

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

**REGARDING THE EPA'S RECOGNITION OF THE PRIMACY OF STATE REGULATION OF  
CARBON DIOXIDE EMISSIONS FROM EXISTING POWER PLANTS BY RECOGNIZING  
STATE-DEVELOPED STANDARDS**

**BACKGROUND**

A reliable and affordable energy supply is vital to any state's economic growth, jobs, and the overall interests of its citizens. The United States has abundant supplies of coal, and that resource provides affordable and reliable electricity to the states. Carbon regulations for existing coal-fueled power plants could adversely impact the use of coal. Proposed regulations from the U.S. Environmental Protection Agency (EPA) were announced on June 2, 2014. The Clean Air Act requires EPA to establish a "procedure" under which each state shall develop a plan for establishing and implementing standards of performance for existing sources within the state.

The Clean Air Act expressly allows states "to take into consideration, among other factors, the remaining useful life of the existing source to which such standard applies," and EPA's implementing regulations (40 CFR 60.20-29) provide that states may adopt "less stringent emission standards or longer compliance schedules" than EPA's guidelines based on factors such as "unreasonable cost of control," "physical impossibility of installing necessary control equipment" or other factors that make less stringent standards or longer compliance times "significantly more reasonable."

**RECOMMENDATION**

The Southern Legislative Conference of The Council of State Governments urges the U.S. EPA to recognize state authority by relying on State regulators to develop performance standards for carbon dioxide emissions that take into account the unique policies, energy needs, resource mix, and economic priorities. This should be the prerogative of the individual states and not a top-down approach. The EPA must maintain the states' authority as provided by the Clean Air Act to set less stringent performance standards and longer compliance schedules for power plants within their jurisdictions.

The EPA must recognize and maintain the states' authority to have maximum flexibility implementing compliance mechanisms for State-established carbon dioxide performance standards for fossil-fueled power plants within their jurisdictions.

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.