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FOR IMMEDIATE RELEASE

ENGINE MANUFACTURERS SEEK TO PRESERVE EMISSIONS REDUCTION AGREEMENTS. Court Action filed over California Air Resources Board Reflash Rule.

Chicago, IL, March 24, 2005. Citing existing and legally binding settlement agreements that engine manufacturers entered into with the California Air Resources Board (ARB) as well as a voluntary agreement to accelerate efforts to reduce nitrogen oxide (NOx) emissions from 1993-1998 model year heavy-duty engines in California, the Engine Manufacturers Association (EMA) today sought court action to invalidate a recently adopted ARB regulation. The regulation imposes additional and unauthorized requirements on manufacturers and vehicle owners and conflicts with these earlier agreements. In filing their petition today in California Superior Court in Sacramento, EMA asked the Court to declare the NOx Reflash Rule invalid and to issue a permanent injunction against any implementation or enforcement of the rule.

Jed Mandel, EMA President stated “Engine manufacturers are parties to binding settlement agreements with ARB to develop and install retrofit kits to reduce NOx emissions from certain heavy-duty vehicles. The agreements require reprogramming the engine’s computer system at the time that the engine is rebuilt. Manufacturers have complied with all terms of the settlement agreements and have even agreed voluntarily to go beyond what was originally required and accelerate implementation of the emissions reductions. ARB, however, has decided unilaterally to impose an unauthorized regulatory mandate that changes the terms of the previously negotiated settlements. Through litigation, engine manufacturers are simply asking that ARB be held to its commitment to the original terms of the settlement agreements.”

“It is important to note that all of the engines subject to ARB’s rule are certified by both ARB and EPA as fully compliant with applicable regulatory requirements. They were never subject to any recall action,” continued Mandel. “Moreover, our commitment to reducing

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emissions remains firm as evidenced by our efforts to work with ARB to accelerate emissions reductions from the 1993-1998 vehicles and by our large investment in meeting the very stringent emissions standards proposed for 2007.”

ARB adopted the NOx Reflash Rule in December 2004. Rather than maintaining the previously negotiated solution to install the new software at the time that an engine is being rebuilt, the rule requires reprogramming by a certain date and establishes penalties for truck owners and dealers if the software is not installed on time. This substantially increases costs to the entire regulated community. Even ARB agreed that costs and operational disruptions are minimized when the software retrofits are completed during the time of an engine’s first rebuild.

“ARB’s NOx Reflash Rule retracts the terms of the settlement agreements and imposes mandatory requirements and financial hardship on vehicle owners, dealers, repair shops, and engine manufacturers. Since the engines in question are fully certified as meeting all applicable NOx emissions standards and regulatory requirements, there is no basis under federal or state law for ARB to impose additional regulatory mandates on the manufacturers or owners of these vehicles,” stated Mandel.

The EMA case filed today is based on the fact that 1) state law does not grant ARB authority to impose emissions-related retrofit requirements on used vehicles or engines that are currently in operation and 2) ARB does not have authority to impose additional requirements and responsibilities on engine and vehicle manufacturers for vehicles that have already been sold into commerce and are no longer under the manufacturer’s control.

In a separate legal action, some individual engine manufacturers that are parties to the prior settlements with ARB also have filed suit based on the fact that the NOx Reflash Rule amounts to a breach of those legally binding settlement agreements.

Mandel added, “The NOx Reflash Rule contravenes ARB’s previous agreements with engine manufacturers. This should be of concern to any party - private or public - that enters into agreements with the ARB. After bargaining and reaching agreement in good faith to resolve

an issue, the affected parties and the public should expect everyone to uphold their end of the bargain, including the state regulatory agency.”

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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