

NO. 1525 CD 2025

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

BUCKS COUNTY,
Appellant,

v.

B.P. P.L.C., *et al.*,
Appellees.

Appeal from the Order Entered on May 16, 2025, by the
Court of Common Pleas of
Bucks County, Pennsylvania, No. 2024-01836

***AMICUS CURIAE* BRIEF OF THE CHAMBER OF COMMERCE OF
THE UNITED STATES OF AMERICA IN SUPPORT OF APPELLEES**

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TABLE OF CONTENTS

STATEMENT OF INTEREST.....1

INTRODUCTION2

ARGUMENT4

I. Federal law exclusively governs this dispute over global greenhouse gas emissions.....4

 A. Only federal law can govern disputes like this one, which implicates interstate and international interests.....5

 B. The County’s packaging of its claims makes no difference to the conclusion that the claims are governed by federal law.13

II. The Clean Air Act preempts the County’s claims notwithstanding its displacement of federal common law.....15

CERTIFICATE OF COMPLIANCE.....22

CERTIFICATE OF SERVICE23

TABLE OF AUTHORITIES

	Page(s)
Cases:	
<i>Am. Elec. Power Co. v. Connecticut</i> , 564 U.S. 410 (2011).....	5, 6, 7, 8, 9, 10, 16, 17, 18, 20
<i>Banco Nacional de Cuba v. Sabbatino</i> , 376 U.S. 398 (1964).....	6
<i>Bonaparte v. Tax Court</i> , 104 U.S. 592 (1881).....	13
<i>City of Milwaukee v. Illinois</i> , 451 U.S. 304 (1981).....	18
<i>City of New York v. Chevron Corp.</i> , 993 F.3d 81 (2d Cir. 2021)	12, 14, 15, 17, 18, 19, 20
<i>Cnty. of Oneida v. Oneida Indian Nation of N.Y.</i> , 470 U.S. 226 (1985).....	6
<i>Delaware v. Pennsylvania</i> , 598 U.S. 115 (2023).....	6
<i>Fuld v. Palestine Liberation Org.</i> , 606 U.S. 1 (2025).....	12
<i>Gerling Glob. Reins. Corp. v. Gallagher</i> , 267 F.3d 1228 (11th Cir. 2001)	12
<i>Hinderlider v. La Plata & Cherry Creek Ditch Co.</i> , 304 U.S. 92 (1938).....	6
<i>Home Ins. Co. v. Dick</i> , 281 U.S. 397 (1930).....	12
<i>Illinois v. City of Milwaukee</i> , 406 U.S. 91 (1972).....	3, 5, 6, 7, 8, 9, 12
<i>Illinois v. City of Milwaukee</i> , 731 F.2d 403 (7th Cir. 1984)	19

<i>Int’l Paper Co. v. Ouellette</i> , 479 U.S. 481 (1987).....	7, 11, 17, 20
<i>Kansas v. Colorado</i> , 206 U.S. 46 (1907).....	6
<i>Kurns v. R.R. Friction Prods. Corp.</i> , 565 U.S. 625 (2012).....	14
<i>Mayor & City Council of Baltimore v. B.P. P.L.C.</i> , --- A.3d ----, 2026 WL 809501 (Md. Mar. 24, 2026).....	12, 14, 15, 17, 19
<i>Minnesota v. Am. Petroleum Inst.</i> , 63 F.4th 703 (8th Cir. 2023)	14
<i>Nat’l Pork Producers Council v. Ross</i> , 598 U.S. 356 (2023).....	13
<i>Provincial Gov’t of Marinduque v. Placer Dome, Inc.</i> , 582 F.3d 1083 (9th Cir. 2009)	6
<i>Sam L. Majors Jewelers v. ABX, Inc.</i> , 117 F.3d 922 (5th Cir. 1997)	6
<i>Tex. Indus., Inc. v. Radcliff Materials, Inc.</i> , 451 U.S. 630 (1981).....	4, 6, 9, 15, 18
<i>Treiber & Straub, Inc. v. UPS, Inc.</i> , 474 F.3d 379 (7th Cir. 2007)	6
<i>Ungaro-Benages v. Dresdner Bank AG</i> , 379 F.3d 1227 (11th Cir. 2004)	6
Statutes:	
42 U.S.C. § 7411(b)(1)(A).....	16
42 U.S.C. § 7411(b)(1)(B)	16
42 U.S.C. § 7411(d)	16
42 U.S.C. § 7521(a)(1).....	16
42 U.S.C. § 7521(a)(2).....	16

42 U.S.C. § 7521(a)(3)(E).....	16
42 U.S.C. § 7547(a)(1).....	16
42 U.S.C. § 7547(a)(5).....	16
42 U.S.C. § 7571(a)(2)(A).....	16
43 U.S.C. § 1802(1).....	9
Inflation Reduction Act of 2022, Pub. L. No. 117-169, 136 Stat. 1818.....	10
Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429 (2021).....	10
One Big Beautiful Bill Act, Pub. L. No. 119-21, 139 Stat. 72 (2025).....	11
Regulatory materials:	
<i>Rescission of the Greenhouse Gas Endangerment Finding and Motor Vehicle Greenhouse Gas Emission Standards Under the Clean Air Act</i> , 91 Fed. Reg. 7686 (Feb. 18, 2026).....	10
Other authorities:	
Mia Beams & Akkshath Subrahmanian, Council on Foreign Relations, <i>Congress’s “One Big Beautiful Bill” Will Shrink Renewable Energy Investments—Yet Some Technologies Are Preserved</i> (Aug. 4, 2025), https://www.cfr.org/article/congresss-one-big-beautiful-bill-will-shrink-renewableenergy-investments-yet-some	11
Henry J. Friendly, <i>In Praise of Erie—and of the New Federal Common Law</i> , 39 N.Y.U. L. Rev. 383 (1964).....	5
19 Wright & Miller, <i>Fed. Prac. & Proc. Juris.</i> § 4514 (4th ed. 2022).....	6

STATEMENT OF INTEREST¹

The Chamber of Commerce of the United States of America (Chamber) is the world's largest business federation. It represents approximately 300,000 direct members and indirectly represents the interests of more than 3 million companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. To that end, the Chamber regularly files *amicus curiae* briefs in cases, like this one, that raise issues of concern to the nation's business community.

The Chamber has a strong interest in the legal and policy issues that underlie this case, including issues relating to climate change. The global climate is changing, and human activities contribute to those changes. There is much common ground on which all sides could come together to address climate change with policies that are practical, flexible, predictable, and durable, maintaining the national and international competitiveness of U.S. industry and ensuring consistency with free enterprise and free trade principles. *See* U.S. Chamber of Commerce, *Our Approach to Climate Change* (Apr. 19, 2020), <https://www.uschamber.com/climate->

¹ No counsel for any party authored this brief in whole or in part and no entity or person, aside from *amicus curiae*, its members, or its counsel, made any monetary contribution intended to fund the preparation or submission of this brief.

change/our-approach-to-climate-change. Durable climate change policy must be made by the federal government, which should encourage innovation and investment to reduce emissions and improve economic resilience and clean energy deployment across the globe. Governmental policies aimed at achieving these goals should not be made by the courts, much less by a patchwork of actions under state law that would do more harm than good.

Climate change is an interstate and international challenge, and under our constitutional structure, claims that would impose liability for climate change must necessarily be resolved by federal law. The cross-border nature of climate change implicates “uniquely federal interests” for which a uniform federal policy and the application of federal law are essential. In the limited range of circumstances where “uniquely federal interests” arise, the relevant legal questions often intersect with the interests of many of the Chamber’s members, as they rely on the predictability and uniformity of federal policy. This case falls within that limited range: the Chamber and its members have a strong interest in ensuring that claims for which a uniform federal standard is necessary are governed by federal law, and not by a patchwork of state laws applied in piecemeal fashion.

INTRODUCTION

Bucks County’s lawsuit is fundamentally about *global* climate change—a cross-border, multinational problem that requires a cross-border, multinational

solution. A phenomenon of this nature, which affects (and is affected by) not just every State but every nation in the world, requires a solution that individual States cannot provide. The law of a single State, or an order from a single state court, simply cannot address the effects on every State and every nation from greenhouse gas emissions crossing interstate and international borders.

Any possible solution can be achieved only on a national and international basis—which, within the United States, means through federal law and the federal government acting on behalf of the country as a whole. That is a consequence of our constitutional structure, which ensures that only federal law governs interstate disputes where the law of a single State cannot apply. Reinforcing that limitation, the Due Process Clause prohibits States from regulating transactions or behavior with which they have insufficient contact to support legislative jurisdiction.

The need for a uniform federal standard in cases concerning cross-border emissions is why the U.S. Supreme Court has long recognized that federal common law applies to disputes about “air and water in their ambient or interstate aspects.” *Illinois v. City of Milwaukee*, 406 U.S. 91, 103 (1972) (“*Milwaukee I*”) (citation omitted). Those disputes must be resolved by federal law. Where there is no federal statute, federal common law has governed such disputes. Congress may displace federal common law by statute, which then serves as the exclusive source of remedies for the claim. If Congress displaces federal common law but provides no

private remedy, then there is none. Whether the federal law governing these matters is common law or statutory law, federal law governs. Displacement of federal common law remedies does not mean that federal law disappears from the field—much less that it allows fifty States and their associated municipalities to rush into a uniquely federal arena.

The Court of Common Pleas understood that. It recognized that cases about transboundary pollution, given their interstate and international nature, must be governed by federal law. *See* Decision and Order 12-14. The court saw that the County’s true aim is to hold Appellees responsible for the effects of global climate change and properly rejected its attempt to frame the case as solely about allegedly misleading advertising. *Id.* at 14-15. As a result, the court correctly concluded that claims like the County’s can proceed only under federal law, or else not at all. *Id.* at 15-16. Allowing this case to proceed would hinder, rather than help, efforts to address global climate change. This Court should affirm.

ARGUMENT

I. Federal law exclusively governs this dispute over global greenhouse gas emissions.

There are certain controversies that “our federal system does not permit ... to be resolved under state law,” where “the interstate or international nature of the controversy makes it inappropriate for state law to control.” *Tex. Indus., Inc. v. Radcliff Materials, Inc.*, 451 U.S. 630, 641 (1981). The Court of Common Pleas

correctly recognized that disputes over interstate air pollution or air quality, including disputes regarding greenhouse gas emissions such as this one, are exactly that type of controversy.

A. Only federal law can govern disputes like this one, which implicates interstate and international interests.

1. The U.S. Supreme Court has made clear that federal common law, in its modern form, “addresses ‘subjects within national legislative power where Congress has so directed’ or where the basic scheme of the Constitution so demands.” *Am. Elec. Power Co. v. Connecticut*, 564 U.S. 410, 421 (2011) (“*AEP*”) (quoting Henry J. Friendly, *In Praise of Erie—and of the New Federal Common Law*, 39 N.Y.U. L. Rev. 383, 408, 421-22 (1964)). In particular, the Court has held that federal law must govern when “there is an overriding federal interest in the need for a uniform rule of decision or where the controversy touches basic interests of federalism.” *Milwaukee I*, 406 U.S. at 105 n.6. Federal common law can supply such a “uniform rule of decision” in those areas; state law cannot.

Courts have accordingly applied federal common law in cases involving interstate water disputes,² tribal land rights,³ interstate air carrier liability,⁴ interstate disputes over intangible property,⁵ and foreign relations.⁶ Federal law must govern those types of interstate and international cases because “local law will not be sufficiently sensitive to federal concerns, it is not likely to be uniform across state lines, and it will develop at various rates of speed in different states.” 19 Wright & Miller, *Fed. Prac. & Proc. Juris.* § 4514 (4th ed. 2022). The application of federal law to such cases also follows from the structure of the Constitution, which does not allow States to engage in cross-border regulation. *See Tex. Indus.*, 451 U.S. at 641.

One archetypal area in which the basic scheme of the Constitution requires a federal rule concerns “the environmental rights of a State against improper impairment by sources outside its domain.” *Milwaukee I*, 406 U.S. at 107 n.9 (citation omitted); *see AEP*, 564 U.S. at 421 (“Environmental protection is

² *Hinderlider v. La Plata & Cherry Creek Ditch Co.*, 304 U.S. 92, 110 (1938); *Kansas v. Colorado*, 206 U.S. 46, 95 (1907).

³ *Cnty. of Oneida v. Oneida Indian Nation of N.Y.*, 470 U.S. 226, 235-36 (1985).

⁴ *Treiber & Straub, Inc. v. UPS, Inc.*, 474 F.3d 379, 384 (7th Cir. 2007); *Sam L. Majors Jewelers v. ABX, Inc.*, 117 F.3d 922, 926-29 (5th Cir. 1997).

⁵ *Delaware v. Pennsylvania*, 598 U.S. 115, 128-30 (2023) (discussing federal common law rules for escheatment of money orders).

⁶ *Banco Nacional de Cuba v. Sabbatino*, 376 U.S. 398, 427 (1964); *Provincial Gov’t of Marinduque v. Placer Dome, Inc.*, 582 F.3d 1083, 1088 (9th Cir. 2009); *Ungaro-Benages v. Dresdner Bank AG*, 379 F.3d 1227, 1233 (11th Cir. 2004).

undoubtedly an area ‘within national legislative power,’ one in which federal courts may fill in ‘statutory interstices,’ and, if necessary, even ‘fashion federal law.’” (citation omitted)). In such cases, “[f]ederal common law and not the varying common law of the individual States is ... necessary” to provide a “uniform standard.” *Id.* (citation omitted). Accordingly, the U.S. Supreme Court has held that “[w]hen we deal with air and water in their ambient or interstate aspects, there is a federal common law.” *AEP*, 564 U.S. at 421 (quoting *Milwaukee I*, 406 U.S. at 103).

Claims regarding transboundary emissions also implicate “uniquely federal interests.” Accordingly, when the U.S. Supreme Court held that cases regarding interstate air and water emissions “should be resolved by reference to federal common law[,] the implicit corollary of this ruling was that state common law was preempted.” *Int’l Paper Co. v. Ouellette*, 479 U.S. 481, 488 (1987); *see Milwaukee I*, 406 U.S. at 107 n.9.

2. Climate change is an international and interstate phenomenon. Greenhouse gas emissions are released into the Earth’s atmosphere, where they intermix, from all over the world. And their effects are just as global. Cases concerning the effects of global climate change therefore demand a federal rule of decision.

Here, there is no doubt that the County’s claims concern global climate change. Indeed, the County concedes in its brief that it “is truly seeking redress for

harm caused by climate change.” County Br. 14 (quoting Decision and Order 14). The County so concedes because it must. The Complaint repeatedly states that it seeks to hold Appellees responsible for their worldwide “[f]ossil fuel products” that “release greenhouse gases into the atmosphere, causing climate destabilization, global warming ... and the consequences and injuries associated with those physical and environmental changes.” Compl. ¶ 243; *see id.* ¶ 17 (alleging that “the fossil fuels produced by the defendant companies ... are individually and collectively responsible for the emissions of billions of tons of greenhouse gases and attendant harms to the County”); *id.* ¶ 46 (describing the “myriad of environmental and physical consequences” stemming from “[c]hanges to the global climate”). By the County’s own admissions as set forth in the Complaint, both the emissions and the harms alleged (and the atmospheric phenomena that are indispensable causal links between the emissions and the harms) span the entire globe.

The County’s claims thus implicate uniquely federal interests, in multiple respects. First, they concern “air and water in their ambient or interstate aspects.” *AEP*, 564 U.S. at 421 (citation omitted); *Milwaukee I*, 406 U.S. at 103. That alone would be sufficient to “undoubtedly” call for a federal rule of decision. *AEP*, 564 U.S. at 421 (citation omitted); *Milwaukee I*, 406 U.S. at 103. But there is more, since the County’s claims also implicate foreign policy and the United States’ sovereign

interests. The “international nature of the controversy” is another reason why it is “inappropriate for state law to control.” *Tex. Indus.*, 451 U.S. at 641.

3. The necessity of a uniform federal approach in mitigating climate change is accentuated by the difficult policy choices inherent in balancing the United States’ environmental and energy needs. There are important trade-offs to consider, all of which have enormous consequences. As the U.S. Supreme Court has explained, “[t]he appropriate amount of regulation in any particular greenhouse gas-producing sector” requires “informed assessment of competing interests”: “Along with the environmental benefit potentially achievable, our Nation’s energy needs and the possibility of economic disruption must weigh in the balance.” *AEP*, 564 U.S. at 427.

The federal government has been grappling with this dilemma for decades. Congress undoubtedly takes national energy needs very seriously, including by providing for oil and gas production. *E.g.*, 43 U.S.C. § 1802(1) (“establish[ing] policies and procedures for managing the oil and natural gas resources of the Outer Continental Shelf ... to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade”). Yet at the same time, Congress has undertaken an “informed assessment of competing interests,” including “environmental” concerns. *See AEP*, 564 U.S. at 427.

By enacting the CAA, for example, Congress designated the Environmental Protection Agency (EPA) “as primary regulator” of air emissions. *AEP*, 564 U.S. at 428. As EPA has recently explained, its regulatory authority under the CAA is “a critical part of the comprehensive framework of regulating air pollution.” *Rescission of the Greenhouse Gas Endangerment Finding and Motor Vehicle Greenhouse Gas Emission Standards Under the Clean Air Act*, 91 Fed. Reg. 7686, 7696 (Feb. 18, 2026). In part for that reason, EPA has recently reaffirmed its position that the CAA “continues to preempt state common-law claims and statutes that seek to regulate out-of-state emissions,” even though it has determined that the CAA does not authorize it to prescribe certain greenhouse gas emission standards based on global climate change concerns. *Id.* at 7739.

Even beyond the CAA, Congress has repeatedly taken legislative action in this area since *AEP*. In the Inflation Reduction Act of 2022, for example, the term “greenhouse gas” appears no fewer than 147 times. Pub. L. No. 117-169, 136 Stat. 1818. That term appears another 39 times in the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429 (2021). And Congress recently recalibrated its climate policy with the One Big Beautiful Bill Act, Pub. L. No. 119-21, 139 Stat. 72 (2025), which “makes significant alterations to public incentives for climate and energy-related investments.” Mia Beams & Akkshath Subrahmanian, Council on Foreign Relations, *Congress’s “One Big Beautiful Bill” Will Shrink Renewable*

Energy Investments—Yet Some Technologies Are Preserved (Aug. 4, 2025), <https://www.cfr.org/articles/congresss-one-big-beautiful-bill-will-shrink-renewable-energy-investments-yet-some>.

To allow each of the fifty States—let alone each of the thousands of municipalities, suing in hundreds of state trial courts—to impose their own preferred policy solutions to this complex global challenge, with each of these governments naturally focused on local rather than national benefit, would create a plainly “irrational system of regulation” that “would lead to chaotic confrontation between sovereign states.” *Ouellette*, 479 U.S. at 496-97 (citation omitted). As the Second Circuit correctly concluded in a climate-related case very similar to this one, allowing state-law suits in this area to proceed, thereby “subjecting” companies’ “global operations to a welter of different states’ laws,” “would further risk upsetting the careful balance that has been struck between the prevention of global warming, a project that necessarily requires national standards and global participation, on the one hand, and energy production, economic growth, foreign policy, and national security, on the other.” *City of New York v. Chevron Corp.*, 993 F.3d 81, 93 (2d Cir. 2021). And just recently, in another very similar climate-related case, the Supreme Court of Maryland agreed with the Second Circuit’s analysis and held that federal law (including our constitutional structure) barred the state-law claims from proceeding. *Mayor & City Council of Baltimore v. B.P. P.L.C.*, --- A.3d ----, 2026

WL 809501, at *22, 27-28 (Md. Mar. 24, 2026). In so holding, the Maryland court affirmed a trial-court decision that the Court of Common Pleas cited here. *See* Decision and Order 15-16.

In short, this is a case in which “there is an overriding federal interest in the need for a uniform rule of decision or where the controversy touches basic interests of federalism.” *Milwaukee I*, 406 U.S. at 105 n.6. Federal law must therefore control.

4. The structural limitations that the Constitution imposes on the application of state law to quintessentially national issues are reinforced by the Due Process Clause. That Clause likewise limits the authority of States to regulate matters that are insufficiently connected to the State. *See Gerling Glob. Reins. Corp. v. Gallagher*, 267 F.3d 1228, 1237-38 (11th Cir. 2001); *see also Fuld v. Palestine Liberation Org.*, 606 U.S. 1, 14 (2025) (“State sovereign authority is bounded by the States’ respective borders.”); *Home Ins. Co. v. Dick*, 281 U.S. 397, 407-08 (1930); *Bonaparte v. Tax Court*, 104 U.S. 592, 594 (1881) (State may not legislate “except with reference to its own jurisdiction”). The U.S. Supreme Court has referred to these “territorial limits on state authority” as “the Constitution’s horizontal separation of powers.” *Nat’l Pork Producers Council v. Ross*, 598 U.S. 356, 376 & n.1 (2023).

Here, the County seeks to regulate transactions far beyond its municipal borders (and even Pennsylvania’s), demanding that business practices and communications that occur elsewhere conform to their preferred standards—or be penalized. In doing so, it seeks to control lawful activities in other States and effectively override the energy policies of sister States, as well as of the federal government. The County’s theory is in serious tension with the due process limits on any one State’s authority to prescribe legal rules beyond its own borders.

B. The County’s packaging of its claims makes no difference to the conclusion that the claims are governed by federal law.

The County resists that federal law must govern its claims primarily on the basis that it does not seek to “enjoin any oil and gas operations or sales in [Pennsylvania] or elsewhere.” County Br. 13 (quotation marks and citation omitted); *see id.* at 26-27. But regardless of whether the County seeks to *enjoin* greenhouse gas emissions directly, it certainly does seek to regulate them. As the court below rightly explained, at bottom the County seeks to recover damages for physical harms that can *only* flow from greenhouse gas emissions. Decision and Order 14-15; *see* Compl. ¶¶ 214-238 (alleging harms flowing from “environmental and physical consequences of climate change”). It is a truism that “‘regulation can be effectively exerted through an award of damages,’ and ‘[t]he obligation to pay compensation can be, indeed is designed to be, a potent method of governing conduct and controlling policy.’” *Kurns v. R.R. Friction Prods. Corp.*, 565 U.S. 625, 637

(2012) (quoting *San Diego Bldg. Trades Council v. Garmon*, 359 U.S. 236, 247 (1959)) (brackets in original). That is decidedly true of climate cases like these. *Baltimore*, 2026 WL 809501, at *20 (reasoning in a similar case that “[a] substantial damages award ... would effectively regulate [companies’] behavior far beyond [State] borders”); *City of New York*, 993 F.3d at 92 (same conclusion); *Minnesota v. Am. Petroleum Inst.*, 63 F.4th 703, 719 (8th Cir. 2023) (Stras, J., concurring) (recognizing that similar climate suit sought to “change the companies’ behavior on a global scale”). By saying only that it does not seek a worldwide *injunction*—not much of a disclaimer—the County effectively admits that its ambitious intent is to regulate in these other ways.

It makes no difference that the County has framed this dispute as arising, in part, from misleading marketing relating to climate change, just as it would make no difference if a dispute between two States regarding interstate air or water pollution also happened to involve allegations of misleading statements, breach of contract, or any other alleged violation of federal or state law. It is “the interstate or international *nature of the controversy* [that] makes it inappropriate for state law to control,” *Tex. Indus.*, 451 U.S. at 641 (emphasis added), not the precise causes of action pleaded. Here, the gravamen of the dispute is the oil companies’ alleged responsibility for climate change impacts attributed to greenhouse gas emissions. That dispute must be governed by federal law, for the reasons given above. Pp. 4-13, *supra*.

As other courts have recognized in rejecting similar attempts to repackage climate-based claims, “[a]rtful pleading cannot transform [a municipality’s] complaint into anything other than a suit over global greenhouse gas emissions.” *City of New York*, 993 F.3d at 91; *accord Baltimore*, 2026 WL 809501, at *20 (“No amount of creative pleading can masquerade the fact that the local governments are attempting to utilize state law to regulate global conduct that is purportedly causing global harm.”). Such a suit must be governed by federal law.

II. The Clean Air Act preempts the County’s claims notwithstanding its displacement of federal common law.

When properly viewed for what they are—an attempt to impose liability on Appellees for alleged harms flowing from global climate change—the County’s claims cannot proceed under state law. They are preempted by the CAA, and even if the CAA were silent, the standards in this area could only be set by federal common law under the structure of our Constitution. Although the CAA displaced the federal common law prevailing in the uniquely federal area of interstate emissions, it does not follow that state-law claims suddenly sprung to life upon its passage. Federal law must control, whether statutory law or federal common law.

1. The County’s claims conflict with, and are preempted by, the CAA itself, as the Court of Common Pleas correctly held. Decision and Order 13-14. The CAA “delegate[s]” authority to EPA to “deci[de] whether and how to regulate” greenhouse gas emissions, and “entrusts” to EPA the “complex balancing” of

“competing interests.” *AEP*, 564 U.S. at 426-27. For example, Title II of the CAA gives EPA authority to determine whether to establish emissions standards for the transportation sector, including vehicles, aircraft, locomotives, motorcycles, and nonroad engines and equipment. 42 U.S.C. §§ 7521(a)(1)-(2), (a)(3)(E), 7547(a)(1), (a)(5), 7571(a)(2)(A). The CAA also provides EPA with authority to determine whether emissions of a pollutant from “stationary sources,” such as power plants, refineries, and oil and gas wells, should be regulated and at what levels. *AEP*, 564 U.S. at 426; *see* 42 U.S.C. § 7411(b)(1)(A)-(B), (d). “If EPA does not set emissions limits for a particular pollutant or source of pollution, States and private parties may petition [EPA] for a rulemaking on the matter ... [but there is] no room for a parallel track.” *AEP*, 564 U.S. at 425.

To be sure, there are provisions of the CAA that preserve a “slim reservoir of state common law” for suits brought under the law of the State that is the source of the emissions. *City of New York*, 993 F.3d at 99-100. But those narrow carveouts underscore that the CAA leaves no other avenue for state-law claims with respect to air pollution for which the authority to regulate has been delegated to EPA. In *Ouellette*, the U.S. Supreme Court analyzed parallel provisions of the Clean Water Act and held that the statute “precludes a court from applying the law of an affected State against an out-of-state source,” while permitting “a nuisance claim pursuant to the law of the source State.” 479 U.S. at 494-497. The same is true of the CAA.

See City of New York, 993 F.3d at 100; *Baltimore*, 2026 WL 809501, at *25. The County seeks to hold Appellees liable under Pennsylvania law for emissions from all over the planet, rather than emissions originating in Pennsylvania alone. *See City of New York*, 993 F.3d at 100 (“[T]he City does not seek to take advantage of th[e] slim reservoir of state common law [allowed by the CAA, as noted above]. Rather, [the City] wishes to impose New York nuisance standards on emissions emanating simultaneously from all 50 states and the nations of the world.”). Such claims based on worldwide air emissions are preempted by the CAA’s comprehensive regulatory scheme.

2. Even if the CAA did not preempt the County’s claims, federal law still would preclude them. “[I]f federal common law exists, it is because state law cannot be used.” *City of Milwaukee v. Illinois*, 451 U.S. 304, 313 n.7 (1981); *see Tex. Indus.*, 451 U.S. at 641 & n.13 (federal law governs where the nature of the claim “makes it inappropriate for state law to control”). “[S]tate law does not suddenly become presumptively competent to address issues that demand a unified federal standard simply because Congress saw fit to displace a federal court-made standard with a legislative one.” *City of New York*, 993 F.3d at 98.

In the County’s view, however, displaced federal common law can play no part in the preemption analysis, such that state law should be allowed to control. County Br. 38-39. That position ignores the reality that the domain of cross-

boundary air emissions is still one requiring a federal rule: its international nature implicates constitutional principles of federalism and requires a uniform standard. Pp. 4-13, *supra*. That Congress displaced federal common law simply means that the federal courts are no longer in the business of formulating federal standards. *See AEP*, 564 U.S. at 423-24 (explaining that “it is primarily the office of Congress, not the federal courts, to prescribe national policy in areas of special federal interest”). Displacement in no way eliminates or undermines the overriding federal interest in the dispute, much less throws open the door for the courts of the fifty different States to engage in their own piecemeal resolution of these distinctly federal issues under a variety of competing and conflicting state and local laws. State law was incompetent to address the issue before congressional action, and it remains so after it. Congressional displacement of federal common law does not operate like Dr. Frankenstein—“infus[ing] a spark of being into the lifeless thing” that is state law. Mary Shelley, *Frankenstein* 58 (Penguin Classics rev. ed. 2003).

Precisely because of the need for uniformity—the reason why federal common law was necessary in the first place—a displacing federal statutory scheme must provide the authoritative answer on what remedies are available, even if the answer is “none.” *See Baltimore*, 2026 WL 809501, at *23-25. Thus, “‘resorting to state law’ on a question previously governed by federal common law is permissible only to the extent ‘authorized’ by federal statute.” *City of New York*, 993 F.3d at 99

(brackets omitted) (quoting *Illinois v. City of Milwaukee*, 731 F.2d 403, 411 (7th Cir. 1984)). Under the County’s reasoning, however, congressional attempts to supply a *uniform* federal standard by statute would bring to life the very same *disuniform* state-law rules that were, and remain, incompetent to address this national problem. That would be so even if that federal legislation were to “adopt[] verbatim a judge-made common law rule.” *Id.* at 98-99. Congress could enact statutes codifying the very same court-supplied rules governing interstate water rights, interstate air carrier liability, and interstate disputes over intangible property, *see* p. 6, *supra*, and according to the County, state-law claims on those subjects would suddenly become viable, triggering the very same problems that initially prompted the formulation of a federal rule.

That makes no sense. Federal problems remain federal problems, regardless of whether the necessary uniform, federal standard to deal with them is supplied by federal courts or federal statute. In the (few) areas where federal common law would apply but for displacement by Congress, “the implicit corollary” is that “state common law [is] preempted.” *Ouellette*, 479 U.S. at 488.

* * * * *

In our constitutional system of divided responsibility, the federal government is tasked with addressing national questions like this one. Developing and implementing an appropriate approach to the climate-related impacts arising from

greenhouse gas emissions in a manner that comports with national energy policy, giving due weight to relevant economic, environmental, foreign-policy, and national-security considerations, is a quintessentially national job. *See AEP*, 564 U.S. at 427; *City of New York*, 993 F.3d at 93. The complex choices that bear upon interstate and international emissions require a uniform approach at the federal level, not the disconnected efforts of individual courts throughout the fifty States—each one being asked to award remedies to in-state plaintiffs that will necessarily cross state (and national) lines and collide with one another. Our federal system does not permit fifty different States to deploy their laws to govern this inherently interstate area. Congress decided to seek uniformity through the CAA rather than leave the matter to the federal courts. It did not thereby delegate the matter to States or to state law.

CONCLUSION

This Court should affirm and hold that disparate state-law regimes cannot competently govern in an area where a uniform federal standard is needed, and that congressional efforts to supply just such a standard do not somehow give life to state-law claims that have never been capable of addressing cases, like this one, concerning cross-border emissions.

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Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Pursuant to Pennsylvania Rule of Appellate Procedure 2135(a)(1), I further certify that this filing complies with the type-volume limitations set forth in Rule 531(b)(3) and contains 4,737 words.

Dated: April 15, 2026

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CERTIFICATE OF SERVICE

I hereby certify I caused a true and correct copy of the foregoing brief to be served on or before April 15, 2026, via e-filing, e-mail, hand delivery and/or first-class mail, to all counsel of record, which service satisfies the requirements of Pa.R.A.P. 121.

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