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## EPA Sends 'Johnson Memo' Reconsideration on CO2 Emissions to White House

By **ROBIN BRAVENDER** of [Greenwire](#)

U.S. EPA sent its final reconsideration yesterday of a George W. Bush-era memorandum detailing when the government should regulate carbon dioxide emissions from industrial facilities to the White House Office of Management and Budget for review.

The reconsideration comes after the Obama EPA launched a review of a document from former EPA Administrator Stephen Johnson detailing when the government must regulate carbon dioxide emissions from new and modified stationary sources, including coal-fired power plants.

EPA is preparing to issue greenhouse gas standards for automobiles later this month, a move that would trigger permitting requirements for stationary sources. The Obama EPA's interpretation of the "Johnson memo" will outline when the government must begin to regulate facilities' greenhouse gas emissions.

The Obama EPA last October announced that it was considering several interpretations of when a pollutant must be accounted for in clean air permits but said it would prefer to uphold the Bush administration's policy ([Greenwire](#), Oct. 1, 2009).

The Johnson memo says facilities should be required to obtain Prevention of Significant Deterioration (PSD) permits only for pollutants that are "controlled" under the Clean Air Act. In its reconsideration, EPA said it continued to favor that interpretation.

Roger Martella, who served as EPA general counsel during the Bush administration, said the agency "may look to the Johnson memo rulemaking as the legal mechanism to buy ... additional time through 2010 for EPA, the states and industry to prepare for PSD."

"To achieve that goal, EPA in the Johnson memo may attempt to define precisely when it believes greenhouse gases will become 'regulated pollutants' under the Clean Air Act in a

manner that would attempt a staggered PSD phase in for different sources, as opposed to triggering PSD for all sources at once," Martella added.

EPA Administrator Lisa Jackson told lawmakers last week that no stationary sources will face greenhouse gas regulations this year (*E&E Daily*, Feb. 23).

Final action on the reconsideration is expected later this month, according to a federal Web site that tracks federal rulemakings.

**[Click here \(pdf\)](#)** to read the Johnson memo.

**[Click here \(pdf\)](#)** to read EPA's October 2009 draft reconsideration.

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