

U.S. federal climate legislation and biosequestration incentives

October 23, 2009

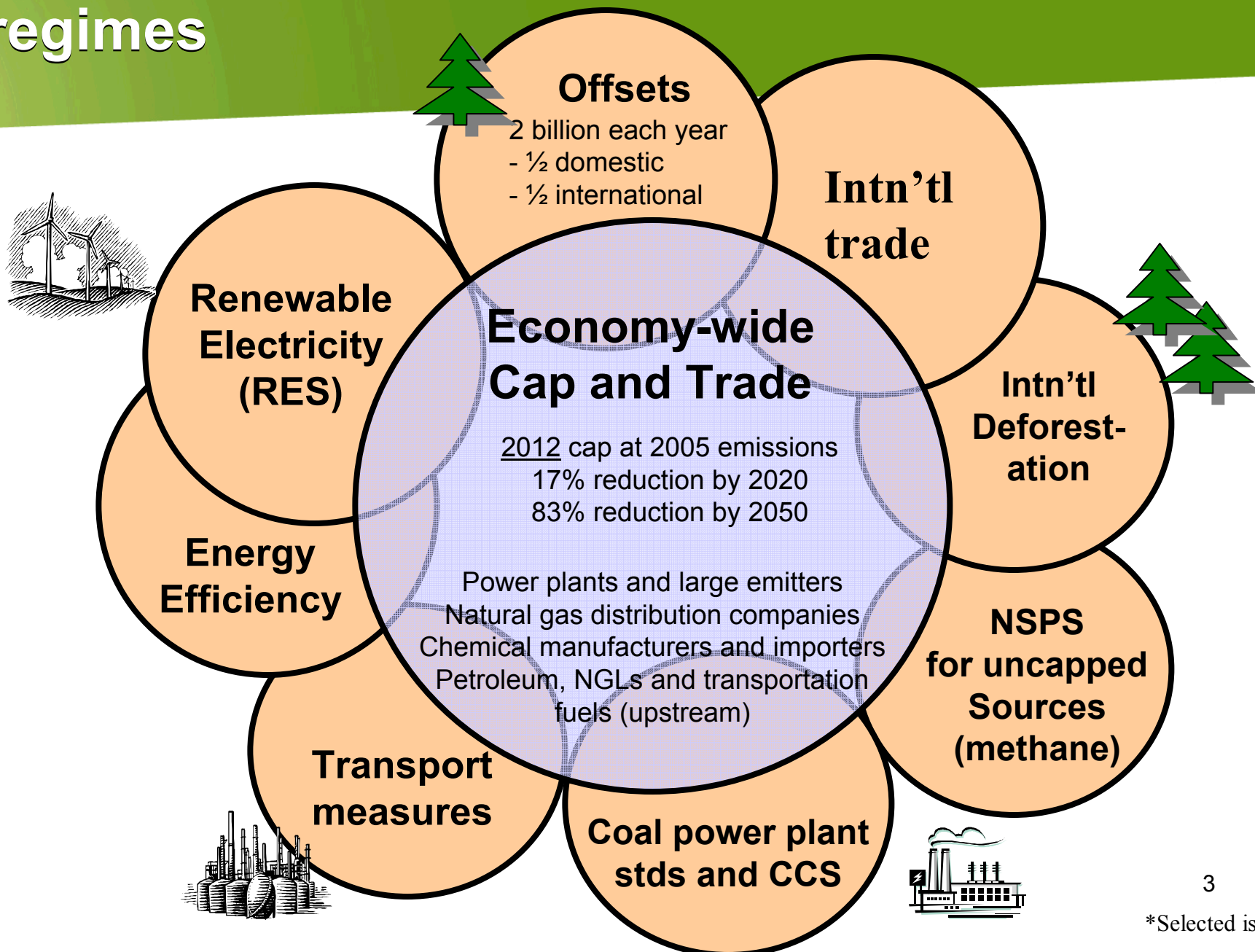
**Christopher K. Carr
Vinson & Elkins
1455 Pennsylvania Ave., N.W.
Washington, D.C. 20004
(202) 639-6764
ccarr@velaw.com**

Topics for today

- Focus on two major federal climate bills:
 - American Clean Energy and Security Act (ACESA, aka Waxman-Markey)
 - Passed by House on June 26, 2009 (219-212 vote)
 - Economy-wide climate bill
 - Kerry-Boxer bill introduced in Senate on September 30
 - ACESA framework with variations
- Focus on biosequestration provisions and projects
 - Domestic offsets and biosequestration
 - The special problem of permanence and sequestration
 - Role of international offsets
 - International deforestation
 - Early action

ACESA: economy-wide and overlapping regimes

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Basic offset provisions in ACESA and Kerry-Boxer

ACESA	Kerry-Boxer
2 billion offsets allowed per year (versus initial cap on allowances of ~5 billion)	Same
50% domestic / 50% international International share can increase to 1.5 billion if insufficient domestic offsets at prices < allowances	75% domestic / 25% International International share can increase to 1.25 billion
Agricultural and forestry offset program “shall” be established (eligible projects “shall” include projects “such as” those on next page)	Forestry and Ag on list of initial project types EPA shall “consider”

Forestry, Ag offset project types in the bills (sample)

- Afforestation or reforestation of land
 - KB specifies not forested as of 1/1/2009
- Forest management (incl. harvested wood plantations)
- Agricultural, grassland, and rangeland management:
 - Altered and reduced tillage practices
 - Winter cover cropping, continuous cropping, other means in lieu of planting followed by fallowing
 - Reducing nitrogen fertilizer use
 - Reduced GHGs from manure; animal management (including diet)
- Other land use and forestry projects, e.g.:
 - Conservation of grassland or forestland
 - Management of peatlands or wetlands
 - Reduced deforestation or avoided forest conversion
 - Urban tree-planting and maintenance

Offsets – details for project development matter

Sample issues

ACESA	Kerry-Boxer
Within 2 yrs of enactment, EPA shall pass regulations for offset issuance, with initial project eligibility list w/in 1 year (also, Dept. of Agriculture for ag and forestry project types)	Same, though delegates to “President” rather than EPA
Offsets must be verifiable, permanent and additional (beyond business-as-usual in general offset provisions, beyond activity baseline for forestry/ag under Title V)	Offsets must be verifiable, permanent and additional (beyond business-as-usual)
General maximum crediting period is 10 years; 20 years for forestry; 5 years for ag	General maximum crediting period is 10 years; 20 years for forestry (ag not specified)

Sources: ACESA and Kerry-Boxer 733, 734, 741 (same sections in both); also ACESA 502-504 (additional forestry/ag provisions).

Managing permanence for sequestration (similar provisions in both bills)

- Must report any reversal regarding a project where offset credits issued
- Regs to ensure permanence shall provide for:
 - Offsets reserve (quantity deducted from issued offsets and held by administrator)
 - Insurance, or
 - “Another mechanism”
- Special “term” offsets in both bills
 - Can be used to temporarily demonstrate compliance instead of domestic offsets for sequestration projects
 - Expire within 5 years of date of issuance
 - Covered entity using term offsets must provide EPA financial assurance that it has sufficient resources to replace term offsets on expiration

International offsets (similar provisions in both bills)

- EPA will issue offsets in exchange for international instruments if:
 - Developing country
 - Bilateral/multilateral arrangement exists
 - Meets technical requirements (creates uncertainty)
- Surrender ratio starting 2018 of 1.25 to 1
- International offsets can be Kyoto offsets if an “equal or greater assurance of the integrity” of such credits
 - What this means for biosequestration
 - Specifically allows for avoided deforestation offset credits

Avoided deforestation offsets

- Both ACESA and Kerry-Boxer allow offsets from avoided deforestation, but subject to additional limits
- Limited to certain countries that have capacity to participate in deforestation reduction activities at a national level, except:
 - State or province level projects allowed (phased out after 5 years)
 - Project-level activities in smaller countries (phased out 5-13 years)
- Other requirements
 - Equitable sharing of profits and benefits with local communities
 - Consistent with any applicable UNFCCC requirements
- Activities compared to baseline deforestation levels
 - Baseline period generally considers historical deforestation over at least 5 years
- Kerry-Boxer adds:
 - “Full transparency, third-party independent oversight, and public dissemination of related financial and contractual arrangements”
 - Consultations with “full participation of all stakeholders”

Supplemental international deforestation provisions – allowances set aside

- Common objectives in both bills
 - Reduce deforestation GHGs by 6 billion tCO₂e by 2025
 - Assist developing countries in “preparing to participate” in offset market
 - Same activities can’t get both deforestation offsets and supplemental Part E “support” (WM) or “allowances” (KB)

ACESA	Kerry-Boxer
5% of allowances set aside through 2025, declining to 2% through 2050*	Allowance set-aside not yet specified
<ul style="list-style-type: none"> - Allowances can go to eligible country, public or private group, or an international fund - Permissible uses include national and sub-national “activities”; pilot activities; developing MMV to generate offsets; combating illegal logging; policy reforms and governance structures 	Much less specific (shorter provisions). EPA shall establish a program to assist reducing developing country deforestation.

Sources: ACESA Sec. 751-756, 781; Kerry-Boxer Sec. 751-753, 744(g), 704. 10

*Each % = ~\$1B at \$20 carbon and 5 billion allowance cap.

Early action rewards (similar provisions in both bills)

- **“Early offset supply” (offsets)** Reductions after 2009, and only for 3 years following enactment, for credit issued under:
 - (i) Regulatory or voluntary program established “under state law” before 1/1/09 (e.g., RGGI), third party verified, in a publicly-accessible registry, and satisfies other technical requirements, or
 - (ii) upon petition to the EPA, another program that is of “equal stringency”
 - Eligible projects must have commenced in 2001 or later
- **“Early action recognition” (allowance set aside).** Allowances exchanged for offsets issued from 2001-2009 under:
 - A “state or voluntary offset program” meeting stringency criteria
 - Other entities who publicly reported GHG reduction goals and demonstrated entity-wide GHG reductions
 - The allowance exchange shall be monetarily equivalent to the average value of the credits from 2006-2008
 - Offsets available are limited -- approximately 46 million credits under ACESA
 - 75% for “state or voluntary” programs, 25% for the “other”

Questions?

- Bills contain substantial benefits for biosequestration
 - Domestic and international offsets
 - Reduced deforestation
 - Other provisions include those addressing adaptation, use of renewable biomass for electric generation and industrial use
- Major federal climate legislation enacted by the end of next year?
- If Congressional delay, look for significant climate action by EPA and courts
- Eyes looking toward December Copenhagen meeting
- Questions?

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