

ORAL ARGUMENT NOT YET SCHEDULED

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

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TRUCK TRAILER	)	
MANUFACTURERS	)	
ASSOCIATION, INC., <i>et al.</i> ,	)	
	)	
<i>Petitioners,</i>	)	
	)	
v.	)	Consolidated Case
	)	Nos. 16-1430, 16-1447
UNITED STATES	)	
ENVIRONMENTAL PROTECTION	)	
AGENCY, <i>et al.</i> ,	)	
	)	
<i>Respondents.</i>	)	
_____		

**INTERVENOR PUBLIC HEALTH AND ENVIRONMENTAL  
ORGANIZATIONS’ MOTION TO SUPPLEMENT APPENDIX TO  
OPPOSITION TO MOTION FOR STAY**

Intervenor Public Health and Environmental Organizations (“Environmental Intervenors”) respectfully request leave to supplement the appendix to their opposition to Truck Trailer Manufacturers Association’s (“TTMA”) motion for stay with new information discovered since their opposition was filed.

Since that filing, Environmental Intervenors discovered that Americas Commercial Transportation Research Company (“ACT Research”)—a leading publisher of vehicle industry data—has released a preliminary analysis of September 2017 trailer sales data that further corroborates Intervenors’ contention

that “market data shows that the standards have had—and will have—no impact on sales.” ECF 1698824 at 17 (October 12, 2017).

Specifically, in a press release published the same day that Environmental Intervenors filed their opposition, ACT Research explained that its preliminary analysis of September 2017 data (within three percent of the final number) shows strongly positive trailer net order numbers in all trailer categories, and declares that “[t]he industry’s solid September results ran counter to concerns, expressed by some regarding the potential impact of the upcoming GHG-2 regulations [i.e., the Final Rule] on fleet investment plans.” Exh. 1 (Proposed Attachment 7).

In addition, in an article published in Transport Topics on October 13, 2017, regarding ACT Research’s preliminary analysis, trailer manufacturers—including some of TTMA’s declarants here—corroborated that analysis. *See* Exh. 2 (Proposed Attachment 8). For example, Great Dane’s Vice President of National Accounts David Gilliland stated: “Steady new orders are being placed for 2018. Dry vans, reefers and flats are all being ordered.” *Id.* at 2.

Environmental Intervenors move to bring this relevant new information to the Court’s attention as soon as possible after they discovered it. TTMA will not be prejudiced by allowing this supplementation because Environmental Intervenors seek to file this short supplement before TTMA’s reply is due. Accordingly,

Environmental Intervenors respectfully request leave to file the attached supplement to their appendix.

DATED: October 18, 2017

Respectfully submitted,

*/s/ Benjamin Longstreth*

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*/s/ Joshua R. Stebbins*

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**CERTIFICATE OF COMPLIANCE**

I certify that the Public Health and Environmental Intervenors **Motion to Supplement Appendix to Opposition to Motion for Stay** was printed in a proportionally spaced font of 14 points and that, according to the word-count program in Microsoft Word 2016, it contains 302 words.

DATED: October 18, 2017

/s/ Susannah L. Weaver

Susannah L. Weaver

# **EXHIBIT 1**

# Attachment 7

**Press Release, ACT Research, “Trailer Industry September Net Orders were 22,900 Units, Up 46% from August and 78% Above Last Year”** (October 13, 2017), *available at* <http://www.actresearch.net/trailer-industry-september-net-orders-were-22900-units-up-46-from-august-and-78-above-last-year/>.



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## The Blog



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### [Trailer Industry September Net Orders were 22,900 Units, Up 46% from August and 78% Above Last Year](#)

Posted on 13. Oct, 2017 by [Donavan Gerken](#) in [Press Releases](#), [Trailers](#)

COLUMBUS, IN – ACT’s preliminary estimate for September net trailer orders is 22,900 units. Final September volume will be available later this month. Our methodology allows us to generate a preliminary estimate of the market that should be within +/- 3% of the final order tally.

“After a slight easing last month, September saw a significant bounce-back in order activity. While dry vans, reefers, and flatbeds all posted solid month-over-month gains, dry vans provided the majority of the support for September’s overall industry performance,” said Frank Maly, ACT’s Director of CV Transportation Analysis and Research. He also provided perspective on the large year-over-year gain, noting, “Last September was a disappointing month, as pre-election uncertainties generated significant market headwinds that did not clear until later last November.”

The industry’s solid September results ran counter concerns, expressed by some regarding the potential impact of the upcoming GHG-2 regulations on fleet investment plans. Through the first three quarters of the year, the industry has booked over 190,000 net orders. “Year-to-date net orders are up more than 40% versus last year. Resulting order backlogs now push the industry solidly into the first quarter of next year,” added Maly.

ACT is the recognized leading publisher of new and used commercial vehicle (CV) industry data, market analysis and forecasting services for the North American market, as well as the U.S. tractor-trailer market and the China CV market. ACT’s CV services are used by all major North American truck and trailer manufacturers and their suppliers, as well as the banking and investment community in North America, Europe and China.

#### **ACT Research**

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## **EXHIBIT 2**

# Attachment 8

**Transport Topics**, “September Trailer Orders Improve 76% Year-Over-Year” (October 13, 2017), *available at* <http://www.ttnews.com/articles/september-trailer-orders-improve-76-year-over-year>.

**Transport Topics**

October 13, 2017 6:15 PM, EDT

**September Trailer Orders Improve 76% Year-Over-Year***Stoughton Trailers via YouTube*

Strength in dry vans pushed U.S. trailer orders in September to near 23,000, up 76% from a year earlier, ACT Research reported.

Preliminary net orders were 22,900 compared with 12,993 a year earlier, according to ACT, citing data it would update by the end of the month.

All segments posted “solid gains” while dry vans provided “the majority of support,” Frank Maly, ACT director of commercial vehicle transportation and research, said in a statement.

“Our sales were good for vans and chassis but a little soft on reefers,” Hyundai Translead Chief Sales Officer Glenn Harney told Transport Topics.



*John Sommers II for Transport Topics*

At Great Dane, Vice President of National Accounts David Gilliland said, “Steady new orders are being placed for 2018. Dry vans, reefers and flats are all being ordered.”

Stoughton Trailers Vice President of Sales David Giesen said, “September is a transition month from light ordering to heavy. In recent history it has become a stronger month for order intake and begins the backlog-building season.

“It feels like mostly replacement, but there is some growth mixed in.”

Research company FTR pegged orders at 21,500 and noted the expected volume supports the company’s forecast of another strong trailer market in 2018 with North American production nudging up to 285,000 units compared with an expected 281,000 in 2017.

“We’ve had three strong years in a row, and we are looking for our fourth next year,” said Don Ake, FTR vice president of commercial vehicles.

Meanwhile, trailer makers’ role in reducing emissions and increasing fuel efficiency under Section IV of the Phase 2 greenhouse gas rule remains an issue before the U.S. Court of Appeals for the District of Columbia Circuit.

Earlier this month, the Environmental Defense Fund and other environmental advocates asked the court to reject the Truck Trailer Manufacturers Association’s bid to stay the rule’s implementation as it pertains to trailers, calling TTMA’s effort an unwarranted “eleventh-hour” maneuver.

That motion on TTMA’s part in September was prompted by the Environmental Protection Agency’s announcement in August it would “revisit” Section IV — with no further details provided as of mid-October.



Ake

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Initially, ASMA had asked the court in December to vacate the portion of GHG Phase 2 that would allow EPA for the first time to regulate trailer makers under the Clean Air Act. The National Highway Traffic Safety Administration co-authored the Phase 2 rule.

The court in May placed that motion in abeyance, where it remains.

At the same time, Hyundai Translead, Great Dane and Stoughton are preparing to meet the initial requirements of the rule, they said separately.

Other trailer makers were contacted for this article but did not respond.

The first target for increased fuel efficiency in trailers of 2% “is pretty minuscule,” said Glen Kedzie, energy and environmental counsel at American Trucking Associations.

Phase 2 for trailers is scheduled to roll out in four stages: 2018, 2021, 2024 and 2027.

The 2018 portion mandates aerodynamic fairings on large dry and refrigerated vans.

The rule also requires low-rolling-resistance tires and automatic tire-inflation or tire-monitoring systems for all trailers.

“We are moving ahead with the assumption the regulation will take effect on Jan. 1,” Harney said.

Gilliland agreed. “As of today, we have to plan on GHG Phase 2 being in place Jan. 1. With that, we are spec’ing and building trailers that are compliant for deliveries in 2018. If something changes with GHG Phase 2, we will address it at that time.”

Giesen said, “Customers would like to get clarity on Phase 2 and whether this ruling will be changed. In the meantime, we will all have to comply.”

**CERTIFICATE OF SERVICE**

I hereby certify that I have served the foregoing **Motion to Supplement Appendix to Opposition to Motion for Stay** on all parties through the Court's electronic case filing (ECF) system.

DATED: October 18, 2017

/s/ Susannah L. Weaver

Susannah L. Weaver