



Stewardship Ontario



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Municipal Hazardous or Special Waste Wind Up Plan: Residual Funds Addendum

Submitted to: Resource Productivity and Recovery
Authority

Submitted on: February 4, 2020

(Amended July 8, 2020)

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Introduction: MHSW Wind Up Plan and Residual Funds Direction

On December 31, 2019, the Resource Productivity and Recovery Authority (RPRA) approved, with certain conditions, the Municipal Hazardous or Special Waste (MHSW) Wind Up Plan submitted to RPRA by Stewardship Ontario. As per Ministerial direction, the MHSW Wind Up Plan details steps Stewardship Ontario will take to wind up the MHSW program for single-use batteries on June 30, 2020 and for other MHSW materials on June 30, 2021.¹

On December 20, 2019, Stewardship Ontario received supplementary Ministerial direction clarifying previous directions on how residual funds must be managed once the program has ceased operation and all financial obligations have been accounted for:

The key elements of the direction include the following:

- Residual funds must be returned to stewards;
- The return of residual funds should be in proportion, where reasonably possible, to the Stewards' contribution to the funds for each municipal hazardous or special material (MHSM) category;
- The direction applies to Stewards² for the MHSM categories whose recovery is managed by Stewardship Ontario as well as stewards (industry stewardship plan members) of the MHSM categories that are now managed through industry stewardship plans;
- It is the Minister's expectation that the RPRA will approve revisions to the plan resulting from the direction no later than February 29, 2020;
- Other than the clarification provided in the direction, there are no changes to the requirements in previous direction letters.

This MHSW Residual Funds Addendum outlines a proposal for the disbursement of residual funds consistent with the Ministerial direction. In developing this proposal, Stewardship Ontario consulted with key MHSW stakeholder groups during the week of January 13th, 2020. A list of stakeholder groups consulted and a summary of their initial feedback is attached as an appendix to this Addendum.

With respect to other elements of the MHSW Wind Up Plan, (i.e. other than those dealing with the management of residual funds), Stewardship Ontario, in accordance with its statutory obligations, will begin to implement the MHSW Wind Up Plan as approved by RPRA.

¹ Under the *Waste Diversion Transition Act*, industry funding organizations such as Stewardship Ontario are obligated to develop and submit wind up plans to RPRA in accordance with statutory requirements and the direction provided through the Ministerial direction. Stewardship received direction to wind up the MHSW program on April 12, 2018 which was supplemented by additional Ministerial directions received December 11, 2018 and July 2019. A copy of the approved wind up plan is available on Stewardship Ontario's website at https://stewardshipontario.ca/wp-content/uploads/2020/01/MHSW-WUP-December_2019-FINAL.pdf.

² Note: For the purposes of clarity the term Steward in this document will be used to refer to Stewards registered with Stewardship Ontario for the purposes of fulfilling their obligations under the WDTA. The term ISP Member will be used to refer to organizations that have registered with Industry Stewardship Organizations for the purposes of fulfilling their obligations under the WDTA.



MHSW Program Residual Fund Estimates

Consistent with Ministerial direction, Stewardship Ontario submitted a financial and operational MHSW Wind Up Plan designed to minimize the amount of residual funds left in the program following the termination of all financial obligations.

The distinction between surplus funds and residual funds should be noted. Surplus funds are those funds or MHSW reserves which Stewardship Ontario will not require to complete wind up the MHSW program. As per Ministerial direction these surplus program funds will be returned to consumers through the implementation of a fee reduction initiative. Stewardship Ontario’s initial estimate of the reserve amounts to be disbursed through the fee reduction initiative is approximately \$43.3 million.³

Stewardship Ontario’s initial estimate of residual funds amounts left in the program following the resolution of all financial obligations was provided in Table 33 of the Wind Up Plan (replicated below).

Table 33: Initial MHSW Residual Fund Forecast (\$000)	
Antifreeze	\$55
Fertilizers	\$5
Oil Containers	\$87
Oil Filters	\$58
Paints/Coatings	\$53
Pesticides	\$5
Solvents	\$9
Pressurized Containers (Non-Refillable)	\$44
Pressurized Containers (Refillable)	\$33
Single-Use Batteries	\$27
Residual Funds at program Termination*	\$376

** Note the residual fund estimate provided in Table 33 differed slightly from residual fund estimates included in other WUP charts due to rounding.*

Both the estimate of surplus funds to be distributed to Stewards and Industry Stewardship Plan (ISP) Members and residual fund estimates associated with each MHSW category will be adjusted and updated throughout the wind up process as financial estimates are updated to reflect actual operating and financial results.

Under the approved MHSW Wind Up Plan, Stewardship Ontario will delay the issuance of final Steward invoices by 90 days following the program termination dates. This delay will enable Stewardship Ontario to complete more accurate program financial assessments related to the level of surplus funds that can be disbursed through the fee reduction process.

Stewardship Ontario’s intention, as per Ministerial direction, is to maximize the amount of surplus fund revenue that can be directed toward the fee reduction process thereby minimizing the amount of

³ Note: As per the MHSW Wind Up Plan, the amount of surplus funds available for disbursement through the fee reduction process will be adjusted as actual financial results are realized and the final amount of funds available for disbursement through via a fee reduction may vary from the initial estimates provided in the Wind Up Plan.



residual funds remaining in the program following the completion of that process and the resolution of other program financial obligations.

In some categories, Stewardship Ontario may be able to reduce residual funds to zero by adjusting fee reduction disbursements.

In the event that Stewardship Ontario does have residual funds remaining following the completion of all program financial obligations, it is proposing that those funds be distributed to Stewards and ISP members in accordance with the following proposal.

Residual Funds Disbursement Proposal

Given the small amount of estimated residual funds and Stewardship's Ontario intention to lower these residual amounts, if possible, Stewardship Ontario is proposing an administratively efficient process to distribute residual funds which includes the following elements:

1. Residual funds would be distributed to existing Stewards and ISP Members. Only Stewards and ISP Members in good standing would be eligible for disbursements;
2. The surplus fund fee reduction methodology would be utilized to determine each Steward's or ISP Member's share of residual funds in each MHSW category;
3. Stewardship Ontario would distribute residual funds directly to its registered Stewards. With respect to ISP Members, Stewardship Ontario would disburse a lump sum payment to the relevant Industry Stewardship Organization which would distribute residual funds to its individual ISP Members in accordance with the approved residual fund share formula.
4. Stewardship Ontario and ISOs would not be required to issue residual fund payments where Stewards or ISP Members were entitled to less than \$25.00.
5. Residual funds must be returned to Stewards or ISP Members in the form of a payment and not as a credit that can be accessed at a later date, if requested by a Steward or ISP Member.

More detail on each element of the residual fund disbursement proposal is provided below, but in general the set of recommendations represents an administratively efficient approach to disbursement of residual funds and a reasonable way to disburse those funds in accordance with Steward and ISP Member contributions to those funds.

Residual Fund Eligibility

1. Residual funds would be distributed to existing Stewards and ISP Members.

Stewardship Ontario is proposing that 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.

This proposal will expedite residual fund share calculations as Stewardship Ontario will not be required to review historical program contributions and track corporate transitions and changes in program participation over time. In the view of Stewardship Ontario, this represents an administratively reasonable approach to determining eligibility for residual fund payments. If Stewardship Ontario audits



Steward and ISP Member contributions over the course of the entire program, the resulting accounting costs could represent a significant portion of the amounts available for disbursement.

As with the fee reduction process, Stewardship Ontario is proposing that Stewards or ISP Members that are not in good standing with either Stewardship Ontario or the relevant ISO, would not be eligible for distribution of a residual amount. In other words, Stewards or former Stewards which owed Stewardship Ontario money at the time of the residual disbursement would not be eligible for such a disbursement. Stewardship Ontario is proposing any amounts related to Stewards or ISP Members not in good standing, would simply be added to the residual fund pool for distribution to those Stewards and ISP Members which were in good standing at the time of the disbursement.

Residual Fund Share Calculation Methodology

2. The surplus fund fee reduction methodology would be utilized to determine each Steward's or ISP Member's share of residual funds in each MHSW category.

Stewardship Ontario is proposing that the surplus fund fee reduction share methodology would be utilized to determine each Steward's or ISP Member's share of residual funds in each MHSW category. 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 category.

Each Steward's or ISP Member's share of a potential residual fund disbursement would be based on 18 months of program participation.⁴ This is consistent with anticipated fee reduction schedule for most MHSW categories. The administrative advantage of this approach is that Stewardship Ontario and the ISOs will have already completed the calculations necessary to determine individual Steward and ISP Member shares. This approach would minimize the administrative resources necessary to determine the exact amount of each Steward or ISP Member residual fund payment.

For MHSW categories, where Stewardship Ontario is not anticipating an 18-month fee reduction process (single-use batteries and non-refillable pressurized containers), for consistency, Stewardship Ontario would calculate individual Steward residual fund share as if a fee reduction had been implemented over an 18-month period. In other words, individual Steward residual fund share within the category would be based on that Steward's share of allocated program costs for the final 18 months of the program.

Residual Fund Payment Process

3. Stewardship Ontario would distribute residual funds directly to its registered Stewards. With respect to ISP Members, Stewardship Ontario would disburse a lump sum payment to the relevant Industry Stewardship Organization which would distribute residual funds to individual ISP Members in accordance with the approved residual fund share formula.

Stewardship Ontario is proposing that it would process residual fund payments to Stewards that are registered with it for the purposes of fulfilling their obligations under the WDTA.

With respect to ISP Members, Stewardship Ontario is proposing that it would provide a lump sum payment to ISOs equivalent to the ISO Member aggregate share of the residual funds for that category.

⁴ Stewardship Ontario is working with ISOs to develop a fee reduction agreement which would support the implementation of fee reductions for materials over the last 18 months of the MHSW program.



The ISO would then distribute residual funds to individual ISP Members in accordance with the approved residual fund share formula.

The aggregate share of residual funds directed to Stewardship Ontario Stewards and ISOs Members in each MHSW category would be the same as the relative share associated with fee reduction payments in that category. In other words, if an ISO received 80% of the surplus funds allocated toward the fee reduction process in an MHSW category, its lump sum payment related to the residual fund disbursement would represent 80% of available residual funds.

Stewardship Ontario anticipates that it would be in a position to calculate and disburse residual fund amounts in each MHSW category six to nine months following the final termination date for the program of June 30, 2021.⁵

Residual Fund De Minimus Threshold

4. Stewardship Ontario and ISOs would not be required to issue residual fund payments where Stewards or ISP Members are entitled to less than \$25.00.

In order to ensure that administrative costs are reasonable in light of distribution amounts, Stewardship Ontario is proposing that Stewardship Ontario and ISOs would not be required to issue residual fund payments to Stewards or ISP Members where those organizations are entitled to receive less than \$25.00.

Stewardship Ontario is proposing that any residual amounts not distributed to organizations in relation to the proposed de minimus threshold be held by Stewardship Ontario or the relevant ISO. In the case of Stewardship Ontario, it would add these amounts to the MHSW hold back amount designated by Stewardship Ontario to offset the MHSW portion of eventual Stewardship Ontario corporate wind up costs or other residual MHSW program obligations. In the case of ISOs, it is proposing these amounts be held by the ISO to help offset administrative costs.

Conclusion

In view of Stewardship Ontario, this residual fund disbursement proposal is consistent with the Ministerial direction on how residual funds should be managed following the resolution of program obligations.

The proposal distributes, what Stewardship Ontario anticipates will be relatively small, residual fund amounts in an administratively efficient manner with a methodology which is fair for both Stewardship Ontario Stewards and ISP Members.

While alternate share calculation methodologies were considered with respect to this initiative, in the view of Stewardship Ontario, the higher administrative costs associated with historic program analysis

⁵ In the case of single-use battery stewards, even though the program for single-use battery program will terminate on June 30, 2020, Stewardship Ontario will not be in a position to calculate residual amounts for that category until all program obligations have been resolved following the termination date for other MHSW materials.



necessary for these methodologies are not warranted in light of the relatively small amounts anticipated for disbursement.

Appendix: Stewardship Ontario Consultation Residual Funds

As noted in the introduction, Stewardship Ontario reviewed a draft proposal regarding the disbursement of residual funds with key MHSW stakeholder groups during the week of January 13th 2020.

The organizations which provided initial feedback on the Stewardship Ontario proposals included the following:

- Association of Municipalities of Ontario;
- Automotive Materials Stewardship;
- Canadian Propane Association;
- Canadian Paint and Coatings Association;
- Canadian Consumer Specialty Products Association;
- National Electrical Manufacturers Association
- Ontario Waste Management Association;
- Product Care Association.

It should be noted that given the timeframes associated with the consultation, the summary of initial feedback referenced below may not reflect the full views of any of the above organizations in relation to the residual funds proposal. Stewardship Ontario noted for all participants that a published residual funds proposal (in the form of a draft Addendum) would be available for review and that Stewardship Ontario would be considering any comments received following a scheduled RPRA consultation prior to finalizing the content of the proposal.

The residual funds proposal reviewed with stakeholders included the key elements referred to in this Addendum with an additional proposal related to a de minimus category threshold for each MHSW category. With respect to that issue, following feedback from stakeholders, that a category threshold might have an unfair impact on an individual steward dependent on relative supply share in a category, Stewardship Ontario has dropped the concept of a potential category threshold. In the view of Stewardship Ontario the proposed individual de minimus will be sufficient to deal with the administrative issues associated with processing very small residual fund amounts.

With respect to the main elements of the residual funds proposal, stakeholders in general voiced support for an administratively efficient process for the distribution of these amounts. As such there were no objections to restricting residual fund payments to existing program participants or utilizing the surplus fund fee reduction methodology as the basis of determining individual Steward or ISP Member residual fund payment amounts.