

Clean Power Plan: The Cabinet's Commonsense Approach

KIUC ENERGY CONFERENCE

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To Protect and Enhance Kentucky's Environment



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Kentucky Division for Air Quality

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Clean Power Plan Background

January 8, 2014 – EPA publishes proposed “Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Generating Units”

Issued Under Clean Air Act, Section 111(b):
“Standards of Performance”



Clean Power Plan Background

June 18, 2014: EPA publishes proposed “Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Generating Units”

Issued Under Clean Air Act, Section 111(d):
Kentucky’s proposed goal = 1763 lbsCO₂/MWhr



Clean Power Plan Background

October 23, 2015

- EPA published the final rule for existing fossil fuel-fired power plants under Clean Air Act, Section 111(d)
- EPA published the final rule for new, modified and reconstructed fossil fuel-fired power plants under Clean Air Act, Section 111(b)
- Published proposed federal plan and model trading rules



Clean Power Plan Background

39.4% reduction over 2012 levels by 2030

2012 Baseline Emissions Rate (lbs. CO₂/MWh)

2,122

2022-2029 Interim Goal

1,509

2030 Final Goal

1,286



Recent Kentucky Responses

Cabinet comments

- 111(b) comments (4/22/14)
- Modified/Reconstructed (10/16/14)
- 111(d) comments (11/26/14)
- Federal plan and model rule comments (**1/21/16**)

<http://air.ky.gov/Pages/DAQCommentsonFederalRegulations.aspx>



Recent Kentucky Responses

- Cabinet comments on Proposed Federal Plan Submitted January 21, 2016
 - Serious Economic Impacts
 - Lack of ability for meaningful comment and adequate public participation
 - Missing information critical to the rulemaking
 - Improperly expands statutory authority through regulatory action
 - Creates regulatory uncertainty



Legal actions

The Cabinet filed a Petition for Reconsideration of the Final §111(d) rule on December 21, 2015

“The EPA’s Final Rule on carbon emissions for existing stationary sources changed significantly from the proposed rule published on June 18, 2014. Many of these changes are so dramatic and unanticipated that it would have been ‘impracticable,’ if not impossible, for the Commonwealth to raise objections about these changes during the public comment period.”



Legal actions

- Legal actions
 - Application for Administrative Stay filed on 8/5/15
 - 1/21/16 - Petition for Stay denied by the D.C. Circuit Court
 - 1/27/16 - Both sets of Petitioners applied to the Supreme Court for discretionary review of denial of the stay
 - 2/4/16 – EPA deadline to respond to state’s stay application
 - **2/9/16 – Supreme Court Grants the Stay**

“The application for a stay submitted to The Chief Justice and by him referred to the Court is granted. The Environmental Protection Agency’s “Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units,” 80 Fed. Reg. 64,662 (October 23, 2015), is stayed pending disposition of the applicants’ petitions for review in the United States Court of Appeals for the District of Columbia Circuit and disposition of the applicants’ petition for a writ of certiorari, if such writ is sought.”



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