



**TOXICS IN PACKAGING
CLEARINGHOUSE**

Annual Report

**Toxics in Packaging Clearinghouse
July 1, 2021 – September 30, 2022**

Prepared by Melissa Lavoie, TPCH Project Manager
Accepted by Members March 2023

The Toxics in Packaging Clearinghouse (TPCH) maintains [Model Toxics in Packaging Legislation](#), originally developed in 1989 to reduce the amount of lead, mercury, cadmium, and hexavalent chromium in packaging and packaging components that are sold or distributed throughout the United States. To date, the Model has been adopted by nineteen U.S. states, including: California, Connecticut, Florida, Georgia, Illinois, Iowa, Maryland, Maine, Minnesota, Missouri, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, Washington and Wisconsin. In 2021, TPCH updated the model legislation to include the addition of the class of perfluoroalkyl and polyfluoroalkyl substances (PFAS) and ortho-phthalates as regulated chemicals, as well as new processes and criteria for identifying and regulating additional chemicals of high concern in packaging. TPCH coordinates implementation of state legislation, based on the Model, on behalf of its [member states](#), with the goal of promoting consistency across states. TPCH is located at the Northeast Waste Management Officials' Association (NEWMOA) in Boston, Massachusetts. NEWMOA manages and performs all administrative functions for the Clearinghouse on behalf of member states.

This report summarizes the activities and accomplishments of the Toxics in Packaging Clearinghouse (TPCH) from July 1, 2021, to September 30, 2022 (FY22). For this report, the fiscal year was 15 months due to a fiscal agent and host organization transition. The first section of the report highlights TPCH's accomplishments in FY22. The remainder of the document is organized by major activity. For this fiscal year, Appendix A shares the TPCH financial summary, Appendix B provides an analysis of inquiries received, and Appendix C shares information from a new webpage on www.TPCH.org regarding recent related laws following TPCH's 2021 Model Legislation update.

FY22 HIGHLIGHTS

- Fiscal Agent and Host Organization Transition to the Northeast Waste Management Officials' Association (NEWMOA)
- Technical Testing Workgroup progress toward Guidance for Regulated Community
- **46,513 site visits** to the TPCH [website](#) in FY22. There were 212,849 page views on the site.
- TPCH had **101 external communications** by telephone and email (67 unique inquiries plus 34 follow-up questions), an average of 8.5 per month.
- **Convened** a two-day in-person and virtual Annual Membership Meeting in October 2022.



John Gilkeson
Minnesota Pollution Control Agency
2022 TPCH Board Chair

Note from the Chair:

Fiscal Year 2022 was a year of many changes for TPCH. For almost 20 years the Northeast Recycling Coalition (NERC) had been the host organization and fiscal agent for TPCH, under NERC Executive Director Lynn Rubinstein, and staffed by program managers Patty Dillon and Melissa Lavoie. With new state representatives and a focus on PFAS and other emerging chemicals as packaging issues, TPCH made the decision to affiliate with the Northeast Waste Management Officials Association (NEWMOA). We thank Lynn Rubinstein for her full support of our work and our mission and wish her well in retirement.

This endeavor started in the mid-1980's at the Council of Northeast Governors (CONEG) and a staff person named Chip Foley. Chip was largely responsible for and involved in nearly every aspect of developing the original model legislation with a broad range of stakeholders from industry, trade associations, environmental organizations, and government units outside of CONEG, and then working with member governors to pass and implement the law in the states. That led to the creation of the Toxics in Packaging Clearinghouse to coordinate implementation by the states with technical support from industry members. Chip continued to be involved for his entire professional career, as CONEG staff, then representing the Steel Recycling Institute (SRI) in TPCH, and then for several years as a subject matter expert in his early days of retirement from SRI. The Clearinghouse has benefitted from Chip's lifetime of experience, support, policy insights, and dedication to pollution prevention and recycling.

We want to thank Chip Foley for his years of dedication to the issues, active involvement in TPCCH, and for maintaining and passing on so much knowledge to TPCCH members and others who will continue this work.

In FY22 the TPCCH created a Technical Testing Committee to develop testing and analytical guidance for the regulated community on the PFAS and ortho-phthalate provisions of TPCCH'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 (TPCCH 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.

To facilitate the development of universally applicable guidance for industry, TPCCH is collaborating with members of the Interstate Chemicals Clearinghouse (IC2), also hosted by NEWMOA. IC2's membership includes two of the states with new PFAS in packaging laws that are not TPCCH members (Maine Department of Environmental Protection and the Vermont Department of Health). In addition, Maryland recently chose to join TPCCH since it has the original Toxics in Packaging law and a newly enacted separate law for PFAS in food packaging. New state laws addressing PFAS in food packaging recognize the health impacts of PFAS exposures, although TPCCH works toward removal of PFAS in all packaging and packaging components. Addressing PFAS in food packaging is a good and necessary first step, and we must also enact the updated model to cover all packaging. TPCCH is looking ahead and plans to continue focusing on the following areas:

- Enacting the model legislation in member and non-member states
- Ensuring consistency in enacted language across state laws
- The interface between current and future TP laws and EPR for packaging laws
- Effective screening and testing methods
- Proper labeling and disclosure
- Updating Certificates of Compliance
- Reporting by manufacturers on their progress, compliance, and alternatives to phased out substances
- Responsibilities of future packaging stewardship organizations to ensure that members are complying with requirements of state laws

We have exciting and challenging years ahead with PFAS and other chemicals that pose new challenges for packaging design, materials, and function, as well as recycling, composting, and other pathways for end-of-life management. TPCCH looks forward to new opportunities in these areas through continued engagement with the regulated community, non-member states and with our colleagues in IC2 at NEWMOA.

~John Gilkeson

TPCH ADMINISTRATION BY THE PROJECT MANAGER

- Manages all aspects of organization, including coordination and facilitation of monthly two-hour virtual meetings with members and Executive Committee planning meetings.
- Coordinated and convened a 2-day annual membership meeting in October 2022.
- Recorded and distributed minutes for all virtual meetings and the annual meeting to members.
- Maintained TPCH electronic file of meeting minutes and all other TPCH documents.
- Worked with TPCH Executive Committee to prioritize projects and meeting agendas.
- Prepared and distributed TPCH Annual Report for FY21.

◆ Program Reporting

- Prepared and distributed to members the [FY21 Annual Report](#) (July 1, 2020 – June 30, 2021), which was posted to the TPCH website
- Prepared the FY23 budget, which was approved by members in Summer 2022.

◆ TPCH Financial Management

TPCH's finances were administered by NERC from July 1, 2021, through February 14, 2022. TPCH transitioned to NEWMOA as the fiscal agent as of February 14, 2022, with FY22 ending Sept. 30, 2022, due to different fiscal years for the two organizations.

- Revenues in FY22 (\$35,011) came in lower than expenses (\$47,646), due to the extended fiscal year of 15 months.
- TPCH began FY22 with a reserve account balance of \$74,942.39 and ended the fiscal year with a balance of \$49,284. Reserve funds were utilized for all transition costs moving to a new fiscal agent plus the costs of the extended fiscal year.
- Appendix A provides a financial summary for the TPCH for FY22.

◆ Additional Sources of Funding

No grants or contracts funded TPCH activities in FY22.

◆ Executive Committee

The Executive Committee was in the 1st year of a 2-year term, which ends June 2023. Executive Committee members included: John Gilkeson, Minnesota, Chair; Matt McCarron, California, Vice-Chair; Tom Metzner, Connecticut, Member-At-Large; and Kathleen Hennings, Iowa, Member-At-Large.

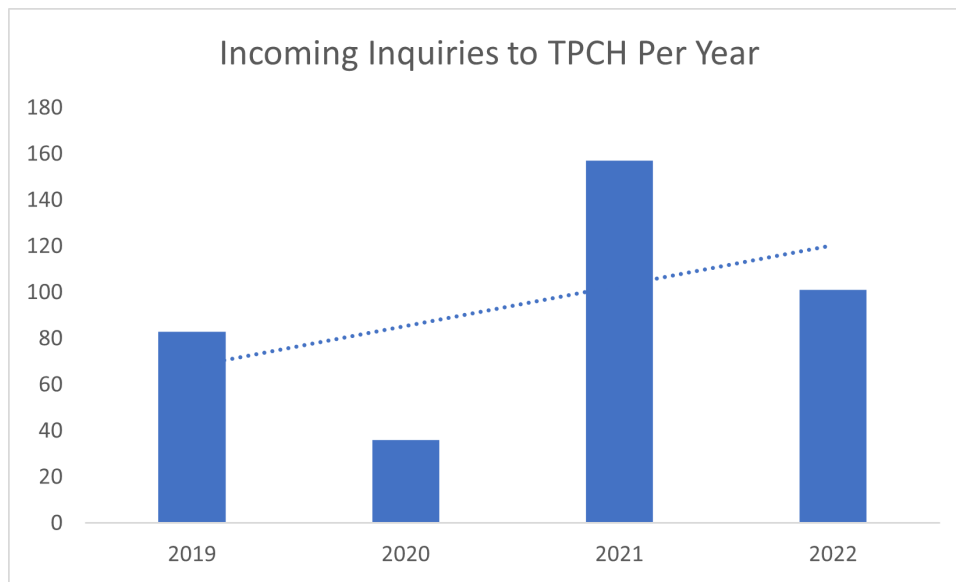
GENERAL INQUIRIES & EXEMPTION REQUESTS

◆ General Inquiries

The TPCH Project Manager managed a total of 101 external communications by phone and email in FY22. Each initial inquiry can require multiple emails or phone calls to resolve, and many involve multiple discussions with analysis by TPCH members.

The TPCCH Project Manager coordinates all incoming communications from industry, policy makers, advocates, and the general population. All inquiries are documented and shared with TPCCH members each year.

The bar chart below shows the number of external communications with TPCCH from FY19 through FY22. The most frequent inquiries this year dealt with components of the 2021 update to the model legislation, followed by communications about the basic requirements of state toxics in packaging laws, obtaining a Certificate of Compliance, whether a specific item was considered “packaging” under state laws, and testing of packaging components. Appendix B provides a brief analysis of the general inquiries, focusing on the types of organizations requesting information and assistance.



◆ **Exemptions and Other Requests**

- TPCCH received no new requests for exemptions.

EDUCATION & OUTREACH

◆ **TPCH Technical Testing Workgroup**

In May 2021, TPCCH formed a Workgroup to explore and research best available testing technologies for PFAS and ortho-phthalates in packaging. In FY22, the Workgroup continued meeting monthly, including inviting outside experts in the field of chemical testing to join their meetings to share knowledge on the current best practices for testing PFAS in packaging applications. In February 2022, the Workgroup held a meeting with 15+ participants from multiple sectors, including analytical laboratories, other businesses, regulatory agencies, and universities.

The goal of this meeting was to assist the Workgroup in gathering data on sample preparation and analytical testing methods for PFAS in packaging materials, in order for TPCCH to develop and share guidance with manufacturers and retailers for testing their product packaging for PFAS relative to the requirements of the updated model legislation (and directly related to states that pass updated or new laws utilizing language from the model legislation update). This meeting involved:

- California Department of Toxics Substances Control
- Connecticut Department of Energy & Environmental Protection
- Minnesota Pollution Control Agency
- New York State Department of Environmental Conservation
- Rhode Island Department of Environmental Management
- SGS
- Eurofins
- University of Connecticut
- Washington Department of Ecology

The Workgroup plans to share resources and the results of the discussions with outside entities and its guidance, likely early in 2023.

◆ **Collaboration on Definitions in PFAS in Packaging Laws**

In May 2022, the TPCCH Technical Testing Workgroup reached out to members of NEWMOA's Interstate Chemicals Clearinghouse (IC2) to consider working together to share information in an effort to harmonize state and local governments' statutory definitions in legislation and recent laws concerning PFAS and packaging.

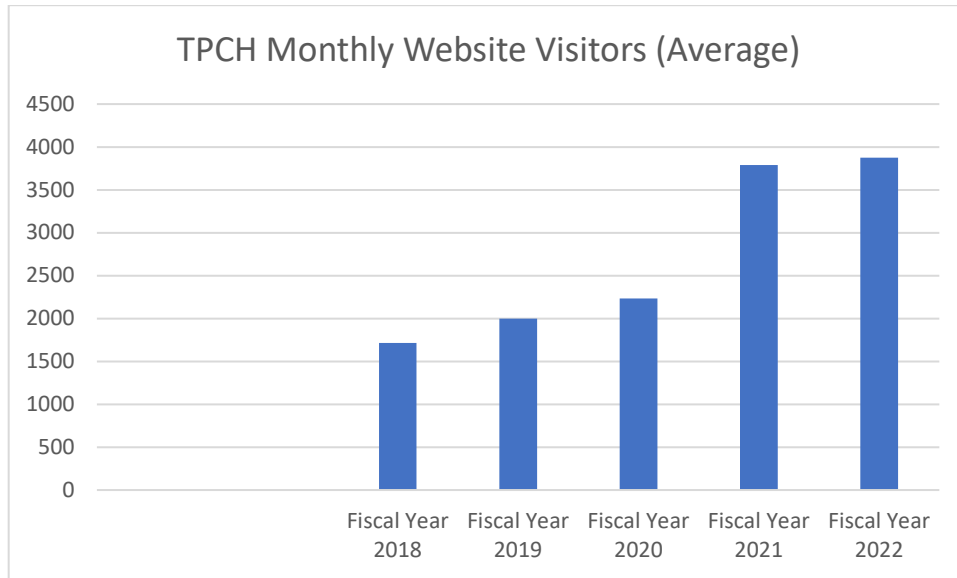
Over the course of several months, the group met three times, sharing information, and discussing what information would be helpful. The following state and local' environmental and health agencies participated in these collaborative meetings:

- California
- Connecticut
- Maine
- Maryland
- Minnesota
- New York
- Oregon
- San Francisco
- Vermont
- Washington

◆ TPOCH Website Utilization

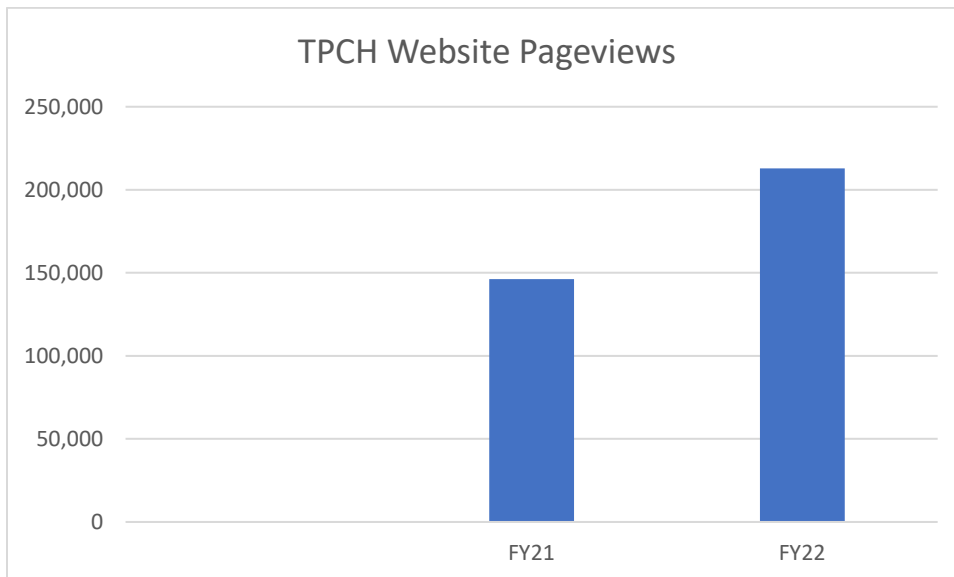
Unique Visitors

TPCH had 46,513 visitors to the Toxics in Packaging Clearinghouse website in FY22, an average of 3,876 visitors per month. The bar chart below shows the average number of monthly website visitors from FY18 through FY22.



Website Pageviews

There were 212,849 pageviews in FY22 to the TPOCH website, an increase of 66,557 visits from FY21.



Top viewed web page resources were the [Update to the Model Legislation](#) (40,056 views), the [Sample Certificate of Compliance](#) (13,842 views), and the [FAQs page](#) (11,700 views). There were 10,395 PDF document downloads in FY22, compared to 5,653 in FY21 (an 84% increase).

Documents or additions to the TPCCH website in FY22:

- [TPCCH FY2021 Annual Report July 2020 - June 2021](#)

Presentations in FY2022 on the 2021 Model Legislation Update

- In October 2021, TPCCH Project Manager Melissa Lavoie presented as part of the SGS Unbox Summit 2021: The Art & Science of Sustainable Packaging
- In January 2022, TPCCH Chair John Gilkeson presented on to the Environmental Caucus of States (ECOS) PFAS Caucus

Membership

◆ TPCCH Members

TPCCH had 12 members (10 states, 1 industry affiliated members, and 1 independent subject matter expert) in FY22. Member states included California, Connecticut, Iowa, Maryland (joined in May 2022), Minnesota, New Hampshire, New Jersey, New York, Rhode Island, and Washington. TPCCH also had one Advisory member, the Glass Packaging Institute, and Walter “Chip” Foley continued to serve as a Subject Matter Expert.

The following is a list of the lead representative for each member in FY22:

- **California Department of Toxic Substances Control:** Matt McCarron
- **Connecticut Department of Energy and Environmental Protection:** Tom Metzner
- **Iowa Department of Natural Resources:** Kathleen Hennings
- **Maryland Department of Environment:** Edward Dexter
- **Minnesota Pollution Control Agency:** John Gilkeson
- **New Hampshire Department of Environmental Services:** Melissa Zych (July 1, 2021 - August 1, 2021), Cynthia Nelson (August 1, 2021 - January 31, 2022), Kathryn Black (February 1, 2022 - present)
- **New Jersey Department of Environmental Protection:** Emily DeMaio
- **New York State Department of Environmental Conservation:** Conor Shea
- **Rhode Island Department of Environmental Management:** Ann Battersby (July 1, 2021 - March 25, 2022), Michele McCaughey (March 25, 2022 – present)
- **Washington Department of Ecology:** Kathleen Gilligan
- **Glass Packaging Institute:** Scott DeFife
- **Independent Subject Matter Expert:** Walter (Chip) Foley

◆ **Member Communication** Routine correspondence with members was predominantly completed via email and Teams online meetings, and included meeting agendas and minutes, queries, requests for document review, and compliance issues.

◆ **Screening**

TPCH did not conduct any formal screening projects during FY22 but is planning to screen packaging for compliance in FY23.

Appendix A – FY2022 Financial Summary

TPCH’s finances are administered and annually audited as part of the Northeast Waste Management Officials’ Association operations.

TPCH Reserve Account:

Opening Balance (7/1/21): \$74,942.00 Closing Balance (9/30/22): \$49,284.00

FY2022 (July 1, 2021 – September 30, 2022) Revenues & Expenses

TPCH Fiscal Year 2022 Financial Report	FY2022
July 1, 2021 through September 30, 2022	
Revenue	
State Dues, Contracts, Fees & Contributions	\$35,000.00
Miscellaneous	\$11.00
Total Revenue	\$35,011.00
Expenses	
Staff Salaries & Benefits	\$34,168.00
Travel & Meetings	\$3.00
Other Direct Program Expenses	\$810.00
General & Administrative	\$12,665.00
Total Expenses	\$47,646.00
Net (deficit was expected due to 25% extension of fiscal year)	-\$12,635.00
Reserve Fund Balance as of 9/30/22	\$49,284.00

Appendix B - Analysis of Inquiries

In FY22, TPCB had 101 external communications responding to incoming inquiries. Each inquiry generally takes multiple emails or phone calls to resolve, and some require extensive discussion by members.

Below is a brief analysis of the FY22 inquiries, focusing on the types of organizations that requested information and assistance.

- By type of organization:
 - Attorneys
 - Companies (manufacturers, distributors, retailers)
 - Consultants
 - Government/Legislative Offices
 - Research (students, advocates)
 - Testing labs
 - Media
 - Non-governmental organizations

- By industry sector (companies and trade associations only):
 - Manufacturers/distributors of finished goods
 - Packaging and packaging components (manufacturers and distributors)
 - Retailers

- By mode of inquiry (note: some queries were by both phone and email):
 - Emails
 - Telephone calls
 - Website “contact us” form

- By location:
 - Austria
 - Bangladesh
 - Canada
 - China
 - France
 - Germany
 - Hong Kong
 - India
 - Japan
 - Malaysia
 - Mexico
 - Netherlands
 - Australia
 - Taiwan
 - United States

Appendix C – New TPCCH Web Resource on Related State Laws

Related State Laws <https://toxicsinpackaging.org/related-state-laws/>

19 states have enacted laws based on the original Toxics in Packaging model, which prohibits intentional use of the four heavy metals. TPCCH’s 2021 update of the model legislation is a tool any state may use to regulate contaminants in packaging. A state would need to adopt all or part of the updated model for it to be an enforceable law. No state has amended its current toxics in packaging law to add the updated model legislation language in its entirety. Some states have adopted provisions of the 2021 model legislation. The following section presents a summary of recent related legislative activity in U.S. states.

TPCCH Member States’ Laws Related to the 2021 Model Legislation Update

California enacted a law, AB 1200, in 2021, which includes restrictions on perfluoroalkyl and polyfluoroalkyl substances (PFAS) compounds in plant-based packaging:

<https://openstates.org/ca/bills/20212022/AB1200/>.

Connecticut amended their toxics in packaging law in 2021 by prohibiting PFAS in food packaging. The new law will become effective on December 31, 2023:

<https://www.cga.ct.gov/2021/act/Pa/pdf/2021PA-00191-R00SB-00837-PA.PDF>.

Maryland joined TPCCH in May 2022 after the General Assembly enacted House Bill 275 in 2022, adding a number of requirements regarding PFAS-containing materials, including fire-fighting foam and personal protective equipment, rugs and carpets, and food packaging materials. The law added requirements to existing statutes that addressed the content of heavy metals in food packaging materials, and prohibits the manufacturing, sale, or distribution of PFAS that were knowingly added to materials designed and intended for direct food contact as of January 1, 2024: <https://mgaleg.maryland.gov/2022RS/bills/hb/hb0275E.pdf>.

Minnesota enacted a law phasing out the use of the PFAS family chemicals in food packaging in 2021, effective January 1, 2024. Packaging subject to the phaseout is defined as:

(b) “Food package” means a container applied to or providing a means to market, protect, handle, deliver, serve, contain, or store a food or beverage. Food package includes:

- (1) A unit package, an intermediate package, and a shipping container
- (2) Unsealed receptacles, such as carrying cases, crates, cups, plates, bowls, pails, rigid foil and other trays, wrappers and wrapping films, bags, and tubs

(3) An individual assembled part of a food package, such as any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coatings, closures, inks, and labels. The law is separate from the State's Toxics in Packaging law (115A.965) and can be found in Section 325F.075.

New York amended their Hazardous Packaging Act ([Environmental Conservation Law Article 37, Title 2](#)) to restrict the sale, offering for sale, or distribution of food packaging with intentionally added PFAS in December 2020. The amendments become effective December 31, 2022: [NYSDEC's website](#).

Rhode Island amended their toxics in packaging law in 2022. House bill H7438Sub A/Senate bill S2044 Sub A was signed by the Governor on June 29, 2022, prohibiting the sale or promotional distribution of any food package that contains PFAS, effective January 1, 2024. <http://webserver.rilin.state.ri.us/PublicLaws/law22/law22294.htm>

Washington State amended their existing Toxics in Packaging Law (<https://app.leg.wa.gov/rcw/default.aspx?cite=70A.222>) to include a ban on PFAS in food packaging in 2018. The amendment requires the completion of an alternatives assessment (https://www.ezview.wa.gov/site/alias_1962/37610/pfas_in_food_packaging_alternatives_assessment.aspx) to identify and evaluate feasible of safer products. A two-part phaseout of certain plant-based food packaging begins February 1, 2023.

Compliance Deadline #1 – February 1, 2023

Intentionally added PFAS in any amount is prohibited in these types of plant-fiber based food service items as defined in <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.222.010>:

- Wraps and liners
- Plates
- Food boats
- Pizza boxes

All manufacturers, distributors and retailers of food packaging are required to comply. Certificates of Compliance (COC) are required only for manufacturers <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.222.040>. The sample COC will be available soon.

Compliance Deadline #2 – May 1, 2024

Intentionally added PFAS in any amount is prohibited in these types of plant-fiber based food service items as defined in <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.222.010>:

- Bags and sleeves
- Bowls
- Flat service ware, which includes items like plates and trays
- Open-top containers, which includes items like French fry cartons and food cups
- Closed containers, which includes items like clamshells

All manufacturers, distributors, and retailers of food packaging are required to comply. Certificates of Compliance are required only for manufacturers

<https://app.leg.wa.gov/RCW/default.aspx?cite=70A.222.040>. The sample COC will be available soon.

Non-Member States with Toxics in Packaging Laws and New PFAS in Packaging Laws:

Maine: 129th Legislature (2019-2020) Public Law Chapter 277; HP1043-LD1433 An Act To Protect the Environment and Public Health by Further Reducing Toxic Chemicals in Packaging; amends the state's [Toxics in Packaging law in 32 MRSA 1731-1737](#).

Vermont: 2021 [Act No. 36 \(S.20\)](#) An act relating to restrictions on perfluoroalkyl and polyfluoroalkyl substances and other chemicals of concern in consumer products. Creates a new section in health statutes prohibiting PFAS, bisphenols, and ortho-phthalates in food packaging and components.

Non-member states without Toxics in Packaging Laws with new PFAS in Packaging Laws:

Colorado: [HOUSE BILL 22-1345](#), PERFLUOROALKYL AND POLYFLUOROALKYL CHEMICALS CONSUMER PROTECTION ACT" includes PFAS in food packaging prohibitions.

Hawaii: [HOUSE BILL 1644](#), includes PFAS in food packaging prohibitions.