



February 10, 2026

Maryland Senate Education, Energy, and the Environment Committee
2 West Miller Senate Office Building
Annapolis, Maryland 21401

RE: SB 432 Attorney General Actions, Climate Accountability Fund (Climate Crimes Accountability Act)

Dear Senator Feldman, Chair; Senator Kagan, Vice Chair; and Senate Members of Committee :

The American Petroleum Institute (API)¹ **opposes** the above referenced bill authorizing Attorney General filed lawsuits against certain entities for “tortious or otherwise unlawful conduct” that allegedly “contributed to climate change.”² The legislation targets certain energy producers for past activities that were legal, encouraged by both the state and local governments, and overwhelmingly undertaken outside of the state. Furthermore, these lawsuits would attempt to hold such companies liable under Maryland law for out-of-state emissions, and our federal system does not permit a state to apply its laws to claims seeking redress for injuries allegedly caused by interstate or worldwide emissions.³

Supporting this bill belies and runs headlong into recent legislative actions and priorities. For example, last spring the General Assembly passed and Governor Moore signed⁴ the Next Generation Energy Act – comprehensive legislation designed to increase energy generation in Maryland – which creates a fast track for constructing “dispatchable” energy generation projects, including new natural gas-fired generation on the site of retired power plants.⁵

Moreover, the legislature is being asked to vote for these bills despite previously declaring by statute “that the **production and development of oil and gas resources is important to the economic well-being of the State and the nation**,”⁶ requiring the Administration to mitigate “the impact of any severe shortage of fuel resources, including middle distillate oil, motor gasoline, residual fuel oil, and propane gas, on various classes of consumers,”⁷ and designating **gas and oil production, storage, and delivery as critical infrastructure**.⁸ And the Administration is being asked to support it despite petroleum products playing an important role in

¹ API represents all segments of America’s natural gas and oil industry, which supports nearly eleven million U.S. jobs and is backed by a growing grassroots movement of millions of Americans. Our 600 members produce, process and distribute the majority of the nation’s energy, and participate in “[API Energy Excellence](#),” which is accelerating environmental and safety progress by fostering new technologies and transparent reporting. API was formed in 1919 as a standards-setting organization and has developed more than 700 standards to enhance operational and environmental safety, efficiency, and sustainability.

² See SB 432 (<https://mgaleg.maryland.gov/2026RS/bills/sb/sb0432F.pdf>) and HB 572 (<https://mgaleg.maryland.gov/2026RS/bills/hb/hb0572F.pdf>).

³ The legislation “authorizes the Attorney General to investigate, commence, and prosecute or defend any suit or action that holds certain entities accountable for tortious or otherwise unlawful conduct that has contributed to climate change.” It is claimed that injuries from these alleged acts require remediation, often defined to include a wide range of activities such as preparing for and recovering from extreme weather events to general infrastructure updates and preventative health care programs, most of which have nothing to do with climate change.

⁴ Approved by the Governor, May 20, 2025.

⁵ See HB 1035, Chapter 626 (2024) (https://mgaleg.maryland.gov/2025RS/chapters_noln/Ch_626_hb1035T.pdf).

⁶ Md. Code Ann., Env’t § 14-101 (West).

⁷ Md. Code Ann., State Government § 9-2005 (West).

⁸ Md. Code Ann., Pub. Util. § 1-101 (West) and <https://cdp.dhs.gov/shared/se/courses/default/AWR-358%20dL%20040921/groups/196.html>.



commerce and public health through their use in transportation, industry, heating, and electricity, with Maryland’s Energy Administration finding that “[a]n uninterrupted supply of these fuels is crucial to Maryland’s economy and public safety.”⁹

In fact, the state has approved the siting and operation of some 20 petroleum terminals,¹⁰ two liquefied natural gas facilities with a total storage capacity of more than 194 million gallons, 19 natural gas, 15 petroleum, and 6 coal-fired power plants, over 16,000 miles of natural gas pipeline,¹¹ over 1,800 retail gasoline stations,¹² and state and local governments paving and repairing 75,548 lane miles of public roads¹³ using tens of thousands of tons of asphalt made from processed crude oil.¹⁴

As for authorizing lawsuits of this nature, greenhouse gas emissions are global in nature and subject to numerous federal statutory regimes, including the Clean Air Act. They are also primarily a matter of federal and international law, not state law. The U.S. Court of Appeals for the Second Circuit recently noted this fact in *City of New York v. Chevron Corp.*,¹⁵ where the court rejected state-law nuisance claims based on global emissions because “a federal rule of decision is necessary to protect uniquely federal interests.” As this bill seeks compensation for alleged harms to the environment based on global emissions, it is preempted by federal law.

Also, Maryland courts have recently had the opportunity to consider the issue. In January 2025, the Circuit Court of Anne Arundel County dismissed two lawsuits brought by the City of Annapolis and Anne Arundel County against several large energy companies, holding that federal law preempted the state-law claims.¹⁶ The city and county brought claims against the energy companies for public and private nuisance, strict liability failure to warn, negligent failure to warn, trespass, and the Consumer Protection Act.

The court acknowledged that it was persuaded by the results from similar litigation across the country, including cases from the Second Circuit and the Superior Court of Delaware, and particularly by the 2024 decision in *Mayor & City Council of Baltimore v. BP P.L.C., et al.*, where Judge Brown found that “the Constitution’s federal structure does not allow the application of state law to claims like those presented by Baltimore.”¹⁷ The court ultimately dismissed the claims on preemption grounds, echoing Judge Brown’s logic from the Baltimore case. The court also found the U.S. Supreme Court’s unanimous decision in *American Electric Power Company, Inc. v. Connecticut* instructive on the likely ultimate disposition of issues arising out of

⁹ See *Maryland Liquid Fuels Plan*, Maryland Energy Administration, 21 (October 2022).

¹⁰ chrome-extension://efaidnbnmnnibpcajpcgiclfefindmkaj/https://www.energy.gov/sites/prod/files/2015/05/f22/MD-Energy%20Sector%20Risk%20Profile.pdf.

¹¹ See [Maryland Energy Sector Risk Profile.pdf](#)

¹² See *Maryland Liquid Fuels Plan* at 8.

¹³ See U.S. Department of Transportation Federal Highway Administration. Highway Statistic Series: State Statistical Abstracts 2022 (See https://explore.dot.gov/views/StateStatisticalAbstracts_16699101653250/DashboardALT?%3Aembed=y&%3Aiid=1&%3AisGuestRedirectFromVizportal=y). A lane mile is one lane of road for one mile. A two-lane road has two lane miles per mile, and a four-lane highway has four lane miles per mile. Using lane miles is a better way to measure the amount of pavement that is on a road. (See

https://explore.dot.gov/views/StateStatisticalAbstracts_16699101653250/DashboardALT?%3Aembed=y&%3Aiid=1&%3AisGuestRedirectFromVizportal=y).

¹⁴ See <https://highways.dot.gov/public-roads/september-2017/whats-your-asphalt#:~:text=Asphalt%20is%20the%20sticky%20black,refiners%20would%20give%20it%20away>.

¹⁵ See 993 F.3d 81, 90 (2d Cir. 2021).

¹⁶ See *City of Annapolis v. BP PLC, et al.* and *Anne Arundel County, Maryland v. BP PLC, et al.* Case No.: C-02-CV-21-000250 and 00565 Jan. 23, 2025).

¹⁷ See 2024 WL 3678699 (Md. Cir. Ct. July 10, 2024).



the introduction of fossil fuel products into the stream of commerce and any alleged connection between these products to climate change.¹⁸

Shortly after this decision, the Superior Court of New Jersey dismissed a comparable lawsuit filed by the New Jersey Attorney General against several energy companies, again finding the claims were preempted by federal law.¹⁹ The state's allegations included negligence, failure to warn about climate risks, trespass, public and private nuisance, violation of the New Jersey Consumer Fraud Act, and harm to the public trust. As in Maryland, the New Jersey court was persuaded by prior judgments from the Second Circuit, Delaware State Court, Maryland State Court, and the Supreme Court's decision in *American Electric Power Company, Inc. v. Connecticut*.

The court was most persuaded by the Second Circuit's decision that despite the state's artful pleading, the complaint is entirely about seeking damages for injuries resulting from interstate and global emissions, which is exclusively a federal law issue.²⁰

Accordingly, both the Circuit Court of Anne Arundel County, Maryland, and the Superior Court of New Jersey have now joined a **growing body of decisions from federal and state courts nationwide, finding that state tort law claims related to climate change and fossil fuel emissions are preempted by federal law.**²¹

For the bill at issue, the legislature is being asked to approve lawsuits by the Attorney General against any company above a certain size that was extracting, refining, or processing fossil fuels for conduct "that has contributed to climate change through fraud, deception, or any other mechanism, action, inaction, or practice" no matter where that company is located. The bill encourages lawsuits against an arbitrarily limited set of companies "for the cumulative impact of conduct occurring simultaneously across just about every jurisdiction on the planet,"²² essentially picking and choosing from all the greenhouse gas emitters throughout history. Greenhouse gases have been emitted from billions of individual sources across the globe into the atmosphere. And it is impossible to attribute the alleged impacts of climate change in specific geographic regions to particular sources or categories of greenhouse gas emissions with any accuracy or fairness.

In conclusion, in addition to the points made above, this bill presents a simplistic message: certain companies must collectively pay for emissions without consideration of all the technological innovations, economic benefits, and quality of life improvements that the past decades of oil and natural gas use have brought to Maryland.²³

¹⁸ See *American Electric Power Company, Inc. v. Connecticut*, 131 S. Ct. 2527 (2011).

¹⁹ See *Platkin v Exxon Mobil Corp. et al.*, No. MER-L-001797-22 (N.J. Super. Ct. Feb. 5, 2025).

²⁰ See: *City of New York v. Chevron Corp.*, 993 F.3d 81 (2d Cir. 2021).

²¹ See: *City of New York v. Chevron Corp.*, 325F.Supp. 3d 466 (S.D.N.Y. 2018), aff'd, 993 F.3d 81(2d Cir. 2021); *City of Oakland v. BP P.L.C.*, 325 F. Supp. 3d 1017 (N.D. Cal. 2018), vacated on other grounds, 960 F.3d 570 (9th Cir. 2020); *State ex rel. Jennings v. BP Am. Inc.*, 2024 WL 98888 (Del. Super. Ct. Jan. 9, 2024); cf. *City of New York v. Exxon Mobil Corp.*, No. 451071/2021, 2025 WL 209843 (N.Y. Sup. Ct. Jan. 14, 2025).

²² See: *City of New York v. Chevron Corp.* 993 F.3d at 86.

²³ See: Blackett, *Ten Inconvenient Truths About Climate Change Tort Claims* (2018).