

**SB 222 EPR Advisory Council Meeting**  
 Thursday, November 7, 2024, 9:00am-11:00am E.T.  
 Meeting Location: Online via Google Video

**Introduction**

Bradley Baker: [Introduction to the agenda]

- I. Roll Call
- II. Just Zero – Peter Blair
- III. Needs Assessment Update – Eric Weiss
- IV. Recommendations to Legislature Policy Discussion
- V. Open to public comment

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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	Y
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	
Scott DeFife	Glass Packaging Institute	Y
	Ameripen	

Abigail Sztejn	America Forest and Paper Association	
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
Dave Mrgich	MDE	Y
Sara Weitzel	MDE	Y
Shannon McDonald	MDE	Y
Tim Kerr	MDE	

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## II. Just Zero Presentation – EPR for Packaging in the U.S.

Peter Blair, policy and advocacy director for Just Zero, presented on EPR for packaging in the US. They discussed programs across the country, including where bills have been introduced and passed and who is responsible for what (the role of the PRO vs. the state). In 4/5 programs, state agencies are responsible for determining what is recyclable. In 4/5 programs, states are leaving fee structures and eco-modulation factors to the PRO. They then went through each state with an EPR law, specifically describing their program’s overall goal and program strategies for beverage containers, post-consumer recycled content and chemical recycling. Takeaways included understanding that:

- states are designing their programs to achieve specific goals,
- who is responsible for what is a constant challenge, and
- every state has set standards to measure program effectiveness. ME and CA were used as examples of states with penalties in place for failure to meet performance goals.

There is focus on harmonization, but that can only be done to a certain extent because states are trying to achieve specific goals.

[FLOOR OPENED TO QUESTIONS]

Michael Okoroafor expressed concern that CA wants polystyrene to be recycled but doesn't want chemical recycling. They questioned how polystyrene can be recycled at scale without chemical recycling and encouraged the advisory council's consideration. They also acknowledged the five year review of statewide requirements in other states and advocated for something similar in MD, asserting that we need to be careful not to exclude things that would allow us to get to full circularity. Peter Blair spoke about the five year review process and states' flexibility for changing performance standards, using OR, MN and ME as examples. None of these programs are operational right now, programs are just being fleshed out, and we have not seen a producer payment yet. Bradley Baker discussed chemical recycling in MD, making the distinction that if it's going towards fuel, our law already restricts that. If its going to new polymers, that's a different question. Michael Okoroafor stated their agreement.

Bradley Baker offered to go over what's currently in the third reader and how that compares to some of Peter Blair's slides in the legislation discussion. They commented that the third reader is a mix between the states and different states are taking different approaches.

Delphine Kocher posed questions about whether on-the-go consumption is addressed and what happens if performance standards are not met. Peter Blair commented that states are taking a different approach about what happens when performance standards are not met, and discussed increased fees in ME, sale restrictions in CA, and plan re-submission by the PRO in CO. They haven't seen any specific language about on-the-go consumption or specifications about how recycling rates would be calculated in that context, but that may be figured out in Rules. Most, if not all programs are strictly focused on the residential stream. CA is residential but looks at primary secondary and tertiary packaging, not just primary packaging. They offered to look for more information.

Bradley Baker commented that the 3<sup>rd</sup> reader includes primary, secondary and tertiary packaging as well. They requested Peter's presentation, thanked Peter, and introduced the next presentation.

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### **III. Needs Assessment Update – Preliminary Data Review**

Eric Weiss, program manager for HDR, expressed appreciation for the previous presentation and then presented a review of preliminary data from the Statewide Recycling Needs Assessment efforts completed so far.

Their presentation included information about HDR's scope of services and updates to the schedule. The technical memorandum will become available to MDE and ultimately this group. A change to the schedule was identified; initially the project was projected to be wrapped up entirely in December, however it is now projected into January. They discussed being as realistic as possible about what the needs are of the group in terms of understanding the baseline system and discussed ensuring that what is needed is provided both from a short-term perspective (for recommendations during the legislative session starting in January) and from a long-term

perspective. It was proposed that detailed analysis will be more impactful for program planning and design.

Stakeholder engagement was discussed, including who is being engaged and what is being heard. Surveys were sent to all counties and 53 municipalities, 27 haulers, 25 composting facilities, and 13 identified recycling processing facilities. Additionally, interviews were held with six recycling processing companies as well as fifteen strategic partner groups to discuss technical, financial and strategic considerations. Eric Weiss thanked HDR's collaborators including MSW Consultants, Vision Planning and Consulting, and Assedo Consulting. Information about engagement efforts with each stakeholder group was discussed in detail. Points included emphasizing the role of regional differences and resulting types of programs, identifying the goals of engaging with each group and specific information requested, and interpreting/clarifying results.

Strategic partner interviews include a wide set of stakeholders, broadly including material representatives, environmental/industry advocates, regional recycling authorities, economic/planning groups, and strategic partners who represent WMBE and equity priorities. Eric Weiss discusses creating a policy that takes in these diverse perspectives and can meaningfully advance Maryland's goals as a whole. Themes heard from strategic partner interviews included:

- Education and outreach is a key gap that EPR should look to support. Harmonizing the understanding of what is recyclable across the state and being able to support municipalities and cities to improve engagement.
- EPR should not simply be a financial transfer. Rather, it should meaningfully incentivize packaging brands to redesign their materials.
- How funds are distributed should be transparent.

Themes brought up by each strategic partner category were discussed. Eric Weiss argued that strategic partner discussions are potentially most informative for the most immediate decisions that the Advisory Council will need to address. Key takeaways from conversations relating to the development of the bill include discussions about effectively navigating competing legislative efforts (leaving room for harmonization with future legislation related to improving recycling), incentivizing packaging re-design for waste minimization and recyclability as a top focus, learning from successful EPR programs for materials other than packaging, allowing for a regional hub and spoke approach to manage recycling, minimizing impacts on material suppliers, driving opportunities for small and WMBE (which it was observed has not been the focus of other EPR bills from their observation, but would be beneficial to include in the legislation as a key focus of PRO(s)), workers conditions/understanding where MRFs are with automation and supporting them in the efforts to update their facilities to make things more efficient but also create working environments that attract workers. Eric Weiss commented that the WMBE certification process is complex, and highlights the role of EPR in charting a pathway for entrepreneurs whose business takes them into recycling. Eric Weiss then thanked the advisory council and opened the floor to questions.

[FLOOR OPENED TO QUESTIONS]

Chris Pilzer thanked Eric Weiss and asked how many hauler responses have been received. Eric responded that that information can't be shared yet but confirms more than four. Chris Pilzer

acknowledged a major gap in recycling infrastructure on the Eastern Shore (Worcester County, MD), and Eric Weiss discussed Ocean City's decision not to have a recycling program, some of the reasoning behind their decision, and stated that if an EPR program required them to start recycling, there would be pushback. Ocean City is an outlier, but there are other areas with similar geographies for whom it doesn't make sense to do a typical curbside to single stream MRF recycling program.

Eileen Kao thanked Eric Weiss and asked if 25 Tier I and Tier II composting facilities were surveyed, if there will be a chart for composting facilities similar to the presented chart for MRF surveys, and how many composting facilities have responded so far. Eric Weiss responded that a handful have responded. They identified that some have responded based on their interest in packaging materials. A lot of facilities are operated from the public sector, who was being engaged on multiple fronts, which may account for fewer responses from composting. Additionally, the State has a closer permitting relationship to these facilities and has more information they're already evaluating, so more of the focus has been on MRFs and haulers. Eileen Kao shared that one of Montgomery County's composter contacts has not been contacted.

Scott DeFife asked if Ocean City didn't want to run a recycling program or if they didn't want a recycling program at all and explained the role/authority of other PROs in similar situations. Eric Weiss stated that that would be heavy-handed and that there would be pushback.

Chaz Miller stated that Ocean City is complicated. They then asked how many hauler and local government survey respondents have responded and how many have found it easy vs. challenging to provide financial (and other) data. Eric stated at least four haulers, but that he can't state exactly how many. On the municipality side, there is around a 70% response rate (counties and cities). There are data gaps on financial information and questions related to recycling access. Bradley Baker clarified that there were at least four responses, not four in response to a question in the chat.

Delphine Kocher asked if what was actually recycled after it comes from the haulers was asked. They asked if data related to how much of what comes to MRFs goes to the landfill can be attributed to MRF qualities such as lack of technology, contamination, etc. Eric Weiss confirmed that incoming and outbound quantities were requested for each material type to understand the amount of contamination and the technical and financial impacts of managing that contamination.

Bradley Baker thanked Eric Weiss for the update and acknowledged the complexity of the process. Eric Weiss stated that they have a great team in place and expressed appreciation for Bradley Baker's statement. Bradley Baker then introduced the next topic of discussion.

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#### **IV. Recommendations to Legislature – EPR Policy Discussion**

Bradley Baker stated that one charge of the advisory council is to provide recommendations to the general assembly and that to start that conversation, the 3<sup>rd</sup> reader of SB 222 will be used. Some updates were made to last week's presentation which have not been distributed yet. Inclusion of roles and responsibilities and legislative intent have been incorporated into the presentation based on comments. What the legislation will look like will be one of the main focuses for remaining meetings. They identified discussion about what is legislatively possible as a topic for the next session. Bradley Baker presented a high-level reminder of what is in the 3<sup>rd</sup> reader. The legislative intent was discussed, and the floor was opened to discuss gaps in the overarching goals of EPR in MD.

- Kelly Doordan suggested establishing a strong goal for reducing the overall volume of waste generated (plastic packaging/difficult to recycle materials). Bradley Baker highlighted the roles of reuse and reduction of waste in addressing that.
- Angie Webb expressed the importance of finding the gaps and fixing the gaps rather than re-inventing the wheel and discussed focusing the Needs Assessment on materials that can be collected but don't have an end market.
- Scott DeFife suggested ensuring the word "quality" is included ("...increased quality of the material..."), and noted that "reimbursing local governments" doesn't necessarily mean it's getting better. Age of MRF equipment vs. quality and the role of quality in determining how much is reused and recycled was discussed.
- Chaz Miller commented on setting realistic goals. They highlighted EU successes in paying for the cost of programs and increasing recycling tonnages and rates (although there is variance across countries) as well as struggles with impacting packaging design and increasing recycled content (especially in plastics). They advocated for focusing on what will work and emphasize less what likely won't.

Roles and responsibilities in the 3<sup>rd</sup> reader were introduced and can be discussed at the next meeting. Dates are changed from the 3<sup>rd</sup> reader to be more current. Specific responsibilities of the PRO, MDE and the Advisory Council were discussed, and MD's structure was compared to what other states are doing (ME was specifically mentioned). This conversation is to be continued across the next couple of months.

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

[None]

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### **Concluding Remarks**

Bradley Baker expressed gratitude for those who joined, summarized where progress is currently and what will be happening at the next meeting. They stated that the EPR legislation approach can be phased, and that this is common in other states, then closed the meeting.