

March 13, 2014

Air and Radiation Docket and Information Center  
U.S. Environmental Protection Agency  
Mail Code 2822T  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

**Re: Docket No. EPA-HQ-OAR-2013-0146, Release of the Draft Integrated Review Plan for the Primary National Ambient Air Quality Standards for Oxides of Nitrogen**

On behalf of the 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's) "Draft Integrated Review Plan for the Primary National Ambient Air Quality Standards (NAAQS) for Oxides of Nitrogen (NO<sub>2</sub>)"

ARTBA's membership includes public agencies and private firms and organizations that own, plan, design, supply and construct transportation projects, including transit projects, throughout the country. 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 NO<sub>2</sub>. 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 6,000 member companies and organizations.

EPA's issuance of the Draft Integrated Plan for NO<sub>2</sub> is the first step in EPA's NAAQS review as required by the federal Clean Air Act (CAA). Under the CAA, EPA must review NAAQS for six different pollutants every five years. While ARTBA shares EPA's goal of improving air quality and protecting public health, we have significant objections both to the air quality standard review process as a whole and particularly the way NO<sub>2</sub> standards are measured with respect to roadways.

Regulations do not operate in a vacuum. Before deciding whether or not to tighten existing NO<sub>2</sub> regulations, EPA should take account what has already been achieved as well as expected air quality improvements from already approved initiatives. When considering NO<sub>2</sub> standards, and

any possible changes, it is important to note the EPA's own reports have indicated a 56 percent decline in annual NO<sub>2</sub> pollution since 1980<sup>1</sup>. Additionally, the EPA classified the number of people living in counties where NO<sub>2</sub> levels were exceeded at "0."<sup>2</sup> This continuing improvement indicates the current standard is working, and there is no need for further modification.

The EPA should also consider reductions in NO<sub>2</sub> levels will occur as a direct result of existing programs and those yet to take effect. The transportation sector is playing an essential role in contributing to the decline in both NO<sub>2</sub> and all oxides of nitrogen (or NO<sub>x</sub>, which includes NO<sub>2</sub>). Specifically, in December of 2012, EPA reported to Congress that projects funded under the "Diesel Emissions Reduction Act" (DERA) alone would reduce almost 204,000 tons of NO<sub>x</sub> emissions<sup>3</sup>.

Additionally, 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.

On the specific matter of NO<sub>2</sub> monitors, ARTBA's primary concern, which we raised with EPA in comments issued in November of 2012, involves the placement of air quality monitors near "major roads in larger urban areas." The monitors, which determine NO<sub>2</sub> compliance for counties, must be placed in areas where they can get a reading indicative of NO<sub>2</sub> 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 NO<sub>2</sub> emissions than one placed by a little used residential street. As such, EPA should seek to balance air quality monitor placement between high and low travelled areas. This is the only way to prevent a naturally high NO<sub>2</sub> area from biasing the assessment for the entire county.

As EPA once again begins the process of reviewing NO<sub>2</sub> standards, ARTBA urges EPA to begin the process by allowing counties the chance to meet existing standards and taking note of the progress which has already been made. Should EPA then decide to alter the NO<sub>2</sub> standards, ARTBA urges the agency to proceed with a balanced approach that is explicitly focused on delivering the most accurate assessment of a county's air quality.

Sincerely,



T. Peter Ruane  
President & C.E.O

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<sup>1</sup> U.S. EPA Air Quality Trends, available at: <http://www.epa.gov/airtrends/aqtrends.html#comparison>.

<sup>2</sup> Id.

<sup>3</sup> U.S. EPA, Second Report to Congress, Highlights of the Diesel Emissions Reduction Program, available at: <http://www.epa.gov/cleandiesel/documents/420r12031.pdf>.