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## Climate bill good first step in long and arduous trip

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This month brought two significant developments on the climate change front — one political, one geological — or, looked at another way, one hopeful and one a dire warning.

The warning came from both of the planet's poles. In the Antarctic, the Wilkins ice shelf — a floating shelf some 80 nautical miles by 60 nautical miles — is reportedly on the verge of global-warming-triggered collapse. On April 5, an ice bridge connecting it to the coast of Antarctica splintered, untethering the shelf. And a six-year-long study by NASA concludes that Arctic ice is thinner and melting faster than previously thought. Experts link these events to climate change.

On the hopeful side, U.S. Reps. Henry Waxman, D-Calif., and Ed Markey, D-Mass., released a much awaited "discussion draft" of a climate change bill. Their 648-page bill addresses this most severe threat to the planet in a comprehensive and thoughtful way, covering energy, fuels, cars and more. But they call it a "discussion draft" for a good reason: There's plenty of discussing left to do. Here's some:

- **Cap and trade.** The core of the bill is a federal cap-and-trade system, under which big polluters will acquire allowances that would permit them to emit greenhouse gases — carbon dioxide, for example. If polluters emit less than anticipated, they can sell excess "credits" to other polluters, who can use them to effectively raise their own caps. The cap is supposed to get greenhouse gas levels down with certainty, and trading helps achieve those reductions in a cost-effective way. Of course, the all-important question is where the caps are set, and the bill, though starting more restrictions sooner than past bills, ultimately sets the cap considerably above the levels recommended by scientists and international negotiators. Some commitment is better than complete U.S. inaction, but the effort will be for naught if developing countries like China balk at emissions targets because they believe the United States isn't shouldering its fair share.
- **Carbon offsets.** Waxman-Markey also embraces the sorts of offsets we've already seen in the markets, where a product's associated greenhouse gases are "offset" by carbon absorption from say, planting trees. Waxman-Markey uses similar concepts on a grander scale. Polluters could buy carbon offsets — from wind farms, for example — and use the saved emissions as a credit against their own emissions. The bill requires that all offsets must be "additional," "verifiable" and "permanent" — terms of art intended to ensure that offsets are not fraudulent. The bill also discounts offset-created pollution rights with respect to ordinary allowances. This gives polluters sound incentives to cut their own emissions, and it adjusts offset credits to account for risks that offsets aren't as beneficial as hoped. But the bill needs to do better to ensure that environmental harms associated with offsets can be addressed.
- **Retaining states as key players.** So far the states have led the way on climate change remedies, including the creation of a number of multi-state cap-and-trade systems. Industry is hoping that a federal bill will have a "generous" cap and that it will pre-empt state efforts. Waxman-Markey would indeed require states to surrender their own cap-and-trade markets for five years, but otherwise preserves the possibility of state legislation. That makes the question of where the federal cap is set all the more critical. In addition, the draft bill's language needs to be strengthened to ensure states retain their usual powers to otherwise protect their citizens and the environment. Without such clarification, wasteful litigation over retained state power is likely.
- **Environmental justice.** One reason a cap-and-trade scheme makes sense is that it doesn't really matter where carbon emissions occur; it's the cumulative effect that matters. Unfortunately, the "co-pollutants" that go up the smokestack with carbon dioxide can have a severe impact on communities near the smokestacks, and those communities are usually poor and often minority. And since some polluters will accumulate credits or offsets allowing them to burn more fuel, there's good reason to worry about "hot spots" where co-pollutants get out of control. The bill needs to address the problem, ensuring state and local governments and federal regulators can still protect the vulnerable.

All in all, Waxman-Markey is a great first step in what will surely be a long and arduous journey. But if anyone doubts the importance of the trek, they can just pay attention to what's happening on either end of the planet. Climate change is under way, and its effects are already in evidence.

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