

# Energy Federalism

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- See Sovacool, The Best of Both Worlds: Environmental Federalism and the Need for Federal Action on Renewable Energy and Climate Change 7 Stan. Envtl. L. J. 397 2008

## Proposed benefits of centralized authority:

***Internalizing economic externalities*** (eg. when pollution crosses political boundaries). More costs and benefits are borne by constituencies with representation in the decision, promoting fairness and economic efficiency.

***Consistency and uniformity of regulation.*** This reduces the costs of regulation for enterprises active in multiple jurisdictions. Scale enables efficiency in regulatory administration and enforcement, and improves the science on which regulation is based.

***Negotiating power.*** Centralization reduces the power and capacity mismatch between state or local government and large corporate or other special interests.

***Preventing a race to the bottom.*** Centralized authority, in the face of competition for investment, is more likely to guarantee a minimum standard of human health and environmental quality that applies to all.

## Proposed benefits of decentralized authority:

*Enables experimentation and innovation.* Devolved authority posits a kind of race to the top, as competition across jurisdictions promotes the spread of successful innovation.

*Reduced prevalence of regulatory capture.* Powerful interests will have a harder time dominating many separate agencies than they will a single centralized one.

*Greater flexibility.* Approaches can be responsive and more easily tailored to variable state and local conditions.

*Democracy is enhanced.* Government closer to the people facilitates more meaningful participation and citizenship in a democracy.

## **Proposed benefits of shared but discrete authority:**

Different levels of government are distinctly suited to different roles (“layer cake federalism”). Some decisions (e.g. about small scale energy facilities) have only localized impacts and are best authorized by decentralized government. Others (e.g. about interstate transmission of electricity) affect multiple jurisdictions and require a central, mediating authority.

## Proposed benefits of shared, overlapping authority (cooperative or “marble cake” federalism):

*Plurality of views:* Shared authority enables creative interactions of entities with different perspectives and points of view, leading to best practice solutions.

*Cross jurisdictional dialogue:* This fosters learning while leading to coordination, innovation, participation, and partnership.

*Redundancy in authority:* Offers a kind of risk management or insurance policy reducing the risk of total regulatory failure.

*Accountability:* The vigilance of each level of authority increases with shared responsibility, as does the difficulty capture by the same special interest.

*Best of both worlds:* Combines centralized economies of scale with decentralized experimentation, eg. by setting central standards as a minimum