Auto Safety Group • Congress Watch • Energy Program • Global Trade Watch • Health Research Group • Litigation Group
Joan Claybrook, President

Testimony of Joan Claybrook, President, Public Citizen
before the
House Select Committee on Energy Independence and Global Warming
December 9, 2008

Chairman Markey and members of the Select Committee, I appreciate the opportunity to testify today. I am Joan Claybrook, president of Public Citizen, and I have worked on auto safety and fuel economy issues for more than 40 years. As the administrator of the National Highway Traffic Safety Administration (NHTSA) from 1977-1981, I issued the first fuel economy standards, which forced recalcitrant Detroit manufacturers to double average car fuel economy to 27.5 miles per gallon by 1985. Since that time I have consistently advocated for tough increases in fuel economy standards to support a national energy policy that promotes conservation and efficiency as a means of insulating the nation from volatile oil prices and to push Detroit to compete with foreign-based manufacturers. I also issued the 1977 passive restraint rule, resulting in airbags that save about 3,000 lives each year and successfully pressed for enactment of five laws since 1991 to force manufacturers to improve vehicle safety.

The industry has tried to make the case that the problems it faces today are a result only of the credit crisis. However, the domestic industry has been in trouble for several years as oil price spikes in 2005 and the summer of 2008 have raised consumer demand for fuel efficient vehicles and shifted the market away from the SUVs and light trucks that have been Detroit's cash cows – the core of their product lines since the mid-1990s. The domestic industry has fought against increased fuel economy for three decades. The broken promises of the Partnership for a New Generation of Vehicles (PNGV), which was a voluntary arrangement in 1993 between the Department of Energy and the domestic auto manufacturers to build an 80 mpg car by 2004 that never materialized, demand skepticism about automakers' promises.

While it is immutable that the domestic industry is in distress and the consequences of its failure would cause a devastating ripple through the economy, public investment in the Detroit Three provides an opportunity for the industry to make philosophical changes in how it approaches the business of building cars. The public statements made by the industry, and the plans the companies submitted to Congress on December 2, 2008, show some evidence that this perspective is changing, but we ask that Congress make these promises binding. I attach to my testimony a litany of Detroit's prior broken promises.

Public Citizen acknowledges the impact of the larger economic crisis, and we note for the record that the Japanese auto manufacturers saw sales figures drop at almost the same rate as the domestic manufacturers in September and October 2008. We do not take the position that the credit crunch and widespread financial anxiety have not contributed to the severity of the

domestic industry's problems. However, foreign manufacturers have not come seeking a bailout, in large measure because long-standing investment in efficient vehicles have put them in a better position before the credit crunch, and will leave them in a better position once economic recovery begins.

Public Citizen disagrees with the choice to provide $15 billion in emergency loans to the auto companies from money that was appropriated to fund the advanced technology vehicle retooling incentives established in Section 136 of the Energy Independence and Security Act (EISA) in 2007. If this is the source of the funds, they must be replenished, and there must be a clear plan for how this will be achieved in the legislation now being negotiated. We do, however, agree that negotiating the bailout in two steps is prudent, as it allows for careful consideration of further terms and conditions that might be required of the industry.

Conditions

Public Citizen supports taking action to help the Detroit Three companies but we must emphasize that if Congress approves a bailout, the money must be conditioned with clear requirements and accountability for the industry. The financial problems facing domestic manufacturers are largely a result of their failure to adapt to a changing market, their risky reliance on gas guzzling vehicles, and failure to invest in innovative safety, fuel economy, and emissions technologies until literally forced to do so by regulation or lack of sales. Before the American taxpayers come again to the rescue, the industry must agree under statutory mandate to deliver fuel economy and safety that consumers want and need, to help regain a prominent position in the global automobile market.

Funds allocated to the Detroit Three are an investment by the American taxpayer, not a simple cash infusion to an industry with a failed business model. It must be well managed to assure a return on the investment in the form of a more viable domestic automobile industry with safer, more fuel efficient and cars that consumers are demanding. Specifically three areas need to be the focus of strict government oversight of a bailout: accountability, a return on the investment, and environmental safety and considerations.

Accountability

The companies participating in the bailout must provide full transparency of their actions in relation to the funds they receive. Regular contact with government overseers must be maintained and other guarantees must be met including the following:

1. An oversight board with the "car czar" as the chair and with authority to secure and review all industry documentation and sufficient funding and staff to keep close track of the Detroit companies' progress. The board can also demand concessions from affected parties.
2. The auto industry should provide equity stakes, membership by government representatives on their Boards of Directors, limit executive pay and bonuses, ban golden parachutes, and prohibit dividend payments until the loans are repaid.

3. Automakers should also be restricted from using government funds or guarantee of funds for lobbying and campaign contributions.
4. A bar on equity investments in foreign firms and domestic mergers and acquisitions in the text of this bailout, unless approved by the oversight board.
5. Bailout funds should be granted senior debt status, to ensure taxpayers are paid back first.

Return on Investment

Public funding must provide a tangible public benefit. If the Big Three used these monies to invest in more fuel efficient technologies it would provide a great benefit to the entire country. Such an investment would reduce oil consumption and foreign oil imports, reduce time and money spent at the pump, and it would reduce harmful greenhouse gas emissions that contribute to global warming. These investments are essential for companies to return to profitability. Specifically:

1. The legislation should require automakers receiving bailout money to implement promised increases in fuel economy, by instructing the oversight board to include the particular plans in each of the loan documents.
2. Automakers who achieve fuel economy above and beyond these promises should get a quarter-point reduction in the interest rate on these loans. Regulation does not quash innovation as some would have you believe, rather, it nurtures it by creating incentives to improve.
3. Automakers must provide energy savings plans to supplement operating plans.

Environmental and Safety Considerations

The auto industry has fought adamantly against the stricter greenhouse gas emissions standards set by California and other states, even though meeting these requirements would benefit them greatly by making their vehicles more competitive against foreign manufacturers.[1] They have falsely argued that higher fuel economy requirements undercut safety. However, increases in fuel economy have been mainly made using technology, discrediting this argument. The technology exists to meet these standards, as well as improved safety. If the domestic auto industry had the foresight to meet these standards instead of paying lobbyists to avoid them, they might be more like their foreign counterparts, who are not before Congress begging for government handouts. Additional steps for the manufacturers include:

1. Automakers must suspend litigation blocking California and other states from setting greenhouse gas emissions standards.
2. NHTSA must also be required to adopt the more realistic calculation for fuel economy promulgated by the Environmental Protection Agency in 2006.[2]
3. Automakers must support afety improvements including a strong rollover roof crush and ejection standard, a compatibility and aggressivity reduction standard, and new child protection standards.

Consumer and environmental groups in conjunction with Pew Charitable Trusts, have taken out an ad supporting the retention of environmental safeguards and the protection of the California greenhouse gas emissions standards, which we submit for the record.

A Bailout with Conditions is Preferable to Bankruptcy

Public Citizen acknowledges that the auto companies are in significant financial distress and that if Congress does not approve a bailout, it is likely that at least one of the domestic manufacturers will be forced to file for bankruptcy. It is our position that a bailout with strong taxpayer protections is preferable to bankruptcy, in terms of impact on the economy, job losses, and long-term viability of our industrial base.

Conditions that ensure equity, accountability and a commitment to building the safer and more fuel efficient vehicles the market demands are necessary to protect taxpayers from the risk assumed by investing in the troubled domestic auto industry. To promote compliance with these conditions and assure that taxpayers' interests are paramount in this process, it is essential to establish an oversight board similar to what was described in the testimony of Gene Dodaro of the Government Accountability Office before the Senate Banking Committee.[3] Public Citizen supports the recommendation of House Speaker Nancy Pelosi that such an oversight board be chaired by the "car czar" and include representatives from the Departments of Transportation, Energy, Treasury, Commerce, Labor, and the Environmental Protection Agency. We additionally recommend that a member of the Board of Governors of the Federal Reserve, and a representative from the Government Accountability Office be added to the board. An advisory group consisting of members representing consumer, safety, and environmental interests, as well as labor unions, auto supplier companies and financial experts should support the board.

We do not believe that a single overseer would be able to effectively address all of the complex and cross-cutting issues related to restoring the domestic auto industry to profitability. The potential usefulness of a board was admitted even by General Motors Chairman Richard Wagoner in response to questions in a hearing in the Senate Banking Committee December 4, 2008.

The board named to supervise the process in the 1979 Chrysler bailout is described in the act itself:

> There is established a Chrysler Corporation Loan Guarantee Board which shall consist of the Secretary of the Treasury who shall be the Chairperson of the Board, the Chairman of the Board of Governors of the Federal Reserve System, and the Comptroller General of the United States. The Secretary of Labor and the Secretary of Transportation shall be ex officio nonvoting members of the board.[4]

A strong oversight board is clearly needed for the auto industry bailout package. While there is less time for decisions compared to the 1979 bailout, sacrificing quality for expedition will only result in the loss of taxpayer dollars. An advisory group to the board for the bailout should include industry financial specialists to ensure proper business practices are followed so the industry won't return for more money in the future, environmentalists to ensure that fuel

economy measures are met that will allow Detroit's vehicles to be more efficient, and safety advocates to make sure safety is not surrendered in the name of a balanced checkbook.

The oversight board would be particularly helpful in guiding the companies in their ongoing plans for restructuring. The domestic manufacturers have already been engaged in or promised substantial restructuring activities including job cuts, labor renegotiations, brand contractions, and plant closures and stoppages. The oversight board, led by the "car czar," would provide assurance that restructuring activities are completed in the long-term interest of the taxpayers.

Fuel efficiency and safety

Good energy policy is good economic policy, and it is also good business for the automakers. High and volatile gas prices since 2005, as well as increased public concern about global warming have driven consumers away from the gas guzzling vehicles that had been popular since the mid-1990s. While gas prices today are comparatively low, they will jump up again with worldwide economic recovery. The plans released by General Motors and Ford promise increases in fuel economy for the 2012 model year that exceed their obligations in 2015 under the proposed fuel economy standards for model years 2011-2015 released by NHTSA in May 2008.[5] They would also be close to meeting the state greenhouse gas emissions requirements initiated by California and other states.

Congress must be careful when considering how to set higher fuel economy targets for automakers accepting loans. The Energy Policy and Conservation Act (EPCA), which established the fuel economy program in 1975, is a technology-forcing standard with a mandate to set the "maximum feasible" fuel economy standards with the "need of the nation to conserve energy" as a central feature. However, the amendments to EPCA made by EISA substantially weakened the technology-forcing thrust of the law at the urging of the Detroit companies, by permitting the agency to set attribute-based standards "in the form of a mathematical function." This clause is an implicit espousal of NHTSA's restructured fuel economy scheme in which standards are now set for each manufacturer using industry-biased cost-benefit analysis.

The restructured fuel economy scheme was developed as a result of intense, back-room meetings between representatives from NHTSA, the Office of Management and Budget and the Office of the Vice President.[6] This scheme is fundamentally designed in such a way that it is impossible to meet the requirement of EPCA to set maximum feasible standards. Each manufacturer is assigned a target for its passenger car and light truck fleets, respectively, based on the characteristics of vehicles in each manufacturer's fleets. This results in different compliance requirements for each manufacturer, and undermines the government's ability to enforce the law.

DOMESTIC AND JAPANESE FUEL ECONOMY PERFORMANCE

Manufacturer	*Domestic Car Fleet (mpg)*			*Light Truck Fleet (mpg)*		
	2008	2012	2015	2008	2012	2015
General Motors	29.4	31.7	34.7	22.5	25.4	27.4
Ford	29.5	32.7	35.5	23.2	26.1	28.8
Chrysler	29.3	29.3	33.6	23.6	26.6	29.1
Toyota	34.7	31.5	34.6	24.0	26.0	28.0
Honda	35.2	33.8	36.4	25.4	27.7	29.6
Nissan	33.5	33.2	35.9	23.2	26.2	28.2

Values for 2008 reflect manufacturer averages as reported by NHTSA's March 2008 "Summary of Fuel Economy Performance." Values for 2012 and 2015 are the targets published in NHTSA's Notice of Proposed Rulemaking for the model year 2011-2015 fuel economy standards.

Promises, promises

We have heard fuel economy and safety promises from the domestic auto industry again and again, but too often the gains were never realized. In July 2000, Ford, General Motors and (then) DaimlerChrysler announced a commitment to increase the fuel economy of its SUV fleet by 25 percent in five years. However, in 2002, as NHTSA revised fuel economy standards for light trucks, these companies "clarified" those pledges, urging the agency to disregard the promised increases. Instead of making big, public announcements reneging on their promises, the automakers sent emails to relevant staff at NHTSA.[7] In 2003, when NHTSA released its light truck fuel economy standards for the 2005-2007 model years, Ford admitted publically that it would not honor its prior promise.

The auto industry has shirked other promises related to making safety improvements as well. General Motors promised in 1970 that it would install airbags in all its vehicles by 1975. But the fight to make airbags mandatory stretched to 1991, when Congress mandated them. And in 2003, as part of a supposed effort to improve vehicle compatibility, automakers announced a voluntary plan to develop a standard, but nothing came of it. The manufacturers also promised to test and voluntarily install side air bags in most new vehicles, but this promise has only been partially met. The plan, however, did not make any specific commitment or deadline for redesigning vehicles to improve side impact safety. These improvements will follow the upgraded side-impact standard promulgated by NHTSA in 2007, which the agency recently delayed, so it will not be completely phased in until 2015.[8]

In response to the fuel economy proposal for model years 2011-2015, General Motors said "We intend to do our best to meet these challenging CAFE standards, but *additionally* complying with stringent state standards would present us with huge additional costs. . . .We do not believe it is realistically possible to comply with California's CO_2 standards given . . .the extent of technical improvements we believe would be required in the time frame provided."[9]

However, in the plans submitted to Congress last week, General Motors says it would achieve a fleet fuel economy of 37.3 mpg for its passenger car fleet and 27.5 mpg for light trucks by 2012.[10] Ford echoes similar promises, saying it intends to increase its passenger car and light truck fleets fuel economy by 26 percent by 2012, and 36 percent in 2015. Although Ford and General Motors are still complaining about the cost of meeting the California greenhouse gas

emissions standards, an analysis by the Natural Resources Defense Council and verified by the California Air Resources Board and submitted to the Committee suggests that if Ford and General Motors followed through with these promises, they would comply with California standards if they were applied nationally. This deception by the manufacturers is not an auspicious beginning for this bailout.

PASSENGER CAR FUEL ECONOMY PROMISES AND STANDARDS

Manufacturer	*2008 passenger car fuel economy*[11]	*2012 NHTSA standard*[12]	*2012 company promise*[13]	*2012 State CO_2 standard (mpg-equiv)*	*2015 NHTSA standard*[14]	*2015 State CO_2 standard (mpg-equiv)*[15]
General Motors	29.4	31.7	37.3	37.6*	34.7	40.6
Ford	29.5	32.7	35.5†		35.5	
Chrysler	29.3	29.3	N/A‡		33.6	

Congress must make sure that the automakers are bound to their promises to increase fuel economy either by mandating more stringent regulations in the bailout legislation, or instructing the oversight board to include manufacturers' plans in the loan documents. Making good on these promises will help the industry become competitive again. And agreeing to binding agreements will signal that the industry is really serious about changing its tune and abandoning the gas guzzling vehicles that the domestic industry and the American consumer need to leave behind.

Industry's continued fight against fuel economy and safety regulation

When the auto industry cannot block mandates from Congress, it fights to weaken and delay regulations as they are promulgated through NHTSA. The industry submitted competing cost estimates for the model year 2011-2015 fuel economy standards proposed by NHTSA this spring. Under the restructured fuel economy program, fuel economy targets are very sensitive to cost estimates, so the industry submitted higher cost estimates to game the system and receive lower targets.

The auto industry should suspend all litigation over the California greenhouse gas standards. Public Citizen supports the position of several States' attorneys general that Congress should include in the bailout legislation language that makes clear the position of the courts that the greenhouse gas emissions standards for vehicles set by California and 13 other states are not preempted by EPCA or any other law.[16]

* Greenhouse gas emissions standards set by the California Air Resources Board are the same for every manufacturer.

† Based on 2005 model year fuel economy of Ford as reported by NHTSA, using Ford's promise to get 26 percent increase from 2005 in 2012.

‡ Chrysler did not make specific promises regarding fuel economy performance, instead: "Chrysler accepts all currently applicable CAFE standards as a condition to the funding."

Just as the industry has resisted making improvements in fuel economy, it has also resisted improving the safety of its vehicles. These companies should support new safety standards including strong rollover roof crush and ejection standards to help save the 10,800 people who die each year in rollover crashes. They should also support the introduction of a compatibility and aggressivity reduction safety standard, which was included as part of fuel economy bills introduced by Sen. Feinstein in 2006 and 2007. Such standards are beneficial for safety and fuel economy because they encourage closing the weight and size gap between SUVs/light trucks and cars. A compatibility standard would also address other vehicle characteristics related to crash compatibility such as bumper height and front-end geometry. Manufacturers should also support child protection standards to ensure that all occupants in and around vehicles are protected. Hundreds of small children are killed needlessly each year.

Advanced vehicle loan guarantees versus bailout

Public Citizen unequivocally opposes to reallocating for industry cash flow purposes the money allocated in EISA Section 136 for retooling loan guarantees to be overseen by the Department of Energy. These funds are not meant to help companies merely comply with fuel economy standards. They are meant to help manufacturers retool facilities and make capital-intensive investments for the future. Vehicles that Section 136 funds are meant to fund will benefit vehicles and components that are still marketable beyond 2020. On December 7, 2008, the *Washington Post* reported that House Speaker Nancy Pelosi would consider the Bush administration demand that the Section 136 money provide $15 billion in temporary assistance to the auto industry, while a more robust long-term plan could be negotiated.[17] Although the money would have to be paid back into the advanced vehicle incentive program, we urge that this be specified in any legislation adopted this week.

We support allocating the bailout money from the $700 billion financial services bailout. But if that is not the source of funding, then it should be from completely separate appropriations. The Section 136 money was intended to be used to build advanced vehicles and to provide funding for retooling of plants to build vehicles and components to get significant improvements in fuel economy. This money should not be used for day-to-day operating funding, or to pay legacy and health care costs.

The domestic manufacturers did not publically lobby for Congress to fund the advanced vehicles loan guarantee program until the fall, when car sales dropped off precipitously. We wonder why the automakers were not more aggressive about getting Congress to appropriate funding for this program, which was enacted in late 2007. In late November 2008, General Motors submitted an application for $3.6 billion in loan guarantees to finance the Chevrolet Volt project, which has been ongoing for several years.[18]

Supplier companies drive innovation

Under Section 136, auto industry supplier companies that build "qualifying components," are defined as components that are: "(A) designed for advanced technology vehicles; and (B) installed for the purpose of meeting the performance requirements of advanced technology vehicles."[19] For many years, it has been the supplier companies that have driven the development of innovative new technologies. Naturally, it is beneficial for supplier companies to push technology forward. By providing better, more advanced components, supplier companies can stand out and compete for contracts from the manufacturers. Thus, Section 136 funds should not be depleted so that suppliers cannot participate as they should.

Also, suppliers have too often been met with resistance from the domestic auto industry to voluntarily install technologically advanced components. In the case of electronic stability control and laminated glazing, supplier companies have worked with public interest groups to advocate for new regulations to force automakers to install these components. A regulation requiring electronic stability control in all vehicles was required by the 2005 surface transportation bill (the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). And although NHTSA has not yet released a proposal, it is likely that the ejection mitigation rule required under the same law will mandate laminated window glazing. The same resistance by manufacturers applies to failure to adopt fuel economy innovation, including turbocharged engines and 6-speed automatic transmissions.

Lessons from Chrysler

Almost 30 years ago Chrysler found itself in a similar financial situation. President and CEO John Riccardo came before Congress to ask for $1 billion to keep the company alive after rising oil prices left the company's inefficient cars stagnant on dealers' lots. The company had just posted its worst quarterly loss ever up until that time.

Congress initially turned down Chrysler's request, but after months of negotiating and the resignation of Mr. Riccardo in favor of Lee Iacocca, a different approach was settled upon. Congress passed the Chrysler Corporation Loan Guarantee Act of 1979. Instead of granting the request of funds with no strings attached, a $1.5 billion loan guarantee was issued that was coupled with strict oversight and concessions that had to be made. Management, labor, and other stakeholders made $2 billion concessions including Mr. Iacocca's pledge to work for $1 a year until the company turned a profit. A ten year loan was issued and Chrysler was able to pay them back seven years early netting the government a gain of $350 million in interest.

This action was successful in returning Chrysler to profitability. We need to closely examine the lessons from this act when crafting the best response to the Big Three's current financial dilemma. The greatest lesson from this experience is that including strictures on the bailout did not cause the company to fail, but rather helped it to succeed as it advanced important goals including compliance with safety and fuel economy rules. The statutory language from the Chrysler bailout provides a strong basis upon which to craft the new bailout bill.

The program included strong oversight protections through a strong board that was given enough authority to intervene in the corporation's decisions, required compliance with fuel economy and safety standards, limits on executive pay, and encouraged a new CEO determined to turn the company around. The board was successful in protecting taxpayer and consumer interests by forcing Chrysler to drop a plan to build gas-guzzling rear wheel drive vehicles.

Conclusions

This bailout process is painful because the auto industry has been an engine of domestic manufacturing for more than 60 years, and a large number of Americans are employed directly or indirectly or identify with the industry. The restructuring required to save the companies will also be painful and will require fundamental changes in the corporate and union operating philosophies of what has been one of the most powerful industrial lobbies.

If the industry is willing to step back and seriously contemplate how they will operate in the future, then it might just be salvageable. A strong, committed oversight board that is willing to frankly assess the situation of the industry is vital to any bailout program being successful in turning the industry around. The outcome of this program is far from predictable, so the interest of the taxpayer needs to be considered every step of the way, and frequent and regular reporting to Congress from the board on the progress of the industry will be needed to assure the industry is on the right track.

A revitalization of the domestic auto industry including building fuel efficient vehicles is central to the companies' recovery. On a longer-term horizon, these companies should consider expanding manufacturing capacity into other mass transportation such as for transit and rail vehicles. Expanding markets for clean, efficient buses, mass transit rail, and intercity heavy rail vehicles will provide new customers for the industry. Successfully diversifying into these areas would make the U.S. auto industry competitive in the world market, while at the same time making vehicles that can provide cleaner, safer transportation for the future.

Endnotes

[1] States that have adopted the California greenhouse gas emissions standards for light duty vehicles are: Arizona, California, Connecticut, District of Columbia, Maine, Maryland, Massachusetts, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Vermont, and Washington.
[2] *See* 71 *Fed. Reg.* 77872, 77969. (December 27, 2006).
[3] *See* Testimony of Gene Dodaro, Acting Comptroller General of the United States, Government Accountability Office before the Senate Committee on Banking, Housing and Urban Development. (December 4, 2008).
[4] Chrysler Corporation Loan Guarantee Act of 1979. PL 96-185. Jan 7, 1980. 93 Stat 1324.
[5] *See* 73 *Fed. Reg.* 24352, 24487 (May 2, 2008) at 24444. General Motors said in its report submitted to Congress that it would raise its car fleet fuel economy to 37.3 mpg in 2012. NHTSA's proposed fuel economy target for General Motors' passenger car fleet is 31.7 mpg, so General Motors' promise would exceed the target by 18 percent. Ford's report to Congress promised at 26 percent increase in fuel economy from its 2005 baseline. We estimated this baseline from NHTSA's Summary of Fuel Economy Performance for October 2006 as 28.2 mpg for its car fleet. From this estimate, Ford is promising a 2012 fuel economy goal of 35.5 mpg, which exceeds the target set by NHTSA for 2012 by 8.5 percent. NHTSA has not yet released a final rule for the model year 2011-2015 fuel economy standards, so these numbers are subject to change.
[6] *See* "Slip Sliding Away: the Cheney Sliding Scale for Fuel Economy." Public Citizen. August 2008. Available at: http://www.citizen.org/documents/cheneyscale.pdf
[7] Public Citizen obtained copies of these emails in a Freedom of Information Act request.
[8] *See* 73 *Fed. Reg.* 32473, 32485 (June 9, 2008) at 32477. It is worth noting that NHTSA this rule authorizes and extension of lead time from the final rule published in 2007, giving manufacturers an additional year of lead time, and an additional year to phase-in the requirements.
[9] Comments of General Motors to NHTSA Docket No. NHTSA-2008-0089 at 0162. (July 1, 2008).
[10] *See* "Restructuring Plan for Long-Term Viability." General Motors. Submitted to the Senate Banking Committee. (December 2, 2008).
[11] "Summary of Fuel Economy Performance." National Highway Traffic Safety Administration (March 2008)
[12] *See* 73 *Fed. Reg.* 24352, 24487 (May 2, 2008) at 24444.
[13] *See* "Restructuring Plan for Long-Term Viability." General Motors. Submitted to the Senate Banking Committee. (December 2, 2008). & "Ford Motor Company Business Plan." Ford Motor Company. Submitted to the Senate Banking Committee. (December 2, 2008).
[14] 73 *Fed. Reg.* 24444.
[15] "Comparison of Greenhouse Gas Reductions for the United States and Canada under U.S. CAFE Standards and California Air Resources Board Greenhouse Gas Regulations." California Air Resources Board. (February 25, 2008).
[16] The Attorneys General of Vermont, California, Connecticut, Maryland, Massachusetts, Oregon and Rhode Island sent a letter to Speaker Pelosi and Majority Leader Reid on November 17, 2008.
[17] Lori Montgomery and Kendra Marr. "Talks Turn to Terms for Auto Aid." *The Washington Post.* (December 7, 2008).
[18] David Shephardson. "Energy Department seeks more info on $16 billion in auto retooling requests." *The Detroit News.* (December 4, 2008).
[19] *See* Energy Independence and Security Act. P.L. 110-140. (December 19, 2007).

Detroit Automakers Pave Road to Higher Fuel Economy with Little Action, Many Broken Promises

July 2000: **Putting a Shine on the SUV, the Big 3 Promise To Improve SUV Fuel Economy by 25 percent Over 5 Years**

To stave off Congressional action on fuel economy, and to address the lifting of the appropriations freeze that had tanked the National Highway Traffic Safety Administration's (NHTSA's) fuel economy program throughout the late 1990s, in July 2000 Ford, General Motors and DaimlerChrysler made a highly publicized new commitment to improve the fuel economy of their sport utility vehicles (SUVs). Ford announced it would increase the fuel economy of its SUV fleet by 25 percent over the next five years, and General Motors and DaimlerChrysler echoed Ford's pledge. *If these promises had not been broken, this would have resulted in a 1.8 mile- per-gallon (mpg) increase in Ford's entire light truck fuel economy by 2005 – six times the increase required by NHTSA's new standard for that year.*[1]

Fall 2002: Big 3 Privately Retract Promises in Comments and Ex Parte Emails to Federal Regulators

In late 2002, as NHTSA reviewed rules to increase the fuel economy of light trucks, the Big 3 each "clarified" their 2000 pledges – urging regulators to disregard the 1.8 mpg. increase that Ford's promise would have produced. The clarifications came in the form of comments to the Agency's docket on the fuel economy rule and electronic mails between the manufacturers and NHTSA. While publicly available through detailed searches of NHTSA's website and Freedom of Information Act (FOIA) requests, this information was far from the public eye.

In comments to NHTSA, Ford backpedaled on promises, explaining that its estimates are "typically 40-60 percent higher than the improvements that ultimately result on production vehicles," and asking that NHTSA similarly degrade its estimates.[2] Walt Kreucher, Manager for Vehicle Energy Planning at Ford, also emailed a key NHTSA rulemaking staff member to "remind" him that the "Ford SUV commitment" did not cover all light trucks. NHTSA's staff responded that the agency was relying on the manufacturer's submitted projections more than Ford's public commitment, in the following email obtained by Public Citizen through FOIA:

From: Ken Katz
To: "wkreuche@ford.com".gwhub.hubsmtp
Date: 8/1/02 9:08AM
Subject: Re: SUV Commitment

Thanks for the clarification, Walt. We are relying on the numbers in the projections more than what the SUV pledge was, although I am aware that it was backed up with the numbers that I have seen.

>>> wkreuche@ford.com 08/01/02 07:48AM >>>
I just wanted to remind you that the Ford S"UV commitment included some products that are not included in CAFE. Backing these out of the commitment adjusts the 25% down to 22% for CAFE purposes.

Walt Kreucher
Manager
Vehicle Energy Planning
313-845-8247 phone
313-390-0382 fax

In its comments, General Motors also followed Ford's cue and backed off its 2000 promise. GM claimed its public pledge had referred only to the company's "leadership in light truck fuel economy and intent to remain the leader over the next five years."[3] DaimlerChrysler similarly stated that its commitment was only to match or exceed promises made by the other manufacturers.[4]

April 7, 2003: NHTSA Lets Detroit Off the Hook, Issues Do-Little "Standard"

On April 7, 2003, NHTSA issued its final rule on light truck fuel economy for Model Years (MY) 2005-2007. The measly 1.5 mpg increase by 2007 for all light trucks will hardly hold the Big 3 to their 2000 fleet averages, as shown in the chart below, and in no way makes manufacturers responsible for their public commitments on SUVs.

Light Truck Fuel Economy Standards for 2000 and 2005-2007[5]

		2000	2005	2006	2007
NHTSA	Agency's light truck standard	**20.7**	**21.0**	**21.6**	**22.2**
	MPG increase from 2000 standard	**--**	**0.3**	**0.9**	**1.5**
General Motors	Light truck fuel economy level	21.0	*18.7*	*18.8 to 20.1*	*19.1 to 20.8*
	MPG increase/decrease from 2000	--	-2.3	-0.9 to -2.2	-1.9 to -0.2
Daimler/ Chrysler	Light truck fuel economy level	21.4	*21.3*	*21.6*	*22.2*
	MPG increase/decrease from 2000	--	-0.1	0.2	0.8
Ford	Fuel economy level	21.0	*20.9*	*21.6*	*22.0*
	MPG increase/decrease from 2000	--	-0.1	0.6	1.0
Increase from 2000 if Ford had followed its pledge and had increased only the fuel economy of its SUVs.			1.8		

* Italicized figures represent NHTSA's estimates based on manufacturers' projections.

April 17, 2003: Ford Admits Promises on SUV Fuel Economy Were Smoke and Mirrors

Ten days after NHTSA's release of the new rule, Ford finally admitted to the media and public that the company would shirk its 2000 promise on SUVs– a move that *Automotive News* wrote would cost the entire industry **"a lot of credibility."**[6]

Detroit *Can* Keep Its Promise to America—
Congress Should Hold Automakers To Their Word On SUV Fuel Economy

[1] According to the Union of Concerned Scientists: "Assuming Ford made no improvements to its other light trucks, its commitment would yield a 1.8 mpg increase for its light truck category by 2005." *See* http://www.ucsusa.org/news.cfm?newsID=303

[2] *See* Ford's Comments to 2002-NTHSA-11419 Docket 5-8-2002, at 6.

[3] *See* 49 CFR Parts 533: Docket No. NHTSA-2002-11419; Notice 2: "Light Truck Average Fuel Economy Standards Model Years 2005-07," FR 77015 at 77018.

[4] *Id.* at 77018.

[5] NHTSA's proposals and estimates from "Light Truck Average Fuel Economy Standards Model Years 2005-07," December 16, 2002; 2000 and 2001 figures from *Automotive Fuel Economy Program: Annual Update Calendar Year 2001*: NHTSA, September 2002.

[6] *Automotive News,* "Ford's Vow Ignores Fact that Beating CAFE Can be Costly," April 28, 2003.

Protect the TAXPAYER

(and our planet)

Any auto company bailout must be tied to higher gas mileage and lower emissions.

As Congress prepares to spend billions of tax dollars to rescue the U.S. auto companies, taxpayers should get something in return – real savings at the gas pump and reductions in global warming pollution. This means:

- Any money diverted now from the fuel efficiency retooling fund must be replenished immediately by the new Congress. Companies that receive funds should be required to meet fuel economy standards on an accelerated timetable.
- The automakers must drop their legal challenges to the Global Warming Vehicle Standard which 15 states have adopted – a 30 percent reduction in greenhouse gas emissions by 2016.

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