

OFFICE OF ENERGY INFRASTRUCTURE SAFETY'S

2022 COMPLIANCE PROCESS

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1. Introduction

Pursuant to Public Utilities Code section 8389(d), by December 1, 2020, and annually thereafter, the California Public Utilities Commission (CPUC), after consultation with the Office of Energy Infrastructure Safety (Energy Safety) must adopt and approve a process for Energy Safety to assess each electrical corporation's compliance with its Wildfire Mitigation Plan (WMP).[1] The compliance process set forth in this document constitutes Energy Safety's 2022 consultation with the CPUC. Following the CPUC's adoption and approval of Energy Safety's compliance process, Energy Safety will issue guidelines detailing the specific requirements of its compliance process.[2]

Public Utilities Code sections 326 and 8385-8389 prescribe the overall requirements and responsibilities, as well as the process, timing and enforcement actions associated with Energy Safety's responsibilities to enforce each electrical corporation's substantial compliance with its approved WMP.

There are three main requirements Energy Safety must undertake to assess an electrical corporation's compliance with its approved WMP. Energy Safety must:

- Develop a field audit program[3] and conduct other audits[4]
- Direct the independent evaluation of an electrical corporation's compliance with its approved WMP and consider the independent evaluator's findings[5]
- Issue an assessment of an electrical corporation's compliance with its approved WMP[6]

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[1] Public Utilities (Pub. Util.) Code section (§) 8389(d)(4).

[2] Prior to Energy Safety's transition from the CPUC, this guidance was known as the "Compliance Operational Protocols" and issued by the Wildfire Safety Division. Future iterations will be adopted as guidelines consistent with Energy Safety's authority within the California Energy Infrastructure Safety Act. See Gov Code, § 15475.6.

[3] Pub. Util. Code § 326(a)(3). Energy Safety uses the term "inspection" synonymously with "field audits."

[4] Pub. Util. Code § 8386.3(c)(5); Pub. Util. Code § 8389(e)(7).

[5] Pub. Util. Code § 8386.3(c)(2)(B).

[6] Pub. Util. Code § 8386.3(c)(4).

2. Energy Safety's Compliance Process

2.1 Key Objectives

Energy Safety has two key objectives for its WMP compliance process, as discussed below.

2.1.1 Assess and Enforce Compliance and Improve Future Wildfire Mitigation Plans (WMPs)

Energy Safety uses a dynamic approach for its WMP compliance assessments that considers completion of commitments in the WMP while also factoring in accomplishment of plan objectives and overall quality of work. 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.

2.1.2 Track Reduction of Risk

Energy Safety's primary focus is on assessing whether electrical corporations are successfully implementing their WMPs. However, an equally important secondary focus is tracking outcomes, through analysis of data and metrics, to determine the effectiveness of the electrical corporations' WMP implementation in reducing ignition risk and public safety power shutoff (PSPS) risk.

Statute makes clear that the broad objective of electrical corporation wildfire mitigation planning efforts is to ensure that electrical corporations are constructing, maintaining, and operating their infrastructure in a manner that will minimize the risk of catastrophic wildfire.[7] Statute also articulates Energy Safety's primary objective as ensuring electrical corporations are reducing wildfire risk and complying with required safety measures.[8] The broad statutory objective of a WMP, and Energy Safety's assessment of compliance, is to achieve wildfire risk reduction.

[7] Pub. Util. Code § 8386(a).

[8] Gov. Code § 15475.1(b).

2.2 Statutory Compliance Review Processes and Timing

Energy Safety follows a certain cadence for its compliance reviews as required by statute. There are five key compliance components as set forth below.

2.2.1 Compliance Components and Cadence

Statute provides specific tasks and timelines for the compliance assessment process. Various statutory timelines are associated with a timeframe referred to as the "compliance period." Energy Safety defines the compliance period as the calendar year (i.e., January 1 to December 31) in which a WMP is filed. There are five distinct compliance components outlined in statute:

1. **Inspections:** Energy Safety must conduct "field audits," which are visual inspections of electrical corporation infrastructure, to assess for WMP compliance.[9] Any findings from these inspections are documented in inspection reports and published on Energy Safety's website. Inspections occur throughout the compliance period.
2. **Electrical Corporation Annual Report on Compliance (ARC):** Each electrical corporation must file a report self-assessing its compliance with the approved WMP three months after the end of the compliance period.[10]
3. **Independent Evaluator ARC:** Each electric corporation must hire an independent evaluator based on a list of approved evaluators published by Energy Safety. The independent evaluator must review and assess the electrical corporation's compliance with its WMP and issue a report on July 1 of each year in which a compliance report from the electric corporation is filed.[11]
4. **Audits:** An electrical corporation must notify Energy Safety within one month after it completes a substantial portion of the vegetation management requirements in its WMP. Energy Safety must audit the work of the electrical corporation and publish an audit report.[12] Energy Safety may conduct additional audits as necessary to ensure compliance. Energy Safety may also conduct other audits as needed.

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[9] Pub. Util. Code § 326(a)(3).

[10] Pub. Util. Code § 8386.3(c)(1).

[11] Pub. Util. Code § 8386.3(c)(2).

[12] Pub. Util. Code § 8386.3(c)(5).

5. **Energy Safety ARC:** Within 18 months after the submission of the electrical corporation's ARC, Energy Safety must issue its final annual compliance review.[13] This report is an amalgamation of results from all WMP compliance assessments performed and contains Energy Safety's determination of whether the electrical corporation substantially complied with its approved WMP.

2.3 Key Components in the Energy Safety WMP Compliance Process

This section discusses the key components to the compliance process in more detail.

2.3.1 Inspections

Energy Safety conducts extensive field inspections on an ongoing basis to assess WMP compliance and general condition of infrastructure. These ongoing efforts provide information for Energy Safety's ARC and also provide an opportunity for assessments and communications with the electrical corporations regarding potential ignition and wildfire risks present on its infrastructure.

The Energy Safety Inspection Program is executed in a cyclical process that is first structured by quarter and then by month. This cadence is established to align with other Energy Safety processes and timelines to allow for the most efficient execution of the Inspection Program. To determine where to conduct inspections, Energy Safety relies on a statistical methodology to sample WMP-related work based upon quarterly electrical corporation reporting on the implementation of WMP projects and initiatives.

2.3.2 Electric Corporation's Annual Report on Compliance (EC ARC)

The Electrical Corporation's Annual Report on Compliance (EC ARC) details an electrical corporation's self-assessment of its compliance with the WMP during the compliance period. Energy Safety reviews the EC ARC to assess the nature and severity of noncompliance findings, actions taken to remediate the issue(s), measures taken to mitigate recurrence, and the nature and circumstances related to any outstanding or unresolved issues. This assessment results in a determination of whether the electrical corporation has acted in a manner to reduce the risk of catastrophic wildfire. In making this determination, Energy

[13] Pub. Util. Code § 8386.3(c)(4).

Safety considers the EC ARC with respect to its veracity, depth of assessment, and adherence to Energy Safety's instructions and guidance.[14]

2.3.3 Independent Evaluator's Annual Report on Compliance (IE ARC)

Annually, Energy Safety, in consultation with the Office of the State Fire Marshall, publishes a list of entities qualified to serve as independent evaluators of WMP compliance.[15] Each electrical corporation is then required to hire an independent evaluator from the list to perform an independent WMP compliance assessment.[16]

Once selected, the independent evaluator reviews and assesses the electrical corporation's compliance with its approved WMP. As a part of the independent evaluator's review, the independent evaluator must determine whether the electrical corporation failed to fund any activities included in its plan.[17] The engaged independent evaluators consult with, and operate under the direction of, Energy Safety, but their findings are not binding on Energy Safety.[18]

On July 1, the independent evaluators issue the findings from their assessments in the Independent Evaluator's Annual Report on Compliance (IE ARC). Energy Safety reviews the IE ARC to assess the nature and severity of noncompliance findings, actions taken to remediate the issue(s), measures taken to mitigate recurrence, and the nature and circumstances related to any outstanding or unresolved issues. This analysis results in a determination of whether the electrical corporation has acted in a manner to reduce the risk of catastrophic wildfire. In making this determination, Energy Safety reviews the reported issues, comments, and completes additional reviews as needed.

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[15] Pub. Util. Code § 8386.3(c)(2)(A).

[16] Pub. Util. Code § 8386.3(c)(2)(B)(i).

[17] *Id*.

[18] Pub. Util. Code § 8386.3(c)(2)(B)(ii).

2.3.4 Audits

Energy Safety has broad authority to obtain and review information and data and to inspect property, records, and equipment of every electrical corporation in furtherance of the exercise its duties, powers, and responsibilities.[19]

2.3.4.1 Vegetation Audits

Pursuant to Public Utilities Code section 8386.3(c)(5), Energy Safety must conduct an audit of an electrical corporation's vegetation management program. Energy Safety refers to this audit as the "Substantial Vegetation Management" (SVM) audit. Public Utilities Code section 8386.3(c)(5)(A) requires electrical corporations to notify Energy Safety after completing a substantial portion of vegetation management requirements in its approved WMP and requires Energy Safety to audit compliance with these requirements.

Upon receiving this notice, Energy Safety promptly audits the work. The results of the audit specify any failure of the electrical corporation to fully comply with the vegetation management requirements in the WMP. Subsequently, Energy Safety grants the electrical corporation a reasonable amount of time to correct and eliminate any deficiency specified in the audit.[20] Within one year of the expiration of the time period for an electrical corporation to correct and eliminate any deficiency identified in the audit, Energy Safety issues a report describing any failure of the electrical corporation to substantially comply with the substantial portion of the vegetation management requirements in the electrical corporation's WMP.[21] Energy Safety relies on the report to support determinations in its ARC.[22]

2.3.5 Energy Safety's Annual Report on Compliance (ARC)

Energy Safety presents the findings of its review of an electrical corporation's compliance with the WMP in its Annual Report on Compliance (ARC). In performing the review, Energy Safety considers the totality of all compliance assessments completed with respect to an electrical corporation's approved WMP. This includes all inspection, audit, investigation, and data analysis work performed by Energy Safety, as well as separate electrical corporation and independent third-party evaluations of compliance.

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[19] Government (Gov.) Code § 15475.

[20] Public Utilities Code section 8386.3(c)(5)(A)

[21] Public Utilities Code section 8386.3(c)(5)(C)

[22] Public Utilities Code section 8386.3(c)(5)(C)

Energy Safety's evaluation primarily considers the matter of whether the electrical corporation substantially complied with its WMP. In consideration of this matter, Energy Safety evaluates whether the electrical corporation implemented the wildfire mitigation initiatives in its approved WMP, looking specifically at whether the electrical corporation funded and performed the work stated for each initiative.[23] Energy Safety also considers the electrical corporation's stated goals and objectives of its plan, its performance of initiatives essential to reducing wildfire risk and achieving its objectives, and the ultimate performance of its infrastructure relative to its wildfire risk, as measured by changes in the occurrence of events that correlate to wildfire risk.

In performing the review, Energy Safety considers information (1) provided by the electrical corporation and related to compliance with its WMP, (2) provided by the independent evaluator's review of the electrical corporation's compliance with its WMP, (3) documented in Energy Safety's field inspections, (4) documented in Energy Safety's audits, (5) developed through Energy Safety's analysis of data provided by the electrical corporation, and (6) provided by the electrical corporation in response to information requests or during meetings with Energy Safety. For data analysis, Energy Safety includes, but is not limited to, the performance metrics adopted in accordance with Pub. Util. Code § 8389(d)(1). Following completion of its review, Energy Safety may recommend the CPUC pursue an enforcement action against the electrical corporation for noncompliance with its approved plan.[24]

2.4 Prioritization of Inspections and Audits

Because WMPs are sweeping documents that often cover large swaths of electrical corporation service territories and all aspects of electrical corporation 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 use the criteria below to prioritize field audits and inspections in areas with higher fire risk for WMP implementation:

- Areas identified with elevated fire risks based on data such as weather information, previous fire/ignition records, outcome metrics, the CPUC's high fire threat district (HFTD) map, and other data.
- Areas with the most severe violations or defects that require immediate attention.

[23] Energy Safety evaluates funding data to ensure electrical corporations are dedicating resources to their initiative commitments. Energy Safety does not consider failure to fully fund to be an indicator of lack of compliance with the WMP. Energy Safety does not evaluate whether the cost of implementing each electrical corporation's plan was just and reasonable.

[24] Pub. Util. Code § 8389(g).

- Areas in which electrical corporations fail to meet timelines prescribed by Energy Safety to correct violations or defects (see Section 3).
- Areas of focus for compliance verification in the current WMP implementation year that require independent observation in the following year(s).
- Areas where electrical corporation reported data shows increased wildfire, ignition, or PSPS risk.

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 2023 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.

2.5 Notices of Violation and Notices of Defect

When Energy Safety finds instances of non-compliance during an audit or assessment, it may issue a notice of violation (NOV) or a notice of defect (NOD). This section outlines the authority and the process for these notices.

2.5.1 Statutory Authority

Pursuant to Government Code section 15475.2 and California Code of Regulations, title 14, section 29302, when instances of non-compliance are identified during an audit or field inspection, Energy Safety may issue a NOV or a NOD upon conclusion of its compliance assessment detailing any violations or defects discovered. An NOV identifies instances in which an electrical corporation is non-compliant with its approved WMP or any law, regulation, or guideline within Energy Safety's authority. An NOD identifies deficiencies, errors, or conditions that increase the risk of ignition posed by electrical lines and equipment requiring correction.[25] Within the NOV or NOD, Energy Safety may direct the electrical corporation to correct any defect or noncompliance.[26]

[25] Cal. Code Regs., tit. 14, § 29302(b).

[26] Gov. Code § 15475.2

2.5.2 Correction timeline for NOVs and NODs

Consistent with Government Code section 15475.1(b), Energy Safety's primary objective is to ensure that utilities are reducing wildfire risk through expedient correction of violations and defects. Therefore, 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

Risk Category	Violation and defect correction timeline
Severe	• Immediate resolution
Moderate	• 2 months (in HFTD Tier 3) • 6 months (in HFTD Tier 2) • 6 months (if relevant to worker safety and not in HFTD Tiers 2 or 3)
Minor	• 12 months or resolution scheduled in WMP update

2.5.3 Electrical Corporation Response to NOVs and NODs

Consistent with Government Code section 15475.4(b), upon receipt of an NOV or NOD, Energy Safety provides the electrical corporation an opportunity to respond within 30 days. Energy Safety requires 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.[27] If an electrical corporation does not petition Energy Safety 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 the 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.

[27] Gov. Code § 15475.4(b); Cal. Code Regs., tit. 14, § 29104.

Pursuant to Public Utilities Code section 8389(g), Energy Safety may recommend the CPUC pursue an enforcement action against the electrical corporation for noncompliance with its approved plan.

3. Conclusion

Energy Safety's compliance process is intended to be dynamic and, over time, Energy Safety will modify the process as lessons are learned and circumstances evolve. Energy Safety's goal 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 electrical corporations' compliance with critical wildfire safety activities and measuring their 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—viewed in retrospect—reducing risk, Energy Safety aims to improve utility-related wildfire safety across California.

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