

SB 222 EPR Advisory Council Meeting
Thursday, October 24, 2024, 9:00am-11:00am E.T.
Meeting Location: Online via Google Video

Introduction

Michael Okoroafor [Introduction]:

- Announcement: Tyler is leaving MDE and will not be joining, as he is transitioning out.

Bradley Baker: [Introduction to the agenda]

- I. Roll Call
- II. Materials Panel
- III. Needs Assessment Update
- IV. Recommendations to Legislature Policy Discussion
 - o Starting off with the 3rd reader of SB222 because that's where negotiation left off.
- 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	No
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
Dan Felton	Ameripen	Y
Abigail Sztein	America Forest and Paper Association	Y
Delphine Dahan Kocher	Constellium	No
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
Dave Mrgich	MDE	Y
Sara Weitzel	MDE	Y
Shannon McDonald	MDE	Y
Tim Kerr	MDE	

II. Packaging Materials Panel

Material	Representative	Organization
GLASS	Scott DeFife	GPI
PAPER	Abigail Sztein	AF&PA
COMPOSTABLE	Alex Truelove	BPI
PLASTIC	Kate Bailey	APR

Introductions

GLASS

Scott DeFife:

- Discussion of single stream vs source separated streams (bottle return program). Demonstrated difference in quality of using visual.
- Glass needs to become amber cullet, flint cullet, etc.
- We think there are 275,000 tons of glass generated in MD. We believe that less than half is recovered (let alone recycled). We believe EPR can increase that by another 57%.
 - o EPR with a deposit return (an option to build into the program) could increase glass recovered in MD by an additional 83,000 tons/year.
- 9 Jurisdictions are reporting recycling glass and sending it to beneficiation.
- Although there isn't a full glass plant in MD, glass plants exist in surrounding states that are reachable and servable as end markets for MD. There are also 2 fiberglass facilities nearby. Additionally, other down-market uses for glass exist.
- Contamination from different streams
 - o Single stream before any pre-clean (vacuum and trommel before leaves the MRF)
 - No other commodity material has to deal with 40-50% non-glass residue
 - Small fines occur after glass is crushed which can be 20%
 - Therefore, you can get loads that are less than half usable glass (although fines can be used for fiberglass, etc.) However, collection through a cleaner stream would allow more of that material to be available to all end-markets and less would be destined for landfills as contamination.
 - o One MFR has added small fraction cleanup at the end of the process, which has reduced contamination to single digits of non-glass residue with an additional 15-2-% fines. You go from less than half usable cullet glass for bottles to something that is 75% usable cullet glass for bottles.
 - o Dual stream at the Montgomery County MRF: Without additional equipment for small fraction cleanup (because there is less small fraction at this dual stream MRF), you get an average 15-20% non-glass residue/fines in the stream.
- Emphasized the importance of the quality of end-market material. Cleaner material has more end markets and higher value.
- The industry would love to build facilities in MD to handle more glass that would be generated from the EPR program .
- We believe a bottle return system complements EPR especially when the legislation will rely mostly on the existing infrastructure, which is currently single stream recycling. Some separation of streams for certain material benefits the producers, end-markets, and increases the recycling rate of the State's glass in the program.
- Current position: the legislation should allow for an additional PRO, especially if a deposit return system allowed to be put in place.

Bradley: You answered our first question about hurdles. As we're going through the different folks, we can have them talk about the challenges for their particular recyclable material.

Ellen Valentino: Clarifies that the EPR system and its infrastructure hasn't been fully built out. Acknowledges that counties are trying to get cleaner stream. Also notes that this is EPR, and we don't know how bottle deposits interplay with EPR yet in this system.

Scott DeFife: We believe a bottle deposit can fit within an EPR system. We have data that shows that more can be recovered at higher value with more end-markets.

Bradley: [Introduces Abigail Szein]

Q1: Specific to your material, what is a specific hurdle(s) that would need to be addressed to ensure the success of an EPR program?

PAPER

Abigail Szein:

- [Introduction]
 - o Paper recycling is an environmental success story. It's one of the most widely recycled materials in America. Paper recycling rates in the US have increased in recent decades. 70% more paper is recycled today than in 1990 when the industry's first recycling rate goal was set. Provides tonnage facts.
 - o Since 2019, the paper industry has committed to complete projects by 2025 that will use more than 9 million tons of recycled paper.
- Because we have this demonstrated and measurable record of success in making our packaging and paper more circular and more sustainable, we care a lot when changes to recovery systems are contemplated by any program. Expresses concern and a desire for engagement in the event that an underdeveloped or under-considered EPR program is presented. Highlights the importance of data to ensure that efficient and successful paper recycling streams are not disrupted in the pursuit of improving less effective streams. Mandating fees on some products will increase costs, with the potential for unfair results.
- Specific recommendations
 - o Identifying and supporting best practices is incredibly important, and is where the needs assessment is crucial.
 - o Eliminating single stream recycling programs
 - o Effectively communicating local recycling guidance
 - o Maximizing the use of available data (ongoing with the needs assessment as well as waste studies that have been underway for years in MD)
 - o Making sure we're not investing in programs and structures that don't work needs to be a serious consideration. That data needs to be fully analyzed and taken in advance of drafting language.
 - o Concern with mandates for post-consumer content in fiber-based packaging and materials. Recovered fiber markets are complex, efficient and dynamic. Specifying where recycled fibers go or how they are used in different products does not result in more of it being used. We are using as much as is being captured. We want it to go to the highest, most efficient, best use rather than mandated to be in certain materials which could artificially lower its value

because it's going to a less valuable product. It can make paper recycling less efficient, raise the cost of production for certain new products, and narrow available choices.

- When we're contemplating where the programs are structured, we think it's important that industrial, commercial and institutional are not included in the program. Some language in SB 222 and the needs assessment points to: "only items sold at physical retail locations". In other parts tertiary packaging is included. Question posed about whether wood pallets and things like that are expected to be a part of this program. They can be unintentionally included when language like that is included.
- When discussing recovery, my industry/members are mostly end-markets. They receive fiber after it has gone through collection and sortation. Quality matters. Discusses eliminating contamination (adhesives, etc.).

Bradley: After the legislative session, we're planning on having more frequent meetings. So, we'll have plenty of opportunities to bring in everyone's perspective.

PLASTIC

Kate Bailey:

- [Introduction]
 - Members buy bales from the MRF and produce flake and pellet which is used to manufacture new plastics products.
 - APR represents over 90% of the processing capacity in the US and Canada. More than 90% of plastics are now processed in North America (rather than overseas).
 - Need for more plastics in collection programs. The infrastructure exists to nearly double the bottle recycling rate if more bottles get into the bins.
- APR supports strong EPR across the country. Policies we believe will make the biggest difference when it comes to plastics recycling are:
 - EPR for packaging
 - Bottle deposits
 - Minimum recycled content
- APR has a globally recognized design guide
- Lead author for the Colorado EPR packaging bill
- How plastics are treated in an EPR bill and things to keep in mind:
 - Plastics is not one thing. There are many different formats and resins. When looking at categories and setting targets, consider that there are different challenges for different materials.
 - PET bottles are primarily a collection problem. We know how to recycle them and have the processing capacity. 7/10 PET bottles in this country are thrown away or littered. Only about 30% are captured. When looking at PET, it is about scaling recycling collection through improved access to programs (single family, multi-family and in the business sector) and dedicated funding to education. We know education works, but only if it has dedicated funding. We think that's a key benefit of EPR.

- Quality is also key. Both quantity and quality are key. Discusses the importance of making sure EPR programs have quality standards on MRF's to make sure our businesses are receiving good quality bales.
- Recycling is a business. Our members take recycled pellet/flake and sell it on the market to be made into new product. They are competing with and replacing virgin plastic production. There has to be strong market demand for companies to buy the recycled plastics in order for this system to work. APR is a strong supported of minimum recycled content policies either integrated with EPR or as complementary policies. Brings up Oregon as an example.
- Combined attention on supply and demand will help us reduce plastic pollution across the US.

Bradley: [Introduces the next question]

Q2: In your experience with other states, provinces, and countries, have you seen a model (or aspects of a model) that work well for your particular recyclable material?

GLASS

Scott DeFife:

- From what we've studied, the most comprehensive and largest variety of systems used in North America is Canada. In a couple of provinces, materials can end up in various streams (EPR stream, bottle deposit return stream, reuse/refill stream). Provides examples of other countries/programs the above streams are used in.
- There's not European system we know of that relies primarily on EPR in a strictly comingled, single stream system. Eventually, they realize that they need to do some sort of separate collection (not necessarily just for glass). Some recyclable materials don't lend themselves to the mechanics of a single stream MRF. It doesn't mean they're not recoverable and recyclable.
- Ultimately a combination of modalities will produce a higher recovery and recycling rate for the state's goals.

Michael Okoroafor: France has gone to two streams – glass separate and everything else in another bin. Their success rate is exemplary. Norway is the only country that is more successful (in terms of percentages) than them. They are seeing significant improvement in their recycling system.

PAPER

Abigail Sztein:

- When you hit a certain level of complication in the process, some engagement will fall off. In various parts of MD, when you go to a dropoff center and need to sort into many different bins, not everyone will give that commitment. Fewer choices can make folks more willing to do it. Dual stream areas in MD do benefit from better recycling, better recovery, less contamination. The bales that are coming out of those sorting facilities are a higher quality that and more is able to be sold which can be used to recuperate costs.
 - Optical sorting can only do some much. Not every facility has the same quality of equipment.
 - 2D vs 3D

- Size of packaging
- Getting rid of single stream and having some sort of separation does result in positive

Bradley: Our trip to the MoCo MRF highlighted the use of older more manual technologies. There are opportunities for upgrades there. There are huge opportunities for investing in the system.

PLASTIC

Kate Bailey:

- Recycling is not one thing in one place. It's about making improvements across the system that will look different in different places and with different materials. Also discusses what can be done to standardize.
- We see EPR as an evolving, changing process. Therefore, the process/framework of the bill is as important as the content. Evaluation and improvements can come as things move along.
- Specific to plastic, there are materials that are well-accepted curbside. There are also materials that are better suited for a drop-off program (at least to start).
 - OR – curbside vs. depot collection lists
 - CO – a common list included in all municipalities vs an optional list
 - Some harmonized collection with flexibility can be implemented.
- Many plastic materials are on the verge of being more widely recyclable who will benefit greatly from dedicated funding infrastructure and a coordinated statewide collection system.
 - On-ramping for materials to get on the recyclable list
- CA recognizes the EPR design guide in statute as part of the definition of what makes plastics recyclable. Design standards are important to make sure the quality coming into the plants can result in the most recycled content.
- Discusses the importance of goals and incentives, etc. to improve quality at the MRF.
 - OR has done a good job
 - CO (linked to reimbursement)
 - Concerned about CA – not a lot of incentive/regulation on the MRF to ensure that bales are cleaner
- Discusses the need for market development. These plastics need to be bought and used in place of virgin plastics.
 - OR – use in recycling carts
 - Connecting with either a standalone recycled content policy or, looking at CO/MN who identified recycling rates that will be set in their EPR plan.

Abigail: Emphasizes considering technological advancements and opportunities for improvements, and building flexibility and room innovation and growth into the program is important. Some things with a low collection rate or that is currently difficult to sort/separate may become more recoverable. In some other states, if it's not hitting a certain rate by a certain date, it's banned. That will lead to shifting investments in that material and not advancing it but instead shifting away. Discusses creating opportunities for growth in innovation.

Michael Okoroafor: We need to think about the overarching framework of the law. Things will improve and evolve as we move forward. We need the framework for new ideas and

technologies. Used France's recent switch to two streams as an example. As we go forward, we don't need to enter everything into this framework. It's a strategic framework – as long as we have it so that we can build from there, that is what we want to accomplish.

Scott DeFife:

- Recycled content: Each material has its own engineering, where recycled content enters the system, how it is calculated/captured. The glass industry wants to double its use of recycled content. For glass, it's a supply problem.
- Agrees with overarching framework
- New equipment in single stream MRFs: We can get glass out of that. The design of the system for how you collect impacts different materials differently. When you get to cost issues, those need to be sorted out fairly based on the way we design the collection system.
- Virtually every commodity would ask for better, higher-quality material which impacts end-use. Discusses plastic recycled content requirements and the importance of clean material especially for food grade material. For glass it isn't food grade issue, but rather: can we get our hands on it? Is it crushed such that it is too small to be used for anything but aggregate? The way you collect the material will impact the way that recycled content can be used in various end markets.

Bradley Baker: For the legislation, we don't need everything decided. None of the other states are doing that. They're going through their regulation processes. A plan will be submitted to the state with goals, covered materials, prices, fees and financing, etc. We don't have to figure that all out for legislative purposes. We'll have more frequent meetings to figure out those details and the advisory council will have input on that plan as well. [Introduces Alex Truelove and the questions posed to other panelists.]

Both questions answered simultaneously by:

COMPOSTABLE

Alex Truelove:

Q1:

- [Introduction]
 - o Within EPR, compostables are playing an increasingly important role in the packaging space in part due to a lot research and development. Discusses compostable products as packaging solution for products that are eligible to be reusable or recyclable (food scrap collection bags, produce stickers, meat wrapping, etc.)
 - o It's important that these products also help divert food and organic waste. Food and organic waste produced a lot of methane.
 - o Generally, compared to trash and recycling there is pretty underdeveloped collection for compost.
 - o EPR represents one interesting funding mechanism to include compostable products and support compost infrastructure.
 - In our view, inclusive, good EPR programs start with inclusion and clear definitions. Ex: In Europe and parts of Canada that started when the compostable products industry was still young, producers of compostable products are paying into programs, but their fees are going to non-compost

activities. That's what we're looking to tweak and have tweaked in some state EPR laws in the US.

- There are opportunities to incentivize better design with Eco-modulation, etc.
- Potentially recyclable products represent a plurality here – it's important to include all material pathways and opportunities to ensure they are responsibly taken care of at the end of their life. Importance of including compost and compostable products when talking about recycling and reuse.

Q2:

- Statutory language in CO, MN & CA is all different, but there are elements of each that speak to what I'm saying here.
- Italy has a more mature EPR program that includes organics – high diversion, high participation, low contamination.
- Specific things within EPR laws highlighted:
 - Definitions are critical. Contamination is such a problem and many products seem compostable but are not (misleading terminology such as biodegradable, decomposable, and degradable are used which is a unique challenge for composters. Definition frameworks have helped ensure legitimacy (3rd party certification requirements). Discusses focusing on eligibility such that compostable products are those that are designed to be associated with organic waste. (We don't certify closed beverage containers because there's a good system in place.)
 - Discusses the importance of limiting funding to facilities that actually accept and process compostable products.
 - Yardwaste, AD, etc. facilities are not really part of EPR because they don't accept relevant products.
 - Because compostable products are both a fraction of the packaging stream and a fraction of the organics stream (of which packaging is only a small part), fees collected cannot cover the entire system like they might in other programs, like for recycling. What we've seen is a more targeting system for taking those fees and helping composters who take in these products and everything else they divert to make the system more successful.

Michael Okoroafor: One issue with composting is the guideline on how to compost. There are concerns about anaerobic composting infrastructure because if you move away from aerobic composting, you generate methane instead of CO₂. Have you looked into that to make sure the guideline for aerobic composting is what everyone is doing rather than hoping that it happens by default?

Alex Trulove: Our products are tested specifically for aerobic conditions and technologies. We have disclaimers on a lot of products that say facilities may not be available in a particular area, but these products are industrially compostable. In EPR, you can specify responsible end markets and applicable facilities and what industry requirements, etc. need to be met. Facilities like anaerobic digesters (AD) are separate from EPR if they can't accept and process compostable products.

Michael: Discusses the importance of articulating this point in the framework. Anaerobic is a no-go for this type of program to be sustainable.

Bradley: We do have a representative from an anaerobic digester on the council.

Vinny Bevino: Points out the size and importance of their anaerobic digester in Jessup in food waste recycling and processing and de-packaging packaged food waste. That material is recycled in our anaerobic digester, which is an industrial food-waste only digester. Why are we excluding anaerobic digesters in the framework, given that in MD our largest packaged food waste recycler is an anaerobic digester?

Alex: Do you accept and process certified compostable products or do you depackage and remove them and only process the food waste?

Vinny: We'd love to learn about the fate of compostable materials in the digester. We have food waste depacking equipment on our front end that removes contamination (plastics, etc), just like many composters. Because it's not that smart, there isn't differentiation between typical film plastic and compostable film plastics. But, material does go through the digester and gets broken down and we'd love to understand the fate of that compostable plastic.

Alex: If you're not accepting and processing compostable plastics and you're removing it at the beginning, then you're removing it from the program. Food waste itself isn't a covered material. Producers of production in packaging (stickers, food waste collection bags, etc.) are the ones paying fees into EPR. If those are getting removed, then there isn't a connection to the EPR program. So far, in the states we've worked in, there isn't that connective tissue.

Vinny: Poses the question: Any other facility that uses front-end depackaging equipment would also be omitted here?

Alex: It depends on the language of each state, but generally, yes. Many composters don't use depackaging or do it at the end. Expresses concern about depackaging introducing micro-plastics. Discusses hurdles of lack of research on what happens to compostable products in anaerobic digestion.

[Outstanding discussion left to have in the future regarding this topic.]

Bradley: Requests input from CAA.

Peter Hargreave: In CO, a technology-agnostic approach is being taken. AD facilities would potentially fit in for those provided funding towards. Brings up studies from the Canadian & Ontario governments on composting of compostable materials in different types of compost and AD facilities.

Bradley: Transitions to Needs Assessment Update.

III. Needs Assessment Update

Bradley Baker:

- Waste Sort Update:
 - o Graph from 2016 waste characterization study presented. Shows the rough proportion of waste that will/could be impacted by EPR.
 - o The waste sort will be in the first 2 [weeks] of November. Still working though scheduling and last-minute logistics.
 - o Figure breaking down the top 10 most prevalent materials from the 2016 study presented.
- At our next meeting:
 - o An update from Peter Blair with Just Zero
 - o A review of preliminary data from HDR (results from surveys and interviews currently being conducted)
- Questions for the municipality survey and HDR's workplan were distributed
- We will be going to lower-level detail in the waste sort. Other waste sorts already conducted by other counties will be incorporated as well
- We will be conducting interviews with MRFs, composters, and private haulers

Sara Weitzel: The waste sort is in the process of being set up. It hasn't begun yet, but it's moving along well.

Eric Weiss:

- The materials list has been expanded to include things we'll want to look at as it related to EPR. It gets into more detail than the top 10 most prevalent materials figure shown on screen, but there will be a comparison done to 2016.
- Interviews and surveys: hoping to wrap up by the end of next week. Lists entities included. Requests timely responses.

Bradley Baker: We have a pretty comprehensive list of municipalities handling their own collection (either by doing collection themselves or contracting out) who we are reaching out to as well.

Chris Pilzer: Discusses updates to facilities list. Some haulers and processors don't think this is an adequate amount of time to get this done.

John Neyman: Confirms Chris's statement.

Bradley: Requests communication and emphasizes the tight schedule at this point.

Michael Okoroafor: Discusses not letting perfection be the enemy of good and treating this as a journey in which updates can be made based on incoming data. Emphasizes timelines.

Chris Pilzer: Discusses compliance and data quality.

Eric Weiss: The surveys sent out are very detailed. Expresses gratitude for the effort required. Discusses staying diligent to supporting timelines for the state's needs and balancing that with getting as comprehensive and accurate data as possible to bring what is needed to the legislature.

Martha Ainsworth:

- Will we know the total amount of each packaging material and type sold in the state at the end of the needs assessment?
- Asks about opportunity for giving feedback on the way questions sent to cities and counties are being asked.

Bradley Baker: The surveys are out already. We don't have to have everything finalized for legislation. There will be more conversations before the plan and regulations for EPR are established.

Eric Weiss: What was sent out last night was a preliminary list.

Martha Ainsworth: Expresses concerns about a question asking participants to rate EPR for packaging views without describing what's in it. Concerned that it didn't address all of the dimensions we could be exploring in this bill or describe which elements participants are approving or disapproving of or prioritizing. Requests the updated list of questions.

Sara Weitzel: The updated list is posted to the [EPR webpage](#).

Bradley: The list Eric was talking about has the logic (if you answer this, go down to this). We wanted to it down to something a bit more digestible.

Ellen Valentino: Discusses having recommendations ready to move forward that establish the framework and how that has been modelled in MN who has a phased-in approach. Recommendations can be made and conversations can be started, and movement can occur as the data comes in. There's no reason that we shouldn't be able to build a strong framework going into this assembly. Discusses multiple phases that may be frameworked in a piece of legislation, but not detailed in the legislation. Emphasizes determining a good governance structure as a measure of success.

Bradley and Ellen: [Discussion of report and recommendation deadlines]

Bradley: Opens the floor to questions.

Kelly Doordan: In the Needs Assessment RFP is an analysis of the potential environmental impact for waste reduction and reduced environmental damage. How will the Needs Assessment address the environmental damage?

Bradley: Discusses how the RFP was constructed based on the law. Turns discussion over to Eric.

Eric Weiss: Clarifies the question.

Kelly Doordan: Beyond recycling, discusses the future and an adaptable framework that reuse and refill could be incorporated into. Discusses the importance of the objectives set in the framework to the initial phase. What is the goal of this program that we will set up and then evolve? Setting the goal as increasing recycling is different from setting the goal as reducing damage from packaging to the environment.

Michael: Emphasizes the importance of the question. The state is on a journey to net zero. Provides statistics about packaging impacts on climate.

Eric Weiss: Discusses how the scope addresses reuse or waste reduction. This committee developing recommendations to support the outcoming legislative effort may be separate from the recommendations from the needs assessment (which will be more technically driven).

Michael: Discusses the importance of getting to scenario planning. That will allow us to ID risks and opportunities and create an avenue for impact mitigation. That sets the plan for what can happen in the future.

Bradley: One of our meetings will be discussing the inputs for the model and getting some consensus where we can on that. Opens the floor for questions/comments.

IV. Recommendations to Legislature – EPR Policy Discussion

Bradley Baker: Discussion of how we would like to add, modify or remove language from the 3rd reader.

Discussion point: PRO – Single, Multiple, or Multiple with an Individual Producer Responsibility option

[Bradley identifies different options in more detail and requests input from CAA.]

Peter Hargreave: Ontario's system is really a multi-pro system. The fundamental difference is: instead of a program plan approach, the government sets direct targets that producers need to meet. The functionality within the legislation is either a plan or straight government-set target approach.

Bradley: Clarifies the difference in the PRO's responsibility in the 3rd reader and producer responsibility in Ontario's law.

Peter Hargreave: There is no program plan approval in Ontario. There's a lot of data about how to set outcomes in Ontario because of their long program plan background.

Scott DeFife: Clarifies that the council is in open discussion. We understand why the producers want some ability to funnel in on one PRO. Most states allow some offramp for individual

groups and materials and for folks to create an alternative, as long as they're meeting the same goals. Advocates for allowing the opportunity for multiple PROs approved by the state. Advocates for the opportunity for more than one PRO, but fewer than what Canada has.

Bradley: So, one with the ability to opt out as long as you are meeting the goals. It sounded like most people wanted to be in a PRO in Ontario.

Scott DeFife: The OR law allowed multiple PROs but set an arbitrary percentage of the market. Getting enough material/market share to meet the threshold to create a second PRO limited the ability of groups to form additional PROs. Recommends that MD keeps some flexibility to create additional mechanisms to meet the obligations.

Ellen Valentino:

- We think there should be one PRO.
- Discusses the importance of an off-ramp.
- MES should be the governing body that is the government oversight.
- The PRO must be independent and when funds are collected, it needs to be used for the good of the order such that money can't be seized (like the used tire trust fund).
- Requests a sample of the laws that have passed and what that PRO is in the US.

Bradley Baker: Clarifies that MES would be the government oversight.

Ellen: We think MES is better suited to oversee the funds/PRO. We cannot support a government fund, like the tire trust fund acting as the EPR fund. We can spend time thinking about the authority of the PRO and the authority of MES or the government oversight – that's the framework. It has to look like programs in the US that have moved forward.

Bradley Baker: The 3rd reader currently reads that the fund is managed by CAA, and MDE has the role of enforcement/oversight. CAA will be responsible for taking in fees and then redistributing them to Counties, other recycling infrastructure, etc.

Ellen: Discusses going through the framework rather than the bill. Including, what is the authority, how does the government oversight work, what materials are covered, what is the timeline for PRO approval plans and releasing money. Restates position.

Mike Okoroafor: Identifies a question from the chat: Is MES a government agency, because you can't have a non-government agency be oversight.

Ellen: They are a quasi-government agency that the general assembly has some authority over as well. Expresses concern with government seizing money if they want to use it for something else.

Mike: We don't want the government spending the money on something else. Agrees that the money should be managed independently from government, but asserts that the government needs to have oversight.

Abigail Sztein: Finding an in-between with flexibility for multiple PRO's as an option. We're referencing other state programs that aren't in effect yet and therefore we don't know yet what will work. Creating too much rigidity now is more of a hinderance. There needs to be some kind of government oversight. Agrees that creating structure that ensures fees collected go to the purpose of this program and not to completely separate projects is valuable. It would be better to say these are the factors/structures that we want it to do, rather than naming specific entities because this structure will exist for years into the future, and locking ourselves into a specific agency that may change in the future will require legislation and intervention. When talking about a 90 day legislative cycle, locking ourselves in on elements like that creates more harm than good.

Mike: States the importance of having more than one PRO is very important. Market forces via market competition are not possible with only one PRO. In France, one PRO has overshadowed others, and that's what market does. Market forces have to come into play. In the framework, having more than one PRO is reasonable.

Bradley: Discusses feedback received/Mary Cummin's presentation in which the PRO is allowed to pick the rate that they are getting. Those are the market forces, but they're still responsible for meeting goals set in law.

Dan Felton: Ameripen's position is that it should be a non-profit. That's what we've seen emerge in the US. That's what CAA is. That's not the case in every jurisdiction around the world, but it is an important distinction.

Bradley: The 3rd reader has off-ramps that were nixed, so we're opening up the conversation again.

Mike: It has to be a non-profit.

Chaz Miller: I think there are fundamental questions that need to be considered about the PRO, the idea of the non-profit being essential. It gets into the question:

- Who owns the PRO and what is its governance structure?
- What is the relationship between all of the companies that will be paying fees.
- How many companies will be paying fees to this PRO?
- Will they have any say in the PRO's operations?

It was clear in the bill passed by the senate that the money goes into a separate fund that is a "locked-box" fund.

Mike: The idea, which is something that we need to think about in the framework, is to have the non-profit with a governing board. Representatives of companies should have oversight as well on the PRO or PROs.

Scott DeFife: MES does not have regulatory oversight. Expresses understanding of concerns about the state grabbing funds. But, MES is more likely to be a service provider than a regulator. So, it probably can't serve as the role for the regulatory body, as suggested. Agrees with separation and protection of the funds. I think it's a big mistake if we're just shifting who pays for the program and not improving the performance of the program.

Peter Hargreave: I have questions about the intent of some of the pieces in this. For practical purposes, is it helpful for us to send those kinds of questions in ahead of time? What's the best way as we move forward?

Bradley: Gabby may be able to expand on negotiations. Explains the structure from the 3rd reader.

Peter: Clarifies questions about some of the purposes of specific details.

Bradley: There was a lot of input from many stakeholders. The bill sponsors may be able to give you more insight. We will be walking through those items, and if someone is present who had asked for that change, then maybe we can understand the thinking. There were multiple iterations of this with feedback from different stakeholders.

Mike: Highlights the productive nature of this conversation. [Closes conversation.]

Bradley: [Final wrap-up. Opens floor to questions and comments from the public.]

V. Open to Public Comment

[None]

Concluding Remarks

Bradley Baker:

Our next meeting, we'll be looking at some data. Look at the presentation (on screen) and prepare to discuss at our next meeting.

Mike Okoroafor: Expresses appreciation for Bradley's leadership.