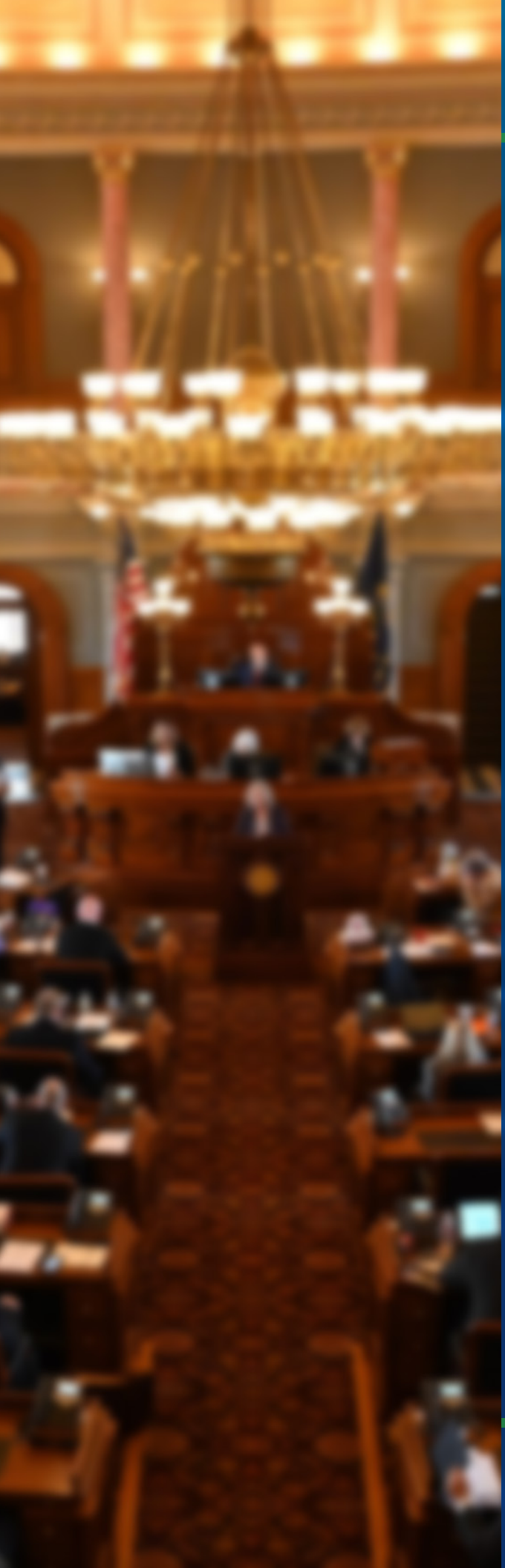

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2024 Analysis of State Legislation Addressing Toxic Chemicals and Plastics

FEBRUARY 8, 2024

safer states

An Alliance for a Healthier World

Safer States is a national alliance of environmental health organizations and coalitions from across the nation working to safeguard people and the planet from toxic chemicals, and to ensure availability of safer solutions for a healthier world.

Led by state-based organizations, the alliance seeks government and corporate action that lead to safer chemicals and materials, and protection of public health and communities by transitioning away from harmful chemicals and holding chemical polluters accountable.

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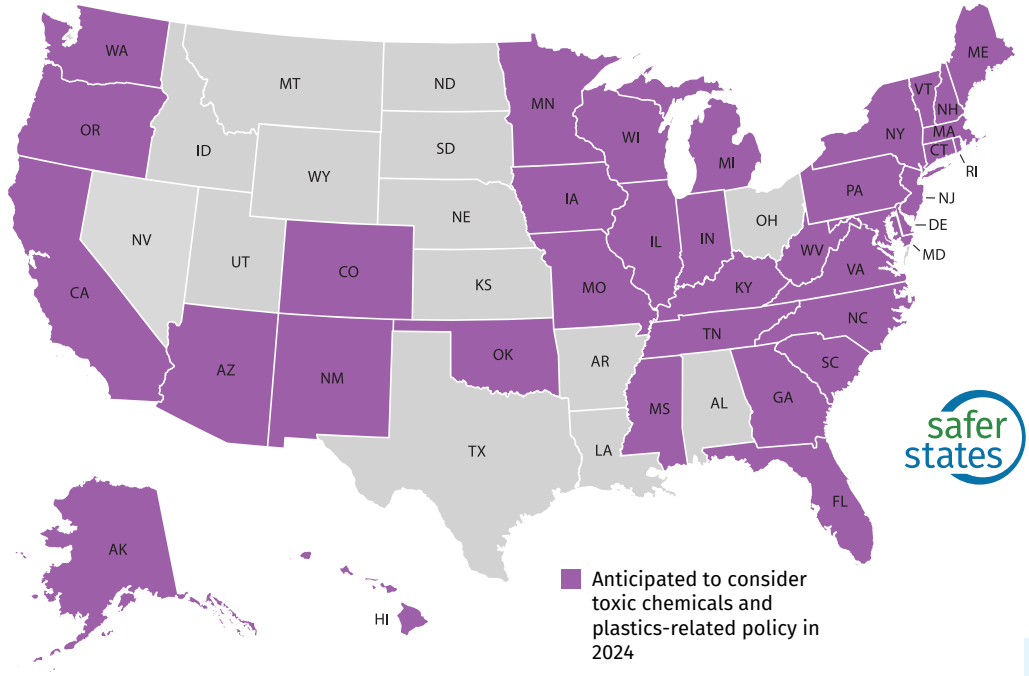
Introduction

Safer States analyzed state-level policies anticipated for 2024 that help drive toward safer chemicals, materials and healthier communities. **The analysis found that at least 36 states will consider at least 450 bills on toxic chemical-related policies with PFAS, plastics, and cosmetics as key focus areas.**

The **36** states we anticipate will consider toxics policy are Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, Washington, West Virginia, and Wisconsin.

Key areas of focus for 2024 include addressing the ongoing PFAS contamination and plastics pollution crises, protecting drinking water, and restricting hazardous chemicals in cosmetics and personal care products. Major themes in state legislation being considered this year are access to clean drinking water and safer products, information and phase-outs on chemicals used in products, and policies to hold polluters accountable for harm. More states are addressing PFAS in sludge and water than in previous sessions. Several states are exploring ways to reduce the use of plastics overall, eliminate the use of the most toxic plastics (PVC and polystyrene) and chemical additives, investigate sources of microplastics, prevent false solutions and incentivize reuse. There is also continued pressure to reduce toxic chemicals in food and food packaging. These types of policies are part of a larger movement toward safer materials and eliminating uses of toxic chemicals.

States Taking Action on Toxic Chemicals and Plastics in 2024



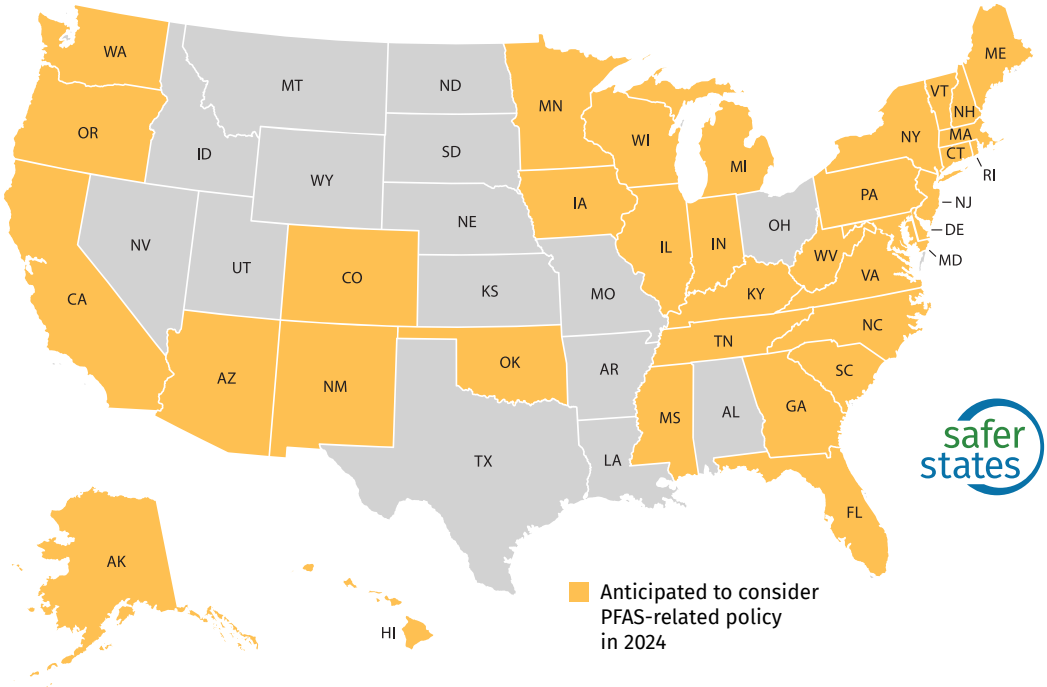
The following analysis contains an overview of policies that have been introduced in 2024, introduced in 2023 and carried over into 2024, or are anticipated to be introduced in 2024 in legislatures across the country. Some of the proposed policies listed are part of a single bill.

Phasing out PFAS use

Over the past several years, the U.S. has seen an increasing wave of legislation addressing toxic PFAS, a class of chemicals that have been dubbed "forever chemicals" due to their inability to break down in the environment. In the last seven years, the number of states introducing PFAS policies has grown from 6 to 33 and this trend is expected to continue in 2024.

Importantly, states are acting to regulate the entire class of PFAS as a way to avoid regrettable substitution (substituting one toxic PFAS for a different one that is phased out) and create pressure for a transition to safer solutions. Twenty-three states have adopted a common comprehensive and scientifically accurate definition of PFAS which makes sure that firefighters and families are fully

States Taking Action on PFAS "Forever Chemicals"



protected from these toxic chemicals. In certain 2024 state policy discussions, some PFAS manufacturers and users are aiming to undermine or alter adopted scientific PFAS definitions as a way to allow them to continue to use many kinds of these "forever chemicals." For example, in Indiana, a bill was introduced that would change the definition of PFAS to one that has not been recognized by any scientific community.

PFAS (per- and polyfluoroalkyl substances) are a class of more than 14,000 chemicals used in everything from cookware, food packaging, and carpets to clothing and firefighting foams. PFAS are also widely used in industrial and manufacturing processes and then discharged into waterways. A growing body of scientific research has found links between exposures to PFAS and a wide range of health problems including a weaker immune system, cancer, increased cholesterol levels, pregnancy-induced hypertension, liver damage, reduced fertility, and increased risk of thyroid disease. As evidence of how highly toxic these chemicals can be, in 2023 the Environmental Protection Agency (EPA) proposed drinking water standards for several PFAS chemicals at levels as low as *4 parts per trillion*.

Scientists are most concerned about contaminated drinking water and food as well as exposure from consumer products. Nearly all U.S. residents have PFAS in their bodies, with biomonitoring studies finding PFAS in blood, breast milk, umbilical cord blood, amniotic fluid, placenta, and other tissues. In response to state policy, litigation, European Union action and market pressure, numerous companies such as REI, Burger King, and others are stopping the use of PFAS.

Overall at least 35 states will consider policies to address the PFAS crisis, ranging from setting water standards to finding resources for cleanup. Of these states, at least 21 states will consider policies to address PFAS use including AK, CA, CT, CO, DE, HI, IL, IA, KY, MA, ME, MI, NH, NJ, NY, NC, PA, RI, TN, VT, and WA.

Specific policies under consideration include:

- At least 16 states will consider broadly **regulating PFAS in products** such as restricting all uses of PFAS except those necessary for health and safety, phasing out PFAS from multiple product categories, and/or requiring disclosure of PFAS in all products. These states include CA, CO, CT, HI, IL, IA, MA, NH, ME, NY, NC, PA, RI, TN, VT, WA. More states are moving beyond restricting PFAS in one sector toward broader restrictions as indicated by the increased number of states considering such policies compared to last year. These policies are similar to broad policies adopted in ME, MN and WA. WA is poised to adopt additional restrictions under their Safer Products for Washington law. Some of the key products captured in multi-sector policies include textiles, cleaning products, waxes and polishes, cookware and artificial turf, mirroring policies adopted in other states over the last several years.
- At least 10 states will consider protections for firefighters and communities from **PFAS in firefighting foam and the personal protective equipment (PPE)** that firefighters wear to fight fires, including AK, DE, IA, IL, MA, NH, NJ, NC, PA, RI. Firefighters and scientists are concerned that gear containing PFAS may be contributing to their increase in cancer and other diseases. At least 5 states including IA, MA, NH, PA and RI will consider policies that would harmonize with eight other states requiring companies to disclose the presence of PFAS in PPE and some policies also creating resources to pay for new gear once viable safer alternatives are available. In addition, at least 7 states will consider policies to eliminate PFAS from firefighting foam, a major source of drinking water contamination, including phase-out, restrictions, and/or take-back programs: AK, DE, IA, MA, NJ, NC, PA. In the last five years, 12 states have adopted phase-outs of PFAS in firefighting foams, and both the military and the FAA have been directed by Congress to stop using PFAS-based firefighting foams.

Addressing harmful plastics and packaging

Almost all plastics are made from hazardous petrochemicals and create toxic impacts throughout their lifecycle. Massive projected plastic industry growth also means more harm befalling fenceline communities, workers, ecosystems, and consumers. While many policies addressing plastics have traditionally focused on how to manage plastic waste, it is clear that reducing the use of plastic itself while also eliminating the use of the most problematic types of plastic such as polyvinyl chloride (PVC), polystyrene and plastic additives is critical to solving the plastic pollution crisis. The 2023 East Palestine train derailment, in which four train cars carrying 115,000 gallons of the carcinogen and PVC building block chemical vinyl chloride burned uncontrollably for several days, is a reminder of the danger of making, transporting, using, and disposing of the chemicals in plastics.

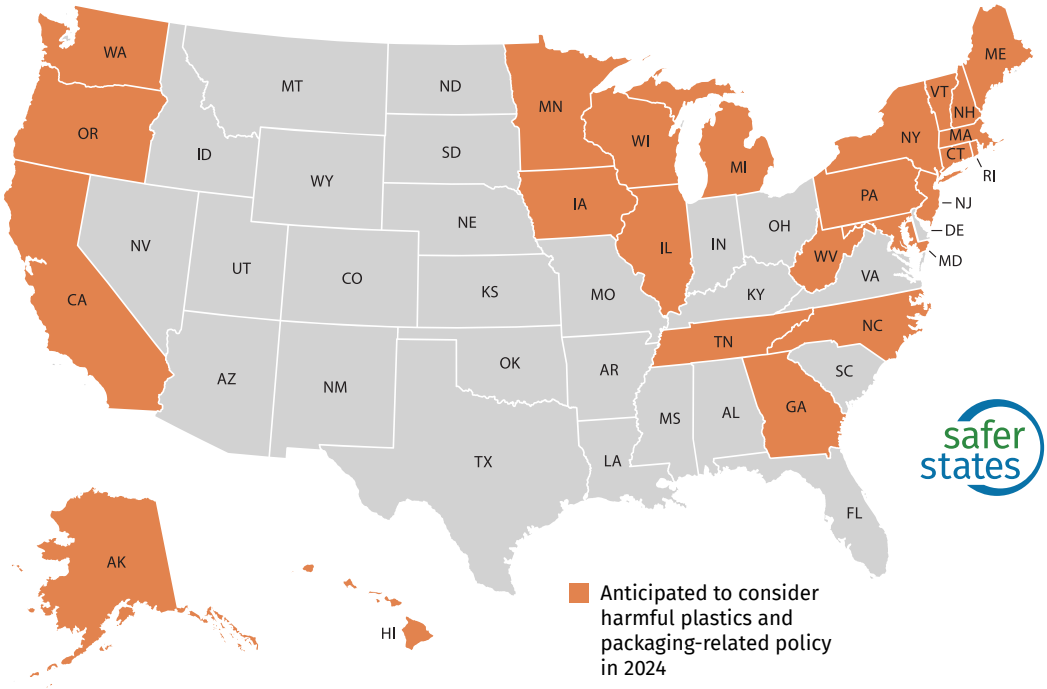
The plastic and chemical industry are continuing to promote a set of technologies they refer to as "chemical recycling" which have serious toxic environmental impacts, questionable viability, and often high energy requirements as highlighted in a recent scientific study published by the Department of Energy. Another recent report found that "chemical recycling" plants generate high quantities of hazardous waste: up to 800 pounds of hazardous waste for every 1000 pounds of plastic waste processed.

Instead of breaking down in the environment, plastic tends to break up into tiny plastic particles called microplastics which are now an emerging health threat. Found in food, water, air, and the human body, microplastics can both contain toxic chemicals and absorb others in the environment. And the problem is getting worse. A recent University of Hawaii study found a "disturbing increase" of microplastics found in human placentas over 15 years. Moreover, many products contain intentionally added microplastics including cosmetics, paint, and cleaning products. While research is still ongoing about the health effects of microplastics, recent scientific reviews have raised concerns that they may impact fertility, increase the risk of cancer, cause digestive problems and and cause other health problems.

Overall at least 24 states will consider policies to address harmful plastics and packaging, including AK, CA, CT, GA, HI, IA, IL, MD, MA, ME, MI, MN, NC, NH, NJ, NY, OR, PA, RI, TN, VT, WA, WI, and WV. Specific policies under consideration include:

- At least 21 states will consider policies to **reduce the use of plastics and/or phase-out problematic chemicals and plastics from packaging**, including AK, CA, GA, HI, MD, ME, MA, MI, MN, NH, NJ, NY, NC, OR, PA, RI, TN, VT, WA, WI, WV. Numerous states will consider policies that mandate reduced use of plastics and/or phase out the use of certain classes of toxic chemicals like PFAS and/or phthalates and toxic materials such as PVC (at least 14 states) and/or polystyrene (at least 12 states) in packaging. Some of these policies would formalize

States Taking Action on Harmful Plastics and Packaging



voluntary industry commitments made by the US Plastics Pact, a voluntary agreement in which over 100 retailers, manufacturers and trade associations agreed to eliminate some of the worst plastics and additives in packaging.

- At least 7 states will consider policies to **eliminate chemicals specifically from food contact packaging**, including HI, IA, MA, MI, PA, TN, VT. Unfortunately, certain chemicals like PFAS, phthalates and bisphenols can leach into food, leading to exposure when the food is consumed.
- At least 6 states will be considering policies that **disallow PFAS and other toxic chemicals** such as heavy metals from being present **in products labeled as or claiming to be recyclable**, including IL, MD, ME, MN, NJ, NY. These states are looking to follow California's lead after the state passed a truth-in-labeling law for recyclable products in 2022. These policies send industry clear signals about chemicals and materials that are allowed in products labeled or marketed as recyclable.
- At least 10 states will consider policies that **mandate reusables, create incentives, reduce barriers, and/or help create infrastructure for reusables**, including CA, HI, MA, MI, MN, NH, NY, NC, PA, RI. Proposed policies will promote the transition to systems that minimize single-use plastics and toxic chemicals.
- At least 13 states will consider policies that **restrict so-called "chemical recycling"** technologies such as pyrolysis and gasification, including CA, CT, HI, IL, ME, MA, MI, MN, NY, OR, RI, VT, WA. These proactive measures aim to halt the spread of false solutions to the plastics crisis and protect communities from toxic impacts.
- At least 2 states will consider policies to **restrict intentionally added microplastics**, including MI, RI. Proposed policies would ban intentionally added microplastics in products such as cleaners and cosmetics, harmonizing with recent action in the European Union. The policies build on 2015 federal policy that banned plastic microbeads in rinse-off cosmetics which accounts for less than 1 percent of all intentionally added microplastics.

Moving toward safer cosmetics and personal care products

Addressing and eliminating harmful chemicals from personal care products and cosmetics is another growing trend this year. While Congress passed a law in 2023 to modernize cosmetic regulation, most of the ingredients used to make these products are still largely unregulated and the cosmetics and personal care products that people use every day commonly contain chemicals linked to cancer, as well as developmental and reproductive harm among other health effects. Products with these toxic ingredients can also cause larger-scale pollution problems during manufacturing and after disposal. Hazardous chemicals used in cosmetics and personal care products include PFAS, phthalates, parabens, formaldehyde and formaldehyde-releasing agents.

Overall at least 15 states will consider policies that move toward safer cosmetics and personal care products, including CO, GA, HI, IL, ME, MA, MI, MN, NJ, NH, NY, RI, TN, VT, and WV. Specific policies under consideration include:

- At least 14 states will consider policies that **restrict and/or require disclosure of chemicals of concern in cosmetics**, including CO, GA, HI, IL, ME, MA, MI, MN, NJ, NH, NY, RI, TN, VT. There is growing concern about the many chemicals of concern in cosmetics including PFAS, parabens, formaldehyde, and phthalates, especially in products targeted to women of color. Proposed policy in MA, MN and NY addresses cosmetics targeted at women of color. WA and OR adopted legislation in 2023 addressing numerous chemicals of concern in personal care products and other states are following their lead.
- At least 7 states will consider policies to **require disclosure of toxic chemicals and/or restrict PFAS and/or other chemicals in menstrual products**, including CO, GA, MA, NY, RI, VT, WV. In 2023, scientists from the University of Notre Dame tested 100 menstrual and incontinence products and found indicators of PFAS in more than half of them, and some at incredibly high levels. Responding to this and other previous research, certain states are looking to better understand their presence and/or to ensure all menstrual products are free from PFAS or other toxic chemicals.

Stronger accountability and better end-of-life solutions

More than 200 million Americans are estimated to be drinking PFAS-contaminated drinking water and an estimated $2.6 billion dollars in taxpayer money has been spent to clean up PFAS pollution. States are considering policies to hold chemical manufacturers accountable and ensure that impacted communities have access to preventative care. These policies harmonize with the actions of 29 State Attorneys General who have initiated litigation against the manufacturers of PFAS chemicals for contaminating water supplies and other natural resources.

Overall at least 19 states will consider policies that lead to stronger accountability and end-of-life solutions, including HI, IA, IL, KY, ME, MA, MI, MN, MS, NH, NC, NY, OR, OK, SC, VT, VA, WA, WI. Specific policies under consideration include:

- At least 10 states will consider policies that **support medical monitoring, liability and/or extending the statute of limitations** for PFAS lawsuits, including HI, KY, ME, MI, MN, NH, NC, NY, SC, VT. South Carolina for example has proposed a policy to hold polluters liable for all response, containment, and cleanup costs.
- At least 13 states will consider solutions to the challenge of **PFAS in sludge**, including HI, IA, IL, MA, MI, MN, MS, OR, OK, VT, VA, WA, WI. Because PFAS doesn't break down and pollution sources are highly diffuse, the chemicals end up in the sludge/biosolids that are left over after water treatment. When this sludge is spread on farmland, it can contaminate the soil and impact the livelihoods of farmers. States are stepping up to require testing, labeling of fertilizers made from sludge and/or create resources to support farmers who discover contamination.

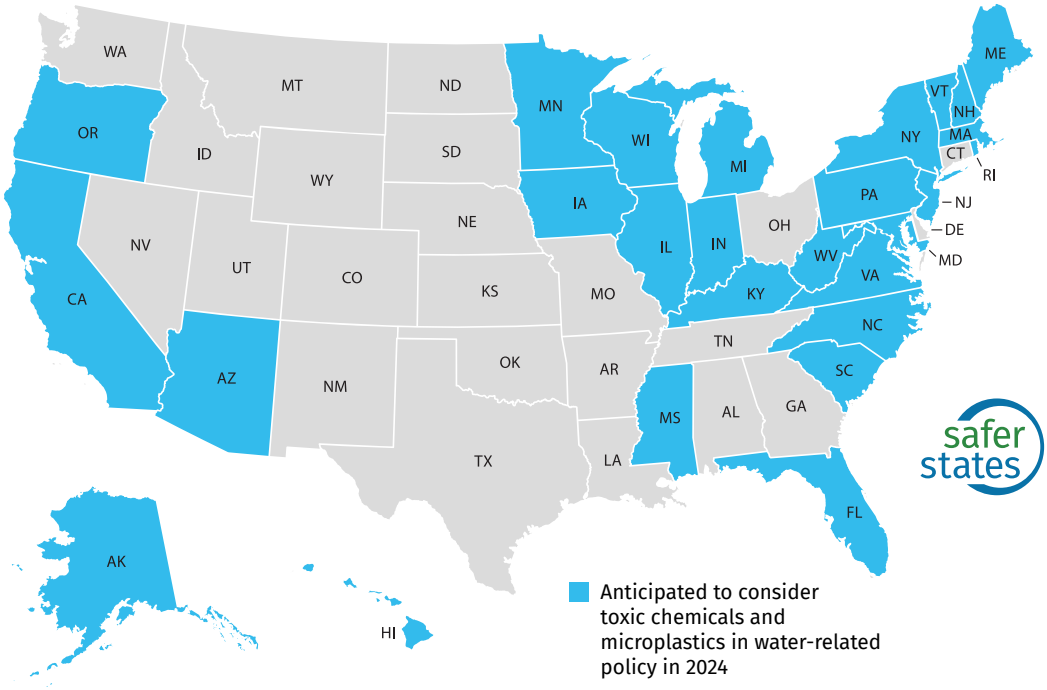
Safer water

PFAS and microplastics are being found in water systems around the country and states are working hard to better understand the extent of the problem and then find resources to manage the pollution. While research is still ongoing about the health effects of microplastics, recent scientific reviews have raised concerns that they may impact fertility, increase the risk of cancer, cause digestive problems and other health problems.

Overall at least 27 states will consider safer water policies, including AK, AZ, CA, FL, HI, IN, IA, IL, KY, MD, MA, ME, MI, MN, MS, NH, NJ, NY, NC, OR, PA, RI, SC, VA, VT, WI, and WV. Specific policies under consideration include:

- At least 19 states will consider legislation that **requires testing, monitoring, and/or disclosure** of PFAS and/or microplastics in water, including AK, FL, HI, IA, IL, ME, MA, MI, MN, MS,

States Taking Action on Toxic Chemicals and Microplastics in Water



NH, NJ, NY, NC, OR, PA, VT, VA, WI. The true scope of PFAS and microplastic contamination is unknown since testing is still somewhat limited. Many states are working to increase testing in order to better understand the extent of their pollution problems.

- At least 10 states will consider legislation to **create standards for PFAS in drinking water, groundwater and/or surface water and/ or restrict PFAS in effluent**, including AZ, IN, ME, MD, MA, MN, NC, SC, VT, WV. Following state leadership, the federal government has proposed drinking water standards for six individual PFAS chemicals. States are continuing to act to protect communities and are considering setting standards for PFAS in groundwater and/or surface water since they are important sources of current and future drinking water for US residents.
- At least 12 states will consider policies that **designate resources for PFAS cleanup**, including AK, CA, KY, ME, MA, MN, NH, NY, NC, RI, VT, WI. Local jurisdictions are struggling to clean up widespread PFAS contamination and states are stepping up efforts to provide resources.

Chemical disclosure and restrictions

States are also working to increase transparency so that consumers, communities and regulators can know what chemicals are being used in products. Other key targets for increased regulation and scrutiny not mentioned above include eliminating cadmium, lead, mercury, and toxic flame retardants from products we use every day. Importantly, many states are addressing entire classes of toxic chemicals in their policies, rather than trying to address them one at a time only to see the banned toxic chemical be replaced by a similar compound in a cycle of "regrettable substitution."

Overall at least 16 states will consider chemical disclosure and restriction policies, including CA, GA, IL, IA, KY, MA, MD, MN, MO, NH, NJ, NY, PA, VT, VA, and WA.

Specific policies under consideration include:

- At least 12 states will consider policies that **create new disclosure provisions**, including GA, IL, KY, MA, MD, MO, NH, NJ, NY, PA, VT, VA. As states deal with toxic chemical challenges, they need information to help understand the challenge and are requiring companies to know and disclose toxic chemicals.
- A few states will consider **restrictions on additional chemicals of concern**, including cadmium, bisphenols, lead, mercury, phthalates, and toxic flame retardants in specific product types such as receipt paper (CA, NJ, NY), turf (NY), jewelry (NJ), children's products (NJ), cookware (WA), lamps (IL, MD, MN, NY), and furniture (GA, IA).

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