

**Joint Meeting of the Solid Waste and Recycling Fund Advisory Committee
Meeting Minutes of December 16, 2021**

The following SWAC and RFAC members were present:

John Frederick, Chair
Michelle Nestor, Vice Chair
Eli Brill
Gordon Burgoyne
Mike Forbeck
Brian Guzzone
Jason Leck
Representative Ryan Mackenzie (RFAC)
Timothy O'Donnell
Gregg Pearson
Joe Reinhart
Shannon Reiter
Joanne Shafer
Bob Watts
Gerald Zona

The following alternates were present:

Elizabeth Bertha	Vogel Holding, Inc./on behalf of Ed Vogel
Robert Bylone	PA Recycling Markets Center (PennRMC)/on behalf of Michele Nestor
Emily Eyster	on behalf of Senator Comitta
Ashley White	County Commissioners' Association of Pennsylvania (CCAP)/on behalf of Matthew Quesenberry

The following SWAC and RFAC members were absent:

Senator Carolyn Comitta (RFAC)
Tanya McCoy-Caretti
Matthew Quesenberry
Ed Vogel
James Welty
Senator Gene Yaw (RFAC)

The following guests and Department of Environmental Protection (DEP) staff members were present:

Derek Bartram	DEP Bureau of Waste Management (BWM)
Jackie Binder	DEP BWM/Recording Secretary
Michelle Brown	Lancaster County Solid Waste Management Authority
Nicholas Bruno	Prism Glass Recycling/Erie Management Group
Griffin Caruso	Alternate for Representative Mackenzie
Donna Cooper	Jefferson County Solid Waste Authority
Mike Crist	Clinton County Solid Waste Authority

Serena Davis	County of Northampton
Megan Gahring	Lawrence-Mercer County Recycling/Solid Waste Authority
Ronald Grutza	Pennsylvania State Association of Boroughs
Laura Guncheon	Erie Management Group
Veronica Harris	Montgomery County Planning Commission
Laura Henry	DEP BWM/Liaison to the Committee
Lawrence Holley	DEP BWM
Don Isabella	Schaefer Systems International, Inc.
Darek Jagiela	DEP Office of Communications
Patti Lynn	Chester County Solid Waste Authority
Josephine Martin	Management for Sustainability, LLC
Amy Mazzella DiBosco	Greater Lebanon Refuse Authority/Professional Recyclers of PA (PROP)
Tom Mellott	DEP BWM
Rick Miklos	DEP BWM
Melissa Muroff	Delaware County District Attorney's Office
Ali Tarquino Morris	DEP BWM
Douglas Orner	PROP
Charles Raudenbush, Jr.	Hough Associates
Jennie Shade	Pennsylvania Municipal Authorities Association (PMAA)
Valerie Shaffer	DEP Office of Waste, Air, Radiation & Remediation (WARR)
Jessica Shilladay	DEP Southcentral Regional Office Waste Management Program
Nikolina Smith	DEP Bureau of Regulatory Counsel (BRC)
Jennifer Summers	PROP

Call to Order; Introduction of Members and Guests; Approval of Minutes of June 17, 2021 (SWAC) and September 16, 2021 (RFAC); Old Business

John Fredrick, Chair, officially called the September 16, 2021, Solid Waste and Recycling Fund Advisory Committee joint hybrid meeting to order at 10:10 a.m.

Roll call was taken by Laura Henry. Five people signed in and were noted to be in attendance in person.

Having no old business nor any public comments, Mr. Fredrick requested a motion to approve the June 17, 2021, SWAC meeting minutes. Jason Leck motioned, seconded by Joanne Shafer; the motion carried unanimously. Mr. Frederick then called for a motion for approval of the September 16, 2021, RFAC meeting minutes. Jason Leck again made the motion, seconded by Gerald Zona. Two corrections were noted: the first for the spelling of John Frederick's name in one instance of its use and a second for the missing numeral 904 from the second to last paragraph of the minutes in a reference to Performance Grants. The motion to adopt the September 16, 2021, meeting minutes with the noted corrections carried unanimously. Mr. Frederick then introduced Larry Holley, Chief, Division of Waste Minimization and Planning, to present an overview of DEP's recommendations for modernization of Act 101, the Municipal Waste Planning, Recycling and Waste Reduction Act.

DEP Recommendations on Act 101, the Municipal Waste Planning, Recycling and Waste Reduction Act

Mr. Holley thanked members, many of whom also served on the Act 101 Workgroup that helped to formulate the foundational elements of DEP's recommendations. Based on all the combined input and recommendations of the workgroup, DEP developed a white paper outlining the state of the waste management and recycling programs in Pennsylvania and recommendations for modernizing these programs.

Mr. Holley began by highlighting that waste management and recycling are integrated in that one cannot exist without the other. This is a fundamental premise used in developing the white paper.

Mr. Holley discussed Act 101's waste reduction goal, one that has not been met. Pennsylvania continues to generate more waste annually than in the prior year, due to growing population that is more likely to throw something away before considering repair, reuse, or recycling.

Mr. Holley gave a brief overview of the state of recycling and the Recycling Fund. Since the inception of the Act 101 in 1988, the \$2/ton Recycling Fee on waste disposed at Pennsylvania municipal waste landfills and waste-to-energy facilities has not changed. The fee does not hold the same value it did in 1988. The Recycling Fund has generated approximately \$39 million annually since its inception, and Pennsylvania counties have reported recycling more than 132 million tons of material. However, in the last 2 decades there has been approximately \$188 million diverted to other programs including Waste Tire Remediation, Growing Greener, Forest Lands Beautification and General Fund augmentations. The most recent diversion of \$50 million to the General Fund has greatly impeded DEP's ability to implement new plans and ideas.

Mr. Holley outlined the following recommendations to improve and expand DEP's recycling efforts and reduce waste in PA:

- Diversion of organic waste from landfills by funding composting and anaerobic digestion projects.
- Elimination of fund diversions from the Recycling Fund.
- Support of smaller, dual-stream and commingled waste recycling facilities.
- Creation of research and development grants to invest in emerging technologies.
- Funding of regional public Material Recovery Facilities (MRFs) to create competition and increase stability in the cost of processing recyclables.
- Reinstitution of a Waste Planning Section at DEP to evaluate new technologies, product evaluations and the consumption of recyclable materials in Pennsylvania.
- Oversee the development of a comprehensive education program to improve the quality of materials collected.
- Expansion of access to recycling to ensure that all Pennsylvanians have convenient access to all recycling options.

Mr. Holley ended his discussion stating that many of these recommendations cannot move forward without adequate funding, reallocation of funding or a combination of both. In addition, DEP will be reaching out to additional stakeholder groups to discuss the white paper and get additional feedback.

Mr. Frederick gave recognition to the Department and stated that there is a strong agreement on the overwhelming majority of topics within the white paper. He expressed hope that the modernization of Act 101 moving forward will not become a partisan issue and that this effort will take recycling in Pennsylvania to a new level.

Members questioned the more specific impacts to 902 and 904 grant awards from the \$50M diversion from the Recycling Fund in FY 2021-2022. Mr. Holley indicated that specific impacts/dollar amounts were difficult to track due to how these grants are processed and awarded; and that other impacts such as changes to the residue rate formula and the amount of waste being disposed in the Commonwealth also contribute to overall funding levels.

Joanne Shafer requested that curb sort and/or source separation be added to the Act 101 recommendations list.

Mr. Frederick brought forward several consensus items from the Act 101 Workgroup he would like to see more specifically addressed in the recommendations. These included the banning/elimination of open burning; development and implementation of a comprehensive education program; discontinuation of the defunding of the Recycling Fund; prevention of the contamination of materials to preserve and bolster their marketability; and universal access to waste and recycling services.

Michelle Nestor, Vice Chair, stated her strong feelings regarding the absence of standards requiring waste collection infrastructure and planning requirements for local governments to increase access for and participation from households. Specifically, amendment of planning requirements to include provisions that local governments plan for collection and transportation of materials. Ms. Nestor went on to state that Act 101 should include focusing on only measuring the materials that are required to be managed by Act 101 rather than including data from the Waste Composition Study; this would give municipalities a realistic view of what's actually being recycled through their efforts in the community.

There was additional discussion among members about universal collection and management infrastructure; the challenges created by this recommendation; and potential ways to address those challenges. There was a consensus among members and DEP that this is a big issue facing the Commonwealth and that Legislative acknowledgment and creation of public/private partnerships are integral to meeting this goal. Joanne Shafer presented Centre County as a case study for planning and infrastructure challenges. Chair Frederick pointed out the importance of reaching out to individual legislators and helping them understand that there is broad consensus that the Act needs to be modernized with bipartisan support and that this needs to be a message coming from many people reaching out to many individual legislators.

Joe Reinhart discussed how Pennsylvania's stringent definition of waste may be prohibitive in implementing many of the recommendations; and businesses will default to disposal when there is any question whether a material is a waste or a recyclable. He went on to recommend that if DEP wants to encourage recycling, it should look at definitions and fully evaluate the Solid Waste Management Act (SWMA) as well.

Ms. Nestor stated that the White Paper would be broken down for more informal discussion at the SWANA/PWIA Recycling Summit, to be held on March 15, 2022, at the Hilton in Harrisburg. Mr. Holley encouraged anyone to reach out to him or Laura Henry to set up meetings to discuss concerns not covered during the meeting.

Eli Brill expressed concern that the Report seemed to focus primarily on publicly-funded facilities and discouraged single stream management of waste; however, he did acknowledge and agreed with DEP's position that "one size doesn't fit all" for recycling. Mr. Brill reviewed industry's recommendations for amendments to Act 101. He expressed that alternative solutions should be looked at and a compromise could be reached. He also questioned whether a fiscal analysis would need to be conducted prior to DEP sharing its recommendations with the General Assembly. Mr. Holley stated that the General Assembly's review of the recommendations will determine whether a fiscal analysis will be provided. DEP is required to provide a complete fiscal impact analysis when presenting formal proposed bill language to the General Assembly; if there is no interest in entertaining/supporting revised language, there is no need for a fiscal analysis. Currently, DEP is looking for comments and consensus prior to a proposal being brought to the General Assembly; the proposal is still at the concept stage.

Mr. Holley reiterated that the partnership existing between DEP and the private sector is an integrated system; one cannot exist without the other and working together with industry to get Pennsylvania the highest level of environmental protection, recycling and proper waste disposal is top priority.

DEP Recommendations on the Covered Device Recycling Act (CDRA)

Mr. Holley reviewed the current CDRA that was passed in 2010, its fundamental flaws and DEP's recommendations to address the issues.

Currently there are 53 original equipment manufacturers (OEMs) who are required to have programs in the Commonwealth. These programs only service 85% of Pennsylvania residents and do not collect all covered devices. Many choose to only manage electronic waste with a higher value, leaving residents to deal with those devices with a negative value at a high cost to the consumer, typically up to and over \$100.00. Most residents are not willing to pay this cost to recycle, particularly in the rural areas of Pennsylvania. Because older devices with cathode ray tube (CRTs) are prohibited from disposal at landfills and resource recovery facilities, some of these older televisions and CRTs are being mismanaged or illegally dumped, causing environmental impacts greater than recycling. These devices get scavenged for the yoke, which is a piece of metal in the back of the television and is taken for profit. The contaminated glass that is left on the ground is hazardous waste and ends up in our streams and water systems.

Mr. Holley stated that there are some OEM's that have gone above and beyond and collect more than the statutory minimum; however, every year, advances in technology cause e-waste to become progressively lighter in weight, making a situation where the weight-based metric in the CDRA that uses the previous 2 years' sales data does not keep pace with the amount of e-waste created and for which there is a recycling need. The current law puts the onus on the manufacturers to provide for the collection, transportation, and recycling of their product. This cost of compliance was undoubtedly built into the price of products and passed on to the consumer. However, the latest proposal from manufacturers includes a fee to be imposed on residents for the transportation, collection, and recycling of e-waste when it is returned to the manufacturer. Consumers and residents already pay this fee in the cost of the product they purchase. They also determine what facilities are selected, used and how much Pennsylvania recyclers get paid. Past studies have shown consistently that consumers will not drive more than 10 miles to a recycling facility.

The last issue with the current law is enforcement. 100% of the entities DEP regulates for registration and compliance with recycling under the CDRA are not located in Pennsylvania nor do they have any

manufacturing operations in the Commonwealth. These factors coupled with jurisdictional issues make it difficult to achieve and monitor compliance.

Mr. Holley went on to highlight DEP's proposed solutions:

- First, convenience to ensure there is free, universal access to e-waste recycling and to eliminate the weight-based metric.
- Second, creation of permanent collection programs, such as the successful program currently operating in Dauphin County.
- Third, maintain the ban on disposal of electronics, as large volumes of material are already segregated for processing. Lifting the ban could result in mass disposal of materials; this is not protective of the environment.
- Lastly, funding for collection, transportation and recycling should not come from a tax or a fee on consumers, the processing industry, or local governments. The OEMs have been required to pay this fee for the last 10 years and have already been covering that cost by including it in the price of their products.

Members agreed with DEP's recommendations but cautioned that all stakeholders should be impacted fairly and equitably rather than one group being negatively impacted. Members expressed support for nominal fees and extended producer responsibility, emphasis on manufacture buy-in for legislative support to change the law, and sales bans for OEMs that don't comply. A few members expressed that there is a lack of understanding amongst stakeholders (particularly the General Assembly and OEMs) about the structure of local governments and the challenges they face with implementing the current CDRA. This issue makes consensus among all stakeholders hard to attain.

Mr. Holley responded that a national model for extended producer responsibility and any product stewardship bill is needed for such a concept to be successful. If there is not a national model enacted for e-waste, the impacts of fees in other states will be seen through increased pricing of devices. He reiterated that it is extremely difficult to get compliance with manufacturers overseas.

New Business

Joanne Shafer inquired about the status of the Waste Composition Study; Mr. Holley stated that it is complete, and DEP is working with MSW on the report. He anticipated the report would be released in February 2022 and then brought to the Committee at its first meeting in 2022.

Michelle Nestor stated that the Waste Composition Study would also be on the agenda for the March 2022 Recycling Summit.

Laura Henry discussed the 2022 meeting schedules; a hybrid format will be maintained. Ms. Henry solicited input from the members to ensure no conflicts. She stated that she will propose a schedule and submit it for review to ensure a consensus prior to publishing.

With no other items to discuss, Chair John Frederick asked for a motion for adjournment. Shannon Reiter moved for adjournment; seconded by Joanne Shafer. The motion carried, and the meeting adjourned at 12 pm.