importers would not be considered confidential. In addition, EPA stated that it would publish a portion of this information. This information concerns the individual baseline assigned to refiners and importers for use in the conventional and reformulated gasoline program, as well as information submitted by these parties in their petition for a baseline. See 40 CFR 80.93(b)(6).

Persons affected by this provision sought judicial review, objecting to the release of this information on grounds of business confidentiality. American Petroleum Institute v. U.S. Environmental Protection Agency, No. 94-1138 (D.C. Cir.), and consolidated case Texaco, Inc. and Star Enterprises v. U.S. Environmental Protection Agency, No. 94-1143 (D.C. Cir.). Based on discussions with these parties, EPA has decided to reconsider this provision and is proposing to revise it. Under the proposal, only a portion of this information would be published, the exhaust emissions values assigned as an individual baseline. Issues concerning claims of business confidentiality for the remaining information would be resolved under EPA's regulations on "Confidentiality of Business Information," 40 CFR Part 2 subpart B.

B. Background

The conventional gasoline regulations are based in large part on the use of individual baselines for refiners and importers, while their use in the reformulated gasoline program is limited to the first three years of the program. The individual baseline reflects the average quality of a refiner's or importer's gasoline for the year 1990. The standards for conventional gasoline are generally expressed in terms of a refiner's or importer's individual baseline, so that compliance with the standards is measured by comparing current production of conventional gasoline against the individual baseline, on an annual basis. For example, under the simple model for conventional gasoline, a refiner's annual average for exhaust benzene emissions may not exceed their compliance baseline, and the annual averages for sulfur, olefins and T-90 may not exceed 125 percent of their compliance baseline value for these parameters. 40 CFR 80.101(b)(1). In most cases, the compliance baseline is the same as the individual baseline. 40 CFR 80.101(f). For reformulated gasoline, certain standards applicable during 1995 through 1997 are also expressed in terms of a refiner's or importer's individual baseline. 40 CFR 80.41(H)(2).

EPA assigns an individual baseline after reviewing the individual baseline values for various fuel parameters, the motor vehicle exhaust emissions levels calculated from such parameters, individual 1990 baseline gasoline volumes, and the blendstock to gasoline ratios for 1990 through 1993, all submitted by the refiner or importer. This information would be deemed not confidential under EPA's current regulations. In addition, under the current regulations, EPA would publish the individual emissions standard for each refiner or importer, as well as the sulfur, olefins and T-90 standard noted above. 40 CFR 80.93(b)(6).

C. Proposal

EPA remains concerned that the emissions standards for refiners and importers should continue to be public. Therefore, EPA is proposing to publish the individual baseline values for exhaust emissions that comprise a refiner or importer's standards. EPA is proposing that the standards for sulfur, olefins and T-90 applicable during 1995 through 1997 not be published, and that the reporting requirements be revised so a refiner or importer would have to note whether and how much their annual average for these values exceeded their individual baseline value. This latter information would be considered nonconfidential. This would effectively provide the same benefits as publishing the baseline values for these three parameters as it would clearly show whether a refiner or importer violated the standards applicable for these fuel parameters. In addition, requests for release of other baseline information would be governed by the regulations on the confidentiality of business information at 40 CFR Part 2 subpart B. EPA is proposing this change so that the factual and legal issues concerning disclosure of this information may be resolved on a case-by-case basis under EPA's CBI rules.

For a discussion of industry concerns regarding this issue and EPA's rationale behind its proposal, 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.

VII. Environmental and Economic Impacts

The environmental impacts of today's proposal are minimal, as discussed above. Additionally, economic impacts are generally beneficial to affected refiners due to the additional flexibility proposed in today's notice. Minimal anti-competitive effects are expected.

The environmental and economic impacts of the reformulated gasoline program are described in the Regulatory Impact Analysis supporting the December 1993 rule, which is available in Public Docket A–92–12 located at Room M–1500, Waterside Mall (ground floor), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

VIII. Public Participation

EPA desires full public participation in arriving at its final decisions and solicits comments on all aspects of this proposal. Wherever applicable, full supporting data and detailed analysis should also be submitted to allow EPA to make maximum use of the comments. All comments should be directed, by [30 days after publication] to the EPA Air Docket, Docket A–95–03 (See ADDRESSES).

Any proprietary information being submitted for the Agency's consideration should be markedly distinguished from other submittal information and clearly labelled "Confidential Business Information." Proprietary information should be sent directly to the contact person listed above, and not to the public docket, to ensure that it is not inadvertently placed in the docket. Information thus labeled and directed shall be covered by a claim of confidentiality and will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR Part 2. If no claim of confidentiality accompanies a submission when it is received by EPA, it may be made available to the public without further notice to the commenter.

IX. Compliance With the Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980 requires federal agencies to examine the effects of their regulations and to identify any significant adverse impacts of those regulations on a substantial number of small entities. Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities. In fact, today's proposals are designed to promote successful implementation of the antidumping requirements of the reformulated gasoline program for all affected parties and to minimize any adverse competitive impacts by virtue of the proposal to report individual baseline emissions and not fuel parameters.