

DAILY NEWS

EPA Appears To Drop New Coal CCS Requirement From Draft Final NSPS

Posted: May 20, 2015

EPA appears to have dropped its controversial requirement that new coal plants install partial carbon capture and sequestration (CCS) from its draft final new source performance standards (NSPS) that it recently sent to the White House for interagency review, according to one informed source.

The source believes EPA decided to drop the CCS mandate in the face of growing legal concern that the technology requirement would not withstand court review, because the projects the agency had relied on to show that CCS is "adequately demonstrated" and "commercially available" are faltering.

A final NSPS must be in place in order for EPA to go forward with its final existing source performance standards (ESPS) to cut greenhouse gas (GHG) emissions from the current power fleet -- a rule that the agency also plans to complete this summer and one that would achieve far more emissions reductions than the NSPS, particularly because there are no new coal plants planned in the U.S.

However, environmentalists note that dropping CCS would hurt the Obama administration internationally, just ahead of major United Nations climate talks in Paris, while a European environmentalist who supports CCS says if the United States allows uncontrolled new coal plants it would remove pressure on Europe to craft a new coal plant standard.

EPA staff has already considered the possibility of finalizing the NSPS without the CCS requirement in an analysis of [fallback options](#) that included ultra super critical pulverized coal (USCPC) and integrated gasification combined-cycle (IGCC) without CCS.

EPA's proposed NSPS sets an emissions rate for new coal plants of 1,100 pounds of carbon dioxide (CO₂) per megawatt hour (lbs CO₂/MWh), which can only be achieved with partial CCS. The rate of an IGCC plant without CCS is between 1,300 and 1,450 lbs CO₂/MWh, while a USCPC plant emits between 1,600 and 1,700 lbs CO₂/MWh.

The informed source says the final rule sent to the White House Office of Management & Budget (OMB) on May 8 is "relaxed measurably" from the proposal. "You're going to see some movement on the coal standard," the source predicts, adding it will likely be eased enough to allow compliance through a stand-alone IGCC facility, which can be considered "CCS ready."

The final rule is also expected to allow USCPC to meet the standard, at least technically, but will require those plants to co-fire significantly -- about 40 percent -- with gas. That requirement makes it unlikely any USCPC facilities will be built, the source says. "If you have to co-fire such a high percentage of gas in coal boilers, then" it would make more sense to "just build gas."

The major reason EPA has likely dropped the CCS-based standard is because of ongoing problems at a high-profile project in Mississippi, Southern Company's Kemper plant, which has faced significant cost overruns, delays and other major problems. Also, the developers of another CCS plant, FutureGen, canceled the project after the Energy Department dropped funding. The only operating coal plant with CCS is in Saskatchewan, Canada.

Final Regulation

The source says it is unclear how much of a role White House officials played in drafting the final rule at EPA before it was formally sent over, and that EPA might still need to convince the White House to accept dropping CCS -- which could be a tough call on the international front as the administration prepares to lead on United Nations climate talks in Paris late this year.

"I don't know if there is some understanding at the White House that they're going to do it this way, or there is still that shoe to drop," the source says, adding that problems with Kemper and the Boundary Dam CCS plant in Saskatchewan made agency lawyers "very nervous about being able to defend the original proposal."

Further, the source says EPA can legally finalize an NSPS that drops CCS from the definition of best system of emissions reduction (BSER) because it solicited and received thousands of comments on other options.

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The source was unsure about the rule's final standard for coal plants, but says it would have to go as high as 1,700 lbs CO₂/MWh to accommodate stand-alone USCPC without co-firing gas, or it could be set as low as 1,300 lbs CO₂/MWh for IGCC. Another option is a number that would require IGCC with a smaller amount of carbon capture, as low as 10 percent, as a way to ease into CCS.

EPA's original proposal required 30 percent CCS capture immediately, along with an option to phase it in over time and achieve a lower rate of 1,000 lbs CO₂/MWh after seven years.

While the specific numbers in the draft final rule are not known, "directionally, this is where they're going," according to the informed source.

EPA declined to comment on the contents of the draft final NSPS, with one source saying, "Nothing's final til it's final. I couldn't confirm or deny anything at this point." A spokeswoman would only say the final NSPS is "an important part of President Obama's Climate Action Plan and will put in place the first-ever national carbon pollution standards for new power plants."

OMB has not yet met with any outside groups on the issue yet, according to its list of external meetings on its website, and the informed source predicts there will not be a rash of meetings because the "feeling is this is a done deal."

Industry sources also believe the final rule will drop CCS, though they could not confirm that a decision has already been made. One source expects it to come "deeper in the process." But "at the end of the day they will get sued by someone, so they might as well get sued for something [they] can defend," the source says.

The informed source was not sure why EPA would drop CCS other than as a way to get around the legal vulnerabilities of the NSPS to protect the ESPS. And because no one is building new coal, "it's really the less-important piece of this. Everybody's building gas and it's not like they're weakening the gas standard. I think they're less worried about blowback from [environmentalists] on something like this."

Data Quality

In dropping CCS, EPA could [cite an option](#) floated by the Center for Regulatory Effectiveness (CRE), which urged the agency to finalize a rule without CCS while conducting what it says is a required peer review of the technology under the Data Quality Act (DQA).

A CRE source notes that EPA in two separate responses, the most recent [dated March 25](#), "made a definite commitment to comply with the" DQA, "thus my reason for concluding that CCS is not in the final rule." Also, the source notes, its exclusion will dramatically reduce litigation over the NSPS.

Environmentalists are skeptical that EPA has indeed dropped CCS but admit it's a possibility, and acknowledge that the agency would not have to re-propose a final NSPS that drops CCS as BSER.

One source, however, says that because the proposal banned new coal plants that did not limit their CO₂ emissions, it "would be a pretty big change to say, actually, you can build new coal without controlling its carbon," and it would be "very concerning."

But the source also acknowledges that no new coal plants are being built domestically, and that coal plants are not cost effective with or without CCS. "Either way, probably we wouldn't see any new coal."

The source does argue that dropping CCS could bring problems internationally, given the Obama administration's commitment to leading globally on climate. "And I don't think the administration would walk away from that lightly."

One source with the European environmental group Bellona Foundation agrees that it could be difficult internationally for the Obama administration to drop CCS from the final rule.

Bellona has touted the proposed NSPS on its website and as part of its year-old bid to convince the European Union (EU) to adopt new coal plant standards that include CCS. The United Kingdom and Canada have CCS requirements already, the source notes.

The Bellona source says it would be surprising and disappointing if EPA concludes that CCS is no longer "adequately demonstrated" for new coal. "I thought it was settled," the source says.

Also, the source says that the CCS mandate "was an important one" because it sent a signal that "high CO₂ intensity fuels will not be part of the future." Europe sees the United States on a de-carbonization pathway that starts with replacing coal with gas, and continues with putting CCS on coal and gas units, the source says, and Bellona is hoping to pressure Europe to reduce use of its coal fleet in part by pointing to U.S. action.

If EPA drops CCS, that would only encourage Europeans to continue their current path of rising coal use, the source says. "It would be quite annoying from my point of view if they weren't able to go to Paris and say we are moving to a world without" uncontrolled coal. Dropping CCS would essentially mean EPA was "removing the performance standard" for coal.

However, the source says it is hard to gauge what the official reaction of other nations would be in the Paris framework, and acknowledges that the United States could defend its position by noting that no new coal plants are being built here anyway. "It is very hard to say how these talks will pan out until they're here. . . . We have to cross our fingers and hope for the best." -- Dawn Reeves (dreeves@iwppnews.com)