - SO estimates \$500K cost to implement Reg 11/12



MHSW Accountability

- WDO Board skills based
 - Instead of interest based
 - 5 members used to represent industries
- Stewards concerned
 - Re accountability to program funders & to WDO
 - Not clear how stewards can pass costs through supply chain - e.g., eco fee?



MHSW - MDT&PIP

- Municipal Depot Transportation and Processing Incentive Program
- KPMG analysis
- Big changes
 - municipalities no longer reimbursed for post-collection costs of transporting & processing MHSW materials
 - now, they select contractors to manage the materials
 - but must still operate collection depots



Who's on first?

- Municipalities now service providers, not customers, but
 - have jurisdiction for waste management
 - accountable for MHSW - the face of waste diversion to citizens
 - uncertain about service standards, sustainability of service



Who's the client?

- Will SO really take title from time of collection?
(in SO's Reporting Guide)
 - For how long?
- Do MHSW providers serve municipalities or SO?
 - Is SO the single client?
 - or the municipality?
- What happens with the next policy change?



Who wants to invest?

- Compensation to weigh and report? - takes extra time; service
- Mistrust & lack of transparency - 3d party needed to audit companies, materials, processes covered by incentive program
- Service providers leery, risk of rate decreases



Service providers

- Fees too low to deal with surprises
- Accountability mechanisms unclear
- Small or remote communities too costly
- Who wants the business? Few dominant players?



Confusion?

- What's “extended producer responsibility”?
- Industry has financial responsibility for diversion - but not clear operational control
- Conflicting views on roles & responsibilities - e.g., MOE, WDO, SO, IFOs, municipalities, service providers



Cost recovery to spread

- Hazardous waste fees going up: Budget
- Blue box & paper recycling
 - SO - recently conducted preliminary review of proposed changes to BB rules
- OES and OTS also to move to full cost recovery



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Is everything “waste”?

- Reg. 347:
- All industrial/ commercial residues, regardless of value
- Brick and cardboard
- Wood
 - Exemptions
 - eg biomass for biodiesel or ethanol, not biogas...



Is soil a waste?

- Reg. 153/04
 - If owner wants RSC
 - Only Table 1 soils can move freely
 - Table 2/3 soils to sites with mandatory Phase II
 - e.g. gas stations, dry cleaners
- Regulatory gap for non-soils
 - e.g. engineered fill, mine tailings
- Soil banks?
- Quarries



New draft guidance

- “Best practices”
- Soil / Fill Management Plans
- Public consultation
- QP
- No help with Reg. 153/04



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Approvals

- Key issues:
 - Delay
 - Cost
 - Unreasonable conditions



Will Approvals reform help?

- Registry option
 - for very low risk activities
 - popular and growing fast
- Now proposed
 - on farm anaerobic digestion
- Soon?
 - municipal recycling sites
 - depots?



ECA_s

- Environmental Compliance Approvals
- Multi-media, multi-site
- Slow, uncertain
- What terms and conditions?
 - e.g.
 - 1 OU?
 - 100% negative pressure at all times?
- Is compliance possible?



What will the ERT permit?

- Environmental Review Tribunal
 - Richmond Landfill case, 2012
- whenever there is scientific uncertainty, the precautionary principle calls on the Director to consider a potentially polluting activity to be “as hazardous as it could possibly be, and to place the onus of establishing the absence of environmental harm upon the source of the risk..”



Composting - Orgaworld case

- *Orgaworld Canada Ltd. v. Director, MOE* (2011, ERT)
- MOE feared odours if Orgaworld expanded its composting facility
 - to include pet faeces, diapers, body waste, organic waste in plastic bags
- Co. claimed it could meet “1 OU”
- Held: MOE must have reasonable grounds to believe company may create nuisance
 - Ordered MOE to amend the ECA to include the wastes
 - Co. must fully inform MOE before accepting new waste streams



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When composting goes bad

- Scott Environmental
- Convicted of selling compost laden with heavy metals
 - from municipal lagoon sludge
- Huge damages to compost recipients
- If insurer denies coverage
- Who will pay?



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- **Zero tolerance for nuisances**



Organic waste and odour

- Many good reasons to divert organic waste from landfill
 - landfill space
 - leachate
 - methane
 - odours for landfill neighbours
 - waste of a resource
- Important public policy



But how much odour?

- Not 100% odour free
- Not a health hazard
- How much is too much?
- Compliance with approval no defence
- Major cause of closures



Major policy challenge

- Passionate neighbourhood response
- Sensitization/ emotion
- What the Nose Knows
- Public interest/ private preference
- What is the MOE's role?
 - aggressive officers
- Will investors choose Ontario?



Lots of Obstacles

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Questions?

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