

December 8, 2016

Docket No. EPA-HQ-OAR-2013-0146
Submitted via www.regulations.gov
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

Re: Draft Policy Assessment for the Review of the Primary National Ambient Air Quality Standards for Nitrogen Dioxide

On behalf of the more than 6,000 members of the American Road and Transportation Builders Association (ARTBA), I respectfully offer comments on the U.S. Environmental Protection Agency's (EPA) "Draft Policy Assessment for the Review of the Primary National Ambient Air Quality Standards (NAAQS) for Nitrogen Dioxide (NO₂)."

ARTBA's membership includes private and public sector members that are integral to the planning, designing, construction and maintenance of the nation's roadways, waterways, bridges, ports, airports, rail and transit systems. Our industry generates more than \$380 billion annually in U.S. economic activity and sustains more than 3.3 million American jobs.

ARTBA members undertake a variety of activities that could be directly impacted by any change in EPA's NAAQS for NO₂. 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., while ARTBA's private sector members plan, design, construct and provide supplies for these federal transportation improvement projects. This document represents the collective views of our member companies and organizations.

Under the CAA, EPA must review NAAQS for six different pollutants, including NO₂, every five years. The release of the draft policy assessment represents another step in EPA's review of the NAAQS for NO₂. NAAQS compliance is a particularly important issue for the transportation construction sector as counties which do not meet CAA standards can have federal highway funds withheld. These funds are important to areas aiming to improve air quality through transportation improvements which ease congestion.

Overall, EPA must reform the manner in which it reviews NAAQS. Local officials need some sense of predictability in order to develop long-range transportation plans to achieve emissions reduction goals. In many instances, counties are focusing on addressing existing NAAQS and any additional changes to the standards are akin to "moving the goalposts in the middle of the game." If counties are to effectively comply with current NAAQS, new requirements will only serve to hamper these efforts by opening the door to possible litigation and sanctions potentially resulting in the withholding of federal funding for transportation improvement projects.

Regulations do not operate in a vacuum. Before deciding whether or not to tighten existing NO₂ standards, EPA should take account what has already been achieved as well as expected air quality improvements from already approved initiatives. EPA's own data indicates "[n]ationally, average NO₂ concentrations have decreased substantially over the years." Specifically, according to EPA, overall NO₂ levels have declined by 57 percent from 1980 to 2014.¹

Further, EPA should also consider the consequences of proposed ozone changes on other federal activities that promote public health and economic stability. Tightening NO₂ standards could result in the withholding of federal highway funds in areas forced out of compliance with the new standards. This, in turn, would have negative effects on both employment and development for impacted counties where transportation improvements are delayed or cancelled. In many instances, these federal-aid projects are intended to improve demonstrated public safety threats. Once completed, transportation improvements can reduce congestion and improve air quality. Such improvements will not be realized if projects cannot go forward. A complete analysis of potential NAAQS revisions should include the effects of the potential for increased unemployment, reduced congestion relief and weakened public safety.

If the air quality is improving, further regulation may not be necessary and, perhaps, thought should be given to altering existing requirements in a manner which would reduce regulatory burdens without sacrificing the success which has already been achieved. We look forward to continuing to work with EPA towards achieving cleaner air through regulatory efforts which strike the proper balance between environmental protection and our nation's infrastructure needs.

Sincerely,



T. Peter Ruane
President & C.E.O

¹ U.S. EPA, Air Trends, Nitrogen Dioxide, available at: <https://www3.epa.gov/airtrends/nitrogen.html>.