



**Ontario Tire Stewardship
Used Tires Program
Wind Up Plan:
Surplus Funds Addendum
Consultation Report**

April 1, 2021

Table of Contents

Introduction and context	2
About the Authority	2
Principles for public consultation	3
Consultation process	3
What we heard	4
Stakeholder makeup	5
Consultation evaluation	6
Conclusion	6
Appendix A: Stakeholders that submitted written feedback	7
Appendix B: Questions and answers	8

Introduction and context

On February 17, 2017, the then Minister of the Environment and Climate Change directed Ontario Tire Stewardship (OTS) to wind up the Used Tires Program designating tires as the first material under Ontario's individual producer responsibility framework under the *Resource Recovery and Circular Economy Act, 2016* (RRCEA).

OTS submitted its wind up plan to the Authority in November 2017 and the Authority approved the plan in April 2018. The Used Tires Program ended on December 31, 2018 and transitioned to the new framework on January 1, 2019.

On April 21, 2020, the Minister of the Environment, Conservation and Parks directed OTS to amend its wind up plan so that any remaining surplus funds be returned to stewards in proportion to the stewards' contribution of the surplus for only those tire classes that are in a surplus position. As outlined in the Minister's direction, it is expected that stewards will use the returned surplus funds to offset the cost of collecting and managing tires under the RRCEA and that offsetting these costs should benefit consumers when they purchase new tires.

On January 12, 2021, OTS submitted the proposed Ontario Tire Stewardship Wind Up Plan: Surplus Funds Addendum (the Addendum) to the Authority. It was the Minister's expectation that the Authority approve amendments to the plan within 6 weeks of receiving it. As part of its assessment process, the Authority consulted on the proposed Addendum from January 29, 2021 until February 26, 2021. All comments received during the consultation process were considered when reviewing and approving the proposed plan.

The Authority approved the Addendum on March 26, 2021. In approving the Addendum, the Authority assessed whether the plan was compliant with the *Waste Diversion Transition Act, 2016* (WTDA) and the Minister's direction and consistent with the Authority's Wind Up Guide.

This report details the Authority's consultation process and the feedback received. Questions about this report can be emailed to consultations@rpra.ca.

About the Authority

The Authority is the regulator created by the Ontario Government to enforce the requirements of the RRCEA and the WDTA.

The RRCEA establishes a new resource management regime where producers are individually accountable and financially responsible for their products and packaging, recovering resources and reducing waste. The WDTA allows for the continuation of Ontario's legacy waste diversion programs and sets out provisions to wind up those programs and the industry funding organizations responsible for operating them as directed by the Minister of the Environment, Conservation and Parks.

Principles for public consultation

The Authority's consultations are guided by the following best practice principles developed by the Organization for Economic Cooperation and Development (OECD):

Inclusiveness and openness: *Engage broadly with a wide variety of stakeholders, provide clear and understandable information, and make the consultation process accessible, comprehensible and responsive.*

Timeliness: *Engage stakeholders early before decisions are made and provide regular opportunities for engagement on key program and policy matters.*

Accessible and cost effective: *Consider a variety of tools and methods to gather feedback that promote efficient and cost-effective consultations.*

Balance: *Provide opportunities for diverse perspectives and opinions to be heard and considered.*

Transparent: *Record feedback, report back a summary to stakeholders, and synthesize feedback into programs and policies as appropriate.*

Evaluation: *Demonstrate the impact of public consultations on program delivery and policy development.*

Consultation process

The Authority's consultation on the proposed Ontario Tire Stewardship Wind Up Plan: Surplus Funds Addendum began on January 29, 2021 and ended on February 26, 2021. On January 29, 2021, a [dedicated web page](#) was created on the Authority's website with background information on the consultation, instructions on how to register for RPR's consultation webinar and the proposed Addendum. The Authority also posted a latest news item announcing the start of the consultation period.

On February 1, 2021, the Authority emailed Used Tires Program stakeholders (e.g., tire stewards, industry associations) announcing the consultation period and how to participate. The Authority also notified its general mailing list via its February newsletter. Stakeholders were invited to submit feedback on the plan via email or by attending the consultation webinar hosted on February 11.

The Authority's presentation was led by Cameron Parrack, Manager of Programs and Planning. A representative from OTS attended the webinar session to answer any technical questions related to the Addendum.

What we heard

The Authority received five written submissions via email and eleven questions and/or comments during the consultation webinar. There were 63 participants in the Authority's webinar on February 11, 2021. The webinar recording and presentation slides can be found on the [Authority's website](#).

The feedback received from all channels is summarized below.

For a list of stakeholders that submitted written feedback, see [Appendix A](#).

For a list of all questions received during the consultation and the Authority's responses, see [Appendix B](#).

Feedback summary

The feedback received during the Authority's consultation was limited but overall supportive of the proposed Addendum.

Most of the comments and questions received were requests for clarification related to the use of funds to benefit consumers and the rationale for determining the proposed interim amount (i.e. \$10M) of surplus funds being returned to stewards.

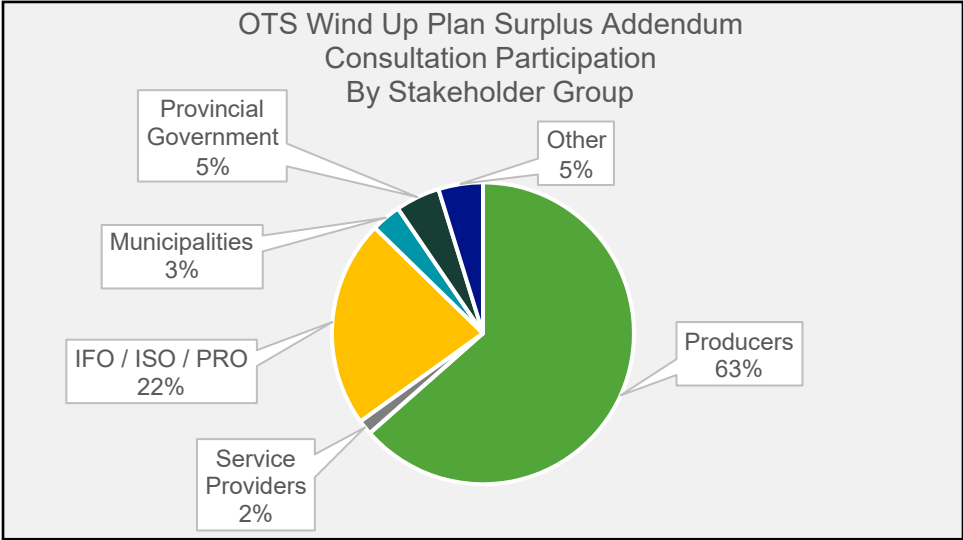
One stakeholder commented that the proposed Addendum would only benefit future Ontario tire consumers and not necessarily those who initially contributed to the Used Tires Program's surplus funds prior to the program's transition on December 31, 2018.

A number of stakeholders called on the Authority to develop clear guidance for tire producers and their PROs on how to meet both the Minister's consumer benefit direction (i.e. use of surplus funds to benefit Ontario consumers) and audit and performance requirements under Ontario's Tires Regulation.

The Authority also received questions and comments related to ongoing CRA matters. Although the proposed Addendum provided an update on the ongoing tax matters and the potential impact on the final amount of surplus funds available for distribution, this item was not within the scope of the current consultation. Once all tax matters have been resolved, the outstanding HST liability and disbursement of remaining surplus funds will be addressed in a subsequent wind-up plan amendment.

Stakeholder makeup

A breakdown of stakeholder participants in the Authority’s consultation on the Addendum is presented in the following figure:



Stakeholder Type	Number of Participants
Producers	40
Service Providers	1
IFO / ISO / PRO	14
Municipalities	2
Provincial Government	3
Other	3
Total	63

Consultation evaluation

To help the Authority improve future consultations and communications, participants were invited to complete a short feedback survey during the consultation webinar. Of the 63 webinar attendees, 42, or 67%, completed the survey.

In response to the question, “Overall, how would you rate the consultation?”, 86% of respondents ranked the session “Good” or “Excellent” (based on a scale of Excellent, Good, Average, Fair, Poor).

60% of respondents said the information provided by the presenter was “Extremely or Very helpful”, and 36% said it was “Somewhat helpful”. The remaining 4% said it was “Not so helpful”.

Majority of respondents ranked both the slides and question and answer portion of the session “Good” or “Excellent”.

Conclusion

The Authority considered all stakeholder feedback as it reviewed and approved the proposed Addendum. The Authority approved the Addendum on March 26, 2021 and announced the approval on April 1, 2021.

All stakeholder feedback received during the Authority’s consultation on the Addendum was communicated to the OTS Liquidator, including feedback received related to increasing the amount of surplus funds to be released as the interim distribution.

The OTS Liquidator reacted to the stakeholder feedback regarding increasing the amount of the interim distribution. This stakeholder feedback along with the greater certainty of the amount owed to CRA (i.e. the HST liability) following the receipt of the Notice of Re-Assessment in mid-January resulted in the OTS Liquidator voluntarily submitting a revised Addendum to the Authority. The revised Addendum specified an increase in the interim distribution amount by \$2M to a total of \$12M.

Appendix A: Stakeholders that submitted written feedback

The five written submissions were submitted by the following stakeholders:

- Tire and Rubber Association of Canada
- Canadian Vehicle Manufacturers Association
- Global Automakers of Canada
- Secure Tire
- e-Tracks

Appendix B: Questions and answers

Below are the questions received during the webinar and the Authority's responses. The questions were edited for clarity.

Question	Response
Is there an ETA for the CRA notice of assessment?	A notice of assessment was received from the CRA after OTS submitted the Addendum to the Authority. OTS is in the process of reviewing the assessment and more information will be shared following the review. The assessed amount is approximately \$17M, which is slightly lower than the estimated amount in the Addendum.
Assuming the CRA assessment pertains to the non-collection of the HST on the tire levy from stewards, is the plan for OTS to bill stewards for the uncollected past HST, since those stewards would presumably be able to recover that input tax credit?	The final notice of assessment is not in scope of this consultation. The outstanding HST liability and disbursement of remaining surplus funds will be addressed in a subsequent wind-up plan amendment. More information will be provided at that time.
Is PTE based on 10kg / PLT, or 12.5kg / PLT, or 10.625kg / PLT?	The PTE weights are all relative and would produce the same result, as the PLT would all be at the same weight, more or less. OTS commissioned a third-party study in November 2015 where, based on a sample of 684 passenger tires weighed, the average weight was 9.94Kg. This was the PTE used in the surplus allocation methodology proposed in the Addendum.
What activities/options are considered eligible to meet the direction of "for the benefit of Ontario consumers"?	As per the proposed Addendum, stewards must acknowledge the Minister's direction that the funds will be used to benefit Ontario consumers. Each steward will receive a letter when they receive their share of the surplus funds (the "Acknowledgement Letter"), which would advise that by accepting and depositing the funds, the steward acknowledges the Minister's consumer benefit direction. The Addendum does not define or determine eligible activities to meet the direction; that is at the discretion of each steward.
What follow-up will be conducted to ensure stewards are in-fact using the returned funds to benefit consumers?	OTS will submit interim reports to RPRA (on a quarterly basis), which will include the amount of funds disbursed to stewards, the number of stewards accepting the funds, thereby acknowledging the Minister's consumer benefit direction, and the number of stewards that have declined to accept their portion of the program surplus

	funds and thereby not acknowledged the Minister's direction.
How will RPRA ensure that stewards are meeting the expectations laid out by the Minister?	RPRA will monitor and oversee the implementation of the approved Surplus Funds Addendum using its oversight tools under the WDTA.
Since stewards generally are B2B and therefore have no control over what the consumer is charged by the retail sector, how can we be held responsible for ensuring a benefit to Ontario consumers?	The proposed Addendum does not determine what actions the steward must take to meet the Minister's consumer benefit direction. Reducing or eliminating resource recovery fees charged to consumers at point of sale is one option, however, it is up to each steward to decide how the funds they receive will be used to benefit Ontario consumers.
Why was \$10M selected for reimbursement now, and not a higher value? The hold back is significantly higher than the potential CRA obligation.	The \$10M interim distribution was determined based on the high level of uncertainty regarding the amount of the HST liability. There were further considerations that had implications on determining the interim amount, including how long the wind-up process will ultimately take and potential claims on the remaining surplus funds. Funds that are remaining at the end of this process (i.e., following the program wind up and dissolution of OTS as a corporate entity), if any, will be disbursed to stewards following the same allocation methodology outlined in the approved Addendum.
There will certainly be a cost associated with returning funds to consumers. Is it the intent to use the total amount of the refund to fund these additional costs as well?	It is up to each steward to decide how the funds they receive will be used to benefit Ontario consumers.
These fees were paid to OTS to process end-of-life tires. Wouldn't the obligation for these tires still be outstanding, as these tires are now end-of-life tires. Shouldn't the amount be paid to the PROs to meet this obligation?	The proposed Addendum is in response to the Minister's direction letter, which states that surplus funds from the Used Tires Program must be distributed to eligible stewards (i.e., stewards in tire classes that are in a surplus position).
Will there be clarification on exactly what will need to be done by stewards in order to ensure that the funds are being used to benefit Ontario consumers?	It is up to each steward to decide how the funds they receive will be used to benefit Ontario consumers. However, stewards with questions about this element of the plan should reach out to RPRA.