

**Statement of the American Petroleum Institute to the
Clean Air Scientific Advisory Committee
NO_x & SO_x Secondary NAAQS Review Panel**

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Good afternoon. My name is Ted Steichen, and I am a Senior Policy Advisor at the American Petroleum Institute, or API. API is the only national trade association representing all facets of the oil and natural gas industry, which supports 9.8 million U.S. jobs and 8 percent of the U.S. economy. API's more than 625 members include large integrated companies, as well as exploration and production, refining, marketing, pipeline, and marine businesses, and service and supply firms. They provide most of the nation's energy and are backed by a growing grassroots movement of more than 30 million Americans.

API took a serious interest in the U.S. Environmental Protection Agency's ("EPA" or the "Agency") last review of the Secondary National Ambient Air Quality Standards ("NAAQS") for oxides of sulfur ("SO_x") and nitrogen ("NO_x"). API commented on the various documents EPA prepared throughout that process, including its August 1, 2011 proposed rule, and API participated in litigation over EPA's final action on the secondary standards as an intervenor supporting EPA. The draft Integrated Review Plan ("Plan") that is currently before this Clean Air Scientific Advisory Committee ("CASAC") Panel raises many of the same concerns that API expressed to the Agency during the last review. API appreciates the opportunity to provide its views to the Panel on how to best focus EPA's actions for this review.

API believes it would be useful to remind the Panel of some of the key scientific gaps identified during the last review. Previously, EPA focused on developing a standard to address aquatic acidification through a new "Aquatic Acidification Index," or AAI-based standard. In the final rule, the EPA Administrator determined that the uncertainties associated with the AAI were of such a nature and magnitude that there was no reasoned way to choose a specific AAI-based standard or a specific nationwide level of protection that would be "requisite," as the Clean Air Act requires. The D.C. Circuit upheld that determination. Some of the major sources of these considerable uncertainties identified at the time were (1) how deposition varies across regions, (2) the lack of NO_x and SO_x ambient concentration data throughout the U.S., and (3) limited information on ecosystem sensitivity outside of a handful of areas studied because they are known to be particularly sensitive. The draft Plan, at times, touches on some of these issues, but they are certainly not the focus of the document. That suggests EPA may not be giving adequate consideration to the issues that drove its decision during the last review. Reorienting EPA's review efforts to evaluate the manner in which how a joint NO_x and SO_x NAAQS based on

water quality would operate, if EPA intends to pursue such a standard again, and, in particular, fully evaluating the extent to which truly representative data of the nation's ecosystems and their responses to ambient concentrations of NO_x and SO_x would be more likely to result in a scientifically sound standard at the end of this review.

Further, one of the main reasons EPA was unable to effectively address uncertainty during the last review was the Agency's decision not to conduct a quantitative uncertainty analysis. Indeed, EPA resisted performing any uncertainty analysis until the final stages of the last review, when it prepared a qualitative evaluation that the Panel found substantially lacking. The Electric Power Research Institute did, however, prepare a quantitative analysis that uncovered enormous uncertainties. The draft Plan does not indicate if EPA intends to conduct its own quantitative uncertainty analysis as part of this review. The Panel should insist on it.

There are a number of other critical information gaps that were identified in the last review that the draft Plan ignores or addresses only in passing. There is, for instance, no discussion of what EPA will do to evaluate the numerous models it proposes to use, even though serious questions about many of these models were previously identified. There is no indication of how EPA intends to treat effects of reduced nitrogen, which should not be subject to a program intended to regulate NO_x and SO_x. There is little discussion of how to develop objective criteria for identifying sensitive ecosystems or a percentage of ecosystems to protect, issues that were previously problematic. Similarly, there is no discussion of how or if EPA intends to evaluate how implementation of different possible secondary NAAQS might vary or how widespread and severe NAAQS exceedances might be under different possible standards. Again, this sort of information was requested by the Panel during the last review.

Finally, it is surprising that the draft Plan does not mention EPA's Pilot Program. EPA proposed to undertake a Pilot Program to study and develop information to fill the gaps that its review of the Secondary NAAQS for NO_x and SO_x identified. API commented on EPA's proposed Pilot Program and urged the Agency to expand its scope to effectively respond to the limitations the review identified. API understands that, instead, EPA never conducted its program. The Agency may believe that independent research displaced the need for the Pilot Program, but the draft Plan should, at the very least, include provisions for evaluating what happened with EPA's Pilot Program, for systematically determining whether that program was adequate, and whether sufficient information has been developed outside of the Pilot Program to warrant its suspension.

Conclusion

In sum, the draft Plan does not focus on the key uncertainties and data gaps that EPA identified as key during the last review. Instead, the Plan suggests that EPA will repeat much of the work it previously conducted without addressing the fundamental shortcomings in EPA's review that were identified by commenters like API and the predecessor to this CASAC Panel. For that reason, API encourages you to consider the information that was deemed lacking during the last review and to press EPA to develop a Plan for this review that addresses those issues directly.

Thank you very much for your consideration. If you have any questions, I would be pleased to address them.