

EPA Tightens Pollution Standards: But Agency Ignored Advisers' Guidance

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The [Environmental Protection Agency](#) yesterday limited the allowable amount of pollution-forming ozone in the air to 75 parts per billion, a level significantly higher than what the agency's scientific advisers had urged for this key component of unhealthy air pollution.

Administrator [Stephen L. Johnson](#) also said he would push Congress to rewrite the nearly 37-year-old Clean Air Act to allow regulators to take into consideration the cost and feasibility of controlling pollution when making decisions about air quality, something that is currently prohibited by the law. In 2001, the Supreme Court ruled that the government needed to base the ozone standard strictly on protecting public health, with no regard to cost.

The new pollution rules -- one of the most important environmental decisions facing the Bush administration in the president's final year in office -- will be a major factor in determining the quality of the air Americans will breathe for at least a decade. The standards, which are aimed at protecting both public health and welfare, are designed to limit the amount of nitrogen oxides and other chemical compounds released into the air by vehicles, manufacturing facilities and power plants. In sunlight, the pollutants form ozone.

Johnson said he did "what was required by the law and the recent scientific evidence," but his decision to set a lower but still less-restrictive limit than what the EPA's advisory committees had recommended sparked a backlash from Democratic lawmakers, public health advocates and his own independent advisers.

With Democrats in control of Congress, the proposal to rewrite the Clean Air Act appears to face long odds. Senate Environment and Public Works Committee Chairman [Barbara Boxer](#) (D-Calif.) called the move "outrageous," adding in a statement, "The Bush Administration would have us replace clean air standards driven by science with standards based on the interests of polluters."

Johnson said the law "is not a relic to be displayed in the [Smithsonian](#), but a living document that must be modernized to continue realizing results," adding that some administration officials urged him to take into consideration the "costs, net benefits and implementation challenges" of adopting stricter ozone limits.

Nearly a year ago, EPA's Clean Air Scientific Advisory Committee reiterated in writing that its members were "unanimous in recommending" that the agency set the standard no higher than 70 parts per billion (ppb) and to consider a limit as low as 60 ppb. EPA's Children's Health Protection Advisory Committee and public health advocates lobbied for the 60-ppb limit because children are more vulnerable to air pollution.

EPA and other scientists have shown that ozone has a direct impact on rates of heart and respiratory disease and resulting premature deaths. The agency calculates that the new standard of 75 ppb would prevent 1,300 to 3,500 premature deaths a year, whereas 65 ppb would avoid 3,000 to 9,200 deaths annually.

Documents obtained by [The Washington Post](#) indicate that [White House](#) officials chafed at the idea that they could not factor costs into the ozone rule, which requires setting one standard for protecting health and a separate one for protecting public welfare, and that the president himself intervened in the process Monday. In a March 6 memo to the EPA, Susan E. Dudley of the [Office of Management and Budget](#) questioned the need for two different ozone limits, noting that the Clean Air Act's definition of public welfare includes "effects on environmental values." The EPA's Marcus C. Peacock replied the next day that it is important to keep in mind that "EPA cannot consider costs in setting a secondary standard."

The rule's preamble indicates Bush settled the dispute March 11, saying the president concluded the secondary standard should be set "to be identical to the new primary standard, the approach adopted when ozone standards were last promulgated."

Rogene Henderson, who chairs the agency's Clean Air Scientific Advisory Committee, said in an interview that she disagrees with Johnson's decision even as she welcomed a tighter standard. "We can't kid ourselves that this is as health protective as we would like, but this is a step in the right direction," Henderson said. "I understand that with our dependence on fossil fuels, it's difficult to reduce ground-level ozone. But the fact that it's difficult doesn't mean it's not worth doing."

A slew of industries had recently urged White House officials to keep the current limit, effectively 84 ppb, to minimize the cost of installing pollution controls. The EPA estimated that it will cost polluting industries \$7.6 billion to \$8.8 billion a year to meet the 75-ppb standard, but that rule will yield \$2 billion to \$19 billion in health benefits.

John Kinsman, senior director for the environment at the Edison Electric Institute, said in a statement that EPA had made "the wrong call" by lowering the ozone limit. "The agency's rationale for tightening the standard significantly skews the scientific record on ozone's health effects. Ultimately, EPA is promising health benefits that people may never receive, even though they'll end up paying for them at the pump and through higher energy bills," added Kinsman, who conferred with White House officials on the rule. The institute represents 70 percent of the U.S. electric power sector.

But S. William Becker, who as executive director of the National Association of Clean Air Agencies represents officials from 48 state and 165 local governments, said his members had been willing to "bear the burden" of complying with stricter regulations. "It is disheartening that once again EPA has missed a critical opportunity to protect public health and welfare by ignoring the unanimous recommendations of its independent science advisers," Becker said.

Under the Clean Air Act, the federal government is obligated to reexamine the science underpinning its smog standards every five years. The agency last revised the standards in 1997, and 85 counties have yet to meet those rules.