



March 22, 2010

Docket No. EPA-HQ-OAR-2005-0172
Environmental Protection Agency
Mail code 6102T
1200 Pennsylvania Ave. N.W.
Washington, DC 20460

Re: EPA's Proposed National Ambient Air Quality Standards for Ozone, Docket ID No. EPA-HQ-OAR-2005-0172, RIN 2060-AP98

Dear Sir or Madam:

The American Association of State Highway and Transportation Officials (AASHTO), the Association of Metropolitan Planning Organizations (AMPO) and the National Association of Development Organizations (NADO) appreciate the opportunity to review and comment on the Environmental Protection Agency's (EPA) Proposed Rulemaking on revisions to the Primary and Secondary National Ambient Air Quality Standards (NAAQS) for Ozone as contained in the January 19, 2010 Federal Register. The following are our comments and recommendations:

PRIMARY OZONE STANDARD:

1. AASHTO, AMPO and NADO recognize the need to protect human health and support EPA's effort to set a primary ozone standard that protects human health with an adequate margin of safety, as required by the Clean Air Act (CAA). This standard, however, should be developed within the following principles:
 - a. *EPA should set primary standards at a level that is best supported by the science and preponderance of health related studies, taking care to ensure the integrity and reliability of not only the assessment of the underlying science but also the overall standard-setting process.* Since significant implementation issues will increase as the standard gets more stringent, EPA should set the standard at a level that is best supported by the science and preponderance of health related studies. For the proposed revision to the primary NAAQS for ozone specifically, the proposed rule acknowledges that there are limited data for the lower range of the proposed primary standard and that there is less confidence and greater uncertainty of health effects at the lower ranges. Accordingly, AASHTO, AMPO and NADO recommend the primary standard be set within the upper end of the range proposed by EPA.
 - b. *EPA should consider appropriate background levels in establishing the standard.* As the ozone standard is reduced, it becomes closer to the background levels, therefore making it increasingly difficult for nonattainment areas to attain the standard. If the standard is set very near or below background levels, it would be impossible for

nonattainment areas to attain the standard. AASHTO, AMPO and NADO recommend that the standard be set at a level that is realistic and attainable since the standard will lose its meaning as background levels are approached. To the extent that policy relevant background levels are used to define the primary ozone standard, these background levels should be based on measured levels that reflect background levels across the country.

2. AASHTO, AMPO and NADO support the extension for the 2008 ozone standard designation process. This will reduce some of the burden and confusion that State and local agencies would face if they had to continue with the 2008 designation process while preparing for the 2010 standards.
3. AASHTO, AMPO and NADO recommend that EPA recognize the increasingly regional and long-range transport nature of ozone pollution and the resulting challenges, especially at state and local levels, in meeting ever more stringent ambient air quality standards. A 2009 National Research Council Report, entitled "Global Sources of Local Pollution: An Assessment of Long-Range Transport of Key Air Pollutants to and from The United States" (http://www.nap.edu/catalog.php?record_id=12743), for example, indicates that harmful pollutants can travel across oceans and continents and may lead to violations of local air standards. In addition, a recent article in the Nature Journal entitled, "Study Links Springtime Ozone Increases Above Western North America to Emissions Abroad" (http://www.noaanews.noaa.gov/stories2010/20100120_ozone.html), indicates that springtime ozone levels in the western North America are rising primarily from air being transported across the Pacific from Asia. While this deals with ozone levels two to five miles above the earth, the study indicates that these increases could make it more difficult for the United States to meet the ozone standards at ground level. Accordingly, EPA should take into account regional pollutant transport issues when setting the standards, and place greater emphasis on regional (multi-state) approaches to achieving any new standards, since local control measures will likely become less cost-effective.
4. If a more stringent primary standard is adopted in 2010, EPA should initiate research on regional pollutant transport issues and the effect they have on an area's ability to meet such a standard. It should also research and provide guidance on measures that will help offset such regional pollutant transport issues. Furthermore, EPA should initiate research to help identify innovative new strategies and technologies including new Federal emission control programs that will assist regional or multi-state nonattainment areas in meeting any new standard that is adopted. Also since there is a lack of verified NO_x retrofit technologies and insufficient infrastructure to utilize selective catalytic reduction, the most promising NO_x retrofit technology, EPA and the California Air Resources Board should make more dedicated funding and services available to evaluate NO_x retrofit technologies.

EPA indicated in the Regulatory Impact Analysis (RIA) for the 2008 ozone standard that current "knowledge of technologies that might achieve NO_x and VOC reductions to attain alternative ozone NAAQS is insufficient". Furthermore it states that the existing controls database is insufficient to meet even the current [0.80 ppm] ozone standard in some areas. The updated RIA for the 2010 standards acknowledges the uncertainties of even predicting the necessary emissions reductions that will be needed to meet the 2010 standards. Consequently, EPA should conduct research and identify future strategies and technologies that will be required to meet any new standard on a regional scale, and then ensure they are implemented expeditiously.

5. It is recommended that EPA thoroughly review all existing strategies, technologies, programs, etc, (i.e. CAFÉ, on-road vehicle, locomotive, and no-road vehicles standards) to make them more stringent and/or advance their implementation dates in order for fleet attrition to occur in advance of an attainment deadline.
6. Table S1.1, in the Summary of the updated RIA for the 2010 ozone standards, monetizes both the ozone benefits and PM_{2.5} co-benefits from reduced exposures to these pollutants. The final RIA for the 2010 NO₂ standards also monetizes the co-benefits of reducing PM_{2.5} concentrations since NO_x is a precursor to the formation of PM_{2.5}, so reducing NO_x emissions will reduce PM_{2.5} concentration levels. In addition, the RIA for the 2006 PM standards included an analysis of the benefits and social costs for the revisions to the PM standards. EPA should clarify whether or not some of the benefits are double counted in terms of reduced health effects in these RIAs for the various pollutants. In addition, EPA should clarify what level of co-benefit would exist at various levels of compliance with the ozone standard, and should account for the longer time likely to be needed to attain more stringent standards.
7. Because of the numerous proposed changes to the NAAQS (i.e. ozone, NO₂, PM) in recent years, and increasing challenges for meeting these new standards, EPA should consider the trade-offs between the benefits and impacts associated pollutant controls for other standards can have on the standards currently being considered. This is because control strategies to reduce one pollutant may further reduce, or in some cases increase, other pollutants.

SECONDARY OZONE STANDARD:

1. Because of the significant potential impacts and uncertainties associated with a cumulative seasonal secondary standard, AASHTO, AMPO and NADO recommend that EPA set the standard at a level that is best supported by the science for protecting public welfare. The standard should be set based on sound science at the level that has the most confidence and least uncertainty associated with it.
2. The proposed W126 form of the secondary standard lacks sufficient information for the transportation community to assess the potential impacts it will have on state and local transportation and air quality planning efforts. The proposal should more fully address the potential implications to these planning processes.
3. The proposal should address the potential transportation conformity implications of the cumulative seasonal form of the W126 secondary standard, to enable transportation officials to fully evaluate its impacts on transportation programs. For example, the proposal should address the applicability of general and transportation conformity in W126 nonattainment areas. If it is determined that transportation conformity does apply, we recommend that a regional emissions analysis not be required unless the state finds that transportation related precursor emissions in a nonattainment area are a significant contributor to nonattainment of the proposed W126 standard.
4. EPA should support state efforts to demonstrate that mobile source emissions are insignificant in remote and rural areas and in areas where nonattainment is largely caused by ozone transport.
5. The proposal should address the types of transportation strategies that would effectively address a cumulative seasonal form of the standard. Most traditional strategies are targeted at reducing emissions from work trips during peak traffic periods, and may not effectively reduce emissions to address the W126 form of the standard.

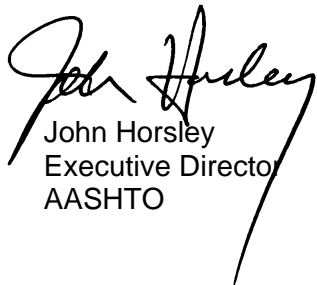
6. The updated RIA indicates that EPA did not complete a quantitative analysis of the costs and benefits of attaining the proposed secondary ozone standard because of the complexities and limited time and resource to do so. While the RIA does include a qualitative assessment, AASHTO, AMPO and NADO recommend that a detailed economic analysis be completed on the proposed standard to fully evaluate its potential impacts before such standard is adopted. While we recognize the complexities of completing such an analysis because of the many uncertainties involved, the standard could have far ranging impacts and unanticipated costs for State and local officials.
7. AASHTO, AMPO and NADO strongly support maximizing the length of the designation and attainment schedule for the secondary standard (as well as the primary), to the extent allowed by the Clean Air Act, since State and local agencies do not have experience implementing this type of standard. Nor do they have the experience in determining the appropriate area boundaries and cost-effective control measures for a standard based on a cumulative seasonal average.

GENERAL COMMENTS:

1. The proposal should provide more information on the impacts additional NOx controls may have on ozone levels since they may actually increase ozone levels in some areas. The proposal should be more specific regarding which areas will be so impacted and how they can effectively overcome these negative effects.
2. There is a serious void of information on the impacts additional NOx controls may have on Federal and State efforts to reduce CO₂ emissions. If some NOx control measures could reduce fuel efficiencies and thus increase CO₂ emissions this information should be evaluated and included in the final proposal. The proposal should also discuss how additional NOx reductions may affect other efforts to reduce CO₂ emissions, such as regulations to reduce such emissions through new technology and cleaner and/or alternative fuels.
3. Early action compacts should be an available option for eligible areas in order to encourage areas to take early actions to prevent nonattainment. This process has worked well in a number of areas in the past and has the advantage of deferring nonattainment designations and conformity as long as areas meet agreed upon milestones in the compact.

Thank you for the opportunity to comment on EPA's proposed NAAQS for Ozone. Should you have any questions, please contact: Janet Oakley from AASHTO at 202-624-3698, Rich Denbow from AMPO at 202-296-7051, ext. 5 and Matthew Chase from NADO at 202-624-7806.

Sincerely,



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CC: Gloria Shepherd, FHWA