

PROSPECTUS FOR THE MINNESOTA POLLUTION CONTROL AGENCY'S REPORT TO THE LEGISLATURE ON A PRODUCT STEWARDSHIP FRAMEWORK

The Minnesota Legislature adopted language in 2008 requiring the Minnesota Pollution Control Agency (MPCA) to develop recommendations for reducing environmental and health risks posed by the use or disposal of products using a comprehensive product stewardship approach. The report is due to the Legislature by January 15, 2009.

Legislative language:

<https://www.revisor.leg.state.mn.us/bin/bldbill.php?bill=ccrhf1812C.html&session=ls85>

I. The Legislature requires the recommendations to be:

- **Consistent with existing product stewardship programs in North America**
 - Principal sources of information:
 - 1999 Minnesota product stewardship policy statement
<http://www.pca.state.mn.us/oea/publications/ps-policy.pdf>
 - Framework policy and legislative development in California, Oregon and Washington
<http://www.ciwmb.ca.gov/EPR/Framework/Framework.pdf>
http://www.ecy.wa.gov/climatechange/2008CATdocs/IWG/bw/82608_stat_e_model_framework_v_a1.pdf
 - Product stewardship principles from Northwest and California Product Stewardship Councils
http://www.productstewardship.net/PDFs/NWPSC-CPSC_Joint_PS_Framework_Principles_June2008c.pdf
 - Product stewardship programs in British Columbia, New Brunswick, Ontario and Manitoba
- **Developed in consultation with stakeholders**
 - Principal stakeholders include:
 - Manufacturers
 - Distributors
 - Retailers
 - Recyclers
 - Environmental advocacy organizations
 - State government
 - Local units of government
 - U.S. EPA
 - Consumers
 - Other interested parties

II. The Minnesota Legislature identified the following Issues to be addressed in the legislative recommendations report:

- **A set of criteria to be used to evaluate products proposed for product stewardship solutions**
 - Potential sources of information include:
 - Criteria from 1999 policy statement
 - Criteria developed by the Canadian Council of Ministers of the Environment (CCME)
 - Criteria developed by the California Integrated Waste Management Board
 - Criteria included in the proposed product stewardship framework legislation for Washington and Oregon
 - Principal questions to consider:
 - How to weigh human health and environmental impacts?
 - What role do the overall life-cycle impacts play relative to the defined environmental impact in Minnesota?
 - Given the emphasis on climate change and energy conservation, should GHG impacts and mitigation and energy conservation potential be given greater emphasis?
- **A process for designating products for product stewardship solutions and the role the Legislature would play in the designation process**
 - Based on the existing product stewardship programs identified above, policy options include:
 - Legislative action (occurred with recycled batteries, e-waste, products with listed metals)
 - Agency determination which requires rulemaking
 - “Hybrid” approach whereby Legislature affirms/rejects Agency action
 - Rulemaking authority for problem materials (Minn. Stat. § 115A.956)
- **Possible components of industry-developed product stewardship plans**
 - Plan components may include:
 - Product profile and contact information
 - Performance goals
 - Collection system
 - Approach for recycling/processing
 - Mechanisms for multi-state coordination
 - Design for environment strategies
 - Identification of roles and responsibilities and associated financial support
 - Education and outreach
 - Consultation process for stakeholders
 - Stewardship plans
 - Are they voluntary or required?
 - Process for development of plans
 - What type of public consultation is required?
 - Is plan approval required?

- **Options to facilitate the creation of industry-managed stewardship management organizations**
 - Principal questions:
 - How to support individual company programs (individual responsibility) within an industry-wide obligation?
 - How to avoid state antitrust regulatory activity?
 - How to support coordinated program implementation (e.g., stewardship organizations that operate across product categories)
 - How can the framework support multi-state, industry-wide coordination?
 - Policy options include:
 - Development of boilerplate anti-trust exemption based on Minn. Stat. §§ 115A.1323 and 115A.9157
- **Methods to identify and monitor progress toward stewardship performance goals for specific products**
 - Principal questions:
 - Who establishes the performance goals? (Legislature, MPCA?)
 - Are goals/metrics identified in the stewardship plan?
 - How should goals be structured over time?
 - Policy options to establish/monitor progress include:
 - Collection/recycling weight
 - Convenience requirements (e.g., number of collection locations)
 - Citizen participation
 - Reporting
 - How often and what entities are required to report?
 - What entities are required to report?
- **Strategies to implement the use of standards, certifications, and eco-labels to promote environmentally preferable products**
 - Principal questions:
 - Should standards utilizing a third-party certification process be required or encouraged?
 - What role should the Minnesota Department of Administration play?
 - How does the adoption of standards relate to the designation of products?
 - How should appropriate standards organizations (e.g., ASTM, NSF) be involved?
 - Which entities set, monitor and enforce standards, certifications and eco-labels?
 - Policy options for promoting standards, certifications and eco-labels:
 - Legislative approach
 - Regulatory approach
 - Adoption of voluntary standards

III. In developing the recommendations, the MPCA will also consider other necessary components of a stewardship program, including:

- Identify responsibilities for MPCA
 - Staffing/funding
- Incentives for design for the environment
 - Can the financing mechanism be structured so that products with reduced impacts receive a benefit/preference?
- How should the framework address regulatory issues?
 - Are regulatory changes necessary to facilitate collection/recycling?
 - Universal Waste Rule (UWR)
 - How should the framework address environmentally sound management?
- Enforcement/compliance
 - “Do not sell” requirement for retailers
 - Suite of Agency enforcement tools applied to reporting and performance
 - Need for a level playing field, including imported products
 - Requirements and procedure for program evaluation

For more information

For more information on this initiative: <http://www.pca.state.mn.us/oea/stewardship/study.cfm>

MPCA staff contact:

Garth Hickle
Product Stewardship Team Leader
651-215-0224
garth.hickle@state.mn.us