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**FOR IMMEDIATE RELEASE**

**ENGINE MANUFACTURERS CONTINUE TO FIGHT FOR CLEAN CHOICES FOR PUBLIC SECTOR HEAVY-DUTY VEHICLE FLEETS IN SOUTHERN CALIFORNIA**

**Chicago, IL, May 9, 2005.** The Engine Manufacturer's Association (EMA) today expressed its strong concern and disagreement with the most recent court decision related to the South Coast Air Quality Management District's (AQMD) attempt to dictate an alternative-fuel requirement for heavy-duty vehicle fleets in southern California. In a decision entered on May 6th, a federal judge for the United States District Court, Central District of California, ruled that the so-called fleet rules adopted by the AQMD could be applied to public fleets within the district. The judge based her decision on the assertion that the AQMD is acting as a market participant in the purchasing decisions of local governments and therefore is exempt from the federal preemption provisions of the Clean Air Act.

"EMA continues to support giving public fleets in southern California the best available options to reduce emissions from their vehicles" said Jed Mandel, EMA President. "The AQMD fleet rules dictate a single solution by telling these independent government bodies what type of vehicle they must purchase. All fleets, whether private or public, have the right under the federal Clean Air Act and California law to identify the best options for their operation and purchase the most appropriate vehicles that are certified for sale. Assuring that the governing boards of these public organizations have choices rather than unnecessary restrictions in purchasing newer, cleaner vehicles will result in the emissions reductions that everyone seeks."

EMA and others successfully challenged the fleet rules that restrict the purchase of heavy-duty vehicles such as trucks, buses, and other equipment on the grounds that the rules are preempted by the Clean Air Act. The US Supreme Court agreed but remanded the question of whether the rules could be applied to public fleets to the District Court for reconsideration. In her ruling, the same judge whose earlier decision was overturned by the Supreme Court indicated that purchase restrictions on publicly-owned fleets are legal. The decision is based on the premise that the government, in this case the AQMD, is not preempted from acting as an ordinary market participant and making its own purchases of needed goods and services (in this case the fleet vehicles) in the marketplace. The fleet rules clearly cannot be applied to privately-owned or federal fleets.

"In its decision, the US Supreme Court agreed with EMA that the AQMD fleet rules are preempted under the Clean Air Act but questioned whether private and public fleets should be treated differently," stated Mandel. "EMA believes that the preemption provisions apply equally

to private and public fleets, and that the judge’s decision in this case incorrectly interprets AQMD as a market participant as opposed to a regulator attempting to establish regulations to control motor vehicle emissions.”

“We agree with the premise that any public body has the right to purchase for itself whatever legally available vehicle it chooses. In making purchasing decisions as a market participant, there are no federal preemption issues. The AQMD Board can restrict the purchase of any AQMD-owned, operated, or contracted vehicle if it chooses to do so. Where we strongly disagree with the Court’s decision is the premise that AQMD can act as a market participant to dictate all public sector purchasing decisions in southern California in an ostensible effort to regulate air quality.”

Mr. Mandel concluded, “It should be clear beyond question in this case that the AQMD is not acting as a market participant but as a regulator, and that the fleet rule regulations are clearly preempted. The Court’s decision to the contrary is unfortunate and incorrect.”

EMA is considering the various options available to address the issues raised by the District Court’s decision, and will certainly consider appealing this erroneous decision.

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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