

DOCKETED

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**California Energy Commission
May 8 Business Meeting
Backup Materials for Emergency Rulemaking Implementing Revised SB X1-2
Gasoline Refining Margin and Marine Import Reporting Requirements**

The following backup materials for the above-referenced agenda item are available as described below:

1. Proposed Resolution, attached below.
2. Notice of Proposed Rulemaking, attached below.
3. CEQA documents, attached below.

For the complete record, please visit:

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=23-OIR-03>.

To stay informed about this project and receive documents as they are filed, please subscribe to the proceeding Topic, which can be accessed here:

<https://public.govdelivery.com/accounts/CNRA/signup/31898>. The Topic sends out email notifications and direct links when documents are filed in the proceeding docket.

STATE OF CALIFORNIA
STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

IN THE MATTER OF:

**Emergency Rulemaking
Implementing Revised SB X1-2
Gasoline Refining Margin and
Marine Import Reporting
Requirements**

Docket No. 23-OIR-03

**[PROPOSED] RESOLUTION
ADOPTING EMERGENCY
REGULATIONS**

WHEREAS, on March 28, 2023, the Legislature enacted, and the Governor signed Senate Bill (SB) X1-2 (Stats. 2023, 1st Ex. Sess. 2023, ch.1), which, among other things, added section 25354(j) and amended section 25355 in Chapter 4.5 of Division 15 of the Public Resources Code; and

WHEREAS, to improve reporting of data to the CEC about the petroleum market that is essential for the CEC's oversight functions and for the state to develop and administer energy policies in the best interests of the state and public welfare, Public Resources Code section 25367 authorizes the CEC to adopt regulations to implement Chapter 4.5 of Division 15 of the Public Resources Code, including the proposed regulations clarifying and revising reporting requirements related to the gasoline refining margin and marine imports ; and

WHEREAS, Section 25367 states that the adoption of these regulations shall be considered by the Office of Administrative Law (OAL) as an emergency, and necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding any other area of law, the emergency regulations adopted to implement this chapter shall remain in effect for two years; and

WHEREAS, with gasoline prices continuing to spike and affect Californians on a daily basis, it is imperative to quickly adopt these reporting requirements to immediately begin gathering the identified data to provide greater transparency to the petroleum market and provide the information needed to better address and understand the causes of these price spikes and prevent their continued occurrence; and

WHEREAS, on February 29, 2024, the CEC noticed and on March 18, 2024, held a workshop to discuss proposed changes to the regulations; and

WHEREAS, on March 12, 2024, CEC staff published the draft proposed regulation changes; and

WHEREAS, at the March 18, 2024 workshop CEC staff presented an overview of the proposed regulations and established a written comment period up to and including April 1, 2024; and

WHEREAS, the CEC received several comment letters relevant to the proposed regulations during the written comment period; and

WHEREAS, CEC staff engaged with stakeholders throughout this process and modified the proposed regulations based on feedback received; and

WHEREAS, on April 26, 2024, the CEC provided notice to the listserves associated with CEC business meetings and SB X1-2 implementation, and on the business meeting webpage, that it designated May 8, 2024, as the date for the business meeting to consider adoption of the proposed emergency regulations; and

WHEREAS, on April 30, 2024, more than five working days prior to submission of the proposed emergency action to OAL, the CEC provided notice of the proposed action, which included the proposed emergency regulations, to every person who has filed a request for notice of regulatory action with the agency in addition to others who have expressed interest in this topic specifically; and

WHEREAS, on May 8, 2024, the CEC considered the proposed emergency regulations at its business meeting.

THEREFORE, THE CALIFORNIA ENERGY COMMISSION FINDS:

With regard to the California Environmental Quality Act (CEQA):

- The CEC has considered the application of CEQA to the proposed emergency regulations and concluded that adoption of the proposed emergency regulations is not a project under CEQA (Cal. Code Regs., tit. 14, § 15378(a)) because the regulations will not result in a physical change to the environment or reasonably foreseeable indirect physical change to the environment. Even if adoption of the proposed emergency regulations were determined to be a project, this action would nonetheless be categorically exempt from CEQA under the Class 6 Information Collection exemption (Pub. Resources Code, § 15061(b)(2); Cal. Code Regs., tit. 14, § 15306) and would also be exempt from CEQA under the common sense exemption. (Cal. Code Regs., tit. 14, § 15061(b)(3).); and

With regard to the Administrative Procedure Act:

- The proposed regulations are deemed an emergency by statute, are supported by an express statement containing specific facts demonstrating the existence of an emergency, and the CEC has express statutory authority to seek approval of these regulations implementing Chapter 4.5 of Division 15 of the Public Resources Code, including the marine import and gasoline refining margin reporting requirements in sections 25354(j) and 25355, respectively, through OAL's emergency rulemaking procedures; and
- The proposed emergency regulations will impose no direct costs or savings, or direct or indirect requirements or mandates, on state agencies, local agencies, or school districts, including but not limited to costs that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code; and
- The proposed emergency regulations will result in no costs or savings in federal funding to the State of California; and
- The proposed emergency regulations will result in no nondiscretionary costs or savings to any state agencies, local agencies, or school districts; and

THEREFORE, BE IT RESOLVED that, based on the entire record before it, the CEC finds that adoption of the proposed emergency regulations is not a project under CEQA (Cal. Code Regs., tit. 14, § 15378(a)) because the regulations will not result in a direct physical change to the environment or reasonably foreseeable indirect physical change to the environment. The adoption of the proposed emergency regulations is also exempt from CEQA as a categorical exemption under the Class 6 Information Collection exemption (Pub. Resources Code, § 15061(b)(2); Cal. Code Regs., tit. 14, §15306) and adoption of the regulations would also be exempt from CEQA under the common sense exemption. (Cal. Code Regs., tit. 14, § 15061(b)(3).); and

FURTHER BE IT RESOLVED that, after considering all comments received and based on the entire record of this proceeding, the CEC hereby adopts the emergency regulations implementing the marine import and gasoline refining margin reporting requirements as published on April 30, 2024 and incorporating any changes presented and adopted today. The CEC takes this action under the authority of sections 25213, 25218(e), 25354, and 25367 of the Public Resources Code, which among other powers conferred authorize the CEC to adopt emergency regulations, as reasonable and necessary, to implement Chapter 4.5 of Division 15 of the Public Resources Code; and

FURTHER BE IT RESOLVED that documents and other materials that constitute the rulemaking record can be found at the CEC, 715 P Street, Sacramento, California, 95814 in the custody of the Docket Unit and online in Docket Number 23-OIR-03, at

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=23-oir-03> and posted on the CEC's website; and

FURTHER BE IT RESOLVED that, the CEC delegates the authority and directs CEC staff to take, on behalf of the CEC, all actions reasonably necessary to have the proposed emergency regulations go into effect, including but not limited to making any appropriate non-substantive changes to the regulations; preparing all appropriate documents; compiling and submitting the rulemaking file to the Office of Administrative Law (OAL); making any changes to the rulemaking file required by OAL; and filing a notice of exemption with the Office of Planning and Research.

CERTIFICATION

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the CEC held on May 8, 2024.

AYE:
NAY:
ABSENT:
ABSTAIN:

Dated:

Kristine Banaag
Secretariat

STATE OF CALIFORNIA
CALIFORNIA ENERGY COMMISSION
ADOPTION OF EMERGENCY RULEMAKING ACTION
Docket No. 23-OIR-03

Revised SB X1-2 Gasoline Refining Margin and Marine Import Reporting Requirements
Petroleum Industry Information Reporting Act of 1980
Chapter 4.5 of Division 15 of the Public Resources Code

NOTICE OF PROPOSED EMERGENCY ACTION

Government Code section 11346.1(a)(2) requires that at least five working days prior to submission of a proposed emergency action to the Office of Administrative Law (OAL), the adopting agency provide notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency action to OAL, OAL shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

The California Energy Commission (CEC) intends to submit this proposed emergency rulemaking action for OAL review on **May 9, 2024**. Upon submission, OAL will have 10 calendar days within which to review and decide on the proposed emergency rulemaking action. If approved, the regulations will become effective when OAL files the regulations with the Secretary of State. Under Public Resources Code section 25367, these emergency regulations remain in effect for two years.

The submitted emergency action, including the specific language of the proposed emergency regulations, will appear on the list of “Emergency Regulations Under Review” on OAL’s website at

https://oal.ca.gov/emergency_regulations/emergency_regulations_under_review/

and is included with this notice.

Comments must be submitted in writing to **both** CEC and OAL.

For CEC:

Comments should be e-filed in Docket No. 23-OIR-03, the “General Rulemaking Proceeding for Developing Regulations, Guidelines, and Policies for Implementing SB X1-2 and SB 1322” at

<https://efiling.energy.ca.gov/EComment/EComment.aspx?docketnumber=23-OIR-03>.

For e-filing questions, contact docket@energy.ca.gov.

In the alternative, written comments may also be submitted by email. Include Docket Number 23-OIR-03 in the subject line and email to docket@energy.ca.gov.

A paper copy may be sent to:

California Energy Commission
Docket Unit
Docket No. 23-OIR-03
715 P Street, MS-4
Sacramento, CA 95814

and

For OAL:

Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814
Fax: (916) 323-6826
Email: staff@oal.ca.gov

FINDING OF EMERGENCY

Transportation fuel, and gasoline in particular, is an essential commodity on which millions of Californians rely each day to get to work, access healthcare, conduct business, and navigate other essential aspects of daily life. Even as California increasingly transitions to zero-emission vehicles, most California residents continue to rely on petroleum-based transportation fuels.

The average price of gasoline spiked to record or near record levels of above \$6.00 per gallon on three occasions in the past two years. These spikes can occur at any time and often occur in the fall season due to a combination of factors including maintenance-related supply shortages, lack of imports, and market manipulation. Price spikes are expected to continue to increase in both frequency and intensity as the California petroleum market contracts in response to declining demand. In 2024, the Philips 66 Rodeo refinery officially ceased crude oil processing and gasoline production operations, moving instead to renewable diesel production. This further constrains local production of gasoline which adds to the potential for price spikes in the immediate future. Transportation fuel price spikes can interrupt essential services, threaten the financial well-being of small businesses and residents, and force California residents to make sacrifices with serious consequences for their health, safety, and well-being.

In response to a severe gasoline price spike in the fall of 2022, the Governor convened a special legislative session that led to the enactment of Senate Bill (SB) X1-2 (Stats.

2023, 1st Ex. Sess. 2023, ch. 1) in March 2023. The legislative findings of SB X1-2, the entirety of which are incorporated into the rulemaking record, state that during a 90-day period in 2022 coinciding with a gasoline price spike, refiners earned a record \$63,000,000,000 in profits and that refiners set record annual profits for 2022. In response, the legislature declared that fundamental change is necessary to prevent future extreme price spikes and price gouging by oil companies and tasked the CEC with gathering and analyzing the necessary data. These data, including the enhanced reporting requirements implemented through this rulemaking, will increase visibility into the pricing, contracting, and marketing practices of industry participants at all levels of the supply chain and enable greater oversight by regulators. Complete and accurate information, combined with the investigative tools needed to deter and detect anticompetitive conduct and other behavior that harms California consumers, is necessary to empower regulators to fulfill the various mandates in SB X1-2 and the broader PIIRA legislative scheme.

Among other things, SB X1-2 amended Chapter 4.5 of Division 15 of the Public Resources Code (the Petroleum Industry Information Reporting Act of 1980 (PIIRA)) and created a new independent division in the CEC, the Division of Petroleum Market Oversight (DPMO). Under PIIRA, the CEC collects data about the petroleum market that is essential for the state to develop and administer energy policies in the best interests of the state and public welfare. SB X1-2, which took effect in June 2023, significantly expanded the information that refiners and other petroleum market participants are required to submit to the CEC under PIIRA, including new information on refining margins and marine imports. SB X1-2 also authorized the CEC to establish a maximum gross gasoline refining margin (Max Margin) to deter price gouging and protect Californians from exorbitant gas prices. The Max Margin is among the strongest tools at the CEC's disposal to address these issues. These regulations will clarify and refine margin and marine import reporting requirements, which will in turn enhance oversight and enable the CEC to fully utilize the quiver of policy interventions authorized by SB X1-2, including the Max Margin, to protect Californians from impending transportation fuel price spikes.

The margin reporting requirements clarified and refined by these regulations will give the CEC and the state greater visibility into cost structures and incentives for the production of gasoline in California. Enhancing the reporting requirements regarding costs and sales channels will enable the CEC to better analyze how industry achieves its net margin and, in turn how such decisions impact California consumers. This analysis of profits and sales channels will be of utmost importance in the CEC's consideration of whether and at what level to establish a Max Margin and the magnitude of penalties to establish for exceedances of a Max Margin. Thorough and accurate data will be essential in this process to ensure the Max Margin advances state policy goals and to prevent adverse impacts and inappropriate incentives that could lead to unintended consequences.

The clarifications and refinements of the marine import reporting requirements will provide more detail on import markets that supply the marginal barrel of product to California. This information will further enable the CEC to evaluate the impact of a Max Margin on the industry and how a policy intervention of that nature is likely to impact refiner behavior, product flow, and, ultimately, California consumers. Like the enhanced margin information addressed above, this information will be critical to the CEC's efforts to fulfill its statutory mandate to address the mounting crisis of statewide gasoline price spikes. Changes to the marine import reporting requirements will also complement the planned and unplanned maintenance reports and allow the CEC to better evaluate the impact of such events more accurately on transportation fuel supply. Maintenance events take key production facilities offline and can have a profound impact on gasoline prices, especially when maintenance-related production losses are not adequately covered by supplemental capacity in the form of either additional production, storage, or imports. Gasoline production facilities in California tend to run at or near full capacity and in-state storage facilities are limited, leaving imports as the most flexible channel for obtaining supplemental capacity. The marine import reporting requirements added by SB X1-2 increased visibility into this aspect of the market, but additional detail is necessary regarding how import decisions are made, by whom, and in what timeframes.

Recognizing the immediate threat posed by transportation fuel price spikes, the legislature authorized the CEC in Public Resources Code section 25367 to implement Chapter 4.5 of Division 15 of the Public Resources Code, including the new reporting requirements specified in SB X1-2, through emergency rulemaking. Section 25367 specifically states:

Except as otherwise provided, the adoption of, or amendment to, regulations or orders implementing this chapter shall be considered by the Office of Administrative Law as an emergency, and necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding any other law, the emergency regulations or orders adopted to implement this chapter shall remain in effect for two years. Although the commission may adopt regulations to further define terms or prescribe reporting procedures or calculation methodologies pursuant to this chapter, or prescribe any other method of implementing this chapter, the provisions of this chapter are self-executing and shall not require any implementing regulation to be effective.

Therefore, in addition to the specific facts set forth above, these regulations are deemed by statute to be an emergency and necessary for the immediate preservation of public peace, health, safety, and general welfare, and the CEC has express statutory authority to seek approval of these regulations by implementing Chapter 4.5 of Division 15 of the

Public Resources Code through the emergency rulemaking procedures set forth in the Administrative Procedure Act and OAL's regulations.

DOCUMENTS RELIED UPON

Draft Transportation Fuels Assessment, 2024:

<https://efiling.energy.ca.gov/GetDocument.aspx?tn=255663&DocumentContentId=91492>

Transportation Fuel Supply Outlook, 2017:

<https://www.energy.ca.gov/publications/2017/transportation-fuel-supply-outlook-2017>

Oil Price Information Service Methodology Guidelines publication:

<https://www.opisnet.com/about/methodology/>

California State Lands Commission's Information for Vessels Arriving at California Ports: <https://www.slc.ca.gov/marine-invasive-species-program/information-for-vessels-arriving-at-california-ports/>

Transcript, 2016 INTEGRATED ENERGY POLICY REPORT (IEPR) WORKSHOP ON TRANSPORTATION FUEL SUPPLY RELIABILITY DUE TO REDUCED NATURAL GAS AVAILABILITY IN SUMMER 2016:

<https://efiling.energy.ca.gov/GetDocument.aspx?tn=212396&DocumentContentId=24482>

SB X1-2 (Stats. 2023, 1st Ex. Sess. 2023, ch. 1, §1):

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320241SB2

In addition to the specific documents referenced above, the CEC generally relied on the following programs and information in developing the proposed regulations:

Oil Price Information Service West Coast Report: <https://info.opisnet.com/west-coast-spot-report-2022>

Petroleum Industry Information Reporting Act Form M700 data collection:

<https://www.energy.ca.gov/files/piira-forms-and-instructions>

Oceaneering's PortVision 360: <https://www.oceaneering.com/asset-intelligence-and-management/portvision-360-vessel-tracking/>

AUTHORITY

Public Resources Code sections 25213, 25218(e), 25354, and 25367.

REFERENCE

Public Resources Code sections 25350, 25354, 25355, 25355.5, 25356, and 25364.

INFORMATIVE DIGEST

Existing law requires refinery operators to report gross and net gasoline refining margins to the CEC, including the pricing, volume, and operational cost information required to calculate such margins. Pursuant to existing law, the CEC must post on its website certain information related to the gross and net gasoline refining margins each month.

The proposed regulations clarify and refine the reporting requirements with respect to refining margins and the informational components required to calculate such margins. The proposed regulations clarify how to report required information for each sales channel and add substantial specificity to the categories of operational costs reported to promote more accurate and consistent reporting.

The proposed regulations provide for detailed accounting of both the gross and net gasoline refining margins that are reported, calculated, and posted pursuant to Public Resource Code 25355. This information, in turn, informs the CEC's analysis for a potential maximum gross gasoline refining margin pursuant to Public Resource Code 25355.5. This will allow the CEC to perform more detailed analysis of refinery gasoline sales and market interactions, allowing the CEC to meet its statutory obligations, including the requirement under Public Resources Code section 25355.5(e) that the CEC evaluate the impacts of a potential maximum gross gasoline refining margin and whether the benefits of establishing a maximum margin would outweigh the harm.

Existing law requires refiners and nonrefiners to submit certain information to the CEC on an annual, monthly, weekly, and daily basis, including that all importers of refined products and renewable fuels via marine vessel submit reports to the CEC.

The proposed regulations clarify and refine the information required to be included in marine import reports and provide specificity as to the types of entities that can be considered importers and thereby subject to the marine import report. The proposed regulations revise and recast when marine import reports must be submitted, requiring an initial report upon designation of delivery to California and subsequent reports if the cargo changes hands or is not sold at the time of initial arrival. The proposed regulations specify the circumstances in which a marine import report must be submitted less than 96 hours prior to arrival of a marine vessel delivery to California.

To analyze near term supply shortages that could lead to petroleum price spikes, the proposed regulations add clarity to the disposition of incoming marine vessels and the companies that are importing that petroleum material. This will allow the CEC to increase oversight and insights on the questions of who and what products are contributing to spot market spikes. The enhanced reporting requirements implemented through this rulemaking will improve transparency into refinery behavior, including cost allocation, and marine import activity, which will in turn enable the CEC and the DPMO to better protect the public from high gasoline prices.

The proposed regulations also revise the timing of the notice the CEC must provide when updating a form used to facilitate PIIRA reporting. The minimum advanced notice requirement would be reduced from 30 days to 7 days to provide the CEC with more flexibility in implementing reporting requirements without being constrained by unnecessarily long notice periods for each change.

Existing law and regulations directly related to the proposed action include:

- Public Resources Code sections 25350-25367 contain all reporting requirements related to PIIRA.
- Public Resources Code section 25370 contains selected definitions applicable to PIIRA reporting requirements.
- California Code of Regulations, title 20, chapter 3, article 3 (section 1361 *et seq.*) contains the CEC's regulations for Petroleum Information Reports.
- California Code of Regulations, title 20, sections 1363.1 and 1363.2, contain the definition of terms used for reporting purposes under PIIRA.
- California Code of Regulations, title 20, section 1366, identifies which entities are subject to the specific requirements to comply with PIIRA.

The proposed regulations are not inconsistent or incompatible with existing regulations. Pursuant to Chapter 4.5, sections 25354 and 25355 of Division 15 of the Public Resources Code, the margin and marine import portions of these regulations implement new reporting requirements for refinery margins and marine imports added by SB X1-2. The specific information reporting requirements addressed by these regulations augment the CEC's existing regulations for Petroleum Information Reports to accommodate and implement the new statutory reporting requirements. Similarly, the definitions added or amended by these regulations augment, but do not conflict with, existing definitions. Finally, the amendments made by these regulations to the rules on form and format of reports and confidentiality are compatible and consistent with existing regulations.

DOCUMENTS INCORPORATED BY REFERENCE

None.

OTHER MATTERS PRESCRIBED BY STATUTE

The CEC has determined that the proposed emergency rulemaking is not a project subject to CEQA because the proposed rulemaking relates to an informational reporting requirement, and so does not result in any direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Therefore, the activity is not subject to CEQA. In the event, however, that these regulations were determined to be a project under CEQA, they are nonetheless exempt pursuant to the common sense exemption and the Class 6 exemption pertaining to data gathering activities. (Title 14, Cal. Code of Regs., §15061(b)(3) and §15306.)

LOCAL MANDATE DETERMINATION

The CEC has determined that the proposed changes do not impose a mandate on local agencies or school districts.

FISCAL IMPACT

The CEC does not anticipate any costs to itself or other state agencies as a result of this emergency rulemaking action. The proposed emergency regulations refine, clarify, and make incremental additions to existing statutory reporting requirements in addition to adding more specificity to existing procedures. To the extent that new or additional information is obtained through the proposed regulations, the CEC will use existing staff resources, including resources gained at the passage of SB X1-2, to analyze and process that information. Additionally, the CEC is developing new processes to ingest and analyze larger datasets that are critical to inform policy decisions, with improved efficiency. Updates to filing requirements are increasingly requiring machine-readable data submissions, allowing the CEC to process the data more efficiently and at a lower cost. Therefore, the CEC does not expect the proposed regulations to result in additional costs to the agency.

The proposed regulations will not result in any reimbursable costs to local government agencies, school districts, nondiscretionary costs or savings to local government agencies, or costs or savings in federal funding to the state.

NONDUPLICATION

These regulations do not duplicate or serve the same purpose as any existing state or federal statute or regulation (Gov. Code, § 11349(f); Title 1, Cal. Code Regs., § 12). The statutory provisions governing petroleum regulation are lengthy and complex; in some instances it was determined that to ensure the regulations are straightforward and provide comprehensive direction for data submittals it was necessary to insert some statutory language within the regulatory provisions. All instances where existing statutes or regulations are referenced in the regulations have been determined to be necessary for the clarity of the regulations and consistent with the standard for permissible duplication contained in California Code of Regulations, title 1, section 12(b)(1).

PURPOSE AND NECESSITY

The following description of facts demonstrates the need for the proposed regulations to effectuate the provisions of Chapter 4.5 of Division 15 of the Public Resources Code being implemented, interpreted, or made specific and to address the demonstrated emergency. The emergency regulations support and effectuate the purpose of addressing unusually high gasoline price spikes and support the analysis of the Division of Petroleum Market Oversight in monitoring California's gasoline markets. In addition, as part of requirements set forth in Public Resources Code 25355.5, the CEC has been charged with setting a maximum gross gasoline refining margin and a penalty for exceeding that margin. As part of that direction, the CEC is required to consider whether such actions will lead to "greater imbalance between supply and demand in the California transportation fuels market" and "will lead to higher average prices". These regulations expand on existing reporting requirements to ensure the CEC has the information it needs at the granularity needed to appropriately monitor California's gasoline markets and fulfill its obligations under SB X1-2. Without the additional detailed information specified in these regulations, it would be difficult for the CEC to make a determination on whether and how to set a max margin, or design a penalty structure that would account for these issues.

California Code of Regulations, Title 20, Division 2, Chapter 3, Article 3 Petroleum Information Reports

§ 1363.1. Definitions. Specific Petroleum and Non-Petroleum Products.

Amendments to this section are necessary to clarify terms as used in the context of SB X1-2.

Specifically, the purpose of amending the definition of "unfinished oil" is to clarify which products should be reported under this category of operational costs in the margin report, which is necessary to distinguish these products from intermediate products that require only mechanical blending, such as blendstocks.

§ 1363.2. Definitions. Specific Definitions for Purposes of Reporting

Requirements. Amendments to this section are necessary to clarify terms introduced

by SB X1-2, add new terms pertinent to refinements made to the statutory reporting requirements, improve reporting compliance, and promote understanding among the regulated public. By clearly articulating definitions, industry participants can more efficiently satisfy reporting requirements and the CEC can more efficiently analyze the provided information. The rationale for expanding the reporting requirements to include reporting of these additional terms is provided in the discussion of Appendix B and Appendix D further below.

The purpose of adding the term “additives” is to define a term used in the report specified in Appendix B VII. This term is necessary for accurate and consistent reporting on cost elements that influence gross and net margins that will directly influence decisions on setting maximum gross margin levels outlined in Public Resources Code 25355.5. Without the additional data, the CEC cannot properly account for discrepancies seen between reported profit information in Securities Exchange Commission filings and California specific market prices, as well as provide more insight into how cost structures in California account for margin determinations. As additives could be a term applied to many chemicals within the fuel creation cycle, the CEC is specifically defining this term to the case of the detergent package added to finished gasoline that becomes ready for retail.

The purpose of adding the term “all other taxes and fees” is to define a term used in the report specified in Appendix B VII. This term is necessary for accurate and consistent reporting on cost elements that influence gross and net margins that will directly influence decisions on setting maximum gross margin levels outlined in Public Resources Code 25355.5. Without the additional data, the CEC cannot properly account for discrepancies seen between reported profit information in Securities Exchange Commission filings and California specific market prices by specifically accounting for costs added by mandatory taxes and fees, which exclude costs from the Low Carbon Fuel Standard and Cap-and-Trade program specifically as they require separate valuation per statutory requirements..

The purpose of adding the term “branded rack sales” is to is to define a term used in the report specified in Appendix B VII. This term is necessary for accurate and consistent reporting on sales channels that influence gross and net margins that will directly influence decisions on setting maximum gross margin levels outlined in Public Resources Code 25355.5. Without the additional data, the CEC cannot properly account for discrepancies seen between reported profit information in Securities Exchange Commission filings and California specific market prices, as well as provide more insight into how cost structures in California account for margin determinations. Branded rack sales are a common industry term for this distribution arrangement which the CEC has adopted in its definition.

The purpose of adding the term “bulk sales” is to define a term used in the report specified in Appendix B VII. This term is necessary for accurate and consistent reporting on sales channels that influence gross and net margins that will directly influence decisions on setting maximum gross margin levels outlined in Public Resources Code 25355.5. Without the additional data, the CEC cannot properly account for discrepancies seen between reported profit information in Securities Exchange Commission filings and California specific market prices, as well as provide more insight into how cost structures in California account for margin determinations. Bulk sales are a common industry term for this distribution arrangement which the CEC has adopted in its definition.

The purpose of adding the term “catalyst” is to define a term used in the report specified in Appendix B VII. This term is necessary for accurate and consistent reporting on cost elements that influence gross and net margins that will directly influence decisions on setting maximum gross margin levels outlined in Public Resources Code 25355.5. Without the additional data, the CEC cannot properly account for discrepancies seen between reported profit information in Securities Exchange Commission filings and California specific market prices, as well as provide more insight into how cost structures in California account for margin determinations. The CEC has adopted the commonly understood definition of this term by both industry and the public.

The purpose of adding the term “company-owned, company-operated sale” is to define a term used in the report specified in Appendix B VII. This term is necessary for accurate and consistent reporting on sales channels that influence gross and net margins that will directly influence decisions on setting maximum gross margin levels outlined in Public Resources Code 25355.5. Without the additional data, the CEC cannot properly account for discrepancies seen between reported profit information in Securities Exchange Commission filings and California specific market prices, as well as provide more insight into how cost structures in California account for margin determinations. Company-owned, company-operated sales is a common industry term for this contractual distribution arrangement, which the CEC has adopted in its definition.

The purpose of adding the term “costs of labor” is to define a term used in the report specified in Appendix B VII. This term is necessary for accurate and consistent reporting on cost elements that influence gross and net margins that will directly influence decisions on setting maximum gross margin levels outlined in Public Resources Code 25355.5. Without the additional data, the CEC cannot properly account for discrepancies seen between reported profit information in Securities Exchange Commission filings and California specific market prices, as well as provide more insight into how cost structures in California account for margin determinations. The CEC has adopted a commonly understood definition for this term to allow for analysis of additional cost pressures to fuel from labor costs.

The purpose of adding the term “crude oil acquisition cost” is to define a term used in the report specified in Appendix B VII. This term is necessary for accurate and consistent reporting on cost elements that influence gross and net margins that will directly influence decisions on setting maximum gross margin levels outlined in Public Resources Code 25355.5. Without the additional data, the CEC cannot properly account for discrepancies seen between reported profit information in Securities Exchange Commission filings and California specific market prices, as well as provide more insight into how cost structures in California account for margin determinations. This definition was chosen to match reporting requirements seen at the federal level from the Energy Information Administration.

The purpose of adding the term “detergent additive” is to define a term used in the report specified in Appendix B VII. This term is necessary for accurate and consistent reporting on cost elements that influence gross and net margins that will directly influence decisions on setting maximum gross margin levels outlined in Public Resources Code 25355.5. Without the additional data, the CEC cannot properly account for discrepancies seen between reported profit information in Securities Exchange Commission filings and California specific market prices, as well as provide more insight into how cost structures in California account for margin determinations. As detergent additives could be a term applied to many chemicals within the fuel creation cycle, the CEC is specifically defining this term to the case of the detergent package added to finished gasoline that becomes ready for retail, that may include more than just the detergent as gasoline retailers market their product on the additive's overall benefits to engine cleaning.

The purpose of adding the term “gasoline blendstock” is to define a term used in the report specified in Appendix D II. This term is necessary for accurate and consistent reporting on shipments of petroleum products, and to distinguish these motor gasoline components from oxygenates, butane, and pentanes plus for reporting purposes.

The purpose of adding the term “gasoline treated as blendstock” is to define a term used in the report specified in Appendix D II. This term is necessary for accurate and consistent reporting on shipments of petroleum products, and to distinguish these motor gasoline components from oxygenates, butane, and pentanes plus for reporting purposes.

The purpose of adding the term “intermediate oil product” is to define a term used in the report specified in Appendix B VII. This term is necessary for accurate and consistent reporting on cost elements that influence gross and net margins that will directly influence decisions on setting maximum gross margin levels outlined in Public Resources Code 25355.5. Without the additional data, the CEC cannot properly account for discrepancies seen between reported profit information in Securities

Exchange Commission filings and California specific market prices, as well as provide more insight into how cost structures in California account for margin determinations. The CEC has chosen a commonly understood definition of this term that accounts for all possible refined chemicals used in refinery processes, which excludes the primary input to the refining process (crude oil) to account for costs from these chemicals to be accounted for in the cost of production of the final product.

The purpose of adding the term “landed cost” is to define a term used in the report specified in Appendix D II. This term is necessary for accurate and consistent reporting on shipment prices by requiring the price at point of delivery with all costs imbedded within it as the one to be reported.

The purpose of adding the term “Renewable Identification Number (RIN)” is to define a term used in the report specified in Appendix B VII. This term is necessary for accurate and consistent reporting on cost elements that influence gross and net margins that will directly influence decisions on setting maximum gross margin levels outlined in Public Resources Code 25355.5. Without the additional data, the CEC cannot properly account for discrepancies seen between reported profit information in Securities Exchange Commission filings and California specific market prices, as well as provide more insight into how cost structures in California account for margin determinations.

The purpose of adding the term “sale to other end-users” is to is to define a term used in the report specified in Appendix B VII. This term is necessary for accurate and consistent reporting on sales channels that influence gross and net margins that will directly influence decisions on setting maximum gross margin levels outlined in Public Resources Code 25355.5. Without the additional data, the CEC cannot properly account for discrepancies seen between reported profit information in Securities Exchange Commission filings and California specific market prices, as well as provide more insight into how cost structures in California account for margin determinations.

The purpose of adding the term “spot pipeline sale” is to is to define a term used in the report specified in Appendix B VII. This term is necessary for accurate and consistent reporting on sales channels that influence gross and net margins that will directly influence decisions on setting maximum gross margin levels outlined in Public Resources Code 25355.5. Without the additional data, the CEC cannot properly account for discrepancies seen between reported profit information in Securities Exchange Commission filings and California specific market prices, as well as provide more insight into how cost structures in California account for margin determinations.

The purpose of adding “turnaround” is to define a term used in maintenance reporting. The CEC is adopting the same definition found in Section 7872 of the Labor Code to maintain consistent industry reporting with the Department of Industrial Relations.

The purpose of adding “unbranded rack sales” is to is to is to define a term used in the report specified in Appendix B VII. This term is necessary for accurate and consistent reporting on sales channels that influence gross and net margins that will directly influence decisions on setting maximum gross margin levels outlined in Public Resources Code 25355.5. Without the additional data, the CEC cannot properly account for discrepancies seen between reported profit information in Securities Exchange Commission filings and California specific market prices, as well as provide more insight into how cost structures in California account for margin determinations. Unbranded rack sales is a common industry term for this distribution arrangement, which the CEC has adopted in its definition.

§ 1366. Requirement to File. Amendments to this section are necessary to specify the new statutory reporting requirements, as refined by this rulemaking, alongside the other specified petroleum information reports, and to clarify the entities subject to the new reporting requirements.

The purpose of amending subsection (k) and deleting subsection (l) is to clarify which entities are required to submit the report in Appendix B, Section VI. This change is necessary because part of the reporting criteria in the current subsection (l), the submission of Form EIA 782B to the United States Department of Energy, is defunct because that form was discontinued by the Federal Government. The amendment would combine (k) and (l) and remove the reference to the defunct EIA 782B form.

The purpose of adding subsection (v) is to specify the new reporting requirement alongside the other specified petroleum information reports, and to clarify the entities subject to the new spot market transaction reporting requirement. The proposed amendments will add a requirement to file clause to this section requiring reports specified in Appendix B, Section VII, which outlines the refining margin report requirements.

The purpose of adding subsection (w) is to specify the new reporting requirement alongside the other specified petroleum information reports, and to clarify the entities subject to the new spot market transaction reporting requirement. The proposed amendments will add a requirement to file clause to this section requiring reports specified in Appendix D, Section II, which outlines the marine import report requirements. The time period of 24-hours was listed as the minimum reporting deadline to account for the minimal travel times a marine transport vessel could travel between ports that could transport fuel, providing clarity of reporting expectations for stakeholders who could move fuel in timing windows shorter than that accounted for in statute.

§ 1367. Form and Format of Reports.

The purpose of amending the minimum notice period specified in this section for changes to forms provide additional flexibility for the CEC to modify or update its forms and reduce the delay in when those changes can be implemented. Under the current regulation, the CEC is required to provide a thirty-day notice even to correct typos or update terminology. This change is necessary for the CEC to be nimble in its implementation of new and ongoing reporting requirements without being constrained by unnecessarily long notice periods for each change. This requirement is a minimum and would not prevent the CEC from providing more time on an update-by-update basis if it was shown that entities needed more time to adjust their reporting processes to comply. However, most if not all of the updates the CEC has made to the forms outside of an official rulemaking have been minor or have removed specific reporting requirements and have not necessitated 30 days for regulated entities to adjust. The older 30-day notice requirement was based on need to collect information through paper and fax submissions, with the 30-days providing the time to fully communicate form changes. Over the past 40 years, data transfer and processing techniques have significantly improved with the current 30-day requirement unnecessarily increasing the time the CEC must spend to change a paper form to a web-portal interface or change to a different file format. Often times these changes would not only benefit the CEC, but ease the burden on stakeholders by allowing the CEC to provide data validation and information receipt confirmation. With the current emergency declaration citing a need to quickly analyze and collect information on all aspects of the petroleum industry, reducing the necessary time needed to implement time-saving informational gathering procedures becomes necessary.

§1370. Confidentiality Information.

The purpose of amending this provision and adding the qualifier, “[e]xcept as otherwise provided by law” is to ensure that the CEC’s regulations are consistent with applicable law. Public Resources Code section 25364 allows for disclosure of confidential information under certain very limited circumstances. This change is necessary to account for those circumstances.

§1371. Failure to Provide Information.

The purpose of amending this section is to include new components of the PIIRA reporting scheme added by SB X1-2, including those implemented by these regulations and the California Refinery Maintenance Reporting Guidebook, in the scope of section 1371. This is necessary to specify the CEC’s authority to enforce these new requirements.

Appendix B: Section VI. Monthly Refining Margin Report. The necessity of specific items in Appendix B, Section VI is described in more detail below.

The purpose of section A. is to require company identification and contact information, which is necessary to differentiate reports submitted to the CEC between one another for archiving purposes and to identify a submitter to contact if any questions or disputes about the provided information occurs.

The purpose of section B. is to outline the statutory requirement found in Public Resources Code 25355 (b)(1)(2) and interpret and make specific the requirement by defining the specific units to report this requirement in. It is necessary to define the unit to standardize reporting across filers of this report and prevent interpretational confusion of the filed reports.

The purpose of section C. is to outline the statutory requirement found in Public Resources Code 25355 (b)(7) and interpret and make specific the requirement by detailing instructions on the formula to use in calculating the gross gasoline margin. This is necessary to reduce interpretational confusion and ensure consistency by making specific the wholesale sales channel to use in the calculation.

The purpose of section D. is to outline the statutory requirement found in Public Resources Code 25355 (b)(9) and interpret and make specific the requirement by detailing instructions on the formula to use in calculating the net gasoline margin. This is necessary to reduce interpretational confusion and ensure consistency by specifically defining the elements of operation costs to use in the calculation.

The purpose of section E. is to outline the statutory requirement found Public Resources Code 25355 (b)(6) and interpret and make specific the requirement to specify additional wholesale sales channels. These additions are necessary to properly calculate the “volume-weighted average price of wholesale gasoline” as required by Public Resources Code 25355 (a) and (b)(7). This further clarifies the statutory requirement by reducing interpretational confusion of the term wholesale and improves the CEC’s ability to account for discrepancies seen between reported profit information in Securities Exchange Commission filings and California specific market prices, as well as provide more insight into how cost structures in California account for margin determinations.

The purpose of section F. is to add total cost calculation fields to the reporting requirements not found in the statutory direction. These additions are necessary for error checking submitted data and ensuring accounting principles are maintained throughout the form.

The purpose of section G. is to further clarify the operational cost reporting requirements found in Public Resources Code 25355 (a)(3) and interpret and make specific the requirement to include additional cost items that are allowed through the “including, but not limited to” section of the statute. It is necessary to expand this list and

to make it specific to account for discrepancies seen between reported profit information in Securities Exchange Commission filings and California specific market prices, as well as provide more insight into how cost structures in California account for margin determinations. Expanding the list additionally provides the CEC clarity on different cost structures each refinery faces, which better informs the CEC in margin penalty determinations in implementing Public Resources Code 25355.5 to allow the CEC to make a finding “that the likely benefits to consumers outweigh the potential costs to consumers” as required by Public Resources Code 25355.5 (e).

Appendix D. Section II. California Marine Import Report. The necessity of specific items in Appendix D, Section II is described in more detail below.

The purpose of section A. is to define the timing requirements of the report and interpret and make specific the current statutory requirement by providing guidance on importing of material in which a shipment scheduled for arrival in California happens quicker than the statutory requirement. This is necessary to ensure clear understanding of reporting timelines and to provide clear reporting guidance for shipments with travel time less than the 96 hours. Public Resources Code section 25354(f)(3), among other provisions, provides the CEC authority to request information not specifically set forth in the statute.

The purpose of section B. is to define the product reporting requirements of the report and makes specific the individual products to be reported under the statutory requirement. Items listed in the proposed regulatory requirements are products already defined in Section 1363.1 with this clause making the groupings of those products specific. This is necessary to provide clear guidance on product reporting needs and to minimize overreporting of products.

The purpose of section C., subsection 1) is to require company identification and contact information, which is necessary to differentiate reports submitted to the CEC between one another for archiving purposes and to identify a submitter to contact if any questions or disputes about the provided information occurs.

The purpose of section C., subsection 2) is to list the date of when the decision to first ship product to California was made and is necessary to ensure reporting entities provide information in a timely manner for the CEC to understand potential supply constraint issues.

The purpose of section C., subsection 3) is to list the date loading of the vessel was completed and is necessary to ensure reporting entities provide information on the date when the product can first leave in order to be shipped to California, which is necessary for the CEC to analyze delivery and pricing practices in the petroleum spot market.

The purpose of section C., subsection 4) is to list the date of estimated arrival and is necessary to ensure reporting entities provide information on the date the product is expected to be delivered to California, which is necessary for the CEC to analyze delivery and pricing practices in the petroleum spot market.

The purpose of section C., subsection 5) is to list the type of marine vessel being used to transport the product to be delivered which is necessary to verify delivery of the product using State Lands Commission information.

The purpose of section C., subsection 6) is to list the name of the marine vessel being used to transport the product to be delivered which is necessary to verify delivery of the product using State Lands Commission information.

The purpose of section C., subsection 7) is to list the product to be delivered to California, which is necessary for the CEC to analyze pricing practices in the petroleum spot market.

The purpose of section C., subsection 8) is to list the amount of product to be delivered to California, which is necessary for the CEC to analyze pricing practices in the petroleum spot market.

The purpose of section C., subsection 9) is to list whether the cargo is a full or partial discharge of product, which is necessary to verify delivery of the product using State Lands Commission information and indicates whether the vessel could be later discharging more product in another California port.

The purpose of section C., subsection 10) is to list the seller of petroleum product cargo prior to it traveling in a marine vessel, which is necessary for the CEC to analyze pricing practices in the petroleum spot market.

The purpose of section C., subsection 11) is to list the seller of petroleum product when the marine vessel is traveling to California if applicable, which is necessary for the CEC to analyze pricing practices in the petroleum spot market.

The purpose of section C., subsection 12) is to list the seller of petroleum product after the marine vessel has docked at a California port if applicable, which is necessary for the CEC to analyze pricing practices in the petroleum spot market.

The purpose of section C., subsection 13) is to list the country of origin of petroleum product, which is necessary for the CEC to analyze pricing practices in the petroleum spot market.

The purpose of section C., subsection 14) is to list the port of origin of petroleum product, which is necessary for the CEC to analyze pricing practices in the petroleum spot market.

The purpose of section C., subsection 15) is to list the loading location of petroleum product purchased, which is necessary for the CEC to analyze pricing practices in the petroleum spot market.

The purpose of section C., subsection 16) is to list status of the product at the time of filing the report. Since the report is filed before the final delivery of a product is performed, that product could change destination and change purpose (e.g. cancelation). This field is necessary for the CEC to analyze pricing practices in the petroleum spot market and to verify how often California product is repurposed allowing a market liquidity analysis to be performed.

The purpose of section C., subsection 17) is to list the discharge location of petroleum product, which is necessary for the CEC to analyze pricing practices in the petroleum spot market.

The purpose of section C., subsection 18) is to list the date of the contract that the petroleum product was purchased and executed, which is necessary for the CEC to analyze pricing practices in the petroleum spot market.

The purpose of section C., subsection 19) is to list the total landed cost that the petroleum product was valued at upon delivery in California, which is necessary for the CEC to analyze pricing practices in the petroleum spot market.

The purpose of section C., subsection 20) is to list the tracking number of the marine vessel delivering the petroleum product to California, which is necessary to verify delivery of the product using State Lands Commission information.

The purpose of section C., subsection 21) is to list the name of the tug associated with the barge delivering the petroleum product to California, which is necessary to verify delivery of the product using State Lands Commission information.

The purpose of section C., subsection 22) is to list the tracking number of the associated tug delivering the petroleum product to California, which is necessary to verify delivery of the product using State Lands Commission information.

The purpose of section C., subsection 23) is to list the owner of the cargo being transported to California, which is necessary to verify delivery of the product using State Lands Commission information.

The purpose of section C., subsection 24) is to list the company name of the vessel transporting the product to California, which is necessary to verify delivery of the product using State Lands Commission information.

EXPRESS TERMS

California Code of Regulations
Title 20. Public Utilities and Energy
Division 2. State Energy Resources Conservation and Development Commission
Chapter 3. Data Collection
Article 3. Petroleum Information Reports

Proposed new language appears as underline (example) and proposed deletions appear as strikethrough (~~example~~). Existing language appears as plain text. Three dots or “...” represents the substance of the regulations that exists between the proposed language and current language.

§ 1363.1. Definitions: Specific Petroleum and Non-Petroleum Products.
[...skipping “Aviation Fuels” through “ULS Diesel”]

“Unfinished Oils” means all oils requiring further processing at a refinery, except those requiring only mechanical blending. Unfinished oils are produced by partial refining of crude oil and include naphthas and lighter oils, kerosene and light gas oils, heavy gas oils, and residuum.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code.
Reference: Sections 25354 and 25355, Public Resources Code.

§ 1363.2. Definitions: Specific Definitions for Purposes of Reporting Requirements.

“1/1/1” means a pricing window associated with the loading or discharge of a marine vessel that is benchmarked to a published reference price (such as OPIS prompt spot LA CARBOB Regular) the business day before, business day of, and business day after title transfer has commenced.

“3-Day Wrap” means a pricing window associated with the pumping of a pipeline tender that is benchmarked to a published reference price (such as OPIS prompt spot LA CARBOB Regular) the business day before, business day of, and business day after the pumping of the tender has commenced.

“Additives” means compounds formulated to reduce the formation of engine deposits when combined with gasoline intended to be sold at retail or to other end-user customers. Additives can include registered generic or proprietary formulations.

“Adjusted Dealer Tank Wagon (ADTW)” means the delivered wholesale transaction price for gasoline transported by tanker truck to a retail dealer or franchisee that has been adjusted to reflect the “net cost” to the retail dealer or franchisee such that all rebates or other discounts are subtracted from the original dealer tank wagon (DTW) price to reflect the net cost of the gasoline to the retail dealer or franchisee.

“Airport retail fuel outlet” refers to a facility that stores and dispenses petroleum products, typically jet fuel and aviation gasoline for use in private and/or commercial aircraft. Airport refueling operations that provide refueling services to military aircraft are excluded from this definition.

“All other taxes and fees” means the volume-weighted average price of all taxes and fees, other than underground storage tank fees and fees related to the Low Carbon Fuel Standard or Cap-and-Trade Program, included in a wholesale gasoline sale (such as branded rack, unbranded rack, bulk, spot pipeline, dealer tank wagon, company-owned, company-operated, or sales to other end-users).

“API” means the American Petroleum Institute.

“Average Throughput” means the liquid volume transported by a pipeline during a specific period divided by the number of days in that period.

“Barrel” means a unit of liquid measurement that consists of 42 U.S. gallons.

“Book Transfer” means the completion of a spot market purchase or sale obligation without a physical movement or title transfer of the product as a result of two parties having purchase and sale contracts that serve to offset each other, directly or in a contractual chain with other parties.

“Bulk Terminal” means a storage and distribution facility not open to the public that is used primarily for wholesale marketing of petroleum products and oxygenates with a minimum storage capacity of 50,000 barrels.

“Branded Rack Sales” means wholesale sales, not exceeding the size of a truckload, of petroleum products sold under a brand name with a proprietary additive package included, where title transfers at a distribution terminal.

“Broker” means an entity that negotiates contracts of purchase and sale of spot market transactions that is not classified as a refiner or a trader.

“Bulk Sales” means wholesale sales of petroleum products in individual transactions that exceed the size of a truckload. Examples include without limitation marine vessel (product tanker or barge) and rail tank car.

“Bunkering” means the physical transfer of marine fuels from one marine vessel to another marine vessel.

“CARB” means the California Air Resources Board.

“Cardlock Retail Fuel Outlet” means a facility, normally unattended by any operator, that dispenses refined petroleum products to consumers as a sole or predominant activity of their business operation.

“Catalyst” means a substance used to accelerate or retard a chemical reaction in refinery process units (such as catalytic cracking, hydrocracking, hydrotreating, and reforming) without itself undergoing significant chemical change or change in volume during the process.

“CEC” means the State Energy Resources Conservation and Development Commission or the California Energy Commission.

“Central Coast Region” means a geographic area in California that includes the counties of Monterey, San Benito, San Luis Obispo and Santa Barbara.

“Company-Owned, Company-Operated Sale” means a sale of gasoline, on-highway diesel fuel, or propane for on-highway vehicle use by any company-owned outlet, such as a service station, under the direct control of the refiner, such that the refiner can set the retail product price and directly collect all or part of the retail margin. This category includes retail outlets: (1) being operated by salaried employees of the refiner or its subsidiaries and affiliates, or (2) involving personnel services contracted by the refiner.

“Contract Identification Number” means the unique identification number for a transaction, which reporting entities can self-assign based on internal requirements but must be alpha-numeric and not exceed 25 characters.

“Contract Position Identification Number” means the sequence number for each transaction under a spot market contract.

“Costs of Labor” means the sum of employee wages, employee benefits costs, and payroll taxes paid by an employer.

“Counterparty” means the entity identified by the reporting form filer as either the buyer or seller of a contract transaction.

“Crude Oil Acquisition Cost” means the cost of crude oil, including transportation and other fees paid by the refiner but not including the cost of crude oil purchased for the Strategic Petroleum Reserve or profits and losses from crude oil futures or options trading activity.

“Crude Oil Pipeline System” means a facility that receives its supply from pipeline gathering systems, tanker or barge, and has its terminals located at a refinery or waterside terminal and from which crude oil is shipped directly to one or more refineries in California or transported out of state. A crude oil pipeline system includes all points of origin, terminals, working tank storage capacity, and points of interconnection with crude oil pipeline systems operated by others.

“Dealer Tank Wagon (DTW)” means a delivered wholesale price for gasoline transported by tanker truck to a retail fuel outlet.

“Delivery Chain” means the list of all parties involved in final settlement from originating buyer to supplying seller.

“Desert Region” means a geographic area in California that includes the counties of Riverside and San Bernardino.

“Detergent Additive” means any chemical compound or combination of chemical compounds that are added to gasoline to control deposit formation and which may contain non-detergent-active components such as corrosion inhibitors, antioxidants, metal deactivators, and handling solvents.

“Ending Inventory” means the quantity (measured in thousands of barrels) of crude oil, petroleum products or oxygenates that is held as stocks at a refinery, bulk plant, public storage facility or tank farm at the end of a designated reporting period.

“EPA” means the United States Environmental Protection Agency.

“Exchange” means a transaction in which title or interest in petroleum products or crude oil stocks are transferred between firms in return for other petroleum products or crude oil stocks.

“Exchange Futures for Physical (EFP)” means a negotiated and simultaneous exchange of a futures position for a corresponding cash position, priced as a differential to a NYMEX futures reference product.

“Exporter” means a firm that is the owner of record at the point of loading for crude oil, petroleum products or oxygenates destined for export from California and has exported 20,000 barrels or more of any combination of crude oil, petroleum products or oxygenates during any month of the current or previous year.

“Exports” mean crude oil, petroleum products or oxygenates transported to destinations outside of California by means of marine vessel, rail car, tanker truck, or pipeline.

“Firm” means any person or entity engaged in any activity included in the Cal. Code of Regulations, Title 20, Public Utilities and Energy Division 2, Chapter 3, Article 3, Section 1361 et seq.

“Floating Price” means a pricing method for a spot market transaction in which the buyer and seller agree that the cash price will be determined at some future time and agree on an event or a specific timeframe and pricing reference from which the cash price will be set.

“Franchisee” means a retailer or distributor authorized or permitted, under a franchise, to use a trademark in connection with the sale, consignment, or distribution of motor fuel.

“Gasoline Blendstock” means any motor gasoline component intended for blending with oxygenates to produce finished conventional motor gasoline. It includes reformulated gasoline blendstock for oxygenate blending (RBOB) but excludes oxygenates (alcohols, ethers), butane, and pentanes plus.

“Gasoline Treated As Blendstock” means on-certified Foreign Refinery gasoline classified by an importer as blendstock to be either blended or reclassified with respect to reformulated or conventional gasoline.

“Gross Production” means total crude oil production, including all crude oil consumed in the production process.

“Hypermarket Retail Fuel Outlet” means a facility, normally attended by one or more operators, that dispenses refined petroleum products to consumers as a subset of their primary business activity. The predominant business activity consists of the sale to ultimate consumers of non-petroleum goods and services.

“Importer” means a firm that is owner of record at the point of discharge for crude oil, petroleum products or oxygenates imported to California and has imported 20,000 barrels or more of any combination of crude oil, petroleum products or oxygenates during any month of the current or previous year. Importer also includes firms delivering 5,000 gallons or more of non-California fuels to a site in California by tanker trucks.

“Imports” include crude oil, petroleum products, oxygenates and non-California fuels that are transported to California from destinations originating outside of California by means of marine vessel, rail car, tanker truck, or pipeline.

“Independent Retail Fuel Outlet Operator” means a firm, other than a Refiner or Major Petroleum Products Marketer, that owns or leases a retail fuel outlet, that is engaged in the trade or business of purchasing refined petroleum products and reselling these products to consumers without substantially changing the form of these products.

“In-tank Transfer” means the change of ownership of inventory of refined petroleum product or renewable fuel on the books and records of a terminal operator where the buyer and seller are both terminal customers in the same storage tank in California.

“Intermediate Oil Product” means a general classification of refined petroleum product that is used in refinery processes to create a finished transportation fuel.

“Inter-tank Transfer” means the change of ownership of inventory of refined petroleum product or renewable fuel where the seller delivers material from one tank to a different tank owned or leased by the buyer and where the buyer and seller are both terminal customers.

“Landed Cost” means the sum of all expenses associated with importing the product. This includes, but is not limited to, price of goods, shipment cost, insurance fees, and customs duties.

“Lease” means a crude oil or natural gas producing property.

“Lease Storage Facilities” means storage tanks used to accumulate crude oil from producing properties prior to first sale or shipment.

“Los Angeles Basin Region” means a geographic area of California that includes the counties of Los Angeles, Orange and Ventura.

“Major Crude Oil Producer” means an operator or firm that produces crude oil in California, California tidelands or the Outer Continental Shelf adjacent to California tidelands in an amount greater than 20,000 barrels during any month of the current or preceding calendar year.

“Major Crude Oil Storer” means a firm or public storage facility, excluding refiners, that owns or operates a tank farm that stores or processes more than 50,000 barrels of crude oil at any time during the current or preceding calendar year.

“Major Crude Oil Transporter” means a firm that owns or operates a trunk pipeline and that has transported 20,000 barrels or more during any one month of the current or preceding calendar year. End users and public storage facilities that transport crude oil only between facilities owned or leased by such end users for their own use are not considered major crude oil transporters.

“Major Petroleum Products Marketer” means a firm that sells or sold 20,000 barrels or more of petroleum products during any month of the current or preceding calendar year, excluding service stations or truck stops. An electric utility shall not be considered a major petroleum products marketer unless it has sold or otherwise disposed of, other than through its own consumption, 20,000 barrels or more of petroleum products per month during any four months of the current or preceding calendar year.

“Major Petroleum Products Storer” means a facility that produced or received into storage a minimum of 50,000 barrels of any combination of petroleum products or oxygenates during any month of the current or preceding calendar year.

“Major Petroleum Products Transporter” means a firm that owns or operates a petroleum product pipeline, trucks, tankers, barges or railroad cars, and that transported 20,000 barrels or more of petroleum products during any month of the current or preceding calendar year. End users that transport products only between facilities owned or leased by such end users for their own use shall not be considered major petroleum products transporters. Public storage facilities that transport petroleum product only between their owned and operated storage, terminal, or warehousing operations shall not be considered major petroleum product transporters.

“Marina Retail Fuel Outlet” means a facility, normally attended by one or more operators, that dispenses refined petroleum products to ultimate consumers for use in recreational or commercial marine craft. A marina retail fuel outlet does not include businesses that dispense marine fuels by the bunkering process.

“Marine Exports” mean crude oil, petroleum products or oxygenates that are transported to destinations outside of California by means of a marine vessel.

“Marine Facility Operator” means an operator of a facility of any kind, other than a marine vessel or tank barge that is used for the purposes of importing, exporting, storing, handling, transferring, processing, refining or transporting crude oil or petroleum products. A Marine Facility Operator does not include the person or entity that owns the land where the marine facility is located unless the person or entity is involved in the operation of the marine facility.

“Marine Fuels Distributor” means one of the following: a firm that owns or operates marine vessels that are used wholly or in part to deliver 20,000 barrels or more of marine fuels during any month of the current or previous year to other marine vessels or a firm that delivers 20,000 barrels or more of marine fuels to marine vessels during any month of the current or previous year from storage tanks rather than from marine vessels. The transfer of these marine fuels is referred to as bunkering.

“Marine Imports” mean crude oil, petroleum products or oxygenates transported to California from destinations originating outside of California by means of a marine vessel.

“Marine Vessel” is a waterborne tanker or barge used to convey crude oil, petroleum products or oxygenates.

“Maximum Storage Tank Capacity” means the maximum volume of crude oil, petroleum product or oxygenate that can be safely discharged into an individual storage tank without exceeding the high level design limits.

“Maximum Throughput” means the maximum liquid volume that may be transported through a pipeline for an indefinite period without damaging any pipeline equipment.

“Mountain Region” means a geographic area in California that includes the counties of Alpine, Amador, Calaveras, El Dorado, Inyo, Lassen, Modoc, Mono, Nevada, Placer, Plumas, Sierra, Siskiyou, Trinity and Tuolumne.

“Net-Out” means a type of settlement that is consummated through an exchange of cash, instead of through physical delivery of the product.

“Non-California Fuel” means finished motor gasoline and No. 2 diesel fuel that does not meet CARB standards sold in California at retail locations that dispense transportation fuels.

“Non-California Fuel Transporter” means a firm that owns or operates tanker trucks that are used wholly or in part to deliver 5,000 gallons or more of fuels that do not meet CARB regulations to retail locations in California during any month of the current or previous year.

“Notice of Readiness (NOR)” means a communication provided by the marine vessel owner or agent that the vessel has arrived and is ready for loading or discharge at a designated berth within a designated period of time.

“Number of Sites” means the number of different locations for a specified region of California that receive DTW fuel during a reporting period.

“OPEC” means the Organization of the Petroleum Exporting Countries. The countries belonging to this organization are subdivided into the following geographic regions:

- (a) “Middle East OPEC” means the countries of Iran, Iraq, Kuwait, Qatar, Saudi Arabia and the United Arab Emirates.
- (b) “Non-Middle East OPEC” means the countries of Algeria, Libya, Nigeria and Venezuela.

“Operator” means any person drilling, maintaining, operating, pumping, or in control of any well as defined by the California Public Utilities Commission or by the California Department of Conservation's Division of Oil and Gas, & Geothermal Resources.

“PIIRA” means the Petroleum Industry Information Reporting Act.

“Pipeline” means a crude oil pipeline system or product pipeline system.

“Pipeline Delivery Subcycle” means the contract subcycle for pipeline deliveries given by the pipeline company transporting the product.

“Pipeline Exports” mean crude oil, petroleum products or oxygenates that are transported to destinations outside of California by means of a pipeline.

“Pipeline Imports” means crude oil, petroleum products or oxygenates that are transported to California from destinations originating outside of California by means of a pipeline.

“Pipeline Gathering System” means a pipeline system that collects crude oil from lease storage facilities and delivers it to a crude oil pipeline system.

“Pipeline Storage Tanks” means a storage facility owned by a pipeline firm and located at the points of origin and at terminals of pipeline segments used to maintain normal pipeline operations.

“Position Sequence Number” means the location identifier assigned by the pipeline company shipping the product.

“PPM” means parts per million.

“Price Basis” means the type of pricing method agreed upon between counterparties for a trade.

“Pricing Event” means a pricing occurrence for floating price contracts that was agreed to at the time of contract that relates to a specific date or range of dates associated with the title transfer that determines the value of the settlement.

“Producing Property” means property that produced crude oil during the reporting period in an amount as to require reporting of production to the California Department of Conservation’s Division of Oil and Gas, & Geothermal Resources.

“Product Pipeline System” means a system that transports petroleum products from refineries or bulk terminals or marine facilities to other terminals or interconnections with other pipelines; a product pipeline system does not include interconnections within a terminal facility or those lines connecting public storage facilities to one another. A product pipeline system includes all points of origin, terminals, working tank storage capacity and points of interconnection with product pipeline systems operated by others.

“Public Storage Facility” means a public liquid bulk storage, terminal, or warehousing operation for hire in which the owner or operator of the facility has no ownership interest in any of the materials stored on contract with its customers.

“Pump-over Transfer” means the transfer of physical inventory and ownership of refined petroleum product or renewable fuel on the books and records of a terminal operator from one storage tank to another where the buyer and seller are both terminal customers.

“Rail Car” means a railroad car that is used to transport crude oil, petroleum products or oxygenates via a network of railroad tracks.

“Rail Exports” mean crude oil, petroleum products or oxygenates that are transported to destinations outside of California by means of rail.

“Rail Imports” mean crude oil, petroleum products or oxygenates that are transported into California from destinations originating outside of California by means of rail.

“Receipts” mean delivery of crude oil, petroleum products or oxygenates into storage tanks located at the refinery, bulk plant, public storage facility or tank farm for the specified reporting period from tanker truck, marine vessel, rail car or pipeline.

“Refiner” means a firm that produces or alters products or blends to manufacture liquid hydrocarbons from oil and gas field gases, recovers liquefied petroleum gases incident to petroleum refining or produces fuel ethanol and sells those products to resellers, retailers, reseller/retailers or ultimate consumers.

“Refinery” means a facility, regardless of processing capacity, that manufactures transportation fuel products including, but not limited to, finished petroleum products, unfinished products from crude oil, unfinished oils, natural gas liquids, other hydrocarbons, and oxygenates and fuel ethanol.

“Refinery Fuel Use and Losses During the Month” means all fuel consumed at the reporting facility except non-processing losses (spills, fire losses, contamination, etc.).

“Refinery Storage Facility” means storage located on a refinery site or operated in conjunction with a refinery that primarily receives its petroleum product directly from a refiner.

“Renewable Identification Number (RIN)” means a serial number assigned to a batch of biofuel for the purpose of tracking its production, use, and trading as required by the US EPA’s renewable fuels standard (RFS).

“Retail Fuel Outlet” means an individual business location that dispenses refined petroleum products or alternative fuels to ultimate consumers.

“Retailer” means a firm that carries on the trade or business of purchasing refined petroleum products and reselling them to ultimate consumers without substantially changing their form.

“Sacramento Valley Region” means a geographic area in California that includes the counties of Butte, Colusa, Glenn, Sacramento, Shasta, Sutter, Tehama, Yolo and Yuba.

“San Diego Region” means a geographic area in California that includes the counties of Imperial and San Diego.

“San Francisco Bay Area Region” means a geographic area in California that includes the counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano and Sonoma.

“San Joaquin Valley Region” means a geographic area in California that includes the counties of Fresno, Kern, Kings, Madera, Mariposa, Merced, San Joaquin, Stanislaus and Tulare.

“Sale to Other End-Users” means a direct sale to an end-user not made through company-operated retail outlets. This term includes sales to non-retail station bulk consumers including, but not limited to, agriculture, industry, and utilities, as well as residential and commercial consumers. Sales made to retail outlets other than those operated directly by the reporting company, or its affiliates or subsidiaries, must be included in the following wholesale sales categories as applicable: DTW, Branded Rack, Unbranded Rack, or Bulk.

“Service Station” means a retail fuel outlet, normally attended by one or more operators, that dispenses refined petroleum products to ultimate consumers as the sole or predominant activity of their business operation.

“Settlement” means the final step in a transaction and represents either transfer of ownership involving the physical exchange of securities or payment and verification of the quantity of product exchanged, whichever is later.

“Shipment Issued Entity” means the party that a request for shipment was tendered to by a purchaser of product.

“Southern California Region” means a geographic area in California that includes the counties of Santa Barbara, Ventura, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Imperial.

“Spot Market Transaction” means a trade in which petroleum products, including blendstocks for finished petroleum products, are purchased on the spot for delivery by pipeline, inter-tank transfer, pump-over transfer, in-tank transfer, marine vessel, rail car discharge, or imports.

“Spot Pipeline Sale” means a sales transaction that physically changes hands at a refinery gate or other major pricing hub for delivery on a pipeline in either the Los Angeles or San Francisco spot pipeline markets. This term also includes without limitation pump-over and in-tank transfer delivery methods.

“Stocks” mean volumes of crude oil, petroleum products or oxygenates (corrected to 60 degrees Fahrenheit less basic sediment and water) of domestic origin held at refineries, bulk plants, public storage facilities or tank farms. Crude oil and petroleum products in transit by pipeline are excluded. Stocks include foreign stocks held at refineries, bulk plants, public storage facilities or tank farms only after entry through Customs for domestic consumption. Stocks of foreign origin held in bond and/or in transit by pipeline are excluded.

“Support Staff,” for purposes of this article, include temporary independent contractors hired by the CEC for the sole purpose of performing PIIRA data entry. Support staff will be subject to all PIIRA confidentiality requirements.

“Tank Farm” means a facility, not available for public storage, used for the storage of crude oils, petroleum products or oxygenates with total combined storage capacity of 50,000 barrels or more which receives crude oil, petroleum products and oxygenates by tanker truck, marine vessel, rail car or pipeline and does not contain lease storage facilities.

“Tank Heel” means the volume of crude oil, petroleum product or oxygenate that remains in a storage tank at the lowest operable level.

“Tanker Truck” means a motorized vehicle with an attached storage vessel that is used to transport crude oil, petroleum products, oxygenates or non-California fuels overland.

“TEOR” means thermally enhanced oil recovery.

“Terminal Operator” means a firm that owns, leases or operates a bulk terminal, tank farm or public storage facility and provided storage services of 50,000 barrels or more of any combination of crude oil, petroleum products or oxygenates during any month of the current or previous year and includes refiners.

“Trader” means an individual, company, or other entity that does not have a refining presence in California but either sells or takes possession of refined petroleum products or renewable fuels, or both, via spot market transactions.

“Transportation Fuel Product” means gasoline, blending components, diesel fuel, aviation fuel, and renewable fuels.

“Truck Stop Retail Fuel Outlet” means a facility, normally attended by one or more operators, that is accessible to operators of heavy duty on-road motor vehicles and

dispenses refined petroleum products to ultimate consumers as a sole or predominant activity of their business operation.

“Turnaround” has the same meaning as in Section 7872 of the Labor Code.

“Unbranded Rack Sales” means wholesale truckload sales or smaller of petroleum products where title transfers at a distribution terminal. Unbranded gasoline is not associated with a specific brand name and is typically sold by single-station retail outlets, relatively small chain retailers that specialize in gasoline sales, and large supermarket chain stores.

“Usable Storage Tank Capacity,” when used in connection with crude oil or petroleum product pipeline systems, bulk terminals, tank farms and public storage facilities, means the total liquid storage volume less that volume that cannot be used for normal operations (tank heel, basic sediment, and water, corrected to 60 degrees Fahrenheit).

“U.S.C.” means United States Code.

NOTE: Authority cited: Sections 25213, 25218I and 25367, Public Resources Code.
Reference: Sections 25354 and 25355, Public Resources Code.

[...skipping sections 1364 through 1365.2]

§ 1366. Requirement to File.

...[skipping subsections (a) through (j)]

(k) Each refiner and major petroleum products marketer as defined in Section 1363.2, shall file monthly reports containing all of the information specified in Appendix B, Section VI.

~~(l) Each major petroleum products marketer, as defined in Section 1363.2, required to file Form EIA-782B published by the United States Department of Energy shall file monthly reports containing all of the information specified in Appendix B, Section VI.~~

~~(m) Each refiner, as defined in Section 1363.2, shall file annual reports containing all of the information specified in Appendix C, Section I.~~

~~(n) Each refiner, terminal operator and major petroleum products storer, as defined in Section 1363.2, shall file annual reports containing all of the information specified in Appendix C, Section II.~~

(en) Each major crude oil transporter, as defined in Section 1363.2, shall file annual reports containing all of the information specified in Appendix C, Section III, for each crude oil pipeline system.

(po) Each major petroleum products transporter, as defined in Section 1363.2, shall file annual reports containing all of the information specified in Appendix C, Section IV, for each petroleum product pipeline system.

(er) Each major crude oil producer, as defined in Section 1363.2, shall file annual reports containing all of the information specified in Appendix C, Section V.

(rs) Each refiner, major petroleum products marketer and independent retail fuel outlet operator, as defined in Section 1363.2, shall file annual reports containing all of the information specified in Appendix C, Section VI.

(st) Each refiner, as defined in Section 1363.2, shall file annual reports containing all of the information specified in Appendix C, Section VII.

(tu) Each refiner, terminal operator, major petroleum products storer and marine facility operator, as defined in Section 1363.2, shall file annual reports containing all of the information specified in Appendix C, Section VIII.

(v) Each refiner, as defined in Section 1363.2, that produces gasoline meeting California specifications shall file, for each refinery that it operates, monthly reports containing all of the information specified in Appendix B, Section VII.

(w) (1) Refiners, traders, brokers, and any other entities that import reportable cargo, as specified in Appendix D, Section II, subsection B, into California and that are either importers of record under federal customs law for such cargo or owners of such cargo prior to arrival, shall file, within 24 hours of such cargo being designated for delivery to California, reports containing all of the information specified in Appendix D, Section II.

(2) In addition to the initial report required under paragraph (1), each importer of record shall file this report for all reportable cargoes presold or resold prior to initial arrival within 24 hours of such presale or resale.

(3) In addition to the initial report required under paragraph (1), the owner of a reportable cargo shall file this report within 24 hours of initial arrival if the cargo is not sold at time of initial arrival at either CA anchorage or CA marine berth.

(4) Except as provided in Appendix D, Section II, subsection A, this report shall be filed at least 96 hours before the arrival of a marine vessel delivery of reportable cargo to California.

(~~ux~~) Unless otherwise indicated, if a company, by its various activities, satisfies two or more of the definitions in Section 1363.2, it shall file a separate report for each such activity.

(~~vy~~) Any company required by this article to submit Petroleum Information Reports, which company contains divisions, departments, or subsidiary companies, shall report on behalf of all such divisions, departments, or subsidiaries, provided that such divisions, departments, or subsidiaries would otherwise be required to report pursuant to the provisions of this article.

(~~wz~~) All reports required by this section shall be on such form and in such format as the Executive Director may require, except as provided below.

(~~xaa~~) Any person required by this article to submit Petroleum Information Reports may in lieu thereof, submit a report made to any other government agency, provided that the requirements of Public Resources Code Section 25354(g) are satisfied, provided that the Executive Director of the CEC approves in writing to the applicant that the alternative submittal of substitute report information is acceptable and provided that such substitute report is expressed in identical units to those required by this article.

(~~ybb~~) Any person or company required by this article to submit Petroleum Information Reports in a specific form designated by the CEC may in lieu thereof, electronically submit the required information in a different format, provided that the Executive Director of the CEC approves in writing to the applicant that the alternative format of submittal is acceptable.

NOTE: Authority cited: Sections 25213, 25218(e), 25354 and 25367, Public Resources Code. Reference: Sections ~~25354 (a), (b), (f), (h), and 25255~~, Public Resources Code.

§1367. Form and Format of Reports.

The Executive Director of the CEC may specify the format for the various reports required by this article. The Executive Director of the CEC may additionally provide forms or other instructions to facilitate the filing or analysis of the information required by this article. The Executive Director of the CEC shall provide notice at least seven ~~thirty~~ days prior to specifying or modifying any form or format.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code. Reference: Section 25354, Public Resources Code.

...[skipping sections 1368.1 through 1369]

§1370. Confidentiality Information.

- (VII) (a) Except as otherwise provided by law, CEC staff and support staff assigned to collect or analyze data submitted in confidence, pursuant to this article, will hold unaggregated PIIRA data confidential.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code.
Reference: Section 25364, Public Resources Code.

§1371. Failure to Provide Information.

The CEC may, after notifying any person of the failure to provide information pursuant to Sections 1361-1369 of this Article, Chapter 4.5 of Division 15 of the Public Resources Code, or the California Maintenance Reporting Guidebook, take such action to secure the information as is authorized by any provision of law, including, but not limited to, Public Resources Code Section 25362.

NOTE: Authority cited: Sections 25213 and 25218(e), Public Resources Code.
Reference: Sections 25358(c) and 25362, Public Resources Code.

...[skipping Appendix A]

Appendix B: Monthly Reporting

...[skipping Appendix B, subsections I through VI]

VII. Monthly Refining Margin Report. The Monthly Refining Margin Report shall contain all of the information detailed below in subsections A through G. The information reported in the Monthly Refining Margin Report shall be prepared in a manner consistent with the standard set forth in 15 U.S.C. § 7213(a)(2)(A)(II)(bb), to “provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles,” and in a manner that is consistent with the reporting refiner’s public financial statements, if any.

A. Company Information for the reporting entity including the company name, CEC-assigned company ID number (if applicable), refinery name, refinery address; name, phone number, and email of a company contact.

B. Volume (in barrels) and volume-weighted average price (in dollars per barrel) of domestic and imported crude oil acquired by the refinery within the month.

C. Volume-weighted average gross gasoline refining margin (in dollars per barrel). The volume-weighted average gross gasoline refining margin must be calculated as the difference of:

- 1) The sum of each sales volume reported under subsection A multiplied by the corresponding volume-weighted average price reported under subsection A, less taxes and fees, for branded rack, unbranded rack, dealer tank wagon sales, sales to other end-users, and company-owned, company-operated sales, divided

by total sales of branded rack, unbranded rack, dealer tank wagon sales, sales to other end-users, and company-owned, company-operated sales; and

- 2) The sum of the volume of acquired by the refiner domestic crude oil and foreign crude oil multiplied by its associated volume-weighted average price, divided by the total volume of all acquired by the refiner domestic crude oil and foreign crude oil.

D. Volume-weighted average net gasoline refining margin (in dollars per barrel). The volume weighted average net gasoline refining margin shall be calculated as the difference of:

- 1) The volume-weighted average gross gasoline refining margin reported under subsection C; and
- 2) The total operational cost per barrel of gasoline sold (in dollars per barrel) reported under subsection F.

E. For wholesale gasoline sales, the following information for each of the following sales channels: branded rack sales, unbranded rack sales, bulk sales, spot pipeline sales (for physical transactions completed during the reporting period), dealer tank wagon sales, internally priced sales, and sales to other end-users:

- 1) Volume of gasoline sold (in barrels)
- 2) Volume-weighted average price including all taxes & fees (in cents per gallon).
- 3) The underground storage tank fee (in cents per gallon).
- 4) All other taxes and fees, as defined in section 1363.2. (in cents per gallon).
- 5) Volume-weighted average price less all applicable local, state & federal taxes (in cents per gallon)
- 6) The low carbon fuel standard charge (in cents per gallon).
- 7) The cap-at-the-rack charge (in cents per gallon).
- 8) Volume-Weighted Average Price, less all taxes and fees (in cents per gallon).
- 9) Volume-Weighted Average Price, less all taxes and fees (in dollars per barrel).

F. Sums of each of the following categories for the reporting period: total refining and distribution operational costs (in dollars), operational costs allocated to gasoline sold (in dollars), and operational costs per barrel of gasoline sold (in dollars per barrel). The operational costs allocated to gasoline sold means the percentage of any particular refining or distribution operational cost that is attributable to the refinery's gasoline production, multiplied by the value of that particular total refining or distribution operational cost.

G. A separate quantification of the total refining and distribution operational costs, operational costs allocated to gasoline sold, and operational cost per barrel of gasoline sold for each of the following categories, with each category amortized as appropriate:

- 1) Refinery catalyst expenses.
- 2) Refinery chemical expenses.

- 3) Combined catalyst and chemical expenses.
- 4) Refinery purchased water expenses.
- 5) Refinery total variable costs.
- 6) Labor expenses for refinery employees and subcontractors working at the refinery, including all employee costs such as wages, bonuses, health care coverage and other benefits, and subcontractor services costs related to day-to-day refinery operations, but not including subcontractor costs solely related to maintenance activities.
- 7) Amortized maintenance expenses, including subcontractor costs solely related to planned maintenance, turnaround, or unplanned outage activities.
- 8) Refinery rent, supplies, and miscellaneous expenses.
- 9) Insurance expenses.
- 10) Amortized capital-related expenses, and a description of each such expense, the expected period of useful life for each capital-related expense, and the related amortization schedule.
- 11) Taxes other than income tax.
- 12) Depreciation other than for amortized capital-related expenses noted in 10).
- 13) RINs purchases.
- 14) California Static Carbon Emissions Compliance.
- 15) Local Air Quality Management District permits and fees.
- 16) Effluent discharge compliance projects, permits and fees.
- 17) Other regulatory compliance costs, and a description of each such cost.
- 18) Additives purchases.
- 19) Fuel ethanol purchases.
- 20) Pipeline deliveries to terminals, also known as tariff expenses.
- 21) Terminaling and other truck rack expenses.
- 22) Truck delivery expenses for dealer tank wagon and company-owned, company-operated sales.
- 23) Bulk sales distribution expenses.
- 24) Other distribution costs, and a description of each such cost.
- 25) Hydrogen purchases from third party sources that occur outside the refinery.
- 26) Hydrogen purchases from third party sources that occur inside the refinery.
- 27) Purchased electricity from outside the refinery.
- 28) Purchased electricity from inside the refinery.
- 29) Natural gas, separated by natural gas for fuel use, hydrogen plant feedstock, and cogeneration, in millions of cubic feet.
 - i. Normal butane purchases.
 - ii. Isobutane purchases.
 - iii. Other liquid petroleum gas purchases.
 - iv. Gasoline blending components purchases.
 - v. Gasoline treated as blendstock.
 - vi. Unfinished oils purchases.
 - vii. All other purchased components and a description of each such component.

NOTE: Authority Cited: Sections 25213, 25218(e), 25354, 25355, and 25367, Public Resources Code. Reference: Sections 25354, 25355, 25355.5, Public Resources Code.

Appendix D: Daily and Event-based Reporting Requirements

II. California Marine Import Report. The California Marine Import Report shall contain all of the information specified below in C. and is required for any vessel originating from a non-California port and containing one or more of the gasoline products, blending components, diesel fuel products, aviation fuel products, or renewable fuel products specified in B.

- A. Notwithstanding Public Resources Code section 25354(j), this report shall be filed less than 96 hours prior to the arrival of a marine vessel delivery to California in the following circumstances, in which case the report must be filed within 24 hours of when the cargo is designated for delivery to California or the importer of record or owner of the cargo changes, as applicable:
 - 1. The vessel's destination is not known until less than 96 hours prior to arrival.
 - 2. The vessel's destination changes to California less than 96 hours prior to arrival.
 - 3. The Importer of Record or Owner of Record for a California destined delivery changes less than 96 hours prior to arrival.
- B. All of the following transportation fuel products are reportable cargo subject to this report:
 - 1. The following finished gasolines: CARBOB, Arizona CBG AZBOB, Arizona CBOB, Nevada LVBOB, Nevada CBOB, and Other Conventional Gasoline.
 - 2. The following gasoline blending components: Alkylate, Iso-octane/Iso-octene, Isomerate, Hydrocrackate, Natural Gasoline, Reformate, Toluene, Renewable Naphtha, Fuel Ethanol, and other gasoline blending components.
 - 3. The following diesel fuels: CARB ULSD, EPA ULSD, and Renewable Diesel.
 - 4. The following aviation fuels: commercial jet fuel, military jet fuels, and sustainable aviation fuel.
- C. This report shall contain all of the information specified below:
 - 1) Company Information for the reporting entity including the company name, CEC-assigned company ID number (if applicable), company address, company email address, and company phone number; name, phone number, and email of a company contact. .

- 2) Date when the vessel was designated for delivery to California.
- 3) Date(s) when the loading of the vessel was completed at origin location.
- 4) Estimated date of arrival to California. For cargoes not arriving directly at a marine berth, provide estimated arrival at anchorage. For imports of partial cargoes, provide estimated arrival date at secondary or tertiary marine terminal destination.
- 5) The type of the vessel shipping the transportation fuel product, reported as either "product tanker" or "barge".
- 6) Name of the vessel carrying the transportation fuel product. This name must match the name reported to the State Lands Commission port reporting.
- 7) Product name of the transportation fuel product to be discharged at the California marine terminal, reported under the defined EIA product code. If EIA product code cannot be used, provide the name and a brief description of the product and information on its general use.
- 8) The volume in barrels of transportation fuel product to be discharged.
- 9) Whether the delivery of product will be a partial or full discharge. Report "partial" if obligated party is importing a portion of the entire cargo per type of product. Report "entire" if obligated party is importing the entire cargo by type of product. Report "unknown" if that information is not available to the obligated party at time of submitting this report.
- 10) Name of the entity that the cargo was purchased from prior to departure from port or ports of origin.
- 11) Name of the entity that the cargo was purchased from while in transit prior to arrival at initial California anchorage site or California marine terminal, if applicable.
- 12) Name of the entity that the cargo was purchased from post arrival at initial California anchorage site or California marine terminal, if applicable. Change of ownership can be either prior to discharge or transfer of product at marine berth.
- 13) Name of the country of origin for all foreign-sourced cargoes or the name of the state of origin for all domestic import cargoes.
- 14) The name of the port of origin from which the vessel departed or will depart.
- 15) Name and location of the loading terminal or berth that the vessel was loaded at with cargo.
- 16) Status of the product at moment of filing the report, if known. The reported status must reflect the intended use of the product. For reports on cargoes submitted by US Importer of Record prior to discharge, the status of the product shall be reported as "purchased". For reports on unsold cargoes submitted by owner of cargo at time of initial arrival, the status of the product

- shall be reported as “unsold”. For reports on cargoes used to cover contractual obligations, or use by the reporting entity, list as “Internal Use”.
- 17) Name(s) and location(s) of the loading terminal or berth at which the vessel will discharge the transportation fuel product.
 - 18) The date on which the purchase contract was agreed to and formally executed, in date format (mm/dd/yyyy).
 - 19) The cargo total landed cost in US dollars of the product moved, including all costs and fees incurred in delivery.
 - 20) The seven-digit International Maritime Organization (IMO) ship identification number for the product tanker.
 - 21) The name of the tug associated with each marine barge import, if applicable.
 - 22) The seven-digit International Maritime Organization (IMO) ship identification number for each associated tug, if applicable.
 - 23) The company name of the owner of the imported transportation fuel product cargo.
 - 24) The company name of the entity providing transportation services.

NOTE: Authority Cited: Sections 25213, 25218(e), 25354, and 25367, Public Resources Code. Reference: Section 25354, Public Resources Code.

Memorandum

To: Docket 23-OIR-03

From: **Jeremy Smith, Deputy Director**
Energy Assessments Division
California Energy Commission

Date: April 30, 2024

Subject: California Environmental Quality Act Compliance for Emergency Regulations Implementing Revised SB X1-2 Gasoline Refining Margin and Marine Import Reporting Requirements

At the May 8, 2024 California Energy Commission (CEC) Business Meeting, CEC staff will propose that the CEC adopt a proposed resolution adopting emergency regulations to clarify and revise the gasoline refining margin and marine import reporting requirements authorized by the Petroleum Industry Information Reporting Act of 1980 (PIIRA) (Public Resources Code § 25350 et seq.), as modified by Senate Bill (SB) X1-2 (Stats. 2023, 1st Ex. Sess. 2023, ch. 1). SB X1-2, among other things, added marine import reporting requirements and amended the gasoline margin reporting requirements, as reflected in paragraph (j) to section 25354 and section 25355 of Division 15 of the Public Resources Code, respectively.

I. Adoption of the Regulations is Not a Project.

For purposes of complying with the California Environmental Quality Act (“CEQA,” Pub. Resources Code, § 21000 et seq.), staff recommends the CEC find that the adoption of the proposed emergency regulations is not a project under CEQA. The proposed emergency regulations clarify the requirements of existing reporting obligations established in Public Resources Code sections 25354 and 25355. Section 25354, subsection (j) requires certain petroleum market participants to submit reports to the CEC regarding planned marine imports of petroleum products. The proposed emergency regulations establish definitions, set forth procedures for filing the reports, modify the reporting period, and clarify other reporting requirements. Section 25355 requires refiners to submit reports to the CEC each month regarding their gasoline refining margins. The proposed emergency regulations establish definitions, set forth procedures for filing the reports, and clarify other reporting requirements.

Section 15060 of the CEQA Guidelines (Title 14, Division 6, Chapter 3 of the California Code of Regulations) states, in part, that a lead agency must first determine whether an activity is subject to CEQA and that an activity is not subject to CEQA if the activity is not a project as defined in section 15378. Section 15378 of the CEQA Guidelines further states that an activity is a project if it has the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

In the case of this rulemaking, the proposed emergency regulations clarify and revise reporting requirements imposed by statute on certain members of the petroleum industry including refiners and entities that import petroleum products into California. The action to clarify and revise reporting requirements in emergency regulations does not result in any direct physical change in the environment, nor does it result in any reasonably foreseeable indirect physical change in the environment. Rather, this action implements an administrative process and makes incremental changes to existing reporting obligations. Therefore, the adoption of these emergency regulations is not a project and is not subject to CEQA.

II. Even if Adoption of the Regulations Were a Project, the Class 6 Exemption and the Common Sense Exemption Would Apply.

The adoption of the emergency regulations implementing the revised gasoline refining margin and marine import reporting requirements, if it were a project for the purposes of CEQA, would be categorically exempt from CEQA under the Class 6 Information Collection exemption. (Pub. Resources Code, § 15061(b)(2); Cal. Code Regs., tit. 14, §15306.) Pursuant to Section 15306 of the CEQA Guidelines, activities that involve data collection, research, experimental management, and resource evaluation activities that do not result in a serious or major disturbance to an environmental resource, have been determined not to have a significant effect on the environment and are therefore exempt from CEQA. In this case, if the regulations pertain solely to data collection and therefore, if they were a project, would fall within the Class 6 exemption as data collection activities.

Furthermore, none of the exceptions to exemptions listed in CEQA Guidelines section 15300.2 apply to this action, and there is no reasonable possibility that approval of the proposed regulations will have a significant effect on the environment due to unusual circumstances. For these reasons, the adoption of the emergency regulations implementing the revised gasoline refining margin and marine import reporting requirements would be exempt from CEQA if it were a project.

Adoption of the regulations would also be exempt from CEQA under the common sense exemption. (Cal. Code Regs., tit. 14, § 15061(b)(3).) CEQA only applies to projects that have the potential for causing a significant effect on the environment. A significant effect on the environment is defined as a substantial, or a potentially substantial, adverse change in the environment, and does not include an economic change by itself or beneficial changes to the environment. (Pub. Resources Code, § 21068; Cal. Code Regs., tit. 14, § 15382.) Because the action in question here concerns the adoption of regulations clarifying a data collection procedure and the action does not result in, either directly or indirectly, any physical changes to the environment, it can be seen with certainty that there is no possibility that the adoption of the emergency regulations implementing the revised gasoline refining margin and marine import reporting requirements may have a significant effect on the environment. Therefore, this action is not subject to CEQA.

III. Conclusion.

As shown, adoption of the emergency regulations implementing the revised gasoline refining margin and marine import reporting requirements is not a project under CEQA and thus CEQA does not apply. Even if the adoption of these regulations were a project and CEQA did apply to the agency action, it would be exempt from CEQA as data collection under the Class 6

exemption in section 15306 of the CEQA Guidelines. Additionally, adoption of the regulations is consistent with the common sense exemption under section 15061(b)(3) of the CEQA Guidelines. For these reasons, the adoption of the emergency regulations implementing the revised SB X1-2 spot market reporting requirements by the CEC is not a project and would otherwise be exempt from CEQA, and a Notice of Exemption may be filed with the Office of Planning and Research.