



AIR POLLUTION:

EPA explains why it didn't tighten acid-rain standards

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Responding to a challenge from environmental groups, U.S. EPA yesterday defended its decision to not set a more stringent air standard for pollutants that contribute to acid rain.

EPA last April opted not to tighten its secondary National Ambient Air Quality Standards for nitrogen oxides (NO_x) and sulfur dioxides (SO₂), which are designed to address environmental “welfare” such as aquatic ecosystems under the Clean Air Act.

Instead, EPA set limits identical to primary NO_x and SO₂ standards -- meant to address human health -- that were finalized in 2010.

Environmentalists have challenged that decision in the U.S. Court of Appeals for the District of Columbia Circuit. They argue EPA ignored the input of its own scientists in refusing to tighten the standard.

But EPA argues in court documents filed yesterday that the secondary standard is “by far the most complex” NAAQS standard and point out that it involves complicated geographic modeling and separate ecosystem vulnerability to set the standard.

The agency had originally sought to rely on an Aquatic Acidification Index for the standard in an effort to protect ecosystems by

using various inputs, including atmospheric conditions and other ecological variables.

EPA said that while the index is an important concept, it had yet to be proven.

“Like any model, the Index may be scientifically sound in theory or general concept yet, without the appropriate inputs, too uncertain to apply in practice,” the Department of Justice’s Ignacia Moreno wrote on EPA’s behalf.

Consequently, Moreno wrote, then-EPA Administrator Lisa Jackson was concerned about setting a standard that was too tight.

“Although EPA has devoted enormous amounts of time and resources to the development of the Index, EPA is not yet in a position to determine with a sufficient degree of certainty some of these key inputs,” the brief says. “Without greater scientific certainty, the Administrator judged that she could not make a reasoned determination that a NAAQS based on the Index would be protective enough, but not too protective.”

EPA also questioned whether the groups had been injured by the standard. If not, EPA said, they lack standing to challenge the rule.

The lawsuit was brought by the Center for Biological Diversity, Clean Air Council and National Parks Conservation Association. In

their brief, filed in November, they say Jackson completely disregarded the input of EPA's Clean Air Scientific Advisory Committee, which recommended tighter limits.

“Although the Scientific Advisory Committee acknowledged remaining uncertainty and identified areas of further research and potential future improvement,” they wrote, “nothing in the Scientific Advisory Committee’s consensus comments stated -- or even suggested -- that uncertainties were so great as to preclude setting any standard at all. In sum, the Aquatic Acidification Index and the range of standards recommended by EPA staff represented a carefully tailored and reasoned solution to a problem with which scientists and regulators had wrestled for forty years.”