

The following is an excerpt from Appendix 7 of '2020-B-06611 - Updated: Recommended next steps on proposed priority products and priority product guidelines'. The briefing was submitted to Associate Minister for the Environment Hon Eugenie Sage on 1 May 2020.

WASTE ADVISORY BOARD

11 September 2019

Hon Eugenie Sage
Associate Minister for the Environment
Parliament Buildings
WELLINGTON


Dear Minister,

Re: Your request for advice on proposed priority products and priority product stewardship scheme guidelines ^{Out of scope}

Thank you for your request for advice dated 1 August 2019. You have asked us to provide advice in response to each of the eight consultation questions (pages 35 and 36) within the document titled "*Proposed priority products and priority product stewardship scheme guidelines*".

Your request was considered at our meeting of 5 August 2019 in Wellington ^{Out of scope}

Out of scope



Priority products

It is good to see the government progressing product stewardship within New Zealand. In May 2018 the board developed a three-year strategic plan which recognised the importance of product stewardship as part of New Zealand's progress towards a more circular economy.

Here are the board's responses to the questions posed within the consultation document.

Do you agree with the proposed scope for priority product declarations for the following six product groups?

Q1: End-of-life tyres

(a) All pneumatic (air-filled) tyres and certain solid tyres for use on motorised vehicles (for cars, trucks, buses, motorcycles, all-terrain vehicles, tractors, forklifts, aircraft and off-road vehicles).

(b) All pneumatic and solid tyres for use on bicycles (manual or motorised) and non-motorised equipment.

Yes / No / Not sure / Why / Why not?

The board agrees with the proposed scope for end-of-life tyres and is pleased to hear about the involvement of the tyre industry in the development of this work. The board also considers that for tyres that have an innertube, these should be included in any scheme.

Q2: Electrical and electronic products

(a) Large rechargeable batteries designed for use in electric vehicles, household-scale and industrial renewable energy power systems, including but not limited to lithium-ion batteries.

(b) All other batteries (e.g. batteries designed for use in hand-held tools and devices).

(c) *All categories of waste electrical and electronic equipment (WEEE) defined in Annex II of European Directive 2012/19/EU (e.g. 'anything that requires a plug or a battery to operate').*

Yes / No / Not sure / Why / Why not?

The board agrees with the proposed scope for electrical and electronic products. However, it considers that "large" should be removed from (a) to reduce confusion as to where the threshold between medium and large sits and whether extra-large is included.

Q 2(b) indicates that all other batteries are to be declared priority products but there was some confusion as to whether lead acid vehicle batteries would be included given the example of hand-held tools that was provided. Whilst there is a network for the collection of these batteries at the end of their life due to their inherent value, the board considers that lead acid batteries should be included in any declaration given their potential toxicity and risk to the environment if not properly managed.

The board also agrees with (c) given its likelihood to ensure that schemes for these products were as simple for the consumer as possible and that this would in part be achieved through the message "anything that requires a plug or battery to operate". The inclusion of all these categories of e-waste ensures that there is scale when collecting these products, scale that will reduce overheads and make it more likely that materials will be recovered in quantities that are economically viable.

Q3: Agricultural chemicals and their containers

Chemicals in plastic containers up to and including 1000 litres in size that are used for:

- (a) any horticulture, agricultural and livestock production, including veterinary medicines*
- (b) industrial, utility, infrastructure and recreational pest and weed control*
- (c) forestry*
- (d) household pest and weed control operations*
- (e) similar activities conducted by or contracted by local and central government authorities.*

This includes but is not limited to all substances that require registration under the Agricultural Compounds and Veterinary Medicines Act 1997, whether current or expired, and their containers (packaging), which are deemed hazardous until such time as triple-rinsed.

Packaging for veterinary medicines, which includes syringes, tubes and flexible bags, must be phased in under the accredited scheme.

Yes / No / Not sure / Why / Why not?

The board agrees with the proposed scope for agricultural chemicals and their containers. The board was pleased to see the inclusion of household pest and weed control operations and would like to ensure this provides access to householder not just to commercial operators servicing the household.

Q4: Refrigerants and other synthetic greenhouse gases

(a) Refrigerants: all gases used for heating, cooling and air conditioning that are ozone-depleting substances under the Ozone Layer Protection Act 1996 and/or synthetic greenhouse gases under the Climate Change Response Act 2002, and products containing these gases.

(b) Methyl bromide and products containing this gas.

Yes / No / Not sure / Why / Why not?

The board agrees with the proposed scope for refrigerants and other synthetic greenhouse gases.

Q5: Packaging

(a) Beverage packaging: used to hold any beverage for retail sale that has more than 50 millilitres and less than 4 litres of capacity, made of any material singly or in combination with other materials (eg, plastic, glass, metal, paperboard or mixed laminated materials).

(b) Single-use plastic consumer goods packaging: used for consumer goods at retail or wholesale level made of plastic resin codes 1, 2, 3, 4, 5, 6 or 7, singly or in combination with one or more of these plastics or any non-plastic material, and not designed to be refilled.

Yes / No / Not sure / Why / Why not?

This priority product declaration caused the most debate within the board as it is a complex waste stream that will require significant thought and collaboration. However, all agreed that it merited priority product declaration. This was due in some part to the recognition of the public concerns around the potential damaging impact on the environment of certain packaging and the continued desire by submitters to have it declared a priority product.

Questions were asked as to why (a) was restricted to beverage containers as there would be other food packaging that would not be included within (b) and this may lead to confusion and complexity with council collections and consumer participation. Thought needs to be given to the materials that will be recovered and how best to recover them for the maximum benefit and what the markets for those materials are, not just because they are produced by one sector.

The board looks forward to seeing more detail on this priority product, how a co-designed and regulated scheme(s) would operate and then being able to provide more advice on the suitability and effectiveness of any scheme(s).

Q6: Farm plastics

(a) Plastic wrapping materials used for silage or hay, including but not limited to baleage wrap, hay bale netting, baling twine, and covers for silage pits.

(b) Plastic packaging used for agricultural and horticultural commodities including but not limited to fertiliser sacks, feed sacks, and bulk tonne bags made from woven polypropylene and/or polyethylene.

(c) Other plastic packaging and products used for agriculture and horticulture including, but not limited to, protective nets, reflective ground covers, and rigid plastic containers other than containers for agrichemicals, detergents, lubricants or solvents.

Yes / No / Not sure / Why / Why not?

The board agrees with the proposed scope for farm plastic wastes.

Ministerial guidelines for priority product stewardship

schemes Q7: Proposed guidelines

Do you agree with the proposed guidelines for priority product stewardship schemes outlined in table 3? Yes / No / Not sure / Why / Why not?

Q8: Changes to guidelines

What changes would you make to the proposed guidelines for priority product stewardship schemes?

The board agrees in principle with the proposed guidelines and has the following comments.

There is concern, not with the issue of the introduction of priority products, but that this will not deliver the paradigm change that is required for New Zealand to break itself away from the current system of quantity over quality and the reliance on offshore markets.

It is imperative that product stewardship schemes do not just collect unwanted products to be downcycled or shipped overseas, in effect, just providing a diversion from landfill. Whilst that has its merits, it is not the best outcome and mirrors our current recycling system which is failing New Zealand.

The Waste Minimisation Act's purpose for product stewardship is to ensure "there is effective reduction, reuse, recycling or recovery of the product". Emphasis must be placed on reduction and reuse to ensure waste is minimised and only what cannot be reduced and reused, is recycled or recovered. For the materials that are recycled or recovered, emphasis must be placed on onshore recycling and upcycling to fully participate in the circular economy.

Below are comments on the specific parts of the guidelines outlined in table 3.

Intended objectives and outcomes

The WMA's purpose (Section 3) is to "provide environmental, social, economic and cultural benefits". The intended objectives and outcomes provided in this part of table 3 make no reference or requirement for the schemes to have social, economic and cultural benefits (or costs). There should be a greater level of acknowledgement of this within the guidelines and a requirement for schemes to determine these benefits and associated costs in order to be accredited.

It is good and essential that schemes are responsible for orphaned and legacy products. All too often this has been a stumbling block for voluntary schemes and the costs have ended up being met by rate payers and taxpayers rather than the producers of the waste.

The guidelines are silent on how the schemes need to contribute towards NZ's goal of waste minimisation. There should be requirements for the scheme's objectives to link through to national objectives such as those within the NZ Waste Strategy. This can then link in with any investment strategies the government is implementing for waste minimisation and ensures that no scheme works in isolation and is part of an integrated solution that maximises benefits across the whole system. There is little point in investing in onshore infrastructure if the product stewardship schemes send all their materials off-shore.

2 Fees, funding and cost effectiveness

The objectives and outcomes in part 1 indicated that “*schemes will be designed to incentivise product management higher up the waste hierarchy in priority order: waste prevention, reuse ...*”. However, the fees and funding section does not include waste prevention within the costs that the schemes are required to cover. Without funding to implement waste prevention initiatives they will not be implemented. If waste prevention is the first objective of any scheme, then it must be properly resourced.

It is also important that the real costs of all players within a scheme are met. Under a number of the current voluntary scheme there is the expectation that councils and their contractors will cover their own costs to participate which shifts those costs to rate payers rather than producers.

It is vital for schemes to ensure that they track and manage data for the wastes that they are responsible for. Good accurate data is vital to ensure that schemes are effective and efficient and meeting their environmental, social, economic and cultural commitments.

Given that this will be a requirement for all schemes there may be benefit in having a centrally developed tool that all can use rather than individual schemes developing their own systems. Another advantage of this would be consistent reporting and the ability to better aggregate data to provide a national overview of the progress of product stewardship in meeting the governments waste objectives.

3 Governance

There is concern that the requirement to have two separate advisory groups, one that includes the technical experts and another representing the community, could create tension and division rather than cooperation as there is not the opportunity to work collaboratively to deliver a successful scheme that works for all. Consideration should be given to having both these parties represented by a single advisory group.

4 Non-profit status

There was wide acceptance that schemes should be operated by not for profits especially if they are responsible for setting fees for producers. However, there is concern from some board members that as a not for profit these schemes may not look to operate in the most effective and efficient way.

A potential solution is the separation of the governance, monitoring and fee setting part of a scheme from the service delivery. The governance oversight would be non-profit and they could then contract the service delivery to other third parties that may be either non-profit, social enterprises or for-profit organisations.

5 Competition

Competition to ensure that schemes meet their objectives and outcomes in an effective and efficient way should be encouraged. However, there is concern that this may drive schemes to the least cost option rather than the best value one that delivers the optimum for whole of life cycle and fitness for purpose. For example, the current kerbside recycling system is struggling due to the desire for a comingled collection system that was considered the most cost-effective solution. However, this has not resulted in the best solution for materials to be recycled and returned as raw materials for onshore manufacturing as it has focused on quantity rather than quality.

The provision to enable organisations of varying size access to participate in schemes and not be excluded is supported as does the requirement for independent auditing which is essential.

One of the key objectives of these declarations should be to improve the on-shore processing of the products collected. If the products are to be sent off shore because of a lack of a NZ option then there must be requirements that the recipient of the product has the skills and capability to process the product and that they meet labour and environmental requirements that are at the same level as those required for NZ processors.

6 Stakeholder engagement and collaboration

Stakeholder engagement and collaboration is vital to the success of any scheme and it is good to see this addressed within the guidelines.

7 Compliance

It is unclear how any scheme will have the ability to compel, through enforcement, the compliance by scheme participants unless this ability is given through regulation. It is considered that this should read; have the ability to require compliance and report non-compliant participants to a government enforcement agency. This should then also have consequences for those schemes that do not report non-compliance.

8 Targets

Targets must be used to drive the change that we wish to see for New Zealand. They should be ambitious and set for improvement over multiple years.

In conjunction with the requirements given they should, where appropriate, also include targets that drive the use of the collected materials within the schemes' current products. It is only by creating demand for these collected materials that we can drive a more circular economy.

Targets should also be required at critical points along the life of the product. It should not just be restricted to the amount collected, but also focus on the amount of material used within the scheme's partner's (or other parties) products to ensure that there is an incentive to produce materials that are valued and used by product producers.

9 Timeframes

The timeframes required by this section appear only to apply to the schemes outlining when they need to apply for accreditation by. There are no timeframes given by when accreditation or reaccreditation needs to be completed either by the applicant or the Ministry for the Environment.

Timeframes should be required for the Ministry to ensure that schemes are accredited in a reasonable amount of time or they inform the applicant what changes are required to achieve accreditation.

Given the time it takes to develop these schemes and the need for them to be operating it is unacceptable that there are no timeframes required for the Ministry or applicant to complete the accreditation process.

10 Market development

For the collection of products that can not be reused it is important that materials collected have a value and use and are not just stockpiled or shipped to the lowest cost solution. The greatest influence schemes will have is through their own members, and the encouragement or requirement

to use these recovered materials in the production of their products. This should be a primary objective of any scheme for non-hazardous materials.

Schemes should also ensure that they link in with any national approaches to increase onshore processing, supporting these rather than offshore options which may be more susceptible to currency fluctuations and fluctuating global demands.

Work should be done to not only develop new products using the recovered material but to be the raw materials for existing products (especially those of the scheme's members). Incorporating these recovered materials into these products will greatly help in creating a circular system.

13 Design for environment

It is important that schemes not only ensure reusability and recyclability but the ability to be repaired and not require disposal. The right to repair movement has gained traction overseas and should be supported in NZ through these schemes. It should also be noted that the right to repair must be realistic and it is not satisfactory for spare parts to merely be available they must be affordable too.

Too often product makers provide spare parts at a price that incentivises the product owner to upgrade or renew the product rather than repair it. This should be discouraged and mechanisms to enable repair encouraged. The cost of this should be factored into any fee the scheme charges.

14 Reporting and public accountability.

The reporting requirements appear reasonable and open. However, there is little indication on how this reporting will be used to improve the schemes. Reporting must be used to drive incremental improvements for the schemes and not be the end result.

It's also important that any reporting demonstrates the actual impact of the scheme. This will be essential to ensure the schemes are delivering on their commitment to prevent waste, reuse, recycle and recover products.

15 Public awareness

Given the ease at which products can be disposed of and the limited stewardship schemes that are currently operating, there will be a requirement for significant behaviour change initiatives to be developed and implemented to ensure the public participate in these new initiatives.

Public awareness in itself will not be sufficient and should not be limited to just information in leaflets and on websites. Schemes need to ensure that they engage with product holders rather than just raise awareness. It is not satisfactory for the product holders merely to know about a scheme they need to participate and use the schemes for product stewardship to be successful.

For some this may take the form of financial incentives such as rebates. The costs of which should be factored into any fees charged to operate the scheme.

Any measures used to report of public awareness should also include measures that determine engagement and participation.

16 Monitoring, compliance and enforcement

The guidelines require that schemes have “a clear means of enforcing compliance of all participants” but it is not clear how this can be achieved. Is it proposed that the scheme operators will be given enforcement abilities under future regulations to compel participation? The board considers this to be the remit of a government organisation and any requirement on a scheme operator should be limited to reporting the non-participation to the appropriate government agency who will then take action.

This section is silent on who will ensure compliance and monitoring of the schemes with their stated objectives as part of their accreditation. It should be stated clearly which government agency will be responsible for monitoring and ensuring compliance with their accreditation commitments and the consequences of failing to meet the required accreditation commitments.

17 Accessible collection networks

It is good to see that the sharing of collection infrastructure is encouraged. Having multiple collection points for different products in NZ towns would be a needless duplication and lead to unnecessary overheads and confusion for product holders. However, the board recognises that for some priority products that are hazardous, bespoke collection points with trained personnel is essential to ensure the safe management and disposal of the product and this may require duplication.

Yours faithfully

Darren Patterson

Chair, Waste Advisory Board