

EPA GHG EMISSIONS REGULATIONS: STATES' OPTIONS AND RESPONSES

Presented by
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Energy and Environment Cabinet
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Kentucky at a Glance

- Energy and Environment Cabinet includes:
 - Department for Environmental Protection
 - Department for Energy Independence and Development
 - Department of Natural Resources
 - Public Service Commission (administratively attached)
- All utilities are vertically integrated.
- Majority of utilities are regulated by the PSC.
- Service territory essentially includes 4 entities:
 - PJM
 - MISO
 - Tennessee Valley Authority
 - Largest generating utility is independent

Kentucky at a Glance

- 93% coal-fired generation in 2014.
- Average age of our coal-fired fleet is 43 years.
- The Mercury and Air Toxics Rule will result in the shutdown of 16 coal-fired boilers, equaling 4076 MW, reducing over 21 million tons of CO₂.
- Our first natural gas combined cycle gas electric generating plant is coming on line this summer.
- Third most electricity intensive state (kWh per 1\$ of state GDP) in the nation.
- Third leading auto manufacturing state.
- Produce 40% of the nation's aluminum and 30% of its steel.

Facts

- EPA has authority under the Clean Air Act to regulate greenhouse gases (GHGs) due to the 2007 Supreme Court ruling in *Massachusetts v. EPA*.
- EPA must regulate GHGs from electric generation units and other Title V major stationary sources:
 - 2010 Light Duty Vehicle standards
 - 2010 Consent Decree with 12 petitioning states and 3 environmental groups
- States are required to submit plans to comply with Section 111(d) of the Clean Air Act.

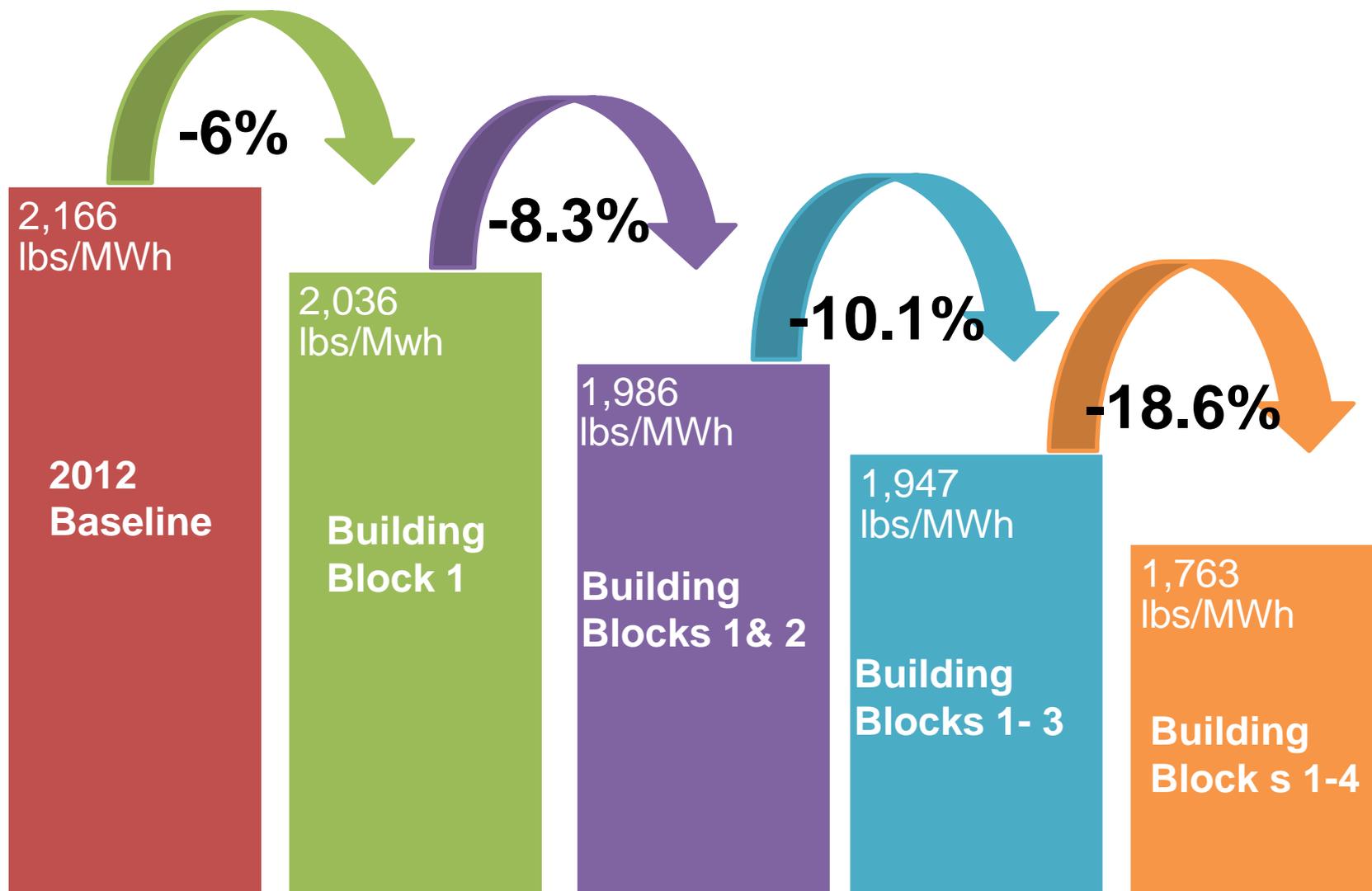
GHG NSPS Litigation History

- **February 27, 2006** – EPA published final New Source Performance Standards (NSPS) for Electric Generating Units that did not include standards for GHGs.
- **August 25, 2008** – 12 State (and Washington D.C.) and 3 Environmental Petitioners filed petitions for judicial review.
- **December 2009** - EPA asked the U.S. Court of Appeals to remand the rule back to the agency for further consideration after Supreme Court ruling in *Massachusetts v. EPA*.
- **December 21, 2010** – EPA and petitioners enter into a consent decree requiring standards for GHGs to be included in a final NSPS.

Kentucky Engagement on 111(d)

- **March 2013** - NRDC report “Closing the Power Plant Carbon Pollution Loophole” triggered concerns.
- **June 2013** - President’s Executive Order and Clean Power Plan are issued.
- **October 2013** – EEC Whitepaper stressed flexibility.
- **December 2013** – EEC in-depth analysis on Kentucky’s energy future.
- **June 2014** – Kentucky Attorney General joins *Murray Energy Corp v. EPA*.
- **December 2014** – Cabinet submits extensive comments voicing concerns on proposed 111(d) standard.

111(d) CO₂ Target for Kentucky



KRS 224.20-140 through 224.20-146 (HB 388)

- Unanimously passed during the 2014 Kentucky General Session.
- Requires unit-by-unit rates based on cost-effective efficiency gains at the plant (e.g. turbine or boiler upgrades).
- Prohibits fuel switching.
- Prohibits co-firing other fuels with coal.
- Prohibits limiting utilization of the EGU.
- Requires separate coal and natural gas categories.

Plan or no plan?

- CAA and federal regulations require the state agency to submit a plan within 9 months after promulgation of the regulation.
- If a state chooses not to submit a plan, there are very clear procedures for the implementation of a federal plan by the Administrator of the Environmental Protection Agency.
- Stakeholders have expressed their desire for a state plan and not a federal one.
- Planning and litigation can and will occur simultaneously.

Added Complexity

- New state administration midway through the plan development process.
- What kind of transition product will the Beshear Administration leave for the next administration?
- How does a new administration handle this issue with a biennial budget and general session being the first things on its agenda?
- How do they resolve potential conflicts between federal and state law?

Principal Considerations

- Protect Our Manufacturing Economy
- Maintain Affordable Electricity Rates
- Ensure Grid Reliability
- Promote Energy Diversity
- Retain State Primacy
- Maximize Use of Existing Resources

Thank You

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