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CALIFORNIA ENERGY COMMISSION

1516 Ninth Street
Sacramento, California 95814

energy.ca.gov

CEC-057 (Revised 1/21)

**FINAL STATEMENT OF REASONS****Data Collection Regulations
OAL Z2021-0604-01****UPDATE OF THE INITIAL STATEMENT OF REASONS**

Government Code section 11346.9(a)(1) requires the FSOR to include an update of the information contained in the ISOR. Other than the updates noted below, no other updates to the ISOR are necessary and all items from the ISOR that are not addressed below are incorporated by reference. Unless otherwise noted, the updates below are intended to supplement, not supersede, the purpose and necessity statements included in the ISOR.

Several nonsubstantial modifications were made to the regulation text following the close of the comment period, including:

Section 1304(b)(3)(F) and (G). These sections were amended to correct a nonsubstantial typographical error in the existing and amended regulatory language by moving the word “and” from the third-to-last subdivision of the list to the second-to-last subdivision in the list.

Section 1307(c). This section was amended to correct a nonsubstantial typographical error in the amended regulatory language by capitalizing the word “after” at the beginning of the sentence.

Section 1312(a)(5). This section was amended to correct a nonsubstantial typographical error in the amended regulatory language by deleting a colon and replacing it with a semi-colon.

Section 1353(c)(8). This section was amended to correct a nonsubstantial typographical error in the amended regulatory language by changing the word “For” to lowercase.

Section 1363.1(I). This section was amended to correct a nonsubstantial typographical error by deleting an extra comma in the existing regulatory language.

Division 2, Chapter 3, Article 3, Appendix A. This section was amended to correct a nonsubstantial typographical error by deleting an extra period in part I.B. of the existing regulatory language.

Section 1382(g). This section was amended to correct a nonsubstantial typographical error in the amended regulatory language by deleting an extra colon after “e.g.”

Section 1387. This section was amended to correct a nonsubstantial typographical error in the amended regulatory language by changing “thirty days notice” to “thirty days’ notice.”

Section 2507(f)(2). This section was amended to correct a nonsubstantial typographical error in the amended regulatory language by removing the words “that have,” which appeared twice in the 45-day version of the express terms.

LOCAL MANDATE DETERMINATION

The California Energy Commission has determined that this action will not result in a local mandate on local agencies or school districts.

CONSIDERATION OF ALTERNATIVE PROPOSALS

The Energy Commission determined pursuant to Government Code Section 11346.9(a)(4) that no alternative before it would be more effective in carrying out the purpose for which this action is proposed; no alternative would be as effective and less burdensome to affected persons than the adopted regulation; and no alternative would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The adopted regulations will not have a significant adverse economic impact on small business and no alternatives were proposed that would lessen any adverse economic impact on small business.

INCORPORATION BY REFERENCE

The Energy Commission provided in the Notice of Proposed Action that the following documents would be incorporated by reference:

Arizona Administrative Code R3-7-701 (Current through Volume 27, Issue 13, March 26, 2021; last amended by final rulemaking at 24 A.A.R. 2666, effective November 10, 2018.)

The document is incorporated by reference because it would be cumbersome, unduly expensive, and impractical to publish this document in the California Code of Regulations. The document was made available upon request directly from the Energy Commission throughout the course of this rulemaking action.

SUMMARY OF RESPONSES TO PUBLIC COMMENTS RECEIVED

All responses to public comments, including acceptance of recommendations and justifications when recommendations were not accepted, are hereby incorporated by reference to this Final Statement of Reasons, and included in Tabs 8 and 10a of the rulemaking record.

NONDUPLICATION STATEMENT

These regulations do not “duplicate” or “serve the same purpose as” any existing state or federal statute or regulation (Gov. Code, § 11349(f); Title 1, Cal. Code Regs., § 12). All instances where existing statutes or regulations were referenced in the regulations were evaluated by the Energy Commission and determined to be necessary for the clarity of the regulations and consistent with the standard for permissible duplication contained in California Code of Regulations, title 1, section 12(b)(1).

ADDENDUM TO THE FINAL STATEMENT OF REASONS

Data Collection Regulations

OAL Z2021-0604-01

This addendum is intended to note that the CEC has made the following changes to the Update of the Initial Statement of Reasons and Incorporation by Reference sections of the Final Statement of Reasons. The additions are noted below in underlined text.

UPDATE OF THE INITIAL STATEMENT OF REASONS

Government Code section 11346.9(a)(1) requires the FSOR to include an update of the information contained in the ISOR. Other than the updates noted below, no other updates to the ISOR are necessary and all items from the ISOR that are not addressed below are incorporated by reference. Unless otherwise noted, the updates below are intended to supplement, not supersede, the purpose and necessity statements included in the ISOR.

Several nonsubstantial modifications were made to the regulation text following the close of the comment period, including:

Sections 1312, 1381, 1382, 1383, 1384, and 1387. The “reference” citations for these sections were amended to make nonsubstantial changes including deleting subdivision references, ranged citations, and reference citations that were not relevant to these sections.

Section 1303(i)(2). This section was amended to add a sentence stating that the Executive Director shall consider the statutory factors in Public Resources Code section 25320(a)(2)(B)-(C) when deciding whether to issue a letter notifying a company submitting an alternative filing that they are required correct a deficiency in their filing. This addition is a nonsubstantial change reiterating the statutory data-minimization principles that limit the Executive Director’s discretion to initiate the corrective action and enforcement process to obtain missing data that is duplicative or can be obtained by other means.

Section 1342(g)(2). This section was amended to add a sentence stating that the Executive Director shall consider the statutory factors in Public Resources Code section 25320(a)(2)(B)-(C) when deciding whether to issue a letter notifying a company submitting an alternative filing that they are required correct a deficiency in their filing. This addition is a nonsubstantial change reiterating the statutory data-minimization principles that limit the Executive Director’s discretion to initiate the corrective action and enforcement process to obtain missing data that is duplicative or can be obtained by other means.

Section 1363.1(i)(1)(A) and (i)(2)(B). These sections were amended to add the word “as” as a nonsubstantial change reiterating that the document being incorporated by reference is the specific version of Arizona Administrative Code R3-7-701 that was last amended on November 10, 2018 and is included in the rulemaking file and the CEC’s rulemaking docket.

Section 1384(b)(1)(A). This section was amended to state that Form EIA-819 referenced in this section is incorporated into these regulations by reference and to remove an obsolete reference to Form EIA-22M. Incorporation of Form EIA-819 is a nonsubstantial change intended to indicate that the regulation is incorporating the current version of the EIA form, which is readily available online from EIA at eia.gov/survey. The removal of the reference to the Form EIA-22M is a nonsubstantial change to eliminate an obsolete form that has not been used since 2019 and contains the same information as the Form EIA-819, which is being incorporated by reference and is the most current federal form for reporting biodiesel and renewable diesel production data.

Section 1384(b)(2)(A). This section was amended to state that Form EIA-819 referenced in this section is incorporated into these regulations by reference. Incorporation of Form EIA-819 is a nonsubstantial change intended to indicate that the regulation is incorporating the current version of the EIA form, which is readily available online from EIA at eia.gov/survey.

Additionally, the purpose and necessity statement for two sections of the ISOR should be supplemented as follows:

Sections 1303(i) and 1342(g). The statement of reasons for these sections is updated to specify that the attestations shall be made under penalty of perjury for consistency with the existing alternative filing requirements in these two sections, which required the petition to the Executive Director be accompanied by a “declaration executed under penalty of perjury.” Additionally, most other reporting requirements in Title 20—including sections 1303(f)(1)(G), 1342(c)(1)(F), and 1394(a)(2)—require attestations or declarations executed under penalty of perjury. Consistency with these other sections would conserve CEC resources that would otherwise have to be devoted to differentiating different attestation forms to verify if they meet the regulatory requirements for attestations and declarations. This statement is intended to supplement, not supersede, the purpose and necessity statement for this section in the ISOR.

INCORPORATION BY REFERENCE

The Energy Commission provided in the Notice of Proposed Action that the following documents would be incorporated by reference:

Arizona Administrative Code R3-7-701 (Current through Volume 27, Issue 13, March 26, 2021; as last amended by final rulemaking at 24 A.A.R. 2666, effective November 10, 2018.)

The document is incorporated by reference because it would be cumbersome, unduly expensive, and impractical to publish this document in the California Code of Regulations. The document was made available upon request directly from the Energy Commission throughout the course of this rulemaking action.

The following document has also been incorporated by reference into these regulations:

EIA-819 - Monthly Report of Biofuels, Fuels from Non-Biogenic Wastes, Fuel Oxygenates, Isooctane, and Isooctene (OMB No. 1905-0165, Exp. 01/31/2023)

This document is incorporated by reference because it would be cumbersome, unduly expensive, and impractical to publish this document in the California Code of Regulations. The document is readily available online from [EIA \(eia.gov/survey\)](https://eia.gov/survey) and was available upon request directly from the Energy Commission throughout the course of this rulemaking action.