

# State Cap and Trade: U.S. Department of Justice Civil Complaint Against California Challenging Quebec Agreement

10/24/2019

The United States Department of Justice (“DOJ”) filed a Complaint in the United States District Court for the Eastern District of California against the State of California, certain of its Officers, the California Air Resources Board, and the Western Climate Initiative, Inc. (collectively, Defendants).

The Complaint alleges that the Defendants unlawfully entered into a cap-and-trade agreement (“Agreement”) with the Canadian province of Quebec.

Cap-and-trade is described as a regulatory system that imposes a cap on greenhouse gas emissions and grants regulated entities emission allowances. Such emission allowances provide entitlement to emit a special quantity of greenhouse gases. This creates a market in which regulated entities may buy and sell allowances.

DOJ states that the referenced Agreement facilitates the California Global Warming Solutions Act of 2006 which requires the state to reduce its greenhouse gas emissions to their 1990 level by 2020 and to facilitate the development of integrated and cost-effective regional, national, and international greenhouse gas reduction programs. It is stated to facilitate a comparable program in Quebec.

The Complaint challenges the Agreement in part arguing:

- California does not have the constitutional authority to enter into an international emissions agreement
- The power to enter into the Agreement is reserved to the federal government
- The federal government must be able to speak with one voice in the areas of United States foreign policy
- The Agreement undermines the President’s ability to negotiate competitive agreements with other nations
- The Defendants have entered into an Agreement without Congressional approval
- The Agreement could encourage other states to enter into similarly illegal arrangements

The Complaint requests a declaration that the Agreement and supporting California laws applied violate the Constitution of the United States. It further asks for a permanent injunction against the operation and implementation of the Agreement and supporting California law as applied. The same relief is sought against all other persons or entities acting in active concert with Defendants to maintain the force and operation of the Agreement.

A copy of the Complaint can be downloaded [here](#).