

# News

## International Climate

### Republicans Seek Information on EPA's Role in Implementing Paris Climate Deal

**T**wenty-nine House Republicans want additional information on how the Environmental Protection Agency may help other countries implement the recently reached Paris deal to address climate change.

The members, led by Rep. Markwayne Mullin (R-Okla.), asked EPA Administrator Gina McCarthy in a Jan. 14 letter how many agency staff might be deployed to other nations, how long the employees would stay and how much such an effort would cost.

They requested a response on the agency's role in implementing the international climate deal, also known as the Paris Agreement, by Jan. 29. No Democrats signed the letter.

McCarthy, during Jan. 7 remarks at the Council on Foreign Relations, said the EPA would assist other nations with air quality monitoring and greenhouse gas inventory development and that such cooperation has been going on for years, including embedding agency staff in other countries (05 DEN A-1, 1/8/16).

"We have actually detailed folks working with State to different countries to actually embed people there who can teach this, to get professional expertise there," McCarthy said of the agency's plans following the international climate talks that concluded Dec. 12 with the first agreement in which developed and developing nations alike committed to action to address climate change.

But she noted the agency had long assisted other countries with such environmental initiatives using existing funding sources.

"EPA's done a lot of international work for a long time because EPA is more sophisticated than most other environmental agencies in any other country," McCarthy said at the event. "We have provided international leadership for a long time. I think we have done it where resources are available to us. You know, everybody has limitations and we work within those."

Congressional Republicans have repeatedly vowed to undermine the Obama administration's international climate change efforts, but have been unsuccessful to date. They continue to vow aggressive oversight of the agreement in 2016 and may attempt to use the appropriations process to thwart the deal's implementation.

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A copy of Rep. Mullin's letter to Administrator McCarthy is available at <http://src.bna.com/b2A>.

## Climate Regulation

### Report Recommends EPA Use International Air Pollution Authority to Tackle Climate

**T**he Environmental Protection Agency should use its authority to regulate international air pollution to require additional reductions in greenhouse gas emissions without the need to issue sector-by-sector regulations, legal experts said in a Jan. 14 report.

Using Section 115 of the Clean Air Act, which covers international air pollution, would allow the EPA to require states take additional measures to reduce their greenhouse gas emissions through market-based programs that could capture a variety of sources including transportation and large emitters like power plants and refineries all at once, according to the report "Legal Pathways to Reducing GHG Emissions Under Section 115 of the Clean Air Act" issued by members of the Sabin Center for Climate Change Law at Columbia Law School, Center on Global Energy Policy at the Columbia University School of International and Public Affairs, the Institute for Policy Integrity at New York University School of Law and Emmett Institute on Climate Change and the Environment at the University of California, Los Angeles School of Law.

"EPA and the states could implement a Section 115 regime with less difficulty than the current, sector-by-sector, source-by-source approach, and could instead combine multiple sectors and source types in a single rulemaking that could establish a nationwide, market-based emissions reduction program," the report said. "Such an approach would be legally defensible, and while implementation issues would be inevitable, as they are in any regulatory program, they would also be manageable."

The EPA has already triggered the requirements to use its Section 115 authority to regulate greenhouse gases because it has found that those emissions, which are global in nature, endanger public health and welfare and because other countries have similar mechanisms in place to control the emissions, which is known as a "reciprocity determination," the report said. Those findings are only bolstered by the recent international climate change agreement reached in Paris in December, which brings together essentially voluntary pledges by nations to reduce their greenhouse gas emissions with mandatory verification requirements.

**Paris Pledge Could Determine Reductions.** The EPA could take the U.S.'s Paris pledge to reduce its greenhouse gas emissions, known as an Intended Nationally Determined Contribution, as an aggregate limit for the country's greenhouse gas emissions, the report said. The agency then would apportion the allowances to states, which would take steps under their Clean Air Act implementation plans to reduce their greenhouse gas emissions. The benefit of that approach is that it would

capture more sources of emissions more quickly than the EPA's current method of regulating sector-by-sector by targeting the largest sources of emissions such as power plants and oil and natural gas production first. States would be free to seek emissions from all available sources, particularly the transportation sector which accounts for 27 percent of greenhouse gas emissions, and could explore market measures like emissions trading to keep costs down, the report said.

When asked about its Section 115 authority, an EPA spokeswoman said the agency's priority is implementing carbon dioxide standards for power plants.

"The agency is currently focused on implementing the Clean Power Plan and our work on other actions within the President's Climate Action Plan," Melissa Harrison said in a Jan. 14 e-mail.

**EPA Petitioned to Explore Authority.** The Institute for Policy Integrity in 2013 had petitioned the EPA to pursue greenhouse gas regulations using its Section 115 authority (34 DEN A-4, 2/20/13).

The EPA has not yet responded to that petition, but Richard Revesz, director of the Institute for Policy Integrity, told Bloomberg BNA that Section 115 could prove an attractive option as the U.S. seeks to meet its Paris commitments because it offers "a more streamlined approach" than issuing emissions standards one industrial sector at a time, a process that can take a year or more.

"Section 115 strikes me as the most plausible and practical step," he said.

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*The Sabin Center report is available at [http://web.law.columbia.edu/sites/default/files/microsites/climate-change/legal\\_pathways\\_to\\_reducing\\_ghg\\_emissions\\_under\\_section\\_115\\_of\\_the\\_caa.pdf](http://web.law.columbia.edu/sites/default/files/microsites/climate-change/legal_pathways_to_reducing_ghg_emissions_under_section_115_of_the_caa.pdf).*

## Vehicle Fuels

### Refiners Seek to Intervene in Lawsuit Challenging EPA Renewable Fuel Standard

**A** trade group representing refiners such as Tesoro Corp. and Chevron filed a motion to intervene in a lawsuit brought by the ethanol industry challenging the Environmental Protection Agency's final renewable fuel standard (*Ams. for Clean Energy v. EPA*, D.C. Cir., No. 16-1005, motion to intervene 1/13/16).

"EPA's decision to lower volume requirements was the only justifiable option given market realities and the failure to do so would have been arbitrary and capricious," the American Fuel & Petrochemical Manufacturers said in a statement regarding its Jan. 13 motion. "This lawsuit is another effort by the ethanol industry to force increased amounts of ethanol produced by the petitioners' members on consumers through an unpopular government mandate, and ignores not only the [10 percent ethanol] blend wall but also strong consumer rejection of higher-ethanol fuels."

The lawsuit from Americans for Clean Energy, a renewable fuels trade association whose members in-

clude the Archer Daniels Midland Co., was filed in the U.S. Court of Appeals for the District of Columbia Circuit Jan. 8 and sought review of the final rule (RIN 2060-AS22), which requires 18.1 billion gallons of renewable fuels be blended into the fuel supply in 2016, less than the statutory requirement in the Energy Independence and Security Act (Pub. L. No. 110-140) of 2007 (06 DEN A-5, 1/11/16).

The renewable fuel standard final rule, published in the Federal Register in December (80 Fed. Reg. 77,420), increased the amount of biofuels just beyond the "blend wall," or the point where the amount of ethanol that must be blended into gasoline exceeds 10 percent and requires refiners to blend 17.4 billion gallons of renewable fuels into the fuel supply in 2016. Ten percent is the maximum amount of ethanol in gasoline approved for use in all vehicles on the road.

Groups such as the American Petroleum Institute and the American Fuel & Petrochemical Manufacturers have called for an end to the renewable fuel standard, which requires billions of gallons of ethanol and other renewable fuels be blended into the fuel supply, but Congress is unlikely to repeal or significantly alter the program this year (05 DEN A-3, 1/8/16).

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*The American Fuel & Petrochemical Manufacturers' motion to intervene is available at <http://src.bna.com/b27>.*

## Air Pollution

### Renault Shares Tumble After French Government Search in Emissions Probe

**R**enault SA offices in France were searched by government fraud investigators as part of a probe into vehicle emissions, raising the specter of a Volkswagen-type scandal and sending the carmaker's shares slumping the most in almost seven years.

Agents from the Economy Ministry's fraud office visited Renault's headquarters as well as sites in Guyancourt and Lardy near Paris during the week of Jan. 4. The French carmaker is cooperating fully with the investigation, the company said in an e-mailed statement Jan. 14, without providing details on what may have been seized. French peer PSA Peugeot Citroen said it wasn't raided and no anomalies were found in its vehicles.

Automakers have been under increased scrutiny since September, when U.S. regulators said Volkswagen AG cheated for years to make its diesel cars appear cleaner than they are. The rigged engines were installed in 11 million vehicles worldwide, sparking lawsuits by the U.S. Department of Justice and state attorneys general as well as investigations in at least seven countries (182 DEN A-5, 9/21/15).

As part of the backlash, French authorities started a probe in September into whether VW deceived customers about the emissions levels of its diesel cars and promised to expand the investigation to cover all carmakers (195 DEN A-20, 10/8/15).