

August 23, 2003

## Fouling the Air

**I**n defiance of Congress, the courts and the requirements of public health, the administration is on the verge of effectively repealing a key section of the Clean Air Act. According to a report yesterday in *The Times*, the Environmental Protection Agency plans to issue a final rule next week that would allow thousands of industrial sites, including hundreds of old coal-fired power plants, to make major upgrades without installing new pollution controls, as currently required by law. Eliot Spitzer, New York's attorney general, has rightly vowed to sue the moment the rule becomes final. We are eager to hear Gov. Michael Leavitt of Utah, President Bush's nominee to run the E.P.A., try to defend this decision when he comes up for confirmation in September — especially in light of his own clean-air director's vigorous opposition to the change.

At issue is a provision called "new source review," part of the Clean Air Act amendments of 1977. It requires companies to install modern pollution controls in new plants, and in old plants when they make significant modifications leading to increased emissions. The rule was aimed mainly at older coal-fired power plants, which were temporarily exempted from the act's requirements in the expectation that they would install pollution controls later. New-source review has been in the administration's sights ever since Vice President Dick Cheney all but ordered its abolition in his 2001 energy report. Industry and the administration have argued that the rule is impossibly cumbersome and that other Clean Air Act provisions can achieve the same results. These arguments are only partly true and largely beside the point, which is that until something better comes along, new-source review is an indispensable tool for cleaning the air.

What really bothers industry is that the rule requires significant capital outlays. Many companies have therefore tried to evade it, leading to lawsuits by, among others, Mr. Spitzer. Confronted with industry's howls, the administration decided simply to scuttle the rule. This is hardly the first time that the White House has ordered the rollback of a law that discomfits its friends. But this is a particularly egregious example, and one that could do the environment great harm.