

# Chapter 1

## Section 1.22

Ministry of the Environment, Conservation and Parks

### Follow-Up on 2021 Value-for-Money Audit: Non-Hazardous Waste Reduction and Diversion in the Industrial, Commercial and Institutional Sector

RECOMMENDATION STATUS OVERVIEW						
	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	3		1	2		
Recommendation 2	3			3		
Recommendation 3	2			2		
Recommendation 4	1			1		
Recommendation 5	3	1		2		
Recommendation 6	2			2		
Recommendation 7	2			2		
Recommendation 8	1			1		
Recommendation 9	2			2		
Recommendation 10	2			2		
Recommendation 11	2	2				
Recommendation 12	3		1	2		
Recommendation 13	3		2	1		
Recommendation 14	2	1	1			
Recommendation 15	3			3		
Recommendation 16	2			2		
Recommendation 17	2			2		
<b>Total</b>	<b>38</b>	<b>4</b>	<b>5</b>	<b>29</b>	<b>0</b>	<b>0</b>
<b>%</b>	<b>100</b>	<b>11</b>	<b>13</b>	<b>76</b>	<b>0</b>	<b>0</b>

## Overall Conclusion

The Ministry of the Environment, Conservation and Parks (Ministry), as of September 1, 2023, has fully implemented four (11%) of the actions we recommended in our *2021 Annual Report*. Three of these recommended actions relate to the Ministry's inspection and enforcement activities, including implementing new processes for inspectors to consistently verify that regulated businesses and institutions are making reasonable efforts, as required by regulation, to ensure their recyclable materials are being collected separately and taken to an appropriate facility for reuse or recycling. The fourth action relates to undertaking research on best practices in other leading jurisdictions to help identify approaches that could be adopted to reduce waste in Ontario's industrial, commercial and institutional (IC&I) sector.

The Ministry has made progress in implementing an additional five (13%) of the recommended actions, including taking steps to identify and fill data gaps about waste generation, diversion and disposal for the IC&I sector.

However, the Ministry has made little progress on the remaining 29 (76%) of the recommendations. For example, the Ministry has made little or no progress in increasing transparency about the waste management industry through new reporting requirements; expanding the scope of its regulatory framework to capture more than the 2% of businesses and institutions that are currently regulated; developing a concrete plan for an organic waste landfill ban; and moving forward on a promised regulatory review to ensure that requirements in its regulations are actually effective at driving waste diversion.

The status of actions taken on each of our recommendations is described in this report.

## Background

Approximately 60% of Ontario's waste is generated outside the home by the almost 1.6 million businesses

and institutions collectively known as the industrial, commercial and institutional (IC&I) sector. The IC&I sector includes:

- industrial facilities, such as manufacturers;
- commercial businesses, such as retail stores, restaurants, hotels and offices;
- institutions, such as schools, colleges, universities and hospitals; and
- construction and demolition projects.

IC&I establishments are responsible for managing their own waste, at their own cost, through contracts with private waste management businesses. Multi-residential buildings (apartments and condominiums) straddle the IC&I and residential sectors. They are responsible for managing their own waste privately and are regulated along with IC&I establishments. However, approximately 80% of multi-residential households receive municipal garbage and recycling collection, which is counted as residential waste for data purposes.

In addition to generating more waste than the residential sector, the IC&I sector also diverts much less through reusing, recycling or composting. Our audit concluded, consequently, that improving waste management in the IC&I sector holds the key to meeting the Province's waste goals, and avoiding a looming landfill shortage. Yet, we found that the Ministry of the Environment, Conservation and Parks (Ministry) had not taken concrete actions to drive a reduction in the amount of IC&I waste being generated and disposed of. We found the Ministry did not have the data it needed to reliably track the IC&I sector's progress toward Ontario's waste goals.

These were some of our findings:

- The Ministry's IC&I waste regulations made under the *Environmental Protection Act*—the Source Separation Programs Regulation and the Waste Audits and Waste Reduction Work Plans Regulation—applied to less than 2% of Ontario's almost 1.6 million businesses and institutions. The remaining 98% had no obligations under the regulations to reduce or divert any of their waste. While the 2% of regulated establishments

- are the largest ones, and therefore generated disproportionately more of the waste (roughly estimated to be between one-third to two-thirds of total IC&I waste), regulating so few establishments limited the potential of existing regulations to drive better overall IC&I waste practices.
- The Source Separation Programs Regulation has driven regulated businesses, institutions and multi-residential buildings to operate recycling programs, but has not led to widespread improvement in diversion rates. Our review of a sample of regulated IC&I establishments from 2014 to 2019 found that diversion rates ranged from 6% to 90%.
  - The list of materials that establishments must collect to be recycled had not been updated in over 25 years, and excluded now-common materials, such as coffee cups, compostable packaging and most plastics. The 1994 list focused on common packaging wastes at that time. Several materials commonly found in today's waste stream, such as plastic waste from most subsectors, including retail, offices, schools and hospitals, were excluded from the list. Plastics make up an increasingly large share of IC&I waste: an estimated 10% by weight, and much more by volume.
  - Waste management companies often sent IC&I source-separated materials intended for diversion to landfill. We found that waste collectors took roughly half of the IC&I source-separated recycling that they collected to sorting or processing facilities, and the other half to transfer stations. However, only 34% of the transfer stations we examined sorted and processed the materials. The other 66% of transfer stations accepted the IC&I recycling as garbage, which they mostly sent to landfill. We also determined that waste collectors took about one-fifth of collected IC&I organic waste directly to landfill. Overall, many materials that were being collected separately by establishments (like retail stores, restaurants, offices and hotels) with the intent to be diverted as recycling or compost, were never actually recycled or composted.
  - Contracts between regulated establishments and waste management companies rarely required the waste collectors to divert the IC&I materials. Our review of 40 agreements between regulated establishments with source-separation programs and their waste collectors found that only three required the collectors to divert the customers' waste. Most of the agreements gave collectors—either explicitly or through the absence of terms about how materials were to be managed—discretion to make operating decisions that balanced costs against waste diversion goals.
  - The Ministry had major data gaps with respect to IC&I waste, which hindered the Province's ability to develop effective waste policies and to reliably track progress toward goals. The Province collected detailed data for residential waste but not for IC&I waste. Without any IC&I data, the Ministry had major gaps in its understanding of the state of IC&I waste in Ontario, including which types of establishments generated and disposed of the most waste. On our assessment, the Ministry had likely underestimated the total waste disposed of by up to 3.1 million tonnes per year.
- We made 17 recommendations, consisting of 38 action items, to address our audit findings. We received commitments from the Ministry that it would take action to address our recommendations.

## Status of Actions Taken on Recommendations

We conducted assurance work between April 2023 and September 2023. We obtained written representation from the Ministry of the Environment, Conservation and Parks that effective October 30, 2023, it had provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

## Data Gaps in Industrial, Commercial and Institutional Waste

### Recommendation 1

To inform the Province's review of its current waste regulations and the development of effective policies and programs to address industrial, commercial and institutional (IC&I) waste, and to reliably track progress toward the Province's waste reduction and diversion goals, we recommend that the Ministry of the Environment, Conservation and Parks:

- utilize existing data from IC&I establishments and waste management facilities, including waste audits, waste facility reports and data collected by other organizations, to help fill gaps in baseline data about total IC&I waste generated, diverted and disposed of, as well as gaps in data about the types of IC&I waste materials and the sources of waste by subsectors and size of establishments;

**Status:** In the process of being implemented by spring 2024.

### Details

In our 2021 audit, we found that the Ministry had major gaps in its understanding of the state of IC&I waste in Ontario, hindering the Ministry's ability to develop effective waste policies to meet the Province's waste diversion goals. In particular, the Ministry lacked reliable data on the composition of the IC&I waste stream by type of material, as well as data on which types of IC&I establishments generated and disposed of the most waste. We found that several sources of potential data already existed—including waste audits prepared by regulated IC&I establishments, annual reports prepared by waste facility operators, and data collected by other waste-related organizations—but were being underutilized.

In our follow-up, we found that, in late summer 2022, the Ministry compiled hundreds of reports (waste audits and facility annual reports) that had been prepared by IC&I establishments and waste facility operators. In 2023, Ministry staff began an internal analysis of the data in the compiled reports, which the Ministry anticipates will be completed by spring 2024.

The results of this analysis will inform next steps on data needs and other work.

- *implement measures to streamline and simplify existing data reporting requirements and provide for electronic reporting of the standardized data from IC&I establishments and waste management facilities about the types, quantities and destinations of IC&I waste they generate or manage;*

**Status:** Little or no progress.

### Details

In our 2021 audit, we found that the waste audits and waste facility annual reports required of IC&I establishments and waste facility operators contained valuable data about the quantities and types of IC&I waste generated, diverted and disposed of. However, several limitations in the Ministry's reporting requirements prevented them from being better utilized, including:

- lack of standardization and/or clear direction, resulting in inconsistent reporting;
- paper-based, rather than electronic, reporting, making it more difficult to both input and extract data; and
- requirements that only some reports be submitted to the Ministry, limiting the Ministry's ability to utilize the data.

In our follow-up, we found that, in early 2023, the Ministry began reviewing hundreds of waste audits and facility annual reports submitted by IC&I establishments and waste facility operators to better understand how data is currently being reported. The Ministry advised us that, based on this review, it will consider how reporting requirements could be improved. The Ministry also noted that it will continue to build on ongoing jurisdictional research by looking at best practices for data reporting, which can also inform next steps.

- *publicly report summarized IC&I waste data based on the collected information, and to the extent that any published data does not align with Statistics Canada data, include a clear explanation of the factors that contributed to the different results.*

**Status:** Little or no progress.

### Details

In our 2021 audit, we found that, whereas the Province collects and publishes its own detailed data for residential waste, it did not collect or publish detailed data for IC&I waste. Further, to the extent that the Ministry did publish waste data, it typically did not align with the high-level data on total residential and IC&I waste published by Statistics Canada.

In our follow-up, we found that the Ministry has not acted on this recommendation. The Ministry stated that it is reviewing its compilation of submitted waste reports to better understand current reporting practices, which can inform future decisions about public reporting.

## Waste Management Industry

### Recommendation 2

*To increase the accountability of waste collectors taking source-separated materials from industrial, commercial and institutional (IC&I) establishments to appropriate waste management facilities for diversion rather than disposal, we recommend that the Ministry of the Environment, Conservation and Parks:*

- *require waste collectors to maintain documentation, to be provided to IC&I establishments upon request, to verify how collected source-separated materials are being managed;*
- *require waste collectors to report information to the Ministry (or a delegate) to track the quantities, types and destinations of IC&I materials diverted and disposed of; and*
- *develop and implement a framework to inspect and enforce these requirements.*

**Status:** Little or no progress.

### Details

We found in our 2021 audit that waste collectors took only about half of the source-separated recyclables and organics that they collected from IC&I establishments to processing facilities (to be recycled or composted). The other half was taken to transfer stations, from

where roughly two-thirds was sent to landfill. We found that, in contrast to Ontario, some other jurisdictions required waste collectors to report where they took collected waste, and in a few cases, held waste collectors responsible for ensuring collected recyclable and organic waste was brought to an appropriate final destination.

In our follow-up, we found that the Ministry has not taken steps to require waste collectors to maintain documentation or report information regarding the quantities, types and destinations of the source-separated recyclables regulated under the Source Separation Programs Regulation and the organic waste collected for either diversion or disposal. The Ministry stated that it will continue to conduct jurisdictional research on best practices for data-reporting approaches and regulatory responsibilities for waste service providers, which can inform future decisions on this matter.

### Recommendation 3

*To increase transparency about the waste management industry and help industrial, commercial and institutional establishments make more informed business decisions about the management of their waste, we recommend that the Ministry of the Environment, Conservation and Parks (Ministry):*

- *require waste management facilities to report their annual diversion rate, as well as the specific materials they regularly divert, to the Ministry (or a delegate); and*
- *provide publicly accessible information, such as an online central database, of waste management facilities' past reported diversion rates and materials diverted.*

**Status:** Little or no progress.

### Details

We found in our 2021 audit that only 34% of the transfer stations that we examined transferred loads of IC&I recycling to sorting/processing facilities to be diverted; the other 66% accepted the IC&I recyclables as garbage, which they sent to landfill or incineration-from-waste facilities. We also found that it

was difficult to obtain information about waste industry operations. Without access to such information, establishments could not easily verify whether their recyclables were being sent to a sorting/processing facility that actually diverted their recycling and, therefore, could not easily make informed decisions when contracting waste services.

In our follow-up, we found that the Ministry has not acted on this recommendation to implement new reporting requirements for waste management facilities and provide publicly accessible waste diversion information. However, as a preliminary step, in early 2023, the Ministry began reviewing a compilation of hundreds of waste management facility annual reports submitted to the Ministry by waste management facility operators to understand waste flows and waste management trends at these facilities, which can inform future decisions about reporting.

#### Recommendation 4

*To support efforts by industrial, commercial and institutional (IC&I) establishments to have their source-separated waste diverted by their waste management service providers, we recommend that the Ministry of the Environment, Conservation and Parks develop and distribute resources for IC&I establishments, such as guidance and template terms, that promote waste service agreements that require diversion of materials and reporting back on final disposition.*

**Status:** Little or no progress.

#### Details

Our 2021 audit found that, out of a sample of 40 service agreements between regulated IC&I establishments and their service providers, only three (8%) required the waste collectors to divert the customers' source-separated waste. We also found that there was minimal publicly available information to guide IC&I establishments on the types of terms that could or should be included in a waste service agreement to ensure waste is diverted.

In our follow-up, we found that, in late 2021, Ministry staff reviewed examples of other jurisdictions'

guidance and overall messaging relating to the terms of waste service agreements, to identify potentially effective means to communicate with the IC&I sector. Ministry staff also developed a draft fact sheet for IC&I establishments that would promote waste service agreements that require diversion of materials and reporting back on final disposition. However, at the time of our follow-up, the draft fact sheet had not been finalized and no plans had been set for releasing it. The Ministry told us that it will continue to assess options for providing more detailed guidance to Ontario's IC&I sector to influence a positive impact on waste diversion.

## Underlying Barriers to Waste Reduction and Diversion

### Recommendation 5

*To overcome the underlying barriers to reducing and diverting waste from the industrial, commercial and institutional (IC&I) sector, including high diversion costs, contamination and lack of stable end markets, we recommend that the Ministry of the Environment, Conservation and Parks:*

- *look to jurisdictions that have achieved significant reductions in their waste disposal rates to assess their use of policies and programs—including landfill bans, landfill levies and measures to support end markets for IC&I materials—to encourage waste reduction and improve the viability of diversion;*

**Status:** Fully implemented.

#### Details

In our 2021 audit, we found that several major, inter-related barriers—namely, high diversion costs, high contamination rates and weak end markets—prevented or hindered waste management companies from diverting more IC&I waste in Ontario. We also found that other governments, in Canada and around the world, had increased waste diversion and reduced waste disposal by implementing measures, such as landfill bans and landfill levies, to address these barriers and improve the economic conditions for waste diversion.



In our follow-up, we found that the Ministry has undertaken considerable research into approaches used by leading jurisdictions—including bans, levies, green procurement, voluntary and industry-led programs, targets, extended producer responsibility, etc.—to achieve higher waste diversion and reduced waste disposal. The Ministry advised us that it will continue to monitor cross-jurisdictional developments through ongoing research until such time as the Ministry makes a decision on implementing any new approaches (see the second action item of **Recommendation 5**).

- *based on this review, implement measures demonstrated to be most effective at reducing and diverting IC&I waste;*

**Status:** Little or no progress.

#### Details

In our follow-up, we found that the Ministry has not acted on this recommendation. While the Ministry has undertaken research gathering examples of approaches used by leading jurisdictions (see the first action item of **Recommendation 5**), the Ministry advised us that development and implementation of any new approaches in Ontario are dependent on future decisions based on the information gathered.

- *promptly develop a concrete plan for an organic waste landfill phase-out with firm dates for implementation.*

**Status:** Little or no progress.

#### Details

We found in our 2021 audit that, despite Ministry commitments (including in its 2020 progress update on the 2018 Made-in-Ontario Environment Plan) to consult on a plan to ban organic waste from landfill by 2030, the Ministry had not yet taken steps toward developing the proposed landfill ban. Organic waste makes up about one-quarter of the IC&I waste stream. We found that landfill bans, which prohibit the disposal of specific materials, had been used effectively by many jurisdictions to reduce the amount of waste disposed, as well as to drive development of end markets for

the banned materials. For example, after Nova Scotia implemented its disposal ban in 1997, the disposal rate decreased 46% from 1990 to 2018 and resulted in the opening of several new processing facilities.

In our follow-up, we found that the Ministry is not moving forward with a landfill ban on food waste at this time. The Ministry stated that, because of the impacts of the COVID-19 pandemic, Ontario's businesses, hospitals and schools need more time to recover before the Ministry will consider moving forward with disposal bans as a way of reducing and diverting waste. As of September 2023, despite the receding impacts of the COVID-19 pandemic, the Ministry could not provide a timeline for implementing its commitment to develop a plan for an organic waste landfill phase-out.

#### Recommendation 6

*To encourage waste reduction by the industrial, commercial and institutional (IC&I) sector, we recommend that the Ministry of the Environment, Conservation and Parks:*

- *introduce a target for reducing the total amount of IC&I waste disposed of annually; and*
- *track and publicly report on progress toward the IC&I waste reduction target.*

**Status:** Little or no progress.

#### Details

We found in our 2021 audit that Ontario's waste management programs, policies and performance metrics focused almost exclusively on improving waste diversion rates, with little focus on reducing waste. Conversely, other top performing jurisdictions, such as Nova Scotia, placed a greater focus on waste reduction over diversion.

In our follow-up, we found that the Ministry has not acted on this recommendation to introduce a target for reducing the total amount of IC&I waste. The Ministry noted that it has other targets aimed at reducing IC&I waste, such as an overall waste diversion target for all waste in Ontario, as well as waste-reduction and resource-recovery targets for food and organic waste for individual IC&I facilities. However, the Ministry

stated that development of a target for waste reduction for the IC&I sector as a whole is dependent on future decisions.

## Portion of Businesses and Institutions That Are Regulated

### Recommendation 7

*So that the scope of Ontario's regulatory framework enables meaningful improvement in overall industrial, commercial and institutional (IC&I) waste diversion and disposal rates, and to facilitate identification and inspection of regulated establishments, we recommend that the Ministry of the Environment, Conservation and Parks:*

- *review options for significantly expanding the application of the IC&I waste regulatory framework to additional businesses and institutions, with possible exemptions for small establishments (based on quantity of waste generated, number of employees or other metrics); and*
- *based on the outcome of the review, expand the application of the IC&I waste regulatory framework such that a significant majority of IC&I waste is covered.*

**Status:** Little or no progress.

### Details

We found in our 2021 audit that less than 2% of all businesses and institutions in Ontario were subject to the IC&I waste regulations, meaning that over 98% of the almost 1.6 million IC&I establishments in the province were not required to take the measures set out in the regulations to reduce and divert their waste. While the 2% of regulated establishments are the largest ones, and therefore generated disproportionately more of the waste (roughly estimated to be between one-third to two-thirds of total IC&I waste), regulating so few establishments limited the potential of existing regulations to drive better overall IC&I waste practices.

In our follow-up, we found that the Ministry has not acted on this recommendation to expand the IC&I waste regulations to additional establishments. However, as a preliminary step, the Ministry has

compiled hundreds of waste audits that have been submitted to the Ministry by regulated IC&I waste generators, and Ministry staff have begun analyzing this compiled data, which can inform future decisions on this matter.

## Mandatory Recycling Programs

### Recommendation 8

*So that the requirements imposed on industrial, commercial and institutional (IC&I) establishments and multi-residential buildings effectively drive waste reduction and diversion, we recommend that the Ministry of the Environment, Conservation and Parks revise or replace the requirements in the IC&I Source Separation Programs Regulation (Ontario Regulation 103/94) with clear and enforceable outcomes-based requirements for establishments to separately collect and divert recyclables, such as diversion targets, disposal caps or contamination thresholds.*

**Status:** Little or no progress.

### Details

We found in our 2021 audit that the Source Separation Programs Regulation had not been effective at driving waste diversion. We found that, even though compliance with the regulation was generally high (88% of inspected IC&I establishments had implemented a recycling program as required), such compliance did not necessarily result in higher waste diversion. Based on the self-reported data of a sample of 60 regulated IC&I establishments, we found that diversion rates ranged from 6% to 90%. Further, although the Ministry had itself concluded that the regulation was not effective and needed to be reviewed, it had not yet begun a review.

In our follow-up, we found that the Ministry has not acted on this recommendation. In the interim, the Ministry advised us that it is continuing to investigate best practices among jurisdictions to assess outcomes-based requirements for source separation, as well as exploring other options to improve waste diversion in the IC&I sector.



### Recommendation 9

*So that Ontario's waste regulatory framework applies to a sufficient portion of the waste stream to significantly contribute to Ontario's waste diversion rates, we recommend that the Ministry of the Environment, Conservation and Parks:*

- *expand the list of materials, in the current or revised regulatory framework, that industrial, commercial and institutional (IC&I) establishments must separately collect and divert to include common recyclable materials in the waste stream, including plastics, to cover a larger portion of the IC&I waste stream; and*
- *develop and implement a process to update the list to align, as required, with shifts in the waste stream and with residential recycling programs.*

**Status:** Little or no progress.

#### Details

We found in our 2021 audit that the list of materials that establishments were required to collect separately for recycling had not been updated in over 25 years, and excluded now-common materials such as coffee cups, compostable packaging and most plastics. Our review of a sample of 45 waste audits from regulated IC&I establishments found that, on average, only 41% of their generated waste (by weight) was regulated. Excluding food waste (roughly 27% of the waste stream by weight), which the Ministry is addressing through a separate organic waste policy, still left 32% of the IC&I waste stream as unregulated.

In our follow-up, we found that the Ministry has not acted on this recommendation. The Ministry noted that it has other policies and programs that promote the diversion of IC&I waste and complement the IC&I waste regulations. These include the 2018 *Food and Organic Waste Policy Statement*, which provides direction to IC&I establishments and the waste management sector (as well as to others) to increase waste reduction and resource recovery of food and organic waste, and the Blue Box program, which was expanded in 2021 to include beverage containers supplied in the IC&I sector. To help inform future decisions about the

regulation of other IC&I waste materials, the Ministry has compiled hundreds of waste audits submitted to the Ministry by regulated IC&I waste generators, and Ministry staff have begun analyzing this compiled data.

### Recommendation 10

*To promote effective recycling programs by industrial, commercial and institutional (IC&I) establishments and multi-residential buildings, we recommend that the Ministry of the Environment, Conservation and Parks:*

- *develop and distribute more detailed guidelines and educational resources for effective recycling programs in IC&I establishments and multi-residential buildings, including best practices to reduce contamination and increase capture of recyclables; and*
- *in consultation with stakeholders, implement measures to encourage or require IC&I establishments and multi-residential buildings to collect IC&I materials, such as paper fibres and containers, in multiple streams to reduce contamination.*

**Status:** Little or no progress.

#### Details

We found in our 2021 audit that many establishments, including those deemed by the Ministry to be fully complying with the Source Separation Programs Regulation, were operating poorly performing recycling programs (that is, those that did not capture most recyclables and/or where recyclables were highly contaminated with garbage or food waste). To improve the performance of recycling programs, we identified a number of best practices, such as collecting recyclables in multiple separate streams, that could be more widely used by IC&I establishments.

In our follow-up, we found that, in late 2021, Ministry staff reviewed examples of guidance and templates developed by other jurisdictions to identify effective and appropriate means to communicate with the IC&I sector. Ministry staff also developed a draft fact sheet for IC&I establishments that includes guidance and best practices for effective recycling programs. However, at the time of our follow-up, the draft fact sheet had not been finalized and no plans had

been set for releasing it. The Ministry told us that it will continue to assess options for providing more detailed guidance to Ontario's IC&I sector.

### Recommendation 11

*To promote and more consistently enforce the recycling or reuse of source-separated materials by industrial, commercial and institutional establishments and multi-residential buildings with private collection, we recommend that the Ministry of the Environment, Conservation and Parks:*

- *implement processes for inspectors to consistently obtain all necessary documentation from establishments about the collection and final destination of their source-separated materials; and*
- *implement processes for inspectors to verify, based on the documentation, that establishments have hired a waste collector to separately collect and take their source-separated materials to an appropriate facility for reuse or recycling.*

**Status: Fully implemented.**

#### Details

We found in our 2021 audit that, despite regulatory requirements for establishments to make “reasonable efforts” to ensure that their the recyclables are recycled, in 40% of the inspection files we reviewed, the documentation provided by establishments did not demonstrate that their recyclables were collected separately and taken to an appropriate final destination to be recycled. Further, our examination found that, in 67% of the cases where establishments had not provided complete information (that is, proof that their recyclables were being collected separately and taken to an appropriate final destination), their recyclables were, in fact, being taken to transfer stations that sent most of the materials they received to landfill as garbage.

In our follow-up, we found that the Ministry has implemented new inspections protocols and online workflows to ensure that information and documentation about the collection and final destination of

recyclables are consistently captured, and that all aspects of the inspection protocols are completed by inspectors. Further, in early 2023, the Ministry finalized new guidance materials for inspectors, as well as a new standard operating procedure for conducting inspections, which are now fully implemented. Collectively, these measures should help ensure that inspectors consistently obtain all necessary documentation from regulated IC&I establishments about the collection and final destination of their source-separated materials.

### Waste Audits and Waste Reduction Work Plans

#### Recommendation 12

*So that requirements imposed on regulated industrial, commercial and institutional establishments are effective and efficient, and enforced where needed, we recommend that the Ministry of the Environment, Conservation and Parks:*

- *undertake its promised review, in consultation with stakeholders, to assess the efficacy of each of the requirements in the Waste Audit and Work Plans Regulation (Ontario Regulation 102/94) and the Packaging Audits and Packaging Reduction Work Plans Regulation (Ontario Regulation 104/94) at driving waste reduction and diversion or at providing useful data to measure progress by establishments;*
- *based on the review, revise or revoke any requirements that are found to be ineffective or inefficient, and replace them with alternative measures to drive waste reduction and diversion and track progress as appropriate;*

**Status: Little or no progress.**

#### Details

We found in our 2021 audit that Ministry inspectors were generally no longer inspecting for compliance with two regulations relating to IC&I waste (Ontario Regulations 102/94 and 104/94). Ministry inspectors

had identified issues with enforcing the regulations, yet the Ministry had not undertaken a review to assess the effectiveness of each of the regulatory requirements.

In our follow-up, we found that, in March 2022, Ministry staff had developed documents to prepare for a review of the IC&I waste regulations in consultation with stakeholders. However, at the time of our follow-up, no plans had been set to release these internal documents or initiate such consultation. Ministry staff had also undertaken research on third-party standards for waste audits to evaluate the effectiveness of Ontario Regulations 102/94 and 104/94, and advised us that they intended to undertake further jurisdictional research on best practices for auditing and waste-reduction approaches. The Ministry stated that it may, pending future direction, consider repealing Ontario Regulation 102/94 depending on opportunities to develop audit and/or reporting requirements as part of future policy reform.

- *continue Ministry inspections of any requirements that remain in force.*

**Status:** In the process of being implemented by April 2024.

### Details

We found in our 2021 audit that, as of April 2019, Ministry inspectors were no longer inspecting for compliance with the Waste Audits and Waste Reduction Work Plans Regulation (Ontario Regulation 102/94), except in corporate initiative inspections (which occur after a company such as a retail or fast food chain has committed to and confirmed full compliance at all of its locations) or where warranted by a risk assessment or complaint. Our audit noted that having a regulation remain in force, but that is not being enforced, creates regulatory confusion and undermines the concept of the rule of law.

In our follow-up, we found that, starting in December 2021, the Ministry restarted inspecting for compliance with Ontario Regulation 102/94 for the construction and/or demolition sectors and has completed reviews of more than 180 waste audit and reduction plans. As of September 1, 2023, the Ministry was working to define and implement an ongoing

compliance monitoring approach (including a guidance document) for inspecting compliance with the requirements in Ontario Regulation 102/94 for regulated IC&I establishments.

## Ministry Inspections of Regulated Establishments

### Recommendation 13

*To improve risk-based inspection planning of establishments across all industrial, commercial and institutional (IC&I) subsectors, to maximize the effectiveness of inspections, and to avoid unsuccessful inspection visits to non-regulated establishments, we recommend that the Ministry of the Environment, Conservation and Parks:*

- *establish processes to obtain better information to identify which establishments are regulated, such as through the use of private directories or data sharing agreements with other government agencies;*

**Status:** In the process of being implemented by April 2024.

### Details

We found in our 2021 audit that some IC&I subsectors, such as the manufacturing, restaurant and demolition sectors, received few Ministry inspections. Ministry inspectors told us that a key reason for the lower inspection rate was the difficulty in identifying which establishments met the thresholds for being regulated.

In our follow-up, we found that, in July 2022, as a first step, the Ministry developed a project plan to define its business needs (that is, assess gaps and options for obtaining the necessary data). At the time of our follow-up, information gathering was partially completed. For example, Ministry staff had collected information to improve their understanding of the regulatory profile of the manufacturing sector, which, as of June 2023, included information on 69 manufacturing sites obtained from ongoing field activities. Ministry staff were continuing to conduct research and analysis, including identifying options for procuring private data directories and information sharing with

other ministries, which they expect to complete by April 2024.

- *prioritize inspections of establishments that are likely not complying with the regulations, including establishments within subsectors that have a history of lower compliance rates;*

**Status:** In the process of being implemented by April 2024.

### Details

We found in our 2021 audit that the IC&I subsectors with the lowest compliance rates, namely the manufacturing, restaurant and demolition sectors, received few Ministry inspections. For example, the manufacturing subsector had the lowest compliance rate of any subsector (60% of inspected sites failed to comply with the Source Separation Programs Regulation), yet the Ministry had inspected only 10 manufacturers over five years—fewer than any other subsector.

In our follow-up, we found that, in accordance with our recommendation, the Ministry has prioritized compliance monitoring activities in the manufacturing, construction and demolition, and restaurant sectors. In 2022/23, the Ministry completed inspections at 20 construction and demolition sites and 22 restaurants. In 2023/24 (up to September 2023), the Ministry initiated inspections at seven manufacturing sites, 18 construction sites and seven restaurants. The Ministry has also initiated a corporate compliance strategy with four restaurant chains based on earlier inspections. As of September 1, 2023, the Ministry was continuing work to define and implement an ongoing compliance monitoring approach for oversight of the various IC&I subsectors.

- *review, in consultation with stakeholders, options to revise the thresholds set out in the IC&I waste regulations so that they are easier to apply and enforce.*

**Status:** Little or no progress.

### Details

We found in our 2021 audit that the method set out in the IC&I waste regulations for defining which establishments are regulated—by setting minimum

thresholds—created various inefficiencies. For example, we found that 10% of all IC&I inspections attempted between 2014/15 and 2018/19 were unsuccessful, mostly because Ministry inspectors were unable to determine in advance whether an establishment met the threshold to be regulated.

In our follow-up, we found that the Ministry has not acted on this recommendation. However, as a preliminary step, the Ministry has compiled hundreds of waste audits submitted to the Ministry by regulated IC&I waste generators, and Ministry staff have begun analyzing this compiled data, which can inform future decisions on amending the thresholds in the regulations.

### Recommendation 14

*So that industrial, commercial and institutional waste (IC&I) establishments and multi-residential buildings proactively comply with the IC&I waste regulations, and remain in compliance with the regulations, we recommend that the Ministry of the Environment, Conservation and Parks:*

- *review its compliance and enforcement approach to determine whether stronger measures, such as administrative fines, are needed to address non-compliance with the IC&I waste regulations;*

**Status:** Fully implemented.

### Details

In our 2021 audit, we found that there was minimal risk or penalty for establishments found non-compliant with the IC&I waste regulations. As a result, establishments could defer implementing required measures without consequence, until directed to do so by a Ministry inspector.

In our follow-up, we found that the Ministry had reviewed its compliance and enforcement approach, and had determined that availability of administrative penalties in this area would provide for stronger enforcement of environmental requirements. In January 2022, the Ministry consulted on a proposal through the Environmental Registry (#019-4108) to expand administrative penalties to cover more



environmental contraventions, including the IC&I waste regulations (Ontario Regulations 102/94 and 103/94), and received 62 comments. The Ministry also held six engagement sessions with over 500 registrants and met with several industry associations. As of May 2023, the Ministry had reviewed all stakeholder comments, and was considering further changes to the proposed approach to address stakeholder concerns.

- based on the outcome of the review, implement any changes to its compliance and enforcement policies.

**Status:** In the process of being implemented by January 2025.

### Details

As noted in the first action item of **Recommendation 14**, in our follow-up, we found that the Ministry had consulted in January 2022 on a proposal to expand administrative penalties to cover more environmental contraventions, including those under the IC&I waste regulations. The Ministry has reviewed all comments and is considering further changes to the proposed approach to address stakeholder concerns. The Ministry's target to complete the expansion of the administrative penalties is January 2025.

The Ministry also advised us that, as of May 2023, it was working to update its overarching Compliance Policy, which provides the decision-making framework for compliance and enforcement decisions. It undertook consultations in 2021 through the Environmental Registry on Ministry proposals to modernize its Compliance Policy. The Ministry held three municipal engagement sessions (with a total of 520 registrants) on modernizing environmental compliance practices, and included an update on the Compliance Policy in four webinar sessions (with over 300 registrants) on expanding administrative penalties. It received 41 comments through the Environmental Registry and stakeholder engagement sessions. The Ministry does not yet have an anticipated timeline for completing the update of its Compliance Policy.

## Organic and Food Waste Reduction and Diversion

### Recommendation 15

*To promote and enforce the reduction and diversion of food and organic waste by industrial, commercial and institutional waste (IC&I) establishments and multi-residential buildings, in accordance with the Food and Organic Waste Policy Statement, we recommend that the Ministry of the Environment, Conservation and Parks:*

- promptly provide guidance on calculating the baseline from which establishments are to measure progress toward the 2025 targets;

**Status:** Little or no progress.

### Details

In our 2021 audit, we found that the Ministry had not taken steps needed to effectively implement its *Food and Organic Waste Policy Statement*, including the policy's target for IC&I establishments to each reduce organic waste by either 50% or 70%, depending on their size and subsector, by 2025. In particular, the Ministry had not provided guidance to establishments on how to calculate the baseline for the target, from which to calculate the percentage of waste reduction achieved. Given that the target was the central feature of the policy, a lack of direction risks undermining the effectiveness of the entire policy to reduce food waste. In October 2021, shortly before the release of our audit report, Ministry staff completed draft guidance and a draft food waste calculator to help establishments determine their baseline and progress toward the targets, and provided these to senior management for review.

In our follow-up, we found that the Ministry had not, at the time of our follow-up, provided guidance to IC&I establishments on calculating the baseline from which they are to measure progress toward the 2025 waste-reduction and resource-recovery targets in the *Food and Organic Waste Policy Statement*. Despite the draft guidance and food waste calculator being near complete, the Ministry had not publicly posted either of these resources. The Ministry advised us that the public



release of the draft guidance and online calculator is dependent on future decisions.

- *require establishments to measure and track their organic waste to demonstrate progress toward the targets;*

**Status:** Little or no progress.

### Details

We found in our 2021 audit that the Ministry had not taken steps needed to effectively implement its *Food and Organic Waste Policy Statement*. We found that the policy did not require establishments to conduct food waste audits to quantify the amount and type of food waste. Without measuring and recording their food waste, there would be no means for either the establishments or the Ministry to monitor establishments' progress in reducing organic waste. Prior to our audit, in fall 2020, the Ministry had consulted on amendments to the policy that included tracking and reporting requirements for the targets. However, no further steps had been taken on this potential amendment.

In our follow-up, we found that the Ministry has not acted on this recommendation. The Ministry advised us that proposed amendments to the *Food and Organic Waste Policy Statement*, as well as feedback received by stakeholders during the fall 2020 consultation, are still under consideration by the Ministry.

- *develop and implement a strategy for education, outreach and enforcement of the policy, and for tracking the effectiveness of enforcement measures.*

**Status:** Little or no progress.

### Details

We found in our 2021 audit that the Ministry had not yet taken steps needed to effectively implement its *Food and Organic Waste Policy Statement*. In addition to the issues noted in the first two action items in **Recommendation 15**, we found that the Ministry had not yet undertaken outreach activities to educate establishments about the new requirements and promote compliance with the new policy.

In our follow-up, we found that the Ministry has not acted on this recommendation. The Ministry advised us that the release of the guidance and calculator (discussed in the first action item in **Recommendation 15**) would likely be the primary means of education and outreach for the Policy Statement.

## Delegating Duties to Resource Productivity and Recovery Authority

### Recommendation 16

*To collect and analyze industrial, commercial and institutional (IC&I) waste data, we recommend that the Ministry of the Environment, Conservation and Parks:*

- *assess the feasibility of assigning responsibility for collecting, analyzing and reporting on IC&I waste data to the Resource Productivity and Recovery Authority (Resource Authority), including assessing the Resource Authority's operational capacity to take on additional data collection and analysis responsibilities over the next two years; and*
- *based on the review, develop and implement a plan for assigning responsibility to the Resource Authority, or alternatively an appropriate body within the Ministry, for collecting, analyzing and reporting on IC&I waste data.*

**Status:** Little or no progress.

### Details

We found in our 2021 audit that the Resource Productivity and Recovery Authority (Resource Authority)—a non-Crown, not-for-profit corporation that delivers waste-related services to support the Province—already had in-house staff expertise and information technology and systems in place for waste data collection and analysis. Despite the potential to further leverage the Resource Authority's existing assets and expertise, we found that the Ministry had not assessed the potential for delegating responsibility to the Resource Authority for collecting, analyzing and reporting IC&I waste data.

In our follow-up, we found that the Ministry has not acted on this recommendation, stating that implementation is dependent on future policy decisions. The Ministry noted that the Resource Authority is currently focused on implementing producer responsibility regulations for a number of existing programs (tires, batteries, electrical and electronic equipment, hazardous and special products, and Blue Box materials), as well as currently overseeing the transition of local Blue Box programs to a producer responsibility framework (that is, making producers responsible for waste generated by their products).

### Recommendation 17

*To achieve higher diversion rates for materials generated by the industrial, commercial and institutional waste (IC&I) sector, similar to the rates achieved by the producer-run diversion programs overseen by the Resource Productivity and Recovery Authority, we recommend that the Ministry of the Environment, Conservation and Parks:*

- *undertake an assessment of potential candidate materials, including materials from the IC&I sector, to identify materials that are suited to producer-run diversion requirements under the Resource Recovery and Circular Economy Act, 2016; and*

- *designate additional products and materials from the IC&I sector that have been identified as appropriate.*

**Status:** Little or no progress.

### Details

We found in our 2021 audit that the producer-run diversion framework under the *Resource Recovery and Circular Economy Act, 2016*, which is overseen by the Resource Productivity and Recovery Authority, had resulted in diversion programs that achieved significantly higher collection and recycling rates compared to other IC&I waste. We found that there was a potential opportunity to increase IC&I diversion rates by including more materials under the producer-run diversion framework.

In our follow-up, we found that the Ministry has not acted on this recommendation. However, as a preliminary step, the Ministry has compiled hundreds of waste audits submitted to the Ministry by regulated IC&I waste generators, and Ministry staff have begun analyzing this compiled data, which can inform future decisions on designating new materials.