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**RFG/Anti-Dumping
Questions and Answers
July 15, 1996**

Fuels and Energy Division
Office of Mobile Sources
U.S. Environmental Protection Agency

RFG/ANTI-DUMPING QUESTIONS AND ANSWERS, JULY 15, 1996

The following are responses to questions received by the Environmental Protection Agency (EPA) concerning the manner in which the EPA intends to implement and assure compliance with the reformulated gasoline and anti-dumping regulations at 40 CFR Part 80. This document was prepared by EPA's Office of Air and Radiation, Office of Mobile Sources, and Office of Enforcement and Compliance Assurance, Office of Regulatory Enforcement, Air Enforcement Division.

Regulated parties may use this document to aid in achieving compliance with the reformulated gasoline (RFG) and anti-dumping regulations. However, this document does not in any way alter the requirements of these regulations. While the answers provided in this document represent the Agency's interpretation and general plans for implementation of the regulations at this time, some of the responses may change as additional information becomes available or as the Agency further considers certain issues.

This guidance document does not establish or change legal rights or obligations. It does not establish binding rules or requirements and is not fully determinative of the issues addressed. Agency decisions in any particular case will be made applying the law and regulations on the basis of specific facts and actual action.

While we have attempted to include answers to all questions received, the necessity for policy decisions and/or resource constraints may have prevented the inclusion of certain questions. Questions not answered in this document will be answered in a subsequent document. Questions that merely require a justification of the regulations, or that have previously been answered or discussed either in a previous Question and Answer document or the Preamble to the regulations have been omitted.

BASELINES

Question: A refiner establishes a single 1990 baseline representing several facilities according to the **closely integrated facilities** provision in §80.91(e)(1). In 1996, one of the facilities in question shuts down. Is the refiner allowed to change its 1990 baseline to exclude the influence of the shut-down refinery on its baseline?

Answer: In general, no. Under the **closely integrated facilities provision**, two or more facilities are assumed to operate as a single refinery. If one of the facilities shuts down, the situation is analogous to the shut-down of one or more blendstock producing units in single-facility refinery. In both cases, since the 1990 situation remains unchanged, so also should the 1990 baseline.

The regulations provide few means for recalculation of a refinery baseline due to changes that occurred after 1990. One of these involves **aggregation** [see §80.101(h)]. Aggregation allows a multi-refinery refiner to group its individual baselines, representing separate refineries, together for a single set of compliance calculations. Aggregation thus occurs after the baselines for the individual facilities have been calculated and approved. In addition, there are no criteria that must be met before use of an aggregate baseline will be approved. Aggregated baselines may be recalculated according to §80.91(f)(4) in the event that one refinery is shut down or changes owners.

The closely integrated facilities provision [§80.91(e)(1)] is distinct and separate from the aggregation provision. In order to take advantage of the closely integrated facilities provision, a refiner must show that 1) the facilities in question were proximate to one another in 1990, and 2) their 1990 operations were significantly interconnected. A single baseline is developed which represents all the facilities in question. There is no regulatory provision for recalculating such a baseline if one facility is shut down or changes owners.

The EPA may consider making a change to a refiner's baseline if **one of the facilities included in a closely integrated facilities baseline is sold to another refiner rather than simply being shut down**. Under these conditions, the 1990 production may be double-counted as the sold refinery uses its own baseline representing gasoline it produced in 1990. Such situations will be evaluated on a case-by-case basis.