



**U.S. CHAMBER OF COMMERCE
POSITION ON H.R. 2454, THE “AMERICAN CLEAN ENERGY AND
SECURITY ACT OF 2009”**

The U.S. Chamber of Commerce, the world’s largest business federation, representing more than three million businesses and organizations of every size, sector, and region, supports strong action on global climate change. The Chamber remains committed to working with Congress to achieve meaningful climate change legislation that provides a stable and growing economy, and promotes the development of needed new sources of energy and technologies across a range of industries. However, H.R. 2454, the “American Clean Energy and Security Act of 2009” (ACES), as currently drafted, is not this legislation.

ACES suffers from a number of critical flaws that could cause a significant amount of pain for American businesses while making little to no difference on global CO₂ concentrations, such as:

- Strict emission reduction targets that take fossil energy out of the economy, while not ensuring that this energy void will be filled with enough renewable or alternative energy to keep America functioning;
- Creates a huge federal bureaucracy through by imposing 397 new regulations and 1060 new mandates on the American public; (view the chart at <http://www.uschamber.com/media/pdfs/waxmanmarkey.pdf>.)
- Is not international in scope—in other words, it is not conditional on an international treaty that sets binding commitments for all major emitters—developed and developing—while ensuring that every nation retains the flexibility to attain those commitments however it chooses;
- Includes tariffs on carbon-intensive imports, a program that not only might violate U.S. obligations as a member of the World Trade Organization but could also spark a trade war by inviting retaliation against U.S. exporters;
- Includes language that could enable mass tort litigation and other types of lawsuit abuse against greenhouse gas emitters;
- Inequitably allocates credits to the refinery sector, which bears the compliance obligation for more than 40 percent of covered CO₂ emissions—refiners’ own emissions plus the emissions generated when the fuels they refined are eventually burned by consumers—yet receives only 2.25 percent of the allocations. Refiners would have no choice but to pass the bulk of these costs through to consumers;
- Few if any incentives for nuclear power, which along with coal with carbon capture and sequestration must be a large part of our energy future;

- Incomplete preemption of the Clean Air Act and state climate laws, which means businesses could be forced to comply with two (or even three) sets of conflicting CO₂ regulatory programs;
- Potentially negative impact on jobs and the economy—the National Black Chamber of Commerce estimates annual drops in gross domestic product (GDP) of \$170 billion in 2015, \$350 billion in 2030, and \$730 billion in 2050 and 2.3 million to 3 million net lost jobs, a figure that accounts for all the “green” jobs created. Sections 425 and 426 of the bill create a “Climate Change Worker Adjustment Assistance” program that essentially compensates workers in service industries that lose their jobs due to the impacts of ACES;
- The derivatives provisions in ACES, as written, would hinder the ability of companies to use over-the-counter (OTC) derivatives to manage risks associated with day-to-day operations. Section 356 of Subtitle E of ACES would impose a user fee on transactions cleared through derivatives clearing organizations, a transaction tax that would adversely impact liquidity on U.S. futures exchanges, because it would fall disproportionately upon the market makers who provide liquidity to the exchanges through the frequency and speed of their transactions; and
- Application of the Davis-Bacon Act to all provisions in the bill, which in no way furthers the United States’ ability to reduce climate emissions, and would result in diminished competition, shutting out many qualified minority, small, and non-union businesses from the entire market.

The slim margin of victory on ACES in the House should have been a signal to its drafters that they should go back to the drawing board. However, the Senate appears poised to move full speed ahead on a bill that will not, if passed, reduce concentrations of GHGs in the atmosphere, but will certainly make energy scarce and more expensive and balloon the EPA’s bureaucracy. In fact, the only jobs it will create with any certainty will be trial lawyers and bureaucrats. The Chamber remains committed to working with Congress to draft meaningful, common-sense climate legislation that truly addresses global CO₂ concentrations without submarining the economy. ACES will not achieve this goal, and the U.S. Chamber opposes it.