BUILDING PERFORMANCE STANDARDS

Multifamily Affordable Housing Sector Impacts

As state and local governments turn to building performance standards (BPS) to improve the quality and performance of their existing building stock, property owners will need clear guidance on policy targets and requirements. This is especially true of multifamily affordable housing providers with portfolios that may span multiple jurisdictions with different standards.

In this report, we dive deeper into BPS policies, their requirements, and what that means for the multifamily affordable housing sector. This report provides expanded details and recommendations that build on the Building Performance Standards and Affordable Housing Compliance Fact Sheet. We also provide recommendations for affordable housing providers and state and local policymakers. More detailed information can be found in the appendix tables.

To note, this resource is designed to help affordable housing organizations and other multifamily owners gain a high-level understanding of current BPS policies; however, performance standards and other requirements may change in the future based on new or updated rulemaking or legislation. SAHF encourages affordable housing providers and other stakeholders to consult their jurisdiction and the relevant BPS legislation and regulations to learn more about compliance requirements.

Stewards of Affordable Housing for the Future (SAHF) is a national collaborative of thirteen nonprofit affordable housing developers that collectively own and operate more than 149,000 affordable homes across the country. Our mission is to advance the creation and preservation of healthy, resilient, affordable rental homes that foster equity, opportunity, and wellness for people of limited economic resources.

Want to Learn More About Building Performance Standards? Check Out These Resources:

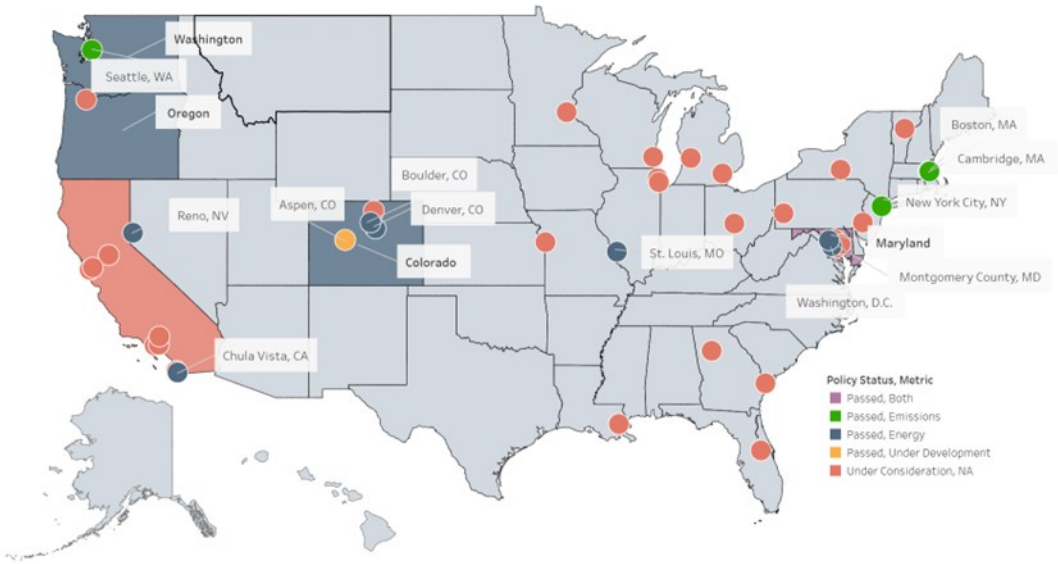
- Mandatory Building Performance Standards: A Key Policy for Achieving Climate Goals by Nadel and Hinge
- Building Performance Standards by the Institute for Market Transformation
- Building Performance Standards by the U.S. Department of Energy Building Energy Codes Program

POAH, The Jackson at Woodlawn Park

Introduction

The residential and commercial buildings sector uses 20.6% of total energy and contributes 31% of total greenhouse gas (GHG) emissions in the United States.[1,2] As such, state and local governments are prioritizing improvements and upgrades in this sector to reduce energy use and GHG emissions, lower utility bills for owners and tenants, and improve air quality. On strategy state and local governments are increasingly adopting are building performance standards to support these goals.

Building performance standards (BPS) are outcome-based policies that seek to improve the energy use and/or greenhouse gas emissions intensity of existing commercial and multifamily buildings. BPS require property owners to invest in energy efficiency and clean energy upgrades in their buildings to comply with the standards. As of March 2025, 14 cities and 4 states have adopted BPS policies, with many more considering the policy[3]:



Source: U.S. Department of Energy

Stewards of Affordable Housing for the Future (SAHF) conducted a landscape review of 15 state and local BPS to develop this report. This report is primary for those working in or supporting the multifamily sector, including but not limited to affordable and market-rate housing providers and their on-site staff. This report aims to equip this audience with the knowledge and tools to understand and comply with current and proposed BPS policies. We analyzed BPS for information on who is required to comply with BPS, the metrics that BPS use to drive outcomes, data requirements, physical requirements, and fines and penalties. A summary of BPS policy details and requirements can be found in the table below.

—

1 U.S. Energy Information Administration. (2024, July 15). "U.S. Energy Facts Explained". https://www.eia.gov/energyexplained/us-energy-facts/.

2 U.S. Environmental Protection Agency. (2025, January 15). "Inventory of U.S. Greenhouse Gas Emissions Inventories and Sinks". https://www.epa.gov/ghgemissions/inventory-us-greenhouse-gas-emissions-and-sinks

3 U.S. Department of Energy. (2024, July 17). "Building Performance Standards". https://public.tableau.com/app/profile/doebecp/viz/BuildingPerformanceStandards/BuildingPerformanceStandards

Jurisdiction	Multifamily Building Size	Performance Metric	Final Target	Interim Compliance Target Years	Bench-marking Required	Energy Data Verification	Penalty Calculation Method
Boston, MA	20,000 square feet and greater or 15 units and greater	GHG emissions intensity	0 kgCO2e/sq. ft./ year by 2050	2025, 2030, 2035, 2040, 2045	X	Third-party data verification	Time-based
Boulder, CO	20,000 sq. ft. (existing) and 10,000 sq. ft. (new build)	Energy use intensity	Prescriptive or performance pathway	N/A	X	Third-party data verification	Time-based
Cambridge, MA	50 units or greater	GHG emissions intensity	To be determined	To be determined	X	Third-party data verification	Time-based
Chula Vista, CA	20,000 sq. ft. and greater	Energy use intensity	ENERGY STAR© Score increase or site EUI reduction every five years or multifamily prescriptive pathway	N/A	X	Third-party data verification	Time-based
State of Colorado	50,000 sq. ft. and greater	Energy use intensity or GHG emissions intensity	42.1 EUI or 1.9 GHG emissions intensity by 2030	2026	X	ENERGY STAR©	Time-based
Denver, CO	5,000 sq. ft. and greater	Energy use intensity	44.2 kBtu per square foot per year by 2030	2027	X*	Third-party data verification	Excess energy
State of Maryland	35,000 sq. ft. and greater	GHG emissions intensity and energy use intensity	0 kgCO2e per square foot per year and 29 kBtu per square foot by 2040	2030, 2035	X	Third-party data verification	Excess GHG emissions
Montgomery County, MD	25,000 sq. ft. and greater	Energy use intensity	37 kBtu per square foot by 2035-2036; specific year depends on building type	Property dependent: halfway between baseline and final standard by 2030-2031; specific year depends on building type	X	Third-party data verification	Time-based
New York, NY	25,000 sq. ft. and greater	GHG emissions intensity	0 kgCO2e/sq. ft./ year by 2050	2030, 2035, 2040, 2045	X	Third-party data verification	Excess GHG emissions
State of Oregon	35,000 sq. ft. and greater	Energy use intensity	To be determined by regulations	To be determined by regulations	X	To be determined by regulations	Time-based
Reno, NV	30,000 sq. ft. and greater	Energy use intensity	N/A	One of four energy targets must be met on a seven-year cycle	X	ENERGY STAR©	Time-based
Seattle, WA	20,000 sq. ft. and greater	GHG emissions intensity	0 kgCO2e/sq. ft./ year by 2046-2050	Interim targets every 5 years; specific year depends on building type	X	Third-party data verification	Square footage
St. Louis, MO	50,000 sq. ft. and greater	Energy use intensity	New standards developed between each compliance cycle	42.5 kBtu per square foot by 2027	X	Third-party data verification	Time-based
State of Washington	20,000 sq. ft. and greater	Energy use intensity	Standards to be determined; physical requirements to be met by 2027	To be determined	X	In-house or third-party data verification by qualified person	Square footage
Washington, DC	10,000 sq. ft. and greater	Energy use intensity	To be determined by regulation every six years	ENERGY STAR© Score of 66 or, if ineligible for ENERGY STAR score, 110.7 kBtu per square foot by 2026	X	Third-party data verification	Square footage

Note: Aspen, CO and Evanston, IL have both adopted BPS, but both cities have yet to determine the performance standards and other requirements. Newton, MA has also adopted BPS that excludes residential buildings, but the city has published a compliance schedule for residential buildings in anticipation of requiring these buildings to comply by amendment at a later date. Due to these considerations, we have excluded these cities from this report. *Denver requires benchmarking for buildings 25,000 square feet and greater but has performance standards for buildings 5,000 square feet and greater.

In addition to interim and final performance standards, several commonalties underpin state and local BPS policies, including

- **Benchmarking requirements**. All jurisdictions covered by this analysis require properties subject to BPS to also benchmark and submit energy data in ENERGY STAR© Portfolio Manager.

- **Data verification requirements**. Most BPS policies also require property owners to contract with a third-party to verify energy data. These third-party data verifiers are typically Registered Architects, Professional Engineers, Certified Energy Managers, or other credentialed professionals.

- **Compliance and Enforcement**. BPS enforcement levies fines against property owners for noncompliance, and these fines can be calculated based on violations, square footage of the property, or excess GHG or energy depending on the jurisdiction.

While BPS compliance can seem daunting at first, especially for cash-strapped affordable housing providers, meeting performance standards can result in lower utility bills for owners and residents and healthier buildings, preserving affordability in the long-term.

To meet performance standards, we recommend affordable housing providers follow these steps:

1. **Connect with the local or state jurisdiction that is implementing the BPS**. Often, they are actively seeking information from low-income communities, like affordable housing organizations.

2. **Secure, as necessary, tenant authorizations to disclose resident-paid utility data, to allow for collection of accurate whole-building energy data.** This supports property prioritization as well as compliance with benchmarking requirements.

3. **Conduct a portfolio analysis of properties** subject to BPS to better understand overall impact and to prioritize properties for next steps.

4. For prioritized properties, **conduct an energy audit, and apply for financial and technical assistance to support upgrades**.

State and local governments also have a key role in assisting affordable housing comply with BPS. Jurisdictions can increase their financial and technical assistance offerings to affordable housing to better achieve both their climate and housing affordability goals.

Understanding Which Buildings are Covered by Building Performance Standards

Building performance standards require commercial and/or multifamily buildings at and above specified size thresholds (measured in square footage or number of units) to comply with their targets. We found in our review that jurisdictions typically include the following criteria to define multifamily or residential buildings in their BPS legislation:

The building has at least 5 dwelling units

At least 50% of the building's square footage is used for

Jurisdictions use these criteria to define residential buildings, but not all buildings that meet these criteria will need to comply with BPS.

BPS often require buildings to comply in tranches, so larger buildings comply first while smaller buildings have later compliance deadlines. Based on our analysis of BPS legislation, the median building required to comply is 25,000 square feet in size. Some jurisdictions subject buildings as small as 5,000 square feet to their performance standards.

Building performance standards legislation may provide specific definitions for what qualifies as affordable housing. Whether a property meets a BPS' definition of affordable housing may have implications for the property's compliance such as access to alternative pathways, incentive and technical assistance qualification, and compliance schedules.

Our review found that state and local governments commonly (but not always) use the following criteria to define affordable housing within the context of BPS compliance:

- At least 50% of units are income-restricted, and/or
- Most households within the building have incomes less than or equal to 80% of the area median income, either via covenant, use restrictions, or the naturally occurring market rent.

Some jurisdictions may include specific references in their BPS legislation to federal housing programs to qualify projects as affordable housing. For example, New York City's BPS considers buildings that have at least one unit participating in project-based federal housing programs as affordable housing. Maryland considers projects that were financed with Low-Income Housing Tax Credits as affordable housing.

Appendix Table 1 lists BPS compliance requirements by building size for each jurisdiction and definitions for multifamily and affordable housing buildings.

Understanding Building Performance Standard Metrics

State and local governments set targets for BPS using either site energy-use intensity (EUI) and/or greenhouse gas (GHG) emissions intensity. Energy use or greenhouse gas intensity refers to a building's energy use or greenhouse gas emissions per square foot. Some jurisdictions use ENERGY STAR© scores to measure building energy performance. All BPS encourage property owners to invest in energy efficiency and decarbonization measures, but the type of metric the standard is based on can emphasize these investments to different degrees.[4]

—

4 Nadel, S. & Hinge, A. (2023, May 18). *Mandatory Building Performance Standards: A Key Policy for Achieving Climate Goals*. American Council for an Energy-Efficient Economy. https://www.aceee.org/research-report/b2303

EUI Standard 10 Jurisdictions	GHG Intensity Standard 4 Jurisdictions	Combined EUI and GHGI Standard 1 Jurisdiction
Encourages property investment in high-efficiency energy measures	Encourages property investment in decarbonization measures such as electrification, renewables, and offsets such as Renewable Energy Certificates	Encourages property owners to invest in both energy efficiency and decarbonization

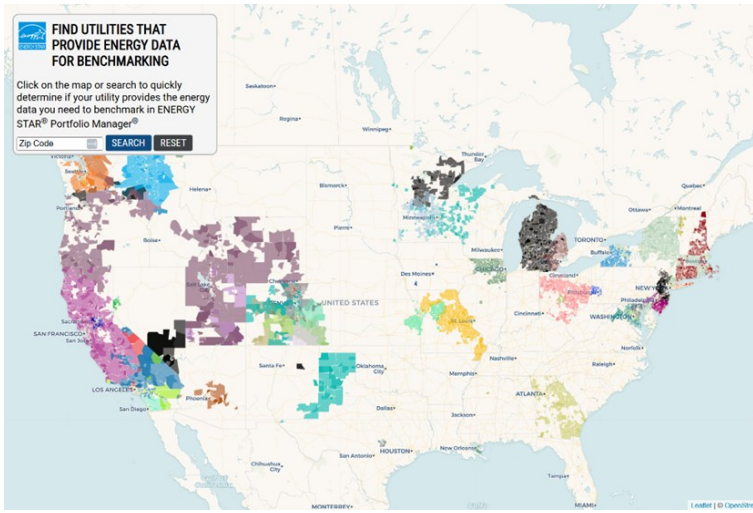
Understanding the metric your building is subject to can help you determine which clean energy upgrades to prioritize. For example, if your building is subject to a GHG emissions intensity standard, prioritizing rooftop solar investments instead of high-efficiency natural gas furnaces may better help your building comply and avoid penalties.

Building Performance Standards Data Requirements

Benchmarking building energy use can provide property owners with quality data over a period of time, giving owners key information on how their building is performing. Our analysis revealed the following regarding benchmarking and BPS:

- All states and local jurisdictions in our analysis either **include benchmarking as a requirement of their BPS and/or have adopted benchmarking as a standalone policy.**
- All but one of the state and local jurisdictions align their building size thresholds for BPS with the size thresholds of benchmarking, so **if your building is required to comply with BPS it is also required to benchmark.** Denver, the exception, requires benchmarking for multifamily buildings over 25,000 square feet but prescriptive requirements for buildings as small as 5,000 square feet starting in 2027.
- Property owners **must use ENERGY STAR© Portfolio Manager** to benchmark buildings.
- Property owners **must benchmark whole-building data**, including all common space and tenant-paid meters.

If property owners are not currently benchmarking or working with a third-party benchmarking service, they will likely need to contact their local energy utilities to obtain the energy data needed for BPS compliance. Notably, most BPS require utilities to provide property owners with energy data upon request. ENERGY STAR©'S interactive map, shown right, can inform you if your electricity and/or gas utilities can provide whole-building data to customers. Owners may need tenant authorization to access utility energy data if the property has too few utility customers to access data without violating utility privacy regulations.



If a property owner is unable to retrieve whole-building data from the utility, some BPS may outline steps and procedures for owners to follow to obtain this data. This may include securing utility information from tenants, which requires their consent.

Data Verification Requirements

Quality data is crucial for both BPS' efficacy as a policy and for affordable housing providers to ensure their buildings are compliant with the policy. As such, states and local governments include data verification requirements in BPS ordinances. Our analysis of BPS ordinances found that jurisdictions require one of three pathways for data verification:

1. **Eleven jurisdictions require property owners and managers to use third-party data verification to certify the accuracy of a building's data.** Property owners are responsible for hiring credentialed third-party contractors. Relevant credentials as specified in the BPS legislation or regulations. Two jurisdictions, the State of Colorado and the City of Reno require property owners and managers to use ENERGY STAR© Portfolio Manager's automated data checking tool. This pathway is free and convenient to the property owner but may result in lower quality data.
2. The State of Washington requires data verification by a qualified person (as defined by the state's regulations), and this person can be either in-house or third-party.

Third-party data verification is a more rigorous pathway that provides both the jurisdiction and property owner with higher quality data, allowing property owners to leverage these findings to make better informed decisions about the types of investments to make. Jurisdictions typically require third-party verification on a set schedule of every 3 to 5 years, depending on the specific state or locality. Additionally, jurisdictions require third-party verifiers to be credentialed professionals. The table below includes the most common credentials that jurisdictions require of third-party data verifiers.

Credential	Credentialing Organization	Professional Directory
Building Energy Assessment Professional	American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE)	ASHRAE Certified Professional
Certified Energy Auditor	Association of Energy Engineers	Certified Professional Directory
Certified Energy Manager	Association of Energy Engineers	Certified Professional Directory
Registered Architect	National Council of Architectural Registration Board, State Licensing Boards	NCARB-Certified Architects
Professional Engineer	State licensing boards	State licensing boards

If your property is required to use a third-party for data verification, you may be able to find credentialed professionals in databases or directories located on the credentialing organization's website. For example, the Association of Energy Engineers offers a Certified Professional Directory where users can find credentialed

professionals in their state. Some jurisdictions accept credentials beyond those listed above, so check the relevant BPS legislation and regulations for more information. Lastly, jurisdictions may specify additional requirements for third-party data verifiers. For example, the City of Seattle and the State of Washington require that data verifiers have at least three years of expertise in building energy analysis.

SAHF Member Highlight

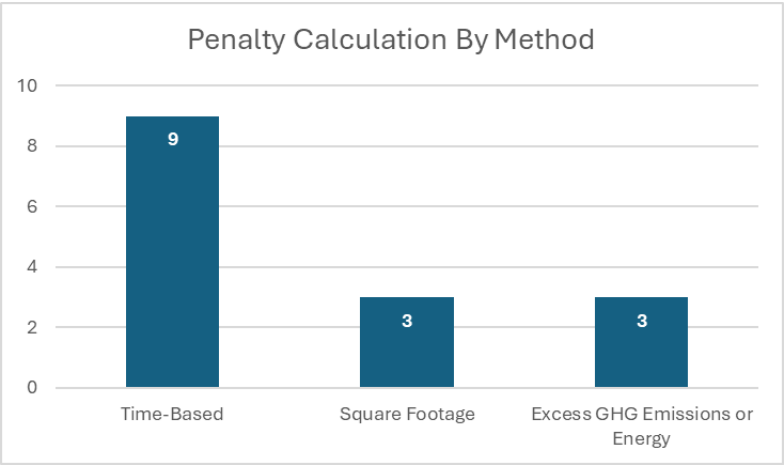
See Mercy Housing's River Station case study to learn more on how energy audits can empower property staff to find opportunities for energy savings.

Audit, Retrocommissioning, and Operations & Maintenance Requirements

Some states and local governments may also require property owners to complete specific energy efficiency measures. These measures include LED lighting upgrades, energy audits, routine retrocommissioning, and developing operations and maintenance or energy management plans. Jurisdictions can require all buildings subject to BPS to complete some of these measures or require them for buildings seeking alternative compliance plans or pathways. See Appendix Table 3 for more on which jurisdictions require these additional energy efficiency measures.

Penalties, Alternative Compliance Pathways, and Exemptions

State and local governments use several approaches to calculate penalties for noncompliance. Based on SAHF's analysis, the most common approach jurisdictions take is to issue time-based fines that are assessed daily or monthly until the property complies with the policy. Three state and local governments use the building square footage multiplied by a penalty per square foot as specified in the BPS ordinance or regulations. Three other state and local governments calculate the penalty based on excess GHG emissions or energy use relative to the BPS target.



Note: Chula Vista, included in the count of time-based penalties, assesses penalties on a per-incident basis, but it is unclear how often incidents are assessed.

In the table below, we provide examples of how to calculate penalty for properties in noncompliance with BPS for each of these approaches.

Jurisdiction	Calculation Method	BPS Penalty	Assessment Period	Penalty Calculation	Penalty	Lifetime Penalty
Colorado	Time-based	$2,000 for the first violation and $5,000 for each subsequent violation	Monthly	**First Violation:** $2,000 **Noncompliant Period:** 6 months **Penalty Calculation:** $2,000 + 6 x $5,000	$32,000	$302,000
Seattle	Square footage	$2.50 per square foot for low-income multifamily buildings	Per compliance period	**Building Square Footage**: 48,000** **Penalty**: $2.50 per square foot **Penalty Calculation**: 48,000 square feet x $2.50	$120,000	$480,000
Maryland	Excess GHG Emissions	$230 for each excess metric ton of carbon dioxide emitted, increasing $4 per ton per year and adjusted for inflation	Annual	**BPS Target**: 0.82 kgCO2e per square foot **Building Performance**: 4.32 kgCO2e per square foot **Excess CO2 Emissions**: 3.5 kgCO2e per square foot **Building Square Footage**: 48,000 square feet **Total Excess CO2 Emissions**: 168,000 kgCO2e or 168 MTCO2e **Penalty Calculation**: 168 MTCO2e x $230	$38,640	$498,014

* To calculate the penalty over the lifetime of the policy, we calculated the fines until the final compliance year, after which compliance penalties may change. **Building square footage is the average size of a SAHF member property.

See Appendix Table 4 provides additional information on each jurisdiction's noncompliance penalties.

State and local governments may provide alternative penalties or pathways to BPS compliance for affordable housing in consideration of the unique challenges these properties experience. Boston, Denver, Montgomery County, New York City, Washington, DC, and other jurisdictions offer alternative compliance pathways for affordable housing if the property is experiencing financial or technical challenges (or other defined circumstances) that may result in the property failing to achieve the performance standard. These pathways may include prescriptive measures, extended compliance deadlines, and customized compliance plans approved by the jurisdiction.

Lastly, state and local governments usually exempt buildings with a demolition permit, without a certificate of occupancy or experiencing unoccupancy, and experiencing financial hardship or distress from complying with BPS standards and requirements. In the context of BPS, financial hardship or distress refers to defined property conditions, including, but not limited to, the property being subject to the jurisdiction's tax lien sale, is controlled by a court appointed receiver, or the property was acquired by deed in lieu of a foreclosure.

Recommendations to Support Compliance

Recommendations for Affordable Housing Providers

Analyze your portfolio to know the properties that will need to comply with state and local BPS laws. The first step to complying with BPS is understanding which buildings are covered. Affordable housing providers can review their portfolios for properties in the relevant jurisdictions and account for the properties that are within the policy's size threshold for compliance. Be sure to consult the relevant BPS law and regulations for any exclusions when calculating building size (e.g., parking lots). If you are experiencing challenges identifying if a building must comply with BPS, most jurisdictions offer a help desk or program office that property owners and managers can contact for assistance.

Review BPS laws and regulations to understand targets, deadlines, additional requirements, penalties, and considerations for affordable housing. When seeking to understand BPS requirements, there is no better resource than the BPS laws and regulations themselves. Carefully reviewing the text can provide you with a holistic understanding of what is required of your property.

Secure tenant authorizations for energy data disclosures when executing new leases and renewals. Leveraging the lease process to obtain tenant authorizations for energy data disclosure can prove more efficient than obtaining these authorizations at a later point in time, helping your property to avoid potential delays in submitting energy data and any related fines.

Communicate requirements at the property level. Property management, staff and residents can all benefit from understanding BPS requirements. Property management and staff can educate residents on how the property aims to comply with BPS as well as communicating residents' responsibilities to ensure compliance, such as providing access to utility data and in-unit energy systems (if applicable). Property management and staff can also collaborate with residents to identify energy efficiency and decarbonization upgrades that both result in BPS compliance and address resident concerns about the property.

Benchmark property energy use to understand how properties currently measure up against targets. Benchmarking can provide you with essential information on your buildings' energy use and identify properties with high energy usage that may present opportunities for energy efficiency action. In addition to being best practice, benchmarking will also help you comply with state and local requirements to benchmark and help you avoid penalties for failing to benchmark and report data. Additionally, benchmarking can help your property qualify for incentive programs that require it. If you discover that your property is not in compliance or may have difficulty complying with the BPS, it is important to reach out to your jurisdiction as soon as possible. Jurisdictions are actively working to ensure continued affordability and thus may provide tailored resources available for affordable housing.

Conduct an energy audit to determine the types of energy investments that can help your property comply, especially if your jurisdiction offers free or greatly reduced audits. Energy audits are useful tools to help you where your building's energy equipment can improve and which investments to prioritize. If your property is required to comply with a GHG emissions intensity standard, consider an emissions reduction audit to determine how best to chart the property's path to compliance.

Check out these resources and databases to find state and local incentives for energy efficiency and renewable energy:

- State and Local Policy Database by ACEEE
- Database of State Incentives for Renewables and Efficiency by NC Clean Energy Technology Center
- Green Funding and Resources for New York State Affordable Multifamily Housing by Enterprise Green Communities
- Affordable Housing Retrofit Accelerator by DC Sustainable Energy Utility

Take advantage of state, utility, and local financial and technical assistance. Affordable housing providers operate on tighter budgets, making the financing of clean energy improvements more challenging. Some jurisdictions have established programs specifically to assist affordable housing providers comply with BPS. New York City established the GreenHOUSE Fund to help rent-regulated buildings comply. Washington, DC set up the Affordable Housing Retrofit Accelerator to provide both financial and technical assistance to affordable housing.

Affordable housing providers can also leverage state and local technical assistance offerings. In our review, all state and local governments with BPS offered technical resource documents, help desks, office hours, or workshops to assist property owners and managers with compliance.

Recommendations for Policymakers for Equitable BPS Development and Implementation

State and local government support for the affordable housing sector can help the jurisdiction achieve its policy goals without unfair burdens on affordable housing communities. As such, we recommend the following for policymakers:

Review existing resources on how to develop and implement building performance standards equitably. A growing body of literature is available for policymakers on how to develop and implement building performance standards such that property owners and residents can both benefit from the policy. Reviewing the following resources and putting their recommendations into practice may set your jurisdiction up for success:

- Nobody Left Behind: Preliminary Review of Strategies to Support Affordable Housing Compliance with Building Performance Standards by Jarrah, Garfunkel, and Ribeiro
- Mandating Building Efficiency while Preserving Affordable Housing: Opportunities and Challenges by Nedwick and Ross
- Lessons from the Ground: Implementing Building Performance Standards by Duer-Balkind, Boyce, Ravulapati, Sharrow, and Jaye

Program Highlight: Washington, DC Affordable Housing Retrofit Accelerator

Washington, DC established the Affordable Housing Retrofit Accelerator specifically to assist affordable housing providers comply with BPS. To qualify for the program, buildings must meet the income guidelines, maximum rent levels, and definition of affordable housing indicated on the website. The program offers qualified property owners and managers the opportunity to understand building requirements under the District's BPS, identifies opportunities to save energy in the property, access additional financial resources and incentives, and establish a pathway to compliance.

Provide dedicated support for building benchmarking. Property owners and managers can benefit from no-cost technical assistance to access energy data from utilities, such as help desks and walkthroughs of how to navigate ENERGY STAR Portfolio Manager. Additionally, policymakers can provide clear guidance on securing tenant authorizations for data disclosures if necessary and how to upload the data to Portfolio Manager.

Increase funding and technical assistance for compliance support. Affordable housing providers have tight budgets with which to invest in their buildings and comply with BPS. As a result, access to no-cost technical assistance, such as energy audits, and financial incentives for upgrades is essential for the sector to comply. Several jurisdictions, such as Boston, Washington, DC and New York City, have established dedicated funding sources to assist the affordable housing sector comply. However, in some cases, these dedicate funding sources are insufficient to address affordable housing needs.

Consider alternatives to fines and penalties for noncompliant buildings that demonstrate progress towards the standard. Affordable housing providers that make a good faith effort to comply with the performance standards but fall short may face penalties for noncompliance. The cost of both the investment and the penalties may threaten the property's ability to preserve affordability. State and local governments can provide alternative pathways to compliance for properties that demonstrate some progress towards their goals. For example, Boston allows property owners to apply for hardship compliance plans that set alternative emissions targets or timelines for compliance, allowing affordable housing providers to avoid penalties for noncompliance.

Next Steps for BPS & Affordable Housing

As property owners gear up to comply with building performance standards, jurisdictions will need to work with affordable housing providers to understand and resolve the full scope of challenges that arise with compliance. Further research into the following areas may improve the likelihood of affordable housing successfully complying with BPS:

- Despite benchmarking being a popular energy efficiency policy across the country, SAHF has found that benchmarking is not standard practice among affordable housing providers, often due to a myriad of challenges including inaccessible data, lack of internal capacity and cost. As such, energy benchmarking may be a new or complicated practice for affordable housing required to comply with BPS. **How can barriers to benchmarking be identified at the jurisdictional level, and can successful practices be replicated to bolster compliance rates?**
- Data quality is the bedrock of BPS compliance, allowing property owners to make informed choices about how to invest in their buildings to comply. However, utilities may lack transparency in how building energy data is collected for multifamily properties, creating concern among recipients as to whether the data they receive is a complete record of energy usage. For example, in properties with individual meters, benchmarking typically relies on aggregating resident meters and owner-paid receipts, but data discrepancies may occur when utilities switch over to whole-building feeds. **How can jurisdictions work with utilities to ensure the data they are providing to affordable housing providers is accurate and actionable?**
- Affordable housing faces split incentives, where owners must make the investments in energy upgrades and residents receive the benefits. This in turn limits the available financing for clean energy upgrades, especially if there are covenants to prevent rent increases to recoup upfront investments. With little money for upgrades, property owners may face fines for noncompliance. **Are there innovative practices that can be explored to support affordable housing owners in honoring affordability covenants, complying with BPS and providing benefits to the residents?**

SAHF Member Highlight

See TCB's North Commons at Village Hill case study to learn more on the successes and challenges associated with electrification, as well as the benefits to residents.

TCB, North Commons at Village Hill

- In theory, utility allowances should provide a pathway to address the split incentive issue; however, in practice, there is often a disconnect between adjusting utility allowances and rent simultaneously. **As such, how do BPS policies present new opportunities to pilot utility allowance reform to benefit both owners and residents, and, if so, how can these models be leveraged in other jurisdictions?**
- As more buildings defect from the natural gas grid, the costs for those who remain will increase. Alternative compliance pathways or exemptions may help affordable housing comply with BPS and/or avoid fines, but they may also expose affordable housing providers who remain on the natural gas grid to risk. **How can jurisdictions support affordable housing to reach net-zero over time, allow owners and residents to experience the benefits of net-zero buildings, and preserve housing affordability?**

Ultimately, implementation strategies that work for affordable housing can provide a range of benefits to owners, residents and the broader multifamily sector. They also allow state and local governments to achieve both climate and housing affordability goals, while supporting low-income communities in being an integral part of the solution.

Appendix Tables

Table 1. State and local compliance requirements by building size and definition

Jurisdiction	Residential Building Size Threshold	Residential, Multifamily, or Affordable Housing Building Definitions
Boston, MA	20,000 square feet and greater or 15 units and greater	"Residential Building means, as it appears in the records of the Boston Assessing Department, either: (i) a Building with fifteen (15) or more total individual dwelling units that, together with hallways and other common space serving residents, comprise more than fifty percent (50%) of the gross Building Area, excluding parking; (ii) a parcel with a single Owner and multiple Buildings that cumulatively have fifteen (15) or more total individual dwelling units or that cumulatively equal or exceed twenty thousand (20,000) square feet in gross Building Area. Each such Building shall individually comply with the requirements of this Subsection, including reporting and complying with Emissions standards, unless part of a Building Portfolio; or (iii) any grouping of Residential Buildings designated by the Review Board as an appropriate reporting unit. Each such Building shall individually comply with the requirements of this Subsection, including reporting and complying with Emissions standards, unless part of a Building Portfolio."
Boulder, CO	20,000 square feet for existing buildings; 10,000 square feet for new buildings	No stated definition.
Cambridge, MA	50 units or greater	'"“Affordable Housing' shall mean Residential Covered Property in which all units are made permanently affordable to households earning up to 100% of area median income." "'Residential Property' shall mean a property containing one or more Dwelling Units, and whose use is primarily (greater than 75% of the Covered Square Feet) residential."
Chula Vista, CA	20,000 square feet and greater	"A residential Property that contains 5 or more Multifamily Dwelling Units."
State of Colorado	50,000 square feet and greater	"Occupied by a single occupant or group of tenants."
Denver, CO	5,000 square feet and greater	No stated definition.

Jurisdiction	Residential Building Size Threshold	Residential, Multifamily, or Affordable Housing Building Definitions
State of Maryland	35,000 square feet and greater	'"Affordable housing providers' means the owner of a covered building that primarily provides housing to limited income households where a minimum of 51 percent of households living within the building are at or below 80 percent of the area median income, as defined in the Housing and Community Development Article, §4-1801, Annotated Code of Maryland, or a covered building that is restricted under the Low-Income Housing Tax Credit (LIHTC) program."
Montgomery County, MD	25,000 square feet and greater	"Affordable housing means… a multi-family building that includes at least 50% of dwelling units whose sale or rental price… do not exceed that of a moderately-priced dwelling unit under Chapter 25A."
New York, NY	25,000 square feet and greater	"The term 'covered building' means a building that is (i) a rent regulated accommodation, (ii) a building whose main use or dominant occupancy is classified as occupancy group A-3 religious house of worship, (iii) owned by a housing development fund company organized pursuant to the business corporation law and article 11 of the New York state private housing finance law, or (iv) a building that participates in a project-based federal housing program and, as it appears in the records of the department of finance, such building exceeds 25,000 gross square feet, or (ii) is one of two or more buildings on the same tax lot that together exceed 50,000 gross square feet, or (iii) is one of two or more buildings held in the condominium form of ownership that are governed by the same board of managers and that together exceed 50,000 gross square feet."*
State of Oregon	35,000 square feet and greater	No stated definition.
Reno, NV	30,000 square feet and greater	No stated definition.
Seattle, WA	20,000 square feet and greater	'"Multifamily building' means a building or portion of a building with greater than 20,000 square feet of gross floor area that is classified under the Seattle Building Code as a Residential Group R-2 or R-3 occupancy. A building is considered multifamily if more than 50 percent of the building is residential use."

Jurisdiction	Residential Building Size Threshold	Residential, Multifamily, or Affordable Housing Building Definitions
St. Louis, MO	50,000 square feet and greater	'"Qualified affordable building(s)' means a building in which a majority of the households in the building makes less than eighty percent of the Area Median Income for the City of St. Louis"
State of Washington	20,000 square feet and greater	"A covered multifamily building on contiguous property, containing sleeping units or more than five (5) dwelling units where occupants are primarily permanent in nature."
Washington, DC	10,000 square feet and greater	"For the purposes of this section, the term 'affordable housing' means buildings that are primarily residential, contain 5 or more dwelling units, and: (1) In which use restrictions or other covenants require that at least 50% of all of the building's dwelling units are occupied by households that have household incomes of less than or equal to 80% of the area median income; or (2) The building owner can demonstrate that at least 50% of the dwelling units rent at levels that are affordable to households with incomes less than or equal to 80% of the area median income."

*According to Article 321.

Table 2. State and local building performance standards schedules for multifamily buildings as of March 2025

Jurisdiction	2025	2026	2030	2031	2035	2036	2040	2041	2045	2046	2050 and beyond
Boston, MA	4.1 kgCO2e per square foot per year	-	2.4 kgCO2e per square foot per year	-	1.8 kgCO2e per square foot per year	-	1.1 kgCO2e per square foot per year	-	0.6 kgCO2e per square foot per year	-	0 kgCO2e per square foot per year
State of Colorado	-	60.5 Site EUI or 3.1 GHG emissions intensity	42.1 Site EUI or 1.9 GHG emissions intensity								
Denver, CO	-	-	44.2 kBtu per square foot per year								
State of Maryland	-	-	0.82 kgCO2e per square foot	-	0.41 kgCO2e per square foot	-	0 kgCO2e and 29 kBtu per square foot				
Montgomery County, MD	-	-	-	-	-	-	-	-	-	-	37 kBtu per square foot
New York, NY	0.00675 tCO2e per square foot	-	0.00335 tCO2e per square foot	-	0.00269 tCO2e per square foot	-	0.00205 tCO2e per square foot			-	0 tCO2e per square foot
Seattle, WA	-	-	-	0.89 kgCO2e per square foot per year	-	0.63 kgCO2e per square foot per year	-	0.37 kgCO2e per square foot per year	-	0 kgCO2e per square foot per year	

Notes: Performance standards must be maintained every year following the compliance year until a new performance standard takes effect. Final performance standards are highlighted in blue cells. Final performance standards must be maintained every year thereafter. State and local BPS that do not use a reduction schedule, are currently developing their reduction targets and schedules, or use an iterative process to establish standards have been excluded from the table.

Table 3. Data and physical requirements by jurisdiction

Jurisdiction	Benchmarking Required	Data Verification Method	Energy Audit Required	Retrocommissioning or O&M Plan Required
Boston, MA	X	Third-party data verification	-	-
Boulder, CO	X	Third-party data verification	-	X
Cambridge, MA	X	Third-party data verification	-	-
Chula Vista, CA	X	ENERGY STAR©	X	X
State of Colorado	X	ENERGY STAR©	X**	-
Denver, CO	X*	Third-party data verification	-	-
State of Maryland	X	Third-party data verification	-	-
Montgomery County, MD	X	Third-party data verification	-	-
New York, NY	X	Third-party data verification	-	-
State of Oregon	X	To be determined	-	-
Reno, NV	X	ENERGY STAR©	-	-
Seattle, WA	X	Third-party data verification	-	-
St. Louis, MO	X	Third-party data verification	-	-
State of Washing-ton	X	Third-party data verification	-	X
Washington, DC	X	Third-party data verification	X***	X***

*Denver requires benchmarking for buildings 25,000 square feet and greater but has performance standards for buildings 5,000 square feet and greater. **Greenhouse gas intensity reduction pathway only. ***Prescriptive pathway only.

Table 4. Penalties by jurisdiction

Jurisdiction	Penalty Calculation Method	Penalty
Boston, MA	Time-based	"If a Building Owner did not comply with the applicable Emissions standard in a calendar year, each Day of that calendar year and each subsequent Day when the violation is not corrected shall be deemed a separate violation of this Subsection and subject to a fine of: 1. One thousand dollars ($1,000) a Day for: a. Non-Residential Buildings equal to or greater than thirty-five thousand (35,000) gross square feet or two (2) or more Buildings on the same parcel that equal or exceed one hundred thousand (100,000) gross square feet; and b. Residential Buildings equal to or greater than thirty-five (35) units or thirty-five thousand (35,000) gross square feet. 2. Three hundred dollars ($300) a Day for: a. Non-Residential Buildings equal to or greater than twenty thousand (20,000) gross square feet but less than thirty-five thousand (35,000) gross square feet; and b. Residential Buildings equal to or greater than fifteen (15) units or twenty thousand (20,000) gross square feet, but less than thirty-five (35) units or thirty-five thousand (35,000) gross square feet… No penalty shall be assessed prior to thirty (30) Days after receipt of a notice of violation by a Building Owner or if a Building Owner corrects the violation within thirty (30) Days of receipt of a notice of violation. "
Boulder, CO	Time-based	"All rental properties must have a license, which requires SmartRegs compliance. Properties continuing to rent without a license will be subject to enforcement including: Civil Penalty for renting without a license: 1st violation - $150 - $500 2nd violation - $300 - $750 3rd violation - $1,000 Investigation fees from enforcement staff: Each investigation - $250"
Cambridge, MA	Time-based	"If any person or entity fails to meet the emission reduction requirements, such failure shall be deemed a violation and the following enforcement measures may be taken: (a) For the first violation, a written warning may be issued; and (b) For any subsequent violation, the Department may issue a fine of up to $300.00 per violation, per day, pursuant to the provisions of Chapter 1.24 herein. Each day of violation shall constitute a separate offence."

Jurisdiction	Penalty Calculation Method	Penalty
Chula Vista, CA	Time-based and square footage	Monetary fines may be levied up to the amounts shown in Table 15.26.050 (I)(2)(a) on a per incident basis depending on Property GFA. Maximum Fine Amounts Property Size (square feet) Amount Per Incident: 20,000-49,999 GFA: Up to $750 50,000-99,999 GFA: Up to $1,500 100,000+ GFA: Up to $2,250
State of Colorado	Time-based	"The Commission shall establish by rule, with regard to a violation of the performance standards, civil penalties in an amount not to exceed two thousand dollars for a first violation and five thousand dollars for a subsequent violation."
Denver, CO	Excess energy	"The executive director, or the executive director's designee, may issue notices or orders for violations of this article XIV. Any covered building owner who violates any provision of this article XIV, including any rules or regulations adopted pursuant to this article, is subject to a civil penalty amount of up to seventy cents ($0.70) per year for each required kBtu reduction that the owner's covered building fails to achieve in that year." Denver is currently enforcing based on minimum of $0.30/kBtu.
State of Maryland	Excess GHG emissions	Beginning in 2030, for each metric ton of excess CO2, an owner must pay a fee of $230 in 2020 dollars, adjusted for inflation. Each year thereafter, the fee increases by $4/metric ton in 2020 dollars.
Montgomery County, MD	Time-based	Noncompliant building owners must submit a detailed building performance improvement plan. If requirements aren't met by the final target date, annual reports are required. Violations of BEPS is a Class A violation, carrying a fine of $500 for the initial offense and every day thereafter until violator complies with policy. Repeat offenses are $750.
New York, NY	Cost of excess GHG emissions	"An owner of a covered building who has submitted a report pursuant to section 28-320.3.7 which indicates that such building has exceeded its annual building emissions limit shall be liable for a civil penalty of not more than an amount equal to the difference between the building emissions limit for such year and the reported building emissions for such year, multiplied by $268."
State of Oregon	Time-based	"A civil penalty the department imposes under paragraph (a) of this subsection may not exceed $5,000 plus an amount for the duration of a continuing violation, which may not exceed a daily amount that the department calculates by multiplying $1 per year per square foot of gross floor area of the tier 1 building that is the subject of the department's notice."

Jurisdiction	Penalty Calculation Method	Penalty
Reno, NV	Time-based	"If the manager determines that a property owner has not reported the information under section 14.30.007 or section 14.30.010 as required under this chapter, or the owner has submitted incomplete or false benchmarking information, the manager may seek the following remedies: (1) A written notice may be issued for the violation; and (2) If the information is not reported within 30 days of the date the written notice is issued, the manager may issue a notice of violation with a penalty of up to $100.00. (3) If the information is not reported within 30 days of the date the first violation is issued, the manager may issue a notice of violation with a penalty of up to $250.00. (4) If the information is not reported within 30 days of the date the second violation is issued, the manager may issue a notice of violation with a penalty of up to $500.00."
Seattle, WA	Square footage	"Fines for the failure of a building owner to demonstrate that they have met the GHGITs as required by Section 22.925.070, or complied with an alternative compliance option, shall be imposed 360 days after the compliance date for each compliance interval listed in Section 22.925.060. A fine of $10 per square foot for nonresidential buildings, $7.50 per square foot for multifamily buildings, and $2.50 per square foot for low-income housing or low-rent housing shall be based on the gross floor area reported by the building owner for the covered building's most current verified energy benchmarking report. If a verified benchmarking report has not been submitted to the City, the fine shall be based on the covered building's gross square feet listed in the King County Assessor's property detail record. Owners of covered buildings using the building portfolio, district campus, or connected buildings reporting options will be assessed a fine based on the total gross floor area of all buildings greater than 20,000 square feet in the building portfolio, district campus, or connected buildings, and prorated by square foot if there are multiple owners of a district campus or connected buildings."

Jurisdiction	Penalty Calculation Method	Penalty
St. Louis, MO	Time-based	"A written warning shall be issued by the Commissioner to an owner who fails to submit any required benchmarking information. Such a warning letter shall be effective on the date of issuance and shall be mailed to the owner's last known address as determined by county record. In the event required benchmarking information is not reported within sixty (60) days of the date the written warning is issued, said failure shall constitute an offense and shall be punishable, upon conviction, by a fine of not less than $50.00 and not more than $200.00. For any continuing violation of this article, each day of the violation shall be considered a separate offense. In no event shall the cumulative fine imposed hereunder exceed $1000.00 annually."
State of Washington	Square footage	"Failure to submit documentation demonstrating compliance with the standard by the date specified in a NOVCI will result in the assessment of administrative penalties at an amount not to exceed $0.30 per square foot of gross floor area."
Washington, DC	Square footage	"An alternative compliance penalty is based on the gross floor area of the building. The penalty amounts are set to promote compliance with Pathway requirements and deter non-compliance. The BEPS Compliance Regulations establish the maximum alternative compliance penalty amounts with the maximum penalty for buildings at ten dollars ($10) per each square foot of gross floor area. The building gross square footage is based on the ENERGY STAR Portfolio Manager® calculation as reported on the building's most recent District Benchmark Results and Compliance Report. The maximum penalty for a building shall be no greater than seven million five hundred thousand dollars ($7,500,000)."

Note: Table 4 only includes penalties for failure to comply with the performance standards. Jurisdictions may include penalties for other noncompliance, such as failure to report benchmarking data, in their building performance standard policies.