

**Joint Meeting of the
Solid Waste Advisory Committee (SWAC) and
Recycling Fund Advisory Committee (RFAC)
Minutes of June 29, 2017**

SWAC/RFAC members present:

Michele Nestor, Chair
Bob Watts, Vice-Chair
Gordon Burgoyne
Randall York
Tanya McCoy-Caretti
Jim Close
Joyce Hatala
John Frederick
James Sandoe
Joseph Reinhart
Ed Vogel
John Vatavuk
Gregg Pearson
Gerald Zona
Shannon Reiter
Representative Matt Gabler (RFAC)

SWAC/RFAC members absent:

Gary T. Roberts

Guests and Department of Environmental Protection (DEP) staff members present:

Jim Lambert	Monroe County Solid Waste Authority
John Dernbach	Widener University
Kelly Megonnel	York County Solid Waste Authority (YCSWA)
Mary Webber	Pennsylvania Waste Industries Association (PWIA)
Bob Bylone	PA Recycling Markets Center (PennRMC)
Jennifer Summers	Professional Recyclers of Pennsylvania (PROP)
Amy Mazzella diBosco	Greater Lebanon Refuse Authority
Barbara Baker	Lancaster County Solid Waste Management Authority
Paul Bruder	Rhoads & Sinon
Justin Stockdale	Pennsylvania Resources Council (PRC)
Jonathan Lutz	PA House of Representatives, Executive Director, Environmental Resources & Energy Committee
Lee Ann Murray	DEP Citizens Advisory Council (CAC)
Ali Morris	DEP Bureau of Waste Management (BWM)
Chris Noble	DEP BWM
Laura Henry	DEP BWM
Chris Solloway	DEP BWM
Larry Holley	DEP BWM

Timothy Gilbert	DEP BWM
George Hartenstein	DEP Acting Deputy Secretary for Waste, Air, Radiation and Remediation
Neil Bakshi	DEP Policy Office
Mark Vottero	DEP BWM
John Lundsted	DEP BWM

Call to Order; Introduction of Members and Guests; Approval of Minutes of March 27, 2017; Old Business

The June 29, 2017, joint meeting of SWAC and RFAC was called to order at 10:03 a.m. by Michele Nestor, Chair. Ms. Nestor asked for introductions of committee members and guests.

Ms. Nestor called for a motion to approve the March 27, 2017, meeting minutes. James Sandoe made a motion to approve the minutes with no changes. The motion was seconded by Shannon Reiter and carried unanimously.

Update: Glass Management in Pennsylvania and Section 904 Grants

Larry Holley, Chief, Division of Waste Minimization and Planning, gave updates regarding glass management in Pennsylvania and the Section 904 grant program.

Mr. Holley explained that management of glass in Pennsylvania is still problematic. Over the past year, DEP researched glass management (curbside, drop-off) to see where improvements could be made.

The bulk of collection being done is single stream, causing the glass to be crushed into smaller pieces, which damages both the equipment used to haul it and the equipment used to sort it. This reduces the lifespan of equipment and results in increased hours repairing and replacing damaged equipment.

The glass is also going to single-stream facilities and being commingled with other waste. In some situations, it's being used in a manner that is more in line with disposal rather than recycling (i.e., used as Alternate Daily Cover (ADC) or for access roads at landfills).

The glass manufacturing industry has very high standards that don't allow any contamination of feedstock material, resulting in very small amounts of single-stream glass making it back for reuse.

Challenges with glass management contribute to increased residue rates for single-stream MRFs that are sometimes as high as 25-30%. High residue rates, coupled with the increase in non-standard methods of using glass, are causing DEP to look at changes to the grant formula and resulting reimbursements. Reimbursements can't be made if the materials being collected are ultimately disposed of rather than recycled.

Mr. Holley stated that in relation to Section 904 grants, large quantities of plastic are being diverted for energy recovery. This option is acceptable for plastics that are not recyclable; however, it is outside of the definition of recycling.

Mr. Holley opened the floor for conversation.

John Frederick backed Larry's call for accountability in regards to residue rates; however, he feels that using a standard residue rate (15%) to cover all facilities is not fair to those who manage very low contamination rates. He would like to see a change in how residue rates are distributed when it comes to grant reimbursement.

Mr. Holley explained that there is a difference between taking material directly to market versus sending it out for further processing at a facility with higher rates of contamination. When it comes to direct marketing of materials, DEP will consider facility residue rates, but if the material is being commingled with other sources, then the standard 15% residue rate will be enforced.

Joyce Hatala suggested working with haulers to reduce amounts of compaction used during collection. She also suggested implementing education protocols for more thorough inspection of material before collection. Michele Nestor followed up and asked about the possibility of incentivizing facilities having higher clean glass collection with an additional performance grant.

Another issue of economic viability was raised. Manual sorting of glass through the waste stream results in increased labor costs that outstrip the revenue brought in. Coupled with the increased breakdown of equipment while processing glass, the efficiency drops considerably.

Jim Close inquired whether states who have enacted a bottle refund face issues regarding residue or contamination. He postulated whether that might be something to consider. Mr. Holley explained that states that have bottle bills go about their collection very differently. In many cases the bottles are returned to the stores/point of origin where they are cleaned and sorted, resulting in less breakage. Enacting a bottle bill would impact the plastics, aluminum and other materials that would be removed from the stream, but still have inherent values.

Another suggestion from the committee was the possibility of removing glass from the formula or allowing for expansion of the language to include additional uses for the waste glass such as ADC, roads, etc. This would require a bump-up on the multipliers for other materials, but it would keep glass from negatively (and positively) impacting facilities. Another thought was how to increase quality on outbound materials and perhaps alternatives to single-stream.

Joyce Hatala expressed concern that contamination rates are going to get so bad that facilities won't have a market in which to send their materials.

Act 101: History Lesson

John Dernbach, Distinguished Professor of Law, Widener University, gave an in-depth look at the history behind the creation and implementation of Act 101.

Mr. Dernbach's presentation included background into his time at DEP (circa 1981, when DEP was the Department of Environmental Resources (DER)) and how the enforcement actions, the closing of landfills due to concerns about mismanagement, and documented groundwater contamination led to the cleanup of municipal dumps and an eventual capacity crisis across the state.

In 1985, when Mr. Dernbach served as legal counsel to the waste program, he was tasked with revising the Municipal Waste regulations as well as a piece of legislation that would reform the way municipal waste planning was done. Both reforms were meant to directly address the capacity crisis. The previous municipal waste regulations dated back to 1977 and were outdated; for example, there were no requirements for landfills to have liners. The history of municipal waste mismanagement coupled with the outdated regulations led to immense opposition to the proposal of new municipal waste landfills.

Realizing that the current regulations needed to be re-worked, Mr. Dernbach turned to existing mining regulations on which to base the new municipal waste model. The reasoning behind this was that the mining regulations dealt with large earth-moving activities, there were clear distinctions between permitting and operating requirements, and they included well-defined public notice procedures. The revisions were brought, chapter by chapter, to SWAC. Throughout 1985 and 1986, the Department and SWAC went through the revised regulations line by line, twice. Mr. Dernbach stressed that working with SWAC was a vital component in the regulatory process.

Mr. Dernbach went on to explain that one of the biggest concerns in addressing public apprehension about landfills was to increase the stringency of the regulations. Therefore, under the new regulations, municipal waste landfills were required to have double liners and were held to the same environmental protection standards as RCRA Subtitle C hazardous waste landfills.

The overall thought process behind the revisions was that the stringency of the new regulations would help drive more recycling, since it wouldn't be as easy to get rid of waste as it had been. Two outcomes of the revised regulations were that the Commonwealth saw the transition from small, locally operated landfills to larger regional landfills; and, landfills were permitted or re-permitted at larger capacity, which substantially eased the capacity crisis. The revised municipal waste regulations were promulgated and became effective in 1988.

In the mid-1980's, the recycling rate in the Commonwealth was less than one percent, and every local municipality had its own process for municipal waste planning. The administration at the time (Thornburgh Administration) pushed to move the responsibility for planning from local municipalities to the county level. Another initiative by the administration was to enact a \$2 fee to be charged per ton of waste disposed of at municipal waste landfills. The goal was to use the money generated by the fee to fund the construction of municipal waste incinerators and other resource recovery facilities. This plan received pushback from residents, who were

concerned that groundwater contamination from landfills would be exchanged for air pollution from incinerators. These ideas were proposed in Senate Bill 1211 (SB1211).

The recycling and planning discussion continued, and the question arose as to how to implement mandatory recycling in Pennsylvania. The solution was to put the mandate on local municipalities, not individuals. The decision was made to focus on municipalities with a larger population density and allow them to pick three (3) items from a list of materials that they would collect and recycle. This allowed the municipalities to determine which items to collect based on potential marketability.

To entice cooperation from the municipalities, the Resource Recovery Fee from SB1211 was renamed the "Recycling Fee" and was used to distribute the money to municipalities in the form of grants (901, 902, 903 & 904).

Initially, the main goal of what eventually became Act 101 was to reach a 25% recycling rate within 10 years, with the hope that if/when that goal was met, a higher goal would be implemented. Other goals focused on the components linked to educating the public about recycling.

Michele Nestor inquired on how to go about addressing the concept that recycling is free. Mr. Dernbach explained that continuing education will help correct this misconception. He explained that while recycling may not be free, or even pay for itself, it is still (on average) cheaper per ton than disposing of solid waste.

Mr. Dernbach stressed that for the Act to keep working, more aggressive goals need to be established. He noted that the last goals were set by Lt. Governor Mark Schweiker. Mr. Dernbach indicated that the manner in which the goals were achieved isn't the priority, only that there are benchmarks that keep stakeholders moving forward towards continuing progress with the ultimate goal being zero waste.

Michele Nestor asked how to take a broader approach to achieving "zero waste" within the constructs of the Act, which is recycling centric. Mr. Dernbach suggested mandating additional materials that lend themselves for reuse and recycling, as well as discovering other markets and other uses for materials.

Tanya McCoy-Caretti inquired whether mandatory trash collection was considered during the development of Act 101; Mr. Dernbach said it most likely was, but it was the cause of great debate among stakeholders.

Eli Brill requested clarification for the process that was undergone to promulgate Act 101. Mr. Dernbach indicated that DEP drafted legislative language that was extensively revised and amended based upon comments received from SWAC and other stakeholders. He recalled literally hundreds of amendments during the process.

Act 101: Workgroup

Michele Nestor, Larry Holley, and Laura Henry provided background about how the decision was made to utilize the RFAC as a Workgroup to discuss Act 101; outlined the purpose of the Workgroup; and led a discussion to gather information regarding the future of Act 101.

Members of RFAC were asked what priorities they would like to see addressed in potential updates to Act 101. A full list of the mentioned items is attached to these minutes.

Update: Recycling Grant Shutdown Strategy

Larry Holley gave an update on the shutdown strategy of the recycling grant program as it stands with the impending sunset date of the Recycling Fee and how it impacts the program:

- Section 902 Recycling Grants were last offered in 2015, with the awards being made in 2016. Currently there is no plan for another round to be opened until there is clarification on the status of the sunset date. This accounts for \$15 million a year.
- Section 901 Planning Grants will be offered in late 2017.
- County Coordinator Grant applications will be accepted until 2018.
- Section 904 Performance Grant applications will be accepted until the end of 2017.
- Host Municipal Inspector Grant applications will end in 2018.
- Independent Permit Review Grant applications will end in 2019.
- Household Hazardous Waste (HHW) Grants will continue as long as there are funds available. Mr. Holley stated that the HHW Grant is funded with a combination of Recycling Fund & Hazardous Sites Cleanup Act (HSCA) dollars.
- MOUs with other agencies are currently on a five (5)-year schedule, and they will be coming to an end in 2019.
- The Recycling Markets Center (RMC) contract will expire in 2019-2020 and can't be renewed without elimination of the sunset date.

Public Comment; New Business

The following public comments were offered:

- Barbara Baker requested/reiterated that the Workgroup look at Act 101 in a comprehensive manner.
- Justin Stockdale inquired about a current provision in Act 101 that requires transfer of funds in the Recycling Fund to the General Fund after 27 years and what that specific date was; it was clarified the date is 2020.
- Tim Gilbert supported setting an overall recycling goal in Act 101.
- Kelly Megonnel indicated that she would like to see Section 903 Grants to municipalities expanded to fund additional duties for Recycling Coordinators such as data collection and management.

No new business was proposed.

Shannon Reiter moved to adjourn, seconded by Joyce Hatala. The motion carried, and the meeting adjourned at 1:15 p.m.

Grants/Incentives	Other Funding Mechanisms	Recycling Fee/Fund
<p>Incentive for efficient programs (glass)</p> <p>Incentivize products (materials) sold in PA</p> <p>Require Escrow/replacement funds at county/municipal levels for grants</p> <p>Grants still relevant</p> <p>Continuing grants used for education</p>	<p>\$2 per ton landfill fee</p> <p>Pre-recycling fees (advanced recovery fees)</p> <p>Enabling Legislation for municipalities to enact municipal waste fees to a dedicated fund</p>	<p>Specific funds for illegal dumping</p> <p>Clarify language regarding fees within the act (waste disposed)</p> <p>Removing sunset date</p>
Material Bans/Mandates	Other Issues	Open Burning
<p>Aluminum/steel banned from landfills</p> <p>Allow certain items to come off the list</p>	<p>How Tires are managed in PA</p>	<p>Burn ban on municipal waste</p> <p>Define language that bans the burning of materials</p>
Collection Infrastructure	General Act 101 Issues	Convenience Centers
<p>Put responsibility on haulers</p> <p>Mandatory Trash Collection</p> <p>Collection/Recycling in rural areas</p> <p>Counties ability to bid out recycling to encourage collaboration/uniformity</p> <p>(???)Uniformity among local facilities</p> <p>Increase Transporters under Act 90</p>	<p>Waste Reduction</p> <p>Updated to meet current trends and technology</p> <p>Expand waste reduction</p> <p>RMC/PROP built into legislation (RFAC)</p>	<p>Small convenience center availability, simplified permitting, not funded by grants</p> <p>Provision for use of general permits</p>
Electronics & HHW	Organics	Construction/Demolition
<p>Temporary lifting of ban on electronics</p> <p>Increase amount(types) of electronics recycled</p> <p>Curbside collection for HHW</p>	<p>Composting needs to be addressed</p> <p>Food waste/composting</p>	<p>Construction/demo waste reporting</p> <p>Incentive for using recycling products in building (C&D)</p> <p>Look at C&D Recycling</p>
Education/Public Awareness	Disposal/Processing	Planning
<p>Public/school/consumer education</p> <p>Mandatory recycling program for schools</p> <p>Public education</p>	<p>Clarify that landfills are not structures</p> <p>Eliminate Harms/benefit, clarify permit terms</p> <p>overall evaluation of the host municipal inspector program</p>	<p>More accountability in county planning process</p> <p>Comprehensive approach to trash and recycling</p> <p>County planning for capacity</p> <p>Incentivize municipalities recycling programs (green certification)</p> <p>Incentivize collaboration at a municipal level</p>