Testimony of

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Regarding

HIGH FUEL PRICES: THE IMPACT ON ILLINOIS SMALL BUSINESSES AND JOB CREATION

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Good morning Chairman Walsh, Ranking Member Schrader, and distinguished members of the Subcommittee. Thank you for inviting me to testify on matters which are extremely important to our nation's small business trucking professionals and professional truck drivers.

My name is James Zuber, and I am a member of the Owner-Operator Independent Drivers Association (OOIDA). I live in Newton, Illinois and have been a professional truck driver for more than twenty five years. I currently own my own truck and am leased on to a motor carrier where I spend most of my time hauling construction goods and general cargo into the Chicago metropolitan area and across the Midwest.

As you are most likely aware, OOIDA is the national trade association representing the interests of independent owner-operators and professional drivers on all issues that affect small-business truckers. The approximately 150,000 members of OOIDA are small business men and women in all 50 states who collectively own and operate more than 200,000 individual heavy-duty trucks.

The majority of the trucking community in this country is made up of small businesses, as 93 percent of all carriers have 20 or fewer trucks in their fleet and 78 percent of carriers have fleets of just six or fewer trucks. In fact, one-truck motor carriers represent nearly half of the total number of motor carriers operating in the United States.

I have been asked to come here today to speak on behalf of OOIDA and my fellow professional drivers about the impact that high fuel prices are having on the trucking industry, especially small business truckers like me who personally experience the costs of high fuel prices every day when we fill up our trucks and take to the road. Unlike many industries around the country, the trucking industry is not made up of major entities that can spread increased fuel costs across their business units. Instead, for a large part of the trucking community, when a trucking company pays for fuel, it comes out of the operator's pocket.

Sadly, the impact of fuel prices on the livelihoods of truckers is a story we have told to Washington many times before. While today diesel prices are around 17 cents below what they were a year ago, they are still very much on the high side of recent history. Even with recent declines, the challenges faced by small business truckers have certainly not declined.

This is because fuel prices do not occur in isolation. Over the past few years, the trucking industry has been laboring under a steadily increasing amount of regulations from the Department of Transportation, the Environmental Protection Agency, and other agencies. While there is certainly a need for sensible regulation, trucking – especially small business trucking – has been assaulted by a barrage of unnecessary and costly regulation which, when coupled with the rising cost of fuel, are certain to force some small business truckers to park their vehicles. Unfortunately, the answer for many in government to the challenge fuel prices present to truckers is more regulation – instead of common-sense actions like expanding access to American energy.

On behalf of America's small business truckers, I thank the Subcommittee for this opportunity to highlight some actions that OOIDA feels would address the challenges facing our industry, both from high fuel prices and from broader regulatory burdens that drive up the cost of doing business.

<u>How High Fuel Prices Impact Small Business Truckers</u>

When thinking about how high fuel prices impact the trucking industry, it is easy to think just in the terms of how the largest motor carriers with many trucks in their fleets are impacted. However, while a high fuel bill for one of these mega-carriers may have an impact on their stock price, the impact of a high fuel bill on small business truckers cuts far closer to home.

To give you some perspective, the average OOIDA member runs their truck over 100,000 miles each year while getting generally somewhere between five to seven miles per gallon depending upon their operation. Most of us will be operating long haul trucks equipped with either twin 135-gallon tanks or twin 150-gallon tanks, so we can easily see a bill of over $1,000 when we fill up. During 2011, I ran approximately 122,000 miles and paid an average of $3.90 per gallon. My fuel costs last year were just under $80,000. Whenever the price of a gallon of diesel fuel increases by a nickel, a trucker's annual costs increase by $1,000. Such price increases result in an enormous extra burden on the small business trucker whose average annual income is approximately $40,000.

Trucking is a hyper competitive business and each of us operates on extremely thin margins. High fuel prices do not simply impact me when I fill up at the truck stop. The price of tires, engine hoses, and so many other parts critical to the safe operation of my truck – and my business – are strongly linked to the price of oil. All of these have seen steady price increases as oil and fuel prices have increased over the long-term. In the short term, we can see decreased loads due to fuel price spikes as companies may have to hold back on replacing inventory due to decreased demand or a need to hold on to cash to meet their own fuel costs. For these reasons, the price of fuel represents one of the largest risks to the success of a small business trucker.

What does this risk mean? Extra dollars spent on fuel means fewer dollars available to put into my business. Countless truckers over the years have felt the pain of high fuel prices on their business. Business expansions have been canceled, truck payments have been missed, and entire trucking companies have gone bankrupt due to high fuel costs. Yes, fuel is an expense that can be written off for tax purposes and our industry does have a system of fuel surcharges in place, but when price spikes come suddenly the impact of those structures is significantly reduced, leaving the trucker feeling the full weight of the price increase. Further, small business truckers who operate with their own authority are less likely than major motor carriers to obtain fuel surcharges to cover the impact of a price spike.

For many small business truckers, business income and family income are basically one in the same. Even if a small business trucker is able to keep their business afloat during times of high fuel prices, money is not going towards family necessities, from health insurance to mortgage and car payments. And unlike the majority of Americans, most small business truckers do not have unemployment insurance to fall back on should the go out of business.

Like all businesses, small business truckers prefer predictability. We like to have predictable loads, predictable weather conditions and traffic, and most of all, predictable fuel prices. Price spikes, which seem to be occurring more frequently as world political and economic instability continues, can have especially devastating impacts on truckers, with a few months of high prices taking trucking companies from a position of profitability to a position of bankruptcy.

The price of fuel is something that small business truckers are acutely sensitive to because of the almost immediate and far reaching impact it has on their business and family bottom lines. For that reason, OOIDA has long supported a set of energy policies focused on addressing the impact of higher fuel prices on small business trucker. In fact, OOIDA was founded in 1973 as a result the Arab oil embargoes that literally shut down the trucking industry and nearly crippled the nation. OOIDA's President, Jim Johnston, and several other founding members traveled to Washington, DC to present the problems of the trucking industry and common-sense energy solutions before lawmakers. Last spring, the OOIDA Board of Directors updated these solutions as “Principles to Address High Diesel Fuel Prices Impacting Truckers,” and I will outline some of these solutions below.

Bringing Back the Relief Valve of Domestic Energy

In the past, domestic energy production has helped mitigate price spikes based on international conditions. It has, in many ways, served as a relief valve ensuring that short term price increases are mitigated and do not have devastating impacts on the trucking industry.

While it is good news that overall domestic energy production is up, we are concerned that, according to recent reports, energy production on federal lands and waters, which contain some of our most plentiful energy supplies, are actually down from the last year by greater than ten percent. With prices this high, truckers like me find it difficult to understand why regulatory and other roadblocks remain to accessing these important American energy resources.

OOIDA supports actions taken by the House last week when it passed important legislation to expand offshore and onshore energy production here in the United States. This legislation represents a common-sense effort to knock down regulatory barriers preventing environmentally sound energy production in places like the Gulf of Mexico and the Mountain West. This will benefit the trucking industry in two ways: 1) by expanding energy by allowing the development of these resources to move forward, and 2) the drilling and refining of these resources must be supported by the trucking industry, as trucks are needed to haul important equipment and supplies.

The Importance of a Comprehensive Approach

Because decreased energy production from federal lands and waters has weakened the relief valve protecting against massive energy price spikes, truckers have felt the pain of what often becomes an irrational market situation, with high amounts of speculation driving up the price of fuel higher and higher.

OOIDA supports efforts to expand transparency of energy trades, and is glad that the Commodity Futures Trading Commission is moving forward on these long-delayed rules. However, it is important that we have a variety of approaches to address energy price spikes, as a comprehensive approach will have the best chance of having true success.

The impact of price spikes on trucking goes beyond the time a trucker spends filling up his or her tanks at a truck stop. Seventy percent of our nation's freight – consumer and industrial goods alike – is moved by truck. If companies and consumers are spending more money on energy, that means they are spending less on the things I haul, giving me fewer opportunities to work. Trucking has seen significant challenges over the past few years as industrial and consumer demand has decreased or remained flat. While things are picking up, high energy prices have the ability to significantly hurt our emerging economic recovery.

Because of the important role that trucking plays in our nation's overall economy, OOIDA also supports efforts to prepare the industry to move to future energy sources. While some may tout the advantages of biofuels, truckers have significant concerns about these fuels, both from a practical operating aspect and from the significant incentives provided to this industry. We are, however, very interested in the increased focus by many towards natural gas and applaud what appears to be growing bipartisan support for the role this fuel can have in powering vehicles, especially local delivery and heavy-duty long haul trucks. Our nation has significant natural gas reserves and we should take advantage of these resources.

Reducing congestion and improving our highways also has an impact on fuel use by truckers. We urge competition of a long-needed reforms to our highway program that will dedicate more dollars back to maintaining and improving our roads and bridges. Trucking provides nearly 40 percent of the revenues for the Highway Trust Fund, and it is important to prioritize as many of those dollars back to our highways as possible.

Increasing the Regulatory Burdens on Truckers: The Wrong Approach

While the solutions to our energy challenges are by no means easy, to truckers they are pretty common sense. Unfortunately, instead of making the correct decision, the federal government has followed a path that we in the trucking community are very familiar with – taking the easy route of increasing the regulatory burdens on the trucking industry.

Last September, the Environmental Protection Agency (EPA) and the National Highway Traffic Safety Administration (NHTSA) finalized the first-ever greenhouse gas and fuel efficiency rules of heavy-duty trucks. This regulation came after a decade of EPA regulations on diesel engine particulate and NO_X emissions that have added an additional $30,000 to $50,000 to the price of a new truck while at same time actually reducing fuel efficiency for these vehicles.

These new regulations will, according to agency estimates, add at least an additional $6,200 to the price of a new truck starting in 2014. The experience of OOIDA and others in the trucking industry is that the real price increases related to regulations are significantly higher (EPA underestimated the cost increases of diesel engine regulations during the 2000s by a factor of 2 to 5). While the agencies state that the average trucker will save tens of thousands of dollars in fuel because of these regulations, there are two significant problems with that argument, problems that significantly undercut the argument for these regulations, especially as the end-all, be-all solution to high fuel prices faced by truckers:

Not All Motor Carrier Operations Will See Fuel Cost Savings, Yet All Motor Carriers Will Face the Increased Cost of Regulation.

As noted above, the agencies claim significant fuel costs savings from these regulations – given the nature of the trucking industry, such a claim is highly suspect and is bordering on little more than junk science. There are over 500,000 motor carriers in the United States, each with their own business model running on varied terrain and hauling varied cargo. For many of these operations, there is no way the mandates instituted under the regulation will result in any true fuel savings, yet the only new trucks available after 2014 will be those that comply with the regulation and they will be priced accordingly.

For example, a significant portion of the owner-operator community in the United States focus on what is known in the industry as "heavy-haul" operations, where they move oversized and overweight loads that require special equipment and special permits. These are the folks who haul cargo such as equipment for the oil and gas industry, construction and farming equipment, turbines, blades, and towers for wind turbines, and equipment for our nation's armed forces.

These loads are extremely heavy, extremely large, or both, meaning that any potential fuel savings from methods such as changing truck aerodynamics, speed limiters, or special tires will be lost because the load is either so heavy or so large that significant amounts of fuel will be used simply due to the laws of physics. Despite this fact, these one-size-fits-all regulations will force motor carriers to purchase trucks that EPA says will save them vast amounts of fuel when the trucker behind the wheel knows that all these regulations mean is that a new truck is more expensive, and thus further out of reach.

The High Cost of Regulation Will Keep Many Motor Carriers from Purchasing New Trucks.

OOIDA and its members do not dispute that many of the technologies covered under the EPA's Heavy-Duty Truck Rule will result in fuel savings for specific trucking operations. Indeed, since the agencies' sole outreach to the trucking industry was to major motor carriers focused on transporting goods from distribution center to distribution center along major highways, these regulations do prescribe add-ons that lead to fuel savings in that type of operation. That is why small and large motor carriers focused on these types of operations have been incorporating these technologies to save fuel, all without any government mandate or regulation.

As highlighted above, if truckers don't drive in a fuel efficient manner, they will drive themselves out of business, as fuel expenses can be 50 percent or more of a truck operator's total revenue before other expenses like truck payments, insurance, maintenance, and taxes. Despite the significant market forces in play, the EPA's view is that truckers cannot figure out how to reduce fuel use and costs on their own without the government showing them the way through new regulatory mandates.

For truckers, these regulatory mandates are not free. There is a cumulative cost of these regulations plus a decade's worth of diesel emission regulations, and potential new mandates from the Department of Transportation. All of these new regulatory mandates are pushing the cost of a new truck higher and higher, placing that purchase far out of the reach of all but the largest carriers and most successful owner-operators.

This leads to significantly reduced environmental benefits from the regulation, putting truckers at risk of being put into a never-ending cycle: Regulations are implemented by Washington, but they do not achieve the anticipated results in improving fuel economy; Washington decides that further regulations are necessary, driving the price of new trucks even higher; this new round of regulation also does not achieve Washington's goals, putting truckers at the mercy of a constantly repeating record. The irony in this situation is that a major reason for the reduction in truck fuel economy during the 2000s was the diesel emissions regulations mandated by EPA increased fuel use by 5-9 percent. Truckers are being forced by EPA to pay extra to potentially regain fuel economy that previous EPA regulations took from them.

Further Regulatory Burdens Impacting Trucking

As noted in the outset, the high cost of fuel must be viewed in concert with broader regulatory impacts facing the industry. The impact of EPA regulations have been outlined above, but regulations moving through the Department of Transportation, especially the Federal Motor Carrier Safety Administration (FMCSA) have the greatest impact on trucking and the greatest potential to drive up costs for small business truckers.

These burdens, including those that are outlined below, are driving up the cost of a new truck and artificially impacting the competitive playing field within the trucking industry. Many of these regulations are being proposed with a one-size-fits-all view of the trucking industry and are often being advanced with the active support of some segments within the trucking industry. Regulatory authority that is granted to agencies by Congress to address highway safety needs should not be abused and used to make significant changes to the structure and nature of the trucking industry. This authority should also be used with discretion and a focus on issuing new regulations when they are necessary to improve safety, not simply when there is a chance they may improve safety.

Electronic On-Board Recorder (EOBR) Mandate.

FMCSA is continuing efforts to require use of EOBRs for recording a driver's record of duty status (RODs), despite the realities showing not only that such a mandate is likely the most expensive trucking regulation in history, but also that EOBR use does not lead to improved highway safety.

Installation of an EOBR on every truck owned by every one of the more than 500,000 interstate motor carriers operating in the United States would be a cost of truly historic proportions. Estimates from President Obama's Administration rank this rule as not only one of the most expensive under development by the Department of Transportation, but also by the entire Federal government. According to an August 2011 letter to Speaker Boehner, the President estimated that an EOBR mandate would cost the industry approximately $2 billion.

All of this cost might make some sense if use of EOBRs resulted in improvements in highway safety. The EOBR device is able to only track driving time, which makes up only a portion of a driver's work day. The device still requires human entry to record non-driving duty status, just like today's paper logs. For that reason, DOT has been unable to link EOBR use and improved highway safety, stating that "there is little research data linking EOBR deployment directly to safety benefits." This becomes all the more important when DOT data shows that less than two percent of all crashes involving heavy-duty trucks are due to fatigue.

Use of EOBRs should be a voluntary business-based decision, and not a government mandated requirement. OOIDA is committed to working to improve the safety of our nation's highways, but not through such a burdensome and unnecessary regulatory mandate.

Compliance, Safety, Accountability (CSA).

CSA replaced SafeStat as FMCSA's safety management and performance system in December of 2010. We are now a year and a half into the new system and its flaws are becoming more obvious. Certain portions still are grossly flawed, prejudicial, hidden from view, and awaiting implementation. In short, CSA, while well meaning, is a program not ready for prime time, yet the safety and performance data generated through the system are having real-life impacts on motor carriers.

As an example of one of the many problems with CSA, crash data is collected without determination of fault, despite the fact that police collect this information. Without the fault determination, any truck involved in an accident is indistinguishable from another, leading to significant prejudicial impact on both driver and motor carrier safety profiles. For example, nearly 20% of all negative interactions with trucks involve another vehicle rear-ending a moving truck. However, CSA displays this type of crash without any indication that the trucker was not at fault. In another example, an OOIDA member's truck was hit by multiple vehicles as part of a 50-vehicle accident – the trucker was able to stop his truck and not hit anyone. Despite that fact, the seven fatalities that resulted from this major accident are all listed in the trucker's record under CSA with no distinction or notation about what really happened. With this flawed data available to freight brokers, shippers, entrepreneurial trial attorneys, and the public, incomplete and false CSA data is being used to essentially red-line carriers.

Given the significant role that CSA is primed to play in FMCSA's future enforcement and regulatory activities, it is important that the agency get the system right. Unfortunately, there are still major hurdles it must overcome.

Electronic Stability Control (ESC) Systems & Heavy Vehicle Speed Limiters.

The recent proposal to mandate ESC equipment is an excellent example of how purported safety mandates lead to significant cost increases to the end users of heavy-duty trucks. OOIDA estimates that such technology will cost approximately $1,500 per truck. There were over 171,000 new heavy-duty trucks sold in 2011 – meaning that this mandate will cost over $250 million each year and will reach a cost of over $1 billion in only four years. All of this while the benefits of this technology across the entire trucking industry have yet to be proven.

Continuing this path down mandating unproven and potentially unsafe "safety" technology, NHTSA is preparing to release a Notice of Proposed Rulemaking (NPRM) to mandate speed limiters on heavy-duty trucks. OOIDA has a number of concerns regarding speed limiters, and we oppose such a regulatory mandate. Safety concerns with speed limiters include: 1) increased speed differentials on our nation's highways, which will lead to increased accidents; 2) the devices increase pressure on drivers to drive at the maximum allowable speed all the time, no matter what the posted speed limit or driving conditions; and 3) one speed limited truck trying to pass another often creates a rolling road block, undermining safety, increasing vehicle interactions, and raising the likelihood of "road rage." Further, speed limiters will increase the cost of doing business for small business truckers. By forcing them to drive below the safe and posted speed limits on many highways, these devices can add an entire day to a delivery, a major hit for a trucker who is paid by the mile.

Conclusion

Mr. Chairman and members of the Subcommittee, small business truckers are the front line in feeling the impact of high fuel costs and energy price spikes.

As professional drivers, we see the impact of high fuel prices every day. Unfortunately, today's high fuel costs are only adding to the challenges imposed upon the industry from numerous, costly government regulations. These challenges not only rob small business truckers of the ability to maintain and grow their business, but also decrease the incomes of hundreds of thousands of families around the country. OOIDA looks forward to working with this Subcommittee and the entire Congress to find solutions to our nation's energy challenges while reducing burdensome regulations on small business truckers.

Thank you for the opportunity to testify today on this important topic, and I look forward to answering any questions from the Subcommittee.