



**CITY OF HAMILTON**

**PUBLIC WORKS DEPARTMENT**  
**Corporate Assets & Strategic Planning Division**

<b>TO:</b> Chair and Members Public Works Committee	<b>WARD(S) AFFECTED:</b> CITY WIDE
<b>COMMITTEE DATE:</b> August 15, 2013	
<b>SUBJECT/REPORT NO:</b> Environmental Bill of Rights Registry Numbers 011-9260 - Waste Reduction Act and 011-9262 - Waste Reduction Strategy (PW13056) (City Wide)	
<b>SUBMITTED BY:</b> Gerry Davis, CMA General Manager Public Works Department	<b>PREPARED BY:</b> Andrew Grice Manager of Policy & Programs (905) 546-2424, Extension 1461
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That the City of Hamilton support Environmental Bill of Rights Registry Numbers 011-9260 - Waste Reduction Act and 011-9262 - Waste Reduction Strategy representing the legislation and implementation plan that will increase waste reduction and diversion subject to consideration of the following:
  - (i) Establishing individual producer responsibility making individual producers responsible for the end of life management of the products and packaging they put into the Ontario marketplace;
  - (ii) Setting enforceable standards for producers to meet;
  - (iii) Rejuvenating the need for the Industrial, Commercial and Institutional sector to divert more of the waste they generate;
  - (iv) Ensuring that there are no eco-fees applied to products at retail, and that the cost of reduction, diversion and recycling are included in the price of a product or its packaging;
  - (v) Transforming Waste Diversion Ontario to the Waste Reduction Authority with a stronger mandate of oversight and compliance to ensure outcomes are met;
  - (vi) Ensuring municipalities continue to play a strong role in waste diversion;

- (vii) Ensuring the residents of Ontario will continue to enjoy current levels of service for waste diversion programs; and
  - (viii) The future disposition of municipal waste infrastructure as potentially stranded assets be addressed through appropriate legislation and/or regulation.
- (b) That Report PW13056 be submitted to the Ministry of the Environment as the City's comments on the Environmental Bill of Rights Registry Number 011-9260 and 011-9262.

### **EXECUTIVE SUMMARY**

On June 6, 2013 Bill 91 was introduced in the legislature. The Waste Reduction Act and the Waste Reduction Strategy are complimentary documents representing the legislation and implementation plan that will form the framework for increased waste diversion and protection for consumers.

The need for the proposed legislation is based on several factors including a levelling of the diversion rate in Ontario and the continuing increase in cost for disposal and diversion.

The proposed legislation supports the City of Hamilton's 2012 Solid Waste Management Master Plan and the City's integrated waste management system as it relates to:

- Establishing Individual Producer Responsibility making individual producers responsible for the end of life management of the products and packaging they put into the Ontario marketplace;
- Recognizing the value of our landfills and the importance of minimizing waste and increasing diversion

Clarification is required as it pertains to the role of municipalities in developing agreements with producers for the payment for collection and processing of waste as well as the potential for stranded assets. Furthermore, it is imperative that legislative changes maintain or increase the service level to residents.

It is recommended that the proposed Provincial legislation and implementation plan posted on the Environmental Bill of Rights registry, under Registry Number 011-9260 and 011-9262 respectively, with a ninety day commenting period ending September 4, 2013 be supported.

**Alternatives for Consideration - See Page 8**

### **FINANCIAL / STAFFING / LEGAL IMPLICATIONS**

**Financial:** There are no financial implications.

**Staffing:** There are no staffing implications.

**Legal:** There are no legal implications.

**HISTORICAL BACKGROUND**

This background will review the history of the Waste Diversion Act and speak to the purpose of the proposed Waste Reduction Act and Waste Reduction Strategy.

**History of the Waste Diversion Act**

The Waste Diversion Act was passed into law in 2002 *“to promote the reduction, reuse and recycling of waste and to provide for development, implementation and operation of waste diversion programs.”* The Province had recognized that the producers of paper and packaging materials needed to take responsibility for the materials they put into the marketplace.

Of particular concern was the Blue Box program which municipalities had operated since the late 1980s, and for which municipalities bore the entire cost. The Waste Diversion Act required that producers of Blue Box materials make *“payments to municipalities to be determined in a manner that results in the total amount paid to all municipalities under the program being equal to 50 per cent of the total net cost incurred by those municipalities as a result of the program.”*

However when the Blue Box Program Plan (the implementation document) was developed, the producers requested that municipalities should be incented to improve the efficiency and effectiveness in their recycling systems. To achieve this the funding formula, based on annual data calls, results in municipalities receiving less than 50 per cent of their net costs, with the balance being allocated to a Continuous Improvement Fund that municipalities could apply to for the purpose of studies or physical upgrades to improve their recycling systems. The funding received by the City of Hamilton over a number of years is presented in Table 1.

**Table 1 - Net Costs and Funding for Hamilton's Blue Box Program**

Year	Net Blue Box Program Costs	Funding Year	WDO Funding for Blue Box Program	Percentage (%) of Net Costs
2003	5,147,595	2005	2,111,997	41.00%
2004	3,297,667	2006	1,443,276	43.90%
2005	4,592,084	2007	1,759,326	38.30%
2006	7,130,448	2008	2,326,009	32.62%
2007	6,389,725	2009	2,560,020	40.06%
2008	7,436,238	2010	2,672,238	35.94%
2009	8,136,827	2011	3,134,560	38.52%
2010	7,175,514	2012	3,364,983	46.90%
2011	5,942,033	2013	3,342,107	56.25%

Since the approval of the Waste Diversion Act in 2002, a number of staff reports have been presented to Council committees in response to Provincial or industry papers and proposals about Extended Producer Responsibility, review of the Waste Diversion Act, Blue Box and hazardous waste funding models and Zero waste. A summary of these reports can be found in Appendix A to this report. However, the review of the Waste Diversion Act was never completed.

Other provinces in Canada (British Columbia, Manitoba, Quebec and Saskatchewan) have, or are moving toward full Extended Producer Responsibility through individual producer responsibility for 100% of the full lifecycle cost of their products.

In Europe, Individual producer responsibility has resulted in packaging recycling rates of 70% in Germany and the Netherlands and 61% in the United Kingdom.

### **The Proposed Waste Reduction Act and Waste Reduction Strategy**

The introduction of the proposed Waste Reduction Act and Waste Reduction Strategy is cautiously welcomed by most Ontario municipalities. The concept of the Blue Box program being fully funded by industry is attractive, while the concerns about municipal impacts are equally reasonable.

The purpose of this report is to explore the advantages and pitfalls of the proposed legislation and strategy, and to make recommendations for the Public Works Committee to consider forwarding to the Minister of the Environment in response to the Environmental Bill of Rights postings.

## **POLICY IMPLICATIONS/LEGISLATED REQUIREMENTS**

The concept of the Waste Reduction Act and the Waste Reduction Strategy correlate to the City of Hamilton 2012 Solid Waste Management Master Plan.

Guiding Principle #2 - "The Glanbrook Landfill is a valuable resource. The City of Hamilton must minimize residual waste and optimize the use of the City's diversion and disposal facilities;"

The proposed legislation could see a reduction in waste generated and sent to landfill. This could extend the useful life of the landfill.

Recommendation #1 - "A waste diversion target of 65% will be maintained;"

Recommendation #2 - "The City of Hamilton will continue to lobby for Extended Producer Responsibility (EPR) to encourage manufacturers and retailers to take responsibility for waste they are generating and minimize waste and impacts on the City's integrated waste management system;"

The proposed legislation supports Extended Producer Responsibility and will assist with the 65% diversion target and reduce the impact on the City's waste management system.

## **RELEVANT CONSULTATION**

Staff have attended regional consultation sessions hosted by the Ministry of the Environment to discuss the Waste Reduction Act and Waste Reduction Strategy and the impacts on municipalities and producers.

## **ANALYSIS / RATIONALE FOR RECOMMENDATION**

The Waste Reduction Act and Waste Reduction Strategy are complimentary documents representing the legislation and implementation plan, that together form the Province's new framework for increasing waste reduction and diversion and protecting consumers. More specifically, the framework:

- Establishes individual producer responsibility making individual producers responsible for the end of life management of the products and packaging they put into the Ontario marketplace;
- Sets enforceable standards for producers to meet;
- Rejuvenates the need for the Industrial, Commercial and Institutional sector to divert more of the waste they generate;
- Ensures that there are no eco-fees applied to products at retail, and that the cost of reduction, diversion and recycling are included in the price of a product or its packaging;
- Transforms Waste Diversion Ontario to the Waste Reduction Authority with a stronger mandate of oversight and compliance to ensure outcomes are met; and
- Ensures municipalities continue to play a strong role in waste diversion.

The need for the new legislation is based on several concerns including:

- Waste diversion in Ontario has levelled off to 25%;
- There is no desire by either the public or private sector to develop complex and expensive waste disposal capacity (landfills);
- Municipal costs of waste disposal and diversion continue to climb;
- Consumers have developed a keen awareness and concerns about separate eco-fees; and
- Stakeholders (municipalities, producers, Industry Funding Organizations (e.g. Stewardship Ontario) are concerned that the current framework is not working and is in need of reform.

It is also considered that legislation and regulatory changes to reduce and recycle waste can:

- Attract investment to create new jobs, foster innovation and conserve resources;

- Reduce energy consumption, producing less greenhouse gas, and having less environmental impact than the use of raw materials; and it can reduce the need for additional landfill capacity; and
- Create the opportunity to recover more economic value from waste, particularly in the Industrial, Commercial and Institutional sector.

**1. Waste Reduction Act - Environmental Bill of Rights Registry Number 011-9262**

The Waste Reduction Act is the proposed legislation which would establish individual producer responsibility for the end of life management of the products they put into the Ontario marketplace. Not unlike the Waste Diversion Act, the Waste Reduction Act is enabling legislation in that it is general with the details being left to the Waste Reduction Strategy and ensuing regulations and program plans.

The Waste Reduction Act contains sections that address:

- The formation and governance of the Waste Reduction Authority (the Authority);
- The responsibility and duties of producers and their intermediaries, and the role of municipalities;
- Integrated pricing, the all in pricing of products and their packaging, and how this is communicated;
- Enforcement, tools for compliance and enforcement such as orders, administrative penalties and offence provisions;
- Regulations and powers of the Minister of the Environment; and
- Continuation of Existing Waste Diversion Programs and Industry Funding Organizations as the programs transition to the new individual producer responsibility framework (business as usual in the interim).

In general, the proposed Waste Reduction Act is the Extended Producer Responsibility direction that municipalities have wanted to see for some time with producers bearing the cost of products and packaging.

The following comments focus on the impacts of the legislation for municipalities.

As producers become responsible for 100% of the cost of diverting and recycling their products, there may be changes to how municipalities run programs and what materials they collect. Municipalities, either individually or collectively, will need to negotiate agreements with producers for the payment for collection, processing and associated services related to designated waste. If there is no agreement, the compensation formula may be established by the Authority or through regulation. Furthermore, it is unclear if municipalities have the authority

to not participate in a particular program if they do not have the means or capacity to collect and process the particular waste.

Although the Waste Reduction Act is intended to address economic and environmental issues, the social and community aspect is not apparent. The Waste Reduction Act may protect the consumer from eco-fees and promote competition amongst producers, but the service to residents of communities should not be lost in the big picture, particularly related to the Blue Box program. The Blue Box program is a mature curbside program which provides most Ontario residents with convenient, regular collection of recyclable materials. Any legislative and ensuing regulatory changes should ensure that residents continue to receive the same or improved service and that promotional and educational information continue to be appropriately and well communicated. This may be an area of clarification around the municipal role.

## **2. The Waste Reduction Strategy**

The Waste Reduction Strategy is an implementation strategy to guide the next steps to achieve desired results. The proposed steps include:

- Designate paper and packaging in the Industrial, Commercial and Institutional sector as the next waste diversion target, building on the Blue Box program
- Set recycling standards for end of life vehicles
- Designate additional wastes over time
- Develop a strategy to increase organics diversion
- Ban designated waste from landfill
- Timely and smoothly transition from existing programs to individual producer responsibility framework

The inclusion of the Industrial, Commercial and Institutional sector is critical to waste diversion in Ontario. However there are matters that need to be addressed for this to be successful. The City has an existing Materials Recycling Facility and additional processing capacity will be required in conjunction with the individual producer responsibility framework. However, there is no assurance that the individual producers will be interested in continuing to have material processed at the Hamilton Materials Recycling Facility. If the City's Materials Recycling Facility is not required, consideration needs to be given to appropriate compensation to the City for the stranded asset.

New compost regulations and guidelines come into effect in July 2015 and should be included in the development of an increased organics diversion strategy. It is expected that Industrial, Commercial and Institutional materials will have a higher contamination rate and create compliance issues with respect to compost quality.

The Waste Reduction Strategy identifies the Waste Reduction Authority as the agency responsible for enforcement of the Industrial, Commercial and Institutional sector. However, historically the Ministry of the Environment has been the enforcement authority of the Industrial, Commercial and Institutional sector. Due to resource constraints, the Ministry has not conducted much enforcement in this sector. Municipalities need to make it clear that they do not have the resources to enforce in the Industrial, Commercial and Institutional sector.

The remaining items are adequate, although staff would point out that many municipalities, by virtue of waste management by-laws, indirectly ban designated wastes from other streams.

Through the implementation of these steps, the Province is hoping to achieve a number of results including:

- Drive economic and environmental innovation by holding individual producers responsible for waste reduction outcomes
- Make the Waste Reduction Authority a stronger compliance authority
- Use all-in pricing to protect the consumer and incent product innovation
- Increase support for municipal recycling programs such as the Blue Box
- Increase the recycling of a broader range of wastes
- Ensure existing programs are transitioned in a timely and smooth manner

#### **ALTERNATIVES FOR CONSIDERATION**

If Council elects not to comment on Environmental Bill of Rights Numbers 011-9260 - Waste Reduction Act and 011-9262 - Waste Reduction Strategy alternatives are:

- (a) Make no statement on the pending Provincial Legislation.
- (b) Send a message of opposition to the pending Provincial Legislation.

To advance waste reduction and diversion in Ontario, amending legislation and accompanying documentation and regulations are essential. Accordingly, staff do not recommend these alternatives.

#### **ALIGNMENT TO THE 2012 - 2015 STRATEGIC PLAN**

##### **Strategic Priority #1**

A Prosperous & Healthy Community

*WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.*



**Strategic Objective**

- 1.5 Support the development and implementation of neighbourhood and City wide strategies that will improve the health and well-being of residents.
- 1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

**Strategic Priority #2**

Valued & Sustainable Services

*WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.*

**Strategic Objective**

- 2.1 Implement processes to improve services, leverage technology and validate cost effectiveness and efficiencies across the Corporation.

**Strategic Priority #3**

Leadership & Governance

*WE work together to ensure we are a government that is respectful towards each other and that the community has confidence and trust in.*

**Strategic Objective**

- 3.1 Engage in a range of inter-governmental relations work that will advance partnerships and projects that benefit the City of Hamilton.

**APPENDICES / SCHEDULES**

Appendix A - Summary of Related Reports

### **Summary of Previous Waste Diversion Act Related Staff Reports**

Since 2002, Council has endorsed a number of staff comments and submissions on matters related to the implementation of the Waste Diversion Act. A summary of these reports is provided below.

#### **PW07042 – Committee Date: March 14, 2007 AMO/AMRC Discussion Paper on Strengthening Extended Producer Responsibilities for Ontario’s Blue Box February 2007**

Recommendations:

- (a) That the City of Hamilton support the Association of Municipalities of Ontario (AMO) and the Association of Municipal Recycling Coordinators of Ontario (AMRC) Discussion Paper on Strengthening Extended Producer Responsibilities for Ontario’s Blue Box;
- (b) That a copy of Report PW07042 be provided to the AMO, AMRC, Federation of Canadian Municipalities (FCM) and local Members of Parliament (MPs) and Members of Provincial Parliament (MPPs).

#### **PW07088/LS07009 – Committee Date: June 5, 2007 Association of Municipalities of Ontario (AMO) and the Association of Municipal Recycling Coordinators of Ontario (AMRC) Discussion Paper on the Five (5) Year Review of the Waste Diversion Act (WDA), April 25, 2007**

Recommendations:

- (a) That the City of Hamilton support the Association of Municipalities of Ontario (AMO) and the Association of Municipal Recycling Coordinators of Ontario (AMRC) discussion paper on the Five (5) Year Review of the Waste Diversion Act, April 25, 2007;
- (b) That the AMO be requested to include a request to the Ministry of Environment to consider how to provide funding and support for municipal research and development projects for diversion of materials that have not yet been designated under the Waste Diversion Act;
- (c) That a copy of this report be provided to the AMO, AMRC, Federation of Canadian Municipalities (FCM) and local Members of Parliament (MPs) and Members of Provincial Parliament (MPPs).

#### **PW08122 – Committee Date: October 15, 2008 Municipal Household Special Waste Program - Stewardship Ontario Funding Agreement**

Recommendations:

- (a) That the City of Hamilton enter into an Agreement with Stewardship Ontario for the funding of the City’s Municipal Hazardous or Special Waste Program;

- (b) That the Mayor and Clerk be authorized to execute the Agreement referred to in recommendation (a) above, in a form satisfactory to the City Solicitor;
- (c) That the MHSW funding in the amount of \$514,000 be included in the Waste Management Division 2009 Operating Budget.

**PW08146 – Committee Date: November 17, 2008**

**Toward A Zero Waste Future: Review of Ontario’s Waste Diversion Act, 2002 - Discussion Paper for Public Consultation, October 28, 2008, Ministry of the Environment**

Recommendations:

- (a) That the City of Hamilton supports changes to provincial policy and legislation, including the Waste Diversion Act (WDA) that:
  - (i) Increase waste reduction and reuse;
  - (ii) Extend Producer Responsibility for products and packaging including products and packaging that are not reusable or recyclable;
  - (iii) Retain the current level of municipal service for the Blue Box Program;
  - (iv) Include stewardship fees in the cost of manufacturing products and packaging;
  - (v) Improves waste diversion in the Industrial Commercial Institutional (ICI) sector;
  - (vi) Encompass integrated waste management systems (the full waste value chain) contained in Appendix B to this report;
- (b) That Report PW08137 be submitted to the Ministry of the Environment (MOE) as the City’s comments on Environmental Bill of Rights (EBR) Registry Number 010-4676;
- (c) That copies of this report be sent to the local Members of Provincial Parliament, the Association of Municipalities of Ontario (AMO), the Municipal Waste Association (formerly the Association of Municipal Recycling Coordinators) and the Regional Public Works Commissioners of Ontario (RPWCO).

**PW09040 – Committee Date: April 14, 2009**

**Discussion Papers: “Towards a Proposed Canada-Wide Action Plan for Extended Producer Responsibility” and “Towards a Proposed Canada-Wide Strategy for Sustainable Packaging”, February 2009, Canadian Council of Ministers of the Environment**

Recommendations:

- (a) That the City of Hamilton supports the Canadian Council of Ministers of the Environment (CCME) Discussion Paper: Towards a Proposed Canada-Wide Action Plan for Extended Producer Responsibility (EPR);

- (b) That the City of Hamilton supports the Canadian Council of Ministers of the Environment Discussion Paper: Towards a Proposed Canada-Wide Action Strategy for Sustainable Packaging;
- (c) That Report PW09040 be submitted to the CCME as the City's comments on the discussion paper;
- (d) That copies of this report be sent to the Federal Minister of the Environment, local Members of Federal Parliament, Federation of Canadian Municipalities (FCM), the Ontario Minister of the Environment, the Association of Municipalities of Ontario (AMO), the Municipal Waste Association (MWA) (formerly the Association of Municipal Recycling Coordinators) and the Regional Public Works Commissioners of Ontario (RPWCO).

**PW10007 – Committee Date: January 18, 2010**

**From Waste to Worth: The Role of Waste Diversion in the Green Economy, A Minister's Report on the Review of Ontario's Waste Diversion Act, 2002**

Recommendations:

- (a) That the City of Hamilton supports From Waste to Worth: The Role of Waste Diversion in the Green Economy, A Minister's Report on the Review of Ontario's Waste Diversion Act, 2002, provided that;
  - (i) There are no negative impacts to municipal integrated waste management systems;
  - (ii) Residential service levels are maintained or improved;
  - (iii) Municipalities are involved in the priorities and timing of the future designation of materials;
  - (iv) Landfill levies are not imposed on municipal landfills used for residential waste where the municipality has integrated comprehensive waste diversion programs that are funded through the municipal tax base; and that any levies that are collected on municipal landfills be used for research and development of diversion programs, information sharing and training;
  - (v) Municipalities in which waste diversion infrastructure becomes stranded assets as a result of Extended Producer Responsibility are appropriately compensated;
  - (vi) Implementation results in demonstrated cost reductions for municipalities; (vii) Implementation is done in consideration of the waste management hierarchy and overall environmental impacts;
- (b) That the December 9, 2009 motion of the Waste Reduction Task Force, attached as Appendix A to Report PW10007 be received and forwarded as part of the City's comments on the Minister's Report;

- (c) That Report PW10007 be submitted to the Ministry of the Environment (MOE) as the City's comments on Environmental Bill of Rights (EBR) Registry Number 010-8164;
- (d) That copies of this report be sent to the local Members of Provincial Parliament, the Association of Municipalities of Ontario, the Municipal Waste Association, the Regional Public Works Commissioners of Ontario (RPWCO), the Solid Waste Association of North America (SWANA) and the Ontario Waste Management Association (OWMA).

The purpose of this report was to express support for the Province's efforts to promote increased waste diversion and extended producer responsibility. But it also called on the Province to ensure that any proposed changes would not result in negative impacts to existing municipal integrated waste management systems and that municipal costs be decreased and residential services levels be maintained or improved.

**PW13037 - Committee Date: May 16, 2013**

**Recycling Council of Ontario Municipality Reimbursement Agreement for the Funding of Phase 2 Municipal Hazardous or Special Waste**

Recommendations:

- (a) That the City of Hamilton enter into the Municipality Reimbursement Agreement with the Recycling Council of Ontario for the funding of Phase 2 material collected under the City of Hamilton's Municipal Hazardous or Special Waste program;
- (b) That the Mayor and City Clerk be authorized to execute all necessary documents, including a Municipality Reimbursement Agreement with the Recycling Council of Ontario, to implement recommendation (a) of Report PW13037 with content satisfactory to the General Manager of Public Works and in a form satisfactory to the City Solicitor.

The purpose of this report was to recommend that the City Municipality Reimbursement Agreement with the Recycling Council of Ontario for the funding of Phase 2 material collected under the City of Hamilton's Municipal Hazardous or Special Waste program.