

Why Waxman-Markey Won't Work

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We would gladly support the Waxman-Markey climate and energy bill, *if* it was capable of accomplishing its environmental goal. Unfortunately, despite the best intentions of its proponents, Waxman-Markey's cap-and-trade bill features anemic goals, un-provable offsets, and new coal-fired power plants without carbon sequestration. If enacted, these provisions would disable our ability to reduce greenhouse gas emissions for at least a decade – after which the risk of irreversible climate calamity will be hugely increased.

We are speaking as individuals, based on our 20+ years of experience as public-sector environmental-enforcement attorneys, including Allan's extensive experience with cap-and-trade and offset programs in California. Don't just take our word; look at the track record.

Cap-and-trade: Cap-and-Trade has frequently been a failure. For example, in the Los Angeles RECLAIM program to reduce ground-level ozone, cap-and-trade resulted in over-allocation - total permits-to-pollute exceeded actual pollution emitted. It took more than five years for the "cap" to be ratcheted down until it was lower than initial levels of pollution. Once the cap applied pressure, the price of pollution permits skyrocketed and electric utilities threatened rolling-blackouts. Regulators temporarily took these utilities out of the program. Cap-and-trade produced little besides delay.

In Europe, cap-and-trade for climate change has also failed to deliver. Plagued with over-allocation, emissions under-reporting and price volatility, it yielded windfall profits for utilities but few reductions in emissions or investments in clean technology.

Offsets: While U.S. officials vowed to learn from Europe's mistakes, Waxman-Markey repeats many of these flaws and adds a massive level of "offsets," which blows away the "cap" in cap-and-trade. Offsets mean, I pay you to preserve an acre of forest (the offset), so I can continue burning coal above the "cap." The problems with offsets are legion and well documented. First, in our forestry example, the exact amount and permanency of carbon sequestration is difficult to measure and even more difficult to enforce, especially if the "preservation" occurs outside the United States. Second, it is never clear whether the offset payment results in "additional" sequestration. Unless market demand is reduced, logging will merely shift elsewhere. The market favors the cheapest offsets, so the lowest quality projects will prevail.

By allowing two billion metric tons of offsets annually, Waxman-Markey would provide almost 20 years during which cheap, essentially fraudulent offsets would be sufficient to meet **all required reductions**. These offsets would be counted as environmental

progress on paper, while allowing degradation in reality. Offsets would create many entrenched interests, enriched by the soon-to-be-expanded carbon-offset industry. These interests, along with those who would profit from the bill's free permits-to-pollute for many fossil-fuel interests, would vigorously fight efforts for reform, even after the system's flaws became obvious.

Waxman-Markey proponents point to success in EPA's Acid Rain cap-and-trade program (**with no offsets**) as proof of concept. They ignore huge differences between the acid rain and climate challenges. In the Acid Rain program, EPA shepherded a few hundred **existing** coal-fired power-plant units with extremely accurate emissions measurement through a relatively manageable fuel switch from high-sulfur coal to readily-available, affordable, low-sulfur coal. Some facilities, with large reserves of high-sulfur coal, chose to add scrubbers, an existing technology. While EPA's cap-and-trade for Acid Rain created flexibility to ease U.S. facilities through a transition, Europe achieved greater reductions with a straightforward regulatory approach.

By contrast, for climate change, we are not simply modifying the operation of a relatively small number of existing facilities. We need to create strong incentives to increase energy efficiency throughout our economy and to investment in the rapid scale-up of new clean-energy infrastructure. Cap-and-trade is an ineffective tool to motivate these new investments because it does not reliably end fossil fuels' competitive price-advantage over currently-available clean-energy alternatives.

The Waxman-Markey approach would not only guarantee decades-long failure in the U.S., it would undermine U.S. credibility in the international climate negotiations critical to reducing global emissions. Those who favor Waxman-Markey as the political best-case-scenario lack faith in the American people. We believe the American people can understand and support a more effective and fair approach.

The cap-and-trade-and-offsets approach is totally unnecessary to keep energy affordable and businesses competitive during our transition away from fossil fuels. Many observers across the political spectrum agree - carbon fees/taxes with rebates to consumers would be a cheaper, more enforceable and more effective alternative. While cap-and-trade-with-offsets will enrich special interests and delay the transition away from fossil fuels, carbon fees with monthly rebates could be the centerpiece of an affordable, equitable and rapid transition to our clean energy future. See <http://www.carbonfees.org/home/Cap-and-TradeVsCarbonFees.pdf>

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reflect EPA's position. Their credentials and additional resources are available on their website, www.CarbonFees.org