

There's been a huge amount of attention — and justifiably so — to EPA's finding of endangerment. There's also been speculation about a follow-up finding applying to stationary pollution sources and about the political ramifications. In contrast, there hasn't been much discussion of what the motor vehicle standards might look like. Here's an EPA summary of the relevant criteria:

Emission standards under CAA section 202(a)(1) are technology-based, i.e. the levels chosen must be premised on a finding of technological feasibility. They may also be technology-forcing to the extent EPA finds that technological advances are achievable in the available lead time and that the reductions such advances would obtain are needed and appropriate. However, EPA also has the discretion to consider and weigh various additional factors, such as the cost of compliance (see section 202(a)(2)), lead time necessary for compliance (section 202(a)(2)), safety (see *NRDC v. EPA*, 655 F.2d 318, 336 n. 31 (D.C. Cir. 1981)) and other impacts on consumers, and energy impacts. Also see *George E. Warren Corp. v. EPA*, 159 F.3d 616, 623-624 (D.C. Cir. 1998). CAA section 202(a)(1) does not specify the weight to apply to each factor, and EPA accordingly has significant discretion in choosing an appropriate balance among the factors. See EPA's interpretation of a similar provision, CAA section 231, at 70 FR 69664, 69676 (Nov. 17, 2005), upheld in *NACAA v. EPA*, 489 F.3d 1221, 1230 (2007).

Obviously, there's a great deal of room for flexibility, and the economic burden on the industry will definitely be a factor.