



## **Schedule A to Program Agreement Stewardship Ontario and the Resource Productivity and Recovery Authority**

### **Rules for Stewards with Respect to the Payment of Fees for the Municipal Hazardous or Special Waste (MHSW) Program, for the Period Commencing January 1, 2020, until October 31, 2021<sup>1</sup>**

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## **PART I: DEFINITIONS**

1. In these Rules, the following terms have the following meanings:

**“Affiliate”** is an entity that controls a Steward or is controlled by a Steward or is controlled by an entity that also controls a Steward, where "control" in the case of a corporation has the meaning ascribed thereto by subsection 1(5) of the Business Corporations Act (Ontario) as amended from time to time.

**“Approved Wind-up Plan”** means the Wind-up Plan for the MHSW program developed and approved in accordance with section 14 of the *Waste Diversion Transition Act, 2016*.

**“Brand”** means a trademark.

**“Brand Owner”** with respect to a specific product or good, that is MHSM, where such product or good, or its packaging bears a trademark means during any time in any Data Period:

- (a) a Person Resident in Ontario who is the holder of the registered trademark, or
- (b) a Person Resident in Ontario who is the licensee, in respect of the registered trademark, or
- (c) a Person Resident in Ontario, who owns the intellectual property rights to the unregistered trademark, or
- (d) a Person Resident in Ontario, who is the licensee, in respect of the intellectual property rights of the unregistered trademark.

Where “licensee” includes a Person who packages goods and the products or goods are MHSM or MHSM Packaging, and bear a trademark, other than a packer, producer or filler of Private Label Goods, and includes any Person whose corporate name or business name registration contains the trademark.

**“Confidential Information”** means sales or other data submitted by a Steward to Stewardship



Ontario that is not publicly available from any source.

**“Data Period”** means the 3 month periods ending December 31, 2016; March 31, 2017; June 30, 2017; and September 30, 2017 and successive three month periods thereafter for which a Steward must report MHSM quantities Supplied.

**“Designated IC&I Business”** means an industrial, commercial or institutional business that generates MHSW of the types described in Appendix A that is not required to submit a Generator Registration Report with respect to that MHSW under subsection 18 (1) of Ontario Regulation 347, made under the *Environmental Protection Act*, as amended from time to time.

**“Disbursement”** means a payment to a Steward from surplus MHSW funds held by Stewardship Ontario pursuant to the MHSW Approved Wind Up Plan.

**“Fee Category”** means the category against which the quantities appearing in the reporting category are invoiced by Stewardship Ontario.

**“Fee Obligation Period”** means the period for which amounts are due as set out in Table 2 of Appendix C.

**“File” or “Filed”** means electronically submitted by a Steward to Stewardship Ontario through the WeRecycle Portal. Filed and File have similar meanings.

**“First Importer”** is a Person Resident in Ontario who imports MHSM into Ontario or is the first to take possession or control of MHSM in Ontario for which a Brand Owner does not exist.

**“Franchisor, Franchisee and Franchise System”** have the meaning ascribed thereto under the Arthur Wishart Act (Franchise Disclosure), 2000, as amended from time to time.



**“Generator”** means the Person to which MHSW is supplied for use in Ontario that makes the product(s) available for reuse, recycling or disposal. The categories of MHSW generators are residential, designated IC&I business, and all IC&I.

**“In Good Standing”** means a Steward who is current with its financial and reporting obligations to Stewardship Ontario.

**“Industry Funding Organization” or “IFO”** means the organization designated by regulation with responsibility for implementing the MHSW Program Plan including collection of fees from Stewards to cover the costs of developing, implementing and operating the diversion program and to cover associated costs of RPRA and the Ministry of Environment, Conservation and Parks (MECP) (formerly the Ministry of the Environment and Climate Change).

**“Industry Stewardship Plan” or “ISP”** means a RPRA or Waste Diversion Ontario - approved plan allowing one or more Stewards to manage wastes that have been designated for a recycling program by the Minister.

**“Industry Stewardship Organization” or “ISO”** means any organization (including one Steward or a group of Stewards) that submits an Industry Stewardship Plan to RPRA, or its predecessor, Waste Diversion Ontario, for review.

**“Interest”** means the amount calculated using the prime rate per annum established by the CIBC as at the close of business on the first day of each month plus four percent compounded monthly.

**“Methodology”** means the process the Steward used to:

- (a) determine MHSW Supplied including data sources, percentage allocation of data reported, data collection systems, and the use of calculators, worksheets or mathematical formulae, whether or not they were previously approved by Stewardship Ontario; and



- (b) determine exclusions.

**“MHSM Packaging”** means materials that are used for the containment, protection, handling, delivery and presentation of MHSM Supplied.

**“MHSW Program Plan”** means the plan most recently approved by the Minister.

**“MHSW Approved Wind Up Plan”** means the MHSW Wind Up Plan approved by the Resource Productivity and Recovery Authority pursuant to Section 14 of the *Waste Diversion Transition Act, 2016*.

**“MHSW Wind Up Letters”** means the letter from the Minister dated April 12, 2018 directing Stewardship Ontario to wind up the MHSW Program by June 30, 2021 pursuant to a Wind Up Plan approved by RPRA and the Minister. Including amended timelines for the wind up of single-use batteries dated December 11, 2018, and further direction from the MECP dated July 2, 2019.

**“Minister” or “Ministry”** means Ministry of Environment, Conservation and Parks (MECP) (formerly the Ministry of the Environment and Climate Change) for the Province of Ontario.

**“Municipal Hazardous or Special Materials” or “MHSM”** means those goods and products set out in Appendix A which are Supplied and that result in the generation of MHSW.

**“Municipal Hazardous or Special Waste” or “MHSW”** means waste that consists of any one of the following materials, or any combination of them:

- Antifreeze, and the containers in which they are contained. Containers of packaged antifreeze are included if they have a volume equal to or less than 30 litres
- Fertilizers and the containers in which they are contained
- Oil filters – after they have been used for their intended purpose
- Oil Containers that have a capacity of 30 litres or less and that were manufactured



and used for the purpose of containing lubricating oil

- Pesticides and the containers in which they are contained
- Paints and Coatings, and the containers in which they are contained
- Pressurized containers
- Solvents, and the containers in which they are contained
- Single-use dry cell batteries

**“Ontario Regulation 387/16”** means the Regulation made under the under the *Waste Diversion Transition Act, 2016* that designates MHSW and that designates Stewardship Ontario as the IFO for MHSW.

**“Person”** means an individual, partnership, joint venture, sole proprietorship, company or corporation, government (whether national, federal, provincial, state, municipal, city, county or otherwise and including any instrumentality, division, body, department, board or agency of any of them), trust, trustee, executor, administrator or any other kind of legal personal representative, unincorporated organization, association, institution, entity, however designated.

**“Primary Contact”** means a member of the Steward’s organization appointed by the Steward pursuant to the [Primary Contact Policy](#) as posted on the Stewardship Ontario website (for new Stewards who join the MHSW Program on or after January 1, 2019) as the Steward’s authorized person or agent under whose authority a Quarterly MHSW Steward Report is Filed or amended.

**“Private Label Goods”** means goods that carry the Brand of a Brand Owner and are Supplied by such Brand Owner.

**“Program Request Letter”** means the letter from the Minister to Waste Diversion Ontario (WDO) dated December 12, 2006 requiring Waste Diversion Ontario to develop a waste diversion program in respect of certain categories of MHSW.



**“Proxy Report”** means a prior Quarterly MHSM Steward’s Report used by Stewardship Ontario in the event that a Steward does not meet its Filing obligation in accordance with these Rules.

**“Published Address”** means an address appearing in a current telephone directory or a recognized current published business directory.

**“Quarterly MHSM Steward’s Report”** means a report prepared by a Steward describing the aggregate quantity of MHSM that was Supplied in the Data Period by the Steward or its Franchisees and/or Affiliates containing the information in accordance with Section 17 and Filed with Stewardship Ontario in accordance with Appendix C.

**“Reporting Obligation Period”** means the period for which a Steward is required to report as described in Appendix C.

**“Resident in Ontario”** with respect to a corporation, means a corporation that has a permanent establishment in Ontario in accordance with the provisions of Appendix B.

**“Resource Recovery and Productivity Authority”** or **“RPRA”** is a corporation which oversees the operation of Stewardship Ontario and the MHSW Program in accordance with the *Waste Diversion Transition Act, 2016*. RPRA is the successor to Waste Diversion Ontario.

**“Rules”** means these rules, including any such modifications to the Rules resulting from or necessitated by the MHSW Approved Wind-up Plan.

**“Service Cost”** is any waste management cost including the costs to collect, transport, consolidate, process and dispose of MHSW.

**“Steward”** means a person who is obligated with respect to MHSM in accordance with Part III of these Rules.





“**Steward Share Assessment**” means the individual Steward’s share of the total quantities reported to Stewardship Ontario by Fee Category.

“**Stewardship Ontario**” is the Not-for-profit Corporation incorporated under the Ontario Corporations Act and continued by Regulation 542 under the *Waste Diversion Act* as the IFO and under the *Waste Diversion Transition Act, 2016* for MHSW Program. It is also the IFO for Designated Blue Box Waste.

“**Supplied**” means sold, leased, donated, disposed of, used, transferred the possession or title of or otherwise made available or distributed for use in the Province of Ontario by a Generator. Supply and Supplies have similar meanings.

“**Voluntary Reporter**” means a Person who elects to become a Voluntary Reporter in accordance with Section 11 of these Rules.

“**WeRecycle Portal**” means the internet portal that must be used by all Stewards when submitting their Quarterly MHSM Steward Reports.

## **PART II: APPLICATION, DURATION, NONCOMPLIANCE, POLICIES, NOTICE, CONFIDENTIALITY**

### **Application of These Rules**

2. These Rules apply to all:

- (a) Stewards who are obligated to File a Quarterly MHSM Steward Report in the current year;
- (b) Stewards (regardless of whether they have registered) who were obligated but failed to File a Quarterly MHSM Steward Report in a prior year;<sup>2</sup>

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<sup>2</sup> These Rules apply to all Quarterly MHSM Steward Report which should have been Filed but were not Filed by a Steward for a prior Data Year. However, the calculation of Fees associated with any past unfiled Quarterly MHSM Steward Report will be calculated in accordance with the Stewardship Fee rates applied in each of the applicable prior Data Years.



- (c) New Stewards who began Supplying MHSM in the current year or who began MHSM in a prior year but did not register at that time;
- (d) Stewards who make an Adjustment Request in the current year in accordance with the [Policy for Steward-Initiated Adjustment Requests](#) in Appendix E and on the Stewardship Ontario website for any current or prior Quarterly MHSM Steward Report as may be amended by the MHSW Approved Windup Plan;
- (e) Former Stewards who owe MHSW fees to Stewardship Ontario; and
- (f) Steward requests for Dispute Resolution made in the current year.

### **Duration of These Rules**

3. These Rules remain in force until the Wind Up the MHSW Program on June 30, 2021, unless or until new Rules are approved by RPRA and are posted on the Stewardship Ontario website, as may be expressly or by implication amended by the MHSW Approved Wind Up Plan.

### **Noncompliance with These Rules**

4. All Stewards and former Stewards (to the extent such former Stewards owe MHSW fees to Stewardship Ontario) are required to comply with these Rules. Failure to comply with these Rules may result in penalties and interest and/or compliance and enforcement actions undertaken by Stewardship Ontario and/or RPRA as provided for:
  - (a) in these Rules or in Stewardship Ontario policies;
  - (b) in the *Waste Diversion Transition Act, 2016*;
  - (c) in the Regulations,
  - (d) in the [Penalty and Interest Policy](#) in Appendix F of these Rules and on the Stewardship Ontario website, or
  - (e) as otherwise permitted by RPRA or the Ministry.

### **Policies, Guidance and Interpretive Memoranda**

5. Stewardship Ontario may, but is not required to, publish on the Stewardship Ontario website policies, guidance, and interpretive memoranda (collectively “secondary guidance”) with



respect to these Rules that must be followed by Stewards. In the event of any conflict between the Rules and any secondary guidance, the Rules shall prevail.

### **Notice to Stewardship Ontario**

6. A Steward must inform Stewardship Ontario within 30 days of its change of address, change of Primary Contact, bankruptcy, closing, merger, acquisition, sale, or divestiture of all or part of its business and any impact on the Steward's obligation to pay Stewardship Fees. All notices to Stewardship Ontario shall be provided:
- (a) in writing, addressed to Stewardship Ontario, 1 St. Clair Avenue West, Suite 700, Toronto, ON, M4V 1K6, Attention: CFO; or
  - (b) by email to [wecycle@stewardshipontario.ca](mailto:wecycle@stewardshipontario.ca).

### **Notice to Stewards**

7. All Stewards (regardless of whether the Steward has registered with Stewardship Ontario) are deemed to have notice of the contents of these Rules and are bound by these Rules, including the reporting and payment obligations from the time that these Rules are approved by RPRA and posted on the Stewardship Ontario website.

### **Publishing of Company Names**

8. Stewardship Ontario may, but is not required to, publish any of the following:
- (a) the names of Stewards Filing a Quarterly MHSM Steward Report with Stewardship Ontario;
  - (b) a list of all Stewards In Good Standing;
  - (c) a registry of all Brands reported in Quarterly MHSM Steward Reports; and
  - (d) the names of any Person that may appear to be a Steward Resident in Ontario, but which it has determined upon investigation is not Resident in Ontario.

### **Confidentiality**

9. Stewardship Ontario will use reasonable diligence and care to prevent the unauthorized disclosure of a Steward's Confidential Information. Stewardship Ontario may disclose



**Confidential Information:**

- (a) to its administrative service provider or a third party auditor, provided that the administrative service provider or the third party auditor also agrees to protect the Steward's Confidential Information;
- (b) to the RPRA or the Ministry as permitted by law or the MHSW Program Plan or MHSW Program Agreement; or
- (c) in accordance with the Steward's consent.

**PART III: DESIGNATION OF STEWARDS**

**Designation of Stewards**

10. For the purpose of determining which Person shall be designated as a Steward for a particular category of MHSM, the following provisions shall apply in the order in which they are set out. If two or more Persons are designated as a Steward pursuant to the following provisions, then the earlier provision shall prevail:

- (a) A Brand Owner is designated as a Steward with respect to all MHSM, for which it is the Brand Owner and Supplied such MHSM during the Data Period.
- (b) A First Importer is designated as a Steward with respect to all MHSM for which it is the First Importer and Supplied such MHSM during the Data Period.
- (c) A Franchisor which is resident in Ontario is designated as a Steward with respect to all MHSM Supplied within the Ontario Franchise System during the Data Period.
- (d) In the event there is more than one Brand Owner for the same MHSM, the Brand Owner more directly connected to the production of the MHSM shall be designated as the Steward, but where the Brand Owner is a Franchisor, the Franchisor shall be designated as the Steward for its Ontario Franchise system.
- (e) In the event there is no identifiable Brand on a particular MHSM product or good and if the manufacturer of the MHSM is Resident in Ontario, the manufacturer of such MHSM shall be designated as the Steward for such MHSM, otherwise the First Importer shall be designated as the Steward for such MHSM.

**Voluntary Reporter**

11. A Person may elect to become a Voluntary Reporter upon execution of Stewardship



Ontario's [Voluntary Reporter's Agreement](#) by:

- (a) the Steward;
- (b) the Voluntary Reporter; and
- (c) Stewardship Ontario.

Voluntary Reporters must comply with these Rules and the Voluntary Reporter Agreement.

### **Voluntary Reporter Fails to Comply with Obligations**

12. In the event that the Voluntary Reporter defaults on its responsibility to report with respect to the MHSM Supplied in Ontario, the obligation for that MHSM will revert to the Steward in accordance with the Voluntary Reporter Agreement.

## **PART IV: STEWARD REPORTING**

### **Reporting Categories**

13. For reporting and fee calculation, MHSM is organized into nine material classes as outlined in Appendix A.

### **Reporting Deadline for Stewards and Voluntary Reporters**

14. Every Steward and Voluntary Reporter shall:

- (a) File a Quarterly MHSM Steward Report in accordance with the timetable in Appendix C;
- (b) if applicable, immediately File all overdue Steward Reports; and
- (c) if applicable, File a Quarterly MHSM Steward Report within 60 days after such Person becomes a Steward or Voluntary Reporter pursuant to Part III, Section 11 using the [WeRecycle Portal](#).

### **Stewards Who Fail to Register With Stewardship Ontario**

15. A Steward who begins Supplying MHSM, who has not registered with an ISP, must Register with Stewardship Ontario within 60 days. Any Steward who fails to Register with Stewardship Ontario within 60 days of beginning to Supply MHSM in Ontario:

- (a) will be subject to compliance and enforcement by Stewardship Ontario, RPRA and/or



MECP; and

- (b) is required to pay the penalties and interest in accordance with the [Penalty and Interest Policy](#) in Appendix F and on the Stewardship Ontario website.

### **Reporting for Affiliates and/or Franchisees**

16. A Steward, including Franchisors, shall report for its Ontario Affiliates and/or Franchisees under one Steward number. Any Person whose MHSM is included in its Affiliates' or Franchisors' Annual Steward Report shall not File a separate Quarterly MHSM Steward Report. Affiliates must seek Stewardship Ontario's approval to report separately.

### **Contents of Quarterly MHSM Steward Report**

17. Quarterly MHSM Steward Reports must include the following information Filed on the WeRecycle Portal:

- (a) obligation period of the Quarterly MHSM Steward's Report;
- (b) contact information such as email addresses and phone numbers for the Steward's Primary Contact, Billing Contact, Secondary Contacts and Environmental Lead;
- (c) company name, mailing address, phone number, and sector;
- (d) quantities of materials Supplied according to the reporting categories and units of measure in Appendix A;
- (e) description of Methodology used to prepare the Quarterly MHSM Steward Report including any significant events resulting in any material change(s) to quantities reported;
- (f) description of any excluded waste from the Quarterly MHSM Steward Report;
- (g) list of Brands included in the Quarterly MHSM Steward Report, and any changes in Brands since the prior Reporting Obligation Period;
- (h) list of all Affiliates and/or Franchisees included in the Quarterly MHSM Steward Report;
- (i) Declaration of accuracy of contents of the Quarterly MHSM Steward Report.

### **Consequences of Late Filing or Non-Filing of the MHSM Quarterly Steward Report**



18. Stewards that fail to File a Quarterly MHSM Stewards' Report by the date specified in Appendix C will be subject to:

- (a) penalties and interest in accordance with the [Penalty and Interest Policy](#) in Appendix F and on the Stewardship Ontario website;
- (b) the use by Stewardship Ontario of a Proxy Report using the Steward's highest quantities contained in any of its prior four quarters plus 10 percent shall constitute the Quarterly MHSM Steward Report then due;
- (c) an adjustment invoice associated with the reconciliation of the quantities used by Stewardship Ontario to the actual quantities reported by the Steward;

### **Errors in the Quarterly MHSM Steward Report**

19. Quarterly MHSM Steward Reports shall contain accurate data. If a Steward or a Voluntary Reporter identifies any errors in any Quarterly MHSM Steward Report after submission, the Steward or Voluntary Reporter must notify<sup>3</sup> Stewardship Ontario within 30 days in writing via email to [WeRecycle@stewardshipontario.ca](mailto:WeRecycle@stewardshipontario.ca) with full particulars of the error.

### **Financial Responsibility for Underreporting By a Voluntary Reporter**

20. Where a Voluntary Reporter has made an underreporting error in the Quarterly MHSW Steward Report, financial responsibility as between the Steward and the Voluntary Reporter for the error and any interest or other penalties associated with the error is governed by the Voluntary Reporter Agreement between the Steward, the Voluntary Reporter and Stewardship Ontario.

### **Steward-Initiated Adjustment Requests to Quarterly MHSM Steward Report**

21. A Steward who is In Good Standing may make a request to correct an error in a Quarterly MHSM Steward Report in accordance with the following Policies and any applicable amendments thereto expressly or by implication imposed by the MHSW Approved Wind Up Plan:

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<sup>3</sup> This is only a requirement to *notify* - not to submit an adjustment request. Stewards still have two years to submit an adjustment request as outlined in the Steward-Initiated Adjustment Policy.



- (a) [Policy for Steward-Initiated Adjustment Requests](#) in Appendix E and on the Stewardship Ontario website; and
- (b) [Penalty and Interest Policy](#) in Appendix F and on the Stewardship Ontario website.

This section applies with necessary modifications to a Voluntary Reporter who requests an Adjustment to a Quarterly MHSW Steward Report.

### **Corrections to the Quarterly MHSM Steward Report Initiated By Stewardship Ontario**

22. Stewardship Ontario may require changes to a Filed Quarterly MHSM Steward Report following a third party review or report validation by Stewardship Ontario. Stewards will be required to pay third party fees associated with any MHSM underreporting for a maximum of five years of Quarterly MHSM Steward Reports prior to the current calendar year.<sup>4</sup>

### **PART V: STEWARD FEES FEE COMPONENTS**

23. Stewards shall pay fees to Stewardship Ontario in accordance with the following, subject to and as may be modified by the MHSW Approved Wind-up Plan:

- (a) The Steward Share Assessment with respect to the Reporting Obligation Period for all MHSM classes as set out in Appendix A and according to Table 2 as set out in Appendix C. The formula to calculate the Steward Share Assessment is specified in Section 5(1) of Regulation 542/06.
- (b) Subject to the Steward or Voluntary Reporter satisfying the requirements of the Policy for Steward-Initiated Adjustment Requests in Appendix E and on the Stewardship Ontario website, in the event that the quantities reported in the Quarterly MHSM Steward Report are inaccurate, Stewardship Ontario shall issue to the Steward an invoice or a credit note based on the total quantities reported into Stewardship Ontario by all Stewards by the reporting deadline.
- (c) If:
  - (i) a Steward's Quarterly MHSM Steward Report is determined to be inaccurate

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<sup>4</sup> For example, stewards are responsible for the fees (if any) associated with errors in a prior quarterly MHSM Steward report discovered by stewardship Ontario in the current calendar year (2019) for up to five prior calendar years (20 Quarterly MHSM Steward Reports) (2018, 2017, 2016, 2015, and 2014).





either prior to or subsequent to the effective date of these Rules, and  
(ii) the Steward is required to pay additional fees or is entitled to a credit, these amounts will be applied to adjust the costs in the relevant MHSM class in the subsequent quarter period.

### **Annual True Up**

24. Subject to and as may be modified by the MHSW Approved Wind-up Plan, Stewardship Ontario will conduct an annualized reconciliation (annual true up) as if the Steward Share Assessments were calculated on an annual basis. In the event that the amount calculated is different from the aggregate of the Steward's four quarterly invoices, including any adjustments for that quarter (calculated using the quarterly Steward Share Assessments), then Stewardship Ontario shall prepare a credit note or a debit note to adjust the Steward's amount owing to equal the amount calculated based on annual data. Stewardship Ontario shall give notice by way of invoice or credit note to each Steward. Any such additional fee shall be payable within 30 days of the sending of such invoice.

### **Relief from Requirements to Report and Pay Fees**

25. Any Steward that:

- (a) is In Good Standing
- (b) intends to join an RPRA-approved Industry Stewardship Plan (ISP) covering MHSM generated by the Steward;
- (c) has received RPRA approval to join the ISP; and
- (d) adheres to any additional criteria agreed to between Stewardship Ontario and/or RPRA, and the ISO,

is no longer required to report to Stewardship Ontario for the related MHSM Supplied on and after the date to which the ISP applies.

### **Fee Reductions Pursuant to the MHSW Approved Wind Up Plan**

26. In accordance with the MHSW Approved Wind Up Plan, Stewardship Ontario may: (i) reduce steward fees calculated under Section 23 in respect of fees payable by current Stewards, and (ii) make distributions to an Industry Stewardship Organization on behalf of a



former Steward that is now a member of such ISO for the purpose of reducing such ISO members' fees paid to the related ISO in relation to managing MHSW materials, subject to the following terms and conditions:

- (a) No Steward shall be entitled to receive a fee reduction unless the Steward is In Good Standing with the MHSW Program;
- (b) No ISO, on behalf of a former Steward, shall be entitled to a distribution unless such former Steward is In Good Standing with the MHSW Program;
- (c) Without limiting the generality of the foregoing, where a Steward or former Steward owes MHSW fees to Stewardship Ontario and the Steward or former Steward would otherwise be entitled to a fee reduction or disbursement to its respective ISO, Stewardship Ontario shall set-off the amount owing by the Steward or former Steward to the MHSW Program against the Steward's or former Steward's fee reduction or disbursement to its respective ISO and such Steward's or former Steward's entitlement to a fee reduction or disbursement to its respective ISO shall be limited to the net amount owing to the Steward or former Steward after application of such set-off. If after application of the aforementioned set-off, the Steward or former Steward still owes MHSW fees to Stewardship Ontario, Stewardship Ontario shall advise the Steward or former Steward of the amount that remains owing by the Steward or former Steward to the MHSW Program and the Steward or former Steward shall, within 30 days, pay the MHSW Program the amount owing by the Steward or former Steward.

## **PART VI: COMPLIANCE**

### **Penalties and Interest**

27. Stewardship Ontario shall impose penalties and interest on a Steward or Voluntary Reporter in accordance with the [Penalty and Interest Policy](#) in Appendix F and on the Stewardship Ontario website.

### **Steward and Voluntary Reporter Records Retention**

28. All Stewards and Voluntary Reporters shall retain all of the records to substantiate and verify



the accuracy of the information submitted in their Quarterly MHSM Steward Report for a period of not less than five years from the date of submission. Any Steward or Voluntary Reporter who fails to produce documentation to substantiate its Quarterly MHSM Steward Report Filed during the five year retention period must pay Stewardship Fees on the total amount of MHSM:

- (a) substantiated by the available documentation; or
- (b) based on an estimate calculated with reference to a prior or subsequent Quarters' MHSM Steward Report; or
- (c) as determined by a third-party auditor,

whichever is greatest. Stewards are subject to the [Penalty and Interest Policy](#) in Appendix F and on the Stewardship Ontario website with respect to any quantities of MHSM found to have been underreported.

### **Duty to Comply with Stewardship Ontario's Requests for Documentation**

29. Upon written request from Stewardship Ontario, Stewards and Voluntary Reporters shall within 30 days provide documentation in support of their Quarterly MHSM Steward Report, including, but not limited to:

- (a) data used by Stewards or Voluntary Reporter in the preparation of any Quarterly MHSM Steward Report;
- (b) relevant information regarding Affiliates and/or Franchisees included in the Quarterly MHSM Steward Report;
- (c) calculation Methodology;
- (d) product data such as samples or product information provided by vendors;
- (e) audit reports; and
- (f) a list of Brands included or excluded in the Quarterly MHSM Steward Report and any changes in Brands from those Brands reported in the prior Quarterly MHSM Steward Report.

### **Duty to Provide Access to Stewardship Ontario**

30. A Steward or Voluntary Reporter shall grant access during business hours to Stewardship



Ontario or its authorized representatives to inspect and review the Steward's records maintained in accordance with the Rules for up to five years after the Filing deadline for the Quarterly MHSM Steward Report.

### **Duty to Cooperate with a Verification Audit**

31. At the request of Stewardship Ontario, a Steward or Voluntary Reporter must:

- (a) provide confirmation from a senior officer with authority to bind the steward confirming that the data contained in the Quarterly MHSM Steward Report is accurate and complete; and
- (b) cooperate in an audit or review of the Steward's records, including:
  - (i) providing Stewardship Ontario with all requested documentation, data, records and reports within 30 days of such request; and
  - (ii) providing access to the Steward's business premises by Stewardship Ontario, its administrative service provider, or an independent third-party within 30 days of such request.

## **PART VII: DISPUTE RESOLUTION**

### **Dispute Resolution Policy and Procedure**

32. Disputes between Stewardship Ontario and a Steward or Voluntary Reporter regarding the payment of Stewardship Fees shall be addressed through the [Dispute Resolution Policy](#) posted on the Stewardship Ontario website. A Steward must be In Good Standing to invoke Dispute Resolution.



## Appendix A

### Municipal Hazardous or Special Materials Class Definitions and Reporting Information

The following materials are defined by one or more of the following Acts, Standards, and/or Regulations:

- Waste Diversion Transition Act, 2016 (Ontario)
- Environmental Protection Act (Ontario)
- Fertilizers Act (Canada)
- Fertilizers Regulations (Canada)
- Hazardous Products Act (Canada)
- Pest Control Products Act (Canada)
- SOR/2001-269 – Canadian Standards Association Standard Z752-03
- Waste Diversion Transition Act, 2016, Ontario Regulation 387/16
- Waste Diversion Transition Act, 2016, Ontario Regulation 389/16
- Environmental Protection Act, Ontario Regulation 347
- Environmental Protection Act, Ontario Regulation 463/10

#### **Key for using Tables of Material Class Definitions and Reporting Information in Appendix A:**

<b>Material Class Definitions</b>	Provides the name and a definition for each of the 9 (nine) material classes designated under the MHSW Program.
<b>Notes</b>	Provides clarifying information for the material definition and any other general comments on the material class.
<b>Sector(s) into which MHSM is Supplied</b>	Identifies the sector(s) into which materials must be Supplied to be included in the MHSW Program: <ul style="list-style-type: none"> <li>- The residential sector; and/or</li> <li>- All industrial-commercial-institutional (IC&amp;I) sectors; and/or</li> <li>- Designated IC&amp;I businesses (e.g. small quantity generator—a business that generates MHSW and is not required to submit a generator registration report as per subsection 18(1) of Regulation 347 under the Environmental Protection Act and that does not return more than 100 kg per month of MHSW through the program).</li> </ul>
<b>Examples</b>	Contains a list of product examples. Note: This is not intended to be an exhaustive list.
<b>Exclusions</b>	Identifies product exemptions for each material class.
<b>Reporting Category</b>	Indicates all sub categories for each material class, as it appears on the steward reporting site.
<b>Unit of Measure</b>	Contains the unit of measure that stewards will be required to report.
<b>Fee Category</b>	Provides the Fee Category name against which the material reporting category will be invoiced.



<b>Antifreeze</b>						
Means ethylene or propylene glycol used or intended for use as a vehicle engine coolant.						
<b>Notes</b>	<b>Sector(s) into which MHSM is Supplied</b>	<b>Examples</b>	<b>Exclusions</b>	<b>Reporting Category</b>	<b>Unit of Measure</b>	<b>Fee Category</b>
<ul style="list-style-type: none"> <li>Containers of packaged antifreeze are included if they have a volume equal to or less than 30 litres</li> </ul>	<ul style="list-style-type: none"> <li>Residential</li> <li>All IC&amp;I Businesses</li> </ul>	<ul style="list-style-type: none"> <li>Includes premixed (water diluted) and concentrated product</li> <li>Antifreeze Supplied in all container sizes including Bulk and Packaged               <ul style="list-style-type: none"> <li>Bulk is Supplied in containers greater than 30 litres (e.g. delivered using a tanker trailer)</li> <li>Packaged is Supplied in containers equal to or less than 30 litres</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Factory fill initial charge of vehicle antifreeze</li> <li>Plumbing antifreeze</li> <li>Vehicle windshield antifreeze</li> <li>Product marketed as industrial heat transfer fluid</li> <li>Fuel (gasoline &amp; diesel) antifreeze</li> <li>Lock de-icer</li> <li>Air brake antifreeze</li> <li>Antifreeze which does not contain ethylene or propylene glycol</li> </ul>	Packaged	Volume in litres	Antifreeze
				Bulk	Volume in litres	Antifreeze



<b>Fertilizers</b>						
Means packaged products regulated under the <i>Fertilizer's Act (Canada)</i> .						
Notes	Sector(s) into which MHSM is Supplied	Examples	Exclusions	Reporting Category	Unit of Measure	Fee Category
<ul style="list-style-type: none"> <li>• Includes containers in which it is contained</li> </ul>	<ul style="list-style-type: none"> <li>• Residential</li> <li>• Designated IC&amp;I Businesses (small quantity generator)</li> </ul>	<ul style="list-style-type: none"> <li>• All N-P-K fertilizers, micronutrients and supplements that are required to be registered under the <i>Fertilizers Act (Canada)</i>, and therefore would bear a <i>Fertilizers Act</i> registration number Supplied in containers equal to or less than 30 litres and/or 30 kilograms including               <ul style="list-style-type: none"> <li>○ Products that have a registration number and are used by homeowners, commercial applications, or agricultural operations</li> <li>○ Herbicide and fertilizer combination products (weed and feed)</li> <li>○ Crabgrass control and fertilizer combination products, other fertilizer and pesticide combination products</li> <li>○ Micronutrient mixes that contain micronutrient only such as chelated iron or chelated copper</li> <li>○ Fertilizers that are growth regulants such as rooting hormones</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Compost (that does not make an N-P-K claim)</li> <li>• Fertilizers and supplements exempted from registration including:               <ul style="list-style-type: none"> <li>a) fertilizers and supplements set out in Schedule II (<i>Fertilizer Regulations</i>);</li> <li>b) farm fertilizers that do not contain pesticides and that satisfy section 10 (<i>Fertilizer Regulations</i>);</li> <li>c) supplements sold only for correction of soil acidity or alkalinity;</li> <li>d) supplements referred to in subsections 10.2(1), 10.2(1.1), 10.2(3) and 10.2(5) (<i>Fertilizer Regulations</i>);</li> <li>e) peat, peat moss, sphagnum moss, tree bark and other fibrous organic matter that is represented for use only in improving the physical conditions of the soil;</li> <li>f) customer-formula fertilizers;</li> <li>g) specialty fertilizers, other than those referred to in paragraph (b) of the definition "specialty fertilizers", that do not contain pesticides; and</li> <li>h) potting soils that contain supplements, if those supplements are registered under the <i>Fertilizers Act</i>.</li> </ul> </li> <li>• Fertilizers Supplied in containers greater than 30 litres and/or 30 kilograms</li> </ul>	Fertilizers	Volume in litres or weight in kilograms	Fertilizers



**Oil Containers**

Containers that have a capacity of 30 litres or less and that were manufactured and used for the purpose of containing lubricating oil.

Notes	Sector(s) into which MHSM is Supplied	Examples	Exclusions	Reporting Category	Unit of Measure	Fee Category
<p>For this purpose, “lubricating oil” means petroleum-derived or synthetic crankcase oil, engine oil, hydraulic fluid, transmission fluid, gear oil, heat transfer fluid, or other oil or fluid used for lubricating machinery or equipment and includes:</p> <ul style="list-style-type: none"> <li>• Any crankcase or engine oil</li> <li>• Hydraulic fluid</li> <li>• Polyol ester fluids</li> <li>• Circulating oil or turbine oil</li> <li>• Paper machine oil</li> <li>• Transmission fluid</li> <li>• Power steering fluid</li> <li>• Gear oil</li> <li>• Vegetable oil for lubrication</li> <li>• Re-refined oil</li> <li>• Electrical insulating oil</li> <li>• Refrigeration system oil</li> <li>• Compressor oil</li> <li>• Mineral heat transfer fluid</li> <li>• Marine engine oil for vessels operating domestically</li> <li>• Metal working oil</li> <li>• Form release oil</li> <li>• Textile oil</li> <li>• Chain oil</li> <li>• Rock drill oil</li> <li>• 2-cycle engine oil</li> <li>• Gasoline / 2-cycle engine oil mixes</li> <li>• Saw guide oil</li> </ul>	<ul style="list-style-type: none"> <li>• Residential</li> <li>• All IC&amp;I Businesses</li> </ul>	<ul style="list-style-type: none"> <li>• Containers that contained Lubricating Oil</li> </ul>	<p>Containers that contained</p> <ul style="list-style-type: none"> <li>• Ethylene glycol heat transfer fluid</li> <li>• Propylene glycol heat transfer fluid</li> <li>• Silicone heat transfer fluid</li> <li>• Synthetic aromatic hydrocarbon heat transfer fluid</li> <li>• Glycol-based heat transfer fluid</li> <li>• Water glycol hydraulic fluid</li> <li>• Phosphate ester hydraulic fluid</li> <li>• Hydraulic oil dye</li> <li>• Polyglycol synthetic compressor oil</li> <li>• Base oil, including re-refined base oil</li> <li>• Grease</li> <li>• Oil additive</li> <li>• Oil treatment</li> <li>• Diesel fuel treatment</li> <li>• Cleaning/flushing fluids for motors/equipment</li> <li>• Winter start fluid</li> <li>• Brake fluid</li> <li>• Undercoating</li> <li>• Penetrating oil</li> <li>• Hydraulic jack oil</li> <li>• 3-in-1 household oil</li> <li>• Aerosol propelled lubricant</li> <li>• Gun oil</li> <li>• Kerosene</li> <li>• Urethane coating</li> <li>• Sewing machine oil</li> <li>• Cooking oil</li> <li>• Windshield washer fluid</li> </ul>	Oil Containers	Volume in litres	Oil Containers





Oil Containers						
<ul style="list-style-type: none"><li>• Drawing, stamping and shaping oil</li><li>• Process oil</li><li>• Dedusting oil</li><li>• Marine cylinder oil</li><li>• Machine tool and slideway lubricant</li><li>• Natural gas compressor oil</li><li>• Conveyor lube</li><li>• Dripless lube</li><li>• Quenching oil</li><li>• Pneumatic system oil</li><li>• Rustproof oil</li><li>• Food grade white mineral oil</li></ul>						



<b>Oil Filters</b>						
Means filters produced and/or arriving into the province, and which are for sale, directly or as part of a product, in Ontario.						
<b>Notes</b>	<b>Sector(s) into which MHSM is Supplied</b>	<b>Examples</b>	<b>Exclusions</b>	<b>Reporting Category</b>	<b>Unit of Measure</b>	<b>Fee Category</b>
• None	<ul style="list-style-type: none"> <li>• Residential</li> <li>• All IC&amp;I Businesses</li> </ul>	<ul style="list-style-type: none"> <li>• Spin-on or element style filters that are used in hydraulic, transmission or internal combustion engine applications</li> <li>• Diesel fuel filters</li> <li>• Household furnace fuel filters</li> <li>• Coolant filters</li> <li>• Storage tank diesel fuel filters</li> <li>• Plastic &amp; paper element style filters</li> <li>• Diesel fuel filters used at retail and commercial pump islands</li> <li>• Sump type automatic transmission filter</li> </ul>	<ul style="list-style-type: none"> <li>• Gasoline fuel filters</li> <li>• Air filters</li> <li>• Household furnace air filters</li> <li>• Sock-type filters</li> </ul>	Less than or equal to 8"	Number of units Supplied	Oil Filters
				Greater than 8"	Number of units Supplied	Oil Filters



<b>Paints and Coatings</b>						
Means latex, oil and solvent-based architectural coatings, including paints and stains, whether tinted or untinted.						
Notes	Sector(s) into which MHSM is Supplied	Examples	Exclusions	Reporting Category	Unit of Measure	Fee Category
<ul style="list-style-type: none"> <li>Includes containers in which it is contained</li> <li>Products that match the definition of both Paints and Coatings and Pesticides are to be reported under Pesticides</li> <li>For Paints and Coatings that require addition of an ingredient by the user, where the ingredient is not Supplied with the Paints and Coatings, report the volume/weight of the Paints and Coatings Supplied to the user.</li> <li>Architectural coatings means organic coatings intended for onsite applications at ambient temperatures to interior or exterior surfaces of residential, commercial, institutional, industrial, or government structures including exterior and interior house paints, stains, undercoaters, primers and sealers.</li> <li>Structures include all components and attachments of both buildings and non-buildings, including but not limited to driveways, furniture (indoor and outdoor) appliances, floors, cabinets and doors</li> </ul>	<ul style="list-style-type: none"> <li>Residential</li> <li>Designated IC&amp;I Businesses (small quantity generator)</li> </ul>	<ul style="list-style-type: none"> <li>Paints and coatings in aerosol containers that match the definition of Paints and Coatings</li> <li>Paints and Coatings Supplied in containers equal to or less than 30 litres</li> </ul>	<ul style="list-style-type: none"> <li>Automotive and marine paints</li> <li>Stucco and spackling compounds</li> <li>Waxes and polishes</li> <li>Caulks and sealants</li> <li>Paints and Coatings Supplied in containers with a volume greater than 30 litres</li> </ul>	< = 250 mL	Number of units Supplied	Paints & Coatings
				> 250 mL – 1 L	Number of units Supplied	Paints & Coatings
				> 1 – 5 L	Number of units Supplied	Paints & Coatings
				> 5 L	Number of units Supplied	Paints & Coatings
				Aerosols	Number of units Supplied	Paints & Coatings



**Paints and Coatings**

but with the exception of  
automotive and marine  
structures.

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Pesticides						
Means pesticides including fungicides, herbicides and insecticides registered under the <i>Pest Control Products Act (Canada)</i> bearing the “DOMESTIC” classification that are required to display on the label the symbol shown in Schedule III of the <i>Pest Control Products Regulation (Canada)</i> , the signal words “danger” or “warning” and “poison” and represented by the precautionary symbols octagon or diamond and the skull and crossbones.						
Notes	Sector(s) into which MHSM is Supplied	Examples	Exclusions	Reporting Category	Unit of Measure	Fee Category
<ul style="list-style-type: none"> <li>Includes containers in which it is contained</li> <li>Products that match the definition of both Paints and Coatings and Pesticides are to be reported under Pesticides</li> </ul>	<ul style="list-style-type: none"> <li>Residential</li> <li>Designated IC&amp;I Businesses (small quantity generator)</li> </ul>	<ul style="list-style-type: none"> <li>Pesticides meeting the definition that bear the “DOMESTIC” classification</li> <li>Pesticides in aerosol containers that match the definition of Pesticides</li> <li>Pesticides Supplied in containers equal to or less than 30 litres and/or 30 kilograms</li> </ul>	<ul style="list-style-type: none"> <li>Commercial, agricultural and restricted classifications registered under the <i>Pest Control Products Act (Canada)</i></li> <li>Insect repellents for personal use</li> <li>Sanitizers, disinfectants and anti-microbial products</li> <li>Pet products</li> <li>Products regulated under the <i>Food and Drug Act (Canada)</i></li> <li>Pool chemicals</li> <li>Insecticidal soaps</li> <li>Diatomaceous earth</li> <li>Ant traps</li> <li>Pesticides Supplied in containers greater than 30 litres and/or 30 kilograms</li> </ul>	Pesticides	Volume in litres or weight in kilograms	Pesticides



**Pressurized Containers**

All pressurized containers that are identified with the following Transport Canada markings:  
 - Seamless Cylinders and Tubes: TC-3AAM, TC-3ALM, TC-3AM, TC-3ANM, TC-3ASM and TC-3EM  
 - Welded Cylinders and Spheres: TC-4AAM-33, TC-4BM, TC-4BM17ET, TC-4BAM, TC-4BWM, TC-4DSM and TC-4EM  
 - Non-refillable Containers: TC-39M  
 - Composite Cylinders: TC-3FCM and TC-3HWM  
 - Insulated Cylinders: TC-4LM  
 - Cylinders for Acetylene Service: TC-8WM and TC-8WAM.

Notes	Sector(s) into which MHSM is Supplied	Examples	Exclusions	Reporting Category	Unit of Measure	Fee Category
<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• Residential</li> <li>• Designated IC&amp;I Businesses (small quantity generator)</li> </ul>	<ul style="list-style-type: none"> <li>• Non-refillable and refillable cylinders, such as seamless cylinders and tubes, welded cylinders and insulated cylinders, previously containing material such as acetylene, propane, refrigerant, isocyanate resins, helium, nitrogen and all other compressed gases</li> </ul>	<ul style="list-style-type: none"> <li>• Aerosols</li> <li>• Butane lighters</li> <li>• Reservoir tanks intended for use with an air compressor</li> <li>• Cylinders that must be punctured for use (e.g. small CO2)</li> <li>• Cylinders with a water capacity over 109 litres</li> <li>• Fire extinguishers</li> </ul>	Non-Refillable	Number of units Supplied	Pressurized Containers – Non-Refillable
				Refillable	Number of units Supplied	Pressurized Containers - Refillable



**Single Use Dry Cell Batteries**

Means batteries that are one or more cells, including case, terminals and markings. The source of electrical energy is obtained by the direct conversion of chemical energy that is not designed to be charged by any other electrical source.

Notes	Sector(s) into which MHSM is Supplied	Examples	Exclusions	Reporting Category	Unit of Measure	Fee Category
<ul style="list-style-type: none"> <li>• None</li> </ul>	<ul style="list-style-type: none"> <li>• Residential</li> <li>• All IC&amp;I Businesses</li> </ul>	<ul style="list-style-type: none"> <li>• All Single Use Dry Cell Batteries including but not limited to the following chemistries:               <ul style="list-style-type: none"> <li>○ Alkaline-Manganese</li> <li>○ Lithium</li> <li>○ Silver Oxide</li> <li>○ Zinc Air</li> <li>○ Zinc-Carbon</li> </ul> </li> <li>• Includes batteries Supplied with products</li> <li>• Includes batteries within and/or embedded in products:               <ul style="list-style-type: none"> <li>○ Supplied to the residential sector where the products are designed so that the batteries are removable and replaceable (such as toys, electronics, watches, hearing aids)</li> <li>○ Supplied to the IC&amp;I sector where the products are designed so that the batteries are removable by those providing service for the products</li> <li>○ Supplied to the residential and/or IC&amp;I sector that can be removed by those providing end of life management of products captured under the WEEE Program</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Secondary batteries that are designed to be recharged</li> </ul>	Single Use Dry Cell Batteries	Weight in kilograms	Single Use Dry Cell Batteries



**Solvents**

Means liquid products that are intended to be used to dissolve or thin a compatible substance and:  
 1. are comprised of 10% or more of water-immiscible liquid hydrocarbons, including halogen-substituted liquid hydrocarbons; or  
 2. are flammable as described in part (c) of “municipal hazardous waste” in Ontario Reg. 542; or  
 3. all of the above.

Notes	Sector(s) into which MHSM is Supplied	Examples	Exclusions	Reporting Category	Unit of Measure	Fee Category
<ul style="list-style-type: none"> <li>Includes containers in which it is contained</li> <li>Water-miscibility means the ability of a material (or mixture) to mix uniformly with water, without separating. A 1:5 ratio of material to water at 20°C does not display visible separation in less than 1 hour. This includes mixing by dissolving, reacting, suspending, or dispersing. [ref. CSA Z752].</li> </ul>	<ul style="list-style-type: none"> <li>Residential</li> <li>Designated IC&amp;I Businesses (small quantity generator)</li> </ul>	<ul style="list-style-type: none"> <li>Turpentine, alcohols (methanol, isopropanol, ethanol), ketones (acetone, methyl ethyl ketone), xylene, toluene, mineral spirits, linseed oil, naphtha, methylene chloride</li> <li>Products marketed as paint thinners, lacquer thinners, automotive body resin solvents, contact cement thinners, paint strippers and degreasers</li> <li>Solvents in aerosol containers that match the definition of Solvents</li> <li>Solvents Supplied in containers equal to or less than 30 litres and/or 30 kilograms</li> </ul>	<ul style="list-style-type: none"> <li>Products Supplied as fuels</li> <li>Household cleaning products not marketed as solvents e.g. Window cleaners</li> <li>Solvents Supplied in containers greater than 30 litres and/or 30 kilograms</li> </ul>	Solvents	Volume in litres	Solvents





## **Appendix B<sup>5</sup>** **Resident In Ontario<sup>6</sup>**

Resident in Ontario, with respect to a corporation, means a corporation that has a permanent establishment in Ontario, where:

- (a) “permanent establishment” includes branches, mines, oil wells, farms, timberlands, factories, workshops, warehouses, offices, agencies and other fixed places of business and
- (b) the following rules apply;

### Contracting Employees or Inventory Sufficient

Where a corporation carries on business through an employee or agent who has general authority to contract for the corporation or who has a stock of merchandise owned by the corporation from which the employee or agent regularly fills orders which the employee or agent receives, such employee or agent shall be deemed to operate a permanent establishment of the corporation.

### Commission Agent not Sufficient

The fact that a corporation has business dealings through a commission agent, broker or other independent agent shall not of itself be deemed to mean that the corporation has a permanent establishment.

### Subsidiary of Parent not Sufficient

The fact that a corporation has a subsidiary controlled corporation in a place or a subsidiary controlled corporation engaged in a trade or business in a place shall not of itself be deemed to mean that the first- mentioned corporation is operating a permanent establishment in that place.

### Licensed Insurance Company Sufficient

An insurance corporation is deemed to have a permanent establishment in each jurisdiction in which the corporation is registered or licensed to do business.

### Purchasing Office not Sufficient

The fact that a corporation maintains an office solely for the purchase of merchandise shall not of itself be deemed to mean that the corporation has a permanent establishment in that office.

### Ownership of Land Sufficient

Where a corporation, otherwise having a permanent establishment in Canada, owns land in a province or territory of Canada, such land is a permanent establishment.

### Production Packing and other Activities Sufficient

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<sup>5</sup> Contents from “Corporations Tax Act, Ontario”

<sup>6</sup> The language in this appendix is from the Corporations Tax Act and should be applied to determine residency in Ontario rather than residency in Canada in order to help determine a Person’s status as a steward



Stewardship Ontario

The fact that a non-resident corporation in a year produced, grew, mined, created, manufactured, fabricated, improved, packed, preserved or constructed in whole or in part anything in Canada, whether or not the corporation exported that thing without selling it prior to exportation, shall of itself, be deemed to mean that the corporation maintained a permanent establishment at any place where the corporation did any of those things in the taxation year.

#### Machinery or Equipment Sufficient

The use of substantial machinery or equipment in a particular place at any time in a year of a corporation constitutes a permanent establishment of such corporation in that place for such a year.

#### Principal Place of Business Sufficient

Where a corporation has no fixed place of business, it has a permanent establishment in the principal place in which the corporation's business is conducted.

#### Charter or By Laws designating Head or Registered Office Sufficient

Where a corporation does not otherwise have a permanent establishment in Canada, it has a permanent establishment in the place designated in its charter or by-laws as being its head office or registered office.



## Appendix C Reporting and Payment Timetables

All stewards who are legally obligated under the Ontario Waste Diversion Act, 2002 and according to these Rules, must register as a steward of the MHSW Program, and File Quarterly MHSM Steward's Reports of the quantities of MHSM Supplied in Ontario and pay fees on these materials as outlined in Appendix A, in accordance with Ontario Regulation 11/12 (as found in Appendix D of these Rules).

**Table 1a REPORTING OBLIGATIONS: All MHSW Batteries Steward collects and reports data according to the table below.**

Reporting Obligation Period	Collect Data from Data Period	Report Due
Q3 - 2019	Q2 – 2019: April 1, 2019 – June 30, 2019	July 31, 2019
Q4 – 2019	Q3 – 2019: July 1, 2019 – September 30, 2019	October 31, 2019
Q1 – 2020	Q4 – 2018: October 1, 2019 – December 31, 2019	January 31, 2020
Q2 – 2020	Q1 – 2019: January 1, 2020 – March 31, 2020	April 30, 2020
Q3 – 2020	Q2 – 2019: April 1, 2020 – June 30, 2020	July 31, 2020

**Table 1b REPORTING OBLIGATIONS: All MHSW Materials excluding Batteries Steward collects and reports data according to the table below.**

Reporting Obligation Period	Collect Data from Data Period	Report Due
Q3 - 2019	Q2 – 2019: April 1, 2019 – June 30, 2019	July 31, 2019
Q4 – 2019	Q3 – 2019: July 1, 2019 – September 30, 2019	October 31, 2019
Q1 – 2020	Q4 – 2018: October 1, 2019 – December 31, 2019	January 31, 2020
Q2 – 2020	Q1 – 2019: January 1, 2020 – March 31, 2020	April 30, 2020
Q3 – 2020	Q2 – 2019: April 1, 2020 – June 30, 2020	July 31, 2020
Q4 – 2020	Q3 – 2020: July 1, 2019 – September 30, 2020	October 31, 2020
Q1 – 2021	Q4 – 2020: October 1, 2020 – December 31, 2020	January 31, 2021
Q2 – 2021	Q1 – 2021: January 1, 2021 – March 31, 2021	April 30, 2021
Q3 – 2021	Q2 – 2021: April 1, 2021 – June 30, 2021	July 31, 2021



A Quarterly MHSM invoice for fees payable is calculated on the basis of the Stewardship Ontario's quarterly costs and Steward's Report submitted as outlined below in accordance with Regulation 542/06 as amended by O. Reg. 11/12:

**Table 2a FEE PAYMENT SCHEDULE: All MHSW Batteries Steward**

<b>Fee Obligation Period</b>	<b>Fee Payment Due</b>	<b>Steward's report used for fee calculation (Report Obligation Period)</b>	<b>Data from Data Period (when quantities Supplied)</b>	<b>Quarterly Costs Used in Fee Calculation</b>
Q3 – 2019 July 1, 2019 – September 30, 2019	August 30, 2019	Q2 – 2019	Q1 – 2019 January 1, 2019 – March 31, 2019	Q2 – 2019 April 1, 2019 – June 30, 2019
Q4 – 2019 October 1, 2019 – December 31, 2019	November 30, 2019	Q3 – 2019	Q2 – 2019 April 1, 2019 – June 30, 2019	Q3 – 2019 July 1, 2019 – September 30, 2019
Q1 – 2020 January 1, 2020 – March 31, 2020	Feb 28, 2020	Q4 – 2019	Q3 – 2019 July 1, 2019 – September 30, 2019	Q4 – 2019 October 1, 2019 – December 31, 2019
Q2 – 2020 April 1, 2020 – June 30, 2020	May 31, 2020	Q1 – 2020	Q4 – 2019 October 1, 2019 – Dec. 31, 2019	Q1 – 2020 January 1, 2020 – March 31, 2020
Q3 – 2020 July 1, 2020 – September 30, 2020	October 31, 2020	Q2 – 2020	Q1 – 2020 January 1, 2020 – March 31, 2020	Q2 – 2020 April 1, 2020 – June 30, 2020



**Table 2b FEE PAYMENT SCHEDULE: All MHSW Materials excluding Batteries Steward**

Fee Obligation Period	Fee Payment Due	Steward's report used for fee calculation (Report Obligation Period)	Data from Data Period (when quantities Supplied)	Quarterly Costs Used in Fee Calculation
Q3 – 2019 July 1, 2019 – September 30, 2019	August 30, 2019	Q2 – 2019	Q1 – 2019 January 1, 2019 – March 31, 2019	Q2 – 2019 April 1, 2019 – June 30, 2019
Q4 – 2019 October 1, 2019 – December 31, 2019	November 30, 2019	Q3 – 2019	Q2 – 2019 April 1, 2019 – June 30, 2019	Q3 – 2019 July 1, 2019 – September 30, 2019
Q1 – 2020 January 1, 2020 – March 31, 2020	Feb 28, 2020	Q4 – 2019	Q3 – 2019 July 1, 2019 – September 30, 2019	Q4 – 2019 October 1, 2019 – December 31, 2019
Q2 – 2020 April 1, 2020 – June 30, 2020	May 31, 2020	Q1 – 2020	Q4 – 2019 October 1, 2019 – Dec. 31, 2019	Q1 – 2020 January 1, 2020 – March 31, 2020
Q3 – 2020 July 1, 2020 – September 30, 2020	August 30, 2020	Q2 – 2020	Q1 – 2020 January 1, 2020 – March 31, 2020	Q2 – 2020 April 1, 2020 – June 30, 2020
Q4 – 2020 October 1, 2020 – December 31, 2020	November 30, 2020	Q3 – 2020	Q2 – 2020 April 1, 2020 – June 30, 2020	Q3 – 2020 July 1, 2020 – September 30, 2020
Q1 – 2021 January 1, 2021 – March 31, 2021	Feb 28, 2021	Q4 – 2020	Q3 – 2020 July 1, 2020 – September 30, 2020	Q4 – 2020 October 1, 2020 – December 31, 2020
Q2 – 2021 April 1, 2021 – June 30, 2021	May 31, 2021	Q1 – 2021	Q4 – 2020 October 1, 2020 – Dec. 31, 2020	Q1 – 2021 January 1, 2021 – March 31, 2021
Q3 – 2021 July 1, 2021 – September 30, 2021	October 31, 2021	Q2 – 2021	Q1 – 2021 January 1, 2021 – March 31, 2021	Q2 – 2021 April 1, 2021 – June 30, 2021

## **Appendix D**

### **ONTARIO REGULATION 387/16**

made under the

### **WASTE DIVERSION TRANSITION ACT, 2016**

Made: October 26, 2016

Filed: November 24, 2016

Published on e-Laws: November 24, 2016

Printed in The Ontario Gazette: December 10, 2016

### **MUNICIPAL HAZARDOUS OR SPECIAL WASTE**

#### **Fees to be Paid by Stewards**

3.(1) In this section,

“fiscal quarter” means the three-month period that begins on January 1, April 1, July 1 or October 1.

- (2) Stewardship Ontario shall, no later than 90 days after the end of each fiscal quarter, determine the amount of a fee that must be paid in respect of that fiscal quarter by a steward designated in respect of municipal hazardous or special waste in a class of municipal hazardous or special waste using the following formula:

$$A = B \times C / D$$

where,

A = the fee to be paid by the steward,

B = the costs related to the class during the fiscal quarter in respect of which the fee is to be paid,

C = the quantity of material that is commercially connected to the class and that was supplied by the steward during the fiscal quarter that occurred before the fiscal quarter in respect of which the fee is to be paid,

D = the quantity of material that is commercially connected to the class and that was supplied by all stewards in respect of that class during the fiscal quarter that occurred before the fiscal quarter in respect of which the fee is to be paid.

(3) For the purposes of subsection (1),

- (a) the quantity of material supplied by a steward is determined by applying the method for reporting that quantity to Stewardship Ontario as set out in a rule continued under clause 9 (2) (b) of the Act or made under clause 33 (1) (g) of the Act or under a regulation made under subsection 73 (3) of the Act; and



- (b) the costs related to a class of municipal hazardous or special waste must not exceed the sum of the amounts described in paragraph 1 of subsection 33 (5) of the Act that were incurred in relation to the class, subject to subsection (4).
- (4) Unless a rule continued under clause 9 (2) (b) of the Act or made under clause 33 (1) (c) of the Act prescribes times when a fee determined under this section is to be paid, the fee shall be paid no later than 180 days following the end of the fiscal quarter in respect of which the fee is required to be paid.
- (5) Stewardship Ontario shall, at least 30 days before a fee or the first instalment of a fee determined under this section is required to be paid by a steward in respect of a fiscal quarter, provide written notice of the following to the steward:
  - 1. The amount of the fee to be paid by the steward.
  - 2. If the fee may be paid in instalments, the amount of each instalment.
  - 3. The date or dates on or before which all amounts must be paid.
- (6) If this Regulation comes into force on a day that is not the first day of a fiscal quarter, the sum of the following amounts shall be used for the purposes of determining the costs related to a class of municipal hazardous or special waste for the fiscal quarter during which this Regulation comes into force:
  - 1. The amounts described in paragraph 1 of subsection 33 (5) of the Act that were incurred in relation to the class during that fiscal quarter.
  - 2. The amounts described in paragraph 1 of subsection 30 (3) of the *Waste Diversion Act, 2002* that were incurred in relation to the class during that fiscal quarter.

#### **Commencement**

- 4. This Regulation comes into force on the later of the day clause 73 (1) (b) of Schedule 2 to the *Waste-Free Ontario Act, 2016* comes into force and the day this Regulation is filed.



## Appendix E

# **POLICY FOR STEWARD-INITIATED ADJUSTMENT REQUESTS**

### KEY FEATURES:

- Stewards can request adjustments to submitted reports for a maximum of two years (8 quarters) from the report submission deadline, subject to the revised deadlines imposed expressly or by implication as a result of the MHSW Approved Wind Up Plan.
- Adjustment requests must include supporting documentation.
- Only adjustments that meet the policy requirements will be processed.

## **I. Overview**

1. This policy provides guidance to MHSW stewards as to the types of adjustments that may be allowed.

## **II. Purpose**

2. The Adjustment Policy promotes fairness and consistency for all MHSW stewards and enables the MHSW program to operate in a cost-effective manner.
3. The two-year (8 quarter) time limit, or such shorter time limit expressly or by implication imposed by the MHSW Approved Wind Up Plan:
  - (a) helps stabilize fees as adjustments can impact the total quantities of supplied materials (i.e. steward-reported quantities) which in turn impacts fee setting for the subsequent period or year. For example, where an adjustment results in a credit, these funds must be recouped in the subsequent period or year from steward fees and will be added to the program's budget; and
  - (b) provides stewards with sufficient time to identify possible issues in their reports and submit adjustment requests. The table below stipulates the deadlines.

## **III. Scope**

4. This policy applies to all adjustment requests submitted on or after July 1, 2019, regardless of the data or reporting period/year associated with the adjustment request, initiated by stewards and voluntary reporters ("stewards") meeting their regulatory stewardship obligations with the Stewardship Ontario (SO) Municipal Hazardous or Special Waste Program (MHSW).





5. This policy:
  - (a) shall remain in force from the time that it is posted on the programs' websites until the time it is replaced; and
  - (b) shall be automatically amended by substituting the year appearing in this policy with the subsequent year, unless or until a new policy is posted on the programs' websites.

#### **IV. Policy**

##### **Reporting and Payments Must be Up-to-Date**

6. Only stewards whose reporting and payments to the program are up-to-date may make an adjustment request.

##### **Time Limit for Adjustment Requests**

7. Stewards can request adjustments for a period of up to 8 quarters (or such shorter time limit expressly or by implication imposed by the MHSW Approved Wind Up Plan) from the associated report submission deadline (regardless of the date the steward submitted its report).

##### **Stewards Who Have Exited a Program**

8. A steward who has exited a program:
  - (a) may file an adjustment request within 30 calendar days of exiting the program, following which no adjustment request may be filed; and
  - (b) will be credited or debited within 90 calendar days, unless the adjustment request requires a third party review.

##### **How to Make an Adjustment Request**

9. All stewards who wish to make an adjustment request must:
  - (a) submit a completed and signed Adjustment Request Form [insert link], and email it to [adjustments@cssalliance.ca](mailto:adjustments@cssalliance.ca); and
  - (b) provide accompanying supporting documentation.

##### **Contents of Adjustment Request form and Supporting Documentation**

10. Adjustment requests must include:
  - (a) clear and detailed supporting documentation and narratives to explain each of the errors; and
  - (b) an audit trail that, if followed, would confirm the legitimacy of the adjustment request.
11. If there are multiple errors in a single report, stewards must include all relevant information for all errors as only one adjustment request will be considered for each year's report.



12. See Appendix A: “Steps to Complete an Adjustment Request” for step-by-step guidance on submitting an adjustment request.

### **Credits and Debits**

13. Following assessment of the steward’s adjustment request:
  - (a) credits will be immediately applied to the steward’s program-specific account so that it is available to the steward to access the credit against the next program invoice; and
  - (b) debits are due within 30 days of issue date.

### **Permitted Adjustments**

14. Subject to adequate substantiation, adjustment requests that will be considered are limited to the following circumstances:
  - (a) incorrect formula in Excel spreadsheet or similar “tool”;
  - (b) incorrect logic in Excel spreadsheet or similar “tool”;
  - (c) material classification error;
  - (d) material weight input error (e.g., entered 1 instead of 10);
  - (e) data entered in the wrong units (e.g., in grams instead of kilograms)
  - (f) exclusion of materials in error;
  - (g) inclusion of material for which another steward is obligated;
  - (h) inclusion of non-obligated MHSM materials;
  - (i) actual data to replace estimates used by newly on-boarded stewards.

### **Non-Permitted Adjustments**

15. Adjustment that will not be accepted include, but are not limited to:

#### **(a) Adjustments resulting from reporting methodology changes:**

- (i) changing from the use of calculators to the reporting of “actuals”;
- (ii) application of a new study or change in internal processes that identifies previous errors in reported quantities;<sup>7</sup>
- (iii) changing percentage allocations (e.g. for IC&I sales or for packaging that never leaves the commercial establishment);
- (iv) revisions to Average Bill of Material groupings (ABOMs);
- (v) creation of ABOMs, when one was not originally used to develop the report

#### **(b) Adjustments on adjustments:**

Requests will not be considered for changes to a report where the steward previously requested an adjustment for the same report, regardless of whether the steward is seeking the same or a different adjustment to the previously submitted report.

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<sup>7</sup> Efforts to improve the accuracy of reports are appreciated, and can be used for future reports, but cannot be applied retroactively.



**(c) Adjustments due to changes to your business model such as divestments, mergers or acquisitions:**

If part of your business is acquired or divested in a given calendar year, the impact of those changes, if any, must be included during the next reporting cycle, but the steward will not be permitted to make an adjustment to a previously submitted report.

**(d) Adjustments with inadequate substantiation and supporting documentation:**

- (i) Stewards may be required to undergo a third-party review, at the steward's expense, in order to have their adjustment requests validated and processed.
- (ii) If an incomplete package is submitted or additional substantiation is required by the program(s), stewards will be notified and must provide the additional documentation within 30 days of notification. A steward's adjustment request will be closed where the steward fails to provide additional information requested by the program(s) within 30 days.

**Processing Time**

- 16. Adjustments can take from weeks to months to process. The amount of time is a function of a number of factors that include complexity, the completeness of the steward's supporting documentation, and the number of adjustments in the queue.

**Third-Party Reviews**

- 17. A third-party review is a detailed examination of a steward's methodology and data collection and reporting processes conducted by an independent consultant.
- 18. The programs reserve the right to initiate a third-party review of an adjustment request, and may do so in their sole discretion.
- 19. Third-party reviews will be paid for by the affected steward. In the event that the program(s) determines that a third-party review is warranted, a steward's refusal to participate in or pay for a third-party review will result in the steward's adjustment request being closed.
- 20. The scope and cost of the review will be outlined in a contract with the steward.
- 21. The professional services firm engaged to undertake the review will be required to ensure its independence.
- 22. Every effort will be made to collaborate with the steward with respect to the review process and timing.



## CHECK THE ACCURACY OF YOUR REPORTS

- All stewards are advised to take the following steps to identify potential errors in their reports on a timely basis:
- Carefully review Submission Detail Report (SDR) which is available on the WeRecycle Reporting Portal immediately upon submission of your steward report for accuracy.
- Review your quarterly invoice for evidence of any errors (e.g. your invoice is significantly higher or lower than expected).
- Contact Stewardship Ontario as soon as possible after identifying a potential error.

## QUESTIONS AND ASSISTANCE

Please contact National Steward Services with any questions about the adjustment process:

1 (888) 980-9549 or [adjustments@cssalliance.ca](mailto:adjustments@cssalliance.ca).



## Appendix A to the Policy for Steward-Initiated Adjustment Requests

### Steps to Complete an Adjustment Request

1. Verify that your request meets the criteria for permitted adjustments.
2. Ensure that your request and submission of all materials to substantiate the request, including all information requested by Stewardship Ontario, is made within the two-year timeframe.
3. Download the Adjustment Request Form available here [[insert link](#)]
4. Complete the Adjustment Request Form.
  - Provide previously reported material quantities and revised material quantities.
  - Explain the errors that led to the request and provide supporting documentation (e.g., validation data such as SKU, UPC or other product categorization information, internal audit reports, weight data from suppliers, internal testing to validate weights, etc.) that provides an audit trail sufficient to allow for assessment of the adjustment request.
5. Email your completed Adjustment Request Form and supporting documentation to [adjustments@cssalliance.ca](mailto:adjustments@cssalliance.ca) with “Adjustment Request” in the subject line. Please include your steward number and name in the email.



## Appendix F

# **PENALTY AND INTEREST POLICY**

### **KEY FEATURES:**

- **Penalty and/or interest charges will apply for obligated stewards who:**
  - Fail to meet their registration obligations in accordance with program deadlines;
  - Fail to file their reports in accordance with program deadlines; and/or
  - Intentionally file an inaccurate report; and/or
  - Fail to pay an invoice according to program deadlines

### **I. Overview**

1. This policy provides guidance to stewards regarding conduct that will result in the application of penalties, and/or interest.
2. Nothing in this policy limits a program's ability to escalate a steward to the applicable Ministry or Authority as specified in the governing legislation.

### **II. Purpose**

3. The Penalties and Interest Policy promotes fairness and consistency for all stewards and enables stewardship programs to operate in a cost-effective manner by applying a set of consistent penalties and interest to serve as a deterrent to noncompliance.

### **III. Scope**

4. This policy applies effective July 1, 2019 for all stewards and voluntary stewards ("stewards") meeting their regulatory stewardship obligations with the Stewardship Ontario (SO) Municipal Hazardous or Special Waste Program (MHSW).



## IV. Policy

### 5. Definitions

- (a) **“Obligation Date”** is the date that a steward begins supplying designated material in the province, after which they have 60 days to register with the Stewardship Ontario MHSW Program.<sup>8</sup>
- (b) **“Reporting Deadline”** is the date that Quarterly MHSW Steward Reports are due (as per Appendix C of the MHSW Rules).
- (c) **“Substantiation Request Date”** is the date on which the program provides the steward with written notice, by email, that the Penalty and Interest Policy [insert link] will apply if the steward has not provided substantiation within the 30 days following such notice regarding one or more Quarterly Steward Report (MHSW) submitted via the WeRecycle Portal.
- (d) **“Payment Due Date”** is the date that payment is due for an invoice associated with a steward’s account. The Payment Due Date can be found on each invoice.

6. Penalties and interest will be applied in the scenarios outlined in the following charts.

Scenario	Step I	Step II
<b>Not Registered<sup>9</sup></b> An obligated steward who has not registered with SO MHSW Program in accordance with the Onboarding Policy <sup>10</sup> , will be subject to the following:	For stewards that register between the 61 <sup>st</sup> and 180 <sup>th</sup> day past the Obligation Date: <ul style="list-style-type: none"> <li>• Back payment and back filing to the Obligation Date</li> <li>• Penalty of 5% of all fees owing when report(s) invoiced;</li> <li>• Steward may be escalated to regulatory authority</li> </ul>	For stewards that register on or after the 180 <sup>th</sup> day past the Obligation Date: <ul style="list-style-type: none"> <li>• Penalty of 10% of all fees owing when report(s) invoiced.</li> </ul>

<sup>8</sup> Ontario stewards are obligated from the date they were notified of the Stewardship Ontario Rules. As of 2016, Ontario stewards are deemed to have been notified at the time the Stewardship Ontario Rules were posted on Stewardship Ontario's website. Ontario stewards that were notified of the Stewardship Ontario Rules by email or mail prior to 2018 are obligated from the date of that notice.

<sup>9</sup> In Ontario, the Penalty in this scenario applies to fees that are not paid in accordance with section 34 of the *Waste Diversion Transition Act, 2016*.

<sup>10</sup> The Onboarding Policy requires new stewards to register within 60 days of their Obligation Date, and file all outstanding reports within 60 days of registration. The current report must be filed within 60 days of registration, or by the date specified in Appendix C, whichever is later.



Scenario	Step I	Step II
<p><b>Not Filed<sup>11</sup></b> Steward has registered with the program, but has <u>not filed</u> its Report by the deadline or has intentionally filed an incorrect report prior to the reporting deadline</p>	<p>Between the 31<sup>st</sup> and 90<sup>th</sup> day past the Reporting Deadline:</p> <ul style="list-style-type: none"> <li>Penalty of 5% of all fees owing when invoiced;</li> </ul>	<p>Beginning on the 61<sup>st</sup> day past the Reporting Deadline:</p> <ul style="list-style-type: none"> <li>Steward may be escalated to regulatory authority</li> </ul> <p>Beginning on the 91<sup>st</sup> past the Reporting Deadline:</p> <ul style="list-style-type: none"> <li>Penalty of 10% of all fees owing when invoiced</li> </ul>
<p><b>Steward does not respond to program's requests for substantiation</b> of the steward's report within 30 days during staff-initiated steward report review (the "Substantiation Request Date")</p>	<p>Beginning on the 31<sup>st</sup> day past the Substantiation Request Date:</p> <ul style="list-style-type: none"> <li>Report will be considered to be "not filed" and the Penalty consequences associated with that scenario will apply.</li> <li>Interest begins accruing on the steward's invoice(s) from the Substantiation Request Date at the CIBC prime rate of interest +4% to the date adequate substantiation is received</li> </ul>	<p>Beginning on the 61<sup>st</sup> day past the Substantiation Request Date:</p> <ul style="list-style-type: none"> <li>Steward may be escalated to regulatory authority</li> </ul> <p>Beginning on the 91<sup>st</sup> day past the Substantiation Request Date:</p> <ul style="list-style-type: none"> <li>Penalty of 10% of all fees owing</li> </ul>
<p><b>Not Paid</b> Steward has registered and has filed its report by the deadline, but it has <u>not paid</u> its invoice by the invoice deadline</p>	<p>Beginning on the 31<sup>st</sup> day past the Payment Due Date:</p> <ul style="list-style-type: none"> <li>Interest begins accruing on the steward's invoice(s) from the Payment Due Date at the CIBC prime rate of interest +4%</li> </ul>	<p>Beginning on the 61<sup>st</sup> day past the Payment Due Date:</p> <ul style="list-style-type: none"> <li>Steward may be escalated to regulatory authority</li> </ul> <p>Beginning on the 181<sup>st</sup> day past the Payment Due Date:</p> <ul style="list-style-type: none"> <li>Penalty of 10% of all fees owing when paid</li> </ul>

<sup>11</sup> In Ontario, the Penalty in this scenario applies to fees that are not paid in accordance with section 34 of the *Waste Diversion Transition Act, 2016*.