

## *Final Rules*

### **RULES FOR STEWARDS WITH RESPECT TO PAYMENT OF FEES (2004)**

**(July 1 to December 31, 2004)**

Rules made by Stewardship Ontario respecting the Blue Box Program Plan (2004)

In these Rules:

**Adoption Date** means the date on which Stewardship Ontario formally makes these rules under section 30 (1) of the Act. The adoption date will be established within 30 days of the date that the Minister files a regulation continuing Stewardship Ontario as an industry funding organization under the *Waste Diversion Act, 2002* and designating Stewardship Ontario as the industry funding organization for the Blue Box program;

**Base Interest Rate** means the pre-judgment interest rate established from time to time under the Rules of Civil Procedures of the Courts of Justice Act for pre-judgment interest;

**Brand Owner**, with respect to a specific trademarked printed material which is Designated Blue Box Waste, and with respect to a specific good, the packaging of which is Designated Blue Box Waste, where either the good or the packaging bears a trademark, means a person resident in Ontario who is the registered holder of the trademark, or licensee of a nonresident holder of the trademark, or a person who owns the intellectual property rights to the brand of the product or printed material or is the licensee of those rights;

**Commencement Date** means July 1, 2004

**Designated Blue Box Waste** means Packaging and Printed Materials that are comprised of metal, glass, paper, plastics, textiles or any combination thereof but does not include packaging or printed materials used exclusively for packaging products during their shipment from their place of manufacture to their place of distribution in Ontario, and packaging that is intended for continued use as packaging by the consumer over a period of five years or more;

**Excluded Waste** means Designated Blue Box Waste that is retained by a steward or its commercial customer, franchisee or licensee, at a location which one of them owns or occupies and is not carried away by retail customers and is not collected by municipal waste management services;

**Filed** means electronically submitted at [www.stewardshipdatasystem.ca](http://www.stewardshipdatasystem.ca) or delivered to 26 Wellington Street East, Suite 601, Toronto, Ontario, M5E 1S2;

**First Importer** means a person resident in Ontario, who imports into Ontario:  
a) a specific printed material which is Designated Blue Box Waste, for which a Brand Owner does not exist, or

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b) a specific good, the packaging of which is Designated Blue Box Waste, for which a Brand Owner does not exist;

**Franchisor, Franchisee and Franchise System** have the meaning ascribed thereto under the *Arthur Wishart Act (Ontario)*;

**Packaging** means materials that are used for the containment, protection, handling, delivery and presentation of goods sold or delivered to consumers in Ontario;

**Printed Materials** means printed materials that are sold, issued, distributed or delivered to consumers in Ontario;

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

**Resident in Ontario** has the meaning ascribed hereunder by the Income Tax Act (Ontario);

**Rules** means these rules;

**Steward's Report** means a report prepared by a steward and filed with Stewardship Ontario, describing the amount of Designated Blue Box Waste, expressed in kilograms by category as required under these Rules, that were sold or delivered in Ontario in 2002 by the steward and containing the information and calculated in accordance with Appendix A.

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### **A) Designation of Stewards**

- (i) A Brand Owner is designated as a steward with respect to all Printed Material and the Packaging of all goods for which he is Brand Owner.
- (ii) A First Importer is designated as a steward with respect to all Printed Material and the Packaging of all goods for which he is First Importer.
- (iii) A Franchisor is designated as a steward with respect to all Printed Material and the Packaging of all goods, which are within the relevant Franchise System.
- (iv) Notwithstanding clause (iii), a Franchisee is designated as a steward with respect to all Printed Material and the Packaging of all goods which are within the relevant franchise system in the event the Franchisor is not the supplier to the Franchisee of all or substantially all of such material and in such case, the Franchisor is not designated as a steward.
- (v) Any person who elects to become a steward respecting Designated Blue Box Waste that would otherwise be the responsibility of another steward, shall be designated a steward upon execution of a contract with Stewardship Ontario, notice of which appears on the Stewardship Ontario website, and the person otherwise responsible is exempt from the requirement to pay fees respecting such Designated Blue Box Waste during the currency of the contract.

### **B) Fees Payable**

- i) Stewards shall pay fees to Stewardship Ontario in accordance with these Rules. The amount of fees payable shall be the sum for categories set out in the Steward's Report of the product of the amount of each such Designated Blue Box Waste set out in a Stewards' Report multiplied by the rates set out in the table of fees attached as Table 1 to these rules.

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**Table 1: Table of Fees  
July 1 to December 31, 2004**

<b>Category</b>	<b>Material</b>	<i>Annualized Fee</i>
<b><i>Printed Paper</i></b>	Newspaper	0.026 ¢/kg
	Magazine and Catalogues	0.310 ¢/kg
	Telephone Directories	0.687 ¢/kg
	Other Printed Paper	1.318 ¢/kg
<b><i>Packaging</i></b>		
Paper based packaging		5.987 ¢/kg
Plastic packaging		9.610 ¢/kg
Steel packaging		4.391 ¢/kg
Aluminum packaging		-3.193 ¢/kg
Glass packaging	Flint/Clear	3.682 ¢/kg
	Coloured	3.916 ¢/kg

- ii) The fees payable under the Steward's Report shall be prorated to the portion of the year 2004 between the Commencement Date and December 31st, 2004, **in other words 6/12 of the calculated annualized fee.**
- iii) Stewards who are members of the Canadian Newspaper Association and the Ontario Community Newspapers Association shall be entitled to pay up to \$1,300,000, in the aggregate, of fees payable, by providing advertising and in-kind services as approved by Waste Diversion Ontario, and valued in accordance with their published advertising rates at the time of the appearance of such advertising. The \$1,300,000 maximum amount for in-kind payment shall be prorated to the portion of the year 2004 between the Commencement Date and December 31<sup>st</sup>, 2004, or \$650,000.
- iv) Notwithstanding the above the Liquor Control Board of Ontario shall pay fees of \$5,000,000 **for 2004.**

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### **C) Steward's Report**

Every steward shall pay the fees payable under these Rules and file a Steward's Report with Stewardship Ontario not later than 60 days after Commencement Date, or 90 days after such steward is notified, whichever is later. A Steward's Report that was filed by a steward under the rules made December 22, 2003 shall constitute a Steward Report under these Rules. A steward is notified:

- a) on the day the steward receives personal service, or
- b) three days following the sending by prepaid first class postage to the steward at its Published Address in Ontario, of a copy of these Rules or a written notice of how to obtain a copy of these Rules.

### **D) Penalties, Interest and Back Fees**

Stewards who fail to pay fees within 60 days of the date specified in C), above will be subject to a penalty calculated at 10% of fees due and payable. Interest on unpaid fees shall accrue from such date at the Base Interest Rate plus 3%.

### **E) Steward Exemptions**

- i) Stewards are exempt from filing a Steward's Report and paying the fees otherwise due if in 2002, the steward had gross revenues in Ontario of less than \$2 million in 2002, which in a retail context shall mean the cost of goods purchased was less than \$2 million.
- ii) Stewards shall file a Steward's Report but will be exempt from payment of fees otherwise due provided that in 2002:
  - a) the steward sold, distributed, issued or delivered Printed Materials which are newspapers in a quantity less than 75 tonnes, and
  - b) the steward sold, distributed, issued or delivered Packaging and Printed Materials, other than newspapers, in a quantity less than 15 tonnes.
- iii) Notwithstanding the above Stewardship Ontario may, acting reasonably require a steward to file a Steward's Report by sending a written request to a steward.

### **F) Record Retention**

Stewards shall maintain records to substantiate and verify the amount set out in their respective Report for a period of not less than five years from the date of the Report to which they relate. Stewardship Ontario shall have the right to audit and inspect such records respecting a Report up to five years after the date of receipt of such Report by Stewardship Ontario.

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### **G) Dispute Resolution**

If any dispute arises between a steward and Stewardship Ontario as to the amount of Designated Blue Box Waste that is required to be included in a Steward's Report:

- i) The parties shall attempt to resolve the dispute through designated representatives from each of Stewardship Ontario and the steward within thirty (30) days upon which written notice of the dispute was first given, or as otherwise agreed upon.
- ii) If the parties are unable to resolve the dispute within the above period, the steward and Stewardship Ontario shall within thirty (30) days thereafter jointly select an arbitrator to arbitrate the dispute.
- iii) The arbitrator shall render a decision on the dispute and the award arising there from, in accordance to the Arbitration Act Ontario.
- iv) Non-payment or failing to file a Steward's Report by a steward shall not be items subject to arbitration.

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**Appendix A**

**Form of Steward's Report**

Name of Steward

Mailing address

Billing address

Contact Person for Steward Report

Brand names responsibility of Steward

**Kilograms of Designated Blue Box Waste Sold or Delivered in 2002.**

Printed Paper Categories	Kilograms
Newspaper	
Magazines and Catalogues	
Telephone Books	
Other Printed Papers	

Packaging Categories	Kilograms
Corrugated packaging,	
Boxboard packaging,	
Gable top containers,	
Aseptic containers,	
Paper laminants,	
PET bottles,	
HDPE bottles,	
Other rigid plastics,	
Polystyrene,	
LDPE/HDPE film,	
Plastic laminant films,	
Steel paint cans,	

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Steel aerosol containers, Other steel cans, Aluminum containers, Aluminum semi-rigid and flexible foil packaging, Glass packaging-Flint (clear), Glass packaging-colored, LCBO Glass packaging-Flint (clear), LCBO Glass packaging-colored	
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Description of methodology and data used to prepare this Report

Description of Excluded Waste deductions from Report, including kilograms or percentage used by material type

List of brands, trademarks or publication titles covered in this Report

Declaration of accuracy of contents of this Report

Notwithstanding the above, a Steward may elect to use the Sectoral Calculator as described in the Plan.