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CALIFORNIA ENERGY COMMISSION

In the matter of:

General Rulemaking Proceeding)	
for Developing Regulations,)	Docket No. 23-OIR-03
Guidelines, and Policies for)	
Implementing SB X1-2 and SB 1322)	
_____)	

SB X1-2 AND SB 1322 PRE-RULEMAKING WORKSHOP

HYBRID IN-PERSON AND ONLINE BY PHONE AND VIA ZOOM

FRIDAY, NOVEMBER 3, 2023

1:30 P.M.

Reported by:

Martha Nelson

APPEARANCESCOMMISSIONERS

Siva Gunda, Vice Chair, CEC

Nicolas Maduros, Executive Director, California Department
of Tax and Fee Administration

Carl Paganelli, Cal/OSHA, California Department of
Industrial Relations

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PUBLIC COMMENT

Tanya DeRivi, Western States Petroleum Association

Greg Karras, Community Energy reSource

P R O C E E D I N G S

1:30 p.m.

FRIDAY, NOVEMBER 3, 2023

MS. GUTIERREZ: Welcome and thank you for joining us this afternoon. My name is Aleecia Gutierrez. I am the Director for the Energy Assessments Division here at the Energy Commission.

I just want to let everybody know that's participating online and also in the room that this meeting is recorded.

Attendance may be in person or virtually today via Zoom. You'll have the option to make public comments during the public comment period, but we'll also accept written comments that are due by 5:00 p.m. on November 21st.

For in-person attendees, there are restrooms located in the atrium to your left as you exit. And if there is an emergency, we'll evacuate the building. Please follow Energy Commission staff to Roosevelt Park, which is kitty-corner from the building.

We're here today to begin the rulemaking process for SB X1-2 and SB 1322, which revised and introduced new data reporting requirements for petroleum data. SB X1-2 also authorized the CEC to regulate the timing of refinery maintenance and turnarounds, and to set a maximum gross

1 gasoline refining margin, and to oppose an administrative
2 civil penalty on refiners for exceeding that margin. Today
3 we are focusing on refinery maintenance turnarounds and
4 data standardization.

5 Through the rulemaking process, we were working
6 to build consistency and to provide clarity to those who
7 report data to the CEC. We want to emphasize that as we
8 work through the rulemaking process, we know that the
9 compliance with these new data reporting regulations is
10 possible and expected.

11 Sorry, I'm trying to get the slides to advance.
12 There we go. Okay.

13 Our agenda for the workshop is shown here. We'll
14 start with opening remarks. Our staff presentation will go
15 into the CEC's regulatory authority under the statute.
16 We'll review SB X1-2 implementation activities, and then go
17 into some depth on the rulemaking focus on refinery
18 maintenance turnarounds and data standardization, and then
19 go over the rulemaking process and timeline. Following the
20 staff presentation, we will field questions and take public
21 comment.

22 We will start today's workshop with opening
23 remarks, followed by a staff presentation by Ryan Eggers,
24 Supervisor of the Transportation Fuels Data Analysis Unit.
25 On the dais today, we have Vice Chair Gunda from the CEC,

1 Nick Maduros, Director of CDTFA, and Carl Paganelli from
2 the Department of Industrial Relations.

3 I'll turn to you, Vice Chair Gunda.

4 VICE CHAIR GUNDA: Thank you, Aleecia, and thank
5 you to everybody who's here in attendance, both in person
6 and virtually to have us kickstart some of the key elements
7 of the law that was passed this March and has been in
8 effect since June.

9 A critical part of the SB X1-2 is data
10 transparency and making sure CEC has the requisite data to
11 continue to shine light on what exactly is the market doing
12 in terms of both the profits and margins and what is
13 resulting, the volatility at the pump for average
14 Californians. So today's workshop, obviously, is a start
15 of this process and we'll continue to work through a number
16 of different workshops as we move forward to really define
17 how best to standardize some of the data that we've already
18 been receiving and what additional data that we might need
19 for this process.

20 It also will kickstart, you know, the
21 conversation around the gross margin and if a maximum gross
22 margin is to be set up by CEC and if it does, you know,
23 what would be the penalty framework for that.

24 CEC goes into this very important work which is
25 aimed at protecting the consumers of California with

1 earnest and deliberate process that allows for an open,
2 transparent conversation to really look at the various
3 frameworks that are available for us to result in an
4 outcome that ultimately supports the protection of
5 consumers of California.

6 So I do have colleagues here on the dais who I
7 would like to invite to share some of their comments as we
8 start this process to you.

9 To you, Director.

10 DIRECTOR MADUROS: Thanks so much, Vice Chair
11 Gunda, and thank you everybody for being here today and
12 joining us. I'm Nick Maduros. I'm the Director of the
13 California Department of Tax and Fee Administration and,
14 together with the Energy Commission, we're working on a
15 report on gas pricing in the state of California, the first
16 of which is due March 1st of 2024. And so our interest at
17 CDTFA is particularly on the data piece at the moment and
18 trying to make sure that the data that the CEC gets over
19 the coming months and years is standardized and usable.

20 You know, we've received already millions of
21 lines of data, either at the CDTFA or at the CEC. And, you
22 know, the team is working to parse through all of that, and
23 I want to thank all of those who have cooperated thus far
24 with the study. But I do think that, you know, making sure
25 that it's usable for all of the government agencies, our

1 goal is only to get the best information possible so that
2 California policymakers have a shared basis in fact on
3 which to proceed in the coming years to address gas pricing
4 in California. And in order to best do that, I do think
5 that making sure the data is clean and relevant and
6 standard is essential.

7 So I look forward to participating today and look
8 forward to all of the comments.

9 VICE CHAIR GUNDA: Thank you.

10 DEPUTY CHIEF PAGANELLI: Good afternoon. I'm
11 Carl Paganelli. I'm a Deputy Chief at Cal/OSHA in the
12 Department of Industrial Relations. Thank you for everyone
13 participating. Thank you for having me today.

14 Our focus, I oversee our Process Safety
15 Management Unit and the focus of the unit is keeping
16 workers at refineries safe, and that has the effect of
17 keeping the community surrounding the refinery safe.

18 We have two regulations that we use for refinery
19 safety, one is specific to petroleum refineries, it's
20 newer, and we have an older regulation that applies to
21 refineries that use renewable fuels and biofuels, not
22 petroleum, and that regulation also applies to other
23 facilities that have large quantities of acutely toxic or
24 acutely hazardous chemicals, like ammonia and chlorine.

25 And I'm looking forward to helping the Process

1 Safety Management Unit work with the Energy Commission as
2 this rulemaking moves forward.

3 Thank you.

4 VICE CHAIR GUNDA: Thank you so much.

5 I again want to extend my thanks, Aleecia, to you
6 and your team and all the participants today for helping us
7 think through this extremely important topic.

8 Just in closing, before I pass the mic back to
9 Aleecia, at a 30,000-foot level, so the SB X1-2 is, again,
10 really to promote the transparency and improving and
11 enhancing the accountability of the oil industry with the
12 single purpose of protecting California consumers. So
13 that's what we are after in this rulemaking.

14 Today's, you know, workshop will kick off two
15 particular pathways. One is around standardization of the
16 data that we receive and how do we think about that, and
17 bringing along the stakeholders to understand what we're
18 actually calculating and what the refinery margins actually
19 mean.

20 The second is to discuss refinery maintenance
21 turnaround. As refineries continue to close, we have
22 understood the importance of balancing supply and demand in
23 California. So as we have more and more electrification
24 and transportation, you will begin to see a destruction of
25 demand on the gasoline side and the industry has to make

1 their own decisions on how they run the refinery sector in
2 California, and it has direct implications on the supply
3 which we are really worried about.

4 The other part of it is the consequences of the
5 unplanned maintenance of refineries is sometimes
6 unavoidable but has a tremendous impact on the price of the
7 pump. And part of this rulemaking is really trying to
8 figure out to what end the state can do in helping plan
9 the -- to have the consistency on planning the planned
10 maintenance to allow for the supply to be liquid in the
11 state.

12 So overall, we're looking forward to a
13 meaningful, constructive discussion from all of our, you
14 know, stakeholders and parties that are interested in this
15 work.

16 And with that, I will pass it on to Ryan Eggers
17 to kick off the staff presentation.

18 Thank you, Ryan.

19 MR. EGGERS: There we go. Good afternoon,
20 everyone. My name is Ryan Eggers. I am the Supervisor of
21 the Transportation Fuels Data and Analysis Unit, and
22 welcome everybody to our order instituting rulemaking
23 proceeding workshop here today.

24 So with the opening of this workshop, let's
25 answer the question: What is a rulemaking? A rulemaking is

1 the agency's ability -- or an agency's process to establish
2 a rule or regulation. And what's the point of a regulation
3 or a rule? That's to make -- or to provide extra detail to
4 the reporting parties or any stakeholders that are involved
5 in the process, provide that extra clarity, that data
6 standardization that was talked about by the Vice
7 Chair.

8 So as Aleecia and the Vice Chair just stole my
9 thunder, why are we here? The reason we're here, it's just
10 like the slide says, we're here to talk about data
11 collection and refinery maintenance and monitoring.

12 Now SB X1-2 was a very sweeping piece of
13 legislation, a lot of interdependencies, a lot of cross-
14 sections on a lot of these particular topics. Already,
15 we're doing market manipulation and some of the data that
16 we are collecting isn't informing that process. But we are
17 going to, for this process, we are going to be specifically
18 talking about the data collection to inform that, not
19 necessarily what's going on, on that particular side.

20 As the Vice Chair mentioned, the penalty is very
21 important. Again, there is data being collected that will
22 inform that decision on that threshold. We will not be
23 discussing the actual penalties or any of the tiers that
24 was discussed in the legislation, but we will be discussing
25 the gross gasoline refining margin, as the Vice Chair said,

1 because that is part of the data collection that's already
2 been implemented as part of SB X1-2.

3 Now the other main function of a rulemaking is
4 not only to make a rule and regulation, but it's also to
5 gather input and seek input from other stakeholders within
6 this area. It is a collaboration process, okay? Data
7 collection is a very detailed-oriented operation, which
8 requires back and forth in order to really standardize and
9 really get down to the details on what some of these items
10 actually mean.

11 And the Energy Commission is very much seeking
12 input, not only from industry, but from environmental
13 justice organizations, labor, consumer advocates, the
14 public, and anyone else interested in this particular
15 process. All comments are welcome. There is a docket
16 opened that one of my later slides will address.

17 Now this rulemaking process is going to be a
18 little bit different, especially since, you know, compared
19 to what I did in 2021 and 2022. That was more of a
20 standard rulemaking process that was much longer.

21 In the case of SB X1-2, this rulemaking process,
22 the legislature granted the Energy Commission emergency
23 rulemaking powers in this particular case, and these
24 emergency rulemaking powers extend to all prior data
25 collection, a lot of the analysis and reporting

1 requirements. If there's any sort of regulation that needs
2 to be done on any of like, say, the transportation
3 assessment or the Transition Plan, that could be handled
4 under this. Confidentiality requirements would also fall
5 under this, along with any enforcement authority.

6 The Vice Chair has already mentioned, we're also
7 contemplating the timing of turnarounds and maintenance.
8 This is under Public Resources Code 25354.2. Those would
9 also be under emergency rulemaking, an emergency rulemaking
10 process, which is a much more streamlined, quick process to
11 implement.

12 One important key element here is one particular
13 section within the PIIRA, our statutory authority, is the
14 refinery maintenance activity is actually APA-exempt, so
15 any of these rules could immediately go into our guidelines
16 approved by the Commissioners at a business meeting and
17 would be all, you know, instantaneously implemented at that
18 particular point. So this is going to be a little bit more
19 of a quicker process than before.

20 Now to jump into, as Director Gutierrez stated,
21 maintenance is going to be a big focus of this, and it's
22 not just the maintenance reporting, which I have some other
23 slides to go over what's already being reported to the
24 Energy Commission, but this is also to talk about the
25 scheduling and timing of planned maintenance events and

1 particularly outages, okay?

2 Some of these, you know, some of the things we
3 are contemplating here are requiring regular updates to the
4 DIR, the Department of Industrial Relations, schedules that
5 are being submitted not only with DIR, but they're also now
6 being submitted with the Energy Commission.

7 We're also contemplating requiring certain
8 inventory levels be established before any sort of planned
9 maintenance event takes place just to ensure the proper
10 amount of supply of transportation fuels is available
11 during that event for California citizens.

12 Okay, in addition, staff is considering setting
13 certain periods where maintenance might be off limits. You
14 know, we've recently, over the last two years, experienced
15 two price spikes that happened in the September to October
16 to November sort of time period. This might be a ripe, you
17 know, position not to have any maintenance during that time
18 just to make sure that that doesn't happen once again.

19 In addition to all of these other things, and,
20 you know, we're open to any other suggestions, you know,
21 requiring actual explicit CEC approval for any sort of
22 maintenance might be something considered as part of this
23 rulemaking process.

24 Now before we move on, refineries are extremely
25 complex pieces of infrastructure, okay? They deal in a lot

1 of exotic chemicals and materials in order to make the
2 transportation fuels and the other products that they make.
3 So any sort of rule would consider, and the CEC would
4 consult with, you know, one of our representatives today
5 from the Department of Industrial Relations, but we've also
6 been instructed to discuss with the Labor Workforce
7 Development Agency, which DIR is a part of, okay?

8 There's also emission concerns that might be
9 associated with any sort of scheduling and maintenance. So
10 reaching out to any local Air Quality Management Districts
11 would also be very important as part of this particular
12 process.

13 And we definitely want to ensure that we consider
14 labor's input into any sort of decision. And any
15 stakeholder who wants to make their feelings known on this
16 particular subject would be welcome to participate.

17 But the CEC very much, and staff very much, wants
18 to make sure that everyone knows that some of the first and
19 foremost things we want to do is protect employees and the
20 public. We want to make this as safe as possible, okay,
21 while also minimizing these price spikes that we are seeing
22 here in California.

23 And we want to provide a process to allow for
24 industry input so we know exactly what's going on in these.
25 A lot of industry has spoken to us about these maintenance

1 events. We do know that in some cases these events are
2 scheduled almost five years in advance. They involve
3 getting a lot of contractors and securing a lot of
4 resources prior to happening. There's a lot of planning
5 involved. So getting that scheduling right and making sure
6 everybody is accommodated will be a tough task in this
7 particular case.

8 Now that's what I have to say about just the
9 maintenance portion, which is also covered under the data
10 collection.

11 Now this is a slide I've been using for messaging
12 on our data collection activities as they're occurring
13 right now. SB X1-2 data collection has been implemented
14 and we have been gathering data. We've been gathering data
15 in cost and profits, market analysis, maintenance, and
16 other data items.

17 Now I have all the forms listed here. We're
18 definitely going to go over them later, don't need to
19 announce them now, but what I would say is we have learned
20 from this data collection. And part of this rulemaking is
21 we're looking to implement what we've learned and learn to
22 enhance and add extra detail and standardization that has
23 been already been talked about as part of these forms in
24 order to make them better and provide a better data product
25 for the state of California.

1 Now to start at a high level, all of these
2 changes will obviously go into a new Petroleum Industry
3 Information Reporting Act forms and instructions document,
4 often referred to as PIIRA. Okay, and as it's been
5 mentioned several times, and this is super important, we do
6 plan on standardizing a lot of the data fields and we are
7 looking for input on how best to do that. I mean, there's
8 a lot of different ways to report volumes, whether we want
9 gallons or barrels or even lots, okay? So getting a lot of
10 those right, and as the Vice Chair mentioned, getting some
11 of the other calculations correct will be super important.

12 But one of the other things we're looking to
13 implement that's not necessarily part of the rulemaking but
14 we kind of want to get it out to everybody in the open is
15 the Energy Commission would like to move to a more .CSV
16 format on a lot of our forms for data collection. Now in
17 the case of our forms, a lot of these forms are legacy
18 forms that required manual filling out. So moving to a
19 more machine-readable format should make it easier for a
20 lot of the reporting community, but also on the intake
21 side, make it a much more machine readable, much easier to
22 import. And so some of these changes will be incorporated
23 in the next release of that forms and instructions
24 document.

25 So to march right in to some of the forms, here

1 is the M1322 form, which does gather a lot of that cost
2 information that was talked about that would be included as
3 part of the penalty. Some things that we would need to
4 clarify include what is actually going in to some of these
5 gross gasoline margins and what do some of these prices
6 mean.

7 In the case of the volume-weighted average price
8 for say any of the supply chain items here, is cap and
9 trade costs, LCFS costs, are they in those? Are the
10 refineries considering the taxes and fees LCFS and cap and
11 trade as well? Getting some clarification there, I mean we
12 can, through back calculations, sort of figure out what's
13 going on, but just making sure that there's no
14 interpretation sort of inconsistencies can be achieved here
15 and can be easily done.

16 Another thing ,as the Vice Chair mentioned, what
17 is the exact calculation everyone is using for the gross
18 gasoline refining margin? Are they including the refined
19 gasoline sales or are they leaving it out? Is that part of
20 the operating cost? Just making sure everybody is working
21 from the same standard playbook. We have seen some small
22 differences. Again, staff can correct all of these but we
23 can also correct them from the source making it easier to
24 report, making it easier for other people to interpret our
25 information as well.

1 Again, I sort of alluded to this, one of the
2 other things we can definitely change for this M1322 Report
3 is getting a little bit more detail on what exactly are the
4 costs being reported.

5 What you see here are some examples of things
6 that the statute requested to be reported as part of this
7 Implementation Plan. But exactly when they do report it,
8 are they reporting just the standard costs for other
9 transportation fuels and then sort of like weighing it in a
10 certain way? You know, how are they actually doing those
11 calculations?

12 A lot of this has important implications because
13 gasoline is not the only product a lot of refineries
14 produce. How those things are substituted between each
15 other, it's very important to have those particular details
16 right and make sure that the staff interpreting the data
17 knows what they're looking at is super important here.

18 The other thing I would like to stress,
19 especially when it comes to the cost information, is we do
20 want to follow any sort of standard accounting process when
21 we do do this, okay? We want to be able to link these up
22 to other cost information that we can obtain, say from the
23 Franchise Tax Board, or even just looking at SEC filings
24 for profits that the refineries put to the federal agencies
25 as well, making sure we know exactly how this lines up with

1 all that information, very super important. And again, is
2 the blend stock showing up or like alkaline costs showing
3 up in those costs? Or are they being pushed to a more
4 refined gas sort of location on the form? Clearing those
5 things up is one of the items we're looking to implement as
6 part of this rulemaking.

7 Moving on to the other big lift that was part of
8 SB X1-2 is the Spot Market Transaction Report. Since July,
9 we've been collecting Spot Market Transaction Reports
10 regularly, daily. Recently, industry got guidance that we
11 would like that submitted in two parts in two different
12 stages, one when the transaction is first agreed upon, then
13 later when it's actually finalized. With that two-part
14 submission guidance, the idea of maybe breaking this form
15 up into two different forms becomes something easily doable
16 and might, you know, provide extra clarity for reporters
17 and make it easier for reporters to know exactly what they
18 need to report is a possibility here.

19 Also, we want to standardize a lot of these items
20 because what we're seeing is a lot of individual company
21 reports on products, what they term the product that
22 they're selling in this particular case. Maybe we can
23 strip this down to just a car-bought product, an Arizona-
24 bought product, a Nevada-bought product, you know,
25 getting -- and just maybe even sticking to certain octane

1 levels, keeping this very, you know, limited as far as
2 choices-wise, which will also help for the .CSV
3 implementation because that will make it much more machine
4 readable.

5 Again, yes-no fields. We can just make this a Y
6 or an N, save on space, save on what's being sold.

7 Same for seller and buyer fields. There's only
8 two choices. We can make this a one-two sort of breakup.

9 The other big thing as part of this report is
10 what the legislature obviously wanted from this report is
11 some sort of differential to the NYMEX or what that sort of
12 traded price was. At this moment, industry is providing us
13 cost formulas, but we are finding a lot of these cost
14 formulas are taking a variety of different shapes. So
15 having an extra field that just has that differential to
16 the NYMEX, just to clean it up, just so we can compare to
17 the OPIS reports that we also get would be also super
18 important as part of implementation of this form.

19 And also having that physical price. Right now,
20 we're asking for a contracted price, so sometimes, every
21 once in a while, somebody does give us that physical price,
22 but sometimes they give us the total value, so we need to
23 divide by the inventory in order to get back to that
24 physical, individual price. So having some of that
25 standardization will, again, make it easier for, say, CDTFA

1 to look at our information and to do analysis on their end
2 as well.

3 Moving on to our import-export forms, we are now
4 also collecting a 96-hour report, so boats that are 96
5 hours away do need to report to us when they're going to
6 show up to harbor and when they are going to need to
7 discharge, so California does know when the next supply of
8 refined fuels is coming in.

9 As part of that ask, landed cost was asked. You
10 know, while landed cost is a field that's been well-defined
11 by the EIA, it might make sense for further tightening of
12 that definition for a California-specific term, okay? We
13 have the option to make that more detailed or stick with
14 the standard reporting.

15 There's also other fields where, again, we can
16 just create certain categories that, you know, reporters
17 could use in order to fill out that particular form, making
18 it easier for them in order to fill out, but also easier
19 for us to interpret.

20 Sales price is another ask that's sort of linked
21 to the categories that I put there for status of product.
22 What's being asked for here is if a cargo is being brought
23 in by an import or record, but will be sold later to
24 someone else, what is that actual sales price that they are
25 transferring that fuel? Standardizing that and making that

1 detailed and making that clear that that should be
2 different likely than the landed cost is something we would
3 like to do as part of this particular process.

4 As mentioned before, SB X changed a lot of
5 things, okay, and here is an example of one of the changes
6 to our legacy forms. While we've always had a well-
7 established reporting regime for the M700, which is our
8 import and export form, price was added as part of this
9 form. Again, what price are we actually seeking here?

10 In order to line up with that 96-hour report, it
11 does make sense that we might want to have a landed cost
12 here, or we might also want to have the sale on price
13 reported here in order to link up with that. Also a lot of
14 cargoes that are brought into California are also traded,
15 so maybe we want to link them up to our spot market report.
16 Here again, we would need probably a differential to the
17 NYMEX, might be a more appropriate price to put in this
18 section. We are definitely looking on feedback on what
19 best fits California's needs in this particular case.

20 But along with some of those, again, we have the
21 opportunity to standardize our volumes. We always want
22 things in barrels, units, as opposed to say lots or
23 gallons. And in the case of this particular report, since
24 we deal in such large volumes, it would be thousands of
25 barrels we definitely want as part of this report.

1 But again, we've also noticed some date format
2 issues in some of these reports over time. Getting some
3 feedback from industry on what is the best way to report
4 those in order for us not to have to manually change them
5 later would also be super helpful.

6 Now moving on to maintenance forms, which is
7 going to be the last three forms to discuss here. What
8 we're looking at right here is our EDR_m4a, Unplanned
9 Maintenance Report and Turnaround Report. This is actually
10 the initial report we get. And so there are some definite
11 things we can do to improve this. And we've definitely
12 heard from industry what these different things would be in
13 order to improve these things.

14 Now operational capacity is a pretty standard
15 thing, but each unit does have a different operating
16 capacity. And it does have different impacts on how a flow
17 process is actually sort of pushed through a system, okay?
18 And because of that, the Energy Commission does have a need
19 that when net -- or the estimated daily decrease is put in
20 there, we want a net capacity loss in barrels per day in
21 this particular case. Why? Because that's the main way
22 we're sort of internalizing the information, and that's the
23 easiest way for us to report out.

24 Now once we add up all these units, we do know
25 from interacting with a lot of our industry colleagues that

1 these things interact in different ways. And so when
2 looking at these reports, it's not very easy just to sum up
3 all the estimated losses from each one of these processes.
4 So as part of this, we would ask for what's the aggregate
5 net loss from all of these units down as a separate field
6 on there, just so we're not making any mistakes on our side
7 in interpreting this information.

8 The other thing we're seeing a little bit of
9 confusion on is the report period versus the date filed.
10 In this case, it's very simply the date filed is when it
11 gets actually sent to our data submission portal, or our
12 DSP, where the report period is the date of the start of
13 the unplanned event in this particular case. So they
14 should be different, okay, unless you're reporting it to us
15 on the same day. But industry does have 48 hours, so we
16 would expect those two dates to be slightly different. And
17 we would expect the report date to be before the date filed
18 in this particular case.

19 Moving on to the final report, which is very
20 similar to the initial report, again, a lot of same
21 comments would apply, and we would want to keep these
22 particular reports very consistent to one another, okay?
23 But again, volumes, very important here. We want barrels
24 per day in order for our own interpretational needs to be
25 met.

1 Again, we would want the report period and the
2 date filed very standardized. Again, that date filed
3 should be after the report date of when it was finished in
4 this particular case.

5 So some of these items should line up just to
6 make it easier for import and interpretation, because when
7 we see these, especially when it comes to the dates, when
8 we see these not lining up, we might not know that another
9 amended report was supposed to be amending another
10 particular incident, or it could be another incident
11 altogether. Clearing up that confusion by getting those
12 timings right is super important.

13 And then finally, we have the Planned Maintenance
14 Refinery [sic] Report. Again, a lot of the same fields
15 that you're seeing here. Again, we want to make sure we
16 get net capacity in, you know, volumes per day reported in
17 the daily decrease. Operational capacity should match,
18 like information we see in the EIA that they have for these
19 particular units that's reported to the EIA. Again,
20 getting the report period is super important here, because
21 if we get an amended report later, we want to make sure we
22 amend the proper event.

23 But we are also thinking about adding some
24 categories in this particular case, specifically what was
25 the inventory billed in order to support this? Some of

1 this information is in here already, but we can make it
2 clearer, okay? Also, how are these inventory bills
3 occurring? Are they in-state purchases from a local
4 refinery, or is this an out-of-state purchase from a boat
5 that we were talking about with our import-export forms
6 prior? Knowing how that inventory build was achieved is
7 something that has been desired by the CEC STDAP.

8 So that's just some of the things we're
9 definitely contemplating. Everything SB X1-2 is definitely
10 open for this particular rulemaking, and we're going to be
11 at heart at work creating rules in writing, trying to make
12 this as clear as possible. But in order to make any rules
13 we do create as part of this process, feedback and
14 collaboration is definitely needed. I know I said that
15 earlier, but I can't say that enough. You know, one of the
16 lessons we definitely learned from our last data collection
17 rulemaking is getting industry and other stakeholders in
18 the room. Super important in order to ensure those rules
19 are right and those are written correctly.

20 So any information on industry standards, very
21 helpful. Any sort of comments on how to clarify things or
22 how people are interpreting things, again, super helpful.
23 And suggestions of simplification, I think, are always
24 welcome for both sides. Everybody wants to make this
25 process a lot easier.

1 Now here is the timeline we're looking at for
2 this. Again, this is an emergency rulemaking process, and
3 thus the timeline, believe it or not, is actually very
4 compressed. I believe the last time, Vice Chair, you and I
5 did a data collection, it was almost like two or three
6 years we had to go through this. We're looking at trying
7 to get this done by June of next year, which is very, very
8 compressed as opposed to what we've done in the past.

9 So today, obviously, we've got a workshop. From
10 December 2023 into April, we're looking at talking to
11 different stakeholders, talking to industry, trying to
12 clear up as much of this confusion as possible, and then
13 have some rules and regulations available for adoption by
14 you and the other Commissioners roughly around the June
15 2024 time.

16 At that point, that package would be sent to OAL,
17 and we are joined by a member of CCO to talk through any of
18 those details if you have any questions on how that
19 submission process would actually happen. But with that,
20 sending to OAL, I believe it's ten days they would have to
21 respond, and then within ten days, we would be looking for
22 those particular rules and regulations to be adopted and
23 accepted, putting us in roughly about the July timeframe
24 for actual implementation of those particular
25 clarifications in this particular case.

1 And as I mentioned, if you have a question or,
2 more appropriately, what we really want from this
3 proceeding is comments, please submit those comments to the
4 docket at 23-OIR-03 in this particular case. Do not submit
5 it to the old docket for a lot of these proceedings, which
6 was 23-SB-02. Instead, use this 23-OIR-03, and please
7 submit them by November 21st, 2023, at 5:00 p.m. We're
8 looking to really get this process rolling and start
9 writing some rules in order to accelerate this
10 implementation.

11 And I believe that's all I have for my
12 presentation. I now turn it back to the dais for any
13 questions or clarifications.

14 VICE CHAIR GUNDA: Thank you so much, Ryan, for
15 going through the deck.

16 I wanted to have a few questions answered for the
17 record so that those who are participating today, and not
18 completely stupid in our process, can understand.

19 Chad, maybe you could kind of elaborate on this?
20 What does the emergency part of the rulemaking allows us?
21 Obviously, the rulemaking process requires detailed
22 stakeholder analysis, which takes a lengthy time. In going
23 through this shorter process, you know, what are we giving
24 up, if you could just expand on the process to keep it, you
25 know, moving forward?

1 MR. OLIVER: Sure, Vice Chair. Can you hear me?
2 Yeah, appreciate the question and happy to give an
3 overview.

4 I think when we look at the statute, it's clear
5 that the legislature wanted to give the CEC the ability to
6 be nimble in responding to adjusting and implementing the
7 law in response to developments in the industry.

8 And as Ryan mentioned, the bulk of the
9 regulations to implement SB X1-2 and SB 1322 will be
10 emergency regulations. And we're currently in a pre-
11 rulemaking stage, as Ryan mentioned, so this workshop and
12 kind of that period that currently is proposed for April of
13 next year, again, that pre-rulemaking phase, gathering
14 information, drafting regulations. And then once the
15 Energy Commission finalizes the draft regulations, they'll
16 be submitted to the Commission at a business meeting.

17 And from that point, and there's still a
18 rulemaking package that goes along with that, and then that
19 rulemaking package will be sent to the Office of
20 Administrative Law, or OAL. And with emergency
21 regulations, if OAL approves the rules, they'll be
22 effective ten days after they're submitted to OAL. And the
23 emergency rule regulations would remain in effect for two
24 years in this particular case, and there would be a process
25 for the CDC to make them final if that's necessary.

1 And there's also, in this case, rules to
2 implement the refinery maintenance data reporting in
3 particular are APA-exempt. And so those would not be
4 submitted to OAL. They would be submitted to the Energy
5 Commission at a business meeting and would go into effect
6 upon adoption at a business meeting. And those would be
7 housed in kind of a separate guidelines document.

8 VICE CHAIR GUNDA: Thank you.

9 The other kind of question, I think maybe, Ryan,
10 it's more of a comment/question to you, you know, one of
11 the things that we need to ensure in this process is
12 credibility of the data. You know, there's a tendency to
13 take the data and use it to tell different stories. So I
14 want to make sure, one, we are taking the necessary steps
15 by providing some of those analysis ahead of time, and the
16 access to the information as well as we can.

17 So just wanted to kind of get your thoughts as a
18 data, you know, specialist on this one. What are the steps
19 you're considering in making sure the data we are reporting
20 is accurate and does not allow for too much dilution of
21 what that data means and stretching what the facts are?

22 MR. EGGERS: It's a comment, yeah, I think about
23 it all the time, Vice Chair. And staff is constantly
24 trying to double-check information wherever we can. But at
25 the same time, ensuring good data is always about getting

1 the definitions perfectly correct and being honest with the
2 definitions.

3 Your point about construing the information is
4 well taken, and staff always tries to prevent that whenever
5 possible. But there is always, as I said, you know, it's a
6 very detailed-oriented game, there's always
7 misunderstandings, okay? And having clear data
8 dictionaries and definitions is always the first step in
9 clearing that up, and the Energy Commission does try to
10 provide data definitions and be as clear as possible when
11 possible.

12 But please be cognizant of the fact that, in this
13 industry especially, there's always certain terms that
14 sound like another term and are used in different ways all
15 through the chain. You know, a great example is the
16 refining margin. For years, we used this as part of our
17 forecasting exercises to describe the difference between a
18 rack price and crude oil. But it's also reported as a
19 gross margin or refining margin in the case of SEC filings.

20 So perhaps some of the steps we do need to take
21 is coming up with new terms or new ways to refer to some of
22 these concepts along the way. And definitely, we can run
23 some of those ideas by, you know, by you and the other
24 Commissioners in order to clear up some of this confusion.

25 VICE CHAIR GUNDA: Yeah, thanks, Ryan. You know,

1 I just want to lift up, you know, all the good work that
2 you and the team are doing in making sure the data, you
3 know, has good integrity, you know, and clarity, so thank
4 you for all the work.

5 I do want to see from your perspective if you
6 have any guidance on making sure that interests around
7 safety and labor are protected, and if you have anything
8 for us, both in guidance and co-questions?

9 DEPUTY CHIEF PAGANELLI: I would just say in
10 terms of safety, just work with us. And we're very happy
11 to work with you and offer our perspective on what can be
12 done, what needs to be done, so thank you.

13 VICE CHAIR GUNDA: Great. And I have other
14 questions, but I think maybe we could just -- I can connect
15 with you after.

16 So how about I, you know, pass it back to
17 Aleecia? Are you going to run the public comment or --

18 MS. GUTIERREZ: Okay, I'm going to bring Aria a
19 mic, but to prepare for public comments, we are going to
20 use the raise-hand feature for those on Zoom.

21 Before we open it up to those attending remotely,
22 we will take public comments from those in the room. If
23 you can approach the podium there, make sure you unmute the
24 microphone, and you will have three minutes to make your
25 comment. Please also introduce yourself and your

1 affiliation and spell your name for the record.

2 Thank you.

3 MS. DERIVI: My name is Tanya DeRevi with the
4 Western States Petroleum Association. My name is
5 T-A-N-Y-A, last name is DeRevi, it's D, like David, -E,
6 capital R, like Robert, -I-V, like Victor, -I.

7 New authority granted to CEC imposing
8 requirements covering the timing of turnaround and
9 maintenance is of grave concern to industry. These are
10 longstanding standard practices of operating any refinery.
11 There are numerous federal and state regulations that
12 impose time-based requirements on refinery operators to
13 perform maintenance activities with standards and deadlines
14 focused on safe operations through timely maintenance.

15 These planned activities usually take years of
16 planning and coordination of logistics, labor, equipment,
17 and inventories. Turnarounds can involve one or more
18 processing units or the entire shutdown of a refinery.
19 Process safety and mechanical integrity are key reasons
20 that turnarounds are done at predetermined intervals.
21 Inspecting, replacing, and repairing units or pipelines is
22 of the utmost importance to ensure the safe and efficient
23 production of transportation fuels.

24 Refinery maintenance and safety is so important
25 that there are multiple federal, state, and local laws and

1 regulations. In 2017, California strengthened process
2 safety management via legislation and SB 54, which required
3 the use of a skilled and trained workforce at California
4 refineries. There are Labor Code sections, DIR
5 Regulations, and local laws, including the Contra Costa
6 Industrial Safety Ordinance, plus the Federal Chemical
7 Safety Board recommendations, making California one of the
8 most stringent jurisdictions for process safety and
9 refinery maintenance.

10 California also created an Interagency Refinery
11 Task Force to implement recommendations from the governor's
12 Interagency Working Group on Refinery Safety, including
13 enhancing regulatory oversight and hosting safety forums.
14 This task force includes 11 agencies, but the CEC is not
15 one of them. The CEC should join to fully appreciate and
16 understand the complexities of turnarounds and maintenance.

17 CEC's creation of new market-based regulations
18 that use pricing and supply demand concerns to alter the
19 timing of refinery maintenance creates a conflict with
20 these existing safety-based regulations and may put
21 refinery operators in a position where compliance with both
22 is not possible. It may also have unintentional market
23 impacts for the problems you're trying to solve.

24 Dictating when a refinery can or can't perform
25 maintenance will compromise the safety of our workers and

1 communities. In addition, if the state defers maintenance,
2 it could create a situation where price volatility becomes
3 even greater with unplanned upsets by pushing beyond the
4 state's own mechanical integrity regulations, potentially
5 causing supply shocks. Even moving a scheduled turnaround
6 has inventory implications.

7 A greater question is: Who is held liable if the
8 CEC denies a refiner from performing maintenance and
9 something goes wrong? What if the operator decides the
10 refinery simply cannot be operated safely?

11 We would recommend minimizing market volatility
12 by identifying policy changes to support, not hinder,
13 critical investments in the maintenance and buildout of
14 necessary infrastructure to support fuels demand and
15 evaluating barriers preventing needed maintenance
16 activities and challenging infrastructure from being
17 repurposed.

18 Trying to schedule maintenance is like trying to
19 address a symptom instead of fixing the root cause of the
20 problem, that California continues to implement policies
21 that negatively impact the supply of transportation fuels
22 and telling an industry when you can or can't make repairs
23 compromises safety.

24 Thank you very much.

25 MS. BERLINER: For those of you joining on Zoom,

1 please use the raise-hand feature to let us know you'd
2 comment. If you're joining us by phone, please press star
3 nine to raise your hand.

4 I'm not seeing any raised hands. I spoke too
5 soon.

6 Okay, Greg. Greg, your line is open. You may
7 need to unmute on your end. Please state and spell your
8 name and affiliation for the record after you are unmuted
9 and before commenting. Thank you.

10 MR. KARRAS: Hi, I'm Greg Karras. Can you hear
11 me?

12 MS. BERLINER: Yes, we can.

13 MR. KARRAS: That's G-R-E-G K-A-R-R-A-S. I'm
14 with Community Energy Resource.

15 And I have a question for staff, and this is
16 actually kind of broad, so just a heads up, I'm talking
17 about not just what happens now, but in the future as we
18 start ramping down refining rates, and hopefully are doing
19 that in a more controlled way than now so it isn't like
20 whole plants go down, but rather we still have a larger
21 number of smaller refineries that give us more sort of
22 built-in security from having an outage that becomes a big
23 part of the whole amount of remaining demand.

24 So as you think about setting a minimum inventory
25 level, you know, knowing that inventory of refined fuels

1 has varied seasonally for reasons that are pretty well
2 understood, summer-driving season and whatnot, as you think
3 about setting that minimum inventory level and realizing it
4 might be a level that is different in the summer than in
5 the fall or the spring or the winter, and that's all okay,
6 but how do you build in and anticipate the need for
7 possibly having a larger proportion of the future existing
8 refining capacity be available in inventory?

9 I don't see a technical problem with that
10 necessarily because, you know, the tankage for holding the
11 inventory doesn't necessarily need to be taken down at the
12 same time as the processing capacity. In fact, that's
13 happening already at refineries that are switching to
14 diesel biofuels, they're also maintaining gasoline storage
15 and transfer capacity.

16 But I think it's important to keep in mind
17 because it's part of how we manage the decline of oil in a
18 way that avoids unnecessary price gouging in the future.
19 So just wanted to know your thoughts about that.

20 VICE CHAIR GUNDA: Thank you for the comment
21 Greg. This is a time of public comment, but we will try to
22 get staff feedback at the end before we close the workshop.

23 So, Ryan, if you want to just take that at the
24 end?

25 MS. BERLINER: It does not look like we have any

1 more raised hands on the Zoom platform.

2 VICE CHAIR GUNDA: Thank you Aria. Do you want
3 to check the phone lines?

4 MS. BERLINER: We also do not have any raised
5 hands on the phone lines.

6 VICE CHAIR GUNDA: Thank you.

7 So, Ryan, if you want to just respond to Greg in
8 terms of kind of the transition? I think part of the
9 answer is the assessment we're doing, but you might want to
10 comment on that a little bit more, and also anything that
11 you might want to respond to in terms of Tanya's comments.
12 Thank you.

13 MR. EGGERS: I would like to thank Greg for his
14 comments. I think you just stole my thunder, Vice Chair.
15 We do have a workshop coming up on the 14th that will
16 address the assessment and talk about and contemplate a lot
17 of the issues that were just presented by Greg.

18 I would also like to point out that California
19 and the Energy Commission is now required to produce a
20 transition plan that we're working with CARB that will also
21 look at some of that bringing down the fuel and bringing
22 down the refineries as gasoline and diesel consumption
23 decline in order for California to meet its goals. And I
24 think those would be the better venues to answer those sort
25 of questions and contemplate those particular ideas at this

1 moment.

2 VICE CHAIR GUNDA: So, Greg, if you're still
3 listening, we welcome your participation in the assessment
4 and the Transition Plan, and please do reach out to our
5 team if you want to further engage on that conversation.

6 And I think I just wanted to respond and say,
7 Tanya, thank you for your comments on the broad concerns on
8 safety, you know, deferred maintenance and it's noted and
9 absolutely will be taken into consideration as we go
10 through this rulemaking process.

11 Anything?

12 DIRECTOR MADUROS: I would just say, as well, you
13 know, I think the comments from Tanya highlight the
14 importance of the work that CEC and the team at CDTFA are
15 doing because I do think it's important that we have some
16 shared facts from which we can build a productive
17 conversation. Because I think for too long, it seems to
18 me, there has been, you know, lots of different ideas about
19 why gas pricing works the way it does in the state of
20 California and without sort of a shared acceptance of what
21 are the basic facts. And I think until we get that it's
22 very hard to move beyond sort of blaming and move towards
23 finding a solution.

24 So I do think that's an important part of what
25 we're doing and I'm grateful for industry's participation.

1 VICE CHAIR GUNDA: Yes, and thank you, Director
2 Maduros.

3 And I think, Tanya, to your point about us
4 joining the working group, I think that's an idea that we
5 should think through, Ryan, and I welcome, you know, any
6 kind of concerns from DIRECTOR, as well, for like us to be
7 really equipped with the information.

8 And I want to elevate what Director Maduros just
9 said in terms of I think the first task at hand is to
10 ensure that we have the facts right, whether it's around
11 doing the rulemaking -- around the maintenance, you know,
12 around safety or around the penalty, it all stems from
13 common facts and making sure that we have factual
14 information that we can respond from.

15 And I think in that spirit, you know, I want to,
16 one, thank the industry for, you know, their continued work
17 on providing information, but also continue to urge and
18 caution using some of the information we have in a way that
19 could be counterproductive, especially, you know, as we
20 think through talking about the ultimate cost at the pump.
21 You know, I think it's a very well-articulated situation
22 that the taxes and fees in California do add that, you
23 know, dollar at the pump. But I think that is not in
24 question and I don't think we want to deliberate and spend
25 time on that, but it's around what is happening with the

1 margins and the question around transparency of the margins
2 and what we are supposed to do.

3 So I really would welcome the industry
4 participation around digging into that information and
5 helping us learn and helping us get to good actions that
6 are helpful, ultimately, to all Californians. Because
7 those price margins that you might see in a month will
8 continue to change. You know, the net margins, I think in
9 July were about \$0.14 if I'm not wrong, but they climbed up
10 to \$0.24 in August, it might be higher in September, and I
11 just don't want to use any one single data point to kind
12 of, you know, change the kind of conversation. So I just
13 welcome the industry to continue to work with us
14 collaboratively to move the conversation forward to action.

15 Thank you. And I don't think we have any more
16 questions from the dais.

17 MS. BERLINER: We welcome written comments and,
18 once again, those comments are due by the close of day on
19 November 21st, 2023. Instructions on how to provide
20 written comments are included in the notice for this
21 workshop, which is posted on the CEC's website.

22 This concludes public comments.

23 MS. GUTIERREZ: So if there are no other comments
24 from the dais, we can go ahead and adjourn.

25 As Ryan mentioned, we will have two more

1 workshops in this month, one on November 14th to go over
2 the draft transportation fuels assessment, and then one on
3 November 28th to kick off the order instituting
4 informational proceeding on the margin and penalty.

5 So with that, we'll go ahead and adjourn. Enjoy
6 your afternoon. Thank you.

7 (The workshop adjourned at 2:31 p.m.)

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CERTIFICATE OF REPORTER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of November, 2023.



MARTHA L. NELSON, CERT**367

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I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

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I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.



MARTHA L. NELSON, CERT**367

November 14, 2023