

[Cal Pub Util Code § 8386](#)

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Deering's California Codes Annotated > PUBLIC UTILITIES CODE > Division 4.1 Provisions Applicable to Privately Owned and Publicly Owned Public Utilities > Chapter 6 Wildfire Mitigation

§ 8386. Electrical corporation to minimize wildfire risk; Wildfire mitigation plan

(a)Each electrical corporation shall construct, maintain, and operate its electrical lines and equipment in a manner that will minimize the risk of catastrophic wildfire posed by those electrical lines and equipment.

(b)Each electrical corporation shall annually prepare and submit a wildfire mitigation plan to the commission for review and approval, according to a schedule established by the commission, which may allow for the staggering of compliance periods for each electrical corporation. The Department of Forestry and Fire Protection shall consult with the commission on the review of each wildfire mitigation plan. Prior to approval, the commission may require modifications of the plans. Following approval, the commission shall oversee compliance with the plans pursuant to subdivision (h).

(c)The wildfire mitigation plan shall include:

(1)An accounting of the responsibilities of persons responsible for executing the plan.

(2)The objectives of the plan.

(3)A description of the preventive strategies and programs to be adopted by the electrical corporation to minimize the risk of its electrical lines and equipment causing catastrophic wildfires, including consideration of dynamic climate change risks.

(4)A description of the metrics the electrical corporation plans to use to evaluate the plan's performance and the assumptions that underlie the use of those metrics.

(5)A discussion of how the application of previously identified metrics to previous plan performances has informed the plan.

(6)Protocols for disabling reclosers and deenergizing portions of the electrical distribution system that consider the associated impacts on public safety, as well as protocols related to mitigating the public safety impacts of those protocols, including impacts on critical first responders and on health and communication infrastructure.

(7)Appropriate and feasible procedures for notifying a customer who may be impacted by the deenergizing of electrical lines. The procedures shall consider the need to notify, as a priority, critical first responders, health care facilities, and operators of telecommunications infrastructure.

(8)Plans for vegetation management.

(9)Plans for inspections of the electrical corporation's electrical infrastructure.

(10)A list that identifies, describes, and prioritizes all wildfire risks, and drivers for those risks, throughout the electrical corporation's service territory, including all relevant wildfire risk and risk mitigation information that is part of Safety Model Assessment Proceeding and Risk Assessment Mitigation Phase filings. The list shall include, but not be limited to, both of the following:

Cal Pub Util Code § 8386

- (A)**Risks and risk drivers associated with design, construction, operations, and maintenance of the electrical corporation's equipment and facilities.
- (B)**Particular risks and risk drivers associated with topographic and climatological risk factors throughout the different parts of the electrical corporation's service territory.
- (11)**A description of how the plan accounts for the wildfire risk identified in the electrical corporation's Risk Assessment Mitigation Phase filing.
- (12)**A description of the actions the electrical corporation will take to ensure its system will achieve the highest level of safety, reliability, and resiliency, and to ensure that its system is prepared for a major event, including hardening and modernizing its infrastructure with improved engineering, system design, standards, equipment, and facilities, such as undergrounding, insulation of distribution wires, and pole replacement.
- (13)**A showing that the utility has an adequate sized and trained workforce to promptly restore service after a major event, taking into account employees of other utilities pursuant to mutual aid agreements and employees of entities that have entered into contracts with the utility.
- (14)**Identification of any geographic area in the electrical corporation's service territory that is a higher wildfire threat than is currently identified in a commission fire threat map, and where the commission should consider expanding the high fire threat district based on new information or changes in the environment.
- (15)**A methodology for identifying and presenting enterprise-wide safety risk and wildfire-related risk that is consistent with the methodology used by other electrical corporations unless the commission determines otherwise.
- (16)**A description of how the plan is consistent with the electrical corporation's disaster and emergency preparedness plan prepared pursuant to Section 768.6, including both of the following:
- (A)**Plans to prepare for, and to restore service after, a wildfire, including workforce mobilization and repositioning equipment and employees.
 - (B)**Plans for community outreach and public awareness before, during, and after a wildfire, including language notification in English, Spanish, and the top three primary languages used in the state other than English or Spanish, as determined by the commission based on the United States Census data.
- (17)**A statement of how the electrical corporation will restore service after a wildfire.
- (18)**Protocols for compliance with requirements adopted by the commission regarding activities to support customers during and after a wildfire, outage reporting, support for low-income customers, billing adjustments, deposit waivers, extended payment plans, suspension of disconnection and nonpayment fees, repair processing and timing, access to utility representatives, and emergency communications.
- (19)**A description of the processes and procedures the electrical corporation will use to do all of the following:
- (A)**Monitor and audit the implementation of the plan.
 - (B)**Identify any deficiencies in the plan or the plan's implementation and correct those deficiencies.
 - (C)**Monitor and audit the effectiveness of electrical line and equipment inspections, including inspections performed by contractors, carried out under the plan and other applicable statutes and commission rules.
- (20)**Any other information that the commission may require.

Cal Pub Util Code § 8386

- (d)**The commission shall accept comments on each plan from the public, other local and state agencies, and interested parties, and verify that the plan complies with all applicable rules, regulations, and standards, as appropriate.
- (e)**The commission shall approve each plan within three months of its submission, unless the commission makes a written determination, including reasons supporting the determination, that the three-month deadline cannot be met and issues an order extending the deadline. Each electrical corporation's approved plan shall remain in effect until the commission approves the electrical corporation's subsequent plan. At the time it approves each plan, the commission shall authorize the utility to establish a memorandum account to track costs incurred to implement the plan.
- (f)**The commission's approval of a plan does not establish a defense to any enforcement action for a violation of a commission decision, order, or rule.
- (g)**The commission shall consider whether the cost of implementing each electrical corporation's plan is just and reasonable in its general rate case application. Nothing in this section shall be interpreted as a restriction or limitation on Article 1 (commencing with Section 451) of Chapter 3 of Part 1 of Division 1.
- (h)**The commission shall conduct an annual review of each electrical corporation's compliance with its plan as follows:
- (1)**Three months after the end of an electrical corporation's initial compliance period as established by the commission pursuant to subdivision (b), and annually thereafter, each electrical corporation shall file with the commission 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 commission, 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 with, and operate under the direction of, the Safety and Enforcement Division of the commission. 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 commission shall consider the independent evaluator's findings, but the independent evaluator's findings are not binding on the commission, except as otherwise specified.
 - (iii)**The independent evaluator's findings shall be used by the commission to carry out its obligations under Article 1 (commencing with Section 451) of Chapter 3 of Part 1 of Division 1.
 - (iv)**The independent evaluator's findings shall not apply to events that occurred before the initial plan is approved for the electrical corporation.
 - (3)**The commission shall authorize the electrical corporation to recover in rates the costs of the independent evaluator.
 - (4)**The commission shall complete its compliance review within 18 months after the submission of the electrical corporation's compliance report.
- (i)**An electrical corporation shall not divert revenues authorized to implement the plan to any activities or investments outside of the plan.
- (j)**Each electrical corporation shall establish a memorandum account to track costs incurred for fire risk mitigation that are not otherwise covered in the electrical corporation's revenue requirements. The commission

shall review the costs in the memorandum accounts and disallow recovery of those costs the commission deems unreasonable.

History

Added [Stats 2016 ch 598 § 1 \(SB 1028\)](#), effective January 1, 2017. Amended [Stats 2018 ch 626 § 38 \(SB 901\)](#), effective January 1, 2019.

Annotations

Notes

Amendments:

Note—

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2018 Amendment (ch 626):

Rewrote former introductory language of (b) which read: "Each electrical corporation shall annually prepare and submit a wildfire mitigation plan for the next compliance period to the commission for review. The wildfire mitigation plan shall include:."; added designation (c); added the introductory language of (c); added ", including consideration of dynamic climate change risks" in (c)(3); added (c)(6)-(c)(18); redesignated former (b)(6) and (b)(7) as (c)(19) and (c)(20); added "all of" in (c)(19); rewrote former (d)-(f) which read: "(d) The commission shall provide the electrical corporation with an opportunity to amend a wildfire mitigation plan in response to commission comments within 30 days. (e) The commission shall conduct or contract for audits to determine if an electrical corporation is satisfactorily complying with its wildfire mitigation plan. (f) The commission may contract with an independent third party to evaluate wildfire mitigation plans or to conduct audits and inspections authorized by this section, and may require electrical corporations to reimburse any related expenses."; and added (g)-(j).

Note—

Stats 2018 ch 626 provides:

SECTION 1. In regards to the provisions of this measure related to forest management, the Legislature finds and declares all of the following:

(a) It is the policy of the state to encourage prudent and responsible forest resource management by increasing the pace and scale of fuel reduction, thinning, and the use of prescribed fire as directed by Governor Brown's Executive Order B-52-18. California's small timberland owners find it difficult to practice sustainable forest management on their private family ownerships. Noncorporate forest landowners control approximately 3.2 million acres of the state's nearly 8 million acres of private timberlands. Of these, there are approximately 87,000 parcels of timberland that are 100 acres or less.

(b) It is the finding of the Legislature that small timberland owners who conduct forest management activities under the Small Timberland Owner Exemption, pursuant to regulations adopted by the Board of Forestry and Fire Protection, will contribute to the conservation of public trust resources through fuel hazard reduction, maintenance of wildlife habitat, protection of water resources, protection of archaeological resources, and maintenance of long-

term carbon sequestration, and benefit social and economic objectives. Forest management under this exemption should employ uneven-aged management that should promote forest health and resilience.

(c) Research by the Sierra Nevada Conservancy shows that high-severity fires can increase stormwater runoff and erosion, expose the snowpack to direct sunlight, and shift melt times to earlier in the spring when water cannot be captured and stored. The conservancy found that overgrown forests result in up to 60 percent of snowfall never reaching the ground, thereby increasing the risk that the water will be lost back into the atmosphere rather than added to the snowpack. Since the snowpack is the state's largest water storage system and is expected to decline as a result of rising temperatures, it is even more important to improve forest health to maximize snowpack retention, water storage, and improve water quality.

(d) Research indicates that wildfires have grown larger and increased in intensity over the last several decades. Forest fires have increased from an average of about 60,000 acres annually between the 1950s and 1990s to 175,000 acres annually in the 2000s and over 250,000 acres annually this decade. The percentage of acres burning at high severity has increased from roughly 20 percent to almost 30 percent, with 40 percent of the 2013 Rim Fire and 50 percent of the 2014 King Fire burning at high intensity. High-intensity burn patches were historically less than 10 acres in size, sizes that facilitated habitat diversity and that could be quickly reseeded from the surrounding forests. In stark contrast, the King Fire had a single high-intensity burn patch of over 30,000 acres and the Rim Fire had a burn patch of over 50,000 acres (over 78 square miles). In contrast to historic low-intensity wildfires that play an important role in the forest ecosystem, high-intensity wildfires are far more ecologically devastating and lead to the growth of fewer fire-resistant species, which further increases fire risk.

(e) Wildfires result in significant greenhouse gas emissions. The State Air Resources Board acknowledges that wildfires are the largest source of black carbon, a short-lived climate pollutant, and wildfire emissions are orders of magnitude higher than black carbon emissions from anthropogenic sources. Furthermore, the combustion of forest material during a fire may only contribute a relatively small portion of the total emissions, since a high-intensity fire that kills vegetation may actually contribute four to five times as many emissions during post-fire decomposition.

(f) CAL-FIRE's recent California Forest Carbon Plan notes that carbon emissions from wildfires are anticipated to increase if there is no change in current forest management practices. The 2013 Rim Fire, which burned 257,000 acres, generated roughly 15 million metric tons of greenhouse gas emissions, as much pollution as 2.3 million vehicles generate in a given year. Proposed amendments to the Low-Carbon Fuel Standard to reduce carbon intensity of transportation fuels 18 percent by 2030 are anticipated to reduce greenhouse gas emissions by about 25 million tons annually, which is approximately the amount of emissions generated by wildfires in a given year. Unless the state significantly improves forest management and reduces the risk and intensity of wildfires, wildfire emissions will continue to erode the greenhouse gas emission reductions achieved from regulatory programs.

(g) This act is intended to improve forest health and reduce the risk and intensity of wildfires, thereby protecting the state from loss of life and property damage, reducing greenhouse gas emissions, enhancing ecosystem function, improving wildlife habitats, increasing water supply, improving water quality, reducing the amount of money the state must spend on wildfire response and rebuilding, and increasing carbon sequestration in our forests.

Research References & Practice Aids

Hierarchy Notes:

[Cal Pub Util Code Div. 4.1](#)

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