Attachment 1: Wildfire Mitigation Plan Compliance Process



Wildfire Safety Division

Wildfire Mitigation Plan Compliance Process

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Resolution WSD-012 – Attachment 1

1. BACKGROUND

Assembly Bill 1054 (Holden, Chapter 79, Statutes of 2019) establishes a set of requirements for the Wildfire Safety Division (WSD) to oversee compliance with utility Wildfire Mitigation Plans (WMPs) after they are approved. Further, AB 1054 requires the WSD to develop, and the California Public Utilities Commission (Commission) to adopt and approve a "wildfire mitigation plan compliance process" which includes "appropriate performance metrics and processes for determining an electrical corporation's compliance with its approved wildfire mitigation plan."

Pursuant to Public Utilities Code § 326, the WSD is also 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 states that the WSD shall develop a field audit program for wildfire mitigation compliance by each electrical corporation, and 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. Effective July 1, 2021, all functions of the WSD shall be transferred to the Office of Energy Infrastructure Safety (OEIS) established pursuant to § 15473 of the Government Code.

In addition to Public Utilities Code § 326 and the changes introduced by AB 1054, Public Utilities Code §§ 8386 – 8389 includes several other statutory requirements that will be relevant in this document:

- **§ 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:
    - 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.
    - 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.
    - Each electrical corporation shall engage an independent evaluator listed to review and assess the electrical corporation's compliance with its plan. The engaged independent evaluator shall consult with, and operate under the direction of, the Wildfire Safety Division of the Commission. The independent evaluator shall issue a report on July 1 of each year in which a report is required. 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.
    - 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.
    - 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.

The WSD has developed a strategy and process to perform its responsibilities. This document outlines the WSD's adaptive approach to identify procedures to determine electrical corporations' compliance with implementation of approved WMPs.

2. SUMMARY

Public Utilities Code § 8389 (d)(3) directs the Commission, after consultation with the WSD, by December 1, 2020, to "adopt and approve a wildfire mitigation plan compliance process". This document presents the WSD's proposal for a compliance process which is divided into two major components: Ongoing and Annual Compliance Assessments that the WSD will undertake; and Consequences of Compliance Assessments:

1. 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 WSD's field inspections, paper audits, Independent Evaluator reports, and other regular reporting submissions as requested by the WSD
2. Consequences of Compliance Assessments where WSD will work with the electrical corporations to minimize and/or resolve wildfire safety issues and noncompliance with WMP initiatives

The proposed process will include ongoing compliance monitoring throughout the electrical corporation's WMP compliance period, as well as an ex-post review of each electrical corporation's most recently concluded compliance period, on a schedule to be determined by the WSD.

The WSD's assessments of whether each electrical corporation is satisfactorily implementing its WMP will inform WSD determinations that may include recommending that the Commission pursue an enforcement action against the electrical corporation for noncompliance with its approved plan, pursuant to Public Utilities Code § 8389(g).

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

3. KEY PRINCIPLES FOR WMP COMPLIANCE

The WSD Compliance Branch 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, in addition to electrical corporation compliance with WMPs, the risk of wildfire is properly mitigated and reduced, and that customers are protected and well-informed for PSPS events. This compliance process focuses on the WSD's oversight of compliance with the approved WMPs and does not proport to amend those approved WMPs.

Goals for WMP Compliance

The WSD 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. The WSD aims to ensure WMP implementation through the authorities and requirements outlined in Public Utilities Code §§ 8386 – 8389.

Two objectives for the WSD include:

- assessing electrical corporations' implementation of initiatives[1] identified in their approved WMPs; and
- 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.

Another objective of the WSD 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

Based on available situational information and data collected during inspection, the WSD 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 the WSD may prioritize:

- Areas that electrical corporations fail to meet timelines prescribed by WSD to correct defects[2].
- Areas with most severe defects that require immediate attention.
- Areas identified with elevated fire risks based on data such as weather information, previous fire records, outcome metrics, and other data.
- Areas of focus for compliance verification in the current WMP implementation year which require independent observation in the following year(s).

[1] An initiative is a commitment pertaining to a wildfire risk mitigation activity in an electrical corporation's WMP used to measure performance and compliance.

[2] A defect is any condition noted that is inconsistent with the WMP initiatives or CPUC General Orders.

Based on available data, information submitted by electrical corporations and lessons learned from 2020, the WSD 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 the WSD to ensure a more targeted and risk-focused compliance approach. Some initiatives may be higher priority and are critical for electrical corporations to implement to improve outcomes in 2020 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 reducing wildfire risk in the highest wildfire risk areas. The WSD aims to continue evaluating wildfire risk assessments and utilizing these assessments for prioritization of compliance areas. This process is adaptive and will evolve as more information is collected in future years.

The WSD 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.

The WSD may assess prioritization methodology and adapt this approach.

4. PROPOSED COMPLIANCE PROCESS

The WSD Compliance Process focuses on assessing whether electrical corporations are successfully implementing their WMPs. Additionally, the WSD Compliance Branch tracks outcomes, such as reduction in utility wildfire ignitions, to determine the effectiveness of WMPs.

Compliance Assessments

Under the proposed compliance process the WSD will undertake the following assessments:

1. **Ongoing Compliance Assessment:**

The WSD will evaluate electrical corporations' implementation of WMPs through field inspections, audits, Independent Evaluator reports, customer complaints and other regular reporting submissions as requested by the WSD. The WSD will verify actions committed to by electrical corporations in their currently approved plans. Additionally, through linking outcomes to WMP activities, the WSD can focus compliance tracking on electrical corporations' improvement of outcomes and reduction of risk.

The WSD will define defects that it will utilize to identify instances of noncompliance. The WSD's ongoing compliance assessment process will include procedures to inspect WMP activities, identify defects, characterize severity of defects, track corrective actions and compile data submitted by electrical corporations. The WSD will submit reports to electrical corporations with its findings and will establish timelines for corrective action as listed below.

Furthermore, electrical corporations are legislatively tasked with notifying the WSD when they have completed a substantial portion of vegetation management requirements in their approved WMPs, for WSD's audit and inspection. Electrical corporations shall timely correct defects identified by WSD staff during inspections, in accordance with the timelines listed in the Consequences of Compliance Assessments section of this document.

The WSD has undertaken several measures to enhance electrical corporations' ability to achieve compliance with approved WMPs which should in turn enhance the effectiveness of initiative implementation:

- The WSD provides trainings to ensure that all WSD inspectors have sufficient and consistent understanding of General Orders and Public Utilities Codes relevant to electric safety for inspections and audits.
- The WSD's assessment of an electrical corporation's ongoing compliance is determined based on outcomes of its inspections and whether the electrical corporation has timely correction of identified defects.
- The results of WSD's ongoing compliance efforts may also be used to inform WSD's annual assessment of an electrical corporation's compliance during the prior completed compliance period.
- The WSD may coordinate with the Commission's Safety and Enforcement Division (SED) on SED's investigations to support correction of defects.
- The WSD encourages electrical corporations to incorporate continuous learning and self-reporting into their culture.

2. Annual Compliance Assessment:

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

- The WSD 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 WSD may establish staggered compliance periods for each electrical corporation. The specific determination of compliance period is at the WSD's discretion and will likely be aligned with existing reporting and/or planning cadences.
- Based on these compliance periods, each electrical corporation shall annually file a report addressing its compliance with WMPs over the prior compliance period within 90 days after the end of a compliance period.
- Independent evaluators shall submit reports on WMP compliance findings by July 1st of each year.
- The WSD will review these submissions and make a determination of whether each electrical corporation substantially complied with its WMP during the prior compliance period.

Consequences of Compliance Assessments:

Based on the WSD's ongoing or annual compliance assessments, the WSD may determine that an electrical corporation is not in substantial compliance with its WMP and may recommend that the Commission pursue an enforcement action against the electrical corporation for noncompliance with its approved plan, pursuant to Public Utilities Code § 8389(g). Several factors are assessed to determine whether the direct notification to an electrical corporation of a defect through a WSD inspection report is sufficient, or if additional SED enforcement action is needed. If necessary, the WSD may recommend that SED undertake an investigation into whether the electrical corporation is noncompliant with its WMP or has otherwise committed violations of GO 95. An electrical corporation's resolution of a defect through this compliance process does not preclude SED or the Commission from an enforcement action. The WSD's primary objective is to ensure that utilities are reducing wildfire risk through correction of defects.

1. Non-Compliance Resulting From Failure to Timely Correct Defects

The WSD proposes to coordinate its efforts with the SED to achieve timely correction of defects identified

in inspection reports during the WSD's compliance assessments.[3] The WSD and SED may coordinate on recommending consequences for noncompliance identified during WSD's inspections. The WSD may issue a Notice of Noncompliance[4] to direct the utility to correct the defect under the timeline proposed below. Upon an electrical corporation's failure to timely correct an alleged defect, the WSD may inform SED and SED may investigate the allegation of noncompliance.

Following the WSD's recommendation to the Commission, and pursuant to the Commission's regulatory and enforcement authority, the Commission or its staff may issue a citation or pursue an enforcement action for noncompliance with its WMP taking into account WSD's notice that an electrical corporation failed to correct the identified defects on the prescribed timelines shown below.

Depending on the level of defect severity, the WSD proposes to require electrical corporations to correct defects within a prescribed deadline. The WSD proposes the following timelines will be required for correction of defects:

Category	**Correction**
Category 1 – Severe	Immediate resolution
Category 2 – Moderate	1-2 months (in HFTD Tier 3) 3-6 months (in HFTD Tier 2) 6 months (if relevant to worker safety) 12 months or scheduled in WMP update (other)
Category 3 – Minor	12 months or resolution schedule included in WMP update

In proposing expedited timelines for the resolution of WMP defects, the WSD will be taking into consideration the variables already developed in General Order (GO) 95 Rule 18[5], including threat levels (Tier 2 and Tier 3). WSD acknowledges that it may not generally modify timelines required under General Order 95 for purposes of violations of GO 95,[6] however, WSD may adopt expedited timelines for their correction as to WMP defects. Such expedited times are critical to protect the public and ensure defects that could create fire risk, loss of life, and/or property are quickly cured, and recognizing the need to act swiftly to correct such defects prior to the start of the fire season. The categories for WMP defects above align with the Priority Level definitions and scope listed in GO 95 Rule 18 but have been called "Categories" to avoid confusion with the timelines for resolving GO 95 violations. The WSD proposes to change only the timelines for correction of WMP defects while the definitions and types of defects in each Category align with the Levels in GO 95, Rule 18. The WSD aims to remain consistent with the

[3] WSD, after consultation with SED, may recommend amendments to the Commission's adopted WMP compliance process.

[4] A Notice of Noncompliance is a directive issued by the WSD to an electrical corporation to resolve an outstanding defect, WMP compliance issue, or a failure to address WSD requests for information.

[5] https://www.cpuc.ca.gov/gos/GO95/go_95_rule_18.htm

[6] Pursuant to General Order 95, Rule 18(B)(2), "Commission staff may direct a company to correct violation(s) of GO 95 at specific location(s) sooner than the maximum time periods contained in this rule."

Level definitions and the process for determining severity level determined by the Commission in GO 95, Rule 18 and does not purport to modify GO 95.

2. Failure to Substantially Comply with WMP

If the WSD determines that an electrical corporation fails to substantially comply with an approved WMP, the WSD may recommend to the Commission an enforcement action against an electrical corporation consistent with Public Utilities Code § 8389(g).

5. ONGOING USE OF COMPLIANCE ASSESSMENTS TO INFORM WMPS:

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

Accordingly, this is a goal-oriented framework that will help the WSD ensure utility-related wildfire risk is effectively mitigated and reduced in accordance with Public Utilities Code §§8386 – 8389.

6. CONCLUSION

The WSD has developed a strategy and processes to perform its compliance responsibilities. This document outlines the WSD'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.

The WSD's compliance process is intended to be dynamic and able to be modified over time, as lessons are learned in the field and circumstances evolve. The goal of the WSD is to reduce wildfire risk and further minimize PSPS events by using available information and data collected during inspections to assess effectiveness and timely implementation of WMP initiatives.

By monitoring compliance with critical wildfire safety activities and measuring the reduction of wildfire risk, the WSD 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 defects and an annual review process of overall compliance viewed in retrospect, the WSD aims to improve utility-related wildfire safety across California.