

Landmark climate policy faces growing claims of environmental racism

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When California passed its landmark cap-and-trade law in 2006, supporters were hopeful that the program would provide the template for other states—and eventually the federal government—to solve the

climate crisis.

Now, many environmental groups are increasingly saying the [program](#) has done little to curb [climate change](#). Worse, they say, it is harming the lower-income areas and communities of color most affected by pollution.

Those environmental justice concerns stopped President-elect Joe Biden from picking Mary Nichols, who leads the California Air Resources Board—the agency that oversees the program—to head the Environmental Protection Agency. And other states, from Pennsylvania to Washington, are now rethinking how they might create similar programs.

"Ten years ago, cap-and-trade was the centerpiece of federal climate legislation and much of the environmental community was really backing it," said Michelle Chan, vice president of programs at Friends of the Earth, a national environmental nonprofit.

"Fast forward to today," she said, and "the environmental community has learned a couple of big lessons, and cap-and-trade has become less of an attractive policy tool in the last decade."

While environmental justice groups have led the outcry over cap-and-trade, other well-known organizations in the environmental movement are divided over the issue. The Sierra Club opposed the 2017 extension of California's cap-and-trade program, saying it would not do enough to limit pollution. A Sierra Club spokesperson did not respond to a request for comment.

Other groups, including the California League of Conservation Voters, Natural Resources Defense Council and Environmental Defense Fund, called the bill a "hard-fought compromise" in a news release and said,

"the benefits in the package outweigh the concessions to industry."

Cap-and-trade programs work by setting a limit on the amount of carbon dioxide that can be emitted each year. Over time, that limit is reduced. Businesses must then purchase credits allowing them to produce certain amounts of carbon. Companies that exceed those amounts may trade for credits with those that have extra. The state uses the money generated from those credit auctions to fund projects to further reduce emissions. Polluters also may purchase offsets, such as funding to protect forests, that can substitute for some emissions reductions.

Many California leaders still call the program a national model and an example of bold climate leadership. But earlier this month, more than 70 [environmental groups](#) wrote to Biden saying Nichols had ignored environmental injustices created by the program. That letter put cap-and-trade in the crosshairs.

"Under cap-and-trade, large polluters buy credits instead of reducing emissions," said Jim Walsh, an analyst with advocacy group Food and Water Watch, which was among the groups that signed the letter.

"Those large polluters tend to be located near low-income communities and communities of color," he said. "We've seen emissions increase in [those] communities because of cap-and-trade programs."

Washington Gov. Jay Inslee, a Democrat, considered those issues when he recently proposed a cap-and-trade program for the state's largest polluters, including fuel and natural gas suppliers, electricity generators and importers. While the structure of the program is similar to California's, some Washington leaders think it's more tailored to address environmental justice concerns.

One of the tweaks would allow regulators to halt the sale of carbon

credits if the price falls too low, preventing companies from cheaply hoarding pollution allowances, said Lauren McCloy, Inslee's senior energy policy adviser. Another mechanism would allow the state to intervene if carbon pricing alone is not driving down pollution in certain communities.

"If [the Washington State Department of Ecology] sees an entity is not reducing emissions or is increasing emissions, particularly in a community that's been highly impacted by health disparities, they would be able to impose an entity-specific emissions cap," McCloy said.

While details have not yet been finalized, McCloy said the bill would likely allow companies to purchase carbon offsets in place of some [emissions reductions](#). Every investment made from the program's revenue would need to go through an analysis of its impact on low-income communities and people of color.

But many remain unconvinced that even a well-structured cap-and-trade program can be equitable.

"At the end of the day, we just want to see the [emissions] reductions, we want our people to see the difference on the ground in their neighborhoods," said Jill Mangaliman, executive director of Got Green, a Seattle-based environmental justice group.

"[The state] has the power with regulatory action to go right to the heart of it instead of creating these loopholes," she said. "Credits and offsets are not real reductions. They're a way for polluters to buy out of their responsibility."

Many opponents of cap-and-trade would instead like to see strict emissions limits and strong enforcement, regulating carbon like other pollutants instead of creating elaborate markets to incentivize gradual

reductions. They also call for cutting off fossil fuel development, which is contributing to global carbon emissions that the U.S. can't regulate.

"We've always been in favor of direct reductions and regulation," said Ingrid Brostrom, assistant director at the Center on Race, Poverty & the Environment, a California-based environmental justice nonprofit. "That is going to be the best solution for environmental justice communities."

While California has been successful at reducing its emissions, critics say the state has been too friendly to polluters and that the bulk of the progress has come from a recession, strict auto pollution standards and a requirement that power providers produce more clean energy.

"California's cap-and-trade program is a cautionary tale," Brostrom said. "The concept of trading pollution is always going to have a tendency to entrench pollution sources where they're at, and that's going to be in low-income communities and communities of color."

Even with a more aggressive cap-and-trade program, many critics think the credit-trading and offsets built into the policy create a "pay-to-pollute" incentive. A large oil company can buy extra carbon credits from others and invest in a forest conservation project in New York, rather than reducing toxic pollution at a refinery in a marginalized California community. While cap-and-trade has helped reduce emissions to some degree, the benefits have not been equally shared, and some who live near the state's worst polluters have seen their air quality worsen.

"We warned policymakers that the way cap-and-trade was being packaged is racist," said Chan, who signed the letter opposing Nichols' appointment.

"Policymakers at the time said climate change is too important for us to let the disproportionate impacts that will occur in black and brown

communities hold us back."

Three years ago, California lawmakers passed a 10-year extension to the cap-and-trade program. Assembly member Cristina Garcia, then the chair of the Natural Resources Committee, helped move the bill through her chamber, while state Sen. Bob Wieckowski, who led the Environmental Quality Committee, did the same in the Senate. Both Democrats had proposed revisions to the program, but when those failed, they felt pressure to pass the bill, a major priority of then-Gov. Jerry Brown, also a Democrat.

"If I had the courage, I wish I would have put the brakes on that bill," Wieckowski said. "It hasn't done anything [to reduce emissions]. If we're supposed to reduce our emissions 40% [by 2030] with the cap-and-trade program, we're not gonna get there. It's not magic."

Wieckowski said regulators have set the price of carbon too low and allowed emitters to hoard credits, essentially "banking" future pollution. He also criticized the offset program, which includes forests that have since burned down in wildfires. While Wieckowski thinks a carbon tax may be a better approach, he would like to see stronger "guardrails" on cap-and-trade such as higher minimum prices at credit auctions and an elimination of offsets.

Garcia offered similar criticisms, saying it's far too easy for the worst polluters to pay their way out of meaningful change.

"We sold this to people with the co-benefit of clean air, but we haven't seen that co-benefit," said Garcia, who lives in Bell Gardens, southeast of Los Angeles.

"We're still polluting in communities like mine," she said. "It lets people keep polluting and offset it somewhere else. That's just trickle-down

environmentalism. We've given cap-and-trade a chance for a while now, and maybe we can't fix it. Maybe it's time to walk away and try something different."

In a letter to Wieckowski earlier this year, California Secretary for Environmental Protection Jared Blumenfeld said he was working to reevaluate the extent to which the state's climate strategy should rely on cap-and-trade, as well as considering changes to the program to address emissions projections.

Rajinder Sahota, who oversees California's cap-and-trade program as an assistant division chief with the Air Resources Board, said many of the criticisms of the program are unfair.

She said cap-and-trade has played a key role in driving down power sector emissions. When California utilities need to purchase out-of-state power, the price on carbon makes it cheaper to buy renewable electricity, she said.

The program also has "constrained emissions" from growing further and will reduce allowances and offsets over the coming years, according to Sahota.

"The program is doubling in stringency over the next decade," she said. "It looks nothing like it will look like over the next decade."

Meanwhile, Sahota said, toxic pollutants, unlike greenhouse gases, have until recently been under the jurisdiction of local air districts. The state agency gained authority to regulate those pollutants in 2017, and it's still evaluating where the worst impacts are being felt.

The greenhouse gas regulations in cap-and-trade should not be tied in with air quality issues, Sahota said.

"There is no definitive correlation between greenhouse gas emissions and [hazardous pollutants] in a facility," she said. "To say that reducing one automatically reduces the other is not reality."

California has also sought to invest much of the revenue brought in from cap-and-trade into communities most affected by environmental issues, Sahota said.

Other leaders also still see a role for cap-and-trade. A coalition of Northeast states is using a cap-and-trade plan to regulate power plant emissions, a program known as the Regional Greenhouse Gas Initiative, or RGGI. Proponents say RGGI states have nearly halved their power sector emissions in a decade while generating billions in economic activity from the carbon payments.

But it's unclear if RGGI played a significant role in reducing emissions, as the replacement of coal plants with natural gas—a transition that has happened nationwide—seems to have driven much of the shift. Many of the states in the coalition are looking at a separate cap-and-trade program for transportation emissions, which would target fuel suppliers. Earlier this week, Connecticut, Massachusetts, Rhode Island and the District of Columbia were the first to commit to the transportation sector cap-and-trade plan.

Pennsylvania Gov. Tom Wolf, a Democrat, is seeking to join the RGGI coalition and has directed the state to participate in the transportation program as well. The Pennsylvania Department of Environmental Protection (DEP) noted that cap-and-trade will not solve the [climate crisis](#) on its own, touting its enforcement of other air pollution regulations.

"Cap-and-trade programs have shown that they do play a useful and cost-effective role in reducing carbon and other types of pollution," said

Jamar Thrasher, an agency spokesperson, in an email to Stateline. "DEP is keenly conscious of the need to prioritize communities near those pollution sources."

Meanwhile, Oregon Democrats have made attempts in the past two sessions to pass a statewide cap-and-trade bill. The plan would make Oregon the second state in the nation with such a program. Each time, though, they've been thwarted as Republicans have fled the statehouse to block a vote from occurring.

After failing to increase their margins in the 2020 election, Oregon leaders say they're unlikely to revisit the issue next year.

New Mexico's Climate Change Task Force, a group appointed by Democratic Gov. Michelle Lujan Grisham, is currently evaluating market-based climate programs, such as cap-and-trade.

Maddy Hayden, a public information officer with the New Mexico Environment Department, said cap-and-trade can be effective at reducing pollution and boosting health outcomes. New Mexico is interested in working with other states or existing programs, she added.

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