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**SUBSTITUTE HOUSE BILL 1543**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** House Environment & Energy (originally sponsored by Representatives Doglio, Ramel, Berry, Ryu, Reed, Duerr, Parshley, and Ormsby; by request of Department of Commerce)

READ FIRST TIME 02/10/25.

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; or (~~(F)~~) (VI) other  
17 conditions of financial hardship identified by the department by  
18 rule; or

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

23       (b) The covered building may apply to the department for an  
24 extension to its compliance date. Requests for extension must be  
25 received by the department no sooner than six months prior to and up  
26 to six months after the applicable compliance date in order to be  
27 processed by the department. The department may approve extension  
28 requests for conditions including, but not limited to, conditions  
29 beyond the control of the building owner.

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

33       (a) For a building with more than 220,000 gross square feet, June  
34 1, 2026;

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

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

39       (9)(a) The department may issue a notice of violation to a  
40 building owner for noncompliance with the requirements of this

1 section. A determination of noncompliance may be made for any of the  
2 following reasons:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (6)(a) A tier 2 covered building owner may receive an incentive  
30 payment in the amounts specified in subsection (8)(b) of this section  
31 only if all required benchmarking, energy management, and operations  
32 and maintenance planning documentation as required under RCW  
33 19.27A.250 has been submitted to the department and an incentive  
34 application has been completed.

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

37 (7) The department must review each application and determine  
38 whether the applicant is eligible for the incentive program and if  
39 funds are available for the incentive payment within the limitation  
40 established in RCW 19.27A.230. If the department certifies an

1 application, it must provide verification to the building owner and  
2 each entity participating as provided in RCW 19.27A.240 and providing  
3 service to the building owner.

4 (8) (a) An eligible owner of a tier 1 covered building or an  
5 eligible owner of a multifamily residential building greater than  
6 50,000 gross square feet, excluding the parking area, that  
7 demonstrates early compliance with the applicable energy use  
8 intensity target under the standard established under RCW 19.27A.210  
9 may receive a base incentive payment of 85 cents per gross square  
10 foot of floor area, excluding parking, unconditioned, or  
11 semiconditioned spaces. The department may provide incentives greater  
12 than the base incentive payment for upgrading tier 1 buildings.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

--- **END** ---