



## **Draft National Environment Protection (Tyres) Measure**

### **General Comments**

The Draft National Environment Protection (Tyres) Measure (Tyre NEPM) outlines the regulations that will be implemented once the Tyres Product Stewardship Agreement (the Agreement) is in place. The question that remains unanswered (both by this document and the Regulatory Impact Statement) is, do we need a NEPM for tyres?

Given this approach by the Federal Government there is the potential for a proliferation of NEPM's. Further investigation is still needed to ensure that a NEPM is the best approach or whether regulation at a Federal Level would be more appropriate.

Experience with the Packaging NEPM has shown that there can be inconsistencies between states in terms of application and timeframe of implementation of NEPMs.

***WALGA Recommendation 1: That the appropriate Agency further investigate other options for regulation regarding Product Stewardship arrangements, aside from a NEPM.***

### **Background**

The framework given in this document for the management of end-of-life tyres could be seen as limiting other government action regarding tyres. If the scheme fails in a particular state, it must be clear that the state government has the authority to act accordingly and introduce further measures to combat issues regarding tyres.

Much of the controversy around the National Packaging Covenant has centred on the definition of 'Complimentary Mechanisms' and different parties to the Covenants various understanding of the term. To avoid such a situation arising in the case of tyres, it is important that it be clear that the State Government has an absolute right to act (as given by its electorate) to resolve issues with a product. This extends to additional regulation where necessary at any time.

***WALGA Recommendation 2: That it be clearly established and understood that State Governments can make additional regulation regarding tyres where necessary.***

## **National Environment Protection Goal**

The Goals stated in this document differ from those in the other documents. It is understood that the NEPM is intended to support the Agreement; however, the goals in the NEPM document differ from those in the Agreement being somewhat broader in scope. Further commentary on this issue is included in the MWAC Submission – Overall.

## **Guidelines for imposing obligations**

This section is aimed at the producers who are not part of an approved Product Stewardship Scheme; for those producers section 2 provides for a collaborative jurisdictional approach. How this would occur effectively is strongly questioned. The situation where a tyre producer is recycling tyres in one state on the behest of another could be administratively complex. Clarity is needed regarding assigning responsibility – for example is the port of entry the initially responsible jurisdiction? Or is it a case of the jurisdictions working together to follow up the responsibilities of a tyre importer in their respective jurisdictions.

As identified in Section 13 the Commonwealth will be providing the data on importers to the States; a simpler methodology for imposing the obligations would be for the Commonwealth to identify those tyre producers who are not part of an approved scheme and coordinate the jurisdictional activity. As previously detailed, the states having responsibility for this regulation and implementation may not be the most efficient course of action.

## **Exemptions and enforcement of obligations**

The resources to carry out the exemptions and enforcements need to come from within the scheme itself, rather than be an additional cost imposed upon State and Commonwealth Government. If the Scheme funds its own regulation a clear idea of the cost of this type of regulation can be gained. It will also ensure that sufficient resource is allocated to the compliance regime.

***WALGA Recommendation 3: That the Scheme fund its own implementation and regulation absolutely.***

## **Review of the Measure**

The Agreement is at present set to be reviewed at the end of the 1<sup>st</sup>, 5<sup>th</sup>, 7<sup>th</sup> and 10<sup>th</sup> years. These reviews may be insufficient if any problems arise with the NEPM, particularly the gap between the 1<sup>st</sup> and 5<sup>th</sup> year review periods.

***WALGA Recommendation 4: That there is a review in year 3 of the Agreement.***

## **Information from tyre producers**

Records are to be kept according to the same requirements as the Agreement; there is however no mention of what will happen to these records once the eleven year period has lapsed. This information may be useful and have value beyond the eleven year

Agreement period. In regard to the auditing of the records, it is strongly suggested a random audit be arranged for a proportion of tyre producers annually.

***WALGA Recommendation 5: That random audits of a proportion of tyre producers with regard to this clause be conducted on an annual basis and that the records are kept after the eleven year period.***

### **Information supplied to the NEPC**

WALGA support the need for public reporting; however, there needs to be a clear set of Key Performance Indicators identified to ensure the content of the reports is detailed.

Any complaints received need to be clarified with regard to who and what they are directed at, such as illegal dumping or poor performance of the Scheme. There also needs to be a clear timeline set with regard to the reporting period, as soon as practicable is unmeasurable.

***WALGA Recommendation 6: That a clear timeline be established for the due date of reports; that complaints be more detailed to identify areas of concern, and that a clear set of KPI's be established on which to base the reporting.***