

Public Utilities Commission of the State of California

General Order No. 167

Enforcement of Maintenance and Operation Standards
for Electric Generating Facilities

Adopted May 6, 2004. Effective May 10, 2004.
(D.04-05-018 in R.02-11-039)

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1.0 PURPOSE

The purpose of this General Order is to implement and enforce standards for the maintenance and operation of electric generating facilities and power plants so as to maintain and protect the public health and safety of California residents and businesses, to ensure that electric generating facilities are effectively and appropriately maintained and efficiently operated, and to ensure electrical service reliability and adequacy. The General Order provides a continuing method to implement and enforce General Duty Standards for Operations and Maintenance, Generation Maintenance Standards

(Maintenance Standards), Generation Operation Standards, and any other standard adopted pursuant to Public Utilities Code § 761.3 (Chapter 19 of the Second Extraordinary Session of 2001-02 (SBX2 39, Burton *et al.*). The General Order also provides a means to enforce the protocols for the scheduling of power plant outages of the California Independent System Operator. The General Order is based on the authority vested in the California Public Utilities Commission by the California Constitution; California statutes and court decisions; prior Commission decisions and orders; and federal law including, but not limited to, the Federal Power Act, 16 U.S.C. § 791 *et seq.*, and section 714 of the Energy Policy Act of 1992, 16 U.S.C. § 824(g). Nothing in this general order diminishes, alters, or reduces the Commission's existing authority to inspect power plants and to request data from those power plants to assure continued maintenance and operation of the facilities in order to support public safety and the reliability of California's electricity supply.

2.0 DEFINITIONS/ACRONYMS

- 2.1 “Active Service” means the status of an electric generating unit that is interconnected and is capable of operating in parallel with the electricity grid.
- 2.2 “California Independent System Operator” or “ISO” is that nonprofit public benefit corporation authorized under Public Utilities Code § 345 *et seq.* to operate California’s wholesale power grid. For purpose of information-sharing under this General Order, ISO is considered to be a governmental agency.
- 2.3 “Commission” means the California Public Utilities Commission.
- 2.4 “Committee” means the California Electricity Generation Facilities Standards Committee, formed pursuant to Public Utilities Code § 761.3(b).
- 2.5 “Consumer Protection and Safety Division” or “CPSD” means that division of the Commission, or any successor entity, designated by the Commission to enforce this General Order.
- 2.6 “Exigent circumstance” means any condition related to the operation and maintenance of a Generating Asset that may result in imminent danger to public health or safety, including electrical service reliability or adequacy, or to persons in the proximity of a Generating Asset.
- 2.7 “General Duty Standards” means the Standards 1 through 3 and 5 & 6 from the General Duty Standards for Operation and Maintenance, adopted by the Committee on May 2, 2003, and revised on June 3, 2003, and set forth as Attachment A to Committee Resolution No. 3, which was filed with the Commission on June 6, 2003. This initial set of General Duty

Standards is set forth in Appendix A to this General Order. “General Duty Standards” also includes any subsequent amendments or revisions to those standards

- 2.8 “Generating Asset” means any device owned by an electrical corporation (as that term is defined in Public Utilities Code § 218) or located in the State of California used for the generation of electric energy. To be a Generating Asset, the device must have a metered output, or an administratively defined group of generating devices that may or may not have individual metered outputs, but are aggregated for performance measurement. *However*, for the purposes of this General Order, a Generating Asset does not include:
- 2.8.1 A nuclear powered generating facility that is federally regulated and subject to standards developed by the Nuclear Regulatory Commission, and whose owner or operator participates as a member of the Institute of Nuclear Power Operations, *provided* that the owner or operator of such a facility shall comply with the reporting requirements of Public Utilities Code § 761.3(d).
 - 2.8.2 A qualifying small power production facility or a qualifying cogeneration facility within the meaning of sections 201 and 210 of Title 11 of the federal Public Utility Regulatory Policies Act of 1978 (16 U.S.C. §§ 796(17), 796(18) & 824a-3) and the regulations adopted pursuant to those sections by the Federal Energy Regulatory Commission (18 C.F.R. §§ 292.101 to –602, inclusive), *provided* that an electrical corporation that has a contract with a qualifying small power production facility, or a qualifying cogeneration facility, with a name plate rating of 10 megawatts or greater, shall comply with the reporting requirements of Public Utilities Code § 761.3(d)(2)(B).
 - 2.8.3 A generation unit installed, operated, and maintained at a customer site, exclusively to serve that customer’s load.
 - 2.8.4 A facility owned by a local publicly owned electric utility as defined in Public Utility Code § 9604(d).
 - 2.8.5 A facility at a public agency that is used to generate electricity incidental to the provision of water or wastewater treatment.
 - 2.8.6 A facility owned by a city and county operating as a public utility, furnishing electric service as provided in Public Utility Code § 10001.

- 2.9 “Generating Asset Owner” means any person or entity owning, controlling, operating, or managing a Generating Asset. “Generating Asset Owner” includes, but is not limited to, an electrical corporation (as that term is defined in Public Utilities Code § 218). “Generating Asset Owner” does not include any governmental agency described in Public Utilities Code § 761.3(h). Although for the various purposes of this General Order more than one person or entity may meet the preceding definition, this section is not intended to require duplicate or redundant filings or notifications for any particular Generating Asset.
- 2.10 “Generating Availability Data System” or “GADS” means that data base system maintained by the North American Electric Reliability Council (NERC) which collects, records, and retrieves operating information for improving the performance of electric generating equipment.
- 2.11 “Generator Logbook Standards (Hydroelectric Energy)” means the “Logbook Standards for Hydroelectric Generating Facilities,” adopted by the Committee on April 7, 2004, and filed with the Commission on April 14, 2004. The Generator Logbook Standards (Hydroelectric Energy) are set forth as Appendix F to this General Order. “Generator Logbook Standards (Hydroelectric Energy)” also includes any subsequent amendments or revisions to those standards.
- 2.12 “Generator Logbook Standards (Thermal Energy)” means the “Electricity Generating Facility Logbook Standards for Thermal Power Plants,” adopted by the Committee on April 1, 2003, and filed with the Commission on April 2, 2003. The Generator Logbook Standards (Thermal Energy) are set forth as Appendix B to this General Order. “Generator Logbook Standards (Thermal Energy)” also includes any subsequent amendments or revisions to those standards.
- 2.13 “Generator Maintenance Standards” means section 1 of the “Maintenance Standards for Generators with Suggested Implementation and Enforcement Model,” adopted by the Committee on May 2, 2003, and filed with the Commission on May 16, 2003. The Generator Maintenance Standards are set forth as Appendix C to this General Order. “Generator Maintenance Standards” also includes any subsequent amendments or revisions to those standards.
- 2.14 “Generator Operation Standards” [Reserved].
- 2.15 “Initial Certification” means the first document filed by a Generating Asset Owner for a specific Generating Asset certifying that the Generating Asset Owner has adopted and is implementing a Maintenance Plan for that Generating Asset, as required by section 7.2.2 of this General Order.

- 2.16 “NERC” means the North American Electric Reliability Council or any successor thereto.
- 2.17 “Notify CPSD,” “file with the Commission,” “filing,” or “file” means (unless otherwise indicated) to send a written communication by the U.S. Mail or a more expeditious express mail service to the Consumer Protection and Safety Division, Electric Generation Performance Program, at the address specified in subsection 15.2 of this General Order. These written communications are not filed with the Commission’s Docket Office.
- 2.18 “Outage Coordination Protocol” means that document set forth as sheets 509-535 (effective October 13, 2000) in the ISO tariff to coordinate schedules for maintenance, repair and construction of generating units, sections of the ISO controlled grid, and interconnections, as well as any subsequent amendments to the document.
- 2.19 “Scheduling Logging for the ISO of California” or “SLIC” is a web-based system application and procedure, and any successor system, used by the ISO and external clients for scheduling of generator outages.
- 2.20 “Standards” is a collective term including all the individual standards enforced pursuant to this General Order: General Duty Standards, Generating Logbook Standards (Hydroelectric Energy), Generating Logbook Standards (Thermal Energy), Generator Maintenance Standards, Generator Operation Standards, and the Outage Coordination Protocol of the ISO, as set forth in subsection 9.1 of this General Order.
- 2.21 “Thermal Energy” is the production of electricity from heat generated from combustion of fuels, recovery of heat from discharges from a turbine or other device powered by the combustion of fuels, and geothermal energy.

3.0 REQUIRED COMPLIANCE

- 3.1 Basic Requirement. Unless exempted below, all Generating Asset Owners shall comply with all Standards and all sections of this General Order for each Generating Asset. A Generating Asset's eligibility for an exemption shall be determined by summing the nameplate rating generating capacities of all units at that plant or location.
- 3.2 Small Facilities. Generating Assets smaller than one megawatt are currently exempt from enforcement of the Standards pursuant to this General Order. Notwithstanding this exemption, Generating Asset Owners of such Generating Assets shall cooperate in any Commission or CPSD investigation, inspection, or audit by permitting access to those

Generating Assets and by providing information (orally or written) or documents about the maintenance and operation of those Generating Assets if so requested by the Commission or CPSD.

- 3.3 Medium Facilities. Generating Assets of one megawatt or larger but smaller than 50 megawatts are exempt from Generating Logbook Standards (Hydroelectric Energy), Generating Logbook Standards (Thermal Energy), and Generator Maintenance Standards. Accordingly, such Generating Assets are subject to all requirements of this General Order except for sections 5, 6, and 7, as provided by subsections 5.2, 6.2, and 7.4, respectively. Notwithstanding these exemptions, such facilities must follow prudent practices as required by sections 5.2, 6.2 and 7.4.
- 3.4 Switching Centers. Switching centers controlling 50 megawatts or more of hydroelectric power must keep logbooks concerning switching center operations for all remotely controlled Generating Assets of one megawatt or larger, as provided in section 6.2.

4.0 GENERAL DUTY STANDARDS

- 4.1 The General Duty Standards are set forth in Appendix A to this General Order, as modified by any subsequent amendments or revisions to those standards.
- 4.2 Unless exempted, all Generating Asset Owners shall operate their Generating Assets in compliance with the General Duty Standards, until such time as the Commission implements and enforces detailed operation standards applicable to said Generating Assets, at which time the General Duty Standards will cease to be applicable.

5.0 GENERATOR LOGBOOK STANDARDS (THERMAL ENERGY)

- 5.1 Required Logbooks. Unless exempted, all Generating Asset Owners shall maintain facility logbooks in conformance with the Generator Logbook Standards (Thermal Energy) for those Generating Assets generating electricity by the use of thermal energy.
- 5.2 Exemption. Generating Assets of less than 50 megawatts are exempt from this section 5.0. Notwithstanding this exemption, each Generating Asset one megawatt or larger and smaller than 50 megawatts is required to maintain a reasonable log of operations and maintenance in a manner consistent with prudent industry practice.
- 5.3 Verified Statement. For each nonexempt Generating Asset, the Generating Asset Owner shall file one original verified statement with the

Director of the Commission's CPSD. The verified statement shall include the following:

- 5.3.1 The identify of the Generating Asset owned by an electrical corporation or located in California (with relevant identification and contact information);
 - 5.3.2 Confirmation that the facility is maintaining logbooks in compliance with the requirements for Generator Logbook Standards (Thermal Energy) ;
 - 5.3.3 Confirmation that the compliance document required by subsection 5.6 has been prepared and is available at the generation facility site;
 - 5.3.4 Confirmation that logbooks and the compliance document are being and will be updated and maintained as necessary; and
 - 5.3.5 Signature, name, title, address, telephone number, facsimile number, electronic mail address, and other relevant information regarding the authorized representative of the Generating Asset Owner.
- 5.4 Time of Filing. For each Generating Asset in Active Service on the effective date of this General Order, the Generating Asset Owner shall file the Verified Statement within 27 days of the effective date of this General Order.
- 5.5 Time of Filing for Other Assets. For each Generating Asset placed in Active Service after the effective date of this General Order, the Generating Asset Owner shall file the Verified Statement within 30 days of the Generating Asset being placed in Active Service. When a Generating Asset Owner acquires a Generating Asset from an existing Generating Asset Owner, the new owner shall file a verified statement within 30 days of the effective date of the transfer of title or within 30 days of the transfer of possession, whichever date is later.
- 5.6 Compliance Document. Each Generating Asset Owner shall prepare and maintain a compliance document. The compliance document will be available at the generation facility site. The compliance document will show:
- 5.6.1 Where data required by the Generator Logbook Standards (Thermal Energy) is recorded and maintained.

- 5.6.2 How data is recorded and maintained (*e.g.*, hard copy or electronic).
- 5.6.3 Any necessary format or presentation protocols that must be understood to decipher the meaning of the electronically or manually maintained data.
- 5.6.4 Anything else reasonably necessary to fulfill or demonstrate compliance with the Generator Logbook Standards (Thermal Energy).

6.0 GENERATOR LOGBOOK STANDARDS (HYDROELECTRIC ENERGY)

- 6.1 Required Logbooks. Unless exempted, all Generating Asset Owners shall maintain facility logbooks in conformance with the Generator Logbook Standards (Hydroelectric Energy) for those Generating Assets generating electricity by the use of hydroelectric energy.
- 6.2 Exemption. Locally-controlled generating assets smaller than 50 megawatts are exempt from the entirety of this section 6.0. Notwithstanding this exemption, each locally-controlled Generating Asset of one megawatt or larger is required to maintain a reasonable log of operations and maintenance in a manner consistent with prudent industry practice. Switching centers that control 50 megawatts or more do not fall under this exemption and must keep logbooks concerning switching center operations for all remotely-controlled Generating Assets of one megawatt or larger.
- 6.3 Verified Statement. For each nonexempt Generating Asset, the Generating Asset Owner shall file one original verified statement with the Director of the Commission's CPSD. The verified statement shall include at least the following:
 - 6.3.1 The identify of the Generating Asset owned by an electrical corporation or located in California (with relevant identification and contact information);
 - 6.3.2 Confirmation that the facility is maintaining logbooks in conformance with the Logbook Standards for Hydroelectric Facilities;
 - 6.3.3 Confirmation that the compliance document required by subsection 6.6 has been prepared and is available at the generation facility site or remote control or switching center;
 - 6.3.4 Confirmation that logbooks and the compliance document are being and will be updated and maintained as necessary; and

- 6.3.5 Signature, name, title, address, telephone number, facsimile number, electronic mail address, and other relevant information regarding the authorized representative of the Generating Asset Owner.
- 6.4 Time of Filing. For each Generating Asset in Active Service on the effective date of this General Order, the Generating Asset Owner shall file the Verified Statement within 27 days of the effective date of this General Order.
- 6.5 Time of Filing for Other Assets. For each Generating Asset placed in Active Service after the effective date of this General Order, the Generating Asset Owner shall file the Verified Statement within 30 days of the Generating Asset being placed in Active Service. When a Generating Asset Owner acquires a Generating Asset from an existing Generating Asset Owner, the new owner shall file a verified statement within 30 days of the effective date of the transfer of title or within 30 days of the transfer of possession, whichever date is later.
- 6.6 Compliance Document. Each Generating Asset Owner shall prepare and maintain a compliance document. The compliance document will be available at the generation facility site or remote control or switching center. The compliance document will show:
 - 6.6.1 Where data required by the Logbook Standards for Hydroelectric Facilities is recorded and maintained.
 - 6.6.2 How data is recorded and maintained (*e.g.*, hard copy or electronic).
 - 6.6.3 Any necessary format or presentation protocols that must be understood to decipher the meaning of the electronically or manually maintained data.
 - 6.6.4 Anything else reasonably necessary to fulfill or demonstrate compliance with the Logbook Standards for Hydroelectric Facilities.

7.0 GENERATOR MAINTENANCE STANDARDS

- 7.1 Applicability of Standards. All Generating Asset Owners shall maintain their Generating Assets in compliance with the Generator Maintenance Standards.

7.2 Initial Certification of Maintenance Plans.

- 7.2.1 Content of Maintenance Plan. A Maintenance Plan is a paper or electronic document that demonstrates how the Generating Asset Owner's ongoing and routine practices concerning a Generating Asset satisfy the Maintenance Standards enforced under this General Order. The Maintenance Plan may be in the form of a narrative, index, spreadsheet, database, web site, or other format that, for each of the Maintenance Standards, specifically identifies the procedures and criteria that are utilized to satisfy the applicable standard and assessment guidelines. Existing equipment manuals, checklists, warranty requirements, and other documents may be identified to demonstrate compliance; but, if any of these documents are contradictory, the Maintenance Plan will resolve the contradiction.
- 7.2.2 Certificate of Compliance. For each Generating Asset, the Generating Asset Owner shall certify to CPSD that it has adopted and is implementing a Maintenance Plan that complies with the Generator Maintenance Standards.
- 7.2.3 Certificate of Noncompliance. If a Generating Asset Owner is unable to so certify as required by subsection 7.2.2, the Generating Asset Owner shall certify to CPSD that it has (a) identified and documented the deficiencies in its maintenance practices; and (b) adopted a Corrective Plan that is reasonably designed to achieve compliance with the Generator Maintenance Standards within 180 days of the certification. The Corrective Plan will document how the Generating Asset Owner's ongoing and routine business practices concerning a Generating Asset do not satisfy the Maintenance Standards, the procedures and criteria that will be developed to satisfy the Maintenance Standards, the persons or entities responsible for addressing the deficient procedures or criteria, and a timetable for achieving compliance with the Maintenance Standards.
- 7.2.4 Time of Filing. For each Generating Asset in Active Service on the effective date of this General Order, the Generating Asset Owner shall file the Initial Certification within 45 days of the effective date of this General Order.
- 7.2.5 Time of Filing for Other Assets. For each Generating Asset placed in Active Service after the effective date of this General Order, the Generating Asset Owner shall file the Initial Certification within 90 days of the Generating Asset being placed in Active Service. When a Generating Asset Owner acquires a Generating Asset from an existing Generating Asset Owner, the new owner shall file its

Initial Certification within 90 days of the effective date of the transfer of title or within 90 days of the transfer of possession, whichever date is later.

- 7.3 Maintenance and Corrective Plan Availability. The current Maintenance or Corrective Plan for each Generating Asset will be available in the vicinity of each Generating Asset or, in the case of a plant or facility with multiple Generating Assets, in the central business office located at that plant or facility. Upon CPSD's request, a Generating Asset Owner shall submit the current Maintenance or Corrective Plan to CPSD in the manner specified in subsection 15.2 of this General Order.
- 7.4 Exemption. Generating Assets smaller than 50 megawatts are exempt from the entirety of Section 7.0. Notwithstanding this exemption, generating assets one megawatt or larger and smaller than 50 megawatts are required to observe the following requirements:
- 7.4.1 Each Facility shall be maintained in a safe reliable, and efficient manner that reasonably protects the public health and safety of California residents, businesses, and the community.
- 7.4.2 Each Facility shall be maintained so as to be reasonably available to meet the demand for electricity, and promote electric supply system reliability, in a manner consistent with prudent industry practice.
- 7.4.3 Each Facility shall be maintained in a reasonable and prudent manner consistent with industry standards while satisfying the legislative finding that each facility is an essential facility providing a critical and essential good to the California public.

8.0 GENERATOR OPERATION STANDARDS [RESERVED]

9.0 INDEPENDENT SYSTEM OPERATOR (ISO) OUTAGE COORDINATION PROTOCOL

- 9.1 Compliance. All Generating Asset Owners shall comply with the Outage Coordination Protocol adopted by the California Independent System Operator.

10.0 INFORMATION REQUIREMENTS

- 10.1 Provision of Information. Upon CPSD's request, a Generating Asset Owner shall provide information in writing concerning (a) a Generating Asset; (b) the operation or maintenance of the Generating Asset; (c) the Initial Certification, Recertification, Corrective Plan, or Notice of Material Change pertaining to the Generating Asset; (d) any Maintenance, Operation, or Corrective Plans pertaining to the Generating Asset; (e) the design, performance, or history of a Generating Asset; (f) event or outage data concerning a Generating Asset including, but not limited to, unavailability reports or outage cause reports; (g) accounts, books, contracts, memoranda, papers, records, inspection reports of government agencies or other persons; and (h) any other documents or materials. These information requests shall be reasonably related to the requirements of this General Order. If CPSD has indicated when, where, and in what form the information is to be provided, the Generating Asset Owner will provide the information in that manner and will otherwise cooperate with CPSD in the provision of information. Except for an exigent circumstance, a minimum of five business days will be provided for the response. If CPSD determines the existence of an exigent circumstance, CPSD may establish a shorter response period for information reasonably required for CPSD to understand or respond to the exigent circumstance.
- 10.2 Authorization for Release of Information. Upon CPSD's request, a Generating Asset Owner shall authorize governmental agencies to release and provide directly to CPSD any information in that agency's or entity's possession regarding the operation or maintenance of that Generating Asset Owner's Generating Asset. To the extent such agencies have designated information as confidential, CPSD will not disclose that information to the public unless (a) CPSD has been authorized by that agency or entity to disclose the information; (b) the Commission orders or permits disclosure; or (c) a court of competent jurisdiction orders or permits disclosure. Where appropriate, the Commission may enter into a confidentiality agreement with such agency. Upon CPSD's request, a Generating Asset Owner shall authorize other persons or entities to release and provide directly to CPSD any information in the possession of that person or entity regarding the operation or maintenance of that Generating Asset Owner's Generating Asset, in which case the Generating Asset Owner may make a claim of confidentiality pursuant to subsection 15.4 of this General Order.
- 10.3 Generating Asset Information. A Generating Asset Owner's obligations to provide or authorize the release of information specified in subsections 10.1 and 10.2 include, but are not limited by, the following specific requirements concerning Generating Assets:

- 10.3.1 Monthly Report to ISO. As required by Public Utilities Code § 761.3(g), each Generating Asset Owner owning or operating a Generating Asset in California with a rated maximum capacity of 50 megawatts or greater shall provide a monthly report to the ISO (once the ISO has announced it is ready to receive such monthly reports) that identifies any periods during the preceding month when the unit was unavailable to produce electricity or was available only at reduced capacity. The report will include the reasons for any such unscheduled unavailability or reduced capacity.
- 10.3.2 Submission of Information to NERC. Except for Generating Assets for which NERC does not accept data, each Generating Asset Owner shall submit generator design, performance, and event data to NERC for inclusion in GADS. Within the categories of data that NERC accepts, CPSD may specify the data the Generating Asset Owner must submit to NERC. If requested by CPSD, a Generating Asset Owner shall concurrently provide CPSD with a copy of all data submitted to NERC for inclusion in GADS.
- 10.3.3 Transitional Compliance Period. If upon the effective date of this General Order, a Generating Asset Owner is not submitting generator design, performance, or event data concerning a Generating Asset to NERC for inclusion in GADS, the Generating Asset Owner shall do so within a transitional period of 180 days of the effective date of this General Order. Upon CPSD's request, the Generating Asset Owner shall provide comparable data directly to CPSD until the Generating Asset Owner begins to submit that information to NERC and the information becomes available to CPSD.
- 10.3.4 Historical Information. Upon CPSD's request, and for any period after January 1, 1998, a Generating Asset Owner shall provide CPSD and/or NERC with generator design, performance, or event data concerning a Generating Asset.
- 10.4 Safety-related Incidents. Within 24 hours of its occurrence, a Generating Asset Owner shall report to the CPSD Director or designee, either verbally or in writing, any safety-related incident involving a Generating Asset. Such reporting shall include any incident that has resulted in death to a person; an injury or illness to a person requiring overnight hospitalization; a report to Cal/OSHA, OSHA, or other regulatory agency; or damage to the property of the Generating Asset Owner or another person of more than \$50,000. The Generating Asset Owner shall also report any other incident involving a Generating Asset that has resulted in significant negative media coverage (resulting in a news story or editorial from one

media outlet with a circulation or audience of 50,000 or more persons) when the Generating Asset Owner has actual knowledge of the media coverage. If not initially provided, a written report also will be submitted within five business days of the incident. The report will include copies of any reports concerning the incident that have been submitted to other governmental agencies.

11.0 AUDITS, INSPECTIONS, AND INVESTIGATIONS

- 11.1 General Requirement. A Generating Asset Owner shall cooperate with CPSD during any audit, inspection, or investigation (including but not limited to tests, technical evaluations, and physical access to facilities). An audit, inspection, or investigation may extend to any records pertaining to the specifications, warranties, logbooks, operations, or maintenance of the Generating Asset. Generating Asset Owners, as entities subject to ongoing regulation under this General Order, are hereby notified that these audits, inspections, or investigations will occur on a regular, systematic, and recurring basis supplemented as needed by additional audits, inspections, or investigations to ensure compliance with this General Order.
- 11.2 Interviews and Testimony. Upon CPSD's request, a Generating Asset Owner, its employees, and its contractors shall provide testimony under oath or submit to interviews concerning a Generating Asset, its specifications, warranties, logbooks, operations, or maintenance.
- 11.3 Tests and Technical Evaluations. Upon CPSD's request, a Generating Asset Owner shall conduct a test or technical evaluation of a Generating Asset (or shall contract with an auditor, consultant, or other expert, mutually selected by CPSD and the Generating Asset Owner, to conduct the test or technical evaluation) so as to provide information reasonably necessary for determining compliance with the Standards enforced by this General Order. The Generating Asset Owner will pay all costs and liabilities resulting from such tests or technical evaluations, except for CPSD's own staff expenses. If a test or technical evaluation may reasonably result in the reduced or suspended generation from a Generating Asset, the Generating Asset Owner shall notify CAISO as soon as the Generating Asset Owner becomes aware of the test or technical evaluation.
- 11.4 Preservation of Records. A Generating Asset Owner shall retain all records including logbooks, whether in paper or electronic format, concerning the operation and maintenance of a Generating Asset for five years. Any subsequent modification to a record must show the original entry, the modified entry, the date of the modification, the person who made or authorized the modification, and the reason for the modification.

- 11.5 Third-Party Audits, Tests, or Technical Evaluations. During an audit, test, or technical evaluation conducted under this section 11.0, a Generating Asset Owner may submit, or authorize access to, audits, tests, inspections, or technical evaluations previously performed by government agencies, insurance companies, or other persons or entities. While this third-party information may be relevant to the inquiry, the information may not be sufficient, in and of itself, to demonstrate compliance with the standards. CPSD will determine whether a third-party audit, test, inspection, or technical evaluation is sufficient for the purposes of this section 11.0.

12.0 VIOLATIONS

- 12.1 Violation. A Violation is the failure of a Generating Asset Owner to comply with a requirement of this General Order.
- 12.2 Retaliation. Any adverse action, as that term has been used and applied under Title VII of the Civil Rights Act, 42 U.S.C. § 2000e *et seq.* or the California Fair Employment and Housing Act, Gov. Code § 12940 *et seq.*, taken by a Generating Asset Owner against an officer, employee, agent, contractor, subcontractor, or customer of a Generating Asset Owner for reporting a Violation of the Standards, reporting a Violation of this General Order, or providing information during the course of an audit, inspection, or investigation is also a Violation of this General Order.

13.0 COMMISSION PROCEEDINGS

- 13.1 Formal Enforcement Proceedings. In responding to alleged Violations of this General Order, the Commission may initiate any formal proceeding authorized by the California Constitution, the Public Utilities Code, other state and federal statutes, court decisions or decrees, the Commission's RULES OF PRACTICE AND PROCEDURE, or prior Commission decisions or rulings.
- 13.2 Other Commission Remedies. In enforcing the provisions of this General Order, the Commission may pursue any other remedy authorized by the California Constitution, the Public Utilities Code, other state or federal statutes, court decisions or decrees, or otherwise by law or in equity.
- 13.3 Imposition of Fines for Specified Violations
- 13.3.1 Specified Violations. For specified Violations of this General Order, CPSD may assess a scheduled fine or, in the alternative, proceed with any remedy otherwise available to CPSD or the Commission. Scheduled fines may be assessed only on the concurrence of the Generating Asset Owner against whom the fine

is imposed and only for the Violations set forth in subsection 13.3.2 of this General Order.

- 13.3.2 Schedule of Fines. The specified Violations and the corresponding fines that may be assessed are set forth in Appendix E to this General Order. The Commission may modify this schedule of fines no earlier than 30 days after providing reasonable notice and affording interested persons with an opportunity to comment.
- 13.3.3 Acceptance of Assessed Fine. A Generating Asset Owner may accept or contest the assessment of a scheduled fine. In the event the Generating Asset Owner accepts the assessment and elects to pay the scheduled fine in lieu of a formal proceeding, the Generating Asset Owner shall so notify CPSD in writing within 30 days of the assessment, shall pay the fine in full, and shall bring itself into compliance with the applicable provision(s) of the General Order within 30 days of the written acceptance. Fines shall be submitted to CPSD for payment into the State Treasury to the credit of the General Fund. Fines are delinquent if not paid within 30 days of the Generating Asset Owner's acceptance; and, thereafter, the balance of the fine bears interest at the legal rate for judgments.
- 13.3.4 Contest of Assessed Fine. If a Generating Asset Owner contests the assessment of a scheduled fine, the Generating Asset Owner must file its contest within 30 days of the assessment. In the event of such a contest, CPSD may withdraw the offer of a scheduled fine and proceed with any remedy otherwise available to the Commission; and, in thereafter sanctioning a Violation, the Commission and CPSD will not be limited by the Schedule of Fines set forth in Appendix E to this General Order.
- 13.4 Punishment of Contempt. If the Commission determines that the Generating Asset Owner has violated Public Utilities Code § 2113, the Commission may punish the contempt in the same manner and to the same extent as contempt is punished by the courts of record in this state. The Commission, other persons, and other government agencies may still pursue any other remedies available to them.
- 13.5 Other Remedies. The Commission's enforcement of this General Order by informal proceedings, formal proceedings, or other remedies does not bar or affect the remedies otherwise available to other persons or government agencies.

14.0 SANCTIONS

14.1 Sanctions. Consistent with prior Commission decisions, the following factors will be considered in determining the sanctions to be imposed against a Generating Asset Owner for violating this General Order:

14.1.1 The diligence and reasonableness demonstrated by the Generating Asset Owner in attempting to prevent a Violation, in detecting a Violation, in disclosing a Violation to CPSD and other requisite government agencies, and in rectifying a Violation.

14.1.2 The seriousness of the Violation in terms of injury, if any, to persons, property, and the integrity of the regulatory process.

14.1.3 The number and seriousness of any prior Violations.

14.1.4 The Generating Asset Owner's financial resources.

14.1.5 The totality of the circumstances in furtherance of the public interest.

14.1.6 Commission precedent.

14.2 Mitigation of Sanctions. The following factors may be considered as mitigation in considering the sanctions to be imposed for violating this General Order:

14.2.1 The Generating Asset Owner's demonstrated, substantial compliance with any guidelines or other guidance issued by the Committee or the Executive Director concerning the Standards and requirements of this General Order.

14.2.2 Conflicting or competing requirements imposed on the Generating Asset Owner by other governmental agencies; warranty requirements; power contract requirements; or requirements imposed by the California Independent System Operator, NERC, or the Western Electricity Coordinating Council.

14.2.3 Penalties already imposed on the Generating Asset Owner by other governmental agencies, contracts, or other regulatory bodies for the same acts or omissions resulting in Violations of this General Order.

14.2.4 The Generating Asset Owner's demonstrated cooperation in assisting the Commission and CPSD in the enforcement of this General Order.

- 14.3 Enhancement of Sanctions. The following enhancing factors may be considered in increasing the sanctions that would otherwise be imposed for violating this General Order:
- 14.3.1 The Generating Asset Owner's demonstrated, substantial noncompliance with any guidelines or other guidance issued by the Committee or the Executive Director concerning the Standards and requirements of this General Order.
 - 14.3.2 The Generating Asset Owner's repetitive violations of the Standards, the Public Utilities Code, or this General Order.
 - 14.3.3 The Generating Asset Owner's violations of the Standards or this General Order have resulted in the failure to deliver electricity as scheduled by the Independent System Operator or in actual power outages.
 - 14.3.4 The Generating Asset Owner's failure to report, as required, or cooperate with the Commission and CPSD in any investigation, audit, inspection, test, or technical evaluation.
 - 14.3.5 The Generating Asset Owner's efforts to impede or frustrate CPSD in the enforcement of this General Order. A Generating Asset Owner's lawful and reasonable assertion of its rights under this General Order or state or federal law will not be used to enhance a sanction.
- 14.4 Not Applicable to Specified Fines. The factors set forth in subsections 14.1, 14.2, and 14.3 do not apply to those specified Violations, set forth in Appendix E, for which a scheduled fine has been assessed against and accepted by a Generating Asset Owner, pursuant to subsection 13.3 of this General Order.

15.0 MISCELLANEOUS PROVISIONS

- 15.1 Ongoing Reporting Obligations.
- 15.1.1 Periodic Recertifications. For each Generating Asset not exempted under subsections 5.2, 6.2, or 7.5, the Generating Asset Owner shall file a recertification that it continues to maintain logbooks as required under sections 5.0 or 6.0 of this General Order and continues to implement a Maintenance Plan, as described in subsection 7.2.1 of this General Order in a manner that complies with the Generator Maintenance Standards. The recertifications will be filed every other year pursuant to a schedule to be determined by CPSD.

- 15.1.2 Notice of Material Change. A Generating Asset Owner shall notify CPSD of (a) any previously unreported deficiency in its operation or maintenance practices (including logbook practices); or (b) any correction or amendment to the Initial Certification or Recertification pertaining to a Generating Asset that is required because of a material change in the operation or maintenance of the Generating Asset. A material change is a modification of the characteristics, operation, or maintenance of a Generating Asset when that change reasonably could be expected to significantly improve or degrade the reliability, output, or performance of the Generating Asset. The Generating Asset Owner shall file a Notice of Material Change within 30 days of the known occurrence of the material change.
- 15.2 Filings and Submissions. All Certifications, Recertifications, Notices, or other submissions of information or data in response to Commission requests and the requirements of this General Order will be filed directly with the CPSD, Electric Generation Performance Program, at 505 Van Ness Ave., San Francisco, CA 94102. Documents must be received by CPSD on the day they are due. In addition to or instead of paper filings, CPSD may require electronic submissions of all filings that reasonably can be created in that format.
- 15.3 Oath, Affirmation or Verification. Each Certification, Recertification, Notice, or contest submitted under this General Order will be under the written oath, affirmation, or verification of a corporate officer of the Generating Asset Owner.
- 15.4 Confidentiality. All claims of confidentiality related to the implementation and enforcement of this General Order must be based on the provisions of this subsection.
- 15.4.1 Burden of Establishing Privilege. A Generating Asset Owner must accompany any requests for confidential treatment of information with a reference to the specific law prohibiting disclosure, the specific statutory privilege that it believes it holds and could assert against disclosure, or the specific privilege it believes the Commission may and should assert against disclosure. The Generating Asset Owner bears the burden of proving why any particular document, or portion of a document, must or should be withheld from public disclosure.
- 15.4.2 Confidentiality Claims Requiring Balancing of Interests. If a confidentiality request is based on a privilege or exemption requiring a balancing of interests for and against disclosure, rather

than on a statutory prohibition against disclosure or a privilege held by the Generating Asset Owner, the Generating Asset Owner must demonstrate why the public interest in an open process is clearly outweighed by the need to keep the material confidential. A Generating Asset Owner which is a public utility should not cite Public Utilities Code § 583 as a sole basis for the Commission's nondisclosure of information since, as noted in D.91-12-019, § 583 does not create for a utility any privilege that may be asserted against the Commission's disclosure of information or designate any specific types of documents as confidential.

- 15.4.3 Requirements. A Generating Asset Owner desiring confidential treatment of information provided to the Commission shall at a minimum:
- 15.4.3.1 Specifically indicate the information that the Generating Asset Owner wishes to be kept confidential, clearly marking each page, or portion of a page, for which confidential treatment is requested.
 - 15.4.3.2 Identify the length of time the Generating Asset Owner believes the information should be kept confidential and provide a detailed justification for the proposed length of time. The business sensitivity of information generally declines over time and the balancing of interests for and against disclosure may change accordingly.
 - 15.4.3.3 Identify any specific provision of state or federal law the Generating Asset Owner believes prohibits disclosure of the information for which it seeks confidential treatment and explain in detail the applicability of the law to that information.
 - 15.4.3.4 Identify any specific privilege the Generating Asset Owner believes it holds and may assert to prevent disclosure of information and explain in detail the applicability of that law to the information for which confidential treatment is requested. For example, if a Generating Asset Owner asserts that information is subject to a trade secret privilege (Evidence Code § 1060 *et seq.*), the Generating Asset Owner must explain (a) how the information fits the definition of a protectible trade secret (*e.g.*, how the information provides its holder with economic value by virtue of its not being generally known to the public and what steps the Generating Asset Owner has taken to maintain the secrecy of the information); and (b) why

allowance of the privilege will not tend to conceal fraud or otherwise work injustice.

15.4.3.5 Identify any specific privilege the Generating Asset Owner believes the Commission holds and may assert to prevent disclosure of information and explain in detail the applicability of that privilege to the information for which confidential treatment is requested. For example, if the privilege is one that involves a balancing of public interests for and against disclosure, such as the official information privilege in Evidence Code § 1040(b)(2), the Generating Asset Owner must demonstrate that the information at issue falls within the definition of official information and the Commission's disclosure of the information is against the public interest because there is a necessity for preserving the confidentiality of the information that outweighs the necessity for disclosure in the interest of justice.

15.4.3.6 State whether the Generating Asset Owner would object if the information were disclosed in an aggregated format.

15.4.3.7 State whether and how the Generating Asset Owner keeps the information confidential and whether the information has ever been disclosed to a person other than an employee of the Generating Asset Owner.

15.4.4 Duration of Confidentiality Claims. A confidentiality claim, whether or not specifically acted upon by the Commission, expires on the earliest of the following dates: (a) at the end of the period specified by the Generating Asset Owner pursuant to subsection 15.4.3.2; (b) at the end of a period specified in a specific Commission ruling or decision; or (c) two years after the claim was first asserted before the Commission. To reassert the confidentiality claim, the Generating Asset Owner must again satisfy the requirements of this subsection 15.4 before the end of the confidentiality period. Staff may disclose information provided under a claim of confidentiality if the Commission has already authorized disclosure of that class of information.

15.5 Disclosure to Other Agencies. If the Commission provides any information to another governmental agency (whether in response to a request, subpoena, or on the Commission's own initiative), the Commission will ensure that the information is accompanied with a copy of any confidentiality claim that has been submitted pursuant to subsection 15.4 of this General Order. Where appropriate, the Commission may enter into a confidentiality agreement with the other governmental agency.

When the Commission obtains information indicating a possible violation of any federal, state, or local law, the Commission may provide that information to the appropriate governmental agency. Even though a claim of confidentiality has been made, the claim of confidentiality will not prevent the Commission from providing that information to the appropriate governmental agency.

- 15.6 Compliance with Other Laws. Pursuant to California Public Utilities Code § 761.3(f), enforcement of any Standard will not modify, delay, or abrogate any deadline, standard, rule or regulation that is adopted by a federal, state, or local agency for the purposes of protecting public health or the environment including, but not limited to, any requirements imposed by the California State Air Resources Board, an air pollution control district, or an air quality management district pursuant to Division 26 (commencing with section 39000) of the California Health and Safety Code.
- 15.7 Committee Amendments. The Committee may file any amendment to the Standards, duly adopted by the Committee, with the Commission's Docket Office. The Committee shall serve the amendment on CPSD or its successor. The amendment will become enforceable by the Commission under this General Order on the thirtieth day following publication of the notice of filing in the Commission's *Daily Calendar* (or successor publication). In its filing of any amendment, the Committee shall reference this General Order and request publication of the notice of the filing in the Commission's *Daily Calendar* (or any successor publication). In the case of any amendments, the Executive Director will make the appropriate codification revisions to the appendices to this General Order.
- 15.8 Duration of Standards. When the Committee ceases to exist pursuant to Public Utilities Code § 761.3(b)(3), the Standards, as on file with the Commission on the date the Committee ceases to exist, will remain effective and enforceable by the Commission under this General Order. The Commission thereafter may amend the Standards in a rulemaking proceeding and enforce the Standards as amended, all in exercise of its responsibilities under the California Constitution, the Public Utility Code, and this General Order.
- 15.9 Extension of Time. For good cause shown, a Generating Asset Owner may request the extension of any deadline established in or pursuant to this General Order. The request must be in writing and submitted in advance of the deadline to the Executive Director or the Executive Director's designee. Pursuant to the request, the Executive Director may grant one or more extensions, if the Executive Director determines that a good and sufficient reason exists for the extension. The extension will specifically indicate its duration.

- 15.10 Guidance. The Executive Director may promulgate forms, instructions, advisories, and other guidance to Generating Asset Owners aiding them in achieving compliance with this General Order.
- 15.11 Severability. If a court of competent jurisdiction determines that any provision of this General Order is void or unenforceable, the Commission will continue to enforce the remainder of the General Order without reference to the void or unenforceable provision.
- 15.12 Effective Date. This General Order is effective on the third day following the mailing of the Commission's decision adopting this General Order.

**APPENDIX A: GENERAL DUTY STANDARDS
FOR OPERATIONS AND MAINTENANCE**

Adopted May 2, 2003, and revised June 3, 2003, by the
California Electricity Generation Facilities Standards Committee;
and as implemented by the Commission on May 6, 2004

Pursuant to California Public Utilities Code § 761.3, each facility used for the generation of electricity owned by an electrical corporation or located in California (Facility) shall be operated and maintained by its owner(s) and operator(s) in accordance with the following standards:

1. Each Facility shall be operated and maintained in a safe, reliable and efficient manner that reasonably protects the public health and safety of California residents, businesses, employees, and the community.
2. Each Facility shall be operated and maintained so as to be reasonably available to meet the demand for electricity, and promote electric supply system reliability, in a manner consistent with prudent industry practice.
3. Each Facility shall comply with the protocols of the California Independent System Operator for the scheduling of powerplant outages.
4. [Reserved.]
5. Each Facility shall maintain reasonable logs of operations and maintenance in a manner consistent with prudent industry practice.
6. Each Facility shall be operated and maintained in a reasonable and prudent manner consistent with industry standards while satisfying the legislative finding that each facility is an essential facility providing a critical and essential good to the California public.

Pursuant to California Public Utilities Code § 761.3(a), the California Public Utilities Commission shall implement and enforce these General Duty Standards for Operation and Maintenance. Pursuant to the provisions of California Public Utilities Code § 761.3(f), nothing in these General Duty Standards for Operations and Maintenance shall modify, delay, or abrogate any deadline, standard, rule or regulation that is adopted by a federal, state, or local agency for the purposes of protecting public health or the environment, including, but not limited to, any requirements imposed by the California State Air Resources Board, an air pollution

control district, or an air quality management district pursuant to Division 26 (commencing with Section 39000) of the California Health and Safety Code.