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# RESOLUTION CONCERNING EPA PROPOSED GREENHOUSE GAS EMISSION STANDARDS FOR NEW AND EXISTING FOSSIL-FUELED POWER PLANTS

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# RESOLUTION CONCERNING EPA PROPOSED GREENHOUSE GAS EMISSION STANDARDS FOR NEW AND EXISTING FOSSIL-FUELED POWER PLANTS

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## Resolution Concerning EPA Proposed Greenhouse Gas Emission Standards for New and Existing Fossil-Fueled Power Plants

**Summary:** This resolution establishes a state's responsibility for establishing emission standards and recognizes EPA's responsibility for establishing guidelines which, when done properly, will lead to cost effective reductions in greenhouse gas emissions without requiring units retirement or a curtailment of operations.

This resolution is meant to be a template made up of a series of factual statements ("WHEREAS" clauses) and actions statements ("RESOLVED") clauses, for each state to review after which the state can select the clauses that best reflect the state's individual priorities while strongly making the case for state primacy in regards to greenhouse gas standards.

**WHEREAS**, on June 25, 2013, the President issued a memorandum to the U.S. EPA Administrator directing the EPA to propose New Source Performance Standards (NSPS) for greenhouse gases (GHG) that establish limits for carbon dioxide (CO<sub>2</sub>) emissions from new fossil fuel fired electric generating units which the Administrator did on September 20, 2013; and by the same memorandum directed the Administrator 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**, EPA is proposing two standards for new fuel-fired utility boilers and IGCC units of 1,100 pounds of CO<sub>2</sub> per gross megawatt-hour (lbs CO<sub>2</sub>/MWh gross) over a 12-operating month period or 1,000-1,050 lbs CO<sub>2</sub>/MWh gross over an 84-operating month period, both of which would require new coal units to employ at least partial carbon capture and storage (CCS) technology; and

**WHEREAS**, EPA is proposing two standards for new natural gas-fired stationary combustion units of 1,000 lbs CO<sub>2</sub>/MWh gross for units greater than 850 million British thermal units per hour (mmBtu/hr) and 1,100 lbs CO<sub>2</sub>/MWh gross for units less than or equal to 850 mmBtu/hr, neither of which would require the use of any CCS technology; and

**WHEREAS**, President Obama’s Interagency Task Force on Carbon Capture and Storage August 2010 report determined that CCS technologies “are not ready for widespread implementation primarily because they have not been demonstrated at the scale necessary to establish confidence for power plant application”; and

**WHEREAS**, EPA has failed to establish that CCS is the best system of emission reduction that has been adequately demonstrated, as required by the Clean Air Act and its implementing regulations; and

**WHEREAS**, the U.S. Department of Energy’s (DOE) National Energy Laboratory has found that the application of currently researched CCS technology to new coal-fired power plants could increase the cost of electricity produced by such plants by 80 percent, which would severely impact industrial, commercial and especially residential consumers; and

**WHEREAS**, the most efficient coal-fired power plants, such as those that use the commercially available ultra-supercritical and supercritical technologies represent the best system of emission reduction that has been adequately demonstrated, but alone

would be insufficient to achieve EPA's proposed performance standard; and

**WHEREAS**, {state} strongly supports a diversified energy mix in an "all-of-the-above" energy strategy and not an "all-but-one" approach that restricts the future use of coal to generate affordable electricity; and

**WHEREAS**, the new proposal does not correct deficiencies in the standards originally proposed by U.S. EPA in April 2012; and

**WHEREAS**, in 2012 CO<sub>2</sub> emissions from U.S. coal-based electric generation were 23 percent below 2005 levels according to the U.S. EPA Clean Air Markets Acid Rain Program database; and

**WHEREAS**, currently a large percentage of electricity in the United States is produced by coal base load power plants and CO<sub>2</sub> emissions from electric generation are continuing to decrease due to retirements of units that are uneconomic to retrofit to comply with other EPA regulations and operate due to market conditions; and

**WHEREAS**, total CO<sub>2</sub> emissions for the U.S. have been decreasing and are on track to meet the administration's non-binding target of 17 percent below 2005 levels by 2020; and

**WHEREAS**, EPA's proposed requirements do not sufficiently recognize that accumulation of greenhouse gases in the atmosphere is a global issue and global action is required to address it; and

**WHEREAS**, Section 111(d) and its implementing regulations define roles, authority and discretion for EPA and the States, and EPA is required to establish a procedure so that States are able to use their full authority and discretion to develop performance standards and implementation plans for existing plants based on all flexibility mechanisms available under the Clean Air Act and its implementing regulations; and

**WHEREAS**, Section 111(d) and EPA's current implementing regulations expressly authorize States to take into account factors as the "unreasonable cost of control resulting from plant age, location, or basic process design", "physical impossibility of installing necessary control equipment" and "any other factors specific to the facility (or class of facilities) that make application of a less stringent standard or final compliance time significantly more reasonable" when making determinations on the application of the appropriate standard of performance to a particular existing source; and

**WHEREAS**, States already have the authority conferred by the Clean Air Act and its implementing regulations to decide and to demonstrate the application of less stringent emission standards or longer compliance schedules than those provided in applicable rules or emission guidelines; and

**WHEREAS**, the States rely on EPA to issue a “procedure” under Section 111(d) and its implementing regulations that reflects the best system or systems of direct emission reductions at affected facilities that has been adequately demonstrated, taking into account the cost of achieving such reduction and any non-air quality health and environmental impact and energy requirements, that has been adequately demonstrated; and

**WHEREAS**, States have jurisdiction over integrated resource planning and other resource adequacy decisions, processes which ultimately determine the mixes of fuels in State generation portfolios, which differ from State to State; and

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

**WHEREAS**, Coal provides affordable and reliable electricity to 48 States, including the 29 States that rely on coal to provide more than 25% of their electric generation and the 15 States that rely on coal to provide more than 50 percent of their electricity generation; and

**WHEREAS**, States have achieved different levels of CO<sub>2</sub> reductions to date, and have diverse economies, energy needs and face different economic conditions, including States with energy intensive manufacturing industries that provide goods for the entire nation;

**WHEREAS**, Section 111(d) and its implementing regulations provide discretion for States to maintain the operation of coal-based electricity generating plants through the end of their useful lives that meet environmental performance requirements for conventional and hazardous air pollutants; and

**NOW, THEREFORE BE IT RESOLVED**, that {state} urges the Administration and Congress with input from federal agencies to establish a national energy policy that encourages access to and removal of impediments to all available domestic sources of energy so that it is affordable and reliable;

**BE IT FURTHER RESOLVED**, that if the Environmental Protection Agency establishes guidelines to address greenhouse gas emissions from new fossil-fuel electric generating units, {state} urges EPA to establish separate guidelines for coal-fueled electric generating units that are based on highly efficient units such as ultrasupercritical and supercritical technologies without CCS which will optimize the economic and equitable utilization of all types of domestic fuel sources – recognizing the fact that additional time is needed for carbon capture and storage to become an adequately demonstrated best system of emissions reduction;

**BE IT FURTHER RESOLVED**, that {state} urges the U.S. Environmental Protection Agency, U.S. Department of Energy, and the Congress to support industry efforts to research and develop CCS technologies ;

**BE IT FURTHER RESOLVED**, that in the event the EPA develops emissions guidelines for regulating carbon emissions from existing power plants, EPA must respect the primacy of States, and the guidelines must not infringe upon States' authority already provided by the Clean Air Act and its implementing regulations to rely on State legislators, State energy officials and State utility and State environmental regulators to work together and lead in the development of, CO2 performance standards and implementation plans that reflect the policies, energy needs, resource mix, energy efficiency (both grid-side and customer measures) and economic conditions of each State and region determined by State legislators and these regulators that exist now and in the future;

**BE IT FURTHER RESOLVED**, that the guidelines should not infringe upon States' authority already provided by the Clean Air Act and its implementing regulations that allows States individually or regionally to take into account the different makeup of existing power generation and resource mix in each State and region and using current regulations that provide for States to be able to demonstrate less stringent emission standards and longer compliance schedules for affected facilities;

**BE IT FURTHER RESOLVED**, that EPA's emission guidelines must be based on emissions reduction measures that can be cost-effectively achieved at affected power plants and that do not require units to retire or curtail operation;

**BE IT FURTHER RESOLVED**, that the guidelines should provide that once States adopt performance standards based on cost-effective, achievable emission reductions at affected power plants, States maintain authority and discretion already provided by the Clean Air Act and its implementing regulations to implement flexible compliance mechanisms,

individual and regional, (such as market-based programs) that provide consumer benefits to reduce the costs of energy, and thus the cost of implementing the system of emissions reduction that each State adopts through its duly constituted legislatures and utility, energy and environmental agencies;

**BE IT FURTHER RESOLVED**, that the guidelines should recognize State and regional variations in the provisions of affordable and reliable electricity so that each State can minimize compliance costs to ratepayers and maintain reliability;

**BE IT FURTHER RESOLVED**, that the guidelines recognize and credit States' emissions reduction achievements to date, and shall not intrude on the States' jurisdiction over integrated resource planning or otherwise mandate modifications to the mix of fuels in existing and future State generation portfolios;

**BE IT FURTHER RESOLVED**, that {state} will provide comments to EPA that reflect the findings and resolved provisions of this resolution and {state} urges other states/organizations to do likewise;

**BE IT FURTHER RESOLVED**, that copies of this resolution are to be transmitted to the President of the United States, the U.S. Environmental Protection Agency, the U.S. Department of Energy, the National Governor's Association, the National Association of Regulatory Utility Commissioners, National Association of State Energy Officials, the Environmental Council of the States, the Association of Consumer Counsel National Association of Attorney Generals and other relevant organizations, all governors, all state utility regulatory commissions, state energy officials, all state environmental commissioners, all attorney generals and all states' legislative leadership and {state} legislative staff is directed to advocate for the provisions in this resolution, inform the states on the status of the resolved actions, and collaborate with the aforementioned parties to educate and achieve the goals in this resolution.

*Approved by the ALEC Board of Directors January 9, 2014.*