Securities Regulation Daily Wrap Up, ESG NEWS—8th Cir.: Eighth Circuit continues hold on SEC's climate disclosure rule until agency acts, (Sep 15, 2025)

By Lene Powell, J.D.



The latest order puts the onus on the SEC to reconsider or defend its climate disclosure rule.

The Eighth Circuit issued a new order continuing a hold on petitions for review of the SEC's climate disclosure rule, which is currently stayed as part of a broadly litigated rule challenge. The petitions will be held in abeyance until the SEC undertakes notice-and-comment rulemaking or renews its defense of the rules (*Iowa v. SEC,* No. 24-1522 (8th Cir. Sept. 12, 2025)).

The order shifts the burden to the SEC, which informed the court in July that it did not intend to review or reconsider the rules.

The court clarified that it is the obligation of the SEC to manage its rules.

"It is the agency's responsibility to determine whether its Final Rules will be rescinded, repealed, modified, or defended in litigation," the court wrote in the per curiam order.

Rule challenge. The SEC adopted final rules in March 2024 to impose new climate-related disclosures relating to greenhouse gas emissions, risk, governance, and business impact. The rules were adopted by a 3-2 vote amid fierce opposition and were quickly challenged by 25 states and others who argued that the SEC exceeded its regulatory authority The actions were consolidated in the Eighth Circuit.

The SEC initially defended its rules but appeared to change its position following the January 2025 turnover in administration. Eighteen states plus the District of Columbia who support the rule as intervenors in the action asked the court to hold the petitions for review in abeyance.

In April, the court granted the motion to hold the petitions in abeyance pending further order, and directed the SEC to indicate whether it intended to review or reconsider the rules. The SEC responded that it did not, and asked the court to terminate the abeyance, continue considering the parties' arguments, and exercise its jurisdiction to decide the case.

Abeyance until SEC acts. The court's September 12 order holds the petitions in abeyance until the SEC takes further action.

"[T]hese petitions for review will be held in abeyance to promote judicial economy until such time as the Securities and Exchange Commission reconsiders the challenged Final Rules by notice-and-comment rulemaking or renews its defense of the Final Rules," the court wrote.

The court noted that the rules are stayed and said an abeyance will not cause material prejudice to the petitioners.

The case is No. 24-1522.

Judge: Per curiam.

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