FEDERAL COURT INVALIDATES NEW YORK CLIMATE CHANGE SUPERFUND ACT

Date: 15 September 2026

US Policy and Regulatory Alert

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On 31 August 2026, the US District Court for the Northern District of New York (the Court) invalidated New York's Climate Change Superfund Act (the Act), blocking the State's planned US$75 billion cost-recovery program. The Act was among the nation's most prominent “polluter pays” climate laws, designed to require certain fossil fuel producers and refiners to fund climate adaptation and resilience projects. The Act, enacted in December 2024, established a cost recovery program intended to fund infrastructure and other projects designed to address the impacts of climate change in New York. The Act authorized the New York State Department of Environmental Conservation to assess liability against certain fossil fuel producers and refiners based on greenhouse gas emissions attributable to their worldwide fossil fuel extraction and refining activities during the 2000–2024 period. The statute sought to recover a total of US$75 billion from entities determined to be responsible for more than one billion metric tons of covered greenhouse gas emissions.

A coalition of 22 states, industry associations, and energy companies challenged the law. The Court granted summary judgment, holding that the Act is preempted by federal law and relying heavily on the Second Circuit's decision in *City of New York v. Chevron Corp*., which rejected climate damages claims brought under New York tort law against major fossil fuel producers. Although New York argued that the Act established a statutory funding mechanism rather than a tort-based damages claim, the Court concluded the distinction was not material. According to the Court, both approaches seek to impose liability on fossil fuel companies for the costs associated with climate change and therefore raise the same federal law concerns identified by the Second Circuit.

The Court further held that New York lacked authority under the federal Clean Air Act to impose the liability scheme created by the Act. Relying on *City of New York*, the Court reasoned that questions concerning liability for interstate greenhouse gas emissions have historically been governed by federal law and that state law remedies remain available only to the extent authorized by Congress. The Court also noted that the Act's reliance on emissions associated with activities occurring outside the United States provided an independent basis for invalidating the law. Because the Act calculates liability based on worldwide fossil fuel extraction and refining activities, the Court found that it raises significant foreign policy concerns.

The ruling is significant because it addresses a growing legislative trend in which states seek to apply “polluter pays” principles to climate adaptation costs and provides a detailed roadmap for future preemption challenges. New York is expected to appeal the decision. Until the appellate court weighs in, the ruling introduces substantial uncertainty for state climate superfund programs and will likely become a focal point in ongoing legislative and litigation efforts across the country.

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