

U.S.

# Trump Administration Sues California Over Cap-and-Trade Market

Lawsuit argues the state's emissions-trading market is unconstitutional because Quebec is a partner



Bumper-to-bumper traffic near the Ballona Wetlands Ecological Reserve in Los Angeles. The Justice Department is suing California over its emissions-trading market, which aims to reduce air pollution. PHOTO: PATRICK T. FALLON/BLOOMBERG NEWS

*By Timothy Puko*

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WASHINGTON—The Trump administration filed suit Wednesday to shut down California's emissions-trading market designed to limit air pollution, claiming it is unconstitutional because it is run in cooperation with the Canadian province of Quebec.

The lawsuit contends that international pacts such as California's cap-and-trade program can be agreed to only by the federal government, or with its blessing.

"Defendants have intruded into the federal sphere," Justice Department lawyers wrote in the lawsuit, filed in U.S. District Court in Sacramento, Calif.

Democratic California Gov. Gavin Newsom and environmentalists criticized the suit, saying it appeared to be a politicized attack on climate policy and California in particular. A broad conflict

has brewed between Washington and Sacramento—on fronts including immigration, transportation and gun laws—and environmental policy may be the most intense battleground.

“The White House is yet again continuing its political vendetta against California, our climate policies and the health of our communities,” Mr. Newsom said. “The Trump administration’s abysmal record of denying climate change and propping up big polluters makes cross-border collaboration all the more necessary.”

The lawsuit is the latest assault by the Trump administration on California’s environmental programs. In September, the administration moved to take away California’s ability to set its own vehicle emissions standards, and then informed state leaders that their air-pollution plans may be incomplete or unworkable, putting billions of dollars in federal aid for the state at risk.

Separately, the Justice Department has launched an antitrust probe of an emissions-policy agreement California struck with several auto makers.

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California’s cap-and-trade program is one of the state’s primary ways of encouraging businesses to reduce carbon dioxide and other greenhouse-gas emissions that cause climate change.

About 450 businesses, such as power plants and factories, have to comply, acquiring allowances for or buying and selling credits to offset their emissions, according to the environmental not-for-profit Center for Climate and Energy Solutions. Auctions for those allowances have brought in nearly \$20 billion for the state and its utilities during the program’s roughly seven-year history, according to the state’s Air Resources Board.

Mary Nichols, chair of the California Air Resources Board, called the suit “another baseless attempt to undermine California’s efforts to protect public health and fight climate change.”

A spokesman for Quebec Premier François Legault said the provincial government hopes California will remain a part of the carbon trading system. “We believe the carbon trading system is a good system and is preferable to a tax to put a price on carbon,” the spokesman said.

The program is proven to cut pollution, and the work California and Quebec have done should be a model for innovative solutions to climate change, said Derek Walker, who oversees U.S. climate

issues at the Environmental Defense Fund, a nonprofit that often collaborates with industry partners.

“The administration is yet again not only tearing down critical health protections and safeguards, but is going after others who seek to uphold or extend them,” Mr. Walker added in a statement.

Trump administration lawyers claim California overstepped its constitutional authority when it struck the agreement to link its market with Quebec’s. That ventures into foreign policy, violating several clauses of the Constitution intended to retain that power for the federal government, the lawsuit argues.

The program is one of several that are part of California’s aggressive effort to address global warming. State leaders have said they implemented many of the initiatives because the federal government isn’t acting quickly enough, putting it at bitter odds with Mr. Trump, who during his campaign called global warming a hoax.

Several administration officials have described California’s efforts as an illegal power grab aimed at driving federal policy from Sacramento.

“Allowing individual states in the Union to conduct their own foreign policy to advance their own narrow interests is thus anathema to our system of government and, if tolerated, would unlawfully enhance state power at the expense of the U.S. and undermine the U.S.’ ability to negotiate competitive international agreements,” the Justice Department said in Wednesday’s filing.

The Justice Department’s previous actions have led Democrats in California and Washington to claim the administration’s actions amount to a political hit. In September, California Sen. Kamala Harris asked the Justice Department’s inspector general to investigate the department’s role, saying there are questions about whether the White House is using federal law enforcement as a vehicle for coercion against perceived political enemies.

Justice Department officials have denied those allegations, and did so again in an interview with The Wall Street Journal about the new case against the cap-and-trade market.

Jeffrey Clark, the assistant attorney general of the Environment and Natural Resources Division, said the case isn’t political and that the department didn’t consult with the White House about filing it.

Mr. Clark said he has had legal questions about California’s actions since 2007 when then-California Gov. Arnold Schwarzenegger said the Golden State can be an example for the governments of the world because it has the “force of a nation-state,” a comment cited in the new

lawsuit. Months before that comment, Mr. Schwarzenegger signed the California Global Warming Solutions Act of 2006, which laid the groundwork for the state's cap-and-trade market.

"That struck me as legally wrong as soon as he said it," Mr. Clark said in the interview. "We're talking about enforcement of the Constitution itself. ... I think California is acting outside of their constitutional lanes in this."

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