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February 24, 2017

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

Dear Administrator Pruitt:

Congratulations on your recent confirmation as Administrator of the Environmental Protection Agency (EPA). In this new role, we, the undersigned, write to raise your awareness and convey our concern regarding the inclusion of the heavy duty trailer industry in the joint EPA – National Highway Traffic Safety Administration (NHTSA) October 25, 2016 Final Rule entitled, *Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles – Phase 2 (GHGP2)*.

Our concerns contain two elements. First is the EPA's illegal extension of its legislative authority under the Clean Air Act by qualifying a trailer as a "new motor vehicle". Second, if the EPA can prove legislative authority does actually exist to uphold this classification, we hold grave concerns regarding the regrettable – and even tragic – consequences. For these reasons, we ask that you review the record and consider whether it would be appropriate to eliminate the heavy-duty trailer manufacturing industry from the rulemaking in order to correct the agency's legislative overreach.

Under the Clean Air Act (42 USC 7521(a)), Congress required the EPA to regulate "any air pollutant from any class or classes of new motor vehicles or new motor vehicle engines, which ... may reasonably be anticipated to endanger public health or welfare." Under 42 USC 7550(b), motor vehicle "means any self-propelled vehicle designed for transporting persons or property on a street or highway." Indisputably, trailers are inert, cannot move under their own power, do not have an engine and do not generally produce emissions. Therefore, including truck trailers under the Clean Air Act's pollutant regulations is an abuse of the EPA's jurisdictional claim.

Through the SmartWay Program, a currently voluntary program to assist in the implementation of the GHGP2, the EPA sets forth trailer engineering standards to improve a truck operator's fuel economy in a heavy-duty tractor-trailer combination traveling at highway speed. Although data supports the gains from increased efficiency of these standards for tractor-trailers traveling at highway speed, data submitted to the EPA from a range of commenters reportedly demonstrates that the same benefits are not achieved when traveling at less-than-highway speeds. The American Trucking Association states that at least half of all tractor-trailer usage occurs not on highways but at lesser speeds around towns and cities. This means that at least half of tractor trailers will be required to make the engineering adjustments to comply with regulation but will not experience increased efficiency.

However, adding weight to trailers by altering their engineering to meet standards will displace cargo in order for the truck operator to remain in compliance with Gross Vehicle Weight laws on the roads. This will


paradoxically require more tractor-trailers on the road just to maintain current freight transportation levels, which will clearly have the net effect of increasing greenhouse gas (GHG) rather than reducing it. Despite the trucking industry's admirable safety record, more tractor-trailers compiling more miles and facing more accident exposure will unnecessarily lead to more traffic fatalities. Toward this end, NHTSA states on pages 356 and 357 of the joint EPA-NHTSA rulemaking:

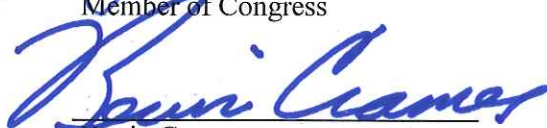
"According to FMCSA's 2014 annual report for 'Large Truck and Bus Crash Facts' indicates (sic) there are less than 1.67 fatalities per 100 million vehicle miles traveled (VMT) by combination trucks in the U.S. for 2014. When multiplied by an estimated 184 million additional truck miles due to weighed-out trucks, the result is an increase of about 3 fatalities, or 2.7 fatal crashes."

Trucking operators capable of benefitting under SmartWay already enjoy economic and competitive incentives. It would seem that those who cannot achieve improved efficiencies because they too frequently travel at lesser speeds have no reason to add costly add-ons to trailers that, additionally, will increase crash fatalities.

It is our belief and aim to bring to your attention that the EPA does not possess the Clean Air Act authority in this instance. Trailers do not self-propel or generate emissions, and trailer manufacturers do not construct motor vehicles. If they are treated as such and are required to meet the same requirements, costs will increase and GHG will worsen, rather than improve. Of greatest concern is that more people will unnecessarily die each year as a result of this ill-considered rule. The House of Representatives took action to prevent these tragic outcomes by including an EPA prohibition on spending to implement, enforce, et al. the rulemaking against trailer manufacturers within the House FY 2017 Interior, Environment and Related Agencies appropriations bill. Regardless, as Administrator of the EPA, we hope you will review this matter as quickly as possible and address the concerns we have raised. For more information, please do not hesitate to contact Aubrey Neal in Representative Barry Loudermilk's office at Aubrey.Neal@mail.house.gov.

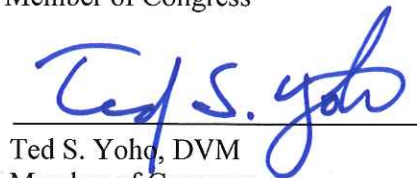
Sincerely,


Barry D. Loudermilk
Member of Congress



Kevin Cramer
Member of Congress

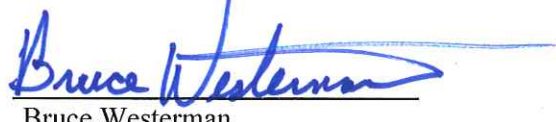

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