

SB 222 EPR Advisory Council Meeting
Thursday, February 27, 2025, 9:00am-10:00am E.T.
Meeting Location: Online via Google Video

Introduction

Bradley Baker: [Introduction to the agenda].

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

Note that for all votes taken, the total number of voting members present was 14. Therefore, motions were accepted with a majority vote, out of 14 votes.

I. Roll Call

Attendees

Member Names	Affiliation	<i>Present</i>
Lee Zimmerman	Frederick County on behalf of MACo	Y
John Neyman	Republic Services	
Frankie Sherman Meg Romero	Charles County	Y
Chris Pilzer	WM	Y
Eileen Kao	Montgomery County	Y
Angie Webb	Maryland Environmental Service	
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	Y
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 and Michael Okoroafor provided an introduction to the meeting.

II. EPR Language and Definitions Discussion

Definitions:

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.")

Discussion of Definition 3 was continued from the previous meeting. The remaining topic of discussion identified from the last meeting was the MRA recycling definition and whether this new definition only impacts EPR or whether it will have an impact on MRA reporting. Specifically, ADC was discussed in the previous meeting.

The floor was opened for discussion.

- Martha Ainsworth commented that as the EPR for packaging advisory council, these recommendations apply to the EPR for packaging bill. SB 901's definitions state "for the purposes of this [subsection/subarticle]". Scott DeFife agreed that these recommended definitions are specific to EPR and noted that not all glass is covered under this bill and that producers do not want to pay for disposal.
- Chris Pilzer asked if ADC counts if it goes outside of the State and expressed support for including ADC that goes outside of the State.
- Eileen Kao recommended prefacing definitions with clarifying language (e.g. "for the purpose of EPR as per SB 222, the following definitions are applied"). Bradley Baker discussed that placing them under the subsection may imply that they are specific to the program. Eileen Kao advocated for including the clarifying language to differentiate from MRA. Bradley Baker discussed methodology to differentiate between material coming from packaging vs. not coming from packaging. Eileen Kao advocated for clarifying the definitions themselves, rather than focusing on how to apply the definition. Scott DeFife

discussed EPR for packaging tracking and reporting and noted the supply chain process for recycled covered glass material, concluding that if the bill is set up properly, material accounting shouldn't be an issue.

- Peter Hargreave discussed ADC exclusion from recycling in the needs assessment and suggested changing part VI of the definition of recycling to "other forms of use" to simplify. Bradley Baker noted that ADC was taken out of PPP recycling rates in the needs assessment, however, it is included in County MRA recycling rates.
- Michael Okoroafor discussed different processes for flat glass vs bottled glass and defining "packaging glass". Scott DeFife discussed how other states make this distinction/clarify (including the acceptable/covered materials list). Scott DeFife discussed that if producers are paying for container glass, ADC is not recycling.
- Martha Ainsworth noted that part of the definition of recycling includes a "responsible end market" (ADC in another state would still not be going to a responsible end market) which strengthens the definition and solves some problems discussed.
- Scott DeFife stated that the only reason ADC needs to be specified is because it is not considered "disposal" under current MD law, but the combination of "other forms of use" and "disposal" makes it clear.

Scott DeFife 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 14.

For the purposes of Packaging Extended Producer Responsibility, "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) Alternative daily cover

(VII) Other forms of use or 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."~~)

- *In support: 11*
- *Opposed: 2*
- *Abstained: 1*

Language:

Harmonization with a potential future bottle bill: IF A BEVERAGE CONTAINER DEPOSIT-RETURN SYSTEM IS ENACTED, THE TWO PROGRAMS MUST BE HARMONIZED IN A MANNER THAT ENSURES THAT:

- (1) MATERIALS COVERED IN THE DEPOSIT-RETURN SYSTEM ARE EXEMPT FROM THIS PROGRAM OR RELATED FINANCIAL OBLIGATIONS ARE REDUCED;**
- (2) COLOCATION OF DROP-OFF COLLECTION SITES IS MAXIMIZED; AND**
- (3) EDUCATION AND OUTREACH ARE COORDINATED BETWEEN THE TWO PROGRAMS.**

Bradley Baker introduced the proposed language and opened the floor for discussion

- Ellen Valentino commented that the language is prescriptive and steps into the legislative decision-making on the deposit program and expressed support for the MN language, for a recommendation in order to preserve the policies of others on the call, for open discussion, and harmonization with the general assembly.
- Chaz Miller commented that while for materials covered in this system and exempted from the program, related financial obligations are reduced, other members of the PRO do not benefit from revenues going into the program which may have an impact on their fees. Ellen Valentino noted that it would be the role of the general assembly to determine what the system looks like or doesn't look like, and harmonization would need to occur based on what they pass.
- Scott DeFife noted that the introduced draft language specifically calls out beverage containers. States that have had a deposit program and enacted EPR all exempted material covered by the bottle deposit program. Scott DeFife commented that at minimum, it should be clear if a bottle return system is enacted that the two systems are separate, need to work together, and producers are not paying for both. It was also noted that currently there are returnable/refillable systems in MD (dairy, beer kegs, etc) for packaging materials. The current language written does not create a program.
- Peter Hargreave noted that the language is specific, and recommended recommending on principle rather than specific language to account for other programs that may seek to manage material outside of EPR.
- Kelly Doordan noted that the first three bullets came from the MN bill, with some more specific language removed, and suggested only keeping the first clause to keep the principle without being too prescriptive. Kelly Doordan also expressed support for keeping language around a beverage container deposit return system because it is specifically called out in the EPR language.
- Ellen Valentino discussed the role of the advisory council vs. the legislators.
- Scott DeFife noted that if there is a bottle deposit bill enacted later, does the advisory council really want it to reopen the EPR law.
- Ellen Valentino expressed support for keeping part (1).
- Martha Ainsworth stated that it is important to include this language in the bill because this sends the message that the two systems are complimentary and can be harmonized to get the best outcome.

- William Singleton asked if we are limiting ourselves to a future state in which it is only beverage contain deposit, or could it be opened to focus on other materials as well (e.g. PET, etc.).
- Peter Hargreave suggested broadening to “if a deposit return system or other EPR policy” such that the programs harmonize, that may deal with the concern.
- Scott DeFife suggested closing the discussion, noting that there will be other materials (HHW, motor oil, etc.) that may be handled in a different section, and then discussed off-ramping and other EPR programs.
- Bradley Baker discussed that MD would be starting up Paint Care, and the electronics program.
- Ensuing discussion was around the recommendation language and whether to keep the language broad, include a “beverage” deposit return system specifically, or change to “packaging” deposit-return system. Martha Ainsworth noted that beverage containers are specifically packaging and reduce litter. Peter Hargreave noted that other EPR programs while not focused on packaging may be capturing packaging as well (e.g. HHW). Bradley Baker noted Vermont’s HHW EPR program as an example. Eileen Kao expressed support for broad language in the recommendation.

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

IF A BEVERAGE CONTAINER DEPOSIT-RETURN SYSTEM OR OTHER EPR PROGRAM THAT IS CAPTURING PACKAGING IS ENACTED, THE TWO PROGRAMS MUST BE HARMONIZED IN A MANNER THAT ENSURES THAT:

- (1) MATERIALS COVERED IN THE DEPOSIT-RETURN SYSTEM OR OTHER EPR PROGRAM ARE EXEMPT FROM THIS PROGRAM OR RELATED FINANCIAL OBLIGATIONS ARE REDUCED;**
- ~~**(2) COLOCATION OF DROP-OFF COLLECTION SITES IS MAXIMIZED; AND**~~
- ~~**(3) EDUCATION AND OUTREACH ARE COORDINATED BETWEEN THE TWO PROGRAMS.**~~

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

III. Needs Assessment Update

Friday the needs assessment was posted on the website and sent to the advisory council. The next meeting in March could be used to discuss the needs assessment findings. MDE’s annual report should also be published soon and could be discussed in a future meeting as well, as it may have some trends that were not captured in the needs assessment based on when data was collected.

- Martha Ainsworth suggested HDR present on the findings.
- Chaz Miller noted errors in the needs assessment that need to be addressed.

- Abigail Sztejn noted that this may be the only instance of a statewide needs assessment without a comment period or other public opportunity for discussion and that the advisory council was created to give feedback based on the needs assessment. Abigail Sztejn expressed concern about this group's work being attached to a project that happened simultaneously. Bradley Baker noted that many of the councilmembers were interviewed or filled out surveys for the needs assessment which provided input from different stakeholders, and discussed the complications that arose with funding and the timeline of the project.
- Martha Ainsworth discussed need for reporting on baseline levels of PCR, toxicity, amount of each type of packaging sold in the state. Bradley Baker discussed the basis for the design in SB0222, and second rounds of surveys done in other states.
- Chris Pilzer noted that the list provided by NWRA was only a small amount of haulers sampled, and the sample size included in the report is smaller than it needs to be. Bradley Baker stated that not all haulers (or municipalities) responded to the survey. How much time haulers were given to respond was discussed.

V. Open to Public Comment

No comments.

Concluding Remarks

The preliminary recommendation letter was sent out. However, the final set of recommendations, including the more recent four recommendations discussed and voted on, will be sent out as well. Bradley Baker thanked the group and noted consensus within the group and Michael Okoroafor thanked the group as well.

The meeting was adjourned at 9:59.