



**TOXICS IN PACKAGING  
CLEARINGHOUSE**

# **OPEN HOUSE**

**SEPTEMBER 9, 2024**

# GOALS FOR THIS WEBINAR

- Introduce the Toxics in Packaging Clearinghouse
- A history of how and why the clearinghouse formed
- The functions of the Clearinghouse
  - Administration and coordination
  - Resource for the regulated community
  - Certificates of Compliance
  - Testing packaging
  - Governance of the Clearinghouse
- Begin a dialogue with Stakeholders on addressing administration of toxics in packaging through the Clearinghouse



# ADDRESSING THE FUTURE OF TOXICS IN PACKAGING

19 states have passed the model legislation but not all these states actively administer the program

States are addressing toxicity through EPR laws (eco-modulation). Once these states figure out how to address toxicity, can we work together to administer these laws?

13 States have passed PFAS in Food Packaging laws. Can we administer these laws cooperatively through the Clearinghouse?



# OVERVIEW OF TPCH

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**John Fay**

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Northeast Waste  
Management Officials'  
Association



# HISTORY: CONEG SRC

Coalition of Northeast Governors-  
Source Reduction Council

Late 1980s



# ORIGINAL REGULATED TOXICS IN PACKAGING

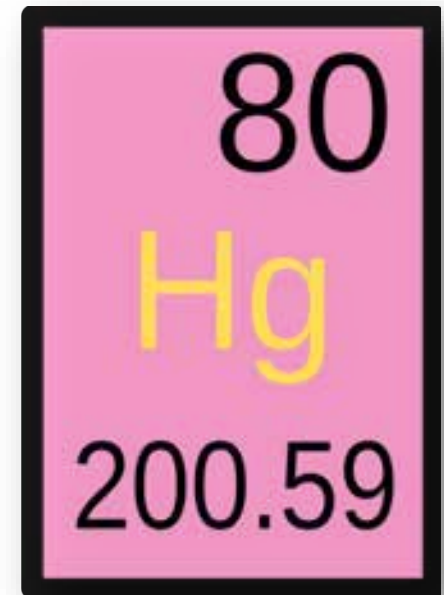
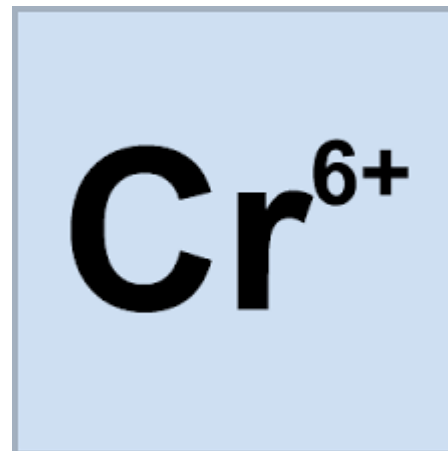
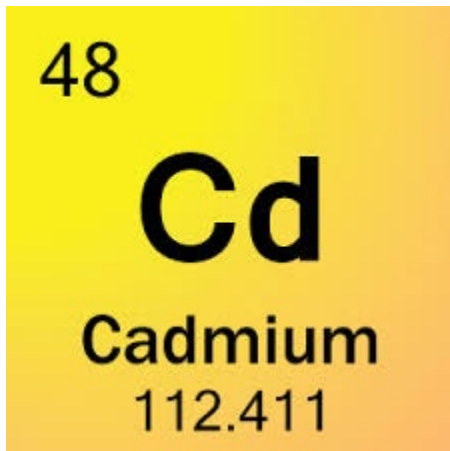
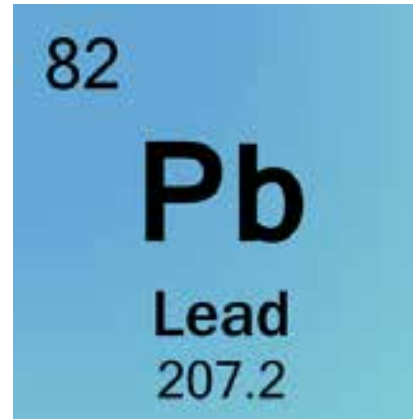
1990

Lead

Cadmium

Mercury

Hexavalent Chromium



# MODEL TOXICS IN PACKAGING LAW

Prohibits intentional introduction of *any amount* of the four regulated metals

Limits incidental presence of the four metals to **100 ppm (0.01%)** total concentration

Applies to finished packaging and each individual packaging component

Limited exemptions available, e.g., recycled content, certain reusable packaging

# SUCCESS STORIES

- Lead foil wine bottle wrappers (not addressed by FDA as food contact issue)
- Major manufacturer: cadmium pigment in yellow plastic container
- Lead solder in non-food cans (e.g., paint)
- Electronics and batteries in product packaging and displays
- Lead and cadmium in flexible plastic film



# ADDITIONS TO THE MODEL

## 2021

Added **PFAS** and  
**ortho-phthalates**  
as regulated  
chemicals

Added new processes  
and criteria for  
identifying and regulating  
**additional chemicals**  
of high concern

**13 states** have adopted new  
laws that have a toxics in packaging  
component,  
**about half** using the model

# HOW DO THE LAWS WORK?





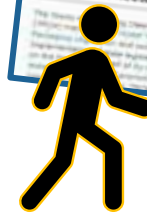
TOXICS IN PACKAGING  
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# FUNCTIONS

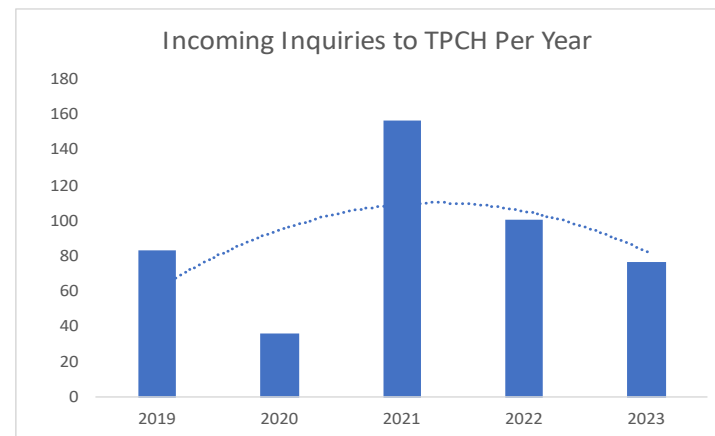
- Maintains/Updates the model law
- Coordinates implementation of state laws to promote consistency among states (and saves states lots of time!)
- Single point of contact for companies (saves companies' time)
- Packaging screening projects

# REGULATED COMMUNITIES

- Detailed and up-to-date website: [toxicsinpackaging.org](https://toxicsinpackaging.org)
- Single point of contact
- Field 50-170 inquiries/year
- Multi-state **coordinated responses**



>3,000 visitors every month



# CERTIFICATE OF COMPLIANCE

**Certificate of Compliance for Per- and Polyfluorinated Alkyl Substances (PFAS) in Packaging**

**Toxics in Packaging Clearinghouse**

**Guidance Document**

This is a template offered to manufacturers and suppliers to certify compliance with state Toxics in Packaging laws. This particular template is not required; other forms of certification may be compliant. Please refer to individual state laws for specifics regarding required information for a CoC.

Provide a signed copy of the CoC to your customers. Keep a copy on file so that it may be presented upon request. Do not send the signed CoC to TPCII.

For further information: [contact@toxicsinpackaging.org](mailto:contact@toxicsinpackaging.org) 617-367-8558 x6.

We certify that all packaging and packaging components sold or distributed to \_\_\_\_\_ or its subsidiaries in the State(s) listed below comply with the requirements of the States' toxics in packaging laws and laws governing toxics in food packaging:

All States	Maryland	Rhode Island
California	Minnesota	Washington**
Connecticut	New York	

This Certificate of Compliance is for the following packaging or packaging component(s): \_\_\_\_\_

(Please include the brand, product name, and UPC of the product/packaging component if applicable) \_\_\_\_\_ was last updated on \_\_\_\_\_.

Our Packaging formulation for \_\_\_\_\_

This Certificate of Compliance is based on one or more of the following (please check all that apply):

- analytical testing of total fluorine content conducted on behalf of this company
- direct knowledge of materials used
- CoC's from suppliers
- analytical testing data received from suppliers

Specifically:

- We certify that the regulated chemicals - Per- and Polyfluorinated Alkyl Substances (PFAS) - were **not intentionally introduced** to any package or packaging component during the manufacturing process. State laws differ in defining "intentionally introduced;" we certify that the packaging complies with the laws of each state indicated above.
- We will maintain adequate documentation of this certification for inspection upon request.

\*If certifying more than one item, attach a list of all products included in this certification, including the brand, product name, and UPC or similar identifying code under which it is sold.

\*\*The State of Washington requires their own Certificate of Compliance. See [https://www.ecy.wa.gov/programs/toxics/in\\_packaging/docs/chemicals\\_addressing\\_purity\\_toxics\\_in\\_packaging.pdf](https://www.ecy.wa.gov/programs/toxics/in_packaging/docs/chemicals_addressing_purity_toxics_in_packaging.pdf)

COMPANY NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ am \_\_\_\_\_ (City)

I, \_\_\_\_\_ (Name and Title)  
for above-named business and I am duly authorized to make this certification. I have personally examined and am familiar with the information in this document and all attachments thereto, and I certify that, based on reasonable investigation, including my inquiry of the individuals responsible for obtaining the information, the submitted information is true, accurate, and complete to the best of my knowledge and belief.

Dated \_\_\_\_\_ at \_\_\_\_\_ (City, State, County)

Signature: \_\_\_\_\_

- Provide fillable samples
- Provide guidance
- Metals, PFAS, or both
- **2,000** downloads/yr

# TESTING AND COMPLIANCE

- State members test packaging and share results
- If non-compliant packaging is suspected, TPCH initiates contact with responsible party
- May request Certificate of Compliance





# GOVERNANCE: MEMBERSHIP TYPES



## Full Membership

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Voting states  
with laws

\$2,000 – 6,000



## Advisory Membership

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Associations, companies,  
NGOs, individuals

\$2,000 – 4,000  
(\$100 – 500)



## Affiliate Membership

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States and territories that  
have not passed  
legislation

\$1,000

[Become a Member](#)

# GOVERNANCE



- TPCH Member States
- Non-member states with legislation
- States without legislation

## Voting Membership

- Member States

## Meetings

- Monthly All-Member Video Calls
- States-only portion
- Annual Meeting (in person)
- Executive Committee

## Administration

- Staffing by agreement
- NEWMOA (Northeast Waste Management Officials' Assoc.)







# TPCH

- Available to **other states** to become members, whether they already have the law or are working towards one
- Available to **industry groups** who want a seat at the table to provide industry-specific insights and to hear about current developments
- We want to **promote consistency** among the states in addressing toxicity in packaging
- TPCH can assist states that are addressing **PFAS** in food or other packaging

# STATE PERSPECTIVE

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**John Gilkeson**

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Minnesota Pollution  
Control Agency



# MINNESOTA – TOXICS IN PACKAGING

## X EPR FOR PACKAGING

2022 MN EPR for pkg bill included phaseouts from packaging of:

- 12 defined toxic substances, including the 4 TP metals;
- 3 packaging materials: Polyvinyl chloride, Polystyrene, Polycarbonate;

Requirement for MPCA and MDH to identify additional toxic substances to be phased out of packaging on a triennial basis, plus a citizen petition process, and;

Fees based on packaging materials and recyclability, no toxicity aspect.

# MN 2024 EPR FOR PACKAGING LAW

Stakeholders agreed that EPR for Packaging bill/law would not include new toxics provisions – they would be enacted separately and EPR law would cite the applicable laws

‘Toxic substance:’ hazardous waste, problem material, chemical/class regulated by cited laws, identified in law as chemical of high concern

MPCA Commissioner responsible for providing PRO with info on toxic substances: prohibitions, environment/health impacts, best practices to reduce/eliminate.

Needs Assessments include assessment of intentionally added toxic substances and best practices to reduce and verify.

# MN EPR FOR PKG LAW: PRO TOXICS RESPONSIBILITIES

PRO responsible for providing producers with information on state/federal laws that regulate/prohibit substances in covered materials; activities must be addressed in the stewardship plan and approved.

Performance Targets in Plan must address/account for 'compliance.'

Producer fees must incentivize elimination of intentionally added toxic substances in covered materials.

PRO must annually report on its programs and actions taken by producers beyond compliance.

# OPTIONS FOR STATES TO ADDRESS TOXIC SUBSTANCES

- Use your state's existing laws and rules that may define, identify, regulate, or prohibit substances in packaging, or types of packaging
- Address substances of concern in rulemaking related to residuals, contaminants, design/material requirements, health/environment impacts, recyclability or compostability, modulated fees, other.
- PRO responsibilities and activities in Stewardship Plan, Annual Report
- TPOCH as forum to collectively address PFAS in food packaging laws

# STATE PERSPECTIVE

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**Tom Metzner**

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CT Department of  
Energy & Environmental  
Protection



# CONNECTICUT'S HISTORY WITH TOXICS IN PACKAGING



Toxics in Packaging Legislation  
passed in 1990

Mandatory recycling was being  
implemented

Legislative findings

- **Packaging is a significant percent of solid waste**
- **Heavy metals in packaging is a human health threat**
- **“Eliminate or reduce toxicity in packaging without impeding or discouraging the expanded use of recycled materials.”**



# HISTORY OF COLLABORATION

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Connecticut has a history of working together with other states on solid waste issues

NEWMOA

NERC

IMERC

PSI

IC2



# PARTICIPATION IN TPCH

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- Allows for joint administration, record keeping
- Develop the Certificate of Compliance jointly
- Allows for update to the model
  - Connecticut's PFAS in food packaging law is based on the model
- Allows for first level of enforcement – notification from the Clearinghouse
- Connecticut, working with other TPCH states, issued a notice of violation to a manufacturer for use of a non-compliant package (lead solde in a circuit board). Manufacturer removed all non-compliant packages across the USA.



# CONNECTICUT'S VISION FOR THE FUTURE



Address administration of additional toxics in packaging through the model and the Clearinghouse

Expand our service area to work with states addressing toxic in packaging through EPR or PFAS in packaging specific laws

Bring in more partners in the packaging space

Expand the use of the Certificate of Compliance process

# STATE PERSPECTIVE

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**Emily DeMaio**

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**New Jersey**



**Department of Environmental Protection**

# NJ'S TOXICS IN PACKAGING SCREENING PROGRAM

New Jersey has been running a screening program to test packaging for compliant levels of lead, cadmium, mercury, and hexavalent chromium

- This process is held in-store and testing of respective stores and products is replicated throughout 3 regions of the state.



XRF device is used to test and confirm that packaging is below the required 100 ppm of lead, cadmium, mercury and hexavalent chromium.

- Test results are shared through TPCH and members are notified of packaging of concern



# INDUSTRY PERSPECTIVE

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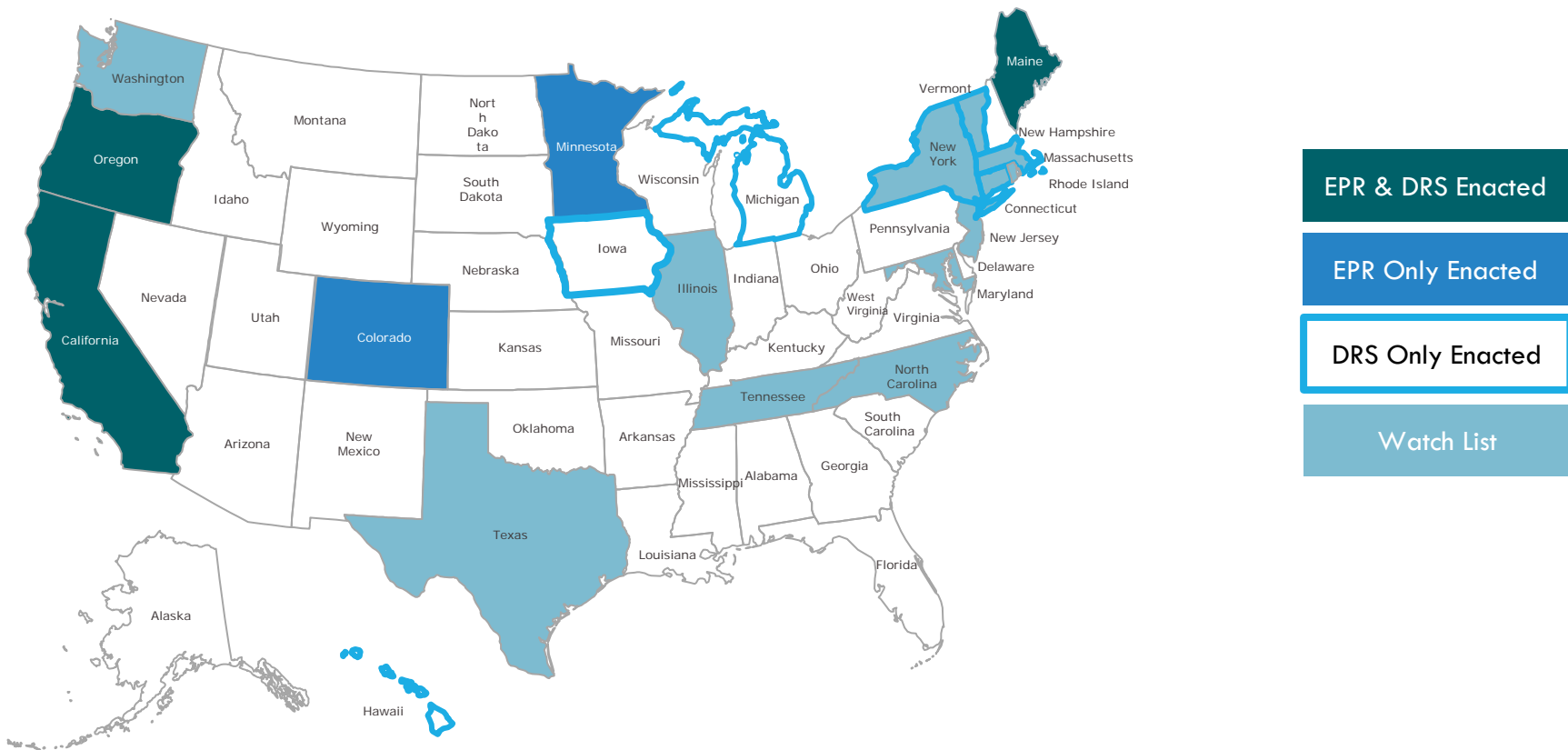
**Scott DeFife**

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**Glass Packaging  
Institute**



# PACKAGING EPR AND DEPOSIT LANDSCAPE



- EPR & DRS Enacted
- EPR Only Enacted
- DRS Only Enacted
- Watch List

# QUALITY MATTERS



**MRF GLASS vs BOTTLE BILL /DROP-OFF GLASS**





# WHY GLASS INDUSTRY ENGAGES WITH TPCH



- TPCH is a forum that allows us to talk with leading state toxics regulatory agencies together on issues that do not vary from state to state
  - Legacy use of metals/metal oxides of concern have long been eliminated from Domestic production but may not be the case for all imports
  - As recycled content demands grow – but quality worsens – the opportunity for higher levels of metals or elements of concern increases
  - Harmonization across global production offers opportunity to focus on the most problematic sources
  - As EPR for packaging advances, TPCH can be a resource on toxics issues and help ensure that there are one set of toxics regulations in each state that are harmonized across the country.
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# NEXT STEPS



**TOXICS IN PACKAGING  
CLEARINGHOUSE**

# THANK YOU FOR COMING

*Administered by NEWMOA:*

**John Fay**

TPCH Project Manager

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*TPCH Chair:*

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