SUBJECT: Application for an Amendment to a Ministry of Environment Certificate of Approval (3837-5PYQTT) for Expansion to a Waste Disposal Site, Ministry of Environment Reference 0594-7C2JFK, 1650 Upper Ottawa Street, Hamilton (PED09069) (Ward 6)

RECOMMENDATION:

That the Environmental Assessment and Approvals Branch of the Ontario Ministry of Environment (MOE) be advised that should the Ministry consider approving Application CA-008-002, Hazco Environmental Services Inc, Applicant, for an Amendment to a Certificate of Approval (3837-5PYQTT) for an increase in capacity at an existing waste disposal site, located at 1650 Upper Ottawa Street, Hamilton, as shown on Appendix “A” to Report PED09069, that the City of Hamilton requests:

(a) That prior to the Ministry of Environment issuing any Certificate of Approval for the increased storage capacity at the existing waste disposal site (transfer station), the following requirements shall first be satisfied:

   (i) That a professional evaluation shall be conducted by an Engineer for compliance with Part 4 of the Ontario Fire Code. It is the Owner’s responsibility to ensure that their building(s) and operation(s) comply with the Ontario Fire Code. A letter, signed by a professional Engineer, indicating compliance with Part 4 of the Ontario Fire Code as a result of the increased quantities, shall be provided, to the satisfaction of the Chief Fire Prevention Officer, Hamilton Emergency Services.

   (ii) That a thorough review of the storage area (Building 3 on Appendix “B” to Report PED09069) be conducted by the Ministry of Environment to ensure that proper storage capacity is available.

   (iii) That a thorough review be conducted by the Ministry of Environment for the types of waste classes proposed to be stored/handled at the site for compatibility.
That, if approved, the Amendment to the Certificate of Approval include the following requirements:

(i) That the Certificate of Approval limit the maximum waste capacity to 65,600 litres received daily, and limit the maximum storage volume of waste stored on site at any given time to 65,600 litres.

(ii) That the Certificate of Approval limit the maximum storage quantity of flammable and combustible materials to 5,000 litres. An inventory of waste types stored on site should be updated daily, and be readily available for inspection when requested.

(iii) That waste shall only be permitted to be stored within Building 3, as shown on Appendix “B” to Report PED09069, and that the maximum gross floor area permitted to be used for waste storage be 108 square metres.

(iv) Strict requirements for excellent on-site housekeeping practices for the approved classes of waste to minimize adverse effects to the surrounding uses.

(v) That the waste accepted be limited to waste generated only from the Province of Ontario.

(vi) That the proponent implement spills prevention on site, and containment measures be included in the Certificate of Approval. That the Contingency Plans for spills on site and clean-up procedures are covered under the Certificate of Approval, and that the City’s Spills number (905) 540-5188 is included in the company’s on-site Contingency Plan. Further, that a copy of the Contingency Plan be forwarded to the Compliance and Regulations Section, Water and Wastewater Division, Public Works Department, City of Hamilton.

(vii) Strict adherence to all department/agency requirements, including those of the Ministry of Environment, Ministry of Labour, and City of Hamilton Fire Prevention Services.

(viii) That the proponent be required to provide financial assurance to the Ministry of Environment to cover final clean-up of the site, following the cessation of use.

(ix) That a Ministry of Environment staff person be identified to the City as the contact for all issues and complaints regarding the subject property.

(c) That a copy of Report PED09069 be forwarded to the Environmental Assessment and Approvals Branch of the Ministry of Environment for their consideration.
SUBJECT: Application for an Amendment to a Ministry of Environment Certificate of Approval (3837-5PYQTT) for Expansion to a Waste Disposal Site, Ministry of Environment Reference 0594-7C2JFK, 1650 Upper Ottawa Street, Hamilton (PED09069) (Ward 6) - Page 3 of 11

(d) That the Environmental Assessment and Approvals Branch of the Ministry of Environment be requested to forward a copy of its final decision respecting the Certificate of Approval to the Clerk, City of Hamilton.

Tim McCabe
General Manager
Planning and Economic Development Department

**EXECUTIVE SUMMARY:**

The applicant, Hazco Environmental Services Inc., has applied to the Ministry of Environment (MOE) for an Amendment to an existing Certificate of Approval for a Waste Disposal Site (transfer station) to increase the amount of waste stored on the site from 4,100 litres to a maximum of 65,600 litres. The type of waste to be stored on site includes solid and liquid industrial hazardous and non-hazardous wastes. The waste will be stored in an existing 108 square metre building on the property (shown as Building 3 on Appendix “B”). A portion of this building is currently used for waste storage. This application seeks to permit an increase in storage capacity on the site, which would be fully accommodated within the currently unused portion of Building 3. Staff notes that this application is not subject to Interim Control By-law 08-104, passed on April 23, 2008, which prohibited the establishment or expansion of any private waste disposal sites. This Certificate of Approval amendment application was filed with the MOE prior to the passage of the Interim Control By-law and the subject lands are, therefore, exempt from By-law 08-104.

The Ministry of the Environment requests affected municipalities to provide comments on new and amended Certificate of Approval applications. The MOE then makes a decision on the application, on the basis of the comments received, in addition to various technical and environmental considerations. Comments from the City of Hamilton on Certificate of Approval applications are forwarded to the MOE. Based on the comments received from an internal circulation of this application, and the analysis undertaken, this MOE application for a Certificate of Approval is considered acceptable, subject to a number of matters being addressed. Prior to the MOE issuing any approval for increased capacity at the site, staff recommends that the following shall first be completed: the applicant shall be required to prove that Building 3 is compliant with the Ontario Fire Code; a thorough review shall be conducted of the storage area to ensure sufficient storage capacity is available; and a review shall be conducted of the types of waste classes proposed to be stored on site for compatibility. If the Certificate of Approval is approved, the following conditions should be included: limits on the maximum capacity of waste to be received and stored on site, limits on the maximum area of the site to be used for waste storage; requirements for excellent on-site
SUBJECT: Application for an Amendment to a Ministry of Environment Certificate of Approval (3837-5PYQTT) for Expansion to a Waste Disposal Site, Ministry of Environment Reference 0594-7C2JFK, 1650 Upper Ottawa Street, Hamilton (PED09069) (Ward 6) - Page 4 of 11

housekeeping practices, spill containment measures, and strict adherence to regulations; as well as standard conditions relating to financial assurances to the MOE for final site clean-up, limitation on the origin of the accepted waste, and identification of an MOE contact for all issues related to the operation.

BACKGROUND:

What is a Certificate of Approval?

A “Certificate of Approval” pursuant to Part V of the Environmental Protection Act is a legally binding document, through which an individual, company or municipality is permitted, by the Ontario Ministry of Environment, to undertake an activity related to the management of waste.

Each Certificate of Approval is drafted to address the site-specific considerations relevant to the proposal and contains enforceable requirements that ensure environmental and health protection, compliance with legislation and policy requirements. The Certificate of Approval stipulates the types of wastes that can be managed at the facility and contains “conditions” that describe the manner in which the facility is to be operated. Failure to comply with any of the Certificate’s conditions constitutes a violation of the Environmental Protection Act, and is grounds for enforcement through the Provincial Offences Act.

Current Application

The applicant originally applied to the Ministry of Environment in March, 2008 to increase the maximum permitted storage capacity on the site from 4,100 litres to 16,400 litres, all to be stored within the existing building on the site currently already in use for waste storage (Building 3 on Appendix “B”). In December, 2008, prior to this application being considered by the MOE, the applicant further amended their Certificate of Approval application to permit a maximum storage capacity of 65,600 litres, based upon a further review of their site operations and the configuration of Building 3. As with the initial application, all of the waste would continue to be stored within Building 3, however, the drums of waste would be stacked to accommodate the extra capacity.

Interim Control By-law 08-104/Planning Study of Private Waste Disposal Sites

The City of Hamilton passed Interim Control By-law 08-104 on April 23, 2008, which had the effect of prohibiting the establishment of any new private waste disposal site or the expansion of any existing private waste disposal site in any industrial zones in the City. The Interim Control By-law was enacted in order to allow the City to conduct a planning study in respect of the land use policies for the location of private waste disposal sites in the City. By-law 08-104 lists several exemptions, including “those lands for which any application for a Part V Certificate of Approval for a waste disposal site has been filed with the Ministry of Environment prior to the date of the passing of the Interim Control By-law.” The application by Hazco Environmental Services to the Ministry of
Environment for their Certificate of Approval amendment was placed on the Environmental Registry on March 13, 2008 and, therefore, was filed with the MOE prior to the passage of the Interim Control By-law. This application is, therefore, exempt from Interim Control By-law 08-104. This interpretation was confirmed by the City’s Legal Services Division.

At the time of writing this report, the Planning Study of Private Waste Disposal Sites by Jacques Whitford Limited, dated October 21, 2008, was scheduled to be considered by the Committee of the Whole on March 9, 2009. This Study recommends new Employment Area/Industrial Official Plan policies and zoning for private waste facilities requiring a Certificate of Approval for waste. The Study provides direction on permitting new and expansions to existing private waste disposal facilities. It recommends that existing private waste facilities be recognized as permitted uses, and that any expansions to an existing facility be required to comply with proposed policies and zone provisions for new facilities. Regarding hazardous waste facilities, the Study recommends that any new facility or expansions to existing facilities be required to apply for site-specific Official Plan and Zoning By-law Amendments, and outlines a number of considerations that must be reviewed when evaluating such a proposal. These considerations include: appropriate separation distance from sensitive land uses to ensure public health and safety is protected; contingency plans for on-site spills; noise, odour, dust and traffic mitigation; and on-site stormwater and wastewater management. The Study does not recommend a minimum separation distance from sensitive uses for hazardous waste facilities. Rather, the Study suggests that the appropriate separation distance would be determined as part of the review of the above information during the processing of the Official Plan and Zoning By-law Amendment applications. Staff notes that the majority of the considerations listed above have been addressed in the Recommendation section of this report as proposed requirements of the Certificate of Approval. Separation distance from sensitive land uses has not been specifically addressed, but staff has suggested in Recommendation (a) above that the applicant should be required to provide evidence that the site and the waste storage building be evaluated to ensure that they are capable of handling the additional waste, and that the types of wastes proposed to be stored at the site be reviewed for compatibility, prior to any approvals being issued (see Recommendations (a) (ii) and (iii)). These requirements have been included to ensure that the site is operating in a safe manner, and that public health and safety of surrounding land uses is protected. Further, requirements relating to spills control and nuisance mitigation have also been included in the recommendations (see Recommendations (b) (iv) and (vi)). For information purposes, the existing waste transfer facility is located approximately 150 metres from residential uses.

Staff notes that the applicant is not required to apply for a site-specific Official Plan or Zoning By-law Amendment at this time because the recommendations from the Private Waste Disposal Study have not been included in the City of Hamilton Official Plan or Zoning By-law. All of the planning approvals are already in place to permit a waste transfer station on the subject lands. This report addresses a request for comments from the MOE on an application for an Amendment to a Certificate of Approval, where
ANALYSIS/RATIONALE:

Site Operations

Hazco Environmental Services Inc. is an emergency spills response company. The company responds to spills and provides clean-up and waste removal services. The waste that is removed from the spill scene is transferred to the subject site at 1650 Upper Ottawa Street, where it is stored for a period of up to 90-days and then transferred to a designated disposal site elsewhere in Ontario. The site operates 24 hours a day and 365 days a year, and was rezoned in 2003 to permit waste storage.

When waste is received at the Upper Ottawa Street site, it is unloaded and stored within Building 3, as shown on Appendix “B”. Off loading of waste takes place within a designated containment area. Characteristics of the incoming waste are recorded, as well as other information such as waste generator, type, volume, receiving date, and shipping date, within a waste management database. All waste and recyclables are containerized in large drums. For the majority of materials, the retention time on site is between 2 and 6 weeks. Materials received in smaller volumes may be kept on site longer in order to accumulate large enough volumes to make it economically viable to ship the materials. Staging, repackaging or consolidation of loads is done within this time. No processing occurs on site aside from bulking or repackaging of like materials. For transport to the final disposal destination, waste is loaded onto licensed carrier vehicles in the designated containment area.

As shown on the attached Site Plan (Appendix “B”), the site consists of a large office and training building, an equipment storage building (Building 5), and a Waste Storage Building (Building 3). A site visit was conducted on August 15, 2008, with the applicant, the Ward Councillor, and staff from Planning, Waste Management, and Water and Wastewater.

Building 3 is currently used to store waste on site and has a floor area of 108 square metres. The Certificate of Approval currently in place (issued in 2003) limits the amount of waste that can be stored on site to 4,100 litres (20 x 205 litre drums). These 20 drums occupy less than one third of the total area of the building, with the remainder of the building being vacant. The proposed amendment to the Certificate of Approval would increase the maximum volume of waste to be stored on site to 65,600 litres (320 x 205 litre drums). This increase in storage capacity will be entirely contained within Building 3, and would be accommodated through double stacking the drums within Building 3. In order to ensure that Building 3 is properly designed and capable of accommodating this increase in waste, and that it will comply with all Ontario Fire Code and Ministry of Environment regulations, staff has included Recommendations (a) (i), (ii) and (iii) above.
Truck Movements

The type and number of trucks entering the site each day will not change significantly from the current operations. Five-ton trucks will deliver waste in small drum containers. Outgoing wastes will be transferred using five-ton trucks and/or tractor trailers. The number of truck movements per day may increase marginally by approximately 10% - 20%. Currently, there is less than one truck movement per day. Similar types of waste will be sent to disposal sites that specialize in the disposal of certain types of waste. This allows for efficiency gains by sending out larger loads and minimizing cost. Larger loads reduce the number of vehicles required to be shipped out.

Stored Volume

As stated above, the storage capacity on site will be a maximum of 65,600 litres. The quantity of waste received per day will vary, but will not exceed the maximum storage capacity.

Security

The site is surrounded by a 1.8 metre high metal fence, with an electronically controlled chain link gate that can only be accessed with security codes. There is 24 hour external and internal closed circuit video surveillance around the site.

Zoning

The subject lands are zoned “M-15” (Prestige Industrial) District in the City of Hamilton Zoning By-law. The zoning on the subject lands was modified in 2003 to permit “a waste transfer station, having an area no larger than 30.5 square metres, for the temporary storage of waste, and accessory only to the use existing at the time of the passing of the By-law”. The gross floor area maximum was based on a number provided by the applicant at the time of the rezoning application, which was an estimate of the space that they determined would be required for their operation. The size of the building that currently stores the waste on site (Building 3) exceeds 30.5 square metres, and only a small portion of the building is currently being used for waste storage (less than one-third of the building). Staff confirmed this on the site visit to the facility.

This Certificate of Approval Amendment application seeks to increase the permitted storage capacity on site to 65,600 litres, which would involve using all of Building 3 for waste storage. The applicant was informed by staff that an application for minor variance would be required to permit the entirety of Building 3 to be used for waste storage. The minor variance was approved by the Committee of Adjustment on January 8, 2009, and was final and binding on January 28, 2009. The minor variance permits a maximum area of 108 square metres to be used for waste storage, which is the gross floor area of Building 3. The Certificate of Approval should limit the maximum gross floor area to 108 square metres and a storage capacity of 65,600 litres, as set out in Recommendations (b) (i) and (iii).
ALTERNATIVES FOR CONSIDERATION:

The City of Hamilton is not the approval authority for Certificate of Approval applications, but has been requested to submit comments on this application to the MOE. The MOE will consider the City’s comments in making a decision on the application. The following alternatives are available to the City in providing comments to the MOE.

1. **Request MOE to Deny the Application**
   
   The City could request that the MOE deny the Certificate of Approval application.

2. **Request MOE to Incorporate the City’s Conditions**
   
   The City can request that certain conditions be included in the Certificate of Approval, if approved. The circulation of the application to City Departments did not result in any objections to the proposal, provided that the storage area is properly assessed to ensure that it is capable of handling the increased storage capacity. Staff has identified requirements that are to be addressed through the Certificate of Approval, as specified in the Recommendations section of this report.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

- **Financial** - N/A.
- **Staffing** - N/A.
- **Legal** - Certificate of Approval applications are processed by the Ontario Ministry of the Environment under the authority of the Environmental Protection Act. The City of Hamilton has been formally requested to provide comments to the Ministry on this specific application.

POLICIES AFFECTING PROPOSAL:

**Provincial Policy Statement**

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff notes that via the Certificate of Approval process, the applicant will demonstrate consistency with the sustainability of healthy, liveable and safe communities, as outlined in Policy 1.1.1 (c) of the PPS.

**Hamilton-Wentworth Official Plan**

The subject property is designated as “Urban Area - Business Parks” within the Hamilton-Wentworth Official Plan. Policy C-3.1.3.1(a) states that a full range of manufacturing, construction, wholesale establishments, truck terminals, research and
development uses and office development associated with these uses shall be permitted within Business Parks. Therefore, the proposed amendment to the MOE Certificate of Approval regarding the existing waste transfer facility conforms with the Hamilton-Wentworth Official Plan.

City of Hamilton Official Plan

The subject lands are designated “Industrial” in the City of Hamilton Official Plan and are located within the East Mountain Industrial Business Park. The proposed amendment to the MOE Certificate of Approval to permit an increase in storage capacity at the existing waste transfer facility conforms with the City of Hamilton Official Plan.

Hamilton Zoning By-law

The subject lands are zoned “M-15/S-1210a” (Prestige Industrial) District in the City of Hamilton Zoning By-law. As mentioned above in the Analysis section, the site-specific S-1210a zoning on the subject lands permits a waste transfer facility with a maximum gross floor area of 30.5 square metres. The applicant received approval of a minor variance from the Committee of Adjustment to permit an increase in waste storage area to a maximum of 108 square metres. No new construction is proposed as part of this application. However, the applicant should be made aware that should any new development be proposed on this site in the future, site plan control would apply and the applicant would be required to apply for a building permit in the normal manner.

RELEVANT CONSULTATION:

Agencies/Departments Having No Comment or Objections

- Traffic Engineering and Operations Division, Public Works Department.

The Health Protection Branch, Public Health Services, has no objection to the proposal, provided that certain measures are taken to ensure that the site is capable of accommodating, in a safe manner, the increased waste capacity. Specifically, prior to any approvals for increased capacity being issued, the storage area should be reviewed to ensure that proper storage capacity is available. In addition, a thorough review should be conducted of the types of waste classes proposed to be stored on site for compatibility. These conditions have been included as Recommendations (a) (ii) and (iii). Public Health Services also recommends that, if approved, the amended Certificate of Approval include requirements for excellent on-site housekeeping practices, adequate spill response measures, and strict adherence to all City of Hamilton Department and other agency requirements, including City of Hamilton Fire Services, MOE, and the Ministry of Labour, as identified as Recommendations (b) (iv), (vi) and (vii).
The Public Works Department, Waste Management Division, has commented that this proposal will have no impact on the City of Hamilton’s Solid Waste Management Master Plan. However, they note that this proposed amendment is for a substantial increase in liquid industrial hazardous waste, and consideration should be given to the ability of this site to adequately accommodate the storage and movement of these quantities. These concerns have been addressed through Recommendations (a) (i), (ii) and (iii), requiring the applicant to prove that Building 3 is compliant with the Ontario Fire Code as a result of the proposed storage increase; that a thorough review be conducted of the storage area to ensure sufficient storage capacity is available; and that a review be conducted of the types of waste classes proposed to be stored on site for compatibility, all prior to the issuance of any approval for increased storage capacity.

The Public Works Department, Water and Wastewater Division, indicates having no objections to the proposed amendment, subject to spill prevention and containment measures being adequately addressed. Water and Wastewater staff spoke to the proponent regarding this issue. The proponent indicated that spill prevention and containment measures would be dealt with through the Certificate of Approval, and that all solid and liquid waste would be appropriately dealt with through the proper MOE guidelines. The proponent also indicated that contingency plans for spills on site and clean-up procedures are covered under the company’s Contingency Plan, and that the City’s Spills number 905-540-5188 would be included in the company’s on-site Contingency Plan. A copy of this Plan should be sent to the Compliance and Regulations Section, Water and Wastewater Division, Public Works Department. The proponent indicated that they are in agreement with the above items, which have been included as Recommendation (b) (vi). Water and Wastewater staff also notes that any wastewater discharged from this site shall comply with Sewer Use By-law 04-150, and that the applicant has been made aware of this requirement.

Hamilton Emergency Services, Fire Prevention Division, has reviewed the application and information from their property file for the subject lands, including correspondence dated April 9, 2003 from Golder Associates. The information from Golder was submitted as part of the application for the existing Certificate of Approval on the subject lands (issued in 2003). The information from Golder states that should the total storage quantity of flammable and combustible materials inside the storage shelter (Building 3) exceed 5,000 litres, the current configuration of the storage shelter may no longer meet the requirements of the Ontario Fire Code. Therefore, Fire Services has advised that they have no objection to the proposed amendment, provided the applicant complies with the following: A professional evaluation shall be conducted by an Engineer for compliance with Part 4 of the Ontario Fire Code. It is the Owner’s responsibility to ensure that their building(s) and operation(s) comply with Ontario Fire Code regulations. A letter, signed by a Professional Engineer, indicating compliance with Part 4 of the Ontario Fire Code, as the result of increased quantities, would be deemed acceptable. This condition, which must be fulfilled prior to any increase in waste capacity being approved for the site, has been included as Recommendation (a) (i). In addition, if approved, the Certificate of Approval shall limit the maximum storage quantity of flammable and combustible materials to 5,000 litres. An inventory of waste
types stored on site should be updated daily and be readily available for inspection when requested. This has been addressed through Recommendation (b) (ii).

Public Consultation

Public notification/consultation requirements for Certificate of Approval applications are regulated by the Environmental Protection Act, and administered by the MOE. Upon receipt of the application, the MOE normally requires the applicant to circulate an Information Notice to abutting property owners. The Notice provides a description of the proposed changes to the operation. The MOE will also post a Notice of the proposal on the Environmental Registry (website) for a 30-day comment period. In this case, the applicant has circulated a notice of this application to adjacent property owners. In addition, the MOE has posted this proposal on the Environmental Registry. The Notice was first posted on the Registry on March 13, 2008, and was reposted on January 23, 2009, following the receipt of the revised application.

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No
Community well-being is safeguarded by requiring that the storage and handling of waste be subject to Ministry of the Environment approvals, ensuring appropriate safeguards are in place to protect the community.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Appropriate safeguards will be put in place through the MOE Certificate of Approval to address spills on site, thereby protecting the surrounding environment in case of spill or accident.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Investment in Hamilton is enhanced and supported.

Does the option you are recommending create value across all three bottom lines? ☑ Yes ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐ Yes ☑ No

:HT
Attachs. (2)