
RECOMMENDATION:


(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;
EXECUTIVE SUMMARY:

The review of 2002 Ontario’s Waste Diversion Act has been completed by the MOE and the Minister’s Report outlining the proposed changes to Ontario’s waste diversion framework has been released for public comment on October 28, 2009 under Environmental Bill of Rights (EBR) posting number 010-8164, with a commenting deadline of February 1, 2010.

The proposed changes aim to promote greater waste diversion through Extended Producer Responsibility (EPR) as the foundation for this framework and specifically aims to increase the waste diversion rate in the industrial, commercial and institutional (IC&I) sector, which currently diverts a significantly lower amount of its waste compared to the residential sector.

The proposed changes to the WDA are consistent with the City of Hamilton’s integrated waste management system, provided that revisions are made to ensure that residential services levels for existing programs are not negatively impacted and that the residential waste stream is not subject to any levy instituted on landfilled waste. In the absence of municipal diversion programs, the revenues generated from the landfill levy should be maintained separately from the general Provincial revenues and dedicated to research and development, information sharing and training for municipal programs.

Implementation of an EPR system must be done in a holistic and integrated approach in the context of the waste management hierarchy, of reduction, reuse, recycling, recovery and disposal. Focusing only on the recycling or diversion component of waste management can have adverse impacts from a social, financial and environmental perspective in the absence of considering all impacts of managing resources and wastes.
BACKGROUND:
The information/recommendations contained within this report have city wide implications.

The Waste Diversion Act was enacted in 2002 as Bill 90. The purpose of the Act is to set a framework for waste diversion program operations of designated materials and cost-sharing of program costs between municipalities and industries generating waste materials. Program plans are either in effect or under development for the Blue Box Program (2003), the Municipal Hazardous and Special Waste (MHSW) Program (2008), the Waste Electrical and Electronic Equipment (WEEE) Program (2009) and the Used Tire Program (2009).

In October 2008, the Ministry of the Environment began the review of Ontario’s Waste Diversion Act and held public consultations on how to achieve greater waste diversion and to explore using extended producer responsibility (EPR) as the foundation for Ontario’s waste diversion framework. Council provided comments in the initial stages of the WDA review through Report PW08146 - 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. Through the consultation on this report, support was expressed for changes to provincial policy and legislation that promoted waste reduction and reuse, EPR and the inclusion of stewardship fees in the cost of manufacturing products and packaging was introduced, waste diversion in the Industrial, Commercial and Institutional (IC&I) sector was proposed to increase and the current level of municipal service for the Blue Box Program was proposed to be maintained. This report was submitted to the Ministry of the Environment (MOE) as the City's comments on EBR Registry Number 010-4676.

The Minister's Report was prepared to fulfil reporting requirements on the results of the review and forms the basis for further public dialogue on Ontario’s proposal for changes to its waste diversion framework. The Minister’s Report outlines the proposed changes to the WDA that resulted from the year-long consultation process and focuses on six main areas: Outcomes-Based Individual Producer Responsibility, Clarifying the Concept of Diversion, A Long-Term Schedule for Diversion, Effective Oversight (Governance), Supporting Producer Responsibility and Transition.

The purpose of this report PW10007 is to provide the City’s comments on the Minister’s Report.

ANALYSIS/RATIONALE:
Overall the Minister’s Report puts forth proposed changes to the WDA that are supportive of the City’s integrated waste management system. The implementation of EPR will shift responsibility onto producers for waste reduction and recycling of their products and the proposed changes will facilitate increased recycling in the IC&I sector.

However, there are some keys issues that are of concern to the City related to our own system. The Minister’s report does not recognize the variety of waste management systems operated by Ontario municipalities. The proposed changes to the WDA should not disadvantage municipalities that are already actively engaged in successful waste diversion programs.
Therefore, it is recommended that the City of Hamilton support the Minister’s Report, subject to a number of considerations including:

- There are no negative impacts to municipal integrated waste management systems;
- Residential service levels are maintained or improved;
- Municipalities are involved in the priorities and timing of the future designation of materials;
- Landfill levies should not be imposed on municipal landfills used for residential waste where the municipality has integrated and comprehensive waste diversion programs that are funded through the municipal tax base;
- Municipalities whose waste diversion infrastructure becomes stranded assets as a result of Extended Producer Responsibility are appropriately compensated.
- Implementation results in demonstrated cost reductions for municipalities;
- Implementation is done in consideration of the waste management hierarchy and overall environmental impacts.

**ALTERNATIVES FOR CONSIDERATION:**

The following section outlines the six proposed changes to the WDA put forth in the Minister’s Report and indicates the potential impacts, concerns and recommendations identified by Staff.

**Outcomes-Based Individual Producer Responsibility**

The transition to a system of full EPR would represent a shift of financial responsibility and control to producers. This system would result in producers being fully responsible to meet their waste diversion requirements, but would also allow them greater flexibility in determining their waste diversion plans and how they would implement their own diversion programs. Producers would be required to include material specific targets, tracking, consumer convenience and accessibility in their plans. Additionally, producers would be required to report annual sales of products and packaging into the Ontario marketplace. Producers that fail to undertake and implement plans would be subject to prescriptive requirements or penalties.

The transition to any new material recovery schemes for residential wastes, especially blue box materials, will have to ensure that the level of service to all residents is maintained or improved.

The movement away from the Industry Funding Organizations to individual diversion plans and materials management schemes has the potential to affect economies of scale and increase costs to divert materials with the proposed system. For example, a producer or group of producers could target a high value commodity such as aluminium cans. This approach would increase costs for lower value commodities and can increase overall costs to divert materials from landfill. Implementation considerations should be fully considered to prevent this from occurring.
In addition, the increased collection of materials such as pots and pans, cutlery, plastic razors and all paper and paper packaging is supported provided the producers manage the recovery of these materials.

Clarify the Concept of Diversion

The term “diversion” is proposed to be the material value recovered and preserved from a wide range of processes and technologies, including thermal treatment. The burning of waste, without any material recovery, would not count as diversion, nor will land application that doesn’t have a demonstrated beneficial use. However metal and ash recovered from thermal processing that can be reused could be included in diversion.

Staff foresees no negative impacts from this new definition and supports this clarification.

The Minister’s Report considers only “Ontario’s waste diversion framework” and does not address the waste management hierarchy of reduction, reuse, recycling/diversion, recover and disposal. It is essential that diversion activities be done in context with a holistic and integrated approach to managing wastes, so that impacts on the entire waste management system and environment are considered. The report makes reference to European Union (EU) policies on EPR. It should be noted that the EU policies also address other components of waste management so that all aspects of waste management are considered. EPR policy and legislation in isolation will be ineffective.

Long-Term Schedule for Diversion

A schedule for the designation of new materials under the Act for both the IC&I and residential sectors has been outlined. These would include: IC&I generated paper and packaging, additional electronics, construction and demolition materials, bulky items, vehicles, branded organics, and small household items. Ad-hoc material designations would be stopped. Furthermore, consistent timelines for the producers to register and submit diversion plans and reporting are proposed. Five-year material specific collection and diversion targets are also to be set.

As municipalities have been the main proponent of waste diversion programs in the Province of Ontario for some time, municipal input should be sought on setting priorities and timelines for future designation of materials. It is important that designated materials reduce the amount of waste going to landfills. Municipalities are in the best position to provide advice on the residential waste streams.

Also, it is requested that further clarification be provided on what comprises “branded organics” to ensure that organic waste can be composted in all composting systems without negatively impacting on the quality of the end compost product. In Hamilton, the exclusion of diapers, other absorbency products and pet waste have resulted in high quality compost.

Improving Oversight (Governance)

The roles of the MOE and WDO would be more clearly defined and overlap between their roles would be eliminated.

The role of the MOE would be to provide the policy framework and enforcement.
WDO would provide the oversight and guidance to producers; determine penalties for non-compliance and standards for material management schemes.

Producers would develop material management schemes to meet their WDA obligations.

The party missing in the oversight discussion is municipalities. Municipalities have been providing waste diversion programs since the start of the blue box program almost thirty (30) years ago. As the transitions occur around EPR, the producers will need to continue to look to municipalities for advice and assistance on program delivery.

The roles and responsibilities outlined in the Discussion Paper do not address research and development of new technologies, information sharing and training. These should be coordinated and funded by either the MOE or WDO.

Supporting Producer Responsibility

This proposal contains provisions for both a ban on WDA designated materials being sent to landfill and a landfill disposal levy which aims to make the cost of landfilling comparable to the cost of diversion.

Designated materials are proposed to be banned from landfill. However further clarification is required on what a reasonable time frame would be for a material after it has been designated. The City of Hamilton already supports bans on divertable materials in the garbage through the Waste Management By-law 09-067, which prohibits these materials being put out for collection in the garbage stream. An extension of this ban to the landfill is perceived to have a limited impact on the municipality and could be a beneficial tool to increase diversion. Costs and responsibilities for enforcement should be addressed in any implementation plans, especially during program start-ups where there could be an increase in illegal dumping. Municipalities should be compensated for any clean up costs incurred in this regard.

A disposal levy would be implemented to increase the cost of landfilling waste, making it more comparable to the cost of diversion. It is proposed that this levy would apply to both IC&I and residential sectors. Revenue from these levies is proposed to be used to support further diversion initiatives and an oversight body would be created to administer the levy.

Several issues have been identified with a landfill levy being placed on municipally-owned landfills that accept residential waste. Specifically, a levy on residential waste sent to landfill would be borne by taxpayers who already fund and participate in municipal waste diversion programs provided by their municipality. The commercial portion of the municipal waste stream could be subject to the levy, but would require an auditing system be established to ensure that it is properly administered. If the levy is administered on all landfills in Ontario, the residential portion of the levy should be returned to the municipality to be used at its discretion. As the City of Hamilton has already invested significantly in its integrated waste management system, having the levy funds reimbursed solely for use on waste diversion programs would not benefit us, but would offset the impact of the levy on the overall city budget. A portion of the funding collected for commercial landfills should be targeted at the research and
development of materials not yet designated as municipalities do not have the funding for this.

In addition, the proposal to incorporate the true cost of disposal does not address replacement cost for landfill capacity as a factor in leveling the playing field between disposal and diversion.

**Transitioning Existing Programs**

Phased end dates would be set for each program along with the corresponding milestones. Existing programs would be transitioned to the new WDA framework over time. Special considerations will be made in transitioning the Blue Box Program.

Timeframes for implementation will need to be sensitive to and address contractual arrangements that municipalities have with service providers. An alternative for consideration is that municipalities could be considered as service providers or brokers to ensure that local needs are met.

As mentioned previously, it is imperative that any changes to existing diversion programs ensure that service levels for residents are maintained or enhanced, specifically in relation to the Blue Box Program.

The other significant issue around transition is the municipal infrastructure that may be impacted as a result of Extended Producer Responsibility. Municipalities with recycling facilities that may be abandoned have a value that may not be fully recovered if they are no longer used. It has been suggested that the transition process will include an opportunity for municipalities to negotiate with the producers for compensation of these stranded assets. Municipalities should be assured that this will be part of the transition process.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

There are no financial implications from responding to the Minister’s Report. Any legislative or regulatory changes that might result from the Minister’s Report would be reported back to Council. The proposed WDA amendments may result in possible outcomes that could impact City assets, such as the Materials Recovery Facility, and there may be administrative costs associated with overseeing the landfill levy.

The implementation of EPR has the potential in future to reduce municipal budgets and to eliminate the uncertainties around fluctuating recycling markets.

Any implementation of EPR programs should ensure that municipal costs are reduced. In a recent Information Report PW09094, Ontario’s Waste Electrical and Electronic Equipment Program Plan, attached as Appendix B to Report PW10007, staff reported that the City had not registered for the program because the additional capital and operating costs would have cost the City more than the City’s current cost of managing electronics.
POLICIES AFFECTING PROPOSAL:

Corporate Strategic Plan
Waste reduction and recycling programs increase waste diversion in pursuing our target of 65% diversion in Performance Measure 6.5 of Focus Area 6 Environmental Stewardship.

Public Works Business Plan
Product stewardship and waste reduction contribute to more sustainable budgets and a greener city however full EPR may negatively impact on community recycling programs, most particularly the Blue Box Program.

Solid Waste Management Master Plan (SWMMP)
The policies affected by the concepts of the Minister’s Report are the following recommendations of the Solid Waste Management Master Plan (SWMMP), specifically:

Recommendation #2 - “The Glanbrook landfill is a valuable resource, and the City of Hamilton must optimize the use of its disposal capacity to ensure that there is a disposal site for Hamilton’s residual materials that cannot be otherwise diverted.”

The proposed amendments to the WDA could see a reduction in waste generated and sent to landfill, specifically through the implementation of EPR and landfill bans. This could extend the useful life of the landfill.

Recommendation #3 - “The City of Hamilton must set an aggressive objective of 65% waste diversion by the end of 2011, based upon 2000 waste generation rates.”

The implementation of EPR could see reductions in the amount of material in the overall waste stream as well as an increase in the amount of recyclable packaging and products. Both of these changes could lead to an increase in the City diversion rate.

Recommendation #14 - “The City of Hamilton should continue to lobby the federal and provincial governments to do everything in their power to support municipalities with waste management programs with appropriate legislation, funding and fiscal policy. In the short term the City of Hamilton should request the Province to enact and implement Bill 90 as soon as possible.”

Several of the amendments proposed in the Minister’s Report are consistent with the lobbying efforts of the City of Hamilton, particularly the implementation of full EPR. The City of Hamilton will continue to lobby the province to ensure that the proposed changes to the waste management sector are consistent with the SWMMP.

RELEVANT CONSULTATION:
The contents of the Minister’s Report and the recommendations of this report were reviewed with the Solid Waste Management Master Plan Steering Committee on November 11, 2009 and December 10, 2009.

In addition, since the Minister’s Report was intended for public consultation, the SWMMP Waste Reduction Task Force represented a forum for public discussion. A
sub-committee of the Waste Reduction Task Force reviewed the Minister’s Report in detail and provided an overview of the Minister’s Report at the Task Force meeting on November 11, 2009 and passed a motion on December 9, 2009 which is included as Appendix A of Report PW10007.


**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

Improvements to the Waste Diversion Act, other legislation and regulations support the City’s waste diversion goals.

**Environmental Well-Being is enhanced.** ☑ Yes ☐ No

Waste reduction and improved recycling would reduce the consumption of natural resources.

**Economic Well-Being is enhanced.** ☑ Yes ☐ No

Extended Producer Responsibility and legislation and regulations to improve the recycling program could reduce the waste management costs.

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

The principles and concepts in the report would contribute to the reduction of environmental impact through waste reduction and diversion from landfill and may result in additional WDO funding. These environmental and economic benefits would contribute to a healthy community.

**Do the options you are recommending make Hamilton a City of choice for high performance public servants?** ☑ Yes ☐ No
The following motion was made by the Waste Reduction Task Force (WRTF):

**Moved by Peter Hutton, seconded by Ron Speranzini:**

That:

a) The Waste Reduction Task Force motion be accepted and that the comments are conveyed verbally to the Steering Committee on December 11 and that the Chairperson of the WRTF make a presentation to the Public Works Committee when this item is on the agenda.

b) The WRTF supports “From Waste to Worth: The Role of Waste Diversion in the Green Economy” subject to:

1. A level of consistency is needed as guidance to producers to prevent confusion;

2. There is a need to understand the impact on municipal blue box program;

3. A framework needs to be developed to reward companies taking initiatives to go beyond the “default”: best practices, government auditors;

4. The general principle of burning waste not counting as diversion is valid at this time, however this should be revisited as new technologies emerge that provide viable alternatives to landfills within the spirit of the diversion program;

5. WDO board members should continue to be selected by organizations affected by diversion programs rather than solely by government ensuring the prevention of conflict of interests or perceived conflict of interest;

6. Audits should be done on a random basis, and should be very thorough when undertaken;

7. Support for the implementation of disposal costs that are greater than diversion costs;

8. The IC&I sector should be the primary focus for changing behavioural patterns;

9. Establishment of a ‘governing’ body responsible for the disposal levy revenue should include both municipal and private sector representation to ensure full execution of said funds, and minimizing opportunities for exclusion.

10. Concurrence with the Ministry’s approach in transitioning existing programs with a step by step plan;

11. Special consideration must be given to the Blue Box program which has been at the forefront of municipal diversion programs; and

12. Assurance that broad and “meaningful” public consultation has been or will be undertaken.

**CARRIED**
Council Direction:
The potential for revenue from computer disposal was discussed at Committee of the Whole on October 27, 2009 as potential mitigation for the 2010 budget as outlined in Report 09-028. The potential revenue is a funding source available as part of Ontario's Waste Electrical and Electronic Equipment (WEEE) Program Plan,

Information:
The information contained in this report has City wide implications.

This report has been prepared as an update on Ontario’s Waste Electrical and Electronic Equipment (WEEE) Program Plan and is meant to keep members of Council informed on the City’s position regarding this plan. Staff continues to support the efforts of Waste Diversion Ontario (WDO) to develop waste diversion programs. However, the City has not registered as a collection agent for this program to date for reasons that will be presented in this report.

Background of the WEEE Program Plan
In December 2004, the Minister of the Environment designated WEEE as a program material under the Waste Diversion Act and directed that the program be 100% funded by the industry (brand owners, first importers, franchisors, and assemblers) of electronic goods to pay for program costs. Staff participated in the consultation processes for the plan.

In September 2007 the Ontario Electronic Stewardship (OES), the Industry Funding Organization (IFO), was established to implement the WEEE Program Plan. The Phase 1 Plan was to address desktop and portable computers, computer peripherals, monitors, printers, fax machines and televisions. Phase 2, which also involved the consolidation with Phase 1 and includes the addition of telephones, cameras and audiovisual equipment, was approved in August, 2009. The program is intended to provide for the reduction, reuse and recycling of WEEE in all sectors including
residential and Industrial Commercial and Institutional (ICI), promote the program and shift costs to the industry.

The funding for municipal WEEE collection programs was set at $165 per tonne.

**Municipal Considerations**

Although staff supports any efforts to reduce the amount of WEEE going to landfill, there are expectations that the manufacturers of WEEE goods will continue to research and develop products that can be more readily reused or recycled.

This program plan is a step towards full Extended Producer Responsibility (EPR), however, consideration has not be satisfactory regarding the ability of municipalities to accommodate the program with existing infrastructure, staffing and administrative resources relative to the funding of $165 per tonne. The City’s Community Recycling Centres cannot accommodate the sorting, packaging and transfer requirements without capital investments. This is further complicated by the need to ensure the safety of the public while dropping off WEEE materials.

**WEEE Program Costs**

The collection requirements and related costs are the main reasons that the City has not registered to be a collection agent for the program. OES has established that collection agents, including municipalities like Hamilton, will be paid $165 per tonne of electronics collected if the materials are collected and stored in the method prescribed by the program.

Based on 2008 tonnage data the City’s current program costs to collect and dispose of electronics at the CRCs is $238 per tonne. In order to meet the program requirements, these costs would be increased at an amount greater than the revenue received, thus offsetting any benefits from the $165 per tonne funding.

Table 1 illustrates the costs of the City’s current program compared with the WEEE Program Costs. Net operating costs would increase from $238 to $876 per tonne.

**Table 1 - Comparative Costs**

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<tr>
<th></th>
<th>Current Program Cost</th>
<th>WEEE Program Cost</th>
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<tbody>
<tr>
<td>Collection, Disposal, and Processing costs per year *</td>
<td>$141,134</td>
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<td>Staffing costs per year</td>
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<td>Equipment (capital one time cost)</td>
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<tr>
<td><strong>Sub-total</strong></td>
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<td>Payment for Program from OES per year **</td>
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<tr>
<td><strong>Net Cost</strong></td>
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<tr>
<td><strong>Net Cost per Tonne</strong></td>
<td>$238</td>
<td>$876</td>
</tr>
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* Based on 593 tonnes of electronics collected in 2008
** Assume 70% of WEEE is Phase 1 which equals 415 tonnes

**Conclusion**

The City supports Waste Diversion Ontario’s waste diversion initiatives, however, has not registered as a collection agent for the WEEE Diversion Program due to the
concerns and issues outlined in this report. More specifically space limitations at CRCs, potential capital financing requirements, insufficient cost recovery, and the operating costs associated with additional staffing and equipment are remaining obstacles to participating in this program.

Staff will continue to monitor the progress of this plan and communicate the need for greater flexibility and adequate compensation.

The contents of this report have been reviewed and are supported by the Solid Waste Management Master Plan Steering Committee.

John Mater, C.E.T.
Acting General Manager
Public Works Department