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**Re: ONEIA's Comments on the draft Waste Free Ontario Act  
(EBR Registry Number: 012-5832)**

On behalf of Ontario's more than 3,000 environment and cleantech firms, I am pleased to provide our comments on the Ministry of Environment and Climate Change's (MOECC) draft *Waste Free Ontario Act* (WFOA), as posted on the Environmental Bill of Rights Registry.

Members of the Ontario Environment Industry Association (ONEIA) are committed to engaging with the Province as it develops a policy that is consistent with our principles of sound science, sound environment and a sound economy. In this light, we convened a working group of members drawn from across the sector to review the Province's recent proposal. As an outcome of their work, we are pleased to provide the following comments on the draft *Waste Free Ontario Act*.

### About ONEIA

Ontario is home to Canada's largest group of environment and cleantech companies. The most recent statistics from the federal government show that Ontario's environment sector is made up of almost 3,000 companies that employ more than 65,000 people across a range of sub-sectors. This includes firms working in such diverse areas as alternative energy systems, resource recovery, composting and recycling solutions, environmental consulting, Brownfield remediation and water treatment – to name just a few. These companies contribute more than \$8-billion to the provincial economy, with approximately \$1-billion of this amount coming from export earnings.<sup>1</sup>

### The Waste Free Ontario Act Framework

Ontario prides itself on being both a pioneer and innovator in the cleantech space. From the blue box and green bin programs, to the *Waste Diversion Act*

<sup>1</sup> 2011. Still Ready to Grow. ONEIA. (Further referenced from StatsCan, 2008).

<sup>2</sup> 2014. Webinar on Circular Economy: Québec and Europe – what can we learn from each other? The European Business Network for Corporate Social Responsibility. Accessible: <http://www.csreurope.org/webinar-circular-economy-quebec-and-europe->

(WDA), to ‘made-in-Ontario’ technologies; Ontario companies, organizations and governments have led the charge in managing materials responsibly. Over the past several decades, the Province has demonstrated its foresight and leadership in managing materials to their highest potential before end of life.

However, a wide range of stakeholders now agree that the current WDA has failed to reach its objectives. Currently, more material than ever is being created, diversion rates have stalled and innovation in cleantech has fallen short of its full potential. We share the Ministry’s belief that a new approach is required and we commend the Province for stepping back to create a new path forward that will lead us towards a circular – and sustainable – economy.

As companies that can provide the solutions and services needed to propel the WFOA forward, ONEIA would like to propose the following key recommendations:

1. Manage Expectations and Promote Awareness

The vision of a waste free economy is a noble pursuit and one that would generate widespread public support, however this new reality is perhaps decades away from being realized. Without a clear definition of “waste free” and how that translates into the broader concept of a circular economy, the general public could interpret the waste free narrative as something that has already occurred or is near term. *This could create conflict for all parties, whether they are cleantech companies seeking investment, resource recovery companies seeking social license for disposal / diversion facilities, or regulators making tough decisions about unpopular, yet critical infrastructure.* Public expectation can be managed by a robust outreach and awareness campaign that first clearly defines the concepts of “waste free” and “circular economy”, acknowledges the realities of the current situation, the period required to transition and implement the new strategy, and lastly, the expected results and timelines.

2. Learn from Other Jurisdictions

Much can be said for looking to other jurisdictions that have been trying to implement the concepts of “waste free” and “circular economy” for the past few years. Generally speaking, these jurisdictions (including Québec and the EU) have already gone through at least one iteration of policy in their attempt to regulate the production, movement, and disposal of waste materials.<sup>2,3,4</sup> ONEIA understands that Ontario has its own unique characteristics that must be taken into consideration, however looking at the best practices of other jurisdictions, and especially at what policies have failed in the past, can only put Ontario further ahead in its planning processes.

3. Ensure Integration of the WFOA with Cap & Trade Program

Cleantech companies and resource recovery firms are uniquely aligned to pair the synergies of WFOA and Cap-and-Trade. These sectors can go beyond ‘reducing GHG emissions’ to ‘maximizing greenhouse gas emission reductions from resource recovery

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<sup>2</sup> 2014. Webinar on Circular Economy: Québec and Europe – what can we learn from each other? The European Business Network for Corporate Social Responsibility. Accessible: <http://www.csreurope.org/webinar-circular-economy-quebec-and-europe-what-can-we-learn-each-other#.VsdwbvkrL4Y>.

<sup>3</sup> 2015. Management Plan 2015. European Commission, Directorate-General for the Environment. Ref. Ares(2015)3228249 – 31/07/2015.

<sup>4</sup> 2015. Closing the Loop – An EU Action Plan for the Circular Economy. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions.

activities'. As the province develops its strategy, policy, and legislation to support the WFOA, it should align with the Province's policy to control carbon emissions. One example of such synergy would be policy that supports the processing of organic materials where biogas can be created and fed into the local energy grid, thereby displacing non-renewable forms of energy.

4. Adapt the Province's Innovation Agenda to Support the Transition to a Circular Economy  
The concepts of innovation and a circular economy are interdependent: Not only does a circular economy drive innovation, but *innovation is required to support a circular economy*. Businesses will be required to develop new ways of producing, manufacturing, packaging, distributing, reusing and recycling their products. Ontario cleantech companies can support this transition and create innovation that can be exported, thereby creating employment and investment in Ontario. However, it will be critical for the province to adapt its existing innovation strategy to create conditions that support and foster innovation specific to the goals of the circular economy and the realities of the cleantech sector. For example, companies in our sector are small-to-medium sized enterprises by our definition, meaning that the vast majority has fewer than 50 employees. Such firms are reluctant to access traditional provincial programs that impose high opportunity costs on applicants.<sup>5</sup>
5. Streamlined Review Process  
Considerable amounts of new infrastructure will be required to support a circular economy. Cleantech and resource recovery firms will invest, support and build the required infrastructure provided that they are supported by an approvals and review process that does not impose unnecessary costs and uncertain timelines on the projects. We would urge the province to focus its Modernization of Approvals process on ensuring that the goals of the WFOA are supported by a streamlined and consistent approvals regime that encourages the investment required to make a circular economy a reality.

### Responsibility for Producers/Distributors of Products and Packaging

ONEIA members recognize the need to select the appropriate tools and policies to promote a waste-free Ontario and the circular economy. This will not only be critical to the Province's ability to meet its goals, but also to the health and prosperity of the cleantech and resource recovery companies that will be instrumental in achieving those goals.

Open and competitive markets will be a key asset to help achieve higher levels of diversion. This will enable production, packaging, logistics and diversion technology infrastructure to work in collaboration with producers to collect, divert and process materials in a manner that maximizes their resource productivity.

In keeping with this approach, we would offer the following recommendations:

- Ensure that strong oversight and compliance exists to ensure outcomes are met;

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<sup>5</sup> For a more detailed explanation of this dynamic, please see the ONEIA-Deloitte Ready to Grow (2010) report.

- Support an outcomes-based approach, not one that is based on processes. Consider a mechanism whereby generators are rewarded for participation and/or effectiveness of programming.
- Create mechanisms where the costs of diversion are shifted away from the taxpayers to the generators responsible for the origin of the waste itself;

Regardless of the outcomes-based approach adopted, ONEIA advocates that all efforts be made to preserve fair, open and competitive markets while balancing this with measures that will protect and foster investment from the cleantech sector in Ontario. For instance, as noted in ONEIA's previous submission to the Ministry with respect to an organics strategy, there will be a need to address feedstock security and quality.

The appropriate Extended Producer Responsibility (EPR) and/or policy approach will cultivate an environment that will encourage investment in new waste diversion infrastructure. The investment in new and innovative technology will create jobs and economic spinoffs for Ontario. It is estimated that increasing Ontario's diversion rate from its current 23 per cent to 60 per cent would create about 13,000 jobs and increase GDP by about \$1.5 billion.<sup>6</sup>

EPR will drive increased diversion in the residential or curbside waste stream but will have lesser impact on the Industrial, Commercial and Institutional (ICI) waste stream. Recent data suggests that the ICI diversion rate is in the order of 20%, which is problematic in that approximately 60% of Ontario's waste stream stems from the ICI sector. In order to increase Ontario's overall diversion rate, a new approach is needed for this sector and we would offer the following for your consideration:

- Create and support end markets of recycled and post-recycled materials. These economic tools will be critical in creating a sustainable system where waste is transformed into value-added products (e.g., compost, fertilizers, and alternative fuels). These new end markets will require and drive innovation and investment from Ontario's clean tech companies.
- Convene a stakeholder working group to review the 3R's regulations.
- Support complementary measures that can further increase diversion; an example of this would be a renewable natural gas rate. A small premium for the price paid for renewable natural gas could support new organics digestion facilities where the biogas is used to displace non-renewable forms of energy, including transportation fuel. This small measure can have large and multiple benefits.
- Recognize the role that Ontario's cleantech sector will play in developing new technologies and investing in the required resource recovery infrastructure.

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<sup>6</sup> 2014. Opportunities for Ontario's Waste: Economic Impacts of Waste Diversion in North America. The Conference Board of Canada. [www.conferenceboard.ca/e-library/abstract.aspx?did=6233](http://www.conferenceboard.ca/e-library/abstract.aspx?did=6233)

### Proposed Resource Productivity and Recovery Authority

As outlined in Part III of the draft WFOA, an Authority will be established to oversee the new EPR programs and the transition from WDO to the WFOA. ONEIA members believe that this can be an effective system for compliance and enforcement if the members selected for the Authority have the skills and expertise needed to fulfill the requirements of this role, and if the oversight of this Authority does not rest in the Crown, but in a committee formed of both public and private experts separate from both the Authority and the MOECC.

To aid the Authority in its enforcement of compliance, and to ensure a level playing field for all industries in Ontario, there must be a robust system to track data and information among producers and distributors of materials. In its Action Plan for a Circular Economy, the EU has put forward various mechanisms, such as the Product Environmental Footprint<sup>7</sup>, to aid in the development of a methodology to measure the environmental performance of products, and to communicate this environmental information to consumers so that they can make more informed decisions when purchasing products.

The willingness for industry to participate in any program related to EPR as part of the circular economy is highly dependent upon the transparency of the program, and the belief by industry that oversight and enforcement is fair and equitable. Additionally, the policy and legislation created to support the circular economy must not be seen to have been developed without the participation (which translates into adoption) of recommendations by stakeholders with experience in cleantech and resource recovery. The working groups/advisory councils established by the Authority to provide advice must have clearly defined goals and objectives that are communicated to the public via the EBR to ensure that the mechanisms are reasonable.

Under the current draft WFOA, a variety of product and packaging producers (e.g. primary packaging, brand holders, convenience packaging, transport packaging) and some distributors, if deemed appropriate, must register on the Resource Productivity and Recovery Registry. This Registry will allow the Authority to track information and collect associated fees. While ONEIA understands that the details of this section of the WFOA will be developed under a separate regulation, *we cannot emphasize enough the need to develop this regulation in partnership with industry.*

ONEIA and its members would like to propose the following recommendations regarding the development of the Authority and its associated powers to monitor and enforce compliance:

- Work with industry groups, such as ONEIA, to ensure the development of an Authority that is comprised of members with the appropriate skills and knowledge to oversee the compliance and enforcement of the WFOA and its associated regulations;
- Ensure that there is an oversight body that is not only Crown-related, but that consists of both industry and government (i.e., from the Environmental Commissioner's office) to provide impartial oversight of the Authority and the MOECC's office;

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<sup>7</sup> European Commission 2015. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Closing the loop – An EU action plan for the Circular Economy. Brussels. 2.12.2015. COM(2015) 614 final.

- Design a robust methodology and data management system to measure environmental performance among material producers and distributors; and
- Work closely with the cleantech and resource recovery companies to ensure that their experience and knowledge is reflected within the *Act* and its associated regulations. In doing so, the ability of the Authority to enforce compliance will be enhanced.

### Proposed Waste Diversion Transition Act

As Ontario winds up the existing *Waste Diversion Act*, 2002, a smooth and timely transition will be imperative. Extensive stakeholder consultation will be required and impacts to existing stewardship plans should be mitigated (i.e., blue box, used tire, WEEE and HHW). Additionally, effort must be made to acknowledge the difference between the municipal and ICI sectors when planning for transition.

The “Proposed Waste-Free Ontario Framework Consultation Guide” (Winter 2016) provides a clear layout of the transition process and anticipated timelines. However, the process of engaging with the ICI sector and municipalities, and incorporating their knowledge into the regulations, may require the extension of this stage of program development.

The timeline included in the draft WFOA anticipates a transition period of two to five years, beginning in 2016. ONEIA and its members would like to emphasize that the appropriate regulations and transition plans, which will have been developed *in partnership* with both municipalities and the private sector, be established *prior* to beginning the transition process (therefore the transition process may not begin in 2016). If the transition process is not implemented in a smooth and transparent way, the confusion and uncertainty among stakeholders in the clean tech, and waste management industries will contribute to their hesitation in investing in Ontario’s economy in the short-to-mid term.

The transition from WDA to WFOA must also take into consideration the existing infrastructure that has been developed by both municipalities and the private sector to ensure a minimization of stranded assets, as well as providing these stakeholders with the opportunity to honour existing contracts, or to negotiate new end terms in good faith. Should assets become obsolete through the transition process, a system for fair compensation must also have been established by the Authority. This will help to prevent cleantech firms from leaving the province as the WFOA is enacted and implemented.

### Next Steps

The introduction of the *Waste Free Ontario Act* and related strategy presents a new opportunity to refine and improve Ontario’s record in the area of waste diversion – and a significant economic development opportunity. There is little argument about the goals: society needs to transition to an economy that consumes less, reuses more and encourages industry to develop new markets for reusable materials. Diversion as a component of the 3R’s is important; it is essentially be our last chance at harvesting the value inherent in the waste stream. Waste should be viewed as a resource, and these resources should be captured, diverted, and repurposed. By doing so, value is added back to the local and provincial economies. This is the basic tenant of the circular economy.



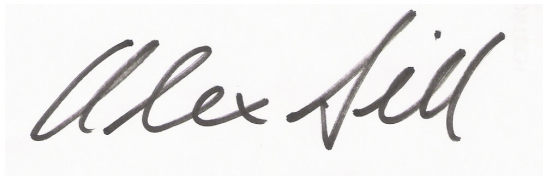
As the organization representing Ontario's cleantech sector, ONEIA is supportive of the policies and principles that promote a robust green economy. ONEIA supports the general objectives of the draft *Waste Free Ontario Act*. While there are still many details to be developed, ONEIA and its membership can act as a valuable resource to assist the Ministry in the development of future elements of the policies and associated regulations. ONEIA offers to:

- Support the Ministry in the planning process and offer a cleantech tour and subsequent discussion group with key Ministry staff. Similar to our Environment Industry Day, the tour consisting of visiting some key facilities that are already embracing the elements of a circular economy, followed by a debrief/question period (full day event).
- Participate in consultation and working groups with the Ministry and the Authority as new planning, policy and economic tools to support a circular economy are developed.

ONEIA thanks you for the opportunity to offer our comments on the draft *Waste Free Ontario Act*. Our members in the cleantech and resource recovery areas are diverse and can add valuable insight into the development of these programs and regulations. We are encouraged by the Ministry's desire to move towards a circular economy, and look forward to assisting through all stages of the process.

Should you have any questions about the information contained herein, please do not hesitate to contact the co-chairs of our working group, Jennifer Baron ([jbaron@covanta.com](mailto:jbaron@covanta.com)) or Darren Fry ([dfry@walkerind.com](mailto:dfry@walkerind.com)) or feel free to contact the ONEIA office directly at 416-531-7884.

Yours truly,



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