
**SENATE COMMITTEE ON ENERGY, UTILITIES AND
COMMUNICATIONS**

**Senator Josh Becker, Chair
2025 - 2026 Regular**

Bill No:	AB 734	Hearing Date:	7/1/2025
Author:	Schultz		
Version:	4/21/2025 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Nidia Bautista		

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

DIGEST: This bill requires any biological resources data submitted to the California Energy Commission (CEC) in an application for certification and small power plan exemption to be made publicly available on the CEC's docket as part of the certification proceeding unless the Department of Fish and Wildlife (DFW) makes a written determination with specified requirements. This bill attempts to change a regulation adopted by the CEC in 2023.

ANALYSIS:

Existing law:

- 1) Establishes and vests in the State Energy Resources Conservation and Development Commission (known as the California Energy Commission (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 California Department of Fish and Wildlife (CDFW) and charges CDFW with maintaining and expanding a data management system to assist in carrying out the program (Fish and Game Code §1932).

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 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 amending its existing processes and procedures for the small powerplant exemption proceedings. Among the many changes was a change to the requirements of scale for public maps that contain information on biological resources under Appendix B in Title 20 of the California Code of Regulations. The CEC resolution adopting the changes 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 California Natural Diversity Database (CNDDDB) licensing contract and CNDDDB’s stated position to the CEC biological resources staff. 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. 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 (see 1.a. above). 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 contend the CEC’s amendments to the regulations restricted public release of maps that contain biological resources at a scale greater than 1:350,000. Under the regulations, maps submitted at a scale of 1:6,100 must be submitted “under confidential cover.” They suggest that this change in the regulations represented 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 (CEQA). They note that a review of past permitting decisions, including permitting by the CEC under the Warren Alquist Act, 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.

Public access balanced with species protection. As noted above, the CEC required change to the public availability of maps of a certain scale submitted to the CEC 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. 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." Additionally, per this bill, the CDFW is only able to determine the need to protect data from the CNDDDB and not any provided by the applicants of the projects, even if those might also disclose sensitive species and merit the same protections. It's unclear if the proposed changes in this bill are also being addressed more broadly with CDFW for all applications, not solely powerplant certification and siting, as it is in this bill. If not, this seems to be an effort to single out the CEC's permitting process among many other agencies and jurisdictions with similar authorities.

Dual Referral. Should this bill be approved by this committee, it will be re-referred to the Senate Natural Resources and Water Committee.

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

SUPPORT:

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

ARGUMENTS IN SUPPORT: The Defenders of Wildlife are the sponsor of this bill and argue that it "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."

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