



MEMORANDUM

Current position on the American Clean Energy and Security Act
as passed by the House of Representatives

July 14, 2009



Our Position

CLEAN remains steadfast in its opposition to the current draft of the American Clean Energy and Security Act. Fix it.

CLEAN believes that the version of The American Clean Energy and Security Act (ACES) passed the House of Representatives by a slim margin of 219-212, and now before the Senate, does not adequately address global warming, fails to encourage true economic and energy security for Americans, and continues the transfer of wealth from taxpayers to the coal, nuclear, and fossil-fuel industry—a result of that industry's immense power and influence. Once again, the Federal government has, in very significant ways, sided with the interests of industry over the public benefits. **It is a costly way to *not* fix our problems. There are alternatives that are a smarter use of public funds, a least-cost approach will adopt a straightforward clean energy path, solve global warming and help lead us out of rising debt.**

We remain steadfast in opposition of the current draft. Without substantial changes to this Act, we will not offer our support.

CLEAN seeks a country no longer held prisoner by the self-interested coal, nuclear, and fossil-fuel-based energy industry, and we therefore seek a government that is no longer afraid of or indebted to that industry and its lobbyists. Our support of this bill would effectively tell Congress that the environmentalists and environmental economists who make up our membership accept the powerful hold that the coal, nuclear, and fossil-fuel industry have on our economy and energy security. We would in effect be yielding in a way that demonstrates that their power is now even more absolute.

The bill:

- Works against the interests of American taxpayers and the long-term solutions to our energy challenges.
- Contains deep giveaways to the coal, nuclear, and fossil-fuel industry that undermine it's positive measures;
- Undermines the U.S. position in international negotiations on climate change. If we want other countries to change their policies in order to reduce greenhouse gas emissions, the U.S. must take the lead, especially as it is one of the world's biggest carbon polluters. Further, it neglects the reality that China, far from ignoring the need for clean energy, is rapidly deploying wind and solar power and is preparing to take the international market in much the same way that Japan did with new fuel-efficient cars.

What the current version of the bill gets right

While we are currently against the bill, it does get some things right. It is important to continue to support these provisions.

The bill:

- Approves a renewable electricity standard of 20% by 2020;¹
- Provides for federal oversight authority to ensure states cannot weaken the renewable electricity standard;
- Calls for loan guarantees for renewable energy development;
- Recommends revolving loan funds for small and medium size green manufacturing businesses;

¹ A good start, this should be increased in the Senate version of the bill.



- Appropriates funds for “green mortgages”;
- Provides energy efficiency appropriations for renewable energy improvement of multifamily rental properties;
- Provides renewable energy loan funds for states and Indian tribes.

What the bill gets wrong

For the small amount it gets right, it gets far more serious and fundamental things wrong.

The Act:

- Has a misguided, poorly thought out, and corruptible cap and trade provision that:
 - a) Only slows the cap on carbon emissions to essentially 3% of what science calls for. While Congress cut the cap on carbon emissions to 17% of 2005 levels by the year 2020, this is only a fraction of what science requires, which is a cap of 20% of 1990 levels by the same time.
 - b) Gives back free carbon allowances to polluters. When creating a cap and trade system, returning 85% of the allowances basically assures industry's right to pollute going forward rather than drive a market to reduce carbon. This is not cap and trade.
 - c) Actually increases the number of allowances allocated to industry from 2012 to 2016 from about 4.6 billion to 5.5 billion respectively. Based on EPA cost estimates for allowances, electric utilities would receive anywhere from \$19 billion to \$38 billion (possibly more) in allowances free annually for at least a decade.
 - d) Does not clearly present the regulatory market for the cap and trade system. Unregulated markets can and are likely to be gamed, echoing the failure of the Federal Government to regulate the derivatives market that has brought our economy to its knees.
- Strengthens the coal, nuclear and fossil-fuel industry grip on energy by:
 - a) Allocating an estimated additional \$60 billion for the carbon, capture and sequestration of coal. This is more money for an unproven technology. Should CCS fail (the most likely result), the US will have spent a decade or two emitting more CO2 which in turn causes global warming. This money would be better spent if allocated towards proven renewable and efficiency-based technologies.
 - b) Protecting and likely increasing the use of nuclear power instead of phasing it out. For example, the bill creates a clean energy deployment administration funded by the initial issuance of \$7.5 billion in “green” taxpayer-backed bonds. Thirty percent of the fund could be allocated to nuclear power.
 - c) Creating unclear or no ratepayer benefits. While it mandates that a portion of the carbon dioxide emission allowances given to utility companies be used by the utility for the benefit of residential ratepayers, there is no clear definition of residential ratepayer benefit. Ratepayers would have to rely on corporations and regulators (the same industry players as usual) to act in the interest of ratepayers instead of their shareholders' profits.
 - d) Allowing dirty energy options to qualify as “renewable” energy. For example, it designates trash



incinerators and biomass burners as renewable energy. The former emits both greenhouse gasses as well as highly toxic substances. The bill inadequately defines biomass.

- Severely weakens the EPA by:
 - a) Eliminating the EPA's ability to regulate carbon as a pollutant. It is unclear why the Congress wishes to assume or reduce the authority of this vital agency and have grave concerns about the political nature of Congress getting in the way of the EPA's ability to act in a regulatory capacity.
 - b) Revoking its authority to grant permits to new coal plants, opening the possibility for permits for new coal-fired plants.

What needs to happen in the Senate for ACES to garner our support?

- Strengthen the carbon reduction goals to bring them in line with science;
- Support a 25% increase for the Renewable Electricity Standard;
- Support a 15% Energy Efficiency Resource Standard that would reduce electric energy demand by 15% by 2020;
- Eliminate funding and provisions for carbon capture and sequestration;
- Eliminate the carbon allowances (permits to pollute) given back to industry—either auction 100% or replace them with a true tax on carbon;

As Nobel Prize winning economist, Paul Krugman notes: “handing out emission permits does, in effect, transfer wealth from taxpayers to industry.”

- Confirm the EPA's authority to regulate Carbon as a pollutant and regulate permits of coal plants.

Congress should remember why it established the EPA. “In July of 1970, the White House and Congress worked together to establish the EPA in response to the growing public demand for cleaner water, air and land. Prior to the establishment of the EPA, the federal government was not structured to make a coordinated attack on the pollutants that harm human health and degrade the environment. The EPA was assigned the daunting task of repairing the damage already done to the natural environment and to establish new criteria to guide Americans in making a cleaner environment a reality.” (From EPA.gov)

- Eliminate provisions for financial support of new nuclear power through loan guarantees and the clean energy deployment administration;
- Eliminate trash incineration from the definition of renewable energy;
- Eliminate all taxpayer support for nuclear and coal-fired power plants;

We believe these alternatives are possible in the current political climate and only require leadership. The American people are capable of problem solving and will assume sacrifices if they feel they serve the common good as well as their own interests. This requires the Senate and President Obama to actually implement the type of change the public demanded in the 2008 and 2006 elections--a good measure of which was to limit the influence of heavily financed lobbies.



Where the bill currently stands

The Senate now has the Act, and with it a chance to fix it and get it right. Senator Harry Reid has suggested that the bill will be voted on in the Senate in October and President Obama has ceded authority to Congress to negotiate the terms of the bill.

Why the Senate received a severely weakened Act

The movement of ACES through the House of Representatives demonstrates much of what is wrong with our political system and its players. For us to affect it positively, it is important to understand how we got such a weakened bill. This includes:

- **The Power of Money and Influence**
Congress is still strongly influenced by the current coal, nuclear and fossil-fuel energy industry and its lobbyists. The coal and fossil fuel industry vigorously lobbied Congress using money and fear to demonstrate their clout. In 2009 alone, corporate polluters spent \$80 million in lobbying for provisions that would satisfy their interests. For example, ExxonMobil spent \$9.3 million alone.
- **Rigging the Process**
While many of the provisions of the amendments to the bill were solid, the process of considering them was atrocious. For example, the House Rules Committee (one of their tasks is to rule on which amendments can go to vote) met until 3:00 am the night before the vote on the House floor, approving some 300 pages of amendments to the bill. Hence, most members of the House did not even read the amendments before voting on them. The issue of our energy future is so important to the economy, security and health of this country that we deserve better than have Members of Congress vote on a bill with amendments they have had little time to read.
- **Buying the Rhetoric**
Throughout the debate in the house, many environmentalists convinced themselves of this mantra and stuck to it: “ACES is better than nothing. It is the best possible bill we can get now. It is just a starting point.”

This ignores the reality that what Congress does now will be the Congressional action on this topic for years and perhaps decades to come. It is only necessary to look at fuel-efficiency standards to see the folly of this “take something now and be happy with it” approach to lawmaking. When fuel efficiency standards for autos went up years ago, they remained locked in place for more than 15 years. The result: Other nations far outpaced the U.S. by producing better and more fuel-efficient cars than Americans wanted - and Detroit was left all but in ruins. It took the collapse of the American auto industry and law suits by a number of States to force greater fuel-efficiency standards.

It is not an environmentalists or economists job to negotiate the politics. That is the role of the politician. The environmentalist's and economist's job is to advocate for effective solutions beyond politics-as-usual and then hold those politicians who do not achieve it accountable.

How to strengthen the Act

Given all of what is detailed in this memorandum, CLEAN remains resolute that the political will of the people is to take on these industry interests and stop global warming and secure our economic and energy security. We desire a Congress that demonstrates adequate leadership towards this goal.



We do not accept that this bill is the “best we can get.” We can do a lot better and do it a lot smarter. We believe the people will stand up for and get behind a much stronger bill. As a result, politicians who continue to deny the challenges we face must be influenced alongside those who compromise the fundamentals of science in the name of legislative 'deals' that placate or strengthen those industries who have brought upon this crisis.

Based on this understanding of our current political climate, in the coming weeks it is essential that we:

- Support grassroots organizing to strengthen the bill in the Senate
While we are extremely skeptical of the political will of the Senate--indeed, we worry the bill is likely to only be further weakened--we will work and call upon our supporters to strengthen this bill. We will do so by clearly communicating what needs to happen to earn our endorsement.

These community voices must drown out the climate deniers: the coal, nuclear and oil lobbies. They must also convince or drown out those in the environmental community so eager for legislation that they prematurely agree to the so-called realism of the very politicians who call themselves 'leaders' and who refuse to meet or listen to their own constituents.

- Encourage others to withhold their support of the bill until it is acceptable
Other opinion leaders (environmental groups, economists, etc.) need to be encouraged to hold back on endorsing ACES until they see a final bill. To endorse an incomplete Act at this time is only providing cover to further its weakening, removes the ability to negotiate further. We must encourage all groups and opinion leaders to detail what they want done to the bill (rather than simply encouraging their supporters to call and say “I am for ACES”)
- Remind environmental groups of their “roots”
National environmental groups who collaborate in this process, and do so over the heads of their own memberships or who are ignorant of the strength of opinion and the depth of understanding at the local level, should turn or return to a politics which advances an energy future based on clean energy. They should advocate more and negotiate less.
- Encourage a fair process
We want to slow down the process and allow the public a chance to participate meaningfully in the decisions that so dramatically affect their lives, livelihoods and their future. We believe including these voices in the debate can only result in positive changes to the bill.
- Our mantra: The bill can and must be fixed. We need to hold those who fail to act in the interest of the American people accountable.

Conclusion

We don't believe this is the best possible bill that can be achieved. Indeed, the standard of what is the best is not determined by what the current coal, nuclear and fossil-fuel energy industry, its money, and its lobbyists want or say they will accept. Again, if we endorsed ACES as it stands, we would only:

- Further cement the power that the fossil-fuel and nuclear energy lobby and industry has on US energy/climate policy
- Tell Congress that it can wait (again), likely until economic or environmental catastrophe forces its hand

The current bill causes us great concern, especially given the fact that the Congress and Presidency is currently held by the Democratic Party. If this is the best we can get now, what can we expect if the Congress shifts towards Republicans (who have more ardent climate change deniers)? Does this bill mean that, despite the



changes sought by the electorate in the 2008 elections, nothing has changed in the way lobbyists impose their will with a willing Congress on legislation?

