



2022 CARB Warranty Requirement on Heavy-Duty Trucks

House Environmental Resources and Energy Committee

Testimony of Rebecca Oyler

November 8, 2021

Good morning, Chairmen Metcalfe and Vitali and members of the committee. I am Rebecca Oyler, President & CEO of the Pennsylvania Motor Truck Association (PMTA), and I'd like to introduce Calvin Ewell, who is a PMTA member and president of H.R. Ewell, a 75-year-old bulk food-grade transportation company based in Lancaster County. H.R. Ewell has a fleet of tank trucks that transport liquid and dry sweetener, liquid chocolate, vegetable oil, flour, and starch throughout the U.S. and into parts of Canada. Mr. Ewell also represents PMTA on the American Trucking Associations board as State Vice President from Pennsylvania.

We are pleased to speak to the committee today about the California Air Resources Board (CARB) and its impact on the trucking industry in Pennsylvania. I would like to provide a broad overview of the issues, and Mr. Ewell will speak specifically about the impact on his company and others like it in the state.

The trucking industry is one of the most highly regulated in the country. It is also one of the most difficult to stay profitable in due to constantly increasing costs. Of course, the pandemic hasn't helped. Our industry, like many others, is struggling now because of supply chain issues and the difficulty to get parts. The worldwide semiconductor shortage has led truck manufacturers to slow production to a crawl, with the cost of those trucks that are available up substantially since last year.

At the same time, a critical driver shortage is affecting our industry's ability to meet the demand of consumers, especially when so much of our economy relies on just-in-time delivery. This explains in part the empty shelves we see in many stores and why your package is delivered a few days later than you expected it.

All of these issues coming out of the pandemic are making it difficult for our industry to maintain the high standards and responsiveness that shippers and receivers have come to expect from truckers and that our economy depends on in so many ways.

Because we are here today to talk about trucking and emissions regulations, I am happy to share some good news on behalf of the industry. The remarkable progress made in recent years to reduce harmful emissions from trucks it is an extraordinary success story of innovation and technological advancement, which has improved our air and our quality of life. Heavy-duty trucks produced today are about 99% cleaner than 1970 models.¹ In just the past 20 years, the

¹ <https://www.epa.gov/transportation-air-pollution-and-climate-change/accomplishments-and-success-air-pollution-transportation>

trucking industry has slashed NOx emissions by over 90% and particulate matter emissions by over 98%.² These reductions have been achieved while improving fuel efficiency by up to 75%.

As more and more of our trucks are replaced with newer, cleaner vehicles, emissions will continue to decline. Pennsylvania should be proud to be number three in nation for highest percentage of new generation clean diesel heavy-duty trucks on the road at 59%, a full 10% higher than the national average.³

Of course, there is still progress to be made with commercial vehicles, which make up 24% of transportation sources of greenhouse gas emissions in Pennsylvania. But mandates that impose significant costs on the industry with no environmental benefit only set us back, which brings me to today's topic.

Pennsylvania adopted CARB's emissions and inspections requirements for heavy-duty trucks by reference via regulation almost 20 years ago. Since that time, heavy duty trucks purchased or registered in Pennsylvania require CARB stickers on them certifying that the trucks meet California's emissions standards. Because they were incorporated by reference, every time CARB updates its emissions regulations, Pennsylvania automatically adopts them too.

Over the summer, PMTA learned about a new CARB requirement from members who were starting to see significant cost increases on new truck orders for next year. These cost increases are due to a CARB requirement going into effect in 2022 that expands the manufacturer's warranty for emissions controls systems in trucks from 150,000 miles for class 8 vehicles to 350,000 miles. The extension of this warranty is increasing the cost of new trucks in Pennsylvania between \$2100 and \$5500 next year, depending on the engine and manufacturer.

I'd like to pause at this point and recognize DEP's publication over the weekend of the notice that it will suspend enforcement of the CARB regulations for heavy-duty trucks in Pennsylvania starting today and revert to EPA standards for at least the next two years. We are very grateful that DEP has recognized the harmful impact this regulation will have on Pennsylvania's trucking industry as well as the urgency in publishing this notice before the end of the year.

We are concerned, however, that the notice will have little impact on truck sales in Pennsylvania because manufacturers and dealers will be reluctant to sell trucks without CARB stickers because the requirement is still on the books, regardless of DEP's enforcement plans. In fact, the notice includes specific language that it "does not protect a manufacturer, distributor, seller, renter, importer, leaser, or owner of a retail outlet from the possibility of legal challenge by third parties..."

² <https://www.businesswire.com/news/home/20181113006083/en/>

³ <https://advancedbiofuelsusa.info/nearly-half-of-u-s-commercial-trucks-now-powered-by-near-zero-emissions-diesel-technology-delivering-climate-and-clean-air-benefits/>

I know that many in the industry are still determining how to handle this, and I believe you will hear more about that in the dealer panel to follow. I'd like to continue with my testimony under the assumption that the notice may not impact truck sales in Pennsylvania.

Though many states have adopted CARB's emissions requirements, only two states other than California have adopted the warranty requirements, including Pennsylvania – leading many companies with operations outside of Pennsylvania to consider purchasing and registering their trucks elsewhere. Of course, this impacts many truck dealers in the state, who are now finding themselves unable to compete for truck sales. But it will reduce sales tax and registration fees collected by the state as well as in Allegheny and Philadelphia, which collect additional vehicle sales tax.

On the other hand, Pennsylvania companies whose vehicles are not apportioned have no choice but to register their trucks with PennDOT, which will require the CARB warranty. These companies, most of which are small businesses, will bear the full cost of the warranty next year on their new trucks.

As I mentioned, the trucking industry is proud of the part we've played in reducing emissions and ensuring cleaner air for our communities. However, it is frustrating that the CARB warranty mandate imposes substantial costs on the industry with no real benefit to the environment. It is important to note that the trucks at issue are EXACTLY THE SAME TRUCK, with the same emissions system, that is sold in other states under EPA standards. The only difference is that trucks with CARB stickers in 2022 also require the purchase of costly warranty extensions.

Here I'd like to address several misconceptions about the impact of this warranty provision on the industry. The first, as I mentioned, is that the warranty provides a value added that has environmental benefits. As with any warranty, the CARB-required warranty ensures that the manufacturer will cover the cost of fixing anything that breaks, in this case, in the emissions system of the truck.

But today's trucks don't run if the emissions system is broken. Since trucking companies can't afford to let a broken truck sit idle – especially with today's shortages and high demand for freight – they will pay to fix the truck and get it back on the road. Whether they pay for that repair up front with an extended warranty or over time as problems occur is a choice that each company makes.

CARB has asserted that most companies already purchase extended warranties, and therefore, this requirement has little impact. The statistics they site, however, are from California. I have spoken with many Pennsylvania trucking companies, including large and small ones with various business models. What I've discovered is that every company determines for itself whether or not buying an extended warranty pays off for them over time. One large national trucking company told me that they did an extensive analysis and discovered that it's more cost-effective to pay for repairs as they arise rather than up front with the warranty. Either way, the emissions system must work in the truck.

It's also important to note that even companies that routinely purchase extended warranties for their trucks will pay more next year due to the specific CARB requirements. Even worse, some manufacturers believe the purchase price of the package that's required of new trucks is subject to the federal excise tax, which adds an additional 12% on top of the purchase price.

I would also like to mention other CARB mandates are coming beyond next year's warranty. Last year, CARB approved sweeping new emissions regulations, the Omnibus Low-NOx Rule, for heavy-duty trucks. With no further action, these regulations will automatically take effect in Pennsylvania in 2024. Truck manufacturers have decried this rule as "not technologically feasible or cost-effective," with too little lead-time to develop such advanced systems.⁴ The Omnibus Low-NOx Rule will add significant costs for truck manufacturers, which will be passed on to customers, at a time of significant upheaval the new truck market.

Another CARB initiative, the Advanced Clean Trucks Rule, which will also take effect in 2024, mandates manufacturers provide increasing percentages of truck sales be zero-emissions vehicles (ZEVs). The Advanced Clean Trucks Rule has not been adopted by reference like CARB emissions requirements in Pennsylvania, so a rulemaking would be required from DEP to do so. Other states have been considering it.

Mandates like this, beginning with the 2022 warranty requirement, create a disincentive for companies to buy new trucks. They will force many truckers to hold onto older trucks, with less advanced emissions systems, because newer trucks will be unaffordable. As I mentioned at the beginning, the more newer trucks that are on the road in Pennsylvania, the better for the environment. We should incentivize, not penalize, the purchase of new, cleaner trucks.

At a time when the trucking industry is struggling to meet the demand placed on it, while dealing with significant uncertainty caused by supply chain and workforce issues, it's important for policies to remain flexible so that each individual company can determine the best solutions. Let's start with removing the onerous CARB warranty requirement going into effect in January.

Circling back to DEP's recent notice regarding enforcement, we would urge the committee to consider that the only way to ensure that the CARB regulations are not effective in Pennsylvania, through enforcement or litigation, is to suspend these regulations by an act of the General Assembly. We would be happy to assist in any way we can to make that happen.

Now, I'd like to turn things over to Calvin Ewell to speak about the impact of the 2022 CARB warranty requirement on his company and other Pennsylvania trucking companies.

⁴ <https://www.truckinginfo.com/10124652/californias-new-low-nox-rules-concern-truck-engine-makers#:~:text=The%20Omnibus%20Low-NO%20X%20Rule%2C%20approved%20by%20CARB,regulatory%20requirements%20on%20new%20heavy-duty%20truck%20and%20engines>