

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 nearly 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,

Center for Biological Diversity  
Clean Water Action  
Earthjustice  
Environmental Advocates of New York  
Environment America  
Environmental Defense Fund Action  
Friends of the Earth  
League of Conservation Voters  
League of Women Voters of the United States  
Natural Resources Defense Council  
Public Citizen  
Southern Environmental Law Center  
Sierra Club