



Stewardship Ontario

PRELIMINARY REVIEW OF PROPOSED CHANGES TO THE BLUE BOX RULES

DISCUSSION NOTES FOR SEPTEMBER 14 MEETING

WITH STEWARDS AND OTHER STAKEHOLDERS

INTRODUCTION

Stewardship Ontario works on behalf of Ontario business in an effort to achieve excellence in the delivery of the Blue Box program. We partner with municipalities to encourage them to improve program performance and ensure that Ontario consumers can recycle the widest possible range of packaging material at the lowest possible cost. We also work with the recycling industry to extract as much value as possible from recyclable material to maximize environmental benefits, while generating revenue to help lower program costs.

Stewardship Ontario also strives to ensure that Ontario businesses (“stewards”) that are obligated by the program are able to discharge their responsibilities as easily as possible. At the same time, we are committed to ensuring that businesses that comply with their obligations are not financially burdened by “free riding” from companies that might seek to take advantage of the good corporate citizenship of their competitors.

The *Waste Diversion Act* authorizes Stewardship Ontario to develop rules that govern the Blue Box program. These rules, which are reviewed annually, define the obligations of Ontario businesses to provide financial support to Ontario’s Blue Box system. They also outline how those obligations are discharged. As such, these Rules are the most important reference tool Ontario business has to enable them to remain in compliance with the program.

The Rules include information regarding:

- Designation of stewards
- Payment of fees
- Deadlines for reporting and payment
- Penalties and interest
- Steward exemptions
- Record provision, retention and the review of steward information by Stewardship Ontario and its authorized representative

As part of its continuing effort to improve the Blue Box program, Stewardship Ontario is conducting a thorough review of the Blue Box Rules to determine how they should be revised to better promote fairness and clarity in the reporting and compliance process. The review has been largely informed by feedback from our stewards, and has also encompassed suggestions from industry associations, our own review of best practices in other jurisdictions, and lessons learned from our compliance review process.

OBJECTIVES OF THE REVIEW

The primary objective of the Rules review is to make the reporting and compliance processes for stewards fairer, clearer and more consistent with other jurisdictions such as Quebec and Manitoba, while continuing to meet the objectives of the Ontario Blue Box program and the *Waste Diversion Act*. Specifically, the Rules should:

1. Improve data accuracy and reduce program fee fluctuations to achieve ever-more precise calibration of stewardship fees to program costs
2. Reduce “free riding” and ensure a fairer allocation of administrative and compliance related costs
3. Provide clear guidance on steward reporting requirements
4. Harmonize processes and protocols with other jurisdictions to the extent possible.

HOW THIS PAPER IS ORGANIZED

Each of the following sections presents ideas that Stewardship Ontario is considering in order to further the objectives noted above. Specific changes to the program (in the form of new or revised rules and/or additional support documentation) are set out, along with the reasons why the changes are being considered. Each section also includes questions designed to help you frame your thoughts and provide valuable input into the next phase of the process.

No decisions regarding these changes have yet been taken. Rather, Stewardship Ontario is seeking the views of stewards and others so that these views can be carefully considered before final recommendations are put to the Stewardship Ontario Board. In addition, we invite the views of EEQ in Quebec and MMSM in Manitoba, to ensure that the changes Stewardship Ontario does make support our mutual objective of harmonizing the various program requirements as much as possible.

CHANGES UNDER CONSIDERATION

1. Reduce unnecessary program fee fluctuations from year to year

Stewards have requested that fee rates remain as constant and stable as possible in order to instill more predictability into their business planning. While over 92% of steward fees are determined by the cost of recycling Blue Box material, there are two other factors that contribute to program fee fluctuations:

1. The use of an **estimate** of material supplied into the Ontario marketplace when establishing the fee rate schedule, and
2. Adjustments that are made to reported material supplied quantities **after** Stewardship Ontario has calculated the fee rate.

How does Stewardship Ontario propose to eliminate these fluctuation factors?

A. By using actual tonnes reported by stewards when calculating program fees.











While the process to arrive at fee rates is complicated and time consuming, it essentially comes down to determining the total program costs, and dividing these costs by the **estimated** number of kilograms stewards sell into the market.

Historically, fees rates have been calculated taking **known** costs from one calendar year and dividing these known costs by **estimated** steward sales for the coming year. Step one of the fee setting methodology entails estimating the amount of Blue Box material stewards sell into the market. That estimate is derived from data reported by stewards at the end of March each year. The estimated value is then used to calculate the fee rate by dividing the total fee for each material by this estimated value. Although the estimate is in large part based on prior years' steward reports, it is an estimate none the less.

During the early years of the program, conservative estimating and ongoing increases in the volume of packaging and printed paper sold into the marketplace tended to lead to the accumulation of financial surpluses. This was an acceptable pattern in the early years of the program, since surpluses were not too large and trends in consumer packaging were reasonably predictable. However, we are now seeing significant and unpredicted shifts in the amount of material reported by stewards, no doubt because changes in consumer packaging are happening much more quickly than they have in the past. This means that the "packaging mix" in the market place is now shifting too fast for Stewardship Ontario's fee setting system to react, and there is an emerging disconnect between the mix of packaging that determines what we need to pay municipalities and the packaging mix used to determine steward fees and fee payments. This creates a risk of program deficits for Stewardship Ontario and potential financial surprises for stewards rolling forward into future years.

The change we are considering would use actual steward-reported tonnes when calculating the fee rate. This change would eliminate the shortfalls or surpluses caused when there are variances between the estimated tonnes and the actual tonnes subsequently reported by stewards. As a result, the following five cost elements of the total program fee would be highly predictable thereby reducing unnecessary fluctuations, as illustrated in Table 1 below:

Table 1: Improving Predictability with Reference to Actual Tonnes

Input to Methodology	Current State Predictability	Future State Predictability
Municipal compensation		
Material specific market development (if applicable)		
Costs of SO administration, program delivery and WDO		
Actual historical shortfall or surplus of reported material		
Steward sales into market		

B. By preventing actual reported tonnes from changing once fee rates are established.

Stewardship fees are calculated based on the data that stewards report to Stewardship Ontario at the end of March each year. Steward reports that are changed subsequent to the fees being set can result in unanticipated program surpluses or deficits that need to be accounted for in succeeding years. This in turn creates fee fluctuations from year to year that are unrelated to program cost increases/decreases but rather, result from inaccurate data on steward sales into the marketplace.

In order to mitigate this issue, Stewardship Ontario is considering introducing a steward report verification period of four months and setting a firm deadline of July 31st, after which the total amount payable by a steward cannot be re-calculated when reductions in tonnes are reported. Stewards would have four months from the original reporting deadline of March 31st to correct errors in their reporting.

2. Increase predictability of the steward budget process

Stewards have requested that the process for establishing their stewardship fees support their internal budget setting process. The sales data year that is used as a basis for the fee rate calculation is the primary factor that affects the predictability of the steward fee budgeting process. To accurately budget steward fees for an upcoming year, two variables must be known: the sales into market and the material fee rate. Under the current process, material fee rates are available in November, but the sales data used to calculate the steward fee payable is not known until the following March (at the earliest).

How does Stewardship Ontario propose to increase the predictability of steward budgeting?

A. By aligning the sales data year with the fee rates when calculating stewards' fees.

Stewardship Ontario is considering revising the calculation of steward fee payments so that costs, fee rates and fee payments would all be drawn from the same calendar year. In other words, Stewardship Ontario would calculate stewardship fees based on the sales data actually reported by March 31st and multiplied by the fee rates that we publish in November. This approach is more in keeping with the intent of the program because it defers the fee rate calculation until both program costs and tonnes available are confirmed, thereby enabling a more precise calibration of program costs to stewardship fee rates. It would mean that costs are generated in the same year that the material is sold into the market and it would eliminate the need to base the fee rate on an estimated value.

Stewards would be able to establish a firm budget for fees payable in the obligation year, and Stewardship Ontario would have certainty that enough revenue would be generated to meet our obligation to municipalities on behalf of stewards, as illustrated in Table 2 below.

Table 2: Referencing Actual Sales Data would Improve Stewards' Budgeting Process





Budget Variable	Current State: Availability in Q4	Future State: Availability in Q4
Material Fee Rate		
Sales Data		

Table 3 (below) illustrates the proposed change and what it would mean for steward reporting.

Table 3: Proposed Reporting Improvements

Activity	Current	Proposed	Outcome
Fee rate calculation	Estimates 2012 sales into market based on 2011 steward data adjusted to account for marketplace and related trends	Use actual 2010 sales data as reported by stewards.	Eliminates use of estimated values in the calculation.
2012 Steward reports	2011 data year tonnage to be reported in 2012	2011 data year tonnage to be reported in 2012	Data would be used for fee setting and steward obligations for the 2013 year.
2012 Stewardship fee payment calculation	Multiply 2012 Fee Rates by 2011 data year tonnage reported by stewards in 2012	Multiply 2012 Fee Rates by 2010 data year tonnage reported by stewards in 2011.	Stewards can accurately calculate their 2012 obligation in November 2011.

QUESTIONS FOR CONSIDERATION

1. What impacts do you see, positive or negative, from the introduction of the four-month steward verification period?
2. Do you agree that aligning the sales data with this change would improve the accuracy of your internal budget process?

3. Fairer application of administrative and compliance costs

Reviewing and verifying the accuracy of steward reports is currently a complex and time-consuming process. Clearer reporting requirements would help to streamline the process, reduce costs, and focus effort and resources on ensuring there is a level playing field for all stewards.

Currently, the costs that Stewardship Ontario incurs to ensure all stewards comply with reporting and payment obligations is shared among all stewards as part of the program’s common administrative costs. In the interests of fairness, the more than 90% of stewards who are in good standing because they produce accurate, timely reports and responses to queries, should not have to pay for the administrative costs related to a small group of non-compliant stewards.

How does Stewardship Ontario propose to introduce more fairness in the allocation of administrative compliance costs?

A. By introducing administrative fees for non-compliance.

Stewardship Ontario is proposing to apply administrative fees to compliance activities. These fees may be applied for late reporting, incomplete reporting, non-cooperation with a report verification process, and refusal to provide supporting documentation. The fees would be calculated to directly cover the costs associated with compliance.

B. By increasing the penalty for late payment of fees.

Stewardship Ontario is considering increasing interest charged on outstanding balances by 1% per month (from Prime plus 3% to Prime plus 4%), in order to strengthen the incentive to pay outstanding balances and to help assign a greater share of administrative compliance costs to those stewards that seek to avoid their obligations at the expense of other stewards.

QUESTIONS FOR CONSIDERATION

3. Does the application of an administrative fee meet the objectives of reducing free-riding and a fairer allocation of administrative and compliance related costs?
4. Is the 1% increase in monthly interest on outstanding balances an equitable consequence for not paying into the program? For example, should an even higher rate, consistent with high-risk loan rates, be considered?

4. Clearer Reporting Requirements

Stewards first and foremost want clearer guidance on the kind of information they are required to report to Stewardship Ontario. They want standardized methods for calculating the amount of materials they supply into the Ontario marketplace. They have also asked for better guidance on the documentation Stewardship Ontario needs to verify the data in their reports, and to conduct report verifications. We recognize that the current Rules do not provide enough detail on the kind of information that stewards need to report.

Stewards' requests for clearer reporting guidance is supported by feedback from report verifications which demonstrate that challenges with data reporting and accuracy are directly linked to a lack of clarity about how to calculate the amount of materials that an individual steward sells into the marketplace. The reviews also indicate that stewards are not clear on what kinds of documentation

they need to retain to verify their data, which in turn makes the review process more time consuming for stewards.

Clearer guidance in the Rules would save stewards time and result in improved data accuracy. Product stewardship organizations in Europe clearly outline the information their stewards may be requested to provide in support of their reported data. Nearer to home, EEQ in Quebec, for example, reserves the right to request that a steward provide a complete list of the packaging that is covered in their reported data.

Better guidance about the specific information being asked of stewards would also benefit the steward community as a whole. It would reduce the time and expense associated with reviewing and validating steward reports and it would provide Stewardship Ontario with more accurate data upon which to set fees.

How does Stewardship Ontario propose to clarify reporting requirements?

A. By providing Rules that clearly identify the information stewards are asked to provide with their reports.

The Fees and Reporting Section of the Rules (Section 3) would clearly set out the kind of information that stewards would be asked to provide in their reports. For example, stewards would be asked for:

- A description of the sources of data and the methodology used to calculate the amount of materials supplied into the Ontario marketplace. Any changes in the calculation methodology would also be reported.
- Details of any deductions from the material supplied into the Ontario marketplace would need to be reported, including data used to prepare, calculate and determine those deductions.
- Information explaining reporting variations from one year to the next, for example, changes in packaging design and materials that generate a substantive change in the amount of packaging material released onto the market.
- A list of the brands supplied by the steward, as well as a list of brands that the steward supplies but is not obligated to report on. (This would enable Stewardship Ontario to verify that stewards are only reporting the brands for which they are obligated.)

B. By providing new Guidebooks that will clarify and standardize reporting requirements and processes.

To support stewards in their reporting, Stewardship Ontario is also developing new Guidebooks that will contain:

- A comprehensive list of material definitions and reporting categories with examples provided for each, including guidelines that classify packaging with multiple components or materials

- Decision trees to assist stewards to determine their obligation (e.g., material decision trees, and Ontario residency decision trees)
- Standards for determining the amount of material supplied into the Ontario marketplace
- An outline of the steward report verification process and appropriate supporting documentation that stewards will be asked to supply
- More tips on how to use the steward reporting Portal
- A policy for Voluntary Stewards, including a new voluntary steward agreement
- Guidelines for reporting materials obligated under both the Blue Box and the MHSW programs. (Please note that Stewardship Ontario is developing a more streamlined reporting process for stewards that will be available for the 2013 reporting year.)

The Guidebooks will be made available to stewards prior to the commencement of the 2012 reporting year.

C. By providing clarity on packaging data.

During the report verification, stewards are typically requested to provide packaging and printed paper data. Stewards have asked that Stewardship Ontario provide clear guidance on the kind of packaging data that may be requested of them during a review.

This could be achieved by requesting that stewards be capable of providing a “bill of materials” type description of the packaging, upon request from Stewardship Ontario. Information commonly found in a “bill of materials” description includes physical dimensions, images, and raw material specifications.

QUESTIONS FOR CONSIDERATION

5. What challenges (if any) does the proposed reporting information pose for stewards?
6. What other action could Stewardship Ontario take to make the report verification and review process less laborious for stewards, while ensuring that it can verify the accuracy of steward reporting?
7. What process would you follow to comply with a request for packaging specifications?
8. Are there any other reporting guidelines that stewards would like Stewardship Ontario to provide?

NEXT STEPS

We look forward to discussing these proposals with stewards at the September 14th meeting and we invite you to come prepared to offer your comments during the session. We also encourage stewards to provide us with written comments. The deadline for submitting comments is September 30, 2011 and they can be submitted to bluebox@stewardshipontario.ca. For more information about the September 14th meeting, including how to register, please click [here](#).

Based on steward input, and in accordance with Section 9.18 of the Blue Box Program Plan, stewards will be notified of all proposed rule changes to the Rules at Stewardship Ontario's fee consultation to be held in October 2011. The proposed changes will also be posted on the Stewardship Ontario website. A notice period of no less than 30 days will be allowed for comment on the proposed changes. Following review of comments received the Board of Directors of Stewardship Ontario will vote on proposed changes. The WDO will be also be notified in writing of any proposed changes to the Rules and will approve same.

GENERAL QUESTIONS

9. Are there other ways in which Stewardship Ontario could improve the reporting process, while ensuring a "level playing field" for all stewards?
10. Are there other general improvements Stewardship Ontario could make to the Rules that have not been addressed in this paper?