

DOCKETED

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STATE OF CALIFORNIA
STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

IN THE MATTER OF:

**MAXIMUM GROSS GASOLINE REFINING
MARGIN AND PENALTY**

DOCKET No: 23-OIIP-01

**ORDER INSTITUTING
INFORMATIONAL PROCEEDING**

I. INTRODUCTION

In March 2023, Governor Gavin Newsom signed Senate Bill (SB) X1-2 (Stats. 2023, 1st Ex. Sess. 2023, ch. 1), the California Gas Price Gouging and Transparency Law. This bill, along with SB 1322 (Stats. 2022, ch. 374), added to the California Energy Commission's (CEC) oversight of the petroleum industry established by the Petroleum Industry Information Reporting Act (PIIRA) of 1980 (Public Resources Code, §25350 et seq.).

Among other things, SB X1-2 increases transparency through new data collection and reporting, creates an independent division to monitor petroleum markets and flag potential market manipulation, and requires the CEC to assess the transportation fuels market and identify methods to ensure an adequate, affordable, and reliable fuel supply as the state transitions away from petroleum fuels. To protect Californians from gasoline price gouging, SB X1-2 also authorizes the CEC to set a maximum gross gasoline refining margin (Max Margin) and a penalty for refiners that exceed it. The CEC is launching this informational proceeding to explore potentially establishing a Max Margin and penalty.

II. AUTHORITY AND ASSIGNMENT OF LEAD COMMISSIONER

Pursuant to Public Resources Code section 25210 and California Code of Regulations, Title 20, sections 1220(b) and 1222(b), informational proceedings allow the CEC to hold hearings and take other actions to gather and assess information needed to assist it in formulating policies. This proceeding will provide a forum for the CEC to gather necessary information to consider establishing a Max Margin under Public Resources Code (PRC) section 25355.5. If the CEC establishes a Max Margin, it must also establish a penalty for exceeding that Max Margin. The CEC must consider certain information in establishing a Max Margin and penalty, such as the information reported under PRC Section 25355(b) and confidential information submitted pursuant to PRC Sections 25354 and 25355. SB X1-2 specifically directs the CEC to consider the impacts a Max Margin and penalty may have on petroleum supplies and on the price at the pump in California. The CEC may consider any public data and reports that it determines will assist its analysis.

Together, these provisions of law give the CEC authority to collect the information necessary to analyze the impacts of a Max Margin and penalty, and determine whether to establish a Max Margin and penalty.

Vice Chair Siva Gunda shall be the Lead Commissioner for this OIIP.

III. NATURE AND PURPOSE OF THIS PROCEEDING

Through this Order Instituting Informational Proceeding (OIIP), the CEC seeks to collect information and perspectives on establishing a Max Margin, and if a Max Margin is warranted, determining the level it should be set at and the associated penalty to be imposed on refiners that exceed the Max Margin. Prior to setting a Max Margin and penalty, the CEC must find: "...that the likely benefits to consumers outweigh the potential costs to consumers." The CEC has discretion to consider all relevant factors in making this determination, including:

- (1) Whether a Max Margin and penalty are likely to cause greater imbalance between supply and demand in the California transportation fuels market.
- (2) Whether a Max Margin and penalty are likely to cause higher average prices at the pump on an annual basis.
- (3) Whether case-by-case exemptions from the Max Margin will allow refiners to demonstrate the need for a greater margin before making production decisions.

The OIIP seeks to establish a record of stakeholder input from multiple perspectives, including those of consumer advocates, environmental justice and environmental groups, labor, industry, academia, and the public. CEC staff will use the input received through the OIIP to develop recommendations for the Max Margin, penalty, and exemptions from the penalty, if applicable.

This proceeding may include extensive stakeholder engagement, including workshops, working groups, and outreach to communities and community-based organizations who cannot easily participate in regulatory proceedings. This OIIP will facilitate information exchange with interested stakeholders. Therefore, pursuant to the authority and powers described above, the Lead Commissioner may require the presence and participation of such persons in this informational proceeding pursuant to this Order and any future orders consistent with the nature and purpose of this OIIP. The CEC may also launch phases within the informational proceeding to further focus the proceeding's scope and to address new or emerging issues.

IV. HEARINGS AND WORKSHOPS

The Lead Commissioner will issue notices at least 14 days before the first hearing and 10 days in advance of any subsequent hearings and workshops and will identify at that time when written comments or testimony will be due, as well as the manner of the filing. Public comment will be allowed at all workshops and hearings. The CEC will hold

the first hearing in this proceeding on November 28, 2023 from 9 a.m. to 12 p.m. Pacific Time. This hearing is currently planned as a virtual workshop. Additional details will be included in the public notice. The CEC may hold additional hearings in this proceeding as necessary.

V. PUBLIC PARTICIPATION

The CEC encourages public participation in this proceeding. Any person participating in a hearing or workshop shall be afforded reasonable opportunity to make comments. Petitions to intervene are not necessary.

To foster public participation in this proceeding, the Executive Director, in conjunction with the Public Advisor, shall ensure that information regarding this order and notices of hearings and workshops are distributed to all interested persons via the list serve and posted on the CEC website. To stay informed about this proceeding and receive documents and notices of upcoming workshops and hearings as they are filed, interested persons may subscribe to the proceeding list serve (Transportation Energy > SB 2 Implementation), which can be accessed here: https://www.energy.ca.gov/listservers/index_cms.html. The list serve emails notifications and direct links when documents and notices are filed in the proceeding docket.

For additional information about how to participate in this proceeding, please contact the CEC's Office of the Public Advisor, Energy Equity, and Tribal Affairs at (916) 957-7910, or via email at publicadvisor@energy.ca.gov. Media questions should be directed to the CEC's Media Office by email at mediaoffice@energy.ca.gov.

VI. CONCLUSION AND ORDER

The CEC therefore institutes an informational proceeding to accomplish the purposes specified above, designates Vice Chair Siva Gunda as Lead Commissioner of this proceeding, and directs the Executive Director and staff to collect and evaluate the information needed under guidance of the Lead Commissioner.

IT IS SO ORDERED.

CERTIFICATION

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of an Order duly and regularly adopted at a meeting of the CEC held on October 18, 2023.

AYE: Gunda, McAllister, Monahan, Gallardo

NAY: NONE

ABSENT: Hochschild

ABSTAIN: NONE

Dated: October 19, 2023

SIGNED BY:

Kristine Banaag
Secretariat