

VIA E-MAIL: [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov)

March 22, 2010

EPA Docket Center  
U.S. Environmental Protection Agency  
Mail Code 6102T  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Subject: Reconsideration of the Primary and Secondary National Ambient Air Quality Standards for Ozone; Proposed Rule (75 Fed. Reg. 2938, Jan. 19, 2010)

**ATTENTION: Docket ID No. EPA-HQ-OAR-2005-0172**

Dear Sir or Madam:

The Associated General Contractors of America (AGC) provides the following comments on issues associated with the U.S. Environmental Protection Agency's (EPA) proposed rule to strengthen the National Ambient Air Quality Standards (NAAQS) for ground-level ozone. The proposal would greatly increase the stringency of the ozone NAAQS at a time when implementation of the current standard is still underway and despite key uncertainties in the underlying science. AGC is interested in this rulemaking because a "nonattainment" designation under the Clean Air Act (CAA) may result in construction bans in geographic areas so designated by EPA, which would have a negative effect on employment, gross domestic product, manufacturing shipments, the completion of critical infrastructure projects, and the delivery of important public services.

Founded in 1918, AGC is a full-service national trade association with a nationwide network of chapters. AGC represents more than 33,000 firms including 7,500 of America's leading general contractors, nearly 12,500 specialty contractors and more than 13,000 service providers and suppliers. AGC is the leading association for the construction industry. AGC's members build

AGC



deferred designating areas as nonattainment

government the authority to set emissions standards for either new or old engines in off-road (also called "nonroad") construction equipment, a concept called federal preemption. Nonetheless, some states have attempted (or currently are attempting) to include provisions in their SIPs that appear to violate this statutory prohibition.) AGC generally opposes equipment use/operation restrictions, including the application of contract language (bid specifications) to require contractors to retrofit their equipment for a given project because it has the potential to threaten the integrity of the competitive bidding process and unfairly discriminate against contractors on the basis of their equipment. As an alternative to this practice, recently, AGC of America and the Clean Air Task Force (CATF) have agreed on "principles" to require reductions in diesel emissions from federally-funded transportation projects via contract change orders that cover 100 percent of the costs to retrofit equipment. CATF represents leading environmental groups and targets diesel emissions reductions nationwide. We have been working to get broad-based support for our "principles" as a part of the congressional deliberations on the Surface Transportation Authorization Act of 2009.

- **Loss of federal highway and transit funding, which is – in essence – a construction ban.** States that fail to develop suitable SIPs (or to meet EPA's CAA deadlines) could be subject to numerous federal sanctions, including emissions caps limiting economic development and the loss of federal highway transportation dollars. In addition, EPA's "transportation conformity" provisions can bring federal funding for road and transit projects to a grinding halt. Under the CAA transportation conformity provisions, federal departments and agencies may not approve, permit or provide financial support to most highway and transit projects in areas that have not attained air quality standards, unless such projects conform with the state's SIP. "Conformity" means transportation activities will not cause new air quality violations, worsen existing violations or delay timely attainment of air quality standards in polluted areas. Failure to demonstrate conformity results in a "conformity lapse," which renders the area's transportation program and plans invalid.

Only certain types of projects can advance during a conformity lapse (e.g., safety projects and transportation control measures).

**In summary, any tightening of federal ozone NAAQS could result in construction bans that would:**

- J **Lead to a massive layoff of construction workers and of workers who supply a multitude of materials, equipment and services to construction.**
- J **Delay the renovation and improvement of public infrastructure, including highway and transit construction projects, bridge construction and repairs, dam repairs and school renovation.**
- J **Impede projects that are vital to improving municipal water supplies and wastewater treatment facilities located throughout the nation.**

The Economic Impact of Construction in the United States

**Any tightening of the ozone NAAQS could result in construction bans that would have a negative impact on Gross Domestic Product (GDP) as well as a significant loss of jobs by construction service providers.** The construction industry stands to play a powerful role in sustaining economic growth and helping the current economic recovery.

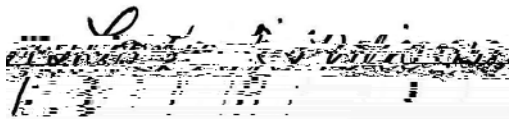
- **The Impact of Nonresidential Construction on GDP, Earnings and Jobs:** An additional \$1 billion in nonresidential construction spending would add about \$3.4 billion to the Gross Domestic Product (GDP), about \$1.1 billion to personal earnings and create or sustain 28,500 jobs.
  - 9,700 jobs would be *direct* construction jobs located in the state of investment.
  - 4,600 jobs would be *indirect* jobs from supplying construction materials and services. The majority of these jobs would be located within the state of investment but there would be some out of state jobs supported.
  - 14,300 jobs would be *induced* when workers and owners in construction and supplier businesses spend their incomes locally and nationwide.
  
- **Construction Employment:** In 2007, a total of 17.9 million jobs were supported by the



including those to provide for safe drinking water, wastewater and stormwater management, flood control and navigation, health care, and education.

Air quality is clean and getting significantly cleaner even as our economy continues to grow. Any tightening of the ozone NAAQS will have significant consequences for many states and localities and will impact their ability to provide for economic growth and opportunity as well as for public health and welfare. AGC urges EPA to reconsider its proposed revisions to the existing ozone NAAQS that would tighten them and allow EPA rules currently in place and future actions and voluntary initiatives to achieve ozone attainment.

Sincerely,

A handwritten signature in black ink, appearing to read "Leah F. Pilconis", is positioned above a horizontal line of digital noise or a corrupted scan artifact.

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