

California Energy Commission Delays AB 1103 Energy Benchmarking and Disclosure Requirements for 2 Years for Buildings Between 5,000 and 10,000 Square Feet

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The California Energy Commission ("CEC") issued an Emergency Rulemaking Action to delay the implementation of the California Nonresidential Building Energy Use Disclosure Program ("AB 1103") relating to buildings between 5,000 and 10,000 square feet until July 1, 2016. AB 1103 has applied to buildings over 10,000 square feet since January 1, 2014, and was scheduled to expand to buildings of at least 5,000 square feet on July 1, 2014.

AB 1103 Implementation Deadlines

Building Size	Original Deadline	New Deadline
More than 10,000 sq ft	Jan 1, 2014	no change
5,000 - 10,000 sq ft	July 1, 2014	July 1, 2016

Note: Compliance with AB 1103 is not suspended, and will continue to be required, for the sale, lease, or financing of buildings over 10,000 square feet that are otherwise subject to the regulations based upon occupancy type.

Significant barriers to compliance with AB 1103

An Emergency Rulemaking Action requires a description of specific facts justifying the immediate action. In justifying the two-year delay, the CEC explained that several stakeholders had expressed concerns about significant barriers to compliance with AB 1103. The CEC noted the following factors in justifying the two-year delay:

- Some utilities have required tenant consents before releasing utility usage data

despite letters sent from the CEC to utilities in July 2013 prohibiting such requirement. This requirement to obtain tenant consents significantly increases compliance costs.

- Smaller utilities have expressed concerns with their ability to comply given limited staff and resources.
- The Portfolio Manager platform and software has experienced significant technical problems.
- The expansion in scope to smaller buildings would increase the number of compliance requests received by utilities, impeding their ability to address barriers to compliance.
- Smaller building owners may lack the expertise, resources, or capacity necessary to overcome current barriers to compliance without incurring undue expense.
- Based on initial disclosure data following the January 1, 2014 implementation, it became apparent that "the required disclosures were not being made for the majority of transactions for which they were required."
- The development of best practices approaches is lowering compliance costs and paving the way to greater compliance. The additional two years will facilitate lower costs and higher compliance rates before further expanding the program to smaller buildings.

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