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09-AB 1103-1
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STATE OF CALIFORNIA

ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

Regulations on the Nonresidential Building Energy Consumption Benchmarking System	)))))	Docket No. 09-AB 1103-1 Order 09-09-715-5

ORDER INSTITUTING RULEMAKING PROCEEDING

I. PURPOSE OF THE PROCEEDING

The California Energy Commission ("Commission") hereby institutes a rulemaking proceeding. The purpose of the proceeding is to establish new regulations for a nonresidential building energy performance rating system that will provide energy consumption information on nonresidential buildings in the state, as required by California Public Resources Code Section 25402.10 (enacted by AB 1103 (Stats. 2007, ch. 533, § 2)).

The new regulations will establish a new article in the Commission's regulations (Cal. Code Regs., title 20, Chapter 4). The Commission's Building Energy Efficiency Standards (Cal. Code Regs., title 24, Part 1, §§ 10-101 to 10-114, and Part 6, §§ 100 - 152) may also be amended, but only to the extent necessary to make those building regulations consistent with the new article.

The Commission initiates this rulemaking under the authority of California Public Resources Code sections 25210, 25211, 25213, 25218(e), 25401, 25401.2, 25402(a)-(c), 25402.10 and Title 20 of California Code of Regulations, sections 1220 – 1225, as well as Executive Order S-20-04, the Governor's Green Building Initiative.

II. SCOPE OF THE PROCEEDING

This rulemaking shall focus on (1) developing and proposing for adoption regulations to require California utilities to collect and maintain records of energy consumption for nonresidential buildings in the state and to upload those records to the U.S. Environmental Protection Agency ENERGY STAR Portfolio Manager and/or building energy performance rating tools developed by the Commission, in order to meet the requirements of AB 1103 (Stats. 2007, ch. 533, enacting Pub. Resources Code § 45402.10) and if passed, AB 531 (Saldaña, 2009); (2) protecting the confidentiality of individuals as required by law; (3) establishing a schedule of compliance for disclosure of commercial building energy performance rating data and ENERGY STAR ratings for nonresidential buildings in the state; (4) announcing updates and clarification as needed; and (5) resolving other matters related to the rulemaking proceeding as determined by the Committee described below. The Committee may divide the rulemaking into phases and shall establish (and may from time to time modify) the scope of each phase, and may conduct one or more pre-rulemaking workshops.

III. DELEGATION OF AUTHORITY TO EFFICIENCY COMMITTEE

The Commission's Efficiency Committee (Presiding Member, Commissioner Arthur Rosenfeld, Ph.D., and Associate Member, Commissioner Julia Levin, J.D.), or a successor committee with similar powers and duties appointed under Public Resources Code Section 25211 ("the Committee"), shall preside over this proceeding. The Committee shall, on behalf of the Commission, take all actions necessary and appropriate to comply with all applicable legal requirements, such as the requirements of the Warren-Alquist Act, the California Administrative Procedure Act (APA), and the California Environmental Quality Act (CEQA), including but not limited to submittal of all necessary documents to the Office of Administrative Law (OAL).

IV. PUBLIC PARTICIPATION

The Commission encourages full and free public participation. Petitions to intervene are not necessary. The Commission expects and encourages participation by affected groups and individuals, including agencies such as the U.S. Environmental Protection Agency and the California Public Utilities

Commission, utilities such as Pacific Gas and Electric Company, Southern California Edison Company, and Sempra Energy, real estate trade groups such as the California Association of Realtors, and other entities.

Any person present at any hearing or workshop shall be afforded a reasonable opportunity to make oral comments on the subject matter of the proceeding. Any person may file written comments. Written comments will be subject to deadlines established by the Efficiency Committee. The Energy Commission's Public Adviser is available to help any person who wants to participate in this proceeding.

The Executive Director, in conjunction with the Public Adviser, shall ensure that this order, and notice of the time and place for all hearings and workshops, is distributed to all interested persons. The Executive Director shall also ensure that drafts of regulations are made available to interested persons and the Public Adviser sufficiently in advance of consideration of adoption by the Commission to allow timely public participation.

Dated: July 15, 2009

ENERGY RESOURCES
CONSERVATION AND
DEVELOPMENT COMMISSION

KAREN DOUGLAS
Chairman

(Absent)
JAMES D. BOYD
Vice Chair

ARTHUR H. ROSENFELD
Commissioner

JEFFREY D. BYRON
Commissioner

JULIA LEVIN
Commissioner