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## **SOUTH COAST AQMD FLEET RULES CASE RESOLVED: FINAL COURT ACTION AFFIRMS FEDERAL PREEMPTION FOR PRIVATE FLEETS**

CHICAGO, February 12, 2008 – The Engine Manufacturers Association (EMA) today announced that EMA’s long-standing court case against California’s South Coast Air Quality Management District (AQMD) over the so-called Fleet Rules has been resolved. The final Court papers signed by United States District Court Judge Florence-Marie Cooper affirmed that AQMD’s fleet rules are illegal emission standards that are preempted under the federal Clean Air Act as they apply to federal and private fleets.

In commenting on the final judgment, EMA President Jed Mandel stated “The final decision in this case affirms our original objections to the Fleet Rules. It establishes a clear legal decision that local governments cannot arbitrarily ban the purchase of vehicles or technologies that otherwise meet mobile-source emission standards established by the US EPA or the State of California. The flawed argument that local or state governments can ban certain vehicles or technology and that they can ignore federal law has been put to rest by this case.”

The Fleet Rules were adopted by AQMD in 2000 and 2001 to prohibit certain local fleets from purchasing diesel-powered vehicles, and required all fleet owners to purchase only alternative-fueled vehicles. In a case that eventually was heard by the United States Supreme Court, EMA and the Western States Petroleum Association (WSPA) took legal action against AQMD because local air districts and states other than California are prohibited by the federal Clean Air Act from adopting emission standards for mobile sources. In 2004, the US Supreme Court reversed lower court opinions and ruled that the diesel vehicle purchase ban in the Fleet Rules was a prohibited emission standard and that the AQMD fleet rules were, in fact, preempted. The Supreme Court remanded the case to the lower courts for reconsideration and resolution.

In documents approved by the United States District Court on February 7th, the final settlement formalizes the decision of the US Supreme Court that the fleet rules constituted prohibited emissions standards under the Clean Air Act when applied to federal and private fleets. However, due to the US Ninth Circuit Court of Appeals’ interpretation of the “market participation” doctrine, the settlement also states that the Fleet Rules can apply to state and local government fleets as well as private fleets that perform a public function under contract with a public body.

“We are pleased that the legal issues regarding the Fleet Rules are finally settled”, said Mr. Mandel. “The final judgment in this case recognizes that the Fleet Rules were illegal and preempted by the Clean Air Act for federal and private fleets. EMA continues to disagree with

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the Ninth Circuit's overly-broad interpretation of the market participation doctrine that allows the Fleet Rules to be applied to state and local government agencies. AQMD is clearly acting as a regulator and not a market participant in this matter, but we believe that any further legal challenge would be unproductive."

In commenting further on the Fleet Rules, Mr. Mandel stated "The AQMD Fleet Rules may have been adopted with good intentions, but their provisions are not only preempted, they also are clearly obsolete. With 2007 models, engine manufacturers are producing diesel vehicles with near-zero emission levels that comply with US EPA and California Air Resources Board clean diesel emissions and fuel standards. A ban on diesel technology was not needed to improve air quality back in 2001, and it is certainly not appropriate today. We look forward to working with AQMD to develop an approach that will allow local governments to take advantage of today's clean diesel technology."

The Engine Manufacturers Association is a trade association representing worldwide manufacturers of internal combustion engines used in applications such as trucks and buses, farm and construction equipment, locomotives, marine vessels, and lawn, garden and utility equipment. EMA works with government and industry stakeholders to help the nation achieve its goals of cleaner fuels, more efficient engines and cleaner air.

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