

STATE OF CALIFORNIA
ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

DOCKET 02-PII-1 OCT 19 2005
DATE NOV 22 2005
RECD.

Petroleum Industry Information Reporting Act)
Regulations) Docket No. 02-PII-01
_____) Order No. 05-1019-06

**ORDER ADOPTING MODIFICATION
OF REPORTING REQUIREMENTS UNDER
THE PETROLEUM INDUSTRY INFORMATION REPORTING ACT**

I. ADOPTION OF REGULATIONS

The California Energy Commission (Energy Commission) adopts the amended regulations as set forth in the Express Terms that were published on September 13, 2005 (15-Day Language). The Express Terms contain amendments to the Petroleum Industry Information Reporting Act of 1980 (PIIRA) regulations (Cal. Code Regs., tit. 20, § 1361 et seq.). The Energy Commission previously adopted the proposed regulations on April 13, 2005. Thereafter, the proposed regulations were submitted to Office of Administrative Law (OAL) for approval. On August 8, 2005, OAL issued a Notice of Disapproval finding the proposed regulations contained deficiencies.

The Energy Commission remedied the identified deficiencies found by OAL in the proposed regulations. This Order is limited to the adoption of those remedied changes in the previously adopted proposed regulations. We take this action under the authority of, and to implement, interpret, and make specific Public Resources Code sections 25350 et seq.

On February 21, 2003, the Energy Commission opened a Rulemaking Proceeding to consider amendments to the current PIIRA reporting requirements and issued an "Order Instituting Rulemaking," (Energy Commission Order No. 30-0219-07, hereinafter referred to as the "Order"). On March 18, 2003, and April 27, 2004, the Energy Commission conducted Workshops to take public comment on the content and form of draft forms for reporting PIIRA data as directed by the Order.

On December 3, 2004, the Energy Commission published a Notice of Proposed Action (NOPA) concerning the potential adoption of new and amended regulations for PIIRA, along with the Express Terms of the proposed regulations (45-Day Language) and an Initial Statement of Reasons (ISOR) describing the rationale for the proposal. The NOPA designated January 18, 2005, as the last day all written comments on the proposed regulations were to be received at the Energy Commission. On March 15, 2005, a Notice of Availability of 15-Day Language and Adoption Hearing was published designating April 13, 2005, as the date for an Energy Commission hearing to consider adoption of the proposed regulations.

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On April 13, 2005, the Energy Commission adopted the proposed regulations with some modifications. The proposed regulations were submitted to the OAL on June 21, 2005. On August 8, 2005, OAL notified the Energy Commission that it had disapproved the proposed regulations for the following reasons:

- Proposed regulations failed to comply with the Clarity and Reference standard of Government Code section 11349.1 in three of the proposed regulations;
- The regulatory filing omitted reference citations in 13 of the proposed regulations;
- Materials referenced in the proposed regulations were not referenced correctly and/or not included within the text of the regulations;
- The regulatory file did not contain all required documents, and/or required documents included in the file were defective;
- The Notice of Proposed Rulemaking (45-Day Notice) was not provided to OAL;
- The Statement of Mailing did not conform with the requirements applicable to mailing;
- A referenced report (Energy Information Administration Report "Accuracy of Petroleum Supply Data") was not listed in the original notice; and
- A 15-Day comment period should have been allowed for the change made to section 1366(k) on April 13, 2005.

The 15-Day Language was published on September 13, 2005. The 15-Day Language addressed and corrected the deficiencies identified by OAL in its disapproval of the proposed PIIRA regulations and stated that written public comment on the deficiencies were to be received by the Energy Commission no later than September 30, 2005.

Consequently, we adopt the 15-Day Language with the following modifications:

- The revised proposed regulations, including modifications remedying the "Clarity and Reference" standard of Government Code section 11349.1, the omitted reference citations in 13 of the proposed regulations, and the incorrectly referenced or not included materials within the text of the regulations;
- The Regulatory file contains:
 - Copies of the following codes as adopted by reference in the proposed regulations at California Code of Regulations, tit. 20, section 1363.1 (Definitions):
 - Arizona Administrative Code, tit. 20, ch. 2, effective June 5, 2004;
 - California Code of Regulations, tit. 13, §§ 2250-2273.5, effective April 9, 2005;
 - California Code of Regulations, tit. 13, §§ 2281-2285, and tit. 17, § 93114, operative August 14, 2004;
 - Clark County Code of Regulations, §§ 53-54, amended January 20, 2005;
 - Nevada Administrative Code, ch. 590, effective September 21, 2004;
 - United States Code, tit., 43 § 1331.

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- Draft forms and instructions for reporting information pursuant to the Public Resources Code and the proposed regulations;
- Final Statement of Reasons filed with OAL;
- Express Terms of Proposed Regulations;
- Energy Commission April 13, 2005, Resolutions to Adopt the proposed regulations;
- Transcript of April 13, 2005, Hearing to Adopt the proposed regulations;
- Additional documents relied upon:

Accuracy of Petroleum Supply Data

Transcript of April 27, 2004 Hearing on Forms and Instructions

45-Day Notice of Proposed Regulatory Action

Legislative Analyses of SB 1692

Copies of Securities and Exchange Commission Form 10-K

Copies of Forms and Instructions for EIA Form 782B

Transportation Fuels Assessment Report, California Energy Commission,
Publication Number 100-03-13F

2003 Energy Policy Report, California Energy Commission, Publication Number
100-03-019F

- Finally, the Notice of Proposed Rulemaking (45-Day Notice) has been provided to OAL.

II. FINDINGS

Based on the entire record of this proceeding, we find as follows:

A. The Warren-Alquist Act. The adopted regulations:

- (1) are based on the need to collect, store, and analyze a broad range of information that concerns all aspects of the petroleum industry, including, but not limited to, crude oil production, refinery production, site maps, flow diagrams, and fuel use; inventories, imports, exports, bunkering, and intra-state movements of crude oil, petroleum products, and non-California fuel; sales volumes and prices of petroleum products; pipeline mapping and distributions for crude oil and petroleum products; and retail fuel outlet operations; and

- (2) require data submissions that will enable the state to respond to possible shortages, or other disruptions and to assess whether all consumers, including emergency service agencies, state and local government agencies, and agricultural and business consumers of petroleum products have adequate and economic supplies of fuel.

B. The Administrative Procedure Act. The adopted regulations:

- (1) will not impose mandates upon local agencies or school districts;
- (2) will impose no direct costs or direct or indirect requirements 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 the Government Code;
- (3) will impose costs of less than \$100,000 as related to this rulemaking;
- (4) will not result in a significant statewide adverse impact directly affecting business, including the ability of California businesses to compete with businesses in other states;
- (5) will have no significant adverse effect on businesses in general or small businesses in particular;
- (6) will not create or eliminate a significant number of jobs in California;
- (7) will not create new businesses, eliminate existing businesses, or have an effect on the expansion of businesses in California;
- (8) will impose modest costs on the petroleum industry, but those costs will be more than offset by the elimination of some existing PIIRA data reporting requirements;
- (9) will result in no costs or savings in federal funding to the State;
- (10) will not affect housing costs; and
- (11) have no alternatives that would be more effective in carrying out the purposes of the Warren-Alquist Act without increasing burdens, or that would be as effective and less burdensome in carrying out the purposes.


C. The California Environmental Quality Act. The adopted regulations will not result in a direct, or reasonably foreseeable indirect, significant adverse effect on the environment.

**III. CONTINUATION OF DELEGATION OF AUTHORITY TO THE
TRANSPORTATION COMMITTEE; DIRECTIVES TO THE TRANSPORTATION
COMMITTEE**

The Energy Commission continues in effect its delegation to the Transportation Committee (Commissioner Boyd, Presiding Member, and Commissioner Pfannenstiel, Associate Member) of the authority to take, on behalf of the Energy Commission, all actions reasonably necessary to have the adopted regulations go into effect, including, but not limited to, incorporating any changes approved at the Business Meeting into the final Express Terms submitted to the Office of Administrative Law (OAL); making any appropriate non-substantive, editorial-type changes; and preparing and filing all appropriate documents, such as the Final Statement of Reasons at OAL that might be necessary.


Dated: October 19, 2005

ENERGY RESOURCES
CONSERVATION AND
DEVELOPMENT COMMISSION


JOSEPH F. DESMOND
Chairman

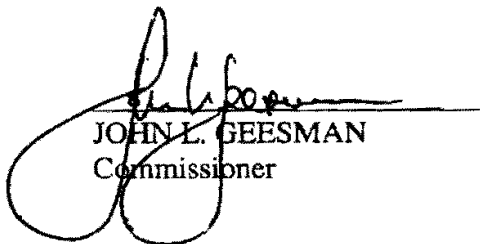
Absent

JACKALYNE PFANNENSTIEL
Vice Chair


ARTHUR H. ROSENFELD
Commissioner

Absent

JAMES D. BOYD
Commissioner


JOHN L. GEESMAN
Commissioner