

The Washington Post reported that EPA ["is reconsidering whether to compel dry cleaners to phase out a cancer-causing chemical used in tens of thousands of operations nationwide."](#)

In 2006, the Bush Administration issued an air toxics rule for professional dry cleaners using perchloroethylene in which it tightened technology requirements, but refused to phase out use of the chemical. This despite the fact that California regulators had already enacted phase outs, having found that replacement technologies were commercially available. The Sierra Club challenged the rule and oral arguments before the D.C. Circuit were set for this month. EPA recently asked the court for a voluntary remand to enable the Obama Administration a chance to review the rule.

This all arose in the context of mandatory periodic reviews of technology-based standards under the Clean Air Act's air toxics program. EPA initially issued technology standards for dry cleaning in 1993, and was required to update the standards to take account of advances in technology, including the development of alternative processes. The Bush EPA adopted a unique approach to the technology review process, essentially shifting the focus from the feasibility of the replacement technology to some form of risk-benefit analysis. The Sierra Club's lawsuit challenged this approach, and it will be interesting to see how a Cass Sunstein-led Office of Information and Regulatory Affairs will deal with it.