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EMA ASKS US SUPREME COURT TO OVERTURN LOCAL REGULATION LIMITING CONSUMER CHOICE WHEN BUYING NEW VEHICLES

Washington, D. C., January 14, 2004. The United States Supreme Court heard oral argument today in a case initiated by the Engine Manufacturers Association (EMA) and the Western States Petroleum Association (WSPA) challenging a purchasing ban imposed on certain new vehicles by the South Coast Air Quality Management District, the local air quality agency for the Los Angeles area. The case, EMA and WSPA vs. South Coast AQMD, seeks to overturn the South Coast's fleet rules that prevent certain fleet owners from buying several types of new vehicles, including advanced clean-technology vehicles powered by gasoline and diesel engines.

The case focuses on preserving the rights of public and private fleet owners to purchase any new car or truck that is certified to meet the stringent emission standards established under the federal Clean Air Act by the U. S. Environmental Protection Agency (EPA) and the California Air Resources Board (ARB). Air quality is not an issue in the case since the prohibited vehicles can achieve emission levels comparable to those allowed under the rules.

In oral arguments today, Carter Phillips, the attorney representing EMA and WSPA, stated that the fleet rules are a form of local regulation that is expressly preempted and prohibited by the federal Clean Air Act, and that only the US EPA or ARB can legally establish emission standards for new vehicles and engines. By arbitrarily prohibiting fleet owners from purchasing certain vehicles that otherwise meet all current federal and California emission standards, the South Coast has clearly violated the section of the Clean Air Act that preempts state and local governments from establishing emission standards.

Significantly, the US Justice Department entered the case to support EMA and WSPA's arguments. In his presentation to the Court, Solicitor General Theodore Olson noted that the United States Government has the general duty to uphold and defend the primacy of federal law, and the specific duty to uphold Congress' careful allocation of responsibility to EPA, not to states or local jurisdictions, to regulate emissions from new motor vehicles. He further stated that the federal government's position is that Section 209(a) of the Clean Air Act expressly preempts local district rules that establish new vehicle standards, and that the fleet rules in question are, in fact, precisely such prohibited and unlawful standards.

"The oral arguments before the Court today clearly laid out the central issue in this landmark case," said Jed Mandel, EMA President. "That issue is whether the United States will maintain the Congressionally-mandated system of setting new vehicle emission standards on a nationwide basis, or whether we will fall into a chaotic patchwork of inconsistent standards developed by each and every local government. What value are national emissions regulations for new cars, trucks, and buses if every local government has the authority to ban the purchase and sale

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of those vehicles and establish its own unique standards? Such a balkanized system of regulation would be a disaster for consumers, vehicle owners, manufacturers, and the free flow of commerce among the states.”

“The fleet rules that the Court considered today violate the common-sense, nationwide regulatory scheme that Congress established under the Clean Air Act more than 35 years ago” continued Mandel. “During that time, emissions from cars, trucks, and buses, as well as construction and farm equipment, have declined dramatically across the nation. This progress to dramatically-cleaner emissions has been effective because new engine and vehicle manufacturers have been able to leverage economies of scale to meet stringent but uniform nationwide emission standards. It simply is infeasible to design, build and sell engines or vehicles to meet the literally thousands of potential different emissions requirements if each state and local government were allowed to impose its own standards.”

Several prominent industry groups involved in the transportation sector joined EMA and WSPA in bringing the case to the Supreme Court. They include the Alliance of Automobile Manufacturers, American Petroleum Institute, American Trucking Associations, National Petrochemical Refiners Association, National Manufacturers Association, National Automobile Dealers Association, Truck Manufacturers Association, and the United States Chamber of Commerce.

“Clearly, the broad support for our position from the nation’s leading economic groups as well as the Solicitor General confirms that the South Coast fleet rules are a terrible precedent and need to be overturned,” said Mandel. “Fleets and individuals should be able to purchase the best new vehicles or fuels to meet their needs as long as they also meet the applicable EPA and ARB emission standards. Manufacturers should be able to market and sell their products nationwide without interference from local governments and the special interests they may seek to promote.”

“Our arguments before the Court today were sound, and the Justices were clearly engaged on the issue. The questioning clearly focused on the South Coast’s unlawful efforts to undermine federal law, and we are looking forward to a favorable ruling from the Court. We are also hopeful that the Court will use this opportunity to clarify the broad scope of federal preemption for mobile sources,” indicated Mr. Mandel.

“Regardless of the outcome of this case, engine manufacturers will continue to work with EPA, ARB, and all government agencies to further reduce emissions from new engines and vehicles to near-zero levels. We welcome the involvement of all levels of government to work with us to develop stringent and harmonized emissions standards that will continue to improve our nation’s air quality.”

A decision and ruling by the Court is expected before June.

The Engine Manufacturers Association is the 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.