PEW CENTER ON Global CLIMATE CHANGE

Summary of the American Power Act (Kerry-Lieberman)

On May 12, 2010, Senator Kerry (D-MA) and Senator Lieberman (I-CT) released their draft legislation, the American Power Act (APA). This bill contains a comprehensive, sector-based approach to enhancing energy security, spurring the development and deployment of clean energy technologies, and reducing greenhouse gas emissions. The bill contains the following seven titles: domestic clean energy development, global warming pollution reduction, consumer protection, job protection and growth, international climate change activities, community protection from global warming impacts, and budgetary effects.

Domestic Energy Production

In an effort to increase production of nuclear power, Title I of the bill roughly triples the size of the existing loan guarantee program to $54 billion, doubles the current regulatory risk insurance program to cover up to 12 reactors, includes a range of tax incentives, and streamlines aspects of the licensing process.

To expand domestic supplies of oil, the bill provides for revenue sharing from drilling in areas of the outer continental shelf that were formerly subject to drilling moratoria with 37.5 percent of revenues directed to states and 12.5 percent for use under the Land and Water Conservation Fund. It allows a state to enact a law prohibiting drilling within 75 miles of its coastline and requires the Department of Interior to conduct impact studies of potential oil spills. Based on these studies, states that are found to be directly impacted by potential spills are allowed to take action to ban leasing from designated sites.

To support continued use of coal, the bill provides financial incentives for carbon capture and storage (CCS). The bill creates a special funding program managed by the Department of Energy to support initial large-scale CCS demonstration projects using the proceeds from a charge on fossil-based electricity. The bill also uses allowance value to provide financial incentives for widespread commercial deployment of CCS.

Scope of Coverage

The bill covers emissions from the approximately 7,500 major stationary sources that emit greater than 25,000 tons per year of greenhouse gas emissions. It covers producers of generators of electricity, petroleum fuels, distributors of natural gas, producers of certain fluorinated gases (F-gases), and other specified sources. Greenhouse gases that are limited under the bill include carbon dioxide, methane, nitrous oxide, sulfur hexafluoride, perfluorocarbons, nitrogen fluoride, and hydrofluorocarbons emitted as a byproduct.

Targets

The bill establishes goals for economy-wide emission reductions from 2005 levels: 4.75 percent by 2013, 17 percent by 2020, 42 percent by 2030, and 83 percent by 2050. Specific reduction requirements take effect in 2013 for electricity generators and transportation fuels, while local natural gas distributors and industrial sources of emissions are covered beginning in 2016. Emissions from transportation-related fuels are covered under the overall cap, but they are treated separately with allowances set aside and directly purchased by refined product providers from the government at the most recent auction allowance price. A section of the bill also calls for “fast mitigation” actions including setting a separate cap on hydrofluorocarbons (with an 85 percent phase down required by 2033), studying and possibly reducing emissions of black carbon, providing grants from USDA to conduct pilot projects of soil sequestration (biochar), and supporting the Methane to Markets international program.

Distribution of Allowances

The bill establishes a number of mechanisms to address cost impacts to consumers and businesses and to support clean energy technologies. Beginning in 2013 and annually through 2029, emission allowances are directed to compensate for increases in energy bills. This allowance value is provided to all consumers (residential, commercial, and industrial) through local distribution companies for electricity and natural gas, and through states for home heating oil.

In addition, the bill establishes a refundable tax credit, the Working Families Relief Program, for low-income families and an Energy Refund Program for qualified households under the Social Security Act. Beginning in 2026, the bill also establishes a Universal Trust Refund with some of the value from auctions used for deficit reduction (25 percent) and the remainder directly refunded to the public.

Allowance value for the transportation sector is used to support the Highway Trust Fund, a Clean Vehicle Technology Fund, transportation improvement programs similar to those implemented under the American Recovery and Reinvestment Act, and state and metropolitan efforts to reduce GHG emissions through transportation planning. Allowance value is also used to compensate firms for early actions to reduce emissions and states for revenues lost through the elimination of state greenhouse gas cap-and-trade programs. Allowance value also is set aside to fund natural resource adaptation programs and deficit reduction.

Offsets and Cost Containment

The bill establishes an annual compliance requirement but allows unlimited borrowing from the following year’s allowances without any penalty. It also allows for firms to satisfy up to 15 percent of their compliance obligation using allowances borrowed from up to 5 years in the future (at a cost of 8 percent annually). Firms are permitted to bank allowances for future use without any restrictions.

The bill allows those with compliance obligations to use offsets to meet part of their obligations. The bill sets overall limits on the amount of offsets that can be used at 2 billion tons per year, of which 75 percent must be from domestic sources. If domestic offsets fall short of the allowable limit, the ceiling on international offsets would be increased up to a maximum level of 1 billion tons per year. It establishes an independent advisory committee to identify and update lists of eligible project types and requires the Environmental Protection Agency (EPA) and the US Department of Agriculture (USDA) to make decisions based on these recommendations. The bill contains a list of project types that EPA and USDA must include in their initial list of eligible project types. It also allows the use of offsets from existing programs that meet specified criteria in order to create an early supply. The bill establishes a similar advisory group and offset eligibility process for international offsets.

The bill contains a hard price collar set initially with a floor at $12 ton and a ceiling of $25 (in constant 2009 dollars) per ton with each escalating, respectively, at 3 percent and 5 percent above inflation annually. The bill also includes a strategic reserve from which allowances would be sold if the price ceiling is reached.

Trading and Regulation of Greenhouse Gas Markets

The bill amends the Commodity Exchange Act (CEA) to regulate greenhouse gas instruments in the same manner as agricultural commodities. It requires that all trading of greenhouse gas instruments take place on an exchange and be cleared through a carbon clearing organization. It limits participation in the trading of allowances to regulated carbon market participants and compliance entities, but it does not restrict who can participate in the trading of derivatives. The bill amends the CEA to allow for setting of position limits (e.g., limits on the amount or percent held by a single entity) to prevent excessive speculation.

Impact on State and EPA Programs

The bill establishes a prohibition on state-level GHG emissions cap-and-trade allowance programs. It also prevents the Agency from setting performance standards for capped sources (except for the standards that are specified for coal-fired utilities once carbon capture and storage technology is demonstrated, and the application of 111(d) regulation to coal power plants built prior to 2009) but allows EPA to set standards under certain conditions for uncapped sources.

Impact on Industry and International Competitiveness

In addition to delaying emission limits on the industrial sector until 2016, the bill also grants allowance rebates to those industries that meet specified criteria as energy-intensive and trade-exposed. It also requires the President to establish an International Reserve Allowance Program, which would require imports in specified sectors to purchase such allowances unless a specified percentage of global production takes place in countries with equivalent obligations. This program would take effect in 2020 unless the President determines that an effective binding agreement has entered into force that equitably includes all major emitting countries or that such a program would not be in the economic or environmental interests of the United States.

Clean Energy Technology and Jobs

The bill includes a range of grants and projects to promote clean energy career development and training. The bill establishes a Clean Energy Technology Fund and a Clean Vehicle Technology Fund to develop energy technologies and promotes U.S. leadership in developing and deploying advanced technologies. The bill also extends and doubles the alternative fuel credits for natural gas vehicles. The bill also establishes a Carbon Conservation Fund for investing in agriculture and forestry projects to sequester carbon and reduce greenhouse gas emissions.