Testimony of

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INTRODUCTION

Chairman Crawford, Ranking Member Holmes Norton, and distinguished members of the House Transportation and Infrastructure Subcommittee on Highways and Transit. Thank you for the opportunity to testify at this important hearing examining ways to overcome supply chain challenges in the United States. My name is David Fialkov, and I am the Executive Vice President of Government Affairs at NATSO, Representing America's Travel Plazas and Truckstops, and SIGMA: America's Leading Fuel Marketers.[1] Our organizations are the leading national trade associations representing transportation energy retailers. On behalf of NATSO and SIGMA, which collectively represent more than 80 percent of retail sales of motor fuel in the United States, we are eager to work with the Committee to identify ways to improve and support our nation's supply chain.

We can have an efficient fuel distribution system and still have problems with the supply chain, but we simply cannot have a well-functioning supply chain without an efficient fuel distribution system.

NATSO and SIGMA members comprise the country's downstream fuel distribution system. They should be viewed as surrogates for the consumer in that they identify the most reliable, lowest-cost transportation energy available, and deliver that energy to every community in the country. In so doing, they compete with one another on price, speed, and quality of service.

The retail fuels market is the most transparent, competitive commodities market in the United States. As every American knows, drivers can see gasoline retailers' price signs from blocks away, or compare prices on their mobile devices. These signs represent more than just pricing information; they are a value proposition to potential customers, not only with respect to fuel but also food and other convenience items and amenities that are offered at specific facilities.[2]

The transparency of fuel markets exerts a constant downward pressure on retail fuel prices. Sourcing infrastructure, market presence, and expertise in energy commodities and logistics optimizes the distribution of all fuels that we sell. These competitive dynamics benefit customers and force successful retailers to run efficient and cost competitive business platforms.

The fuel distribution system possibly represents the most efficient supply chain in the country. As with the broader supply chain, many do not think about the fuel distribution system until there is a problem (*e.g.*, a hurricane, geopolitical unrest in Europe, a pipeline hack, a refinery outage, etc.). When fuel distribution is disrupted, it presents existential threats to the life, health, and well-being of every American. To date, the industry has proven its ability to get product where it needs to be and keep the country running even in the face of challenges. It is critically important

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[1] NATSO represents more than 5,000 travel plazas and truck stops nationwide, comprised of both national chains and small, independent locations. SIGMA represents a diverse membership of approximately 260 independent chain retailers and marketers of motor fuel.

[2] The retail diesel market is even more competitive and transparent as many travel centers' customers—truck drivers and trucking fleets—are more savvy and price-conscious than typical American motorists. (Fuel generally amounts to 30-40% of a motor carrier's overall costs.) Truck drivers are often aware of retail fuel prices when they are 100 miles away from potential refueling sites, and fleet managers use this information to direct drivers to specific retail locations in order to purchase the lowest-priced fuel available. This imposes strong downward pressure on retail diesel prices.

to recognize the efficiencies of the liquid fuel distribution system and, to every extent possible, replicate those efficiencies as the country transitions to future fuels.

Improving the supply chain is not simply a question of preventing a line of ships waiting for berths at some of the nation's major ports. It is also a matter of making incremental progress in our surface transportation system to help ensure reliability and efficiency. Congress can enhance safety and reduce unnecessary regulatory burdens. NATSO and SIGMA encourage Congress to proactively improve the transport of goods and support an effective supply chain as soon as possible. Proactive solutions are key to avoiding supply chain disruptions, as they enable us to address issues *before* they become economy-wide emergencies.

BACKGROUND: THE RETAIL FUEL INDUSTRY

Fuel retailers' sole objective is to sell legal products, in a lawful way, to customers who want to buy them. The retail fuels industry competes to ensure that American motorists' needs are met as efficiently as possible. Most fuel retailers are open 24 hours a day, seven days a week, and provide restrooms, food and beverage options, sufficient lighting, security, and on-site employees to contact law enforcement or emergency medical technician services in the event of an emergency. After natural disasters occur, our industry is often the first up and running to provide necessary services to motorists and first responders.

Many travel centers, fuel marketers, and convenience stores are an economic engine for small, disadvantaged, and rural communities. According to the National Association of Convenience Stores' 2022 State of the Industry Report, 93 percent of Americans live within 10 minutes of a convenience store – and this includes 86 percent of those who live in rural areas. Single store operators account for more than 60 percent of the stores in the convenience and fuel retailing industry; 75 percent of the industry is comprised of companies with ten or fewer locations. The industry employed more than 2.44 million employees, generated $906 billion in total sales, and processed approximately 165 million transactions per day in 2022.[3] In many instances, they are the largest employers and largest taxpayers in their communities and the only 24-hour location where local residents can buy basic groceries or redeem Supplemental Nutrition Assistance Program (SNAP) benefits.

Fuel retailers and marketers are generally independent businesses. Although some might bear the name of a large oil company, this is not indicative of any ownership stake in the business or the real estate, but simply of a marketing relationship or announcement to passing motorists that a certain company's product is available for purchase at that location (comparable to a soft drink advertisement in a grocery store window).

The travel center industry – defined loosely as retail fuel outlets located within one-half mile of an Interstate – is a diverse, sophisticated, and evolving industry. It is positioned to meet the needs of all drivers traveling on the Interstate Highway System regardless of the fuel their vehicles use. Although the industry was once tailored solely to truck drivers, it now caters to the entire Interstate traveling public, as well as the local population. It remains the leading national

[3] *See* NACS, State of the Industry (2022).

source of truck parking spaces, providing essential rest and amenities to hard-working truck drivers, contributing to the safety of the nation's highways, and supporting the essential movement of goods to support the American economy.

Fuel retailers are agnostic to the type of transportation energy that their customers purchase from them. As recent history has shown, our members are prepared to invest in any transportation energy technology that their customers desire. <u>Our goal is simply to provide customers with *what they want, where they want it, when they want it, and at a price they are willing to pay*</u>.

Our members do have a bias, however. They believe it is best for the American consumer and America's industrial and geopolitical position in the world marketplace to have reliable sources of energy at reasonably low, stable prices.

The primary trait of any successful retailer is the ability to identify what his or her customers want to buy, and then sell that product at a price that is attractive to the customer while enabling the retailer to earn a profit. In this respect, retailers are effective surrogates for consumers. In our experience, consumers desire transportation energy that is delivered quickly, at a convenient location, and at a competitive price.

Fuel marketers and retailers prefer long markets with a diverse array of supply options at their disposal. This dynamic tends to enhance consumer choice and inject an additional layer of competition into the market. This leads to downward pressure on retail fuel prices, which is good for both our customers and the broader American economy.

Transportation energy retailers' strong preference for supply diversity and low energy prices are grounded in the low-margin environment in which they operate. Fuel sales are profitable because of the <u>volume</u> of sales that occur every day. The market's transparency and competitiveness effectively precludes retailers from passing through price increases as fast as they must absorb them.[4] <u>This dynamic prompts our market to be among the first to suffer from inflation</u>. In rising price environments, retailers' margins get smaller while their costs – not only of purchasing fuel at wholesale but also ancillary costs such as credit card fees – increase.[5]

Retailers are fundamentally "buyers" of fuel as much as they are sellers of fuel. Given the transparency and competitiveness of fuel pricing, fuel retailers are "price takers" when they buy fuel in wholesale markets: The market sets the price and retailers compete on optimizing purchasing and inventory management as well as speed and quality of service.

The industry's exposure to price volatility and supply disruptions is more heightened than it has been historically. This is due in large part to limited domestic refining capacity. Diminished

[4] In fact, there are times when prices rise rapidly that retailers lose money on fuel sales in order to try to hold onto market share and not lose customers.

[5] Swipe fees are fuel retailers' second-highest operating cost, behind only labor. The fees are much more than retailers' costs of utilities and rent, just to take two examples. Swipe fees are levied as a percentage of the total price of the transaction, so they rise as the cost of fuel rises, creating additional price pressure on retailers. In fact, these fees are charged on the tax portion of every transaction as well so retailers must pay the credit card industry for revenue that they know they will never see.

refining capability keeps the supply tight. Low demand for refined products during the COVID-19 pandemic made operating a refinery unprofitable. This significantly hampered U.S. (and global) refining investment and thus capacity. At the same time, there has been a more macro trend away from hydrocarbon production and processing in favor of alternative energy investments that have more attractive emissions outcomes. This too has diminished investments in U.S. refining capacity (which tend to be capital-intensive with extraordinarily long return horizons).

The result is that there is less slack in the fuel system than there used to be. When things are going smoothly, there is ample supply and distribution capacity. But when unforeseeable events disrupt one or more sources of supply, it is more challenging to find backup options. It results in a more volatile price environment and increased vulnerability to shortages.

Alternative Fuels Diversify and Lengthen Supply

Alternative fuels diversify and lengthen the supply of transportation energy. NATSO and SIGMA support ambitious, market-based, and consumer-oriented alternative fuel incentive policies. Existing retail fuel locations are optimal for the buildout of an alternative fuel network, including electric vehicle (EV) charging stations. Fuel retailers have demonstrated in recent years that they are prepared to invest in any alternative fuel technology that their customers desire. NATSO and SIGMA members have a proven history of responding to policy incentives to roll out alternative fuels for wider use. Over the last thirty years, our industry has adapted to meet consumer demand with increased biofuel blends and other alternative fuels.

Well-crafted alternative fuel incentives can enhance those fuels' economics and enable the market to confidently invest in those products. No single solution will decarbonize transportation energy. The best way for policies to maximize emissions reductions is by incentivizing <u>all</u> fuel technologies to reduce their respective emissions profiles. What policymakers think is the best solution today may be surpassed by subsequent ingenuity or information. Sound policy should not stifle innovation by mandating specific solutions.

Today, biofuels enhance supply and lower consumer prices. NATSO and SIGMA are therefore in favor of robust biofuel incentive policies. For example, we support allowing year-round sales of gasoline with an ethanol content of up to 15 percent (E15). Higher biofuel blends allow us to enhance supply and lower prices. Ethanol, particularly in light of policy incentives, is less expensive than gasoline. Allowing year-round E15 would thus, all else being equal, lower retail prices for cleaner-burning ethanol blends and support a more favorable refueling margin structure for retailers. This is a positive outcome. NATSO and SIGMA are aware of no reasonable policy rationale for continuing to restrict year-round sales of E15, and therefore encourage Congress to lift those restrictions as soon as possible.

We also support incentives for advanced biofuels that have more positive emissions outcomes than ethanol. Advanced over-the-road biofuels such as renewable diesel and biodiesel diversify the industry's sources of over-the-road supply and limit the country's exposure to global diesel market volatility, all while mitigating the environmental footprint of heavy-duty trucks. These fuels reduce emissions by at least fifty percent relative to traditional diesel fuel.

Biofuel and renewable fuel incentives work. They helped our industry build and maintain a competitive marketplace, maximize the climate benefits of renewable fuels, and minimize fuel supply disruptions and inflationary consequences for consumers.

NATSO and SIGMA members are concerned that the Inflation Reduction Act's (IRA's) preferential treatment for sustainable aviation fuel (SAF) relative to renewable diesel and biodiesel will have an increasingly negative impact on diesel supply, price, and emissions in the coming years. **SAF is a renewable jet fuel that indisputably has fewer environmental benefits than renewable diesel and biodiesel**. Current law encourages biofuel producers to make SAF instead of renewable diesel. This does not *reduce* emissions, it *transfers* emissions savings from the trucking sector to the aviation sector, while forcing taxpayers to pay more to do it. This policy is unsound. Unless these two fuels are treated comparably in the tax code, it will result in more supply chain disruptions in the years ahead.

Fuel Supply Efficiencies Should be Replicated for EV Charging Deployment

NATSO and SIGMA members are at the forefront of investments in EV charging infrastructure. These investments are occurring in many areas of the country long before demand catches up with the supply. We have worked closely with this Committee, as well as the U.S. Department of Transportation (DOT) and state DOTs in support of various EV charging grant programs and other market-building opportunities. We think it makes logical sense to site EV charging stations within the existing retail fuel network. We can do it faster and more efficiently than anyone else.

Many NATSO and SIGMA member companies have entire business units focused on EV charging station investments. The unambiguous feedback is that these EV charging grant programs – including the National Electric Vehicle Infrastructure (NEVI) Program – should focus more on encouraging states to reexamine arcane regulatory regimes that are incompatible with public EV charging transactions. Otherwise, there is a real possibility that the federal government could squander its opportunity to build a state-of-the-art national EV charging network, and instead install slower, outdated charging stations in places customers don't want to stop to refuel. There is a substantial risk of stranded assets as the public EV charging network develops.

Many seem to think that a transition to electric transportation fuel requires creating an entirely new refueling network. That is not the case. Our country already has in place a robust, highly competitive refueling network. Fuel retailers are in the business of providing competitively priced fuel and services to their customers. The most effective way to prompt investment in EV charging stations is to establish policies that will incentivize the existing refueling network to incorporate fast EV charging into their suite of fueling options.

EV drivers will need fast, high-powered charging solutions to meet consumer expectations. Many in our industry are investing in EV charging stations that can deliver a 350-kilowatt (kW) charge – the highest on the market today. There is limited production capability and capacity for Buy America-compliant direct current fast chargers (DCFC), even at DOT's minimum proposed power standard of 150kW. There is even less availability for Buy America-compliant charging stations at the 350kW power level. In fact, we are unaware of any data suggesting that Buy

America-compliant 350kW chargers are available at scale today or will be available in time to meet the timelines established under the current waiver. Congress should encourage DOT to flexibly interpret the Buy America regulatory structure that was only recently finalized this Spring.

Government Should Work with Private Industry to Ensure Adequate Truck Parking

The travel center industry provides 90 percent of the country's truck parking. In addition, the travel center industry provides essential rest and amenities to our nation's drivers, contributing to the safety of the nation's highways and supporting the essential movement of goods to support the American economy. When professional drivers spend less time looking for parking, they have more time to move products to their destination. It also lowers the cost of shipping those products, which in turn lowers the costs for consumers.

The private sector is best suited to provide truck parking. Private industry, however, often deals with conflicting policies in this arena. While federal and state governments frequently recognize and emphasize the importance of truck parking at private businesses such as travel centers, new facilities are often opposed by local governments. Those local governments sometimes condition the approval of a new or expanded parking facility on the business owner's agreement to fund improvements to an interchange.

In any instance, there is a significant cost to constructing new private parking facilities. Businesses need a return on their investment to offset initial land acquisition and capital costs as well as recurring costs such as operations and maintenance. Because the competitive nature of the fuel retail industry requires NATSO and SIGMA members to offer amenities to compete for market share, many travel centers do not charge for truck parking. Those that do typically charge a fee only for non-customers. This dynamic makes it increasingly difficult for the industry to adequately invest.

To the extent that policymakers want to support truck parking expansion, such investments should wherever possible be undertaken in partnership with the private sector to ensure the funds are spent efficiently and focused on the consumer experience. Truck drivers prefer to stop at safe locations that offer food, fuel, and other amenities. The funds should not enable states, localities, or others to provide truck parking in a manner that directly competes with NATSO and SIGMA members and thereby undermines the industry's incentives to expand truck parking capacity.

NATSO and SIGMA applaud Representatives Mike Bost and Angie Craig for their work on the Truck Parking Safety Improvement Act. This legislation is a common-sense solution to improve the supply chain. NATSO and SIGMA urge the Committee to advance this bipartisan legislation as soon as possible.[6]

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[6] Notably, Truck Parking Safety Improvement Act does not call for commercializing rest areas, which would undermine the investments that NATSO and SIGMA members have made in off-highway real estate. Any effort to undo the ban on rest area commercialization undermines the incentives for private companies to expand truck parking capacity, as well as the local communities and off-highway businesses that support the supply chain.

Expeditious Issuance of Waivers Keeps Fuel and Critical Products Moving in Times of Disaster

Fuel retailers not only serve professional drivers and fleets by providing them fuel and the amenities they desire on the road, NATSO and SIGMA members also frequently employ their own fleets to haul gasoline, diesel, biofuels, and other products that are sold in their stores. Hours-of-Service (HOS) waivers therefore can allow fuel haulers to move critical supplies to areas in need during times of disaster. NATSO and SIGMA encourage flexibility in providing HOS waivers so our members can respond quickly and efficiently during a crisis that impacts the fuel supply. Congress should streamline the ability to offer waivers during these times of crisis to reduce inefficiencies that delay deliveries, including the supply of fuel.

Recently, the Federal Motor Carrier Safety Administration proposed to narrow the flexibility that is automatically provided to motor carriers when an emergency has been declared.[7] While well-intentioned, the proposal would further impede the industry's ability to respond to supply disruptions, unnecessarily exaggerating their effect of fuel deliveries and pump prices.

When pipelines, terminals, and storage facilities are impacted by a disruptive event, haulers cannot necessarily simply go to the next closest facility to pick up their supply of fuel. Different states, and different regions within states, may have different fuel specifications for products sold within their respective territories. In the absence of emergency waivers, fuel haulers may be compelled to drive further to pick up their fuel load. It may therefore take multiple weeks to rebuild fuel supplies. This is why we always encourage HOS waivers to be issued in advance of a predictable, disrupting event so that fuel retailers can make necessary adjustments and have the requisite capabilities to meet demand.

HOS waivers should also automatically encompass diesel exhaust fluid (DEF), which is a liquid that reduces diesel engine emissions and is an essential component of truck movement in the United States. Drivers that deliver diesel fuel also deliver DEF as market and supply conditions dictate, so it is essential that DEF be included in any HOS waiver.

Weight waivers for heavy-duty trucks could also alleviate tightness in the fuel supply chain. For example, diesel fuel weighs more than gasoline. By enabling trucks hauling fuel to be filled at capacity with diesel fuel (current weight restrictions generally result in trucks reaching their weight capacity well before the truck reaches its diesel hauling capacity), it can allow fuel retailers to move more supply on a single load.

In addition, there may be times when it is advantageous to temporarily waive restrictions on diesel's sulfur content and foreign-flagged vessels shipping fuel between U.S. ports (Jones Act) to address particularly acute supply disruptions as they present themselves. In those regions of the country that utilize heating oil, dyed diesel waivers may also prove useful.

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[7] Department Of Transportation, Federal Motor Carrier Safety Administration (49 CFR Part 390) *Clarification to the Applicability of Emergency Exemptions* (Dec. 8, 2022) *available at* https://www.regulations.gov/document/FMCSA-2022-0028-0001.

NATSO and SIGMA support concepts such as those included in the Safer Highways and Increased Performance for Interstate Trucking (SHIP IT) Act that promote flexibility for HOS and weight regulations when needed to address supply chain issues.

The Retail Fuel Industry Depends on an Adequate Labor Pool

Fuel retailers not only serve professional drivers and fleets, they also frequently employ their own drivers. NATSO and SIGMA support efforts to address the labor shortage Specifically, we support incentives for more men and women to pursue careers as truck drivers. Calculated by determining the difference between the number of drivers currently in the market and the optimal number of drivers based on freight demand, the American Trucking Associations estimate the driver shortage for 2022 at nearly 78,000 professional drivers.[8]

There are several reasons for the persistent shortage of truck drivers. These include an aging driver population (and therefore retirements) and a limited number of women that chose to drive professionally. The COVID-19 pandemic only exacerbated these labor concerns. Moreover, attending a truck driving school and obtaining a commercial driver's license (CDL) can be expensive, ranging between $3,000 and $7,000.

NATSO and SIGMA supported the Safe Driver Apprenticeship Pilot Program, which was a carefully crafted bipartisan compromise included in the Infrastructure Investment and Jobs Act (IIJA). The pilot program looks to address the historical driver shortage by enabling 18- to 20-year-old drivers to join the professional driver workforce and drive in interstate commerce after receiving rigorous training and certification. NATSO and SIGMA, however, are concerned that DOT is implementing the program in a manner that is not aligned with Congressional intent.

The retail fuels industry also supports concepts such as providing financial incentives that remove barriers to entry for aspiring drivers. Legislative concepts that would provide a tax credit to individuals investing in the cost of CDL training and testing are creative solutions to incentivize drivers and address the labor shortage.

Quick Turnaround of Out-of-Service Vehicles is Necessary to Keep Goods Moving

Current supply chain issues have created a backlog for businesses, including NATSO and SIGMA members, to purchase new commercial motor vehicles. Because of this, heavy-duty trucks on the road today must be driven longer and further until the fleet can turn over.

As automotive technology has advanced, the information needed to repair these sophisticated engine systems has advanced as well. To repair a commercial motor vehicle, mechanics must have access to onboard diagnostic and telematic systems when previously they relied upon observation and experience. In effect, truck manufacturers have become the gatekeepers of the advanced information necessary to repair or supply parts to commercial motor vehicles, increasing the cost of repair and limiting the flexibility to quickly return these vehicles

[8] *ATA Driver Shortage Update 2022*. American Trucking Associations, October 25, 2022. Available at: https://ata.msgfocus.com/files/amf_highroad_solution/project_2358/ATA_Driver_Shortage_Report_2022_Executive_Summary.October22.pdf.

to the road. By providing the independent repair industry with access to critical repair tools and information, owners and operators of commercial motor vehicles will have access to affordable and quality vehicle repair. Not only will there be greater availability to repair these vehicles, but the cost of those repairs will decrease, which ultimately lowers costs for consumers.

NATSO and SIGMA support legislation such as the Right to Equitable and Professional Auto Industry Repair (REPAIR Act). Passing the REPAIR Act will provide independent repair shops, including some of our own members, with access to the diagnostic information needed to identify and repair mechanical issues with commercial motor vehicles. The REPAIR Act will promote choice and competition while also ensuring commercial motor vehicles return to the road as expeditiously as possible.

CONCLUSION

NATSO and SIGMA are eager to work with Congress on ways to support an efficient fuel distribution system and therefore an efficient supply chain. Congress can act in a bipartisan way to improve safety, reduce regulatory burdens, and bolster supply chains. The retail fuel industry looks forward to working with policymakers to support that effort.

Thank you for the opportunity to testify. I am happy to answer any questions you may have.