January 5, 2018

OZONE TRANSPORT COMMISSION

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Scott Pruitt, Administrator
United States Environmental Protection Agency
EPA Docket Center
Mailcode 28221T
1200 Pennsylvania Avenue N.W.
Washington, D.C. 20460

Attention: Docket ID No. EPA–HQ–OAR–2014-0827

RE: Proposed Rule - Repeal of Emission Requirements for Glider Vehicles, Glider Engines, and Glider Kits

Dear Administrator Pruitt,

The Ozone Transport Commission (OTC) appreciates the opportunity to comment on the United States Environmental Protection Agency (EPA) Proposed Rule to Repeal of Emission Requirements for Glider Vehicles, Glider Engines, and Glider Kits (Proposed Rule), published in the Federal Register on November 9, 2017 (40 CFR Parts 1037 and 1068). The OTC was created by Congress under the Clean Air Act (CAA) Amendments of 1990 to work with the EPA and states in the Ozone Transport Region (OTR) to coordinate ground-level ozone pollution control planning in the Northeast and Mid-Atlantic region of the United States (42 U.S.C. § 7511c(a)).

In this Proposed Rule, EPA states that the most reasonable reading of the relevant provisions of the CAA, including CAA sections 202(a)(1), 216(2), and 216(3) is that:

> glider vehicles should not be regulated as "new motor vehicles,"
> glider engines should not be regulated as "new motor vehicle engines,"
> glider kits should not be regulated as "incomplete" new motor vehicles.

Based on this CAA interpretation, EPA is proposing to repeal those provisions of the Phase 2 Rule applicable to glider vehicles, glider engines, and glider kits.

EPA's claimed lack of legal authority rejects its prior CAA interpretation that glider vehicles are "new motor vehicles," glider engines are "new motor vehicle engines," and glider kits are "incomplete new motor vehicles" and is the linchpin of this ill-advised proposal. EPA asserts that gliders are not "new motor vehicles" because their engines and other parts are not "showroom new." This transferred interpretation from the Automobile Disclosure

Act (AIDA - a consumer protection law) of 1958 is inconsistent with the fact that glider vehicles are being manufactured, federally taxed, marketed, and sold as new vehicles. Furthermore, the Proposed Rule provides no rational evidence from the Congressional record to support EPA's conclusion that the definition of a "new automobile" under AIDA for purposes of consumer protection somehow now limits EPA's long held understanding of the definition on "new motor vehicle" under the CAA for the purpose of environmental protection.

Finalizing this Proposed Rule will result in negative public health impacts. Based on preliminary 2017 data, five states in the OTR have areas that are in non-attainment of the 2008 ozone National Ambient Air Quality Standard (NAAQS). In addition, eleven states and the District of Columbia monitor air quality at levels that also violate the 2015 ozone NAAQS, highlighting a need for additional emission reductions instead of backsliding on existing control measures. Mobile sources constitute a particularly important source of emissions in the OTR, comprising the largest contribution to emissions. Emissions from diesel trucks make up the largest portion of mobile emissions. According to EPA's own study, glider engines typically emit 4 to 40 times higher NOx levels and 50 to 450 times higher PM levels than engines that conform to the Phase 1 emissions standards.[1]

As primary implementers of the CAA, the states that comprise the OTC have a legal obligation for "air pollution prevention (that is, the reduction or elimination, through any measures, of the amount of pollutants produced or created at the source) and air pollution control at its source."[2] Section 209 of the CAA severely constrains the state's ability to effectively regulate or reduce emissions from mobile sources. States are thus reliant on the EPA to set and enforce emissions standards that will be protective of public health and aid the country in complying with the new ozone NAAQS. The states in our region are relying on the substantial reductions afforded by strong new engine standards issued by EPA to help with not only ozone NAAQS attainment, but also with regional haze goals, reduction of local air toxics risk, and public health protection.

The Proposed Rule runs counter to the timing and emission reduction goals by allowing increased air pollution across the country. In particular, emissions from heavy duty engines are an ongoing concern by the OTC and should be a concern for states upwind of the OTR that contribute emissions and interstate travel. To foster cooperative federalism, the OTC urges EPA retain the glider rules adopted in 2016. The Proposed Rule would create an unregulated emissions source where their emissions would exacerbate states ability to achieve clean air goals. The 2016 rulemaking offers several scientific facts as to why that policy is sound, including:

1. Gliders are 25% cheaper than new trucks which has spurred an increase in their production. According to EPA data, glider production was less than 1,000 per year prior to 2010 but increased steadily, peaking at more than 10,000 in 2015, a ten-fold increase in five years.[3] In 2016 rulemaking documents EPA indicated that this steady rate of increase was likely

[1] National Vehicle & Fuel Emissions Laboratory, U.S. Environmental Protection Agency: Chassis Dynamometer Testing of Two Recent Model Year Heavy-Duty On-Highway Diesel Glider Vehicles. November 20, 2017. https://www.dieselnet.com/misc/201711_epa_glider_report.pdf

[2] Clean Air Act §101(a)(3)

[3] Memo from Charles Moulis, USEPA to William Charmley, USEPA, November 15, 2017, "Summary of Glider Production Data."

tied to attempts to circumvent tighter standards thus enabling potential truck purchasers to save money on capital and operating costs and avoid purchasing new cleaner engines.[4]

2. EPA estimated that if glider production continued at current rates, emissions from these engines could account for as much as 50% of the total NOx and PM emissions from all new Class 8 vehicles.[5]

3. Nearly all engines used in recent glider production are model year 1998-2002; there are a small number of 2004-2006 model year engines being used in glider kits but nearly no 2007 and newer engines.[6] These significantly older engines that lack exhaust gas recirculation and exhaust after treatment required by EPA's current Phase 1 rules, have NOx and PM emissions that are 20-40 times higher than 2010 and newer engines.[7]

4. Although the Proposed Rule did not contain independent emissions testing data at the time of its publication, EPA testing results recently added to the docket indicate that gliders emit 40 times more NOx and PM than vehicles built to today's standards.[8]

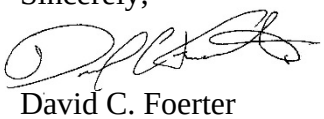
The negative emission impacts of even small scale use of gliders is significant, especially in the OTR, which is struggling to meet the health-based ozone NAAQS. The environmental impact of the Proposed Rule is akin to EPA allowing emissions from the Volkswagen cheating scandal to continue unabated, in which vehicles emitted up to 40 times more NOx than allowed, causing extensive, costly, and irreparable harm to public health and air quality throughout the country.

EPA estimated in its original rulemaking in 2015 that limiting glider production and requiring gliders to meet current standards would prevent up to 1,600 premature deaths over the life of the vehicles and reduce almost 300,000 tons per year NOx and 8,000 tons per year PM in 2025.[9] Compared to the Proposed Rule where EPA states, "the Emission Requirements for Glider Vehicles, Glider Engines, and Glider Kits was anticipated to lower ambient concentrations of $PM_{2.5}$ and some of the benefits of reducing these pollutants may have accrued to children. [EPA's] evaluation of the environmental health or safety effects of these risks on children is presented in Section XIV.H. of the HD Phase 2 Rule. Some of the benefits for children's health as described in that analysis would be lost as a result of this action." 82 FR 53448 (Nov. 16, 2017). In addition to acknowledging adverse health impacts, EPA also states, "the proposed action does not affect the level of public health and environmental protection already being provided by existing NAAQS and other mechanisms in the CAA." 82 FR 53448 (Nov. 16, 2017) There is no basis in fact for such a statement because allowing glider production to continue unchecked and essentially unregulated from an emissions perspective will either increase air pollution and contribute to additional violations of the NAAQs or force states to seek unspecified future reductions for which EPA has no technical basis to claim equivalency with the air quality benefits forfeited by the Proposed Rules.

[4] FR p 40529 (July 2015)
[5] EPA and NHTSA's Response to Comments for Joint Rulemaking, p 1875, August 2016
[6] Ibid 3
[7] EPA and NHTSA's Response to Comments for Joint Rulemaking, p 1874, August 2016
[8] Ibid 1
[9] Ibid 7

The OTC appreciates the opportunity to submit these comments and opposes the adoption of the Proposed Rule. Please contact me with any questions.

Sincerely,



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cc: OTC Commissioners