November 28, 2007

The Honorable Speaker Nancy Pelosi
Office of the Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Harry Reid
Office of the Majority Leader
U.S. Senate
Washington, DC 20515

Dear Speaker Pelosi and Majority Leader Reid:

I am writing on behalf of Public Citizen and its hundred thousand members to request that Congress *not* pass the fuel economy language as it currently stands in the Senate's version of the energy bill, unless it is significantly revised.

The Senate's CAFE language is touted as increasing fuel economy standards for the combined car and truck fleet to 35 mpg. That claim is misleading. The Senate's fuel economy language would instead set a toothless *target* of 35 mpg, which the administration would be empowered to ignore provided only that it manufacture a cost-benefit analysis justifying a lower standard.

Adding this cost-benefit "out" clause into the fuel economy law is a grave mistake that everyone will regret for years to come. Public policy should be based on public need, not industry-biased cost-benefit bean-counting. Cost-benefit analysis is riddled with deficiencies, making it highly inappropriate for use as the basis for setting standards to protect the public. Recognizing these deficiencies, Congress opted in 1975 to proceed not with a cost-benefit statute but instead with a demand for the best achievable fuel economy when it created the CAFE program. The technology-forcing standards of the late 1970s achieved significant fuel economy gains, with fleetwide average fuel economy increasing 68 percent from 1975 to 1987 (the year that fleetwide fuel economy reached its peak). They also were instrumental in helping U.S. automakers compete with the more fuel efficient imports at that time. Political factors in the three decades since then, most notoriously appropriations riders from 1995 to 2002 prohibiting the National Highway Traffic Safety Administration from spending any taxpayer dollars on efforts to raise CAFE standards, have blocked the program from continuing to provide these benefits. The real answer the public needs is to remove these obstacles once and for all, not to create new excuses for the administration to continue to fail the public on energy independence.

Additionally, the Senate fuel economy language would mandate a complex sliding scale that was cooked up in backroom meetings led by high-level White House officials and the staff of Vice President Dick Cheney. The problems of the Cheney scale are explained in Public Citizen's recent report *Slip Sliding Away: The Cheney Sliding Scale for Fuel Economy*, which is enclosed and is also available on the Web at www.citizen.org/CheneysCAFE. Under the Cheney sliding scale, automakers will be rewarded for upsizing — not downsizing — their vehicle fleets, with the end result that larger, heavier, and more dangerous vehicles will proliferate on the nation's roads, putting us all at heightened risk. Moreover, it embeds the problems of cost-benefit analysis, a notoriously rigged game, in the way that the sliding scale is calculated. Switching from the proven corporate average approach to this experimental Cheney scale without any kind of measure in place to prevent backsliding of fuel economy performance is a recipe for disaster. In fact, the 9th Circuit recently rejected the 2006 light truck rule in part because it lacked a measure to prevent backsliding. The final legislation must contain such a feature, which the Senate bill currently lacks.

Moreover, it is imperative that you reject entreaties from Chairman Dingell and the auto industry to add more loopholes: (1) continuation of the SUV loophole created by setting standards for cars and trucks separately, which companies have manipulated to effectively decrease fuel economy requirements; (2) extension of the dual fuel credit, which reduces fuel economy standards for companies that produce vehicles capable of running on gasoline and ethanol — even vehicles, like the 2004 Ford Taurus and Mercury Sable, which do not actually work when E-85 is pumped in; and (3) reduction or elimination of EPA's or the states' authority to require reductions in vehicle greenhouse gas emissions, which would reward the Bush administration for sitting on California's Clean Air Act waiver, void the environmental success of the Supreme Court's decision in *Massachusetts v. EPA*, and shut down an important option for preventing global warming.

Finally, even if the much-touted target of 35 mpg were actually mandatory and free of these other limitations, it is still far below what the nation can and must demand. Already, the current best-in-class fuel economy performers for the combined car and light truck fleets are achieving an average 29 mpg. Moreover, every Democratic candidate in the presidential race with an energy plan has recognized the weakness of the 35 mpg target and is proposing much higher goals.

No one wants to see tougher fuel economy standards more than I. When I was the administrator of the National Highway Traffic Safety Administration, I set the first ever CAFE standards, which to this day remain the only CAFE standards set for cars. Public Citizen has worked long and hard since then to try to win higher standards, in order to prevent the auto industry from self-destructing and to save consumers at the pump. No matter how eager we are to see some progress after years of setbacks and stalemates, we cannot accept legislation that offers only phony progress while turning back the clock on a progressive technology-forcing law that saved Detroit from itself in the 1970s and 80s.

As oil prices climb to $100 a barrel and gasoline prices soar to $3.00 per gallon, consumers are being bled dry while oil magnates and countries with ties to terrorism line their pockets. The Senate fuel economy language, which embraces the Bush-Cheney policy approach, is designed to keep this nation addicted to foreign oil. That cost is too high.

We urge you to use your considerable skills to influence the outcome of this legislation on behalf of reducing global warming and protecting the public — not the auto companies, which have had a long 30-year holiday from higher fuel economy standards.

Sincerely,

Joan Claybrook
President