
THIRD READING

Bill No: AB 734
Author: Schultz (D), et al.
Amended: 4/21/25 in Assembly
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 14-2, 7/1/25
AYES: Becker, Ochoa Bogh, Allen, Archuleta, Arreguín, Ashby, Caballero,
Gonzalez, Hurtado, Limón, McNerney, Rubio, Stern, Wahab
NOES: Dahle, Strickland
NO VOTE RECORDED: Grove

SENATE NATURAL RES. & WATER COMMITTEE: 5-1, 7/8/25
AYES: Limón, Allen, Hurtado, Laird, Stern
NOES: Seyarto
NO VOTE RECORDED: Grove

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/29/25
AYES: Caballero, Cabaldon, Grayson, Richardson, Wahab
NOES: Seyarto, Dahle

ASSEMBLY FLOOR: 61-15, 6/2/25 - See last page for vote

SUBJECT: Environmental protection: biological resources data: State Energy
Resources Conservation and Development Commission:
powerplants: power lines: applications

SOURCE: Defenders of Wildlife

DIGEST: This bill attempts to change a regulation adopted by the California Energy Commission (CEC) by requiring any biological resources data submitted to the CEC in an application for certification and small power plan exemption to be made publicly available on the agency's docket as part of the certification proceeding unless the California Department of Fish and Wildlife (CDFW) makes a written determination to protect certain sensitive data.

ANALYSIS:

Existing law:

- 1) Establishes and vests in the State Energy Resources Conservation and Development Commission (known as the CEC) various responsibilities with respect to developing and implementing the state's energy policies. (Public Resources Code §25000 *et seq.*)
- 2) Vests the CEC with the power to certify locations on which an electrical transmission line or thermal powerplant is constructed, or is proposed to be constructed, except as provided. (Public Resources Code §25500 *et seq.*)
- 3) Authorizes the CEC to exempt from certification a thermal powerplant with a generating capacity of up to 100 megawatts (MW), and modifications to existing generating facilities that do not add capacity in excess of 100 MW, if the CEC finds that no substantial adverse impact on the environment or energy resources will result from the construction or operation of the proposed facility or from the modifications. (Public Resources Code §25541)
- 4) Authorizes, until June 30, 2029, a person proposing an eligible facility, including a solar photovoltaic or terrestrial wind electrical generating powerplant with a generating capacity of 50 MW or more, to submit an application with the CEC for certification of the site and related facility. (Public Resources Code §25545 *et seq.*)
- 5) Establishes the Significant Natural Areas Program within the CDFW and charges CDFW with maintaining and expanding a data management system to assist in carrying out the program. (Fish and Game Code §1932).
- 6) Authorizes CDFW to undertake botanical research and field investigations and to collect and diffuse such statistics and information as shall pertain to the conservation, protection, and perpetuation of native plants. (Fish and Game Code §1905)

This bill:

- 1) Requires any biological resources data submitted to the CEC in an application for certification or small powerplant exemption to be made publicly available on the CEC's docket as part of the certification proceeding unless the CDFW makes a written determination that the data to be made public includes specified

location data, the disclosure of which would pose a significant risk to individuals of the species.

- 2) Requires the CDFW, if it makes that determination, to include in the written determination an assessment of the maximum amount of the specified data that can be released without posing a risk to the species. Requires the CDFW to provide its written determination to the CEC and requires the CEC to make the data, in accordance with the determination, available to the public on the CEC's docket.
- 3) Applies the same public availability requirements described above to biological resources data submitted to the CEC as part of an application for certification of an eligible facility for the AB 205 "Opt-in" program.

Background

CEC certifies many powerplants in the state. The CEC serves as a certifying agency for many powerplants, including the exclusive authority to license thermal powerplants of 50 MWs or greater; exempt certain small thermal power plants from its jurisdiction; certify eligible renewable energy and energy storage resources through an optional certification process; and certify energy facilities operated by the Department of Water Resources. As part of the licensing process, powerplant applicants must provide specified materials to the CEC, including information about biological resources on-site of the proposed powerplant.

The CEC certification process involves other state agencies, in particular as it relates to biological resources, the CEC coordinates with CDFW who serves as the state trustee agency for the state's fish and wildlife, and plant species. As part of the powerplant certification process, CDFW would screen information concerning biological resources data prior to its public release to ensure that location data for rare species was sufficiently vague to avoid risk to the species. CDFW develops and maintains multiple resources containing information about the presence of native and non-native species, including the California Natural Diversity Database (CNDDDB). The CNDDDB is an inventory of the status and locations of rare plants and animals in California. CNDDDB staff work with partners to maintain current lists of rare species, as well as to maintain an ever-growing database of GIS-mapped locations for these species. CNDDDB location data are readily available to the public at a scale of 1:350,000 to reduce the risk of disclosing the precise locations of rare species.

CEC 2023 changes to regulations for CEC certification of powerplants. In 2023, the CEC made changes to regulations (Docket 21-OIR-04, *Rulemaking to Amend Regulations for Small Powerplant Exemptions*) concerning data and maps for powerplant applications for certification regarding biological resources. The CEC updated a myriad of areas to its existing processes and procedures, including changes to the requirements concerning the scale of public maps that contain information on biological resources (under Appendix B in Title 20 of the California Code of Regulations). The CEC commissioners adopted a resolution which stated the amendments to the regulations were needed to reflect changes to implement requirements from the CDFW “which require restricted public release of maps of scale showing greater detail than 1:350,000 if the maps contain sensitive biological resources.” The CEC further states: “language requiring that maps of a certain scale be submitted to the CEC as confidential is necessary to ensure maps are not made public that would allow one to locate sensitive biological resources such as endangered plants, animals, or nests.”

The CEC stated the changes were consistent with the CDFW’s CNDDDB contract and CNDDDB’s stated position to the CEC biological resources staff. Under the CNDDDB license posted on the CDFW’s website (dated June 2018), agreement number 4 states:

When creating static or interactive maps or products for public viewing in print or over the internet, care must be taken not to violate our “no redistribution or repackaging” clause. ...The information within these databases may not be displayed over the internet except with DFW’s [CDFW’s] express permission. DFW understands there are situations where an organization may need to display CNDDDB and Spotted Owl data on its website for business purposes. In those cases, the user must contact the CNDDDB program for guidance and written permission on how to properly display CNDDDB data on the website. As a general rule, data from the CNDDDB and Spotted Owl Database may only be displayed at such a scale (no larger than a scale of 1:350,000), or in such a way that the viewers/users cannot determine exact location information of the elements mapped in the system. The CNDDDB and Spotted Owl data include location information for the state’s most imperiled species, and these are sensitive resources.

Comments

Need for this bill. The proponents of this bill take issue with the CEC’s 2023 updates to the regulations to restrict public release of maps that contain biological resources at a finer scale. They contend the change renders it impossible for the

public to meaningfully evaluate potential project impacts and provide informed analysis of appropriate measures to avoid, minimize, and potentially mitigate project impacts. Under the regulations, maps submitted at a scale of 1:6,000 must be submitted “under confidential cover.” They suggest that this change in the regulations represents a significant departure regarding the scale of biological resource maps associated with the review and permitting of projects under a multitude of laws, including the California Endangered Species Act and the California Environmental Quality Act. They note that a review of past permitting decisions, including permitting by the CEC, has revealed no evidence that the biological survey maps must be at a scale greater than 1:350,000. They suggest that the norm is that maps are released at 1:6,000, and sometimes at an even finer scale.

Need to balance public access and species protection. As noted above, the CEC change to the public availability of maps of a certain scale submitted to the agency was determined to be necessary to ensure maps are not made public that would allow someone to locate sensitive biological resources such as endangered plants, animals, or nests. As stated on CNDDDB’s Data Use Guidelines (v.4.2 2011 available on the CDFW’s website), “the concern is that, while it is important that the CNDDDB information is available to those whose job it is to conserve species, there is the very real possibility that some people will use the detailed location information to do harm to a species or its habitat. Because of the sensitivity of the data, we try to limit the level of location detail that is made readily available to the public.” However, proponents of this bill, including Defenders of Wildlife, oppose the CEC’s updated regulations contending they limit their ability to better protect biological resources. They contend the approach of this bill is necessary to ensure better protection of biological resources in relation to the myriad of energy projects being built in the state. They support requiring public release of the data, unless CDFW makes a written determination to protect certain sensitive data.

It’s unclear if the proposed changes in this bill are also being addressed more broadly by CDFW for all siting processes, not solely powerplant certification and siting at the CEC. Supporters of this bill contend the CEC is the only permitting agency applying the restrictions on the scale of maps of biological resources for public release and that is the reason why this bill is specific to the CEC. This dispute seems to be best resolved by the CEC and CDFW, neither of which has taken a public position on this bill.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee:

- The CEC estimates ongoing annual costs of approximately \$178,000 (Energy Resources Programs Account) to hire one research data specialist to manage project data and create or modify biological data survey maps to ensure they are detailed enough and reflect the required scale and resolution.
- CDFW anticipates any costs would be minor and absorbable.

SUPPORT: (Verified 8/28/25)

Defenders of Wildlife (Source)
Audubon California
California Native Plant Society
Center for Biological Diversity
County of Fresno

OPPOSITION: (Verified 8/28/25)

None received

ARGUMENTS IN SUPPORT: The Defenders of Wildlife are the sponsor of this bill and argue that this bill “would provide the public with the necessary biological resource information to participate effectively and efficiently in the public review and comment processes associated with project permitting at the [CEC].” Defenders of Wildlife notes that the CEC amended its regulations pertaining to the handling of biological data in 2023. Defenders of Wildlife assert “the suppression of data and information renders the public review and comment process meaningless.”

ASSEMBLY FLOOR: 61-15, 6/2/25

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Elhawary, Fong, Gabriel, Garcia, Gipson, Mark González, Haney, Harabedian, Hart, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas
NOES: Castillo, Davies, DeMaio, Dixon, Ellis, Gallagher, Jeff Gonzalez, Hadwick, Hoover, Lackey, Macedo, Patterson, Sanchez, Ta, Tangipa

NO VOTE RECORDED: Chen, Flora, Blanca Rubio

Prepared by: Nidia Bautista / E., U. & C. / (916) 651-4107
8/29/25 20:52:58

**** **END** ****