GLIDER KITS

BACKGROUND:

- Gliders are specially manufactured types of heavy duty highway vehicles assembled from newly manufactured kits that include the vehicle's frame and cab, to which a used engine, transmission and axles are added.
- Glider production was less than 1,000 vehicles per year before 2010 but increased steadily to a peak of nearly 12,000 vehicles per year in 2015.
- In July 2017, EPA received a petition for reconsideration of the 2016 Heavy-Duty Phase 2 Rule requirements for gliders from three companies. The petition included a technical memorandum with test data from Tennessee Technical University which the University has since withdrawn. However, that technical memorandum was not the basis for the Agency's subsequent proposed rulemaking to repeal the glider regulations.
- In November 2017, EPA published a proposal to repeal application of the 2016 Heavy-Duty Phase 2 Rule to gliders, glider engines, and glider kits. The proposed repeal was premised on an interpretation of the Clean Air Act (CAA) under which gliders would be found not to constitute "new motor vehicles" or "new motor vehicle engines" under the CAA. Additionally, glider kits would not be treated as "incomplete" new motor vehicles. Under this proposed interpretation, EPA would lack authority to regulate glider vehicles, glider engines, and glider kits as "new" under CAA section 202.
- On July 6, 2018, EPA issued a "Conditional No Action Assurance" for certain small manufacturers and their suppliers on the basis of avoiding profound disruptions to small manufacturers in the glider industry while EPA completes a rulemaking on gliders, with a duration of no longer than one year.
- On July 26, 2018, EPA withdrew the no action assurance and explained that EPA will continue to pursue a rulemaking for gliders.
- On October 10, 2018, Congressman Bill Posey and six other members of Congress wrote to request a 5-year administrative stay of the glider restrictions under the Administrative Procedure Act Section 705. We replied that we were considering it.
- In response to Congressional requests, EPA's Office of Inspector General has opened two audits on this issue:
    - The objective of the first audit, requested by House Committee on Science, Space, and Technology Chairman Lamar Smith and other members of the House of Representatives, is to examine the selection, acquisition and testing of glider vehicles at the EPA's National Vehicle and Fuel Emissions Laboratory, as well as the EPA's planning for this testing.
    - The objective of the second audit, requested by Senator Carper and Senator Udall, is to determine whether the EPA acted in compliance with Executive Orders 12866 and 13045 in relation to the development of the proposed rulemaking.

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KEY POINTS:

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Deliberative Process / Ex. 5

TALKING POINTS:

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