

***POLICY POSITION  
OF THE  
SOUTHERN LEGISLATIVE CONFERENCE***

**REGARDING THE ESTABLISHMENT OF PERFORMANCE STANDARDS BY STATES**

**BACKGROUND**

In order to meet electricity needs, the American system requires a full portfolio of resources, including new nuclear, 21st century coal, natural gas, renewables, and broad-based energy efficiency. There is widespread concern about the pace and manner in which recent GHG regulations for power plants have been proposed and have relied on CO2 control technologies, such as carbon capture and storage, that are not yet adequately demonstrated. Section 111(d) of the Clean Air Act (CAA) authorizes the U.S. Environmental Protection Agency (EPA) to develop emission guidelines for States to use in establishing greenhouse gas performance standards for existing sources. Section 111(d) does not grant EPA flexibility in establishing emission guidelines or authority to issue directly of performance for existing sources. The CAA guidelines reflect the "best system of emission reductions for greenhouse gases" based solely on the application of "adequately demonstrated technology" at covered sources. States already possess authority and considerable discretion in determining the best solution for sources within their State. Each State is allowed to use the best approach for individual sources within their own boundaries. Use of flexible compliance mechanisms, such as averaging, banking, trading, and credit for existing actions, is a State decision.

**RECOMMENDATION**

The Southern Legislative Conference of The Council of State Governments urges the EPA not to override the states' authority to develop state plans that establish performance standards, "best systems of emission reduction" (BSER), and discretion and flexibility in establishing compliance options.

The Southern Legislative Conference of The Council of State Governments requests that a copy of this policy position be forwarded to the Southern Congressional delegation, secretary of the U.S. Department of Energy, administrator of the U.S. Environmental Protection Agency, and the president of the United States.