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TO:	CHAIR AND MEMBERS CIVIC WORKS COMMITTEE MEETING ON AUGUST 19, 2013
FROM:	JAY STANFORD DIRECTOR, ENVIRONMENT, FLEET, & SOLID WASTE
SUBJECT:	COMMENTS ON ENVIRONMENTAL BILL OF RIGHTS REGISTRY - WASTE REDUCTION ACT AND WASTE REDUCTION STRATEGY

RECOMMENDATION

That, on the recommendation of the Director, Environment, Fleet and Solid Waste, the following comments and discussion **BE ENDORSED** and submitted to the Ministry of the Environment's Environmental Bill of Rights Registry posting (EBR 012-9260) titled *Waste Reduction Act* and posting (EBR 012-9262) titled *Waste Reduction Strategy*. The due date for comments for both postings is September 4, 2013.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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Relevant reports that can be found at www.london.ca under City Hall (Meetings) include:

- Status Report: Update of Road Map to Maximize Waste Diversion 2.0 (July 22, 2013 meeting of the Civic Works Committee (CWC), Item #14)
- Additional Submission to Waste Diversion Ontario – Potential Impacts of Implementing Extended Producer Responsibility in the Blue Box Program (February 23, 2009 meeting of the Environment and Transportation Committee (ETC), Item #1)
- Submission to Waste Diversion Ontario on the Review of the Blue Box Program Plan (February 9, 2009 meeting of ETC, Item #7)
- Comments on Toward a Zero Waste Future: Review of Ontario Waste Diversion Act, 2002 (January 9, 2009 meeting of ETC, Item #16)

BACKGROUND

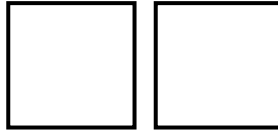
PURPOSE:

The purpose of this report is to provide Committee and Council with:

- A summary of the Ontario Ministry of Environment proposed *Waste Reduction Act* (WRA) and accompanying *Waste Reduction Strategy* (WRS) and;
- Provide comments on these documents for approval and forwarding to the Environmental Bill of Rights (EBR) Registry.

CONTEXT:

On June 6, 2013, Bill 91 was introduced into the provincial Legislature. The government is proposing to replace the existing *Waste Diversion Act, 2002* with the proposed *Waste Reduction Act, 2013*. The Province is also proposing a new Waste Reduction Strategy. If passed by the Legislature, the WRA and accompanying WRS will result in significant changes to how recyclables, organics and residential waste (garbage) are to be managed in Ontario. These changes and proposed direction have the potential to impact all aspects of London's residential waste management system (generally under the implementation responsibility of Municipal Council) and strongly influence how Industrial, Commercial & Institutional (IC&I) waste is managed by businesses and private waste management companies.



The proposed WRA and WRS for Ontario has a strong vision to divert more waste resources from landfill to the benefit of the Ontario economy and environment. This is an outcomes based strategy that will promote Individual Producer Responsibility (IPR) and internalize the costs of recycling in the price of products if the WRA is passed. The WRS highlights why a transformation is needed and provides some specific facts and figures:

Recycling creates new jobs, fosters innovation, conserves resources and reduces environmental impacts.

The province recognizes that there are significant economic, environmental and innovative opportunities to increase recycling. In particular:

- *7 jobs are created for every 1,000 tonnes of waste recycled.*
- *Recycling creates 10 times more jobs than disposal.*
- *The market value of waste that are currently landfilled in Canada is estimated at over \$1 billion annually.*
- *The waste management sector currently contributes annually over \$3 billion to GDP and \$300 million in capital expenditures.*
- *Recycling uses less energy, produces fewer greenhouse gas (GHG) emissions (e.g., in 2007 our diversion programs avoided 2.2 million tonnes of GHG emissions annually) and has less environmental impact than the extraction of raw materials (MOE: WRS, 2013).*

Since the WRA, the accompanying WRS and the draft Legislation were made public, waste management and other organizations across the Province have been reviewing and establishing their positions. City staff is actively involved in several of these organizations:

- Association of Municipalities of Ontario (AMO) – City staff sit on the Board and the Waste Management Task Force of AMO (combination of elected officials and municipal staff).
- Regional Public Works Commissioners of Ontario (RPWCO) – City staff sit on the main committee and the Solid Waste Subcommittee.
- Ontario Waste Management Association (OWMA) – City staff sit on the Board of Directors.
- Municipal Waste Association (MWA) and Recycling Council of Ontario (RCO) – receiving updates and comments via general membership

As of July 31, 2013, City staff has been involved in two public consultation sessions with Ministry of the Environment staff, one in London on July 16, 2013 and the other via a conference call on July 25, 2013.

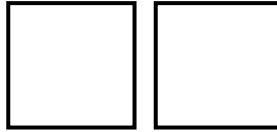
In addition, RPWCO, AMO and MWA have hired technical assistance to help identify the advantages, disadvantages and areas of concern. The team hired has extensive experience with extended producer responsibility programs in North America and Europe. Workshops are planned for August 15 and August 16, 2013.

OWMA is holding a special board meeting on August 14, 2013 to deal with the documents. Municipalities represented include Toronto, Region of Peel, Region of Waterloo and London. Many private sector waste management companies and consulting firms are part of the board.

City staff would like to recognize the excellent work being performed by the staff at AMO with respect to these important consultations, in particular Monika Turner, Director of Policy.

The comments and discussion contained in this report are based on our understanding of the WRA and WRS as of August 2, 2013.

Comments on the WRA and WRS through the Environmental Bill of Rights Registry are due by September 4, 2013.



DISCUSSION

PART A - Overview of WRA and WRS

An overview of the key components of the proposed legislation is presented below:

Individual Producer Responsibility (IPR)

- Establish IPR for the diversion of end of life designated products/wastes for producers that sell in Ontario.
- Producer responsibility for designated paper and packaging waste entering the IC&I sector to be established through the 3R's regulations review.
- Transition of Industry Funded Organizations such as Stewardship Ontario, Ontario Electronic Stewardship and Ontario Tire Stewardship into the new IPR regime over the next four years.

No Eco Fees at the Point of Sale

- Include all-in recycling costs in the advertised shelf price of the product.

Municipal Role

- Allows municipalities the opportunity to collect designated wastes or have the producers collect the waste.
- Require producers to compensate municipalities for the reasonable cost of collection and handling of designated wastes.
- Only in one area, the Blue Box, through Regulation 101/94 requires municipalities with a population over 5,000 to collect and process designated materials. Producers will be required to compensate municipalities for the reasonable costs of the Blue Box System collection and processing costs.
- Other programs such as Waste Electrical and Electronic Equipment (WEEE), Municipal Hazardous and Special Waste (MHSW) and Tires are not regulated. They are in essence voluntary programs for municipalities to implement. Producers under the WRA will be required to compensate municipalities only for reasonable collection costs of the designated materials.

Government Role

- Set recycling targets for producers to meet (outcome based approach). This will start with IC&I recycling of paper and packaging waste.
- The announcement does not specify what type of targets (i.e. aggregated or material specific) would be implemented. This will be addressed through consultation with stakeholders that will likely be supported through specific regulation(s).
- Clearly define accountability and roles of government, municipalities and producers.

Waste Reduction Authority

- Create a new Waste Reduction Authority (replaces Waste Diversion Ontario) to provide oversight and with the ability to penalize producers not meeting waste diversion objectives and targets.
- The intention is to ensure a level playing field for all producers in a competitive environment.

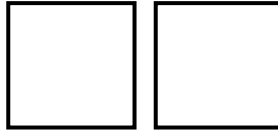
Blue Box 50% Funding Cap Removed

- The industry/producers Blue Box funding cap is currently at 50% of net Blue Box recycling costs.
- Expect producers to fund a larger share of Blue Box net costs through government changes to Regulation 101/94 or other regulatory mechanisms.
- The actual percentage will be addressed over a longer transition period with increases in funding at earlier stages.

PART B - How the WRA and WRS will affect London

City Operations and Programs in London

Currently the proposed WRA enshrines the municipal role in collection and provides a yet to be defined process by which municipal programs diverting designated materials will be compensated. Any improvement in funding will be a benefit to London taxpayers.



There are also potential risks in the new IPR regime as producers could look for options to manage their waste products that might not include City diversion infrastructure. It is key that London continues to provide responsive and cost effective recycling systems that meet and exceed the needs of our customers and the expectations of funders.

The City will benefit financially as the reasonable cost of collection of designated products will be the responsibility of producers. It is clear that funding will increase for recycling and municipal hazardous and special waste; however it remains unclear to what level. It is possible that funding could increase as much as \$2 million to \$2.5 million if all Blue Box contracted costs are considered reasonable costs and funded. The key will be negotiating what reasonable costs means to both industry and municipalities.

What is not known at this stage is the financial impact to Ontario businesses and importers of products and packages. The increased cost of recycling is to be placed in the retail price of the products and packages. How much of an increase is not known as businesses also need to remain competitive. Depending on the product or package, the consumer (not taxpayer) will then pay for none, some or all of the increase. These funds will be used to pay for the management of reasonable costs of recycling programs. What is paramount in all these discussions is that we must carefully balance various interests: municipal, business, taxpayers and consumers and fully recognize that the Ontario and Canadian economy has not fully recovered and many areas of our business community remain fragile.

It is possible that producers may take over coordination responsibility for processing Blue Box materials in the long term just as they do for the other materials (e.g., tires, electronics, Municipal Hazardous and Special Waste). In this case, London's Regional Material Recovery Facility (Regional MRF) would likely play an important role in processing recyclable materials and other compatible materials given the facility's location and capabilities. There are also other private sector recycling companies that will likely play an increased role in processing additional recyclables.

Under the proposed WRA and WRS, the City will not be reimbursed for the cost associated with collection and disposal of designated materials that make it into the waste stream or the cost of dealing with litter created by designated materials. The City may also have to implement disposal bans on some of the designated materials. The enforcement of disposal bans can be very difficult therefore significant care and understanding must go into their establishment. Municipalities with close proximity to the United States borders, like London, can face greater challenges than those further from the border.

The role of organics in the WRS is a long term initiative (beyond four years) and would not have any immediate impact on London. Several London companies that manage organics are unlikely to be supportive of this suggested time period.

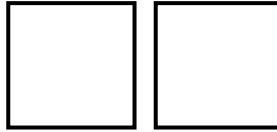
It is also worth noting that recycling of construction & demolition (C&D) waste is silent in the WRS. City staff are surprised by this as C&D recycling is a well established and a mature waste diversion system in some parts of Ontario notably London.

Economic Development Opportunities

The WRA if implemented may also provide opportunities for business investment to utilize and manufacture new products from a sustainable stream of new material feedstocks. London staff have been examining a number of opportunities prior to the WRA/WRS being released and, with the release, opportunities have increased. Areas that are being explored at different levels of examination are:

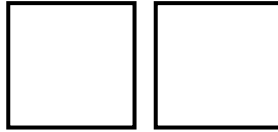
- Advanced electronics processing
- Tire recycling
- Plastics washing, pelletizing and/or extruding
- Mattress deconstruction and recycling
- Carpet deconstruction and recycling
- Refuse derived fuel pellets and related energy recovery opportunities
- Recyclable materials from unserved small and medium sized businesses

These areas will continue to be examined by London staff.



Part C – Comments on WRA & WRS

1. The City of London supports the general intent of the WRA and the overall direction outlined in the WRS.
2. The City of London supports the role of municipalities in the WRA and WRS. The WRA recognizes the integrated nature of waste (curbside collection of Blue Box materials are integrated with collection schedules for garbage, Green Bin and yard materials); municipal presence at the curb; existing municipal promotion and awareness; complaint resolution mechanisms; and a successful track record by municipalities in recycling operations, management and logistics dating back over 25 years in Ontario.
3. The City of London supports the increased emphasis in the WRS on the diversion of more IC&I materials and the potential synergies with the diversion of residential materials.
4. The City of London recommends that the WRS strategy include information and discussion on the diversion of construction and demolition (C&D) waste materials as priority materials as they represent a significant portion of the waste generated in Ontario. It should also be part of the implementation timeframe as a priority material group.
5. The success of the proposed WRA and WRS will depend on the regulations to support them and how these regulations are implemented. These regulations will need to set adequate service levels to provide accessibility and convenience for residents to divert designated materials.
6. The City of London notes that the Waste Reduction Strategy highlights numerous positive aspects of the proposed direction. It is imperative that further discussion examine the costs and benefits of key actions. Consequences and unintended consequences must be better understood. At the same time, this must not be used as an excuse for not moving to more sustainable, cost effective and environmentally sound approaches of waste reduction and waste management.
7. The WRS contained a series of questions at the back of the document. These ten questions are listed below (in bold) along with comments. Some questions are specific to municipalities while others are much more general or not applicable to municipal operations. Some questions will clearly have different answers and comments from business and organizations in London or the within southwestern Ontario. As noted previously, the WRA and WRS touch virtually all aspects of waste management; from waste generation, through resource recovery to final disposal.
 1. **How can we develop a system where producers are responsible for diverting paper and packaging regardless of where it is bought or produced?**
 - **How should producer obligations be phased-in for paper and packaging?**
 - **Should producers of paper and packaging have the same obligations as they do for residential waste?**
 - **What are the risks and benefits of examining synergies for the collection and management of paper and packaging with similar materials that are collected under the Blue Box program?**
 - **What consultation process should be used to engage municipalities, producers, waste management service providers and other stakeholders on these issues?**
 - We believe there is the potential for significant financial savings and economies of scale by integrating the collection of paper and packaging from smaller IC&I establishments with residential collection. This occurs on a small scale in London right now.
 - The benefit of addressing small IC&I producers is greater diversion from landfill especially since there is evidence that many small IC&I generators cannot be serviced economically by the private sector on an individual basis.
 - Under the proposed WRA, municipalities would be compensated by producers whereas currently, any IC&I collections of designated materials by the City are not compensated and have to be netted out of the City's Blue Box funding applications to Waste Diversion Ontario.



- It is recommended that the Association of Municipalities of Ontario (AMO) be used in the initial consultations between producers, waste management service providers and other stakeholders. AMO, its Waste Management Task Force and the AMO Board have the expertise to represent the interests of all municipalities.
- Producer obligations, no matter where the waste is generated, should be part of the operating and financial system.
- There are EPR programs in other jurisdictions (e.g., Quebec, British Columbia, Europe) that should be examined. Producer obligations cover all sources of generation. These can be models for implementation in Ontario.
- In terms of a consultation process, all key stakeholders or their representative organizations should be involved. This process needs to be initiated by the Minister and possibly lead by MOE or WDO/WRA. It is imperative that the existing skills within these organizations be used to start processes as transition timeframes have the tendency to drag on. A sustainable funding model needs to be implemented as soon as possible and viewed as an urgent priority.

2. *What other products and associated wastes should be considered for designation? When?*

- Only materials having adequate infrastructure and markets should be designated to be recycled. This may affect timing for some materials.
- Carpets and mattresses should be considered for designation in the shorter term as there are existing recycling processes for these materials.
- Construction and demolition materials (including renovation wastes) should also be considered in the shorter term, as again there are currently many processors of these materials.
- In the longer term, consideration should be given to materials such as bulky furniture items (e.g., beds, cabinets, tables, etc.) and plastics products not already designated (e.g., toys, plastic furniture, totes, etc.).
- Under the proposed WRA, municipalities will continue to be responsible for all residential waste that goes to the landfill; energy from waste facilities; and waste conversion technologies. As such, it is in our interest to see priority given to designation of the waste categories with larger quantities, and particularly those with systems for diversion already in place.

3. *What processes could be established to ensure all stakeholders are engaged in a dialogue with government and with one another to discuss transition matters?*

- The processes must be transparent and include all stakeholders for the WRA/WRS to proceed in a timely manner.
- A clearly defined transition timeline would be helpful to municipalities to ensure their Councils are informed and have the opportunity to comment; as well this would allow municipalities to coordinate the impact of program change to their residents.
- It must be noted that like Queen's Park, Municipal Council activity is generally reduced during the summer months; therefore key decisions that require Municipal Council Resolutions and/or by-laws must understand the timing of local government (Council) approval processes.

4. *Who should coordinate and facilitate discussions on the Blue Box funding and roles and responsibilities? What should be in scope for these discussions?*

- This role should be filled by MOE and/or the new Waste Reduction Authority or possibly a third party mediator. Alternatively, a task force established by MOE, Waste Reduction Authority and stakeholders could fill this role.
- They will ensure that information is accessible and timely, and that stakeholders have reasonable opportunity for input into the discussion.
- The scope should include:
 - roles and responsibilities of stakeholders under a future system
 - a clearly defined process of establishing reasonable systems costs
 - program service levels and harmonization of programs
 - the role of, or fate of, municipal assets, and compensation formulas where IPR affects municipal assets and service levels

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- targets and how they should be established, measured and reassessed
- the implementation timeline
- dispute resolution mechanism that recognizes the municipal role even where producers fully fund diversion programs
- the potential increase in administration burden and cost if the system becomes too fragmented.

5. What types of dispute resolution procedures could help bridge gaps between municipalities and producers? How could the Waste Reduction Authority promote collaborative partnerships? What skills and expertise could help the Waste Reduction Authority fulfill this role?

- The Waste Reduction Authority and producers must recognize and acknowledge the significant level of expertise and capacity existing in municipalities as service administrators and/or service providers. Contract management and contract relationships are skills that are acquired over many years of involvement.
- The Waste Reduction Authority must ensure there is a robust dispute resolution process and consider creating a roster of 3rd party mediators that can work with municipalities and producers to resolve disputes.
- Consideration must be given to how disputes between other stakeholders besides producers and municipalities will be handled.
- Mediations and dispute resolution processes are a well established field in public and private sectors. Processes are already available and must be tapped into from an efficiency perspective.

6. What would you recommend as the priority for the transition of existing waste diversion programs? What do you see as the key issues that will need to be addressed as a part of transition planning and implementation?

- We agree that the WEEE (electronics) should be the first material to transition to IPR. This will allow the tools, understanding and mechanisms to be developed on how best to transition from our current partial extended producer responsibility system to the proposed IPR system.
- The Blue Box program is the largest program in terms of cost and quantity of materials. It is a priority for London to have the transition of the Blue Box program proceed as soon as possible.
- Key issues that will need to be addressed as part of transition planning and implementation include:
 - how will service levels for collection of each of the designated materials be set (it must be recognized that curbside collection of Blue Box materials are integrated with collection schedules for garbage, Green Bin and yard materials and, in many cases, may even be co-collected with one of these materials),
 - how will system wide collection and processing assets be determined (e.g., what material recovery facilities are located ideally versus those that are viewed as not part of an optimized system), and
 - how will Blue Box collection and processing assets be managed if and when the Blue Box is ever transitioned over to an IPR system. For London the risk is \$23 million with its new MRF and associated assets that could be potentially stranded if producers decide to contract other commercial interests to manage their wastes. Municipal MRFs exist across the province.

7. What would you recommend as the role and responsibility of the proposed new Waste Reduction Authority and IFOs in the transition process – and how should consultation take place with other stakeholders?

- We believe the Waste Reduction Authority should, in the short term, manage the transition and in the long term be responsible for compliance and enforcement.
- We believe municipalities need to play a strong role in the transition of all the diversion programs to IPR if and when this occurs. This is especially critical where London assets in MHSW and the Blue Box are substantial.

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- It is important that the Waste Reduction Authority has the capacity and resources to fulfil its role during the transition period and in the long term. It must be recognized that staff required for transition are not necessarily the most appropriate staff for compliance and enforcement.
- A better understanding on how board members will be appointed to the Waste Reduction Authority needs to be provided and whether there will be different board members for the transition period and the long term.

8. *What next steps should we consider on organic wastes? What technical innovations could drive improved organic waste diversion? How can we better target food waste produced in the IC&I sectors and in public places?*

- The province should undertake a cost benefit analysis of organics diversion using triple bottom line principles and life cycle analysis to determine the true value of these programs and where yard waste and/or Green Bin programs are most appropriate (e.g., Green Bin programs in rural Northern Ontario likely do not make sense).
- An examination of who is the producer and obligated needs to take place in consultation with the stakeholders.
- The province should establish a standards document whereby waste type, collection system and waste characteristics are appropriately matched to the processing technology.

9. *What wastes could be banned from disposal in the future? (e.g. waste electronics) What is a reasonable transition period before a ban takes effect? How would you see these bans applying to less populated areas of the province?*

- It is recognized that disposal bans are an effective tool to increase diversion but any implementation of a ban must take into account the practical limits of implementation (e.g., ban materials hidden in top loading bins and the collector has no opportunity to observe before they are collected; no enforcement until a threshold is exceeded, etc.).
- Landfill operators will incur costs to implement bans (e.g., increase inspections, audits, etc.) and these costs should be borne by producers as part of their “reasonable costs” to meet their diversion targets.
- Bans should only be implemented where convenient access to diversion programs is available to all residents in a municipality.
- A collection ban may be more appropriate for some materials or work in conjunction with a disposal ban.
- Infrastructure and markets must exist for the materials banned from landfill.
- Transition timing is critical and most likely regional disparities will have to be taken into account.
- Transition periods of three months to one year are typical. However it does depend on the level of activity leading up to the ban.
- Any ban must consider the influence and impact of increased waste export to the United States. In this case, the Province needs to be the key proponent of making the ban work.

10. *What timing, sequencing and phasing should be considered? What is your view on the proposed roll-out and timelines contained in the strategy?*

- The City of London supports the timing, sequencing and phasing in general with the exception of the timing of the Blue Box Program.
- As previously stated, the Blue Box program is a largest program in terms of cost, municipal investment and quantity of materials. It is priority for London to have the transition of the Blue Box program proceed as soon as possible starting with a move from the 50% cap to higher levels of funding for municipalities from obligated producers.
- Before any transition takes place a plan must be formulated with stakeholder approval and municipal input.

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ACKNOWLEDGEMENTS

This report was prepared with the assistance of Mike Losee, Manager, Solid Waste Engineering & Planning; Anne Boyd, Waste Diversion Coordinator; and Jana Corby, Solid Waste Planning Coordinator.

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