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## New U.S. Vehicle Standards Address Fuel Economy and Greenhouse Gas Emissions

The President's program will accelerate increases in fuel economy and impose the first-ever national greenhouse gas emission standards on cars and trucks

By Josh Voorhees, Robin Bravender on May 19, 2009



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President Obama today unveiled new national auto standards that will accelerate increases in auto fuel economy and impose the first-ever national greenhouse gas emissions standard on cars and trucks.

"In the past, an agreement such as this would have been considered impossible," the president said in a Rose Garden speech. "That is why this announcement is so important, for it represents not only a change in policy in Washington, but the harbinger of a change in the way business is done in Washington."

The proposal would blend legal authority the Supreme Court granted U.S. EPA to regulate greenhouse gas emissions in its 2007 *Massachusetts v. EPA* decision with the Transportation Department's right to regulate fuel economy under the corporate average fuel economy, or CAFE, program, while still preserving California's right to regulate air pollution under the Clean Air Act.

Joining the president at the White House event were top executives from 10 major automakers, including Fritz Henderson, who became president of General Motors Corp. in March after Obama ousted Rick Wagoner as head of the company.

"At a time of historic crisis in our auto industry, this rule provides the clear certainty that will allow these companies to plan for a future in which they are building the cars of the 21st century," Obama said.

Also on stage with Obama were Transportation Secretary Ray LaHood, who currently oversees the CAFE program, EPA Administrator Lisa Jackson and White House energy and climate adviser Carol Browner.

The proposed rulemaking will be a joint effort between EPA and DOT and will mandate a 5 percent annual increase in fuel economy for model years 2012 through 2016. It would

push CAFE standards to a fleetwide average of 35.5 miles per gallon by 2016, four years ahead of the schedule Congress laid out in a 2007 energy law.

The announcement will not specifically grant California the waiver it needs to enforce its standards, but it would appear to make EPA's forthcoming decision on the issue moot. The White House said that if EPA does ultimately grant the waiver later, California has agreed to defer to the national standard through 2016 – and that if the waiver request is rejected, the proposal will move forward regardless.

In addition, the rulemaking would limit the amount of greenhouse gas emissions from passenger cars and light trucks, the first-ever such standard for the vehicles. A draft of the rule has not yet been released, but a White House spokesperson said the limit would be set at 250 grams per mile per vehicle in 2016.

### **Endangerment finding**

The proposal has spurred concerns that the Obama administration has prejudged the outcome of its proposed "endangerment" finding, which is still undergoing a public comment period.

"A commitment to regulate greenhouse gases for cars brings with it a final endangerment determination, so the decision to regulate greenhouse gases from cars indicates that they plan to finalize the endangerment determination," said Roger Martella, who was EPA general counsel under President George W. Bush.

In April, EPA released a proposed finding that greenhouse gases threaten public health and welfare. The agency also proposed to find that emissions of carbon dioxide and other greenhouse gases from new motor vehicles are contributing to this mix of greenhouse gases in the atmosphere and therefore also threaten public health and welfare. Such a finding would require the agency to regulate tailpipe emissions under the Clean Air Act.

EPA will hold the second of two public hearings on the finding Thursday. The public comment period ends June 23.

It comes as no surprise that EPA plans to finalize the endangerment finding, Martella said, but he said the sequencing was troubling. "It is important in a public comment process to

consider all the views that are submitted and to respond to the views before finalizing a decision," he said.

Jeff Holmstead, an attorney at Bracewell & Giuliani and former EPA air chief under Bush, said, "They'll have a real legal problem if it looks like they've prejudged the endangerment finding."

But Dan Becker, director of the Safe Climate Campaign, said today's proposal was consistent with the Supreme Court's *Massachusetts v. EPA* ruling, which affirmed EPA's authority to regulate greenhouse gas emissions.

"I don't think that there's any doubt that global warming poses a threat to health and welfare, and I think the final formal finding will be forthcoming," Becker said. He added that the administration did not issue any formal regulations today; it merely laid out plans for the future.

### **Industry praise, but 'still more to talk about'**

Automakers have a long history of opposing increased federal regulation, but their fears that the waiver would be granted spurred their embrace of new CAFE standards crafted by DOT. Today, auto industry officials applauded the president's effort to bring together a wide range of stakeholders to hammer out what one trade group described as "broad outlines of an agreement."

"What's significant about the announcement is it launches a new beginning, an era of cooperation," said Dave McCurdy, president of the Alliance of Automobile Manufacturers, a trade group representing Detroit's Big Three, Toyota Motor Co. and other carmakers. "The president has succeeded in bringing three regulatory bodies, 15 states, a dozen automakers and many environmental groups to the table. We're all agreeing to work together on a national program."

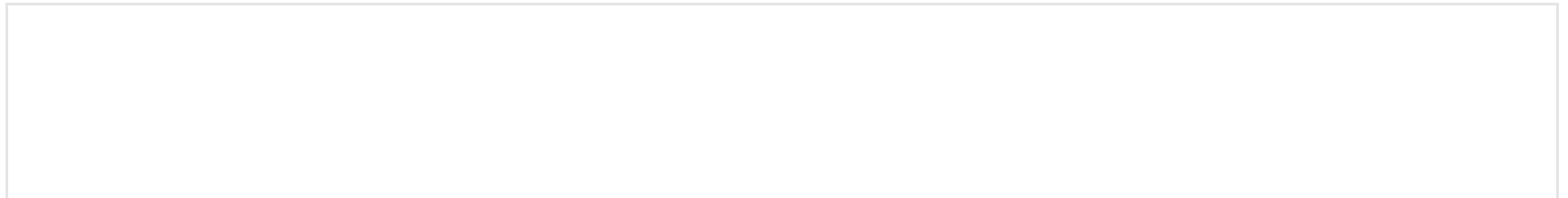
Still, while McCurdy and many of the alliance lauded the move toward a national program – something the industry has increasingly called for in the face of California and other states' efforts to regulate emissions – McCurdy made it clear that the proposed rulemaking was still a work in progress.

"The debate over who sets CO2 and fuel economy standards for autos has been decided, but there is still more to talk about," he said in a statement. "We have the broad outlines of an agreement, but we will need to work closely with NHTSA, EPA and California in the rulemaking process to resolve multiple issues, trying to fit all the elements together into one program. There is a strong commitment from everyone to move past any hurdles that may arise as we work through differences in the way these two federal agencies set standards."

Obama's announcement, likewise, was billed as an important first step by the Association of International Automobile Manufacturers, which represents Nissan Motor Co., Honda Motor Co. and a dozen other international carmakers.

"Today's actions begin the process of aligning EPA, DOT and California requirements, an action that AIAM has been urging for the past several years," said Michael Stanton, the group's president. "We will work diligently with all interested parties to ensure the adoption of the best program possible."

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