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CFCA - Comment Letter Draft Three Month Projection Reporting

Additional submitted attachment is included below.

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December 9, 2024

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

RE: [Docket #23-OIR-03] Comment Letter on Draft Refinery and Marketer Three Month Projection Regulations

Dear Chair and Commissioners:

On behalf of the California Fuels and Convenience Alliance (CFCA), a statewide trade association representing the fuels and convenience industry in California, I appreciate the opportunity to provide comments on the Draft Refinery and Marketer Three Month Projection Regulations. While we understand the importance of fostering transparency and market stability, several aspects of the proposed regulations raise significant concerns that we respectfully urge the Commission to address before finalizing the rules.

1. Revising the Definition of "Major Marketers" to Align with Reporting Requirements
Section 1363.2 defines "Major Marketers" as firms that "sell or sold 20,000 barrels or more of petroleum products during any month of the current or preceding calendar year, excluding individual service stations or truck stops." However, Section 1366 exempts major marketers from filing projections if they do not operate a California refinery and imported less than 20,000 barrels during each month of the current and preceding calendar year.

This discrepancy introduces ambiguity that could lead to inconsistent reporting obligations. To ensure alignment and clarity, we recommend revising the definition of "Major Marketers" in Section 1363.2 to reflect the focus on import activity. Specifically, the definition should read:

> "Major Marketer" means a firm that imports or imported 20,000 barrels or more of petroleum products during any month of the current or preceding calendar year, excluding individual service stations or truck stops.

This modification will provide a clear, consistent standard and eliminate confusion regarding which entities are required to file projections.

2. Reducing the Redundancy and Burdensome Nature of Reporting Requirements

I. <u>Reporting Beginning Inventory</u>
The proposed reporting framework omits a specific field for beginning inventory on the reporting form, yet the regulations identify this as a required data point. This discrepancy is concerning, especially as the California Energy Commission (CEC) already receives beginning inventory data directly from terminal operators.

Furthermore, major marketers do not have access to timely inventory data from terminal operators, and any figure submitted by marketers would likely be a preliminary estimate, unaligned with terminal-reported figures. Requiring marketers to duplicate data already provided by terminal operators is redundant and creates a high probability of discrepancies, undermining the integrity of the reports. We strongly urge the CEC to eliminate this requirement, as it provides no additional value and imposes unnecessary reporting burdens.

II. Feasibility and Accuracy of Three-Month Projections

The requirement to submit three-month projections is particularly problematic for most major marketers, as it is neither a standard industry practice nor operationally feasible. Even one-month projections are inherently dynamic, often subject to frequent changes due to market volatility, logistical constraints, and unforeseen developments.

We respectfully request clarification on the following points:

- Accuracy expectations: What degree of precision is required for these projections, and how will variances from actual outcomes be treated?
- Liability implications: What penalties or liabilities, if any, will marketers face if projections prove inaccurate due to uncontrollable or unforeseeable circumstances?

Additionally, it is important to note that most firms do not employ staff with the requisite expertise to produce such detailed forecasts. Hiring and training personnel to meet this requirement would impose substantial costs and could not be achieved within the immediate implementation timeline.

III. Challenges in Forecasting Fuel Sourcing and Pipeline Allocations

The expectation that marketers project whether fuel will originate from California refineries or non-California/import sources is untenable. Marketers are not privy to this level of specificity in supply chain planning for several reasons:

- Sourcing decisions: These are typically made by suppliers, who prioritize meeting pipeline specifications over sourcing location.
- Pipeline allocations: Pipeline capacity is subject to unpredictable fluctuations, making it impossible for marketers to accurately project whether fuel will be sourced via pipeline or vessel.

We recommend that the CEC remove this requirement, as it adds unwarranted complexity without yielding actionable insights or enhancing regulatory objectives.

IV. Clarification of "Own Consumption"

The term "own consumption" is undefined within the draft regulations, creating ambiguity about its intended scope. Specifically, does this term encompass non-California fuel grades shipped via pipeline to other states, such as Nevada or Arizona, for retail purposes?

We urge the CEC to provide a clear and precise definition of "own consumption" to ensure consistent interpretation and reporting. Without such clarification, marketers face unnecessary uncertainty that could lead to inconsistent compliance.

V. Duplicative Reporting Obligations

Several of the proposed reporting requirements duplicate information already provided to the CEC through existing mechanisms, such as:

- Vessel designations reported upon assignment for delivery to California.

- Daily purchase reports that detail fuel transactions.

Requiring marketers to resubmit this information in additional reports imposes unnecessary administrative burdens while offering no substantive benefit. We strongly encourage the CEC to consolidate reporting requirements to eliminate redundancies and streamline compliance processes.

3. Ensuring the Security of Proprietary Information

Our greatest concern is the potential security risks associated with the required projections. The three-month projection reports contain highly sensitive proprietary information that, if leaked, could expose firms to significant market manipulation and competitive disadvantages.

Given the stakes, it is critical that the Commission implement stringent measures to safeguard this data, including:

- Explicit limitations on who may access the data.
- Strong encryption protocols and secure storage systems.
- Severe penalties for unauthorized access or disclosure.

Additionally, the Commission should regularly review its data security policies to adapt to evolving cybersecurity threats and consider independent audits to ensure compliance.

Conclusion

We urge the Commission to consider these recommended revisions to the draft regulations to ensure clarity, efficiency, and the protection of proprietary information. These changes will help balance the need for market transparency with the realities of operational and competitive challenges faced by industry.

Thank you for your attention to these critical matters. CFCA remains committed to working collaboratively with the Commission to achieve shared goals. If you have any questions, please contact Alessandra Magnasco at alessandra@cfca.energy.

Sincerely,

Alessandra Magnasco
Governmental Affairs & Regulatory Director