

February 2, 2024

The Honorable Jennifer M. Granholm
Secretary
U.S. Department of Energy
1000 Independence Ave., SW
Washington, DC 20024

Re: ***National Definition for a Zero Emissions Building: Part 1 Operating Emissions
Version 1.00 Draft Criteria, published at 89 Fed. Reg. 1,086 (Jan. 9, 2024)***

The Real Estate Roundtable and Nareit® (“RER/Nareit”) submit these comments to the Request for Information from the U.S. Department of Energy (“DOE”), regarding the draft criteria for a “National Definition of a Zero Emissions Building” (“ZEB”), Version 1.00 (the “Draft”).

Our members are publicly held and privately owned companies that own, develop, finance, manage, and service all types of income producing real estate. They provide the homes where we live, offices where we work, medical buildings where we heal, cell towers that support our communications, laboratories where we invent, classrooms where our children learn, facilities that store our personal items, and hotels where we relax with family and friends. Large and small businesses lease space and employ their workers in our members’ shopping centers, data centers, and warehouses. Investors seek our members’ assets for their efficiency and sustainability features to support pensions and retirement funds. The commercial real estate industry is integral to community well-being and a productive global economy.

Our organizations appreciate this opportunity to contribute toward the Administration’s economy-wide goal for net zero emissions by 2050. The ZEB definition must fit preexisting frameworks established by the federal government to measure building energy use and emissions, and support globally recognized financial reporting standards. One of our chief goals is to support the national ZEB definition as a complement to federal sustainability accounting tools and methods used widely by the real estate industry – in particular the ecosystem of policies developed by the ENERGY STAR Commercial Buildings program. ENERGY STAR is a success story that evidences the federal government’s long-standing dialogue with the real estate industry. We need to build upon our collaboration to develop and refine ZEB criteria.

We summarize our comments as follows and provide more details in the attached addendum.

- RER/Nareit members commend DOE’s effort to support building decarbonization with a voluntary national ZEB definition. We support the direction of DOE’s criteria in the Draft and offer these comments to achieve a final Version 1.00 definition that is durable, attainable, and ambitious.

- The definition can help owners communicate to investors, lenders, tenants, and others through auditable statements about long-term goals for buildings to reach zero emissions.
- Neither DOE nor any other agency has authority to “label” or “certify” a building as attaining ZEB criteria. RER/Nareit envision that the national definition could gain traction in the marketplace as qualified professionals verify an asset’s ZEB status through use cases such as:
 - ✓ Incorporation into third-party building rating and certification programs run by non-governmental organizations;
 - ✓ Zero emissions claims made in corporate climate disclosure filings backed by independent third-party assurance;
 - ✓ Adoption by lenders and investors in real estate transactional documents;
 - ✓ Possible financial incentives for zero emissions buildings; and
 - ✓ Clauses in federal leases and other contracts where a tenant seeks space in a building that has reached (or is on a path toward) ZEB status.
- The ZEB definition’s acceptance in the marketplace depends significantly on:
 - ✓ Simplicity to promote adoption by a wide range of buildings;
 - ✓ Credibility and rigor to support auditable claims of zero emissions status that send market signals of reduced climate-related risks;
 - ✓ Consistency so that ZEB claims are comparable when made by different building types, in various geographies, and across a variety of use cases; and
 - ✓ Educating government and private sector real estate stakeholders to raise their awareness regarding how to use the national definition.
- Uniform measurement and reporting of ZEB’s criteria depend heavily on EPA’s ENERGY STAR Portfolio Manager tool.
 - ✓ The ZEB definition should evolve to reflect new advances in building technologies and emissions measurement techniques.
 - ✓ However, DOE’s criteria must keep pace with the functions and capability of Portfolio Manager, the U.S. real estate industry’s standard tool to measure efficiency and emissions metrics and monitor them over time.
 - ✓ Planned enhancements to Portfolio Manager are essential – particularly to track and apply clean power purchases (e.g., RECs) to specific buildings.
 - ✓ We agree that Version 1.00 should not cover emissions from refrigerants or embodied carbon. Future ZEB iterations may include these emissions after Portfolio Manager enables their capture and building owners are trained on how to use those new functions.
- We request clarity for building owners to measure and verify that their assets may be “on the path” to meet ZEB, to support near-term market adoption and allow the capital markets to develop lending and equity products that will help building owners make the necessary investments to meet the definition. DOE should expressly recognize that:
 - ✓ EPA’s imminent launch of NextGen certification for a building will be a significant, verifiable step indicating that an asset is on the path to ZEB.

- ✓ Few existing buildings will be “zero emissions” (or meet NextGen criteria) now. To help achieve the Administration’s near-term goals to reduce emissions from the built environment, the ZEB definition should provide a clear path for recognizing building owners that have prepared cap ex plans that consider life cycle investments and demonstrate how they are being held accountable for sticking to that plan.
 - ✓ The national definition should clearly encourage building owners to follow best business practices to replace equipment at or near the end of its useful life – not sooner. Disposal of functioning, efficient fossil fuel burning equipment would generate negative environmental impacts, including increased embodied emissions.
 - ✓ RER/Nareit welcome collaboration with DOE alongside verifiers and standard setters to develop procedures and methods to communicate planned equipment replacements, retrofits, and other improvements that have been confirmed to put an asset “on a path” to zero emissions status.
- We agree that a ZEB building should demonstrate “top of class” performance through 12 months of verified whole-building energy data, using other relevant federal standards and guidelines already in place and adopted across our industry.
 - ✓ DOE should explicitly state that a ZEB building must “meet” - not “certify” - a “75” ENERGY STAR score, and it cannot require any additional independent certification of ZEB criteria.
 - ✓ DOE should provide further details on its approach to calculating the median energy use benchmark for buildings not eligible for an ENERGY STAR score.
 - ✓ We suggest ZEB criteria for new construction should align with section 179D standards already passed by Congress in the *Inflation Reduction Act (IRA)* and addressed by recent guidance from the Treasury Department.
 - ✓ Any residential efficiency label offered by DOE or EPA should be available for single- or multifamily buildings to meet ZEB’s energy performance criteria.
 - We agree with the Draft that the criteria to be free of onsite emissions must have an emergency generation exception.
 - ✓ The national definition’s success depends on retaining the Draft’s allowance to exclude emissions from using or testing backup generator equipment to keep an asset operational when the electric grid may be stressed or fail.
 - ✓ Backup power is necessary to safeguard the health and security of families, patients, businesses, and other occupants, and only backup generators can fulfill these requirements in many cases.
 - ✓ We caution against any consideration that the ZEB definition might include on-site storage or “virtual power plant” systems as a prerequisite. While the Draft does not address these matters, it is important to impress that such measures are not equally available or feasible to all buildings due to external factors beyond an owner’s control such as zoning regulations, limitations on physical space designs, and utility requirements.

- RER/Nareit strongly support the definition’s recognition that procuring clean energy through market-based solutions is essential to reduce carbon emissions associated with building operations.
 - ✓ We agree with the Draft insofar as it does not place geographic limitations on the source location of clean power purchases.
 - ✓ DOE should clarify that the clean energy “fuel mix” captures all sources of carbon-free power that generate electricity in the U.S., as reflected in EPA’s eGRID Power Profiler.
 - ✓ We urge DOE to consider how to recognize the reduced climate risk for buildings in locations with cleaner grids as well as the need to spur greater investment in grid regions that have a higher carbon intensity than others. ZEB’s 100% clean energy criteria could be a tool to accelerate grid decarbonization through utility-supplied clean energy and voluntary procurement strategies.

- Buildings in locations that rely on district heating and cooling systems must be allowed to utilize carbon offsets to have the opportunity to attain ZEB status.
 - ✓ Verification of carbon offsets should be based on quality control guidelines developed by the U.S. Commodity Futures Trading Commission (“CFTC”) to avoid allegations of “greenwashing.”

- DOE’s national definition may support public and private climate action in the building sector. However, we continue to urge the need for government programs that:
 - ✓ Help owners overcome chronic barriers to access whole-building energy usage data in the possession of tenants and utilities; and
 - ✓ Encourage poorly performing existing buildings to significantly reduce energy use, which will go much further to mitigate climate impacts than simply recognizing top performers that “do more.”

These points are discussed further in the attached addendum. For more information regarding these comments please contact:

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