



## NEW MEXICO ENVIRONMENT DEPARTMENT



# House Memorial 56 – Product Stewardship Programs Study

## Report to Radioactive and Hazardous Materials Interim Committee

### Executive Summary

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This report is prepared in fulfillment of a request by House Memorial 56 for the Department of Environment to study the potential for product stewardship programs in New Mexico. The New Mexico Environment Department (NMED), with assistance from the New Mexico Recycling Coalition (NMRC), formed a 14-member task force representing a variety of stakeholder groups to review the memorial's requests and provide recommendations for product stewardship programs.

Discussions of the task force included various viewpoints and perspectives. Recommendations in this report reflect the outcome of the task force as a whole in response to the requests in HM56. Individual organizations may not agree or support all recommendations presented in the report. However, members were able to openly and freely participate in the process.

The memorial defines "product stewardship" to mean a producer that takes responsibility for managing and reducing the life-cycle impacts of the producer's product, including recycling of the product or its components after purchase or recycling of surplus inventory. "Product stewardship program" means a program that is either managed or provided by producers and includes the collection, transportation, reuse and recycling or disposal of products.

The task force has identified three product categories – *mattresses, paint, and electronics* – as initial candidates for product stewardship management based on criteria from House Memorial 56 and additional criteria added by the task force.

Due to the complex nature of designing and implementing product stewardship programs, the task force recommends forming a third-party Product Stewardship Advisory Group to assist in a pilot program for mattresses to be established during 2014. The group would consist of a variety of stakeholder organizations, including NMED, NMRC, municipalities, and community and business groups. It would facilitate additional product stewardship research, product materials management data, stakeholder input, and program/legislation development. Funds from a current federal EPA Pollution Prevention grant at NMED could be used to assist in program development.

The task force prioritized mattresses because: (1) mattresses are problematic for landfills, posing safety risks as well as operational difficulties; (2) mattresses are often illegally dumped; (3) recycling or refurbishing mattresses has created jobs and revenue for non-profits and businesses in other parts of the country; and (4) there is an existing industry-supported national product stewardship program for mattresses. For any product considered for product stewardship management, the task force recommends working closely with the established national manufacturing associations in order to benefit from their expertise in developing product stewardship programs and to enable private sector input.

Any potential legislation passed in regards to product stewardship would have to be carefully crafted language, well defined, and not open to loose interpretation that might extend beyond the good intention of the bill and become detrimental to New Mexico businesses. Crafting bill language and program structure should involve stakeholders and representatives from businesses, communities, and organizations with technical expertise. Though no change in statute is needed, language specifying product stewardship as a waste management tool could be added to the Solid Waste Management Plan as a foundation for product stewardship program support.

## ***Background Information***

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Product Stewardship is the act of minimizing health, safety, environmental, and social impacts while maximizing economic benefits of a product and its packaging throughout all lifecycle stages. The producer of the product has the greatest ability to minimize adverse impacts, but other stakeholders, such as suppliers, retailers, and consumers, also play a role. Stewardship can be either voluntary or required by law.

Extended Producer Responsibility (EPR) is a mandatory type of product stewardship that includes, at a minimum, the requirement that the producer's responsibility for its product extends to post-consumer management of that product and its packaging. There are two related features of EPR policy: (1) shifting financial and management responsibility, with government oversight, upstream to the producer and away from the public sector; and (2) providing incentives to producers to incorporate environmental considerations into the design of their products and packaging.

There are several products and product categories that other states around the country have identified as priorities for product stewardship programs, such as batteries, carpet, mattresses, electronics, mercury-containing products (thermometers, switches, Compact Fluorescent Lamp (CFL) bulbs, etc.) and packaging.

Product Stewardship and EPR legislation are becoming increasingly common across the United States and have been in place globally in areas such as Canada and Europe for many years. Voluntary programs are in existence and have been found to vary in effectiveness. Legislation has been shown to greatly increase the amount of products recycled and properly managed at the end of their lifecycle.

Manufacturers in certain product industries are becoming increasingly supportive of assisting in the management of used products. The reasons for this include recognition of corporate responsibility, recovery of raw materials which can decrease costs, boost of product manufacturing ingenuity, and a leveling of the playing field across the industry. EPR programs in other states have been found to have either a neutral or a positive effect on local retail businesses.

## ***New Mexico Product Stewardship Task Force***

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A task force was assembled and met during the fall of 2013. A list of members who participated in task force meetings is attached as Appendix A. As a basis for discussion, research on product stewardship programs was presented to the task force by Jill Turner, Pollution Prevention Program Manager at NMED, and English Bird, Executive Director of the New Mexico Recycling Coalition. The research consisted of internet information and conversations with task force members, the State of Maine's Department of Environmental Protection, Colorado Association for Recycling, the national Product Stewardship Institute, and various industry/producer associations. Findings were discussed by the task force and recommendations were made in regards to specific products that would be best suited for potential product stewardship programs in New Mexico.

## ***Findings and Recommendations***

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**Memorial Task 1:** *Recommendations for establishing new product stewardship programs and changes to existing product stewardship programs.*

The task force found that there are no known existing product stewardship programs (as defined in HM56) in New Mexico. As such, our research focus was on what would be necessary and beneficial to establish a new program or set of programs. We spoke with several national and state entities to understand their experiences in and suggestions for product stewardship. A full list of contacts and their affiliations is attached as Appendix B.

The task force recommends the formation of a Product Stewardship Advisory Group to facilitate the design and implementation of product stewardship programs and to propose any potential legislation that is determined necessary for program effectiveness. The Advisory Group should be housed at a non-governmental organization and should represent key stakeholders, including NMED, NMRC, municipalities, and community and business groups.

Potential benefits of product stewardship include: better management of specific products that are not best managed through landfills; increased employment and business opportunities; reduction of community landfill costs; reducing toxins in landfills; and reducing illegal dumping.

Potential challenges of product stewardship include: establishing product specific baseline figures for generation rates; logistics of program management and regulatory structure; transportation between New Mexico's population centers; and potential lack of end-product markets.

Future work will need to be coordinated with specific industry associations to determine the use and waste generation rates of specific products.

**Memorial Task 2:** *Recommendations of any changes to statute to facilitate desired product stewardship goals.*

The task force believes it is not necessary to make any changes to state statute (Solid Waste Act, NMSA 1978, §§ 74-9-1 to-43) in order to implement product stewardship programs, as there is nothing in the statute prohibiting such programs. Product stewardship programs may support several specific statute sections. Language specifying product stewardship as a waste management tool could be added to the Solid Waste Management Plan as a foundation for product stewardship program support.

**Memorial Task 3:** *Identify existing product stewardship programs nationally that are willing to voluntarily serve New Mexico.*

The task force has identified and formed relationships with several national product stewardship and industry organizations that are willing to voluntarily serve New Mexico with some type of product stewardship assistance. These include the Product Stewardship Institute, the International Sleep Products Association (mattress recycling initiative), PaintCare, and the National Electrical Manufacturers Association. The Product Stewardship Institute requests a membership fee after one-year. A full list of contacts, their affiliations, and reference information is attached as Appendix B.

**Memorial Task 4:** *Identify a product or product category as a candidate for a product stewardship program if it meets one or more of the criteria specified in HM 56.*

The task force discussed various products and their potential to be successfully managed under a product stewardship program in New Mexico and rated candidacy based on criteria from the memorial and additional criteria suggested by the task force. A table of products with EPR programs in various states is attached as Appendix C.

**Products as potential candidate for product stewardship programs (ranked by the task force):**

	Toxic	Increased materials recovery	Reduce waste management costs	Has success in other states as PS/EPR	Has producer/industry support	Good value of materials	TOTAL SCORE
CFLs*	✓	✓					2
Tires		✓	✓				2
Electronics	✓	✓	**	✓	½ ✓	✓	4 ½
Mattresses		✓	✓	✓	✓	✓	5
Paint	½ ✓	½ ✓	**	✓	✓	✓	4

\*CFLs = Compact Florescent Lamps

\*\*Management cost breakdown has not been established, though there is some known cost involved.

*The above columns represent the criteria listed in HM 56 with two exceptions: (1) we did not consider the “Existing voluntary product stewardship programs for the product in the state [that]are not successful,” since there are no active product stewardship programs in New Mexico; and (2) we added the criteria “Has producer support” and “Good value of materials” based on the task force’s discussion of factors that would be important for a product stewardship program to be successful.*

**Conclusions**

The New Mexico Environment Department and the New Mexico Recycling Coalition conducted an initial study into the feasibility for product stewardship programs in our state, as requested in House Memorial 56. A task force representing a variety of stakeholders held two meetings in the fall of 2013 to discuss the attributes and possibilities of product stewardship and Extended Producer Responsibility legislation in New Mexico.

The task force finds that electronics, mattresses, and paint may be good options for managing through a product stewardship program in New Mexico. Based on our analysis, the task force recommends initially pursuing a pilot product stewardship program for mattresses. Also recommended is the formation a Product Stewardship Advisory Group with expanded membership to facilitate product stewardship research, product materials management data, stakeholder input, and program development.

**Report Prepared by:**

*Jill Turner, Pollution Prevention Program Manager, Office of the Secretary, New Mexico Environment Department  
For questions about this report, please contact Jill Turner at (505) 222-9548 or [jill.turner@state.nm.us](mailto:jill.turner@state.nm.us). Thank you.*

## Appendix A

### NMED Product Stewardship Task Force

**Facilitator:** Jill Turner, NMED Pollution Prevention Program Manager, Office of the Secretary

**Members:**

FIRST	LAST	ORGANIZATION	MEETINGS
English	Bird	NM Recycling Coalition, Executive Director	9/19 & 10/22
Joseph	Ellis	Estancia Valley Solid Waste Authority	9/19
Charles	Fiedler	NM Recycling Coalition, Board President	9/19 & 10/22
Tim	Gray	NMED Solid Waste Bureau	9/19
Joe	Lobato	NM Clean & Beautiful, director	9/19
Gregg	Mich	Dapwood Furniture, President	10/22
Steve	Newby	Las Cruces Chamber of Commerce, member	10/22
Steve	Pullen	NMED Hazardous Waste Bureau	9/19 & 10/22
Charlie	Rodriguez	NM Business Coalition	9/19 & 10/22
Robert (Bert)	Sanchez	Sandoval County Solid Waste	9/19 & 10/22
Sarah	Schnell	Valencia County, Environmental Coordinator	9/19 & 10/22
Bobby	Sisneros	ABQ Solid Waste Division	10/22
Joan	Snider	NMED Solid Waste Bureau	9/19 & 10/22
Troy	Tudor	Las Cruces Chamber of Commerce, VP	10/22

\* Primary research conducted by English Bird, NMRC and Jill Turner, NMED and presented to task force at meetings and via email.

## Appendix B

### Research Sources and Contacts:

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#### **Colorado Association for Recycling / Colorado Product Stewardship Council**

Marjorie Griek, CAFR Executive Director

<http://www.cafr.org/members/productStewardship.php>

#### **International Sleep Products Association (ISPA Earth Program) - mattress industry**

Chris Hudgins, VP Government Relations & Policy

<http://www.sleepproducts.org/ispa-earth/>

#### **Maine Department of Environmental Protection**

Ann Pistell, Product Stewardship Program

<https://www.maine.gov/dep/waste/productstewardship/index.html>

#### **MetroPaint –**

*Metro is the elected regional government for the Portland, Oregon metropolitan area and Metro Paint is a Metro facility that collects waste paint and produces recycled-content latex paint.*

<http://www.oregonmetro.gov/index.cfm/go/by.web/id=521>

#### **National Electrical Manufacturers Association**

Mark Kohorst, Recycling Rep.

<http://www.nema.org/Policy/Environmental-Stewardship/pages/default.aspx>

#### **PaintCare / American Coatings Association**

*PaintCare operates paint stewardship programs on behalf of paint manufacturers in states with paint stewardship laws.*

Alison Keane, VP Government Affairs at American coatings Association; General Counsel, PaintCare

<http://www.paintcare.org/>

#### **Product Stewardship Institute, Inc.**

*A national, membership-based nonprofit working with state and local governments, manufacturers, retailers, environmental groups, and industry representatives.*

Scott Cassel, Chief Executive Officer/Founder

[www.productstewardship.us](http://www.productstewardship.us)

#### **Oregon Department of Environmental Quality – Product Stewardship programs**

<http://www.deq.state.or.us/lq/sw/prodstewardship/>

#### **Rubber Manufacturers Association**

Michael Blumenthal

<http://www.rma.org/>

#### **Spring Back Colorado – Mattress Recycling**

*A small mattress recycling business in Tennessee and Colorado providing jobs for men in rehabilitation.*

<http://springbackcolorado.org/>

## Appendix C

**Products with state Extended Producer Responsibility (EPR) legislation:**

Product	States	# Laws
Automotive Switches	AR, IL, IN, IA, LA, ME, MD, MA, NJ, NC, RI, SC, UT, VA, VT	15
Batteries	CA, FL, IA, ME, MD, MN, NJ, NY, VT	9
Carpet	CA	1
Cell phones	CA	1
Electronics	CT, HI, IL, IN, MD, ME, MI, MN, MO, NC, NJ, NY, OK, OR, PA, RI, SC, TX, VA, VT, WA, WV, WI	23
Fluorescent Lamps	ME, VT, WA	3
Mattresses	CA, CT, RI	3
Paint	CA, CT, ME, MN, OR, RI, VT	7
Pesticide Containers	CA	1
Thermostats	CA, CT, IA, IL, ME, MT, NH, PA, RI, VT	10

\*Source: Product Stewardship Institute