

**Title 26 DEPARTMENT OF THE ENVIRONMENT**

**Subtitle XX BUILDING ENERGY PERFORMANCE STANDARDS**

**Chapter 01 Definitions and Documents Incorporated by Reference**

Authority: Environment Article, §§1-404, 2-301, 2-302, 2-1205, 2-1602, Annotated Code of Maryland

**.01 Purpose**

The purpose of this chapter is to define the terms used in this subtitle and identify the documents that are incorporated by reference.

**.02 Definitions**

A. In this subtitle, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Aggregate energy consumption data" means energy data that has been summed for an entire building, which may include a single occupant or a group of separately metered tenants, representing the cumulative total of energy used in the covered building.

(2) "Agricultural building" means a structure that is used primarily to cultivate, manufacture, process, or produce agricultural crops, raw materials, products, or commodities. Agricultural building includes a greenhouse.

(3) "Alternative compliance fee" means a fee paid by the building owner to come into compliance with this regulation as specified in Regulation.01A of COMAR 26.xx.04.

(4) "Area-weighted standard" means an interim or final performance standard that is calculated based on the floor area proportion of the property types within a covered building.

(5) Authorized occupant.

(a) "Authorized occupant" means a person other than a full-time-equivalent employee that is approved by a building owner to be within a covered building for no less than 40 person-hours per week throughout a calendar year.

(b) "Authorized occupant" does not include:

(i) Security guards;

(ii) Janitors;

(iii) Construction workers;

(iv) Landscapers; and

(v) Other maintenance personnel.

(6) “Baseline performance” means the weather-normalized numeric values of net direct greenhouse gas emissions and site EUI of a covered building for the covered building’s baseline year.

(7) “Baseline year” means either calendar year 2025 for a covered building that was constructed and occupied prior to calendar year 2025 or the first calendar year in which a newly constructed covered building was at least 50% occupied for at least 180 days.

(8) “Benchmark” means to track and input a building’s energy consumption data and other relevant building information on a monthly basis for at least 12 consecutive months, as required by the benchmarking tool, to quantify the building’s energy use and greenhouse gas emissions.

(9) Benchmarking information.

(a) “Benchmarking information” means descriptive information about a building, its operating characteristics, and information generated by the benchmarking tool regarding the building’s energy consumption, efficiency, and performance.

(b) “Benchmarking information” includes but is not limited to the building identification number, address, gross floor area, and separate energy consumption totals for each fuel type.

(10) “Benchmarking tool” means the website-based software, commonly known as ENERGY STAR Portfolio Manager, or any successor system, approved by the United States Environmental Protection Agency.

(11) “Building” has the meaning and interpretation set forth in the International Building Code.

(12) “Building owner” means:

(a) An individual or legal entity possessing title to a property including but is not limited to a board of the owners’ association, master association, board of directors, or an agent authorized to act on behalf of a community association, cooperative housing corporation, or condominium.

(b) A representative of a building owner.

(13) “Campus” means a collection of two or more buildings, of any building type or size, that act as a single cohesive property with a single shared primary function and are owned and operated by the same party, such as, but not limited to, higher education or hospital campuses.

(14) “Commercial building” means a building that is subject to the commercial provisions of the International Energy Conservation Code regardless of the nature of the entity or government that owns the building.

(15) “Covered building” means a building that:

(a) Is a commercial or multifamily residential building in the State of Maryland or is owned by the State of Maryland; and

(b) Has a gross floor area of 35,000 square feet or more, excluding the parking garage area; and is:

(i) A single building;

(ii) One or more buildings held in the condominium form of ownership with a combined gross floor areas of 35,000 square feet or more (excluding the parking garage area) and governed by a single board of managers; or

(iii) Two or more buildings with a combined gross floor area of 35,000 square feet or more (excluding the parking garage area) that are served in whole or in part by the same electric or gas meter or are served by the same heating or cooling system(s), which is not a district energy system.

(c) A building that meets the criteria for a covered building as described in this section and is located in a historic district but where the building is not individually designated as a historic property under federal, state, or local law is a covered building.

(d) "Covered building" does not include:

(i) A building, or space within a building, individually designated as a historic property under federal, state, or local law;

(ii) A public or nonpublic elementary or secondary school building;

(iii) A manufacturing building;

(iv) An agricultural building; or

(v) A building owned by the Federal government;

(16) "Department" means the Maryland Department of the Environment.

(17) "Direct greenhouse gas emissions or direct emissions" means greenhouse gas emissions produced on-site by covered buildings, as calculated by the benchmarking tool unless otherwise specified by the Department.

(18) "District energy" means thermal energy generated at one or more central facilities that provides heating or cooling through a network of insulated underground pipes to provide hot water, steam, space heating, air conditioning, or chilled water to nearby buildings.

(19) "Electric company" has the meaning stated in Public Utilities Article, §1-101, Annotated Code of Maryland.

(20) "Final performance standard or final standard" means the numeric values of net direct greenhouse gas emissions and site EUI that each covered building must ultimately achieve on an annual basis in 2040 and beyond.

(21) "Financial distress" means:

(a) A property that is the subject of a tax lien sale or public auction due to property tax arrearages;

(b) A property that is controlled by a court appointed receiver; or

(c) A property that was acquired by a deed in lieu of foreclosure in the last calendar year.

(22) “Food service facility” has the meaning stated in COMAR 10.15.03.02B.

(23) Full-time-equivalent employee.

(a) “Full-time-equivalent employee” means a person that occupies a covered building for no less than 40 person- hours per week throughout a calendar year.

(b) “Full-time-equivalent employee” excludes:

(i) Security guards;

(ii) Janitors;

(iii) Construction workers;

(iv) Landscapers; and

(v) Other maintenance personnel.

(24) “Gas company” has the meaning stated in Public Utilities Article, §1-101, Annotated Code of Maryland.

(25) “Greenhouse gas emissions or emissions” means gasses released into the atmosphere that contribute to climate change, including but not limited to carbon dioxide (CO<sub>2</sub>), as calculated by the benchmarking tool unless otherwise specified by the Department.

(26) Gross floor area.

(a) “Gross floor area” means the total building square footage measured between the principal exterior surfaces of the enclosing fixed walls of a building.

(b) “Gross floor area” consists of all areas inside the building, including but not limited to lobbies, tenant areas, common areas, meeting rooms, break rooms, the base level of atriums, restrooms, elevator shafts, stairwells, mechanical equipment areas, basements, and storage rooms.

(c) “Gross floor area” does not include exterior spaces, balconies, bays, patios, exterior loading docks, driveways, covered walkways, outdoor play courts (e.g., tennis, basketball), parking, the interstitial space between floors (which house pipes and ventilation), and crawl spaces.

(d) “Gross floor area” is not the same as rentable space, but rather includes all areas inside the building(s).

(27) “Interim performance standard or interim standard” means the numeric values of net direct greenhouse gas emissions and site EUI which covered buildings must achieve by a specified calendar year that is prior to 2040.

(28) “Manufacturing” has the same meaning as defined and described in Environment Article, §2-1202(h)(1-3), Annotated Code of Maryland.

(29) “Manufacturing building” means a building classified as a manufacturing building in North American Industry Classification System (NAICS) or otherwise designated as a manufacturing building by the Department.

(30) “Mixed-use building” means a building that contains two or more property types.

(31) Net direct greenhouse gas emissions or net direct emissions.

(a) “Net direct greenhouse gas emissions or net direct emissions” means:

(i) Direct greenhouse gas emissions; or

(ii) For a covered building connected to a district energy system, direct greenhouse gas emissions plus the greenhouse gas emissions attributable to thermal energy inputs from the district energy system used by the covered building, as calculated using the methodology provided in this regulation.

(b) “Net direct greenhouse gas emissions or net direct emissions” does not include direct greenhouse gas emissions from a food service facility located within a covered building.

(32) “Newly constructed covered building” means a covered building that was constructed after 2024 and occupied by at least one full-time-equivalent employee or authorized occupant.

(33) “Occupied” means a covered building with at least one full-time equivalent employee or authorized occupant.

(34) “Property type” means the primary use of a building space as specified in ENERGY STAR Portfolio Manager.

(35) Site energy use.

(a) “Site energy use” means all energy used on-site by a covered building to meet the energy loads of the building.

(b) “Site energy use” includes electricity delivered to the building through the electric grid and/or generated on-site with renewable sources; thermal energy delivered to the building through a district energy system; and natural gas, diesel, propane, fuel oil, wood, coal, and other fuels used on-site.

(c) “Site energy use” excludes electricity used to charge vehicles and other electricity uses excluded from site energy use by the benchmarking tool.

(36) “Site energy use intensity or site EUI” is calculated by the benchmarking tool by dividing the total energy consumed in one calendar year by the gross floor area of the building and reported as a value of a thousand British thermal units (kBtu) per square foot per year.

(37) “Tenant” means a person or entity occupying or holding possession of a building, part of a building, or premises pursuant to a rental or lease agreement.

(38) “Weather normalized” means a method for modifying the measured building energy use in a specific calendar year to estimate energy use under normal weather conditions as calculated by the benchmarking tool.

**.03 Incorporation by Reference.**

A. In this subtitle, the following documents are incorporated by reference.

B. Documents Incorporated.

(1) International Building Code (IBC), Sixth Version: Nov 2021, Chapter 2 “Definitions”, Section 202 “Definitions”, [A] Building.

(2) International Energy Conservation Code (IECC), Second Version: Sep 2021, Chapter 4 “[CE] Commercial Energy Efficiency”.

(3) Maryland Department of the Environment Technical Memorandum 23-01, "Technical Guidance and Calculation Methodologies to Comply with Building Energy Performance Standards", June, 2023.

DRAFT FOR STAKEHOLDER REVIEW

**Title 26 DEPARTMENT OF THE ENVIRONMENT  
Subtitle XX BUILDING ENERGY PERFORMANCE STANDARDS**

**Chapter 02 Benchmarking and Reporting**

**Authority: Environment Article, §§1-404, 2-301, 2-302, 2-1205, 2-1602, Annotated Code of Maryland**

**.01 Purpose.**

The purpose of this chapter is to establish reporting requirements for building owners, tenants, electric and gas companies, fuel distributors, and district energy providers.

**.02 Reporting Requirements of Building Owners.**

**A. Data Collection.**

(1) Each calendar year beginning in 2025 or in the first calendar year after which a newly constructed covered building is occupied, the building owner shall collect and enter all required benchmarking information for the previous calendar year into the benchmarking tool.

(2) Nothing in this regulation shall be construed to permit a building owner to use tenant energy usage data for purposes other than evaluation of the performance of the building.

**B. Benchmarking Report.**

(1) A building owner shall submit a benchmarking report to the Department by June 1<sup>st</sup> of each calendar year, beginning in 2025, using the benchmarking tool.

(2) The owner of a newly constructed covered building shall submit a benchmarking report to the Department by June 1<sup>st</sup> of each calendar year, beginning the year following the first calendar year the newly constructed building was occupied for at least one day, using the benchmarking tool.

(3) The annual benchmarking report shall include, at a minimum, the benchmarking information spanning January 1<sup>st</sup> to December 31<sup>st</sup> of the previous calendar year or for all of the days in a calendar year that a newly constructed covered building was occupied.

(4) The building owner shall enter data into the benchmarking tool such that the benchmarking report shall be based on an assessment of the energy consumed by the building for the entire calendar year being reported or for all of the days in a calendar year that a newly constructed covered building was occupied.

(5) The building owner shall exclude from the benchmarking report submetered and separately metered energy consumption data for:

- (a) Food service facilities that engage in commercial cooking and water heating;

- (b) Electric vehicle charging;
- (c) Other electricity uses excluded from site energy use by the benchmarking tool; and
- (d) Emissions from required combustion equipment under the following conditions:

- (i) Emissions from generators shall be excluded from the net direct emissions requirements if a federal or state regulation requires a covered building including a health care facility, laboratory, assisted living and nursing facility, military building, critical infrastructure, and a building used in life sciences to use a backup generator or other equipment that must run on combustible fuels.

- (ii) A covered building is required to include emissions from a combustion generator/equipment if the relevant federal or state regulation is updated to allow battery storage and/or other types of systems that do not produce direct emissions.

(6) Energy consumption for food service facilities can be excluded using a standard deduction formula in accordance with the Department's TM 23-01, "Technical Guidance and Calculation Methodologies to Comply with Building Energy Performance Standards," when such energy consumption cannot be excluded using submetered or separately metered data.

(7) Before submitting a benchmarking report, the building owner shall run all automated data quality checker functions available within the benchmarking tool and shall verify that all data has been accurately entered into the tool. The building owner shall correct all missing or incorrect information as identified by the data quality checker prior to submitting the benchmarking report to the Department.

(8) If a building owner is notified of an inaccuracy by the Department, electric company, or other third party, then the building owner shall amend the information reported within the benchmarking tool, and shall provide the Department with an updated benchmarking submission within 30 days of learning of the inaccuracy.

(9) The building owner of a mixed-use covered building shall use the benchmarking tool to report the gross floor area for all property types in the building.

(10) The building owners of a covered building that is connected to district energy systems shall submit additional information to supplement the annual benchmarking report in accordance with the Department's TM 23-01, "Technical Guidance and Calculation Methodologies to Comply with Building Energy Performance Standards".

### C. Third Party Verification of Benchmarking Reports.

(1) The building owner shall have a third party verify the accuracy of benchmarking reports for calendar years:

- (a) 2025 (benchmarking report due in 2026);
- (b) 2030 (benchmarking report due in 2031);
- (c) 2035 (benchmarking report due in 2036);



(d) 2040 (benchmarking report due in 2041); and

(e) every five years thereafter.

(2) The building owner of a newly constructed covered building shall have a third party verify the first required benchmarking report and then comply with the schedule in this chapter for verification of subsequent reports.

(3) The building owner shall provide to the third party verifier all utility bills, delivered fuel receipts, and other documentation needed by the verifier for the calendar year covered by the benchmarking report.

(3) The building owner shall submit a copy of a third party verification to the Department when submitting the associated benchmarking report in accordance with the Department's TM 23-01, "Technical Guidance and Calculation Methodologies to Comply with Building Energy Performance Standards."

#### D. Maintenance of Historical Data.

(1) The building owner shall maintain adequate records demonstrating compliance with this Chapter, including but not limited to, energy bills, reports, forms, and records received from tenants or utilities and records.

(2) Such records shall be preserved for a period no less than seven years.

(3) At the request of the Department, such records shall be made available for inspection and audit by the Department.

#### **.03 Reporting Requirements of Tenants.**

A. A tenant of a covered building shall, within 30 days of a request by the building owner, provide all requested benchmarking information that cannot otherwise be acquired by the building owner from other sources.

#### **.04 Reporting Requirements of Utility Companies and District Energy Providers.**

##### A. Electric and Gas Companies.

(1) Starting no later than July 1, 2024, electric and gas companies shall retain for a period of not less than seven years digital records of all customer meter-specific energy consumption, including the date and time of such consumption for any data captured at intervals of more than four minutes. Electric and gas companies shall conduct meter-to-building mapping and maintain aggregate energy consumption data for all covered buildings, and provide to the building owner accurate and timely information on the actual amount of electricity and/or gas delivered to a covered building. The data shall be provided via web-based delivery capable of being uploaded to the benchmarking tool.

(a) Data shall include aggregate energy consumption, accounting for all electric and gas company meters that measure energy consumption at the covered building, regardless of whether the meters serve tenant-paid or owner-paid accounts.

(b) Data shall be provided in a manner that aggregates energy consumption data across all electric and gas company meters at the covered building. Prior to the delivery of aggregate energy consumption data, utilities shall coordinate with the building owner as necessary to review and confirm an accurate accounting of the meters that will be used to calculate the aggregated total.

(c) The utility process will also include a mechanism by which the building owner can work with the utility to correct any inaccuracies regarding the list of constituent accounts and/or meters.

(2) Within 30 days of a request from a building owner, an electric or gas utility company shall digitally transmit as a free service to the building owner energy data through the benchmarking tool. The data shall include aggregate energy consumption data, as well as a complete list of the meter numbers included in the aggregate energy consumption data to ensure accuracy of the meter-to-building mapping, and shall continue to transmit such data until otherwise directed. Building owners shall have the option to submit requests digitally.

(3) Electric and gas companies shall maintain a record of all meters that populate a given building's aggregate energy consumption data in any given month. The utility shall ensure that meter-to-building mapping is accurate and updated on an ongoing basis. Within 30 days of discovering that any data or meter mapping that it has reported was erroneous, the utility shall digitally provide to the building owner, the Department, and the Public Service Commission a report detailing the errors, corrective measures, and steps the utility has taken and will take to prevent a recurrence of the error.

(4) All requests for aggregate energy consumption data shall be kept for reference by the gas company or electric company for at least 24 months, including verification that the request was made by a building owner. Requests submitted via a new or previously existing password-protected web portal using the account of a building owner shall require no additional identity verification.

(5) Electric and gas companies shall provide a customer service option, including but not limited to a phone number for building tenants to call-in, relating to data access questions and any perceived data misuse.

#### B. District Energy Providers.

(1) Starting no later than July 1, 2024, district energy providers shall maintain all records that are necessary to comply with this regulation for a period of not less than seven years. At the request of the Department, such records shall be made available for inspection and audit by the Department.

(2) District energy providers shall provide energy consumption data and greenhouse gas emissions factors per unit of district energy input (steam, hot water, chilled water, etc.) to the owners of covered buildings and to the Department for benchmarking and compliance purposes.

(3) Emissions factors and a full and detailed accounting of their calculation must be provided by the district energy provider by March 1<sup>st</sup> of each calendar year and cover the previous calendar year based on actual fuel consumption and system performance data. The Department may require a third party review of such calculations paid for by the district energy provider.

(4) District energy providers shall use methodology for allocating emissions that will be based on the "Efficiency Method" in the World Resources Institute's "Calculation tool for direct emissions from stationary combustion: Allocation of GHG Emissions from a Combined Heat and Power (CHP) Plant."

**.05 Disclosure of Covered Building Benchmarking and Performance Standards Information.**

A. Before a buyer signs a contract for the purchase of a covered building, the building owner selling the covered building must:

(1) Disclose to the prospective buyer that the building is subject to requirements under this Subtitle;

(2) Transfer the following records to the prospective buyer:

(a) A copy of the complete benchmarking record from the benchmarking tool;

(b) Documentation of data verification;

(c) Documentation of any alternative compliance payments made to the Department;

and

(d) Any other records relevant to maintain compliance under this Subtitle.

(3) Provide to the prospective buyer the following information:

(a) Performance baseline; and

(b) Interim and final performance standards.

B. The prospective buyer must indicate, by signing an addendum to the contract or a separate section of the contract printed in boldface type, that the seller has made the disclosures and provided the information required by Regulation .03 A of this chapter.

**Title 26 DEPARTMENT OF THE ENVIRONMENT**

**Subtitle XX BUILDING ENERGY PERFORMANCE STANDARDS**

**Chapter 03 Performance Standards and Compliance Demonstration**

**Authority: Environment Article, §§1-404, 2-301, 2-302, 2-1205, 2-1602, Annotated Code of Maryland**

**.01 Purpose.**

The purpose of this chapter is to establish performance standards for covered buildings.

**.02 Performance Standards**

A. Interim and final net direct emissions and final site EUI standards are:

Table 1. Performance Standards.

Property Type	Net Direct Emissions Standards kg CO <sub>2</sub> e per square foot			Site EUI Standards kBtu per square foot
	Interim Standard for 2030-2034	Interim Standard for 2035-2039	Final Standard for 2040 and beyond	Final Standard for 2040 and beyond
Adult Education	2.34	1.17	0	46
Aquarium	1.03	0.52	0	41
Automobile Dealership	2.23	1.12	0	61
Bank Branch	1.01	0.50	0	85
Bar/Nightclub	1.70	0.85	0	220
Barracks	0.57	0.29	0	38
Bowling Alley	2.07	1.03	0	84
Casino	1.03	0.52	0	41
College/University	2.43	1.21	0	57
Convenience Store with Gas Station	2.25	1.13	0	137
Convenience Store without Gas Station	2.25	1.13	0	137

Property Type	Net Direct Emissions Standards kg CO <sub>2</sub> e per square foot			Site EUI Standards kBtu per square foot
	Interim Standard for 2030-2034	Interim Standard for 2035-2039	Final Standard for 2040 and beyond	Final Standard for 2040 and beyond
Convention Center	0.39	0.19	0	40
Courthouse	1.14	0.57	0	47
Data Center	1.26	0.63	0	145
Distribution Center	0.58	0.29	0	19
Enclosed Mall	0.24	0.12	0	44
Fast Food Restaurant	exempt	exempt	exempt	exempt
Financial Office	0.32	0.16	0	58
Fire Station	1.70	0.85	0	47
Fitness Center/Health Club/Gym	2.87	1.43	0	59
Food Sales	2.25	1.13	0	137
Food Service	exempt	exempt	exempt	exempt
Hospital (General Medical & Surgical)	6.10	3.05	0	144
Hotel	1.47	0.74	0	60
Ice/Curling Rink	2.07	1.03	0	84
Indoor Arena	1.03	0.52	0	41
K-12 School	exempt	exempt	exempt	exempt
Laboratory	5.35	2.68	0	144
Library	1.92	0.96	0	55
Lifestyle Center	0.91	0.46	0	58
Mailing Center/Post Office	0.92	0.46	0	48
Medical Office	0.18	0.09	0	70
Movie Theater	0.78	0.39	0	57

Property Type	Net Direct Emissions Standards kg CO2e per square foot			Site EUI Standards kBtu per square foot
	Interim Standard for 2030-2034	Interim Standard for 2035-2039	Final Standard for 2040 and beyond	Final Standard for 2040 and beyond
Multifamily Housing	0.82	0.41	0	29
Museum	0.75	0.38	0	29
Non-Refrigerated Warehouse	0.11	0.06	0	31
Office	0.22	0.11	0	55
Other - Education	1.59	0.80	0	45
Other - Entertainment/Public Assembly	0.54	0.27	0	48
Other - Lodging/Residential	0.002	0.001	0	37
Other - Office	0.22	0.11	0	55
Other - Other	1.60	0.80	0	54
Other - Public Service	2.12	1.06	0	61
Other - Recreation	0.70	0.35	0	78
Other - Restaurant/Bar	1.70	0.85	0	219
Other - Retail/Mall	1.40	0.70	0	81
Other - Services	2.63	1.31	0	51
Other - Specialty Hospital	6.10	3.05	0	144
Other - Stadium	0.31	0.16	0	23
Other - Technology/Science	0.001	0.001	0	183
Outpatient Rehabilitation/Physical Therapy	1.76	0.88	0	46
Parking	exempt	exempt	exempt	exempt
Performing Arts	2.38	1.19	0	57

Property Type	Net Direct Emissions Standards kg CO <sub>2</sub> e per square foot			Site EUI Standards kBtu per square foot
	Interim Standard for 2030-2034	Interim Standard for 2035-2039	Final Standard for 2040 and beyond	Final Standard for 2040 and beyond
Personal Services (Health/Beauty, Dry Cleaning, etc)	2.17	1.09	0	47
Police Station	1.52	0.76	0	54
Pre-school/Daycare	2.45	1.23	0	48
Prison/Incarceration	0.57	0.29	0	38
Race Track	1.03	0.52	0	41
Refrigerated Warehouse	1.37	0.69	0	38
Repair Services (Vehicle, Shoe, Locksmith, etc)	2.16	1.08	0	52
Residence Hall/Dormitory	0.70	0.35	0	38
Residential Care Facility	1.43	0.72	0	50
Restaurant	exempt	exempt	exempt	exempt
Retail Store	0.60	0.30	0	48
Roller Rink	2.07	1.03	0	84
Self-Storage Facility	0.19	0.10	0	7
Senior Living Community	1.43	0.72	0	50
Social/Meeting Hall	1.53	0.76	0	39
Stadium (Closed)	0.31	0.16	0	23
Stadium (Open)	0.32	0.16	0	21
Strip Mall	1.90	0.95	0	58
Supermarket/Grocery Store	2.25	1.13	0	137
Swimming Pool	2.07	1.03	0	84
Transportation Terminal/Station	2.22	1.11	0	56

Property Type	Net Direct Emissions Standards kg CO <sub>2</sub> e per square foot			Site EUI Standards kBTU per square foot
	Interim Standard for 2030-2034	Interim Standard for 2035-2039	Final Standard for 2040 and beyond	Final Standard for 2040 and beyond
Urgent Care/Clinic/Other Outpatient	1.76	0.88	0	46
Veterinary Office	1.76	0.88	0	46
Vocational School	2.34	1.17	0	46
Wholesale Club/Supercenter	0.60	0.30	0	48
Worship Facility	0.87	0.44	0	32
Zoo	1.03	0.52	0	41

B. Interim Site EUI Standards. Interim site EUI standards are calculated using a straight-line trajectory from a covered building’s baseline performance to the final performance standards in 2040, set by the compliance tool as specified in the Department’s TM 23-01, "Technical Guidance and Calculation Methodologies to Comply with Building Energy Performance Standards".

C. Interim and Final Standards for Mixed-Use Covered Buildings. Area-weighted standards for net direct emissions and site EUI for mixed-use buildings will be set by the compliance tool as specified in the Department’s TM 23-01, "Technical Guidance and Calculation Methodologies to Comply with Building Energy Performance Standards".

D. Achieving and Maintaining the Standards.

(1) Each covered building must be at or below the interim site EUI and net direct emissions standards for 2030-2034 in each calendar year including 2030, 2031, 2032, 2033, and 2034.

(2) Each covered building must be at or below the interim site EUI and net direct emissions standards for 2035-2039 in each calendar year including 2035, 2036, 2037, 2038, and 2039.

(3) Each covered building must be at or below the final site EUI and net direct emissions standards in calendar year 2040 and each calendar year thereafter.



**Title 26 DEPARTMENT OF THE ENVIRONMENT**  
**Subtitle XX BUILDING ENERGY PERFORMANCE STANDARDS**  
**Chapter 04 Alternative Compliance and Special Provisions**

**Authority: Environment Article, §§1-404, 2-301, 2-302, 2-1205, 2-1602, Annotated Code of Maryland**

**.01 Alternative Compliance Pathway.**

A. Alternative Compliance Pathway for Net Direct Emissions Standards.

(1) In lieu of meeting the net direct emissions standards in COMAR 26.xx.03, the building owner shall come into compliance with the net direct emissions standards by paying an alternative compliance fee for the greenhouse gas emissions in excess of the net direct emissions standards.

(2) An alternative compliance fee shall be paid for every metric ton of net direct emissions in excess of the net direct emissions standard in a given calendar year. The fee shall be:

- (a) \$230 per metric ton of excess CO<sub>2</sub>e in 2020 dollars, adjusted for inflation, for 2030;
- (b) \$234 per metric ton of excess CO<sub>2</sub>e in 2020 dollars, adjusted for inflation, for 2031;
- (c) \$238 per metric ton of excess CO<sub>2</sub>e in 2020 dollars, adjusted for inflation, for 2032;
- (d) \$242 per metric ton of excess CO<sub>2</sub>e in 2020 dollars, adjusted for inflation, for 2033;
- (e) \$246 per metric ton of excess CO<sub>2</sub>e in 2020 dollars, adjusted for inflation, for 2034;
- (f) \$250 per metric ton of excess CO<sub>2</sub>e in 2020 dollars, adjusted for inflation, for 2035;
- (g) \$254 per metric ton of excess CO<sub>2</sub>e in 2020 dollars, adjusted for inflation, for 2036;
- (h) \$258 per metric ton of excess CO<sub>2</sub>e in 2020 dollars, adjusted for inflation, for 2037;
- (i) \$262 per metric ton of excess CO<sub>2</sub>e in 2020 dollars, adjusted for inflation, for 2038;
- (j) \$266 per metric ton of excess CO<sub>2</sub>e in 2020 dollars, adjusted for inflation, for 2039;
- (k) \$270 per metric ton of excess CO<sub>2</sub>e in 2020 dollars, adjusted for inflation, for 2040;

and

(l) The fee rate increases by \$4 per metric ton of CO<sub>2</sub>e per calendar year in 2020 dollars, adjusted for inflation, in each calendar year following 2040.

(3) The annual fee rate set forth in this chapter shall be increased each calendar year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year exceeds the Consumer Price Index for the previous calendar year.

B. Other Provisions. If covered building ownership changes in 2030 or any calendar year thereafter, then the owner of the building on December 31 is responsible for compliance with this regulation and paying alternative compliance fees or penalties for the calendar year ending on December 31 and every calendar year thereafter until that person is no longer the owner of the covered building.

**.02 Exemptions.**

A. Exemptions from Benchmarking and Performance Standard Requirements. A building owner may apply for an exemption from the requirements of this regulation for one calendar year when the building owner can provide documentation showing that one of the following conditions are met:

- (1) Financial distress;
- (2) The covered building was not occupied during the calendar year being reported; and
- (3) The covered building was demolished during the calendar year for which benchmarking is required.

B. Exemption from Establishing Baseline Performance.

- (1) A building owner may apply for an exemption from the requirement to establish baseline performance when, during the baseline year, less than 50% of the covered building was occupied for at least 180 days.
- (2) A covered building may not receive an exemption from the requirement to establish baseline performance for more than three years.

**.03 Option for Campus-Level Compliance.**

A. The owner of a campus may choose to meet site EUI and net direct emissions standards, as specified under this regulation, at the campus level instead of the individual building level when two or more covered buildings are:

- (1) Connected to a district energy system;
- (2) Served by the same electric or gas meter; or
- (3) Served by the same heating or cooling system(s), which is not a district energy system.

B. Campus-level reporting shall include energy consumption and greenhouse gas emissions for all buildings and stationary equipment located on the campus, including all central plants, except as provided in §.03B(1) of this Chapter.

(1) Campus-level reporting does not include energy consumption and greenhouse gas emissions from activities/sources that are excluded from the benchmarking report requirements in Chapter 2 of this regulation.

- (2) The owner of a campus shall report to the Department at least annually:

(a) Any permits to build new buildings or change the footprint or usage of existing buildings on the campus; and

(b) Any buildings have received new certificates of occupancy.

(3) The Department shall, in consultation with the principal owner of a campus, determine whether the affected buildings will be included in campus-level compliance following the rules established in this chapter and whether and how to adjust the campus' interim and final performance standards.

(4) By January 1, 2025, or within one year after a new campus is occupied, the principal owner of a campus that contains one or more buildings that principal owner does not own or does not control shall deliver to the Department for approval that contains the following information:

(a) A list and a map identifying each building located on the campus that the principal owner does not own or does not control;

(b) The name, location, size, and ownership of each such building; and

(c) A recommendation to the Department as to which buildings should comply with this regulation as part of the campus-level compliance option and which should comply individually.

#### C. Performance Standards for Campus-Level Compliance.

(1) For a campus that consists of one property type, the interim and final net direct emissions and site EUI standards are those that correspond with that property type.

(2) For a campus that consists of more than one property type, the interim and final net direct emissions and site EUI standards are based on area-weighted standards as specified in the Department's TM 23-01, "Technical Guidance and Calculation Methodologies to Comply with Building Energy Performance Standards".

(3) Interim site EUI standards are calculated using a straight-line trajectory from baseline performance to the final performance standards as specified in the Department's TM 23-01, "Technical Guidance and Calculation Methodologies to Comply with Building Energy Performance Standards".

(4) Achieving and Maintaining the Standards.

(a) Campus-level energy use must be at or below the interim site EUI and net direct emissions standards for 2030-2034 in each calendar year including 2030, 2031, 2032, 2033, and 2034.

(b) Campus-level energy use must be at or below the interim site EUI and net direct emissions standards for 2035-2039 in each calendar year including 2035, 2036, 2037, 2038, and 2039.

(c) Campus-level energy use must be at or below the final site EUI and net direct emissions standards in calendar year 2040 and each calendar year thereafter.