

OSE

Director's Rule 2017-01

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TABLE OF CONTENTS

1.	PURPOSE AND BACKGROUND	3
2.	DEFINITIONS	4
3.	BUILDINGS SUBJECT TO REQUIREMENTS	5
A.	Non-Residential Buildings	5
B.	Multifamily Buildings	6
C.	Mixed Use Buildings	7
D.	Exemptions	7
4.	COMPLIANCE	7
A.	Building Owner Responsibilities	7
B.	Reporting Deadlines	8
C.	Utility Response Time	8
D.	Disclosure Requests	8
5.	COMPLIANCE PROCESS	8
A.	Benchmarking Process	9
B.	Disclosure Process	13
C.	Reporting Process	13
D.	Transparency	15
E.	Existing ENERGY STAR Portfolio Manager Records	16
6.	CLARIFICATIONS	16
A.	Defining a “Building”	16
B.	Threshold Determination	18
C.	Reporting Responsibility	19
D.	Measuring Building Area	20
E.	Energy Loads to Include/Exclude	22
F.	Reporting Tool	23
G.	Eligibility for ENERGY STAR Score	24
H.	Confidentiality	24
7.	ENFORCEMENT	25

Office of Sustainability & Environment Director's Rule

Energy Benchmarking, Disclosure, and Reporting Requirement

1. PURPOSE AND BACKGROUND

Pursuant to Seattle Municipal Code (SMC) 22.920, Energy Use Benchmarking, all buildings in the City of Seattle that meet specified size and use thresholds must fulfill certain energy benchmarking, disclosure, and reporting requirements. The purpose of this Rule is to clarify the requirements of SMC 22.920 and the process for building owners, property managers, utilities, and other affected parties who are expected to benchmark energy performance and report it to the City of Seattle. Beginning in 2016, the City will annually publish individual building energy performance information for the prior calendar year.

By making information about the energy performance of buildings more readily accessible, this legislation will allow the market to drive improvements in the energy performance of buildings within the city. The policy defined in SMC 22.920 will do this in the following ways:

- Benchmarking – building owners will be able to a) easily monitor the energy performance of their buildings, and b) if desired, gain market differentiation by applying for an ENERGY STAR® score.
- Disclosure – parties involved in the purchase, lease or financing of a building or space within a building will be able to a) compare performance between similar properties, and b) use this information to guide their decision.
- Reporting – staff within the City of Seattle will be able to a) monitor changes in energy use across the entire portfolio of larger buildings in the city, b) identify needs and opportunities for future policies and incentive programs, and c) develop data on typical energy loads for different building sizes and use types.
- Transparency – The City of Seattle will annually publish a subset of the reported energy performance data of individual buildings via a public facing website to allow market access to benchmarking data.

In 2006, Seattle was one of the first cities in the nation to adopt a Climate Action Plan (CAP). In 2013, the Seattle Office of Sustainability and Environment (OSE) updated the Climate Action Plan¹ as a first step in pursuing a goal of carbon neutrality by 2050. The updated CAP focuses on the sectors where City action is most needed and will have the greatest impact: road transportation, building energy, and waste.

Buildings account for 32% of Seattle's core emissions.² The benchmarking policy supports Seattle's goals to reduce energy use and greenhouse gas emissions from existing buildings. Annual benchmarking,

¹ 2013 Seattle Climate Action Plan: www.seattle.gov/Documents/Departments/OSE/2013_CAP_20130612.pdf

² 2014 Seattle Community Greenhouse Gas Emissions Inventory: www.seattle.gov/Documents/Departments/OSE/Climate%20Docs/2014GHG%20inventorySept2016.pdf

reporting and disclosing of building performance are foundational elements of creating more market value for energy efficient buildings.

Based on recommendations from the 2008 Green Building Task Force, Seattle Ordinance 123226 was enacted as Section 22.920 of the Seattle Municipal Code (SMC): Energy Use Benchmarking in 2010. Ordinance 123993 amended SMC 22.920 in 2012 to adjust the reporting threshold requirement to 20,000 square feet for both non-residential and multifamily buildings and modify the enforcement process. In 2016, Ordinance 125000 amended SMC 22.920 directing OSE to make building energy benchmarking reports and energy performance ratings available to the public. Seattle's benchmarking and disclosure requirements expand upon the State of Washington code requirements enacted in 2009, under RCW 19.27A.190.

2. DEFINITIONS

In addition to the definitions listed in SMC 22.920.020, the following definitions apply to this Rule:

Aggregated Utility Data – total whole-building energy usage data for a specified period as provided by a utility company for a given energy source type. See Virtual Meter.

Building Owner – an individual or entity possessing a fee interest in a nonresidential benchmarking building. Where a condominium is subject to this chapter, "Building Owner" means the Owners' Association. In a condominium where the powers of an Owners' Association are exercised by or delegated to a master association, as defined in RCW 64.34.276, "Building Owner" means the master association.

Data Center – A room or rooms used primarily to house high density computing equipment, such as server racks, used for data storage and processing.

Energy – means electricity, natural gas, steam, fuel oil or other product sold for consumption in a building, or energy generated on-site, for purposes of providing heating, cooling, ventilation, lighting, water heating, or for powering or fueling other end-uses in the building or related facilities. Energy does not include fuel oil used by any emergency backup generators for buildings covered under this ordinance.

Energy Use Intensity (EUI) – a measurement that Normalizes a building's energy use relative to its size. A building's EUI is calculated by dividing the total energy consumed in one year by the Gross Floor Area of the building. EUI is reported as a value of thousand British thermal units per square foot (kBtu/sf).

Gross Floor Area (GFA) – building floor area is the total number of square feet measured between the exterior surfaces of the enclosing fixed walls, including all supporting functions such as offices, lobbies, restrooms, equipment storage areas, mechanical rooms, break rooms, elevator shafts, etc. Atriums should only include the base floor area that they occupy. The total Gross Floor Area should not include outside bays or docks.

Gross Square Feet – means a building’s Gross Square Feet as provided by King County Assessor’s property detail records.

Normalize – means to remove the impact of factors beyond the energy efficiency of the equipment and operations – such as building size, climate zone, actual weather history, hours of operation, occupancy levels, etc. – in order to fairly compare the energy performance of facilities and operations.

Owners' Association – the entity consisting exclusively of all the unit owners in a condominium, as defined under RCW 64.34.300.

Seattle OSE Building Identification Number (Building ID) – A unique building identification number assigned by OSE to each covered building to facilitate annual benchmarking submission and compliance tracking.

Statement of Energy Performance – The Statement of Energy Performance (SEP) is a one-page report generated from an ENERGY STAR® Portfolio Manager® building record summarizing the energy consumption for a property for a specified timeframe.

Utility – means an entity that distributes and sells natural gas, electric, or thermal energy services for buildings. For the purposes of this Rule, the term utility applies to any of the three entities currently providing energy services within the City of Seattle: Seattle City Light, Puget Sound Energy, and Enwave (formerly Seattle Steam).

Virtual Meter – means a meter created in ENERGY STAR Portfolio Manager that contains multiple energy meters associated with a building. A Virtual Meter is used to report aggregated energy data for a certain fuel source.

Weather-Normalized Energy Use – the energy a building would use under typical annual weather conditions, as calculated by U.S. EPA’s ENERGY STAR Portfolio Manager for Energy Benchmarking.

3. BUILDINGS SUBJECT TO REQUIREMENTS

Unless described below as belonging to an exempt category, all buildings that have a gross area of more than 20,000 square feet excluding parking and which are located entirely within the City of Seattle, are subject to the energy benchmarking, disclosure, and reporting requirements. These buildings are divided into three categories: non-residential, multifamily, and mixed use.

A. Non-Residential Buildings

For the purposes of this Rule, any building with 20,000 Gross Square Feet or more falling under the authority of the Seattle Building Code, other than Multifamily (as described below), Mixed Use, or those listed as exempt from these requirements is considered non-residential. Some examples of the types of buildings which fall within this category include:

- Buildings used for the gathering of people for purposes such as civic, social or religious functions (e.g., theaters, restaurants, libraries, places of worship, stadiums)
- Buildings used for office, professional, or service type transactions (e.g., banks, laboratories, professional service offices)
- Buildings used for education purposes (e.g., public or private schools for K through 12th grade, day care facilities)
- Buildings in which people are cared for or live in a supervised environment (e.g., convalescent facilities, hospitals, nursing homes, prisons, detention centers)
- Buildings for the display and sale of merchandise (e.g., department stores, drug stores, markets, retail or wholesale stores)
- Buildings containing sleeping units where the occupants are primarily transient in nature (e.g., transient hotels, transient motels, transient boarding houses)
- Buildings for storage of materials

This list is intended to be illustrative only, and is not exhaustive.

B. Multifamily Buildings

For the purposes of this Rule, any building classified under the current Seattle Building Code as Residential Group R-2 occupancy is considered to be Multifamily. Per the Seattle Building Code, Group R-2 includes all residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including:

- Apartment houses
- Assisted living facilities licensed by the Department of Social and Health Services under Chapter 388-78A WAC
- Boarding homes as licensed by Department of Social and Health Services under Chapter 388-78A WAC
- Boarding houses (non-transient) with more than 16 occupants
- Congregate living facilities (non-transient) with more than 16 occupants
- Convents
- Dormitories
- Fraternities and sororities
- Hotels (non-transient)
- Live/work units
- Monasteries
- Motels (non-transient)
- Residential treatment facilities as licensed by Washington State Department of Health under Chapter 246-337 WAC
- Vacation timeshare properties

C. Mixed Use Buildings

For the purposes of this Rule, any building that contains some spaces categorized as Non-Residential and other spaces categorized as Multifamily is considered to be Mixed Use.

D. Exemptions

The following building types are exempt from all benchmarking, disclosure, and reporting requirements:

- a) Buildings subject to the Seattle Residential Code, which covers detached one- and two family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with a separate means of egress, and their accessory structures.
- b) Buildings classified under the current Seattle Building Code as Residential Group R-3. This includes all residential occupancies where the occupants are primarily permanent in nature unless the occupancy is classified under R-1, R-2 or I. Per the 2012 Seattle Building Code, Group R-3 includes:
 - Buildings that do not contain more than two dwelling units
 - Boarding houses (non-transient) with 16 or fewer occupants
 - Boarding houses (transient) with 10 or fewer occupants
 - Care facilities that provide accommodations for five or fewer persons receiving care
 - Congregate living facilities (non-transient) with 16 or fewer occupants
 - Congregate living facilities (transient) with 10 or fewer occupants
- c) Buildings used primarily for manufacturing or industrial purposes, as demonstrated by submitting one of the following:
 - a. A valid Certificate of Occupancy or construction permit documenting that at least 50% of the building is classified under the Seattle Building Code as Factory Industrial Group F. This includes buildings used for assembling, disassembling, fabricating, finishing, manufacturing, packaging, repair, or processing operations.
 - b. OSE's benchmarking exemption form, in which the Building Owner has verified that:
 - Neither they nor OSE staff have been able to locate a Certificate of Occupancy for their building; and
 - Their building meets the definition of a Factory Industrial Group F building as classified in the Seattle Building Code.

4. COMPLIANCE

A. Building Owner Responsibilities

The Building Owner or legal ownership entity (LLC) is responsible for complying with the ordinance and communicating relevant compliance activities to tenants. The Building Owner may have an agent (for example a property manager), long-term tenant, vendor, or an employee (for example a building engineer) meet the requirement, but in the event of failure to comply the Building Owner or LLC will ultimately be responsible for any fines resulting in non-compliance.

B. Reporting Deadlines

Initial reporting deadlines were phased-in for non-residential and multifamily buildings based on size through 2013. Thereafter, SMC 22.920 mandates that all non-residential and multifamily buildings subject to these requirements must have benchmarking results for the previous calendar year entered into ENERGY STAR Portfolio Manager and reported to the City of Seattle by April 1 of every year.

1) New Construction

Newly constructed buildings must have current benchmarking results entered into ENERGY STAR Portfolio Manager by April 1 of the first year following a complete calendar year of occupancy, as determined by the date the Certificate of Occupancy is issued.

Example: A new building that is completed and receives its Certificate of Occupancy on June 20, 2016 will be occupied for the entire 2017 calendar year. Therefore it is subject to an initial compliance deadline of April 1, 2018.

2) Campuses

As detailed in Section 7.A.2 of this Rule, "Where multiple buildings are served by a single utility meter, or served from a nearby central plant and not individually metered, it will be impossible to benchmark energy performance for the individual buildings. In these situations, all commonly served buildings should be grouped together and defined as a campus. Campus buildings must be benchmarked using ENERGY STAR Portfolio Manager.

C. Utility Response Time

Per SMC 22.920.060, utility companies may take up to 30 days to upload energy consumption data to ENERGY STAR Portfolio Manager after receipt of a written or secure electronic authorization request. To ensure that they meet the required reporting deadlines, building owners should set up their building profiles in Portfolio Manager and contact their serving utilities with sufficient lead time to allow the utilities to process their data upload request.

D. Disclosure Requests

Building owners must provide an energy disclosure report in response to any valid request which is submitted on or after the initial benchmark reporting deadline for the building. See Compliance Process below for additional details.

5. COMPLIANCE PROCESS

The requirements defined under the provisions of SMC 22.920 fall into three areas:

1. Benchmarking – building owners must set up records in ENERGY STAR Portfolio Manager which define their building’s physical attributes, operating characteristics, and energy consumption levels
2. Disclosure – building owners must download a Statement of Energy Performance from ENERGY STAR Portfolio Manager and provide this to a current or prospective tenant, buyer or lender, in response to an authorized request
3. Reporting – building owners must authorize the City of Seattle to download annual building performance reports, including aggregate energy consumption data for the previous calendar year

All actions listed in the Compliance Process section of this Director’s Rule are the responsibility of a building’s owner, or their authorized representative, unless otherwise stated. Any questions regarding the process for complying with these requirements should be directed to the City of Seattle at EnergyBenchmarking@seattle.gov.

A. Benchmarking Process

The following section provides basic guidance on the benchmarking process. More detailed directions, including a step-by-step How To Guide, are available on the benchmarking website, at www.seattle.gov/EnergyBenchmarking.

To benchmark a building within ENERGY STAR Portfolio Manager three types of information must be entered: 1) building profile information, 2) space use attributes, and 3) energy consumption data for all energy sources and energy meters that serve the building. The Building Owner is responsible for creating the building’s record within ENERGY STAR Portfolio Manager and inputting basic profile data, based upon the building address, and building space uses. These space uses must be updated annually to reflect the current uses in the reporting building. Utilities serving the building are responsible for uploading energy consumption data to the record created by the Building Owner, if properly requested and enrolled in data exchange services by the Building Owner; however, the Building Owner is responsible to confirm accuracy and that the data has been uploaded annually. To annually report to the City of Seattle, the Building Owner or authorized agent must share the building with the Seattle Energy Benchmarking Reporting Portfolio Manager account using the designated Seattle OSE Building Identification Number (Building ID). If owners are unsure of their Building ID, they should email energybenchmarking@seattle.gov or call 206-727-8484.

1) Building Profile Information

The benchmarking process will typically be initiated when the City of Seattle informs the Building Owner of their responsibility to benchmark, disclose, and report energy consumption results. The City of Seattle will attempt to send a notification letter to the owners of buildings subject to the benchmarking requirements, and to the Owners’ Association responsible for condominiums. The notification letter will include as much of the following information as possible: a description of the building, date of construction, the primary address for the building, contact information for the building owner(s), and an estimate of the building’s total gross square footage. The notification letter

will include compliance requirements and instructions on the steps that must be taken by the responsible party. The City of Seattle will rely on best available information and make a reasonable effort to contact owners of all buildings subject to the benchmarking requirements. However, failure to receive notification does not absolve a Building Owner of their responsibility to comply with the benchmarking requirements.

Gross Floor Area

The Building Owner must calculate the Gross Floor Area and enter it into ENERGY STAR Portfolio Manager. All space areas entered into Portfolio Manager for a building must add up to the building's Gross Floor Area and follow Portfolio Manager rules for how to include parking space. Gross Floor Area as calculated by the owner under this provision are not related to the King County Assessor records that determine whether a building or buildings qualify as covered buildings under SMC Chapter 22.920.010 - Applicability.

2) Space Use Attributes

After the Building Owner has entered general building profile information they must delineate what portion of the building area falls under each of the different use types defined within ENERGY STAR Portfolio Manager. They are also required to enter relevant attributes for each space, such as the operating hours per week, percent of the floor area that is heated/cooled, number of employees, etc. The specific building information that must be input is different for each space use type. Required space uses are updated bi-annually by the EPA. Some space use attributes are required to be entered to complete a building profile and generate an ENERGY STAR score. Required attributes are identified in the ENERGY STAR Portfolio Manager tool by a "star" symbol next to the detail and may also be found on the U.S. EPA's website at www.energystar.gov/benchmark.

Spaces which do not fall under any of the predefined space types should be entered as an "Other" space type. These "Other" spaces can be further delineated by sub-types. If a facility is comprised entirely of spaces which do not fall under any of the predefined space types, the entire building should be entered as an "Other" space type.

Default Data

Within ENERGY STAR Portfolio Manager, default values are available for a subset of Property Use Details (where the Property Type can get an ENERGY STAR score and that Use Detail is used in the score calculation). Default data is provided within Portfolio Manager to help owners get a quick score, when the exact values for your Property Use Details are not yet known. The use of default data is not considered accurate data. Building owners must enter the actual property values to obtain an accurate score to meet the annual benchmarking and reporting requirements.

3) Energy Consumption Data

Data Exchange Services (Automated Uploading)

All energy utility providers in the City of Seattle offer whole building, aggregated data uploading to a building owner's ENERGY STAR Portfolio Manager account. When using utility provider data exchange services, it is the owner's responsibility to ensure that all meters associated with the building are being reported to the building's Portfolio Manager record and that data has been updated for the full calendar reporting year.

To enable automated uploading of energy consumption data to a building's Portfolio Manager account, the Building Owner or agent must enroll in their utility provider's data exchange services. Each utility requires authorization by the Building Owner or their authorized representative, to enroll in their data exchange services either via written authorization or via an electronic enrollment form. Owners or their agents are responsible for working with their building's tenants to get tenant signatures on release forms that may be required by a utility.

Depending on authorization provided, data may be uploaded by individual meters, or aggregated to one or more virtual meters. Every building will be served by one or more utilities, and each utility provider maintains its own procedures for completing the process to automatically upload energy consumption data to Portfolio Manager. To assist in this process, a How to Comply Guide has been developed by OSE available at www.seattle.gov/energybenchmarking that includes step-by-step instructions for each Seattle utility data exchange service enrollment process. Additionally, technical assistance is available by calling 206-727-8484 or emailing energybenchmarking@seattle.gov. Owners or their agents may also work directly with their utility regarding data exchange services.

Seattle Utility Providers

Utilities are responsible for uploading monthly energy consumption data for all buildings for which they have been authorized as data exchange service providers. Currently each utility is providing monthly data updates although there may be a calendar delay to allow for bi-monthly billing periods. Each utility has established their own business process to address change in building ownership or new tenant meter accounts. The appropriate data release forms for each utility can be downloaded from the utility website at the corresponding link listed below.

Seattle City Light:

Website: www.seattle.gov/light/accounts/energyusage
 E-mail: SCL_Portfolio_Manager@Seattle.gov
 Phone: (206) 684-7557

Puget Sound Energy:

Website: www.pse.com/accountsandservices/YourProperty/Pages/Automated-Benchmarking

E-mail: mydata@pse.com
Phone: (425) 424-6486

Enwave (Formerly Seattle Steam):

Website: enwaveseattle.com/energy-star-reporting
Phone: (206) 623-6366

Utilities must maintain all energy consumption data in a format compatible with ENERGY STAR Portfolio Manager for at least the previous 24 months, so that all data for the previous calendar year can be uploaded at any time during the current year, in response to a request from the building owner.

Utility companies shall release tenant energy use data to the building owner's ENERGY STAR Portfolio Manager account, and building owners shall use tenant energy use data released from the utility company accounts, solely for the purpose of complying with SMC 22.920.

Manual Data Entry

Building owners may manually input utility meter data for their building into ENERGY STAR Portfolio Manager themselves, provided that they:

1. Confirm all utility meters serving the building have been identified.
2. Confirm that the energy data for all meters associated with the building has been accurately input into their ENERGY STAR Portfolio Manager record.

Data Standards

Whether uploaded by utilities or manually input by the building owner, the consumption data must be properly formatted to meet ENERGY STAR Portfolio Manager standards for generating an EUI or energy performance rating:

- Meter entries for all active meters serving the building must include monthly, consecutive usage data from January 1 through December 31 for the required reporting year, and must be properly associated with the building. If a meter was not active for the entire year, accurate "stop" and "start" dates should be entered following Portfolio Manager rules.
- Each meter cannot have a gap between the end date of one meter reading and the start date of the next.
- Each meter cannot have an overlap between the end date of one meter reading and the start date of the next.
- Meter entries cannot cover a period greater than 65 days.
- All benchmarking reports must be based on data from the twelve consecutive months of the previous calendar year.

B. Disclosure Process

Upon request, building owners are required to provide an energy disclosure report in the form of a Statement of Energy Performance (SEP) for their building to:

- A current lessee;
- A prospective lessee negotiating a lease agreement or letter of intent;
- A prospective buyer negotiating a purchase and sale agreement;
- A prospective lender considering an application for financing or refinancing of the building.

If a disclosure report has been requested by an authorized party, the Building Owner or manager must disclose building energy data to them prior to signing of any purchase and sale agreements or letters of intent between the parties, and no later than seven days after the disclosure request is submitted.

Lending institutions can request an energy disclosure report while processing any transaction involving the sale or lease of an entire building or of a separately owned portion of a building (e.g., a condominium unit). An energy disclosure report can also be requested in conjunction with financing of other activities, such as tenant improvements or a major renovation.

The energy disclosure report must be based on data for the twelve consecutive months of the previous calendar year. The energy disclosure report must be provided to the requesting party by the Building Owner or their representative, who will then have an opportunity to discuss the results of the report, and share any additional information that is relevant to the building's performance. The City of Seattle will not provide energy disclosure reports.

The energy disclosure requirements are fulfilled by providing a copy of the Statement of Energy Performance (for uses other than applying for the ENERGY STAR), a one-page summary of energy performance which can be created through ENERGY STAR Portfolio Manager. Verification by a certified professional is necessary for a building to gain recognition as an ENERGY STAR score certified building, but is NOT a requirement of the benchmarking provisions of SMC 22.920.

Step-by-step instructions for generating a Statement of Energy Performance can be found at www.seattle.gov/energybenchmarking

In the event of a transaction involving the sale or rental of an individual condominium unit, the condominium Owners' Association is responsible for providing the disclosure report needed to fulfill a request. The disclosure requirements will be satisfied by providing a report of either the entire building or the complete condominium in which the individual condominium unit exists.

C. Reporting Process

After the Building Owner has set up their building record within ENERGY STAR Portfolio Manager they must select "City of Seattle Annual Reporting" as a service provider for the building, and input the Building ID provided by the City of Seattle. This will authorize the City to download the data needed to fulfill the building's annual reporting requirements. If the Building ID is not entered correctly into the

“Seattle OSE Building ID” field the results will not be reported, and the building will be deemed to be out of compliance.

A building will be considered to be in compliance with annual reporting requirements when:

- The building’s record in ENERGY STAR Portfolio Manager has been properly set up, and is fully populated with accurate Gross Floor Area;
- Energy consumption data for the previous calendar year includes all energy sources and meters serving the building, and has been entered correctly for the entire calendar year (January 1 through December 31).
- An EUI ending in December of the required year is available in Portfolio Manager.
- All building profile and space use data is current and without the use of default data;
- The Building Owner has authorized the City of Seattle to download data from the building’s Portfolio Manager record; and
- The Building ID has been correctly entered in the ENERGY STAR Portfolio Manager record.

In April of each year, the City of Seattle will download and store data for all buildings for which it has been authorized as a service provider. This data will be a subset of the information about each building as contained in Portfolio Manager, including fields such as the following:

- Report Date
- Building Identification Numbers
- Building Name
- Building Address
- Year Built
- Number of Buildings
- Property Type
- Total Gross Floor Area
- 1st & 2nd and 3rd Largest Property Uses
- Eligible for ENERGY STAR (yes/no?)
- ENERGY STAR Score (where available)
- ENERGY STAR Certification Years
- Normalized Total Annual Energy Consumption
- Non-normalized Total Annual Energy Consumption
- Normalized Site and Source EUI (total annual energy consumption per sf)
- Non-normalized Site and Source EUI (total annual energy consumption per sf)
- National Median Site EUI
- District Steam Use
- Electricity Use (including generated from on-site renewable systems)
- Natural Gas Use
- All Other Fuels
- Total GHG Emissions, GHG Emissions Intensity, Direct & Indirect GHG Emissions
- Total Gross Floor Area for Each Space Use

- Occupancy
- Number of Bedrooms (MF)
- Number of Bedroom Density (# per 1,000 sf)
- Number of Floors
- Default data flags

When supported by ENERGY STAR Portfolio Manager, monthly energy consumption data separated by electric, gas and steam values shall be reported to the City of Seattle.

City of Seattle staff will use the annually reported data to monitor changes in energy use across the entire portfolio of buildings in the city. This information will allow staff to identify market sectors with the greatest energy efficiency opportunities, to guide development of future policies and incentive programs, and develop data on typical expected energy loads for different building uses.

D. Transparency

The Office of Sustainability and Environment will annually publish a subset of the collected building energy benchmarking data and where available, energy performance scores. Aggregate and individual building energy performance data will be made available to the public via the City of Seattle open data portal, data.seattle.gov. To allow market access to benchmarking data, Seattle will annually produce a public facing website to visually map building energy performance data, provide data filters, enable comparison features, and highlight individual building performance. Data analysis results will be annually published to highlight changes in energy use, building sector performance trends and building performance quartile ranges.

Comments

Building owners may annually submit contextual comments on their building's performance to share details that frame their building's performance history. Comments received by the annual April 1st deadline will be published alongside individual benchmarking data via the City's Open Data website. To submit comments, email energybenchmarking@seattle.gov and include the following:

- Building name
- Seattle Building ID
- Your name
- Your organization
- Your affiliation to the building (e.g. owner, property manager, etc.)

Owners may provide 2-3 sentences (maximum of 75 words) but must limit content to building performance related comments. OSE will review all comments and may recommend edits to conform to space limitations.

E. Existing ENERGY STAR Portfolio Manager Records

If a building was being voluntarily benchmarked in ENERGY STAR Portfolio Manager prior to the date of its initial reporting deadline, the Building Owner may continue to use the building's existing Portfolio Manager record rather than creating a new record, provided that **all energy**, building profile and other data in the record meets the standards described in this Rule. This includes, but is not limited to:

- The description of the building, and its area and other attributes, must be in agreement with the information provided by the City of Seattle, and any corrections must be communicated to the City of Seattle at EnergyBenchmarking@seattle.gov or by phoning 206-727-8484.
- The Building Owner must select and authorize "City of Seattle Annual Reporting" as a service provider for the building, and enter the Building ID provided by the City of Seattle.

If the Building Owner wishes to continue using an existing ENERGY STAR Portfolio Manager record but have energy consumption data entered automatically, they must select each utility serving the building as a service provider within ENERGY STAR Portfolio Manager, and submit official authorization and upload requests, as needed.

6. CLARIFICATIONS

A. Defining a "Building"

Each building must be entered as a unique record within ENERGY STAR Portfolio Manager. In complex structures – which may have multiple owners, many different uses, and portions built at different times and of different materials – it is necessary to standardize the definition of what constitutes a building. In order to derive an accurate and consistent EUI and energy performance rating for a building all parties involved with the reporting process – including the City of Seattle, the building's owner, and all utilities serving the building – must share a common understanding of the definition of each building, so that the area of the building, the uses of its constituent spaces, and the meters serving the building are in alignment.

The City of Seattle will attempt to send a letter to each Building Owner subject to the ordinance, describing the City's initial understanding of the building's address and gross square footage based on best available data sources. For more complex structures the City's interpretation may differ from the way the Building Owner prefers to benchmark and report the building. If the Building Owner disagrees with the City's definition of the building they must contact the City of Seattle at EnergyBenchmarking@seattle.gov to discuss possible corrections. Once the Building Owner and the City are in agreement, the Building Owner must use this definition consistently when setting up their records in ENERGY STAR Portfolio Manager, and when coordinating with utilities to identify which meters feed the building.

1) Sub-Buildings

ENERGY STAR Portfolio Manager is designed primarily to be used as a whole building reporting tool, and the minimum reporting requirements as defined in SMC 22.920 are for each complete building to report as a single entity within Portfolio Manager. However, how a building is used has a strong bearing upon its expected energy consumption, and a meaningful comparison between buildings becomes more challenging with mixed use buildings that do not fall cleanly into one of Portfolio Manager's predefined categories. For example, it is difficult to compare the energy performance of two mixed use buildings, each containing a residential condominium and commercial office space, when the energy consumption data for each building is aggregated for the entire building. Separating the energy consumption values between the residential and commercial portions of the buildings can produce results that are uniformly more useful for the Owners' Association, the commercial building owner, potential buyers, or renters attempting to evaluate the performance of the commercial or residential spaces, and City staff hoping to understand the typical energy performance of commercial or residential uses within buildings.

If agreed to by all responsible parties, the Building Owner or owners may elect to subdivide a single, primary building into multiple sub-buildings, each of which will be reported through its own unique record in Portfolio Manager. To accurately assess what portion of the total energy consumption can be attributed to each portion, sub-buildings can only be defined by the following criteria:

- Ownership – each sub-building must be under common legal ownership, or managed by a single Owners' Association with reporting responsibility
- Mechanical systems – the HVAC systems in each sub-building must be physically separate from the systems serving other portions of the building
- Sub-metering – the utility service to each sub-building must be separately metered from all other portions of the building

If a building is divided into multiple sub-buildings for benchmarking and reporting purposes, the total Gross Floor Area of the primary building will continue to be used to determine if the building is above the reporting threshold, and all sub-buildings constituting the primary building will be subject to the same benchmarking, disclosure, and reporting requirements as the primary building.

2) Multiple Buildings

To represent a building as a unique record within ENERGY STAR Portfolio Manager, the energy consumption for that building must be separately metered. Where multiple buildings are served by a single utility meter, or served from a nearby central plant and not individually metered, it will be impossible to benchmark energy performance for the individual buildings. In these situations, all commonly served buildings should be grouped together and defined as a campus.

Within Portfolio Manager, a "campus" is defined as a collection of facilities that are situated close together and have energy and/or water meters that are shared across multiple facilities. These buildings are typically served by a common heating or cooling source. Examples of campuses include higher education/universities, office parks, or retail strip malls. The campus feature within Portfolio

Manager provides energy managers with a central view of all campus facilities and a calculated combined energy usage and EUI based on combined floor space. Energy usage for the campus can be derived from both campus-level meters (used by multiple facilities) and separate sub-meters for individual facilities.

Campus facilities are not given an ENERGY STAR score (as of the date of this rule) and therefore cannot apply for ENERGY STAR certification. Therefore, if the Building Owner would like to seek an ENERGY STAR score or certification, sub-metering would need to be installed so that the buildings can be individually benchmarked.

Example: A university has 20 buildings, with a variety of uses – classrooms, residence halls, laboratories, and maintenance facilities. These are all served with hot and chilled water from a central plant, but the buildings are not individually metered. The number of buildings must be defined and benchmarked as part of a campus in Portfolio Manager.

Exceptions

1. In a multi-building environment with a small number of buildings, all of similar age, use and construction, all buildings can be grouped together and defined as a single building within Portfolio Manager, rather than as a campus.

Example: An apartment complex has five buildings with eight units per building. The buildings are not individually metered. However, all buildings were constructed at the same time, and share similar materials, mechanical/electrical systems and architectural features. The five buildings can be combined and benchmarked as a single building in Portfolio Manager with 40 residential units.

2. Hospitals, senior care facilities, and K-12 schools that are composed of multiple buildings are NOT considered campuses. Portfolio Manager includes the functionality to accommodate and benchmark multi-building configurations for these specific uses.

B. Threshold Determination

In a campus consisting exclusively of residential buildings, all buildings which are part of the campus must be benchmarked and included within the campus designation if the average square footage of the campus buildings is equal to 20,000 square feet or more. If the average square footage per building is less than 20,000 square feet, the buildings constituting the campus do not need to be benchmarked.

In a campus consisting of non-residential or mixed use buildings, or a mixture of non-residential, residential and mixed use buildings, all buildings which are considered to be part of the campus must be benchmarked and included within the campus designation if: 1) any of the buildings within the campus has an area of greater than 50,000 gross square feet; or 2) the average area of all of the buildings constituting the campus (total area / total number of buildings) is 20,000 Gross Square Feet or greater.

Although the King County Assessor's database generally defines one building per record, there are situations where multiple small buildings have been aggregated together and listed as a single record. This can create a record with a total gross square footage above the reporting threshold even though none of the individual buildings constituting that record exceeds the threshold. In these situations, the Building Owner may submit signed, supporting documentation to inform the City of Seattle that they do not consider their building(s) to be subject to the benchmarking, disclosure, and reporting requirements.

C. Reporting Responsibility

1) Multiple Owners

The owner of each building at the annual reporting deadline (April 1) is responsible for benchmarking their building for the prior calendar year and ensuring that all energy disclosure and reporting requirements are fulfilled. In most cases, a single party owns the entire building and is responsible for benchmarking, disclosure and reporting for the complete building. However, in some situations portions of a single building may be separately owned by different parties. This may occur where multiple spaces which can be bought and sold individually are vertically stacked within a single structure, on a common real estate parcel. In these situations, the building owners may break the building into multiple sub-buildings, as described above, so that each Building Owner can take responsibility for reporting on their portion of the structure. This does NOT include the case of individual condominium units, which are treated separately below.

Alternatively, if the metering or mechanical system configuration does not allow the creation of sub-buildings, the owner controlling the largest portion of the building's total gross square footage will be treated by the City of Seattle as the primary owner. This entity will be responsible for creating a single ENERGY STAR Portfolio Manager record that covers the entire structure, and must collect data from the other portions of the building not under their ownership as needed to complete the Portfolio Manager record.

2) Long-Term Tenants

Even though a building or a portion of a building may be leased to, and operated by, a tenant under a long-term lease agreement, the Building Owner retains ultimate responsibility for insuring that the benchmarking, disclosure, and reporting requirements have been met. Nothing in this Rule prevents the tenant from taking an active role in preparing the benchmarking information, and submitting it to the Building Owner or inputting it directly into ENERGY STAR Portfolio Manager. However, if there are multiple spaces in a building, leased to multiple tenants, the Building Owner must insure that all spaces have been accounted for and benchmarked; the Portfolio Manager record must reflect the total performance of the complete building.

3) Land Lease

In a land lease situation, where the ground beneath a structure has been leased to, rather than sold to the owner of a building, the owner of the building itself is responsible for fulfilling all energy

benchmarking disclosure and reporting requirements. The landowner has no obligations under this Rule.

4) Condominiums

The Owners' Association (or master association, if applicable) is responsible for establishing a record in ENERGY STAR Portfolio Manager for the entire condominium, including common spaces and all individual condominium units, and benchmarking, disclosing and reporting its aggregate performance. Owners of individual condominium units must provide the association with any authorization or billing/metering information needed to comply with these requirements. An Owners' Association may also wish to consider amending their condominium's covenants, conditions, and restrictions (CC&Rs) to streamline the processes whereby the association will compile complete energy records on behalf of the individual owners.

Any party engaged in purchasing or leasing an individual unit within the condominium has the right to request an energy disclosure report. Since all energy benchmarking and reporting will be done for the entire condominium, the Owners' Association is responsible for providing a report disclosing the aggregate energy performance of the complete condominium, rather than for the individual unit involved in the transaction.

Where an entire building consists of a single condominium, the Owner's Association is responsible for benchmarking the entire building. It is possible that a complex structure will contain not only one or more residential or commercial condominiums, but also additional portions that are separately owned in fee simple. In these situations, breaking the building into multiple sub-buildings is likely to be the only practical way to complete the benchmarking process. Where this is not possible, the City of Seattle will provide further guidance on a case by case basis.

D. Measuring Building Area

Because the ENERGY STAR score is an indicator of the entire building's energy performance, all interior space must be captured in ENERGY STAR Portfolio Manager. The total Gross Floor Area must be measured between the principal exterior surfaces of the enclosing fixed walls, and should include all supporting functions such as offices, lobbies, rest rooms, equipment storage areas, mechanical rooms, break rooms, elevator shafts, stairwells, etc. Atriums or areas with high ceilings should only include the base floor area that they occupy. All enclosed spaces, whether conditioned or non-conditioned, must be included.

Exception: The gross floor area must exclude the floor area used for parking even if it is conditioned or lit. Parking must be measured as a separate space and must be entered per Portfolio Manager rules and following section **1) Parking and Loading Areas** below. The total gross floor area should also not include outside loading bays or docks.

Original specifications, design documents, and "as-built" drawings can be used to confirm certain physical characteristics. However, because the actual physical characteristics of the building can vary

significantly from these plans and records, any review of documentation must always be combined with a physical inspection of the building.

1) Parking and Loading Areas

To allow ENERGY STAR Portfolio Manager to properly assign lighting and ventilation allowances, the parking and loading floor area should be reported via three categories using the rules defined by Portfolio Manager:

- Enclosed parking structures
- Unenclosed parking with a roof
- Open parking lots (no roof) – assumes that the space is lit, but does not require mechanical ventilation

If the parking lighting or ventilation systems are included in the utility service measured by the main building energy meter(s), the floor area used for parking must be reported within Portfolio Manager as a separate “Parking” use. When defining parking lot square footage, include only the spaces and lanes that vehicles actually drive on, excluding any surrounding landscaping that is lit by the parking lot’s lighting. Note: If the Portfolio Manager report is using an aggregate “virtual meter” from a utility data exchange service that includes the meter(s) used for the parking areas, the same method should be followed. The parking floor must also be excluded from the Property GFA.

If the parking space is separately metered from the main facility with which it is associated, its floor area and the meter(s) serving the area should not be entered into Portfolio Manager. The parking floor must also be excluded from the building Gross Floor Area, as noted above.

The area within parking lots and garages will be excluded when determining the primary building type to which each building will be compared when Portfolio Manager determines its energy performance score.

Parking and loading areas can be excluded when determining if a building’s total gross square footage is above the 20,000 square footage threshold at which energy benchmarking, disclosure, and reporting requirements for non-residential and multifamily buildings take effect. However, if a building is determined to be subject to these requirements then parking and loading must be considered when benchmarking and reporting.

2) Vacant Space

Depending on the reporting building type, if vacant space averages at least 10% of the building’s total Gross Floor Area over the past 12 months, the vacant space must be input in ENERGY STAR Portfolio Manager as a separate space. Portfolio Manager also dictates specific values which must be used for the weekly operating hours, workers on main shift, number of computers, and percent heated and percent cooled for a vacant space.

If a building is 100% unoccupied and thus vacant with no energy use other than safety lighting and heating the building is not required to annually benchmark and report. The Building Owner must submit an exemption request form to the City of Seattle and verify that the building is vacant.

3) Data Center

Within ENERGY STAR Portfolio Manager, the Data Center Property Use Type is intended for sophisticated computing and server functions which typically include:

- high density computing equipment (such as server racks used for data storage and processing)
- dedicated power and cooling systems
- a constant power load of 75 kW or more
- uninterruptible power supplies (UPS)
- raised floors

Data Centers may include traditional enterprise services, on-demand enterprise services, high performance computing, internet facilities, and/or hosting facilities. Often Data Centers are free-standing, mission-critical computing centers.

The Data Center property use type is **NOT** intended for:

- server closets
- computer training areas
- telecom closets
- print/copy rooms

Server rooms that do not meet the definition of Data Center above, but have separate cooling systems and operating hours that differ from the rest of the building should be entered as a separate Office Property Use. Enter the weekly operating hours (typically 168 hours), zero workers, and enter the count of computers and servers in the number of computers field. Both computers and servers should be counted only once (e.g. one server counts as 1 "Computer").

All other areas mentioned above (including server rooms without separate cooling systems) should be included in the total Gross Floor Area for the property's main Property Use (e.g., Office).

E. Energy Loads to Include/Exclude

All Energy loads served and metered by a utility, and which are relevant to the primary uses and occupancies of the building, must be included in the building's ENERGY STAR Portfolio Manager record. This includes readings for any meters that are paid by tenants or other parties, rather than the building owner. Also, any after-hours usage that is billed back to tenants must be included, regardless of who is paying for the energy.

Loads for common spaces, such as a parking structure that is functionally shared between two properties, must be fully assigned to the building which holds legal title for the space. If a single

structure has been divided into sub-buildings, then parking and other common spaces should be apportioned between and reported with the appropriate sub-buildings.

Loads which are unrelated to the primary purpose of the building, such as an electric vehicle charging station, broadcast antennas, or on-site cell phone towers, may be excluded from energy benchmarking, disclosure and reporting, provided that these loads are metered separately from all other building loads.

Buildings are required to report the amount of electricity that is generated on-site from solar or wind energy and used at the building. They must also report energy that they sell back to the utility via net metering. Solar and wind energy generated onsite cannot be subtracted from the total energy consumption of the building. Please note, SCL's virtual meters will not include energy consumption from on-site generated solar or wind energy.

Buildings are required to report any delivered fuel oil used for building operations other than that used for back-up emergency services. Bulk shipments can be entered as a bulk shipment based on the actual delivery dates or as a monthly estimate. When creating a meter for fuels received in bulk you can select "Enter as Delivery" and the tool will assume that the bulk fuel was used in the month it was received/entered.

F. Reporting Tool

All benchmarking results must be reported via the U.S. EPA's ENERGY STAR Portfolio Manager (www.energystar.gov/benchmark). The City of Seattle has determined that ENERGY STAR Portfolio Manager is the best tool that is readily available for benchmarking, disclosing and reporting of building energy performance. Portfolio Manager has many benefits that led to its selection as the required reporting tool:

- Widespread use – ENERGY STAR Portfolio Manager is the de facto standard in the United States for building benchmarking, and is supported by the U.S. EPA and many trained professionals
- Cost – ENERGY STAR Portfolio Manager is free
- Web based – does not require purchase or installation of any dedicated software
- Security of data – all data is stored on a secure server maintained by the U.S. EPA. Only authorized representatives can access the profile or energy consumption data associated with a building

ENERGY STAR Portfolio Manager provides greater reporting functionality for some building types than for others, as some buildings do not currently qualify for an ENERGY STAR score. However, in the interest of maintaining consistency in both procedures and data standards, ENERGY STAR Portfolio Manager must be used for all building types.

SMC 22.920 requires benchmarking of EUI and "where available, an energy performance rating" for all buildings subject to the requirements. The U.S. EPA is continuing to expand the set of building types which will receive an energy performance score; as this capability is enhanced, those buildings will be expected to begin reporting their ENERGY STAR score in addition to EUI values.

G. Eligibility for ENERGY STAR Score

All buildings which earn an energy performance score of 75 or greater are eligible to receive an ENERGY STAR certification. To ensure the quality of the label, the building's performance must be certified by a licensed Professional Engineer (PE) or Registered Architect (RA). Additionally, the certifying professional must validate that the space use data is correct and complete, that all energy meters have been correctly defined, that standards for ventilation, lighting and comfort within the building have been achieved, and that the score as a whole is based on reliable data.

More than 50% of the building's total Gross Floor Area (excluding parking areas) must be defined by one of the space types defined by ENERGY STAR Portfolio Manager as being eligible to receive an energy performance rating, such as "Office" or "Hotel." This determines the category of buildings – out of all buildings in the national stock – to which the property is being compared.

ENERGY STAR certification is a valuable indicator of a high-performance building, as achieving it requires dedication to energy efficiency as well as an understanding of the benchmarking and certification process. Although the City of Seattle encourages building owners to apply for ENERGY STAR certification, this is not a condition of the City's benchmarking, disclosure, and reporting requirements.

H. Confidentiality

Under Washington State Law (RCW Chapter 42.56, the Public Records Act) all records received or created by the City of Seattle are considered public records. Public records include annual energy consumption reports as required under Seattle Municipal Code, SMC 22.920.

The Public Records Act (PRA) requires that public records must be promptly disclosed by the City upon request unless the PRA or other statute specifically exempts records from disclosure.

If a Building Owner or Tenant believes any of the records they are submitting to the City in compliance with the requirements of SMC 22.930 are exempt from disclosure under the PRA, they can request that the City provide notice prior to disclosure so the Building Owner or Tenant has an opportunity to pursue court action to prevent disclosure. To do so, the Building Owner or Tenant must very clearly and specifically identify the records and the exemption(s) that may apply. Only the specific records or portions of records properly identified will be withheld for the purpose of providing notification. All other information submitted to the City will be considered fully disclosable upon request.

The City will not assert an exemption from disclosure on a Building Owner or Tenant's behalf. If the City receives a public disclosure request for any records that a Building Owner or Tenant has properly and specifically identified, the City may notify them in writing of the request and postpone disclosure. While it is not a legal obligation, the City may allow up to ten business days after notification for the Building Owner or Tenant to obtain a court injunction to prevent the City from releasing the records (per RCW 42.56.540). If the Building Owner or Tenant fails to obtain a court order within the ten-day period, the City may release the information.

7. ENFORCEMENT

Per SMC 22.920.110, the OSE Director may issue a notice of violation (NOV) to Building Owner for non-compliance. A determination of non-compliance may be made for the following reasons:

1. Failure to benchmark, update or submit an annual Benchmarking Report to the City of Seattle by April 1st;
2. Submitting an Energy Benchmarking Report with inaccurate data;
3. Failure to disclose to a current tenant or potential lender, buyer or tenant the most current energy benchmarking report via a Statement of Energy Performance (SEP).
4. Failure to provide a building owner information necessary to comply with SMC 22.920.

Owner responses to the notice of violation and related procedures are outlined in SMC subsections 22.920.125 through 22.930.190. Penalties for failure to comply, per SMC 22.920.120 are as follows:

	Per Compliance Cycle			
Non-residential or Multifamily Building:	1st Penalty Assessed 90 Days After Due Date:	2nd Penalty Assessed 180 Days After Due Date:	3rd Penalty Assessed 270 Days After Due Date:	4th and Final Penalty Assessed 360 Days After Due Date:
50,000 Gross Square Feet or greater excluding parking	\$1,000	\$2,000	\$3,000	\$4,000
20,000-49,999 Gross Square Feet excluding parking	\$500	\$1,000	\$1,500	\$2,000

In addition to the fines notes above, if the Director determines a Building Owner has failed to disclose an energy benchmarking report, has submitted inaccurate data, or a tenant has failed to provide information to a building owner as required under SMC 22.920.050 the Director may impose a \$150 fine for the first violation and a \$500 fine for subsequent violations.

A. Enforcement Grace Periods

Per SMC 22.920.120, the OSE Director has the authority to establish grace periods for imposing fines upon a finding that such a grace period will facilitate the submission of energy benchmarking reports. If enacted, grace periods will be applied consistently across all buildings within a building type and size group. Information about grace periods will be provided on the City's Energy Benchmarking website.