

**American Rivers \* Earthjustice \* Environment America  
Friends Committee on National Legislation \* League of Conservation Voters  
Marine Conservation Institute \* Natural Resources Defense Council  
Physicians for Social Responsibility \* Sierra Club \* Southern Environmental Law Center**

April 15, 2016

Dear Senator,

On behalf of our millions of members and supporters, we urge you to address several anti-environmental provisions contained in the Energy Policy Modernization Act, S.2012. Without the changes outlined below, our organizations cannot support this bill as it moves through the Senate.

While S.2012 includes provisions that would facilitate modest, but important, progress towards cleaner sources of energy, it also contains counter-productive provisions that will slow that transition. These provisions weaken protections for our land, air, water and public health. If anything, the bill has become more problematic as it has moved through the legislative process.

This is not the first time we have raised these objections.

Although the Senate is preparing to complete its work on the bill, Congress still has time to address our concerns. We are ready to work with interested legislators to fix the bill as it is reconciled with the House. But we will vigorously oppose a final bill if it would do damage to the environment.

**Summary of Anti-Environmental Provisions in S.2012**

**Biomass Definition**

With passage of the Collins-Klobuchar amendment, this bill requires that federal policy “reflect the carbon neutrality of forest bioenergy.” This is at odds with science, which indicates that many forms of forest bioenergy are not carbon neutral. Furthermore, this requirement could result in substantial damage to our forests and climate and undermines the scientific process Environmental Protection Agency (EPA) has established to review and assess the impacts of “qualifying biomass” under the Clean Power Plan (CPP).

Per megawatt-hour, wood-burning power plants emit more CO<sub>2</sub> than many fossil-fueled plants. Even when the regrowth of forests is taken into consideration, the extra carbon pollution from burning biomass will stay in the atmosphere for decades. That's well beyond the time that we need to achieve emissions reductions to address climate change. Treating forest biomass as carbon neutral could reduce overall CPP emission reduction benefits in the U.S. by 12% in 2030 and 21% in 2040.

Additionally, the language of this provision creates ambiguity over the respective roles of EPA, Department of Energy (DOE) and the U.S Department of Agriculture (USDA). This could undermine EPA's statutory authority over carbon pollution under the Clean Air Act.

#### **Methane Hydrate Research and Development (Sec. 3101)**

This provision would dramatically expand methane hydrates research and development by authorizing \$175 million. with the goal of unlocking a fossil fuel that could contribute massively to carbon pollution. At a time when our economy is transitioning away from these fuels to meet our carbon reduction goals, our government shouldn't be subsidizing the development of new ones.

Additionally, the vast majority of methane hydrates are located offshore where environmental damage is more likely to occur. For example, a newly authorized activity under this program is seismic exploration in the Gulf of Mexico. Seismic exploration involves the use of powerful airgun bursts that has been shown to harm marine life and fisheries over large areas of ocean and has proven highly controversial off the southeast U.S. and elsewhere.

#### **Furnace Efficiency Standard Delay (Sec. 1103)**

This provision would delay a much needed review of DOE's minimum efficiency standards for residential non-weatherized gas furnaces and mobile home furnaces. The current furnace standards were set by Congress 28 years ago and are woefully outdated. Updated standards for home furnaces proposed by DOE last March would be the biggest natural gas saving efficiency standards ever established. The new standards, which set a minimum efficiency for all new furnaces sold in the United States, will cut energy waste, netting consumers more than \$600 on average over the life of their furnace relative to basic furnaces sold today. They will also deliver cumulative savings of up to \$19 billion over 30 years beginning in 2021. Congress should be working to maximize these savings to customers, not delaying them.

#### **Nuclear Research**

With the passage of the Crapo-Whitehouse amendment, this bill will expend taxpayer resources to expand the already heavily subsidized nuclear industry's research arm in clearly uneconomic areas despite its demonstrated risks. Moreover, the amendment lacks any of the required environmental and security reviews to ensure that the program's long-term impacts do not significantly erode the quality of the human environment and nuclear nonproliferation goals.

#### **Carbon Capture and Sequestration Modifications (Sec. 3402)**

This section establishes a new coal technology program at DOE to replace existing programs. While the section includes laudable goals of developing technologies to make coal less environmentally harmful, it also subsidizes coal systems that are incompatible with climate protection. For example, it would subsidize converting coal to other products like transportation fuels. Additionally, a proposed modification to this section would create a system that assumes that co-firing biomass combined with capture automatically creates negative carbon emissions. As previously stated, biomass is not automatically carbon neutral,

and Congress should leave the determination of its carbon emission profile to scientists and other experts.

#### **Expedited Project Reviews (Sec. 3305, Sec. 3104 and Sec. 2201)**

Several provisions in the bill seek to expedite project review potentially undermining proper environmental review and community input. For example, Sec. 3305 requires federal land management agencies to develop expedited review processes for new mining permits and Sec. 3104 creates a pilot program designed to expedite oil and gas permitting and drilling. By prioritizing the speedy approval of oil and gas development projects above all else, the misguided approach to project review outlined in these sections could jeopardize the critical role public input and environmental review in decisions affecting public lands

Sec. 2201 is another example of this unwise approach, as it requires that liquefied natural gas (LNG) terminal approvals be decided within 45 days of the filing of the environmental review. Allowing time for proper environmental, administrative and judicial review of projects is important to protecting the public's ability to have input on federal actions that impact their communities and the environment. These decisions will have impacts beyond the site of each terminal, including greenhouse gas emissions. In addition, expanding LNG exports is expected to lead to increased fracking, a practice known to pollute our air, our water, and our health.

#### **Hydropower Relicensing (Sec. 3001)**

We appreciate that in the markup of S. 2012 the Committee removed the most egregious provisions from the hydropower title, and we are pleased that the bill does not contain the provisions in H.R. 8 that weaken the Clean Water Act, the Endangered Species Act, or the protections for fish, wildlife, and public lands in Sections 18 and 4(e) of the Federal Power Act, respectively. And we are pleased that S. 2012 makes it easier for States to process water quality certifications in a timely fashion by requiring power companies to submit completed applications. This provision in particular will prevent power companies from intentionally delaying their relicensing proceedings in order to avoid compliance with the Clean Water Act.

However, we share the concerns of States, Tribes, and the White House about how the provisions in Section 3001 would be implemented. For example, we are concerned that if enacted as written, Section 3001 could limit agencies from, as part of the relicensing process, requiring power companies to conduct new studies into the impacts of their dams. This section would apply even if the dam's existing license, and thus the studies that the current license depends on, are more than 50 years old and pre-date modern environmental statutes and changing climate conditions. Further, we are concerned that provisions in Section 3001 require federal natural resource agencies to conduct costly, wasteful and time consuming review of matters outside of their scope of expertise and jurisdiction. Taken together, the effect of these provisions could lead to increased costs to taxpayers and unnecessary delays in licensing, which is contrary to the goals of all parties to license proceedings.

#### **Continued Inclusion of Important Measures**

### **Protecting our National Heritage**

S.2012 promises to further protect America's increasingly endangered landscapes and public lands by permanently reauthorizing the Land and Water Conservation Fund – one of the nation's best tools for protecting our national heritage. It also creates a new National Park Maintenance and Revitalization Fund to address the maintenance backlog throughout the National Park System.

### **Energy Efficiency**

S.2012 includes provisions that were part of the bipartisan Energy Savings and Industrial Competitiveness Act (also known as Portman-Shaheen) which are the bill's core of energy usage and carbon reductions. Chief among these provisions is the section which establishes greater energy efficiency in homes and commercial buildings through strengthening the current process of developing, adopting, and implementing model codes.

Additionally, the bill includes provisions to extend energy intensity targets for existing federal buildings with further reductions through 2025, strengthen requirements for energy audits in federal buildings, and extend federal building efficiency standards to cover renovations and alterations to existing buildings.

Other efficiency measures – such as the Smart Buildings Initiative, and reauthorization of the Weatherization Assistance Program and State Energy Programs – are also critically important and should remain in the bill.

As a whole, these provisions will increase energy efficiency in buildings, industry and the federal government, reducing pollution while saving taxpayer dollars and promoting job growth. More energy efficiency means burning less fossil fuel, resulting in less air pollution, fewer devastated landscapes, and cleaner water.

### **Investing in Renewable Energy**

This bill supports the research and development of new clean energy technologies like marine hydrokinetic and geothermal technologies that have yet to be commercialized on a large scale. Additionally, the bill provides grid modernization investments designed to help smooth integration of distributed renewables, an important step in advancing the deployment of renewable energy.

### **Expanded Energy Research and Development**

The need for new energy solutions is of paramount importance in the race to address the threat of climate change. Yet current research and development funding levels do not match this need. Currently, the United States ranks 29<sup>th</sup> among developed nations in federal R&D on energy. This bill addresses this funding shortfall by increasing authorizations for DOE's Office of Science and the Advanced Research Project Agency-Energy (ARPA-E). ARPA-E is the nation's only agency devoted to transformational energy research and development. The program was designed as a long-term investment program dedicated to helping invent next generation technologies. The game-changing projects funded by ARPA-E will contribute tremendously to

our competitiveness in the energy sector and help build our energy infrastructure and economy for the next century.

**Creating the Energy Workforce of the Future**

As our nation transitions toward clean energy we will need more qualified energy workers. This bill invests in workforce training by establishing an advisory board at DOE and a competitive workforce grant program to provide job training through a community college or registered apprenticeship program.

In summary, we cannot support S.2012 in its current form, but we are ready to continue to work on the bill as it moves through the legislative process.

Sincerely,

American Rivers  
Earthjustice  
Environment America  
Friends Committee on National Legislation  
League of Conservation Voters  
Marine Conservation Institute  
Natural Resources Defense Council  
Physicians for Social Responsibility  
Sierra Club  
Southern Environmental Law Center