

scm



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

14

August 24, 2023

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

REQUESTED ACTION

Authorize the Department of Environmental Services (NHDES) to pay the fiscal year 2024 membership dues to the Northeast Waste Management Officials' Association, Toxics in Packaging Clearinghouse (TPCH), Boston, MA (VC # 161803-B001) of \$3,000 for the period October 1, 2023 through September 30, 2024, effective upon Governor and Council approval. 100% general funds.

Funding is available in the following account.

03-44-44-444010-3853-026-500251

Dept of Environmental Services, PPA/PMIU Units, Organizational Dues

FY 2024

\$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 Waste Management Officials' Association (NEWMOA). NEWMOA is a Massachusetts 503(c)(3) non-profit, non-partisan interstate waste and pollution prevention association. NEWMOA was established by the governors of the New England States as an official interstate organization in accordance with Section 1005 of the federal Resource Conservation and Recovery Act.

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095
(603) 271-3503 • Fax: 271-2867 TDD Access: Relay NH 1-800-735-2964

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. NHDES and other member states work together through the TPCH to educate industry; enforcement is at the discretion of the states. From 2019 through 2023, 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. In FY22, the TPCH created a Technical Testing Committee to develop testing and analytical guidance for the regulated community on the PFAS and ortho-phthalate provisions of TPCH's Updated Model Legislation adopted in 2021. This work is especially important given the enactment of laws addressing PFAS in food packaging. As of February 2023, 11 states have adopted some form of a law that bans or restricts the use of PFAS in food packaging applications, or that provides the state with a regulatory pathway to ban or restrict PFAS in food packaging: California, Connecticut, Maryland, Minnesota, New York, Rhode Island, Washington (TPCH member states) and Colorado, Hawaii, Maine and Vermont (non-member states). None of these laws are identical, with some of the new laws on state toxics in packaging statutes and some in separate statutes.

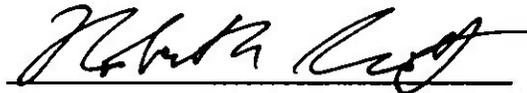
NHDES devotes about three weeks of staff time per year to toxics in packaging, yet is still able to implement the law through the interstate effort. Being a member allows New Hampshire to take advantage of the group's resources and to be much more active than it would ever be able to be on its own. The 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); NHDES 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 NHDES 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, NHDES 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 NHDES 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. The 2024 annual meeting will be paid for by NHDES funds for one employee to attend. The meeting will allow collaboration among state members to discuss TPCH projects.
- **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.)** The Pollution Prevention Program Administrator is the agency's voting representative to the TPCH. NHDES 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



**TOXICS IN PACKAGING
CLEARINGHOUSE**

Invoice

c/o NEWMOA
89 South Street, Suite 600
Boston, MA 02111

Bill To
NH DES 29 Hazen Drive PO Box 95 Concord, NH 03302

Date	Invoice #
7/5/2023	B249NHDES...

Terms
Net 30

Project
B249

Description	Amount
<p>Fiscal year 2024 membership dues in the Toxics in Packaging Clearinghouse (TPCH)</p> <p>October 1, 2023 - September 30, 2024</p> <p>Services rendered include:</p> <ul style="list-style-type: none"> • Outreach & education to entities regulated by state toxics in packaging laws, including response to inquiries by telephone and electronic mail; maintain an informative website with links to member states; deliver presentations to trade and professional associations; and prepare fact sheets and research reports. • Coordination of member state activities and implementation of state laws through monthly conference calls, biannual meetings, special task forces, and ongoing communications. • Planning and execution of packaging screening projects with member states to detect non-compliant packaging; work with manufacturers/distributors to obtain Certificates of Compliance, and if needed, bring packaging into compliance with state laws. • Coordination of exemption requests from the regulated community to member states. • Correspond with federal agencies (such as FDA, CPSC), foreign governments; and standards development organizations to inform them about state toxics in packaging laws. 	3,000.00

Please make Check Payable to Northeast Waste Management Officials' Association
(NEWMOA)

Total	\$3,000.00
--------------	------------

For billing questions, please contact Lois Makina, 617-367-8558 x312 or Lmakina@newmoa.org

Federal ID #: 04-2901917