

Compliance through Conditional Compliance

This document can be used to assist building owners in pursuing compliance through conditional compliance.

Note: The Clean Buildings Performance Standard consists of ASHRAE Standard 100-2018 and state amendments to ASHRAE Standard 100-2018, WAC194-50.

Compliance can be achieved by meeting the energy use intensity target (EUI_t) or through the investment criteria. If verification of either of these performance metrics cannot be met by the scheduled compliance date, application for conditional compliance may be pursued to avoid penalty.

Conditional compliance is a temporary compliance method that demonstrates the implementation of energy use reduction strategies required by the standard, but full compliance with the standard has not been verified.

Conditional compliance allows applicants additional time to verify and document compliance with the standard, either through meeting the EUI_t or through the investment criteria.

All energy efficiency measures (EEMs) identified by the energy audit and the energy management plan including the operations and maintenance program shall be in place by the mandatory compliance date to be eligible for conditional compliance. Annual reporting is required until all conditions of compliance have been verified and completion reporting has been submitted and accepted by Commerce.

The following outlines the steps towards receiving conditional compliance:

- 1) **Pursue** compliance with the standard, either through meeting the EUI_t or through the investment criteria. See checklist for meeting the EUI_t or the investment criteria on the Clean Buildings webpage for further details.
- 2) **Perform** an ASHRAE level 2 energy audit if the EUI target is not met, identifying energy efficiency measures (EEMs) that reduce the buildings EUI to meet the EUI_t or are deemed to be cost effective in accordance with the investment criteria of Normative Annex X.

Compliance dates are by building size:

- June 1, 2026 – over 220,000 sf
- June 1, 2027 – 90,001-220,000 sf
- June 1, 2028 – 50,000-90,000 sf

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- 3) **Implement** all EEMs identified in the energy audit that reduce energy use to meet the EUI_t or in accordance with the investment criteria of Normative Annex X.
- 4) **Ensure** all mandatory requirements of the standard have been implemented. This includes the energy management plan and operations and maintenance (O&M) program.

Note: The O&M program must be implemented 12 months prior to the scheduled compliance date.

- 5) **Apply** for conditional compliance no later than 180 days prior to the building's compliance date if measurement and verification of full compliance will not occur prior to compliance date. Application for conditional compliance can be submitted as early as 2023.
 - a) Conditional Compliance applications for buildings that will meet the EUI_t, require the following documentation:
 - Form A – Includes documentation of weather normalized EUI and the calculated EUI_t for the building. It also requires upload of the building energy management plan and O&M program, in addition to Form D for reporting the ASHRAE Level 2 energy audit performed on the building.
 - Form B – Documents the EUI_t calculated for the building.

Note: Both Form A and Form B will be available on the Clean Buildings Portal

- Form C – The State of Washington Clean Buildings Program report uploaded from the Energy Star Portfolio Manager account for the building. The report documents the weather normalized EUI in addition to other building characteristics and data.
- Form D- Energy Audit Report, Form D is the WA Commerce Clean Buildings report within the Audit Template form of the U.S. Department of Energy's, Energy Asset Score Tool. A link to this form will be *available on the Clean Buildings Portal*.

- b) Conditional Compliance applications for buildings that will meet the investment criteria, require the following documentation:
 - Form A – Includes documentation of weather normalized EUI and the calculated EUI_t for the building. It also requires upload of the building energy management plan and O&M program, in addition to Form D for reporting the ASHRAE Level 2 energy audit performed on the building.

Note: Phased implementation of systems or equipment EEMs shall be documented within the Energy Management Plan. Read section on phased implementation below for more details.

- Form B – Documents the EUI_t calculated for the building.

Note: Both Form A and Form B will be available on the Clean Buildings Portal

- Form C – The State of Washington Clean Buildings Program report uploaded from the Energy Star Portfolio Manager account for the building. The report documents the weather normalized EUI in addition to other building characteristics and data.

Note: Form C not required for buildings unable to measure EUI in accordance with section 5.2 Building energy monitoring.

- Form D- Energy Audit Report, Form D is the WA Commerce Clean Buildings report within the Audit Template form of the U.S. Department of Energy's, Energy Asset Score Tool. A link to this form will be available on the Clean Buildings Portal.

Note: Phased implementation of systems or equipment EEMs shall be documented within the Audit Template. Read section on phased implementation below for more details.

- Form F- Normative Annex X, Investment Criteria form provided by Commerce.

Note: Phased implementation schedule for replacement of systems or equipment EEMs shall be documented on Form F. Read section on phased implementation below for more details.

- Form G (if applicable) - Documents a building of historic significance. The standard allows documented buildings of historic significance omit cost effective energy efficiency measures that would adversely affect the historic significance of a registered building. This would likely effect exterior façade measures such as window replacement.

6) **Submit** annual reporting, required until compliance is met. Read section on verification and reporting below for more details.



7) **Submit** completion reporting, required until compliance is met. Read section on reporting below for more details.

Phased Implementation

Buildings pursuing conditional compliance through the investment criteria may include phased implementation of EEMs such that the building owner is not required to replace a system or equipment before the end of the system or equipment's useful life. Phased implementation does not apply when meeting the target EUI.

- System or equipment fitting this description shall be included in Form D Audit Template and Normative Annex X - Investment Criteria submission Form F with a schedule for replacement.
- Phased implementation shall be documented in the energy management plan and capital management plan in accordance with Section 5. Documentation and reporting required for phase implementation are as follows:
 - ASHRAE Level 2 Energy Audit
 - Investment Criteria submission of Annex X with a schedule for replacement
 - Annual reporting is required until the identified measure has been implemented
- Completion reporting and verification of energy savings is required post implementation in accordance with Section 9.2.

Verification and Reporting

- **Verification of compliance for buildings pursuing the EUI through conditional compliance.** Within fifteen months of implementation of all EEMs, the weather normalized EUI shall be recalculated by the energy manager (EM) from twelve consecutive months of measured energy use, and Form A shall be resubmitted to Commerce.

If the building's post implementation measured EUI is less than or equal to the energy target, the building complies with the standard and completion reporting shall be submitted to Commerce per Completion Reporting requirements listed below.

If the building's post implementation measured EUI is greater than the energy target, the building does not comply with the standard and the conditional compliance is suspended until either:

- Additional EEMs have been implemented that reduce the subsequently measured Weather Normalized EUI to below the energy target and a new Form A is submitted to Commerce; or
- Commerce revokes conditional compliance.

Note: If there are no more additional cost effective EEMs identified, conditional compliance is maintained if continued annual reporting and evaluation of EEMs is sustained.

This process shall continue until verification of full compliance is achieved and Completion Reporting is accepted by Commerce.

- **Verification of compliance for buildings without an EUI pursuing the investment criteria through conditional compliance.** Within fifteen months of implementation of the optimized bundle of EEMs, building owners with conditional compliance or the qualified person representing the building owner shall submit verification that measured post implementation energy savings meet or exceed 75% of the energy savings projected in the energy audit reported in the application for conditional compliance.

If the measured post implementation energy savings of the package of EEMs do not meet or exceed 75% of the energy savings projected in the energy audit, the conditional compliance is suspended until either:

- Additional EEMs are implemented that reduce the subsequently measured energy savings of the package of EEMs so that it meets or exceeds 75% of the energy savings projected in the energy audit; or
- Commerce revokes conditional compliance.

Note: If there are no more additional cost effective EEMs identified, conditional compliance is maintained if continued annual reporting and evaluation of EEMs is sustained.

This process shall continue until verification of full compliance is achieved and Completion Reporting is accepted by Commerce.

- **Verification of compliance for buildings that cannot measure EUI pursuing the investment criteria through conditional compliance.** Verification of energy savings shall be performed using the methods of the International Performance Measurement & Verification Protocol, Concepts and Options for Determining Energy and Water Savings Volume I options A through D.

If the measurement and verification protocol identified any outstanding performance issues, they shall be corrected and the verification protocol shall be repeated to assure savings estimated in the original audit are realized.

- **Annual Reporting.** If measurement and verification extends one year or more beyond the compliance date or implementation is extended phased implementation the following up to date forms shall be submitted to Commerce annually:

- Form A – Includes documentation of weather normalized EUI and the calculated EUI_t for the building. It also requires upload of the building energy management plan and O&M program, in addition to Form D for reporting the ASHRAE Level 2 energy audit performed on the building.
- Form B – Documents the EUI_t calculated for the building.
- Form C – The State of Washington Clean Buildings Program report uploaded from the Energy Star Portfolio Manager account for the building. The report documents the weather normalized EUI in addition to other building characteristics and data.

Note: Form C is not required if unable to measure building EUI.

- **Completion reporting.** The following up to date reports shall be submitted to Commerce when all conditions of compliance have been verified and documented:

- Form A – Includes documentation of weather normalized EUI and the calculated EUI_t for the building. It also requires upload of the building energy management plan and O&M program, in addition to Form D for reporting any energy audit performed on the building.
- Form B – Documents the EUI_t calculated for the building.
- Form C – The State of Washington Clean Buildings Program report uploaded from the Energy Star Portfolio Manager account for the building. The report documents the weather normalized EUI in addition to other building characteristics and data.

Note: Form C is not required if the building is unable to measure building EUI in accordance with Section 5.2

Once Commerce has accepted all completion reporting documentation and has verified, full compliance shall be granted and no further action is necessary until the next compliance cycle.

For additional guidance or questions on how to achieve compliance through conditional compliance, please contact buildings@commerce.wa.gov.