THE REGIONAL MUNICIPALITY OF YORK

Committee of the Whole
Environmental Services
September 19, 2013
Report of the
Commissioner of Environmental Services

REVIEW OF BILL 91, PROPOSED WASTE REDUCTION ACT, 2013

1. RECOMMENDATIONS

It is recommended that:

1. Council endorse staff comments on Ontario Bill 91, proposed Waste Reduction Act as submitted to the Ministry of the Environment in accordance with the Environmental Registry deadline of September 4, 2013.

2. The Regional Clerk circulate this report and attachments to the Clerks of the local municipalities and the Ministry of the Environment as acknowledgment of Council endorsement.

2. PURPOSE

This report provides Council with a summary of staff comments on Ontario Bill 91, the proposed Waste Reduction Act, 2013 (the Act), Attachment 1, and requests Council endorsement of staff comments submitted to the Ministry of the Environment (the Ministry).

3. BACKGROUND

Proposed Waste Reduction Act will replace current Waste Diversion Act

Currently, waste management in Ontario is governed by the Waste Diversion Act, 2002 (WDA). Waste management has evolved significantly since the Waste Diversion Act, 2002 was enacted in 2002. The Ministry has been consulting with stakeholders on updating the Waste Diversion Act, 2002 since 2009. York Region submitted comments on the Ministry’s last consultation document, “From Waste to Worth”, in 2010.

Bill 91, the proposed Waste Reduction Act, was submitted for first reading at the Ontario Legislature on June 6, 2013. Second reading of the proposed Act at the Ontario Legislature is anticipated to occur in fall 2013. Assuming the Act receives majority support in the Legislature on the third reading it will then be sent for Royal Assent, likely in 2014. Accompanying the Act is a Waste Reduction Strategy (Strategy) for
implementation of diversion programs. A verbal summary of the proposed Act and Strategy was provided to Environmental Services Committee at the June 17, 2013 meeting.

**Ministry will accept Council endorsement of staff comments**

A 90 day comment period for the proposed Act on the Environmental Bill of Rights Registry was provided by the Ministry, York Region staff submitted comments on September 4, 2013 to meet the submission deadline. Regional Public Works Commissioners of Ontario and the Municipal Waste Association submitted a joint letter on June 17, 2013 requesting the Ministry extend the comment period to allow for council approval of municipal responses, however, an extension was not granted as referenced in the Ministry’s response letter of July 4, 2013 (Attachment 2). As a result, it was not possible to bring comments for Council review and endorsement prior to submission. Ministry staff indicated they would take into account Council endorsement of staff comments after the submission date. York Region staff comments which include input from our local municipalities are attached for Council endorsement.

**4. ANALYSIS AND OPTIONS**

**Proposed Act aligns with York Region’s integrated waste management system**

The proposed Act will formally shift waste management in Ontario toward a producer responsibility model. Producer responsibility models address equity issues by requiring producers to pay waste management costs instead of burdening the tax base. The proposed Act is an example of Individual Producer Responsibility (IPR) which requires individual producers to take responsibility for end of life management of their products. This model provides producers with a financial incentive to design products for the environment. York Region and Regional Public Works Commissioners of Ontario have been active advocates for this type of model.

It is anticipated that the proposed Act will be beneficial to York Region residents but there are still a significant amount of program details to be determined through future regulations. As proposed, this legislation includes several gains for municipalities, including lifting the 50 per cent funding cap on producer blue box contributions. If passed, it is anticipated this will reduce the financial burden on Ontario municipalities and could represent a significant enhancement to funding blue box programs. In addition, the proposed Act recognizes the leadership of municipalities by requiring producers to compensate municipalities for the reimbursable portion of municipal costs for designated materials.

A detailed comparison between the *Waste Diversion Act, 2002* and the proposed Waste Reduction Act, 2013 is included in Attachment 3. Overall, this legislation shifts the spotlight from diversion to reduction with a focus on cooperation between stakeholders.
This shift aligns with the vision and guiding principles included in the Region’s SM4RT Living Solid Waste Master Plan.

**Proposed Act requires end of life management costs to be integrated into pricing to prevent “eco-fees”**

Under the proposed Act, “eco fees” at the point of sale will be prevented by requiring all fees to be embedded in the on-shelf price. This is intended to treat waste management as a cost of doing business, similar to rent or fuel. By ensuring producers internalize these costs, it is anticipated that this will incent design for the environment and effective recycling. Legislating waste as a cost of doing business aligns with the vision and guiding principles of the Region’s SM4RT Living Solid Waste Master Plan which focuses on viewing waste as a resource.

**Current stewardship organizations to be phased out in favor of Individual Producer Responsibility (IPR) programs**

The proposed Act would transform Waste Diversion Ontario into a new Waste Reduction Authority to provide oversight and compliance with the proposed producer responsibility regime and integrated pricing provisions as proposed in the Act. The Waste Reduction Authority would also oversee existing Industry Funding Organizations (IFOs): Stewardship Ontario, Ontario Electronic Stewardship, and Ontario Tire Stewardship until they are phased out as the transition to IPR programs is completed. Current Regional contracts with these organizations will likely remain in place until new funding regimes are implemented under the proposed Act.

**Individual Producer Responsibility diversion plans to be implemented in one to four years**

To implement an individual producer responsibility framework, diversion programs will be developed for a minimum of four material types: waste electronics, Industrial, Commercial and Institutional paper and packaging, municipal hazardous or special waste and blue box materials. Proposed timing for consultation and program implementation by the new Waste Reduction Authority and provincial oversight is included in Table 1.

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<tr>
<th>Program</th>
<th>Consultation</th>
<th>Implementation</th>
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<tr>
<td>Electronics</td>
<td>1-2 years</td>
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<tr>
<td>Industrial, Commercial, and Institutional Paper and Packaging</td>
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<td>Municipal Hazardous or Special Waste</td>
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<td>Blue Box</td>
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<td>Source Separated Organics</td>
<td>4+ years</td>
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Diversion targets to be enforced by new Waste Reduction Authority, producers to develop plans to meet targets

Targets for these programs will be developed by the Province based on consultation to be performed by the new Waste Reduction Authority. Municipalities and producers will be consulted when targets are developed. Province-wide disposal bans for materials such as electronics and municipal hazardous or special waste are being considered to help support diversion targets.

Producers will be required to work with municipalities but will be responsible for developing programs to meet diversion targets. Region staff has recommended that the new Waste Reduction Authority continue to conduct the Waste Diversion Ontario Municipal Datacall to ensure that future targets can be effectively compared to current diversion rates. York Region is a member of the Ontario Waste Management Association (OWMA) and PACNext (waste reduction arm of the Packaging Association) which represent industry on waste issues. Staff will continue to work with these organizations to highlight the importance of open communication to minimize service gaps during program changes and ensure programs offer the best overall system value. Region staff will emphasize the need for service standards to be built into any producer designed diversion plan to ensure timely and fair reimbursement of actual and direct program costs.

Proposed Act reinforces continued municipal role in diversion programs

Municipalities have been providing diversion programs to residents for more than 20 years. Municipalities provide high quality services and, in general, residents are pleased with the services provided. It is important that municipalities continue to play a role in waste management to ensure continued success. Ontario municipalities, particularly York Region, have been leaders in residential diversion in North America.

Waste management services provided by York Region and our nine local municipal partners are cost effective, convenient and efficient. This is due in part to partnerships with the private sector through competitively procured contracts. These contracted services, integrated under a comprehensive framework of municipal service delivery, focuses on the taxpayer and drives sustainable and responsible waste management.

Both the proposed Act and accompanying draft Strategy for implementation acknowledge this success in delivering integrated waste management services and solidify a continued municipal role in legislation. Producers would be required to compensate municipalities for eligible municipal costs for designated materials: municipal hazardous or special waste, blue box materials, tires, and electronics. Rates and future designated waste materials will be determined via future regulations.
Municipalities provide a range of services to residents to ensure safe drinking water for residents

Municipalities have a responsibility to provide residents with clean drinking water and manage wastewater facilities. Improperly disposed toxic materials such as electronics and municipal hazardous and special waste have the potential to adversely affect water quality. Strong diversion programs must be in place to effectively manage these materials to protect these water resources. Some producers have launched programs to manage these materials, such as pharmaceuticals and sharps, however municipalities have historically been the backstop for materials not captured by these programs. Recognizing the need for continued high capture rates, Region staff continue to advocate that any producer developed programs provide municipalities fair reimbursement for management of these materials.

Fragmentation of Individual Producer Responsibility programs has potential for increased costs and inefficiencies

Under the proposed Act producers are permitted to organize however they choose. Municipalities will be required to negotiate reimbursement rates with producers to receive funding. If there are a large number of collectives, this has the potential to increase municipal costs for negotiation and administration. To ensure producers are required to consider full system costs and to encourage collectives organize in an efficient manner. Region staff recommend that a definition of reasonable costs which are eligible for reimbursement be developed. Municipalities should be viewed as equal partners in waste management and should be able to recover costs for all materials designated by the Province, whether managed in diversion programs or in the waste stream.

If producers organize into inefficient collectives, there is also a risk that it could affect diversion rates due to fragmentation of programs. Fragmented programs are less convenient for residents to use and convenience drives diversion. This has been experienced to an extent with some producer run programs with municipalities backstopping inefficient collection systems. Region staff recommends steps be taken by the Province to reduce potential for fragmentation to maintain diversion rates. Producer developed diversion programs should be required to meet targets which are equal or greater than current diversion outcomes.

Proposed Act lifts 50 per cent cap on producer funding for blue box program allowing for increased municipal cost recovery

Blue box programs account for a significant portion of diversion across the province. In York Region, the Blue Box accounts for 20 per cent of our overall diversion. Under the current Waste Diversion Act, 2002 producers are organized into one large collective and are required to reimburse municipalities to a maximum of 50 per cent of blue box program costs. The proposed Act would lift the 50 per cent blue box producer funding cap with the potential to improve municipal cost recovery.
Specific funding rates would be determined through future regulations. This change addresses a key request from municipalities who have maintained that the producer funded share of the blue box program should be increased. Producers will be required to take on a greater portion of financial responsibility for their products, which will increase their incentive to design for the environment/recycling. Region staff will advocate to the Province and producers to ensure this program does not become fragmented and continues to provide a high level of service to residents.

Region staff recommends that the Province develop a transition strategy to ensure that blue box funding remains stable with current Waste Diversion Ontario funding rates continuing in the interim. This will provide stability in the market during negotiation with producers.

**Proposed Act will improve diversion in Industrial, Commercial, and Institutional sectors**

The draft Strategy proposes to phase in an individual producer responsibility program for paper and packaging supplied to the Industrial, Commercial, and Institutional sectors as an early deliverable. Diversion in this sector has lagged behind rates achieved by the residential sector. Consultation with stakeholders is expected to begin soon after the proposed Act is enacted, with implementation anticipated to begin in less than two years. It is also expected that this program will result in an increase in employment as the Province estimates that seven times as many jobs are generated for diversion and reduction as opposed to disposal.

During consultation on the SM4RT Living Solid Waste Master Plan residents stated that they wanted to see more diversion in the Industrial, Commercial, and Institutional sector. An objective of the Region’s SM4RT Living Solid Waste Master Plan is to work more directly with the Industrial, Commercial, and Institutional sector to address waste issues. With the proposed Act requiring diversion programs for this sector, it addresses goals identified by York Region residents.

**Proposed Act silent on Fourth R, “recovery”, staff recommends adding to the provincial reporting hierarchy**

York Region Council officially adopted the Fourth “R”, recovery, in 2009. Currently the proposed Act is silent on recovery. Based on environmental benefits of recovery and to be consistent with Canadian Council of Ministers of the Environment Extended Producer Responsibility policy, Region staff recommend that Energy From Waste systems be included as the Fourth R, “recovery”. Materials processed through Energy From Waste systems should be counted toward diversion targets, provided that targets recognize the waste management hierarchy. Recovery should be implemented only for materials for which no viable option is available for the first Three R’s (reduction, reuse and recycling).
Waste management infrastructure needs to be eligible for development charges to ensure capacity exists to meet increased demand

Population growth and the potential addition of materials from the Industrial, Commercial, and Institutional sector will increase processing capacity required in the Province requiring additional infrastructure to be built. Currently, there is pressure on the tax base to fund new infrastructure to keep pace with servicing demands. As additional items and sectors are designated it is likely that these pressures will increase.

Waste management infrastructure is costly and in the event that producers are unwilling or unable to fund infrastructure growth required, alternate funding options will need to be considered. It is recommended that waste management infrastructure, like water and wastewater, be eligible for sufficient development charges to ease the burden on the tax base and ensure that infrastructure is adequately sized to meet demand. Region staff have requested in the past that waste management infrastructure be made eligible for development charges but have been unsuccessful. This request will be made again when the Development Charges Act, 1997 is reviewed.

SM4RT Living Solid Waste Master Plan has positioned York Region well for regulatory changes

Producer responsibility initiatives have been implemented in several jurisdictions in Canada and worldwide. Development of York Region’s SM4RT Living Solid Waste Master Plan included a review of other jurisdictions’ producer responsibility programs which has positioned the Region to have line-of-sight to the nature of potential program changes in Ontario.

Phase one of the SM4RT Living Solid Waste Master Plan included a policy and infrastructure review, which will allow York Region and its local municipal partners to be active participants with the Province in setting appropriate diversion and cost standards for Ontario. In addition, the guiding principles of the SM4RT Living Solid Waste Master Plan emphasize waste as a resource with a focus on reduction and reuse, which aligns with the intent of the proposed Act and the draft Waste Reduction Strategy.

Joint advocacy efforts have resulted in program changes beneficial to York Region municipalities

York Region has carried out significant advocacy efforts to date focused on increasing producer responsibility for end of life management of their products. The municipal perspective and position was also communicated to the province through various associations, including Association of Municipalities of Ontario (AMO), Municipal Waste Association (MWA) and the Regional Public Works Commissioners of Ontario (RPWCO). York Region staff remain engaged as active members in each of these associations and continue to advocate for the Region’s unique position and needs.
An advocacy strategy has been developed as a part of the Region’s SM4RT Living Solid Waste Master Plan which calls for maintaining or increasing the Region’s advocacy efforts. This includes continued involvement with the organizations mentioned above. Key advocacy achievements in the proposed Act include lifting the 50 per cent funding cap on producer’s blue box funding contributions and reinforcing the municipal role in producer-led diversion programs.

**Link to key Council-approved plans**

The proposed Waste Reduction Act, 2013 and Strategy support Regional goals identified in Vision 2051 by revaluing waste as a resource. The proposed Act and Strategy also support the 2011-2015 Strategic Plan goal of managing the Region’s finances prudently.

5. **FINANCIAL IMPLICATIONS**

**Net budget impact of future program changes expected to be favourable if 50 per cent blue box funding cap is lifted**

Under the proposed Act, producers would compensate reimbursable municipal collection costs for designated materials (i.e., currently municipal hazardous or special waste, blue box materials, tires and electronics) and processing costs for those materials, where municipalities are required to do so by law (i.e. blue box processing). Reimbursable costs and addition of other designated materials for reimbursement are yet to be determined.

**Negotiations with producers and regulators regarding funding rates could require more senior staff resources**

York Region staff support the Ministry’s intention in the proposed Act to move to individual producer responsibility, but practical implementation will be challenging given the thousands of individual stewards outlined in Attachment 4. A balance is required for producer collectives to incent producers to design for the environment while operating in an efficient manner from a full system perspective. Staff recommends to the Ministry that municipal administrative costs should be eligible for reimbursement to ensure taxpayers are not penalized in the event producers organize into inefficient collectives.

**Producer funding for waste management programs represents potential cost recovery for the Region**

Currently, electronics, municipal hazardous or special waste, tires and blue box programs represent a significant cost for the Region. Funding provided by producers partially offsets these Regional costs. In 2012, the Region received reimbursement of $600,000 for the electronic waste program, $1,200,000 was received for the municipal hazardous or special waste program, and $9,000 for tires. In addition, producers were obligated to reimburse York Region $7,306,000 in 2012 for blue box program costs (based on 2010 net system costs). Total costs for York Region and our local municipal partners to operate...
the blue box program in that year were $14,435,000 resulting in reimbursement of 50 per cent of municipal costs.

York Region has consistently received some of the highest compensation rates in the province. Significant staff resources are invested in delivering programs to achieve these rates of reimbursement. Region staff will continue to advocate for full cost recovery whenever possible. Staff also recommends that current Waste Diversion Ontario funding rates be continued until producer funded programs are rolled out with an annual increase in line with the consumer price index. This will provide stability in the market during negotiation with producers.

6. LOCAL MUNICIPAL IMPACT

Region staff solicited comments from local municipal partners for Regional response to proposed Act

Region staff notified our local municipal partners early in the comment period that the proposed Act had been released and provided an initial analysis. Local municipal staff were requested to provide comments for inclusion in the Regional response. Region staff further discussed this issue at the Strategic Waste Policy Team meeting in July to ensure local municipal issues were addressed in the attached York Region response.

Local municipal partners were sent the Regional response to the Ministry on the proposed Act in August for their review. Comments and edits were considered and added where appropriate to the final submission to the Ministry. Recommendation two of this report also requests that copies of this report be circulated to local municipal councils to continue to make them aware of the Regional position on this legislation. They will have the option to endorse these comments at this time if desired.

7. CONCLUSION

Overall, the proposed Act will be beneficial to York Region and its residents. Making producers responsible for the waste they create and requiring them to internalize end of life management costs is intended to result in a financial incentive to design products for the environment. This aligns with the vision and guiding principles included in the Region’s SM4RT Living Solid Waste Master Plan.

This proposed legislation has positive aspects for municipalities including lifting the 50 per cent funding cap on producer blue box contributions. It is anticipated this will reduce the financial burden on Ontario municipalities and represent a significant enhancement to blue box programs. In addition, the proposed Act recognizes the leadership of municipalities in waste diversion by acknowledging the municipal role in waste management through legislation and requiring producers to reimburse municipal costs for
designated materials. Staff will continue to engage with the Province and the producers on future regulations resulting from the proposed Act.

For more information on this report, please contact Laura McDowell, Director of Environmental Promotion and Protection at 905-830-4444 Ext. 5077.

The Senior Management Group has reviewed this report.

Recommended by: Erin Mahoney, M. Eng.
Commissioner of Environmental Services

Approved for Submission: Bruce Macgregor
Chief Administrative Officer

August 22, 2013

Attachments (4)

BM

#5050714
Report Wizard v.2012.11.07
September 4, 2013

Wendy Ren  
Assistant Director  
Ministry of the Environment  
Integrated Environmental Policy Division  
Waste Management Policy Branch  
135 St Clair Avenue West, Floor 7  
Toronto, Ontario, M4V 1P5

Dear Ms. Ren:

RE: DRAFT COMMENTS – Proposed Waste Reduction Act – EBR Number 011-9260 & 9262

York Region staff commends the Ministry of the Environment (Ministry) for releasing the new proposed legislation to replace the current Waste Diversion Act, 2002. Municipalities have long advocated for changes to waste management legislation in Ontario and are pleased to see municipal feedback reflected in new proposed legislation. Region staff would like to thank the Ministry for the opportunity to comment on the proposed Waste Reduction Act, 2013 (Act).

Regional staff supports the proposed Act and draft Waste Reduction Strategy (Strategy) as they address many of the challenges and concerns put forward by municipalities. The proposed Act has the potential to address many of the current issues affecting waste management in Ontario including sustainable funding, producer responsibility and diversion in the Industrial, Commercial and Institutional sector. Region staff would like to offer the following comments for the Ministry’s consideration to assist in strengthening the proposed Act and implementation options being considered in the draft Strategy.

**York Region staff strongly supports reinforcing the municipal role in delivering integrated waste management services**

Region staff strongly supports reinforcing the municipal role in waste management services within legislation. Residents across Ontario recognize municipalities as a central and convenient provider for waste services which are accountable, easily accessible, convenient and reliable. York Region consistently ranks as one of the top Waste Diversion Ontario diversion rates in Ontario (Large Urban Category) and achieved a diversion rate of 57 per cent in 2012 (verification pending from Waste Diversion Ontario). York Region’s diversion rate is nearly three times the average rate of the Industrial, Commercial and Institutional sector.

Through more than 20 years of experience, municipalities have developed best practices to drive convenient, efficient and successful diversion programs. Current programs such as Blue Box,
Municipal Hazardous or Special Waste (MHSW) and Waste Electrical and Electronic Equipment (WEEE) have reached their targets as a result of integrated and cost effective municipal collection and processing systems, which accounted for the majority of material captured in the Province. Even when alternative, retail-based collection programs emerged for materials such as pharmaceuticals and sharps, residents continued to rely on their municipality for dependable program service delivery. Residents see municipalities as their integrated waste management service provider and have come to expect convenient “one-stop-shopping” services for waste management. Convenience drives diversion and if changes are to be made to existing programs, minimum standards for accessibility to waste management programs should be developed. Region staff also supports section 49 of the proposed Act, which requires producers to perform promotion and education to increase public awareness and participation in progress. Producer-led promotion should be performed in close conjunction with municipal efforts to ensure targets are met.

**Municipalities partner with private sector to drive cost-effective service delivery**

Municipalities understand the needs of residents and balance cost and service to develop effective, efficient and convenient programs. Municipal services are cost effective, convenient and efficient in part because municipalities already work in partnership with the private sector through competitively procured contracts including waste collection, processing and facility operations. These contracted services, integrated in Ontario under a comprehensive framework of municipal service delivery, focuses on the needs of residents and drives sustainable and responsible waste management.

York Region has made significant investments into Regional waste management infrastructure to continue momentum in the performance of our current diversion program, including an original investment of $33 million and approximately $8.5 million in capital upgrades at the York Region Materials Recovery Facility since 2011. York Region has also developed a network of Community Environmental Centres that represent a capital investment of over $27 million. These facilities offer one convenient drop off for materials that cannot be managed at curbside and have been well received by residents with steadily increasing usage rates.

Reinforcing the municipal integrated service delivery role in legislation makes municipal waste management infrastructure investments more secure over the long term and drives a proven, successful diversion outcome. If producers fully manage collection of designated materials, there should be assurances that municipalities will be sufficiently compensated for ‘stranded assets’ such as depots, transfer stations and processing facilities.

**Lifting the 50 per cent funding cap on Blue Box program will offer more flexibility in funding true municipal costs for program**

York Region staff strongly supports lifting the 50 per cent cap on producer contributions for blue box programs to appropriately shift costs of managing these materials away from the tax base toward producers. Currently, the proposed Act is silent on the nature of reimbursing municipal costs. Region staff advocates that all producer reimbursement be monetary, not in-kind contributions. Newspaper stewards currently provide in-kind contributions to the Blue Box
program, however, our experience has proven that this current in-kind system does not accurately reflect municipal costs and the value is lost. Region staff recommends that an explicit requirement for monetary compensation of municipal costs be clearly defined in the proposed Act.

It is recommended that a transition/migration strategy be developed to ensure that Blue Box funding does not decrease below 50 per cent during the transition. Measures must be put in place to ensure that Blue Box funding does not decrease as a result of the enactment of the proposed legislation. It is recommended that current Waste Diversion Ontario funding rates be continued through the transition period with an annual increase in line with the Consumer Price Index. This will provide stability in the market during negotiation with producers.

**Producer responsibility is a global trend which incentivizes design for the environment/recycling**

Worldwide, there has been a general shift toward full producer responsibility for waste. Implementing individual producer responsibility in Ontario further strengthens a producer’s incentive, and likelihood, to reduce packaging and design products for the environment/recyclability. During development of York Region’s SM4RT Living Solid Waste Master Plan residents stated that they want to see producers take responsibility for the waste they generate. York Region staff sees implementation of producer responsibility as a beneficial step forward for the Province.

**Industrial, Commercial and Institutional paper and packaging diversion will require enforcement to ensure targets are met**

Region staff supports expanding stewardship requirements to the Industrial, Commercial and Institutional sector as an early deliverable. During development of our SM4RT Living Solid Waste Master Plan, residents stated that they want to see more diversion opportunities at Industrial, Commercial and Institutional facilities. Given the current low diversion performance of this sector, implementing this requirement has the highest potential to increase overall provincial diversion rates. The Industrial, Commercial and Institutional sector represents a significant opportunity to materially increase diversion, offering the greatest payback. Effective oversight, data collection and enforcement will be required to ensure compliance with diversion requirements.

**To materially increase diversion, the Waste Reduction Authority will need to have sufficient enforcement powers**

To ensure success, the Waste Reduction Authority will need to have sufficient staffing and resources to provide effective data management, oversight, and enforcement. Penalties for not achieving targets and timelines need to be clearly defined with sufficient consequences to provide a clear incentive to meet requirements. The Waste Reduction Authority will need to have sufficient mandate to enforce these requirements.
In addition, the Municipal Datacall should continue to be operated by the Waste Reduction Authority as this has proven to be an effective tracking tool. High quality data will be required to direct future policy decisions. This should be used on a go-forward basis to ensure that any comparisons between current municipally operated programs and future producer developed programs are accurate and that diversion performance continues to improve.

**Landfill bans require sufficient processing capacity to be established prior to implementation**

Landfill bans for designated materials are supported by Region staff in principle. However, robust and reliable alternatives to disposal capacity must be established to ensure markets remain competitive and provide a buffer for municipalities in the event of processing interruptions. Bans for designated materials should also be considered at transfer stations to ensure that waste generators remain responsible for the waste they generate. This approach will also prevent waste unable to be landfilled in Ontario from being sent across Provincial or Federal borders for disposal without owners taking responsibility for the waste they generate.

**Effective management of Municipal Hazardous or Special Waste (MHSW) as well as Waste Electrical and Electronic Equipment (WEEE) is imperative to ensure protection of water quality**

Improperly disposed municipal hazardous or special waste and waste electrical and electronic equipment have the potential to adversely impact source water quality. Accessible and convenient diversion programs for these wastes are the most effective way to protect the quality of water entering municipal water treatment facilities. Municipalities need to be eligible to receive compensation for collection of designated wastes, which allows for effective protection of the environment by removing hazardous materials from the residual stream.

Municipalities have a demonstrated history of success in capturing these materials by managing MHSW programs in a manner that is convenient and well received by residents. Establishment of the Orange Drop program has led to a proliferation of return to retail drop-off sites. However, municipalities continue to outperform other collection locations for these materials with municipalities collecting approximately 63 per cent of total tonnes collected in Ontario despite making up less than 3 per cent of the collection locations. The municipal role must continue to maintain high diversion rates for municipal household and special waste, as well as waste electronics until producers can demonstrate effectiveness of alternate programs.

**Individual Producer Responsibility has the potential to significantly increase full system costs due to negotiation of reimbursement rates with a large quantity of producers/collectives**

York Region staff supports the Ministry’s intention in the proposed Act to move toward individual producer responsibility, but practical implementation will be challenging given the thousands of individual stewards. Strong enforcement of targets will be required to incent effective programs and diversion. Having a large number of industry funding organizations would likely make these targets more difficult to enforce.
A balance is required for producer collectives to ensure producers are incented to design for the environment, while operating in an efficient manner from a full system perspective. It is recommended that municipal administrative costs be eligible for reimbursement to ensure taxpayers are not penalized in the event producers organize into inefficient collectives. A definition of reasonable costs, which are eligible for reimbursement is needed, ideally in the proposed Act. Municipalities should be viewed as equal partners in waste management and should be effectively compensated for all designated materials managed whether in diversion programs or in the waste stream. This will help ensure municipalities are not penalized for producers developing ineffective programs, which do not meet diversion targets. Producer developed diversion programs should be required to meet targets that are equal or greater than current diversion outcomes.

Regional differences in collection programs must be considered to ensure that Blue Box and other diversion programs remain convenient and accessible to all residents of Ontario. Any new structures/systems developed by producers must reflect differences in population density and logistical costs. Current service levels should be maintained or increased to ensure programs remain convenient and reach diversion targets across the province. Fragmentation of programs as has been seen in the MHSW program must be avoided to ensure Blue Box diversion rates continue to remain high.

Designated materials such as Blue Box, MHSW and WEEE have a large impact on municipal cost recovery efforts. It is challenging for municipalities to project the financial impact of major changes to these programs. It would be helpful to know ‘change date’ of these programs well in advance, ideally a year or more, to allow for effective municipal budgeting.

**Early consultation and implementation required for source separated organics to establish resiliency in organics processing capacity in Ontario**

Source separated organics material is both challenging and costly for municipalities to manage. Region staff strongly supports designation of organics, including branded organics and other putrescible waste materials such as diapers. Current organics processing capacity does not meet market demand and designating these materials will stimulate market development. Organics processing facilities currently require a significant amount of time to plan and build. To establish more robust infrastructure and resiliency in processing capacity for organics, consultation around transition of organics to a designated waste should occur earlier than outlined in the draft Strategy. Anaerobic digestion should be specifically supported as an option for organics management in the Strategy as this technology can help Ontario meet both diversion and renewable energy goals.

**Waste management infrastructure needs to be eligible for producer funding and/or development charges to ensure capacity exists to meet increased demand associated with population growth**

To effectively manage materials in the marketplace, additional or expanded waste management infrastructure will be required. In areas with rapid population growth there is pressure on the tax
base to fund new infrastructure to keep pace with servicing demands. As additional items are designated, it is likely that these pressures will increase. Waste management infrastructure is costly and funding from producers and/or development charges should be considered to build the infrastructure required to meet growth demands. These funding sources are appropriate and recommended to ease the burden on the tax base and ensure that infrastructure is adequately sized to meet demand.

Fourth R, “Recovery”, should be added to the provincial reporting hierarchy

York Region Council officially adopted the Fourth R, “Recovery”, in 2009. York Region has taken a leadership position and embarked on opportunities that recognize the energy value of waste. For example, the technology used in the Durham York Energy Centre significantly reduces the potential for environmental impacts, in particular greenhouse gas emissions, when compared to landfill alternatives. Electricity produced by the Durham York Energy Centre, operating at design capacity, is sufficient to power about 10,000 homes. It will also recover 80 per cent of the ferrous metal and 60 per cent of the non-ferrous metal remaining in residual waste to be recycled. Based on these environmental benefits and to be consistent with Canadian Council of Ministers of the Environment Extended Producer Responsibility policy, Energy From Waste systems should be included as the Fourth R “recovery”. Materials processed through Energy From Waste systems should be counted toward diversion targets, provided that targets recognize the hierarchy of management options. Recovery should be implemented only for materials where no viable option is available for the first three R’s (reduction, reuse and recycling).

Comment timelines did not allow for Council endorsement, Region staff response will be presented for consideration of Council after submission

Comments provided in this letter represent staff comments only. Review was not possible for Regional Council or the Councils of our nine Local Municipal Partners because the comment period occurred during Regional Council’s summer recess. This letter (staff response) is being taken for Council consideration and possible endorsement on September 26, 2013. Region staff will notify the Ministry of any new recommendations or comments from Council beyond those contained in this letter.

Region staff supports the proposed Act and draft Strategy as a positive step forward for waste reduction in Ontario

Region staff supports the proposed Act and draft Strategy. The proposed Act and draft Strategy address many of the challenges and concerns raised by municipalities and have the potential to address many of the current issues impeding further progress in waste management across Ontario. Reinforcement of the municipal role in waste management will be critical as the Province moves toward an individual producer responsibility framework to maintain diversion rates in successful programs like Blue Box. This will ensure that residents not only receive convenient services that support diversion rates, but also that we continue to deliver effective and cost efficient services to residents with demonstrated success in diversion.
Overall, the proposed Act aligns with the vision and guiding principles of York Region’s SM4RT Living Solid Waste Master Plan, which emphasizes waste as a resource with a focus on reduction and reuse. The SM4RT Living Solid Waste Master Plan will be taken to Regional Council for formal endorsement in September 2013.

Region staff would like to thank the Ministry for engaging municipalities on this important piece of proposed legislation and look forward to the opportunity for continued consultation with the Province as this proposed legislation moves forward.

Yours truly,

Erin Mahoney, M. Eng.
Commissioner, Environmental Services
Regional Municipality of York

EM/bm

#5081350
July 4, 2013

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Guelph, Ontario N1H 4E9  
E-mail: mwa@municipalwaste.ca

RE: EBR Registry Number 011-9260 (Waste Reduction Act) and EBR Registry Number 011-9262 (Waste Reduction Strategy)

Dear Ms. Mahoney and Ms. McLean,

Thank you for your letter of June 17, 2013, regarding extending the comment period for EBR postings 011-9260 (Waste Reduction Act) and 011-9262 (Waste Reduction Strategy). I have been asked to respond to your letter on behalf of the Minister.

Recognizing the important role that municipalities play in waste reduction in Ontario, we are committed to providing municipalities with a number of different opportunities to express their views on the proposed waste reduction legislation and draft strategy.

In addition to submitting comments on the Environmental Registry by September 4, 2013, we have also organized regional consultation sessions to which municipalities have been invited. Furthermore, we would like to work with the Association of Municipalities of Ontario, the Municipal Waste Association and the Regional Public Works Commissioners of Ontario to establish other consultation sessions with the municipal sector to obtain its views on the proposed legislation.

I believe through these different mechanisms we will be able to undertake a broad canvass of municipal perspectives, including that of northern, rural and urban municipalities. If there are additional approaches that you would recommend to engage municipalities in a conversation on the proposed legislation, we would welcome your advice.
In terms of timing for our consultation, we are presently planning to complete this initial consultation prior to the return of the Legislative Assembly presently scheduled for September 9, 2013.

I will be contacting you shortly to discuss additional consultation approaches that we can consider using over the summer. In the interim, if you have any questions, or suggestions regarding additional consultation approaches, please feel free to contact me at 416 327-9743 or at greg.sones@ontario.ca. Thank you again for your support.

Sincerely,

Greg Sones
Director, Waste Management Policy Branch
Ministry of the Environment

cc: Monika Turner, Director of Policy, Association of Municipalities of Ontario
## Comparison of Current and Proposed Waste Management Legislation in Ontario

### Waste Diversion Act, 2002

**Background**
- Enacted June 27, 2002, with accompanying Regulations 101/94 – 104/94 (3Rs Regulations)
- Introduced extended producer responsibility (EPR) - producers of products and packaging materials are responsible for ensuring those materials are properly managed at the end of their life cycle
- Allows the Minister to designate waste materials for which a diversion (EPR) program is to be established

**Governing Authority and Role**
- Established Waste Diversion Ontario (WDO), a non-crown agency, as the administrative body for developing, implementing and operating waste diversion programs for designated wastes
- WDO oversees Industry Funding Organizations (IFOs) for designated wastes
- IFOs collect fees from Stewards—companies that are brand owners, first importers or franchisors of products and packaging materials or other designated wastes. IFOs help fund costs of and report to the WDO on operation of waste diversion program.
- WDO oversees three IFOs operating four diversion programs for residential waste in Ontario:
  - Ontario Tire Stewardship – Used Tires
  - Ontario Electronic Stewardship – Waste Electrical and Electronic Equipment
  - Stewardship Ontario
    - Ontario Blue Box Program Plan
    - Municipal Hazardous or Special Waste program

**Funding of Municipal Diversion Programs**
- Stewards contribution to Blue Box Program Plan capped at 50% of total system cost
- IFOs regularly engage municipalities in negotiations for funding the Blue Box Program – in 2012, York Region received roughly $7.3M in funding for the Blue Box Program, of which 50% is distributed the Local Municipalities

**Role of Municipalities**
- Regulation 101/94 requires all municipalities with a population greater than 5000 to provide diversion services for designated wastes to residents

**Integrated Pricing**
- No provisions in legislation requiring producers or retailers to integrate cost of waste management into shelf cost of products

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### Bill 91: Proposed Waste Diversion Act, 2013

**Background**
- Released June 6, 2013, with accompanying Waste Reduction Strategy for a 90-day comment period that ended September 4, 2013
- Repeals the existing *Waste Diversion Act, 2002* if passed
- Allows the Minister to designate waste materials for which a diversion (EPR) program is to be established

**Governing Authority and Role**
- Replaces the WDO with the Waste Reduction Authority, a delegated administrative authority with increased compliance and enforcement powers
- Shifts waste management framework towards Individual Producer Responsibility – financial responsibility and liability rests with individual company or producer who created or imported the product into Ontario.
- Under IPR, producers report directly to the Waste Reduction Authority on success of waste diversion program and have the option of delivering the program on their own or via a collective
- Existing Stewardship (EPR) programs will be phased out in favour of IPR programs but current agreements remain in place until new funding programs are implemented
- Packaging and Printed Paper will be designated for the Industrial, Commercial and Institutional Sector with targets for diversion to be developed

**Funding of Municipal Diversion Programs**
- Removes 50% cap on Blue Box program funding, potentially increasing municipal cost recovery. Rates will be determined through future negotiations and regulations
- Net budget impact of program changes cannot be determined at this time but is expected to be positive if 50% cap is lifted

**Role of Municipalities**
- Provides for a continued municipal role in waste diversion programs – producers will be required to compensate municipalities for reimbursable costs related to the collection of designated materials

**Integrated Pricing**
- Integrated Pricing requiring all fees to be included in shelf price will be mandated for all consumer products to eliminate visible “eco-fees”
Under the new Waste Reduction Act, there is no prescribed structure for Producer collectives. There is the potential this Act could result in a large quantity of Producer collectives. Municipalities will be required to negotiate reimbursement with collectives in structures deemed effective by Producers. Planning for and participating in negotiation with producers will require significant effort by Regional staff.