

CHAMBER OF COMMERCE  
OF THE  
UNITED STATES OF AMERICA

R. BRUCE JOSTEN  
EXECUTIVE VICE PRESIDENT  
GOVERNMENT AFFAIRS

1615 H STREET, N.W.  
WASHINGTON, D.C. 20062-2000  
202/463-5310

August 4, 2015

The Honorable Jim Inhofe  
Chairman  
Committee on Environment and  
Public Works  
United States Senate  
Washington, DC 20510

The Honorable Barbara Boxer  
Ranking Member  
Committee on Environment and  
Public Works  
United States Senate  
Washington, DC 20510

Dear Chairman Inhofe and Ranking Member Boxer:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting and defending America's free enterprise system, strongly supports S. 1324, the "Affordable Reliable Electricity Now Act" (ARENA Act). This legislation would provide critical protections for businesses, industry, and states in connection with the Environmental Protection Agency's (EPA) recently finalized greenhouse gas rules for new and existing power plants.

As you know, it is widely agreed that the Clean Air Act was not intended to regulate carbon dioxide and is poorly designed for such a task. Earlier this week, EPA finalized the first-ever greenhouse gas regulations applicable to both new and existing electric power plants. These rules are the latest in a series of regulations aimed at many of our nation's most affordable and reliable electric generation facilities. The likely impact these rules will have on power prices means that they will inevitably have negative implications on nearly every segment of the economy.

Specifically, the finalized New Source Performance Standard (NSPS) rule continues to impose infeasible limits on carbon emissions from newly built power plants, maintaining the proposed rule's requirement that new coal-fired power plants include carbon capture and sequestration (CCS) systems. However, despite Clean Air Act requirements that mandated technologies be "adequately demonstrated," CCS continues to lack commercial viability due to financial, technological, and other hurdles. Accordingly, EPA's continuing designation of CCS as the best system for compliance under the NSPS rule amounts to nothing more than a regulatory euphemism for what is plainly a ban on the construction of new coal-fired power plants.

The ARENA Act would address this problem by prohibiting EPA from mandating CCS until it has been adequately employed on commercial-scale power plants. This is a common sense solution that serves to uphold the spirit and intent of the Clean Air Act.

The EPA also yesterday finalized its Existing Source Performance Standards (ESPS) for greenhouse gases on the nation's fleet of existing fossil-fueled power plants. This overreaching rule would dramatically transform the generation, transmission, distribution, and use of electricity across America. States, which would be responsible for implementing EPA's unprecedented regulation, previously detailed widespread shortcomings with the proposed rule. While the Chamber is still reviewing the final rule, it seems that changes made in the final rule will fail to alleviate the very real concerns from state officials concerning the legal foundations, compliance costs, and economic impacts of the ESPS rule.

Consistent with these concerns, many states have noted that the development of state implementation plans for such a complex and expansive regulation will require a massive and costly undertaking. Moreover, the EPA's ESPS rule targets the very same sector of the American economy that was just forced to retire approximately 160 electric generation units, each at least in part due to the EPA's "Utility MACT" rule. Of key importance, these retirements were driven by the EPA to occur before the Supreme Court's June 29 decision to invalidate how the EPA considered the costs and benefits of the "Utility MACT" regulation during the rulemaking process.

States should not be required to expend their limited resources on the implementation of EPA's controversial final ESPS rule until judicial review is complete. The ARENA Act would allow states to preserve their resources and ensure that their compliance planning efforts, as well as those of other affected stakeholders, will be efficiently directed by a properly-adjudicated and legal regulation.

Equally important, the ARENA Act would ensure that governors are empowered to protect their states from the potentially significant economic and electricity reliability impacts of EPA's final ESPS rule. This important provision maintains states' authority to regulate electricity within their own borders, consistent with foundational principles of the Federal Power Act and the Clean Air Act's framework of cooperative federalism.

The Chamber strongly supports the ARENA Act and applauds the Committee for its leadership to ensure that greenhouse gas regulations on the power sector are reasonable and achievable and sustain coal's continued vital role in the nation's diverse energy portfolio.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Josten", written in a cursive style.

R. Bruce Josten

cc: Members of the Committee on Environment and Public Works