Appendix

Skadden

	American Power Act (Kerry-Lieberman)	American Clean Energy and Security Act (Waxman-Markey)
GHG Reductions	4.75% below 2005 levels by 2013; 17% below 2005 levels by 2020; 42% below 2005 levels by 2030 and 83% below 2005 levels by 2050.	3% below 2005 levels by 2012; 17% below 2005 levels by 2020; 42% below 2005 levels by 2030; and 83% below 2005 levels by 2050.
Coverage	Covers approximately 85% of the economy's emissions. Downstream coverage: electricity providers and industrial facilities. Upstream coverage: natural gas LDCs, fuel refiners and producers of GHGs.	Same
Allowance Distribution	Approximately 60% of allowances distributed for free in 2016: 35% to electricity generators; 9% to natural gas LDCs; 15% to industry; 3.75% to refiners and 1.5% to heating oil customers. Approximately 14% distributed to federal and state climate change programs. Roughly 25% auctioned-off initially, auctions open only to covered entities and regulated GHG market participants. Most distributions phase out by 2030. 100% auction by 2035.	Approximately 63% of allowances distributed to covered entities for free in 2016: 35% to electricity generators; 9% to natural gas LDCs; 15% to industry; 1.5% to heating oil customers and 1.75% to CCS. Approximately 22% distributed to federal, state and international climate change programs, including 5% to REDD. 15% auctioned off initially; auctions open to any person. Most free distributions phasing out by 2030. By 2035, 70% auction, 25% sold by climate change programs to covered entities and 5% to CCS.
International Allowances	May be held in lieu of an allowance.	Same
Domestic Offsets	One offset equals one allowance. Total universe of offsets is capped at 2 billion. The percentage of an entity's compliance obligation that may be satisfied with offsets is determined on a *pro rata* basis. Does not provide for use of term offsets.	1 offset equals 1 allowance. Total universe of offsets is capped at 2 billion. Covered entities would be able to satisfy 30% of their compliance obligation with offset credits in 2013; 29% in 2020; 35% in 2030; 45 percent in 2040 and 63 percent in 2050. Allows the USDA to issue term offset credits for agricultural and forestry related offset projects with crediting periods of less than five years.
International Offsets	One international offset equals one allowance until 2018, after which 1.25 international offsets equals one allowance. Usage capped at 25% of total offsets, but cap can rise to 50% if supply of domestic offsets is inadequate.	One international offset equals one allowance until 2018, after which 1.25 international offsets equals one allowance. Usage capped at 50% of total offsets, but cap can rise to 75% if supply of domestic offsets is inadequate.
Allocation of Allowances in Support of CCS	Allocates 0.8% of allowances to CCS beginning in 2017, increasing to 10% by the year 2030. Remains at 10% through 2034 before terminating.	Allocates 1.75% of allowances from 2014 through 2017, increasing to 4.75% for the years 2018 and 2019 and further increasing to 5% for the years 2020 through 2050.
Reduced Emissions from Deforestation and Degradation (REDD)	Establishes REDD program to be funded through appropriations.	Establishes REDD program. Allocates 5% of allowances over the years 2012 through 2025 to REDD program, phasing out by 2030.
Banking and Borrowing	Unlimited banking; unlimited borrowing from one year in future. Up to 15% borrowing from two to six years in future with 8% interest.	Same
Cost Containment	Provides for Cost Containment Reserve, an annual sale of allowances at a set price ($25 in 2013, escalating annually at CPI plus 5%). Funded with 4 billion tons of emission allowances. Entities may satisfy 15% of their compliance obligation through purchases from the reserve.	Provides for quarterly Strategic Reserve Auctions at a minimum threshold price ($28 in 2012, increasing at set rate for 2013-2014, then determined by formula). Funded with 2.5 billion tons of emission allowances. For 2012-2016, up to 5% of the cap to be auctioned in Strategic Reserve Auctions. For 2017 and after, amount increases to 10%.
Carbon Market Regulation	CFTC oversees the market, with derivatives to be regulated in the same manner as agricultural commodities. Participation in market limited to covered entities and to "regulated market participants."	FERC regulates cash market for emission allowances, offset credits, etc. while CFTC oversees GHG derivatives market in the same manner as agricultural commodities.
Relationship to Preexisting Domestic Regimes	Supersedes preexisting GHG regulatory programs. To prevent unfair treatment, EPA is directed to establish procedures for exchanging allowances and offsets issued by California, RGGI and WCI for allowances issued under the federal program.	Prohibits states or political subdivisions thereof from implementing or enforcing a carbon cap during the years 2012-2017. To prevent unfair treatment, EPA is directed to establish procedures for exchanging allowances and offsets issued by California, RGGI and WCI for allowances issued under the federal program.
Relationship to EPA's Authority under the Clean Air Act	EPA retains authority to establish minimum standards of performance under Section 111 of the CAA for uncapped stationary sources. Prohibits EPA from regulating capped sources under any other provisions of the CAA, except for regulating coal-fired power plants permitted prior to 2009 under Section 111.	Directs the EPA to establish minimum standards of performance under Section 111 of the CAA for uncapped stationary sources with emissions greater than 10,000 tons of CO2e. Prohibits EPA from regulating capped sources under any other provisions of the CAA except for the cap and trade program.
Regulation of HFCs	Regulation of HFCs to be undertaken separately from cap and trade program; HFCs to be phased out to 85% of current levels by 2033.	Same