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RECEIVED UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

_____)	
NAVISTAR, INC.)	
)	
Petitioner,)	
)	No. 09-1113
v.)	(Consolidated with
)	No. 09-1114)
U.S. ENVIRONMENTAL PROTECTION)	
AGENCY, and LISA JACKSON, Administrator,)	
)	
Respondents.)	
_____)	

**CUMMINS INC., DETROIT DIESEL CORP., DAIMLER TRUCKS
NORTH AMERICA LLC, VOLVO GROUP NORTH AMERICA, INC.
AND MACK TRUCKS, INC. MOTION FOR LEAVE TO PARTICIPATE
AS AMICI CURIAE**

Pursuant to Circuit Rule 29(b), Cummins Inc. (“Cummins”), Detroit Diesel Corporation (“DDC”), Daimler Trucks North America LLC (“DTNA”), Volvo Group North America, Inc. (“Volvo”), and Mack Trucks, Inc. (“Mack”) (collectively, “Amici Curiae”) hereby request leave from this Court to participate as amici curiae in the above-styled consolidated proceedings in support of Respondent United States Environmental Protection Agency (“EPA”), and state the following:

1. On March 31, 2009, Petitioner Navistar, Inc. (“Navistar”), filed a petition for review of a final rulemaking action issued by EPA on January 18, 2001, under

the Clean Air Act and entitled “Control of Air Pollution for New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements,” 66 Fed. Reg. 5002 (Jan. 18, 2001) (“2001 Standard”). On the same day Navistar also filed a petition for review of EPA guidance entitled “Certification Requirements for Heavy-Duty Diesel Engines Using Selective Catalyst Reduction (SCR) Technologies,” issued on February 18, 2009 (“2009 SCR Guidance”). The two cases have been consolidated.

2. Amici Curiae, as manufacturers of diesel engines and diesel powered heavy-duty trucks and commercial vehicles, are directly affected in their day-to-day manufacturing operations by EPA’s 2001 Standard and the 2009 SCR Guidance, which Navistar has challenged in these proceedings.

3. Specifically, Cummins, DDC, and Mack manufacture diesel engines for on and off-highway use, and also provide products and services for the maintenance and repair of the engines. DTNA manufactures heavy-duty trucks, medium-duty trucks, and specialized commercial vehicles under the brand names of Freightliner, Western Star, and Thomas Built Buses. Volvo and Mack also manufacture heavy-duty trucks, medium-duty trucks, and specialized commercial vehicles.

4. Based on their respective manufacturing operations and special interests in the subject matter of these proceedings, Amici Curiae will 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 the significant consequences to Amici Curiae and others in the industry of any ruling by this Court that would undermine EPA's 2001 Standard and 2009 SCR Guidance.

5. In particular, Amici Curiae spent considerable time and effort in participating in the EPA rulemaking that Navistar is challenging. In addition, Amici Curiae have expended significant resources over many years in a good-faith research, development, prototype testing, and certification effort to comply with EPA's 2001 Standard, and the final emission standards which become effective on January 1, 2010. Amici Curiae also have an interest in ensuring that a level playing field is maintained among all industry manufacturers.

6. Amici Curiae also have an important interest in ensuring that EPA's 2009 SCR Guidance is not delayed, as Amici Curiae, and others in the industry, have worked closely and cooperatively with EPA to develop a strategy that is effective in the U.S. and consistent with other non-U.S. certification programs such as the E.U. where SCR is employed to achieve reduced emission standards. The 2009 SCR Guidance clarifies how certification testing will be conducted for those manufacturers who have elected to use SCR to meet the new and more stringent emission standards that begin on January 1, 2010. In the absence of this guidance, Amici Curiae, and others in the industry, would face substantial uncertainty as to

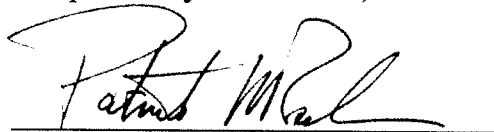
the EPA certification procedures for SCR equipped heavy-duty vehicles in the U.S.

7. Amici Curiae's request is timely. Navistar filed its petitions for review in this Court on March 31, 2009. Pursuant to Circuit Rule 29(b), Amici Curiae have sought leave to participate as amici curiae within 60 days of the docketing of these cases in this Court. See Circuit Rule 29(b). No substantive proceedings on the merits have taken place, the Court has not yet entered a briefing schedule, and Amici Curiae's request will not require any changes to the current schedule in these proceedings.

8. Counsel for Respondent EPA has indicated that EPA does not oppose this motion. Counsel for Petitioner Navistar has indicated that Navistar does not consent to this motion.

WHEREFORE, Amici Curiae respectfully request that this Court grant leave for Amici Curiae to participate in these proceedings in support of Respondent EPA.

Respectfully submitted,



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Dated: June 1, 2009

CERTIFICATE OF SERVICE

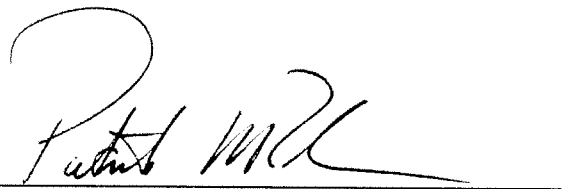
This is to certify that on this 1st day of June, 2009, a true and correct copy of the foregoing Motion for Leave to Participate as Amici Curiae, was served by First Class Mail, postage pre-paid, to the following:

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