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## The Decider Nominates Chief Polluter for the EPA

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President Bush, the nation's self-appointed "Decider," has nominated William Wehrum to serve as Assistant Administrator for the office of air quality at the Environmental Protection Agency (EPA). He's been serving as legal counsel and interim head of this office since 2001. During his tenure at the EPA, Mr. Wehrum has consistently worked to weaken the nation's air pollution laws and regulations. And his actions have resulted in a revolt within the EPA and serious criticism by the federal courts.

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Two well-respected and nonpartisan organizations, the Natural Resources Defense Council and Public Citizen, have detailed many of Mr. Wehrum's actions at the EPA. He pushed for a change that allows power plants to continue to produce dangerous mercury emissions for 20 years longer than the Clean Air Act permits. Last year, the EPA rescinded its policy that mercury emissions should be regulated as dangerous air pollutants. This allows power plants to forgo reducing mercury emissions until 2018. And it forced the EPA to abandon the regulation of other hazardous air pollutants from power plants.

The EPA's inspector general, in a report on the policy change promoted by Mr. Wehrum, concluded that it had been "compromised." The report determined that senior EPA officials told staff members what result they wanted and ordered them to work backwards to achieve the standards for different kinds of power plants that would produce this pre-determined outcome. The EPA also abandoned a policy requiring an analysis of protective mercury control procedures

requested by the Federal Advisory Committee, which was formed by the EPA to provide expert advice on mercury.

When EPA staff members questioned why the analysis wouldn't be conducted, Mr. Wehrum replied that the analysis was being postponed indefinitely. In fact, it was never conducted. It was later discovered that portions of the new policy on mercury emissions were taken verbatim from a document that Mr. Wehrum's former employer, the law firm Latham & Watkins, had drafted for utility companies.

Mr. Wehrum also promoted harmful and illegal changes to the Clean Air Act's new source review (NSR) protections. NSR protections require utility companies to install modern anti-pollution devices when significant upgrades are made to coal-fired power plants. Mr. Wehrum relaxed these protections such that the installation of anti-pollution devices are not required if an upgrade amounts to less than 20 percent of the cost of the production line. And it created a loophole that allows utility companies to replace entire

power plants without adhering to NSR protections, regardless of how much this increases air pollution.

But according to an EPA consultant, coal-fired power plants are responsible for “massive amounts of air pollutants” that are to blame for 9,000 premature deaths per year. A subsequent Congressional report determined that the relaxed NSR protections were based on utility industry anecdotes and unverified assumptions about the consequences of pollution. And the D.C. Circuit Court of Appeals, in a ruling on the relaxed NSR protections, criticized the EPA for failing to demonstrate that the weakened protections don’t result in increased emissions that harm public health.

It’s not surprising that President Bush nominated Mr. Wehrum to oversee the EPA’s air pollution office. In the 2000 presidential campaign, nine utility companies gave more than \$2 million to the Bush campaign; all nine were facing disciplinary actions from the EPA over air pollution. And in 2001, Vice President Cheney’s secretive energy

task force, which made policy recommendations to the EPA, met with three utility companies facing air pollution lawsuits, and with lobbyists of all nine of the companies fighting EPA disciplinary actions.

Recently, Mr. Wehrum promoted a plan to permit industrial emitters of toxic air pollution to evade the Clean Air Act's standards for cancer-causing pollutants. The plan would weaken toxic air pollution regulations and allow industrial plants to produce significantly larger amounts of toxins. This plan would undermine the Clean Air Act by allowing thousands of oil refineries, hazardous waste incinerators, and chemical plants to increase their emissions. Although the Clean Air Act requires the EPA to regulate standards for 188 toxic substances emitted by industrial plants, this plan would loosen restrictions on all of these dangerous substances.

It would also allow industrial plants to evade monitoring, reporting, and other EPA compliance requirements concerning toxic substances. The plan is so radical that

officials at nine of the ten regional EPA offices submitted a letter of protest, noting that the plan “would be detrimental to the environment and undermine the intent” of the Clean Air Act. The officials also complained that Mr. Wehrum proposed the plan without the advice of EPA regional offices, and noted that there was a “disturbing trend” of excluding regional offices from policy development.

The Senate should move quickly to reject the nomination of William Wehrum. His history at the EPA makes him entirely unacceptable to lead the air pollution office. By rejecting his nomination, the Senate will send a clear signal that clean air trumps the interests of utility companies. And it will remind President Bush that the “P” in EPA stands for “protection.”

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