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Court denies emergency stay request for EPA's Clean Power Plan

By Molly Christian

A U.S. appeals court denied 15 states and coal producer [Peabody Energy Corp.](#)'s request for an emergency stay of the U.S. EPA's Clean Power Plan, saying petitioners failed to meet the "stringent standards" for obtaining a stay.

The ruling could put off further challenges to the [Clean Power Plan](#) until the EPA officially publishes the carbon-reduction rule in the Federal Register, which the agency indicated on Aug. 31 may not [happen](#) until mid- to late October. The states and Peabody, which say the rule violates Clean Air Act provisions, have [claimed](#) the plan is already resulting in considerable compliance expenditures and lost business, requiring a stay of the regulation until the court can rule on their broader challenge of the plan.

But the U.S. Court of Appeals for the District of Columbia denied their stay request on Sept. 9, saying they "have not satisfied the stringent standards that apply to petitions for extraordinary writs that seek to stay agency action."

The ruling was applauded by Clean Power Plan supporters.

"Today, the Court of Appeals rightly recognized that these premature, polluter-backed attacks on the Clean Power Plan are without merit, and sent them to the garbage bin where they belong," Sierra Club's chief climate counsel Joanne Spalding said. "The Clean Power Plan is based on legislation passed by Congress, with authority affirmed by the Supreme Court, and backed by a large majority of the American people."

The 15 states filing the challenge are West Virginia, Alabama, Arkansas, Florida, Indiana, Kansas, Louisiana, Michigan, Nebraska, Ohio, Oklahoma, South Dakota, Wisconsin, Wyoming and Kentucky.

EPA issued a final version of the rule on Aug. 3. The plan establishes state-specific emissions rate targets starting in 2022 that can be met by a combination of building blocks that include improved coal unit efficiency rates and higher reliance on natural gas. States must submit implementation plans by September 2016, or two years later if they obtain an extension from EPA.