

DOCKETED

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CALIFORNIA ENERGY COMMISSION

In the matter of:

General Rulemaking Proceeding)
 for Developing Regulations,) Docket No. 23-OIR-03
 Guidelines, and Policies for)
 Implementing SB X1-2 and SB 1322)
 _____)

SB X1-2 AND SB 1322 PRE-RULEMAKING WORKSHOP

REMOTE VIA ZOOM

THURSDAY, APRIL 11, 2024

1:00 P.M.

Reported by:

Martha Nelson

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PUBLIC COMMENT

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INDEX

	PAGE
Welcome	4
Staff Presentation on Proposed Regulatory Changes - Terminal Inventory Position Holders	6
Public Comments	12
Closing Remarks	16
Adjournment	17

P R O C E E D I N G S

1:00 p.m.

THURSDAY, APRIL 11, 2024

MR. SMITH: So good afternoon, everyone, and thank you for joining the California Energy Commission SB X1-2 and SB 1322 rulemaking workshop.

My name is Jeremy Smith. I'm a Deputy Director in the Energy Assessments Division. In this workshop, I will present draft data regulations and reporting requirements currently in development under the SB X1-2 emergency rulemaking.

Before we get any further, I'll share some housekeeping items with everyone.

First and foremost, please be aware this meeting is being recorded.

Second, attendees will have an opportunity to participate in today's workshop by providing oral comments during the allotted public comments period. You can also submit written comments, which are due by 5:00 p.m. on Friday -- let me see, that's Thursday, April 25th. We have a slide at the end of the presentation with details on how to submit comments to the docket.

For in-person attendees, restrooms are in the atrium. The door is to the left.

If there's an emergency and we need to evacuate

1 the building, please follow the staff to Roosevelt Park,
2 which is across the street, diagonal to this building.

3 So this is the agenda for today's very brief
4 workshop. I'll start by providing some background on and
5 purpose of these draft regulations and the rulemaking
6 process. Then I will discuss the terminal position
7 holders, draft regulations, and reporting requirements.
8 And then finally, we will allow public comments at the end
9 of the workshop.

10 Next slide. We'll go ahead and move on to the
11 next one. There we go.

12 So this is today's workshop. I will provide an
13 overview of draft language for emergency data regulations,
14 forms, and instructions to improve data collection efforts
15 on terminal position holder inventories. The goal of these
16 regulations is to improve transparency of the refining
17 industry and petroleum fuels market, better analyze its
18 market behavior, and address the anomalies. Our job is to
19 be objective, improve our understanding of how the industry
20 and market operates under certain conditions, and follow
21 the facts to protect Californians from price spikes that
22 might occur due to market manipulation.

23 The other purpose of today's workshop is to
24 receive public input on these draft data regulations,
25 either through oral comments shared today or through

1 written comments submitted to Docket Number 23-OIR-03 or
2 5:00 p.m. on April 25, 2024.

3 Next slide.

4 For some additional context, SB X1-2 was signed
5 by Governor Newsom in March 2023 and went into effect in
6 June. Since then, the CEC has been collecting additional
7 data to assess petroleum refineries and transportation
8 fuels markets to protect Californians from price spikes.
9 The CEC has hosted numerous workshops on these topics,
10 including one last month to present new data collection
11 forms on refinery cost and profits, refinery planned and
12 unplanned and maintenance, and marine imports. We also
13 held a workshop this past January on new spot market
14 reporting requirements.

15 Improving the data collection under SB X1-2
16 provides several benefits to Californians. As mentioned,
17 it improves transparency into the California petroleum
18 markets for refinery activity. It provides better data,
19 analyzes market behavior and investigate anomalies, and
20 provides facts on which action can be taken to prevent
21 gasoline waste spikes.

22 Next slide, please.

23 With the passage of the SB X1-2, the legislature
24 provided the CEC with emergency rulemaking authority for
25 many implementation activities the law calls for. This

1 includes the majority of data collected under the Petroleum
2 Industry Information Reporting Act, or PIIRA for short,
3 analysis and reporting requirements, confidentiality
4 requirements, enforcement authority, and the timing of
5 turnaround and maintenance rules.

6 Next slide.

7 The CEC has numerous forms to collect data from
8 the petroleum industry. These generally fall into the
9 following four categories: refinery costs and profits,
10 which informs the California Oil Refinery Costs Disclosure
11 Act monthly reports and whether a maximum refiner margin
12 should be set; market analysis, which informs whether there
13 is market manipulation or market failures; refinery
14 maintenance, which provides insight into the timing and
15 impact of planned and unplanned outages; finally, other
16 miscellaneous data.

17 There are two forms we're discussing today.
18 These are the monthly and weekly merchant terminal position
19 holder report. All relevant files discussed today were
20 posted to this docket yesterday. Please note, all the
21 regulations presented during this workshop are draft. So
22 even if I say things like new or updated, please know that
23 none of these changes have been adopted, nor are final.

24 Next slide.

25 Now we'll take a look at the proposed position

1 holder terminal data regulation. Starting under Section
2 1363.2, this is the specific definitions for purposes of
3 reporting requirements. We have both adding and updating
4 definitions for this post form.

5 These definitions include lease capacity, which
6 means quantity of storage capacity under contract by the
7 position holder with the terminal operator.

8 Emergency terminal, which means a California bulk
9 storage facility with a storage capacity of 60,000 barrels
10 or greater, leases storage capacity to the position holders
11 for gasoline and gasoline blending components.

12 Finally, position holder, which means a company or
13 firm to hold the position of transportation fuels in a
14 terminal, having a contract with a terminal operator for
15 use of storage facilities.

16 Next slide.

17 For the terminal position holder data regulations
18 under Section 1366, which is the requirements to file, we
19 added the weekly and monthly requirements to file to this
20 report. This is needed to align with the weekly and
21 monthly binary reporting. The report is designed to
22 collect information on position holder inventories at
23 California terminals and put transfers between position
24 holders to provide greater visibility into market
25 conditions.

1 Next slide.

2 This is a look at one of the new post forms.
3 This is similar to what is seen on the current terminal
4 form.

5 The first two columns are product received by the
6 position holder from (indiscernible) terminal and from
7 other parties within the terminal. If the product was
8 received by another party within the terminal and an
9 accounting firm takes credit, it would be in the second
10 blank column, and we should see that on another party's
11 form, which is not always one-for-one with multi-party
12 defaults and multi-transfers.

13 The third column is the summation of the first
14 two columns and they're there with the first full arrow.

15 The fourth column is product created through
16 blending. So if a product is blended with (indiscernible)
17 to create finished gasoline, you can see here. The blend
18 stocks are used to create the finished gasoline, you can
19 see it here as well.

20 The finished gasoline is then installed at the
21 rack, we can see that up in column five. Any distribution
22 loaded into a truck, a rack, or resale will be shown here.

23 Then, like columns one and two, we have non-rack
24 movements of the terminal and the debit to another position
25 holder within the terminal.

1 And then finally, ending inventories for the week
2 and month will be put in the final column. The additional
3 add for this is the general capacity position holders have
4 available to them, the facility and reporting period, which
5 can be found at the top right-hand corner of the form and
6 bottom of the form.

7 Next slide, please.

8 Okay, so here are the next steps.

9 Today, April 11th, we're beginning stakeholder
10 outreach and seeking feedback on the draft data
11 regulations, forms, and instructions that were posted to
12 the docket. We welcome written comments, but we would also
13 welcome reporting entities to reach out, schedule a
14 meeting, and share their thoughts with us. We plan to
15 continue industry outreach and finalize the data
16 regulations sometime next month.

17 We plan to present these data regulations at an
18 upcoming CEC business meeting for adoption. Depending on
19 the input from stakeholders, it would be sometime in the
20 summer, June or July. Again, these are part of the
21 emergency rulemaking under SB X1-2, so the timeline and
22 protocols are a bit different than a standard rulemaking.

23 If the package is adopted at the business
24 meeting, we will submit it to the Office of Administrative
25 Law the following day. The Office of Administrative Law

1 has ten days to review the package and make a decision
2 before the regulation would go into effect.

3 I think we lost the screens in the room.

4 (Colloquy between staff)

5 MR. SMITH: If the package is adopted at a
6 business meeting, we'll submit it to the Office of
7 Administrative Law the following day. OAL has ten days to
8 review that package and make a decision for the regulation.

9 So go ahead and close that. Go to the next
10 slide.

11 So as I mentioned, feedback is welcome and
12 appreciated as we refine the draft language, forms, and
13 instructions. Some areas that we could benefit from
14 include regulatory language, forms or instructions that
15 might be unclear and would benefit from further
16 clarification, information on relevant entity standards
17 that should be considered, suggestions for simplification
18 to achieve the same outcome while reducing administrative
19 burden.

20 Then you can submit written comments to Docket
21 Number 23-OIR-03 before 5:00 p.m. on April 25th, 2024. And
22 you can also reach out directly to me and request a meeting
23 and we can discuss it in more detail.

24 That concludes my presentation. We'll now open
25 it up for public comment.

1 MR. SANCHEZ: Hello, everybody. Welcome to the
2 public comment period. We ask that one person per
3 organization make a comment, which will be limited to three
4 minutes per speaker. Before making comments, we ask you to
5 come up to the microphone. If you're on Zoom, we ask that
6 you please raise your hand. We will call upon you and
7 unmute you. If you're on the phone, please dial nine to
8 raise your hand. Once you're called upon, you may dial
9 star nine to raise your hand or star six to unmute
10 yourself.

11 If you'd like to make a comment, please clearly
12 state your name and spell it out for the record, in which
13 case we will (indiscernible).

14 Are there any comments in-person?
15 (Indiscernible.)

16 MR. FLYER: Good afternoon. This is Aaron Flyer
17 from Sidley Austin LLP, A-A-R-O-N F-L-Y-E-R. On behalf of
18 Idemitsu, a fuel reselling company.

19 I was having some connection problems with the
20 last -- during the last meeting. Hopefully, you can hear
21 me better this time.

22 I think I wanted to, one, first, thank CEC for
23 the opportunity to come in and speak directly to your staff
24 on detailed comments and suggestions on the reporting
25 requirements. We appreciate that, and we'll likely take

1 you up on that offer, but wanted to raise a few comments
2 during this forum.

3 First is just to request, as we have in prior
4 comment outreach, that the CEC inform stakeholders well in
5 advance of any rulemaking activity and give the regulated
6 parties an opportunity to comment or review and discuss.
7 It's difficult today when the materials were posted with
8 only a few working hours before the public hearing to
9 provide meaningful comment in this forum, but we will take
10 a closer look and follow up in person and in written
11 comments.

12 The other point we would like to raise is that
13 there appears to be some confusion on the scope of entities
14 required to report. And the questions to CEC would be is
15 this intended to be the same group of entities that report
16 today on capacity, or if additional players in the spot
17 market are going to be required to report? Specifically,
18 the definition of non-refiners or the use of non-refiners
19 in the proposed regulation is unclear and it may not match
20 the guidance in the instructions that accompany the report.
21 So we ask that CEC clarify exactly who they expect to
22 report as a quote-unquote non-refiner.

23 And so, with that, I know I have a minute left,
24 but I will yield my time to somebody else. Thank you for
25 the opportunity.

1 MR. SANCHEZ: All right. And thank you for your
2 comment. We have a minute.

3 If you would (indiscernible). And you're still
4 muted, Peter. Can you please unmute yourself?

5 MR. KRUEGER: Yeah. Peter Kruger, State
6 Executive for the Nevada Petroleum Marketers and
7 Convenience Store Association. Our trade group represents
8 Nevada terminal operators, jobbers, retailers, and as well
9 as convenience store that have non-fuel supplies.

10 I think as you're aware, more than 90 percent of
11 all our refined product comes from California, either in
12 the east-west line or the north-south line operated by
13 Kinder Morgan. We in the north, here in Reno, are
14 literally at the end of the pipeline. And in southern
15 Nevada, the pipeline continues on to Arizona but,
16 nevertheless, is a huge driver of our tourism industry is
17 refined (indiscernible).

18 One of the things that I believe has not been
19 properly addressed and hope will be in the future is the
20 impact on out-of-state operations, such as the Nevada
21 terminals and jobbers and refinery retailers. Looking at
22 some of the impact from CEC's previous meetings, we
23 understand that the legislation is designed to defray
24 increased cost to California consumers, but it doesn't at
25 all address nor -- but somehow the impact that you all come

1 up with is going to affect our supply.

2 The other thing that I'd like to indicate that I
3 haven't heard talked about is aging infrastructure. Well,
4 I won't address the infrastructure of the refinery
5 community, but downstream the existing pipelines that
6 service Nevada are small, old, and capacity is very
7 limited. We've had breaks in the pipeline over the years.
8 Most recently was in Southern California and affected the
9 Las Vegas supply. We've had a break in the north-south
10 pipeline affecting Reno in the past. All these things
11 impact and our supply and ultimately price to the consumer.

12 So therefore, our big concern, we want to be part
13 of this process and want to encourage the Commission to
14 look at out-of-state impact. Again, could be that
15 California really doesn't -- its legislature really has no,
16 I guess, concern about our out of state but it does affect
17 us. And we would encourage you to look strong and hard
18 about aging infrastructure, as well as, therefore, the
19 effect and supply of us in Nevada.

20 Thank you.

21 MR. SANCHEZ: Thank you for your comment.

22 Next is Alexander. You are unmuted.

23 MR. KIM: Thank you. This is Alexander Kim, Vice
24 President of Asians In Energy.

25 We support the Clean Hydrogen Hub proposal as

1 part of the regional Clean Hydrogen Hubs Program. Senator
2 Padilla and Congresswoman Lee secured up to \$1.2 billion
3 for the Hub to facilitate the production and utilization of
4 renewable clean hydrogen across California. The landmark
5 investment was made possible by the bipartisan
6 infrastructure law, which provides up to \$7 billion to
7 build up to ten regional hydrogen hubs throughout the
8 nation.

9 Hydrogen produces zero greenhouse gas emissions
10 at its points of use. It's also versatile, suitable for
11 power generation, trucking, and heat-intensive industries
12 like steel and chemicals. We are scaling up production of
13 low carbon hydrogen to reduce CO2 emissions in our own
14 facilities and helping others do the same.

15 Therefore, Asians In Energy respectfully asks the
16 California Energy Commission to consider the unintended
17 consequences of crippling the acceleration of clean
18 hydrogen fuel. We ask the CEC to table the proposed
19 increase of penalty fees to enable clean hydrogen and fuel
20 to scale up in the marketplace.

21 Thank you.

22 MR. SANCHEZ: Thank you for your comment.

23 We'll make sure, it looks like that was our last
24 comment.

25 MR. SMITH: Okay. I'll just say, thank you,

1 Alexander, for your comment. I just wanted to make sure
2 that you were aware, this workshop is on the proposed
3 terminal position holder data regulations that are under
4 consideration under the SB X1-2 rulemaking, but I
5 appreciate you commenting here today.

6 I'd like to thank everyone for attending today's
7 workshop. For those that provided oral comments, those
8 that already or plan to submit written comments, thank you
9 for participating in the rulemaking process. There are
10 more upcoming webinars related to SB X1-2, so please watch
11 for those notices in the near future.

12 Before we close, I'd like to thank the staff and
13 the Transportation and Fuels Data Analysis Unit that are
14 supporting the development of these draft regulations,
15 forms, and instructions for this presentation during the
16 workshop.

17 Thank you also to the Chief Counsel's Office for
18 their continued support with the SB X1-2 rulemaking.

19 With that, this meeting is adjourned.

20 (The workshop adjourned at 1:23 p.m.)
21
22
23
24
25

CERTIFICATE OF REPORTER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 20th day of June, 2024.



MARTHA L. NELSON, CERT**367

CERTIFICATE OF TRANSCRIBER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.



MARTHA L. NELSON, CERT**367

June 20, 2024