

**PROPOSED DRAFT REGULATIONS  
Implementing AB 1103 (2007)**

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

**[Proposed] 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.

**[Proposed] 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.

**[Proposed] 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 entity possessing title.
- (b) "Building Tenant" means a person leasing space in a nonresidential building.
- (c) "CEC Nonresidential Building Energy Performance Report" means a completed and notarized Commission Form [No. XXX], detailing a nonresidential building's energy use and stating the building's California Energy Performance Rating.
- (d) "California Energy Performance Rating" means the Commission's "A" to "G" rating evaluating energy efficiency for California nonresidential buildings.
- (e) "CEC" means the California Energy Commission.
- (f) "Commission" means the California Energy Commission.
- (g) "Energy" means electricity, natural gas, heating oil, or other product sold by a utility to a customer of a nonresidential building, or renewable on-site electricity generation, for purposes of providing heat, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities.
- (h) "ENERGY STAR® Qualified Facility" means a building and related facilities that qualifies for the U.S. EPA ENERGY STAR® registered certification mark, by receiving a U.S. EPA Energy Performance Rating of 75 or higher.
- (i) "Energy Use Data" means kilowatt hours, therms, or other utility company measures of energy used by a nonresidential building during the most recent 12 months.

- (j) "Entire Building" means a physically integrated building with a single owner.
- (k) "EPA" means the U.S. Environmental Protection Agency.
- (l) "KBtus" means kilo (thousand) British thermal units.
- (m) "Nonresidential Building" means a building of an occupancy type other than Residential Group R-2, R-3, R-3.1 or R-4, as defined in the California Building Code, title 24, section 302 et seq. (2007). Building types include, but are not limited to, offices; retail and wholesale stores; restaurants, theaters, churches, and other places of assembly; K-12 schools; factories and other industrial buildings; hospitals and other health care facilities; hotels and motels; and storage facilities.
- (n) "Portfolio Manager" means the U.S. Environmental Protection Agency's online tool for managing building data.
- (o) "U.S. EPA Energy Performance Rating" means the U.S. Environmental Protection Agency's 1 to 100 building energy efficiency measurement normalized for a building's characteristics, operations, and weather, according to methods established by U.S. EPA's Portfolio Manager.
- (p) "U.S. EPA Statement of Energy Performance" means a completed and certified version of EPA form 5900-16, published [date], detailing a building's energy use and stating the building's U.S. EPA Energy Performance Rating.
- (q) "Utility Company" means the entity or entities billing a nonresidential building owner and/or a tenant for energy use in the building.

Note: Authority cited: Sections 25213, 25218(e) and 25402.10, Public Resources Code. Reference: Sections 25116 and 25402.10, Public Resources Code; Sections 302 et seq., Title 24, California Building Code.

**[Proposed] Section 1683. Reports of Energy Use to U.S. EPA; Reports of Energy Use to California Energy Commission**

- (a) According to the implementation schedule established by 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 within that account:
  - (1) identify the building; and identify all utility company meters or utility company accounts that serve the building;
  - (2) supply building characteristics as requested;
  - (3) supply contact information;
  - (4) authorize all utility companies serving the building to release energy use data for each meter to the owner's Portfolio Manager account;
  - (5) request all utility companies serving the building to release all energy use data for each meter for the most recent 12 months to the owner's Portfolio Manager account;
  - (6) authorize the CEC to access information in the owner's Portfolio Manager account.

- (b) If Portfolio Manager cannot supply a rating for a building, and according to the implementation schedule established by Section 1685, at least 30 days before a disclosure is required by Section 1684, a building owner shall open an account at the CEC's Nonresidential Building Energy Performance website, and within that account:
- (1) supply U.S. EPA Portfolio Manager building account identification;
  - (2) supply building and energy use characteristics as requested..
- (c) Within 15 days of receiving an authorization and 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 Portfolio Manager, subject to the following conditions:
- (1) a utility company may verify an authorization is complete and accurate before releasing energy use data; and
  - (2) for a nonresidential building with at least one tenant responsible for the tenancy's utility account, a utility company that is not a local agency, as defined by California Government Code section 6252, shall:
    - A. release tenant energy use data to a building owner under a non-disclosure agreement for the sole purpose of complying with Public Resources section 25402.10 and this article, or
    - B. for a nonresidential building with two or more tenants responsible for their own utility accounts, release aggregate energy use data to the owners Portfolio Manager account, or
    - C. for a nonresidential building with a single tenant responsible for the tenancy's utility account, if and when an owner forwards a release form signed by the tenant, accept the form, and within 10 days, release the tenant's energy use data to the owner's Portfolio Manager account.
- (d) 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 established in Section 1685:
- (1) receive a U.S. EPA Statement of Energy Performance for the building, if a 1-100 rating can be obtained; or
  - (2) receive a CEC Nonresidential Building Energy Performance Report for the building.
- (e) For a building with a single tenant responsible for the payment of tenancy utility bills, the building owner shall send the tenant a release form [or CEC form No. XXX] asking tenant for consent to release the tenant's energy use data, solely to comply with Public Resources section 25402.10 and this article.

1. If the tenant consents, the building owner shall forward the tenant's signed release form to the appropriate utility within 10 days of receipt.
2. If, within 10 days of the owner's request, the tenant refuses to release the energy use data or does not respond, the building owner shall rate the building without the tenant's energy use data and without taking into account the tenant's square footage and other characteristics of the tenant's space. The resulting statement of energy performance and rating shall satisfy the requirements for disclosures under Public Resources section 25402.10 until the end of the tenancy.

Note: Authority cited: Sections 25213, 25218(e), and 25402.10, Public Resources Code.  
Reference: Sections 6252 and 6254.16, Government Code; Section 25402.10, Public Resources Code.

**[Proposed] Section 1684. Disclosure of U.S. EPA Energy Performance Statement; Disclosure of CEC Nonresidential Building Energy Performance Report**

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

- (a) at or before the time the owner presents a sales contract for the entire building 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.

**[Proposed] Section 1685. Implementation Schedule for Disclosures**

- (a) On and after January 1, 2011, a building owner shall disclose, pursuant to Section 1684, the building's U.S. EPA Portfolio Manager Statement of Energy Performance or the CEC Nonresidential Building Energy Performance Declaration for nonresidential buildings that:
  - (1) are solely occupied by the owner; or
  - (2) measure more than 50,000 square feet.
- (b) On and after January 1, 2012, a building owner shall disclose, pursuant to Section 1684, the U.S. EPA Portfolio Manager Statement of Energy Performance or the CEC

Nonresidential Building Energy Performance Report for nonresidential buildings that measure 10,000 to 50,000 square feet.

- (c) On and after July 1, 2012, a building owner shall disclose, as described in Section 1684, the U.S. EPA Portfolio Manager Statement of Energy Performance or the CEC Nonresidential Building Energy Performance Report for buildings that measure less than 10,000 square feet.

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

Reference: Section 25402.10, Public Resources Code.



Appendix B  
 Sample of [Proposed] CEC Nonresidential Building Energy Performance Report

COMMERCIAL BUILDING  
Energy Performance

<p style="text-align: center;"><b>California Energy Performance Rating</b></p> <p style="text-align: center; font-size: 2em; font-weight: bold; color: #008000;">142</p> <p style="text-align: center; font-size: 0.8em;">kbtu/sf/yr</p>	<p><b>Building Name:</b></p> <p><b>Building ID:</b> BUILDING ID CODE</p> <p><b>Issue Date:</b> DATE</p> <p><b>Building Type:</b> RETAIL STORE</p> <p>The score for this building was determined based on the information provided below.</p> <p>This data has been field verified on _____</p> <p>by: _____</p> <p>Name _____</p> <p>Address _____</p> <p>City, State, Zip Code _____</p> <p>_____ Gross floor area (SF)</p>						
<p style="text-align: center; font-size: 0.8em;">California Median</p> <p style="text-align: center; font-size: 0.8em;">CA - EUI Median Value:</p> <p style="text-align: center; font-size: 0.8em;">175 kbtu/sf - yr</p> <p style="text-align: center; font-size: 0.8em;">Percent of Median: 92%</p>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center; font-weight: bold; font-size: 1.2em;">Energy Use Index</td> <td style="text-align: right; font-size: 0.8em;">(kbtu/sf-year)</td> </tr> <tr> <td style="border: 1px solid #ccc; padding: 2px;">Raw</td> <td style="text-align: right; font-size: 1.5em; font-weight: bold;">157</td> </tr> <tr> <td style="border: 1px solid #ccc; padding: 2px;">Weather normalized</td> <td style="text-align: right; font-size: 1.5em; font-weight: bold;">142</td> </tr> </table>	Energy Use Index	(kbtu/sf-year)	Raw	157	Weather normalized	142
Energy Use Index	(kbtu/sf-year)						
Raw	157						
Weather normalized	142						
<p>Default Used    Data Entered</p> <p><input type="checkbox"/> _____ Weekly operating hours</p> <p><input type="checkbox"/> _____ Number of workers on main shift</p> <p><input type="checkbox"/> _____ Number of personal computers</p> <p><input type="checkbox"/> _____ Number of cash registers</p> <p><input type="checkbox"/> _____ Number of walk-in refrigeration/freezer units</p> <p><input type="checkbox"/> _____ Number of open &amp; closed refrigeration/freezer cases</p> <p><input type="checkbox"/> _____ Percent of floor area that is cooled in 10% increments (10%, 20%, 30%, etc.)</p> <p><input type="checkbox"/> _____ Percent of floor area that is heated in 10% increments (10%, 20%, 30%, etc.)</p>							

I, \_\_\_\_\_ on this date of \_\_\_\_\_, do hereby attest and certify that all the information or selections that appears on this certification were entered by me and accurately represent the building identified to the best of my knowledge.

Signed: \_\_\_\_\_