



**Residual Funds
Addendum to the
Municipal Hazardous or
Special Waste Program
Wind-Up Plan**

Consultation Report

February 2020

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Introduction and context

The Minister of the Environment, Conservation and Parks directed Stewardship Ontario to wind up the Municipal Hazardous or Special Waste (MHSW) Program to enable the transition of hazardous or special waste to individual producer responsibility under the *Resource Recovery and Circular Economy Act, 2016*. The operation of the MHSW program for all designated materials except single-use batteries will cease on June 30, 2021. The single-use battery program will cease operations on June 30, 2020.

Stewardship Ontario submitted its proposed wind up plan to the Authority by the September 30, 2019 deadline set by the Minister of the Environment, Conservation and Parks. Between October and November 2019, the Authority consulted on the plan with municipalities, stewards and other affected stakeholders.

On December 20, 2019, the Minister of the Environment, Conservation and Parks issued a direction letter to the Authority and Stewardship Ontario clarifying how Municipal Hazardous or Special Waste Program (MHSW) residual funds should be managed once the program winds up.

On December 27, 2019, the Authority approved the SO MHSW Wind Up Plan with conditions, one of which relates to the December 20, 2019 Minister's direction: "*SO shall revise any sections of the Plan that refer to or deal with the management of residual funds to ensure consistency with the Minister's direction received on December 20, 2019 and shall submit the revised Wind Up Plan to the Authority for approval.*"

As a result of the Minister's direction, SO submitted a proposed Residual Funds Addendum to the MHSW Wind Up Plan to the Authority. The Addendum was assessed for compliance with the WDTA, consistency with the Minister's direction and conformance to the Authority's Wind Up Guide. It is the Minister's expectation that the revisions to the Plan be approved by the Authority no later than February 29, 2020.

As part of its assessment process, the Authority consulted on the proposed Residual Funds Addendum from January 20, 2020 until January 31, 2020. This report details the Authority's consultation process and the feedback received.

About the Authority

The Authority is a regulatory body created by the Ontario Government to enforce the requirements of the *Resource Recovery and Circular Economy Act, 2016* (RRCEA) and the *Waste Diversion Transition Act, 2016* (WTDA).

The RRCEA establishes a new resource recovery regulatory framework where producers are individually responsible for their products and packaging at end-of-life. The Ontario Government designates materials subject to individual producer responsibility requirements. Producers

responsible for designated materials must register with the Authority and report on their progress towards meeting mandatory collection and management targets. The RRCEA gives the Authority enforcement powers to ensure producer compliance.

The WDTA allows for the continuation of existing waste diversion programs and sets out requirements to wind up those programs 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

Due to the short time permitted by the date by which the Minister expects that the MHSW Wind Up Plan amendments will be approved by the Authority, the consultation period on the Residual Funds Addendum was brief. The Authority's consultation on SO's proposed Residual Funds Addendum to the MHSW Program Wind-Up Plan began on January 20, 2020 and ended on January 31, 2020. The Authority emailed its general mailing list on January 8, 2020 to provide initial notification of the consultation webinar. On January 20, 2020, SO's proposed Residual Funds Addendum to the MHSW Wind Up Plan was posted to the Authority's website and an email notifying stakeholders of the posting was sent to all stakeholders who had participated in the consultation on the MHSW Program Wind Up Plan in 2019. A [dedicated web page](#) was created on the Authority's website with background information on the consultation, how to register for a session, and presentation materials and recordings. Stakeholders were invited to submit feedback on the plan via email or by attending a session.

The Authority's presentation was led by Cameron Parrack, Manager of Programs and Planning and Geoff Rathbone, Director of Transition. A representative from SO attended the webinar session to answer any technical questions related to the plan.

What we heard

The Authority received one (1) written submission via email and expects one further written submission to be received after the deadline for feedback (January 31, 2020) from the Canadian Consumer Specialty Products Association (CCSPA). The Authority has granted an extension to CCSPA to submit their comments and will accept and consider the feedback received. This stakeholder feedback will not be reflected in the Authority's Consultation Report, but rather will be summarized and provided by staff to the Authority's WDTA Transition and Oversight Committee.

The Authority also received thirteen (13) questions and/or comments during the consultation webinar that were responded to during the webinar.

The feedback received is summarized below. Some comments have been edited for length and clarity.

Residual Funds

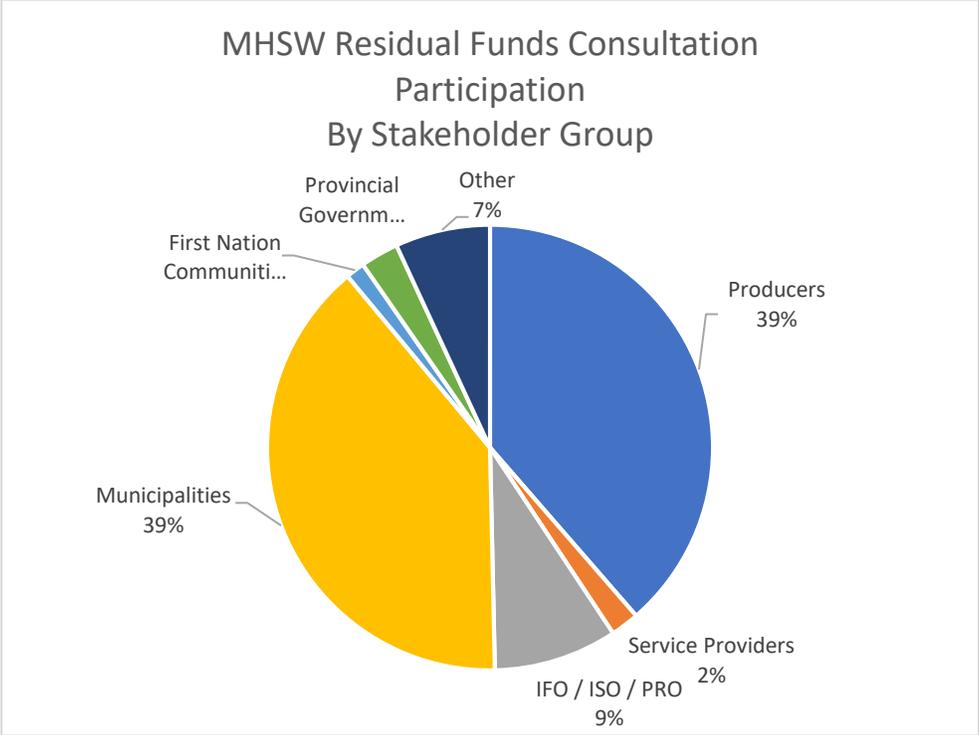
The feedback received during the Authority's consultation was limited but supportive of SO's amendment to the MHSW Wind Up Plan to return residual funds to SO Stewards and ISP Members following the wind up of the MHSW Program as required by the December 20, 2019 Minister's direction.

Most of the comments and questions received during the Authority's consultation webinar were requests for clarification related to the Financial Forecast & Budget section of the approved MHSW Wind Up Plan as well as questions related to the transition to the RRCEA.

Specific to SO's proposed Residual Funds Addendum to the MHSW Wind Up Plan, the Authority provided responses to questions regarding the potential for the final residual amount to vary from the amount forecasted within the approved MHSW Wind Up Plan, how the individual SO Steward/ISP Member share of the remaining residual funds will be calculated and whether producers that have transitioned to an ISP will have access to the remaining residual funds. Specific questions received during the consultation and the Authority's responses are provided in **Appendix A** to the Authority's Consultation Report.

Stakeholder Makeup

A breakdown of stakeholder participants in the Residual Funds Addendum consultation is presented in the following figure:



Stakeholder Type	Number of Participants
Producers	56
Service Providers	3
IFO / ISO / PRO	13
Municipalities	57
First Nation Communities	2
Provincial Government	4
Other	10
Total	145

Consultation Evaluation Feedback

Following the consultation webinar, the Authority forwarded materials used during the presentation to all registered consultation participants via email. The message to participants also included a request for feedback on the overall quality of the Authority’s presentation. Three

stakeholders responded to the anonymous survey request. When asked, “Overall, how would you rate the consultation?”, one respondent ranked the consultation as Excellent, the second ranked it as Good, and the third ranked it as Average.

The Authority also received two comments from participants indicating appreciation of the prompt start time of the consultation session, noting the good audio quality and thanking the Authority for the opportunity to interact and ask questions.

The Authority will take all feedback into consideration as it moves forward with future consultations.

Appendix A (Questions, comments and answers)

Below are the comments and questions received during the webinar and via written submission as well as the Authority’s responses. The questions were edited for clarity.

Received via Consultation Webinar

Question or Comment	Answer
<p>Is it possible that the residual amounts will change by the time the MHSW program terminates?</p>	<p>It is likely that the final residual number will not be precisely \$376,000 as forecasted in SO’s MHSW WUP.</p> <p>SO has presented the residual amount by the nine material categories so it’s likely the amount in each category will vary slightly from the forecasted amount in the Plan.</p> <p>SO’s aim will be to reduce the surplus as much as possible as fee reductions prior to the wind up date.</p> <p>However, is important that the surplus does not become negative as this would require collecting fees from stewards to offset the deficit.</p> <p>Given this, it’s difficult to reduce the surplus to precisely zero and it is expected that SO will be left with a small amount of residual funds.</p>
<p>How will the corporate windup of SO impact on the surplus and residual funds available to stewards?</p>	<p>One of the Estimated Wind Up Costs that SO included in the MHSW Wind Up Plan is a Corporate Wind Up Hold Back in the amount of \$50K that will be held until such time as SO as a corporate entity winds up. This would occur after the Blue Box Program ceases operations on December 31, 2025 followed by the SO</p>

	<p>corporation winding up in 2026.</p> <p>As described in the Financial Forecast and Budget Section of the MHSW Wind Up Plan, General Reserves will be used to fund Wind Up Costs. Material Reserves will not be used for this expense. The forecasted material surpluses and residual amounts will not be impacted by the corporate wind up of SO.</p>
<p>Since the battery program winds up June 30, 2020, do battery stewards need to continue to participate in the SO program until the end of the MHSW program?</p>	<p>No, battery stewards do not need to continue to participate in the SO MHSW Program following the June 30, 2020 wind up date. Battery producers will transition to the RRCEA batteries regulation after June 30, 2020.</p> <p>However, the other MHSW materials will remain under the WDTA and be required to be registered with SO or an approved ISP until the wind up date for these MHSW materials on June 30, 2021, at which point these MHSW producers will transition to the RRCEA.</p>
<p>What "new" RRCEA regs are you referring to for batteries?</p>	<p>The RRCEA is the acronym for the <i>Resource Recovery and Circular Economy Act, 2016</i>. Once the Batteries and MHSW Programs are wound up, producers for the materials will be required to be in compliance with new regulations made under the RRCEA that will replace the regulatory requirements under the <i>Waste Diversion and Transition Act, 2016</i> (WDTA).</p> <p>The Ministry is in the process of finalizing a new batteries regulation under the RRCEA.</p>
<p>What if a steward was previously a member of SO then moved to AMS, how will this be reflected in the residual funds share calculation methodology?</p>	<p>SO's proposed Residual Funds Addendum describes a share calculation methodology based on the amount of fee reduction received by each SO Steward or ISP Member.</p> <p>Each SO Steward's or ISP Member's share of a potential residual funds disbursement would be based on 18 months of program participation.</p>

	<p>If an SO Steward's or ISP Member's share of surplus fund fee reduction disbursements in an MHSW category was 5%, that Steward or Member would receive 5% of the residual funds disbursement for the category.</p> <p>A steward that was previously a member of SO, but is now registered with an ISP will continue to have access to their share of the residual funds in the category in which they supply designated materials.</p>
<p>Is the residual fund calculated as a pool or on a per steward basis?</p>	<p>The initial MHSW Residual Funds forecast of \$376,000 (<i>as provided in Table 33 of SO's MHSW Wind Up Plan and replicated within the Residual Funds Addendum</i>) is a projection broken down by the nine material categories.</p> <p>Each material category has a forecasted residual amount (i.e., Paints/Coatings has an estimated residual of \$53K). The final residual amount for each material category will be proportionally allocated to each SO Steward or ISP Member based on the Residual Funds Share Calculation Methodology proposed in the Addendum. In summary, the residual funds remaining in each material category will be allocated based on the portion of the surplus funds that individual SO Stewards or ISP Members received as fee reductions during the wind up period.</p> <p>To use the example in the SO Residual Funds Addendum, <i>"If a Steward's or ISP Member's share of surplus fund fee reduction disbursements in an MHSW category was 5%, that organization would receive 5% of the residual fund disbursement for the material category."</i></p>
<p>Does the 18-month period mentioned in the share calculation start January 1, 2020?</p>	<p>Yes.</p>

<p>If a steward left SO for PCA in 2015, will the steward be considered an active steward during the 18 months prior to final wind up?</p> <p>Will the steward be entitled to any share of residual monies?</p>	<p>If a steward transitioned from SO to an approved ISP (i.e., PCA or AMS), the steward continues to be eligible for both its share of the surplus and its share of any residual funds following the wind up.</p> <p>The Residual Fund Eligibility criteria described in the proposed Addendum states that, “<i>residual funds be distributed to active program participants which would be defined as Stewards or ISP Members who were active in the program within the last 18 months of the MHSW program operations.</i>”</p>
<p>For Batteries, do we remain under SO for the new RRCEA regulations?</p>	<p>Once the battery portion of the MHSW Program wind up occurs on June 30, 2020, battery producers will no longer be required to participate in SO’s MHSW Program.</p> <p>Producers will be required to comply with the batteries regulation under the RRCEA.</p>
<p>Does the new battery regulation exist?</p>	<p>The Ministry published a draft Batteries Regulation for purposes of consultation. We anticipate that the Ministry will publish a final Batteries Regulation before the June 30, 2020 wind up of the battery portion of the MHSW Program.</p>
<p>Is this tied to the Call2Recycle program?</p>	<p>Currently Call2Recycle Canada operates a voluntary program for single use and rechargeable batteries.</p> <p>Stewardship Ontario is the Industry Funded Organization (IFO) approved to operate the regulated program for single use batteries in Ontario.</p>
<p>As a municipality that runs a MHSW depot from May to September, how can we expect the wind up in 2020 for batteries and the final wind up in 2021 for the remaining MHSW materials to impact our depot?</p>	<p>The Authority will reach out directly to this stakeholder to discuss the impacts of the wind up of the MHSW Program on the service provider.</p>

Received via Written Submission

Question or Comment	Answer
<p>Share Calculation Methodology</p> <ul style="list-style-type: none">• The process proposed is a very similar methodology that was approved by RPRA in SO's MHSW Wind Up Plan <p>Payment Process</p> <ul style="list-style-type: none">• The six to nine months seem to be a realistic timeline to determine the residual fund amounts for each MHSW category <p>De Minimus Thresholds</p> <ul style="list-style-type: none">• The \$25 threshold seems reasonable	<p>Thank you for your feedback and comments.</p>