At a Glance

American Clean Energy and Security Act of 2009

As passed by the House of Representatives – June 26, 2009 (Waxman-Markey)

PEW CENTER ON Global CLIMATE CHANGE

On June 26, 2009, the American Clean Energy and Security Act (ACES Act) was passed by the U.S. House of Representatives by a vote of 219 to 212. The bill contains five distinct titles: I) clean energy, II) energy efficiency, III) reducing global warming pollution, IV) transitioning to a clean energy economy and V) agriculture and forestry related offsets. Title I contains provisions related to a federal renewable electricity and efficiency standard, carbon capture and storage technology, performance standards for new coal-fueled power plants, R&D support for electric vehicles, and support for deployment of smart grid advancement. Title II includes provisions related to building, lighting, appliance, and vehicle energy efficiency programs. Title IV includes provisions to preserve domestic competitiveness and support workers, provide assistance to consumers, and support for domestic and international adaptation initiatives. The following is a brief overview of the proposed greenhouse gas (GHG) cap-and-trade program contained in Title III and Title V.

Scope of Coverage

The bill covers seven GHGs: carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulfur hexafluoride (SF_6), and nitrogen trifluoride (NF_3). Entities covered by the proposal would include: large stationary sources emitting more than 25,000 tons per year of GHGs, producers (i.e., refineries) and importers of all petroleum fuels, distributors of natural gas to residential, commercial and small industrial users (i.e., local gas distribution companies), producers of "F-gases," and other specified sources. The proposal also calls for regulations to limit black carbon emissions in the United States.

Targets

The bill establishes emission caps that would reduce aggregate GHG emissions for all covered entities to 3% below their 2005 levels in 2012, 17% below 2005 levels in 2020, 42% below 2005 levels in 2030, and 83% below 2005 levels in 2050. Commercial production and imports of HFCs would be addressed under Title VI of the existing Clean Air Act and are covered under a separate cap. The bill also establishes economy-wide goals for all sources, including but not limited to those covered by the cap-and-trade program. These goals are the same percentage reduction and timetables as the cap-and-trade program, except that the 2020 target is 20% rather than 17% below 2005 levels.

Distribution of Allowances

The bill utilizes the value of emission allowances to offset the cost impact to consumers and workers, to aid businesses in transitioning to clean energy technologies, to support technology development and deployment, and to support activities aimed at building communities that are more resilient to climate change. Consumers are protected from higher energy prices by providing allowances to electricity and natural gas local distribution companies with a clear mandate that the value of such allowances be used for the benefit of consumers. Low and moderate income households will also receive a refundable tax credit or rebate. In the initial years of the cap and trade program, approximately 20 percent of allowances are auctioned. This percentage increases over time to about 70 percent by 2030 and beyond.

Emission allowances are also provided to energy intensive, trade-exposed businesses, merchant coal generators, and oil refineries to aid in their transition away from carbon-based fuels. To support investment in clean technologies, allowance value is used to support advanced vehicle technology and is allocated to states to establish State Energy and Environmental Development (SEED) Accounts to spur renewable energy and energy efficiency programs. Allowances are also provided to support programs aimed at cutting emissions by reducing deforestation in developing countries and for emission reductions from agriculture and forestry sources in the United States. Overall the vast majority of value created through emission allowances will be used to protect consumers and to support technological advances.

Offsets and Other Cost Containment Measures

The bill would allow up to 2 billion tons of offsets to be used for compliance system wide—1 billion from domestic sources and 1 billion from international sources. If the domestic supply of offsets is insufficient, EPA can raise the international limit up to 1.5 billion, but the 2 billion total still applies. The President can recommend to Congress that the limits on offsets should be increased or decreased. For international offsets, beginning in 2018, 1.25 offset credits would be required to be surrendered for each ton of emissions compliance, but there is no such discount for domestic offsets. The EPA would determine the list of eligible offset projects based on recommendations from an Offsets Integrity Advisory Board. Title V of the bill establishes an offset program specific to domestic agriculture and forestry sources. This program would be administered by the Secretary of Agriculture.

Other cost containment measures in the bill include a two-year rolling compliance period with unlimited banking, unlimited next-year borrowing with no interest, and borrowing of up to 15% of a compliance obligation from years 2-5 beyond the current calendar year at 8% annual interest. To further contain costs, the bill also creates a strategic allowance reserve auction using a small percentage of allowances from future years. The initial minimum price level for the auction would be set at $28 in 2012, and rise at 5% plus inflation for 2013 and 2014. Beginning in 2015, the reserve auction trigger price would be 60% above the three year rolling average of the market price of allowances.

The Congressional Budget Office's (CBO) analysis of the bill concluded that it would impose costs of $175 per household and that households with incomes in the lowest 20% would receive a net benefit of $40 annually. EPA's analysis of the bill estimated that it would cost households between $80-111 per year. None of these estimates include the savings that would result from reducing the damages that would be caused by climate change.

Carbon Market Oversight

The bill would require the Federal Energy Regulatory Commission to regulate the cash market in allowances and offsets, and assigns the Commodity Futures Trading Commission the responsibility for regulation and oversight of any derivatives markets unless the President decides otherwise. The bill also prohibits over-the-counter trading of derivatives.

Interaction with State and Regional Programs

The bill provides that states could enact more stringent climate regulations with the exception of cap-and-trade programs. State trading programs would be put on hold from 2012 - 2017 to give the federal system a chance to get started. Holders of allowances issued by California, the Western Climate Initiative or RGGI before December 31, 2011 can exchange these state allowances for federal allowances.