

**Lena Pons is a Policy Analyst for the [Auto Safety Group](#), a division of the national, non-profit organization [Public Citizen](#), that seeks to protect health, safety and democracy. The Auto Safety Group focuses on issues of auto safety, government and corporate accountability, human health and environmental sustainability as related to auto emissions. Its recent work has focused on improving fuel economy through both legislative and legal routes. The Auto Safety Group also works with other organizations on issues related to the Clean Air Act, fuel economy and automobile emissions. In January 2008, Corporations and Health Watch's Zoë Meleo-Erwin interviewed Lena Pons. We present excerpts here.**

**CHW:** Recently the Environmental Protection Agency ruled that California and the sixteen other states couldn't set their own, more strict, emission standards. What role did the auto industry play in this defeat?

**LP:** Congressman Henry Waxman of the House Oversight Committee identified that there was some interference from Vice President Dick Cheney and Chrysler. Following a meeting that EPA administrator Stephen Johnson had with Cheney and Chrysler, they devised this legal argument for why the California waiver should be denied. And the California waiver was denied in a highly unusual way. They presented no technical justification -- the only documentation on the waiver denial that was given is a three or four page letter from EPA administrator Johnson to California Governor Arnold Schwarzenegger. It outlines that as a result of the energy bill being signed into law, California standards no longer meet the rubric under the Clean Air Act to say that they're more protective. The claim by EPA is dubious because the California standards would go into effect sooner and their target emissions reduction is more stringent than that of the new national standards. What the waiver denial is based on is the assumption that the most recently passed energy bill will produce a comparable amount of public health. But there's absolutely no data to support that; they've presented absolutely no estimate of what the public health benefit of the standards that were passed by this latest energy law would be. The states that have full regulations written on adopting these standards plus a handful of environmental groups have all sued EPA on the grounds that their waiver denial has not been properly supported.

**CHW:** One of the things the auto industry said in response to California waiver was that it would be a confusing and inefficient patchwork quilt of fuel economy programs. How legitimate is that argument?



**LP:** The seventeen states that have either passed the regulations or have stated intent by executive order to pass the regulations would cover slightly more than half of the entire population of the country. And a big part of that is that there are huge states involved; California and New York alone include over 15% of the total US population. California set separate standards, several states had adopted them and the functional outcome of that is that all of the vehicles sold in the United States meet these low emission vehicle requirements for the most part. The auto industry is saying that you would lose a lot of consumer choice in these states that have passed these regulations because they just wouldn't be able to sell certain vehicles in the states. But in terms of the patchwork effect, when you're talking about 50% of the country plus now Canada has standards that will be roughly the same as California, it's just not going to be cost effective for them to produce two sets of vehicles. They're never going to comply

with a patchwork of regulations; they're just going to comply to the most stringent set. So the reality of that argument is that they don't want to meet the more stringent California standards.

**CHW:** What were the issues involved in the 2006 light-truck fuel economy rule and what was Public Citizen Auto Group's involvement in the case?

**LP:** The biggest issue in that case was that the National Highway Traffic Safety Administration (NHTSA) had valued the reduced carbon dioxide emissions from having improved fuel economy as having zero public benefit. We filed a suit in the 9<sup>th</sup> Circuit Court of Appeals on the 2006 light-truck fuel economy rule in collaboration with several other environmental groups and were represented by an independent law firm. We ultimately won in that the court found that the rule was arbitrary and capricious. It's been vacated; the agency will have to go back and rewrite it to reflect some of the problems that they identified. The court also found that NHTSA had changed the fundamental way that the fuel economy standards were calculated and that without promoting a backstop, some kind of minimum value for fuel economy, that it was overvaluing consumer choice over the need of the United States to save energy—a specific criterion that was laid out in the Energy Policy and Conservation Act in 1975 which established the fuel economy standards. And so they found that the way that fuel economy standards could be calculated could stand as long as there was a minimum fuel economy value. This is a mixed victory because the new calculation scheme doesn't actually force the auto makers to promote the best available technologies. But with a backstop it at least prevents a degradation below this minimum value, which *is* positive.

**CHW:** In your campaigns on auto safety, public health and environmental sustainability, what strategies does the Auto Safety Group employ? And specifically, how important is litigation as a tactic?

**LP:** Ideally we try to influence any rule making through the notice and comment period. And if the agency is non-responsive to our comments then our next recourse is to litigate. So litigation has certainly been a part of our strategy used to a significant public benefit because, as a result of multiple litigation campaigns, we've been able to secure much stronger regulations than what the agency initially applied. Some of the time the regulations that the agency has presented us with are not actually in compliance with the law that Congress set forth and then we feel that we have a responsibility to make sure that the agency is upholding the law. So we like to influence the legislative process to get Congress to put forth the best possible law and then through the regulatory process we have an opportunity to influence rule-making. But when we find that our concerns are ignored by the agency then we have no other recourse than to litigate.

**CHW:** Recently European Union officials announced that auto makers would have to greatly reduce carbon dioxide tailpipe emissions or face fines. How have automakers responded and do you have any thoughts on how this will influence the United States?

**LP:** There's been a lot of skepticism as to whether those regulations will be durable. Probably the best indicator of what auto makers are going to do is the fact that at this year's auto show they've really brought out a lot of highly fuel efficient concept vehicles that we haven't seen before. For instance, Ford put a concept Focus out on the floor this year that's supposed to get 20% improved fuel economy, which is an indication that they probably have more technology than they're willing to admit openly in terms of improving vehicle fuel economy and by extension emissions. There were also stronger Japanese regulations in 2007, I believe Canada has recently strengthened their regulations, and China introduced their first fuel economy standards last year, so I think that auto makers are really starting to think pretty hard about it.

With respect to bringing European vehicles to the United States, General Motors produces “Opel” brand vehicles that are much more fuel efficient than a comparable vehicle that would be sold under the Saturn brand in the United States. Now they're bringing several of those Opel vehicles to the United States and will sell them as Saturn Vehicles. So they clearly do have the technology because they're building more fuel efficient vehicles in other markets. But not all the auto makers have the flexibility that General Motors has; an auto maker like Chrysler is clearly going to have a more difficult time because they don't really have a foreign manufacturing brand that is making improved fuel economy vehicles.

**CHW:** How does consumer demand influence changing fuel economy and emissions standards?

**LP:** Consumer demand with respect to fuel economy is a really strange relationship. I've read a variety of

studies about how people use fuel economy as a determining factor in their automobile purchase decisions. And most state that people aren't particularly long-sighted in terms of how they make their vehicle purchase decisions. If you think back to the oil price shocks in the 1970s, one lasted for 14 months and the other one lasted for 19 months and so people haven't really adjusted to the idea that oil prices are always going to be high. Even if you look at the last five years, there was a really strong spike in oil prices following Hurricane Katrina and then they dropped back down about 70 cents per gallon. That kind of price volatility really suggests that people will make their decision about fuel economy based on whatever the price of gas is the day that they go to the dealership. And that's why you see sales figures for a vehicle like the Prius are going to track pretty much with the price of oil and so in a month when gas prices are very high consumers are going to be more likely to purchase a vehicle like the Prius and months where oil prices are lower then consumers are more likely to choose a vehicle that might not get the same kind of fuel economy. But I think that people are really starting to become quite a bit more environmentally conscious and the durability of a problem like global warming, as opposed to something that might be more volatile like the geopolitical effects of Middle East oil consumption, might be starting to shift people's perspectives about how they factor in fuel economy.

**CHW:** What strategies does the auto industry use to influence consumer decision making in terms of choosing less fuel efficient vehicles?

**LP:** The auto industry has consistently taken the position that people make their decision about a vehicle based on a variety of factors and one of the factors is "peak performance,"—the maximum possible zero-to-sixty acceleration or the towing capacity of a truck. It is fairly well supported that people are often swayed by peak performance but in reality people don't really actualize that peak performance. For example, over 60% of truck owners never realize the peak performance even one time in their entire ownership of that vehicle. For twenty years or more, the auto industry has really been pushing this idea that you're getting a better value because you're going to get this truck that could tow a huge boat but you don't own a boat and you have no need for this kind of towing capacity. And the auto industry has really consistently pushed this idea that people won't be willing to trade for a smaller vehicle. But Porsche made this announcement just this week that they're going to start offering hybrid versions of their vehicles. Now this is highly unusual because these are performance vehicles. Porsche has consistently paid fines for non-compliance with fuel economy standards and so I think that the argument by the auto industry that they can't provide the same kinds of performance characteristics just doesn't really hold water in light of these developments that have come as a result of new regulations.

**CHW:** Is this particular to the US?



**LP:** There is some perception that in the United States we want these huge SUVs and pickup trucks. But what's interesting is that there have been several recent studies in Europe that have supported the idea that even though fuel economy standards, or greenhouse gas emission standards which are sort of interchangeable, have gotten more stringent in Europe, the popularity of larger vehicles has increased. In affluent western European countries you're seeing an increasing number of people purchasing SUVs. I think that probably the bigger determining factor in terms of saying that this is a uniquely American problem, which I don't really

believe that it is, is just that people in the United States for the most part live more spread-out than they do in most places in the world. The average size of vehicles in densely populated urban areas in the United States is pretty much the same as what you would see in Europe.

**CHW:** One of the arguments the auto industry makes against improving fuel economy and reducing emissions is that the cost would be prohibitive and that this cost would then be passed down to consumers. How legitimate is this argument?

**LP:** Well it depends on what changes you're demanding. If you're demanding that auto makers convert every vehicle into a hybrid, then you might have a pretty good argument that it would be cost prohibitive. And a big part of that is the cost you're paying for a battery that's still relatively expensive to manufacture. But as batteries technologies continue to get better and as lithium ion batteries become more viable, that's going to reduce weight, improve efficiency and reduce costs.

The auto industry has been given a tremendous amount of lead time, but they have not been making incremental changes since the 1985 standard were actualized. And not every vehicle has to get 40% better fuel economy next year; over the next ten years the fleet of vehicles has to achieve 40% better fuel economy on the whole. Adding some of these technologies to vehicles would be fairly cost prohibitive, but the vehicles that need the most help are typically the most expensive to begin with. In order to make this incremental improvement in something like a Ford Focus you might add some initial cost to that car but you're going to have a lifetime savings in terms of fuel cost which is going to get better and better. As the price of oil continues to rise the benefit of burning less fuel is going to get better and better. So I don't think that the cost argument is necessarily as weighty as the auto industry has made it.

**CHW:** What is the auto industry's current stance on the relationship between tailpipe emissions and global warming?

**LP:** Often when you talk to somebody from the auto industry they'll talk about how criteria pollutants emissions of the newest vehicles are incredibly low. But when you talk about carbon dioxide, the only way to reduce carbon dioxide emissions from vehicles, at least from the tailpipe, is to burn less fuel or burn a fuel that is lower in carbon. They generally try to downplay the relationship between tailpipe emissions and global warming, but I don't think that anybody in the industry is saying that carbon dioxide doesn't cause global warming and that global warming isn't happening. And a lot of times they also focus on "well look at this concept vehicle that's ten or fifteen years down the line."

**CHW:** Does the auto industry take any particular position on the relationship between tailpipe emissions and public health?

**LP:** Well once again, they're going to discuss the issue of tailpipe emissions in terms of criteria pollutants which have certainly decreased a great deal. You're seeing lower levels of nitrogen-oxides and sulfur-oxides and then by extension lower levels of ground level ozone, and ground level ozone is typically the biggest contributor to asthma and other kinds of auto emissions related health problems. But I don't think that they like to talk about emissions at all. So they won't say something like "there's no link between auto emissions and health problems" but they *will* focus on the fact that through improved after-treatment and exhaust systems you're starting to see criteria pollutant emissions that are really pretty low, almost zero. An ultra-low emission vehicle is really going to have near-zero criteria pollutant emissions, which doesn't really affect carbon dioxide. But then carbon dioxide is, at least at current concentrations,



not really a public health threat, at least in terms of asthma and inhalation effects. There are certainly health effects related to the problems of global warming.

**CHW:** What alliances do you see for public health researchers and auto safety and emission standards activists?

**LP:** There's a lot of potential for interdisciplinary action related to these huge problems of energy policy and global warming and the places where energy policy intersects with public health. I think that every new solution obviously brings with it new problems. There are concerns about the toxicity of batteries they might use for hybrids. You've got a benefit in reduced vehicle emissions, but when you dispose of the batteries they're generally made of stuff that isn't necessarily super clean. There will need to be a really aggressive battery recycling program. I think that these are not insurmountable obstacles but certainly there's always potential for people who come from different viewpoints to work together on these issues.

**CHW:** Finally, I'd like to ask you about the presidential elections. Do any of the Presidential candidates favor tougher national emission standards and are any of them focusing on that issue?

**LP:** All of the candidates on the Democratic side have recommended fuel economy standards that are stronger than what was passed in this latest energy bill. As far as I know, no candidate on either side, Democrat or Republican, has taken a position specifically targeting emissions from vehicles. There are a variety of strategies that have been talked about, one of which would be a carbon tax which would then make the price of gasoline more expensive. That might convince consumers to consider improved fuel efficiency. And another proposal to reduce vehicle emissions is a low carbon fuel standard, which is a performance standard for fuels in terms of carbon dioxide emissions.

**CHW:** Thanks very much for your time.

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