

# HERE WE GO AGAIN

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When we last updated you on California's Commercial Energy Use Disclosure Program in November 2015, we were celebrating the end of the five-year saga of AB1103 and its requirement that commercial building owners disclose energy information to potential buyers, tenants, and lenders. Fast forward to March of this year, the California Energy Commission (CEC) finalized regulations which bring with them a host of requirements for building owners. The new regulations are part of a statewide building energy use benchmarking and public disclosure program under AB 802 (which replaced AB 1103 and shifted the requirement to maintain records of energy use data to the utility providers).



**As of June 1, 2018, under California AB 802 owners of commercial and nonresidential buildings over 50,000 square feet must take the following steps:**

1. Establish an **Energy Star Portfolio Manager Account**;
2. Request energy use data from the utility provider; and
3. Upload the energy usage information into your Energy Star Portfolio and complete the required steps to file the report prior to the June 1st deadline.

Some things to take note of:

- If two or more separate commercial buildings share one meter, AB 802 applies if the buildings' aggregate gross floor area is 50,000 or more square feet.
- If a commercial building contains 3 or less utility customers, then the building owner or property manager is responsible for obtaining the permission from the utility customers (i.e. tenants) to provide to the utility to obtain the data. For buildings with more than 3 utility customers, the statute requires the utility providers to disclose the usage data.
- Exceptions- A building owner is exempt from the requirements of AB 802 if their commercial properties meet any of the following conditions:
  - Buildings receiving a certificate of occupancy or a temporary certificate of occupancy within 6 months of the reporting deadline;
  - Buildings scheduled for demolition one year or less from the reporting date; or
  - Buildings complying with approved local benchmarking programs listed on the CEC website. To date, only Los Angeles, San Francisco and Berkeley have had their local benchmarking programs approved by the CEC.
- Owners of residential buildings over 50,000 square feet with more than seventeen (17) residential utility accounts will be required to comply with the above requirements starting June 1, 2019.
- A utility provider has up to 4 weeks to report energy usage data; therefore Owners should submit requests prior to March 1 of each year.
- Penalties for Non-Compliance – Building owners who fail to comply with AB 802 may be fined up \$2,000 for each day the violation has existed and continues to exist (Public Resources Code Section 25321(a)(1)). The CEC will notify owners regarding non-compliance and provide 30 days to correct the violation.

Most commercial property owners and property managers are already familiar with the ENERGY STAR program. If that is the case, compliance with AB 802 simply requires that you request the benchmarking data from your utility provider and upload the same to the CEC in a timely manner. However, if you are unfamiliar with the ENERGY STAR program and need a reference for a qualified consultant, or if you need assistance notifying a tenant to obtain their consent to release their usage information, do not hesitate to contact us.