

DOCKETED

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RESPONSE TO PUBLIC COMMENTS RECEIVED

Revised SB X1-2 Gasoline Refining Margin and Marine Import Reporting Regulations
CEC Docket No. 23-OIR-03
OAL File No. 2024-0509-03E

LEGEND

Commenter	Comment Nos./Date
Western States Petroleum Association (WSPA)	WSPA 1-17 / May 13, 2024
Idemitsu Apollo Corporation (IAC)	IAC 1-13/ May 14, 2024

The California Energy Commission (CEC) received two sets of comments that satisfied requirements to be considered in this rulemaking (submitted to both the Office of Administrative Law and CEC during the 5-day comment period for these emergency regulations). These comments, from the Western States Petroleum Association and Idemitsu Apollo Corporation, are excerpted or summarized below, followed by responses.

COMMENT NO. WSPA 1: California’s refining industry already reports a prodigious amount of data and information to the CEC in numerous categories every day, week, month, and year – ranging from the content and amount of crude oil and petroleum products imported into the State, to the amount and average prices of all gasoline and diesel bought and sold in California, to the amount of fuel blended and distributed from refineries to end-users. Now, the CEC is proposing to require even more data without fully justifying its request, the intended outcome, or use of each data element. We question whether all the detailed data already being provided to the CEC is being adequately, properly, and thoroughly understood and analyzed in a timely fashion – as evidenced by many of the proposed and revised forms being ambiguous, unclear, and/or seeking duplicative or irrelevant information. It is especially concerning that this data – particularly changes to margin-related data – may simply be intended to try to quickly justify a politically-motivated gasoline refining margin cap and associated penalty, despite the fact that all the evidence before you shows it will not address California’s chronic fuel supply problems, and that it will end up harming Californians more than it helps them. WSPA therefore requests that OAL disapprove these regulations....

RESPONSE: The Gasoline Refining Margin and Marine Import Reporting requirements are specifically required by Public Resources Code 25355 and 25354 (j). Per direction from the Legislature, via Public Resources Code 25367,

the CEC is implementing these regulations under emergency proceedings. In WSPA's May 30, 2023 letter to the CEC on implementation of SB X1-2, WSPA called for rulemaking action to provide "regulatory certainty and compliance" and to prevent "cherry picking of only available data" that would cloud CEC analysis. The CEC has brought forth this regulatory package with the intention of providing clarity to the information and specifics on data reporting requirements that are needed to reconcile the information with other published figures (such as those provided to the Securities Exchange Commission) and provide information to allow the CEC to carry out its statutory responsibilities. 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 array of policy interventions authorized by SB X1-2, including the Max Margin, to protect Californians from impending transportation fuel price spikes, while allowing for the gasoline margin assessment that is required via Public Resource Code section 25355.5. In order to facilitate engagement on these proposed regulations and solicit improvements, the CEC held a workshop on March 18th regarding the proposed regulations that encouraged feedback from industry to provide insight on any perceived deficiency the rules may have. Changes were made to incorporate suggested improvements. These regulations strike the appropriate balance between obtaining required and needed information and responding to industry concerns.

COMMENT NO. WSPA 2: [Summary of comment:] The Notice fails to satisfy the APA requirement to establish that an emergency exists in order to justify using the emergency regulations process.

RESPONSE: Public Resources Code 25367 states "regulations or orders implementing [Chapter 4.5 of Division 15 of the Public Resources Code] shall be considered by the Office of Administrative Law as an emergency." This language is unambiguous and automatically deems these emergency regulations. The legislature's power to deem regulations to be emergencies is well-established.¹ When the Legislature delegates quasi-legislative (i.e., rulemaking) power to agencies via statute, it may also determine which APA procedures such agencies must follow in carrying out that power.² The legislature may subject agency rulemaking to only part of the APA process, or it may exempt the rulemaking from the APA entirely, as it did in several sections of SB X1-2 not at issue here. Here, the legislature determined that regulations adopted by the CEC to

¹ *E.g.*, Pub. Resources Code, § 25545.12; Pub. Util. Code, § 7713; Health & Saf. Code, § 57013; Gov. Code, § 8574.44; Food & Agr. Code, § 11502.5; Food & Agr. Code, § 12812; Food & Agr. Code, § 12841; Water Code § 13260(f)(2).

² *See* Gov. Code, § 11346, subd. (a) ("This chapter shall not be superseded or modified by any subsequent legislation *except to the extent that the legislation shall do so expressly.*" (emphasis added).)

implement chapter 4.5 of the Warren-Alquist Act, are subject to the emergency rulemaking process and are “necessary for the immediate preservation of the public peace, health, safety, and general welfare.”³ The proposed regulations are not based merely on an urgency statute, but rather on the specific statutory provision above, which explicitly deems these regulations to be emergency, along with the relevant facts stated in the finding of emergency.

COMMENT NO. WSPA 3: The refining margins reporting requirements contain a number of deficiencies, including the following. The concerns remain regarding the revised M1322 report and the complexities faced by industry members in providing detailed data, which may exceed their current data capture capabilities. The statutory definitions for gross and net refining margin, crucial for financial transparency and market analysis, still have flaws and require further education to the public from the CEC to prevent divergent interpretations among SB X1-2 stakeholders on what the data means. Ongoing dialogue, preferably through rulemaking, among industry representatives, the public, and regulatory agencies is essential to help improve fluency of the data in scope and to facilitate a more comprehensive understanding of that data set. Improving CEC’s understanding of this data will also aid the CEC and the public in making informed decisions.

RESPONSE: The information requested is accounting information that any business entity should have readily on hand to gauge business performance in the pursuit of profit maximization. Specifically, cost and revenue information which comprises the M1322 information directly informs the company on the performance of that asset (in this case a refinery) which is vital in making everyday business decisions. Moreover, this report is required on a monthly basis, 30 days after the close of every month, which is a reporting cycle that the refineries have been complying with since the beginning of SB 1322.

COMMENT NO. WSPA 4: The addition of sales from company owned; company operated (COCO) stores might also be considered a transfer within the same company, which may broaden the meaning of “wholesale,” which usually means the selling of goods in bulk to be sold by others.

RESPONSE: Company owned, company operated and internal sales do not expand the definition of wholesale. Refinery companies have stated that refinery operations and retailing operations are run mostly independently of one another, making them virtually separate entities. The fact that these terms exist is due to

³ Public Resources Code §25367(a).

how those companies account for asset transfers from one operational arm to another, making this a wholesale transaction.

COMMENT NO. WSPA 5: Additional time is needed to determine the feasibility of providing consistent and useful data with the amended cost allocation section of the M1322 reporting template. Amendments included added and removed categories for which it may prove difficult to capture data at the level of granularity now proposed by the CEC, or for which granularity must be removed in order to understand the actual cost of managing refinery operations. For example, the definition of gross gasoline refining margin in SB X1-2 (on which any potential penalty would be imposed) accounts for the acquisition costs of finished gasoline in the monthly gross margin calculation. Yet the CEC's newly proposed amendments inexplicably omit such expenses from the monthly margin calculation. The CEC must take the time needed to address these issues, rather than rushing to finalize the emergency regulations.

o Separating out the Regulatory Compliance Costs – Local AQMD Compliance Projects, Permits & Fees and Effluent Discharge Compliance Projects, Permits & Fees is a significant manual effort.

RESPONSE: The data WSPA says is being omitted can be found in the proposed regulations in Appendix B, subsection G 29. It can be found in the report on the "Other Operational Costs" tab. These expenses are not being omitted, they are just being teased out to allow for a better understanding of costs as directed by statute.

COMMENT NO. WSPA 6: TAs reporting will require a significant amount of manual effort or the development of new methodologies to address reporting more systematically, there should be a way to report associated compliance costs in one of the compliance categories. The CEC should also clarify how project costs not already reported in maintenance for certain the compliance categories would avoid double counting errors given how reporting capital projects in the capital related expenses and depreciation would be handled.

RESPONSE: The information requested is accounting information that any large business entity should have readily on hand to gauge business performance in the pursuit of profit maximization. Specifically, cost and revenue information which comprises all of what the M1322 information entails is information that directly informs a company of the performance of that asset (in this case a refinery) which is vital in making everyday business decisions. Moreover, this report is required on a monthly basis, 30 days after the close of every month which the refineries have been complying with since the beginning of SB 1322.

COMMENT NO. WSPA 7: All delivered crude volume and costs are captured ("Crude Oil Rec'd" tab), yet the form is meant to collect only the volumes and cost for "sales of

California-specification gasoline that originated from the refinery.” This omits the crude that is also used to produce gasoline for Arizona and Nevada.

RESPONSE: Refineries have often remarked that crude oil cannot be specifically designated to material for Arizona and Nevada consumption. Moreover, chemistry techniques allow for a refiner to switch materials to make a desired final product. Given that all crude oil entering the refinery can in some way be used to make all types of gasoline, all crude oil is being considered.

COMMENT NO. WSPA 8: The categories of “Regulatory Compliance Costs – Local AQMD Compliance Projects, Permits & Fees” and “Regulatory Compliance Costs – California Static Carbon Emissions Compliance” overlap with “Capital-Related Expenses,” which state, “activities that effect modifications or installation of new equipment required for regulatory compliance...”

RESPONSE: The first two mentions are specific compliance mentions with the last mention being the “all other” compliance cost category. Receiving information in this format will provide the CEC a better understanding of how these costs fit together and are reported.

COMMENT NO. WSPA 9: As discussed above, the CEC already collects a substantial amount of data and information from California’s refineries. It is still unclear to WSPA whether much of what CEC is trying to accomplish now can be done with existing data collection without imposing significant additional burdens. Given that, it is especially concerning that this mountain of additional data – particularly changes to margin-related data – may simply be intended to try and justify a politically-motivated gasoline refining margin cap – motivated not by the facts and conclusions of experts, but by the desires of activists and politicians to rush to a convenient conclusion that California’s fuel supply issues are not the result of decades of misguided State policies to tax and constrict in-State fuel supplies, but instead come from some vague and shadowy “manipulation” for which zero evidence has been presented. This agency must be guided by facts, not by politics. The CEC’s mission is to analyze the facts and understand whether its regulations would make California’s ongoing transportation fuel supply and market volatility issues better or worse for California consumers. In our view, the proposed regulations do not address the fundamental fuel supply issues that have plagued the State for decades, and for that reason, Californians stand to be hurt, not helped.

RESPONSE: There is an old adage that you cannot manage what you do not measure. This information allows the CEC to better understand refinery costs and profits to better understand the market and the mechanisms that contribute to profits above and beyond what is reasonable in a well-functioning market. The information being requested is specifically authorized and necessitated by Public

Resources Code 25355.5 and the statutory requirement that the CEC assess Gross Gasoline Margins and near-term supply availability, which factors into such margins, and is specifically required as part of the CEC reporting mandate in Public Resources Code sections 25300 – 25328.

COMMENT NO. WSPA 10: The Marine Import Reporting Requirements raise several issues that have not been adequately addressed or justified including the following. We are uncertain if the EBR700 Marine Import form is additive or a replacement for M and W700 forms.

RESPONSE: The EBR700 is a separate and distinct report from the M700 and W700 reports that requires “soon to arrive” import information that both the M700 and W700 does not provide. Both the W700 and M700 are retrospective reports containing information on what finally gets discharged into the California petroleum infrastructure, while the EBR700 report is forward looking allowing for earlier decision-making on possible emergency supply situations.

COMMENT NO. WSPA 11: The industry has not been given sufficient time to test the proposed forms, to understand and determine their feasibility, or to provide meaningful, helpful, and iterative feedback to the CEC.

RESPONSE: The CEC provided these proposed regulations on March 12, 2024 for stakeholder consideration almost two months prior to adoption and held a workshop on March 18th to further facilitate stakeholder input into the proposal and which allowed feedback from industry to provide insight on any perceived deficiency the rules may have. Changes were made in response to comments received as part of this process. Additionally, as previously noted, this rulemaking has been deemed to be an emergency by the California Legislature via Public Resources Code 25367 and “necessary for the immediate preservation of the public peace, health, safety, and general welfare.”⁴. These regulations strike the appropriate balance between soliciting and incorporating stakeholder concerns and input while doing so on an expedited basis as directed by the Legislature and as warranted by the circumstances.

COMMENT NO. WSPA 12: The CEC has yet to fully explain the rationale behind requiring the proposed new and amended data elements. This may result in forms that are unclear, and, in some instances, would result in responses that are infeasible or impractical.

⁴ Public Resources Code §25367(a).

RESPONSE: The CEC provided the purpose and necessity of these regulations within the Notice of Proposed Action associated with this regulatory action. Each and every component of these regulations has been determined to be necessary to carry out the CEC's responsibilities as directed by statute.

COMMENT NO. WSPA 13: The information requested by the CEC may not be reasonably available (if available at all), resulting in the submission of estimates or omissions.

RESPONSE: The information requested is accounting information that any large business entity should have readily on hand to gauge business performance in the pursuit of profit maximization. Specifically, cost and revenue information which comprises all of what the M1322 information entails is information that directly informs a company of the performance of that asset (in this case a refinery) which is vital in making everyday business decisions.

COMMENT NO. WSPA 14: The data collected by the CEC may be obscure or irrelevant, which likely undermines the State Legislature's transparency goals. For example, the CEC requests the breakdown of the interstate components of gasoline and other refined products, without explaining how this information will benefit the public or the neighboring states that rely upon California for their fuel supplies.

RESPONSE: The information requested is accounting information that any large business entity should have readily on hand to gauge business performance in the pursuit of profit maximization. Specifically, cost and revenue information which comprises all of what the M1322 information entails is information that directly informs a company of the performance of that asset (in this case a refinery) which is vital in making everyday business decisions.

The information being requested is specifically authorized and necessitated by Public Resources Code 25355.5 and the statutory requirement that the CEC assess Gross Gasoline Margins and near-term supply availability, which factors into such margins, and is specifically required as part of the CEC reporting mandate in Public Resources Code sections 25300 – 25328.

COMMENT NO. WSPA 15: The CEC may compromise its ability and methodologies in analyzing the data, as the interpretation of poor or incomplete data can provide flawed beliefs about California's market. For example, the CEC may draw inaccurate conclusions about the supply and demand of fuels based on the imports reported, without accounting for the factors that affect the import management practices of different operators.

RESPONSE: The CEC has engaged with stakeholders and industry experts to ensure that it is collecting information that will enable it to fulfill its statutory obligations. WSPA's concerns are heard, and the CEC welcomes WSPA participation in any and all workshops discussing analysis of the collected data and any findings the CEC proposes to make thereon. The CEC continues to publish notifications of its assessment work for SB X1-2 on the 23-SB-02 docket and will continue to engage stakeholders throughout this process.

COMMENT NO. WSPA 16: We continue to be extremely concerned that this data may be meant to support further restrictions on fuel exports and imports that are driven neither by the findings of experts nor the underlying facts. It is important to understand that California's fuel industry serves the needs of Californians *as well as* Arizonans and Nevadans – who also depend upon a reliable supply of affordable and cleaner transportation fuels.

RESPONSE: The data is meant only to satisfy the CEC's statutory obligations and inform a better understanding of the petroleum market to ensure that it is functioning appropriately and is not subject to manipulation or excessive market power to the detriment of consumers. The CEC welcomes WSPA participation in any and all workshops discussing the analyses and findings derived from the data. The CEC continues to publish notifications of its assessment work for SB X1-2 on the 23-SB-02 docket and will continue to engage stakeholders throughout this process.

COMMENT NO. WSPA 17: We recommend that the CEC withdraw the emergency rulemaking documentation and set these issues for regular public notice and comment, both to comply with California law and in order to allow a meaningful discussion with industry stakeholders, better understanding of how data is being used and can be most efficiently reported, and cooperation on implementable solutions. Having an iterative and meaningful exchange of suggestions and ideas with the CEC -- based on a full and fair assessment of the facts -- would avoid resulting questions and comments about adding or revising the reports or reporting formats. Without that level of exchange, the CEC has created unnecessary ambiguity and virtually ensured that reporting will provide an inaccurate and/or non-representative picture of California's market to the public. If industry stakeholders could better understand how the CEC data is being used, we could work cooperatively on implementable solutions. WSPA appreciates that these issues are complex and that the CEC staff's efforts to devise workable solutions is extremely challenging. In WSPA's view, these issues cannot be effectively understood or resolved in a rushed "emergency" rulemaking that deprives Californians of proper public notice, review and comment. Aside from California law requiring those steps, we believe a regularly noticed process is much more likely to yield a complete picture of the market, the real-world obstacles involved in collecting accurate data, and what an efficient and workable reporting system might look like.

RESPONSE: SB X1-2 was enacted on March 28, 2023, over one year ago. Immediately thereafter and ever since the CEC has been engaging with WSPA, stakeholders, industry, and the public on its implementation. WSPA itself immediately requested regulations to implement the statutory provisions and the CEC has solicited feedback on these regulations to reduce or eliminate any potential ambiguity. This process has been considered and methodical while also answering the Legislature’s call to act quickly to redress a serious impact to the public health and welfare. The iterative nature of the CEC’s implementation of SB X1-2 ensures that attention can be focused on discrete aspects of a heretofore opaque market and industry, allowing for the expeditious and thorough identification of data needs. Thorough and accurate data is essential to ensure that state policy goals are advanced and met as directed by SB X1-2.

COMMENT NO. IAC 1: On behalf of Idemitsu Apollo Corporation (“Idemitsu”), we appreciate the opportunity to comment on the above captioned rulemaking (the “Emergency Rule”) by the California Energy Commission (“CEC”). On April 1, 2024, following CEC’s March 18th pre-rulemaking workshop, Idemitsu provided CEC with preliminary comments on its proposed Gasoline Refining Margin and Marine Import Reporting Requirements. In that letter, Idemitsu stated that it has been exceptionally challenging to keep pace with CEC with respect to CEC’s onslaught of piecemealed and accelerated emergency regulations seeking to implement SB X1-2, which may cause unintended and harmful disruptions to the California transportation fuels market. Those concerns remain true today. CEC has continued to promulgate regulations on short notice and without adequate consideration. This approach is only compounding the problems that already exist, and that Idemitsu has previously identified. Moreover, while CEC stated in its Resolution adopting the subject emergency regulations that the agency engaged with stakeholders during prior written comment periods and modified its proposed regulations based on the feedback received, the reality is that CEC’s public workshops are perfunctory at best – the agency refuses to meaningfully engage with, or respond to, those who object to its onslaught of regulatory changes. CEC suggests that gasoline prices in the state continue to spike, but perhaps these continued spikes are actually just higher prices brought on by excessive state taxes and burdensome regulation. In an effort to course correct, Idemitsu reiterates its request for CEC to pause its current, one-off emergency rulemakings and undertake a single, comprehensive rulemaking process on a non-emergency basis to ensure its regulations implementing SB X1-2 are measured and well informed. The only way to ensure that SB X1-2-related reporting is limited to California transactions, fully accounts for how industry participants track and report data, and considers—in its totality—the impact these regulations will have is for CEC to undertake a single rulemaking. To assist CEC in that wholistic review, Idemitsu has analyzed the SB X1-2 regulations CEC put forward and has prepared a comprehensive set of redlines showing changes that should be made to the regulations. For CEC’s convenience, Idemitsu has attached those redlines to this letter.

RESPONSE: SB X1-2 was enacted on March 28, 2023, over one year ago. Immediately thereafter and ever since the CEC has been engaging with stakeholders, industry, and the public on its implementation. Upon adoption of SB X1-2 the industry immediately requested regulations to implement the statutory provisions and the CEC has solicited feedback on these regulations to reduce or eliminate any potential ambiguity. This process has been considered and methodical while also answering the Legislature's call to act quickly to redress a serious impact to the public health and welfare. The iterative nature of the CEC's implementation of SB X1-2 ensures that attention can be focused on discrete aspects of a heretofore opaque market and industry, allowing for the expeditious and thorough identification of data needs. Thorough and accurate data is essential to ensure that state policy goals are advanced and met as directed by SB X1-2. Idemitsu's concerns are heard, and the CEC welcomes Idemitsu's continued participation in any and all workshops discussing the analyses and findings associated with the collected data. The CEC continues to publish notifications of its assessment work for SB X1-2 on the 23-SB-02 docket. Information being requested is to specifically address the Gross Gasoline Margin assessment required via Public Resources Code 25354 (j) and 25355 and has been collected in roughly the same form since June 26, 2023. Both data forms were changed based on feedback from the regulated community with the Marine Import Form removing several columns based on that feedback.

COMMENT NO. IAC 2: The Emergency Rule now pending before OAL is flawed because: 1) the proposed Marine Import Reporting Requirements do not clearly limit the entities required to report to those that are actually shipping fuel to California, 2) the regulations request certain data that may not be available when the required report is due, 3) CEC is not providing interested stakeholders with sufficient notice in advance of modifying the contents of future reporting forms, and 4) CEC has incorrectly asserted that the Emergency Rule is exempt from review under the California Environmental Quality Act ("CEQA"). Additionally, Idemitsu reiterates its concerns with CEC's Spot Market and Terminal Position Holder reporting requirements and provides a high-level summary of proposed changes contained in the redline of those regulations attached to these comments.

RESPONSE: Each of these assertions is addressed in detail below.

COMMENT NO. IAC 3: Idemitsu appreciates the changes CEC has implemented to its proposed Marine Import Reporting Requirements following its receipt of Idemitsu's comments; however, those changes leave many important issues unaddressed. As detailed below, CEC should revise the Emergency Rule to (1) prevent multiple entities from submitting duplicative information; (2) adopt the more concrete reporting trigger set

out in SB X1-2 to exclude from regulation transactions where fuel is not ultimately imported to California; and (3) provide allowances for reporting entities to omit certain information if not available when the report is due.

RESPONSE: Each of these assertions is addressed in detail below.

COMMENT NO. IAC 4: CEC should clarify that only one report should be filed for each reportable cargo designated for delivery to California to ensure that two different entities do not submit a report with redundant or potentially conflicting information for the same physical shipment. While it appears CEC intended to resolve this issue in its update to 20 C.C.R. § 1366(w)(1), additional clarification is required. If imported cargo changes hands multiple times while in transit prior to delivery to California, only one entity, the *final* importer of record under federal customs law or *final* owners of reportable cargo, should be required to report.

RESPONSE: The CEC disagrees with this comment. By requiring a “final” importer of record, it would introduce a loophole by which industry could avoid reporting at the pre-discharge timeframe by, as Idemitsu points out in its comment letter, having that cargo constantly change hands such that the “final” importer of record is not known until past the reporting deadline. Additionally, by filing a report every time the cargo does change hands, it confirms with the CEC that the cargo is still meant for California consumption after that change of ownership. Finally, the industry has provided no evidence that these cargos change hand so frequently that these simple reports could not still be provided in a timely fashion.

COMMENT NO. IAC 5: Moreover, CEC should revise the triggering event for reporting under Section 1366(w)(1) to avoid regulating transactions that ultimately have no connection to California. As written, Section 1366(w)(1) requires regulated entities to file reports containing all of the information in Appendix D, Section II within 24 hours of the date when reportable cargo is “*designated for delivery* to California.” SB X1-2, on the other hand, simply requires importers to file a report “at least 96 hours before the arrival of a marine vessel *delivery* to California.” Pub. Res. Code. 25354(j). Requiring reports within 24 hours of cargo being “designated for delivery to California” not only goes beyond the scope of SB X1-2 but also has the potential to regulate transactions where fuel is never actually imported to California. A simple (and common) example demonstrates how the new regulations would result in regulation of a non-California transaction. As often happens, shippers may designate California as the place of delivery, but then decide to reroute a shipment to another destination. For example, on May 1, an entity may designate a shipment of reportable cargo for delivery to California,

triggering the reporting requirement. On June 1, 48 hours before the shipment is scheduled for delivery, the entity may choose to reroute that shipment to Washington. In that circumstance, the regulations would require the entity to report the shipment 24 hours after the shipment was designated for delivery in California. Thus, California would be regulating a Washington fuel transaction because the shipper was required to report upon its initial “designation” of the cargo for delivery in California. The statutory trigger under SB X1-2, which, as noted above, is 96 hours before the arrival of a marine vessel *delivery* to California, dramatically reduces that possibility. This is of particular concern considering that in practice importers have the contractual flexibility to reroute cargo and do so regularly. With these concerns in mind, Idemitsu offers in the attached redline proposed changes to this reporting requirement, including the allowance for reporting within 96-hours of delivery.

RESPONSE: In the example that Idemitsu is providing, the CEC is in no way regulating a transaction of Washington state. As Idemitsu says, the designation of shipment to California is triggering the reporting requirement. At that time, the product is destined for California making it a California transaction. The shipper still has its rights to redirect that shipment elsewhere and the CEC is not preventing that decision in any way. Once there has been a determination that the fuel is no longer bound for California any obligation to report pursuant to these regulations ceases. Any regulation of product only occurs at a point in time when the product has a connection with California because it has been designated for delivery to that state. Just because the designation is later changed does not nullify the fact that the connection existed at the time the regulatory requirement was imposed. Public Resources Code section 25354(f)(3), along with other provisions of statute, provides the CEC authority to request information not specifically set forth in statute. Obtaining information about product imports that are designated for California is important to get a clear and comprehensive picture of petroleum imports and add visibility into the disposition of incoming marine vessels and the companies that are importing petroleum material. This increased visibility is necessary for the CEC to better understand market behavior and react to near term supply deficiencies so that it can and fulfill its oversight obligations as specified in statute.

COMMENT NO. IAC 6: Further, CEC should provide reporting entities with greater flexibility to omit certain data that cannot be determined at the time of reporting, given that importers purchase cargo with petroleum products at various points in the supply chain. As detailed in Idemitsu’s April 1st letter, how entities and individuals purchase cargo affects what information is available to those entities and individuals and when. The attached redline modifies several reporting fields to reflect this necessary flexibility.

RESPONSE: The CEC doesn't understand why any of the informational fields would not be available to the reporter or couldn't be easily asked for as part of the transaction to purchase a cargo at sea. For example, Idemitsu-proposed red-line language includes added lines such as "if known at time of reporting" for the section asking for the name of the shipping company transporting the fuel. The CEC does not understand why the reporter would not know the name of the shipping company moving the cargo, as this is basic information to take possession of fuel at the harbor when docked.

COMMENT NO. IAC 7: *Ad-hoc* changes to reporting requirements place market participants in regulatory limbo. In its Informative Digest to OAL, CEC attempts to justify reducing the thirty-day notice period mandated by 20 C.C.R. § 1367 for modifications to its reporting forms to just *seven* days by asserting that CEC wants "more flexibility in implementing reporting requirements without being constrained by unnecessarily long notice periods for each change." That flexibility for CEC means an exponential increase in the risk of noncompliance to industry participants. As maintained in Idemitsu's April 1st letter, 30-day notice periods are by no means unnecessary. Market participants require ample lead time to change compliance programs, retrain staff, and reprogram data collection systems to capture new reporting fields. CEC cannot prioritize its own desire for flexibility above the regulated community's ability to accommodate regulatory changes and therefore should retain the existing thirty-day notice period.

RESPONSE: The CEC's proposed modifications to C.C.R. § 1367 only affect changes to the format of forms the CEC can require. Only regulations can add or subtract substantial data requirements. The CEC sees little reason that re-ordering or changing a file type of an electronic document would create a major burden of any type. Additionally, this regulatory change in no way prevents the CEC from providing more than 7 days' notice of formatting changes if it is determined that the industry needs more time to adapt to proposed changes. The change simply removes the obligation that the CEC automatically provide 30 days' notice for even minor typographical changes to the forms. The CEC will continue to engage with industry as forms are changed to ensure that an appropriate amount of time is provided.

COMMENT NO. IAC 8: [This sentence is a summary of several paragraphs and is followed by a verbatim excerpt of the comments]. CEC's regulations threaten substantial physical changes to the environment due to their tendency to squeeze out smaller market participants in favor of bigger companies and the CEC has failed to evaluate these potential changes pursuant to CEQA.

For example, CEC's extensive and burdensome reporting requirements will likely

disincentivize oil and gas production and refining for petroleum- derived transportation fuels from out-of-state sources, leading California to rely heavily on in-state production to meet its transportation fuel demand. This would lead to increased air pollutants and toxic air contaminants. Additionally, this supply of transportation fuels could decrease given that fewer refineries in California can produce fuels compliant with the proposed regulations, prompting the state to rely on lower-quality fuels with higher emissions to fulfill peak demands. A detailed health risk assessment (HRA) is required to evaluate the potential health impacts (e.g., acute and chronic cancer risk) from the additional criteria air pollutant emissions that would result from this rulemaking. Further, the proposed regulations could lead to a higher proportion of fuels being sourced internationally, which would increase greenhouse gas and criteria air pollutant emissions. As estimates for international crude production are not reliable, this increase in imported oil may further contribute to greenhouse gas emissions due to the underestimation of carbon intensity. CEC should conduct a full Environmental Impact Report to evaluate the GHG impacts of the regulations and to ensure they do not hinder California’s climate goals. Taken together, these regulations could have significant environmental impacts, including air quality, health risks and greenhouse gas impacts and warrant a comprehensive CEQA review.

RESPONSE: Both this Notice of Proposed Action and the one adopted in February of 2024 were data collection activities and fall squarely within the categorical exemption for data collection and the common sense exemption. The CEC has yet to understand how the collection of basic market data would prevent or restrict supply of fuel in California and the commenter has not provided any evidence to support its assertions.

COMMENT NO. IAC 9: Although OAL approved CEC’s emergency regulation for daily spot market transaction and settlement reporting and is separately considering terminal position holder reporting requirements, those regulations remain part of the overall tapestry of the regulatory structure CEC is building piece by piece. As it considers the topic of fuel regulation, CEC should reassess all that it has done and how its regulations work together. Specifically, CEC should consider both sets of reporting requirements because they are onerous, unclear, and not representative of how spot market transactions are actually processed and structured. The redlines attached hereto seek to solve many of these issues, including by:

- Providing a clearer definition of “Spot Market Transaction,” which better reflects the widely accepted industry definition.

RESPONSE: This comment addresses changes made in the February 2024 rulemaking; it does not involve changes proposed in this rulemaking and is thus outside the scope of the rulemaking. Comment was addressed during that process.

COMMENT NO. IAC 10: Clarifying when a spot market transaction “occurs in California,” to better avoid regulation of transactions for deliveries outside the California fuels market that have no or only a remote nexus to the California market.

RESPONSE: This comment addresses changes made in the February 2024 rulemaking; it does not involve changes proposed in this rulemaking and is thus outside the scope of the rulemaking. Comment was addressed during that process.

COMMENT NO. IAC 11: Suggesting reasonable modifications to arbitrary deadlines like the 9:00 am deadline for daily reports, which will relieve some of the burden on industry and ensure more accurate reporting.

RESPONSE: This comment addresses changes made in the February 2024 rulemaking; it does not involve changes proposed in this rulemaking and is thus outside the scope of the rulemaking. Comment was addressed during that process.

COMMENT NO. IAC 12: Eliminating bifurcated reporting on both the initiation and settlement of spot market transactions, a requirement with no support in SB X1-2.

RESPONSE: This comment addresses changes made in the February 2024 rulemaking; it does not involve changes proposed in this rulemaking and is thus outside the scope of the rulemaking. Comment was addressed during that process.

COMMENT NO. IAC 13: Clarifying that only terminal operators and merchant terminal operators must file weekly and monthly terminal position holder reports to avoid unnecessary and duplicative reporting from other entities.

RESPONSE: This comment addresses proposed changes to rules that were workshopped on April 11, 2024, and will be addressed as part of that process. The comment does not involve changes proposed in this rulemaking and is thus outside the scope of the rulemaking. Idemitsu’s concerns are heard, and the CEC welcomes Idemitsu’s participation in any and all workshops discussing its analyses and findings. The CEC continues to publish notifications of its assessment work for SB X1-2 on the 23-SB-02 docket and will continue to engage stakeholders throughout this process.

ATTACHMENT

COLLATED COMMENTS RECEIVED

DOCKETED

Docket Number:	23-OIR-03
Project Title:	General Rulemaking Proceeding for Developing Regulations, Guidelines, and Policies for Implementing SB X1-2 and SB 1322
TN #:	256345
Document Title:	Western States Petroleum Association Comments - WSPA Comments on Proposed Emergency Rulemaking Revising SB X1-2 Gasoline Refining Margin and Marine Import Reporting Rules
Description:	N/A
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Organization:	Western States Petroleum Association
Submitter Role:	Public
Submission Date:	5/13/2024 4:12:24 PM
Docketed Date:	5/13/2024

*Comment Received From: Western States Petroleum Association
Submitted On: 5/13/2024
Docket Number: 23-OIR-03*

**WSPA Comments on Proposed Emergency Rulemaking Revising
SB X1-2 Gasoline Refining Margin and Marine Import Reporting
Rules**

Please see attached for Docket #23-OIR-03.

Additional submitted attachment is included below.



Sophie Ellinghouse

Vice President, General Counsel & Corporate Secretary

May 13, 2024

California Energy Commission
Docket Unit, MS-4
Docket No. 23-OIR-03
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RE: WSPA Comments on Proposed Emergency Rulemaking Revising SB X1-2 Gasoline Refining Margin and Marine Import Reporting Requirements [Docket #23-OIR-03]

Thank you for the opportunity to comment on the California Energy Commission's (CEC) recently adopted proposed emergency rulemaking action to revise certain industry reporting regulations pertaining to gasoline refining margins and marine imports under Senate Bill (SB) X1-2 (2023) as set forth in Public Resources Code (PRC) sections 25354 and 25355.

This letter serves as WSPA's comments to both CEC and the Office of Administrative Law (OAL) on these emergency regulations. WSPA is a non-profit trade association representing companies that import and export, explore, produce, refine, transport and market petroleum, petroleum products, natural gas, and other energy supplies in California.

California's refining industry already reports a prodigious amount of data and information to the CEC in numerous categories every day, week, month, and year – ranging from the content and amount of crude oil and petroleum products imported into the State, to the amount and average prices of all gasoline and diesel bought and sold in California, to the amount of fuel blended and distributed from refineries to end-users. Now, the CEC is proposing to require even more data without fully justifying its request, the intended outcome, or use of each data element. We question whether all the detailed data already being provided to the CEC is being adequately, properly, and thoroughly understood and analyzed in a timely fashion – as evidenced by many of the proposed and revised forms being ambiguous, unclear, and/or seeking duplicative or irrelevant information. It is especially concerning that this data – particularly changes to margin-related data – may simply be intended to try to quickly justify a politically-motivated gasoline refining margin cap and associated penalty, despite the fact that all the evidence before you shows it will not address California's chronic fuel supply problems, and that it will end up harming Californians more than it helps them.¹ WSPA therefore requests that OAL disapprove these regulations for the numerous reasons described below.

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¹ See April 11, 2024, CEC Workshop Event Recording, Vice Chair Siva Gunda, at 00:06:59 mark: "...really move forward on making sure the penalty lands this year..." at: <https://www.energy.ca.gov/event/workshop/2024-04/workshop-sb-x1-2-maximum-gross-gasoline-refining-margin-and-penalty>

I. CEC's Proposed Regulations Fail to Meet the Statutory Requirements for "Emergency" Rulemaking

As we have explained in our prior comments, WSPA is deeply troubled that the CEC continues to choose to implement major revisions to the long-standing Petroleum Industry Information Report Act of 1980 reporting regulations on a purportedly "emergency" basis. Improperly characterizing this rulemaking as an "emergency" bypasses important procedural safeguards enacted by the California State Legislature to ensure that all Californians have a fair opportunity to review and comment on significant new regulatory proposals.

Under the California Administrative Procedure Act (APA), the Legislature made clear that adopting proposed regulations on an emergency basis requires – first and foremost – a finding that a actual "emergency" exists, not just reliance on another entity's **assertion** of one.² The APA defines an "emergency" as "a situation that calls for **immediate** action to avoid serious harm to the public peace, health, safety, or general welfare."³ To avoid abuse of the emergency rulemaking provisions, the State Legislature provided specific instructions to agencies on the factual findings required to constitute an "emergency" under the APA:

A finding of emergency based only upon expediency, convenience, best interest, general public need, or speculation, shall not be adequate to demonstrate the existence of an emergency. If the situation identified in the finding of emergency existed and was known by the agency adopting the emergency regulation in sufficient time to have been addressed through nonemergency regulations . . . , the finding of emergency **shall include facts explaining the failure to address the situation through nonemergency regulations.**⁴

The finding of emergency must be in writing and "include . . . a description of the specific facts demonstrating the existence of an emergency and the need for immediate action, and demonstrating, by substantial evidence, the need for the proposed regulation to effectuate the statute being implemented, interpreted, or made specific and to address only the demonstrated emergency."⁵ Notably, the APA does **not** provide that an agency may simply ignore the need for an emergency finding supported by evidence, and instead simply point to a later assertion by the Legislature that an emergency exists. Indeed, the APA **itself** suggests that legislative determinations are not enough under the law to manufacture an "emergency" where none exists on the facts. For example, even though the Legislature can give a statute immediate effect by deeming it an "urgency statute" – "necessary for immediate preservation of the public peace, health, or safety," Cal. Const. art. IV, § 8(d) – that is *still* not enough to establish an "emergency" under the APA.⁶ If the Legislature had wanted legislative declarations to be enough to bypass the APA process entirely, it would have spelled that out explicitly in the APA. It did not.

Though California agencies generally have some discretion in making a finding of an "emergency," courts are not bound by the agency's decision, but ultimately decide whether the agency's statement of facts properly supports the agency's finding of an "emergency."⁷ This finding is not merely a formality for the agency. "The finding of and statement of facts constituting an emergency must be more than mere 'statements of the motivation' for the enactment and provide an adequate basis for judicial review."⁸ Agency statements that the proposed action is supported by sound policy are also insufficient if they "do not reflect a crisis situation, emergent

² Cal. Gov. Code (GC) § 11346.1(b)(1)

³ GC § 11342.545 (emphasis added)

⁴ GC § 11346.1(b)(2) (emphasis added)

⁵ *Id.*

⁶ See GC 11346.1(b)(2) ("The enactment of an urgency statute shall not, in and of itself, constitute a need for immediate action.")

⁷ *Poschman v. Dumke* (1973) 31 Cal.App.3d 932, 941

⁸ *Id.*

or actual.”⁹

The CEC’s Notice fails to meet the basic requirements of the APA emergency rulemaking statutes. Indeed, the CEC Notice simply relies on the Legislature’s unfounded **assertion** that an emergency exists. The CEC does not even attempt to independently assess what imminent harm will purportedly befall the State if these regulations are considered on regular notice, and nothing in the CEC Notice “compels or justifies the view that [consideration on regular notice] would seriously affect public peace, health and safety or general welfare.”¹⁰

Rather than provide supporting facts for its finding of “emergency,” as required by the APA, the CEC issued a “Finding of Emergency” that goes into great detail on the asserted policy reasons for the proposed reporting regulations but fails to actually explain why those reasons constitute an “emergency.” Nor does the CEC explain – as the law requires – why it failed to address these issues through nonemergency regulations during the past four decades of periodic price spikes in California, a history both CEC and the Division of Petroleum Market Oversight (DPMO) have addressed in detail during this rulemaking. Instead, CEC simply cites to Public Resources Code section 25367, which reflects the **Legislature’s** opinion that, notwithstanding this long history, fuel price spikes now somehow pose “an immediate threat” constituting an “emergency.” But it is the **CEC’s** job – **not** the Legislature’s – to make a finding that a situation indeed “calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare.” CEC has not done that analysis here because it knows that these long-standing issues constitute no real “emergency.”

WSPA urges that, going forward, the emergency regulation procedure is not abused in this way either by the CEC or by the Legislature, but be applied as it was intended under the APA. California courts have noted that it can be “a possible abuse of the emergency power when the enacting agency repeatedly and habitually resort[s] to it without a credible statement of genuine emergency.”¹¹ The CEC should reserve its use of this extraordinary procedure for situations that truly merit it – or its regulations will increasingly be subject to invalidation in court.

Maybe as important as the regulations’ legal deficiencies are the disregard they show for proper and full public input. WSPA agrees that these issues are critically important to ensuring that California’s citizens “have adequate and economic supplies of fuel” and are protected from price spikes resulting from structural market influences. But effectively addressing these issues will require proper consideration of years of relevant market data and of the functioning of the industry as a whole, and the considered input not only of industry but of the California citizens who will be directly affected by any further restrictions on fuel supply or pressure on prices at the pump. *This proposed rulemaking would bypass that.* Given the importance and complexity of the issues involved, the CEC should not short-change a thorough and proper public assessment in order to arrive at workable and effective regulations, and Californians deserve adequate time to review and comment on whatever system emerges from that assessment.

II. The Proposed Emergency Regulations for Refining Margins Reporting Requirements Contain Deficiencies That Must Be Corrected

Because the CEC has submitted these regulations on an emergency basis without addressing deficiencies identified during the artificially limited public comment period, the proposed emergency regulation includes regulatory terms that are ambiguous or do not reflect real-world

⁹ *Id.* at 942

¹⁰ *See id.* at 942

¹¹ *Schenley Affiliated Brands Corp. v. Kirby*, 21 Cal. App. 3d 177, 194 (1971)

practices. This presents numerous additional challenges that would make it very difficult to implement the regulations. In many cases, these forms request information that has questionable relevance to the CEC’s efforts to minimize or prevent the fuel price spikes the Legislature claimed motivated SB X1-2 in the first place. In other cases, the forms would overstate industry profit by failing to account for all of the costs associated with producing and distributing gasoline. Neither of these results helps the CEC promulgate effective regulations. Our specific issues and concerns previously identified include, without limitation:

- The concerns remain regarding the revised M1322 report and the complexities faced by industry members in providing detailed data, which may exceed their current data capture capabilities. The statutory definitions for gross and net refining margin, crucial for financial transparency and market analysis, still have flaws and require further education to the public from the CEC to prevent divergent interpretations among SB X1-2 stakeholders on what the data means. Ongoing dialogue, preferably through rulemaking, among industry representatives, the public, and regulatory agencies is essential to help improve fluency of the data in scope and to facilitate a more comprehensive understanding of that data set. Improving CEC’s understanding of this data will also aid the CEC and the public in making informed decisions.
- The addition of sales from company owned; company operated (COCO) stores might also be considered a transfer within the same company, which may broaden the meaning of “wholesale,” which usually means the selling of goods in bulk to be sold by others.
- Additional time is needed to determine the feasibility of providing consistent and useful data with the amended cost allocation section of the M1322 reporting template. Amendments included added and removed categories for which it may prove difficult to capture data at the level of granularity now proposed by the CEC, or for which granularity must be removed in order to understand the actual cost of managing refinery operations.
 - For example, the definition of gross gasoline refining margin in SB X1-2 (on which any potential penalty would be imposed) accounts for the acquisition costs of finished gasoline in the monthly gross margin calculation. Yet the CEC’s newly proposed amendments inexplicably omit such expenses from the monthly margin calculation. The CEC must take the time needed to address these issues, rather than rushing to finalize the emergency regulations.
 - Separating out the Regulatory Compliance Costs – Local AQMD Compliance Projects, Permits & Fees and Effluent Discharge Compliance Projects, Permits & Fees is a significant manual effort.
- TAs reporting will require a significant amount of manual effort or the development of new methodologies to address reporting more systematically, there should be a way to report associated compliance costs in one of the compliance categories. The CEC should also clarify how project costs not already reported in maintenance for certain the compliance categories would avoid double counting errors given how reporting capital projects in the capital related expenses and depreciation would be handled.
- All delivered crude volume and costs are captured (“Crude Oil Rec’d” tab), yet the form is meant to collect only the volumes and cost for “sales of California-specification gasoline that originated from the refinery.” This omits the crude that is also used to produce gasoline for Arizona and Nevada.
- The categories of “Regulatory Compliance Costs – Local AQMD Compliance Projects, Permits & Fees” and “Regulatory Compliance Costs – California Static Carbon Emissions Compliance” overlap with “Capital-Related Expenses,” which state, “activities that effect modifications or installation of new equipment required for regulatory compliance...”

As discussed above, the CEC already collects a substantial amount of data and information from

California’s refineries. It is still unclear to WSPA whether much of what CEC is trying to accomplish now can be done with existing data collection without imposing significant additional burdens. Given that, it is especially concerning that this mountain of additional data – particularly changes to margin-related data – may simply be intended to try and justify a politically-motivated gasoline refining margin cap – motivated not by the facts and conclusions of experts, but by the desires of activists and politicians to rush to a convenient conclusion that California’s fuel supply issues are not the result of decades of misguided State policies to tax and constrict in-State fuel supplies, but instead come from some vague and shadowy “manipulation” for which zero evidence has been presented. This agency must be guided by facts, not by politics. The CEC’s mission is to analyze the facts and understand whether its regulations would make California’s ongoing transportation fuel supply and market volatility issues better or worse for California consumers. In our view, the proposed regulations do not address the fundamental fuel supply issues that have plagued the State for decades, and for that reason, Californians stand to be hurt, not helped.

III. The Proposed Emergency Regulations for Marine Import Reporting Requirements Also Contain Deficiencies That Must Be Corrected

The same issues mentioned above apply to the new and revised marine import forms as well. These forms raise several issues that the CEC has not adequately addressed nor justified, including:

- We are uncertain if the EBR700 Marine Import form is additive or a replacement for M and W700 forms.
- The industry has not been given sufficient time to test the proposed forms, to understand and determine their feasibility, or to provide meaningful, helpful, and iterative feedback to the CEC.
- The CEC has yet to fully explain the rationale behind requiring the proposed new and amended data elements. This may result in forms that are unclear, and, in some instances, would result in responses that are infeasible or impractical.
- The information requested by the CEC may not be reasonably available (if available at all), resulting in the submission of estimates or omissions.
- The data collected by the CEC may be obscure or irrelevant, which likely undermines the State Legislature’s transparency goals. For example, the CEC requests the breakdown of the interstate components of gasoline and other refined products, without explaining how this information will benefit the public or the neighboring states that rely upon California for their fuel supplies.
- The CEC may compromise its ability and methodologies in analyzing the data, as the interpretation of poor or incomplete data can provide flawed beliefs about California’s market. For example, the CEC may draw inaccurate conclusions about the supply and demand of fuels based on the imports reported, without accounting for the factors that affect the import management practices of different operators.

We continue to be extremely concerned that this data may be meant to support further restrictions on fuel exports and imports that are driven neither by the findings of experts nor the underlying facts. It is important to understand that California’s fuel industry serves the needs of Californians *as well as* Arizonans and Nevadans – who also depend upon a reliable supply of affordable and cleaner transportation fuels.

SUMMARY

We recommend that the CEC withdraw the emergency rulemaking documentation and set these issues for regular public notice and comment, both to comply with California law and in order to

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allow a meaningful discussion with industry stakeholders, better understanding of how data is being used and can be most efficiently reported, and cooperation on implementable solutions.

Having an iterative and meaningful exchange of suggestions and ideas with the CEC -- based on a full and fair assessment of the facts -- would avoid resulting questions and comments about adding or revising the reports or reporting formats. Without that level of exchange, the CEC has created unnecessary ambiguity and virtually ensured that reporting will provide an inaccurate and/or non-representative picture of California's market to the public. If industry stakeholders could better understand how the CEC data is being used, we could work cooperatively on implementable solutions.

WSPA appreciates that these issues are complex and that the CEC staff's efforts to devise workable solutions is extremely challenging. In WSPA's view, these issues cannot be effectively understood or resolved in a rushed "emergency" rulemaking that deprives Californians of proper public notice, review and comment. Aside from California law requiring those steps, we believe a regularly noticed process is much more likely to yield a complete picture of the market, the real-world obstacles involved in collecting accurate data, and what an efficient and workable reporting system might look like.

Please do not hesitate to contact me at with any questions.

Sincerely,



Sophie Ellinghouse
Vice President, General Counsel & Corporate Secretary

DOCKETED

Docket Number:	23-OIR-03
Project Title:	General Rulemaking Proceeding for Developing Regulations, Guidelines, and Policies for Implementing SB X1-2 and SB 1322
TN #:	256378
Document Title:	Idemitsu Apollo Corporation Comments - SB X1-2 Gasoline Refining Margin and Marine Import Reporting Requirements
Description:	N/A
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Organization:	Idemitsu Apollo Corporation
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Comment Received From: Idemitsu Apollo Corporation
Submitted On: 5/14/2024
Docket Number: 23-OIR-03

SB X1-2 Gasoline Refining Margin and Marine Import Reporting Requirements

Additional submitted attachment is included below.



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Re: Comment on Emergency Rulemaking
OAL File No. 2024-0509-03E
SB X1-2 Gasoline Refining Margin and Marine Import Reporting Requirements

Dear All,

On behalf of Idemitsu Apollo Corporation (“Idemitsu”), we appreciate the opportunity to comment on the above captioned rulemaking (the “Emergency Rule”) by the California Energy Commission (“CEC”). On April 1, 2024, following CEC’s March 18th pre-rulemaking workshop, Idemitsu provided CEC with preliminary comments on its proposed Gasoline Refining Margin and Marine Import Reporting Requirements. In that letter, Idemitsu stated that it has been exceptionally challenging to keep pace with CEC with respect to CEC’s onslaught of piecemealed and accelerated emergency regulations seeking to implement SB X1-2, which may cause unintended and harmful disruptions to the California transportation fuels market.¹

Those concerns remain true today. CEC has continued to promulgate regulations on short notice and without adequate consideration. This approach is only compounding the problems that already exist, and that Idemitsu has previously identified. Moreover, while CEC stated in its Resolution adopting the subject emergency regulations that the agency engaged with stakeholders during prior written comment periods and modified its proposed regulations based on the feedback received, the reality is that CEC’s public workshops are perfunctory at best – the agency refuses to meaningfully engage with, or respond to, those who object to its onslaught of regulatory changes. CEC suggests that gasoline prices in the state continue to spike, but perhaps

¹ Idemitsu’s April 1, 2024 letter is attached and incorporated for reference.

these continued spikes are actually just higher prices brought on by excessive state taxes and burdensome regulation.

In an effort to course correct, Idemitsu reiterates its request for CEC to pause its current, one-off emergency rulemakings and undertake a single, comprehensive rulemaking process on a non-emergency basis to ensure its regulations implementing SB X1-2 are measured and well-informed. The only way to ensure that SB X1-2-related reporting is limited to California transactions, fully accounts for how industry participants track and report data, and considers—in its totality—the impact these regulations will have is for CEC to undertake a single rulemaking. To assist CEC in that wholistic review, Idemitsu has analyzed the SB X1-2 regulations CEC put forward and has prepared a comprehensive set of redlines showing changes that should be made to the regulations. For CEC’s convenience, Idemitsu has attached those redlines to this letter.

The Emergency Rule now pending before OAL is flawed because: 1) the proposed Marine Import Reporting Requirements do not clearly limit the entities required to report to those that are actually shipping fuel to California, 2) the regulations request certain data that may not be available when the required report is due, 3) CEC is not providing interested stakeholders with sufficient notice in advance of modifying the contents of future reporting forms, and 4) CEC has incorrectly asserted that the Emergency Rule is exempt from review under the California Environmental Quality Act (“CEQA”). Additionally, Idemitsu reiterates its concerns with CEC’s Spot Market and Terminal Position Holder reporting requirements and provides a high-level summary of proposed changes contained in the redline of those regulations attached to these comments.

I. CEC’s Marine Import Reporting Requirements are Unworkable

Idemitsu appreciates the changes CEC has implemented to its proposed Marine Import Reporting Requirements following its receipt of Idemitsu’s comments; however, those changes leave many important issues unaddressed. As detailed below, CEC should revise the Emergency Rule to (1) prevent multiple entities from submitting duplicative information; (2) adopt the more concrete reporting trigger set out in SB X1-2 to exclude from regulation transactions where fuel is not ultimately imported to California; and (3) provide allowances for reporting entities to omit certain information if not available when the report is due.

CEC should clarify that only one report should be filed for each reportable cargo designated for delivery to California to ensure that two different entities do not submit a report with redundant or potentially conflicting information for the same physical shipment. While it appears CEC intended to resolve this issue in its update to 20 C.C.R. § 1366(w)(1), additional clarification is required. If imported cargo changes hands multiple times while in transit prior to delivery to California, only one entity, the *final* importer of record under federal customs law or *final* owners of reportable cargo, should be required to report.

Moreover, CEC should revise the triggering event for reporting under Section 1366(w)(1) to avoid regulating transactions that ultimately have no connection to California. As written, Section 1366(w)(1) requires regulated entities to file reports containing all of the information in Appendix D, Section II within 24 hours of the date when reportable cargo is “*designated for delivery* to California.” SB X1-2, on the other hand, simply requires importers to file a report “at least 96 hours before the arrival of a marine vessel *delivery* to California.” Pub. Res. Code. 25354(j). Requiring reports within 24 hours of cargo being “designated for delivery to California” not only goes beyond the scope of SB X1-2 but also has the potential to regulate transactions where fuel is never actually imported to California.

A simple (and common) example demonstrates how the new regulations would result in regulation of a non-California transaction. As often happens, shippers may designate California as the place of delivery, but then decide to reroute a shipment to another destination. For example, on May 1, an entity may designate a shipment of reportable cargo for delivery to California, triggering the reporting requirement. On June 1, 48 hours before the shipment is scheduled for delivery, the entity may choose to reroute that shipment to Washington. In that circumstance, the regulations would require the entity to report the shipment 24 hours after the shipment was designated for delivery in California. Thus, California would be regulating a Washington fuel transaction because the shipper was required to report upon its initial “designation” of the cargo for delivery in California. The statutory trigger under SB X1-2, which, as noted above, is 96 hours before the arrival of a marine vessel *delivery* to California, dramatically reduces that possibility. This is of particular concern considering that in practice importers have the contractual flexibility to reroute cargo and do so regularly. With these concerns in mind, Idemitsu offers in the attached redline proposed changes to this reporting requirement, including the allowance for reporting within 96-hours of delivery.

Further, CEC should provide reporting entities with greater flexibility to omit certain data that cannot be determined at the time of reporting, given that importers purchase cargo with petroleum products at various points in the supply chain. As detailed in Idemitsu’s April 1st letter, how entities and individuals purchase cargo affects what information is available to those entities and individuals and when. The attached redline modifies several reporting fields to reflect this necessary flexibility.

II. CEC Must Provide Adequate Notice Before Modifying its Reporting Forms

Ad-hoc changes to reporting requirements place market participants in regulatory limbo. In its Informative Digest to OAL, CEC attempts to justify reducing the thirty-day notice period mandated by 20 C.C.R. § 1367 for modifications to its reporting forms to just *seven* days by asserting that CEC wants “more flexibility in implementing reporting requirements without being constrained by unnecessarily long notice periods for each change.” That flexibility for CEC means an exponential increase in the risk of noncompliance to industry participants. As

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maintained in Idemitsu's April 1st letter, 30-day notice periods are by no means unnecessary. Market participants require ample lead time to change compliance programs, retrain staff, and reprogram data collection systems to capture new reporting fields. CEC cannot prioritize its own desire for flexibility above the regulated community's ability to accommodate regulatory changes and therefore should retain the existing thirty-day notice period.

III. The Emergency Rule is Subject to CEQA

Having dodged the requirements of the Administrative Procedure Act, CEC also appears intent on avoiding CEQA altogether as it seeks to implement SB X1-2. While CEC purports to rely on SB X1-2 to assert "emergency" status for all of its regulations to avoid the APA, there is no question that the statute does **not** provide a CEQA exemption. Idemitsu has maintained, through various written comments submitted to CEC, that CEC's regulations threaten substantial physical changes to the environment due to their tendency to squeeze out smaller market participants in favor of bigger companies.

The same is true with this round of regulations—large firms may be able to navigate a seven-day notice period for changes to reporting forms or prepare a report on every transaction they touch, no matter how attenuated their connection to that transaction is. Small firms cannot, and that means less fuel routed to California, less fuel for independent gas stations, and more long-distance travel (and, in turn, increased greenhouse gas emissions, street and highway traffic, noise, and reduced air quality) for affected populations who still have to fill up their tanks. Moreover, when these small firms inevitably exit the market, the State's existing supply challenges (which have been discussed at length in various workshops conducted by CEC) will be exacerbated.

Each successive emergency regulation CEC promulgates adds a new wrinkle to the future outlook of the California liquid transportation fuels market, including the mix of imported vs. state-produced gas, waiver of certain fuel specifications designed to reduce pollution (like Governor Newsom has done in the past to permit the sale of higher-RVP gasoline during the restricted summer season), and the timing of the state's expected transition away from internal combustion engine vehicles and the associated demand for gasoline. And the impacts of these regulations may be in conflict with each other—while overly-burdensome reporting proposed today may *decrease* the volume of imports into the state, spot market reporting and refinery margins may *increase* the volume of imports as DPMO's own Chief Economist Dr. Gigi Moreno acknowledged in CEC's April 11 workshop while discussing imports in the context of a gross gasoline refining margin and penalty. For this reason, CEC must undertake a comprehensive CEQA review. Otherwise, it is impermissibly segmenting individual actions that, when taken together, will have a clear impact on the environment.

For example, CEC's extensive and burdensome reporting requirements will likely disincentivize oil and gas production and refining for petroleum-derived transportation fuels

from out-of-state sources, leading California to rely heavily on in-state production to meet its transportation fuel demand. This would lead to increased air pollutants and toxic air contaminants. Additionally, this supply of transportation fuels could decrease given that fewer refineries in California can produce fuels compliant with the proposed regulations, prompting the state to rely on lower-quality fuels with higher emissions to fulfill peak demands. A detailed health risk assessment (HRA) is required to evaluate the potential health impacts (e.g., acute and chronic cancer risk) from the additional criteria air pollutant emissions that would result from this rulemaking.

Further, the proposed regulations could lead to a higher proportion of fuels being sourced internationally, which would increase greenhouse gas and criteria air pollutant emissions. As estimates for international crude production are not reliable, this increase in imported oil may further contribute to greenhouse gas emissions due to the underestimation of carbon intensity. CEC should conduct a full Environmental Impact Report to evaluate the GHG impacts of the regulations and to ensure they do not hinder California's climate goals. Taken together, these regulations could have significant environmental impacts, including air quality, health risks and greenhouse gas impacts and warrant a comprehensive CEQA review.

IV. CEC's Spot Market and Terminal Position Holder Reporting Requirements Remain Problematic

Although OAL approved CEC's emergency regulation for daily spot market transaction and settlement reporting and is separately considering terminal position holder reporting requirements, those regulations remain part of the overall tapestry of the regulatory structure CEC is building piece by piece. As it considers the topic of fuel regulation, CEC should reassess all that it has done and how its regulations work together. Specifically, CEC should consider both sets of reporting requirements because they are onerous, unclear, and not representative of how spot market transactions are actually processed and structured. The redlines attached hereto seek to solve many of these issues, including by:

- Providing a clearer definition of "Spot Market Transaction," which better reflects the widely accepted industry definition
- Clarifying when a spot market transaction "occurs in California," to better avoid regulation of transactions for deliveries outside the California fuels market that have no or only a remote nexus to the California market
- Suggesting reasonable modifications to arbitrary deadlines like the 9:00 am deadline for daily reports, which will relieve some of the burden on industry and ensure more accurate reporting

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- Eliminating bifurcated reporting on both the initiation and settlement of spot market transactions, a requirement with no support in SB X1-2
- Clarifying that only terminal operators and merchant terminal operators must file weekly and monthly terminal position holder reports to avoid unnecessary and duplicative reporting from other entities

12

13

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For all of the above reasons, Idemitsu respectfully submits that OAL should require CEC to revise the Emergency Rule in accordance with these comments.

Regards,



Maureen F. Gorsen
Partner

Attachment

DOCKETED	
Docket Number:	23-OIR-03
Project Title:	General Rulemaking Proceeding for Developing Regulations, Guidelines, and Policies for Implementing SB X1-2 and SB 1322
TN #:	255403
Document Title:	Idemitsu Apollo Corp Comments on DRAFT Proposed SB X1-2 and SB 1322 Regulation Changes
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Comment Received From: Idemitsu Apollo Corporation
Submitted On: 4/1/2024
Docket Number: 23-OIR-03

Comment on DRAFT Proposed SB X1-2 and SB 1322 Regulation Changes

Additional submitted attachment is included below.



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April 1, 2024

By Email

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

Chad Oliver, Esq.
chad.oliver@energy.ca.gov

Re: Comment on DRAFT Proposed SB X1-2 and SB 1322 Regulation Changes

Dear All,

Idemitsu Apollo Corporation (“Idemitsu”) appreciates the opportunity to continue to work with the California Energy Commission (“CEC”) to further CEC’s goals of (1) increased transparency, (2) decreased price spikes, and (3) increased liquidity in the fuel marketplace. Idemitsu would like to thank CEC for hosting the March 18th pre-rulemaking workshop discussing its second set of emergency regulations implementing SB X1-2. Idemitsu is a fuel reselling company located in Sacramento, California that buys and sells products, primarily to jobbers and independent gas stations. Resellers like Idemitsu keep refiners competitive by providing an alternative to refinery-direct sales. Given its perspective, Idemitsu hopes that its participation in the March 18th workshop (like its comments submitted on February 20, 2024) was helpful to the CEC.

Despite efforts like these to engage with CEC, Idemitsu would like to reiterate that it has been exceptionally challenging to keep pace with CEC with respect to CEC’s ongoing changes to the regulatory regime.¹ It is simply not possible to provide the sort of meaningful feedback that CEC needs to effectively understand and regulate these transportation fuels transactions within

¹ In a March 28 letter submitted to the CEC docket, Idemitsu requested a two-week extension of the April 1, 2024 5:00 pm deadline for written comment on the proposed regulations. Idemitsu expressed concern that the CEC deadlines for written comment continue to fall on the first business day after a holiday weekend. CEC did not acknowledge this concern nor agree to extend the deadline by even one day, despite the fact that its offices are closed in observance of Cesar Chavez Day when comments are due. As a result, this letter is admittedly incomplete, and does not come close to addressing all of Idemitsu’s concerns. Idemitsu hopes to have the opportunity to provide more thorough input in the future.

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the timelines provided. Idemitsu is therefore concerned that the regulations CEC has proposed (and promulgated) will thwart rather than advance the agency's goals and cause unintended harmful disruptions to the California transportation fuels market. As drafted, the draft regulations publicized in advance of the workshop (the "proposed regulations") would impose requirements that are not feasible, are in some respects impossible, and are otherwise unclear and conflicting. More, the regulations have been rushed through so quickly that there has hardly been time for affected stakeholders to read them, much less evaluate and analyze them so as to provide helpful input.

The specialized nature of the transportation fuels transactions at issue plainly require CEC to collaborate more closely with affected stakeholders. That coordination will allow CEC to ensure reporting aligns with industry standards and to avoid redundancy, unnecessary confusion, and flawed reporting. To achieve these goals, Idemitsu strongly encourages CEC not to promulgate such important regulations on an emergency basis and in piecemeal fashion. Rather, Idemitsu believes the correct approach is a collaborative rulemaking process that the traditional, non-emergency timelines provide. To help facilitate that rulemaking process, Idemitsu requests the opportunity to meet with CEC to discuss specific proposed changes that Idemitsu believes will assist CEC in achieving its goals.

Ad-Hoc Changes to Reporting Requirements Place Market Participants in Regulatory Limbo

The proposed regulations present a serious risk to market participants because CEC can change its requirements on extremely short notice. To allow for compliance and to provide regulated entities with fair notice of their obligations, regulations should be clear and consistent. For example, courts have expressed serious concern when agencies issue piecemeal rulemakings with staggered notice provisions and overlapping and interrelated requirements. This is because such efforts deprive the public of an opportunity to not only provide comment but also to understand how they themselves may be impacted by the rule. *See, e.g., Centro Legal de la Raza v. Exec. Office for Immigration Review*, 542 F.Supp.3d 919, 958 (N.D. Cal. 2021). Moreover, regulations should provide adequate lead time to design compliance frameworks *prior to* implementation. Regulated entities need time to build compliance programs, train compliance staff, and develop and implement technology tools to assist in compliance. CEC's proposed regulations do not provide adequate time to achieve these necessary goals; they have instead left market participants scrambling to ensure they will comply.

In its most recent set of draft rules – "DRAFT Proposed SB X1-2 and SB 1322 Regulation Changes," Docket No. 23-OIR-03, TN #255019 – CEC proposed to revise Cal. Cod. Regs. § 1367 such that the Executive Director of the CEC may make modifications to the reporting forms with only seven days' notice. Before this set of draft regulations, the Executive Director was required to provide thirty days' notice before making a modification. CEC's decision to allow itself the opportunity to change its forms in one week (instead of one month) demonstrates that the agency recognizes that its forms and reporting may not be perfect and

flexibility is required. But to stakeholders, this “work-in-progress” rulemaking only creates substantial risk of inadvertent noncompliance. Market participants cannot be expected to tweak their compliance programs, retrain staff, and reprogram their data collection systems to capture new reporting fields or other changes in reporting requirements on such a short timetable. From a technology standpoint, reprogramming these systems requires significant time and resources and can take many weeks to do. CEC should reconsider its approach here and provide a grace period for regulated entities to respond to changes CEC makes.

This sort of uncertainty is not without consequence – it complicates market participants’ already daunting role of securing gasoline supply for the State during a critical period. Springtime of March and April has historically been the time that inventories are built up for the anticipated peak demand for gasoline among consumers in the summer. Instead of focusing on that goal, which requires entities to make calculated decisions and significant investments, industries are trying to ensure compliance with a set of ever-changing regulations and evaluating whether continued business in the California market is possible. As a result, Idemitsu understands there has been an up to 25% reduction in imports for the month of March, and California faces its lowest inventory levels in history.

The 96-Hour Planned Import Report is Unworkable As Drafted

CEC’s proposed import reporting rule is unworkable as drafted. These most recent draft regulations from CEC introduce a 96-Hour Planned Import Report (“96-Hour Report”), the requirements of which are outlined in Appendix D, section II. As proposed, importers will be required to file an extensive report for any vessel containing liquid transportation fuel originating from a non-California port 96-hours before arrival in the State. However, the proposed 96-Hour Report contains numerous reporting fields that are unclear, unknown at the time of reporting, or not typically captured as a part of the transaction. Additionally, this report requires much of the same information already reported by entities in their daily spot market transactions reports, and is thus unduly redundant. Because CEC may, in the future, use this information to set margin caps on the price of gasoline, it is imperative that any accounting performed by CEC properly reflects all elements of the transaction and associated costs in order to avoid unfounded claims of price gouging.

In practice, importers purchase cargo with petroleum products at various points in the supply chain. That is, importers may purchase this cargo at its origin or on a “delivered” basis after the fact. How cargo is purchased affects what information is available to entities and individuals and when. Moreover, importers are not always certain where cargo will discharge. For example, importers often route cargos to different states or countries at the last minute, even after offloading has begun. A shipment that is four days out of Los Angeles may be redirected to Mexico the next day or even while it is being unloaded. The proposed regulations do not account for these nuances and do not reasonably accommodate importers when their vessel’s

destination unexpectedly changes. Instead, the proposed regulations incorrectly treat every item of cargo the same.

Experience shows such cargos are not the same, and those differences elude the requirements of the 96-Hour Report. For example, when cargo is purchased on a “delivered” basis, the “Date When CA Designated as Destination” field may not be known at the time of reporting. The “Date(s) of Loading” field will also not be available to entities if cargo is purchased on a “delivered” basis. Moreover, suppliers often do not know where cargo will be discharged at the time of purchase. “Marine Berth Discharge Location” is, thus, a field that may not be known at time of reporting. The same is true for the “Marine Berth of Loading” field. While this field appears to require a specific dock, entities subject to reporting often do not have this information.

There are other fields on the 96-hour reporting form that lack clarity in the context of real-world transactions. For example, the “Status of Product” is a field that requires the reporter select one of three choices: “purchased,” “unsold,” or “internal use.” But the reality is that fuel suppliers may purchase cargo with no determined use in mind at the time of reporting, making this field difficult to answer. The “Cargo Landed Cost” field is another important example of a field that does not reflect how these transactions actually work. There are dozens of costs that go into these transactions, many of which are not known to market participants until well after the 96-hour period, and yet CEC provides very little insight into what costs should be included here. CEC’s proposed definition for “Landed Cost” indicates it is the “sum of all expenses associated with importing the product,” and provides a *non-exclusive* list of expenses to include, but this is not sufficient. In fact, this puts reporting entities in a situation where if they underestimate their landed cost on the 96-hour report, they are vulnerable to claims from the CEC that they are price gouging when the costs turn out higher than they estimated.

The Monthly Refining Margin Report Highlights the Need for Additional Changes for Spot Market Reporting Requirement Definitions

Idemitsu appreciates CEC’s effort to promote clarity in the regulatory scheme by proposing new definitions in Cal. Cod. Regs. Tit. 20, § 1363.2.² These changes, however, highlight problems with other definitions in Section 1363.2. For example, CEC previously defined “Spot Market Transaction” as “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.” Market participants are required to submit daily spot market transaction and settlement

² Idemitsu notes that it raised concerns about the clarity of certain regulatory provisions in its February 20 comment letter. As we note, some of the proposed regulations only deepen that lack of clarity. CEC can still fix the regulations it promulgated in February and, because the regulatory structure CEC is promulgating in multiple iterations appears meant to hang together as a whole, CEC should do so.

reports for a transaction “that either occurs in California or involves a transportation fuel product that will be delivered on the spot within the California fuels market.” *See* Cal. Cod. Regs. Tit. 20, 3 app. D.I.

The new proposed rules introduce a new definition—for “Spot Pipeline Sale”—which is a “sales transaction that physically changes hands at a refinery gate or other major pricing hub for delivery on a pipeline in either the LA or SF spot pipeline markets. Deals are usually done in bulk, typically between 5,000 to 50,000 barrels. This term also includes pump-over and in-tank transfer delivery methods.” CEC’s clearer definition of “Spot Pipeline Sale” demonstrates precisely why the definition of “Spot Market Transaction” lacks clarity and is inadequate. As such, Idemitsu encourages CEC to amend its definition of “Spot Market Transaction” to clarify what transactions CEC intends to capture.

CEC Should Re-Consider the 9:00 am Deadline for Spot Market Reporting

All of this only further demonstrates that CEC should reconsider the deadlines it is imposing on affected market participants. For example, Idemitsu encourages the CEC to reconsider the extremely burdensome nature of the daily spot market transaction reporting. Idemitsu proposes changing Section 1364(a) from requiring that daily spot market transaction reports be filed by 9:00 am for the prior day’s trading activity to instead allow market participants to file these reports within 36 hours for the prior day’s trading activities. In other words, reporting entities would have 36 hours from the close of the business day (5:00 pm) to report their spot market transactions to the CEC.³ As Idemitsu has previously stated, the daily reporting requirements are extremely burdensome. Appendix D.I (daily report for initiated transactions) requires 32 separate fields. Appendix D.II (daily report for settled transactions) requires 24 separate fields. There is no way to comply with a 9:00 am deadline without hiring staff dedicated just to CEC reporting or requiring existing personnel to work overtime or special graveyard shifts. And the same is true for the CEC—this is a substantial amount of data which the CEC will have to analyze in very short time frames, every day.

CEC Should Re-Consider the Data Fields Required for Daily Spot Market Reports

Idemitsu would like to reiterate its concern that the recently-promulgated daily spot market emergency rule goes beyond the mandate of the statute and bifurcates reporting on both the initiation of the transaction and its settlement, with different fields for each. *See* Cal. Cod. Regs. §1366(a); App. D, §§ I, II. While CEC contends that this bifurcated reporting is intended to “streamline” the reports and save “both industry and the CEC time and effort,” the reality is that CEC is merely doubling the work that entities must do to complete the reports.

³ Weekend and holiday days should be excluded from this 36-hour deadline.

And more specifically, Idemitsu encourages CEC to reconsider what attributes of spot market transactions must be reported. Not only do the fields required by Appendix D go beyond the list of required report attributes enumerated in SB X1-2, they demand information that is not available to entities and individuals at the time of reporting. While CEC stated in its responses to public comment that much of this information is already reported to the Oil Price Information Service (“OPIS”) and that all of the information collected under these regulations is available to reporters each day, this is simply not true. For example, the report for initiated transactions requires entities and individuals to report the name of the barge or product tanker, the pipeline delivery subcycle, and the first and last name of the contact person for the broker used to facilitate the transaction, all of which are not known to entities at the time of reporting. The same is true for the report for settled transactions, which requires the delivery chain sequence, the date request for shipment issued for pipeline tender by seller or buyer, and the shipment contact information for all shipment companies involved with the transaction. Idemitsu respectfully encourages the CEC to reconsider which fields allow it to efficiently analyze spot market transactions.

* * * * *

Thank you for your consideration of these comments. We would welcome the opportunity to discuss these suggestions in further detail with CEC by whatever method is most convenient. As it stands, under the deadlines CEC has set and the speed with which CEC is moving to promulgate regulations in piecemeal fashion, it is impossible for stakeholders to provide CEC with the sort of meaningful feedback that will allow CEC to achieve its goals and minimize disruptions to the California transportation fuels market.

Regards,



Maureen F. Gorsen
Partner

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 ~~strikeout (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 California State Energy Resources and 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. Each party to any transaction may use a different Contract Identification Number for the same transaction.

"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

~~"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.

"Leased Capacity" means the quantity of storage capacity, in barrels, under contract by the position holder with the terminal operator by transportation fuel product type.

"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.

“Merchant Terminal” means a California bulk storage facility with a storage capacity equal to or greater than 50,000 barrels that provides leased capacity storage contracts to position holders for gasoline, blending components, fuel ethanol, distillates, renewable distillates, or aviation fuels.

“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.

"Nonrefiner" means a company or other entity that commercially trades in gasoline, gasoline blending components, diesel fuel, or renewable diesel fuel inventory not subject to contractual supply obligations. The term "nonrefiner" does not include fuel resellers, such as entities that purchase fuel for resale at wholesale or bulk.

"North Coast Region" means a geographic area in California that includes the counties of Del Norte, Humboldt, Lake and Mendocino.

"Northern California Region" means a geographic area in California that includes the counties of Santa Cruz, Santa Clara, San Mateo, San Francisco, Merced, Stanislaus, Alameda, San Joaquin, Tuolumne, Calaveras, Mono, Alpine, Amador, Sacramento, Solano, Napa, Marin, Sonoma, Yolo, El Dorado, Placer, Sutter, Colusa, Lake, Mendocino, Glenn, Butte, Nevada, Sierra, Yuba, Plumas, Tehama, Lassen, Shasta, Trinity, Humboldt, Del Norte, Siskiyou, Mariposa, Madera, Modoc, Contra Costa, San Luis Obispo, Kern, Inyo, Tulare, Kings, Monterey, San Benito and Fresno.

"Notice of Readiness (NOR)" means a communication provided by a 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.~~

Position Holder" means a company or firm who holds an inventory position for transportation fuel or fuels in a terminal, as reflected on the records of the terminal operator. A person holds an "inventory position of transportation fuel" when they have a contract with the terminal operator for the use of storage facilities and terminaling services for transportation fuel at the terminal. The term includes a terminal operator who owns transportation fuel in the terminal.

"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. In the context of the nominations process, where trades are executed based on anticipated volume requirements submitted not less than eight days prior to the required date of delivery, only the final transfer of ownership shall constitute a "settlement," intermediate agreements to transfer ownership shall not constitute individual "settlements."

"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, physically changes hands at a refinery gate or other major pricing hub 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 in either the LA or SF spot pipeline markets. For the purpose of these regulations, a "Spot Market Transaction" shall not include a trade in which petroleum products merely pass through California for delivery in another state and shall not include any transaction that occurred at a non-refinery or non-major pricing hub. "Spot Market Transaction" shall also not include transactions priced on an OPIS index formula basis.

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, ~~af~~1--25218(e), and 25367, Public Resources Code. Reference: Section 25354, Public Resources Code.

§ 1364. Reporting Periods.

(a) For purposes of this article, and unless otherwise indicated, each day shall be a reporting period for those entities required by Section 1366 to file daily reports. Daily reports filed pursuant to this article shall be submitted ~~not no~~ later than 36 hours after the close of the business day (5:00 p.m. Pacific) ~~9:00 a.m. on the day following the close of the reporting period~~ for which the information is submitted. For purposes of calculating the 36 hour deadline, hours on weekends and holiday days shall not count towards the deadline. Reports shall be deemed submitted as of the date of electronic transmittal, provided that the report is properly and legibly completed.

(ab) For purposes of this article, and unless otherwise indicated, each calendar week for the reporting period shall start on Friday for those entities required by section 1366 to file weekly reports. Weekly reports filed pursuant to the article shall be submitted no later than five (5) calendar days following the close of the weekly

reporting period for which the information is submitted. Reports shall be deemed submitted as of the date of the postmark, facsimile or electronic transmittal, provided the report is properly and legibly completed.

(be) For purposes of this article, and unless otherwise indicated, each calendar month, beginning with the first calendar month of the year following the effective date of this article, shall be a reporting period for those entities required by Section 1366 to file monthly reports. Monthly reports filed pursuant to this article shall be submitted not later than the thirtieth (30th) day following the close of the reporting period for which the information is submitted. Reports shall be deemed submitted as of the date of postmark, facsimile or electronic transmittal, provided that the report is properly and legibly completed.

(ed) Annual reports required by this article shall be submitted not later than February 15 of each year and shall contain the information required by Section 1366 for the preceding calendar year.

NOTE: Authority cited: Sections 25213> aoo-25218(e), and 25367, Public Resources Code. Reference: Section 25354, Public Resources Code.

§ 1366. Requirement to File.

(a) Every refiner and nonrefiner, including importers that imported to California on average 15,000 or more barrels per day over the past five years, -and other entities including importers, brokers, and traders as defined in Section 1363.2, that consummates a spot market transaction shall file a daily report containing all of the information specified in Appendix D, Sections I ~~and 11~~, for each ~~transaction or settlement, respectively, occurring the preceding day. No report shall be required for a reporting period in which no transaction or settlement occurs.~~

(ab) Each refiner, as defined in Section 1363.2, shall file weekly reports for each California refinery containing all of the information specified in Appendix A, Section I.

(bc) Each refiner, importer, exporter and major petroleum products transporter, as defined in Section 1363.2, shall file weekly reports containing all of the information specified in Appendix A, Section II.

(ed) Each refiner, terminal operator and major petroleum products storer, as defined in Section 1363.2, shall file weekly reports containing all of the information specified in Appendix A, Section III.

(de) Each refiner, as defined in Section 1363.2, shall file weekly reports containing all of the information specified in Appendix A, Section IV.

(ef) Each refiner, as defined in Section 1363.2, shall file monthly reports for each California refinery containing all of the information specified in Appendix B, Section I.

(fg) Each refiner, as defined in Section 1363.2, shall file monthly reports for each California refinery containing all of the information specified in Appendix B, Section II.

(gh) Each refiner; importer, exporter, non-California fuel transporter, marine fuels distributor and major petroleum products transporter, as defined in Section 1363.2, shall file monthly reports containing all of the information specified in Appendix B, Section III.

~~(hi) Each refiner, terminal operator and major petroleum products storer, as defined in Section 1363.2, shall file monthly reports containing all of the information specified in Appendix B, Section IV.~~

~~(i) Each nonrefiner, including T terminal operators and, merchant terminal operators, and major petroleum products storers as defined in Section 1363.2, that commercially trades in transportation fuel products~~ shall file California Merchant Terminal Position Holder Weekly Reports containing all of the information specified in Appendix A, Section V.

~~(ij) Each refiner, as defined in Section 1363.2, shall file monthly reports containing all of the information specified in Appendix B, Section V.~~

~~(j) Each nonrefiner, including T terminal operators and, merchant terminal operators, and major petroleum products storers as defined in Section 1363.2, that commercially trades in transportation fuel products~~ shall file California Merchant Terminal Position Holder Monthly Reports containing all of the information specified in Appendix A, Section VII.

(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 EIA782B published by the United States Department of Energy shall file monthly reports containing all of the information specified in Appendix B, Section VI.~~

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

~~(mn)~~ 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.

~~(no)~~ 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 111, 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.

~~(qr)~~ 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, nonrefiners, and importers, 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 the final importers of record under federal customs law for such cargo or final owners of such cargo prior to arrival, shall file, except as provided in Appendix D, Section II, subsection A, within 24 hours of such cargo being designated for delivery to California, reports containing all of the information specified in Appendix D, Section II no less than 96 hours before the arrival of a marine vessel delivery of reportable cargo to California.

~~(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(9) 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) and 25354, and 25367, Public Resources Code. Reference: Section 25354(a), (b), (f), and 25367, 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 thirty 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 sections 1367-1371 and Appendixes A-C]

Appendix A: Weekly Reporting

V. California Merchant Terminal Position Holder Weekly Reports shall contain all of the information specified in subsections A through J for all transportation fuel products separated into sub-groups for each position holder at the terminal location and totals for the terminal as a whole. These reports shall also include the information specified in subsection J for aggregate terminal operations. All items are to be reported in barrels of product.

- A. Product received by the position holder from outside of the merchant terminal and placed within tankage leased by the position holder.
- B. Product received by the position holder from another position holder within the merchant terminal and placed within tankage leased by the position holder.
- C. Total product received by the position holder.
- D. Product produced from the blending or conversion of product within the merchant terminal, including the net change in inventory of both the end product and the components.
- E. Product sold over the rack for distribution to an end-user retailer.
- F. Product transferred to a location outside of the terminal, not including product transferred via rack distribution.
- G. Product transferred to another position holder within the terminal.
- H. Ending physical inventory in tankage after accounting for all product transferred, received, and product converted, corrected to 60 degrees Fahrenheit.
- I. Capacity eased by the position holder at the merchant terminal.
- J. Additional information required for aggregate terminal operations only:
 - a. Total unleased storage capacity and unused community storage capacity for gasoline and gasoline blending components, fuel ethanol, distillates, renewable distillates, and aviation fuels.
 - b. Leased storage capacity, total unleased storage capacity, and unused community storage capacity for crude oil, unfinished oils, residual fuel oil, petroleum coke, transmix, and any other petroleum products. Reporters shall describe any products reported under the "other petroleum products" category.

Appendix B: Monthly Reporting

VII. California Merchant Terminal Position Holder Monthly Reports shall contain all of the information specified in subsections A through J for all transportation fuel products separated into sub-groups for each position holder at the terminal location and totals for the terminal as a whole. These reports shall also include the information specified in subsection J for aggregate terminal operations. All items are to be reported in barrels of product.

- A. Product received by the position holder from outside of the merchant terminal and placed within tankage leased by the position holder.
- B. Product received by the position holder from another position holder within the merchant terminal and placed within tankage leased by the position holder.
- C. Total product received by the position holder.
- D. Product produced from the blending or conversion of product within the merchant terminal, including the net change in inventory of both the end product and the components.
- E. Product sold over the rack for distribution to an end-user retailer.
- F. Product transferred to a location outside of the terminal, not including product transferred via rack distribution.
- G. Product transferred to another position holder within the terminal.
- H. Ending physical inventory in tankage after accounting for all product transferred, received, and product converted, corrected to 60 degrees Fahrenheit.
- I. Capacity eased by the position holder at the merchant terminal.
- J. Additional information required for aggregate terminal operations only:
 - a. Total unleased storage capacity and unused community storage capacity for gasoline and gasoline blending components, fuel ethanol, distillates, renewable distillates, and aviation fuels.
 - b. Leased storage capacity, total unleased storage capacity, and unused community storage capacity for crude oil, unfinished oils, residual fuel oil, petroleum coke, transmix, and any other petroleum products. Reporters shall describe any products reported under the "other petroleum products" category.

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

~~I. The California Daily Spot Transactions Report shall contain the information detailed below in subsections A through FF. This report is required for each spot market transaction for a transportation fuel product that either occurs in California or involves a transportation fuel product that either occurs in California or involves a transportation fuel product that will be delivered on the spot within the California fuels market.~~

- ~~A. The date and time of the transaction.~~
- ~~B. The contract identification number for the transaction.~~
- ~~C. The position sequence number for the transaction.~~
- ~~D. The contract position identification number for the transaction.~~
- ~~E. The trading counterparty entity company or organization name.~~
- ~~F. The trading counterparty entity contact name.~~
- ~~G. The spot market trading location. Transactions that occur at any point north of the southernmost point in Kern County shall be attributed to the San Francisco spot market. All other transactions shall be attributed to the Los Angeles spot market.~~

- ~~H. — Indication that the reporter of the transaction is either a buyer or seller.~~
- ~~I. — Type of transportation fuel product for the transaction. Types of products are gasoline, blending components, diesel fuel, aviation fuel, or renewable fuels.~~
- ~~J. — Name of transportation fuel product for the transaction. For gasoline products, the name of the product shall indicate the octane and the specification of the gasoline product. Enter the specific product name from the following list:~~
- ~~1. — Gasolines: CARBOB, AZBOB, RBOB, CBOB, or Conventional.~~
 - ~~2. — Blending Components: Alkylate, Isomerate, Naphtha, Reformate, GTAB, or other gasoline blendstocks (specify name).~~
 - ~~3. — Diesel fuels: CARB ULSD, EPA ULSD.~~
 - ~~4. — Aviation Fuels (Commercial and Military): Jet A (including bonded turbine) and JP-5, Aviation Gasoline.~~
 - ~~5. — Renewable Fuels: Renewable Diesel, Renewable Naphtha, Sustainable Aviation Fuel, Biodiesel.~~
- ~~K. — Volume of product contracted in thousands of barrels.~~
- ~~L. — Contract delivery month for the transaction.~~
- ~~M. — Contract method of delivery. For transactions that involve more than one delivery method, list all methods used. Delivery methods may include, but are not limited to:~~
- ~~1. Pipeline~~
 - ~~2. Pump-Over~~
 - ~~3. In-Tank Transfer~~
 - ~~4. Barge~~
 - ~~5. Marine Vessel, or~~
 - ~~6. Other (specify)~~
- ~~N. — Name of barge or product tanker, if applicable.~~
- ~~O. — International Maritime Organization number of the vessel carrying transacted product, if applicable.~~
- ~~P. — Location of delivery where title transfer is to take place.~~
- ~~Q. — Pipeline delivery subcycle. Include descriptors such as, but not limited to:~~
- ~~KM West Any~~
 - ~~KM South L3~~
 - ~~KM North FH~~
 - ~~C1, C2, C3, C4, etc.~~
- ~~R. — Start date of delivery of transacted product.~~
- ~~S. — End date of delivery of transacted product.~~
- ~~T. — Type of price basis method used for the contract, such as exchange of futures for physical (EFP), fixed price, fixed date range, floating date~~

range, or other

- ~~U. Reference product for the price basis method used for EFP transactions.~~
- ~~V. Reference month for the price basis method.~~
- ~~W. Price differential between the agreed-upon price and the reference price in cents per gallon.~~
- ~~X. For floating price contracts, the type of event or pricing dates agreed to at the time of the contract that will be the basis for the price. For event-based pricing, include the event trigger and the duration of the pricing window. Pricing event types may include, but are not limited to:
Title Transfer (TT) date
3-day wrap (around pump date)
NOR (Notice of Readiness)
1/1/1 (day before, day of, day after)
Month average
For contracts wherein pricing dates were agreed to at time of contract, indicate "fixed dates".~~
- ~~Y. For floating price contracts, the date of the event on which pricing will be based.~~
- ~~Z. Date agreed upon at the time of the transaction when floating pricing is to start, if applicable.~~
- ~~AA. Date agreed upon at the time of the contract when floating price is to end, if applicable.~~
- ~~BB. New York Mercantile Exchange (NYMEX) price for referenced price basis in cents per gallon, if applicable.~~
- ~~CC. Cash price of the EFP transaction in cents per gallon, if known at the time of contract transaction.~~
- ~~DD. The company name of the broker or executing trader, if any, used to facilitate the transaction.~~
- ~~EE. The first and last name of the contact person for the broker or executing trader, if any, used to facilitate the transaction.~~
- ~~FF.A. Indication if the transaction was reported to the Oil Price Information Service (OPIS) and, if so, who reported it.~~

NOTE: Authority cited: Sections 25213, 25218(e), 25354, and 25367, Public Resources Code. Reference: Section 25354(1), Public Resources Code.

§. The Daily Spot Settlements Report shall contain the information detailed below in subsections A through X. This report is required for each settlement of a Spot Market Transaction for a transportation fuel product that either occurs in California or involves a transportation fuel product that will be delivered on the spot within the

California fuels markets delivered for final sale in California. Each settled transaction reported in the California Daily Spot Settlements Report must have a contract identification number that matches the contract identification number of a transaction previously reported in a California Daily Spot Transactions Report.

- A. The date and time of the transaction.
- B. The contract identification number for the transaction.
- C. The contract position identification number for the transaction.
- D. The name of the trading counterparty's company, organization, or other entity. For transactions that involve more than one counterparty, include only the party that is the final recipient counterparty.
- ~~E. The first and last name of the contact person from the trading counterparty.~~
- ~~F.~~
- G. F. Date of the settlement.
- H. G. Type of settlement.
- I. H. Type of transportation fuel product. Types of products are gasoline, blending components, diesel fuel, aviation fuel, or renewable fuels.
- I. Name of transportation fuel product. For gasoline products, the name of the product shall indicate the octane and the specification of the gasoline product. Enter the specific product name from the following list:
 - Gasolines: CARBOB, AZBOB, RBOB, CBOB, or Conventional.
 - Blending Components: Alkylate, Isomerate, Naphtha, Reformate, GTAB, or other gasoline blendstocks (specify name).
 - Diesel fuels: CARB ULSD, EPA ULSD.
 - Aviation Fuels (Commercial and Military): Jet A (including bonded turbine) and JP-5, Aviation Gasoline.
 - Renewable Fuels: Renewable Diesel, Renewable Naphtha, Sustainable Aviation Fuel, Biodiesel.
- J. Volume of product delivered in thousands of barrels for each settlement.
- K. Actual delivery method. Delivery methods may include, but are not limited to:
 - 1. Pipeline
 - 2. Pump-Over
 - 3. In-Tank Transfer

4. Barge
5. Marine Vessel. or
6. Other (specify)

- L. Marine vessel name for barge or product tanker. if applicable.
- M. International Maritime Organization number of the marine vessel carrying the product. if applicable.
- N. Location of final delivery where title transfer took place.
- O. Pipeline batch designation. if applicable.
- ~~P. Delivery chain sequence. The sequence must follow the industry standard convention right to left. with originating party (buyer) on the right. party bought from (seller) to the left. until final supplying party on the far left.~~
- ~~Q. For floating price contracts. the type of event or pricing date(s) agreed to at the time of the contract that will be the basis for the price. For event-based pricing. include the event trigger and the duration of the pricing window.~~
- ~~R. For floating price contracts. the date of the event on which pricing was based.~~
- ~~S. Start date of actual settlement pricing window. if applicable.~~
- ~~T. End date of actual settlement pricing window. if applicable.~~
- U.P. Invoiced volume of refined petroleum product in barrels.
- V.Q. Invoiced price of refined petroleum product in cents per gallon.
- ~~W. Date request for shipment issued for pipeline tender by seller or buyer.~~
- ~~X. Shipment contact information for all shipment companies involved with the transaction. Include identification of each shipment company and first and last name of the contact person at each respective shipment company involved.~~

NOTE: Authority cited: Sections 25213, 25218(e), 25354, and 25367. Public Resources Code. Reference: Section 25354{1}. 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), t~~This report shall be filed no less than 96 hours prior to the arrival of a marine vessel delivery to California except 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)2) 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~~3) The type of the vessel shipping the transportation fuel product, reported as either “product tanker” or “barge”.
- ~~6~~4) Name of the vessel carrying the transportation fuel product. This name must match the name reported to the State Lands Commission port reporting.
- ~~7~~5) 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~~6) The volume in barrels of transportation fuel product to be discharged.
- ~~9~~7) 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.
- 8) **Whichever is applicable of the following:**
- Name of the entity that the cargo was purchased from prior to departure from port or ports of origin.
 - 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.
 - 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.
- ~~10~~9) Name of the country of origin for all foreign-sourced cargoes or the name of the state of origin for all domestic import cargoes.
- ~~11~~10) The name of the port of origin from which the vessel departed or will depart.
- ~~12~~11) Name and location of the loading terminal or berth that the vessel was loaded at with cargo.

- ~~13~~)12) 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”.
- ~~14~~)13) Name(s) and location(s) of the loading terminal or berth at which the vessel will discharge the transportation fuel product, ~~if known at time of reporting.~~
- ~~15~~)14) The date on which the purchase contract was agreed to and formally executed, in date format (mm/dd/yyyy).
- ~~16~~)15) The cargo total landed cost in US dollars of the product moved, including all costs and fees incurred in delivery. ~~This shall exclude.~~
- ~~17~~)16) The seven-digit International Maritime Organization (IMO) ship identification number for the product tanker.
- ~~18~~)17) The name of the tug associated with each marine barge import, if applicable.
- ~~19~~)18) The seven-digit International Maritime Organization (IMO) ship identification number for each associated tug, if applicable.
- ~~20~~)19) The company name of the owner of the imported transportation fuel product cargo.
- ~~21~~)20) The company name of the entity providing transportation services, ~~if known at time of reporting.~~

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