

## DOCKETED

<b>Docket Number:</b>	25-OIR-01
<b>Project Title:</b>	Building Energy Use Disclosure and Public Benchmarking Program mandated under Assembly Bill 802 - Proposed Regulatory Language Changes
<b>TN #:</b>	266099
<b>Document Title:</b>	Proposed Changes for California Code of Regulations, Title 20, Division 2, Chapter 4, Article 9
<b>Description:</b>	This document outlines the proposed revised language for the Building Energy Benchmarking Program
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<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
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**EXPRESS TERMS**  
**California Code of Regulations**  
**Title 20. Public Utilities and Energy**  
**Division 2. State Energy Resources Conservation and Development Commission**  
**Chapter 4. Energy Conservation**  
**Article 9. Building Energy Use Data Access, Benchmarking, and Public Disclosure**

Proposed new language appears as underline (example) and proposed deletions appear as strikeout (~~example~~). Existing language appears as plain text. Three dots or “...” represents the substance of the regulations that exists between the proposed language and current language.

**§1681. Definitions**

...[Skipping subdivisions (a) through (k)]

(l) Substantial Destruction or Destroyed: Physical damage to a building amounting to more than 50 percent of the building’s full cash value immediately prior to the disaster as determined by the County Assessor.

(m) Unforeseen Circumstances: An act or occurrence that prevents the building owner or Owner’s Agent from complying with section 1683. This includes any act or occurrence that delays or prevents the building owner or Owner’s Agent from timely performing an obligation under section 1683 or complying with a condition required under section 1683 if such act or event is beyond the reasonable control and without fault or negligence of the building owner or Owner’s Agent. Unforeseen circumstances may include, but are not limited to, fires, flooding, earthquakes, or declared emergencies.

(n) Utility: An entity providing Energy to a building. An Energy aggregator that does not directly bill an individual customer is not consider a Utility for this program.

(o) Utility Account: AN agreement between a Utility and its customer to provide Energy to a pre-determined location, subject to the following exceptions:

(1) Where multiple postal addresses within a building are served by the same Utility Account for a single Energy type, those separate postal addresses will be treated as separate Utility Accounts under this Article.

(2) Where a single postal address is served by multiple Utility Accounts of a single Energy type, those Utility Accounts will be treated as a single Utility Account under this article.

NOTE: Authority cited: Sections 25213, 25218(e) and 25402.10, Public Resources Code. Reference: Sections 25116 and 25402.10, Public Resources Code.

## **§1684. Exemptions**

(a) Exemptions for Building Owners. A building owner is exempt from the requirements of this Article for the given reporting year if one or more conditions are met:

(1) The building did not have a certificate of occupancy or temporary certificate of occupancy for more than half of the calendar year for which reporting to the Energy Commission is required.

(2) The building is scheduled to be demolished one year or less from the reporting date.

(3) The building had substantial destruction or was destroyed due to unforeseen circumstances.

(4) A geographic area, which may include a portion of, or all of, a county, city, or city and county with multiple buildings having substantial destruction or being destroyed due to the same unforeseen circumstances.

(35) The building was benchmarked pursuant to a local program listed on the Energy Commission website pursuant to subdivision (b) of this section.

(b) Local Benchmarking Program Exemption Process.

(1)(A) A local jurisdiction may request a determination from the executive director of the Energy Commission that compliance with its benchmarking program fulfills the requirements of section 1683. The executive director will approve the request if:

(i) The program includes annual public disclosure of, at a minimum:

1. For all Disclosable Buildings covered by the local benchmarking program, items (A), (C), (D), and (G) in section 1683(c)(3); and.

2. For Disclosable Buildings covered by the local benchmarking program, except those buildings described in section 1683(c)(4). item (O) in section 1683(c)(3).

(ii) The local jurisdiction agrees to transmit to the Energy Commission all information that is publicly disclosed for a calendar year by August 1 of the following year.

(B) Where a local benchmarking program has been approved pursuant to this subdivision, any building benchmarked pursuant to that program in a given calendar year is exempt from compliance with section 1683 for that year. The Energy Commission shall list each local benchmarking program approved pursuant to this subdivision on its website.

(2) The Energy Commission may revoke a determination made pursuant to subdivision (b)(1) of this section if it determines that a local benchmarking program is not meeting the requirements of subdivisions (b)(1)(A) and (b)(1)(B) of this section. At least 30 calendar days before a determination is revoked, Energy Commission staff shall notify the local jurisdiction and the public that the Energy Commission will consider revoking the determination and provide an opportunity for public comment.

(3) If the Energy Commission revokes a determination pursuant to this subdivision, compliance with the local benchmarking program shall no longer constitute compliance with the requirements of section 1683, starting with the calendar year following the year in which the determination is revoked.

(4) If a determination is revoked, the Energy Commission shall indicate on its website the date of revocation and the calendar year in and after which compliance with the local program will no longer constitute compliance with section 1683.

(c) Exemption Procedures.

(1) Unless the Executive Director or designee determines on its own initiative that an exemption applies, the building owner or Owner's Agent shall submit an exemption request to the Energy Commission. The exemption request shall contain:

(A) Contact information.

(i) Name and relation to the building owner.

(ii) Building name.

(iii) Building address.

(iv) Phone number.

(v) Email address.

(B) Reporting year.

(C) Benchmarking Reference Number.

(D) Building type.

(E) A description and any supporting documentation that shows that the building is exempt from the benchmarking reporting requirements.

(F) A statement under penalty of perjury that all information provided is correct and accurate consistent with the requirements of California Civil Code section 2015.5. An exemption shall be granted if the building owner or Owner's Agent can sufficiently prove an exemption applies. Any applicable penalties shall apply unless an exemption is applied for before a given year's reporting deadline and granted.

(d) Extension to the reporting deadline.

(1) Building owners or Owner's Agent may request a reporting extension by providing all the following information and anything additionally necessary for the Energy Commission staff to evaluate the request:

(A) Contact information.

(i) Name and relation to the building owner.

(ii) Building name.

(iii) Building address.

(iv) Phone number.

(v) Email address.

(B) Reporting year.

(C) Benchmarking Reference Number.

(D) A description and any supporting documentation that shows there were circumstances beyond its control that prevent meeting the reporting deadline.

(E) A description and any supporting documentation that shows the building owner or Owner's Agent otherwise timely took actions to comply with the reporting requirements.

(F) The date, or at least anticipated date if an exact date is unknown, of when it will be able to provide the required data, and how this date was determined.

(G) A statement under penalty of perjury that all the information in the application is accurate.

(2) Unless the Executive Director or designee determines on its own initiative that an extension applies, the building owner shall submit an extension request to the Commission through the approved extension form. The Energy Commission staff may approve an extension if the building owner or Owner's Agent can sufficiently prove it took timely actions to comply, circumstances beyond its control prevent timely compliance, and it has provided a reasonable date or estimate of when it can comply.

(3) Any applicable penalties shall apply unless the extension is applied for before a given year's reporting deadline and granted.

#### (e) Appeals Process

(1) A building owner or Owner's Agent may attempt to appeal a negative exemption or extension determination if it meets the criteria in, and follows the process of, 20 CCR section 1231 et seq.

NOTE: Authority cited: Sections 25213, 25218(e) and 25402.10, Public Resources Code. Reference: Sections 25216.5(d), 25320 and 25402.10, Public Resources Code.