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### X. Administrative Designation

Pursuant to Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the executive order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this notice of proposed rulemaking is not a "significant regulatory action".

### XI. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and implementing regulations, 5 CFR Part 1320, do not apply to this action as it does not involve the collection of information as defined therein.

## XII. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate; or by the private sector, of \$100 million or more. Under Section 205, EPA must select the most costeffective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the action promulgated today does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local or tribal governments in the aggregate, or to the private sector. This action has the net effect of reducing burden of the reformulated gasoline program on regulated entities. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

### XIII. Statutory Authority

The statutory authority for the actions proposed today is granted to EPA by Sections 114, 211 (c) and (k) and 301 of the Clean Air Act, as amended; 42 U.S.C. 7414, 7545 (c) and (k), and 7601.

# List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Fuel additives, Gasoline, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: May 25, 1995.

# Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 80 of title 40 of the Code of Federal Regulations is amended as follows:

# PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

**Authority:** Sections 114, 211, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7414, 7545 and 7601(a)).

2. Section 80.75 is amended by removing "and" at the end of paragraph (b)(2)(ii)(F), by adding a semi-colon in place of the period at the end of paragraph (b)(2)(ii)(G), and adding paragraphs (b)(2)(ii) (H), (I), and (J) to read as follows:

### §80.75 Reporting requirements.

#### \* \* \*

- (b) \* \* \*
- (2) \* \* \*
- (ii) \* \* \*

(H) The difference between the applicable sulfur content standard under  $\S$  80.41(h)(2)(i) in parts per million and the average sulfur content in parts per million, indicating whether the average is greater or lesser than the applicable standard;

(I) The difference between the applicable olefin content standard under  $\S$  80.41(h)(2)(i) in volume percent and the average olefin content in volume percent, indicating whether the average is greater or lesser than the applicable standard; and

(J) The difference between the applicable T90 distillation point standard under § 80.41(h)(2)(i) in degrees Fahrenheit and the average T90 distillation point in degrees Fahrenheit, indicating whether the average is greater or lesser than the applicable standard.

3. Section 80.91 is amended by revising paragraph (e)(7)(i) and adding paragraphs (e)(8) and (e)(9) to read as follows:

### §80.91 Individual baseline determination.

\* \*

(e) \* \* \* (7) \* \* \*

(i) Baseline adjustments may be allowed, upon petition and approval (per § 80.93), if a refinery produced JP– 4 jet fuel in 1990 and all of the following

requirements are also met: (A) Refinery type.

\*

(1) The refinery is the only refinery of a refiner such that it cannot form an aggregate baseline with another refinery (per paragraph (f) of this section); or

(2) The refinery is one refinery of a multi-refinery refiner for which all of its refineries produced JP-4 in 1990 and each of the refineries also meets the requirements specified in paragraphs (e)(7)(i) (B) and (C) of this section; or

(*3*) The refinery is one refinery of a multi-refinery refiner for which not all of the refiner's refineries produced JP–4 in 1990.

(B) No refinery of the refiner produces reformulated gasoline. If any refinery of the refiner produces reformulated gasoline at any time in a calendar year, the compliance baseline of all its refineries receiving a baseline adjustment per this paragraph (e)(7) shall revert to each refinery's unadjusted baseline for that year and all subsequent years.

(C) 1990 JP–4 to gasoline ratio.

(1) For a refiner per paragraph (e)(7)(i)(A)(1) of this section, the ratio of its refinery's 1990 JP-4 production to its 1990 gasoline production must equal or exceed 0.15.

(2) For a refiner per paragraph (e)(7)(i)(A)(2) of this section, the ratio of each of its refinery's 1990 JP–4 production to its 1990 gasoline production must equal or exceed 0.15.

(3) For a refiner per paragraph (e)(7)(i)(A)(3) of this section, the ratio of the refiner's 1990 JP–4 production to its 1990 gasoline production must equal or exceed 0.15, when determined across all of its refineries.

(8) Baseline adjustments due to

increasing crude sulfur content. (i) Baseline adjustments may be

allowed, upon petition and approval (per § 80.93), if a refinery meets all of the following requirements:

(A) The refinery does not produce reformulated gasoline. If the refinery