

Policy for Brand Discontinuances

KEY FEATURES:

- This Policy explains the circumstances in which a Producer may be eligible for Fee Relief for Program Invoices issued on or after January 1, 2025, for Qualifying Discontinuances.

I. Overview

1. This Policy provides guidance to Producers in the event that they Discontinue a Brand, but remain obligated in the applicable Program(s) because they continue to Supply Designated Material associated with other Brands. In specified circumstances, a Producer may be able to request Fee Relief provided that the requirements of this Policy are satisfied.

II. Purpose

2. This Policy promotes fairness and consistency for all Producers and enables the Programs to operate in a cost-effective manner.

III. Scope

3. This Policy applies to Producers meeting their obligations for Designated Materials in the following Programs:
 - (i) Recycle BC;
 - (ii) SK Recycles (formerly Multi-Material Stewardship Western (MMSW)); and
 - (iii) Multi-Material Stewardship Manitoba (MMSM);
4. This Policy applies to Producers requesting Fee Relief in relation to Qualifying Discontinuances for Program Invoice(s) issued on or after January 1, 2025.
5. This Policy does not apply to Producers whose Supply of Designated Material has changed for any reason other than a Qualifying Discontinuance. All circumstances involving Producer-initiated requests for changes to previously reported quantities of Designated Material are subject to the Programs' Adjustment Policy.
6. In order to request Fee Relief arising from a Qualified Discontinuance under this Policy, the Producer must be in Good Standing in the applicable Program(s).

7. Irrespective of this Policy, in some Programs, a Producer that receives Fee Relief for a Qualifying Discontinuance will still be required by the provincial Regulator to meet its Minimum Management Requirements. This issue is between the Producer and the applicable Regulator(s) and may, depending on the circumstances, require the Producer to purchase additional credits to discharge its obligation to the applicable Regulator or incur other obligations at the direction of the Regulator. It is the Producer's responsibility to ascertain the scope and expense (if any) that might be associated with this requirement before deciding whether to seek Fee Relief for a Qualifying Discontinuance under this Policy.

IV. Policy

(a) Definitions:

8. In this Policy, the following capitalized terms have the following meanings:
 - (i) **“Adjustment Policy”** means the applicable Program's policy by which Producers can request adjustments to previously submitted Annual Producer Reports. The Adjustment Policy does not apply to Discontinuances, regardless of whether they are Qualifying Discontinuances.
 - (ii) **“Annual Producer Report”** means the report submitted in each Report Obligation Year by a Producer pursuant to the Reporting Cadence on the WeRecycle Portal.
 - (iii) **“Audit”** means an audit of the data submitted in support of Fee Relief for a Discontinuance conducted by the Program's third party auditor at the expense of the Producer seeking Fee Relief. The Producer will be advised of the cost of the Audit before it occurs and may withdraw a request for Fee Relief before the Audit occurs. The Auditor's conclusions in relation to the quantum of Designated Material affected by the Discontinuance is determinative and not subject to dispute resolution by the Producer.
 - (iv) **“Brand”** means a product produced under a registered or unregistered trademark which has associated Designated Material.
 - (v) **“Brand Holder”** means the owner or licensee of the Brand. It is another word for “Producer” or “Steward”. All of these terms refer to the obligated party under the applicable Program(s).

- (vi) **“Data Year”** means the calendar year that a Producer Supplied Designated Material.
- (vii) **“Designated Material”** means paper, packaging, packaging-like products and/or single use products, some or all of which may be designated material in the applicable Program(s).
- (viii) **“Discontinuance”** means a Producer’s complete cessation of Supply for:
 - a. a Brand and the associated Designated Material(s);¹ or
 - b. Flyers**“Discontinued”** has a corresponding meaning.
- (ix) **“Discontinued Manufacturing the Brand(s)”** means the date on which the Brand Holder ceased manufacturing the Brand(s). This is distinct from the definition of “Supply” because “Supply” will often continue after cessation of Manufacturing because of stock that remains with the Brand Holder or with other parties in the supply chain.
- (x) **“Fee Obligation Year”** means a calendar year during which a Producer is required to discharge its financial and regulatory obligation in an applicable Program.
- (xi) **“Fee Relief”** means a reduction in a Producer’s Program Fees reflected in a Program Invoice issued on or after January 1, 2025 arising from a Qualifying Discontinuance determined in accordance with this Policy.
- (xii) **“Flyers”** means advertising or promotional information made of Designated Material Supplied by a Producer.
- (xiii) **“Good Standing”** means a Producer that has filed all of its required Annual Producer Reports, is current with respect to its payment of Program Fees to the applicable Program(s), and is otherwise compliant with its legal obligations to the applicable Program(s).
- (xiv) **“Minimum Management Requirement(s)”** A producer’s management requirement (if applicable in the Program(s)) calculated separately for each

¹ This Policy for Fee Relief in relation to Discontinuances does not apply to:

- (a) the cessation of some but not all SKUs in a Brand; or
- (b) the cessation of some but not all Flyers.

designed material category (e.g., glass, plastic (flexible and ridged), metal and paper) as specified in the Regulation. It is the amount that the individual producer must ensure is collected and processed in accordance with the specific provincial Regulation to satisfy the producer's individual producer responsibility obligation.

(xv) **“Notice”** means a Producer advising the applicable Program(s) about a Discontinuance in accordance with “Step 1” of the procedures described below.

(xvi) **“Notice Deadline”** in relation to a Qualifying Discontinuance means:

a. Fee Relief for an Invoice Issued in January 2025:

On or after the date that this Policy is approved by the Program(s), a Producer who seeks Relief in relation to a Qualified Discontinuance must provide the Program(s) with Notice under Step 1, below, by:

- i. July 1, 2024, for Fee Relief on the Producer's January 2025 Program Invoice(s) where the Producer stopped Supplying the Brand between January 1, 2023 and March 31, 2024; or
- ii. within ninety (90) days of the date on which the Producer Discontinued Manufacturing the Brand(s)² in the Province(s) that correspond to the Program(s) where the cessation of manufacturing occurred after March 31, 2024, but before the Program(s) Invoice was issued in January 2025,

whichever is later.

b. Fee Relief for an Invoice Issued in or After January 2026:

A Producer who seeks Relief in relation to a Qualified Discontinuance must provide the Program(s) with Notice under Step 1, below, within ninety (90) days of the date on which the Producer Discontinued Manufacturing the Brand(s)³.

² Note that the 90-day deadline is from when the Producer stopped manufacturing the Brand(s), which is different from the definition of “Supply” in this Policy which includes continued supply of the Brand(s) after the Producer stops manufacturing the Brand(s) because of existing inventory that may remain in the supply chain after the cessation of manufacturing.

³ Note that the 90-day deadline is from when the Producer stopped manufacturing the Brand(s), which is different from the definition of “Supply” in this Policy which includes continued supply of the

- (xvii) **“Producer”** has the meaning assigned in the applicable provincial legislation, and, for the purposes of this Policy, has the same meaning as “stewards” as that term may be used in some provincial legislation instead of “producers”.
- (xviii) **“Program”** means any one or more of Recycle BC, SK Recycles (Saskatchewan), or Multi-Material Stewardship Manitoba, which list may be changed from time to time.
- (xix) **“Program Fees”** means the fees paid by Producers to the Program(s) pursuant to Program Invoices and payable by the Producer. Regardless of whether a Producer pays a consolidated invoice issued for more than one Program or has separate Program Invoices issued for each individual Program, Qualifying Financial Terms will be determined on a Program by Program basis.
- (xx) **“Program Invoices”** means the Program(s)’ written notification to Producers regarding payments that must be made in an Invoice Year by each Producer to the applicable Program(s).
- (xxi) **“Qualifying Discontinuance”** has the meaning provided for in section 9.
- (xxii) **“Qualifying Financial Terms”** means where the Discontinuance will result in at least a net reduction of 5 percent of the Program Fees that would otherwise be payable by the Producer in relation to a Program Invoice issued on or after January 1, 2025.
- (xxiii) **“Regulator”** means, in relation to a Program:
- a. for Recycle BC, the BC Ministry of Environment and Climate Change Strategy;
 - b. for SK Recycles (Saskatchewan), the Ministry of Environment;
 - c. for MMSM (Manitoba), the Ministry of Environment and Climate Change;
- (xxiv) **“Reporting Cadence”** means, unless otherwise provided for in the Producer’s agreement with the Program or on the WeRecycle Portal, the calculation of the Producer’s Program Fees based on the amount of Designated Material the

Brand(s) after the Producer stops manufacturing the Brand(s) because of existing inventory that may remain in the supply chain after the cessation of manufacturing.

Producer Supplied in a Data Year and reported in a Report Obligation Year provided for in the following chart, and which shall continue on the same basis after the 2027 Fee Obligation Year:

Fee Obligation Year	Report Obligation Year	Data Year
2025	2024	2023
2026	2025	2024
2027	2026	2025
Etc.	Etc.	Etc.

(xxv) “**Report Obligation Year**” means a calendar year in which a Producer is required to file an Annual Producer Report in relation to a Program.

(xxvi) “**SKU**” is an acronym for “stock keeping unit” and means a unique number assigned to identify a particular product, often in the form of a machine readable bar code.

(xxvii) “**Supply**” means to sell, offer for sale, or distribute goods for use as specified in the provincial legislation that applies to the Program(s). The cessation of Supply may post-date the date on which the Producer Discontinued Manufacturing the Brand(s). Designated Material that is still in the supply chain after the cessation of Manufacturing must be accounted for in determining the Fee Relief, if any.

(b) Discontinuances

9. In order for a Discontinuance to be a potentially Qualifying Discontinuance under this Policy:
 - (a) the Producer must have reported on and paid fees in relation to the Discontinued Brand for the same number of years (or part thereof) that the Producer Supplied the Brand;⁴
 - (b) a Discontinuance must result in a net reduction by at least 5 percent of the Program Fees in the affected Program(s) that would otherwise be payable in relation to the

⁴ For example, if, after the Producer joined the applicable Program, it added a new Brand (Brand A) for which it was not required to report until the year following and was not invoiced until the year following that in accordance with the Reporting Cadence, the Producer will not be granted Fee Relief if it later discontinues Brand A unless or until it has paid Fees for Brand A for the same time frame (number or months or years) that it Supplied Brand A.

corresponding Program Invoice;⁵ and

(c) the quantum Designated Material that will form the basis of a Qualifying Discontinuance shall be established through an Audit.

10. In the case of a Qualifying Discontinuance, the Producer has the option, but not the obligation, to apply by the Notice Deadline to the affected Program(s) for Fee Relief in relation to Program Invoices issued on or after January 1, 2025 in accordance with this Policy.

11. In order to apply for Fee Relief for a Qualifying Discontinuance, the Producer must:

(i) at the time of Notice, pay a non-refundable administrative fee to the Program(s) in the amount of:

- a. \$3,000.00 in relation to the first affected Program in which the Producer is claiming Fee Relief; and
- b. \$1,000.00 for each additional affected Program in which the Producer is claiming Fee Relief,

failing which the Producer's request will not be considered; and

(ii) complete the following steps:

a. Step One: Notice

- i. By the Notice Deadline, provide Notice to the affected Program(s) at info@circularmaterials.ca, with the subject line: "Request for Fee Relief due to a Qualifying Discontinuance"; and
- ii. provide an explanation about the Discontinuance that addresses the following issues:
 1. Describe the Discontinuance in sufficient detail for the Program to validate that it was a Discontinuance;
 2. Attest to the date(s) on which the Producer Discontinued Manufacturing the Brand(s) and stopped Supplying the Designated Material associated with the Discontinuance and provide supporting documentation if requested; and
 3. The Producer's rationale (with supporting data) for its belief that the Discontinuance meets with Qualifying

⁵ The 5 percent threshold will be considered on a Program by Program basis. Only those individual Programs for which the 5 percent threshold is reached will be eligible for Fee Relief for a Qualifying Discontinuance.

Financial Terms.

b. Step Two: Preliminary Assessment by the Program

Based on the information provided by the Producer in Step One, the Program will:

- i. undertake a preliminary assessment to determine, subject to receiving complete data in Step Three, whether this may be a Qualifying Discontinuance; and
- ii. notify the Producer of its provisional determination, which will be subject to receiving additional data from the Producer.

c. Step Three: Final Submission of Information to Calculate Fee Relief

If the Producer provisionally qualifies for Fee Relief:

- i. The Producer must provide a report, in the form requested by the Program, regarding the Designated Material associated with the Discontinued Brand(s).
- ii. Under this Policy, the Producer will not be permitted to request any other changes other than with respect to the Discontinuance.⁶
- iii. The Program will review the report and make a final determination about whether the Producer satisfies the conditions of this section.

d. Step Four: Fee Relief

Upon satisfactory completion of all of the foregoing steps:

- i. The Fee Relief will be processed by the Program(s) upon confirmation from the Producer that it is in agreement with the Fee Relief calculation and quantum.
- ii. Once the Fee Relief is determined by the Program(s), the Program(s)' decision on Fee Relief is final and is not subject to the Adjustment Policy.

e. Step Five: Notify the Regulator, If Necessary

If required by the affected Program(s), provide such additional information to the Regulator regarding the Qualifying Discontinuance.

⁶ If the Producer is requesting other changes separate from the Qualifying Discontinuance, those requests are subject to the Adjustment Policy.

(c) Impact of a Producer’s Qualifying Discontinuance on Producers’ Report to the Program(s) and the Regulator, Where Applicable

12. Where the Program confirms a Qualifying Discontinuance, the Producer must:
- (a) Report its Supply data, in full and without deduction, to the Program(s) and the Regulator(s) (if the Program requires a direct report by the Producer to the Regulator);
 - (b) Meet its Minimum Management Requirement as specified by the Regulator(s) and/or Program(s) under the Legislation, where the Minimum Management Requirements for the Producer are not reduced due to the Qualifying Discontinuance; and
 - (c) Sign a written acknowledgment with the Program(s) confirming that, despite any provision any Fee Relief arising from the Qualifying Discontinuance, the Producer remains responsible for ensuring that its individual Minimum Management Target (if applicable in an affected Program) is met, on the understanding the Regulator may require the Producer to purchase credits or incur other obligations to remain complaint with the provincial Regulator.

(d) Producer has Entirely Discontinued Supplying Designated Material in a Province

13. For invoices issued on or after January 1, 2025, any Producer that entirely ceased Supplying Designated Material in a Province such that the Producer ceases to be obligated in the applicable Program(s), the Producer must notify the applicable Program(s) at info@circularmaterials.ca within sixty (60) days from the date that it ceased Supplying Designated Material. The Producer will be off-boarded from the affected Program(s) in the same manner that existed prior to the implementation of this Policy and in a manner consistent with the Program(s)’ Rules and/or Producer agreements.