Corporate Power, American Democracy, and the Automobile Industry

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The Poletown episode is instructive because it is another example of how corporate officials exercise their privileged power by taking advantage of both the dependence of government on private employers to provide jobs and a faltering economy. This time, however, that power was applied in a local context. The city of Detroit, confronting a declining economic base, could not resist the offer of jobs. In the case of Poletown, this required the destruction of a neighborhood.

Conclusion

By the time Jimmy Carter left office, the direction of public policy toward the auto industry had changed. The political consequences of the nation's largest industry experiencing its first major economic crisis led policymakers to subordinate other policy concerns to the financial needs of the industry. The period of bargaining and compromise was over. Public interest groups observed from the sidelines as Detroit's executives used the industry's economic crisis to their political advantage.

Reagan administration officials would develop these trends even further. Because the administration was so aggressive in supporting this new direction and embraced it across such a wide spectrum of policy issues, many commentators looking back on the 1980s miss the fact that the direction of public policy had changed before Reagan took office. A 1985 *New York Times* article commenting on the Reagan administration's policies toward the auto industry pointed this out: "the Government began easing up on Detroit in the late 1970s – well before Ronald Reagan moved in the Oval Office and advocates of deregulation were appointed to top policy making jobs – when the finances of the big American car makers were nosediving."[50] The direction that the Reagan administration would take toward the auto industry was made explicit before he was elected. Two weeks after the initial Carter plan was released in July 1980, and just days after Reagan secured the Republican presidential nomination, he called for immediate legislation allowing for tax changes in the form of accelerated depreciation schedules and a temporary moratorium on all future regulations. In addition, he called for a careful review of current regulations in order to eliminate or revise those deemed unnecessary. Holmes Tuttle, a Los Angeles Ford dealer and a longtime Reagan confidant, announced there were forty to fifty auto-related regulations that would become likely targets for repeal under a Republican administration.[51]

[50] Reginald Stuart, "Car Makes Are Getting Back in the Driver's Seat," *New York Times* (July 21, 1985), section 4, p. 2.

[51] Edward Lapham, "Repeal of Regulations a Likely Reagan Goal," *Automotive News* (July 21, 1980), p. 2.

6

The Triumph of Corporate Power: Regulatory Policy, 1981–1988

By the time Ronald Reagan took office in January 1981, few questioned that the auto industry was in crisis. In 1980, the industry as a whole had reeled from record losses of $4.2 billion. By contrast, in every year of the previous two decades, the automakers' combined profits were never less than $2 billion (1980 dollars). Meanwhile, GM sustained its first loss since 1921. With the shift in automotive policy under Jimmy Carter and the subsequent election of a stridently probusiness president whose own victory was, in part, a reflection of the business mobilization of the 1970s, the automakers were in a position to obtain wholesale changes in public policy. The industry's economic troubles were turned into a political advantage. In April, 1981, Reagan announced a comprehensive plan to aid the industry that included extensive regulatory rollbacks, discussions leading to import quotas on Japanese cars, and the relaxation of antitrust policy. The industry's reaction, noted one reporter, "bordered on euphoria."[1]

Central to this plan was the rollback of thirty-four safety, emissions, and fuel economy regulations. Standards that had been contested and often delayed but in the end promulgated, were now fair game. What the industry previously had been unable to block it was now able to reverse. To document the Reagan-era policy approach, one policy from each of the three main automotive regulatory areas – safety, emissions, and fuel economy – will be examined. The three examples are the CAA Amendments of 1981 (emissions), the air bag rollback (safety), and the rollback of fuel economy (CAFE) requirements. The attempt to weaken the Clean Air Act is chosen because it is the bedrock of auto pollution control. For safety, the air bag is singled out because it was the subject of the longest-running controversy in automotive regulatory policy

[1] Michael Wines, "Regulatory Plan to Relieve Auto Industry of Regulatory Burden Gets Mixed Grades," *National Journal* (July 23, 1983), p. 1535.

history; this safety feature also held the largest potential for preventing injuries and death of any single regulation. Finally, the 1985 NHTSA decision lowering CAFE is chosen because it was the central fuel economy decision of this period.

Policymakers in this period were more responsive to the industry's lobbying than in the previous decade as financial losses mounted and government regulation was widely attacked by a growing chorus of experts financed by the business community. The postwar Keynesian welfare state, which for decades had defined the parameters of American politics, was no longer secure. Corporate officials made it clear that the only way to spur economic growth was to unfetter business from unwanted government regulation. Ronald Reagan came to power offering to cut taxes, reverse the course of the welfare state, and rein in environmental, health, and safety regulation, which were, he argued, strangling the economy. Auto industry officials, and the corporate community in general, realized that they had a historic opportunity to reshape public policy. This is not to suggest, however, that auto industry officials gained all that they wanted. Even though thirty-two of the thirty-four slated rollbacks were accomplished, completely or in part, a closer examination of the three sample regulatory cases indicates that there were political and legal limits to corporate success within this period of triumphant corporate power.[2] Before turning to an examination of these examples, we outline the Reagan administration's plan to aid the industry.

Plans to Aid the Industry

The Transportation Department's January 1981 recommendations, issued less than two weeks before the Reagan inauguration, gave the incoming administration a framework to orient its own deliberations on a plan to aid the industry. At the same time, Congress started its own discussions on the industry's worsening plight. Days before the incoming president's inauguration, the Senate Finance Committee's Subcommittee on International Trade held extensive hearings on the industry's problems. Sen. Robert Dole (R-KS), chairman of the Finance Committee, opened the hearing in dramatic fashion. "It is clear," he said, "to every member of this committee and I am certain to the members of the new administration as well, that this country will not and cannot accept the destruction of this industry."[3] Sen. John Danforth (R-MO), chair of the subcommittee, warned: "The U.S. auto industry is in a state of crisis."[4]

[2] For a detailed breakdown of each of the thirty-four rollbacks, see Wines.

[3] U.S. Congress, Senate, Committee on Finance, *Issues Relating to the Domestic Auto Industry. Hearings before the Subcommittee on International Trade,* 97th Cong., 1st sess. (January 14–15, 1981), Part 1, p. 3. Hereafter known as the Finance Committee hearings.

[4] Finance Committee hearings, Part 1, p. 28.

At the hearings, a wide range of groups testified, in addition to representatives of the Big Three. Each offered its own proposals to help the beleaguered automakers. Among the industry-related groups were the UAW; the Automotive Materials Industry Council of the United States (AMICUS), representing 40,000 companies supplying the auto industry; the American International Automobile Dealers Association (AIADA), representing 4,500 small businesses that employed 140,000 individuals selling and servicing imported cars; and the Automotive Importers of America (AIA), an association of auto importers in the United States, excluding Volkswagen and Mercedes-Benz, with combined employment in the United States of 140,000. Suggestions ranged from import quotas, investment tax credits, and accelerated depreciation schedules to reduction of federal regulations. Non–auto industry groups also testified, such as Consumers for World Trade and the Council for a Competitive Economy, arguing against import restrictions.

A few weeks later, the Motor Vehicle Manufacturers Association (MVMA) sent a detailed set of requests to the new president, the same ones, in fact, submitted to Carter a year before, including import restraints, accelerated depreciation rates, extended tax credit carry-forward provisions, less stringent air pollution standards, easing of testing protocols, abolition of fuel economy standards after 1985, a reduction of the 5 mph bumper standard to 2.5 mph, and reevaluation of the air bag standard.[5] Inheriting a set of power relations much to its liking, the Reagan administration quickly set about formalizing a plan to help the industry. To hammer out the details, industry officials met with several key administration representatives and exchanged a series of letters.[6] Unlike the first Carter plan, which had rejected the industry's wish list, the Reagan plan included most of the items. An administration official later wrote that there were three objectives to the plan: aid the troubled industry; demonstrate a successful regulatory relief effort; and avoid congressional pressures for trade restraint.[7]

Stressing the revitalization of the economy as the single most important remedy for the industry, the plan emphasized the importance of the president's Economic Recovery Program. However, because the industry's problems were

[5] See Helen Kahn, "Makers Tell Reagan of Worry, Recommend Actions to Help," *Automotive News* (February 9, 1981), p. 2.

[6] See Ralph Nader and William Taylor, *The Big Boys: Power and Position in American Business* (New York: Pantheon Books, 1986), pp. 100–2; U.S. Congress, House, Committee on Government Operations, *The Administration's Proposals to Help the Auto Industry. Hearings before the Subcommittee on Government Activities and Transportation,* 97th Cong., 1st sess. (May 13–14, 1981), p. 110. Hereafter referred to as The Administration's Proposals to Help the Auto Industry.

[7] Robert Leone, "Regulatory Relief and the Automobile Industry," in George Eads and Michael Fix, *The Reagan Regulatory Strategy: An Assessment* (Washington: Urban Institute, 1984), p. 91.

seen as more than merely a reflection of cyclical fluctuations in the economy, across-the-board policy changes were warranted.[8] Thirty-four regulations were slated for rollback in what the administration described as the "biggest attempt ever to ease federal controls over a single industry." Total savings were estimated at $1.3 billion in capital costs over the following five years and consumer savings of $8 billion.[9] (See Table 1 for a list of regulatory rollbacks.) Most of the rollbacks involved executive branch regulatory decisions; the program also included asking Congress to eliminate requirements that all passenger cars meet 1984 emissions standards for high altitudes. Estimated savings for this one change amounted to $38 million in capital costs and $1.3 billion in consumer costs. On the trade front, the plan reaffirmed a commitment to "free trade." Yet, administration officials were already engaged in discussions with Japan that would lead, a few weeks later, to "voluntary" import quotas. Antitrust enforcement was also slated for relaxation, as was the smog consent decree renewed during the Carter administration. The administration also wanted to accelerate federal procurement of motor vehicles by $100 million for the rest of the fiscal year. Finally, in a gesture in a different direction, the Department of Labor proposed to increase assistance for worker retraining, but there were no specifics attached for this proposal, and these programs were subsequently subject to budget cuts.

There were at least two notable differences between the Reagan plan and the earlier policy outlines developed in the January 1981 Carter report. To begin with, the Carter plan had called for profit-sharing with autoworkers in exchange for wage givebacks. In addition, Carter had established an auto industry advisory committee with consumer, worker, and industry representatives, which Reagan promptly abolished on taking office. In any case, the Reagan proposals subordinated virtually all other policy goals to the financial needs of the automakers. No longer were regulators worried about the environmental or safety consequences of the automobile. Helping the Big Three earn profits was the new order of the day.

To implement these changes, as well as the administration's broader deregulation plans, a controversial alteration in regulatory procedures was used. The discretionary authority of agency decision makers was undercut by the power of White House aides, weakening the procedural guarantees stemming from the Administrative Procedures Act. A task force on regulatory relief, headed by Vice-President George Bush, was also established to provide an

[8] White House, Office of the Press Secretary, "Actions to Help the U.S. Automobile Industry," p. 2, reprinted in U.S. Congress, House, Committee on Energy and Commerce, *The Role of OMB in Regulation. Hearings before the Subcommittee on Oversight and Investigations,* 97th Cong.,1st sess. (June 18, 1981), Serial No. 97–70, p. 419. Hereafter referred to as The Role of OMB in Regulation.

[9] Wines, p. 1532.

Table 1. *Summary of Reagan's proposed regulatory rollbacks*

EPA	
1	Revise hydrocarbon and carbon monoxide heavy duty truck standards
2	Relax assembly line test procedures
3	Delay assembly line testing for heavy-duty engines
4	Relax nitrogen oxides emissions limits for heavy-duty engines
5	Institute nitrogen oxides averaging for trucks
6	Institute emissions averaging for diesel particulates
7	Eliminate 1984 high-altitude requirements
8	Adopt self-certification for high-altitude vehicles
9	Forgo assembly line testing for high altitudes
10	Consolidate nitrogen oxides waiver proceedings
11	Consolidate carbon monoxide waiver proceedings
12	Adopt equivalent nonmethane hydrocarbon standards
13	No requirement for controls of emissions while fueling
14	Streamline certification program
15	Relax test vehicle exemptions
16	Reduce number of assembly line test orders
17	Explore deferral of paint shop standards
NHTSA	
18	Delay passive restraints for large cars
19	Review all passive restraints requirements
20	Modify bumper standards
21	Rescind "field of view" requirements for cars
22	Terminate "field of view" rule making for trucks and buses
23	Withdraw post-1985 CAFE proposals
24	Amend tire grading regulations
25	Amend seat belt comfort regulations
26	Terminate rule making for multipiece tire rims
27	Rescind speedometer/odometer standards
28	Defer theft protection standards
29	Modify brake standards
30	Terminate rule making on low-tire-pressure warning devices
31	Eliminate tire information requirements
32	Terminate rule making on batteries
33	Streamline fuel economy reporting requirements
34	Change vehicle identification requirements

Source: White House Office of the Press Secretary, "Actions to Help the U.S. Auto Industry," April 6, 1981.

additional appeals forum for businesses that felt they were not receiving proper treatment from regulatory agency officials. While White House involvement in regulatory affairs had a long history, the Reagan White House went further than any of its predecessors. As a result, congressional hearings were held to scrutinize the legitimacy of this effort, and legal scholars, among others, generated a voluminous literature on these developments.[10] Environmental, health, and safety regulations were the primary targets of these deregulation efforts. And for George Eads, a participant in Carter's attempt to influence regulatory decisions, the clearest example of this trend was the Reagan plan to help the auto industry. "Regardless of what you think of the individual numbers that are claimed," he testified, "the agencies are being given the signal that results should come out a certain way before the necessary analysis has ever been begun."[11] Joan Claybrook, head of NHTSA during the Carter administration, made a similar point about the Reagan safety rollbacks. "The new proposals marked a major departure in the conception of the federal auto safety program. Safety improvements in cars, the very heart of the NHTSA's safety mission, were now redefined as economic burdens to be avoided. This shift flouted the agency's statutes, scientific evidence, and even the economic realities of auto safety regulation."[12] Clarence Ditlow, head of the Center for Auto Safety, testified that preordained conclusions, instead of reasoned analysis, now determined regulatory decisions.[13] However, rolling back some of the standards proved to be more difficult than it first appeared.

Clean Air Act

Revising the Clean Air Act (CAA) was one of the first major environmental challenges for the Reagan administration. The 1977 amendments were due for reauthorization by September 30, 1981, limiting the time the administration had to seize the initiative to reform the bill.[14] At the time, the law was one of the most detailed environmental laws written, totaling more than 180 pages, three times longer than the original 1970 law. Auto emissions standards were merely one of a number of air pollution issues the legislation covered.

Immediately confronting the administration's effort to revise the CAA was a report from the National Commission on Air Quality, created by the 1977 CAA

[10] For an analysis of the presidential role in managing the regulatory process, see Stan Luger, "Administrative Law, Regulatory Policy, and the Presidency," *Presidential Studies Quarterly* vol. XXIII, No. 4 (Fall 1993), pp. 713–26.

[11] The Role of OMB in Regulation, p. 15.

[12] Joan Claybrook, *Retreat from Safety* (New York: Pantheon Books), p. 180.

[13] The Administration's Proposals to Help the U.S. Auto Industry, p. 110.

[14] This summary relies largely on Richard Tobin, "Revising the Clean Air Act: Legislative Failure and Administrative Success," in Norman Vig and Michael Kraft, eds., *Environmental Policy in the 1980s: Reagan's New Agenda* (Washington: Congressional Quarterly Press, 1984).

to prepare a comprehensive assessment of the air pollution control effects of the law. In its March 1981 report, the commission urged the continuation of pollution control as a "national priority . . . requiring substantial investment" throughout the 1980s.[15] No fundamental changes were needed in the law, claimed the commission, only refinements. With this report in place, the prospect of modifying the law decreased. However, administration officials did not give up their plans to make fundamental changes in air pollution regulation. A number of major alternatives were considered, including total elimination of national air quality standards, application of cost–benefit analysis to proposed regulations, elimination of federal sanctions for localities not achieving federal standards, elimination of the requirement that automobile pollution control devices be maintained in proper working order, relaxation of limits on car exhausts, proposals to allow polluted areas to assess their own progress in reducing air pollution, and a proposal to make EPA enforcement discretionary. Drafts of these possible changes were leaked to members of Congress and, given their extreme nature, were used to embarrass the administration and rally opponents. Consequently, even before any formal proposals could be made, the administration was put on the defensive.

In the face of growing opposition, the administration decided to make a strategic withdrawal. Instead of formulating specific proposals for changing the law, it offered "basic principles" to guide reform. Other factors also contributed to this decision. To begin with, administration officials could not agree on concrete proposals for changes. Since the revision process was already underway, with many of the necessary oversight hearings already completed, delay hurt whatever chances existed for changing the law. Part of the reason for the delay was the administration's preoccupation with tax and budget cuts. As Murray Weidenbaum, chairman in 1981 of the Council of Economic Advisors and a leading advocate of deregulation, lamented: "The major reason the administration was so extraordinarily timid in providing leadership [to reform the CAA] was its desire to avoid raising controversial legislative questions that could impede the speedy enactment of its tax and budget initiatives."[16]

With no White House direction, supporters of blunting the law introduced their own bill in the House of Representatives.[17] It contained a number of provisions that would have weakened auto emissions standards and loosened pollution requirements for other industries. Led by Rep. John Dingell (D-MI), chair of the Energy and Commerce Committee and one of Detroit's primary political protectors, supporters of this effort included the Business Roundtable, the NAM, the Chamber of Commerce, the MVMA, and, at least formally, the

[15] Cited in Tobin, p. 232.

[16] Murray Weidenbaum, "Regulatory Reform Under the Reagan Administration," in George Eads and Michael Fix, p. 19.

[17] HR. 5252.

Reagan administration. Environmentalists immediately labeled the proposal a "dirty air" bill, arguing that it would double auto emissions, extend the deadline for meeting national air quality standards by as much as eleven years, and allow for substantial increases in pollution near national parks and wilderness areas. Environmental forces were aided in their effort to stop the bill by the growing scandals surrounding the administration's environmental policies. A number of high-ranking officials including EPA head Ann Gorsuch Burford and a key deputy, Rita Lavelle, were forced to resign. Meanwhile, a series of decisions made by Interior Secretary James Watt added to the belief that the Reagan administration wanted to satisfy business groups regardless of the consequences.

As the administration became embroiled in one environmental controversy after another, membership in environmental groups multiplied. Between 1980 and 1983, for example, membership in the Wilderness Society shot up by 140 percent, the Sierra Club grew by 90 percent, and Defenders of Wildlife and Friends of the Earth expanded 40 percent.[18] Public opinion polls showed that not only was there a large reservoir of support for environmental protection, but that it was growing in response to the administration's attacks on environmental regulation. One poll, for example, showed that from September 1981 to April 1983 the percentage of respondents who agreed with the statement "Protecting the environment is so important that requirements and standards cannot be too high and continuing environmental improvements must be made regardless of cost" increased from 45 to 58 percent.[19]

With stiffening environmental opposition, the bill's prospects plummeted. While John Dingell was able to protect the auto-related provisions in the proposal, other industries found that tougher provisions were being added to the bill as it made its way through the committee. Consequently, the bill languished and was never voted on. Meanwhile, Republican setbacks in the 1982 congressional election and a reenergized environmental movement forced the Reagan administration to focus on derailing legislative efforts to strengthen the law. However, the wide administrative discretion inherent in environmental control allowed the administration to give its business supporters some of what they wanted through interpretations of "compliance," granting of waivers, and lengthening of deadlines. For the rest of Reagan's time in office, clean air politics remained deadlocked. In 1989, President Bush moved to end the legislative logjam when he offered proposals to improve the law. A

[18] For an analysis of this trend, see Robert Cameron Mitchell, Angela Mertig, and Riley Dunlap, "Twenty Years of Environmental Mobilization: Trends Among National Environmental Organizations," in Dunlap and Mertig, eds., *American Environmentalism: The U.S. Environmental Movement, 1970–1990* (Philadelphia: Taylor and Francis, 1992), pp. 11–26.

[19] Cited in Weidenbaum, p. 23.

series of other factors had changed by this time as well, and in 1990 Congress finally revised the CAA after a decade of stalemate. (See Chapter 8.)

The lessons from this case indicate that even with the new politics of automotive policy and a willing administration, the industry could not get everything it wanted from Washington. Because tailpipe emissions standards were embedded in legislation, as opposed to administrative regulation, Reagan administration officials could not unilaterally change the standards. With public attention focused on environmental protection, industry lobbyists encountered opposition to changing legislative mandates that was too formidable to defeat. Yet, for their efforts, industry officials were able to delay enactment of tighter emissions standards for almost ten years.

Passive Restraints

Unlike clean air politics, which was primarily fought out in Congress, the effort to repeal the air bag was largely an administrative decision. Because of the way the Reagan administration handled the rollback, however, it ended up before the Supreme Court. The air bag was considered by its advocates as one of the most important public health actions ever taken by the U.S. government. When fully implemented, it was estimated that each year 9,000 lives would be saved and 65,000 serious injuries would be prevented.[20] However, the air bag, one of the longest debated auto safety standards in the history of federal regulation, was a continual source of controversy for two decades until 1991, when Congress finally legislated its inclusion in all cars beginning in 1997. (See Chapter 8.)

Debate over the air bag recapitulated the long-standing question of how much safety should be "imposed" on the public through government regulation. Opponents of mandatory standards argued that individuals, not government, should decide on the safety of products by "voting" in the marketplace through their purchases. Advocates of the air bag, on the other hand, maintained that the social consequences of car crashes outweighed this concern for "consumer sovereignty," and that few car buyers or passengers are equipped, in any event, to evaluate the technical claims made by the industry. In addition, proponents claimed, the way in which cars are sold enables manufacturers and dealers to steer car buyers away from certain options and toward others, presenting what is "on the lot" as the only practical sale.[21]

At the center of the opposition to the air bag stood auto industry executives, who, with few exceptions, consistently opposed the standard, spending more

[20] Claybrook, p. 168.

[21] For evidence, gathered ten years apart, that purchase of air bags was actively discouraged, see Albert Karr, "Saga of the Air Bag, or the Slow Deflation of a Car Safety Idea," *Wall Street Journal* (November 11, 1976), p. 1; Albert Karr and Laurie McGinley, "Auto Shoppers Encounter Stiff Resistance When Seeking Air Bags at Ford Dealers," *Wall Street Journal* (July 31, 1986), p. 27.

energy on it than on any other regulatory proposal. At various times, industry officials argued that this feature was unnecessary, too expensive, and impractical. When the automakers encountered economic hardship in the early 1980s, the arguments marshalled to oppose the standard shifted to its cost.[22] Before examining the attempted rollback, it is first necessary to briefly review the history of rulemaking on the air bag prior to the 1980s to explain how the standard arrived on the Reagan agenda.

In 1969, after it became apparent that manual seat belt usage was low, NHTSA's forerunner announced its intention to issue a passive restraint standard.[23] At that time, a passive restraint requirement could be met only with air bags since no other technology was available.[24] (While the political controversy over the air bag began in the 1970s, industry research began in the 1950s and a number of patents were granted at that time.[25]) In the early 1970s, when NHTSA moved ahead with the standard, industry officials turned to the White House for help. Henry Ford II and Lee Iacocca, then President of Ford, met with President Nixon and convinced him to intervene with agency officials. In a confidential memo, John Ehrlichman, Nixon's chief domestic policy advisor, relayed the president's order, and the air bag was subsequently delayed for two years.[26]

22 David Bollier and Joan Claybrook, *Freedom from Harm: The Civilizing Influence of Health, Safety and Environmental Regulation* (Washington/New York: Public Citizen/ Democracy Project, 1986), p. 81.

23 For a detailed history of air bag politics from the pluralist perspective, see John Graham, *Auto Safety: Assessing America's Performance* (Dover: Auburn House, 1989).

24 In 1971 the automatic seat belt was recognized by NHTSA as also meeting the standard, and in 1974 detachable automatic seat belts were approved. At first the detachable belts were coupled with an ignition interlock device, but public opposition led Congress to repeal the use of the ignition interlock. NHTSA continued to allow detachable seat belts as an option for compliance by the automakers. It was this option that became central to the legal battle over the rollback that was decided by the Supreme Court. While the proposed passive restraint standard could be met with passive belts, the debate over the standard was largely framed as if the regulation focused on the air bag alone.

25 See Mark Green and Norman Waitzman, *Business War on the Law,* rev. 2nd ed. (Washington: Corporate Accountability Research Group, 1981), p. 134; U.S. Congress, Senate, Committee on Commerce, Science, and Transportation, *Motor Vehicle Safety and the Marketplace. Hearings before the Subcommittee on Surface Transportation,* 98th Cong., 2d sess. (February–March 1983), Serial No. 98–16, p. 198.

26 See U.S. Congress, House, Committee on Interstate and Foreign Commerce, *Federal Regulation and Regulatory Reform. Report by the Subcommittee on Oversight and Investigation,* 94th Cong., 2d sess. (October 1976), p. 188; Greg Mitchell, "Iacocca's Untold Story: Puncturing the Air-Bag Rule," *The Nation* (February 16, 1985), p. 171; Helen Kahn, "Tape Tells of Ford Pitch to Nixon," *Automotive News* (December 6, 1982), p. 6.

Industry officials also turned to the federal courts to stop the air bag, challenging NHTSA's authority to issue a standard that could not be met with existing technology.[27] Ruling against the challenge except on one technical count, the Court of Appeals remanded the standard to NHTSA for further tests. Although the industry won a temporary reprieve, it lost the larger issue of NHTSA's authority to issue technology-forcing regulation. Throughout this period, the battle against the air bag was waged on Capitol Hill as well. Although there were some symbolic victories, industry officials were unsuccessful in achieving a permanent legislative ban on the standard. As a result, NHTSA was about to recommend a new standard in December 1976, but outgoing Ford administration Transportation Secretary William Coleman decided instead to implement a demonstration program.[28] However, Coleman's substitute plan never took effect because the incoming Carter administration issued a final passive restraint standard in July 1977, with compliance slated to begin in 1981.[29]

In late 1980, however, with the industry's economic fortunes plummeting, industry officials made what, at the time, they thought was their last effort to delay the standard when they sought a one-year extension from Congress. President Carter and Transportation Secretary Neil Goldschmidt supported the extension, but a conference committee report that would have granted the extension failed to pass the House.[30] The standard, described by one observer as "one of the most extensively reviewed standards ever promulgated by the federal government," was intact and scheduled for implementation.[31] However, once in office, the Reagan administration moved quickly to stop it. One of the first actions by the new transportation secretary, Drew Lewis, just three weeks after the inauguration, was to grant a one-year delay for compliance and to reopen the entire issue of the standard itself.[32]

By the fall of 1981, Raymond Peck, the newly appointed head of NHTSA, announced its rescission.[33] He argued that his ruling was based on the "uncertainty" of public acceptance of detachable automatic seat belts, which Peck assumed would be the technology that the automakers would choose in complying with the standard. Because of this uncertainty, Peck argued, usage would not increase over that of traditional manual belts. Consequently, they

27 *Chrysler v. Department of Transportation,* 472 F.2d. 659 (1972).

28 42 FR 5,071 (1977). 29 42 FR 15,935 (1977).

30 Judy Sarasohn, "Congress Declines to Let Automakers Off the Hook in Meeting Safety Standards," *Congressional Quarterly Weekly Report* (December 27, 1980), p. 3676; "NHTSA Agreement Is Stalled When Members Bog Down in Air Bag, Bumper Dispute," *Congressional Quarterly Weekly Report* (October 4, 1980), p. 2907.

31 Carl Nash, "Passive Restraints: A Regulator's View," in Robert Crandall and Lester Lave, eds., *The Scientific Basis of Health and Safety Regulation* (Washington: Brookings Institution, 1981), p. 60.

32 46 FR 21,172 (1981). 33 46 FR 53,419 (1981).

would be of little or no benefit. In announcing the decision at a press conference, paradoxically, Peck added that "It is time to stop the uncertainty about this standard. It is only by rescinding the standard and proceeding with . . . 'a full court press' on technology, that we will be able to make material, substantial impact on reducing death on the highway."[34] Peck admitted that his decision was made over the objections of the agency's staff.[35]

The public reaction was swift. Insurance companies took the lead by challenging the rescission in court. A year later, the Federal Court of Appeals rebuffed the administration, ruling that the rollback was arbitrary, capricious, and an abuse of authority. The court found that there was no supporting evidence for Peck's contention that detachable automatic seat belts would be of no benefit. Simple logic indicated that many drivers and passengers would leave the detachable belt in place. More important, however, the court rejected the premise that detachable belts were passive restraints in the first place: "Essentially, the agency seems to conclude that because some technology will *not* meet the passive restraint standard, it need not mandate compliance by technology that will. The absurdity of this Orwellian reasoning is obvious."[36]

Industry officials appealed the decision to the Supreme Court, which in turn rebuked the administration and the industry. The Court, following the lead of the Federal Court of Appeals, unanimously ruled that the rollback decision was arbitrary, capricious, and without any rational basis or explanation. The Court argued that if detachable belts did not increase usage, this would only justify amending the requirement to disallow compliance through this particular technology. As for the air bag itself, the Court ruled: "The agency has no basis at this time for changing its earlier conclusions in 1976 and 1977 that basic air bag technology is sound and has been sufficiently demonstrated to be effective in those vehicles in current use. . . ."[37] In overruling NHTSA's action, the Supreme Court also directly criticized the auto industry and its fight against the standard:

> The automobile industry has opted for the passive belt over the air bag, but surely it is not enough that the regulated industry has eschewed a given safety device. For nearly a decade, the automobile industry has waged the regulatory equivalent of war against the air bag and lost – the inflatable restraint was proven sufficiently effective. Now the automobile industry has decided to employ a seatbelt system which will not meet the safety objectives of Standard 208. This hardly constitutes cause to revoke the standard itself. Indeed, the Motor Vehicle Safety Act was necessary because the industry was not sufficiently responsive to safety concerns.[38]

[34] Cited in Claybrook, p. 169.

[35] Cited in John Graham and Patricia Gorham, "NHTSA and Passive Restraints," *Administrative Law Review* Vol. 35, No. 2 (Spring 1983), p. 222.

[36] *State Farm Mutual v. Department of Transportation,* 680 F.2d. 206, 234.

[37] *Motor Vechicles Manufacturers Association v. State Farm,* 463 U.S. 29, 46.

The passive restraint standard was not reinstated, however. Instead, the Court remanded the decision back to NHTSA, ruling that the agency could change its view of the usefulness of air bags, but the decision would have to be based on a reasoned analysis, thereby inviting another round of rulemaking. In 1984, with a new transportation secretary, Elizabeth Dole, and a new head of NHTSA, Diane Steed, a passive restraint requirement was issued for all cars beginning in 1990, with a phase-in period beginning in 1987. A novel feature was added to the decision that further complicated an already complicated case: if a sufficient number of states legislated mandatory seat belt usage laws by 1987 so that two-thirds of the nation's population was covered, NHTSA would waive the air bag requirement.[39]

This action guaranteed more litigation, as well as an intensive industry lobbying effort directed at the states to pass the necessary legislation. The industry's subsequent lobbying effort illustrates the range of options available to large corporations. In addition to being able to spend more money than any other group involved in the issue, its effort included traditional one-on-one lobbying by high-profile industry executives and the creation of a new lobbying organization, as well as threats over plant location. To carry part of the burden of the industry's state-by-state effort, in 1985 industry officials established Traffic Safety Now, Inc. The *Washington Post* reported that the industry planned to spend $15 million annually for this campaign.[40] Part of this money was spent on grants to already existing state organizations involved in mandatory usage campaigns such as Connecticut's Safety Belt Coalition, which received $137,000.[41]

Other aspects of the campaign involved direct appeals to state officials by some of the industry's most visible personalities. For example, Lee Iacocca, a staunch opponent of the air bag for twenty years before his sudden change in the late 1980s, met with Illinois Governor James Rhodes at Chrysler headquarters in Michigan. Rhodes said that Iacocca made "a very strong pitch" for passage of a usage law and said that "it would forestall the mandatory use of air bags, which he claims are not all they are cracked up to be and which he also claims are virtually useless without using seat belts as well."[42] In addition to sending its own representatives to lobby Illinois legislators, Chrysler and GM hired a former Illinois secretary of state and a former majority leader of the state house to lobby its case. One Illinois legislator said: "the big heaters were all over this one. We had Chrysler, Ford, GM. We had banks they run their financing through. . . . I haven't seen a bill this heavily lobbied in a long

[38] *MVMA v. State Farm,* 463 U.S. 29, 47. [39] 49 FR 28,962 (1984).

[40] Warren Brown, "GM to Offer Air Bags," *Washington Post* (February 21, 1985), p. C9.

[41] Irvin Molotsky, "States Debate Laws on Seat Belt Use," *New York Times* (February 28, 1985), p. B5.

[42] Cited in Molotsky.

time."[43] To influence legislators in California, the most valuable state due to its size, the automakers flew several of them to Detroit to tour auto plants. None of these activities was unusual. However, GM also used a far more potent weapon. Opponents charged that GM told a number of state officials that their state would not be considered as a possible site for its new Saturn plant unless they passed a mandatory usage law. Of course, GM denied the charge. Yet, Sen. John Danforth (R-MO) insisted that Missouri legislators told him that they had received this threat.[44]

Twenty-six states passed mandatory usage laws that took effect by 1987, but the population requirement set by NHTSA was never met.[45] Even if this hurdle had been overcome, many of these laws did not meet NHTSA's minimum criteria such as a $25 fine. As a result, in March 1987, NHTSA made its final air bag ruling, but in doing so granted the car makers yet another delay, postponing compliance four years until September 1993.[46] In granting this delay, NHTSA allowed the industry to meet the standard during a phase-in period by using a driver-only air bag, with front seat passengers protected by a standard manual belt.[47] NHTSA believed that allowing for the driver-only provision would accelerate air bag installation. The decision split supporters of the air bag. Insurance groups approved of the decision, despite the limitation, because it seemed to signal an end to the seemingly endless air bag merry-go-round. Several public interest organizations criticized the ruling, including Public Citizen, led by Joan Claybrook.[48]

The effort to roll back the standard, although unsuccessful, was not a complete loss for Detroit. Following the pattern of clean air politics, a decade of delay resulted. With an elaborate process governing the promulgation of regulatory standards subject to judicial review, administration officials, acting on behalf of the auto industry, could not erase the technical findings that were in place supporting the standard. Although the industry's vigorous opposition to the air bag perplexed some observers, a *New York Times* editorial offered a simple explanation: air bags were effective. "American auto makers, always ready to underestimate consumer sophistication and ever resentful of interference by Government, oppose air bags because they would give regulation a good name."[49]

[43] Cited in Molotsky. [44] Molotsky.

[45] See Reginald Stuart, "U.S. Aide Faults Laws on Seat Belts," *New York Times* (January 19, 1986), p. 16; "Auto Makers Granted Extension on Air Bag Rule," *New York Times* (March 26, 1987), p. A18.

[46] 52 FR 10,096 (1987). [47] 52 FR 10,096 (1987).

[48] See Helen Kahn, "Makers Get 4-Year Delay on Passive Restraints," *Automotive News* (March 30, 1987), p. 58.

[49] "Don't Deflate Auto Safety," *New York Times* (September 23, 1981), p. A30.

Fuel Economy

Fuel economy is the final regulatory area examined. Unlike the two previous examples, the 1985 CAFE rollback was an unmitigated victory for Ford and GM. With large discretion over this policy area, the administration was in a position to satisfy the industry's two largest firms.

Well before the 1985 rollback, the Reagan administration scuttled rulemaking actions already underway for higher future CAFE standards before they could be completed.[50] Rolling back the existing standard was next on the agenda because – reversing themselves – both Ford and GM abruptly claimed that it was impossible to meet the 27.5 mpg requirement. (The 1975 fuel economy legislation allowed NHTSA to establish CAFE standards after 1985 and to roll back the standard to 26.0 mpg if necessary.[51]) In an era when public policy was subordinated to the expressed needs of the automakers, the Reagan administration needed little prodding to act. Since the rollback decision was entangled with trade policy – the import quotas on Japanese cars had the effect of boosting sales of domestic small cars, thereby raising CAFE for Detroit's automakers – it is necessary to describe the connections between these seemingly unrelated policy areas. (See Chapter 7 for a fuller discussion of trade policy during the Reagan administration.)

As a result of the dramatic rise in imports between 1979 and 1980, American automakers secured import protection from Japanese competition. When import quotas were imposed in 1981 through a Voluntary Restraint Agreement (VRA), the supply of small, efficient Japanese cars was limited and car buyers were, in effect, forced to turn to domestic manufacturers for smaller cars. As the sale of domestic small cars increased, the fleet fuel averages of domestic producers rose, allowing Ford and GM to continue selling older, less efficient, larger models. Selling older models was profitable for a variety of reasons, including larger price tags, an established market, and the ability to use already exiting tools and dies. With the end of the quotas in 1985, car buyers had more Japanese vehicles to choose from and many turned away from Detroit's offerings. As sales of domestic small cars decreased, balancing CAFE became a problem for Ford and GM. Neither automaker wasted any time in seeking a political solution to the problem. In fact, immediately after the VRA's an-

[50] 46 FR 22,243 (1981).

[51] At the same time that NHTSA considered the petition for a rollback, EPA announced CAFE adjustments to benefit the automakers due to a change in fuel economy testing procedures. The retroactive adjustment might have saved the automakers up to $500 million in potential fines. The Center for Auto Safety filed a suit charging that the EPA had used a back-door approach to relax CAFE. In 1986, the Federal Court of Appeals in the District of Columbia overturned the EPA formula and ordered adjustments in fines that cost the automakers $300 million. See *Center for Auto Safety v. Lee Thomas,* 806 F.2d. 1071 (1986).

nounced end, Ford and GM, on the same day, petitioned NHTSA for a rollback of the standard. Yet, the day before the end of the VRA, Ford only urged NHTSA not to consider higher CAFE standards; it did not ask for a rollback.[52]

The need for a rollback, according to Ford and GM, was due to the unacceptable choice each company faced. They could continue selling larger cars, and pay the inevitable penalty that would accrue for failing to meet the standard, or they could restrict sales of their larger cars to bring their CAFE average within the standard. (The penalty for a firm's fleet not meeting the standard was $5 for each one-tenth of a mile multiplied by the total number of cars sold.) Ford and GM claimed that restricting sales of larger cars was their only real choice, and this would entail plant shutdowns and massive layoffs. To do otherwise would "violate the law," something neither automaker said it would consider. Chrysler, along with others, argued that the talk of plant shutdowns was merely a form of pressure used by the two firms to change the standard. Despite protests to the contrary, Chrysler contended, there was simply too much money to be made selling large cars, even with the fines. Nevertheless, in a replay of the emissions battles of the mid-1970s, the two automakers were able to shift the debate over fuel economy policy to the issue of the economic consequences of layoffs.

Chrysler had opposed the rollback all along, joining forces with public interest and environmental groups. This unusual alliance resulted from the fact that Chrysler could meet the standard. As part of its reorganization after the federal bailout, Chrysler modernized its fleet to sell more efficient vehicles. Because the standard was ten years old, Chrysler felt that a rollback was tantamount to changing the rules in mid-game. For Chrysler, the issue was not whether Ford or GM was capable of meeting the 27.5 mpg standard, but whether these companies did everything possible to comply. And the answer was no. In fact, neither Ford nor GM took corrective action after 1983 when each firm predicted that it would be unable to meet the standard. In fact, each had made product decisions lowering CAFE. Moreover, Chrysler added, threatened plant closings were not part of NHTSA's rule-making responsibility. Indeed, the law prescribed only civil penalties for noncompliance.

GM's potential fine was approximately $400 million, and Ford's was approximately $80 million. Yet, these figures were insignificant in comparison to the profits each company earned on large cars. Although hardly neutral in this debate, Chrysler estimated that GM earned about $8 billion in profits from its large cars, and Ford earned $3 billion. When the fines were viewed as an investment, Chrysler officials suggested, GM's return was approximately

[52] Helen Kahn, "More Makers Seek CAFE Relief," *Automotive News* (March 11, 1985), p. 11.

2,000 percent; Ford's return was even higher, 3,800 percent.[53] In any case, the projected economic consequences of layoffs made by the Commerce Department were significant. Analysts estimated that retention of the 27.5 mpg standard, given the expected curtailment of large car sales, would cost 80,000 to 110,000 jobs. Projected sales losses were 750,000 to 1,000,000 units.[54]

Canceling production was not the only economic threat made. Ford, for instance, said it was considering shifting a significant portion of its production – more than 25 percent – of its largest cars to Mexico. (Cars with 25 percent or more foreign content are counted separately for CAFE purposes from domestically produced vehicles.) Consequently, Ford's domestic CAFE average would increase, as these less efficient vehicles would no longer be factored in with its other domestic models.[55] (In 1989 Ford announced its plans to do just this.[56]) It was by no means clear whether CAFE could be blamed for costing domestic jobs, even in light of this effort to take advantage of a loophole in the law. Clarence Ditlow, for example, suggested that CAFE standards helped retain smaller-car production in the United States, and thus jobs, because such vehicles were needed to balance the fuel economy averages of domestically produced larger cars.

By making layoff threats, Ford and GM took advantage of a form of political pressure available only to large corporations. For the Reagan NHTSA, already opposed to CAFE on ideological grounds as an inappropriate interference with the market, the choice was obvious: roll back the standard. To justify the rollback, NHTSA argued that due to the decline in oil prices, market demand for fuel-efficient cars had diminished. Yet, the automakers' inability to meet the standard was not something that resulted from a sudden change in market forces. Given the long lead times that characterize product planning, lower CAFE was fully anticipated by NHTSA for at least two years. In fact, the agency admitted, both Ford and GM had acknowledged two years earlier that they would not be able to meet the standard.[57] However, neither petitioned the agency for a rollback at that time. And two years before that, in 1981, NHTSA had assumed that the automakers would achieve *their* announced goal of 30 mpg by 1985.[58] Ford and GM forced a showdown by petitioning for a rollback

[53] U.S. Congress, Senate, Committee on Energy and Natural Resources, *Automobile Fuel Economy Standards. Hearings before the Subcommittee on Energy Regulation and Conservation,* 99th Cong., 1st sess. (May 14, 1985), Senate Hearing 99–138, p. 74. Hereafter referred to as Auto Fuel Economy Hearings.

[54] Auto Fuel Economy Hearings, p. 264.

[55] Helen Kahn, "Ford Faces Tough Road on CAFE," *Automotive News* (August 19, 1985), p. 2; Richard Johnson, "Big Ford's May Become 'Imports' to Meet CAFE," *Automotive News* (September 2, 1985), p. 1.

[56] Doron Levin, "Ford to Buy Foreign Parts for Big Cars," *New York Times* (June 20, 1989), p. D1.

[57] 50 FR 40,528 (1985). [58] 46 FR 8056 (1981).

in March 1985, just months before the beginning of the new model year, when it was impossible to modify product design.

For NHTSA a central question in settling the rollback issue was whether appropriate steps for compliance had been followed. The agency believed Ford and GM intended to comply, but the drop in gasoline prices, which diminished market demand for more efficient cars, prevented implementation of their respective product plans. Consequently, NHTSA accepted the claims made by Ford and GM that the only way they could now meet the standard was by restricting sales. The basic cause of Ford's and GM's failure to meet CAFE standards, the agency reasoned, was product plan changes made between 1980 and 1985.[59,60]

NHTSA was also forced to reinterpret the statutory criterion of "economic practicality" that guides the promulgation of CAFE. Four factors were required to be considered in making CAFE decisions: economic practicality, technological feasibility, the effect of other motor vehicle standards on fuel economy, and the need to conserve energy. In evaluating these factors, NHTSA was obligated to consider the condition of the entire industry, not simply the situation of a single manufacturer that might have the most difficulty. With the agency prevented from basing its decision on the least capable manufacturer, NHTSA claimed that it was basing its decision on the industry's "collective inability" to meet the standards. However, Chrysler had argued all along that it was living proof that the standards were both technically feasible and economically practical. Getting around this hurdle required the agency to define the "industry's capability" as Ford's and GM's ability due to their dominating share of sales – more than 60 percent. This definition had the effect of delegating fuel economy policy to the marketing strategy of these two firms. Chrysler officials pointed this out, noting that in the spring of 1985, while Ford and GM insisted that consumer demand had shifted toward larger cars, both firms were running advertising campaigns announcing reduced financing for their largest cars – Lincoln Continental, Continental Mark VII, Cadillac Eldorado, and

59 50 FR 40,528 (1985).

60 The difference between the 1980 Ford plan and its actual 1985 CAFE was explained by the agency as resulting from Ford's continued sale of large cars and station wagons (which comprised 20 percent of its sales mix) instead of their complete elimination; delay in introducing new front wheel drive models; continued use of significant numbers of V-8 engines instead of their elimination; lower than expected diesel sales; and lower than expected sales of more fuel-efficient cars.

GM's failure was attributed to five factors: a substantial drop in diesel sales; no new introduction of a subcompact economy or electric car; slowdown in the rate of replacing existing cars with lighter-weight front wheel drive models; a sales shift toward larger models and engines; and continuation of several existing lines. Overall, GM's 1985 cars weighed 360 pounds more than anticipated in 1980. As a result of these failures, GM's 1985 CAFE was 25.5 mpg, compared to its 1980 prediction of 30 mpg.

Seville – in order to increase their sales.[61] *Automotive News* also noted the duplicity of corporate officials who contended that the public wanted big cars while offering financial incentives to boost sales.[62]

Subordinating CAFE policy to the marketing plans of Ford and GM stood the law on its head. Mandatory fuel economy standards were established to lead, not to follow, the market in order to lessen the consumption of gasoline. The Reagan administration, however, ignored this intent. It maintained that price alone should be allowed to shape the demand for gasoline. William Silvey, deputy assistant secretary for policy, planning and analysis of the Department of Energy, stressed at the time: "In a free economy, the best way to determine the appropriate price for conserving energy is to allow that choice to be made by individual consumers operating under market price signals." Diane Steed, head of NHTSA, reiterated this point: "It is the administration's position that market forces, rather than CAFE standards, are the most efficient means of achieving appropriate levels of fuel economy in the long run."[63]

The entire debate over the likelihood of plant shutdowns ignored the fact that the law explicitly acknowledged the acceptability of noncompliance, providing for fines in that event. Testifying before a Senate subcommittee, Chrysler officials insisted: "The language and the history of the Act and the administrative practice under it make clear that a manufacturer has the option of paying the penalties and continuing to sell a noncomplying mix of vehicles."[64] In fact, during the 1975 debate over the Environmental Policy and Conservation Act, an amendment permitting the U.S. attorney general to seek a court order barring a manufacturer from selling a noncomplying mix of vehicles was rejected.[65] The only sanction the law provided was the payment of civil fines. Congress declared noncompliance illegal in attempting to reconcile two competing objectives: increasing fuel economy and protecting employment. It wanted to force car makers to increase CAFE, but not at the price of a substantial adverse economic impact. Moreover, in two other instances, according to Chrysler, NHTSA "did not entertain the slightest doubt that a manufacturer would elect to pay the penalties and go on selling a noncomplying mix of vehicles."[66]

In its rollback decision, NHTSA also pointed to the fuel economy improvements made during the past ten years, which it believed rendered higher standards unnecessary. "Overall, the nation is much more energy independent than

61 Auto Fuel Economy Hearings, p. 73.

62 "Mileage and Marketing," *Automotive News* (July 8, 1985), p. 10.

63 Auto Fuel Economy Hearings, pp. 21, 23.

64 Auto Fuel Economy Hearings, p. 93.

65 U.S. *Congressional Record,* 121 H 5381 (daily edition) (June 12, 1975).

66 Auto Fuel Economy Hearings, p. 95.

it was a decade ago. . . ."[67] Supporting this claim were the following statistics: from 1975 to 1984 energy efficiency in the economy improved by 21 percent; passenger car petroleum use dropped below 1975 levels, although travel was up 25 percent; domestic oil production increased and total imports dropped 20 percent since 1975; the value of the nation's imported oil bill had decreased 40 percent in the previous five years; the amount of imported oil from Organization of Petroleum Exporting Countries (OPEC) had dropped by 67 percent since its 1977 peak; and as a percentage of the gross nation product, the net oil import bill had decreased from 2.8 percent in 1980 to 1.5 percent in 1984. Yet, NHTSA acknowledged that domestic production was expected to decline from 10 million barrels a day (MMB/D) to 8.5 MMB/D by 1995. At the same time, the agency mentioned that a number of energy analysts predicted that net imports were expected to rise from 4.5–5 MMB/D to 7.5–9 MMB/D by 1995 and approach 50 percent of U.S. petroleum use. Dismissing these estimates, NHTSA asserted that future energy projections were difficult to assess and could be overtaken by new domestic discoveries.

For model years 1986, 1987, and 1988 the Reagan administration rolled back the 27.5 mpg standard to 26.0. For 1989 the standard was rolled back to 26.5 mpg. Yet, despite maintaining that the lower standard was all that the two automakers could reach without product restrictions, Ford and GM exceeded the lowered standard each year and earned credits for future years.[68] The administration's opposition to CAFE did not end with these rollbacks. Legislation was proposed to eliminate CAFE standards altogether. Each time, however, these proposals received limited attention and were never seriously considered.

The rollback of CAFE was a high point of the industry's ability to subordinate regulatory policy to its interests. Detroit had long felt that CAFE standards were onerous because, unlike most safety or emissions standards, which can be met through the addition of particular devices, improving fuel consumption requires the redesign of various aspects of a vehicle.

Assessing the Reagan Plan

The overall contribution of the Reagan plan to the industry's subsequent economic turnaround in the mid-1980s was evaluated by a range of parties. Clarence Ditlow, for example, contended that regulatory changes had virtually no impact on the turnaround.[69] Within the industry, officials welcomed the new regulatory climate, but could provide little evidence that the plan's savings were significant given the billions of dollars that the automakers needed for modernization, some $60 billion between 1983 and 1988.[70] Robert Leone, a staff member of the Reagan Council of Economic Advisors during the time when the plan to aid the industry was developed, and a Harvard economist when he analyzed the results, also argued that the industry's turnaround could not be attributed to the Reagan plan. "The turnaround," Leone concluded, "resulted mainly from improved productivity and actions by auto industry management to create lower breakeven levels of production in U.S. manufacturing facilities."[71] By March 1983, for example, the U.S. automakers produced the same number of cars as in April 1980 but with 70,000 fewer workers.[72] Nevertheless, Leone argued, the Reagan program did provide some help to the industry. He attributed $1.13 billion of the industry's $7.3 billion increase in income between 1980 and 1983 to the Reagan deregulation effort. Further, Leone suggested that if one assumes that the industry was able to retain 100 percent of the savings the administration claimed would go to consumers, an additional $1.44 billion of industry income could be attributed to the deregulation effort.[73] Yet, Leone's assumptions in calculating the benefits of the rollbacks are, as he himself admitted, "very generous." He assumed, for example, that the industry realized all the savings estimated by the Reagan administration when the plan was announced. "In sum," Leone wrote, "the probusiness sentiments of the Reagan administration have not greatly benefitted the U.S. auto industry."[74]

Leone's speculations concerning the limited economic benefits of the Reagan plan were not surprising. Despite industry claims that its problems stemmed from excessive government regulation, few independent observers agreed. In fact, the ITC ruled in November 1980 that the major cause of the industry's downturn was the recession. Furthermore, changes in regulatory standards affect all car makers, not just domestic producers. If anything, federal regulations may have marginally helped the domestic industry in its battle against imports. Unlike foreign competitors, American automakers can spread the costs of regulation across more vehicles, thereby lowering the unit cost of compliance. Even if these policy changes did help somewhat, they hardly did so as the administration had initially claimed. Neither the sales nor the employment growth forecasted by the administration's analysts came true. In 1983, unemployment among autoworkers was over 300,000 greater than forecast, and sales were 3 million less than predicted.

67 50 FR 40,544 (1985).
68 U.S. Senate, Committee on Commerce, Science, and Transportation, *Motor Vehicle Fuel Efficiency Act. Report on S.279,* 102d Cong., 1st. sess. Report 102–48, (April 1991), p. 2.
69 Interview with author, September 26, 1986, Washington, D.C.

70 Wines, p. 1532. 71 Leone, p. 95.
72 Leone, p. 94. 73 Leone, pp. 94–5.
74 Leone, p. 105.

Conclusion

Triumphant industry power characterized regulatory policy during this period. The industry was able to achieve political victories that far exceeded what it had been able to accomplish during the previous period of bargaining and compromise. With its power triumphant, almost no battle previously lost could not be reopened. Once reopened, most were won by the industry. In fact, NHTSA's decisions were so in line with Detroit's interests that Joan Claybrook charged that it "was a wholly owned subsidiary" of the industry.[75] While industry officials were able to obtain almost all the proposed rollbacks, as the examples of the CAA and the air bag show, they were not in a position to obtain all that they wanted. Industry power over regulatory policy was constrained by the structures of bureaucratic policymaking already in place and by the increasing mobilization of environmental forces. Even at the height of its new position of power, its power was not unlimited.

To complete the examination of the politics of this era, a discussion of trade policy follows.

[75] U.S. Congress, House, Committee on Science and Technology, *Small Car Safety Technology. Hearings before the Subcommittee on Transportation, Aviation, and Materials, and the Subcommittee on Investigations and Oversight,* 97th Cong., 2d. sess. (November 30, December 3, 1982), p. 205.

7

The Triumph of Corporate Power: Trade Policy, 1981–1985

During the auto industry's early 1980s financial crisis, industry officials were not content with reversing regulatory standards. They also sought import protection from Japanese cars. Detroit's automakers realized that a new economic environment was taking shape, one that challenged their domination of the American market. At stake was billions of dollars in sales. In 1979, imports had reached a new high at 22.7 percent of the market, up from the previous high of 18.2. In 1980 that figure soared to 28.2 percent. To meet this challenge, Detroit looked to Washington for a political solution in the form of import quotas. As part of its 1981 plan to aid the industry, the Reagan administration granted these requests.

Meanwhile, autoworkers, bearing the brunt of the industry's downturn, sought a political solution to their problems as well. They lobbied for a domestic content law that would have required car manufacturers to proportionally increase the domestic content of cars sold in the United States with increasing sales. The proposal was intended to alter two trends hurting domestic employment: Japanese imports and domestic outsourcing. If Japanese imports were restricted, it was argued, Japanese manufacturers would be encouraged to open auto plants in the United States. At the same time, the law would restrain domestic manufacturers from outsourcing production – opening plants in other countries or buying parts from foreign-based suppliers.

Automotive trade policy during this period reflected the industry's triumphant position. Corporate officials would not have been in a position to obtain import restrictions without the industry's unprecedented downturn. However, import quotas did not result simply from the realization by government officials that the industry was in the midst of a financial crisis and needed help, or from industry lobbying, for that matter, although both factors were important. The unprecedented economic collapse of the automakers, along with rising imports, created a climate of crisis in which policymakers were forced to