



A Post-Trump Accounting of State Climate Action

By Michelle Melton

The Trump administration has been a one-two punch for climate hawks. Internationally, the Trump administration has announced that it intends to withdraw from the Paris Agreement. Domestically, various federal agencies have been hard at work to undo President Obama's climate regulations. Federal retrenchment on climate policy has been an important catalyst to state action. Many states are redoubling their efforts in order to fill the gap created by federal deregulation. This paper outlines what actions states have taken to mitigate climate change following the election of President Trump.

Many states—either acting alone or as part of a broader coalition—are proactively trying to reduce greenhouse gas emissions. One salient question is whether these actions are sufficient to achieve the U.S. Paris Agreement pledge of 26-28 percent below 2005 emissions by 2025. The short answer is no, not without further action.¹ A second salient question is whether state actions are significant, despite their inability to fully compensate for federal deregulation. As this post demonstrates, many states are having serious policy conversations about climate change. But the details matter, and many of the details have yet to be filled in. Even states that have adopted new policies still need to start implementing them. Moreover, state actions to date are incremental, piecemeal, and concentrated in a handful of blue and purple states.

With the exception of California—which has been a leader on climate since long before Trump was elected—other states have yet to address emissions in a comprehensive way, or to substantially reduce their emissions. But there is still reason for some hope. The number of states pursuing extensive climate action may soon increase, possibly as early as this summer. And a growing number of states that make up a large portion of the U.S. economy have committed to climate mitigation by employing a wide range of policies, even if these policies are incremental, piecemeal, or experimental. The state policies detailed below are important, independent of whether they significantly drive down U.S. emissions. States are innovating with both policy design and implementation, offering a testing ground for the success and failure of these policies. The surge of state interest in climate policies indicates that there is growing local support in the U.S. for addressing climate change.

¹ It is challenging to estimate whether these emission reduction policies fill the gap created by federal climate policy rollbacks for two reasons: 1) there are few estimates that have quantified the additional emission reductions from state policies, and 2) the size of the gap depends on whether the administration is successful in defending the legal challenges to its regulatory rollbacks. The only [quantification](#) of current state, local, and private sector climate commitments suggests that the U.S. is on track to reduce emissions 17 percent below 2005 levels by 2025—but that it will be difficult, if not technically impossible, to achieve the 26-28 percent target. Regardless of the ultimate size of the gap, it is very likely that there will be a gap.



I. Cooperative state action

Cooperative climate action in response to federal rollbacks has largely taken the form of technical assistance and data gathering for states and local jurisdictions that are already interested in pursuing their own climate policies. It is difficult to determine whether these technical assistance/data-gathering organizations have stimulated additional climate policies, or simply provide a forum for states to publicize actions they would have otherwise pursued. The two prominent multi-state initiatives that have the potential to drive additional emission reductions both pre-date the Trump administration: the Regional Greenhouse Gas Initiative (RGGI) and the Transportation and Climate Initiative (a RGGI offshoot).

The **U.S. Climate Alliance** is a group of 21 states and Puerto Rico, representing about 40 percent of the U.S. population, that have committed to implementing policies that advance the Paris Agreement commitment of 26-28 percent emission reductions by 2025. The Alliance has undertaken initiatives to control super pollutants, advance Green Banks to fund green infrastructure, modernize the electric grid, reduce solar costs, and deploy clean transportation, among other things. But it is not entirely clear what the initiatives are accomplishing. It is not clear whether the Alliance is simply aggregating state efforts or driving reductions beyond existing states commitments. For example, the Alliance's [factsheet](#) on clean transportation touts actions that states have taken outside the Alliance, but provides few details. The factsheet notes that the Alliance is exploring how to support consumer interest in ZEVs (unclear how this is proceeding), is considering rules and requirements that reduce carbon emissions from transportation (ditto), and partners directly with car manufacturers to advance ZEV market penetration and education (ditto). The Alliance has also released a [roadmap](#) on short-lived climate pollutants, but has not yet registered any noteworthy achievements to reduce these super pollutants.

The **We Are Still In** Coalition is a broad group of mayors, governors, business leaders, colleges, universities, and other organizations that have committed to continuing to implement the Paris Agreement. While the U.S. Climate Alliance is comprised of governors who meet on a regular basis to discuss climate policy, the We Are Still In Coalition is not an organization so much as a declaration of support for climate action. **America's Pledge** is a complement to the We Are Still In Coalition that is focused almost exclusively on data collection and reporting to aggregate and quantify the emissions reduction activities of U.S. subnational jurisdictions and the private sector. The reporting to date from America's Pledge focuses on what subnational jurisdictions are doing to address climate change, including quantifying how much emissions could be reduced by new and existing subnational climate policies. The organization has not, however, calculated the actual (as opposed to potential) emission reductions from current policies.

The **Regional Greenhouse Gas Initiative** (RGGI) is a regional cap-and-trade program established in 2008 that covers electricity sector emissions in nine northeastern states. RGGI



[tightened](#) its emissions cap in 2017, and emissions from the power sector in participating states will now be reduced by 30 percent by 2030. New Jersey and Virginia have both taken regulatory steps to join (in the case of New Jersey, re-join) the program. Virginia has [proposed](#) a regulation that would enable it to join RGGI (bypassing the legislature), and New Jersey's governor has signed an [executive order](#) directing the state's Department of Environmental Protection to take all regulatory and administrative steps to rejoin. The comment period on New Jersey's RGGI proposal closed in mid-February, but the state has not yet finalized its RGGI plans.

The **Transportation and Climate Initiative** (TCI) is a regional coalition of nine eastern states and the District of Columbia (membership overlaps with RGGI but is not exactly the same). TCI was founded in 2010 to complement RGGI by addressing emissions from the transportation sector. In 2015, the Georgetown Climate Center, the facilitator of TCI, released a [paper](#) outlining the benefits of a transportation emissions reduction plan. In 2017, several TCI states finally [agreed](#) to engage in a public conversation about policies to reduce emissions from the transportation sector. In late 2018, TCI [announced](#) it will design a regional low-carbon transportation policy proposal to cap and reduce emissions from transportation fuels, modeled on RGGI. As with RGGI, there will likely be a pricing mechanism and revenues will be invested in programs to promote low-carbon and resilient transportation infrastructure. Over the next year, the initiative aims to build out the policy details, including establishing an emissions cap, developing monitoring and reporting guidelines, identifying which entities and fuels to regulate, developing mechanisms for cost containment and flexibility, identifying priorities for investment of proceeds, and establishing processes and timelines for implementation. As with RGGI, only after that work is done (by year-end 2019) will each state decide whether to participate and take steps toward implementation.

II. Individual state actions

A. Cross-sector carbon policies, including carbon pricing

So far, California remains the only jurisdiction with a market-based climate policy that addresses emissions from more than one sector. But there has been an uptick in interest among state legislators in cross-sector carbon pricing bills; lawmakers in 13 states have introduced 25 carbon pricing bills in 2019 alone.² [Oregon](#) is most likely to be the next state to enact cross-cutting carbon pricing policies, but we may have to wait until the end of their legislative session this summer to see whether the cap-and-trade bill succeeds after its failure in last year's (shortened) legislative term. Washington is [poised](#) to implement a cross-sectoral emissions reduction program through regulatory action, but the legality of that regulation is currently in front of the Washington Supreme Court. Washington's Governor Jay Inslee has separately [proposed](#) a fairly comprehensive suite of bills that would cumulatively address the state's emissions from several sectors, from electricity and transportation to buildings and industry. Whether the legislature will pass any of them (much less all of them) remains to be seen. Other state legislatures that have

² See *State Carbon Pricing Network*, CLIMATE XCHANGE (2019) <https://climate-xchange.org/network/>.



proposed some form of carbon pricing include Connecticut, Hawaii, Maine, Maryland, Massachusetts, Montana, New Hampshire, New Mexico, New York, Utah, and Vermont, but these states are not seen as likely to adopt these policies this year.

Beyond legislative action, governors in four states have signed executive orders establishing greenhouse gas emission reduction targets since 2017. In Pennsylvania, Governor Tom Wolf signed an [executive order](#) to cut emissions 26 percent by 2025 and 80 percent by 2050. The governor's action in Pennsylvania follows the submission of a formal [petition](#) arguing the state's regulators have the legal authority and constitutional duty to reduce emissions; the state must respond, although when it will do so is uncertain. North Carolina Governor Roy Cooper signed an executive order directing greenhouse gas reductions of 40 percent by 2025. New Mexico's Michelle Lujan-Grisham signed an [executive order](#) aimed at reducing the state's emissions 45 percent by 2030. In Colorado, then-governor John Hickenlooper signed an [executive order](#) in 2017 to reduce state greenhouse gas emissions 26 percent by 2025.

These new executive orders may be indicative of the changing politics of climate change, but they will not necessarily result in tangible progress on their own. Previous unilateral gubernatorial action in other states has not translated into sustained action leading to emissions reductions. For example, New York's then-governor Patterson released an [executive order](#) announcing a greenhouse gas reduction goal in 2009. Arizona's then-governor Janet Napolitano signed a 2006 [executive order](#) mandating reductions of 50 percent by 2040. Florida's then-governor Crist issued an [order](#) in 2007 with targets culminating in 80% reduction below 1990 levels by 2050. These states are not on track to meet those targets today.

In the absence of comprehensive action, states have had more success enacting sector-by-sector policies.³

B. State electricity policies

Since President Trump took office, several states have increased their renewable portfolio standards, which require state utilities to obtain a certain share of their electricity from renewable sources. Most recently, the New Mexico legislature [passed](#) the Energy Transition Act, which requires the state's utilities to achieve 100 percent renewable energy by 2045. New Mexico's actions follow on the heels of similar bills in other states. In 2018, [California](#) and [Washington D.C.](#) legislatively mandated that utilities purchase 100 percent renewable energy by

³ This post reviews state action in the electricity and transportation sectors, but does not cover state actions on building energy efficiency, waste management, land use, or industrial emissions. For more information on state policies and initiatives addressing the building sector, see Caitlin McCoy, [States as Green New Deal Policy Labs](#), HARVARD LAW SCHOOL ENVIRONMENTAL & ENERGY LAW PROGRAM 6-12 (2019).



2045 and 2032, respectively.⁴ [Connecticut](#), [Massachusetts](#), and [New Jersey](#) all increased their renewable electricity targets (though not to 100 percent) in 2018.⁵

Several states have proposed to increase their state's share of electricity from renewable energy. Legislatures in [Washington](#), [Minnesota](#), and [New York](#)⁶ may pass bills this year requiring 100 percent renewable electricity; similar bills exist in [Illinois](#), [Maryland](#), [Massachusetts](#), New Jersey, Pennsylvania, North Carolina, Michigan, and [Virginia](#), but are less likely to pass.

New York has also announced a [series of policies](#) to reduce greenhouse gas emissions from the power sector, including expanding solicitations for offshore wind projects, expanding energy storage targets, and energy efficiency targets, among other actions.

A handful of states have implemented or are considering policies to support carbon-free electricity generation by increasing renewable energy or energy storage procurement or by subsidizing nuclear power plants to avoid losing a large source of zero-carbon generation. In 2016, [Massachusetts](#) passed a bill that allows procurement of up to 1,600 megawatts of offshore wind by 2027. The state's utilities solicited a procurement and the winners were announced in May 2018. New York, New Jersey, and Rhode Island have also expressed interest in offshore wind procurement. Several states have also proposed to subsidize nuclear power plants that are struggling to compete against cheap natural gas but are considered by some to be critical for providing a zero-carbon source of baseload power. While these policies are often driven primarily by non-climate concerns, they nonetheless have an important impact on each state's emissions. In 2016, Illinois and New York both announced their programs to support zero-carbon nuclear energy, and [New Jersey](#) and [Connecticut](#) followed suit in 2018. [Pennsylvania](#) recently proposed a similar program, but it has yet to take further action. [Ohio](#) lawmakers are also preparing to introduce legislation that would support nuclear power in the state, after a failed attempt to do so in 2017. These proposals are controversial for both environmental and non-environmental reasons, and opponents have filed for review of the [New York](#) and [Illinois](#) programs at the Supreme Court.

C. Transportation policies

Transportation is now the largest source of greenhouse gas emissions in the U.S. overall, as well as in many states. While a majority of states have some kind of renewable electricity standard,

⁴ [Hawaii](#) was the first state to impose a zero emissions RPS, passing a bill in 2015 to achieve 100 percent renewables by 2045.

⁵ In 2017, Maryland was the only state to increase its renewable portfolio standard.

⁶ New York may pass climate legislation this legislative session, but the content of that legislation remains to be seen. There are two competing approaches to climate legislation; one, backed by the state's progressive Democrats, would require the state to get to 100 percent zero carbon electricity by 2050 and a 100 percent zero carbon economy by 2050. The governor has backed a different proposal, which does not include a date for an economy-wide transition. The other primary difference is how the bills treat disadvantaged communities. Both bills would create a council to oversee the transition and develop more concrete policy proposals.



only a handful of states have implemented or even seriously considered stand-alone policies to reduce greenhouse gas emissions from the transportation sector. Paradoxically, the transportation sector is where states are most constrained by federal preemption and yet have the biggest opportunity for state innovation.

The relative dearth of activity in the transportation sector may exist because state options for limiting emissions from transportation are constrained by federal preemption. Under the federal Clean Air Act, states other than California are prohibited from adopting their own greenhouse gas emission standards for motor vehicles, although states may adopt California's standards. Twelve states and the District of Columbia have adopted California's vehicle emission standards, which are also meant to reduce emissions of traditional pollutants. Last summer, Colorado [joined](#) the twelve other states in adopting California's clean car standards, and the new governor recently signed an [executive order](#) to promote electric vehicles in the state. However, the options for action beyond this are limited since the Supreme Court has broadly [interpreted](#) the scope of federal preemption under the Clean Air Act and the Trump administration has even proposed re-interpreting the Act to curtail states' ability to adopt California's GHG vehicle standards.⁷

[Washington](#) has proposed two bills to lower its transportation emissions, both of which would put a price on carbon emissions from transportation fuels, but whether the legislature passes these bills is uncertain. The Washington House recently [passed](#) a low-carbon fuel standard, but whether the Senate also passes it remains to be seen.

One of the most active areas of state climate and transportation policy is related to electric vehicles (EVs). Many states have continued to plan for electric vehicle (EV) expansion, including providing tax credits for EV purchases (even [Texas!](#)), authorizing utilities to expand electric vehicle (EV) charging infrastructure, and [requiring](#) road signs on highways alerting drivers to the availability of EV charging. Some states have adopted targets for the number of EVs they wish to have on the road by a certain date; Minnesota recently issued its first comprehensive [plan](#) for electric vehicles, which also [proposed](#) a goal of 200,000 EVs on the road by 2030, and has proposed to increase funding for EV charging. In addition to state legislatures, state public utility commissions and executive agencies, such as Minnesota's [Pollution Control Agency](#) and [New York State Energy Research and Development Agency](#), are taking action to promote and expand EVs and EV charging. In [Pennsylvania](#), for example, the state's utility commission recently clarified that EV charging infrastructure was allowed under state law and Vermont's utility commission recently [requested](#) the state legislature do the same. In January, Maryland [authorized](#) the state's utilities to install 5,000 EV charging stations. While a number of these programs are financed by the [settlement with Volkswagen](#) over that company's emissions cheating scandal, states are also taking action independent of their VW settlement funds; for

⁷ The Trump administration has proposed re-interpreting the Clean Air Act to strip California of its ability to obtain a Clean Air Act waiver and to curtail states' ability to adopt California's greenhouse gas standards for vehicles. See Michelle Melton, [Beyond the Waiver](#), HARVARD LAW SCHOOL ENVIRONMENTAL & ENERGY LAW PROGRAM (2018).



example California, New York, and New Jersey [recently](#) authorized over a billion dollars to expand charging infrastructure. Some of these programs began before Trump's election, but momentum for them continues to build for policies aimed at easing the transition to electric vehicles.

While the Clean Air Act has broad preemptive effect, states have clear authority to influence transportation emissions through their procurement of state-owned fleets. States are increasingly using their purchasing power to increase EVs among public transportation and within state vehicle fleets. States and local jurisdictions have long had a variety of fleet [mandates](#), ranging from fuel economy and consumption requirements to requirements for certain numbers of hybrid, electric, and fuel cell vehicles. The most aggressive policies have been adopted by California, Washington, Oregon, New Jersey, Massachusetts, and Rhode Island. With the exception of [Colorado](#) and [California](#), both of which updated their goals, none of these policies were strengthened in the wake of President Trump's election.

When it comes to public transit, states and other subnational jurisdictions are also using procurement policies to achieve their climate goals. [California](#) and [New York City](#) have plans to green their public bus fleets, with the aim of having entirely zero emission fleets by 2029 and 2040, respectively. [Other jurisdictions](#) and [private entities](#) have also announced plans to increase the number of zero-emissions buses on their roads. Some states, such as [Colorado](#), have also proposed to use some of the money from the VW settlement to convert vehicles, including transit buses, to alternative fuels or replace them with electric vehicles.

Finally, one emerging area of climate policy where states may have jurisdiction is the regulation of emissions from ride-hailing companies such as Uber and Lyft. While New York City has [implemented](#) a surcharge on taxis and ride-hail services to reduce traffic (and incidentally the growing share of emissions from these services),⁸ California has passed a [potentially revolutionary](#) bill specifically designed to reduce emissions from ride-hail companies. Whether other jurisdictions follow suit remains to be seen.

States are still trying to figure out how to decarbonize the transportation sector, and whether they do so via regulation of fuels, a broader cross-sector carbon pricing program, a multi-state trading program, or in-use regulations (or some combination thereof) remains to be seen. Less glamorous policies—primarily related to EV charging infrastructure and state vehicle fleet procurements—are likely to proceed at a steady clip. Such policies will be driven by a combination of VW settlement money, interest among utilities in capturing a new market and ensuring demand growth, desire among states for reductions in traditional air pollutants, and

⁸ While the surcharge currently applies to for-hire vehicles, New York City is poised to [implement](#) congestion pricing on *all* traffic in lower Manhattan. The policy is driven by a variety of factors; while climate is one motivation, it is not the predominant reason for the fee. If New York is successful, other jurisdictions might consider pursuing such a surcharge to reduce emissions, which does not ordinarily raise federal preemption concerns.



climate change concerns. But it remains to be seen whether states can move the needle on transportation sector emissions and the combination of policies that might deliver reductions.