

9. Stewardship Ontario Governance, Rules and Procedures

9.1 Stewardship Ontario

Stewardship Ontario is a non-share capital, not-for-profit Corporation initiated by the WDO to serve as the Secretariat for the development and implementation of a program for the management of Blue Box wastes under the WDA.

9.1.1 Governance Model

Stewardship Ontario is composed of the members of its Board of Directors. The founding Board of Directors of Stewardship Ontario represent the seven (7) existing industry sectors represented on the WDO Board whose members are expected to be the designated Stewards for the significant majority of obligated Blue Box wastes under the Plan, plus the CEO of the corporation. Brewers Retail Inc., the other industry sector represented on the WDO, is not required to participate in the program as per Section 35 of the *Act*.

Members of the Board of Directors are allowed to appoint alternates who may vote in the absence of the member. Voting representatives are identified by the Chair at the beginning of each meeting and are recorded in the Minutes of the Meeting.

Founding members of the Board of Directors and their designated alternates (as indicated by an asterisk) include:

One member appointed by the Food and Consumer Products Manufacturers of Canada

Tim Moore, Clorox Canada
Dennis Darby*, Procter & Gamble

One member appointed by the Canadian Council of Grocery Distributors

Geoff Wilson, Loblaw Companies Limited,
Larry Griffin*, Loblaw Brands Limited

One member appointed by the Retail Council of Canada

Diane Brisebois, RCC
John Hanson*, On behalf of RCC

One member appointed by Refreshments Canada

Gemma Zecchini, Refreshments Canada
Colleen Newell*, Pepsi-Cola Canada Ltd,

One member appointed by the Canadian Newspaper Association

Anne Kothawala, CNA
John Hinds*, CNA

One member appointed by the Liquor Control Board of Ontario

Gerry Ker, LCBO
Lyle Clarke*, LCBO

One member appointed jointly by the Canadian Paint and Coatings Association and the Canadian Consumer Specialty Products Association

Ron Hoare, Para Paints

Ed Berry*, CCSPA

The CEO of Stewardship Ontario in an Ex-Officio capacity - **Damian Bassett**

Stewardship Ontario is managed by its Board of Directors and the officers of the corporation.

The Officers of Stewardship Ontario are as follows:

Chair: **Dennis Darby**
Vice-Chair: **Larry Griffin**
Treasurer: **Diane Brisebois**
CEO: **Damian Bassett**

Quorum

- The quorum for the transaction of business at any meeting is a majority of members.

Voting

- Each Founding Member, or their designated alternate in the absence of the member, is entitled to vote. Decisions of the Board of Directors are determined by majority vote.

Bylaws

- The bylaws of the Corporation are attached in Appendix V.

Subcommittees

- The Board of Directors may authorize the establishment of subcommittees of the Board of Directors and may authorize a subcommittee to include persons who are not members of the Board.

Remuneration and Expenses

- The members of the Board of Directors are not entitled to any remuneration associated with their duties as a director, but may be reimbursed for expenses in accordance with the bylaws.

9.1.2 Future Governance Model

Upon approval and implementation of the Blue Box Program Plan and the recruitment of additional members of the corporation, the Board of Directors of Stewardship Ontario will request the approval of the WDO to revise the governance model to include representation from all industry sectors included in the membership and to reflect the following guiding principles:

- (1) All designated Stewards under the plan are eligible for membership in Stewardship Ontario.

- (2) The Board of Directors of the corporation will be elected by industry sectors. The number of industry sectors will be determined after the number of members is known and the proportion of the total annual fees of the corporation contributed by each sector in each year of the program.
- (3) The Board of Directors will be comprised of a maximum of 20 members.
- (4) The Board of Directors will be elected by the members of the corporation at an annual general meeting.
- (5) Members fees will be determined on the basis of the methodologies set out in the Blue Box Program Plan and as approved by the WDO and the Minister of Environment.
- (6) The Corporation will execute its responsibilities in a transparent manner and ensure that the rules of the Corporation are available to the public on the Internet and in writing upon request, as per Section 30 of the WDA.

The future Board of Stewardship Ontario, subject to the approval of the WDO, will include representation from each of the seven founding sectors:

- Food and consumer products manufacturers;
- Non-alcoholic beverage manufacturers;
- Grocery distributors;
- General merchandise retailers;
- Newspaper publishers;
- Paint manufacturers and consumer chemical product manufacturers; and
- Retailer of alcoholic beverages.

The Board of Stewardship Ontario has established a Future Structure Committee (Section 9.14) charged with further development of the Board upon approval of the Program Plan and registration of members. Representation on the Board of Directors will be expanded to ensure representation for the range of industry sectors designated as Stewards under the Plan. The Board of Directors will be expanded to include representation from up to seven (7) additional sectors, which may include:

- Electronic and electrical products;
- Toys and sporting goods;
- Non-prescription pharmaceuticals;
- Quick service food;
- Importers;
- Distributors; and
- Hardware and automotive.

The final configuration of the Board and the voting representation will take into account the relative financial contributions of each sector to Stewardship Ontario.

To ensure that no one sector acquires controlling interest on the Board, the Board of Directors will establish criteria for which decisions will require both a majority vote of the Board and the approval of a minimum number of industry sectors (a double hurdle requirement).

Stewardship Ontario will review the size and composition of the Board of Directors annually. The procedures for altering the Board of Directors will be as outlined in Section 9.18.

9.1.3 Criteria for Membership in Stewardship Ontario

Upon approval of the Blue Box Program Plan, eligible members will include:

- The designated Stewards of Blue Box wastes;
- Other companies with a commercial connection to Blue Box wastes, as agreed by the Board of Directors; and
- Other persons as determined by the Board of Directors to have an interest in the activities of the Corporation.

To be a member in good standing in the Corporation, Stewards of Blue Box wastes must keep records, provide reports and pay fees to Stewardship Ontario in the manner determined by the Board of Directors from time to time.

In addition to members, Stewardship Ontario may appoint Observers to the Board or to committees of the Board as appropriate.

9.1.4 Committees

Stewardship Ontario will establish committees to provide advice to the Board of Directors, including the:

Future Structure Committee

- To consult with Stewards and to make recommendations on the appropriate composition of the Board of Directors following receipt of applications for membership in the corporation. These recommendations will be made within 120 days of approval of the Blue Box Program Plan.

Audit Committee

- To make recommendations to the Board of Directors on all matters related to the funds of the Corporation as set out in Sections 32 and 33 of the WDA.

Blue Box Program Advisory Committee

- To make recommendations to the Board of Directors on all matters related to implementation of the Blue Box Program Plan.

9.1.5 Annual General Meeting

There will be an annual general meeting of the Corporation to review and approve the recommendations of the Board of Directors in regards to meeting the obligations of Stewardship Ontario as set out in Sections 30 and 33 of the WDA.

9.2 Stewards of Blue Box Wastes

Section 30 (1) of the WDA states that:

“If an industry funding organization is designated by the regulations as the industry funding organization for a waste diversion program, the organization may make rules

(a) Designating persons or classes of persons as stewards in respect of the designated waste to which the waste diversion program applies“

Section 30 (2) states that a rule made under clause (1):

“Shall not designate a person as a steward in respect of a designated waste unless the person has a commercial connection to the designated waste or to a product from which the designated waste is derived.”

Furthermore, the Minister’s Program Request Letter to the WDO for a Waste Diversion Program for Blue Box wastes (September 23rd, 2002) states:

“The proposed funding rules under the program will designate and define as stewards under the program, brand owners and first importers into Ontario of products that result in Blue Box wastes under the program.”

Stewardship Ontario has defined brand owners and first importers of products sold in Ontario that result in Blue Box wastes as set out in Section 2 as Stewards for the purposes of this Blue Box Program Plan.

9.3 Stewards for Printed and Packaging Materials

A Steward of a designated Blue Box waste is identified in the Minister’s Request for a Waste Diversion Program for Blue Box waste. Item 5 in the Addendum to the Program Request Letter states:

5. *“The proposed funding rules under the program will designate and define as stewards under the program, brand owners and first importers into Ontario of products that result in Blue Box wastes under the program”.*

For the purposes of this plan, a “Steward” means a person who bears financial responsibility under this program for Blue Box wastes and, in particular, means

- (1) With respect of Blue Box waste that is packaging:
- (a) A person who voluntarily fulfills the obligations of Steward for the waste; or
 - (b) If a person described in subclause (a) does not exist, then, a person carrying on business in Ontario who:
 - (i) For the Ontario market, owns the intellectual property rights to the brand of the packaged product or is a licensee of those rights; and
 - (ii) Manufactures, packages, or distributes the packaged product for sale in Ontario, or causes the manufacture, packaging, or distribution of the packaged product for

- sale in Ontario, notwithstanding that one or more of the above described activities does not take place in Ontario; or
- (c) If a person described in subclause (a) or (b) does not exist, then, a person in Ontario who packs or fills or causes the packing or filling of products whether the activity takes place in Ontario or not; or
- (d) If a person described in subclause (a), (b) or (c) does not exist, then, the first person to take possession of the packaged product in Ontario for distribution or sale.

(2) With respect of Blue Box waste that is printed paper:

- (a) A person who voluntarily fulfills the obligations of Steward for the waste; or
- (b) If a person described in subclause (a) does not exist, then, a person in Ontario who is the publisher of the printed material, whether production of the printed material takes place in Ontario or not; or
- (c) If a person described in subclause (a) or (b) does not exist, then, a person in Ontario who is the title-owner of the printed material or is a licensee of those rights for Ontario, whether production of the printed material takes place in Ontario or not; or
- (d) If a person described in subclause (a), (b) or (c) does not exist, then, a person in Ontario who prints or causes the printing of the printed material whether the printing takes place in Ontario or not; or
- (e) If a person described in subclause (a), (b), (c) or (d) does not exist, then, the first person to take possession of the printed material in Ontario for distribution of sale.

Therefore all brand owners and first importers into Ontario of products that result in final consumption packaging and printed papers as defined in Section 2 are generally deemed to be Stewards under the Blue Box Program Plan, subject to the franchisor rule in Section 9.3.2 and the *de minimis* exemption as outlined in Section 9.4.

9.3.1 Liquor Control Board of Ontario

The Liquor Control Board of Ontario (LCBO) is an agency of the Province of Ontario. The Province of Ontario has designated the LCBO to be the Steward for all domestic and imported wines and spirits, and imported beers that are listed exclusively with the LCBO. The LCBO is therefore the Steward for all designated Blue Box wastes sold or distributed through LCBO stores, agency stores, winery/distillery retail stores and duty free stores in Ontario. The obligation extends to include all printed informational and promotional materials distributed free at the stores, through newspaper inserts and through subscription.

9.3.2 Franchise Businesses

The definitions of a "franchise," "franchisor," and "franchisee" contained in the *Arthur Wishart Act* shall be applied in interpreting the meaning of those same expressions for purposes of this Plan. With respect to any business operated partly or wholly in Ontario as a franchise, the franchisor shall be deemed the obligated Steward for all its Ontario franchisees. Therefore, the franchisor will be obligated to report packaging and printed paper generated in Ontario by all of its franchisees and the franchisor itself through its corporately-owned stores (e.g., special promotions, advertising etc.) with the following exceptions:

- With respect to any business operated partly or wholly in Ontario as a franchise, where the franchisor does not supply all or substantially all of the goods to plants, distribution

centres, and/or stores operated by its franchisees, each franchisee of the franchisor shall be deemed to be the Steward for purposes of obligations to Stewardship Ontario.

For example, where the franchisor is solely providing franchisees with the right to use a trade-mark, trade name, and/or a proprietary formulation or ingredients, the franchisee will be the party deemed responsible for the purchasing and generation of packaging and printed materials. Therefore the franchisee is the appropriate Steward.

- With respect to any business operated partly or wholly in Ontario under a master (or sub-) franchise agreement, if the franchisor resides outside of Ontario and grants the rights to an Ontario sub-franchisor. If under the terms of the master or sub-franchise agreement, the sub-franchisor is required to supply all or substantially all of the goods to plants, distribution centres, and/or stores operated by the sub-franchisor or such franchisor's associate, if applicable, and/or by its franchisees, the sub-franchisor shall be deemed to be the Steward for purposes of obligations to Stewardship Ontario.

9.3.3 Other Distribution Channels

There are a number of other distribution business models in practice for the sale and distribution of consumer goods. This includes cooperative arrangements and/or the sale of a consumer product or service by an independent sales contractor (ISC) who does not operate from a fixed retail location. For the purposes of this Plan, the criterion for the designated Steward described in Section 9.3 applies.

9.4 De Minimis Threshold

The Minister's Program Request Letter further states that:

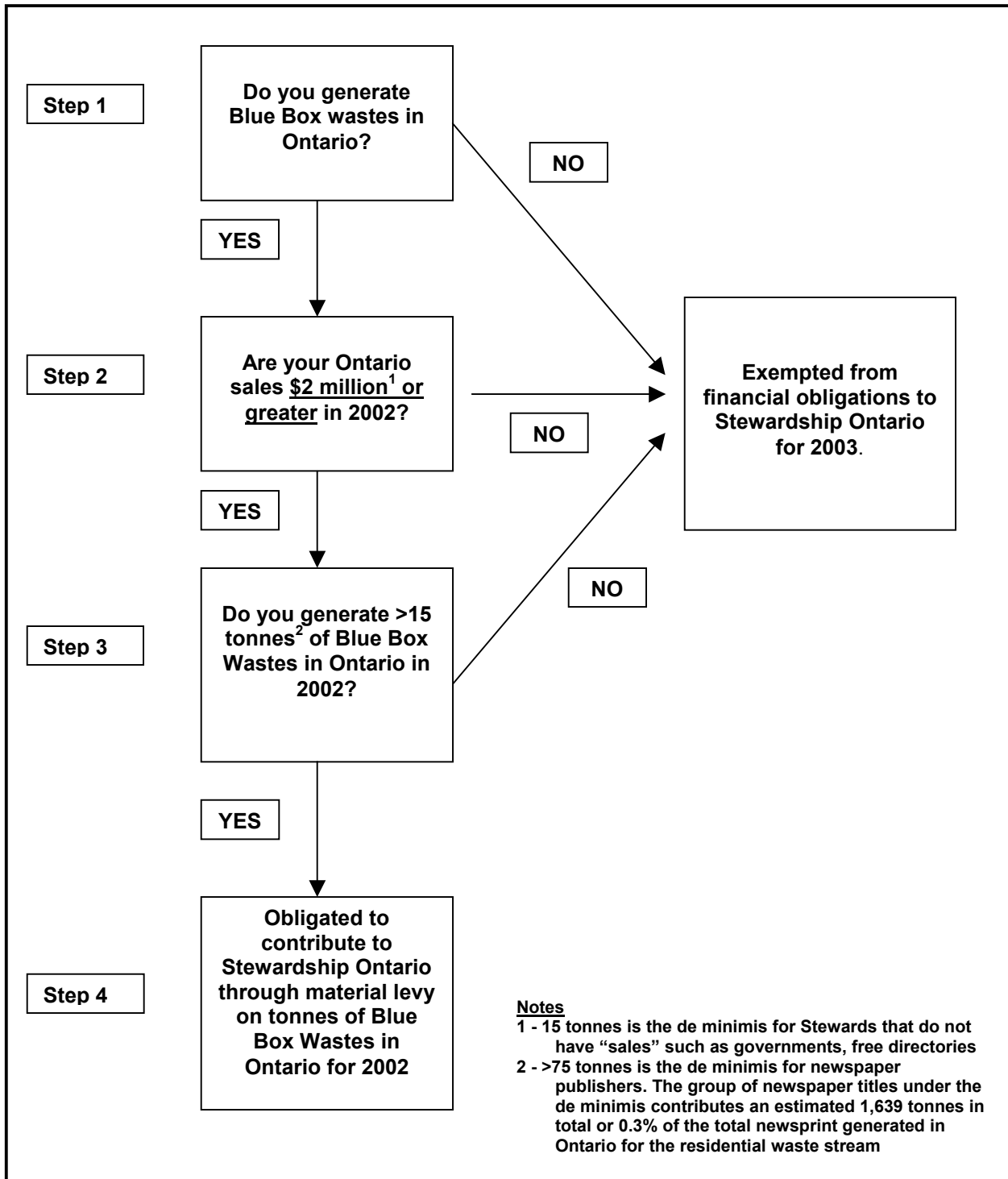
- (5) *"The proposed funding rules under the program will designate and define as stewards under the program, brand owners and first importers into Ontario of products that result in Blue Box wastes under the program. The program will include a rule to exempt stewards under subsection 30 (1) (e) of the Act based on de minimis criteria."*

The purpose of the *de minimis* threshold is addressed in the draft Operating Agreement between the MOE and the WDO under *Schedule E - Guiding Principles for Fee Setting Criteria: Waste Diversion Ontario*:

"In accordance with subsection 15.01 of this Agreement, Waste Diversion Ontario shall have regard to the following guiding principles when establishing the amount of fees to be charged: Exemptions from fees should be based on clearly stated criteria relating to the volume or size of operation so that small businesses can be excluded."

Stewardship Ontario, through the support of Data and Reporting Advisory Committee has established a sales-based *de minimis* threshold which includes a two-tiered process for determining if a designated Steward is required to register with Stewardship Ontario (Figure 9.1).

**Figure 9.1:
How to Determine If You Are Exempt from the Stewardship Ontario
Blue Box Program Plan**



9.4.1 Level 1 - 2002 Ontario Sales of Less Than \$2 Million

Stewards of Blue Box wastes with 2002 Ontario gross revenues from sales of less than \$2 million are exempted from paying fees to Stewardship Ontario and furthermore are not obligated to register with Stewardship Ontario in the first year of the program.

In subsequent years of the program, if and when Ontario sales grow beyond \$2 million in any calendar year, these Stewards will be required to register with Stewardship Ontario and to pay fees.

In Section 9.3.2, Stewardship Ontario designates the franchisor as the obligated party on behalf of their franchisees. With respect to any business operated wholly or partly in Ontario as a franchise, the \$2 million threshold applies to the aggregate gross revenues of all franchisee and corporately-owned stores comprising the franchise system, notwithstanding that some individual franchisees or subsidiaries fall below the \$2 million threshold.

This *de minimis* level is intended to meet the requirements set out by the Minister for consideration of the administrative burden on small businesses while maintaining as level a playing field as possible for all Stewards of Blue Box wastes.

In addition, this *de minimis* level will reduce the administrative burden on Stewardship Ontario by reducing the total membership base of the corporation while still capturing the significant majority of Blue Box wastes generated in Ontario. Preliminary estimates indicate that approximately 30,000 to 34,000 companies in Ontario will be exempted at this *de minimis* level³, representing an estimated 2%-5% of total Blue Box wastes generated in the province.

9.4.2 Level 2 – 2002 Ontario Sales over \$2 Million

Stewards with 2002 Ontario gross revenues from sales over \$2 million are above the *de minimis* threshold and will be required to register with Stewardship Ontario. However, following registration with Stewardship Ontario, Stewards that generate less than 15 tonnes of Blue Box packaging and printed paper materials in 2002, are also exempted from the first year of the program. There is a separate weight exemption of 75 tonnes for small newspaper generators. In subsequent years of the Program, if Blue Box wastes generated by a Steward exceed 15 tonnes in any calendar year, these Stewards will be required to pay fees to Stewardship Ontario.

For Stewards that are not commercial entities (e.g., such as municipalities, provincial agencies, etc.) but are designated as Stewards for such material as printed papers distributed to households, the 15 tonne threshold limit will apply.

³ In a November 28, 2002 letter, the Canadian Federation of Independent Businesses indicated that of their total Ontario membership of 40,000 that approximately 30% of CFIB manufacturing and wholesale members, 10% of food service and 12% of retail members would be obligated to file with Stewardship Ontario under the Level 1. If these estimates covered all members, approximately 30,000 to 32,000 CFIB members would be exempt under the Level 1 *de minimis*. At a Data and Reporting Advisory Committee, on November 14, 2002, CFIB provided information that 85% of CFIB members have sales of less the \$2 million which would equate to 34,000 members. Together, the two sets of information provided by CFIB indicate that between 30,000 to 34,000 of their Ontario members would be exempt under the Level 1 *de minimis*. Additional members would also be exempt under the weight threshold discussed in Level 2.

The rationale for this *de minimis* level is to ensure that Stewardship Ontario will not be expending more effort and costs to register and discharge the obligations of Stewards than the corporation is likely to receive in fees. Fifteen tonnes of a mix of packaging material was determined to be the most appropriate level at which administration costs would be likely to equal fees received from the Steward.

The objective of the weight threshold is to ensure that those Stewards that have high dollar sales per unit of product but relatively low packaging generation (e.g., jewellery, watches, crystal, etc.) are not disadvantaged. However, it is difficult to estimate the number of businesses that will be exempted under this weight threshold. The following table presents a rough estimate for what the 15 tonnes equates to for a sample packaging and printed materials.

Table 9.1: Examples of Weight Thresholds

Packaging/Printed Material Description	Number of Units/Cases	Assumptions
Magazines	75,000 total sales/subscriptions	200 grams/magazine
Envelope with 2 part insert	1,000,000 mail outs	15 grams for mail out
Retail carryout bags	200 cases of bags	7.5 grams/bag
Specialty jam (200 ml)	100,000 units	150 grams w/lid

As a subset of this *de minimis* rule, the publishers of newspapers sold in Ontario that generated less than 75 tonnes of printed paper in 2002 are also exempted from year one of the Program. About 108 companies own the 265 newspapers represented by the OCNA, and approximately 81 owners each generate less than 75 tonnes of newsprint entering the residential waste stream. This group contributes an estimated 1,639 tonnes in total (20.2 tonnes each), or 0.3% of the total newsprint generated in Ontario for the residential waste stream⁴.

Stewardship Ontario will review the *de minimis* levels, Level 2 weight thresholds and reporting procedures annually. The procedures for amending the *de minimis* levels will be consistent with the requirements for making changes as outlined in Section 9.18.

9.5 Calculating and Reporting Quantities of Obligated Materials

Under this Program Plan, Stewards will be required to measure and report to Stewardship Ontario the total quantity (in kilograms) of Blue Box wastes entering the Ontario residential waste stream on an annual basis. The reported quantities of packaging and printed paper will be multiplied by the material-specific levies as set out in Section 9.11 to determine a Stewards' total fees payable to Stewardship Ontario for Year One. The same process will be followed for subsequent years of the program.

When reporting to Stewardship Ontario, Stewards shall take into consideration and abide by the following rules:

- (1) Stewards will determine and declare to Stewardship Ontario that portion of total Blue Box wastes sold directly to consumers or through retail channels as the basis for calculating fees due to Stewardship Ontario. Blue Box waste that does not enter the residential waste stream and is handled exclusively within a commercial establishment's

⁴ Email communications between Don Lamont, Ontario Community Newspapers Association and Gordon Day, Stewardship Ontario, December 3, 2002.

on-premise waste management program can be excluded from a Stewards' submission of obligated material.

- (2) Food service establishments which provide take home, drive-through services or home delivery of products which result in Blue Box wastes are required to report on the total quantities of Blue Box wastes that are taken away from the property of the Steward by consumers or that are delivered to consumers. All quantities of Blue Box waste not managed through an on-premise waste management programs should be considered obligated wastes under the program.
- (3) For reasons of administrative simplicity, Stewards may choose to report on the estimated quantities of Blue Box wastes placed on the market, regardless of where such material is subsequently managed as waste.
- (4) For the purpose of this plan, Stewardship Ontario has determined that all Blue Box wastes sold or distributed through the following sales and distribution channels are deemed to be obligated materials:
 - Grocery retailers;
 - General merchandise retailers;
 - Drug and pharmacy retailers;
 - Convenience and gas station retailers;
 - Club, wholesale, cash-and-carry;
 - Product sales via the internet;
 - On-premise factory stores for public or employees;
 - Direct home sales; and
 - Unsolicited materials delivered directly to households.
- (5) In reporting to Stewardship Ontario, Stewards are required to:
 - Identify the quantities of Blue Box wastes, by material type, that were deducted in the calculation because they are managed within a commercial establishment's waste management system;
 - Identify the method by which this deduction was derived (e.g., customer sales records, market research, waste audits etc.);
 - Keep records for a period of at least five years and make these records available to Stewardship Ontario upon request; and
 - Provide documentation from the Chief Operating Officer or the Auditors of the corporation attesting that the information provided is accurate.
- (6) Stewards which have established an internal management system for portions of their designated Blue Box wastes must report on all wastes generated in Ontario to Stewardship Ontario and may apply for a credit or exemption for that portion that is managed internally and does not enter the municipal residential waste system. This will be reviewed by Stewardship Ontario on a case by case basis.

Stewardship Ontario will review these rules on an annual basis according to the procedures described in Section 9.18.

9.6 Data Reporting Requirements

9.6.1 Definitions of Material Categories

Section 2 defines Blue Box wastes as packaging and printed materials comprised of paper, glass, metal, plastics, textiles or any combinations thereof. The following provides further definition on the packaging and printed material categories that Stewards will be required to measure and report to Stewardship Ontario. Table 9.2 provides further definitions of packaging and printed material categories that Stewards will be required to measure.

9.6.2 Exemptions

Stewardship Ontario has identified the following packaging as being exempt from fees under the Blue Box Program Plan. These are in addition to Blue Box waste definitions identified in Section 2 and Section 9.5.

- (1) Transportation and distribution packaging that is not intended primarily for use or management in the home.
- (2) Industrial or bulk packaging that is not intended for sale to or use by consumers in the home.
- (3) Durable packaging (having a useful life of at least five years) that is intended to facilitate storage or transport or to prevent the loss of product components for durable products and which remains with the product throughout its useful life.
- (4) Other items that are not generally considered to be packaging:
 - Items provided as accessories to the product that do not serve a packaging function (e.g., plastic cutlery, straws, paper serviettes);
 - Packaging components sold as product (empty) to the end consumer (e.g., garbage bags, organic waste bags, food storage bags, food storage containers); and
 - Items that constitute an integral part of the product (e.g., toner cartridges, single use cameras).
- (5) Packaging materials that are not covered under the Blue Box Waste Regulation including:
 - Wood based packaging (e.g., boxes, crates);
 - Ceramic based packaging;
 - Crystal packaging;
 - Rubber packaging; and
 - Leather packaging

If a Steward requires further clarification about a possible exemption they can contact Stewardship Ontario and apply for a special assessment. Each possible exemption will be reviewed on a case-by-case basis relative to the WDA and the Minister's Letter.

Table 9.2: Definitions of Blue Box Materials

Designation of Materials	Base Definition	Sub-Classifications of Materials Covered Under Program
Printed Paper	Includes all printed paper materials for use by consumers distributed through retail distribution, subscriptions, and mass mail delivery. It also includes instructions, warranty and health information inside some packaged products.	(1) Newspaper and newsprint flyers (2) Glossy magazines and catalogues (3) Directories (telephone, postal codes, flight schedules) (4) Other printed paper including deliveries to the home and printed paper found within packaged products
Paper Packaging	Paper packaging is subdivided into two groups: (1) Paper packaging containing more than 85% paper or paperboard in addition to less than 15% by weight of other closely bonded, impregnated or laminated materials that cannot be easily separated.	(5) Corrugated packaging and kraft paper bags which contain less than 15% by weight of other closely bonded, impregnated or laminated materials that cannot be easily separated. Paper bags purchased at retail used for containing organic waste are to be exempt. (6) Boxboard and other paper packaging. Includes boxboard containers, moulded pulp paper packaging (e.g. egg cartons, formed trays), tissue paper, paper labels, newspaper used as dunnage, and other paper packaging which contain less than 15% by weight of other closely bonded, impregnated or laminated materials that cannot be easily separated.
	(2) Paper packaging containing more than 50% paper or paperboard and more than 15% by weight of other closely bonded, impregnated or laminated materials that cannot be easily separated.	(7) Aseptic and gable top cartons. (8) Other laminated paper packaging with more than 15% by weight of non-paper. This includes metalized foil/paper/plastic laminants where paper represents the greatest percentage by weight.
Steel Packaging	All steel packaging	(9) Steel packaging where the container represents more than 50% by weight steel. Includes steel paint, aerosol food, beverage containers, plus lids and closures.

Table 9.2: Definitions of Blue Box Materials (continued)

Designation of Materials	Base Definition	Sub-Classifications of Materials Covered Under Program
Aluminum Packaging	Aluminum container packaging containing more than 50% by weight of aluminum and minimum thickness greater than 153 micrometres. Aluminum semi-rigid and flexible foil packaging (thickness of less than 153 micrometres)	(10) Aluminum containers and lids. (11) Aluminum semi-rigid and flexible foil packaging that contains more than 50% by weight of aluminum.
Plastic Packaging	Polymer based packaging including bottles, jugs, films, bags, pouches, wraps, tubs, lids, tubes, trays, cups and other formed or moulded packaging.	(12) PET bottles and jars (e.g., peanut butter) (13) HDPE bottles and jugs (14) Other Rigid plastics. Includes bottles, jugs, tubs, lids, closures, trays, cups, forms, tubes and other rigid plastic packaging. (15) Polystyrene foam and rigid packaging. (16) LDPE and HDPE film bags and wraps. Plastic bags purchased at retail used for containing garbage, organic waste or recyclable materials are to be exempt. (17) Other flexible film plastic wraps, bags and formed packaging including PET, PVC, PP, multi-layered, and laminated flexible plastic packaging. This includes metalized foil/paper/plastic laminants where plastics represent the greatest percentage by weight.
Glass Packaging	All sealed glass containers	(18) Glass container packaging, with the exception of packaging made from Pyrex, ceramics or crystal.
Textile Packaging	Natural and synthetic based textile packaging	(19) Natural and synthetic based textile packaging.

Other materials not listed that are exempt including ceramics, Pyrex, crystal, rubber, wood and leather.

9.7 Online Data Management System

A secure data management system has been developed which will allow Stewards to complete their registration with Stewardship Ontario online. In order to assist Stewards registering, filing and discharging their responsibilities under the Blue Box Program Plan, the following features are included:

- General information regarding a Steward's obligations under the WDA;
- Login screen with membership identification number, login name and password;
- One-time registration of basic company filing and data reporting contact information (e.g., address, contact information);
- Provision to allow Stewards to assign separate passwords to subsidiary companies to enable them to report their information through a primary contact;
- Data reporting screens by individual material type to allow entry of the quantities of designated materials as measured or reported by the Steward;
- Additional information regarding the method on which the reported information is based and the method of calculation;
- The option for companies to use a sectoral calculator to determine a *reasonable estimate* of Blue Box wastes;
- Summary table of reported or calculated obligations;
- Input screen for registering brand names for which the Steward is responsible;
- Support information such as FAQ and definitions; and
- Direct payment options.

9.7.1 Data Reporting Options

With the exception of companies obligated under Ontario Regulation 104/94, Stewards have not previously been required to measure, collect and report on the generation of printed paper and packaging. However, under the Blue Box Program Plan, Stewards of Blue Box wastes in Ontario are now required to report the generation of these designated wastes on an annual basis.

The online data management system will provide Stewards with three options for reporting the generation of Blue Box wastes:

Option 1

- Report actual or measured quantities of Blue Box wastes sold or distributed into Ontario in 2002.

Option 2

- Report actual or measured quantities of Blue Box wastes sold or distributed throughout Canada in 2002, then apply the appropriate sales or population factor with supporting evidence.

Option 3

- Use a sectoral calculator that has been prepared by Stewardship Ontario to provide a reasonable estimate of Blue Box wastes generation based on a Steward's Ontario wholesales figures for 2002. The calculator provided by Stewardship Ontario is only available to Stewards for use in the first year of the program. Section 9.7.3 describes this option in greater detail. Use of an approved sectoral calculator in subsequent years will be allowed, as outlined in Section 9.7.5.

Stewards who already maintain a packaging database are required to report using their detailed data for packaging placed on the Ontario market for 2002.

Options 1 and 2 are for those Stewards who are able to collect and estimate actual generation information for calendar year 2002, which will be the base year for reporting obligations. Packaging and printed paper generation can be measured and tracked through the following methods:

- Internal packaging specification and sales databases;
- Bill of materials information or purchasing specifications from packaging suppliers;
- Conduct a packaging audit using internal or external resources; and/or
- Work with a third party source of packaging data.

The need for an option to file data on a Canada-wide basis was emphasized continuously throughout the consultation process. Option 2 is intended to assist those Stewards who, due to the following factors, may not always be able to accurately determine what percentage of Blue Box wastes generation actually occurred in Ontario:

- The product shipped is through one or more distribution warehouses and the Steward does not know where the product goes from there;
- Stewards may have the ability to track or estimate generation through packaging purchasing, but with shipments to other provinces or export out of the country it is difficult to precisely determine consumption in the province of Ontario;
- Stewards located outside of Ontario that want to join Stewardship Ontario need to have a way of tracking material into Ontario which could include distribution, import and export issues; and/or
- Stewards who are first importers and distributors need to have a reasonable method of tracking many products in and out of Ontario, in order to fulfill obligations.

Under Option 2, the Steward will declare the total generation of Blue Box wastes in Canada and then will be guided through the online registration form to provide additional information to determine whether the figures need to be adjusted (examples outlined on Table 9.3), where consideration is given to:

- Ontario sales figures as a percentage of a Steward's total Canadian sales. This is the preferred approach as it assesses the quantity of Blue Box wastes consumed in Ontario and is therefore most accurate for both the Steward and Stewardship Ontario; and
- If the Steward cannot accurately assess Ontario sales, then the Steward will be able to use the percentage of population that the Ontario market represents of the Steward's combined markets across Canada.

Note that Stewardship Ontario will require Stewards to maintain and provide supporting documentation for audit purposes.

The third option available for Stewards to report to Stewardship Ontario is through the use of a simplified sectoral calculator. This is described further in Section 9.7.3.

Table 9.3: Illustrated Examples of Steward Reporting

Example	How System Will Interpret
Steward 'A' – Brand owner of toys sends all products to network of small retailers across country. However records show that 80% of all sales are to Ontario retail locations.	Steward 'A' enters total generation and Ontario sales percentage and the online data management system calculates Ontario obligations based on 80% of total.
Steward 'B' – Brand owner of toys sends all products through three retail distribution centres in Ontario, and cannot report what per cent of total sales are from Ontario. The products are distributed to retail stores in Ontario, Quebec and Manitoba only.	Steward 'B' enters total generation and provinces where the products are sold. The online data management system calculates that Ontario represents 58% of the total population of the three provinces. Therefore, total obligations will be based on 58% of total weight reported.
Steward 'C' – First importer of hiking related equipment. Sells to all provinces, through one retail outlet and cannot report Ontario specific sales.	Steward 'C' enters total generation and provinces where the products are sold. The online data management system calculates that Ontario represents 38% of the total population of the all provinces. Therefore total obligations will be based on 38% of total weight reported.
Steward 'D' – First importer of hiking related equipment. Sells in B.C., Alberta and Ontario through one retail outlet. Steward 'D' knows Ontario sales are only 10% of total sales from three provinces.	Steward 'D' enters total generation and Ontario sales percentage and the online data management system calculates Ontario obligations based on 10% of total.

9.7.2 Reporting Accuracy and Planning for Future Years

For Stewards who do not currently collect data on the type and weight of components of packaging, Stewardship Ontario recognizes that it will be difficult to meet the reporting requirements for Year One. This section outlines some options and guidelines for the collection of Blue Box waste data and on the need for reporting accuracy.

Stewards must recognize the need to establish accurate reporting systems and databases within their organizations, or as part of supplier and purchasing arrangements. The data requirements of Stewardship Ontario are typically traceable within organizations through the following sources:

- Supplier of packaging materials (composition of packaging, unit weights, etc);
- Suppliers of imported products (composition of packaging, unit weights, etc);
- In-house packaging design and procurement expertise;
- In-house purchasing records;
- Bills of materials and other packaging specification documents;

- Third party sources, including consultants who can conduct packaging audits and establish appropriate reporting protocols; and
- Third party databases of unit weight information that a company with similar products could access.

Stewards must ensure that the data they submit for Year One and for future years are as accurate as possible. Total quantities reported must reflect every product and package for which the Steward has an obligation. It is anticipated that in order to fulfill packaging stewardship obligations, each Steward will need to create and maintain a database of packaging data at the component level, using data from suppliers and packaging specifications. Each component weight used for the reporting calculations must be attributed to a levy category (packaging material or printed paper type) and should be accurate at least to the gram (with the exception of the incidental “component rule”, see below). Quantities of each levy category will be reported in kilograms. Each Steward will be requested to include information explaining what data source and/or calculation method was used.

Stewardship Ontario does not expect that Stewards can or will be able to report on all components of Blue Box wastes for their first year obligations. Therefore, Stewards will be allowed to estimate overall Blue Box wastes generation by sampling of a selection of products. Listed below are some suggested guidelines to assist Stewards with the process of collecting Blue Box wastes generation data.

Sample Audit

- Stewards take a sample of their top 10 to 25 per cent of product lines. Measure the weight of printed paper and packaging by material type and extrapolate for the remaining product lines. For some companies, a sampling of ten to twenty per cent of the product lines may represent 70 to 80 per cent of product sales. The online data management form will be asking Stewards what methods, research and percentages were used to determine their reported quantities.

Component Rule

- This rule applies where the incidental components (e.g., labels, closures, adhesives, staples) are attached to other components to form and represent less than five per cent of the resultant assembly. For example, a glass container consisting of 250 grams of flint/clear glass, a five gram steel cap and a three gram label may be reported as 258 gram of glass because eight grams of incidental packaging is less than five per cent of the total weight of 258 grams.

Other Challenges

- Some Stewards with large product ranges, frequent changes in product lines or packaging (e.g., seasonal products), or significant imports may not be able to account for every item. In this case, extrapolations from other data may be acceptable. They must however always be justified and must mention the data source on the statement. .

Note that Stewardship Ontario reserves the right to audit the data submitted by the Steward and to revise these estimates, and fee estimates, as required.

Stewardship Ontario will be preparing a guidebook for Stewards to assist them in completing their estimates and reporting through the online data management system.

9.7.3 Use of Stewardship Ontario Sectoral Calculator for Year One

Since all Stewards may not be able to provide the detailed reporting data required for the start up of the program in 2003, Stewardship Ontario will allow use of a simplified reporting tool. The tool is based upon a calculation applied to the Steward's wholesale sales in Ontario in 2002. The purpose of the sectoral calculator is to provide a reasonable estimate of packaging to enable Stewards to meet their reporting and financial obligations to Stewardship Ontario in a timely fashion for at least the first year of the program. Stewards who already maintain a packaging database are required to report using their detailed data for packaging placed in the Ontario market in 2002.

By the beginning of the reporting year 2004, Stewards must have developed (or have access to) an accurate database of packaging material types and weights, as described above, to ensure accurate reporting to Stewardship Ontario. The simplified Stewardship Ontario sectoral calculator method will no longer be available for use after that date. Use of an approved sectoral calculator in subsequent years will be allowed, as outlined in Section 9.8.

9.7.4 Basis for the Sectoral Calculator Estimates of Packaging

The premise of the simplified calculator is to provide Stewards with the option of making a reasonable estimate of the weight of packaging generated within the Steward's industry sector, based upon an estimate of the average generation of packaging per volume of sales within the sector.

Stewardship Ontario has reviewed various packaging schemes in other countries including the United Kingdom, Ireland, Belgium and France. Stewardship Ontario determined that the Belgian system, operated by FOST Plus, most closely resembles the definitions to be used in Ontario. FOST Plus operates the household packaging recovery and funding support system in Belgium has over 6,300 member companies in 2001. FOST Plus provided Stewardship Ontario, in confidence, actual reported packaging data for 2001 from 200 industry individual sectors representing 22 consolidated sectors.

The primary reasons supporting Stewardship Ontario's decision to use the FOST Plus data, as compared to other jurisdictions reviewed are:

- Similar population size to Ontario;
- The packaging material categories are closely comparable with the material categories proposed by Stewardship Ontario;
- As with Stewardship Ontario, the FOST Plus program covers only household packaging and does not address transportation packaging. Therefore, packaging data do not include transportation and distribution packaging; and
- FOST Plus has been cooperative in providing the detailed data and has supported Stewardship Ontario staff in reviewing adjustments and answering questions.

While Stewardship Ontario is of the opinion that the FOST Plus data presents the best available data at this time, it also needs to be recognized that there are differences in consumption

patterns and packaging formats between Belgium and Ontario. Stewardship Ontario has attempted to adjust for the obvious differences including:

- Population;
- The removal of packaging data not included in the Stewardship Ontario program (e.g., beer packaging); and
- Accounting for significant differences in consumption patterns (e.g., packaged water consumption is four times higher in Belgium).

Even with these adjustments, Stewards should recognize that differences between the jurisdictions exist and it is not possible to have all of these variables accounted and adjusted within the sectoral calculations.

The FOST Plus reported tonnes were summarized by sector category and by material tonnage. From these data, the relative percentage of each packaging material type for each industry sector was calculated. For example, the data show that the furniture and bedding sector generate 3.5% of all paper packaging in Belgium. It was assumed therefore that 3.5% of paper packaging in Ontario can be allocated to that sector (9,400 tonnes). Similar calculations were made for each of the 25 grouped sectors by ten packaging categories. Table 9.4 presents a simplified example of the sectoral calculator.

Table 9.4: Illustrative Example of How the Sectoral Calculator Works

	Prepared Cereals*	Household Appliance**
FOST Tonnage for Boxboard* and Corrugated** Packaging	1,980	7,800
% Tonnage represents of total tonnes reported (150,000 tonnes)	1.32%	5.20%
Projected weight of material in Ontario (200,000 tonnes)	2,640 tonnes or 2,640,000 kg	10,400 tonnes or 10,400,000 kg
Ontario sales for this sector	\$600 million	\$1,300 million
Calculated kilograms per \$1 M in revenues from sales	4,400	8,000
Calculator estimates that Company "X" with sales of \$75 million in Ontario would generate:	334,000 kg of boxboard cereal boxes	600,000 kg of corrugated packaging

Note: the figures used are for illustrative purposes only.

* Prepared Cereal packaging is boxboard based.

** Household Appliance packaging is corrugated containers based.

Ontario financial sales data were then collected from a variety of Statistics Canada and industry sources. The estimates of the total tonnes of packaging were divided into the sales figures to derive an estimated tonnage of packaging generated per one million dollars in sales. This calculation was then completed for each sector and for each packaging material type.

Stewards who choose the sectoral calculator option will be required to input their company's North American Industry Classification System (NAICS) code and Ontario wholesale sales figures for 2001. The formula will generate packaging tonnage estimates by material type. These will be multiplied by the final material levies to determine total financial obligation.

It must be emphasized that use of the sectoral calculator provides a rough approximation only. All Stewards are encouraged to implement detailed packaging and printed paper data management systems or complete audits specific to their companies.

It should be noted that the Year One sectoral calculator developed by Stewardship Ontario does not cover all industry sectors. Stewards who are unable to use the sectoral calculator for Year One will be required to provide estimates as described in Section 9.7.2. The minimum number of sectors where Stewardship Ontario has developed a calculation of packaging generation includes, but is not limited to:

- Packaged food/grocery (packaged and fresh products) with subcategories:
 - Baked goods, biscuits, cereals, pasta;
 - Dairy products;
 - Snack foods;
 - Confectionary, sugar;
 - Frozen foods, canned foods, sauces, condiments;
 - Fish, poultry, meat, eggs;
 - Edible oils, fats, margarines
- Cleaning and maintenance;
- Kitchen and household appliances;
- Garden and outdoor equipment;
- Hardware and home repair;
- Furniture and bedding;
- Personal care cosmetics and fragrances;
- Non-prescription drug and self care products;
- Paper and stationary;
- Jewellery and watch making;
- Leather and travel goods;
- Electrical, electronic, photographic, telecommunications and information technology equipment;
- Toys and games;
- Pet food supplies and accessories;
- Sporting equipment, camping, bicycle accessories;
- Automotive parts and accessories;
- Clothing, sewing and fabric; and
- Shoes and footwear.

Retailers that choose to use the sectoral calculator will treat the above sector categories as stand alone departments. They would therefore complete a calculation for each corresponding department where they are the brand owner or first importer.

Stewards who choose to use the sectoral calculator must agree, as a condition of the Stewardship Ontario membership agreement, to the following:

- That use of this method is voluntary; and
- That it provides a reasonable approximation of their Blue Box wastes obligation. Stewards who use the sectoral calculator cannot subsequently file a dispute regarding the estimated quantities of Blue Box wastes deemed to have been generated.

Stewardship Ontario has also developed a simplified calculator that utilizes the same approach (calculates tonnes of packaging per one million dollars in sales), but which uses actual Ontario-based packaging data from specific sectors, rather than the FOST Plus data. To date, four industry associations have approached Stewardship Ontario to develop similar calculators for those sectors. Stewardship Ontario will also combine sectors that may have similar data or to agree appropriate methodologies for developing a Year One simplified calculator for their specific industry sector.

With regard to the current methodology, it should be noted that:

- The sectoral calculator does not include factors for printed paper (e.g., flyers, advertisements, catalogues, home bills, etc.) or service packaging (e.g., carry-out bags, food service packaging, gift boxes, etc.). Printed paper and service packaging will need to be declared separated by material type on the online data management system;
- The “other plastics” category includes other rigid plastic, polystyrene and film;
- Use of the sectoral calculator is acceptable for Year One only of the program; and
- The accuracy of the methodology will continue to be field tested in Ontario and refined, as required.

Appendix X has a list of draft sectoral calculations that Stewardship Ontario has developed for use in Year One only.

9.8 Reporting Data Beyond Year One

Stewards will be required to report packaging and printed paper generation information for Ontario on an annual basis for the previous twelve month period. It is anticipated that Stewards will have in place the appropriate systems in place to monitor and report to Stewardship Ontario the required generation information for Ontario.

In subsequent years of the program, Stewardship Ontario will support and direct the ongoing development of sectoral calculators. The development of approved sectoral calculators will be a cooperative effort between Stewardship Ontario and those sectors that choose to adopt this approach to calculating the weight of packaging and printed paper generation in Ontario, and the associated fees for Stewards in the sector.

Use of a sectoral calculator will require negotiation of an agreement with Stewardship Ontario including:

- The methodology on which each sector’s calculator is based;
- Information on how the data are to be collected (e.g., packaging audits, third party database) and adjusted;

- A continuous improvement plan whereby the quality and accuracy of the data are improved each year to the point where the approach is deemed satisfactory;
- Data collected will need to reflect measured component weights for packaging and printed papers;
- Statement of confidentiality of data provided by companies or collected through field research;
- An acknowledgement from users that the data represent a reasonable estimate of packaging generation and that the calculations provide a reasonable basis for calculating fees due to Stewardship Ontario; and
- A process for identifying and paying for the costs associated in developing, maintaining and improving the calculator by the users.

Stewardship Ontario staff will need to be involved in the development of an approved sectoral calculator. Therefore, Stewardship Ontario will need to recover costs associated with the time spent developing and approving sectoral calculators with sectors and associations. The fee schedule will include:

- Fees associated for the time (billed on an hourly basis) required to working with sectors and associations in the development of an approved sectoral calculator; and
- Annual reviews, updates and renewal of the sectoral calculator.

The fees are required so that costs incurred by Stewardship Ontario for the development and approval of sectoral calculators in the future are not shared by Stewards that choose not to use them.

9.9 Audit Provisions

9.9.1 Reports Provided By Stewards

Stewards will be required to maintain records for a period of at least five years in support of all data submitted to Stewardship Ontario. These data will be subject to audit by Stewardship Ontario. The percentage of reports that will be audited in any given program year will be determined by the Board of Directors on an annual basis but will encompass no less than 10% (by weight of Blue Box wastes) of members' reports in any given year.

9.9.2 Reports Provided By Municipalities

The significant majority of the costs to Stewardship Ontario and the basis for setting fees for Stewards in any given year are directly related to the Blue Box operating costs reported by Ontario municipalities. Stewardship Ontario will work with the WDO to establish satisfactory protocols for auditing these reports and to implement a program of audits acceptable to the Boards of Directors of Stewardship Ontario and the WDO.

9.10 Methodology for Setting Member Fees

Under the WDA Section 30 (1) (b) a designated for a waste diversion program may make rules setting the amount of fees to be paid by Stewards or prescribing methods for determining the amount of the fees.

Section 30 (3) of the *Act* requires that the fees paid by Stewards not exceed the sum of:

- (i) The costs of developing, implementing and operating the program;
- (ii) A reasonable share of costs incurred by the WDO; and
- (iii) A reasonable share of costs incurred by the Ministry in administering the *Act*.

The fee paid by a Steward should reflect the proportion of these total costs attributable to the Steward.

In developing a methodology for setting members fees, Stewardship Ontario consulted with a wide variety of industries that have a commercial connection to Blue Box wastes. The methodology that has been developed integrates three key elements critical to the fairness, effectiveness and sustainability of the Blue Box Program Plan:

Element 1: The recovery rate of each designated Blue Box wastes in any given program year.

Given that the higher the recovery rate of any material in the Blue Box Program Plan, the higher the potential costs to the Stewards of these materials, the fee methodology should not penalize Stewards for this success.

Element 2: The net cost of recycling each of the designated materials through municipal Blue Box programs in any given year.

Given that the net costs to recycle each of these materials vary significantly, the fee methodology should provide Stewards with a financial incentive to select materials with lower recycling costs.

Element 3: The disproportionate contribution that some Blue Box materials make to the overall success of the Blue Box Program Plan in diverting wastes from disposal.

Given that some individual Blue Box materials are being recycled at far higher rates than others, yet responsibility for reaching the overall diversion targets is shared collectively, the fee methodology should aim to reach the overall diversion targets in the most cost effective manner to all stakeholders while sharing total program costs fairly among all Stewards.

The methodology developed for setting Stewardship Ontario fees breaks new ground through the integration of these three elements in order to support, in an equitable, transparent manner, the overarching policy objectives of the WDA. The model used for setting annual member fees is fully integrated; that is, if the elements associated with anyone material change, the impact will be shared across all materials in the system. The key components that are used to determine the levy for each packaging type are specific to each material type and include:

- Quantity generated in the residential waste stream only;
- Quantity recovered through municipal recycling programs in Ontario;
- Gross cost per tonne;
- Revenue per tonne; and
- Net cost per tonne.

There are also a number of aspects that are not specific to each material type, but do impact the levies assigned to each material. They include:

- Total quantity of obligated materials generated in the residential waste stream;
- Total quantity of obligated materials recovered through the municipal recycling programs in Ontario; and
- Total net system cost.

Four key principles underpin the funding allocation methodology. The fee structure:

- (1) Reflects the actual costs to manage each designated Blue Box material type;
- (2) Takes into consideration the benefits to all Stewards from the high recycling rates achieved by some materials;
- (3) Encourages increased material recycling rates; and
- (4) Reflects the positive contribution of some materials to the overall system (e.g., the positive revenues of materials, such as aluminum cans).

9.10.1 How the Stewardship Ontario Fee Setting Model Allocates Costs

The Pay In Model encompasses a five step methodology, as follows:

Step 1: Determine the total quantities of designated Blue Box wastes

The analysis is based upon the estimated quantity of Blue Box wastes generated in residential households only.

Step 2: Determine the total costs to Stewardship Ontario in Year One

These costs include:

- Determination of costs for the printed paper and packaging streams;
- The municipal Blue Box program payments (50% of Blue Box system net costs);
- Other required program implementation costs (market development, promotion and education, effectiveness and efficiency improvements, etc.);
- Program design and start up costs (Program Planning, consultation, WDO and MOE negotiations);
- Stewardship Ontario administration and management costs; and
- Share of costs for WDO programs and MOE enforcement.

Step 3: Allocate these total costs across the designated Blue Box materials to determine a per tonne/per kilogram levy rate

The model uses three factors in allocating costs, with a weighting attached to each factor.

Factor 1: Recovery Rate

Factor 1, with a weighting of 40%, addressing principles #2 and #3 above, is the current recovery rate of each material weighted to the total number of tonnes generated.⁵ This has the effect of somewhat lowering fees for those materials with the highest recycling rates and conversely, transferring a portion of these costs to those materials with the lowest recycling rates. It works as follows:

The recovery rate for each material is determined by dividing the total tonnes marketed of a specific material by the total tonnes generated of a specific material. Therefore, the recovery rate is relative to specific materials and not relative to the total tonnes recovered through the recycling program.

As it would be unfair to simply levy materials relative to their recovery rate (i.e., in this instance, then higher would be worse), the levies assigned in this category are determined based on (100% minus recovery rate) for each material. For example, newspapers have a recovery rate of approximately 64%. The basis of assigning the levy is on $1-0.64=0.36$. Therefore, the higher the current recovery rate, the lower the levy.

Because of the vastly different quantities of each material available for diversion and currently recovered through the recycling program, it is not possible to simply compare each material's diversion rates relative to the total diversion rate. As newspapers represent approximately 60% of all material available for diversion, the levies would always be incorrectly apportioned to that one material (In the opposite extreme, a material such as aseptic containers that represents only a very small amount of the material available for diversion would be allocated a disproportionate amount of money as well). To simply compare recovery rates, all materials would have to be generated in the same quantity.

As this is not the case, an alternative approach had to be developed. To be fair between materials, irrespective of quantity generated, it is best that recovery rates be compared between materials. To do so, the levy model developed here compares each material using the mean and standard deviation of the dataset.⁶ The mean of the dataset is the average diversion rate for the printed paper or packaging category respectively. Because it has yet to be determined how many individual material categories there will be against which Stewards will be levied may fluctuate, the standard deviation of the material categories was determined and is used.⁷

With the mean and standard deviation determined for the dataset, based on the location on the normal distribution curve (for purposes here it is assumed that the dataset approximates a normal distribution), i.e., relative to the mean, each material category is

⁵ The weightings for each of the three categories are adjustable in any given year of the program.

⁶ This statistical comparison is done separately for the printed paper category and the packaging category. This approach ensures that there is no cross-subsidization of costs between printed paper and packaging.

⁷ For printed paper, the categories are the four shown in the Pay In Model (i.e., Newspapers, Magazines/Catalogues, Telephone Directories, Other Printed Paper). For packaging the categories include: Paper packaging, Plastics, Steel, Aluminum and Glass Using material categories instead of individual materials avoids the issue surrounding the expansion or collapse of individual materials within material categories. For example, if it is determined that there will be only PET, HDPE and all other plastics categories, rather than PET, HDPE, Plastic Film, Polystyrene and all other plastics as leviable.

assigned a levy amount. Within each material category, each individual material within that category has its point on the distribution curve determined as is done with the material categories. However, when assigning a dollar amount to each individual material within the material category, the diversion rates relative to the others only within its material category (in the case of printed paper, the material categories equate to the materials themselves) are used.

This approach ends up assigning too many dollars to each material and each stream and also does not recognize that there are different quantities of each material generated. For example, if both aseptic and gabletop cartons have the same diversion rate, by simply comparing the rates (i.e., their points on the distribution curve), being identical, they would both be allotted the same cost. When then dividing the levied amount by the tonnes generated to get the levy per tonne, one would be much higher (about four times higher when comparing generation quantities for these two materials) than the other.

Therefore, two more steps are involved at this point to ensure the “correct” dollar amount is assigned to individual materials. First the levy is normalized to the tonnes generated, thereby redistributing the dollars, fairly and equitably, relative to the amount generated of each material.⁸ Then the total dollars are normalized to the total levy amount for the category on the same basis of the ratio of the normalized tonne levy to the required levy amount.

Factor 2: Net Cost of the Current Program

Factor 2, with a weighting of 40%, addressing principles #1 and #4 on page 97, is the calculated net cost to manage of each material within the overall program. This has the effect of assigning higher fees to materials with higher costs to recycle while lowering fees to materials with a low cost to recycle.

The total recovered tonnes (defined as tonnes marketed by municipalities or their private sector operator) of each material is multiplied by the net cost per tonne for each material to arrive at a total net cost for the management of each material. For example, assume that there were 20,000 tonnes of steel cans recovered through Blue Box programs and the net cost per tonne to manage that material was \$200 per tonne. The net cost for steel management would then be \$4,000,000. This calculation is done for each material. The costs are added to arrive at the total net cost of the system for the year. In this example, assume that the total net cost of the program is \$62,500,000.

To determine how many of the dollars assigned to the levy category are allotted to steel cans, the net cost of steel (\$4,000,000) is divided by the total net cost of the system (\$62,500,000) to arrive at a percentage allocation. In this example, steel cans represent 6.4% of the total net cost and, therefore, would be allocated 6.4% of the dollars assigned to this levy category. This approach assigns 100% of the dollars relative to the percentage that each material's costs represent of the total net cost.

⁸ The normalizing has to be done because a levy based on a recovery rate of 10% of 100,000 tonnes of a specific material has to be relatively equal on a dollar basis to a levy based on a recovery rate of 10% on 1,000 tonnes generated of a specific material or the smaller generated material would be levied unfairly.

Factor 3: Equalization (Net Costs at Equal Recovery Rate)

Factor 3, with a weighting of 20%, addressing principles #2, #3 and #4 on page 97, determines the costs that would have been incurred to manage each material type if all materials were recycled at an equal rate (set for purposes of this calculation at 75%). If only the Recovery Rate and Net Cost factors were utilized, there would be little incentive to divert additional materials from disposal and the levies charged against materials with a low cost to manage and not recovered would be lower. Also, there is a cost that municipalities must incur when managing materials recovered through their recycling programs and subsequently removed as residuals. Therefore, as a means of levelling the playing field among materials with very different recycling rates, a third levy category was added that recognizes the cost that would have been incurred by Stewards of recycling all materials to a similar, equal diversion rate.

This factor has the effect of reassigning some costs from high performing (recycled) materials to those with lower recycling rates and provides a clear financial incentive to Stewards of these materials to promote increased recycling of these materials. It also reflects the investments that have been made in recycling infrastructure that has been made as a result of having to recycle some materials as per O. Reg. 101/94. Non Schedule 1 materials (except OCC and OBB) benefit in that most of the infrastructure is capable of handling these materials with little capital investment (i.e., lower incremental cost structure).

It is first assumed that all materials will reach a similar diversion rate; set here at 75% (no material currently is achieving 75% diversion). To determine how much it would cost to manage each material at a 75% diversion rate, it is assumed that the current net cost per tonne would hold for all future tonnes managed. The difference in the quantity of tonnes currently diverted compared to what would be diverted at a 75% diversion rate is multiplied by the net cost per tonne for that material. For example, assume that there are currently 50,000 tonnes of OCC diverted per year and that this represents a 50% diversion rate. To get to 75%, an additional 25,000 tonnes would have to be diverted. Assume as well that the current net cost per tonne to manage OCC is \$200 per tonne. Therefore, the cost to manage the additional 25,000 tonnes per year would be \$5,000,000. This calculation is done for each material and then totalled to get the cost to manage all materials to a 75% diversion rate.

The percentage each material represents of the total additional cost is then multiplied by the dollar amount assigned to this levy category to determine the allocated cost for each material.

Step 4: Add the Levies Assigned Costs Under the Three Factors

Once the levies are determined for each material under each of the three factors, the totals are added up to determine the total base levy for that material. However, this is not the final levy for each material category.

Step 5: Assigns the *de minimis* and Compliance Rates

The base levies are increased by 5% to account for the *de minimis* provision. This 5% was estimated based on the *de minimis* assumptions outlined in Section 9.3.

For purposes of calculating the first year levies, a compliance rate of 95% is assumed for all materials. It is recognized by Stewardship Ontario that this is an ambitious target. Failure to achieve these compliance rates may require an increase in fee rates to meet any program shortfall. Every effort will be made, however, to recover fees, as well as penalties and interest, from delinquent Stewards.

After the application of the *de minimis*/compliance rate, the final levy per tonne is established (See Section 9.12 and Table 9.5). It is this rate that will be used for each material against the tonnages generated as reported by each Steward.

9.11 Reasoning for the Weighting Assigned To Each Factor

An earlier version of this approach used only two variables: Recovery Rate and Net Cost Per Tonne to Manage. Both were applied on a linear scale with the “score” for each material along that scale assigned equally in weight (i.e., 50%/50%). The two factors were multiplied together to arrive at a “net impact” factor for each material. When tested with key stakeholders, this approach raised anomalies. For example, in handling materials with a zero (or negative) net cost to manage produced a zero levy, thereby not providing any incentive to increase diversion for these materials. However, the relative weightings of the two variables were generally accepted and considered consistent with the two principles that underpin the determination of the levy:

- There should be a connection between the levy and the cost for the delivery of the service (i.e., the cost of managing the material within the current program); and
- There should be an incentive to increase recovery rates for each material.

The fee calculation model was subsequently revised to include the third factor and to revisit the original weights assigned to the first two factors. The first key change was moving from multipliers to an additive approach, where the assigned values (and subsequent levy) for each factor are added together to get a total levy. This allows the new model to both credit those materials that generate revenues in excess of costs, but also to ensure there is a cost incentive to increase diversion.

The second key change was the addition of a third factor, Equalization. This factor acts to recognize that some materials have been part of municipal recycling programs for a long period of time and absorb much of the current recycling program costs. The “newer” materials, with relatively low recycling recovery rates do not attract a lot of the current program costs. Therefore, assigning levies based purely on current program costs is inherently unfair (i.e., as costs are assigned to those that established the program with the highest recovery rates). To address this issue, the Equalization Factor was added, albeit with a low weighting of 20% of the total obligation. Higher and lower assigned weightings were examined, but overall, as determined through the consultation process, a weighting of 20% was considered reasonable.

With this relatively low weighting for the Equalization Factor, 80% of the total obligation remained to be assigned between the Recovery Rate Factor and Net Cost Factor. A series of 13 different weightings were examined: 70/10/20 decreasing the first number by 5% and increasing the second by 5% up to 10/70/20, with the calculated levies across the scenarios compared and ranked (lowest cost = 1; highest cost = 13) for each material. Each of these scenarios was examined in more detail to assess equitability.

The results of the investigations were that with weightings of 40/40/20 all material categories ended with a ranking of 7 (out of 13), suggesting that the weightings are equally "fair" (or "unfair"). These weightings were approved by the Stewardship Ontario Board of Directors. All future weightings, if changed, will also be approved by the Stewardship Ontario Board.

9.12 Year One Fee Schedule

Table 9.5 provides the Stewardship Ontario fee schedule by material type for Year One of the program and takes into consideration only those costs associated with the application of the Pay In Model three factor formula as outlined in Section 9.11. The levies shown also include 50% of start up costs and all administration and other program costs as outlined in Section 8. The other 50% of the start up costs will be levied in calendar year 2004. The start up, administration and other program costs are apportioned using an estimate of the percentage of Stewards that have materials in each levy category with the exception of special, material specific programs where those costs are assigned to specific materials (e.g., the glass market program costs are assigned to the four glass material categories). More details of the allocations of start up, administration and other program costs are presented in the Pay In Model shown in detail in Appendix XI.

Table 9.5: First Year Fee Schedule by Material Type

Weightings: 40/40/20		Annualized Levy (1)	8 month Levy (2) (3)
Category	Material	cents/kg	cents/kg
PRINTED PAPER			
Printed Paper	Newspaper (4)	0.028 ¢/kg	0.028 ¢/kg
	Magazines and Catalogues	0.081 ¢/kg	0.060 ¢/kg
	Telephone Books	0.081 ¢/kg	0.062 ¢/kg
	Other Printed Paper	0.251 ¢/kg	0.229 ¢/kg
PACKAGING			
Paper Based Packaging		4.728 ¢/kg	3.195 ¢/kg
Plastics Packaging		6.692 ¢/kg	4.532 ¢/kg
Steel Packaging		3.633 ¢/kg	2.434 ¢/kg
Aluminum Packaging (5)		-5.465 ¢/kg	-3.321 ¢/kg
Glass Packaging	All Non-LCBO - Flint	3.723 ¢/kg	2.508 ¢/kg
	All Non-LCBO - Coloured	4.016 ¢/kg	2.740 ¢/kg
LCBO Glass (6)	LCBO - Flint	0.000 ¢/kg	0.000 ¢/kg
	LCBO - Coloured	0.000 ¢/kg	0.000 ¢/kg

Notes:

- (1) The levies in this column assume a 12 month obligation period.
- (2) The levies in this column assume the 8 month obligation period as outlined in Section 7.2 (i.e., May 1 to December 31, 2003).
- (3) The 8 month levy is not a direct derivation of 2/3rds the 12 month number. The start up, administration, glass programs and other programs are set. Only the base levies change.
- (4) Newspaper in kind advertising offsets the base levy. Levies shown here in both columns reflect their obligations for start up, administration and other programs.
- (5) Although aluminum packaging shows a negative fee, they are credited for their materials, but do pay their share of start up, administration and other program fees.
- (6) LCBO's levies are offset by their \$5,000,000 contribution which covers all base levies, start up administration and other programs as outlined in Section 8.

While fees are expressed as cents/kg, fees are not calculated on a simple weight basis. See Section 9.10 for a description of how the base levies are calculated.

9.13 Setting Fees for Subsequent Program Years

The Pay In Model outlined in Section 9.10 will be used in subsequent years to determine the levies paid for each material category established for Blue Box wastes. The Stewardship Ontario Board will review the weightings to each of the three factors used in the fee calculation (currently 40% - Recovery Rate; 40% - Current Net Cost; 20% - Equalization (Future Cost) on an annual basis and make modifications as required to support the overall goals and objectives of the Blue Box Program Plan.

Preliminary fee rates for subsequent program years will be calculated no later than August 15 of each program year, with final fee rates to be established by the Board of Directors no later than November 1 of each program year.

9.14 Invoice and Payment Schedule

9.14.1 Year One – May 1, 2003 Obligation Date

Annual packaging information will be collected from Stewards throughout 2003. Assuming a May 1, 2003 obligation date, Stewardship Ontario will issue an invoice to identified Stewards on June 1 covering the period May 1 to August 31, 2003. This invoice will be due and payable on July 1. The second and final invoice for 2003 will be issued on September 1 and will be due on October 1. This invoice will cover the period September 1 to December 31, 2003.

As additional Stewards are identified, they will be notified and will be billed retroactively to May 1. Stewards identified later than December 31, 2003 will be subject to penalties and interest as outlined in Section 9.16.

9.14.2 Year 2 (full calendar year)

The invoicing and payment schedule will normalize into quarters in 2004 with a Q1 invoice issued on January 1 for estimated 1st quarter fees (estimate based on $\frac{1}{4}$ of the 2003 annual obligation). Subsequent invoices will be issued on April 1, July 1 and October 1, which will reflect the actual 2003 obligation based on 2004 data submissions (a Steward's prior calendar year's data).

9.14.3 Contributions from the Newspaper Industry

For Year One, through the use of the Pay In Model, the allocated cost to the newspaper industry does not exceed their \$1.3 million in-kind contribution. In future years, as determined through the Pay In Model, using cost and recovery data pertinent to each year, the newspaper industry will be responsible for paying, in cash, to Stewardship Ontario, their allocated costs in excess of \$1.3 million.

Because of the Recovery Rate Factor and Equalization Factor and the performance of newspaper in terms of recovery relative to other printed papers, it is not possible to determine the exact net cost point where the newspaper industry will have a cash exposure position. However, using 2001 data, had the net cost of newspaper been approximately \$11 per tonne

(rather than the current estimated net cost of less than \$2 per tonne), the newspaper's base obligation would have just exceeded the \$1.3 million in-kind contribution.

This cost per tonne number will change as the overall recycling system and the performance of individual materials changes year over year.

9.15 Dispute Resolution

If any dispute arises between a Steward and Stewardship Ontario as to their respective rights and obligations under the Blue Box Program Plan, the parties will use the following dispute resolution procedures to resolve such disputes:

- (1) The parties shall attempt to resolve the dispute through designated representatives from each of Stewardship Ontario and the Steward in the spirit of mutual cooperation through discussion and negotiations within thirty (30) days upon which written notice of the dispute was first given or as otherwise agreed upon;
- (2) If the parties are unable to resolve the dispute, the Steward shall have the right to submit the dispute to the CEO of Stewardship Ontario for discussion and resolution within thirty (30) days of the date of notice requiring such dispute to be submitted or as otherwise agreed upon;
- (3) In the event that the Steward and the CEO of Stewardship Ontario are unable to resolve such dispute, the Steward shall have the right, upon notice in writing, to require the dispute to be submitted to the Board of Directors of Stewardship Ontario for discussion and resolution within 30 days of the date of notice requiring such dispute to be submitted to them or as otherwise agreed upon; and
- (4) If the Board of Directors of Stewardship Ontario is unable to resolve the dispute, either party shall have the right to refer the matter to a mutually agreed upon 3rd party within 30 days of the date of notice requiring such dispute to be submitted to them or as otherwise agreed upon.

9.16 Enforcement Procedures

Stewardship Ontario will maintain a registry of:

- (1) All members and of the products for which these members are the designated Stewards under the Blue Box Program Plan; and
- (2) All members and of the products that are included under ISPs that may be approved by the WDO as per Section 34 of the WDA.

As and when Stewards and products are identified that are not included under the Stewardship Ontario Blue Box Program Plan or an approved ISP, designated Stewards for these Blue Box wastes will be notified immediately that they are required to report and submit fees to Stewardship Ontario.

If these Stewards do not comply within 120 days of notification, the Ministry of the Environment may be requested to take enforcement action as provided under Sections 36 through 40 of the WDA.

9.17 Interest and Penalties

Stewardship Ontario will charge interest and penalties to Stewards that have not submitted fees or Stewards that have not registered. Delinquent and later joining Stewards are obligated from date of obligation (assumed to be May 1, 2003). Table 9.6 presents Stewardship Ontario's schedule of interest and penalties.

Table 9.6: Interest and Penalties Schedule

Scenario	30-90 Days Outstanding	91-180 Days Outstanding	Over 180 Days Outstanding
Steward has filed and has been invoiced, but is slow in paying	<ul style="list-style-type: none"> • Back payment to date of obligation • Interest at CIBC Prime rate plus 3% 	<ul style="list-style-type: none"> • Back payment to date of obligation • Interest at CIBC Prime rate plus 3% 	<ul style="list-style-type: none"> • Back payment to date of obligation • Interest at CIBC Prime rate plus 3% • Penalty of 10% of fees owing when filed
Steward has been notified by Stewardship Ontario of requirement to file	<ul style="list-style-type: none"> • Back payment to May 1, 2003 • Interest at CIBC Prime rate plus 3% 	<ul style="list-style-type: none"> • Back payment to date of obligation • Interest at CIBC Prime rate plus 3% • Penalty of 10% of fees owing when filed 	<ul style="list-style-type: none"> • Back payment to date of obligation • Interest at CIBC Prime rate plus 3% • Penalty of 10% of fees owing when filed
Non-compliant (non-registered) as of December 31, 2003	<ul style="list-style-type: none"> • N/A 	<ul style="list-style-type: none"> • N/A 	<ul style="list-style-type: none"> • Back payment to date of obligation • Interest at CIBC Prime rate plus 3% • Penalty of 10% of fees owing when filed

Stewards whose Blue Box wastes were included within an ISP approved by the WDO or the Minister under Section 34 of the WDA which is subsequently determined to have failed to meet the goals and objectives established for the ISP will be obligated to become members of Stewardship Ontario and will be accepted as members upon payment of fees, penalties and interest as outlined in Section 9.17.

9.18 Procedures for Amending Stewardship Ontario Rules

The Board of Stewardship Ontario will review all of the rules outlined in the Blue Box Program as required on an annual basis. Notification of all proposed rule changes will be notified to members and 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 as per the bylaws of the corporation.

The WDO will be notified in writing of any proposed changes to the rules as set out in this Program Plan. The WDO will notify Stewardship Ontario if any of the proposed changes constitute a “material change” under Section 27 of the WDA.

If any proposed rule change is deemed to constitute a “material change” by the WDO, the proposed change will be submitted to the Minister of Environment for review and to request approval in writing to permit Stewardship Ontario to implement the proposed rule change.

Following review and approval by the WDO, and as required by the Minister, members will be notified of all rule changes to be implemented and the date of their effect.

9.19 Reporting

Stewardship Ontario will provide an annual report to the WDO as per Section 33 of the WDA, not later than April 1 in each year of the program. The annual reports will also be posted on the website of Stewardship Ontario.