



## Air Regulation

### MOBILE SOURCE REGULATION

Van Ness Feldman has a broad range of experience with all aspects of mobile source emission matters, including: rulemaking, compliance, enforcement and legislative matters. The firm represents individual manufacturers of automobiles and light-duty trucks, heavy-duty vehicles and engines, off-road vehicles and engines and recreational marine vessels and engines, as well as the trade associations representing these companies. Our attorneys, some of whom worked in the mobile source program and the enforcement office at EPA, have extensive experience with EPA, the California Air Resources Board (CARB), and state agencies.

Examples of Van Ness Feldman's activities and capabilities on mobile source emissions issues include the following:

#### *Legislation*

Attorneys in the firm were actively involved in the legislative process leading to the Energy Policy Act of 2005 and the Energy Independence and Security Act of 2007. The firm also participated in the development of legislation establishing more stringent fuel economy standards, federal tax credits for alternative fuel vehicles, and incentives for the manufacture of advanced technology vehicles. Attorneys in the firm were closely involved with the drafting of the 1990 Clean Air Act Amendments. On all of these pieces of legislation, they worked closely with representatives of vehicle manufacturers, trade associations for the light-duty and heavy-duty manufacturers, and broad industry coalitions concerning provisions of the Act related to vehicle and engine manufacturing operations. The firm's mobile source experts have kept close contacts with relevant House and Senate committee staff. In addition, attorneys in the firm's legislative practice group have excellent relations with key House and Senate Members from both parties.

#### *Rulemaking*

The firm's rulemaking experience began with the development of the initial mobile source program at EPA in the early 1970s and grew to include activities to implement the 1990 Clean Air Act Amendments. Over the past 30 years, members of the firm have been involved with major regulatory development involving vehicle and engine emissions at both the federal EPA level and with CARB. Significant recent rulemakings on which the firm has worked include EPA and CARB exhaust and evaporative emissions standards and on-board diagnostics (OBD) standards for passenger and heavy-duty vehicles, as well as emission standards for marine vessels and engines, heavy-duty vehicles and engines, and off-road vehicles and engines. On the state level, the firm closely tracks and advises on the myriad of issues related to the adoption and implementation of the California LEV II, and ZEV programs, and the California greenhouse gas emission standards in states across the nation.

Other rulemaking activities for clients include: development of detailed comments on the mobile source provisions of the California Federal Implementation Plan (FIP); development of legal comments on EPA's proposed revision to the Federal Test Procedure for light-duty vehicles; advice to a heavy-duty engine manufacturer on an agreement with EPA to reduce NO<sub>x</sub> and particulates; and development of comments on the control of evaporative and refueling emissions.

As part of the representation of clients in rulemaking activities, the firm works closely with in-house technical and legal staff, outside technical and economics consultants, and other affected companies and trade associations. We have intimate knowledge of EPA, CARB and state agency policies, and our experience helps us understand how the officials in these organizations view issues before them.

With regard to litigation arising from rulemaking, Van Ness Feldman was involved in litigation over California's vehicle greenhouse gas emission standards; a lawsuit brought by the Sierra Club to force EPA to issue air toxics standards for mobile sources; challenges to EPA's California waiver approval for OBD II systems; and the aftermarket industry's attempt to obtain detailed OBD design information from vehicle manufacturers. Over the years, we have been involved in litigation arising from other EPA mobile source rules.

### *Compliance*

The firm counsels vehicle and engine manufacturers on issues arising from compliance with existing regulatory requirements, including: certification; exhaust and evaporative emission standards; OBD requirements; warranty language; sale and marketing of aftermarket parts; vehicle labeling requirements; exportation and importation requirements for vehicles and engines; fuel economy rating issues; heavy-duty vehicle anti-idling standards; sale and distribution issues; and inspection/maintenance programs. Typically, we work with in-house technical and legal staff on these issues, as well as representatives of other companies and trade associations. Again, our knowledge of EPA, CARB, and state agency staff and policies helps us to provide prompt, cost-effective responses to clients' inquiries.

### *Enforcement*

Our prior EPA experience and understanding of the enforcement process and personnel allow us to advise clients on creative ways of resolving enforcement matters. We have represented manufacturers who have been the subject of enforcement proceedings and investigations brought by EPA. These matters have involved recall investigations, tampering allegations, potential labeling violations, and alleged violations of OBD requirements. In these cases, we have assisted clients in determining whether the allegations had merit and, if so, we have developed strategies that have led to resolution of the matter. In addition, we have been asked by a client to evaluate the environmental benefits and economic costs associated with the current recall program for light-duty vehicles.

### *Mobile Source Production Facilities*

In addition to our extensive experience with mobile source regulation, Van Ness Feldman has been actively involved in the development of stationary source air regulatory programs affecting the operation of paint shops and other surface coating operations located at automobile and light truck, engine, vessel, and component facilities.