

DRAFT — 21 August 2013
Building Energy Reporting and Disclosure Ordinance
Implementation Regulations
Summary

Background. In May 2013, the City of Boston enacted the Building Energy Reporting and Disclosure Ordinance (BERDO). This ordinance is part of the City's Climate Action Plan to reduce greenhouse gas emissions 25 percent by 2020. The Air Pollution Control Commission has responsibility for implementing the new ordinance and is now developing regulations to provide the additional details and guidance that owners need to comply. The Commission is actively seeking input from stakeholders on the most effective ways of implementing the ordinance.

The ordinance. BERDO includes the following basic provisions:

- The City must annually disclose energy and water use in its facilities (first report issued May 2013).
- Large buildings or groups of buildings must report annual energy and water use through Energy Star Portfolio Manager (PM).
- The requirement applies to non-residential buildings 50,000 square feet and up in 2014 for the 2013 calendar year, and then to residential buildings over 50,000 square feet (2015), non-residential buildings over 35,000 square feet (2016), and residential buildings over 35,000 square feet (2017).
- The City will publicly release energy and water use per square foot, Energy Star ratings, greenhouse gas emissions, and other identifying and contextual information for individual buildings starting in 2015. In the first year of reporting (2014), only summary data will be released.
- Buildings not demonstrating high energy performance or continuous improvement or meeting other exemption criteria must conduct energy assessments or other actions every five years. Building are not required to act on the audit nor to meet any specific energy-performance standard.
- Failure to comply with reporting requirements can lead to fines for owners or tenants.

Regulatory development. The Commission is currently developing regulations that will provide additional details to property owners who must comply with its requirements. As directed by the ordinance, the Commission is in the process of establishing an advisory committee representing various sectors of the real estate market, and expects to present draft regulations to the committee in early fall 2013 at a public meeting and then hold its own formal hearings.

Reporting requirements: The overall structure of the regulations regarding the reporting of data will strive for consistency with Portfolio Manager, the primary tool for reporting data.

Definitions: Definitions in the regulations will be consistent with those of PM. As a result, the area as calculated for PM, used for energy intensity and Energy Star ratings, may differ from the area as recorded by the Boston Assessing Department, which is used to determine whether a building is required to report its data.

Multiple buildings: As with basic definitions, the regulations will be consistent with PM in its treatment of groups of buildings that share meters.

Incomplete data: The City is continuing its discussions with energy utilities to facilitate the availability of whole-building data directly to owners. However, the regulations will provide a method for filling in incomplete data. For example, the APCC could specify a formula for going from partial data to a whole-building estimate or could supply default values (for example, energy per square foot) to use. Default values or estimates would likely be higher than average.

Deadline extensions: In conformance with the ordinance, the Commission is developing a procedure for allowing limited extensions of the reporting deadline in extenuating circumstances. Requests for extensions will have to be submitted well before the deadline.

Contextual information: When the APCC starts to disclose the energy and water use in 2015, it will provide building owners with an opportunity to provide additional contextual information, probably in the form of a brief statement or a hyperlink to a web page.

Criteria for exemption from energy assessment or action requirement. The ordinance states that the exemption criteria should be based on:

- Energy Star rating
- LEED rating
- Consistent improvement in energy efficiency or GHG emissions
- Energy management plans
- Other factors

The regulations will specify ratings or amount of change necessary to qualify for an exemption.

Energy assessments or actions. Buildings not qualifying for an exemption must complete an energy assessment or action every five years. Because the practices and technologies in both areas are developing rapidly, the Commission is aiming to include standards in the regulations that are clear, but also flexible to allow the incorporation of innovations. Regulations will specify what types of assessments or actions are acceptable, standards for those who carry them out, and guidance on the reports to be submitted.

Record keeping. Because the ordinance empowers the Commission to audit and conduct QA/QC on reported data, the regulations will detail the types of records that building owners must maintain.

Schedule

May 2013	Enactment of ordinance
Summer and fall 2013	Stakeholder engagement
Fall 2013	Advisory committee and Commission hearings
December 2013	Final regulations
May 2014	First reporting for large non-residential buildings

More information. To obtain more information and submit comments and suggestions, please contact Carl Spector, carl.spector@cityofboston.gov.