

Securities Regulation Daily Wrap Up, ESG NEWS—E.D. Cal.: Exxon seeks to upend California climate disclosure laws, (Oct. 27, 2025)

Securities Regulation Daily Wrap Up

By [Mark S. Nelson, J.D.](#)

The company elected to bring an as applied claim rather than a facial challenge to California's twin climate disclosure laws.

Exxon Mobil Corporation filed a lawsuit against the State of California seeking to bar state regulators from implementing a pair of laws enacted several years ago that require large companies doing business in the state to make certain disclosures about greenhouse gas (GHG) emissions and to provide reports on their efforts to deal with climate change. Exxon argued that the two laws violate the federal constitution's First Amendment and that, at least as applied to Exxon, the laws should be declared invalid. Exxon also seeks compensation for its attorney's fees and costs related to the lawsuit ([Exxon Mobil Corporation v. Sanchez](#), No. 2:25-at-01462 (E.D. Cal. Oct. 24, 2025)).

Exxon's complaint, filed in the U.S. District Court for the Eastern District of California, suggested that California's climate disclosure laws serve only to name and shame companies like Exxon, which the company said had already been disclosing GHG emissions data for many years. Exxon elected to bring its lawsuit in the form of an *as applied* claim, alleging that California's laws were invalid as they applied to Exxon (emphasis added).

For comparison, the U.S. Chamber of Commerce lost a [similar facial claim](#) for a preliminary injunction that was brought in the U.S. District Court for the Central District of California (emphasis added). The district court in the Chamber of Commerce's case [denied](#) the group's request for an injunction pending [appeal](#) but proceedings in the lower court remain [stayed](#) pending appeal.

Although Exxon's lawsuit ultimately is directed at the State of California, Exxon has named specific California officials as defendants, including Lauren Sanchez, Chair of the California Air Resources Board (and other CARB officials) and California Attorney General Robert A. Bonta. As a result, Exxon relies on the federal First Amendment as incorporated to the states via the federal Fourteenth Amendment and on the principles of the Supreme Court's opinion in *Ex Parte Young* (U.S. 1908), which set forth when private persons can sue state officials, and 42 U.S.C. § 1983 (and for some purposes also 42 U.S.C. § 1988), providing a vehicle for the redress of violations of rights carried out by persons acting under color of law.

With respect to the First Amendment, Exxon alleged that California has chosen to regulate speech that involves unsettled, politically controversial topics in a content-based manner. Typically, this type of claim takes the case out of the commercial speech context, which is often subject to a lower constitutional standard of review, and instead potentially subjects the state regulation involved to strict scrutiny. The company asserts that California's approach to climate change disclosures limits how it can frame its own corporate message, which it said it has attempted to present through years of prior public disclosures about its climate impact.

Said Exxon: "...the First Amendment bars California from pursuing a policy of stigmatization by forcing ExxonMobil to describe its non-California business activities using the State's preferred framing. Because, as applied to ExxonMobil, S.B. 253 and S.B. 261 effectuate content-based speech regulation divorced from any legitimate state regulatory interest, the Court should enjoin their enforcement against ExxonMobil as a violation of the First Amendment."

With respect to SB 261's reporting requirement, Exxon further alleged that California violated the federal preemption

provision contained in the National Securities Markets Improvement Act (NSMIA), which Congress enacted in 1996 to more precisely divide securities regulatory oversight between federal and state regulators. Specifically, Exxon alleged that SB 261 violated a provision that bars states from placing limits on the use of proxy statements, shareholder reports, and other disclosure documents. The key to the preemption provision is that the state regulations must concern “covered securities.” Exxon said that its “publicly held stock and its bonds” fall within the meaning of “covered securities.”

By way of background, [SB 253](#)’s GHG emissions disclosure requirement, if upheld, would apply to businesses with total annual revenues in excess of \$1 billion and that do business in California. Disclosures would be phased in with Scopes 1 and 2 disclosures due to begin in 2026 and Scope 3 disclosures to begin in 2027. CARB must adopt implementing regulations. State Senator Scott Wiener (D-San Francisco) sponsored the disclosure bill.

The second bill, [SB 261](#), sponsored by Henry Stern (D-Los Angeles), would require any business with total annual revenues in excess of \$500 million and that does business in California to prepare a climate-related financial risk report. The first report would be due on or before January 1, 2026, and would be required to be posted on the business’s website; the business would file such reports biennially in later years.

Governor Newsom also issued signing statements for each bill at the time they became state law. With respect to SB 253, Newsom noted [concerns](#) about the financial impact of the law and the potential confusion over the reporting requirements. Said Newsom: “However, the implementation deadlines in this bill are likely infeasible, and the reporting protocol specified could result in inconsistent reporting across businesses subject to the measure.”

Newsom expressed [similar concerns](#) regarding SB 261 in that CARB may need more time to implement the law. Newsom also expressed concern about the costs associated with the reporting requirements. “Additionally, I am concerned about the overall financial impact of this bill on businesses, so I am instructing CARB to closely monitor the cost impacts as it implements this new bill and to make recommendations to streamline the program.”

The case is [No. 2:25-at-01462](#).

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Companies: Exxon Mobil Corporation

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