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[American Lung Association Wins Case Seeking Stronger Particulate Pollution Standards](#)

February 24, 2009. A federal appeals court today ruled that Bush-era clean air standards were deficient, sending them back to the U.S. Environmental Protection Agency for corrective action.

The Bush administration had rejected recommendations by its science advisors for stronger airborne particulate standards, and the Court today ruled that this action was arbitrary. The standards at issue limit levels of soot, smoke, and other airborne particles linked to tens of thousands of premature deaths each year.

“This is a huge victory for anyone who breathes,” said Earthjustice attorney Paul Cort. “Particulate matter is one of the most deadly forms of pollution out there today. The Bush EPA refused to follow the advice of leading health advocates as well as its own scientists who argued that a stronger standard was needed to protect public health. Today’s ruling corrects that injustice.”

Earthjustice, an environmental law firm, filed the suit on behalf of the American Lung Association, Environmental Defense Fund, and National Parks Conservation Association. A number of states also challenged the standards.

In October 2006, the EPA rejected the advice of its own scientific advisory panel and staff scientists for a stronger annual standard for fine particulate matter air pollution. The Clean Air Scientific Advisory Committee had recommended strengthening the existing annual standard of 15 micrograms per cubic meter for fine particulate matter — originally set in 1997 — to between 13 and 14 micrograms per cubic meter. The American Lung Association, the American Medical Association, American Thoracic Society and American Academy of Pediatrics, all urged EPA to tighten the annual standard to protect children, the elderly, and others from the major health risks caused by PM pollution.

“This victory is especially important, because the public health threat posed is so grave,” said Janice Nolen, Assistant Vice President, National Policy and Advocacy for the American Lung Association. “Particulate matter can kill, and shortens the lives of tens of thousands every year. We encourage EPA to return to the clear scientific evidence and adopt standards that will protect the millions living in areas plagued with unhealthy levels of air pollution as the Clean Air Act requires.”

The Court also overturned the Bush Administration’s refusal to adopt a separate, stronger standard to protect visibility that is often impaired by particulate pollution. Again, EPA science advisors and EPA’s own staff had recommended a more protective standard to prevent the clouding of urban skies with polluted haze. The court held that EPA had failed to justify its rejection of these recommendations.

“This decision is long overdue for our national parks. One in three parks is clouded in haze due to this type of pollution,” said Mark Wenzler, clean air and climate director at National Parks Conservation Association. “We’re hopeful that EPA’s new leaders will use this decision as an opportunity to restore clear vistas to America’s treasured scenic landscapes.”

Airborne particulate matter (PM) is comprised of tiny particles of smoke, soot, metals and other chemical compounds emitted from sources like power plants, factories, and diesel trucks. Scientists say PM, which can travel deep into our lungs, is one of the most toxic forms of air pollution. They estimate that PM is responsible for tens of thousands of premature deaths nationwide every year. It is linked to the aggravation of respiratory illnesses such as asthma, bronchitis, emphysema, chronic obstructive lung disease, and pneumonia, and to premature deaths from other causes, such as lung cancer and heart disease. PM is also responsible for much of the haze that clouds many of our cities and parklands.

“We hope America’s new leadership responds swiftly to protect the elderly and the children who are especially hard hit by lethal particulate pollution,” said Vickie Patton, deputy general counsel for the Environmental Defense Fund. “By following the science where her predecessors faltered, EPA Administrator Lisa Jackson can reclaim lost ground in protecting Americans from the death and disease caused by particulate pollution.”

According to the court opinion: “In sum, the EPA did not adequately explain why an annual level of 15 micrograms per cubic meter is sufficient to protect the public health while providing an adequate margin of safety from short-term exposures and from morbidity affecting vulnerable subpopulations.” The Court held that “in several respects,” EPA’s refusal to adopt stronger standards was “contrary to law and unsupported by adequately reasoned decisionmaking.”

The Clean Air Act requires the EPA to adopt primary air quality standards for particulate matter pollution to protect public health and secondary standards to protect public welfare, including visibility. The EPA must review these standards every five years and revise them based on the latest scientific information.

A copy of the court opinion is posted here. [Court of Appeals Decision on PM NAAQS](#)

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