

age fuel economy and greenhouse gas emissions standards for model year 2018 and later large trucks by March with a final rule expected in 2016 (33 DEN A-1, 2/19/14).

The new standards would build upon similar requirements (RIN 2060-AP61) the two agencies issued for model year 2014 through 2018 heavy-duty pickup trucks, delivery vehicles and tractor trailers in 2011 (76 Fed. Reg. 57,106).

While truck manufacturers and operators largely supported the previous rule, the latest regulations are expected to be more contentious as the agency is expected to propose standards that will drive new technological improvements. The upcoming rule is also expected to include the first federal standards for trailers, building on similar efforts in California (23 DEN A-6, 2/4/15).

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Litigation

U.S. Leads International Climate Change Litigation Trend, Law Center Study Says

U.S. climate change litigation has far outpaced climate litigation in any other country or jurisdiction, according to a recent study from the Sabin Center for Climate Change Law at Columbia University.

By 2013, U.S. courts had resolved 420 cases of climate change litigation compared with 172 climate change decisions in all other countries combined, according to the February study from the Sabin Center.

"Even accounting for potential gaps in this assessment, it is clear that litigation is not as heavily utilized as a tool to impact climate change policy outside the U.S.," the report said.

"This difference may be due to differing political landscapes," the report added. "In the U.S., opposition to climate action has been influential and has effectively thwarted legislative efforts. Most other jurisdictions have been able to overcome opposition to climate action and develop flagship climate legislation."

The study concluded that substantive climate change litigation "will likely depend on future government attitudes toward implementing and enforcement of climate change legislation."

International Climate Litigation. After the U.S., Australia had the second-largest number of climate change lawsuits, totaling 70, through 2013, according to the study. Australia's cases were focused predominantly on the government's federal and state environmental planning laws like the New South Wales Environmental Planning and Assessment Act of 1979 and the Victoria Planning and Environmental Act of 1987.

The U.K. was subject to 35 climate change cases that largely challenged the country's regulation of emissions sources and renewable energy projects.

The European Union had 30 climate change suits, which focused primarily on the EU's emissions trading system, the world's largest trading scheme for greenhouse gas emissions.

New Zealand was subject to 14 climate change litigation relating to proposed renewable energy projects like wind farms.

The Sabin Center study defined climate litigation to include any piece of federal, state, tribal, or local administrative or judicial litigation in which the tribunal decisions directly and expressly raise an issue of fact or law regarding the substance or policy of climate change causes and impacts.

Environmental Impact Assessments. A majority of the 173 international climate change cases involved claims against the policies of government entities, many of which focused on issues related to environmental impact assessment (EIA) and permitting requirements.

Such cases challenged assessments of how climate change would affect a proposed project like building coastal properties where erosion could occur.

The prevalence of EIA cases outside the U.S. "demonstrates an emphasis on tactical suits aimed at specific projects, whether they are homes, coal-fired power plants or wind turbines," the report said. "In fact, strategic litigation intended to drive climate change policy as a whole is almost absent" in countries other than the U.S..

"Reverse-EIA cases will likely increase as climate change impacts become more pronounced over time and renewable energy cases will increase as jurisdictions work toward their renewable energy goals," the report added.

Limited Degree of Success. International climate change cases had a "limited degree of success" of less than 40 percent, the report said. Cases against corporations, however, had a 90 percent rate of success.

This high success rate in climate change lawsuits against companies "may be indicative of the fact that where very few enforcement actions are initiated, those that are brought are particularly strong suits," the report said.

With respect to cases against governments, pro-climate-action cases have a slightly better success rate of 42 percent compared to 35 percent for anti-climate-action cases, according to the report.

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The Sabin Center for Climate Change Law study, "Climate Change in the Courts," is available at <http://bit.ly/1BQ7v28>.

Superfund

Residents Near General Mills Plant Win Class Certification of Pollution Claims

Residents living near an industrial facility owned by General Mills Inc. may proceed as a class with Superfund and common law claims alleging the company contaminated their properties (*Ebert v. Gen. Mills Inc.*, 2015 BL 52202, D. Minn., No. 13-3341, 2/27/15).

Judge Donovan W. Frank, writing for the U.S. District Court for the District of Minnesota Feb. 27, granted