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The dismissal of a lawsuit challenging "climate neutral" labeling claims, a European ban on "meat" names for plant-based foods, a letter urging FDA to allow states authority to regulate food safety, and more.

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OCTOBER 31, 2025



SPOTLIGHT ON ANIMAL HEALTH & AGRIBUSINESS

D.C. District Court Dismisses Lawsuit Regarding PFAS in Biosolids

By Associate [Caitlin Robb](#)

A federal district court has dismissed a lawsuit brought by farmers, environmental groups and local governments against the Environmental Protection Agency (EPA), according to the opinion issued by Judge Dabney L. Friedrich in [Farmer v. EPA](#). The plaintiffs—who filed their suit in August 2024—alleged that EPA failed to meet its statutory duty under the Clean Water Act (CWA) and Administrative Procedure Act (APA) to identify and regulate PFAS in agricultural biosolids.

Specifically, the plaintiffs alleged that EPA failed to identify 18 PFAS chemicals present in biosolids and failed to regulate 11 PFAS chemicals previously listed in EPA's biennial reports. They claimed these omissions posed risks to public health and the environment, and asked the court to order EPA to take regulatory action within specific deadlines.

The court dismissed the CWA claims because "[e]ven assuming that Section 402(d)(2)(C) requires EPA to identify and to regulate additional sewage-sludge pollutants at some point, it does not specify a 'date-certain deadline' by which the agency must do so." The court found that the CWA only requires EPA to "review" its regulations every two years, but does not require the agency to take further regulatory action within a specific timeframe. Without a clear, non-discretionary duty tied to a deadline, the court lacked subject-matter jurisdiction over the plaintiffs' CWA claims.

The court dismissed the APA claims because EPA's biennial report is "informational in nature" and "is not a final agency action" because "it does not tell regulated parties what they must do or may not do in order to avoid liability." Therefore, without a final action subject to judicial review, the plaintiffs' failed to state a claim under the APA upon which relief could be granted.

While the court made clear that biennial reviews alone cannot be used to force regulatory action, it noted that interested parties, including the plaintiffs, may still petition EPA to initiate rulemaking, and a denial of such a petition could be subject to judicial review. This decision may prompt further alternative administrative or legal actions from industry groups seeking to address the regulation of PFAS and biosolids, and also outlines the procedural hurdles for those seeking to compel EPA action.

Shook's [Animal Health and Agribusiness team](#) brings vast experience in litigation and regulatory matters to advocate for those who are passionate about serving in the animal health industry. To learn more about Shook's animal health and agribusiness capabilities, please contact Practice Co-Chairs [Joseph H. Blum](#), [Phil Goldberg](#), or [John F. Johnson III](#).



Riding the Regulatory Rollercoaster: FDA Changes in 2025 and What's Ahead

Shook Senior Counsel [John F. Johnson III](#) discusses U.S. Food and Drug Administration (FDA) actions in 2025 at a complimentary webinar presented in partnership with AIB International. The presentation focuses on key updates to food ingredients and color additives, the agency's current stance on biological, chemical and allergen hazards, predictions for 2026 and more. [Register today](#) to attend the webinar on November 14 at 10:00 a.m. CT.



LEGISLATION, REGULATIONS & STANDARDS

Newsom Signs First-of-its-Kind Restaurant Allergen Labeling Law

California Gov. Gavin Newsom has signed into law a first-in-the-nation bill that requires certain restaurants to label major food allergens on menus or in a digital format. [SB 68](#), also known as the Allergen Disclosure for Dining Experiences Act, applies to chain restaurants with 20 or more locations doing business under the same name and offering for sale substantially the same menu items. Such establishments were already subject to federal nutrient content disclosures. The allergens include milk, eggs, fish, shellfish, tree nuts, wheat, peanuts, soybeans and sesame. The law takes effect July 1, 2026.

Advocacy Groups Urge FDA to Permit State Action on Food Safety

A coalition of 84 advocacy groups—including the Environmental Working Group, *Consumer Reports*, Center for Food Safety and U.S. Public Interest Research Group—has sent the U.S. Food and Drug Administration (FDA) a [letter](#) urging the agency "to reject efforts to limit the power of states to protect consumers" as the federal government considers food safety legislation. The letter asserts that the agency "has failed to address the safety of food and food contact chemicals" for "many decades."

"Most food chemicals enter commerce without a safety review by the FDA, and the FDA does not routinely reconsider the safety of food chemicals once they have entered commerce. As a result, many food and food contact chemicals allowed in foods offered for sale in the United States are not allowed in foods offered for sale in other nations. In response, states have led efforts to address the risks posed by food and food contact chemicals by enacting laws in five states and considering laws in more than 20 states. The ingredients addressed by these state laws and bills have already been addressed by many of our trading partners in other nations," the coalitions argue. "While we remain hopeful that FDA will fulfill their food safety responsibilities, we urge you to reject efforts to undermine the important supplementary role played by states."

European Parliament Approves Banning Meat Names for Plant-Based Foods

The European Parliament has approved a measure banning the use of words associated with meat to describe plant-based foods, according to a [BBC report](#). The news organization said the 355-247 vote "is seen as a victory for livestock farmers who say the labels threaten their industry and livelihoods." To become law, the legislation will next need the approval of the European Commission and the governments of the EU's 27 member countries.

NRDC Sues EPA for Lack of Response to Pesticides Petition

The Natural Resources Defense Council (NRDC) has filed suit against the Environmental Protection Agency (EPA) for the agency's alleged lack of response to its petition seeking the revocation of all "food tolerances" for neonicotinoid (neonic) pesticides. [*In re Natural Resources Defense Council, Inc.*](#), No. 25-1251 (D.C. Cir., filed October 29, 2025). According to an [NRDC news release](#), the group's 2020 petition determined that current tolerances violate the Food, Drug, and Cosmetics Act and "permit widespread exposure to neonics, demonstrated developmental neurotoxins, at levels that are not safe for the American population." "This failure to respond to unsafe levels of neonics in our food is a danger to our health, especially for our children," a spokesperson for NRDC said in a statement.

Court Dismisses Zbar 'Climate Neutral' Labeling Suit

A federal court has dismissed a plaintiff's proposed class action alleging Mondelez made misleading packaging statements about its Clif Bar Zbars being "climate neutral." [*Salguero v. Mondelez Int'l, Inc.*](#), No. 25-2139 (N.D. Ill., entered October 27, 2025). The plaintiff alleged the packaging is deceptive because Mondelez's manufacturing produces greenhouse gases and causes pollution. The court said the plaintiff's claims center on the product being advertised as "climate neutral" but neither allegation in her complaint alleges it was false or deceptive for the product to be labeled as "climate neutral certified." "There is nothing deceptive about Mondelēz including on its packaging a true statement," the court said. "[The plaintiff] takes issue with Change Climate Project's climate neutral representation because it failed to provide information on how companies were offsetting their emissions, but Mondelēz's representation was true—Change Climate certified the product."

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More to Explore

- The October issue of **[Material Concerns: Legal Updates on Substances of Emerging Concern](#)** provides updates on PFAS regulations in California and New Mexico, including a law that would impose broad labeling requirements by 2027.
- Judge **[Kimberly Priest Johnson](#)**, a Shook partner, spoke to the **[Corporate Counsel Business Journal](#)** about how the judiciary approaches emerging technologies.
- The previous issue of the **[Food and Beverage Litigation and Regulatory Update](#)** focused on an industry group's recommendation about a Feastables "blind taste test," a lawsuit alleging added sugar is not a "breakfast essential," a challenge to West Virginia's law banning synthetic color additives, and more.

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As the food and beverage industries become more complex, they require effective legal representation that can quickly evaluate potential liability and craft the most appropriate responses to suspected product adulteration, alleged foodborne outbreaks or environmental contamination claims. For decades, manufacturers, distributors and retailers at every link in the food chain have come to Shook, Hardy & Bacon to partner with a legal team that understands the issues they face in today's evolving food production industry. Shook attorneys work with some of the world's largest food and beverage companies to establish preventative measures, conduct internal audits, develop public relations strategies, and advance tort reform initiatives.

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