

Oral Statement of Nick Goldstein
Before the Environmental Protection Agency
Clean Air Scientific Advisory Committee
Public Teleconference of the Ozone Review Panel
For the Reconsideration of the 2008 NAAQS
February 18, 2011

Chairman Samet and members of the Clean Air Scientific Advisory Committee, I am Nick Goldstein, Assistant General Counsel for the American Road and Transportation Builders Association (ARTBA).

ARTBA represents more than 5,000 members nationwide, involved in all sectors of the U.S. transportation design and construction industry.

I would like to begin my statement by thanking the Committee for the opportunity to speak at today's teleconference regarding the reconsideration of the 2008 National Ambient Air Quality Standards (NAAQS) for ozone.

According to EPA Administrator Lisa Jackson, the purpose of reviewing the 2008 ozone NAAQS is to "ensure they are scientifically sound and protective of public health and the environment." The stated goal of reviewing the ozone NAAQS is to improve both public health and the environment. This is a commendable objective and one shared by ARTBA. 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 Executive Order further states all regulations must "be based upon the best available science" and "use the best, most innovative and least burdensome tools for achieving regulatory ends." To assist in achieving this goal, ARTBA would like to provide its unique perspective on the recommendation for tightening the current ozone standards.

Specifically, the President's Executive Order notes agencies must tailor regulations to "impose the least burden on society." With this in mind, EPA and CASAC must be cognizant of the impact more stringent ozone standards would have on other federal initiatives. Nearly 34,000 people die on U.S. highways each year and many federally-funded highway improvements are designed specifically to address safety issues. As such, imposing new ozone standards that lead to highway improvements being denied could be counterproductive to improving public health. Further, jeopardizing highway funding in new areas through implementation of the EPA's recommendations is self-defeating and would impose new obstacles for needed transportation improvements that can cut both harmful emissions and billions of dollars in wasted motor fuel caused by traffic congestion.

When considering new ozone standards, it is important to note the EPA's own reports have indicated an overall decline in ozone pollution in the past thirty-five years. This decline has occurred despite overwhelming growth in population, vehicle miles traveled, energy consumption and Gross Domestic Product.

Further, the EPA must consider reductions in ozone levels which will occur as a direct result of both existing regulations and those yet to take effect. Dramatic improvements in ozone levels will come from implementation of recently enacted and soon to be enacted regulations in areas such as:

- sulfur levels in gasoline;
- heavy-duty diesel engines and highway vehicles;
- heavy-duty trucks and buses; and
- emissions from nonroad diesel engines.

The revisions to ozone standards proposed by EPA would greatly increase the stringency of the ozone regulation at a time when implementation of existing standards is already resulting in noticeable progress.

Counties need some sense of predictability in order to develop long-range transportation plans to achieve ozone reduction. The current regulations were enacted as recently as 2008. Additional requirements will only serve to hamper efforts to comply with current standards by opening the door to possible litigation and sanctions potentially resulting in the loss of federal funding for transportation construction projects. This would be self-defeating, as highway improvements are a driving force behind the dramatic reductions in ozone and other pollutants which are already taking place.

Any tightening of ozone standards would likely result in communities being thrown out of compliance with the Clean Air Act and, in turn, placing federal highway funds for those areas at risk. Such a development would delay critically needed improvements to our nation's infrastructure which has already reached "critical mass" in terms of being able to serve the needs of our citizens and economy.

In conclusion, ARTBA urge the Committee to take notice of the current progress that has been and will be made in cutting the overall levels of ozone before approaching public policy decisions which would result in further regulation. Counties attempting to take a step forward to meet the 2008 standards should not be forced to take two steps back and adjust to new standards less than two years later. Current programs which are reducing ozone must be given a chance to be implemented before new standards or initiatives are considered. Additional regulation at this point is akin to "moving the goalposts" and would run the risk of diluting current compliance efforts and should not be pursued.