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Proposed Benchmarking and Disclosure Legislation

My firm has worked with a number of cities who have adopted disclosure ordinances, and are now struggling to make sense of the data provided by individual buildings. As a basis for building policy advancements, it is important to make certain that a breadth of data is collected on building characteristics and performance. While Energy Star represents a very good starting point for this data, there are some critical gaps in Energy Star data that have significantly limited the ability of cities to identify trends and policy opportunities based only on this data. We suggest that some additional strategies be added to the disclosure requirements in CA to help policymakers and the public better understand relative building performance. Also, since the Energy Star tool is not itself subject to the disclosure requirements identified by the CEC, it is important to be more specific about what data must be collected/reported by buildings, and not rely exclusively on potential rulemaking by the EnergyStar program to guarantee future enforcement of CA disclosure requirements.

1) Although Energy Star is a good default tool, other tools are becoming available that can replace or augment the collection and analysis capabilities of Energy Star. In particular, these tools are valuable for building types and mixed use buildings that are not fully addressed by Energy Star. The disclosure language should specify that alternate reporting methodologies might be adopted for building disclosure, provided that all of the required building information fields listed in Section 1682 (c) (1) (A) are included.

2) The Energy Star tool is not directly designed as a compliance mechanism to serve for disclosure requirements. Users may elect to leave fields blank or enter default values even when they are in possession of more accurate data for their project. The language of the proposal relies on "Energy Star requirements"™ to identify required fields, but the Energy Star tool contains vague language and instructions about default values and incomplete entries. The CEC should be explicit about required fields, and not rely on the guidance within the Energy Star tool as the "enforcement language"™ for identifying required data.