

LEGISLATURE OF THE STATE OF IDAHO
Sixty-eighth Legislature First Regular Session - 2025

IN THE SENATE

SENATE BILL NO. 1183

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO WILDFIRE MITIGATION STANDARD OF CARE; AMENDING TITLE 61, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 18, TITLE 61, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING WILDFIRE MITIGATION STANDARD OF CARE; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Title 61, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 18, Title 61, Idaho Code, and to read as follows:

CHAPTER 18

WILDFIRE STANDARD OF CARE ACT

61-1801. SHORT TITLE. This chapter shall be known and may be cited as the "Wildfire Standard of Care Act."

61-1802. LEGISLATIVE INTENT. In enacting this chapter, it is the intent of the legislature to provide for the safe, efficient, and reliable generation, transmission, and distribution of electric power at affordable rates and in such ways that protect the public interest, health, safety, and welfare. The legislature recognizes that the public utilities commission oversees electric corporation compliance with applicable Idaho statutes and regulations, and, when applicable, the state-adopted provisions of the national electric safety code. It further recognizes that preparation for and response to wildfire risk is an increasingly important element of planning conducted by electric utilities. Proper preparation is crucial to position electric utilities to avoid and respond to wildfire risk. Knowing what measures should be taken to minimize wildfire risk before a fire occurs and to respond to it when it does occur is central to the affordable, safe, and reliable transmission and distribution of electricity. It is essential to ensure these risks are addressed as needed and within appropriate cost parameters so that electric power is kept affordable to the public. This chapter is designed to direct the prudent use of resources by electric utilities to mitigate and respond to wildfire risk within the costs that can be justified as just and reasonable in order to keep rates affordable to utility customers and protect Idaho residents and their property.

61-1803. WILDFIRE MITIGATION PLANS. (1) For the purposes of this chapter, "commission" means the Idaho public utilities commission.

(2) (a) Each electric corporation that is a public utility as defined in sections 61-119 and 61-129, Idaho Code, shall adopt and file a wildfire mitigation plan with the commission for its review and approval

1 pursuant to section 61-1804, Idaho Code. The commission may order the
2 plans be filed at a date determined by it and may stagger filing dates.

3 (b) An electric corporation that is not a public utility, including but
4 not limited to a cooperative association distributing electric power to
5 its members or a municipal electric distribution system under section
6 50-342, Idaho Code, may adopt and file a wildfire mitigation plan with
7 the commission for its review at any time permitted by the commission.
8 If such a plan is filed, the commission may assess reasonable fees to the
9 electrical corporation that is not a public utility for its review. The
10 fee may not exceed the actual reasonable cost incurred by the commission
11 for the review and consideration of a plan submitted to it.

12 (3) Each wildfire mitigation plan shall be developed using approaches
13 and methods that are designed to protect the public interest and are reflec-
14 tive of and commensurate with the size and complexity of the electric corpo-
15 ration's operations and of the nature of the fire risk. At a minimum, each
16 wildfire mitigation plan shall identify a means for mitigating wildfire risk
17 that reflect a reasonable balancing of mitigation costs with the resulting
18 reduction of wildfire risk, including:

19 (a) Identifying geographical areas where an electric corporation has
20 infrastructure or equipment that the electric corporation considers
21 may be subject to a heightened risk of wildfire at the time the wildfire
22 mitigation plan is finalized by the electric corporation;

23 (b) Preventative actions and programs that the electric corporation
24 will carry out to reduce the risk of wildfire;

25 (c) Community outreach and public awareness efforts that the electric
26 corporation will use before, during, and after wildfire season to iden-
27 tify and inform the public of relevant wildfire risks and notify the
28 public of wildfire-related outages;

29 (d) Outreach efforts to coordinate with federal, state, tribal, and lo-
30 cal officials and agencies on wildfire preparedness and emergency re-
31 sponse plans;

32 (e) Financially prudent and reasonably practicable methods of line de-
33 sign for new, planned, and existing lines to mitigate fire risk;

34 (f) Monitoring of forecasted and current weather data for the purpose
35 of assessing and responding to current and anticipated fire risk; and

36 (g) Developing standards, procedures, and schedules, subject to timely
37 approval of access to rights-of-way, if necessary, for the following
38 actions:

39 (i) Inspection of the electric corporation's assets, infra-
40 structure, and facilities within the areas that are identified as
41 heightened fire risk areas in the wildfire mitigation plan, where
42 financially prudent and reasonably practicable;

43 (ii) De-energization of the electric corporation's power lines,
44 if considered appropriate by the electric corporation; and

45 (iii) Vegetation management within the areas that are identified
46 as heightened fire risk areas in the wildfire mitigation plan
47 and are within the electric corporation's rights-of-way or lands
48 adjacent thereto and that threaten the power lines or other elec-
49 tric corporation infrastructure. If live marketable timber is
50 identified for removal from timber company land adjacent to the

rights-of-way, compensation at fair market value shall be made to the landowner for such timber.

(4) Commission-approved wildfire mitigation plans shall be implemented upon approval by the commission and shall be reviewed and updated annually. The plans shall be updated, publicly filed, and approved in accordance with this section and section 61-1804, Idaho Code.

(5) An electric corporation with a commission-approved wildfire mitigation plan shall submit a report to the commission updating the commission on the electric corporation's compliance with its wildfire mitigation plan on an annual basis or on such other basis as the commission may prescribe by rule or order. The report shall include documentation describing the development and adoption of the wildfire mitigation plan's components and measures, the wildfire mitigation expenditures, and the work taken to develop and adopt the plan's components and measures.

61-1804. COMMISSION REVIEW OF WILDFIRE MITIGATION PLANS. (1) The commission shall review a wildfire mitigation plan or an update thereto and, after notice and comment, within six (6) months of receiving such filing, shall approve or reject the plan. In reviewing the plan, the commission shall ensure that it meets the minimum requirements stated in section 61-1803, Idaho Code, and shall consider the following factors:

(a) The consistency of the plan with the public health, safety, and welfare;

(b) The feasibility of the plan and the cost of its implementation; and

(c) The degree to which the plan adequately minimizes wildfire risk and proposes to respond to wildfires that do occur.

(2) Within five (5) business days of filing a wildfire mitigation plan with the commission for its review and approval, the electric corporation shall provide notice of the filing to the state forester, cities, counties, fire protection districts, fire protection associations, and timber protection associations within the electric corporation's Idaho service area. Notice may be given by certified mail or electronic means.

(3) In reviewing a plan, the commission shall consult with the interested entities listed in subsection (2) of this section for technical assistance. With respect to elements of the plan that relate to vegetation management, reduction of wildfire fuels, and other duties of the state forester under title 38, Idaho Code, it shall be presumed that the recommendations of the state forester, if any are provided, are reasonable and appropriate. Such recommendations shall be incorporated in the decision of the commission unless the commission determines they are not just, reasonable, and in the public interest, in which case the commission shall document its reasoning in its order approving or rejecting the plan.

61-1805. EFFECT OF WILDFIRE MITIGATION PLANS. A commission-approved plan shall establish measures for the electric corporation to prepare for and address wildfire risk and shall establish the electric corporation's duty to its members and the public.

61-1806. LIABILITY. (1) In a civil action where wildfire-related damages are being sought against an electric corporation, there is a rebut-

1 table presumption that the electric corporation acted without negligence
2 if, with respect to the cause of the wildfire, the electric corporation rea-
3 sonably implemented a commission-approved wildfire mitigation plan. This
4 rebuttable presumption extends to any act or omission taken in reasonable
5 accordance with the approved wildfire mitigation plan in effect at the time
6 the fire ignited, regardless of the content in any prior commission-approved
7 plan that is no longer in effect.

8 (2) If an electric corporation is found liable in a civil action for
9 damages due to any unplanned or uncontrolled fire, then a plaintiff seeking
10 damages in such civil action may recover damages as provided for in sections
11 38-107(2), 6-1603, and 6-1604, Idaho Code, subject to the limitations pro-
12 vided therein.

13 61-1807. DENIAL OF ACCESS TO RIGHTS-OF-WAY. If, after an electric
14 corporation has requested access to privately-owned land or an easement
15 or right-of-way on land owned by the state, a federal agency, or a tribal
16 government, through certified mail addressed to the address best calcu-
17 lated to provide notice, telephone, or electronic means known to belong to
18 the landowner, state, federal agency, or tribal government and reasonably
19 considered likely to provide notice, access is denied or no response is re-
20 ceived after thirty (30) days of the request, the electric corporation is
21 authorized to access the property, easement, or right-of-way for the limited
22 purposes of performing vegetation management, fire mitigation work in ac-
23 cordance with a commission-approved wildfire mitigation plan, or upgrading,
24 inspecting, or repairing the electric corporation's assets, infrastruc-
25 ture, or facilities. In taking such actions, the electric corporation shall
26 not be held liable in any civil action for claims or damages, except to the
27 extent the electric corporation's conduct willfully or recklessly caused
28 substantial damage to the property.

29 61-1808. EXCLUSIVE REMEDY. Except to the extent title 72, Idaho Code,
30 is applicable, the civil actions identified in section 61-1806, Idaho Code,
31 shall be the exclusive civil remedies available against an electric corpo-
32 ration for damages resulting from any act or omission related to a commis-
33 sion-approved wildfire mitigation plan. This section does not limit an in-
34 surer's ability to exercise valid subrogation rights subject to the liabil-
35 ity framework established in section 61-1806, Idaho Code. This section does
36 not limit or impair any action that may be brought against the manufacturer
37 of any equipment that is alleged to be faulty or defective.

38 SECTION 2. An emergency existing therefor, which emergency is hereby
39 declared to exist, this act shall be in full force and effect on and after
40 July 1, 2025.