

# Montgomery County’s Proposed Building Energy Performance Standards FAQ



Montgomery County’s Department of Environmental Protection (DEP) has put together a list of FAQs about the **Building Energy Performance Standards** (BEPS) legislation ([Bill 16-21](#)), which was passed by County Council in April 2022. As new questions come up, we’ll update this FAQ PDF. If you have a question that hasn’t been covered in this document or DEP’s [BEPS website](#), please email [energy@montgomerycountymd.gov](mailto:energy@montgomerycountymd.gov).

BEPS build on the County’s existing **Building Energy Benchmarking Law** which requires owners of certain buildings to report annual energy use to Montgomery County DEP each year. The Building Energy Use Benchmarking Amendments increase the number of buildings covered by the benchmarking requirement by reducing the covered building size from 50,000 to 25,000 gross square feet and by adding additional covered building types like multifamily housing. Resources and FAQs related to the process of energy benchmarking can be found on DEP’s [Benchmarking website](#).

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## ABOUT BEPS

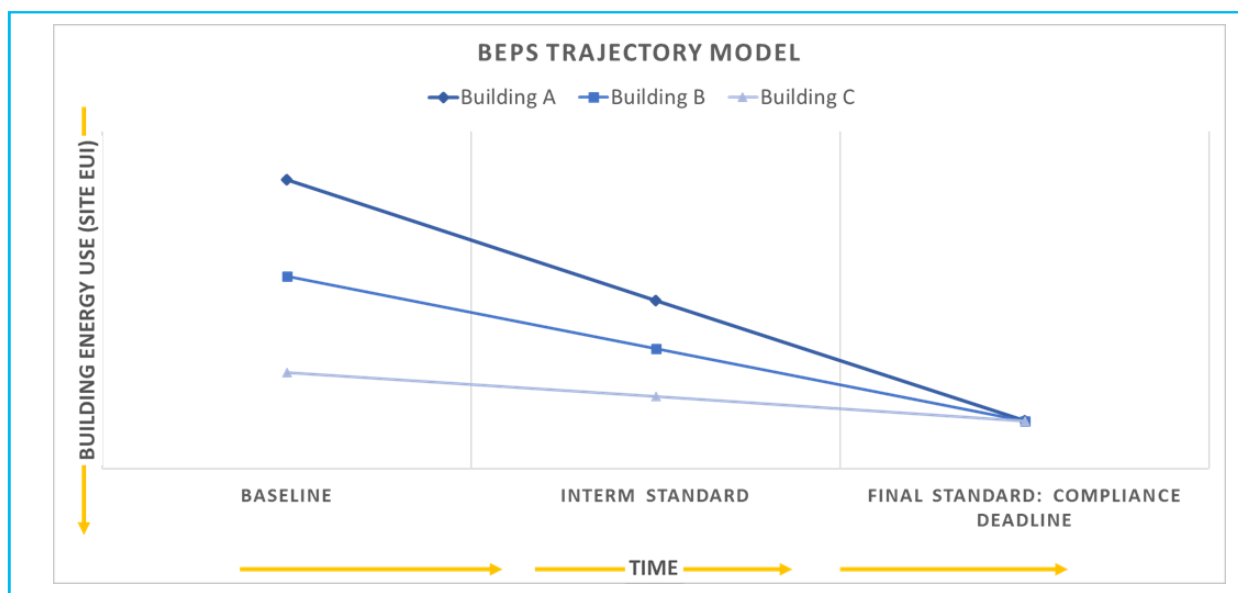
### What are Building Energy Performance Standards (BEPS)?

Building Energy Performance Standards set a minimum energy performance threshold for existing covered buildings. BEPS is a policy tool that addresses energy performance and drives existing buildings to improve their energy efficiency over a set time period, thus reducing carbon emissions.

### How Are the Targets Established?

Buildings are grouped by property type, and each property type is assigned a long-term final performance standard according to a performance metric. In Montgomery County, the metric is based on a building's site energy use intensity (kBtu/sf/year). All buildings within a property type must meet the same final performance standard by the designated compliance deadline.

Buildings will also be required to meet an interim standard after five years to ensure their progress toward the final standard. Each building's interim performance target is determined by its individual performance trajectory. DEP will calculate each building's trajectory by drawing a straight line from the building's baseline performance to the final standard. The performance baseline averages two years with the highest energy use consumption.



## COMPLIANCE

### How Do I Report BEPS Data?

Owners of covered buildings will continue to submit energy data by June 1 each year via [EPA's ENERGY STAR Portfolio Manager](#), as required by the [Energy Benchmarking Law](#).

### How Do I Demonstrate Compliance with BEPS?

Buildings are evaluated against their interim or final standards. If the building's net site energy use intensity is at or below the target, the building will be considered in compliance.

## What if I Don't Meet the Target?

If a covered building owner cannot reasonably meet one or more of the applicable interim or final performance standards due to economic infeasibility or other circumstances beyond the owner's control--based on guidelines to be established by regulation--the owner may submit a building performance improvement plan (BPIP) to the Department for review and approval by the Director in consultation with the Building Performance Improvement Board.

The BPIP must document economic infeasibility or other circumstances beyond the owner's control such that interim or final performance standards are not met; a list of potential improvement measures, including engineering calculations of energy savings and a cost-benefit analysis of each potential improvement measure; a plan and timeline for achieving energy improvements to the building's performance that will provide cost-effective energy savings based on guidelines established by regulation, including the estimated savings to be realized by implementing all of the cost-effective measures identified in the plan; and procedures for correcting any noncompliance or deviation from the plan.

If the target is not met and a BPIP has not been accepted, the building owner will be cited as a Class A violation under Method 2 regulations.

## COVERED BUILDINGS

### Which Buildings are Covered by BEPS?

- **County buildings and Groups 1 & 2:** currently covered by Benchmarking Law: County and private-owned nonresidential buildings 50,000 gross square feet and larger;
- **Group 3:** County and privately-owned nonresidential buildings 25,000 to 50,000 gross square feet, and buildings 50,000 gross square feet and larger previously exempted by the Benchmarking Law;
- **Group 4:** Residential buildings 250,000 gross square feet and greater;
- **Group 5:** Residential buildings 25,000 to 250,000 gross square feet.

### What is the Definition of a Building?

As part of the amendments to the Benchmarking Law, DEP is proposing a revision to the definition of a building. As proposed, a Building is defined as:

- (1) any single structure utilized or intended for supporting or sheltering any occupancy, except if a single structure contains two or more individually metered units operating independently that have stand-alone heating, cooling, hot water, and other mechanical systems, and no shared interior common areas, or;
- (2) two or more structures utilized or intended for supporting or sheltering any occupancy, that:
  - a. are serviced by a common energy meter,
  - b. have a common heating or cooling system,
  - c. share interior common areas, or
  - d. whose configuration otherwise prevents an accurate determination of the energy consumption attributable to each individual structure.

## Which Buildings are Exempt?

Benchmarking and BEPS requirements do not apply to a covered building for which more than 50% of the total gross floor area is used for:

- a. public assembly in a building without walls;
- b. industrial uses where the majority of energy is consumed for manufacturing, the generation of electric power or district thermal energy to be consumed offsite, or for other process loads; or
- c. transportation, communications, or utility infrastructure.

## Can I Request a Waiver from Compliance?

Yes. Owners can request a waiver from the benchmarking requirements for any time period for which the owner of a covered building documents any of the conditions below:

1. Financial distress, defined as a building that:
  - a. is the subject of a tax lien sale or public auction due to property tax arrearages;
  - b. is controlled by a court appointed receiver; or
  - c. was recently acquired by a deed in lieu of foreclosure;
2. On average, less than one full-time-equivalent employee occupied the building during the calendar year being reported;
3. The covered building is newly constructed and has received its certificate of use and occupancy during the calendar year for which benchmarking is required; or
4. The covered building was demolished or received its demolition permit during the calendar year for which benchmarking is required.

## TIMING

### What is the Timeline for the Implementation of BEPS?

Bill 16-21 was approved by County Council on April 19, 2022. Technical details dictating implementation will be set via regulation to be established no later than December 1, 2023.

## I Own or Manage a Covered Building. What Deadlines do I Need to be Aware of?

The five groups required to benchmark under the Benchmarking Law have phased reporting deadlines. As proposed, County buildings and buildings in groups 1 and 2 will receive a BEPS baseline in 2022. Covered buildings must demonstrate progress towards the final performance standard by complying with interim performance standards every 4 years after the performance baseline. Buildings in group 3, 4, and 5 that are new to benchmarking will report data for 3 years before receiving a BEPS baseline.

Building Group	Building Type/Size	First Data Reported	First Benchmarking Deadline	Baseline, Highest 2 Years	BEPS Begins	BEPS Interim	BEPS Final
County Buildings	≥ 50,000 gfa	CY 2014 data	6/1/2015	CY 2018 - 2022	1/1/2024	12/31/2028	12/31/2033
Group 1	Non-residential ≥ 250,000 gfa	CY 2015 data	6/1/2016	CY 2018 - 2022	1/1/2024	12/31/2028	12/31/2033
Group 2	Non-residential ≥ 50,000 gfa	CY 2016 data	6/1/2017	CY 2018 - 2022	1/1/2024	12/31/2028	12/31/2033
Group 3	Non-residential buildings 25k - 50k gfa; ≥ 50k gfa previously exempted	CY 2022 data	6/1/2023	CY 2022 - 2024	1/1/2026	12/31/2030	12/31/2035
Group 4	Residential buildings ≥ 250,000 gfa	CY 2022 data	6/1/2023	CY 2022 - 2024	1/1/2026	12/31/2030	12/31/2035
Group 5	Residential buildings 25k – 250k gfa	CY 2023 data	6/1/2024	CY 2023 - 2025	1/1/2027	12/31/2031	12/31/2036

GFA = gross floor area, CY = calendar year

## RESOURCES

### What Assistance will be Available to Building Owners to Comply with the New Standards?

DEP plans to provide additional resources to support building owners and managers in understanding the requirements of BEPS and identifying energy improvements in their buildings. Washington, D.C. has launched a [Building Innovation Hub](#) to support DC’s BEPS program. The Hub aims to meet the current needs of the building industry while simultaneously helping the industry put in place the innovative solutions needed to build and operate high-performing buildings. DEP has had initial conversations to coordinate with the Hub and DC on leveraging existing resources and expanding the Hub to serve a regional audience. This expansion will be especially helpful for owners with properties in both jurisdictions.

Additionally, as BEPS will cover regulated and non-regulated affordable housing buildings, small businesses, houses of worship, and non-profits, DEP is exploring additional technical assistance and support for under-resourced building sectors.

### What can I do to Prepare for BEPS Now?

Double-check your benchmarking data in Portfolio Manager to ensure you have entered your property type, property use details, and energy use consistently and accurately as this will serve as the basis for the building's performance baseline and determine the BEPS targets.

Take advantage of rebates and incentives to complete energy efficiency projects. Energy utilities offer [EmPOWER MD](#) incentives for prescriptive efficiency measures, building re-tuning, and custom measures. Eligible EmPOWER incentives also include highly discounted training for facilities staff on identifying operations and maintenance opportunities to conserve energy. The [Maryland Energy Administration](#) also provides grants and low-interest financing for clean energy, solar PV parking canopies, data center efficiency, and deep energy retrofits.

Utilize [Montgomery County Green Building Tax Credit](#) to earn a property tax credit for proven energy efficiency savings.

Explore financing options via the [Montgomery County Green Bank](#) such as their Commercial Loan For Energy Efficiency and Renewables (CLEER) product or the [Commercial Property Assessed Clean Energy \(C-PACE\)](#) program.

### Who Can I Contact for More Information?

Contact Montgomery County's Department of Environmental Protection at [energy@montgomerycountymd.gov](mailto:energy@montgomerycountymd.gov) with questions.