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BRIEFING

US Environment, Health and Safety Regulation – What to look out for in 2026

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The US environmental regulatory landscape has undergone significant change over the last year, with executive orders and presidential statements from the Trump Administration and a flurry of proposed rules from the Environmental Protection Agency (EPA). This briefing highlights key developments that will shape 2026, including the repeal of the endangerment finding, California's climate disclosure regime, the Environment Protection Agency's (EPA's) expansion of PFAS – "forever chemicals" – reporting and cleanup obligations, changes to greenhouse gas reporting obligations and Clean Water Act (CWA) jurisdiction. Regulated companies across multiple sectors should plan for continuing shifts in compliance requirements and related operating impacts.

Key issues

1. The EPA's repeal of the 2009 Endangerment Finding will likely be the year's most significant deregulatory action and is likely to be met with challenges.
2. California's climate disclosure mandates are in flux as a result of delayed rulemaking and active litigation, creating a potentially compressed and uncertain compliance landscape for companies subject to SB 253 and SB 261.
3. Federal oversight of PFAS is shifting as the EPA advances broad CERCLA liability and reporting expansions while simultaneously seeking to narrow TSCA obligations.
4. The EPA's proposed removal of certain program obligations under the Greenhouse Gas Reporting Rules have anticipated ripple effects, including with respect to certain tax incentives.
5. The Supreme Court's *Sackett* decision interpreting the "waters of the U.S." definition continues to impact the scope of federal jurisdiction under the Clean Water Act.

Key environmental developments

In 2025, there was significant recalibration of environmental regulation in the U.S. In 2026, as federal regulators push forward with an agenda focused largely on deregulation, many states (such as California) continue to move swiftly to fill in perceived gaps. This briefing addresses certain key environmental developments of the past few months that are worth watching in 2026. Each of these developments carries significant implications for compliance planning, risk management and corporate governance across sectors.

Repeal of the Endangerment Finding

The EPA's authority to regulate greenhouse gas emissions is based largely on a 2009 finding that six "well-mixed" greenhouse gases[1] directly threatened public health and welfare (the Endangerment Finding) and combined greenhouse gas emissions from new motor vehicles and engines contribute to pollution that consequently threatens public health and welfare (the Cause or Contribute Finding) (collectively referred to as the "Endangerment Finding"). The EPA has relied on the Endangerment Finding to support greenhouse gas emissions regulations in a number of sectors, including as to the foundation for certain motor vehicle and engine emissions standards. On February 12, 2026, the EPA and President Trump announced the final rule repealing the Endangerment Finding and certain subsequent federal motor vehicle and engine emissions standards. In its announcement, the EPA cited a "robust analysis of the law" in the recent U.S. Supreme Court decision in *Loper Bright Enterprises v. Raimondo* and a substantial public comment process.[2] The EPA concluded that CAA Section 202(a) does not provide statutory authority to set existing or prior motor vehicle and engine emissions standards, particularly for the "purpose of addressing global climate change." This marks a significant shift from previous EPA interpretations of CAA authority that considered the collective impacts of air pollutants, as previously recognized in the 2007 U.S. Supreme Court decision in *Massachusetts v. EPA*.[3]

For more information on the environmental implications of the EPA's push to repeal the Endangerment Finding, see our briefing: EPA follows through on its announced deregulatory agenda and proposes to rescind key 2009 endangerment finding linked to its authority to regulate greenhouse gas emissions.

California Climate Reporting Rule Updates

California's Climate Accountability Package, comprised of Senate Bills 253 and 261 (as amended by SB 219), represents a major inflection point in environmental reporting obligations for companies doing business in the state.[4] The bills were enacted in 2023 and quickly raised concerns about feasibility, timing, and the administrative burden placed on both businesses and the California Air Resources Board (CARB). On November 18, 2025, the United States Court of Appeals for the Ninth Circuit issued a

[1] Carbon dioxide (CO2), methane, nitrous oxide (N2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF6).
[2] *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024).
[3] *Massachusetts v. EPA*, 549 U.S. 497 (2007).
[4] Cal. S.B. 253, 2023–2024 Reg. Sess., ch. 382 (Cal. 2023) (codified at Cal. Health & Safety Code § 38532); Cal. S.B. 261, 2023–2024 Reg. Sess., ch. 383 (Cal. 2023) (codified at Cal. Health & Safety Code § 38533).

preliminary injunction temporarily halting enforcement of SB 261.[5] Shortly thereafter, on December 9, 2025, CARB issued proposed regulations and a corresponding staff report that sought to clarify key aspects of the climate disclosure laws.[6] In connection with the injunction of SB 261, CARB set an August 10, 2026 reporting deadline for SB 253 (extending the initial date of June 30, 2026 proposed by CARB in August 2025). An oral argument on the injunction was held on January 9, 2026, and it remains to be seen how, and when, SB 261 will be enforced.

- **Senate Bill 253 (Climate Corporate Data Accountability Act).** SB 253, the Climate Corporate Data Accountability Act, requires large companies that do business in California and have more than one billion dollars in annual revenue to disclose their Scope 1, 2 and 3 greenhouse gas emissions.[7] These disclosures must align with the Greenhouse Gas Protocol, a widely used global framework for measuring and reporting greenhouse gas emissions, and will ultimately be subject to third-party assurance requirements.
    - **Anticipated Implementation Timing.** Despite initial expectations that SB 253's implementation timeline might be delayed, the California legislature rejected Governor Newsom's proposal for a two-year delay. Instead, pursuant to SB 219, the California legislature granted CARB only an additional six months, until July 1, 2025, to adopt implementing regulations. CARB's proposed regulations were not released by the July deadline, leaving companies with significantly less time to prepare for the initial reporting deadline for Scope 1 and 2 emissions disclosures. SB 253 remains subject to ongoing litigation in the federal court although, to date, the reporting deadline has not been stayed.
    - **SB 253 Emissions Reporting Deadlines.** As noted above, SB 253's reporting deadline is currently August 10, 2026 for Scope 1 and 2 emissions. Scope 3 reporting is currently expected to begin in 2027, with the specific reporting schedule to be finalized by CARB. Reporting timelines will vary based on an entity's fiscal year, although companies may elect to use more recent data if available. CARB's December 5, 2024 Enforcement Notice also provides limited flexibility for the first reporting year, allowing companies that were not collecting emissions data before that date to comply in 2026 by submitting a letter stating that no Scope 1 or 2 report will be filed.[8]
- **Senate Bill 261 (Climate-Related Financial Risk Act).** SB 261 requires companies that do business in California and have more than five hundred million dollars in annual revenue to prepare biennial, climate-related financial risk reports.[9] These disclosures must describe material physical and transition risks related to climate change, as well as the measures being taken to mitigate or adapt to those risks. Companies may rely on recognized frameworks such as the Task Force on Climate-related Financial Disclosures (TCFD) or International Sustainability Standards Board (ISSB) standards, which provide

[5] Chamber of Commerce v. Randolph, No. 25-5327, 2025 WL ___ (9th Cir. Nov. 18, 2025) (order granting in part and denying in part motion for injunction pending appeal).
[6] Cal. Air Res. Bd., Proposed Cal. Code Regs. tit. 17, art. 6 (Dec. 1, 2025); Cal. Air Res. Bd., *Staff Report: Initial Statement of Reasons—Public Hearing to Consider the Proposed California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Initial Regulation* (Dec. 9, 2025) (scheduled for Board consideration Feb. 26, 2026).
[7] SB 253, ch. 382 (Cal. 2023).
[8] Cal. Air Res. Bd., *Enforcement Notice: The Climate Corporate Data Accountability Act* (Dec. 5, 2024).
[9] SB 261, ch. 383 (Cal. 2023).

globally recognized guidance for consistent identification and disclosure of climate-related risks and emissions.[10]

- **Ninth Circuit Enforcement Pause.** Although SB 261 required initial disclosure of climate-related financial risks by January 1, 2026, the Ninth Circuit issued a preliminary injunction on November 18, 2025, temporarily halting SB 261 enforcement.[11] On December 1, 2025, CARB responded with an Enforcement Advisory announcing it would not enforce the deadline while the injunction remains in effect.[12]
- **Status of SB 261 Implementation.** In light of the Ninth Circuit injunction, CARB opened a voluntary submission docket for covered entities to file climate-related financial risk reports while the injunction remains in effect. It is not clear how and when the Ninth Circuit injunction will be resolved nor to what extent the resolution will involve material revisions to the substance or implementation timeline of SB 261. This creates continued uncertainty around the first biennial reporting cycle, but CARB's actions may indicate an expectation that entities continue preparing to meet SB 261's requirements despite the temporary pause.

- **SB 253 and SB 261 Implementing Regulations.** CARB proposed draft implementing regulations for both SB 253 and SB 261 on December 9, 2025. These draft regulations are largely aimed at clarifying definitions and applicability triggers.[13] The regulations propose definitions for key terms such as "revenue", "parent" and "subsidiary", and "doing business in California."
  - **Revenue.** The proposed rule defines revenue by reference to "gross receipts" under California Revenue and Taxation Code § 25120(f)(2) and is assessed using the lesser of the entity's two prior fiscal years.[14]
  - **Parent and subsidiary revenue.** Parent and subsidiary revenue are not aggregated for purposes of determining applicability. As such, companies must evaluate the revenue thresholds for SB 253 and SB 261 on an individual entity basis.
  - **Doing business in California.** The proposed rule defines "doing business in California" to include entities that meet one of two criteria:
    - Entities that are domiciled or commercially located in California; or
    - Entities that exceed the California sales threshold for the applicable tax year (e.g., the inflation-adjusted sales threshold, such as $735,000 for 2024, or 25% of total sales). The definition excludes alternative tests based on California property or payroll.

  In addition, the proposed regulations outline certain key exemptions, including nonprofit organizations, businesses subject to regulation by the Department of Insurance, government-owned entities, entities engaging

[10] *Id.*
[11] *Chamber of Commerce v. Randolph*, No. 25-5327 (9th Cir. Nov. 18, 2025).
[12] California Air Resources Board, *Enforcement Advisory: Climate-Related Financial Risk Reporting (SB 261)* (Dec. 1, 2025).
[13] Cal. Code Regs. tit. 17, art. 6 (proposed Dec. 1, 2025).
[14] Cal. Rev. & Tax. Code § 25120(f)(2).

solely in wholesale electricity transactions, and businesses whose only California activity is payroll or employee compensation. CARB's draft regulations also introduce a two-tier fee system to support administrative implementation, establish recordkeeping expectations, and confirm that CARB may audit submissions and consult with other state agencies such as the Franchise Tax Board.

Federal Regulation of PFAS – "Forever Chemicals"

Federal regulation of PFAS continues to evolve. One example is the EPA's July 2024 designation of perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), which currently remains in effect after the EPA reaffirmed its intent to defend the designation in September 2025. This designation triggers federal release reporting requirements and expands potential cleanup liability for a wide range of industries.[15] The EPA is also considering a broader framework for listing additional PFAS under CERCLA, with further evaluations expected in 2026.

The EPA has also recently proposed changes to PFAS-related reporting and requirements under the Toxic Substances Control Act (TSCA). The 2023 PFAS reporting rule under TSCA Section 8(a)(7) mandates that manufacturers and importers of PFAS or PFAS-containing products between January 1, 2011 and December 31, 2022 report certain information.[16]

- **TSCA PFAS Reporting Rule Modifications**. In May 2025, the EPA issued an interim final rule delaying the start of the initial reporting submission window from July 11, 2025 to April 13, 2026.[17] Under the revised schedule, all PFAS manufacturers (including importers) between 2011 through 2022 are required to submit certain PFAS data electronically through the EPA's Central Data Exchange (CDX) between April 13 and October 13, 2026. This excludes small manufacturers reporting solely as article importers, which have until April 13, 2027 to complete required submissions.[18] The extensions largely relate to the EPA's need for additional time to develop and test the CDX reporting platform. The EPA later proposed additional revisions to the PFAS reporting rule on November 10, 2025. This set of revisions was aimed at narrowing the scope of the rule. Of note amongst the proposed revisions are certain definition changes and the addition of new exemptions for PFAS in imported articles and de minimis concentrations, which reflect some of the industry comments on the initial 2023 rule. In response to the November 2025 proposed rule, environmental groups have argued that the changes would undermine the purpose of Congress's directive to obtain comprehensive PFAS data. The public comment period ended on December 29, 2025 and, according to the spring 2025 unified agenda,

[15] U.S. Environmental Protection Agency, *Designation of Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS) as CERCLA Hazardous Substances; Final Rule*, 89 Fed. Reg. 39124 (May 8, 2024) (effective July 8, 2024).
[16] Toxic Substances Control Act § 8(a)(7), 15 U.S.C. § 2607(a)(7); U.S. Environmental Protection Agency, *EPA Extends Reporting Period for PFAS Manufacturers* (May 12, 2025).
[17] *Id.*; Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) Data Reporting and Recordkeeping Under the Toxic Substances Control Act (TSCA); Change to Submission Period, 90 Fed. Reg. 20,236 (May 13, 2025).
[18] U.S. Environmental Prot. Agency, Office of Pollution Prevention & Toxics, *Instructions for Reporting PFAS Under TSCA Section 8(a)(7)* (EPA-705-G-2023-3727, Nov. 2024), https://www.epa.gov/system/files/documents/2024-12/tsca-8a7-reporting-instructions_11-25-24.pdf: https://www.cdx.epa.gov.

the final revised rule is expected to be issued in or around June 2026.[19] Until the final rule is published, regulated entities are advised to continue ongoing reporting preparations, while taking potential revisions into consideration.

Proposed Removal of Greenhouse Gas Reporting Obligations

The Greenhouse Gas Reporting Program (GHGRP) rules require 47 source categories, including oil & gas producers and operators, to collect and report certain greenhouse gas emissions data related to their operations. On September 12, 2025, the EPA released a proposed rule to suspend program obligations for nearly all source categories, including natural gas distribution, one of the ten industry segments of petroleum and natural gas sources, regulated under Subpart W of the GHGRP. The EPA's proposed rulemaking does not remove reporting obligations for the remaining nine industry segments of petroleum and natural gas sources regulated under Subpart W. However, the most notable change in the EPA's proposed rule is the removal of reporting obligations for owners and operators of covered wells under GHGRP Subpart RR, after reporting year 2024.

- **Waste Emissions Charge Implementation Suspended Until 2034**. In July 2025, the One Big Beautiful Bill Act (OBBBA) modified the CAA to delay, until 2034, the implementation of the Waste Emissions Charge, an annual charge imposed under the Inflation Reduction Act for methane emissions that exceed waste emissions thresholds.[20] To ensure consistency with the recent CAA amendments, the EPA's proposed rule also seeks to suspend reporting requirements for petroleum and natural gas sources regulated under Subpart W (excluding the natural gas distribution industry segment) until 2034.[21] For more information on the environment-specific implications of the OBBBA, see our briefing: One Big Beautiful Bill Act: Implications for the environmental sector.
- **IRS 45Q Tax Credit Impacts**. Internal Revenue Service (IRS) Code Section 45Q provides a tax credit for certain methods of carbon dioxide (CO_2) sequestration. To qualify for the credit, the tax code, among other things, requires that claimants dispose of CO_2 in "secure geological storage" in compliance with the reporting and accounting requirements of GHGRP Subpart RR or the International Organization for Standardization (ISO) standards. On December 19, 2025, in light of the proposed suspension of Subpart RR and the potential impacts for parties seeking the Section 45Q tax credit, the IRS released Notice 2026-1 creating a "safe harbor" for potential claimants. The safe harbor provides that geological storage of CO_2 will be considered in compliance with the requirements of Subpart RR if the following conditions are met:
    - CO_2 storage is in compliance with the applicable requirements of Subpart RR as in effect on December 31, 2025; and
    - Instead of submitting an annual report with respect to such storage through the e-GGRT, the party prepares and submits the

[19] Unified Agenda of Federal Regulatory & Deregulatory Actions, Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) Data Reporting and Recordkeeping under TSCA; Revision to Regulation, RIN 2070-AL29, Spring 2025, https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202504&RIN=2070-AL29.
[20] OBBBA, H.R. 1 119th Congress (2025).
[21] 90 FR 44591.

annual report to an independent engineer or geologist for certification in accordance with the notice.

This safe harbor will only apply if the EPA does not launch its electronic reporting system (e-GGRT) by June 10, 2026.

"Waters of the U.S." and Wetlands Developments

The CWA regulates the discharge of pollutants into "navigable waters," generally defined in the statute as "waters of the U.S." (WOTUS).[22] The CWA does not define WOTUS, and both the EPA and courts have grappled with its interpretation since the CWA was implemented.

In May 2023, the U.S. Supreme Court issued a decision in *Sackett v. EPA* narrowing the WOTUS definition, thereby reducing the scope of federal jurisdiction under the CWA.[23] In *Sackett*, the court determined that WOTUS only includes "relatively permanent, standing, or continuously flowing bodies of water."[24] As such, a wetland would only fall within CWA jurisdiction if it has a "continuous surface connection" to waters that otherwise qualify as WOTUS. In September 2023, the EPA issued a revised WOTUS rule conforming with the *Sackett* definition, but debate concerning the interpretation of "relatively permanent" and "continuously flowing" waterbodies has persisted.[25]

- **Updated Definition of WOTUS**. On November 20, 2025, the EPA and the U.S Army Corps of Engineers (USACE) issued a proposed rule seeking to further clarify the WOTUS definition.[26] Under the proposed rule WOTUS would include: (i) traditional navigable waters and the territorial seas; (ii) most impoundments of WOTUS; (iii) relatively permanent tributaries of traditional navigable waters, the territorial seas, and impoundments; (iv) wetlands adjacent to traditional navigable waters, impoundments, and tributaries; and (v) lakes and ponds that are relatively permanent and have a continuous surface connection to a traditional navigable water, the territorial seas, or a tributary. In addition to defining key exclusions under the WOTUS definition, the proposed rule seeks to clarify what constitutes a "relatively permanent" or "continuous" body of water as set forth in the *Sackett* decision. Key aspects of the proposed rule are as follows:
    - **Relatively Permanent Definition**. Under the proposed rule, waters that are "relatively permanent" are defined as bodies of surface water that are "standing or continuously flowing" year-round or at least during the wet season.
    - **Continuous Surface Connection**. Adjacent wetlands are defined as wetlands that have "continuous surface connection" to waters that otherwise meet the WOTUS definition. The proposed rule implements a two-part test for "continuous surface connection" determinations. To meet this definition, waters must (i) abut a jurisdictional water and (ii) have surface water at least during the wet season.
    - **Interstate Waters**. The proposed rule removes interstate waters from the categories of bodies of water that automatically qualify as

[22] 33 U.S.C. § 1251 et seq.
[23] *Sackett* v. *Environmental Protection Agency,* 598 U.S. 651 (2023).
[24] *Id.*
[25] 88 FR 61964.
[26] 90 FR 52498.

jurisdictional waters under the WOTUS definition. This means that waters crossing state lines must independently meet the WOTUS definition.

- **Groundwater Exception**. In addition to modifying existing exclusions, the EPA and USACE are proposing a new exclusion for groundwater. The proposed rule notes that, although neither the EPA nor the U.S. Supreme Court has ever taken the position that WOTUS includes groundwater, the exclusion will provide additional clarity on this matter.

What's Next?

Recent changes in the state and federal regulatory landscape have continued to alter the way in which regulated entities approach compliance. As the Trump Administration continues to advance its expressed goals of reducing environmental and energy-related regulatory compliance burdens, further overhauls to key environmental laws and regulations can be expected. Ongoing litigation and legal challenges to these updates are expected to continue and may delay or impact implementation of new and revised environmental regulations. The EPA has stated that its goal is to provide greater clarity and efficiency; however, diverging state and federal requirements may also create added uncertainty for regulated entities across sectors.

We will continue to track state and federal environmental regulatory changes and provide updates as further information becomes available.

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