



## **Pew Center Summary of the Clean Energy Partnerships Act of 2009 (Stabenow)**

This is a summary of the Clean Energy Partnerships Act of 2009, S.2729, as introduced on November 4, 2009.

### **Cosponsors:**

Sen Max Baucus (D-MT)  
Sen Mark Begich (D-AK)  
Sen Sherrod Brown (D-OH)  
Sen Robert P. Casey, Jr. (D-PA)  
Sen Tom Harkin (D-IA)  
Sen Amy Klobuchar (D-MN)  
Sen Bill Nelson (D-FL)  
Sen Jeanne Shaheen (D-NH)

### **Section 1. Short Title.**

This section states that this bill may be cited as the Clean Energy Partnerships Act of 2009 and includes the table of contents.

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**Title I – Offset Credit Program for Domestic Emission Reductions.**

**Section 101. Definitions.**

This section defines the terms for this title. Section 101 (4) defines “appropriate official” as the Secretary of Agriculture (Secretary) with respect to any domestic agriculture or forestry offset project, and the Administrator of the EPA (Administrator) with respect to all other offset projects.

**Section 102. Advisory Committee.**

This section directs the Secretary and Administrator to jointly establish the “Greenhouse Gas Emission Reduction and Sequestration Advisory Committee” to provide advice on the establishment and implementation of an offset program. The duties of the Advisory Committee include submitting reports on offset project types and on emission reduction integrity.

The section directs the Advisory Committee, not later than 180 days after all members are appointed, to submit a report containing recommendations regarding the types of offset project categories listed in Section 104, and relevant scientific data regarding practices for those categories, that should be considered to be eligible to generate offset credits under this title. The section also directs the Advisory Committee, not later than 180 days before the date of promulgation of any regulations relating to offsets, to submit a report containing recommendations on how to ensure the emission integrity of the offsets under this title.

**Section 103. Establishment of program to credit emission reductions from un-capped domestic sources and sinks.**

This section directs the Secretary and the Administrator to establish a program to govern the creation of credits from emission reductions from uncapped domestic sources and sinks. They are directed to do so not later than one year after enactment of this Act. They are directed to protect emission reduction integrity while minimizing burdens on offset project representatives, and prioritize rulemaking for activities that pose the fewest challenges and have the greatest certainty of net atmospheric benefit.

The section also explicitly defines the Department of Agriculture’s role to include, with respect to projects relating to emission reductions from agriculture and forestry: (1) gathering data on carbon stocks and fluxes, (2) administering as the lead agency the duties under sections 104, 105, 106, and 109 (which address eligibility, requirements, approval and audits and reviews) for agriculture and forestry projects, (3) making available to landowners data and other information necessary to estimate carbon sequestration rates, (4) making available technical assistance to landowners undertaking activities in preparation for the sale of carbon credits, (5) providing training for third-party verifiers pursuant to section 107, (6) conducting outreach and training through land-grant colleges, and (7) promulgating regulations necessary to carry out the functions of the Secretary under this Title.

### **Section 104. Eligible projects.**

This section directs the appropriate official to establish and maintain a list of project types eligible to generate offset credits. The appropriate officials are also directed to establish an initial list of project types, and they are to include on that list, at a minimum, activities that meet requirements of section 105, including:

- (A) Methane collection at mines, landfills, and natural gas systems;
- (B) Fugitive emissions from oil and gas sectors that would otherwise have been flared or vented;
- (C) Non-landfill projects involving collection, combustion, or avoidance of emissions from organic waste streams (including manure management, composting, anaerobic digesters);
- (D) Afforestation or reforestation of acreage not forested as of January 1, 2009;
- (E) Forest management resulting in increase in carbon stores, including harvested wood products;
- (F) Capturing and sequestering uncapped GHG emissions with or without enhanced oil recovery in active or depleted oil, carbon dioxide, natural gas reservoirs, or other geologic formations;
- (G) Recycling and waste minimization projects;
- (H) Abatement of production of nitrous oxide at nitric acid production facilities;
- (I) Biochar production and use;
- (J) Destruction of ozone-depleting substances that have been phased out of production;
- (K) Conversion from diesel to renewable sources of energy in communities reliant on small, isolated electricity grids;
- (L) Agricultural, grassland, and rangeland sequestration and management practices including—
  - (i) Altered tillage practices, including avoided abandonment of conservation practices;
  - (ii) Winter cover cropping, continuous cropping, and other means to increase biomass returned to soil;
  - (iii) Use of technology to improve management of nitrogen fertilizer use;
  - (iv) Reduction in methane emissions from rice cultivation;
  - (v) Reduction in carbon emissions from organically managed soils and farming practices used on certified organic farms;
  - (vi) Changes in animal management practices, including dietary modifications;
  - (vii) Resource-conserving crop rotations of at least 3 years; and
  - (viii) Practices that will increase the sequestration of carbon in soils on cropland, native and planted grazing land, grassland, etc.
- (M) Changes in carbon stocks attributed to land management change, including –

- (i) Improved management or restoration of cropland, grassland, rangeland, and forestland;
  - (ii) Avoided conversion that would otherwise release carbon;
  - (iii) Reduced deforestation;
  - (iv) Management and restoration of peatland or wetland;
  - (v) Urban tree-planting, landscaping, greenway construction, and maintenance;
  - (vi) Sequestration of GHGs through management of tree crops;
  - (vii) Adaptation of plant traits or new technologies that increase sequestration by forests;
  - and
  - (viii) Projects to restore or prevent the conversion, loss, or degradation of vegetated marine coastal habitats;
- (N) Projects that reduce emissions from manure and effluent, including –
- (i) Waste aeration;
  - (ii) Biogas capture and combustion; and
  - (iii) Improved management or application to agricultural land; and
- (O) Reduction of intensity of GHG per unit of agricultural production.

The section also provides that at any time, after taking into consideration relevant recommendations of the Advisory Committee, the appropriate official may, by regulation, add additional types of projects. Any person may petition the appropriate official to add a project type to the list.

Not later than January 1, 2015, and every 3 years thereafter, the appropriate official shall determine whether to remove types of projects. Project types can only be removed by regulation; and only if (1) the type of project has become required by law; (2) the environmental harm from the type of project exceeds the GHG abatement benefits; (3) the project activity has become predominant; *and* (4) the project type does not meet the requirements of this Title.

### **Section 105. Requirements for offset projects.**

This section directs the appropriate officials to establish one or more standardized methodologies for each project type within one year of the inclusion of a project type on the eligible list. The methodologies for determining additionality must ensure, at a minimum, that any GHG reduction results from activities that are not required by law, were not commenced prior to January 1, 2009 (with exceptions for early actions), and that exceed the activity baseline.

The section also requires the appropriate officials to account for any actual or potential reversal of sequestration for each project type in Section 104. The minimum mechanisms to account for reversals include an offset reserve, insurance, or some other mechanism that satisfies the requirements of the Title.

If an offsets reserve is used, for each project the appropriate official shall subtract and reserve a quantity of credits based on the risk of reversal and hold those credits in the reserve. If an unintentional reversal occurs, credits to fully account for the tons of GHGs that are no longer sequestered are to be cancelled from the offset reserve. If an intentional reversal occurs, the offset project representative

shall place into the reserve a quantity of credits equal to 150 percent of the number of credits that were cancelled due to the reversal.

With respect to an agricultural, forestry, or any other practice listed under Section 104 that sequesters greenhouse gases, this section contains a provision outlining mechanisms to ensure that less-than-perpetual sequestration agreements meet the requirements of the section and maintain integrity of the national GHG emission reduction targets. The mechanisms that the Secretary shall use for this provision include—

- (I) A specific duration of the intended sequestration activity;
- (II) Clear liability for carbon accounting;
- (III) Sequential activities;
- (IV) Adequate monitoring and accounting systems to maintain the emission reduction targets;
- (V) Carbon easements; or
- (VI) Any other option that meets the requirements of this section as determined by the Secretary.

The section provides that crediting periods for offset projects shall be not less than five, nor greater than ten years, except for forestry projects, which shall not exceed 30 years.

The appropriate officials are to give due consideration to methodologies for offset projects existing as of the date of enactment of this Act.

This section also allows offset projects to meet the requirements of the section while receiving additional payment from another source for an ecological service other than emission reductions, including conservation program payments.

#### **Section 106. Approval.**

This section states that offset project representatives must submit to the appropriate official a petition for approval of the project, which must include designation of an offset project representative. Not later than 30 days after receiving a petition the appropriate official shall make a determination on whether to approve. The appropriate official may provide for accreditation of third parties to provide recommendations on approvals.

The section also allows the appropriate official to establish voluntary preapproval review to assess preliminary eligibility for an offset project at the request of the project representative. Findings of such preliminary reviews will be made within 30 days and are not binding upon the appropriate official.

#### **Section 107. Verification of offset projects.**

The Secretary and the Administrator are directed to jointly establish requirements for verification of the quantity of GHG emission reductions that have resulted from an offset project. Project representatives are required to submit a report prepared by an accredited third party verifier. The appropriate officials are to jointly establish a process and requirements for periodic accreditation of third-party verifiers.

**Section 108. Issuance of offset credits.**

This section directs the Administrator, in consultation with the Secretary with regards to domestic agricultural and forestry projects, to issue one offset credit to a project representative for each ton of CO<sub>2</sub>e in reductions from a project that the appropriate official has verified pursuant to Section 107.

**Section 109. Audits and reviews.**

This section directs the appropriate officials to conduct random audits of offset projects. These audits must be for a representative sample of project types, geographical areas, verification standards and verifiers, and administrative processes of the offset program. The results of all audits shall be made publicly available. The appropriate official may delegate the responsibility for conducting audits.

**Section 110. Early offset supply.**

This section directs the Administrator, in conjunction with the Secretary, to approve as a qualified early offset program any regulatory or voluntary offset program that—

- (A) Was established before January 1, 2009;
- (B) Has developed project-type standards through a public consultation process or a public peer review process;
- (C) Has made available to the public the standards, methodologies, and protocols of the program for emission reduction projects;
- (D) Requires all reductions be verified by a State regulatory agency or accredited third-party entity;
- (E) Requires that all issued credits be registered in a publicly accessible registry; and
- (F) Ensures that no credits are issued for activities for which the administrator of the program has funded, solicited, or served as a fund administrator for the development of the project or activity that caused the emission reduction.

If the Administrator, in conjunction with the Secretary, determines that a program does not meet the criteria described above, they may revoke its approval as an early offset program. Or, they may determine that the program is not a qualified early offset program with respect to a particular project type. The Administrator, in conjunction with the Secretary, shall issue offset credits to projects that commenced after January 1, 2001, and for which a credit was issued under a qualified early offset program.

Offset credits shall be issued under this section only for a crediting period that starts not earlier than January 1, 2001, and not later than the date on which regulations for methodologies under this title take effect. The crediting period should not exceed the shorter of 10 years or the crediting period for the project per the rules of the early offset program.

This section also provides that the Administrator shall issue offset credits for projects that reduce international deforestation, if the project begins after January 1, 2001 and is registered within 2 years with a regulatory or voluntary offset program established under State law.

**Section 111. Program review and revision.**

At least once every five years, the Administrator, in consultation with the Secretary, is to review, based on new information and taking into account the recommendations of the Advisory Committee, the list of eligible project types (Section 104), the methodologies established (Section 105), the reversal requirements (Section 105), measures to improve accountability of the offsets program, and any other requirements to ensure the environmental integrity and effective operation of this title.

**Section 112. Additional regulatory standards for emission reductions.**

This section states that nothing in this Title authorizes the Administrator to regulate emission reductions from any project or activity carried out under this Title. It also states that no person shall be required to hold allowances for emissions resulting from the use of gas as an energy source if the gas is derived from a domestic methane offset project approved under this title.

**Section 113. Use of credits for compliance purposes.**

The Administrator is directed to require that owners and operators of facilities that are subject to regulation under a Federal law enacted for the purpose of regulating GHG emissions may satisfy allowance requirements by submitting credits generated pursuant to this title.

**Title II – Carbon Conservation Program****Section 201. Definitions.**

This section gives the relevant definitions for this title. “Secretaries” means the Secretary of Agriculture and the Interior, as appropriate.

**Section 202. Carbon Conservation Program.**

The Secretary of Agriculture is directed to establish, and jointly administer with the Secretary of the Interior, a carbon conservation program. The Chief of the Forest Service is designated to carry out all forestry-related components.

The purpose of the program is to provide incentives for activities that reduce GHG emissions or permanently store carbon. Projects conducted under this title cannot receive offset credits for the same activity under Title 1. Other purposes include rewarding the continuation of practices by early adopters of conservation practices, supporting the development of new methodologies for landowners to participate in offset projects under title 1, improving management of privately-owned and Federal land, and avoiding the conversion of land that would result in increased GHG emissions.

In carrying out this program, the Secretaries are directed to provide incentives for projects that reduce GHG emissions or sequester carbon through conservation easements, sequestration contracts, timber harvest or grazing contracts, or any combination of these.

The Secretary of Agriculture is to enroll acreage in this program through the use of permanent easements. To be eligible for enrollment, the easements need to provide measureable carbon sequestration benefit.

The Secretary of Agriculture may also offer sequestration contracts for a period of ten years. A non-forestry contract holder may withdraw from a contract without penalty after five years. The compensation provided under a contract is to be commensurate with the emission reductions obtained and the duration of the reductions. Once a contract for a project under this subsection expires, future reductions may be eligible to receive offset credits pursuant to Title 1. Regulations for addressing reversals must be developed.

The Secretaries are directed to offer financial incentives through timber harvest contracts entered into by the Forest Service or Bureau of Land Management for projects that sequester or reduce GHGs. Similarly, the Secretaries are directed to offer incentives to leaseholders through grazing contracts entered into by these agencies.

### **Section 203. Carbon Conservation Fund.**

This section establishes in the Treasury a separate account to carry out this title. All amounts deposited into the fund are to be available without further appropriation or limitation.

## **Title III – Rural Clean Energy Resources**

### **Section 301. Findings.**

This section states findings of Congress regarding biofuels and bioenergy. It states that expanding the production of biofuels and bioenergy offers a significant opportunity for rural economic development.

### **Section 302. Biorefinery assistance.**

Of the amounts in the Rural Clean Energy Resources Fund (section 305), not less than 20 percent is to be used to provide grants under section 9003 of the Farm Security and Rural Investment Act and not less than 60 percent is to be used to provide loan guarantees under that section.

### **Section 303. Repowering assistance.**

This section amends Section 9004 of the Farm Security and Rural Investment Act by redefining an eligible entity, and excluding energy-intensive trade-exposed facilities from that definition.

### **Section 304. Rural Energy for America Program.**

Of the amounts in the Fund established in section 305, the Secretary is directed to use funds as are appropriate to carry out the Rural Energy for American Program under section 9007 of the Farm Security and Rural Investment Act of 2002.

### **Section 305. Rural Clean Energy Resources Fund.**

This section establishes in the Treasury a separate account (Rural Clean Energy Resources Fund) to carry out this Title and Title IV. All funds are to be available without further appropriations or limitations.

## **Title IV – Agricultural and Forestry Research for Greenhouse Gas Mitigation**

### **Section 401. Findings.**

This section states findings of Congress including that the percentage of U.S. GHG emissions that can be sequestered in the agricultural and forestry sectors could be increased through activities that increase sequestration in soils or forests. Congress also finds that the sectors are experiencing the effects of global warming, and that adaptation is needed to sustain agricultural and forest productivity.

### **Section 402. Research and Demonstration Program.**

This section directs the Secretary to carry out research and demonstration activities regarding sequestering carbon through agricultural, grazing, and forestry practices; approaches to reducing methane and nitrous oxide emissions associated with agricultural production; adaptation of agriculture and forestry practices to the effects of global warming; new approaches to soil carbon sequestration; and others. The fund established under section 305 is to be used to carry out this section.