

Oral Statement of Nick Goldstein
Before the Environmental Protection Agency
Clean Air Scientific Advisory Committee
Meeting to Review the Final Ozone Staff Paper
March 5, 2007

Chairwoman Henderson and members of the Clean Air Scientific Advisory Committee, I am Nick Goldstein, staff attorney 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 meeting regarding the EPA's Final Ozone Staff Paper.

According to EPA, the purpose of the Staff Paper is "to 'bridge the gap' between" scientific review and "public health and welfare policy judgments" To assist in achieving this goal, ARTBA would like to provide its unique perspective on the Staff Paper's recommendation for tightening the current ozone standards.

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.

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 existing regulations yet to take effect. Dramatic improvements in ozone levels will come from implementation of recently 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 the Staff Paper 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. 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 transportation improvements are a driving force behind the dramatic reductions in ozone and other pollutants which are already taking place.

The stated goal of the Staff Paper is to improve public health. This is a commendable objective and one shared by ARTBA. EPA and CASAC, however, must be cognizant of the impact more stringent ozone standards would have on other federal initiatives. Over 43,000 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.

In conclusion, ARTBA urges 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. 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 would run the risk of diluting current compliance efforts and should not be pursued.

March 5, 2007

Mr. Fred Butterfield, Designated Federal Officer (DFO)
EPA Science Advisory Board (1400F)
United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Re: EPA Clean Air Scientific Advisory Committee (CASAC); CASAC Ozone Review Panel; Notification of a Public Advisory Committee Meeting (Teleconference)

On behalf of the 5,000 members of the American Road and Transportation Builders Association (ARTBA), I respectfully offer the following statement to the Environmental Protection Agency's (EPA) CASAC as part of the March 5 meeting to review EPA's Final Ozone Staff Paper.

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 \$200 billion annually in U.S. economic activity and sustains more than 2.2 million American jobs.

ARTBA members undertake a variety of activities that could be directly impacted by the proposals which have been presented in the Staff Paper. 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. ARTBA's private sector members rely heavily on contracts funded under these titles to plan, design, construct and provide supplies for transportation improvement projects. This document represents the collective view of our member companies and organizations.

According to EPA, the purpose of the Staff Paper is "to 'bridge the gap' between the scientific review contained in the Air Quality Criteria document and the public health and welfare policy judgments required of the [EPA] Administrator." It is with this meshing of scientific review and anticipated public policy in mind that ARTBA wishes to offer comments on the Staff Paper's recommendation for tightening the current standards for ozone.

Any tightening of the ozone standard would result in the increased possibility of federal highway funding being placed at risk. Such a development would delay critically needed improvements to our nation's infrastructure network which has already reached "critical mass" in terms of being able to serve the needs of our citizens and economy. As such, ARTBA strongly feels recent recommendations to tighten ozone standards ignore the public health and welfare of those citizens in areas where transportation improvement projects will be placed at risk. We urge the EPA and CASAC not to accept the Staff Paper recommendations.



When considering ozone standards, and any possible changes, it is important to note the EPA's own reports have indicated an overall decline in ozone pollution. As EPA reported in 2005: “between 1970 and 2005, gross domestic product increased 195 percent, vehicle miles traveled (VMT) increased 178 percent, energy consumption increased 48 percent, and U.S. population grew by 42 percent. During the same time period, total emissions of the six principal air pollutants dropped by 53 percent.” Specifically, there has been a decline in the overall concentration level of criteria pollutants for ozone (1-Hour) of 28 percent in the past 25 years¹. This progress has occurred both prior to and since the implementation of the existing ozone NAAQS. Furthermore, this continuing improvement indicates the current standard is working, and there is no need for any modification.

Ground level ozone (as opposed to the ozone in the upper atmosphere or “ozone layer,” which occurs naturally) is formed by the combination of the oxides of nitrogen (NOx) and volatile organic compounds (VOCs) in sunlight. NOx and VOCs are referred to as the “criteria pollutants” for ozone. As levels of NOx and VOCs decline, so will the amount of harmful ground level ozone. Since 1970, NOx levels have decreased by 29 percent and VOC levels have decreased by 53 percent². This decline in pollution is being heavily driven by improvements in the transportation sector. Specifically, NOx emissions from motor vehicle emissions have gone down 41 percent since 1970, while VOC emissions from motor vehicles have declined by 73 percent. Clearly, the transportation community is playing a vital role in reducing ozone levels.

Today's average motor vehicle produces 80 to 90 percent less emissions than it did in 1967.³ The transportation sector is continuing to take steps, independent of the NAAQS, to build on this success by further reducing all forms of air pollution, including particulate matter. As better motor vehicle and fuel technologies develop, vehicle emissions will continue to go down with increased automobile usage.

Illustrating this point, major automobile manufacturers announced in 2005 a new generation of vehicles that are 99 percent cleaner than vehicles produced 30 years ago. This reduction in emissions comes from a four-part strategy that includes cleaning up the fuel as it goes into the vehicle, burning the fuel more precisely in the engine, removing undesirable emissions with a catalyst, and monitoring all of these systems to ensure minimal emission levels. As these and other new technologies are integrated into both on and off road vehicles, emissions levels in all areas (including ozone) should continue to decline.

Further, the EPA must consider reductions in ozone levels will occur as a direct result of existing regulations yet to take effect. Dramatic improvements in ozone levels will come beginning this year from implementation of recently enacted regulations on sulfur levels in gasoline, as well as measures affecting heavy-duty diesel engines and highway vehicles. In fact, last year,

¹ United States Environmental Protection Agency, National Trends in Ozone Levels, Ozone Air Quality 1980-2005, available at <http://www.epa.gov/air/airtrends/ozone.html>.

² U.S. EPA, Air Emissions Trends – Continued Progress through 2005, available at: <http://www.epa.gov/air/airtrends/econ-emissions.html>. The six principal or “criteria” air pollutants referred to by the EPA are nitrogen dioxide, ozone, sulfur dioxide, particulate matter, carbon monoxide and lead.

³United States Department of Transportation, “Transportation Air Quality Selected Facts and Figures.” (1999).

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 will enable vehicles to use emissions controls which are projected to reduce tailpipe emissions of NOx by 77 percent from passenger cars and as much as 95 percent for pickup trucks, vans and sports utility vehicles. When fully implemented, 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 current model year, pollution from heavy-duty highway vehicles will be reduced by more than 90 percent⁵, resulting in an additional reduction in NOx levels of 2.6 million tons per year. In addition, EPA will begin implementation this year of 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 NOx per year.

Thus, there are currently four different regulatory efforts underway, all of which aim to result in significant ozone reduction.

The revisions to the ozone NAAQS proposed by the staff paper would greatly increase the stringency of the ozone regulation at a time when implementation of existing standards is already resulting in noticeable progress. Currently, 48 percent of the counties monitored for ozone levels are out of compliance. Tightening the current standard to levels described in the Staff Paper would increase this to 86 percent, almost doubling the amount of monitored counties that are out of compliance. As a result, these counties would then face the prospect of having transportation funds promised to them in the recently enacted federal surface transportation program reauthorization bill, the "Safe, Accountable, Flexible and Efficient Transportation Equity Act – A Legacy for Users" (SAFETEA-LU), put in jeopardy.

Currently these counties are focusing on addressing existing ozone standards and any further changes to the standards will undermine these efforts. Counties need some sense of predictability in order to develop long-range transportation plans to achieve ozone reduction. If counties are to effectively comply with current standards, additional requirements will only serve to hamper these efforts by opening the door to possible litigation and sanctions potentially resulting in the loss of federal funding for transportation improvement projects. This would be self-defeating, as the federally-funded transportation projects underway in these and other counties are a driving force behind the dramatic reductions in ozone and other pollutants which are already taking place.

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>.

In addition to the aforementioned increases in VMT and population, Federal Highway Administration data shows substantial increases overall numbers of motor vehicles (58 percent) and licensed drivers (41 percent) since 1980. During this same time period, the number of lane miles in the United States has only increased by six percent. The nation's road system is not keeping up with an ever growing congestion problem. Jeopardizing transportation funding for these areas through implementation of the Staff Paper's proposals would exacerbate this problem by imposing new obstacles for needed transportation improvements that can cut both harmful emissions and billions of dollars in wasted motor fuel caused by traffic congestion.

The stated goal of the Staff Paper is to improve public health. This is a commendable objective and one shared by ARTBA. EPA and CASAC, however, must be cognizant of the impact more stringent ozone standards would have on other federal initiatives. Over 43,000 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.

Rather than face the prospect of transitioning to these newer standards, state and local entities instead must be given the time and flexibility needed to implement already existing ozone standards. It would be more appropriate for the EPA to focus on helping counties meet existing ozone standards and avoid tightening ozone standards and forcing many more counties out of compliance with federal Clean Air Act requirements.

In conclusion, ARTBA urges EPA 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 resulting in further regulation. Current programs are reducing ozone and must be given a chance to be implemented before new standards or initiatives are considered. Additional regulation at this point would run the risk of diluting current compliance efforts and should not be pursued. ARTBA remains committed to helping to achieve a cleaner environment through the continuation of proven technological and regulatory efforts.

Sincerely,



T. Peter Ruane
President & C.E.O