

# Federalism and the Trump Administration's Energy Doctrine

A Roadmap for States and  
Other Institutional Players to  
Fill the Climate Change Void

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*This piece is an outgrowth of two previous blog pieces by the author, "Forget Paris? With the Federal Government Withdrawing from the International Climate Change Initiative, U.S. Higher Education Could Lead the Way," Rockefeller Institute blog, June 2, 2017, and "Collaborative State Models Could Fill the Federal Climate Change Void," Rockefeller Institute blog, April 3, 2017.*



**One of the most significant policy differences between the Trump and the Obama administrations has been over energy policy. On this policy front, President Trump has articulated a clear and consistent message going back to the campaign. He has called for greater production and use of coal and a return of energy regulation back to the states. But in some ways, while the proposed beneficiaries of the president's energy doctrine are the same, he has two conflicting governmental visions to achieve his goal.**

On one hand, the Trump administration is returning energy regulatory authority to the states by unwinding Obama-era climate change programs, including the Clean Power Plan regulations, the first-ever federal regulations to lower CO<sub>2</sub> emissions,<sup>1</sup> as well as exiting the Paris Climate Agreement — a joint multinational effort to combat climate change.

But, on the other hand, the Trump administration is using the federal government to directly intervene on behalf of certain energy sectors, like providing federal financial incentives and rewriting federal rules to give preference to the coal industry.<sup>2</sup>

It is still too early to tell which, if any, of the competing policies will have their intended effect in reversing the downward trend of coal, specifically because states and large institutional players are now aggressively countering through competing programs and policies. We review the possibility of states and other institutional players doing more now that the federal government has given climate change regulatory responsibility back to the states.

## **States Are Driving Climate Change Policy: Regional Collaboratives Lead the Way**

After years of strong federal regulatory action, climate change efforts are now left mostly to the states, which have been actively filling the void. Although the Trump administration has moved to have states be the center of energy policy, in many ways the stage was set when two dozen states sued the Obama administration's authority to regulate power plants under the Clean Power Plan.<sup>3</sup> In response, the Supreme Court, in an unusual move against the government, blocked the Obama-era regulations from being implemented until the case was fully argued, so the federal rules were never executed.<sup>4</sup> Although partisanship largely dictated who sued the Obama administration

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1 For a brief summary, see Gavin Bade, "Obama admin. finalizes Clean Power Plan: Deeper CO<sub>2</sub> cuts, more time to comply" Utility Dive, August 3, 2015, <http://www.utilitydive.com/news/obama-admin-finalizes-clean-power-plan-deeper-co2-cuts-more-time-to-comp/403323/>.

2 Timothy Gardner, "U.S. energy head seeks help for coal, nuclear power plants," Reuters, September 29, 2017, <https://www.reuters.com/article/us-usa-powergrid-perry/u-s-energy-head-seeks-help-for-coal-nuclear-power-plants-idUSKCN1C42G0>.

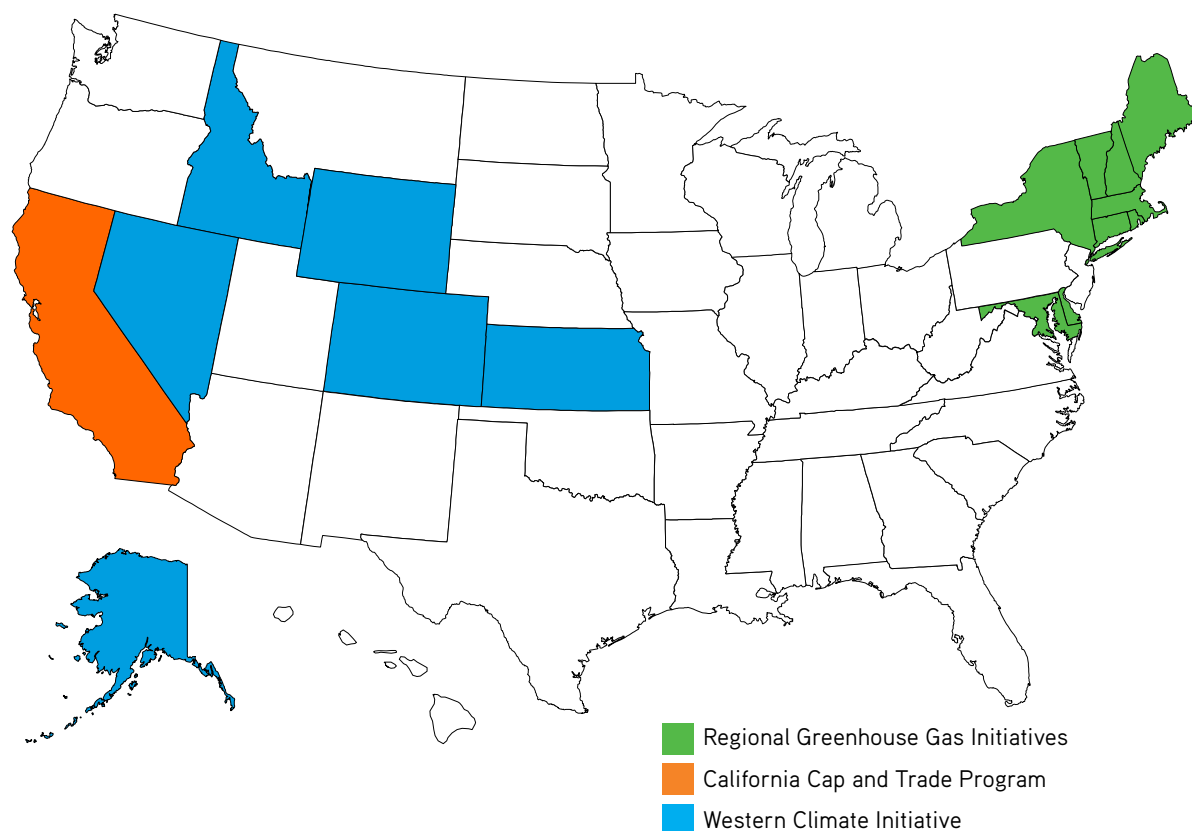
3 Timothy Cara, "Two dozen states sue Obama over coal plant emissions rule," The Hill, October 23, 2015, <http://thehill.com/policy/energy-environment/257856-24-states-coal-company-sue-obama-over-climate-rule>.

4 Lawrence Hurley and Valerie Volcovici, "U.S. Supreme Court Blocks Obama's Clean Power Plan," Reuters, February 9, 2018, <https://www.scientificamerican.com/article/u-s-supreme-court-blocks-obama-s-clean-power-plan/>.

over climate change regulation, the push for states' rights under Obama to regulate the power sector has created opportunities for states to now oppose the Trump administration's action to roll back federal climate change regulations. In other words, in the climate change fight, these states may have won the battle, but could lose the war.

Other states have been eager to combat climate change, moving to enact strong carbon reductions and renewable energy programs, like New York State's Clean Energy Standard<sup>5</sup> and California's clean energy and renewable goals.<sup>6</sup> Most recently, modeled off of New York, New Jersey enacted its own clean energy program.<sup>7</sup> It's not just states. Other large institutional players, like the State University of New York, have implemented aggressive carbon emission reduction and renewable energy programs.<sup>8</sup>

FIGURE 1. State and Regional CO<sub>2</sub> Reduction Initiatives



5 "Governor Cuomo Announces Establishment of Clean Energy Standard that Mandates 50 Percent Renewables by 2030," Office of the NYS Governor, press release, August 1, 2016, <https://www.governor.ny.gov/news/governor-cuomo-announces-establishment-clean-energy-standard-mandates-50-percent-renewables>.

6 "California's 2030 Climate Commitment: Renewable Resources for Half of the State's Electricity by 2030," State of California Energy Commission, accessed April 17, 2018, [https://www.arb.ca.gov/html/fact\\_sheets/2030\\_renewables.pdf](https://www.arb.ca.gov/html/fact_sheets/2030_renewables.pdf).

7 Nick Corasaniti and Brad Plumer, "New Jersey Takes a Big Step Toward Renewable Energy (and Nuclear Gets Help, for Now)," *New York Times*, April 12, 2018, <https://www.nytimes.com/2018/04/12/nyregion/new-jersey-renewable-energy.html>.

8 See Chancellor Kristina Johnson's discussion on retrofitting buildings on SUNY campuses, for instance: "2018 State of the University System Address," State University of New York, January 22, 2018, <http://www.suny.edu/about/leadership/chancellor/speeches/sotus-2018/>.

However, given that the carbon emissions released in one state don't necessarily remain confined to that state, regional approaches by states are also critical. Regional approaches also help level the playing field so states do not face competitive disadvantages. Even with the void created by the recent federal rollbacks, there are successful regional models states could follow.

In the shadow of weak federal climate rules, how do we get sovereign states to cooperate with one another to take on the issue themselves? The Regional Greenhouse Gas Initiative (RGGI) is a collaborative regional program that could serve as a model for states wishing to slow greenhouse gas emissions, such as CO<sub>2</sub>. RGGI is the nation's first mandatory regional market-based cap-and-trade program. The program works like this: the states collectively establish a cap on the amount of CO<sub>2</sub> pollution emitted from power plants in the region. The states issue a limited number of tradeable carbon allowances — or paying for pollution — through a regional market. The revenue raised from the process is used to invest in clean energy and clean-energy technology. For example, in New York, power producers buy carbon allowances up to the cap through an auction and some of those proceeds have financed the carbon-free NY-Sun solar installation program, among other programs.

RGGI applies to the electric generation sector<sup>9</sup> and it was adopted in 2005 by a Memorandum of Understanding (MOU) by the governors of seven states: Connecticut, Delaware, Maine, New Hampshire, New Jersey, New York, and Vermont.<sup>10</sup> Two years later, Maryland and Massachusetts joined.<sup>11</sup> Under the MOU, the actual cap-and-trade program commenced in 2009.

Under the MOU, each state implemented the program through policy, regulation, and laws. In addition, a 501(c)(3), called RGGI, Inc., was created to manage the program and provide technical assistance to the states. Although all sovereignty remains with the states, RGGI, Inc. — which is made up of staff from each state — serves an important coordinating function for the program.

Overall, the program has been successful in achieving its goal to lower CO<sub>2</sub> emissions. A recent analysis found that CO<sub>2</sub> emissions would have been 24 percent higher in the region if RGGI was not in place.<sup>12</sup> Moreover, about \$2 billion in proceeds have been raised for the member states to invest in clean energy technology, energy efficiency, and other climate change mitigation initiatives. Like other states, in New York RGGI funds have been a large source of financial support to expand renewable energy, like solar and wind.

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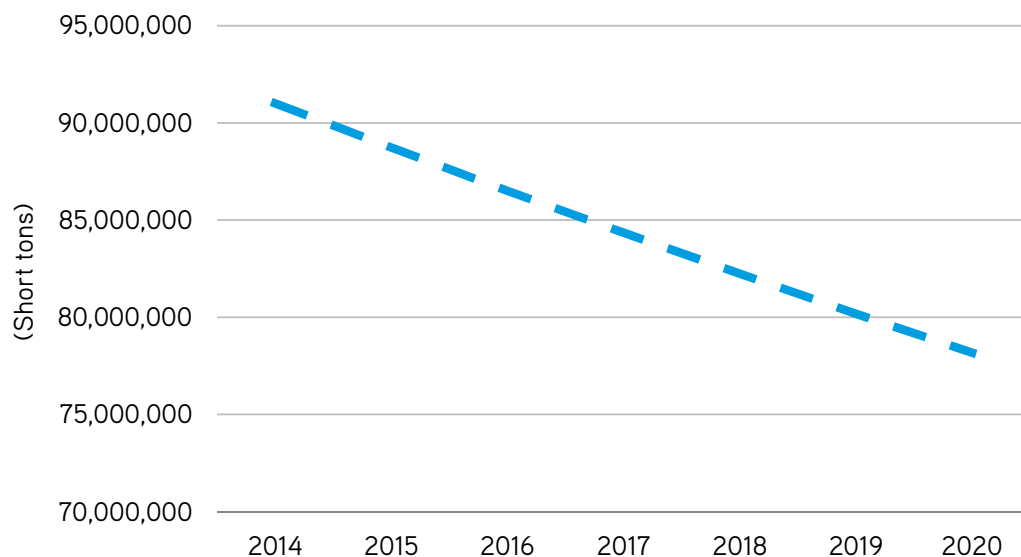
9 Applies to approximately 168 power plants in the northeast (or power plants that have the capacity to generate more than 25MW of power).

10 Regional Greenhouse Gas Initiative, Memorandum of Understand, December 20, 2005, [https://www.rggi.org/sites/default/files/Uploads/Design-Archive/MOU/MOU\\_12\\_20\\_05.pdf](https://www.rggi.org/sites/default/files/Uploads/Design-Archive/MOU/MOU_12_20_05.pdf).

11 Regional Greenhouse Gas Initiative, Second Amendment to the Memorandum of Understanding, April 20, 2007, [https://www.rggi.org/sites/default/files/Uploads/Design-Archive/MOU/MOU\\_Second\\_Amendment\\_4\\_20\\_07.pdf](https://www.rggi.org/sites/default/files/Uploads/Design-Archive/MOU/MOU_Second_Amendment_4_20_07.pdf).

12 Brian C. Murray and Peter T. Maniloff, "Why have greenhouse emissions in RGGI states declined? An econometric attribution to economic, energy market, and policy factors," *Energy Economics* 51 (2015): 581-9, [https://ac.els-cdn.com/S0140988315002273/1-s2.0-S0140988315002273-main.pdf?\\_tid=4f254dbf-2eac-4136-9b0f-ab88b2d9dfe1&acdnat=1523988008\\_f2e34b789542fc20ce19e698484aeeee](https://ac.els-cdn.com/S0140988315002273/1-s2.0-S0140988315002273-main.pdf?_tid=4f254dbf-2eac-4136-9b0f-ab88b2d9dfe1&acdnat=1523988008_f2e34b789542fc20ce19e698484aeeee).

FIGURE 2. Actual and Projected Reductions in CO<sub>2</sub> Emissions Under RGGI, 2014-20



SOURCE: RGGI, Inc.

A key to RGGI's success has been bipartisanship. Even during gubernatorial transitions from one political party to another, membership has been fairly stable (see Table 1). In only one case has a state exited the program when a new party took control. In 2011, New Jersey announced it was leaving the consortium by 2012. The new governor, Chris Christie, called the program "gimmicky" and "a failure."<sup>13</sup> However, earlier this year, New Jersey<sup>14</sup> announced it was re-entering the Regional Greenhouse Gas Initiative and Virginia<sup>15</sup> was taking steps to join as well. So, RGGI continues to grow through multistate cooperation.

There are limitations to the program. States reliant on carbon-heavy sources of power have been resistant to join the initiative. For instance, Pennsylvania — ranked third highest in the nation in carbon emissions — has refused to join RGGI, even though states to the south, like Maryland, have. When Democrat Tom Wolf was elected governor of Pennsylvania, there was talk that the state would finally join the consortium. However, the strong opposition by the coal, oil, and gas industries has thus far kept the state out. More work needs to be done to figure out ways to incentivize carbon-reliant states to join.

13 Christopher Baxter, "Gov. Christie announces N.J. pulling out of regional environmental initiative," NJ.com, May 26, 2011, [http://www.nj.com/politics/index.ssf/2011/05/gov\\_christie\\_to\\_announce\\_nj\\_pu.html](http://www.nj.com/politics/index.ssf/2011/05/gov_christie_to_announce_nj_pu.html).

14 Dustin Racioppi, "Murphy directs New Jersey to re-enter Regional Greenhouse Gas Initiative," northjersey.com, January 29, 2018, <https://www.northjersey.com/story/news/new-jersey/governor/2018/01/29/murphy-directs-new-jersey-re-enter-regional-greenhouse-gas-initiative/1074921001/>.

15 Michael G. Dowd, "Virginia Executive Directive 11 and Proposed Virginia Carbon Dioxide Trading Rule," Virginia Department of Environmental Quality presentation for the Regional Greenhouse Gas Initiative Stakeholder Meeting, January 26, 2018, [https://www.rggi.org/sites/default/files/Uploads/Participation/2018-01-26-Meeting/VA\\_Presentation\\_2018\\_01\\_26.pdf](https://www.rggi.org/sites/default/files/Uploads/Participation/2018-01-26-Meeting/VA_Presentation_2018_01_26.pdf).

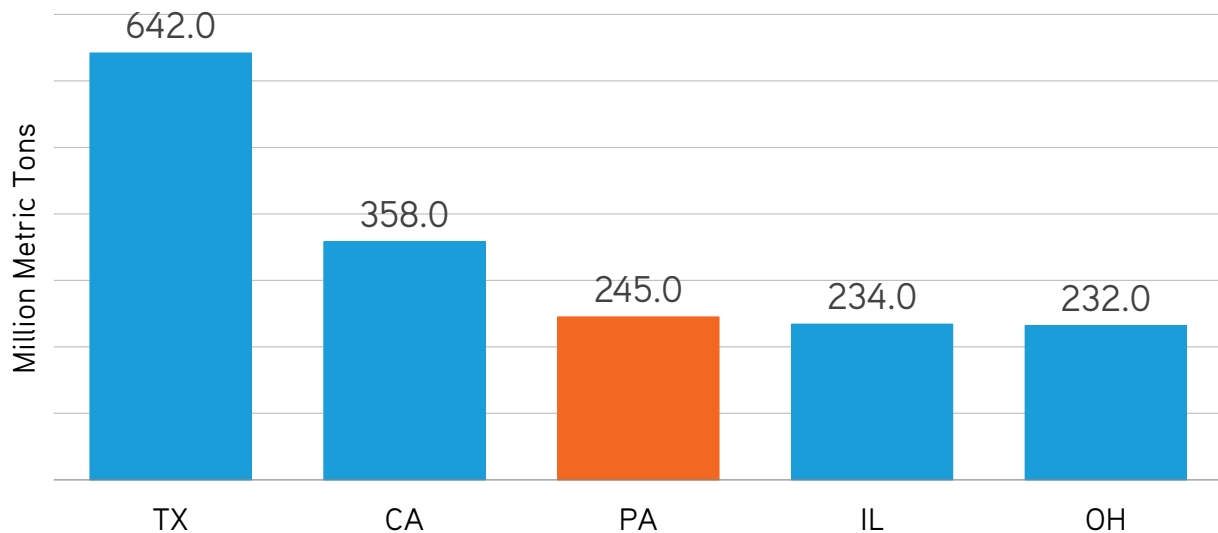
TABLE 1. Bipartisan Coordination and Cooperation Under RGGI

State	Governor	Party Affiliation
Connecticut	Jodi Rell	Republican
	Dannel P. Malloy	Democrat
Delaware	Ruth Ann Minner	Democrat
	Jack Markell	Democrat
	John Charles Carney Jr.	Democrat
Maine	John E. Baldacci	Democrat
	Paul Richard LePage	Republican
Maryland	Robert L. Ehrlich	Republican
	Martin O'Malley	Democrat
	Lawrence Joseph Hogan Jr.	Republican
Massachusetts	Mitt Romney	Republican
	Deval Patrick	Democrat
	Charles Duane Baker Jr.	Republican
New Hampshire	John Lynch	Democrat
	Maggie Hassan	Democrat
	Chuck Morse	Republican
	Christopher T. Sununu	Republican
New York	George E. Pataki	Republican
	Eliot Spitzer	Democrat
	David A. Paterson	Democrat
	Andrew Cuomo	Democrat
Rhode Island	Don Carcieri	Republican
	Lincoln Chafee	Democrat
	Gina Marie Raimondo	Democrat
Vermont	Jim Douglas	Republican
	Peter Shumlin	Democrat
	Philip Scott	Republican
New Jersey*	Richard J. Codey	Democrat
	James E. McGreevey	Democrat
	Jon Corzine	Democrat
	Chris Christie	Republican
	Phil Murphy	Democrat
Virginia?	Ralph Northam	Democrat

\* Exited the consortium in 2012; re-entering 2018.

Since the creation of RGGI, other states have adopted a cap-and-trade program, namely California<sup>16</sup> (its program has been up and running for more than two years). Moreover, other regional state consortiums have been created, like the Western Climate Initiative, though it still is not fully formed.

FIGURE 3. Highest Carbon Emissions in the Nation, by State



SOURCE: U.S. Energy Information Administration.

## Going Beyond States: Large Institutional Players, Like Higher Education, Could Play a Significant Role

As states (and other government partners, such as cities) are moving to work cooperatively to combat climate change, higher education has a unique opportunity to effect significant change. It comes down to a willingness to foster more cooperation among the colleges and systems across the nation.

Why higher education? Not only are we the idea generators for fueling the clean technology economy, it's also the sheer size of the sector that can leverage its collective power to reduce the nation's carbon footprint.

Colleges and universities are some of the largest energy users in the country — spending nearly \$14 billion annually on energy. In many cases, campuses are cities unto themselves. For example, the University of Buffalo's student body population and employees make it larger than the population of six counties in New York.<sup>17</sup>

<sup>16</sup> Although RGGI faced industry opposition, lawsuits, and other attacks, it has not nearly been as contentious as California's program. See Michael Hiltzik, "California's cap-and-trade program has cut pollution. So why do critics keep calling it a failure?," *Los Angeles Times*, July 29, 2016. <http://www.latimes.com/business/hiltzik/la-fi-hiltzik-captrade-20160728-snap-story.html>.

<sup>17</sup> The University at Buffalo, and its more than 36,000 students and employees, is larger than Seneca, Schoharie, Lewis, Yates, Schuyler, and Hamilton Counties.



In response, colleges and universities across the nation have focused on becoming more energy efficient, as well as using cleaner sources of energy in order to reduce their carbon footprint. Many have joined coalitions, like the Second Nature network,<sup>18</sup> that include 600 campuses committed to fighting climate change. In New York, reducing the SUNY system's carbon footprint has been a priority in the system's strategic plan<sup>19</sup> and the new chancellor, Kristina Johnson, has made clean energy and reducing the carbon footprint a central mission of her tenure.<sup>20</sup> In addition, many schools, both public and private, are taking aggressive steps to become greener. For example, four New York State schools are in the top thirty "Largest Green Power Users" in the nation.

Much is being done at colleges and universities, but they are often accomplished campus by campus — or system to system.

But what if higher education harnessed individual campus/system green energy activities and climate goals into mass collective action? It could make a profound difference.

Let me put the potential for scale in perspective. There are more than twenty-four million students and employees currently at our colleges and universities throughout the nation. If higher education was a state, it would be the third largest state in the nation, behind only California and Texas. It would be larger than states like New York and Florida.

Since the federal government has delegated authority, higher education could take a leadership role and follow models like the Northeast Regional Greenhouse Gas Initiative. Although colleges and universities aren't states — and may not be able to do certain things states can do under RGGI, like a cap-and-trade system — they could join together through a formal process to memorialize a more binding unified agreement. In this case, RGGI is a good guide. Through an MOU, colleges and universities could establish one common program to reduce carbon emissions. Like RGGI, they then could establish an organization made up of faculty, staff, and other experts across the system to provide technical expertise and modeling to implement the program.

Success is limited to participation. Big coal and fossil fuel states, like Pennsylvania, have refused to join the RGGI program. But what if SUNY joined with Penn State, UMass, and other large systems under one joint program to lower carbon emissions? As large energy consumers, these systems of higher education could fill the void of state inaction. It could serve as a leadership model in response to federal inaction. And campuses seem inclined to so do. After eighty-six years of using coal, in 2016, Penn State converted to natural gas, a cleaner source of energy. The potential is there. If higher education worked together with a collective mission, goals, and rules, it could lead the way in combatting global climate change.

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18 "Accelerate Progress. Scale Impact. A diverse network of hundreds of colleges and universities implementing comprehensive plans in pursuit of a sustainable future," Second Nature, accessed April 17, 2018, <http://secondnature.org/who-we-are/network/>.

19 "An Energy-Smart New York," State University of New York, accessed April 17, 2018, <https://www.suny.edu/powerofsuny/energy-smart-ny/>.

20 Bethany Bump, "New chancellor envisions zero-carbon SUNY," *Times Union*, January 22, 2018, <https://www.timesunion.com/7day-state/article/New-chancellor-envisions-zero-carbon-SUNY-12515241.php>.



A solar array at the State University of New York at Delhi

Higher education should leverage its collective power to combat climate change. There are more than twenty-four million students and employees currently at our colleges and universities throughout the nation. If higher education was a state, it would be the third largest state in the nation, behind only California and Texas. It would be larger than states like New York and Florida.

TABLE 2. Largest Green Energy Campuses in Nation

Partner Name	Green Power Resources
1. University of Tennessee, Knoxville	Solar, Wind
2. University at Buffalo, the State University of New York	Solar, Wind
3. University of Pennsylvania	Wind
4. Georgetown University	Wind
5. Stanford University	Solar
6. University of Oklahoma	Wind
7. Carnegie Mellon University	Solar, Wind
8. Northwestern University	Solar, Wind
9. University of California	Biogas, Biomass, Solar, Wind
10. The Ohio State University	Wind
11. Oklahoma State University	Wind
12. Drexel University	Solar, Wind
13. University of Missouri	Biomass, Solar, Wind
14. University of Maryland	Biogas, Small-hydro, Solar, Wind
15. University of South Florida	Wind
16. University of Wisconsin	Biogas, Solar, Wind
17. Tarrant County College District	Biogas, Biomass, Small-hydro, Solar, Wind
18. The City University of New York	Wind
19. University of Utah	Solar, Wind
20. Ohio University	Solar, Wind
21. University of Vermont	Wind
22. American University	Solar
23. Temple University	Wind
24. Texas A&M University System	Wind
25. Syracuse University	Wind
26. Western Washington University	Wind
27. The Catholic University of America	Wind
28. University of Illinois at Urbana-Champaign	Solar, Wind
29. University of Central Oklahoma	Wind
30. The New School	Various

SOURCE: U.S. Environmental Protection Agency's "Green Power Partnership Top 30 College & University" located at <https://www.epa.gov/greenpower/green-power-partnership-top-30-college-university>.





## An Energy Policy Roadmap for the States and Large Institutional Players to Combat Climate Change

In the era of federal delegation on climate change, states are left to deal with climate change more aggressively. Getting states and large institutional players, like higher education, to cooperate in a collaborative manner will take effort, especially those states that produce the most CO<sub>2</sub> emissions. But collaborative models, like RGGI, are a roadmap that states could follow.

When looking to develop models, states and large institutional players should incorporate the following:

- **Flexible program authority.** RGGI was created by an MOU and signed by the governors of each state, which has provided more flexibility to easily collaborate, as opposed to each state passing a law to enter the program. Although that has resulted in one state — New Jersey — exiting the program after a new governor from a different political party was elected, overall there has been stability in the membership (New Jersey has since re-entered the program). Similarly, systems in higher education could follow a similar path. However, adopting a program through an MOU may have more flexibility, but perhaps not as much authority to implement a stronger system.
- **A centralized management structure that maintains state and institutional sovereignty.** Although the RGGI program is explicit in underscoring that states are sovereign in the process, creating the 501(c)(3) entity to manage the program has provided a central management structure, which has made the program more stable. A similar approach may also work for large institutional players, like systems of higher education.

- **Nimble program adaptability.** The participating states have shown nimble adaptability to address emerging issues, like lowering the CO<sub>2</sub> cap when the initial cap was higher than actual carbon emissions.
- **Public support of a multistate and multi-institutional approach.** RGGI, for instance, enjoys broad public support, making it more difficult for states to exit. A recent poll conducted by Hart Research Associates/Chesapeake Beach Consulting on behalf of the Sierra Club found that 79 percent of people polled support RGGI versus 14 percent who opposed it.<sup>21</sup>
- **A strategy to encourage heavy polluting states and institutional players to join climate change collaboratives.** There have been limitations with RGGI, for instance, the region's biggest polluter, Pennsylvania, refuses to join. What incentives could be offered to encourage Pennsylvania to join remain elusive. To have bigger gains, polluting states, like Pennsylvania, have to be brought into the fold. However, given the recent effort by large players like the Penn State University system to reduce their carbon footprint, there are potential pathways for getting these states and other institutional players to collaborate.
- **Expansion of what the climate change programs cover.** RGGI, for instance, is limited to larger electric power generators. How, and if, the program will expand to other sectors remains a work in progress. Bigger gains will happen if these efforts expand beyond the electric power generation sector.
- **Bipartisan support.** Participation in RGGI has shown that states can work cooperatively regardless of political affiliation. Both Democratic and Republican administrations have taken part, and in virtually every case (except one time), transitions from one administration to another have not resulted in changes in participation.

While the Trump administration loudly announced it was going its own way on the Paris Climate Agreement and has changed the regulatory landscape to combat climate change, it has so far been countered with a resounding call for greater cooperation from states, cities, businesses, and other entities to continue under the agreement. Whether this coordinated effort will be permanently institutionalized remains to be seen, but the blueprint above could lead the way.

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<sup>21</sup> Hart Research Associates/Chesapeake Beach Consulting, "Sierra Club RGGI Survey," Study #11925, July 2016, <https://www.sierraclub.org/sites/www.sierraclub.org/files/program/documents/FOR%20RELEASE%20RGGI%20Survey%202016%20Toplines.pdf>.









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