

Draft Summary of the NEPSI Action Plan Subgroup Conference Call
April 29, 2002
2:00 – 3:00 PM EST

Members in Attendance*

Sego Jackson, Snohomish County (Chair)	Ted Smith, SVTC
Maureen Hickman, MN OEA	Sheila Davis, Materials for the Future
David Thompson, Panasonic	Clare Lindsay, U.S. EPA
Scott Cassel, Product Stewardship Inst.	Frank Marella, Sharp
Heather Bowman, EIA	Gary Davis, Center for Clean Products, UTK
Wayne Rifer, WEPSI	Raoul Clarke, FL DEP
Vicky Salazar, U.S. EPA Region 10	Ben Carlisle, ERG (note-taker)
Gordon Hui, U.S. EPA	

The participants of the NEPSI Action Plan Subgroup met via conference call on April 29, 2002, from 2:00 to 3:00 PM EST. This document briefly summarizes the major topics covered during the subgroup's discussions, and highlights agreements that were reached.

Purpose of the Call

The purpose of this conference call was to reach a general agreement on answers to the following questions about the NEPSI Action Plan:

- What is the Action Plan?
- What is its legal status?
- Is it something to sign?
- What should be in the plan?
- What should be the plan's general characteristics?
- What are the next steps and the timeline for developing the plan, and who will do what?

The following sections summarize the subgroup's discussion on these issues.

What Is the Action Plan?

Sego Jackson said that, over the past several weeks, he had collected a lot of general notes and comments from others on what the Action Plan might include. Prior to the call, he had sent an email to subgroup members, summarizing these notes and comments as a basis for discussion.

Sego read through the comments he had received in response to the question "What is the Action Plan?":

- It is "THE" document and "Agreement" and has a number of sections.
- It is the document in which we capture the result of our efforts together.
- It documents our commitments.

* Due to a problem with the call-in number provided to the subgroup, some members were unable to connect with the conference call or were forced to join late. This problem affected Jan Whitworth, Mike Paparian, Buddy Graham, and Ted Smith.

- It is the road map for what we are going to do following the formal NEPSI process in order to implement our agreements. (It documents the past and outlines the future.)

There was general agreement on these points among the subgroup members, and there were no further comments.

What Is the Plan's Legal Status?

Sego summarized the comments he had received regarding the plan's legal status:

- This is a voluntary process and it is a voluntary agreement.
- It is not a legally binding document.

Again, there was general agreement on these points, and there were no further comments.

Is the Plan Something to Sign?

Sego had received the following comments on this issue:

- The Action Plan is something that can be signed, as a symbol of intention and commitment. This is a goal.
- It is not required that the NEPSI participants sign it or agree to it, though it is meant to be our best consensus work.
- It is something that other stakeholders (outside the NEPSI process) can sign on to, endorse, or approve.

Sego said that he drew two main principles from these comments: 1) that NEPSI stakeholders should not be required to sign the Action Plan, and 2) that the Action Plan Subgroup should strive to create a document that stakeholders will want to sign or be willing to sign. He asked if there was agreement on these principles.

Heather Bowman expressed concern that there might be legal ramifications of memorializing the NEPSI agreement in a signed document, even if that agreement is entirely voluntary. She also questioned whether the agreement would be signed by all stakeholders, or by representatives of the major stakeholder groups. Regarding the timing of any signing, she pointed out that the carpet MOU didn't receive all signatures until it had been finalized.

Wayne Rifer said that, to his mind, signing an agreement adds a new level of commitment. He asked whether the act of signing makes the agreement something more than voluntary.

Gary Davis suggested that, at this point, the subgroup should not get too hung up on this issue. He said that stakeholders won't agree to sign the Action Plan unless it's something that they want to sign. He also raised a question regarding foreign stakeholders: would company executives be required to sign the document, or could representatives sign in their place?

Scott Cassel said that, from the outset of the NEPSI process, he has encouraged the states to appoint representatives who have the authority to speak on behalf of their state. He said that the representatives of industry stakeholders should have the same authority. He stated that, in his opinion, the goal of the NEPSI process is to produce a signed agreement as a symbol of commitment.

Sego agreed that getting a person or organization to make a public commitment is a key tool for creating the motivation to follow through on that commitment. He also acknowledged that the

subgroup would have to address several issues associated with a signed agreement, the most important being the questions of who signs and what are the possible legal ramifications (intended or unintended) of signing. Heather Bowman agreed to keep an eye on the issue of legal ramifications. She also thought the subgroup should acknowledge that, at this point, none of the stakeholders have agreed to any obligations beyond September (the end of the NEPSI timeframe).

Sheila Davis suggested an alternative to a signed agreement: having stakeholders write official letters expressing support for the NEPSI Action Plan and explaining any areas of concern. She said that such letters might be more appropriate than a signed document, especially given the possibility that the agreed-upon document might quickly start to morph once the NEPSI process is complete and the document is turned over to lawmakers and other organizations for public debate. At that point, Sheila said, the NEPSI stakeholders would lose control over the document, and details of the agreement would likely change.

Several subgroup members expressed reservations about this idea. Scott Cassel said that his sense is that NEPSI is trying to get buy-in from the individual stakeholder organizations, with their concerns addressed or folded in to the eventual agreement. Once an agreement is reached, the NEPSI stakeholders will become foot soldiers, trying to convince others to buy in. Scott said that, by signing the agreement, stakeholders would commit to taking a stand and supporting the agreement, if and when legislation comes up for public debate.

Clare Lindsay agreed with Scott's point, adding that NEPSI is aiming for broad agreement on a general approach. Though some details might eventually change, Clare said, the stakeholders' job will be to promote the agreement once the NEPSI process is through. Maureen Hickman pointed out that the carpet MOU hasn't changed at all since it was signed, though she acknowledged that those parts of the NEPSI agreement that are up for legislation could be changed.

Gary Davis said that he envisions the Action Plan document committing the NEPSI stakeholders to support legislation, as long as the legislation is consistent with the NEPSI agreement. If the legislation morphs, the stakeholders can abandon their support for it. David Thompson agreed, adding that if the Action Plan is viable and represents a true agreement, then it won't morph. Alternatively, if the Action Plan does not represent a true agreement, then it will be subject to change.

In response to Gary's comment, Frank Marella asked how the stakeholders would respond if the Action Plan agreement started to morph. What exactly could the stakeholders do if the document went public and changes were recommended that the stakeholders couldn't agree to? Frank said he thought it was important to follow through on this scenario and come up with an answer. The subgroup agreed that this was a topic for further discussion during future conference calls.

What Should Be in the Plan?

Sego reviewed a list of possible or probable components of the Action Plan document:

- Preamble (short but giving context)
- Approach
- Proposed system
- Key components of agreement
- Agreed to actions
- Roles and responsibilities

- Goals and timelines
- Evaluation and performance
- Interim steps
- Legislation
- Next steps
- Appendices

He asked if the subgroup members wanted to suggest other components or had comments on the list.

Heather Bowman suggested that many of these details (e.g., details about system evaluation) should be left for the TPO or other implementing body to address. Several members disagreed, saying they felt that the Action Plan should define expectations and processes (e.g., how evaluations will occur). Gordon Hui noted that the carpet MOU defines expectations for annual reporting. Gary Davis added that the carpet agreement had initially defined evaluation processes, with details about rates and dates coming in the second year. Heather questioned whether the NEPSI stakeholders would have time to address details about rates and dates by September.

Sego suggested that the subgroup could put committee names next to most of the proposed components in the Action Plan, since many of the components are being developed in draft form in the NEPSI subgroups. He also said that the Action Plan will reflect and be dependent upon the work of the subgroups. If a subgroup doesn't address details and expectations, these things won't be included in the Action Plan. The legislation section of the plan, for example, will incorporate whatever document comes out of the Legislation Subgroup, whether it's specific legislative language or not.

Ted Smith proposed including an additional section in the Action Plan, one that identifies ongoing areas of disagreement and unresolved issues. He said that if the Action Plan is short on specifics and details, then he would hesitate to treat the NEPSI agreement as a comprehensive solution to the problem of e-waste. Ted also said that it doesn't seem sufficiently ambitious to rely on the carpet MOU as a model for the NEPSI Action Plan; he said he was "underwhelmed" by the carpet agreement.

As an alternative to adding an additional section on unresolved issues, Gary Davis suggested that the Action Plan could list as "action items" any unresolved issues that the stakeholders feel should be addressed. Ted offered a third approach: flagging the fact that details are missing.

General Characteristics of the Action Plan

Sego reviewed the general characteristics that were being proposed for the Action Plan:

- Brief (6-8 pages or so, plus legislation and appendices OR executive summary with signature capability and larger document attached)
- Reader friendly.
- Perhaps references a website for detailed documents (such as definitions)

The subgroup members agreed to these characteristics.

Next Steps

The subgroup members agreed to the following next steps:

- 1) Create a draft template for the plan

- 2) Draft a sample preamble or problem statement
- 3) Develop a timeline

Jan Whitworth, Vicky Salazar, Maureen Hickman, and Heather Bowman volunteered to begin work on the draft template and the sample preamble. David Thompson said that he would try to recruit Panasonic's Charlie Monahan to help (Charlie worked on the RBRC agreement).

Gary Davis said that he would be distributing a revised version of the NEPSI roadmap within a week. He suggested that the subgroup wait and see if the roadmap answers many of the questions that the Action Plan timeline will address. Specifically, the roadmap should provide information on when the various subgroups will be finishing the documents that will be incorporated into the Action Plan. Sego and Vicky offered to work on the timeline, once the roadmap is available.

The subgroup agreed that they will not be meeting during NEPSI's one-day Chicago meeting in May, unless it's at the very end of the day.

Future Conference Calls

The subgroup agreed that they would schedule future conference calls for Wednesdays at 11:30 AM EST. The calls will begin on May 22, and will occur every other week, as needed. Each call will last one hour.