

Kimball, Tirey & St. John LLP

Legal Alert

California Energy Commission's Building Use Benchmarking and Public Disclosure Program – AB 802

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[AB 802](#) directed the California Energy Commission to create a statewide building energy use benchmarking and public disclosure program for buildings larger than 50,000 square feet. The Commission's regulations require building owners to report building information and energy use data to the Commission by June 1 annually:

- beginning June 1, 2018 for buildings with no residential utility accounts, and
- beginning June 1, 2019 for buildings with 17 or more residential utility accounts.

Building owners report energy use using [ENERGY STAR Portfolio Manager](#), an online tool provided by the United States Environmental Protection Agency.

The stated purpose of AB 802 is “publicly disclosing the performance of buildings will allow building owners and tenants to make better informed purchasing and leasing decisions, and the general public to better understand the buildings in which they live and work. Portfolio Manager, a nationally recognized program, will allow comparison with similar buildings across the state and the country.”

Exemptions

AB 802 does not apply to:

- A property with 1 to 16 residential utility accounts;
- Condominium projects;
- If more than half of the building area is used for (1) scientific experiments requiring controlled environments, or for (2) manufacturing or industrial purposes;
- Properties scheduled to be demolished one year or less from the reporting date;
- Cities with local benchmarking and public disclosure programs whose programs exceed the state program and who have been granted an exemption. Currently, the cities of [San Francisco](#), [Berkeley](#), and [Los Angeles](#) have local benchmarking and public disclosure programs whose requirements exceed those of the state program. Per the state regulations, a local jurisdiction may request that the Energy Commission provide an exemption from the state reporting requirement for buildings located in the local jurisdiction. If the exemption is approved, the owners of buildings in that jurisdiction may report to the

local jurisdiction only, and will not be required to report to the Commission. Exempted programs will be listed at <http://www.energy.ca.gov/benchmarking/> after the approval.

Additional Resources

- [AB 802 Fact Sheet](#). It contains information about:
 - how to comply;
 - how building owners can obtain the energy use data for their buildings;
 - a flowchart to show whether benchmarking is required; and
 - how to get whole-building data.
- [AB 802 Frequently Asked Questions](#)
- The California Energy Commission's website regarding AB 802 is available at <http://www.energy.ca.gov/benchmarking/.AB 802>
- [AB 802 Regulations](#)

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