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SCR court battle heats up

Jun 4, 2009 1:23 PM, By Jim Mele, editor-in-chief

Truck and engine manufacturers relying on SCR ([selective catalytic reduction](#)) technology to meet Federal [2010 diesel emissions](#) standards have issued their first legal response to U.S. appeals court petitions filed by [Navistar](#). Those petitions, since consolidated into a single case, challenge the U.S. Environmental Protection Agency's ([EPA](#)) recently issued guidelines for certifying 2010 diesel engines using SCR.

[Cummins Inc.](#), [Detroit Diesel Corp.](#), [Daimler Trucks North America LLC \(DTNA\)](#), [Volvo Group North America Inc.](#) and [Mack Trucks Inc.](#) as a group have asked the U.S. Court of Appeals for the District of Columbia that they be allowed to participate in the case as *amici curiae*, or friends of the court. The group members, along with Paccar and its Peterbilt and Kenworth subsidiaries, have all committed to using SCR to meet the EPA's 2001 ruling that NOx emissions from diesel engine be at or below 0.2 g/bhp-hr. beginning Jan. 1, 2010.

Navistar is the sole U.S. heavy-duty manufacturer to reject the SCR approach, and instead has committed to meeting the rule's standards using high levels of EGR (exhaust gas recirculation). The company will at least initially also rely on emissions credits it has earned with cleaner light-duty diesels over the last two years to certify engines at a 0.5 g/bhp.-hr NOx level.

The SCR group told the court they should be granted *amici curiae* status because they had "spent considerable time and effort in participating in the EPA rulemaking that Navistar is challenging. ... In addition, [they] have expended significant resources over many years in a good-faith research, development, prototype testing, and certification effort to comply with EPA's" diesel emissions requirements for 2010.

The heart of the court case revolves around the SCR "certification guidance" issued by EPA in February and "certification requirements" released by the agency in March. In a brief to the court, Navistar said it intends to raise nine issues involving those EPA documents. The most important is that the EPA's SCR guidance "relaxes the 0.2 g NOx standard" for SCR engines and "affirmatively authorizes operation of diesel engines with their emissions control devices bypassed, defeated, and/or rendered inoperative," both of which it says are in violation of the 2001 Clean Air Act requirements.

Those claims are based on EPA's requirement that SCR engines have a ramped shutdown process that would disable a truck in steps if it is run without the [diesel emissions fluid \(DEF\)](#) needed by SCR for NOx reduction.

Navistar's court petition also contended that the SCR guidance significantly amended EPA's 2001 rules that created the diesel emissions reduction requirements and that the agency violated mandatory Federal rulemaking procedures by issuing the new certification process without following those procedures.

The SCR group asserted in its court papers that the members "have an important interest in ensuring that EPA's 2009 SCR Guidance not be delayed. ...In the absence of this guidance, [group members] and others in the industry would face substantial uncertainty as to the EPA certification procedures for SCR equipped heavy-duty vehicles in the U.S."

"We take issue with Navistar's position on this matter, and felt that it was important to provide the court with full information on SCR and the high level of acceptance and compliance in our industry, as well as the consequences of uncertainty and potential delay," DTNA spokesperson Amy Sills told Fleet Owner. "Delaying tactics at this late date are not in the best interest of our respective customers, nor do they further our shared environmental goals."

The other members of the SCR group declined to comment when contacted by Fleet Owner, as did Paccar.

The original court petition does not specify a remedy sought by Navistar, though last year the company did request that EPA delay the 2010 standards and that [request was rejected](#). Citing company policy not to comment on pending court cases, Navistar spokesperson Roy Wiley would only say that it was "seeking guidance from the court."