In November 2017, the U.S. Environmental Protection Agency (EPA) announced a proposal to repeal Obama-era regulations, which took effect in January 2018 pertaining to greenhouse gas (GHG) emissions and fuel efficiency standards for heavy-duty glider vehicles, glider engines, and glider kits. The term “glider” refers to a special subset of the heavy-duty on-road trucks (e.g., tractor semi-trailer vehicles) that are ubiquitous on highways across the United States. Specifically, gliders are trucks with new body parts (including such things as the truck frame and cab) that are mated with “used” powertrain components (including the engine, transmission, and oftentimes the rear axle).

Could EPA’s Proposed Rollback of Air Standards for ‘Glider’ Trucks Portend Changes for Other Mobile Source Air Regulations?

by William H. Haak, Attorney and Consultant, Haak Law LLC

*Regulatory Roundup* highlights key changes to the U.S. regulatory landscape.
Glider trucks are sought out by trucking companies of all sizes due to their significantly lower prices (as compared to similar “new” trucks). Glider trucks are also favored due to the relative ease of servicing their older engines, which often have fewer complicated electronic components subject to failure. Additionally, older gliders are frequently exempted from new vehicle safety regulations that can increase operating costs. In December 2017, for example, the Federal Motor Carrier Safety Administration began requiring the use of electronic logging devices to automatically log hours driven and miles traveled (to combat driver fatigue). Trucks manufactured before the 2000 model-year—including many gliders—are exempted from compliance with these new electronic logging device regulations.

By that same measure, gliders emit 10 times more NOx than model-year 2010 engines. All of this comes at a time when air emissions from mobile sources have become a greater concern, as mobile source emissions have surpassed stationary source emissions from electric utilities as the single greatest contributor to air pollution in the United States according to the Energy Information Administration.

While some view EPA’s plans to repeal new glider regulations as a continuation of the Trump Administration’s attack on perceived Obama-era regulatory overreach, EPA’s basis for the proposed repeal of the glider rules appears to be rooted in a sound and defensible legal argument. Simply stated, EPA is now taking the position that it lacks authority under the Clean Air Act to regulate gliders because gliders are not “new motor vehicles”, and gliders are not powered by “new motor vehicle engines”.

The agency’s argument is that, under Section 202 of the Clean Air Act (42 U.S.C. §7521), EPA was granted the authority to prescribe emission standards for “new motor vehicles” and/or “new motor vehicle engines”. Section 216 of the Clean Air Act (42 U.S.C. §7550) defines “new motor vehicle” and “new motor vehicle engine” to mean vehicles and/or engines that have never had their titles transferred to an ultimate purchaser. Because glider powertrains (engines, transmissions, and rear axles) have all been part of previously titled vehicles, EPA now asserts that gliders are not “new motor vehicles” subject to agency regulation under Section 202 of the Clean Air Act.

The public comment period for EPA’s proposed action ended on January 5, 2018. At this writing, it was unclear when EPA would seek to finalize its repeal of the glider regulations. Like many other EPA actions since President Trump took office in January 2017, expect the agency’s repeal to be met with legal challenges. Here, such challenges could come from environmental groups, various trucking industry groups, and new truck manufacturers. Intervenors on EPA’s behalf might include...
small trucking businesses, small and large farms (who frequently use glider vehicles), and glider manufacturers themselves. For its part, EPA has already laid some of the groundwork for its eventual defense—preemptively citing case law in its proposed regulation in support of the agency’s “inherent authority to reconsider, revise, or repeal past decisions” provided such action is supported by “a reasoned explanation”.

In contrast to some of its early 2017 efforts to repeal and/or delay Obama-era regulations, EPA’s glider-related efforts may have a greater chance of surviving legal challenges. Recall, for example, a legal defeat suffered by the agency in mid-2017 in connection with its efforts to delay implementation of Obama-era New Source Performance Standards pertaining to methane emissions from oil and gas facilities. There, the agency relied on a much shakier legal argument under the Clean Air Act in an effort to justify a stay of implementation (to allow for a more time consuming repeal effort). Several environmental groups appealed, and EPA lost in the U.S. Court of Appeals for the D.C. Circuit. Ultimately, the Court found EPA’s “broad discretion” to reconsider previously adopted rules to be much less broad than the agency first thought.

As EPA continues to look for opportunities to roll-back Obama-era regulations, the agency’s efforts to repeal increased regulation of glider trucks begs the question: What other mobile source standards might find themselves subject to a fresh look from EPA? Could we see a change in emission standards for locomotives, locomotive engines, and/or heavy equipment (especially in light of the Trump Administration’s stated goal of funding a major infrastructure initiative)? What about nonroad and small engines for lawn mowers, chainsaws, and generators (all of which are used by individuals and small businesses alike)? Finally, if regulatory changes are made, how worried do manufacturers and regulated entities need to be about the possibility of another complete reversal of environmental policy in 2020 or 2024?

William H. Haak is an environment, health, and safety attorney and consultant, with over 24 years of experience. E-mail: whh@haaklawllc.com

In Memoriam

Joseph E. Padgett (1926–2017)

Past-President Joseph (Joe) E. Padgett passed away on December 13, 2017, in Raleigh, NC. He was 91.

After serving in the U.S. Navy at the end of World War II (1944–1945), Padgett received a bachelor’s degree in mechanical engineering from Johns Hopkins University in 1948 and a master’s degree in mechanical engineering from Caltech in 1951. Upon graduating from Johns Hopkins University, he went to work for Westinghouse in Philadelphia, PA (1948–1954), designing jet engines, and while there, he met Teel Dunn of Swarthmore. They were married in 1953.


In 1971, Padgett joined the U.S. Environmental Protection Agency (EPA) in Durham, NC, as chief of systems analysis staff. The following year, he became director of the Strategies and Air Standards Division, where he and his division were heavily involved in development of the U.S. Clean Air Act.

He was a licensed professional engineer in Ohio, a diplomat of the American Academy of Environmental Engineers, and holder of several U.S. patents (including, ice detector, air motor actuator, and gas generator).


Following his retirement from EPA in 1995, Padgett was active in the National Association of Retired Federal Employees (NARFE), serving two terms as president of the Raleigh chapter. He is survived by his three children Jay, David, and Judy, and seven grandchildren.