

**AB 1103 Energy Efficiency Disclosures
for Non-Residential Buildings**

1. Who must comply with the new energy efficiency disclosure requirements for commercial buildings in California?

Owners of non-residential buildings at least 5,000 gross square feet in size must provide certain energy usage and energy efficiency information to prospective buyers, tenants and lenders.

The disclosure requirements apply only to transactions involving an entire building or buildings. Space leases and transactions involving individual commercial condominium units comprising a portion of a building are not subject to the requirements.

2. What are the effective dates for the disclosure requirements?

The disclosure requirements are being phased in based on a building's gross square footage as follows:

Greater than 50,000 square feet--July 1, 2013;

Greater than 10,000 square feet--January 1, 2014;

At least 5,000 square feet--July 1, 2014.

3. What information must be disclosed?

The information to be disclosed includes the energy consumption data for the building as a whole for the prior consecutive 12 months.

The four disclosure documents for each building are the Disclosure Summary Sheet, Statement of Energy Performance, Data Checklist and Facility Summary.

The disclosure documents are generated entirely on-line using the EPA's Energy's Portfolio Manager website software by opening an account for the building and providing the required energy consumption-related information.

The Portfolio Manager account for the building is required to be opened **at least 30 days before** the disclosures are to be made to allow sufficient time to generate the disclosure documents.

The energy consumption data is compared to the energy consumption for similar buildings nationwide. In addition, the energy efficiency rating of the building under the federal Energy Star performance rating system is provided to the extent available.

4. When must the disclosures be made?

The four disclosure documents must be provided to a prospective buyer **at least 24 hours before** the purchase agreement is executed; to a prospective tenant **at least 24 hours before** the lease is executed; and to a prospective lender not later than **upon submittal** of the loan application.

When delivered, the disclosure documents must be current. The disclosure documents expire 30 days after they are generated.

5. What is the Energy Star rating system?

The federal Energy Star performance rating grades buildings on a scale of 1 to 100 (100 being the most energy efficient) that is designed to compare the building's energy consumption to similar buildings nationwide. The Energy Star rating takes into account the building's energy-related characteristics, such as types of space uses, size, location (climate), number of occupants, hours of operation, amount of refrigerated space, number of PCs.

Not all building types are covered by the Energy Star rating system, including certain manufacturing uses.

A score of 75 or greater indicates that the building is in the top quartile of comparable buildings nationwide and is qualified to be voluntarily certified as an Energy Star building.

6. Who provides the energy consumption information for the building?

The energy usage data for the prior 12 months can be uploaded to the Portfolio Manager account by the building's utility providers or entered by the building owner or its agent. Note that the cooperation of building tenants may be needed in order to obtain the energy usage information if the building owner is not the customer of record.

7. What are the penalties for failure to comply?

While AB 1103 does not specify a penalty, property owners and others could be subject to claims by buyers, tenants and lenders for a variety of remedies for failures to make the required disclosures.

The ultimate goal of AB 1103 is to make the required disclosures a routine aspect of the transactions covered by the disclosure requirements.

8. What can real estate professionals do in response to the pending implementation of AB 1103?

Advise commercial building owners of the need for tracking, collecting and assuring timely access to energy usage information for each building covered by AB 1103.

Encourage commercial building owners to open an Energy Star account well in advance of disclosure deadlines and to be aware of each building's energy efficiency relative to comparable buildings.

Utilize transaction documents that include provisions confirming compliance with the AB 1103 disclosure requirements. The AIR forms incorporate such provisions.

Advise commercial building owners to include provisions in building leases requiring tenants to provide access to energy consumption information and to cooperate with the building owner's disclosure obligations under AB 1103. The AIR forms incorporate such provisions.

Questions? Please contact Elizabeth Watson at EWatson@GreenbergGlusker.com or 310.201.7439.



AB 1103

The New Non-Residential Energy Use Disclosure Law


How to Generate the Reports Required for Compliance

1. Information about the building must be entered into the Energy Star Portfolio Manager software (www.energystar.gov). This process is called "Benchmarking".
2. A User Account is required to enter the information into the software.
 - a. This account can hold multiple buildings that are to be benchmarked.
 - b. Each building can be separately shared with other users.
 - c. Buildings can be transferred to other users.
3. Information specific to the building must be entered.
4. Utility usage information can be entered in two ways:
 - a. Download directly from the utility (if applicable) or
 - b. Enter manually directly off the utility bills.
5. Utility information must be for a minimum of twelve consecutive months and cannot be older than 120 days.
6. The compliance reports required for AB 1103 include:
 - a. Disclosure Summary Sheet
 - b. Generated by Energy Star software:
 - i. Statement of Energy Performance
 - ii. Data Checklist
 - iii. Facility Summary
7. Buildings with an Energy Star rating over 75 may apply for Energy Star Certification. This is voluntary and does not meet compliance with AB 1103.
 - a. This requires further testing within the building and audit of information entered into the system.
 - b. Professional Engineer (PE) must review and sign off on additional information.
8. Buildings with an Energy Star rating under 75 may consider energy efficiency retrofits.
 - a. The system can track the rating as it improves due to the retrofits against a baseline that the system or the user establishes.

Need help, call us. We can get it done for you without the hassle.

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The Energy Star Benchmarking Process



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What is Benchmarking?

- ▶ A process where the energy consumption of a building is compared against other similar buildings.
- ▶ Results in an Energy Star Rating
 - Weather normalization and activity within the building is considered.
 - Rating of 0 – 100 tells how energy efficient a building is.
 - Rating of 75 or above – Building is eligible to be Energy Star certified.



What are the Benefits of Benchmarking?

- ▶ Allows Buildings to be compared against similar buildings.
- ▶ Allows Buyers or Tenants to compare buildings as part of the decision making process.
- ▶ Energy efficient retrofits can be easily traced by improvements in the rating against a baseline that is established.



How is it done?

- ▶ Collect prior 12 months of utility data.
- ▶ Enter it into the Energy Star Portfolio Manager software.
- ▶ Generate reports.
- ▶ Report needs to be fresh.



How to use the Energy Star Portfolio Manager

- ▶ Create an account.
- ▶ Enter information about the buildings (when build, size, operating hours...).
- ▶ Define how space is used (office vs warehouse...).
- ▶ Enter all meter info for the building.
- ▶ Generate reports.
- ▶ If rating is over 75, eligible to be energy star certified.




Create an account / user name @ www.EnergyStar.gov




Enter Building Specific Info

- ▶ Year Building was built
- ▶ Gross Square Floor Area
- ▶ Refrigerated vs. Unrefrigerated space
- ▶ Weekly Operating Hours
- ▶ Number of Workers on Main Shift
- ▶ What percentage of the space is Air Conditioned and Heated
- ▶ Number of walk in refrigerators
- ▶ Is the building a distribution center?
- ▶ Is there a data center?
- ▶ Type of parking spaces




Sources of Meter Information

- ▶ Option 1: Information can be taken directly from the utility bills.
- ▶ Option 2: Information may be downloaded from utility (if available).



Four Reports are Necessary to Meet AB1103

- ▶ Disclosure Summary Sheet
- ▶ Generated by Energy Star software:
 - Statement of Energy Performance
 - Data Checklist
 - Facility Summary



How Do Commercial Real Estate Brokers Assist Their Clients?

- ▶ Inform them of this new legislation.
- ▶ Direct them to the AB 1103 and Energy Star Websites.
- ▶ Direct them to a qualified Benchmarking expert.



We can help you comply with AB 1103.



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