

Memo: EPA Set to Roll Back Lifesaving Mercury & Air Toxics Safeguards—for Big Coal

From: Jake Thompson, senior press secretary, Natural Resources Defense Council, jthompson@nrdc.org

Date: October 2, 2018

With the observance of National Child Health Day on Monday, how is the Trump administration celebrating?

By moving forward with its latest brazen assault on our health—particularly on children’s health.

Former coal lobbyist Andrew Wheeler, now acting administrator at the Environmental Protection Agency, is the driving force behind a move to sabotage the first national limits on mercury, arsenic, lead, acid gases and other toxic air pollution from power plants that burn coal and oil. These health standards are protecting childhood brain development and preventing up to 11,000 premature deaths a year.

The EPA’s [attack on the Mercury and Air Toxic Standards \(MATS\)](#) reportedly has been sent to the White House Office of Management and Budget (OMB) and could be released publicly soon. News stories on the issue are [here](#) and [here](#).

We’ve prepared this memo to help you write, editorialize or broadcast against this dangerous drive by the Trump administration to put polluters first and the rest of us at risk. In this case, Trump and Wheeler seek to expose Americans to more of a known brain poison and more than 80 other hazardous air pollutants.

It doesn’t get much worse than that.

Furthermore, the electric utility industry, which initially fought the standards, [publicly has urged EPA](#) not to disturb the Mercury and Air Toxics Standards or take other harmful steps, and for good reasons.

Utilities say they already have invested \$18 billion in pollution control equipment to control mercury and other toxic emissions. The industry is meeting the standards at nearly every coal and oil-burning power plant in the U.S. And it [opposes the reckless plan to roll them back](#). There’s even [bipartisan opposition](#) in Congress.

It makes no sense to roll back these public health protections now—except to interests like Bob Murray, the head of the country’s largest coal mining company, who [donated \\$300,000](#) to Trump’s inauguration and to Wheeler, his former lobbyist.

In 2017, Murray delivered a letter to the Trump team with a [wish list](#) of environmental rollbacks he said would prop up coal, including eliminating these exact standards.

The Obama-era EPA finalized the Mercury and Air Toxics Standards in 2011 after years of deliberations, and after the Bush-era EPA violated the Clean Air Act by refusing to adopt required standards and adopting, instead, an illegal mercury cap-and-trade program that the courts invalidated. The same electric utility industry attorney who was largely responsible for those violations when he worked in the Bush EPA, Bill Wehrum, now heads the Trump EPA air office.

In developing the standards, the Obama-era EPA received 900,000 overwhelmingly supportive public comments and worked with the utility industry to make the standards workable and effective. At the time, NRDC’s Clean Air Director John Walke [called the EPA’s move](#) the “most important actions to

clean up air pollution from dirty coal-burning power plants since the Clean Air Act was last updated in 1990.”

Today, these [Mercury and Air Toxics Standards](#) are helping to prevent, *every year*:

- As many as 11,000 premature deaths;
- nearly 5,000 heart attacks;
- 130,000 asthma attacks;
- 5,700 hospital and emergency room visits; and
- 540,000 days when people miss work and school.
- More on the benefits [here](#).

Background

Among hazardous air pollutants, [mercury](#) is especially toxic; endangering pregnant women and their babies and causing severe brain damage to those exposed to it. Power plants that burn coal and oil have been the largest source of U.S. mercury emissions. Microorganisms can change airborne mercury into methylmercury, a highly toxic form that gets into oceans and waterways and builds up in fish.

When the Mercury and Air Toxics Standards were first finalized industry challenged them, but a federal appellate court upheld them. In an appeal to the Supreme Court, the justices did not accept any appeals to overturn the standards themselves, but did agree to consider a separate, narrow question concerning the standards’ costs.

A [June 2015 opinion by the Supreme Court](#) determined that the EPA should have considered costs in deciding whether it was “appropriate and necessary” to regulate toxic air pollution under the Clean Air Act from power plants that burn coal and oil.

EPA then undertook this analysis and, in 2016, issued a final determination finding that “the [cost of compliance with MATS](#) is reasonable and that the electric power industry can comply with MATS and maintain its ability to provide reliable electric power to consumers at a reasonable cost.”

EPA found the standards’ benefits for Americans easily outweighed compliance costs for industry, and that “[for every dollar spent to reduce toxic pollution from power plants, the American public would see up to \\$9 in health benefits](#).”

Now in 2018 the Trump EPA is moving to repeal the “appropriate and necessary” determination, an unjustified ploy to undermine the Mercury and Air Toxics Standards, and encouraging interests like Wheeler’s former client, Murray Energy, to attack the standards anew in court.

This is the first step toward undermining the public health standards entirely, jeopardizing the legal obligation to even operate installed air pollution control equipment. It is this precise, irresponsible step that electric utilities, labor groups and members of Congress have urged EPA not to take.

Why is EPA moving now?

Before joining the Trump administration, Wheeler lobbied for Murray, head of Murray Energy Corp, since 2009. He [has acknowledged](#) working with Murray to fight a congressional effort to put a price on carbon pollution from power plants and the Clean Power Plan, the landmark Obama administration plan to set the first national limits on power plant carbon pollution.

As Murray's lobbyist, Wheeler was even present at the 2017 meeting where Bob Murray hand-delivered to Rick Perry, the Trump Energy Secretary, Murray's [wish list](#) that included eliminating the Mercury and Air Toxics Standards. As EPA Administrator now, Wheeler's signature is on the proposal sitting at the White House, which attacks those standards.

Under former EPA head Scott Pruitt, the agency proposed to eliminate the Clean Power Plan. Wheeler took the next step this year by proposing to replace Obama's strategy with a Dirty Power Plan. The cost of EPA's new pro-coal plan? [Up to 1,400 more premature deaths, every year, EPA admitted in its own analysis.](#)

Wheeler's attack on mercury standards comes at a much higher cost

It could reverse gains that have reduced emissions of mercury and scores of other hazardous pollutants—like lead, arsenic, benzene, acid gases and heavy metals—by up to [90 percent, in some cases, over the last decade](#). It could, if successful, allow power plants to turn off their air pollution controls. And that would potentially force American to breathe more toxic air pollution that will harm their health.

Undermining the Mercury and Air Toxics Standards also jeopardizes the utility industry's multi-billion-dollar investments, much of which electricity customers already are paying for in their bills.

And it has bipartisan congressional opposition, [expressed in an August letter](#) from Sens. Lamar Alexander, a Tennessee Republican, and Tom Carper, a Delaware Democrat. They wrote, "Keeping the current rule in place will provide much-needed certainty for the electric power industry and help protect the health of all Americans."

We hope you'll cover this travesty, call on Wheeler to drop his gift to the coal industry and demand that he steers the agency back to its fundamental mission of protecting our environment and public health—especially children's health—from harm.

As John Walke [recently put it](#), "This is reckless chaos for the sake of chaos."