U.S. Supreme Court Says Clean Air Act Likely Pre-empts Local Agency Vehicle Purchase Rules

Elements of a local air regulatory agency’s fleet rules, which require public and private fleet operators to purchase or lease certain low-emission vehicles, are probably pre-empted by the federal Clean Air Act, according to a decision by the U.S. Supreme Court.  *Engine Manufacturers Association v. South Coast Air Quality Management District*, No. 02-1343, Apr. 28, 2004.

The South Coast Air Quality Management District (SCAQMD) is the air pollution control agency for Orange County, Calif., and major portions of Los Angeles, San Bernardino and Riverside counties. In 2000, SCAQMD adopted certain rules to reduce air pollutants by requiring public and private operators of fleets with 15 or more street sweepers, refuse collection trucks, and other vehicles to buy or lease certain lower-emission vehicles when adding or replacing equipment.

A trade association representing manufacturers of internal combustion engines sued SCAQMD in federal district court claiming that the fleet rules are preempted by Section 209 of the Clean Air Act, which prohibits the adoption or attempted enforcement of any state or local “standard relating to the control of emissions from new motor vehicles or new motor vehicle engines.” The district court upheld the rules, finding that they were not “standards” because they regulate only the purchase of vehicles otherwise certified for sale in California and do not impose new emission requirements on manufacturers. A federal appeals court affirmed the lower court ruling for the same reasons.

Last June, the U.S. Supreme Court agreed to take up the case. The U.S Department of Justice filed a friend-of-the-court brief supporting the Association. The state of California and 16 other states, together with some 20 organizations including the National League of Cities, National Association of Counties, and the U.S. Conference of Mayors, filed briefs supporting SCAQMD.

By an 8-1 margin, the high court said that the fleet rules do not escape federal preemption simply because they address the purchase of vehicles, rather than their manufacture or sale. “[T]reating sales restrictions and purchase restrictions differently for pre-emption purposes would make no sense,” the majority opinion said. “The manufacturer’s right to sell federally approved vehicles is meaningless in the absence of a purchaser’s right to buy them.”

SCAQMD’s “command, accompanied by sanctions, that certain purchasers may buy only vehicles with particular emission characteristics is as much an ‘attempt to enforce’ a ‘standard’ as a command, accompanied by sanctions, that a certain percentage of a manufacturer’s sales volume must consist of such vehicles,” the opinion continued.

The high court overturned the appeals court decision, and ordered the case back to the lower courts for final resolution. “[I]t appears likely that at least certain aspects of the Fleet Rules are
pre-empted . . . [but] it does not necessarily follow, however, that the Fleet Rules are pre-empted in toto,” the opinion concluded. The court mentioned several key issues that the lower courts did not address, including whether some of the rules could be viewed as internal state purchasing decisions where a different standard of pre-emption might apply.

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