

EPA Administrator Scott Pruitt Moves to Reopen Massive Loophole for Worst Polluting Trucks

Proposal would unfairly disadvantage freight truck companies complying with current standards.

“Glider trucks” are freight trucks with a used engine installed in an otherwise new frame. After pollution limits on heavy-duty freight engines were updated in 2010, glider trucks sold with old, dirty engines were *dramatically* more polluting than new trucks with modern engines.

Sales of glider trucks used to be only a few hundred a year. But after 2010, sales suddenly jumped, possibly surpassing 10,000 a year. The ten-fold increase in sales reflected a harmful loophole: glider truck manufacturers circumvented pollution standards by selling trucks with dirty, used engines that did not achieve pollution levels that all other manufacturers had to meet. EPA took action in 2016 to close this loophole and require that glider manufacturers meet modern air pollution controls that all other manufacturers have to meet, while providing flexibility for small businesses. This action had broad support from major truck manufacturers and dealers.ⁱ

Pruitt announced his intent to revisit the just-closed glider loophole in August EPA has just submitted for White House review a new proposal to repeal emission requirements for glider trucksⁱⁱ--indicating that Pruitt is moving forward with his regressive plan, despite the harmful implications for market fairness and public health.

Pruitt’s proposed rule will reopen a massive pollution loophole.

- The used engines in gliders can emit as much as **40 times the pollution** of modern engines.ⁱⁱⁱ
- Diesel freight truck engines emit diesel particulate matter (DPM), smog-forming oxides of nitrogen (NO_x), numerous air toxics, and other harmful pollutants. This pollution contributes to a host of respiratory problems and premature death.
- If the glider truck loophole were left open until 2021, EPA estimates indicate that glider vehicles would result in **as many as 6,400 premature deaths**.^{iv} Glider trucks would comprise only 5% of the freight trucks on the road but would account for **one third of all NO_x and particulate matter emissions** from the heavy truck fleet.^v
- Just one year of glider truck sales—approximately 10,000 trucks—would emit ten times more NO_x pollution over the truck’s lifetime than has been emitted by all the “defeat device” Volkswagen vehicles in the U.S.,^{vi} and would lead to as many as 1,600 premature deaths.^{vii}
- These enormous amounts of additional pollution would make it harder for local governments—which have no control over national truck standards—to meet air quality standards.

The current law does not limit glider truck production, it merely closes the glider truck loophole by ending the unrestricted installation of highly polluting engines.

- Under the current Clean Trucks Standards, finalized in 2016, engines used in glider trucks must meet NOx and PM pollution standards corresponding to the glider truck's year of assembly. Older engines may still be installed so long as they are retrofitted to meet modern pollution standards.^{viii}
- The standards also allow for several flexibilities to accommodate the traditional use of gliders (e.g. engine salvage). Small businesses may build glider trucks with pre-2010 engines equal to the number they produced in any one year between 2010 or 2014, or 300 gliders, whichever is less.^{ix}
- Small fleets and individuals looking for less expensive trucks can still purchase glider vehicles with older engines that meet applicable pollution standards.
- America's largest glider manufacturer, Fitzgerald Glider Kits, agreed that the glider industry would "remain viable and intact" after closure of this loophole.^x

Nonetheless, Pruitt is moving to reopen the glider loophole.

- On Aug. 17, 2017, Pruitt announced his decision to revisit the glider truck provisions.^{xi}
- The Administration has been pressured by glider vehicle manufacturers to repeal the protective provisions. These few companies want to be able to produce an unlimited number of dirty trucks for profit.
- Capitulating to glider industry pressure, Pruitt has now moved ahead with a proposed repeal of the glider truck provisions in the 2016 Clean Trucks Standards.

Reopening the glider truck loophole will undermine a level playing field.

- Glider vehicles with old, dirty engines have an unfair competitive advantage over trucks that achieve clean air safeguards.
- Freight truck leaders invested in and now sell cleaner freight trucks and engines. Reopening the glider loophole could put their prudent investments—and their employees' jobs—at risk.
- Many of these companies publicly supported the glider provisions in the 2016 Clean Trucks Standards, including Cummins, Navistar, Nuss Truck and Equipment, Truck Country, GATR Truck Center, Worldwide Equipment Enterprises, and Volvo.
- For example, Nuss Truck and Equipment noted that "Dealers such as ours have been subject to a growing unfair competition from this rapidly expanding market of non-compliant vehicles" and that "The original intent of selling glider kits has moved from a rebuilding mechanism to now mainly evading diesel emissions EPA mandates."^{xii} Nuss concluded that "The rapidly expanding glider-based vehicle market is seriously undermining the significant gains EPA, NHTSA, and the heavy-duty vehicle industry have made to reduce criteria and greenhouse gas emissions, reduce fuel consumption, and improve roadway safety."
- More excerpts from the public comments of leading freight truck providers are included below.

Numerous trucking industry leaders have publicly opposed the unfair competition and pollution that would be allowed by a glider kit loophole

Volvo^{xiii}

What they said on:

- **Unfair Competition:** “The availability of these vehicles [gliders] is creating an unlevel playing field for manufacturers of new vehicles designed and certified to be compliant to all current emissions, fuel efficiency, and safety regulations.”
- **Size of Market:** “Gliders as a whole represent over 10,000 units annually”
- **Gliders should be considered new vehicles:** Volvo includes an advertisement from a glider manufacturer that advertises gliders as new.
- **Sub-300 cap:** “We further encourage EPA to reduce or, at a minimum maintain, the 300 unit production cap in the final action by the Agencies”

Clarke^{xiv}

What they said on:

- **Used engines:** “This commenter recommends that used engines be eliminated as an option when assembling gliders. A rebuilt engine that has been brought back to the original MY EPA emission standard is always a cleaner option than a used engine installed in a Glider chassis.”
- **Sub-300 cap:** “For example each small trucking company’s exemption could be the lesser of the average number of Gliders built annually over the past 3 years or 150 units/year.”
- **Establishing base years:** “Instead of using production years 2010- 2012 to establish peak levels use production years 2015- 2016.”
- **Gliders and vocational gliders each have 300 cap:** “The maximum cap with Gliders and Vocational Gliders would be 600/year.”

Cummins^{xv}

What they said on:

- **Limits on glider kits:** “Cummins supports limitations on the use of glider kits”
- **Appropriate use of glider kits:** “[G]lider kits should not be used to circumvent the purchase of a currently certified engine and after treatment system”

GATR Truck Center^{xvi}

What they said on:

- **Unfair competition:** “Dealers such as ours have been subject to a growing unfair competition from this rapidly expanding market of non-compliant vehicles.” “We strongly object to such an unfair disruption of market competition.”
- **Support for regulation:** “GATR Truck Center strongly supports the Agencies' proposal to impose new requirements on companies assembling and offering for sale vehicles produced by installing used driveline components into new glider kits.”

Navistar^{xvii}

What they said on:

- **Support for regulation:** “Navistar supports the portion of the NPRM that addresses gliders. Further, Navistar suggests that the allowance is too high, and that gliders should either be limited to 200 per year or eliminated completely.”
- **Unfair competition:** “the prevalence of gliders, addressed in the NPRM, is one example how these pressures can lead to distortions in the market for vehicles.”

Nuss Truck & Equipment^{xviii}

What they said on:

- **Support for regulation:** “strongly supports the Agencies' proposal to impose new requirements on companies assembling and offering for sale vehicles produced by installing used driveline components into new glider kits. NHTSA should also enforce the existing regulations that require manufacturers of glider-based vehicles to comply with all applicable safety standards.”
- **Unfair competition:** “Dealers such as ours have been subject to a growing unfair competition from this rapidly expanding market of non-compliant vehicles.”
- **Inappropriate use of gliders:** “The original intent of selling glider kits has moved from a rebuilding mechanism to now mainly evading diesel emissions EPA mandates”
- **Health and Emission:** “The rapidly expanding glider-based vehicle market is seriously undermining the significant gains EPA, NHTSA, and the heavy-duty vehicle industry have made to reduce criteria and greenhouse gas emissions, reduce fuel consumption, and improve roadway safety”

PACCAR^{xix}

What they said on:

- **Support the 300 cap:** “If the implementation is set at January 1, 2018 as proposed in the NPRM, then EPA should allow all small businesses, as defined by federal regulations, to assemble a minimum of 50 gliders per year as exempt from the engine / vehicle model year requirements, regardless of the emission standard of the engine, and up to their maximum sales in 2013 or 2014, or 300.”

Truck Country of Wisconsin^{xx}

What they said on:

- **Emissions:** “We agree with EPA's assessment that most gliders manufactured today use remanufactured model year 2001 or older engines. Typically these engines have NOx and particulate matter (PM) emissions 20 to 40 times higher than today's clean diesel engines.
- **Inappropriate use:** “Since 2010 when EPA's current NOx and PM standards for heavy duty engines took effect, glider sales have increased nearly 10-fold as compared to the 2004-2006 ~ time frame. We agree with EPA that this increase reflects an attempt to avoid using engines that comply with EPA's 2010 standards, and is an attempt to circumvent the Clean Air Act's purpose to protect human health and the environment.”

Worldwide Equipment Enterprises, Inc.^{xxi}

What they said on:

- **Support for regulations:** “Worldwide Equipment strongly supports the Agencies’ proposal to impose new requirements on companies assembling and offering for sale vehicles produced by installing used driveline components into new glider kits.”
- **Unfair Competition:** “Dealers such as ours have been subject to a growing unfair competition from this rapidly expanding market of non-compliant vehicles”
- **Unfair taxes for gliders:** “In addition to not having to follow the environmental regulations that legitimate dealers like Worldwide have to follow, the manufacturers of glider-based vehicles, in many cases, are not collecting the 12% federal excise tax (“FET”) that normally applies to new vehicle sales, giving customers even further financial incentive to purchase glider vehicles rather than fully compliant new vehicles.”
- **Health and Emissions:** “the rapidly expanding glider-based vehicle market is seriously undermining the significant gains EPA, NHTSA, and the heavy-duty vehicle industry have made to reduce criteria and greenhouse gas emissions, reduce fuel consumption, and improve roadway safety”

ⁱ See Appendix below.

ⁱⁱ EPA has sent a Proposed Rule, “Repeal of Emission Requirements for Glider Vehicles, Glider Engines, and Glider Kits” to the Office of Management and Budget (OMB). When OMB review has concluded, the Proposed Rule will be published for public review and comment. <https://www.reginfo.gov/public/do/eoDetails?rrid=127647>.

ⁱⁱⁱ EPA, Frequently Asked Questions about Heavy-Duty “Glider Vehicles” and “Glider Kits”, <https://nepis.epa.gov/Exe/ZyPDF.cgi/P100MUVI.PDF?Dockey=P100MUVI.PDF>.

^{iv} EPA and National Highway Traffic Safety Administration Response to Comments at 1965, <https://nepis.epa.gov/Exe/ZyPDF.cgi/P100P8IS.PDF?Dockey=P100P8IS.PDF>.

^v 81 Fed. Reg. at 73943 (October 25, 2016), <https://www.gpo.gov/fdsys/pkg/FR-2016-10-25/pdf/2016-21203.pdf>.

^{vi} Compare EPA and National Highway Traffic Safety Administration Response to Comments at 1964, <https://nepis.epa.gov/Exe/ZyPDF.cgi/P100P8IS.PDF?Dockey=P100P8IS.PDF> (1,000 MY 2017 glider vehicles would emit 41,500 more tons of NOx over their lifetime compared to vehicles with new engines) with <http://news.mit.edu/2015/volkswagen-emissions-cheat-cause-60-premature-deaths-1029>; <http://iopscience.iop.org/article/10.1088/1748-9326/10/11/114005> (estimating 36.7 million kg in excess NOx emissions from Volkswagen vehicles in the U.S. between 2008 and 2015, converted to 41,000 tons of NOx).

^{vii} EPA and National Highway Traffic Safety Administration Response to Comments at 1965, <https://nepis.epa.gov/Exe/ZyPDF.cgi/P100P8IS.PDF?Dockey=P100P8IS.PDF>.

^{viii} EPA, Frequently Asked Questions about Heavy-Duty “Glider Vehicles” and “Glider Kits”, <https://nepis.epa.gov/Exe/ZyPDF.cgi/P100MUVI.PDF?Dockey=P100MUVI.PDF>.

^{ix} *Id.*

^x Commercial Carrier Journal, Fitzgerald Gliders confident its kits will meet Phase 2 emissions standards (Sept. 8, 2016), <http://www.ccjdigital.com/fitzgerald-gliders-confident-its-kits-will-meet-phase-2-emissions-standards/>.

^{xi} EPA, EPA Announces Intent to Revisit Provisions of Phase 2 Heavy-Duty Rules (Aug. 17, 2017), <https://www.epa.gov/newsreleases/epa-announces-intent-revisit-provisions-phase-2-heavy-duty-rules>.

^{xii} <https://www.regulations.gov/document?D=EPA-HQ-OAR-2014-0827-0922>.

^{xiii} <https://www.regulations.gov/document?D=EPA-HQ-OAR-2014-0827-1966>. p. 1865-69

^{xiv} <https://www.regulations.gov/document?D=EPA-HQ-OAR-2014-0827-1005>. p.1825-27

^{xv} <https://www.regulations.gov/document?D=EPA-HQ-OAR-2014-0827-1298>. p. 1830

^{xvi} <https://www.regulations.gov/document?D=EPA-HQ-OAR-2014-0827-1010>. p. 1846

^{xvii} <https://www.regulations.gov/document?D=EPA-HQ-OAR-2014-0827-1919>. p. 1855

^{xviii} <https://www.regulations.gov/document?D=EPA-HQ-OAR-2014-0827-0922>. p. 1857

^{xix} <https://www.regulations.gov/document?D=EPA-HQ-OAR-2014-0827-1204>. p. 1858

^{xx} <https://www.regulations.gov/document?D=EPA-HQ-OAR-2014-0827-1468>. p. 1864

^{xxi} <https://www.regulations.gov/document?D=EPA-HQ-OAR-2014-0827-0948>. p. 1873