


# City of Philadelphia

## MEMORANDUM

**TO:** Joan Decker, Commissioner, Department of Records

**FROM:** David Perri, Commissioner, Department of Licenses and Inspections  
Christine Knapp, Director, Office of Sustainability 

**DATE:** February 4, 2016

**SUBJECT:** Office of Sustainability Amended Regulation on Benchmarking;  
Licenses and Inspections Rescission of Prior Regulation on Benchmarking

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The attached Regulations are being forwarded to you for (1) notice of rescission of the existing "Regulation on Energy and Water Use Benchmarking Pursuant to Phila. Code § 9-3402," and (2) notice of its re-issuing, as amended, by the Office of Sustainability. These Regulations have been approved by the Law Department, as evidenced by the attached Memorandum from Martha Johnston, Senior Attorney. In accordance with Section 8-407 of the Home Rule Charter, we are forwarding the Regulations to you for advertising and public inspection.

Thank you.

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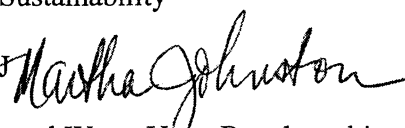
DEPARTMENT OF RECORDS  
2016 FEB 10 AM 9:38

**CITY OF PHILADELPHIA  
LAW DEPARTMENT**

**MEMORANDUM**

**DATE:** January 27, 2016

**TO:** David Perri, Commissioner, Department of Licenses and Inspections  
Christine Knapp, Director, Office of Sustainability

**FROM:** Martha Johnston, Senior Attorney/MJ 

**SUBJECT:** Amendment to Regulation on Energy and Water Use - Benchmarking

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I have reviewed the Department of Licenses and Inspections' proposed rescission of its regulation entitled "Regulation on Energy and Water Use Benchmarking Pursuant to Phila. Code § 9-3402," and the Office of Sustainability's proposed Amended Energy and Water Use Regulation, entitled "Amended Regulation on Energy and Water Use Benchmarking Pursuant to Phila. Code § 9-3402," which will re-issue the said L&I Regulation with amendments, and find both to be legal and in proper form. In accordance with Section 8-407(a) of the Philadelphia Home Rule Charter, you may now forward the proposed Rescinded Regulation and the proposed Amended Regulation to the Department of Records where they will be made available for public inspection.

Attachment

Cc: Richard Freeh, City Energy Project Manager

DEPARTMENT OF RECORDS  
2016 FEB 10 AM 9:38

# City of Philadelphia

## MEMORANDUM

**TO:** Department of Records

**FROM:** Christine Knapp, Director, Office of Sustainability

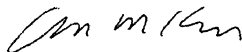
**DATE:** February 9, 2016

**SUBJECT:** Office of Sustainability Amended Regulation on Benchmarking;  
Licenses and Inspections Rescission of Prior Regulation on Benchmarking

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The attached Regulations are being forwarded to you for (1) notice of rescission of the existing "Regulation on Energy and Water Use Benchmarking Pursuant to Phila. Code § 9-3402," and (2) notice of its re-issuing, as amended, by the Office of Sustainability. These Regulations have been approved by the Law Department, as evidenced by the attached Memorandum from Martha Johnston, Senior Attorney. In accordance with Section 8-407 of the Home Rule Charter, we are forwarding the Regulations to you for advertising and public inspection.

Thank you.



Christine Knapp  
Director of Sustainability  
City of Philadelphia

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DEPARTMENT OF RECORDS  
2016 FEB 10 AM 9:38

**CITY OF PHILADELPHIA  
OFFICE OF SUSTAINABILITY**

**AMENDED  
REGULATION ON ENERGY AND WATER USE  
BENCHMARKING PURSUANT TO PHILA. CODE § 9-3402**

(1) Definitions.

Covered Building.

- (i) Any building with indoor floor space of 50,000 square feet or more.

Any two or more buildings that are served by one common energy meter without sub-metering, such that their energy use cannot be tracked individually, shall be considered one building for the purpose of determining indoor floor space.

Portfolio Manager. The Benchmarking Application as defined under Phila. Code § 9-3402(1), together with the Philadelphia Custom Reporting Template.

Philadelphia Custom Reporting Template. The Philadelphia-specific template used to report data from Portfolio Manager to the City of Philadelphia, available at <http://www.phila.gov/benchmarking>.

Philadelphia Data Collection Worksheet. Document list of required data fields and default values for Philadelphia benchmarking requirements, available at <http://www.phila.gov/benchmarking>.

Whole Building Data. Aggregate energy and water usage data for the entirety of a Covered Building.

- (2) Deadline. Every owner of a Covered Building shall benchmark such Covered Building for the previous calendar year by June 30 of each year, using Portfolio Manager. For calendar year 2012, however, this deadline shall be October 31, 2013. When, in any year, June 30 falls on a Saturday or a Sunday, the deadline for benchmarking shall be advanced to the next day that is not a Saturday or Sunday.

(3) Reporting.

(a) Template. Benchmarking information that must be reported under Phila. Code § 9-3402 using Portfolio Manager shall be reported through the Philadelphia Custom Reporting Template interface to the Benchmarking Tool. All information expressly denoted as mandatory by either Portfolio Manager itself or the Philadelphia Data Collection Worksheet shall be

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DEPARTMENT OF ENVIRONMENTAL  
MANAGEMENT  
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reported. The Philadelphia Custom Reporting Template is available at <http://www.phila.gov/benchmarking>.

(b) Reporting of Multiple Buildings Served by Common Systems. Two or more buildings that are served by at least one common energy metering system shall be reported as a single “building,” “property,” or “campus” in Portfolio Manager where recommended by Portfolio Manager, or the energy use of the buildings cannot be tracked individually.

(c) Whole Building Data. Whole Building Data shall be obtained as follows:

(i) Through electronic usage reporting by a utility or other energy supplier directly into Portfolio Manager under Phila. Code § 9-3402(4).

(ii) If, following a good faith effort, the owner is unable to report data through electronic usage reporting directly into Portfolio Manager, then data obtained directly from the utility or energy supplier, by means other than electronic usage reporting directly into Portfolio Manager, may be reported.

(iii) If, following a good faith effort, the owner is unable to obtain and report Whole Building Data in the manner set forth under subsections (i) or (ii), then the owner may use any of the following methods:

(.1) By manual aggregation of data from all individual building tenants pursuant to Phila. Code § 9-3402(3).

(.2) By any other means.

(.3) Where, despite good faith effort to obtain data as provided in this subsection (c), an owner is unable to obtain data for a portion of a building because the tenant in control of such portion of the building failed to comply Phila. Code § 9-3402(3)(a), the owner may report partial-building data.

(d) Amendment.

(i) Where an owner learns that any information reported in Portfolio Manager is inaccurate, the information so reported shall be amended in Portfolio Manager by the Owner within 30 days of learning of the inaccuracy.

(ii) Should Whole Building data be obtained after using partial-building data under subsection (3)(c)(iii)(.3), the owner shall, within 30 days after obtaining the data, recompute the Whole Building Data using such actual values, and report it in Portfolio Manager.

(iii) No amendment of data under subsection (d)(i) or (ii) shall be required after June 30 of the third year following the year for which such data was originally reported.

(e) Delegation to Single Tenant. Where the owner of a covered building leases the entire covered building to a single tenant, and the tenant is responsible for managing all energy and water usage for the building, the owner may, with the agreement of the tenant, delegate all owner responsibilities under Phila. Code § 9-3402 and these Regulations to the tenant. Such delegation shall be in writing, using the Single Tenant Delegation Form available at <http://www.phila.gov/benchmarking>.

(f) New or Renovated Buildings; Transfers in Ownership.

(i) Building owners shall report benchmarking information for new or renovated buildings starting with the first full calendar year following the year in which the building receives a certificate of occupancy (including any temporary certificate occupancy) for any portion of the building.

(ii) At the time any occupied Covered Building is transferred, the buyer and seller shall arrange for the seller to provide to the buyer all information necessary for the buyer to timely report benchmarking information for the entire year. It shall be a violation of these Regulations for any seller to fail to so provide any such information.

(g) Exemptions. Benchmarking shall not be required for a Covered Building where any of the following apply.

(i) In any calendar year, benchmarking shall not be required for that year where more than 50% of the indoor floor space is unoccupied for more than 180 days in total.

(ii) The Office of Sustainability finds, upon application by an owner, that benchmarking or disclosure would cause exceptional hardship or would not be in the public interest. An exemption under this subsection (3)(g)(ii) shall be for such period as the Mayor's Office of Sustainability establishes based on the evidence presented by the owner.

(iii) Buildings primarily used for manufacturing or other industrial purposes for which benchmarking results would not meaningfully reflect building energy use characteristics due to the intensive use of process energy. "Process energy" refers to energy used in the actual manufacturing, production, or processing of a good, commodity, or other material.

(4) Records Retention. Owners shall retain the following records for a given calendar year for at least three years from the reporting deadline for such year:

(a) The Portfolio Manager confirmation email demonstrating proof-of-submission date.

(b) A copy of the building owner's energy, water, and space use attribute information entered into Portfolio Manager.

(c) Meter readings or energy supplier or utility statements documenting energy and water usage, whether obtained directly, from a utility, or from a tenant.

- (d) Evidence used to claim an exemption from benchmarking under subsection (3)(g).

Owners shall make the foregoing records available for inspection and audit upon request by the Department of Licenses and Inspections, the Office of Sustainability, or another authorized City agency.

(5) Public Disclosure. The Office of Sustainability shall make benchmarking results for all covered buildings publicly available on the City benchmarking website (<http://www.phila.gov/benchmarking>) starting with benchmarking results for calendar year 2013. These results shall include, but are not limited to, (i) building address; (ii) energy use intensity (as reflected in Portfolio Manager); (iii) water use per gross square foot; (iv) greenhouse gas emissions from energy use; (v) Portfolio Manager EnergyStar rating (where applicable); and (vi) reported facility type under Portfolio Manager. No disclosure shall be required where benchmarking is exempted under subsection (3)(g).

(6) Enforcement. Violations of these Regulations shall be subject to a fine as provided in Phila. Code § 9-3402(6).

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DEPARTMENT OF LICENSING  
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**CITY OF PHILADELPHIA  
DEPARTMENT OF LICENSES AND INSPECTIONS  
OFFICE OF SUSTAINABILITY**

**AMENDED  
REGULATION ON ENERGY AND WATER USE  
BENCHMARKING PURSUANT TO PHILA. CODE § 9-3402**

(1) Definitions.

Covered Building. ~~Either of the following:~~

(i) Any ~~commercial~~ building with indoor floor space of 50,000 square feet or more.

(ii) ~~All commercial portions of any mixed-use building where a total of at least 50,000 square feet of indoor floor space is devoted to any commercial use.~~

Any two or more buildings that are served by one common energy meter without sub-metering, such that their energy use cannot be tracked individually, shall be considered one building for the purpose of determining indoor floor space. ~~For purposes of this definition, the term “commercial” shall mean relating to or associated with any activity, whether or not undertaken for a profit, involving any form of trade or commerce, or requiring consideration in exchange for any good, service, or privilege.~~

Portfolio Manager. The Benchmarking Application as defined under Phila. Code § 9-3402(1), together with the Philadelphia Custom Reporting Template.

Philadelphia Custom Reporting Template. The Philadelphia-specific template used to report data from Portfolio Manager to the City of Philadelphia, available at <http://www.phila.gov/benchmarking>.

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Whole Building Data. Aggregate energy and water usage data for the entirety of a Covered Building.

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(4) Records Retention. Owners shall retain the following records for a given calendar year for at least three years from the reporting deadline for such year:

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(6) Enforcement. Violations of these Regulations shall be subject to a fine as provided in Phila. Code § 9-3402(6).

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DEPARTMENT OF RECORDS  
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