

AIR POLLUTION CONTROL COMMISSION PUBLIC HEARING



January 19, 2022

Members of the public may submit any comments or questions by “raising their hand” or by typing in the chat box, via email at apcc@boston.gov, or tweeting @BostonEnviro with the hashtag #APCCHearing.

AIR POLLUTION CONTROL COMMISSION



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(ex officio)*



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**Richard
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Kat Eshel

*Environment
Department*



**Hannah
Payne**

*Environment
Department*



Lynh Chau

*Environment
Department*

Public Meeting

BERDO

Building Emissions Reduction and Disclosure Ordinance



Regulations Process

Proposed phased approach



- **Phase 1: early 2022**
 - *Reporting and data verification requirements*
 - *Enable reporting and disclosure in 2022*
- **Future phase(s): 2022-2023**
 - *Review Board regulations*
 - *Emissions Standards regulations (hardship compliance plans, individual compliance schedules, custom emissions factors, etc.)*
 - *Equitable Emissions Fund regulations*
 - *Additional regulations as needed to implement and enforce the ordinance*

NOTE: If anyone has feedback on regulations content or process at any time, they may use the following feedback form: bit.ly/berdo-regs-feedback

Progress to Date

- **Informal Public Comment Period on Phase 1 Regulations**

- December 20 - Released draft Phase 1 Regulations
- January 7 - Listening Session
- January 12 - APCC Hearing
- January 14 - First informal public comment closed
- January 19 - APCC Special Hearing

- **Additional engagement**

- Initial listening session on Dec. 1
- Letter sent to all building owners the first week of Jan.
- Email newsletters on process

Feedback from Dec. 1st Listening Session

Full notes are posted on boston.gov/berdo

Topics to be covered in Phase 1:

- Questions about reporting through Portfolio Manager and other means
- Third party verification
 - *Who will be a qualified professional?*
 - *Need for clarity on requirements of verification process and schedule*

Topics to be addressed in guidance and engagement:

- Need for transparency on process and clearly communicated reporting requirements
- Desire for opportunities to engage
- Challenges obtaining data
 - *Utility data requests*
 - *Tenant and condo account data*

Topics raised that will be covered in future phases:

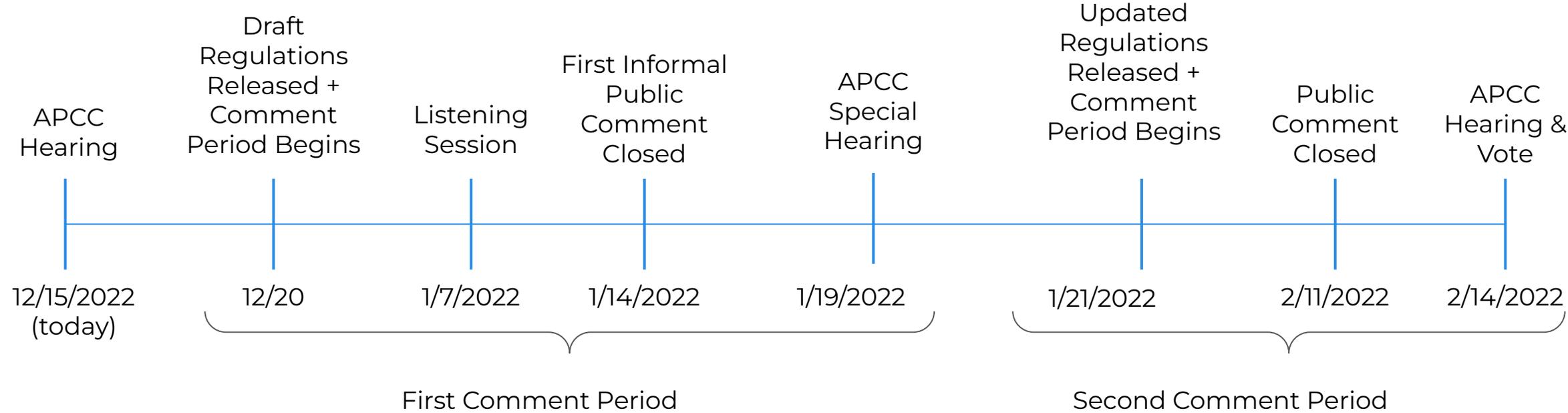
- Reporting and complying with emissions standards as a portfolio
- How to use renewable energy to comply with emissions standards
- Emissions factors
 - *Future electricity emissions*
 - *Using custom factors*
- Review Board
 - *Nomination process*
 - *Processes for individual & hardship compliance*

NOTE: If anyone has feedback on this content, prior to any draft content being released for public comment, or at any other time, they may use the following feedback form: bit.ly/berdo-regs-feedback



Phase 1 Timeline (Planned)

Over the next few months there will be two comment periods to hear and incorporate feedback in phase 1 of regulations before they are promulgated



Note: The APCC previously planned to hold a hearing on Wednesday, February 9, 2022 at 11 a.m. Staff recommend that the hearing be shifted to Monday, February 14, 2022 at 11 a.m., in alignment with the BERDO regulations development timeline.

Headers and Subheaders for Phase 1 Regulations

Draft outline, subject to change

- 1. Introduction**
- 2. References**
- 3. Definitions**
- 4. Reporting Process**
 - a. Energy and Water use
 - b. Calculation of Gross Floor Area
 - c. Building Use Classifications
 - d. Vacant Space
 - e. Buildings without Whole-Building Data
 - f. Contextual Information
 - g. New Information
- 5. Obligation to Request and Report Information from Building Tenants**
 - a. Delegating reporting duties to a single tenant
 - b. Tenant non-response
- 6. Requesting Alternative Reporting Dates**
- 7. Special Conditions**
 - a. Multiple Buildings on Single Tax Lot
 - b. Buildings on Multiple Tax Lots that Share Systems.
 - c. Newly Constructed Buildings
 - d. Change of Ownership
- 8. Third-Party Data Verification**
 - a. Qualified Energy Professionals
 - b. Data to verify
 - c. Corrections to Report
- 9. Preservation of Records**
- 10. Disclosure of Records and Information**
- 11. Enforcement and Penalties**
 - a. Penalties

Main changes from BERDO 1.0 Regulations

What's roughly the same

- Reporting Energy and Water Consumption
- When an Owner Does not Obtain Whole Building Data
- Tenant Reporting Obligations
- Special Conditions

What's new in Phase 1

- Removes:
 - *Energy Assessment and Energy Action requirements*
 - *Procedures to apply for an exemption for EAA*
- Adds:
 - *Third-party verification*
 - *Building use classifications*

Forthcoming Guidance Documents and Support

The City will make every effort to provide transparent information and support to building owners with BERDO compliance.

Guidance documents will detail at a minimum:

- *Step-by-step instructions to report through Portfolio Manager and through the supplemental reporting form*
- *How to obtain utility data*
- *Specific guidance for condo buildings and buildings with tenants*
- *How to report renewable energy purchases and exempt energy uses*
- *Specifics on data verification process and requirements, including verifier checklist*

- *Emissions factors to be used for planning purposes*
- *FAQs*

City will provide additional support for building owners:

- *Optional 6-month extension on 2022 reporting*
- *Webinars on reporting*
- *Drop-in office hours for reporting help*
- *Retrofit Resource Hub*
- *One-on-one assistance (email energyreporting@boston.gov)*

Feedback from Jan. 7 Listening Session

Full notes to be posted on boston.gov/berdo

- **Third-party Verification**

- Requests for *qualified in-house staff to be able to complete verification*
- Support for allowing same *third-party company to do reporting and verification*
- Recommendations for *additional credentials to be considered*
- Concern about *cost*

- **Backup Generation**

- *Limited data capture*
- *Typically track fuel deliveries*

- **Default Values**

- *How were default values determined?*

- **Square Footage**

- *Tax assessment data is not always accurate*
- *Campuses, condos, and data centers may have specific challenges*

- **Utility Data Requests**

- *Some data requests are delayed*
- *Questions about how to access data*

- **New Construction**

- *Clarify whether Certificate of Occupancy includes temporary CoO*

Feedback from Jan. 7 Listening Session cont.

Full notes to be posted on boston.gov/berdo

- **Additional questions we heard**
 - *When do buildings need to comply?*
 - *Has the energy action or assessment been phased out?*
 - *Can multiple extensions be applied for?*
 - *Will there be a covered buildings list for 2022?*
 - *Can campuses report in aggregate?*
 - *How can renewable energy purchases be reported?*
 - *What are the plans for data disclosure?*
 - *How to apply for the 6-month extension? Is Review Board approval required?*
 - *How can tenants be more engaged in reporting and compliance?*
 - *What is the difference between BERDO and the ZNC zoning process?*
 - *Does the City have enough staff capacity?*
 - *Will already high performing buildings be penalized under BERDO?*
 - *Will BERDO be expanding to other parts of the state?*

Written Comments Received on Phase 1 Regs

The following individuals and organizations submitted written comments

- Bloom Energy
- A Better City (ABC)
- Longwood Medical Energy Collaborative (LMEC)
- Conference of Boston Teaching Hospitals (COBTH)
- Medical Area Total Energy Plant (MATEP)/Engie
- MASCO
- Michael Savage
- Barry Abramson, Servidyne
- George "Bunker" Henderson
- Frank Mruk, Roxbury Community College-Center for Smart Building Technology
- Joseph, St Francis House
- Dennis Carlberg, Boston University
- Tim Scarpa, AvalonBay Maintenance Director
- Nicholas Hill, CEM, LEED-AP, Hill Energy Services, LLC
- David F. Ward, Consulting Engineer
- Patricia Baumer, Greater Boston Real Estate Board
- David Heimann
- Loie Hayes, Green Energy Consumers Alliance

Topics addressed in comments

- **Data verification**
- **Qualified Energy Professionals**
 - *Proposed revisions to credential list*
 - *Allowing for in-house QEP to complete verification*
- **Role of Tenants**
- **Backup generation**
- **Reporting New Data**
- **Special Conditions**
- **Supplemental Reporting**
- **Square Footage Calculations**
- **Building Use Classifications**
- **Portfolios**
- **Newly constructed buildings**
- **Renewable energy**
- **General comments**
- **Comments on the ordinance**
- **Guidance requests**
- **Questions**

Proposed Regulation Revisions

Staff recommendations for revisions to draft phase 1 regulations.

- **Add Extensions for data verification:**
Add language explicitly allowing extension requests for third-party verification.
- **Clarify new building reporting timeline:**
Temporary Certificate of Occupancy will be used to identify the first year of reporting.
- **Revise Qualified Energy Professionals list:**
 - *Replace LEED BD+C with LEED AP Building Operations & Maintenance.*
 - *Add Building Operator Certification (BOC) Level 2.*
 - *Develop form to allow for additional credentials to be considered by the Review Board and added*
- **Add flexibility for extenuating or special circumstances**
 - *Add language allowing an additional extension in 2022 for extenuating circumstances.*
 - *Add language to create process for buildings with shared systems to propose alternative energy allocation process where square footage allocation is not appropriate.*

BERDO Proposed Next Steps

- **Revise draft regulations to reflect modifications requested by Commission**
- **Proposed Formal Comment Period**
 - Jan. 21 - Feb. 11 - **Proposed** Formal Comment Period on revised Phase 1 regulations
 - February 14 - APCC Hearing and possible Vote
- **Goal of promulgating Phase 1 Regulations after two comment periods by mid-February**



Commission Q&A

Commissioners may discuss and ask staff questions.

Public Commnet

Members of the public may submit any comments or questions by “raising their hand”, via email at apcc@boston.gov, or by tweeting @BostonEnviro with the hashtag #APCCHearing.



Adjourn

Thank you for your participation!

