NATIONAL CONSUMER LAW CENTER®

Climate Change 101: Essential Consumer Protections

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The National Consumer Law Center

Since 1969, the National Consumer Law Center has functioned as a lawyer's lawyer for legal services and consumer law attorneys. NCLC helps advocates and policy makers use the powerful and complex tools of consumer law for just and fair treatment in the economic marketplace.

Why do national consumer groups care about climate change policy?


OFF


UNLEADED
FUEL
ONLY

National climate change policy:

- Will directly and indirectly increase costs to consumers, and low-income consumers will be hardest hit.
- Will not affect consumers in different regions of the country in the same way.

However, there are also costs to delay and/or to doing nothing.

2008 Coalition

Back in 2008, NCLC joined with NCAF, Public Citizen, Friends of the Earth along with other state and local consumer and community organizations to develop overarching principles for fair climate change policy.

Summary of the Fair Climate Change Principles

- The design of any climate change mitigation policy that raises the costs of energy and other essential goods must be fair.
- The implementation of programs, policies and investments to mitigate the harm must be adequate in size, distributed in a manner proportionate to the cost impacts, and be made available to low and moderate income families in a timely and efficient manner.
- The governance of climate change regulation and policy must be fair and responsive to emerging conditions.

Where we are today.

The consumer advocacy organizations (and we include NCAF in this grouping) here at the table today along with AARP, Consumer Federation of America and Consumers Union have been working closely to insert consumer protections into the national climate change debate.

Key Climate Change Legislation

- Markey-Waxman, H.R. 2454, The American Clean Energy and Security Act of 2009 (ACES) H.R. 2454 passed out of the House, 219 – 212, on June 26, 2009.
- Kerry-Boxer, S. 1733, The Clean Energy Jobs and American Power Act, mark-up is scheduled for this week in the Senate Environment and Public Works Committee this week.

Keep in Mind

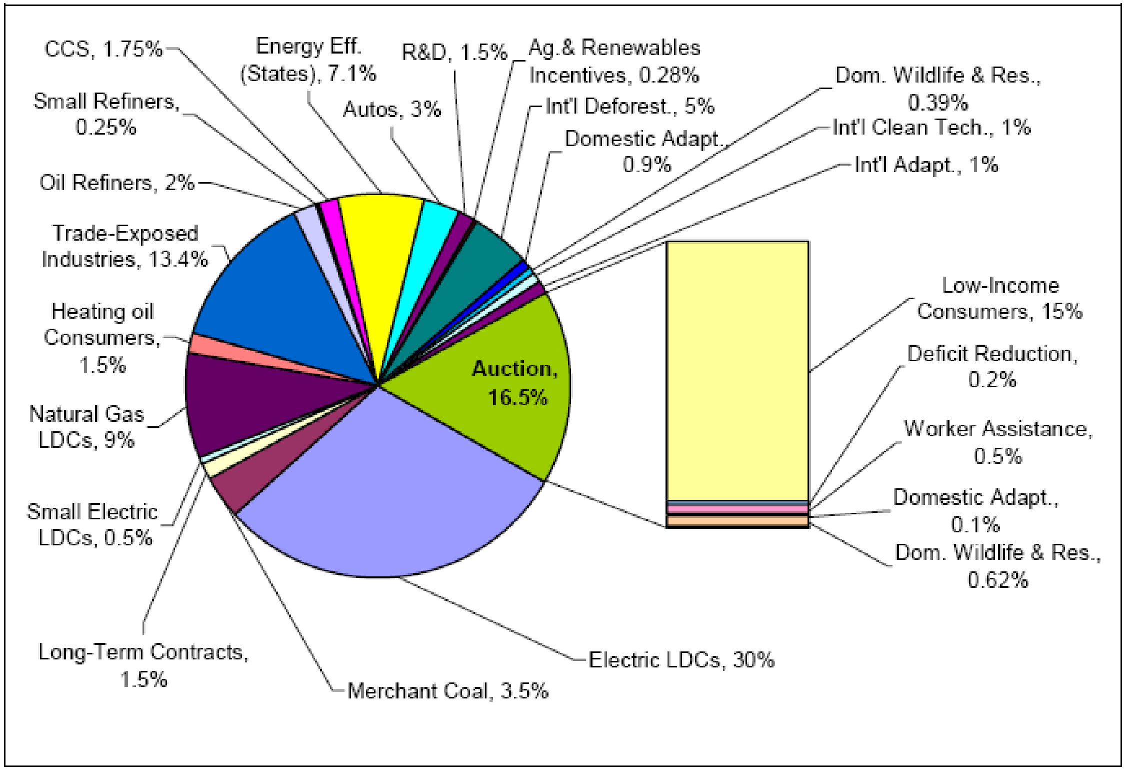
- H.R. 2454 and S.1733 are very similar bills <u>right now</u>; however, S.1733 is the starting point for discussions on the Senate side.
- There are other Senate committees with jurisdiction and separate negotiations by Sens. Kerry (D-MA) and Graham (R-SC) to negotiate 60 votes in the Senate.

H.R. 2454 and S. 1733

- Both bills are very similar
- Overarching themes in both bills:
  - Reduce greenhouse gas emissions
  - Transition to a clean, green economy
  - Provide for domestic and international adaptation to the coming changes
- Similar structure to the bills
  - Puts a price on emissions and a cap that declines overtime
  - Creates emission allowances that can be traded, banked, borrowed
  - Uses the value from the emission allowances for a range of transition assistance to interest groups and for public purposes

CRS Graphic on EA Allocations from, Climate Change: Costs and Benefits of the Cap-and-Trade Provisions of H.R. 2454 (September 14, 2009), page 6.

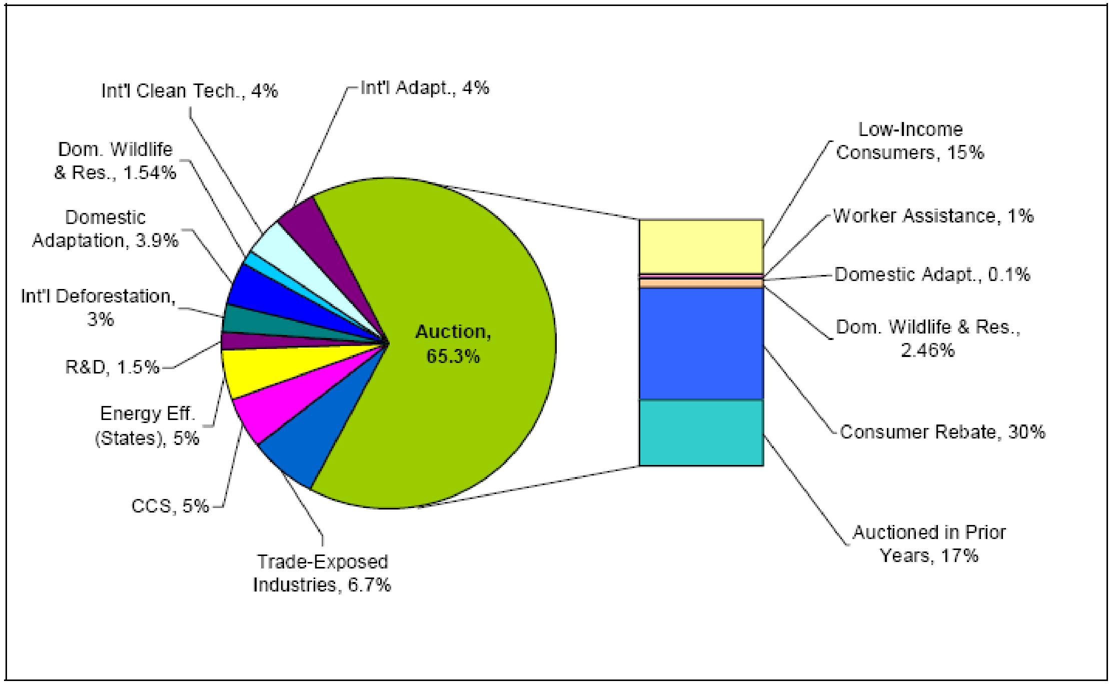
Figure 1. Simplified Emission Allowance Distribution—2016



Source: Prepared by CRS

CRS Graphic on EA Allocations from, Climate Change: Costs and Benefits of the Cap-and-Trade Provisions of H.R. 2454 (September 14, 2009), page 6.

Figure 2. Simplified Emission Allowance Distribution—2030



Source: Prepared by CRS

Key Differences Between H.R. 2454 and S. 1733 (pre-mark-up)

- Boxer: The bills are 90% the same. EPA: not much difference between the two bills in terms of economic impact.
- S. 1733 has more stringent caps (HR 2454 17% reduction of GG by 2020; 20% by 2020 in S. 1733)
- S. 1733 dedicates more to deficit reduction, so the pie slices are smaller
- Differs on carbon market trading regulation (FERC/CFTC split jurisdiction in HR 2454; CFTC has jurisdiction in S 1733)
- EPA authority under the Clean Air Act (HR 2454 bars EPA regulation of GG; S. 1733 does not)
- Senate has placeholder language for nuclear power
- Offsets (Senate bill increases the amount of domestic offsets)
- S. 1733 has less stringent building codes, lower energy efficiency related allocations and no Combined Efficiency and Renewable Energy Standard (but keep in mind the Sen. Energy and Natural Resources passed out a bill (S.1463, The American Clean Energy Leadership Act of 2009)

Direct Consumer Assistance In H.R. 2454 and S. 1733

- Low-Income Consumers: Low-Income Energy Refund (no details aside from allocation amount in Senate bill). HR 2454 LI Energy Refund details:
- 15% of the EAs for Assistance to Bottom Income Quintile (roughly 150% of poverty and below)
  - S.1733 allocates 15% of the EAs for low and moderate income relief
  - Senate Finance has jurisdiction over this, so no details in S. 1733
  - LI Energy Refunds actually get less than 13% of the EA b/c the Senate deficit reduction measures AND the Senate place holder provision appears to increase eligibility for this relief. (Potential here for smaller benefits for the most vulnerable.)
- Primarily through EBT mechanism (used in states to deliver SNAP benefits); small component of LI assistance thru EITC expansion for workers with no eligible children.
- A monthly benefit that addresses the increases in the cost of living due to putting a price tag on GG emissions (minus the increases to household energy bills and minus COLAs for other federal benefits to this population).
- Benefit is adjusted for household size, but is otherwise uniform throughout the country.

Electric, Natural Gas Consumer Assistance in HR 2454 and S. 1733

- Reliance on LDCs to protect electricity and natural gas ratepayers in both bills
- Rationale is that assistance via LDCs can address the regional variation in energy prices
- Both H.R. 2454 and S. 1733 LDC provisions cover all ratepayer classes (industrial, commercial, residential).

Highlights of H.R. 2454's LDC provision versus S.1733's LDC provision

- H.R. 2454 does not define "ratepayer benefit" for residential or commercial ratepayers
- In H.R. 2454, Industrials got a last minute fix to require that the industrials get a pass through of the value of their share of the emission allowances to reduce the costs impacts in the electric and natural gas LDC provision.
- Consumer groups demanded the same treatment for residentials and got it in S. 1733.
  - Electric LDC provision contains pass through of the value of the benefit for industrial and residential to reduce the costs impacts
  - S. 1733 stripped out the pass through language for industrials in the n.gas LDC provision (but parity in treatment of industrials and residentials)
- No intervenor compensation in House or Senate bill, but we still fight for it.

Heating Oil and Propane Consumer Assistance

- Both H.R. 2454 and S. 1733 provide a percentage of emission allowances to states for their heating oil and propane consumers
- At least 50% of the value of the EA is for cost-effective energy efficiency and the rest for financial assistance to residential and commercial customers

Energy Efficiency in the Energy Assistance Provisions

- No requirement that Electric LDCs use EAs for EE in H.R. 2454 or S. 1733
- Small LDCs (RECs) must use EA for demand reduction, renewables or LI assistance
- At least 30% of the N.Gas EAs must be used for EE
- At least 50% of the Heating Oil and Propane must be used for EE

Need to Take Care of Fixed-Income Households and Struggling Working Families

- HR 2454 has a mechanism in place to assist households in the bottom 20th percent of income.
- S. 1733 provides fewer EAs for the low-income energy refund and extends assistance to moderate income households
- Additional emissions allowance revenues must be dedicated to helping out more struggling households.

Consumer Representation at FERC: Office of Consumer Advocacy

- Represents residential and small commercial consumer interests at FERC
- H.R. 2454 version is less protective
- Neither version has a solid funding stream

Thank You.

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