

## Steward Information Session – Background

### *The New Way of Financing the Municipal Hazardous and Special Waste (MHSW) Program:*

#### *What does it mean for you as Stewards?*

### 1.0 Introduction

On February 9, 2012, the Minister of Environment issued [Regulation 11/12](#), an amendment to Regulation 542/06, prescribing a new methodology Stewardship Ontario must use to finance the Municipal Hazardous and Special Waste (MHSW) program on behalf of Ontario businesses.

Effective April 1, 2012, Regulation 11/12 requires Stewardship Ontario to recover historical material deficits, as well as ongoing MHSW operating costs on a steward share basis rather than on the familiar unit/volume basis commonly associated with stewardship programs across Canada.

Since July 2010, Ontario's Industry Funding Organizations (IFOs) have been constrained in their ability to raise unit-based fees to fully recover the costs of operating their respective programs. In the MHSW program a combination of factors, such as higher than planned collection rates and higher actual costs per tonne vs. original estimates, have resulted in deficits for 7 of the 9 materials, while 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 period of time.

### 2.0 The Changes you can Expect

Stewardship Ontario will do everything we can to ease the burden of these new requirements for our stewards. Certain things won't change, such as reporting process and due dates, material definitions and record retention protocols.

## Minister's Prerogative

*Regulation 11/12 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.*

## 2.1 Four Key Changes

1. ***Stewards will be invoiced on actual operating costs in every quarter beginning in Q2, (April 1, 2012).***

The regulation requires that stewards be invoiced on the 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 stewards will now be invoiced for their proportionate share of actual costs incurred by Stewardship Ontario for managing their materials in each quarter.

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

2. ***In Q2 we will also begin invoicing stewards for their deficit share.***

Each steward's share of the material-specific deficit will be calculated as a proportion of the total quantities reported to Stewardship Ontario, by material, during the period July 2008 to December 2011. The regulation specifies that Stewardship Ontario is to recover material deficits in four equal instalments starting May 15, 2012, and ending January 31, 2013. However, the regulation also provides Stewardship Ontario with the power to make alternative payment arrangements through its Program Rules for Stewards. In order to ease the burden of this requirement, Stewardship Ontario is asking its Board to approve alternative payment terms to allow for deficit recovery to be extended over 12 quarters (three years) of equal instalments. This recommendation must also be approved by the WDO board.

***Antifreeze, and the container in which it is contained***

***Fertilizers, and the containers in which they are contained***

***Oil containers that have a capacity of 30 litres or less and that were manufactured and used for the purpose of containing lubricating oil***

***Oil filters, after they have been used for their intended purpose***

***Paints and coatings, and the containers in which they are contained***

***Pesticides, and the containers in which they are contained***

***Pressurized containers, (non-refillable and refillable)***

***Single-use dry cell batteries***

***Solvents, and the containers in which they are contained***

3. ***Steward obligation no longer determined by unit/volume based fee rate.***

Regulation 11/12 requires that stewards pay quarterly invoices based on their individual share of the total MHSW quantities reported each quarter, multiplied by the actual costs incurred in the prior quarter by Stewardship Ontario. This means that your financial remittance will no longer be based on set unit/volume fee rates per material. Costs will fluctuate quarter to quarter depending on volume and seasonality factors associated with different materials.

4. ***Stewardship Ontario will no longer publish a fee schedule.***

Because invoices to stewards must be calculated on the basis of actual costs that will 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.

## **2.2 What Stays the Same?**

- **Steward Reporting Experience.** The steward reporting process, material definitions, reporting due dates and record retention processes *will not change*. Our Steward Services Representatives will be ready to answer all your questions as Regulation 11/12 takes effect at the start of April and we prepare to issue invoices for deficit recovery and quarterly costs in April.
- **No Cross-Subsidization.** Stewards will be assessed costs and a portion of a material deficit strictly on the basis of their own share of materials supplied into the marketplace. Similarly, for materials experiencing a surplus, stewards will be credited a proportionate share of that surplus as deficits are recovered from other materials.
- **A Level Playing Field.** The new approach to financing the MHSW program relies on timely compliance with the reporting and payment requirements by all stewards. We will take steps to strengthen our ability to take action against late-reporting stewards to ensure that there is no free riding that compromises other stewards in a material category.
- **Collection and Recycling Performance that Tracks to Targets.** The MHSW program continues to meet, and often exceed, its performance goals. In both 2010 and 2011, the Program successfully diverted over 26,000 metric tonnes of material from Ontario's landfills and waterways. Stewardship Ontario develops annual budgets and plans that are designed to meet targets.
- **Consumer Accessibility.** Stewardship Ontario continues to add to our Orange Drop locations, making it easier for consumers to dispose of their hazardous and special waste appropriately. Today 84.5% of Ontarians have access to drop-offs, including 87 municipal recycling depots, 300+ annual

collection events, 307 return-to-retail locations, 97 provincial parks and 450 automotive DIY locations. In addition, over 1,000 new battery collection sites have been established in 2011, under our enhanced battery incentive program. Pesticides and fertilizers are accepted from consumers exclusively through municipal return channels (87 depots/300+annual events).

- **Cost Containment and Transparency.** 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 on an annual basis, we will begin reporting our diversion performance and our performance to budget on a quarterly basis, enabling stewards to link their quarterly invoices with actual program material results. Look for that information on our website in coming months.

### 3.0 What's Next?

#### Government Pledges Greater Oversight of Industry Programs

The Environment Minister provided recent direction to Waste Diversion Ontario (WDO) to increase its oversight of IFOs to include more detailed reviews, as well as budget and performance monitoring. In addition, the WDO has launched separate reviews of the IFOs' incentive pricing programs used to pay service providers that will include consultation with municipalities and other stakeholders who provide services.

Stewardship Ontario has always operated on the principle of openness and we are actively cooperating with the WDO in these reviews. However, the costs associated with increased oversight must be borne by stewards, and actions and directives by regulators that impose burdensome administrative costs and potentially limit Stewardship Ontario's ability to establish fair commercial terms for municipal and commercial waste services could inhibit Stewardship Ontario's ability to control its costs. To date, MOE and WDO oversight costs to MHSW stewards alone total just under \$500,000 annually. The costs associated with implementing Reg 11/12 and the associated reviews of our commercial incentive programs will add another \$500,000 of costs to stewards. While oversight is a necessary component of ensuring stewardship programs perform their obligations to society, the costs are ultimately borne by stewards and, if passed on, their consumers.

#### Oversight Must be Linked to Accountability

The Minister has accepted, in principle, a new governance structure for the WDO Board that will exclude representation from companies whose waste is included in an obligated stewardship program. Five members of the current WDO Board are industry representatives, who are jointly appointed by 14 industry associations, whose members include stewards obligated by the four diversion programs approved by the WDO. The new governance structure has raised concern in the steward community about accountability to the companies that fund the programs, as well as the WDO itself. Stewards are invited to make their views on the governance changes known by providing comments by March 11, 2012. [WDO's governance proposal can be found here.](#)

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## *Thank You*

*Stewardship Ontario appreciates your patience and understanding as we work through the logistics of implementing Regulation 11/12.*

*We will continue to update you on our progress throughout the next two months.*

*Please direct any questions to our Steward Services Team at:*

**1.888.288.3360**

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