



Building Energy Performance Standards

Washington D.C. Exemplar

BEPS Background

Building Energy Performance Standards, or BEPS, are policies that require commercial and industrial building owners to reduce their buildings' energy use to a standard based on property type and disclose the data publicly. Over time, the standards become stricter and more buildings are required to comply, driving reductions in building energy use and/or greenhouse gas (GHG) emissions.

[Washington D.C.'s BEPS program](#) was set forth in Title II of the [Clean Energy DC Omnibus Act of 2018](#), and was the first program of its kind in the country. Its inception was also driven in part by the climate goals of the [Sustainable DC](#) plan (reducing GHG emissions and energy consumption by 50 percent by 2032 and carbon neutrality by 2050).

Washington D.C.'s Department of Energy and Environment (DOEE) established the first set of standards on January 1, 2021 (no lower than the local median ENERGY STAR score, or weather-normalized Source EUI for building types that cannot receive ENERGY STAR scores), and the standards will be re-established every six years. The median is determined locally if there are more than 10 buildings of that property type. If there are fewer than 10, the national median is used.



DOEE convened a [task force](#) to advise the agency on implementation, draft rules, and complementary programs and policies. Members were appointed by the mayor, [and 15 out of 17 of them came from working groups](#) hosted by DOEE. The task force was recognized with the 2020 Community Leader Award for "Excellence in Government, Advocacy, or Policy (Local Government)" by the U.S. Green Building Council National Capital Region.

Covered Buildings

Each successive six-year period will cover a greater portion of the District's buildings by decreasing the size threshold to include smaller buildings. All private buildings greater than 50,000 square feet and public building greater than 10,000 are covered in the first compliance period.

- BEPS Period 1 Private buildings $\geq 50,000$ sq. ft. and DC-owned $\geq 10,000$ sq. ft.
- BEPS Period 2 Private buildings $\geq 25,000$ sq. ft. and DC-owned $\geq 10,000$ sq. ft.
- BEPS Period 3 Private buildings and DC-owned $\geq 10,000$ sq. ft.

[Building Energy Performance](#) disclosure lists all covered buildings.

Compliance with BEPS

If a building does not meet the standard (the local median ENERGY STAR score or weather-normalized source EUI for that property type) at the beginning of the BEPS period, it will be placed in a [compliance cycle](#). The building owner then has until the end of the cycle to meet the energy performance and reporting requirements of one of the four compliance pathways.

Performance Pathway: Reduce energy usage (site energy use intensity, EUI) by 20 percent.

Prescriptive Pathway: Implement cost-effective, approved energy efficiency measure
This pathway is designed to help building owners mitigate risk for a compliance cycle, because as long as they implement specific measures they'll be in compliance, no matter the resulting energy performance.

Standard Target Pathway: Reach the standard for the property's building type. This pathway was developed to address concerns about the cost-effectiveness of upgrades for high performing buildings.

Alternative Compliance Pathway: Allows an owner to apply to follow a path with special criteria. DOEE will consider innovative proposals that specifically focus on reducing energy demand. Third party green/energy building certifications, and supply-side methods like solar PV installation, carbon offsets, or power purchase agreements are generally not acceptable.



Penalties and Fines for Non-Compliance

Penalties are based on gross floor area of buildings (at a maximum of \$10 per square foot). The maximum total is \$7,500,000 for one building. Actual penalty amounts are determined by a building's performance relative to its pathway target or the percentage of pathway points earned at the end of the compliance cycle. For example, if a building on the Performance Pathway achieves 10 percent reductions in site EUI (half of the required 20 percent reduction), its penalty for noncompliance is half of the maximum.

DOEE can issue civil infraction fines for noncompliance, which can be for missing, late, or incomplete documentation or plans. The D.C. Attorney General can file an enforcement action against a building owner.

Supporting Building Owners

DOEE shares many resources to help building owners better understand BEPS, their options, and how they can finance their upgrades.

The [Clean Energy D.C. Omnibus Act of 2018](#) establishes additional funding for and an expansion of the [Sustainable Energy Trust Fund](#) and allocates funding for D.C.'s new [Green Bank](#). The Green Bank offers financing for energy efficiency projects with The Commercial Loan for Energy Efficiency and Renewables Program (CLEER). Building owners can also get rebates and incentives or request technical assistance from the [D.C. Sustainable Energy Utility](#) (DCSEU).

DOEE supports the development of the [Building Innovation Hub](#), a project by the Institute for Market Transformation (IMT), which centralizes resources and information to help building owners decarbonize their buildings and comply with BEPS. The Hub has a list of [Frequently Asked Questions](#) for building owners, a [Funding and Financing database](#), and more.

In extreme circumstances, building owners can be granted delays of compliance. Proven financial stress (after pursuing the provided financing venues), change of ownership, vacancy, major renovation, pending demolition, change of property type, historic preservation board approval delays, and other circumstances can result in exemption that delays compliance three years. The only permanent exemption is granted for demolition.

[The final standards were adopted on April 26, 2021.](#)

A Look Inside the Development and Implementation of DC'S BEPS Program: An Interview with Andrew Held, DOEE Energy Program Specialist in the Building Performance & Enforcement Branch

Q: In 2018, D.C. passed the Clean Energy D.C. (CEDC) Act which included a provision about establishing a BEPS program. And then in 2021, D.C. set forth the first set of standards for the program. Can you tell us how D.C. started down the path of setting that standard and what that process looked like?

A: After the passage of the CEDC Act, DOEE first stood up a [summer working group](#) to help DOEE get a scope of the program. And then DOEE immediately began to convene our BEPS Task Force as soon as it could. Since then we have been able to establish the standard and almost finalize all related compliance regulations and guidance.

Q: What role did the data from the benchmarking program play in this discussion?

A: The benchmarking data is the backbone of the BEPS program. First off, it serves as the primary data source for [calculating the actual BEPS](#). And then it also is our primary means to measure compliance and see if buildings are on track to meeting their goals.

Q: Did you (i.e. those developing the program) have to make any compromises to get BEPS passed?

A: I wouldn't call any part of the BEPS program development a "compromise". What we have created is a program that is designed to be feasible for building owners to comply with, while

still resulting in significant energy savings across the District. For example, we were directed by the legislation to create a custom standard for colleges/university and hospital campuses. Had we not created this standard it would have unfairly penalized these campuses and created an unrealistic regulatory environment for them. The result, we believe, is a balanced program that building owners are able to comply with and while still helping D.C. achieve its climate goals.

Q: What role did commercial building owners (and other relevant building groups) play in the development process? What were there concerns and how did you overcome these obstacles?

A: We have been engaging the commercial and residential building owners at every step of the process through our BEPS Task Force and individual stakeholder outreach. The Task Force consists of 17 members (4 of whom are from the affordable housing sector). We are really lucky in the District to have a long history of partnership with our commercial building owners, which all started with the [Green Building Act and Green Building Advisory Council](#). Building on this ground work we were able to stand up the Task Force and quickly get down to business ironing out the program. One of the major concerns that we addressed were buildings that already were relatively well performing but did not meet the standard. In response to this concern we created the Standard Target Pathway, which created a reasonable compliance pathway for these buildings. Additionally, our Task Force issued a [report with recommendations on regulations](#), submitted extremely helpful [public comment on our first proposed rules](#), and even helped us [review other public comments received](#). As a result we have a workable program that has buy in from a broad number of stakeholders.

Q: How much staff time is being allocated to running this program?

A: We function on around five full time employees (FTEs) to stand up the program but are in the process of hiring more to handle the actual day-to-day operations of the program. In the end we plan to have close to 10 FTEs total to run both the benchmarking and BEPS program

Q: What considerations are being made to ensure D.C.'s BEPS program is equitable and supporting building owners of all types?

A: Built into the legislation are considerations for affordable housing and college/university and hospital campuses. Building upon that we also created flexible compliance pathway options that we believe supports all building types. For example, buildings that had to upgrade their ventilation systems due to COVID-19 might have seen an increase in energy consumption. We don't want to see these buildings penalized under BEPS for making improvements to their building that improved occupant health and comfort. As a result we created baseline adjustments that allow these buildings to receive fair treatment in compliance.

Q: What enforcement mechanisms is D.C. planning to utilize?

A: D.C. has a variety of enforcement mechanisms at our disposal. The primary one is the alternative compliance penalty, which has been set at \$10 per square foot and is reduced based on the building's progress towards its compliance target. Additionally, to ensure building owners are submitting timely complete and accurate reporting and verification documentation, DOEE has a schedule of fines established.