

Comments From FPL Energy Project Management, Inc. on September 2007 Final Committee Report on CEC/CDFG “Statewide Guidelines for Reducing Impacts to Birds and Bats from Wind Energy Development”
(September 25, 2007)

Before final adoption by the full Commission, FPL Energy Project Management, Inc (FPLE) respectfully requests that the following four changes be made to the Guidelines. We do not believe that any of these revisions change the intended content of the document. Rather, we see these as clarifications to ensure the Guidelines are properly used after adoption by the Commission. We feel these changes can easily be made without causing any delay in the adoption of the Guidelines.

1. Page 9 first full paragraph, sentence beginning with “Projects with high levels” is amended to read:

Projects with considerable uncertainty regarding the levels of impact to birds and bats or potential for impacts which cannot be sufficiently mitigated will need more study than category 2 projects to help understand and formulate ways to reduce the number of fatalities.

Also, delete last bullet under Category 3.

This change would also need to be made in Chapter 3 on page 38.

Explanation:

For projects falling into category one, a change was made in the Committee Final Draft which states that, “Projects potentially falling into Category 1 might include infill development, repowering projects, and those near existing wind facilities for which there is little uncertainty as to the level of impacts” (Page 8, paragraph 2, sentence 3). This was recommended to address instances in which a project is being proposed next to a well studied site where the level of impact (even if “high”) is sufficiently defined such that additional, extensive pre-permitting studies are not needed in order to adequately assess risk. The current language for category three however seems to contradict this by saying that any project near an existing site with “high” impacts would need more than two years of pre-permitting studies even if the project proponent was willing to assume the same “high” level of impact for purposes of establishing post-construction monitoring and mitigation requirements and all other criteria for extrapolating data from one area to another were met (e.g., same vegetation, topography, turbine type, etc. Our suggested revision would reconcile this apparent conflict.

2. Page 69 2nd full paragraph, last sentence beginning with “If multi-year monitoring” is amended to read:

If multi year monitoring documents unanticipated significant impacts which cannot be mitigated to levels acceptable within the project permit terms, removal of problem

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turbines or seasonal shutdown of turbines may be options if other minimization measures are ineffective in reducing fatalities.

Explanation:

The paragraph's first sentence characterizes measures outlined in this paragraph as extreme circumstances. However, the sentence which specifically mentions shutdowns and turbine removal is unclear as to which circumstances would warrant the assessment of these measures as an option. The context in which shutdowns and turbine removal are mentioned in the current draft could be construed to apply beyond the very extreme circumstances for which these measures would ever be considered.

3. Page 73 first paragraph, change sentence to read:

Long-term monitoring on a periodic basis should be considered in cases where fatalities to birds or bats were unanticipated and cannot be mitigated to levels acceptable within the project permit terms and such monitoring is necessary in order to assess the efficacy of any new mitigation measures. Public funding may be appropriate for such long-term monitoring efforts when the data and information generated will be useful or applicable beyond the specific project site where the monitoring is conducted.

Explanation: To clarify the circumstances under which long-term monitoring may be appropriate and to promote the use of outside funding. As currently written, it appears that long-term monitoring could be triggered anytime fatality levels are above what was predicted even if permit conditions already provided a mechanism for additional mitigation in those cases.

4. Page 39, change last sentence to read:

“The lead agency needs to know that pre-permitting study design and *considered* input from appropriate scientists”

Explanation: This change is needed to clarify that wind energy companies are not expected to *incorporate* all stakeholder suggestions into pre-permitting study design, but rather expected to consider all stakeholder suggestions.