DOCKETED

Docket Number:	23-OIIP-01
Project Title:	Order Instituting Informational Proceeding on Maximum Gross Gasoline Refining Margin and Penalty
TN #:	255308
Document Title:	SBX1-2 Request for Information - Maximum Gross Refining Margin and Penalty
Description:	***This Document Supersedes TN 255304*** Request for Information Maximum Gross Refining Margin and Penalty March 27, 2024
Filer:	Xieng Saephan
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	3/27/2024 4:52:44 PM
Docketed Date:	3/27/2024

CALIFORNIA ENERGY COMMISSION
715 P Street
Sacramento, California 95814

energy.ca.gov

Request for Information
Maximum Gross Refining Margin and Penalty
March 27, 2024
Docket # 23-OIIP-01
Due Date: May 3, 2024

Purpose of Request

The California Energy Commission (CEC) is seeking input to inform a decision by the CEC on whether to implement a maximum gross gasoline refining margin (maximum margin) and penalty and if so, how the maximum margin and penalty can be structured to achieve the goals established under Senate Bill (SB) X1-2 (Stats. 2023, 1st Ex. Sess. 2023, ch. 1). CEC is requesting proposals on the margin and penalty structure as well as criteria by which these proposals should be evaluated to ensure the best outcome for California consumers.

Background

Public Resources Code section 25355.5 authorizes the CEC to set a maximum margin and penalty for refiners that exceed it. Globally, petroleum refining markets are characterized by highly concentrated markets with a small number of market participants. Firms in this sector may enjoy market power and not exhibit the idealized price-taking behavior of perfectly competitive markets. In California, the refining sector's apparent market power is particularly pronounced, and Californians have endured significant gasoline price spikes in recent years, not commensurate with increases in crude oil prices. SBX 1-2 is a response to this, and the proposed maximum margin and penalty under SBX1-2 is a tool to mitigate further impacts on Californians from excessive price spikes. In making the determination to set a maximum margin, Public Resources Code section 25355.5, subsection (e) directs CEC to consider the following non-exclusive factors:

- Whether it is likely that the maximum margin and penalty will lead to a greater imbalance between supply and demand in the California transportation fuels market than would exist without the maximum margin and penalty.

- Whether it is likely that the maximum margin and penalty will lead to higher average prices at the pump on an annual basis than would exist without the maximum margin and penalty.

- Whether case-by-case exemptions from the maximum margin will be sufficient to ensure that individual refiners have an opportunity to demonstrate the need for a greater margin before they make decisions about production.

If the CEC sets a maximum margin, it must also establish a penalty for exceeding that maximum margin.

Pursuant to Public Resources Code section 25355.5 (c), the penalty must:

- Be a percentage of the amount by which the refiner's gross gasoline refining margin excluding state program costs exceeds the maximum margin.
    - Converted from dollars per barrel to dollars per gallon, multiplied by the number of gallons sold by the refiner during the calendar month.
- Be tiered so that the penalty percentage increases with the amount by which the refiner's gross gasoline refining margin excluding state program costs exceeds the maximum margin.
    A. Amounts earned by a refiner that exceed the maximum margin by less than ten cents ($0.10) per gallon must be subject to the base penalty percentage set by the CEC.
    B. Amounts earned by a refiner that exceed the maximum margin by ten cents ($0.10) and less than or equal to twenty cents ($0.20) per gallon must be subject to a penalty percentage higher than the base penalty percentage.
    C. Amounts earned by a refiner that exceed the maximum margin by more than twenty cents ($0.20) per gallon must be subject to a penalty percentage higher than the penalty percentage in B above.

Request for Information

CEC is requesting answers to the following questions in response to this RFI.

General Questions

1) Should a maximum margin be set and a penalty established? Include a discussion of the pros and cons to consumers of establishing a maximum margin and enforcing a penalty.

Questions for Establishing a Maximum Margin

2) How should a maximum margin be designed and how should it be implemented with the goal of encouraging appropriate market behaviors? Include the following:
    a. At what value should the maximum margin be set ($/gallon)? Include a discussion as to why the maximum margin should be set at that value and not higher or lower, and why that set maximum margin provides the greatest benefit to consumers.
    b. Should the maximum margin be changed periodically? If so, at what frequency (daily, monthly, quarterly, etc.) and why?
3) How would the proposed maximum margin design further the statutory goals and promote a better balance between supply and demand in the California transportation fuels market than would exist without the maximum margin and penalty? Discuss the impact to supply and demand in the California transportation fuels market if a maximum margin was set and a penalty established. In the discussion, include estimated changes in the volumes of gasoline produced by refineries and estimated changes in volumes consumed.

4) How would the proposed maximum margin design guard against higher average prices at the pump on an annual basis? Discuss the potential financial impact(s) to consumers of setting a maximum margin and penalty. The financial impact should consider the price that consumers pay at the pump and may also consider changes in other costs such as shipping and consumer goods. Include the estimated change of the price of gasoline ($/gallon) and justification for the estimate.
5) What factors should be considered when assessing the potential impacts on disadvantaged and low-income communities from establishing (or not establishing) a maximum margin and penalty?
6) The CEC is authorized to grant case-by-case exemptions from the maximum margin for good cause. What factors should the CEC consider in making such determinations?
7) In addition to the non-exclusive considerations set forth in the statute, are there other factors that the CEC should consider for determining whether and at what level to set a maximum margin and penalty?

Questions for Establishing a Penalty

8) How should a penalty structure be designed? Please describe how it should be implemented with the goal of encouraging appropriate market behaviors, including the following:
    a. At what percentage should each of the three tiers be set? Include a discussion as to why the percentage for each of the tiers was selected, and why these percentages provide the greatest benefit to consumers.
    b. Should the penalty be adjusted periodically? If so, at what frequency should it be reviewed and potentially adjusted (annually, biennially, etc.) and why?

Questions for Evaluating Request for Information Packages

9) Design and describe a process to evaluate or score the Request for Information packages received by the CEC. Consider the following:
    a. How should the packages be evaluated to:
        i. Ensure greatest benefit to consumers?
        ii. Encourage appropriate market behaviors?
    b. Should each aspect of the request be evaluated the same? For example, does each aspect have the same number of points available and/or should certain aspects be weighted more than others?

How to Provide Information

Respondents to this RFI should not include any proprietary or confidential information. Comments may be submitted through 5:00 p.m. on May 3, 2024, using the [e-commenting feature] at docket

23-OIIP-01, at https://efiling.energy.ca.gov/EComment/EComment.aspx?docketnumber=23-OIIP-01.

To use the e-commenting system, respondents will be asked for a full name, email address, comment title, and either a comment or an attached document (.doc, .docx, or .pdf format). After a challenge-response test is used by the system to ensure that responses are generated by a human user and not a computer, click on the "Agree & Submit Your Comment" button to submit the information to the CEC's Docket Unit.

Written comments, attachments, and associated contact information included within the documents and attachments will become part of the viewable public record and searchable on the internet.

Interested stakeholders are encouraged to use the electronic filing system described above to submit information. If you are unable to submit electronically, a paper copy of your information may be sent to:

California Energy Commission
Docket Unit, MS-4
Re: Docket No. 23-OIIP-01
715 P Street
Sacramento, CA 95814-5512

Alternatively, you may email responses to docket@energy.ca.gov with the subject line "23-OIIP-01: RFI Maximum Gross Refining Margin and Penalty" to be docketed.

For information, please contact Jeremy Smith at Jeremy.Smith@energy.ca.gov. This RFI is embedded in its entirety in this notice, and available for free on the CEC website at Docket No. 23-OIIP-01, at https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=23-OIIP-01.

Media inquiries can be directed to the Media and Public Communications Office at (916) 654-4989 or at mediaoffice@energy.ca.gov.