



**Owner-Operator Independent Drivers Association**

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June 16, 2023

The Honorable Michael Regan  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

**Re: Docket # EPA-HQ-OAR- 2022-0985, “Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles - Phase 3”**

Dear Administrator Regan:

The Owner-Operator Independent Drivers Association (OOIDA) is the largest trade association representing the views of small-business truckers and professional truck drivers. OOIDA has more than 150,000 members located in all fifty states that collectively own and operate more than 240,000 individual heavy-duty trucks. OOIDA’s mission is to promote and protect the interests of its members on any issues that might impact their economic well-being, working conditions, and the safe operation of commercial motor vehicles (CMVs) on our nation’s highways.

OOIDA initially partnered with EPA leadership during the early stages of the Cleaner Trucks Initiative in 2018. We were optimistic that the agency’s willingness to engage with the trucking industry would result in more practical and achievable emissions regulations. Unfortunately, we are still seeing costly and burdensome proposals being forced upon small-business truckers five years later. Clean air is a priority for everyone, including the trucking industry, but emissions requirements for heavy-duty trucks should be practical, affordable, and reliable.

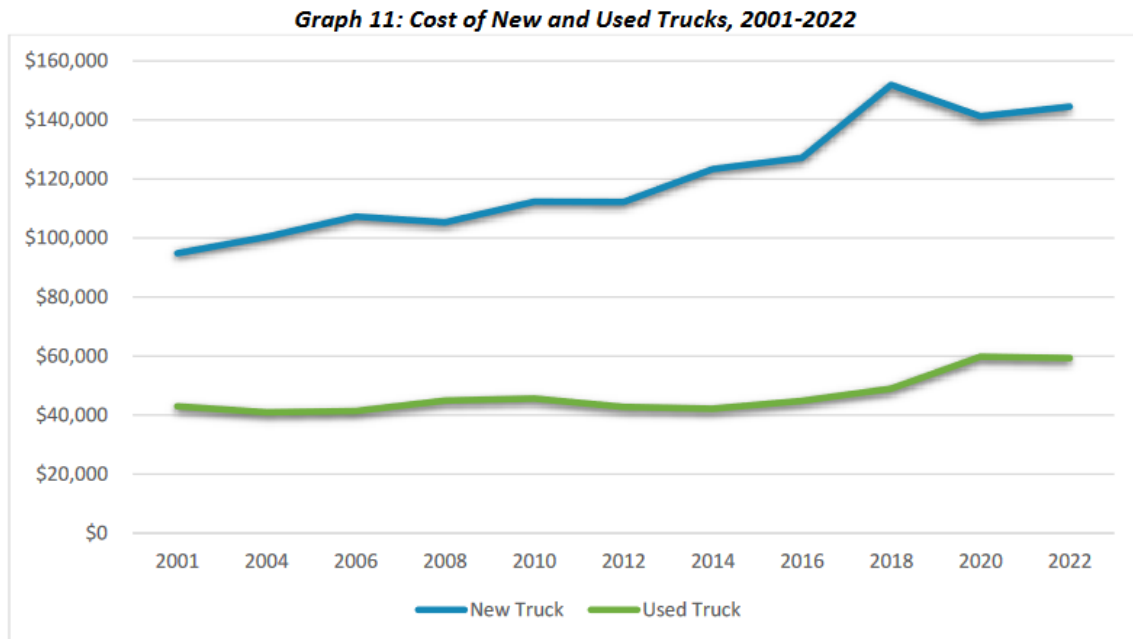
About a year ago, we told EPA that the proposed implementation periods for the heavy-duty nitrogen oxides (NOx) emissions rulemaking would force drivers to stick with their older trucks rather than buy new ones. We encouraged the agency to give manufacturers more time to comprehensively test engines and better ensure performance and reliability. However, EPA ignored the concerns of truckers along with other commenters and maintained the Model Year 2027 timeline. It’s a familiar refrain with the latest Phase 3 GHG proposal. We are once again seeing higher than projected costs for these new vehicles along with insufficient lead-up time to properly roll out the manufacturing standards. For example, EPA estimated that the GHG Phase 1 rule would increase the average cost of a combination tractor by \$6,039 between 2014 and

2018. However, according to our Owner-Operator Member Profile (OOMP) Surveys, real costs increased \$28,541.

The Phase 3 rule also attempts to rush production of battery electric vehicles (BEVs) while a national charging infrastructure network remains absent for heavy-duty trucks. Professional drivers are skeptical of BEV costs, mileage range, battery weight and safety, charging time, and availability. Yet, EPA estimates that adoption rates for Class 8 BEVs will jump from zero percent in 2029 to 25 percent just three years later. This is another example of EPA overreach as it effectively forces sales of BEVs and zero emission vehicles (ZEVs).

EPA must consider a more feasible implementation timeline that would provide reliable and affordable heavy-duty vehicles for consumers, particularly small trucking businesses and individual owner-operators. This can be accomplished through a diverse vehicle approach that protects consumer choice and values the input from the men and women of the trucking industry.

## COSTS



In recent decades, the trucking industry has been subjected to numerous federal and state regulations relating to environmental emissions. Some of these standards were necessary and have undoubtedly been successful in reducing vehicle emissions. However, many were short-sighted, have been difficult to implement, and driven costs higher for small-business truckers. The influx of regulations has helped increase the average price of a new truck almost 52 percent since 2001.<sup>1</sup> In some cases, these costs can limit the environmental benefits of the regulations by forcing truckers to maintain older vehicles longer than they otherwise would or compelling motor carriers to purchase used vehicles instead. In 2022, owner-operators responded that their

<sup>1</sup> [Owner-Operator Member Profile Survey 2022, OOIDA Foundation \(2022\)](#), pg. 26.

truck had traveled approximately 1.2 million miles since it was manufactured, which is more than double the mileage that was reported in 2001.<sup>2</sup>

According to the 2022 OOMP Survey, 37 percent of owner-operator members did not have environmental technology, such as anti-idling equipment, diesel particulate filters (DPF), trailer skirts, etc., equipped on their tractor and/or trailer. For those who did have such equipment, DPFs, selective catalytic reduction (SCR) and/or exhaust gas recirculation (EGR), anti-idling equipment, and trailer skirting were the most commonly equipped technologies, respectively. However, only 36 percent indicated that they were able to receive a return-on-investment, and for those who did, it took an average of 21 months before they did so.<sup>3</sup>

Newer trucks that incorporate more complex technology and components typically can only be serviced at dealerships, where charges can run hundreds of dollars per hour simply to inspect the engine or perform other routine work. Many OOIDA members would prefer doing this maintenance work themselves. According to the 2018 *Land Line* Reader Survey, 73% of owner-operators indicated that they complete minor repairs and maintenance to their truck, engine, and trailer. Most owner-operators keep their trucks on a regular maintenance schedule because they recognize the necessity of ensuring their truck is safe to operate on the roadways. The ability to diagnose and fix equipment problems without having to visit a dealership saves small-business truckers both time and money. Unfortunately, many newer heavy-duty vehicles have taken self-maintenance options away from drivers.

OOIDA members have encountered other problems with emissions systems which have had a dramatic impact on their business. These challenges include lost productivity, poor efficiency, and towing costs that can quickly escalate into the tens of thousands of dollars. For small carriers, hefty maintenance expenses, coupled with the loss of income resulting from downed trucks, can jeopardize their viability.

According to the Notice of Proposed Rulemaking (NPRM), “EPA’s consistent practice has been to set standards to achieve improved air quality consistent with CAA section 202, and not to rely on cost-benefit calculations, with their uncertainties and limitations, in identifying the appropriate standards.”<sup>4</sup> [Emphasis added]. In other words, EPA apparently sets regulations no matter what the cost might be on small businesses. This is evident with a Model Year 2032 upfront cost difference estimated at \$14,712 for a long-haul sleeper-cab tractor.<sup>5</sup>

EPA believes that a portion of the costs associated with the rulemaking will be offset through various tax credit programs. Although these policies can incentivize purchases, they are often more beneficial for larger trucking fleets that make bulk vehicle orders of newly manufactured vehicles. At times, tax credits can be difficult for small-businesses to navigate and take full advantage of. This is especially true if the tax credits do not have the same benefit for the purchase of used vehicles. 68 percent of OOIDA members currently operate used trucks as

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<sup>2</sup> *Ibid*, pg 28.

<sup>3</sup> *Ibid.*, pg. 27.

<sup>4</sup> NPRM, pg. 30.

<sup>5</sup> <https://www.freightwaves.com/news/epas-new-emission-standards-would-boost-heavy-truck-equipment-costs>

opposed to 21 percent with new trucks. 6 percent operate mixed new/used fleets and 5% use glider kits.<sup>6</sup>

## **SAFETY**

OOIDA has supported the administration's emphasis on improving driver recruitment and retention. Instead of taking actions to benefit those who make their living behind the wheel, such as expanding truck parking capacity, increasing driver compensation, and improving working conditions, this proposed rule would make small-business truckers' jobs more difficult and push some out of the industry. The final rulemaking should reflect more practical timelines and vehicle considerations that do not force drivers out of business or make it more challenging for new drivers to enter the industry.

OOIDA has consistently opposed increases to federal truck size and weight standards. The U.S. Department of Transportation (DOT) has long studied the impact of various longer and heavier truck configurations on interstate and U.S. highways and found that the additional cost of damage to both roads and bridges would require billions of dollars in new federal spending. As BEV development evolves, we are learning that battery components can be much heavier than traditional combustion engine parts. Federal regulations limit CMVs to 80,000 pounds; we've seen reports that truck batteries can weigh up to 16,000 pounds. For example, the Freightliner eCascadia electric semi-truck, which was released in 2022, weighs up to 4,000 pounds more than a regular diesel truck.<sup>7</sup> BEVs with heavier weights will displace payload capacity and require more trucks on the road. On the other hand, permitting higher weight allowances would shift freight from other modes onto American highways, worsening congestion rather than helping to alleviate it. DOT has also found thousands of bridges on our Interstate system that would be overstressed by heavier CMVs, causing damage to many spans that are already considered structurally deficient or functionally obsolete.

BEV fires are another safety concern. Lithium-battery fires can be unpredictable, difficult to extinguish, and can inflict a tragic toll. According to experts, BEV fires require different firefighting techniques. The biggest difference is that an BEV fire cannot be put out with the type of firefighting foam used to smother other fires. Instead, the battery must be cooled to stop the fire and end thermal runaway.<sup>8</sup> Currently, there is insufficient training for consumers, first responders, and certainly professional truck drivers about how to protect themselves and the public should a fire occur. BEV fires involving commercial vehicles could be particularly dangerous given the weight of the batteries and/or if the fire occurs on or near highway infrastructure.

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<sup>6</sup> *Owner-Operator Member Profile Survey 2022*, OOIDA Foundation (2022), pg. 47.

<sup>7</sup> <https://www.businessinsider.com/electric-trucks-longhaul-batteries-tesla-heavy-cargo-weight-problem-2023-2>

<sup>8</sup> <https://www.usatoday.com/story/money/cars/2022/10/26/electric-vehicle-fires-florida-flooding-what-happened/10553207002/>

## BATTERY EMISSION/ZERO-EMISSION VEHICLE TECHNOLOGIES

We oppose EPA’s proposal to implement Phase 3 beginning in Model year 2028 given the lack of necessary infrastructure necessary to support BEVs for the long-haul trucking sector. EPA notes, “the potential for the application of zero-emission vehicle (ZEV) technologies in the heavy-duty sector presents an opportunity for significant reductions in heavy-duty GHG emissions over the long term,” and that, “Major trucking fleets, HD vehicle and engine manufacturers, and U.S. states have announced plans to increase the use of heavy-duty zero-emissions technologies in the coming years.” However, our members are skeptical about the effectiveness of BEV mileage capabilities as well as access to commercial BEV charging stations.

OOIDA members routinely make trips over 1,000 miles and can rely upon a nationwide network of truck stops and other locations to fill up on gas whenever and wherever they need to refuel their tank. There are numerous unanswered questions about how a nationwide BEV charging network will be implemented and it’s difficult to estimate when such a network would be readily accessible for CMV drivers. Therefore, we question EPA’s proposed BEV production timelines without a reliable charging infrastructure in place.

**Table 4: Load length of Haul**

Typical Length of Haul	Own Authority	Leased On	Overall
1-150 miles	16%	9%	13%
151-500 miles	34%	26%	29%
501-1,000 miles	25%	36%	31%
1,001+ miles	25%	29%	26%

For comparison, a truck parking crisis has existed for decades. DOT has found that the truck parking shortage is a major problem in every state and region of the country, and these shortages exist at all times of the day, week, and year. Unfortunately, the parking shortage continues to worsen with only 1 parking spot available for every 11 trucks on the road, resulting in drivers wasting an average of one hour every day trying to secure parking. States and local communities across the U.S. are struggling to maintain existing capacity, let alone keep pace with increasing demand. While Congress and DOT have prioritized funding for expanding truck parking capacity, drivers have yet to see tangible results that would help address the parking shortage.

EPA relies upon the confidence that recently enacted legislation will expedite BEV development. The proposed rule states, “the 2021 Infrastructure Investment and Jobs Act (commonly referred to as the “Bipartisan Infrastructure Law” or BIL) and the Inflation Reduction Act of 2022 (“Inflation Reduction Act” or IRA) together include many incentives for the development, production, and sale of ZEVs, electric charging infrastructure, and hydrogen, which are expected to spur significant innovation in the heavy-duty sector.” We anticipate there will be a number of legislative, regulatory, and economic/market factors that will impact ZEV production and sales along with other challenges before the completion of a fully deploy a reliable nationwide commercial ZEV infrastructure.

## **EPA OVERREACH**

The Phase 3 rule is simply another improper attempt by EPA to surpass the authority provided by Congress in the Clean Air Act. As recently as June 2022, the U.S. Supreme Court has held that EPA actions like the Phase 3 rule violate the major questions doctrine involving the principles of separation of powers and understanding legislative intent because they clearly exceed the power provided to the EPA by Congress in the Clean Air Act.

Like the EPA's previous efforts, the EPA lacks "clear congressional authorization" from Congress to implement the Phase 3 rule. As in the cases before the Phase 3 rule, "there is every reason to hesitate before concluding that Congress meant to confer on the EPA the authority it claims." The U.S. Supreme Court has a recent and repeated history of finding similar EPA actions unconstitutional. Today, there is no reason to believe that any different result would be reached. The Phase 3 rule clearly does not fall within the power provided to the EPA by Congress under the Clean Air Act.

This latest EPA emissions proposal once again discounts the contributions of our nation's truckers. The agency must consider EPA must consider a more achievable implementation timeline that would provide reliable and affordable heavy-duty vehicles for consumers, particularly small trucking businesses and individual owner-operators. This can be accomplished through an approach that protects consumer choice.

Thank you,



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Owner-Operator Independent Drivers Association, Inc.