

**Alaska Wilderness League * American Rivers * Clean Water Action * Defenders of Wildlife
Energy Law Policy Center * Environment America * Greenpeace USA
Hands Across the Sand * League of Conservation Voters
Natural Resources Defense Council * Sierra Club * Southern Environmental Law Center
The Wilderness Society**

April 15, 2016

Dear Chairwoman Murkowski, Ranking Member Cantwell:

On behalf of our millions of members and supporters, we write to share our positions on the amendments currently under consideration to S.2012, the Energy Policy and Modernization Act.

Specific provisions we oppose as drafted include:

Senator Vitter's amendment #3075, Well Control Small Business: This amendment will block technical requirements that mitigate safety and environmental hazards from taking effect, and injects politics into science-based policy making. It requires the Bureau of Safety and Environmental Enforcement (BSEE) to review its new rule that addresses deficiencies in existing well control requirements revealed by the BP Deepwater Horizon tragedy in 2010. The amendment requires an analysis of the rule's impacts on small businesses in the oil and gas sector within one year, which exceeds normal Regulatory Flexibility Act (RFA) requirements; the RFA normally requires review after 10 years and an RFA analysis was carried out before the rule was issued.

Senator Manchin's amendment #3270, Carbon Sequestration Program: This amendment creates a new category of carbon capture and sequestration (CCS) projects that asserts that co-firing biomass combined with capture automatically creates negative carbon emissions. Using forest biomass to generate electricity is not carbon neutral. Among other distinguished bodies, the U.S. Environmental Protection Agency's Science Advisory Board has already explicitly rejected the view that forest biomass is inherently carbon free. Burning wood releases carbon dioxide, and in fact, bioenergy typically directly releases far more carbon for each unit of energy produced than burning fossil fuels. Capturing that carbon does not produce negative emissions; it simply avoids some of the emission increase. Even taking forest regrowth into consideration, burning forest biomass for electricity - including when that biomass replaces coal - is likely to increase carbon in the atmosphere for many decades.

Senator Murkowski's amendment #2963, Bulk Power Reliability: This amendment would require NERC to assess the grid impacts of any proposed federal agency Major Rule that "may significantly affect the reliable operation of the bulk-power system," and for NERC to issue a "reliability impact statement" detailing those potential adverse impacts. The affected federal agency must "give due weight" to the technical expertise of NERC and include in the final rule a "detailed response" to the reliability impact statement that "reasonably addresses" NERC's review.

This provision is redundant of existing reliability protection standards, undermines current rules achieving the same purpose, and precludes public input into the review. While reliability is an important goal, this bill would, in effect, give NERC control on how to implement various statutes (such as the Clean Air Act) that are beyond its expertise. For instance, NERC asserted in its comments on EPA's proposed Clean Power Plan that the rule would require too much, too soon, and urged EPA to delay compliance timelines. Had this provision been in effect prior to the finalization of the rule, EPA could have been forced to significantly modify, postpone or scrap the rulemaking. NERC expressed similar unfounded concerns about the reliability impacts of the Mercury and Air Toxics Standards, the Cross State Air Pollution Rule, the Clean Water Act Cooling Water Intake Structures rule, and the Coal Combustion Residuals rule.

Senator Burr's amendment #3175, Corolla Wild Horses: This amendment undermines the integrity of the National Wildlife Refuge System by forcing the U.S. Fish and Wildlife Service (FWS) into a mandatory agreement to manage a non-native species on the Currituck National Wildlife Refuge. The amendment obstructs science-based management and could compromise habitat for wildlife protected under the Endangered Species Act, such as the imperiled piping plover. It restricts the ability of FWS to adjust management strategies as needed to protect wildlife and natural resources. It circumvents the basic statutes which serve as the foundation for protecting wildlife on the nation's over 500 national wildlife refuges, including the cornerstone National Wildlife Refuge System Improvement Act, setting a dangerous precedent for the entire Refuge System.

Senator Lankford's amendment #3210, Maintenance Backlog Limit on LWCF Spending: This amendment places a moratorium on the Land and Water Conservation Fund (LWCF)'s statutorily-directed purpose in order to address maintenance needs at our national parks, and place other unnecessary restrictions on federal land acquisition. While inadequate funding of the NPS operations and maintenance budget is a critical problem that Congress needs to address, LWCF was created nearly 50 years ago to serve different, diverse and equally critical needs and to provide an asset-for-asset permanent investment on behalf of the American people. Both are necessary to safeguard our country's natural and cultural heritage, and Americans do not support trading off one for the other.

Senator Boozman's amendment #3311, Clean Line Study: This amendment creates new, statutory, mandatory delays that are intended to kill a project that has already been approved by the Department of Energy under authority created by the bipartisan Energy Policy Act of 2005. New transmission is necessary for a carbon-free future connecting the best renewable resources in America with the consumers who want it. While some are characterizing this amendment as simply a study of the Clean Line transmission project, a project that would bring clean wind energy from the Midwest to the Southeast, that is not the case.

Senator Paul's amendment #3787, Economic Freedom Zones: This amendment designates certain areas as "economic freedom zones," exempting businesses operating within their boundaries from bedrock environmental protections. Inhabitants of poor communities deserve

the same access to clean air and safe drinking water as those living in affluent communities, and creating zones exempt from those protections will only incentivize businesses to dump pollution that increases problems that hold people back in school and the workplace like lead and heavy metal toxicity or asthma and other serious respiratory ailments. Furthermore, this amendment would explicitly prohibit federal assistance for any communities which have been subject to an emergency manager within the last three years – preventing federal funding to address the water crisis in Flint.

We urge YES votes on the following amendments:

Senator Isakson and Bennet’s amendment #3202, The SAVE Act: This amendment authorizes the SAVE Act, which will improve the accuracy of Federal Housing Authority’s mortgage underwriting by counting the borrower’s expected energy costs and savings. It also gives homebuyers needed information about expected energy costs before they have to face a full year of utility bills in a new house. The average household can expect to pay about \$2,000 per year for energy use, but actual expenses for any homeowner will vary greatly depending on the efficiency of a house. This amendment will help homebuyers and FHA’s lenders to account for those expenses.

Senator Udall’s amendment #3312, Clean Energy Victory Bonds: This amendment directs the Secretary of the Treasury to submit a report to Congress on the establishment of Clean Energy Victory Bonds. The U.S. government has been investing in clean energy and energy efficiency through a variety of tools. Clean Energy Victory bonds could be a new tool that would allow all Americans to invest in the clean energy economy.

Senator Cassidy and Markey’s amendment #2954, Maximize SPR Sale Revenue: This amendment gives the Secretary of Energy more flexibility to sell Strategic Petroleum Reserve (SPRO) when prices are high and stop selling SPRO when a specific revenue target is reached. This fix will allow us to sell fewer overall barrels and get a better return on these sales. A similar amendment passed on the transportation bill last year, but did not apply to the Budget Act. This amendment fixes that issue.

The organizations above do not necessarily endorse or have expertise on every position detailed here.