

## **EXECUTIVE SUMMARY**

Under the federal Clean Air Act, the U.S. Environmental Protection Agency (EPA) regulates six criteria pollutants: ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, particulate matter (also known as soot and dust) and lead. For each pollutant, EPA has established minimal targets known as the National Ambient Air Quality Standards (NAAQS) that must be met by state and local governments. The transportation conformity process refers to the requirement set forth in Section 176 of the Clean Air Act that air emissions generated by transportation projects match or “conform” to emissions budgets established in state air quality plans. If an area is out of conformity, federal highway funds are cut off.

ARTBA wishes to stress two points at this hearing: (1) that government agencies and planning bodies need more flexibility on conformity; and (2) that the public - especially those who contract with government agencies to build transportation improvement projects - need more predictability in the transportation conformity process. One of the major problems with the conformity process is that some have tried to turn it into an exact science, when it is not. Conformity determinations are based on assumptions and computer modeling. Flexibility in the conformity process also has been constrained by litigation initiated over the past several years by parties opposed to individual transportation projects and/or the concept of increasing highway capacity.

Provisions in H.R. 3 concerning transportation conformity address a number of the problems associated with the process. H.R. 3 increases the overall flexibility of the conformity process, but there are areas where more needs to be done. ARTBA’s testimony focuses on both the provisions included in H.R. 3 as well as other measures which could be taken in addition to H.R. 3 to improve the transportation conformity process. H.R. 3 includes beneficial provisions in the areas of conformity redeterminations, frequency of conformity determination updates, time horizons for conformity determinations in nonattainment areas, substitution of transportation control measures, and lapse of conformity.

In addition to H.R. 3, ARTBA also offers recommendations in the areas of use of existing motor vehicle emission budgets (MVEBs), prohibition of MVEB judicial review, further protection from unnecessary litigation, and equal intervention rights for all parties in environmental disputes.