

Today's Trucking

SPECIAL REPORT: Truck OEMs stand by EPA in Navistar lawsuit

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WASHINGTON -- Pro-SCR truck and engine makers have returned serve against rival OEM Navistar's legal challenge of their chosen emissions technology' for 2010.

As todaystrucking.com reported earlier this week, Navistar is taking the Environmental Protection Agency ([EPA](#)) to court over the agency's allowing of SCR to be used as a 2010 emission-control strategy. The suit claims the EPA's recent 2009 SCR Guidance represents a reversal of its position in 2001 and that the agency declined to go through a lengthy review process to amend the 2001 Clean Air rules.

Specifically, Navistar's challenge claims that the EPA improperly allowed SCR systems to incorporate a 'ramped shutdown' or "limp home" feature in case diesel exhaust fluid (DEF) tanks run dry.

There was speculation that Cummins, Detroit Diesel, Volvo and Mack were preparing to file a counter suit against Navistar, which, of course, is the only major engine maker completely using EGR technology in new engines rather than SCR.

For now, though, it appears the SCR coalition has chosen to collectively file what's known in legal jargon as a Amici Curiae (AC) motion (literally translated to "friends of the court"). ACs are not party to the litigation, but believe that the court's decision may affect its interest or a particular industry.

Usually, ACs offer a legal opinion or testimony that concerns parties other than the litigants.

As the defendant, the EPA does not oppose this motion, while, not surprisingly, Navistar "does not consent" to it.

The motion, obtained by todaystrucking.com, states that the AC "would offer a unique and important perspective on the issues raised in Navistar's petitions for review that would assist the court in understanding the industry as well as significant consequences" to SCR manufacturers are related suppliers if Navistar's suit undermines the SCR Guidance.



Mack and other OEMs say they're ready with SCR and are trying to stop Navistar from delaying the 2010 deadline.

In particular, the motion notes the SCR companies spent "considerable time and effort participating in the EPA rulemaking Navistar is challenging and expended significant resources" to develop and test SCR engines.

"AC also have an interest in ensuring that a level playing field is maintained among all industry manufactures."

In the absence of the SCR Guidance, manufacturers would "face substantial uncertainty as to the EPA certification procedures for 2010."

The AC's main objective is ensuring that the EPA rule is not delayed by these proceedings. (Navistar had tried to convince the EPA to pushback the Jan. 1, 2010 deadline, but to no avail).

The company later admitted it will have to use accumulated emissions credits to immediately comply with the '10 rule.