Senate Funds MTBE Plant Conversion, Diesel Desulfurization

by Carol Cole

The recently passed Senate energy bill, now numbered H.R. 4, contains a provision that would offer financial assistance to merchant MTBE producers to convert their plants to alternative production, namely isooctane and alkylate. The bill makes $250 million available for that purpose in each of the years 2003, 2004 and 2005. As it is written, the bill offers no funds for the conversion of refinery-based plants, but some will get a break on the production of ultra-low sulfur diesel (ULSD).

Under the Senate bill, financial assistance is limited to merchant, rather than captive MTBE plants. “There was never any real focus on refineries,” said a source familiar with the legislation. “The thought is that merchant producers are the most aggrieved party.”

Sec. 833 of H.R. 4 contains a section called MTBE Merchant Producer Conversion Assistance. The section states that the U.S. Energy Secretary, in consultation with the EPA administrator, may make grants to merchant producers of MTBE in the U.S. to assist the producers in the conversion to isooctane and alkylates.

The production must be used to replace lost gasoline volume from the phase-out of MTBE. The products must have been registered and tested or be in testing to determine their impact on health and the environment in accordance with the Clean Air Act. Grants could be denied if the EPA administrator determines “that such fuel additives may reasonably be anticipated to endanger the public health or the environment.” The MTBE plant must be located in the U.S. and have been producing MTBE for non-attainment areas as of the date of enactment. ‘Transition assistance is a critical element in making sure there will be sufficient supplies of clean octane if the Senate provisions pass,” the source continued. “Without transition assistance, there is a pretty good likelihood there won’t be enough market participants to ensure reasonable prices and adequate supplies of clear octane.”

Dollars for Desulfurization

Both the House and Senate bills include tax breaks for the production of ULSD. The Senate version of H.R. 4 includes a Sec. H, Energy Tax Incentives Act of 2002, which makes numerous changes to the Internal Revenue Code of 1986. Sec. 2302 of provides a new subsection D of the code, Deduction for Capital Costs Incurred in Complying with Environmental Protection Agency Sulfur Regulations. The section states, in part, that a small business refiner may treat 75% of any qualified capital costs as an expense … paid or incurred for the purpose of complying with the highway diesel fuel sulfur control requirement of the EPA.

“The term ‘small business refiner’ means, with respect to any taxable year, a refiner of crude oil, which, within the refinery operations of the business, employs not more than 1,500 employees on any day during such taxable year and whose average daily refinery run for the 1-year period ending on the date of the enactment of this section did not exceed 205,000 barrels.”

However, the 75% figure would be reduced corresponding to the volume of crude run between 155,000 b/d and 205,000 b/ in a particular year. We invited a spokesperson for the Senate Finance Committee to further clarify the language, but our calls were not returned.

Sec. 2304 provides a tax credit for small business refiners in an amount equal to 5 cents for every gallon of 15 ppm or less sulfur diesel.

The American Petroleum Institute is neutral on this provision, a spokesperson for the group said.

Similar provisions are in the House-passed version of H.R. 4, but Division C Sec. 3204 of that bill sets 150,000 b/d of capacity as the limit defining small refiners. The House and Senate bills are headed for conference, but sources say that might not occur until September.