



PUBLIC UTILITIES CODE - PUC

DIVISION 4.1. PROVISIONS APPLICABLE TO PRIVATELY OWNED AND PUBLICLY OWNED PUBLIC UTILITIES [8301 - 8390] (*Heading of Division 4.1 amended by Stats. 1988, Ch. 1560, Sec. 2.)*

CHAPTER 6. Wildfire Mitigation [8385 - 8389] (*Chapter 6 added by Stats. 2016, Ch. 598, Sec. 1.)*

(a) For purposes of this section, the following definitions apply:

8389. (1) “Board” means the California Wildfire Safety Advisory Board established pursuant to Section 326.1.

(2) “Division” means the Wildfire Safety Division established pursuant to Section 326.

(3) “Office” means the Office of Energy Infrastructure Safety, within the Natural Resources Agency.

(b) By June 30, 2020, and annually thereafter, the board shall make recommendations to the division on all of the following:

(1) Appropriate performance metrics and processes for determining an electrical corporation’s compliance with its approved wildfire mitigation plan.

(2) Appropriate requirements in addition to the requirements set forth in Section 8386 for the wildfire mitigation plan.

(3) The appropriate scope and process for assessing the safety culture of an electrical corporation.

(c) By October 31, 2020, and annually thereafter, the division shall issue an analysis and recommendation to the commission on the recommendations provided by the board pursuant to subdivision (b).

(d) By December 1, 2020, and annually thereafter, the commission, after consultation with the division, shall adopt and approve all of the following:

(1) Performance metrics for electrical corporations.

(2) Additional requirements for wildfire mitigation plans.

(3) A wildfire mitigation plan compliance process.

(4) A process for the division to conduct annual safety culture assessments for each electrical corporation.

(e) The Director of the Office of Energy Infrastructure Safety shall issue a safety certification to an electrical corporation if the electrical corporation provides documentation of the following:

(1) The electrical corporation has an approved wildfire mitigation plan.

(2) The electrical corporation is in good standing, which can be satisfied by the electrical corporation having agreed to implement the findings of its most recent safety culture assessment performed pursuant to Section 8386.2 and paragraph (4) of subdivision (d), if applicable.

(3) The electrical corporation has established a safety committee of its board of directors composed of members with relevant safety experience.

(4) The electrical corporation has established an executive incentive compensation structure approved by the division and structured to promote safety as a priority and to ensure public safety and utility financial stability with performance metrics, including incentive compensation based on meeting performance metrics that are measurable and enforceable, for all executive officers, as defined in Section 451.5. This may include tying 100 percent of incentive compensation to safety performance and denying all incentive compensation in the event the electrical corporation causes a catastrophic wildfire that results in one or more fatalities.

(5) The electrical corporation has established board-of-director-level reporting to the commission and office on safety issues.

(6) (A) The electrical corporation has established a compensation structure for any new or amended contracts for executive officers, as defined in Section 451.5, that is based on the following principles:

(i) (I) Strict limits on guaranteed cash compensation, with the primary portion of the executive officers' compensation based on achievement of objective performance metrics.

(II) No guaranteed monetary incentives in the compensation structure.

(ii) It satisfies the compensation principles identified in paragraph (4).

(iii) A long-term structure that provides a significant portion of compensation, which may take the form of grants of the electrical corporation's stock, based on the electrical corporation's long-term performance and value. This compensation shall be held or deferred for a period of at least three years.

(iv) Minimization or elimination of indirect or ancillary compensation that is not aligned with shareholder and taxpayer interest in the electrical corporation.

(B) The division shall approve the compensation structure of an electrical corporation if it determines the structure meets the principles set forth in subparagraph (A) and paragraph (4).

(C) It is the intent of the Legislature, in enacting this paragraph and paragraph (4), that any approved bankruptcy reorganization plan of an electrical corporation should, in regards to compensation for executive officers of the electrical corporation, comply with the requirements of those paragraphs.

(7) The electrical corporation is implementing its approved wildfire mitigation plan. The electrical corporation shall file a notification of implementation of its wildfire mitigation plan with the office and an information-only submittal with the commission on a quarterly basis that details the implementation of both its approved wildfire mitigation plan and recommendations of the most recent safety culture assessments by the commission and office, and a statement of the recommendations of the board of directors safety committee meetings that occurred during the quarter. The notification and information-only submittal shall also summarize the implementation of the safety committee recommendations from the electrical corporation's previous notification and submission. If the office has reason to doubt the veracity of the statements contained in the notification or information-only submittal, it shall perform an audit of the issue of concern. The electrical corporation shall provide a copy of the information-only submittal to the office.

(f) (1) The office shall issue an initial safety certification within 30 days of receipt of a request for that certification by an electrical corporation if the electrical corporation provides documentation that it is meeting the requirements set forth in paragraphs (1), (2), (3), and (5) of subdivision (e). A safety certification shall be valid for the 12 consecutive months following the issuance of the certification.

(2) Before the expiration of a certification, an electrical corporation shall submit to the division a request for certification for the following 12 months. The division shall issue a safety certification within 90 days of a request if the electrical corporation has provided documentation that it has satisfied the requirements in subdivision (e).

(3) All documents submitted pursuant to this section shall be publicly available on the commission's internet website. Beginning July 1, 2021, all documents submitted pursuant to this section shall be publicly available on the office's internet website. The commission is no longer responsible for posting this information as of July 1, 2021; however, nothing in this section prevents the commission from posting this information.

(4) Notwithstanding paragraph (1), a safety certification shall remain valid until the division acts on the electrical corporation's pending request for safety certification.

(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.

(Amended by Stats. 2021, Ch. 115, Sec. 82. (AB 148) Effective July 22, 2021.)