

COAG STANDING COUNCIL ON ENVIRONMENT AND WATER

31 May 2012

Product Assessment Protocol

Context

Product stewardship is one of 16 interrelated strategies under the National Waste Policy designed to achieve less waste and more resources. The Guide to the *Product Stewardship Act 2011* (the Act) describes product stewardship as “an approach to reducing the environmental and other impacts of products by encouraging or requiring manufacturers, importers, distributors and other persons to take responsibility for those products”.

Product stewardship is an approach to managing the environmental, health and safety footprint of manufactured products and materials, including at the end of a product's life. Product stewardship complements the many other approaches to dealing with waste and resource recovery, which include developing national standards and specifications to address market impediments, sustainable procurement, removing red tape relating to regulation and licensing requirements, and the provision of infrastructure.

The National Waste Policy Implementation Plan (the Implementation Plan), released by the Environment Protection and Heritage Council in July 2010, states that product stewardship is the primary focus of the first few years in implementing the policy. The Implementation Plan identifies the establishment of national product stewardship legislation and the development of product stewardship schemes for televisions, computers, packaging (Strategy 3 of the National Waste Policy), tyres and mercury-containing lamps as key priorities for product stewardship action.

There is a need to ensure that work on the initiatives in the Implementation Plan are completed while providing a mechanism for planning future national product stewardship work by the Standing Council on Environment and Water (the Council). In considering whether action is warranted for a product, an important threshold question is: is product stewardship the appropriate approach for the product? Each product stewardship initiative can involve significant scoping, analytical and establishment work with concomitant demands on jurisdictional resources. Consequently, the initiation of work on new products needs to be considered carefully using an appropriate assessment approach.

The Council's work plan on product stewardship together with the Australian Government's new *Product Stewardship Act 2011* (the Act) provide the structure for national action on product stewardship in Australia. While these two components are independent of each other, they are complementary. For example, initial work on a product by Council may lead to a referral to the Australian Government for consideration of regulation under the Act.

Section 108A of the Act requires that the Commonwealth environment Minister publish, before the end of each financial year, “a list of classes of products in relation to which the Minister is proposing to consider, during the next financial year, whether some form of accreditation or regulation under this Act might be appropriate”.

An independent Advisory Group, to be established under Section 108B of the Act, will provide one source of advice to the Minister in completion of this task. In providing this advice the Advisory Group will determine the way in which it is to perform this function.

The Act also requires at least 12 months' notification be given that a class of products is being considered before regulations may be made in relation to that class of products. The first such notice was made in December 2011 in relation to packaging, given the Consultation Regulation Impact Statement on packaging recycling and reducing litter includes options relating to regulation under the Act.

The National Waste Policy provides that SCEW will be consulted on additional products that might be regulated in future. Products that are included on the SCEW work plan, through an assessment against the Product Assessment Protocol, will be an input to the development of the Act's product list. Other inputs may include, for example, products and substances subject to international agreements. The product assessment criteria in the Product Assessment Protocol are consistent with the Product Stewardship Criteria outlined in Section 5 of the Act.

Purpose

To establish an assessment protocol for use in determining whether a product¹ should be added to the Council's work plan as a candidate for product stewardship.

The Product Assessment Protocol

The Protocol presents a structured approach through which products can be nominated and assessed for whether the problem with a product is sufficient for the product to be added to Council's work plan as a candidate for product stewardship. The key features of the process are:

- Proposals for assessment under the Protocol must be submitted to the Council's Senior Officials Committee by one or more government members (the sponsor/s).
 - External stakeholders need to secure a sponsor within the Senior Officials Committee to have their proposal submitted for consideration.
- Sponsors are responsible for ensuring that proposals brought forward for consideration are supported by well-documented and robust evidence.
- The Senior Officials Committee would be responsible for evaluating the proposal using the Product Assessment Method (described below). This task may be delegated to a working group.
 - Assessments will be conducted using the information and data supplied with the proposal, supplemented by material from other readily available sources. Quantitative analysis will be used where appropriate and to the extent feasible, combined with relevant qualitative assessments.

¹ Product may be defined broadly to include materials (e.g., packaging materials).

- Based on the assessment results, the Senior Officials Committee will recommend to Council whether the product should be included on the Council's work plan and, if so, the scope and timing of proposed work. Funding requirements for work on the product would also be considered at that time.

The types of work that may result from this process include, but are not limited to:

- monitoring, data gathering and analysis
- assisting industry in developing voluntary product stewardship schemes
- conducting an impact assessment to determine if regulation is warranted. Such assessments may result in product proposals being recommended to the Australian Government for regulation under the *Product Stewardship Act 2011*.

Product Assessment Method

The Product Assessment Method comprises the following steps.

Step 1: Core criteria

Step 1 presents core criteria to determine if a product warrants product stewardship action by the Council. The core criteria are:

- There is potential to:
 - significantly increase the conservation of materials used in products, or the recovery of resources (including materials and energy) from waste from the products; or
 - significantly reduce the impact that the products have on the environment, or that substances in the products have on the environment, or on the health or safety of human beings.
- Significant costs borne by government in taking action to address the impacts of a product.
- The adverse impacts of the product are felt in multiple jurisdictions (ie not a localised issue).

Step 2: Work plan

Step 2 presents secondary criteria to be used to help rank the product proposal against any other product proposals and existing items on the Council's work plan.

- There is community concern and commitment for action by the community is strong.
- There is a high level of commitment from industry.
- The manufacturer, importer, distributor or user of a product has the ability to increase the conservation of materials, or reduce the environmental or human health and safety impacts, associated with a product using a product stewardship approach.
- The benefits of taking action on a product have the potential to outweigh the costs of action (ie preliminary impact assessment).

Step 3: Work plan prioritisation

Step 3 is to recommend to Council, (or if delegated by Council, the Senior Officials Committee) products for inclusion on the Council work plan, including advice on the scope, resource requirements and ranking of planned work.

On completion of its assessment, the Senior Officials Committee will recommend to Council if it considers a product should be included on the Council's product stewardship work plan. This advice will also:

- specify a clear outcome, scope and timing of work for the product
- estimate the resourcing requirements for the product
- Identify potential long term implications for jurisdiction's resources, and
- identify the product's ranking relative to other work items.

Review of project status

Product stewardship projects for products on the work plan will have their progress regularly monitored. Products would remain on the work plan until such time as:

- the product stewardship work plan is reviewed and there is a conscious decision to remove or re-prioritise a product;
- the specified outcomes of the agreed project have been achieved. The Council may decide to undertake further work, but this would be as a new project for a product that is scoped, approved and resourced; or
- product stewardship action on the product has been taken up through an alternative mechanism (e.g. Australian Government processes, voluntary action by industry), making further action by the Council unnecessary.