

AN ACT relating to state authority to regulate air quality.

WHEREAS, the relative cost and secure supply of Kentucky coal is the principal reason Kentucky's electricity rates have been affordable for all classes of Kentucky ratepayers; and

WHEREAS, on August 3, 2015, the Obama Administration issued the Clean Power Plan, and the United States Environmental Protection Agency submitted a final rule to the Federal Register that sets forth guidelines for states to develop and implement plans to reduce carbon dioxide emissions from the electric power sector; and

WHEREAS, Kentucky is expected to submit a state implementation plan by September 6, 2016; however, the United States Environmental Protection Agency has underestimated the cost of implementing the plan while simultaneously exaggerating the benefits; and

WHEREAS, Kentucky is one of fifteen states that has sued the EPA for double regulating carbon dioxide which is already regulated under other sections of the Clean Air Act; and

WHEREAS, the Obama Administration has demonstrated a pattern of selectively failing to enforce certain federal laws and regulations, such as immigration and control of marijuana, on the basis of the personal policy or ideological point of view rather than adherence to federal law; and because the administration has made serious errors in environmental, energy, and foreign policy with disastrous consequences to the nation, the administration's legitimacy and authority to enforce the Clean Power Plan in the Commonwealth of Kentucky is devoid of merit; and

WHEREAS, the Tenth Amendment to the United States Constitution reserves powers to the states that are not constitutionally delegated to the federal government;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 224.20-125 is amended to read as follows:

- (1) The cabinet shall not promulgate administrative regulations or impose permit conditions on the emission of [~~carbon dioxide,~~] methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride pursuant to the Kyoto Protocol for the purpose of reducing global warming until authorized by the General Assembly or by federal statute. The cabinet may promulgate administrative regulations or impose permit conditions on the emission of [~~carbon dioxide,~~] methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride for any other reason authorized by this chapter or required under federal statute or administrative regulation as long as the administrative regulations or permit conditions are not promulgated or imposed pursuant to the Kyoto Protocol.
- (2) Nothing in this section shall be construed to limit or to impede state, local, or private participation in voluntary initiatives to reduce emissions of greenhouse gases, such as the United States Environmental Protection Agency's Green Lights program and the United States Department of Energy's climate change program.
- (3) The cabinet shall not promulgate administrative regulations or impose permit conditions on the emission of carbon dioxide under any federal rule or federal plan until:**
 - (a) Authorized by the Kentucky General Assembly; or**
 - (b) The United States Congress adopts legislation that designates carbon dioxide as a criteria pollutant subject to regulation under the Clean Air Act.**

➔Section 2. The Kentucky General Assembly declares the Commonwealth of Kentucky as a sanctuary state from the overreaching regulatory power of the United States Environmental Protection Agency with respect to the implementation of federal rules to reduce carbon dioxide under 40 C.F.R. Part 60.