



March 28, 2023

U.S. Environmental Protection Agency
EPA Docket Center
Air and Radiation Docket
Mailcode 28221T
1200 Pennsylvania Ave, NW
Washington, DC 20460

Re: Docket No. EPA-HQ-OAR-2015-0072, Reconsideration of the National Ambient Air Quality Standards for Particulate Matter

Today I respectfully offer comments on the U.S. Environmental Protection Agency's (EPA) Jan. 27 notice of reconsideration of the National Ambient Air Quality Standards (NAAQS) for particulate matter (PM). EPA is proposing to lower the current PM NAAQS from a level of 12 micrograms per cubic meter to a level between 9 and 10. The agency is also taking comments on a proposed range as low as 8 and as high as 11. **ARTBA recommends EPA retain the current PM NAAQS.**

NAAQS compliance is a particularly important issue for the transportation construction sector as counties which do not meet Clean Air Act (CAA) standards can have federal highway funds withheld. These funds are important to areas seeking to improve air quality through transportation improvements which ease congestion.

The Timing of EPA's Current Review of the PM NAAQS is Arbitrary

The CAA requires EPA to review the PM NAAQS every five years. If a county is found to be out of compliance, they must enact new regulations and control measures in order to prevent their federal highway funds from being withheld. However, this five-year interval between required NAAQS reviews does not always allow sufficient time for counties to enact regulations and see their benefits. As a result, areas often find themselves out of compliance with multiple versions of the same NAAQS standard. This phenomenon is evidenced by EPA's current list of non-compliant counties, which show some areas still unable to comply with standards set in 1971, and for PM specifically, other areas are still not compliant with levels set in 1987.¹

Simply put, the goalposts are being moved in the middle of the game. When a county approaches compliance with the current NAAQS, they may find themselves faced with a more stringent standard. Counties should be allowed to come into compliance with current NAAQS before newer levels are set. Otherwise, areas can become trapped in a seemingly never-ending

¹ See Current Nonattainment Counties for All Criteria Pollutants (as of Feb. 28, 2023) available at: <https://www3.epa.gov/airquality/greenbook/ancl.html>.

cycle of non-compliance, placing desperately needed highway improvements in a state of constant risk.

In this instance, however, the difficulties are amplified because the current PM NAAQS were finalized in Dec. 2020, slightly more than two years ago. The timing indicates EPA's action is based more on a change in administration than the CAA's NAAQS process. Counties need some sense of predictability when planning their transportation strategies and meeting CAA requirements. The five-year NAAQS review timeline was designed to achieve this objective. However, if presidential elections begin triggering NAAQS reviews rather than statutory requirements, transportation planning will become as unpredictable as many of those electoral events. This is not the way the NAAQS review process was intended to work. At a minimum, EPA should suspend this arbitrary review and adhere to the CAA's five-year NAAQS review timeline.

EPA's Own Data Indicate Current Standards are Working

Another reason to keep the current PM standards: they are working. EPA's own data shows significant improvements in both the overall air quality of the nation as well as emissions from the transportation sector. Specifically, "[b]etween 1970 and 2021, the combined emissions of the six common pollutants (PM_{2.5} and PM₁₀, SO₂, NO_x, VOCs, CO and Pb) dropped by 78 percent. This progress occurred while U.S. economic indicators remain strong.²" The economic indicators cited by EPA include Gross Domestic Product, vehicle miles travelled and population. In other words, more people are driving more miles while the economy grows, yet emissions are declining.

PM, specifically, has also seen a significant diminishing, with the levels decreasing between 32 and 37 percent.³ Emissions reductions of this magnitude demonstrate the effectiveness of the current NAAQS. Enacting more stringent standards now will only risk disruption of the very transportation projects intended to reduce congestion and achieve further emissions reductions.

Tightening the NAAQS Jeopardizes the Infrastructure Investment and Job Act's Investments

Enacted with bipartisan support in 2021, the Infrastructure Investment and Job Act (IIJA) is in its second year of delivering a generational federal investment in our nation's infrastructure. Many IIJA-funded projects are specifically intended to reduce congestion (and emissions), reinvigorate communities and improve public safety. However, the EPA's revised NAAQS will endanger a number of those projects by pushing related counties out of compliance. The agency can

² See U.S. EPA, "Our Nation's Air – Trends Through 2021" at https://gispub.epa.gov/air/trendsreport/2022/#growth_w_cleaner_air.

³ Id.

alleviate these conflicting policies, and preserve the investment power of the IIJA, by keeping the current and effective NAAQS.

In conclusion, ARTBA thanks EPA for considering the views of the transportation construction industry on this important matter. We remain available for a continued dialogue on these issues at any time.

Sincerely,

A handwritten signature in black ink, reading "Nick Goldstein". The signature is written in a cursive, flowing style.

Nick Goldstein
Vice President of Regulatory & Legal Issues