

TESTIMONY OF

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LEGISLATIVE DIRECTOR**

on the subject of

**LEGISLATIVE PROPOSALS TO REDUCE
GREENHOUSE GAS EMISSIONS: AN OVERVIEW**

before the

SUBCOMMITTEE ON ENERGY AND AIR QUALITY

COMMITTEE ON ENERGY AND COMMERCE

UNITED STATES HOUSE OF REPRESENTATIVES

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Introduction

Mr. Chairman, my name is Alan Reuther. I am the Legislative Director for the International Union, United Automobile, Aerospace & Agricultural Implement Workers of America (UAW). The UAW represents over one million active and retired workers across the country, many of whom work or receive retirement benefits from auto manufacturers and parts companies. The UAW appreciates the opportunity to testify before this Subcommittee on legislative proposals to reduce greenhouse gas emissions. We will focus on comments on the Climate Security Act of 2008 (S. 3036) sponsored by Senators Boxer, Lieberman and Warner; the Investing In Climate Action and Protection Act (H.R. 6186) sponsored by Representative Markey; the Safe Climate Act (H.R. 1590) sponsored by Representative Waxman; and the Low Carbon Economy Act (S. 1766) sponsored by Senators Bingaman and Specter.

The UAW shares the growing national concern about climate change. Scientific studies have confirmed that human use of fossil fuels is contributing to global warming. These studies underscore the major environmental challenges posed by global warming, including rising sea levels, changes in climate patterns and threats to coastal areas. To avoid these dangers, we believe the growth in greenhouse gas emissions must be reduced, and ultimately reversed.

To address the problem of global warming in a meaningful way, the UAW believes we need a broad, comprehensive policy that will require all sectors of

the economy to come to the table to help reduce our nation's greenhouse gas emissions. This includes stationary sources, such as power plants and factories. It includes our fossil fuels, such as coal, oil and natural gas. And it includes all mobile sources, such as planes, trains, buses, and ships, as well as light duty vehicles, which have already had their carbon emissions reduced through the reformed CAFE program that was enacted last year.

We believe each sector should be required to contribute to the reduction of greenhouse gases in a proportionate manner. No sector should enjoy a free ride or be exempted. No sector should be required to bear a disproportionate burden, or to shoulder costs that would have a devastating impact on its operations or employment.

To achieve these objectives, the UAW strongly supports the establishment of an economy-wide mandatory tradable-permits program that will slow the growth of, and eventually reduce greenhouse gas emissions in the United States. We believe this type of "cap-and-trade" program should mostly be done on an "up-stream" basis in order to minimize regulation and to ensure that all sectors of the economy participate in reducing greenhouse gas emissions. We also believe this program should include mechanisms to ensure that no sector is hit with unacceptable spikes in the price of carbon permits or burdens that would have a negative impact on economic growth and jobs. In addition, this program should include measures to ensure that our businesses and workers are not placed at

an unfair competitive disadvantage with U.S. trading partners and developing countries. Finally, this program should carefully delineate the authority of the Environmental Protection Agency (EPA), as well as the authority of the states, and ensure that any state climate change measures are integrated with the federal program in a way that leads to further reductions in greenhouse gas emissions in an economically efficient manner.

Structure of CAP-and-Trade Programs

The UAW applauds all of the legislative proposals for establishing economy-wide cap-and-trade programs to reduce greenhouse gas emissions. By covering the electric power, industrial, transportation and fossil fuels sectors, these bills effectively address the major sources of greenhouse gas emissions in the United States.

The UAW also applauds the Boxer-Lieberman-Warner, Markey and Bingaman-Specter bills for covering the fossil fuels and transportation sectors on an "upstream" basis. This minimizes regulation, promotes economic efficiency, and also ensures that all sectors are required to participate in reducing greenhouse gas emissions. In contrast, we oppose the approach in the Waxman bill that simply leaves key decisions about the point of regulation and operation of the cap-and-trade program to the discretion of the Environmental Protection Agency (EPA). In our judgment, these critically important policy decisions should be made by Congress, not left to the discretion of a federal agency.

The UAW also opposes the provisions in the Waxman bill that would direct EPA to regulate greenhouse gas emissions from light duty vehicles. We believe it is wrong to focus exclusively on light duty vehicles, and exclude other parts of the transportation sector. Furthermore, because the Waxman bill establishes a cap-and-trade program covering the transportation sector, EPA regulations dealing with light duty vehicles would not produce any additional reduction in greenhouse gases beyond the level mandated by the federal cap. Although the EPA regulations would reduce greenhouse gas emissions from the auto sector, this would relax the pressure from the federal cap on other sectors, especially the electric power sector. In the end, there would not be any net environmental benefit. The only result of the EPA regulations would be to shift the burden of achieving greenhouse gas reductions from the relatively low cost electric power sector (\$20-30 per ton) to the much higher cost auto sector (\$90-100\$ ton). See "Bringing Transportation into a Cap-and-Trade Regime." A. Denny Ellerman, Henry D. Jacoby, and Martin B. Zimmerman. MIT Joint Program on the Science and Policy of Global Change, Report No. 136, pps. 7-11, June 2006. This directly contradicts the fundamental tenet underlying the establishment of an economy-wide cap-and-trade program.

We would note that various industries - such as airlines and steel - have already put forward amendments to exempt the coal or oil that they use from the requirements of the cap-and-trade programs. We oppose such "carve outs" for

specific industries. To the extent any industries are exempted, this will only serve to increase the pressure on the rest of the industries and sectors that are still covered under the cap-and-trade programs. In the end, this could unravel the prospects of enacting any meaningful federal program to combat climate change, which in our judgment must be premised on an equitable distribution of the resulting economic burdens.

Cost Containment

The UAW believes it is essential that any cap-and-trade program include an effective mechanism for preventing price spikes and ensuring that no sector of the economy is forced to bear disproportionate costs or burdens that would have a negative impact on employment. In our judgment, the failure of the Markey and Waxman bills to include such provisions represents a serious deficiency.

The UAW supports the "safety value" contained in the Bingaman-Specter bill. However, we also welcome the approach set forth in the Boxer-Lieberman-Warner bill, which would permit a pool of allowances to be borrowed from the future and auctioned to parties at set prices. In our judgment this could provide a workable mechanism for containing costs. However, we believe more work needs to be done to ensure that any pool of allowances is sufficiently large and is made available at acceptable prices.

International Competition

The UAW applauds the Boxer-Lieberman-Warner, Bingaman-Specter, and Markey bills for including provisions designed to ensure that American businesses and workers are not placed at a competitive disadvantage with our trading partners and developing nations. In particular, we welcome the provisions that would impose carbon allowance requirements on certain imports from other nations that do not adopt comparable programs to reduce greenhouse gas emissions.

However, in our judgment these provisions still need to be strengthened in a number of respects. Most importantly, we are concerned that finished products, such as automobiles and auto parts, may not be covered under the international carbon allowance requirements. This would pose a major threat to the jobs of American workers, especially as China and India continue to ramp up their auto industries for export to the United States. Failing to extend the international carbon allowance requirements to finished products made from energy-intense materials will drive the production of these products off-shore. It also will undermine the protection of U.S. suppliers of energy-intense materials by removing the international allowance requirements from these materials once they are formed into finished products.

The UAW regrets that the Waxman bill does not appear to include any provisions to deal with the critically important issue of international competition.

Investing in New Technologies and Jobs

The UAW is pleased that all of the proposals would reinvest revenues raised from the auctioning of carbon allowances to spur research and development of advanced, low carbon technologies, and to promote the deployment of these technologies throughout our nation. This can be critically important in ensuring that our economy continues to grow and that we create the jobs of the future in this country.

The UAW would especially like to commend the Boxer-Lieberman-Warner and Bingaman-Specter bills for including robust provisions that would use a portion of the revenues from the auction of carbon allowances to finance a program to encourage auto manufacturers and parts companies to retool facilities in the United States to produce advanced technology vehicles (hybrids, plug-in hybrids, clean diesels) and their key components. This type of program can help to speed up the introduction of these advanced technology vehicles, thereby reducing oil consumption and greenhouse gas emissions. At the same time, it will provide a significant incentive for auto and parts manufacturers to retool facilities in this country to produce these vehicles of the future and their key components. This can create tens of thousands of jobs for American workers.

Residual EPA Authority to Regulate CO2 Emissions

Even though the Boxer-Lieberman-Warner, Markey, and Waxman bills establish an economy-wide cap-and-trade program to reduce greenhouse gases, they would also allow the EPA to retain residual authority under the Clean Air Act to regulate CO2 emissions. This effectively means that EPA would be free to disregard key decisions that Congress will make in considering these bills concerning the timetable for reductions in CO2 emissions, the appropriate point of regulation, and the distribution of economic burdens. Instead, EPA would be free to regulate CO2 emissions from the electric power, industrial, transportation and fuels sectors in ways that differ fundamentally from these bills. The UAW submits that it is inappropriate and untenable to allow a federal agency to supersede decisions by Congress in this manner.

In the absence of any federal cap-and-trade program, the UAW understands the importance of EPA's existing authority to regulate CO2 emissions. But if Congress is going to take the difficult step of enacting a comprehensive federal cap-and-trade program to combat climate change, we do not believe it makes any sense to allow EPA to proceed in ways that differ from this program.

State Authority

The Boxer-Lieberman-Warner, Markey and Waxman bills all preserve existing state authority to regulate greenhouse gases. However, the Boxer-Lieberman-Warner and Markey bills also supersede pending litigation over the scope of that

authority, and make it clear that California and other states may regulate auto CO2 tailpipe emissions. The UAW strongly opposes these provisions as unnecessary and overreaching. We believe the courts should be allowed to resolve the contentious issue of whether the states may regulate auto CO2 tailpipe emissions, or whether this is tantamount to regulating fuel economy and is preempted by the CAFE program. Attached to this testimony is an addendum setting forth the reasons why we believe the California auto CO2 tailpipe emissions standard is both pre-empted and seriously flawed.

In addition, the Boxer-Lieberman-Warner, Markey and Waxman bills all fail to deal with the important issue of how state climate change measures - whatever their scope - will interface with the federal cap-and-trade program. Because of this critical omission, the unfortunate reality is that state climate change measures would result in ZERO additional reduction in greenhouse gas emissions beyond the level already mandated by the federal cap-and-trade programs established by these bills. Although state measures could reduce emissions from a particular sector, this would simply relax the pressure from the federal cap on other sectors, without providing any net environmental benefit. See "Bringing Transportation into a Cap-and-Trade Regime." A. Denny Ellerman, Henry D. Jacoby and Martin B. Zimmerman. MIT Joint Program on the Science and Policy of Global Change, Report No. 136, pps. 7-11, June 2006.

The UAW submits that this is a nonsensical result. If the states are going to be allowed to implement climate change measures that impose significant economic burdens on particular industries, a mechanism should be established to ensure that these state measures can interface with the federal cap-and-trade program in an appropriate manner, and thereby provide additional reductions in greenhouse gas emissions.

The UAW believes this can easily be accomplished by allowing entities regulated by state climate change measures to purchase and retire allowances from the federal program to satisfy the state standards (to the extent they are more stringent than comparable federal standards). This would guarantee that the state measures actually provide an environmental benefit through additional reductions in greenhouse gas emissions, while also allowing this to be accomplished in the most economically efficient manner in keeping with the fundamental premise of the federal cap-and-trade program.

Conclusion

The UAW appreciates the opportunity to testify before this Subcommittee on various legislative proposals for reducing greenhouse gas emissions. These proposals have many positive features, and therefore represent an important first step in the effort by Congress to deal effectively with the threat posed by global warming. At the same time, there are still many serious problems and issues that need to be resolved. The UAW looks forward to working with the Members

of this Subcommittee, the entire Congress, and a new administration to pass strong federal legislation establishing an economy-wide cap-and-trade program to reduce greenhouse gas emissions. If this is done correctly, it can achieve the reductions necessary to combat climate change, while at the same time enhancing prospects for economic growth and the creation of jobs for American workers.

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ADDENDUM

State Auto CO2 Tailpipe Emissions Standards

For a number of reasons, the UAW strongly opposes the provisions in the Boxer-Lieberman-Warner and Markey bills that would supersede pending litigation concerning the scope of state authority to regulate greenhouse gas emissions, and make it clear that California and other states may regulate auto CO2 tailpipe emissions

First, these provisions would directly interfere with the ongoing litigation in the federal courts over whether the state CO2 tailpipe emissions regulations are preempted. In our judgment, the courts should be allowed to determine whether current law forbids the states from making such regulations. Although several lower federal courts have issued decisions on this issue, so far there has not been a definitive ruling by a Court of Appeals or the Supreme Court. Specifically, in Massachusetts v. EPA the Supreme Court did not consider the issue of whether state regulations regulating CO2 tailpipe emissions from automobiles are preempted by the Energy Policy and Conservation Act (EPCA).

When higher federal courts do consider this issue, the UAW believes they will conclude that state CO2 tailpipe emissions regulations are indeed preempted. EPCA expressly preempts state standards that are "related to" the federal corporate average fuel economy standards (CAFE). 29 U.S.C. 32919 Congress

made this judgment when it established the CAFE program because it wanted to avoid the negative economic consequences on the auto industry of a multitude of different state standards.

As a scientific matter, there is no dispute that reducing CO2 tailpipe emissions from automobiles is directly and overwhelmingly related to their fuel economy. The only way to significantly reduce CO2 tailpipe emissions is to substantially increase fuel economy through the adoption of engine, transmission and other vehicle technologies that increase fuel economy. There is a direct and indisputable correlation between the CO2 tailpipe emissions and fuel economy. As a result, statements by the California Air Resources Board (CARB) and the leading Congressional advocates of the California CO2 tailpipe emissions standard all refer to the fuel economy (mpg) target achieved by that standard.

Second, it is important to recognize that the California CO2 tailpipe emissions standard directly conflicts with the new reformed CAFE program enacted by Congress in the Energy Independence and Security Act of 2007 (EISA).

Specifically, the California standard:

- Is not based on an attribute-based system like the reformed CAFE program. Instead, it applies the same rigid formula to all manufacturers, regardless of their product mix. This undercuts the effectiveness of the standard, since companies producing towards

the smaller end of the passenger car and light truck markets will not have to make as great an effort to reduce the CO2 emissions and to increase the fuel economy of their fleets. In effect, it significantly discriminates against full line manufacturers.

- Does not maintain separate standards for passenger cars and light trucks. As a result, it discriminates against and penalizes companies whose product mix is more oriented towards the light truck market.
- Exempts auto manufacturers whose production is below a certain threshold. This also undercuts the effort to reduce CO2 emissions and improve fuel economy. And it gives a major competitive advance to newer entrants into the auto market.

Third, granting a waiver to California will **not** simply result in 2 standards for vehicles, a federal standard and a more stringent California standard adopted by many states. Instead, in order to comply with the CO2 tailpipe emissions standards adopted by California and other states, auto manufacturers would have to make sure that the vehicles they sell **in each state** satisfy this stringent standard. Because of product mix differences in different states, it would be virtually impossible for the auto manufacturers to satisfy this compliance burden. Even though a manufacturer is selling the same type of vehicles with the same

technologies in each state, as a result of product mix differences the manufacturer might be in compliance in one state, but flunk the same standard in another state.

Fourth, the reduction in greenhouse gas emissions and improvement in fuel economy which proponents of the California standard hope to achieve will be significantly offset by increased CO2 tailpipe emissions and decreased fuel economy in states that have not adopted this standard. The new federal CAFE standard established by Congress in EISA simply requires the auto manufacturers to comply with stiffer fuel economy targets for their entire nationwide fleets of passenger cars and light trucks. To the extent that California and other states impose more stringent fuel economy/CO2 standards on the vehicles sold by manufacturers in those states, this simply relaxes the fuel economy target that the manufacturers will have to meet in the rest of the country to remain in compliance with the new CAFE standard. In effect, the manufacturers will be able to increase the number of larger, less fuel efficient passenger cars and light trucks that they sell in the states that have not adopted the California CO2 tailpipe emissions standard.

Fifth, allowing states to proceed with CO2 tailpipe emissions standards would raise the prospect of states seeking to combat global warming through measures that place the economic burden on the economies of other states. In our judgment, this type of "economic warfare" raises troubling constitutional issues.

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