

November 19, 2012

Docket No. EPA-HQ-OAR-2012-0486
Environmental Protection Agency
Mail Code 6102T
1200 Pennsylvania Ave., NW
Washington, DC 20460

Re: Revision to Ambient Nitrogen Dioxide Monitoring Requirements

On behalf of the 5,000 members of the American Road and Transportation Builders Association (ARTBA), I respectfully offer comments regarding the Environmental Protection Agency's (EPA's) proposed revisions to ambient nitrogen dioxide (NO₂) monitoring requirements .

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 \$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 methods for monitoring 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 5,000 member companies and organizations.

ARTBA shares EPA's goal of improving air quality and protecting public health. ARTBA's primary concern with EPA's revised monitoring requirements involves the suggestion to increase placement of air quality monitors near "major roads in larger urban areas." The monitors, which determine NO₂ compliance for counties, must be placed in areas where they can get a reading indicative of NO₂ 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 NO₂ 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 an accurate assessment of an entire county can be achieved.

Also, when taking readings from NO₂ monitors, it should be realized the monitors cannot account for NO₂ 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.

Evidence of progress in regulating NO₂ is reflected by EPA's own data. As EPA reported earlier this year, between 1990 and 2010, gross domestic product increased 65 percent, vehicle miles traveled (VMT) increased 40 percent, energy consumption increased 15 percent, and U.S. population grew by 24 percent. During the same time period, total emissions of the six principal air pollutants dropped by 59 percent. Specifically, there has been a decline in NO₂ levels of 45 percent since 1990 leading EPA to declare that in 2010, NO₂ levels were the lowest they had been in a decade and that "All recorded concentrations were well below the level of the annual standard."¹

The transportation sector is playing an essential role in contributing to the decline in both NO₂ and all oxides of nitrogen (or NO_x, which includes NO₂). Specifically, NO_x 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.

Further, the EPA must consider reductions in NO_x levels will occur as a direct result of existing regulations and those yet to take effect. In EPA's own words, air quality is expected "to improve as recently adopted regulations are fully implemented and states work to meet current and recently revised 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 NO_x 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 percent⁵, resulting in an additional reduction in NO_x 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 NO_x per year.

¹ U.S. EPA, *Our Nation's Air, Status and Trends through 2010* (February 2012).

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 2010* (February 2012)

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>.

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

Thus, there are currently multiple regulatory efforts underway, all of which aim to result in significant NO₂ reduction. Counties are also effectively implementing EPA's current standards. Increasing the amount of monitors near major roadways will only serve to hamper these efforts by skewing air quality readings and opening the door to possible litigation and sanctions. Such impacts could potentially result in the loss of federal funding for transportation improvement projects. This would be self-defeating, as many of the federally-aided highway improvements underway in these and other counties are major contributors to the dramatic reductions underway in NO₂ and other pollutants.

In conclusion, EPA's proposal to alter NO₂ monitor locations seems to be an attempt to "snatch defeat from the jaws of victory" by highlighting only the worst areas for emissions instead of focusing on the more complete, and accurate picture of our nation's success in improving air quality. ARTBA urges EPA to proceed with a balanced approach that is explicitly focused on delivering the most accurate assessment of a county's air quality. 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,

A handwritten signature in black ink that reads "T. Peter Ruane". The signature is written in a cursive style with a large, stylized initial "T".

T. Peter Ruane
President & C.E.O