

DOCKETED

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Description:	N/A
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CALIFORNIA ENERGY COMMISSION

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May 23, 2018

TO: Project Owners and Interested Parties

FROM: Christine Root, Compliance Office Manager

SUBJECT: **RESPONSE TO COMMENTS FROM JANUARY 25, 2018 WORKSHOP COMPLIANCE INCIDENT REPORTING (17-SIT-01)**

While Incident Reporting is voluntary and not a condition of certification for all licensed facilities, the Energy Commission has recognized a need to be made aware of events that may impact public health and safety or operational readiness of projects under our jurisdiction in a timelier manner.

The Energy Commission Siting, Transmission and Environmental Protection (STEP) Division Compliance Office held a workshop on January 25, 2018 to discuss the Compliance Incident Reporting guidelines, and project owner voluntary compliance with the guidelines which were provided prior to the workshop.

Staff would like to thank everyone for their participation and comments. Based on comments received from participants of the workshop, staff is providing the attached revised Compliance Incident Reporting guidelines. Also attached are staff's responses to both oral and written comments.

If you have any questions or concerns, please contact Mary Dyas, Compliance Project Manager, at (916) 1-8891, or by fax to (916) 654-3882, or via e-mail at mary.dyas@energy.ca.gov.

Sincerely,

A handwritten signature in blue ink that reads "Christine Root".

Christine Root
Compliance Office Manager
Siting, Transmission, & Environmental Protection
Division

Attachments

- Revised Compliance Incident Reporting Guidelines
- Responses to Comments

Posted to:

- <http://www.energy.ca.gov/siting/>

COMPLIANCE INCIDENT REPORTING

For each jurisdictional power plant, the Energy Commission would like timely and clear information on incidents that have occurred (or are still ongoing). Energy Commission staff requests that the project owner notify the CPM within one hour after it is safe and feasible to do so. The list of incidents includes but is not limited to, any of the following:

- Any release of hazardous or non-hazardous materials to the environment that could result in public concerns due to fire, smoke, noise, odor, visual plume or potential health impacts, or one that requires notification to, or emergency response by, any federal, state, or local agency; and,
- The discharge (including accidental) of onsite fixed emergency fire or plume suppression equipment (excluding portable hand held fire extinguishers) for other than routine maintenance, readiness testing, or training; or,
- Any breach of the power plant's physical or cyber security which requires notification to, or emergency response by, any federal, state, or local agency.

Within six business days of an incident, Energy Commission staff requests that the project owner submit to the CPM an incident report which includes, as appropriate and available, the following information:

- Description of the incident, including its date, time, and location;
- Suspected cause of the incident;
- Location of any suspected off-site impacts;
- Federal, state, and local agencies notified;
- Responding agencies;
- Emergency response actions taken;
- Hazardous materials released and estimates of quantities released;
- Suspected injuries, fatalities, or property damage;
- Name, phone number, and e-mail address of a facility contact person(s) having knowledge of the incident; and
- Initial corrective actions.

Energy Commission staff requests, after the initial 6-day report and within 48-hours of a request by the CPM, that the project owner submit monthly status reports regarding the activities taken, and being taken, to remedy the impacts of the incident. The CPM or the project owner can determine when monthly reporting is no longer needed. The project owner should maintain all incident records and reports for the life of the project. A report or a lack of a report would not trigger or preclude staff from investigating incidents at the facilities in the normal course of business.

COMMENTS ON THE INCIDENT REPORTING GUIDELINES (17-SIT-01)
January 25, 2018 Workshop

Commenters	Comment Category ¹	Staff Response
<p>Jeff Harris, Ellison Schneider Harris & Donlan LLP George Piantka, NRG</p>	<p>1. Incident Reporting Guidelines not in existing Energy Commission license:</p> <ul style="list-style-type: none"> - Will licenses be re-opened to add this as a requirement? - What does a project do when an incident occurs and they need to focus on incident responses, instead of following the report? 	<p><i>If an existing Energy Commission license does not contain a requirement or condition of certification regarding incident reporting, following the Compliance Incident Reporting Guidelines are voluntary and the Energy Commission will not enforce the guidelines. Existing Energy Commission licenses are not going to be re-opened to add incident reporting as a requirement.</i></p> <p><i>If there has been a fire or other incident at a project, the Energy Commission requests that the project owner contact staff when it is safe and feasible. Energy Commission staff will work with project owners to obtain the needed information, including setting a schedule for submitting information, as necessary.</i></p> <p><i>Some older licensed projects may not have the exact language on reporting requirements, so the guidelines clarify what information is needed for the Commission to stay better informed.</i></p>
<p>Scott Galati, DayZen, LLC Turlock Irrigation District TN221873</p>	<p>2. Confirm this reporting is voluntary.</p> <ul style="list-style-type: none"> - Is it possible a project could face a non-compliance based upon this voluntary policy? - What prompted the need for reporting incidents to the Energy Commission? 	<p><i>Incident reporting is voluntary unless already required in an existing license. Incident reporting may be included in future licenses.</i></p> <p><i>If an existing license has the incident reporting requirement and an incident is not reported, then there could be a compliance action against the owner for not reporting the incident. The Energy Commission is requesting that project owners follow</i></p>

¹ The Comment Categories are summarized from comments made at the January 25, 2018 workshop as well as comments submitted to the Docket. The audio of the workshop and a link to the docket log can be found at <http://www.energy.ca.gov/siting/>.

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		<p><i>these guidelines in order to obtain information and stay in front of any issues.</i></p> <p><i>In an effort for Energy Commission staff to be informed, and to keep the Commissioners informed, staff is requesting project owners report events at a jurisdictional facility beyond what is in the license requirements.</i></p>
<p>Scott Galati, DayZen, LLC</p>	<p>3. Changing an existing license</p> <ul style="list-style-type: none"> - Energy Commission staff sponsored amendment or project owner amendment with filing fee? 	<p><i>Currently, Energy Commission staff does not have the ability to initiate a petition to amend. There is a proposal in the revision to the Compliance Regulations, currently under review, to have a staff initiated amendment process.</i></p> <p><i>If the revised Compliance Regulations are approved, Energy Commission staff envisions, in instances where staff agrees with the project owner on a new condition, conditions that have become obsolete, or anything that staff and the project owner both feel strongly about and want to change in the license would be changed through this process. As the regulations are currently drafted, an amendment filing fee would not apply to a staff initiated amendment.</i></p>
<p>Sacramento Municipal Utility District TN222393</p>	<p>4. Eliminate the first item and retain the second [from the November 2017 version of the Incident Reporting Guidelines].</p> <ul style="list-style-type: none"> - Clarify that activation of emergency fire suppression equipment refers only to the main power plant deluge/carbon dioxide emergency systems for large generator fires. 	<p><i>Fire safety is of very high importance at operating power plants, therefore, there is a need for staff to be informed whenever there is an incident that has or is likely to trigger public concerns for safety.</i></p> <p><i>Energy Commission staff should be notified any time a fire system is triggered and discharged by an actual fire or has an unplanned discharge that has the potential to endanger on-site workers, but not for routine maintenance or testing of the fire system.</i></p>

Commenters	Comment Category ¹	Staff Response
	<p>5. Submit the identical report or a link to that reports submitted to other agencies</p> <ul style="list-style-type: none"> - Clarify that any emissions that are within the permit conditions of the power plant are not subject to this reporting requirement. - This reporting requirement should not be thought of as an avenue to question the common, permitted operation of a power plant. <p>6. The reporting requirement should be slightly narrowed to only require reporting for significant on-site injuries related to fire, materials release, or security incident.</p> <ul style="list-style-type: none"> - Should not be required for on-site injuries that are already governed by workplace safety regulations administered by Cal/OSHA and that are not related to distinctive risk areas of concern for the Energy Commission. - Submit status of incident – ongoing or resolved. - CPM respond to initial report with statement on need for reports. 	<p><i>Staff agrees that there should be no need to report any emissions that are within the permit conditions of the power plant. However, reports to various local agencies throughout California, depending on where a particular power plant is located, may have reporting requirements that do not meet the particular reporting needs of the Energy Commission, requiring the Energy Commission to specify what its own reporting requirements.</i></p> <p><i>All power plant licenses have a condition of certification requiring worker safety practices to comply with all laws, ordinances, regulations and standards. Reporting incidences that result in emergency response services being called to a facility is an appropriate threshold. Emergency response services calls have the potential to create public concern and media coverage.</i></p> <p><i>After the initial report, the need for ongoing reporting can be ended by the CPM when the incident has been resolved.</i></p> <p><i>In situations where further actions may be required of the project owner to reduce reoccurrence of the incident, or to support an ongoing investigation into a permit condition compliance item, ongoing reporting could be required by the CPM.</i></p>

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Jeff Harris, Ellison Schneider Harris & Donlan LLP	7. Guidelines should be revised to be consistent with the safety-related incident reporting required by the California Public Utilities Commission's General Order 167.	<i>Energy Commission staff would be supportive of conforming the reporting requirements where there is specific overlap to the extent that the determined reporting requirements of the Energy Commission are still met.</i>
Roseville Electric Department TN222541	8. Narrow the scope of incidents that would fall under these procedures, and provide flexibility in how incidents are reported.	<p><i>Whether there will be a need for ongoing reporting after the initial incident report would be determined on a case-by-case basis.</i></p> <p><i>The project owners will not be burdened with ongoing reporting requirements unless there is a genuine need for more information in order to determine that an incident response has been, or is moving towards, resolution.</i></p>