



A Legislative and Interest Group Analysis of the American Clean Energy & Security Act of 2009. By Drew Veysey, April 26th 2010, American University, General University Honors Capstone, Spring Semester, advisor Daniel Fiorino

Introduction

The American Clean Energy and Security Act of 2009 (ACES) passed the House of Representatives on June 26th, 2009. One of its main features is a cap-and-trade system for regulating greenhouse gas emissions. This was the first time that the US Congress passed a comprehensive energy and climate change bill.

First introduced by Henry Waxman and Ed Markey in the Energy and Commerce Committee, the American Clean Energy & Security Act of 2009 has an amazing political story. Passionate environmentalists – grassroots organizers, scientists, policy wonks, clean energy entrepreneurs, elected officials, cabinet secretaries – worked every angle to pass comprehensive climate legislation. The story includes huge legislative deal-making between members of Congress from diverse backgrounds and constituencies. The sweeping legislation promised to change the largest industry of all-time: fossil fuel extraction and combustion. The ACES debate included larger than life political and industrial figures, institutional betrayal, a polarizing debate, the careers of politicians hanging on big gambles with huge payoffs for some. What was discussed during the spring of 2009 in the United States House of Representatives was an issue with ramifications for all human civilization for thousands of years to come.

My personal bias is that I voted for Obama and the Democrats as a single-issue environment voter. In addition to typical campus environmental activism, I had the chance to visit the House Energy and Commerce Committee multiple times during the ACES hearings. May and June of 2009 I worked for the Environmental Law & Policy Center, a group that put substantial time and effort into convincing Midwestern Democrats to vote yes on ACES. After the vote I spent my summer writing reports to the Iowa Utilities Board in support of the legislation. This is the perspective I bring to the legislative and interest group process surrounding ACES.

The Science and Economics of ACES

Climate Science Projections and Solutions

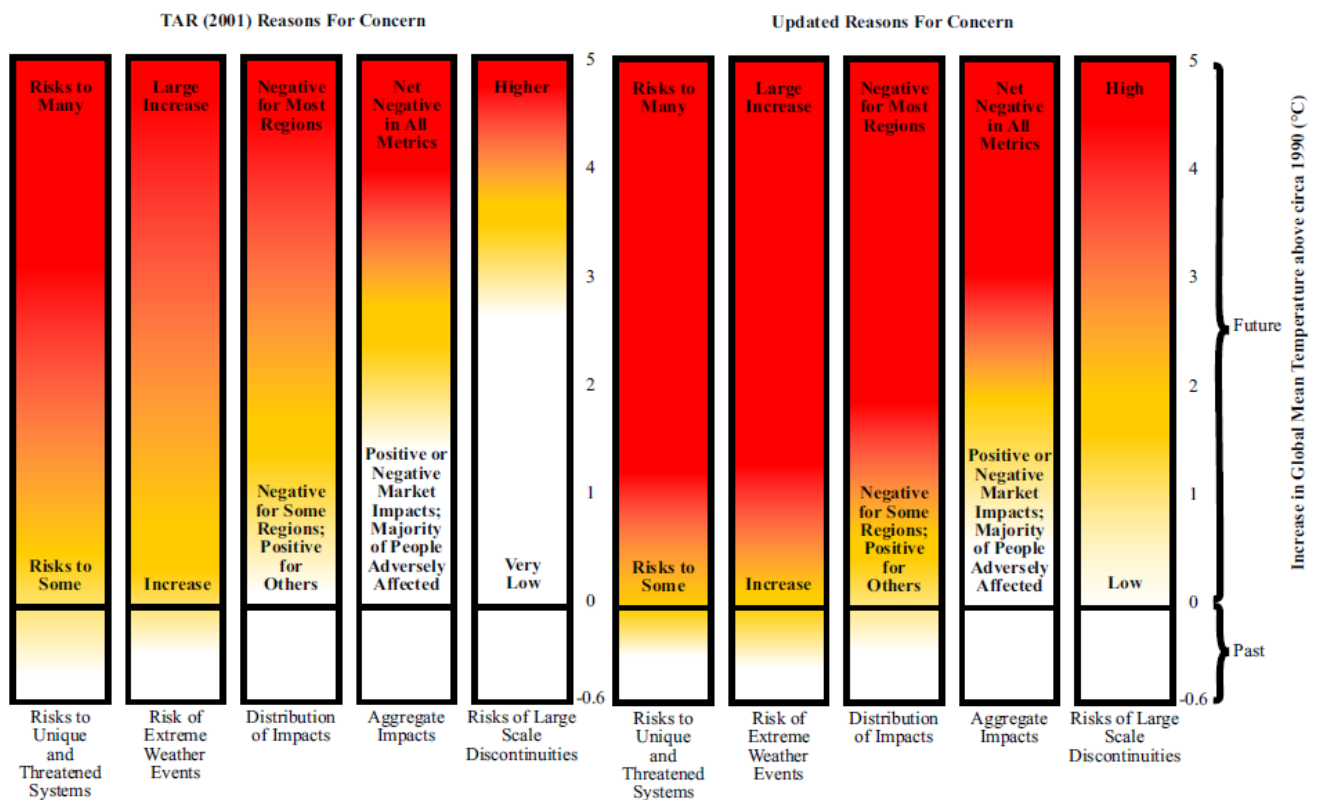
The Intergovernmental Panel on Climate Change (IPCC) advises that restricting global warming to within 2 degrees Celsius will allow us to avoid the worst effects of climate change (see Figure 1 below for a summary of its effects at different temperature levels). This means that atmospheric concentrations of greenhouse gases (GHGs) cannot exceed 450 parts-per million (ppm) (see Figure 2 below), which will require us to decrease emissions by 32% below 2005 levels by 2020. However, the American Clean Energy and Security Act caps GHG emissions from large domestic sources at only 17% below 2005 levels by 2020. The greenhouse gas (GHG) emissions¹ limits in the American Clean Energy and Security Act are not aggressive enough. They will not fully address the problem of dangerous anthropogenic interference with the climate system.

http://energycommerce.house.gov/Press_111/20090701/hr2454_house.pdf

The emissions targets in ACES are half of the reduction needed to halt the most serious effects of global warming. ACES is a decent start to addressing the problem of climate change. The proceeding economic projections show that emissions limits will need to be strengthened further without imposing crippling costs on utilities or consumers.

To demonstrate the relationship between “450 ppm,” “2 degrees Celsius” and “dangerous anthropogenic interference,” reproduced below are two illustrations from climate science reports. Figure 1 is the IPCC’s “Reasons for Concern” diagram.² This is best viewed in concert with Figure 2, also from the IPCC.³

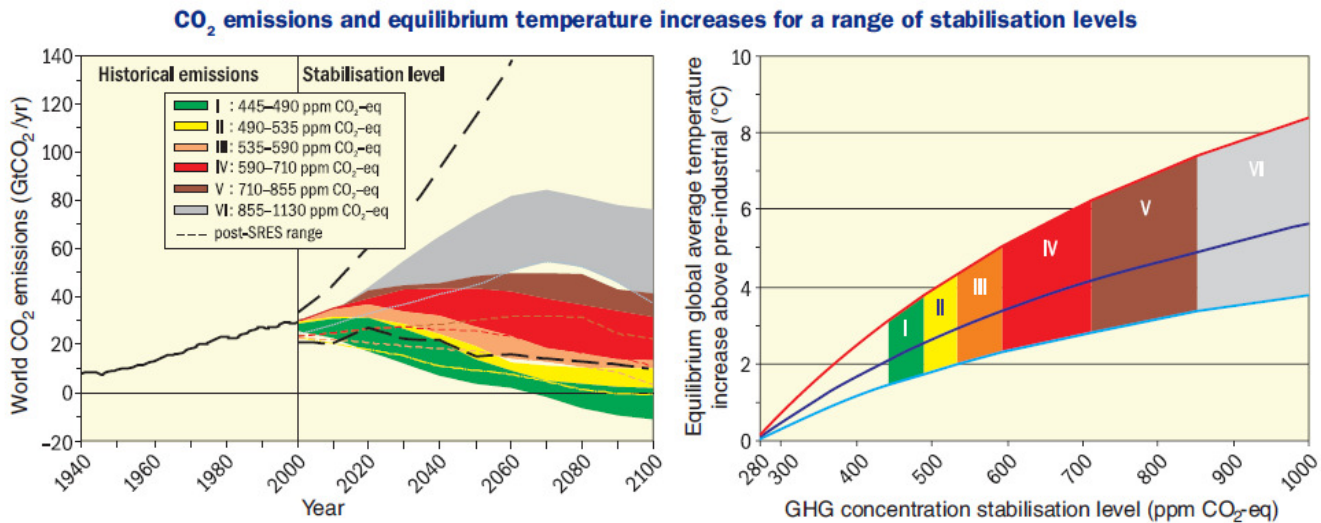
Figure 1: Reasons for Concern



² Figure 1 was included in the IPCC Third Assessment Report, Climate Change 2001, and updated with data from the Fourth Assessment Report, Climate Change 2007. This version was published in “Assessing Dangerous Climate Change” by Smith *et al.* (2008).

³ From “Climate Change 2007: Synthesis Report, Summary for Policymakers” by the IPCC (2007).

Figure 2



In order to prevent warming exceeding 2 degrees Celsius, the maximum allowable concentration of greenhouse gases in the atmosphere is 450 ppm CO₂-eq (parts-per-million carbon dioxide equivalent). To maintain a concentration less than 450 ppm, one study⁴ suggests that the United States cut its emissions by 20% of 1990 levels by 2020. However, emissions have increased substantially since 1990. US greenhouse gas emissions were 5.7145 gigatonnes CO₂-eq in 1990 and 6.6978 gigatonnes CO₂-eq in 2005.⁵ Therefore, from only a climate science basis, the targets in ACES should be stronger to avoid further damage to the climate system.

Short-term emissions reductions are achievable for US utilities through several methods: providing incentives for better building efficiency, promoting efficiency improvements in consumer products, fuel switching to natural gas, improving transmission lines to reduce loss, and encouraging small-scale residential wind, residential solar hot water heating, residential photovoltaic, and biomass co-firing. Longer-term emissions reductions can be achieved by also including large-scale wind generation, large-scale photovoltaic and solar thermal, smart grid technology with storage capacity, hydroelectricity, geothermal heating, conservation measures, and incentives for customers to change behavior with regards to energy usage.

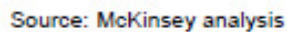
The strategies the United States should use to most cost-effectively reduce emissions are displayed in Figure 3.⁶ The curve shows abatement methods, with the most cost-effective methods on the left side and the least cost-effective methods on the right side. The vertical axis measures the price of a ton of CO₂ in 2005 and can be used to understand at what price a specific abatement method becomes economically rational. The horizontal axis measures yearly potential for abatement in gigatonnes; methods with wider bars represent more potential CO₂ abatement than those with slimmer bars.

⁴ "Meeting the EU 2 Degrees Celsius Climate Target" by Michel den Elzen *et al.* (2005).

⁵ Both the 1990 and 2005 emissions reported here exclude agriculture.

⁶ Figure 3 is from "Embracing the Future: The Midwest and a New National Energy Policy" by The Chicago Council on Global Affairs (2009), p. 36. The figure was constructed by McKinsey & Company.

U.S. MID-RANGE ABATEMENT CURVE – 2030



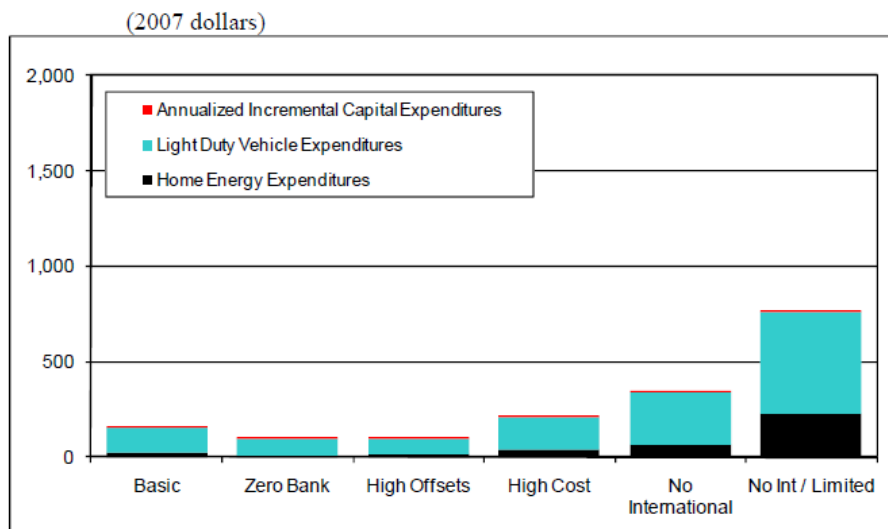
Economic Analyses of ACES

I will now discuss the results of complex and comprehensive studies of the American Clean Energy and Security Act completed by three government organizations: Energy Information Administration, Environmental Protection Agency, and the Congressional Budget Office. Since much debate was made over regional disparities of cost I have also included regional cost studies from the National Bureau of Economic Research, Resources for the Future, and Nate Silver of fivethirtyeight.com. The Heritage Foundation and the Massachusetts Institute of Technology also published studies that came up in the legislative debate. These economic studies contributed to the political rhetoric surrounding the ACES legislative process. None of the following cost estimates take into account the benefits of reducing global warming and its effects, which, as Figure 1 shows, will be considerable.

Energy Information Administration

The Energy Information Administration, a branch of the Department of Energy, published their analysis of the American Clean Energy and Security Act in early August 2009.⁷ They estimate the cost per household in 2020 under the basic scenario would be approximately \$200, while cost per household in 2030 would be approximately \$500 in lost purchasing power. They also examine the potential costs of ACES under several different scenarios: with zero-banked allowances held in 2030, with a high amount of international offset utilization, with higher costs associated with new nuclear and CCS capacity, with very little international offset usage, and with no international offset usage and no increase above baseline levels for nuclear, CCS, or biomass generation of electricity. Household costs in each of these alternative scenarios are shown in Figures 4 and 5 below.⁸

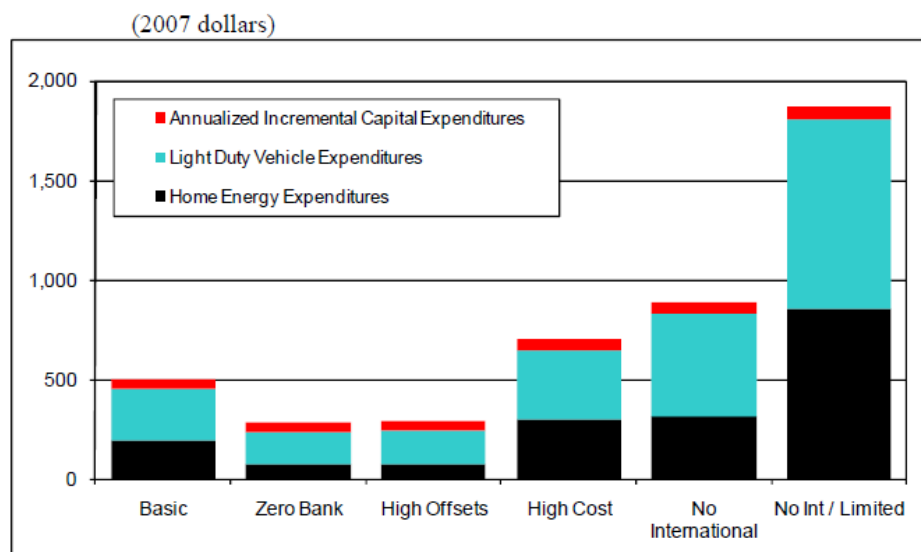
Figure 4 Average Change in Household Energy Expenditures in Main ACESA Cases, 2020



⁷ "Energy Market and Economic Impacts of H.R. 2454" by the EIA (2009).

⁸ Figures 4 and 5 are from the EIA study.

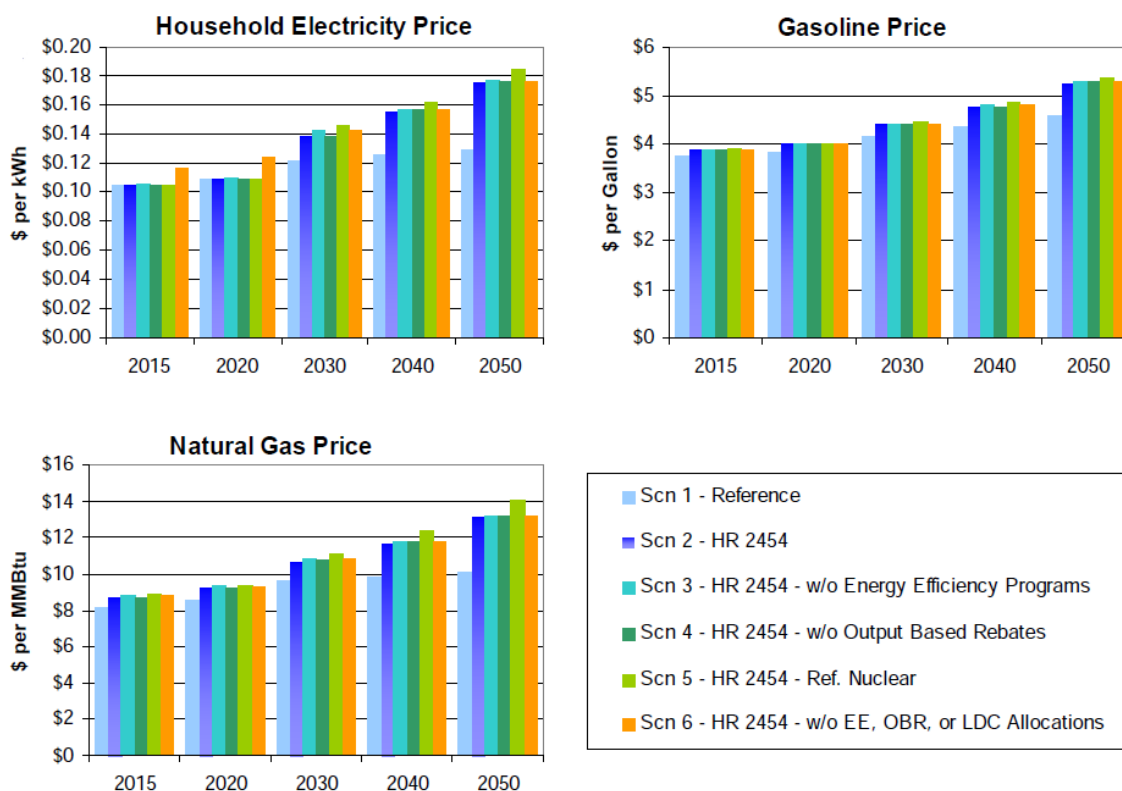
Figure 5: Average Change in Household Energy Expenditures in Main ACESA Cases, 2030



Environmental Protection Agency

The Environmental Protection Agency's analysis was published on June 23rd, 2009.⁹ The EPA estimates that the bill would cost households \$80 to \$110 per year. Figure 6 shows the EPA's estimated price per kilowatt-hour over the duration of the bill, compared to a "business-as-usual" reference scenario.¹⁰

Figure 6: Energy Prices Under ACES



Congressional Budget Office

The Congressional Budget Office published an analysis of the American Clean Energy and Security Act on June 19th, 2009.¹¹ Reproduced in Figure 7 below is a chart displaying the distribution of household costs by quintile.¹² Figure 7 shows that lower-income families will incur fewer costs as a result of the bill and may even come out ahead.

Figure 7:

Distribution of the Costs and Financial Benefits of the Greenhouse-Gas Cap-and-Trade Program in H.R. 2454 Among Households, by Level of Income

| | Gross Costs | Direct Relief to Households | Allocation to Businesses and Net Income to Domestic Offset Producers ^a | Net Cost |
|---|-------------|-----------------------------|---|----------|
| Average Dollar Cost per Household | | | | |
| Lowest Quintile | 425 | -400 | -65 | -40 |
| Second Quintile | 555 | -420 | -90 | 40 |
| Middle Quintile | 675 | -300 | -140 | 235 |
| Fourth Quintile | 815 | -245 | -230 | 340 |
| Highest Quintile | 1,380 | -250 | -885 | 245 |
| All Households | 770 | -320 | -285 | 165 |
| Cost as a Percentage of After-Tax Income | | | | |
| Lowest Quintile | 2.5 | -2.3 | -0.4 | -0.2 |
| Second Quintile | 1.5 | -1.1 | -0.2 | 0.1 |
| Middle Quintile | 1.2 | -0.6 | -0.3 | 0.4 |
| Fourth Quintile | 1.1 | -0.3 | -0.3 | 0.4 |
| Highest Quintile | 0.7 | -0.1 | -0.5 | 0.1 |
| All Households | 1.0 | -0.4 | -0.4 | 0.2 |

Studies by the Environmental Protection Agency, Congressional Budget Office, and Energy Information Administration are the most comprehensive, unbiased, and detailed estimates available. All three explicitly state their assumptions, and the EIA and EPA ran alternative scenarios in which factors such as the availability of international offsets and the viability of energy technologies are constrained. Each study represents a “middle of the road” estimate of allowance prices within the parameters that it examined. Therefore, the three estimates taken together accurately represent the range of likely prices. Figures 8 and 9 summarize the allowance price projections from these three agencies. (Cells were left blank where data were not projected.)

¹¹ “Congressional Budget Office Cost Estimate: H.R. 2454” by the CBO (2009).

¹² Figure 7 is from the CBO study.

Figure 8: Projected Allowance Prices

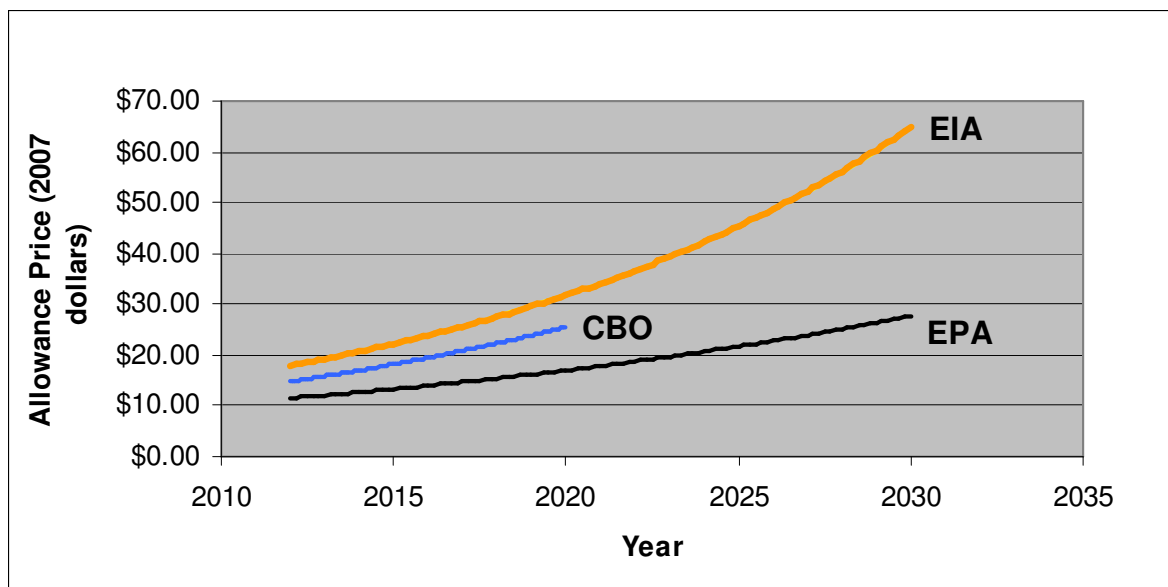


Figure 9: Projected Allowance Prices

| | EIA (2007) | CBO ¹³ | EPA (2007) |
|------|---------------|-------------------|---------------|
| 2012 | \$17.93 | \$15.00 | \$11.51 |
| 2013 | \$19.26 | \$16.00 | \$12.09 |
| 2014 | \$20.69 | \$17.00 | \$12.69 |
| 2015 | \$22.22 | \$18.00 | \$13.32 |
| 2016 | \$23.86 | \$19.00 | \$13.99 |
| 2017 | \$25.63 | \$21.00 | \$14.69 |
| 2018 | \$27.52 | \$22.00 | \$15.42 |
| 2019 | \$29.56 | \$24.00 | \$16.20 |
| 2020 | \$31.75 | \$26.00 | \$17.01 |
| 2021 | \$34.10 | | \$17.86 |
| 2022 | \$36.62 | | \$18.75 |
| 2023 | \$39.33 | | \$19.69 |
| 2024 | \$42.24 | | \$20.67 |
| 2025 | \$45.37 | | \$21.70 |
| 2026 | \$48.73 | | \$22.79 |
| 2027 | \$52.33 | | \$23.93 |
| 2028 | \$56.20 | | \$25.13 |
| 2029 | \$60.36 | | \$26.38 |
| 2030 | \$64.83 | | \$27.70 |

In reality, the economic and environmental benefits of a given allowance price are extremely difficult to quantify. By reducing the magnitude of climate change, each ton of emissions avoided prevents a certain amount of sea level rise, helps conserve endangered species, protects arable land, and reduces conflict over scarce water resources, among a host of other effects that are difficult to measure. How could policymakers accurately determine the proper price to put on carbon?

A cap-and-trade approach circumvents this challenge. It establishes a cap on emissions that will restrict global warming to tolerable levels. If the rights to emit are traded freely, the market will determine the proper price to ensure that efficient producers can benefit the most, while producers that simply cannot become more efficient are not seriously harmed. That is, the market will find the most cost-effective way to achieve the total level of emissions that we have deemed tolerable. Any allowance price *other* than the market-determined price does not achieve the goal as efficiently.

Studies Used by opponents of ACES: MIT's Assessment of U.S. Cap-and-Trade Proposals and the Heritage Foundation's The Economic Impact of Waxman-Markey

In 2007, researchers at MIT analyzed three different proposed national emissions reductions scenarios: stabilizing in 2050 at 287 billion megatonnes CO₂-eq emitted per year, 203 billion, and 167 billion. 287 bmt is stabilization at 2008 levels; 203 bmt is stabilization at 50% below 1990 levels; 167 bmt is stabilization 80% below 1990 levels. Each reduction scenario had a linearly decreasing cap from 2010 through 2050. The table below shows the potential tax disbursement to a family-of-four household each year if all the proceeds from a full-auction cap and trade system were rebated directly to households.

Figure 10¹⁴

| Potential CO ₂ -e auction or tax revenue. | | | | | | | | |
|---|-------|-------|-------|-------|-------|-------|-------|-------|
| | 2015 | 2020 | 2025 | 2030 | 2035 | 2040 | 2045 | 2050 |
| Total Potential Auction/Tax Revenue (billions \$/yr) | | | | | | | | |
| 287 bmt | 130 | 159 | 193 | 235 | 286 | 348 | 423 | 515 |
| 203 bmt | 287 | 321 | 356 | 391 | 425 | 455 | 477 | 489 |
| 167 bmt | 366 | 392 | 413 | 425 | 423 | 399 | 346 | 250 |
| US Pop. | 321 | 334 | 347 | 359 | 369 | 379 | 388 | 397 |
| Potential Tax disbursement/family of 4 (\$/yr)* | | | | | | | | |
| 287 bmt | 1,630 | 1,900 | 2,230 | 2,620 | 3,100 | 3,670 | 4,360 | 5,190 |
| 203 bmt | 3,580 | 3,850 | 4,100 | 4,360 | 4,600 | 4,800 | 4,920 | 4,920 |
| 167 bmt | 4,560 | 4,700 | 4,760 | 4,740 | 4,580 | 4,210 | 3,560 | 2,520 |
| CO₂ Revenue as a Percentage of Non-CO₂ Federal Tax Revenue (%) | | | | | | | | |
| 287 bmt | 7 | 7 | 7 | 8 | 8 | 9 | 9 | 10 |
| 203 bmt | 15 | 14 | 14 | 13 | 12 | 11 | 11 | 10 |
| 167 bmt | 19 | 17 | 16 | 14 | 12 | 10 | 8 | 5 |

* Rounded to nearest \$10.

In March 2009, Republican opponents started to spread the claim that capping greenhouse gas pollution would cost American families \$3,100 every year¹⁵. They

¹⁴ http://web.mit.edu/globalchange/www/MITJPSPGC_Rpt146_Summary.pdf

¹⁵ <http://www.politico.com/news/stories/0509/22716.html>

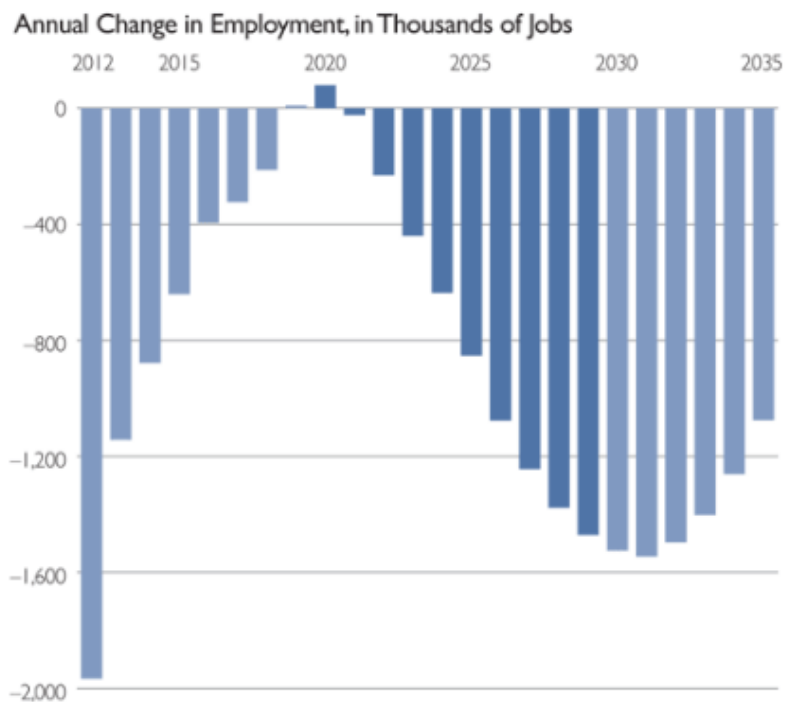
claimed this bloated cost figure was based on MIT's study. Professor John Reilly, author of the study, said the National Republican Congressional Committee was way off base. In letters to minority leader John Boehner, Reilly asked the NRCC to stop using this false number: "It's just wrong. It's wrong in so many ways it's hard to begin." He said that a correct estimate of the costs was far below NRCC's number, which was based on a sloppy analysis that was riddled with errors a freshman economics major could catch. Also, the MIT study analyzed a generic cap-and-trade bill without any cost mitigation provisions. Regardless of the accuracy, cost estimates above \$3000 per year per family were a frequent Republican talking point.

Brian Darling, director of Senate Relations at the Heritage Foundation framed their study like this "If you get bogged down in the debate to what degree this bill will actually diminish or lower human-created climate change, then you lose. I would concentrate 100 percent on the tax debate."

Heritage decided to come out with its own study of costs associated with ACES. In their "The Economic Impact of Waxman-Markey" they claim that ACES would raise an average family's annual energy bill by \$1,500 and cost the economies millions of jobs in the coming decades¹⁶. Of course, it is important to note that none of the other studies corroborate the numbers Heritage put forth. Even so, assertions based on the MIT study and the Heritage study were repeated ad nauseam by Republicans during the public debate over ACES. Reproduced below are Heritage's job loss estimates.

Figure 11

Total Job Losses Due to Waxman–Markey Climate Change Bill



¹⁶ <http://www.heritage.org/Research/Reports/2009/05/The-Economic-Impact-of-Waxman-Markey>

NBER, Resources for the Future, and Fivethirtyeight.org: Regional Distribution of Costs

Senator James Inhofe of Oklahoma made an inquiry to the CBO for estimates of costs imposed on households in different regions of the country. On July 9th 2009, the CBO reproduced reports done by the National Bureau of Economic Research and Resources for the Future. Both reports found that regional differences in costs to households would be small under cap-and-trade, though it should be noted that neither report looked at ACES specifically.

Figure 12

NBER's Estimates of a Cap-and-Trade Program's Average Costs per Household as a Share of Income, by Region

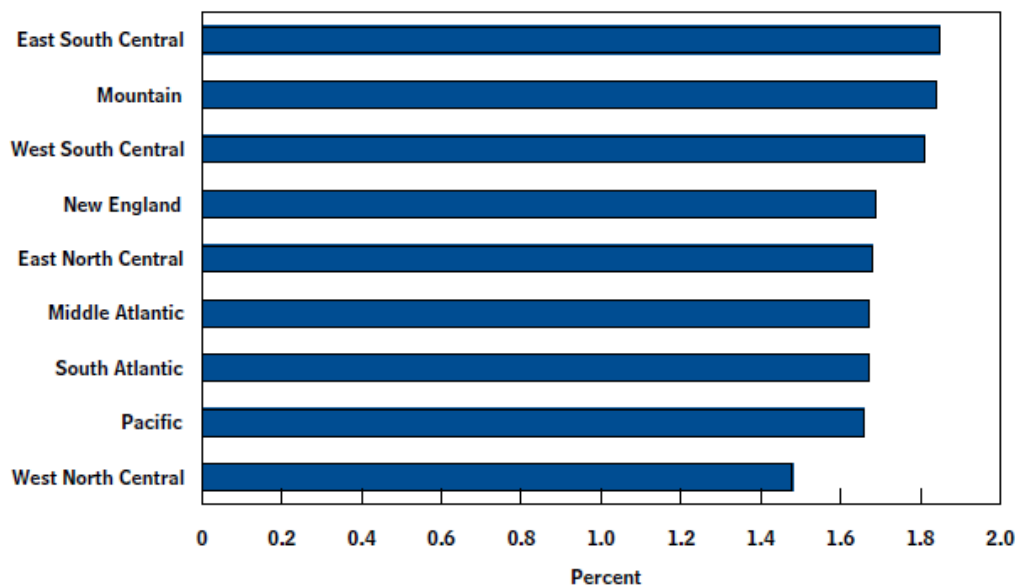
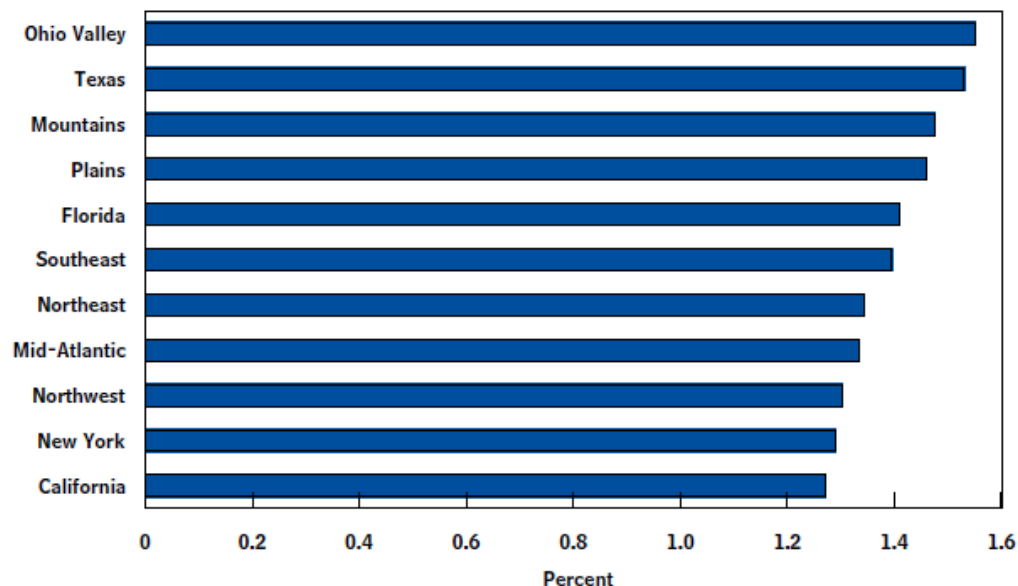


Figure 13

RFF's Estimates of a Cap-and-Trade Program's Average Costs per Household as a Share of Income, by Region



Recommendations for Improvement

To improve the bill scientifically, the declining cap on emissions needs to be based upon limiting average global temperature rise to 2 degrees Celsius. This would require a more stringent cap. The best legislation would provide the greatest incentive for decoupling electricity generation from carbon emissions, while rewarding consumers for using electricity more efficiently.

Allocating allowances based on historic emissions, and not per capita or by retail sales, decreases the incentive for decoupling energy production from GHG emissions. If the goal is to reduce greenhouse gas emissions, then basing allowances on historic emissions is one of the least efficient allocation methods.

Facets of the legislation and how they changed from introduction to passage

The Titles of ACES¹⁸¹⁹

ACES has many statutes designed to complement each other. These statutes are very detailed, resulting in the bills much talked about length 1427 pages²⁰. As each piece of the bill was moderated or deleted, the probability of reaching the bill's intended destination is decreased. The discussion draft did not specify where allowances would be allocated. Allowances – which under the cap would have a monetary value determined by the market – would be used to finance provisions of the final legislation.

Title I addresses clean energy by instituting a renewable portfolio standard, allocating funding toward carbon capture and sequestration research, electric plug-in vehicle infrastructure, federal assistance to the states on clean energy projects, and allows for federal agencies to enter into long-term contracts for purchasing renewable electricity.

Title II addresses energy efficiency by instituting new building efficiency codes, rebates for new energy-efficient manufactured homes, minimum advanced lighting and appliance standards, emissions standards for vehicles, utility-scale efficiency measures, and industrial efficiency standards.

Title III is devoted to the cap-and-trade system and follows most of the recommendations of USCAP. It sets a greenhouse gas emissions cap that covers non-agricultural entities emitting more than 25,000 tons per year: reductions of 17% by 2020 and 80% by 2050 based on a 2005 baseline. Title III also has the domestic and international offset provisions, including generous terms for agriculture. Permitting stipulations for new coal plants with CCS is also a part of the title. Proponents of ACES compared the cap-and-trade portion to the cap-and-trade program of the Clean Air Act amendments of 1990. The CAA program was designed to limit air pollutants that cause acid rain.

¹⁸ Discussion Draft Summary: The American Clean Energy and Security Act of 2009

¹⁹ Bill Summary: HR 2454

²⁰ http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h2454eh.txt.pdf

Figure 16: American Clean Energy and Security Act vs. the Acid Rain Program of the Clean Air Act

| | Acid Rain Program | ACES |
|-----------------------|----------------------|-------------------------|
| Declining cap | Yes | Yes |
| Tradable allowances | Yes | Yes |
| Phased Implementation | Yes | Yes |
| Banking | Yes | Yes |
| Borrowing | No | Yes |
| Offsets | No | Yes |
| Allowance reserve | Yes; yearly auctions | Yes; quarterly auctions |

Title IV includes protections for trade exposed industries, green jobs training programs, assistance to low income families to cope with increased energy costs, and adaptation to the predicted effects of climate change.

Besides the allocation of allowances, the major changes in the bill from initial introduction to final passage are produced below in figure 17.

Figure 17

| | Discussion Draft | Final Bill |
|------------------------------|---------------------|---|
| Renewable Portfolio Standard | 25% by 2025 | 20% by 2020, 2/5 can be met by efficiency |
| Emissions Reductions, 2020 | 20% of 2005 levels | 17% of 2005 levels |
| energy efficiency investment | undetermined amount | \$90 billion by 2025 |
| Carbon capture and storage | undetermined amount | \$60 billion |
| renewable energy research | undetermined amount | \$20 billion |
| agriculture | emissions exempted | emissions exempted, offsets, and biofuels |

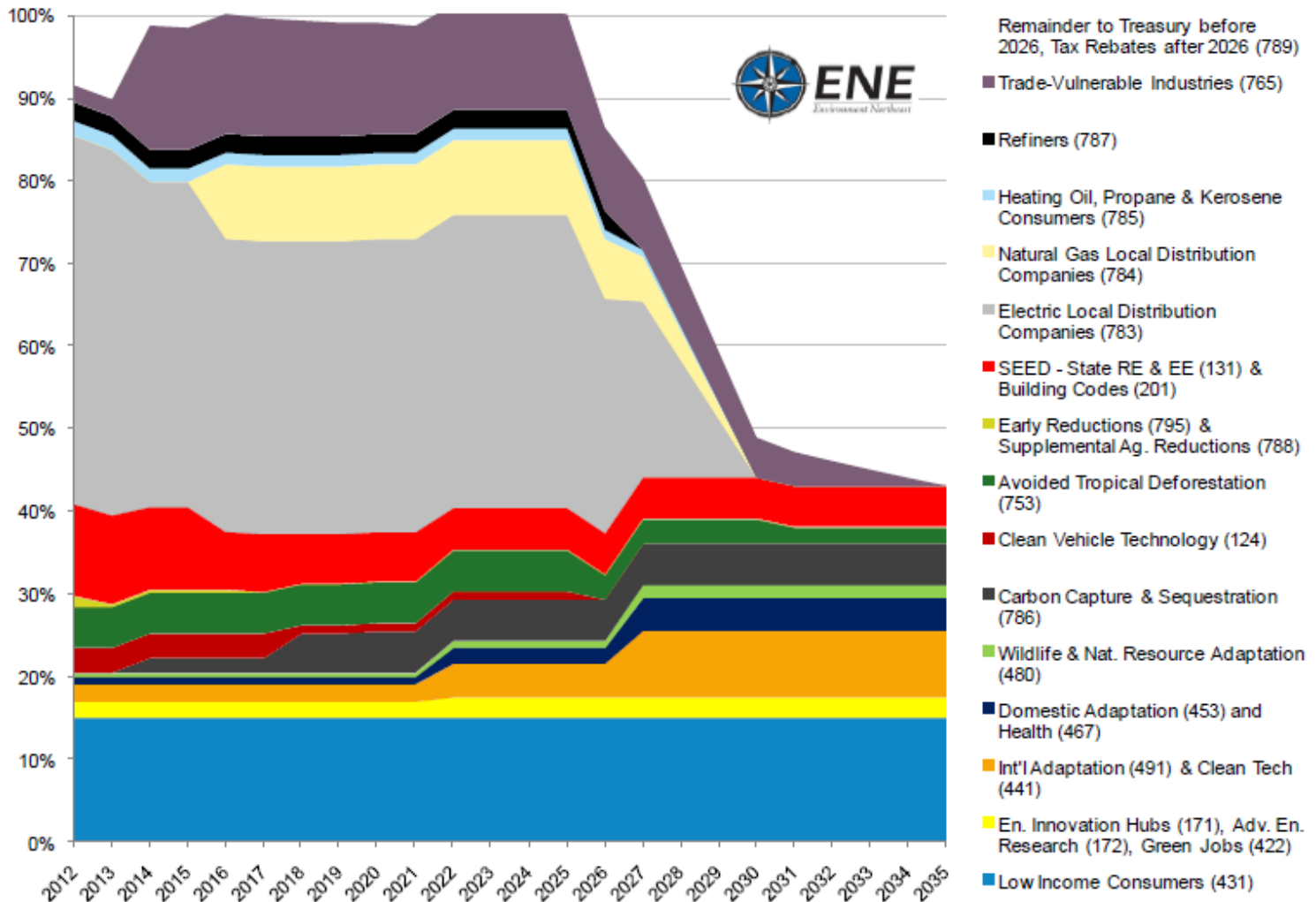
Allowance allocation provisions

The allowance allocations were the final product of long negotiation. Chairman Waxman had to bargain with coal state and rust belt Democrats in order to reach a compromise that satisfied enough geographic constituencies to ensure passage. Figure 18 is a graphical representation of allowance allocations prepared by Environment Northeast.²¹

²¹ Figure 18 is from “The American Clean Energy and Security Act of 2009” by Environment Northeast (2009).

Figure 18

ACES Allowance Allocations – Section numbers listed parenthetically; allocations unchanged from 2035-2050



Allowance allocations to electric local distribution companies are based half on their historic emissions and half on their megawatt hours supplied. It could have been based on number of customers served, and the profits of the allowance auctioning system should have been rebated directly to customers. The allowance allocation system could have ensured that incentives for decoupling greenhouse gas emissions from electricity production are applied to their maximum logical extent. That would have been most economically efficient, but that is not how it was negotiated.

Scientific and Economic prospects of Carbon Capture and Sequestration

Carbon capture and sequestration (CCS) – what is ambiguously termed “clean coal” by industry proponents -- is not yet ready for commercialization. The IPCC

estimates the technology will not be commercially viable until around 2030.²² The National Energy Technology Laboratory plans to initiate large-scale field testing of different capture methods by 2018.²³ Presently, there are CCS projects that sequester 1 million tons/year, but the average coal plant produces 4 million tons/year.²⁴ No CCS projects have been combined with electricity generation.²⁵

Current CCS technology is expensive. For pulverized coal plants (99% of the coal plants in the US), CCS could add 70-100% to the cost of electricity.²⁶ Adding CCS technology to integrated gasification combined cycle (IGCC) plants would be less expensive, but would still increase the cost of electricity by 30%.²⁷ In other words, existing CCS technology would raise the cost per kWh by 2.5 to 4 cents.²⁸ In order to power the CCS technology, 30-40% more energy is needed, so more coal is burned to produce the same net output of energy.²⁹

Three types of geologic formations are primarily being considered for long term storage of CO₂: depleted oil and gas reservoirs, un-mineable coal seams, and saline formations. CO₂ has been used in enhanced oil recovery for a few decades, but only about one-third of the CO₂ used stays in the reservoir. Unless it is stored and monitored long-term, it is not considered CCS.³⁰ It has been estimated that there is enough storage space to sequester the world's potential carbon emissions for hundreds or even thousands of years,³¹ but we do not know if there are potential unintended consequences of permanently sequestering CO₂ since the longest-running CCS project has only been operating for 13 years.³² This leads to the issue of post-project stewardship. Is it a company's responsibility to monitor storage sites or the government's? Should companies have liability protection as nuclear plants do? In June 2009 the Senate Energy and Natural Resources Committee passed a bill that would provide protection for the first ten demonstrations, but the question of what happens after that has not been settled.

Roles of interest groups

Interest Groups in Favor of ACES

Each interest group leader I interviewed (Jessy Tolkman, Andrew Snow, Bob Musil, Tim Fink, Adam Ruben) each implicitly or explicitly mentioned a kind of continuum of pro-ACES groups. Each interest group occupied a certain informal place in the effort to pass comprehensive clean energy and climate legislation. Some groups took aggressive stances while others were more willing to make political bargains. Progressive group's

²² "Energy Supply and Transport" by Ralph Sims (2009).

²³ "Carbon Sequestration" by the National Energy Technology Laboratory.

²⁴ "What the Heck is CCS" by David Roberts (2009).

²⁵ *Ibid.*

²⁶ "Carbon Sequestration" by the National Energy Technology Laboratory.

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ "What the Heck is CCS" by David Roberts (2009).

³⁰ *Ibid.*

³¹ "Carbon Capture and Sequestration" by the CCS Education Initiative.

³² *Ibid.*

actions acted as cover for the actions of other more moderate groups. Each brought their own unique viewpoint in an effort to forge a broad range of opinions in general support of passing ACES. By some groups, like the Energy Action Coalition, taking a hard line on scientific and equity issues in ACES it acted to shift the Overton Window in a way that was more in-line with their thinking – a better compromise³³.

When ACES was first introduced by Waxman and Markey in March of 2009, environmental groups were left with what Andrew Snow of ELPC termed “the zombie baby.” I have found this humorous metaphor useful in contextualizing ACES to the environmental movement. Environmental groups have wanted comprehensive climate legislation for many years. They worked electorally to elect sympathetic public officials. They recruited on the grassroots level to increase popular support. They paid staff in Washington to lobby for incremental legislation. Therefore, comprehensive climate legislation introduced in a friendly Congress by a stalwart ally (Waxman) with a supportive administration has a much rosier fortune than the previous pieces of climate legislation. Since groups had been working so long to set the stage for a climate bill, it was to most of their dismay that when it was finally “born” the provisions were not scientifically sound; the thing was “evil” like a zombie. This piece of zombie legislation, which as it grows becomes worse and worse, is nevertheless still the environmental movement’s “baby.” According to the metaphor, because ACES is the environmental movement’s baby they have to love it unconditionally, even as its provisions become worse and worse. This situation put many environmental groups in a very bad bargaining position throughout the ACES legislative process.

The following is not an exhaustive list of pro-ACES groups; it is only a sample of many hundreds of groups active in the influencing process.

Energy Action Coalition: “Congressman, how old will you be in 2050?”

The Energy Action Coalition (EAC) is an alliance of youth and student environmental groups working on a shared mission of addressing climate change at the local, state, national, and international level. EAC was founded in 2004 and comprises 50 regional and national grassroots organizations³⁴. Its focus is to specifically organize young people on the issue of climate change and clean energy. The coalition includes the youth wings of establishment big greens such as League of Conservation Voters, Sierra Club, Greenpeace, National Wildlife Federation, and state-level PIRGs. It also includes more specialized or radical groups like SustainUS (works specifically on international climate negotiations), the Ruckus Society (founded to defend forests through direct action), the Rainforest Action Network (targets big corporations who greenwash), the Chesapeake Climate Action Network (organizes people in the DC/MD/VA area, and the Sustainable Endowment Institute (works on changing university investing).

In furthering their climate change goals during the ACES process, they worked both electorally and with grassroots lobbying. During the 2008 election they ran Power Vote, an issue campaign that pledged young people to vote only for clean energy candidates. In early March 2009, they convened a Power Shift conference that brought 12,000 young people to DC in order to demand strong climate and clean energy

³³ <http://www.mackinac.org/7504>

³⁴ <http://www.energyactioncoalition.org/about/history>

legislation³⁵. During the conference key politicians such as Rep. Ed Markey, Secretary of the Interior Ken Salazar, and Administrator of the EPA Lisa Jackson spoke to the crowd of young people at the DC Convention Center. This precipitated the largest climate change lobby day ever. The EAC now has an email listserv of 500,000 young people.

According to their Executive Director Jessie Tolkan, their legislative stance towards ACES was scientifically based. As young people that will face the brunt of climate change effects due to time lag and economic momentum, they bring a special point of view to the debate over climate change legislation. EAC chose to take a legislative position of “strengthen” on ACES in order to remain involved during the process, as opposed to some green groups that were overly negative or excessively accommodating³⁶. They would have liked to see ACES make emissions cuts of 25% below 1990 levels by 2020³⁷. Preferred method would have been cap and dividend with a full auction of carbon permits. Influenced by environmental thinkers such as Ted Nordhaus and Michael Shellenberger, EAC wants substantial public investment in clean energy technology to produce “green jobs.” They want to end mountaintop removal, tar sands oil, and the construction of coal plants. On the pro-ACES group continuum, the EAC stakes out a hard left while trying to maintain relevancy.

Environmental Law & Policy Center: “The Midwest is more than just ethanol”

The Environmental Law & Policy Center (ELPC) is a Chicago-based policy group with a collection of lobbyists, policy experts, and grassroots organizers throughout the Midwest. It was founded in the mid-90s by a group of lawyers that felt that the infrastructure of the old big greens groups was not conducive to working with business or making environmental progress in the Midwest³⁸. I worked on ELPC’s Iowa Global Warming Campaign for two summers in their Iowa office.

According to the Director of the Iowa office Andrew Snow, ELPC has strong connections with progressive Iowa Congressman Bruce Braley³⁹. Braley was one of the Representatives who assisted Henry Waxman in dethroning John Dingell as chair of the Energy and Commerce Committee. Through a symbiotic relationship to Braley, ELPC Iowa focused on convincing the other two Iowa Democrats – Leonard Boswell and Dave Loebsack – to support the legislation. ELPC’s position on ACES was that the bill should provide incentives for farmers to install wind and solar on their lands. They also worked on other rural issues such as verifiability of agricultural offsets and an aggressive renewable portfolio standard. On the pro-ACES group continuum, ELPC fits in nicely with the mainstream green groups like Sierra Club but uses Midwestern and pro-business rhetoric⁴⁰. Besides the issues already mentioned, ELPC wanted to keep the ACES legislation from getting weaker as it moved through the committee process.

³⁵ Personal volunteer experience

³⁶ Interview with Jessie Tolkan

³⁷ <http://www.energyactioncoalition.org/ask>

³⁸ <http://elpc.org/about>

³⁹ Interview with Andrew Snow

⁴⁰ Personal work experience

Dear Senator Harkin,

Our country needs strong energy and climate legislation this year. Transitioning away from fossil fuels will strengthen our national security, grow our economy, and preserve our natural resources for our children and grandchildren. Farmers' livelihoods are especially vulnerable to climate change - but Iowa's farmers will benefit from a robust Renewable Electricity Standard and verifiable greenhouse gas offsets in climate legislation. We need your leadership in confronting these challenges during the coming months.

Sincerely,

Name _____

Email _____

Address _____

City/State/ZIP _____

Stamp
Here

Senator Tom Harkin
731 Hart Senate Office Building
Washington, DC 20510

Figure 19: Example of a postcard used by ELPC after ACES turned to the Senate

Interfaith Power and Light: “What would Jesus drive?”

Interfaith Power and Light (IPL) organizes people of faith and faith communities in working to stop climate change at the parish, national, and international level. IPL was founded in 1998 by Episcopalians in California⁴¹. Since then it has grown to include many sects of Christianity, Judaism, Islam, and others. The faith climate change community takes its cues from religious environmental writers like Bill McKibben, who calls for the faithful to put their faith into action⁴². They speak with a humanitarian concern and with the experience of climate change witnessed firsthand through mission trips. IPL represents over 10,000 congregations and has 30 state chapters. They use the rhetoric of Biblical stewardship and “creation care” as a means for advocating action on climate change. IPL provided expert witnesses during hearings of ACES, and some progressive congregations more enthusiastically acted upon the chance to influence national policy. Many congregations did not feel it was their place to get political, and refrained from moving beyond changing practices within their own parish. IPL was most concerned about providing assistance for mitigation and adaptation in impoverished countries.

On the pro-ACES continuum, Interfaith Power and Light is hard to place. They certainly want legislation to be strong and support suffering people in the global South, but unlike other groups did not seek to cut political deals or compromises. They preferred to let other groups handle policy specifics outside IPL’s realm of “loving thy neighbor.”

⁴¹ <http://interfaithpowerandlight.org/about/>

⁴² Interview with Tim Fink, Iowa Interfaith Power and Light

IPL worked to stiffen the resolve of religious Congressmen from conservative districts. Their effectiveness in this regard is hard to quantify.

Physicians for Social Responsibility: “There are no emergency rooms for planets”

Physicians for Social Responsibility (PSR) was founded in the 1960s to protest the nuclear arms race. Since that time it branched out to climate change in the early 90s – the same time most mainstream green groups did so. PSR is mostly concerned with the public health aspect of global warming. They organize the medical community to stop climate change. PSR uses a public health frame when talking about climate change: as temperatures rise other types of air pollution become more dangerous, tropical diseases move into temperate areas, and natural disasters injure or kill tens of thousands⁴³. PSR has 50,000 health professional members and 72 chapters in regions and medical universities.

PSR was led by the Washington-experienced Bob Musil, who has crafted their message over two decades of consultation with other environmental groups. What PSR brings to the ACES debate is an expert perspective that does not revolve around climate science or economics. Unlike some green groups who have become agnostic on nuclear power, PSR fervently advocates against its expansion. They employ experts who study nuclear power issues in order to counter the influence of the nuclear power lobby, which is a favorite of Republicans. It was perhaps disadvantageous that the ACES legislative process was occurring as the same time as health care reform, so a medical message may have been drowned out or PSR members may have been more focused on their own industry. On the pro-ACES continuum, they are to the right of the Energy Action Coalition but to the left of large moderate green groups like the NRDC.

United Steelworkers: “unionized clean energy jobs can’t be shipped overseas”

The United Steelworkers (USW) is not an environmental group; it is a liberal labor union with an 80 year history and 1.2 million working and retired members⁴⁴. Faced with a declining manufacturing sector, USW knew it was in their best interest to work for policies that created new demand for US manufacturing. Clean energy implements like wind turbines and solar panels require assembly line labor and lots of raw materials. Changing the industrial policy of the United States to be carbon-capped would mean hundreds of thousands, if not millions, of new potential union members. In 2006 the USW and Sierra Club joined forces in the Blue-Green Alliance to advocate for a clean energy economy. Since then the strategic partnership of labor unions and environmental groups has grown to include Communications Workers of America (CWA), Natural Resources Defense Council (NRDC), Service Employees International Union (SEIU), Laborers' International Union of North America (LIUNA), Utility Workers Union of America (UWUA), American Federation of Teachers (AFT), Amalgamated Transit Union (ATU) and the Sheet Metal Workers' International Association⁴⁵.

⁴³ Pg 63, Hope for a Heated Planet, by Bob Musil

⁴⁴ http://www.usw.org/our_union/who_we_are

⁴⁵ http://www.bluegreenalliance.org/about_us?id=0001

The USW worked as part of the Blue-Green Alliance to influence traditional liberal and pro-labor Congressman to back the ACES legislation and ensure trade exposed industries would get emissions allowances. USW advocated that ACES should protect workers' rights and health and not ship jobs overseas to places where greenhouse gases are unregulated⁴⁶. Their work was important in getting the votes of rust-belt Democrats in states like Pennsylvania, Ohio, and Indiana⁴⁷. In the pro-ACES continuum they were generally to the left of USCAP members and on par with their ally the Sierra Club. In addition to the labor and trade protections, they advocated for keeping the bill strong with science based targets and aggressive renewable portfolio standards.

Moveon.org: "Stopping climate change as a part of the progressive agenda"

Moveon was founded in 1998 as a response to the impeachment of President Bill Clinton. Since then it has morphed into an online platform for issue advocacy on progressive causes. It is not a traditional environmental group, but was active late in the ACES process. They boast a huge email listserv of 5 million members and are a consistent feature of the American interest group landscape⁴⁸.

Moveon Political Director Adam Ruben describes climate change as a crisis, one that politically comes down to the coal industry⁴⁹. To him, the coal industry represents a recalcitrant dinosaur, powerfully blocking efforts to mitigate climate change whenever possible. Moveon takes the position that clean coal is a farce and non-existent. Ruben is quick to point out that more jobs exist in the wind industry than do in the coal mining industry. Given Supreme Court nominations, health care reform, and civil strife in Iran, Moveon did not get involved with ACES until the last couple weeks. At that point they advocated for keeping the EPA's authority to regulate greenhouse gases (granted to the EPA in the court case *EPA v Massachusetts*). They also encouraged a list-ditch effort by the progressive caucus to strengthen the bill's emissions targets, renewable portfolio standard, and lessen emission allowances to fossil fuels. The effort failed. Although they were less publicly explicit about their demands in ACES, on the pro-ACES continuum they would fit in with the Energy Action Coalition. Both groups wanted to strengthen every part of the legislation in terms of ambitiousness.

An issue with Moveon.org is because of its placement as part of the mainstream liberal establishment, it was more concerned about the Sotomoyor nomination and health care reform than climate change. Moveon had planned to triple its field teams and spend as much as \$4 million on an unprecedented nationwide education campaign, until it decided to focus more of that money on health care and the Supreme Court⁵⁰.

⁴⁶ http://www.bluegreenalliance.org/about_us?id=0001

⁴⁷ <http://legacy.usw.org/usw/program/content/4643.php>

⁴⁸ <http://www.moveon.org/about.html>

⁴⁹ Interview with Adam Ruben, February 2010

⁵⁰ <http://www.politico.com/news/stories/0309/19583.html>

US Climate Action Network: “the consensus view of the US environmental movement”

The US Climate Action Network (USCAN) came together in the late 1980s as a loose affiliation of American environmental groups working on the issue of climate change. Many times, these groups are competing with one another for members, money, and political spotlight. Much of USCAN is either headquartered in DC or California. USCAN serves as a way for green groups to communicate with each other and work together at times, particularly at international conferences. Passing comprehensive clean energy and climate legislation is a long-term goal of the broad network, but there is considerable difference between member groups on the details of such legislation⁵¹. ACES was not universally supported within USCAN, but most of the groups either endorsed it or worked to make it stronger. It is important to note that all of these groups work primarily on environmental causes and they are all nonprofits. They each worked in their own way, either through grassroots lobbying, direct contact with members of Congress, media advertising, petitioning, letter writing, election donations, etc in pushing for ACES-like legislation to be passed. Some of the groups were influential in writing pieces of the legislation, but not as ultimately influential as USCAP would be. Reproduced below is their list of member organizations⁵².

Figure 20: USCAN members

| | | | |
|--|---|--|---|
| 1Sky | Coalition on the Environment and Jewish Life | Greenpeace | Regeneration Project |
| 350.org | Conservation International | Local Governments for Sustainability | SEED Coalition |
| American Council for an Energy Efficient Economy | Conservation Law Foundation | InterAction | Sierra Club |
| ActionAid USA | Defenders of Wildlife | International Forum on Globalization | Southern Alliance for Clean Energy |
| AED | EarthDay Network | International Rivers | Sustain US |
| Alliance for Affordable Energy | Earthjustice | Sustainable Energy & Economy Network | Tellus Institute |
| Alliance for Climate Protection | Ecoequity | Kyoto USA | The Joint Center for Political and Economic Studies |
| Alliance to Save Energy | Education for Global Warming Solutions | League of Conservation Voters | The Nature Conservancy |
| Avaaz | Emmett Center on Climate Change and the Environment | Massachusetts Climate Action Network | The Resource Innovation Group |
| CARE USA | Energy Action Coalition | National Audubon Society | The Wilderness Society |
| Center for Biological Diversity | Environment America | National Wildlife Federation | Transportation for America |
| Center for Clean Air Policy | Environment Northeast | Natural Resources Defense Council | U.S. Green Building Council |
| CERES | Environmental & Energy Study Institute | North Carolina Conservation Network | Union of Concerned Scientists |
| Chesapeake Climate Action Network | Environmental Advocates of New York | Oceana | WEDO |
| CIEL | Environmental Defense Fund | Oil Change International | Will Steger Foundation |
| Citizens for Pennsylvania's Future | Environmental Investigation Agency | Oregon Environmental Council | Woods Hole Research Center |
| Clean Air-Cool Planet | Environmental Law & Policy Center | Oxfam America | World Resources Institute |
| Clean Water Action | Fresh Energy | Pew Environment Group | World Wildlife Fund |
| Climate Law and Policy Project | Friends Committee on National Legislation | Physicians for Social Responsibility | Worldwatch Institute |
| Climate Protection Campaign | Friends of the Earth | Population Action International | |
| Climate Solutions | Georgetown Climate Center | Presbyterian Church USA | |
| | Green For All | Rainforest Action Network | |

Why does it take so many organizations ostensibly working on the same national issue? It probably does not, but USCAN has an inclusive structure. It works as a clearing house for information and talking points more than a group that takes action as an entity. It wouldn't make sense to put USCAN on the pro-ACES continuum because it ranges from Environmental Defense Fund on the right all the way to Friends of the Earth on the left. It essential makes up the continuum.

⁵¹ Interview with Andrew Snow

⁵² <http://www.usclimatenetwork.org/about-us/members>

US Climate Action Partnership: “How low is the lowest common denominator between environmentalists and polluters?”

An entire capstone could be written solely on the structure, history and make-up of the US Climate Action Partnership (USCAP). USCAP is a grouping of 5 environmental groups and 24 corporations or trade associations. NGOs and corporations have joined and left USCAP over its three years, either for political or strategic reasons. It was brought together in 2007 after climate change reappeared in the public policy landscape – in my opinion due to the notoriety of *An Inconvenient Truth*⁵³. Reproduced below is the spring 2010 list of USCAP members⁵⁴.

Figure 21: USCAP members

| <u>Corporations</u> | <u>Environmental Groups</u> |
|-------------------------------|-------------------------------------|
| AES | Environmental Defense Fund |
| Alcoa | Natural Resources Defense Council |
| Alstom | The Nature Conservancy |
| Boston Scientific Corporation | Pew Center on Global Climate Change |
| Chrysler | World Resources Institute |
| Deere & Company | |
| The Dow Chemical Company | |
| Duke Energy | |
| DuPont | |
| Exelon Corporation | |
| Ford Motor Company | |
| FPL Group | |
| General Electric | |
| General Motors Corporation | |
| Honeywell | |
| Johnson & Johnson | |
| NRG Energy | |
| PepsiCo | |
| PG&E Corporation | |
| PNM Resources | |
| Rio Tinto | |
| Shell | |
| Siemens Corporation | |
| Weyerhaeuser | |

Caterpillar and Edison Electric Institute, along with other corporations, were also a part of USCAP in 2009 during the ACES process. What is striking is that all of the “environmental” groups in USCAP were already considered moderate before they joined. Most members of USCAP are huge polluters who would face regulation under any cap-and-trade federal legislation. The architecture of ACES - its renewable portfolio standard, its emissions targets, its allowance allocation scheme – is based upon USCAP’s A

⁵³ <http://blog.nature.org/2010/03/uscap-climate-change-relevant-eric-haxthausen/>

⁵⁴ <http://www.us-cap.org/>

*Blueprint for Legislative Action*⁵⁵. As was mentioned earlier in the scientific section, ACES is an inadequate response to the scientific reality of climate change. Polluters, sensing the inevitability of some kind of climate change legislation, had the perverse incentive to craft their own very weak proposal and have that be the starting point for public negotiation.

In this sense, I firmly believe that Environmental Defense Fund, Natural Resources Defense Council, and The Nature Conservancy were not acting in the best interests of the planet when they agreed to participate in USCAP. They provide a green cover for a very status quo-oriented, polluter friendly piece of legislation. Waxman, seeing the business and environmental community seeming to work together, used their proposal as the basis for ACES. As I will show in a chart later, many companies were acting duplicitously in crafting the USCAP proposal. In effect, the moderate environmental groups' participation in USCAP weakened the initial bargaining position of all other USCAN/progressive groups in a way that cannot be measured.

USCAP occupies the right-most position on the pro-ACES spectrum. Some of their member corporations worked to weaken the legislation while none of their groups worked to strengthen the legislation – the five environmental groups were stuck advocating for the initial plan but no stronger.

Business for Innovative Climate & Energy Policy: “Climate change threatens our business enterprise”

Business for Innovative Climate & Energy Policy (BICEP) was organized as a project of the environmentally friendly business group Ceres. BICEP's members are primarily consumer companies that are not major greenhouse gas emitters, but recognize that their business would be threatened by the effects of climate change⁵⁶. Where USCAP is mostly concerned about the costs of climate change legislation, BICEP is mostly concerned about the dangers of climate change itself. Reproduced below is a list of BICEP member companies⁵⁷.

⁵⁵ Discussion Draft Summary, The American Clean Energy and Security Act of 2009

⁵⁶ <http://www.ceres.org/Page.aspx?pid=966>

⁵⁷ <http://www.ceres.org/Page.aspx?pid=971>

Figure 23

| <u>Company</u> | <u>Industry/Product</u> |
|-----------------------|-----------------------------------|
| Aspen Skiing Company | resorts |
| Ben & Jerry's | ice cream |
| Best Buy | retail electronics, appliances |
| Clif Bar & Company | snack bars |
| eBay | auction website |
| Eileen Fisher | clothing |
| Gap Inc. | clothing |
| Jones Lang LaSalle | real estate |
| Levi Strauss & Co | clothing |
| Nike | shoes, clothing |
| Seventh Generation | household cleaning |
| Starbucks | coffee |
| Stonyfield Farm | dairy |
| Sun Microsystems | computing |
| Symantec | software |
| The North Face | clothing |
| Timberland | boots, clothing |

BICEP's legislative priorities are more in-line with the environmental non-profits of USCAN than USCAP. BICEP wants climate legislation to cut emissions 25% below 1990 levels by 2020, a cap and trade with full auction, energy efficiency mandates, low-carbon transportation development, clean technology research, a renewable portfolio standard of 20% by 2020, and green jobs training⁵⁸. Jessy Tolkan of EAC described BICEP as being an important voice in the business community that acted as a counter to the US Chamber of Commerce and the weak USCAP. On the pro-ACES spectrum, BICEP would be in almost the same position as the USW but had differing priorities within the legislation.

⁵⁸ <http://www.ceres.org/Page.aspx?pid=967>

Figure 24: USCAP, USCAN, and BICEP groups together in a pro-ACES advertisement



Interest Groups against ACES

The anti-ACES groups, fewer in number than the pro-ACES groups but powerful in resources, do not occupy a wide continuum. While all of the groups I will profile tried to weaken the legislation or were rent-seeking, ultimately all of them would benefit more from a lack of climate regulation. Therefore, they all eventually came out publicly against ACES.

The anti-ACES groups that still sow doubt about climate science do so for strategic reasons⁵⁹. They employ use of the Overton window in a way that makes passing climate legislation less likely⁶⁰.

US Chamber of Commerce: “Climate change regulation threatens our business enterprise”

⁵⁹ <http://www.guardian.co.uk/environment/2003/mar/04/usnews.climatechange>

⁶⁰ <http://www.mackinac.org/7504>

The US Chamber of Commerce describes itself as “the world's largest business federation representing the interests of more than 3 million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations.” They oppose ACES because it means increased costs of fossil fuels, increased regulatory red tape, and more government intervention in the economy. The chamber is politically right-wing and usually endorses Republicans at all levels of government. Most of their rhetoric in the ACES debate focused on cost, but they also do engage in climate skepticism to the extent that they called for a “21st Century Scopes Monkey Trial” on climate science⁶¹.

It's important to realize that some businesses were so dissatisfied with the Chamber's anti-ACES stance that they actually left the organization: Exelon, PNM Resources, Apple, Duke Energy, Pacific Gas & Electric, and Starbucks. Johnson and Johnson, Proctor and Gamble, and Nike left the Chamber's board over ACES.

Figure 25: protestors stage a fake crime scene in front of the Chamber's headquarters



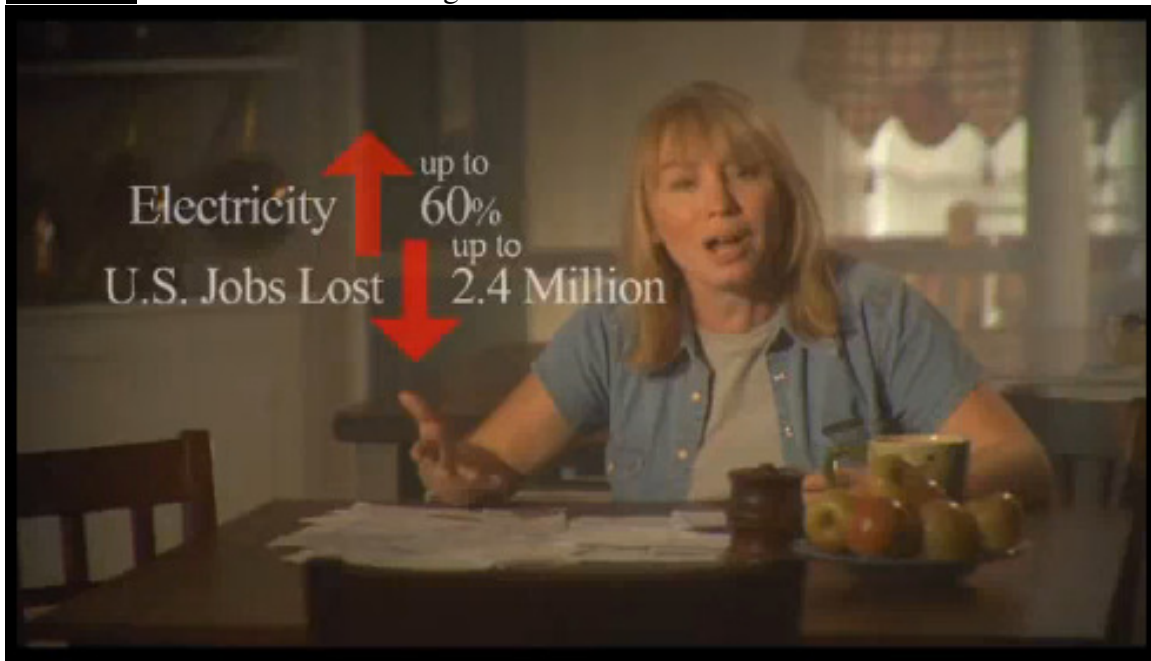
National Association of Manufacturers: “Captains of Industry know better than Climatologists!”

If the Blue-Green Alliance represents what the American Left believes economic policy should look like, then the views of the Chamber of Commerce in combination with the National Association of Manufacturers (NAM) represent what the American Right wants in economic policy. From the NAM website “The NAM is the powerful voice of the manufacturing community and the leading advocate for a policy agenda that helps manufacturers create jobs and growth. The NAM – 10,000 manufacturing companies and

⁶¹ <http://www.physorg.com/news170441292.html>

nearly 12 million workers – is our strongest force for sensible government policies that will reduce the cost of production and tear down barriers to exports.⁶²”

Figure 26: a NAM television ad against ACES



American Coalition for Clean Coal Electricity: “The 19th century solution to a 21st century problem.”

The combustion of coal to make electricity is the largest single source of US greenhouse gas emissions. That presents a huge problem to the coal industry if they cannot find a way of taking the emissions out of coal or successfully deny climate change is a problem. With the establishment of the American Coalition for Clean Coal Electricity (ACCCE) the industry has cleverly stepped away from outright denial and now proposes an unworkable techno fix (CCS) while engaging in fervent rent-seeking. It spent \$40 million in the first half of 2009 to promote the notion of “clean coal” in the public and among legislators⁶³. ACCCE was a powerful player in influencing Rep. Rick Boucher and other coal-state moderates.

⁶² <http://www.nam.org/About-Us/About-the-NAM/Landing-Page.aspx>

⁶³ <http://www.politico.com/news/stories/0409/21474.html>



Figure 27: ACCCE advertisement sowing doubt about ACES, trying to strengthen a sentiment of inevitable coal reliance

American Farm Bureau: “The Voice of Corporate Agriculture”

Besides ACCCE, the American Farm Bureau (AFB) may have been engaged in the most duplicitous rent-seeking by industry. ACES exempts agricultural emissions, but that was not enough for AFB and its allies on the Agriculture committee. They wanted a specific exemption for ethanol, more free allowances for rural electric cooperatives, and lucrative domestic agricultural carbon offsets to be poorly regulated. In this sense, they got all they wanted but still advocated that congressional allies vote yes on the weakening Peterson amendment but vote no on final legislation⁶⁴.

Questionable overlap between anti-ACES coalitions and pro-ACES USCAP

It seems that some polluting industries managed to play both sides of the legislative fence - in a sense “bad-faith” bargaining. Some groups, were more duplicitous than others in their bet hedging. What other explanation can there be for companies to be both a member of USCAP/BICEP and a member of industry groupings opposed to ACES?

⁶⁴ <http://www.fb.org/index.php?fuseaction=newsroom.newsfocus&year=2009&file=nr0625.html>

Figure 28⁶⁵

| Company | USCAP | Chamber | NAM | API | ACCCE | BICEP | Corporate Duplicity Score |
|--------------------|--------------|----------------|------------|------------|--------------|--------------|--|
| General Electric | x | | x | x | x | | -2 |
| Caterpillar | x | x | x | | x | | -2 |
| Dow Chemical | x | x | x | x | | | -2 |
| ConocoPhillips | x | x | x | x | | | -2 |
| Siemens | x | x | | x | | | -1 |
| Alstom Power | x | | | | x | | 0 |
| Ford | x | | x | | | | 0 |
| Chrysler | x | | x | | | | 0 |
| Shell | x | | | x | | | 0 |
| BP America | x | | | x | | | 0 |
| Alcoa | x | x | | | | | 0 |
| Deere & Company | x | x | | | | | 0 |
| Duke Energy | x | x | | | | | 0 |
| Nike | | x | | | | x | 0 |

Energy & Commerce Committee Makeup

The discussion draft Chairman Waxman and Congressman Markey introduced to the Energy and Commerce Committee changed significantly before being passed into law. The committee was geographically diverse and weighted toward the fossil fuel status quo. It was here that Waxman had to cut major deals with Democrats from coal and heavy manufacturing areas in order to get them to support ACES. Of note is the negotiation with Rick Boucher of Virginia. Waxman had to convince enough of the Democrats on the committee in order to pass it on to the next committee. In this effort he had the full-faith and approval of Speaker Pelosi.

Most of the Republicans, led by climate skeptic Joe Barton of Texas, did not want to negotiate on ACES. Early on they branded ACES as a tax, “cap-and-tax.” It was only after the bill was weakened enough for Rick Boucher’s approval that Mary Bono-Mack, a Republican from a liberal California district, felt the bill was satisfactory enough to cast cross-over vote.

On May 21, 2009 ACES passed out of the Energy and Commerce Committee with 33 voting Yes and 25 voting No⁶⁶. The final vote breakdown on ACES would mirror that of the House as a whole: most Democrats vote Yes, liberal Republicans finding some courage to buck their party, conservative Republicans tow the party line and vote No, and a handful of conservative Democrats vote No in fear of electoral reprisal back home.

⁶⁵ <http://www.grist.org/article/2009-09-02-duke-energy-quits-scandal-ridden-american-coalition-for-clean-co>

⁶⁶ <http://www.politico.com/news/stories/0509/22852.html>

Energy & Commerce Committee Makeup

Democrats on Energy and Commerce Committee

| <u>Name</u> | <u>State</u> | <u>Party</u> | <u>Main Interests in ACES process</u> | <u>ACES Vote</u> | <u>Web Source</u> |
|-----------------------|--------------|--------------|---------------------------------------|------------------|---|
| Henry A. Waxman | CA | D | Environment | Yes | http://waxman.house.gov/ |
| John Dingell | MI | D | Auto Industry | Yes | http://www.house.gov/dingell/issue_environment.shtml |
| Edward J. Markey | MA | D | Environment, Renewables | Yes | http://www.edmarkey.org/ |
| Rick Boucher | VA | D | Coal | Yes | http://www.boucherforcongress.com/ |
| Frank Pallone, Jr. | NJ | D | Environment | Yes | http://www.pallonefornewjersey.com/ |
| Bart Gordon | TN | D | Science, Renewables | Yes | http://gordon.house.gov/issues/energy.shtml |
| Bobby L. Rush | IL | D | Low-income | Yes | http://www.house.gov/rush/ |
| Anna G. Eshoo | CA | D | Environment, Science | Yes | http://eshoo.house.gov/ |
| Bart Stupak | MI | D | Auto Industry, Forestry | Yes | http://www.house.gov/stupak/ |
| Eliot L. Engel | NY | D | Energy Efficiency | Yes | http://engel.house.gov/index.cfm?sectionid=197 |
| Gene Green | TX | D | Oil | Yes | http://www.house.gov/green/issues/ACES.shtml/ |
| Diana DeGette | CO | D | Environment, Transportation | Yes | http://degette.house.gov/index.php |
| Lois Capps | CA | D | Environment, Renewables | Yes | http://capps.house.gov/ |
| Mike Doyle | PA | D | Manufacturing | Yes | http://doyle.house.gov/ |
| Jane Harman | CA | D | Environment | Yes | http://harman.house.gov/issues/environment.shtml |
| Jan Schakowsky | IL | D | Energy Efficiency | Yes | http://schakowsky.house.gov/index.php?option=com_content&view=article |
| Charles A. Gonzalez | TX | D | Renewables | Yes | http://www.gonzalez.house.gov/ |
| Jay Inslee | WA | D | Environment, Renewables | Yes | http://www.house.gov/inslee/ |
| Tammy Baldwin | WI | D | Renewables | Yes | http://tammybaldwin.house.gov/issues_Energy.html |
| Mike Ross | AR | D | Agriculture | No | http://ross.house.gov/Issues/Issue/?IssueID=9784 |
| Anthony D. Weiner | NY | D | Energy Efficiency | Yes | http://weiner.house.gov/issue_index.aspx?id=6 |
| Jim Matheson | UT | D | Coal, Oil | No | http://matheson.house.gov/iss_climateChange.shtml |
| G. K. Butterfield | NC | D | Low-income | Yes | http://butterfield.house.gov/index.cfm?sectionid=63&sectiontree=4,63 |
| Charlie Melancon | LA | D | Oil | No | http://www.melancon.house.gov/index.php?option=com_content&task=view |
| John Barrow | GA | D | Low-income, Coal | No | http://barrow.house.gov/index.php?option=com_content&view=article&id |
| Baron P. Hill | IN | D | Coal, Agriculture | Yes | http://baronhill.house.gov/issues_energy_independence.sht |
| Doris O. Matsui | CA | D | Low-income, Renewables | Yes | http://www.matsui.house.gov/index.php?option=com_content&task=view |
| Donna M. Christensen | VI | D | Environment, Low-income | Yes | http://www.donnachristensen.house.gov/SinglePage.aspx?NewsID=1253 |
| Kathy Castor | FL | D | Environment | Yes | http://castor.house.gov/Issues/Issue/?IssueID=3584 |
| John P. Sarbanes | MD | D | Environment | Yes | http://sarbanes.house.gov/free_details.asp?id=102 |
| Christopher S. Murphy | CT | D | Renewables | Yes | http://chrismurphy.house.gov/index.php?option=com_content&task=view |
| Zachary T. Space | OH | D | Coal | Yes | http://space.house.gov/index.cfm?sectionid=38&sectiontree=6,38 |
| Jerry McNerney | CA | D | Renewables | Yes | http://www.jerrymcnerney.org/ |
| Betty Sutton | OH | D | Manufacturing | Yes | http://sutton.house.gov/issues/?id=29&story=energy |
| Bruce L. Braley | IA | D | Renewables, Agriculture | Yes | http://www.braley.house.gov/index.php?option=com_content&task=view |
| Peter Welch | VT | D | Environment, Forestry | Yes | http://welch.house.gov/index.php?option=com_content&view=article&id= |

Republicans on Energy and Commerce Committee

| | | | | | |
|--------------------|----|---|---|------------|---|
| Joe Barton | TX | R | Oil, climate skeptic | No | http://www.joebarton.com/Issues.aspx?Section=14 |
| Ralph M. Hall | TX | R | Oil, climate skeptic | No | http://ralphhall.house.gov/index.cfm?sectionid=21&sectiontree=5,21 |
| Fred Upton | MI | R | Nuclear, Auto Industry | No | http://www.house.gov/upton/legislation/energy.html |
| Cliff Stearns | FL | R | Oil | No | http://stearns.house.gov/Issues/Issue/?IssueID=7132 |
| Ed Whitfield | KY | R | Coal | No | http://whitfield.house.gov/issues/energy.shtml |
| John Shimkus | IL | R | Coal, Agriculture, climate skeptic | No | http://shimkus.house.gov/index.cfm?sectionid=23&sectiontree=5,23 |
| John Shadegg | AZ | R | Mining, climate skeptic Coal, Agriculture, climate skeptic | No | http://johnshadegg.house.gov/Issues/Issue/?IssueID=4184 |
| Roy Blunt | MO | R | climate skeptic | No | http://www.blunt.house.gov/Issues.aspx?Section=35 |
| Steve Buyer | IN | R | Coal | No | http://stevebuyer.house.gov/Issues/Issue/?IssueID=5197 |
| George Radanovich | CA | R | Forestry | No | http://www.radanovich.house.gov/Issues/Issue/?IssueID=4082 |
| Joseph R. Pitts | PA | R | Nuclear, Coal | No | http://www.house.gov/pitts/energy.shtml |
| Mary Bono Mack | CA | R | Environment | Yes | http://bono.house.gov/Issues/Issue/?IssueID=2184 |
| Lee Terry | NE | R | Agriculture, Business | No | http://leeterry.house.gov/stance_detail.aspx?SID=45 |
| Mike Rogers | MI | R | Nuclear, Oil | No | http://www.rogers4congress.com/Energy_Independence.aspx |
| Sue Wilkins Myrick | NC | R | Oil | No | http://myrick.house.gov/index.cfm?sectionid=16&sectiontree=13,16 |
| John Sullivan | OK | R | Oil, Natural Gas | No | http://sullivan.house.gov/Perspectives/Energy.htm |
| Tim Murphy | PA | R | Coal, Manufacturing | No | http://murphy.house.gov/index.cfm?sectionid=87&sectiontree=15,87 |
| Michael C. Burgess | TX | R | Oil | No | http://burgess.house.gov/Issues/Issue/?IssueID=636 |
| Marsha Blackburn | TN | R | Coal, climate skeptic | No | http://blackburn.house.gov/News/DocumentSingle.aspx?DocumentID=18186 |
| Phil Gingrey | GA | R | Nuclear, Oil | No | http://gingrey.house.gov/Issues/Issue/?IssueID=2125 |
| Steve Scalise | LA | R | Oil, Business | No | http://www.stevescalise.com/issues/conservativerecord.html |
| Greg Walden | OR | R | Forestry, climate skeptic | No | http://www.rawstory.com/news/2007/Republicans_stack_warming_panel_wit |
| Nathan Deal | GA | R | Coal | No | http://www.ontheissues.org/GA/Nathan_Deal.htm |

President Obama and Administration relationship to the American Clean Energy and Security Act of 2009

President Barack Obama was engaged in the political and legislative process revolving around passing comprehensive clean energy and climate legislation (ACES), but missed several opportunities to be more influential of the bill's final content.

I will examine in chronological order Obama's pertinent actions during his presidential campaign, his transition and early presidency, instructions he gave to his congressional allies, his influence in the committee process, the inactions of his grassroots organization, and his actions during late June of 2009 before the vote.

Obama's words and actions during his Presidential Campaign

It should be noted that Barack Obama and his running mate Joe Biden both had chances to vote for a comprehensive energy and climate bill while serving in the US Senate. Senators Warner and Lieberman had authored a climate bill called the American Climate Security Act of 2007. The Act went up for a cloture vote on June 6th 2008. Both Senators Obama and Biden were not present to vote for cloture and only sent letters of support⁶⁷. The primaries had just ended, so Obama cannot excuse missing the cloture vote, nor did Biden know at the time he would be the VP candidate.

Obama was endorsed by the Environment America, the League of Conservation Voters, Friends of the Earth and the Sierra Club⁶⁸. Therefore, I reason that his climate platform and credentials were adequate for the "big greens," at least in comparison to John McCain's climate plan. This is significant because McCain was concerned about climate and had introduced the Climate Stewardship Act of 2003⁶⁹. Al Gore, the most well known voice in the movement to address climate change, also endorsed Obama. Young Americans – a group that will face greater negative consequences of climate change than older generations – gravitated to candidate Obama.

Candidate Obama gave a rousing nomination acceptance speech to the Democratic Convention in the summer of 2008. In his speech he derided John McCain for his lack of long-term support for renewable energy and energy efficiency, and he mentioned working through international agreements to stop climate change⁷⁰. He mentioned natural gas, clean coal, and more nuclear power but right after he said "*And I'll invest 150 billion dollars over the next decade in affordable, renewable sources of energy - wind power and solar power and the next generation of biofuels; an investment that will lead to new industries and five million new jobs that pay well and can't ever be outsourced.*" Clearly he had been following the work of Apollo Project environmentalists like Ted Nordhaus, Michael Shellenberger, Van Jones, and Bracken Hendricks⁷¹. While John McCain was advocating for an all-of-the-above energy solution and "drill, baby, drill," Obama clearly stated he wanted massive investments in clean energy.

⁶⁷ <http://www.grist.org/article/an-inhospitable-climate>

⁶⁸ <http://www.grist.org/article/environment-america-endorses-obama>

⁶⁹ <http://www.rff.org/rff/News/Features/Understanding-the-McCain-Lieberman-Stewardship-Act.cfm>

⁷⁰ http://www.huffingtonpost.com/2008/08/28/barack-obama-democratic-c_n_122224.html

⁷¹ *Apollo's Fire: Igniting America's Clean Energy Economy*, by Bracken Hendricks and Jay Inslee

Words and Actions of Obama after his election to the presidency

Many places within the United States and around the world were energized the night of November 4th, 2008 when Obama was elected. In his victory speech, he named clean energy and climate as some of his top priorities⁷². Environmentalists rejoiced after years of stagnation and setback for climate action under George W. Bush. Al Gore hailed the victory as one pivotal in tackling the climate crisis and was even speculated for an appointment in the new administration⁷³. Obama appointed an “eco-warrior,” Lisa Jackson to head up the Environmental Protection Agency⁷⁴.

Obama’s transitional Chief of Staff John Podesta stated in February 2009 that President Obama had campaigned on a platform of energy transformation and that people in favor of a 1950s energy policy will have to understand that fact⁷⁵. Soon after Podesta’s comment, Obama would use a speech to a joint session of Congress to lay out his domestic policy agenda. In that speech he named energy and climate as some of his top priorities: “*We know the country that harnesses the power of clean, renewable energy will lead the 21st century ...*

Well I do not accept a future where the jobs and industries of tomorrow take root beyond our borders – and I know you don’t either. It is time for America to lead again....

*But to truly transform our economy, protect our security, and save our planet from the ravages of climate change, we need to ultimately make clean, renewable energy the profitable kind of energy. So I ask this Congress to send me legislation that places a market-based cap on carbon pollution and drives the production of more renewable energy in America*⁷⁶.” While Obama sent a clear message to Congress about the need for an ACES type piece of legislation, he was vague on specific facets. Specifics do not seem to be the President’s style of governance but this would come to hurt the legislation’s ambitiousness later.

Obama’s proposed plan for dealing with climate change was a cap-and-trade structure that would reduce emissions 14% by 2020 below 2005 levels⁷⁷. His plan would have also auctioned off all the emissions allowances and reduced emissions 83% by 2050 below 2005 levels. The legislation being worked on by Waxman and Markey – what would later be called ACES – had a similar framework to the Obama proposal. Early in the Obama presidency, the EPA announced an endangerment finding for greenhouse gases in accordance with the Supreme Court ruling of *EPA v Massachusetts*. Climate expert Joe Romm from the Center for American Progress believed at the time that this would guard against overly the coal-friendly provisions ACES was expected to contain⁷⁸. Little did Podesta or Romm know how much more coal-heavy the legislation would

⁷² <http://www.grist.org/article/barack-on>

⁷³ <http://www.grist.org/article/gore-a-ahora>

⁷⁴ “The Eco-Warrior : Rolling Stone.” *Rolling Stone*

⁷⁵ <http://www.grist.org/article/notable-quotable185>

⁷⁶ http://www.whitehouse.gov/the_press_office/remarks-of-president-barack-obama-address-to-joint-session-of-congress/

⁷⁷ <http://www.chicagotribune.com/news/nationworld/chi-cap-and-trade-feb27,0,5872133.story>

⁷⁸ <http://climateprogress.org/2009/03/31/waxman-markey-energy-global-warming-bill/>

become before passage, with President Obama letting it become so as other items on his agenda took precedence⁷⁹.

Obama's influence during the Committee process

The cabinet members most active in promoting ACES were EPA Administration Lisa Jackson, Secretary of Energy Steven Chu, Secretary of the Interior Ken Salazar, and "Climate Czar" Carol Browner. Secretary of Labor Hilda Solis and Secretary of Agriculture Tom Vilsack would be brought in later to promote the legislation to labor and agricultural friendly members of Congress, respectively.

Obama had many of his cabinet secretaries testify before the House Energy & Commerce committee. As the legislation deadlocked in committee between the environmentally-driven Democrats and the fossil-fuel Democrats, President Obama invited them to the White House in early May⁸⁰. What happened there was extremely important. The President pushed the committee members to come to consensus and pass a bill out of committee. He did not tell them anything specific to change about the policy, only that he wanted the committee to compromise and pass something. This would signal to the other committees that Obama would allow the bill to be weakened, as long as he could get the legislation passed. He pressed them for fast action, but little else⁸¹.

The (in)actions of Organizing for America

When the 2008 election was over, the political apparatus Obama's team had created was turned into Organizing for America. OFA was supposed to serve as a grassroots force to work on behalf of the President's agenda. Organizing for America, in the months leading up to the vote on ACES, did not send a single email about it to their 12 million person email listserv. None were sent in the month of May when the bill was in the Energy and Commerce committee, a key opportunity to strengthen and show support for progressive policy. In the week prior to the ACES vote, OFA sent out 3 health care focused emails - June 18th, 24th, 26th⁸².

As a community organizer for the Environmental Law and Policy Center, I could not stand it any longer and sent this email to Organizing For America:

"Jesus Christ. Huge energy bill to be voted on in Congress today, and they only thing you can talk about is Health Care? We need a strong energy and climate bill passed, the American people want it, and you guys need to be helping organizers like me on the ground instead of leaving us out to dry How many damn health care emails have you sent out already? You can't even focus on energy for a week? Damn you.

An Iowan who Caucused for President Obama"

⁷⁹ http://www.sfgate.com/cgi-bin/blogs/nov05election/detail?entry_id=32228

⁸⁰ <http://www.grist.org/article/2009-05-04-obama-to-meet-with-swing-dems>

⁸¹ <http://www.grist.org/article/obama-and-biden-press-house-dems-for-fast-action-on-climate-bill-waxman-may>

⁸² Organizing for America. Emails to listserv. January 1st –June 28th, 2009.

Now I am fully aware that my angry email would not change the way OFA operated or would even generate a response from a human being, but my letter captures the essence of what many grassroots environmental campaigners were feeling about OFA. A feeling of betrayal; how we had helped build this massive campaign apparatus that was being completely squandered when it came to promoting clean energy and climate change legislation.

The Week before the vote

Head of the White House Council on Environmental Quality Nancy Sutley said in early June that Obama was willing to stake his political prestige on ACES⁸³. As the bill continued to weaken with each committee it went through – particularly the agriculture committee – it was plainly evident that Obama was no longer concerned with the content of the legislation. A few days before the vote, the President gave a short press conference endorsing ACES publicly⁸⁴. He threw his political capital on passage of the climate bill, while behind the scenes House leaders were putting on the full court press upon wavering votes. According to Amy Salzman of the President's Council on Environmental Quality "the President was on the phone all week before the ACES vote, and all of his staff were calling members of Congress also⁸⁵."

It should be noted that the media completely dropped the ball on this issue; after his short statement on ACES they proceeded to ask him about cigarettes and the ongoing turmoil in Iran. What eventually pushed the climate bill off of the mainstream media radar was the death of Michael Jackson on June 25th. Obama cannot be blamed for some of the bad coverage of ACES, but he surely could have engaged the media sooner and more aggressively.

On the night of June 26th, ACES passed the House of Representatives 219 to 212. Forty-four Democrats voted against it, eight Republicans voted for it. Celebrations erupted among green groups worldwide⁸⁶. The bill may have been exceedingly weak, but the greens had won a landmark victory in the US Congress. After the vote, Rahm Emanuel called Ed Markey's cell phone and said "I didn't think you could do it⁸⁷."

⁸³ <http://www.grist.org/article/stop-the-presses-stop-the-servers-nancy-sutley-obama-to-stake-political-pre>

⁸⁴ <http://www.grist.org/article/2009-obama-endorses-climate-bill-press-corps>

⁸⁵ Presentation by Amy Salzman, April 2010

⁸⁶ <http://www.washingtonpost.com/wp-dyn/content/article/2009/06/26/AR2009062600444.html>

⁸⁷ *Rolling Stone*. "As the World Burns," by Jeff Goodell 1/21/2010

Aftermath and Conclusion

“Send me and Henry a bill and we’ll fix it in conference.” – Ed Markey speaking to Bernie Sanders⁸⁸

The President was “confident” that the Senate would get to work passing their own version of ACES⁸⁹. Amy Salzman claimed that the House would legislate climate while the Senate legislated health care and then they would “switch.” Eight months later, the Senate still has not passed climate mitigation legislation. The President proceeded in the months after ACES to lose control of the narrative, giving rise to a tea-bagging backlash against “cap and tax.” All of the drama of the aftermath, and the bill was not even scientifically strong, stringent, or liberal. The President could have used his power to influence the content of the bill more, to control the narrative through his skill in the media, but he did not.

As of Earth Day 2010, the Senate still has not acted on ACES. The political climate has shifted and the dynamics of the Senate are different than the House.

The American Clean Energy and Security Act of 2009 was a triumph of science, economics, political deal-making, and the resolve of environmentalists to work within the legislative branch. Otto von Bismarck described politics as “the art of the possible.” Pelosi, Waxman, Markey, and thousands of allies inside and outside the government passed a piece of legislation that was the state of the art of the possible in American politics.

⁸⁸ Earth Day 2010 conversation

⁸⁹ http://www.google.com/hostednews/afp/article/ALeqM5iHKpYb_MBsbIRU3Ce6mrI-0G5eEA

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