Global Sustainable Buildings Guide - United States of America

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# Authors

# Green Certification

## Is there a nationally adopted and recognized form of certification for buildings? What is it and is it mandatory for all new buildings and refurbished buildings?

There are no nationally adopted or mandated building certifications in the US. Any such certifications are typically handled at a municipal level. Below are examples of private and nonprofit green building certification programs that exist in the marketplace, as well as examples of other standards and policies promoting green buildings.

Two of the most commonly used rating systems in the US are as follows:

1. [The US Green Building Council's Leadership in Energy and Environmental Design (LEED) certification program](http://www.usgbc.org/leed). This certification program recognizes best-in-class building strategies and practices. Building projects must satisfy prerequisites and earn points to achieve different levels of LEED certification. Prerequisites and credits differ for each rating system, and teams select the targeted rating system based on the unique needs of the building and the project type. The six rating systems applicable to specific project types are (i) building design and construction, (ii) interior design and construction, (iii) building operations and maintenance, (iv) neighborhood development, (v) homes, and (vi) cities.

The LEED certificates are being updated with respect to projects registered after 1 March 2024. These updates raise thresholds for energy performance and emission reductions. Further, a new greenhouse gas emissions metric has been added.

2. The Green Building Initiative's [Green Globes Certification](http://www.thegbi.org/green-globes-certification/). This is a web-based program for green building guidance and certification, which includes an on-site assessment by a third party. It is a three-in-one certification that evaluates the environmental sustainability, health and wellness, and resilience of all types of commercial real estate. The program aims to advance the overall environmental performance and sustainability of commercial buildings, with modules supporting new construction, existing buildings, existing healthcare buildings and their interiors. They work to (i) reduce operating costs, (ii) qualify for tax incentives, (iii) meet government regulations, (iv) attract and retain employees and (v) increase a property's marketability. Green Globes criteria is built around and incorporated hundreds of other consensus documents such as those from the American Society of Heating, Refrigeration and Air Conditioning (ASHRAE), International Code Council (ICC), and International Association of Plumbing and Mechanical Officials (IAPMO).

While the US Environmental Protection Agency (EPA) does not have a green building certification program, the EPA and US Department of Energy's [ENERGY STAR](http://www.energystar.gov/about/) ® addresses the energy aspects of green buildings, qualifying new and renovated buildings as energy efficient and then awarding them with the ENERGY STAR® label. It is a voluntary program that helps businesses and individuals save money and protect the environment through superior energy efficiency. The program aims to promote cost-effective, relevant, and high-quality energy efficiency solutions, with emphasis on testing, third-party reviews, and compliance screening. Certifications are available for products, homes, commercial buildings, and industrial plants, each with a specific set of requirements and qualification procedures.

The EPA references the two rating systems referenced above, together with the International Green Construction Code, the Standard for the Design of High-Performance Green Buildings Except Low-Rise Residential Buildings, the National Green Building Standard and the Living Building Challenge. See [Green Building Standards | US EPA](https://www.epa.gov/smartgrowth/green-building-standards) for a comparison of these standards.

Further, the EPA promotes greener products and services with its [sustainable marketplace](https://www.epa.gov/greenerproducts).

The ASHRAE also develops [standards and guidelines](https://www.ashrae.org/technical-resources/standards-and-guidelines) related to (i) refrigeration processes and (ii) the design and maintenance of indoor environments. ASHRAE writes standards for the purpose of establishing a consensus for (i) methods of testing for use in commerce and (ii) performance criteria for use as facilitators to guide the industry. Consensus standards are developed and published to define minimum values or acceptable performance.

The US General Services Administration (GSA) promotes government-wide efforts to combat the climate crisis and spur the creation of good jobs and stimulates clean energy industries by revitalizing federal sustainability. The GSA has issued the [Leasing Desk Guide](https://www.gsa.gov/real-estate/real-estate-services/leasing/leasing-policy), which outlines leasing policies and procedures.

Other areas of focus identified by the GSA for [Climate Action and Sustainability](https://www.gsa.gov/climate-action-and-sustainability?footer=gsa#buildings) are net-zero design, green roofs, the Green Proving Ground program, the Sustainable Facilities Tool and sustainable building initiatives.

# Energy Performance Certificates and Minimum Energy Standards

## Is there a mandatory form of energy performance certification? When does it apply and are there any prescribed minimum standards?

There is no mandatory form of energy performance certification in the US. However, federal and state governments are taking steps to implement standards for this purpose. Some of these steps are as follows:

The US has adopted the Energy Policy Act of 2005, which establishes a voluntary program to

"identify and promote energy-efficient products and buildings in order to reduce energy consumption, improve energy security, and reduce pollution through voluntary labeling of or other forms of communication about products and buildings that meet the higher energy efficiency standards."

While this program is not mandatory at the national level, it creates a mechanism where green products can be promoted. Certain municipalities have set their own qualifications that might incorporate similar or higher standards.

The Energy Policy Act of 2005 and the [Energy Independence and Security Act of 2007](https://www.govinfo.gov/content/pkg/BILLS-110hr6enr/pdf/BILLS-110hr6enr.pdf) (EISA) include energy efficiency and sustainable design requirements for both federal and commercial buildings (as further described under the “Green certification” section). In addition, a series of executive orders (issued by the president of the US) and agency-specific rules promoting green buildings have been established. The federal government has also instituted sustainable practices in many of its own buildings. The EPA has issued a [Summary of the Energy Independence and Security Act](https://www.epa.gov/laws-regulations/summary-energy-independence-and-security-act).

The US federal government has adopted new standards for all federal buildings. The [release](https://www.energy.gov/articles/doe-releases-energy-saving-rules-federal-buildings-and-proposes-new-standards-consumer) from the US Department of Energy (DOE) announcing these standards highlights that, beginning in April 2023, all new buildings and major retrofits must comply with the 2021 International Energy Conservation Code.

Many state and local governments also have green building laws that apply mainly to public buildings, but an increasing number of these are becoming applicable to private buildings as well.

# Incentives for Green Retrofit

## Are there any government-funded or sponsored schemes for improving the energy efficiency of existing buildings and, broadly, how do they work?

A number of schemes to improve existing buildings' energy efficiency have been funded or sponsored by the US federal, state and local governments. Examples of these schemes include the following:

The [Property Assessed Clean Energy (PACE)](http://energy.gov/eere/slsc/property-assessed-clean-energy-programs) initiative is a widely adopted and innovative means of financing energy efficiency and renewable energy upgrades to buildings. Interested property owners voluntarily evaluate measures that achieve energy savings and financing for the up-front cost of energy or other eligible improvements on a property. This financing is then repaid as a property tax assessment over a period of up to 20 years. The loan obligation is attached to the property rather than the individual who made the loan, and the PACE financing mechanism provides strong credit without the need for government subsidies, which is attractive to private sector investors. The PACE program is structured to overcome challenges that have traditionally hindered the adoption of energy efficiency and related projects in buildings by (i) eliminating up-front costs, (ii) providing low-cost long-term financing, and (iii) making it easy for building owners to transfer repayment obligations to a new owner. The program is available for both residential and commercial buildings. PACE programs add value and have gained bipartisan support nationwide at federal, state, and local levels. To date, 37 states and the District of Columbia have adopted (or already had) legislation that enables local governments to offer PACE benefits to building owners.

The [DOE's Building America Program](http://energy.gov/eere/buildings/building-america-bringing-building-innovations-market) is a cost-shared industry partnership research program that works with national laboratories and science research teams to accelerate the development and adoption of advanced building energy technologies and practices in new and existing homes. This work advances building technologies and practices to decarbonize homes, while centering on equity and benefits to communities.

Additionally, the US Department of Housing and Urban Development provides [Energy Performance Contracts](https://www.hud.gov/program_offices/public_indian_housing/programs/ph/pheb/eperformance#:~:text=The%20Energy%20Performance%20Contract%20program,Energy%20Conservation%20Measures%20(ECMs)). This is a financing technique that uses energy and/or water cost savings from reduced energy and/or water consumption to repay the costs of installing Energy Conservation Measures.

# CO2 and Energy Targets

## Are there any national targets for CO2 reduction and/or energy use reduction from buildings? If there are, are there any exclusions?

The Inflation Reduction Act of 2022 (IRA) provided the Federal Highway Administration and the GSA with funding to select materials and products with substantially lower levels of embodied greenhouse gas emissions, as determined by the EPA. The EPA issued a summary of the IRA [programs](https://www.epa.gov/inflation-reduction-act/inflation-reduction-act-programs-fight-climate-change-reducing-embodied#:~:text=The%20Inflation%20Reduction%20Act%20of,emissions%20as%20determined%20by%20EPA.) to fight climate change.

Further, the IRA is being seen as pro-growth climate policy for the following reasons: (i) mitigating greenhouse gases, (ii) adapting to climate change, (iii) reducing local pollution, (iv) spurring innovation and spillovers, and (v) reducing economic vulnerability to international price volatility. While many jurisdictions have seen and developed these benefits for years, the Biden administration has embraced this in a way that previous administrations have not. The US Department of the Treasury has published a [post](https://home.treasury.gov/news/featured-stories/the-inflation-reduction-act-pro-growth-climate-policy) highlighting the pro-growth climate policy of the IRA.

States and regions have adopted a wide range of policies aimed at reducing greenhouse gas emissions, developing clean energy resources, and promoting more energy-efficient vehicles, buildings, and appliances, among others. Twenty-three states and the District of Columbia have established [greenhouse gas emissions targets](http://www.c2es.org/us-states-regions/policy-maps/emissions-targets) to be met across various timelines.

Other examples of efforts that have been undertaken in the US are as follows:

The EISA aims to (i) move the US toward greater energy independence and security, (ii) increase the production of clean renewable fuels, (iii) increase the efficiency of products, buildings and vehicles, and (iv) promote research on and deploy greenhouse gas capture and storage options. For further details, see the previous section on “Energy performance certificates and minimum energy standards.”

The EISA established the [Net-Zero Energy Commercial Building Initiative](https://www1.eere.energy.gov/buildings/publications/pdfs/alliances/cbi_fs.pdf), which aims to achieve marketable net-zero energy buildings by 2025 through an array of public and private partnerships to advance the development and adoption of high-performance buildings. The act also established specific goals of achieving net-zero energy use in (i) all new commercial buildings constructed by 2030, (ii) 50% of the commercial building stock by 2040, and (iii) all commercial buildings by 2050.

The Building America program described under the section on “Incentives for green retrofit” is another program adopted by the US Department of Energy that aims to reduce energy use in new and existing homes.

Additionally, the [Greenhouse Gas Reporting Program](https://www.epa.gov/ghgreporting) requires reporting of greenhouse gas data and other relevant information from large greenhouse gas emission sources, fuel and industrial gas suppliers, and CO2 injection sites in the US. Approximately 8,000 facilities are required to report their emissions annually, and the reported data is made available to the public in October of each year.

President Biden's Executive Order 14057 established the [Federal Sustainability Plan](https://www.sustainability.gov/federalsustainabilityplan/index.html), with an ambitious plan to achieve a net-zero emissions buildings goal by 2045. Among other things, this plan will (i) implement the Federal Building Performance Standards to drive emission reductions in existing buildings, (ii) achieve higher levels of sustainability in owned and leased buildings, (iii) leverage private sector investment, and (iv) increase energy and water efficiency.

# Renewable Energy

## Are there any regulations requiring a percentage of energy consumption to come from renewable sources?

One of the most significant drivers of renewable energy growth in the US has been the state renewable portfolio standards (RPS) — also known as renewable electricity standards. An RPS is a regulatory mandate to increase the production of energy from renewable sources, such as wind, solar, biomass and other alternatives, as opposed to fossil and nuclear electric generation. The policies require or encourage electricity producers within a given jurisdiction to supply a certain minimum share of their electricity from these designated resources. For further details, see the detailed [explanation](https://www.eia.gov/energyexplained/renewable-sources/portfolio-standards.php) from the US Energy Information Administration.

There is now a distinction between RPS policies and Clean Energy Standards (CES). The difference being how the state in question defines what is renewable and what is clean. Some clean sources may not be deemed renewable. In most cases, a CES policy will include RPS as part of the policy. As of 2022, 30 states, the District of Columbia, and two territories have active renewable or clean energy requirements, while an additional three states and one territory have set voluntary renewable energy goals. Interestingly, some states are expanding their RPS goals, while others are moving to eliminate them. For further details, see [State Renewable Portfolio Standards and Goals](https://www.ncsl.org/energy/state-renewable-portfolio-standards-and-goals#:~:text=Introduction,production%20and%20encourage%20economic%20development.).

# Regulation

## What other national regulatory measures are there, such as taxes on energy consumption and/or tax reliefs on energy-saving measures, that can encourage more efficient use of energy in buildings?

There are a number of energy efficiency policies and programs across the country (including the ENERGY STAR® program referenced in the section on “Green certification”). The DOE's [Energy Efficiency Policies and Programs](https://www.energy.gov/scep/slsc/energy-efficiency-policies-and-programs) outline a number of these programs.

There are a growing number of policies and incentives provided by both federal and state governments. These policies and incentives are monitored by several institutions, including North Carolina State University (as of writing this, it has 153 listed on the [Database of State Incentives for Renewables and Efficiency](https://www.dsireusa.org/).)

The Internal Revenue Service provides certain deductions for energy-efficient commercial buildings or energy-efficient commercial building retrofit properties. This deduction was expanded under the IRA. The IRS has issued [guidance](https://www.irs.gov/credits-deductions/energy-efficient-commercial-buildings-deduction) on these deductions.

# Financing

## Are there any public or private “green” financing initiatives for sustainable real estate projects?

There are several public and private initiatives in the US related to green financing for sustainable real estate projects. Examples of these initiatives are as follows:

The DOE's [Office of Energy Efficiency and Renewable Energy](https://www.energy.gov/eere/about-office-energy-efficiency-and-renewable-energy) works with businesses, industries, universities and other organizations to increase the use of renewable energy and energy efficiency technologies by [offering financial assistance](https://www.energy.gov/eere/funding/eere-funding-opportunities).

THE PACE financing is another initiative, as outlined in the section on “Incentives for green retrofit.”

A variety of financing initiatives are also available at the state level. State Energy Revolving Loan Funds (RLFs) enable State and Territory Energy Offices and their partners to use an initial capital fund to offer long-term, low-interest financing for a variety of uses, ranging from residential and commercial building retrofits to job creation and industrial efficiency. RLFs also provide states with a flexible tool through which they can introduce the market to a variety of clean energy financing approaches, such as energy savings performance contracts, on-bill repayment mechanisms and public-private partnerships. According to the National Association of State Energy Officials, (NASEO) nearly every State Energy Office is involved in clean energy financing. For a more detailed description of these financing programs, see the [State Energy Loan Fund Map](https://naseo.org/state-energy-financing-programs) prepared by NASEO.

Private and nonprofit green financing initiatives also exist. The Enterprise Green Communities [provide grants, financing, tax-credit equity and technical assistance](https://www.enterprisecommunity.org/capabilities/financing-for-developers) to developers that meet the criteria for affordable housing that promotes health, conserves energy and natural resources, and provides easy access to jobs, schools and services.

Additionally, national and regional banks have even implemented financing programs for various green projects, such as retrofitting existing buildings with products that increase energy efficiency.

# Planning

## Is the national or local/state government able to mandate green initiatives via the planning/zoning regime (e.g., district heating systems on large developments)?

While the US government is able to mandate green initiatives, to date, these initiatives have primarily been implemented through state and local governments. Examples include the following:

The New York City Department of City Planning launched [Zone Green](https://www.nyc.gov/assets/planning/download/pdf/plans/zone-green/zone_green.pdf) — a set of amendments to zoning regulations, accompanied by supporting city and state legislation, that is intended to remove impediments to the construction and retrofitting of green buildings.

In 2022, the city of Chicago unveiled its updated [Climate Action Plan (CAP)](https://www.chicago.gov/city/en/sites/climate-action-plan/home.html), which sets a course to reduce the city's carbon emissions by 62% by 2040. The CAP focuses on economic inclusion and savings, pollution burden reduction and equitable access to critical infrastructure, and community health and resilience.

San Francisco has launched the [Green Connections](https://default.sfplanning.org/Citywide/green_connections/GC_RouteEcologyGuides_Final.pdf) project, which aims to make the city healthier and more sustainable and livable through features such as (i) pedestrian and bicycle infrastructure, (ii) street trees and other landscaping, (iii) storm water management, (iv) opportunities for beautification and public art and (v) community stewardship.

# Green Leases

## Are green leases or green lease provisions mandatory or optional? If mandatory, to whom do they apply? If optional, is there significant take up?

There are no mandatory requirements with respect to green lease provisions in the US, and adoption of green leasing has not been particularly widespread so far. Nonetheless, a number of public and private initiatives have made substantial efforts to promote green leasing and create innovative solutions to the "split-incentive" problem (discussed in the second bullet point below) and other challenges facing green leasing. Some of these efforts are as follows:

As described under the section on “Green certification,” the US GSA has issued the Leasing Desk Guide, incorporating, among other items, modified and additional green language for all leases.

The New York City Mayor's Office of Long-Term Planning and Sustainability has developed model lease language that aims to solve the "split-incentive" problem in modified gross commercial leases — the most common type of commercial lease in New York City. This model language, known as the [Energy Aligned Clause](https://www.nyc.gov/html/gbee/downloads/pdf/eac_overview.pdf), creates a pass-through structure where both sides share the costs and benefits of energy retrofits by agreeing on a predicted amount of annual savings and having the tenant pay the owner recovery costs based on the predicted savings.

Additionally, there are a number of nongovernmental resources that address green leasing, such as the [Green Building Alliance](https://www.gba.org/resources/green-building-methods/processes/green-leasing/), the [Better Buildings Partnership](https://www.betterbuildingspartnership.co.uk/green-lease-toolkit-0) and the [Chancery Lane Project](https://chancerylaneproject.org/jurisdictions/usa/).

Green leasing has also been seen as a collaborative effort between landlords and tenants to incorporate sustainable building practices and environmental initiatives into the construction and operation of commercial buildings. Historically, US commercial leases and construction agreements have had limited clauses for sustainability, but green leases include specific clauses that focus on areas such as energy management, indoor air quality, waste reduction and water conservation. The most recently updated construction agreement forms developed by the American Institute of Architects (AIA) also include AIA Document E204™–2017, the [Sustainable Projects Exhibit](https://shop.aiacontracts.com/contract-documents/25161-sustainable-projects-exhibit)), which has been specifically developed for use on a wide variety of sustainable projects. These sustainability initiatives comprise those in which the sustainable objective includes obtaining a sustainability certification, such as LEED, or those in which the sustainable objective is based on incorporating performance-based sustainable design or construction elements. By addressing these aspects, green leasing and sustainable construction help develop more robust legal mechanisms for creating a sustainable environment.

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