

BUILDING ENERGY DISCLOSURE REQUIREMENTS – COULD IT REALLY BE HAPPENING THIS TIME?

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As you know from my previous bulletins on this topic, at some point in the near future, commercial building owners in California will be required to disclose the energy usage of their buildings to potential tenants, buyers and lenders. However, the implementation of the law has been delayed again for six months until January 1, 2013.

As you will recall, in 2007, Governor Schwarzenegger signed a bill requiring all California building owners and operators to disclose the energy consumption of commercial buildings beginning January 1, 2010. The California Energy Commission had not adopted final regulations by that date, so the implementation of the law has been delayed three times, first to January 1, 2011, then to January 1, 2012 and later to July 1, 2012. Recently, the Energy Commission, after holding hearings on its proposed regulations, delayed the implementation until January 1, 2013. And, this time it looks like the law's requirements will finally take effect on that date. Assuming that is true, our firm will be holding seminars in October of this year to help you begin the implementation of the new law in your businesses.

The law came about as the result of AB 1103, signed by the Governor in September 2007, as part of his climate change initiatives. The bill required that, effective January 1, 2009, all electric and gas utilities begin to maintain records of the energy consumption data on all non residential buildings. The bill obligated each utility operating in California to upload that energy consumption data to the United States Environmental Protection Agency's Energy Star Portfolio Manager web site.

The law further required "owners and operators" of commercial buildings, beginning on January 1, 2010, to disclose that energy consumption data for the prior 12 months to:

a) "Prospective buyers" of commercial buildings;

- b) Tenants who are leasing an entire building; and
- c) Lenders who are financing an entire building.

The current draft regulations have a phased implementation of the law based upon the size of the building. Buildings of greater than 50,000 square feet will be the first to be subject to the new law on January 1, 2013, with smaller buildings following suit at six month intervals thereafter. The draft regulations do not require disclosure on buildings less than 5,000 square feet.

As we have recommended before, in anticipation of the new law, building owners and operators should begin taking the following steps:

Set up an account on the Portfolio Manager web site:

Energy Star Performance Portfolio Manager

For each non-residential building that you own or operate, set up an individual profile for that building.

In the meantime, if you have any questions, please contact me.