

THE EPA'S CARBON CAPTURE FLIP-FLOP

One of the agency's own regional offices and a panel of EPA judges have ruled that the policy is too expensive.

By Brian H. Potts

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With great fanfare, the Environmental Protection Agency proposed a rule last fall that would require all newly built coal-fired power plants in the U.S. to install an expensive new technology called carbon capture and storage, or CCS. Although the technology has never been installed on a large-scale power plant anywhere in the world, it theoretically will separate the primary greenhouse gas—carbon dioxide—from the plant's exhaust and pump it to underground reservoirs for storage.

The proposal instantly set off controversy. Many technical experts (including Burton Richter, a Nobel Prize-winning physicist at Stanford) believe that CCS isn't ready for prime time. EPA's proposal claims it is adequately demonstrated and can be installed at a reasonable cost. The Clean Air Act requires the agency to establish both of these factors before forcing plants to install a particular technology.

That's when things got weird.

Shortly after the proposal was released in September, EPA administrator Gina McCarthy defended carbon capture and storage in a highly publicized interview on PBS, describing it as a "technology that we believe is available today." Then, on Nov. 25, the EPA regional office in Texas did an about-face when it decided that [Exxon Mobil](#) would not have to install the technology in its planned chemical plant (such plants emit carbon dioxide) in Harris County, because it would be prohibitively expensive.

Enter the Sierra Club, which challenged the EPA's Exxon Mobil decision on Dec. 26. Last week, three administrative law judges on the agency's Environmental Appeals Board upheld the Texas office's decision not to require CCS. Why? Because the EPA regional office found, and the judges agreed, that the "addition of CCS would increase the total capital project costs by more than 25%."

Southern Co.'s Kemper County power plant stands under construction near Meridian, Mississippi, U.S., on Feb. 25, 2014. *Bloomberg*

Talk about inconsistency: In its coal-plant proposal, the EPA admitted that CCS would increase the capital cost of every new coal plant built in this country by about 35%. Even with this staggering price tag, the agency still found the technology economically viable (and since then, the agency has given no indication that its position has changed). Meanwhile, an EPA regional office and its administrative judges decide that a 25% capital cost increase is prohibitively expensive. The agency is either incredibly sloppy or simply incompetent.

Either way, if—like me—you want this country to reduce its greenhouse-gas emissions, you should be worried. When industry lawyers challenge the EPA's new power-plant CCS requirement in court, Exhibit A will be the Exxon Mobil decision, which three independent EPA judges have now blessed. Challengers can claim that requiring the technology for new power plants is unlawful under the Clean Air Act because it's too costly—and point to the agency's own findings in the Exxon Mobil case as proof.

Then there is the ongoing saga of Southern Company's planned power plant in Kemper County, Miss. The Washington Post noted May 17 that the coal-fired Kemper plant—hailed for its plan to

use CCS technology—is a year behind schedule and expected to cost \$5.5 billion, or more than double the original estimate, partly due to miscalculations designing and building the carbon-capture system.

Regardless of what happens with the Kemper plant, the EPA's internal inconsistencies on CCS could have much broader implications. Section 111 of the Clean Air Act says that the agency can't regulate greenhouse-gas emissions from existing power plants, unless and until it has regulations in place for new power plants. So if a court overturns the agency's carbon capture and sequester requirement for new plants, the EPA won't be able to implement its climate rules for existing power plants (which the agency plans to propose on June 2). The rules for existing plants are the ones that really matter from an emissions standpoint: Current power plants emit about a third of this country's greenhouse gases.

Fortunately for the EPA, it's not too late to right this wrong. Unfortunately there's probably only one way to do it: The agency has to scrap the CCS requirement for new coal plants and instead adopt something more legally defensible, such as requiring that all new coal plants be built using the most efficient plant design.

This would require Ms. McCarthy and the EPA to eat some crow. But it's the right decision for many reasons, including protecting the climate.

Mr. Potts is a partner at the law firm Foley & Lardner LLP.