



Jeffrey M. Sims • President
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April 3, 2017

Scott Pruitt, Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Elaine L. Chao, Secretary
US Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Request to Reconsider and Stay Phase 2 GHG and Fuel Efficiency Standards for Truck Trailers

Dear Administrator Pruitt and Secretary Chao:

I am writing to request your immediate intervention to resolve a pending petition filed by the Truck Trailer Manufacturers Association (TTMA) in the US Court of Appeals for the District of Columbia Circuit to review the greenhouse gas fuel economy standards for heavy-duty truck trailers. TTMA's members manufacture nearly all of the heavy-duty truck trailers sold and operated in the United States. We represent over 70 trailer manufacturers with offices and plants located in over 33 states. Most of these manufacturing companies are closely-held, family-owned businesses. Our members' customers comprise cargo shippers and motor carrier fleets, large and small, as well as independent owner-operators, who together move nearly all of the nation's commercial truck freight.

The new greenhouse gas standards unlawfully treat trailers as "motor vehicles" and unwisely mandate installation of aerodynamic equipment on the vast majority of trailers, regardless of actual use. Because the industry already installs this equipment in those uses where it saves fuel, the standards will substantially burden the motor carrier industry and produce little or no additional greenhouse gas or fuel economy gain. Moreover, we believe that the President's March 28, 2017 Executive Order requiring review and, as appropriate, suspension, revision or rescission of actions arising from President Obama's June 2013 Climate Action plan directly applies to these standards. We therefore ask that EPA and NHTSA review, reconsider and begin a process to rescind these standards. We further ask EPA and NHTSA to take steps to suspend or stay the effectiveness of the standards in the interim, due to the burden of imminent steps that trailer manufacturers otherwise must take to comply. We ask to meet with you or your designees at your earliest convenience to address this matter, which is urgent for our members, their employees and customers.

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1. *The Standards.* On October 25, 2016, EPA and NHTSA promulgated “Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles – Phase 2” (GHGP2), which the agencies expressly described as having been “called for” in the 2013 Climate Action Plan. 81 Fed. Reg. 73,478, 73,480 (Oct. 25, 2016). Beginning with 2018 trailer production, the new GHGP2 standards will mandate installation of side skirts, trailer tails, low-rolling resistance tires and tire monitoring/inflation systems on most trailers manufactured and sold in the United States by TTMA’s members. Trailer manufacturers must install and sell this equipment even if the trucking operations of their customers will not achieve any fuel economy benefits (such as circumstances in which the trailers will not be hauled over long distances at highway speeds sufficient to produce any benefits).

2. *Petition for Review and Deficiencies in Rule.* On December 22, 2016, TTMA petitioned for review of the trailer standards in the United States Court of Appeals for the District of Columbia Circuit (Case No. 16-1430). TTMA intends to raise several objections to the rule:

The agencies lack statutory authority. EPA’s authority under the Clean Air Act to set standards for mobile sources is limited to engines and “motor vehicles,” defined in the statute to mean “self-propelled vehicle[s] designed for transporting persons or property on a street or highway.” 42 U.S.C. § 7550(2). Trailers are not self-propelled. Trailers are not equipped with engines that provide the power needed to transport cargo and thereby consume fuel or cause air emissions. EPA’s contention that trailers are part of the motor vehicle tractor-trailer combination makes no sense. Tractors and trailers are manufactured and sold separately by different sets of manufacturers to customer populations that are not the same; a single trailer is likely to be hauled by multiple tractors during its lifetime and, conversely, a single tractor is likely to haul multiple trailers. Moreover, in the nearly fifty years since EPA has been regulating emissions from heavy-duty engines and trucks, it has never treated the trailer as part of a truck so as to fall within the definition of “motor vehicle,” and there is no evidence Congress ever intended such a result. Likewise, NHTSA lacks statutory authority. Its governing authority for fuel economy standards, the Energy Independence and Security Act (EISA), also does not define heavy-duty “vehicle” to include a trailer. In the rulemaking, NHTSA has erroneously relied instead on definitions in the Motor Vehicle Safety Act, which separately authorizes NHTSA to adopt safety regulations but does not address fuel efficiency or emissions of any kind. See 49 U.S.C. § 30101.

The standards are arbitrary and capricious. The GHGP2 standards for trailers, if implemented, will do little to reduce greenhouse gas emissions or improve fuel economy. TTMA members and the trucking industry already participate extensively in EPA’s voluntary Smartway program to develop and incorporate aerodynamic equipment in trailers where there are benefits from doing so. This is particularly true for trailers hauled regularly over long distances at highway speeds, where aerodynamic efficiency makes a measurable difference. But aerodynamic devices such as side skirts and trailer tails also add significant weight to trailers and thus are counterproductive in multiple short-run operations and at lower speeds (where most of the trailers’ moving time occurs). In lower speed operations, aerodynamic efficiency is not achieved and the equipment is only counter-productive dead weight. EPA and NHTSA erroneously assumed in the rulemaking that tractor-trailers, on average, operate near highway speeds most of the time. Moreover, heavy-duty trucks are subject to an 80,000-pound maximum combined weight limit for tractor, trailer and cargo. Because the GHGP2 rule will mandate aerodynamic equipment on trailers, trucking companies who already haul loads that are at or near this limit in order to maximize efficiency will have to reduce the cargo in each load and haul the excess on additional trailers. The result will be more (and heavier) tractor-trailers on the nation’s highways to haul the same total amount of freight. In addition to the costs of the aerodynamic equipment, this will add more trucks burning more fuel with more emissions, especially in low-speed service for which the additional equipment has no material benefits. It will also result in more accidents and more injuries and fatalities involving tractor-

trailers, which is contrary to NHTSA's primary mission under the Motor Vehicle Safety Act. 81 Fed Reg. at 73,642.

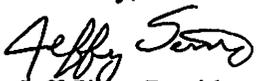
3. *The Executive Order Requires Review, Reconsideration and Rescission.* Section 3(d) of President Trump's March 28, 2017 Executive Order mandates that all agencies review and identify actions that are related to or arose from President Obama's June 2013 Climate Action Plan. As noted above, the GHGP2 rule, including the trailer standards, are clearly within the scope of this Order. The Order further directs that each agency shall, as soon as practicable, publish for notice and comment proposed rules suspending, revising, or rescinding any such actions, as appropriate and consistent with law and the policies stated in Section 1 of the Order. The Order states in its very first sentence as policy to avoid regulatory burdens that unnecessarily constrain economic growth and prevent job creation. Section 1 goes on to elaborate as policy that environmental regulations must comply with the law, have greater benefits than costs, and rely on the best available peer-reviewed science and economics. For the reasons described above, the trailer requirements in the GHGP2 rule conflict with these policies.

Furthermore, we note that in seeking to justify the costs as outweighing the benefits of the GHGP2 rule, EPA relied on the Obama Administration's "social cost of carbon." See 81 Fed. Reg. at 73,875 (explaining that the agencies "estimate the global social benefits of CO₂ emission reductions expected from the heavy-duty GHG and fuel efficiency standards using the social cost of carbon"). The March 28 Executive Order directed that the prior Administration's social cost of carbon analyses be withdrawn, and that, effective immediately, agencies shall ensure that estimates used in valuing the GHG impacts of regulations be consistent with OMB Circular A-4 (Sept. 17, 2003). The Order specifically directed that this include the approach to considering domestic versus international impacts and the consideration of the appropriate discount rates. Accordingly, the Order directs a new approach, effective immediately, that is different from and in conflict with the approach EPA used to justify the GHGP2 standards, which the Order makes clear is "no longer representative of government policy." Not only does this constitute a further policy reason to revisit the trailer requirements, but it constitutes centrally relevant new information warranting reconsideration of the rule under Section 307(d)(7)(B) of the Clean Air Act, 42 U.S.C. § 7607(d)(7)(B).

4. *EPA Action is Urgent to Avoid Substantial Economic Impacts.* As anticipated in the directive of Section 3(d) of the Executive Order that the agencies take action "as soon as practicable," this matter is of great time sensitivity to TTMA's members. Although the GHGP2 standards apply to trailers manufactured after January 1, 2018, the standards will have costly impacts on trailer manufacturers in the latter half of 2017. The manufacturers will soon have to quote and commit in advance to trailer orders for production in 2018, and they will soon begin incurring substantial expenditures for parts inventory and for reconfiguring manufacturing plants and assembly lines to enable installation of the required devices. These are, in many cases, small- to medium-sized businesses throughout the country who can ill afford the unnecessary burdens of these standards, which will impact them, their employees, customers and the economy at large.

TTMA would like to meet with you or your designees to seek an immediate path to reconsideration of the GHGP2 trailer requirements and an approach to stay the effectiveness of the rule in the interim to avoid the burden and disruption of imminent steps to comply. We very much appreciate your attention to this important matter and your consideration of our requests on an expedited basis.

Sincerely,

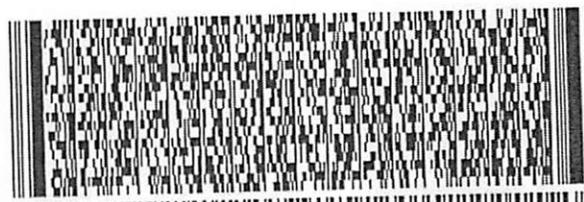

Jeff Sims, President

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