

## DECEMBER 18<sup>TH</sup> 2024 - MEETING SUMMARY

*Building Emissions Performance Standard (BEPS) Technical Rulemaking Working Group  
In person at the Smart Building Center*

**Present:** Becky Becker, Caroline Traube, Edmée Knight, Gabriela Henkels, Ian Brown, Joe Malaspino, Luke Howard, Srinii Pendikatla, Steve Abercrombie.

**Regrets:** Alistair Jackson, Evan Cobb, Irina Rasputnis, Mel Knox, Nina Olivier, Mark DiPaulo, Steve Schmidt.

**City of Seattle BEPS and Facilitation Staff:** Gemma Holt, Nicole Ballinger, Kyle Berbel, Mike Roos, Charlie Rogers, Ashley McCulley and Michelle Caulfield (OSE), Anna Kelly, Catherine Ozols, and Faith DeBolt (SBW), Kirstin Pulles and Sepideh Rezanian (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	15 mins
Review: Exemptions in BEPS	10 mins
Review: Extensions in BEPS	10 mins
Introduction to Decarbonization Plans	5 mins
World Café Discussions: Definitions in Decarbonization Plan Criteria	60 mins
Wrap-Up & Next Steps	5 mins

## Working Group Discussions Summary:

### 1. Exemptions in BEPS.

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

The available exemptions are as follows:

Exemption	Exemption Details in Ordinance	Proposed Eligibility Criteria	Allowed Compliance Periods
All electric-buildings	<p>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.</p> <p>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.</p>	<p>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.</p>	2031-2035, 2036-2040, 2041-2045, 2045-2050
Exemption for buildings scheduled to be demolished	<p>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].</p>	<p>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.</p>	2031-2035, 2036-2040, 2041-2045, 2045-2050

For buildings receiving the all-electric exemption, building owners can submit their exemption request concurrently with their Benchmarking Verification. Requests for an exemption due to scheduled demolition may be submitted no sooner than two years in advance of the compliance deadline and no later than six months prior to the compliance deadline.

**Discussion:**

One attendee asked if a building is scheduled for demolition, but the building owner is using the portfolio method, whether they should include the building in their portfolio. OSE said that keeping the building out of the portfolio is best, and if the demolition is cancelled, the building can comply individually.

**2. Extensions in BEPS.**

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

The available extensions are as follows:

<b>Extension</b>	<b>Extension Details in Ordinance</b>	<b>Proposed Eligibility Criteria</b>	<b>Allowed Compliance Periods</b>
New construction	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.	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).	2027-2030, 2031-2035, 2036-2040, 2041-2045, 2045-2050
Financial distress	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.	Building owners must document one of the following pre-existing conditions (ordinance definitions): - 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; - Building has a court-appointed receiver in control of the asset; - Building is owned by a financial institution through default by a	2031-2035, 2036-2040, 2041-2045, 2045-2050

		<p>borrower;</p> <ul style="list-style-type: none"> <li>- Building has been acquired by a deed in lieu of foreclosure within the previous 24 months;</li> </ul> <p>Building has a senior mortgage subject to a notice of default; or</p> <ul style="list-style-type: none"> <li>- Other conditions determined by rule.</li> </ul>	
<p>High rental vacancy (to see further discussion on this topic, review the Dec 9 meeting notes)</p>	<p>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.</p>	<p>Building owners must document that the building meets the following criteria:</p> <ul style="list-style-type: none"> <li>- Meets definition of vacant space</li> <li>- Meets the % vacancy rate determined in Rule</li> <li>- Is at rate (%) or greater for 12 months within 36 months preceding the compliance deadline</li> </ul>	<p>2031-2035, 2036-2040, 2041-2045, 2045-2050</p>
<p>Low-income housing</p>	<p>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.</p>	<p>Building owners must document that the building meets the following criteria:</p> <ul style="list-style-type: none"> <li>- Building meets 'Housing, low-income' definition in SMC 23.84A.016 (land use code)</li> </ul> <p>If new construction:</p> <ul style="list-style-type: none"> <li>- An application for public funding for the capital costs of the low-income housing development or rehabilitation has been or will be submitted; and</li> <li>- Public funding is awarded before SDCI issues the first building permit that includes the structural frame for each structure.</li> </ul>	<p>2031-2035</p>
<p>Human service use</p>	<p>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.</p>	<p>Building meets "Human service use" definition 23.84A.016.</p> <p>Data verification must confirm that more than 50 percent of the building's GFA is used to provide one or more of the following:</p> <ul style="list-style-type: none"> <li>- Emergency food, medical, or shelter services;</li> <li>- Community health care clinics, including those that provide mental health care;</li> <li>- Alcohol or drug abuse services;</li> <li>- Information and referral services</li> </ul>	<p>2031-2035</p>

		<p>for dependent care, housing, emergency services, transportation assistance, employment, or education;</p> <ul style="list-style-type: none"> <li>- Consumer and credit counseling;</li> <li>- Day care services for adults</li> </ul>	
Low-rent housing	<p>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.</p>	<p>Building meets “Housing, low-rent” definition in BEPS ordinance:</p> <p>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).</p> <p>Median income is as published by the Seattle Office of Housing. 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.</p>	2031-2035
Low income housing: Pre-established refinancing date conflict	<p>Low-income housing may receive an extension from meeting the GHGITs 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 GHGITs for all subsequent compliance intervals.</p>	<p>Building owners must document that the building meets the following criteria:</p> <p>Building meets ‘Housing, low-income’ definition in SMC 23.84A.016 (land use code)</p> <p>A pre-established refinancing date will not occur until after the covered building’s compliance deadline in 2036-2040.</p>	2036-2040

Application Timeline: OSE proposed that applications for exemptions must be submitted to OSE no sooner than two years in advance of the compliance deadline, and no later than 6 months prior to the compliance deadline.

OSE also proposed the following 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). This would be equitable by aligning with the extension requirements for low-income housing that require buildings to meet the GHGITs for all subsequent compliance intervals.

Finally, OSE proposes adding one new one-year extension for change of ownership, because it is reasonable to allow some added time to select and complete a compliance pathway, as needed. This has also been allowed for Seattle Building Tune-Ups.

<b>Extension</b>	<b>Proposed Extension Details</b>	<b>Proposed Eligibility Criteria</b>	<b>Allowed Compliance Periods</b>
Change of ownership	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]	Evidence of the transaction and new ownership information must be submitted to OSE.	2027-2030, 2031-2035, 2036-2040, 2041-2045, 2045-2050

**Discussion:**

Attendees clarified the length of the extension for new construction buildings, which OSE said is three years. Another person asked what level of flexibility exists for the “other conditions determined by rule” for the financial distress extension. OSE explained that any additional criteria should meet the spirit of the existing criteria, which are based on the city’s existing definition for financial distress. Regarding the extension for new buildings, an attendee asked whether the certificate of occupancy was for the core or whole building. OSE offered to clarify this later but noted that the goal was to have the building fully functional and occupied by tenants. There was some discussion about weighting buildings by GHG emissions or hours of use for the 50% gross floor area requirement for the human services extension. Another attendee asked whether there would be a good faith extension for community service groups who are not aware of the legislation and only begin engaging with the rule after they get a notification of non-compliance. OSE explained that there are several options for flexibility. There’s a 360 day grace period before any fines would be applied and that period will involve a lot of outreach. The Director can also alter fines if a building is within 20% of the target. If a large number of buildings are struggling, grace periods can be applied en masse by the

Director.

Regarding the proposed new one-year extension for change of ownership, there was discussion about requiring sellers to notify purchasers of the building's BEPS status. Attendees had varying experiences with challenges accessing energy data, and about the standards for due diligence of buyers regarding laws like BEPS. Some jurisdictions, like Denver, require disclosure, while others do not. There was also discussion about how this could affect the market, either incentivizing the sale of buildings to gain extensions, or incentivizing sellers to complete upgrades to make their buildings more appealing. The group was asked to share their support for the proposed extension using a fist-to-five rule, and the group responded with 3s, 4s, and 5s.

### 3. World Café: Definitions in decarbonization plans.

**Topic:** Custom decarbonization plans enable nine additional years from 2041 to meet net-zero or low emissions for largest commercial buildings.

Extenuating circumstances for which an owner can qualify for a **net-zero** by 2050 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

Extenuating circumstances for which an owner can qualify for a **low emissions** by 2050 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 on the market for a necessary function
- Net-zero infeasible in low income multifamily

Attendees participated in a world café (three stations around the room which groups took turns visiting and building on the ideas of previous groups) to help define the following terms regarding decarbonization plans:

- Infeasible in low income multifamily
- No practicable low and zero GHG emissions alternatives on the market for a necessary function

- Low emissions

### **Infeasible in low income multifamily:**

The group discussed the need for building owners to undertake audits to know what is feasible. Low-income multifamily has distinct requirements that require consideration of tenants' housing needs in planning. – low-income tenants cannot be removed from their houses without following a suite of regulations and rules. The participants of the session discussed the requirements and brainstormed solutions using examples of other territories. For example, in New York City, tenants were relocated within the building during upgrades to minimize disruptions. A common area of the building was redesigned into several temporary lodgings, and tenants stayed in the temporary lodging while their units were undergoing decarbonization projects.

The group also discussed the difficulty in planning for long term decarbonization when new technologies are likely to enable significant decarbonization, but aren't yet on the market. This discussion of technological immaturity led to a suggestion of broadening or modifying the requirements for a Qualified Person to someone who could include future technologies in the building's plan.

Cost was another barrier which could make a technology infeasible, and attendees asked if there should be a fixed cost threshold.

### **No practicable low and zero GHG emissions alternatives on the market for a necessary function:**

Attendees discussed a few criteria which could mean a technology has no practicable low and zero GHG emissions alternatives. First, if a building does not have space to add an alternative (such as needing room for a boiler). Second, if the building needs to add significant electrical capacity. Third, if there is unreasonable cost associated. Regarding costs, attendees discussed tools like marginal abatement costs, comparison with the social cost of carbon, and defining a reasonable payback period as ways to determine reasonable costs. The fourth criteria was whether a new technology was market ready, and had been reasonably proven to meet building needs. (OSE noted during discussion that this was the general stakeholder input during the ordinance development for including this criteria. It was about unique equipment versus practicality in the building, which could be covered by other eligibility criteria like structural or electrical capacity. An example was refrigerants which were quickly introduced to the market, but are now being legislated out due to environmental harms and risks. Building owners fear moving too quickly and adding tech that fails, causes harm, or doesn't meet their needs. OSE could assess these technologies on a case-by-case basis with a group of relevant experts and affected stakeholders, commercial partnerships, or by assessing peer-reviewed research. There was discussion about whether OSE could just list the technologies which qualify, and add equipment to the list when needed. There was concern about making the criteria so flexible that building owners can find ways to make most buildings fit this criteria.

## Low emissions:

Participants at this station explored the concept of defining a specific percentage as the "last mile" for emissions reductions, such as all but 10% of emissions (90% emissions reduced), due to current technological and cost barriers. However, they recognized that projecting emissions reductions to the end of a compliance period involves significant uncertainties. Additionally, they noted that fixing a percentage might not account for future technological advancements, potentially making the target either outdated or insufficiently ambitious.

The group also considered whether the approach used to define low/no emissions in vehicles—where emissions standards tighten over time—could serve as a model for this context. They emphasized the need to clarify that any low-emissions language should specifically apply to heating, cooling, and hot water systems, excluding other end uses that may qualify for deductions. (check ASHRAE standard 2024)

A scenario was discussed where buildings, not part of the same portfolio, might plan to connect to a future decarbonized district energy system as their low-emissions strategy. Risks and uncertainties of allowing this approach were discussed, particularly if the district energy provider fails to meet its projected timelines. To address this, participants suggested a mitigation strategy involving banked penalties aligned with the projected plan, creating an incentive for building owners to maintain accountability and engagement.

Organized by:



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