



**National Conference of State Legislatures
Office of State-Federal Relations**

Feb. 10, 2016

U.S. Supreme Court Issues Stay of Clean Power Plan

On Feb. 9, the U.S. Supreme Court [granted a stay](#) halting implementation of the U.S. Environmental Protection Agency's [Clean Power Plan \(CPP\)](#) until the U.S. Court of Appeals for the D.C. Circuit rules on the CPP's legality. A majority of justices granted the stay, with Justices Ruth Bader Ginsburg, Stephen Breyer, Sonia Sotomayor and Elena Kagan voting to deny the application for a stay.

The stay means that for now, the requirement for states to submit a compliance plan or initial plan with a request for an extension by Sept. 6, 2016, is on hold until a final judicial decision by the U.S. Court of Appeals for the D.C. Circuit, or the U.S. Supreme Court is made. At issue is whether or not EPA has the authority to issue CPP regulations at all.

It remains unclear how the stay will impact the Court of Appeals' ruling on the case itself, although it is widely assumed that the U.S. Supreme Court will ultimately decide on the rule's legality. It also sends a message to the Court of Appeals that it must take a closer look at the legality of the regulations.

Under an expedited schedule set by the Court of Appeals, oral arguments will be held on June 2 and an opinion is expected sometime in the fall.

The CPP was finalized in August 2015 and aims to regulate the amount of carbon dioxide emissions from power plants. The CPP has proven to be a contentious issue, with 29 states and state agencies in opposition to the rule while 18 states and the District of Columbia have filed motions in support of the rule. Five states have not taken a legal position.

For more information on the CPP and state legislative reactions to the regulation, visit [NCSL's Web brief](#).

For any additional questions or concerns please contact NCSL staff [Ben Husch](#) (202-624-7779) or [Melanie Condon](#) (202-624-3597).