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April 28, 2008

Ms. Joanne Shore
Petroleum Division, EI-42
Energy Information Administration
Forrestal Building
Washington, D.C. 20585

Re: Comments on Reporting of Refinery Outages, 73 FR 10745 (2/28/08)

Dear Ms. Shore:

NPRA, the National Petrochemical and Refiners Association, is a national trade association with 450 members, including those who own or operate virtually all U.S. refining capacity, as well as most of the nation's petrochemical manufacturers with processes similar to those of refiners. NPRA is pleased to respond to EIA's request for comments on the proposal to add a new Part 6 to EIA's "Monthly Refinery Report" (Form EIA-810).

I. THERE IS NO COMPELLING NEED FOR EIA TO COLLECT DATA ON REFINERY OUTAGES

EIA has requested comments on the collection of data for two different types of refinery outages: unscheduled outages and scheduled outages. In either case, we do not believe that EIA's collection of this data would result in actionable information for the federal government or for industry which would improve the supply of petroleum product markets. Therefore, we do not believe that the time, effort, and expense of data collection is justified. In the case of unscheduled outages, EIA would be collecting and reporting information about outages after the fact when it is no longer actionable for the federal government or industry. Refiners' crude oil feedstocks and their finished products are bought and sold on public commodities exchanges which operate transparently and are widely reported. Therefore, the effects of an outage on supply are well known and quickly disseminated in the market. EIA's reporting of unplanned outages would not improve the functioning of the markets and, therefore, should not be required.

In the case of scheduled outages, refiners have demonstrated over many years their ability to plan for turnarounds and manage product inventories so that the markets are adequately supplied. EIA's own data (see attached graphs) show that total gasoline inventory peaks every year in the February-March timeframe as refiners prepare for the concentration of scheduled refinery outages that occurs every spring. The data show that the industry plans and prepares for these outages and supplies the market to meet consumer demand. The effectiveness of industry's inventory management practices was confirmed by EIA's statistical analysis which led EIA to conclude that "outages with measurable impacts on

monthly prices are relatively rare."[1] Data collection by EIA is not needed for what is already a predictable and consistent process nor is it needed to help refiners improve their refinery outage planning.

The effect of planned refinery outages on production is limited by market constraints that prevent refiners from scheduling too many overlapping outages. These constraints include: finite labor force; availability of engineering and construction firms; availability of specialty firms; availability of specialty items such as large cranes, etc. These constraints have acted (and will continue to act in the future) to limit the extent of simultaneous production outages.

To ensure the safety of refinery workers, decisions regarding the timing of a turnaround have to reside entirely with the party responsible for the mechanical integrity of the plant as they do now. Even if the federal government were able to identify a time when overlapping turnarounds would likely affect product markets and were to "suggest" that a turnaround be delayed, only the refinery owner could be held responsible for the potentially serious safety consequences of delaying a turnaround.

The timing of a turnaround can rarely be changed within a year of its scheduled date without increased risk to the safety of operations and refinery workers, and adverse economic consequences. Refinery turnaround timing is determined by the mechanical condition of process equipment, catalyst life cycles, and maintaining appropriate safety margins as well as economic factors such as manpower availability, equipment delivery schedules, weather, and meeting market demand. The window available for a turnaround is usually quite small and, given that detailed planning usually begins 18-24 months in advance of a turnaround, quite inflexible. A refinery mobilizes a tremendous amount of diverse resources such as equipment fabricators, contractors, supervision, and specialty contractors for chemical cleaning, catalyst changeout, etc. and these are not easily reorganized and rescheduled.

The information cannot be utilized by the federal government in a meaningful way, so there is no compelling need for EIA to collect data on refinery outages.

II. EISA REQUIREMENTS (AND FEDERAL GOVERNMENT NEEDS) ARE ADEQUATELY MET USING INFORMATION AVAILABLE FROM COMMERCIAL SERVICES

[1] EIA report "**Refinery Outages: Description and Potential Impact on Petroleum Product Prices**, March 2007

Section 804 (sec.804) of the Energy Independence and Security Act of 2007 (EISA, attached) neither requires EIA to collect data directly from refiners nor does it to authorize the collection of information. Sec.804 of EISA does provide specific direction to EIA on refinery outage data. The law requires that EIA review information available from commercial reporting services, determine whether scheduled outages will substantially affect the supply of petroleum products, and advise the Secretary of Energy accordingly. NPRA believes that the information available from commercial services may be relied upon to meet EIA's requirements and in some ways is superior to having the data collected by EIA. Many of NPRA's members subscribe to these services for their own planning purposes.

There are several commercial services ("reporters") that publish information on refinery outages that have occurred and those that are planned for the future and most reporters publish a report daily or weekly. The reporters include Argus, IIR, OPIS, PIRA, Platts, and Reuters (this is not an exhaustive list). NPRA believes that their list of planned outages is sufficient to forecast future production and meet the requirements of sec.804 because industry participation is quite high.

At least one of these firms combines direct data collection from refiners with other market information to give them a basis for making production forecasts that are based on well established simulation models. This direct data collection and the in-house modeling capability results in a forecast that is more reliable than that of other reporters and one that EIA could use with some confidence. This kind of approach which uses outage information as one of the inputs to a production model is also likely to produce forecasts that are more consistent than those using an approach where refiners make their own independent production projections (of variable quality) that are then reconciled and aggregated by a third party.

It is unlikely that the proposed data collection by EIA would offer a significant improvement over the industry's current practices. Simply aggregating information regarding refiners' planned outages and estimates of the associated effects on production will give an incomplete picture of whether or not the product markets will be supplied. Refiners employ a number of tactics to supply their customers during a scheduled refinery outage which may include fuel imports, exchanges with other refiners, exchanges within their own refining systems, and inventory management. All of these may be used by refiners to keep markets supplied. Clearly, estimating total supply a year in advance is a large and complex problem. Expending EIA resources to collect and analyze refinery outage data is not justified given that similar information is available from reputable commercial services.

III. EIA SHOULD NOT REPORT UNIT-SPECIFIC OR REFINERY-SPECIFIC OUTAGE INFORMATION

Refiners treat turnaround schedules as confidential business information and this information should be protected such that information at the process unit level or even the refinery level

is not reported publicly. Even those commercial services that gather information directly from refiners provide this level of anonymity for refiners as a condition of collecting the data.

IV. EIA HAS UNDERESTIMATED THE TIME TO FILL OUT THE PROPOSED SURVEY FORM AND THE COMPLEXITY OF THE TASK.

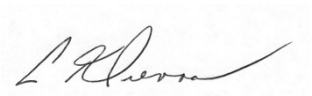
Although it is reasonable to think that one hour per month is sufficient for reporting planned outages for the next twelve months, the estimation of the effect on production will significantly increase the refiner's time required for compliance. Estimating a scheduled outage's impacts on net product output for gasoline, gasoline blending components, jet fuel, kerosene and other distillates is time consuming because it would require the refiner to project the output of these products with and without the outage in order to derive an estimate of the net impact. It is also likely that the refiner would have to make more than one projection per outage since monthly reporting may mean that three distinct cases would have to be estimated: month with shutdown; month with no production; and month with start-up.

As stated above, using an approach where outage information is one input to a production model is more likely to produce consistent forecasts than an approach where refiners make their own independent production projections which are then reconciled and aggregated by a third party. Production forecasts are a function of daily economics and market factors that are hard to predict and very subjective even for an individual refinery. Varying economic assumptions combined with the number of options available to refiners for coping with outages (such as inventory management, exchanges, or increased production by other refineries) are likely to result in forecasts that inconsistent. This problem alone is reason enough to eliminate the proposed projection of impacts on net product output for gasoline, gasoline blending components, jet fuel, kerosene and other distillates.

NPRA appreciates the opportunity to submit comments on this proposal and is prepared to advise and assist EIA if you wish to have further input from its members. In this case, we do not believe that EIA should expand their data collection activities since the commercial reporting services are a viable and economical alternative.

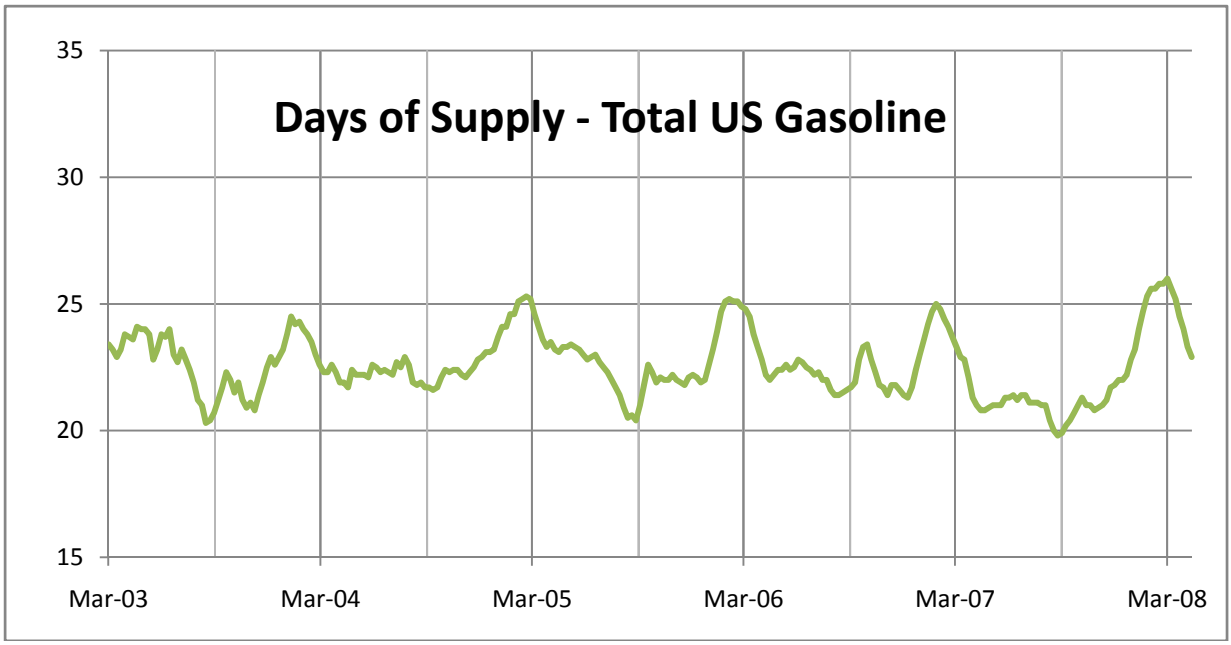
If you have any questions, please contact Jeff Hazle, 202-457-0480.

Respectfully submitted,

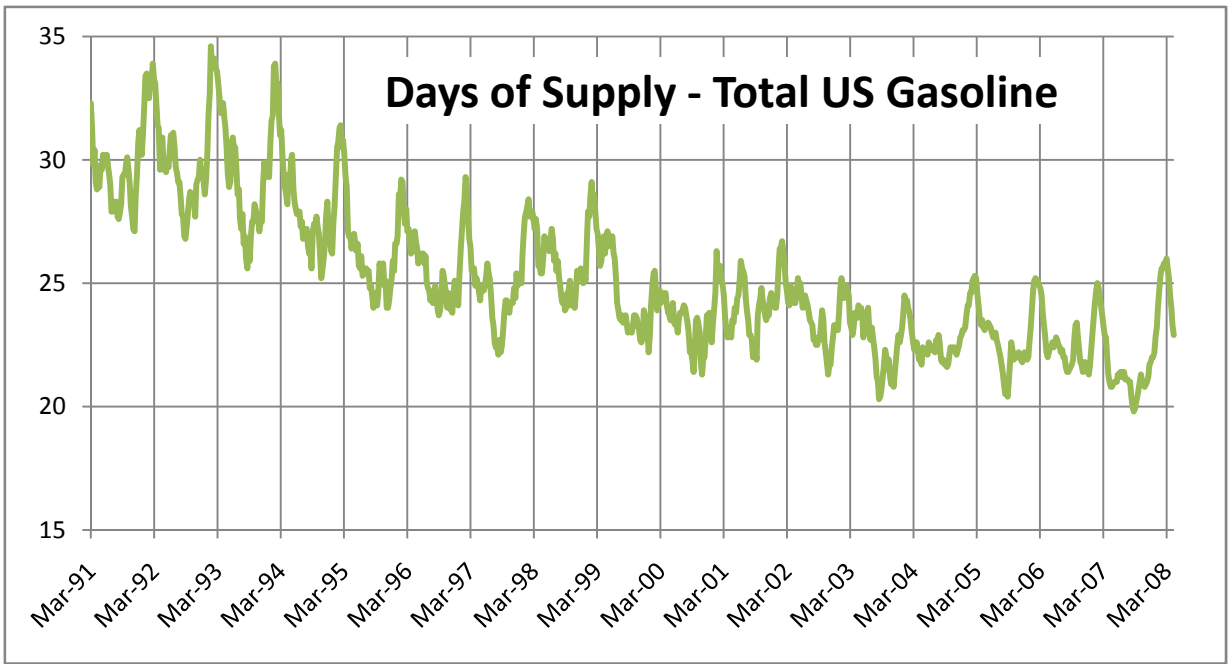


Charles T. Drevna
President

Attachment



Days of Supply – Total Gasoline – Five Years



Days of Supply – Total US Gasoline – Seventeen Years

Energy Independence and Security Act of 2007, Public Law 110-140

SEC. 804. COORDINATION OF PLANNED REFINERY OUTAGES.

(a) DEFINITIONS.—In this section:
(1) ADMINISTRATOR.—The term ‘‘Administrator’’ means the Administrator of the Energy Information Administration.
(2) PLANNED REFINERY OUTAGE.—
(A) IN GENERAL.—The term ‘‘planned refinery outage’’ means a removal, scheduled before the date on which the removal occurs, of a refinery, or any unit of a refinery, from service for maintenance, repair, or modification.
(B) EXCLUSION.—The term ‘‘planned refinery outage’’ does not include any necessary and unplanned removal of a refinery, or any unit of a refinery, from service as a result of a component failure, safety hazard, emergency, or action reasonably anticipated to be necessary to prevent such events.
(3) REFINED PETROLEUM PRODUCT.—The term ‘‘refined petroleum product’’ means any gasoline, diesel fuel, fuel oil, lubricating oil, liquid petroleum gas, or other petroleum distillate that is produced through the refining or processing of crude oil or an oil derived from tar sands, shale, or coal.
(4) REFINERY.—The term ‘‘refinery’’ means a facility used in the production of a refined petroleum product through distillation, cracking, or any other process.

(b) REVIEW AND ANALYSIS OF AVAILABLE INFORMATION.—The Administrator shall, on an ongoing basis—
(1) review information on refinery outages that is available from commercial reporting services;
(2) analyze that information to determine whether the scheduling of a refinery outage may nationally or regionally substantially affect the price or supply of any refined petroleum product by—
(A) decreasing the production of the refined petroleum product; and
(B) causing or contributing to a retail or wholesale supply shortage or disruption;
(3) not less frequently than twice each year, submit to the Secretary a report describing the results of the review and analysis under paragraphs (1) and (2); and
(4) specifically alert the Secretary of any refinery outage that the Administrator determines may nationally or regionally substantially affect the price or supply of a refined petroleum product.

(c) ACTION BY SECRETARY.—On a determination by the Secretary, based on a report or alert under paragraph (3) or (4) of subsection (b), that a refinery outage may affect the price or supply of a refined petroleum product, the Secretary shall make available to refinery operators information on planned refinery outages to encourage reductions of the quantity of refinery capacity that is out of service at any time.

(d) LIMITATION.—Nothing in this section shall alter any existing legal obligation or responsibility of a refinery operator, or create any legal right of action, nor shall this section authorize the Secretary—
(1) to prohibit a refinery operator from conducting a planned refinery outage; or
(2) to require a refinery operator to continue to operate a refinery.