



25x'25 Recommendations to Improve the Kerry-Boxer Climate Change Proposal

The [Kerry-Boxer measure](#) (S. 1733) is legislation that must be considered a work in progress that will need serious modification before it can maximize the role of farms, ranches and forestlands in reducing the nation's carbon footprint and combating global climate change.

Among the current shortcomings in Kerry-Boxer (S. 1733) is the measure's failure to explicitly exclude the U.S. agriculture and forestry sectors from rules that cap emissions, and to allow the sectors to deliver quick, low-cost, greenhouse gas (GHG) emission reductions in a volume significant enough to help meet the national goal established in the bill, which starts at 20-percent below 2005 emission levels by 2020.

The offsets title of S. 1733 falls far short of ensuring an operationally viable program that is at the heart of the opportunity for the agriculture and forestry sectors to contribute and benefit. It is critical that lawmakers address the entire set of biological sequestration offset issues inherent to a cap-and-trade regulatory system. Biological offsets will only be deliverable in the quantity expected and at the prices desired if the program is designed to be operationally efficient.

Any cap-and-trade system must address operationally and environmentally acceptable duration (the so-called "permanence" issue); leakage; the potential for reversal and program risk management mechanisms; liability immunization for both offset buyers and sellers; and offset-to-allowance (one-for-one exchange equivalence, also known as fungibility).

A positive development that came out of the [American Clean Energy Security Act of 2009](#) (ACES), climate change legislation approved by the House earlier this year, was a provision that delays for five years the implementation of Indirect Land Use Change (ILUC) penalties on biofuels producers, which were established by the [Energy Independence and Security Act of 2007](#) (EISA). Kerry-Boxer must also recognize the ILUC provision was enacted without the benefit of mature and defensible scientific study, and should include a similar waiting period to let good science do its job.

The Kerry-Boxer bill should also pick up an ACES act provision that designates USDA as the lead agency to assume responsibility for the majority of farm and forestry offset functions. And S. 1733 should follow the lead of the ACES act and grandfather the soy biodiesel sector, the pioneering first generation source of biodiesel, under the [Renewable Fuels Standard](#) (RFS).

S. 1733 does recognize that all biomass, including that in the solid waste stream, is renewable. However, the measure adds to the confusion and conflicting definitions generated by RFS provisions in EISA and the [2008 Farm Bill](#) over just what types of biomass and types of land sources qualify for inclusion in the production of bioenergy. Like the ACES act adopted by the House, the Kerry-Boxer measure must ultimately incorporate a uniform, inclusive set of bioenergy eligibility definitions of biomass types and land ownership types for all federal programs.

There are a number of policy imperatives that the Kerry-Boxer measure does address to the benefit of agricultural producers and forestland owners. For example, the overall program limits for offsets stays at the two billion tonnes level, but the distribution between domestic sources and foreign sources offsets has shifted from the ratio provided in the ACES act, becoming more favorable to domestic sources, allowing them up to three-fourths of the total, depending upon circumstances.

Also, the price control mechanism within S. 1733, entitled the Market Stability Reserve, allows replenishment to come from domestic offset sources as well as international offset sources. And Kerry-Boxer explicitly provides for stackability, or the ability for activities delivering multiple types of benefits such as conservation and carbon benefits, to claim those benefits in multiple programs.

Kerry-Boxer does not carry the burdensome Performance Standards provisions found within the ACES measure. By omitting those provisions, S. 1733, unlike the ACES act, does not hold the potential to force certain agricultural producers to implement mandatory practices that might otherwise have qualified for offsets. If those practices are mandated, as they are under the ACES act, the producer loses the option of elective participation and, subsequently, the loss of offset revenue.

While the shortcomings of the Kerry-Boxer measure are of a critical nature, many 25x'25 Alliance members are shifting their attention to an amendment being developed by Sen. Debbie Stabenow (D MI), a member of the three committees - Energy, Agriculture and Finance – expected to have significant influence on climate change legislation in the upper chamber. Sen. Stabenow is scheduled to release her amendment in November. Her amendment is expected to strengthen the entire bill on behalf of the farm and forestry sectors by addressing the Kerry-Boxer shortcomings in much the same way that an amendment from House Agriculture Committee Chairman Collin Peterson (D-MN) provided critical agriculture- and forestry-specific offset provisions for the ACES act before it passed in June.

Members of the Senate will be urged to take advantage of the [research and work](#) done by the [25x'25 Carbon Work Group](#) and include the contributions and interests of farmers, ranchers and forestland owners when working to establish a viable and equitable climate change regulatory system.