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9

10 **UNITED STATES DISTRICT COURT**
11 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

12 CALIFORNIA TRUCKING
ASSOCIATION, a California
13 corporation,

14 Plaintiff,

15 vs.

16 SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT; The
17 GOVERNING BOARD OF THE
SOUTH COAST AIR QUALITY
18 MANAGEMENT DISTRICT; and
DOES 1 through 25, inclusive,
19

20 Defendants.
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Case No.: 2:21-cv-6341

**COMPLAINT FOR
DECLARATORY JUDGMENT
AND INJUNCTIVE RELIEF**

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INTRODUCTION

1. *"The problem is the trucks."* — South Coast Air Quality Management District ("District") Governing Board Member Rex Richardson at the May 7, 2021 hearing on Proposed Rule 2305 – Warehouse Indirect Source Rule – Warehouse Actions and Investments to Reduce Emissions Program, and Proposed Rule 316 – Fees for Rule 2305 (collectively, "Rule 2305").

2. *"We all acknowledge trucks are the issue. The type of building the trucks go to or from, the trucks are indifferent. They pollute no matter where they go."* — District Governing Board Member Janice Rutherford at the May 7, 2021 hearing on Rule 2305.

3. To avoid the balkanization of emissions and regulatory standards across every local jurisdiction, the United States Congress has enacted two sweeping preemptions of local rules that could impact the control of emissions from trucks or that could impact the price, routes, or services those trucks provide. But faced with diminishing returns on its regulation of traditional polluters, looming federal deadlines, and nearing the edge of its regulatory authority, the District has flouted this prohibition by adopting a regional warehouse regulation that, from its inception, has been designed to do only one thing: change the trucks on the road.

4. Dissatisfied with the pace of fleet turnover already mandated by the California Air Resources Board ("CARB"), the District has seized for itself powers reserved to the United States Environmental Protection Agency ("EPA") and CARB under what the United States Supreme Court has already declared to be "Congress's carefully calibrated regulatory scheme." *Engine Mfrs. Ass'n v. S. Coast Air Quality Mgmt. Dist.*, 541 U.S. 246, 255 (2004). The District now seeks to go where no local air district has sought to go before, to implement a rule forcing the marketplace's accelerated acquisition and use of zero emission ("ZE") or near zero emission ("NZE") heavy-duty trucks.

5. In so doing, the District has issued "[a] command, accompanied by

1 sanctions, that certain purchasers *may* buy only vehicles with particular emission
2 characteristics" previously determined by the United States Supreme Court to be "as
3 much a [preempted] 'attempt to enforce' a 'standard' as a command, accompanied by
4 sanctions, that a certain percentage of a manufacturer's sales volume *must* consist of
5 such vehicles." *Engine Mfrs. Ass'n.*, 541 U.S. at 255 (italics added). As explained by
6 our High Court: "The aggregate effect of allowing every state or political subdivision
7 to enact seemingly harmless rules would create an end result [that] would undo
8 Congress's carefully calibrated regulatory scheme." *Ibid.*

9 6. Plaintiff California Trucking Association et al. ("CTA") thus brings this
10 suit to declare void and to permanently enjoin enforcement of Rule 2305.

11 7. The District has long-struggled to achieve state and federal air quality
12 standards by exercising only those powers lawfully granted to it. The District has
13 also long-recognized that the majority of its remaining emissions result from
14 tailpipes, not smokestacks. But the District has no lawful authority over tailpipes.
15 Nonetheless, in an effort to reach those sources, the District has stretched the letter of
16 the law to reach far beyond its jurisdiction in order to obtain emission reductions.

17 8. Rule 2305 is nominally styled as a lawful indirect source review ("ISR")
18 rule, but is instead concerned with none of the emissions sources such a review
19 normally addresses. While the Clean Air Act ("CAA"), 42 U.S.C. § 7401, *et seq.*,
20 allows EPA to review and approve certain ISR rules promulgated by California's 35
21 legislatively created air districts and duly incorporated into California's State
22 Implementation Plan ("SIP") by CARB (*see* 42 U.S.C. § 7410(a)(5), hereinafter
23 "CAA § 110"), Rule 2305 is not truly concerned with indirect sources. It does not
24 address vehicle trips from workers coming to or leaving the site, the construction
25 equipment used in developing new warehouses, the length of trips to and from the
26 warehouse, or any direct emissions from the warehouse itself. Rule 2305, by
27 necessity and design, is entirely about the trucks.

28 9. Congress has expressly preempted state and local rules that "relate to"

1 the control of emissions from new motor vehicles and state and local rules that "relate
2 to" a price, route, or service of any motor carrier. 42 U.S.C. § 7543(a) ("CAA §
3 209"); Federal Aviation Administration Authorization Act of 1994 ("FAAAA"), 49
4 U.S.C. § 14501(c)(1).

5 10. The CAA sets up a comprehensive federal regime via which EPA
6 regulates emissions. Section 202(a)(1) of the CAA directs EPA to "prescribe . . .
7 standards applicable to the emission of any air pollutant from any class or classes of
8 new motor vehicles or new motor vehicle engines." "Because the regulation of
9 mobile source emissions is a federal responsibility, Congress has expressly
10 preempted states from setting emissions standards for mobile sources...." *Jensen*
11 *Family Farms, Inc. v. Monterey Bay Unified Air Pollution Control Dist.*, 644 F.3d
12 934, 939 (9th Cir. 2011) (citing CAA § 209(a)). According to the United States
13 Supreme Court, "[t]he language of [the CAA] is categorical." *Engine Mfrs. Ass'n*, 541
14 U.S. at 256. There is no exception for the indirect regulation the District purports to
15 undertake.

16 11. Like the CAA, the FAAAA is a comprehensive law with strong
17 preemptive power. The FAAAA's purpose is to "'prevent States from undermining
18 federal regulation of interstate trucking' through a 'patchwork' of state regulations."
19 *Am. Trucking Ass'ns v. City of Los Angeles*, 660 F.3d 384, 395-96 (9th Cir. 2011),
20 *rev'd on other grounds*, 569 U.S. 641 (2013). The FAAAA's express-preemption
21 provision prohibits the State of California or any subdivision thereof from making,
22 applying, or enforcing laws "related to a price, route, or service of any motor carrier
23 ... or any private carrier, broker, or freight forwarder with respect to the
24 transportation of property." 49 U.S.C. § 14501(c)(1). Rule 2305 creates precisely the
25 type of patchwork the FAAAA was designed to avoid as motor carriers must modify
26 their services and routes to support ZE/NZE vehicles or even entirely relocate. If
27 every local jurisdiction enacted its own version of Rule 2305, the impact on the
28 nation's logistics industry would be nothing short of disastrous.

1 12. Because Rule 2305 has the purpose and effect of interfering with
2 interstate freight operations, facilities and equipment on an intra-state, sub-regional
3 basis, it is both expressly and impliedly preempted by the CAA, 42 U.S.C. § 7401, *et*
4 *seq.*, and the FAAAA, 49 U.S.C. § 14501; as explained below, it exceeds the
5 District's limited authority to adopt ISR rules under the California Health and Safety
6 Code, § 40000, *et seq.*; and it constitutes an unlawful tax adopted in contravention of
7 the California Constitution Art. XIII C, § 1(e).

8 THE PARTIES

9 13. Plaintiff California Trucking Association ("CTA") is an association
10 devoted to advancing the interests of its motor-carrier members, which include
11 warehouse owners and operators, who provide transportation services in California.
12 CTA promotes advocacy, safety and compliance with all applicable state and federal
13 laws on behalf of its members, including motor-carrier members operating in
14 California.

15 14. CTA members are licensed motor-carrier companies and warehouse
16 owners or operators that manage, coordinate, and schedule the movement of property
17 throughout California in interstate commerce. Many of CTA's members are based in
18 this judicial district, and many other CTA members are based elsewhere but provide
19 transportation services in this judicial district. Many of CTA's motor-carrier
20 members contract with warehouse owner-operators to provide interstate trucking
21 services to their customers in and between several states, including California. Other
22 CTA members are themselves owners or operators of warehouses directly regulated
23 by Rule 2305. CTA also expends significant resources to ensure that its members,
24 and the governmental agencies that regulate them, understand and faithfully
25 implement the goals and requirements of all applicable laws and regulations,
26 including Rule 2305. The activities of CTA's members are subject to regulation
27 under Rule 2305, and the injuries they have suffered and will suffer under Rule 2305
28 can only be redressed by this Court's order setting aside this illegal rule and enjoining

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