



January 5, 2018

U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington D.C. 20460

Re: Comments of the American Trucking Associations on EPA's Proposed Repeal of Emission Requirements for Glider Vehicles, Glider Engines, and Glider Kits (Docket ID No. EPA-HQ-OAR-2014-0827)

To Whom It May Concern:

The American Trucking Associations (ATA) appreciates the opportunity to comment on the Environmental Protection Agency's (EPA's) Proposed Rule for Repeal of Emission Requirements for Glider Vehicles, Glider Engines, and Glider Kits published on November 16, 2017 (82 FR 53442). ATA members, representing more than 34,000 companies encompassing every type and class of motor carrier in the U.S., are strongly opposed to EPA changing course and undoing the agency's glider provisions under the final rule.

ATA is the national trade association that represents the U.S. trucking industry and is a united federation of motor carriers, 50 state trucking associations, and national trucking conferences created to promote and protect the interests of the trucking industry. Directly and through its affiliated organizations, ATA member fleets have worked tirelessly to be both sustainable and environmentally-sensitive in their operations. Our members have taken great strides to improve their environmental performance while also advancing their business positions whether through the development and adoption of the trucking industry's first-ever sustainability plan in 2008; the phase-in of ultra-low sulfur diesel fuel beginning in 2006; the use of new clean diesel engine technologies to reduce PM and NOx emissions to unprecedented levels; and support for both the Phase 1 and Phase 2 greenhouse gas and fuel efficiency standards for medium- and heavy-duty trucks. Specific to the Phase 2 rule development, a brief overview of ATA's involvement and process are in order.

ATA convened a group of major fleet members to provide input and assess the development of the Phase 2 rule. This group, known as ATA's Fuel Efficiency Advisory Committee (FEAC), represented all aspects of the trucking community including truckload, less-than truckload, package delivery, tank, flatbed, refrigerated, leasing, intermodal, small businesses, cross-border, and vocational applications. Likewise, the FEAC members conducted operations across the entire geographic spectrum of the country. The FEAC worked extremely close with EPA, NHTSA, suppliers, manufacturers, academia, trade groups, environmental organizations, fuel



Comments of American Trucking Associations

Docket EPA-HQ-OAR-2014-0827

Page 2

providers, the California Air Resources Board, and member companies to develop the industry's basic framework on areas of concern under the final rule. This document came to be known as the FEAC *Guiding Principles* which were adopted as official trucking industry policy.

Given the agency's decision in August 2017 to revisit the final glider provisions, ATA reconvened the FEAC to specifically discuss and reaffirm the trucking industry's position on gliders. The FEAC was comprised of leading trucking fleets across the country including FedEx, UPS, Wal-Mart, PepsiCo, Knight Transportation, Old Dominion Freight Line, CR England, ABF, YRC Worldwide, Penske Truck Leasing, and James Burg Trucking. Following extensive discussion, analysis, and industry stakeholder assistance, the FEAC voted unanimously to oppose any attempts to repeal the glider provisions included in the final Phase 2 rule. The rationale for doing so were as follows:

EPA's Reinterpretation of its Legal Authority to Regulate Gliders Could Create Unintended Consequences

EPA's proposal to reinterpret section 202 (a)(1) of the Clean Air Act stating that a new motor vehicle can only be a vehicle comprised entirely of new parts will have implications far beyond gliders. Under EPA's definition, any motor vehicle that contained a powertrain that was comprised of any used parts would fall outside the definition of a "new motor vehicle" and, thus, outside the scope of EPA's regulatory authority. The net result would be that an engine and vehicle manufacturer could avoid all regulation of the sale of its new engines and vehicles so long as the engines used in the final assembly of otherwise brand new vehicles included at least some refurbished parts. Creating such a loophole could potentially upend the agency's ability to regulate emissions from the trucking sector.

EPA has Clear Authority to Regulate Rebuilt Engines

Section (a)(3)(D) of the Clean Air Act authorizes EPA to regulate glider engines. That section states in part:

"The Administrator shall study the practice of rebuilding heavy-duty engines and the impact rebuilding has on engine emissions. On the basis of that study and other information available to the Administrator, the Administrator may prescribe requirements to control rebuilding practices, including standards applicable to emissions from any rebuilt heavy-duty engines (whether or not the engine is past its statutory useful life), which in the Administrator's



Comments of American Trucking Associations

Docket EPA-HQ-OAR-2014-0827

Page 3

judgement cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare taking costs into account.”

ATA finds it interesting that the agency has issued two separate legal interpretations regarding its authority to regulate gliders. The agency’s legal authority under the Clean Air Act has not changed. What has changed is the charge and intentions of the current administration. There has been no “bending” of the law. To the contrary, any “bending” has just recently occurred.

The Continued Growth of Gliders Creates a Competitive Disadvantage for Fleets Purchasing New Equipment and Circumvents Today’s Stringent Emissions Standards for PM, NOx and Greenhouse Gases

Gliders are marketed as an option to save money, avoid maintenance costs and weight penalties, skirt federal excise tax payments, improve reliability, elude the use of engine technologies that virtually eliminate NOx and PM emissions, and to avoid the installation of safety equipment in pre-2000 vehicles under the Electronic Logging Device (ELD) Rule which went into effect December 18, 2017.

ATA members buy a tremendous amount of new equipment and pay a premium price investing in clean engine technologies. Aside from additional maintenance, taxes, and downtime costs, ATA member fleets are paying \$31,000 more on average per new Class 8 truck since 2004 to comply with new NOx, PM, and GHG regulations. While the best-run trucking companies in the nation are heavily investing in cleaning up the environment and improving the overall profile of the industry, the glider vehicle industry openly promotes their sale of “pre-emission engines” and uses the cost savings differential between clean diesel technologies and high-emitting old trucks as a promotional sales pitch.

Trucking continues to remain in the crosshairs of further NOx engine emissions regulations. Just last December EPA, in response to a petition, committed to promulgate more stringent NOx emission standards for new engines. Yet, by EPA’s own admission, glider vehicles may account for as much as 33% of total NOx emissions from all heavy-duty on-highway vehicles by 2025 if left unchecked. Put another way, at current and projected glider production rates, the contribution of NOx and PM emissions from gliders alone would nearly double the emissions of these pollutants from the entire Class 8 fleet. It is not equitable for the cleanest fleet operations in the nation to keep paying the bill for cleaner air to offset excess emissions created by exploiting provisions aimed at salvaged vehicles to essentially make and sell new, “pre-emission” trucks. Furthermore, the continued growth of emissions from the glider



Comments of American Trucking Associations

Docket EPA-HQ-OAR-2014-0827

Page 4

industry will negate potential NOx and PM emission reduction gains from any future on-road diesel engine emission rules.

Unchecked and Exponential Growth of the Glider Market has been Created in Part by EPA

EPA relies on “technology-forcing” standards to achieve emission reduction goals for PM, NOx, and greenhouse gases for medium and heavy-duty trucks. In short, technology-forcing standards are engineered technology pathways predicted to satisfy engine emission limits. ATA and the trucking industry have not, and do not, supported the agency’s use of technology-forcing standards. We do support the use of technologies that are thoroughly tested over a wide array of duty cycles for at least two consecutive annual evaluation periods. History has verified ATAs many concerns over technology-forcing standards and how untested technologies impact buyer purchasing decisions.

Trucking fleets are not comfortable investing in new equipment that is more expensive, less reliable, less fuel efficient, and require increased maintenance. Drivers do not wish to be behind the wheel of new trucks that are unpredictable in their performance. Trucking companies that have the flexibility to avoid the purchase of vehicles equipped with untested technologies either turn to leasing; extend trade-in cycles, purchase newer, used vehicles; or purchase gliders. These technologies have now made the glider market a “safe haven” for those fleets wishing to avoid the purchase of new trucks.

In extensive conversations with fleets purchasing gliders, their decisions are largely based on simple economics. Newer trucks equipped with untested technologies pose too high a financial risk for fleets with limited power units. Many fleets would not be opposed to buying current technologies if there would be a positive business case for doing so. The fact remains that trucking companies are in the business of staying in business. Technology-forcing standards result in unintended consequences for both fleets and, specifically with gliders, the environment. If the glider industry remains unchecked, the agency’s future regulatory efforts to further reduce National Ambient Air Quality Standards (NAAQS) from mobile sources will be largely negated.

ATA requests EPA to more carefully assess how technology-forcing standards impact fleet purchasing decisions in future rulemaking efforts. EPA must also commit to assess how agency decisions involving technology-forcing standards adversely impact fleet turnover rates and the purchase of new vehicles. The proliferation of gliders in the trucking industry are in large part



Comments of American Trucking Associations

Docket EPA-HQ-OAR-2014-0827

Page 5

directly linked to the agency's reliance on technology-forcing standards. EPA must now take responsibility for the situation they have inadvertently helped create.

Failure to Regulate the Highest Polluting Vehicles on the Nation's Highways Runs Counter to EPA's Historical Record in Reducing Emissions from Such Vehicles under the Diesel Emissions Reduction Act

The Diesel Emissions Reduction Act (DERA) is a law that appropriates funds to federal and state grant and loan programs to rebuild, repower, or replace older (and higher emitting) diesel-powered engines. ATA has worked closely with legislators in supporting the continued funding of this program and has likewise supported EPA's implementation and recognition of the importance in addressing older, high-emitting, diesel engines that remain in use across the country. Given the vast spectrum of diesel engine use across all industry sectors, ATA is an active member of The Diesel Emissions Reduction Act Coalition (DERA Coalition), a uniquely broad group of environmental, science-based, public health, commercial and industry organizations, who support efforts to encourage diesel fleet modernization to the cleanest available diesel technologies

ATA and the DERA Coalition are concerned that EPA's decision to encourage the continued proliferation of older engines through the glider industry undermines the work of the Coalition and cooperative federalism with the EPA and states. Since implementation, DERA has become one of the most cost-effective federal clean air programs and has upgraded nearly 73,000 vehicles or pieces of equipment. EPA cannot logically support its on-going efforts under DERA to clean up older, dirtier diesel equipment while on the other hand, promote the continued growth of dirty diesel engines under the glider kit loophole. To do so is both unconscionable and unacceptable

Conclusion

ATA supported the Phase 2 final rule, including restrictions on the glider industry. Our members have worked together tirelessly in support of technologies and programs that have resulted in the production and adoption of the cleanest and most fuel-efficient diesel trucks ever. EPA's decision to allow the unchecked growth of the glider market and encourage the continued sale of antiquated engine technologies grossly undermines the investment decisions of thousands of companies, organizations, and businesses. The public expects more from their EPA in helping communities across the nation achieve attainment with the NAAQS.



★
Comments of American Trucking Associations

Docket EPA-HQ-OAR-2014-0827

Page 6

ATA asks EPA to not repeal the glider provisions under the final Phase 2 rule. The agency clearly has both the legal authority and the obligation to protect both human health and the environment. Now is the time to carry out the congressional charge of the agency and not be influenced by special interests. Thank you.

Sincerely,

Glen P. Kedzie
Vice President, Energy & Environmental Counsel