

ORAL ARGUMENT SCHEDULED FOR SEPTEMBER 15, 2020

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

TRUCK TRAILER MANUFACTURERS)	
ASSOCIATION, INC., <i>et al.</i> ,)	
)	
<i>Petitioners,</i>)	
v.)	
)	
UNITED STATES ENVIRONMENTAL)	
PROTECTION AGENCY, <i>et al.</i> ,)	
)	No. 16-1430
<i>Respondents,</i>)	
)	
and)	
)	
CALIFORNIA AIR RESOURCES)	
BOARD, <i>et al.</i> ,)	
)	
<i>Respondent-Intervenors.</i>)	

MOTION OF RESPONDENT-INTERVENORS FOR ARGUMENT TIME

Pursuant to Federal Rule of Appellate Procedure 27 and Circuit Rule 34, Respondent-Intervenor Public Health and Environmental Organizations and State Respondent-Intervenors respectfully move to be heard for 5 minutes, with counsel for the Public Health and Environmental Organizations presenting oral argument on behalf of all Respondent-Intervenors, during the argument in this case to be held on September 15, 2020.

This Court has not yet allocated time per side for oral argument. In advance of that allocation, and to facilitate oral argument preparations, Respondent-Intervenors move that this Court allocate a total of at least 20 minutes of argument time for Respondents' side and permit three counsel to argue for that side as follows: the two U.S. Department of Justice attorneys representing, separately, Respondents EPA and NHTSA splitting 15 minutes and one attorney presenting oral argument on behalf of all Respondent-Intervenors (the Public Health and Environmental Organizations and State Respondent-Intervenors) for 5 minutes. EPA and NHTSA (the Agencies) have consented to this motion. Petitioner does not object so long as the total time for Respondents and Respondent-Intervenors does not exceed the time allotted to the Petitioner.

Good cause exists to grant these requests pursuant to Circuit Rules 34(c) and (d). Respondent-Intervenors represent the interests of key state and public interest stakeholders in this matter and would provide a unique perspective to the court. As reflected in this Court's briefing schedule, which provided Respondent-Intervenors with time to review the Agencies' brief before filing their own, ECF No. 1837729, the Agencies may not fully represent Respondent-Intervenors' interests in this case. Indeed, the Agencies have represented to this Court that they are currently reconsidering the standards under review. ECF No. 1848590 at 11, 25. Moreover, Respondent-Intervenors put forward a range of arguments not made by the

Agencies on core issues, including NHTSA's obligation to regulate trailers under the Energy Independence and Security Act, ECF No. 1848541 at 7, the applicability of the severability doctrine to the agencies' respective standards, *id.* at 18, and EPA's statutory authority to regulate tractor-trailers, *see, e.g.*, ECF No. 1848551 at 28. In addition, Respondent-Intervenors bring unique expertise concerning heavy-duty vehicle regulation, including regulation of trailers, and on issues related to the costs and environmental and fuel economy benefits of the trailer technologies contemplated by the standards under review.

CONCLUSION

For the foregoing reasons, Respondent-Intervenor Public Health and Environmental Organizations and State Respondent-Intervenors request that the Court permit Respondent-Intervenors collectively to present argument for 5 minutes at the September 15, 2020 hearing.

DATED: August 24, 2020

Respectfully submitted,

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¹ For purposes of ECF-3(b) of this Court's Administrative Order Regarding Electronic Case filing (May 15, 2009), counsel for the California Air Resources Board hereby represents that the other parties listed in the signature blocks that follow have consented to the filing of this memorandum.

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CERTIFICATE OF COMPLIANCE

I certify that the foregoing **Motion of Respondent-Intervenors for Argument Time** was printed in a proportionally spaced font of 14 points and that, according to the word-count program in Microsoft Word 2016, it contains 417 words.

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing **Motion of Respondent-Intervenors for Argument Time** on all parties through the Court's electronic case filing (ECF) system.

DATED: August 24, 2020

/s/ Alice Henderson

Alice Henderson