

RECOMMENDED CHANGES TO WAXMAN-MARKEY

ALLOWANCE ALLOCATIONS

- RECOMMENDATION: Free allowance allocation to the utility sector of 40 percent, consistent with the sector's share of CO2 emissions. Distribution should be to Local Distribution Companies based on the agreement reached by EEI and USCAP. A small percentage should go to merchant coal generators also consistent with the EEI and USCAP agreements. Allowances should be provided for the duration of the program.
- RECOMMENDATION: Free allowance allocation to the industrial sector in accordance with the Inslee-Doyle provisions. Allowances should be provided for the duration of the program.
- RECOMMENDATION: Provide bonus allowances for CCS deployment program with allowances given to first companies to install CCS. Bonus allowance structure consistent with approach in both the Waxman-Markey and Dingell-Boucher drafts.

TIMELINES AND TARGETS

- Waxman-Markey draft has reductions of 20 percent by 2020. Dingell-Boucher draft had 6 percent by 2020. President Obama has called for 14 percent by 2020.
- RECOMMENDATION: Adjust timelines and targets in early years to reflect need for technology development. Reductions in accordance with what was proposed in Dingell- Boucher discussion draft. 6 percent by the year 2020, 44 percent in 2030 and 80 percent by 2050.

OFFSET PROVISIONS

- Concern regarding the actual availability of offsets under the Waxman-Markey draft as proposed. Severe constraint of offset availability through will increase program costs and leave obligated entities with few compliance alternatives in the early years of the program. Several recommendations in this area which are compilation of comments received through consultation with Coalition for Emission Reduction Projects and Forest Carbon Dialogue as well as other interested stakeholders such as utilities.
- RECOMMENDATION: Increase offsets to 3 billion tons.
- RECOMMENDATION: Remove the 5:4 discount rate applied to offsets.
- RECOMMENDATION: Include list of project types that will be deemed per se eligible and a second list of project types that EPA is directed to consider making eligible.
- RECOMMENDATION: Allow any unused tons to be carried forward for use in the next year.
- RECOMMENDATION: Expand the credit for early action offsets beyond those in CCAR and RGGI to activities such as those through the Chicago Climate Exchange.
- RECOMMENDATION: Allow credit for reductions taken in 2009 and after for projects for which the infrastructure was in place before that date.
- RECOMMENDATION: Include destruction projects as possible offset projects.

- RECOMMENDATION: Eliminate the requirement for an agreement to be in place with the host nation supplying international offset projects for offsets issued by the UNFCCC international body (leave requirement in place for offsets sourced directly from projects in developing nations).
- RECOMMENDATION: Require the Administrator to report to Congress on the cost effect of new source performance standards for uncapped facilities on the overall climate program.
- RECOMMENDATION: Make afforestation, reforestation, avoided degradation and improved forest management eligible to generate offsets.
- RECOMMENDATION: eliminate limit on individual firm's use of offsets for compliance.
- RECOMMENDATION: Allow sub-national activities within offset program.
- RECOMMENDATION: Remove 50/50 restriction on split between domestic and international.

PERFORMANCE STANDARDS FOR NEW COAL PLANTS

- Waxman-Markey draft establishes 3 different performance standards for new coal –fired generation facilities. Two categories of concerns regarding the proposed standards are the effect on coal plants projects currently underway and the achievability of the 2015 standard with no trigger of CCS commercial availability.
- RECOMMENDATION: Adjust final permit language currently in the draft to ensure that the coal plants projects which are currently underway are able to continue. (A concern for AEP, Duke, NRG, AMP Ohio and others.
- RECOMMENDATION: Adjust 2015 and 2020 standards by tying effective date to the availability of commercial CCS based on a threshold of deployment and status of CCS regulations by EPA as recommended by US CAP.

BORROWING

- Extend compliance period from 2 years to 3 years and allow for interest free borrowing for two years rather than the 1 year currently in the draft.

STRATEGIC ALLOWANCE RESERVE

- Waxman-Markey draft establishes a reserve by skimming allowances from under the cap totaling about 2.5 billion tons. Concern that the reserve price for the quarterly auction is set at such a high level that it isn't effective cost containment mechanism.
- RECOMMENDATION: Lower the reserve price for the auction by removing the multiplier used to determine the price in order to ensure that mechanism is more truly cost containment device.

INDUSTRIAL SECTOR:

- Waxman-Markey draft contains provisions largely reflective of Inslee-Doyle work in this area.
- RECOMMENDATION: Provide allowances under this provision for free to energy intensive industrial emitters.

- RECOMMENDATION: Alter Individual Showing language to accommodate Corning concern regarding presumption of relief and limited time for Administrator to respond.
- RECOMMENDATION: continue work with interested stakeholders to ensure that comparison within sectors accounts for various fuels types that may be used in a given industry.
- RECOMMENDATION: provide full 100 percent of costs to affected industry.
- RECOMMENDATION: allow high energy intensive industries to be eligible for the program.
- RECOMMENDATION: ensure no phase down without Congressional determination that leakage threat has been mitigated.

CITIZEN LAWSUITS:

- Concern among industry about potential new liability for any emitter created under the enforcement provisions in Section 336.
- RECOMMENDATION: Delete Section 336.

OTHER ISSUES:

- RECOMMENDATION: Continue to work with concerned stakeholders in chemical industry to resolve compensatory allowance language to ensure natural gas feedstock issue is resolved.
- RECOMMENDATION: Modify language on greenhouse gas registry requirement to recognize outcome of ongoing EPA rulemaking.
- RECOMMENDATION: Delete peak demand reduction goal requirement.
- RECOMMENDATION: exempt contracts that create offsets from the exchange trading requirement.
- RECOMMENDATION: Include Section 115 (addressing international air pollution) of the Clean Air Act in sections under which future regulation will not occur.

RES/EERS

- EERS/ Waxman-Markey draft contains two additional mandates outside the cap and trade program – an efficiency mandate and a renewable electricity mandate. These mandates pose additional concerns and costs on the regions of the nation which are most likely to also incur the highest costs under the cap and trade program.
- RECOMMENDATION: Eliminate the EERS and instead qualify energy efficiency with no limits as a means of meeting the renewable electricity standard.
- RECOMMENDATION: Adjust the RES to 15 percent by 2025 rather than the 25 percent currently in the draft.
- RECOMMENDATION: Expand the list of eligible fuels to include: waste-to-energy/municipal solid waste; pumped storage; mine methane; biogas; ocean thermal; waste water treatment gas; bio-diesel; distributed generation from renewable; combined heat and power/cogeneration.
- RECOMMENDATION: Ensure that demand response programs qualify under the definition of efficiency.
- RECOMMENDATION: Continue conversations with regard to definition of biomass to ensure that sufficient quantities will be available for it to be realistic fuel.
- RECOMMENDATION: decrease alternative compliance payment from 5 cents per kilowatt hour to 2 cents per kilowatt hour. Ensure that any money collected from these payments is returned to states in proportion to the amount they paid into the fund.
- RECOMMENDATION: Recognize hydroelectric improvements made in the Southeast during the 1990's and move the incremental hydro date back to 1992.
- RECOMMENDATION: acknowledge role of nuclear and/or coal with CCS toward achieving clean energy by removing these fuels prospectively from the baseline calculation.
- RECOMMENDATION: Acknowledge variations in States ability to meet the standard by allowing for Governor's to petition for additional fuels or for partial credit for other fuels which are part of state program.
- RECOMMENDATION: Include provision giving Secretary discretion to add qualifying fuels to list.
- RECOMMENDATION: Increase threshold for obligation under the program from 1 million MW to 4 million MW annual retail sales.
- RECOMMENDATION: Include provision giving Secretary the discretion to add new fuels.