



California Energy Commission

Nonresidential Building Energy Use Disclosure Program (AB 1103)

Draft Regulatory Language

**California Energy Commission
Art Rosenfeld Hearing Room**

February 20, 2015
9 a.m.



California Energy Commission

Schedule

Welcome, schedule, and housekeeping	9:00 AM
Section 1681 - Definitions	9:15 AM
Section 1682 - Schedule	9:45 AM
Section 1683 - Disclosures	10:15 AM
Break	10:45 AM
Section 1684 - Data Releases, Report	11:00 AM
Section 1685 - Exemption from Disclosure	11:45 AM
Open Comment Period	12:15 PM
End	1:00 PM



Housekeeping

- **Restrooms**
- **Snack Bar**
- **Emergency Exits**



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California Code of Regulations
Title 20, Division 2, Chapter 4, Article 9
Sections 1680-1684 [1685](#)



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Section 1681. Definitions

- a) “Building Operator” means a person authorized to act on behalf of a building owner regarding decisions related to building operations, including release of information related to the building.
- c) “Complete calendar month” means a period of time corresponding to one month of the calendar, starting on the first day of the month and ending on the last day of the month.
- h) “Nonresidential Building” means a building of occupancy type A, B, E, I-1, I-2, M, R1, S, or Type U parking garages, as defined in the *California Building Code*, Title 24, Section 302 et seq. (~~2007~~ 2013).



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Section 1681. Definitions

- j) ~~“Prospective buyer” means a person who has submitted a written offer to purchase a building.~~ whose offer to purchase a building has been accepted by the building owner.
- k) ~~“Prospective lender” means a person who has received an owner’s application to finance an entire building.~~
- k) ~~“Prospective lessee” means a person who has submitted an~~ whose application to lease an entire building has been accepted by the building owner.
- m) “Virtual meter” means a representative meter which aggregates energy use data per month across multiple electricity meters or meters of the same fuel type serviced by the same utility.



Section 1682. Schedule of Implementation

~~c) On and after July 1, 2016, for a building with a total gross floor area measuring at least 5,000 square feet and up to 10,000 square feet.~~



Section 1683. Disclosures

~~a) A building owner shall disclose the Data Verification Checklist for the building to:~~

a) A building owner or operator shall generate the Data Verification Checklist, or other disclosure forms approved by the Energy Commission from Portfolio Manager, which includes information specified in Section 1684(a) and Section 1684(b). The building owner or operator shall disclose this information to:



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Section 1683. Disclosures

- 1) A prospective buyer of the building no later than ~~24 hours prior to execution of the sales contract~~ three days after signing of the purchase and sale agreement.
- 2) A prospective lessee of the building no later than ~~24 hours prior to execution of the lease~~ three days after signing of the lease agreement.
- 3) ~~A prospective lender financing the entire building, no later than submittal of the loan application.~~



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Section 1683. Disclosures

- b) Nothing in these regulations permits an owner to use tenant energy use data for purposes other than compliance with Public Resources Code, Section 25402.10. Any business that receives or has access to energy use data provided pursuant to Public Resources Code Section 25402.10, including but not limited to, a building owner, operator, prospective buyer, prospective lessee, an agent or broker, may be obligated to protect the confidentiality of that data pursuant to Civil Code Section 1798.98. At the time of disclosure as specified in Section 1683(a), the building owner or operator shall notify the prospective buyer or lessee of this obligation.



BREAK
10:45 – 11:00



Section 1684. Data Releases, Report

- a) At least 30 days before a disclosure is required by Section 1683, or no later than the first date that the property is available for sale or lease, a building owner or operator shall open an account or update an existing account for the same building on ~~EPA's ENERGY STAR program~~ the Portfolio Manager website, and within the account, the building owner or operator shall:



Section 1684. Data Releases, Report

- 1) Provide the owner name and the owner e-mail address;
- 2) Provide the building street address, city and ZIP code, and the year in which the building was constructed;
- 3) Identify all sources of energy use data for the entire building, for at least the most recent 12 complete calendar months; and
- 4) Provide space use characteristics as specified by Portfolio Manager for all space types in the building.



Section 1684. Data Releases, Report

- 5) Request all utilities and energy providers serving the building to release energy use data for the entire building from at least the most recent 12 complete calendar months for specified meters or accounts to the owner's or operator's Portfolio Manager Account; or, the owner or operator may manually enter all energy use data for the entire building from at least the most recent 12 complete calendar months to the owner's or operator's Portfolio Manager account. The energy use data can be used for disclosure pursuant to Section 1683(a) for up to 1 year from the date of request.



Section 1684. Data Releases, Report

- b) As soon as practicable and no later than 30 days after receiving a request under subdivision (a) of this section, a utility or energy provider shall upload all energy use data for the entire building from at least the most recent 12 complete calendar months to the building owner's Portfolio Manager Account. Utilities and energy providers shall not require tenant consent to provide energy use data to the building owner or operator. Where a building has multiple tenants, the utility shall upload the energy use data for the building, aggregated by electricity usage and/or fuel type into a virtual meter for each fuel type. (Continued on next slide.)



Section 1684. Data Releases, Report

- b) Continued: ~~If a building has a utility or energy provider account for which the owner is not the customer of record, the utility or energy provider shall aggregate or use other means to reasonably protect the confidentiality of the customer. A utility or energy provider may verify a request or ask for clarification before releasing data.~~



Section 1684. Data Releases, Report

- c) After all utilities and energy providers serving a building have complied with subdivision (b) of this section, and ~~before~~after the building owner has made the disclosure required pursuant to Section 1683, the building owner shall ~~generate the building's Data Verification Checklist~~ submit the building's data to the Energy Commission ~~from~~ through Portfolio Manager via the reporting link provided on the Energy Commission program website. ~~and electronically submit the Data Verification Checklist.~~ ~~The Data Verification Checklist shall expire 30 days after it is generated.~~



Section 1684. Data Releases, Report

- d) In the event that the Energy Commission accesses ~~the data~~ energy consumption data submitted pursuant to subdivision (c) of this section, the Energy Commission shall ~~treat~~ determine whether the data ~~as~~ is confidential, in a manner consistent with Section 2505 of this Division ~~state and federal laws.~~ Disclosure of any such records shall be made in a manner consistent with Section 2507 of this Division.



Section 1685. Exemption from Disclosure

When a building subject to disclosure pursuant to Public Resources Code, Section 25402.10 is scheduled to be demolished one year or less from the date of signing of the purchase and sales agreement or lease agreement, the building owner may, in lieu of disclosing energy use, submit to the Energy Commission a copy of the approved demolition permit from the local jurisdiction, and submit to the prospective buyer or lessee a copy of these regulations and a copy of the approved demolition permit.



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Open Comment Period

Written comments for Docket No. 14-EUDP-01 are due by 4 p.m. on Friday, March 6, 2015.

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