

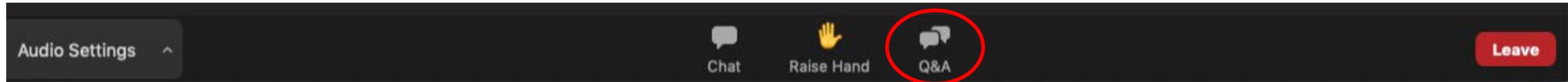
Consultation: Ontario Tire Stewardship Wind Up Plan

Surplus Funds Addendum

February 11, 2021



How to ask a question



To ask a question at any time during the presentation or for technical assistance, click on the Q&A tab, type your question in the text box and click “send”.

Agenda

1. Purpose of the Consultation

2. Background

- I. OTS Used Tires Program – wind up history
- II. Minister's directions on OTS surplus funds
- III. Timeline of 2020-2021 Used Tires Program wind up activity
- IV. Scope of consultation and outstanding CRA matters

3. Proposed OTS WUP: Surplus Funds Addendum

- I. Tire Classes Eligible to Share in the surplus
- II. Surplus funds allocation methodology
- III. Use of funds to benefit consumers

Purpose of the Consultation

- Provide an overview of Ontario Tire Stewardship's proposed Surplus Funds Addendum to the Wind Up Plan for the Used Tires Program
- Outline key questions we are seeking feedback on during the consultation period
- Explain how you can provide your feedback to RPRA by **February 26, 2021**

Background



OTS Used Tires Program – Wind Up History

- The Ontario Tire Stewardship's (OTS) Used Tires Program operated under the authority of Ontario's *Waste Diversion Transition Act, 2016* (WDTA)
- As directed by the Minister of the Environment, OTS submitted a wind-up plan to the Authority on **November 30, 2017**
- The Authority consulted on the plan and approved it with conditions in **April 2018**
- The Used Tires Program ended on **December 31, 2018**. As of **January 1, 2019**, producers of obligated tires have been subject to the requirements of the Tires Regulation under the *Resource Recovery and Circular Economy Act, 2016* (RRCEA)

OTS Used Tires Program – Wind Up History

- On **March 16, 2020**, Grant Thornton LLP became the court appointed liquidator for OTS to act as OTS' agent and be responsible for:
 - Implementing the remaining provisions of the Wind Up Plan, including any amendments
 - Dissolving OTS as a corporate entity
- The Wind Up Plan proposed to draw down program surplus funds through a fee elimination on passenger and light truck tires beginning October 2018, prior to the program transitioning to the RRCEA
- The Wind Up Plan also proposed that any remaining reserve funds following the program transition, wind up expenses and final reconciliations would be redistributed to stewards in proportion to their contributions to the program.

Minister's Directions on OTS Surplus Funds

Feb 17, 2017 Direction

- OTS directed to provide a description and proposal for dealing with any program surpluses and deficits

OTS Proposed

- Draw down surplus funds through a fee elimination
- Redistribute funds remaining after transition, wind up expenses and final reconciliations to stewards in proportion to their contributions to the program

Status

- Plan approved by RPRA in April 2018

Minister's Directions on OTS Surplus Funds

April 2, 2019 Direction

- Acknowledged that OTS wind up surplus funds were expected to be \$3M when the Wind Up Plan was approved
- Recognized that OTS now expected to have a significant increase in surplus funds due to a tax ruling by CRA related to the payment of HST and the receipt of Input Tax Credits
- Directed OTS to amend the Wind Up Plan to create a program to return surplus funds to Ontario tire consumers

Status

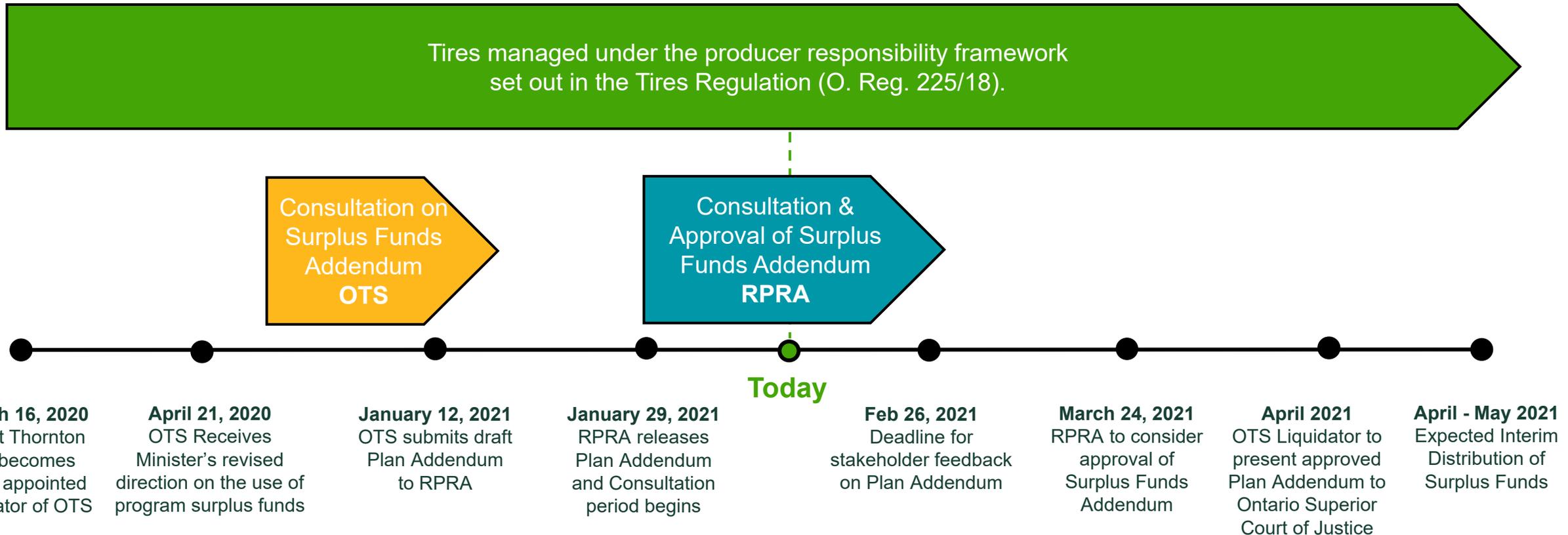
- OTS consulted with stakeholders on potential options to return the surplus funds
- Based on feedback from stakeholders, the process was halted and a revised Plan was not submitted to the Authority for approval

Minister's Directions on OTS Surplus Funds

April 21, 2020 Direction

- Remaining surplus funds to be returned to stewards in proportion to their contribution to the surplus in regard to tire classes that are in a surplus position
- Tire stewards expected to use surplus funds to offset fees they are currently paying to collect and manage tires under the Tires Regulation (O. Reg. 225/18)
 - Offsetting these costs is expected to benefit consumers when they purchase new tires
- This direction revises the requirements of the April 2019 direction, but does not change any other requirements in previous direction letters to OTS
- OTS must submit the amended plan to the Authority for approval within 10 weeks of receiving a final ruling from the CRA
- The Authority must approve plan amendments within 6 weeks of the plan being submitted

Timeline of 2020-2021 Used Tires Program Wind Up Activity



Scope of Consultation and Outstanding CRA Matters

- The OTS Liquidator's proposed Plan Addendum provides an update on an ongoing tax matter and the potential impact on the final amount of program surplus funds available for distribution
- The OTS Liquidator is not making any further comment or recommendation until receiving and reviewing the notice of assessment from CRA
 - The resolution of the tax case does not impact any elements of the proposed Plan Addendum
- Once all outstanding tax matters have been resolved and all future expenses related to the liquidation process are known, the remainder of the program surplus funds will be released to eligible stewards via a final distribution
- The outstanding HST liability and disbursement of remaining surplus funds will be addressed in a subsequent Plan amendment. This process would occur after the implementation of OTS' proposed interim distribution of \$10M in program surplus funds.

Questions and Feedback

Do you have any questions regarding the process and/or timelines to approve the OTS Wind Up Plan Surplus Funds Addendum?

Do you have any questions regarding the Minister's directions received by OTS to date?



Proposed OTS Wind Up Plan: Surplus Funds Addendum

OTS Wind Up Plan: Surplus Funds Addendum

Summary of Key Elements

- OTS Wind Up Plan: Surplus Funds Addendum (the Addendum) outlines a proposal for a \$10M interim distribution of program surplus funds to stewards consistent with the April 21, 2020 Minister's direction
- The Addendum includes the following three key elements:
 - Tire classes eligible to share in the surplus
 - Surplus allocation methodology
 - Use of funds to benefit consumers

Tire Classes Eligible to Share in the Surplus

The Minister's 2020 direction:

“OTS to amend its wind up plan so that any remaining surplus funds are returned to stewards in proportion to the stewards’ contribution to the surplus in regard to tire classes that are in a surplus position.”

OTS recorded tire stewardship fee revenue on a class-by-class basis

The OTS Liquidator obtained the financial results of each of the three tire classes since OTS’ date of inception to the date its normal operations ceased (December 31, 2018):

- Passenger and Light Truck (PLT)
- Medium Truck (MT)
- Off the Road (OTR)

| OTS - Excess Revenue Over Expenses - Surplus/(Deficit) | | | | |
|--|-------------------|---------------------|--------------------|-------------------|
| Year | PLT (Class 1) | MT (Class 2) | OTR (Class 3-18) | Net |
| 2009 | 8,156,147 | (1,616,241) | (2,162,185) | 4,377,721 |
| 2010 | 14,646,014 | (1,915,117) | (7,064,560) | 5,666,337 |
| 2011 | 14,127,256 | (3,382,558) | (6,446,456) | 4,298,242 |
| 2012 | 12,509,937 | (3,597,326) | (5,810,154) | 3,102,457 |
| 2013 | 15,175,472 | (2,597,648) | (1,326,737) | 11,251,087 |
| 2014 | 19,808,140 | (821,481) | 1,417,064 | 20,403,723 |
| 2015 | 12,122,490 | (2,010,173) | 2,612,315 | 12,724,632 |
| 2016 | (7,129,110) | (5,907,175) | 367,297 | (12,668,988) |
| 2017 | (7,210,363) | (6,013,602) | 3,166,265 | (10,057,700) |
| 2018 | 465,458 | 1,827,682 | 7,450,572 | 9,743,712 |
| 2019 | (4,104,906) | - | - | (4,104,906) |
| Total | 78,566,535 | (26,033,639) | (7,796,579) | 44,736,317 |

Tire Classes Eligible to Share in the Surplus

Rationale for proposed approach

- The OTS Liquidator reviewed the books and records of OTS, third party audited financial statements, the auditing procedures report of the external auditor and OTS Management Reports (2009-2019) to determine which of the tire classes were in a surplus position
- In interpreting this element of Minister's direction, the OTS Liquidator believes the cumulative surplus or deficit (i.e., as of December 31, 2018) is the determining factor
- It was determined that only one of the three tire classes, PLT tire class, is in a surplus position and eligible to share in the OTS surplus (the net funds on hand)

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| Total | 78,566,535 | (26,033,639) | (7,796,579) | 44,736,317 |

Surplus Funds Allocation Methodology

The Minister's 2020 direction: *“any remaining surplus funds are returned to stewards in proportion to the stewards' contribution of the surplus”*

Proposed Methodology

- Allocate each year's net surplus or deficit to each individual PLT steward based on their proportion of the total Passenger Tire Equivalent (PTE) supplied each year
- Sum the allocations for each year for each steward
 - This represents each steward's share of the net excess revenue over expenses from 2009-2018 of **\$48,841,223** (Total Allocation)
- The deficit in 2019 of **\$4,104,906** represents costs which would be allocated on the basis of each steward's proportion of the Total Allocation

Surplus Funds Allocation Methodology (continued)

Proposed Methodology

- The OTS Liquidator will allocate the proposed \$10M interim distribution based on each steward's proportion of the Total Allocation and facilitate the \$10M interim distribution
- No distributions will be made to those stewards who have their proportion of the interim distribution less than \$250. Steward allocations below the de minimis threshold will be redistributed proportionately to the remaining stewards
- The remainder of the program surplus funds to be distributed to eligible stewards following the resolution of the ongoing tax matters, subject to a future consultation process and required approvals

Use of Funds to Benefit Consumers

The Minister's April 21, 2020 direction states: *"It is my expectation that tire stewards will use the surplus funds returned to them from OTS to offset fees they are currently paying to collect and manage tires under the producer responsibility framework set out in the Tires Regulation (O. Reg. 225/18). Offsetting these costs is expected to benefit consumers when they purchase new tires."*

Proposal

- Each steward will receive an Acknowledgement Letter accompanying the payment of their share of the \$10M interim distribution
- The Acknowledgement Letter would advise, that by accepting the surplus funds, the steward understands and acknowledges the expectation of the Minister that the funds be used for the benefit of Ontario consumers

Use of Funds to Benefit Consumers (continued)

Proposal

- The proposed language of the Acknowledgement Letter:
“By accepting the enclosed interim distribution cheque, you understand the terms contained herein and acknowledge the expectation of the Minister of Environment, Conservation and Parks that the enclosed distribution cheque will be used for the benefit of Ontario consumers.”
- The Liquidator also proposes to provide the Authority with quarterly reports detailing:
 - The total amount of program surplus funds disbursed to OTS stewards
 - The number of stewards who have accepted the funds, thereby acknowledging the Minister’s direction
 - The number of stewards that have declined to accept their portion of the program surplus funds and thereby not acknowledged the Minister’s direction
- Surplus funds declined to be accepted by OTS stewards will be placed back into the pool and reallocated to those stewards who have acknowledged the Minister’s direction

Summary of OTS' Proposed Surplus Funds Addendum

- OTS has determined that only passenger and light truck tires is in a surplus position and therefore eligible to share in the OTS surplus (the net funds on hand)
- Each steward's share of the OTS program surplus funds will be based on each steward's share of the Passenger Tire Equivalent supplied into the Ontario market each year
 - The sum of a steward's allocations for each year would then represent each steward's share of the net excess revenue over expenses
- The Liquidator will allocate an interim distribution of \$10M based on each steward's proportion of the total allocation as determined by the proposed methodology
- Each steward will receive an Acknowledgement Letter accompanying the payment of their share of the surplus funds stating that by accepting the surplus funds, the steward understands and acknowledges the expectation of the Minister that the funds be used for the benefit of Ontario consumers



Questions and Feedback

Do you have any questions regarding:

- Tire classes eligible to share in the surplus
- Surplus allocation methodology
- Use of funds to benefit consumers

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**Help us improve
our consultations**

Next steps

- Feedback on the proposed OTS Wind Up Plan: Surplus Funds Addendum can be submitted to consultations@rpra.ca
- To review consultation materials, including the proposed Addendum, [visit our consultation webpage](#)
- The deadline to submit your feedback is **February 26, 2021**
- Consultation participants will be notified when the Addendum is approved. The approval will also be announced on our website.
- For more WDTA Tires Program information, visit our [Used Tires Program Wind Up webpage](#)