

New EPA Administrator Lisa Jackson [has granted](#) the Sierra Club's petition to reconsider [a memorandum](#) issued by outgoing Administrator Stephen Johnson in December.

Almost two years after the Supreme Court declared, in [Massachusetts v. EPA](#), that CO2 is an "air pollutant" for purposes of the Clean Air Act, this announcement, paired with the decision to reconsider California's request for permission to regulate greenhouse gas emissions from cars (see [Rick's post](#) and the [Federal Register notice](#)), shows that the Obama administration is serious about applying the Clean Air Act to greenhouse gases.

That's a good thing. Although it would be awkward to develop and implement a National Ambient Air Quality Standard for CO2, [as Michael Hanemann and I have explained](#), the technology-based and planning provisions of the Clean Air Act are both well suited to addressing the climate change problem and needed to induce innovation. Furthermore, robust application of the Clean Air Act to greenhouse gases will keep the pressure on Congress, which seems to be in no hurry to pass legislation specific to greenhouse gas emissions.

Johnson's memo was issued in response to [an Environmental Appeals Board decision](#) finding that EPA had not adequately explained its failure to include "Best Available Control Technology" requirements for CO2 in a permit allowing expansion of a coal-fired power plant in Utah. The Clean Air Act's "Prevention of Significant Deterioration" program requires that permits include control measures for any pollutant "subject to regulation" under the Clean Air Act. Johnson's memo argued that CO2 is not a regulated pollutant because, although EPA has required some monitoring of CO2 emissions since 1993, it has never imposed any emission limits.

In her letter granting the petition for reconsideration, Jackson declined to stay application of the memorandum, but did point out that states (who are responsible for the majority of permits) are free to ignore it, and that no one should "assume that the memorandum is the final word" on permitting requirements.

