

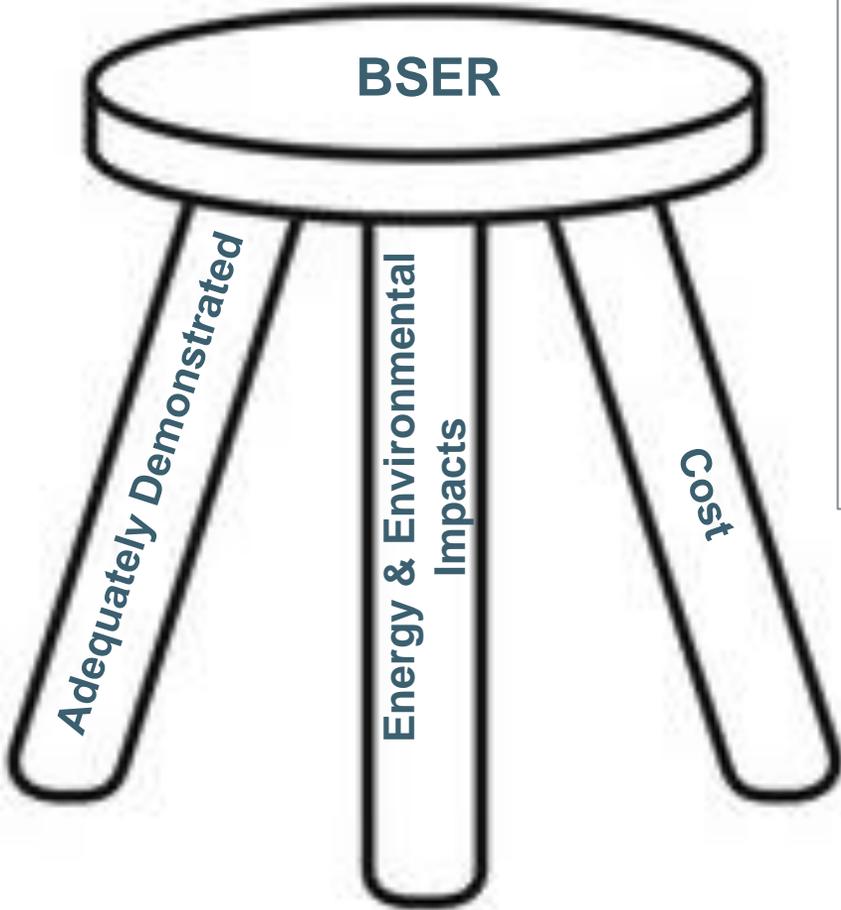
October 25, 2023

2023 CCUS Economics and Policy Workshop

Carrie Jenks, Executive Director
Environmental and Energy Law Program, Harvard Law School

EPA's Regulatory Options and Legal Constraints

Best System of Emission Reduction (BSER)



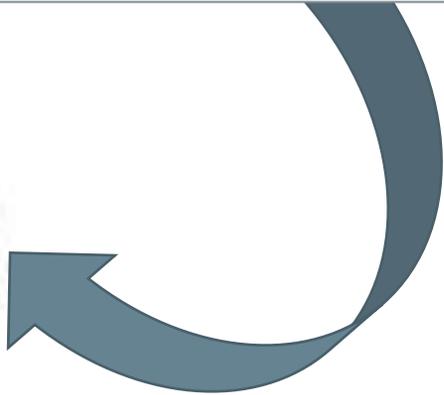
136 STAT. 1818 PUBLIC LAW 117-169—AUG. 16, 2022

Public Law 117-169
117th Congress

Aug. 16, 2022
[H.R. 5376]

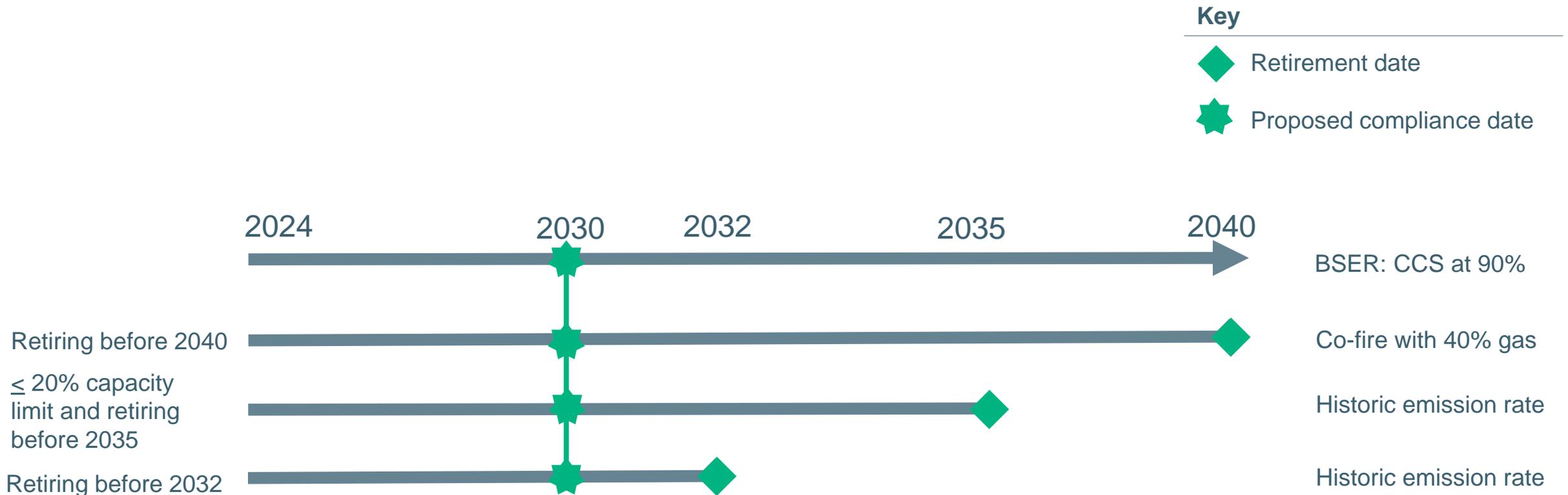
Appropriations
authorizations.

An Act
To provide for reconciliation pursuant to title II of S. Con. Res. 14.
*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*



Existing Coal Standards – Timing and Subcategories

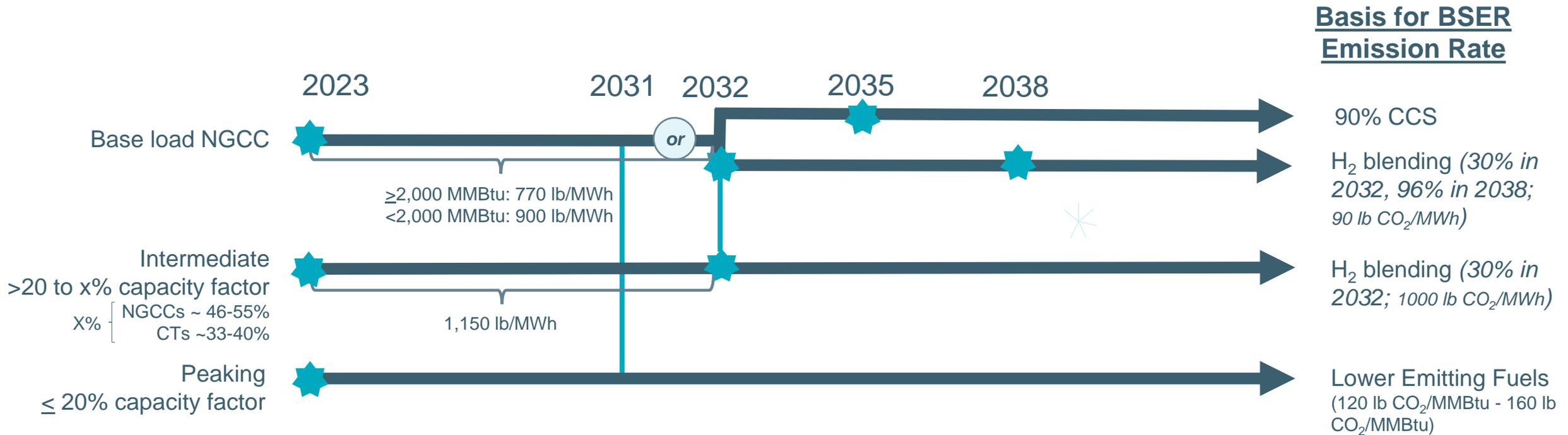
BSER based on CCS with Three Alternative Pathways



New Gas Standards – Timing and Subcategories

Three subcategories

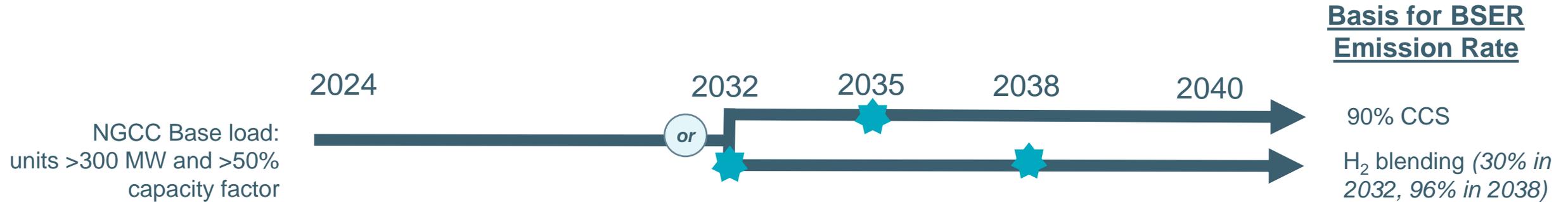
Key
 Proposed compliance date



Existing Gas Standards – Timing and Subcategories

Standard proposed to apply only to NGCC baseload units

Key
★ Proposed compliance date



State Plan Considerations for Existing Units

Remaining Useful Life and Other Factors (RULOF)

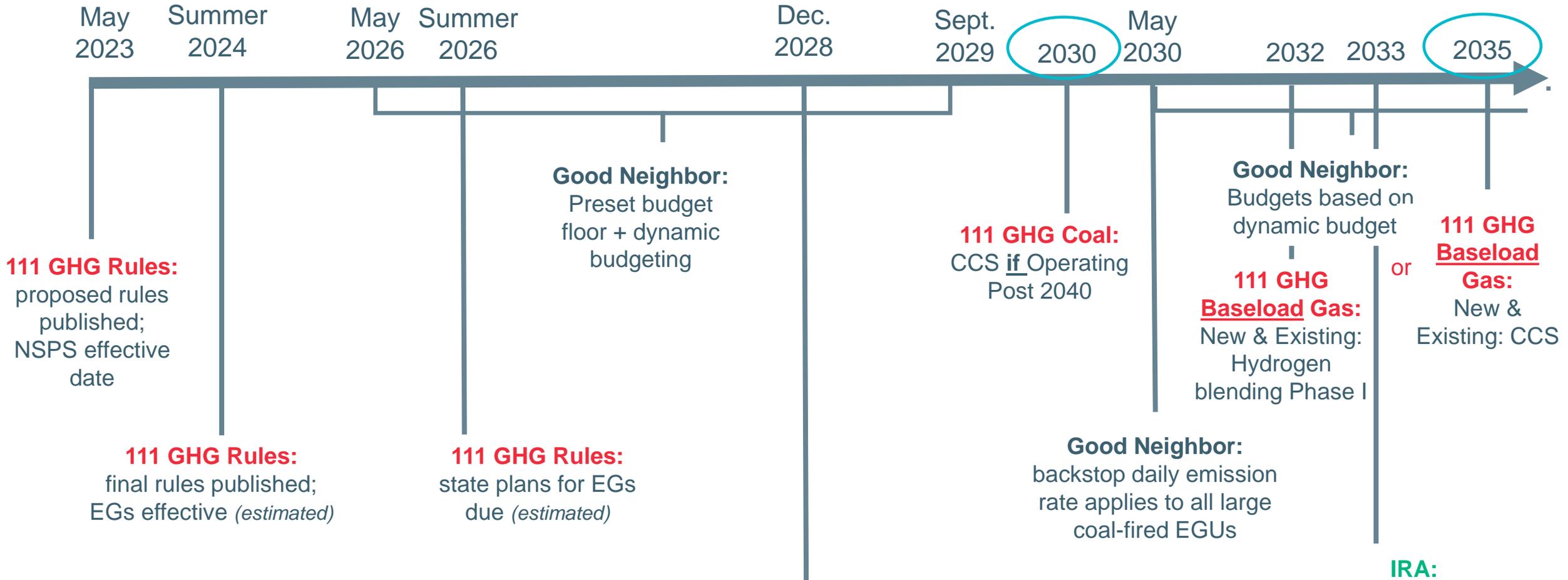
- Unreasonable cost of control
- Physical impossibility or technical infeasibility
- Fundamentally different from BSER determination

Compliance Flexibilities: Averaging and Trading

- Requests comment on how rate-based trade could ensure equivalent stringency
- Requests comment on how dynamic budgeting could support mass-based trading
- Requests comment on banking and interstate trading

Meaningful Engagement

Timing Considerations



- **ELGs:** option to continue discharging bottom ash transport water if it committed to a “permanent cessation of coal combustion” by December 31, **2028**
- **Coal Combustion Residuals:** can extend coal ash closure if coal plants closes by **2028**
- **Regional Haze:** **2028** end of the second implementation period