

DOCKETED

Docket Number:	23-OIR-03
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**California Energy Commission
July 10, 2024 Business Meeting
Backup Materials for Agenda Item No 06:
Emergency Rulemaking Adopting Revised Merchant Terminal Position Holder
Reporting Requirements (Docket No. 23-OIR-03)**

The following backup materials for the above-referenced agenda item are available as described below:

1. Proposed Resolution, attached below.
2. Notice of Proposed Emergency Action and Express Terms, attached below.
3. CEQA Documents, attached below.

For the complete rulemaking record, please visit Docket No. 23-OIR-03 at:
<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=23-oir-03>.

To stay informed about this rulemaking and receive documents as they are filed, please subscribe to the SB X1-2 Implementation Topic, which can be accessed here:
<https://www.energy.ca.gov/proceeding/senate-bill-x1-2-implementation>. The Topic sends out email notifications and direct links when documents are filed in the proceeding docket.

[PROPOSED]

RESOLUTION NO: 24-0710-06

**STATE OF CALIFORNIA
STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION**

IN THE MATTER OF:

**Emergency Rulemaking
Implementing Revised SB X1-2
Merchant Terminal Position Holder
Reporting Requirements**

Docket No. 23-OIR-03

**[PROPOSED] RESOLUTION
ADOPTING EMERGENCY
REGULATIONS**

WHEREAS, the Legislature enacted, and the Governor signed Senate Bill (SB) X1-2 (Stats. 2023, 1st Ex. Sess. 2023, ch.1), which, among other things, added section 25354(k) in Chapter 4.5 of Division 15 of the Public Resources Code; and

WHEREAS, to improve reporting of data to the CEC about the petroleum market that is essential for the CEC's oversight functions and for the state to develop and administer energy policies in the best interests of the state and public welfare, Public Resources Code section 25367 authorizes the CEC to adopt regulations to implement Chapter 4.5 of Division 15 of the Public Resources Code, including the proposed regulations clarifying and revising reporting requirements related to transportation fuel inventory by position holder at merchant terminals; and

WHEREAS, Section 25367 states that the adoption of these regulations shall be considered by the Office of Administrative Law (OAL) as an emergency, and necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding any law, the emergency regulations adopted to implement this chapter shall remain in effect for two years; and

WHEREAS, with gasoline prices continuing to spike and affecting Californians on a daily basis, it is imperative to quickly adopt these reporting requirements to immediately begin gathering the identified data to provide greater transparency to the petroleum market and provide the information needed to better address and understand the causes of these price spikes and prevent their continued occurrence; and

WHEREAS, on March 29, 2024, the CEC noticed and on April 11, 2024, held a workshop to discuss proposed changes to the regulations; and

WHEREAS, on April 10, 2024, CEC staff published the draft proposed regulation changes; and

WHEREAS, at the April 11, 2024 workshop CEC staff presented an overview of the proposed regulations and established a written comment period up to and including April 25, 2024; and

WHEREAS, the CEC received several comment letters relevant to the proposed regulations during the written comment period; and

WHEREAS, CEC staff engaged with stakeholders throughout this process and modified the proposed regulations based on feedback received; and

WHEREAS, on June 28, 2024, in the proceeding docket and business meeting webpage, the CEC provided notice that it designated July 10, 2024, as the date for the business meeting to consider adoption of the proposed emergency regulations; and

WHEREAS, on June 28, 2024, more than five working days prior to submission of the proposed emergency action to OAL, the CEC provided notice of the proposed action, which included the proposed emergency regulations, to persons who have expressed interest in this proceeding, including every person who has filed a request for notice of regulatory action with the agency; and

WHEREAS, on July 10, 2024, the CEC considered the proposed emergency regulations at its business meeting.

THEREFORE, THE CALIFORNIA ENERGY COMMISSION FINDS:

With regard to the California Environmental Quality Act (CEQA):

- The CEC has considered the application of CEQA to the proposed emergency regulations and concluded that adoption of the proposed emergency regulations is not a project under CEQA (Cal. Code Regs., tit. 14, § 15378(a)) because the regulations will not result in a physical change to the environment or reasonably foreseeable indirect physical change to the environment. Even if adoption of the proposed emergency regulations were determined to be a project, this action would nonetheless be categorically exempt from CEQA under the Class 6 Information Collection exemption (Pub. Resources Code, § 15061(b)(2); Cal. Code Regs., tit. 14, § 15306) and would also be exempt from CEQA under the common sense exemption. (Cal. Code Regs., tit. 14, § 15061(b)(3).); and

With regard to the Administrative Procedure Act:

- The proposed regulations are deemed an emergency by statute, are supported by an express statement containing specific facts demonstrating the existence of an emergency, and the CEC has express statutory authority to seek approval of these regulations implementing Chapter 4.5 of Division 15 of the Public Resources Code, including the merchant terminal position holders reporting requirements in section 25354(k) through OAL’s emergency rulemaking procedures; and
- The proposed emergency regulations will impose no direct costs or savings, or direct or indirect requirements or mandates, on state agencies, local agencies, or school districts, including but not limited to costs that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code; and
- The proposed emergency regulations will result in no costs or savings in federal funding to the State of California; and
- The proposed emergency regulations will result in no nondiscretionary costs or savings to any state agencies, local agencies, or school districts.

THEREFORE, BE IT RESOLVED that, based on the entire record before it, the CEC finds that adoption of the proposed emergency regulations is not a project under CEQA (Cal. Code Regs., tit. 14, § 15378(a)) because the regulations will not result in a direct physical change to the environment or reasonably foreseeable indirect physical change to the environment. The adoption of the proposed emergency regulations is also exempt from CEQA as a categorical exemption under the Class 6 Information Collection exemption (Pub. Resources Code, § 15061(b)(2); Cal. Code Regs., tit. 14, §15306) and adoption of the regulations would also be exempt from CEQA under the common sense exemption. (Cal. Code Regs., tit. 14, § 15061(b)(3).); and

FURTHER BE IT RESOLVED that, after considering all comments received and based on the entire record of this proceeding, the CEC hereby adopts the emergency regulations implementing the merchant terminal position holders reporting requirements as published on June 28, 2024 and incorporating any changes presented and adopted today. The CEC takes this action under the authority of sections 25213, 25218(e), 25354, and 25367 of the Public Resources Code, which among other powers conferred authorize the CEC to adopt emergency regulations, as reasonable and necessary, to implement Chapter 4.5 of Division 15 of the Public Resources Code; and

FURTHER BE IT RESOLVED that documents and other materials that constitute the rulemaking record can be found at the CEC, 715 P Street, Sacramento, California, 95814 in the custody of the Docket Unit and online in Docket Number 23-OIR-03, at

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=23-oir-03> and posted on the CEC's website; and

FURTHER BE IT RESOLVED that, the CEC delegates the authority and directs CEC staff to take, on behalf of the CEC, all actions reasonably necessary to have the proposed emergency regulations go into effect, including but not limited to making any appropriate non-substantive changes to the regulations; preparing all appropriate documents; compiling and submitting the rulemaking file to the Office of Administrative Law (OAL); making any changes to the rulemaking file required by OAL; and filing a notice of exemption with the Office of Planning and Research. This delegation explicitly includes authority for the Executive Director or Chief Deputy Director to sign the Form 400 on behalf of the CEC.

CERTIFICATION

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the CEC held on July 10, 2024.

AYE:

NAY:

ABSENT:

ABSTAIN:

Dated:

Kristine Banaag
Secretariat

STATE OF CALIFORNIA
CALIFORNIA ENERGY COMMISSION
ADOPTION OF EMERGENCY RULEMAKING ACTION
Docket No. 23-OIR-03

SB X1-2 Merchant Terminal Position Holder Reporting Requirements
Petroleum Industry Information Reporting Act of 1980
Chapter 4.5 of Division 15 of the Public Resources Code

NOTICE OF PROPOSED EMERGENCY ACTION

Government Code section 11346.1(a)(2) requires that at least five working days prior to submission of a proposed emergency action to the Office of Administrative Law (OAL), the adopting agency provide notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency action to OAL, OAL shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

The California Energy Commission (CEC) intends to submit this proposed emergency rulemaking action for OAL review on **July 11, 2024**. Upon submission, OAL will have 10 calendar days within which to review and decide on the proposed emergency rulemaking action. If approved, the regulations will become effective when OAL files the regulations with the Secretary of State. Under Public Resources Code section 25367, these emergency regulations remain in effect for two years.

The submitted emergency action, including the specific language of the proposed emergency regulations, will appear on the list of “Emergency Regulations Under Review” on OAL’s website at

https://oal.ca.gov/emergency_regulations/emergency_regulations_under_review/

and is included with this notice.

Comments must be submitted in writing to **both** CEC and OAL.

For CEC:

Comments should be e-filed in Docket No. 23-OIR-03, the “General Rulemaking Proceeding for Developing Regulations, Guidelines, and Policies for Implementing SB X1-2 and SB 1322” at

<https://efiling.energy.ca.gov/EComment/EComment.aspx?docketnumber=23-OIR-03>.

For e-filing questions, contact docket@energy.ca.gov.

In the alternative, written comments may also be submitted by email. Include Docket Number 23-OIR-03 in the subject line and email to docket@energy.ca.gov.

A paper copy may be sent to:

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

and

For OAL:

Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814
Fax: (916) 323-6826
Email: staff@oal.ca.gov

FINDING OF EMERGENCY

Transportation fuel, and gasoline in particular, is an essential commodity on which millions of Californians currently rely each day to get to work, access healthcare, conduct business, and navigate other essential aspects of daily life. Even as California increasingly transitions to zero-emission vehicles, most California residents at present rely on petroleum-based transportation fuels. As a result, transportation fuel price spikes have a direct negative impact on the peace, health, safety, and general welfare of California consumers. Rapid increases in fuel prices can force consumers to make difficult choices with little or no time to plan. These impacts disproportionately affect individuals living in disadvantaged communities, who tend to spend a larger share of their income on transportation fuels and are less likely to have access to zero-emission vehicles that could insulate them from these impacts.

The average price of gasoline spiked to record or near record levels of above \$6.00 per gallon on three occasions in the past two years. These spikes can occur at any time and often occur in the fall season due to a combination of factors including maintenance-related supply shortages, lack of imports, and possible market manipulation. Price spikes are expected to continue to increase in both frequency and intensity as the California petroleum market contracts in response to declining demand. In 2024, the Phillips 66 Rodeo refinery officially ceased crude oil processing and gasoline production operations, moving instead to renewable diesel production. This further constrains local production of gasoline which adds to the potential for price spikes in the immediate future. Transportation fuel price spikes can interrupt essential services, threaten the

financial well-being of small businesses and residents, and force California residents to make sacrifices with serious consequences for their health, safety, and well-being.

In response to a severe gasoline price spike in the fall of 2022, the Governor convened a special legislative session that led to the enactment of Senate Bill (SB) X1-2 (Stats. 2023, 1st Ex. Sess. 2023, ch. 1) in March 2023. The legislative findings of SB X1-2, the entirety of which are incorporated into the rulemaking record, state that during a 90-day period in 2022 coinciding with a gasoline price spike, refiners earned a record \$63,000,000,000 in profits and that refiners set record annual profits for 2022. In response, the Legislature declared that fundamental change is necessary to prevent future extreme price spikes and price gouging by oil companies and tasked the CEC with gathering and analyzing the necessary data. These data, including the enhanced reporting requirements implemented through this rulemaking, will increase visibility into the pricing, contracting, and marketing practices of industry participants at all levels of the supply chain and enable greater oversight by regulators. Complete and accurate information, combined with the investigative tools needed to deter and detect anticompetitive conduct and other behavior that harms California consumers, is necessary to empower regulators to fulfill the various mandates in SB X1-2 and the broader PIIRA legislative scheme.

Among other things, SB X1-2 amended Chapter 4.5 of Division 15 of the Public Resources Code (the Petroleum Industry Information Reporting Act of 1980 (PIIRA)) and created a new independent division in the CEC, the Division of Petroleum Market Oversight (DPMO). Under PIIRA, the CEC collects data about the petroleum market that is essential for the state to develop and administer energy policies in the best interests of the state and public welfare. SB X1-2, which took effect in June 2023, significantly expanded the information that refiners and other petroleum market participants are required to submit to the CEC under PIIRA, including new information on petroleum fuel inventory held by position holders at merchant terminals. SB X1-2 also authorized the CEC to establish a maximum gross gasoline refining margin (Max Margin) to deter price gouging and protect Californians from exorbitant gas prices. The Max Margin is among the strongest tools at the CEC's disposal to address these issues. These regulations will clarify and refine Public Resources Code 25354(k), which will in turn enhance oversight and enable the CEC to fully utilize the quiver of policy interventions authorized by SB X1-2, including overseeing the spot market and a potential Max Margin, to protect Californians from impending transportation fuel price spikes.

The reporting requirements in Public Resources Code 25354(k) clarified and refined by these regulations will give the CEC and the state increased insights into the petroleum product holdings of individual companies that trade on California's petroleum spot markets. Over the last three years, California has observed several instances of abnormally elevated spot market prices. In many cases, aggregate inventory levels of the petroleum product did not appear overly inadequate, calling into question the

disposition of ownership of those fuels. Data obtained from the report implemented via these regulations will provide the requisite granularity and precision to allow the CEC to diagnose whether the inventory holdings of a particular firm or a combination of position holders contributes to increases in gasoline prices and other transportation fuel prices.

Recognizing the immediate threat posed by transportation fuel price spikes, the Legislature authorized the CEC in Public Resources Code section 25367 to implement Chapter 4.5 of Division 15 of the Public Resources Code, including the new reporting requirements specified in SB X1-2, through emergency rulemaking. Section 25367 specifically states:

Except as otherwise provided, the adoption of, or amendment to, regulations or orders implementing this chapter shall be considered by the Office of Administrative Law as an emergency, and necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding any other law, the emergency regulations or orders adopted to implement this chapter shall remain in effect for two years. Although the commission may adopt regulations to further define terms or prescribe reporting procedures or calculation methodologies pursuant to this chapter, or prescribe any other method of implementing this chapter, the provisions of this chapter are self-executing and shall not require any implementing regulation to be effective.

Therefore, in addition to the specific facts set forth above, these regulations are deemed by statute to be an emergency and necessary for the immediate preservation of public peace, health, safety, and general welfare, and the CEC has express statutory authority to seek approval of these regulations by implementing Chapter 4.5 of Division 15 of the Public Resources Code through the emergency rulemaking procedures set forth in the Administrative Procedure Act and OAL's regulations.

DOCUMENTS RELIED UPON

Draft Transportation Fuels Assessment, 2024:

<https://efiling.energy.ca.gov/GetDocument.aspx?tn=255663&DocumentContentId=91492>

Transportation Fuel Supply Outlook, 2017:

<https://www.energy.ca.gov/publications/2017/transportation-fuel-supply-outlook-2017>

SB X1-2 (Stats. 2023, 1st Ex. Sess. 2023, ch. 1, §1):

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320241SB2

Petroleum Industry Information Reporting Act Form M08 data collection:

<https://www.energy.ca.gov/files/piira-forms-and-instructions>

Oil Price Information Service, Oil Price Information Service's Petroleum Terminal Encyclopedia. 28th ed. Rockville, MD: Oil Price Information Service, 2017.

AUTHORITY

Public Resources Code sections 25213, 25218(e), 25354, and 25367.

REFERENCE

Public Resources Code section 25354.

INFORMATIVE DIGEST

Existing law requires nonrefiners that commercially trade in transportation fuel product inventory not subject to contractual supply obligations to submit weekly reports to the CEC on inventory for each position holder.

The proposed regulations clarify and refine the reporting requirements with respect to these transportation fuel product inventory reports. The proposed regulations clarify that merchant terminal operators must submit this report, specify the procedures for submitting the report, and define key terms pertaining to the reporting requirements. The precise reporting terms and format prescribed by these regulations are necessary to ensure consistency across reporting entities and to enable the CEC to analyze, compare, and aggregate data across reporters effectively and accurately. These changes, in turn, increase regulatory certainty for the regulated community and enhance the CEC's ability to collect and analyze this data.

The proposed regulations add a monthly reporting obligation in addition to the weekly reporting obligation. This will give the CEC and the state increased insights into the petroleum product holdings of individual companies that trade on California's petroleum spot markets. Data obtained from the report implemented via these regulations will provide the requisite granularity and precision to allow the CEC to diagnose whether the inventory holdings of a particular firm or a combination of position holders contribute to increases in gasoline prices and other transportation fuel prices. This will further allow the CEC and the Division of Petroleum Market Oversight to perform competitive market analysis to determine how liquid California transportation fuel markets are at the storage level of the supply chain.

The proposed regulations specify how inventory volumes are to be reported. The proposed regulations also require additional information to be submitted to complement the inventory volume data including directional information on movements of product during the reporting period, both within and outside of the terminal, and position holder lease capacity.

The proposed regulations require additional information regarding aggregate terminal operations including information on the utilization of community storage and leased storage capacity at the merchant terminal for various petroleum products.

Existing law and regulations directly related to the proposed action include:

- Public Resources Code sections 25350-25367 contain all reporting requirements related to PIIRA.
- Public Resources Code section 25370 contains selected definitions applicable to PIIRA reporting requirements.
- California Code of Regulations, title 20, chapter 3, article 3 (section 1361 *et seq.*) contains the CEC's regulations for Petroleum Information Reports.
- California Code of Regulations, title 20, sections 1363.1 and 1363.2, contain the definition of terms used for reporting purposes under PIIRA.
- California Code of Regulations, title 20, section 1366, identifies which entities are subject to the specific requirements to comply with PIIRA.

The proposed regulations are not inconsistent or incompatible with existing regulations. Pursuant to Chapter 4.5, section 25354 Division 15 of the Public Resources Code, these regulations implement the terminal position holders reporting requirement. The specific information reporting requirements addressed by these regulations augment the CEC's existing regulations for Petroleum Information Reports to accommodate and implement the new statutory reporting requirements. Similarly, the definitions added or amended by these regulations augment, but do not conflict with, existing definitions.

DOCUMENTS INCORPORATED BY REFERENCE

None.

OTHER MATTERS PRESCRIBED BY STATUTE

The CEC has determined that the proposed emergency rulemaking is not a project subject to CEQA because the proposed rulemaking relates to an informational reporting requirement, and so does not result in any direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Therefore, the activity is not subject to CEQA. In the event, however, that these regulations were determined to be a project under CEQA, they are nonetheless exempt pursuant to the

common sense exemption and the Class 6 exemption pertaining to data gathering activities. (Title 14, Cal. Code of Regs., §15061(b)(3) and §15306.)

LOCAL MANDATE DETERMINATION

The CEC has determined that the proposed changes do not impose a mandate on local agencies or school districts.

FISCAL IMPACT

The CEC does not anticipate any costs to itself or other state agencies as a result of this emergency rulemaking action. The proposed emergency regulations refine, clarify, and make incremental additions to existing statutory reporting requirements in addition to adding more specificity to existing procedures. To the extent that new or additional information is obtained through the proposed regulations, the CEC will use existing staff resources, including resources gained at the passage of SB X1-2, to analyze and process that information. Additionally, the CEC is developing new processes to ingest and analyze larger datasets that are critical to inform policy decisions, with improved efficiency. Updates to filing requirements are increasingly requiring machine-readable data submissions, allowing the CEC to process the data more efficiently and at a lower cost. Therefore, the CEC does not expect the proposed regulations to result in additional costs or savings to the agency.

The proposed regulations will not result in any reimbursable costs to local government agencies, school districts, nondiscretionary costs or savings to local government agencies, or costs or savings in federal funding to the state.

NONDUPLICATION

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). The statutory provisions governing petroleum regulation are lengthy and complex; in some instances it was determined that to ensure the regulations are straightforward and provide comprehensive direction for data submittals, it was necessary to insert some statutory language within the regulatory provisions. All instances where existing statutes or regulations are referenced in the regulations have been 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).

NECESSITY

The following description of facts demonstrates the need for the proposed regulations to effectuate the provisions of Chapter 4.5 of Division 15 of the Public Resources Code being implemented, interpreted, or made specific and to address the demonstrated

emergency. The emergency regulations support and effectuate the purpose of addressing unusually high gasoline price spikes and support the Division of Petroleum Market Oversight in monitoring and analyzing California's gasoline markets. In addition, under Public Resources Code 25355.5, the CEC is authorized to set a maximum gross gasoline refining margin and a penalty for exceeding that margin. In doing so, the CEC must consider whether such actions will lead to "greater imbalance between supply and demand in the California transportation fuels market" and "will lead to higher average prices". Furthermore, pursuant to Public Resources Code 25354(k), California fuel terminals must report holdings of fuel by company to the CEC. These regulations expand on existing reporting requirements to ensure the CEC has the information it needs at the granularity needed to appropriately monitor California's gasoline markets, including the spot market, and fulfill its obligations under SB X1-2. To accurately analyze this data, including to compare data submitted by individual reporters and to aggregate data across multiple reporters, the data submitted must be consistent across reporting entities. These regulations provide the necessary consistency by providing precise definitions of key terms, specifying reporting procedures, and prescribing the informational requirements.

California Code of Regulations, Title 20, Division 2, Chapter 3, Article 3 Petroleum Information Reports

§ 1363.2. Definitions. Specific Definitions for Purposes of Reporting

Requirements. Amendments to this section are necessary to clarify terms introduced by SB X1-2, add new terms pertinent to refinements made to the statutory reporting requirements, improve reporting compliance, and promote understanding among the regulated public. By clearly articulating definitions, industry participants can more efficiently and consistently satisfy reporting requirements and the CEC can more efficiently and accurately analyze the provided information. Additional rationale for defining these terms is provided in the discussion of Appendix A and Appendix B below.

The purpose of adding the term "Leased Capacity" is to clarify the status of the storage arrangement that is to be reported under this regulation, which is necessary to distinguish the holding arrangement of position holder inventories that need to be reported.

The purpose of adding the term "Merchant Terminal Operator" is to define a term used in the report specified in subsections (f) and (m) of section 1366 and in Appendices A and B. Defining this term is necessary to identify a particular class of firms subject to this reporting requirement, to identify the types of transportation fuel product inventory relevant to this definition for reporting purposes, and to thereby ensure accurate and consistent reporting. The purpose of specifying a 50,000 barrel threshold is to define the potential sphere of entities subject to the reports specified in section 1366(f) and (m), which is necessary to distinguish these entities from those with smaller capacity that lack meaningful position holder information, to ensure the definition for this term is

consistent with the existing definition of “Terminal Operator” found in § 1363.2, and to align with the class of firms specified in Public Resources Code section 25354(k). Defining this term to include only those entities that provide leased storage to another company is similarly necessary to distinguish these entities from storage companies who lack meaningful position holder information and to align with the class of firms specified in Public Resources Code section 25354(k).

The purpose of adding the term “Position Holder” is to define a term used in the report specified in Appendix A and B. This is a term used by the industry and defining it is necessary to identify its meaning within the context of this particular report and thereby ensure accurate and consistent reporting on inventory levels contained within the bulk storage facility.

§ 1366. Requirement to File. Amendments to this section are necessary to specify the new statutory reporting requirements, as refined by this rulemaking, alongside the other specified petroleum information reports, and to clarify the entities subject to the new reporting requirements.

The purpose of adding subsection (f) and renumbering subsection (i) through (l) is to specify a particular class of entities required to file the California Merchant Terminal Position Holder Weekly Reports. The proposed amendments will add a requirement to file clause to this section requiring reports specified in Appendix A, Section V, which outlines the report requirements. In future rulemakings the CEC may specify other classes of entities also required to file.

The purpose of adding subsection (m) and renumbering subsection (n) through (w) is to specify a particular class of entities required to file the California Merchant Terminal Position Holder Inventory Monthly Report. The proposed amendments will add a requirement to file clause to this section requiring reports specified in Appendix B, Section VII, which outlines the report requirements. The addition of this monthly report is necessary to align information obtained in merchant terminal position holder reports with the existing reporting requirements in Chapter 3, Article 3 of these regulations, which include both weekly and monthly reporting. Conversion of weekly reports to monthly reports is infeasible due to the typical month in a year not being divisible by seven leading to months finishing prior to a week finishing and months ending prior to a week finishing.

Appendix A: Section V. California Merchant Terminal Position Holder Inventory Weekly Report. The purpose of collecting the information specified in this report is to increase the CEC’s visibility into the individual holdings of petroleum marketers throughout California. This will allow the CEC and the Division of Petroleum Market Oversight to monitor and determine whether a particular marketer is undersupplying, mismanaging, or restricting access to petroleum products and to analyze the impact of such activity on the behavior of California’s spot markets. This is necessary for the

Division of Petroleum Market Oversight role as an oversight organization dedicated to monitoring California's petroleum markets.

The necessity of specific items in Appendix A, Section V is described in more detail below.

The purpose of requiring this report to include information on all transportation fuel products held at the merchant terminal is to specify the particular types of petroleum product inventory subject to this reporting requirement. This is necessary to assess the position of certain marketers in California that trade on California's spot market to determine their relative influence on California transportation fuel prices. Transportation fuel markets are often linked to one another and can influence prices of other transportation products. Including all transportation fuels in this report allows the CEC to analyze those relationships in greater detail to ascertain whether price changes in transportation fuel markets are being influenced by factors beyond regular market fundamentals.

The purpose of subsection A is to require reporting on the amount of petroleum product received from outside sources and placed into inventory holdings, both in aggregate and for each specific position holder. This is necessary in order to determine on a weekly basis the quantity of product available in each merchant terminal and to each position holder and to understand what activities are being undertaken to supply California on a weekly basis, including where such supplies are being sourced from.

The purpose of subsection B is to require reporting on the amount of petroleum product received from sources inside the merchant terminal and placed into inventory holdings, both in aggregate and for each specific position holder. This is necessary in order to determine on a weekly basis the quantity of product available in each merchant terminal and to each position holder, what activities are being undertaken to supply California, and how product flows within merchant terminals.

The purpose of subsection C is to require reporting on the total amount of petroleum product received during reporting period, both in aggregate for the merchant terminal and for each specific position holder. This is necessary in order to determine on a weekly basis the quantity of product available in each merchant terminal and to each position holder, what activities are being undertaken to supply California, and the flow of product through merchant terminals.

The purpose of subsection D is to require reporting on the total amount of petroleum product created from blending or conversion of other petroleum products within the merchant terminal and for specific position holders. This is necessary in order to determine how much product a position holder has available and what activities are being undertaken to supply California on a weekly basis. This field specifically captures the fuel created outside of refinery processing via mixing different compounds that are

stored at the terminal and are mixed to create an end-use source of transportation fuel. This information is necessary for accurate analysis of California's transportation fuel supply.

The purpose of subsection E is to require reporting on the total amount of petroleum product sold over the rack to retailers for end-use distribution. This is necessary in order to determine on a weekly basis the quantity of product available in each merchant terminal and to each position holder, what activities are being undertaken to supply California, and the flow of product from merchant terminals to retailers. Rack sales specifically are sales that directly supply California retailers which supply California end-users with transportation fuel.

The purpose of subsection F is to require reporting on the total amount of petroleum product transferred to a location outside of the terminal, not including the rack distributions captured in the subsection above. This is necessary in order to determine on a weekly basis the quantity of product available in each merchant terminal and to each position holder, what activities are being undertaken to supply California, and the flow of product from merchant terminals to external destinations. Transfers to be reported include movements of products to another terminal for storage, spot pipeline sales, or bulk sales.

The purpose of subsection G is to require reporting on the total amount of petroleum product transferred to other position holders within the terminal. This is necessary in order to determine on a weekly basis the quantity of product available in each merchant terminal and to each position holder, what activities are being undertaken to supply California, and the flow of product within merchant terminals. Total transfers at the aggregate level would represent the total trading activity of this transfer type. Individual position holder numbers would represent transfers of product to other entities within the facility.

The purpose of subsection H is to require reporting on the total amount of petroleum product held within storage after correcting for temperature to standard storage conditions. This provides a weekly snapshot of transportation fuel inventory at merchant terminals and is necessary in order to determine on a weekly basis the quantity of product available in each merchant terminal and to each position holder and what activities are being undertaken to supply California.

The purpose of subsection I is to require reporting on the total amount of storage capacity leased by each individual position holder. This is necessary in order to determine on a weekly basis the quantity of product available in each merchant terminal and to each position holder, the ratio of available capacity represented by product held, and what activities are being undertaken to supply California.

The purpose of subsection J, paragraph a. is to require reporting on the total amount of unleased storage capacity available for the terminal as a whole (i.e., aggregate terminal operations) for finished petroleum products. This is necessary in order to analyze the general utilization of the terminal facility to gauge how well California petroleum marketers are utilizing California's petroleum infrastructure on a weekly basis.

The purpose of subsection J, paragraph b. is to require reporting on the total amount of leased storage capacity available for the terminal as a whole (i.e., aggregate terminal operations) for crude oil, blending components, non-finished fuels, and other petroleum products. This is necessary in order to analyze the general utilization of the terminal facility to gauge how well California petroleum marketers are utilizing California's petroleum infrastructure on a weekly basis.

Appendix B: Section VII. California Merchant Terminal Position Holder Inventory Monthly Report The purpose of collecting the information specified in this report is to increase the CEC's visibility into the individual holdings of petroleum marketers throughout California on a monthly basis. This will allow the CEC and the Division of Petroleum Market Oversight to monitor and determine whether a particular marketer is undersupplying, mismanaging, or restricting access to petroleum products and to analyze the impact of such activity on the behavior of California's spot markets. This is necessary for the Division of Petroleum Market Oversight role as an oversight organization dedicated to monitoring California's petroleum markets. The information required is the same as is contained in Appendix A, except that these will be monthly numbers as opposed to weekly.

The necessity of specific items in Appendix B, Section VII is described in more detail below.

The purpose of subsection A is to require reporting on the amount of petroleum product received from outside sources and placed into inventory holdings, both in aggregate and for each specific position holder. This is necessary in order to determine on a monthly basis the quantity of product available in each merchant terminal and to each position holder and to understand what activities are being undertaken to supply California on a monthly basis, including where such supplies are being sourced from.

The purpose of subsection B is to require reporting on the amount of petroleum product received from sources inside the merchant terminal and placed into inventory holdings, both in aggregate and for each specific position holder. This is necessary in order to determine on a monthly basis the quantity of product available in each merchant terminal and to each position holder, what activities are being undertaken to supply California, and how product flows within merchant terminals.

The purpose of subsection C is to require reporting on the total amount of petroleum product received during reporting period, both in aggregate for the merchant terminal

and for each specific position holder. This is necessary in order to determine on a monthly basis the quantity of product available in each merchant terminal and to each position holder, what activities are being undertaken to supply California, and the flow of product through merchant terminals.

The purpose of subsection D is to require reporting on the total amount of petroleum product created from blending or conversion of other petroleum products within the merchant terminal and for specific position holders. This is necessary in order to determine how much product each position holder has available and what activities are being undertaken to supply California on a monthly basis. This field specifically captures the fuel created outside of refinery processing via mixing different compounds that are stored at the terminal and are mixed to create an end-use source of transportation fuel. This information is necessary for accurate analysis of California's transportation fuel supply.

The purpose of subsection E is to require reporting on the total amount of petroleum product sold over the rack to retailers for end-use distribution. This is necessary in order to determine on a monthly basis the quantity of product available in each merchant terminal and to each position holder, what activities are being undertaken to supply California, and the flow of product from merchant terminals to retailers. Rack sales specifically are sales that directly supply California retailers which supply California end-users with transportation fuel.

The purpose of subsection F is to require reporting on the total amount of petroleum product transferred to a location outside of the terminal, not including the rack distributions captured in the subsection above. This is necessary in order to determine on a monthly basis the quantity of product available in each merchant terminal and to each position holder, what activities are being undertaken to supply California, and the flow of product from merchant terminals to external destinations. Transfers to be reported include movements of products to another terminal for storage, spot pipeline sales, or bulk sales.

The purpose of subsection G is to require reporting on the total amount of petroleum product transferred to other position holders within the terminal. This is necessary in order to determine on a monthly basis the quantity of product available in each merchant terminal and to each position holder, what activities are being undertaken to supply California, and the flow of product within merchant terminals. Total transfers at the aggregate level would represent the total trading activity of this transfer type. Individual position holder numbers would represent transfers of product to other entities within the facility.

The purpose of subsection H is to require reporting on the total amount of petroleum product held within storage after correcting for temperature to standard storage conditions. This provides a monthly snapshot of transportation fuel inventory at

merchant terminals and is necessary in order to determine on a monthly basis the quantity of product available in each merchant terminal and to each position holder and what activities are being undertaken to supply California.

The purpose of subsection I is to require reporting on the total amount of storage capacity leased by each individual position holder. This is necessary in order to determine on a monthly basis the quantity of product available in each merchant terminal and to each position holder, the ratio of available capacity represented by product held, and what activities are being undertaken to supply California.

The purpose of subsection J, paragraph a. is to require reporting on the total amount of unleased storage capacity available for the terminal as a whole for finished petroleum products. This is necessary in order to analyze the general utilization of the terminal facility to gauge how well California petroleum marketers are utilizing California's petroleum infrastructure on a monthly basis.

The purpose of subsection J, paragraph b. is to require reporting on the total amount of leased storage capacity available for the terminal as a whole for crude oil, blending components, non-finished fuels, and other petroleum products. This is necessary in order to analyze the general utilization of the terminal facility to gauge how well California petroleum marketers are utilizing California's petroleum infrastructure on a monthly basis.

EXPRESS TERMS

**California Code of Regulations
Title 20. Public Utilities and Energy
Division 2. State Energy Resources Conservation and Development Commission
Chapter 3. Data Collection
Article 3. Petroleum Information Reports**

Proposed new language appears as underline (example) and proposed deletions appear as strikeout (~~example~~). Existing language appears as plain text. Three dots or "...” represents the substance of the regulations that exists between the proposed language and current language.

Draft Express Terms for Terminal Position Holder Reports

§ 1363.2. Definitions: Specific Definitions for Purposes of Reporting Requirements.

[...skipping “1/1/1” through “Lease Storage Facilities...”]

“Leased Capacity” means the quantity of storage capacity, in barrels, under contract by the position holder with the terminal operator by transportation fuel product type.

[...skipping “Los Angeles Basin Region” through “Maximum Throughput”...]

“Merchant Terminal Operator” means a firm that owns, leases, or operates a California bulk storage facility with a storage capacity equal to or greater than 50,000 barrels and provides leased capacity storage contracts to position holders for gasoline, blending components, fuel ethanol, distillates, renewable distillates, or aviation fuels.

[...skipping “Mountain Region” through “Pipeline Storage Tanks”...]

“Position Holder” means a company or firm that holds an inventory position for transportation fuel or fuels in a terminal, as reflected on the records of the terminal operator. A person holds an "inventory position of transportation fuel" when they have a contract with the terminal operator for the use of storage facilities and terminaling services for transportation fuel at the terminal. The term includes a terminal operator who owns transportation fuel in the terminal.

[...skipping "Position Sequence Number" through "U.S.C."...]

Credits

NOTE: Authority cited: Sections 25213, 25218(e) and 25367, Public Resources Code.
Reference: Sections 25354 and 25355, Public Resources Code.

[...skipping section 1364...]

1366. Requirement to File.

(a) Every refiner and nonrefiner, including importers, brokers, and traders as defined in Section 1363.2, that consummates a spot market transaction shall file a daily report containing all of the information specified in Appendix D, Sections I and II, for each transaction or settlement, respectively, occurring the preceding day. No report shall be required for a reporting period in which no transaction or settlement occurs.

(b) Each refiner, as defined in Section 1363.2, shall file weekly reports for each California refinery containing all of the information specified in Appendix A, Section I.

(c) Each refiner, importer, exporter and major petroleum products transporter, as defined in Section 1363.2, shall file weekly reports containing all of the information specified in Appendix A, Section II.

(d) Each refiner, terminal operator and major petroleum products storer, as defined in Section 1363.2, shall file weekly reports containing all of the information specified in Appendix A, Section III.

(e) Each refiner, as defined in Section 1363.2, shall file weekly reports containing all of the information specified in Appendix A, Section IV.

(f) Each merchant terminal operator, as defined in Section 1363.2, shall file California Merchant Terminal Position Holder Weekly Reports containing all of the information specified in Appendix A, Section V.

(~~g~~) Each refiner, as defined in Section 1363.2, shall file monthly reports for each California refinery containing all of the information specified in Appendix B, Section I.

(~~h~~) Each refiner, as defined in Section 1363.2, shall file monthly reports for each California refinery containing all of the information specified in Appendix B, Section II.

(~~i~~) Each refiner, importer, exporter, non-California fuel transporter, marine fuels distributor and major petroleum products transporter, as defined in Section 1363.2, shall file monthly reports containing all of the information specified in Appendix B, Section III.

(~~j~~) Each refiner, terminal operator and major petroleum products storer, as defined in Section 1363.2, shall file monthly reports containing all of the information specified in Appendix B, Section IV.

(~~k~~) Each refiner, as defined in Section 1363.2, shall file monthly reports containing all of the information specified in Appendix B, Section V.

(~~l~~) Each refiner and major petroleum products marketer as defined in Section 1363.2, shall file monthly reports containing all of the information specified in Appendix B, Section VI.

(~~m~~) Each merchant terminal operator as defined in Section 1363.2 shall file California Merchant Terminal Position Holder Monthly Reports containing all of the information specified in Appendix B, Section VII.

(~~n~~) Each refiner, as defined in Section 1363.2, shall file annual reports containing all of the information specified in Appendix C, Section I.

(~~o~~) Each refiner, terminal operator and major petroleum products storer, as defined in Section 1363.2, shall file annual reports containing all of the information specified in Appendix C, Section II.

(~~p~~) Each major crude oil transporter, as defined in Section 1363.2, shall file annual reports containing all of the information specified in Appendix C, Section III, for each crude oil pipeline system.

~~(q)~~ Each major petroleum products transporter, as defined in Section 1363.2, shall file annual reports containing all of the information specified in Appendix C, Section IV, for each petroleum product pipeline system.

~~(r)~~ Each major crude oil producer, as defined in Section 1363.2, shall file annual reports containing all of the information specified in Appendix C, Section V.

~~(s)~~ Each refiner, major petroleum products marketer and independent retail fuel outlet operator, as defined in Section 1363.2, shall file annual reports containing all of the information specified in Appendix C, Section VI.

~~(t)~~ Each refiner, as defined in Section 1363.2, shall file annual reports containing all of the information specified in Appendix C, Section VII.

~~(u)~~ Each refiner, terminal operator, major petroleum products storer and marine facility operator, as defined in Section 1363.2, shall file annual reports containing all of the information specified in Appendix C, Section VIII.

~~(v)~~ Each refiner, as defined in Section 1363.2, that produces gasoline meeting California specifications shall file, for each refinery that it operates, monthly reports containing all of the information specified in Appendix B, Section VII.

~~(w)~~(1) Refiners, traders, brokers, and any other entities that import reportable cargo, as specified in Appendix D, Section III, subsection B, into California and that are either importers of record under federal customs law for such cargo or owners of such cargo prior to arrival, shall file, within 24 hours of such cargo being designated for delivery to California, reports containing all of the information specified in Appendix D, Section III.

(2) In addition to the initial report required under paragraph (1), each importer of record shall file this report for all reportable cargoes presold or resold prior to initial arrival within 24 hours of such presale or resale.

(3) In addition to the initial report required under paragraph (1), the owner of a reportable cargo shall file this report within 24 hours of initial arrival if the cargo is not sold at time of initial arrival at either CA anchorage or CA marine berth.

(4) Except as provided in Appendix D, Section III, subsection A, this report shall be filed at least 96 hours before the arrival of a marine vessel delivery of reportable cargo to California.

~~(x)~~ Unless otherwise indicated, if a company, by its various activities, satisfies two or more of the definitions in Section 1363.2, it shall file a separate report for each such activity.

(~~yw~~) Any company required by this article to submit Petroleum Information Reports, which company contains divisions, departments, or subsidiary companies, shall report on behalf of all such divisions, departments, or subsidiaries, provided that such divisions, departments, or subsidiaries would otherwise be required to report pursuant to the provisions of this article.

(~~zx~~) All reports required by this section shall be on such form and in such format as the Executive Director may require, except as provided below.

(~~ay~~) Any person required by this article to submit Petroleum Information Reports may in lieu thereof, submit a report made to any other government agency, provided that the requirements of Public Resources Code Section 25354(g) are satisfied, provided that the Executive Director of the CEC approves in writing to the applicant that the alternative submittal of substitute report information is acceptable and provided that such substitute report is expressed in identical units to those required by this article.

(~~bz~~) Any person or company required by this article to submit Petroleum Information Reports in a specific form designated by the CEC may in lieu thereof, electronically submit the required information in a different format, provided that the Executive Director of the CEC approves in writing to the applicant that the alternative format of submittal is acceptable.

Credits

NOTE: Authority cited: Sections 25213, 25218(e), 25354 and 25367, Public Resources Code. Reference: Sections 25354 and 25255, Public Resources Code.

Appendix A: Weekly Reporting

V. California Merchant Terminal Position Holder Weekly Reports shall contain all of the information specified in subsections A through J for all transportation fuel products, both for the terminal as a whole and for each position holder at the terminal location. These reports shall also include the information specified in subsection J for aggregate terminal operations. All items shall be reported in barrels of product.

- A. Volume of product received from outside of the merchant terminal.
- B. Volume of product received from another position holder within the merchant terminal from either a separate tank or via an in-tank transfer.
- C. Total volume of product received.
- D. Volume of product produced from the blending or conversion of product within the merchant terminal, including the net change in inventory of both the end product and the components.
- E. Volume of product sold over the rack for distribution to an end-user retailer.
- F. Volume of product transferred to a location outside of the merchant terminal, not including product transferred via rack distribution.
- G. Volume of product transferred to another position holder within the merchant terminal, either from a separate tank or via an in-tank transfer.

- H. Ending physical inventory in tankage at the end of the reporting period after accounting for all product transferred, received, and product converted, corrected to 60 degrees Fahrenheit.
- I. Capacity leased by the position holder at the merchant terminal.
- J. Additional information required for aggregate terminal operations only:
 - a. Total unleased storage capacity and unused community storage capacity for gasoline and gasoline blending components, fuel ethanol, distillates, renewable distillates, and aviation fuels.
 - b. Leased storage capacity, total unleased storage capacity, and unused community storage capacity for crude oil, unfinished oils, residual fuel oil, petroleum coke, transmix, and any other petroleum products. Reporters shall describe any products reported under the “other petroleum products” category.

Appendix B: Monthly Reporting

VII. California Merchant Terminal Position Holder Monthly Reports shall contain all of the information specified in subsections A through J for all transportation fuel products, both for the terminal as a whole and for each position holder at the terminal location. These reports shall also include the information specified in subsection J for aggregate terminal operations. All items shall be reported in barrels of product.

- A. Volume of product received from outside of the merchant terminal.
- B. Volume of product received from another position holder within the merchant terminal from either from a separate tank or via an in-tank transfer.
- C. Total volume of product received.
- D. Volume of product produced from the blending or conversion of product within the merchant terminal, including the net change in inventory of both the end product and the components.
- E. Volume of product sold over the rack for distribution to an end-user retailer.
- F. Volume of product transferred to a location outside of the merchant terminal, not including product transferred via rack distribution.
- G. Volume of product transferred to another position holder within the merchant terminal, either from a separate tank or via an in-tank transfer.
- H. Ending physical inventory in tankage at the end of the reporting period after accounting for all product transferred, received, and product converted, corrected to 60 degrees Fahrenheit.
- I. Capacity leased by the position holder at the merchant terminal.
- J. Additional information required for aggregate terminal operations only:
 - a. Total unleased storage capacity and unused community storage capacity for gasoline and gasoline blending components, fuel ethanol, distillates, renewable distillates, and aviation fuels.
 - b. Leased storage capacity, total unleased storage capacity, and unused community storage capacity for crude oil, unfinished oils, residual fuel oil, petroleum coke, transmix, and any other petroleum products. Reporters shall describe any products reported under the “other petroleum products” category.

Memorandum

To: Docket 23-OIR-03

From: **Jeremy Smith, Deputy Director**
Energy Assessments Division
California Energy Commission

Date: June 28, 2024

Subject: California Environmental Quality Act Compliance for Emergency Regulations Implementing Revised SB X1-2 Merchant Terminal Position Holders Reporting Requirements

At the July 10, 2024 California Energy Commission (CEC) Business Meeting, CEC staff will propose that the CEC adopt a proposed resolution adopting emergency regulations to clarify and revise the merchant terminal position holders reporting requirements authorized by the Petroleum Industry Information Reporting Act of 1980 (PIIRA) (Public Resources Code § 25350 et seq.), as modified by Senate Bill (SB) X1-2 (Stats. 2023, 1st Ex. Sess. 2023, ch. 1). SB X1-2, among other things, added terminal position holder reporting requirements, as reflected in subsection (k) in section 25354 of Division 15 of the Public Resources Code.

I. Adoption of the Regulations is Not a Project.

For purposes of complying with the California Environmental Quality Act (“CEQA,” Pub. Resources Code, § 21000 et seq.), staff recommends the CEC find that the adoption of the proposed emergency regulations is not a project under CEQA. The proposed emergency regulations clarify and augment the requirements of existing reporting obligations established in Public Resources Code sections 25354 and 25355. Section 25354(k) requires certain nonrefiners to submit reports to the CEC regarding transportation fuel inventory by position holder. The proposed emergency regulations establish definitions, set forth procedures for filing the reports, and add specificity to the informational reporting requirements.

Section 15060 of the CEQA Guidelines (Title 14, Division 6, Chapter 3 of the California Code of Regulations) states, in part, that a lead agency must first determine whether an activity is subject to CEQA and that an activity is not subject to CEQA if the activity is not a project as defined in section 15378. Section 15378 of the CEQA Guidelines further states that an activity is a project if it has the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

In the case of this rulemaking, the proposed emergency regulations clarify and revise reporting requirements imposed by statute on certain participants in the transportation fuel products market in California. The action to clarify and revise reporting requirements in emergency regulations does not result in any direct physical change in the environment, nor does it result in any reasonably foreseeable indirect physical change in the environment. Rather, this action implements an administrative process and makes incremental changes to existing reporting

obligations. Furthermore, the reporting requirements prescribed by these regulations collect information that is readily available to the reporting entities, which are operators of large transportation fuel product storage terminals. In the unlikely event that these regulations pose additional administrative burden on reporters it will be minimal and will not directly or indirectly decrease or otherwise impact trading and marketing behavior, fuel inventory, refinery production, or any other aspect of the transportation fuels market. Therefore, the adoption of these emergency regulations is not a project and is not subject to CEQA.

II. Even if Adoption of the Regulations Were a Project, the Class 6 Exemption and the Common Sense Exemption Would Apply.

The adoption of the emergency regulations implementing the revised gasoline refining margin and marine import reporting requirements, if it were a project for the purposes of CEQA, would be categorically exempt from CEQA under the Class 6 Information Collection exemption. (Pub. Resources Code, § 15061(b)(2); Cal. Code Regs., tit. 14, §15306.) Pursuant to Section 15306 of the CEQA Guidelines, activities that involve data collection, research, experimental management, and resource evaluation activities that do not result in a serious or major disturbance to an environmental resource, have been determined not to have a significant effect on the environment and are therefore exempt from CEQA. In this case, the regulations pertain solely to data collection and therefore, if they were a project, would fall within the Class 6 exemption as data collection activities.

Furthermore, none of the exceptions to exemptions listed in CEQA Guidelines section 15300.2 apply to this action, and there is no reasonable possibility that approval of the proposed regulations will have a significant effect on the environment due to unusual circumstances. For these reasons, the adoption of the emergency regulations implementing the merchant terminal position holders reporting requirements would be exempt from CEQA if it were a project.

Adoption of the regulations would also be exempt from CEQA under the common sense exemption. (Cal. Code Regs., tit. 14, § 15061(b)(3).) CEQA only applies to projects that have the potential for causing a significant effect on the environment. A significant effect on the environment is defined as a substantial, or a potentially substantial, adverse change in the environment, and does not include an economic change by itself or beneficial changes to the environment. (Pub. Resources Code, § 21068; Cal. Code Regs., tit. 14, § 15382.) Because the action in question here concerns the adoption of regulations clarifying a data collection procedure and the action does not result in, either directly or indirectly, any physical changes to the environment, it can be seen with certainty that there is no possibility that the adoption of the merchant terminal position holders reporting requirements may have a significant effect on the environment. Therefore, this action is not subject to CEQA.

III. Conclusion.

As shown, adoption of the emergency regulations implementing the revised merchant terminal position holder reporting requirements is not a project under CEQA and thus CEQA does not apply. Even if the adoption of these regulations were a project and CEQA did apply to the agency action, it would be exempt from CEQA as data collection under the Class 6 exemption in section 15306 of the CEQA Guidelines. Additionally, adoption of the regulations is consistent with the common sense exemption under section 15061(b)(3) of the CEQA Guidelines. For these reasons, the adoption of these emergency regulations by the CEC is not a project and

would otherwise be exempt from CEQA, and a Notice of Exemption may be filed with the Office of Planning and Research.