



25x'25 Recommendations to Improve U.S. Climate Change Policy **November 12, 2009**

The [Kerry-Boxer measure](#) (S. 1733), passed by the Senate Environment and Public Works Committee in early November, is deficient and needs 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. This policy brief outlines the 25x'25 Carbon Work Group's recommendations for how current climate change legislation can be modified to allow for climate change solutions from the agricultural and forestry sectors to be realized.

Carbon Offsets

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.¹ 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).

Despite its numerous deficiencies, there are a number of policy imperatives that the Kerry-Boxer measure does address to the benefit of agricultural producers and forestland

¹ See Recommendations to Enhance the Biological Sequestration Provisions of the American Clean Energy and Security Act of 2009, 25x'25 Carbon Work Group, Sept. 9, 2009

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.

Helpful Improvements

While the shortcomings of the Kerry-Boxer measure are of a critical nature, many 25x'25 Alliance members are shifting their attention to S. 2729, The Senate Clean Energy Partnerships Act, introduced by Sens. Debbie Stabenow (D MI) and Max Baucus (D-MT). This bill which would amend S. 1733 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. Among other helpful provisions, S. 2729 would provide:

- Jurisdictional clarification about the Department of Agriculture's responsibility for the farm and forestry offsets program, with appropriate shared EPA responsibility for adjunct aspects.
- The clearest path to date to an operationally and environmentally acceptable program for biological sequestration offsets, the source of the vast majority of farm and forestry offsets and co-benefits deliverable under the right circumstances
- Early actor rewards and protection against being disadvantaged.
- Programs to reward certain supplemental reductions beyond the activities specified in the robust positives list of activities to be allowed.
- Certainty that agriculture and forestry will not be capped and
- Stackability, the provision that receipt of benefits for the delivery of other ecosystem service improvements will not disqualify a project for the receipt of carbon offset credits.

Missing Pieces

While the Stabenow-Baucus bill offers much needed improvement to the enabling policy platform for a workable offset program, it falls short of reasonable designs for dealing with intentional reversals of sequestration projects. The bill requires a 150% payback, instead of a more legitimate 100% payback in recognition of the fact that intentional

reversals may be badly needed by extenuating circumstances outside of the program parameters such as sale of land or financial hardship. The bill also employs a “conservative business as usual” approach to additionality and baselines. This effectively proclaims that when most of your peers are already engaged in a reduction process, you will not be allowed to join them in earning offset credits, regardless of the fact that your circumstances simply were not workable previously and regardless of the fact that your project reductions would provide needed supplemental reductions in support of the national objectives.

Other Missing Pieces

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.

S. 1733 should also 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.

At a time of tremendous policy uncertainty and competing demands on our farm and forest resources, it is important to know that viable solutions are available and are increasingly within reach of proposed federal legislation.

Policy makers are 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.

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