

2022



# GOVERNMENT RELATIONS REPORT



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## OVERVIEW

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The HCPA Government Relations team, with thought leadership from its advisory committees and regulatory subject matter experts, tackled high-profile legislation across the United States and in the nation's Capital in 2022. The Association membership was well represented in discussions on numerous proposals in legislatures that generated positive outcomes on issues that will impact the entire supply chain for years to come.

In Congress, HCPA led a successful initiative to increase appropriations for the U.S. Environmental Protection Agency (EPA) and spearheaded legislative engagement for the reauthorization of the Pesticide Registration Improvement Act (PRIA).

This year's elections disrupted conventional wisdom regarding mid-term power shifts. With a split Congress, states will again look to set national policy, especially within new one party trifectas. HCPA and its members must prepare to address policy proposals that will touch every member within the Association's seven Divisions and the federal and state priorities on which HCPA anticipates high-level government relations engagement.



# FEDERAL GOVERNMENT RELATIONS

## APPROPRIATIONS

During the first half of 2022, HCPA made steady progress with its advocacy for additional federal appropriations for mission-critical work at the EPA. The Association conducted outreach to Rep. Chellie Pingree (D-ME) and Sen. Jeff Merkley (D-OR), Chairs of the House and Senate Appropriations Subcommittees on Interior, Environment, and Related Agencies, and enlisted the support of a bipartisan group of lawmakers from both chambers to advocate for directing resources to repair staffing shortfalls, accelerating information technology modernization, and improving tools for advancing regulatory decision making. HCPA's work yielded significant increases for Pesticide Licensing within the Office of Pesticide Programs and an historic funding increase for the Pollution Prevention Program in support of Toxic Substances Control Act (TSCA) activities.

HCPA's appropriations advocacy included discussions with lawmakers and EPA's career and political leadership on the need for resolving regulatory inefficiencies and delays. In October, HCPA's senior leadership met with Dr. Michal Freedhoff, Assistant Administrator of the EPA's Office of Chemical Safety and Pollution Prevention, and her team to address ongoing management challenges related to TSCA and PRIA. HCPA's President & CEO, Steve Caldeira, made a commitment to Dr. Freedhoff that the Association will work with the agency in support of critical infrastructure resources and provide counsel on how the EPA can better serve regulated stakeholders.

# PESTICIDE REGISTRATION IMPROVEMENT ACT (PRIA)

Because of HCPA's leadership over the last 20 years, PRIA's Congressional authorization has been regularly renewed and the EPA's pesticide program has been improved along the way. The Association is again working with Congress to reauthorize the law before its expiration on September 30, 2023.

A founding member of the PRIA Coalition, HCPA's work to unite industry and environmental non-governmental organizations (NGOs) is reflected in a provision in the reauthorization proposal that will support a new training program for new agency employees. If enacted into law, the program will leverage academic talent from higher education institutions serving minority populations to develop curricula aimed at improving regulatory outcomes from next generation federal regulators. Additionally, HCPA provided guidance on ingredient transparency and digital disclosure for bilingual product information and supported new standards for antimicrobial devices to strengthen public health claims.

After finalizing a negotiated agreement, HCPA coordinated and completed dozens of meetings on behalf of the PRIA Coalition with House and Senate professional staff and Congressional leadership.

## PACKAGING SUSTAINABILITY

Even though, state legislatures moved quickly on Extended Producer Responsibility (EPR) and other packaging sustainability measures, momentum for federal packaging policies did not materialize in 2022. However, HCPA kept tabs on legislation that intended to strengthen the nation's recycling infrastructure. Bipartisan proposals focused on creating new grant programs and establishing EPA reporting mechanisms on the capability of the U.S. to implement a national strategy for reducing contamination rates for recycling and collecting data on recycling and composting rates by federal agencies.

## RAIL STRIKE & SUPPLY CHAINS

Preventing supply chain disruptions remained a high profile matter of concern for the Association and was a frequent topic of conversation with Congressional staff. As railroad unions and the U.S. Department of Labor worked to complete an agreement on national bargaining, HCPA advocated with House and Senate leadership to use Congressional authority to prevent devastating disruptions to supply chains if the unions rejected the National Tentative Agreement negotiated in September.



## SAFER CHOICE PROGRAM

This year, HCPA was again awarded a Safer Choice Partner of the Year Award, joining plaques from 2020, 2019, 2017, 2016, and 2015. The 2022 award reflected HCPA's robust advocacy in support of Safer Choice by organizing a broad group of stakeholders to successfully advocate for the restoration and growth of the initiative, as well as increasing the engagement of HCPA members with the Safer Choice Program.



# STATE GOVERNMENT RELATIONS

## EXTENDED PRODUCER RESPONSIBILITY (EPR)

EPR gained traction in 2022, and HCPA was included in small-table negotiations in California to help amplify policy positions on Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) regulated products in states with active legislation. Anticipating 2023 momentum, in September, the HCPA team traveled to Washington State for meetings with key legislators who are leading the charge on product stewardship legislation.





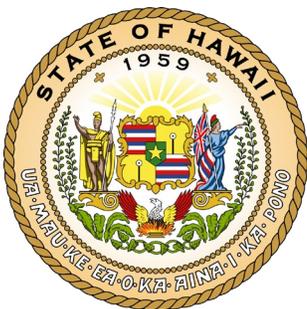
## CALIFORNIA SB 54

One of HCPA's goals was to prevent a plastics ballot initiative from being included in this year's election. Since laws passed by ballot measure cannot easily be amended, HCPA sought a traditional legislative approach that would provide the industry with more opportunities to engage the legislature as parties navigate the requirements of the new law. Through the negotiation process, HCPA successfully advocated to exempt all FIFRA regulated products and plastic aerosols. The Association also sought exemptions for all flammable or hazardous packaging, significant reductions and the eventual sunset of environmental mitigation funds, a pathway for advanced recycling, a decrease in source reduction requirements, and cost savings through a rural exemption.



## COLORADO HB 22-1355

The new Colorado EPR law requires producers selling packaging and printed paper to fund and manage a statewide recycling system through a producer responsibility organization (PRO). HCPA opposed the bill because of concerns about shifting tremendous costs on producers without sharing responsibility across the value chain. Moreover, the Association had concerns about the bureaucratic approach to governing the PRO, which may limit its ability to make timely adjustments to achieve EPR goals.



## HAWAII HB 2399 | SB 3246

The Hawaii EPR bill was considered a tax on consumer products in order to fund local recycling programs. HCPA opposed the measure and urged the legislature to align the requirements with emerging programs in other states should they proceed with an EPR program. This fall, HCPA joined industry partners, including the Hawaii Food Industry Association and the Chamber of Commerce Hawaii, to develop 2023 engagement strategies to address the unique issues facing HCPA represented products.



## MAINE LD 1541

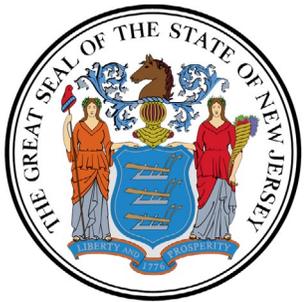
After being signed into law in 2021, Maine launched the implementation phase for its EPR rules governing paper and packaging waste. The law grants Maine's government a heavy hand of control, as it requires producers to finance stewardship organizations, making them more responsible for the packaging they put into the market. HCPA remained an active participant in the implementation process and is amplifying the need for a coherent rule.



## NEW YORK A10185 | S1185

Prior to losing his 2022 re-election, Assemblyman Steve Englebright (D-Long Island) authored EPR legislation that included an expansion of the state's toxics laws. Englebright's bill was introduced following Gov. Kathy Hochul's proposed EPR program being removed from the FY22 executive budget bill.

Separately, former State Senator Todd Kaminsky introduced S1185 to establish an EPR program. First introduced in 2021, Kaminsky's bill moved out of the Senate Environmental Conservation Committee, but HCPA successfully opposed both measures.



## NEW JERSEY S. 426

HCPA is actively engaged on EPR legislation introduced by Senate Environment Committee Chair Bob Smith. With New Jersey's odd-years election, the legislature's slate of active bills moves into 2023. HCPA will continue its work in Trenton as we expect EPR will be a priority for Senate leadership.



## WASHINGTON SB 5697 | HB 2003

The state of Washington worked to establish a producer-run program for the cost and management of consumer packaging and paper products, including reuse and recycling rate targets. HCPA remained engaged throughout the process on various drafts of the legislation and worked directly with the author to include an exemption for FIFRA products. Despite this, the program proved to be too far outside of our established principles for EPR and HCPA amplified concerns about the bill until it was ultimately shelved.



## PACKAGING & POST-CONSUMER RECYCLED CONTENT (PCR)

### Washington State Post-Consumer Recycle Mandate Implementation

HCPA, this year, tackled implementation of Washington State's PCR law, SB 5022, which mandates benchmarks for certain plastic post-consumer recycled content, including household cleaning products. HCPA joined the PCR Advisory Committee led by the Washington State Department of Ecology. Through these advisory meetings and written comments, HCPA is actively advocating for the exemption of FIFRA regulated products and plastic aerosols, parity with other products, including the exclusion of bottle caps and closures, and a fee structure that rewards producers for PCR content.

## HOUSEHOLD HAZARDOUS WASTE

In anticipation of a renewed focus on the issue of state-level household hazardous waste legislation, HCPA established a task force to inform the development of a policy position on waste collection approaches that will be shared with state legislators and like-minded industry groups with interest in this topic. The Association will also coordinate with other industry trades to align on policy recommendations.



### VERMONT H. 115

HCPA ramped up its engagement in Vermont this year, voicing concerns about a complicated product stewardship program for household hazardous waste. The bill made its way through the House and died in the Senate. The legislative framework has again raised concerns about state legislatures expanding definitions of hazardous waste to include products that have been exempted through the Resource Conservation Recovery Act (RCRA). HCPA expects the bill to be reconsidered in 2023.



## **MICROPLASTICS**

Prompted by concerns for the environment and human health, states are exploring restrictions on microplastics in consumer and industrial products, with an eye on biodegradable encapsulated innovations. While secondary sources, such as tires and textiles, introduce a large majority of microplastics into the environment, intentionally added products have been an easy target for regulations. California became the first state to propose a law with a broad reach, encompassing several HCPA represented products. HCPA's focus is on aligning forthcoming European microplastic definitions and biodegradability standards with proposed legislative and policy initiatives.

## **PESTICIDE RESTRICTIONS AND FEES**

HCPA monitors state proposals to increase pesticide registration fees and works to ensure that revenues are dedicated to support initiatives that benefit registrants equally. Many bills that HCPA tracked this session targeted restrictions on insecticides, herbicides, and rodenticides. Additionally, states aimed to reclassify neonicotinoids as restricted use pesticides or fully remove neonicotinoid-derived products from the market. HCPA was successful in defeating and mitigating many proposals aimed at preventing consumers from using pesticide products in a responsible manner.

## **CALIFORNIA MILL ASSESSMENT INCREASE**

This year HCPA worked with member companies on proposed regulatory process improvements for the state's pesticide regulatory program. The discussions were triggered after Governor Gavin Newsom proposed, through his annual budget, to increase the California mill assessment. HCPA and allied trades successfully shelved this issue for two years and, instead, the Governor approved a study of this matter. A draft of that study is due in December, and we anticipate a renewed proposal in the January budget. HCPA is working with members on a possible countervailing measure for 2023.



## CALIFORNIA SUSTAINABLE PEST MANAGEMENT

HCPA, this year, prepared for engagement with policymakers in response to a forthcoming report from the state's Sustainable Pest Management Work Group that will include a recommended roadmap with ambitions to achieve the state's vision to accelerate a system-wide transition to "safer, more sustainable pest management." HCPA has previewed the draft and we can expect several concepts from the document including pesticide restrictions.

### CALIFORNIA AB 2146

Governor Newsom vetoed legislation that would have prohibited the sale or use of neonicotinoids for application on outdoor ornamental plants, trees, or turf. HCPA spearheaded early opposition and, later, negotiations on this proposal to prevent a ban of an entire class of neonicotinoids. HCPA successfully narrowed the scope of the bill to products used on outdoor ornamental plants, trees, or turf. The bill in California could serve as a model for future legislation in other states.

### COLORADO SB 22-131

HCPA met with key members of the Senate Agriculture and Natural Resources Committee and testified in opposition to a proposal that would restrict common pesticide applications, as well as uses of the neonicotinoid class of insecticides. The bill was defeated following a robust policy debate.

### MINNESOTA HF 4492 | SF 4062

HCPA joined with the Minnesota Chamber of Commerce to oppose legislation that would allow municipalities to restrict the use of pesticides that have a pollinator protection box or precautionary statement on the label. The Association expects this legislation to be resurrected in 2023.



# PFAS

## **CHEMICALS MANAGEMENT PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES (PFAS) IN CONSUMER PRODUCTS**

Concerns over potential health and environmental risks associated with some PFAS spurred legislative action against its use in consumer products, pesticidal products, and containers. Maine served as a tip-of-spear state with new mandates targeting PFAS in products and the environment. California, Colorado, New Hampshire, New York, and Washington, followed suit by enacting legislation related to PFAS remediation, PFAS in drinking water systems, PFAS in products, and PFAS reporting.

The 2022 PFAS legislative campaign moved quickly and states have adopted excessively broad definitions, resulting in a class approach to regulating the substance. Consequently, states are unable to distinguish between PFAS categories, use, function, exposure, and chemical properties and must treat the substance as a single regulatory group. HCPA engagement has increased as member companies' products are included in the scope of regulated products. HCPA advocacy has amplified the need for scientifically accurate approaches to policymaking, including establishing a national standard for PFAS and refined definitions to mitigate supply chain disruptions.

## **MAINE LD 1503**

Although HCPA opposed the legislation based on its broad definition of PFAS, the proposal was enacted. HCPA participated in stakeholder meetings hosted by the Maine Department of Environmental Protection (DEP) to review the concept draft rule for intentionally added PFAS in Products Registration Program. The Department discussed modifications to the concept draft rule, parts of the draft rule that come from statute and cannot be amended, and areas where DEP is seeking further input. HCPA provided feedback on the concept draft rule in July 2022 and submitted additional comments in November.

## **MAINE LD 263**

HCPA continued its work spotlighting concerns with the Main Board of Pesticide Control about needed confidential business information protections related to pesticide application forms. The Board is revising its forms, which include the collection of confidential statements of formula (CSF) for every new pesticide registration and related PFAS inquiries.

## **MAINE LD 2019**

The Maine Board of Pesticides interpretation of directives pertaining to regulating pesticide containers with PFAS is of concern to HCPA and members. Given that pesticide containers are regulated under federal law, the Board decided to gather information on existing rules through a workshop, which will inform how the state should proceed.

## **CALIFORNIA AB 2771**

The law bans PFAS from use in cosmetics, but HCPA's focus, alongside allied trades, is to educate the legislature, administration, and California Environmental Protection Agency about the consequences this new law will have for next-generation aerosol propellants with low global warming potential. HCPA will continue to work with state regulators and policymakers on this matter.

## **CALIFORNIA AB 2247**

HCPA opposed and Governor Newsom vetoed a bill that would have required a manufacturer of a product containing intentionally added PFAS to register the product on a publicly accessible reporting platform created by the Department of Toxic Substances Control (DTSC) and the Interstate Chemicals Clearinghouse (ICC). HCPA expressed concern that the measure would create complex and redundant reporting requirements that lack sufficient confidential business information protections.

## (PFAS) CONTINUED

### MINNESOTA HF 2906 | SF 3403

HCPA testified in opposition to HF 2906 before the Committee on Environment and Natural Resources Finance and Policy and underscored the unnecessarily broad definition of PFAS. The proposal ultimately died in committee, but the bill's broad definition would restrict the use of important aerosol propellants that are safe for humans and the environment.

### MINNESOTA HF 3075 | SF 3326

HCPA opposed this proposal, which was not enacted. The bill requires a manufacturer of a product that contains intentionally added PFAS to submit written notice to the Pollution Control Agency. The language later emerged in a budget bill originating in the House where HCPA corresponded with members of the Budget Conference Committee with concerns about the imposition of redundant reporting requirements.

### WASHINGTON HB 1853 | SB 5703

In a bill that would ban PFAS in cosmetics, HCPA worked directly with the author to secure an amendment to exempt hydrofluoroolefins (HFOs). The bill later failed, but is expected to return in 2023.



## 1,4-DIOXANE

HCPA monitored action in several states, including California, Connecticut, Massachusetts, and New York, as they move to develop standards and guidance values for 1,4-dioxane in water, soil, and air across multiple regulatory programs. Of continued interest to HCPA is the implementation of the New York Environmental Conservation law to establish a maximum allowable concentration of 1,4-dioxane in household cleansing, personal care, and cosmetics products. HCPA continued its engagement with New York regulators on waiver compliance as the law prohibits the distribution or sale in New York of household cleansing products that contain more than the designated trace concentration amount by December 2023.



## PRODUCT LABELING

From Prop 65 to recyclability claims, this year brought no shortage of issues potentially impacting labeling changes for HCPA represented products. Following California’s 2021 enactment of a “chasing arrows”/ recyclability claims law, other states have considered similar legislation. Municipalities concerned about stress on wastewater systems are supporting laws requiring non-flushable nonwoven disposable products to be labeled as “Do Not Flush.” While no new legislation pertaining to product flushability was proposed in 2022, HCPA continues to ensure that implementation of these laws remains consistent across state lines.

### NEW JERSEY **S.2145**

Targeting recyclability claims, the bill intends to prohibit the sale, distribution, and import of certain products marketed as recyclable, unless the state determines the product to be widely recyclable. HCPA is working with the Chemical Council of New Jersey to coordinate advocacy with legislators in opposition to this state-level mandate.

### WASHINGTON **SB 5658 | HB 1932**

HCPA testified in opposition to SB 5658 before the Senate Environment, Energy & Technology Committee. HCPA’s Washington counsel reinforced HCPA’s concerns with lawmakers, including the prospect of patchwork labeling requirements following the 2021 requirements in California, as well as the inability to encourage consumers to recycle when recycling programs are available.

### HAWAII **SB 2846 | HB 1646**

This legislation would prohibit the sale of consumer goods for which a deceptive claim about the recyclability of the product or packaging is made and establish separate standards for the recyclability of products in the state. HCPA engaged with members of the House Energy & Environmental Protection Committee to underscore concerns that this labeling requirement would help set the stage for a patchwork of recyclability labeling standards.

## CALIFORNIA SHORT-FORM SAFE HARBOR WARNING: LABELING RESTRICTIONS

Among other restrictions, this proposal would restrict the Proposition 65 short-form warning to products with less than 12 square inches of surface space. In response to concerns submitted in 2021, the California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) modified and later dropped its proposal to expand the circumstances in which the short-form label could be used. OEHHA confirmed that the proposal will return and HCPA staff will continue to monitor any new proposals related to the short-form warning.



## WASHINGTON “DO NOT FLUSH” LABELS, LEGISLATIVE LETTER OF INTENT

The sell-through provisions in Washington State's “do not flush” law make it unclear what products can be sold following the July 2022 deadline and create compliance challenges for FIFRA registered products. HCPA engaged with state officials regarding concerns that, due to a legislative drafting error, the sell-through provisions could be read to prohibit certain products that are in compliance. In coordination with impacted companies and the nonwoven fabrics industry (INDA), HCPA worked with lawmakers in Washington to clarify that this was not the intent and counter to the purpose of the law.

HCPA's work included a letter from key legislators in Washington that was sent to the Attorney General to clarify “that the intent of that sell-through language is to be applicable to those products that are not yet in compliance with the labeling requirements under this law.” HCPA is preparing for possible legislative action relative to FIFRA products in 2023.



# FEDERAL & STATE ELECTIONS

Due to the results of the mid-term elections, the next Congress will find it difficult to pass spending bills on time and move legislation with expiring authorizations, such as the farm bill and other “must-pass” measures. For this reason, HCPA is working through the lame-duck Congress to pass PRIA reauthorization and ensure that the Fiscal Year 2023 spending bills, which contain mission-critical funding increases for EPA, are enacted before the end of the year.

HCPA members should expect the House to ramp up investigations of the Biden Administration and take aim at high-profile corporations in technology and mass media. Additionally, Republicans are looking to spotlight corporate environmental, social, and governance (ESG) reporting. Oversight investigations could include examining implementation of TSCA and other management challenges within the Agency. The Association will monitor, engage Congress when appropriate, and report on these activities.

With 74 new members in the House and seven in the Senate, HCPA will be focused on engaging with policymakers to educate them and their staff about the industry, important federal regulatory activity, the expanding patchwork of state laws, and the influence of international policies. Republican members, especially those representing agriculture intensive districts, will be reluctant to support additional funding for any function within the EPA. Accordingly, HCPA will accelerate Congressional meetings in January and coordinate a mid-year fly-in for members to meet with Congressional staff who may be unaware of myriad federal regulatory functions affecting the industry.



## FEDERAL & STATE ELECTIONS CONTINUED

HCPA's state legislative priorities include bills and regulations on producer responsibility, plastics, chemicals in consumer products, household hazardous waste, labeling, and sustainability. These issues dominate our engagement in the western states of California, Colorado, Hawaii, Oregon, and Washington and the eastern states of Connecticut, Maine, Maryland, Massachusetts, New Jersey, New York, and Vermont.

The election resulted in notable power shifts in Michigan, Minnesota, and Pennsylvania, which will be added to HCPA's list of priority states. Democrats took control of the House and Senate in Minnesota and Pennsylvania. In Maryland and Massachusetts, where there was divided government, new Democratic trifectas are firmly in place. For high profile issues, such as EPR and state chemical legislation, these changes will require HCPA to invest time and human capital in legislatures where disruptive proposals have a renewed chance of becoming law.

In summary, in the absence of a functional U.S. Congress, states will accelerate their work enacting laws intended to establish complex regulatory frameworks that will impact all products manufactured by member companies. HCPA's Government Relations team will leverage relationships and coalitions in key states to offer policy solutions derived from thought leadership within each Division.





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