

California, climate change, and federalism

Eric Biber

UC Berkeley School of Law

CA Climate Policy

- Overall goal
 - 40% below 1990 levels by 2030
 - 1990 levels by 2020
 - Mix of policies to implement

CA Climate Policy

- Renewable Portfolio Standards
 - Currently 50% by 2030
 - Utilities already at 24 to 25 percent, and have over 40% under contract for 2020
 - History: Began in 2002 with 20% by 2017, then 20% by 2010, then 33% by 2020

CA Climate Policy

- Motor vehicles
 - Fuel efficiency standards reducing emissions
 - Originally 22% reduction in per-mile emissions by 2012 and 30% by 2016 (from 2009 baseline)
 - New standards push for even greater reductions by 2025
 - Requirements that automobile manufacturers sell certain number of zero emission vehicles
 - State tax credit for purchase of zero emission vehicles

CA Climate Policy

- Cap-and-trade program
 - Began in 2013 for electricity and large industrial facilities, 2015 for fuels
 - Reauthorized in 2017 by state legislature through 2030
 - Mix of free and auctioned allowances, transitioning to auctioned allowances
 - Covers 85% of state economy

Preemption

- Federal environmental law mostly sets floor, not ceiling
- Exception: regulation of emissions from mobile sources
- California can get waiver from that restriction
 - Must show “compelling and extraordinary conditions”

Preemption

- Energy regulation split between federal and state primacy
- Federal government has primacy over wholesale and interstate transmission
- State government has primacy over retail and generation siting