

MARCH 18TH 2025 - MEETING SUMMARY

Focused Meeting on Low-Income Multifamily Housing

Zoom Call 11AM – 12:30PM

Present: Alistair Jackson, Bobby Lindsay, Craig Kelly, David Reddy, Deepa Sivarajan, Irina Rasputnis, Jacob Gelb, Jennifer Pritchard, Jeremy Kern, Jill Davies, Jon Heller, Julie Scrivner, Kimberly Loewen, Laura Franke, Michael Arndt, Patience Malaba, Steve Gelb, Veronica Gallardo

City of Seattle BEPS and Facilitation Staff: Amy Fowler, Gemma Holt, Kyle Berbel, and Nicole Ballinger (OSE), Anna Kelly and Catherine Ozols (SBW), Kirstin Pulles and Sepideh Rezania (Unrooz)

Meeting slides are posted at: <https://www.seattle.gov/environment/climate-change/buildings-and-energy/building-emissions-performance-standard/beps-rulemaking>

Agenda:

Topic	Time
Welcome + Introductions	5 mins
Review: Introduction to the BEPS Rulemaking Process	10 mins
Review: Path A - Portfolio Compliance	10 mins
Review: Path B - Extensions	10 mins
Review: Path B - Multifamily Prescriptive Path	10 mins
Review: Path C - Custom Decarbonization Plans	10 mins
Discussion: Decarbonization Plan Eligibility Requirements	15 mins
Review: GHGI Target Setting – Normalization factors	10 mins
Wrap-Up & Next Steps	5 mins

Working Group Discussions Summary:

1. Introduction to the BEPS Rulemaking Process.

Topic: The BEPS ordinance was shaped by many stakeholders, including the HDC Affordable Housing Task Force, a Technical Advisory Group, building owners, residential and small business tenants, labor and trades, and public open houses.

The policy was developed in 2022 and 2023 and program development will run through 2026. The Director's Rule is currently in development and is expected to be published by mid-2025. The rulemaking process includes a facilitated Technical Rulemaking Workgroup, focused topical meetings on key topics, and public webinars. The rules will also be updated periodically with stakeholder engagement through 2044, including GHGITs, emissions factors, and penalty amounts.

In 2027-2030, Benchmarking Verification and a GHG Report will be required while building owners begin planning for emissions reductions. Beginning in 2031, building owners will move through multiple compliance cycles that include meeting an emissions target. Every five years, building owners will need to verify the building's energy use (Benchmarking Verification), submit a GHG Report, and meet a Greenhouse Gas Intensity Target (GHGIT).

Building owners have three overall pathways available to them for BEPS compliance. Path A is to meet the Standard GHGIT or building portfolio/campus GHGIT in all five-year compliance intervals. Path B is to receive either an extension or alternate compliance via an Alternative Compliance Payment (ACP), the multifamily prescriptive path, or an Alternate GHGIT (a custom percentage reduction target from building's baseline). Path C is to follow a custom timeline and/or target due to hardship or unique circumstances via a net-zero or low-emissions decarbonization compliance plan. Path C also includes district energy campus decarbonization plans.

The Rulemaking goals, process, and timeline for the first Director's Rule and subsequent Rule updates were also shared.

Discussion:

A participant asked whether the rule is approved solely by the Director of OSE or if others are involved. OSE clarified that the Director approves the rule, but there is also a mandatory two-week public comment period (OSE is planning 3 weeks for BEPS), and sections are reviewed internally with other departments and law. The approval process is simpler than legislative changes which need Council engagement, allowing for somewhat more flexibility.

2. Path A: Portfolio Compliance

Topic: The BEPS ordinance explains that (SMC 22.925.100) "Building owners with a

building portfolio, district campus, or connected buildings may use an aggregate standard GHGIT for the covered buildings within the building portfolio, district campus, or connected buildings using the calculations in Section 22.925.080.”

Per BEPS (SMC 22.925.020) a "Building portfolio" means two or more covered buildings on one or more lots, all owned by the same public, private, or nonprofit entity. Building portfolios may include district campuses and/or connected buildings. For the purposes of this definition, a building management company does not constitute an owner.

Portfolios can comply using an aggregate GHGIT (GHGIT based on a prorated mix of standard building activity type targets for all their buildings' square footage) or alternate GHGIT - (start at baseline and set interim targets from that baseline to net-zero, with incremental targets reducing 33% (or 25% for multifamily) for each compliance interval).

OSE is proposing for Rules that building owners can use one of four methods to demonstrate ownership for buildings in a portfolio:

1. All buildings have the same owner as listed in the records of the King County Department of Assessments
2. Building owner provides copy of deed showing LLC is part of parent company or the title transfer of the LLC to the parent company
3. Corporate secretary for owner provides a signed certificate affirming that they are the majority owner of a property
4. Executive Director provides a signed certificate affirming that all buildings are owned by the same charitable organization

The attendees were asked if these documentation options would be practical for low-income housing providers.

Discussion:

A participant inquired about tax credit projects owned by different legal entities and whether they qualify as part of a low-income housing provider agency's portfolio. There was discussion on how Low-Income Housing Tax Credit (LIHTC) properties function as partnerships, with nonprofits as General Partners and investors as Limited Partners. However, attendees felt that options 2 and 4 of the methods listed above for demonstrating ownership would cover these situations.

1. Participants suggested one clarification which could clarify that this could cover LIHTC buildings: “4. Executive Director provides a signed certificate affirming that all buildings are owned by the same charitable organization, or the organization is a part owner of the buildings.”

OSE emphasized efforts to minimize reporting burdens and clarified that they already track many of the properties that offer low-income housing in their database. In practice OSE will typically only ask for documentation for buildings without existing clear

ownership records.

3. Path B: Extensions

Topic: The BEPS ordinance (SMC 22.925.110) explains that “Building owners ... may apply for an extension from meeting GHGITS, benchmarking verification, and/or reporting requirements for one or more compliance intervals” if they meet specific criteria.

Relevant extension criteria for this group include low-income housing, low-rent housing, and low-income housing with a pre-established refinancing date after the 2036-2040 compliance deadline.

Extension	Extension Details in Ordinance	Proposed Eligibility Criteria Documentation	Allowed Compliance Periods
Low-income housing	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.	Building owners must document that the building meets the following criteria: - Building meets ‘Housing, low-income’ definition in SMC 23.84A.016 (land use code) Proposal for rule: If building can’t be readily verified by OSE as low-income housing, via information provided by the Seattle Office of Housing, King County Assessor or other public data sources, OSE will require owner to provide documentation that the building meets the definition.	2031-2035
Low-rent housing	Low-rent housing may receive an extension from meeting the GHGITS 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 GHGITS for all subsequent compliance intervals.	Building meets “Housing, low-rent” definition in BEPS ordinance: 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). Source: Median income is as published by the Seattle Office of Housing. Proposal for rule: Use the published income for Rental Housing Limits for “Rental properties with any	2031-2035

		other type of developer agreement” for the compliance year or year prior. Documentation: Share rent roll with City demonstrating rent meets thresholds.	
Low-income housing: Pre-established refinancing date conflict	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.	Building owners must document that the building meets the following criteria: Building meets 'Housing, low-income' definition in SMC 23.84A.016 (land use code) A pre-established refinancing date will not occur until after the covered building's compliance deadline in 2036-2040.	2036-2040

Participants were asked about their level of support for each extension and the proposed required documentation.

Discussion:

Low-income housing extension:

Attendees were asked their level of support for the proposed documentation for demonstrating that a building is a low-income housing provider. Respondents mostly gave 4s and 5s, with a few 3s due to concerns outlined here.

- An attendee asked about the aggregate standard GHGIT and whether it is an average across a portfolio. OSE confirmed that targets are based on an average of building types pro-rated by square footage. GHGI is calculated similarly (total of emissions from all buildings divided by total square footage of all buildings). Note: OSE will create tools or calculators for this.
- Another participant wanted to learn more about situations where low-income housing is incorrectly identified or not already identified by the city, and if building owners know that they may need to provide proof. OSE stated that the 2027-2030 reporting deadline provides an opportunity to ensure buildings are accurately categorized, as do the benchmarking deadlines leading up to that.
- There was also discussion about ensuring that the definitions of low-income housing match the latest definition passed by City Council in 2024. OSE noted that BEPS refers to SMC 23.84A.016 (land use code) for the definition and that they will confirm that they are using the latest version in the Rule.

Low-rent housing (e.g. NOAH) extension:

Attendees were asked their level of support for the proposed rule documentation to confirm a building is low-rent housing, and if there were other ways to document that a building provides low rent housing. Participants gave the proposal 4s and 5s, demonstrating a high level of support. A few suggested income statements for other documentation for rent prices.

- Attendees raised concerns about ensuring that naturally occurring affordable housing (NOAH) is provided with enough resources to be able to comply with BEPS while still offering low rents. Ideas included developing an incubator for co-operative / social housing conversions so the small landlords can exit the market if desired and be replaced by a coop.
- One participant also voiced concerns that the verification process for low rent housing appeared less onerous than for low-income housing, despite the significant resource constraints for low-income housing providers. OSE assured them that every effort is being made to reduce the reporting burden for low-income housing providers by identifying as many as possible in advance (OSE knows many already). For low-income OSE doesn't have any good records right now, so may need rent rolls.

Pre-established refinancing date extension:

Attendees were asked how low-income housing providers can demonstrate their refinancing date. Ideas included:

- Maturity date of existing debt.
- LIHTC exit date if tax credits.
- Compliance portal should allow upload of finance documents. (OSE note: we are planning to allow document uploads in the tool).

4. Path B – Multifamily Prescriptive Path

Topic: The BEPS Ordinance specifies that (SMC 22.925.100) “A building owner may utilize one or more prescriptive options for a multifamily building in lieu of meeting its GHGIT during the 2031-2035, 2036-2040, or 2041-2045 compliance intervals. Each prescriptive option shall only be used for one compliance interval.”

Prescriptive options include:

- a. Replacing existing fossil fuel combustion service hot water system(s) with electric heat pump water heating
- b. Replacing existing fossil fuel combustion HVAC heating system equipment with electric heat pump systems

To report compliance, OSE proposes two steps.

Step 1: Notify OSE of intent to use prescriptive path as part of GHG Report (2027-2030)

Step 2: Submit GHG Report documenting actions taken to achieve compliance

(beginning in 2031)

Proof of completed work could include:

- Evidence that equipment was installed (completed work order, paid invoices, photos, etc.)
- Completed Seattle Dept of Construction & Inspections permit inspection

The attendees were asked their level of support for the proposed documentation options.

Discussion:

A participant raised concerns about heat pump water heater systems not functioning sufficiently and suggested requiring a commissioning report to verify that the installed equipment can provide the necessary hot water loads. Another participant supported this suggestion. A separate concern was raised that often permitting is handled by a contractor and that SDCI permit inspections feels like adding bureaucratic challenges for building owners.

5. Path C – Custom Decarbonization Plans

Topic: The BEPS Ordinance states that (SMC 22.925.100) “Building owners with extenuating circumstances that make complying with the compliance schedule or meeting the GHGITS a significant hardship for an individual building may apply to use a decarbonization compliance plan for achieving net-zero greenhouse gas emissions or an approved low emissions GHGIT by 2041-2050.”

There are several circumstances through which a building owner can qualify for a decarbonization plan. These were outlined in [Meeting 7](#) of the Technical Rulemaking Working Group.

The attendees were asked to discuss one of the eligibility criteria for low-emissions decarbonization plans which is particularly relevant to low-income multifamily building stakeholders: **“When upgrades necessary to meet net-zero emissions in a low-income housing multifamily building are infeasible”** building may do a low emissions plan.

Attendees went into two breakout rooms to discuss the definition of “low emissions” (for low emission decarbonization plans) and the definition of “infeasibility in low-income multifamily” (for the relevant eligibility criteria for low emissions decarbonization plans).

Discussion:

OSE proposes a flexible approach in rules to documenting when net-zero is infeasible in low-income multifamily housing. They have heard several possible criteria from technical working group members, including the challenges of moving tenants, mechanical room space constraints, or unmanageable costs. OSE’s proposal would allow multifamily housing providers to explain the decarbonization measures to meet

net-zero are infeasible because of situations such as:

- Impact of tenant relocation on a sensitive population
- Mechanical room space constraint to accommodate net-zero HVAC or DHW equipment that would serve all residents.

OSE has also heard several approaches to defining low emissions, including a set percent of emissions reduction or setting a target that changes over time as new technologies emerge.

Breakout room A feedback:

- Infeasibility in low-income multifamily:
 - There are other challenging circumstances beyond space constraints and tenant relocation that should be considered. For example, a roof might not be able to hold the weight load for new equipment. Substantial alterations are another example. (OSE note: these are covered under other Decarbonization Eligibility criteria, but could consider a provision that this can be included as reasons for needing to use the low-income infeasibility provision, since some of those are for the net-zero plan.)
 - Besides wanting further examples to be listed, the participants did not raise any concerns about the proposal.
- Low emissions:
 - A participant suggested defining low emissions based on industry averages for each building type.
 - Another idea was to set the low-emissions target as 90% of the building's GHGIT.
 - There was further discussion on the feasibility of achieving 90% emission reductions for fully gas buildings, with concerns raised about the high costs and physical limitations for conversions.

Breakout room B feedback:

- Infeasibility in low-income multifamily:
 - Cost is a major barrier - these buildings operate with very low financial reserves, making it difficult to take on upgrades without dedicated funding.
 - OSE shared that they intend to develop new funding opportunities over the next 10-15 years to help support necessary upgrades.
 - A participant asked whether the required decarbonization plan is the same as the one requested by SDCI for short-term equipment replacements.
 - OSE explained that the two plans have similarities, and that building owners who have already developed an SDCI-required plan can reference it in their decarbonization plans.
 - A participant asked about developing a decarbonization plan without secured funding. OSE confirmed that the decarbonization plan could outline potential funding sources and plans to secure financial support.
 - Attendees noted that the risk of triggering substantial alterations, particularly when indirect decarbonization efforts, like envelope upgrades,

- are involved.
- OSE acknowledged these concerns and noted that SDCI currently does not consider mechanical system upgrades alone as triggers for substantial alterations. However, discussions on this issue with SDCI are ongoing. They also mentioned that if a building is already undergoing substantial alterations, it could qualify under a different decarbonization extenuating circumstances criteria.
- Low emissions:
 - Group B did not have time to discuss the “low emissions” definition.

6. GHGI Target Setting – Normalization factors

Topic: A "normalization factor" is a numerical factor used to adjust the GHGIT of a building activity type to account for hours of operation for nonresidential activity types, or occupancy density for multifamily activity types.

Pacific Northwest National Laboratory (PNNL) and SBW conducted data analyses to provide insights into whether a normalization factor should be included in rulemaking for multifamily housing.

PNNL could not find reliable factors for occupancy density (units/1000 ft²). Results showed buildings with gas that are subsidized low-income housing have a higher GHGI than non-subsidized. SBW identified differences between low, mid, and high-rise buildings. The GHGI for mid-rise buildings is lower than low- and high-rise buildings.

Since the multifamily normalization factor research is inconclusive and does not justify adding this as another flexibility measure, OSE proposes revisiting multifamily normalization factors after verified energy benchmarking data is available from the first round of compliance data. The attendees were asked for their feedback on this proposal.

Discussion:

- A participant asked about how micro-unit buildings were considered in normalization factors research. OSE noted they are market-rate and may contribute to the data inconsistencies that were seen.
- Another participant asked about data sources used to assess unit density in permanent supportive housing, and OSE confirmed they used 2019 data but will revisit targets for 2036-2040 with updated information.
- Another participant emphasized the importance of flexibility for low-income multifamily housing while ensuring residents can still benefit from improvements. OSE acknowledged the tension between compliance pressures and resident well-being and highlighted efforts to prioritize funding and support for low-income multifamily housing.

There was also time for general discussion.

- Questions were raised about whether homeless housing is impacted by BEPS, with OSE confirming it falls under multifamily or human services definitions.
- Further discussion asked about the number of fully gas buildings and the challenges they present, with OSE noting that while estimates exist, more detailed data will come from GHG reports in 2027-2030.
- A participant also raised concerns about the number of buildings without cooling, which OSE indicated is not currently well-documented, but this data may be captured in future reporting.
- Finally, a participant noted that more flexibility in energy code requirements to convert from gas to electric resistance would reduce costs. Also cheaper to replace if damaged, which was seconded by another participant who noted a lot of damage is caused by residents to the units in their buildings.

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