

Guidance Document

CBPS 004

Published Date: 9/13/2022

Subject: Compliance through exemption

Intended Audience: Building owner, Authorized Representative and General Public

Purpose

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

Reference

[Clean Buildings Performance Standard – integrated document](#)

Background

Clean Buildings Performance Standard (CBPS) compliance is mandatory for Tier 1 buildings located in Washington state. A Tier 1 building (formerly known as covered commercial building) is a building where the sum of nonresidential, hotel, motel and dormitory floor areas exceeds 50,000 gross square feet, excluding the parking garage area.

As outlined in [Annex Z4.1](#) of the CBPS, applications for an exemption certificate is accepted by Commerce via the [Clean Buildings Portal](#) as early as 365 days and no later than 180 days prior to the compliance date. However, Commerce is working on guidelines allowing applications to be submitted earlier than 365 days prior to the compliance date. [Sign-up](#) to be notified when the guidelines and the application are available.

Guidance

- 1) **Watch** [Clean Buildings 101](#) for an overview of the CBPS.
- 2) **Gain** an understanding of the CBPS. To understand the full scope of the rules refer to both:
 - [ASHRAE Standard 100-2018](#) Energy Efficiency in Existing Buildings.
 - [WAC 194-50](#) (WA amendments to Standard 100).

Or click on the link to access the [Clean Buildings Performance Standard – Integrated Document](#).

Compliance Dates

June 1, 2026
More than 220,000 sq. ft.

June 1, 2027
More 90,000 sq. ft. but less than
220,001 sq. ft.

June 1, 2028
More 50,000 sq. ft. but less than
90,001 sq. ft.

3) **Determine** if the building is exempt. [See Annex Z4.1.](#)

A Tier 1 building is not eligible for exemption from the CBPS unless it meets one of the following criteria:

- The building did not have a certificate of occupancy or temporary certificate of occupancy for a consecutive twelve-month period within two years prior to the compliance date.
- The building did not have physical occupancy by owner or tenant for at least 50% of the conditioned floor area throughout the consecutive twelve-month period prior to the building compliance date.
- The sum of the building's conditioned space in gross floor area minus unconditioned and semi-heated spaces, as defined in the Washington State Energy Code, is less than 50,000 square feet.
- More than 50% of the gross floor area of the building is primarily used for manufacturing or other industrial purposes, as defined under the following use designations of the Washington state edition of the International Building Code:
 - Factory group F
 - High hazard group H
- The building is an agricultural structure.
- The building is pending demolition.
- The building meets at least one of the following conditions of financial hardship:
 - The building had arrears of property taxes or water or wastewater charges that resulted in the building's inclusion, within the prior two years, on a city's or county's annual tax lien sale list.
 - The building has a court appointed receiver in control of the asset due to financial distress.
 - The building is owned by a financial institution through default by a borrower.
 - The building has been acquired by a deed in lieu of foreclosure within the previous twenty-four months.
 - The building has a senior mortgage subject to a notice of default.
 - The building owner has an immediate and heavy financial need which cannot be satisfied from other reasonable available resources and which are caused by events that are beyond their control.

4) **Submit** an application for an exemption certificate through the Clean Buildings Portal no later than 180 days prior to the compliance date.

- Provide at least two of the acceptable documents listed below:
 - a. Municipal or county records
 - b. Documents from a qualified person
 - c. Construction permit
 - d. Certificate of occupancy or application for certificate of occupancy
 - e. Demolition permit
 - f. Financial statements such as statement of assets; liabilities, capital, and surplus, statement of revenue and expenses; or statement of cash flow
 - g. A letter from the building owner stating facts and explaining financial hardships

- h. Other documentation approved by the AHJ
- 5) After documents have been submitted and reviewed, Commerce will send notification of approval or denial.
- If the exemption is approved, Commerce shall notify the applicant and update the records for the building.
 - If the exemption is denied, Commerce shall notify the applicant and update the records for the building.
- 6) When an application for exemption is denied the building owner must demonstrate compliance in accordance with the Washington state reporting requirements Annex Z4.

Or the building owner may request an administrative hearing after the denial of their application for an exemption by submitting a request within 30 days of the date the denial of a timely application for exemption.

- All requests must be made in writing and filed addressed to the Department of Commerce.
- Requests for a hearing must be accompanied by the following:
 - Washington State Building ID
 - Annex Z Forms A, B, and C

Note: Applications for exemption filed less than 180 days prior to the compliance date are subject to fines in accordance with [Annex Z5](#). Additionally, requests for an administrative hearing of denied exemption applications will be denied for any application received less than 180 days prior to the compliance date.

For additional guidance or questions on how to achieve compliance through exemptions, complete the [Customer Support Form](#).