

Date of Hearing: April 7, 2025

ASSEMBLY COMMITTEE ON EMERGENCY MANAGEMENT

Rhodesia Ransom, Chair

AB 615 (Davies) – As Introduced February 13, 2025

SUBJECT: Power facilities: emergency response and action plan

SUMMARY: Requires applications filed with the State Energy Resources Conservation and Development Commission (California Energy Commission) for certification of a site and related facility which includes an electric transmission line or thermal power plant, or both, to contain an emergency response and action plan that incorporates impacts to the surrounding areas, as specified. Specifically, **this bill:**

- 1) Requires applications filed with the California Energy Commission (CEC) for certification of a site and related facility which includes an electric transmission line or thermal power plant, or both, to contain an emergency response and action plan that incorporates impacts to the surrounding areas in the event of an emergency, that would be conducted and coordinated with local emergency management agencies, unified program agencies, and local first response agencies.
- 2) Requires the emergency response and action plan to include analysis and feedback from a local emergency management agency regarding whether the proposed facility requires supplemental first responder capabilities and meets National Fire Protection Association 855 Standard as it relates to setbacks.
- 3) Provides the local emergency management agency's feedback may include analysis of whether greater setbacks would be recommended for the proposed facility.
- 4) Requires the applicant to pay for the emergency response and action plan.

EXISTING LAW:

- 1) Under the Global Warming Solutions Act of 2006 and updates thereof, requires the California Air Resources Board (CARB) to ensure that statewide greenhouse gas (GHG) emissions are reduced to at least 40% below the 1990 level by 2030 (Health and Safety Code Section 38500)
- 2) Under the California Climate Crisis Act, states that it is the policy of the state to achieve net zero GHG emissions no later than 2045, and to ensure that by 2045 statewide anthropogenic GHG emissions are reduced to at least 85% below the 1990 level. (Health and Safety Code Section 38562.2)
- 3) Provides a variety of energy, transportation, water, and semiconductor projects eligible for expedited judicial review under the California Environmental Quality Act (CEQA). (Public Resources Code Section 21189.81)
- 4) Provides the CEC's siting jurisdiction to include solar, wind and energy storage facilities that meet certain criteria. (Public Resource Code Section 25545)

- 5) Establishes a Renewables Portfolio Standard Program requiring certain percentages of electricity retail sales to be served by renewable resources. (Public Utilities Code Section 399.11)
- 6) States that is the goal of the state to procure 100% of electricity from eligible renewable energy resources and zero-carbon resources by December 31, 2045. (Public Utilities Code Section 454.53)
- 7) Establishes a Renewable Energy Resources Program administered by the Energy Commission and defines a “renewable electrical generation facility” as a facility that uses biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, small hydroelectric generation of 30 megawatts or less, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal current and sets certain requirements for these facilities. (Public Resource Code Section 25741)

FISCAL EFFECT: Unknown. This bill has not been analyzed by a fiscal committee.

COMMENTS:

Purpose of the bill: According to the author, “California has become a global leader when it comes to our energy production and innovation. Our state provides our citizens with plenty of choice when it comes to getting their energy in the homes and communities. However, we must ensure that when we bring energy to a community in the form of a plant or facility, it is with the most abundance of safety measures taken. AB 615 is a common-sense measure to ensure that when a developer or manufacturer of an energy facility submits an application to operate a facility in our state, they include an emergency preparedness plan with the application. This will ensure the local community has all the knowledge and tools available to know how their communities will be protected in the worst-case scenario.”

Equity impact: According to the author’s staff, “This bill will ensure that any community that is not in a safe location will have a bigger say in energy infrastructure because it will require local first responder agencies to determine if facilities are in a safe spot.”

Energy Resources Conservation and Development Commission: The Energy Resources Conservation and Development Commission (commonly referred to as the California Energy Commission, or CEC) is responsible for forecasting energy supply and demand, developing and implementing energy conservation measures, conducting energy-related research and development programs, and siting major power plants.

Power Plant Licensing and Application for Certification: The CEC has the exclusive authority for licensing thermal power plants of 50 MW or larger, as well as related transmission lines, fuel supply lines, and other facilities. This would include, for example, any natural gas-fired, solar thermal, and geothermal plant that meets the 50 MW threshold, but would not include others, such as hydroelectric, solar photovoltaic, and onshore wind power.

A certificate issued by the CEC is in lieu of any permit, certificate, or similar document otherwise required by any state, local or regional agency, or federal agency to the extent permitted by federal law, and supersedes any applicable statute, ordinance, or regulation of any state, local, or regional agency, or federal agency to the extent permitted by federal law.

The application for certification (AFC) process, a certified regulatory program under the California Environmental Quality Act (CEQA), results in environmental assessment documents that are “functionally equivalent” to an environmental impact report (EIR). After licensing, the CEC is required to monitor compliance of the facility with all applicable federal, state, and local laws, as well as any conditions of certification imposed by the CEC.

Small Power Plant Exemption: The Small Power Plant Exemption (SPPE) program allows CEC to exempt from its licensing authority thermal power plants that do not exceed 100 MW. The CEC’s review is pursuant to CEQA and California Code of Regulations, Title 20. The CEC can grant an exemption if it finds that the proposed facility would not create a substantial adverse impact on the environment or energy resources. As the lead agency under CEQA, the CEC prepares the appropriate CEQA document for the project (for example, a mitigated negative declaration or an EIR). If exemption is approved, the project developer is responsible for securing local, state, and federal permits to construct and operate the plant. Local and state agencies will consider the environmental document prepared by the CEC for any discretionary decisions subject to CEQA.

CEC’s Opt-In Certification Process: CEC oversees the permitting of clean and renewable energy facilities, including solar photovoltaic, onshore wind, and energy storage systems, and facilities that produce or assemble clean energy technologies or their components. Under AB 205, the CEC is the lead CEQA agency for environmental review and permitting for any facility that elects to opt into the CEC’s jurisdiction.

Types of facilities eligible to apply to the Opt-In Certification Program: The following types of facilities are eligible: solar photovoltaic or terrestrial wind electrical generating power plants generating 50 megawatts (MW) or greater; energy storage systems capable of storing 200 megawatt-hours (MWh) or more; stationary power plants 50 MW or greater using any source of thermal energy, excluding fossil or nuclear fuels; transmission lines associated with these generating and storage facilities; specified facilities that manufacture or assemble clean energy or storage technologies or related component; and hydrogen production facility (not derived from fossil fuel feedstock) and associated onsite storage and processing facilities.

Public input during the Opt-In Certification Program: According to the CEC, a key part of creating a safe and reliable electric system is ensuring that the review of these proposed facilities includes a process for public input. Within five days of each project application being deemed complete, the CEC sends an invitation to request consultations with California Native American tribes. Within 30 days, the CEC holds a public scoping and informational meeting. By day 150, the CEC posts a draft Environmental Impact Report (EIR), and within 30-60 days of posting the draft EIR, the CEC holds a public meeting on the draft EIR and provides 60 days for public comment. On or before the 270th day, the proposed project and final EIR will be brought to a CEC business meeting for license consideration.

NFPA 855 Standard for the Installation of Stationary Energy Storage Systems: NFPA Standard 855 provides insight into mitigating risks and helping to ensure all installations are performed appropriately, taking into account vital life safety considerations. The standard offers comprehensive criteria for the fire protection of energy storage system (ESS) installations based on the technology used, the setting where the technology is being installed, the size and separation of ESS installations, and the fire suppression and control systems in place.

Fire Codes and NFPA 855: While NFPA 855 is a standard and not a code, its provisions are enforced by NFPA 1, Fire Code, in which Chapter 52 provides an outline of requirements along with references to specific sections in NFPA 855. The International Fire Code (IFC) has its own provisions for ESS in Section 1207, which are largely harmonized with those in NFPA 855. The revision process for the 2026 edition of NFPA 855 is already underway, with 26 Task Groups addressing specific topics. The Task Groups comprise fire safety professionals, industry experts, and other interested parties, and they engage in robust debate of public inputs aimed at improving the standard. While locally adopted fire codes take precedence over NFPA 855, the depth of this standard make it a valuable resource for all Authorities Having Jurisdiction (AHJs).

Authority Having Jurisdictions (AHJ) and NFPA 855: NFPA 855 includes a range of prescriptive requirements for metrics such as maximum energy and spacing between units. The standard also lists several submittals that must be made to the AHJ, including the following: hazard mitigation analysis, emergency response plan, details of all safety systems, and results of fire and explosion testing.

Explosion Control and Fire Suppression: NFPA 855 reflects the current best practice for preventing explosions and safely containing fires. The 2023 edition mandates fire suppression for all ESS, with exceptions only at the discretion of AHJs.

Proposed Battery Energy Storage System Project in City of San Juan Capistrano: Compass Energy Storage LLC proposes to construct, own, and operate an approximately 250-megawatt (MW) a battery energy storage system (BESS) facility in the City of San Juan Capistrano. The approximately 13-acre project site is located within the northern portion of the City of San Juan Capistrano, adjacent to Camino Capistrano and Interstate-5 to the east. The project would connect to the existing San Diego Gas & Electric (SDG&E) electric transmission system to transfer power to and from the proposed project. Electric energy would be transferred from the existing power grid to the project batteries for storage and from the project batteries to the power grid when additional electricity is needed.

In December of 2021, Compass Energy Storage submitted an entitlement application for the project to the City of San Juan Capistrano to initiate the permit process. The existing land use regulations for the proposed project site were not compatible with the development of a BESS facility. As such, the San Juan Capistrano City Council would need to prepare and approve a Rezone Study to establish a Community Development Plan to allow the proposed BESS facility to be developed. On November 1, 2022, the San Juan Capistrano City Council denied the initiation of a Rezone Study to create the proposed Community Development Plan.

In early 2023, Compass Energy Storage informed the City of San Juan Capistrano of its intention to forego the City review process and pursue state approval via the California Energy Commission, as allowed under state law designed to facilitate renewable energy projects. In February 2024, Compass Energy Storage formally withdrew its applications from the City of San Juan Capistrano. On April 18, 2024, the California Energy Commission notified the City of San Juan Capistrano of its receipt of an Opt-in Application for the Compass Energy Storage Project. The State of California's Opt-in Certification Program is a streamlined application process in which the Commission reviews the project proposal and can require the permitting of the proposed BESS facility.

According to the City of Laguna Niguel, “The proposed BESS facility utilizes lithium-iron batteries, which can pose a severe fire threat due to the site's approximated 1,500-foot distance from Laguna Niguel homes. The image below displays the history of active fires since 1950 surrounding the proposed project site. According to the Orange County Fire Authority (OCFA), lithium-iron batteries can cause explosions and emit toxic gasses within seconds if overheated. In addition, the Opt-in process through the California Energy Commission, which Compass Energy Storage is seeking permission to build, will limit local control and oversight of the project.

Arguments in support: The City of Laguna Niguel writes, “The City of Laguna Niguel is pleased to offer this letter of support for AB 615 (Davies). AB 615 would require applications for energy storage facilities submitted to the California Energy Commission to include an emergency response and action plan that incorporates impacts on the surrounding areas in the event of an emergency and must include recommendations and feedback from local first responders and emergency agencies to determine whether the proposed site is feasible or should be rejected for public safety reasons. Under current law, emergency response and action plans are not required to be completed until after the project is completed.”

Arguments in support if amended: The City of San Juan Capistrano writes, “On behalf of the City of San Juan Capistrano, thank you for introducing Assembly Bill (AB) 615, to require an applicant applying to the California Energy Commission (CEC) for the development of an energy storage facility, to submit an emergency response plan with the initial application. Under current law, an applicant only needs to describe how their project would influence the effectiveness of a local emergency response or evaluation plan with the initial application. For these reasons, the City of San Juan Capistrano supports AB 615, if amended to apply to pending applications, as previously discussed between city staff and your office on February 28th.”

Double referral: Should this bill be approved by the Assembly Committee on Emergency Management, it will be referred to the Assembly Committee on Utilities and Energy.

Related legislation: AB 303 (Addis) Prohibit the authorization of a development project that includes a battery energy storage system capable of storing 200 megawatt-hours or more of energy if the development project is located within 3,200 feet of a sensitive receptor or is located on an environmentally sensitive site, as specified. (Pending in the Assembly Committee on Utilities and Energy)

AB 434 (DeMaio) Prohibits, until January 1, 2028, a public agency from authorizing the construction of a battery energy storage facility, as defined and requires the State Fire Marshal to adopt guidelines and minimum standards for the construction of a battery energy storage facility to prevent fires and protect nearby communities from any fire hazard posed by the facility, as specified. (Pending in the Assembly Committee on Utilities and Energy)

AB 588 (Patel) Requires the State Fire Marshal to convene a lithium battery working group to identify those safety issues associated with lithium batteries and associated charging infrastructure, as specified. (Pending in the Assembly Committee on Emergency Management)

AB 696 (Ransom) Requires the California Environmental Protection Agency to convene a Lithium-Ion Car battery Advisory Group to review and advise the Legislature on policies on handling and disposing of lithium-ion vehicle batteries. (Pending in the Assembly Committee on Appropriations)

AB 841 (Patel) Requires the State Fire Marshal to develop, in consultation with the Division of Occupational Safety and Health, a working group to make recommendations regarding personal protective equipment used in responding to lithium-ion battery fires, as specified. (Set to be heard by the Assembly Committee on Emergency Management on April 7, 2025)

AB 1285 (Committee on Emergency Management) Requires the State Fire Marshal, in consultation with the Office of Emergency Services, to develop fire prevention, response, and recovery measures for utility grade lithium-ion battery storage facilities, as specified (Set to be heard by the Assembly Committee on Emergency Management on April 7, 2025)

SB 283 (Laird) Require the CPUC and the Office of the State Fire Marshal to review and consider the most recently published edition of the National Fire Protection Association (NFPA) 855, Standard for the Installation of Stationary Energy Storage Systems, for incorporation into the next update of the California Building Standards Code adopted after July 1, 2026. (Pending in Senate Energy, Utilities and Communications Committee)

Prior legislation: SB 38 (Laird, Chapter 377, Statutes of 2023) required each battery energy storage facility in the state and subject to regulation by the California Public Utilities Commission to have an emergency response and emergency action plan that covers the premise of the battery energy storage facility.

SB 1383 (Hueso, Chapter 725, Statutes of 2022) expanded the CPUC's safety oversight of electric generating facilities to encompass energy storage facilities.

AB 2514 (Skinner, Chapter 469, Statutes of 2010) required the CPUC to determine appropriate targets for load serving entities to procure energy storage systems.

REGISTERED SUPPORT / OPPOSITION:

Support

City of Laguna Niguel

Support if Amended

City of San Juan Capistrano

Opposition

None on file.

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