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# EPA Chief Reverses Truck Emissions Rollback Under Pruitt

Law360 (July 27, 2018, 4:34 PM EDT) -- [U.S. Environmental Protection Agency](#) acting Administrator Andrew Wheeler on Thursday reversed a decision made in the waning hours of former agency head Scott Pruitt's tenure to cease enforcement of Obama-era emissions standards for heavy-duty trucks outfitted with engines from older trucks.

In a memo, Wheeler, who assumed the acting administrator role [this month](#), said he was withdrawing a decision that lifted enforcement of provisions of a 2016 rule mandating that freight truck diesel engines installed in new truck bodies, known as gliders, are subject to the same emissions standards applicable to newly manufactured engines.

The decision to stop enforcing the glider provisions as the agency works [toward repealing](#) them came on July 6, which was Pruitt's last day, and in the form of a so-called no-action assurance issued by the EPA's Office of Enforcement and Compliance Assurance.

It quickly drew sharp criticism and lawsuits from a [trio](#) of environmental groups and a [coalition](#) of state attorneys general. And in a brief July 18 order in the challenge from The [Sierra Club](#), the [Center for Biological Diversity](#) and the [Environmental Defense Fund](#), a divided D.C. Circuit panel put the rollback of the glider provisions [on hold](#).

In the Thursday withdrawal memo, Wheeler cited OECA policy that no-action assurances should only be issued in an "extremely unusual" situation when one is necessary to serve the public interest and when no other mechanism can sufficiently address the public interest.

He wrote that, after reviewing all relevant information, including "the application of agency guidance regarding no action assurances to these particular facts, I have concluded that the application of current regulations to the glider industry does not represent the kind of extremely unusual circumstances that support the EPA's exercise of enforcement discretion."

Additionally, Wheeler said the EPA would not offer any other no-action assurances about the current requirements for glider manufacturers and suppliers, and that the agency's Office of Air and Radiation would continue to "move as expeditiously as possible" on finalizing a November proposal to repeal the glider provisions.

When floating the repeal last year, the EPA said its proposed interpretation of the Clean Air Act holds that glider vehicles do not qualify as "new motor vehicles," glider engines do not qualify as "new motor vehicle engines" and glider kits do not qualify as "incomplete" new motor vehicles. That runs counter to the Obama-era EPA's interpretation.

An EPA spokesperson said in a Friday statement that the agency "will continue to work expeditiously to finalize a solution that provides regulatory relief and prevents any

inadvertent economic harm to the glider industry while maintaining important air quality protections.”

Reacting to Wheeler’s withdrawal in a statement Friday, Vera Pardee, senior counsel at the Center for Biological Diversity’s Climate Law Institute, said “the utter lawlessness of Scott Pruitt’s gambit to foul our air with thousands more ultra-dirty trucks was obvious to all. But Andrew Wheeler didn’t stop Pruitt’s last-gasp mayhem until the court stayed his hand.”

Meanwhile, Massachusetts Attorney General Maura Healey, one of the 16 state attorneys general who banded together to sue over the no-action assurance, said in a Friday statement “we welcome the agency’s reversal of Scott Pruitt’s illegal parting gift to special interest polluters that would have endangered the health of our children and our environment.”

And late Thursday, Sen. Tom Carper, D-Del., who is the top Democrat on the Environment and Public Works Committee, said in a statement: “With Mr. Pruitt out, I’m glad to see EPA will reverse one of the most egregious — and likely illegal — environmental proposals of his tenure.”

Carper added that he has already urged Wheeler not to repeal the glider provisions, and would continue to work to make sure the “misguided proposal is one that never gets finalized.”