

State of California
Office of Energy Infrastructure Safety
NOTICE OF PROPOSED RULEMAKING

TITLE 14. NATURAL RESOURCES
DIVISION 17. OFFICE OF ENERGY INFRASTRUCTURE SAFETY
CHAPTER 1. RULES OF PRACTICE AND PROCEDURE

ARTICLE 2. PROCEEDINGS
SECTIONS 29100, 29101

ARTICLE 3. DATA COLLECTION, DATA ACCESS AND
CONFIDENTIALITY
SECTION 29200

E-FILING, FORMATTING REQUIREMENTS, SUBMISSION OF
CONFIDENTIAL INFORMATION

The Office of Energy Infrastructure Safety proposes to adopt the regulations described below (e-filing, document formatting, confidential information) after considering all comments, objections, and recommendations regarding the proposed action.

Public Hearing

Energy Safety has not scheduled a public hearing on this proposed action. However, the Energy Safety will hold a public hearing to accept comments if a written request is received from any interested person, or his or her authorized representative, no later than 15 days before the close of the 45-day written comment period, pursuant to Government Code section 11346.8. Submit requests to the contact person indicated below.

Written Comment Period

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to:

Comments may be submitted in the 2022 Rulemaking Docket at:

<https://efiling.energysafety.ca.gov/EFiling/DocketInformation.aspx?doctenumber=2021-RM>

For e-filing questions, contact Energy Safety at: efiling@energysafety.ca.gov

Comments can be mailed to:

Office of Energy Infrastructure Safety
715 P Street, 20th Floor
Sacramento, California 95814

Comments can be emailed to:

info@energysafety.ca.gov

The written comment period opens on April 29, 2022 and closes on June 13, 2022. Energy Safety will consider only comments received on or before that date. When commenting, please indicate the proposed rulemaking action to which your comment refers.

Authority and Reference

Government Code sections 15473 and 15475 authorize Energy Safety to adopt the proposed regulations. The proposed regulations implement, interpret, clarify, and make specific sections 6250 through 6254, 7405, 15472, 15473, and 15475 of the Government Code, and section 583 of the Public Utilities Code.

Informative Digest & Policy Statement Overview

This rulemaking action clarifies and makes specific the directions for requesting confidential treatment of information submitted to Energy Safety and for formatting and submitting documents to Energy Safety.

Summary of Existing Laws and Effect of the Proposed Action

Government Code section 15473(c)(2)(E) authorizes Energy Safety to Adopt, amend, and repeal regulations as necessary to carry out the powers, duties, and responsibilities of the office.

Government Code section 6253.10 requires Energy Safety to ensure that documents published on its website are in an open format that is Retrievable, downloadable, indexable, and electronically searchable.

Government Code section 7405 requires Energy Safety to ensure that documents published on its website comply with the accessibility requirements of Section 508 of the federal Rehabilitation Act of 1973, as amended (29 U.S.C. Sec. 794d), and regulations implementing that act as set forth in Part 1194 of Title 36 of the Federal Code of Regulations.

Government Code section 15475(g) requires regulated electricity utilities to provide information “in the form and detail as the office prescribes.”

Government Code section 6250, et seq., the California Public Records Act, requires Energy Safety to provide members of the public with access to documents used to conduct Energy Safety’s business.

Public Utilities Code section 583 prohibits the California Public Utilities Commission from disclosing information that a public utility submits to the Commission except for information which the Public Utilities Act (Pub. Util. Code §§ 201 – 2282.5) requires “to be open to the public.” Government Code section 15475(c) provides that Energy Safety will continue to receive information that was submitted to the Public Utility Commission’s former Wildfire Safety Division. This subdivision requires Energy Safety to comply with the Public Utilities Code section 583 prohibitions against disclosure of information.

Government Code section 15475(c) also requires Energy Safety to (1) maintain the confidentiality of information submitted by public utilities in a manner “consistent with appropriate protections,” and (2) to “provide for the confidentiality of records, the protection of proprietary information, and the

protection of the reasonable expectation of customers of public utilities in the privacy of customer-specific records maintained by” the public utility.

Objective and Anticipated Benefits of the Proposed Regulations

The broad objectives of the regulations are to ensure that Energy Safety is able to efficiently receive, organize, work with, and publish large quantities of information. And further, to ensure that information which is exempt from public disclosure is maintained in confidence.

The specific benefits anticipated from the regulation are, through the e-filing interface, providing members of the public with the ability to locate and immediately access documents that relate to wildfire mitigation matters, thereby increasing the level of public participation in, and trust in, Energy Safety’s work. Further, the regulations will increase public participation, which Energy Safety anticipates will lead to new perspectives, ideas, and innovation that can be brought to bear on problems involving utility-caused wildfires.

The regulations will ensure that published documents comply with the accessibility requirements established by Government Code section 7405, which will serve the interests of transparency and public participation by ensuring that submitted documents are accessible to individuals with disabilities.

Evaluation of Inconsistency or Incompatibility with Existing State Regulations

Energy Safety has determined that this proposed regulation is not inconsistent or incompatible with existing regulations.

Comparable Federal Regulations or Statutes

Pursuant to Government Code section 7405, these regulations implement the requirements of Section 508 of the federal Rehabilitation Act of 1973, as amended (29 U.S.C. Sec. 794d), and regulations implementing that act as set forth in Part 1194 of Title 36 of the Federal Code of Regulations.

Other Matters Prescribed by Statute Applicable to the Agency or Any Specific Regulation or Class of Regulations

There are no other related matters prescribed by statute applicable to Energy Safety or to any specific regulation.

Documents Incorporated by Reference

Proposed regulations section 29100, Submission of Documents for Filing, incorporates the following document:

1. Energy Safety E-Filing System User Guide (April 2022)

Disclosures Regarding the Proposed Action

Energy Safety has made the following initial determinations:

1. Mandate on local agencies or school districts: Energy Safety has determined the adoption of the Proposed Regulation will not impose a local mandate.

2. Cost or savings to any state agency: Energy Safety will absorb additional costs associated with reviewing notifications provided pursuant to section 29300 with its staff. Energy Safety estimates that the total fiscal costs to state government for reviewing submitted documents for compliance will range from \$11,243.60 to \$22,263.50.

3. Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: Energy Safety has determined that the adoption of the Proposed Regulation will not result in costs or savings for any local agency or school district required to be reimbursed pursuant to Part 7 of Division 4, commencing with section 17500 of the Government Code, or other nondiscretionary costs or savings imposed on local agencies.

4. Other nondiscretionary costs or savings imposed on local agencies: Energy Safety has determined that the adoption of the Proposed Regulation will not result in costs or savings for any local agency or school district required to be reimbursed pursuant to Part 7 of Division 4, commencing with section 17500 of the Government Code, or other nondiscretionary costs or savings imposed on local agencies.

5. Cost or savings in federal funding to the state: Energy Safety has determined that adoption of the Proposed Regulation will not result in cost or savings in federal funding to the state. Energy Safety determined that no fiscal impact to federal funding or state programs exists.

6. Cost impacts on a representative private person or business: Energy Safety anticipates that the cost of compliance for each the eight regulated electrical corporations will be \$ 1,780,000.

7. Significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states: Although the proposed action will directly affect businesses statewide, Energy Safety concludes that the adverse economic impact, including the ability of California businesses to complete with businesses in other states, will not be significant.

8. Significant effect on housing costs: Energy Safety has determined that the Proposed Regulation will have no significant effect on housing costs.

9. Small Business Determination: Energy Safety has determined that the proposed regulation will not affect small business.

Pursuant to Public Utilities Code section 8385(b), Energy Safety is responsible for supervising electrical corporations' compliance with the requirements of Chapter 6 (Wildfire Mitigation, §§ 8385 – 8389.) "Electrical corporation" is defined in Public Utilities Code section 218, and there are eight electrical corporations in California which fall within the scope of that definition. Those eight are San Diego Gas & Electric, Southern California Edison, Pacific Power, Bear Valley Electric Service, Liberty Utilities, Horizon West Transmission, Trans Bay Cable, and Pacific Gas & Electric. None of the eight companies is a small business within the meaning of Government Code section 11346.3(b)(4)(B).

Results of the Economic Impact Analysis

Energy Safety concludes that it is (1) unlikely that the proposal will eliminate any jobs for the regulated electrical corporations (2) unlikely that the proposal will create an unknown number of jobs for regulated electrical corporations (3) unlikely that the proposal will create an unknown number of new electrical corporations providing electricity service in California, (4) unlikely that the proposal will eliminate any existing businesses, (5) unlikely that the proposal will result in the expansion of businesses currently doing business within the state.

Benefits to health and welfare, worker safety, and the environment

In adopting the California Energy Infrastructure Safety Act, the Legislature recognized that effective management of electrical infrastructure is critical

for the health and welfare of California’s residents and workers. (Gov. Code section 15470(a), (b).) Energy Safety anticipates that the proposed regulations will benefit worker safety and the health and welfare of California residents by enabling Energy Safety to more effectively and efficiently ensure that the regulated entities develop and implement plans to reduce the risk of wildfires in California. Further, Energy Safety anticipates that the proposed regulations will benefit the state's environment by reducing the amount of paper used to create documents that are submitted to Energy Safety and by reducing carbon emissions by fewer documents transmitted through the mail.

Consideration of Alternatives

In accordance with Government Code section 11346.5, subdivision (a)(13), Energy Safety must determine that no reasonable alternative considered by Energy Safety or that has otherwise been identified and brought to the attention of Energy Safety would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Energy Safety invites interested persons to present statements or arguments with respect to alternatives during the written comment period.

Contact Persons

Inquiries concerning the proposed action may be directed to,

Jeff Brooks
Office of Energy Infrastructure Safety
715 P Street, 20th Floor
Sacramento, California 95814
jeff.brooks@energysafety.ca.gov
(916) 926-1672

Or, if unavailable, to,

Joy Peng
Office of Energy Infrastructure Safety
715 P Street, 20th Floor

Sacramento, California 95814
joy.peng@energysafety.ca.gov
(279) 336-1768

Please direct requests for copies of the proposed text (the "express terms") of the regulation, the Initial Statement of Reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Jeff Brooks using the contact information above.

Availability of Statement of Reasons, Text of Proposed Regulation, and Rulemaking File

Energy Safety will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulation, the Initial Statement of Reasons, and the documents relied upon. Copies may be obtained by contacting Jeff Brooks using the contact information above.

Availability of Changed or Modified Text

After holding the hearing and considering all timely and relevant comments received, Energy Safety may adopt the proposed regulation substantially as described in this Notice. If Energy Safety makes modifications which are sufficiently related to the originally proposed text it will make the modified text, with the changes clearly indicated, available to the public for at least 15 days before Energy Safety adopts the regulation as revised. Please send requests for copies of any modified text to the attention of Jeff Brooks using the contact information above. Energy Safety will accept written comments on the modified text for 15 days after the date on which it is made available.

Availability of the Final Statement of Reasons

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Jeff Brooks using the contact information above.

Availability of Documents on the Internet

Copies of this Notice, the proposed text of the regulation, and the Initial

Statement of Reasons can be accessed at:

<https://efiling.energysafety.ca.gov/Lists/DocketLog.aspx?docketnumber=2022-RM>