

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 #:	257974
Document Title:	NOTICE OF APPROVAL OF EMERGENCY REGULATORY ACTION
Description:	Notice of approval of emergency regulatory action from State of California Office of Administrative Law
Filer:	Andrea Bailey
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	7/24/2024 10:52:25 AM
Docketed Date:	7/24/2024

**State of California
Office of Administrative Law**

In re:
California Energy Commission

Regulatory Action:

Title 20, California Code of Regulations

Adopt sections:

Amend sections: 1363.2, 1366, and
Appendix A and B of
Division 2, Chapter 3,
Article 3

Repeal sections:

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

OAL Matter Number: 2024-0712-01

OAL Matter Type: Emergency (E)

This emergency rulemaking action by the California Energy Commission amends regulations and appendices to further implement the nonrefiner reporting requirements in Public Resources Code section 25354, subdivision (k). These amendments are deemed to be an emergency and shall remain in effect for two years pursuant to Public Resources Code section 25367, subdivision (a).

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 7/22/2024 and will expire on 7/23/2026. The Certificate of Compliance for this action is due no later than 7/22/2026.

Date: July 22, 2024



Lindsey S. McNeill
Senior Attorney

For: Kenneth J. Pogue
Director

Original: Drew Bohan, Executive
Director
Copy: Chad Oliver

EMERGENCY

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2024-0712-01	EMERGENCY NUMBER E
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

ENDORSED - FILED
in the office of the Secretary of State
of the State of California**JUL 22 2024****1:58 PM**OFFICE OF ADMIN. LAW
2024 JUL 12 AM 10:23AGENCY WITH RULEMAKING AUTHORITY
California Energy CommissionAGENCY FILE NUMBER (If any)
23-OIR-03**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)	
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER		PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) SB X1-2 Merchant Terminal Position Holder Reporting Requirements		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT	
TITLE(S) 20		AMEND 1363.2, 1366, and Appendix A and B of Division 2, Chapter 3, Article 3.	
REPEAL			
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____ <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100) <input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input checked="" type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY <input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____			
7. CONTACT PERSON Chad Oliver		TELEPHONE NUMBER (916) 891-8569	FAX NUMBER (Optional) E-MAIL ADDRESS (Optional) chad.oliver@energy.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE
6/20/2024

TYPED NAME AND TITLE OF SIGNATORY

Drew Bohan, Executive Director, California Energy Commission

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED**JUL 22 2024****Office of Administrative Law**

EXPRESS TERMS

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

Proposed new language appears as underline (example) and proposed deletions appear as 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.

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

[...skipping "1/1/1" through "Lease Storage Facilities..."]

"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.

[...skipping "Los Angeles Basin Region" through "Maximum Throughput"...]

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

[...skipping "Mountain Region" through "Pipeline Storage Tanks"...]

"Position Holder" means a company or firm that 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.

[...skipping "Position Sequence Number" through "U.S.C."...]

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

§ 1366. Requirement to File.

(a) Every refiner and nonrefiner, 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 II, 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.

(b) 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.

(c) 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.

(d) 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.

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

(f) Each merchant terminal operator, as defined in Section 1363.2, shall file California Merchant Terminal Position Holder Weekly Reports containing all of the information specified in Appendix A, Section V.

(gf) 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.

(hg) 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.

(ih) 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.

(ji) 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.

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

~~(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.

(m) Each merchant terminal operator, as defined in Section 1363.2, shall file California Merchant Terminal Position Holder Monthly Reports containing all of the information specified in Appendix B, Section VIII.

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

~~(om)~~ 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.

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

~~(q)~~ 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.

~~(r)~~ 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.

~~(s)~~ 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.

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

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

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

~~(w)~~(1) Refiners, traders, brokers, and any other entities that import reportable cargo, as specified in Appendix D, Section III, subsection B, into California and that are either

importers of record under federal customs law for such cargo or owners of such cargo prior to arrival, shall file, within 24 hours of such cargo being designated for delivery to California, reports containing all of the information specified in Appendix D, Section III.

(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 III, subsection A, this report shall be filed at least 96 hours before the arrival of a marine vessel delivery of reportable cargo to California.

(~~xv~~) 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.

(~~yw~~) 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.

(~~zx~~) 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.

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

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

NOTE: Authority cited: Sections 25213, 25218(e), 25354 and 25367, Public Resources Code. Reference: Sections 25354 and 253255, Public Resources Code.

Appendix A Information Requirements for Weekly Reports

[...skipping sections I through IV...]

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

- A. Volume of product received from outside of the merchant terminal.
- B. Volume of product received from another position holder within the merchant terminal from either a separate tank or via an in-tank transfer.
- C. Total volume of product received.
- D. Volume of 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. Volume of product sold over the rack for distribution to an end-user retailer.
- F. Volume of product transferred to a location outside of the merchant terminal, not including product transferred via rack distribution.
- G. Volume of product transferred to another position holder within the merchant terminal, either from a separate tank or via an in-tank transfer.
- H. Ending physical inventory in tankage at the end of the reporting period after accounting for all product transferred, received, and converted, corrected to 60 degrees Fahrenheit.
- I. Capacity leased 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.

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

Appendix B Information Requirements for Monthly Reports

[...skipping sections I through VII...]

VIII. California Merchant Terminal Position Holder Monthly Reports shall contain all of the information specified in subsections A through I for all transportation fuel products, both for the terminal as a whole and for each position holder at the terminal location. These reports shall also include the information specified in subsection J for aggregate terminal operations. All items shall be reported in barrels of product.

- A. Volume of product received from outside of the merchant terminal.
- B. Volume of product received from another position holder within the merchant terminal from either a separate tank or via an in-tank transfer.
- C. Total volume of product received.
- D. Volume of 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. Volume of product sold over the rack for distribution to an end-user retailer.
- F. Volume of product transferred to a location outside of the merchant terminal, not including product transferred via rack distribution.
- G. Volume of product transferred to another position holder within the merchant terminal, either from a separate tank or via an in-tank transfer.
- H. Ending physical inventory in tankage at the end of the reporting period after accounting for all product transferred, received, and converted, corrected to 60 degrees Fahrenheit.
- I. Capacity leased 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.

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