

SB 222 EPR Advisory Council Meeting
Thursday, February 13, 2025, 9:00am-11:00am E.T.
Meeting Location: Online via Google Video

Introduction

Bradley Baker: [Introduction to the agenda].

- I. Roll Call
- II. Opening Remarks
- III. EPR Framework Discussion
- IV. Open to public comment

Note that for all votes taken, the total number of voting members present was 16. Therefore, motions were accepted with a majority vote, out of 16 votes.

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	
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	
Gurcharan Singh	WAH Global	
Bradley Baker	MDE	Y
Scott Goldman	MDE	
Dave Mrgich	MDE	
Sara Weitzel	MDE	Y
Shannon McDonald	MDE	Y
Jeremy Baker	MDE	

II. Opening Remarks

- Roll call was taken via chat and the 12 council member quorum was reached.
- Bradley Baker provided an update on the needs assessment:
 - MDE's comments on the needs assessment are being incorporated by the contractor
 - A product for distribution will be available soon
- Ellen Valentino requested that MDE provide their comments on the needs assessment to the advisory council.

II. EPR Framework Discussion

Recommendation 9

The discussion of Recommendation 9 was started in the previous advisory council meeting (2/06/2025). The following conversation builds on topics previously discussed in that meeting.

Changes requested included:

- 1. Program targets/*measurements* to measure success could include:**
 - a. The quantity of packaging sold in the state, by material type, recyclability, composability**
 - b. The quantity of packaging waste in the state, by material type**
 - c. Post-consumer recycled content of packaging, by material type**
 - d. The recycling rate for packaging sold in the state, by material type**
 - e. The percentage of packaging sold in the state that is reusable, by material type**
 - f. *Effectiveness of infrastructure could be measured in material yield, contamination, rates, etc.***

Recommendation 9 was opened for discussion.

Peter Hargreave initiated discussion around whether “by material type” should be kept in the recommendation language. Specifically, a scenario in which a product composed of multiple material (e.g. plastic and metal) and resulting reporting complexity was discussed.

- Chaz Miller noted that it is costly to collect data. Chaz Miller also asked whether material type had been defined. Bradley Baker responded that material types are in the:
 - o waste characterization study
 - o MDE’s annual report includes recycling rates by material type
 - o In the future, covered materials will be defined
- Scott DeFife stated that not all packaging is reusable, and material types can be very broad (depending mainly on the number of plastic packaging categories). Scott DeFife discussed focusing on material types that lend themselves to viable reusable and refillable design.
- It was clarified that this discussion about material type is only related to reusable.
- Martha Ainsworth discussed using “multi-material” as a material type and determining the total percentage of reusables sold in the state.
- Abigail Sztein discussed the importance of clarifying the reason for classification by material type (i.e. if material type will be a factor in goals or setting requirements vs. if it is not).
- Peter Hargreave expressed concern about the challenges and lack of clarity around measuring reuse. Ideally flexibility is allowed for the PRO and the program plan rather than being too prescriptive within the legislation itself.

- William Singleton discussed difficulties associated with reuse programs and recommended not encumbering the program at its start and perhaps using a phased approach.

Scott DeFife made a motion to vote on the following two versions of Recommendation 9:

1. *Move forward the producer fee structure section of Recommendation 4 as written (including material type) and Delphine Kocher seconded the motion.*
 - o *In support: 4*
 - o *Opposed: 10*
 - o *Abstained: 2*
2. *Change the recommendation to without material type for the reuse category.*
 - o *In support: 14*
 - o *Opposed: 2*
 - o *Abstained: 0*

Recommendation:

1. **Program targets/measurements to measure success could include:**
 - a. *The quantity of packaging sold in the state, by material type, recyclability, composability*
 - b. *The quantity of packaging waste in the state, by material type*
 - c. *Post-consumer recycled content of packaging, by material type*
 - d. *The recycling rate for packaging sold in the state, by material type*
 - e. *The percentage of packaging sold in the state that is reusable, ~~by material type~~*
 - f. *Effectiveness of infrastructure could be measured in material yield, contamination, rates, etc.*

Recommendation 10

Changes requested included:

The plan submitted to MDE could include recommended strategies on the following operational considerations:

1. **High Level Schedule:**
 - a. *Registration of producers within 1 year of passage.*
 - b. *PRO submits an EPR plan 2 years after registration.*
 - c. *Full EPR 5 years after passage.*
2. ***Access and service informed by the needs assessment ~~Access and service informed by the news assessment~~***
3. **Compliance-**
 - a. *Audit ahead of the 5 year reevaluation of the new plan? (MN)*
 - b. *Annual?*
 - c. *PRO has the ability to audit producer reported data*
 - d. ***Clarify PRO can monitor compliance, but is not the regulator.***
4. ***Increasing access and frequency of recycling services for residential and commercial entities.***
5. ***Level of investment to ensure waste is properly sorted between recyclable and non-recyclable materials***

- a. In other states, the PRO is producing Readily Recyclable or Uniform Collection Standards lists to be clear on what is recyclable and not based on engagement by stakeholders.*
- 6. Level of education and awareness initiatives to decrease contamination and raise participation**
 - a. An assessment of the effectiveness of these education and awareness initiatives towards achieving program goals.*
- 7. Curbside Material Collection Method (single stream vs dual stream)**
- 8. Level of investment in MRF/Composting Technology and infrastructure. PRO plan should include options to use new technology as they can improve recycling rates, efficiencies, reporting, compliance.**

Recommendation 10 was opened for discussion.

Initial topics of discussion included:

- Clarifying the purpose and language of this recommendation
- Clarifying or striking language that could interfere with County-level or MRF-level decisions about MRF investments and technology (6 and 7)
 - o Peter Hargreave suggested removing (6) and discussed CAA's intent as:
 - Infusion of financial resources into the marketplace to improve infrastructure that's in place/marketplace motivation
 - Incentive-setting to improve outcomes (esp. collection and processing systems short term, and aligning design with those systems longer-term)
 - o Peter Hargreave expressed concern about the inclusion/definition of commercial materials and discussed using a stepped approach and concern around including materials with already-strong markets that move at the back of retail (e.g. OCC).
 - o Scott DeFife discussed including post-needs-assessment strategies in the plan and considering investments with the goal of getting all counties up to a baseline level/meeting targets. Scott DeFife suggested that the language does not imply that the PRO is dictating anything and also discussed keeping opportunities open for independent producer plans that would otherwise be contamination in the statewide system.
 - o Eileen Kao identified that Montgomery County is the only dual stream facility in the region.
 - o Delphine Kocher discussed the intent of Recommendation 10 as well, stating that it is about strategies, not demanding that anyone is doing anything. Delphine Kocher also noted that the PRO is paying to the system and discussed the PRO's role in identifying strategies/making recommendations to improve that system/meet targets (not imposing strategies). Dual stream vs single stream specifically was discussed. Industry knowledge about new technologies was also discussed as something that could be brought to the table for consideration.
 - o Ellen Valentino expressed agreement with Delphine, Peter and Scott's interpretation of the language and goals, and asked whether there may be a way to soften the language that would still allow the producers to bring recommendations forward.
 - o Chaz Miller discussed, removing "level of investment" and replacing with "strategies", dropoff in MD, and reliance on out-of-state MRFs.

- Eileen Kao noted that the different interpretations and conclusions reached by different councilmembers are indicative that the language needs to be clarified.
- Bradley Baker noted that the Advisory Council doesn't need to comment on every aspect of this EPR program at this point and can vote not to push some recommendations forward.
- Chris Pilzer suggested bringing Recommendation 10 to a vote.
- Michael Okoroafor discussed the PRO's role of partnering with (rather than police) MRFs and scouting technologies.
- Scott DeFife noted that there's usually a separate section in law or recommendations that states that the PRO needs to maximize the use of existing infrastructure in the state and build upon it and suggested changing the language to "include recommendation on strategies". Additionally, Scott DeFife discussed the role of recommendations on investments in improving the system.
- Chaz Miller suggested changing "level of investment" to "strategies" and discussed that it may be less expensive for the PRO to use facilities in other states. Chaz Miller also noted the different roles of the PRO and processors.

A suggestion was made to go through the Recommendation 10 line by line.

- Point 1 (High Level Schedule) was discussed
 - Martha Ainsworth stated that overall recommendation is "what could be in a plan that the PRO submits" and the high level schedule and compliance related points are outlined by the legislation rather than the PRO.
 - Bradley Baker stated that point 1 (high level schedule) may need to be a separate recommendation addressed in legislation
 - Peter Hargreave discussed the timeline for the PRO is requirement (in current legislation) to implement 6 mo after the program is approved and noted that the PRO will need contracts in place to move forward and the time required for local governments to approve contracts with the PRO (if they have that authority). Peter Hargreave suggested that a timeline should be provided for when the PRO moves forward with the plan. Chaz Miller requested clarification about the contracts with the PRO. Peter Hargreave responded that if the PRO is reimbursing parties for the activities they move forward with, the PRO will want to make sure that certain conditions are being met (health and safety requirements, quantity of materials collected, etc.)
 - Martha Ainsworth expressed concern about keeping point 1 without understanding the timeline for rulemaking.
 - Ellen Valentino expressed support for including a timeline in the recommendation to ensure the PRO has registration.
 - Peter Hargreave suggested that the committee include conditions on a timely rulemaking process.
 - Bradley Baker noted the schedule dropped in the new legislation and needed updates to that timeline.
 - Martha Ainsworth asked about the timelines of other states. Bradley Baker responded that time was given for rulemaking in other states, and discussed CO's robust stakeholder process. Peter Hargreave stated that

this aligns with the type of time CAA is seeing in other states and that it is important to provide time for an adequate consultation period, and that there are many factors in different states that impact how implementation would happen.

- Scott DeFife discussed MN building more time into their plan and the timeline for CO's regs.
- Chaz Miller discussed learning by experience for the PRO (specifically noting subscription in different regions) and advocated for taking things slowly, noting that there are no actually implemented and running programs yet in the US.
- Bradley Baker changed the language from "Registration of producers within 1 year of passage" to "Registration of producers within 18 months of passage" and requested feedback. Peter Hargreave noted the balance between providing more time to register producers, but also taking longer to acquire funding for reimbursements. Chaz Miller discussed the current dates in the new legislation and potential need for change. The language was kept "...within 1 year...".
- "Full EPR 5 years after passage" was changed to "Full EPR within 5 years after passage".

Discussion from the advisory council about language yielded the following suggested recommendation:

The high level schedule in legislation for EPR implementation should be:

- ***Registration of producers within 1 year of passage.***
- ***PRO submits an EPR plan 2 years after registration.***
- ***Full EPR within 5 years after passage.***

Peter Hargreave moved to vote yes on moving forward with the high level schedule text as updated, and Ellen Valentino seconded the motion.

- *In support: 16*
- *Opposed: 0*
- *Abstained: 0*

- Point 2 ("The plan submitted to MDE could include recommended strategies on the following operation considerations") was discussed
 - Peter Hargreave proposed keeping this point higher-level. Eileen Kao agreed with keeping it high level, and suggested making sure the wording is clearer. The language was workshopped by members of the advisory council and changed (clarified, redundancies were removed, etc.):
 - Chaz Miller asked Peter Hargreave whether he would like pursue an earlier point brought up about commercial entities in this bullet. Peter Hargreave replied by stating that it is a question of what is being targeted and discussed complexities in other states with materials such as OCC which is managed by other private arrangements. Eileen Kao discussed issues with ignoring commercial materials, which make up a significant portion of the waste stream, and suggested that a phased approach could be wise. Bradley Baker noted that there are 21-22 years left of estimated

remaining years of landfill capacity as of 2022, not adjusted for population growth. Revised remaining capacity will be higher due to new permitted expansions, but there are decreasing options for landfilling, so any investment in diversion will help. Scott DeFife stated that the commercial category is broad and while most is not appropriate, there are consumer-facing goods that will end up in the public waste stream (not necessarily residential) that the plan may intend to cover (on-the-go food service, bottles, cans, etc – hospitality and things of that nature rather than for example a private stadium that pays for its own service). Bradley Baker brought up a situation in which a stadium doesn't have collection, and Scott DeFife responded that if it is public stadium, then who's responsible for the stadium/responsible for paying for that, do they become a producer. Chaz Miller identified that it could be useful for to clarify what is meant by commercial and what part of commercial is cared about, as commercial entities are diverse, and some businesses sell OCC while others put their material on the curb. Bradley Baker stated that the plan would be submitted in three years with the proposed schedule so there is time, and noted conversation on a phased approach and including segments of commercial, also noting significant amounts of recyclable waste in the commercial sector going to landfill. Peter Hargreave stated that if the state moved forward and defines this materially, it captures many new entities potentially (e.g. warehouses adding shrink wrap to pallets, pallets) and adds compliance complexity for the PRO. Chaz Miller asked if Peter's suggestion was to better define commercial and eliminate tertiary packaging, and Peter Hargreave stated that depends on the definition of tertiary packaging, noting that some jurisdictions only focus on materials supplied to the household. Scott DeFife stated support for a phased-in approach that responds to the needs assessment, and noted material that was exempted in CO but would have otherwise been covered because of the definition of commercial (hospitality was explored in the second program plan, and Scott DeFife noted seasonal tourism). Scott DeFife advocated for flexibility to determine materials that could potentially be covered (and specifically discussed commercial material that ends up in the public space). Abigail Sztein suggested adding language clarifying commercial material that ends up in the public space, and broadening the definition so that everything that such material (and any material that theoretically fits) can be included if supported by the data but there is no requirement that it must be. Abigail Sztein expressed concern about increased analysis requirements for the needs assessment and PRO. Eileen Kao stated that it would be useful to have the needs assessment and commented that the commercial sector is a broad title over a diverse range of conditions (including for collection). Eileen Kao expressed support for keeping this point not too specific and advocated for avoiding the term "commercial collection" because of the diverse range of the term. Bradley Baker noted that the language added was open and there will be a robust stakeholder process when developing regulations and the plan, where details can be worked out. Peter Hargreave noted that there is

one year until registration and it is necessary for the PRO to know who is included (what material is subject to reporting and fees) before that point. Chaz Miller noted legislative implications and the specific language the general assembly chooses to pass which currently includes tertiary packaging. Peter Hargreave noted the difference in a decision to use a phased-in approach. Michael Okoroafor asked if the language around a phased-in approach would be helpful to include. Peter Hargreave stated that it is still necessary for all of those entities to report to the PRO day one because it is an included material. It provides more time to figure out how to collect that material, but obligates the material.

- No comments or changes were made to the subpoint “Recommend strategies to increase the level of education and awareness initiatives to decrease contamination and raise participation”
 - On the subpoint: “Curbside material collection method (single stream vs. dual stream)”, Bradley Baker noted that there may be redundancy between this point and Point 1 (How the PRO will improve access and service and collection). Chaz Miller agreed. Peter Hargreave stated that there is a difference between access and how collection occurs. Delphine Kocher expressed that it is critical to the quality of recycled material. Scott DeFife discussed looking at counties with less recycling infrastructure/more distance to a MRF than others and that it may be beneficial (to the PRO, State) to discuss different collection modalities rather than building a new MRF. Chaz Miller added that it would be the same for Western MD. Scott DeFife mentioned that there are facilities in Pennsylvania that could take some material from Frederick if that became the best place, and stated that an analytical look at what might help regarding how to collect goes beyond an assessment of access. Bradley Baker discussed additions made to the language and the language to be included was discussed by the advisory council. Eileen Kao suggested changing the language to make it less open ended. Abigail Sztein expressed support for the recommendation and noted that improving material collection via “convenience” does not necessarily address issues of quality. Thinking about optimizing capture and quality combines the two. Chaz Miller suggested deleting single stream vs dual stream and Scott DeFife concurred. Eileen Kao requested changing some of the language to be less casual. The advisory council continued to discuss and revise this point’s language. Martha Ainsworth commented that the list of everything that should be included in a plan is included in the bill, and Bradley Baker offered that the intent of this recommendation is to serve as a reminder not to forget about the items listed, even those already included in the legislation.
- Martha Ainsworth brought up the definitions that still need to be discussed, and noted that they will need to be brought up at a future meeting.

Discussion from the advisory council about language yielded the following suggested recommendation:

The plan submitted to MDE could include recommended strategies on the following operational considerations:

1. ~~High-Level Schedule:~~
 - a. ~~Registration of producers within 1 year of passage.~~
 - b. ~~PRO submits an EPR plan 2 years after registration.~~
 - c. ~~Full EPR 5 years after passage.~~
2. ~~How the PRO will improve access on service and collection. Access and service informed by the news assessment~~
3. ~~Recommended strategies on how to improve processing infrastructure. Consider a phased approach to include segments of commercial collection of recyclables. Need to further define commercial collection of recyclables.~~

~~Compliance-~~

 - a. ~~Audit ahead of the 5 year reevaluation of the new plan? (MN)~~
 - b. ~~Annual?~~
 - c. ~~PRO has the ability to audit producer reported data~~
 - d. ~~Clarify PRO can monitor compliance, but is not the regulator.~~
4. ~~Increasing access and frequency of recycling services for residential and commercial entities.~~
5. ~~Level of investment to ensure waste is properly sorted between recyclable and non-recyclable materials~~
 - a. ~~In other states, the PRO is producing Readily Recyclable or Uniform Collection Standards lists to be clear on what is recyclable and not based on engagement by stakeholders.~~
6. ~~Recommended strategies to increase the level of education and awareness initiatives to decrease contamination and raise participation~~
7. ~~Recommend strategies on material collection method to optimize capture and quality of materials. Local governments retain the authority and execution for developing, managing, implementation and operations of recycling infrastructure. Curbside Material Collection Method (single stream vs dual stream)~~
8. ~~Recommend strategies on the Level of investment in MRF/Composting Technology and infrastructure to increase recycling and reduce contamination. PRO plan should recommend include options to use new technology as they can improve recycling rates, efficiencies, reporting, and compliance.~~

Scott DeFife moved to vote yes on moving forward with the text as updated, and Martha Ainsworth seconded the motion.

- *In support: 16*
- *Opposed: 0*
- *Abstained: 0*

There was not time to discuss definitions. Bradley Baker noted that it was necessary to get a letter to the legislature and governor and that he will discuss how to proceed with MDE leadership. Bradley Baker thanked the advisory council and noted that the council's meeting would continue into the future. Martha Ainsworth asked if the recommendations would be going to the legislature without discussion of definitions, advocating for the fundamentality of

definitions to the framework. Bradley Baker stated that he would discuss with MDE leadership and the Co-chairs and that the definitions would be discussed. It was noted that Recommendation 1 was also not discussed.

V. Open to Public Comment

No comments.

Concluding Remarks

Michael Okoroafor noted the lack of discussion around definitions moving forward. Chaz Miller suggested calling this an incomplete report. Martha Ainsworth commented on the importance of the objectives and definitions to the framework, stating the view of the Sierra Club that they are the most important part of the framework.

The meeting was adjourned at 11:02.