

**California Energy Commission**  
**REVISED DRAFT REGULATIONS**



**IMPLEMENTING ASSEMBLY BILL 1103,  
REVISED MAY 2010**

Draft Language for California Code of Regulations  
Title 20, Chapter 4, Article 9, Sections 1680 - 1685

MAY 2010

CEC-400-2010-004-SD

# CALIFORNIA ENERGY COMMISSION

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## PREFACE

The Efficiency Committee of the California Energy Commission is releasing revised draft regulations for implementing Assembly Bill 1103 (Saldaña, Statutes of 2007) for public review and comment. The revised draft regulations can be obtained online at: <http://www.energy.ca.gov/ab1103/documents/index.html>

On July 15, 2009 the Energy Commission adopted an Order Instituting Rulemaking to open a proceeding to develop and ultimately adopt new regulations for a nonresidential building energy performance rating system that will provide energy consumption information on nonresidential buildings in the state, as required by Public Resources Code Section 25402.10, enacted by AB 1103. Energy Commission staff subsequently released an initial version of draft regulations, and on August 13, 2009 the Efficiency Committee held a public workshop to receive public comment on the initial draft regulations.

The Committee and Energy Commission staff have prepared a revised set of draft regulations in response to the comments made at the public workshop. The Efficiency Committee is now seeking written comments from the public on the revised draft regulations prior to opening a formal rulemaking proceeding.

## **ABSTRACT**

The California Energy Commission is making publicly available these revised draft regulations for the purpose of implementing the requirements of Assembly Bill 1103 (Saldaña, Statutes of 2007). With these draft regulations, the Energy Commission intends to clarify the implementation of AB 1103 by providing useful descriptions of purpose, scope, definition of terms and governing requirements.

The proposed regulations require the owner of a commercial property within California to disclose the U.S. EPA's ENERGY STAR® Portfolio Manager Statement of Energy Performance and the California Energy Performance Disclosure Report for the property when the entire property is sold, leased or financed. For this purpose, utilities that provide energy service to the property are required to release 12 months of energy use data to the U.S. EPA's Portfolio Manager within 15 days of receiving a request from the building owner.

On and after January 1, 2011, commercial property owners whose property is solely occupied by the owner or is more than 50,000 square feet, where the entire property is sold, leased or financed must disclose the building's U.S. EPA ENERGY STAR® Portfolio Manager Statement of Energy Performance and the California Energy Performance Disclosure Report for the property.

On and after January 1, 2012, commercial property owners whose property is 10,000 to 50,000 square feet where the entire property is sold, leased or financed must disclose U.S. EPA ENERGY STAR® Portfolio Manager Statement of Energy Performance and the California Energy Performance Disclosure Report for the property.

On and after July 1, 2012, commercial property owners whose property is less than 10,000 square feet where the entire property is sold, leased or financed must disclose U.S. EPA ENERGY STAR® Portfolio Manager Statement of Energy Performance and the California Energy Performance Disclosure Report for the property.

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**DRAFT REGULATIONS**  
**Implementing AB 1103 (2007, Saldaña)**  
**Revised May 17, 2010**

**California Code of Regulations**  
**Title 20. Public Utilities and Energy**  
**Chapter 4. Energy Conservation**  
**Article 9. Nonresidential Building Energy Performance**  
**Statements and Disclosures**

**Section 1680. Purpose**

This article implements procedures, pursuant to Public Resources Code section 25402.10, for reporting energy use data and disclosing energy use data and energy efficiency ratings for nonresidential buildings in California.

Note: Authority cited: Sections 25213, 25218(e), and 25402.10, Public Resources Code.  
Reference: Section 25402.10, Public Resources Code.

**Section 1681. Scope**

This article applies to all nonresidential buildings in California.

Note: Authority cited: Sections 25213, 25218(e), and 25402.10, Public Resources Code.  
Reference: Section 25402.10, Public Resources Code.

**Section 1682. Definitions**

The following definitions apply to this article:

- (a) "Building Owner" means a person possessing title to the building, or an agent authorized to act on behalf of the person possessing title.
- (b) "California Energy Performance Disclosure Report" means a Customized Report Format established by the Energy Commission which is available within the U.S. EPA Portfolio Manager. The Report shall contain all data necessary to generate a Portfolio Manager Energy Performance Rating, or if a Rating is not available, to generate a Portfolio Manager Energy Use Index. Report data shall include, but not be limited to:
  - (1) the Portfolio Manager building identification number;
  - (2) facility name, address, and owner;
  - (3) ending date of the 12-month reporting period;
  - (4) date of the Report;
  - (5) total floor space in square feet;
  - (6) building characteristics as defined by Portfolio Manager by building type;
  - (7) Portfolio Manager Energy Performance Rating, if available;

- (8) building Energy Use Index;
  - (9) national average Energy Use Index for the Portfolio Manager building type;
  - (10) all available energy use data applicable to the building, including but not limited to, electricity, natural gas, and renewable energy; and
  - (11) site energy use in kBtus.
- (c) "Energy Commission" means the California Energy Commission.
  - (d) "Energy" means electricity, natural gas, heating oil, or other product sold by a utility to a customer of a nonresidential building, or renewable electricity generated on the building's site.
  - (e) "ENERGY STAR® Label" means the EPA label awarded to buildings receiving an Energy Performance Rating of 75 or higher.
  - (f) "Energy Performance Rating" means the EPA energy efficiency measurement represented by a score from 1 to 100, which is normalized for a building's characteristics, operations, and weather.
  - (g) "Energy Use Data" means kilowatt hours, therms, or other measures of energy use by a nonresidential building.
  - (h) "Energy Use Index" or "EUI" means the building's energy use measured in kBtus per square foot per year.
  - (i) "Entire Building" means the portion of the building for which the owner possesses title.
  - (j) "EPA" means the U.S. Environmental Protection Agency.
  - (k) "kBtus" means kilo British thermal units.
  - (l) "Nonresidential Building" means a building of an occupancy type A, B, E, I-1, I-2, M, R1, S, and type U parking garages, as defined in the California Building Code, title 24, section 302 et seq. (2007).
  - (m) "Portfolio Manager" means the EPA's online tool for managing building energy use data.
  - (n) "Statement of Energy Performance" means the EPA statement of a building's Energy Use Index, characteristics, contact information, and if available, the building's Energy Performance Rating.
  - (o) "Tenant" means a person leasing space in a nonresidential building.
  - (p) "Utility" means an entity providing energy to a nonresidential building owner or tenant.

Note: Authority cited: Sections 25213, 25218(e), and 25402.10, Public Resources Code.  
 Reference: Section 25402.10, Public Resources Code; Sections 302 et seq., Title 24, California Building Code.

### **Section 1683. Creation of ENERGY STAR® Portfolio Manager Account; Utility Release of Data; Release of Data to Energy Commission; Receipt of Statement of Energy Performance**

- (a) According to the implementation schedule specified in Section 1685, and at least 30 days before a disclosure is required by Section 1684, a building owner shall open an account at the U.S. EPA's ENERGY STAR® Portfolio Manager website, and in that account:
  - (1) provide contact information;
  - (2) identify the building and the Portfolio Manager building type;
  - (3) identify all utility company meters and utility company accounts serving the building;



- (4) provide building characteristics specified by Portfolio Manager for the building type;
  - (5) authorize all utility companies serving the building to release energy use data to the owner's Portfolio Manager account; and
  - (6) request all utility companies serving the building to release all energy use data from the most recent 12 months to the owner's Portfolio Manager account.
- (b) Within 15 days of receiving a request from a building owner to release energy use data to the U.S. EPA's Portfolio Manager, a utility company shall upload the entire building's energy use data to the building owner's Portfolio Manager account, subject to the following conditions:
- (1) a utility company shall release tenant energy use data to the building owner's Portfolio Manager account solely for the purpose of complying with Public Resources Code section 25402.10;
  - (2) a building owner shall use and disclose tenant energy use data solely for the purpose of complying with Public Resources Code section 25402.10.
- (c) After all utility companies serving a building have uploaded the building's energy use data, the building owner shall, in sufficient time to comply with the schedule specified in Section 1685, use the Portfolio Manager account to:
- (1) generate a Statement of Energy Performance for the building, and
  - (2) generate an California Energy Performance Disclosure Report and electronically submit the Report to the Commission.

Note: Authority cited: Sections 25213, 25216.5(d), 25218(e), 25320, 25402.10, Public Resources Code. Reference: Sections 25402.10, 25321, 25322, Public Resources Code.

## **Section 1684. Disclosure of Statement of Energy Performance and California Energy Performance Disclosure Report**

According to the schedule established in Section 1685, a building owner shall disclose the U.S. EPA's Portfolio Manager's Statement of Energy Performance and the California Energy Performance Disclosure Report:

- (a) at or before the time the owner presents a sales contract to a prospective buyer;
- (b) at or before the time the owner presents a lease for the entire building to a prospective lessee; and
- (c) at or before the time the owner presents a loan application to finance the entire building to a prospective lender.

Note: Authority cited: Sections 25213, 25218(e), and 25402.10, Public Resources Code. Reference: Section 25402.10, Public Resources Code.

## **Section 1685. Implementation Schedule for Disclosures**

- (a) On and after January 1, 2011, a building owner shall disclose, pursuant to Section 1684, the Statement of Energy Performance and the California Energy Performance Disclosure Report for a nonresidential building that:

- (1) has a total floor space measuring 50,000 square feet or more, or
  - (2) is solely occupied by the owner and has a total floor space measuring 1,000 square feet or more.
- (b) On and after January 1, 2012, a building owner shall disclose, pursuant to Section 1684, the Statement of Energy Performance and the California Energy Performance Disclosure Report for a nonresidential building that has a total floor space measuring 10,000 to 50,000 square feet.
- (c) On and after July 1, 2012, a building owner shall disclose, pursuant to Section 1684, the Statement of Energy Performance and the California Energy Performance Disclosure Report for a nonresidential building that has a total floor space measuring 1,000 to 10,000 square feet.

Note: Authority cited: Sections 25213, 25218(e), and 25402.10, Public Resources Code.  
Reference: Section 25402.10, Public Resources Code.