American Road & Transportation Builders Association

TRANSPORTATION MAKES AMERICA ★★★★ WORK!

October 10, 2011

Docket No. EPA-HQ-OAR-2007-1145
Environmental Protection Agency
Mail Code 6102T
1200 Pennsylvania Ave., NW
Washington, DC 20460

Re: Secondary National Ambient Air Quality Standards for Oxides of Nitrogen and Sulfur

On behalf of the 5,000 members of the American Road and Transportation Builders Association (ARTBA), I respectfully offer the following comments for consideration during the public meeting of the Environmental Protection Agency's (EPA's) Secondary National Ambient Air Quality Standards (NAAQS) for Oxides of Nitrogen (NOx) and Sulfur noticed in the August 1st issue of the *Federal Register*.

ARTBA's membership includes public agencies and private firms and organizations that own, plan, design, supply and construct transportation projects throughout the country. Our industry generates more than $200 billion annually in U.S. economic activity and sustains more than 2.2 million American jobs.

ARTBA members undertake a variety of activities that could be directly impacted by any change in EPA's standards for Oxides of Nitrogen (NOx). ARTBA's public sector members adopt, approve or fund transportation plans, programs or projects under Title 23 U.S.C. and Title 49 U.S.C. ARTBA's private sector members rely heavily on contracts funded under these titles to plan, design, construct and provide supplies for transportation improvement projects. This document represents the collective view of our member companies and organizations.

According to EPA, the purpose of reviewing the NOx standards is "to ensure they are scientifically sound and protective of public health and the environment." President Obama expanded upon this goal when he signed a January 18 Executive Order noting that all regulatory efforts must "protect public welfare, safety and our environment while promoting economic growth, innovation competitiveness and job creation." The President's January 18 Executive Order further stated all regulations must "be based upon the best available science" and "use the best, most innovative and least burdensome tools for achieving regulatory ends." It is with this meshing of scientific review and anticipated public policy in mind that ARTBA wishes to offer comments on two issues regarding EPA's discussion of NOx standards.

First, regulations do not operate in a vacuum. Before deciding whether or not to tighten existing NOx regulations, EPA must take account of what has already been achieved as well as improvements which have been approved but not yet fully implemented. When considering

NOx standards, and any possible changes, it is important to note the EPA's own reports have indicated an overall decline in NOx pollution with significant additional decreases yet to be realized.

As EPA reported last year, between 1990 and 2008, gross domestic product increased 64 percent, vehicle miles traveled (VMT) increased 36 percent, energy consumption increased 19 percent, and U.S. population grew by 22 percent. During the same time period, total emissions of the six principal air pollutants dropped by 41 percent. Specifically, there has been a decline in NOx levels of 35 percent and furthermore, in 2008 the EPA classified the number of people living in counties where NOx levels were exceeded at "0" and concluded "all recorded concentrations were well below the level of the annual standard."[1] This continuing improvement indicates the current standard is working, and there is no need for any modification.

The transportation community is playing an essential role in contributing to the decline in NOx. Specifically, NOx emissions from motor vehicle emissions have, according to EPA data, declined nearly 4 million tons between 1990 and 2008. Today's average motor vehicle produces 80 to 90 percent less emissions than it did in 1967.[2] As better motor vehicle and fuel technologies develop, vehicle emissions will continue to go down with increased automobile usage.

Illustrating this point, major automobile manufacturers announced in 2005 a new generation of vehicles that are 99 percent cleaner than vehicles produced 30 years ago. This reduction in emissions comes from a four-part strategy that includes cleaning up the fuel as it goes into the vehicle, burning the fuel more precisely in the engine, removing undesirable emissions with a catalyst, and monitoring all of these systems to ensure minimal emission levels. As these and other new technologies are integrated into both on and off road vehicles, emissions levels in all areas (including NOx) should continue to decline.

Further, the EPA must consider reductions in NOx levels will occur as a direct result of existing regulations and those yet to take effect. As EPA stated last year, "EPA expects air quality to improve as recent regulations are fully implemented and states work to meet current and recently revised national air quality standards."[3] In fact, in 2006, regulations took effect requiring refiners to meet a 30-parts per million (ppm) average sulfur level for gasoline with a cap of 80-ppm. This fuel enables vehicles to use emissions controls which are projected to reduce tailpipe emissions of NOx by 77 percent from passenger cars and as much as 95 percent for pickup trucks, vans and sports utility vehicles. When fully implemented by 2030, these regulations are expected to have the effect of removing 164 million cars from our nation's roadways.[4]

In addition, EPA also will continue implementation of its rule to make heavy-duty trucks and buses run cleaner. Beginning with the 2007 model year, pollution from heavy-duty highway vehicles has been reduced by more than 90 percent[5], resulting in an additional reduction in NOx

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[1] U.S. EPA, Our Nation's Air, Status and Trends through 2008 (February 2010).
[2] United States Department of Transportation, "Transportation Air Quality Selected Facts and Figures." (1999).
[3] U.S. EPA, Our Nation's Air, Status and Trends through 2008 (February 2010).
[4] United States Federal Highway Administration, *Transportation Air Quality Selected Facts and Figures*, p. 36 (2006).
[5] EPA Heavy Duty Highway Diesel Program, information available at http://www.epa.gov/otaq/highway-diesel/index.htm.

levels of 2.6 million tons per year. In addition, EPA also recently implemented its rule to regulate emissions from nonroad diesel engines by integrating engine and fuel controls as a system to gain the greatest emission reductions. Engine manufacturers are expected to produce engines with advanced emission-control technologies similar to those upcoming for highway trucks and buses. Exhaust emissions from these engines are estimated to decrease by more than 90 percent.[6] This is estimated to result in an additional reduction of 738 thousand tons of NOx per year.

Thus, there are currently multiple regulatory efforts underway, all of which aim to result in significant NOx reduction. Given that counties are effectively implementing with the current standards, additional requirements will only serve to hamper these efforts by opening the door to possible litigation and sanctions potentially resulting in the loss of federal funding for transportation improvement projects. This would be self-defeating, as the federally-funded highway projects underway in these and other counties are a driving force behind the dramatic reductions in NOx and other pollutants which are already taking place.

In addition to the aforementioned increases in VMT and population, Federal Highway Administration data shows substantial increases overall numbers of motor vehicles (58 percent) and licensed drivers (41 percent) since 1980. During this same time period, the number of lane miles in the United States has only increased by six percent. The nation's road system is not keeping up with an ever growing congestion problem. Jeopardizing highway funding for these areas through implementation of the EPA's proposal would exacerbate this problem by imposing new obstacles for needed transportation improvements that can cut both harmful emissions and billions of dollars in wasted motor fuel caused by traffic congestion.

The second issue EPA must consider is the placement of additional NOx monitors. The monitors, which determine NOx compliance for counties, must be placed in areas where they can get a reading indicative of NOx levels for the area as a whole. Emissions are naturally going to be higher in some areas of a county and lower in others. For example, a monitor placed by the side of a well travelled highway is most likely going to get a higher reading for NOx emissions than one placed by a little used residential street.

Also, when taking readings from NOx monitors, it should be realized that the monitors cannot account for the aforementioned NOx reductions due to take place in the near future, such as reductions from newer, cleaner trucks and busses being placed on-line. Thus, even if there is a violation, the steps to remedy it are already underway.

In conclusion, ARTBA urges EPA to take notice of the current progress that has been and will be made in cutting the overall levels of NOx before approaching public policy decisions resulting in further regulation. Current programs are reducing NOx and must be given a chance to be fully implemented before new standards or initiatives are considered. Further, in order to effectively assess current NOx levels, monitors must not be placed in areas where their readings will be skewed. Rather, NOx levels must be based on the county as a whole, rather than one particular area (such as a roadside). As such, ARTBA strongly feels recommendations to tighten NOx standards discount the public health and welfare of those citizens in areas where transportation

[6] EPA Clean Air Nonroad Diesel Rule, information available at http://www.epa.gov/nonroad-diesel/2004fr/420f04032.htm.

improvement projects will be placed at risk. ARTBA looks forward to working with EPA to achieve a cleaner environment through these and other future regulatory efforts.

Sincerely,

T. Peter Ruane
President & C.E.O