The emerging carbon market: Benefits for Georgia's forestry industry and how to take advantage of them on the front-end

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With the change in administration and fervor at the local, national and global level, the question today is no longer if the United States will regulate carbon dioxide emissions, but how. The Bush Administration began the process. On July 11, 2008, in response to a ruling by the U.S. Supreme Court, the Bush EPA issued a Notice of Proposed Rulemaking on regulating greenhouse gas emissions under the Clean Air Act. The document—more than 500 pages long—outlines potential alternatives for regulation, including a market-based cap-and-trade program; a rate-based emission credit program (tradable performance standard); an emission fee (carbon tax) to polluters; and a hybrid approach of these programs.

The Obama Administration is now moving inexorably toward control of greenhouse gas emissions. In February, the EPA issued a notice that it will reconsider its denial of California's request to regulate motor vehicle emissions under California's climate change legislation. In his first address to Congress, President Barack Obama expressly called for legislation with a "market-based cap" on greenhouse gas emissions in order to "transform our economy, protect our security, and save our planet from the ravages of climate change." The 2009 Economic Stimulus package also contains provisions relating to a reduction in greenhouse gas emissions. For example, $3.4 billion is allocated for Fossil Energy research and development and $2.5 billion is allocated for energy efficiency and renewable energy research. Most recently, in his proposed 2010 budget, President Obama forecast government revenue based on legislation establishing an emissions cap achieving 14 percent below 2005 emission levels by 2020 (and becoming increasingly stringent over time). Thus, while it has become increasingly certain that greenhouse gases will be regulated, the specifics of the final form of regulation—and its impact on Georgia—remain to be determined.

In its simplest terms, a cap and trade program is a system aimed at controlling air pollution by providing a cumulative cap for all emitters, plus economic incentives for emitters to reduce their emissions. An agency sets a cap on the amount of a pollutant that can be emitted and companies are issued permits that provide a specific allowance for the amount of a pollutant that company can emit. (This allowance may be based on historical emissions, or may be established by an auction system.) A company that exceeds this allowance is required to either buy allowances from those who do not use their allowance, or purchase offsets from third parties. It is in this field of offsets where forestry and land management industries in the South can truly benefit

"It is just a moving target," says Jonathan Burt, a forest economist and senior project manager with LandVest, Inc. "We are all discussing a federal cap and trade program, and the form it will take, but the rules have yet to be written and the role forestry will play has not been defined, but there is lots of opportunity at this point to influence the process and promote forestry as a viable offset."

Josh Love, coordinator of carbon registry and ecological services for the Georgia Forestry Commission, agrees and thinks that the national system will likely be a combination of the current programs, and that he hopes the proposed system takes into account all types of sustainable timber management.

At a conceptual level, it is clear that any cap and trade program will involve identifying viable timber acreage for carbon sequestration, through means such as contractual agreements that place a fixed amount of acreage in escrow, or conservation easements restricting harvesting. The question of how permanent the set aside must be is still open, and may depend on use of any timber cut and future management of the land.

For example, the Chicago Climate Exchange (CCX) (the only voluntary cap-and-trade system for all six greenhouse gases in North America) offers offsets—in the form of tradable Carbon Financial Instrument contracts—to owners or aggregators of eligible projects. Forest offsets are available in three categories: afforestation, long-lived wood, and managed forest projects. To be eligible, forestry projects must undergo third-party verification by a CCX approved verifier, who will evaluate the project to assess its actual, annual greenhouse gas sequestration or destruction. That report is then inspected for completeness by the Financial Industry Regulatory Authority.

Uncertainty as to the specifics of future mandatory regulations, therefore, does not mean forest owners should sit idly by.

"It is important that they start talking about carbon markets and forest management practices under different carbon trading programs," says Burt. "Based on those existing requirements, landowners can start taking small steps in their traditional forest management and conforming to future inventory and accounting requirements for carbon registries."

There are also many existing land management strategies that forest landowners can look to and plan for in order to prepare themselves for selling car-

bon offsets from a fungible source. As an example, Love points to existing management practices that utilize escrow accounts where a landowner has 100 acres of land but is prevented—by the terms of the management agreement—from selling 10 acres, which he must maintain as a bank to draw from in case of forest loss. Other available options include insurance policies, which offer coverage in the event acreage for which credits have been sold is lost or destroyed, and shorter-term contracts, which specifically state that carbon credits only last for a certain period of time.

Although Georgia does not have a mandatory program, the Georgia General Assembly passed enabling legislation in 2004 that established the Georgia Carbon Registry, a voluntary program administered by the Georgia Forestry Commission ("GFC") and the Georgia Superior Clerks Cooperative Authority. Although it is currently undergoing some revisions and modifications, the purpose of the registry is to provide forest landowners, municipalities, and public and private entities with an official mechanism for the development, documentation, and reporting of carbon sequestration projects undertaken in Georgia. Love states that GFC is working on educational efforts and pushing hard on policy in order to make Georgia a leader in the emerging carbon marketplace.

"Our ultimate goal is to get business in Georgia," says Love. "We're offering a registry that provides quality assurance and the highest transparency for our offsets because they are verified through third parties."

"The United States, and especially the South, is at the forefront in natural resources offsets," says Love. "Offsets are going to be very important in the beginning because it is going to be cheaper and easier for a company to offset emissions than change. But as we go forward, technology will improve and those emitters will more easily meet the allocations and won't need to rely on offsets as much."

Even though such practices may cost money on the front end, landowners who can meet specifications and enter the registry in the early trading years are more likely to reap economic benefits, says Burt.

In fact, the most recently considered version of cap and trade legislation, the Lieberman-Warner Climate Security Act of 2007, expressly included benefits—in the form of early action allowances—to companies that took early action. Although this Act was not enacted into law, future legislation likely will contain similar benefits and companies that undertake programs aimed at efficiency, emissions reduction and carbon sequestration now likely will receive significant benefits under eventual legislation.

The required steps to certify and document sequestration credits, and the range of possible structures and agreements that can be used to achieve them, mean that in order to meet and take advantage of these emerging markets and systems, foresters and landowners should speak to environmental consultants and sustainability lawyers to take advantage of and become more knowledgeable about the new issues. Such professionals are prepared to address the issues as new markets emerge for buying and selling carbon credits and new regulations are issued. They can offer advice on oversight and compliance, financing, credit and trading issues under both domestic and foreign law. They can also speak with landowners who seek to begin to organize and develop sequestration projects for purposes of selling offset credits into the voluntary and emerging regulatory carbon markets.

"Today, unless there is a conservation easement already in place, landowners may not want to do anything just yet," says Burt.. "Prices of less than $10/ton don't seem to offer much incentive to encumber property or alter management practices and absorb costs associated with compliance. But it's something to keep in mind. Once regulation arrives, those that are prepared will be most likely to reap the benefits." ❖

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