

## **Frequently Asked Questions about the new way of financing the Municipal Hazardous and Special Waste (MHSW) program: Regulation 11/12**

### **1. *What new regulation did the Minister of Environment announce on February 9<sup>th</sup>?***

On February 9, 2012 the Minister of Environment issued Regulation 11/12, an amendment to Regulation 542/06. It changes the way Stewardship Ontario must recover the cost of managing the Municipal Hazardous and Special Waste (MHSW) program on behalf of Ontario businesses.

The new regulation is in keeping with the Minister's prerogative under Section 42(4) of the *Waste Diversion Act (WDA)* to make regulations pertaining to any matters governed by the program rules, including the method by which Stewardship Ontario and other Industry Funding Organizations (IFOs) recover their program costs.

### **2. *How does the Regulation change the way Stewardship Ontario operates?***

The Regulation effectively amends the fee-setting methodology in the CMHSW Program Plan which had allowed Stewardship Ontario to set fees on a per unit/volume basis. Stewardship Ontario will be required to apply a steward share methodology to recover from stewards both ongoing operating costs and any deficits that have accumulated over the course of the program. This approach replaces the previous unit/volume-based fee rate methodology. The new cost recovery methodology is designed to prevent deficits and surpluses from occurring/accumulating.

### **3. *When does the Regulation come into effect?***

The Regulation is effective beginning April 1, 2012, and will therefore apply to the 2<sup>nd</sup> quarter reporting and payment period.

## **What It Means for Stewards**

### **4. *How will Stewardship Ontario calculate each steward's share of the material deficits?***

The regulation requires us to calculate each steward's share of the material-specific deficit as a proportion of the total quantities reported to Stewardship Ontario by material from July 2008 to December 2011.

**5. How will Stewardship Ontario calculate each steward's share of the quarterly costs?**

The regulation requires us to calculate each steward's share as a proportion of the total material quantities reported each prior quarter, multiplied by the actual costs incurred in the prior quarter.

**6. Will Stewardship Ontario continue to publish a fee schedule?**

No, Stewardship Ontario will no longer calculate and publish fee rates per unit/volume because Regulation 11/12 requires stewards to pay quarterly invoices based on actual costs for the quarter. Unlike static fee schedules, these costs are expected to fluctuate from quarter to quarter based on the volume and seasonality of materials collected. Beginning in Q2 (April, 2012) each steward will receive an invoice from Stewardship Ontario that sets out their share of costs for that quarter, which is calculated on the basis of their company's individual share of overall Q1 steward reporting.

**7. When will Stewardship Ontario begin invoicing stewards for the material deficit payments?**

The regulation requires Stewardship Ontario to recover material deficits in four equal instalments starting May 15, 2012, and ending January 31, 2013. However, to ease the burden of this requirement, Stewardship Ontario is recommending that its Board and WDO's Board approve an alternative payment schedule for the deficit extending over 12 quarters (three years) of equal instalments.

If the 12-quarter payment schedule is approved, we will issue the first deficit instalment invoices to stewards by April 30, 2012 and payment will be due May 31, 2012.

If the 12-quarter payment schedule is not approved, we will be required to issue the first deficit instalment invoice to stewards on April 15, 2012 and payment will be due May 15, 2012.

**8. When will Stewardship Ontario begin invoicing stewards for the quarterly operating costs?**

For simplicity, Stewardship Ontario will retain our current MHSW quarterly payment schedule.

Q2 invoices will be issued by April 30, 2012 and payment will be due by May 31, 2012.

**9. What data will Stewardship Ontario use to calculate stewards' quarterly invoices?**

The regulation requires that we invoice stewards based on actual operating costs. Prior to the regulation, Stewardship Ontario estimated its expected annual costs as an input to developing MHSW fee rates, as specified in the Program Plan. The change means that we are now required to invoice stewards for the actual costs Stewardship Ontario incurs for managing the program.

We will calculate stewards' individual proportionate shares based on the quantities reported to Stewardship Ontario in the previous quarter, i.e. Q2 invoices will be based on stewards' Q1 reports.

**10. How can I, as a steward, be assured that Stewardship Ontario is effectively managing MHSW Program costs?**

We are committed to containing steward costs while still meeting our targets. We will continue to prepare an annual program budget based on our projections of the quantity of MHSW to be collected and recycled during the fiscal period. And, while we currently report out to stewards annually, we will begin reporting our performance to budget quarterly, enabling you to link your quarterly invoices with actual program material results. Look for that information on our website in the coming months.

**11. When will I get information about the 2012 budgeted costs for my material category?**

Stewardship Ontario has just finalized diversion results for each MHSW material and has received draft audited financial results for 2011. We will be re-calibrating the 2012 budget in light of our 2011 performance in order to ensure that targets can be met at the lowest cost possible. Copies of material-specific budgets will be made available to affected stewards prior to receipt of their Q2 invoices.

**12. Will I still be able to charge an eco-fee?**

Because invoices to stewards must be calculated on the basis of actual costs that are likely to fluctuate from quarter to quarter, Stewardship Ontario will no longer be publishing a pre-established fee schedule by material. Ontario businesses obligated by the MHSW program will need to seek advice on how this change in methodology for calculating stewardship costs will impact their ability to pass stewardship costs down through their supply chain.

**13. Will stewards of the material classes with surpluses be required to pay for the deficits of other materials?**

Stewardship Ontario operates in accordance with the principle of nexus: no cross-subsidization between material classes. Stewards are responsible for only those costs associated with managing materials that they supplied into the marketplace.

**14. How will Stewardship Ontario ensure that every steward is paying a fair share of quarterly operating costs?**

The new approach to financing the MHSW program relies on timely and accurate reporting by all stewards. Stewardship Ontario will therefore strengthen our ability to take action against late-reporting stewards. This is important because, every quarter, Stewardship Ontario must calculate the total quantities supplied into the Ontario marketplace. That information will come from you as stewards, in your quarterly reports submitted by the due date. Any reports submitted after the due date will affect our ability to calculate the total material quantity from which steward shares are determined. Late reporting effectively increases the payment share for compliant stewards. In order to deter late reporting, we are asking the Board and WDO to approve revisions to the MHSW Rules that will enable Stewardship Ontario to use the late-reporter's highest material quantities taken from any of their previous four quarterly reports. We will also apply administration fees for late reporting to discourage this practice.

**15. During the February 2011 MHSW consultations, material definitions were revised with the input of stewards. Have these been approved?**

We submitted those definitions to the Minister in the spring of 2011 and they have not yet been approved.

**16. Does Regulation 11/12 change the way stewards file reports with Stewardship Ontario?**

The steward reporting process, material definitions, reporting due dates and record retention processes will not change. Steward reports will continue to be due April 30, July 31 and October 31, 2012.

**17. Why are there accumulated deficits for some MHSW materials and surpluses in others?**

Since July 2010, all three Ontario Industry Funding Organizations (IFOs) have been constrained in their ability to increase stewardship fees to fully recover the costs of operating their respective programs. In the MHSW program, a combination of factors, such as higher collection rates in some cases and higher actual costs/tonne vs. original estimates, have resulted in deficits for 7 of the 9 materials included in the program. On the other hand, some materials have resulted in surpluses. The intent of Regulation 11/12 is to put an end to

unplanned deficits and surpluses and bring each material category into balance over a reasonable period of time.

**18. Are Phase 1 stewards responsible for paying program costs and/or deficits for Phase 2 and 3 materials?**

Phase 1 stewards are not responsible for any Phase 2 and 3 MHSW costs, including program plan development, start-up, implementation and operating costs. The Ministry of the Environment has committed to reimburse Stewardship Ontario for these costs.

**19. Will voluntary remitters be responsible for recovering the deficit, or will that be the responsibility of the obligated steward?**

Stewardship Ontario will be required to directly invoice stewards whether or not those reports were submitted by stewards or voluntary remitters under the Remitter's Agreement.

Stewardship Ontario has provided notice to stewards that that paragraph 2.4 of the standard form [Remitter's Agreement](#) which requires remitters to pay the fees otherwise due by the steward is no longer effective from and after April 1, 2012. For more information about what this means for stewards please click [here](#).

**20. What does this regulation mean for the Blue Box Program?**

Regulation 11/12 does not apply to the Blue Box Program.

**21. How will Stewardship Ontario account for fluctuating costs to stewards from quarter to quarter caused, for example, by the seasonality of consumer end-of-life returns and stewards' sales cycles?**

Costs to stewards are likely to fluctuate quarter to quarter based on seasonality of consumer end-of-life returns. In addition, stewards' sales cycles differ. These cycles could result in stewards' shares, which are calculated quarterly, to be disproportionately high for some stewards and disproportionately low for others. To address this issue, the revised Rules contain a provision that allows Stewardship Ontario to perform an annual true-up of steward accounts. The true-up will ensure that the quarterly stewards share assessment will be substantially equal to the steward share assessment calculated in total over the preceding four quarters.