



Building Owners Concerned About Proposed Energy and Water Regulation

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Private sector owners of large buildings – commercial operations, multi-unit residential buildings and some industrial facilities – will be required to collect and annually submit data on their energy and water consumption and greenhouse gas (GHG) emissions. While many property managers routinely gather and assess such information already, the new mandatory reporting requirements could impose a compliance burden on a wide range of newly prescribed buildings, including suburban strip malls, apartment complexes and big box stores.

A detailed outline of the Energy and Water Reporting and Benchmarking (EWRB) regulation proposed by Ontario's Ministry of Energy was posted to the Environmental Registry on February 25, 2016, with a deadline for public comment of April 10, 2016. The final requirements will be set out in a final EWRB regulation, expected some time this year, under the province's *Green Energy Act, 2009*.

The Ministry says the building performance data will be used to set conservation benchmarks, to encourage building managers to implement efficiency retrofits, and to inform future government policy initiatives. Based on the data received, the Ministry could also require owners to prepare and implement Conservation and Demand Management (CDM) Plans "on a targeted basis." However, the Ministry says CDM Plans will not be required during the initial years of the program.

The EWRB regulation would be phased in over three years, starting with the largest commercial and industrial buildings. Pending passage of the necessary legislative amendments, the first reporting deadline would be July 1, 2017. A selection of this data (dealing primarily with water use and certain energy use performance metrics) would be publically posted, on a building-by-building basis, by the Ministry within one year of submission. Some industry representatives say such consumption data may be sensitive business information and that privacy concerns must be respected.

Prescribed Building Types

Commercial, multi-unit residential and some industrial buildings (i.e., warehouses, industrial condominiums/malls and truck terminals) of 50,000 square feet or larger would be subject to the new reporting requirements. The following building types would be excluded:

- ♦ manufacturing facilities;
- ♦ farm and agriculture facilities;

- ♦ residential buildings with fewer than 10 units;
- ♦ data centers and communication towers;
- ♦ buildings that do not have a water meter (for reporting water only); and
- ♦ buildings currently reporting their energy and/or GHG emissions to the government under Ontario Regulation 397/11 (Energy Conservation and Demand Management Plans) and Ontario Regulation 452/09 (Greenhouse Gas Emissions Reporting).

Temporary exemptions would also be allowed under certain circumstances (including financial hardship, low occupancy rates, and during the first year in which a building's certificate of occupancy is issued). A full breakdown of the prescribed building types, exclusions and exceptions are contained in the appendices to the Registry posting.

Annual Reporting Requirements

Building/property owners of prescribed buildings would be required to report annually on monthly energy and water consumption (as well as performance data, where available), greenhouse gas (GHG) emissions, and building characteristic information (such as gross floor area) to the Ministry of Energy. The Ministry is recommending that reports be submitted using the ENERGY STAR Portfolio Manager, a free, web-based building rating tool created by the U.S. Environmental Protection Agency. Since August 2013, a "Canadianized" version of Portfolio Manager has been managed by Natural Resources Canada.

Building managers support EWRB with some reservation

In its submission to the Standing Committee, the Real Property Association of Canada (REALpac) said that tracking how a building's energy performance compares to other buildings would help "identify opportunities to save energy and water," as well as "enabling property and financial markets to value building energy and water efficiency more than they currently are."

The Building Owners and Managers Association (BOMA) of the Greater Toronto Area also recognize the benefits of benchmarking, but stressed that any data collection must "not impinge on the business interests of commercial real estate owners and managers and their right of privacy." The tenants of industrial and retail buildings are concerned about sharing or releasing utility information "because the amount of energy used by many businesses is part of their competitive advantage or disadvantage, as the case may be," BOMA said.

The Association also said there would be "no value" in landlords submitting CDM Plans or energy assessments to the province, which does not have the resources to review such materials or ensure they are implemented. BOMA called for a gradual phase-in of any regulation to allow sufficient time for the industry "to fully understand the requirements and take the necessary actions to become compliant."

Further details of the proposed EWRB regulatory framework follow below.

Data Verification

Building owners would be required to confirm that the data has been accurately reported, but would not be required to subject the data to third party verification. However, the Ministry could undertake random audits of data to help ensure accuracy. The government has said it will provide guidance materials outlining its recommended approaches to verification, using either in-house or third party expertise.

Implementation

The reporting requirements would be phased in over a three-year period, with prescribed building owners to report the first year of data within the following the six months:

- ♦ Year 1, Jan-Dec 2016, covers commercial, institutional, special and industrial buildings $\leq 250,000$ square feet;
- ♦ Year 2, Jan-Dec 2017, covers commercial, institutional, special, industrial and multi-unit residential buildings $\leq 100,000$ square feet; and
- ♦ Year 3, Jan-Dec 2018, covers commercial, institutional, special, industrial and multi-unit residential buildings $\leq 50,000$ square feet.

Public Reporting

The Ministry will produce and post (on Ontario's Open Data website) annual reports that summarize key findings from the energy, water and GHG usage and performance data, published one year after the initial reporting year for each of the three phases. Some data will be disclosed publicly on a building-by-building basis – so that building owners can compare their performance to other similar buildings – while other data will not be disclosed, including site energy use, total GHG emissions and gross floor area.

Conservation and Demand Management (CDM) Plans

There are currently no plans to require building owners to prepare and implement CDM Plans, at least not in the initial years of reporting. Based on the data collected, the Ministry will consider whether CDM Plans may be required “on a targeted basis” in future years.

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