

RULES FOR STEWARDS WITH RESPECT TO PAYMENT OF EEE FEES

1) Interpretation

In these Rules, the following terms shall have the following meanings. Capitalized terms which are not otherwise defined will have the meaning given to them in the *Waste Diversion Act, 2002*:

Affiliate means an affiliated body corporate, determined as follows:

(1) one body corporate shall be deemed to be affiliated with another body corporate if, but only if, one of them is the subsidiary of the other or both are subsidiaries of the same body corporate or each of them is controlled by the same person;

(2) a body corporate shall be deemed to be controlled by another person or by two or more bodies corporate if, but only if,

(a) voting securities of the first-mentioned body corporate carrying more than 50 per cent of the votes for the election of directors are held, other than by way of security only, by or for the benefit of such other person or by or for the benefit of such other bodies corporate; and

(b) the votes carried by such securities are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned body corporate; and

(3) a body corporate shall be deemed to be a subsidiary of another body corporate if, but only if,

(a) it is controlled by,
that other, or
that other and one or more bodies corporate each of which is controlled by that other, or
two or more bodies corporate each of which is controlled by that other; or

(b) it is a subsidiary of a body corporate that is that other's subsidiary;

Brand Owner means, with respect to Branded EEE, during any time in a Data Period:

(a) a Person Resident in Ontario who is the registered owner of the Brand, or

(b) a Person Resident in Ontario who is a licensee of the Brand, or

(c) a Person Resident in Ontario, who owns the intellectual property rights to the Brand, or

(d) a Person Resident in Ontario, who is the licensee, in respect of the intellectual property rights of the Brand;

where "licensee" includes a Person who packages EEE which bear a Brand, other than a packager, producer, Manufacturer or filler of Private Label Goods, and includes any Person whose corporate name or business name registration contains the Brand;

Brand means a trademark, official mark, trade name or distinguishing guise, within the meaning of the *Trade-marks Act (Canada)*, whether or not registered pursuant thereto;

Branded means a Brand is attached to or otherwise associated with EEE;

Business Day means a day which is not a Saturday, Sunday or statutory holiday in the province of Ontario;

Commencement Date means:

(a) April 1, 2009 with respect to all EEE which appears for the first time in Appendix A – Table 1;

(b) April 1, 2010 with respect to all EEE which appears for the first time in Appendix A – Table 2;

(c) December 1, 2010 with respect to all EEE which appears for the first time in Appendix A – Table 3;

Commercial Connection, for the purposes of these Rules, means that a Person derives a direct economic benefit when the particular EEE is Supplied in Ontario;

Data Period means each calendar month following an applicable Commencement Date, provided that the Data Period for a month in which an applicable Commencement Date occurred shall begin on the Commencement Date and end on the last day of the same calendar month;

Deadline Date means the date by which Steward's Fees must be paid and Steward's Reports must be filed with respect to a Data Period, in accordance with Rule 5;

EEE means electrical and electronic equipment which are Supplied in Ontario that result in the generation of WEEE, being all goods and products set out in the relevant Table of Appendix A in effect from time to time,

EEE Category means the EEE material category or sub-category to which an item of EEE is assigned for reporting purposes in Appendix A to the Rules;

Filed means electronically submitted to OES at an address identified to the Stewards electronically, with confirmation of transmission;

First Importer means a Person Resident in Ontario who is not a Brand Owner for a specific EEE that imports such EEE into Ontario, and includes a Person Resident in Ontario who is the first to take title or delivery or possession to such EEE, upon or after arrival in Ontario from elsewhere during the Data Period; and for the purposes of this definition, a Franchisee is not a First Importer of EEE if the Franchisor for such EEE is Resident in Ontario. A Person who takes delivery/possession of EEE for the sole purpose of storing it or transporting it to another Person (and who does not take title to such EEE) is not the First Importer of the EEE;

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

Interest Rate means the prime rate published by the Scotiabank as at the close of business on the first day of each month plus three percent;

Manufacturer/Assembler means a Person, other than a Refurbisher, who uses or combines Branded or Unbranded components with or without value added, and performs additional processing or work to create EEE;

OES means Ontario Electronic Stewardship;

OES Website means <http://www.ontarioelectronicstewardship.ca/>;

Person includes 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 representatives, unincorporated organization, association, institution, entity, however designated; and words importing “persons” have similar meanings;

Private Label Goods means goods manufactured by a third party on behalf of and bearing the brand or trademark of a Brand Owner which are Supplied by such Brand Owner;

Program Plan means the Final Revised (Phase 1 and 2) Waste Electrical and Electronic Equipment (WEEE) Program Plan, July 10, 2009, as amended;

Published Address means an address in Ontario appearing in a current telephone directory or a recognized current published business directory;

Reconciliation Fees means the Steward’s Fees payable to OES in accordance with Rule 4(2);

Refurbisher means a Person who carries out internal testing, troubleshooting disassembly or physical modification to WEEE, part removal and replacement or repair of non-functioning or obsolete parts (not including consumable items such as batteries, toners, fuses, etc.) for the purpose of product or part repair and/or redistribution and Supplies such product for distribution in Ontario;

Resident in Ontario means either of the following: (i) having a published address in Ontario; or (ii) having a permanent establishment in Ontario within the meaning of Section 4 of the *Corporations Tax Act (Ontario)*, as set out in Appendix C;

Rules means these Rules, and includes additional Rules or amendments to these Rules from time to time, as published on the OES Website;

Self-Managed Program means a program managed by a Steward and approved by OES under which the Steward operates its own collection and recycling program with respect to a particular class or classes of WEEE;

Steward means a Person designated as such under Rule 2; and “Stewards” means more than one Steward;

Steward’s Fees means the fees calculated in accordance with the methodology set out in Appendix B and set out in a table of Steward’s Fees posted on the OES Website in effect at the relevant time, which are payable to OES pursuant to Rule 4(1);

Steward’s Report means a report prepared by a Steward and filed with OES describing the aggregate amount of EEE Supplied to a Person resident in Ontario in each Data Period by the Steward or its Franchisees and/or Affiliates, containing the information set out in the

current version of the Steward's Report form posted on the OES website at [www.ontarioelectronicstewardship.ca /Rules](http://www.ontarioelectronicstewardship.ca/Rules), as amended from time to time;

Supplied means:

- (i) sold or otherwise transferred (whether by transfer of possession or title);
- (ii) leased;
- (iii) donated;
- (iv) disposed of;
- (v) used; or
- (vi) otherwise made available or distributed

for use in the Province of Ontario, and includes an import of EEE for a purpose set out in Rule 2(2)(b); **Supply** and **Supplies** have similar meanings.

Unbranded means a Brand is not attached to or otherwise associated with EEE; and

WEEE means waste electrical and electronic equipment, being any waste EEE that is defined in Ontario Regulation 393/04.

2) Designation of Stewards

For the purposes of determining which Person shall be designated as a Steward for any designated EEE or particular class or group of EEE, 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, the earlier provision shall prevail.

(1) A Brand Owner is designated as a Steward with respect to all EEE Supplied:

- (a) for which it is the Brand Owner in each Data Period; and
- (b) to which it has a Commercial Connection.

(2) A First Importer is designated as a Steward with respect to all EEE:

- (a) Supplied in each Data Period of which it is the First Importer; or
- (b) of which it is the First Importer in the Data Period for use by it or its Affiliate in the Province of Ontario.

(3) A Franchisor is designated as a Steward with respect to all EEE Supplied within the relevant Franchise System in the Data Period.

(4) If there are two Brand Owners for the same EEE in the same Data Period, the Brand Owner more directly connected to the production of the EEE shall be designated as the Steward.

(5) If there is Unbranded EEE in the Data Period, and if the Manufacturer/Assembler is Resident in Ontario, the Manufacturer/Assembler of such EEE shall be designated as the Steward for such EEE; otherwise the First Importer shall be designated as the Steward for such EEE.

- (6) A Person who receives a Supply of EEE for personal consumption and not for a business or commercial use is not a Steward.

3) **Steward's Report**

- (1) Every Steward shall file its first Steward's Report with OES by the later of:
 - (a) 31 days after the applicable Commencement Date; and
 - (b) 91 days after such Steward is notified of the existence of these Rules and how to obtain a copy of them.
- (2) The first Steward's Report(s) shall cover the period from the applicable Commencement Date to the end of the most recent Data Period.
- (3) If, as a result of the definition of "Supply", there is more than one Supply of an individual item of EEE, only the first Supply must be reported in a Steward's Report.
- (4) Stewards may amend a Steward's Report with the consent of OES to correct information in the Steward's Report that is in error or to replace data previously reported.
- (5) Once it has filed its first Steward's Report, an EEE Steward shall file a Steward's Report with respect to each Data Period within the time specified in Rule 5.
- (6) Notwithstanding the above OES may require a Steward to file a Steward's Report by sending a written request to the Steward.

4) **Fees Payable**

- (1) Stewards shall pay Steward's Fees to OES with respect to each Data Period, within the time specified in Rule 5. The Steward's Fees payable shall be calculated by OES in accordance with the methodology set out in Appendix B and set out in a table of Steward's Fees posted on the OES Website. Stewards shall calculate the amount of Steward's Fees payable in respect of any Data Period by multiplying the number of units of EEE supplied in each EEE Category included in the Steward's Report for such Data Period by the Steward's Fee applicable to such EEE Category set out in such table.
- (2) If applicable, Stewards shall pay annual Reconciliation Fees calculated by OES in accordance with the methodology set out in Appendix B and set out in a table of Reconciliation Fees posted on the OES Website. Reconciliation Fees are in addition to the Steward's Fees under Rule 4(1) and shall be payable to OES within the time specified in Rule 5.
- (3) If OES determines that a Steward has paid more Steward's Fees in a fiscal year than is required by these Rules, OES will at its sole option:
 - (a) apply the excess amount as a credit against Steward's Fees payable by or on behalf of the Steward no later than June 30 in the calendar year that is two years following the calendar year in respect of which the amount was determined, and

(b) pay any amount not applied as a credit under subclause (a) to or for the credit of the Steward no later than June 30 in the calendar year that is two years following the calendar year in respect of which the amount was determined; and

(c) if the Steward ceases to be designated as a Steward, pay or credit the amount to or on behalf of the Steward no later than June 30 in the calendar year following the calendar year in which the Steward ceases to be a Steward.

- (4) Notwithstanding that a Steward may not have received the notice described in Rule 3(1)(b), it is responsible for payment of Steward's Fees for all EEE for which it is a Steward from and after the applicable Commencement Date to the date on which it receives such notice.
- (5) Steward's Fees and Reconciliation Fees are exclusive of HST. If applicable, Stewards shall remit HST to OES with each remittance of Steward's Fees or Reconciliation Fees.
- (6) A Person described in any provision of Rule 2 who acquires EEE from a person also described in Rule 2 (the "**provider**") must ensure that the provider has an OES identification number. The OES number will be posted on the OES website. If a valid OES identification number is not given, the Person to whom a provider Supplies EEE will then be a Steward, and will be subject to filing a Steward's Report and paying Steward's Fees to the extent that the provider does not.
- (7) Nothing in these Rules shall prevent the distribution of residual funds, whether or not comprised of any amounts determined under section 4(3) above, to the Resource Productivity and Recovery Authority consistent with a Wind-Up Plan approved under section 14 of the *Waste Diversion Transition Act, 2016*.

5) **Schedule of Payment and Reporting**

For each Data Period, Stewards shall file Steward's Reports and pay Steward's Fees and applicable Reconciliation Fees with respect to the EEE Supplied in such Data Period, no later than the last business day of the month following such Data Period (the "Deadline Date").

Payment and reporting schedule will be monthly. A steward may be eligible for a quarterly or annual remittance depending on their annual EHF remittance level. Eligibility levels will be established by OES.

6) **Self-Managed Programs**

- (1) A Steward who operates a Self-Managed Program under agreement with OES shall file Steward's Reports for EEE included in such Self-Managed Program in accordance with the terms and conditions of such agreement;
- (2) A Steward who operates a Self-Managed Program under an agreement with OES is exempt from payment of the Steward's Fees under Rule 4 and shall pay fees to OES in accordance with the terms and conditions of such agreement;

7) **Voluntary Stewards**

Where there is no Steward for a particular EEE Supplied in Ontario, a Person who is not Resident in Ontario may enter into an agreement with OES to be a voluntary Steward and

file a Steward's Report and pay Steward's Fees in respect of such EEE.

8) Penalties, Interest and Back Fees

- (1) Stewards who fail to pay Steward's Fees with respect to any Data Period before the Deadline Date or to pay the Reconciliation Fees on or before their due date shall pay a penalty equal to 10% of the unpaid Steward's Fees or Reconciliation Fees.
- (2) If the amounts reported in a Steward's Report are inaccurate, any deficiency in Steward's Fees paid resulting from such inaccuracies shall be immediately due and payable from the date of the filing of the correcting Steward's Report, and, if not paid within 30 days, the Steward shall pay a penalty equal to 10% of such Steward Fee deficiency.
- (3) Interest on the amounts payable under Rules 8(1) and 8(2) shall accrue from the respective Deadline Date or due date for the Reconciliation Fees at the Interest Rate. In addition, a Steward in default shall pay all collection costs, including all proper and reasonable legal fees, incurred by OES, whether or not an action has been commenced. If an audit under Rule 9 reveals that a Steward has under-reported the amount of Steward's Fees due by more than 10% in any Data Period, in addition to any other sums payable, the Steward shall pay the costs of such audit, as reasonably determined by OES.
- (4) OES may waive all or part of any penalty, interest or charges otherwise payable under this Rule 8.

9) Record Provision and Retention

- (1) Upon request from OES, Stewards shall promptly provide data used by Stewards in the preparation of the Steward's Report, including calculation methodology, product data, audit reports, list of Brands reported and list of Brands excluded from report, and allocation percentages.
- (2) A Steward shall retain records or, on receipt of written request, provide records at an address in the Province of Ontario to substantiate and verify the amount set out in its Steward's Report for a period of not less than five years from the date of the Steward's Report to which they relate. A Steward shall grant access to OES upon its request to examine its books and records to enable OES to audit and inspect such records respecting a Steward's Report up to five years after the date of receipt of such Steward's Report by OES.

10) Dispute Resolution

If any dispute arises between a Steward and OES as to the amount of EEE that is required to be included in a Steward's Report:

- (1) The parties shall attempt to resolve the dispute through designated representatives from each of OES and the Steward within 30 days after written notice of the dispute was first given, or as otherwise agreed upon.
- (2) If the parties are unable to resolve the dispute within the above period, the Steward and OES shall, within 30 days thereafter, jointly select an arbitrator to arbitrate the dispute. If the Steward does not nominate an arbitrator within the 30 day period, OES shall nominate the arbitrator. The arbitration shall be conducted in accordance with the *Arbitration Act, 1991*, as amended from time to time.

- (3) OES may from time to time establish a panel of approved arbitrators for the purposes of this Rule, whose names will be published on the OES website. The arbitrator shall be chosen from this panel, unless OES and the Steward mutually agree otherwise.
- (4) The arbitrator shall render a written decision on the dispute within 14 days after the arbitration hearing or submission. The decision of the arbitrator shall be final and binding on the parties and shall not be subject to appeal on any grounds whatsoever, and shall be enforceable against OES and the Steward, as the case may be, immediately on the issue of such decision to the parties to the dispute.
- (5) Non-payment of Stewards Fees or the requirement for a Steward to file a Steward's Report shall not be items subject to arbitration.

11) Interpretive Memoranda

OES may publish on its website binding and non-binding interpretive memoranda on these Rules and how it proposes to administer them.

12) Publishing of Names

- (1) OES will provide all Stewards with an identification number.
- (2) The names and identification numbers of Stewards filing Steward's Reports will be posted on the OES website.
- (3) OES may post a list on its website of all Brands reported in Steward's Reports from time to time.
- (4) OES may publish on its website the name of any Person who may appear to be a Steward Resident in Ontario, but which it has determined upon investigation is not Resident in Ontario.

13) Notice

Any notice, request or other communication from OES to a Steward which is required or may be given under these Rules may be delivered or transmitted by means of electronic communication, personal service or by prepaid first class postage to the Steward at a Published Address in Ontario and shall be deemed to have been received on the third day after posting and on the first day after the date of electronic transmission, in each case which is a Business Day.

14) Effective Date

This version of the Rules as amended shall be effective June 23, 2021.

15) Amendments to Rules

These Rules and any forms, fee schedules or other matters provided for or referred to in them may be amended, removed or replaced by OES from time to time, subject to any required contractual or regulatory approvals. The version of these Rules and the Stewards Fees in effect at the time of a particular Supply shall continue to apply to all EEE which are

the subject of such Supply, notwithstanding any subsequent amendments to these Rules or any document posted on the OES website pursuant to them.



Chair
Resource Productivity and Recovery Authority



Deloitte Restructuring Inc., solely in
its capacity as Court-Appointed
Liquidator of Ontario Electronic Stewardship

Appendix A – Table 1

EEE Material Definitions

Appendix A – Table 1 -EEE Material Definitions April 1, 2009 - March 31, 2010

Appendix A – Table 1 EEE Material Definitions April 1, 2009 – March 31, 2010		
Material Definitions	Inclusions	Exclusions
<p>Desktop Computers – A desktop computer or computer terminal that requires a standard AC power plug for its primary source of power.</p>	<p>Includes products commonly referred to as</p> <ul style="list-style-type: none"> • Desktops • Computers • Computer terminals • Desktops acting as servers • Thin Clients • Microcomputers • Minicomputers 	<ul style="list-style-type: none"> • Computer terminals that are embedded into non-Phase 1 products • Portable computers identified in Phase 2 (e.g. PDA's) • Products classified as Computer Peripherals under this Plan
<p>Portable Computers – A computer that contains a Central Processing Unit (CPU) and that can operate through self-contained battery.</p>	<p>Includes products commonly called</p> <ul style="list-style-type: none"> • Laptops • Notebooks • Notepads • Tablet PC 	<ul style="list-style-type: none"> • Portable computers identified in Phase 2 such as Personal Digital Assistant (PDA's) • Other handheld devices
<p>Computer Peripherals – Standalone disk drives, optical drives, computer mouse and keyboards.</p>	<p>Includes replacement computer components, and those Supplied a standalone products.</p> <ul style="list-style-type: none"> • CD-ROM, DVD, HD-DVD, and BluRay drives • Disk Drives • Computer Mouse • Computer Keyboard 	<ul style="list-style-type: none"> • Speakers, cameras, microphones and other non-Phase 1 products • Internal components contained within the original desktop or portable computer at the time of supply
<p>Monitors – A device that displays video image and does not have an embedded television tuner. The video images are displayed using a variety of technologies including Cathode Ray Tube (CRT), Liquid Crystal Display (LCD), and Plasma.</p>	<ul style="list-style-type: none"> • Computer monitors • Professional display monitors • Closed circuit monitor screens 	<ul style="list-style-type: none"> • Displays that are embedded into non-Phase 1 product, where the monitor is not the primary product.
<p>Televisions – A device that displays video image and has an embedded television tuner. The video images are displayed using a variety of technologies including Cathode Ray Tube (CRT), Liquid Crystal Display (LCD), Plasma, and Rear-Projection.</p>	<ul style="list-style-type: none"> • Televisions • Dual television and computer monitors 	<ul style="list-style-type: none"> • Monitors • Televisions that are embedded into non-Phase 1 products where the television is not the primary product (e.g. televisions within refrigerators)
<p>Printing Devices – Printing devices that are designed to reside on a work surface and includes various printing technologies, including laser and LED, ink jet, dot matrix, thermal, dye sublimation, etc. and “multi-function” or “all in one” devices that perform different tasks such as copy, scan, fax, and print.</p>	<p>Standalone</p> <ul style="list-style-type: none"> • Desktop printers • Portable PC-free photo printers • Camera dock printers • Desktop label, barcode, and card printers • Desktop fax machines 	<ul style="list-style-type: none"> • Printing devices listed in Phase 2 including: <ul style="list-style-type: none"> – Floor standing printers – Point of sale (POS) receipt printers – Handheld printers such as calculators with printing capabilities or label makers • Printing devices that are embedded into non-Phase 1 products, where the printer is not primary product.

Appendix A Table 2 - EEE Material Definitions April 1, 2010 – November 30, 2010

Appendix A – Table 2: EEE Material Definitions April 1, 2010 – November 30, 2010				
EEE Material Category for Reporting Purposes		Phase 1 and 2 Materials Definition	Includes	Excludes
Category	Sub-Category			
Display Devices	Less than or equal to 29" Screen	A device that displays an image, using a variety of technologies including CRT, LCD, plasma and rear-projection.	<ul style="list-style-type: none"> • Computer monitors • Professional display monitors • Closed circuit monitor screens • Televisions • Dual television and computer monitors • All-in-One (AIO) computers: a display device with an embedded computer 	<ul style="list-style-type: none"> • Displays that are embedded into non-Phase 1 and 2 products where the display is not the primary function of the product
	Greater than 29" Screen			
Desktop Computers		Desktop models refer to those computers that are designed to be utilized on a work surface and require standard alternating current (AC) power plug for a primary source of power.	<ul style="list-style-type: none"> • Desktops • Computers • Computer terminals • Desktops acting as servers • Thin clients • Microcomputers • Minicomputers 	<ul style="list-style-type: none"> • Computer terminals that are embedded into non-Phase 1 and 2 products • Portable computers • Products classified as Computer Peripherals under this Plan • All-in-One (AIO) computers: a display device with an embedded computer • Rack-mounted or floor standing servers
Portable Computers		Portable models refer to a portable computer that contains a Central Processing Unit (CPU) and than can operate using a self-contained battery or using an external AC/DC adaptor.	<ul style="list-style-type: none"> • Laptops • Notebooks • Notepads • Tablet PCs • Mini notebooks • NetBooks 	<ul style="list-style-type: none"> • Computer terminals that are embedded into non-Phase 1 and 2 products • Personal handheld computers (included in Image, Audio and Video category) • Personal digital assistance (PDAs) (cell-enabled included in Cellular Devices category; non-cell-enabled included in Personal/Portable Image, Audio and Video Devices category) • Products classified as Computer Peripherals under this Plan • Other handheld electronic devices

<p>Computer Peripherals</p>	<p>Computer peripherals refers to external, as well as integrated modems, disk drives, optical drives, computer mouse and keyboards that are added, or attached, to a computer in order to expand its functionality.</p> <p>A modem refers to a devices that encodes digital computer signals into analog/analogue telephone signals and vice versa and allows computers to communicate over a phone line or cable connection.</p>	<ul style="list-style-type: none"> • Replacement computer component and standalone products that are sold to the end user • CD-ROM, DVD, HD-DVD and BluRay drives • Floppy-disk drives • Computer mouse • Computer keyboards • Wired cable, DSL, and ADSL modems • Wireless modems 	<ul style="list-style-type: none"> • Computer peripherals that are supplied as replacement parts under a warranty and non-warranty service repair arrangement • Internal components contained within the original desktop or portable computer at the time of supply • Components that are supplied as replacement parts under a warranty • Components for non-warranty service repair arrangements • Speakers, cameras, microphone and other non-Phase 1 and 2 products • Internal components contained within the original desktop or portable computer at the time of supply • Routers • Network hubs • Satellite networking devices • Telephony devices (i.e. VoIP devices)
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Appendix A – Table 2: EEE Material Definitions April 1, 2010 – November 30, 2010

EEE Material Category for Reporting Purposes		Phase 1 and 2 Materials Definition	Includes	Excludes
Category	Sub-Category			
<p>Printing, Copying and Multi-Function Devices</p>	<p>Desktop and Portable Printing, Copying and Multi-Function Devices</p>	<p>Printing, copying and multi-function devices, utilizing all printing technologies, designed to be handheld or to reside on a work surface and that can print on media with dimensions up to 48" wide.</p> <p>Copiers and/or multi-function devices classified as Segment 1 or Segment 2. Copier and/or multi-function devices that are designed to reside on a work surface that are not classified as Segment 1 or Segment 2.</p> <p>Includes models that are able to utilize an optional floor-stand.</p>	<ul style="list-style-type: none"> • Desktop or portable computer scanners • Desktop printers • Portable PC-free photo printers • Camera dock printers • Desktop label, barcode, card printers • Desktop fax machines • Desktop multi-function or "all-in-one" devices • Point of Sale (POS) receipt printers • Handheld printers such as calculators with printing capabilities or label makers • Desktop copiers or copy & print devices • Typewriters powered by AC power plug or by internal battery unit 	<ul style="list-style-type: none"> • Printing devices that are embedded into non-Phase 1 and 2 products, where the printing devices are not the primary product • Non-electronic typewriters • Printing devices capable of printing on media with dimensions greater than 48" wide
	<p>Floor-Standing Printing Devices</p>	<p>Printing devices, utilizing all printing technologies that are floor-standing models and that can print on media with dimensions up to 48" wide.</p>	<ul style="list-style-type: none"> • Floor-standing office printers • Floor-standing graphics printers • Floor-standing wide-format printers 	<ul style="list-style-type: none"> • Floor-standing printing devices capable of performing additional non-printing functions such as copying or faxing • Printing devices that are embedded into non-Phase 1 and 2 products, where the printing device is not the primary product • Newspaper and industrial printing devices • Printing devices capable of printing on media with dimensions greater than 48" wide • Models which are able to utilize an optional floor-stand

	<p>Floor- Standing Copying Devices</p>	<p>Copier and/or multi-function devices classified as Segment 3, Segment 4 or Segment 5. Copier and/or multi-function devices that are floor-standing models that are not classified as Segment 3, Segment 4 or Segment 5.</p>	<ul style="list-style-type: none"> • Floor-standing multi-function or “all-in-one” devices that perform different tasks such as copy, scan, fax, print • Floor-standing photocopiers • Floor-standing copy and print devices • Floor-standing wide-format copiers and/or multi-function devices 	<ul style="list-style-type: none"> • Floor-standing devices that only perform printing functions • Newspaper and industrial copying and/or multi-function devices • Copying and/or multi-function devices capable of printing on media with dimensions greater than 48” wide • Models which are able to utilize an optional floor-stand
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Appendix A – Table 2: EEE Material Definitions April 1, 2010 – November 30, 2010

EEE Material Category for Reporting Purposes		Phase 1 and 2 Materials Definition	Includes	Excludes
Category	Sub-Category			
Telephones and Telephone Answering Machines		<p>A telecommunication device with a handset or headset that is used for the transmission of sound (most commonly speech) between two or more locations using a variety of technologies including wire-line telephones and Voice over Internet Protocol (VoIP).</p> <p>Also includes telephone answering machines that are installed alongside, or incorporated within a wire-line telephone.</p>	<ul style="list-style-type: none"> • Wire line telephones including rotary and touch-tone technologies • Cordless telephones requiring an electrical base station/handset cradle for battery charging and wire-line network connection • VoIP phones • Answering machines that utilize cassette-based or digital recording technologies • Accessory handsets packaged with a telephone in a single OEM package under a single SKU are subject to one fee 	<ul style="list-style-type: none"> • Telecommunication equipment developed for embedded use in motor vehicles of any type • Commercial-grade “pay phones” • Voicemail/answering machine devices that utilize a centralized networked system • Telephone accessories including headsets and hands-free accessories
Cellular Devices and Pagers		<p>A handheld communication device that utilizes cellular networks to transmit voice or data signals. Includes cell-enabled Personal Digital Assistants (PDAs).</p>	<ul style="list-style-type: none"> • Cellular phones • Cellular phones offering camera, video recording and/or audio functions • Smart phones (cell-enabled) • Palmtop computers (cell-enabled) • Cell-enabled PDAs utilizing touch-screen technology • Cell-enabled handheld devices • Pagers 	<ul style="list-style-type: none"> • Satellite phones • Wireless devices that do not utilize cellular networks to operate • Non-cell-enabled PDAs (Included in Personal/Portable Image, Audio, and Video Devices category)

Appendix A – Table 2: EEE Material Definitions April 1, 2010 – November 30, 2010

EEE Material Category for Reporting Purposes		Phase 1 and 2 Materials Definition	Includes	Excludes
Category	Sub-Category			
Image, Audio and Video Devices	Personal/ Portable	<p>Personal and/or portable devices that can transmit, record and/or playback an image, audio or video using a variety of technologies including mechanical, optical and digital technologies.</p> <p>Personal and/or portable peripheral audio devices that enable audio playback.</p>	<ul style="list-style-type: none"> • Audio cassette players and/or recorders • Combination cassette recorders and players • CD players and/or recorders • Digital Video Disk (DVD) players and recorder • MP3 and other portable music players 	<ul style="list-style-type: none"> • CD-writing drives contained within, or replacements parts for Desktop and Portable Computers • DVD-writing drives contained within, or replacement parts for Desktop and Portable Computers • Non-audio optical disk-players • Optical disk drives included in the Computer Peripherals materials category • Webcams embedded in Desktop Computers and Portable Computers • Cameras embedded in devices for which the primary function is not to record an image/ video • Cell-enabled PDAs • Devices for which the primary design and function are for video-gaming purposes (As designated in Section 5 of O. Reg. 393/04) • Global Positioning Systems (GPS) for both portable and aftermarket vehicle installation • Home/ Non-Portable video-gaming devices • Satellite, Cable, and Digital transmitters and receivers • Headphones and ear-buds
	Home/Non-Portable	<p>Home and/or non-portable devices that can transmit, record and/or playback an image, audio or video using a variety of technologies including mechanical, optical and digital technologies.</p> <p>Home and/or non-portable peripheral audio devices that enable audio playback.</p>	<ul style="list-style-type: none"> • Other Digital Audio Players/ Recorders (DAP) • Video cassette players (VCRs) and/or video projectors • Analog and digital video cameras and recorders • Turntables (Record Players and gramophones) • AM/FM Radios • Digital and non-digital cameras, including webcams • Digital picture frames • Digital projectors • Home stereo amplifiers • Speaker systems, including computer speakers • Home stereo systems • Handheld personal computers • Devices commonly called Ultra Mobile PCs (UMPC) that utilize a touch-sensitive screen between 4" and 7", and that can operate the same software as a standard computer (i.e. Windows) • PDAs that are not communication-enabled or cellular compatible • Portable and personal audio/video players supplied with accessories or bundled in a single OEM package under a single SKU are subject to one fee • Includes audio and video equipment sold as a package/bundle that are used in non-residential locations 	
	Home Theatre in a Box (HTB)	<p>Bundled combinations or devices that can transmit, record and/or playback an image, audio or video using a variety of technologies.</p>	<ul style="list-style-type: none"> • Home theatre image, audio and video equipment sold as a package/bundle with a single point-of-sale SKU. Includes peripheral audio devices. • Includes audio and video equipment sold as a package/bundle that are used in non-residential locations. 	<ul style="list-style-type: none"> • Home theatre image, audio and video equipment sold as a package/ bundle with more than a single point-of-sale SKU (report separately). • Home theatre bundles that include televisions
	Aftermarket Vehicle	<p>Audio and video devices for installation in motor vehicles aftermarket.</p>	<ul style="list-style-type: none"> • Vehicle speakers • Vehicle radios • Vehicle CD players • Vehicle DVD/Blu-Ray players 	<ul style="list-style-type: none"> • Audio and video equipment embedded in original equipment manufacturer (OEM) supplied motor vehicles of any type

Appendix A – Table 3: EEE Material Definitions December 1, 2010 – July 31, 2011

Appendix A – Table 3: EEE Material Definitions December 1, 2010 – July 31, 2011				
EEE Material Category for Reporting Purposes		Phase 1 and 2 Materials Definition	Includes	Excludes
Category	Sub-Category			
Display Devices	Less than or equal to 29" Screen	A device that displays an image, using a variety of technologies including CRT, LCD, plasma and rear-projection.	<ul style="list-style-type: none"> • Computer monitors • Professional display monitors • Closed circuit monitor screens • Televisions • Dual television and computer monitors • All-in-One (AIO) computers: a display device with an embedded computer 	<ul style="list-style-type: none"> • Displays that are embedded into non-Phase 1 and 2 products where the display is not the primary function of the product • Display devices that are less than 10"
	Greater than 29" Screen			
Desktop Computers		Desktop models refer to those computers that are designed to be utilized on a work surface and require standard alternating current (AC) power plug for a primary source of power.	<ul style="list-style-type: none"> • Desktops • Computers • Computer terminals • Desktops acting as servers • Thin clients • Microcomputers • Minicomputers 	<ul style="list-style-type: none"> • Computer terminals that are embedded into non-Phase 1 and 2 products • Portable computers • Products classified as Computer Peripherals under this Plan • All-in-One (AIO) computers: a display device with an embedded computer • Rack-mounted or floor standing servers
Portable Computers		Portable models refer to a portable computer that contains a Central Processing Unit (CPU) and than can operate using a self-contained battery or using an external AC/DC adaptor.	<ul style="list-style-type: none"> • Laptops • Notebooks • Notepads • Tablet PCs • Mini notebooks • NetBooks • Devices commonly called Ultra Mobile PCs (UMPC) that utilize a touch-sensitive screen and that can operate the same software as a standard computer (i.e. Windows) 	<ul style="list-style-type: none"> • Computer terminals that are embedded into non-Phase 1 and 2 products • Personal handheld computers (included in Image, Audio and Video category) • Personal digital assistance (PDAs) (cell-enabled included in Cellular Devices category; non-cell-enabled included in Personal/Portable Image, Audio and Video Devices category) • Products classified as Computer Peripherals under this Plan • Other handheld electronic devices
Computer Peripherals		<p>Computer peripherals refers to external, as well as integrated modems, disk drives, optical drives, computer mouse and keyboards that are added, or attached, to a computer in order to expand its functionality.</p> <p>A modem refers to a devices that encodes digital computer signals into analog/analogue telephone signals and vice versa and allows computers to communicate over a phone line or cable connection.</p>	<ul style="list-style-type: none"> • Replacement computer component and standalone products that are sold to the end user • CD-ROM, DVD, HD-DVD and BluRay drives • Floppy-disk drives • Computer mouse • Computer keyboards • Wired cable, DSL, and ADSL modems • Wireless modems 	<ul style="list-style-type: none"> • Computer peripherals that are supplied as replacement parts under a warranty and non-warranty service repair arrangement • Internal components contained within the original desktop or portable computer at the time of supply • Components that are supplied as replacement parts under a warranty • Components for non-warranty service repair arrangements • Speakers, cameras, microphone and other non-Phase 1 and 2 products • Internal components contained within the original desktop or portable computer at the time of supply • Routers and Network hubs • Satellite networking devices • Telephony devices (i.e. VoIP devices)

Appendix A – Table 3: EEE Material Definitions December 1, 2010 – July 31, 2011

EEE Material Category for Reporting Purposes		Phase 1 and 2 Materials Definition	Includes	Excludes
Category	Sub-Category			
Printing, Copying and Multi-Function Devices	Desktop Printing, Copying and Multi-Function Devices	<p>Printing, copying and multi-function devices, utilizing all printing technologies, designed to be handheld or to reside on a work surface and that can print on media with dimensions up to 48" wide.</p> <p>Copiers and/or multi-function devices classified as Segment 1 or Segment 2. Copier and/or multi-function devices that are designed to reside on a work surface that are not classified as Segment 1 or Segment 2.</p> <p>Includes models that are able to utilize an optional floor-stand.</p>	<ul style="list-style-type: none"> • Desktop computer scanners • Desktop printers • Desktop PC-free photo printers • Camera dock printers • Desktop fax machines • Desktop multi-function or "all-in-one" devices • Desktop copiers or copy & print devices • Typewriters powered by AC power plug or by internal battery unit 	<ul style="list-style-type: none"> • Printing devices that are embedded into non-Phase 1 and 2 products, where the printing devices are not the primary product • Non-electronic typewriters • Printing devices capable of printing on media with dimensions greater than 48" wide
	Floor-Standing Printing Devices	<p>Printing devices, utilizing all printing technologies that are floor-standing models and that can print on media with dimensions up to 48" wide.</p>	<ul style="list-style-type: none"> • Floor-standing office printers • Floor-standing graphics printers • Floor-standing wide-format printers 	<ul style="list-style-type: none"> • Floor-standing printing devices capable of performing additional non-printing functions such as copying or faxing • Printing devices that are embedded into non-Phase 1 and 2 products, where the printing device is not the primary product • Newspaper and industrial printing devices • Printing devices capable of printing on media with dimensions greater than 48" wide • Models which are able to utilize an optional floor-stand
	Floor-Standing Copying Devices	<p>Copier and/or multi-function devices classified as Segment 3, Segment 4 or Segment 5. Copier and/or multi-function devices that are floor-standing models that are not classified as Segment 3, Segment 4 or Segment 5.</p>	<ul style="list-style-type: none"> • Floor-standing multi-function or "all-in-one" devices that perform different tasks such as copy, scan, fax, print • Floor-standing photocopiers • Floor-standing copy and print devices • Floor-standing wide-format copiers and/or multi-function devices 	<ul style="list-style-type: none"> • Floor-standing devices that only perform printing functions • Newspaper and industrial copying and/or multi-function devices • Copying and/or multi-function devices capable of printing on media with dimensions greater than 48" wide • Models which are able to utilize an optional floor-stand
	Telephones and Telephone Answering Machines	<p>A telecommunication device with a handset or headset that is used for the transmission of sound (most commonly speech) between two or more locations using a variety of technologies including wire-line telephones and Voice over Internet Protocol (VoIP).</p> <p>Also includes telephone answering machines that are installed alongside, or incorporated within a wire-line telephone.</p>	<ul style="list-style-type: none"> • Wire line telephones including rotary and touch-tone technologies • Cordless telephones requiring an electrical base station/handset cradle for battery charging and wire-line network connection • VoIP phones • Answering machines that utilize cassette-based or digital recording technologies • Accessory handsets packaged with a telephone in a single OEM package under a single SKU are subject to one fee 	<ul style="list-style-type: none"> • Telecommunication equipment developed for embedded use in motor vehicles of any type • Commercial-grade "pay phones" • Voicemail/answering machine devices that utilize a centralized networked system • Telephone accessories including headsets and hands-free accessories

Appendix A – Table 3: EEE Material Definitions December 1, 2010 – July 31, 2011

EEE Material Category for Reporting Purposes		Phase 1 and 2 Materials Definition	Includes	Excludes
Category	Sub-Category			
Cellular Devices and Pagers		A handheld communication device that utilizes cellular networks to transmit voice or data signals. Includes cell-enabled Personal Digital Assistants (PDAs).	<ul style="list-style-type: none"> • Cellular phones • Cellular phones offering camera, video recording and/or audio functions • Smart phones (cell-enabled) • Palmtop computers (cell-enabled) • Cell-enabled PDAs utilizing touch-screen technology • Cell-enabled handheld devices • Pagers 	<ul style="list-style-type: none"> • Satellite phones • Wireless devices that do not utilize cellular networks to operate • Non-cell-enabled PDAs (Included in Personal/Portable Image, Audio, and Video Devices category)

Image, Audio and Video Devices	Personal/ Portable	<p>Personal and/or portable devices that can transmit, record and/or playback an image, audio or video using a variety of technologies including mechanical, optical and digital technologies.</p> <p>Personal and/or portable peripheral audio devices that enable audio playback.</p>	<ul style="list-style-type: none"> • A portable device that is used primarily for personal use, that operates on battery power or is powered directly from the device it is connected to (i.e. computer), • Point of Sale (POS) receipt printers • Portable computer scanners • Portable PC-free photo printers • Handheld printers such as calculators with printing capabilities or label makers • Desktop label, barcode, card printers • Portable audio cassette players and/or recorders • Portable combination cassette recorders and players • Portable CD players and/or recorders • Portable Digital Video Disk (DVD) players and recorder • MP3 and other portable music players • Other Portable Digital Audio Players/ Recorders (DAP) • Analog and digital video cameras and recorders • Portable AM/FM Radios • Clock radios • Compact docking speakers including computer speakers, • Digital and non-digital cameras • Webcams • Digital picture frames • Handheld personal computers • Portable display devices under 10" • PDAs that are not communication-enabled or cellular compatible • Portable and personal audio/video players supplied with accessories or bundled in a single OEM package under a single SKU are subject to one fee 	<ul style="list-style-type: none"> • CD-writing drives contained within, or replacements parts for Desktop and Portable Computers • DVD-writing drives contained within, or replacement parts for Desktop and Portable Computers • Non-audio optical disk-players • Optical disk drives included in the Computer Peripherals materials category • Webcams embedded in Desktop Computers and Portable Computers • Cameras embedded in devices for which the primary function is not to record an image/ video • Cell-enabled PDAs • Devices for which the primary design and function are for video-gaming purposes (As designated in Section 5 of O. Reg. 393/04) • Global Positioning Systems (GPS) for both portable and aftermarket vehicle installation • Home/ Non-Portable video-gaming devices • Headphones and ear-buds

Appendix A – Table 3: EEE Material Definitions December 1, 2010 – July 31, 2011

EEE Material Category for Reporting Purposes		Phase 1 and 2 Materials Definition	Includes	Excludes
Category	Sub-Category			
	Home/Non-Portable	Home and/or non-portable devices that can transmit, record and/or playback an image, audio or video using a variety of technologies including mechanical, optical and digital technologies.	<ul style="list-style-type: none"> • Non portable AM/FM Radios • Video cassette players (VCRs) and/or video projectors • Turntables (Record Players and gramophones) • Non-portable Digital Video Disk (DVD) players and recorder, audio cassette players and/or 	<ul style="list-style-type: none"> • CD-writing drives contained within, or replacements parts for Desktop and Portable Computers • Satellite, Cable, and Digital transmitters and receivers • Home/ Non-Portable video-gaming devices • Global Positioning Systems (GPS) for

Image, Audio and Video Devices		Home and/or non-portable peripheral audio devices that enable audio playback.	<p>recorders</p> <ul style="list-style-type: none"> • Non-portable combination cassette recorders and players • Other non-portable Digital Audio Players/ Recorders (DAP) • Non portable CD players and/or recorders • Digital projectors • Home stereo amplifiers • Home stereo systems • Speaker systems, connected to a home audio or stereo system • Includes audio and video equipment sold as a package/bundle that are used in non-residential locations 	<p>both portable and aftermarket vehicle installation</p> <ul style="list-style-type: none"> • Devices for which the primary design and function are for video-gaming purposes (As designated in Section 5 of O. Reg. 393/04) • DVD-writing drives contained within, or replacement parts for Desktop and Portable Computers • Non-audio optical disk-players. Optical disk drives included in the Computer Peripherals
	Home Theatre in a Box (HTB)	Bundled combinations or devices that can transmit, record and/or playback an image, audio or video using a variety of technologies.	<ul style="list-style-type: none"> • Home theatre image, audio and video equipment sold as a package/bundle with a single point-of-sale SKU. Includes peripheral audio devices. • Includes audio and video equipment sold as a package/bundle that are used in non-residential locations. 	<ul style="list-style-type: none"> • Home theatre image, audio and video equipment sold as a package/ bundle with more than a single point-of-sale SKU (report separately). • Home theatre bundles that include televisions
	Aftermarket Vehicle	Audio and video devices for installation in motor vehicles aftermarket.	<ul style="list-style-type: none"> • Vehicle speakers • Vehicle radios • Vehicle CD players • Vehicle DVD/Blu-Ray players 	<ul style="list-style-type: none"> • Audio and video equipment embedded in original equipment manufacturer (OEM) supplied motor vehicles of any type

Appendix A – Table 4: EEE Material Definitions

The definitions in this table are general descriptions, and should be used together with the complete list of Inclusions and Exclusions for each Sub-Category Type on the OES website. The list of Inclusions and Exclusions is continually updated by OES. Please see <http://www.ontarioelectronicstewardship.ca/program/electronics-gallery> for the current list. This list remains in effect from August 1, 2011 until further notice.

Appendix A – Table 4: EEE Material Definitions		
EEE Material Category for Reporting Purposes		Phase 1 and 2 Materials Definition
Category	Sub-Category	
Display Devices	less than or equal to 29" Screen	A device that displays an image, using a variety of technologies including CRT, LCD, plasma and rear-projection.
	Greater than 29" Screen	
Desktop Computers		Desktop models refer to those computers that are designed to be utilized on a work surface and require standard alternating current (AC) power plug for a primary source of power.
Portable Computers		Portable models refer to a portable computer that contains a Central Processing Unit (CPU) and than can operate using a self-contained battery or using an external AC/DC adaptor.
Computer Peripherals		Computer peripherals refers to external, as well as integrated modems, disk drives, optical drives, computer mouse and keyboards that are added, or attached, to a computer in order to expand its functionality. A modem refers to a devices that encodes digital computer signals into analog/analogue telephone signals and vice versa and allows computers to communicate over a phone line or cable connection.
Printing, Copying and Multi-Function Devices	Desktop Printing, Copying and Multi-Function Devices	Printing, copying and multi-function devices, utilizing all printing technologies, designed to be handheld or to reside on a work surface and that can print on media with dimensions up to 48" wide. Copiers and/or multi-function devices classified as Segment 1 or Segment 2. Copier and/or multi-function devices that are designed to reside on a work surface that are not classified as Segment 1 or Segment 2. Includes models that are able to utilize an optional floor-stand.
	Floor-Standing Printing Devices	Printing devices, utilizing all printing technologies that are floor-standing models and that can print on media with dimensions up to 48" wide.
	Floor-Standing Copying Devices	Copier and/or multi-function devices classified as Segment 3, Segment 4 or Segment 5. Copier and/or multi-function devices that are floor-standing models that are not classified as Segment 3, Segment 4 or Segment 5.
Telephones and Telephone Answering Machines		A telecommunication device with a handset or headset that is used for the transmission of sound (most commonly speech) between two or more locations using a variety of technologies including wire-line telephones and Voice over Internet Protocol (VoIP).

Appendix A – Table 4: EEE Material Definitions

EEE Material Category for Reporting Purposes		
Category	Sub-Category	Phase 1 and 2 Materials Definition
		Also includes telephone answering machines that are installed alongside, or incorporated within a wire-line telephone.
Cellular Devices and Pagers		A handheld communication device that utilizes cellular networks to transmit voice or data signals. Includes cell-enabled Personal Digital Assistants (PDAs).
Image, Audio and Video Devices	Personal/ Portable	<p>Personal and/or portable devices that can transmit, record and/or playback an image, audio or video using a variety of technologies including mechanical, optical and digital technologies.</p> <p>Personal and/or portable peripheral audio devices that enable audio playback.</p>
	Home/Non-Portable	<p>Home and/or non-portable devices that can transmit, record and/or playback an image, audio or video using a variety of technologies including mechanical, optical and digital technologies.</p> <p>Home and/or non-portable peripheral audio devices that enable audio playback.</p>
	Home Theatre in a Box (HTB)	Bundled combinations or devices that can transmit, record and/or playback an image, audio or video using a variety of technologies.
	Aftermarket Vehicle	Audio and video devices for installation in motor vehicles aftermarket.

Appendix B

Methodology for Calculation of Stewards Fees and Reconciliation Fees

1. Definitions:

- (a) “base fee period” means a period beginning on a date between February 1 and September 1 of each year. The base fee period start and end dates in each year will be determined by OES and communicated with appropriate notice to the stewards involved.
- (b) “cost reference period” means the calendar year preceding the calendar year in which the base fee period begins.

2. Calculation of Steward’s Fees:

OES shall determine the Steward’s Fees which will be in effect for each base fee period in the following manner:

- (1)
 - (a) determine the actual cost of operating the Program in the cost reference period;
 - (b) determine the portion of such cost attributable to each EEE Category in the cost reference period;
 - (c) determine the cost per unit of EEE in each EEE Category by dividing the amount in Section 2(1)(b) by the number of units of EEE Supplied in such EEE Category in the cost reference period;
 - (d) determine an appropriate per unit amount, as required, on account of an operating reserve for each EEE Category
- (2)
 - (a) determine the amount, if any, of EEE Category deficits as at December 31, 2012;
 - (b) divide the amount determined in Section 2(2)(a) by 5;
 - (c) determine the cost per unit for each relevant EEE Category by dividing the amount in Section 2(2)(b) by the number of units of EEE supplied in such EEE Category in the cost reference period
- (3) calculate the per unit Steward’s Fee as the aggregate of the amount determined in Sections 2(1) and 2(2).

3. Calculation of Reconciliation Fee

Effective for base fee periods commencing May 1, 2014 and each base fee period thereafter, OES shall determine the Reconciliation Fee, if any, by EEE Category, to be paid in respect of each cost reference period in the following manner:

- (a) determine the revenue earned in the cost reference period;
- (b) determine the actual cost of operating the Program in the cost reference period;
- (c) subtract the amount determined under Section 3(b) from the amount determined under 3(a);
- (d) if the amount arrived at under Section 3(c) is zero or positive, the Reconciliation Fee is zero and any amount so determined shall be applied as an addition to the operating reserve and in accordance with the Program Plan;
- (e) if the amount arrived at under section 3(c) is negative, the Reconciliation Fee is the amount determined by dividing the amount in 3(c) by the number of units supplied in the cost reference period.

Appendix C

Extract from *Corporations Tax Act (Ontario)*

Permanent establishment

4. (1) In this Act,

“permanent establishment” includes branches, mines, oil wells, farms, timberlands, factories, workshops, warehouses, offices, agencies and other fixed places of business.

Idem

(2) 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.

Idem

(3) 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.

Idem

(4) 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.

Idem

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

Idem

(6) 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.

Idem

(7) 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.

Idem

(8) The fact that a non-resident corporation in a taxation 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, for the purposes of this Act, 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.

Idem

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

Idem

(10) 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.

Idem

(11) 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.

Idem

(12) If the liability of a corporation for tax under the *Income Tax Act* (Canada) is determined with reference to a tax treaty, convention or agreement with another country, the corporation does not have a permanent establishment in Ontario for the purposes of this Act if it does not have such an establishment for the purposes of the tax treaty, convention or agreement.

Same

(13) Subsection (12) applies with respect to taxation years ending after June 17, 2002.