



Seattle's Building Emissions Performance Standard (BEPS) Rulemaking

Technical Rulemaking Workgroup – Meeting #6

December 18, 2024



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Welcome & Recap



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Agenda

- **Welcome + Introductions** (15 minutes)
- **Exemptions in BEPS** (10 minutes)
- **Extensions in BEPS** (20 minutes)
- **Introduction to Decarbonization Plans** (5 minutes)
- **World Café Discussion** (60 minutes)
- **Conclusion** (5 minutes)

Last meeting we discussed...

- **End Use Deductions Deep Dive**

- Fossil fuel cooking equipment
- Fossil fuel high intensity process equipment used in hospitals and laboratories
- Fossil fuel high intensity laundry equipment used in hotels and healthcare
- Fossil fuel equipment located within an individually owned residential unit within a multifamily condominium building
- Fossil fuel generators used exclusively for emergency back-up power
- Fossil-fuel equipment used for back-up emergency heat in hospitals and laboratories
- District energy steam, hot water and/or chilled water provided by a private district energy provider
- Electric vehicle charging equipment
- Electric loads related to broadcast antennas, on-site cell phone towers or other communications equipment that is unrelated to the primary purpose of the building

Charter Agreements

- **Mutual respect** - All working group participants and facilitators are respectful of each other. Members will value each other's time, listen when people are speaking, and speak kindly to each other.
- **Open-mindedness** - Members are open to new ideas and perspectives, and do not disregard ideas they disagree with.
- **Equity** - All members are treated fairly, both by the facilitation team and by one another. Efforts are made to eliminate any real or perceived barriers to participation.
- **Be present** - You reserved the time to be here. Avoid outside distractions as much as possible but take care of your personal needs.
- **Accountability for Accuracy** - When sharing data and information make sure it is accurate and be prepared to provide a credible reference.
- **Chatham House Rule** - Participants are free to use the information received in meetings but should not identify the speaker or their affiliation.

Exemptions in BEPS



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What the BEPS ordinance says...

(SMC 22.925.110) “Building owners with covered buildings with one or more of the following conditions may **apply for an exemption from meeting GHGIs, benchmarking verification, and/or reporting requirements** for one or more compliance intervals.”



For discussion today:

What are the eligibility criteria for each of the exemptions covered in BEPS?

Exemptions included in BEPS

1. A covered building that has extremely low emissions due to using **only electric energy**
 - a) Residential condominiums may meet this exemption when all space and water heating systems, and other equipment and appliances, under common ownership use only electric energy sources.
2. A covered building **scheduled to be demolished** within three years of a compliance deadline



Image: Seattle Post Intelligencer

Exemption for all-electric buildings

Exemption Details

1. A covered building that is confirmed through Benchmarking Verification as using only electric energy will be exempt from submitting the GHG Report for 2027-2030.
2. If the building continues to be verified as using only electric energy, it will be exempt from meeting the GHGITs and from submitting a GHG Report in all subsequent compliance intervals.

Allowed Compliance Periods

2027-2030 ¹	2031-2035	2036-2040	2041-2045	2045-2050
NA	yes	yes	yes	yes

¹Option applies to benchmarking verification and/or reporting requirements during 2027-2030.

Eligibility Criteria

- Benchmarking verification must confirm that the building is using only electric energy.
 - Any existing non-electric meters must be inactive (not in use in Energy Star Portfolio Manager) for the entire compliance period
- Residential condominiums may meet this exemption when data verification confirms that all space and water heating systems, and other equipment and appliances, under common ownership use only electric energy sources.
- Buildings that use only electric energy except for allowed deductions (e.g., fossil fuel cooking equipment) are not eligible for this exemption and must comply with all requirements.

Exemption for buildings scheduled to be demolished

Exemption Details in Ordinance

A covered building **scheduled to be demolished within three years of the BEPS compliance** date may be exempt from meeting all requirements of this Chapter 22.925 [Benchmarking Verification, GHG Report, meeting GHGI targets].

Allowed Compliance Periods

2027-2030 ¹	2031-2035	2036-2040	2041-2045	2045-2050
NA	yes	yes	yes	yes

¹Option applies to benchmarking verification and/or reporting requirements during 2027-2030.

Eligibility Criteria

- A building must have an active demolition or deconstruction permit issued by the Seattle Department of Construction and Inspections (SDCI), or one issued no more than three years prior to the BEPS compliance deadline.
- If the covered building is not demolished within three years of the exemption approval, the building owner shall comply with all subsequent requirements of Chapter 22.925.

Timeline for receiving an exemption

If receiving an exemption due to only using electric energy:

- Submit exemption request concurrently with Benchmarking Verification

If receiving an exemption due to scheduled demolition:

- Submit exemption request no sooner than two years in advance of the compliance deadline and no later than six months prior to the compliance deadline

Feedback on this proposal?

Extensions in BEPS



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What the BEPS ordinance says...

(SMC 22.925.110) “Building owners with covered buildings with one or more of the following conditions may **apply for an extension from meeting GHGIs, benchmarking verification, and/or reporting requirements** for one or more compliance intervals.”



For discussion today:

What are the eligibility criteria for each of the extensions covered in BEPS?

Extensions included in BEPS

1. A **newly constructed** covered building
2. Covered buildings under **pre-existing financial distress**
3. A covered building with a **high rental vacancy** rate
4. **Low-income housing**
5. Covered buildings with more than 50 percent of the building occupied by **human service uses**
6. **Low-rent housing**
7. **Low-income housing with a pre-established refinancing date** after the 2036-2040 compliance deadline

Extension for New Construction

Extension Details in Ordinance

A newly constructed covered building that receives a certificate of occupancy less than three years before its compliance date may receive an extension for one compliance interval.

Allowed Compliance Periods

2027-2030 ¹	2031-2035	2036-2040	2041-2045	2045-2050
yes	yes	yes	yes	yes

¹Option applies to benchmarking verification and/or reporting requirements during 2027-2030.

Proposed Eligibility Criteria and Clarifications

- A newly constructed building must have a **Certificate of Occupancy** dated no more than three years before the building's compliance date AND a **construction permit** issued by the Seattle Department of Construction and Inspections (SDCI)



Extension for Financial Distress

Extension Details in Ordinance

Covered buildings under pre-existing **financial distress** at **their compliance date** may receive an extension from meeting the requirements of this Chapter 22.925 [Benchmarking Verification, GHG Report, Meeting GHGIT] for each compliance interval they remain under financial distress.

Allowed Compliance Periods

2027-2030 ¹	2031-2035	2036-2040	2041-2045	2045-2050
yes	yes	yes	yes	yes

¹Option applies to benchmarking verification and/or reporting requirements during 2027-2030.

Eligibility Criteria

Building owners must document one of the following pre-existing conditions (ordinance definitions):

- 1. Building has had **arrears of property taxes** or water or wastewater charges that resulted in the building’s inclusion, within the prior two years, on a King County annual tax lien sale list;
- 2. Building has a **court-appointed receiver** in control of the asset;
- 3. Building is owned by a financial institution through **default by a borrower**;
- 4. Building has been acquired by a **deed in lieu of foreclosure** within the previous 24 months;
- 5. Building has a senior mortgage subject to a **notice of default**; or
- 6. Other conditions determined by rule.

Extension for High Rental Vacancy

Extension Details in Ordinance

A covered building with a **high rental vacancy rate, as determined by rule**, during a consecutive 12-month period within the 36-months preceding the relevant compliance date may receive an extension from meeting the GHGIT for one compliance interval. Building owners must still meet benchmarking verification and all reporting obligations.

Allowed Compliance Periods

2027-2030 ¹	2031-2035	2036-2040	2041-2045	2045-2050
yes	yes	yes	yes	yes

¹Option applies to benchmarking verification and/or reporting requirements during 2027-2030.

Eligibility Criteria

Building owners must document that the building meets the following criteria:

- Meets definition of vacant space
- Meets the % vacancy rate determined in Rule
- Is at rate (%) or greater for 12 months within 36 months preceding the compliance deadline

Defining “Vacancy” in BEPS

- **Vacant spaces in buildings are not leased**
 - Physically vacant space isn't leased, typically doesn't have equipment for tenant/business needs (except for showing or abandoned by prior tenant), and the lighting and mechanical systems may be shut down
 - Space in the building considered “common space (lobby, parking, elevator, etc.), mechanical space, space reserved for the owner, or space that is leased but not occupied can't be included in the calculation of vacant space
 - Spaces in buildings where tenants primarily work from home are not considered vacant



What we heard from commercial real estate on 12/9/24 re. rental vacancy...

- Key points:
 - Commercial vacancy remains high (between 15-30% depending on data source)
 - Proposed vacancy definition does not capture all scenarios (e.g., free or subsidized rent to activate ground floor retail downtown)
 - Difficult to identify a vacancy threshold that works for all buildings
 - There is a connection between vacancy and financial health but the relationship is highly variable relative to building's existing finances
 - Assuming office, discussion trended towards vacancy range around 30-40%
 - May need a separate percentage for multifamily buildings

Questions?



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Extension for Low-Income Housing

Extension Details in Ordinance

Low-income housing may receive an extension from meeting the GHGITs in the 2031-2035 compliance interval. Building owners must meet data verification and all reporting obligations for the 2031-2035 compliance interval and must meet the GHGITs for all subsequent compliance intervals.

Allowed Compliance Periods

2027-2030 ¹	2031-2035	2036-2040	2041-2045	2045-2050
NA	yes	no	no	no

¹Option applies to benchmarking verification and/or reporting requirements during 2027-2030.

Eligibility Criteria

Building owners must document that the building meets the following criteria:

- 1. Building **meets ‘Housing, low-income’ definition** in [SMC 23.84A.016](#) (land use code)
- 2. If new construction:
 - a) An **application for public funding** for the capital costs of the low-income housing development or rehabilitation has been or will be submitted; and
 - b) **Public funding is awarded** before SDCI issues the first building permit that includes the structural frame for each structure.

Extension for Human Service Uses

Extension Details in Ordinance

Covered buildings with more than **50 percent of the building occupied by human service uses** may receive an extension from meeting the GHGITs in the 2031-2035 compliance interval. Building owners must meet data verification and all reporting obligations for the 2031-2035 compliance interval and must meet the GHGITs for all subsequent compliance intervals.

Allowed Compliance Periods

2027-2030 ¹	2031-2035	2036-2040	2041-2045	2045-2050
NA	yes	no	no	no

¹Option applies to benchmarking verification and/or reporting requirements during 2027-2030.

Eligibility Criteria

1. Building **meets “Human service use” definition [23.84A.016](#)**.
2. Data verification must confirm that **more than 50 percent of the building’s GFA is used to provide one or more of the following:**
 - Emergency food, medical, or shelter services;
 - Community health care clinics, including those that provide mental health care;
 - Alcohol or drug abuse services;
 - Information and referral services for dependent care, housing, emergency services, transportation assistance, employment, or education;
 - Consumer and credit counseling;
 - Day care services for adults

Extension for Low-Rent Housing

Extension Details in Ordinance

Low-rent housing may receive an extension from meeting the GHGIs in the 2031-2035 compliance interval. Building owners must meet benchmarking verification and all reporting obligations for the 2031-2035 compliance interval and must meet the GHGIs for all subsequent compliance intervals.

Allowed Compliance Periods

2027-2030 ¹	2031-2035	2036-2040	2041-2045	2045-2050
NA	yes	no	no	no

¹Option applies to benchmarking verification and/or reporting requirements during 2027-2030.

Eligibility Criteria and Clarifications

1. Building **meets “Housing, low-rent” definition** in BEPS ordinance
 - a) A multifamily building where the **current contract rent** AND the contract rent for a minimum of ten years after the relevant compliance date in 2031-2035 for over 60 percent of total residential units **is at or below 1) 60 percent of area median income, or 2) 40 percent of area median income for small-efficiency dwelling units** (SEDUs).
 - b) Median income is as published by the [Seattle Office of Housing](#).
 1. Proposed: Use the published income for **Rental Housing Limits for “Rental properties with any other type of developer agreement”** for the compliance year or year prior.

Extension for Low Income Housing: Pre-established Refinancing Date Conflict

Extension Details in Ordinance

Low-income housing may receive an extension from meeting the GHGIs in the 2036-2040 compliance interval when a **pre-established refinancing date** would not occur until after the covered building's compliance deadline in 2036-2040. Building owners must meet data verification and all reporting obligations for the 2036-2040 compliance interval and must meet the GHGIs for all subsequent compliance intervals.

Allowed Compliance Periods

2027-2030 ¹	2031-2035	2036-2040	2041-2045	2045-2050
NA	NA	yes	no	no

¹Option applies to benchmarking verification and/or reporting requirements during 2027-2030.

Eligibility Criteria

Building owners must document that the building meets the following criteria:

- 1. Building **meets 'Housing, low-income' definition** in [SMC 23.84A.016](#) (land use code)
- 3. A **pre-established refinancing date will not occur until after the covered building's compliance deadline in 2036-2040.**

Proposed timeline for extension applications & other clarifications

Extension applications must be submitted to OSE:

- No sooner than two years in advance of the compliance deadline
- No later than six months prior to the compliance deadline

Proposed clarification in Rule for New Construction and High Vacancy:

- Buildings must meet the GHGIT for the subsequent compliance deadline (e.g., building with extension in 2031 must meet the 2036 GHGIT or use Alternative Compliance).
- Rationale:
 - Equitable to align with extension requirements for low-income housing that require building to meet the GHGITs for all subsequent compliance intervals
 - Decarbonization Compliance Plan is an option to create custom targets and timeline
 - Considering an exception for Financial Distress: In subsequent interval may meet prior interval GHGIT

Feedback on these proposals?

Rule Proposal: Extension for **change of ownership**

Proposed Extension Details

Owners of buildings having **a date of purchase within one year prior to or on the exact date of the compliance deadline** (October 1st of the required compliance year) may apply for a **one-year deadline extension** for meeting the requirements of this Chapter 22.925
[Benchmarking Verification, GHG Report, Meeting GHGIT]

Allowed Compliance Periods

2027-2030 ¹	2031-2035	2036-2040	2041-2045	2045-2050
yes	yes	yes	yes	yes

¹Option applies to benchmarking verification and/or reporting requirements during 2027-2030.

Eligibility Criteria

- Evidence of the transaction and new ownership information must be submitted to OSE
- Rationale for Proposal:
 - New owners should be informed if a building they are purchasing has a compliance encumbrance on it during negotiations
 - But it is reasonable to allow some added time to engage a consultant (if needed) develop a compliance plan, apply for Alternative Compliance, pay the ACP, etc.

Questions?



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Introduction to Decarbonization Plans



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Custom Decarbonization Compliance Plans

Enables nine additional years from 2041 to meet net-zero or low emissions for largest commercial buildings.

Customizable and flexible for individual buildings:

- Building owners with extenuating circumstances
- Meeting the compliance schedule or meeting the GHGIs is a significant hardship
- Requires demonstration of eligibility, application to use, and an energy & emissions audit.

Two plan options

- Net-Zero by 2050
- Low Emissions by 2050

Eligibility criteria address concerns about cost of compliance

NET-ZERO BY 2050 DECARBONIZATION COMPLIANCE PLAN

Per BEPS (SMC 22.925.100), extenuating circumstances for which an owner can use a decarbonization compliance plan include:

- Concurrent substantial alteration
- Concurrent seismic upgrades
- Significant electrical infrastructure upgrades
- Replacement of equipment prior to end-of-life (and permitted by 1/13/24 or earlier)
- Non-interruptible operations in laboratory or healthcare
- Access to equipment prohibited by lease in place by 1/13/24 or earlier
- **No practicable low and zero GHG emissions alternatives**



Eligibility criteria address concerns about cost of compliance

LOW EMISSIONS BY DECARBONIZATION COMPLIANCE PLAN

Per BEPS (SMC 22.925.100), extenuating circumstances for which an owner can use a decarbonization compliance plan include:

- Historic landmark building
- Structural or electrical capacity upgrade barrier
- Business financial analysis can demonstrate meeting net-zero would create financial distress (per the ordinance definition)
- **No practicable zero GHG emissions alternatives**
- **Net-zero infeasible in low income multifamily**



Decarbonization plan requirements from BEPS ordinance

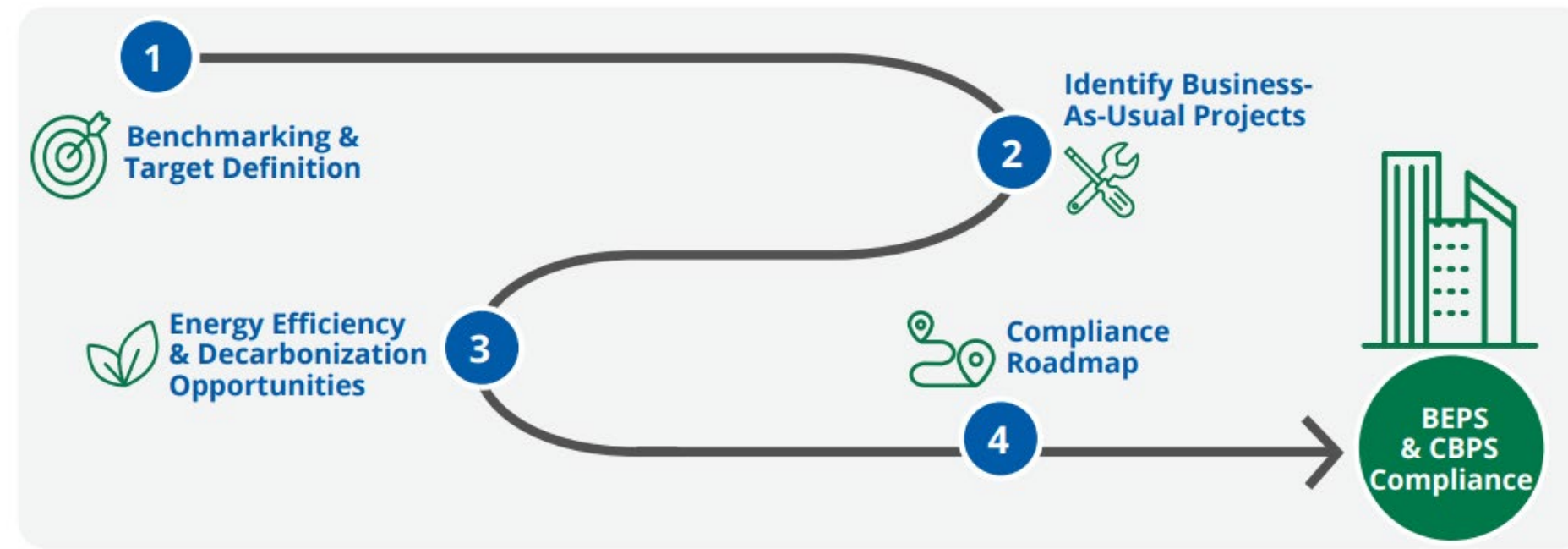
Per BEPS (SMC 22.925.100), all plans must include:

- Building energy and greenhouse gas **emissions audit**
- Analysis of energy efficiency greenhouse gas **emissions reduction actions**
- **Incremental and final GHGIs and actions** at each compliance interval
- Any applicable content specified by decarbonization plan **provisions in the Seattle Energy Code**
- **Cost analysis** for achieving the incremental and final GHGIs for each compliance interval covered by the plan, including:
 - Incremental cost of any equipment or other upgrades needed to meet the GHGI above standard asset replacement costs or business-as-usual conditions
 - The analysis must include the social cost of carbon, utility cost savings, available grants, incentives, tax deductions or other financial incentives



Decarbonization plan details to be considered in Rulemaking

- Application process to use plan
- City review of plan
- Owner reporting on plan milestones
- Plan update process/timing (if building use or ownership changes)



Example custom roadmap
from a new [Large Office Case Study](#)

Questions?



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Discussion → in “world café”

For Low-Emissions Decarbonization Plans

- Defining “low emissions”
- Defining “infeasibility in low-income multifamily”

For Net-Zero or Low-Emissions Decarbonization Plans

- Defining “no practicable low and zero GHG alternatives”



Conclusion

- We will share a meeting summary to ensure notes are accurate
- Please use the cue cards to share one piece of recommendation for the rest of the facilitation process
- Questions or comments? Email cleanbuildings@seattle.gov

THANK YOU!