

June 26, 2020

Ms. Robyn Collver
Chair, Stewardship Ontario
1 St. Clair Ave. West, 7th Floor
Toronto, ON M4V 1K6

Dear Ms. Collver,

RE: Approval of ISO Surplus Fund Transfer Addendum to the MHSW Wind Up Plan

I am writing to advise you and the Board of Stewardship Ontario (SO) that the Resource Productivity and Recovery Authority (“the Authority”) has approved, with certain conditions as set out below, SO’s proposed ISO Surplus Fund Transfer Addendum to the Wind Up Plan for the Municipal Hazardous or Special Waste (MHSW) Program.

On April 1, 2020, SO received a letter from the Minister providing new direction to SO requiring that 100% of the surplus funds the Authority approved for fee reductions be returned in a one-time lump sum payment to ISOs.

The Minister specified that the lump sum payments be provided pursuant to surplus transfer agreements between SO and the Industry Stewardship Organizations (ISOs) that:

- outline how the ISOs would return the full amount of the surplus to their members in the form of fee reductions, for the maximum benefit of consumers; and
- allow SO to recover reasonable unexpected costs from the ISOs in the event of a delay in the wind up of the MHSW Program.

Finally, the Minister directed that SO make the lump sum payments to the ISOs within two weeks of the proposed amendment being approved by the Authority.

On April 29, 2020, the Minister issued a subsequent direction to SO extending the submission date of the wind up plan amendments to the Authority from April 30, 2020 to June 5, 2020. It was the Minister’s expectation that the Authority approve the amendments to the MHSW Wind Up Plan, consistent with the two April direction letters, by June 25, 2020.

SO conducted a consultation webinar and a series of one-on-one consultations with key stakeholders during May 2020. A proposed ISO Surplus Fund Transfer Addendum to the MHSW Wind Up Plan was submitted to the Authority on June 4, 2020.

On June 9, 2020, the Authority posted SO's proposed ISO Surplus Fund Transfer Addendum to the MHSW Wind Up Plan to the Authority's website. This was followed by a consultation webinar conducted by the Authority on June 10, 2020. As required by the *Waste Diversion Transition Act, 2016* (WDTA), the Authority's consultation session was open to all MHSW Program participants, including producers, service providers and municipalities, environmental organizations, consumer associations, Ontario residents and other interested stakeholders. The Authority accepted stakeholder feedback until the close of the consultation period on June 17, 2020. The feedback received during the consultation period supported and informed the Authority's evaluation of the proposed ISO Surplus Fund Transfer Addendum to the MHSW Wind Up Plan.

On June 24, 2020, the Authority's Board of Directors approved SO's ISO Surplus Fund Transfer Addendum to the MHSW Wind Up Plan with the following conditions:

1. The MHSW Wind-up Plan: ISO Surplus Fund Transfer Addendum shall be updated to apply a reserve share allocation methodology based on current membership at the date of approval of the Addendum and market share using reported tonnage supplied to the Ontario market in the last full year (2019 actuals).
2. The MHSW Wind-up Plan: ISO Surplus Fund Transfer Addendum shall be updated with respect to how tonnage is attributed to stewards: the reserve share allocation methodology used to determine the SO-ISO share of a material reserve attributes tonnage supplied by a steward who has transitioned to an ISP during the applicable data year to that steward's current program operator.
3. The MHSW Wind-up Plan: Residual Fund Addendum shall be amended by adding a fifth clause stating that "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."
4. The Authority may serve a decision-making role in the SO-ISO Surplus Fund Transfer Agreement, with respect to reasonable unexpected costs recoverable by Stewardship Ontario from ISOs in the event of a program extension, on terms that are acceptable to the Authority's CEO.

Minutes of the Board discussion on this matter, which will outline factors considered by the Board in making its decision, will be available after their approval on July 22, 2020.

In accordance with the WDTA, this approval will be published on the Authority's Registry. A report describing the consultation process and summarizing stakeholder comments received will also be posted on the Authority's Registry.

SO may communicate the Authority's decision to approve the Addendum to the Wind Up Plan with conditions only after the Authority publishes its decision. The Authority will work with SO to develop a co-ordinated communications strategy including the date on which SO may communicate the Authority's approval with conditions to stakeholders.

Sincerely,



Robert Poirier

Chair, Resource Productivity and Recovery Authority