Current Government Regulations Impacting EFW Projects

John Tidball
Topics

- The changing regulatory climate
- EAA approvals
- EPA approvals
- Green Energy and Green Economy Act
- WDO Initiatives
- Toward a zero waste future
The Changing Regulatory Climate

Pre-1985
- Growing MOE interest in the 4th R
- Creation of regulatory incentives (waste-derived fuel sites, woodwaste combustor sites)
- Numerous projects in planning stages

1985-1990
- No regulatory changes
- Ontario Government shift to 3Rs
- Brampton EFW project approved
1990-1995

- Ontario Government not supportive of thermal destruction
- Existing regulatory incentives curtailed
- All waste to energy projects to be designated under EAA
- Thermal alternatives excluded from IWA process
1995-2003

• No significant regulatory or project activity
• 5th unit at Brampton approved under EAA without a hearing
• Electricity Projects Regulation under EAA

Post – 2003

• Increased Ontario Government interest in waste to energy
• EAA screening for waste to energy projects
EAA Approvals

- EAA applies to public sector projects unless exempted and to private sector projects only if designated
- Until recently, there were significant process timing, cost and certainty obstacles to seeking EA approvals
- New projects regulations address obstacles
Electricity Projects Regulation (2001)

• Created 3 categories of project for the purposes of the EAA
  – Exempt projects
  – Projects subject to Environmental Screening
  – Projects subject to full EA

• Waste to energy projects designated as subject to full EA:
  – Hazardous or liquid industrial waste
  – MSW if > waste of 1500 persons
Waste to energy projects designated as subject to screening:

- Waste biomass/ >10MW
- Biogas / > 25 MW
- Landfill gas / > 25 MW
- MSW if < waste of 1500 persons

- Creates 3 categories of projects, like the Electricity Projects Regulation
- Uses combined designations and exemptions to level playing field for public and private sectors
- Supercedes Electricity Projects Regulation for anything designated
Waste to energy projects subject to full EA:

• Thermal treatment site using coal, oil or petroleum coke as fuel for thermal treatment

• Thermal treatment site not using coal, oil or petroleum coke as fuel / > 10 tonnes/day/ all generated energy used to dispose of waste

• A site at which hazardous or liquid industrial waste is finally disposed of
Waste to energy projects subject to Environmental Screening Process:

- Thermal treatment site not using coal, oil or petroleum coke as fuel and not all generated energy used to dispose of waste
- Thermal treatment site not using coal, oil or petroleum coke as fuel / <10 tonnes/day/ all generated energy used to dispose of waste
- On-site thermal treatment/primary purpose not waste management/ / >100 tonnes per day / on-site use of excess energy
EPA Approvals

- Waste to energy projects require certificates of approval under Section 9 (Air) and Section 27 (Waste)
- MOE will now issue a combined certificate of approval
- Not subject to any hearing if subject to full EA
- Not subject to mandatory hearing if subject to EA Screening – discretionary hearing still possible
Waste–Derived Fuel Sites

Waste–derived fuel site is exempt from requirement for Section 27 approval if:
• All WDF generated at the site
• < 10 tonnes/day

Waste- derived fuel site is exempt from mandatory hearing requirement if < 10 tonnes/day
Woodwaste Combustor Sites

Exempt from requirement for Section 27 approval if:

- Storage < 18 months and no more than 6 months supply is stored, but not if principal function of site is waste disposal

- < 100 tonnes/day and not more than 500 tonnes stored and no more than 6 months supply is stored

Exempt from mandatory hearing requirement if < 100 tonnes/day or if heat is recovered and utilized
Local Air Quality Regulation (419/05)

- Replaced Regulation 346
- New POI standards being phased in to 2020
- Emission Summary and Dispersion Modelling (ESDM) report required with Section 9 Application (unless Director satisfied that it is unnecessary)
Guideline A-7

- Sets out combustion and APC requirements for MSW incinerators
- Establish point of emission limits for 9 parameters
- 1000°C with one second retention time
Green Energy and Green Economy Act

• Enacted in May 2009
• Amends *Electricity Act*
  – new mechanism to replace RESOP and direct OPA to develop feed-in tariff program
  – new rights to connect generation facilities to the grid
• Amends EPA by creating a new “renewable energy approval” – one environmental approval for green energy projects
Potential Impact on EFW Projects

- New *Electricity Act* and EPA provisions only apply to projects that use a “renewable energy source”

- Defined to mean “an energy source that is renewed by natural processes and includes, wind, water, **biomass**, **biogas**, **biofuel**, solar energy, geothermal energy, tidal forces and such other energy sources as may be prescribed by the regulations”
Potential Impact of WDO Initiatives on EFW Projects

- WDO administers the *Waste Diversion Act, 2002* on behalf of the Ontario Government
- To date, the WDO has been required by the Minister to develop waste diversion programs for blue box materials, used tires, WEEE and MHSW
- Not particularly friendly to diversion for energy recovery
Used Tires

• Minister’s Program Request Letter (2008)

  “The program should place a priority on the diversion of used tires into higher end uses whenever possible, based on the principles of the 3Rs … incineration shall not be part of the program unless the 3Rs options are not available or not technically feasible”
MSHW

• Minister’s Program Request Letters

  “Potential fees shall be used to maximize the management of MHSW through reduction, reuse and recycling and not to fund or promote the burning, landfilling or land application of MHSW unless the 3R options are not available or technically feasible”
Toward a Zero Waste Future

- October 2008 - Discussion Paper posted for comment
- October 2009 Minister’s Report on the WDA review ("From Waste to Worth: The Role of Waste Diversion in the Green Economy") lays out proposed changes to Ontario’s waste diversion framework
  - Burning waste, without recovering material for reuse, would not be counted as diversion
    - Only the material recovered in or through the thermal process would count toward meeting diversion outcomes. Any energy recovered, gaseous and particulate emissions, or other residue would not count towards meeting diversion obligations.
THANK YOU

John Tidball
Miller Thomson LLP
(905) 415-6710
jtidball@millerthomson.com