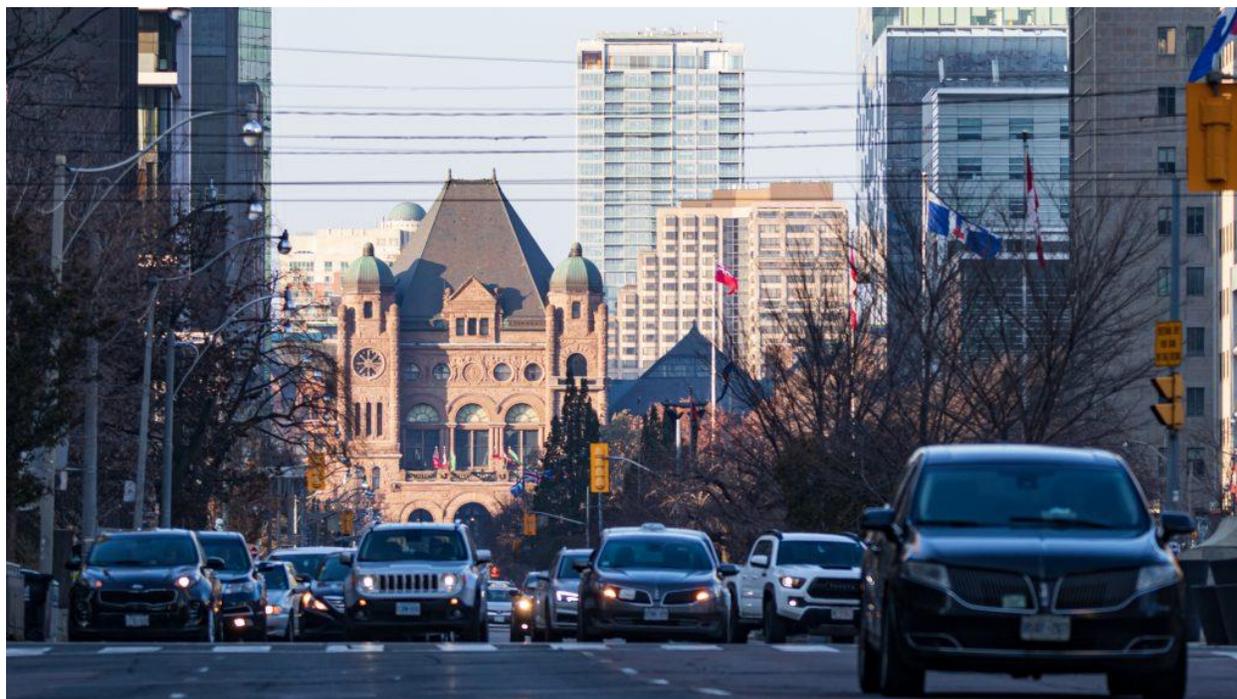


## Potential CRD waste reforms called ‘business opportunity’

Don Wall February 6, 2020



Ontario’s construction-waste rules are set to change, and one Toronto environmental lawyer predicts the reforms will introduce market-style opportunities that the construction sector can profit from.

Jonathan D. Cocker heads Baker McKenzie’s Environmental Practice Group in Canada and recently offered online analysis of a new document produced by the Canadian Council of Ministers of the Environment (CCME). The CCME paper, published in September, included proposals for reforms to how firms are required by law to deal with construction, renovation and demolition (CRD) waste.

The environment ministers agreed different jurisdictions should have flexibility to pursue policies based on regional needs and other factors, Cocker said in an interview, and that means a pro-business government like the Conservatives in Ontario may well refrain from intrusive, top-down regulation, preferring instead a market approach.

“There are definitely going to be business opportunities here,” said Cocker.

“I think we are going to see something in 2020 that is going to address it, and I think it is going to be an opportunity for the construction industry to make some money on waste instead of paying tipping fees.”

Lindsay Davidson, an advisor with Ontario’s Ministry of the Environment, Conservation and Parks, said there are two 1994 regulations that govern CRD reduction, both for “large” projects. One requires workplans and audits, while the other, Reg 103/94, requires construction and demolition firms to undertake source separation programs for such materials as brick and Portland cement, drywall, steel and wood.

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— **Jonathan D. Cocker**

**Baker McKenzie**

Christina Murray, a manager for business development at Hamilton, Ont.-based Budget Demolition, said the required workplan is typically maintained onsite and is part of the initial planning process. Given the absence of stringent government regulation, she said, the main driving force for waste diversion is the client’s requirements and goals.

Cocker explained that the Liberals’ Waste-Free Ontario policy specifically called for regulated “resource recovery” for construction waste. His firm expects Ontario’s government will impose an obligation on the construction industry to divert their waste from landfill. How the policies will differ, he said, is that the government may well permit new programs such as waste-to-energy for construction waste and other market-driven schemes, whereas the Liberals opposed waste-to-energy.

At the national level, in 2009 the environment ministers pledged to introduce Extended Producer Responsibility (EPR) obligations into the construction sector by 2017 but that deadline was missed, Cocker explained. The 2019 paper was an attempt to reintroduce the concept.

Currently in Ontario EPR law applies to tires, and will apply to batteries, electronics, lighting, appliances and paints and solvents later this year or next.

“The plan is to make virtually all waste governed by this law,” Cocker said.

Under a new regime, Cocker speculated, for materials used in construction or demolition such as flooring, carpets, furniture, tiles, lighting, electronics and appliances, the brand owners and distributors may become obligated to effectively recycle an amount roughly equal to the amount they sell. Thus, they will need to get their hands on the end-of-life materials, he explained. The construction industry will possess those materials and can essentially sell the supply back to the brand owners and distributors.

“Once it dawns on the industry that this isn’t more regulation but this is a business opportunity there will be some first movers who will stake out space here,” Cocker said.

“They certainly have a chance to put themselves into a nice position to not only make money on their own waste but also on the waste of others, the same way that the tire sector, those who collect the tires and got a critical mass first, are doing it for a whole bunch of companies and are making money at it.”

The goal is a more circular economy, with principles expressed as part of Ontario’s Waste-Free Ontario Act, 2016. But as Cocker’s article noted, “Ontario has quietly dropped CRD waste from its circular economy commitments.”

That should not necessarily be an indication the government will not honour its recent CCME commitments, Cocker said.

“I think this year we are going to see something from the government on this, and then there is going to be some lead time for businesses to put in place their strategies,” he said.

Asked for comment on the new CCME CRD policy guidelines, Davidson noted in a statement that the Ontario government’s Made-in-Ontario Environment Plan of 2018 targeted waste reduction as a goal and that its 2019 discussion paper on waste reduction sought industry feedback on how to improve diversion in the ICI sector.

The government, she said, “will be reviewing the recently released guide from CCME on (CRD) waste to see how it can inform future decisions.”

There has been progress on some materials in the sector. Asphalt used in paving represents one major success story — in Ontario, it’s almost 100 per cent reused. And in December the ministry announced new policies on excess soil management intended to prevent reusable soil from ending up in landfills and ensure that soil of the right quality is reused locally. It’s a file that the **Residential and Civil Construction Alliance of Ontario (RCCAO) has been working on for at least eight years, noted RCCAO executive director Andy Manahan.** He called the new soil regulations a great achievement when the new policy was announced.

As for why broader CRD waste was dropped from the circular economy commitments, Manahan called it “curious” and said the RCCAO intends to pursue the issue with its ministry contacts. He suggested it could be a matter of the new government wanting to put its own stamp on the policy.

The industry, though, is ready and willing to cut down on construction waste, Manahan said.

“From a contractor’s perspective, reducing construction waste is viewed as a good business practice and makes economic sense,” he commented.

Murray of Budget Demolition agreed.

“We have the ability to score the waste diversion on every project, and it’s typically 80 per cent or higher,” she said.