

# BUSINESS MEETING

---

## MEETING

BEFORE THE

### COMMITTEE ON

### ENVIRONMENT AND PUBLIC WORKS

### UNITED STATES SENATE

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

AUGUST 5, 2015

---

Printed for the use of the Committee on Environment and Public Works



Available via the World Wide Web: <http://www.gpo.gov/fdsys>

---

U.S. GOVERNMENT PUBLISHING OFFICE

99-902 PDF

WASHINGTON : 2016

---

For sale by the Superintendent of Documents, U.S. Government Publishing Office  
Internet: [bookstore.gpo.gov](http://bookstore.gpo.gov) Phone: toll free (866) 512-1800; DC area (202) 512-1800  
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ONE HUNDRED FOURTEENTH CONGRESS  
FIRST SESSION

JAMES M. INHOFE, Oklahoma, *Chairman*

DAVID VITTER, Louisiana	BARBARA BOXER, California
JOHN BARRASSO, Wyoming	THOMAS R. CARPER, Delaware
SHELLEY MOORE CAPITO, West Virginia	BENJAMIN L. CARDIN, Maryland
MIKE CRAPO, Idaho	BERNARD SANDERS, Vermont
JOHN BOOZMAN, Arkansas	SHELDON WHITEHOUSE, Rhode Island
JEFF SESSIONS, Alabama	JEFF MERKLEY, Oregon
ROGER WICKER, Mississippi	KIRSTEN GILLIBRAND, New York
DEB FISCHER, Nebraska	CORY A. BOOKER, New Jersey
MIKE ROUNDS, South Dakota	EDWARD J. MARKEY, Massachusetts
DAN SULLIVAN, Alaska	

RYAN JACKSON, *Majority Staff Director*  
BETTINA POIRIER, *Democratic Staff Director*

# C O N T E N T S

Page

## AUGUST 5, 2015

### OPENING STATEMENTS

Inhofe, Hon. James M., U.S. Senator from the State of Oklahoma .....	2
Prepared statement, August 5, 2015, 2 p.m. ....	112
Boxer, Hon. Barbara, U.S. Senator from the State of California .....	3
Cardin, Hon. Benjamin L. U.S. Senator from the State of Maryland, prepared statement .....	133

### LEGISLATION

Text of S. 1324, the Affordable Reliable Electricity Now Act of 2015 .....	21
Text of the amendment #4 offered by Senator Markey .....	36
Text of the amendment #1 offered by Senators Gillibrand and Markey .....	45
Text of the amendment #1 offered by Senator Merkley .....	61
Text of the amendment #2 offered by Senator Whitehouse .....	95
Text of the amendment #6 offered by Senator Markey .....	100
Text of the amendment #1 offered by Senator Whitehouse .....	106
Text of S. 1500, the Sensible Environmental Protection Act of 2015 .....	114
Text of H.R. 2131, to designate a Federal building and courthouse in South Carolina as the J. Waties Waring Judicial Center .....	119
Text of S. 1523, to amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program, and for other purposes .....	121
S. 1707, to designate a Federal building in Arkansas as the Jacob Trieber Federal Building, United States Post Office, and United States Court House .....	125
H.R. 2559, to designate the PFC Milton A. Lee Medal of Honor Memorial Highway in the State of Texas .....	127
Committee Resolutions:	
Alteration, 1800 F Street Building, Presidential Transition Team, Washington, DC .....	129
Design, Federal Bureau of Investigation, San Juan, PR .....	130
Design, Jacob K. Javits Federal Office Building, New York, NY .....	131
Replacement lease, Federal Communications Commission, Washington, DC .....	132

### ADDITIONAL MATERIAL

Articles:	
The Wall Street Journal, May 26, 2014, The Myth of the Climate Change ‘97%’ .....	68
The New York Times, January 30, 2015, Most Republicans Say They Back Climate Action, Poll Finds .....	77
The Wall Street Journal, June 18, 2014, Obama Carbon Rule Backed by Most Americans—WSJ/NBC Poll .....	80
Letters:	
American Sustainable Business Council .....	4
American Lung Association et al. ....	6
Public Citizen et al. ....	8
Adirondack Mountain Club et al. ....	11
California Association of Sanitation Agencies .....	14
Earthjustice et al. ....	17
American Association for the Advancement of Science et al. ....	57

#### IV

	Page
Who Opposes Efforts to Undermine Clean Water Act Permitting for Direct Pesticide Applications? .....	16
Gallup Poll—March 12, 2015 .....	73
Memo from Public Policy Polling .....	82
NRDC Fact Sheet, July 2013 .....	90

## BUSINESS MEETING

---

WEDNESDAY, AUGUST 5, 2015

U.S. SENATE,  
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,  
*Washington, DC.*

The committee met, pursuant to notice, at 9:34 a.m. in room 406, Dirksen Senate Building, Hon. James M. Inhofe (chairman of the committee) presiding.

Present: Senators Inhofe, Vitter, Barrasso, Capito, Crapo, Boozman, Wicker, Fischer, Rounds, Sullivan, Boxer, Carper, Cardin, Whitehouse, Merkley, Gillibrand, and Markey.

Senator INHOFE. Our meeting will come to order.

We are going to start by recognizing Senator Boxer for a special presentation.

Senator BOXER. Thank you, Mr. Chairman, for a very special presentation.

Before we get into the difficult arguments that await us, I thought I would take a minute to mark the fact that we worked so well together on a transportation bill that was very difficult to put together.

When it got to the floor, we had to make more changes, and it took a lot of work on the part of the staff, but I have to say, Mr. Chairman, it was your leadership in marking up the bill here first and working with us and all of us to get a 20 to 0 vote that I think should be marked today by a special gift that we have bought for you, if you would accept that.

Senator INHOFE. I will accept it.

Senator BOXER. It is not a trick. I think you will like it.

Senator INHOFE. Oh, I will. Oh, my goodness.

Senator BOXER. See all those bridges on there?

Senator INHOFE. Yes.

Senator BOXER. It is a towel with a lot of bridges. They are the ones that are structurally deficient, and we are going to fix them.

Senator INHOFE. It reminds me of my gift to you.

Senator BOXER. Never mind that.

Senator INHOFE. It was a coffee cup that when global warming took place, it spilled coffee.

Senator BOXER. I would call that a trick gift. This is a real gift.

Senator INHOFE. It is very nice. Thank you.

We are going to start with opening statements. She may change her mind.

**OPENING STATEMENT OF HON. JAMES M. INHOFE,  
U.S. SENATOR FROM THE STATE OF OKLAHOMA**

Senator INHOFE. Even with the controversial nature of the items on this morning's markup, I would like to note every bill on the markup agenda has bipartisan support.

President Obama announced his new regulations on power plants on Monday, making a bad deal even worse. These regulations are the product of backroom sue and settle tactics with radical environmental lobbying organizations.

Thirty-two States, including my State of Oklahoma, already oppose them, and 15 of the States have already legally challenged them, including my State of Oklahoma. The States will continue to challenge them.

At least 43 States will experience electricity price spikes due to them according to testimony before this committee. They will actually increase global CO<sub>2</sub> emissions, sending American jobs and investment overseas to high polluting countries. As they leave the United States, they go to countries where there are no regulations and obviously would have the effect of increasing not decreasing CO<sub>2</sub> emissions.

They were characterized by Obama's own constitutional law professor in a hearing we held. He said, "Burning the Constitution of the United States should not be a part of the national energy policy."

According to testimony before this committee from the former Sierra Club General Counsel, they rest on dubious legal grounds. According to testimony by the National Black Chamber of Commerce also before this committee, they will "increase Black poverty by 23 percent, Hispanic poverty by 26 percent and result in 7 million job losses for African-Americans and nearly 12 million for Hispanics by 2035. They rely even less on natural gas and give only marginal credit for new nuclear capacity." Finally, according to EPA officials in two hearings before this committee, all of them will not affect global CO<sub>2</sub> levels.

This is not a good deal for the American people. I thank Senator Capito for drafting S. 1324, the Affordable Reliable Energy Now Act of 2015, to address these problems. Her bill sends the EPA back to the drawing board and provides a host of new requirements that will ensure future proposals actually improve the environment in a balanced and healthy way.

Her bill increases transparency, protects the role of States and provides certainty to the regulated community. Finally, it protects energy consumers from industrial manufacturers to the kitchen table from unnecessary costs and unjustified price increases.

Additionally, the markup agenda includes measures to reauthorize the grant making estuary program and address duplicative regulatory requirements concerning pesticide use. We are actually siding with the EPA on this one.

Finally, the agenda includes a measure to continue the use of Pittman-Robertson interest payments as additional funds for conservation efforts, names courthouses and a segment of the interstate in Texas after accomplished Americans.

The agenda considers four GSA resolutions which will save Americans well over \$100 million and eliminate tens of millions in cost from potential and current leases.

Everything on the agenda has bipartisan support.

We have votes starting at 10:30 a.m., so we are going to rush through and see how far we can get by 10:45 a.m. Who knows, we might be able to finish.

Senator Boxer.

**OPENING STATEMENT OF HON. BARBARA BOXER,  
U.S. SENATOR FROM THE STATE OF CALIFORNIA**

Senator BOXER. I doubt that, but I would say we are here today to consider several bills. Most of them are noncontroversial. Two of them, I believe I do speak for my side. By the way, they may be bipartisan but not in this committee, not in this committee.

Two of these bills, S. 1324 and S. 1500, are extremely harmful to the people we represent. S. 1324 blocks the President's Clean Power Plan and allows States to opt out of complying with any future plan. The bill creates giant loopholes, making it nearly impossible to take any meaningful action to address climate change and reduce harmful carbon pollution which hurts our families.

We know if we turn away from the President's Clean Power Plan we not only move toward the most devastating impacts of climate change. We are already seeing them. My State has never had such raging wildfires, which I see the Senators from Oregon, Washington and California all predicted, due to climate change. We have droughts which were all predicted due to climate change.

Those who deny it and try to stop our progress, as this one bill does, are on the wrong side of history and will have to answer to future generations if their view prevails, which I hope it does not. It will on this committee, there is no doubt about that.

Why would we want to do something that would mean up to 90,000 more asthma attacks, 1,700 more heart attacks, 3,600 more premature deaths and 300,000 more missed days at school and work? Why would we want to do that in the Environment Committee?

We have letters in opposition to this bill from dozens and dozens of public health, business, environmental and religious groups. I ask unanimous consent for these groups to be put in the record against the Capito bill. These are groups you would want on your side, American public health, religious organizations, all opposed to that bill.

Senator INHOFE. Without objection.

[The referenced information follows:]



AMERICAN  
SUSTAINABLE  
BUSINESS  
COUNCIL

August 4, 2015

Dear Senator,

On behalf of the over 200,000 businesses, and more than 325,000 entrepreneurs, executives, managers and investors we represent, the American Sustainable Business Council (ASBC) writes today to strongly urge you to oppose the Affordable Reliable Energy Now Act of 2015 (S. 1324) introduced by Senator Capito. The bill prevents the Environmental Protection Agency (EPA) from fulfilling its obligations under the Clean Air Act to implement the newly announced Clean Power Plan.

This legislation is precisely the wrong approach, both because it protects incumbent industries at the expense of high-growth industries like renewable energy and because it is the wrong approach to dealing with climate change. The Clean Power Plan would put in place standards to reduce carbon pollution by 32 percent across the nation, and is vital to the health of our nation's economy. This rule needs to be protected, not blocked.

Business owners agree. Last year, ASBC commissioned national, scientific polling of small business owners about their attitudes for addressing climate change and using the Clean Air Act authority. In short, small business sees climate change as a threat, and supports the EPA taking action as proposed in this rule. Key findings in the polling include:

- Eighty-seven percent (87%) of business owners named one or more consequences of climate change as potentially harmful to their businesses.
- Sixty-four percent (64%) of business owners believe government regulation is needed to reduce carbon emissions from power plants.
- Fifty-seven percent (57%) said that the biggest carbon emitters should make the biggest reductions in carbon emissions and bear most of the costs of reduction efforts.
- Fifty-three percent (53%) think extreme weather has, or will have, negative impact on their businesses. One in five business owners say they have already been hurt by it. Among larger companies (20 – 99 employees), 71% think extreme weather has had, or could have, a negative impact, and only 21 percent think it won't.

If implemented, S. 1324 would also further gut existing Clean Air Act protections and undermine business certainty by:

- Prohibiting EPA from setting carbon pollution standards for new power plants;
- Forcing EPA to choose between setting limits for carbon pollution and mercury pollution from existing power plants;
- Delaying EPA from implementing carbon standards until all lawsuits are decided;
- Allowing governors to opt out of the Clean Power Plan; and

TEL 202.335.2302  
1401 NEW YORK AVE. NW  
SUITE 1225  
WASHINGTON DC 20005

ASBCOUNCIL.ORG

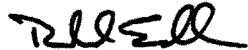


- Removing the EPA's federal backstop authority that guarantees the establishment of a carbon reduction strategy even if states fail to act.

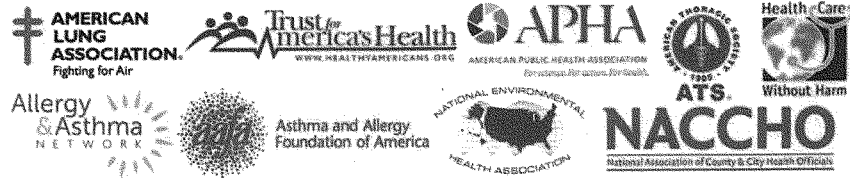
The Clean Power Plan is crucial for the business community, giving us the chance to address climate change and drive innovation and job creation throughout the economy. Moving towards a clean energy future will help mitigate the worst effects of climate change, which inflict damaging costs on businesses, supply chains and communities. At the same time, this will ensure we are taking full advantage of the market forces that are making clean energy more attractive every day.

The Clean Power Plan gives states the flexibility to meet their pollution reduction targets using tactics that make the most sense for their individual situations. This smart approach will ensure businesses get the reliable energy they need, while providing incentives for cleaner power sources and energy efficiency measures that will help cut carbon emissions nationwide. We can seize the opportunity to build the clean energy future that will ensure strong economic and business growth for years to come - to do so, we need to stop S.1324.

Sincerely,



Richard Eidlin  
Vice-President and Co-founder



August 3, 2015

Dear Senator:

The undersigned public health and medical organizations urge you to oppose S. 1324, the "Affordable and Reliable Electricity Now Act (ARENA) of 2015." This bill would put lives at risk by delaying and blocking critical clean air protections.

Carbon pollution leads to climate change that threatens Americans' health. As U.S. Surgeon General Vivek Murthy, MD, MBA, said during 2015 National Public Health Week, "We know that climate change means higher temperatures overall, and it also means longer and hotter heat waves... higher temperatures can mean worse air in cities, and more smog and more ozone. We know that more intense wildfires will mean increased smoke in the air. And we know that earlier springs and longer summers mean longer allergy seasons."

These impacts of climate change are already contributing to asthma attacks and other respiratory problems, cases of heat stroke, and premature deaths. The U.S. Environmental Protection Agency's proposed Clean Power Plan will help the nation take important steps toward protecting Americans' health from these threats. Not only would the Clean Power Plan give states flexible tools to reduce the carbon pollution that causes climate change, these crucial tools would also lower other deadly pollutants at the same time, preventing up to 6,600 premature deaths and 150,000 asthma attacks every year by 2030.

S. 1324 would put lives at risk by gutting vital Clean Air Act safeguards. The bill would allow governors to "opt out" of complying with the final Clean Power Plan. Moreover, the bill would prevent EPA from putting a federal pollution cleanup plan in place in a state where a governor refused to comply. Residents of these states – especially those most vulnerable, including children, the elderly, and people with asthma – would not see the health benefits from air pollution reductions that would come with the cleanup plan. And neighboring states would continue to bear the burden of pollution that blows across state boundaries.

The bill would also prohibit EPA from implementing the Clean Power Plan until all court actions related to the plan are complete, potentially indefinitely delaying these lifesaving protections. And in addition to blocking carbon pollution limits for existing power plants, the bill would also essentially block EPA's efforts to limit greenhouse gasses (including carbon) from new power plants by putting industry, not health scientists at EPA, in charge.

S. 1324 would also explicitly invalidate EPA's proposed standards for new and existing power plants, and rewrite the Clean Air Act so that EPA must choose between cleaning up carbon pollution or mercury and air toxics from existing power plants. Public health requires that all pollution from power plants must be cut to protect the health of millions of Americans.

Please prioritize the health of your constituents and vote NO on S. 1324.

Sincerely,

Allergy & Asthma Network

American Lung Association

American Public Health Association

American Thoracic Society

Asthma and Allergy Foundation of America

Health Care Without Harm

National Association of County & City Health Officials

National Environmental Health Association

Trust for America's Health

Public Citizen \* Center for Accessible Technology \* Citizens Action  
Coalition \* Consumers Union \* Energy Coordinating Agency of  
Philadelphia \* Greenlining Institute \* Low-Income Energy Affordability  
Network \* National Consumer Law Center \* NW Energy Coalition \*  
Nuclear Information and Resource Service \* Ohio Partners for  
Affordable Energy \* Public Utility Law Project of New York \* TURN—The  
Utility Reform Network \* Virginia Citizens Consumer Council \* WA State  
Community Action Partnership \* A World Institute for a Sustainable  
Humanity (A W.I.S.H)

August 5, 2015

RE: Consumer Groups Oppose S. 1324, ARENA Act

Dear Senator,

We urge you to oppose Sen. Capito's Affordable Reliable Energy Now (ARENA) Act, S. 1324. This bill effectively blocks the EPA from issuing rules to curb carbon pollution from new or existing power plants. It also permits states to opt out of the EPA's recently finalized rule on existing power plants, known as the Clean Power Plan, and it would delay the rule's implementation until every lawsuit challenging it has completed, a process that could take decades.

The ARENA Act is framed largely as a consumer protection measure, but it is the opposite. It permits any state to opt out of the Clean Power Plan if the governor finds that implementing the rule would "have a negative effect" on "the electricity ratepayers of the State, including low-income ratepayers, by causing electricity rate increases." These provisions misconstrue the Clean Power Plan, which is good for consumers. And they are mistaken to focus on electricity *rates*, which may rise modestly under the Plan, rather than consumers' actual electricity *bills*, which should go down.

**The Clean Power Plan will benefit consumers.** Climate change poses a severe threat to American consumers and in particular to vulnerable populations. A few of the most salient risks include:

- higher taxes and market prices to cover the costs of widespread damage to property and infrastructure from extreme weather;
- diminished quality and higher prices for food and water, heightening food insecurity for America's most vulnerable populations; and
- increased illness and disease from extreme heat events, reduced air quality, increased food-borne, water-borne, and insect-borne pathogens.<sup>1</sup>

By curbing carbon pollution, the Clean Power Plan will benefit consumers by mitigating these harms.

---

<sup>1</sup> See U.S. GLOBAL CHANGE RESEARCH PROGRAM, HIGHLIGHTS OF CLIMATE CHANGE IMPACTS IN THE UNITED STATES: THE THIRD NATIONAL CLIMATE ASSESSMENT 8–9, 12–13, 33–47 (2014).

**The Clean Power Plan should lower consumers' electricity bills.** As a general matter, the Clean Power Plan is likely to lower consumer costs, not raise them, because it will spur improvements in energy efficiency. Although electricity prices may rise modestly under the Plan, consumers will use less electricity. This should result in lower bills overall. The EPA projects that the Plan will lower consumer bills by 8.4 percent by 2030.<sup>2</sup> A Public Citizen analysis of the proposed rule found that the EPA estimate is conservative, overestimating the cost of efficiency programs and underestimating how much progress the states can make on efficiency. Consumer costs are likely to decline by even more than the agency projects.<sup>3</sup>

**States should serve their consumers and protect vulnerable populations.** If these consumer benefits do not materialize, then it is likely the states, not the EPA, who will bear responsibility. The states can take a lead role in implementing the Clean Power Plan by writing their own compliance plans. State policymakers can choose to implement the Plan in a manner that benefits or harms ratepayers. The Act is wrong to excuse the states from those duties and suggest that the responsibility for harming consumers lies with section 111(d) of the Clean Air Act, a statute that protects the public by safeguarding our health.

We strongly encourage members to oppose the misnamed Affordable Reliable Energy Now Act and to support the Clean Power Plan. Thank you for considering our views, and please feel free to contact David Arkush for further information at [darkush@citizen.org](mailto:darkush@citizen.org) or (202) 454-5132.

Sincerely,

David Arkush, Managing Director  
Public Citizen's Climate Program

Dmitri Belser, Executive Director  
Center for Accessible Technology

Kerwin Olson, Executive Director  
Citizens Action Coalition

Shannon Baker-Branstetter, Policy Counsel, Energy and Environment  
Consumers Union

Liz Robinson, Executive Director  
Energy Coordinating Agency of Philadelphia

Stephanie Chen, Energy and Telecommunications Policy Director  
The Greenlining Institute

---

<sup>2</sup> EPA, REGULATORY IMPACT ANALYSIS FOR THE PROPOSED CARBON POLLUTION GUIDELINES FOR EXISTING POWER PLANTS AND EMISSION STANDARDS FOR MODIFIED AND RECONSTRUCTED POWER PLANTS Table 3-43 (2014).

<sup>3</sup> See PUBLIC CITIZEN ET AL. COMMENTS ON CLEAN POWER PLAN, 7-10 (2014), <http://pubc.it/1tT1Az2>.

**Elliott Jacobson, Chair**  
**Low-Income Energy Affordability Network**

**Charlie Harak, Attorney**  
**National Consumer Law Center, on behalf of its low-income clients**

**Michael Mariotte, President**  
**Nuclear Information and Resource Service**

**Wendy Gerlitz, Policy Director**  
**NW Energy Coalition**

**David C. Rinebolt, Executive Director and Counsel**  
**Ohio Partners for Affordable Energy**

**Richard A. Berkley, Esq., Executive Director**  
**Public Utility Law Project of New York**

**Mark W. Toney, Ph.D., Executive Director**  
**TURN—The Utility Reform Network**

**Irene E. Leech, President**  
**Virginia Citizens Consumer Council**

**Merritt Mount, Executive Director**  
**WA State Community Action Partnership**

**Michael Karp, President & CEO**  
**A World Institute for a Sustainable Humanity (A W.I.S.H.)**

August 5, 2015

Dear Senator,

On behalf of our millions of members, the undersigned organizations urge you to oppose S. 1324, dangerous legislation being led by Senator Capito, which should be called the "Polluter Protection Act." The Capito bill would prevent the EPA from protecting public health by dismantling the Clean Air Act and blocking the Clean Power Plan (CPP). The Clean Air Act has improved the health of Americans, fostered air quality, helped drive economic benefits in the USA for four decades, and made America an international leader in clean air and public health. The Clean Power Plan itself is expected to prevent more than 3,000 premature deaths per year by the year 2030. Senator Capito's bill will reverse these benefits and harm Americans. In multiple provisions, individually, and in combination, the bill puts public interest at risk and blocks critical action needed to address climate change. We urge your leadership in opposing this misguided bill.

Under the Clean Air Act, states have the option to create their own plans to meet national clean air standards by writing state-specific pollution control plans tailored to local conditions, with the flexibility to do so in the most cost-effective way. But if a state cannot, or will not, hold its own polluters accountable, the law guarantees that communities can rely on the EPA to protect their health.

This bill strikes at the central tenets of the federal Clean Air Act by letting each state simply walk away from national clean air requirements, giving polluters free rein to continue dumping unlimited amounts of carbon pollution into our air. The legislation sets a dangerous precedent by allowing any state to decide that meeting national clean air standards is merely optional. It would destroy the national guarantee that makes the Clean Air Act work.

Senator Capito's legislation would rewrite the Clean Air Act to block EPA from setting standards for carbon pollution based on the best demonstrated pollution controls – changing criteria that EPA has used for 45 years to set advanced technology standards for new stationary sources. The bill's new criteria would effectively prevent the establishment of standards for new coal plants to the pollution levels of today's dirty plants. The bill would block EPA from finalizing its current proposal for new source standards, and since new source standards are a predicate for regulating existing sources, the bill would effectively block EPA's plans to regulate existing power plants, too.

As if that weren't enough, this bill would also delay implementation of the Clean Power Plan until every polluter's lawsuit has been fully litigated, a process that can take years even in an ordinary case. This provision would encourage polluters to drag out the case as long as possible in order to delay implementation further. Current law allows courts to "stay" a rule if challengers can show the rules would cause immediate irreparable harm and they prove they are likely to win on the merits. This bill would instead stall the Clean Power Plan automatically as long as the polluters' lawyers can keep the cases alive.

Finally, S. 1324 would require the EPA to choose between reducing power plants' carbon or mercury pollution. By attempting to force the EPA to "pick your poison," this bill condemns Americans to suffer the health impacts of pollution we can protect them from. This is a false choice; we can and must do both.

We urge you to oppose this, and all other attacks on the Clean Air Act, our health, and efforts to reduce harmful carbon pollution from the nation's biggest emitters.

Sincerely,

Adirondack Mountain Club  
Alliance of Nurses for Healthy Environments  
Appalachian Voices  
Berkshire Environmental Action Team (BEAT)  
Beyond Nuclear  
Center for Biological Diversity  
Chesapeake Climate Action Network  
Citizens for Pennsylvania's Future (PennFuture)  
Clean Water Action  
Clean Wisconsin  
Climate Justice  
Climate Law & Policy Project  
Coalition on the Environment and Jewish Life  
Conservation Voters for Idaho  
Conservation Voters of Pennsylvania  
CT League of Conservation Voters  
Earth Day Network  
Earthjustice  
East Bay Community Solar Project  
El Puente  
Endangered Habitats League  
Energy Action Coalition  
Environmental Advocates of New York  
Environmental Law and Policy Center  
Environmental Defense Fund Action  
Environment America  
Environment Arizona  
Environment California  
Environment Colorado  
Environment Connecticut  
Environment Georgia  
Environment Maine  
Environment Massachusetts  
Environment New Jersey  
Environment New Mexico  
Environment New York  
Environment North Carolina  
Environment Oregon  
Environment Texas  
Environment Virginia  
Friends Committee on National Legislation  
Friends of the Earth  
GreenLatinos



Green for All  
 Greenpeace  
 KyotoUSA  
 HEAL Utah  
 Health Care Without Harm  
 Hudson River Sloop Clearwater, Inc.  
 Huntington Breast Cancer Action Coalition Inc  
 iMatter, Kids vs. Global Warming  
 Institute for Policy Studies, Climate Policy Program  
 Interfaith Power & Light  
 League of Conservation Voters  
 League of Women Voters of the United States  
 Montana Environmental Information Center  
 National People's Action  
 Natural Resources Defense Council  
 Nature Abounds  
 New Energy Economy  
 New Jersey League of Conservation Voters  
 NextGen Climate  
 North Carolina League of Conservation Voters  
 Nuclear Information and Resource Service  
 NYPIRG  
 Oxfam America  
 PennEnvironment  
 People Demanding Action  
 Physicians for Social Responsibility  
 Physicians for Social Responsibility – Arizona Chapter  
 Polar Bears International  
 Public Citizen  
 Progressive Democrats of America  
 Protect Our Winters  
 Rachel Carson Council  
 Renew Missouri  
 River Guardian Foundation  
 Safe Climate Campaign  
 Sierra Club  
 Southern Alliance for Clean Energy  
 Southern Environmental Law Center  
 Sustainable Energy & Economy Network  
 Union of Concerned Scientists  
 Union for Reform Judaism  
 Virginia Conservation Network  
 Virginia League of Conservation Voters  
 Voces Verdes  
 Voices for Progress  
 Wisconsin Environment  
 Women's Earth and Climate Action Network



## CALIFORNIA ASSOCIATION of SANITATION AGENCIES

1225 8<sup>th</sup> Street, Suite 595 • Sacramento, CA 95814 • TEL: (916) 446-0388 • [www.casaweb.org](http://www.casaweb.org)

August 3, 2015

The Honorable James Inhofe  
Chairman  
Committee on Environment and Public Works  
U.S. Senate  
Washington, D.C. 20510

The Honorable Barbara Boxer  
Ranking Member  
Committee on Environment and Public Works  
U.S. Senate  
Washington, D.C. 20510

Dear Chairman Inhofe and Ranking Member Boxer:

The California Association of Sanitation Agencies (CASA), a state-wide association of publicly owned wastewater treatment agencies, serving the needs of more than 90% of the state's sewer population, writes on the Sensible Environmental Protection Act of 2015 (S. 1500). Our evaluation of S. 1500 is that the measure would preclude U.S. Environmental Protection Agency review and oversight of the manner in which pesticides, fungicides, and rodenticides are applied to lands contiguous to surface waters. S. 1500 appears to exclude certain pesticide application activities from the federal NPDES permit program. While CASA acknowledges that there may be circumstances within which federal permitting of these activities is unnecessary, S. 1500 goes too far by exempting all such activities regardless of their impact on water quality.

S. 1500 would exempt an individual that applies pesticides, fungicides or rodenticides on lands adjacent to waters from complying with Clean Water Act water quality provisions, including the requirement to obtain an NPDES permit. We note that the legislation seeks to address only this activity, as practices such as agricultural return flows, atmospheric spraying on forests and other sites, and lands not adjacent to waters would continue to enjoy the existing exemption from Clean Water Act permitting mandates.

As regulated point sources that must commit billions of dollars in control technologies as well as related operation and maintenance costs, CASA is concerned that S.1500 would wholly exclude from the NPDES program a class of activities that may, in some cases, be contributing to toxicity in surface waters. If other sources such as pesticide applications are not accountable for their contributions, the entire burden of cleaning up and maintaining surface waters will fall on our ratepayers. S. 1500 may perversely lead to increased water impairments and higher treatment costs for ratepayers of local stormwater programs and wastewater treatment agencies, which are already facing significant rate increases to address water quality mandates.

During these unprecedented austere times for the public, it would be imprudent and inequitable to impose these new and unwarranted costs on the public. Therefore, we urge the opposition of S. 1500 in order to preserve the ability of the federal government and the State of California to maintain progress in restoring the Bay Delta and other surface waters vital to the State's economic health.

Sincerely,

Roberta LL  
Executive Director

Senator BOXER. Thanks.

The second controversial bill, S. 1500, would end the requirement that you need to get a Clean Water Act permit if you are spraying pesticides into a body of water. Just think about it.

The sole purpose of a pesticide is to kill something, whether it is an insect or a weed. When pesticides get into bodies of water where our children swim and waterways that provide drinking water to our families, we are exposing people to substances known to be toxic. Pesticides have been linked to a wide range of damaging health impacts including irritation of the skin and eyes, damage to the nervous system and other harm to pregnant women, infants and children.

Pesticides can also be human carcinogens. The negative effects on the environment, including fisheries, have been well documented. Over a billion pounds of pesticides are used annually in the United States. The U.S. Geological Survey found that 61 percent of agricultural streams and 90 percent of urban streams are contaminated with one or more pesticides.

Pesticide pollution is a problem. What is the answer? Just spray away, that is what my Republican friends say, spray away, and do not worry about getting a clean water permit.

The Clean Water Act permit has been in place since 2011. No one has complained that it has stopped the use of pesticides but it ensures that pesticides are used in a responsible way that reduces contamination of our streams, rivers and lakes.

Why on earth do you need to repeal this public health safeguard? I do not know what we are here for. Honestly, I wonder.

The answer is we should not do this. That is why a broad range of groups, including Republican basic supporters, commercial fishermen, public health and environmental organizations have written in opposition to this legislation to exempt pesticides from the Clean Water Act.

I ask unanimous consent to place these letters into the record.

Senator INHOFE. Without objection.

[The referenced information follows:]

## **Who Opposes Efforts to Undermine Clean Water Act Permitting for Direct Pesticide Applications?**

**The below organizations have signed letters opposing legislation that guts Clean Water Act safeguards protecting communities from toxic pesticides.**

Alaska Community Action on Toxics, Altamaha Riverkeeper and Altamaha Coastkeeper, Atchafalaya Basinkeeper, Apalachicola Riverkeeper, Assateague Coastkeeper / Assateague Coastal Trust, American Bird Conservancy, American Rivers, Audubon California, Better Urban Green Strategies, Beyond Pesticides, Big Black Foot Riverkeeper, Biscayne Bay Waterkeeper, Black Warrior Riverkeeper, Blackwater Nottoway Riverkeeper Program, Buffalo Niagara Riverkeeper, Butte Environmental Council, Californians for Alternatives to Toxics, Californians for Pesticide Reform, California Sportfishing Protection Alliance, Cape Fear River Watch, Cascobay Baykeeper, Catawba Riverkeeper Foundation, Inc., Center for Biological Diversity, Center for Environmental Health, Center on Race, Poverty & the Environment, Charleston Waterkeeper, Choctawhatchee Riverkeeper, Clean Water Action, Clean Water Network, Coast Action Group, Colorado Riverkeeper, Cook Inletkeeper, Inc., Defenders of Wildlife, Detroit Riverkeeper, Dolphin Swimming and Boating Club, The Earth Cause Organization, Earthjustice, Emerald Coastkeeper, Endangered Species Coalition, Environment America, Environment California, Environmental Protection Information Center, Environmental Advocates, Flint Riverkeeper, Food & Water Watch, Forestland Dwellers, French Broad Riverkeeper, Friends of the Earth, Friends of Five Creeks, Friends of Gualala River, Friends of the Petaluma River, Galveston Baykeeper, Geos Institute, Golden Gate Audubon Society, Grand Riverkeeper, Grand Traverse Baykeeper, Gunpowder Riverkeeper, Hackensack Riverkeeper, Inc., Haw Riverkeeper/Haw River Assembly, Housatonic River Initiative, Hurricane Creekkeeper/Friends of Hurricane Creek, Hudson Riverkeeper, Humboldt Baykeeper, Idaho Conservation League, Indian Riverkeeper, Inland Empire Waterkeeper, Kansas Riverkeeper, Klamath Forest Alliance, Klamath Riverkeeper, Lake George Waterkeeper, Lake Pend Oreille Waterkeeper, Lawyers for Clean Water, League of Conservation Voters, Long Island Soundkeeper, Louisiana Bayoukeeper, Louisiana Environmental Action Network, Lower Mississippi Riverkeeper, Lower Neuse Riverkeeper, Lower Susquehanna Riverkeeper, Madrone Audubon Society, Milwaukee Riverkeeper, Mothers of Marin Against The Spray, Narragansett Baykeeper, National Audubon Society, National Environmental Law Center, Natural Resources Defense Council, Neuse Riverkeeper Foundation, New York/New Jersey Baykeeper, Northcoast Environmental Center, Northern California River Watch, Northwest Environmental Defense Center, Northwest Center for Alternatives for Pesticides, Ogeechee Riverkeeper, Orange County Coastkeeper, Oregon Wild, Oregon Toxics Alliance, Ouachita Riverkeeper, Pacific Coast Federation of Fishermen's Associations, Pamlico-Tar Riverkeeper, Patuxent Riverkeeper, Peconic Baykeeper, Pesticide Action Network, Pesticide-Free Sacramento, Pesticide-Free Zone, Pesticide Watch, Planning and Conservation League, Potomac Riverkeeper, Public Employees for Environmental Responsibility, Puget Soundkeeper Alliance, Quad Cities Riverkeeper, Raritan Riverkeeper, Riverkeeper, Rogue Riverkeeper, Russian River Watershed Protection Committee, Russian Riverkeeper, Sacramento Audubon Society, Inc., Safe Alternatives for Our Forest Environment, Safety Without Added Toxins, Saint John's Organic Farm, Saint Louis Confluence Riverkeeper, San Diego Coastkeeper, San Francisco Baykeeper, San Francisco League of Conservation Voters, San Francisco Tomorrow, Santa Monica Baykeeper, Santee Riverkeeper, Satilla Riverkeeper, Save Our Wild Salmon Coalition, Savannah Riverkeeper, Shenandoah Riverkeeper, Sierra Club, Silver Valley Waterkeeper, Southern Environmental Law Center, Spokane Riverkeeper, St. Johns Riverkeeper, Stop the Spray East Bay, Tennessee Riverkeeper, The Bay Institute, Toxics Action Center, Tualatin Riverkeepers, Upper Neuse Riverkeeper, Upper Watauga Riverkeeper, Waterkeeper Alliance, West/Rhode Riverkeeper, Western Nebraska Resources Council, Xerces Society for Invertebrate Conservation, Yadkin Riverkeeper

Beyond Pesticides \* Center for Biological Diversity \* Clean Water Action \*  
 Defenders of Wildlife \* Earthjustice \* Environment America \*  
 Greenpeace \* League of Conservation Voters \*  
 Natural Resources Defense Council \* Pesticide Action Network \*  
 San Francisco Baykeeper \* Sierra Club \* Southern Environmental Law Center  
 \* Waterkeeper Alliance

**RE: Oppose S. 1500 ("Sensible Environmental Protection Act of 2015")**

August 4, 2015

Dear Senator,

On behalf of our millions of members and supporters nationwide, we urge you to oppose S. 1500 ("Sensible Environmental Protection Act of 2015"), which would eliminate Clean Water Act safeguards that protect our waterways and communities from excessive pesticide pollution. The Pesticide General Permit targeted in this legislation has been in place for nearly four years now and alarmist predictions by pesticide manufacturers and others about the impacts of this permit have failed to bear any fruit.<sup>1</sup>

Further, repealing the Pesticide General Permit -- as this damaging legislation seeks to do -- would allow pesticides to be discharged into water bodies without any meaningful oversight since the federal pesticide registration law (the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)) does not require tracking of such applications.

Now that the Pesticide General Permit is in place, the public is finally getting information that they couldn't obtain before -- about the types of pesticides being sprayed or discharged into local bodies of water. All across the country, pesticide applicators are complying with the Pesticide General Permit to protect water quality without issue.

**Nearly 150 human health, fishing, environmental, and other organizations have opposed efforts like S. 1500 that would undermine Clean Water Act permitting for direct pesticide applications to waterways.** We attach a list of these groups for your reference, as well as a one-page fact sheet with more information on the issue.

---

<sup>1</sup> See testimony of Ken Kopocis, Deputy Assist. Administrator, Office of Water, U.S. Env'tl. Prot. Agency, before the House Transportation and Infrastructure Committee (March 18, 2015): "We have not been made aware of any issues associated with the Pesticide General Permit. Nobody has brought an instance to our attention where somebody has not been able to apply a pesticide in a timely manner . . . [t]here have been no instances. We've been getting very good data. . . ." *available at* <http://transportation.house.gov/calendar/eventsingle.aspx?EventID=398705>

Finally, there have been mischaracterizations of the Pesticide General Permit that we must correct:

- **The Pesticide General Permit has no significant effect on farming practices.** The permit in no way affects land applications of pesticides for the purpose of controlling pests. **Irrigation return flows and agricultural stormwater runoff do not require permits**, even when they contain pesticides. **Existing agricultural exemptions in the Clean Water Act remain.**
- **The Pesticide General Permit allows for spraying to combat vector-borne diseases such as the West Nile virus.** According to the Environmental Protection Agency, the permit “provides that pesticide applications are covered automatically under the permit and may be performed immediately for any declared emergency pest situations.”<sup>2</sup>

The Pesticide General Permit – which has been in effect nearly four years without incident – simply lays out commonsense practices for applying pesticides directly to waters that currently fall under the jurisdiction of the Clean Water Act. Efforts to block this permit are highly controversial, as evidenced by the attached list of groups opposed.

**Please protect the health of your state’s citizens and all Americans by opposing S. 1500.**

Sincerely,

Earthjustice  
Natural Resources Defense Council  
League of Conservation Voters  
Sierra Club  
Defenders of Wildlife  
Environment America  
Beyond Pesticides  
Pesticide Action Network  
Southern Environmental Law Center  
Clean Water Action  
Greenpeace  
Waterkeeper Alliance  
Center for Biological Diversity  
San Francisco Baykeeper

---

<sup>2</sup> U.S. Env’tl. Prot. Agency, Pesticide General Permit Factsheet: Mosquito Control Activities, *available at* [http://www.epa.gov/npdes/pubs/pgp\\_factsheet\\_mosquitocontrol.pdf](http://www.epa.gov/npdes/pubs/pgp_factsheet_mosquitocontrol.pdf)

Senator BOXER. In closing, it shocks me that this committee, the Environment and Public Works Committee, on public works we work as a team, but on the environment, we go back into our corners. It is hard for me to see this committee, which was led by Republicans and Democrats who believed that protecting the environment is our charge, could lead the charge against a clean and healthy environment. It does not make any sense.

These bills will be reported today. We know we do not have the votes to stop you and they are not bipartisan in this committee, but I know there will be strong opposition on the floor of the Senate. I hope they never see the light of day.

Senator INHOFE. On that happy note, we have good news, and that is the vote has been moved to 2 o'clock so we will be able to stay here until the bitter end.

As a reminder, a quorum of 11 would be needed to report legislation. A quorum of 7 is needed for amendments. Let us try to hang around.

As usual, I will ask members to seek recognition on each amendment as they come up. We will hear the amendments, and there are quite a few as I understand.

We will start with S. 1324, the ARENA Act. I will recognize Senator CAPITO.

Senator CAPITO. Thank you, Mr. Chairman.

I would like to begin by saying I know there are passions on both sides of this issue. I think the passion I have on my side of this issue is just as heartfelt, sincere and driven by the people I represent every day. I thank you for holding the hearing.

This bill is bipartisan. It has 35 co-sponsors, including Leader McConnell and all my fellow Republicans on this committee.

The ARENA Act is strongly supported by the Partnership for A Better Energy Future, whose members include: the National Association of Manufacturers, the Chamber of Commerce, the American Farm Bureau Association, the National Mining Association and the Home Boaters Association.

The ARENA Act is not just supported by businesses. We also have strong support in the labor community. There are letters of support I would like to submit for the record from the United Mineworkers of America, the International Brotherhood of Boilermakers and the Utility Workers Union.

Senator INHOFE. Without objection.

[The referenced information was not received at time of print.]

Senator CAPITO. Thank you.

As we all know, on Monday, President Obama and his Environmental Protection Agency announced their final clean power grab. It proposes benchmarks that are more stringent and less attainable.

We used my State of West Virginia as an example. Our emissions rate under the proposed rule was to drop approximately 20 percent. The final rule requires our rate to drop by nearly 37 percent, a drop that is almost twice as severe.

In my view, this is why we need the ARENA Act now more than ever. I am going to explain four basic tenets of the ARENA Act, and we will move to consideration.

First, for new power plants, the bill prevents EPA from mandating use of unproven technology. The President talks about CCS and uses an example of CCS that is not economical or technologically feasible.

Before EPA can set a technologically based standard for new power plants, I think the standard must first be achieved for at least 1 year at six different power facilities throughout the country.

Under ARENA, the best current technologies set the standard for new coal plants, cleaner, more efficient and less emissions.

Second, for existing power plants, the bill delays implementation of the rule pending final judicial review. States should not have to begin implementing these costly and burdensome plans until an unappealable judicial decision has been reached. In June, we saw under the MATS ruling, the Supreme Court came back and said the EPA did not make careful consideration of the cost.

Third, the bill allows States to opt out to protect ratepayers and electricity reliability. States should not be required to implement a State or Federal plan that the State's Governor determines would negatively impact economic growth, the reliability of the electricity system or electricity ratepayers.

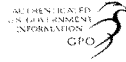
Fourth, the bill holds EPA accountable by requiring that the agency issue State-specific model plans demonstrating how each State will meet the required greenhouse gas emissions reductions under this rule. Before States can make major and costly changes to meet EPA's proposed targets, EPA should map out a suggested route for each State to reach those targets.

I urge support of this legislation and look forward to the markup.

Thank you, Mr. Chairman.

[The text of S. 1324 follows:]





114TH CONGRESS  
1ST SESSION

# S. 1324

To require the Administrator of the Environmental Protection Agency to fulfill certain requirements before regulating standards of performance for new, modified, and reconstructed fossil fuel-fired electric utility generating units, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

MAY 13, 2015

Mrs. CAPITO (for herself, Mr. McCONNELL, Mr. INHOFE, Mr. MANCHIN, Mr. CORNYN, Mr. THUNE, Mr. BARRASSO, Mr. BLUNT, Mr. ALEXANDER, Mr. BOOZMAN, Mr. CASSIDY, Mr. COATS, Mr. COTTON, Mr. CRAPO, Mr. CRUZ, Mr. DAINES, Mr. ENZI, Mrs. FISCHER, Mr. HOEVEN, Mr. ISAKSON, Mr. PAUL, Mr. PERDUE, Mr. RISH, Mr. ROUNDS, Mr. ROBERTS, Mr. TILLIS, and Mr. WICKER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

---

## A BILL

To require the Administrator of the Environmental Protection Agency to fulfill certain requirements before regulating standards of performance for new, modified, and reconstructed fossil fuel-fired electric utility generating units, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Affordable Reliable  
3 Electricity Now Act of 2015”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) ADMINISTRATOR.—The term “Adminis-  
7 trator” means the Administrator of the Environ-  
8 mental Protection Agency.

9 (2) DEMONSTRATION PROJECT.—The term  
10 “demonstration project” means a project to test or  
11 demonstrate the feasibility of a carbon capture and  
12 storage technology that has Federal Government  
13 funding or financial assistance.

14 (3) EXISTING SOURCE.—The term “existing  
15 source” has the meaning given the term in section  
16 111(a) of the Clean Air Act (42 U.S.C. 7411(a)).

17 (4) GREENHOUSE GAS.—The term “greenhouse  
18 gas” means any of the following:

- 19 (A) Carbon dioxide.
- 20 (B) Methane.
- 21 (C) Nitrous oxide.
- 22 (D) Sulfur hexafluoride.
- 23 (E) Hydrofluorocarbons.
- 24 (F) Perfluorocarbons.

1           (5) MODIFICATION.—The term “modification”  
 2       has the meaning given the term in section 111(a) of  
 3       the Clean Air Act (42 U.S.C. 7411(a)).

4           (6) MODIFIED SOURCE.—The term “modified  
 5       source” means any stationary source, the modifica-  
 6       tion of which is commenced after the date of enact-  
 7       ment of this Act.

8           (7) NEW SOURCE.—The term “new source” has  
 9       the meaning given the term in section 111(a) of the  
 10      Clean Air Act (42 U.S.C. 7411(a)).

11          (8) RECONSTRUCTED SOURCE.—The term “re-  
 12      constructed source” means any stationary source,  
 13      the reconstruction (as defined in section 60.15 of  
 14      title 40, Code of Federal Regulations (as in effect on  
 15      the date of enactment of this Act)) of which is com-  
 16      menced after the date of enactment of this Act.

17 **SEC. 3. STANDARDS OF PERFORMANCE FOR NEW, MODI-**  
 18 **FIED, AND RECONSTRUCTED FOSSIL FUEL-**  
 19 **FIRED ELECTRIC UTILITY GENERATING**  
 20 **UNITS.**

21          (a) LIMITATION.—The Administrator may not issue,  
 22      implement, or enforce any proposed or final rule, in whole  
 23      or in part, under section 111 of the Clean Air Act (42  
 24      U.S.C. 7411) that establishes a standard of performance  
 25      for emissions of any greenhouse gas from any new source,

1 modified source, or reconstructed source that is a fossil  
2 fuel-fired electric utility generating unit, unless that rule  
3 meets the requirements of subsections (b) and (c).

4 (b) REQUIREMENTS.—In issuing any rule pursuant  
5 to section 111 of the Clean Air Act (42 U.S.C. 7411) es-  
6 tablishing standards of performance for emissions of any  
7 greenhouse gas from new sources, modified sources, or re-  
8 constructed sources that are fossil fuel-fired electric utility  
9 generating units, the Administrator, for purposes of estab-  
10 lishing those standards—

11 (1) shall separate sources fueled with coal and  
12 natural gas into separate categories; and

13 (2) shall not establish a standard based on the  
14 best system of emission reduction for new sources  
15 within a fossil-fuel category unless—

16 (A) the standard has been achieved, on av-  
17 erage, for at least 1 continuous 12-month pe-  
18 riod (excluding planned outages) by each of at  
19 least 6 units within that category—

20 (i) each of which is located at a dif-  
21 ferent electric generating station in the  
22 United States;

23 (ii) that, collectively, are representa-  
24 tive of the operating characteristics of elec-

1           tric generation at different locations in the  
2           United States; and

3           (iii) each of which is operated for the  
4           entire 12-month period on a full commer-  
5           cial basis; and

6           (B) no results obtained from any dem-  
7           onstration project are used in setting the stand-  
8           ard.

9           (c) COAL WITH CERTAIN HEAT CONTENT.—

10           (1) SEPARATE SUBCATEGORY.—In carrying out  
11           subsection (b)(1), the Administrator shall establish a  
12           separate subcategory for new sources, modified  
13           sources, or reconstructed sources that are fossil fuel-  
14           fired electric utility generating units using coal with  
15           an average heat content of 8,300 or less British  
16           Thermal Units per pound.

17           (2) STANDARD.—Notwithstanding subsection  
18           (b)(2), in issuing any rule pursuant to section 111  
19           of the Clean Air Act (42 U.S.C. 7411) establishing  
20           standards of performance for emissions of any  
21           greenhouse gas from new, modified, or reconstructed  
22           sources in the subcategory referred to in paragraph  
23           (1), the Administrator shall not establish a standard  
24           based on the best system of emission reduction un-  
25           less—

(A) that standard has been achieved, on average, for at least 1 continuous 12-month period (excluding planned outages) by each of at least 3 units within that subcategory—

(i) each of which is located at a different electric generating station in the United States;

(ii) which, collectively, are representative of the operating characteristics of electric generation at different locations in the United States; and

(iii) each of which is operated for the entire 12-month period on a full commercial basis; and

(B) no results obtained from any demonstration project are used in establishing that standard.

**SEC. 4. STANDARDS OF PERFORMANCE FOR EXISTING FOS-**  
**SIL FUEL-FIRED ELECTRIC UTILITY GENER-**  
**ATING UNITS, COMPLIANCE EXTENSION, AND**  
**RATEPAYER PROTECTION.**

(a) LIMITATION.—

(1) IN GENERAL.—The Administrator may not issue, implement, or enforce any proposed or final

1 rule described in paragraph (2), unless that rule  
2 meets the requirements of subsection (b).

3 (2) DESCRIPTION OF RULE.—A rule referred to  
4 in paragraph (1) is any proposed or final rule to ad-  
5 dress carbon dioxide emissions from existing sources  
6 that are fossil fuel-fired electric utility generating  
7 units under section 111 of the Clean Air Act (42  
8 U.S.C. 7411), including any final rule that suc-  
9 ceeds—

10 (A) the proposed rule entitled “Carbon  
11 Pollution Emission Guidelines for Existing Sta-  
12 tionary Sources: Electric Utility Generating  
13 Units” (79 Fed. Reg. 34830 (June 18, 2014));  
14 or

15 (B) the supplemental proposed rule enti-  
16 tled “Carbon Pollution Emission Guidelines for  
17 Existing Stationary Sources: EGUs in Indian  
18 Country and U.S. Territories; Multi-Jurisdic-  
19 tional Partnerships” (79 Fed. Reg. 65482 (No-  
20 vember 4, 2014)).

21 (b) REQUIREMENTS.—

22 (1) IN GENERAL.—Before issuing, imple-  
23 menting, or enforcing any rule described in sub-  
24 section (a)(2), the Administrator shall—

1 (A) submit to Congress a report describing  
2 the quantity of greenhouse gas emissions that  
3 the rule is projected to reduce, as compared to  
4 overall domestic and global greenhouse gas  
5 emissions;

6 (B) conduct modeling regarding the means  
7 by which the source rule in effect on the date  
8 of development of the proposed rule, if applica-  
9 ble, impacts each climate indicator used by the  
10 Administrator in developing the proposed rule;  
11 and

12 (C) issue State-specific model plans to  
13 demonstrate with specificity the areas in, and  
14 means by which, each State will be required to  
15 reduce the greenhouse gas emissions of the  
16 State under the rule.

17 (2) EXCLUSION.—A court shall not consider  
18 paragraph (1) in determining whether the Adminis-  
19 trator is authorized to issue any rule described in  
20 subsection (a)(2).

21 (c) RATEPAYER PROTECTIONS.—No State shall be  
22 required to adopt or submit a State plan, and no State  
23 or entity within a State shall become subject to a Federal  
24 plan, pursuant to any final rule described in subsection  
25 (a), if the Governor of the State makes a determination,



1 and notifies the Administrator, that implementation of the  
2 State or Federal plan would have a negative effect on—

3 (1) economic growth, competitiveness, and jobs  
4 in the State;

5 (2) the reliability of the electricity system of the  
6 State; or

7 (3) the electricity ratepayers of the State, in-  
8 cluding low-income ratepayers, by causing electricity  
9 rate increases.

10 (d) EXTENSION OF COMPLIANCE DATES.—

11 (1) DEFINITION OF COMPLIANCE DATE.—

12 (A) IN GENERAL.—In this subsection, the  
13 term “compliance date” means, with respect to  
14 any requirement of a final rule described in  
15 subsection (a)(2), the date by which any State,  
16 local, or tribal government or other person is  
17 first required to comply with the requirement.

18 (B) INCLUSION.—The term “compliance  
19 date” includes the date by which State plans  
20 are required to be submitted to the Adminis-  
21 trator under any final rule described in sub-  
22 section (a)(2).

23 (2) EXTENSIONS.—Each compliance date of  
24 any final rule described in subsection (a)(2) is

1 deemed to be extended by the time period equal to  
2 the time period described in paragraph (3).

3 (3) PERIOD DESCRIBED.—The time period de-  
4 scribed in this paragraph is the period of days  
5 that—

6 (A) begins on the date that is 60 days  
7 after the day on which notice of promulgation  
8 of a final rule described in subsection (a)(2) ap-  
9 pears in the Federal Register; and

10 (B) ends on the date on which judgement  
11 becomes final, and no longer subject to further  
12 appeal or review, in all actions (including any  
13 action filed pursuant to section 307 of the  
14 Clean Air Act (42 U.S.C. 7607)) that—

15 (i) are filed during the 60 days de-  
16 scribed in paragraph (A); and

17 (ii) seek review of any aspect of the  
18 rule.

19 **SEC. 5. LIMITATION ON EFFECT OF NONCOMPLIANCE.**

20 Notwithstanding any other provision of law, non-  
21 compliance by a State with any proposed, modified, or  
22 final rule described in section 3 or 4 applicable to any new,  
23 modified, reconstructed, or existing source shall not con-  
24 stitute a reason for imposing any highway sanction under

1 section 179(b)(1) of the Clean Air Act (42 U.S.C.  
2 7509(b)(1)).

3 **SEC. 6. REPEAL OF EARLIER RULES AND GUIDELINES.**

4 The following rules shall be of no force or effect, and  
5 shall be treated as though the rules had never been issued:

6 (1) The proposed rule—

7 (A) entitled “Standards of Performance  
8 for Greenhouse Gas Emissions for New Sta-  
9 tionary Sources: Electric Utility Generating  
10 Units” (77 Fed. Reg. 22392 (April 13, 2012));  
11 and

12 (B) withdrawn pursuant to the notice enti-  
13 tled “Withdrawal of Proposed Standards of  
14 Performance for Greenhouse Gas Emissions for  
15 New Stationary Sources: Electric Utility Gener-  
16 ating Units” (79 Fed. Reg. 1352 (January 8,  
17 2014)).

18 (2) The proposed rule entitled “Standards of  
19 Performance for Greenhouse Gas Emissions from  
20 New Stationary Sources: Electric Utility Generating  
21 Units” (79 Fed. Reg. 1430 (January 8, 2014)).

22 (3) The proposed rule entitled “Carbon Pollu-  
23 tion Standards for Modified and Reconstructed Sta-  
24 tionary Sources: Electric Utility Generating Units”  
25 (79 Fed. Reg. 34960 (June 18, 2014)).

(4) With respect to the proposed rules described in paragraphs (1), (2), and (3), any successor or substantially similar proposed or final rule that—

(A) is issued prior to the date of enactment of this Act;

(B) is applicable to any new, modified, or reconstructed source that is a fossil fuel-fired electric utility generating unit; and

(C) does not meet the requirements under subsections (b) and (c) of section 3.

(5) Any proposed or final rule or guideline under section 111 of the Clean Air Act (42 U.S.C. 7411) that—

(A) is issued prior to the date of enactment of this Act; and

(B) establishes any standard of performance for emissions of any greenhouse gas from any modified source or reconstructed source that is a fossil fuel-fired electric utility generating unit or apply to the emissions of any greenhouse gas from an existing source that is a fossil fuel-fired electric utility generating unit.

**SEC. 7. RESTATEMENT OF EXISTING LAW.**

Section 111(d) of the Clean Air Act (42 U.S.C. 7411(d)) is amended—

1 (1) by striking “(d)(1) The Administrator” and  
 2 inserting the following:

3 “(d) STANDARDS OF PERFORMANCE FOR EXISTING  
 4 SOURCES; REMAINING USEFUL LIFE OF SOURCE.—

5 “(1) IN GENERAL.—The Administrator”;

6 (2) in paragraph (1)(A)(i), by striking “section  
 7 108(a) or” and all that follows through “but” and  
 8 insert “section 108(a) or emitted from a source cat-  
 9 egory that is regulated under section 112, but”;

10 (3) by striking “(2) The Administrator” and in-  
 11 serting the following:

12 “(2) AUTHORITY OF THE ADMINISTRATOR.—  
 13 The Administrator”;

14 (4) in the undesignated matter at the end, by  
 15 striking “In promulgating a standard” and inserting  
 16 the following:

17 “(3) CONSIDERATIONS.—In promulgating a  
 18 standard”; and

19 (5) by adding at the end the following:

20 “(4) PROHIBITION.—The Administrator shall  
 21 not regulate as an existing source under this sub-  
 22 section any source category regulated under section  
 23 112.”.

○

Senator INHOFE. Thank you, Senator Capito.

Does any Senator seek recognition for amendments to the bill?

Senator Markey.

Senator MARKEY. Thank you very much, Mr. Chairman.

Without question, we are about to begin a historic debate. The President has laid out what is necessary in order to protect our planet, in order to protect the health of those who live on our planet, and those who live in the United States of America.

It is a plan which tries to put in place the preventative measures that are going to be necessary because we know that climate change impacts our economy, our national security and the public health of our citizens, parents, pediatricians, Presidents and Popes, of the risks that we face from climate change. They agree that now is the time for action.

The negative health impacts of climate change are numerous from heat waves.

Senator INHOFE. Senator Markey, which amendment are you addressing now?

Senator MARKEY. Right now, I am addressing Amendment No. 4.

Senator INHOFE. Amendment No. 4, Markey No. 4.

Senator MARKEY. The negative health impacts of climate change are numerous heat waves and extreme storms to expanding ranges of dangerous diseases and longer allergy seasons. The risks to our health from pumping carbon pollution into the air are well known.

This bill would eliminate EPA's ability to address carbon pollution through the Clean Power Plan or essentially any action in the future. It would eliminate EPA's ability to protect public health from reducing carbon pollution from power plants and that is unacceptable.

That is why eight leading medical and health organizations sent a letter yesterday opposing this bill because it would put lives at risk by delaying and blocking critical clean air protections.

The groups who sent the letter include the American Lung Association and the Asthma and Allergy Foundation. All of these groups are concerned about the health of those who live in our country.

In June at the legislative hearing we had on this bill, we heard testimony from Dr. Mary Rice. She testified as a doctor, as a Harvard medical researcher who specializes in the health impacts and as the mother of a child with asthma.

From both a personal and professional perspective, she warned of the health risks of climate change. We should heed the Hippocratic oath of doctors and do no more harm to our climate and to the health of today's children and future generations.

My amendment is very simple. It would prevent this Polluter Protection Plan from coming into effect until a National Carbon Pollution Program is in place that achieves the same health benefits as the Clean Power Plan.

This Polluter Protection Plan will not apply until we have something that avoids, here are the numbers, 3,600 premature deaths per year, 1,700 heart attacks per year, 90,000 asthma attacks per year, 300,000 missed work and school days per year.

To put a fine point on it, if you do not like the Clean Power Plan, then what is your plan to cut carbon pollution and address the negative health impacts of climate change? What is your plan to avoid

the asthma, the deaths and the missed work days? What is your plan? Put your plan out here so that we can hear what you are going to do.

The medical community has identified the relationship between the pollution that goes up into the air and the negative consequences especially for children in our society. What is your plan? When is it going to be out here? Who is going to make that plan on your side? When do you begin to be the leaders in protecting the health of the children in our country?

That is what our amendment calls for in this first vote. This plan stays in place until you have a plan that accomplishes the very same goals to protect the public health in our country. You cannot deny the scientific correlation between this pollution and the impacts on the health in our country. What is your plan?

Mr. Chairman, I ask for an aye vote on this first amendment.

[The text of Markey Amendment No. 4 follows:]

S.1324, Markey #4

Summary: S. 1324 will not apply until the U.S. has in effect a carbon pollution program that achieves certain public health improvements.

15 AUG -4 AM 9:33



WEI15927

S.L.C.

S. 1324, Markey #4

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To stipulate a condition for the effect of the bill.

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

**S. 1324**

To require the Administrator of the Environmental Protection Agency to fulfill certain requirements before regulating standards of performance for new, modified, and reconstructed fossil fuel-fired electric utility generating units, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. Markey

Viz:

1 At the end, add the following:

2 **SEC. 8. LIMITATION ON EFFECT OF ACT.**

3 Notwithstanding any other provision of law, this Act  
4 and the amendments made by this Act shall not take effect  
5 until the date on which the United States has in effect  
6 a program to reduce carbon pollution from power plants  
7 that, as determined by the Administrator, in consultation  
8 with the Secretary of Health and Human Services—

9 (1) reduces the healthcare costs of American  
10 families; and

11 (2) avoids in the United States at least—

WE115927

S.L.C.

2

- 1 (A) 3,600 premature deaths;
- 2 (B) 1,700 heart attacks;
- 3 (C) 90,000 asthma attacks; and
- 4 (D) 300,000 missed workdays or school-
- 5 days, as applicable.

Senator INHOFE. I would only observe, Senator Markey, that Dr. Janet McCabe has testified several times before this committee about the nature of the double counting, and there have not been reductions. However, they are due to other pollutants as opposed to this.

Senator Capito, did you want to respond?

Senator CAPITO. I think certainly the health of our children is upmost in all of our minds. To think we would not want to have policies that move forward to keep our children healthy is a smoke-screen of some sort.

I would say when I look at what the employment numbers will be in our State, the thousands of jobs we have already lost that are plunging people into deep poverty, poverty is a contributor to ill health all across the country for our children.

I think there are costs and benefits to everything. I think in this case it is more cost than benefit in terms of keeping people working, keeping families together, keeping people insured that have insurance through their employer, all those things that help keep children healthier.

I think there are lots of things we can do to eliminate asthma and other lung diseases around the country. We have looked at eliminating other particulates. I think that has done some good work.

I would oppose the gentleman's amendment. I think it is more cost and less effect.

Senator INHOFE. Others who want to be heard?

Senator Boxer.

Senator BOXER. Thank you.

If my friend is sincere about wanting to reduce health problems, she should support Senator Markey. He says your bill is fine, but not now because it does not address the facts.

Maybe my friend, and I know she cares about kids as much as I do, needs to follow the leadership of people who spend their life every day protecting kids. They wrote to us. They do not like your bill, and they urge us to oppose it.

They are the Allergy and Asthma Network, the American Lung Association, the American Public Health Association, the American Thoracic Society which deals with heart issues, the Asthma and Allergy Foundation of America, Health Care Without Harm, the National Association of County and City Health Officials, the National Environmental Health Association, the Trust for America's Health. I could go on for pages and pages.

The fact is the experts are telling us that your bill poses terrible health impacts for our children and our families. You can say poverty is worse. You know what, poverty is terrible. That is why a lot of us who worked on moving to clean energy have worked to make sure that coal miners get the help they need in transitioning.

If you look at my State, the biggest job growth is in clean energy. Guess what, those are great paying jobs that cannot be outsourced. They are safe for the workers. They do not have to breathe in coal dust and all the rest, so get with it.

I think Senator Markey had a brilliant speech on the floor, and Senators Whitehouse and Schatz. One of the things they said is if we had this attitude about moving forward, moving to new and in-

novative technologies, we would not have the cell phone, we would not have the computer, and we would not even have the automobile. We would still be driving around with a horse and buggy.

The time for clean energy is now. The health impacts of some of the old energy are serious. I think your bill drags us backward. I hope that we will support Senator Markey's amendment.

Senator INHOFE. Others who want to be heard?

Senator WHITEHOUSE. Mr. President.

Senator INHOFE. Senator Whitehouse.

Senator WHITEHOUSE. Thank you, Mr. Chairman.

Senator INHOFE. President of what?

Senator WHITEHOUSE. You are the Presiding Officer or the Chairman of the committee right now, Mr. Chairman.

I would ask that we not consider the health concerns that folks on my side of the aisle have about this measure which would delay the implementation of the plan and therefore create worse health conditions as a smokescreen. I do not think that is fair, and I do not think it is accurate.

Rhode Island has been a downwind State from the coal polluters for a long, long time. Just last week we had another bad air day. It was a bad air day in which infants, seniors and people with breathing conditions were urged to stay indoors, and people were urged to avoid vigorous outdoor activity.

That is what happened in my State. There is nothing we can do about it. That happened in my State because the pollution from these coal power plants goes up into the air, and it bakes in the heat, so the carbon does make a difference because it does warm the planet. That is undisputable, I think. In that, it becomes ozone and then ozone creates asthma.

Our health officials are very clear in Rhode Island that this ozone problem is actually putting kids in the hospital. That is no smokescreen. That is a very legitimate concern that I have about this.

My experience, to address another point, is that this is going to be economically harmful. In my experience, because Rhode Island is a participant in the Regional Greenhouse Gas Initiative, is that it actually has been good for our economy.

Objective reports have come out and said it has strengthened the New England economy to participate in the Regional Greenhouse Gas Initiative. We have the numbers for job growth, economic growth and utility costs are down.

From my experience, the threat this is going to be an economic harm that is going to cause poverty runs exactly contrary to the experience we have had in the Northeast of implementing a cap and trade program, of bringing those revenues back into the State and of allowing them to lower utility costs by investing in efficiency which is hard to otherwise invest in.

I will make one last point. On the floor yesterday, I used the chart of the electric power mix of the State of Kentucky. Do you know what it looks like? It is virtually a 100 percent wall of coal.

If you look at the solar and the wind proportion of it, it is so small across the very tippy top of the line, a tiny little green line, you actually have to use a magnifying glass to see it. They say the sun shines bright on my old Kentucky home; where is the solar?

Iowa, which has two Republican Senators, gets 30 percent of its power from wind. Kentucky has wind. The issue here is not that it is difficult to do; the issue here is that some States have not even tried.

I cannot tell you how hurtful it is when I have Rhode Island kids going to the emergency room because of asthma, when I have Rhode Island coastlines seeing 10 inches of sea level rise, when I have Rhode Island's fishing industry being disrupted by the warming of Narragansett Bay 3 to 4 degrees, completely disrupting the winter flounder fishing which was important to our fishermen, from States that have not even tried, when all the evidence about what happens when you try is that it is good for your economy, I find these arguments hard to take.

We feel the health effects. We are the downwind States. We are the coastal States. It is really happening to us. I urge a no vote. Please, nobody even tried.

I respect the proponent of this legislation. I respect her view that we are sincere in our views, but there was zero effort to try to accommodate any of our views. This is a pure partisan effort in this committee to simply roll us.

I know we are going to get rolled, but do not pretend that any effort was made to substantively try to address the real health concerns we see in Rhode Island, the real ocean concerns that we see in Rhode Island and the real climate concerns that we see in Rhode Island.

Senator INHOFE. Thank you, Senator Whitehouse.

The Chair would observe that the total percentage of the mix when you combine air, wind and solar, it is only 5 percent after all the subsidies that are out there and the public input.

Senator CARDIN.

Senator CARDIN. Mr. Chairman, let me take this opportunity on the Markey amendment for my support, my opposition to the underlying bill and to make my comments on the Markey amendment.

I agree completely with Senator Markey in regard to the Clean Power Plan as being critically important to the health of our constituents. The dollar values of the health savings alone should cause all of us to understand how important clean air is to the health of our children and our families.

The number of additional health care visits and the number of work days lost by parents have all been documented, and there is no question about the health risks involved if we do not move forward with the power plant rules.

I also want to add to Senator Whitehouse's statement. Maryland has gone through this. We have set up a plan to reduce our greenhouse gas emissions by 25 percent by 2020 compared to our 2006 levels. As Senator Whitehouse said, you can go by example of States that have moved forward on these plans. We are about 40 percent to that level, by the way.

At the same time that we have moved forward on reducing greenhouse gas emissions, we have shown a very positive effect on our economy and documented savings to the consumers. Our utility costs have actually been savings, not additional costs.

The examples in the Northeast of the States that have taken action have seen positive to our economies, produced cleaner air and have also added to an important national security issue. We have heard from our military people the effect climate change is having on our national security. This is a win-win-win situation if you just allow us to go forward.

I would hope Congress would want to be a positive partner with the Administration in helping to achieve the goals of reducing our greenhouse gas emissions and much more reliance on alternative renewable energy sources. Instead, this bill moves us in the wrong direction.

For that reason, I strongly support Senator Markey's efforts and will oppose the bill.

I will yield to my colleague.

Senator MARKEY. Thank you.

The Senator from West Virginia said that my amendment is a smokescreen. It is a smokescreen. It is intended to screen off the lungs of the children in America from the smoke coming out of these polluting utilities.

On the other hand, the bill that we have here today is a screen to protect polluters' profits so that they can continue to send their smoke up into the sky. This is really what the debate is all about, who is really trying to protect with a screen of lungs of the children.

Once again, I ask for an aye vote. I thank the Senator for yielding.

Senator INHOFE. Senator Gillibrand, did you want to be heard before we go to a vote on the Markey amendment?

Senator GILLIBRAND. No, I would like to be heard after the vote.

Senator INHOFE. All right. Is there a motion on the amendment?

Senator MARKEY. Motion.

Senator BOXER. Second.

Senator INHOFE. There is a motion and a second.

Senator MARKEY. I request a roll call.

Senator INHOFE. The Clerk will call the roll.

The CLERK. Mr. Barrasso.

Senator BARRASSO. No.

The CLERK. Mr. Booker.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Boozman.

Senator BOOZMAN. No.

The CLERK. Mrs. Boxer.

Senator BOXER. Aye.

The CLERK. Mrs. Capito.

Senator CAPITO. No.

The CLERK. Mr. Cardin.

Senator CARDIN. Aye.

The CLERK. Mr. Carper.

Senator CARPER. Aye.

The CLERK. Mr. Crapo.

Senator INHOFE. No by proxy.

The CLERK. Mrs. Fischer.

Senator FISCHER. No.

The CLERK. Mrs. Gillibrand.

Senator GILLIBRAND. Aye.

The CLERK. Mr. Markey.

Senator MARKEY. Aye.

The CLERK. Mr. Merkley.

Senator MERKLEY. Aye.

The CLERK. Mr. Rounds.

Senator ROUNDS. No.

The CLERK. Mr. Sanders.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Sessions.

Senator INHOFE. No by proxy.

The CLERK. Mr. Sullivan.

Senator INHOFE. No by proxy.

The CLERK. Mr. Vitter.

Senator VITTER. No.

The CLERK. Mr. Whitehouse.

Senator WHITEHOUSE. Aye.

The CLERK. Mr. Wicker.

Senator WICKER. No.

The CLERK. Mr. Chairman.

Senator INHOFE. No.

The CLERK. Mr. Chairman, the yeas are 9 and the nays are 11.

Senator INHOFE. The amendment is not agreed to.

Are there other amendments that want to be heard?

Senator Gillibrand.

Senator GILLIBRAND. I would like to call up my amendment, Gillibrand-Markey No. 1 to S. 1324.

Obviously climate change is real, it is here, and humans have a very significant role to play in it. Despite the overwhelming science showing that climate change poses a real threat to our communities, the majority in the Senate continues to oppose doing anything meaningful to stop climate change or to reduce our carbon emissions.

The truth is that New York does not have that luxury. Two and a half years ago, Superstorm Sandy devastated large parts of the East Coast including my home State of New York. Superstorm Sandy resulted in the deaths of 117 people in the United States and caused more than \$60 billion in damages.

That storm came just a year after two other devastating storms, Hurricane Irene and Tropical Storm Lee, which also ravaged the Northeast. In just over 2 years, we had three major tropical storms in New York, three of these storms in 2 years. Think about that. The storm of the century is becoming the storm of the year.

New York has over 1,800 miles of shoreline, and the coastal water has risen at least one foot since 1900. Our shoreline is home to more than half of all New Yorkers. If we do not act soon, we could see additional sea level rise of 4 feet by the year 2100.

We have the responsibility as a committee to act. We have the responsibility to act against the increased frequency and heightened intensity of flood damage and storm surge damage not only to our communities and our infrastructure but to the critical ecosystems that buffer against floods and protect our drinking water.

We have to act against increased erosion of beaches and shoreline, against inundation of low lying areas by rising sea levels, and

we need to protect ourselves from saltwater intrusion into freshwater aquifers that serve our communities as our drinking water.

My amendment looks to protect the 39 percent of Americans who live in coastal shoreline counties by ensuring this legislation will not be implemented if the EPA Administrator, the Commerce Secretary and the Interior Secretary determine it will contribute to an increase in sea level rise and coastal erosion.

We have a fundamental responsibility in this committee to protect our communities from the harm caused by human made climate change. This amendment would ensure that nothing we do going forward will accelerate the rise of sea level on America's coasts.

I urge my colleagues to support this amendment. I request a roll call.

[The text of Gillibrand-Markey Amendment No. 1 follows:]



S. 1324 – Gillibrand Markey #1

This amendment would prevent this Act from taking effect if its implementation contributes to an increase in sea level rise and coastal erosion.

15 AUG -1 AM 9:25

EAS15A50

Gillibrand Markey #1

S.L.C.

*Kirsten Gillibrand*

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To provide that the Act shall not take effect if the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Commerce and the Secretary of the Interior, determines that the Act will contribute to an increase in sea level rise and coastal erosion.

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

**S. 1324**

To require the Administrator of the Environmental Protection Agency to fulfill certain requirements before regulating standards of performance for new, modified, and reconstructed fossil fuel-fired electric utility generating units, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mrs. GILLIBRAND and Markey

Viz:

1 At the end of the bill, add the following:

2 **SEC. 8. LIMITATION.**

3 This Act and the amendments made by this Act shall  
4 not take effect if the Administrator, in consultation with  
5 the Secretary of Commerce and the Secretary of the Interior, determines that implementation of this Act or the  
6 amendments made by this Act will contribute to an in-  
7 crease in sea level rise and coastal erosion.  
8

Senator INHOFE. Thank you, Senator Gillibrand.

I would just observe that talking about climate change, we have had a lot of committees to do that and that is not what we are doing today. We have under consideration several pieces of legislation and GSAs. Now we are on the Capito amendment.

Do others want to be heard on the Gillibrand amendment?

Senator Carper.

Senator CARPER. Thanks so much.

Some of you come to our States during the course of the year, and some of you come especially during the summer. We are blessed with I think more five star beaches than any State in America. One of them is called Rehoboth, which literally translates in the Bible to mean room for all. We think that would include everyone in this room and beyond.

When you drive north from Rehoboth maybe 20 miles or so, you come to a place called Prime Hook Beach. Prime Hook Beach is right next door to the Prime Hook Natural Wildlife Refuge, a beautiful, large piece of land with all kinds of national treasures, fish and wildlife.

It used to be you could get to Prime Hook Beach by driving north from Rehoboth up the coast. You could also come from the inland part of our State. There is a road called Pine Hook Beach Road. You can get off State Road 1 in the central part of the State and head east toward the Delaware Bay and drive right along Prime Hook National Wildlife Refuge, and you get to the water, end up right at the water's edge. That is the Delaware Bay.

It used to be you did not get right to the water. You would actually get to a parking lot. People would park their cars, trucks or boats and then fish, go clamming, whatever they wanted to do for recreation. At the end of the day, they would go back to the parking lot, get their vehicles and boats, head out and go home.

Today, when you get to where the parking lot used to be, there is not a parking lot. It is just water. The reason it is just water is, the parking lot is down there but it is under the water, but it is water. It is the Delaware Bay.

Someone showed me a photograph a couple years ago standing on Prime Hook at the parking lot, looking out in the Delaware Bay. As you looked east toward New Jersey at about 1 or 2 o'clock was a concrete bunker sticking up out of the water. This was in 1947, the year I was born.

Today, if you look out at the water, the bunker is not there anymore. It used to be about 500 feet west of the dune line inland. Today, it is under water. You cannot see it. You just cannot see it at all.

Senator Boxer and I like to trade music lyrics. One I have used to describe this sensation is looking out where the bunker used to be, 500 feet inland to the west, and looking out there knowing it is somewhere under water reminds me of the old Steven Sills song, "Something is happening here, just what it is ain't exactly clear."

For us in Delaware, we are the lowest lying State in America, think about that. We are the lowest lying State in America. Our economy is strong in a couple different ways. One of the three or four pillars our economy stands on is tourism. A big reason why

people come to Delaware is because we have these five star beaches.

The way things are going, if we are not careful, we will have those five star beaches but they will be under water too, just like our concrete bunker and just like that parking lot.

I would say for us in the State of Delaware, this is real. It is a matter of great concern for us. I hope as we consider this issue and this vote on the Gillibrand amendment, we will keep that in mind.

Thank you.

Senator INHOFE. Is there a motion on the Gillibrand amendment?

Senator MARKEY. Mr. Chairman.

Senator INHOFE. Senator Markey.

Senator MARKEY. Thank you.

I rise in support of the Gillibrand amendment just to say this that the rise in sea level is undeniable. It is measurable. It is not something that is complicated. We know it is going on.

We each know how grateful we feel that Superstorm Sandy did not hit our State because if it had, it would have caused catastrophic damage in our States as it did to New Jersey.

The sum and case on this issue is the suit that was brought by the State of Massachusetts versus the EPA. It is called Massachusetts v. EPA. That is the Supreme Court decision in 2007 that set us on this course.

At question in that Supreme Court decision was the question of whether or not there was an increasing and dangerous increase in the erosion of the shoreline of Massachusetts. The Supreme Court ruled that there was and that the EPA had a responsibility to do something to reduce the likelihood that there would be an increase in the danger. That is why we are here.

We are here because we know it is happening. We know it is happening in Massachusetts, but we know it is happening in every coastal State in our country.

The Gillibrand amendment just says again, to the Republicans, what is your plan to keep the sea from rising? What is your plan to ensure that the sea does not continue to warm dangerously? What is your plan? We do not see that plan unless you deny the seas are rising, unless you deny the ocean is warming because that is scientifically inaccurate.

We need to hear your science or your plan to deal with the science we are presenting. I urge an aye vote.

Senator WICKER. Mr. Chairman.

Senator INHOFE. Senator Wicker.

Senator WICKER. I will be happy to defer to Senator Merkley.

Senator INHOFE. We are going back and forth.

Senator WICKER. Clearly we are going to have a long debate about this in the committee and on the floor.

Senator INHOFE. Let me interrupt you. We have had this debate before. We had Dr. Judith Curry from Georgia who testified.

Senator WICKER. I was going to speak about Dr. Curry.

Let me say this. Senator Vitter was here and has left, but I recall a statement he made some 2 years ago at a hearing of this committee when Senator Boxer was Chairman. The title of the hearing was Climate Change, It Is Happening Now.

As Ranking Member, Senator Vitter pointed out indeed climate change is happening now and has always been happening. I do not think any member of this committee on either side of the dais would argue that the climate is not changing.

The point that Senator Vitter made and that I would make is that the climate has always changed. There is a reason why the island of Greenland is named Greenland because at one point, it was green, and people had farms there. Humankind settled there and grew a crop. The climate changed, and we cannot farm in Greenland anymore.

I would simply say there is a great body of science that will tell us, if we will listen, that climate has always been changing and will always change because there are influences beyond the control of humans. We might as well accept that. There are some things Congress cannot do.

The fact is sea level has been rising for the past several thousand years. That is a fact, and it can hardly be disputed.

As the Chairman mentioned, Dr. Judith Curry came before the EPW Committee 2 years ago for a hearing on the President's Climate Action Plan. She discussed sea level rise, testifying that data does not support the IPCC's conclusion that man has substantially contributed to the global mean sea level rise since 1970.

I do not think Dr. Curry would dispute the fact that there are parts of the parking lot in Senator Carper's State that cannot be seen anymore, but she came before this committee as a scientist and a scholarly witness saying there are other reasons that cannot be controlled by Congress or by humankind.

Dr. Curry also pointed out that sea level rise was greater between 1904 and 1953 than between 1954 and 2003. As we have gotten more industrialized, as we have emitted more carbon dioxide into the atmosphere, actually sea level rise has slowed, since 1954 according to Dr. Curry.

Let me say a couple more things. We have been having storms and hurricanes in the Atlantic Ocean and the Gulf of Mexico since time immemorial. I think there are a lot of scientists who believe that mankind is contributing to climate change who would seriously come before this committee and say it is wrong to say we can blame Superstorm Sandy on that. The jury is far from out on that, even among people who believe completely and wholeheartedly that carbon dioxide is causing this.

I have one other final point to my friend from Massachusetts. He and I have been at this business together for a long time. This legislation has nothing to do with smoke. If we are honest, the President's regulation, the EPA's regulation we are talking about has nothing to do with soot or particulate emissions or smoke.

If Senators want to sit down with me and devise a plan to do an even better job than we have already done of cutting down on soot, smog and smoke, then I am happy to join this. This regulation is about CO<sub>2</sub>, not about the smudgy kind of carbon that messes up your clothes and you see coming out of automobiles.

This is about a colorless, tasteless, necessary part of the atmosphere called carbon dioxide. We can have a debate, my friends across the aisle disagree with me vehemently about this, about what CO<sub>2</sub>, carbon dioxide, is doing to the atmosphere, but please

do not say this is about smoke, soot or smog or something that causes the air to look hazy as they have in Beijing and other places.

We have done such a good job in the United States of cutting back on that and pretty much conquering that.

This is about carbon dioxide, a tasteless, odorless gas that is essential in photosynthesis. I would just like to point that out.

Senator BOXER. Mr. Chairman.

Senator INHOFE. Senator Boxer.

Senator BOXER. Thank you.

You have just heard a lecture, and it is just not true. I am going to put into the record my rebuttal to that. I have on these charts the facts about what has happened to the climate, not that we have seen a slowing of carbon and the rest. Let us just see the facts.

The scientists warned there would be more heavy precipitation and flooding events. Let us look at Texas. In 2015, areas of Texas got 11 inches of rain in 24 hours. The Blanco River rose 33 feet in 3 hours. It broke the 1929 record by over 7 feet.

In Boston, the National Weather Service data finds an all time record for snow within a 14- to 20- and 30-day period.

In the Arctic, decreasing polar sea ice, Arctic sea ice area has declined 40 percent since 1978 and thinned more than 50 percent. Average summer temperatures are now higher than any century in more than 44,000 years. It has lost 40 cubic miles of ice every year since 1994.

Volume loss from the Antarctic ice shelves is accelerating. The ice shelf, twice the size of Hawaii, is at imminent risk of collapse posing major sea level threat.

Rising sea levels, which my colleagues have talked about, since the 1990s, sea levels have risen even more rapidly than thought and threaten our coastal communities. Sea level rise over the past century is unmatched by any period in the last 6,000 years.

Who said this? It is not one scientist. It is groups of scientists. Hot extremes are more frequent, NOAA, NASA; hottest year on record, 2014, 2015, first half of year, hottest on record. In 2014, California records hottest year on record by over 4 degrees; that's NOAA.

In 2014, Australia, towns 320 miles northwest of Sydney hit 118 degrees. In June, India temperatures reached 118 degrees with the death toll reaching 1,800 people.

Areas affected by drought, California drought the worst in 1,200 years. Increase in bigger wildfires, the U.S. has seven times more wildfires over the size of 10,000 acres as compared to the 1970s. Arizona and New Mexico suffer largest wildfires in recorded history.

Hurricanes, Hurricane Sandy strength, as indicated by barometric pressure just before landfall, set a record. Typhoon Haiyan was one of the strongest tropical cyclones. In Vanuatu, Tropical Cyclone Pam was the strongest tropical cyclone.

What are we talking about that things are getting worse? It is just belied by the very facts around us. That is why the polls are showing increasingly that the deniers and people who say, carbon is no problem, it is not a pollutant, the co-benefits of reducing car-

bon is what has been measured, measured in fewer asthma attacks, fewer heart attacks and fewer missed days of school.

The reason we are taking all this time, Mr. Chairman, is because you have 1 day after the announcement of this plan to come forward with essentially a repeal. The arguments being made just do not match the facts.

I yield to Senator Markey.

Senator MARKEY. I thank the Senator from California very much.

Senator INHOFE. I think you should operate through the Chair. If you seek recognition, I would be glad to recognize you.

Let me just observe we have had hearings on all of this. I can come up with my book of science on this. It is divided. We all know that. We know that. You speak of it as a fact. You speak of it as now the public is aware. Let me tell you what Gallup says.

Gallup said 3 years ago that climate change or global warming, let us get back to the origins of this, was either the No. 1 or No. 2 concern. Today, it is number 30 out of 31. It is nearly last in terms of the environmental concerns, so it is just not factual.

It does not really matter for the purpose of this committee hearing, however. We have a bill before us, and we have an amendment. We need to act on the amendment. Everyone wants to campaign, and everyone wants to tell their story.

If it is really just your wish to stall this so we do not have the hearing, then go ahead and say it.

You are recognized.

Senator MARKEY. I thank you, Mr. Chairman, very much.

First of all, this is the most important debate we are going to have in this committee in 2015 and 2016, so I am not trying to drag out anything. We are just trying to give the proper respect to this issue which it deserves.

We are not going to do anything more important in 2 years; this is it. This is the most important issue of our time. We are having a big debate here, but I think it is only a reflection of how important it is.

Let me just say, one, on the issue of what we are doing with the Clean Power Plan on the issue of disease, the Clean Power Plan reduces SO<sub>2</sub>, sulfur, by 90 percent between now and 2030, a 90 percent reduction.

What does that relate to? That is soot which is tiny particulates that can go into people's lungs. That is heart disease.

It also reduces nitrogen oxide by 72 percent. What is that? That is smog and that is asthma. That is 72 percent. That is what this plan does in addition to reducing CO<sub>2</sub> by 32 percent by the year 2030.

On the issue of Greenland, yes, Greenland is 1,000 miles long, pretty much from here down to Miami and about 300 or 400 miles wide. At its densest, it has an ice block which is 10 Empire State Buildings high.

At this point of the year, in Greenland, the warm weather throughout the spring and into the summer creates huge lakes of the melting ice. As the summer goes on, there is an eddying effect, creating moulins that go all the way down to the bottom of those ice blocks as they are being measured now at 3 and 4 on the Richter scale and ice quakes. As the summer goes on, that water flows

down to the bottom of the ice and continues to liquefy that ice as it moves closer to the land.

In the North Atlantic, for Senator Gillibrand, Senator Whitehouse, Senator Cardin or Senator Carper, or I, it is like a glass of water that is already filled. It is filled to the top. If you put an ice cube into that, the water flows over and has no place to go.

It is not like the ice in the Arctic where there is no land and it melts. This is different. That is what Iceland is all about; that is what Alaska is all about. It is what the Antarctic is all about. It is putting the ice cube into the water. What we are seeing is this increase in sea level.

Senator INHOFE. The Chair is going to interrupt you. I am very sorry, and I do not like to do this, but we have had hearings on all of this. I could answer everything that you have just asserted, and there is another side to it.

However, we have legislation before this committee. We have several bills, GSA, things that really have a timing where we have to get to it. We are not getting anywhere.

If anyone would like to talk specifically or make one short statement about the Gillibrand amendment, we will recognize that person.

Senator Merkley.

Senator MERKLEY. Thank you very much, Mr. Chairman.

One of the things we can recognize here is that many members on this side of the dais are sea States. We have ocean fronts. I believe that is everyone except for perhaps Bernie Sanders. On the opposite side of the dais, we have primarily non-sea States.

What we are hearing in part is a very clear difference between the experience in our home States. Certainly, Oregon is an ocean State.

This bill says when it is certified that the proposed legislation will not have further impact in damaging our States, it can go into effect. I very much appreciate this because this is something we should all be able to agree on. If the ideas being presented in this particular bill will not further hurt our States, then the path is clear, but if it is going to further hurt our States, then we are exercising our very profound concern for the direct impact.

It has been noted how higher sea level is already occurring in ways that are causing beach erosion, it means storm surges are that much higher and certainly the erosion of the coastal area is a very significant concern in my home State of Oregon as it is to Washington State to the north and to California to the south.

There is also another issue here, which is saltwater intrusion into the freshwater supplies for our communities. We can stand back and say, how expensive is it to counter all of this? What kind of economic damage is going to be done?

It costs an incredible amount to build seawalls. For every inch of additional seawall, that is a very expensive enterprise. Quite frankly, a storm can take those out. Even if you have a seawall, that does not stop saltwater intrusion into the groundwater.

Now, where is your water going to come from, where are you going to pipe it from? What about your main street? Senator Whitehouse could tell us about standing on a sidewalk down in



Florida and at regular high tide when that sidewalk in the past would have been dry but now it is under water. What does that mean for reconstructing entire towns to keep it above water as it continues to grow?

There are vast economic consequences associated with this issue. I think this is a reasonable proposal that we do not implement a plan that will cause further damage.

Senator INHOFE. The Chair is going to cut off the debate at this time.

Senator Gillibrand, what do you want to do with your amendment?

Senator GILLIBRAND. I would like to call a vote, but I just want to close with one point.

We have talked a lot about economic damage and what happens on a sunny day. Let me describe for 1 minute what happens during the storms.

When Superstorm Sandy hit New York, a 10-foot wall of water came into communities. A mother holding two children lost her handle on her kids and they drowned. This is not an issue about money; this is an issue about lives lost. We have to care about the whole country.

What you are hearing in this debate is your States are not affected; our States are deeply affected. Please consider the whole country when you write legislation. I know we tend to vote our interests, I know we tend to vote our States, but this is not just about money.

This is about lives, children taken out of the hands of their mother because the storm surge was 10 feet high and seniors who could not get out of their homes in time who drowned in their beds. This is serious.

I want you to consider what happens in other parts of the country. It is meaningful. This is not an esoteric debate; it is not a debate about numbers. It is a debate about lives. If you believe our decisions have consequences, please consider all the consequences.

Thank you.

Senator INHOFE. Senator Capito, did you want to respond? This is your bill.

Senator CAPITO. Yes, I want to respond to the amendment. It is my understanding that in the Clean Power Plan, we really do not have a measuring device from the White House that tells us how much the coast is not going to rise or how much the temperature is not going to rise.

Actually, in my bill in Section 4(b), I am asking for reporting, specific reporting, so maybe we can put some of these arguments to rest on the factualness. It provides that the EPA Administrator must conduct modeling regarding the impacts of the proposed rule on each of the climate indicators used by the Administrator in developing the proposed rule. We are asking for the facts from the Administrator on all of the different metrics we are talking about here.

I would respond to the Senator from Massachusetts. He said Congress should have this debate. Right, Congress should have this debate. This has been a regulation that has been developed by the Administration.

They say everyone commented, 4 million people commented, yet they do not come to one of the most deeply economically affected States, so yes, we should have this debate. This should be debated on the floor of both the House and the Senate, but that is not the way it is set up right now.

I think this is an opportunity to have debate in the committee, but in the end, the Administration's regulatory prerogative, which the Supreme Court said in June on the MATS rule, they had overreached their authority and had not considered the costs in the MATS rule. That is a fact.

All I am asking for here, I know it is a big ask, is to say let us wait until it works its way through the legalities, let us look at the impacts, have them model the impacts to the environment and talk about the cost benefits. Let us maybe find a better way to go to reach the health challenges, reach the economic challenges and reach the environmental challenges.

I was looking at a chart. In West Virginia, from 2000 to 2011, CO<sub>2</sub> emissions are down 16 percent in my State. In the State of Maryland, they are down 17.4 percent. In the State of California, they are down 8.2 percent. In the State of Massachusetts, they are down 18.8 percent.

We are getting there without this large overreach that is going to cause a lot of harm. It is not about money. It is about families, too, where I live. I understand I do not live on the coast, and you live on the coast. I think that is a great point that we need to be made. There is equal passion on both sides.

I would oppose the gentlelady's amendment.

Senator BOXER. Mr. Chairman, may I be heard for less than a minute?

Senator INHOFE. Senator Boxer.

Senator BOXER. Thank you.

Senator INHOFE. At the conclusion of the 1 minute for Senator Boxer, the Chair is going to cut off debate and ask Senator Gillibrand if she wants to move her amendment.

Senator WHITEHOUSE. May I make a parliamentary inquiry?

Senator INHOFE. Yes, you may.

Senator WHITEHOUSE. I have been in the Senate for 9 years. I have sat through quite lengthy committee speeches by members on the other side. I have never been in a committee in which debate has been cut off by the Chairman. I do not know what the rule is under which that takes place. This is the first for me in 9 years.

Senator INHOFE. I think the Chairman has the authority to do that. A very good friend of mine said at one time, elections have consequences. At that time, the Chairman was on the other side of most of the issues we are discussing, and we did shorten our amendments.

We have had countless hearings on the subject we are talking about right now. I do not want to be rude, I think you know that, but there has to be conclusion.

If you do not want to vote on any of these bills on the agenda, you can keep talking if we do not cut off debate, but the Chairman has that authority. I am using it. If you have never seen it before, you have seen it now.

Senator WHITEHOUSE. OK.

Senator INHOFE. Senator Boxer.

Senator BOXER. Thank you.

The Chairman has the right but the committee has the right now to be here.

Senator INHOFE. I fully agree.

Senator BOXER. Let me say, if anyone feels that it is not being done fairly, I am just making the point, it is freedom of each colleague to do what they wish. The Chairman has the right, and the colleagues have the right to respond.

I just need to say to my friend from West Virginia, the Clean Air Act requires this Administration to act. All you have to do is read it and read Massachusetts v. EPA. It was very clear that once an endangerment finding is made, that endangerment finding was actually made by the Bush administration which was able to get a whistleblower to send over the endangerment finding.

Once that endangerment finding is made, people are going to die from the heat, people are going to die from the storms, and the emotion you heard from my colleague from New York, you know that is from the heart. I know you know it is from the heart.

This is real to a lot of people. This is not something that is debated about the future. She saw it in her State. I am living it in my State with 23 wildfires and a dead firefighter visiting from another State, bless his heart, who died. This is real to us.

That is why we are acting this way with strong views and feelings, as is my friend.

I am going to conclude. Under the Clean Air Act, this Administration must act. If they do not act, they will be hauled to court. The endangerment finding is out there. Power plants are causing a huge amount of the problem. This is a way forward. I hope my friend understands that.

Senator INHOFE. Thank you, Senator Boxer.

Senator Gillibrand.

Senator GILLIBRAND. I move the amendment and request a roll call vote.

Senator INHOFE. You move it. Is there a second?

Senator BOXER. Second.

Senator INHOFE. OK. A roll call has been requested. The Clerk will call the roll.

The CLERK. Mr. Barrasso.

Senator INHOFE. No by proxy.

The CLERK. Mr. Booker.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Boozman.

Senator BOOZMAN. No.

The CLERK. Mrs. Boxer.

Senator BOXER. Aye.

The CLERK. Mrs. Capito.

Senator CAPITO. No.

The CLERK. Mr. Cardin.

Senator CARDIN. Aye.

The CLERK. Mr. Carper.

Senator CARPER. Aye.

The CLERK. Mr. Crapo.

Senator CRAPO. No.

The CLERK. Mrs. Fischer.  
 Senator FISCHER. No.  
 The CLERK. Mrs. Gillibrand.  
 Senator GILLIBRAND. Aye.  
 The CLERK. Mr. Markey.  
 Senator MARKEY. Aye.  
 The CLERK. Mr. Merkley.  
 Senator MERKLEY. Aye.  
 The CLERK. Mr. Rounds.  
 Senator ROUNDS. No.  
 The CLERK. Mr. Sanders.  
 Senator BOXER. Aye by proxy.  
 The CLERK. Mr. Sessions.  
 Senator INHOFE. No by proxy.  
 The CLERK. Mr. Sullivan.  
 Senator INHOFE. No by proxy.  
 The CLERK. Mr. Vitter.  
 Senator INHOFE. No by proxy.  
 The CLERK. Mr. Whitehouse.  
 Senator BOXER. Aye by proxy.  
 The CLERK. Mr. Wicker.  
 Senator WICKER. No.  
 The CLERK. Mr. Chairman.  
 Senator INHOFE. No.  
 Senator WHITEHOUSE. Mr. Chairman, may I be recorded as aye  
 in person?  
 Senator INHOFE. Yes, you are so recorded.  
 The CLERK. Mr. Chairman, the yeas are 9 and the nays are 11.  
 Senator INHOFE. The amendment is not agreed to.  
 Are there other amendments that want to be heard?  
 Senator Merkley.  
 Senator MERKLEY. This will be Merkley Amendment No. 1.  
 We have had some discussion about whether or not human activity is contributing to global warming. If it is human activity, it is within our reach to modify our activities. If it is not, as has been asserted here today, then we are in a different world.  
 I present here today, and that it be filed in the record by unanimous consent, a letter from 18 scientific organizations.  
 Senator INHOFE. Without objection.  
 [The referenced letter follows:]

October 21, 2009

American Association for the  
Advancement of Science

American Chemical Society

American Geophysical Union

American Institute of  
Biological SciencesAmerican Meteorological  
SocietyAmerican Society of  
AgronomyAmerican Society of Plant  
BiologistsAmerican Statistical  
AssociationAssociation of Ecosystem  
Research Centers

Botanical Society of America

Crop Science Society of  
America

Ecological Society of America

Natural Science Collections  
AllianceOrganization of Biological  
Field StationsSociety for Industrial and  
Applied MathematicsSociety of Systematic  
BiologistsSoil Science Society of  
AmericaUniversity Corporation for  
Atmospheric Research

Dear Senator:

As you consider climate change legislation, we, as leaders of scientific organizations, write to state the consensus scientific view.

Observations throughout the world make it clear that climate change is occurring, and rigorous scientific research demonstrates that the greenhouse gases emitted by human activities are the primary driver. These conclusions are based on multiple independent lines of evidence, and contrary assertions are inconsistent with an objective assessment of the vast body of peer-reviewed science. Moreover, there is strong evidence that ongoing climate change will have broad impacts on society, including the global economy and on the environment. For the United States, climate change impacts include sea level rise for coastal states, greater threats of extreme weather events, and increased risk of regional water scarcity, urban heat waves, western wildfires, and the disturbance of biological systems throughout the country. The severity of climate change impacts is expected to increase substantially in the coming decades.<sup>1</sup>

If we are to avoid the most severe impacts of climate change, emissions of greenhouse gases must be dramatically reduced. In addition, adaptation will be necessary to address those impacts that are already unavoidable. Adaptation efforts include improved infrastructure design, more sustainable management of water and other natural resources, modified agricultural practices, and improved emergency responses to storms, floods, fires and heat waves.

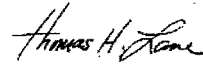
We in the scientific community offer our assistance to inform your deliberations as you seek to address the impacts of climate change.

<sup>1</sup> The conclusions in this paragraph reflect the scientific consensus represented by, for example, the Intergovernmental Panel on Climate Change and U.S. Global Change Research Program. Many scientific societies have endorsed these findings in their own statements, including the [American Association for the Advancement of Science](#), [American Chemical Society](#), [American Geophysical Union](#), [American Meteorological Society](#), and [American Statistical Association](#).

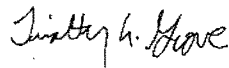
**American Association for the Advancement of Science**  
1200 New York Avenue, NW, Washington, DC 20005 USA  
Tel: 202 326 6600 Fax: 202 289 4950 [www.aaas.org](http://www.aaas.org)



Alan I. Leshner  
Executive Director  
American Association for the  
Advancement of Science



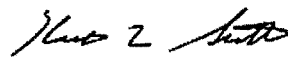
Thomas Lane  
President  
American Chemical Society



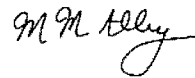
Timothy L. Grove  
President  
American Geophysical Union



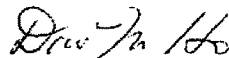
May R. Berenbaum  
President  
American Institute of Biological  
Sciences



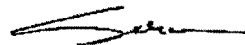
Keith Scitter  
Executive Director  
American Meteorological Society



Mark Alley  
President  
American Society of Agronomy



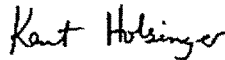
Tuan-hua David Ho  
President  
American Society of Plant Biologists



Sally C Morton  
President  
American Statistical Association



Lucinda Johnson  
President  
Association of Ecosystem Research  
Centers



Kent E. Holsinger  
President  
Botanical Society of America

*Ken Quesenberry*

Kenneth Quesenberry  
President  
Crop Science Society of America

*Mary E Power*

Mary Power  
President  
Ecological Society of America

*W-Y Brown*

William Y. Brown  
President  
Natural Science Collections Alliance

*Brian D. Kloeppel*

Brian D. Kloeppel  
President  
Organization of Biological Field Stations

*Douglas N. Arnold*

Douglas N. Arnold  
President  
Society for Industrial and Applied  
Mathematics

*John Huelsenbeck*

John Huelsenbeck  
President  
Society of Systematic Biologists

*Paul M. Bertsch*

Paul Bertsch  
President  
Soil Science Society of America

*Richard A. Anthes*

Richard A. Anthes  
President  
University Corporation for Atmospheric  
Research

Senator MERKLEY. Thank you very much, Mr. Chairman.

The letter reads like this: "Observations throughout the world make it clear that climate change is occurring, and rigorous scientific research demonstrates that greenhouse gases emitted by human activities are the primary driver. These conclusions are based on multiple, independent lines of evidence and contrary assertions are inconsistent with an objective assessment of the vast body of peer-reviewed science.

"Moreover, there is strong evidence that ongoing climate change will have broad impacts on society, including the global economy and the environment. For the United States, climate change impacts include sea level rise for coastal States, greater threats of extreme weather and increased risk of regional water scarcity, urban heat waves, western wildfires and the disturbance of biological systems throughout the country.

"The severity of climate change impacts is expected to increase substantially in the coming decades. If we are to avoid the most severe impacts of climate change, emissions of greenhouse gases must be dramatically reduced."

This is from 18 scientific associations: the American Association for the Advancement of Science; the American Chemical Society, not a group you would necessarily expect to be on this list; the American Geophysical Union; the American Institute of Biological Sciences; the American Meteorological Society; the American Society of Agronomy; the American Society of Plant Biologists; the American Statistical Association; the Association of Ecosystem Research Centers; the Botanical Society of America; the Crop Science Center; the Society of America; the Ecological Society; the Natural Science Collections Alliance; the Organization of Biological Field Stations; the Society for Industrial and Applied Mathematics; the Society of Systematic Biologists; the Soil Science Study of America; and the University Corporation for Atmospheric Research.

In addition, there are many other groups that have weighed in on this fundamental proposition. Those groups include the American Medical Association, the American Physical Society, the Geological Society of America, the U.S. National Academy of Sciences, the U.S. Global Change Research Program, the Intergovernmental Panel on Climate Change, and we could go on with another 200 across the world.

The point is that basically every major scientific organization in the United States and those throughout the world are asserting a clear set of observations that human activity has a direct impact, and that direct impact is the warming of the planet. The warming of the planet is going to cause a lot of problems for us.

My amendment simply states, as a finding of this body, that Congress should take under due consideration the advice from leading scientific institutions in the United States that global warming is real and due to human activity.

I certainly would ask for your support for this.

[The text of Merkley Amendment No. 1 follows:]



Merkley Amendment #1

To express the sense of Congress regarding the scientific consensus that climate change is real and due to human activity.

EDW15846

S.L.C.

AMENDMENT NO. \_\_\_\_\_ Calendar No.

Purpose: To express the sense of Congress regarding the scientific consensus on climate change.

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

**S. 1324**

To require the Administrator of the Environmental Protection Agency to fulfill certain requirements before regulating standards of performance for new, modified, and reconstructed fossil fuel-fired electric utility generating units, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. MERKLEY (for himself and Mr. MARKEY)

Viz:

- 1 At the end of the bill, add the following:
- 2 **SEC. . SENSE OF CONGRESS REGARDING THE SCI-**
- 3 **ENTIFIC CONSENSUS ON CLIMATE CHANGE.**
- 4 (a) FINDINGS.—Congress finds that—
- 5 (1) the National Oceanic and Atmospheric Ad-
- 6 ministration (NOAA) and the National Aeronautics
- 7 and Space Administration (NASA) agree that global
- 8 warming is real and due to human activity;

15 AUG -4 AM 9:25

1           (2) the National Academy of Sciences agrees  
2       that global warming is real and due to human activ-  
3       ity;

4           (3) the American Association for the Advance-  
5       ment of Science agrees that global warming is real  
6       and due to human activity;

7           (4) the American Chemical Society agrees that  
8       global warming is real and due to human activity;

9           (5) the American Geophysical Union agrees  
10      that global warming is real and due to human activ-  
11      ity;

12          (6) the American Medical Association agrees  
13      that global warming is real and due to human activ-  
14      ity;

15          (7) the American Meteorological Society agrees  
16      that global warming is real and due to human activ-  
17      ity;

18          (8) the American Physical Society agrees that  
19      global warming is real and due to human activity;  
20      and

21          (9) the Geological Society of America agrees  
22      that global warming is real and due to human activ-  
23      ity.

24      (b) SENSE OF CONGRESS.—It is the sense of Con-  
25      gress that—

EDW15846

S.L.C.

## 3

- 1           (1) Congress should take under due consider-  
2           ation advice from the leading scientific institutions  
3           in the United States; and  
4           (2) global warming is real and due to human  
5           activity.

Senator INHOFE. The Chair would observe that we have had hearings on this. The scientific community is divided. We talked about Richard Lindzen from MIT, Judith Curry from the Georgia Institute of Technology, Roger Pielke from the University of Colorado, Willie Soon from Harvard Smithsonian Center for Astrophysics, to name a few.

Again, this is Merkley Amendment No. 1. Are there others who want to be heard?

What do you want to do with your amendment, Senator Merkley?

Senator MERKLEY. I would like to enable my colleagues to share their thoughts on it.

Senator INHOFE. I have asked for those who want to be heard.

Senator Markey.

Senator MARKEY. I thank you, Mr. Chairman, very much.

I thank the gentleman from Oregon for making this very important amendment.

I would just add that there is a good reason why we are here. There is a good reason why we are talking about regulations. It is this.

We really tried to work on this issue from a legislative perspective. Back in 2009, we began a legislative process to deal with the danger of climate change. We passed legislation in the House of Representatives in June 2009.

We said, at the time, to those who deny climate change or do not want anything to be done about it, there was going to be a choice. The choice was going to be legislation or regulation. You had to pick which direction you wanted to go in.

If we worked in a legislative format, then there would be the give and take of a process like this. If that was rejected, then the course of action was going to be regulation from an Administration that said it was committed to working from a regulatory perspective.

The legislative approach was rejected by the Republicans, just rejected, even though that bill, Waxman-Markey, had \$200 billion in it for carbon capture and sequestration. Can I say that again? For the coal industry, we built in \$200 billion for the coal industry for carbon capture and sequestration.

The Republican side said, no, we do not want any legislation. Fine, that is your choice, but we also said to them, simultaneously, the only alternative is regulation. That is where we are today.

That was the choice of the climate deniers or those who do not want any legislation to pass at all or for anything to be done about it because there is no alternative that has ever been presented by the other side. That is why we are here.

We are here because of a choice made by the Republican side of the aisle. We should be debating legislation, not legislation to stop the regulation but legislation to do something about climate change. That has not been forthcoming from the Republican side thus far. That is why we are in this debate.

The only sentiment that we hear from the Republican side is that they do not want to do anything. I think Senator Merkley's amendment once again highlights the danger of going forward in the scientific consensus that has been developed, not only in our country, but around the world.

Every single National Academy of Sciences of every single country in the world agrees that humans are causing a substantial part of the dangers of global warming and we have a responsibility to do something about it.

Senator INHOFE. We have debated this many, many times. The Chair feels you are wrong on that, and you understand. You and I know the issue very well. It is debatable. We have had hearings on this. Science is mixed on this.

Senator Merkley, what do you want to do with your amendment?

Senator BOXER. May I be heard?

Senator INHOFE. You guys can be heard. The Chair is going to take the prerogative and make a statement here.

If you do not want to continue with this hearing, I would observe that Senator Whitehouse has an amendment. You have an amendment on the other two.

Senator WHITEHOUSE. I have an amendment on the other two.

Senator INHOFE. We have other issues and other bills we are considering. You have a bill, as I recall, don't you, Senator Whitehouse?

Senator WHITEHOUSE. I do.

Senator INHOFE. If you just want to stop everything, we can do that. The Chair could have the prerogative of being real nasty and limiting debate on each one of these. I am not going to do that. I am fully aware if you want to stop this hearing, you can stop it just by stalling and by using your time.

Senator WHITEHOUSE. Mr. Chairman, if I might respond to that.

Senator INHOFE. Yes, go ahead.

Senator WHITEHOUSE. I have absolutely no desire to stop the hearing. I would like to have this be a full, thorough airing of the issues raised by this legislation. That is what mark ups are ordinarily for.

I do not think when you look at the effects on Rhode Island of what we are talking about here, the last one, Mr. Chairman, was on sea level rise. Here is a photo of Carpenter's Beach in Rhode Island where people's homes were blown to smithereens and thrown into the ocean by Sandy. These are people who had their houses along that shore all their lives.

One lady was there as a little kid. She remembers her yard, the road beyond her yard, the parking lot beyond the road and the long run down to the water where in the summer sun the sand would get so hot that she had to hop across the sand.

Now she is a grandmother. That was one of the houses that went into the water. All of that is gone.

This is an issue that is important to our States, Mr. Chairman. I do not think one morning's debate on an issue of this importance to our State is frankly asking too much.

If you look back in history in the Senate, when we worked on real legislation in committee, often that committee work went on for days, for weeks. I hope one morning is not too much for this committee to devote to an issue that means so much to us.

Senator INHOFE. Again, the Chair observes we have had many, many hearings on this. This is a markup.

Senator Boxer.

Senator BOXER. Thank you, Mr. Chairman.

I would like to vote on this because I think this is a vote the American people deserve. Let me comment for a minute on something you said.

Scientists are divided. You are right; 97 percent of them say, climate change is real and human activity is the primary cause. The others, most of whom work for the oil companies, say it is not happening.

I just want to close my comments with this. If we went to the doctor, all of us know, and the doctor said you have serious cancer, you need an immediate operation, male or female, whoever we are, or if it happened to one of our loved ones, we would say this is crazy, I want a second opinion, and you got one.

That doctor said the same thing and you got another one. You went to 10 doctors and 9 of them said immediate surgery. One says, I do not think this is really happening. You are going to listen to the nine.

All this stuff about I am not a scientist, which thank the Lord, we did not hear that today, that was the old saw. Of course we are not. Maybe a couple of us are, but not many. That is why we need to listen to 97 percent of the scientists and discount the ones who work for the oil companies. That would leave about 1 percent. This is serious.

I want to commend my friend. I want this vote on the record. I want to know if our colleagues believe that climate change is happening and human activity is the primary cause. If they vote no, they are siding with 3 percent of the scientists versus 97 percent. They are siding against the American people.

Senator INHOFE. Thank you, Senator Boxer.

Without objection, I am going to put into the record an article written by scientists called The Myth of Climate Change, 97 Percent. It was in the Wall Street Journal.

[The referenced article follows:]

## The Myth of the Climate Change '97%'

What is the origin of the false belief—constantly repeated—that almost all scientists agree about global warming?

By  
JOSEPH BAST And

ROY SPENCER  
May 26, 2014 7:13 p.m. ET  
[839 COMMENTS](#)

Last week Secretary of State [John Kerry](#) warned graduating students at Boston College of the "crippling consequences" of climate change. "Ninety-seven percent of the world's scientists," he added, "tell us this is urgent."

Where did Mr. Kerry get the 97% figure? Perhaps from his boss, President Obama, who tweeted on May 16 that "Ninety-seven percent of scientists agree: #climate change is real, man-made and dangerous." Or maybe from NASA, which posted (in more measured language) on its [website](#). "Ninety-seven percent of climate scientists agree that climate-warming trends over the past century are very likely due to human activities."

Yet the assertion that 97% of scientists believe that climate change is a man-made, urgent problem is a fiction. The so-called consensus comes from a handful of surveys and abstract-counting exercises that have been contradicted by more reliable research.

One frequently cited source for the consensus is a 2004 opinion [essay](#) published in Science magazine by Naomi Oreskes, a science historian now at Harvard. She claimed to have examined abstracts of 928 articles published in scientific journals between 1993 and 2003, and found that 75% supported the view that human activities are responsible for most of the observed warming over the previous 50 years while none directly dissented.

Ms. Oreskes's definition of consensus covered "man-made" but left out "dangerous"—and scores of articles by prominent scientists such as Richard Lindzen, John Christy, Sherwood Idso and Patrick Michaels, who question the consensus, were excluded. The methodology is also



flawed. A study published earlier this year in [Nature](#) noted that abstracts of academic papers often contain claims that aren't substantiated in the papers.

Another widely cited source for the consensus view is a [2009 article](#) in "Eos, Transactions American Geophysical Union" by Maggie Kendall Zimmerman, a student at the University of Illinois, and her master's thesis adviser Peter Doran. It reported the results of a two-question online survey of selected scientists. Mr. Doran and Ms. Zimmerman claimed "97 percent of climate scientists agree" that global temperatures have risen and that humans are a significant contributing factor.

The survey's questions don't reveal much of interest. Most scientists who are skeptical of catastrophic global warming nevertheless would answer "yes" to both questions. The survey was silent on whether the human impact is large enough to constitute a problem. Nor did it include solar scientists, space scientists, cosmologists, physicists, meteorologists or astronomers, who are the scientists most likely to be aware of natural causes of climate change.

The "97 percent" figure in the Zimmerman/Doran survey represents the views of only 79 respondents who listed climate science as an area of expertise and said they published more than half of their recent peer-reviewed papers on climate change. Seventy-nine scientists—of the 3,146 who responded to the survey—does not a consensus make.

In 2010, William R. Love Anderegg, then a student at Stanford University, used Google Scholar to identify the views of the most prolific writers on climate change. His [findings](#) were published in Proceedings of the National Academies of Sciences. Mr. Love Anderegg found that 97% to 98% of the 200 most prolific writers on climate change believe "anthropogenic greenhouse gases have been responsible for 'most' of the 'unequivocal' warming." There was no mention of how dangerous this climate change might be; and, of course, 200 researchers out of the thousands who have contributed to the climate science debate is not evidence of consensus.

In 2013, John Cook, an Australia-based blogger, and some of his friends reviewed abstracts of peer-reviewed papers published from 1991 to 2011. Mr. Cook [reported](#) that 97% of those who stated a position explicitly or implicitly suggest that human activity is responsible for some warming. His findings were published in Environmental Research Letters.

Mr. Cook's work was quickly debunked. In [Science and Education](#) in August 2013, for example, David R. Legates (a professor of geography at the University of Delaware and former director of its Center for Climatic Research) and three coauthors reviewed the same papers as did Mr. Cook and found "only 41 papers—0.3 percent of all 11,944 abstracts or 1.0 percent of the 4,014 expressing an opinion, and not 97.1 percent—had been found to endorse" the claim that human activity is causing most of the current warming. Elsewhere, climate scientists including Craig Idso, Nicola Scafetta, Nir J. Shaviv and Nils-Axel Morner, whose research questions the alleged consensus, protested that Mr. Cook ignored or misrepresented their work. Rigorous international surveys conducted by German scientists Dennis Bray and Hans von Storch—most recently published in [Environmental Science & Policy](#) in 2010—have found that most climate scientists disagree with the consensus on key issues such as the reliability of climate data and computer models. They do not believe that climate processes such as cloud formation and precipitation are sufficiently understood to predict future climate change. Surveys of meteorologists repeatedly find a majority oppose the alleged consensus. Only 39.5% of 1,854 American Meteorological Society members who responded to a [survey in 2012](#) said man-made global warming is dangerous.

Finally, the U.N.'s Intergovernmental Panel on Climate Change—which claims to speak for more than 2,500 scientists—is probably the most frequently cited source for the consensus. Its [latest report](#) claims that "human interference with the climate system is occurring, and climate change poses risks for human and natural systems." Yet relatively few have either written on or reviewed research having to do with the key question: How much of the temperature increase and other climate changes observed in the 20th century was caused by man-made greenhouse-gas emissions? The IPCC lists only 41 authors and editors of the relevant chapter of the Fifth Assessment Report addressing "anthropogenic and natural radiative forcing."

Of the various petitions on global warming circulated for signatures by scientists, the one by the [Petition Project](#), a group of physicists and physical chemists based in La Jolla, Calif., has by far the most signatures—more than 31,000 (more than 9,000 with a Ph.D.). It was most recently published in 2009, and most signers were added or reaffirmed since 2007. The petition states that "there is no convincing scientific evidence that human release of . . . carbon dioxide, methane, or

other greenhouse gases is causing or will, in the foreseeable future, cause catastrophic heating of the Earth's atmosphere and disruption of the Earth's climate."

We could go on, but the larger point is plain. There is no basis for the claim that 97% of scientists believe that man-made climate change is a dangerous problem.

*Mr. Bast is president of the Heartland Institute. Dr. Spencer is a principal research scientist for the University of Alabama in Huntsville and the U.S. Science Team Leader for the Advanced Microwave Scanning Radiometer on NASA's Aqua satellite.*

Senator INHOFE. Also, fortunately the people out there are a lot smarter than people think they are. Without objection, I want to introduce into the record the poll I referred to a minute ago.  
[The referenced information follows:]

**Gallup poll – March 12, 2015:**

In a March 12, 2015 Gallup poll, climate change came in dead last of Americans concerns for national problems. Americans were more concerned with the economy, terrorism, size of government, and affordable energy.

	<b>A great deal</b>
	%
The availability and affordability of healthcare	54
The economy	53
The possibility of future terrorist attacks in the U.S.	51
The Social Security system	46
The size and power of the federal government	46
The way income and wealth are distributed in the U.S.	46
Hunger and homelessness	43
Crime and violence	43
Illegal immigration	39
Drug use	38
Unemployment	37
The quality of the environment	34
The availability and affordability of energy	28
Race relations	28
Climate change	25

Senator INHOFE. The Gallup Poll dated March 12, 2015, shows that of the 15 greatest concerns of American people, dead last is climate change.

Senator Merkley, do you want to move?

Senator MERKLEY. Yes, I will close my comments if no one wants to speak. Do you want to speak?

Senator WHITEHOUSE. I wanted to make a point to Senator Merkley's amendment. Senator Merkley's amendment says the following: "Congress should take under due consideration advice from the leading scientific institutions in the United States."

I agree with our Ranking Member that the scientific debate on the core principles of climate change is essentially over at this point. There are always strays that can be found around the margins, and clearly the majority side in this committee has made a very persistent effort to try to round up those strays and make them look like they are creating a real division in the science.

One scientist does not a consensus make. If you want to look at the consensus, I think it is worth looking for the consensus of the scientific entities that we all support, the ones that we pay for. That suggests, first of all, many of the members here have the good fortune, Rhode Island does not have this good fortune, to have a national lab in their home State.

If you asked the national labs, none of them have any doubt that climate change is real and it is happening. I have been to some of them. I have reviewed the materials they put out. They are studying what is happening to us a result of climate change. That is our national labs.

Look at NOAA, we trust NOAA for the weather. NOAA is absolutely clear that climate change is happening, that the science is real and that the dispute is not meaningful scientifically, not from the point of view of making intelligent, prudent risk decisions for the American public.

NASA could not be more clear on this. They run satellites that actually do a lot of the measuring of the changes that are actually happening on the surface of the world.

We can deny that NASA's science is real or we can say that NASA's scientists are in on a hoax, but the fact of the matter is they have a rover driving around on Mars. That is an amazing human accomplishment. They just shot by Pluto and took pictures of Pluto. These are pretty serious scientists.

Senator INHOFE. Senator Whitehouse, I appreciate the fact you have a lot of passion on this issue, but I also appreciate the fact we have had many hearings on this. There are many scientists on both sides, I understand that, but that is not the issue here. We have the Merkley amendment.

Senator WHITEHOUSE. It is, Mr. Chairman.

Senator INHOFE. I also will observe that the minority can very well take all the time they want. I could stop it, but I am trying to be fair. We have been on this now for a couple hours. We are still on the first bill. We have seven we are considering today along with GSA reports.

You can probably stay with this and stop this hearing, but I am going to try my best to continue the hearing and get to the other bills for consideration.

We have the Merkley amendment before us. Is there a motion on the Merkley amendment?

Senator WHITEHOUSE. Does that mean the Chair has rescinded my recognition because I had the floor a minute ago, and I was commenting on this particular amendment?

Senator INHOFE. All right, continue.

Senator WHITEHOUSE. Thank you.

The other group I think is worth listening to on this is the United States Navy. We pay for them. They keep bases all around the country and see what is happening. I think the focus is important on the leading scientific institutions because as Senator Merkley pointed out, leading scientific institutions are unanimous.

I would add that all you have to do is go to home State universities, and you will find it is the same. There is a thing called Google that we have all discovered around here. If you go to the University of Mississippi Web site, the Senator from Mississippi talked about sea level rise a minute ago, and search within that Web site for sea level rise climate change, you see some pretty significant work at the University of Mississippi on the connection between sea level and climate change.

The Gulf Coast is particularly vulnerable to sea level rise and coastal storms. "Sea level rise is arguably the most critical component of climate change affecting Virginia today." That is an Ole Miss publication.

I think if we start listening to the scientific institutions, particularly our home State universities, including the University of Oklahoma, Mr. Chairman. Berrien Moore is the Dean at your university. He has participated in this and understands this.

I think we will have a much better focus than if we are grabbing strays, many of whom have financial connections to the polluting industry and trying to pretend that they create a legitimate alternative debate.

I yield back my time, and I appreciate the Chairman's courtesy.

Senator INHOFE. Do you have a motion?

Senator MERKLEY. Yes. When I opened my statement, I described the background, but I want to explain why it is so important to me.

In my home State, we have our rural resources under direct attack by changing climate. If you look at the forests, we have not only the vast growth of the pine beetle, but we have a fire season that has increased by 60 days in 40 years. That is a day and a half for every year.

Our State is, on average, aflame more and more each year. I know that California is having the same experience. This has a huge impact on our rural communities and our logging and timber communities.

We have also a huge impact on our fishing world. Right now there is a die off of hundreds of thousands of sockeye salmon as they are going from the Columbia to the Snake River because the average temperature is 6 degrees higher than it usually is. The fish cannot tolerate it.

We have very, very small streams coming out of the Cascades because the glaciers and snow pack have disappeared from the Cascades, the result being that if you care about fishing for trout, you have very warm, very small streams. That is not healthy.

If you care about the shellfish industry, the increasing acidity of the Pacific Ocean is affecting our shellfish and reproduction of our oysters. If you care about farming, our entire Klamath agricultural basin is in drought and has been in three of the worse ever droughts in a period of about a decade and a half.

My point is that, it is not just sea level rise. It is affecting timber, farming, fishing, and shellfish. This is profoundly important. It is why I want us to listen to the advice of the leading scientific institutions.

Thank you, Mr. Chairman.

Senator INHOFE. Do you have a motion?

Senator MERKLEY. My motion is to adopt Merkley Amendment No. 1.

Senator BOXER. I would like to put something in the record. I will take me 25 seconds. It is in answer to your poll. This is a series of polls. The top one is Stanford.

A Stanford poll in January of this year found 83 percent of Americans, including 61 percent of Republicans, say if nothing is done to reduce emissions, global warming will be a serious problem, and the Federal Government should be doing a substantial amount to combat climate change. That is why I support the Merkley amendment.

May I put this in the record?

Senator INHOFE. We will make that a part of the record.

[The referenced information follows:]



## Most Republicans Say They Back Climate Action, Poll Finds

*By CORAL DAVENPORT and MARJORIE CONNELLY | JAN. 30, 2015*

WASHINGTON — An overwhelming majority of the American public, including half of Republicans, support government action to curb global warming, according to a poll conducted by The New York Times, Stanford University and the nonpartisan environmental research group Resources for the Future.

In a finding that could have implications for the 2016 presidential campaign, the poll also found that two-thirds of Americans said they were more likely to vote for political candidates who campaign on fighting climate change. They were less likely to vote for candidates who questioned or denied the science that determined that humans caused global warming.

Among Republicans, 48 percent say they are more likely to vote for a candidate who supports fighting climate change, a result that Jon A. Krosnick, a professor of political science at Stanford University and an author of the survey, called “the most powerful finding” in the poll. Many Republican candidates question the science of climate change or do not publicly address the issue.

Nonetheless, 47 percent of Republicans still said they believed that policies designed to curb global warming would hurt the economy.

Although the poll found that climate change was not a top issue in determining a person’s vote, a candidate’s position on climate change influences how a person will vote. For example, 67 percent of respondents, including 48 percent of Republicans and 72 percent of independents, said they were less likely to vote for a candidate who said that human-caused climate change is a hoax.

The results came as climate change was emerging as a source of debate in the coming presidential campaign.

In 2012, all the Republican presidential candidates but one — Jon M. Huntsman Jr. — questioned or denied the science that determined that humans caused global warming, and opposed policies to curb greenhouse gas emissions. But over the past year, President Obama has proposed a series of Environmental Protection Agency regulations intended to reduce carbon

pollution from coal-fired power plants, which Republicans in Congress have attacked as a “war on coal.”

But those positions appear to be out of step with the majority of the electorate.

The poll found that 83 percent of Americans, including 61 percent of Republicans and 86 percent of independents, say that if nothing is done to reduce emissions, global warming will be a very or somewhat serious problem in the future.

But substantial differences remain between the two parties on the issue.

Democrats are much more likely than Republicans or independents to say that the issue of global warming is important to them. Among Democrats, 63 percent said the issue was very or extremely important to them personally. In contrast, 40 percent of independents and only 18 percent of Republicans said the same.

And while the poll found that 74 percent of Americans said that the federal government should be doing a substantial amount to combat climate change, the support was greatest among Democrats and independents. Ninety-one percent of Democrats, 78 percent of independents and 51 percent of Republicans said the government should be fighting climate change.

The nationwide telephone poll was conducted Jan. 7 to 22 with 1,006 adults and has a margin of sampling error of plus or minus 4 percentage points.

Over all, the number of Americans who believe that climate change is caused by human activity is growing. In a 2011 Stanford University poll, 72 percent of people thought climate change was caused at least in part by human activities. That grew to 81 percent in the latest poll. By party, 88 percent of Democrats, 83 percent of independents and 71 percent of Republicans said that climate change was caused at least in part by human activities.

A majority of Americans — 71 percent — expect that they will be personally hurt by climate change, although to different degrees.

“Some people think they’ll be really devastated; some people think they’ll be inconvenienced,” Mr. Krosnick said.

Aliza Strauss, a Republican homemaker in Teaneck, N.J., said in a follow-up interview that climate change had affected her personally and she was concerned about the effect of climate change in coming years. “A tree fell on my house during Hurricane Sandy, and in the future, it might be worse,” she said. “The stronger storms and the flooding will erode the coastline, and that is a big concern for me.”

Jason Becker, a self-identified independent and stay-at-home father in Ocoee, Fla., said that although climate change was not his top concern, a candidate who questioned global warming would seem out of touch.

“I don’t think it’s the No. 1 hot issue in the world,” he said. “There are some other things that should take precedent, like the ISIS issue,” he said, referring to the Islamic State militants.

But he said of climate change: “If someone feels it’s a hoax, they are denying the evidence out there. Many arguments can be made on both sides of the fence. But to just ignore it completely indicates a close-minded individual, and I don’t want a close-minded individual in a seat of political power.”

Political analysts say the problem for many Republicans is how to carve out a position on climate change that does not turn off voters like Mr. Becker, but that also does not alienate powerful conservative campaign donors. In particular, advocacy groups funded by the billionaire brothers Charles G. and David H. Koch have vowed to ensure that Republican candidates who support climate change action will lose in primary elections.

As a result, many Republicans have begun responding to questions about climate change by saying “I’m not a scientist” or some variant, as a way to avoid taking a definite position.

The poll found that that vague position might well help Republican candidates in primary contests, particularly among conservative voters. The poll found that 27 percent of Americans were more likely to vote for a candidate who took that position, and 44 percent less likely. But among those who support the Tea Party, 49 percent said they would be more likely to vote for a candidate who said “I’m not a scientist” or a variant.

“It recruits more Tea Partiers than it repels,” Mr. Krosnick said.

A pledge to fight climate change appears to have less attraction for older voters. The poll found that older Americans were slightly less inclined to support a candidate who calls for action to reduce global warming and similarly less negative toward a candidate who rejects the premise of global warming.

“Global warming hasn’t much importance to me,” said William Werner, 73, a retired sales manager in San Antonio. “It is not man-made in my opinion because there have been cycles forever, and we can’t do much about that.”

He added, “If you’re speaking about voting for someone in this country who says they can take actions that will affect global warming, I don’t believe it, because we are just not that big a polluter compared to other countries.”

[http://www.nytimes.com/2015/01/31/us/politics/most-americans-support-government-action-on-climate-change-poll-finds.html?\\_r=0](http://www.nytimes.com/2015/01/31/us/politics/most-americans-support-government-action-on-climate-change-poll-finds.html?_r=0)

## Obama Carbon Rule Backed by Most Americans — WSJ/NBC Poll

*Amy Harder | June 18, 2014*

More than two-thirds of Americans support President **Barack Obama**'s new climate rule and more than half say the U.S. should address global warming even if it means higher electricity bills, according to a [new Wall Street Journal/NBC News poll](#).

Widespread support for the carbon rule, unveiled by the **Environmental Protection Agency** earlier this month, is a rare bright spot for Mr. Obama, who otherwise received mostly low marks by poll respondents on topics ranging from his overall competence to his administration's decision to trade five imprisoned Taliban officials in exchange for the release of Sgt. **Bowe Bergdahl**.

The poll finds that 67% of respondents either strongly or somewhat support EPA's new rule, while only 29% oppose it. Americans are also increasingly willing to stomach higher electricity costs in order to cut carbon emissions. More than half of poll respondents—57%—said they would support a proposal requiring companies to cut greenhouse gas emissions that cause global warming even if it means higher utility bills. That figure is up 9 percentage points since October 2009.

The EPA on June 2 [released a draft rule](#) to regulate carbon emissions from hundreds of fossil-fired power plants across the U.S., including roughly 600 coal plants that will be hit the hardest. Coal is the most plentiful electricity source, providing roughly 40% of the nation's electricity, but it also emits about twice as much carbon as natural gas when burned. The proposed rule mandates that power plants cut U.S. carbon-dioxide emissions 30% by 2030 compared to levels seen in 2005, an aggressive target that marks the first attempt at limiting such pollution.

The EPA rule is the cornerstone of Mr. Obama's climate-change agenda that both he and his top advisers, including EPA Administrator **Gina McCarthy**, have been touting in recent weeks. They also criticize lawmakers and interest-group leaders who doubt both the science behind climate change and the purpose of EPA's rule. On both of these accounts, more Americans are siding with the Obama administration than otherwise, according to the WSJ/NBC poll.

More Americans today (61%) compared with five years ago (54%) say that climate change is occurring and that some sort of action should be taken. This indicates that a majority of Americans are out of step with most congressional Republicans who refuse to discuss climate change or propose policies to address it. The percentage of Americans who doubt climate science and don't think action should be taken is slightly less today (37%) compared to 2009 (41%).

Industry trade groups, especially the U.S. Chamber of Commerce, have criticized the rule and said it would impose high compliance costs onto utility companies and not make a difference on a global scale in terms of carbon emissions. EPA and environmental groups backing the agency's rule argue that the economic and public-health benefits of the rule far outweigh the annual compliance costs, which EPA calculated would be up to \$8.8 billion.

EPA and its proponents are garnering more support from Americans than those who criticize the agency. A majority of respondents—53%—agree with the position taken by EPA and its supporters, while just 39% of poll respondents sided with the claims laid out by EPA's opponents.

This support is in line with Americans' overall support of—or at least neutral take on—EPA as a federal agency.

Of the seven public figures and groups the WSJ/NBC poll asked respondents to rate their feelings about, EPA had by far the least negative response. Just 28% of respondents said they had a negative feeling toward the agency, nearly 10 percentage points lower than the other two least negative ratings: former Secretary of State Hillary Clinton (at 37% negative) and Vice President Joe Biden (36% negative). The agency, which was established by Republican President Richard Nixon in 1970, also garnered the most neutral feelings out of all seven public figures and groups at 27%. Forty percent of respondents said they had a positive feeling about EPA, second to Ms. Clinton at 44% and Mr. Obama at 41%. Broadly speaking, half of all Americans say most federal regulations are necessary to protect the environment, up 10 percentage points since 1995.

The poll, conducted June 11 through 15, surveyed 1,000 adults and has a margin of error of plus or minus 3.1 percentage points.

<http://blogs.wsj.com/washwire/2014/06/18/obama-carbon-rule-backed-by-most-americans-wsjnbc-poll/>



**From:** Tom Jensen, Director of Public Policy Polling

**To:** Interested Parties

**Subject:** Americans Strongly In Favor of Plan to Limit Carbon Emissions

**Date:** 8-4-15

A new Public Policy Polling survey finds that there's strong support for the EPA's new plan to limit carbon pollution from power plants and that a majority of voters consider climate change a serious problem.

Key findings from the survey include:

- There is widespread support for the EPA's new plan to limit carbon pollution from power plants. Voters in all states, age groups, Democrats and Independents support the Clean Power Plan. Overall, 58% support the plan, while 40% oppose it after hearing arguments for and against the plan.

- Voters across all 8 swing states and in all age groups consider climate change a serious problem. Democrats (77/22) are very concerned about climate change, with independents (55/44) in agreement. 37% of Republicans consider it serious while 62% don't. There are more Republicans concerned about climate change than Democrats who are unconcerned.

- When asked if they agree with Mitch McConnell's urging the states to ignore the EPA and not develop a plan to cut carbon pollution, the answer was a resounding no: only 31% think states should drag their feet on implementation of new clean power plans; 59% say states should move forward and develop a plan to reduce carbon pollution from power plants.

- Supporting climate change measures isn't a particularly risky move for members of Congress. 63% say they would either be more likely to support their member or it would make no difference if they supported the EPA's Clean Power Plan. This holds true in each state surveyed. Even Republicans say they would either be more likely to support their members in the future or it would make no difference: 47% total compared to 43% who would be more likely to oppose.

The state results for three key questions are as follows:

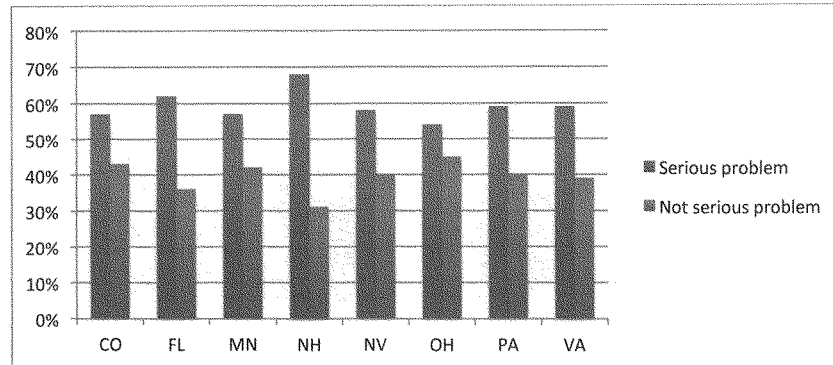
---

Phone: 888 621-6988  
 Web: [www.publicpolicypolling.com](http://www.publicpolicypolling.com)  
 Email: [information@publicpolicypolling.com](mailto:information@publicpolicypolling.com)





1. How much of a problem do you consider climate change to be?

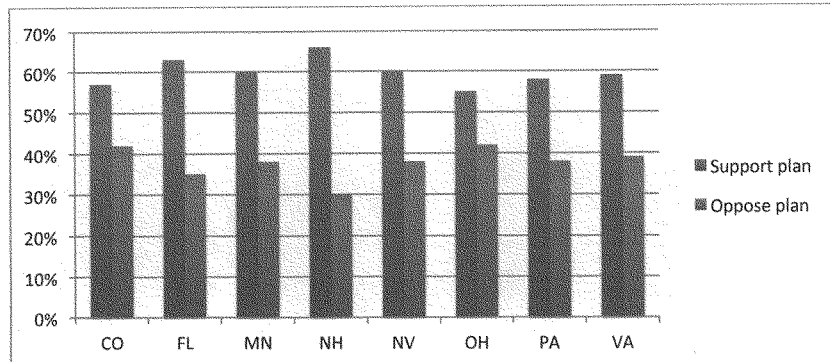


State	Serious problem	Not serious problem
CO	57%	43%
FL	62%	36%
MN	57%	42%
NH	68%	31%
NV	58%	40%
OH	54%	45%
PA	59%	40%
VA	59%	39%





2. Now that you've heard about the EPA's Clean Power Plan, do you support or oppose the plan?



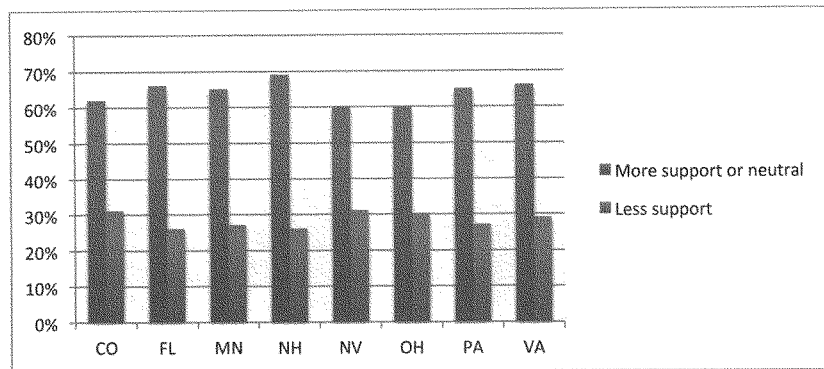
State	Support Plan	Oppose Plan
CO	57%	42%
FL	63%	35%
MN	60%	38%
NH	66%	30%
NV	58%	40%
OH	55%	42%
PA	58%	38%
VA	59%	39%







3. If an elected official supported this plan, would it make you feel more favorable, less favorable, or no change?



State	More Support or Neutral	Less Support
CO	62%	31%
FL	66%	26%
MN	65%	27%
NH	69%	26%
NV	60%	31%
OH	60%	30%
PA	65%	27%
VA	66%	29%

The message is clear: There is strong support across swing states for the EPA's new plan to limit carbon pollution from power plants. There's also limited potential for backlash against members of Congress who help move the policy along.

Public Policy Polling surveyed 4,517 registered voters in CO, FL, MN, NH, NV, OH, PA, and VA between July 31 – August 3 for Americans United for Change. The survey's margin of error is +/- 1.5%.



Senator INHOFE. I assume you want a vote.  
 Senator MERKLEY. Yes, please, Mr. Chairman.  
 Senator INHOFE. The Clerk will call the roll.  
 The CLERK. Mr. Barrasso.  
 Senator BARRASSO. No.  
 The CLERK. Mr. Booker.  
 Senator BOXER. Aye by proxy.  
 The CLERK. Mr. Boozman.  
 Senator BOOZMAN. No.  
 The CLERK. Mrs. Boxer.  
 Senator BOXER. Aye.  
 The CLERK. Mrs. Capito.  
 Senator CAPITO. No.  
 The CLERK. Mr. Cardin.  
 Senator BOXER. Aye by proxy.  
 The CLERK. Mr. Carper.  
 Senator CARPER. Aye.  
 The CLERK. Mr. Crapo.  
 Senator INHOFE. No by proxy.  
 The CLERK. Mrs. Fischer.  
 Senator FISCHER. No.  
 The CLERK. Mrs. Gillibrand.  
 Senator BOXER. Aye by proxy.  
 The CLERK. Mr. Markey.  
 Senator MARKEY. Aye.  
 The CLERK. Mr. Merkley.  
 Senator MERKLEY. Aye.  
 The CLERK. Mr. Rounds.  
 Senator ROUNDS. No.  
 The CLERK. Mr. Sanders.  
 Senator BOXER. Aye by proxy.  
 The CLERK. Mr. Sessions.  
 Senator INHOFE. No by proxy.  
 The CLERK. Mr. Sullivan.  
 Senator INHOFE. No by proxy.  
 The CLERK. Mr. Vitter.  
 Senator INHOFE. No by proxy.  
 The CLERK. Mr. Whitehouse.  
 Senator WHITEHOUSE. Aye.  
 The CLERK. Mr. Wicker.  
 Senator INHOFE. No by proxy.  
 The CLERK. Mr. Chairman.  
 Senator INHOFE. No.  
 The CLERK. Mr. Chairman, the yeas are 9 and the nays are 11.  
 Senator INHOFE. The amendment fails.

At this point, I would like to recognize, for a change, one of the Republicans, to make a comment. Senator Barrasso, do you have a comment to make about the proceeding?

Senator BARRASSO. Thank you very much, Mr. Chairman.

To the point of the Senator from Massachusetts who said, where is your plan, under Lisa Murkowski, Chairman of the Energy Committee, we just passed a bipartisan energy bill, clean energy bill. Your colleague from Massachusetts voted for it. It passed 18 to 4.

It was the first time an energy bill has come forward in a long time. It was a Republican-led committee that has done that, 18 to 4. Two Republicans voted against it and two Democrats voted against it.

It is focused on clean energy and energy legislation which will actually help our economy and help our country because we all want reliable, clean and affordable energy. People say science is science, but I say math is math.

The emissions in this country have been on the downturn for the last 10 years. We have a lot fewer emissions now than we had 10 years ago. Emissions have been going down. U.S. emissions are only 15 percent of global emissions. The rest of the world puts out 85 percent of the emissions. You could turn off the United States tomorrow, and it is not going to change what is happening globally with increasing emissions.

The math is the math in terms of renewable energy. Only 4 percent is from wind, and 1 percent is from solar. The biggest problem in getting the wind from where the wind blows to where the people live who want that electricity is the environmentalists who are blocking the building of the transmission lines to carry that energy.

We have incredible wind capacity in Wyoming. The transmission lines have been blocked by environmentalists. I say science is science, and math is math. The numbers say 32 States oppose what the President has just come out with because they realize the impact on the reliability of energy, the affordability of energy and jobs in their communities.

You talk about healthy forests. We have environmentalists who are blocking healthy forest initiatives which would actually go in there and clean out dead trees and make it less likely that a forest fire would occur.

These places are tinderboxes ready to go up. The efforts to make things better are being blocked. Now the President comes out with his initiative which I believe is a national energy tax. To me, this is regulation without representation.

The attacks on affordable energy are huge. You say how does this impact the average person? How many families are looking forward to paying higher electricity bills under these proposals because that is what is going to happen.

You will have more people out of work. It will hurt the most vulnerable. Yet in terms of the big picture, it is not going to help the environment. The costs are real; the impacts are unproven.

The President seems to always exaggerate the benefits and ignore the costs. That is why I put out this report, Red Tape Making Americans Sick. EPA rules cost Americans their jobs and their health.

When we hear about getting people from the known institutions here, we had someone from Johns Hopkins University to testify that the unemployment rate is well established as a risk factor for elevated illness and mortality rates, with influences on mental health, suicide, alcohol abuse, drug abuse, spouse abuse, unemployment and an important risk factor of heart disease, all of this when you put a community out of work.

We have a headline here from the Gillette, Wyoming, newspaper, State Could Lose Up to 11,000 Coal Jobs If Obama Plan Takes Ef-

fect. Eleven thousand coal jobs are good jobs. People want these jobs. As people sometimes retire, they try to get their children to have these jobs. They have very safe working conditions, pay a lot of attention to safety and provide affordable energy all across the country.

I would say, Mr. Chairman, I am here in support of my friend from West Virginia and her legislation, Affordable Reliable Energy Now. I am going to continue to vote against these amendments that come forward that would weaken her proposal.

I want to thank you, Mr. Chairman, for giving me the time to speak.

Senator BOXER. Mr. Chairman.

Senator INHOFE. The Chair is going to respond.

I think maybe the only thing you did not address was the fact that the Director of the EPA appointed first by President Obama agreed with what you just said, the fact that if we do these things unilaterally in the United States, it is not going to have an effect to reduce emissions worldwide.

In fact, it could increase them because as we chase our manufacturing base to other countries where they have no restrictions, we could actually increase worldwide CO<sub>2</sub>.

I am going to ask how many amendments want to be heard. You have two, Senator Whitehouse has two. How many do you have?

Senator MERKLEY. I have two more.

Senator INHOFE. Two. Senator Markey, do you have amendments to be heard?

Senator MARKEY. Yes, I do.

Senator INHOFE. How many?

Senator MARKEY. I have three more amendments that are pending, but I think Senator Whitehouse is ahead of me.

Senator INHOFE. I know that. I am trying to figure out what to do.

Senator MARKEY. I will cut it down to just one additional amendment.

Senator BOXER. Mr. Chairman, I will not offer my amendment until this gets to the floor, if it gets to the floor. I do want to respond in just one brief moment to the speech by my friend from Wyoming.

I come from a State that has probably the strongest carbon rules in the nation, a cap-and-trade system that was demeaned, all kinds of charges were made of how electricity prices were going up and jobs were going down and poverty was going up.

I am going to put in the record a fact sheet. California households pay the ninth lowest electricity bills in the country, lower than Oklahoma. Under California's climate program, we receive a twice a year climate credit.

California's household monthly energy bills are far cheaper than Oklahoma. In 2013, the Energy Information Administration found California's monthly residential electricity bill average \$90 compared to Oklahoma's monthly bill of \$110.

California's overall monthly energy bills are among the cheapest in the country. California created a budget surplus with cap-and-trade. We went from a terrible deficit, and we are now in a surplus with the leadership of our Governor and our legislature.

California's rate of job growth is better than the country during cap-and-trade. We are a leader in green jobs, in solar jobs and wind. On some days, 50 percent of our energy comes from the sun.

For people to say that this is one scary future, take a look at the State that is doing it, 40 million people strong. The oil companies came in and tried to get us to repeal our laws, and we beat them back. It is real, and that is why I oppose what my friend is trying to do in West Virginia, to take us back.

Senator INHOFE. Without objection, I am going to enter one thing into the record that refutes everything Senator Boxer just said about California.

Senator BOXER. Let us put it next to mine and people can judge.

Senator INHOFE. That is fine.

[The referenced information follows:]

## California's Energy Efficiency Success Story: Saving Billions of Dollars and Curbing Tons of Pollution



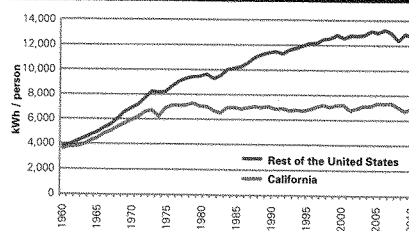
California's long, bipartisan history of promoting energy efficiency—America's cheapest and cleanest energy resource—has saved Golden State residents more than \$65 billion,<sup>1</sup> helped lower their residential electricity bills to 25 percent below the national average,<sup>2</sup> and contributed to the state's continuing leadership in creating green jobs.<sup>3</sup>

These achievements, which began in the 1970s and continued under both Democratic and Republican leadership, have helped California avoid at least 30 power plants<sup>4</sup> and as much climate-warming carbon pollution as is spewed from 5 million cars annually.<sup>5</sup> This sustained commitment has made California a nationally recognized leader in reducing energy consumption and improving its residents' quality of life.<sup>6</sup> California's success story demonstrates that efficiency policies work and could be duplicated elsewhere, saving billions of dollars and curbing tons of pollution.

### CALIFORNIA'S COMPREHENSIVE EFFICIENCY EFFORTS PRODUCE HUGE BENEFITS

**LOW PER CAPITA CONSUMPTION:** Thanks in part to California's wide-ranging energy-saving efforts, the state has kept per capita electricity consumption nearly flat over the past 40 years while the other 49 states increased their average per capita use by more than 50 percent, as shown in Figure 1. This accomplishment is due to investment in research and development of more efficient technologies, utility programs that help customers use those tools to lower their bills, and energy efficiency standards for new buildings and appliances.

Figure 1: California Per Capita Electricity Consumption vs. Rest of the Nation



Source: EIA.<sup>7</sup>



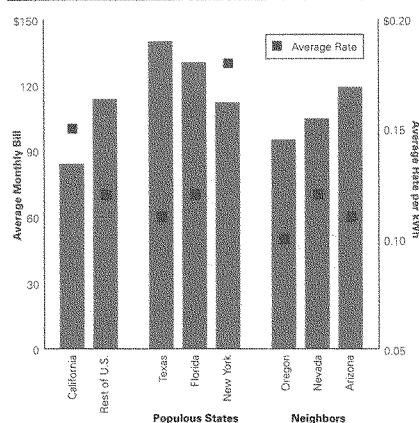
For more  
information,  
please  
contact:

**Devra Wang**  
dwang@nrdc.org  
switchboard.nrdc.org/  
blogs/dwang

**Sierra Martinez**  
smartinez@nrdc.org  
switchboard.nrdc.org/  
blogs/smartinez

[www.nrdc.org/energy](http://www.nrdc.org/energy)  
[www.facebook.com/nrdc.org](https://www.facebook.com/nrdc.org)  
[www.twitter.com/nrdc](https://www.twitter.com/nrdc)

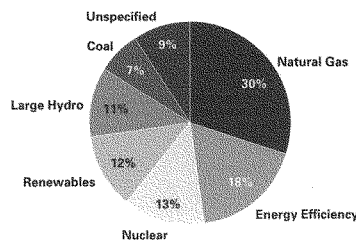
Figure 2: Comparison of Residential Electric Bills and Rates



Source: U.S. Energy Information Administration (2011)

Figure 3: California Power Mix (2011)

Energy efficiency costs less than half of what the fossil-fuel alternatives would be in California.<sup>10</sup>



Source: CEC, NRECA analysis

**ECONOMIC ADVANTAGES:** Energy efficiency has saved Californians \$65 billion since the 1970s.<sup>8</sup> It has also helped slash their annual electric bills to the ninth-lowest level in the nation, nearly \$700 less than that of the average Texas household, for example.<sup>9</sup> There is no doubt that energy efficiency is a good investment that uses the resources we have more effectively—and it costs utilities less than half of what the fossil-fuel alternatives would be in California.<sup>10</sup>

Clean energy opponents often decry California's relatively high per-kilowatt-hour rates, but households care more about their total monthly utility bills. And compared with the national average, the other most populous states, and its neighbors, Californians win hands-down with lower bills (see Figure 2).

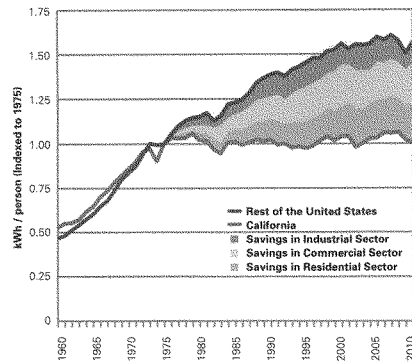
Lower utility bills also improve California's economic productivity. Since 1980, the state has increased the bang for the buck it gets out of electricity and now produces twice as much economic output for every kilowatt-hour consumed, compared with the rest of the country.<sup>11</sup> California also continues to lead the nation in new clean-energy jobs, thanks in part to looking first to energy efficiency to meet power needs.

In 2012 alone, more than 26,000 green jobs were added in the state.<sup>12</sup> Efficiency investments create jobs both directly (for example, contractors installing insulation and better windows) and throughout the economy as consumers spend their utility bill savings on more job-intensive goods and services.

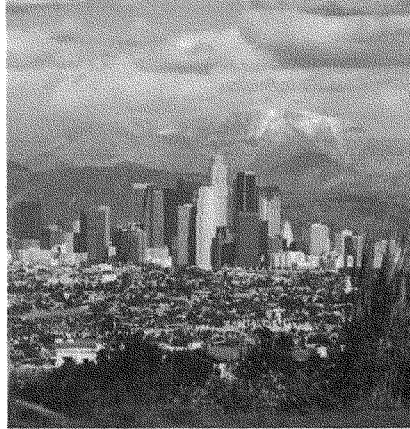
**ENVIRONMENTAL BENEFITS:** Decades of energy efficiency programs and standards have saved about 15,000 megawatts of electricity and thus allowed California to avoid the need for an estimated 30 large power plants.<sup>13</sup> Efficiency is now the second-largest resource meeting California's power needs (see Figure 3).<sup>14</sup> And less power generation helps lead to cleaner air in California. Efficiency savings prevent the release of more than 1,000 tons of smog-forming nitrogen oxides annually, averting lung disease, hospital admissions for respiratory ailments, and emergency room visits.<sup>15</sup> Efficiency savings also avoid the emission of more than 20 million metric tons of carbon dioxide, the primary global-warming pollutant.

**HELPING LOW-INCOME FAMILIES:** While California's efficiency efforts help make everyone's utility bills more affordable, targeted efforts assist lower-income households in improving efficiency and reducing energy bills. More than 1 million households benefitted from programs providing free energy-savings upgrades like weatherization and efficient refrigerators from 2009 through 2011.<sup>16</sup>

Figure 4: Per Capita Electricity Savings Allocated by Sector



Source: EIA, SEDS database (2012)



### BUSTING THE MYTHS ABOUT CALIFORNIA'S ENERGY EFFICIENCY

Although California has kept per capita electricity consumption nearly flat over the past four decades, some naysayers incorrectly claim this would have been achieved even without efficiency policies.

**MYTH #1: INDUSTRY'S DECLINE.** Some contend that the flat usage is the result of industry's departure from the state, but heavy industry has been leaving the entire country, not just California. In reality, much of the progress in per capita consumption is due to changes in California's residential and commercial sectors, which together account for about 80 percent of the per capita usage variance between California and the rest of the nation.<sup>17</sup> The industrial sector accounts for the remaining 20 percent and California has a long history of efficiency programs that help explain that gap.

**MYTH #2: CALIFORNIA SUNSHINE.** Some argue that level per capita consumption is due to California's weather. But the state has always enjoyed good weather, so this factor cannot be credited with the widening disparity between California's electricity use and consumption in the rest of the United States. Mild winters are not a significant factor because heating needs in California and elsewhere are largely satisfied with energy sources other than electricity. As for the summers, most of the state's population increasingly lives in

Southern California and the Central Valley, which have hot summers and relatively significant air conditioning loads. Nonetheless, household per capita energy consumption trends (including electricity and home heating fuels, adjusted for year-to-year weather variations) show California far outstrips every other state in continuous efficiency progress.<sup>18</sup>

**MYTH #3: HIGH PRICES.** Perhaps the embodiment of the everything-would-have-happened-anyway philosophy is the misconception that high prices created the energy savings in California. However, research shows that electricity demand is quite insensitive to price.<sup>19</sup> Most people are unaware of the per-kilowatt-hour cost of their electricity because it is buried in complicated bills.

While higher rates help make energy efficiency investments more cost-effective, decades of research and experience show consumers leave even highly worthwhile energy-savings opportunities untapped due to a number of market barriers.<sup>20</sup> For example, a homeowner rushing to replace a broken clothes washer might not find efficient options at the store, might lack information about the relative efficiencies of different models, or might not be able to afford the higher up-front cost of a more efficient machine even though the energy savings over time would more than compensate for it. This is where state and federal efficiency policies and programs can break down obstacles and enable customers to upgrade efficiency and lower their utility bills.



## CALIFORNIA'S EFFICIENCY SUCCESS CAN BE REPLICATED—AND EXPANDED

Although some of California's flat per capita electricity consumption may be attributed to factors independent of energy policy (such as more people per household, on average), the simple truth is this: *Efficiency policies that produce more energy-saving technologies work.*<sup>21</sup> California has reaped substantial energy-savings benefits thanks to policies that can be easily adopted elsewhere: more research and development of new technologies, utility programs to help consumers lower their bills, and minimum standards that ensure new buildings and appliances are not energy guzzlers.

Still, enormous potential remains to save energy more cheaply than it can be produced. In California alone, studies have identified opportunities over the coming decade that could keep more than 10 new power plants from being built, saving utility customers billions and helping to reduce carbon emissions to 1990 levels as required by California's Global Warming Solutions Act.<sup>22</sup>

Meanwhile, California's strong bipartisan support for efficiency as the least expensive and cleanest energy resource is helping keep the lights on, generating jobs, and producing major reductions in pollution. And that's no myth.

## Endnotes

- 1 California Governor Edmund G. Brown, 2013 State of the State Address (January 2013), [www.gov.ca.gov/news.php?id=17906](http://www.gov.ca.gov/news.php?id=17906).
- 2 U.S. Energy Information Administration (EIA), *Residential Average Monthly Bill by Census Division, and State* (September 2012), [www.eia.gov/electricity/sales\\_revenue\\_price/](http://www.eia.gov/electricity/sales_revenue_price/).
- 3 Environmental Entrepreneurs, *2012 Clean Energy Jobs Year-in-Review and Fourth Quarter Report* (March 2013), [www.e2.org/ext/doc/E2CleanEnergy2012YearEndandQ4.pdf](http://www.e2.org/ext/doc/E2CleanEnergy2012YearEndandQ4.pdf).
- 4 California Energy Commission (CEC), *California Energy Demand 2010-2022 Final Forecast*, Figure 1-11, 33 (May 2012), [www.energy.ca.gov/2012publications/CEC-200-2012-001/CEC-200-2012-001-CMF-V1.pdf](http://www.energy.ca.gov/2012publications/CEC-200-2012-001/CEC-200-2012-001-CMF-V1.pdf).
- 5 California Air Resources Board (CARB), *Conversion of 1MMTCO<sub>2</sub> to Familiar Equivalents* (October 2007). CARB, *Climate Change Scoping Plan Appendices*, Vol. 2: "Analysis and Documentation," I-23 (December 2008). CEC, *California Energy Demand 2010-2022 Final Forecast*, Fig. 1-11, 33 (May 2012).
- 6 American Council for an Energy-Efficient Economy (ACEEE), *The State Energy Efficiency Scorecard*, Report Nos. E12C, E115, E107, E097, E086, E075 (2006-2012).
- 7 EIA, *State Energy Data System, All Consumption Estimates, in Physical Units, ESTCP and TPOPP, 1990-2010* (June 2012), [www.eia.gov/state/seds/seds-data-complete.cfm#Consumption](http://www.eia.gov/state/seds/seds-data-complete.cfm#Consumption).
- 8 *Supra* at 1.
- 9 *Supra* at 2.
- 10 The cost of new electricity from conventional generation in California is over 9 cents/kWh, whereas the average price of energy efficiency is less than 4 cents/kWh. CPUC, *Marginal Price Referent* (2011), <http://www.cpuc.ca.gov/PUC/energy/Renewables/Feed-in+Tariff+Price.htm>. CPUC, *EEGA Database* (2012), <http://eeega.cpuc.ca.gov/Documents.aspx>.
- 11 EIA, *State Energy Data System, All Consumption Estimates, in Physical Units, ESTCP and GDPX 1990-2010* (2012), [http://www.eia.gov/state/seds/sep\\_use/total/csv/use\\_all\\_phy.csv](http://www.eia.gov/state/seds/sep_use/total/csv/use_all_phy.csv).
- 12 *Supra* at 3.
- 13 CEC, *California Energy Demand 2012-2022 Final Forecast*, CEC-200-2012-001-CMF-VI, Fig. 3-2 (June 2012).
- 14 CEC, *Total Electricity System Power*, data as of August 1, 2012, [energyalmanac.ca.gov/electricity/total\\_system\\_power.html](http://energyalmanac.ca.gov/electricity/total_system_power.html).
- 15 NRDC, *California Restores Its Energy Efficiency Leadership*, 11 (March 2010), [http://docs.nrdc.org/energy/files/ene\\_10030901a.pdf](http://docs.nrdc.org/energy/files/ene_10030901a.pdf).
- 16 California Public Utilities Commission (CPUC) Decision 12-08-044, 20.
- 17 EIA, *State Energy Data System* (June 2012).
- 18 Ben Foster et al., *The 2012 State Energy Efficiency Scorecard*, American Council for an Energy-Efficient Economy (ACEEE), Report E12C, 92-93 (October 2012).
- 19 M. Bernstein and J. Griffin, *Regional Differences in the Price-Elasticity of Demand for Energy*, RAND/NREL, 2005, xiii. See also: M. Gottstein and L. Schwartz, *The Role of Forward Capacity Markets in Increasing Demand-Side and Other Low-Carbon Resources*, Regulatory Assistance Project, 21 (May 2010).
- 20 See, e.g., W.H. Golove and J.H. Eto, *Market Barriers to Energy Efficiency: A Critical Reappraisal of the Rationale for Public Policies to Promote Energy Efficiency*, Lawrence Berkeley National Laboratory, LBL-38059 (March 1996), [eetd.lbl.gov/EA/emp/reports/38059.pdf](http://eetd.lbl.gov/EA/emp/reports/38059.pdf). Also see Western Governors' Association, Clean and Diversified Energy Advisory Committee, Energy Efficiency Task Force, *The Potential for More Efficient Electricity Use in the Western United States* (December 19, 2005) [www.naesco.org/resources/industry/documents/2005-11-18.pdf](http://www.naesco.org/resources/industry/documents/2005-11-18.pdf).
- 21 Anant Sudarshan, *Deconstructing the "Rosenfeld Curve": The Problem with Energy Intensities*, USAEE-IAEE Working Paper No. 10-057 (November 2010), [ssrn.com/abstract=1715860](http://ssrn.com/abstract=1715860).
- 22 CPUC, *Decision Adopting Long-Term Procurement Plans Track 2 Assumptions and Scenarios*, D.12-12-010, Appendix C, Assumption and Scenario Values, C-5 (December 2012).

Senator INHOFE. By your word, we are going to have five more amendments. I would like to ask, if there is going to be objection, if we can confine our remarks on these amendments and discuss the amendments to 7 minutes. Would that be reasonable?

Senator WHITEHOUSE. Per amendment?

Senator INHOFE. Per amendment. What amendments of the five are left?

Senator WHITEHOUSE. There are very few of us at this point here. Again, this morning does not seem to me, Mr. Chairman, to be an inordinate amount of time to dedicate to an issue of this magnitude.

Senator INHOFE. OK. Do you have an amendment you would like to offer?

Senator WHITEHOUSE. I do. I do not think this would weaken the bill but understanding, no matter which side you are coming from, it would, I think, help establish that we either are or are not working off a common predicate of facts.

Senator INHOFE. Which amendment is it?

Senator WHITEHOUSE. My amendment is Whitehouse Amendment No. 2.

Senator INHOFE. Whitehouse Amendment No. 2.

Senator WHITEHOUSE. It is not the least bit uncommon, Mr. Chairman, for legislation to come through the Senate with findings. It is actually quite common for findings of fact and congressional findings to precede a piece of legislation that explain the rationale for the legislation.

This would not change the substance of Senator Capito's legislation in any way. It would put on the front a findings section expressing the sense of the Senate that one, climate change is real and not a hoax; two, human activity contributes significantly to climate change; and three, the Federal Government—for the record I will say that means broadly whether you want that to be Congress, the President or administrative agencies, I mean broadly the Federal Government not a specific agency—has a responsibility to act.

I think that is the virtually unanimous consensus of everybody not affiliated with the fossil fuel industry who has taken a serious look at this question. It is certainly the strong sense of the American electric, and it is a very strong sense in my home State of Rhode Island.

I do not think it affects the bill in any way. I hope that it can get a strong bipartisan vote in favor.

[The text of Whitehouse Amendment No. 2 follows:]

S. \_\_\_\_\_, Whitehouse #2

This amendment would create a new findings section in the bill saying that it's the sense of the Senate that climate change is real and not a hoax, and human activity significantly contributes to it; and the federal government has a responsibility to act.

15 AUG -4 AM 9:02

WE115928

S.L.C.

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To express the sense of the Senate relating to  
climate change.

**IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.**

**S. 1324**

To require the Administrator of the Environmental Protection Agency to fulfill certain requirements before regulating standards of performance for new, modified, and reconstructed fossil fuel-fired electric utility generating units, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by \_\_\_\_\_

Viz:

1 At the end of the bill, add the following:

2 **SEC. 8. FINDINGS.**

3 It is the sense of the Senate that—

4 (1) climate change is real and not a hoax;

5 (2) human activity significantly contributes to  
6 climate change; and

7 (3) the Federal Government has a responsibility  
8 to act.

Senator INHOFE. Thank you, Senator Whitehouse.  
 You have heard the explanation of the amendment. Those in favor, say aye.  
 [Chorus of ayes.]  
 Senator INHOFE. Opposed, no.  
 [Chorus of noes.]  
 Senator WHITEHOUSE. May I have a roll call vote?  
 Senator INHOFE. Yes, of course.  
 Senator WHITEHOUSE. Unless there is anyone who wishes to make a comment on it, I move the amendment and ask for a roll call vote, if not.  
 Senator BOXER. Second.  
 Senator INHOFE. The Clerk will call the roll.  
 The CLERK. Mr. Barrasso.  
 Senator INHOFE. No by proxy.  
 The CLERK. Mr. Booker.  
 Senator BOXER. Aye by proxy.  
 The CLERK. Mr. Boozman.  
 Senator INHOFE. No by proxy.  
 The CLERK. Mrs. Boxer.  
 Senator BOXER. Aye.  
 The CLERK. Mrs. Capito.  
 Senator CAPITO. No.  
 The CLERK. Mr. Cardin.  
 Senator BOXER. Aye by proxy.  
 The CLERK. Mr. Carper.  
 Senator BOXER. Aye by proxy.  
 The CLERK. Mr. Crapo.  
 Senator CRAPO. No.  
 The CLERK. Mrs. Fischer.  
 Senator FISCHER. No.  
 The CLERK. Mrs. Gillibrand.  
 Senator BOXER. Aye by proxy.  
 The CLERK. Mr. Markey.  
 Senator MARKEY. Aye.  
 The CLERK. Mr. Merkley.  
 Senator BOXER. Aye by proxy.  
 The CLERK. Mr. Rounds.  
 Senator ROUNDS. No.  
 The CLERK. Mr. Sanders.  
 Senator BOXER. Aye by proxy.  
 The CLERK. Mr. Sessions.  
 Senator INHOFE. No by proxy.  
 The CLERK. Mr. Sullivan.  
 Senator INHOFE. No by proxy.  
 The CLERK. Mr. Vitter.  
 Senator INHOFE. No by proxy.  
 The CLERK. Mr. Whitehouse.  
 Senator WHITEHOUSE. Aye.  
 The CLERK. Mr. Wicker.  
 Senator INHOFE. No by proxy.  
 The CLERK. Mr. Chairman.  
 Senator INHOFE. No.  
 The CLERK. Mr. Chairman, the yeas are 9 and the nays are 11.

Senator INHOFE. The amendment fails.

Other amendments? We are down to four now.

Senator Markey.

Senator MARKEY. Thank you, Mr. Chairman.

Mr. Chairman, I have Markey Amendment No. 6 at the desk.

Senator INHOFE. You are recognized.

Senator MARKEY. Thank you very much, Mr. Chairman.

We have heard a lot about job loss in the coal industry which has been a fact for the last 30 to 40 years. A lot of that just has to do with innovation, has to do with automation. There are huge vehicles that now come in and can dig out tons and tons of coal which have put tens of thousands of coal miners out of business. It is automation. It is new technology. It is innovation.

There are some that wanted to stop that so we did not have that progress in coal country, but it is just the way it is. That is what has been killing coal jobs, combined with the incredible increase in the use of natural gas as a way of generating electricity in our country. That is the war on coal. The war on coal is natural gas.

It is cleaner, and in most parts of the country, less expensive. Economics 101 moves utilities toward natural gas. Economics 101 moves the coal industry toward larger vehicles that dig out more coal with less use of human beings. That is what has been happening.

If I felt there was a sincere effort to seek a level playing field in the creation of new jobs and new energy industries, that would be one thing, but that does not exist. The Republicans oppose the extension of the wind tax break. That is off the books now because of the Republican Party.

What is wind in the United States of America? By the end of next year, even without the tax break, it is essentially 80,000 megawatts, it is 80,000 jobs in America which will start to slowly but surely go right down because there is no plan by the Republicans to put a tax break on the books for wind.

How about solar? Solar, in the United States, installed only 79 megawatts in the year 2005; last year, 7,000 megawatts, 100 times more; this year, 8,000 megawatts; and next year, 12,000 megawatts. In other words, there will be double the amount of solar in 2 years as was produced from the beginning of time until the end of 2014.

That is moving fast, but the tax break for solar expires next year. What do we hear from the Republican Party about how much they are willing to keep the tax breaks for solar and the tax breaks for wind on the books?

By the way, by the end of next year, 210,000 jobs in the solar industry will exist. Between wind and solar, there will be 300,000 jobs. There are only 80,000 coal miners in America. This is the fast growth, job creating sector of the American economy creating jobs 10 times faster than any other sector in our economy. That is where we are.

By the end of next year, combined, there will be 120,000 megawatts of wind and solar in America, but the tax breaks will have expired if the Republicans do not step up with their plan. They say, well, it is only 5 percent of all electricity now coming

from the renewable sector. Yes, that is up pretty much from zero in 2005.

It is moving. It is like the deployment of cellular phones. You did not have one in your pocket in 1994. In 1996, all of a sudden, you did.

If you are basically going to be interpreting how fast things change, whether or not you had an iPhone 5 years ago and whether or not you have one today, you are not looking at the right way of looking at innovation and how quickly it is adopted after it is introduced into our economy.

My amendment says the polluter protection plan we are debating here today does not go into effect if the EPA Administrator and the Secretary of Energy determine that it would have a negative impact on clean energy jobs being created in our country.

On one side, there has been an inexorable decline, the coal industry, not this year, not last year, because there is no energy plan, there is no plan on the books to reduce greenhouse gases right now.

It has been going down, but it has been going down without Congress having acted, but there has been a dramatic increase in clean energy jobs.

That is really the heart of my amendment. It says, let us keep innovation going. Let us be moving from this old 19th century technology, not by saying anything other than we are going to keep the incentives on the book for clean energy as well, a level playing field.

The old tax breaks stay on the books; the coal tax breaks stay on the books. What goes away is the wind and solar. That is the unlevel playing field that we have seen for 100 years in this country.

Finally, during the Obama administration, we have seen it unleashed. What is happening is now called a threat, not to our economy, however, because of prices collapsing in renewable energy, and the dramatic increase in the number of jobs that have been created.

My amendment says this bill cannot go into effect until the EPA and the Department of Energy determine how many jobs will be lost by this bill. I urge an aye vote.

[The text of Markey Amendment No. 6 follows:]

S.1324, Markey #6

Summary: S. 1324 will not apply if it has a negative impact on clean energy jobs.

15 AUG -4 AM 9:33



*S. 1324, Markey #6*

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To limit the effectiveness of the bill if the Administrator of the Environmental Protection Agency and the Secretary of Energy determine that implementation will have a negative effect on jobs in the wind, solar, energy efficiency, or other clean energy sectors.

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

**S. 1324**

To require the Administrator of the Environmental Protection Agency to fulfill certain requirements before regulating standards of performance for new, modified, and reconstructed fossil fuel-fired electric utility generating units, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. MARKEY

Viz:

- 1 At the end of the bill, add the following:
- 2 **SEC. \_\_\_\_ . LIMITATION ON EFFECTIVENESS.**
- 3 This Act, including the amendments made by this
- 4 Act, shall not take effect until the date on which the Ad-
- 5 ministrator, in consultation with the Secretary of Energy,
- 6 determines that implementation of this Act, including the
- 7 amendments made by this Act, will not have a negative

JAC15B44

S.L.C.

2

1 effect on jobs in the wind, solar, energy efficiency, or other

2 clean energy sectors.

Senator INHOFE. Thank you, Senator Markey. You do have a minute left.

Senator CAPITO, would you like to respond?

Senator CAPITO. Yes. I was just going to say that in the bill I encourage Governors of each State to analyze the impacts of those clean energy jobs and other jobs that are created and sustained by the coal or natural gas industry. I think it is repetitive. I do not think we need it.

The other thing I would say briefly on wind is we have 333 windmills in my State. That is not easy to get those permitted and put into effect.

I would also say that 32 State Governors have been opposition to this. We passed a bipartisan energy bill last week that addresses a lot of the renewable issues.

Thank you.

Senator INHOFE. Senator Markey moves his bill. Is there a second?

Senator WHITEHOUSE. Second.

Senator INHOFE. The Clerk will call the roll.

The CLERK. Mr. Barrasso.

Senator INHOFE. No by proxy.

The CLERK. Mr. Booker.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Boozman.

Senator BOOZMAN. No.

The CLERK. Mrs. Boxer.

Senator BOXER. Aye.

The CLERK. Mrs. Capito.

Senator CAPITO. No.

The CLERK. Mr. Cardin.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Carper.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Crapo.

Senator CRAPO. No.

The CLERK. Mrs. Fischer.

Senator INHOFE. No by proxy.

The CLERK. Mrs. Gillibrand.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Markey.

Senator MARKEY. Aye.

The CLERK. Mr. Merkley.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Rounds.

Senator ROUNDS. No.

The CLERK. Mr. Sanders.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Sessions.

Senator INHOFE. No by proxy.

The CLERK. Mr. Sullivan.

Senator INHOFE. No by proxy.

The CLERK. Mr. Vitter.

Senator INHOFE. No by proxy.

The CLERK. Mr. Whitehouse.

Senator WHITEHOUSE. Aye.

The CLERK. Mr. Wicker.

Senator INHOFE. No by proxy.

The CLERK. Mr. Chairman.

Senator INHOFE. No.

The CLERK. Mr. Chairman, the yeas are 9 and the nays are 11.

Senator INHOFE. The amendment fails.

I would observe we are down to seven people. If we lose one more person, we will not be able to vote on amendments. We are also down to three more amendments. Do you have an amendment you would like to offer?

Senator WHITEHOUSE. I do, Mr. Chairman. I would like to call up Whitehouse Amendment No. 1.

Senator INHOFE. Whitehouse Amendment No. 1, you are recognized.

Senator WHITEHOUSE. Whitehouse Amendment No. 1 is similar to the health amendment that Senator Markey offered earlier. It requires a similar alternative method of getting to the point before the Capito legislation would go into effect, although this is not focused on the health aspect. It is focused on the oceans aspect. Let me explain why that is.

Our friends have said that the climate is always changing, and therefore climate change is not significant. Yes, the climate is always changing in geologic time. We have never seen anything in the history of our planet, of human beings on it at least, where we have seen a change as rapid as we have in terms of the carbon pollution of our atmosphere.

We have been on the earth for about 200,000 years as a species. If you measure back 800,000 years through air trapped in ice and other ways they have of actually measuring this, they see the carbon concentration in the atmosphere has been going up and down and up and down fairly regularly between about 175 and 300 ppm.

That is the whole history of our species on the planet until the Industrial Revolution. Suddenly, it breaks out. Now, for the first time ever, measurements are over 400 ppm in the atmosphere.

That has a lot of climate effects that we see, but it also has some very important ocean effects. You can go to a lab and raise the concentration of CO<sub>2</sub> in a container with saltwater and see the pH drop of the saltwater. It will acidify.

That is why Senator Merkley's oyster farmers got wiped out when heavily acidic ocean water came in. The water was so acidic that the young oysters could not make their shells. We are starting to see that in the Northeast.

It is a very big deal for Alaska because of what it is doing to something called the tetrapod, a very important sea snail called the sea butterfly, that is a huge part of the salmon diet. The sea is becoming so acidic that the shells are not being able to be made in the same way. It is very powerful scientific work and undisputed on that subject.

You can argue up and down about climate, but you cannot argue about acidification. That is happening, and it is directly related to the carbon concentration.

What happens also is because of the climate piece, the oceans warm, and we measure that. This is not theory. We measure that

with thermometers. It is not complicated. Children can do it. All you have to do is keep track, and you can see the trend.

The oceans are warming, and that really affects our fishermen. Winter flounder fishery is basically gone. Fishermen come in to say to me, Sheldon, it is getting weird out there. Sheldon, this is not my grandfather's ocean any longer.

The lobster is moving to cooler waters. We are seeing things people have not seen before that our fishermen have to contend with.

The third piece of that is when the ocean warms, it expands. That is called the Law of Thermal Expansion. I doubt anybody on this committee would dare to quarrel with that.

As this massive ocean warms, it lifts and rises. That is why at Naval Station Newport, they measure 10 inches of sea level rise since the 1930s. If you do not trust me, trust the Navy. They have given briefings on what goes on at their ports because their ports exist at the intersection of sea and land.

If you cannot trust the United States Navy on this, if you cannot trust companies like Wal-Mart on this, I do not know who you can listen to. These things are really happening. There are the influences on climate that are beyond the control of humans; this is an influence that is not beyond the control of humans.

It is happening so much faster, so much more rapidly and blowing us out of the traditional limits that the influences beyond human control have kept us in, that we really need to pay attention to this.

This is really important to my State. We are seeing all of these things. We are seeing the acidification begin to happen. Every third grade class in your States that has an aquarium takes a pH test of the aquarium to make sure it is good for the fish.

The testing on this is really not much different than that. It is simple, it is undeniable and you can replicate it in a lab. Every national lab agrees with it. NOAA agrees with it. You really are not going to find anyone respectable who disagrees with that, because it is impossible to disagree with.

The warming is measured by NASA satellites. I know your side wants to defund the NASA satellites so that they cannot tell us what is happening any longer because it is inconvenient for certain special interests, but that is a dumb way to go.

We should actually be listening to NASA, not trying to defund the information they give us. When that happens and the temperatures warm, the sea level rise is inevitable.

Please, if you have a genuine interest in this, go to Google and look up Rhode Island hurricane of 1938. Take a look at some of the pictures of what happened. Go to the American Experience clip on NPR—it is an hour long—on what happened in Rhode Island and nearby with the hurricane of 1938.

Then think to yourself what is going to happen to Rhode Island when that next big one comes and there are 10 more inches of sea level to be thrown like a hammer against our shores, plus whatever extent it gets stacked by sea level rise.

Please accept how important this is to us and how very real the science is behind this, virtually undisputed on the oceans front.

Thank you.

[The text of Whitehouse Amendment No. 1 follows:]

S. \_\_\_\_\_, Whitehouse #1

This amendment would require the federal government to have another program or legislative proposal in place that would reduce carbon pollution by at least as much as EPA's power plant rules before the Act can take effect.

15 AUG -4 AM 9:02

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To include an effective date.

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

**S. 1324**

To require the Administrator of the Environmental Protection Agency to fulfill certain requirements before regulating standards of performance for new, modified, and reconstructed fossil fuel-fired electric utility generating units, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by \_\_\_\_\_

Viz:

1 At the end, add the following:

2 **SECTION \_\_\_\_ . EFFECTIVE DATE.**

3 This Act shall take effect on the date on which the  
4 Administrator of the Energy Information Administration  
5 certifies that a Federal program or law, other than a pro-  
6 gram under section 111 of the Clean Air Act (42 U.S.C  
7 7411), will reduce carbon pollution in at least equivalent  
8 quantities and with similar timing to the carbon pollution  
9 reductions required in the aggregate by the rules and  
10 guidelines described in paragraphs (2), (3), (4), and (5)  
11 of section 6.

Senator MARKEY. Will you yield?

Senator WHITEHOUSE. It is the Chairman's prerogative I believe, but yes, of course, I will. I yield back.

Senator MARKEY. The Senator from Rhode Island represents the Ocean State. I represent the Bay State. What do we have right above us? We have Greenland. Again, Greenland with an ice block at its peak that is 2 miles high and it is melting.

There was a block of ice that broke off the size of Manhattan from Greenland and went into the ocean just a couple years ago. The year before, a block of ice broke off Greenland four times the size of Manhattan and went into the ocean.

This is the Atlantic Ocean where Senator Whitehouse, Senator Gillibrand and I represent. If the ice starts breaking off Greenland and goes into the ocean, there is no place to go, and it results in flooding, higher temperatures, more water hitting our coastline. That is the phenomenon. That is what is happening to us. That is what Massachusetts v. EPA decided in its decision.

I ask for an aye vote on Senator Whitehouse's amendment just so you can protect us against this ice going into the water and endangering our coastlines.

Senator WHITEHOUSE. I move the amendment.

Senator INHOFE. Is there a second to the Whitehouse motion?

Senator BOXER. Second.

Senator INHOFE. The Clerk will call the roll.

The CLERK. Mr. Barrasso.

Senator INHOFE. No by proxy.

The CLERK. Mr. Booker.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Boozman.

Senator BOOZMAN. No.

The CLERK. Mrs. Boxer.

Senator BOXER. Aye.

The CLERK. Mrs. Capito.

Senator CAPITO. No.

The CLERK. Mr. Cardin.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Carper.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Crapo.

Senator CRAPO. No.

The CLERK. Mrs. Fischer.

Senator INHOFE. No by proxy.

The CLERK. Mrs. Gillibrand.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Markey.

Senator MARKEY. Aye.

The CLERK. Mr. Merkley.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Rounds.

Senator ROUNDS. No.

The CLERK. Mr. Sanders.

Senator BOXER. Aye by proxy.

The CLERK. Mr. Sessions.

Senator INHOFE. No by proxy.



The CLERK. Mr. Sullivan.

Senator INHOFE. No by proxy.

The CLERK. Mr. Vitter.

Senator INHOFE. No by proxy.

The CLERK. Mr. Whitehouse.

Senator WHITEHOUSE. Aye.

The CLERK. Mr. Wicker.

Senator INHOFE. No by proxy.

The CLERK. Mr. Chairman.

Senator INHOFE. No.

The CLERK. Mr. Chairman, the yeas are 9 and the nays are 11.

Senator INHOFE. The amendment fails.

We are down to two amendments. I appreciate the cooperation of everyone.

Senator Boxer, do you have an amendment? We are down to two amendments. We are running out of people. We do not have the small quorum of seven to pass. It looks like people are leaving.

Senator BOXER. Let me just say publicly what I told you privately.

I think this has been a really good and fair debate. We are ready to vote on this, but as I told the Chairman, what is very disturbing to our side is the fact that the other bill you have on here, which would say for the first time since I believe 2011, if you spray pesticides on water, you do not have to get a Clean Water Act permit.

We have not had a single hearing on that bill, not one hearing. You are marking up today, and we know what is going to happen. It is not right.

I made a suggestion to my friend, and he is my dear friend, that we reschedule that plus a Democratic bill and then move on with the rest of the agenda. He has made some commitments, and he cannot join me.

I am very sorry to say that we are not going to have a quorum here. My recommendation is that we put that markup off, that we take a Democratic bill so we pair, and that we have a hearing on that really important bill that would expose our kids and grandkids and our families to pesticides in water and allow willy nilly spraying.

It is not right to do that without a hearing. It is not right, so I cannot give you a quorum because it is just unfair.

I am happy to give you a quorum for my friend from West Virginia. I think this has been a terrific hearing. I think it has been emotional and difficult, but we got through it. You are right, we have had many hearings on that. If we could put that off until we get back, I think that would be fine. Otherwise, we are not going to give you the quorum, but you can get the quorum with all your members, to my understanding.

Senator INHOFE. Let me just observe that in the last Congress when the Republicans were a minority, Senator Boxer had S. 2963, a bill to address discharge limits from large and small vessels reported through committee on a party line vote with no hearing.

This was actually a controversial bill among the coastal State Senators and will be argued again in this Congress. This has happened before. We have posted our agenda. We have that bill to take up. It is Senator Carper's bill.

I would observe this. Right now, we are ready for a vote but we do not have 11 people here for a majority. I think there is an effort right now to get 11 people so we can at least get the Capito vote taken care of.

If you will bear with me and stay here for that, if the Democrats choose to walk out and not consider other amendments, there is very little we can do. There is nothing we can do about it, but I would like to hear from Senator Crapo since we are talking about his amendment. Do you have any thoughts while we are waiting for a quorum?

Senator CRAPO. Yes, Mr. Chairman.

I just want to respond briefly to Senator Boxer. I hope we can move to the legislation that I have brought today. The legislation is bipartisan legislation. I just wanted to correct one statement that Senator Boxer made.

She said that if this legislation passes, there will be no protection for the application of pesticides. There already is a full regime under FIFRA for the application of pesticides. This question is whether to add a duplicate system to the process.

It is the result of the court case that, on a bipartisan basis we have agreement, creates an unnecessary, burdensome, expensive and duplicate system of regulation. Even the EPA has said it does not need to have this duplicate regulation.

I just had to clarify that this legislation does not eliminate the regulation of pesticides. It simplifies it to one system which is the system that EPA itself has said we need to utilize.

Senator INHOFE. Thank you, Senator Crapo.

Senator Fischer has arrived. We are talking about your bill. Let me bring you up to date on where we are.

We are waiting for a quorum to come down so we can have the vote, final passage and send to the floor the Capito bill. We are starting to gain some members now.

Senator BOXER. Mr. Chairman, could I be heard on your comment about our bill that we did without a hearing?

Senator INHOFE. You can be heard on that but first, with respect to Senator Fischer, if she has something to say about the bill that apparently is going to be boycotted by the minority.

Senator Fischer.

Senator BOXER. Mr. Chairman, I just have to say in due respect as the Ranking Member here, all I wanted to do is make a point of clarification because you said that we did something without a hearing. The fact is you withheld a quorum. You withheld a quorum, and we are going to withhold a quorum. I am going to leave because I do not want to be the only one.

I just want to say putting people in danger is the wrong thing to do. If you do not have a hearing, what does that tell you? This whole notion that EPA is behind this does not make any sense to me. They have not told me that in any way, shape or form.

This has been in place since 2011 and has not caused any problems to my knowledge. I am going to be leaving now, urging you, Mr. Chairman, that we will come back if you will put this off, and we will put off another Democratic deal. You withheld a quorum when I did that once, and we are going to do exactly what you did.

Senator INHOFE. OK. All right, Senator Boxer, I think we know where we are on this. I would still like to make an attempt while we are voting today, it is my understanding we will have votes, that we can have an off the floor vote on the final passage of the Capito bill in this committee.

We are going to make an effort to do that. However, since we have now been boycotted by the minority, we will have to postpone the rest of this hearing until probably after the recess.

Technically, we are going to recess until the call of the Chair. Hopefully, we will be able to handle that from the floor during the vote.

We are now in recess.

[Whereupon, at 12:08 p.m., the committee was recessed subject to the call of the Chair.]

**EPW MARK-UP – AUG. 5, 2015 2:00PM**

We will reconvene, the mark up beginning this morning. Having reached quorum according to committee rules, that quorum remains to conclude the markup. We have all eleven Republican members of the committee here, live, and together, and some Democratic members may appear as all items on today's markup have bipartisan support. Even the naming bills all have bipartisan support. That is a rare thing. We have no agreement for a rolling quorum due to this morning's walk out. That requires all eleven Republican members present now, so we will complete as soon as possible.

Senator Wicker has informed me that he would like his bill, S. 722, pulled from the markup as it requires additional work with another member of the committee so we will do that.

Seeing no further members with amendments to S. 1324, the ARENA Act, is there a motion to move report S. 1324 to the Senate. Is there a second? Second being heard, the clerk will call the roll.

In the opinion of the Chair, the ayes have it. The legislation is reported favorably to the Senate.

Senator Crapo moves S. 1500 reported to the Senate. Is there a second? Hearing a second, all in favor say aye? All opposed? The ayes have it. The legislation is favorably reported to the Senate.

At the sponsor's request, we are removing S. 124 from today's markup for additional work. Also, I request consent that we substitute H.R. 2131 for S. 1147. Both bills are identical and name a courthouse in Charleston, South Carolina. The sponsors of both bills agree to moving H.R. 2131.

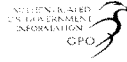
The remaining items on the markup have no amendments filed to them, but does any member seek recognition on any of the remaining items? Hearing none, I now move the remaining legislation, S. 1523, S. 1707, H.R. 2131, H.R. 2559, and the four GSA resolutions be reported favorably to the Senate en bloc.

Also, members may have their vote recorded on these five bills or the resolutions, if they choose. The record will reflect any member wishing to be recorded "no." Is there a second? A second is heard. All those in favor say aye? All those opposed say no. In the opinion of the Chair, the ayes have it. The remaining legislation and resolutions are reported favorably to the Senate.

#### **Authority to make technical and conforming changes**

I ask unanimous consent that the staff have authority to make technical and conforming changes to the measure approved today.

With that our business meeting is concluded.



114TH CONGRESS  
1ST SESSION

# S. 1500

To clarify Congressional intent regarding the regulation of the use of pesticides in or near navigable waters, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

JUNE 3, 2015

Mr. CRAPO (for himself, Mrs. McCASKILL, Mr. BARRASSO, Mr. BOOZMAN, Mr. CARPER, Mr. COONS, Mr. DONNELLY, Mr. ENZI, Mrs. FISCHER, Ms. HEITKAMP, Mr. INHOFE, Mr. MORAN, Mr. RISCH, Mr. ROBERTS, and Mr. TILLIS) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

---

## A BILL

To clarify Congressional intent regarding the regulation of the use of pesticides in or near navigable waters, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Sensible Environ-  
5 mental Protection Act of 2015”.

1 **SEC. 2. USE OF AUTHORIZED PESTICIDES; DISCHARGES OF**  
2 **PESTICIDES; REPORT.**

3 (a) USE OF AUTHORIZED PESTICIDES.—Section 3(f)  
4 of the Federal Insecticide, Fungicide, and Rodenticide Act  
5 (7 U.S.C. 136a(f)) is amended by adding at the end the  
6 following:

7 “(5) USE OF AUTHORIZED PESTICIDES.—Ex-  
8 cept as provided in section 402(s) of the Federal  
9 Water Pollution Control Act (33 U.S.C. 1342), the  
10 Administrator or a State shall not require a permit  
11 under that Act for a discharge from a point source  
12 into navigable waters of—

13 “(A) a pesticide authorized for sale, dis-  
14 tribution, or use under this Act; or

15 “(B) the residue of the pesticide, resulting  
16 from the application of the pesticide.”.

17 (b) DISCHARGES OF PESTICIDES.—Section 402 of  
18 the Federal Water Pollution Control Act (33 U.S.C. 1342)  
19 is amended by adding at the end the following:

20 “(s) DISCHARGES OF PESTICIDES.—

21 “(1) NO PERMIT REQUIREMENT.—Except as  
22 provided in paragraph (2), a permit shall not be re-  
23 quired by the Administrator or a State under this  
24 Act for a discharge from a point source into navi-  
25 gable waters of—

1           “(A) a pesticide authorized for sale, dis-  
2           tribution, or use under the Federal Insecticide,  
3           Fungicide, and Rodenticide Act (7 U.S.C. 136  
4           et seq.); or

5           “(B) the residue of the pesticide, resulting  
6           from the application of the pesticide.

7           “(2) EXCEPTIONS.—Paragraph (1) shall not  
8           apply to the following discharges of a pesticide or  
9           pesticide residue:

10           “(A) A discharge resulting from the appli-  
11           cation of a pesticide in violation of a provision  
12           of the Federal Insecticide, Fungicide, and  
13           Rodenticide Act (7 U.S.C. 136 et seq.) relevant  
14           to protecting water quality if—

15           “(i) the discharge would not have oc-  
16           curred without the violation; or

17           “(ii) the amount of pesticide or pes-  
18           ticide residue in the discharge is greater  
19           than would have occurred without the vio-  
20           lation.

21           “(B) Stormwater discharges subject to reg-  
22           ulation under subsection (p).

23           “(C) The following discharges subject to  
24           regulation under this section:



1                   “(i) Manufacturing or industrial efflu-  
2                   ent.

3                   “(ii) Treatment works effluent.

4                   “(iii) Discharges incidental to the nor-  
5                   mal operation of a vessel, including a dis-  
6                   charge resulting from ballasting operations  
7                   or vessel biofouling prevention.”.

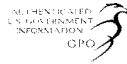
8           (c) REPORT.—Not later than 1 year after the date  
9           of enactment of this Act, the Administrator of the Envi-  
10          ronmental Protection Agency, in consultation with the  
11          Secretary of Agriculture, shall submit a report to the Com-  
12          mittee on Environment and Public Works and the Com-  
13          mittee on Agriculture of the Senate and the Committee  
14          on Transportation and Infrastructure and the Committee  
15          on Agriculture of the House of Representatives that in-  
16          cludes—

17               (1) the status of intra-agency coordination be-  
18               tween the Office of Water and the Office of Pes-  
19               ticide Programs of the Environmental Protection  
20               Agency regarding streamlining information collec-  
21               tion, standards of review, and data use relating to  
22               water quality impacts from the registration and use  
23               of pesticides;

1           (2) an analysis of the effectiveness of current  
2       regulatory actions relating to pesticide registration  
3       and use aimed at protecting water quality; and

4           (3) any recommendations on how the Federal  
5       Insecticide, Fungicide, and Rodenticide Act (7  
6       U.S.C. 136 et seq.) can be modified to better protect  
7       water quality and human health.

○



HB

114TH CONGRESS  
1ST SESSION

# H. R. 2131

---

IN THE SENATE OF THE UNITED STATES

JUNE 16, 2015

Received; read twice and referred to the Committee on Environment and  
Public Works

---

## AN ACT

To designate the Federal building and United States court-  
house located at 83 Meeting Street in Charleston, South  
Carolina, as the “J. Waties Waring Judicial Center”.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

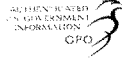
1 **SECTION 1. J. WATIES WARING FEDERAL BUILDING AND**  
2 **UNITED STATES COURTHOUSE.**

3 (a) DESIGNATION.—The Federal building and United  
4 States courthouse located at 83 Meeting Street in Charles-  
5 ton, South Carolina, shall be known and designated as the  
6 “J. Waties Waring Judicial Center”.

7 (b) REFERENCES.—Any reference in a law, map, reg-  
8 ulation, document, paper, or other record of the United  
9 States to the Federal building and United States court-  
10 house referred to in subsection (a) shall be deemed to be  
11 a reference to the “J. Waties Waring Judicial Center”.

Passed the House of Representatives June 15, 2015.

Attest: KAREN L. HAAS,  
*Clerk.*



114TH CONGRESS  
1ST SESSION

# S. 1523

To amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

JUNE 8, 2015

Mr. WHITEHOUSE (for himself and Mr. VITTER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

---

## A BILL

To amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. NATIONAL ESTUARY PROGRAM REAUTHORIZA-**  
4 **TION; COMPETITIVE AWARDS.**

5 Section 320 of the Federal Water Pollution Control  
6 Act (33 U.S.C. 1330) is amended—

7 (1) in subsection (g), by adding at the end the  
8 following:

9 “(4) COMPETITIVE AWARDS.—

1           “(A) IN GENERAL.—Using the amounts  
2           made available under subsection (i)(2)(B), the  
3           Administrator shall make competitive awards  
4           under this paragraph.

5           “(B) APPLICATION FOR AWARDS.—The  
6           Administrator shall solicit applications for  
7           awards under this paragraph from State, inter-  
8           state, and regional water pollution control agen-  
9           cies and entities, State coastal zone manage-  
10          ment agencies, interstate agencies, other public  
11          or nonprofit private agencies, institutions, orga-  
12          nizations, and individuals.

13          “(C) SELECTION OF RECIPIENTS.—The  
14          Administrator shall select award recipients  
15          under this paragraph that, as determined by  
16          the Administrator, are best able to address ur-  
17          gent and challenging issues that threaten the  
18          ecological and economic well-being of coastal  
19          areas, including—

20                 “(i) extensive seagrass habitat losses  
21                 resulting in significant impacts on fisheries  
22                 and water quality;

23                 “(ii) recurring harmful algae blooms;

24                 “(iii) unusual marine mammal mor-  
25                 talities;

1           “(iv) invasive exotic species that may  
2           threaten wastewater systems and cause  
3           other damage;

4           “(v) jellyfish proliferation limiting  
5           community access to water during peak  
6           tourism seasons;

7           “(vi) flooding that may be related to  
8           sea level rise or wetland degradation or  
9           loss; and

10          “(vii) low dissolved oxygen conditions  
11          in estuarine waters and related nutrient  
12          management.”; and

13          (2) by striking subsection (i) and inserting the  
14          following:

15          “(i) AUTHORIZATION OF APPROPRIATIONS.—

16               “(1) IN GENERAL.—There is authorized to be  
17               appropriated to the Administrator \$27,000,000 for  
18               each of fiscal years 2016 through 2020 for—

19                   “(A) making grants and awards under  
20                   subsection (g); and

21                   “(B) expenses relating to the administra-  
22                   tion of grants or awards by the Administrator  
23                   under this section, including the award and  
24                   oversight of grants and awards, subject to the  
25                   condition that such expenses may not exceed 5

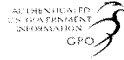
1 percent of the amount appropriated under this  
2 subsection for a fiscal year.

3 “(2) ALLOCATIONS.—

4 “(A) CONSERVATION AND MANAGEMENT  
5 PLANS.—Not less than 80 percent of the  
6 amount made available under this subsection  
7 for a fiscal year shall be used by the Adminis-  
8 trator for the development, implementation, and  
9 monitoring of each conservation and manage-  
10 ment plan eligible for grant assistance under  
11 subsection (g)(2).

12 “(B) COMPETITIVE AWARDS.—Not less  
13 than 15 percent of the amount made available  
14 under this subsection for a fiscal year shall be  
15 used by the Administrator for making competi-  
16 tive awards under subsection (g)(4).”.





114TH CONGRESS  
1ST SESSION

## S. 1707

To designate the Federal building located at 617 Walnut Street in Helena, Arkansas, as the “Jacob Trieber Federal Building, United States Post Office, and United States Court House”.

---

### IN THE SENATE OF THE UNITED STATES

JULY 7, 2015

Mr. BOOZMAN (for himself and Mr. COTTON) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

---

## A BILL

To designate the Federal building located at 617 Walnut Street in Helena, Arkansas, as the “Jacob Trieber Federal Building, United States Post Office, and United States Court House”.

1 *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*  
 3 **SECTION 1. JACOB TRIEBER FEDERAL BUILDING, UNITED**  
 4 **STATES POST OFFICE, AND UNITED STATES**  
 5 **COURT HOUSE.**

6 (a) DESIGNATION.—The Federal building located at  
 7 617 Walnut Street in Helena, Arkansas, shall be known  
 8 and designated as the “Jacob Trieber Federal Building,

1 United States Post Office, and United States Court  
2 House”.

3 (b) REFERENCES.—Any reference in a law, map, reg-  
4 ulation, document, paper, or other record of the United  
5 States to the Federal building referred to in subsection  
6 (a) shall be deemed to be a reference to the “Jacob  
7 Trieber Federal Building, United States Post Office, and  
8 United States Court House”.





HB

114TH CONGRESS  
1ST SESSION

# H. R. 2559

---

IN THE SENATE OF THE UNITED STATES

JUNE 16, 2015

Received; read twice and referred to the Committee on Environment and  
Public Works

---

## AN ACT

To designate the “PFC Milton A. Lee Medal of Honor  
Memorial Highway” in the State of Texas.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

The segment of Interstate Route 10 between milepost 535 and milepost 545 at Kendall County, Texas, shall be known and designated as the "PFC Milton A. Lee Medal of Honor Memorial Highway".

Any reference in a law, map, regulation, document,  
paper, or other record of the United States to the segment  
of Interstate Route 10 referred to in section 1 shall be  
deemed to be a reference to the "PFC Milton A. Lee  
Medal of Honor Memorial Highway".

Attest: KAREN L. HAAS,  
Clerk.

JAMES M. INHOFF, OKLAHOMA, CHAIRMAN

DAVID WITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
SHELLEY MOORE CAPITO, WEST VIRGINIA	BENJAMIN L. CARDIN, MARYLAND
MIKE CRAPPO, IOWA	BERNARD SANDERS, VERMONT
JOHN BOOZMAN, ARKANSAS	SHELDON WHITEHOUSE, RHODE ISLAND
JOFF SESSIONS, ALABAMA	JEFF MERLEY, OREGON
ROGER WICKER, MISSISSIPPI	KIRSTEN GILLIBRAND, NEW YORK
DEBBIE STABER, NEBRASKA	CORY A. BOOKER, NEW JERSEY
WENDY ROYCE, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

**United States Senate**  
 COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS  
 WASHINGTON, DC 20510-6175

RYAN JACKSON, MAJORITY STAFF DIRECTOR  
 BETTIEBA FORBES, DEMOCRATIC STAFF DIRECTOR

**COMMITTEE RESOLUTION**


**ALTERATION  
 1800 F STREET BUILDING  
 PRESIDENTIAL TRANSITION TEAM  
 WASHINGTON, DC  
 PDC-PTT-WA15**

**RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF  
 THE UNITED STATES SENATE**

that pursuant to title 40 U.S.C. § 3307, a prospectus providing for a repair and alteration project at the GSA Headquarters building, located at 1800 F Street NW, Washington, DC, for the reconfiguration and alteration of approximately 90,000 usable square feet of space to provide short-term space for the Presidential Transition Team (PTT), and the Offices of the President-Elect and Vice President-Elect, at a cost not to exceed \$534,000 for design and related services; \$8,900,000 for construction; and a management and inspection cost of \$488,000, for a total cost of \$9,922,000, a description of which is attached hereto and by reference made part of this resolution, is approved.

*Provided*, that the Administrator shall not delegate to any other agency the authority granted by this resolution.

  
 Chairman

  
 Ranking Member

Adopted: August 5, 2015

JAMES M. INHORN, OKLAHOMA, CHAIRMAN

DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
SHELLEY MOORE CAPITO, WEST VIRGINIA	BENJAMIN L. CARDIN, MARYLAND
MIKE CRAIG, IOWA	BENJAMIN L. CARDIN, MARYLAND
JOHN BOOZMAN, ARKANSAS	SHELDON WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
ROGER WICKER, MISSISSIPPI	KIRSTEN GILLIBRAND, NEW YORK
MIKE HIRONO, HAWAII	CORY A. BOOKER, NEW JERSEY
MARK KIRK, ILLINOIS	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

**United States Senate**  
 COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS  
 WASHINGTON, DC 20510-8175

RYAN JACKSON, MAJOR STAFF DIRECTOR  
 BETTINA POWERS, DEPUTY STAFF DIRECTOR

**COMMITTEE RESOLUTION**

**DESIGN  
 FEDERAL BUREAU OF INVESTIGATION  
 SAN JUAN, PR  
 PPR-FBC-HR14**

**RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF  
 THE UNITED STATES SENATE**

that pursuant to title 40 U.S.C. § 3307, a prospectus providing for design for a new federal complex at 150 Carlos Chardon Avenue, San Juan, PR, to consolidate the Federal Bureau of Investigation (FBI) for their locations, at a cost not to exceed \$6,182,342 for design, a description of which is attached hereto and by reference made part of this resolution, is approved.

*Provided*, that the Administrator shall not delegate to any other agency the authority granted by this resolution.

  
 Chairman

  
 Ranking Member

Adopted: August 5, 2015

JAMES M. INHOFE, OKLAHOMA, CHAIRMAN

DAVID VITTER, LOUISIANA	BARBARA BOXER, CALIFORNIA
JOHN BARRASSO, WYOMING	THOMAS R. CARPER, DELAWARE
SHELLEY MOORE CAPITO, WEST VIRGINIA	BENJAMIN L. CARDIN, MARYLAND
MIKE CRAPPO, IDAHO	BERNARD SANDERS, VERMONT
JOHN BOOZMAN, ARKANSAS	SHELZAN WHITEHOUSE, RHODE ISLAND
JEFF SESSIONS, ALABAMA	JEFF MERKLEY, OREGON
RODER WICKER, MISSISSIPPI	KIRSTEN GILLIBRAND, NEW YORK
DEB FISCHER, NEBRASKA	CORY A. BOOKER, NEW JERSEY
KRIS ROTHME, SOUTH DAKOTA	EDWARD J. MARKEY, MASSACHUSETTS
DAN SULLIVAN, ALASKA	

**United States Senate**  
 COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS  
 WASHINGTON, DC 20510-6175

RYAN JACKSON, MAJORITY STAFF DIRECTOR  
 BETTINA FORBES, DEMOCRATIC STAFF DIRECTOR

**COMMITTEE RESOLUTION**

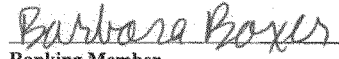
**DESIGN  
 JACOB K. JAVITS FEDERAL OFFICE BUILDING  
 NEW YORK, NY  
 PDS-02015**

**RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF  
 THE UNITED STATES SENATE**

that pursuant to title 40 U.S.C. § 3307, a prospectus providing for design for the build out of approximately 314,000 rentable square feet (rsf) at the Jacob K. Javits Federal Office Building located at 26 Federal Plaza, New York City, New York, at a cost not to exceed \$7,660,000 for design, a description of which is attached hereto and by reference made part of this resolution, is approved.

*Provided*, that the Administrator shall not delegate to any other agency the authority granted by this resolution.

  
 Chairman

  
 Ranking Member

Adopted: August 5, 2015

JAMES M. INHOFE, OKLAHOMA, CHAIRMAN  
 DAVID VITTER, LOUISIANA  
 JOHN BARRASSO, WYOMING  
 SHELLEY MOORE CAPITO, WEST VIRGINIA  
 MIKE CRAPPO, IDAHO  
 JOHN BOOZMAN, ARKANSAS  
 JEFF SESSIONS, ALABAMA  
 ROGER WICKER, MISSISSIPPI  
 DEB FISCHER, NEBRASKA  
 MARK NEUNER, SOUTH CAROLINA  
 DAN SULLIVAN, ALASKA  
 BARBARA BOXER, CALIFORNIA  
 THOMAS R. CARPER, DELAWARE  
 BENJAMIN L. CARDIN, MARYLAND  
 BERNARD SANDERS, VERMONT  
 SHELDON WHITEHOUSE, RHODE ISLAND  
 JEFF MERKLEY, OREGON  
 KRISTEN GILLIBRAND, NEW YORK  
 CORY A. BOOKER, NEW JERSEY  
 EDWARD J. MARKEY, MASSACHUSETTS

**United States Senate**  
 COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS  
 WASHINGTON, DC 20510-6175

RYAN JACKSON, MAJORITY STAFF DIRECTOR  
 BETTINA FORBES, DEMOCRATIC STAFF DIRECTOR

**COMMITTEE RESOLUTION**

**REPLACEMENT LEASE  
 FEDERAL COMMUNICATIONS COMMISSION  
 WASHINGTON, DC  
 PDC-06-WA16**

**RESOLVED BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS OF  
 THE UNITED STATES SENATE**

that pursuant to title 40 U.S.C. § 3307, a prospectus providing for a replacement lease of up to 473,000 rentable square feet of space for the Federal Communications Commission (FCC), currently located at 445 12<sup>th</sup> Street SW, and 1250 Maryland Avenue SW, Washington, DC, at a maximum proposed rental rate of \$50 per rentable square foot, at a proposed total annual cost of \$23,650,000 for a lease term of up to 15 years, a description of which is attached hereto and by reference made part of this resolution, is approved.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

*Provided*, that to the maximum extent practicable, the Administrator of General Services shall require that the procurement include energy efficiency requirements as would be required for the construction of a federal building.

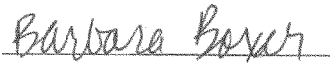
*Provided further*, that the Administrator shall require that the delineated area of the procurement is identical to the delineated area included in the prospectus, *except that*, if the Administrator determines that the delineated area of the procurement should not be identical to the delineated area included in the prospectus, the Administrator shall provide an explanatory statement to the Committee on Environment and Public Works of the United States Senate prior to exercising any lease authority provided in this resolution.

*Provided further*, that the Administrator shall not delegate to any other agency the authority granted by this resolution.



**Chairman**

Adopted: August 5, 2015



**Ranking Member**



**U.S. Senator Ben Cardin  
Statement for the Record  
Committee on Environment and Public Works (EPW)  
Business Meeting to Consider Markup, Four GSA Resolutions  
August 5, 2015**

On Wednesday, August 5, 2015, at 2:00 PM the EPW Committee finished a markup of the following bills:

- S. 1324, the Affordable Reliable Electricity Now Act of 2015
- S. 1500, the Sensible Environmental Protection Act of 2015
- S. 1523, A bill to amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program, and for other purposes.
- S. 1707, A bill to designate the Federal building located at 617 Walnut Street in Helena, Arkansas, as the "Jacob Trieber Federal Building, United States Post Office, and United States Court House"
- HR 2131, A bill to designate the Federal building and United States courthouse located at 83 Meeting Street in Charleston, South Carolina, as the "J. Waties Waring Judicial Center"
- HR 2559, To designate the "PFC Milton A. Lee Medal of Honor Memorial Highway" in the State of Texas
- 4 GSA resolutions

Unfortunately at 2:00 PM I was presiding as Ranking Member over a hearing in the Senate Foreign Relations Committee. I gave the proxy for my votes for this markup to Senator Boxer, who did not attend the vote. Had my votes been recorded, I would have voted the following:

- No on S. 1324, the Affordable Reliable Electricity Now Act of 2015

With Monday's release of the Administration's historic Clean Power Plan, an important step was made in the fight against climate change. This bill would seek to undo the historic progress that this Rule represents. Strong-but-flexible-and-fair carbon pollution standards for power plants are needed and welcome news for America's global competitiveness, public health, and clean energy future. This is a commonsense, state-driven approach to reduce the U.S. carbon pollution that is changing the Earth's climate and linked to increased incidence of extreme weather, sea level rise, and declines in fish and wildlife species. For years, my home state of Maryland and other states have had power plant standards that protect our communities. The EPA's efforts set similar standards for the carbon pollution that is fueling climate change, the biggest threat to life on Earth as we know it.

- No on S. 1500, the Sensible Environmental Protection Act of 2015

This bill would allow dumping of any pesticide that is authorized for sale, distribution, or use under FIFRA without permit from any point source into any navigable water. S. 1500 is a solution in search of a problem. The permits have been required for nearly 4 years and, despite industry protests before the rule went into effect, EPA has stated that there have been no problems with this requirement. This bill would be immediately, and significantly, affect the health of the Chesapeake Bay. In 2012, close to 74 percent of the tidal water segments of the Chesapeake Bay were either fully or partially impaired due to toxic contaminants, which include pesticides, up from 66 percent in 2006. This bill would allow the dumping of pesticides into the tributaries of the Bay or the Bay itself without even a system to track how much is being dumped and when. We need to be moving in the opposite direction for the health of the Bay.

- Yes on S. 1523, A bill to amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program, and for other purposes.

This Whitehouse-Vitter bill amends the Clean Water Act to revise the National Estuary Program, a network of voluntary community-based programs that safeguards the health of important coastal ecosystems across the country, by requiring the Environmental Protection Agency to make competitive awards to address issues that threaten the economic and ecological well-being of coastal areas and reauthorizes the National Estuary Program through 2020.

- Yes on S. 1707, A bill to designate the Federal building located at 617 Walnut Street in Helena, Arkansas, as the "Jacob Trieber Federal Building, United States Post Office, and United States Court House"

Jacob Trieber was the first Jewish person to serve as a federal judge in the US (1901-1927). Born in Raschkow, Germany, Trieber was previously the United States Attorney for the Eastern District of Arkansas from 1897 to 1900. It would be a privilege to vote yes and honor his service to this country.

- Yes on HR 2131, A bill to designate the Federal building and United States courthouse located at 83 Meeting Street in Charleston, South Carolina, as the "J. Waties Waring Judicial Center"

J. Waties Waring was a US federal judge who played a key role in the civil rights movement, hearing many pivotal cases including the Isaac Woodward case, Duvall v. School Board, and Elmore v. Rice and Brown v. Baskin. It would be a privilege to vote yes and honor his service to this country.

- Yes on HR 2559, To designate the "PFC Milton A. Lee Medal of Honor Memorial Highway" in the State of Texas

Milton A. Lee won a Medal of honor for "conspicuous gallantry and intrepidity in action at the risk of his life above and beyond the call of duty" during the Vietnam War. It would be a privilege to vote yes and honor his service to this country.

- Yes on the 4 GSA resolutions