

Congress of the United States

House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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July 12, 2018

The Honorable Andrew Wheeler
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Acting Administrator Wheeler,

The Committee on Science, Space, and Technology is conducting oversight of the Environmental Protection Agency (EPA) and its scientific programs. Specifically, the Committee has concerns regarding the scientific integrity and validity of a recent study conducted by the National Vehicle and Fuel Emissions Laboratory (NVFEL) in Ann Arbor, Michigan.

On October 25, 2016, the Obama Administration EPA and the National Highway Traffic Safety Administration issued a final rule (“2016 rule”) that, among other things, required engines in “glider vehicles” (“gliders”) to meet the emissions standards of the year in which the vehicle was assembled, rather than the year the vehicle’s engine was manufactured.¹ EPA describes a “glider vehicle” as a truck assembly consisting of a new chassis and cab with a used engine, transmission, and/or rear axle.² On November 16, 2017, the EPA proposed to repeal the 2016 rule.³

Subsequently, on November 20, 2017, the NVFEL quietly released a study that examined emissions from glider trucks as compared to non-refurbished or unmodified, conventionally

¹ Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium-and-Heavy-Duty Engines and Vehicles—Phase 2, 81 Fed. Reg. 73, 478 (Oct. 25, 2016).

² See Repeal of Emissions Requirements for Glider Vehicles, Glider Engines, and Glider Kits, 82 Fed. Reg. 53, 443 (Nov. 16, 2017).

³ *Id.* at 442.

manufactured trucks⁴ without notifying EPA leadership. Documents obtained by the Committee show an apparent concerted effort between EPA staff at the NVFEL and representatives from the Volvo Group, a subsidiary of AB Vovlo, and the Truck and Engine Manufacturers Association (EMA) to target and test gliders assembled by Fitzgerald Glider Kits, the largest glider assembler in the U.S. Volvo, a member of EMA and competitor of Fitzgerald, supported the 2016 rule that increased the regulation of gliders.⁵

Email communications indicate that Volvo had a keen interest in how Fitzgerald responded to the 2016 rule, specifically sharing with NVFEL staff Fitzgerald's "larger than normal presence" at a trade show in March of 2017.⁶ Then, in September of 2017, three weeks after Administrator Pruitt indicated an intention to revisit the 2016 rule, a representative from Volvo initiated contact with EPA employees in the NVFEL office in Ann Arbor, Michigan, asking the lab to conduct a test program in which Volvo "would provide the test articles."⁷

The ensuing exchange appears to show an overt attempt by a regulated entity to shape a scientific study at EPA to achieve a specific, pre-determined outcome. In one email, the representative from Volvo lays out the "ideal" test program for the NVFEL, listing specifically the test articles to use and the schedule by which the test program should be conducted.⁸ Volvo's recommendations were specific to the point where it suggested to the NVFEL multiple times to use "Fitzgerald rebuilds" and to "stay away from Cummins,"⁹ another EMA member.

Further targeting Fitzgerald, an EPA employee at the NVFEL emailed a Volvo representative to ask whether the NVFEL should request a test article from the glider manufacturers themselves, adding that "if they say no, that's a story in itself!"¹⁰ There is no indication that the NVFEL ever reached out to Fitzgerald or any other glider manufacturer before, during, or after this study was performed.

These documents raise serious questions as to the objectivity and legitimacy of the NVFEL study. To better assist the Committee in understanding how EPA intends to uphold scientific integrity and how it undertakes decisions to perform scientific studies underlying regulation, we request a briefing for Committee staff by the appropriate EPA officials who are

⁴ National Vehicle and Fuel Emissions Laboratory, Env'tl. Prot. Agency, Chassis Dynamometer Testing of Two Recent Model Year Heavy-Duty On-Highway Diesel Glider Vehicles (Nov. 20, 2017) (EPA-HQ-OAR-2014-0827-2417).

⁵ Comments of the Volvo Group, Greenhouse Gas Emission and Fuel Efficiency Standards for Medium-Duty and Heavy-Duty Engines and Vehicles—Phase 2; Proposed Rules, Docket No. EPA-HQ-OAR-2014-0132 (Oct. 1, 2015).

⁶ Email from Volvo Employee to Env'tl. Prot. Agency Employee and Truck & Engine Mfrs. Ass'n Employee (March 28, 2017, 11:56 a.m.).

⁷ Email from Env'tl. Prot. Agency Employee to Volvo Employee (Sept. 5, 2017, 4:47 p.m.).

⁸ Email from Volvo Employee to Env't. Prot. Agency Employee (Sept. 8, 2017, 3:07 p.m.).

⁹ *Id.*; Email from Volvo Employee to Env't. Prot. Agency Employee (Sept. 9, 2017, 11:08 a.m.).

¹⁰ Email from Env'tl. Prot. Agency Employee to Volvo Employee (Oct. 28, 2017, 6:19 p.m.).

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familiar with this matter. We ask that you schedule this staff briefing no later than Thursday, July 26, 2018.

Further, we request all documents and communications between or among EPA officials referring or relating to the NVFEL glider study and all documents and communications between or among EPA officials and relevant article manufacturers referring or relating to the NVFEL study.

We request that you provide these documents and information as soon as possible, but no later than 5:00 p.m. on July 26, 2018. When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2321 of the Rayburn House Office Building and the Minority Staff in Room 394 of the Ford House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.


The Committee on Science, Space, and Technology has jurisdiction over environmental and scientific programs and “shall review and study on a continuing basis laws, programs, and Government activities” as set forth in House Rule X.

If you have any questions about this request, please contact Committee staff at 202-225-6371. Thank you for your attention to this matter.

Sincerely,



Lamar Smith
Chairman
House Committee on Science,
Space, and Technology



Bill Posey
Member of Congress



Ralph Abraham, M.D.
Chairman
Subcommittee on Oversight




Clay Higgins
Vice Chair
Subcommittee on Oversight

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Andy Biggs
Chairman
Subcommittee on Environment



Brian Babin
Chairman
Subcommittee on Space



Gary Palmer
Member of Congress

Encl.

cc: The Honorable Eddie Bernice Johnson, Ranking Member, Committee on Science, Space,
and Technology
The Honorable Donald Beyer, Jr., Ranking Member, Oversight Subcommittee
The Honorable Suzanne Bonamici, Ranking Member, Environment Subcommittee