



**California Energy Commission
February 14, 2024 Business Meeting
Backup Materials for Agenda Item No 05:
Emergency Rulemaking Adopting Revised SBX1-2 Spot Market 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. Form 399, attached below
4. 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.

STATE OF CALIFORNIA
STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

IN THE MATTER OF:

**Emergency Rulemaking
Implementing Revised SBX1-2 Spot
Market Reporting Requirements**

Docket No. 23-OIR-03

**[PROPOSED] RESOLUTION
ADOPTING EMERGENCY
REGULATIONS**

WHEREAS, on March 28, 2023, 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(l) to 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 spot market transactions report pursuant to section 25354(l); 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 other area of law, the emergency regulations adopted to implement this chapter shall remain in effect for two years; and

WHEREAS, on February 7, 2024, in the proceeding's docket, and on February 7, 2024, in the business meeting webpage, the CEC provided notice that it designated February 14, 2024, as the date for the business meeting to consider adoption of the proposed emergency regulations; and

WHEREAS, on February 7, 2024, at least 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 every person who has filed a request for notice of regulatory action with the agency; and

WHEREAS, on February 14, 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. In the alternative, adoption is exempt from the CEQA as a categorical exemption under the Class 6 Information Collection exemption (Pub. Resources Code, § 15061(b)(2); Cal. Code Regs., tit. 14, § 1 5306) 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

With regard to the Administrative Procedure Act:

- The proposed regulations are deemed an emergency by statute, and the CEC has express statutory authority to seek approval of these regulations implementing the spot market reporting requirements in section 25354(l) of Chapter 4.5 of Division 15 of the Public Resources Code 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; and
- None of the comments received at the business meeting on February 14, 2024, and nothing else in the record, justified any changes to the proposed emergency regulations.

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 petroleum spot market reporting requirements as published on February 7, 2024 and incorporating any changes presented and adopted today. The CEC takes this action under the authority of sections 25213, 25218(e) and 25367 of the Public Resources Code, which authorize the CEC to adopt emergency regulations, as reasonable and necessary, to implement the petroleum spot market reporting requirements as part of 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.

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 February 14, 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

Revised SB X1-2 Spot Market Reporting Requirements
Petroleum Industry Information Report Act
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 **February 15, 2024**. Upon submission, OAL will have 10 calendar days within which to review and decide on the proposed emergency rulemaking action. If approved, OAL will file the regulations with the Secretary of State, and the regulations will become effective. 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

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 due to a combination of factors including maintenance-related supply shortages and, as the CEC recently determined, unusual spot market activity. In response to a severe 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. 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 significantly expanded the information that refiners and other petroleum market participants are required to submit to the CEC under PIIRA, including through new reporting requirements for spot market transactions.

The new spot market reporting requirements give the CEC and DPMO greater visibility into the pricing, contracting, and marketing practices of participants at multiple levels of the petroleum supply chain. This in turn provides greater transparency into and enables more effective oversight of the petroleum industry. The new reporting requirements support the DPMO mission to monitor California's petroleum market and reduce

California's vulnerability to price spikes as the state begins to transition away from dependence on fossil fuels. When gas prices spiked again in the fall of 2023, the DPMO determined, as a direct result of the spot market information collected by the CEC since SB X1-2 took effect in June 2023, that the fall 2023 price spike was caused in part by an unusual spot market transaction. Analysis by the CEC and the DPMO indicates that similar behavior could cause additional price spikes at any time and negatively impact the general welfare in California. To enhance oversight and to protect Californians from future price spikes, these regulations are necessary to clarify and refine the spot market reporting requirements introduced by SB X1-2.

Public Resources Code section 25367 authorizes the CEC to adopt emergency regulations to implement the new reporting requirements specified in SB X1-2. 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, 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 OAL's emergency rulemaking procedures.

DOCUMENTS RELIED UPON

[Transportation Fuel Supply Outlook, 2017](https://efiling.energy.ca.gov/getdocument.aspx?tn=221377) available at <https://efiling.energy.ca.gov/getdocument.aspx?tn=221377>

Additional Analysis on Gasoline Prices in California, 2019 available at https://www.energy.ca.gov/sites/default/files/2019-11/Gas_Price_Report.pdf

Petroleum Watch, February 2022, available at https://www.energy.ca.gov/sites/default/files/2022-02/2022-02_Petroleum_Watch_ADA.pdf

DPMO Interim Update on California's Gasoline Market September 2023, available at <https://www.energy.ca.gov/media/8748>.

AUTHORITY

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

REFERENCE

Public Resources Code sections 25350, 25354, and 25356.

INFORMATIVE DIGEST

Prior to June 26, 2023, the date SB X1-2 took effect, the CEC's petroleum spot market monitoring was limited to observing changes in publicly posted assessments of spot market pricing and purchasing Oil Price Information Service reports on spot market activity. To increase transparency into California petroleum markets and enable more effective oversight of petroleum refiners and other market participants, SB X1-2 requires petroleum market participants to report additional data to the CEC, including daily reports of transactions involving petroleum products on the spot market. SB X1-2 also created an independent division within the CEC, the Division of Petroleum Market Oversight (DPMO), to monitor petroleum markets and flag potential market manipulation. The new spot market reporting under SB X1-2 mandates the submission of spot market transaction reports to the CEC detailing trades for petroleum products that influence California gasoline prices (Public Resources Code 25354 (I)). This reporting requirement applies to all refiners and nonrefiners that participate in spot market transactions for petroleum products in California.

To implement this reporting requirement in a manner that allows for industry to provide more focused information, while improving the CEC's ability to process and analyze the information, the CEC proposes to adopt emergency regulations to ensure that CEC staff and the DPMO have the information necessary to analyze the petroleum market and monitor market activity. The proposed regulations define key terms related to the petroleum spot market to standardize terminology and clarify which entities and which types of transactions are subject to the spot market reporting requirements. The proposed regulations also define the reporting period for the daily spot market reports required by SB X1-2. To account for the complexity of spot market transactions and ensure timely reporting of required information, the proposed regulations bifurcate the daily spot market reporting into a trading phase and a settlement phase. This will allow the CEC to efficiently gather information about transactions close in time to contract formation, and to subsequently collect information on final settlement terms and delivery details after parties settle the transactions. The proposed regulations require parties to report additional pricing and delivery information about spot market transactions.

This information will assist the CEC and the DPMO in understanding the causes of the unusually high gasoline prices that have harmed the public in recent years and which appear, in at least one instance, to have been driven by an unusual transaction on the gasoline spot market. The enhanced reporting requirements implemented through this rulemaking will improve the transparency into similar transactions, allowing the CEC and the DPMO to better protect the public from high gasoline prices.

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

- Public Resources Code sections 25350-25367 contain all reporting requirements related to PIIRA.
- 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, section 1363.2, contains the definition of terms used for reporting purposes under the Petroleum Industry Information Reporting Act.
- California Code of Regulations, title 20, section 1366, identifies which entities are subject to the specific requirements to comply with the Petroleum Industry Information Reporting Act.
- California Code of Regulations, title 20, division 2, chapter 3, article 3, appendix D, is to be a new appendix containing daily and event-based reporting requirements.

The proposed regulations are not inconsistent or incompatible with existing regulations. Pursuant to Chapter 4.5, section 25354 of Division 15 of the Public Resources Code, these regulations implement a new reporting requirement for spot market transaction information added by SB X1-2. Therefore, no existing regulations apply to the specific information reporting requirements addressed by these regulations. Rather, these regulations augment the CEC's existing regulations for Petroleum Information Reports to accommodate and implement the new statutory reporting requirements.

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 and clarify existing statutory reporting requirements and add more specificity to existing procedures. Bifurcating the spot market report into the trading and settlement reports will streamline the current practice in which parties submit daily report during the trading window, and then resubmit the same report once transactions settle.

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). All instances where existing statutes or regulations were referenced in the regulations were evaluated by the CEC and determined to be necessary for the clarity of the regulations and consistent with the standard for permissible duplication contained in California Code of Regulations, title 1, section 12(b)(1).

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 analysis of the Division of Petroleum Market Oversight in monitoring California’s gasoline markets.

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 reporting requirements in Appendix D, improve reporting compliance, and promote understanding among the regulated public. By clearly articulating definitions, industry participants can more efficiently satisfy reporting requirements and the CEC can more efficiently analyze the provided information.

The purpose of adding the term “1/1/1” is to define a type of pricing event used in floating price contracts, which are a type of spot market transaction required to be reported in the report specified in Appendix D. This term is used in the report specified in Appendix D and is necessary for accurate and consistent reporting.

The purpose of adding the term “3-Day Wrap” is to define a type of pricing event used in floating price contracts, which are a type of spot market transaction required to be reported in the report specified in Appendix D. This term is used in the report specified in Appendix D and is necessary for accurate and consistent reporting.

The purpose of adding the term “Book Transfer” is to define a settlement type used in spot market transactions required to be reported in the report specified in Appendix D. This term is used in the report specified in Appendix D and is necessary for accurate and consistent reporting.

The purpose of adding the term “Brokers” is to define a type of entity subject to the reporting requirements specified in Appendix D. This term is necessary to clarify who is subject to the reporting requirements.

The purpose of adding the term “Contract Identification Number” is to define a term used in the report specified in Appendix D. This term is necessary for accurate and consistent reporting. It is necessary to restrict this term to no more than 25 alphanumeric characters to ensure compatibility with the CEC’s database and analysis tools.

The purpose of adding the term “Contract Position Identification Number” is to define a term used in the report specified in Appendix D. This term is necessary for accurate and consistent reporting.

The purpose of adding the term “Counterparty” is to define a term used in SB X1-2 and in the report specified in Appendix D. This term is necessary for accurate and consistent reporting.

The purpose of adding the term “Delivery Chain” is to define a term used in the report specified in Appendix D to identify the multiple parties that may be involved in delivering a product. This term is necessary for accurate and consistent reporting.

The purpose of adding the term “Exchange Futures for Physical (EFP)” is to define a type of spot market transaction required to be reported in the report specified in Appendix D. This term is necessary for accurate and consistent reporting.

The purpose of adding the term “Fixed Price” is to define a type of pricing method used for spot market transactions required to be reported in the report specified in Appendix D. This term is used in the report specified in Appendix D and is necessary for accurate and consistent reporting.

The purpose of adding the term “Floating Price” is to define a type of pricing method used for spot market transactions required to be reported in the report specified in Appendix D. This term is used in the report specified in Appendix D and is necessary for accurate and consistent reporting.

The purpose of adding the term “In-tank Transfer” is to define a type of delivery method used for spot market transactions required to be reported in the report specified in Appendix D. This term is used in the report specified in Appendix D and is necessary for accurate and consistent reporting.

The purpose of adding the term “Inter-tank Transfer” is to define a type of delivery method used for spot market transactions required to be reported in the report specified in Appendix D. This term is used in the report specified in Appendix D and is necessary for accurate and consistent reporting.

The purpose of adding the term “Net-Out” is to define a settlement type used for spot market transactions required to be reported in the report specified in Appendix D. This term is used in the report specified in Appendix D and is necessary for accurate and consistent reporting.

The purpose of adding the term “Notice of Readiness (NOR)” is to define a type of pricing event used in floating price contracts. This term is used in the report specified in Appendix D and is necessary for accurate and consistent reporting.

The purpose of adding the term “Pipeline Delivery Subcycle” is to define a term used in the report specified in Appendix D and to clarify the meaning of the statutory term “contract subcycle”. This term is necessary for accurate and consistent reporting.

The purpose of adding the term “Position Sequence Number” is to define a term used in SB X1-2. This term is used in the report specified in Appendix D and is necessary for accurate and consistent reporting.

The purpose of adding the term “Price Basis” is to define a term used in the report specified in Appendix D. This term is necessary for accurate and consistent reporting and for accurate analysis of the associated pricing data.

The purpose of adding the term “Pricing Event” is to define a term used in the report specified in Appendix D. This term is necessary for accurate and consistent reporting and for accurate analysis of the associated pricing data.

The purpose of adding the term “Pump-over Transfer” is to define a type of delivery method used for spot market transactions required to be reported in the report specified in Appendix D. This term is used in the report specified in Appendix D and is necessary for accurate and consistent reporting.

The purpose of adding the term “Settlement” is to define a term used in the report specified in Appendix D to denote the final phase in a transaction. This term is necessary for accurate and consistent reporting and for accurate analysis of the associated pricing data.

The purpose of adding the term “Shipment Issued Entity” is to define a term used in the report specified in Appendix D. This term is necessary for accurate and consistent reporting.

The purpose of adding the term “Spot market transaction” is to define a term used in SB X1-2 and in the report specified in Appendix D. This term is necessary for accurate and consistent reporting and to specify which types of transactions are subject to the spot market reporting requirements.

The purpose of adding the term “Trader” is to define a type of entity subject to the reporting requirements specified in Appendix D. This term is necessary to clarify who is subject to the reporting requirements.

The purpose of adding the term “Transportation Fuel Product” is to define the types of fuel products subject to the reporting requirements specified in Appendix D. This term is necessary to clarify the scope of spot market transactions subject to the reporting requirements. The term is specifically necessary to clarify that the reporting requirements apply not only to transactions for refined transportation fuel, but also to blending components.

§ 1364. Reporting Periods. Amendments to this section are necessary to clarify the reporting cadences and filing deadlines for the new reporting requirements to ensure industry compliance and that the CEC receives data in a timely manner for market oversight. Prior to SB X1-2, the CEC did not collect daily reports under PIIRA, so the proposed amendments to this section are necessary to add procedures for when daily reports are due. The specific purpose of setting the daily reporting deadline at 9:00 a.m. the following day, for transactions occurring the previous day, is to allow CEC staff to analyze spot market activity soon after it occurs, which is necessary for effective spot market analysis and oversight.

§ 1366. Requirement to File. Amendments to this section are necessary to specify the new reporting requirement alongside the other specified petroleum information reports, and to clarify the entities subject to the new spot market transaction reporting requirement. The proposed amendments will add a requirement to file clause to this section requiring reports specified in Appendix D, which outlines the new spot market reporting requirements.

Chapter 3, Article 3, Appendix D. This section is necessary to outline, clarify, and streamline the specific informational requirements of the petroleum spot market reports. Public Resources Code section 25354 (l) specifically directs “[r]efiners and nonrefiners” to report spot market transactions to the CEC and lists the minimum informational requirements. CEC staff, through internal analyses and engagement with the industry, have since discovered methods to improve and streamline the informational requirements. Therefore, this section is necessary to identify the information that must be included in the report to save both industry and the CEC time and effort in analysis and reporting. To leverage the CEC’s existing data collection regulation’s structure, Appendix D provides for Daily and Event Based Reporting (previous reporting time included Annual, Monthly, and Weekly).

This section bifurcates the spot market reporting into two reports based on industry feedback and due to the nature of how spot market transactions are conducted. Section I is being created and is necessary to capture reporting at the initial point of agreement, without requiring information that cannot be given till a later date. This will give the CEC insight into the early stages of transactions and give more specific information on how trades impact final prices. Section II is being created and is necessary to gather final reconciled information on transactions, which is often not available until later and is necessary to understand the final price, transport method, distributions and other details resulting from an initial agreement.

Chapter 3, Article 3, Appendix D, Section I. The necessity of specific items in Appendix D, Section I is described in more detail below.

The marine vessel name is necessary to ensure reporting entities provide information about the specific marine vessel used to transport a product, which is necessary for the CEC to analyze transportation practices in the petroleum spot market.

The marine vessel IMO number is necessary to ensure reporting entities provide information about the specific marine vessel used to transport a product and that the vessel can be identified using tracking applications, which is necessary for the CEC to analyze transportation practices in the petroleum spot market.

The reference product is necessary to ensure reporting entities provide information about the specific reference product that is being used to price a transaction, which is necessary for the CEC to analyze pricing practices in the petroleum spot market.

The reference month is necessary to ensure reporting entities provide information about the specific reference month that is being used to price a transaction, which is necessary for the CEC to analyze pricing practices in the petroleum spot market.

The pricing event type or pricing event date is necessary to ensure reporting entities provide information on the future pricing-related event or date agreed to at the time of a floating price contract, which is necessary for the CEC to analyze pricing practices in the petroleum spot market.

The NYMEX price is necessary to ensure reporting entities provide information on the NYMEX Futures index price reference for Exchange Futures for Physical (EFP) contracts, which is necessary for the CEC to analyze pricing practices in the petroleum spot market.

The start date of delivery is necessary to ensure reporting entities provide information on the start date of when product can first start delivery, which is necessary for the CEC to analyze pricing practices in the petroleum spot market.

The end date of delivery is necessary to ensure reporting entities provide information on the start date of when product can first start delivery, which is necessary for the CEC to analyze pricing practices in the petroleum spot market.

Article 3, Appendix D, Section II. The necessity of specific items in Appendix D, Section II is described in more detail below.

The pipeline batch designation is necessary to identify the delivery batch in which the product to be traded was shipped on the Kinder Morgan pipeline, which is necessary for the CEC to analyze pricing practices in the petroleum spot market.

The delivery chain is necessary to identify the parties involved in the reported trade and how the traded volumes were finally delivered, which is necessary for the CEC to understand the flow of products and to analyze pricing practices in the petroleum spot market.

The pricing event type is necessary to ensure reporting entities provide information on the future pricing-related event agreed to at the time of a floating price contract, which is necessary for the CEC to analyze pricing practices in the petroleum spot market.

The date request for shipment issued is necessary to ensure reporting entities provide information on when the product was directed to be shipped, which is necessary for the CEC to understand the flow of products and to analyze pricing practices in the petroleum spot market.

Shipment contact information is necessary to ensure reporting entities provide information on the company and contact person that issued direction for product to be shipped, which is necessary for the CEC to analyze pricing practices in the petroleum spot market and to contact the shipping requester if additional details are needed.

The remainder of Appendix D is necessary to clarify for the regulated public the complete reporting requirements added by SB X1-2 and refined by these regulations, which is necessary to ensure accurate and complete reporting.

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.

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

“1/1/1” means a pricing window associated with the loading or discharge of a marine vessel that is benchmarked to a published reference price (such as OPIS prompt spot LA CARBOB Regular) the business day before, business day of, and business day after title transfer has commenced.

“3-Day Wrap” means a pricing window associated with the pumping of a pipeline tender that is benchmarked to a published reference price (such as OPIS prompt spot LA CARBOB Regular) the business day before, business day of, and business day after the pumping of the tender has commenced.

“Adjusted Dealer Tank Wagon (ADTW)” means the delivered wholesale transaction price for gasoline transported by tanker truck to a retail dealer or franchisee that has been adjusted to reflect the “net cost” to the retail dealer or franchisee such that all rebates or other discounts are subtracted from the original dealer tank wagon (DTW) price to reflect the net cost of the gasoline to the retail dealer or franchisee.

“Airport retail fuel outlet” refers to a facility that stores and dispenses petroleum products, typically jet fuel and aviation gasoline for use in private and/or commercial aircraft. Airport refueling operations that provide refueling services to military aircraft are excluded from this definition.

“API” means the American Petroleum Institute.

“Average Throughput” means the liquid volume transported by a pipeline during a specific period divided by the number of days in that period.

“Barrel” means a unit of liquid measurement that consists of 42 U.S. gallons.

“Book Transfer” means the completion of a spot market purchase or sale obligation without a physical movement or title transfer of the product as a result of two parties having purchase and sale contracts that serve to offset each other, directly or in a contractual chain with other parties.

“Bulk Terminal” means a storage and distribution facility not open to the public that is used primarily for wholesale marketing of petroleum products and oxygenates with a minimum storage capacity of 50,000 barrels.

“Broker” means an entity that negotiates contracts of purchase and sale of spot market transactions that is not classified as a refiner or a trader.

“Bunkering” means the physical transfer of marine fuels from one marine vessel to another marine vessel.

“CARB” means the California Air Resources Board.

“Cardlock Retail Fuel Outlet” means a facility, normally unattended by any operator, that dispenses refined petroleum products to consumers as a sole or predominant activity of their business operation.

“CEC” means the California State Energy Resources and Conservation and Development Commission or the California Energy Commission.

“Central Coast Region” means a geographic area in California that includes the counties of Monterey, San Benito, San Luis Obispo and Santa Barbara.

“Contract Identification Number” means the unique identification number for a transaction, which reporting entities can self-assign based on internal requirements but must be alpha-numeric and not exceed 25 characters.

“Contract Position Identification Number” means the sequence number for each transaction under a spot market contract.

“Counterparty” means the entity identified by the reporting form filer as either the buyer or seller of a contract transaction.

“Crude Oil Pipeline System” means a facility that receives its supply from pipeline gathering systems, tanker or barge, and has its terminals located at a refinery or waterside terminal and from which crude oil is shipped directly to one or more refineries in California or transported out of state. A crude oil pipeline system includes all points of origin, terminals, working tank storage capacity, and points of interconnection with crude oil pipeline systems operated by others.

“Dealer Tank Wagon (DTW)” means a delivered wholesale price for gasoline transported by tanker truck to a retail fuel outlet.

“Delivery Chain” means the list of all parties involved in final settlement from originating buyer to supplying seller.

“Desert Region” means a geographic area in California that includes the counties of Riverside and San Bernardino.

“Ending Inventory” means the quantity (measured in thousands of barrels) of crude oil, petroleum products or oxygenates that is held as stocks at a refinery, bulk plant, public storage facility or tank farm at the end of a designated reporting period.

“EPA” means the United States Environmental Protection Agency.

“Exchange” means a transaction in which title or interest in petroleum products or crude oil stocks are transferred between firms in return for other petroleum products or crude oil stocks.

“Exchange Futures for Physical (EFP)” means a negotiated and simultaneous exchange of a futures position for a corresponding cash position, priced as a differential to a NYMEX futures reference product.

“Exporter” means a firm that is the owner of record at the point of loading for crude oil, petroleum products or oxygenates destined for export from California and has exported

20,000 barrels or more of any combination of crude oil, petroleum products or oxygenates during any month of the current or previous year.

“Exports” mean crude oil, petroleum products or oxygenates transported to destinations outside of California by means of marine vessel, rail car, tanker truck, or pipeline.

“Firm” means any person or entity engaged in any activity included in the Cal. Code of Regulations, Title 20, Public Utilities and Energy Division 2, Chapter 3, Article 3, Section 1361 et seq.

“Floating Price” means a pricing method for a spot market transaction in which the buyer and seller agree that the cash price will be determined at some future time and agree on an event or a specific timeframe and pricing reference from which the cash price will be set.

“Franchisee” means a retailer or distributor authorized or permitted, under a franchise, to use a trademark in connection with the sale, consignment, or distribution of motor fuel.

...[skipping “Gross Production” through “Imports”]

“Independent Retail Fuel Outlet Operator” means a firm, other than a Refiner or Major Petroleum Products Marketer, that owns or leases a retail fuel outlet, that is engaged in the trade or business of purchasing refined petroleum products and reselling these products to consumers without substantially changing the form of these products.

“In-tank Transfer” means the change of ownership of inventory of refined petroleum product or renewable fuel on the books and records of a terminal operator where the buyer and seller are both terminal customers in the same storage tank in California.

“Inter-tank Transfer” means the change of ownership of inventory of refined petroleum product or renewable fuel where the seller delivers material from one tank to a different tank owned or leased by the buyer and where the buyer and seller are both terminal customers.

“Lease” means a crude oil or natural gas producing property.

...[skipping “Lease Storage Facilities” through “Maximum Throughput”]

“Mountain Region” means a geographic area in California that includes the counties of Alpine, Amador, Calaveras, El Dorado, Inyo, Lassen, Modoc, Mono, Nevada, Placer, Plumas, Sierra, Siskiyou, Trinity and Tuolumne.

“Net-Out” means a type of settlement that is consummated through an exchange of cash, instead of through physical delivery of the product.

“Non-California Fuel” means finished motor gasoline and No. 2 diesel fuel that does not meet CARB standards sold in California at retail locations that dispense transportation fuels.

“Non-California Fuel Transporter” means a firm that owns or operates tanker trucks that are used wholly or in part to deliver 5,000 gallons or more of fuels that do not meet CARB regulations to retail locations in California during any month of the current or previous year.

“North Coast Region” means a geographic area in California that includes the counties of Del Norte, Humboldt, Lake and Mendocino.

“Northern California Region” means a geographic area in California that includes the counties of Santa Cruz, Santa Clara, San Mateo, San Francisco, Merced, Stanislaus, Alameda, San Joaquin, Tuolumne, Calaveras, Mono, Alpine, Amador, Sacramento, Solano, Napa, Marin, Sonoma, Yolo, El Dorado, Placer, Sutter, Colusa, Lake, Mendocino, Glenn, Butte, Nevada, Sierra, Yuba, Plumas, Tehama, Lassen, Shasta, Trinity, Humboldt, Del Norte, Siskiyou, Mariposa, Madera, Modoc, Contra Costa, San Luis Obispo, Kern, Inyo, Tulare, Kings, Monterey, San Benito and Fresno.

“Notice of Readiness (NOR)” means a communication provided by a marine vessel owner or agent that the vessel has arrived and is ready for loading or discharge at a designated berth within a designated period of time.

“Number of Sites” means the number of different locations for a specified region of California that receive DTW fuel during a reporting period.

“OPEC” means the Organization of the Petroleum Exporting Countries.

The countries belonging to this organization are subdivided into the following geographic regions:

(a) “Middle East OPEC” means the countries of Iran, Iraq, Kuwait, Qatar, Saudi Arabia and the United Arab Emirates.

(b) “Non-Middle East OPEC” means the countries of Algeria, Libya, Nigeria and Venezuela.

“Operator” means any person drilling, maintaining, operating, pumping, or in control of any well as defined by the California Public Utilities Commission or by the California Department of Conservation’s Division of Oil and Gas, & Geothermal Resources.

“PIIRA” means the Petroleum Industry Information Reporting Act.

“Pipeline” means a crude oil pipeline system or product pipeline system.

“Pipeline Delivery Subcycle” means the contract subcycle for pipeline deliveries given by the pipeline company transporting the product.

“Pipeline Exports” mean crude oil, petroleum products or oxygenates that are transported to destinations outside of California by means of a pipeline.

“Pipeline Imports” means crude oil, petroleum products or oxygenates that are transported to California from destinations originating outside of California by means of a pipeline.

“Pipeline Gathering System” means a pipeline system that collects crude oil from lease storage facilities and delivers it to a crude oil pipeline system.

“Pipeline Storage Tanks” means a storage facility owned by a pipeline firm and located at the points of origin and at terminals of pipeline segments used to maintain normal pipeline operations.

“Position Sequence Number” means the location identifier assigned by the pipeline company shipping the product.

“PPM” means parts per million.

“Price Basis” means the type of pricing method agreed upon between counterparties for a trade.

“Pricing Event” means a pricing occurrence for floating price contracts that was agreed to at the time of contract that relates to a specific date or range of dates associated with the title transfer that determines the value of the settlement.

“Producing Property” means property that produced crude oil during the reporting period in an amount as to require reporting of production to the California Department of Conservation’s Division of Oil and Gas, & Geothermal Resources.

“Product Pipeline System” means a system that transports petroleum products from refineries or bulk terminals or marine facilities to other terminals or interconnections with other pipelines; a product pipeline system does not include interconnections within a terminal facility or those lines connecting public storage facilities to one another. A product pipeline system includes all points of origin, terminals, working tank storage capacity and points of interconnection with product pipeline systems operated by others.

“Public Storage Facility” means a public liquid bulk storage, terminal, or warehousing operation for hire in which the owner or operator of the facility has no ownership interest in any of the materials stored on contract with its customers.

“Pump-over Transfer” means the transfer of physical inventory and ownership of refined petroleum product or renewable fuel on the books and records of a terminal operator

from one storage tank to another where the buyer and seller are both terminal customers.

“Rail Car” means a railroad car that is used to transport crude oil, petroleum products or oxygenates via a network of railroad tracks.

...[skipping “Rail Exports” through “San Joaquin Valley Region”]

“Service Station” means a retail fuel outlet, normally attended by one or more operators, that dispenses refined petroleum products to ultimate consumers as the sole or predominant activity of their business operation.

“Settlement” means the final step in a transaction and represents either transfer of ownership involving the physical exchange of securities or payment and verification of the quantity of product exchanged, whichever is later.

“Shipment Issued Entity” means the party that a request for shipment was tendered to by a purchaser of product.

“Southern California Region” means a geographic area in California that includes the counties of Santa Barbara, Ventura, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Imperial.

“Spot Market Transaction” means a trade in which petroleum products, including blendstocks for finished petroleum products, are purchased on the spot for delivery by pipeline, inter-tank transfer, pump-over transfer, in-tank transfer, marine vessel, rail car discharge, or imports.

“Stocks” mean volumes of crude oil, petroleum products or oxygenates (corrected to 60 degrees Fahrenheit less basic sediment and water) of domestic origin held at refineries, bulk plants, public storage facilities or tank farms. Crude oil and petroleum products in transit by pipeline are excluded. Stocks include foreign stocks held at refineries, bulk plants, public storage facilities or tank farms only after entry through Customs for domestic consumption. Stocks of foreign origin held in bond and/or in transit by pipeline are excluded.

...[Skipping “Support Staff” through “TEOR”]

“Terminal Operator” means a firm that owns, leases or operates a bulk terminal, tank farm or public storage facility and provided storage services of 50,000 barrels or more of any combination of crude oil, petroleum products or oxygenates during any month of the current or previous year and includes refiners.

“Trader” means an individual, company, or other entity that does not have a refining presence in California but either sells or takes possession of refined petroleum products or renewable fuels, or both, via spot market transactions.

“Transportation Fuel Product” means gasoline, blending components, diesel fuel, aviation fuel, and renewable fuels.

“Truck Stop Retail Fuel Outlet” means a facility, normally attended by one or more operators, that is accessible to operators of heavy duty on-road motor vehicles and dispenses refined petroleum products to ultimate consumers as a sole or predominant activity of their business operation.

“Usable Storage Tank Capacity,” when used in connection with crude oil or petroleum product pipeline systems, bulk terminals, tank farms and public storage facilities, means the total liquid storage volume less that volume that cannot be used for normal operations (tank heel, basic sediment, and water, corrected to 60 degrees Fahrenheit).

“U.S.C.” means United States Code.

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

§ 1364. Reporting Periods.

(a) For purposes of this article, and unless otherwise indicated, each day shall be a reporting period for those entities required by Section 1366 to file daily reports. Daily reports filed pursuant to this article shall be submitted not later than 9:00 a.m. on the day following the close of the reporting period for which the information is submitted. Reports shall be deemed submitted as of the date of electronic transmittal, provided that the report is properly and legibly completed.

~~(a)~~ For purposes of this article, and unless otherwise indicated, each calendar week for the reporting period shall start on Friday for those entities required by section 1366 to file weekly reports. Weekly reports filed pursuant to the article shall be submitted no later than five (5) calendar days following the close of the weekly reporting period for which the information is submitted. Reports shall be deemed submitted as of the date of the postmark, facsimile or electronic transmittal, provided the report is properly and legibly completed.

~~(b)~~ For purposes of this article, and unless otherwise indicated, each calendar month, beginning with the first calendar month of the year following the effective date of this article, shall be a reporting period for those entities required by Section 1366 to file monthly reports. Monthly reports filed pursuant to this article shall be submitted not later than the thirtieth (30th) day following the close of the reporting period for which the information is submitted. Reports shall be deemed submitted as of the date of postmark, facsimile or electronic transmittal, provided that the report is properly and legibly completed.

(ed) Annual reports required by this article shall be submitted not later than February 15 of each year and shall contain the information required by Section 1366 for the preceding calendar year.

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

§ 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.

(ab) 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.

(bc) 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.

(ed) 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.

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

(ef) 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.

(fg) 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.

(gh) 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.

(hi) 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.

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

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

(~~kl~~) Each major petroleum products marketer, as defined in Section 1363.2, required to file Form EIA782B published by the United States Department of Energy shall file monthly reports containing all of the information specified in Appendix B, Section VI.

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

(~~mn~~) 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.

(~~no~~) 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.

(~~op~~) 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.

(~~pg~~) 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.

(~~qr~~) 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.

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

(~~st~~) 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.

(~~tu~~) 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.

(~~uv~~) 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.

(~~w~~) 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.

(~~w~~) 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.

(~~x~~) 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.

NOTE: Authority cited: Sections 25213, 25218(e) ~~and 25354, and 25367~~, Public Resources Code. Reference: Section 25354(a), (b), (f), (l) Public Resources Code.

...[skipping sections 1367-1371 and Appendixes A-C]

Appendix D Daily and Event-based Reporting Requirements

I. The California Daily Spot Transactions Report shall contain the information detailed below in subsections A through FF. This report is required for each spot market transaction for a transportation fuel product that either occurs in California or involves a transportation fuel product that will be delivered on the spot within the California fuels market.

A. The date and time of the transaction.

B. The contract identification number for the transaction.

C. The position sequence number for the transaction.

D. The contract position identification number for the transaction.

E. The trading counterparty entity company or organization name.

F. The trading counterparty entity contact name.

G. The spot market trading location. Transactions that occur at any point north of the southernmost point in Kern County shall be attributed to the San Francisco spot market. All other transactions shall be attributed to the Los Angeles spot market.

H. Indication that the reporter of the transaction is either a buyer or seller.

I. Type of transportation fuel product for the transaction. Types of products are gasoline, blending components, diesel fuel, aviation fuel, or renewable fuels.

J. Name of transportation fuel product for the transaction. For gasoline products, the name of the product shall indicate the octane and the specification of the gasoline product. Enter the specific product name from the following list:

1. Gasolines: CARBOB, AZBOB, RBOB, CBOB, or Conventional.
2. Blending Components: Alkylate, Isomate, Naphtha, Reformate, GTAB, or other gasoline blendstocks (specify name).
3. Diesel fuels: CARB ULSD, EPA ULSD.
4. Aviation Fuels (Commercial and Military): Jet A (including bonded turbine) and JP-5, Aviation Gasoline.
5. Renewable Fuels: Renewable Diesel, Renewable Naphtha, Sustainable Aviation Fuel, Biodiesel.

K. Volume of product contracted in thousands of barrels.

L. Contract delivery month for the transaction.

M. Contract method of delivery. For transactions that involve more than one delivery method, list all methods used. Delivery methods may include, but are not limited to:

1. Pipeline
2. Pump-Over
3. In-Tank Transfer
4. Barge
5. Marine Vessel, or
6. Other (specify)

N. Name of barge or product tanker, if applicable.

O. International Maritime Organization number of the vessel carrying transacted product, if applicable.

P. Location of delivery where title transfer is to take place.

Q. Pipeline delivery subcycle. Include descriptors such as, but not limited to:

- KM West Any
- KM South L3
- KM North FH
- C1, C2, C3, C4, etc.

R. Start date of delivery of transacted product.

S. End date of delivery of transacted product.

T. Type of price basis method used for the contract, such as exchange of futures for physical (EFP), fixed price, fixed date range, floating date range, or other type.

U. Reference product for the price basis method used for EFP transactions.

V. Reference month for the price basis method.

W. Price differential between the agreed-upon price and the reference price in cents per gallon.

X. For floating price contracts, the type of event or pricing dates agreed to at the time of the contract that will be the basis for the price. For event-based pricing, include the event trigger and the duration of the pricing window. Pricing event types may include, but are not limited to:

Title Transfer (TT) date

3-day wrap (around pump date)

NOR (Notice of Readiness)

1/1/1 (day before, day of, day after)

Month average

For contracts wherein pricing dates were agreed to at time of contract, indicate "fixed dates".

Y. For floating price contracts, the date of the event on which pricing will be based.

Z. Date agreed upon at the time of the transaction when floating pricing is to start, if applicable.

AA. Date agreed upon at the time of the contract when floating price is to end, if applicable.

BB. New York Mercantile Exchange (NYMEX) price for referenced price basis in cents per gallon, if applicable.

CC. Cash price of the EFP transaction in cents per gallon, if known at the time of contract transaction.

DD. The company name of the broker or executing trader, if any, used to facilitate the transaction.

EE. The first and last name of the contact person for the broker or executing trader, if any, used to facilitate the transaction.

FF. Indication if the transaction was reported to the Oil Price Information Service (OPIS) and, if so, who reported it.

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

II. The Daily Spot Settlements Report shall contain the information detailed below in subsections A through X. This report is required for each settlement of a spot market transaction for a transportation fuel product that either occurs in California or involves a transportation fuel product that will be delivered on the spot within the California fuels market. Each settled transaction reported in the California Daily Spot Settlements Report must have a contract identification number that matches the contract identification number of a transaction previously reported in a California Daily Spot Transactions Report.

A. The date and time of the transaction.

B. The contract identification number for the transaction.

C. The contract position identification number for the transaction.

D. The name of the trading counterparty's company, organization, or other entity. For transactions that involve more than one counterparty, include only the party that is the final recipient counterparty.

E. The first and last name of the contact person from the trading counterparty.

F. Date of the settlement.

G. Type of settlement.

H. Type of transportation fuel product. Types of products are gasoline, blending components, diesel fuel, aviation fuel, or renewable fuels.

I. Name of transportation fuel product. For gasoline products, the name of the product shall indicate the octane and the specification of the gasoline product. Enter the specific product name from the following list:

Gasolines: CARBOB, AZBOB, RBOB, CBOB, or Conventional.

Blending Components: Alkylate, Isomerate, Naphtha, Reformate, GTAB, or other gasoline blendstocks (specify name).

Diesel fuels: CARB ULSD, EPA ULSD.

Aviation Fuels (Commercial and Military): Jet A (including bonded turbine) and JP-5, Aviation Gasoline.

Renewable Fuels: Renewable Diesel, Renewable Naphtha, Sustainable Aviation Fuel, Biodiesel.

J. Volume of product delivered in thousands of barrels for each settlement.

K. Actual delivery method. Delivery methods may include, but are not limited to:

1. Pipeline
2. Pump-Over
3. In-Tank Transfer
4. Barge
5. Marine Vessel, or
6. Other (specify)

L. Marine vessel name for barge or product tanker, if applicable.

M. International Maritime Organization number of the marine vessel carrying the product, if applicable.

N. Location of final delivery where title transfer took place.

O. Pipeline batch designation, if applicable.

P. Delivery chain sequence. The sequence must follow the industry standard convention right to left, with originating party (buyer) on the right, party bought from (seller) to the left, until final supplying party on the far left.

Q. For floating price contracts, the type of event or pricing date(s) agreed to at the time of the contract that will be the basis for the price. For event-based pricing, include the event trigger and the duration of the pricing window.

R. For floating price contracts, the date of the event on which pricing was based.

S. Start date of actual settlement pricing window, if applicable.

T. End date of actual settlement pricing window, if applicable.

U. Invoiced volume of refined petroleum product in barrels.

V. Invoiced price of refined petroleum product in cents per gallon.

W. Date request for shipment issued for pipeline tender by seller or buyer.

X. Shipment contact information for all shipment companies involved with the transaction. Include identification of each shipment company and first and last name of the contact person at each respective shipment company involved.

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

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME California Energy Commission	CONTACT PERSON Chad Oliver	EMAIL ADDRESS chad.oliver@energy.ca.gov	TELEPHONE NUMBER (916) 891-8569
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Revised SB X1-2 Spot Market Reporting Requirements			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- a. Impacts business and/or employees
- b. Impacts small businesses
- c. Impacts jobs or occupations
- d. Impacts California competitiveness
- e. Imposes reporting requirements
- f. Imposes prescriptive instead of performance
- g. Impacts individuals
- h. None of the above (Explain below):

The regulations clarify existing reporting requirements set forth in statute.

***If any box in Items 1 a through g is checked, complete this Economic Impact Statement.
If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.***

2. The _____ estimates that the economic impact of this regulation (which includes the fiscal impact) is:

(Agency/Department)

- Below \$10 million
- Between \$10 and \$25 million
- Between \$25 and \$50 million
- Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a [Standardized Regulatory Impact Assessment](#) as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: _____

Describe the types of businesses (Include nonprofits): _____

Enter the number or percentage of total businesses impacted that are small businesses: _____

4. Enter the number of businesses that will be created: _____ eliminated: _____

Explain: _____

5. Indicate the geographic extent of impacts: Statewide
 Local or regional (List areas): _____

6. Enter the number of jobs created: _____ and eliminated: _____

Describe the types of jobs or occupations impacted: _____

7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here? YES NO

If YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

Print Form

Reset Form

ECONOMIC IMPACT STATEMENT (CONTINUED)

B. ESTIMATED COSTS *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ _____

a. Initial costs for a small business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

b. Initial costs for a typical business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

c. Initial costs for an individual: \$ _____ Annual ongoing costs: \$ _____ Years: _____

d. Describe other economic costs that may occur: _____

2. If multiple industries are impacted, enter the share of total costs for each industry: _____

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. *Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.* \$ _____

4. Will this regulation directly impact housing costs? YES NO

If YES, enter the annual dollar cost per housing unit: \$ _____

Number of units: _____

5. Are there comparable Federal regulations? YES NO

Explain the need for State regulation given the existence or absence of Federal regulations: _____

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: _____

2. Are the benefits the result of: specific statutory requirements, or goals developed by the agency based on broad statutory authority?

Explain: _____

3. What are the total statewide benefits from this regulation over its lifetime? \$ _____

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: _____

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ _____ Cost: \$ _____

Alternative 1: Benefit: \$ _____ Cost: \$ _____

Alternative 2: Benefit: \$ _____ Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? YES NO

Explain: _____

E. MAJOR REGULATIONS *Include calculations and assumptions in the rulemaking record.*

California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.

1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million? YES NO

***If YES, complete E2. and E3
If NO, skip to E4***

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

YES NO

If YES, agencies are required to submit a [Standardized Regulatory Impact Assessment \(SRIA\)](#) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

The incentive for innovation in products, materials or processes: _____

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

ECONOMIC AND FISCAL IMPACT STATEMENT

(REGULATIONS AND ORDERS)

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

a. Funding provided in _____

Budget Act of _____ or Chapter _____, Statutes of _____

b. Funding will be requested in the Governor's Budget Act of _____

Fiscal Year: _____

2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

a. Implements the Federal mandate contained in _____

b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

3. Annual Savings. (approximate)

\$ _____

4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

5. No fiscal impact exists. This regulation does not affect any local entity or program.

6. Other. Explain _____

ECONOMIC AND FISCAL IMPACT STATEMENT (REGULATIONS AND ORDERS)

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT (CONTINUED)

B. FISCAL EFFECT ON STATE GOVERNMENT *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:

a. Absorb these additional costs within their existing budgets and resources.

b. Increase the currently authorized budget level for the _____ Fiscal Year

2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

3. No fiscal impact exists. This regulation does not affect any State agency or program.

4. Other. Explain This regulation implements and makes specific existing statutory requirements and does not result in costs or savings independent of existing statutory requirements.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.

4. Other. Explain _____

FISCAL OFFICER SIGNATURE



DATE

2/6/2024

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY



DATE

2/6/2024

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER



DATE

Memorandum

To: Docket 23-OIR-03

From: Chad Oliver, Attorney
Chief Counsel's Office
California Energy Commission

Date: February 6, 2024

Subject: California Environmental Quality Act Compliance for Emergency Regulations Implementing Revised SB X1-2 Spot Market Reporting Requirements

At the February 14, 2024 California Energy Commission (CEC) Business Meeting, CEC staff will propose that the CEC adopt a proposed resolution adopting emergency regulations to clarify the daily spot market reporting requirements authorized by the Petroleum Industry Information Reporting Act ("PIIRA"), as modified by Senate Bill (SB) X1-2 (Stats. 2023, 1st Ex. Sess. 2023, ch. 1). SB X1-2, among other things, added paragraph (l) to 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 the requirements of Public Resources Code section 25354(l), which requires certain petroleum market participants to submit a daily report to the CEC regarding spot market transactions. The emergency regulations establish definitions for statutory terms, set forth procedures for filing the report, and clarify other reporting requirements.

California Code of Regulations, title 14, section 15060 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. CEQA Guidelines section 15378 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 a reporting requirement imposed by statute on certain participants in the petroleum market. The action to clarify reporting requirements in emergency regulations does not result in any direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment but implements an administrative process. Therefore, the adoption of the 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 SB X1-2 spot market reporting requirements 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.) Pursuant to section 15306, 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, if 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 here, and there is no reasonable possibility that the approval will have a significant effect on the environment due to unusual circumstances. For these reasons, the adoption of the emergency regulations implementing the revised SB X1-2 spot market reporting requirements is exempt from CEQA.

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 emergency regulations implementing the revised SB X1-2 spot market reporting requirements may have a significant effect on the environment.

III. Conclusion.

As shown, adoption of the emergency regulations implementing the revised SB X1-2 spot market reporting requirements is not a project under CEQA and thus CEQA does not apply. Even if the adoption is a project and CEQA does apply to the agency action, consistent with the Class 6 exemption in section 15306 of the CEQA Guidelines, the adoption is exempt from CEQA as data collection. 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 the emergency regulations implementing the revised SB X1-2 spot market reporting requirements by the CEC would be exempt from CEQA, and a Notice of Exemption may be filed with the Office of Planning and Research.