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Project Title:	Building Energy Performance Strategy Report
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Document Title:	Request for Information and Input on the California Building Energy Performance Strategy Report
Description:	The California Energy Commission (CEC) seeks information, input, and contact details from stakeholders and interested members of the public to inform the development of the California Building Energy Performance Strategy Report required by Senate Bill 48 (Becker, Chapter 378, Statutes of 2023).
Filer:	Gabriel Taylor
Organization:	California Energy Commission
Submitter Role:	Commission Staff
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CALIFORNIA ENERGY COMMISSION715 P Street
Sacramento, California 95814energy.ca.gov

CEC-70 (Revised 7/22)

**IN THE MATTER OF:**California Building Energy Performance
Strategy Report**DOCKET NO. 24-BPS-01****REQUEST FOR INFORMATION (RFI)**RE: California Building Energy
Performance Strategy Report

Request for Information and Input on the California Building Energy Performance Strategy Report DUE DATE: Wednesday, June 26, 2024

The California Energy Commission (CEC) is seeking information, input, and contact details from stakeholders and interested members of the public to inform the development of the California Building Energy Performance Strategy Report (report) required by Senate Bill 48 (Becker, Chapter 378, Statutes of 2023) (SB 48). Staff has developed a list of questions in the Stakeholder Information and Input Request section of this Request for Information (RFI). Organizations and individuals are invited to provide responses to staff's questions for the public record. It is not required to respond to all questions. Comments and supporting documentation are due by **Wednesday, June 26, 2024**.

Background

California faces numerous climate change-induced challenges from wildfires to heat waves to droughts. These challenges impact the health and safety of residents, the reliability of energy systems, and the economy of the state. Buildings in California use nearly 70 percent of the state's electricity and are responsible for about a quarter of the state's greenhouse gas emissions, when including fuel used in buildings (such as electricity and gas for heating, cooling, lighting, and cooking) and emissions from refrigerants. With 4.5 million multi-family units and over 7 million square feet of commercial buildings in the state, ensuring buildings continue to operate efficiently after construction, and pursuing opportunities to improve energy performance when possible while in use, will be key to meeting the state's climate and sustainability goals.

For almost 20 years California has studied, planned, and acted to reduce the emissions of greenhouse gases and the impacts of climate change through the energy, transportation, natural lands, agricultural, and industrial sectors. State law and policy have signaled a clear commitment to a just and equitable transition to carbon neutrality by 2045, and the state's research and development efforts are advancing innovative technologies and methods to

deepen emissions reductions and reduce costs. The CEC has taken bold steps to reduce emissions in buildings through statewide regulations such as the Building Energy Efficiency Standards, Appliance Efficiency Standards, Flexible Demand Appliance Standards, Load Management Standards, and minimum requirements for electric vehicle supply equipment in new buildings. The Governor has set a goal of 3 million climate-ready and climate-friendly homes by 2030 and 7 million by 2035, supplemented by 6 million heat pumps by 2030.¹ The California Air Resources Board (CARB) has authority under Assembly Bill 32 (Núñez, Chapter 488, Statutes of 2006) and subsequent related legislation to regulate greenhouse gas emissions,² and state law makes CARB the lead agency for developing the State Implementation Plan and approving air quality management plans developed by regional air districts based on relevant air quality authorities. In 2015, Senate Bill 350 (De León, Chapter 547, Statutes of 2015) added requirements for a comprehensive program to double the state's building energy efficiency savings by 2030 and introduced an emphasis on emissions reduction in the electricity sector through integrated resource planning. Further, an array of state affordable housing finance programs and local government powers over safety, land use, and utility concession help advance building decarbonization.

California Public Resources Code (PRC) section 25402.10 authorizes the Building Energy Benchmarking Program, which requires the owners of commercial buildings with more than 50,000 square feet of gross floor area and the owners of multifamily residential buildings with more than 50,000 square feet of gross floor area and 17 or more utility accounts to report energy usage and building characteristic information annually to the state. Seven cities have a local benchmarking program that supersedes the state requirements (Berkeley, Brisbane, Chula Vista, Los Angeles, San Diego, San Francisco, and San José).³ The building performance data reported to the state is available for public review and geospatial analysis on the CEC's Building Energy Use Disclosure and Public Benchmarking Program Dashboard.⁴ The benchmarking data demonstrates that there is a wide range of performance and room for significant improvement among large buildings in California.

Within California, the city of Chula Vista adopted the first building performance standards in 2021. Seven other cities (Berkeley, Los Angeles, Sacramento, San Diego, San Francisco, Santa Monica, and West Hollywood) and one county (the County of Los Angeles) are working on building performance policies and have signed onto the National Building Performance Standards Coalition (BPS Coalition),⁵ which comprises a nationwide group of state and local

¹ Governor Newsom Calls for Bold Actions to Move Faster Toward Climate Goals (July 2022) <https://www.gov.ca.gov/2022/07/22/governor-newsom-calls-for-bold-actions-to-move-faster-toward-climate-goals/>

² AB 32 Climate Change Scoping Plan <https://ww2.arb.ca.gov/our-work/programs/ab-32-climate-change-scoping-plan>

³ Exempted Local Benchmarking Ordinances <https://www.energy.ca.gov/programs-and-topics/programs/building-energy-benchmarking-program/exempted-local-benchmarking>

⁴ CEC Building Energy Use Disclosure and Public Benchmarking Program Dashboard https://tableau.cnra.ca.gov/t/CNRA_CEC_PUBLIC/views/EnergyEfficiencyBenchmarkingDashboard/BenchmarkingDashboard

⁵ National Building Performance Standards Coalition <https://nationalbpscoalition.org/>

governments that have committed to inclusively design and implement building performance policies and programs in their jurisdictions. The State of California signed onto the BPS Coalition in 2022.

SB 48 introduced PRC 25402.16(b), which requires the CEC, in consultation with CARB, the California Public Utilities Commission (CPUC), and the Department of Housing and Community Development (HCD), to "...develop a strategy for using benchmarking data to track and manage the energy usage and emissions of greenhouse gases of covered buildings in order to achieve the state's goals, targets, and standards..." This presents an opportunity for a comprehensive public analysis of building performance metrics, policies, and enforcement mechanisms to support California's climate, equity, and energy goals.

SB 48 Implementation Plan

To implement SB 48, the CEC plans to undertake a comprehensive process including a series of public workshops and meetings to engage a range of stakeholders and provide opportunities for both interactive and written comments. CEC will produce at least one draft report and consider additional stakeholder input and feedback to generate a final version. The final report is required to be adopted by the CEC on or before July 1, 2026, and then submitted to the Legislature on or before August 1, 2026, along with "...recommendations for further legislative action that would help achieve the objectives..." [by PRC 25402.16(f)(1)]

Stakeholder Information and Input Request

To initiate a collaborative development process, CEC staff requests feedback on the questions below and other input from stakeholders to inform development of the strategy and recommendations required by SB 48. Stakeholders are not required to respond to all of the questions, but are encouraged to at least respond to Question 1 with contact information and the focus of their interest in this report and the associated recommendations to the legislature. The more information that each stakeholder can provide on the record at this time, the better staff will be able to incorporate their perspectives in the draft report and involve them in the development of the final report and recommendations. Please clearly associate each response with a question number. Relevant code language follows the questions for reference. There will be additional opportunities for both written comment and interactive collaboration during this proceeding.

Stakeholder Contact Information and Areas of Interest

In addition to building a public record of stakeholder perspectives, one of the primary goals of this RFI is to build a contact list of interested stakeholders to ensure staff is able to involve them in the report and recommendations development process. To this end, the first question requests details about you and your organization, a discussion of your interest in this report, and your public contact information. Note that this information will become part of the public record of this proceeding with access available via any internet search engine.

1. Please provide the following information about you and/or your organization:

1.1. Names & email addresses of public contacts for you and your organization.

- 1.2.** What are your areas of interest in this report development process?
- 1.3.** Description of your organization and the constituency you represent.
- 1.4.** What is the best way to outreach and engage with your constituency?

Building Benchmarking and Performance

The energy efficiency, comfort, and safety of new buildings are regulated by building codes that have effect from early in the design process through to the completion of construction. Once a new building goes into service, there are minimal regulatory oversights of building operations and maintenance throughout its useful life, especially for energy efficiency and climate impacts. Building benchmarking and building performance strategies aim to fill that gap. Benchmarking requires building owners to collect and report energy use and other specified data to a public database. This allows both present and future building owners to analyze how the performance of their building changes over time, and to identify significant opportunities for maintenance and improvement. Building performance policies, strategies, and standards provide guidance or requirements to building owners to maintain or improve existing building operations by connecting the benchmarking data to building decarbonization, energy efficiency, sustainability, occupant comfort, and load flexibility opportunities. Such policies complement energy codes by helping owners maintain or improve building performance over the life of the building.

- 2.** What building performance metrics (such as site energy use intensity, carbon dioxide equivalent emissions, or peak electric demand) should be considered in a building performance strategy? What building performance metrics could be used to trigger building-level interventions (such as enforcement, incentives, etc.)?
- 3.** What building specific conditions and circumstances (such as vintage, climate zone, orientation, etc.) should be included in a building performance strategy?
- 4.** How should building benchmarking data be used to prioritize building upgrades and incentives?
- 5.** What types of support and resources would be necessary to help building owners meet building performance targets?
- 6.** What enforcement mechanisms should be considered for both benchmarking and a potential building performance requirement? Which similar programs are known to achieve high compliance rates?
- 7.** What other steps can the CEC take to help building owners comply with existing building benchmarking requirements?

Load Flexibility and Resiliency

Load flexibility is achieved when buildings shift electricity use from times of day when it is expensive or polluting to times when it is cheaper and/or cleaner. Load flexibility, also referred to as load management or demand flexibility, can reduce energy bills and greenhouse gas emissions, and help make the electricity grid more stable, resilient, reliable, and safe.

Over the past two decades, utilities in California have installed advanced metering infrastructure (AMI) that allows for near real-time electricity use monitoring and analysis.⁶ AMI empowers building owners and occupants to monitor and manage their energy use to meet their economic and environmental goals. In 2019 the CEC received new authority to adopt standards for appliances to facilitate the deployment of flexible demand technologies.⁷ In 2022 the CEC adopted amendments to the state’s load management standards (California Code of Regulations, Title 20, Sections 1621-1625)⁸ and created the Market Informed Demand Automation Server (MIDAS) to provide machine readable access to utilities’ time-varying rates, greenhouse gas emission signals, and California Independent System Operator (California ISO) FlexAlerts.⁹ AMI and MIDAS allow electricity customers to sign up for highly dynamic rates, such as those required by the load management standards, that can save money for customers able and willing to shift load away from peak hours. Through these regulations and related policies, California is building a statewide system that automates the publication of time and location dependent signals that can be used by end-use automation technologies to provide real-time load flexibility on the electric grid.

- 8.** Given the time and location dependence of both the cost and greenhouse gas emissions of electricity, how can building performance strategies be structured to incorporate load flexibility benefits?

Cost Effectiveness

Building science and technology evolves and improves. Energy efficiency measures that were not realistic for a building when it was designed and constructed may one day become common place and represent a cost-effective retrofit option. With appropriate data, building owners may identify maintenance that previous owners had deferred that could save significant amounts of energy, resolve safety concerns, improve occupant comfort, and reduce environmental impacts. Identifying such opportunities requires both up to date information on the specific circumstances of a given building and expertise on the state of the art of building systems. Benchmarking and building performance policies can provide building owners with the information and guidance necessary to achieve these positive outcomes.

- 9.** How should measure cost effectiveness be incorporated into building performance strategies or requirements? How should cost effectiveness be determined?
- 10.** For future building performance policies, how can the state manage and minimize administrative costs to the state and local governments while maximizing building performance improvements?

⁶ <https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/infrastructure/the-benefits-of-smart-meters>

⁷ CEC Flexible Demand Appliances Proceedings <https://www.energy.ca.gov/proceedings/active-proceedings/flexible-demand-appliances>

⁸ CEC Load Management Standards <https://www.energy.ca.gov/programs-and-topics/topics/load-flexibility/load-management-standards>

⁹ CEC Market Informed Demand Automation Server (MIDAS) <https://www.energy.ca.gov/proceedings/market-informed-demand-automation-server-midas>

11. What considerations or protections should the CEC be aware of to ensure minimal impacts to housing affordability and other potential disruptions for multifamily tenants that may result from a statewide building performance standard?

Other Comments, Issues, and References

CEC staff welcomes any additional information you would like to provide that may be relevant to this report and not covered by one of the above questions.

12. Please submit any additional comments, issues, references, models, recommendations, or other information that you believe is relevant to the development of the California Building Energy Performance Strategy Report.

Definitions and Code Language for Reference

Per PRC section 25402.16(a), for purposes of this report and proceeding:

- (1) "Benchmarking data" means data delivered to the CEC pursuant to PRC 25402.10.
- (2) "Covered building" means any building subject to the benchmarking regulations adopted pursuant to PRC 25402.10.
 - a. See "Final Regulations" on the Building Energy Benchmarking Program webpage at: <https://www.energy.ca.gov/programs-and-topics/programs/building-energy-benchmarking-program>
- (3) "Fuel-related emissions of greenhouse gases" means emissions of greenhouse gases from the onsite usage of fuels or emissions of greenhouse gases from the offsite production of steam or other forms of thermal energy, or from locally generated electricity, as part of a district energy system, but excludes emissions of greenhouse gases associated with electricity from the electrical grid that is used by a covered building.
- (4) "Harassment" means an act that is unlawful pursuant to subdivision (a) of section 1940.2 of the California Civil Code, a misrepresentation made to a tenant that the tenant is required to vacate a rented area, or any other act defined as harassment by an applicable city, county, or city and county ordinance.

California Civil Code 1940.2(a) states, It is unlawful for a landlord to do any of the following for the purpose of influencing a tenant to vacate a dwelling:

- (1) Engage in conduct that violates subdivision (a) of Section 484 of the Penal Code.
- (2) Engage in conduct that violates Section 518 of the Penal Code.
- (3) Use, or threaten to use, force, willful threats, or menacing conduct constituting a course of conduct that interferes with the tenant's quiet enjoyment of the premises in violation of Section 1927 that would create an apprehension of harm in a reasonable person. Nothing in this

paragraph requires a tenant to be actually or constructively evicted in order to obtain relief.

(4) Commit a significant and intentional violation of Section 1954.

(5) Threaten to disclose information regarding or relating to the immigration or citizenship status of a tenant, occupant, or other person known to the landlord to be associated with a tenant or occupant. This paragraph does not require a tenant to be actually or constructively evicted in order to obtain relief.

(5) "Under-resourced community" has the same meaning as defined in PRC 71130, which is a community identified pursuant to:

a. Health and Safety Code Section 39711:

...communities shall be identified based on geographic, socioeconomic, public health, and environmental hazard criteria, and may include, but are not limited to, either of the following:

(1) Areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation.

(2) Areas with concentrations of people that are of low income, high unemployment, low levels of homeownership, high rent burden, sensitive populations, or low levels of educational attainment.

b. Health and Safety Code Section 39713(d):

(1) "Low-income households" are those with household incomes at or below 80 percent of the statewide median income or with household incomes at or below the threshold designated as low income by the Department of Housing and Community Development's list of state income limits adopted pursuant to Section 50093.

(2) "Low-income communities" are census tracts with median household incomes at or below 80 percent of the statewide median income or with median household incomes at or below the threshold designated as low income by the Department of Housing and Community Development's list of state income limits adopted pursuant to Section 50093.

c. PRC Section 75005(g):

i. "Disadvantaged community" means a community with a median household income less than 80% of the statewide average. "Severely disadvantaged community" means a community with a median household income less than 60% of the statewide average.

Per PRC section 25402.16(b), On or before July 1, 2026, the (CEC), in consultation with the State Air Resources Board, Public Utilities Commission, and Department of Housing and Community Development, shall develop a strategy for using benchmarking data to track and manage the energy usage and emissions of greenhouse gases of covered buildings in order to achieve the state's goals, targets, and standards related to energy usage and emissions of greenhouse gases of covered buildings, including both of the following targets:

- (1) The annual targets for statewide energy efficiency savings and demand reduction established pursuant to subdivision (c) of Section 25310.
- (2) The greenhouse gas emission reductions targets for the building sector established by the State Air Resources Board as part of achieving the economywide greenhouse gas emissions reductions required pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).

Per PRC section 25402.16(f):

- (1) On or before August 1, 2026, the commission shall submit to the Legislature the strategy developed pursuant to subdivision (b) and recommendations for further legislative action that would help achieve the objectives described in subdivision (c) if the strategy is implemented.
- (2) The commission may submit the strategy and recommendations to the Legislature as part of a report otherwise submitted to the Legislature.

Written Comments

Comments should be submitted to the Docket before **5:00 p.m. on Wednesday, June 26, 2024**. Written comments, attachments, and associated contact information (including address, phone number, and email address) will become part of the public record of this proceeding with access available via any internet search engine.

The CEC encourages the use of its electronic commenting system. Visit the e-commenting page at <https://efiling.energy.ca.gov/EComment/EComment.aspx?docketnumber=24-BPS-01>. Enter your contact information and a subject title that describes your comment. Comments may be included in the "Comment Text" box or attached as a downloadable, searchable document in compliance with California Code of Regulations, Title 20, section 1208.1. The maximum file size allowed is 10 MB.

Written comments may also be submitted by email. Include docket number "**24-BPS-01**" in the subject line and email to docket@energy.ca.gov.

A paper copy may be mailed to:

California Energy Commission
Docket Unit, MS-4
Docket No. 24-BPS-01
715 P Street
Sacramento, California 95814

If interested parties wish to maintain the confidentiality of specific data or information, they should submit an application for confidentiality and the confidential documents directly to the Docket Unit through the e-filing system. For information on applying for confidentiality, interested parties should contact the Docket Unit in the CEC's Chief Counsel's Office before submitting a response to this RFI. Otherwise, all responses received will become publicly available. Visit the Docket Unit page at <https://www.energy.ca.gov/about/divisions-and-offices/chief-counsels-office/docket-unit>, which links to the application for confidentiality.

Questions regarding submitting comments to the docket, including inquiries regarding confidentiality, should be referred to the Docket Unit at docket@energy.ca.gov or (916) 654-5076.

CEC Public Advisor

The CEC's Public Advisor assists the public with participation in CEC proceedings. To request assistance, interpreting services, or reasonable modifications and accommodations, call (916) 957-7910 or email publicadvisor@energy.ca.gov as soon as possible but at least five days in advance. The CEC will work diligently to meet all requests based on availability.

Media Inquiries

Email mediaoffice@energy.ca.gov or call (916) 654-4989.

Technical Subject and General Inquiries

Email CEC staff at BPS@energy.ca.gov. Please include "RFI" in the subject of your email.

Subscribing to E-mail List Servers

Interested parties who would like to follow or participate in this proceeding should subscribe to the "Building Performance Standards" subscription list found at the CEC's [subscriptions webpage](https://www.energy.ca.gov/subscriptions) under the Efficiency topic category at <https://www.energy.ca.gov/subscriptions>. By subscribing to this list, interested parties are consenting to receive information, notices, and other communications, including information associated with Building Performance Standards proceedings, by electronic mail.

Availability of Documents

Documents and presentations submitted in response to this request for information will be available at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=24-BPS-01>. When new information is posted, an email will be sent to those subscribed to the "Building Performance Standards" email lists.