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By: Maegan Pirtle, Staff Member

California has a history of being at the forefront of state initiatives dealing with urgent environmental problems,[1] and its cap and trade program designed to limit the amount of greenhouse gases produced by industrial polluters is no exception. Under this program, California has set a cap on the amount of carbon that individual industrial entities are permitted to emit and allows those entities that do not use their full allocation to sell excess allowances to other businesses. [2] The hope is that this flexible, market-based approach will incentivize businesses to cut emissions by allowing them to make a profit on unused emission permits.[3]

While the program has been lauded by some as a model for the rest of the country,[4] it is not without its critics. Some argue that the initiative will be too much of a burden on California companies and will ultimately cause businesses to leave the state in droves.[5] On the other side, some environmental groups have also expressed frustration with the program, arguing that it accomplishes too little.[6]

Fears about the impact of this program are to be expected. In addressing serious concerns about industrial pollution, California has adopted a program that is unprecedented outside of the European Union.[7] There is necessarily uncertainty about the effects, both positive and negative, of such a plan. However, there is good reason to believe that effects on business will not be as dire as some are predicting. California, acknowledging these concerns, has taken steps intended to ease the transition, including giving away 90 percent of the initial permits for free with the intent of slowly phasing in the number available for purchase.[8]

Concerns that California's program will not make enough of an impact are also validly considering that one state can only do so much to fix a truly global problem. However, if successful, it has the potential to have wide reaching effects. California's program could serve as a model for the rest of the country, which, as a whole, is responsible for 18 percent of the world's carbon emissions.[9] While there is no guarantee that California's experiment with cap and trade will be as successful as its supporters hope, the potential benefits certainly outweigh the speculative costs.

[1] Daniel Stone, *California Tackles Climate Change, But Will Others Follow?*, N.A.'s GEOGRAPHIC (Nov. 16, 2012),

<http://news.nationalgeographic.com/news/energy/2012/11/121116-california-cap-and-trade>.

[2] Mem. of P. & A. in Supp. of Verified Pet. for Writ of Mandate and Compl. for Declaratory Relief at 1, Cal. Chamber of Commerce v. Cal. Air Res. Bd. (2012),

http://www.calchamber.com/GovernmentRelations/Documents/SIGNED_MPA_11-13-12.pdf.

[3] Stone, *supra* note 1.

[4] Barbara Grady, *Experts Debate Economic Side Effects of California's Cap and Trade Program*, EARTH ISLAND J. (Nov. 16, 2012),

http://www.earthisland.org/journal/index.php/elist/Read/experts_debate_side_effects_of_CA_cap_and_trade.

[5] *California Debuts Landmark Cap-and-Trade System Aimed at Reducing Carbon Emissions*, WASH. POST (Nov. 14, 2012), http://www.washingtonpost.com/business/california-to-debut-landmark-cap-and-trade-system-with-pollution-auction/2012/11/14/54a6c20c-2e32-11e2-b631-2aa09d673ac_story.html.

[6] Grady, *supra* note 4.

[7] *California Debuts Landmark Cap-and-Trade System Aimed at Reducing Carbon Emissions*, *supra* note 5.

[8] Stone, *supra* note 1.

[9] Stone, *supra* note 1.

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