

Interest, Penalties and Sanctions Policy

The **Interest, Penalties and Sanctions Policy** applies in the framework of EPR Curbside Recycling and it describes, in particular:

- The conditions leading to the imposition of interest, penalties or sanctions in the event of failure to meet the obligations or time frames stipulated in the Contract, the General Conditions, the Policies or the Regulation;
- The amount of the charges that can be imposed on a Member.

It was adopted by the board of directors of ÉEQ on March 30, 2023, submitted to the producers on April 20, 2023 and is effective as of April 20, 2023.

Scope

1. Any Producer that fails to meet its obligations stipulated in the Contract, the General Conditions, the Policies or the Regulation shall be subject to interest, penalties and sanctions, as described in the Regulation and this Policy.
2. Ultimately, in the event of default, the file of any Member may be sent to the Government of Québec, as provided in the Regulation.
3. This Policy forms an integral part of the Membership Contract and the General Conditions, and it may be amended in accordance with the General Conditions.

Policy

4. Definitions from the General Conditions and the Producers' Financial Participation Policy that are specific to this Policy:
 - a) "**Date of Request for Internal Records**" means the date a Producer received a request from ÉEQ to transmit its Internal Records relating to one or more Reports. Such a request is deemed to have been received on the date it was sent by ÉEQ.
 - b) "**Internal Records**" means the documents, working files, books, records and all other data and information in support of the Producer's obligations under the Contract, the General Conditions, the Policies and the Regulation.
 - c) "**Producer's Financial Participation (PFP)**" means the contributions paid and to be paid by the Members pursuant to the Regulation, based on the Ecomodulated Financial Participation Schedule and the other conditions described in the Producers' Financial Participation Policy.
 - d) "**Report**" means the annual Report of the Materials the Member has put on the market, completed in accordance with the conditions and for the Reference Year indicated in this Policy.

5. Interest Charges

- a) Subject to any additional amounts required for purposes of the PFP, interest shall apply in the following cases:
 - i. Where any PFP, partial PFP or special PFP owed by a Producer is not paid to ÉEQ within 30 days of the due date, as indicated in the Financial Participation Policy, charges shall be applied retroactive to the due date;
 - ii. Where a revised invoice is issued resulting in a higher PFP than the one produced according to the initial Report and it is not paid within thirty (30) days of issuance, charges shall be applied

retroactive to the initial payment date of the Report, as per the schedule contained in the Producers' Financial Participation Policy.

- b) The rate of interest applied shall be the one fixed under section 28 of the Tax Administration Act (CQLR, c. A-6.002). Any change in that rate shall automatically entail a change in the rate of interest applied on the billing of the PFP as of the date of the change.
- c) Interest on the amount of PFP outstanding shall be calculated daily, as of the due date for such amount of PFP or revised PFP, and it shall be invoiced monthly thereafter at the rate mentioned above until the date of payment.
- d) The interest calculated daily from the date of issuance of a revised invoice under the Producers' Financial Participation Policy to the date of payment will be cancelled if the amount required pursuant to such invoice is paid by no later than the thirtieth (30th) day following the date of issuance of the invoice.

6. Penalties

Penalties shall apply in the event of the following non-compliances:

- A Producer fails to submit its Report by the deadline established in the Producers' Financial Participation Policy (failure to file a Report);
 - The PFP is outstanding more than 90 days after the due date stipulated in the Producers' Financial Participation Policy or the payment date written on the revised invoice following the amendment of a Report, as provided in the Audit Policy, subject to some possible adjustments (failure to meet due dates);
 - A Producer fails to provide the information and documents required by ÉEQ within the time frame stipulated in the Audit Policy (failure to cooperate);
 - A Producer submits more than one Report amendment request within the period when such requests are permitted under the Producers' Financial Participation Policy (multiple amendment requests), as provided in the Audit Policy;
 - When ÉEQ institutes a legal recourse against a Member .
- a) Penalties for failure to file a Report
 - i. As of the 31st day following the deadline for filing a Report, ÉEQ may invoice a Producer or Small Producer a penalty of up to \$5,000 for any failure to file a Report, regardless of whether such Report leads to a payment exemption or a PFP payment. Such penalty shall be payable upon receipt of the invoice.
 - b) Penalties for failure to meet due dates
 - i. Charges for failure to meet the Reporting deadline:
 - As of the day following the deadline for filing a Report, ÉEQ may invoice a Producer or Small Producer a penalty of 5% of the PFP resulting from the late filing of a Report;
 - The penalty shall be applied on the first invoice for the PFP owing pursuant to such late Report.
 - ii. Charges for failure to pay by the due date:
 - A Producer that has not fully paid the PFP owing or the revised invoice produced as provided in the Audit Policy within ninety (90) days of the due date shall pay, in addition to the interest and penalties applicable under this Policy, a charge equivalent to 10% of that amount to cover the administrative expenses incurred.

- iii. Possible relief from charges for failure to meet due dates:
 - In a case of failure to meet the Reporting deadline, if a Producer voluntarily submits a Report, has not been the subject of compliance measures taken by ÉEQ, and makes a written request, it may be eligible for a credit equivalent to 100% of the amount of the charges payable under article i..
- c) Charges for failure to cooperate during an audit
 - i. Where a Producer fails to provide the information and documents required by ÉEQ within the thirty (30) day time limit stipulated in the Audit Policy, ÉEQ may impose charges for failure to cooperate corresponding to the higher of \$250 and 1% of the PFP for the Obligation Year in question, up to an amount of \$25,000.
- d) Penalties for multiple amendment requests
 - i. If, within two (2) years following the deadline for requesting an amendment to a Report established under the Producers' Financial Participation Policy, a Producer submits more than one Report amendment request, such request shall be subject to the addition of a penalty corresponding to the higher of \$250 and 5%, calculated on the difference between the existing PFP and that indicated in the new revised PFP submitted for approval, up to an amount of \$25,000.
 - ii. Such penalties shall be payable upon submission of the revised Report, prior to any analysis of a revised Report by ÉEQ.
- e) Penalties in the case of recourse
 - i. In accordance with the General Conditions, where ÉEQ institutes a legal recourse to claim an outstanding amount, it shall be entitled to claim an amount equal to 20% of such sum.

7. Charges in cases of imposed PFP

- a) Any imposed PFP generated under the Audit Policy shall include the interest and penalties described in this Policy.
 - i. Where a Producer transmits data and information specific to the Materials it has put on the market in the Reference Year covered by the invoice for imposed Financial Participation, the interest and penalties initially invoiced will be adjusted accordingly.
- b) Where a Producer has already been issued a PFP invoice due to non-compliance with the Producers' Financial Participation Policy, ÉEQ may require payment of an amount equivalent to a 20% increase of the payable PFP as estimated by ÉEQ.

8. Imposition of sanctions, as provided in the Regulation

- a) A monetary administrative sanction in the amount of \$2,000 in the case of a natural person or \$10,000 in other cases may be imposed on any person that fails to:
 - i. Be a member of ÉEQ;
 - ii. File an annual Report;
 - iii. Pay the Financial Participation for one or more Reports.
- b) A Producer is deemed to have committed a penal offence and is also liable to a fine of \$10,000 to \$1,000,000 or, notwithstanding article 231 of the Code of Penal Procedure (chapter C-25.1), imprisonment for a term of up to 3 years, or both, or, in other cases, a fine of \$15,000 to \$3,000,000 if:
 - i. It fails to be a member of ÉEQ;

- ii. It makes a Report, conveys information or produces a document that is false or misleading;
- iii. It fails to pay the Financial Participation for one or more Reports.

c) A Producer that contravenes any other obligation imposed by the Regulation (sections 120, 121, 122) also commits a penal offence and is liable, if no other sentence is stipulated in the Regulation or the Environment Quality Act, to a fine of \$1,000 to \$100,000 in the case of a natural person or, in other cases, a fine of \$3,000 to \$600,000. *For example, failure to transmit Internal Records when requested by ÉEQ as provided in the Audit Policy.*

9. Summary Table showing the gradation of the imposition of charges for interest, penalties and sanctions depending on the “non-compliance situations.”

Non-compliance	Stage 1	Stage 2
Failure to become a Member of ÉEQ	<p>For a Producer that does not become a Member of ÉEQ:</p> <ul style="list-style-type: none"> From 30 days prior to the Reporting deadline to the payment due date: <ul style="list-style-type: none"> Escalated follow-ups (“C-Suite”) with the Producer to encourage its compliance On January 31 of the Obligation Year when a Report was due: <ul style="list-style-type: none"> Potential transfer of the file to the Government 	<p>For a non-Member Producer:</p> <ul style="list-style-type: none"> Escalation of the file to the Government that is responsible for applying monetary administrative sanctions Liable to a fine of \$2,000 to \$10,000 issued by the Government Liable to a fine of \$10,000 to \$1,000,000 issued by the Government
Failure to file a Report for Members	<ul style="list-style-type: none"> As of the 31st day following the Reporting deadline: <ul style="list-style-type: none"> Invoicing of penalties of up to \$5,000 for failure to file a Report applicable to each outstanding Report 	<p>Imposition of the penalties stipulated for failure to meet the Reporting deadline</p>
Failure to meet Reporting deadline for Members	<p>For a Member that submits a Report after the Reporting deadline:</p> <ul style="list-style-type: none"> From 30 days prior to the Reporting deadline to the issuance of an imposed PFP: <ul style="list-style-type: none"> Escalated follow-ups (“C-Suite”) with the Producer to encourage its compliance As of the day following the Reporting deadline: <ul style="list-style-type: none"> Invoicing of a charge equivalent to 5% of the PFP owing added to the first invoice for the PFP As of the day following each of the PFP payment dates: <ul style="list-style-type: none"> Invoicing of interest charges at the rate in force for each period of tardiness, retroactive to the due date for the payments 	<p>Commencing on the 150th day of the Reporting date:</p> <ul style="list-style-type: none"> Potential issuance of an imposed PFP including all the stipulated charges Potential 20% increase of the imposed PFP by ÉEQ in the case where a Producer has already been imposed a PFP Potential legal recourse by ÉEQ with the imposition of a penalty of 20% of the imposed PFP

Failure to meet payment due dates	<p>Commencing on the payment due date:</p> <ul style="list-style-type: none"> Interest charges at the rate in force applied retroactively to the due date for payment of the PFP 	<p>Commencing on the 91st day following the payment due date:</p> <ul style="list-style-type: none"> 10% penalty applicable on the outstanding PFP <p>Commencing on the 181st day following the payment due date:</p> <ul style="list-style-type: none"> Potential legal recourse by ÉEQ with the imposition of a penalty of 20% of the PFP
Failure to cooperate during an audit	<p>Commencing on the 31st day following the Date of Request for Internal Records:</p> <ul style="list-style-type: none"> Charges corresponding to the higher of \$250 and 1% of the PFP owing for the Obligation Year in question, up to an amount of \$25,000 	<p>Commencing on the 61st day following the Date of Request for Internal Records:</p> <ul style="list-style-type: none"> Potential issuance of an imposed invoice and legal proceedings by ÉEQ <p>Commencing on the 91st day following the Date of Request for Internal Records:</p> <ul style="list-style-type: none"> Potential escalation to the Government (determine the time frame) <ul style="list-style-type: none"> Liable to a fine of \$1,000 to \$100,000 or \$3,000 to \$600,000
Multiple amendment requests	<p>Applicable to the revised PFP where a Producer submits more than one Report amendment request within the permitted time frame:</p> <ul style="list-style-type: none"> Charges corresponding to the higher of \$250 and 5%, calculated on the difference between the existing PFP and the revised PFP, up to an amount of \$25,000 	
Legal recourse for non-compliance instituted by ÉEQ	<p>Potential imposition of a penalty of 20% of the PFP owing, in addition to the stipulated interest charges and penalties where ÉEQ institutes a legal recourse to claim an amount it is owed</p>	