-----Original Message-----
From: Miles, Michelle
Sent: Thursday, May 04, 2006 11:31 AM
To: LeMat, Lynnette
Cc: Westfield, Tracey; Miles, Michelle
Subject: Here is one comment on the open DOE rule

Comment Info: =================

General Comment:I would encourage the Department of Energy to look for more effective measures
to deter disruptions in the oil supply of the United States. Simply stockpiling oil has not been shown to decrease prices for American consumers. More attention should be focused on maintaining stability of oil production in countries with inadequate means to protect their supplies. Also, regulations should be levied against the large oil producers who have recorded record windfall profits who refuse to appropriate the necessary funds to renovate refinaries and ensure the stable flow of affordable energy to Americans. As the SPR has risen to record levels in recent months, oil futures have risen to over $75 a barrel. This is in direct contradiction to the agency's initiative and shows failure to promulgate any sort of effective policy regarding stable, affordable consumer prices.

From: steve.j.letai@exxonmobil.com <steve.j.letai@exxonmobil.com>
To: Marland, Nancy
Sent: Wed May 24 12:14:53 2006
Subject: RIN# 1901-AB16

In reviewing the proposed SPR Fill Procedures we thought that the wording on page 13 Sec. 626.05 (d)(2) could be clarified. We would propose the following amended wording for your consideration, which was largely borrowed from the "Termination" section of DOE's 10 CFR Part 625.

DOE may terminate all solicitations and contracts pertaining to the acquisition of crude oil at the convenience of the Government, and in such event shall not be responsible for any costs incurred by suppliers, other than for oil delivered to the SPR. Government shall be liable for such reasonable costs incurred by the purchasers in preparing to perform the contract, but shall not be liable for consequential damages or lost profits as the result of such termination.

Regards,

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May 24, 2006

Office of Petroleum Reserves
FE-40
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Re: Procedures for the Acquisition of Petroleum for the Strategic Petroleum Reserve; RIN Number 1901-AB16

Dear Sir or Madam:

The Air Transport Association of America, Inc. ("ATA") is the principal trade and service organization of the U.S. passenger and cargo airline industry. ATA's member airlines[1] account for more than 90% of passenger and cargo traffic carried annually by U.S. airlines. As described in more detail below, the price of oil affects the industry now more than ever before – impacting jobs, financial ratings, balance sheets, capitalization and share value. For this reason, ATA and its members are very interested in the government's policies concerning the operation of the Strategic Petroleum Reserve, including the procedures for acquiring petroleum.

The U.S. airline industry consumed 19.9 billion gallons of jet fuel in 2005 at a cost of $33.1 billion dollars. We forecast spending $38.4 billion on jet fuel in 2006. What was historically the second largest expense category for airlines has become first at many airlines, replacing labor as the number one expense category.[2] Jet fuel prices, which dropped modestly in the aftermath of 9/11, have more than doubled on the spot markets since then, going from an average of $0.71 per gallon in 2002 to $1.72 in 2005. Notwithstanding extraordinary conservation efforts,[3] the industry's total spend for jet fuel grew from $12.7 billion in 2002 to $33.1 billion in 2005. Simply put, but for this dramatic increase in the price of jet fuel, particularly in 2005, the

[1] ABX Air; Alaska Airlines; Aloha Airlines; American Airlines; ASTAR Air Cargo; ATA Airlines; Atlas Air; Continental Airlines; Delta Air Lines; Evergreen International Airlines; FedEx Corp.; Hawaiian Airlines; JetBlue Airways; Midwest Airlines; Northwest Airlines; Southwest Airlines; United Airlines; UPS Airlines; and US Airways. Associate members are: Aeromexico; Air Canada; Air Jamaica; and Mexicana.
[2] The industry has shed some 153,000 jobs in the past five years; four of the big six airlines have sought bankruptcy protection; and compensation for the remaining employees has been reduced significantly.
[3] Since 2000, total airline fuel efficiency has risen an impressive 16.2 percent, on average. Looking strictly at capacity per gallon, efficiency has increased 8.1 percent over the same time period.

industry would have earned a profit last year for the first time in five years. Instead, the airline industry lost $5.6 billion in 2005, bringing the total to nearly $35 billion in the past five years.

While we are greatly concerned by the runaway increase in the "crack spread" since 2002,[4] the underlying price of crude largely dictates the price of jet fuel. At a consumption rate of 19.9 billion gallons annually, every dollar increase in the price of a barrel of crude increases the industry's yearly fuel spend by $474 million. In many respects, the future success or failure of this industry rides on the price of crude. Unlike other industries, there is no alternative fuel source to power jet aircraft.

As the Department's notice points out, many factors affect the price of crude oil, including the government's acquisition of crude for the Strategic Petroleum Reserve ("SPR"). In a constrained and volatile market, which fairly characterizes current and forecast market conditions for the foreseeable future, SPR acquisitions have a material effect on crude prices. For this reason, the Department must establish acquisition policies and procedures that minimize that impact while fulfilling the SPR mission. The overarching principle should be "first, do no harm." Unfortunately, the proposed acquisition procedures do not satisfy this principle as mandated by the Energy Policy Act of 2005 (the "Act").

Congress qualified the Act's goal of filling the SPR by stating a clear mandate to avoid imposing "excessive cost or appreciably affecting the price of petroleum products to consumers." Section 301(e)(1). This overarching principle is reinforced in Section 301(e)(2). Of the five specific factors Congress identified that should be taken into account in the acquisition procedures, three of them are concerned directly with the impact of SPR acquisitions on the market for oil, including the prices paid by consumers and the Department.

Moreover, the Act represent's Congress' most recent statement of policy on acquiring oil to fill the SPR. The Act expands the original list of considerations for filling the SPR set forth in Section 160 of the Energy Policy and Conservation Act ("EPCA"). The Act's focus on the impact of SPR acquisitions on prices, consumers and markets reflects a level of Congressional concern not present in EPCA. Accordingly, as a matter of statutory construction, the Act's mandate must be given decisive weight. In this rulemaking, we do not believe the Department has listened as carefully as it should to Congress.

Proposed § 626.04, and the more detailed acquisition procedures of the proposed rule, do not fulfill the statutory mandate to minimize the impact of SPR acquisitions on oil prices, consumers and present and future market conditions. The eight factors listed in § 626.04 relegate this concern to a minor, secondary status. In balancing the Act's goals of expeditiously filling the SPR and not "appreciably affecting the price of petroleum products," § 626.04 leans heavily toward filling the SPR. The Department should acknowledge, and give greater emphasis to, Congress' instruction to avoid increasing petroleum product prices and affecting present and

[4] In 2002 the crack spread was $3.63 per barrel; in 2005 it was $15.84, more than a four-fold increase.

future market conditions. Simply put, the Department should articulate a policy and establish procedures to acquire crude oil for the SPR when prices are low.

More specifically, the proposed rule should be modified to state the Department will not acquire oil for the SPR, or that it will delay acquisition transactions, when prices exceed a fixed percentage from the median monthly average price for a specified period. We recommend, for example setting this trigger at a 40% difference from the median monthly average price for the prior ten years. This approach would help to minimize the negative market impacts of SPR acquisitions during times of high prices while allowing for natural price variability. It also would accommodate short-term price spikes. A public and transparent formula like this also adds a degree predictability, which inures to the benefit of the government and market participants. Recent deferral programs under both the time exchange and royalty-in-kind transfer programs show that this is a feasible option.

ATA appreciates the opportunity to comment on the proposed SPR acquisition strategy and procedures. We urge the Department to give greater consideration to the impact of SPR acquisitions on the U.S. airline industry. The ability of the airline industry to serve its customers, both passengers and shippers, depends on the cost of jet fuel. The Department can do more to minimize that impact.

Very truly yours,

David A. Berg
Vice President & General Counsel