

# BEPSDC Task Force

May 12, 2020



@DOEE\_DC  
#BEPSSDC

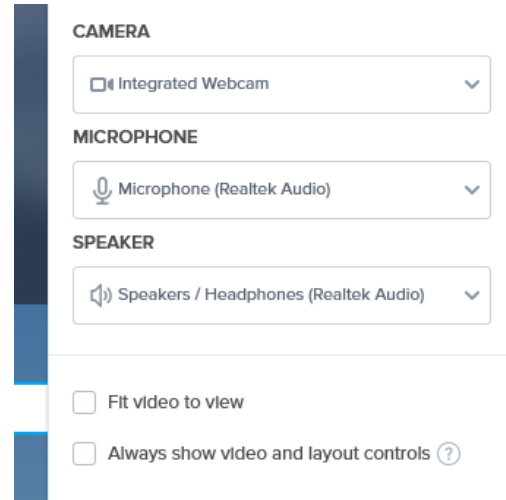
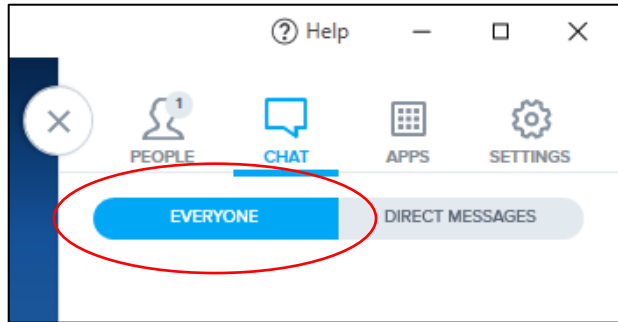
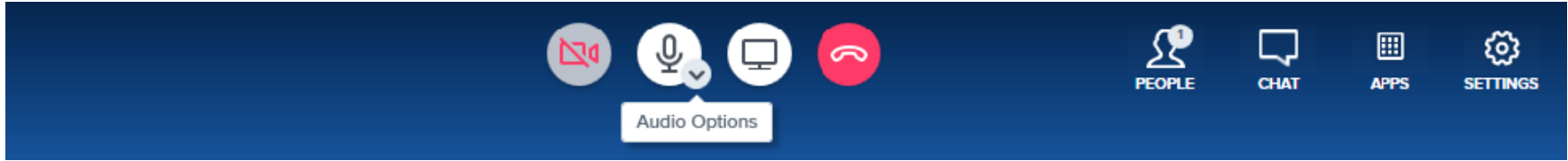
\*\*\* DEPARTMENT  
OF ENERGY &  
ENVIRONMENT  
GOVERNMENT OF THE DISTRICT OF COLUMBIA

WE ARE  
WASHINGTON  
DC GOVERNMENT OF THE  
DISTRICT OF COLUMBIA  
MURIEL BOWSER, MAYOR

# ONLINE MEETING

- The meeting is being recorded and will be posted to our website
- Questions and Comments throughout the meeting:
  - Task Force Members – will stay un-muted but please mute if you are not talking to avoid background noise
  - Non-Task Force Members will be muted on entry - please use the chat box to request to talk
- Attendance
  - Task Force Members - roll call (will also use this for voting)
  - Non-Task Force Member – please use the chat box at this time to register your name, organization and email to “sign in”

# ONLINE MEETING



# ROLE OF TASK FORCE

- Advise DOE on creation of an implementation plan for the Building Energy Performance Program;
  - Recommend amendments to proposed regulations issued by DOE; and
  - Recommend complementary programs or policies.
- 
- If topic needs in-depth discussion, anyone can suggest moving to a committee
  - This is an open meeting - everyone is allowed to participate

# MEETING SCHEDULE

- January 7 – Property Types, Equivalent Metric
- January 21 – Performance Path, Other Pathways
- February 4 – Penalties and Enforcement, Exemption Criteria/Process
- February 18 – Prescriptive Pathway and Penalty Structure
- March 3 – Sub-Committees, Prescriptive Pathway process, Bike Rack items
- March 31 – Vacancy/Occupancy, Equivalent Metric, 5% Property Type Group Issues, Setting Standard above Local Median, Higher Ed/Hospital Carve-out introduction
- April 14 – Standard Target Pathway, Extended ACP for Deep Retrofits , Bike Rack Review for Rule-making Items
- April 28 - Tradable Allowances, Standard Target, Extended ACP for Deep Retrofits, Penalties Matrix
- May 5 – Penalties Matrix (cont.), Bike Rack Review (Historical, Mixed-Use, District Energy, Solar), Portfolios
  
- **May 12 – Draft Rules Outline, any outstanding rules issues**

# AGENDA

- Administrative Items
- Outline of Draft Rules
- Outstanding Rule Issues
- Announcements



# AGENDA

What we are going to do today:

- Share the outline of the rules
- Share the intent of the item
- Collect your feedback

What we are not going to do today:

- Wordsmith language!

# RULEMAKING PROCESS



Stage	Description
Proposed Rules - Preclearance Approval	The Legislative Director requests approval to begin drafting a rulemaking from the Office of Policy and Legislative Affairs (OPLA) and the Deputy Mayor's Economic Development Office (DMPED). No formal memo is required, only a redline of changes to the existing regulations or a draft of new regulations.
Proposed Rules - Drafting	The Program researches and drafts the rulemaking with guidance from the Legislative Director and the Office of the General Counsel (OGC).
Proposed Rules - OGC Review	OGC reviews the rulemaking for legal concurrence and recommends revisions to the rulemaking.
Proposed Rules - OAG Legal Sufficiency Certificate	The Legislative Director requests a Legal Sufficiency Certificate from the Office of the Attorney General, Legal Counsel Division (LCD). The Legislative Director and OGC work to resolve any questions or issues LCD has with the rulemaking.
Proposed Rules - Informal Comment Period	The Department receives and considers comments from stakeholders prior to publication in the D.C. Register and formal notice and comment. Depending on the rulemaking, this step may be omitted.
Proposed Rules - OPLA Certificate	The Legislative Director requests the OPLA Certificate from the Executive Office of the Mayor, which requires approval from DMPED, Office of the City Administrator, the Mayor's General Counsel, the Mayor's Chief of Staff, and the OPLA Director.
Proposed Rules - D.C. Register Publication	The Legislative Director submits the rulemaking to the Office of Documents and Administrative Issuances for publication in the D.C. Register.
Proposed Rules - Formal Comment Period	The Department receives and considers comments from stakeholders.



# RULEMAKING PROCESS



Stage	Description
Final Rules - Drafting	The Program makes any revisions to the rulemaking and summarizes comments and responses in the preamble of the final rulemaking with guidance from the Legislative Director and OGC.
Final Rules - OGC Review	OGC reviews the rulemaking for legal concurrence and recommends revisions to the rulemaking. OGC determines whether revisions qualify as substantive changes that require additional notice and comment or whether the rulemaking may be published as final.
Final Rules - OAG Legal Sufficiency Certificate	The Legislative Director requests the OPLA Certificate from the Executive Office of the Mayor, which requires approval from DMPED, Office of the City Administrator, the Mayor's General Counsel, and the OPLA Director.
Final Rules - D.C. Register Publication	The Legislative Director submits the final rulemaking to the Office of Documents and Administrative Issuances for publication in the D.C. Register.

# BEPS TIMELINE

- BEPS Task Force – meetings started in December
- Draft Rules - OGC Review
- Draft Rules ready for public comment Summer 2020
- A minimum of 1 round of public comment open for 30 days
- Final rules published in late 2020
- BEP Standard announced around December 2020
- First compliance period starts January 1, 2021

# BEPS TASK FORCE REPORT (PART 1)


- Released at the same time as public comment round?
- Broken out by topic, in order of the rules
  - Dates the topic was discussed (with links)
  - Explanation of the issue
  - Analysis conducted and discussion
  - Task Force Recommendation

# RULES OUTLINE

- Applicability
- Efficiency Requirements
- Reporting and Verification Process
- Exemption and Delay of Compliance
- Fines and Penalties for Non-compliance

# APPLICABILITY

- DOEE will establish Building Energy Performance Standards for all property types in the District every 6 years
- Properties that do not meet the standard at the beginning of the compliance period will have 5 years to meet a Building Energy Performance Requirement (aka compliance path)
- This will apply to all properties 50,000 square feet and above starting in 2021
  - Properties 25,000 square feet and above starting in 2027
  - Properties 10,000 square feet and above starting in 2033



**Guidance Document:**  
Actual standards and methods shall be published in supporting reference documentations

**This content was laid out in the law. Schedule reflects the changes from the technical amendment proposed in February.**

# APPLICABILITY (cont.)


- A Property's size will be determined based on EPA's definition of building Gross Floor Area
  - Buildings that share energy meters or functional space must be benchmarked together as the same property
  
- Building owners should use their Primary Property Type from Portfolio Manager to determine which Standard applies to their property

Follows current  
Benchmarking  
Requirements

**Guidance Document:**  
DOEE will account for all  
Task Force  
recommendations  
regarding property type in  
the published Standard  
Reference Document

# EFFICIENCY REQUIREMENTS

- Properties that do not meet the BEPS for their property type shall have 5 years to complete one of the following compliance pathways
  - Performance Pathway
  - Prescriptive Pathway
  - Standard Target Pathway
  - Campus Pathway
  - DOE-Approved Alternative Compliance Pathway



**Guidance Document:**  
DOEE will publish a Reference document of currently approved ACPs (including Single Owner, Portfolio, Deep Energy Retrofits) and criteria DOEE will consider

# REPORTING AND VERIFICATION PROCESS

- Building Owners shall have 1 year to inform DOEE which Building Energy Performance Requirement they aim to meet.
- Buildings that do not report shall be defaulted to the performance pathway.
- If a property that elects to use the prescriptive pathway in compliance cycle 1 fails to show a 20% reduction in site EUI, they will not be able to select the prescriptive pathway for the next compliance cycle.



**Guidance Document:**  
This reporting process will be laid out in a DOEE Reference Document

**DOEE is considering ways to allow case-by-case extensions to this reporting deadline**



# REPORTING AND VERIFICATION PROCESS (cont.)

- Properties following Performance and Standard Target Pathway will demonstrate compliance through their annual Energy Benchmarking Submission.
- Properties following the Prescriptive Pathway will have 4-5 additional Reporting Requirements to demonstrate compliance

## **Guidance Document:**

- Considering have buildings report a compliance plans, design/modeling documentation, approved permits, verification of project completion and commissioning during the compliance period.
- Considering continuous monitoring requirements as part of the Prescriptive Pathway.
- The actual approved measures and additional guidance will be laid out in a DOEE Reference Document

# EXEMPTION AND DELAY OF COMPLIANCE

- Newly-constructed buildings, unoccupied buildings, and buildings scheduled for a demolition can apply for a 1-cycle exemption from BEPS.
- Buildings that meet certain criteria may apply to have the compliance period extended up to 3 years (Affordable Housing for longer than 3 years)
- Reasons for delay are as followings:
  - Financial Distress
  - Change in Ownership
  - Property becomes unoccupied
  - Major Renovation
  - Pending Demolition
  - Pending New Financing for Affordable Housing

**Task Force  
Recommendation**



**Guidance Document:**

DOEE will publish a common application and guidance

**DOEE is considering that all extensions granted may come with additional stipulations for Building Energy Performance Requirements (e.g. higher reduction targets).**

# FINES AND PENALTIES

- Properties that fail to comply with a pathway other than the Performance Pathway/Standard Target Pathway will be put back on the Performance Pathway.
- All fines will be calculated using the Performance/Standard target as the basis of the fine.
- Properties will be assessed a base penalty based on their square footage bin.
- The penalty will be adjusted based on a property's performance relative to its' target.

## Square Footage Bins:

- 200,000+ SF
- 150,000 – 200,000 SF
- 100,000 – 150,000 SF
- 50,000 – 100,000 SF
- 25,000 – 50,000 SF
- 10,000 – 25,000 SF

**DOEE will take suggestions from Task Force on what fine terminology should be used and work with General Counsel to determine what is appropriate within the authority of the law.**

# NEXT TASK FORCE MEETING

**May 26**

- Brainstorming Session about the next phase of the Task Force
  - How would the Task Force like to be involved in developing “complementary programs or policies”?
  - What are the concerns from your representative groups and how do we develop complementary programs to support them?
  - Timing/Duration of meetings?



# ANNOUNCEMENTS