

Compliance through Investment Criteria Q&A Session – November 8, 2022

1. Who monitors compliance?

- Department of Commerce monitors compliance. They are also referred to as authority having jurisdiction (AHJ).

2. Who does inspections?

- Commerce reviews compliance documentation, however there is not specific protocol on inspections yet.

3. What are the fees if any?

- There are no fees for submittal of compliance documentation.

4. How does the Clean Buildings legislation reconcile the funding question with regards to RCW 43.135.060?

- RCW 43.135.060: Prohibition of new or extended programs without full reimbursement—Transfer of programs—Determination of costs. After July 1, 1995, the legislature shall not impose responsibility for new programs or increased levels of service under existing programs on any political subdivision of the state unless the subdivision is fully reimbursed by the state for the costs of the new programs or increases in service levels.
- The Clean Buildings law does not require a local government, state agency, school district, etc. to offer a new program. It requires that the owner of a building, comply with laws affecting the performance of all similar buildings.

5. What are the fines if out of compliance?

- Penalties vary depending on the number of days out of compliance. The maximum fine is \$1.50 per square foot plus a \$5,000 base fee.
- For additional information, review the Clean Buildings Performance Standard, section Z5 which covers violations, assessment of administrative penalties, mitigation and review of penalty decisions.

6. How does this affect private school?

- The standard applies to all public and private Tier 1 buildings.

7. Are there non-profit exceptions?

- There are no specific exemptions for non-profits. A detailed list of exemptions can be found on our website.

8. What metrics are used to define clean?

- Compliance with the standard is based on energy performance of the building. Energy Use Intensity (EUI) relative to the Energy Use Intensity Target (EUI_t) or the investment criteria pathway are the building performance metrics. The standard also requires implementation of an energy management plan and an operations and maintenance program in accordance with the standard.

9. Are there grants for improvements?

- We offer an [incentive program for early adopters](#) pursuing compliance through meeting the EUI_t. Utilities also have incentives, rebates and accelerator programs as well. On our website under [support and resources](#), there is a list under financing for other programs and grants available.
- DSIRE is also a great resource for energy efficient incentives. [DSIRE \(dsireusa.org\)](https://www.dsireusa.org)

10. Could you talk about conditional compliance with investment criteria? Also talk about any additional requirements.

- This was discussed during the presentation but to elaborate, phased implementation is a condition of Conditional Compliance. In order to pursue phased implementation, you must be granted approval of conditional compliance by commerce. All cost effective measures not part of phased implementation, must be implemented. Conditional compliance can last until the final phased implementation measures are complete or conditions are not met and penalties are assessed. Annual reporting required.

11. I am setting up my Energy Star Portfolio Manager for my hotel. Question: How many years back do I need to enter the data for? Is there an easier way to enter the past data besides manually entering all the numbers?

- Weather normalized EUI shall be derived from 12 consecutive months of energy data from within 2 years of the compliance date. Many utilities will automatically upload energy data to Portfolio Manager. Utilities serving under 25,000 customer can opt out of auto import but must provide energy data to the customer in Excel format which can be uploaded to Portfolio Manager by the building owner or representative. All metered energy must be input into Portfolio Manager, either by owner or participating utility. Twelve consecutive months of data must be input, derived from the last two years prior to the compliance date. There are more resources on our website that help users connect with their utility.
- RCW 19.27a.170, Benchmarking: This section requires utilities to provide energy consumption data to building owners upon request. Large utilities (greater than 25,000 customers) are required to provide this data using Energy Star Portfolio Managers automated upload protocol. Smaller utilities are to provide the data to building owners in an excel document, meeting Energy Star Portfolio Manager specifications.

12. Do data centers have a target?

- There is no EUI for Data Centers. If the building does not qualify for any exemptions to Section 7.2.3, the whole building would need to comply through the investment criteria.

13. For buildings sharing one utility meter but has individual internal meters, is the EUI path still possible?

- If the building is sub-metered independent of other buildings and it can create an EUI in accordance with Section 5.2 of the standard then it can pursue compliance through the EUI performance metric.

14. Who is qualified to conduct a level II energy audit?

- A person acting as the auditor of record having training, expertise and three years professional experience in building energy auditing and any one of the following:
 - A licensed professional architect or engineer
 - An energy auditor/assessor/analyst certified by ASHRAE or the Association of Energy Engineers (AEE) for all building types.

15. It is my understanding that all datacenters need to demonstrate compliance through the investment criteria. Is this correct?

- If the datacenter comprises 50% or more of the building, the building must pursue investment criteria. If the data centers is 10%- 50% of the building and independently metered, the remaining portion of the building can pursue meeting the EUI and the data center portion can pursue Investment criteria. If the data center is less than 10% of the buildings gross floor area and separately metered it may be deducted from the building.
- Also see question 12.

16. Where can we learn about the requirements for Tier II legislation?

- Tier 2 rulemaking will begin early in 2023 and must be completed by the end of 2023.
- Review the [Tier 2 Fact Sheet](#) for additional information.

17. So the yearly reporting is only for that conditional compliance case?

- Yes. General compliance is only required once per cycle.

18. Is the early adopter incentive only available for those businesses seeking compliance through EUI? Investment criteria compliance can't apply for early adopter incentives?

- Yes, the early adopter incentives are available to those seeking compliance through meeting the EUI. If the building is not or cannot pursue meeting the EUI, it is ineligible for the incentives.

19. How is 'Measure Life' defined that is used in the simple payback calculation?

- Measure life is not defined within the standard and is identified by the Qualified Person or Qualified Energy Auditor. ASHRAE has a table of suggested normal life expectancy of equipment and systems.

20. Does BEAP from ASHRAE qualify as an energy auditor?

- Yes.

21. Is there fines for conditional compliance?

- No, if conditional compliance is approved prior to the compliance date. A mitigation plan can be developed with Commerce if unable to meet conditional or full compliance by the compliance date. This will allow fines to only be accrued until measures are implemented.

22. Are any applicable fines computed once per year, or once per cycle?

- Once per cycle.