which is known prior to the period of production, thus treating the affected refiner like all other refiners. If one of OPTIONS 1-5 becomes final, a refiner might have to modify refinery operations in the future to accommodate increasing crude sulfur levels. However, future refinery operation modifications will likely be required of most refiners, without benefit of a baseline adjustment, in order to deal with the increasing crude sulfur levels. The purpose of this proposed baseline adjustment is to provide relief in certain cases where increasing crude sulfur levels could make compliance with the anti-dumping requirements extremely difficult. However, baseline adjustments are intended to reduce, not eliminate, the burden associated with complying with the anti-dumping regulations in situations where the burden is onerous and the environmental impact is minimal. If the burden were totally eliminated, then this criteria would no longer be met.

EPA received a suggested option proposing that a refiner would be able to produce conventional gasoline which does not meet, on average, the requirements of its individual baseline if it could show that deviation from its baseline was directly and solely attributable to crude sulfur change, and not due to alterations in refinery operation or choice of products. The suggested option also contained other requirements a refiner would have to meet which are essentially those proposed today by EPA in order to qualify for this proposed baseline

adjustment.

EPA has many concerns about the concept and detail of this suggested option. This option basically exempts a qualifying refiner from complying with its anti-dumping compliance baseline if the refiner can show, at the end of the compliance period, that deviation from its baseline was directly and solely attributable to crude sulfur change. Thus, unlike all other refiners, a qualifying refiner would have no clearly defined standard prior to year of production. Additionally, if EPA was not satisfied that deviation from its baseline was directly and solely attributable to crude sulfur change, the refiner would have to determine compliance relative to its unadjusted baseline and would likely be out of compliance.

EPA requests comments as to whether, in order to show that increased gasoline sulfur is due solely to the increased crude sulfur, no changes in refinery configuration or refinery operation would be allowed. Or is it possible to "back out" the effects of

such changes? If it is not possible to "back out" the effects of refinery changes to determine just the effect of crude sulfur on gasoline sulfur, then a refiner which would use this option could potentially not make any refinery changes in order to qualify for a baseline adjustment. Alternatively, if refinery changes were made under this suggested option, it would seem that the refiner's compliance baseline would revert back to its unadjusted baseline. EPA requests comments on this suggested option, particularly addressing its enforceability and competitive concerns.

Since today's proposed baseline adjustment focuses on sulfur (unless commenters suggest other baseline fuel parameters which are directly affected by crude oil quality), if the suggested approach (which is not part of OPTIONS 1 through 5) were adopted, EPA believes it would be more appropriate, under the suggested option, that a refiner be exempt only from complying with its anti-dumping compliance baseline for sulfur under the simple model and NO_X emissions under the complex model, to the extent that increased sulfur affects NO_X emissions. The refiner would have to comply with NO_X emissions once the effect of increased sulfur is factored out. Basically, the refiner would (1) determine its baseline NO_X emissions after substituting its annual average sulfur for the compliance period for its unadjusted baseline sulfur value, (2) determine its annual average NO_X emissions for the compliance period, and (3) compare the values in (1) and (2) for the purposes of determining compliance. EPA does not believe that a refiner should be exempt from its other anti-dumping compliance baselines, i.e., all other simple model requirements as well as exhaust benzene and exhaust toxics emissions under the complex model since those emissions are only minimally affected by sulfur. Comments are requested on these details of this suggested option.

EPA expects minimal negative environmental affects from allowing baseline adjustments under the criteria proposed today due to the small number of refineries expected to qualify for a baseline adjustment and the relatively small total production volume of all such refineries.

IV. Baseline Adjustment for Very Low Baseline Sulfur and Olefins

A. Introduction

In addition to compliance difficulties resulting from crude quality changes, the Agency also recognizes that very clean individual baselines can make

compliance extremely difficult or impossible due to limited maneuverability about the clean baseline and limited flexibility with regard to annual averaging when certain baseline fuel parameter values are very low. During the review and approval of individual baselines, EPA was informed that extremely low baseline sulfur and olefin values (e.g., below 30 ppm sulfur and 1.0 volume percent olefins) could force a refiner to cease gasoline production. This was not EPA's intention when it developed the reformulated gasoline and anti-dumping requirements. Refiners with very clean baselines will presumably produce the least polluting gasoline of all refiners. (For more discussion on these proposed baseline adjustment provisions, see the support document, "Regulation of Fuels and Fuel Additives: Standards for Reformulated and Conventional Gasoline—Detailed Discussion and Analysis", Air Docket A-95-03.)

EPA believes it has the authority to provide limited relief in the form of a baseline adjustment in those few cases where the regulatory burden is extremely onerous and where requiring compliance would yield little or no environmental gain. EPA is proposing such a baseline adjustment in cases where both the baseline sulfur and baseline olefins values are very low and certain other conditions are met. EPA requests comments on the discussion and proposed criteria presented today.

B. Proposal

EPA proposes several criteria a refiner must meet in order to petition for a baseline adjustment to account for restricted maneuverability due to very low baseline sulfur and olefin values. EPA does not necessarily intend to allow adjustments for all refiners who foresee restricted maneuverability due to a clean individual baseline. EPA requests comments on the appropriate level of stringency to apply to the minimum criteria that must be met in order to receive an adjustment.

(1) EPA proposes to allow an adjustment for individual baselines when the sulfur and olefin contents are extremely low, defined as values below 30 ppm sulfur and 1.0 vol% olefins. These values are identical to the minimum levels given in the negligible quantity provision (see 40 CFR 80.91(d)(3)). Comments are requested on other fuel components which, when they are found to be extremely low in an individual baseline, can restrict the refiner's compliance maneuverability to the point of severe economic burden.

(2) EPA proposes that a refiner seeking a baseline adjustment for low