

# Cap & Trade

A Midwest accord may create opportunities for law firms and their clients.

By Arthur Harrington

In 2007, seven members of the Midwestern Governors Association signed the landmark Midwest Greenhouse Gas Reduction Accord ([www.midwesterngovernors.org/resolutions/GHGAccord.pdf](http://www.midwesterngovernors.org/resolutions/GHGAccord.pdf)).

The roster included governors Jim Doyle (Wisc.), Tim Pawlenty (Minn.), Chester Culver (Iowa), Jennifer Granholm (Mich.), Kathleen Sebelius (Kansas), Rod Blagoevich (Ill.), and premier Gary Doer (Manitoba). Governors Ted Strickland (Ohio), Mitch Daniels (Ind.), and M. Michael Rounds (So. Dakota) also signed as observers.

The accord will:

- Establish greenhouse gas reduction targets and timeframes consistent with member states' targets;
- Develop a market-based and multi-sector cap-and-trade mechanism to help achieve reduction targets.
- Establish a system to enable tracking, managing and crediting for entities that reduce greenhouse gas emissions.
- Develop and implement additional steps as needed to achieve the reduction targets, such as low-carbon fuel standards and regional incentives and funding mechanisms.

#### IMPORTANT ELEMENT

The most important element of this pact is the commitment to develop a cap-and-trade system for carbon emissions, which will be set up over the next year and completed by 2010. Lawyers should pay close attention to this program, not only for the benefit of their own firms, but for their clients' as well.

Under a cap-and-trade program, participating states establish legal enforceable limits for greenhouse gas emissions within designated sectors of the economy (e.g., boilers in the paper industry or mobile sources such as trucks in the transportation industry).

Regulated entities could meet these limits by:

1. Achieving actual greenhouse gas reductions through their own activities (e.g., through conservation or installing pollution control equipment).
2. By purchasing certified reduction credits generated by third parties.

Credits would be certified where third parties have achieved their own reductions beyond the



late credits that may be sold for higher value as the cap-and-trade market matures. While these opportunities are most important for businesses with high energy usage, law firms can expect to obtain substantial financial benefits. There are numerous programs that law firms can adopt, such as virtual servers, recycling programs, computer use policies, and work-at-home programs.

Simple steps can have large consequences. For example, using sleep mode on computers and printers when inactive can reduce their energy use by approximately 70%.

Reducing paper can have an immediate impact. A typical 180-lawyer firm generally uses more than 90 tons of paper per year, which results in about 18,000 tons of CO<sub>2</sub> emissions as part of paper production, as well as other adverse environmental effects. Certified credits for greenhouse gas emission reductions associated with these green law office activities can be substantial.

Many state governments offer programs to assist businesses. For example, many businesses are eligible to receive free energy evaluation assistance through Wisconsin's Focus on Energy program, which also offers grants which can amount to \$250,000 per project per year, and up to \$500,000 in total per year.

Emission reductions accomplished today may prove valuable in the future. Qualified emission reductions credits outside the United States are trading at a premium in the overseas market based on Europe's cap-and-trade system.

Law firms that act now to develop strategies to reduce their emissions should document these reductions and have them certified by professionals for future market trading. Also, contract documents must clearly define who has the right to emission reduction credits associated with customers, suppliers and sale or purchase of facilities.

Check with your local and state officials to see what emission reduction projects are in the works in your venue. You'll help your clients, your firm, and the planet we all share. LTN

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