

Analysis of State Legislation Addressing Toxic Chemicals and Materials

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About Safer States

Safer States is an alliance of diverse environmental health coalitions and organizations from across the nation committed to building a healthier world. By harnessing place-based power, the alliance works to safeguard people and the planet from toxic chemicals and sparks innovative solutions for a more sustainable and just future.

www.saferstates.org



Introduction

Safer States analyzed state-level policies that help drive toward safer chemicals, materials and healthier communities, finding that at least **31** states will consider policies in 2023. Safer States anticipates that at least **260** policies will be under consideration in 2023 with PFAS, plastics and cosmetics being the most vibrant issues.

Safer States has expanded its legislative tracking efforts in 2023 to include policies that focus on plastic reduction, promote safer alternatives such as non-toxic reuse, test for and address microplastics, and stop the spread of false solutions such as so-called “chemical recycling” which could lead to increased plastic use and toxic impacts.

The **31 states** we anticipate will consider toxics policy include: Alaska, Arizona, California, Connecticut, Georgia, Hawaii, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Hampshire, New Jersey, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia and Wisconsin.

Key areas of focus for 2023:

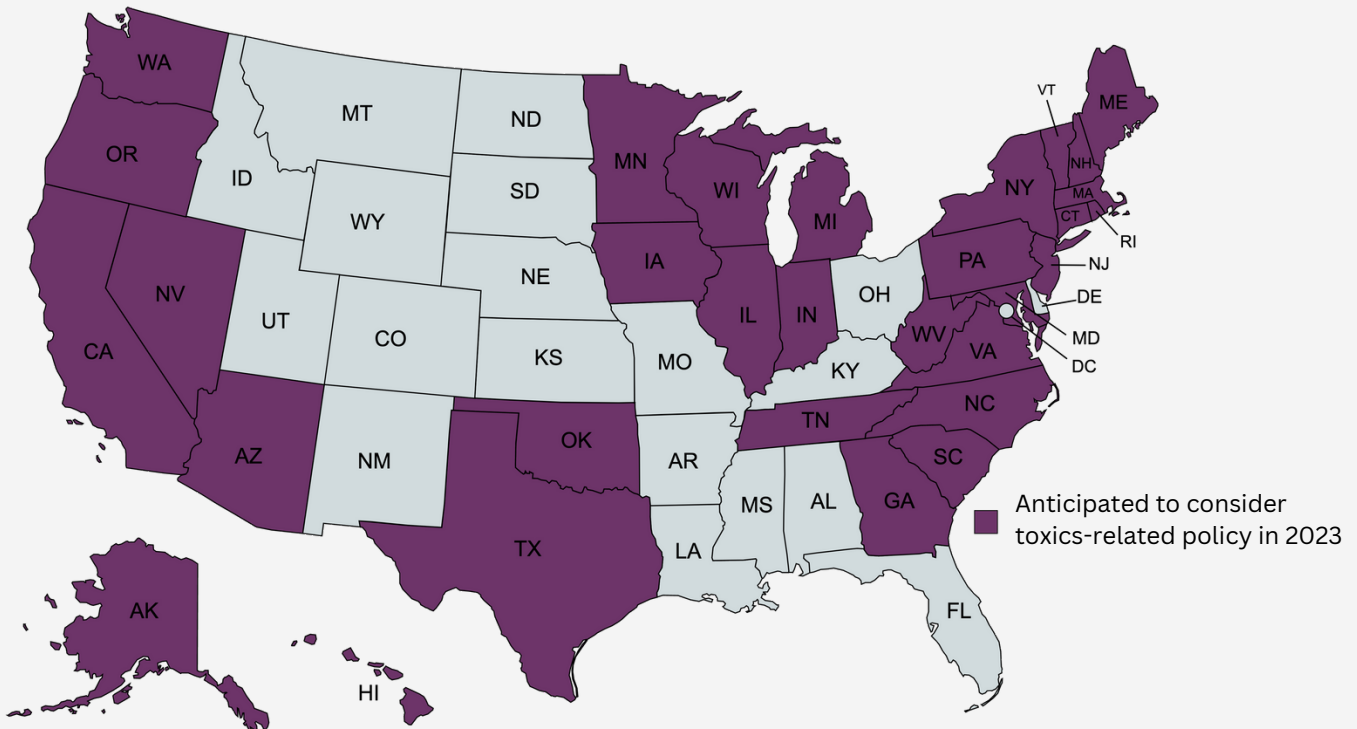
- PFAS “forever chemicals” contamination
- Plastic pollution crisis
- Toxic chemicals in personal care products

Overall, at least **31** states will consider more than **260** bills on toxic chemical-related policies.



Key areas of focus for 2023 include addressing the ongoing PFAS contamination and plastics pollution crises, as well as creating additional protections 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 on chemicals used in products and polluter accountability. These types of policies are part of a larger movement toward safer materials and eliminating uses of toxic chemicals.

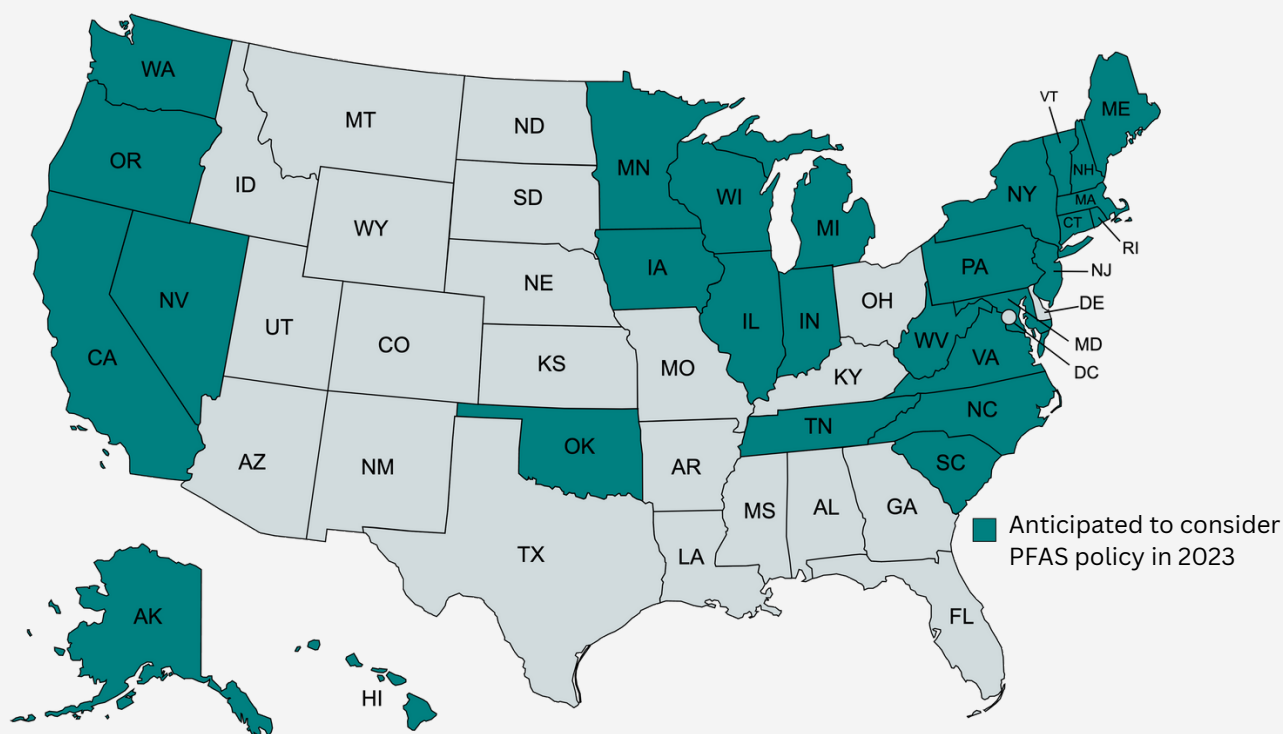
The following sections contain an overview of policies that have been introduced, or are anticipated to be introduced, in legislatures across the country. Some of the proposed policies listed are part of a single bill.



Phasing out PFAS uses

Over the past several years the country has seen an increasing wave of PFAS legislation and this trend is expected to continue with PFAS continuing to be a major focus of proposed policies.

PFAS (per- and polyfluorinated alkyl substances) are a class of more than 12,000 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. 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. [3M](#) one of the world's major PFAS manufacturers, prompted by increased state policy activity, retailer actions, and litigation recently announced it will abandon the chemicals.





Of the 28 states addressing PFAS, 16 will consider restrictions on the use of PFAS, including:

- At least 11 states will consider **regulating PFAS on a broad scale** such as restricting all unnecessary uses of PFAS, banning PFAS from multiple product categories, and/or requiring disclosure of PFAS in all products: AK, CT, IA, MA, MN, MI, NV, NJ, NY, RI, VT. These are similar to broad policies adopted in CO, ME and WA.
- At least 8 states will consider policies to eliminate PFAS from **textiles** for product categories including carpets, rugs, upholstery, aftermarket textile treatments, juvenile products, outdoor gear and apparel: MA, NH, NJ, NV, NY, RI, VT, VA. Both CA and WA state have identified these products as significant sources of human and ecological exposures to PFAS and are working on identifying safer alternatives through regulatory processes. CA, NY and CO passed legislation addressing PFAS in textiles in 2022 and states are following their lead.
- At least 6 states will consider policies to eliminate PFAS from **firefighting foam**, including bans, restrictions, and/or take-back programs: CT, IA, MN, NJ, PA, RI. Firefighting foam is a major source of PFAS drinking water contamination. In the last four years, multiple states have passed bans on PFAS in firefighting foams while Congress has directed both the military and the FAA to stop using PFAS-based firefighting foams. Several states require disclosure of PFAS in personal protective equipment (PPE).
- At least 11 states will consider policies to eliminate PFAS chemicals from **food contact materials** including packaging and/or cookware: CT, HI, IA, MA, MI, NH, NJ, NV, OR, RI, VT. PFAS are used in grease-resistant coatings on food packaging materials like microwave popcorn bags and fast-food wrappers. Unfortunately, the chemicals can leach into food, leading to PFAS exposure when the food is consumed. [Studies](#) also show that when PFAS-coated food packaging is composted or landfilled, the chemicals can migrate into the environment.
- Several states will also be considering restrictions for PFAS in **other products** such as hydraulic fracturing (“fracking”) fluid (MA), artificial turf (MA, RI, VT), paint (NY), pesticides (MA, MN, VT), ski wax (MN, RI) and anti-fogging spray (NY).



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 frontline 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 and plastic additives is critical to solving the plastic pollution crisis.

In addition, the plastic and chemical industry are pushing to allow for more so-called “chemical recycling,” which is a false solution to the plastic crisis. The last two years have seen many states passing policies that relax pollution controls on these facilities, even though [studies](#) have shown these facilities to be polluters of hazardous waste. States are starting to push back this year and will be introducing policies to limit this practice.

Overall at least 22 states will consider policies including:

- At least 19 states will consider policies to **eliminate problematic chemicals and plastics from packaging**: AK, AZ, CA, CT, GA, HI, IA, ME, MA, MI, MN, NH, NJ, NY, OR, RI, TN, VT, WV. Several states will consider policies that formalize voluntary commitments made by the [US Plastics Pact](#) such as banning the use of certain toxic chemicals, PVC and/or polystyrene in packaging. Some states are including bans on problematic plastics and chemicals in strong extended producer responsibility (EPR) bills.
- At least 5 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**: HI, IL, MD, MN, NJ. These states are looking to follow California’s lead after the state passed a truth-in-labeling law last year. These policies send industry clear signals about chemistries and materials that are allowed in recycling systems.
- At least 7 states will consider policies that **mandate reusables, create incentives, reduce barriers, and/or help create infrastructure for reusables**: HI, MA, NJ, NY, OR, RI, WA. These policies will promote the transition to systems that minimize single-use plastics and toxic chemicals.
- At least 5 states will consider policies that **restrict so-called “chemical recycling”** technologies such as pyrolysis and gasification to halt the spread of false solutions to the plastics crisis and protect communities from toxic impacts: CT, MA, NY, RI, VT.

Moving towards safer cosmetics and personal care products

Addressing and eliminating harmful chemicals from personal care products and cosmetics is another growing trend this year. The ingredients used to make these products are 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 including:

- At least 13 states will consider policies that restrict and/or require disclosure on **chemicals of concern in cosmetics**: HI, IL, MA, MI, MN, NV, NJ, NY, OR, RI, TX, VT, WA. 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 WA addresses cosmetics targeted at women of color.
- At least 8 states will consider policies to **require disclosure of toxic chemicals in menstrual products and/or restrict PFAS**: CA, MA, MN, NJ, NY, RI, VT, WV. As companies like [Thinx](#) move to ensure their period underwear is PFAS-free, certain states are looking to ensure all menstrual products are free from PFAS or other toxic chemicals.

Chemical disclosure and restrictions

States are also working to increase transparency so that consumers and communities can know what chemicals are being used in products and in plastics. Several are also building or expanding safe products policy. Other key targets for increased regulation and scrutiny this year include eliminating cadmium, mercury, and toxic flame retardants out of 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 8 states will consider policies including:

- At least 6 states will consider policies that **strengthen existing or adopt broad safe products policy or create new disclosure provisions**: MA, MN, NY, OR, TX, WA. As states deal with toxic chemical challenges, several are stepping up to move broad solutions that both move away from chemicals of concern and help identify safer solutions.
- A few states are considering restrictions on additional **chemicals of concern** including cadmium, bisphenols, mercury, phthalates, and toxic flame retardants in specific product types such as children’s and pet products (NY), receipt paper (NJ), and furniture (IA). Two states are also considering restrictions on lead in several product categories including electronic cigarettes, ammunition and paint (NY), and aviation fuel and cookware (WA).

Stronger accountability and end of life solutions

More than 200 million Americans are estimated to be drinking [PFAS-contaminated](#) drinking water and an estimated [\\$2.8 billion dollars in taxpayer money](#) has been spent to clean up PFAS pollution. States are considering policies to hold chemical manufacturers accountable, provide resources to those who have been harmed by pollution, limit false solutions and ensure that impacted communities have access to preventative care.

Overall at least 13 states will consider policies including:

- At least 7 states will consider policies for **medical monitoring, liability and/or extending the statute of limitations** for PFAS lawsuits: IN, ME, MD, MI, MN, NH, NY. Indiana, for example, has proposed offering PFAS blood testing for veterans and firefighters, while other states are working to ensure health insurance covers similar testing for community members.
- At least 5 states will address PFAS **disposal** and/or ban PFAS **incineration**: AK, MA, MD, MN, OK. Since PFAS chemicals don't break down in the environment, PFAS disposal poses huge challenges. MN will designate \$20 million to design a new landfill to prevent PFAS leachate from contaminating Lake Superior.
- At least 6 states will consider solutions to the challenge of **PFAS in sludge**: IA, MA, MD, OK, OR, WA. 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 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.

Overall at least 19 states will consider policies including:

- At least 11 states will consider legislation that requires **testing, monitoring, and/or disclosure** of PFAS and/or microplastics in water: CT, HI, IA, MD, ME, MN, NH, NJ, NY, VA, WV. 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 document the extent of their pollution problems. ME is considering a policy that requires bottled water testing and several states are moving to make sure well water is tested, especially when a property is being sold.
- At least 4 states will consider legislation to create standards for PFAS in **drinking water, groundwater and/or surface water**: AK, IN, MA, SC. While the federal government is planning to propose drinking water standards for two individual PFAS chemicals, states are not waiting for federal action and are proposing regulation of additional PFAS compounds. Some states are also 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 10 states will consider policies that designate **resources for PFAS cleanup**: CA, CT, MA, ME, MI, MN, NH, VA, VT, WI. Local jurisdictions are struggling to clean up widespread PFAS [contamination](#) and states are stepping up efforts to provide resources.