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**SUBSTITUTE SENATE BILL 5514**

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**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)

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

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

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

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

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

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

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

(4) "Consumer-owned utility" includes a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, a port district formed under Title 53 RCW, or a water-sewer district formed under Title 57 RCW, that is engaged in the business of distributing electricity to one or more retail electric customers in the state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) Based on the size guidelines in subsection (4) of this section, a building owner or operator, or their agent, of a nonresidential building shall disclose the United States environmental protection agency's energy star portfolio manager benchmarking data and ratings to a prospective buyer, lessee, or lender for the most recent continuously occupied twelve-month period. A building owner or operator, or their agent, who delivers United States environmental protection agency's energy star portfolio manager benchmarking data and ratings to a prospective buyer, lessee, or lender is not required to provide additional information regarding energy consumption, and the information is deemed to be adequate to inform the prospective buyer, lessee, or lender regarding the United States environmental protection agency's energy star portfolio manager benchmarking data and ratings for the most recent twelve-month period for the building that is being sold, leased, financed, or refinanced.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d)(i) Must adopt a conditional compliance method that ensures that covered ((~~commercial~~)) buildings that do not meet the specified energy use intensity targets or alternative metrics are taking action to achieve reduction in energy use, including investment criteria for conditional compliance that ensure that energy efficiency measures identified by energy audits are implemented to achieve a covered ((~~commercial~~)) building's energy use intensity target or alternative metric. The investment criteria must require that a building owner adopt an implementation plan to meet the energy intensity target or alternative metric or implement an optimized bundle of energy efficiency measures that provides maximum energy savings without resulting in a savings-to-investment ratio of less than 1.0, except as exempted in (d)(ii) of this subsection. The implementation plan must be based on an investment grade energy audit and a life-cycle cost analysis that accounts for the period during which a bundle of measures will provide savings. The building owner's cost for implementing energy efficiency measures must reflect net cost, excluding any costs covered by utility or government grants. The implementation plan may exclude measures that do not pay for themselves over the useful life of the measure and measures excluded under (d)(ii) of this subsection. The implementation plan may include phased implementation such that the building owner is not required to replace a system or equipment before the end of the system or equipment's useful life;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iv) Failure to provide a valid exemption certificate.

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

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

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

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

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

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

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

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

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

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

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

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

(3) Upon receiving documentation demonstrating that a building owner qualifies for an incentive under this section, the department must authorize each applicable entity administering incentive payments, as provided in RCW 19.27A.240, to make an incentive payment to the building owner. When a building is served by more than one entity offering incentives or more than one type of fuel, incentive payments must be proportional to the energy use intensity reduction of each specific fuel provided by each entity for tier 1 buildings. The department may authorize any participating utility, regardless of fuel specific savings, serving a tier 2 building to administer the incentive payment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(12) By September 30, 2025, and every two years thereafter, the department must report to the appropriate committees of the legislature on the results of the incentive program under this section and may provide recommendations to improve the effectiveness of the program. The 2025 report to the legislature must include recommendations for aligning the incentive program established under this section consistent with a goal of reducing greenhouse gas emissions from substitutes, as defined in RCW 70A.60.010.

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) In adopting these performance standards, the department must consider the age of the building in setting energy use intensity targets or alternative metrics.

(iii) The department may adopt performance standards for multifamily residential buildings on a longer timeline schedule than for other tier 2 covered buildings.

(iv) The rules may not take effect before the end of the 2031 regular legislative session.

(v) The department must include a small business economic impact statement pursuant to chapter 19.85 RCW as part of the rule making.

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