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Obama pulls back proposed smog standards in victory for business

By Juliet Eilperin

Facing fierce resistance from congressional Republicans, industry and some local officials, President Obama abruptly pulled back proposed smog standards Friday that would have compelled states and communities nationwide to reduce local air pollution or face federal penalties.

Key GOP lawmakers including House Majority Leader Eric Cantor (R-Va.) had identified the Environmental Protection Agency's restrictions for ground-level ozone, along with other air pollution regulations they described as "job-destroying," as targets for a regulatory rollback this fall. Members of the business community had launched an all-out public relations blitz against the rules, saying that they should be delayed in light of the economic downturn.

Obama's decision was announced shortly after disheartening employment numbers were released Friday morning. It drew harsh reaction from environmentalists and their allies — including a statement from MoveOn.org questioning why its members should work for the president's reelection — highlighting the dangers the White House faces as it seeks middle ground among competing interests.

In a statement, Obama praised EPA Administrator Lisa P. Jackson's effort to improve the nation's air quality but said he had asked her to withdraw the draft standards because they were scheduled to be reconsidered two years from now anyway.

"I have continued to underscore the importance of reducing regulatory burdens and regulatory uncertainty, particularly as our economy continues to recover," Obama said. "Ultimately, I did not support asking state and local governments to begin implementing a new standard that will soon be reconsidered."

Ground-level ozone is formed when emissions from power plants, other industrial facilities, vehicles and landfills react in sunlight. Smog can cause or aggravate such health problems as asthma and heart disease, and it has been linked to premature death.

The federal government normally reviews the standards for ground-level ozone — a "primary" standard for public health and a "secondary" one aimed at the environment — every five years. The George W. Bush administration set the primary standard at 75 parts per billion in March 2008, but Jackson chose to revisit the standards early because that level was significantly higher than the 60 to 70 parts per billion recommended by the EPA's scientific advisory committee at the time.

In January 2010, Jackson announced that she would set the standard between 60 and 70 parts per billion. In July, she informed the Senate that the Bush ozone standards — which will now remain in place — "were not legally defensible given the scientific evidence in the record" of the current rulemaking.

Jackson and White House Chief of Staff William M. Daley called leaders of the environmental community Friday morning to alert them to Obama's decision. Daley spoke to his high school and college classmate Charles D. Connor, who heads the American Lung Association and whose group had suspended a lawsuit over the Bush ozone rules while Jackson reviewed the standards.

"For two years, the administration dragged its feet by delaying its decision, unnecessarily putting lives at risk. Its final decision not to enact a more protective ozone health standard is jeopardizing the health of millions of Americans, which is inexcusable," Connor said in a statement, adding that his association will revive its lawsuit against the administration.

Friday's decision "leaves me with more questions than answers," said Sen. Thomas R. Carper (D-Del.), who chairs the Senate's clean-air subcommittee. He said he would hold hearings with White House officials "to explain these actions and the possible ramifications."

The ozone standard is one of several air-quality rules the administration is in the process of adopting or has already finalized that are under attack. Others include new limits on mercury and air toxins, greenhouse gases from power plants, and a range of emissions from industrial boilers, oil refineries, cement plants and other sources.

Rep. Fred Upton (R-Mich.), chairman of the House Energy and Commerce Committee, and Rep. Mike Simpson (R-Idaho), who heads the House Appropriations subcommittee on the interior, environment and related agencies, said in interviews this week that they will try to block regulations they consider a threat to economic recovery.

"If you're serious about a jobs agenda, the last thing you want to be doing is adding tens of billions of dollars in costs every year," said Upton, who added that under stricter smog standards, communities in his district and across the nation "will lose these jobs, and they will never come back."

National environmental groups, anticipating an administration announcement finalizing the ozone regulations, were so confident that they had drafted two media statements, both positive. Instead, advocacy groups issued series of separate rebukes Friday while business organizations lavished praise on the president.

Karen Harned, executive director of the National Federation of Independent Business's Small Business Legal Center, wrote in an e-mail, "It's encouraging to see the administration finally recognizes that this would have been the worst possible time to implement such a burdensome new rule."

By contrast John Walke, clean-air director for the Natural Resources Defense Council, said, "It is outrageous that the president has intervened politically to block the EPA administrator from correcting an unprotective smog standard that she recognizes to be scientifically and legally indefensible."

The proposed rule was particularly contentious because it could halt or delay the permitting of new industrial facilities if local pollution is too severe. Under a 2001 Supreme Court decision, the EPA is not allowed to take costs into account when setting the ozone standards, but the agency estimated the compliance costs for industry could range from \$19 billion to \$90 billion a year by 2020 depending on what level is set. It would yield health benefits worth \$13 billion to \$100 billion, the agency said.

In a phone call with reporters, two White House officials who asked not to be identified because they were not authorized to speak on the record said that the decision was not related to the battle over economic policy and that they would press forward with other air pollution measures.

“This had nothing to do with politics, nothing at all,” one said.

Rich Gold, who chairs the public policy group at the law firm Holland & Knight, said the Obama administration has found itself in an unenviable position.

“The reality is everything EPA is doing is laudable in terms of positive health and environmental outcomes,” Gold said in an interview. “The problem is we’re trying to do it when we’re coming out of the deepest economic recession since the Great Depression.”

In many ways, the fall will serve as a critical test of how much the White House is willing to fight for the rest of its environmental agenda. Simpson said “members of both parties have some concerns” about EPA’s push for new air regulations, and he expected the issue could have implications for 2012. “The issue in general, of regulations and their impact on the economy, will be a big issue in the campaign,” he said.

Meanwhile, Gene Karpinski, president of the League of Conservation Voters, said future rules to limit mercury and greenhouse-gas emissions from power plants “will be critical tests of how serious the administration is when it comes to fighting climate change.”

In a statement, MoveOn.org’s executive director, Justin Ruben, delivered a sterner warning: “Many MoveOn members are wondering today how they can ever work for President Obama’s re-election, 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. This is a decision we’d expect from George W. Bush, not from a Democratic President elected to protect the environment and the health of our children.”