



RAP

Energy solutions  
for a changing world

# Planning in the Face of Uncertainty:

## How States are Responding to the Supreme Court's Stay of EPA's Clean Power Plan

*43<sup>rd</sup> Annual PURC Conference*

Presented by John Shenot

March 16, 2016

**The Regulatory Assistance Project**

50 State Street, Suite 3  
Montpelier, VT 05602

Phone: 802-223-8199  
[www.raonline.org](http://www.raonline.org)

# Introduction



- The Regulatory Assistance Project (RAP) is a global, non-profit team of energy experts, mostly veteran regulators, advising current regulators on the long-term economic and environmental sustainability of the power and natural gas sectors. ([www.raonline.org](http://www.raonline.org))
  - *Non-advocacy; no interventions*



- John Shenot is a Senior Associate at RAP. He previously served 3 years as policy advisor to the Public Service Commission of Wisconsin and 15 years with the Wisconsin Department of Natural Resources as an air pollution regulator and electric utility specialist.

# Key Dates for Clean Power Plan (CPP)

Requirement	Milestone
State compliance plan due OR Initial submittal with 2-year extension request	September 6, 2016
State compliance plan due (if extension requested)	September 6, 2018
Interim emission limits begin	January 1, 2022
Final emission limits begin	January 1, 2030

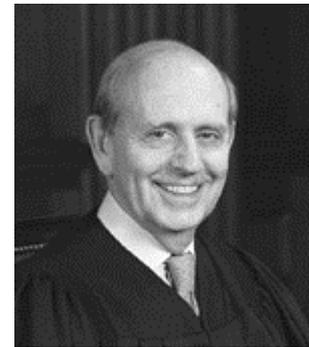
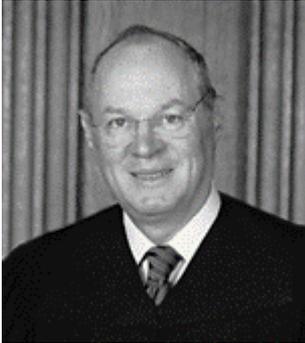
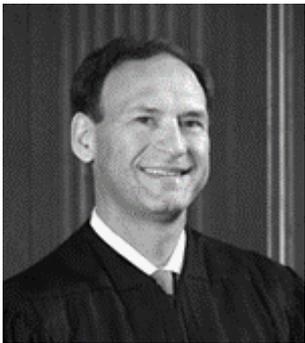
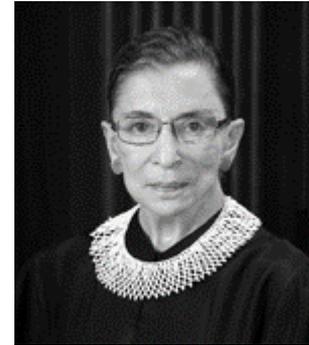
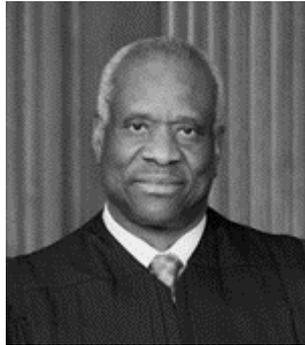
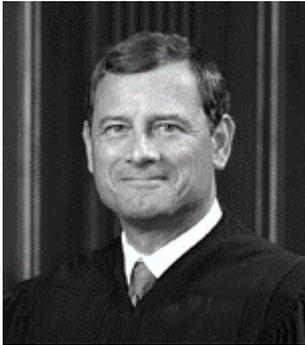
# The Supreme Court Says: Stay!



# What Does “Stay” Mean?

- CPP cannot be enforced pending the outcome of litigation
  - DC Circuit Court decision this summer
  - Loser will petition Supreme Court
  - Supreme Court decision likely in 2017 or 2018
- Should EPA prevail, it is unknown whether any/all key dates will be delayed
  - 2016 milestone presumably delayed

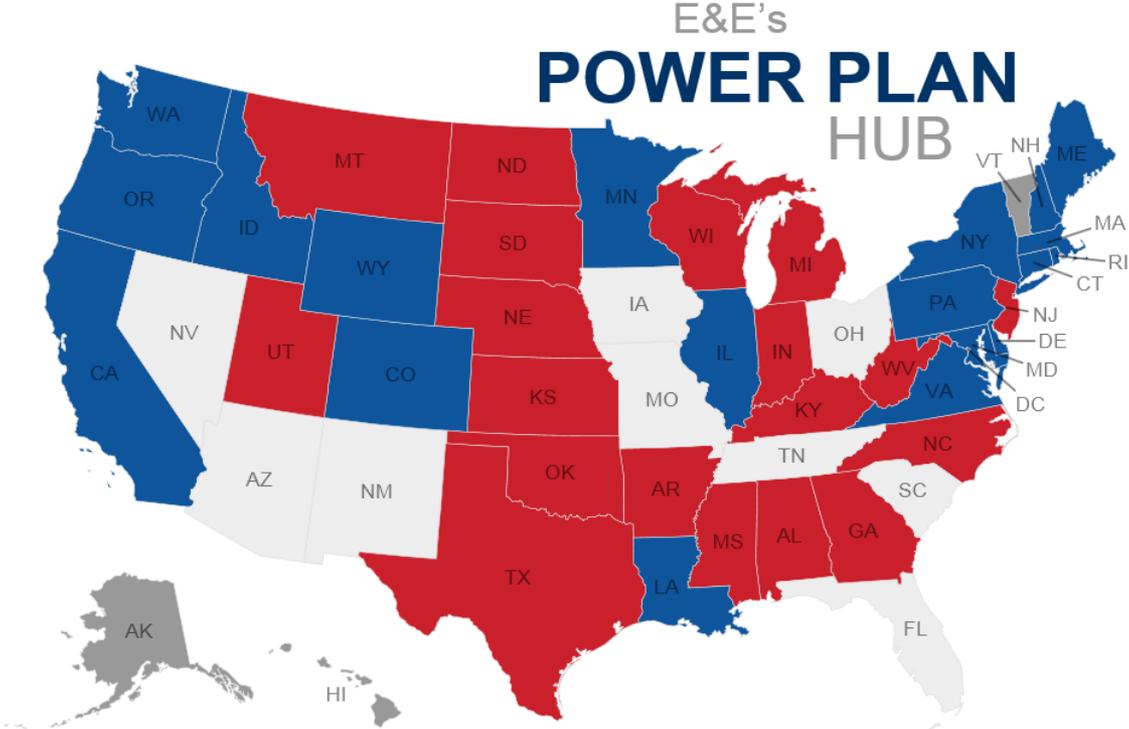
# Is the CPP Doomed?



# “Stay” Does Not Mean Everything Stops

- States, if they wish, can continue working on CPP compliance plans
- EPA will help states with compliance planning issues, if asked, but won't be pushing or initiating
- EPA will continue working on CPP-related decisions, but timing is now less certain
  - Federal plan and energy efficiency issues

# States Are Responding Differently



**Supreme Court Stay Response**

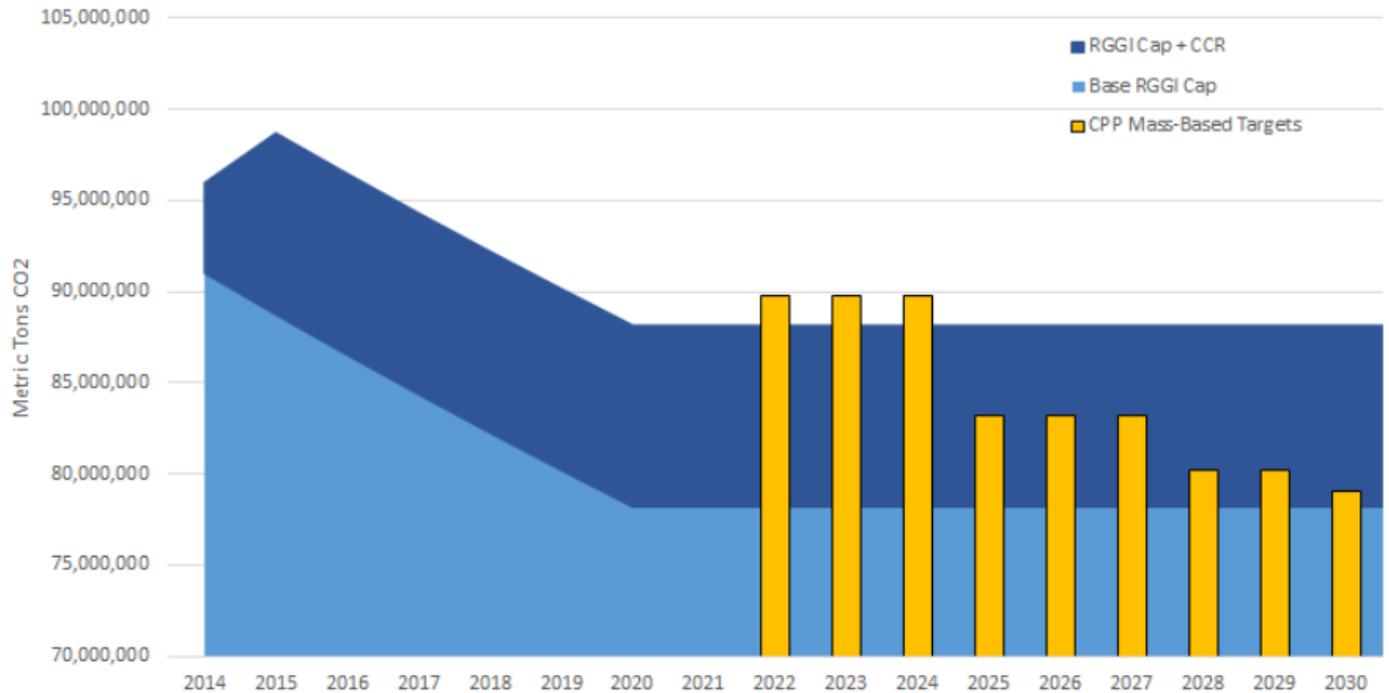


*As of March 11, 2016*  
**Source: E&E Publishing**

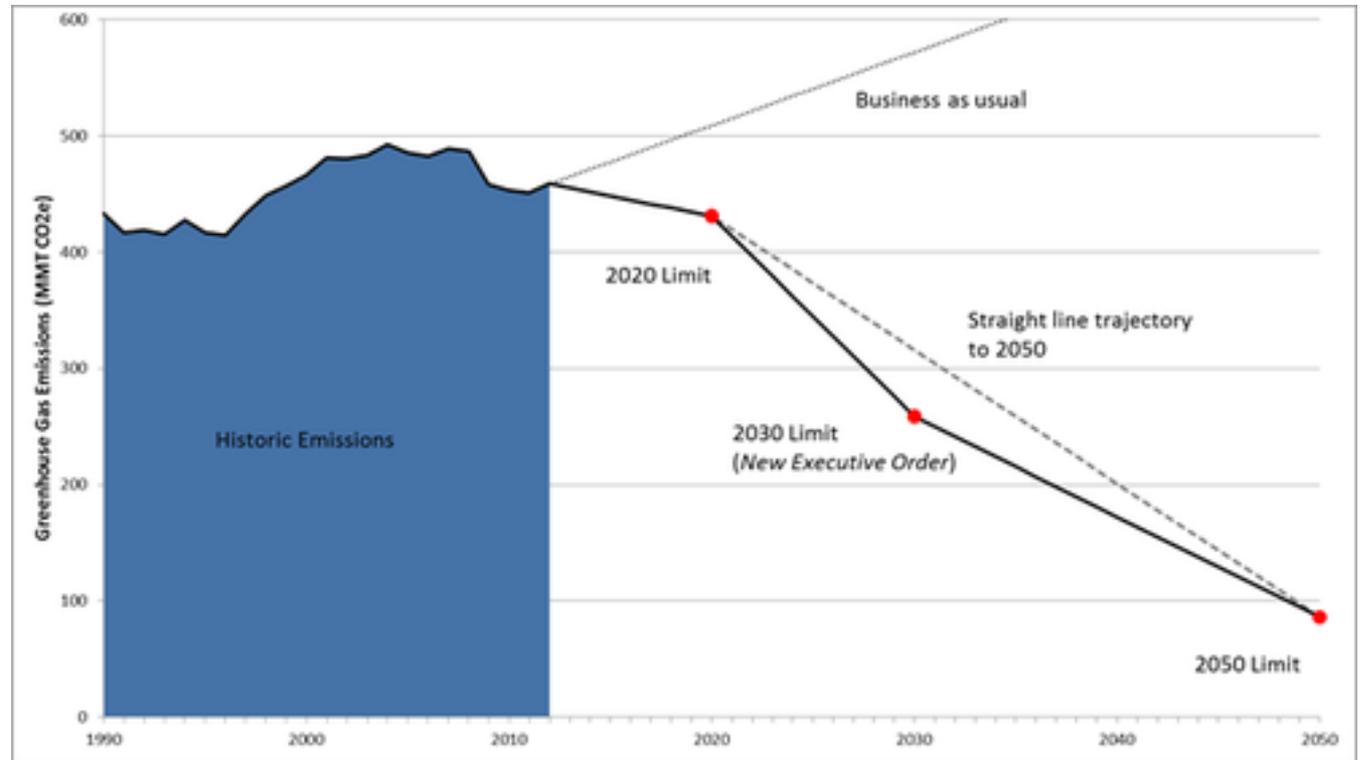
# State Emission Limits: RGGI



Figure 1 - Current RGGI Cap and RGGI States CPP Mass-Based Targets



# State Emission Limits: California



# Pacific Northwest

## Oregon

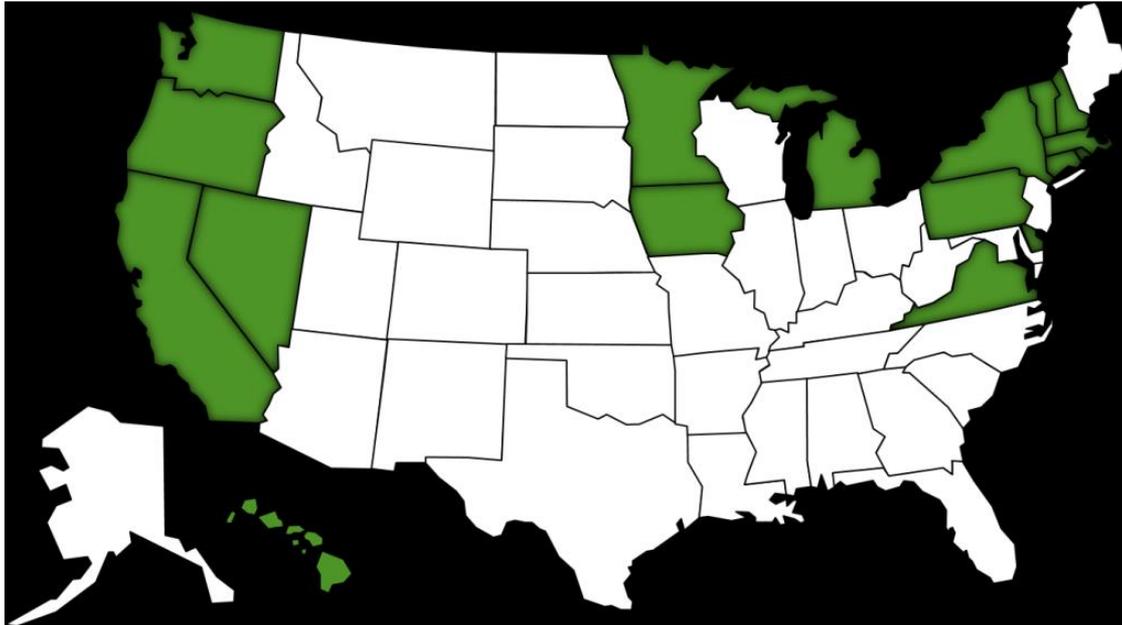
- 50% renewable electricity by 2040
- IOUs to end purchases of coal-fired power by 2035



## Washington

- Working on state rules to limit carbon emissions from largest sources, including power plants

# Governors' Accord for a New Energy Future



- ✓ Diversify energy generation and expand clean energy sources
- ✓ Modernize energy infrastructure
- ✓ Encourage clean transportation options
- ✓ Plan for this energy transition
- ✓ Work together to make these transformational policy changes
- ✓ Help secure a stronger national energy future

# Planning in the Face of Uncertainty

“A good hockey player plays where the puck is. A great hockey player plays where the puck is going to be.”

--*Wayne Gretzky*



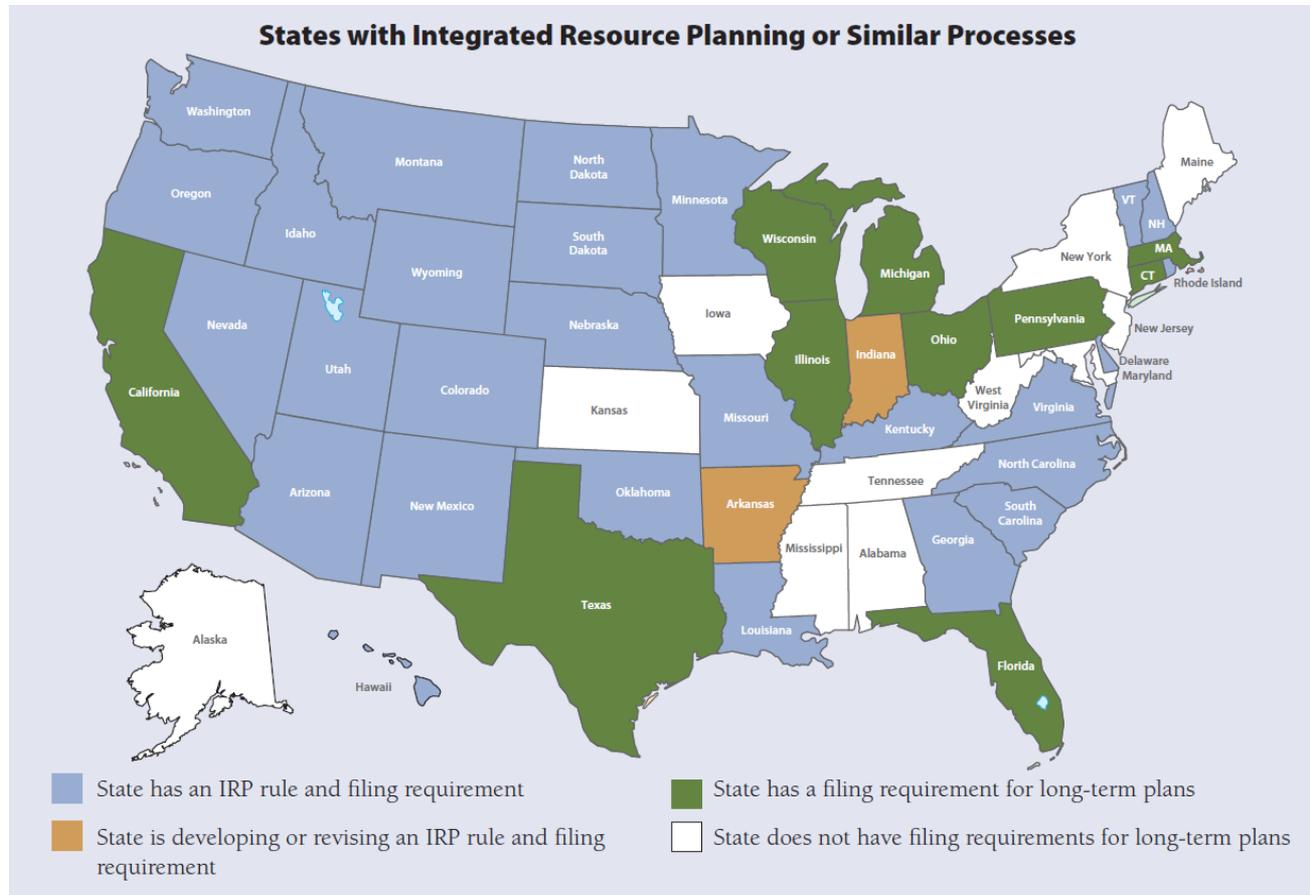
# Greenhouse Gas (GHG) Regulations in Some Form are Coming

- **2007: SCOTUS Ruling in Mass. v. EPA**
  - EPA can avoid promulgating regulations only if it determines that GHG do not cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare
- **2009: EPA findings on “Endangerment” and “Cause or Contribute”**
- **2013: SCOTUS refuses to hear challenges to EPA’s findings**

# RTOs Continue Planning

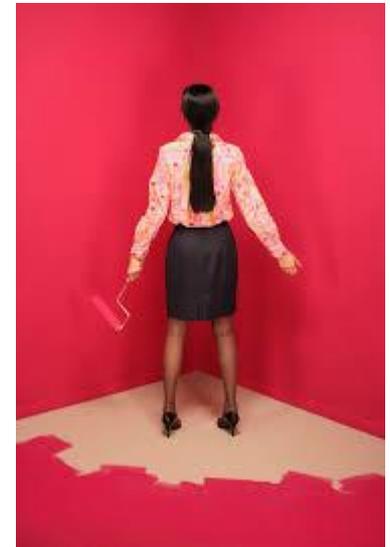
- Both SPP and MISO announced March 9 that they will continue to analyze CPP impacts, despite the stay.
- Jordan Bakke, senior policy studies engineer at MISO, said:
  - “The primary thing that MISO's seen is this trend toward less carbon generation... Whether that means the Clean Power Plan or something else... we're seeing very large resource changes on the system, and it is incumbent upon us to plan for that.”

# Planning for an Uncertain Future is Business as Usual



# Don't Paint Yourself Into a Corner

- Many types of regulatory decisions have implications for future carbon emissions
- CPP litigation might not end up the way you expect or want
- Some form of GHG regulation is likely, sooner or later
- Evaluate scenarios based on a range of possible futures
- Also consider *other* pending regulations *and* industry trends



# Thank You for Your Time and Attention

## About RAP

The Regulatory Assistance Project (RAP) is a global, non-profit team of experts focused on the long-term economic and environmental sustainability of the power and natural gas sectors. RAP has deep expertise in regulatory and market policies to:

- Promote economic efficiency
- Protect the environment
- Ensure system reliability
- Allocate system benefits fairly among all consumers

Learn more about RAP at [www.raonline.org](http://www.raonline.org)

John Shenot: [jshenot@raonline.org](mailto:jshenot@raonline.org)



### The Regulatory Assistance Project

Beijing, China • Berlin, Germany • Brussels, Belgium • Montpelier, Vermont USA • New Delhi, India

[www.raonline.org](http://www.raonline.org)