

The American Clean Energy and Security Act, H.R. 2454, a Plan to Reduce Greenhouse Gas Emissions That Has Too Many Leaks

Congress must eliminate incentives for dirty energy

PSR extends its appreciation to Chairman Henry Waxman and Subcommittee Chairman Ed Markey for their leadership in crafting a comprehensive climate change and energy bill. They and their staff have taken the first step to transform America's energy future and to begin combating global warming.

The bill, H.R. 2454, falls short in several areas, shortcomings that might cause the bill, if implemented as drafted, to be insufficient to make necessary reductions of the emissions of greenhouse gases in the U.S.

As the EPA found in April, the greenhouse gas emissions that cause global warming represent a danger to health and public welfare. PSR is concerned about the human health consequences that are occurring and will grow worse because of climate change as the world warms. In order to prevent the most catastrophic events associated with global warming, PSR calls on members of the House of Representatives to make the following amendments to craft a more effective bill.

Necessary Amendments to the American Clean Energy and Security Act

Title I – Subtitle A - Combined Efficiency and Renewable Energy Standard

SEC. 610 (a) Definitions. (20) Retail electric supplier's base amount

The bill is intended to promote clean energy, but the very first title includes a perverse incentive for dirty energy sources – coal and nuclear. Allowing new nuclear and coal-fired power plants to be deducted from the baseline negates many of the gains intended for clean, renewable energy sources.

This exclusion of dirty and dangerous fuel sources from the retail baseline should be deleted.

Subtitle B – Carbon Capture and Sequestration,

SEC. 116 Performance standards for coal-fueled power plants.

The language aimed at reducing carbon emissions could leave some existing entities unregulated until 2025 and allows new electric generating units (EGU) to emit excessive amounts with controls that would be enacted only after a critical mass of carbon capture and sequestration had been deployed (or by 2025).

The bill should require that all covered EGUs permitted after January 1, 2009 shall have controls that limit emissions to 800 pounds of CO₂ per megawatt-hour. All covered EGUs permitted after January 1, 2015 shall have controls that limit emissions to 350 pounds of CO₂ per megawatt-hour.

Existing facilities shall be required to meet the 800 pound control limit no later than January 1, 2015.

The administrator shall have the authority to fine facilities not meeting these standards and shall impose a fine of no less than four times the prevailing market value (emission allowance) for each pound in excess of the limit.

Beginning January 1, 2018, the administrator shall have the authority to adjust these emission limits for all EGUs as necessary to meet national greenhouse gas emission goals.

Title III – Reducing Global Warming Pollution,

Part A – Global warming pollution reduction goals and targets

SEC. 702. Economy-wide reduction goals.

The initial cap intends to limit emissions to 2005 levels overall and for covered sources, with declining values and the inclusion of new sources during the ensuing years. The initial cap and subsequent targets are insufficient

The bill should establish the initial cap (in 2012) at 97 percent of the U.S. emission levels in 2001.

In 2020 the emissions should not exceed 75 percent of the initial cap.

In 2030 the emissions should not exceed 50 percent of the initial cap.

In 2050 the emissions should not exceed 15 percent of the initial cap.

The baseline for the initial cap date and subsequent percentages also should apply to covered sources as described in *Sec. 703*

Title VII – Global Warming Pollution Reduction Program

SEC. 707 Presidential Response and Recommendations

Utilizing data from the National Academy of Sciences and other agencies the president shall recommend to the Congress legislative action needed to achieve necessary greenhouse gas concentration thresholds beyond those defined in the bill. A recommendation is not adequate.

The EPA should be given full authority to act and to regulate greenhouse gas emissions based on the information provided by the inter-agency team designated in the bill.

Part C – Program Rules, SEC. 721.

Establishes a limit on the emission allowances to be granted in calendar years 2012-2050 and thereafter.

In coordination with recommendations for Sec. 702 and 703, these allowance totals should be adjusted downward by the corresponding reductions.

SEC. 722 Prohibition of Excess Emissions (d) Additional Methods (1) Offset Credits

This section enumerates the quantity of offsets available in a given year based on a percentage of previous year allowance usage. In the initial year it would allow as many as two billion tons of emission reductions to be met through domestic and international offsets. In later years percentage of offsets climbs to more than 60 percent. This is far too great. Despite the efforts of the drafters to ensure the integrity, verification and efficacy of offsets, this large volume creates a real pathway for failure and delays source emission reductions.

The two billion ton factor should be reduced to reflect available offsets limited to ten percent domestic and ten percent international. At no time should the combined domestic and international offset allowances account for more than 30 percent of total emission reductions.

SEC. 723 Penalty for Noncompliance

Establishes per ton penalty for excess emissions at twice the fair market value. This could allow polluters to emit tons of ghg that break the cap and pay only a limited penalty while deducting the amount from future years.

This is a dangerous loophole. The EPA should be given authority to fine violators an appropriate amount far in excess of market value and offending sources should have their annual allowable emissions levels reduced by five times the tonnage violations.

SEC. 700 – Definitions, (13) Covered entity

Defines emissions limit for covered sources. Threshold is too high.

25,000 tons per year limit should be reduced to 10,000 tons per year for all sources.

Subtitle B – Part H - Disposition of Allowances

SEC. 782 –Allocation of emission allowances

Defines those sectors that, in the initial years, will be given allowances to compensate for costs associated with meeting ghg caps. In an attempt to minimize costs and protect consumers, carbon intensive industries and EGUs will be given more than 50 percent of the allowances during the initial five years.

This giveaway is the largest corporate entitlement ever according to the former director of the CBO. While consumers should be protected from increased electric, oil and gas utility costs, the funds should be created through an auction of a majority of allowances that provides for a fair distribution of the revenues and return to those impacted by climate change. Current allowances set aside for auction are too low.

Title VIII – Additional Greenhouse Gas Standards, Part C – Exemption from other programs,

SECs. 831, 832, 833, 834.

These sections strip EPA authority to regulate greenhouse gas emissions as criteria pollutants or hazardous air pollutants and prevent the agency from applying new source review or Title V standards as defined by the Clean Air Act. In short, EPA would be prevented from enforcing the Clean Air Act with respect to any greenhouse gas emissions.

These sections of *Part C of Title VIII* should be stricken from the bill.

Title IV – Transitioning to a Clean Energy Economy,

Subtitle E – Adapting to Climate Change, Part 1 – Domestic Adaptation

Subpart B, SEC. 467, Authorization of appropriations.

Intended to provide funds for a national strategy to combat the public health impacts of global warming, the bill states it is the intent of Congress to supplement and not replace public health funding. This effectively authorizes but does not make funding available.

The bill should provide direct assistance to states and localities for the provision of health care services in response the impacts of climate change. An allowance of auctions would provide for funds that should be provided to the Centers for Disease Control and Prevention to manage a national strategy while the bulk of available dollars should be distributed to states and localities in order to provide for provision of public health services.

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