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**REPORT TITLE:**      **Update and Proposed Direction on the Transition of the Region of Peel's Waste Diversion Programs to Full Producer Responsibility**

**FROM:**                      Andrew Farr, Interim Commissioner of Public Works

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## **RECOMMENDATION**

**That the Region of Peel continue to offer collection services to producers for collection of Batteries, Electrical and Electronic Equipment, Municipal Hazardous and Special Waste, and Blue Box materials post transition, subject to negotiation of mutually agreeable terms;**

**And further, that the Region of Peel stop collecting tires at its Community Recycling Centres effective January 1, 2021;**

**And further, that the Commissioner of Public Works be authorized to enter into and execute new agreements or amending agreements and related forms and documents, including on a directly negotiated basis, related to the transition, operation or funding of the Region's Electrical and Electronic Equipment diversion program and the Region's Municipal Hazardous and Special Waste diversion program, on business terms satisfactory to the Commissioner of Public Works and on legal terms satisfactory to the Regional Solicitor.**

## **REPORT HIGHLIGHTS**

- The province has committed to transition five existing producer responsibility programs - Tires, Batteries, Electrical and Electronic Equipment, Municipal Special and Hazardous Waste, and Blue Box.
- The Tires program transitioned to full producer responsibility on January 1, 2019. Tires continue to be collected at the Community Recycling Centres (CRCs) but the Region is not compensated by producers. Since there are numerous alternatives drop off points available within Peel, staff is recommending that the Region stop collecting Tires at its CRCs effective January 1, 2021.
- The Batteries program transitioned on July 1, 2020. The Region is compensated for battery collection and batteries continue to be collected by the Region at various drop off locations and through the curbside collection program.
- After several delays, the final regulation for the Electrical and Electronic Equipment program was released on September 22, 2020. The new Electrical and Electronic Equipment program is scheduled to start January 1, 2021, which provides very little time to analyze the regulation, which contains significant changes from the draft regulation, and negotiate an agreement with producers to collect Electrical and Electronic Equipment on their behalf.
- A draft regulation for the Municipal Hazardous and Special Waste (MHSW) program is currently under development and is expected to be released for comment this fall. The final regulation is expected in early 2021. The new MHSW program is scheduled to start July 1, 2021, which provides very little time for planning and implementation.

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- A draft regulation for the Blue Box program is expected to be released for comment this fall. The final regulation is expected in early 2021.
  - Given the short time period between the release of the final Electrical and Electronic Equipment and MHSW regulations and the commencement of those programs, it is anticipated that new agreements and ancillary documents for these programs will require expedited execution. Staff is therefore requesting delegated authority to enter into any necessary agreements.
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### **DISCUSSION**

#### **1. Full Producer Responsibility and Diversion Programs Overview**

This report provides an update on Provincial initiatives to transition five Ontario waste diversion programs to the new full producer responsibility framework as provided for in the *Waste Free Ontario Act, 2016*. The report also recommends the proposed direction for the five diversion programs at the Region of Peel.

The full producer responsibility framework is intended to move the financial, operational and regulatory responsibility of the five waste diversion programs from municipalities to producers. The waste diversion programs are:

- Tires
- Batteries
- Electrical and Electronic Equipment
- Municipal Hazardous and Special Waste
- Blue Box

Full producer responsibility is intended to make producers accountable for their products and packaging once consumers are finished with them; set mandatory and enforceable resource recovery targets; and give producers control of resource recovery services in a competitive market. Once a program transitions to full producer responsibility, producers may establish their own collection systems, but in most cases, producers will establish collective systems to be managed by Producer Responsibility Organizations (PROs). The PROs take charge in meeting the legislative and regulatory requirements of producers on their behalf. This responsibility includes procuring services and contracting directly with service providers and/or municipalities to provide collection services.

As a result of limited alternative collection options available to residents and the environmental benefit that it provides, the Region, post transition, will seek to continue to provide collection services for many of the materials captured under the five diversion programs (e.g. batteries, electrical and electronic equipment, and municipal hazardous and special waste, and possibly blue box as endorsed by Regional Council on June 25, 2020). The transition timelines of the five programs are outlined below in Table 1.

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Table 1: Waste Diversion Programs Transition Timelines

EPR Program	Status	Existing/ Previous Program End Date	New Program Start Date
<b>Tires</b>	Transitioned	December 31, 2018	January 1, 2019
<b>Batteries</b>	Transitioned	June 30, 2020	July 1, 2020
<b>Electrical &amp; Electronic Equipment</b>	Final regulation released September 22, 2020	December 31, 2020 - Information technology, telecommunications and audio-visual materials	January 1, 2021
		December 31, 2022 – Lighting materials	January 1, 2023
<b>Municipal Hazardous &amp; Special Waste</b>	Draft regulation scheduled for release Fall 2020. Final regulation expected in early 2021	June 30, 2021	July 1, 2021
<b>Blue Box</b>	Draft regulation expected in fall 2020. Final regulation expected in early 2021	December 31, 2022 followed by three-year transition period	January 1, 2023 – December 31, 2025.  Peel preferred transition date is October 1, 2024.

## 2. Program Updates

An update on the transition of each of the five diversion programs is provided below. The proposed direction for the five diversion programs is provided in Section 3.

### ***Tires***

On January 1, 2019, Tires was the first program to transition to a full producer responsibility framework. The tire regulation sets out collection and recycling targets that producers must meet. While producers are required to meet the collection targets, they are not compelled to compensate the Region (or any other collector) for the tires collected. Since producers are able to collect tires at over 500 approved collection sites in Peel, they are not reliant on our tires to meet their targets and are not offering to pay Peel for collection. In 2019, the Region collected 421 tonnes of tires at the Community Recycling Centres (CRCs) but did not receive any revenue from tire producers as part of the new program.

### ***Batteries***

As of July 1, 2020, battery producers are individually accountable and financially responsible for collecting and reusing, refurbishing or recycling their batteries when consumers discard them. The Batteries Regulation applies to the following types of batteries sold separately in Ontario:

- Single-use (primary) batteries weighing 5 kg or less (e.g. button cells, AA, AAA, 9V)
- Rechargeable batteries weighing 5 kg or less

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The Region has a tentative agreement with Call2Recycle, the sole producer responsibility organization operating on behalf of the majority of obligated battery producers, who compensates the Region for batteries collected at the CRCs and Conservation Days.

Once executed, the one-year agreement, with possible extensions, will see Call2Recycle pay the Region the following amounts, effective July 1, 2020, which cover Peel's incremental cost to collect the batteries:

- \$0.55 per kilogram for batteries collected at CRCs; and
- \$1,200 per tonne for batteries collected at Conservation Day events.

The Region also has a provisional arrangement with Raw Material Corporation, a processor operating on behalf of Call2Recycle, to be compensated for batteries collected through the curbside collection program. Raw Material Corporation will pay the Region the following amount, which does not cover Peel's full cost to collect the batteries:

- \$0.33 per kilogram for batteries collected through the curbside collection program.

In 2019, the Region collected 55,000 kg of batteries through the CRCs, curbside collection, and Environment Days. An additional 6,000 kg of batteries were also collected through industry run collection programs at municipal offices and multi-residential buildings.

For 2021, staff projects a net cost of \$71,000 to operate the curbside battery collection program but recommends continuing the program due to the importance of properly managing batteries, which can cause significant environmental harm if left in the waste stream.

The batteries generated at municipal offices and multi-residential buildings will continue to be collected at no cost to the Region by Call2Recycle, and accordingly, the Region will not receive payment for the batteries collected from these locations.

### ***Electrical and Electronic Equipment***

After several delays, the Ministry of the Environment, Conservation and Parks (Ministry) released the new regulation for Electrical and Electronic Equipment on September 22, 2020. Producers have until November 30, 2020 to register and the new Electrical and Electronic Equipment program starts on January 1, 2021.

Staff provided input to the Ministry directly and in cooperation with the Association of Municipalities Ontario and the Ontario Waste Management Association on the draft regulation. The final regulation sets out two defined material categories:

1. Information technology, telecommunications and audio-visual equipment
2. Lighting, including lighting equipment, fixtures and bulbs

A preliminary review of the final regulation has revealed notable differences between the final wording to what was proposed under the draft regulation. For example, the list of

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designated items and performance targets have been reduced significantly in favour of producers.

In the time period between the posting of the final Electrical and Electronic Equipment regulation (September 22, 2020) and the transition date of January 1, 2021, producers must organize themselves and ensure systems are put in place to collect and process sufficient Electrical and Electronic Equipment to meet the prescribed targets. They will most likely do this by entering into agreements with Producer Responsibility Organizations (PROs). The PROs, in turn, will need to procure collection and processing services, most likely through direct negotiations given the tight timeframes. Collectors (including Peel, if we become a collector) and processors will need to be operational by January 1, 2021 to meet the prescribed targets. Staff must review the final regulation, understand producers funding and operational plans, arrange for a service provider to accept the Electrical and Electronic Equipment collected at our CRCs and enter into funding agreements with producer responsibility organizations, most of whom are currently unknown.

The Region currently accepts electrical and electronic equipment for recycling at the CRCs year-round. In 2019, the Region collected 1,069 tonnes of electrical and electronic equipment.

For 2021, staff projects a net cost of \$115,000 to operate the Electrical and Electronic Equipment program (refer to Table 3 in the Financial Implications section below for additional budgetary information).

### ***Municipal Hazardous and Special Waste***

The Region currently accepts Municipal Hazardous and Special Waste (MHSW) at its Community Recycling Centres (CRCs) year-round. The Region is one of the largest collectors of MHSW in the province (1.6 million kg per year) and plays an important role as the final backstop to ensure many hazardous or problematic products do not end up in sewers, landfills or the environment.

The Region currently collects MHSW that is obligated under the current program and is therefore funded by producers. Peel also collects MHSW that is not obligated under the current program and therefore not funded. Peel began its MHSW program long before the first producer responsibility programs were introduced and continues to collect many types of MHSW that are not covered by producer responsibility programs due to the importance of properly managing MHSW, which can cause significant environmental harm if left in the waste stream. Appendix I provides a list of MHSW materials collected at Peel's CRCs.

The expectation is that once the new program is implemented, additional categories of MHSW will be obligated and funded by producers, meaning the Region will generate additional revenues once the program is transitioned (but still not likely achieve full cost recovery).

The Ministry is still in the process of developing the draft regulation for MHSW and has indicated that it will post a draft regulation this fall and expects to file the final regulation in early 2021. The new regulation is expected to come into effect July 1, 2021. The current program will continue to operate until that time without disruption.

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Staff will review and provide comments on the draft regulation when released. As a result of the timing of the consultation period, Council approval of staff comments may not be possible prior to submission. In this case, staff comments will be presented to Council at the earliest opportunity and any additional comments made by Council will be submitted.

It is also anticipated, based on delays experienced in release of the final regulations for both the Batteries and the Electrical and Electronic Equipment programs, that a similar delay may be experienced in the release of the final regulation for the MHSW program. This would leave staff with a short time period to review the final regulation, understand producers funding and operational plans, arrange for a service provider to accept the MHSW collected at our CRCs and enter into funding agreements with producer responsibility organizations, most of whom are currently unknown.

For 2021, staff projects a net cost of \$1.5 Million to operate the Municipal Hazardous and Special Waste program (refer to table 3 in the Financial Implications section below for additional budgetary information).

### **Blue Box**

As previously reported to the Waste Management Strategic Advisory Committee (WMSAC), the Province has been consulting with key stakeholders, including Peel Region, during the development of the draft Blue Box regulation. Ministry staff have indicated that they expect to post a draft regulation in mid-October. Key timelines are outlined in Table 2.

*Table 2: Blue Box Regulation Development & Implementation Timelines*

<b>Activity</b>	<b>Anticipated Timeline</b>
Posting of a draft regulation	October 2020
Filing of final producer responsibility regulation	Early 2021
Municipalities, producers and other stakeholders prepare for the eventual transition of operational and financial control of the Blue Box Program to producers in accordance with regulatory requirements	January 2021 to December 2022
Municipalities gradually transition operational and financial control of Blue Box Program to producers with one third of municipalities transitioning each year	January 2023 to December 2025  Peel's preferred transition date is October 1, 2024

Over the next four years until Peel's transition date, the transition of the Blue Box Program will require considerable attention. To guide the Region through the transition, staff will formalize a Blue Box transition team consisting of existing staff supported by a new Advisor position on a four-year contract (from January 2021 to December 2024) funded from existing approved capital budget.

As indicated at the June 18, 2020 WMSAC meeting, staff issued a Request for Expressions of Interest on the lease of the Material Recovery Facility and sale/lease of equipment.

A more detailed report on the Blue Box transition will be provided once the draft regulation is posted.

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### **3. Proposed Direction**

The proposed direction for the Region's five diversion programs are provided below.

#### ***Tires***

Staff recommends that the Region stop collecting tires at its CRCs effective January 1, 2021. With over 500 approved drop off locations in the Region, residents are not reliant on Peel for collection. Accordingly, ceasing the collection of tires at the CRCs presents an opportunity to reallocate bin capacity to other materials and realize small incremental operating cost savings.

#### ***Batteries***

Staff recommends that the Region continue to collect batteries. The tentative agreement with Call2Recycle, which is for a one-year term with options to extend, will see the Region continue to receive funding for collected batteries. The agreement will also allow the Region to evaluate alternative arrangements as the program and battery market matures in the opening year.

#### ***Electrical and Electronic Equipment***

The short lifespans and designed obsolescence of the original products, combined with the toxic components of electrical and electronic equipment, make continued management of this stream a necessity in order to prevent environmental harm. Since electrical and electronic equipment is a rapidly growing waste stream and a popular recycling program with residents, the Region will look to continue to collect this material type post transition.

In order to ensure uninterrupted service, staff recommends that staff be delegated authority to enter into any new agreements or amending agreements, including on a directly negotiated basis, related to the operation or funding of the Region's electrical and electronic equipment diversion program.

#### ***Municipal Hazardous and Special Waste***

The toxic nature of MHSW make continued management of this stream a necessity in order to prevent environmental harm. Since MHSW is a popular recycling program with residents, the Region will look to continue to collect this material type post transition.

In anticipation of a compressed timeline between the filing of the final regulation and the expected start date of the new program, and in order to ensure uninterrupted service, staff recommends that staff be delegated authority to enter into any new agreements or amending agreements, including on a directly negotiated basis, for the operation or funding of the Region's MHSW program.

#### ***Blue Box***

Staff will continue to report separately on the transition of Blue Box program with the next report expected after the draft regulation is posted.

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### **4. Next Steps**

Staff will review the final Electrical and Electronic Equipment regulation and work with producers and service providers to continue the collection of electrical and electronic equipment and ensure a seamless transition for Peel residents when the program begins on January 1, 2021.

Staff will review the Municipal Hazardous and Special Waste and Blue Box draft regulations once they are posted this fall and submit comments to the Ministry on the Region's behalf. If time permits, staff will seek WMSAC and Regional Council endorsement of Peel's comments prior to submission. If time does not permit, staff will submit comments by the deadline and present these comments to WMSAC and Regional Council at the earliest opportunity.

Staff will remain highly engaged in all transition files and will continue to report separately on the Blue Box program file. This includes, as indicated at the June 18, 2020 Waste Management Strategic Advisory Committee meeting, reporting on the results of the Request for Expressions of Interest on the lease of the Material Recovery Facility and sale/lease of equipment, which is currently underway.

To support the Blue Box program transition project, staff will include a four-year contract Advisor position funded from existing approved capital budget in the 2021 budget submission.

The Region will continue to notify residents of any changes to waste diversion programs, including information on alternative drop off points for tires, using standard communications channels.

### **RISK CONSIDERATIONS**

The Region welcomes the continued transition of the remaining diversion programs (Electrical and Electronic Equipment, Municipal Hazardous and Special Waste, Blue Box) to full producer responsibility. It is, however, important to note that the transition may pose the following risks:

- The transition of the remaining programs to full producer responsibility may or may not roll-out according to the timelines proposed by the Ministry. A delay in the release of final regulations and transition timelines may require continued investment in the programs by Peel until they are fully transitioned to maintain current service levels. To mitigate this risk, staff are also working closely with the Ministry to keep the transition on track and to be aware of any delays early on.
- The expectation that the new diversion programs will obligate additional materials which would result in additional revenues for the Region may not bear out. To mitigate the risk of budget shortfalls, the 2021 budget submission is based on historical actuals plus staff's best estimate on how the new programs may roll out.
- Maintaining current service level standards could be a challenge if the new regulations do not include adequate minimum service standards. Staff will continue to engage with



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the Ministry to advocate for inclusion of adequate service standards (e.g. collection frequency) in the forthcoming regulations.

- Based on experience with the recently finalized Electrical and Electronic Equipment regulation, the final regulation wording for the Municipal Hazardous and Special Waste and Blue Box programs may differ significantly from draft versions or earlier policy proposals from the Ministry and might not be in line with the Region's ideals and may favour industry. To mitigate this risk, staff will remain engaged with the Ministry and industry groups and will continue to advocate the Region's position to the Ministry.

### FINANCIAL IMPLICATIONS

Producer funded waste diversion programs for Tires, Batteries, Electrical and Electronic Equipment, and Municipal Special and Hazardous Waste have been or will soon be approved by the Ministry. Under these programs affected industry producers are financially and operationally responsible for recycling the materials and, with the exception of Tires, are paying or expected to pay a significant portion of the Region's cost to collect and process the material.

In addition, to further support the transition of the Blue Box program, staff will be supported by a new Advisor position on a four-year contract (from January 2021 to December 2024) funded from existing approved capital budget which will be included in the 2021 budget submission.

The projected 2021 net operating costs of the five waste diversion programs are shown in Table 3 below. The 2021 budget is based on historical actuals plus staff's best estimate on how the new programs may roll out.

*Table 3: Waste Diversion Programs 2021 Draft Budget*

	2020	2021		
	Net Operating Cost	Projected Gross Expenditures	Projected Commodity Revenue & EPR Funding	Projected Net Operating Cost
<b>Tires<sup>1</sup></b>	\$20,000	\$0	\$0	\$0
<b>Batteries</b>	\$71,000	\$138,000	(\$67,000)	\$71,000
<b>Electrical and Electronic Equipment</b>	\$115,000	\$301,000	(\$186,000)	\$115,000
<b>Municipal Hazardous and Special Waste</b>	\$1.5 Million	\$2.5 Million	(\$963,000)	\$1.5 Million
<b>Blue Box</b>	\$16.6 Million	\$39.3 Million	(\$22.5 Million)	\$16.8 Million

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<sup>1</sup> Assumes the Region no longer collects tires at CRCs.

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### **APPENDICES**

Appendix I - List of Hazardous and Special Waste Material Categories Collected at Community Recycling Centres

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*For further information regarding this report, please contact Norm Lee, Director Waste Management, Ext. 4703, [norman.lee@peelregion.ca](mailto:norman.lee@peelregion.ca).*

#### ***Reviewed and/or approved in workflow by:***

Department Commissioner, Division Director and Financial Support Unit.

Final approval is by the Chief Administrative Officer.



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N. Polsinelli, Interim Chief Administrative Officer