

MARYLAND DEPARTMENT OF THE ENVIRONMENT
Land and Materials Administration • Resource Management Program
1800 Washington Boulevard • Suite 610 • Baltimore Maryland 21230-1719
410-537-3314 • 800-633-6101 x3314 • www.mde.maryland.gov

SB 222 EPR Advisory Council Meeting
Thursday, May 8, 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. Needs Assessment Model Comparison to SB 901 and Proposed Timeline
- IV. Clarification in regulations discussion
- V. Open to public comment

I. Roll Call

Attendees

| Member Names | Affiliation | <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 | |
| Michael Okoroafor | McCormick | |
| Ellen Valentino Standing in: Tiffany Harvey | 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 Szein Standing in: Shoshana Micon | 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 |
| Stephanie Cobb Williams | MDE | Y |
| Dave Mrgich | MDE | Y |
| Sara Weitzel | MDE | Y |
| Shannon McDonald | MDE | Y |
| Jeremy Baker | MDE | |

II. Opening Remarks

Bradley Baker introduced the agenda.

MARYLAND DEPARTMENT OF THE ENVIRONMENT

Land and Materials Administration • Resource Management Program
1800 Washington Boulevard • Suite 610 • Baltimore Maryland 21230-1719
410-537-3314 • 800-633-6101 x3314 • www.mde.maryland.gov

III. Needs Assessment Model Comparison to SB 901 and Proposed Timeline

Needs Assessment Model Comparison to SB 901

Sara Weitzel first presented high level differences between the modelling effort in the needs assessment and SB 901. She discussed the following:

- Commercial access was one operational characteristic considered for a potential EPR program in the needs assessment, and included 8 sectors of commercial entities who would receive covered curbside recycling services under EPR, while in SB 901, listed covered commercial entities include some educational services and public buildings owned or operated by state or local government.
 - o Peter Hargreave asked if public buildings owned or operated by government is further defined or if there is intent to what is meant to be captured. State and local governments operate public works, wastewater treatment facilities, things akin to industrial/manufacturing processes, public facing buildings. Bradley Baker stated that will need to be developed in regulation and that the second part of the conversation is about what needs to be included in regulation (to place bounds around scope). Clarification occurs through regulation and then further through guidance.
 - o Chaz Miller asked about entities already receiving curbside recycling and their contractual mechanisms for selling recyclables – will that contractual power be interfered with by EPR? Bradley Baker paraphrased language in SB 901 that discusses that counties and local governments can choose who they want to contract with. Bradley clarified that the question here is, are those costs being covered by EPR?
 - o Bradley Baker highlighted Martha’s question from the chat, noting that “including” is generally interpreted as “including but not limited to”. Shannon McDonald clarified that unless something is explicitly excluded, then it has the potential to be included. Bradley Baker explained that there are some bounds around that and that it can be an iterative process involving attorneys and discussion around what is reasonable may be involved. Scott DeFife asked if in regulations public facing “parks” would need to be added in addition to government buildings. Shannon McDonald stated that regulations provide clarity but do not necessarily report what the clarification is.
- Covered material: in the needs assessment, commercial tonnages associated with the sectors on the previous page were included in the modelling effort (highlighted an assumed increase in source separated OCC and paper). In SB 901, “personal non-commercial use” language is used to define “packaging”, and the definition of “exempt material” involves material related to commercial businesses or entities (more constraints are placed on what commercial material is covered in the bill).
- Specific categories of material that were included in the model but exempted in the bill

- Peter Hargreave asked whether toilet paper was included in the needs assessment. Bradley Baker clarified that if toilet paper is not going to a landfill, it would not be included (typically it is managed through the sewage system). Peter Hargreave clarified that this would then potentially include paper towels. Bradley Baker discussed the importance of the waste sort to figure out those proportions.
- Peter Hargreave also asked about whether long-term storage (e.g. case for a power drill) is included in the needs assessment modelling. Bradley Baker explained that this was a last minute addition to the bill and there was conversation around crayon boxes and storage for longer than 5 years (as well as discussion about whether the 5 year criteria applies to crayons that are rated for different ages). Because this exemption is “as determined by the Department”, a process in regulation will need to be developed for producer to submit an application for materials to be considered.

Draft Timeline

- Sara Weitzel highlighted that bolded dates are in legislation, non-bolded dates are subject to change but were included based on the previous meeting’s conversation. The draft timeline will be distributed.
 - Chaz Miller highlighted conflict between the date for reimbursement vs the date to register discussed in the previous meeting (Reimbursement is on July 1st of 2028 and is at the same time the PRO submits their plan to MDE and then service providers register in 2029) and asked how those dates will be rectified. Bradley Baker stated that leadership and attorneys will need to be consulted about how to handle that.
 - Scott DeFife postponed his question related to dates until later in the agenda.
 - Kelley Doordan mentioned considering the date by which producers may not sell unless they have a plan on file (specified on p. 28, section 9-2505 (B)(3)). Bradley Baker stated that it could align with the date of registration and would have to be put in regulation.

IV. Clarification in regulations discussion

Bradley Baker noted Scott’s comment and that it can be taken into consideration. Bradley expressed that MDE is hoping to get out a draft covered materials list out by the next meeting and noted that having other states’ to look at provided inspiration for most of the materials out there, and MDE is visiting retail establishments across the state to try to ID packaging and paper products that are interesting and may not have been on other states lists. MDE will additionally be looking at online materials. Peter Hargreave discussed experience with other states and offered to sit down with MDE to walk through detailed definitions for categories. Bradley Baker agreed that it would be good and discussed variability between states and the quality of descriptions on materials.

Bradley Baker introduced conversation about where clarification may need to be addressed in regulations. Shannon McDonald requested better visibility of the document and provided the link in the chat.

[For the below discussion, overarching topics of discussion/questions posed by Bradley Baker to the Advisory Council are bolded.]

Needs Assessment (2034)

1. In legislation, the needs assessment is similar to the previous needs assessment.

What would the Council have liked to have seen in the needs assessment/what were some potential data gaps?

- Martha Ainsworth advocated for an independent evaluation of how the program is working after 10 years, rather than a needs assessment that is identical in scope to something 10 years earlier. Martha asked if it is possible to weave an external evaluation into regulation and whether other states have an independent evaluation. Bradley Baker stated that where there is language like “including”, there may be opportunity to add to scope/RFP. Scott DeFife noted that typically the PRO needs to report on its performance every 5 years toward goals, including assessment of barriers hit, etc. Scott DeFife acknowledged that this is different from an independent evaluation, but noted that there is a mechanism for the PRO to evaluate how it is meeting its goals. Martha Ainsworth stated that process would be a self-evaluation rather than an independent evaluation, both of which are useful. Bradley Baker noted that there may be language that allows the Department to request an evaluation (the language is possibly specific to financials). The plan is submitted every 5 years with opportunity for the Council to comment.
- Peter Hargreave noted that this section discusses “recyclable materials” rather than “covered materials” (doesn’t reflect language in the rest of the legislation). Peter stated that the language needs to be more specific. The 2025 needs assessment language was by county by material rather than by packaging (although packaging and paper products were considered and modeling was based off packaging and paper products). The waste sort did take a broader look as well.
- Peter Hargreave noted that the requirements of the PRO and the PRO’s targets, targets may not fit with requirements. Bradley Baker stated that those could potentially be added in regulation.

Definitions

1. “Composting and composting facility”

- This definition was put in the chat.

2. “Covered entity”

- Peter Hargreave mentioned public buildings – what does this include? Peter discussed potential operational issues (e.g. leasing one floor out of a multi-floor building). There needs to be accuracy associated with what the PRO is doing because there are fines involved.
- Martha Ainsworth discussed including commercial under a broader interpretation of “including”.

Peter Hargreave mentioned that the definition of “packaging” uses “consumer market” and advocated for defining who the consumer is.

3. “Covered materials”

- Peter Hargreave: what is the difference between a covered material and a durable product (e.g. are travel mugs, gas cylinders purchased with nothing in them, reusable moving boxes, etc. packages or products)? Bradley Baker asked for clarification using mason jars as an example. Peter Hargreave clarified the question: is reusable packaging sold as a product covered (another example: ceramic pots)? Bradley Baker noted that packaged paper products may be considered differently. This will be expanded on in a fact sheet/if it is in regulations it will be expanded on in guidance. Similar questions have arisen as the result of MDE’s trips to look at packaging materials. Scott DeFife spoke about Peter’s question, specifically about whether if something is empty but is used by the consumer over and over, it is a packaging product (purse, beach tote, etc.)? Scott DeFife noted the different kinds of packaging associated with these examples. Bradley Baker discussed the example of a pallet of bricks surrounded by plastic bands that the customer could buy by the pallet and highlighted the process of regulations and opportunity for feedback.
- William Singleton discussed molded fiber, etc. and asked: how does that play a role in this legislation in terms of whether it’s considered a package or not?
- Bradley Baker stated that notes will be posted on MDE’s website – if there is anything we missed or need to clarify, let us know so it can be added.
- Martha Ainsworth also discussed products that a household would use as packaging. Bradley Baker noted the example of a box of plastic wrap. Martha Ainsworth also asked whether boat shrink wrap would be included in packaging. Bradley Baker mentioned that there has been conversation with DNR about plastic wrap (outside of the context of this legislation).
- Chaz Miller expressed concern about focusing on minor rather than major discussions around what is packaging and advocated for concentrating on common sense and what is covered at the local level by local government programs. Bradley Baker noted that the list of majors is relatively easy because the other states’ lists can be referenced. Chaz Miller noted that other states are still have difficulty defining the majors. Martha Ainsworth discussed the goal of making sure packaging reusable/recyclable and advocated for not excluding material that isn’t recyclable/reusable. Bradley Baker stated that the goals are intended to promote a more circular economy (whether through reuse or recycling). Chaz Miller advocated for pursuing a program that works rather than minor details.
- Shoshana Micon discussed the scope of the EPR bill and noted the MN has a separate EPR bill for boat shrink wrap. For materials that require better responsibility, they may not be best suited under one expansive EPR bill, and it may be better to have something more tailored/specific for them.

4. “Covered Material Type”

- Scott DeFife noted that sometimes plastics are separated into rigids vs flexibles.

5. “Covered Services”

- Peter Hargreave noted that it may be helpful to clarify what waste reduction and reuse services are.
- Bradley Baker asked the group if other states have this language and how they are considering it. Peter Hargreave stated that MN and WA have it, but no states that

are further past have details on this as a covered service. Bradley Baker asked if MN has addressed this. Peter Hargreave stated no, but mentioned that they do have a definition for “waste reduction”. Bradley Baker posed the question: if an entity or service was for waste reduction of covered materials, is that eligible for reimbursement?

- Scott DeFife noted that composting will also need attention. CO had some composting elements, but the PRO is not responsible for the composting collection system, it’s more about what is compostable packaging, and that is something that will need to be sorted out.
- Bradley Baker noted that there is an education part as well. Scott DeFife stated that is common. Bradley Baker distinguished between education provided by the PRO vs counties (education of producers by PRO vs education of consumers). Bradley posed the question: what education is included in the covered service? Peter Hargreave stated that there is no difference from other states.

6. “De Minimis Producer”

- Bradley Baker noted that this is global gross revenue, which was a question previously brought up.

7. “Exempt Materials”

- Bradley Baker noted that these are similar to MN’s exemptions.
- Bradley Baker discussed the Paint Stewardship law and that it is tailored not necessarily to paint packaging but to the product that is in the packaging, and that further consideration may be needed (although it may not be a conversation for this group).
- Bradley Baker posed the question: does exemption (13) apply to paper products (language specifies “contain” a product)?
- Bradley Baker highlighted exemption (14). Peter Hargreave stated that this exemption exists in other places and identified materials that may fit under this category, including puzzle boxes, board game boxes, record cover, cassette cover, and other types of products that will be stored for a long period of time. Shannon McDonald asked if these are predominantly materials with no electronic component and can therefore be stored for longer. Peter Hargreave responded that there could be an electrical component and provided the example of a power drill or power saw. Peter Hargreave noted conversation around whether something is a package or a product (e.g. toner cartridges, lighters) and stated that many decisions have been made in other jurisdictions around those materials. Chaz Miller advocated for the Department to err on the side of rationality and simplicity. Peter Hargreave noted that not everything needs to be dealt with in regulation as it is being worked through. Bradley Baker noted that ultimately Department will approve the plan – however Bradley discussed putting things in regulation to provide some clarity. Peter Hargreave cautioned against the unintended consequences of putting something in regulation vs the program plan or guidance materials, which are easier to amend.

8. “Packaging”

- Bradley Baker highlighted that “packaging” is for “personal, non-commercial use”, but includes primary, secondary and tertiary packaging. Bradley noted that there were previous conversations around what tertiary packaging meant.

- Peter Hargreave mentioned “consumer market” and noted that may be covered by personal, non-commercial. However, because reusable, refillable, and single use packaging are all included, the definition doesn’t deal with what is captured vs. what is not (durable product vs. not durable, or e.g. what kind of bag is included vs not included).
- Bradley Baker noted that most other states are treating “take-out and home delivery food service packaging” as “food service ware” and asked if that is Peter Hargreave’s experience in other states. Peter Hargreave stated that some states define “food service packaging” (e.g. utensils and straws are specifically called out). Therefore, a definition for “food service packaging” may be needed.

9. “Paper products”

- Shoshana Micon asked if paper products that are managed in commercial streams will be in scope, and if so, are they held to a different standard than what is applied to packaging? Bradley Baker provided an example of reams of paper, and stated that this definition isn’t specifically limited to personal, non-commercial use. Shoshana requested clarity about a similar example in which the reams of paper go to a distributor, then a printer and advocated for ensuring that paper does not get double counted. Bradley Baker clarified that the question in this case is who is the producer/who pays the fee. Peter Hargreave discussed air filters, paper filters, other types of filters, piñatas and that this may be intended to capture printed publications and stationary. Shoshana discussed distinguishing between printing and writing paper when it is sold in-store as paper that is not a package vs. once it is taken to a distributor, and it is unknown where it ends up. Shoshana also discussed paper going through an office building that is then processed by a commercial hauler, among other distinctions specific to the paper lifecycle that are not clarified in the scope. Bradley Baker noted that this likely needs to be clarified in regulation, and re-iterated that it is not necessarily limited to personal, non-commercial use. Shoshana discussed lack of material neutrality in having that designation for paper but not other material types. Bradley Baker noted the high percent of paper in the needs assessment’s waste characterization study and opportunities for management. Shoshana Micon noted that in the needs assessment there was a zero dollar net cost for commercial paper and OCC. Bradley Baker responded that paper from residential and commercial is a significant part of the waste stream, even if some commercial businesses are source separating that out.

10. “Producer”

- Shoshana Micon asked for clarity on the mill exemption language. Scott DeFife stated that the only time he’s seen this was regarding a specific paper mill in a specific district in MN. However, Scott questioned whether there are any paper mills in MD and whether they would count as a producer if the product is not going directly to consumers. Bradley Baker stated that MN may be able to provide clarity. Martha Ainsworth stated that this exemplifies the danger of importing something from another state without looking at it more closely and noted that the Sierra Club had opposed including this exemption, and it may not have any relevance in MD, but was clearly a specific request from a stakeholder to get the bill through. Bradley Baker discussed speaking with MN. Chaz Miller asked why the producer would need to be located in MD. Scott DeFife asked if

there are situations in which consumers are getting a product directly from a paper mill. Chaz Miller responded that it depends on how integrated the mill is. Scott DeFife noted that the language in the MN law came from a specific district in MN that was a swing district for the bill.

11. "Recycling"

- Bradley Baker discussed alternative daily cover (ADC), including whether it is specific to this legislation and how it may interact with what is counted for county recycling rates under the Maryland Recycling Act vs. the SB 901's goals. Scott DeFife stated that there is ADC that some counties use that is not packaging - it is for this law and, for the reimbursement of services, ADC is not recycling. Scott advocated for producers paying to get material back rather than paying for ADC/landfill. Angie Webb requested clarification about whether it will still be allowable, but not something that can be used to take advantage of funds, noting that certain entities may still want to use it as an alternative use. Bradley Baker posed the question: can it still be counted toward the MRA recycling rate although it won't be reimbursable? Scott DeFife stated that they will file their comments when the regulations are open to public comment and stated opposition to counties using recovered glass under this program as ADC when it can be recycled in the State. Peter Hargreave stated that it would be potentially holding the PRO responsible for a glass recycling target they are unable to control, if counties use glass for ADC and that causes the PRO not to meet their target. Scott DeFife stated that ADC is diversion, it is not a great cover for landfills, it is not recycling, and it adds to confusion and lack of trust around the recycling system. Angie Webb discussed use for road reclamation, etc. Chaz Miller asked if glassphalt (the use of glass in pavement) would be considered recycling. Scott DeFife stated that there is an opportunity to get glass to end markets that can put it back into packaging and advocated for taking advantage of that opportunity. Scott DeFife clarified that glass that counts toward recycling may include glass recycled into fiberglass or other end markets that return it to the supply chain. Dave Mrgich stated that ADC is being processed and is taking the place of a raw material, which is recycling. Dave and Scott discussed whether ADC is "processed". Angie Webb advocated for continuing the discussion about ADC offline or in a separate meeting with interested councilmembers. Bradley Baker noted that the different definitions of recycling in [section 9-1701?] will need to be reconciled.
- Delphine Kocher discussed downcycling to the point of losing the environmental and economic value (objectives) of what is trying to be done, and advocated for considering at what point recycling is achieving those objectives.

Peter Hargreave asked if CAA is the PRO under the legislation. Bradley Baker stated that CAA is considered the PRO and provided an explanation, noting that there is a process to potentially add in other PROs as well.

Peter Hargreave discussed a list of definitions that may be needed (redemption rate, existing infrastructure, covered service method, etc.) for which the regulation could provide more description.

Bradley Baker highlighted a comment from Martha Ainsworth about MDE's discretion to set targets in regulation that are not in statute and responded that this is something MDE is still looking at.

12. "Responsible End Market"

- Chaz Miller discussed the recycling conference in Maryland in March in which a large plastic recycling company noted the additional reporting burden on his company in order to prove that they are a responsible end market, which is not required of virgin material competitors. Chaz opposed making responsible end markets into an "anchor" for recycling.

13. Reuse Rate

- Peter Hargreave discussed clarifying durable vs reusable covered material, does the PRO/producers need to measure absolute units for every single use package put into the marketplace (what is meant by the "share of units of a reusable covered material"). Bradley Baker requested clarification that the question was about defining units (a rate would include both a numerator and denominator) and noted that there may be many de minimis producers in this case. Peter Hargreave discussed the need to understand what the equation is and what inputs are needed to measure it.

V. Open to Public Comment

Bradley Baker opened the meeting up for public comment.

Andrew Hackman asked if the slides will be available online. Shannon McDonald linked the website in the chat where slides will be posted and Bradley Baker confirmed that slides will be posted on the website.

Elly Ventura (World Centric) requested clarification (page 14, line 20, (O)) about whether molded fiber would be defined within paper products. Elly also asked how composting will or will not fit into the definition of recycling (page 18, (S)). Bradley Baker responded that composting is a form of organics recycling which is counted as recycling. Bradley also noted that composters will be receiving more material that is not packaging and paper products and what is applicable for this law in terms of reimbursements, etc. would be limited to what will promote the diversion of packaging and paper products that are compostable.

Bradley Baker discussed other feedback received about the role of a depackager in terms of determining recycling rates that will need to be addressed.

Concluding Remarks

Bradley Baker closed the meeting, stating that the covered materials list has been started and will hopefully be discussed in future meetings soon. The next meeting will be held in June.

The meeting was adjourned at 11:01.