

OFFICE OF ENERGY INFRASTRUCTURE SAFETY'S ~~DRAFT~~ SAFETY CERTIFICATION GUIDELINES

JULY/AUGUST 2022

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INTRODUCTION

All electrical corporations seeking a Safety Certification must satisfy requirements pursuant to Public Utilities Code section 8389(e). A safety certification shall be valid for the 12 consecutive months following the issuance of the certification.¹ To avoid a lapse, an electrical corporation shall submit to the division a request for certification for the following 12 months 90 days prior to the expiration of a certification.²

Energy Safety provides the following guidance for the submission of upcoming Safety Certification requests based on the criteria set out in Public Utilities Code section 8389(e).



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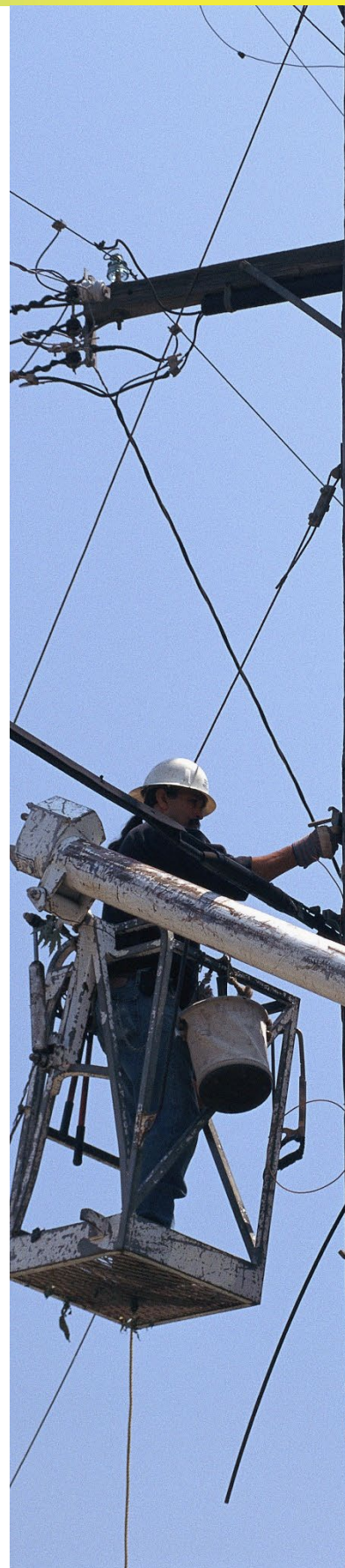
¹ Pub. Util. Code, § 8389(f)(1).

² Pub. Util. Code, § 8389(f)(2).

Public Utility Code Provisions

Pursuant to Public Utilities Code section 8389(e), the Director of Energy 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) [of Public Utilities Code section 8389], 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 Energy Safety 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 Public Utilities Code 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 California Public Utilities Commission (the Commission) and Energy Safety 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. Energy Safety 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 Energy Safety 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 Energy Safety, 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 Energy Safety.

Public Utilities Code Section 8389(e)(1): Approval of Wildfire Mitigation Plans

To receive a Safety Certification, Public Utilities Code section 8389(e)(1) requires that the electrical corporation provide documentation that "the electrical corporation has an approved wildfire mitigation plan." Pursuant to Public Utilities Code section 8386.3, Energy Safety must evaluate wildfire mitigation plans (WMPs) within three months of submission unless this period is extended with appropriate justification. In 2022, Energy Safety required San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (SCE), and Pacific Gas and Electric Company (PG&E) to submit their WMPs on February 11, February 18, and February 25, 2022, respectively, and the small and multi-jurisdictional electrical corporations (SMJU) and the independent transmission operators (ITOs) to submit their WMPs on May 6, 2022.³

³ Per Public Utilities Code section 8386.3 (a), each electrical corporation's approved WMP remains in effect until Energy Safety approves the electrical corporation's subsequent plan.

In its 2022 Safety Certification submission, an electrical corporation must document the date of its approved WMP. An electrical corporation is ineligible for a Safety Certification if it received a denial of its most recently submitted WMP or WMP Update.

Public Utilities Code Section 8389(e)(2): Good Standing

To receive a Safety Certification, Public Utilities Code section 8389(e)(2) requires that the electrical corporation provide documentation that “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, if applicable.”

The annual safety culture assessment conducted by Energy Safety is based on a framework adopted by the California Public Utilities Commission (CPUC) on November 19, 2020, in Resolution WSD-011, and an update to this framework adopted by the CPUC in Resolution M-4860 on December 2, 2021. An electrical corporation can satisfy the “good standing” requirement by agreeing to implement all the findings (including recommendations for improvement) of its most recent safety culture assessment performed pursuant to Public Utilities Code sections 8389(d)(4) and 8386.2, if applicable.^{4,5}

In its 2022 Safety Certification submission, an electrical corporation must document its agreement to implement the findings of its most recent safety culture assessment.

Public Utilities Code Sections 8389(e)(3) and 8389(e)(5): Board Structure and Safety Reporting

To receive a Safety Certification, Public Utilities Code sections 8389(e)(3) and 8389(e)(5) require that an electrical corporation provide documentation that it meets two requirements related to its board of directors, each discussed below.

Public Utilities Code section 8389(e)(3) requires that the electrical corporation’s board of directors must have a safety committee comprised of members with appropriate and relevant experience. To ensure that this requirement is satisfied, electrical corporations must include the following in 2022 Safety Certification requests:

⁴ The process by which electrical corporations agree to implement these findings will be specified in the Safety Culture Assessment process.

⁵ Absent agreement to implement the findings of the most recent safety culture assessment, Energy Safety will release additional guidelines on how an electrical corporation may satisfy “good standing.”

1. Resumes for each safety committee members that clearly indicate the member's relevant experience;
2. A description of how the safety committee functions within the company's governance structure and its role with respect to company decision-making and accountability;
3. A report on significant topics covered by the safety committee since issuance of the last Safety Certification;⁶ and
4. A description of any actions recommended by the safety committee that were implemented by the electrical corporation since issuance of the last Safety Certification.⁷

Public Utilities Code section 8389(e)(5) requires that electrical corporations have established board-level reporting to the CPUC and Energy Safety on safety issues. Energy Safety will work with the CPUC to coordinate at least one public meeting prior to submission of 2022 Safety Certification requests to ensure this requirement is met in a transparent manner. For each electrical corporation, a board member, along with the chief safety/risk officer (or equivalent), should brief the CPUC and Energy Safety on safety performance. Details regarding the public meeting, including an agenda of topics to be covered, will be noticed in accordance with open meeting laws. Electrical corporations must provide any materials used or referenced in the public meeting in their Safety Certification requests to demonstrate that the electrical corporation has met this requirement.

Public Utilities Code Sections 8389(e)(4) and 8389(e)(6): Executive Compensation

To receive a Safety Certification, Public Utilities Code sections 8389(e)(4) and 8389(e)(6) require that an electrical corporation has established an executive compensation structure approved by Energy Safety that satisfied the requirements of the code.

Energy Safety issued executive compensation guidelines⁸ on February 14, 2022 and instructed the electrical corporations to submit their 2022 Executive Compensation structures on March 14, 2022. In their Safety Certification requests, electrical corporations must cite to Energy Safety's disposition of executive compensation plans.

Public Utilities Code Section 8389(e)(7): Implementation of Wildfire Mitigation Plan ...

To receive a Safety Certification, Public Utilities Code section 8389(e)(7) requires that the electrical corporation provide documentation that "the electrical corporation is implementing its approved wildfire mitigation plan..." The statute requires an electrical corporation to file a notification of implementation to Energy Safety on a quarterly basis

⁶ Or, in the case of a request for an initial Safety Certification, over the previous 12 months.

⁷ See Footnote 4, above.

⁸ https://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/About_Us/Organization/Divisions/WSD/WSD%20Executive%20Compensation%20Guidance%2020201222.pdf.

detailing progress on its wildfire mitigation plan, the recommendations of its most recent CPUC and Energy Safety safety culture assessments, and a statement of the recommendations of the board of directors' safety committee meeting.

To meet the requirements of section 8389(e)(7), the electrical corporation must demonstrate meaningful progress in implementing its WMP and the recommendations of its CPUC and Energy Safety safety culture assessments. Safety Certification requests should highlight the progress made toward completing WMP targets and explain any delayed or off-track efforts. Requests should also demonstrate progress in implementing the findings of its most recent safety culture assessment.

SAFETY CERTIFICATION TIMELINE AND SUBMISSION INSTRUCTIONS

In 2022, all electrical corporations seeking a Safety Certification must submit Safety Certification requests according to the schedule set forth below. Should a required element of the request for Safety Certification be pending approval with Energy Safety (i.e. Safety Culture Assessment Report, WMP final Decision) at the time the request for Safety Certification is due, the electrical corporation may submit the request without the missing element. The electrical corporation must submit the missing elements as soon as they are available. Energy Safety will take the electrical corporation's request for a Safety Certification and any supplemental material into account in the disposition process.

A safety certification shall be valid for the 12 consecutive months following the issuance of the certification.⁹ To avoid a lapse, an electrical corporation shall submit to the division a request for certification for the following 12 months 90 days prior to the expiration of a certification.¹⁰

Table 1: 2022 Timeline for Safety Certification Requests and Decision Dates¹¹

Electrical Corporation	Approval Date of Current Safety Certification	2022 Submission Deadline for Safety Certification Requests	Safety Certification Dispositions
SDG&E	December 6, 2021	September 14, 2022	December 13, 2022

⁹ Pub. Util. Code Section 8389(f)(1).

¹⁰ Pub. Util. Code Section 8389(f)(2).

¹¹ In the event of unforeseen schedule changes, Energy Safety will issue an updated schedule and post it to the 2022 Safety Certifications docket 2022-SCs.

SCE	December 10, 2021	September 14, 2022	December 13, 2022
PG&E	January 31, 2022	September 14, 2022	December 13, 2022
Bear Valley Electric Service	September 14, 2021	September 14, 2022	December 13, 2022

Requests for Safety Certification must be e-filed in the “2022 Safety Certifications” docket (2022-SCs).¹² Safety Certification requests should be titled “<name of electrical corporation_Safety Certification Request 2022_the date the Safety Certification request is submitted> , for example, PGE_ Safety Certification Request 2022_07122022.

If the electrical corporation is submitting supplemental material following its 2022 Safety Certification request, such material must be e-filed in the “2022 Safety Certifications” docket (2022-SCs) and should be titled “<name of electrical corporation_Safety Certification Request 2022_Addendum number_the date the supplemental material is submitted>, for example, PGE_ Safety Certification Request 2022_Addendum1_08122022.

COMMENTS AND REVIEW PROCESS

Stakeholders and members of the public may submit **opening** comments and reply comments on Safety Certification requests. **Opening c**omments are due 20 days from the electrical corporations’ submission. Reply comments are due 10 days thereafter and shall be limited to issues raised and representations made in opening comments. Comments and reply comments must be e-filed in the “2022 Safety Certifications” docket (2022-SCs).¹³¹⁴ **As stated above, if a required element of the request for Safety Certification is pending approval with Energy Safety (i.e., Safety Culture Assessment Report, WMP final Decision) at the time the request for Safety Certification is due, the electrical corporation will be permitted to amend its submission to include that element upon approval. If the evaluation process for the missing element has its own public comment process, no additional time will be given for public comment on the amended Safety Certification submission.**

¹² The 2022 Safety Certification docket can be found at:

<https://efiling.energysafety.ca.gov/EFiling/DocketInformation.aspx?docketnumber=2022-SCs>.

¹³ The 2022 Safety Certification docket can be found at:

<https://efiling.energysafety.ca.gov/EFiling/DocketInformation.aspx?docketnumber=2022-SCs>.

¹⁴ **In the event a required element of the request for Safety Certification is pending approval with Energy Safety (i.e., Safety Culture Assessment Report, WMP final Decision) at the time the request for Safety Certification is due and the electrical corporation is permitted to amend its submission to include that element, no additional time will be given for public comment if the missing element is subject to an independent public comment process.**

The Energy Safety Director will review each electrical corporation's Safety Certification request for compliance with Public Utilities Code section 8389(e) and the requirements and principles set forth herein. Energy Safety may require that electrical corporations provide missing information and/or respond to requests for additional information in advance of its decision.

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