

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

REGARDING STATE FLEXIBILITY FOR CARBON DIOXIDE REDUCTIONS

BACKGROUND

On June 2, 2014, The U.S. Environmental Protection Agency (EPA) came out with new proposed regulations regarding CO₂ emissions for domestic power plants. In its draft regulations, the EPA repeatedly cites the concept of "flexibility" in its implementation of these regulations. However, the usage of "flexibility" in this context is incorrect. The reality expressed in these proposed regulations manifests a limited choice for compliance between energy efficiency (everyone is in favor of efficiency, but there is a wide discrepancy in how much can be gotten from that option), fuel switching (which signifies a departure from the usage of coal), renewables (which are not reliable and cannot be counted as base load, running 24/7), and using energy in off-peak hours. These proposals are not market driven and are not truly flexible. Rather, these proposed regulations represent a top-down regulation from the EPA providing limited choices for the states in order to comply. In addition, the proposed percentage decrease of CO₂ in the states varies widely from state to state as determined by the EPA. As these proposed decreases were determined by the EPA, and not by individual states, they are inherently inflexible and violate the tenth amendment of the U.S. Constitution.

RECOMMENDATION

In recognition of The Council of State Government's Federalism Task Force, and in keeping with the tenth amendment of the U.S. Constitution, the Southern Legislative Conference of The Council of State Governments believes the states should maintain their flexibility and should each be empowered to determine the levels of decrease for CO₂ emissions, if any, within their boundaries. Each state knows best its own capabilities, and should be able to ensure the reliability, safety, and affordability of its electric system.

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, administrator of the U.S. Environmental Protection Agency, and the president of the United States.