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Alert | Consumer Products

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Greenwashing, EPR & Chemical Updates

Trade Groups File Federal Constitutional Challenge to California's SB 343

In March 2026, a coalition of trade groups filed a lawsuit in federal court challenging California's SB 343, a greenwashing law known as the Truth in Recycling Act. Plaintiffs argue that the law unconstitutionally restricts truthful commercial speech in violation of the First Amendment and is void for vagueness under the Due Process Clause of the Fourteenth Amendment. Earlier this month, the Court granted a preliminary injunction on First Amendment and Due Process grounds, temporarily enjoining enforcement of the law. Following that decision, two environmental groups filed motions to intervene and support the state's effort to defend SB 343.

The litigation surrounding SB 343 has been significant because it seeks to substantially change the framework for recycling advertising. Rather than permitting recyclability claims based on whether a material is capable of being recycled, the law requires consideration of whether materials are actually collected, sorted, and processed for recycling in California. Under this framework, companies must satisfy a multi-factor standard, and recyclability claims may be deemed misleading if all statutory criteria are not met.

State PFAS Product Restrictions: Recent Developments in New Mexico and Minnesota

States continue to expand restrictions on per- and polyfluoroalkyl substances (PFAS) in consumer products. Recent developments in New Mexico and Minnesota reflect a growing and increasingly complex compliance landscape.

New Mexico finalized PFAS regulations that include phased product prohibitions beginning in 2027, with restrictions expanding through 2032. By 2032, intentionally added PFAS will be prohibited across a broad range of products unless a specific use is designated “currently unavoidable.” In addition to product prohibitions, New Mexico’s regulations include comprehensive reporting obligations and a labeling requirement applicable to products manufactured after Jan. 1, 2027. The labeling requirement mandates affirmative disclosure of intentionally added PFAS and is among the more expansive state mandates currently in effect. Manufacturers should be aware of the operational and supply chain considerations these requirements may present ahead of the 2027 compliance deadline.

Minnesota amended its existing PFAS reporting statute to exclude products manufactured before July 1, 2023, narrowing the scope of required disclosures and addressing industry concerns regarding the feasibility of obtaining data for legacy products. The Minnesota Pollution Control Agency also extended the reporting deadline to Sept. 15, 2026, in response to logistical challenges raised by regulated entities. Minnesota continues to maintain one of the more comprehensive PFAS regulatory frameworks among U.S. states. For additional information, see our June 2026 GT Alert.

Packaging Extended Producer Responsibility Update

Extended Producer Responsibility (EPR) packaging laws generate significant compliance activity for the consumer-packaged goods and restaurant industries, with producers facing reporting requirements and annual fees across multiple states.

On May 31, 2026, annual reporting deadlines applied in six of the seven states with active EPR packaging programs. Among those, California – now that its implementing regulations are final – required producers to submit supply data for calendar years 2023 and 2025, along with information on plastic source-reduction activities tied to the state’s source-reduction targets. But California’s reporting obligations for 2026 are not yet complete: by Aug. 1, 2026, producers must also submit individual source-reduction plans describing activities intended to help the state meet its goals. Circular Action Alliance (CAA) has released preliminary guidance on the long-term structure of these plans, though questions regarding compliance with source-reduction requirements remain open.

In Oregon, the Department of Environmental Quality (DEQ) initiated formal enforcement activities against producers that failed to report or pay fees for the initial 2025 program year. DEQ published a list of companies that, according to its records, failed to report or remit the required fees after receiving notices of delinquency from CAA. DEQ subsequently issued letters to allegedly noncompliant producers, beginning the path to formal enforcement. Colorado’s Department of Public Health and Environment is similarly expected to begin enforcement activities; CAA has begun issuing notices of noncompliance to producers that have not yet met Colorado’s requirements.

Constitutional Challenges Filed Against EPR Programs in Oregon, Colorado, and California

Several legal challenges are proceeding in parallel with ongoing EPR compliance obligations. In Oregon and Colorado, industry plaintiffs have challenged their respective states’ EPR laws on constitutional grounds, including arguments under the non-delegation doctrine, the constitutional principle that Congress may not delegate its legislative power to executive agencies without providing meaningful standards to guide the exercise of that authority. In Oregon, the court granted the plaintiff a preliminary injunction halting enforcement of the EPR law as to the plaintiff group’s members. That case is currently in trial. The Colorado litigation is at an early stage.

California’s EPR program faces separate legal challenges: one brought by environmental justice groups, and the other from a coalition of states. In the first case, environmental groups filed suit against CalRecycle over its regulations implementing SB 54, California’s packaging EPR law, arguing that the agency exceeded its authority by authorizing the use of chemical recycling technologies toward the state’s recycling goals. This lawsuit follows contentious debate between industry and environmental groups during the rulemaking process, with the role of chemical recycling being a central issue.

On June 22, 2026, a coalition of 17 states and a national trade association sued CalRecycle and CAA, challenging California’s EPR law as well as CAA’s administration. Plaintiffs argue California’s EPR law effectively regulates commerce beyond California by forcing nationwide changes to product design, packaging, and supply chains. According to their argument, the law’s broad mandates, covering most single-use packaging and imposing aggressive reduction, recyclability, and recycling targets, are commercially burdensome and constitutionally flawed.

California’s Textile EPR Law: Approaching Deadlines and Ongoing Uncertainty

California’s textile EPR law, SB 707, had its first compliance deadline on July 1, by which date obligated producers were required to register with the PRO designated by CalRecycle to administer the program.

The registration deadline comes amid significant uncertainty. CalRecycle is currently facing litigation over its selection of the textile PRO (producer responsibility organization), with the plaintiff alleging that the agency’s selection process did not comply with California law. In addition, many aspects of the program remain in early development. CalRecycle has not yet issued significant guidance to producers or initiated formal rulemaking under SB 707. The timeline and scope of the agency’s rulemaking activities remain to be seen.

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