



IMT Model Statutory Language for States or Localities to Require Building Benchmarking

Suggested Statutory Language: *(a) On and after January 1, 20XX, electric and gas utilities shall maintain records of the energy consumption data of all nonresidential buildings to which they provide service. This data shall be maintained, in a format compatible for uploading to the United States Environmental Protection Agency's (EPA's) ENERGY STAR Portfolio Manager, for at least the most recent 36 months.*

(b) On and after January 1, 20XX, upon the written authorization or secure electronic authorization of a nonresidential building owner or operator, an electric or gas utility shall upload all of the energy consumption data for the account specified for a building to The EPA's ENERGY STAR Portfolio Manager in a manner that preserves the confidentiality of the customer.

(c) In carrying out the requirements of this section, an electric or gas utility may use any method for providing the specified data in order to maximize efficiency and minimize overall program cost, and is encouraged to work with EPA and customers in developing reasonable reporting options.

(d) On and after January 1, 20XX, an owner or operator of a nonresidential building over 10,000 square feet shall disclose the EPA's ENERGY STAR Portfolio Manager benchmarking data and ratings for the most recent 24-month period to a prospective buyer, lessee of over 2,000 square feet of the building, or lender that would finance over 2,000 square feet of the building. On and after January 1, 20XX, an owner or operator of a nonresidential building over 10,000 square feet shall annually disclose the EPA's ENERGY STAR Portfolio Manager benchmarking data and ratings for the most recent 24-month period to lessees of the building. If the data is delivered to a prospective buyer, lessee, or lender, then a property owner, operator, or their agent is not required to provide additional information, and the information shall be deemed to be adequate to inform the prospective buyer, lessee or lender regarding EPA's ENERGY STAR Portfolio Manager benchmarking data and ratings for the most recent 24-month period for the building that is being sold, leased, financed, or refinanced.

(e) Notwithstanding subdivision (d), nothing in this section increases or decreases the duties, if any, of a property owner, operator, or his or her broker or agent under this chapter or alters the duty of a seller, agent, or broker to disclose the existence of a material fact affecting the real property.

(f) Beginning one year after the effective date of this Act all nonresidential buildings over 10,000 square feet owned or operated by the _____ government or any of its instrumentalities shall be publicly benchmarked annually using the Energy Star Portfolio Manager benchmarking tool.

(g) All privately-owned nonresidential buildings shall be benchmarked annually using the Energy Star Portfolio Manager benchmarking tool as designated by the schedule in paragraph (h) of this subsection; benchmarking data and ratings for the most recent 24-month period each building shall, by January 1 of the following year, be made available to [government agency]. [Government agency] shall, upon the receipt of the 2nd annual benchmarking data for each building, make the data accessible to the public via an online database.

(h) The schedule shall be as follows:

(A) All buildings over 150,000 square feet of gross floor area beginning in 2011 and thereafter;

(B) All buildings over 50,000 square feet of gross floor area beginning in 2012 and thereafter.

(i) A project that has submitted the 1st building construction permit after January 1, 2011, for new construction or substantial improvement shall, prior to construction, estimate its energy performance using the Energy Star Target Finder Tool and shall subsequently be benchmarked annually using the Energy Star Portfolio Manager benchmarking tool; provided, that the building is over 10,000 square feet. Benchmark and Target Finder ratings and data for each building shall, within 60 days of being generated, be made available to [government agency], which shall make the data accessible to the public via an online database.

(j) [Government agency] shall be the implementing agency for this Act and shall issue implementing rules within 90 days after the effective date of this Act.