



The State of New Hampshire
Department of Environmental Services

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Robert R. Scott, Commissioner

May 19, 2021

His Excellency, Governor Christopher T. Sununu
And the Honorable Council
State House
Concord, NH 03301

REQUESTED ACTION

Authorize the Department of Environmental Services (DES) to pay the fiscal year 2022 membership dues to the NorthEast Recycling Council, Inc. (VC# 160635-B001), Brattleboro, VT in the amount of \$3,000 for the period July 1, 2021 through June 30, 2022, effective upon Governor and Council approval. 100% general funds.

Funding for FY 2022 is contingent upon continuing appropriations and availability of funds in the following account.

03-44-44-444010-3853-026-500251	<u>FY 2022</u>
Dept of Environmental Services, PPA & PMI Units, Organizational Dues	\$3,000.00

EXPLANATION

In 1990, New Hampshire passed a toxics-in-packaging law (RSA 149-M:32-40) to curb the amount of toxic metals entering the municipal solid waste stream, and ultimately, landfills and incinerators. The law prohibits manufacturers from intentionally introducing lead, mercury, cadmium, and hexavalent chromium in packaging and packaging components that are distributed in New Hampshire. Nineteen states have adopted the same model as New Hampshire and 9 of these states, New Hampshire included, work together to ensure consistent application of the law through the Toxics in Packaging Clearinghouse (TPCH). The TPCH is housed under, and administered by the Northeast Recycling Council (NERC).

Extensive compliance outreach to companies selling and distributing packaging identified as non-compliant in the 2017-2018 compliance screening project resulted in the removal of over 180,000 packages containing lead and cadmium from retail stores and product distribution centers in TPCH member states. (See <https://toxicsinpackaging.org/wp-content/uploads/2019/12/TPCH-FY2019-Annual-Report-July-2018-June-2019.pdf>). DES and other member states work together through the TPCH to educate industry; enforcement is at the discretion of the states. From 2019 through 2021, TPCH member states worked together to update the existing model legislation to include PFAS and Ortho-Phthalates. This will give states the ability to propose new legislation to add these toxic chemicals to their existing statutes. DES devotes about three weeks of staff time per year to toxics in packaging, yet is still able to implement the law through the interstate effort. Being a member allows New

Hampshire to take advantage of the group's resources and to be much more active than it would ever be able to be on its own. The monetary value of the laboratory testing alone exceeds the cost of annual membership.

Listed below are answers to standard questions required for Governor and Council organization dues and membership approval submissions:

- **How long has this organization been in existence and how long has this agency been a member of this organization?**

The Toxics in Packaging Clearinghouse (TPCH) was formed in 1992 to promote the Model Toxics in Packaging Legislation prepared by the Source Reduction Council of the Coalition of Northeastern Governors in 1989. New Hampshire has been an active member from the beginning.

- **Is there any other organization which provides the same or similar benefits which your agency belongs to?**

The TPCH is specific to toxics in packaging; no other organization addresses the issue.

- **How many other states belong to this organization and is your agency the sole New Hampshire state agency that is a member?**

Currently, there are eight other state members (CA, CT, IA, MN, NJ, NY, RI, and WA); DES is the only member agency in New Hampshire.

- **How is the dues structure established? (Standard fee for all states, based on population, based on other criteria, etc.)**

There is a fee structure based on state population. The dues for a state with a population of 1 million to 4.9 million are \$3,000.

- **What benefit does the state receive from participating in this membership?**

Membership in the TPCH has allowed DES to implement RSA 149-M:32-40 with minimal expenditures. It provides access to the other member states' staff knowledge and testing laboratory resources, which are not available on a state level. In particular, as a result of TPCH testing, DES has assessed administrative fines against one company and civil penalties against another for selling/distributing packages with lead and cadmium.

- **Are training or educational/research materials included in the membership? If so, is the cost included? Explain in detail.**

The one staff person at the TPCH conducts research and prepares educational materials with the assistance of staff from member states. These services are included with the fee. Any training to DES staff is incidental to the screening/testing of particular packages.

- **Is the membership required to receive any federal grants or required in order to receive or participate in licensing or certification exams? Explain. No.**
- **Is there any travel included with this membership fee? Explain in detail any travel to include the number of employees involved, the number of trips, destination if known and purposes of membership supported trips.**

The membership fee does not include the cost of travel, but funds from a toxics in packaging civil penalty by the State of California reimburse DES and other states' travel, so there was no cost to DES to send one staff member to recent annual meetings. The 2021 annual meeting will most likely be a virtual meeting.

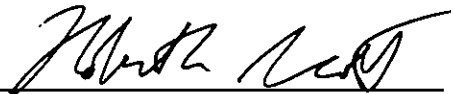
- **Which state agency employees are directly involved with this organization? (Indicate if they are members, voting members, committee members, and/or officers of the organization.)**

Melissa Zych is the agency's voting representative to the TPCH. DES does not have additional staff resources to participate in this program, making membership crucial to implementation of the statutory requirements.

- **Explain in detail any negative impact to the State if the Agency did not belong to this organization.**

The New Hampshire Pollution Prevention Program does not have the resources to implement New Hampshire's Toxics in Packaging law without access to TPCH staff and the organization.

We respectfully request your approval of this item.



Robert R. Scott
Commissioner



TPCH is administered by:

NERC

Northeast Recycling Council, Inc.

139 Main Street, Suite 401 • Brattleboro, Vermont 05301-2800
802.254.8911 • www.toxicsinpackaging.org • info@toxicsinpackaging.org

Invoice for TPCH Membership

Date: May 14, 2021

Member: NH Department of Environmental Services
P.O. Box 95
29 Hazen Drive
Concord, NH 03301
Contact: Melissa Zych

Service: FY2022 annual membership dues (July 1, 2021 – June 30, 2022)

Dues Amount: \$3,000.00

Please remit payment to Lynn Rubinstein, Northeast Recycling Council, Inc. at the address noted above.

Federal identification number for the Northeast Recycling Council, Inc. is 03-036-7144.
NERC provides administrative services to the Toxics in Packaging Clearinghouse.

Thank you!