



A Guide to Product Stewardship

FOR NON-PRIORITY PRODUCTS IN THE WASTE MINIMISATION ACT 2008

Disclaimer

While every effort has been made to ensure that this guide is as clear and accurate as possible, the information it contains is general guidance only.

This guide does not have any legal status and is not intended to take the place of, or to represent, the law of New Zealand or any other official guidelines or requirements. The content should not be construed as legal guidance. Neither the Crown nor the Ministry for the Environment will be held responsible or liable for any action, whether in contract, tort, equity or otherwise, taken by any person who chooses to rely on the information it contains.

This is written as a general publication only, and reflects the Ministry's view. It is not a Ministerial guideline under section 12 of the Waste Minimisation Act 2008.

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Other product stewardship publications:

Assessors' Specification Guidelines for Accreditation of a Product Stewardship Scheme

Application Form for Accreditation of a Product Stewardship Scheme

Guidance to Completing the Application for Accreditation of a Product Stewardship Scheme

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About this document

Purpose of this document

The purpose of this document is to provide:

- direction in developing product stewardship schemes
- an understanding of the Waste Minimisation Act 2008 in relation to product stewardship schemes for non-priority products
- an explanation of the role of the Ministry for the Environment in administering and enforcing the Act
- information about how to set up a scheme so you can apply for accreditation.

This guide does not

This guide does not:

- explain the application process for accreditation (For information on how to apply for accreditation see: *Guidance for Completing the Application for a Accreditation of a Product Stewardship Scheme.*)
- introduce product stewardship to a beginner
- apply to schemes for priority products.

Intended audience

The intended audiences for this document are:

- scheme managers
- local government
- others involved in establishing or managing a product stewardship scheme.

How to use this guide

This guide has been designed to help you understand product stewardship as it is intended under the Waste Minimisation Act 2008.

You should use this guide only if you already know the principles of product stewardship and are considering applying for accreditation under the Waste Minimisation Act 2008.

Further information

Further information is also available from the Ministry for the Environment:

Phone **04 439 7400**

Email **info@mfe.govt.nz** or **psaccreditation@mfe.govt.nz**

Web **www.mfe.govt.nz**

Specific documents

- *Application Form for Accreditation of a Product Stewardship Scheme*
- *Guidance to Completing the Application Form for Accreditation of a Product Stewardship Scheme*
- Product stewardship frequently asked questions

See www.mfe.govt.nz/issues/waste/product-stewardship/index.html for these documents and web pages.

Introduction

Product stewardship is a broad concept that may be applied in many ways but this guide is focused specifically on product stewardship in relation to the accreditation process in the Waste Minimisation Act 2008. Schemes accredited under the Act are expected to have a particular focus on waste minimisation. A successful product stewardship scheme for a non-priority product does not have to apply for accreditation under the Act. This is optional.

A non-priority product is any product that has not been declared a priority product by the Minister for the Environment. A non-priority product may change status to a priority product at any time.

The Waste Minimisation Act 2008 provides a regulatory framework for the establishment of product stewardship for key products. Most product stewardship schemes are voluntary, but priority products may be regulated to ensure producers and others in the supply chain share responsibility for end-of-life products.

A voluntary and collaborative approach by brand owners, designers, producers, manufacturers, importers, retailers, government and others to product stewardship schemes for non-priority products is key in developing a greater focus on waste and environmental sustainability through design, production and consumption decisions.

The Waste Minimisation Act

The Waste Minimisation Act 2008 was enacted in September 2008. See www.mfe.govt.nz/issues/waste/waste-minimisation.html for details.

The Act includes the following:

Part 1	Preliminary provisions
Part 2	Product stewardship
Part 3	Waste disposal levy
Part 4	Responsibilities of territorial authorities in relation to waste management and minimisation
Part 5	Offences and enforcement
Part 6	Reporting and audits
Part 7	Waste Advisory Board.

This guide

This guide covers Part 2 of the Act only, the provision for a statutory basis for product stewardship. The purpose of this Part is:

to encourage (and, in certain circumstances, require) the people and organisations involved in the life of a product to share responsibility for –

a) ensuring there is effective reduction, reuse, recycling or recovery of the product; and

b) managing any environmental harm arising from the product when it becomes waste.

This guide provides information for product stewardship schemes covered under the Act and the accreditation of product stewardship schemes for non-priority products. Additional guidance will be provided on product stewardship for priority products when potential priority products are identified by the Minister for the Environment.

The section entitled *What can product stewardship do?* further explains what product stewardship is by presenting a range of product stewardship tools and potential benefits.

The section entitled *Setting up a product stewardship scheme for accreditation* explains the requirements for an accredited product stewardship scheme as set out in Part 2 of the Waste Minimisation Act 2008.

Before describing the tools and potential benefits that can make up product stewardship, it is helpful to clarify the role of government as set out in the Act.

Central government roles

Minister for the Environment

The Minister responsible for the Act is the Minister for the Environment. For product stewardship this involves:

- declaring priority products (section 9 of the Act)
- publishing guidelines in the Gazette for priority products (section 12)
- accrediting product stewardship schemes (sections 13, 14 and 15)
- receiving notice of variations to schemes (section 16)
- revoking the accreditation of schemes (section 18)
- monitoring accredited schemes (section 20)
- recommending the making of regulations (sections 22 and 23).

Ministry for the Environment

The Ministry for the Environment (including the Secretary for the Environment) is responsible for the administration of the Act. For product stewardship this involves:

- providing the Minister with advice regarding decisions he or she must make
- assisting in the process for accreditation of schemes
- monitoring the performance of accredited schemes (section 20)
- appointing enforcement officers to ensure compliance with regulations made under Part 2 (section 76)
- requesting the New Zealand Customs Service provide information relevant to the administration and enforcement of regulations for priority products (section 24).

Note: The enforcement of any disposal control regulations made under section 23(1)(a) is the responsibility of territorial authorities, although the Ministry may provide guidance as required if the products are priority products.

The Ministry for the Environment may provide help or oversee the development of schemes, especially for priority products. However, it is expected that any business involved in the product life cycle will take the lead in designing and implementing schemes. There are advantages in having the industry design product stewardship schemes because they are best placed to efficiently incorporate initiatives to manage end-of-life impacts into the design, production and distribution of the product.

The only other specified role for government agencies in Part 2 of the Act is for the New Zealand Customs Service to provide information relevant to the administration and enforcement of regulations for priority products. This is not covered here as it only applies to priority products.

The Waste Advisory Board

Part 7 of the Act establishes a Waste Advisory Board to provide advice, upon request, to the Minister regarding waste minimisation and the functions under the Act. See the Ministry for the Environment website at www.mfe.govt.nz/issues/waste/advisory-board/ for more detail on the Board.

The Minister must seek the advice of the Board when:

- declaring priority products
- issuing guidelines for product stewardship schemes for priority products
- accrediting a scheme for a priority product that is not consistent with any guidelines published under section 12
- recommending the making of regulations under sections 22 and 23.

The Minister may also choose to seek the Board's advice on any matter relating to the Act (for example, the accreditation of a scheme with particularly wide-ranging or complex impacts).

Local government roles

Local authorities may:

- participate in the development of schemes
- participate in accredited schemes
- advise ratepayers of services provided by schemes
- provide facilities for collection, reuse or recycling.

During the development of a scheme, local authorities (such as territorial authorities and regional councils) will also be able to assist in:

- understanding the current issues with the management of the end-of-life product
- ensuring the scheme meets the expectations of the community
- ensuring the scheme is coordinated with other local authorities' waste minimisation and management activities.

Local authorities may be able to reduce consumer confusion about the correct collection point for a particular product by providing common collection points for some products, particularly at places such as transfer stations and recovery centres where the public already drop off end-of-life products and waste.

However, this does not mean the Government believes local authorities have a mandatory role in all schemes. Local authorities' role may be voluntary; product stewardship schemes may consider paying local authorities as they would any other participant in the scheme such as a recycling facility.

Private sector roles

The roles of designers, importers, manufacturers, producers, distributors, retailers, collectors, recyclers and others in business are not predetermined for non-priority products under the Act. Each product stewardship scheme will determine what the roles and responsibilities are and where they best belong.

Non-governmental organisations' roles

The roles of non-governmental organisations such as charities and community groups are not predetermined for non-priority products under the Act. Each product stewardship scheme will determine how these groups can help and where they best belong.

For the purpose of this guide the term **business** refers to anyone in the product or product stewardship life cycle.

What can product stewardship do?

There are no ‘standard’ product stewardship schemes. Schemes, particularly voluntary ones, cover a huge variety of initiatives and objectives.

Product stewardship is used because of its flexibility, efficiency and effectiveness in managing waste minimisation.

Product stewardship schemes use many tools to achieve their purpose and are often closely tied to the businesses involved in the product life cycle. This allows them to quickly and dynamically adjust to the best way of solving the problem at the time.

Product stewardship involves examining the entire life cycle of a product, over multiple stakeholders, to look for opportunities to reduce the product’s environmental impact. This means the solutions chosen are at the most efficient point to intervene.

Product stewardship involves those who know the most about the product – the businesses who make and sell it – in designing the solution.

How do we use product stewardship?

Product stewardship uses cooperation and communication to ensure a balanced solution, for purchasers, users, business and the environment, is chosen and that it is implemented effectively.

- Product stewardship schemes allow all stakeholders a chance to work together to ensure the product has minimal environmental impact, each using their position in the supply chain, their specialist knowledge, or their infrastructure to provide the best solution.
- The cooperation can occur within businesses, and between businesses such as manufacturers, distributors, retailers, service personnel, users, recyclers and government.

Product stewardship uses the design and manufacturing process to allow the most efficient solutions to be implemented. It supports:

- designing the problem out (eg, removing toxic materials) rather than being forced to deal with it at the end
- allowing decisions to be made as to the total cost of a product over its life cycle, for example:
 - the use of a component that costs a few cents more can reduce the cost of recycling the product by a dollar
 - trade-offs between having a product that uses less electricity or one that is more recyclable.

Product stewardship uses product price to allow consumers to make informed decisions, such as:

- internalising unavoidable environmental costs within the product price
- reflecting the costs of managing disposal of the product at the end of its life in the price.

What are the potential benefits of product stewardship?

THE BENEFITS TO...	ARE THAT PRODUCT STEWARDSHIP CAN...
business	<ul style="list-style-type: none"> • achieve significant savings from resource reduction, reuse, recycling or recovery • provide a forum for added benefits – such as improving the social sustainability or safety of a product or making labelling more user-friendly
purchasers and users	<ul style="list-style-type: none"> • provide more information to the consumer about the environmentally sound management of the product • result in the extension of the life of a product • solve disposal problems • achieve waste minimisation without adversely affecting cost and functionality
the environment	<ul style="list-style-type: none"> • manage significant harm from the end-of-life product • achieve environmental benefits from treating the product before disposal • prevent potentially valuable and useable resources from being ‘lost’ to landfill.

Notes:

- These lists provide examples of what product stewardship can do but don’t try to include every possibility.
- The Act cannot predetermine the bottom line or added value as a result of product stewardship schemes. Only purchasers, users and businesses themselves will be able to do that.

Beyond waste minimisation

Although the Act is focused on waste minimisation, the benefits of product stewardship are not limited to waste minimisation, or even the environment. A scheme can do more than what is specified under the Act.

EXAMPLES

A scheme could work to:

- reduce the waste produced during manufacture
- reduce the carbon footprint of a product
- ensure best practice employment practices during manufacture
- harmonise best practice labelling for consumer information.

The *Additional information* section provides a list of Ministry web pages relevant to product stewardship. These web pages provide links to current product stewardship resources that can help you design and establish your scheme.

The *Appendix* suggests some useful frameworks a business can use to plan its product stewardship scheme.

Setting up a product stewardship scheme for accreditation

The Waste Minimisation Act 2008 allows for the Minister for the Environment to formally endorse a product stewardship scheme through accreditation.

Any scheme that is seeking accreditation under the Act must meet certain minimum standards. However, a business may operate a product stewardship scheme without having it accredited under the Act. The Act specifically focuses on schemes minimising waste.

This part of the guide provides general information on how to set up a product stewardship scheme before applying for accreditation under the Act. Firstly there are references to the Act and what they mean for product stewardship schemes, then you will find some general information should you wish to consider implementing a product stewardship scheme and applying for accreditation.

Establishing a product stewardship scheme can be a complex process. There may be some aspects of establishing a scheme that require specialist input, such as marketing strategies, business strategies, project management, and environmental, legal and financial advice.

The requirements of an accredited scheme under the Act are covered in a separate guidance document entitled *Guidance to Completing the Application Form for Accreditation of a Product Stewardship Scheme*. See www.mfe.govt.nz/issues/waste/product-stewardship/accredited-schemes.html for a copy of this guide. It provides question-by-question help for completing the application for accreditation form.

See the Ministry for the Environment website www.mfe.govt.nz/issues/waste/product-stewardship/accredited-schemes-in-nz.html for a list of currently accredited schemes.

The figure on the following page outlines the steps for a product stewardship scheme in the Act.

Figure 1: Product stewardship accreditation steps

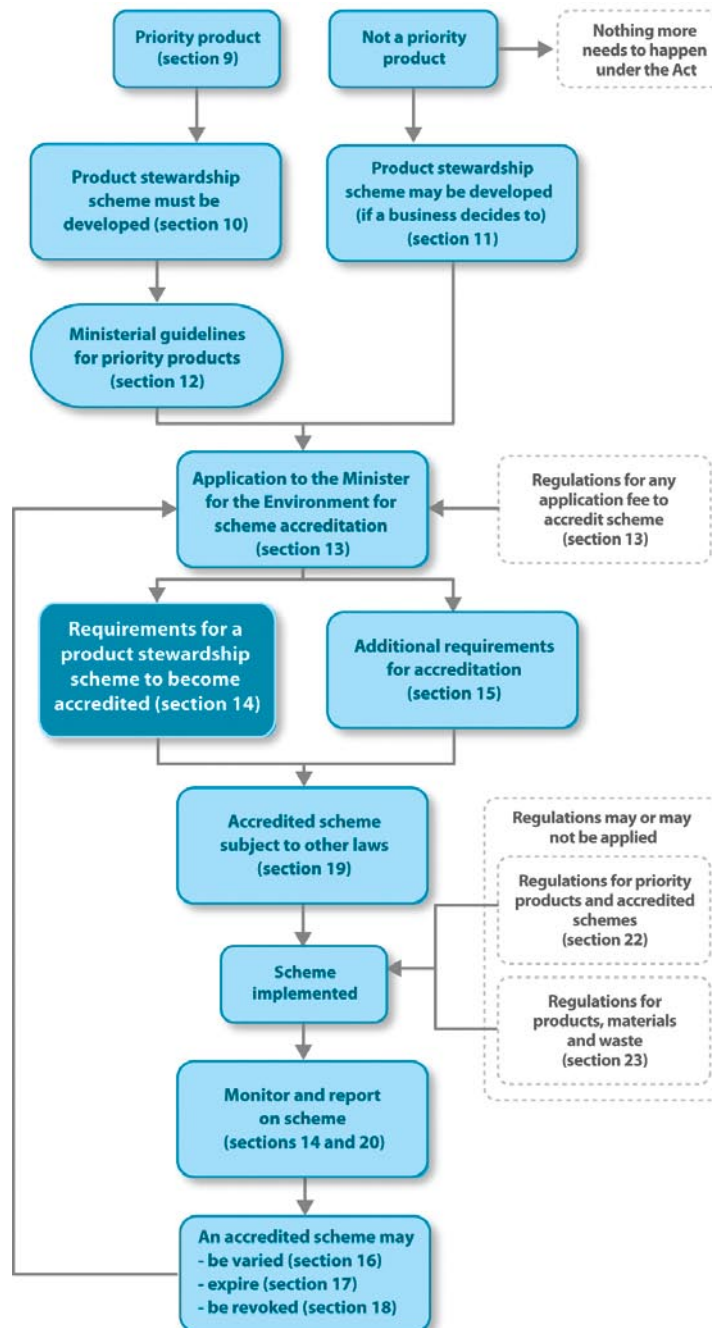


Figure 2: Product stewardship – a concept

This figure describes product stewardship as an overall concept. The following section describes the sections of the Act and how they apply to the product stewardship concept.



What is a ‘scheme manager’?

The Act

An accredited product stewardship scheme must identify a scheme manager (section 14(a)).

What does this mean?

A scheme must have a nominated scheme manager, who is the proposed contact person for the scheme, to qualify for accreditation.

The scheme manager:

- may apply for scheme accreditation
- will be the representative of the scheme
- will be nominated by, and accountable to, the participants in an accredited scheme
- may be the organisation whose product is covered by the scheme or an employee of that organisation
- may be involved in the development of the scheme, but not necessarily
- may provide that service for more than one scheme or for schemes that cover more than one product type
- may not necessarily have to fulfil any other role for the scheme (for example, the executive officer), but often will.

In addition to applying for accreditation, once the scheme is accredited the scheme manager has a responsibility in:

- operating the scheme
- reporting on the performance of the scheme
- managing variations of the scheme.

A scheme manager does not have to be an independent job. The scheme manager could already work for the organisation implementing the scheme. The role of scheme manager could be full-time or it could be part of another role.

EXAMPLE

In the case of a scheme operated by a single business, the scheme manager may be an employee for that business.

What is the scope of the scheme?

The Act

An accredited product stewardship scheme must provide a description of the scope of the scheme, including the product or brand of product to which it applies (section 14(b)).

What does this mean?

A scheme must have clear boundaries that define the scope of the proposed scheme. This includes a description of the product or products that it covers and/or the brand of product to which it applies. The scope of the scheme must not include stages in the life cycle of a product for which the scheme does not directly control, finance or influence. It may help to define what is out of scope of the scheme too.

EXAMPLE

Company A sells widgets imported from overseas in all its own-brand stores. The scheme scope covers all widgets sold by the company. The widgets are recovered from the consumer at end-of-life in all of Company A’s outlets. The outlets provide national coverage except for Milford Sound. The scheme has contracts with service providers for the recovery process which recovers the reusable components and sends them back to the manufacturing company overseas. The scheme does not have any influence over the widget design by the original manufacturing company or the components the manufacturer uses.

How do I set objectives for my scheme?

The Act

An accredited product stewardship scheme must set measurable waste minimisation, treatment, or disposal objectives for the product; and time frames for meeting the objectives (section 14(c)).

What does this mean?

A scheme must have reduction, reuse, recycling, recovery, treatment and/or disposal objectives that are measurable and time dependent. To be accredited a scheme doesn't need to have objectives for all of these categories. The choice of objectives should reflect the environmental impacts being addressed and the benefits it is attempting to capture.

An objective always relates to a product.

To meet the requirements of the Act the objectives need to be measurable so specific measurable targets will need to be set.

EXAMPLE

If there is an industry-wide scheme, then an objective may be reducing the amount of product sent to landfill over five years. If the scheme only applies to products sold from a particular shop, the objective may be that "an amount equivalent to 25 per cent of the product sold from shop X is reused" within 12 months.

Objectives don't all have to be quantitative. Clear qualitative objectives are also acceptable as many waste minimisation objectives are less quantifiable. However, the advantages of quantitative objectives or targets are that they are unambiguous.

EXAMPLE

"Customers' knowledge of recycling the product has increased within 12 months". This can be confirmed through consumer surveys or itemising the improvements made that would intuitively lead to a more recyclable product.

Objectives should be time bound. Some will relate to the situation at the expiry of the scheme, but it is important that there are also intermediate objectives to help assess whether the scheme is on track and to maintain an ongoing sense of accomplishment.

We expect a good practice scheme to set ambitious, challenging objectives that will demonstrate a commitment to minimising waste beyond 'business as usual' and be prepared to explore innovative ways of meeting those objectives. In this case, it is reasonable to assume that in some instances objectives are not met.

To encourage innovative, ambitious schemes, section 18 of the Act allows revocation of a scheme's accreditation on the basis of not meeting objectives if the Minister is satisfied that reasonable steps are not being taken to implement the scheme and the scheme's objectives are not being met or are not likely to be met within the time frames set out in the scheme (section 18(1)(a)). It may be a challenge to meet the objectives but as long as clear effort is being made to meet the objectives and implement the scheme, accreditation is unlikely to be withdrawn.

How do I identify the classes of person involved in my scheme?

The Act

An accredited product stewardship scheme must list the classes of person involved in the design, manufacture, sale, use, servicing, collection, recovery, recycling, treatment, and disposal of the product (section 14(d)).

What does this mean?

A scheme must describe, at a high level, the potential groups involved in a product during its life (for example 'retailers' or 'recyclers'). These people will not necessarily sign up to the scheme, as it is not necessary to name specific organisations or individuals, but the scheme application should make it clear who they are. This provides confidence that all affected groups have been identified and that:

- relevant arrangements have been made to ensure that the scheme will be effective
- measures to minimise waste will not cause greater environmental harm over the life cycle of the product.

The groups identified in section 14(d) do not need to confirm their participation as:

- their participation may not be required for the scheme to achieve its objectives
- the participation of any specific individual may be unimportant and, rather, the participation of a certain proportion of the group is all that is required (for example, it may be necessary only to have 10 per cent of convenience stores participating).

EXAMPLE

Parents with babies are a class of person involved in a nappy scheme.

How do I identify the participants in my scheme?

The Act

An accredited product stewardship scheme must list the persons who have agreed to participate in the scheme and assign responsibility to them for meeting the scheme's objectives (section 14(e)).

What does this mean?

A scheme must identify persons (including businesses) who have agreed to participate in the scheme and have been assigned responsibility for achieving some or all of the scheme's objectives.

EXAMPLES

Examples of participants with a responsibility in the scheme are:

- producers who have chosen to use the scheme to cover their brand
- a recycler who has undertaken a partnership with the scheme to provide the recycling service and infrastructure needed.

A product stewardship scheme is an agreement between the participants. In agreeing to be part of the scheme, these participants agree to undertake the actions required to implement the scheme and help it achieve its objectives.

Evidence of the participant's commitment to the scheme could be in the form of a:

- declaration signed by the person or company officer
- contract
- voluntary accord
- memorandum of understanding.

This is different from those people listed in section 14(d) of the Act who have not accepted a responsibility in relation to the objectives.

EXAMPLES

Examples of participants who have signed up to a scheme are:

- tyre dealers for car tyres
- IT businesses for electronic waste.

What is good governance?

The Act

An accredited product stewardship scheme must specify the arrangements for making decisions under the scheme, the control and overall operation of the scheme, keeping records and making reports under the scheme (Section 14 (f)).

What does this mean?

Proper governance is necessary to ensure that the scheme:

- carries out what it says it will
- provides a process for decision-making with appropriate checks and balances
- is monitored and reviewed regularly
- can adjust to advice, challenges, criticisms and opportunities
- is an equitable scheme, including managing conflicts of interest and giving all participants an opportunity to provide comments and be aware of the actions performed on behalf of them
- records all important information and reports it to relevant stakeholders.

Participants in a scheme should consider what an appropriate governance structure, including legal structure, is for the scheme, particularly when handling money flows (such as an advanced recycling fee). Many product stewardship schemes are formed as separate entities and referred to as a product stewardship organisation (PSO) or a producer responsibility organisation (PRO).

The Act does not specify a particular governance or legal structure for a product stewardship scheme. As part of the accreditation process, the Minister will look at schemes on a case-by-case basis to ensure that the governance, and if necessary, legal structure adopted is suitable for the scheme's design and objectives. The governance could include recycling guidelines, agendas and meeting minutes, reporting and review of procedures, appointing a chairperson, setting quorum rules, and having a decision-making process.

EXAMPLES

If a product stewardship scheme involves collection of end-of-life products, then the scheme manager may formally contract:

- retailers and independent collection depots to collect the end-of-life product, on the basis of number of items collected or hours open (terms of reference, memorandum of understanding or statement of work)
- a recycler to collect and recycle the product (contract or service level agreement).

A board is set up consisting of representatives from several companies participating in the scheme so decisions can be made on issues such as how collection points will be managed and who will be responsible for managing recycling of the collected product.

What is meant by ‘processes for compliance and enforcement of any agreements’?

The Act

An accredited product stewardship scheme must identify the processes for compliance and enforcement of any agreements between participants to the scheme (section 14(h)).

What does this mean?

A system is needed to ensure that participants identified in section 14(e) of the Act keep to the obligations they have committed to as part of a scheme. It is up to scheme participants to define their own enforcement mechanism. Typically this is achieved through legal contracts for the provision of services and the maintenance of agreements with participants.

EXAMPLES

The types of tools you could use to ensure compliance to the scheme are:

- signed contracts with the providers which can be cancelled if the provider breaches the contract
- protocol agreements which can be severed if the parties fail to comply
- performance management indicators to monitor how well the participants are meeting their obligations.

How do I report on my scheme’s performance?

The Act

An accredited product stewardship scheme must provide for assessing the scheme’s performance and for reporting on its performance to the Minister (section 14(i))

and

the Secretary may monitor the performance of an accredited scheme (section 20).

What does this mean?

The Secretary for the Environment needs information to monitor scheme performance and report to the Minister for the Environment.

To ensure success, a scheme must outline how it will go about monitoring progress towards its objectives and how it will convey this information to the Secretary and the Minister. Accreditation is a form of endorsement by the Government and so it is necessary that the Secretary and the Minister are confident the endorsement is justified on an ongoing basis.

It is important to consider not just what information will be reported on and how often, but what assessment method and information gathering method will be used. Monitoring of waste flows is difficult and can be subject to a high degree of uncertainty or be very expensive to obtain. To help the Secretary and the Minister assess the likelihood of this requirement being met, you must provide detail on how the targets will be measured.

For non-priority products there are no statutory minimum reporting requirements set out in the Act. The scheme must provide the information necessary to show that the scheme objectives and targets are being met. If necessary, the Secretary and/or the Minister can request additional information.

What is reported is not necessarily limited to the objectives. It may be useful to provide other measures to help build a more complete picture, highlight opportunities and weaknesses, and demonstrate efforts to achieving the scheme objectives.

EXAMPLES

You could report in any of the following ways:

- the number of collection outlets provided
- the amount and type of media coverage of the scheme
- public surveys as to knowledge or satisfaction with the scheme
- design improvements made
- progress towards meeting targets
- cross-stakeholder workshops or other events held
- examples of publication material, including new web content
- feedback from participants to the scheme
- expenditure that relates to meeting the scheme objectives
- material produced and recovered.

Note: Information provided to the Ministry in support of product stewardship schemes is subject to the Official Information Act. Page 13 provides detail of how the Official Information Act applies to accreditation for product stewardship schemes.

How could I publicise my scheme?

The Act

An accredited product stewardship scheme must set out a strategy for publication of the scheme and set out how information will be provided to purchasers, users, and handlers of the product to which the scheme relates (section 14(j) and section 14(k)).

What does this mean?

Publicising a scheme is important in achieving behaviour change as it:

- provides purchasers and users with reliable information on what the scheme is doing and how well it is doing it
- informs the purchaser or user of their role in the scheme.

It is important:

- to ensure that the information is available for any purchaser, user or handler of the product
- that the information is appropriately targeted to the intended audience and different formats, media and methods will have to be used for each audience.

Additionally, it helps purchasers to be properly informed when making choices about purchasing the product and how to manage it when it reaches its end-of-life.

As mentioned above, given that information reported to the Minister may also be subject to public release, participants should consider releasing these reports to the public as well.

EXAMPLES

Clear, obvious signage in a shop specialising in a product may be sensible even for non-critical information, but not in a shop that handles hundreds of different products. Multiple methods should be considered, such as:

- websites (for example, www.encorp.ca)
- annual company reports
- newspaper, radio and television advertisements
- direct customer contact
- point-of-sale information (leaflets, spoken, posters)
- dissemination through trade or consumer associations
- product labelling
- leaflets
- media articles
- information at disposal sites (for example, information at landfills alerting users about recycling locations)
- holding workshops
- sponsoring events or awards.

How could I fund my scheme?

The Act

An accredited product stewardship scheme must clearly outline how the scheme is to be funded (section 14(l)).

What does this mean?

The five main areas where schemes require funding are:

- setting up infrastructure
- administration (including governance, monitoring, publicity and reporting)
- recovery or disposal operation
- research and design for environmental issues, particularly in relation to waste reduction
- communications and publicity.

These funds could be provided from internal business accounts, through membership fees or through product fees or price increases.

The aim of any product stewardship scheme is to internalise the costs. Instead of the end user or disposal facility having to pay for managing the end-of-life product (such as rates or disposal facility charges) the costs are built into the product life cycle and the price.

EXAMPLE

A recovery operation where the value of the recovered material provides a significant level of funding, perhaps enough to fund all of the scheme costs.

How do I determine the environmental impact of my scheme?

The Act

An accredited product stewardship scheme must reduce the environmental impact of the product overall (section 15(1)(c)).

What does this mean?

The Minister can only accredit a scheme if it is likely to promote waste minimisation or reduce the environmental harm from disposal without causing greater environmental harm over the life cycle of the product.

EXAMPLE

If a scheme proposed that a small amount of toxic material be removed from the manufactured product, but the effect of this drastically increased energy usage, then the Minister would need to consider whether the environmental benefits from the reduced end-of-life waste impact were likely to be exceeded by the environmental costs of higher energy usage over its operational life.

Where relevant, depending on the nature of the scheme, the Minister may make this decision based on an understanding of the life cycle impacts of a product, and so it is helpful if the scheme considers this information and presents it to the Minister at the point of accreditation.

There is no minimum requirement for the reduction of environmental harm under the Act for non-priority schemes. However, the scheme must operate within the stated scope and demonstrate a reduction in environmental harm. Assessment of a product stewardship scheme will require evidence of any environmental benefits made. This could be in the form of contracts or agreements. The application should be able to demonstrate that there is no significant increase to environmental harm elsewhere in its life cycle as a perverse outcome of the scheme. The scheme must be able to provide evidence of its duty of care, both up and downstream.

An Environmental Choice licence, if the product has one, supports the life cycle impact assessment of the scheme.

A complete life cycle analysis (LCA) can be a very complex and expensive exercise. It is not the intention that a scheme must do this to be accredited. However, a life cycle 'philosophy' is expected.

For more guidance on this section please refer to the *Assessors' Specification Guidelines for Accreditation of a Product Stewardship Scheme* and the *Guidance to Completing the Application Form for Accreditation of a Product Stewardship Scheme* available on the Ministry website. See www.mfe.govt.nz/issues/waste/product-stewardship/accredited-schemes.html for these guidance documents and forms.

Things to consider before applying for accreditation

If you want to find out how to apply for accreditation see:

- the Ministry for the Environment website – Accreditation of product stewardship schemes – see www.mfe.govt.nz/issues/waste/product-stewardship/accredited-schemes.html
- *Application Form for Accreditation of a Product Stewardship Scheme* – see www.mfe.govt.nz/issues/waste/product-stewardship/accredited-schemes.html
- *Guide to Completing the Application Form for Accreditation of a Product Stewardship Scheme* – www.mfe.govt.nz/issues/waste/product-stewardship/accredited-schemes.html

This section provides answers to common product stewardship and accreditation concerns.

What if my scheme requires regulatory support?

The development of regulations is a complex process. At this stage we anticipate that it will be unlikely that a product stewardship scheme will achieve regulatory support unless the Minister has identified it, through the Gazette process, as a priority product.

The scheme manager may propose the type of regulation the participants believe most appropriate. However, the Minister is under no obligation to accept this proposal and may alter the detail or type of regulation applied. The Minister may also decide not to enact any regulations.

Does my scheme need to comply with other enactments, the general law and bylaws?

Section 15 states that an accredited scheme must be consistent with New Zealand's international obligations and section 19 states that an accredited scheme is subject to other laws.

Important Note: Accreditation of a product stewardship scheme does not mean the scheme is compliant with other acts or bylaws. It is the responsibility of the scheme manager and participants to seek independent legal advice as to legality of an accredited scheme proposal.

The key legislation that may be of relevance to the operation of product stewardship schemes are described in the *Interactions with other enactments, general laws, bylaws, and international obligations* section.

Will my accreditation application be treated with confidentiality?

We will assume all information provided to us in an application for accreditation can be released to the public. We will also, in the normal course, release to the public the decision regarding accreditation, and the reasons why a scheme has or has not been accredited. If the participants wish for certain information not to be published, this should be stated clearly in the application for accreditation.

The Minister may need to discuss aspects of the scheme with those likely to be significantly affected. This could be competitors, other government agencies, consumers, environmental organisations, local government, trade associations or service providers (such as recyclers). If there is certain information that should not be released to specific parties, this should be stated clearly in the application for accreditation.

Important note: Information presented to the Minister is subject to disclosure under the Official Information Act, 1982 (OIA). Certain information may be withheld in accordance with the requirements of the OIA. Further information on the OIA is available at www.ombudsmen.parliament.nz.

Information held by the Minister and Ministry could be released under the OIA in response to a request from a member of the public for that information. If scheme participants wish to provide sensitive information to the Minister which they do not want released, it is recommended the scheme manager consult with the Ministry as to whether the information is necessary for the application and whether there may be grounds in the OIA for withholding the information. For instance, if release of the information would disclose a trade secret, or be likely to unreasonably prejudice the commercial position of the person who supplied or who is the subject of the information, then the information may be able to be withheld.

The grounds for withholding must always be balanced against public interest considerations that may justify release. Although the Ministry could not give any guarantees as to whether information can be withheld under the OIA, it may be helpful to know in advance if information provided with an application is commercially sensitive to scheme participants.

Who decides whether my scheme is accredited or not?

The decision as to whether or not to accredit a scheme, or recommend regulatory support is made by the Minister for the Environment. The Minister may seek advice from the Ministry for the Environment, the Waste Advisory Board or any other party, particularly for complex or large schemes.

The Minister must give reasons for any decision to decline accreditation.

There is no appeal process in the Act if accreditation is declined. However, the scheme manager may reapply at any time. There is no minimum time a scheme manager must wait before reapplying.

Interactions with other enactments, the general law, bylaws, and international obligations

Participants in an accredited product stewardship scheme, whether voluntary or mandatory, should ensure they are compliant with all other laws. Section 19 specifically states this.

This section outlines some of the key legislation that a scheme may need to review. Other enactments, laws and bylaws not

detailed in this section could apply to your product stewardship scheme, such as legislation that relates to employment, health and labour. Please refer to the *Additional information* section on page 15 for websites to some of the other environmental acts and obligations.

See www.legislation.govt.nz for copies of all the legislation described here.

The Commerce Act

The aim of the Commerce Act 1986 is to promote competition in markets within New Zealand. It prohibits conduct that restricts competition (restrictive trade practices) and the purchase of a business's shares or assets if that purchase leads to a substantial lessening of competition in the market.

The sorts of actions that may result in a breach of the Commerce Act include:

- businesses informally cooperating for anti-competitive purposes which include initiatives that may create unnecessary barriers for potential entrants to the market
- businesses agreeing with each other (between competitors, between different parties in the supply chain or between franchiser and franchisee) on a specific charge to pass onto customers.

In regards to product stewardship schemes, participants should be particularly mindful of the Commerce Act in undertaking the following practices:

- businesses working together on developing schemes especially where there are price implications
- businesses forming joint ventures or other cooperatives to operate a product stewardship organisation (PSO)
- using a levy or a deposit-refund system as part of a product stewardship scheme
- targets to restrict the amount of a product sold
- awarding contracts/partnerships to service providers such as recyclers.

These practices are not automatically a breach of the Act, it depends on how they are performed. It may be possible to get 'authorisation' for certain behaviours.

Making schemes as transparent as possible is helpful to assure businesses outside the scheme and customers **that the scheme is not anti-competitive**.

For more information, see the Commerce Commission's website, www.comcom.govt.nz, where contact details and guidance documents are available such as the *For a Guide to Anti-competitive Practices* (see www.comcom.govt.nz/BusinessCompetition/Anti-competitivePractices/GuidetoAnti-competitivePractices/Overview.aspx).

See the Advertising Standards Authority website www.asa.co.nz for the Advertising Code of Practice.

The Commerce Commission has also produced guidelines for green marketing. These guidelines are intended to educate businesses about avoiding making misleading or untrue claims about their products or services under the Fair Trading Act (see www.comcom.govt.nz/FairTrading/GuidelinesforGreenMarketing/Overview.aspx).

The Basel Convention

The 1989 Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal aims to reduce the amount of waste produced by signatories and regulate the international traffic in hazardous wastes (especially to developing countries). It requires prior approval of hazardous waste imports and exports, and requires exporting countries to ensure that hazardous waste will be managed "in an environmentally sound manner".

The Convention emphasises the principle of 'generator responsibility' (a version of the 'polluter pays' principle in the Rio Declaration on Environment and Development) for disposal of wastes, and requires parties to minimise the environmental effects of the movement and disposal of hazardous waste. Before the Convention was ratified, Parliament had to consider its implications on aspects of New Zealand law, including the new Hazardous Substances and New Organisms Act 1996.

Basel consents are administered by the Ministry of Economic Development. See www.med.govt.nz/templates/MultipageDocumentTOC___10537.aspx for more information.

Local government bylaws

A bylaw is a rule or regulation made by a local authority which affects the public, which orders something to be done, or in some cases, to not be done.

Local authorities are given the power to make bylaws by a number of statutes, for example, the Local Government Act, 1974 and 2002, the Transport Act, 1962 and the Health Act, 1956.

A territorial authority may make bylaws for its district, covering among other things, the following:

- protecting the public from nuisance
- protecting, promoting and maintaining public health and safety
- minimising the potential for offensive behaviour in public places
- the management of public space.

It is important that a product stewardship scheme consults with relevant local authorities to find out what local bylaws may apply to their area and to their product stewardship activities.

As the Resource Management Act is implemented through local government rules and bylaws, it is important that a scheme refers to any rules and bylaws that come under both the regional and district plans.

Additional information

Below are examples of the types of publications available to support product stewardship in New Zealand. The Ministry for the Environment is not endorsing any particular publication.

Governance

Matheson D. 2004. *The complete guide to good governance in organisations and companies*. Auckland: Profile Books.

This guide is for any organisation governed by a board of directors, board of trustees, council, committee or similar governance structure. It is a practical resource suitable for corporate governance and public sector, not-for-profit, membership and sports organisations and trusts.

Corporate governance in New Zealand. 2004, Wellington: Securities Commission.

This guide sets out nine principles of corporate governance for application within a broad range of entities. It supports directors and boards of all types of entities in trying to achieve high standards in corporate responsibility.

The above also comes with a summary handbook for directors, executives and advisors.

Online: www.sec-com.govt.nz/publications/documents/governance-principles/index.shtml

Director's Handbook: The New Zealand working guide. 2008, Wellington: PricewaterhouseCoopers.

This guide focuses on how directors can perform their duties in accordance with New Zealand's legal requirements and the Institute of Directors' standards. It provides a series of questions to encourage directors to reflect on their role and the activities they perform.

Online: www.pwc.com/en_NZ/NZ/publications/directors_handbook.pdf

Garratt B. 2003. *Thin on top: why corporate governance matters and how to measure and improve board performance*. London: Nicholas Brealey.

This publication provides an alternative system of metrics for boards and directors.

Design and operation of schemes

Extended Producer Responsibility: A Guidance Manual for Governments. 2001. Paris: OECD.

This guide on producer responsibility was released by the Organisation for Economic Co-operation and Development (OECD).

Case studies

The table below lists five product stewardship case studies that can be found on the Ministry for the Environment website.

PRODUCT	WEBSITE
cellphones	www.mfe.govt.nz/publications/waste/product-stewardship-cell-phones-may06/index.html
whiteware	www.mfe.govt.nz/publications/waste/product-stewardship-whiteware-may06/index.html
tyres	www.mfe.govt.nz/publications/waste/product-stewardship-endoflife-tyres-may06/index.html
agrichemical containers	www.mfe.govt.nz/publications/waste/product-stewardship-agrecovery-may06/index.html
paint	www.mfe.govt.nz/publications/waste/product-stewardship-paint-may06/index.html

Websites

The table below lists specific pages on the Ministry for the Environment website that support product stewardship.

TOPIC	PAGE
Product stewardship The Ministry's product stewardship site contains links to current useful product stewardship pages in New Zealand and around the world	www.mfe.govt.nz/issues/waste/product-stewardship/further-info.html
The Waste Minimisation Act 2008	www.mfe.govt.nz/issues/waste/waste-minimisation.html
Product stewardship FAQs	www.mfe.govt.nz/issues/waste/product-stewardship/faqs.html
Application for Accreditation	www.mfe.govt.nz/issues/waste/product-stewardship/accredited-schemes.html
The Hazardous Substances and New Organisms (HSNO) Act 1996	Further information on this Act can be found at the Ministry for the Environment web page www.mfe.govt.nz/publications/hazardous/info-sheets-dec97/info-sheet-8-dec97.html or direct at the Environmental Risk and Management Authority who administer the HSNO Act www.ermanz.govt.nz/
Resource Management Act	There is a suite of useful guides and publications on the RMA that can be accessed at: www.rma.govt.nz
Multilateral environmental agreements such as the Stockholm Convention	www.mfe.govt.nz/laws/meas/
Montreal Protocol on Substances that Deplete the Ozone Layer (Ozone Layer Protection Act 1996)	www.mfe.govt.nz/laws/meas/montreal.html
Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal	www.med.govt.nz/templates/MultipageDocumentTOC___10537.aspx

Appendix – Frameworks to help develop a product stewardship scheme

This appendix contains three frameworks that you may find useful in developing your product stewardship scheme to a standard suitable for accreditation. The frameworks are suggestions and can be modified or alternatives used to support your particular needs.

You will find information on:

- product stewardship life cycles
- determining which part of the product life cycle your improvements will benefit
- a waste hierarchy which shows how actions at one level can result in waste reduction.

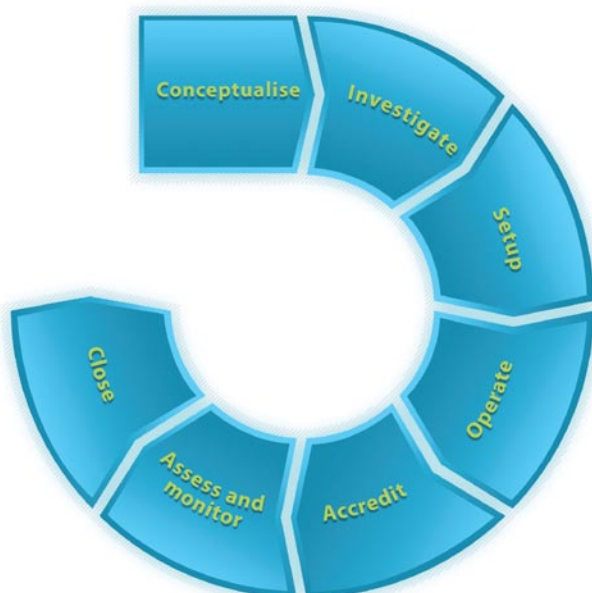
Product stewardship scheme life cycles

Typically a product stewardship scheme will follow a similar life cycle to a product or project. Understanding the life cycle of the scheme will help determine how successful the scheme is and when to apply for accreditation. Like any product or project we can learn from previous experience to make the next scheme even better.

A typical product stewardship scheme will follow these steps:

1. conceptualise
2. investigate
3. setup
4. operate
5. accredit
6. assess and monitor
7. close down

Figure 3: Product stewardship scheme life cycle



The life cycle phases are explained further below:

Conceptualise

Develop ideas that could make good product stewardship schemes. These may come from ideas seen elsewhere such as in a similar overseas industry, suggestions from employees, brainstorming sessions, or the latest development in technology. Someone needs to make the decision as to which options could be viable and need further investigation. Consider high level objectives or goals and how the schemes will support these.

Investigate

Once you have your good idea some research is needed to see if it will work in practice. The types of activities you may need to carry out could be:

- review other similar schemes if possible
- research the consumer interest in the scheme to determine if they are likely to support it
- determine if the technology to support the scheme needs to be developed and how much this will cost environmentally and financially
- determine the time frame and costs for setting up the scheme.

Setup

Now that you have completed your investigation and determined if it is worth setting up a scheme you will need to prepare to implement it. Your scheme may need:

- a project or programme to complete the activities required to start up
- development of a new technology and/or design
- marketing or publicising so people know what is expected of them
- to have objectives or goals. Steps will need to be put in place to review and monitor the scheme against the objectives and goals.

Operate

Once the scheme is set up, it needs to run for a while. Anyone involved in the scheme needs to get used to carrying out the tasks expected of them, especially if there are behavioural changes required.

Accredit

Now that your scheme is running according to plan and you are seeing the environmental benefits it may be time to apply for formal accreditation. Accreditation will give you formal government recognition for the scheme and the positive effects it is having.

Assess and monitor

To determine if the scheme continues to meet its objectives and goals regular assessments and reviews will need to be carried out and variations made if required. How detailed these are and how much information is provided will depend on the complexity of the scheme.

Close down

When the product stewardship scheme reaches an end, such as a decision is made not to continue the scheme or behaviours are established as normal and no longer require monitoring, the scheme can be closed down. Now is the time to review the life cycle of the scheme and consider lessons learned for the next scheme.

Evaluating options

When considering environmental benefits, the table below may be useful:

Table 1: Environmental benefits

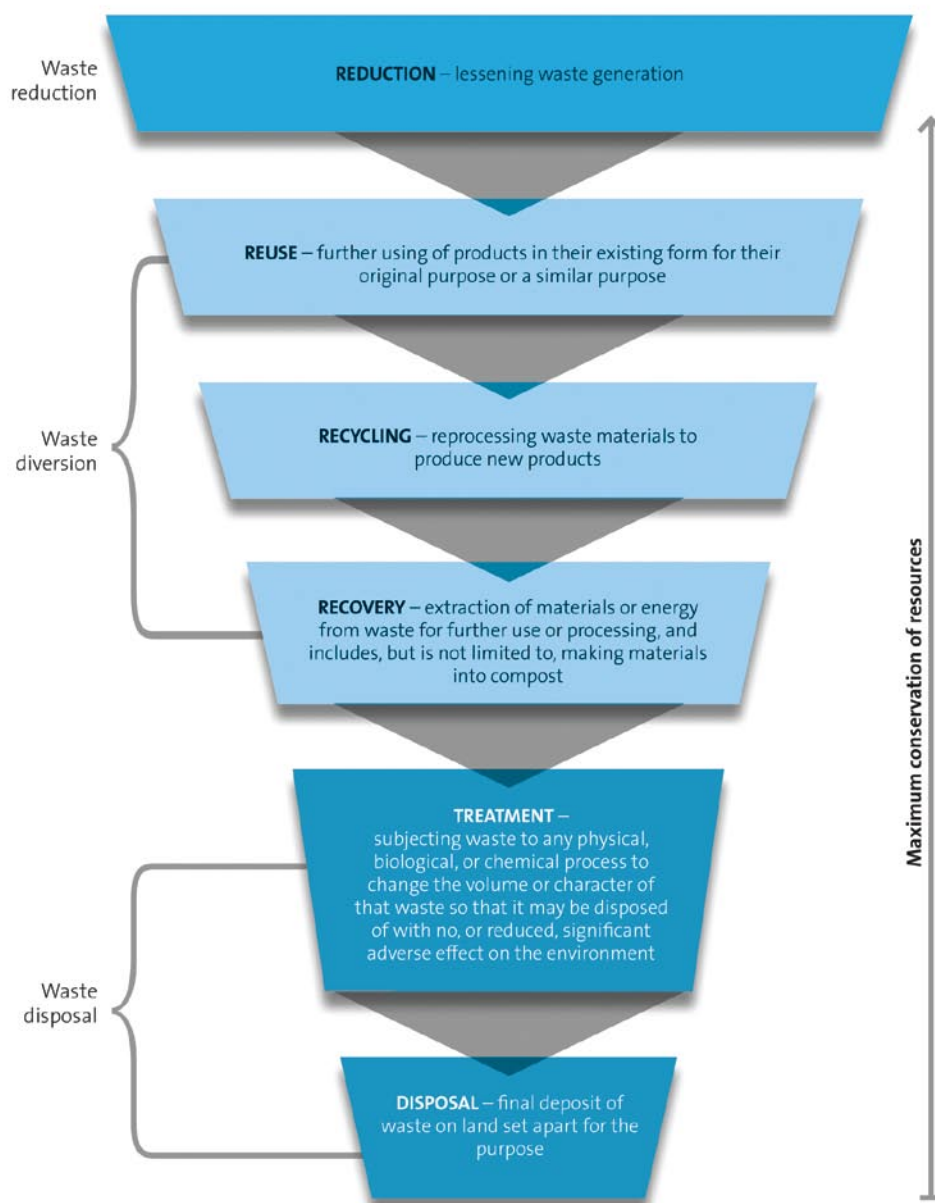
PRODUCT LIFE-CYCLE DESIGN IMPROVEMENTS (HIGH, MEDIUM OR LOW)	BENEFITS WITHIN THE BUSINESS						UPSTREAM AND DOWNSTREAM BENEFITS		
	PURCHASING	MANUFACTURING	DISTRIBUTION	MARKETING	QUALITY	HEALTH AND SAFETY	SUPPLIERS	CUSTOMERS	RECYCLERS
Raw materials eg, use less materials, use materials with lower environmental costs, use recycled materials									
Manufacture eg, use less materials and energy, produce less waste and pollution									
Distribution eg, use less packaging materials, use materials with lower environmental costs, reuse and recycle packaging									
Use eg, increase energy efficiency, repair/upgrade to extend product lifetime									
End-of-life eg, design for disassembly to make reuse and recycling easier, enable easy separation of materials for recycling									

Source: Sustainable design of electrical and electronic products to control costs and comply with legislation, Envirowise, www.envirowise.gov.uk

Waste hierarchy

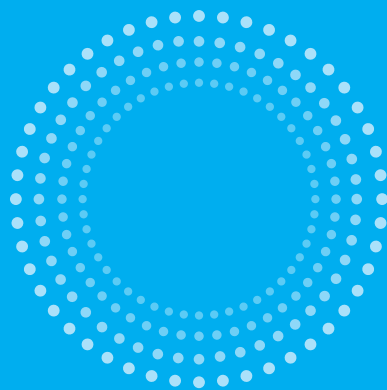
Figure 4: Waste hierarchy

You can use the waste hierarchy to systematically work through potential changes, starting at the top and moving to the next level once all feasible opportunities have been taken.



Source: Performance Audit Report, April 2007. Waste Management Planning by Territorial Authorities, Office of the Auditor General, www.oag.govt.nz/2007/waste-management

The hierarchy has been formed on the basis that actions at a higher level can reduce the costs of actions at a lower level and the environmental impacts of activity at a higher level are generally less than those at a lower level.



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