



**Before the  
U.S. House of Representatives  
Committee on Agriculture**

**Statement of Tim Lynch  
on behalf of the  
American Trucking Associations, Inc. (ATA)**

***Hearing to Review Legislation Amending the Commodity Exchange Act.***

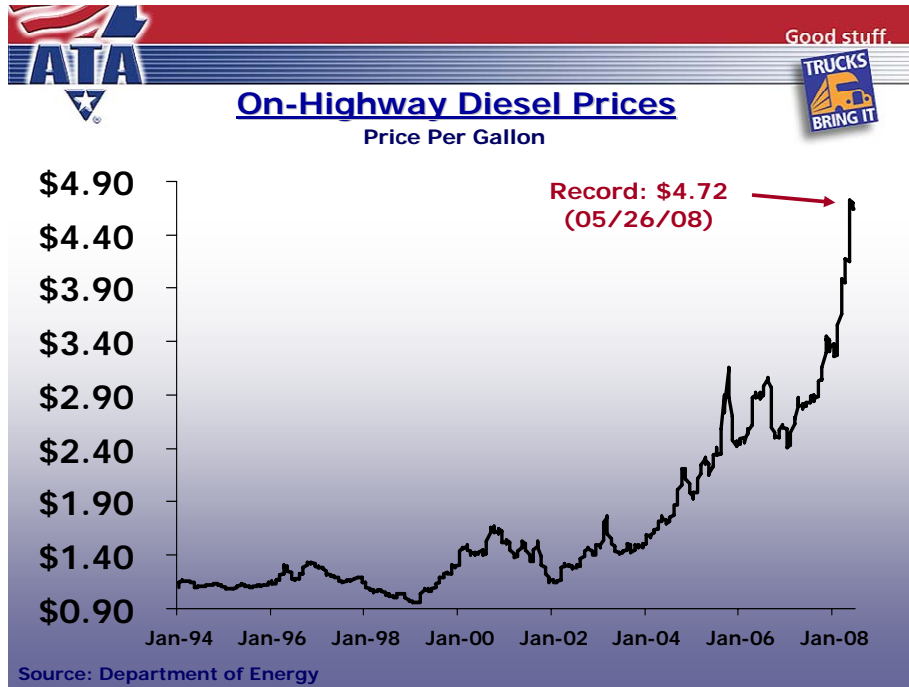
**July 11, 2008**

Mr. Chairman and Members of the Subcommittee:

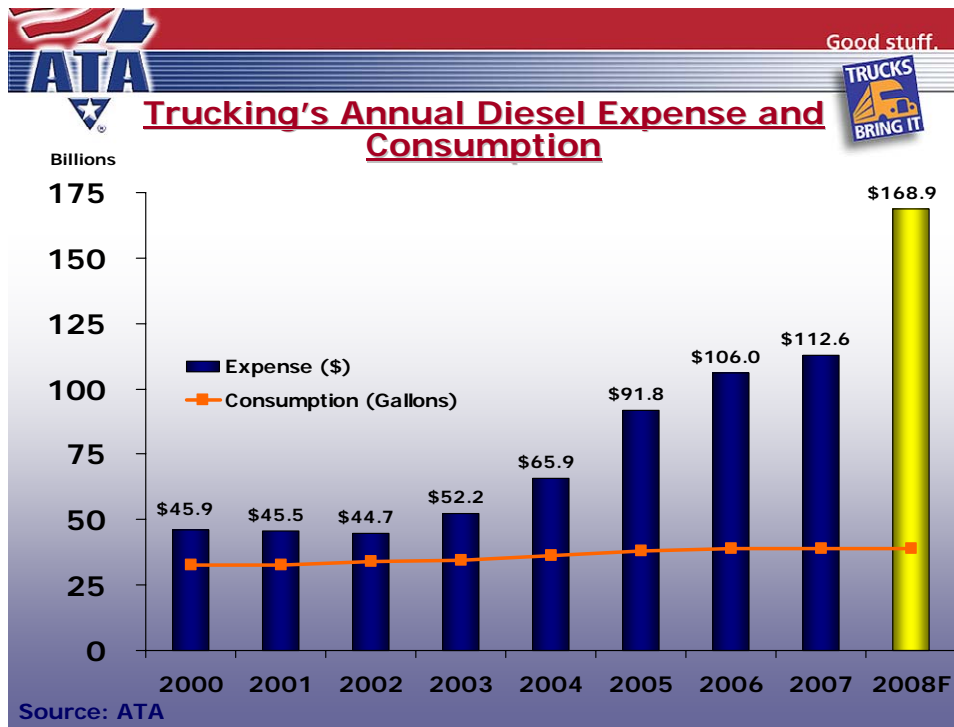
My name is Tim Lynch; I am the Senior Vice President of the American Trucking Associations (ATA). Through its affiliated state trucking associations, affiliated conferences and other organizations, ATA represents more than 37,000 trucking companies throughout the United States.

The trucking industry is the backbone of this nation's economy accounting for more than 80% of the nation's freight bill with nearly 9 million hard-working Americans working in trucking-related jobs. The trucking industry delivers virtually all of the consumer goods in the United States. We are an extremely competitive industry comprised largely of small businesses. Roughly 96% of all interstate motor carriers operate 20 or fewer trucks.

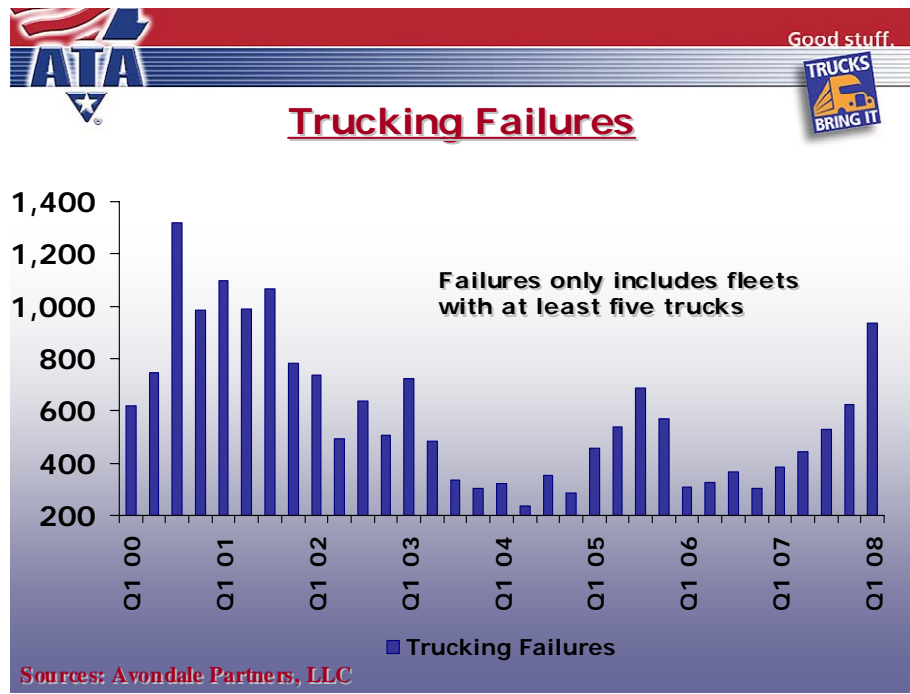
Diesel fuel is the lifeblood of the trucking industry. Each year, the trucking industry consumes over 39 billion gallons of diesel fuel. This means that a one-cent increase in the average price of diesel costs the trucking industry an additional \$391 million in fuel expenses. The average national price of diesel fuel is now over \$4.70 per gallon, which is nearly \$2 more than just one year ago.



The trucking industry is on pace to spend an incredible \$168.9 billion on fuel this year. This is \$56 billion more than we spent in 2007, and more than double the amount we spent just four years ago.



Today it costs approximately \$1,400 to refuel a truck. As a result of this dramatic increase in the price of diesel, which has coincided with a downturn in the economy and a softening of the demand for freight transportation services, many trucking companies are struggling to survive. In the first quarter of 2008, 935 trucking companies with at least five trucks failed. This was the largest number of trucking related failures since the third quarter of 2001. It is very likely that a large number of companies that operate fewer than 5 trucks also have turned in their keys during the first quarter of this year.



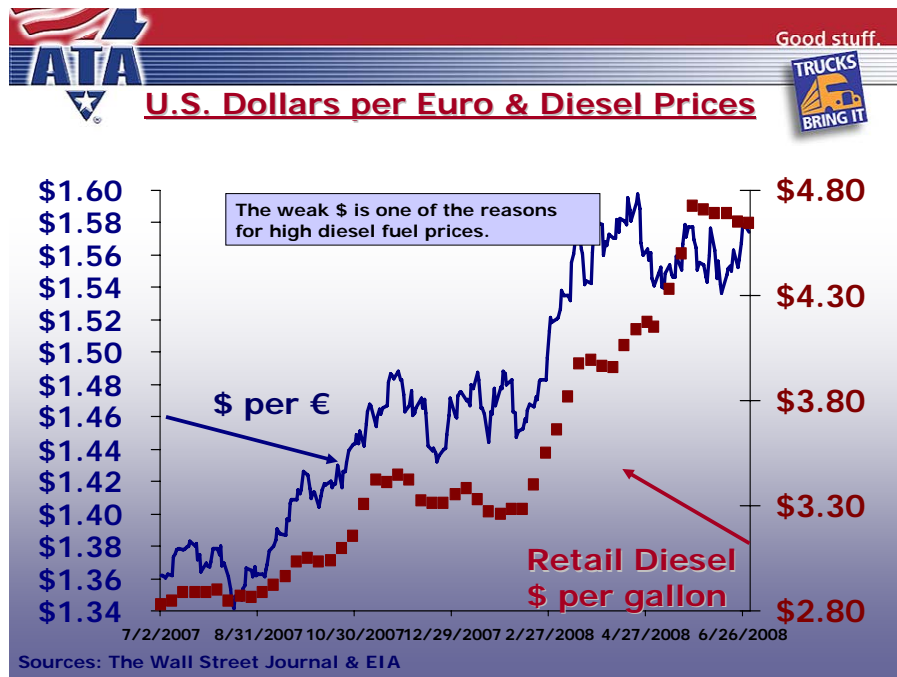
This hardship surprises few in the industry. For most truckers, fuel has surpassed labor as their largest operating expense. Over the past five years, total industry consumption of diesel fuel has gone up roughly 15 percent, while the price of diesel has nearly tripled during the same time period.

Trucking is a highly competitive industry with very low profit margins. This explains why many trucking companies are reporting that higher fuel prices have greatly suppressed profits, if they are making a profit at all. Our industry cannot simply absorb this rapid increase in fuel costs. We must pass some of these costs through to our customers. So not only do high fuel prices devastate truckers, but their customers as well, many of which are mom-and-pop stores. Ultimately, the consumer is forced to pay higher prices for food, clothing and other basic necessities.

**A. Why has the Price of Oil Increased 50% This Year**

The dramatic run-up in petroleum product prices, including gasoline and diesel, is the result of a confluence of factors. First, there has been an increase in demand for

petroleum primarily from the rapid growth in China and India, but also from increased demand among Europe and the Persian Gulf countries. In addition to its rapid economic growth, China has increased its consumption as a result of the severe earthquake, which took traditional power generation facilities off line, and its petroleum supply buildup in preparation for the Olympics. Second, the supply of petroleum has not kept pace with the growth in demand for petroleum in recent years. U.S. domestic production has been declining as new sources of production have been placed off limits for environmental reasons, OPEC has not increased its production sufficiently, and production in Russia, Nigeria, Venezuela and Mexico has been inconsistent. Third, there is an increased risk premium on each barrel of oil. This risk premium is based upon geopolitical instability and a new found appreciation for potential supply disruptions from severe weather events. Fourth, we have borne witness to a dramatic decline in the value of the dollar. Five years ago, the dollar was at parity with the Euro. Today, the dollar is worth nearly 60% less than the Euro.



While the weak dollar has helped U.S. manufacturers export their goods, it has hurt U.S. consumers who have seen significant erosion in their purchasing power. Since oil is denominated in dollars, a large percentage of the increased price of oil can be attributed to the significant fall in the value of the dollar relative to other world currencies. Finally, we note that there has been a significant increase in the amount of dollars invested in the petroleum futures market and believe that this increased speculation may be driving up current commodities prices.

## **B. A Comprehensive Solution is Required**

Against this backdrop, we greatly appreciate the opportunity to discuss actions that Congress can take to help address the soaring price of diesel fuel. The fuel crisis we face today is severe. There is no one single solution to high oil prices and Congress must embrace a multifaceted approach to solving this problem. We are not going to be able to conserve our way out of this crisis. Nor will increased production provide a total solution. We are going to need every tool in the tool shed to address this crisis. Keeping with this metaphor, we need the hammer of government to ensure that petroleum markets are transparent and not subject to excessive speculation or manipulation, we need a saw to cut the demand for petroleum, and we need a drill to expand the supply of petroleum.

### **1. The Hammer – Recommendations to Ensure Market Transparency and Prevent Excessive Speculation and Manipulation.**

During the past five years the assets allocated to commodity index trading strategies have risen from \$13 billion to \$260 billion. The huge increase in dollars invested in the petroleum futures markets and the prevalence of exempt transactions and/or electronic exchanges that are not regulated by the Commodity Futures Trading Commission (CFTC) has led many experts to conclude that the current price of petroleum is artificially inflated and has departed from the fundamental market forces of supply and demand. While we cannot quantify the extent to which speculation is responsible for the recent dramatic increase in the price of crude oil, we believe that excessive speculation is part of the problem. For this reason, we believe that Congress should take steps to increase the transparency of the petroleum exchanges and establish reasonable position limits to prevent excessive speculation. At a minimum, Congress should require the CFTC to regulate the petroleum markets to the same extent that it regulates other commodity trading activities. Reasonable position limits should be imposed that ensure the ability of consumers of the underlying commodity to effectively hedge market risk while limiting excessive speculation from investors that have begun using the futures markets for asset accumulation.

Balancing the need for an efficient petroleum market with the desire to limit petroleum speculation could help burst any speculative bubble that has formed in the petroleum markets. Congress should consider the merits of expanding government oversight of electronic petroleum exchanges and establishing position limits to make it less attractive for Wall Street to speculate on petroleum prices, while ensuring that a robust market exists for legitimate purposes. Most importantly, we note that the recommendations to increase oversight and establish reasonable position limits are remedies that have no potential downside. Under a worst case scenario, the transparency of the market is improved, but the price of oil remains unaffected. Under a best case scenario, these remedies burst the speculative bubble that continues to grow, restores investor confidence in the futures markets, and drives asset accumulators out of the futures markets resulting in a relatively quick reduction in the price the oil.

## 2. The Saw -- Recommendations to Reduce Demand

Reducing the nation's consumption of diesel fuel will reduce the overall demand for petroleum and should result in lower prices for petroleum products.

1. Control Speed. The typical heavy-duty diesel truck travels between 5 and 7 miles on a gallon of diesel, depending upon load, route, equipment and drivers' skill. Speed has a direct correlation to fuel consumption. In fact, for each mile per hour that a truck travels above its optimal fuel efficiency point, its fuel economy decreases by 1/10 of a mile per gallon. For example, a truck traveling at 65 mph that is capable of achieving 6 miles per gallon, will achieve only 5 miles per gallon when traveling at 75 mph. For this reason, ATA recommends that Congress establish a national speed limit of 65 mph for all vehicles. Of course, to achieve the maximum benefit of this policy, the federal government will need to partner with States to ensure strict enforcement of the 65 mph speed limit.

ATA also has petitioned the Administration to require that all new trucks be equipped with factory-installed devices that electronically limit the truck's maximum speed to 68 mph. In addition to the fuel conservation benefit from ensuring that trucks do not exceed this speed, we are confident that this measure will further reduce the number of truck-related fatalities that occur on our nation's roadways.

2. Reduce Main Engine Idling. Truck drivers idle their trucks out of necessity. The Department of Transportation's Federal Motor Carrier Safety Administration (FMCSA) *Hours-of-Service* regulations require mandatory off duty rest periods. Many over-the-road drivers rest in the sleeper berth compartment in their truck cabs. As the driver rests in the truck's sleeper compartment, he/she will often need to cool or heat the cab to rest comfortably. In extremely cold weather, truck drivers also will idle their engines to prevent the engine block from freezing. Argonne National Laboratory estimates that the average long-haul truck idles for 1,830 hours per year. With hundreds of thousands of these trucks on the road, idling has a significant impact on fuel consumption and the environment. The U.S. Environmental Protection Agency (EPA) estimates that idling trucks consume approximately 1.1 billion gallons of diesel fuel annually.

Many options are currently available to reduce engine idling. Auxiliary power units (APUs) are among the most popular choices in anti-idling equipment providing climate control (heating and cooling), engine preheating, battery charging, and power for household accessories without use of the truck's main engine. APUs have been proven by the Federal Highway Administration to save up to one gallon of fuel per hour of idling and to substantially reduce emissions and greenhouse gases.

More than 30 states, counties, or cities have adopted regulations limiting the amount of time a commercial vehicle can idle. While reducing main engine idling is a laudable goal, three major barriers stand in the way of trucking companies purchasing such equipment for their daily use: (1) the failure to grant exceptions for the additional

weight associated with anti-idling equipment, (2) the imposition of a federal excise tax on the purchase of such devices, and (3) the actual cost of the devices themselves.

Since idling reduction equipment will add weight to a truck, many fleets do not want to reduce their cargo capacity to compensate for the installation of idle reduction equipment on a truck. To address this concern, Congress authorized a 400-pound weight exemption for trucks equipped with idle reduction equipment under Section 756 of the *Energy Policy Act of 2005*. While Congress' intent was to mandate this exemption, the Federal Highway Administration (FHWA) has determined that states "may" adopt the exemption on a voluntary basis. FHWA's interpretation of the weight exemption gives states the option of whether to allow the exemption or not. To date, seven states have passed legislation recognizing the 400-pound weight tolerance and a handful of states are exercising enforcement discretion. ATA asks Congress to clarify the 400-pound weight exemption as being applicable to idling reduction equipment nationwide.

A recent IRS interpretation applies the Federal Excise Tax (FET) to the purchase of idle reduction equipment, which has increased the cost of this equipment and consequently reduced consumer demand for these proven anti-idling solutions. The 12 percent tax acts as a disincentive to truckers looking to reduce main engine idling. FET makes the acquisition of APUs financially less attractive and beyond the reach of potential buyers. The tax alone for a large fleet looking to buy 1,000 APUs at a typical retail price of \$9,000 is over \$1 million. Taxing devices that offer truckers a solution to reduce fuel consumption and diesel emissions clearly sends the wrong message to the nation. By taxing APUs, we are doing a great disservice to both our economy and the environment. To address these disincentives, ATA asks Congress to amend Section 4051 of Internal Revenue Code to make idling reduction equipment purchases exempt from FET. This action will increase demand for the introduction of idling reduction equipment, thereby ensuring greater anti-idling compliance, higher fuel savings, and a cleaner environment.

While APUs are a proven alternative to main engine idling, most trucking companies just cannot afford purchasing devices that can cost up to \$10,000 per unit. ATA is seeking financial incentives from Congress in the way of tax credits or grants to expedite the introduction of idling reduction equipment across the Nation.

3. Address Congestion and Highway Infrastructure. Americans waste a tremendous amount of fuel sitting in traffic. According to the most recent report on congestion from the Texas Transportation Institute, in 2005, drivers in metropolitan areas wasted 4.2 billion hours sitting in traffic. These congestion delays consumed 2.9 billion gallons of fuel. ATA estimates that if congestion in these areas was ended, 32.2 million tons of carbon would be eliminated and, over a 10-year period, nearly 32 billion gallons of fuel would be saved, reducing carbon emissions by 314 million tons. ATA recommends that Congress invest in a new congestion reduction program to eliminate major traffic bottlenecks, with a specific focus on bottlenecks that have the greatest impact on truck traffic.

4. Fully Fund EPA's SmartWay<sup>sm</sup> Program. In February 2004, the freight industry and EPA jointly unveiled the SmartWay<sup>sm</sup> Transport Partnership, a collaborative voluntary program designed to increase the energy efficiency and energy security of our country while significantly reducing air pollution and greenhouse gases. The program, patterned after the highly-successful Energy Star program developed by EPA and DOE, creates strong market-based incentives that challenge companies shipping products and freight operations to improve their environmental performance and improve their fuel efficiencies. To become a partner a fleet must commit to reduce fuel consumption through the use of EPA-verified equipment, additives, or programs. By 2012, the SmartWay<sup>sm</sup> program aims to save between 3.3 and 6.6 billion gallons of diesel fuel per year. EPA predicts SmartWay<sup>sm</sup> participants will also reduce their annual greenhouse gas emissions by 48 million tons of CO<sub>2</sub> equivalents. SmartWay<sup>sm</sup> is one voluntary greenhouse gas program that not only works, but exceeds expectations.

The trucking industry has fully embraced SmartWay<sup>sm</sup> and relies upon the innovativeness of this cutting edge program. However, while the program is growing by leaps and bounds, future funding remains uncertain. While ATA and other freight and shipping sectors continue to work towards ensuring a separate line item in future EPA appropriations for SmartWay<sup>sm</sup>, we are troubled with the FY08 funding cuts to the program. More specifically, total monies allocated to the program this year dropped from roughly \$3 million in FY07 to \$2 million in FY08. Funding cuts to grants, contracting, marketing, technology development, and other program expenses have severely undermined the mission of the program. It is our hope that EPA will redirect an additional \$1 million from the Climate Protection Program under the FY08 budget to ensure the continued growth and success of this remarkable program. Given that the Energy Star program's annual operating budget is \$50 million, we also ask that Congress provide a line item appropriation to ensure that SmartWay<sup>sm</sup> is adequately funded in the future.

5. Enhance Truck Productivity. By reducing the number of trucks needed to move the nation's freight, the trucking industry can lower our fuel consumption, which would produce significant environmental benefits. More productive equipment - where it is consistent with highway and bridge design and maintenance of safety standards - is an additional tool that should be available to states. A recent study by the American Transportation Research Institute found that use of these vehicles could reduce fuel usage by up to 39%, with similar reductions in criteria and greenhouse gas emissions. The reduction in truck vehicle miles traveled on highways such as the New York Thruway, Massachusetts Turnpike, Florida Turnpike, and on roads throughout the Western United States, has lowered the amount of fuel burned in these states. These examples of responsible governance could be replicated by other states if given the necessary flexibility under federal law.

6. Support Truck Fuel Economy Standards. Congress should ensure that fuel economy standards for commercial medium- and heavy-duty trucks are technologically and economically feasible, do not compromise truck performance, and

provide manufacturers sufficient stability and lead time for production. Given that fuel economy in the industry has remained flat over the last quarter century and fuel now is the largest operating expense for many fleets, it is more critical than ever to increase fuel economy for these vehicles. ATA will be working closely with the U.S. Department of Transportation and the National Academy of Sciences as they evaluate fuel economy, fuel efficiency, and establish associated standards for medium- and heavy-duty trucks as directed under the Energy Information and Security Act of 2007.

7. Support Research and Development of New Technologies. Beyond the six aforementioned recommendations, Congress should fund research and development in the areas of new engine technologies, aerodynamics, low-carbon fuels, fuel additives, lubricity, tires, batteries, hybrids, anti-idling equipment, insulation, and rolling resistance specific to operations of line-haul trucks. Technology advancements have stalled for many years and an infusion of funding into an organized research program will be critical to developing the next generation of more efficient and lower carbon-emitting trucks.

### **3. The Drill – Recommendations to Increase Supply**

The International Energy Agency has stated that global supplies may not keep up with demand through 2013 and that spare capacity from the Organization of Petroleum Exporting Countries will shrink, resulting in a “tight” market with little spare oil production capacity. The dramatic increase in the price of oil is partially fed by the perception that over the next few years there will be a shortage of oil as a result of the failure to invest in increasing oil supplies. For these reasons, in addition to reducing consumption and lessening the demand for petroleum, we need to focus on increasing our supply of crude oil.

1. Increase Domestic Exploration. ATA believes that increasing our domestic supply of crude oil will help lower diesel fuel prices. To achieve this goal we need to begin environmentally responsible exploration for crude oil in the Arctic National Wildlife Reserve and Outer Continental Shelf. We also must begin developing the oil shale and tar sands resources in Colorado, Utah and Wyoming and eliminating the barriers to utilizing coal-to-liquid technologies to exploit our vast domestic coal resources. The technology exists to ensure that these resources are developed in a manner that protects the environment. We also must consider the fact that drilling in Alaska or mining in Colorado requires Clean Air Act permits, Clean Water Act permits and land use development permits, all of which contain a host of environmental protections. Compare this to the drilling for oil in Venezuela or off the coast of Cuba with virtually no environmental protections. The debate over whether to drill in these areas of the United States has been ongoing for decades. In light of geopolitical instability, the growing demand for energy from Asia and Europe, and new drilling techniques to ensure that environmentally-sensitive areas remain protected and carbon emissions are sequestered, it is time to change these policies and develop these critical domestic resources.

2. Increase Domestic Refining Capacity. For years now it has been apparent that the U.S. has underinvested in refining capacity. Regardless of the reason for this underinvestment (e.g., environmental restrictions or economic factors), it is time to reverse this trend.

To help expand U.S. refining capacity, ATA has asked that EPA streamline its permitting process to facilitate refinery expansions and new refinery construction. Congress also should consider enacting incentives to encourage increased domestic refinery capacity.

3. One National Diesel Fuel Standard. While gasoline moves people, diesel fuel moves our economy. Due to the uniquely interstate nature of diesel fuel, ATA believes that Congress should take extraordinary steps to ensure that no state enacts a boutique diesel fuel mandate. Today, California and Texas require special boutique diesel fuel blends. These unique blends cost more to produce and prevent diesel fuel from simply being transported from one jurisdiction to another in times of shortage. In addition, boutique fuels are typically produced by only a handful of refineries, which results in less competition, higher refining margins, and ultimately higher fuel prices.

While Congress took steps to curb the proliferation of boutique fuels as part of the Energy Policy Act of 2005, the Act created a loophole for states seeking to enact renewable fuel mandates. To date, five states have enacted biodiesel mandates and several others are considering this course of action. In light of the recently enacted biodiesel mandate as part of the expanded federal renewable fuel standard (RFS), we believe that Congress must preempt state biodiesel mandates. These duplicative state mandates are not needed to ensure a strong domestic biodiesel industry and will simply create an economic environment where biodiesel producers can charge extraordinarily high prices for their product – insulated from the checks and balances of a competitive market. The federal RFS guarantees that 1 billion gallons of biodiesel will be consumed domestically – the free market must be allowed to operate to ensure that this mandate is achieved in the most cost effective manner possible. State biodiesel mandates will distort the free market and prevent biodiesel from being consumed in those parts of the country where it is most economical to do so. Congress should preempt state biodiesel mandates as inconsistent with our national interest and efforts to promote the cost effective use of biofuels.

In closing, we would be remiss if we did not applaud Congress' efforts to close the splash and dash loophole. We believe that the American public would be outraged if they knew that their tax dollars were being spent to subsidize biodiesel that is ultimately exported for sale outside the U.S. Beginning next year the Congressionally-mandated biodiesel standard will require U.S. companies to consume 500 million gallons of biodiesel. This number jumps to a billion gallons in 2012. For this reason, we do not

believe that we should create an incentive to export subsidized biodiesel, which will drive up the price of this mandated alternative fuel for U.S. consumers.

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ATA appreciates this opportunity to offer our insight into measures that the country should take to help address the high cost of petroleum products.