
SUBSTITUTE SENATE BILL 5514

State of Washington

69th Legislature

2025 Regular Session

By Senate Environment, Energy & Technology (originally sponsored by Senators Shewmake, Krishnadasan, and Nobles; by request of Department of Commerce)

READ FIRST TIME 02/19/25.

1 AN ACT Relating to increasing compliance pathways for the clean
2 buildings performance standard with alternative metrics and
3 extensions for reporting; amending RCW 19.27A.170, 19.27A.210,
4 19.27A.220, and 19.27A.250; and reenacting and amending RCW
5 19.27A.140 and 19.27A.200.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 19.27A.140 and 2019 c 285 s 9 are each reenacted and
8 amended to read as follows:

9 The definitions in this section apply to RCW 19.27A.130 through
10 19.27A.190 and 19.27A.020 unless the context clearly requires
11 otherwise.

12 (1) "Benchmark" means the energy used by a facility as recorded
13 monthly for at least one year and the facility characteristics
14 information inputs required for a portfolio manager.

15 (2) "Building owner" has the same meaning as defined in RCW
16 19.27A.200.

17 (3) "Conditioned space" means conditioned space, as defined in
18 the Washington state energy code.

19 (4) "Consumer-owned utility" includes a municipal electric
20 utility formed under Title 35 RCW, a public utility district formed
21 under Title 54 RCW, an irrigation district formed under chapter 87.03

1 RCW, a cooperative formed under chapter 23.86 RCW, a mutual
2 corporation or association formed under chapter 24.06 RCW, a port
3 district formed under Title 53 RCW, or a water-sewer district formed
4 under Title 57 RCW, that is engaged in the business of distributing
5 electricity to one or more retail electric customers in the state.

6 (5) "Cost-effectiveness" means that a project or resource is
7 forecast:

8 (a) To be reliable and available within the time it is needed;
9 and

10 (b) To meet or reduce the power demand of the intended consumers
11 at an estimated incremental system cost no greater than that of the
12 least-cost similarly reliable and available alternative project or
13 resource, or any combination thereof.

14 (6) "Council" means the state building code council.

15 (7) "Covered (~~commercial~~) building" has the same meaning as
16 defined in RCW 19.27A.200.

17 (8) "Embodied energy" means the total amount of fossil fuel
18 energy consumed to extract raw materials and to manufacture,
19 assemble, transport, and install the materials in a building and the
20 life-cycle cost benefits including the recyclability and energy
21 efficiencies with respect to building materials, taking into account
22 the total sum of current values for the costs of investment, capital,
23 installation, operating, maintenance, and replacement as estimated
24 for the lifetime of the product or project.

25 (9) "Energy consumption data" means the monthly amount of energy
26 consumed by a customer as recorded by the applicable energy meter for
27 the most recent twelve-month period.

28 (10) "Energy service company" has the same meaning as in RCW
29 43.19.670.

30 (11) "Enterprise services" means the department of enterprise
31 services.

32 (12) "Greenhouse gas" and "greenhouse gases" includes carbon
33 dioxide, methane, nitrous oxide, hydrofluorocarbons,
34 perfluorocarbons, and sulfur hexafluoride.

35 (13) "Investment grade energy audit" means an intensive
36 engineering analysis of energy efficiency and management measures for
37 the facility, net energy savings, and a cost-effectiveness
38 determination.

39 (14) "Investor-owned utility" means a corporation owned by
40 investors that meets the definition of "corporation" as defined in

1 RCW 80.04.010 and is engaged in distributing either electricity or
2 natural gas, or both, to more than one retail electric customer in
3 the state.

4 (15) "Major facility" means any publicly owned or leased
5 building, or a group of such buildings at a single site, having ten
6 thousand square feet or more of conditioned floor space.

7 (16) "National energy performance rating" means the score
8 provided by the energy star program, to indicate the energy
9 efficiency performance of the building compared to similar buildings
10 in that climate as defined in the United States environmental
11 protection agency "ENERGY STAR® Performance Ratings Technical
12 Methodology."

13 (17) "Net zero energy use" means a building with net energy
14 consumption of zero over a typical year.

15 (18) "Portfolio manager" means the United States environmental
16 protection agency's energy star portfolio manager or an equivalent
17 tool adopted by the department of enterprise services.

18 (19) "Preliminary energy audit" means a quick evaluation by an
19 energy service company of the energy savings potential of a building.

20 (20) "Qualifying public agency" includes all state agencies,
21 colleges, and universities.

22 (21) "Qualifying utility" means a consumer-owned or investor-
23 owned gas or electric utility that serves more than twenty-five
24 thousand customers in the state of Washington.

25 (22) "Reporting public facility" means any of the following:

26 (a) A building or structure, or a group of buildings or
27 structures at a single site, owned by a qualifying public agency,
28 that exceed ten thousand square feet of conditioned space;

29 (b) Buildings, structures, or spaces leased by a qualifying
30 public agency that exceeds ten thousand square feet of conditioned
31 space, where the qualifying public agency purchases energy directly
32 from the investor-owned or consumer-owned utility;

33 (c) A wastewater treatment facility owned by a qualifying public
34 agency; or

35 (d) Other facilities selected by the qualifying public agency.

36 (23) "State portfolio manager master account" means a portfolio
37 manager account established to provide a single shared portfolio that
38 includes reports for all the reporting public facilities.

1 **Sec. 2.** RCW 19.27A.170 and 2019 c 285 s 10 are each amended to
2 read as follows:

3 (1) On and after January 1, 2010, qualifying utilities shall
4 maintain records of the energy consumption data of all nonresidential
5 and qualifying public agency buildings to which they provide service.
6 This data must be maintained for at least the most recent twelve
7 months in a format compatible for uploading to the United States
8 environmental protection agency's energy star portfolio manager.

9 (2) On and after January 1, 2010, upon the written authorization
10 or secure electronic authorization of a nonresidential building owner
11 or operator, a qualifying utility shall upload the energy consumption
12 data for the accounts specified by the owner or operator for a
13 building to the United States environmental protection agency's
14 energy star portfolio manager in a form that does not disclose
15 personally identifying information.

16 (3) In carrying out the requirements of this section, a
17 qualifying utility shall use any method for providing the specified
18 data in order to maximize efficiency and minimize overall program
19 cost. Qualifying utilities are encouraged to consult with the United
20 States environmental protection agency and their customers in
21 developing reasonable reporting options.

22 (4) Disclosure of nonpublic nonresidential benchmarking data and
23 ratings required under subsection (5) of this section will be phased
24 in as follows:

25 (a) By January 1, 2011, for buildings greater than fifty thousand
26 square feet; and

27 (b) By January 1, 2012, for buildings greater than ten thousand
28 square feet.

29 (5) Based on the size guidelines in subsection (4) of this
30 section, a building owner or operator, or their agent, of a
31 nonresidential building shall disclose the United States
32 environmental protection agency's energy star portfolio manager
33 benchmarking data and ratings to a prospective buyer, lessee, or
34 lender for the most recent continuously occupied twelve-month period.
35 A building owner or operator, or their agent, who delivers United
36 States environmental protection agency's energy star portfolio
37 manager benchmarking data and ratings to a prospective buyer, lessee,
38 or lender is not required to provide additional information regarding
39 energy consumption, and the information is deemed to be adequate to
40 inform the prospective buyer, lessee, or lender regarding the United

1 States environmental protection agency's energy star portfolio
2 manager benchmarking data and ratings for the most recent twelve-
3 month period for the building that is being sold, leased, financed,
4 or refinanced.

5 (6) Notwithstanding subsections (4) and (5) of this section,
6 nothing in this section increases or decreases the duties, if any, of
7 a building owner, operator, or their agent under this chapter or
8 alters the duty of a seller, agent, or broker to disclose the
9 existence of a material fact affecting the real property.

10 (7) An electric or gas utility that is not a qualifying utility
11 must either offer the upload service specified in subsection (2) of
12 this section or provide customers who are building owners of covered
13 (~~commercial~~) buildings with consumption data in an electronic
14 document formatted for direct upload to the United States
15 environmental protection agency's energy star portfolio manager.
16 Within sixty days of receiving a written or electronic request and
17 authorization of a building owner, the utility must provide the
18 building owner with monthly energy consumption data as required to
19 benchmark the specified building.

20 (8) For any covered (~~commercial~~) building with (~~three or~~
21 ~~more~~) tenants, an electric or gas utility must, upon request of the
22 building owner, provide the building owner with aggregated monthly
23 energy consumption data without requiring prior consent from tenants.

24 (9) Each electric or gas utility must ensure that all data
25 provided in compliance with this section does not contain personally
26 identifiable information or customer-specific billing information
27 about tenants of a covered (~~commercial~~) building.

28 **Sec. 3.** RCW 19.27A.200 and 2022 c 177 s 2 are each reenacted and
29 amended to read as follows:

30 The definitions in this section apply throughout RCW 19.27A.210,
31 19.27A.220, 19.27A.230, 19.27A.240, and 19.27A.250 (~~, and~~
32 ~~19.27A.220~~) unless the context clearly requires otherwise.

33 (1) "Agricultural structure" means a structure designed and
34 constructed to house farm implements, hay, grain, poultry, livestock,
35 or other horticultural products, and that is not a place used by the
36 public or a place of human habitation or employment where
37 agricultural products are processed, treated, or packaged.

1 (2) "Baseline energy use intensity" means a building's energy use
2 intensity that is representative of energy use in a normal weather
3 year.

4 (3) (a) "Building owner" means an individual or entity possessing
5 title to a building.

6 (b) In the event of a land lease, "building owner" means the
7 entity possessing title to the building on leased land.

8 (4) "Building tenant" means a person or entity occupying or
9 holding possession of a building or premises pursuant to a rental
10 agreement.

11 (5) "Conditional compliance" means a temporary compliance method
12 used by covered building owners that demonstrate the owner has
13 implemented energy use reduction strategies required by the standard,
14 but has not demonstrated full compliance with the energy use
15 intensity target or alternative metric.

16 (6) "Consumer-owned utility" has the same meaning as defined in
17 RCW 19.27A.140.

18 (7) "Covered building" includes a tier 1 covered building and a
19 tier 2 covered building.

20 (8) "Department" means the department of commerce.

21 (9) "Director" means the director of the department of commerce
22 or the director's designee.

23 (10) "Electric utility" means a consumer-owned electric utility
24 or an investor-owned electric utility.

25 (11) "Eligible building owner" means: (a) The owner of a covered
26 building required to comply with the standard established in RCW
27 19.27A.210; or (b) all eligible tier 2 covered building owners.

28 (12) "Energy" includes: Electricity, including electricity
29 delivered through the electric grid and electricity generated at the
30 building premises using solar or wind energy resources; natural gas,
31 including natural gas derived from renewable sources, synthetic
32 sources, and fossil fuel sources; district steam; district hot water;
33 district chilled water; propane; fuel oil; wood; coal; or other fuels
34 used to meet the energy loads of a building.

35 (13) "Energy use intensity" means a measurement that normalizes a
36 building's site energy use relative to its size. A building's energy
37 use intensity is calculated by dividing the total net energy consumed
38 in one year by the gross floor area of the building, excluding the
39 parking garage. "Energy use intensity" is reported as a value of
40 thousand British thermal units per square foot per year.

1 (14) "Energy use intensity target" means the target for net
2 energy use intensity of a covered building.

3 (15) "Gas company" includes every corporation, company,
4 association, joint stock association, partnership, and person, their
5 lessees, trustees, or receiver appointed by any court whatsoever, and
6 every city or town owning, controlling, operating, or managing any
7 gas plant within this state.

8 (16) "Greenhouse gas" includes carbon dioxide, methane, nitrous
9 oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

10 (17)(a) "Gross floor area" means the total number of square feet
11 measured between the exterior surfaces of the enclosing fixed walls
12 of a building, including all supporting functions such as offices,
13 lobbies, restrooms, equipment storage areas, mechanical rooms, break
14 rooms, and elevator shafts.

15 (b) "Gross floor area" does not include outside bays or docks.

16 (18) "Investor-owned utility" means a corporation owned by
17 investors that meets the definition of "corporation" as defined in
18 RCW 80.04.010 and is engaged in distributing either electricity or
19 natural gas, or both, to more than one retail electric customer in
20 the state.

21 (19) "Multifamily residential building" means a covered
22 multifamily building containing sleeping units or more than five
23 dwelling units where occupants are primarily permanent in nature.

24 (20) "Net energy use" means the sum of metered and bulk fuel
25 energy entering the building, minus the sum of metered energy leaving
26 the building or campus. Renewable energy produced on a campus that is
27 not attached to a covered building may be included.

28 (21) "Qualifying utility" means a consumer-owned or investor-
29 owned gas or electric utility that serves more than 25,000 customers
30 in the state of Washington.

31 (22) "Savings-to-investment ratio" means the ratio of the total
32 present value savings to the total present value costs of a bundle of
33 an energy or water conservation measure estimated over the projected
34 useful life of each measure. The numerator of the ratio is the
35 present value of net savings in energy or water and nonfuel or
36 nonwater operation and maintenance costs attributable to the proposed
37 energy or water conservation measure. The denominator of the ratio is
38 the present value of the net increase in investment and replacement
39 costs less salvage value attributable to the proposed energy or water
40 conservation measure.

1 (23) "Standard" means the state energy performance standard for
2 covered buildings established under RCW 19.27A.210.

3 (24) "Thermal energy company" has the same meaning as defined in
4 RCW 80.04.550.

5 (25) "Tier 1 covered building" means a building where the sum of
6 nonresidential, hotel, motel, and dormitory floor areas exceed 50,000
7 gross square feet, excluding the parking garage area.

8 (26) "Tier 2 covered building" means a building where the sum of
9 multifamily residential, nonresidential, hotel, motel, and dormitory
10 floor areas exceeds 20,000 gross square feet, but does not exceed
11 50,000 gross square feet, excluding the parking garage area. Tier 2
12 covered buildings also include multifamily residential buildings
13 where floor areas are equal to or exceed 50,000 gross square feet,
14 excluding the parking garage area.

15 (27) "Weather normalized" means a method for modifying the
16 measured building energy use in a specific weather year to energy use
17 under normal weather conditions.

18 **Sec. 4.** RCW 19.27A.210 and 2023 c 291 s 3 are each amended to
19 read as follows:

20 (1)(a) By November 1, 2020, the department must establish by rule
21 a state energy performance standard for covered (~~commercial~~)
22 buildings.

23 (b) In developing energy performance standards, the department
24 shall seek to maximize reductions of greenhouse gas emissions from
25 the building sector. The standard must include energy use intensity
26 targets by building type and methods of conditional compliance that
27 include an energy management plan, operations and maintenance
28 program, energy efficiency audits, and investment in energy
29 efficiency measures designed to meet the targets. The department
30 shall use ANSI/ASHRAE/IES standard 100-2018 as an initial model for
31 standard development. The department may adopt by rule subsequent
32 versions of standard 100 as its model for standard development. The
33 department must update the standard by July 1, 2029, and every five
34 years thereafter. Prior to the adoption or update of the standard,
35 the department must identify the sources of information it relied
36 upon, including peer-reviewed science.

37 (2) In establishing the standard under subsection (1) of this
38 section, the department:

1 (a) Must develop energy use intensity targets that are no greater
2 than the average energy use intensity for the covered (~~commercial~~)
3 building occupancy type with adjustments for unique energy using
4 features. The department must also develop energy use intensity
5 targets for additional property types eligible for incentives in RCW
6 19.27A.220. The department may also develop targets for alternative
7 metrics related to energy use and greenhouse gas emissions if
8 alternative metrics are included in standard 100-2018 or subsequent
9 versions. The department must consider regional and local building
10 energy utilization data, such as existing energy star benchmarking
11 data, in establishing targets for the standard. Energy use intensity
12 targets or alternative metrics must be developed for two or more
13 climate zones and be representative of energy use in a normal weather
14 year;

15 (b) May consider building occupancy classifications from ANSI/
16 ASHRAE/IES standard 100(~~-2018~~) and the United States environmental
17 protection agency's energy star portfolio manager when developing
18 energy use intensity targets;

19 (c) May implement lower energy use intensity targets or
20 alternative metrics for more recently built covered (~~commercial~~)
21 buildings based on the state energy code in place when the buildings
22 were constructed;

23 (d) (i) Must adopt a conditional compliance method that ensures
24 that covered (~~commercial~~) buildings that do not meet the specified
25 energy use intensity targets or alternative metrics are taking action
26 to achieve reduction in energy use, including investment criteria for
27 conditional compliance that ensure that energy efficiency measures
28 identified by energy audits are implemented to achieve a covered
29 (~~commercial~~) building's energy use intensity target or alternative
30 metric. The investment criteria must require that a building owner
31 adopt an implementation plan to meet the energy intensity target or
32 alternative metric or implement an optimized bundle of energy
33 efficiency measures that provides maximum energy savings without
34 resulting in a savings-to-investment ratio of less than 1.0, except
35 as exempted in (d) (ii) of this subsection. The implementation plan
36 must be based on an investment grade energy audit and a life-cycle
37 cost analysis that accounts for the period during which a bundle of
38 measures will provide savings. The building owner's cost for
39 implementing energy efficiency measures must reflect net cost,
40 excluding any costs covered by utility or government grants. The

1 implementation plan may exclude measures that do not pay for
2 themselves over the useful life of the measure and measures excluded
3 under (d) (ii) of this subsection. The implementation plan may include
4 phased implementation such that the building owner is not required to
5 replace a system or equipment before the end of the system or
6 equipment's useful life;

7 (ii) For those buildings or structures that are listed in the
8 state or national register of historic places; designated as a
9 historic property under local or state designation law or survey;
10 certified as a contributing resource with a national register listed
11 or locally designated historic district; or with an opinion or
12 certification that the property is eligible to be listed on the
13 national or state registers of historic places either individually or
14 as a contributing building to a historic district by the state
15 historic preservation officer or the keeper of the national register
16 of historic places, no individual energy efficiency requirement need
17 be met that would compromise the historical integrity of a building
18 or part of a building;

19 (e) Must provide an alternative compliance pathway for an owner
20 of a state campus district energy system, in accordance with RCW
21 19.27A.260, and more broadly for the owner of any campus district
22 energy system that is approved by the department to opt-in in
23 accordance with RCW 19.27A.260(6);

24 (f) Must guarantee that the owner of a state campus district
25 energy system is not required to implement more than one energy
26 management plan and more than one operations and maintenance plan for
27 the campus;

28 (g) Must guarantee that a state campus district energy system, as
29 defined in RCW 19.27A.260, and all buildings connected to a state
30 campus district energy system, are in compliance with any
31 requirements for campus buildings to implement energy efficiency
32 measures identified by an energy audit if:

33 (i) The energy audit demonstrates the energy savings from the
34 state campus district energy system energy efficiency measures will
35 be greater than the energy efficiency measures identified for the
36 campus buildings; and

37 (ii) The state campus district energy system implements the
38 energy efficiency measures; and

39 (h) May adopt additional compliance pathways for covered building
40 owners to comply with the standard by meeting alternative metrics.

1 (3) Based on records obtained from each county assessor and other
2 available information sources, the department must create a database
3 of covered (~~commercial~~) buildings and building owners required to
4 comply with the standard established in accordance with this section.

5 (4) By July 1, 2021, the department must provide the owners of
6 covered buildings with notification of compliance requirements.

7 (5) The department must develop a method for administering
8 compliance reports from building owners.

9 (6) The department must provide a customer support program to
10 building owners including, but not limited to, outreach and
11 informational material, periodic training, phone and email support,
12 and other technical assistance.

13 (7) (a) The building owner of a covered (~~commercial~~) building
14 must report the building owner's compliance with the standard to the
15 department in accordance with the schedule established under
16 subsection (8) of this section and every five years thereafter. For
17 each reporting date, the building owner must submit documentation to
18 demonstrate that:

19 ~~((a))~~ (i) The weather normalized energy use intensity of the
20 covered (~~commercial~~) building measured in the previous calendar
21 year is less than or equal to the energy use intensity target or
22 equal to the alternative metric; ~~((or~~

23 ~~(b))~~ (ii) The covered (~~commercial~~) building has received
24 conditional compliance from the department based on energy efficiency
25 actions prescribed by the standard; or

26 ~~((c))~~ (iii) The covered (~~commercial~~) building is exempt from
27 the standard by demonstrating that the building meets one of the
28 following criteria:

29 ~~((i))~~ (A) The building did not have a certificate of occupancy
30 or temporary certificate of occupancy for all 12 months of the
31 calendar year prior to the building owner compliance schedule
32 established under subsection (8) of this section;

33 ~~((ii))~~ (B) The building did not have an average physical
34 occupancy of at least 50 percent throughout the calendar year prior
35 to the building owner compliance schedule established under
36 subsection (8) of this section;

37 ~~((iii))~~ (C) The sum of the building's gross floor area minus
38 unconditioned and semiconditioned spaces, as defined in the
39 Washington state energy code, is less than 50,000 square feet;

1 ~~((iv))~~ (D) The primary use of the building is manufacturing or
2 other industrial purposes, as defined under the following use
3 designations of the international building code: ~~((A))~~ (I) Factory
4 group F; or ~~((B))~~ (II) high hazard group H;

5 ~~((v))~~ (E) The building is an agricultural structure; ~~((e~~

6 ~~(vi))~~ (F) The building meets at least one of the following
7 conditions of financial hardship: ~~((A))~~ (I) The building had
8 arrears of property taxes or water or wastewater charges that
9 resulted in the building's inclusion, within the prior two years, on
10 a city's or county's annual tax lien sale list; ~~((B))~~ (II) the
11 building has a court appointed receiver in control of the asset due
12 to financial distress; ~~((C))~~ (III) the building is owned by a
13 financial institution through default by a borrower; ~~((D))~~ (IV) the
14 building has been acquired by a deed in lieu of foreclosure within
15 the previous 24 months; ~~((E))~~ (V) the building has a senior
16 mortgage subject to a notice of default; (VI) the building is a K-12
17 school building that has financial hardships related to capital
18 construction or improvements including, but not limited to, a failed
19 bond and/or levy; or ~~((F))~~ (VII) other conditions of financial
20 hardship identified by the department by rule; or

21 (G) Extenuating conditions exist, as approved by the department
22 prior to the reporting date including, but not limited to, buildings
23 for which meeting the standard would impair national security
24 interests.

25 (b) The covered building owner may apply to the department for an
26 extension to its compliance date. Requests for extension must be
27 received by the department no sooner than six months prior to and up
28 to six months after the applicable compliance date in order to be
29 processed by the department. The department may approve extension
30 requests for conditions including, but not limited to, conditions
31 beyond the control of the building owner. An extension granted
32 pursuant to this subsection is valid for two years beyond the covered
33 building's compliance date after which the covered building owner may
34 apply to the department for an extension renewal or file for an
35 exemption.

36 (8) A building owner of a tier 1 covered ~~((commercial))~~ building
37 must meet the following reporting schedule for complying with the
38 standard established under this section:

39 (a) For a building with more than 220,000 gross square feet, June
40 1, 2026;

1 (b) For a building with more than 90,000 gross square feet but
2 less than 220,001 gross square feet, June 1, 2027; and

3 (c) For a building with more than 50,000 gross square feet but
4 less than 90,001 square feet, June 1, 2028.

5 (9) (a) The department may issue a notice of violation to a
6 building owner for noncompliance with the requirements of this
7 section. A determination of noncompliance may be made for any of the
8 following reasons:

9 (i) Failure to submit a compliance report in the form and manner
10 prescribed by the department;

11 (ii) Failure to meet an energy use intensity target or
12 alternative metric, or failure to receive conditional compliance
13 approval;

14 (iii) Failure to provide accurate reporting consistent with the
15 requirements of the standard established under this section; and

16 (iv) Failure to provide a valid exemption certificate.

17 (b) In order to create consistency with the implementation of the
18 standard and rules adopted under this section, the department must
19 reply and cite the section of law, code, or standard in a notice of
20 violation for noncompliance with the requirements of this section
21 when requested to do so by the building owner or the building owner's
22 agent.

23 (10) The department is authorized to impose an administrative
24 penalty upon a building owner for failing to submit documentation
25 demonstrating compliance with the requirements of this section. The
26 penalty may not exceed an amount equal to \$5,000 plus an amount based
27 on the duration of any continuing violation. The additional amount
28 for a continuing violation may not exceed a daily amount equal to \$1
29 per year per gross square foot of floor area. The department may by
30 rule increase the maximum penalty rates to adjust for the effects of
31 inflation. Penalties incurred from noncompliance may not be passed
32 along to tenants.

33 (11) Administrative penalties collected under this section must
34 be deposited into the low-income weatherization and structural
35 rehabilitation assistance account created in RCW 70A.35.030.

36 (12) The department must adopt rules as necessary to implement
37 this section, including but not limited to:

38 (a) Rules necessary to ensure timely, accurate, and complete
39 reporting of building energy performance for all covered
40 (~~commercial~~) buildings;

1 (b) Rules necessary to enforce the standard established under
2 this section; and

3 (c) Rules that provide a mechanism for appeal of any
4 administrative penalty imposed by the department under this section.

5 (13) Upon request by the department, each county assessor must
6 provide property data from existing records to the department as
7 necessary to implement this section.

8 (14) By January 15, 2022, and each year thereafter through 2029,
9 the department must submit a report to the governor and the
10 appropriate committees of the legislature on the implementation of
11 the state energy performance standard established under this section.
12 The report must include information regarding the adoption of the
13 ANSI/ASHRAE/IES standard 100-2018 as an initial model, the financial
14 impact to building owners required to comply with the standard, the
15 amount of incentives provided under RCW 19.27A.220 and 19.27A.230,
16 and any other significant information associated with the
17 implementation of this section.

18 **Sec. 5.** RCW 19.27A.220 and 2024 c 85 s 1 are each amended to
19 read as follows:

20 (1) The department must establish a state energy performance
21 standard early adoption incentive program consistent with the
22 requirements of this section. This early adoption incentive program
23 may include incentive payments for early adoption of tier 2 covered
24 building owner requirements as described in subsection (6) of this
25 section.

26 (2) The department must adopt application and reporting
27 requirements for the incentive program. Building energy reporting for
28 the incentive program must be consistent with the energy reporting
29 requirements established under RCW 19.27A.210.

30 (3) Upon receiving documentation demonstrating that a building
31 owner qualifies for an incentive under this section, the department
32 must authorize each applicable entity administering incentive
33 payments, as provided in RCW 19.27A.240, to make an incentive payment
34 to the building owner. When a building is served by more than one
35 entity offering incentives or more than one type of fuel, incentive
36 payments must be proportional to the energy use intensity reduction
37 of each specific fuel provided by each entity for tier 1 buildings.
38 The department may authorize any participating utility, regardless of

1 fuel specific savings, serving a tier 2 building to administer the
2 incentive payment.

3 (4) A covered building owner may receive an incentive payment in
4 the amounts specified in subsection (8)(a) of this section only if
5 the following requirements are met:

6 (a) The building is either: (i) A tier 1 covered (~~(commercial)~~)
7 building subject to the requirements of the standard established
8 under RCW 19.27A.210; or (ii) a multifamily residential building
9 where the floor area exceeds 50,000 gross square feet, excluding the
10 parking garage area;

11 (b) The building's baseline energy use intensity exceeds its
12 applicable energy use intensity target by at least 15 energy use
13 intensity units;

14 (c) At least one electric utility, gas company, or thermal energy
15 company providing or delivering energy to the tier 1 covered
16 (~~(commercial)~~) building or multifamily residential building is
17 participating in the incentive program by administering incentive
18 payments as provided in RCW 19.27A.240; and

19 (d) The building owner complies with any other requirements
20 established by the department.

21 (5) A covered building owner who meets the requirements of
22 subsection (4) of this section may submit an application to the
23 department for an incentive payment in a form and manner prescribed
24 by the department. The application must be submitted in accordance
25 with the following schedule:

26 (a) For a building with more than 220,000 gross square feet,
27 beginning July 1, 2021, through June 1, 2025;

28 (b) For a building with more than 90,000 gross square feet but
29 less than 220,001 gross square feet, beginning July 1, 2021, through
30 June 1, 2026; and

31 (c) For a building with more than 50,000 gross square feet but
32 less than 90,001 gross square feet, beginning July 1, 2021, through
33 June 1, 2027.

34 (6)(a) A tier 2 covered building owner may receive an incentive
35 payment in the amounts specified in subsection (8)(b) of this section
36 only if all required benchmarking, energy management, and operations
37 and maintenance planning documentation as required under RCW
38 19.27A.250 has been submitted to the department and an incentive
39 application has been completed.

1 (b) An eligible tier 2 covered building owner may submit an
2 application beginning July 1, 2025, through June 1, 2030.

3 (7) The department must review each application and determine
4 whether the applicant is eligible for the incentive program and if
5 funds are available for the incentive payment within the limitation
6 established in RCW 19.27A.230. If the department certifies an
7 application, it must provide verification to the building owner and
8 each entity participating as provided in RCW 19.27A.240 and providing
9 service to the building owner.

10 (8)(a) An eligible owner of a tier 1 covered building or an
11 eligible owner of a multifamily residential building greater than
12 50,000 gross square feet, excluding the parking area, that
13 demonstrates early compliance with the applicable energy use
14 intensity target under the standard established under RCW 19.27A.210
15 may receive a base incentive payment of 85 cents per gross square
16 foot of floor area, excluding parking, unconditioned, or
17 semiconditioned spaces. The department may provide incentives greater
18 than the base incentive payment for upgrading tier 1 buildings.

19 (b) A tier 2 eligible building owner that demonstrates compliance
20 with the applicable benchmarking, energy management, and operations
21 and maintenance planning requirements may receive a base incentive
22 payment of 30 cents per gross square foot of floor area, excluding
23 parking, unconditioned, or semiconditioned spaces. The department may
24 provide incentives greater than the base incentive payment for
25 upgrading tier 2 buildings. The department may implement a tiered
26 incentive structure for upgrading multifamily buildings to provide an
27 enhanced incentive payment to multifamily building owners willing to
28 commit to antidisplacement provisions.

29 (9) The incentives provided in subsection (8) of this section are
30 subject to the limitations and requirements of this section,
31 including any rules or procedures implementing this section.

32 (10) The department must establish requirements for the
33 verification of energy consumption by the building owner and each
34 participating electric utility, gas company, and thermal energy
35 company.

36 (11) The department must provide an administrative process for an
37 eligible building owner to appeal a determination of an incentive
38 eligibility or amount.

39 (12) By September 30, 2025, and every two years thereafter, the
40 department must report to the appropriate committees of the

1 legislature on the results of the incentive program under this
2 section and may provide recommendations to improve the effectiveness
3 of the program. The 2025 report to the legislature must include
4 recommendations for aligning the incentive program established under
5 this section consistent with a goal of reducing greenhouse gas
6 emissions from substitutes, as defined in RCW 70A.60.010.

7 (13) The department may adopt rules to implement this section.

8 **Sec. 6.** RCW 19.27A.250 and 2022 c 177 s 3 are each amended to
9 read as follows:

10 (1)(a) By December 1, 2023, the department must adopt by rule a
11 state energy management and benchmarking requirement for tier 2
12 covered buildings. The department shall include a small business
13 economic impact statement pursuant to chapter 19.85 RCW as part of
14 the rule making.

15 (b) In establishing the requirements under (a) of this
16 subsection, the department must adopt requirements for building owner
17 implementation consistent with the standard established pursuant to
18 RCW 19.27A.210(1) and limited to energy management planning,
19 operations and maintenance planning, and energy use analysis through
20 benchmarking and associated reporting and administrative procedures.
21 Administrative procedures must include exemptions for financial
22 hardship and an appeals process for administrative determinations,
23 including penalties imposed by the department.

24 (c) The department must provide a customer support program to
25 building owners including, but not limited to, outreach and
26 informational materials that connect tier 2 covered building owners
27 to utility resources, periodic training, phone and email support, and
28 other technical assistance. The customer support program must include
29 enhanced technical support, such as benchmarking assistance and
30 assistance in developing energy management and operations and
31 maintenance plans, for tier 2 covered buildings whose owners
32 typically do not employ dedicated building managers including, but
33 not limited to, multifamily housing, child care facilities, and
34 houses of worship. The department shall prioritize underresourced
35 buildings with a high energy use per square foot, buildings in rural
36 communities, buildings whose tenants are primarily small businesses,
37 and buildings located in high-risk communities according to the
38 department of health's environmental health disparities map.

1 (d)(i) The department may adopt rules related to the imposition
2 of an administrative penalty not to exceed 30 cents per square foot
3 upon a tier 2 covered building owner for failing to submit
4 documentation demonstrating compliance with the requirements of this
5 subsection. Penalties incurred from noncompliance may not be passed
6 along to tenants.

7 (ii) Administrative penalties collected under this section must
8 be deposited into the low-income weatherization and structural
9 rehabilitation assistance account created in RCW 70A.35.030 and
10 reinvested into the program, where feasible, to support compliance
11 with the standard.

12 (2) By July 1, 2025, the department must provide the owners of
13 tier 2 covered buildings with notification of the requirements the
14 department has adopted pursuant to this section that apply to tier 2
15 covered buildings.

16 (3) The owner of a tier 2 covered building must report the
17 building owner's compliance with the requirements adopted by the
18 department to the department in accordance with the schedule
19 established under subsection (4) of this section and every five years
20 thereafter. For each reporting date, the building owner must submit
21 documentation to demonstrate that the building owner has developed
22 and implemented the procedures adopted by the department by rule,
23 limited to energy management planning, operations and maintenance
24 planning, and energy use analysis through benchmarking.

25 (4) By July 1, 2027, tier 2 covered building owners must submit
26 reports to the department as required by the rules adopted in
27 subsection (1) of this section.

28 (5)(a) By July 1, 2029, the department must evaluate benchmarking
29 data to determine energy use and greenhouse gas emissions averages by
30 tier 2 covered building type.

31 (b) The department must submit a report to the legislature and
32 the governor by October 1, 2029, with recommendations for cost-
33 effective building performance standards for tier 2 covered
34 buildings. The report must contain information on estimated costs to
35 building owners to implement the performance standards and
36 anticipated implementation challenges.

37 (c)(i) By December 31, 2030, the department must adopt rules for
38 performance standards for tier 2 covered buildings.

- 1 (ii) In adopting these performance standards, the department must
2 consider the age of the building in setting energy use intensity
3 targets or alternative metrics.
- 4 (iii) The department may adopt performance standards for
5 multifamily residential buildings on a longer timeline schedule than
6 for other tier 2 covered buildings.
- 7 (iv) The rules may not take effect before the end of the 2031
8 regular legislative session.
- 9 (v) The department must include a small business economic impact
10 statement pursuant to chapter 19.85 RCW as part of the rule making.

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