

SB 222 EPR Advisory Council Meeting
Thursday, December 5, 2024, 9:00am-11:00am E.T.
Meeting Location: Online via Google Video

Introduction

Bradley Baker: [Introduction to the agenda].

- I. Roll Call
- II. New Member Introduction: William Singleton
- III. Needs Assessment Update
- IV. Recommendations to Legislature
- V. Open to public comment

I. Roll Call

Attendees

Member Names	Affiliation	<i>Present</i>
Lee Zimmerman	Frederick County on behalf of MACo	Y
John Neyman	Republic Services	Y
Frankie Sherman	Charles County	Y
Chris Pilzer	WM	Y
Eileen Kao	Montgomery County	Y
Angie Webb	Maryland Environmental Service	Y
Vinnie Bevivino	Bioenergy Devco	
Michael Okoroafor	McCormick	Y
Ellen Valentino	MD-DE-DC Beverage Association	Y
Mario Minor	Market Fresh Gourmet	Y
Scott DeFife	Glass Packaging Institute	Y
Vacant	Ameripen	--

William Singleton	Mars Inc.	Y
Abigail Sztejn	America Forest and Paper Association	Y
Delphine Dahan Kocher	Constellium	Y
Peter Hargreave	Circular Action Alliance	Y
Chaz Miller	Maryland Recycling Network	Y
Kelly Doordan	Trash Free Maryland	Y
Martha Ainsworth	Sierra Club	Y
Crystal Faison	Shepherd Design and Construction	
Miguel Lambert	Repurpose Aggregates	Y
Gurcharan Singh	WAH Global	
Bradley Baker	MDE	Y
Dave Mrgich	MDE	Y
Sara Weitzel	MDE	Y
Shannon McDonald	MDE	Y
Tim Kerr	MDE	

II. New Member Introduction

The newest advisory council member, William Singleton, was introduced. William Singleton is the director of packaging and innovation at Mars Inc. Their role is focused globally on packaging innovation, sustainability and value leadership/cost-savings. Bradley Baker welcomed William Singleton and thanked the other candidates.

III. Needs Assessment Update

Bradley Baker gave an update on the Statewide Recycling Needs Assessment.

- 1) Almost all data has been received and is now being compiled into technical memorandums and the Needs Assessment. Needs Assessment appendices each correspond to a requirement in law. Expected delivery: December.
- 2) Upcoming Dec. 17th meeting: future state scenario workshop with HDR and Eunomia.

- 3) The estimated delivery of the final needs assessment will be mid-to-late January.

In response to questions from advisory council members, the following information was clarified by MDE and HDR:

- Timeline for delivery of appendices:
 - o The dates presented were delivery dates to MDE and “in progress” referred to the write-up, not data collection.
 - o The future state scenario workshop on the 17th will provide background for the summary of costs, benefits, and environmental impacts of EPR programs currently marked “TBD/Not started”. Methodology will be laid out regarding model assumptions. [Other sections marked “TBD/Not started” were not addressed.]
- Waste Characterization Study:
 - o The change from a two-season sort in 2015 to a one-season sort in 2024 (due to cost and time constraints) will be qualified in the report. The Waste Sort fieldwork is complete and the report is in progress. Vegetation may account for the largest seasonal fluctuation, which is outside of the Needs Assessment’s focus on packaging. Additionally, data from additional existing MD waste sorts will be harmonized with the current waste sort. Information about the two existing waste sorts that will be used was requested. [Eric Weiss later provided that information: Prince George’s and Baltimore County’s 2022 waste sorts and Montgomery County’s 2023 waste sort were used based on their consistency with MSW’s methodology for the current waste characterization study in terms of material categories, how recently they were conducted, and on their ability to fill in location gaps.]
 - o The study will be reported at the state level rather than at the county level. There will be composition profiles related to urban, suburban and rural designations at the statewide level.
 - o The Eastern Shore was included in the 2024 waste characterization study via the Somerset County Landfill and Cecil County Central Landfill host sites. All host facilities chosen were the same as those used for the 2016 waste characterization study. Midshore II, which covers four counties in the Eastern Shore, was not one of the sites used for the study. Eric Weiss stated that the assumption is that the sites selected would have similar type composition information and that MSW is currently running their analysis. So, now would be a good time to introduce that caveat to MSW if it should be considered. John Neyman noted that there is no data being captured between Cecil County and Somerset County and recommended capturing what’s happening in that central rural area. Bradley Baker added that waste sorts were requested from all recycling coordinators and potentially there was no waste sort received from the Eastern Shore counties in question. Bradley Baker then noted that across the nation, in EPA’s consideration of waste sorts, there are only small differences between percentages and proportions are similar across the nation.
- Opportunity for data review: The purpose of the workshop will be to review the current state to inform the future state. Perspectives from Councilmembers who were interviewed will be included in the Needs Assessment.
- Martha Ainsworth communicated that a 2022 study on capture rates was conducted at the Prince George’s County MRF and questioned whether there may be other studies in the state. Bradley Baker requested a copy of the study, and Martha Ainsworth stated that it can be

found on the Prince George's DOE website. Eileen Kao mentioned that Montgomery County also does capture rates and that should be in the complete waste composition study from Montgomery County sent to HDR. Bradley Baker and Eric Weiss added that the MRFs were interviewed and Eric Weiss clarified that the composition analysis for landfills will be combined with composition profiles and contamination composition (where available) from MRF interviews and is intended to help evaluate the current capture rate. This is an important point for the upcoming workshop which will address the key metrics that the state is looking for EPR to help improve. Michael Okoroafor added that waste capture rates are something that could be addressed in the workshop and recommended keeping to the current agenda.

IV. Recommendations to Legislature – EPR Policy Discussion

Angie Webb commented on an email sent out prior to the meeting, establishing that it was not intended to influence the group, just to inform them.

Bradley Baker transitioned the meeting to a discussion of recommendations. Michael Okoroafor expressed appreciation for the Council's input and recommended focusing on the framework and specifically on reducing the environmental impact of packaging waste, responsible end markets, and shifting the cost of packaging waste from consumers to producers.

Two recommendations were made at the last meeting:

1. *The General Assembly should consider requiring the PRO (CAA) to reimburse MDE for the cost of the needs assessment by January 31, 2026.* [The specific date was not discussed in that meeting and was added based on conversation with CAA in the previous meeting about providing them with time for budgeting].
 - 2.1 *In order for the Advisory Council to digest the content of the Recycling Needs Assessment expected to be delivered in January 2025, the EPR advisory council recommends delaying EPR legislation for the 2026 legislative session.* An alternative was proposed at the last meeting; a framework could be established for the 2025 legislative session.
 - 2.2: *The general assembly should consider legislation for the EPR strategic framework with the following items:*
 - ❖ *Mirrors the EPR framework of what MN passed in 2024*
 - ❖ *Require the PRO to submit to MDE a list of covered brands and materials by XXX 2026*
 - ❖ *Require the PRO to submit a plan, which would include goals and fees, to MDE by XXX 2028*
 - ❖ *Require the PRO to start reporting on their progress to the plan in XXX 2029*
 - ❖ *Allow flexibility for future bottle return systems within the EPR framework. For example, CO does not have a bottle return system but allows for the possibility to exempt packaging from EPR, if a bottle return system is established in the future.*
 - ❖ *Consider and option to bring in another PRO after 5 years.*

Peter Hargreave expressed CAA's willingness to reimburse the state for the cost of the needs assessment as well as the concern that there isn't knowledge about whether EPR legislation will pass or when producers will need to register or pay fees into the PRO. They spoke about ensuring that the motion allows for producers to be registered and paying in to CAA to reduce

the potential stranded costs. Michael Okoroafor suggested that the timing can be adjusted to accommodate CAA's concerns.

Ellen Valentino stated support of the 2.2 recommendation to move forward with the framework and requested clarification in the legislation that CAA will be the PRO at least for the next five years. Michael Okoroafor expressed support of Ellen Valentino's point and discussed PRO responsibility and the period of time for review of the PRO activity.

Bradley Baker requested that the Council address Recommendation 1 first before moving on to Recommendation 2.

Recommendation 1

- Scott DeFife recommended yes on 1 with amendments that allow for CAA's stranded costs to be recovered in the event that an EPR bill doesn't pass. That bill should move early in the session and be independent from legislation around what is being built. They discussed allowing for off-ramping from the single PRO within the first 5 years in the legislation, even if CAA is the first primary PRO. They proposed that if other PROs are created, they would then need to reimburse their proportional covered material/proportional share of the needs assessment. CO's law and motor oil/antifreeze was discussed as an example.
- Chaz Miller requested the cost of the needs assessment. Bradley Baker stated \$667,000, and that it is less than some other needs assessments conducted because Maryland already had a lot of data on hand from reporting. Bradley Baker then clarified that the waste characterization study methodology was adjusted to address more material types and provide a greater level of detail, in response to Chaz Miller's reference to concerns brought up by CAA in a previous advisory council meeting.
- Chris Pilzer identified that Illinois is paying for their needs assessment through a SWIFR grant. Shannon McDonald provided context about the SWIFR grant and Bradley Baker outlined the timeline of implementation of SB222 and the SWIFR grant. Peter Hargreave noted that CAA will likely still need to do additional work and obtain more detailed data [later] for budgeting.
- Bradley Baker proposed changing the date discussed in Recommendation 1 to "*January 31 2026*" (after the legislative session in 2026). Peter Hargreave suggested using the legislation passing as the marker and ideally allowing time for early producer registration and payment of EPR fees to cover the cost of the needs assessment. Bradley Baker stated that the language can be adjusted. Ellen Valentino expressed concern that producers would act as a bank for the state on policies that the state won't move forward with and acknowledged the adjustment in language suggested as a solution. Michael Okoroafor agreed with Ellen Valentino and advocated for providing advice for framework legislation in 2025. Eileen Kao suggested changing the language to state that reimbursement will occur within a certain amount of time of legislation passing or being enacted rather than focusing on a specific date. Bradley Baker changed the recommendation language to "*within one year of legislation passing*" and requested feedback from the Council.
 - Chaz Miller expressed support for the change and did not support moving forward with a legislative recommendation in 2025.

- Chris Pilzer stated that it is unknown whether the MN framework is right for MD. Bradley Baker stated that this point will be revisited and that MN was identified from stakeholder conversations.
- Abigail Sztejn suggested changing the language to “may consider” rather than “should consider”. Bradley Baker clarified that this is written for the purpose of advising the General Assembly and the bill sponsor may decide to do something different, and Michael Okoroafor suggested that the council avoid being prescriptive on the legislative language.

A vote was taken on Recommendation 1: *The General Assembly should consider requiring the PRO (CAA) to reimburse MDE for the cost of the needs assessment by January 31, 2026 within one year of legislation passing, with the following results:*
In favor: 16
Opposed: 1

Martha Ainsworth asked for clarification about whether reimbursement costs include MDE project management or just the cost of the consultants. Bradley Baker clarified that the \$667,000 is just the cost of the consultants but the 3rd reader of SB222 could include management costs as well. Martha Ainsworth stated support for reimbursement of all project oversight.

William Singleton asked where data from waste characterization studies is being stored for possible future data analytics. Bradley Baker identified the annual report and associated database and the needs assessment report and associated database (Access, Sequal, etc.). Michael Okoroafor discussed data fidelity.

Recommendation 2

Bradley Baker identified the following series of recommendations:

2.1: In order for the Advisory Council to digest the content of the Recycling Needs Assessment is expected to be delivered in January 2025, the EPR advisory council recommends delaying EPR legislation for the 2026 legislative session.

2.2: The general assembly should consider legislation for the EPR strategic framework with the following items:

- ❖ *Mirrors the EPR framework of what MN passed in 2024*
- ❖ *Require the PRO to submit to MDE a list of covered brands and materials by XXX 2026*
- ❖ *Require the PRO to submit a plan, which would include goals and fees, to MDE by XXX 2028*
- ❖ *Require the PRO to start reporting on their progress to the plan in XXX 2029*
- ❖ *Allow flexibility for future bottle return systems within the EPR framework. For example, CO does not have a bottle return system but allows for the possibility to exempt packaging from EPR, if a bottle return system is established in the future.*
- ❖ *Consider and option to bring in another PRO after 5 years.*

- Michael Okoroafor discussed the role of framework legislation, use of MN legislation as a reference and recommendations regarding a bottle deposit system.
- Martha Ainsworth stated support for interim recommendations to set broader objectives for the program (beyond recycling) and working on a strong framework for 2026 that

especially addresses the environmental objectives of the program. Martha recommended not postponing, but rather working this year (2025) on getting the best bill for MD that goes beyond recycling (with recycling recommendations based on the results of the needs assessment, but additionally working on objectives not informed by the needs assessment). Bradley Baker stated that Martha's suggestions (Recommendation 3) will be discussed as well.

- Chaz Miller highlighted that none of the five states that have passed packaging EPR laws have implemented, and they discussed OR, the meaning of “framework” and the likelihood of passage in this upcoming session. Cost and other impacts on the state, producers and local authorities were discussed. Chaz Miller emphasized Maryland's unique existing infrastructure challenges (including public ownership of MRFs).
- Eileen Kao discussed that other jurisdictions haven't gone through full implementation, as well as benchmarking, learning from other jurisdictions, and informing decisions for MD with the needs assessment.
- Scott DeFife stated that all states who have passed EPR laws included the needs assessment in their legislation; the needs assessment is completed before the plan and then the PRO plan is reviewed by the regulatory agency. They discussed building time in between the needs assessment and the PRO plan and fee structure start. MN, CO and OR were used as examples.
- Michael Okoroafor discussed the relationship between PRO involvement, a strategic framework, and the needs assessment.
- Bradley Baker identified cost of implementing EPR and covered materials list as outputs of the Needs Assessment.
- Ellen Valentino expressed support for moving forward with legislative recommendations for the 2025 legislative session, and discussed MN's policy as an example of a “breathing policy”.
- Peter Hargreave stated that there are lessons to be learned from other jurisdictions, including how timelines are set, definitions, and exemptions and covered materials. They expressed concern about the short window and the lack of conversation to date around those identified areas moving into the 2025 legislative session. They also stated that the role of the PRO is to meet the compliance requirements set out. Bradley Baker identified the packaging materials definition in SB0222, and Peter Hargreave offered to discuss issues in other states.
- Chaz Miller identified areas of discussion that have not occurred within the Advisory Council. Bradley Baker responded that goals can be implemented through law, or they can be in the PRO plan submitted to MDE which can allow for more time to identify goals.
- Delphine Kocher expressed concern about losing momentum and not entering the obligatory framework that will obligate movement forward.

Changes to recommendation 2.1 language were discussed by the Council and MDE, and the following **change** was made: *In order for the advisory council to digest the content of the Recycling Needs Assessment expected to be delivered in January 2025, the EPR advisory Council recommends **continued development of EPR recommendations in 2025 to propose legislation in 2026.***

- Chaz Miller requested clarification of the meaning of “framework”. Michael Okoroafor and Ellen Valentino defined “framework” as boundaries for what needs to be focused on for making a recommendation in the legislative session, including: PRO involvement, covered materials, the regulatory agency providing oversight, and the general relationship between the policy and bottle deposit, rather than the final program. Ellen Valentino additionally discussed the framework as a stepping stone to move forward.
- Martha Ainsworth highlighted Scott Goldman’s comment that legislation may still be introduced in the upcoming session and advocated for recommending expansion of the scope of legislation to include other environmental objectives and for the Advisory Council to then work in upcoming months on creating the framework. Bradley Baker stated that the final scheduled meeting will be focused on the model rather than policy.
- Abigail Sztejn emphasized that it is unknown what legislation will be introduced and that a lot can happen in the legislature that is out of the Advisory Council’s control. They commented that a framework is helpful, and recommended being clear that more information is needed for consideration. Michael Okoroafor clarified the role of the advisory council and advocated for providing a recommendation in the 2025 legislative session.
- Chaz Miller discussed options for moving forward and cautioned against rushing.

A vote was taken on Recommendation 2.1: *In order for the Advisory Council to digest the content of the recycling needs assessment expected to be delivered in January 2025, the EPR advisory council recommends ~~delaying EPR legislation for the 2026 legislative session~~ continued development of EPR recommendations in 2025 to propose legislation in 2026, with the following results:*

In favor: 11

Opposed: 4

Councilmembers clarified the intention of their votes. Scott Goldman discussed clarifying the intention of Recommendation 2.1 in a future meeting. Councilmembers initiated providing clarification.

V. Open to Public Comment

[None]

Concluding Remarks

Bradley Baker expressed gratitude for those who joined, summarized what will be happening at the next meeting and noted that an additional meeting in early January could be set up.

The meeting was adjourned at 11:00