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EMA Continues to Support Local Government Choice In Light of Ninth Circuit Court's Decision in Fleet Rules Case

Chicago, August, 21, 2007. On August 20th, the Ninth Circuit Court of Appeals issued a decision in the so-called fleet rules case. The fleet rules were adopted by the South Coast Air Quality Management District (AQMD) to control the purchase of vehicles for private and public fleets. This week's decision remanded the case back to the lower court, but upheld the district court's ruling that the fleet rules as applied to state and local governments are not preempted by the federal Clean Air Act due to market participation considerations.

The Court's decision, to a large extent, maintains the status quo by ruling that the fleet rules can be applied to local and state governments based on the assertion that the AQMD is acting on behalf of the state as a market participant. The AQMD has only been enforcing the rules as they relate to purchases of fleet vehicles made by, or on or behalf of, state and local government entities since the Supreme Court issued a decision on the rules in 2004. At the same time, the Ninth Circuit did agree with EMA that the district court erred when it did not expressly rule on whether the fleet rules are preempted when applied to fleet vehicle purchases made by entities other than state and local governments, for example, federal government entities and private fleets. In line with the Ninth Circuit's remand, EMA will continue to pursue that issue before the district court.

In commenting on the decision, EMA President Jed Mandel stated "We understand and support a local government's legitimate right to purchase whatever vehicles it wants. In that respect, EMA is disappointed the court did not recognize the fleet rules for what they are - preempted regulations to control new motor vehicle emissions, and not merely proprietary actions of the state as a typical market participant. Local governments are true market participants and know the needs and resources of their communities. The fleet rules severely restrict their flexibility to make local purchasing decisions".

"There is a significant irony inherent in the Ninth Circuit's ruling" stated Mandel. "Its net effect is to allow AQMD to bar state and local agencies from purchasing the cleanest available heavy-duty on-highway vehicles. Today's new heavy-duty diesel vehicles emit PM levels that are at the limit of detection and are essentially equivalent to zero. These vehicles also operate with NOx emissions that are 80% cleaner than when the fleet rules were adopted, and those emissions will be reduced to near-zero levels by 2010. When AQMD adopted the fleet rules in 2000, it did so with a specific assurance that the ban on diesel technology would be lifted if diesel could be shown to be clean. Today's clean diesels meet the criteria of more than a 71% reduction in particulate matter and a 54% reduction in NOx emissions that the AQMD Board established, but still the AQMD has failed to lift the ban on the purchase of the cleanest and most efficient HDOH vehicles available. The Court decision essentially upholds obsolete regulations on local governments."

Mandel concluded, “Government and private sector entities have always been able to specify through the procurement process the specifications for their vehicles, so we do not see this ruling as having a wide-ranging impact. For our part, EMA will continue to advocate on behalf of truly clean technologies to ensure that all fleet owners have access to the widest range of clean vehicle options available.”

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.