

single refinery refiners)⁴ and is hereby proposing that the ratio be reduced to 0.15. EPA believes this ratio will allow three to four refiners which dedicated a substantial amount of 1990 production to JP-4 production and for which converting the associated feedstock for use in gasoline would be a severe economic burden. This value is in line with the ratio options that were suggested by commenters during the original rulemaking. At a ratio of less than 0.15, EPA believes the impact on benzene and aromatics may make it more costly for refiners to comply with the regulations, though it is unlikely that such refiners will be forced out of business or experience extreme burden.

EPA expects minimal negative environmental affects due to the reduction of the ratio requirement to 0.15 because the expanded provision will still apply to a very limited number of refiners producing a limited amount of conventional gasoline. EPA requests comments on the proposal discussed above.

3. Comments Received on the DFRM

For a discussion of comments received on the DFRM, please see the support document for this rule ("Regulation of Fuels and Fuel Additives: Standards for Reformulated and Conventional Gasoline—Detailed Discussion and Analysis", Air Docket A-95-03).

III. Crude Quality Baseline Adjustment

A. Introduction

Crude sulfur content is increasing nationwide⁵ and, while for most refiners increases in crude sulfur content should be considered manageable, such increases might be devastating for certain refiners. EPA has also been informed that the quality of the crude oil (with regard to sulfur content) available to refiners in PADD IV has been deteriorating faster than the rest of the U.S. since 1990.⁶ Additionally, refiners in this region do not have access to imports of foreign crudes other than those from Canada. Thus, the quality of crude oil reasonably and economically available to these refiners, from traditional or alternative sources, is quite limited. Prior to promulgation of the December 1993 rules, EPA did not know that the deterioration of crude oil available to

certain refiners (with regard to increasing sulfur content) might in some cases force them to cease operation in order to avoid noncompliance as compliance options for such a refiner might be prohibitively expensive.

The current regulations generally do not allow baseline adjustments for changing crude quality or availability. However, as discussed in the preamble to the December 1993 final rule, EPA recognized that a refiner's ability to comply with its individual baseline can be extremely burdensome due to certain factors, such as changes in crudes, markets, and fuel specifications. As with the work-in-progress baseline adjustment and the JP-4 baseline adjustment which is discussed above, EPA believes it has the authority to provide limited relief in the form of a baseline adjustment in those situations where the anti-dumping regulatory burden is extremely onerous and where requiring compliance would yield little or no environmental gain. Thus, EPA is proposing such a baseline adjustment where a dramatic increase in crude sulfur content has occurred which could severely affect the anti-dumping compliance of refiners with extremely low baseline sulfur values. EPA requests comments on the discussion and proposed criteria presented today. EPA also requests data which supports or refutes the information presented in this notice.

B. Proposal

EPA proposes to allow a baseline adjustment only for the deterioration of crude sulfur levels as it is unaware of other inherent crude properties which strongly and directly affect baseline fuel parameters. Comments are requested on other inherent crude properties which have significantly deteriorated since 1990 and which directly and significantly affect the values of any of the fuel parameters for which an individual baseline value must be determined. Comments concerning crude quality changes since 1990, as well as future trends (including identifying whether crude sulfur content increases will flatten off or continue to increase), especially on a regional or PADD basis, are also requested.

As with other baseline adjustments such as work-in-progress, the proposed criteria for obtaining an adjustment are necessarily stringent so as to provide relief only in cases of extreme burden and to maintain the environmental benefits of the (anti-dumping) program. EPA does not intend to allow adjustments for all refiners who have experienced increasing crude sulfur

levels in the time period since 1990 or will experience such increases in the future. Thus, the existing provisions in section 80.91 of the regulations still apply, i.e., no adjustments for crude quality or availability changes are allowed unless the proposed criteria are met.

If a refiner meets the following proposed criteria, it would be able to petition for a baseline adjustment to account for crude sulfur changes:

(1) *The refinery produces no reformulated gasoline.* While the anti-dumping requirements, in general, apply to all conventional gasoline whether or not reformulated gasoline is also produced, in these specific cases no dumping will occur due to reformulated gasoline production. If a refinery granted such an adjustment subsequently produces reformulated gasoline, its conventional gasoline compliance would be subject to its original unadjusted baseline during the current averaging period and in all subsequent years.

(2) *A refiner has an unadjusted baseline value of not more than 50 ppm.* EPA believes that requiring a threshold value of 50 ppm is appropriate because higher baseline values would indicate that the refiner's 1990 crude slate was not extremely low in sulfur. Additionally, a refiner with a higher baseline sulfur value should have sufficient leeway, e.g., types of crudes utilized and processing flexibility, to comply with its individual baseline. EPA requests comments on the appropriateness of requiring a threshold value, and on the suitability of 50 ppm or another value as a threshold value.

(3) *The affected refinery of a multi-refinery refiner may not be aggregated with the refiner's other refineries for compliance purposes.* Since both the unadjusted and adjusted baselines must be determined, if a refinery granted such an adjustment subsequently is included in an aggregate baseline, its conventional gasoline compliance would be subject to its original unadjusted baseline during the current averaging period and in all subsequent years.

(4) *The installation of the refinery units necessary to process higher sulfur crudes to comply with the refinery's actual (i.e., unadjusted) baseline would cost \$10 million or be at least 10 percent of the depreciated book value of the refinery as of January 1, 1995.* The purpose of this provision would be to ensure that an adjustment be limited to cases of extreme burden or economic hardship and de minimis environmental impact, and is the same economic burden requirement which must be met

⁴ Petition for Adjustment to Anti-Dumping Baseline, Atlas Processing Company, Penzoid Products Company, Attachments B and C, March 29, 1994.

⁵ E.J. Swain, "U.S. crude slate continues to get heavier, higher in sulfur," *Oil & Gas Journal*, p. 37, January 9, 1995.

⁶ *Oil & Gas Journal*, January 9, 1995.