

Hon. Jeff Yurek
Minister of Environment, Conservation and Parks
College Park 5th Flr
777 Bay St
Toronto, ON
M7A 2J3

VIA EMAIL

August 7, 2019

RE: Revised Wind-Up Direction – MHSW Program Surplus Funds

Dear Minister Yurek,

I am writing to you on behalf of Automotive Materials Stewardship (AMS), an organization representing steward interests with respect to product stewardship under the Waste Diversion Transition Act. Our 153 members, who are defined as stewards of Antifreeze, Oil Filters and Oil Containers (“automotive materials”) under the Municipal Hazardous or Special Waste (MHSW) Program, are significantly impacted by the revised wind-up direction issued to Stewardship Ontario by your office. Stewardship Ontario currently holds in trust more than \$19 million of surplus funds contributed by stewards of automotive materials, which you have directed Stewardship Ontario to “return” to consumers through, for example a consumer rebate program. Our members contributed the majority of these surplus funds to Stewardship Ontario prior to the launch of our industry stewardship program (ISP).

We believe it is important to share with you that Ontario consumers do not pay a visible environmental fee on these products. Nor do they pay higher product costs as a result of the MHSW Program. The vast majority of our Members price their products nationally, not provincially, to meet market requirements and have absorbed MHSW costs into the price of their product as a cost of business. In addition, Ontario Regulation 11/12 (February 9, 2012) eliminated published fee rates for the MHSW Program, introducing quarterly fee fluctuations and making it virtually impossible to pass costs on to consumers in the form of visible fees. In this respect, the MHSW Program differs from the Used Tire and Waste Electronic and Electrical Equipment programs, where stewards relied heavily on visible fees to pass on environmental costs to consumers.

Any reserves Stewardship Ontario has accrued, including those derived from charges to stewards as well as the recent rebate of harmonized sales tax (HST), have been paid exclusively by stewards since program inception (July 2008), and primarily include funds contributed by stewards prior to them joining industry stewardship plans. In particular we wish to stress that the refund of HST is returning money to Stewardship Ontario that was unnecessarily paid by stewards and is owed back to stewards. The ruling was issued May 2018 for a period commencing 2011.¹ We believe these funds rightfully belong to stewards and are being held in trust by Stewardship Ontario on behalf of stewards.

As a result, the funds held by Stewardship Ontario should be used to the benefit of all stewards via a fee holiday, rather than forcing a financially punitive measure on ISP stewards by mandating a consumer

¹ <https://stewardshipontario.ca/news/tax-ruling>



rebate while providing a fee holiday only for Stewardship Ontario stewards. Treating both classes of stewards equally is important in order to create a level playing field. Failure to do this would put ISP stewards at a substantial financial disadvantage. Stewardship Ontario can calculate the proportion of surplus owed to each steward so that funds can be returned in proportion to their contributions.

By ensuring a level playing field, all stewards can make sound and independent pricing decisions. Pricing is the jurisdiction of a free market. Forcing “consumer rebate programs” is a new red tape nightmare. This would needlessly incur substantial administrative costs. With the benefit of a fee holiday, stewards are best equipped to determine how to price their products to the benefit of consumers.

Utilization of a fee holiday as a means of returning excess surplus funds to stewards has precedent. Starting October 1, 2013, stewards of Oil Filters did not have to pay fees to Stewardship Ontario for approximately one year.²

We ask that Stewardship Ontario be directed to propose a process by which operators of ISPs may access surplus funds contributed by their members as a means of defraying ISP program costs incurred during the wind-up period. We will in turn encourage our members to make sound independent pricing decisions, considering their respective refunds.

In addition, organizations such as AMS, will need to build operating reserves to meet the requirements of the forthcoming MHSW regulations under the *Resource Recovery and Circular Economy Act, 2016*. Providing the benefit of Stewardship Ontario’s surplus funds to MHSW stewards will enable producer responsibility organizations to establish those reserves at an accelerated rate, speeding the reduction of fees charges to stewards in subsequent quarters.

We believe this is the most efficient and fair way to achieve the objectives of EPR programs in Ontario, and is in keeping with the government’s ‘open for business’ mandate.

In light of this request, we believe it would be to the benefit of all stakeholders if Stewardship Ontario postponed the August 14 and August 20, 2019 stakeholder consultations until a new direction letter is issued.

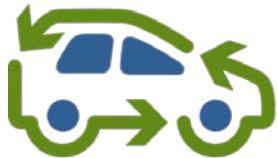
Sincerely,

Dave Fitfield
Chair
Automotive Materials Stewardship

CC:

Jan O’Driscoll, Chief of Staff, Ontario Ministry of Environment, Conservation and Parks
Charles O’Hara, Director, Resource Recovery Policy Branch

² <https://stewardshipontario.ca/wp-content/uploads/2013/10/2013-10-02-Oil-Filter-Backgrounder-for-Stewards-Revised-FINAL-v3.pdf>



About Automotive Materials Stewardship

Automotive Materials Stewardship (AMS) is a non-profit organization responsible for the collection, recycling and management of used antifreeze, oil filters and oil containers. The organization operates an industry stewardship plan (ISP) launched on April 1, 2017 that was approved by Waste Diversion Ontario (now the Resource Productivity and Recovery Authority).

AMS is industry-led and industry-funded with a volunteer-based Board representing companies that produce, distribute or sell antifreeze, oil filters or oil containers. AMS is proud to help businesses contribute to a circular economy by taking responsibility for the automotive waste materials they sell to Ontarians.

AMS helps create convenient, environmentally sustainable ways for consumers and businesses to recycle automotive waste in order to divert these materials from landfill. Through a network of over 12,000 collection sites, AMS exceeded all 2018 collection and recycling targets, including:

- Over 2,400 tonnes of used antifreeze and antifreeze containers;
- Over 3,300 tonnes of used oil containers; and
- Over 7,100 tonnes of used oil filters

Full program performance details are in the 2018 Annual Report, available at www.automotivematerialsstewardship.ca.