

**SB 222 EPR Advisory Council Meeting**  
Thursday, February 20, 2025, 10:00am-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 Definitions Discussion
- IV. Open to public comment

Note that for all votes taken, the total number of voting members present was 15. Therefore, motions were accepted with a majority vote, out of 15 votes.

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**I. Roll Call**

**Attendees**

<b>Member Names</b>	<b>Affiliation</b>	<i>Present</i>
Lee Zimmerman	Frederick County on behalf of MACo	
John Neyman	Republic Services	Y
Frankie Sherman	Charles County	Y
Chris Pilzer	WM	Y
Eileen Kao	Montgomery County	
Angie Webb	Maryland Environmental Service	Y
Vinnie Bevivino	Bioenergy Devco	Y
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.	
Abigail Sztein	America Forest and Paper Association	Y
<del>Delphine Dahan Koehler</del> Michael Hamm	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	Y
Sara Weitzel	MDE	Y
Shannon McDonald	MDE	Y
Jeremy Baker	MDE	

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## II. Opening Remarks

Roll call was taken via chat and the 12 councilmember quorum was reached. Bradley Baker, Angie Webb, and Michael Okoroafor introduced the meeting. Recommendations were voted on in the last meeting and a letter with preliminary recommendations was sent to the legislature prior to last Tuesday's hearing. One recommendation from the Sierra Club was added which was part of the initial recommendations sent out but did not make it to the recommendation package that was sent out. Bradley Baker noted that this recommendation needs to be discussed. There was some testimony on this.

Ellen Valentino requested clarification that the recommendation from the Sierra Club would be opened to discussion, and that it was not previously discussed by the council. Bradley Baker noted that it was shared an earlier version of recommendations from the Sierra Club, Trash Free MD, and the MD-DE-DC Beverage Association, but was not in later recommendations. Ellen Valentino stated that the language was not combined language that was put forth.

## II. EPR Definitions Discussion

### Definitions:

***Definition #1: "Environmental impact" means the impact of a covered material on human health and the environment, from extraction and processing of the raw materials composing the material through manufacturing, distribution, use, recovery for reuse, recycling, or composting and final disposal. (from the Minnesota bill)***

- Peter Hargreave discussed clarifying the purpose of including this definition and whether it implies a role for the PRO that can't be carried out by the PRO (specifically referencing extraction and processing of raw materials, and potentially minimal impact on distribution).
- Kelly Doordan explained that this relates to language in the needs assessment around reduced environmental damage, noting that it would be helpful to spell that out in the legislation to help clarify it for the future. MN was considered because it was a recently passed and consensus-based bill and it may help to harmonize with what another state has done.
- Martha Ainsworth discussed the history of EPR for packaging and that it was launched in response to concerns about environmental and human health impacts of plastic packaging and pollution. Martha Ainsworth suggested that it is not requiring the PRO to monitor processing and extraction, but that the overall impact of packaging on the environment needs to be taken into consideration (including processing, GHGs, etc.).
- Michael Okoroafor asked Chaz if his comment was stating that EPR should lead to a lower carbon footprint (e.g, circularity, recycled content, etc. will lead to a lower carbon footprint). Chaz Miller emphasized the importance of discussing GHG emissions when discussing environmental impact. Michael Okoroafor stated that packaging impacts GHGs and needs to be reduced. Ensuing discussion focused on whether circularity necessarily causes reduced greenhouse gas emissions.
- Scott DeFife discussed other environmental impacts such as toxicity, etc. Scott DeFife stated that there are limits to what the PRO can do as well as a long list of things that could be included, and suggested that this may fall under the role of the Department, rather than the PRO.
- Peter Hargreave discussed the impact of the definition if the PRO is asked to assess the environmental impact of the program, and environmental impact is defined as written. Peter Hargreave asked what that would be asking the PRO to do (e.g. this is asking all producers to report GHGs associated with potentially multiple elements and the PRO to capture that data along with distribution data), noting that it's difficult to come to alignment on a definition when it's unclear how it will be used. Chaz Miller and Michael Okoroafor agreed that Peter Hargreave's comments (including the scope of the PRO)

should be considered. Abigail Sztein additionally discussed unexpected ramifications of not having a clear scope.

- Bradley Baker discussed removing some of the language on the basis that goals are already outlined in the bill. Chaz Miller stated that the bill will be replaced by a different bill, and suggested not referring to the original bill as the author has stated that an amended bill will be introduced. Peter Hargreave suggested replacing the language with “within the scope of the program”. Conversation continued around what the language implies about the role of the PRO. Angie Webb agreed that who is responsible needs to be defined, and that it should not be the PRO and expressed support for that role falling to MDE. Martha Ainsworth stated that the definition doesn’t assign who is responsible for what, it is just a definition for what is meant by the term “environmental impact” of the covered materials. Peter Hargreave discussed the impact on interpretation of compliance under the law and the function of the definition. Kelly Doordan commented that this definition may just define what is in the needs assessment, for which roles are already defined, and clarifies what the requirements are for the needs assessment. Additionally, Kelly Doordan expressed support for including “within the scope of the program”.

Recommendation:

***"Environmental impact" means the impact of a covered material on human health and the environment, within the scope of the program. ~~from extraction and processing of the raw materials composing the material through manufacturing, distribution, use, recovery for reuse, recycling, or composting and final disposal. (from the Minnesota bill)~~***

*Chris Pilzer moved to vote on moving forward with the recommendation as written with edits and Martha Ainsworth seconded the motion. The current number of voting members on the call is 15.*

- *In support: 15*
- *Opposed: 0*
- *Abstained: 0*

***Definition #2: "Responsible end market" means a materials market in which the recycling and recovery of materials or the disposal of contaminants is conducted in a way that: (a) benefits the environment; and (b) minimizes risks to public health and worker health and safety. The Department may adopt regulations to identify responsible end markets and to establish criteria regarding benefits to the environment and minimizing risks to public health and worker health and safety. (from the California bill, and nearly identical to Oregon's law. Minnesota's law is even stricter)***

- Peter Hargreave asked if the Department would always have the ability to adopt regulations. Bradley Baker noted that this bill already requires MDE to write regulations, but if there isn’t a reference to a responsible end market, it makes it difficult to stand on that in regulation.
- Abigail Sztein noted that waste management is not limited to state borders and advocated for being cautious that responsible end market definitions don’t block the ability for robust market dynamics that cross state borders/impact with the goal of enforcing state-

specific standards on out-of-state or out-of-country facilities that are buying recovered material and supporting strong recycling markets, noting also that there are 3<sup>rd</sup> party entities that can help with certifying programs so that the full brunt of managing the determination of a responsible end market is not on the shoulders of MDE or the PRO and this could avoid creating something new where something already exists.

- Chaz Miller asked if Canadian or European laws have a responsible end market requirement, and if so how they manage it. Peter Hargreave discussed BC's program, and that Ontario has a different setup (and hasn't put anything fully into effect). CAA is seeing responsible end market requirements in OR, CO and is considering a process that allows those end markets to be audited (and for audits to carry across states). Potentially that may translate into Canadian programs as well, and is evolving in North America and Europe. Chaz Miller discussed whether this is something that we really know what that means in terms of practical application/implementation. Peter Hargreave provided examples of endmarket verification considerations in OR and CO. Chaz Miller noted that there is not yet actual implementation in place. Peter Hargreave commented that there are likely examples in other jurisdictions, but not in the US.
- Scott DeFife expressed support for synchronizing with the auditing work being done in the US. Scott DeFife noted differences between CA and OR in where they set the end market in the supply/value chain which may be important to discuss. Martha Ainsworth asked if that could be determined in rulemaking. Scott DeFife discussed backlash in OR over OR's definition of responsible end markets, which stops with anyone who receives material that originated in OR (however small the amount) and that this could disincentive acceptance of OR material. Scott DeFife advocated for MD maintaining a more regional outlook on its end markets because of geography and size. Abigail Sztejn stated that it is not her role as a trade association to talk about markets in specificity. Abigail Sztejn discussed recovered fiber facilities generally in PA and VA and differences in environmental policy could influence what is considered a responsible end market and facilities would need to decide whether they would like to make adjustments to those facilities to comply with another state's law. Bradley Baker noted MD's recycling markets law, noting that it doesn't necessarily mean material is not counted from out-of-state/countries in MD. Chaz Miller discussed low manufacturing industry in MD, noting specific examples and commenting on difficulty with tracking. Martha Ainsworth proposed to vote on the definition and moving discussion of specifics to rulemaking.

*Recommendation:*

***"Responsible end market" means a materials market in which the recycling and recovery of materials or the disposal of contaminants is conducted in a way that: (a) benefits the environment; and (b) minimizes risks to public health and worker health and safety. The Department may adopt regulations to identify responsible end markets and to establish criteria regarding benefits to the environment and minimizing risks to public health and worker health and safety. A process for validating responsible end markets shall be included in either regulation or the plan submitted by the PRO***

*Martha Ainsworth moved to vote on moving forward with the recommendation as written with edits and Peter Hargreave seconded the motion.*

- *In support: 14*
- *Opposed: 1*
- *Abstained: 0*

**Definition #3:** *"Recycle" or "recycling" means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise ultimately be disposed of, and returning them to, or maintaining them with, the economic mainstream in the form of recovered material for new, reused, or reconstituted products, that meet the quality standards necessary to be used in the marketplace.*

*(1) "Recycle " or recycling" does not include:*

*(I) Landfilling*

*(II) Combustion*

*(III) Incineration*

*(IV) Energy generation*

*(V) Fuel production; or*

*(VI) Other forms of disposal including placement within the footprint of a landfill.*

*(2) To be considered recycled, covered material shall be sent to a responsible end market.*

*(taken from the California law, with addition of "within the footprint of a landfill.")*

Other (potentially conflicting) definitions of recycling were discussed within Maryland law were discussed, including within the Maryland Recycling Act (MRA), COMAR 26.04.09.02, and others in various bills that are specifically defined for an article/section.

- Martha Ainsworth asked if the definition above could be used for this program's purpose, rather than going through all the definitions of recycling.
- Chaz Miller asked what it adds and commented on the same term being defined in different ways in legislation. Bradley Baker noted that recycling regulations are interpreted in terms of MRA, which is similar to the proposed language with similar exclusions. Bradley Baker discussed whether differences between the proposed definition and MRA could change how materials are counted (since covered materials include MRA recyclables). Abigail Sztein added a definition of recycling from EPA in the chat and noted that the way recycling is defined affects goals and percentages.
- Abigail Sztein noted that reuse is hard to tabulate and expressed concern about referencing it in the definition, and advocated for a clean definition that doesn't include other things with their own separate definition (esp. in the context of EPA's waste hierarchy).
- Martha Ainsworth asked if the definitions referred to include fuel production/chemical recycling and opposed including chemical recycling or glass to ADC as recycling in the bill, noting the goal of circularity. Bradley Baker stated that material to fuel production is currently not counted as recycling, however if it goes to creating new polymers, it would be counted as recycling. Michael Okoroafor asked about current law around burning material. Bradley Baker clarified that it's not prohibited, but it is not counted as recycling. Michael Okoroafor noted that using a chemical process to convert material into a new packaging material is not a problem. Scott DeFife discussed ADC, and Bradley Baker clarified that it is currently counted as recycling in MD. Scott DeFife expressed opposition to counting ADC as recycled material. Dave Mrgich elaborated, clarifying that ADC is counted as long as the solid waste program allows that material to be used as

ADC. Scott DeFife commented that half the glass in MD is going to ADC. Shannon McDonald noted that approval is needed and there is currently only one landfill that is considering it. Scott DeFife noted that most other EPR laws do not include waste to energy, waste to fuel, and ADC as recycling.

*Martha Ainsworth moved to vote on moving forward with the recommendation as written with edits and Chris Pilzer seconded the motion.*

- *In support: 8*
- *Opposed: 6*
- *Abstained: 1*

Reasons for opposing included:

- Abigail Sztejn noted in the chat opposition to changing the definition of recycling from the current state definition.
- Chaz Miller: There is already a current definition in statute (MRA) that does not need to be changed.
- Scott DeFife: ADC should not be included as recycling – in other EPR laws, ADC is expressly excluded from recycling.
  - Peter Hargreave commented that this definition excludes “disposal within the footprint of a landfill” and ensuing advisory council discussion was centered around whether that sufficiently excluded ADC, especially as ADC is not currently considered “disposal”.
  - Kelly Doordan suggested making it more explicit that the clause was meant to exclude ADC, beneficial use, access roads in landfills.
  - Bradley Baker noted that councilmembers had left the meeting and that this conversation would need to be continued in the next meeting.
  - Peter Hargreave suggested expanding the language to “other forms of use within the footprint of a landfill”
  - Ellen Valentino requested a withdrawal of the vote, and her vote changed from “support” to “abstain”. Frankie Sherman requested the same.

A recommendation was not reached and this definition will continue to be discussed in the next meeting.

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## **V. Open to Public Comment**

No comments.

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## **Concluding Remarks**

This discussion will be continued in the next meeting (March 13<sup>th</sup>). Chaz Miller noted that the amended bill will have been introduced and potentially already voted on. Eric Weiss updated the council on the Needs Assessment, which is nearly finalized after review of MDE, and is



expected to be delivered to MDE tomorrow. The main body of the report (without technical appendices) may be posted and sent out to the advisory council today.

Scott DeFife suggested holding follow-up discussions before March 13<sup>th</sup>. Bradley Baker stated that there will likely be another meeting invitation within the next two weeks.

The meeting was adjourned at 11:08.