

Chapter 19.27A RCW
ENERGY-RELATED BUILDING STANDARDS

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State building code: Chapter 19.27 RCW.

RCW 19.27A.015 State energy code—Minimum and maximum energy code. Except as provided in *RCW 19.27A.020(7), the Washington state energy code for residential buildings shall be the maximum and minimum energy code for residential buildings in each city, town, and county and shall be enforced by each city, town, and county no later than

July 1, 1991. The Washington state energy code for nonresidential buildings shall be the minimum energy code for nonresidential buildings enforced by each city, town, and county. [1990 c 2 § 2.]

***Reviser's note:** RCW 19.27A.020 was amended by 2009 c 423 § 4, changing subsection (7) to subsection (6).

Findings—1990 c 2: "The legislature finds that using energy efficiently in housing is one of the lowest cost ways to meet consumer demand for energy; that using energy efficiently helps protect citizens of the state from negative impacts due to changes in energy supply and cost; that using energy efficiently will help mitigate negative environmental impacts of energy use and resource development; and that using energy efficiently will help stretch our present energy resources into the future. The legislature further finds that the electricity surplus in the Northwest is dwindling as the population increases and the economy expands, and that the region will eventually need new sources of electricity generation.

It is declared policy of the state of Washington that energy be used efficiently. It is the intent of this act to establish residential building standards that bring about the common use of energy efficient building methods, and to assure that such methods remain economically feasible and affordable to purchasers of newly constructed housing." [1990 c 2 § 1.]

Severability—1990 c 2: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 2 § 13.]

Effective dates—1990 c 2: See note following RCW 19.27.040.

RCW 19.27A.020 State energy code—Adoption by state building code council—Preemption of local residential energy codes. (1) The state building code council in the department of enterprise services shall adopt rules to be known as the Washington state energy code as part of the state building code.

(2) The council shall follow the legislature's standards set forth in this section to adopt rules to be known as the Washington state energy code. The Washington state energy code shall be designed to:

(a) Construct increasingly energy efficient homes and buildings that help achieve the broader goal of building zero fossil-fuel greenhouse gas emission homes and buildings by the year 2031;

(b) Require new buildings to meet a certain level of energy efficiency, but allow flexibility in building design, construction, and heating equipment efficiencies within that framework; and

(c) Allow space heating equipment efficiency to offset or substitute for building envelope thermal performance.

(3) The Washington state energy code shall take into account regional climatic conditions. One climate zone includes: Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Skamania, Spokane, Stevens, Walla Walla, Whitman, and Yakima counties. The other climate zone includes all other counties not listed in this subsection (3). The assignment of a county to a climate zone may not be changed

by adoption of a model code or rule. Nothing in this section prohibits the council from adopting the same rules or standards for each climate zone.

(4) The Washington state energy code for residential buildings shall be the 2006 edition of the Washington state energy code, or as amended by rule by the council.

(5) The minimum state energy code for new nonresidential buildings shall be the Washington state energy code, 2006 edition, or as amended by the council by rule.

(6) (a) Except as provided in (b) of this subsection, the Washington state energy code for residential structures shall preempt the residential energy code of each city, town, and county in the state of Washington.

(b) The state energy code for residential structures does not preempt a city, town, or county's energy code for residential structures which exceeds the requirements of the state energy code and which was adopted by the city, town, or county prior to March 1, 1990. Such cities, towns, or counties may not subsequently amend their energy code for residential structures to exceed the requirements adopted prior to March 1, 1990.

(7) The state building code council shall consult with the department of enterprise services as provided in RCW 34.05.310 prior to publication of proposed rules. The director of the department of enterprise services shall recommend to the state building code council any changes necessary to conform the proposed rules to the requirements of this section.

(8) The state building code council shall evaluate and consider adoption of the international energy conservation code in Washington state in place of the existing state energy code.

(9) The definitions in RCW 19.27A.140 apply throughout this section. [2018 c 207 § 7; 2015 c 11 § 3; 2010 c 271 § 304; 2009 c 423 § 4; 1998 c 245 § 8; 1996 c 186 § 502; 1994 c 226 § 1; 1990 c 2 § 3; 1985 c 144 § 2; 1979 ex.s. c 76 § 3. Formerly RCW 19.27.075.]

Effective date—2018 c 207 §§ 1-8: See note following RCW 19.27.070.

Finding—Intent—2015 c 11: See note following RCW 19.27.031.

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

Findings—Intent—Part headings not law—Effective date—1996 c 186: See notes following RCW 43.330.904.

Effective date—1994 c 226: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 1, 1994]." [1994 c 226 § 2.]

Effective dates—1990 c 2: See note following RCW 19.27.040.

Findings—Severability—1990 c 2: See notes following RCW 19.27A.015.

Severability—1985 c 144: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 144 § 7.]

RCW 19.27A.025 Nonresidential buildings—Minimum standards—Amendments. (1) The minimum state energy code for new nonresidential buildings shall be the Washington state energy code, 1986 edition, as amended. The state building code council may, by rule adopted pursuant to chapter 34.05 RCW, amend that code's requirements for new nonresidential buildings provided that:

(a) Such amendments increase the energy efficiency of typical newly constructed nonresidential buildings; and

(b) Any new measures, standards, or requirements adopted must be technically feasible, commercially available, and developed to yield the lowest overall cost to the building owner and occupant while meeting the energy reduction goals established under RCW 19.27A.160.

(2) In considering amendments to the state energy code for nonresidential buildings, the state building code council shall establish and consult with a technical advisory committee including representatives of appropriate state agencies, local governments, general contractors, building owners and managers, design professionals, utilities, and other interested and affected parties.

(3) Decisions to amend the Washington state energy code for new nonresidential buildings shall be made prior to December 15th of any year and shall not take effect before the end of the regular legislative session in the next year. Any disputed provisions within an amendment presented to the legislature shall be approved by the legislature before going into effect. A disputed provision is one which was adopted by the state building code council with less than a two-thirds majority vote. Substantial amendments to the code shall be adopted no more frequently than every three years. [2019 c 285 § 17; 1991 c 122 § 3.]

Findings—Severability—1991 c 122: See notes following RCW 80.04.250.

RCW 19.27A.027 Personal wireless service facilities exempt from building envelope insulation requirements. (1) The state building code council shall exempt equipment shelters of personal wireless service facilities from building envelope insulation requirements.

(2) For the purposes of this section, "personal wireless service facilities" means facilities for the provision of personal wireless services. [1996 c 323 § 4.]

Findings—1996 c 323: See note following RCW 43.70.600.

RCW 19.27A.045 Maintaining energy code for residential structures. The state building code council shall maintain the state energy code for residential structures in a status which is consistent with the state's interest as set forth in section 1, chapter 2, Laws of 1990. In maintaining the Washington state energy code for residential structures, beginning in 1996 the council shall review the

Washington state energy code every three years. After January 1, 1996, by rule adopted pursuant to chapter 34.05 RCW, the council may amend any provisions of the Washington state energy code to increase the energy efficiency of newly constructed residential buildings. Decisions to amend the Washington state energy code for residential structures shall be made prior to December 1 of any year and shall not take effect before the end of the regular legislative session in the next year. [1990 c 2 § 5.]

Findings—Severability—1990 c 2: See notes following RCW 19.27A.015.

RCW 19.27A.050 State building code council—Construction—Inclusion of successor agency. As used in this chapter, references to the state building code council shall be construed to include any successor agency. [2000 c 171 § 45; 1985 c 144 § 5.]

Severability—1985 c 144: See note following RCW 19.27A.020.

RCW 19.27A.060 Hot water heaters—Temperature regulation. (1) "Hot water heater" means the primary source of hot water for a residence.

(2) The thermostat of a new water heater offered for sale or lease in this state for use in a residential unit, shall be preset by the manufacturer no higher than one hundred twenty degrees Fahrenheit (or forty-nine degrees Celsius) or the minimum setting on any water heater which cannot be set as low as that temperature. Water heating systems may utilize higher reservoir temperature if mixing valves are set or systems are designed to restrict the temperature of water to one hundred twenty degrees Fahrenheit.

(3) Upon occupancy of a new tenant in a residential unit leased or rented in this state, if hot water is supplied from an accessible, individual water heater, the water heater shall be set by the owner or agent at a temperature not higher than one hundred twenty degrees Fahrenheit (forty-nine degrees Celsius) or the minimum setting on any water heater which cannot be set as low as that temperature. Water heating systems may utilize higher reservoir temperature if mixing valves are set or systems are designed to restrict the temperature of water to one hundred twenty degrees Fahrenheit.

(4) Nothing in this section shall prohibit an owner of an owner-occupied residential unit or resident of a leased or rented residential unit from readjusting the temperature setting after occupancy. Any readjustment of the temperature setting by the resident relieves the owner or agent of an individual residential unit and the manufacturer of water heaters from liability for damages attributed to the readjustment by the resident.

(5) The utility providing energy for any water heater under this section shall at least annually, include in its billing a statement:

(a) Recommending that water heaters be set no higher than one hundred twenty degrees Fahrenheit or the minimum setting on a water heater which cannot be set as low as that temperature to prevent severe burns and reduce excessive energy consumption; and

(b) That the thermostat of an individual water heater furnished in a residential unit leased or rented in this state to new tenants

shall be set no higher than one hundred twenty degrees Fahrenheit or the minimum setting on a water heater which cannot be set as low as that temperature pursuant to chapter 19.27 RCW.

(6) The manufacturer of a water heater under this section which is offered for sale or installed after July 24, 1983, shall have a tag attached to the thermostat access plate or immediately adjacent to exposed thermostats. The tag shall state that the thermostat settings above the preset temperature may cause severe burns and consume excessive energy.

(7) Nothing in this section requires or permits any inspections other than those otherwise required or permitted by law.

(8) This section does not apply to multiple-unit residences supplied by central water heater systems. [1985 c 119 § 1; 1983 c 178 § 2. Formerly RCW 19.27.130.]

Findings—1983 c 178: "The legislature recognizes that unnecessarily hot tap or bath water creates an extreme risk of severe burns, especially among the elderly, children, and retarded persons. Annually, numerous persons suffer severe scald burns, some resulting in death, from tap or bath water which is inordinately hot. Excessive tap and bath water temperatures in residential usage is unnecessary for sanitary purposes. Regulation of the setting of water temperatures upon installation can virtually eliminate incidences of dangerous scalding. Further, the legislature finds that projected future shortages of energy in our state could be reduced or prevented by the efficient utilization of existing energy resources. Reducing the temperature settings on thermostats to one hundred twenty degrees Fahrenheit (or forty-nine degrees Celsius) would save energy that is now unnecessarily consumed, reduce homeowners' average utility costs, and promote home safety without any loss of comfort or health." [1983 c 178 § 1.]

RCW 19.27A.070 Intent. It is hereby declared that modern, efficient, safety-tested portable oil-fueled heaters may be offered for sale, sold, and used in this state. However, fire hazards and other dangers to the health, safety, and welfare of the inhabitants of this state may exist absent legislation to provide reasonable assurances that portable oil-fueled heaters offered for sale to, sold to, and used by the inhabitants of this state are modern, efficient, and safety-tested. It is the intent of the legislature to set forth standards for the sale and use of approved portable oil-fueled heaters. [1983 c 134 § 1. Formerly RCW 19.27.410.]

RCW 19.27A.080 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 19.27A.080 through 19.27A.120.

(1) "Portable oil-fueled heater" means any nonflue-connected, self-contained, self-supporting, oil-fueled, heating appliance equipped with an integral reservoir, designed to be carried from one location to another.

(2) "Oil" means any liquid fuel with a flash point of greater than one hundred degrees Fahrenheit, including but not limited to kerosene.

(3) "Listed" means any portable oil-fueled heater which has been evaluated in accordance with the Underwriters Laboratories, Inc. standard for portable oil-fueled heaters or an equivalent standard and with respect to reasonably foreseeable hazards to life and property by a nationally recognized testing or inspection agency, such as Underwriters Laboratories, Inc., and which has been authorized as being reasonably safe for its specific purpose and shown in a list published by such agency and/or bears the mark, name, and/or symbol of such agency as indication that it has been so authorized. Such evaluation shall include but not be limited to evaluation of the requirements hereinafter set forth.

(4) "Approved" means any listed portable oil-fueled heater which is deemed approved if it satisfies the requirements set forth herein or adopted under RCW 19.27A.080 through 19.27A.120 and if the supplier certifies to the authority having jurisdiction over the sale and use of the heater that it is listed and in compliance with RCW 19.27A.080 through 19.27A.120.

(5) "Structure" means any building or completed construction of any kind included in state building code groups M, R-1, R-3, B, F, S-1, S-2, and U occupancies, except sleeping rooms and bathrooms: PROVIDED, HOWEVER, That in B, M, and S-1 occupancies, approved portable oil-fueled heaters shall only be used under permit of the fire chief.

(6) "Supplier" means any party offering to sell to retailers or to the general public approved portable oil-fueled heaters. [1995 c 343 § 2; 1985 c 360 § 15; 1983 c 134 § 2. Formerly RCW 19.27.420.]

RCW 19.27A.090 Portable oil-fueled heaters—Sales and use—Approval required. Notwithstanding any other section of the state building code, chapter 19.27 RCW, or any other code adopted by reference in chapter 19.27 RCW, approved portable oil-fueled heaters may be offered for sale, sold, and used as a supplemental heat source in structures in the state. Portable oil-fueled heaters which are not approved may not be offered for sale, sold, or used in this state. Any approved portable oil-fueled heater may be offered for sale, sold, and used in locations other than structures unless specifically prohibited by laws of this state. [1983 c 134 § 3. Formerly RCW 19.27.430.]

RCW 19.27A.100 Portable oil-fueled heaters—Requirements for approval. Approved portable oil-fueled heaters must adhere to the following requirements:

(1) Labeling must be affixed to the heater to caution and inform the user concerning:

(a) The necessity for an adequate source of ventilation when the heater is operating;

(b) The use of suitable fuel;

(c) The proper manner of refueling;

(d) The proper placement and handling of the heater when in operation; and

(e) The proper procedures for lighting, flame regulation, and extinguishing the heater.

(2) Packaging must include instructions that will inform the purchaser of proper maintenance and operation.

(3) Approved portable oil-fueled heaters must be constructed with a low center of gravity and minimum tipping angle of thirty-three degrees from the vertical with an empty reservoir.

(4) Approved portable oil-fueled heaters must have an automatic safety shut-off device or inherent design feature which eliminates fire hazards in the event of tipover and must otherwise conform with the standards set forth in National Fire Protection Association (NFPA) No. 31.

(5) Approved portable oil-fueled heaters must not produce carbon monoxide at rates creating a hazard when operated as intended and instructed. [1983 c 134 § 4. Formerly RCW 19.27.440.]

RCW 19.27A.110 Portable oil-fueled heaters—Jurisdiction over approval—Sale and use governed exclusively. The chief of the Washington state patrol, through the director of fire protection, is the only authority having jurisdiction over the approval of portable oil-fueled heaters. The sale and use of portable oil-fueled heaters is governed exclusively by RCW 19.27A.080 through 19.27A.120: PROVIDED, That cities and counties may adopt local standards as provided in RCW 19.27.040. [1995 c 369 § 8; 1986 c 266 § 85; 1985 c 360 § 16; 1983 c 134 § 5. Formerly RCW 19.27.450.]

Effective date—1995 c 369: See note following RCW 43.43.930.

Severability—1986 c 266: See note following RCW 38.52.005.

RCW 19.27A.120 Violations—Penalty. The penalty for failure to comply with RCW 19.27A.080 through 19.27A.120 is a misdemeanor. [1985 c 360 § 17; 1983 c 134 § 6. Formerly RCW 19.27.460.]

RCW 19.27A.130 Finding—2009 c 423. The legislature finds that energy efficiency is the cheapest, quickest, and cleanest way to meet rising energy needs, confront climate change, and boost our economy. More than thirty percent of Washington's greenhouse gas emissions come from energy use in buildings. Making homes, businesses, and public institutions more energy efficient will save money, create good local jobs, enhance energy security, reduce pollution that causes global warming, and speed economic recovery while reducing the need to invest in costly new generation. Washington can spur its economy and assert its regional and national clean energy leadership by putting efficiency first. Washington can accomplish this by: Promoting super efficient, low-energy use building codes; requiring disclosure of buildings' energy use to prospective buyers; making public buildings models of energy efficiency; financing energy saving upgrades to existing buildings; and reducing utility bills for low-income households. [2009 c 423 § 1.]

RCW 19.27A.140 Definitions. 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. [2019 c 285 § 9; 2011 1st sp.s. c 43 § 245; 2010 c 271 § 305; 2009 c 423 § 2.]

Reviser's note: *(1) RCW 19.27A.200 was amended by 2022 c 177 § 2, changing the definition of "covered commercial building" to "covered building."

(2) The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

RCW 19.27A.150 Strategic plan—Development and implementation.

(1) To the extent that funding is appropriated specifically for the purposes of this section, the department of commerce shall develop and implement a strategic plan for enhancing energy efficiency in and reducing greenhouse gas emissions from homes, buildings, districts, and neighborhoods. The strategic plan must be used to help direct the future code increases in RCW 19.27A.020, with targets for new buildings consistent with RCW 19.27A.160. The strategic plan will identify barriers to achieving net zero energy use in homes and buildings and identify how to overcome these barriers in future energy code updates and through complementary policies.

(2) The department of commerce must complete and release the strategic plan to the legislature and the council by December 31, 2010, and update the plan every three years.

(3) The strategic plan must include recommendations to the council on energy code upgrades. At a minimum, the strategic plan must:

(a) Consider development of aspirational codes separate from the state energy code that contain economically and technically feasible optional standards that could achieve higher energy efficiency for those builders that elected to follow the aspirational codes in lieu of or in addition to complying with the standards set forth in the state energy code;

(b) Determine the appropriate methodology to measure achievement of state energy code targets using the United States environmental protection agency's target finder program or equivalent methodology;

(c) Address the need for enhanced code training and enforcement;

(d) Include state strategies to support research, demonstration, and education programs designed to achieve a seventy percent reduction in annual net energy consumption as specified in RCW 19.27A.160 and enhance energy efficiency and on-site renewable energy production in buildings;

(e) Recommend incentives, education, training programs and certifications, particularly state-approved training or certification programs, joint apprenticeship programs, or labor-management partnership programs that train workers for energy-efficiency projects to ensure proposed programs are designed to increase building professionals' ability to design, construct, and operate buildings that will meet the seventy percent reduction in annual net energy consumption as specified in RCW 19.27A.160;

(f) Address barriers for utilities to serve net zero energy homes and buildings and policies to overcome those barriers;

(g) Address the limits of a prescriptive code in achieving net zero energy use homes and buildings and propose a transition to performance-based codes;

(h) Identify financial mechanisms such as tax incentives, rebates, and innovative financing to motivate energy consumers to take action to increase energy efficiency and their use of on-site renewable energy. Such incentives, rebates, or financing options may consider the role of government programs as well as utility-sponsored programs;

(i) Address the adequacy of education and technical assistance, including school curricula, technical training, and peer-to-peer exchanges for professional and trade audiences;

(j) Develop strategies to develop and install district and neighborhood-wide energy systems that help meet net zero energy use in homes and buildings;

(k) Identify costs and benefits of energy efficiency measures on residential and nonresidential construction; and

(l) Investigate methodologies and standards for the measurement of the amount of embodied energy used in building materials.

(4) The department of commerce and the council shall convene a work group with the affected parties to inform the initial development of the strategic plan. [2010 c 271 § 306; 2009 c 423 § 3.]

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

RCW 19.27A.160 Residential and nonresidential construction—Energy consumption reduction—Council report. (1) Except as provided in subsection (2) of this section, residential and nonresidential construction permitted under the 2031 state energy code must achieve a seventy percent reduction in annual net energy consumption, using the adopted 2006 Washington state energy code as a baseline.

(2) The council shall adopt state energy codes from 2013 through 2031 that incrementally move towards achieving the seventy percent reduction in annual net energy consumption as specified in subsection (1) of this section. The council shall report its progress by December 31, 2012, and every three years thereafter. If the council determines that economic, technological, or process factors would significantly impede adoption of or compliance with this subsection, the council may defer the implementation of the proposed energy code update and shall report its findings to the legislature by December 31st of the year prior to the year in which those codes would otherwise be enacted. [2009 c 423 § 5.]

RCW 19.27A.170 Utilities—Maintenance of records of energy consumption data—Disclosure. (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. [2019 c 285 § 10; 2009 c 423 § 6.]

RCW 19.27A.180 Energy performance score—Implementation strategy—Development and recommendations. By December 31, 2009, to the extent that funding is appropriated specifically for the purposes of this section, the department of commerce shall develop and recommend to the legislature a methodology to determine an energy performance score for residential buildings and an implementation strategy to use such information to improve the energy efficiency of the state's existing housing supply. In developing its strategy, the department of commerce shall seek input from providers of residential energy audits, utilities, building contractors, mixed use developers, the residential real estate industry, and real estate listing and form providers. [2010 c 271 § 307; 2009 c 423 § 7.]

Purpose—Effective date—2010 c 271: See notes following RCW 43.330.005.

RCW 19.27A.190 Qualifying public agency duties—Energy benchmark—Performance rating—Reports. (1) The requirements of this section apply to the department of enterprise services and other qualifying state agencies only to the extent that specific appropriations are provided to those agencies referencing chapter 423, Laws of 2009 or chapter number and this section.

(2) By July 1, 2010, each qualifying public agency shall:

- (a) Create an energy benchmark for each reporting public facility using a portfolio manager;
- (b) Report to the department of enterprise services, the environmental protection agency national energy performance rating for each reporting public facility included in the technical requirements for this rating; and
- (c) Link all portfolio manager accounts to the state portfolio manager master account to facilitate public reporting.
- (3) By January 1, 2010, the department of enterprise services shall establish a state portfolio manager master account. The account must be designed to provide shared reporting for all reporting public facilities.
- (4) By July 1, 2010, the department of enterprise services shall select a standardized portfolio manager report for reporting public facilities. The department of enterprise services, in collaboration with the United States environmental protection agency, shall make the standard report of each reporting public facility available to the public through the portfolio manager website.
- (5) The department of enterprise services shall prepare a biennial report summarizing the statewide portfolio manager master account reporting data. The first report must be completed by December 1, 2012. Subsequent reporting shall be completed every two years thereafter.
- (6) By July 1, 2010, the department of enterprise services shall develop a technical assistance program to facilitate the implementation of a preliminary audit and the investment grade energy audit. The department of enterprise services shall design the technical assistance program to utilize audit services provided by utilities or energy services contracting companies when possible.
- (7) For a reporting public facility that is leased by the state with a national energy performance rating score below seventy-five, a qualifying public agency may not enter into a new lease or lease renewal on or after January 1, 2010, unless:
- (a) A preliminary audit has been conducted within the last two years; and
- (b) The owner or lessor agrees to perform an investment grade audit and implement any cost-effective energy conservation measures within the first two years of the lease agreement if the preliminary audit has identified potential cost-effective energy conservation measures.
- (8) (a) Except as provided in (b) of this subsection, for each reporting public facility with a national energy performance rating score below fifty, the qualifying public agency, in consultation with the department of enterprise services, shall undertake a preliminary energy audit by July 1, 2011. If potential cost-effective energy savings are identified, an investment grade energy audit must be completed by July 1, 2013. Implementation of cost-effective energy conservation measures are required by July 1, 2016. For a major facility that is leased by a state agency, college, or university, energy audits and implementation of cost-effective energy conservation measures are required only for that portion of the facility that is leased by the state agency, college, or university.
- (b) A reporting public facility that is leased by the state is deemed in compliance with (a) of this subsection if the qualifying public agency has already complied with the requirements of subsection (7) of this section.

(9) Schools are strongly encouraged to follow the provisions in subsections (2) through (8) of this section.

(10) The director of the department of enterprise services, in consultation with the affected state agencies and the office of financial management, shall review the cost and delivery of agency programs to determine the viability of relocation when a facility leased by the state has a national energy performance rating score below fifty. The department of enterprise services shall establish a process to determine viability.

(11) The department of enterprise services, in consultation with the office of financial management, shall develop a waiver process for the requirements in subsection (7) of this section. The director of the office of financial management, in consultation with the department of enterprise services, may waive the requirements in subsection (7) of this section if the director determines that compliance is not cost-effective or feasible. The director of the office of financial management shall consider the review conducted by the department of enterprise services on the viability of relocation as established in subsection (10) of this section, if applicable, prior to waiving the requirements in subsection (7) of this section.

(12) By July 1, 2011, the department of enterprise services shall conduct a review of facilities not covered by the national energy performance rating. Based on this review, the department of enterprise services shall develop a portfolio of additional facilities that require preliminary energy audits. For these facilities, the qualifying public agency, in consultation with the department of enterprise services, shall undertake a preliminary energy audit by July 1, 2012. If potential cost-effective energy savings are identified, an investment grade energy audit must be completed by July 1, 2013. [2015 c 225 § 20; 2009 c 423 § 8.]

RCW 19.27A.200 State energy performance standard—Definitions.

The definitions in this section apply throughout RCW 19.27A.210, 19.27A.220, 19.27A.230, 19.27A.240, 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.

(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. [2022 c 177 § 2; 2019 c 285 § 2.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Findings—Intent—2022 c 177: "The legislature finds that in order to meet the statewide greenhouse gas emissions limits in RCW 70A.45.020, the state must require performance standards for existing buildings.

In order to have a comprehensive understanding of the need and potential for updating the state's building stock, including the "split incentive issue" in which tenants are responsible for energy costs and building owners are responsible for choices about energy systems and building maintenance, more robust benchmarking and reporting for building performance, operations, and maintenance is needed. While the state has adopted comprehensive reporting requirements for larger buildings, it currently lacks similar requirements for smaller buildings. It is the intent of the legislature to extend existing building benchmarking, energy management, and operations and maintenance planning requirements to smaller commercial and multifamily residential buildings in order to assess the needs and opportunities for job creation and incentives and environmental and public health improvements.

The legislature further finds that in order to meet the statewide greenhouse gas emissions limits in the energy sectors of the economy, more resources must be directed toward achieving decarbonization of building heating and cooling loads, while continuing to relieve energy burdens that exist in overburdened communities. These resources must include comprehensive customer support, outreach, and technical assistance. These efforts must include notifying building owners of requirements through communications campaigns, providing resources to aid in compliance, and delivering training to equip building owners, and the industry, to be successful." [2022 c 177 § 1.]

Finding—Intent—2019 c 285: See note following RCW 19.27A.210.

RCW 19.27A.210 State energy performance standard. (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 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 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 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 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 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. The investment criteria must require that a building owner adopt an implementation plan to meet the energy intensity target 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.

(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) 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) 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

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

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

(i) 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) 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) 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) 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) Factory group F; or (B) high hazard group H;

(v) The building is an agricultural structure; or

(vi) The building meets at least one of the following conditions of financial hardship: (A) 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) the building has a court appointed receiver in control of the asset due to financial distress; (C) the building is owned by a financial institution through default by a borrower; (D) the building has been acquired by a deed in lieu of foreclosure within the previous 24 months; (E) the building has a senior mortgage subject to a notice of default; or (F) other conditions of financial hardship identified by the department by rule.

(8) A building owner of a 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 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.

(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. [2023 c 291 § 3; 2021 c 65 § 19; 2019 c 285 § 3.]

Findings—2023 c 291: See note following RCW 19.27A.260.

Explanatory statement—2021 c 65: See note following RCW 53.54.030.

Finding—Intent—2019 c 285: "(1) The legislature finds that state policy encouraging energy efficiency has been extremely successful in reducing energy use, avoiding costly investment in new generating capacity, lowering customer energy bills, and reducing air pollution and greenhouse gas emissions. The state's 2019 biennial energy report indicates that utility conservation investments under chapter 19.285 RCW, the energy independence act, now save consumers more than seven hundred fifty million dollars annually, helping to keep Washington's electricity prices among the lowest in the nation.

(2) Studies by the Northwest power and conservation council and by individual Washington utilities repeatedly show that efficiency is the region's largest, cheapest, lowest risk energy resource; that without it, the Northwest would have needed to invest in additional natural gas-fired generation; and that, looking ahead, efficiency can

approach the size of the region's hydropower system as a regional resource. The Northwest power and conservation council forecasts that with an aggressive new energy efficiency policy, the region can potentially meet one hundred percent of its electricity load growth over the next twenty years with energy efficiency.

(3) Energy efficiency investments that reduce energy use in buildings bring cobenefits that directly impact Washingtonians' quality of life. These benefits include improved indoor air quality, more comfortable homes and workplaces, and lower tenant energy bills. The legislature notes that according to the United States department of energy's energy and employment report, 2017, the energy efficiency sector has created more than sixty-five thousand jobs in the state, more than two-thirds of which are in the construction sector, and that the number continues to grow.

(4) Considering the benefits of and the need for additional energy efficiency to meet regional energy demand, the legislature notes that attaining as much of this resource as possible from the buildings sector can have a significant effect on state greenhouse gas emissions by deferring or displacing the need for natural gas-fired electricity generation and reducing the direct use of natural gas. Buildings represent the second largest source of greenhouse gas emissions in Washington and emissions from the buildings sector have grown by fifty percent since 1990, far outpacing all other emission sources.

(5) The legislature therefore determines that it is in the state's interest to maximize the full potential of energy efficiency standards, retrofit incentives, utility programs, and building codes to keep energy costs low and to meet statutory goals for increased building efficiency and reduced greenhouse gas emissions.

(6) It is the intent of this act to provide incentives and regulations that encourage greater energy efficiency in all aspects of new and existing buildings, including building design, energy delivery, and utilization and operations. This act:

(a) Establishes energy performance standards for larger existing commercial buildings;

(b) Provides financial incentives and technical assistance for building owners taking early action to meet these standards before they are required to be met;

(c) Enhances access to commercial building energy consumption data in order to assist with monitoring progress toward meeting energy performance standards; and

(d) Establishes efficiency performance requirements for natural gas distribution companies, recognizing the significant contribution of natural gas to the state's greenhouse gas emissions, the role that natural gas plays in heating buildings and powering equipment within buildings across the state, and the greenhouse gas reduction benefits associated with substituting renewable natural gas for fossil fuels." [2019 c 285 § 1.]

RCW 19.27A.220 State energy performance standard—Early adoption incentive program—Report to the legislature. (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 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 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.

(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 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.
[2022 c 177 § 4; 2021 c 315 § 18; 2019 c 285 § 4.]

Findings—Intent—2022 c 177: See note following RCW 19.27A.200.

Finding—Intent—2019 c 285: See note following RCW 19.27A.210.

RCW 19.27A.230 State energy performance standard—Limit on early adoption incentive payments. (1) The department may not issue a certification for a tier 1 incentive application under RCW 19.27A.220(8) (a) if doing so is likely to result in total incentive payments under RCW 19.27A.220(8) (a) in excess of \$75,000,000.

(2) The department may not issue certification for a tier 2 incentive application under RCW 19.27A.220(8) (b) if doing so is likely

to result in total incentive payments under RCW 19.27A.220(8)(b) in excess of \$150,000,000. [2022 c 177 § 5; 2019 c 285 § 5.]

Findings—Intent—2022 c 177: See note following RCW 19.27A.200.

Finding—Intent—2019 c 285: See note following RCW 19.27A.210.

RCW 19.27A.240 State energy performance standard—Early adoption incentive payment administration. (1)(a) Each qualifying utility must administer incentive payments for the state energy performance standard early adoption incentive program established in RCW 19.27A.220 on behalf of its customers who are eligible building owners of covered commercial buildings, multifamily residential buildings, or other tier 2 covered buildings consistent with the requirements of this section. Any thermal energy company, electric utility, or gas company not otherwise required to administer incentive payments may voluntarily participate by providing notice to the department in a form and manner prescribed by the department.

(b) Nothing in this subsection (1) requires a qualifying utility to administer incentive payments for the state energy performance standard early adoption incentive program established in RCW 19.27A.220 for which the qualifying utility is not allowed a credit against taxes due under this chapter, as described in RCW 82.16.185.

(2) An entity that administers the payments for the incentive program under this section must administer the program in a manner that is consistent with the standard established and any rules adopted by the department under RCW 19.27A.210, 19.27A.220, and 19.27A.250.

(3) Upon receiving notification from the department that a building owner has qualified for an incentive payment, each entity that administers incentive payments under this section must make incentive payments to its customers who are eligible building owners of covered commercial buildings or multifamily residential buildings who qualify as provided under this section and at rates specified in RCW 19.27A.220(8). When a building is served by more than one entity administering incentive payments, incentive payments must be proportional to the energy use intensity reduction of the participating entities' fuel.

(4) The participation by an entity in the administration of incentive payments under this section does not relieve the entity of any obligation that may otherwise exist or be established to provide customer energy efficiency programs or incentives.

(5) An entity that administers the payments for the incentive program under this section is not liable for excess payments made in reliance on amounts reported by the department as due and payable as provided under RCW 19.27A.220, if such amounts are later found to be abnormal or inaccurate due to no fault of the business. [2022 c 177 § 6; 2019 c 285 § 6.]

Findings—Intent—2022 c 177: See note following RCW 19.27A.200.

Finding—Intent—2019 c 285: See note following RCW 19.27A.210.

RCW 19.27A.250 State energy management and benchmarking requirement. (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.

(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.

(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. [2022 c 177 § 3.]

Findings—Intent—2022 c 177: See note following RCW 19.27A.200.

RCW 19.27A.260 Campus energy system decarbonization plan—

Definitions—Report—Alternative compliance pathway. (1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Campus" means a collection of buildings served by a district heating, cooling, water reuse, or power system.

(b) "Campus district energy system" means a district energy system that provides heating, cooling, or heating and cooling to a campus through a distributed system providing steam, hot water, or cool water to three or more buildings with more than 100,000 square feet of combined conditioned space, where the system and all connected buildings are owned by:

(i) A single entity;

(ii) A public-private partnership in which a private entity owns the systems providing heating, cooling, or heating and cooling to buildings owned by one public entity; or

(iii) Two private entities in which one private entity owns the connected buildings and another private entity owns the system providing heating, cooling, or heating and cooling to the buildings.

(c) "State campus district energy system" means a district energy system that provides heating, cooling, or heating and cooling to a campus through a distributed system providing steam, hot water, or cool water to five or more buildings with more than 100,000 square feet of combined conditioned space, where the system and all connected buildings are owned by the state of Washington or by a public-private partnership including one public buildings owner and one private entity.

(2) (a) The owner of a state campus district energy system must develop a decarbonization plan that provides a strategy for up to 15 years for the state campus district energy system. The department of commerce may approve a decarbonization plan that is based on a planning time frame longer than 15 years. The decarbonization plan must include:

(i) Mechanisms to replace fossil fuels in the heating plants, including a schedule for replacement;

(ii) An evaluation of possible options to partner with nearby sources and uses of waste heat and cooling;

(iii) An examination of opportunities to add buildings or other facilities to the system once it is decarbonized, a strategy to incentivize growth of a decarbonized system, and requirements for facilities joining the system; and

(iv) An evaluation, prioritization, and scheduled plan of reducing energy use through conservation efforts both at the central plant and in the buildings connected to district energy systems that results in meeting the campus energy use intensity target.

(b) The owner of a state campus district energy system is encouraged to include the following considerations in a decarbonization plan:

(i) Distribution network upgrades;

(ii) On-site energy storage facilities;

(iii) Space cooling for residential facilities;

(iv) Labor and workforce, including state registered apprenticeship utilization;

(v) Options for public-private partnerships;

(vi) Incorporation of industrial symbiosis projects or networks as described in chapter 308, Laws of 2021.

(c) The owner of a state campus district energy system must consult with the electric utility and the natural gas utility serving the site of the system during decarbonization plan development.

(3) (a) The owner of a state campus district energy system must begin developing a decarbonization plan by June 30, 2024, and must submit a final decarbonization plan to the department of commerce by June 30, 2025.

(b) Upon submittal to the department of commerce, decarbonization plans must be reviewed and approved by the department of commerce. The department of commerce may ask for a decarbonization plan to be revised and resubmitted if it does not meet standards as determined by the department of commerce.

(c) Every five years after June 30, 2025, the owner of a state campus district energy system must resubmit the decarbonization plan, along with a progress report on the implementation of the decarbonization plan, to the department of commerce.

(4) The department of commerce must provide a summary report on the decarbonization plans required in subsection (3) of this section to the governor and the appropriate committees of the legislature by December 1, 2025.

(5) The owner of a state campus district energy system is not required to meet the energy use intensity target in all the connected buildings that are heated, cooled, or heated and cooled by the system, or to conduct an investment grade audit, to otherwise comply with the state energy performance standard requirements in RCW 19.27A.200 through 19.27A.250 if the following conditions for an alternative compliance pathway are met:

(a) The owner of a state campus district energy system is implementing a department of commerce-approved decarbonization plan or has fully implemented a department of commerce-approved decarbonization plan for the state campus district energy system and all of its connected buildings that, when fully implemented, meets the energy use intensity target established for the campus at the time of required measurement and verification. The owner may apply for phased

implementation through conditional compliance in accordance with requirements of the decarbonization plan;

(b) The owner of the state campus district energy system meets the benchmarking, energy management, and operations and maintenance planning requirements under RCW 19.27A.200 through 19.27A.250 for the state campus district energy system and all of its connected buildings; and

(c) The owner of a state campus district energy system submits a request to the department of commerce once during every five-year compliance cycle as part of documentation submitted in accordance with RCW 19.27A.210(7), and the department of commerce approves the request.

(6) The owner of a campus district energy system may submit a request to the department of commerce to opt-in to the process for approval of an alternative compliance pathway as outlined in this section. If approved by the department of commerce, the campus district energy system must follow all of the requirements outlined for a state campus district energy system in this section, and the department of commerce must apply all authorities granted under this section for state campus district energy systems to such a campus district energy system. [2023 c 291 § 2.]

Findings—2023 c 291: "The legislature recognizes that building decarbonization is necessary to achieve the state's climate goals. Washington is a member of the national building performance standards coalition and is leading the nation with existing building performance standards. District energy policy could be used in coordination with any future statewide building performance standards policies to reduce commercial and large state-owned building emissions.

Due to the increased prevalence of extreme summer heat events, the ability to cool space at our state-run campus facilities, including correctional facilities, is an essential function of maintaining humane living, working, and learning conditions.

Upgrading existing district energy systems has great potential to increase efficiency, oftentimes more so than a building-by-building approach.

Upgrading and constructing district energy systems will employ skilled labor, including trades that have historically performed work on fossil fuel energy sources. This work will be an important part of a just transition to a clean energy economy.

For state-owned facilities connected to district energy systems, the legislature recognizes that it may take years, multiple budget cycles, and commitments as anchor customers to develop and upgrade campus district energy systems, but remains committed to steadily investing in plans developed by these agencies and their selected providers. Having plans for multiyear customer commitments or spending programs will set the state and private sector up well for applying for federal grants and resources and to appropriately plan capital, operating, and climate commitment act funding for these investments over time." [2023 c 291 § 1.]

RCW 19.27A.270 New housing in existing buildings—Adoption of rule. By January 1, 2024, the state building code council shall adopt by rule an amendment to the current energy code that waives the requirement for unchanged portions of an existing building used for

residential purposes to meet the current energy code solely because of the addition of new dwelling units within the building. New dwelling units created within the existing building must meet the requirements of the current energy code. [2023 c 285 § 3.]