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GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 3. EXECUTIVE DEPARTMENT [11000 - 15990.3] (Division 3 added by Stats. 1945, Ch. 111.)

PART 7.3. California Energy Infrastructure Safety Act [15470 - 15476] (Part 7.3 added by Stats. 2019, Ch. 81, Sec. 3.)

15470. (a) The state has long recognized the critical nature of its energy and communication infrastructure, in its importance in driving the engine of the state's prosperity, in the hardships placed on the state's residents in the absence of the services the infrastructure provides, and in the devastation that can occur when the operators of the infrastructure lose operational control of the infrastructure. To ensure that the operations of energy and communication infrastructure within the state will be managed adequately, the Legislature finds and declares all of the following are necessary:

- (1) To provide for a state office to be known and referred to as the Office of Energy Infrastructure Safety, within the Natural Resources Agency, and to prescribe the powers and duties of the director of that office.
- (2) To provide for the coordination of functions among state entities with jurisdiction over other functions of the state's energy and communication service providers.
- (3) To authorize the establishment of organizations and the taking of actions necessary and proper to carry out the provisions of this part.

(b) It is further declared to be the purpose of this part and the policy of this state that all environmental, health, and safety functions of this state shall be coordinated as far as possible with the comparable functions of its political subdivisions, of the federal government, including its various departments and agencies, of other states, and of private agencies of every type, to the end that the most effective use may be made of all manpower, resources, and facilities in managing the environmental, health, and safety of energy and communication infrastructure in the state.

(Amended by Stats. 2019, Ch. 396, Sec. 3. (AB 1513) Effective January 1, 2020.)

15471. This part shall be known and may be cited as the "California Energy Infrastructure Safety Act."

(Amended by Stats. 2019, Ch. 396, Sec. 4. (AB 1513) Effective January 1, 2020.)

15472. For purposes of this part:

- (a) "Director" means the Director of the Office of Energy Infrastructure Safety.
- (b) "Office" means Office of Energy Infrastructure Safety.
- (c) "Regulated entity" means an entity that is regulated by the office.

(Amended by Stats. 2021, Ch. 115, Sec. 14. (AB 148) Effective July 22, 2021.)

15473. (a) There is in state government, within the Natural Resources Agency, the Office of Energy Infrastructure Safety. The office shall be under the supervision of the Director of the Office of Energy Infrastructure Safety, who shall have all rights and powers of a head of an office as provided by this code.

(b) The director shall be appointed by, and hold office at the pleasure of, the Governor. The appointment of the director is subject to confirmation by the Senate.

- (1) The director shall receive an annual salary as set forth in Section 11552.
- (2) The Governor may appoint a deputy director of the office. The deputy director shall hold office at the pleasure of the Governor.

(c) In carrying out the provisions of this part, the director may:

(1) Cooperate and contract with public and private agencies for the performance of acts, the rendition of services, and the affording of facilities as may be necessary and proper.

(2) Do other acts and things as may be necessary and incidental to the exercise of powers and the discharge of duties conferred or imposed by the provisions of this part, including, but not limited to, all of the following:

(A) Employ and prescribe duties of staff members as necessary to carry out the duties of the office.

(B) Employ and prescribe duties for staff designated as investigators. The personnel classification of the investigators shall be consistent with the technical qualifications needed to conduct the investigations.

(C) Designate staff as compliance officers or hearing examiners.

(D) Conduct investigations in any part of the state, compel information, and hold hearings, public meetings, or workshops as necessary to carry out the powers, duties, and responsibilities of the office, consistent with the exercise of its authority pursuant to this part, Section 326 of, and Sections 8385 to 8389, inclusive, of, the Public Utilities Code, or other statutes pertaining to the office.

(E) Adopt, amend, and repeal regulations as necessary to carry out the powers, duties, and responsibilities of the office, consistent with Section 15475. The adoption, amendment, or repeal of regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(F) Require a regulated entity to file an incident report with the office concerning any matter regulated by the office concerning a regulated entity's infrastructure.

(d) The director and deputy director may administer oaths, certify to all official acts, serve warrants, and issue subpoenas for the attendance of witnesses and the production of papers, including computer modeling, programs, maps, geographic information systems data, and other digital records, waybills, books, accounts, documents, and testimony in any inquiry, investigation, or hearing in any part of the state.

(e) The director has the power of a head of a department pursuant to Article 2 (commencing with Section 11180) of Chapter 2 of Part 1.

(Amended by Stats. 2021, Ch. 115, Sec. 15. (AB 148) Effective July 22, 2021.)

15474. Nothing in this part shall operate to prevent the office from formally recognizing committees or boards established by, or with segments of, the private sector, public agencies, or both the private sector and public agencies, that control facilities, resources, or the provision of services essential to the operation of energy or communication infrastructure.

(Amended by Stats. 2019, Ch. 396, Sec. 6. (AB 1513) Effective January 1, 2020.)

15475. The office is the successor to, and, effective July 1, 2021, is vested with, all of the duties, powers, and responsibilities of the Wildfire Safety Division established pursuant to Section 326 of the Public Utilities Code, including, but not limited to, the power to compel information and conduct investigations. All laws prescribing the duties, powers, and responsibilities of the Wildfire Safety Division to which the office succeeds, together with all lawful rules and regulations established under those laws, are expressly continued in force. In carrying out its duties, powers, and responsibilities pursuant to this part and Section 326 of, and Sections 8385 to 8389, inclusive, of, the Public Utilities Code, or other statutes pertaining to the office, the following powers, duties, and responsibilities vested in the office are acknowledged and confirmed:

(a) The office shall adopt, amend, or repeal emergency regulations to implement this part in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1). The adoption, amendment, or repeal of these regulations shall be deemed to be an emergency for the purpose of Section 11342.545 and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(b) The office may require information and data, including monitoring, verification of every regulated entity and any business that is a subsidiary or affiliate of a regulated entity with respect to or that may influence any matter concerning wildfire safety, or that is necessary or useful for the office to perform and exercise its duties, powers, and responsibilities.

(c) The office shall 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 regulated entity. As the successor entity to the Wildfire Safety Division, the office shall continue to have access to and transfer any confidential information received by the Wildfire Safety Division under the authority of the Public Utilities Commission to the office consistent with appropriate protections to maintain the confidentiality of that information. The office and the Public Utilities Commission shall agree upon provisions for the transfer of that information.

(d) The office may require the production, within this state, at a time and place as it designates, of any books, accounts, papers, records, including computer modeling, programs, and other digital records, kept by a regulated entity in any office or place within this state, or, at its option, verified copies in lieu thereof, so that an examination thereof may be made by the office or under its direction to the extent the production of the records relates to an investigation that falls within the duties, powers, and responsibilities of the office.

(e) The office and persons employed by the office, may, at any time, inspect the accounts, books, papers, and documents, including any digital information, of any regulated entity. The office and any of its designees or employees authorized to administer oaths may examine under oath any officer, agent, or employee of a regulated entity in relation to its business and affairs concerning matters within the duties, powers, and responsibilities of the office. This subdivision also applies to inspections of the accounts, books, papers, and documents of any business that is a subsidiary or affiliate, or a corporation that holds a controlling interest in a regulated entity that is subject to regulation by the office.

(f) Each regulated entity shall cooperate fully with the office in any investigation conducted consistent with this section, regardless of pending litigation or other investigations, including, but not limited to, those that may be related to investigations conducted by the Public Utilities Commission, or the Department of Forestry and Fire Protection. The office and the Public Utilities Commission will cooperate and coordinate consistent with the memorandum of understanding required by Section 15476.

(g) Every regulated entity shall furnish to the office, in the form and detail as the office prescribes, all tabulations, computations, and other information required for the office to perform its duties, powers, and responsibilities, and shall make specific answers to all questions submitted by the office. Every regulated entity receiving from the office any blanks with directions to fill them shall answer fully and correctly each question propounded to it, and if it is unable to answer any question, it shall give a good and sufficient reason for that failure.

(h) Every regulated entity shall furnish those reports to the office at the time and in the form as the office may require in which the regulated entity shall specifically answer all questions propounded by the office. The office may require any regulated entity to file reports or periodic special reports, or both, concerning any matter about which the office is authorized by any law to inquire or to keep itself informed, or that it is required to enforce. All reports shall be under oath when required by the office.

(i) The office and persons employed by or acting on behalf of the office may enter and inspect regulated entity property, records, and equipment at any time and anywhere within the state. Any member of the inspection party may utilize whatever measurement and evaluation devices, including, but not limited to, photographic equipment and temperature measurement devices, that are determined to be necessary. Documentation of the inspection shall be the property of the office. This subdivision is not a limitation upon the authority of any agency to inspect pursuant to any other law.

(j) The office and persons employed by or acting on behalf of the office may inspect at any time and anywhere within the state, all regulated entities' properties and equipment for purposes of carrying out the duties, powers, and responsibilities of the Wildfire Safety Division as set forth in this part or Section 326 of, and Sections 8385 to 8389, inclusive, of, the Public Utilities Code, which are vested in the office as the division's successor, or other statute pertaining to the office.

(Amended by Stats. 2021, Ch. 115, Sec. 16. (AB 148) Effective July 22, 2021.)

15475.1. (a) The office may determine that a regulated entity is not in compliance with any matter under the authority of the office. If necessary, the office may undertake an investigation into 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.

(b) The office's primary objective is to ensure that regulated entities are reducing wildfire risk and complying with energy infrastructure safety measures as required by law.

(Added by Stats. 2021, Ch. 115, Sec. 17. (AB 148) Effective July 22, 2021.)

15475.2. The office may issue a notice of defect or violation to direct the regulated entity to correct any defect or noncompliance with the approved wildfire mitigation plan or failure to comply with any laws, regulations, or guidelines within the authority of the office.

(Added by Stats. 2021, Ch. 115, Sec. 18. (AB 148) Effective July 22, 2021.)

15475.4. (a) A compliance officer designated by the director may issue notices of defect or violation to any regulated entity. The notice of defect or violation shall allege the deficiency, violation, or failure to act. The notice of defect or violation shall be posted on the office's internet website.

(b) The notice of defect or violation shall be served electronically on the individual designated by the regulated entity and shall inform the regulated entity so served that a hearing to take public comment or present additional information may be requested by the regulated entity within 30 days after the regulated entity has been served. The hearing shall be presided over by a designated hearing examiner. If a petition for hearing is not filed within the 30-day period, the amount determined and conditions set forth in the

citation or notice of defect or violation become final at the expiration of the 30-day period. The hearing process shall be set forth in regulations adopted by the office.

(c) If a hearing is requested, after consideration of information presented, the hearing examiner shall issue a proposed determination. The public, stakeholders, and the regulated entity may provide comment on the proposed determination. After considering stakeholder, regulated entity, and public comment, the director may adopt, with or without revision, the proposed determination of the hearing examiner. The director may also reject the proposed determination of the hearing examiner.

(d) The office shall adopt regulations setting forth the policies and procedures for administering the duties of this section.

(Added by Stats. 2021, Ch. 115, Sec. 19. (AB 148) Effective July 22, 2021.)

15475.5. (a) The decisions of the office are subject to judicial review in the superior court. The superior court shall give preference to cases seeking judicial review of decisions of the office over all civil actions or proceedings pending before the superior court. Appeals of the superior court's decision of those cases shall be given preference in hearings before the court of appeal and the Supreme Court.

(b) Within 30 days after service of a decision issued by the office pursuant to Section 15475.4, a regulated entity or aggrieved stakeholder may file with the superior court a petition for writ of review. If no petition is filed within the time provided by this section, the determination of the office is not subject to review by any court or agency.

(c) The decision of the office shall be sustained by the court unless the court finds that (1) the office proceeded without, or in excess of its jurisdiction, (2) that, based exclusively upon review of the record before the office, the decision is not supported by substantial evidence in light of the whole record, or (3) that the office failed to proceed in a manner required by law.

(Added by Stats. 2021, Ch. 115, Sec. 20. (AB 148) Effective July 22, 2021.)

15475.6. The office shall adopt guidelines setting forth the requirements, format, timing, and any other matters required to exercise its powers, perform its duties, and meet its responsibilities described in Sections 326, 326.1, and 326.2 and Chapter 6 (commencing with Section 8385) of Division 4.1 of the Public Utilities Code at a publicly noticed meeting during which the office presents proposed guidelines or guideline amendments and allows all interested stakeholders and members of the public an opportunity to comment. Not less than 10 days' public notice shall be given of any meetings required by this section, before the office initially adopts guidelines. Substantive changes to the guidelines shall not be adopted without at least 30 days' written notice to the public and opportunity to comment. Any guidelines adopted pursuant to this section are exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. Any duly adopted rules or guidelines in effect and utilized by the Wildfire Safety Division at the time of transition to the office shall remain valid and in effect as to the office pending the adoption of new or amended guidelines by the office pursuant to this section.

(Added by Stats. 2021, Ch. 115, Sec. 21. (AB 148) Effective July 22, 2021.)

15476. The Public Utilities Commission and the office shall enter into a memorandum of understanding to cooperatively develop consistent approaches and share data related to electric infrastructure safety. The commission and the office shall share results from various safety activities, including relevant inspections and regulatory development.

(Added by Stats. 2019, Ch. 81, Sec. 3. (AB 111) Effective July 12, 2019.)