

## **ATTACHMENT 3**

### **Energy Safety's Proposed Compliance Process for 2021 WMPs**





# OFFICE OF ENERGY INFRASTRUCTURE SAFETY'S 2021 WILDFIRE MITIGATION PLAN COMPLIANCE PROCESS

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## BACKGROUND

Assembly Bill (AB) 1054 (Holden, Chapter 79, Statutes of 2019) established a set of requirements for the Office of Energy Infrastructure Safety (Energy Safety), formerly the Wildfire Safety Division (WSD),<sup>1</sup> to oversee compliance with utility Wildfire Mitigation Plans (WMPs) after they are approved. Further, AB 1054 requires Energy Safety to develop, and the California Public Utilities Commission (Commission) to adopt and approve a “wildfire mitigation plan compliance process.”

Pursuant to Public Utilities Code Section (§) 326(a)(1), Energy Safety is tasked with overseeing and enforcing electrical corporations’ compliance with wildfire safety pursuant to Chapter 6 (commencing with Section 8385) of Division 4 of the Public Utilities Code. Public Utilities Code § 326(a)(3) states that Energy Safety shall develop a field audit program for wildfire mitigation plan compliance by each electrical corporation. Also, pursuant to Public Utilities Code § 326(a)(4) Energy Safety shall consult with the Office of Emergency Services in the office’s management and response to utility public safety power shutoff (PSPS) events and utility actions for compliance with PSPS rules and regulations.<sup>2</sup>

In addition to Public Utilities Code § 326, Public Utilities Code §§ 8386 – 8389 includes several other statutory requirements that will be relevant in this document including, but not limited to:

- § 8386.1: The commission shall assess penalties on an electrical corporation that fails to substantially comply with its plan.
- § 8386.3(c): Following approval of a wildfire mitigation plan, the Wildfire Safety Division shall oversee compliance with the plan consistent with the following:
  - (1) Three months after the end of an electrical corporation’s initial compliance period as established by the Wildfire Safety Division pursuant to subdivision (b) of Section 8386, and annually thereafter, each electrical corporation shall file with the division a report addressing its compliance with the plan during the prior calendar year.
  - (2)(A) Before March 1, 2021, and before each March 1 thereafter, the Wildfire Safety Division, in consultation with the Department of Forestry and Fire Protection, shall make available a list of qualified independent evaluators with experience in assessing the safe operation of electrical infrastructure.
  - (B)(i) Each electrical corporation shall engage an independent evaluator listed pursuant to subparagraph (A) to review and assess the electrical corporation’s compliance with its plan. The engaged independent evaluator shall consult

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<sup>1</sup> For the purposes of this document, any reference to the Wildfire Safety Division, or WSD, effectively means the Office of Energy Infrastructure Safety, or Energy Safety.

<sup>2</sup> It is important to note that PSPS rules and regulations are established by Commission. Accordingly, oversight and enforcement related to non-compliance with said rules and regulations are the authority of the Commission. Energy Safety’s role in PSPS events is to consult with the Office of Emergency Services.

with, and operate under the direction of, the office. The engaged independent evaluator shall consult with, and operate under the direction of, the office. The independent evaluator shall issue a report on July 1 of each year in which a report required by paragraph (1) is filed. As a part of the independent evaluator's report, the independent evaluator shall determine whether the electrical corporation failed to fund any activities included in its plan.

- (ii) The Wildfire Safety Division shall consider the independent evaluator's findings, but the independent evaluator's findings are not binding on the division, except as otherwise specified.
- (4) The Wildfire Safety Division shall complete its compliance review within 18 months after the submission of the electrical corporation's compliance report.
- § 8386.3(5)(A): An electrical corporation shall notify the Wildfire Safety Division, within one month after it completes a substantial portion of the vegetation management requirements in its wildfire mitigation plan, of the completion. Upon receiving the notice from the electrical corporation, the division shall, consistent with its authority pursuant to paragraph (1) of subdivision (a) of Section 326, promptly audit the work performed by, or on behalf of, the electrical corporation.
- § 8389(g): If the division determines an electrical corporation is not in compliance with its approved wildfire mitigation plan, it may recommend that the Commission pursue an enforcement action against the electrical corporation for noncompliance with its approved plan.

In 2020, Energy Safety developed a strategy and process to perform its responsibilities, which was published in Commission Resolution WSD-012. Energy Safety has refined the process outlined in WSD-012 based on lessons learned in 2020 and 2021, the expected growth in maturity of Energy Safety as a new department, and updates to electrical corporation reporting, compliance operations, and incorporation of Energy Safety's Compliance Assurance Contractor. Additionally, changes from WSD-012 have been made to align with Energy Safety's authorities and role following the transition from a Division within the Commission to a new department under the California Natural Resources Agency.

This document outlines Energy Safety's adaptive approach to identify procedures to determine electrical corporations' compliance with implementation of approved WMPs.

## SUMMARY

Public Utilities Code § 8389 (d)(3) directs the Commission, after consultation with Energy Safety, by December 1, 2021, to "adopt and approve" a "wildfire mitigation plan compliance process." This document presents Energy Safety's proposal for a compliance process which is divided into two major components:

1. **Compliance assessments:** Assessments include annual assessments of each electrical corporation's compliance with an approved WMP during the prior compliance period, and ongoing assessments to determine compliance throughout the compliance period based on Energy Safety's field inspections and audits, Independent Evaluator reports, and other regular reporting submissions as requested by Energy Safety. Assessments will take place on a schedule to be determined by Energy Safety.
2. **Consequences of compliance assessments:** Energy Safety will notify electrical corporations of compliance assessment findings, including severity levels and remediation timelines, as those assessments are concluded. Pursuant to Government Code § 15475.2, Energy Safety "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." Pursuant to Public Utilities Code § 8389(g), if Energy Safety "determines an electrical corporation is not in compliance with its approved wildfire mitigation plan, it may recommend that the commission pursue an enforcement action against the electrical corporation for noncompliance with its approved plan." Energy Safety's priority is to work with the electrical corporations to expeditiously resolve and/or minimize wildfire safety issues and noncompliance with WMP initiatives to support public safety.

Energy Safety will provide a summary of assessments and findings to the Commission on a regular cadence, and the Commission will determine whether to pursue enforcement actions. Energy Safety will include the utility's response and the resolution status of any violations or defects in the summaries it provides to the Commission.

The proposed compliance process, as detailed in this document, will enable Energy Safety to fulfill its statutory obligation to oversee compliance with each electrical corporation's wildfire mitigation plan.

## KEY PRINCIPLES FOR WMP COMPLIANCE

Energy Safety incorporates the following key principles to establish a framework for assessing electrical corporations' compliance with approved WMPs. This goal-oriented framework aims to ensure that electrical corporations are in compliance with their WMPs and that the risk of wildfire is mitigated and reduced. This compliance process focuses on Energy Safety's oversight of compliance with the approved WMPs and does not purport to amend those approved WMPs.

### Goals for WMP Compliance

Energy Safety defines compliance as the successful implementation of the electrical corporation's previously stated narratives, actions, targets, outcome metrics and objectives in the approved WMPs, including supporting documentation. Energy Safety aims to ensure WMP implementation through the authorities and requirements outlined in Public Utilities Code §§ 8386 – 8389.

Compliance objectives for Energy Safety include:

1. Assessing electrical corporations' implementation of initiatives<sup>3</sup> identified in their approved WMPs, and
2. Tracking outcomes of the reduction of wildfire risks and Public Safety Power Shutoff (PSPS) events in order to assess the effectiveness of the risk reduction strategies in electrical corporations' approved WMPs to mitigate areas with the highest risk.

One of Energy Safety's overarching objectives is to develop a compliance path for electrical corporations to effectively implement their approved WMPs and comprehensively achieve compliance. This involves connecting the narratives, targets, outcome metrics and objectives stated in WMPs to desired outcomes and ensuring electrical corporations achieve the desired outcomes, such as reduction of wildfire risk.

## Prioritization of areas for WMP implementation

Because WMPs are sweeping documents that often cover large swaths of utility service territories and all aspects of utility operations, it is imperative that Energy Safety prioritize its areas of focus to ensure efficient and effective use of limited resources. Based on available situational information and data collected through regular operations, Energy Safety may follow the criteria below to prioritize audits and inspections in areas with higher fire risk for WMP implementation. This list is not exhaustive and is meant to serve as example areas that Energy Safety may prioritize:

- Areas identified with elevated fire risks based on data such as weather information, previous fire/ignition records, outcome metrics, the Commission's High Fire-Threat District map, and other data.
- Areas with most severe violations or defects that require immediate attention.
- Areas that electrical corporations fail to meet timelines prescribed by Energy Safety to correct violations or defects.<sup>4</sup>
- Areas of focus for compliance verification in the current WMP implementation year which require independent observation in the following year(s).

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<sup>3</sup> An initiative is a commitment pertaining to a wildfire risk mitigation activity in an electrical corporation's WMP used to measure performance and compliance.

<sup>4</sup> See definitions for notice of violation and notice of defect under [Ongoing compliance](#).

Based on available data, information submitted by electrical corporations, and lessons learned from 2020 and 2021, Energy Safety has outlined an approach to assess risk and outcomes in relation to WMP implementation. Prioritization of audits and inspections on WMP initiatives is a key step for Energy Safety to ensure a targeted and risk-focused compliance approach. Some initiatives may be higher priority and are critical for electrical corporations to implement to improve outcomes in 2021 and beyond. Given the urgency of mitigating and preventing utility-ignited wildfires, it is important to implement the WMP initiatives that have a higher likelihood of or greater impact on reducing utility ignition risk in the highest wildfire risk areas. Energy Safety aims to continue evaluating wildfire risk assessments and utilizing these assessments for prioritization of compliance areas. This process is adaptive and will evolve and be refined as additional information is collected in future years.

Energy Safety will leverage the performance metrics, including outcome metrics, developed and adopted through the WMP Guidelines and associated documents to assess successful implementation of approved WMPs and the correlated reduction in wildfire risk.

Energy Safety may assess prioritization methodology and adapt this approach as more information is learned and processes mature.<sup>5</sup>

## PROPOSED COMPLIANCE PROCESS

The Energy Safety compliance process focuses on assessing whether electrical corporations are successfully implementing their WMPs. Additionally, Energy Safety tracks outcomes, such as reduction in utility wildfire ignitions, to determine the effectiveness of WMPs.

Energy Safety has undertaken several measures to clarify processes and requirements to enhance electrical corporations' ability to achieve compliance with approved WMPs, which should in turn enhance the effectiveness of initiative implementation. These include engaging in working sessions with electrical corporations to discuss requirements and expectations, as well as publication of clarifying documents.<sup>6</sup> Energy Safety also provides trainings to ensure that all Energy Safety inspectors have sufficient and consistent understanding of requirements relevant to electric safety and wildfire risk for inspections and audits. Finally, while Energy Safety strives to provide a field presence to provide oversight of

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<sup>5</sup> Per the 2021 WMP action statements, utilities have been directed to "collaborate through a working group facilitated by Energy Safety to develop a more consistent statewide approach to wildfire risk modeling. After [Energy Safety] completes its evaluation of all the utilities' 2021 WMP Updates, it will provide additional detail on the specifics of this working group." For more information, see the action statements in the [2021-WMPs docket on the Energy Safety e-Filing System](#).

<sup>6</sup> Clarifying documents include the [Energy Safety QIU/QDR Frequently Asked Questions Sheet](#) available on the 2021 QIU docket on the Energy Safety e-Filing System.



electrical infrastructure and equipment, the sheer volume of infrastructure and resource limitations make direct oversight of the entire grid impossible. As such, Energy Safety encourages electrical corporations to incorporate continuous learning and self-reporting into their culture to proactively mitigate ignition and wildfire risk.

## Compliance assessments

Under the proposed compliance process Energy Safety will undertake the following assessments:

### Ongoing compliance assessments

Energy Safety will evaluate electrical corporations' implementation of WMPs through a variety of compliance assessments, including but not limited to: field inspections; audits; Independent Evaluator reports; customer safety concerns; and reviewing other regular reporting submissions as requested by Energy Safety. Energy Safety will verify actions committed to by electrical corporations in their currently approved WMPs. Energy Safety's assessment of an electrical corporation's ongoing compliance is determined based on outcomes of its inspections and audits and whether the electrical corporation has timely correction of identified violations and defects. Additionally, through linking outcomes to WMP activities, Energy Safety can focus compliance tracking on electrical corporations' improvement of outcomes and reduction of risk over time.

The outputs of Energy Safety's compliance assessments may include inspection reports and audit reports with Energy Safety's findings. Pursuant to Government Code § 15475.2 and 17 CCR § 29302 when instances of non-compliance are identified, Energy Safety may issue the following notices:

1. Notices of violation, identifying instances in which an electrical corporation is non-compliant with its approved WMP or any law, regulation, or guideline within Energy Safety's authority; or
2. Notices of defect, identifying deficiencies, errors, or conditions that increase the risk of ignition posed by electrical lines and equipment requiring correction.

Electrical corporations shall correct violations and defects identified by Energy Safety staff during inspections in accordance with the timelines listed in the [Results of compliance assessments section](#) of this document. The results of Energy Safety's ongoing compliance efforts may be used to inform Energy Safety's annual assessment of an electrical corporation's compliance during the prior completed compliance period.

## Annual compliance assessment

Energy Safety will conduct an annual assessment of each electrical corporation's compliance with its WMP through the following process:

- Energy Safety is legislatively authorized to establish compliance periods and deliverables to determine the electrical corporations' compliance with WMPs. Pursuant to Public Utilities Code § 8385(a)(1), a "compliance period" means a period of approximately one year. The annual compliance period for 2020-2022 WMPs is defined as January 1 to December 31 for each calendar year of the three-year WMP.
- Based on this compliance period, and pursuant to Public Utilities Code § 8386.3(c)(1), each electrical corporation shall annually file a report addressing its compliance with WMPs over the prior compliance period within three months after the end of a compliance period, i.e., by March 31 of each calendar year.
- Pursuant to Public Utilities Code § 8386.3(c)(2)(B)(i), independent evaluators shall submit reports on WMP compliance findings by July 1 of each year.
- Pursuant to Public Utilities Code § 8386.3(c)(5)(A), electrical corporations are required to notify Energy Safety within one month after they complete a substantial portion of vegetation management requirements in their approved WMPs, for Energy Safety's audit and inspection.
- Energy Safety will review all these submissions as well as the results of ongoing compliance assessments over the compliance period and make a determination of whether each electrical corporation substantially complied with its WMP during the prior compliance period.

## Results of compliance assessments

Upon conclusion of its compliance assessments, Energy Safety will detail any violations or defects discovered in Notice of Violation (NOV) or Notice of Defect (NOD) documents, respectively, and electronically serve those documents on electrical corporations. NOV and NODs will be posted on Energy Safety's website, within the "Compliance Enforcement" case on the e-Filing System. Within the "Compliance Enforcement" case, there will be dedicated dockets for NOV and NODs, respectively, organized by calendar year.<sup>7</sup>

Pursuant to the California Code of Regulations, Title 14, Division 17 § 29302(c), NOV shall contain a summary of the facts surrounding the violation, the specific violation or failure to act requiring correction, and any proposed conditions or mitigations to cure such violations. NOV and NODs will be issued to the electrical corporations, as appropriate, and require response as detailed in the [Electrical corporation response to violations and defects](#) section below. Consistent with Government Code § 15475.1(b), Energy Safety's primary objective is to ensure that utilities are reducing wildfire risk through correction of violations and defects.

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<sup>7</sup> The [Compliance Enforcement case](#) is available on the Energy Safety e-Filing System.

## Correction timeline of violations and defects

Energy Safety directs electrical corporations to correct violations and defects discovered during compliance assessments under the following timelines:

*Table 1 Energy Safety Violation and Defect Correction Timeline by Risk Category*

<b>Risk Category</b>	<b>Violation and defect correction timeline</b>
Severe	<ul style="list-style-type: none"> <li>• Immediate resolution</li> </ul>
Moderate	<ul style="list-style-type: none"> <li>• 2 months (in HFTD Tier 3)</li> <li>• 6 months (in HFTD Tier 2)</li> <li>• 6 months (if relevant to worker safety and not in HFTD Tiers 2 or 3)</li> </ul>
Minor	<ul style="list-style-type: none"> <li>• 12 months or resolution scheduled in WMP update</li> </ul>

## Electrical corporation response to violations and defects

Consistent with Government Code § 15475.4(b), upon receipt of an NOV or NOD, Energy Safety will provide electrical corporations 30 calendar days to respond. All responses to NOV and NODs shall be filed in the respective NOV or NOD dockets on the Energy Safety e-Filing System. Energy Safety will require that the response include a plan of action or actions taken to remediate the violation or defect, and a timeline for completing those actions. Within its response, an electrical corporation will have the option to request a hearing to take public comment and present additional information. Should a hearing be requested, it will be presided over by a designated hearing examiner. If an electrical corporation does not petition to request a hearing with its NOV or NOD response, the determinations and conditions set forth in the NOV or NOD become final at the expiration of the 30-day period.

Following completion of the corrective actions outlined in its NOV or NOD response, the electrical corporation must provide Energy Safety with documentation validating the resolution or correction of the identified violation or defect. This documentation must be of adequate detail and granularity to allow Energy Safety's validation of completion, and may include completed work orders, photographs, or other materials proving that the violation or defect has been resolved. Energy Safety will include the electrical corporation's response and the resolution status of any violations or defects in the summaries it provides to the Commission.

## Referral of compliance assessments

Energy Safety proposes to coordinate its efforts with the Commission to achieve timely correction of violations and defects identified during Energy Safety's compliance assessments. Energy Safety will provide a summary of its compliance assessments and findings to the Commission on a regular cadence. The Commission may pursue an enforcement action against an electrical corporation for non-compliance with its approved WMP, pursuant to Public Utilities Code § 8389(g).

The Commission will determine whether the Energy Safety NOV or NOD and subsequent electrical corporation response is sufficient, or if additional Commission enforcement action is needed. Energy Safety and the Commission may coordinate on determining appropriate consequences for non-compliance (NOVs and NODs) identified during Energy Safety's compliance assessments. An electrical corporation's resolution of a violation or defect through this compliance process does not preclude the Commission from an enforcement action.

## **ONGOING USE OF COMPLIANCE ASSESSMENTS TO INFORM WMPs**

Energy Safety seeks to utilize its compliance assessments and identify a dynamic approach for WMP implementation by incorporating risks and data collected in outcome metrics. Such an approach will help inform Energy Safety's future WMP evaluations — with the intent to drive electrical corporations' future WMPs to prioritize efforts that most effectively mitigate wildfire risk. It will also enable Energy Safety to keep the public informed of the progress of WMP implementation.

Accordingly, this is a goal-oriented framework that will support Energy Safety's oversight of utility wildfire safety and ensure utility-related wildfire risk is effectively mitigated and reduced in accordance with Public Utilities Code §§8386 – 8389.

## **CONCLUSION**

Energy Safety has developed a strategy and processes to perform its compliance responsibilities. This document outlines Energy Safety's adaptive approach to identify priority WMP initiatives for compliance assurance, and a process to assess electrical corporations' compliance with implementation of their approved WMPs.

Energy Safety's compliance process is intended to be dynamic and modified over time as lessons are learned and circumstances evolve. The goal of Energy Safety is to reduce utility



wildfire risk by using available information and data collected during compliance assessments to evaluate the effectiveness and timely implementation of WMP initiatives.

By monitoring compliance with critical wildfire safety activities and measuring the reduction of wildfire risk and impacts on outcome metrics, Energy Safety strives to implement its vision for a sustainable California, with no catastrophic utility-related wildfires, and access to safe, affordable and reliable electricity. By determining compliance based on the occurrence of identified violations or defects and an annual comprehensive review process of overall compliance, including meeting commitments and reducing risk, viewed in retrospect, Energy Safety aims to improve utility-related wildfire safety across California while meeting its statutory obligations.

# DATA DRIVEN FORWARD-THINKING INNOVATIVE SAFETY FOCUSED



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