

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 #:	257708
Document Title:	Resolution Adopting Revised SB X1-2 Merchant Terminal Position Holder Reporting Requirements
Description:	N/A
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Organization:	California Energy Commission
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STATE OF CALIFORNIA
STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

IN THE MATTER OF:

**Emergency Rulemaking
Implementing Revised SB X1-2
Merchant Terminal Position Holder
Reporting Requirements**

Docket No. 23-OIR-03

**RESOLUTION ADOPTING
EMERGENCY REGULATIONS**

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

WHEREAS, to improve reporting of data to the CEC about the petroleum market that is essential for the CEC's oversight functions and for the state to develop and administer energy policies in the best interests of the state and public welfare, Public Resources Code section 25367 authorizes the CEC to adopt regulations to implement Chapter 4.5 of Division 15 of the Public Resources Code, including the proposed regulations clarifying and revising reporting requirements related to transportation fuel inventory by position holder at merchant terminals; and

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

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

WHEREAS, on March 29, 2024, the CEC noticed and on April 11, 2024, held a workshop to discuss proposed changes to the regulations; and

WHEREAS, on April 10, 2024, CEC staff published the draft proposed regulation changes; and

WHEREAS, at the April 11, 2024 workshop CEC staff presented an overview of the proposed regulations and established a written comment period up to and including April 25, 2024; and

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

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

WHEREAS, on June 28, 2024, in the proceeding docket and business meeting webpage, the CEC provided notice that it designated July 10, 2024, as the date for the business meeting to consider adoption of the proposed emergency regulations; and

WHEREAS, on June 28, 2024, more than five working days prior to submission of the proposed emergency action to OAL, the CEC provided notice of the proposed action, which included the proposed emergency regulations, to persons who have expressed interest in this proceeding, including every person who has filed a request for notice of regulatory action with the agency; and

WHEREAS, on July 10, 2024, the CEC considered the proposed emergency regulations at its business meeting.

THEREFORE, THE CALIFORNIA ENERGY COMMISSION FINDS:

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

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

With regard to the Administrative Procedure Act:

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

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

FURTHER BE IT RESOLVED that, after considering all comments received and based on the entire record of this proceeding, the CEC hereby adopts the emergency regulations implementing the merchant terminal position holders reporting requirements as published on June 28, 2024 and incorporating any changes presented and adopted today. The CEC takes this action under the authority of sections 25213, 25218(e), 25354, and 25367 of the Public Resources Code, which among other powers conferred authorize the CEC to adopt emergency regulations, as reasonable and necessary, to implement Chapter 4.5 of Division 15 of the Public Resources Code; and

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

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

FURTHER BE IT RESOLVED that, the CEC delegates the authority and directs CEC staff to take, on behalf of the CEC, all actions reasonably necessary to have the proposed emergency regulations go into effect, including but not limited to making any appropriate non-substantive changes to the regulations; preparing all appropriate documents; compiling and submitting the rulemaking file to the Office of Administrative Law (OAL); making any changes to the rulemaking file required by OAL; and filing a notice of exemption with the Office of Planning and Research. This delegation explicitly includes authority for the Executive Director or Chief Deputy Director to sign the Form 400 on behalf of the CEC.

CERTIFICATION

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the CEC held on July 10, 2024.

AYE: Monahan, Gallardo, Gunda

NAY: NONE

ABSENT: Hochschild, McAllister

ABSTAIN: NONE

Dated: July 11, 2024

SIGNED BY:

Kristine Banaag
Secretariat