

Overall, the early draft of the Boxer-Kerry legislation includes four titles that take aim at greenhouse gas emissions across multiple economic sectors, as well as a "transition and adaptation" section aimed at helping the nation cope with the costs of a climate bill and the expected repercussions of global warming.

Both the early draft and the Boxer-Kerry bill due for release tomorrow will leave blank key information about how the senators intend to distribute hundreds of billions of dollars in emission allowances. Following the path of Democratic leaders of the House Energy and Commerce Committee, those figures will come next month when Boxer releases a chairman's mark of the bill before an EPW Committee markup.

To deal with economic uncertainties, the draft Boxer-Kerry plan would establish a strategic allowance reserve that allows U.S. EPA to sell credits into the carbon market via an auction in the event credit prices rise faster than expected.

The draft also mirrors the House on offset projects that allow industry an alternative compliance option to pay farmers and other landowners for environmentally friendly projects. Both the House-passed bill and this early Senate draft allow capped sources to collectively use emissions offsets to meet 2 billion tons of their obligations annually -- divided evenly between domestic and international credits, with the amount of international credits allowed to increase if insufficient domestic offsets are available.

The early draft of the Boxer-Kerry bill heeds environmentalists' requests by removing a section of the House bill that would have restricted EPA's ability to enact climate change regulations.

Like the House bill, the Boxer-Kerry draft would provide emissions allowances to fund commercial deployment of carbon capture and sequestration, although it does not provide specifics. It also establishes performance standards for emissions of greenhouse gases from new coal-fired power plants.

Other examples of overlap with the House bill include establishing a new coordinated regulatory process for geologic sequestration sites and creating an EPA labeling program to disclose the carbon content of products and a new office of consumer advocacy within the Federal Energy Regulatory Commission, to name a few.

Divergence from House

There are also significant differences between the Senate draft and the House bill.

For example, Boxer and Kerry propose a different approach for oversight of the carbon market, which in the House bill is shared between FERC and the Commodity Futures Trading Commission, with FERC regulating the cash market for allowances and offsets and CFTC handling the derivatives market.

The draft Senate plan, in contrast, would place the carbon markets under a single regulator -- the brief carbon market section would have CFTC regulate both markets. It also broadly empowers the regulator to prevent manipulation of these markets and eliminate "excessive speculation" that adds to price volatility.

Lawmakers are likely to seek more detailed provisions that place controls on these markets.

Elsewhere, the draft Boxer-Kerry bill does not include House-passed language that would bar EPA -- for six years -- from considering greenhouse gas emissions from so-called international indirect land-use changes when implementing the national biofuels mandate.

The Senate draft also has a modest nuclear title, although pro-nuclear senators are likely to push for significant incentives in the final measure. The bill's nuclear title would steer money to the Energy Department for implementing programs to expand expertise in the nuclear field. Advocates of expanding U.S. nuclear power say there are not enough nuclear engineers and other experts to work on the hoped-for buildout of new reactors.

The nuclear title also has a section titled "Nuclear Waste Research and Development," but it is left blank, stating "to be supplied."

Boxer plans to release another version of the legislation in mid-October as a chairman's mark. Hearings are also expected next month, with an EPW Committee markup possible before November. Several other Senate committees are also planning to weigh in, with Majority Leader Harry Reid (D-Nev.) the ultimate judge on what the bill looks like before the floor debate.

"Though the process sounds daunting, complex processes are part and parcel of passing major legislation," said Tony Kreindler, a spokesman at the Environmental Defense Fund. "The most important thing is that the draft be taken for what it is: a starting point that senators can work with, tailor and pass."

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