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September 21, 2020

VIA CM/ECF

Mark Langer, Clerk of Court
U.S. Court of Appeals for the D.C. Circuit
333 Constitution Avenue, NW
Washington, DC 20001

RE: *Truck Trailer Manufacturers Association, Inc.*, No. 16-1430 (D.C. Cir.); Response to citation of supplemental authority under Fed. R. App. P. 28(j)

Dear Mr. Langer:

I am writing in response to petitioner's letter of September 14, 2020, which submitted as supplemental authority a final rule issued by the Internal Revenue Service (IRS) titled *Limitation on Deduction for Business Interest Expense*, 85 Fed. Reg. 56, 686 (Sept. 14, 2020). That rule interprets a provision of the Tax Code (not the Clean Air Act) that, among other things, governs the deduction of interest used to finance the purchase of a "motor vehicle." *See* 85 Fed. Reg. at 56,703. In the preamble to the rule, the IRS responded to a comment requesting that IRS interpret that term "to include any trailer or camper that is designed to provide temporary living quarters for recreational, camping, travel, or seasonal use and is designed to be towed by, or affixed to, a motor vehicle." *Id.*

Petitioner claims that the IRS's refusal to define the term motor vehicle to include such recreational vehicles and trailers supports its claim that the term "motor vehicle" as used in the Clean Air Act unambiguously excludes tractor-trailers. But one agency's interpretation of a phrase as used in one context has no bearing on whether a different agency may permissibly interpret that phrase in a different statute and in an entirely different context. *See* Gov't Br. 36-38. And

more fundamentally, there is no tension between the IRS's interpretation of the term "motor vehicle" as used in the Tax Code and the EPA's interpretation of the Clean Air Act at issue in this case. The EPA has never claimed that recreational trailers towed by or affixed to a car or truck qualify as motor vehicles under the Clean Air Act, and the challenged rule does not regulate such recreational trailers. The agency instead found that tractor-trailers—large combination vehicles used for freight transport—are "motor vehicles" within the meaning of the Clean Air Act and that trailer manufacturers are "engaged in the manufacturing" of these combined vehicles. The IRS rule does not opine in any manner on the merits of this interpretation.

Sincerely,

/s/ Jennifer Utrecht

Jennifer Utrecht

Counsel for the Respondents

cc: Counsel of Record (via CM/ECF)