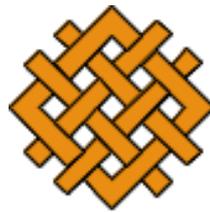




Federalism in the Greenhouse: Defining a Role for States in U.S. Climate Change Policy



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Why Federal Action?

- National Uniformity
- Broader Coverage
- Demonstrate leadership for International Negotiations

Why State Action?

- Local expertise in many areas where action is needed
- Can address local challenges
- Policy innovation
- Drive Federal Action



Why Federal Action?

- National Uniformity
- Broader Coverage
- Demonstrate leadership for International Negotiations

Why a Partnership?

- Substantial uniformity
- Cover all 50 states
- Preserve states' ability to address local concerns, innovate & drive policy
- Demonstrate leadership for international negotiations

Why State Action?

- Local expertise in many areas where action is needed
- Can address local challenges
- Policy innovation

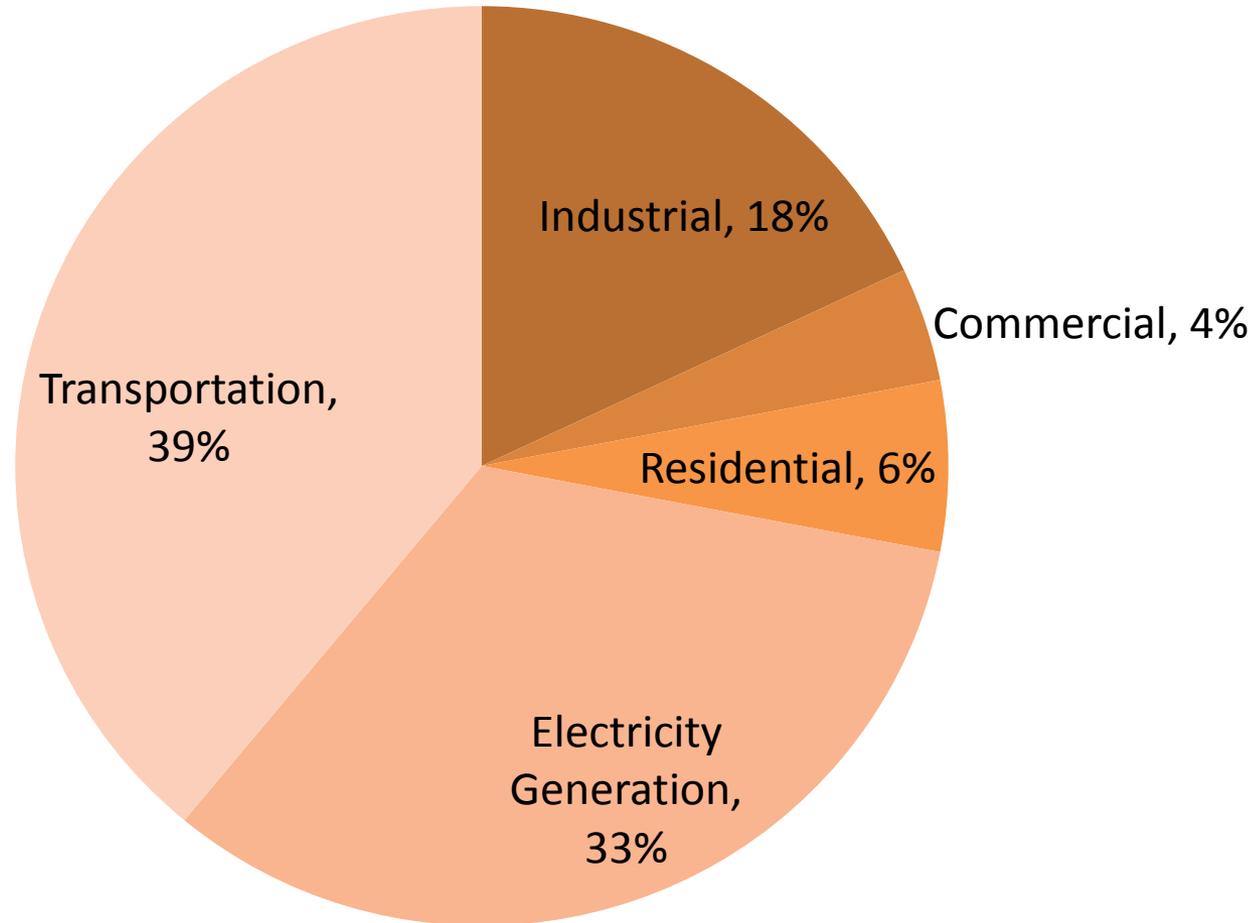


Objective

Create a more effective and efficient system for reducing emissions by allowing each level of government do what it does best.



U.S. Emissions (2005)





For Example: Transportation

- The “three-legged stool”:
 - Reduce vehicle miles traveled through (a) public transit systems; (b) land use planning; (c) transit-oriented development; etc.
 - Improve technology in vehicles through vehicle tailpipe standards, vehicle efficiency standards, smart transportation systems
 - Low carbon fuels through low carbon fuel standard, biofuel mandates



Across All Areas Where Action is Needed

- Many areas of traditional state action
- Many areas of state-federal partnership
- Exceedingly rare to find an area where federal government completely preempts state action, choosing to act alone



Key Points

- Given the broad array of policies that are climate change related, states' role is assured
- The language on states' role in the federal bill is very important
 - Preemption can occur without express preemption
 - Preservation of state authority should be express (as in the Clean Air Act)



Federal Cap is a Ceiling and a Floor

- Ceiling: Once a federal cap is in place, emissions in the covered sectors cannot exceed the federal cap.
- Floor: Once a federal cap is in place, reductions in covered sectors cannot be greater than those required by the cap.
- Sole option: the cap can be adjusted.



Cap has Implications for States

- Reductions required in one state simply free up federal allowances to be “burned” in another state.
- Unless the federal program provides some mechanism to take allowances out of the system to reflect additional reductions, states cannot achieve additional reductions in covered sectors.



Ways to Validate State Actions

- Allocate federal allowances to states and allow the retirement of those allowances.
- Create a federal set-aside. State (and local) actions that are additional result in retirement of allowances from set-aside.
- Allow states to compel the retirement of federal allowances by covered sources in the state.



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FEDERALISM IN THE GREENHOUSE

Defining a Role for States in a Federal Cap-and-Trade Program

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INTRODUCTION

As the U.S. Congress debates policies to address climate change and considers enacting a national cap-and-trade program, lawmakers will have to consider the role that states should play in reducing greenhouse gas emissions, and the extent to which they should be encouraged to go beyond the reductions required by federal policy. Answering these questions will require balancing the benefits of preserving states' ability to innovate and spur reductions with the challenges that state-by-state regulation may create for some businesses. Finding the approach that draws on the unique strengths of each level of government will help ensure a more effective nationwide cap-and-trade program and a more cost-effective means for reducing emissions.

This policy brief presents options for balancing federal and state action within a future federal cap-and-trade program. It does not address specific mitigation policies states might use to achieve reductions. The brief will:

- Review arguments for action at the state and federal levels;
- Examine the law of federal preemption;
- Discuss the difficulties a federal cap-and-trade program could present for states seeking more aggressive reductions than those achieved in a federal program; and
- Provide specific options to enable state climate action while preserving the primary benefits of federal action.

The objective is to create a more effective and efficient system for reducing emissions by allowing each level of government to do what it does best.

EXECUTIVE SUMMARY

Defining a role for states within a federal cap-and-trade program will require balancing the benefits of preserving states' ability to innovate and spur emissions reductions with the challenges that state-by-state regulation may create for some businesses. Finding the approach that draws on the unique strengths of each level of government will help ensure a more effective nationwide cap-and-trade program and a more cost-effective means for reducing emissions. However, it requires expressly providing a mechanism for state action in the federal law.

This policy brief presents the competing arguments for state-led and federal-led climate legislation, and argues for a third—"hybrid"—approach that maximizes the strengths of each level of government. The authors argue that preserving space for state climate change action in a future federal cap-and-trade program will be necessary to achieve desired emissions reductions, and outline possible roles for states under a federal cap-and-trade program. Approaches such as these will allow for continued state innovation while also achieving substantial nationwide uniformity. Without such provisions, the federal government may unwittingly reduce or eliminate the incentive states have to implement strong policies that complement federal efforts.

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TOWARD A CONSTRUCTIVE DIALOGUE ON FEDERAL AND STATE ROLES IN U.S. CLIMATE CHANGE POLICY

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Dialogue on State Roles in U.S. Climate Policy

