

## NEPSI Hybrid System Transition

Based on the work of the F & T Subgroup, the following statements on the system transition seem to have significant support:

The intent for the system is to transition from ARF to PCI unless:

(a) the original near term objectives\* of the ARF system have not been accomplished and the ARF needs to be kept in place to accomplish them (\* deal with orphan and historic, build infrastructure, etc.)

--OR--

(b) The original near term objectives of the ARF system HAVE been accomplished but there is substantial evidence that an ARF, rather than a PCI system, would best serve the long term NEPSI objectives.

### System Review for Transition

Seven years after the effective date of the national ARF system, EPA will convene a multi-stakeholder advisory committee, pursuant to the Federal Advisory Committee Act, to review and assess the demonstrated benefits of the ARF system, based on the criteria below, and provide advice on whether and when to transition to the PCI system<sup>1</sup>. The intent of the transition is to move to a financing system based on greater individual manufacturer responsibility to increase incentives for product design and any additional long-term objectives. In evaluating the NEPSI system and financing mechanism, the following questions, at a minimum, should be considered:

- 1) Has a set portion/percentage of orphan and historic products been recovered/managed (e.g., removed from storage and the waste stream)?
- 2) Is the collection, transportation, and processing infrastructure sustainable without the ARF?
- 3) What is the public awareness/satisfaction with the system, and are there indications that the public would be more satisfied with an alternate system?
- 4) Are there other benefits for moving or not moving to a different system, such as further promotion of green design?

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<sup>1</sup> The Federal Advisory Committee Act acknowledges Advisory Committees as a “useful and beneficial means of furnishing expert advice, ideas, and diverse opinions to the Federal Government”. Section 2, FACA. To make sure that these Committees are most valuable and transparent, the Act sets requirements to ensure that these Committees are “fairly balanced in terms of the points of view represented” as well as provisions for timely public notice of meetings, and requirements that the records, notes, reports, working papers etc. of the Committee are made available for public inspection.

This is an approved document of the NEPSI Finance and Transition Subgroup. It has not been reviewed and agreed upon by the full NEPSI stakeholder membership.

The review shall be completed within six months. In order for the system evaluation to occur within six months, EPA will initiate the evaluation prior to Year 7, have the multistakeholder group selected, pertinent records available, etc. It is further recommended that reports be requested in Year 6 on the status of electronics collection and recycling in the US from the General Accounting Office, or other such independent, governmental research entity, to help inform the work of the multistakeholder advisory committee. However, the absence of such a report shall not impede the evaluation process.

The multistakeholder group will provide recommendations consistent with one of the following scenarios:

- 1) The near-term objectives of the ARF have not been met, but progress is being made, and the funding mechanism needs to continue. The recommendations will include the time period for the next evaluation, not to exceed three years.
- 2) The ARF is accomplishing near-term and long-term goals and should be kept in place.
- 3) The ARF is not accomplishing the goals and it is necessary to transition to a new system. The recommendations should include guidance on whether the system should transition to PCI at that point or to an alternate system. There should also be a cost/benefit analysis of that shift.
- 4) The ARF has accomplished the near-term goals, but a transition to a new system is deemed necessary to achieve the long-term goals. The recommendations should include guidance on whether the system should transition to PCI at that point or to an alternate system. There should also be a cost/benefit analysis of that shift.

EPA shall make a determination regarding the transitioning of the system, taking into account the input and recommendations of the Advisory Committee. Note that the Federal Advisory Committee Act dictates that the function of Advisory Committees shall be advisory only (Section 2(b)(6), unless otherwise specifically directed by statute or Presidential Directive (Section 9(b)). Thus if it is desired that the Advisory Committee's findings have more definitive effect, Congress should be asked to so specify in the legislation setting up the NEPSI system.

If EPA and the multistakeholder panel fail to act, the system will transition to PCI unless Congress acts to change the financing system.