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Illinois expands jurisdiction and regulation of PFAS, court dismisses suit challenging Minnesota ban on cookware with PFAS, California initiates process to regulate microplastics under state Safer Consumer Products Law, and more.

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## Illinois Expands Jurisdiction and Regulation of PFAS

On August 15, Illinois Gov. JB Pritzker [signed](#) nearly 270 bills into law, including legislation expanding jurisdiction for claims of exposure to “toxic” substances, as well as two new laws regulating the use of PFAS.

### *Expanded Jurisdiction in Toxic Tort Litigation*

In a significant win for the plaintiff trial bar, [Senate Bill 328](#) significantly expands the jurisdiction of Illinois courts in cases alleging chemical exposure, inviting out-of-state plaintiffs to avail themselves of Illinois state courts. So long as at least one defendant company is headquartered or formed “at home” in Illinois, such suits may now proceed against any business registered to do

business in the state, even if the plaintiff resides out of state, the alleged exposure occurred outside Illinois, and the defendant company is not “at home” in the state. The law specifically applies to claims of exposure to “toxic” substances, defined broadly as “any substance (other than a radioactive substance) which has the capacity to produce bodily injury or illness to man through ingestion, inhalation, or absorption through any body surface.”

The requirement that at least one defendant be “at home” in Illinois is unlikely to limit the influx of out-of-state litigants, given that toxic tort cases often involve multiple defendants and that an in-state defendant is often joined to defeat federal diversity jurisdiction.

The law, which is effective immediately, follows a [U.S. Supreme Court decision](#) upholding a similar [Pennsylvania statute](#). Companies registered to do business in Illinois should evaluate their registration to determine whether continued registration is necessary to their business.


#### *Expanded Regulation of Products Containing PFAS*

The recently signed [House Bill 2409](#) and [House Bill 2516](#) expand the Illinois PFAS Reduction Act, which already regulates Class B firefighting foam containing intentionally added PFAS.

House Bill 2409 targets the use of PFAS in firefighting personal protective clothing. Beginning January 1, 2026, sellers of such clothing in Illinois must provide purchasers with written notice disclosing the presence and purpose of PFAS in firefighting clothing. Effective January 1, 2027, the law prohibits the manufacture, sale, and distribution of firefighting clothing containing intentionally added PFAS. This restriction further expands on January 1, 2030, to include auxiliary firefighting personal protective equipment, such as “self-contained breathing apparatuses and other respiratory protection products, hearing protection, protective communication devices, and fall protection products.”

House Bill 2516 bans the sale and distribution of certain consumer products

containing intentionally added PFAS, as of January 1, 2032. Affected products specifically include cosmetics, juvenile products, dental floss, menstrual products, and intimate apparel. The amendment defines “intentionally added PFAS” as those “deliberately added” during manufacturing when “the continued presence of the PFAS is desired . . . to perform a specific function in the final product.” Civil penalties apply to any person who knowingly violates the ban, and to manufacturers regardless of knowledge. Penalties are set at up to \$5,000 for an initial violation and up to \$10,000 for subsequent violations.



## **Court Dismisses Case Challenging Constitutionality of Minnesota’s Landmark PFAS Product Prohibition Law**

A Minnesota U.S. District Court granted the Minnesota Pollution Control Agency Commissioner Katrina Kessler’s motion to dismiss a suit brought by the Cookware Sustainability Alliance (CSA) regarding Minnesota’s ban on cookware with per- and polyfluoroalkyl substances (PFAS). In 2023, the Minnesota legislature passed Amara’s Law, which, among other things, banned the sale or distribution in Minnesota of cookware products containing intentionally added PFAS. Amara’s Law took effect on January 1, 2025, and was the strictest ban targeting products with PFAS in the country to date. CSA is a non-profit business league organization, consisting of three leading cookware manufacturers, which are all headquartered outside of Minnesota and all manufacture cookware containing PFAS. At the time Amara’s Law was signed into law, at least one manufacturer in Minnesota, Nordic Ware, used PFAS in its cookware. Nordic Ware has since complied with Amara’s Law and ceased producing such cookware.

In February 2025, the court denied CSA’s motion for a preliminary injunction after determining that CSA was “highly unlikely” to succeed on the merits of its dormant Commerce Clause claims. *Cookware Sustainability All. v. Kessler*, No. CV 25-41 (JRT/DTS), 2025 WL 607324, at \*4 (D. Minn. Feb. 25, 2025). In the aftermath, the commissioner moved to dismiss the entire complaint; CSA

voluntarily dismissed, without prejudice, its causes of action under the First Amendment and the Supremacy Clause, leaving only its claims under the Dormant Commerce Clause. In its order on August 11, 2025, the court granted the commissioner's motion to dismiss and concluded CSA's complaint failed to state a dormant Commerce Clause claim. *Cookware Sustainability All. V. Kessler*, No. CV 25-41 (JRT/DTS), slip op. at 14 (D. Minn. Aug. 11, 2025).

First, the court rejected CSA's argument that Amara's Law has the effect of discriminating against interstate commerce, as it only applies to out-of-state manufacturers now that Nordic Ware no longer sells cookware containing PFAS. CSA conceded that Amara's Law is facially neutral and, therefore, pursued the argument that the law had the effect of discriminating against interstate commerce because it only applies to out-of-state manufacturers. *Id.* at 8. The court, however, rejected this argument because it found Amara's Law "applies equally to every cookware manufacturer, regardless of geography." *Id.* at 9. The court concluded that even though Amara's Law "effectively only bans products manufactured outside Minnesota[,] that effect does not equate to a "structural effect on interstate commerce." *Id.* at 8.

Second, the court rejected CSA's argument that Minnesota is "single-handedly regulating the entire cookware industry by banning PFAS in cookware manufacturing," *Id.* at 11, and creating the substantial burden of requiring the industry to significantly change their product lines or exit the Minnesota market. *Id.* The court found that CSA failed to plausibly allege a substantial burden on interstate commerce because CSA focused exclusively on the burden to out-of-compliance market participants. *Id.* at 12. Furthermore, the court deferred to the legislature's decision making that it was acting on behalf of legitimate state interests when it enacted Amara's Law and, in doing so, "sacrifice[d]" having access to nonstick cookware that contains PFAS in the interest of "the overall health of the state." *Id.* at 13. Therefore, the court concluded that not only did CSA not show a substantial burden on interstate commerce, but even if it had, the burden does not clearly outweigh the benefits that Amara's Law provides to Minnesota. *Id.* at 14.


## California Initiates Process to Regulate Microplastics Under State Safer Consumer Products Law

The California Department of Toxic Substances Control (DTSC) has proposed to list microplastics as a Candidate Chemical under the state's Green Chemistry Law and Safer Consumer Products regulatory framework (Cal. Health & Safety Code § 25251 *et seq.*; Cal. Code Regs. §§ 69501 *et seq.*). DTSC defines "microplastics" in the [proposed Candidate Chemical listing](#) as "plastics that are less than 5 millimeters (mm) in their longest dimension, inclusive of those materials that are intentionally manufactured at those dimensions or are generated by the fragmentation of larger plastics." The public notice and comment period on the proposal closed on August 4. DTSC is now evaluating comments and will move forward with finalizing the listing.

A Candidate Chemical listing is the first step of a multi-stage administrative process under the state Safer Consumer Products program. If microplastics are added as a Candidate Chemical, it will empower DTSC to identify and propose products that contain or generate microplastics for further regulation as Priority Products. Other recent examples of DTSC Priority Products include "motor vehicle tires containing 6PPD," "paint or varnish strippers containing methylene chloride," and "carpets and rugs with perfluoroalkyl or polyfluoroalkyl substances (PFAS)," among others. To create a Priority Product listing, DTSC must initiate another separate administrative process involving public notice and comment. Once a product type or category is identified as a Priority Product, all manufacturers of that product in the state must then complete an Alternatives Analysis to assess whether there are any safer alternatives to the Candidate Chemical for substitution in their product. Based on the Alternatives Analysis, DTSC has the authority to select a regulatory response to address the environmental and human health harms posed by the Candidate Chemical in the Priority Product, among them: requiring manufacturers to provide additional product information for consumers if the Candidate Chemical remains in the product; restricting the use of the chemical in the Priority Product; establishing engineered safety measures or

administrative controls; prohibiting sales of the Priority Product into the state; or requiring end-of-life management programs for the product and chemical.

DTSC's [2024-2026 Priority Product Work Plan](#) stated that microplastics are “ubiquitous, persistent, and mobile in the environment and may cause or contribute to adverse human health and ecological impacts.” The department has initiated—in parallel with the proposal to list microplastics as a Candidate Chemical—preliminary screening research into products that may release microplastics. The Work Plan identifies a number of examples of these types of products, including “plastic packaging, synthetic clothing and textiles, cigarette filters, tires, and paints.”



## California Climate Disclosure Laws on the Horizon

California Senate Bills (SB) 253 and 261, as amended by SB 219, are on the horizon. [SB 253](#), the Climate Corporate Data Accountability Act, mandates that business entities with over \$1 billion in total annual revenues doing business in California annually disclose, and obtain an assurance engagement on, their greenhouse gas (GHG) emissions. Starting in 2026, these entities must report their scope 1 and 2 emissions, with scope 3 disclosures beginning in 2027. [SB 261](#), the Climate-Related Financial Risk Act, requires companies with over \$500 million in total annual revenues doing business in California to publish biennial reports detailing their climate-related financial risks, with the first reports due by January 1, 2026.

The California Air Resources Board (CARB) is responsible for implementing both laws and has been actively engaging stakeholders through public workshops and informational documents. While SB 253 requires formal rulemaking, SB 261 may proceed with guidance alone. CARB's deadline to develop and adopt SB 253 regulations was July 1, 2025, yet CARB has announced its commitment to developing regulations by the end of 2025. Importantly, CARB has stated it will exercise its enforcement discretion for the

first reporting cycle, so long as companies demonstrate good faith efforts to comply with the law.

CARB will open a public docket on December 1, 2025, for SB 261 climate-related financial risk reports, which will remain accessible until July 1, 2026.

CARB has reiterated that SB 261 does not mandate the disclosure of information that falls outside of the definition of climate-related financial risks, and the law allows some flexibility in choosing a reporting framework. To provide a phase-in period for reporting, CARB has stated that initial reports may be based on the best available information, including from fiscal years 2023/2024 or 2024/2025.


CARB held a second public workshop to support the development of SB 253 and SB 261 on August 21, 2025. These laws are also the subject of ongoing litigation brought by the U.S. Chamber of Commerce and others, and they may find themselves jeopardized by President Donald Trump's executive order titled "Protecting American Energy From State Overreach." Shook attorneys are closely following developments and updates on SB 253 and SB 261.



## **States Institute Paraben and Phthalate Bans in Cosmetics**

Following the lead of foreign regulatory bodies, several states are attempting to ban certain types of parabens and/or phthalates in cosmetics in response to ongoing consumer concern about these ingredients. States like California and Washington have led the charge to remove these ingredients in cosmetic products, enacting bans on some parabens and phthalates in cosmetics that started this year, in legislation including the California Toxic-Free Cosmetics Act and Washington Toxic-Free Cosmetics Act. Vermont legislation prohibiting these ingredients, [SB 25](#), takes effect next year in 2026. States like Maine and Oregon have also enacted legislation to ban paraben and/or phthalates in cosmetics starting in 2027, including through Oregon's [SB 546](#) (Toxic Free

Cosmetics Bill) and the Maine Safe Cosmetics Act. Increasing concern about these ingredients means that efforts to enact legislation restricting them will likely continue. Manufacturers and sellers should be prepared for these regulations and related litigation in the coming years as policies restricting or prohibiting parabens and phthalates increase.



## **Pennsylvania Supreme Court Blocks Republican Lawmakers From Intervening in Abandoned Oil and Gas Wells Bonding Case**

Abandoned oil and gas wells have long raised environmental and public health concerns in Pennsylvania. With hundreds of thousands of wells drilled prior to modern regulations—and many left improperly plugged—there is increasing concern about these sites releasing various environmental contaminants, including benzene, methane and per- and polyfluoroalkyl substances (PFAS) into the air, water and soil.


The Act of Jul. 19, 2022, P.L. 1622, No. 96 (Act 96) currently caps the bond amount oil and gas operators must pay to plug abandoned wells drilled after 1985 at \$2,500 per well. Environmental advocates argue this amount is far less than actual remediation costs associated with these efforts.

On August 4, 2025, the Pennsylvania Supreme Court denied an attempt by Republican legislative leaders to intervene in a lawsuit challenging the constitutionality of Act 96. The lawsuit, filed in August 2023 by a coalition of environmental organizations, alleges that Act 96 violates the Pennsylvania Constitution's Environmental Rights Amendment by preventing prompt remediation and effectively shifting the financial burden from industry to taxpayers. *Clean Air Council, et al. v. Commonwealth, et al.*, 379 MD 2023 (Pa. Commw. Ct. Aug. 23, 2023).

After the Commonwealth Court denied the legislators' application to intervene




on July 1, 2024, the lawmakers appealed to the state's highest court. The Pennsylvania Supreme Court issued a *per curiam* order affirming the lower court's decision, allowing the case to proceed without legislative intervention. *Clean Air Council, et al. v. Commonwealth, et al.*, No. 59 MAP 2024, *per curiam* order (Pa. Aug. 4, 2025). This decision clears the way for the constitutional challenge to continue and underscores increasing legal scrutiny of Pennsylvania's oversight of legacy oil and gas operations.



## **Congress to Consider Impacts of Microplastics in Food and Water**

Last month, the bipartisan [Microplastics Safety Act](#) was introduced to Congress by Senator Jeff Merkley (D-OR), Representative Janelle Bynum (D-OR), Senator Rick Scott (R-FL), and Representative Greg Steube (R-FL). The bill (H.R. 4486) directs the U.S. Food and Drug Administration, through Secretary of Health and Human Services Robert F. Kennedy Jr., to conduct a study of possible human health impacts of exposure to microplastics in food and water, and submit a report to Congress within one year of the bill's enactment.

The study would identify pathways of human exposure to microplastics and assess potential health impacts. Specifically, the study would focus on possible risks to children's health, the endocrine system, and reproductive health, as well as any potential associated risks related to cancer and chronic illnesses. The report would summarize the study's findings and recommend legislative or administrative actions to address any human health impacts found. The bill has been referred to the House Committee on Energy and Commerce.



## **PFAS and Biosolids: Evolving Considerations for Agriculture**

The presence of PFAS (per- and polyfluoroalkyl substances) in biosolids is drawing increased attention nationwide, and in particular across the agricultural sector. Biosolids—nutrient-rich byproducts of wastewater treatment—are widely used by farmers to improve soil health and support crop growth. However, recent evaluations have raised questions about the long-term environmental behavior of PFAS compounds, often characterized as persistent in soil and water.

Biosolids are often applied to farmland to provide nutrients like nitrogen, phosphorus, and potassium, along with organic matter that improves soil health. Their low cost makes them an attractive alternative to commercial fertilizers. Application methods—such as surface spreading or injection—are timed to crop cycles and managed to prevent overuse and runoff.

As PFAS conversations grow, some states are reevaluating biosolids regulations, and farmers are increasingly testing soils and reviewing biosolid sources. Maine is currently the only state to outright ban land application of biosolids containing PFAS. Connecticut has also passed legislation that prohibits the sale and use of PFAS-containing biosolids and wastewater sludge as soil amendments, which effectively acts as a de facto ban on land application. Other states are also exploring alternative disposal and treatment technologies.

Farmers and agricultural companies alike are responding by reviewing the sources of biosolids used on land, conducting soil and water testing, and considering mitigation strategies. Emerging technologies—such as thermal treatment and advanced filtration—are being studied for their potential to reduce PFAS levels before land application.

As regulatory discussions continue, the agricultural industry is actively engaging with environmental agencies, researchers, and industry partners to better understand the implications, working with regulators and researchers to ensure their safe and sustainable use. The shared goal is to maintain the benefits of biosolids in sustainable farming while responsibly managing emerging contaminants.



## **State of Washington Implements More Stringent Federal PFAS MCLs in Advance of Their Official Effective Date**

In June 2025, the State of Washington's Board of Public Health issued WSR 25-13-093, which became effective on July 18, 2025. This regulation adopts the National Primary Drinking Water Regulations (40 C.F.R. Part 141) and has adjusted various regulations to align these sections with the recent changes to 40 C.F.R. Part 141 regarding certain PFAS compounds.

On April 10, 2024, the U.S. Environmental Protection Agency (EPA) published the first [national standards](#), or Maximum Contaminant Levels (MCLs) related to per- and polyfluoroalkyl substances (PFAS) in drinking water for PFOA and PFOS. While EPA officially adopted the MCLs on June 24, 2024, the MCLs do not take effect until April 2029.

Back in 2021, the Washington State Board of Health adopted PFAS state action levels (SALs) that require Washington's more than 2,430 Group A water systems, non-transient and non-community systems to test by law for certain PFAS compounds in drinking water by December 2025. The SALs included a provision stating when the EPA adopts national MCLs those MCLs, and their requirements, including monitoring and public notice, replace Washington's SALs. EPA's new federal MCLs for PFOA and PFOS (PFOA: 4ppt; PFOS: 4ppt) were lower, and therefore more stringent than Washington's SALs (PFOA: 10ppt; PFOS: 15ppt).

On June 18, 2025, the Board of Health took an additional step, formally adopting and implementing the more stringent federal MCLs, unwilling to wait until 2029 for the more stringent federal standards to take effect. Similar laws are expected to be adopted across the country because of the slow rollout of the federal MCLs and uncertainty of their implementation.



## Editor's Note

Last month's *Material Concerns* [reported](#) on Minnesota's January 1, 2026, deadline for manufacturers and sellers of products to report intentionally added PFAS in products sold in Minnesota, under M.S.A. § 116.943. Late last month, the Minnesota Pollution Control Agency announced a six-month extension to the Act's deadline. Manufacturers now have until July 1, 2026, instead of January 1, 2026, to submit the required information to the agency. The extension is intended to provide manufacturers additional time to establish agreements with suppliers, and to gain familiarity with the agency's new reporting platform expected to launch this fall.

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## More to Explore

- Shook Environmental Practice attorneys provide a roundup of state-level legislation and regulations targeting PFAS in consumer products in the July 2025 issue of [\*\*\*Material Concerns\*\*\*](#).
- Shook Public Policy Group Co-Chair [Mark Behrens](#) and Associate [Joe Zaleski](#) co-authored an article in [Mealey's Emerging Toxic Torts](#) about Tennessee's new Sound Science in Regulations Act.
- Shook Environmental Practice attorneys discuss a dismissed California microplastics case, the MAHA Commission report, changes in federal PFAS priorities and more in the June 2025 issue of [\*\*\*Material Concerns\*\*\*](#).

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