UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 1 - 2005

OFFICE OF
AIR AND RADIATION

Ms. Catherine Witherspoon
Executive Officer
California Air Resources Board
P.O. Box 2815
Sacramento, CA 95812

Dear Catherine:

I am writing in response to your January 24, 2005, letter to Barry Wallerstein at the South Coast Air Quality Management District (SCAQMD) regarding the waiver of preemption under the Clean Air Act for the fleet rules adopted by the SCAQMD. I want to thank you for putting together this information as it helps clarify the facts. I thought it was also very useful that the three agencies spoke on January 14 about our respective views, legal issues, and the applicable federal waiver process.

In general, the January 24 letter reflects our discussions and the Environmental Protection Agency's (EPA) current views on the major issues. First, EPA's authority to issue a federal waiver under the Clean Air Act is limited to standards adopted by the State, although the waiver authority does not appear to be limited to State standards that have a state wide scope. Second, the terms of the SCAQMD fleet rules do not appear appropriate for consideration as within the scope of a previously issued waiver for State standards. Lastly, we explained that current agency precedent would appear to impose a four year lead time from adoption of State standards for fleet rules that apply to heavy duty vehicles, though we understand your agency has historically opposed such determinations.

As I have stated, EPA is happy to work with the Air Resources Board and SCAQMD on issues surrounding the fleet rules. Please let me know if you have any questions.

Sincerely,

Margo Tsirigotis Oge
Director
Office of Transportation and Air Quality

cc: Barry Wallerstein
SCAQMD Board Members
Secretary Lloyd, Cal EPA
ARB Board Members