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Please see attached.

Additional submitted attachment is included below.

WSPA
Catherine H. Reheis-Boyd
President and CEO

August 29, 2024

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Preliminary WSPA Comments on Gasoline Supply Reliability Workshop [Docket #23-SB-02]

On behalf of the Western States Petroleum Association (WSPA), I am providing these initial comments on the California Energy Commission (CEC) and the Division of Petroleum Market Oversight's (DPMO) August 22, 2024, Senate Bill (SB) X1-2 (2023) gasoline supply reliability workshop. We are providing preliminary comments given the Governor's last-minute legislation (SB 950), proposed on August 27, that would allow the State to impose binding minimum gasoline supply inventory rules on industry.

At the August 22 workshop, DPMO staff stated that, "Governor Newsom has now proposed legislation that would give CEC this authority, and we are excited to support his proposal"[1] while simultaneously acknowledging that "we are still working to understand exactly what capacity we have available here in California."[2] The CEC then made it appear that industry had somehow helped shape the concepts, "…because industry really understands how to do this, these complex operations, and have been… doing this for decades to be able to kind of navigate the system" and "also recognizing industry, who are collaboratively working with us, and the ability to kind of do that."[3]

This is simply not true. The proposed legislation was not made available prior to its public release on August 27, and WSPA does not believe that industry was able to shape any such framework or the now pending SB 950 – upon which the authority to do so would be based. Rather, WSPA has repeatedly raised warnings that have gone unheeded. We hope the following information will help inform policymaking discussions in the State's attempt to micromanage California's gasoline inventory supplies – which **is a recipe to *raise everyday California fuel costs and potentially reduce fuel supplies to Arizona and Nevada, too – all while minimizing the existing safety-first priority***.

PROPOSALS COMPROMISE SAFE REFINERY TURNAROUNDS

The workshop proposal and SB 950 stray from industry's calls *to avoid compromising refinery safety at all costs*. Labor had raised similar concerns. Instead of fixing decades of poor policies that have driven supply down, these proposals hold industry's safety-first turnaround planning efforts hostage. SB 950 would give unlimited authority to an agency that lacks expertise in running a refinery, advised by a committee devoid of industry experts, to hold turnaround plans in response to price signals – not legally binding safety and compliance needs; this endangers workers and communities. There is nothing to prevent the CEC from interfering with any existing health and safety requirements, leaving refiners to manage profoundly conflicting regulations.

NO EVIDENCE SHOWN THAT MORE FUEL IN INVENTORY WOULD STOP PRICE SPIKES

- California's fuel supply chain already maintains substantial volumes of gasoline inventory. California has not come close to emptying its gasoline supplies; the lowest gasoline inventory recorded since 2011 was still over 425 million gallons (in 2023), representing over 12-days' worth of supply.
    - Mandatory stockpiles have been investigated by the CEC and shown to come with significant costs, which will likely and ultimately be borne by consumers.

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[1] CEC August 22, 2024, Gasoline Supply Reliability Workshop at 46:29 mark: https://www.energy.ca.gov/event/workshop/2024-08/workshop-gasoline-supply-reliability
[2] CEC August 22, 2024, Gasoline Supply Reliability Workshop at 48:07 mark.
[3] CEC August 22, 2024, Gasoline Supply Reliability Workshop at 57:34 mark.

  - Minimum inventory levels would most likely create sustained gasoline price increases due to new tankage and working capital costs and would not reduce price spikes.
  - Gasoline that could be supplied to California, Arizona, and Nevada consumers might need to be kept off the market, creating shortages and inflating costs for drivers today.
- **Removes industry and labor voices from proposed Expert Advisory Committee.** Excluding CalOSHA and any recent industry consultants means the framework lacks any real-world expert advice and input.
- **Price volatility can happen regardless of how much gasoline is in inventory.** Massive additional storage cannot correct this problem due to permitting and operational cost constraints. What *could* help stabilize the imbalance is having sufficient local fuel manufacturing capacity, connectivity to other regional markets, and fewer policy restrictions on imports.
  - While having additional fuel inventories may be useful to address *energy security* concerns, it is not a *price-control* mechanism. Inventory safeguards against the possibility of running out of fuel until additional supplies arrive or local production resumes. The resupply market works because higher prices attract additional gasoline supplies to balance an undersupplied market.
  - Refiners may be forced to hold inventory back as they await State authorization.
  - Once the CEC establishes a "Days of Supply" threshold and mechanism to release inventory, market trading behavior may result to drive prices up in response to the lack of market liquidity.
  - No analysis has been done on whether a minimum inventory requirement may actually *decrease* domestic gasoline production given that available onsite storage is needed to efficiently balance blending, testing and certification, and marketing activities.
- **DPMO reference to international case studies is not representative of California's unique fuel market.** Any examples of policy successes in other regions do not necessarily account for California's unique and extraordinarily complex transportation fuel market.
  - California is a fuel island. This was acknowledged in the Transportation Fuels Assessment.[4]
    - California is geographically large and topographically complex
    - Neighboring state populations and economic centers are far from California's
    - There are few supply- or demand-side substitution opportunities
  - California has a unique regime of environmental policies
    - A minimum inventory requirement does not consider California's storage constraints
    - A minimum inventory requirement also ignores challenges with importing fuel from other regions, due to California's unique geography and existing policies (e.g., CARBOB blend requirements, Ocean Going At-Berth Regulation, disproportionate Federal Jones Act harms).
    - There are especially significant differences with Australia.[5] That nation – which depends on imports for *two-thirds* of their total production demand – provided approximately $1.8 billion in funding to keep their only two remaining refineries operational until 2027, provides funds for refinery upgrades, and makes certain production payments.
- **CEC and DPMO did not address unintended consequences of minimum inventories.** Further work must be done to determine if any such requirement is feasible in California.
  - What will be the costs to consumers and other unintended consequences?
  - Where is the transparency from CEC and DPMO on these economic costs?
  - Neither CEC nor DPMO appear to have any certainty to confirm that mandated thresholds will prevent price spikes in California's market as identified in the Transportation Fuels Assessment:

    "it may artificially create shortages in downstream markets"
    "[it] could increase average prices for refiners to maintain additional storage"
    "market equilibrium may likely emerge at a higher price level"
    "potential exists for the state to be criticized for requiring refiners to withhold fuel from the market"

[4] CEC Transportation Fuels Assessment Report: https://www.energy.ca.gov/publications/2024/transportation-fuels-assessment-policy-options-reliable-supply-affordable-and
[5] See refining section at https://www.eia.gov/international/analysis/country/AUS

- No analysis has been done on how refiners would store increased supply or be able to increase imports under the criteria pollutant summer CARBOB blend, Ocean Going At-Berth Regulation, and Federal Jones Act constraints.
- No consideration has been given to the likely competitive advantage provided by a minimum inventory requirement to foreign importers over domestic refiners, or how such an advantage could be alleviated.
- Likewise, there are other, non-refiner inventory holders in the State, yet no consideration has been given to requiring a minimum inventory across *all* inventory holders in the State.
- Maintenance cannot be determined based on economic interests alone, and under no circumstances should such interests prevail over or otherwise compromise safety or environmental needs – needs that are more appropriately understood and addressed by CalOSHA, industry, and labor.

It is especially concerning that important policy decisions would be made with minimal, if any, acknowledgement and ownership about potential cost impacts to end consumers. With no economic impact accountability – and lack of transparency at the CEC and DPMO– there is no line item to show how this proposal could increase consumer costs. The CEC and DPMO have the means to hide costs under refiners' margin data and continue to blame issues on industry. California's regulatory framework and logistical constraints already make it the most expensive refining environment in the nation. Even more regulation will only disincentivize investments and increase operating hurdles. This could lead to more refinery shutdowns, supply reductions, and even higher prices. This is only compounded when SB 950 would impose penalties of up to $1 million per day. This is not a sign of being collaborative with the industry that produces fuel California demands. It is wholly punitive – not to mention unlawful.

Sincerely,

Catherine H. Reheis-Boyd
President and CEO