



Though I was [somewhat skeptical](#) that the Obama climate plan unfurled last week included much new, I've also [argued previously](#) that if the administration uses its extensive power under the Clean Air Act to regulate both new and existing power plants, the President will really have accomplished something on the climate change front. It looks like EPA is moving quickly to put the President's commitment into action. EPA has [apparently sent](#) revised rules for new power plants to the Office of Management and Budget (OMB), though we don't know the rules' content.

Moving quickly to issue revised rules for new plants is good news because issuing regulations for both new and existing power plants requires the Administration to get started quickly given the length of time it takes to issue proposed rules, get them through the Office of Management and Budget, send them out for notice and comment and finalize them. In remarks from the White House after the President's climate speech last week, officials [said](#) EPA is aiming to issue proposed rules for existing power plants by June, 2014. Before issuing rules for existing plants, the Administration must issue revised rules for *new* plants, however, given the way the relevant section in the Clean Air Act works (Section 111). Here's [an explanation](#) for how Section 111 can be used to regulate power plant emissions.

Though we don't know the content of the newly revised rules for new power plants, the Administration's previous version faced significant criticism and potential legal vulnerability for treating new coal fired power plants the same as natural gas plants. The proposed rules would have set a [standard](#) for new plants that new combined cycle natural gas facilities could meet [but that new coal fired plants could not](#) unless they captured the greenhouse gas emissions and sequestered them, probably underground. The tricky legal question was whether the EPA was exceeding its authority to require the installation of the "best available control technology," the standard Section 111 requires. Since carbon capture and sequestration is not readily available and affordable, EPA may have been on tenuous legal ground with its proposed rule. The [speculation](#) is that the revised rule will separate new coal fired plants from natural gas plants. If the rules do so, however, and relax the standards on new coal fired plants, the Obama Administration could face significant criticism from the environmental community.

The other big question is whether OMB will act quickly to approve the revised rules. The agency has faced significant criticism for delaying the approval of other environmental standards, including energy efficiency standards for appliances. OMB's new head, Howard Shelanski, [has promised](#) to speed up the approval process.

In my last post I wondered if having the President pledge to issue the power plant rules would make a difference in getting EPA to act. Today's news suggests — at least for now — that it does.