

March 29, 2017

Dear Senator,

We write on behalf of millions of members and supporters to urge you to oppose the nomination of Jeffrey A. Rosen for Deputy Secretary of the Department of Transportation. Rosen has a long record of opposing critical protections for Americans' health, safety, and finances, and particularly safeguards within the jurisdiction of the Department of Transportation.

Rosen and his firm have represented companies and industry groups that have strong anti-regulatory agendas before the Department of Transportation, including the Alliance of Automobile Manufacturers,¹ the U.S. Chamber of Commerce,² and Airlines for America, a group that has worked to privatize air traffic control.³ His record shows that his views are closely aligned with theirs, and against the interests of American families.

In 2005 testimony, Rosen explained that he had "overall supervision of the entire regulatory process" as general counsel to the Department of Transportation,⁴ and he boasted that he helped terminate or withdraw 180 potential rulemakings in that role.⁵ When the agency produced rules during his tenure, they often benefited industry rather than consumers. For example, in several safety standards issued by the National Highway Traffic Safety Administration (NHTSA), extraordinary language was added designed to curtail defective products civil actions brought by injured citizens against manufacturers in state courts.⁶

In private practice, Rosen represented the U.S. Chamber of Commerce in challenging tailpipe pollution rules written by the Environmental Protection Agency (EPA), which are closely related to NHTSA's fuel economy rules, and challenging EPA's finding that greenhouse gases from motor vehicles endanger human health and welfare by contributing to climate change.⁷ In essence, Rosen and other industry lawyers attempted to put the EPA's analysis of climate science on trial. They were roundly rejected.⁸

Rosen also engaged in science-defying foot-dragging over greenhouse gas pollution while serving as general counsel to the Office of Management and Budget. In one episode, he asked three times for memoranda explaining why carbon dioxide molecules emitted from motor vehicles are different from those emitted from power plants. There is no difference, but Rosen sought to find one in order

¹ Myron Levin & Alan C. Miller, *Industries Get Quiet Protection from Lawsuits*, L.A. TIMES, Feb. 19, 2006, <http://articles.latimes.com/2006/feb/19/nation/na-preempt19>.

² See *Coalition for Responsible Regulation, Inc. v. E.P.A.*, 684 F.3d 102, 107 (2012).

³ Alex Daugherty, *Trump's Pick for Deputy Transportation Secretary Did Legal Work for Airline Lobbyists*, MCCLATCHY, Mar. 14, 2017, <http://www.mcclatchydc.com/news/politics-government/white-house/article138459268.html>.

⁴ *Hearing on the Impact of Regulation on U.S. Manufacturing: Spotlight on Department of Labor and Department of Transportation Before the Subcomm. on Regulatory Affairs of the H. Comm. On Govt. Reform*, 109th Cong. 46–47 (2005) (testimony of Jeffrey A. Rosen) <https://www.gpo.gov/fdsys/pkg/CHRG-109hhrg23627/pdf/CHRG-109hhrg23627.pdf>.

⁵ *Id.*

⁶ See, e.g., Cindy Skrzycki, *Agencies' Rules Quietly Enable Tort Reform*, WASH. POST, Sept. 27, 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/09/26/AR2005092602022.html>.

⁷ *Coalition for Responsible Regulation, Inc. v. E.P.A.*, 684 F.3d 102, 107 (2012).

⁸ *Id.* at 120–23.

to limit federal agencies' responsibility to write rules curbing carbon pollution in the wake of the Supreme Court's ruling that carbon dioxide is a pollutant under the Clean Air Act.⁹

In addition to siding with industry on countless specific matters within the Department of Transportation's jurisdiction, Rosen projects a general hostility to public safeguards. He has repeated outlandish, debunked industry talking points on the purported cost of safeguards, including the self-refuting claim that federal rules cost Americans \$1.75 trillion each year, or \$15,000 per family.¹⁰ In truth, federal regulations are extraordinarily beneficial, providing net benefits of billions of dollars annually.¹¹

At the Office of Management and Budget, Rosen advocated a George W. Bush executive order that placed a political appointee in each agency to serve as a gatekeeper for new rules and guidance documents.¹² And he has publicly supported two pieces of legislation, the Regulations from the Executive in Need of Scrutiny (REINS) Act and the Regulatory Accountability Act,¹³ which would virtually shut down the regulatory process.

Placing Jeffrey A. Rosen in charge of day-to-day operations at the Department of Transportation would be disastrous for American families, who under his regime would face higher risks on the road and in the air, more limits on their access to the courts, and irrevocable harm to their natural environment.

We urge you to oppose his nomination vigorously.

Sincerely,

Alaska Wilderness League

Americans for Transit

Center for Auto Safety

⁹ Juliet Eilperin & R. Jeffrey Smith, *EPA Won't Act on Emissions This Year*, WASH. POST, July 11, 2008, http://www.washingtonpost.com/wp-dyn/content/article/2008/07/10/AR2008071003087_pf.html; Felicity Barringer, *A New (and Unlikely) Tell-All*, N.Y. TIMES, July 22, 2008, <http://www.nytimes.com/2008/07/22/us/22enviro.html>; *An Update on the Science of Global Warming and Its Implications, Hearing Before the S. Comm. on Env'tl. & Pub. Works*, 110th Cong. (2008) (testimony of former EPA Associate Deputy Administrator Jason Burnett), <https://www.gpo.gov/fdsys/pkg/CHRG-110shrg88902/html/CHRG-110shrg88902.htm>.

¹⁰ *Hearing on H.R. 2122, the Regulatory Accountability Act of 2013 Before the Subcomm. On Regulatory Reform, Commercial & Antitrust Law of the H. Comm. on the Judiciary*, 113th Cong. (2013) (testimony of Jeffrey A. Rosen), <https://judiciary.house.gov/wp-content/uploads/2016/02/Rosen-Testimony.pdf>.

¹¹ *See, e.g.*, OFFICE OF INFORMATION AND REGULATORY AFFAIRS, 2015 REPORT TO CONGRESS ON THE BENEFITS AND COSTS OF FEDERAL REGULATIONS AND UNFUNDED MANDATES ON STATE, LOCAL, AND TRIBAL ENTITIES (Mar. 10, 2016), https://obamawhitehouse.archives.gov/sites/default/files/omb/inforeg/2015_cb/2015-cost-benefit-report.pdf.

¹² Robert Pear, *Bush Directive Increases Sway on Regulation*, N.Y. TIMES, Jan. 30, 2007, <http://www.nytimes.com/2007/01/30/washington/30rules.html>.

¹³ Jeff Rosen & Susan Dudley, *Let Congress Vote on Major Rules*, BALTIMORE SUN, Aug. 9, 2010, http://articles.baltimoresun.com/2010-08-09/news/bs-ed-congress-rules-20100809_1_regulations-rules-federal-agencies; *Hearing on H.R. 2122, the Regulatory Accountability Act of 2013 Before the Subcomm. On Regulatory Reform, Commercial & Antitrust Law of the H. Comm. on the Judiciary*, 113th Cong. (2013) (testimony of Jeffrey A. Rosen), <https://judiciary.house.gov/wp-content/uploads/2016/02/Rosen-Testimony.pdf>.

Center for Progressive Reform
Citizens for Reliable and Safe Highways (CRASH)
Coalition for Clean Air
Consumer Action
Consumer Watchdog
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Earth Action, Inc.
Ecology Center
Essential Information
Food & Water Watch
Friends of the Earth
Iowa Environmental Council
League of Conservation Voters
Mile High Connects
National Center for Lesbian Rights
Natural Resources Defense Council
Nuclear Information and Resource Service
PolicyLink
Public Advocates Inc.
Public Citizen
Renew Missouri
Safe Climate Campaign
Sierra Club
Southern Oregon Climate Action Now
The Center for Energy Efficiency and Renewable Technologies
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