

August 21, 2025

MGA MID-GRID Quarterly Meeting – EPA’s Proposed Regulatory Actions

Carrie Jenks, Executive Director

Tim Profeta, Senior Fellow, Nicholas Institute, Duke University



ENVIRONMENTAL & ENERGY LAW PROGRAM
HARVARD LAW SCHOOL

Agenda

- I. Endangerment Finding and Vehicle GHG Standards
- II. Clean Pollution Standard (CPS) for Power Plants
- III. Updates to the Mercury and Air Toxics Standard (MATS) for Power Plants
- IV. Interactions of Regulatory Actions for the Power Sector:  **Uncertainty**

Proposed Repeal of Endangerment Finding

- EPA's 2009 Endangerment Finding underpins EPA's regulation of GHGs:
 - vehicle emissions standards, methane rules, power plant regulations
- EPA's proposal includes:
 - **Primary Proposal** with Two Rationales:
 - EPA lacks the authority to regulate GHGs under the Clean Air Act
 - Local endangerment, not global
 - New motor vehicle emissions do not contribute to endangerment
 - Regulation of motor vehicles is futile and costly
 - Climate change science too uncertain
 - **Alternative Proposal:** Regulating GHG emissions from US vehicles would be futile, expensive, and harmful
- If finalized and upheld in court, EPA's primary proposal would prevent future administrations using the Act to regulate GHGs
- Nuisance suit risk

Proposed Repeal of Power Sector Carbon Pollution Standards (CPS) – Two Options

Significant Contribution: EPA proposes to find that the emissions from fossil-fuel fired plants “do not contribute significantly to dangerous air pollution”

Alternative: Proposal would eliminate most of the GHG emission standards for the power sector arguing that the bases for the standards (e.g., CCS and co-firing) are not adequately demonstrated

CPS - Significant Contribution: Two Parts

1) Significant Contribution: Source-Specific or Emissions-Specific?

- Obama and Biden administration rules: 111 requires EPA to determine significant contribution when listing a source category
- Trump administration rules: EPA must make a pollutant specific significant contribution determination (i.e. for GHG emissions from power plants)

2) What is Significant?

- EPA proposes to ask: Would a significance determination address the problem
- The answer hinges on outcome of hypothetical future policy: “based on the impact of the resulting regulation”

EPA proposes to determine any regulation of power plants would not have a significant effect on GHG air pollution and public health

CPS - EPA's Significant Contribution Reasoning

Power Plant GHG Emissions are Small

- Regulation of US power sector emissions would not address a global problem
 - “Limiting the use of coal and other fossil fuels in U.S. EGUs does not significantly impact global GHG concentrations when other countries continue to increase their use of fossil fuels.”

No Regulatory Options

- Unable to develop a emission standard
 - “Because it is likely that the Agency may be unable to develop a BSER that would result in any meaningful, cost-reasonable GHG emission reductions, the contribution of this source category to GHG air pollution is not significant.”

Administration's Energy Policy Priorities

- Informed by the priority of “national interest in affordable, reliable electricity”

CPS - Alternative Proposal

EPA proposes to repeal standards for:

- **Existing coal-fired power plants:** CCS and co-firing based standards
- **New gas fired power plants:** CCS-based standards
- **Existing oil/gas steam:** inefficient use of state resources to implement

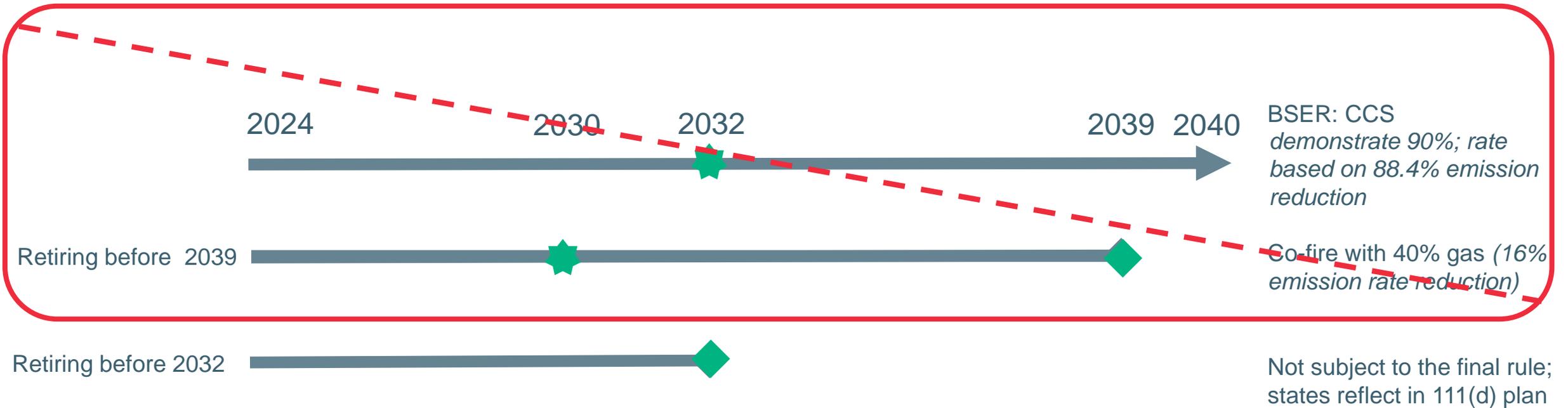
Biden Rule: Existing Coal Standards

BSER based on CCS

Key

◆ Retirement date

★ Final compliance date

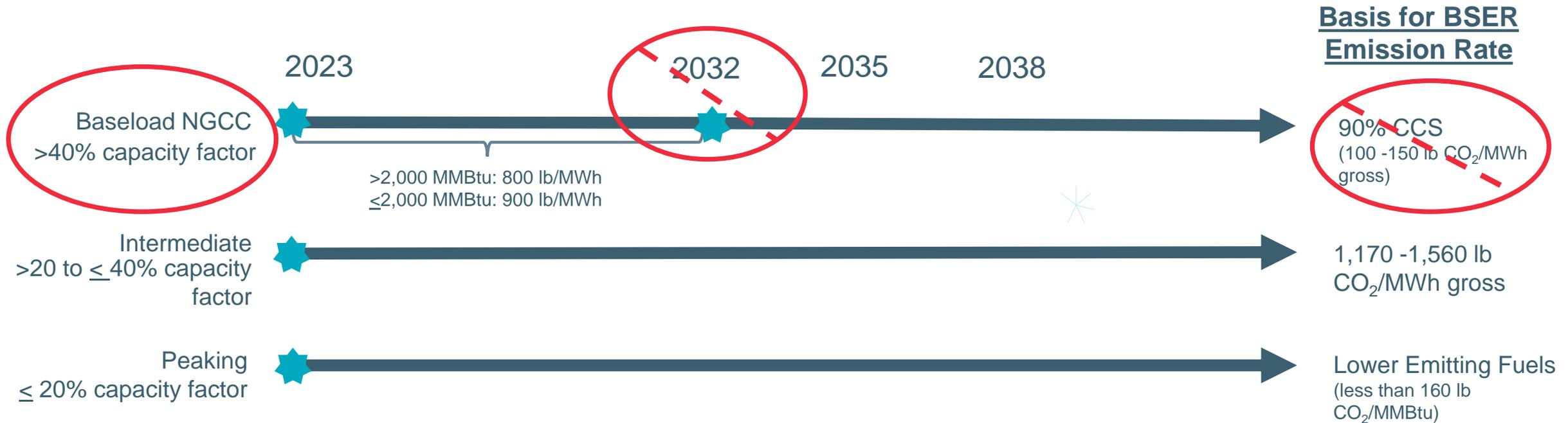


Biden Rule: New Gas Standards

Three subcategories

Key

★ Final compliance date



CPS - Alternative Proposal

EPA proposes to repeal standards for:

- **Existing coal-fired power plants:** CCS and co-firing based standards
- **New gas fired power plants:** CCS-based standards
- **Existing oil/gas steam:** inefficient use of state resources to implement

Justifications include:

- **CCS:**
 - 90% CCS standards not adequately demonstrated
 - Unreasonable cost
 - CCS infrastructure unlikely by January 1, 2032
- **40% co-firing:**
 - Inefficient use of natural gas
 - Constitutes generation shifting
 - Infrastructure unlikely by January 1, 2030

Proposed Repeal of Updates to the Mercury and Air Toxics Standards (MATS)

- Initial mercury and air toxics standards for power plants finalized in 2012
- EPA updated those standards under its residual risk and technology review (RTR) in 2020 and 2024
- EPA now proposes to repeal the 2024 updates, concluding that they are either not cost-effective or technically feasible
- The proposal follows President Trump's April 2025 proclamation exempting 68 coal-fired electric generating units from the previous MATS rule for 2 years

Interaction of Power Sector Regulations

