

On September 2, Cass Sunstein wrote a [letter](#) to Lisa Jackson about the ozone rule, “requesting” that EPA withdraw the regulation. Beyond the fact that it was written at all, the letter is remarkable for its significant silences:

- Although the letter notes that the rule was based on science that is five years old, it does *not* argue that more recent evidence would favor a higher ozone level, let alone justify leaving the Bush Administration’s ozone level (based on even older science) in place.
- The letter does *not* contest that the rule would save many lives nor does it suggest that the regulation’s costs outweigh its benefits.
- The letter argues that agencies should avoid “regulatory uncertainty” but does *not* explain why this should be a basis for killing a rule that saves lives and passes cost-benefit analysis. Why does regulatory uncertainty outweigh the lives of thousands of Americans?
- The letter also *fails* to explain why the ozone rule would increase uncertainty, as compared with the uncertainty created by litigation over the Bush Administration rule.

The evasive gaps in the letter convey a clear message: the White House made a political decision, plain and simple. Principle had nothing to do with it.

Jackson could have eliminated the need for the letter by taking the initiative in withdrawing the rule. Instead, she apparently insisted on a public request from Sunstein to make it clear that she was complying unwillingly. That’s to her credit.