Division 17. Office of Energy Infrastructure Safety

Chapter 1. Rules of Practice and Procedure

Article 1. General Provisions

§ 29000. Service on the Office.

Service of process shall be made on the Office by personal service on the Director, Deputy Director, or Chief Counsel, or by mail as prescribed in California Code of Civil Procedure section 415.30.

Note: Authority cited: Sections 15473 and 15475, Government Code. Reference: Sections 15473 and 15475, Government Code.

§ 29001. Deputy Director.

Unless otherwise stated in these regulations, all authority and powers granted to the Director in this division may be delegated to the Deputy Director.

Note: Authority cited: Sections 15473 and 15475, Government Code. Reference: Sections 15473 and 15475, Government Code.

Article 2. Proceedings

§ 29100. Submission of Documents for Filing.

(a) All documents submitted in any proceeding shall be tendered for filing in the Office's e-filing system. Filing is complete when a submission has been accepted by the Office's e-filing staff. Documents that are not filed shall not be deemed part of a proceeding's record.

(b) A document will be accepted as of the day of its receipt by the Office, except that:

(1) Documents submitted after 5:00 p.m. on a business day, or at any time on a Saturday, Sunday, or holiday, shall be deemed filed the next business day.

(c) The responsibility to ensure that a document has been timely submitted rests with the person, party, or entity that desires the document to be filed.

Note: Authority cited: Sections 15473 and 15475, Government Code. Reference: Sections 15473 and 15475, Government Code.

§ 29101. Format, Content, and Other Required Characteristics of Filed Documents; Electronic Signatures.

(a) Every document tendered for filing with the Office shall comply with this section. Filers must ensure the content, quality, and format of their documents meets applicable requirements. The Office is not responsible for the content, quality, or formatting of filed documents.

(b) Documents shall be tendered for filing in hard copy or electronically, as follows, except that regulated entities shall electronically submit all documents.

(c) Electronic documents shall be word searchable and accessible using publicly available software, and may be submitted in any commonly available file format (e.g., .pdf, .docx, .xlsx).

(d) Paper documents shall be:

(1) typewritten or otherwise mechanically printed or legibly handwritten;

(2) on paper 11 inches long and 8 1/2 inches wide;

(3) printed on both sides of the page if feasible; and

(4) bound securely.

(e) All documents shall:

(1) be in a clear, easily readable font of at least 11 points;

(2) have consecutively numbered pages; and

(3) include the following information on the first page:

(A) Name of the proceeding;

(B) Number of proceeding; and

(C) Title of the document.

(f) For electronic documents, signatures may be electronic.

(1) Electronic signatures may be represented as a scanned signature graphic, a typed-in name, or by “Original Signed By”, “/S/”, or similar notation.

(g) Non-confidential documents filed are part of the viewable public record and may become available via internet search engines.

Note: Authority cited: Sections 15473 and 15475, Government Code. Reference: Sections 15473 and 15475, Government Code.

§ 29102. Authority of the Director to Manage Proceedings.

In addition to all other powers conferred by this division, the Director shall have the power to:

(a) Request and secure information as is relevant, or reasonably calculated to lead to discovery of relevant information, in carrying out the purposes of a proceeding.

(b) Issue subpoenas and subpoenas duces tecum.

(c) Regulate the conduct of the proceedings and hearings, including, but not limited to, disposing of procedural requests, ordering the consolidation or severance of any part, or all, of any proceeding or hearing, admitting or excluding evidence, designating the subject matter, scope, time of presentation, and order of appearance of persons making oral comments or testimony, accepting stipulations of law or fact, and continuing the hearings.

(d) Set the time and place of hearings.

(e) Cancel a scheduled hearing or meeting. To the extent feasible, notice shall be given of any cancellation.

(f) For good cause shown, shorten or lengthen the time required for compliance with any provision of these regulations.

Note: Authority cited: Sections 15473 and 15475, Government Code. Reference: Sections 15473 and 15475, Government Code.

§ 29103. Notice of Public Events.

(a) Unless otherwise required by law or directed by the Director, all public events, such as workshops and hearings shall be noticed at least ten days before the event. “Notice” consists of sending the notice electronically to all persons on the appropriate electronic mailing list and posting notice of the event on the Office’s webpage and may include additional notice as deemed necessary by the Director to promote full and adequate public participation.

(b) Publicly noticed events may be continued from the date, time, and place originally scheduled to a future date, time, and place by posting notice at the door in the same manner as provided by Government Code section 11129 and on the Office’s webpage. If the continuance is to a date ten days or more in the future, then notice shall also be provided as set forth in subsection (a).

Note: Authority cited: Sections 15473 and 15475, Government Code. Reference: Sections 15473 and 15475, Government Code.

Article 3. Data Collection, Data Access and Confidentiality

§ 29200. Confidential Information.

(a) Any private third party giving custody or ownership of a record to the Office shall specify whether the record should be designated a confidential record and not publicly disclosed. An application for confidential designation shall:

(1) be submitted at the same time the record is provided to the Office;

(2) specifically indicate those parts of the record that should be kept confidential;

(3) state the length of time the record should be kept confidential, and justification for the length of time;

(4) cite and discuss the provisions of the California Public Records Act or other law that allow the Office to keep the record confidential;

(5) If the applicant believes that the record should not be disclosed because it contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, state the specific nature of that advantage and how it would be lost, including the value of the information to the applicant, and the ease or difficulty with which the information could be legitimately acquired or duplicated by others;

(6) If the applicant believes that the record should not be disclosed because it contains critical energy infrastructure information, state:

(A) whether the information is customarily in the public domain, such as the location of visible equipment;

(B) whether the information discusses vulnerabilities of a facility providing critical utility service;

(C) whether the information has been voluntarily submitted to the Office of Emergency services as set forth in Government Code section 6254(ab); and

(D) whether the information or substantially similar information was classified as protected critical infrastructure information by the Department of Homeland Security or Department of Energy;

(7) state whether the information requested to be confidential may be disclosed if it is aggregated with other information or masked to conceal certain portions, and if so, the degree of aggregation or masking required. If the information cannot be disclosed even if aggregated or masked, the application shall justify why it cannot;

(8) state how the information is kept confidential by the applicant and whether it has ever been disclosed to a person other than an employee of the applicant, and if so, under what circumstances;

(9) contain the following certification executed by the person primarily responsible for preparing the application:

(A) “I certify under penalty of perjury that the information contained in this application for confidential designation is true, correct, and complete to the best of my knowledge;” and

(10) state that the person preparing the request is authorized to make the application and certification on behalf of the entity, organization, or association.

(b) A deficient or incomplete application shall be returned to the applicant with a statement of its defects and a request for additional information. If the missing information, or a request for an extension of time to respond, is not submitted within fourteen days of receipt of the request, the Deputy Director may deny the application.

(c) Deputy Director's Determination.

(1) The Deputy Director shall determine whether to grant an application for confidential designation. An application shall be granted if the applicant makes a reasonable claim that the California Public Records Act or other provision of law authorizes the Office to keep the record confidential. The Deputy Director's determination shall be in writing and shall be issued no later than thirty days after receipt of a complete application.

(2) If an application is denied by the Deputy Director, the applicant shall have fourteen days to request a review of that decision by the Director.

(A) The Director may request additional information from the applicant.

(B) The Director shall issue a written decision within 30 days from receipt of the request for review or from submission of the requested information, whichever is later.

(3) After an application has been denied, the records sought to be designated confidential shall not be made public for a period of fourteen days, after which the records will become public.

(d) Repeated Applications for Confidential Designation. If an applicant is seeking a confidential designation for information that is substantially similar to information that was previously deemed confidential, the new application need contain only a certification, executed under penalty of perjury, stating that the information submitted is substantially similar to the previously submitted information and that all the facts and circumstances relevant to confidentiality remain unchanged.

(e) Governmental Entities. When another federal, state, regional, or local agency or state-created private entity, such as the California Independent System Operator, possesses information pertinent to the responsibilities of the Office that has been designated by that agency as confidential under the California Public Records Act or the

Freedom of Information Act, the Director or Deputy Director may request and the agency shall submit the information to the Office without an application for confidential designation. The Office shall designate this information as confidential.

(1) If the submission contains both confidential and non-confidential information, the agency shall identify the information to be designated as confidential.

Note: Authority cited: Sections 15473 and 15475, Government Code. Reference: Sections 15473 and 15475, Government Code.

§ 29201. Disclosure of Confidential Information.

(a) The Director may disclose confidential information received by the Office from outside entities or persons to:

(1) Office employees or representatives whose work requires inspection of the information;

(2) Contractors and consultants to the Office whose work for the Office requires inspection of the information and who agree in a contract or separate non-disclosure agreement to keep the records confidential; and

(3) Other governmental bodies that need the records to perform their official functions and that agree to keep the records confidential and to disclose the records only to those employees or contractors whose agency work requires inspection of the records.

(b) Under Public Utilities Code section 8386.5, Public Resources Code sections 25216.5 and 25224, and title 20, California Code of Regulations, section 2505(b), confidential information in the custody or control of the Office may be shared with the California Department of Forestry and Fire Protection, California Energy Commission, and California Public Utilities Commission. Upon receipt of a request for data and affirmation of subsection (a)(3), confidential information may be shared with these agencies without the need for an interagency agreement.

Note: Authority cited: Sections 15473 and 15475, Government Code. Reference: Sections 15473 and 15475, Government Code; Sections 25224 and 25216.5, Public Resources Code; and Section 8386.5, Public Utilities Code.

Chapter 2. Investigation and Compliance

Article 1. Reporting, Investigation, Violations

§ 29300. Notification.

(a) A regulated entity shall notify the Office within 12 hours of observing:

(1) A fault, outage, or other anomaly on infrastructure it owns or operates occurring within the vicinity of a fire requiring a response from a fire suppression agency; or

(2) A wildfire threat that poses a danger to infrastructure it owns or operates requiring a response from a fire suppression agency.

(b) A regulated entity shall notify the Office within four hours of receiving notice that infrastructure that it owns or operates is being investigated by a governmental agency for involvement in potentially causing an ignition.

Note: Authority cited: Sections 15473 and 15475, Government Code. Reference: Section 15473 and 15475, Government Code.

§ 29301. Incident Report.

(a) In the event that a regulated entity or fire investigation agency suspects an ignition to have been started by the infrastructure owned or operated by a regulated entity, the entity shall submit an incident report within 30 days of the incident.

(b) The incident report shall contain the following information, to the extent known:

(1) Any factual or physical evidence related to the incident including, but not limited to, photographs of the relevant area.

(2) The name and contact information of any known witnesses.

(3) A preliminary root cause analysis, including detailed discussion of all findings.

(4) A description of all actions taken to minimize the recurrence of such incidents.

(5) The name and contact information of any person or entity that has taken possession of any physical evidence removed from the site of the incident.

(6) Identification of all documents related to the incident.

(7) Any other information that the Office may require.

(c) Each entity shall preserve all documents or evidence it collects as part of its incident investigation for at least five years and shall make the document available upon request by the Director or a Director's designee.

Note: Authority cited: Sections 15473 and 15475, Government Code. Reference: Sections 15473 and 15475, Government Code.

§ 29302. Investigations, Notices of Defects and Violations and Referral to the Commission.

(a) The Director may designate investigators to investigate the following:

(1) Whether an approved Wildfire Mitigation Plan was followed;

(2) Whether failure to follow the Wildfire Mitigation Plan contributed to an ignition;

(3) Whether the regulated entity is noncompliant with its duties and responsibilities or has otherwise committed violations of any laws, regulations, or guidelines within the authority of the Office; and

(4) Other related investigations within the authority of the Office, as requested by the Director.

(b) The Director may designate a compliance officer to consider the findings of any investigation. The compliance officer may issue any of the following:

(1) Notice of defect, identifying a deficiency, error, or condition increasing the risk of ignition posed by electrical lines and equipment requiring correction.

(2) Notice of violation, identifying non-compliance with an approved Wildfire Mitigation Plan or any law, regulation, or guideline within the authority of the Office.

(c) Notices of violations shall contain the following:

(1) A summary of the facts surrounding the violation;

(2) The specific violation or failure to act requiring correction; and

(3) Any proposed conditions or mitigation to cure such violations.

(d) Consistent with Public Utilities Code section 8389(g), if the Office determines an electrical corporation is not in compliance with its approved wildfire mitigation plan, it may recommend that the California Public Utilities Commission pursue an enforcement action against the electrical corporation for noncompliance with its approved plan.

Note: Authority cited: Sections 15473, 15475 and 15475.4, Government Code. Reference: Sections 15475, 15475.1, 15475.2 and 15475.4, Government Code; and Section 8389, Public Utilities Code.