

## Clean Power Plan: The Southeast Since the Supreme Court Stay

---

### Overview

On February 9, 2016, the Supreme Court issued a stay of the Clean Power Plan while litigation proceeds in lower courts. Following this development, SEEA began to gather information about the meaning of this court action as well as the impacts in the Southeast. We welcome [your feedback](#) and updates to help us maintain a strong understanding of our region as well as to help the organization navigate the changing circumstances and best serve our stakeholders. Please contact Cyrus Bhedwar ([cbhedwar@seealliance.org](mailto:cbhedwar@seealliance.org)) with any input.

### Logistics

- The September 2016 deadline will likely not remain in place, but fate of the September 2018 deadline is less certain – it may or may not still apply. EPA will continue to share information with states as it develops a clearer understanding of the impact of the stay.
- The stay is predicted to last anywhere between one and two years, depending on how quickly the litigation moves through the courts. The absolute earliest we could see it lifted would be next summer (2017).
- Until the stay is lifted, EPA cannot implement or enforce CPP obligations; however, they remain available to work with states on a voluntary basis. EPA will also continue to work to develop tools and support for the final rule, as well as state tools, including SPECS, which is the system that states will use to file their plans.
- Franz Litz (from Great Plains Institute) suggested that EPA could still finalize the model rules, since they are optional/non-prescriptive. This would, in theory, give states something more concrete to work toward.

## State Activity

- **Alabama:** ADECA had not launched an interagency coordination process at the time of the stay, and is not changing its approach while litigation is pending.
- **Arkansas:** ADEQ officials expect to continue with their stakeholder process. The state is continuing to evaluate participation in the Clean Energy Incentive Program (CEIP) and other solutions that address highly energy inefficient homes and buildings.
- **Florida:** Florida had been planning (but not yet launched) a stakeholder process. We'll continue to monitor the state for any developments.
- **Georgia:** The Georgia Environmental Protection Division has stopped work on its stakeholder engagement process. More in this article<sup>1</sup> from the Atlanta paper.
- **Kentucky:** The state has cancelled planned stakeholder meetings following the stay.
- **Louisiana:** Stakeholders are continuing to work with the new administration to determine an appropriate path forward.
- **Mississippi:** The Mississippi Department of Environmental Quality is moving forward with their stakeholder meeting on 2/23. Initial indications are that they will pause following that.
- **North Carolina:** Just prior to the the stay, Duke Energy had expressed its interest<sup>2</sup> in a more collaborative approach to developing a compliance plan. Following the stay, the Environmental Management Commission withdrew the Clean Power Plan as a discussion item from its agenda.
- **South Carolina:** The South Carolina Energy Coalition, which has been meeting for more than two years will hold a meeting Thursday, February 18.

---

<sup>1</sup> <http://www.myajc.com/news/business/power-plant-ruling-hailed-by-ga-officials/nqNFX/>

<sup>2</sup> <http://www.bizjournals.com/charlotte/blog/energy/2016/01/duke-energy-wants-n-c-to-open-up-planning-for-epa.html>

SEEA will attend and report back on their future plans.

- **Tennessee:** The Tennessee Department of Environment and Conservation had originally planned more about a dozen stakeholder listening sessions across the state. They will likely scale this number down following the stay. They are also very focused on engagement with vulnerable communities and the CEIP. The state energy office continues work on a nationally funded project to develop energy efficiency registry operating rules. The project just officially kicked off this week, and is working to produce a draft by May.
- **Virginia:** As the only state in SEEA’s territory supportive of the Clean Power Plan, Virginia will continue its efforts to develop and submit a plan prior to the original September 2018 deadline. The governor has issued a statement<sup>3</sup> on the matter.

---

<sup>3</sup> <https://governor.virginia.gov/newsroom/newsarticle?articleId=12262>