

SEARUC Resolution on the EPA's Guidelines for Greenhouse Gas (GHG) Emissions  
from Existing Power Plants

WHEREAS, the Southeastern Association of Regulatory Utility Commissioners (SEARUC) member states consist of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee and Texas.

WHEREAS, On June 25, 2013, the President issued a memorandum to the U.S. EPA Administrator directing the EPA to:

- Issue proposed carbon pollution standards, regulations, or guidelines, as appropriate, for modified, reconstructed, and existing power plants by no later than June 1, 2014;
- Issue final standards, regulations, or guidelines, as appropriate for modified, reconstructed and existing power plants by no later than June 1, 2015;
- Include in the guidelines addressing existing power plants a requirement that States submit to the U.S. EPA the implementation plans required under Section 111(d) of the Clean Air Act and its implementing regulations by no later than June 30, 2016; and

WHEREAS, The President instructed the EPA, in its efforts to address carbon emissions from modified, reconstructed and existing power plants to engage directly with States, and expressly recognized that States “will play a central role in establishing and implementing standards for existing power plants;” and

WHEREAS, the President instructed the EPA to work with State agencies to “promote the reliable and affordable provision of electric power through the continued development and deployment of cleaner technologies and by increasing energy efficiency, including through stronger appliance efficiency standards and other measures;” and

WHEREAS, A reliable, affordable energy supply is vital to the nation's future economic growth, security, and quality of life; and

WHEREAS, the individual States have jurisdiction over the reliability and affordability of electricity provided to retail customers; and

WHEREAS, the Clean Air Act and EPA's implementing regulations establish clearly defined roles for setting performance standards for existing sources, directing EPA to establish guidelines but reserving for the individual States the authority to set performance standards; and

WHEREAS, Section 111(d) of the Clean Air Act and its implementing regulations requires EPA to issue emission guidelines that reflect the best systems of emission reduction adequately demonstrated at affected facilities; and

WHEREAS, the Act and its implementing regulations require the individual States to develop performance standards based on EPA's guidelines, taking "into consideration, among other factors, the remaining useful life of the existing source to which such standard applies;" and

WHEREAS, a large percentage of electricity in the Southeast United States is currently and will continue to be produced by coal-based power plants notwithstanding the substantial number of anticipated coal unit retirements; and

WHEREAS, many States and their electric utility ratepayers in the Southeast have made substantial capital investments in the remaining coal fleet to ensure compliance with the stringent current environmental requirements for ozone, fine particulates and the Mercury and Air Toxics Standards (MATS); and

WHEREAS, it may be in the best interest of Southeastern ratepayers to maintain the operation of existing coal-based electricity generating plants that meet environmental performance requirements for priority and MATS pollutants through the end of their remaining useful life to recover those investments; and

WHEREAS, Southeastern State utility regulators have jurisdiction over individual State energy policies, including integrated resource planning and resource adequacy decisions, processes which ultimately determine the mixes of fuels and resources in each Southeastern State generation portfolios, which differ from State to State; and

WHEREAS, Southeastern States have different mixes of fuels and resources in their existing generation portfolios; and

WHEREAS, the Southeastern States have diverse economies and face different economic conditions, including States with energy intensive manufacturing industries that provide goods for the entire nation; now, therefore be it

RESOLVED, That the Southeastern Association of Regulatory Utility Commissioners requests and urges EPA to recognize the important role of States, in developing any emissions guidelines for regulating GHG emissions from existing power plants. EPA should allow the individual Southeastern States to rely on appropriate Southeastern State agencies to lead the development of energy policy in each State. Furthermore, these same State agencies should also develop GHG emission performance standards and implementation plans, respectively, that reflect the policies, energy needs, resource mix, economic conditions of each Southeastern State; and be it further

RESOLVED, That EPA's emission guidelines should not limit the authority and flexibility already provided by the Clean Air Act and its implementing regulations that the Southeastern States individually possess, when establishing standards of performance to account for the different makeup of existing power generation in each of the Southeastern States; and be it further

RESOLVED, That the Southeastern States, under the relevant statutory factors that must be considered, need EPA to issue guidelines that are based on GHG emission reductions that are achievable at affected power plants; and be it further

RESOLVED, That EPA's emission guidelines should not limit flexible compliance pathways or mechanisms already available to Southeastern States that recognize individual State's unique situations in order to achieve the most cost-effective emissions reductions in each Southeastern State, so that each State can minimize compliance costs to ratepayers and maintain reliability; and be it further

RESOLVED, That EPA's emission guidelines should not intrude on the Southeastern States' jurisdiction over integrated resource planning or otherwise mandate modifications to the mix of fuels and resources in existing and future State generation portfolios.

RESOLVED, That EPA's emission guidelines should recognize and credit States' emission reductions achieved to date and not directly or indirectly mandate the use of energy efficiency or demand side management to achieve GHG emission reductions, which is clearly outside the scope of the Clean Air Act and EPA's authority. The Southeastern State Utility Commissioners have primary responsibility to set and manage both energy efficiency and demand side management programs in the individual Southeastern States.

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Sponsored by Commissioner Brandon Presley of Mississippi