

October 15, 2006
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EMA Statement on California Chip Reflash Regulation Court Ruling

In response to inquiries regarding a ruling by the Superior Court of California, County of Sacramento, in the matter of a legal challenge to the California Air Resources Board Chip Reflash Regulation, the Engine Manufacturers Association (EMA) has the following statement.

The Court agreed with, and affirmed, industry's long-held view that the Chip Reflash Regulation adopted by the California Air Resources Board is not valid. The Court ruled that "ARB does not have the statutory authority to adopt the Chip Reflash Regulation" and that the "Chip Reflash Regulation unconstitutionally impairs the obligations" of previously negotiated and legally binding settlement agreements between engine manufacturers and ARB and, as such, "constitutes an illegal involuntary recall" and "should be declared invalid and enjoined." See attached "Consolidated Ruling" at page 3.

While engine manufacturers are rightly vindicated by this decision, The Court's ruling does not affect the implementation of the original settlement agreements and the programs implemented under them. Engine manufacturers will continue to install NOx reflash kits as per the original agreements. Further, engine manufacturers remain committed to working with ARB to fully implement the settlement agreements.

Please contact Joe Suchecki at EMA if you need additional information.

REF: Superior Court of California, County of Sacramento, Consolidated Cases 05CS00386 and 05AS01133

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