

Legal War Brews Over EPA Power Plant Rule

Media Mentions

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Bracewell's **Jeff Holmstead** [discussed with *E&E News*](#) the EPA's new rule to slash emissions from power plants, which comes less than a year after the Supreme Court issued a landmark ruling in *West Virginia v. EPA* that scaled back the agency's regulatory options for controlling carbon and other greenhouse gas emissions from the power sector.

"Some of the things they're proposing are a real stretch, and they could still run into the very same problems again," said Holmstead about potential for litigation with the EPA's new proposal.

Holmstead said EPA relied on announced projects that haven't yet been financed to show the carbon capture for gas plants could be feasible. Hydrogen projects face a similar problem.

"I'm bullish on CCS," he said. "I actually think it's a technology that will be really important. But they obviously are swinging for the fences here."

Congress' landmark climate bill — the Inflation Reduction Act — offers key funding to advance CCS and hydrogen technologies that could make EPA's proposal more economically feasible, though the bill itself won't offer legal cover to the agency. The 2022 law revamped a tax credit for carbon storage, 45Q, offering up to \$85 per metric ton of permanently stored carbon and \$60 per metric ton for enhanced oil recovery.

"Without the 45Q tax credits, [the proposal] would be much more expensive," said Holmstead. "It certainly helps them that some of the costs can be offset with tax credits."

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