



Director's Rule 6-2011

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1. PURPOSE

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, or may wish to request this information.

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 three ways:

1. 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 ENERGYSTAR rating.
2. 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.
3. 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 and use types.

2. BACKGROUND

In 2008 the City of Seattle established a goal of reducing energy use within existing buildings by 20% by the year 2020. This was one step toward meeting the City's targets for reduction of greenhouse gas emissions, as later articulated in the 2009 Seattle Climate Protection Initiative:

- 7% below 1990 levels by 2012
- 30% below 1990 levels by 2024
- 80% below 1990 levels by 2050

In July 2008 the City of Seattle convened the Green Building Task Force, a group of 50 stakeholders who provided input on policy recommendations to achieve the City's goal of increasing energy efficiency within new and existing buildings. One of the recommendations that came from this process was to implement an energy benchmarking and disclosure program

for all buildings other than single family homes. The goal of this recommendation was to increase awareness of energy consumption levels and allow consumers to easily compare the performance of similar buildings, in order to guide their purchasing and leasing decisions. These recommendations led to the development of Seattle Ordinance 123226, which was signed by the Mayor on February 4, 2010, and enacted as Section 22.920 of the Seattle Municipal Code.

The benchmarking and disclosure requirements of SMC 22.920 expand upon the statewide requirements enacted by the State of Washington on July 26, 2009, under Senate Bill 5854. While energy performance benchmarking has historically been a more widespread practice within commercial office buildings, multifamily buildings represent a significant proportion of the energy use for buildings within Seattle. For this reason, they have been included within the City's energy benchmarking, disclosure and reporting requirements. The initial reporting deadline the City established for multifamily properties is after that for larger non-residential properties, to allow additional time for outreach, training, and fine-tuning of business processes.

3. DEFINITIONS

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

1. "EUI" means Energy Use Intensity, a measurement that describes a building's energy use relative to its size. A building's EUI is calculated by taking the total energy consumed in one year and dividing it by the total gross floor area of the building.
2. "Normalize" means to remove the impact of factors beyond the energy efficiency of the equipment and operations – such as climate zone, actual weather history, hours of operation, occupancy levels, etc. – in order to fairly compare the energy performance of facilities and operations.
3. "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 Seattle Steam.

4. BUILDINGS SUBJECT TO REQUIREMENTS

Unless described below as belonging to an exempt category, all buildings which are larger than 10,000 square feet or contain five or more dwelling units, 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. The categories differ in how the threshold determination for compliance is evaluated, and the date of the initial reporting deadline.

A. Non-Residential Buildings

For the purposes of this Rule, any building with a gross area of 10,000 sf 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 to be 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., assisted living facilities, 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 of five dwelling units or more classified under the current Seattle Building Code as Residential Group R-2 occupancy is considered to be Multifamily. Per the 2009 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
- 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) Multifamily buildings of less than five dwelling units
- c) 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 2009 Seattle Building Code, Group R-3 includes:
 - Buildings that do not contain more than two dwelling units
 - Adult care facilities that provide accommodations for five or fewer persons of any age for less than 24 hours
 - Boarding houses (non-transient) with 16 or fewer occupants
 - Boarding houses (transient) with 10 or fewer occupants
 - Congregate living facilities (non-transient) with 16 or fewer occupants
 - Congregate living facilities (transient) with 10 or fewer occupants
- d) 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 current Seattle Building Code as Factory Industrial Group F. This includes buildings used for assembling,

disassembling, fabricating, finishing, manufacturing, packaging, repair or processing operations.

- b. DPD's self-certification exemption form, in which the building owner has verified that :
 - Neither they nor DPD 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.

5. COMPLIANCE SCHEDULE

A. Initial Reporting Deadlines

1) Non-Residential Buildings

SMC 22.920 mandates that all non-residential buildings subject to these requirements and larger than 50,000 sf must have current benchmarking results entered into the U.S. Environmental Protection Agency's Portfolio Manager system by April 1, 2011. The Seattle Department of Planning and Development (DPD) subsequently granted a six-month grace period, and established a revised initial reporting deadline of October 3, 2011.

SMC 22.920 mandates that all other non-residential buildings subject to these requirements and larger than 10,000 sf must have current benchmarking results entered into Portfolio Manager by April 1, 2012. DPD subsequently granted a six-month grace period, and established a revised initial reporting deadline of October 1, 2012.

2) Multifamily Buildings

SMC 22.920 mandates that all multifamily buildings subject to these requirements must have current benchmarking results entered into Portfolio Manager by April 1, 2012. DPD subsequently granted a six-month grace period, and established a revised initial reporting deadline of October 1, 2012.

3) Mixed Use Buildings

All mixed use buildings subject to these requirements and having less than five dwelling units are treated as non-residential buildings and are subject to the following schedule:

- All buildings larger than 50,000 sf must have current benchmarking results entered into Portfolio Manager by the revised initial reporting deadline of October 3, 2011.

- All other buildings larger than 10,000 sf must have current benchmarking results entered into Portfolio Manager by the revised initial reporting deadline of October 1, 2012.

All mixed use buildings subject to these requirements and having five or more dwelling units are treated as multifamily buildings and must have current benchmarking results entered into Portfolio Manager by the revised initial reporting deadline of October 1, 2012.

Example: A 100,000 sf hotel which consists primarily of rooms for nightly guests (nonresidential use) but also contains eight permanently occupied residences is subject to the revised initial reporting deadline of October 1, 2012.

4) New Construction

Any building constructed and completed after April 1, 2012 must have current benchmarking results entered into 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, 2012 will be occupied for the entire 2013 calendar year, and is subject to an initial compliance deadline of April 1, 2014.

5) 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." Portfolio Manager does not currently include the functionality needed to integrate with the City of Seattle's system for automated reporting of benchmarking results. The City of Seattle will notify owners of campus connected buildings when this functionality becomes available. Until that time, campus buildings must be benchmarked using Portfolio Manager or a similar system, but are not required to disclose or report their performance.

B. Ongoing Reporting Deadlines

After its initial reporting deadline, each building subject to these requirements must have benchmarking results for the previous calendar year entered into Portfolio Manager by April 1 of every subsequent year.

C. Utility Response Time

Per SMC 22.920.060, utility companies may take up to 60 days to upload energy consumption data to 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.

6. 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 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 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 Education and Training Support page on the benchmarking web site, at www.seattle.gov/dpd/EnergyBenchmarking.

In order to benchmark a building within Portfolio Manager three types of information must be entered: 1) building profile information, 2) space use attributes, and 3) energy consumption data. The building owner is responsible for creating the building's record within Portfolio Manager and inputting basic profile data, based upon the building address, Building ID, and

other descriptive information provided by the City of Seattle. Utilities serving the building are responsible for uploading energy consumption data to the record created by the building owner, if requested by the building owner.

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 each building owner and property manager who may be associated with a building subject to the benchmarking requirements, and to each owners' association responsible for a condominium. The notification letter will include as much of the following information as possible: a description of the building, date of construction, the primary and alternate addresses (if any) for the building, contact information for the building owner(s) and any property managers associated with the building, and the City of Seattle's estimate of the building's total gross floor area or number of dwelling units. The notification letter will also include background on the 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.

The building owner must review the information provided by the City of Seattle and, if there are any questions or disagreements with the building's definition or other information, contact the City of Seattle at EnergyBenchmarking@seattle.gov. After all parties are in agreement regarding the description of the building and its attributes, the building owner must create a building record in Portfolio Manager and input general building profile information, which includes data such as:

- Facility name
- Year built
- Address
- Contact information

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 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 profile information that must be input is different for each space use type. The space use attributes that must be entered to complete a building profile are listed in the ENERGYSTAR Portfolio Manager Data Collection Worksheet, which can be downloaded from the U.S. EPA's Portfolio Manager web site at http://www.energystar.gov/ia/business/downloads/PM_Data_Collection_Worksheet.doc.

The list of available space types, and guidance for determining the appropriate values for many of these attributes, can be found on the ENERGYSTAR web site at https://www.energystar.gov/istar/pmpam/help/Space_Use_Information.htm. This web page also includes a listing of default values which can be assigned to each attribute, if more detailed information is unavailable. Note that facilities cannot earn the ENERGYSTAR label when default values are used.

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, as described on the on the ENERGYSTAR web site at www.energystar.gov/istar/pmpam/help/Portfolio_Manager_Online_Help.htm#Other.htm. 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.

Optional Entries

Although users are encouraged to complete them, space use attributes listed as optional in Portfolio Manager are not required for compliance with SMC 22.920; data in these fields will not impact benchmarking results.

3) Energy Consumption Data

Automated Uploading

In order to enable automated uploading of energy consumption data, the building owner must select all relevant utilities within their Portfolio Manager record as service providers for their building; this will allow each utility to link to and upload energy consumption data into the building's Portfolio Manager record. Upon receipt of a written or secure electronic request and/or authorization by the building owner or their authorized representative, each utility that serves a building subject to the energy benchmarking, disclosure and reporting requirements is responsible for uploading energy consumption data for all meters identified as being associated with the building to the building's Portfolio Manager record. This 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 one maintains its own procedures for initiating the process to automatically upload energy consumption data to Portfolio Manager. The building owner must contact each serving utility to discuss specific requirements. Their contact information is:

Seattle City Light:

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

Puget Sound Energy:

Web site: pse.com/accountsandservices/PropertyManagers/Pages/Automated-Benchmarking.aspx
E-mail: automatedbenchmarking@pse.com
Phone: (425) 456-2494

Seattle Steam:

Web site: www.seattlesteam.com
Contact: David Easton
E-mail: DEaston@seattlesteam.com
Phone: (206) 658-2025

Utilities are responsible for uploading monthly energy consumption data for all buildings for which they have been authorized as service providers. However, each utility may establish their own business process for subsequent uploading of energy consumption data after the initial authorization forms have been submitted and the set-up completed; some utilities may choose to upload data periodically, with no further action needed on the part of the building owner, while others may require that the building owner submit a new request each time a data upload is desired. The appropriate data release forms for each utility can be downloaded from the utility web site at the corresponding link listed above.

Utilities must maintain all energy consumption data in a format compatible with 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 for. Note: this is an administrative correction to SMC 22.920.060, which required utilities to maintain data for only 12 months.

Utility companies shall release tenant energy use data to the building owner's 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 Portfolio Manager themselves, provided that they:

1. Confirm with their utilities that all 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 Portfolio Manager record
3. Provide signed documentation to the City of Seattle verifying that these steps have been completed

Data Standards

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

- Where available, there must be at least 11 full, consecutive, and overlapping calendar months of energy data for all active meters.
- Each meter cannot have more than a one day gap between the end date of one meter reading and the start date of the next.
- Each meter cannot have more than a one day overlap between the end date of one meter reading and the start date of the next.
- Electrical 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 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 (for additional information reference section 7H Confidentiality on page 24 of this Director's Rule).

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 ENERGYSTAR Portfolio Manager. A sample Statement of Energy Performance is available at:

http://www.energystar.gov/index.cfm?c=evaluate_performance.bus_portfoliomanager_sep.

Note that the sample may include a stamp to document validation of results by a Professional Engineer or a Registered Architect. Verification by a certified professional is necessary for a building to gain recognition as an ENERGYSTAR rated building, but is NOT a requirement of the benchmarking provisions of SMC 22.920.

The step-by-step instructions for generating a Statement of Energy Performance can be found on the ENERGYSTAR web site at:

https://www.energystar.gov/istar/pmpam/help/Generating_an_SEP_Facility_Summary.htm.

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 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 "City of Seattle Energy Disclosure 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 Portfolio Manager has been properly set up, and is fully and accurately populated;
- All building profile data and energy consumption data for the previous calendar year is current;
- 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 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 the following fields.

- Report Date
- Building Name
- Building Address
- Total Gross Floor Area
- Year Built
- Eligible for ENERGYSTAR (yes/no?)
- Rating (where available)
- Normalized Total Annual Energy Consumption
- Non-normalized Total Annual Energy Consumption
- Normalized EUI (total annual energy consumption per sf)
- Non-normalized EUI (total annual energy consumption per sf)
- Estimated CO2 Generation
- Total gross floor area for each space use in the building

When supported by Portfolio Manager, all energy consumption and EUI data will be separated by electric, gas and steam values when reported to the City of Seattle.

This information is generally identical to that contained within the Statement of Energy Performance a building owner must generate to fulfill disclosure requirements, with the exception of including the total gross floor area of each space type in the building. No individual meter readings or information on the operating characteristics of the building, such as weekly operating hours or number of employees, will be stored or made publicly available

(for additional information reference section 7H Confidentiality on page 24 of this Director's Rule).

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, in order to guide development of future policies and incentive programs, and develop data on typical expected energy loads for different building uses.

D. Existing Portfolio Manager Records

If a building was already being voluntarily benchmarked in 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 Portfolio Manager record but have energy consumption data entered automatically, they must select each utility serving the building as a service provider within Portfolio Manager, and submit official authorization and upload requests, as needed.

7. CLARIFICATIONS

A. Defining a "Building"

Each building must be entered as a unique record within 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, area, and general configuration, 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 Portfolio Manager, and when coordinating with utilities to identify which meters feed the building.

1) Sub-Buildings

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 homeowners' 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. In order to be able to accurately assess what portion of the total energy consumption can be attributed to each portion, sub-buildings can only be defined where they meet 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

In order to represent a building as a unique record within 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. The 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 based on combined floor space. Energy usage for the campus can be derived from both campus-level meters (used by multiple facilities) and separate meters for individual facilities.

Campus facilities are not rated at this time and cannot apply for an ENERGYSTAR label. Therefore, if the building owner would like to seek an ENERGYSTAR rating, 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. All 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 considered to be part of the campus must be benchmarked and included within the campus designation if the average number of residential units per building (total number of residential units / total number of buildings) is five or more; if the average number of residential units per building is less than five 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 sf; or 2) the average area of all of the buildings constituting the campus (total area / total number of buildings) is 10,000 sf 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 floor area 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 is responsible for benchmarking their building 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 are encouraged to 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 floor area will be treated by the City of Seattle as the primary owner. This entity will be responsible for creating a single 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 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.

4) Condominiums

Per SMC 22.920.020:

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.

Further,

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

The owners' association (or master association, if applicable) is responsible for establishing a record in 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. Owners' associations 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 ENERGYSTAR rating is an indicator of the entire building's energy performance, all interior space must be captured in 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. The total gross floor area should not include outside loading bays or docks. However, all enclosed spaces, whether conditioned or non-conditioned, must be included.

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

To allow Portfolio Manager to properly assign lighting and ventilation allowances, the parking and loading area should be divided into three categories:

- 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

Parking and loading areas can be excluded when determining if a building's total gross floor area is above the 10,000 sf threshold at which energy benchmarking, disclosure, and reporting requirements for non-residential 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.

If the parking lighting or ventilation systems are included in the service measured by the main building energy meter(s), any area connected to the building that is used for parking vehicles should be included in the calculation of building area within Portfolio Manager; if the parking space is metered separately from the main facility with which it is associated, it does not need to be entered into Portfolio Manager. When defining parking lot square footage, include only the spaces and lanes that cars actually drive on, excluding any surrounding landscaping that is lit by the parking lot's lighting.

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.

2) Vacant Space

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 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 PCs, and percent heated and percent cooled for a vacant space.

See the ENERGYSTAR Frequently Asked Questions at

<http://portfoliomanager.supportportal.com/ics/support/default.asp?deptID=23010&task=knowledge&questionID=16604> for additional information.

E. 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 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 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.

F. Reporting Tool

All benchmarking results must be reported via the U.S. EPA's ENERGYSTAR Portfolio Manager (http://www.energystar.gov/index.cfm?c=evaluate_performance.bus_portfoliomanager). The City of Seattle has determined that 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 – Portfolio Manager is the defacto standard in the United States for building benchmarking, and is supported by the U.S. EPA and a large number of trained professionals
- Cost – 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 are able to access the profile or energy consumption data associated with a building

Portfolio Manager provides greater reporting functionality for some building types than for others, as some buildings do not currently qualify for an ENERGYSTAR score. For example, although Portfolio Manager can be used to track and report energy consumption for multifamily properties, at present it cannot generate an ENERGYSTAR performance rating for these buildings. However, in the interest of maintaining consistency in both procedures and data standards, 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 score in addition to EUI values.

G. Eligibility for ENERGYSTAR Rating

All buildings which earn an energy performance rating of 75 or greater are eligible to receive an ENERGYSTAR label. To ensure the quality of the label, the building's performance must be certified by a licensed Professional Engineer or Registered Architect. Additionally, the certifying professional must validate that the space 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 rating 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 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.

The ENERGYSTAR label 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 the ENERGYSTAR label, this is not a condition of the City's Benchmarking, disclosure and reporting requirements.

For additional information on applying for the ENERGYSTAR label refer to http://www.energystar.gov/index.cfm?c=business.bus_bldgs.

H. Confidentiality

The City of Seattle will not publicly post any information about the energy performance of an individual building, and any requests for disclosure of a building's energy performance will be referred to the building owner. In addition, all data reported to the City of Seattle will be aggregated across an entire building or sub-building – the City will not capture individual meter readings, or any information related to the operational characteristics of a building, such as hours of use.

However, under Washington State Law (reference 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 requires that public records must be promptly disclosed by the City upon request unless the Public Records Act 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 as part of their compliance with this ordinance are exempt from disclosure, they can request that they not be released by the City before they receive notification and an opportunity to pursue court action to prevent disclosure. To do so, the building owner or tenant must very clearly and specifically identify the information 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 them to obtain a court injunction to prevent the City from releasing the records (reference 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.