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Ozone decision: Final green straw?

By: **Darren Goode**

September 3, 2011 09:54 AM EDT

For green groups, President Barack Obama's [retreat on ozone standards](#)¹ is another reason to question how aggressively they want to support his reelection in 2012.

Even more bruising: The realization that they may not have much choice.

"We have no place else left to go but home," said one official at a major environmental group, speaking on background Friday. "So the enviros come out looking weak once again because of today and we're all screaming bloody murder.

"But you know what," the official said. "At the end of the day, I don't think the White House is unhappy to hear us complain."

That could be a dangerous assumption for the administration to make, warned activist Ralph Nader, the former Green Party candidate who siphoned off enough votes in 2000 to deny the White House to Al Gore.

"I know [Obama] thinks all these people voted for him and they have nowhere to go in 2012 because the Republicans are worse," said Nader, speaking during yet another day of White House protests against a proposed tar-sands-oil pipeline from Canada. "But they can stay home.

They can closet their enthusiasm. They can end their contributions to him. And that's

not what he needs to be reelected."

A similar warning came from MoveOn Executive Director Justin Ruben, calling the [ozone](#)² decision just the latest in a series of disappointments.

"Many MoveOn members are wondering today how they can ever work for President

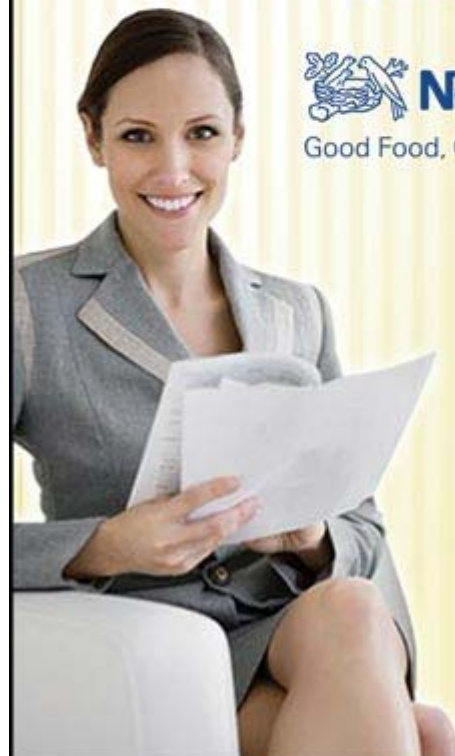
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Obama's reelection, or make the case for him to their neighbors, when he does something like this, after extending the Bush tax cuts for the rich, and giving in to tea party demands on the debt deal," Ruben said in a statement. "This is a decision we'd expect from George W. Bush."

The White House insisted that electoral considerations had nothing to do with Obama's announcement — on the eve of the Labor Day weekend — that the administration is [withdrawing efforts](#)³ to tighten EPA's rule on ozone until the 2013 cycle.

"This has nothing to do with politics, nothing at all," one White House official said to reporters on a conference call following the announcement.

Still, the move earned raves from Republicans and industry groups that have mounted fierce attacks on the president's regulatory agenda — though they also served notice that they plan to continue trying to upend a host of other [EPA](#)⁴ regulations.

Friday's decision unquestionably provides Obama with breathing room by punting on perhaps the most controversial of all the pending EPA rules. It also came on a day when the new jobs numbers underscored the fact that voters will head to the ballot box next November with the unemployment rate at a dangerously high level for Obama's prospects.

On the other hand, the decision further

sours the mood of green activists at the center of Obama's liberal base. They were already disenchanted with the administration's failure to enact major climate legislation, its consideration of the Keystone XL pipeline from Canada, and other issues.

Some greens weren't offering any

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predictions on what the decision means for 2012.

"It's sort of premature to say what we're going to do in the elections today," said Tiernan Sittenfeld, the League of Conservation Voters' senior vice president for government affairs. "I think obviously the administration has done some great things. But there's also been some real disappointments and today's ozone announcement is at the top of the list."

Other groups were livid.

"This is a new low for President Obama," said Kieran Suckling, executive director of the Center for Biological Diversity. "He sold out public health and environmental protection to appease polluters."

Both the Natural Resources Defense Council and the American Lung Association said the decision means more litigation from environmental groups that had been challenging what they called a weak ozone rule from the George W. Bush administration.

And still others tried to put the best face on the administration's overall green agenda, while urging Obama to fight harder next time.

"The decision creates a clear blemish on an otherwise positive record of this administration in supporting initiatives that reduce pollution," said the Center for American Progress, adding the action "is deeply disappointing and grants an item on Big Oil's wish list at the expense of the

health of children, seniors and the infirm."

"The president must continue to fight and defeat efforts to block and weaken other clean air health safeguards," CAP added.

The White House may have calculated that its base in the environmental community will still be there for Obama, especially

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given the track record of leading GOP presidential candidates who question the science behind climate change and oppose a host of EPA regulations.

The first environmental official, speaking on condition of anonymity, said the decision potentially “makes Obama look like a centrist and will garner him more votes among independents and people in the middle than he would lose due to any lack of enthusiasm from his base in the environmental community.”

“I believe that is their calculation,” the official added. “I don’t know what else it could be. This decision today is not based on science and good health.”

EPA Administrator Lisa Jackson looked to help stanch the bleeding by issuing a statement emphasizing that the agency “will revisit the ozone standard, in compliance with the Clean Air Act.” She also defended the Obama administration’s performance on the environment.

“Since Day One, under President Obama’s leadership, EPA has worked to ensure health protections for the American people, and has made tremendous progress to ensure that Clean Air Act standards protect all Americans by reducing our exposures to harmful air pollution like mercury, arsenic and carbon dioxide.”

Heather Zichal, deputy assistant to the president for energy and climate change, sounded the same theme in a blog post Friday on what she called the administration’s “record of success” in

promoting “cleaner air and a stronger economy.”

In a letter to Jackson on Friday, urging her to pull back on the ozone rule, White House regulatory chief Cass Sunstein said EPA has already pushed ahead on a series of regulations — on issues such as heavy-truck emissions, mercury and cross-state

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air pollution — that “are projected to reduce ozone as well.”

“Cumulatively, these and other recently proposed and finalized rules count as truly historic achievements in protecting public health by decreasing air pollution levels, including ozone levels, across the nation,” he wrote.

But Friday’s decision “puts even more pressure on them to aggressively move forward in other areas,” Sittenfeld said.

Obama still has chances to reinvigorate the environmental base in other upcoming EPA air quality initiatives — including finalizing mercury and air toxics standards for power plants — as well as in the State Department’s pending decision on the Keystone XL pipeline.

“People are going to look at a record as a whole and like in any race will compare to the other candidate,” said Daniel Weiss, a senior fellow with the Center for American Progress Action Fund. “Does the president then issue an air toxics standard that gets real reduction from utilities? That will make a difference. Will the president approve the Keystone XL pipeline? That will make a difference.”

Rep. Ed Markey of Massachusetts, a senior Democrat on the House Energy and Commerce Committee and ranking member on the Natural Resources panel, emphasized as well that the administration needs to move more boldly on other regulations.

“In light of today’s decision, I urge the president to direct EPA to move forward aggressively and use its full authority under the Clean Air Act to address the other clean air challenges facing the nation — from carbon pollution that is warming our planet, to mercury and other toxic air pollutants that are making the air unsafe to breathe,” Markey said in a statement.

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Overall, the reaction from key congressional Democrats was relatively mild — strangely so, some Republicans said.

"They let him get away with murder here," one Senate GOP aide said. "If this had been the Bush administration, I can guarantee you there'd be outrage and we'd be holding hearings."

In fact, Sen. Tom Carper (D-Del.), chairman of the Environment and Public Works clean air subcommittee, later announced that he intends to hold a hearing on the White House's decision. "This decision leaves me with more questions than answers," he said.

Senate Environment and Public Works Chairwoman Barbara Boxer (D-Calif.) said in a statement that she was "disappointed" but also "heartened" by Obama's announcement.

"I strongly believe that protecting air quality based on the science leads to more job growth because it brings so many positive health benefits to our workers," Boxer said. "Although I am disappointed with this decision to delay action, I am heartened by the president's commitment to vigorously oppose any efforts to dismantle the Clean Air Act and the progress that we have made."

But Republicans and industry officials are just as forcefully suggesting that Obama needs to use the ozone decision as a precedent.

"Absolutely, we think the announcement today is very good news for the economy," American Petroleum Institute President and CEO Jack Gerard said in an interview. "And we hope it's a new direction and positive sign that the administration understands that many of these regulatory proposals have had a chilling effect on job creation."

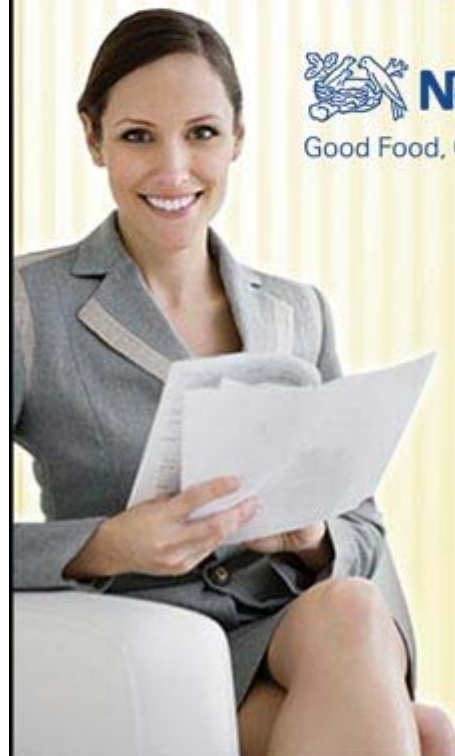
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API and other major business and industry groups met last month with White House chief of staff Bill Daley and other administration officials about the ozone rule. "They've heard our message now with this," Gerard said.

Just this week, Obama — in a response to a request by House Speaker John Boehner to identify upcoming regulations with an estimated annual cost topping \$1 billion — said the ozone rule was the most expensive of them all, with an estimated cost between \$19 billion and \$90 billion per year.

Boehner spokesman Mike Steel wrote that Friday's decision "is certainly a good first step, and we're glad that the White House responded to the speaker's letter and recognized the job-killing impact of this particular regulation. But it is only the tip of the iceberg when it comes to stopping Washington Democrats' agenda of tax hikes, more government 'stimulus' spending and increased regulations — which are all making it harder to create more American jobs."

House Majority Leader Eric Cantor last week announced plans to hold votes this fall to repeal the administration's "10 most harmful job-destroying regulations," including seven from the EPA. That had included penciling in a winter vote repealing the ozone rule.

Talia Buford contributed to this report.

This article first appeared on [POLITICO Pro⁵](#) at 4:19 p.m. on September 2, 2011.

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Spurned on smog, will EPA head go?

By: [Robin Bravender](#)

September 6, 2011 09:19 PM EDT

Will EPA chief [Lisa Jackson](#) stay or go?

That's the new parlor game among Washington insiders after the White House publicly [undercut the agency's attempts](#) to install tougher regulations on smog.

Since the White House's announcement Friday, Jackson hasn't spoken publicly on the rule beyond an official statement touting the president's leadership on clean air issues. Someone who has spoken with Jackson since Friday told POLITICO she's still digesting it all and hasn't shared even with those closest to her what her thinking is.

President Barack Obama invited Jackson on Air Force One Sunday when he toured areas of New Jersey that had been damaged by Hurricane Irene. Jackson served as a New Jersey state official for several years.

As the [EPA](#) administrator, Jackson's been a loyal foot soldier for the Obama administration, leading the Gulf Coast Restoration Task Force and fighting congressional Republicans tooth and nail on environmental regulations.

"I certainly think the White House genuinely wants her to be comfortable with this decision and to stay," an administration source said.

A White House official said Obama expects Jackson will stay with the administration.

"Under the leadership of Lisa Jackson, the EPA has taken historic steps to protect public health and in his statement on Friday, the president again reiterated the important role she has played and will continue to play as a member of his team," the official said in an email.

"The president fully expects Administrator Jackson to continue to play an aggressive role in protecting the air we breathe, the water we drink and most importantly the health of our families," the official added.

The EPA declined to comment, pointing to the White House statement. And Jackson ducked a question on the rule from a pool reporter during Sunday's New Jersey trip.

For Jackson — whose teenage son suffers from asthma — the smog rule has been a long time coming.

"This is one of the most important protection measures we can take to safeguard our health and our environment," Jackson said in 2009 when announcing plans to tighten the George W. Bush-era standards. "Smog in the air we breathe can cause difficulty breathing and aggravate asthma, especially in children."

And she doubled down this summer, calling the Bush administration standards "not legally defensible," given the Bush White House rejected science advisers' calls for tougher limits.

As recently as July, EPA lawyers were asking a federal appellate court in Washington to delay litigation over the Bush-era ozone standard because a new Obama ozone rule was just around the corner.

But major business groups appealed directly to the White House, warning that the ozone rule would be one of the most expensive environmental rules ever imposed on the U.S. economy — with an estimated cost of up to \$90 billion annually — and that a new rule would hurt Obama's reelection bid.

Jackson didn't get much of a heads up prior to the announcement, prompting criticism from greens that the White House had blindsided the EPA chief. An administration official said that the White House didn't notify the agency of the decision until last Thursday — and that the EPA was not involved in the decision-making process.

The White House had been reviewing EPA's proposal since July. Many observers speculated that the administration would try to appease both sides with a final standard of 70 parts per billion — more than environmentalists wanted, but less than industry feared.

So far, the White House has taken several steps that appear aimed at blunting the force of its decision on Jackson.

Obama issued the decision himself, calling it part of a larger effort aimed at "reducing regulatory burdens and regulatory uncertainty, particularly as our economy continues to recover." And top White House officials have also doubled down on their commitment to setting new limits for mercury from power plants — another one of Jackson's top priorities.

Still, some of Jackson's supporters don't expect her to stick around much longer in light of the decision, and some are even calling for her to resign in protest.

"I don't think she's going to resign immediately," said Frank O'Donnell, president of the advocacy group Clean Air Watch. But, he added, "If six months from now Lisa Jackson was going to go off and spend more time with her family, who could blame her?"

Thomas McGarity, a professor at the University of Texas Law School and a member scholar at the Center for Progressive Reform, wrote in a [blog post](#) Tuesday that Jackson should either defy the president by issuing the standard or "do the honorable thing and resign."

Plenty of other observers don't think Jackson is looking to get out in a hurry, pointing to other high-profile EPA regulations coming down the pike, such as the utility air toxics rule and greenhouse gases regulations.

GOP energy strategist Michael McKenna said he doesn't think Jackson is on the outs. "Where's she going to go?" he said.

But he said Jackson's clout has been jeopardized now that she's been so publicly overruled by the White House.

She'll be thinking, "What am I going to get sandbagged on next?" McKenna said. "This is just throwing chum into the water for sharks."

EPA's critics in industry and on Capitol Hill have already called for Obama to ease up on rules beyond just the ozone standard.

Sen. Jim Inhofe (R-Okla.) the ranking member of the Environment and Public Works Committee, said Tuesday that he hopes Obama will continue to pull back on other controversial rules.

"I think that definitely that he is going to do that because that's where the politics is," Inhofe said. However, he said, "I wouldn't want him to do that to the extent that he'd be reelected."

House Speaker John Boehner and Majority Leader Eric Cantor asked Obama on Tuesday to use ozone as a starting [point](#) for scaling back regulations.

"While we appreciate your announcement on Friday asking the EPA to withdraw its new draft ozone standards, we believe it is critical to not stop there, and instead act to further reduce this cumulative regulatory drag of uncertainty on economic growth and job creation," the Republicans wrote in a letter to the White House.

Darren Samuelsohn contributed to this report.

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