

BERDO 2.0 PHASE 2 REGULATIONS

NOTES FROM LISTENING SESSION OF AUGUST 18, 2022

On August 18, 2022, the City of Boston led a listening session on key regulatory questions for BERDO 2.0. The objective was to obtain initial feedback and discuss potential solutions to questions related to Emissions Factors, Renewable Energy Purchases, and Blended Emissions Standards to participants.

This document presents a summary of the key questions, feedbacks and comments shared during the session.

EMISSIONS FACTORS

Regulatory questions raised by City staff during listening session

- *How should emissions factors be calculated?*
- *Should grid emissions factors be forecasted?*
- *How often should emissions factors be updated?*
- *What is the process to calculate and verify emissions factors from district systems?*
- *Should requests to use custom emissions factors be approved by the Review Board?*
- *What other questions do you have on this topic?*

Feedback from the public

- *The City should consider emissions factors that are aligned with global greenhouse gas protocols.*
- *The City should consider that Global Warming Potential (GWP) values are consistently updated by the IPCC. There needs to be clarity and consistency so that building owners and consultants know which values to use for BERDO reporting.*
- *The ISO emissions factor used for electricity only considers CO2 emissions, and not other greenhouse gasses such as methane and nitrous oxide. This is not aligned with global standards/ BERDO should consider including other gasses into the emissions factors.*
- *Since emissions from the grid vary during the time of the day, the City should consider time-based emissions factors that encourage using energy storage and consuming electricity during least polluting periods of the day. This would be beneficial for the Clean Peak Standards.*

- Forecasting is very important for building owners to put together plans for electrification. Having accurate forecasting will allow for better and stronger planning on the building side and is critical to the success of BERDO.
- It may be valuable to have two types of Emissions Factors: one type that remains constant through time and one type that fluctuates per year and can be put under the scrutiny of the Review Board. That way building owners could be fined based on the constant emissions factors.
- It may be important to have a very simple emissions factor so that building owners do not have an additional burden. The City could also provide an option to use a more complicated, time-based emissions factor that is more impactful for those that want to engage with that level of complexity.
- In NYC LL97 appears to be implementing a time of day component for emissions for electricity. It may be useful to communicate with the LL97 team.
- I would second the notion that we need to keep Emissions Factors consistent. Aligning with a framework like GHG Protocol would be my suggestion as well. I would recommend against having various Emissions Factors. The industry in general needs more consistency and this will make reporting and compliance more feasible for more owners. Thanks.

Additional questions from the public to be answered in regulations

- Given the fluctuations of Emissions Factors for grid and district energy, how will the City take into account that Emissions Factors become available with a 2 to 3 year delay. How will building owners know how much Alternative Compliance Payments they would need to make to comply with BERDO?
- Is the City considering third-party verification for Emissions Factors from district energy systems?
- Will the city require district steam suppliers e.g., Vicinity to publish their emissions to be used for buildings that use their steam ?
- Can you comment on historic emission factors? Will these be updated with any new methodology if building owners are planning on complying via an individual compliance plan, i.e., using a historic baseline year?

RENEWABLE ENERGY PURCHASES

Regulatory questions raised by City staff during listening session

- What should count as renewable non-emitting fuel sources?
- Should the regulations include additionality requirements for Power Purchase Agreements (PPAs)? How?
- How should RECs produced under Solar Massachusetts Renewable Target (SMART) be treated?
- What other questions do you have on this topic?

Feedback from the public

- The Ordinance allows to have Virtual PPA and calls for additionality. It would be helpful that contracts could be online early until dedicated date, so it can still be viable for BERDO additionality
- Additionality is important for PPAs. We would like to also see additionality for Virtual PPAs.
- Divesting from PPAs can be challenging because of contractual obligations.
- Purchaser-caused is a better term than additionality in the context of RECs.
- SMART-related RECS should not count for BERDO compliance, as this would be double counting the RECs.
- It would be a bad decision to not allow building owners to benefit from the SMART program. Double counting of RECs may be worth it to give building owners credit for providing us with rooftop solar. BERDO should incentivize and not disincentivize SMART.
- SMART should be allowed to not discourage solar. Stretch code will have solar requirements. I'm not clear whether part of the solar requirements in the code requires the owner to also own the RECs. It seems that the easiest path to getting solar is through SMART where you don't own them.
- Many organizations do REC arbitrage to replace the environmental benefits for any solar power that would be transferred to another party, such as with SMART (i.e. the owner could use some of the SMART revenues toward purchasing RECs).
- There needs to be some monitoring on the price variation on RECs required by BERDO vs other RECs available in the country. We have found that RECs Class I can be up to 10 times more expensive than other RECs.

Additional questions from the public. Questions without answers will be answered in regulations.

- Will BERDO accept Scope 1 renewable fuels such as renewable natural gas?
- Would off-site contracts like community solar count for BERDO compliance?

- *Would Community Choice Electricity become available for large developments?*
 - **ANSWER:** This question will be addressed when the City initiates its next Community Choice Electricity contract. Customers with large loads that are not included in the load profile for CCE can submit a request to the CCE supplier to be included in the program, but pricing may differ. Large customers can procure competitively-priced electric supply and RECs outside of the CCE program.
- *Aren't SMART RECs owned by the IOUs?*
 - **ANSWER:** Yes, RECs generated by solar enrolled in the SMART program are owned by the utilities.
- *Are there any requirements as to where the RECs are purchased from?*
 - **ANSWER:** The Ordinance requires that RECs must meet the following criteria to be eligible under BERDO: (i) Are generated by non-CO₂e emitting renewable sources and meet the RPS Class I eligibility criteria outlined in 225 CMR 14.05, as may be amended from time to time; (ii) Are tracked by the New England Power Pool Generation Information System; (iii) Are generated in the compliance period in which they are used; (iv) Are retired within six (6) months after the end of the compliance period in which they are used; and (v) Comply with any additional or different requirements set forth in the Regulations.

BLENDED EMISSIONS STANDARDS

Regulatory questions raised by City staff during listening session

- *What is the process to opt into using a blended emissions standards?*
- *Should owners be able to opt out of a blended emissions standard year to year?*
- *How should the primary uses of a building be verified?*
- *What other questions do you have on this topic?*

Feedback from the public

- *Allowing owners to opt-out from a blended emissions standard may create issues with consistency of data year to year.*
- *Third verifiers should verify blended emissions standards to add more oversight on building owners.*

Additional questions from the public to be answered in regulations

- *What should we do for building uses that are less than 10% of the square footage threshold? Should they be excluded or should they be combined with the other uses?*

- How would we prove that a building use consumes more or less than 10% of the total energy use if that use is not submetered?
- What should be done with buildings that have high-intensity use spaces that do not take up 10% of the building?

OTHER GENERAL QUESTIONS FROM THE PUBLIC

- How can we do third-party verification?
 - **ANSWER:** Please see Task 5 of our [How-To Report Guide](#) for guidance on how to verify your data through a third party. We also have published responses from a [Request for Information](#) (RFI) that outlines some options for third-party verifier contacts. You are not required to choose a verifier on this list, but it may be a helpful resource if you don't know where to start.
- Do you have a red-line version of the BERDO reporting guide, so we can see what changes have been made since it was first published?
 - **ANSWER:** We do not have a red-lined version of the BERDO Reporting How To Guide. The most recent significant updates provide new guidance to our third-party verification process (Task 5) and detail the BERDO team's possible responses to report submissions. Most other changes have been minor clarifications and additional FAQs.
- Based on the [BERDO Covered Buildings List](#), there are about 6326 buildings subject to BERDO 2.0, but you just mentioned that the total is 3975. Can you explain the discrepancy?
 - **ANSWER:** There are a total of 3,975 tax parcels covered under BERDO. Many of these parcels contain multiple buildings, which gives us the higher number of covered buildings. Per the Ordinance, data must be reported by building.
- Will these slides be shared on the city's website?
 - **ANSWER:** Yes, the slides are available on the [BERDO Regulations Development Website](#).
- Are the buildings included in the [BERDO Covered Buildings List](#) the only buildings required to report?
 - **ANSWER:** Residential buildings or parcels with 15 or more units and non-residential buildings of 20,000 square feet or more are required to comply with BERDO, excluding parking. We have done our best to accurately identify all of the buildings subject to BERDO on our Covered Buildings List. If you have questions on specific buildings, please reach out to energyreporting@boston.gov.
- Can you clarify that buildings do not need to report emissions this year. Will they need to report emissions for 2021 in the future?

- **ANSWER:** Buildings do not need to report emissions data to BERDO this year. Building owners are required to report annual energy and water use. As the regulations set emissions factors, we will be able to calculate building emissions based on reported energy data.
- *To follow up on a recent caller's question and the reporting update at the beginning, it sounds like there are still 1,052 properties that have not reported or requested an extension for 2022 reporting requirements. With the penalties for not reporting at \$150-\$300 per day depending on building size, the city is already owed many millions of dollars from the reporting or extension request deadline of June 15, 2022. Can you comment on the procedure for collecting this money, how owners are notified or reminded of these fees, and if waivers are likely in any cases?*
 - **ANSWER:** We have not issued any fines yet under BERDO 2.0. Because this is the first year of reporting and all building owners are entitled to request a six-month one-time extension, our priority is to make sure all owners understand their obligation to report and to help them complete reporting by December 15th. We will revisit penalties once the Review Board is established. Per the Ordinance, for any failure to comply, the Review Board shall have the authority to issue a notice of violation. The owner will have 30 days to come into compliance or to request a hearing with the Review Board. If an owner fails to comply with a notice of violation, they may be subject to fines.
- *Where is help available?*
 - **ANSWER:** Please reach out to us at energyreporting@boston.gov for assistance.