

WORK SESSION AGENDA ITEM SUMMARY

City Council



STAFF

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SUBJECT FOR DISCUSSION

Proposed Building Performance Standards Policy.

EXECUTIVE SUMMARY

The purpose of this item is to discuss considerations related to a proposed Building Performance Standards (BPS) policy, with consideration of economic and environmental health, feasibility, and timeline. Staff seek Council member feedback related to the policy framework before a first reading.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

1. Does Council have feedback on a local BPS framework as a regulatory method of advancing the community to 2030 and 2050 goals?
2. Does Council have feedback on adjusting proposed timelines, maximum reduction caps, or covered buildings?
3. What other considerations should staff incorporate into the proposed BPS framework?

BACKGROUND / DISCUSSION

Overview

On April 23, 2024, staff presented proposed BPS policy details in a work session, including a policy overview, requirements, alternate compliance options, and supporting research. The presented BPS policy recommendations were designed to support the community-driven goal of an 80% greenhouse gas (GHG) emission reduction by 2030, as defined in the adopted Our Climate Future (OCF) plan. This work session outlined how regulatory strategies like BPS, in addition to economic, behavioral and infrastructure strategies, will be required mechanisms to achieve OCF goals. Per the Sept. 10, 2024 City Manager's Recommended Budget – Our Climate Future memo, the City is currently forecasting a path to achieve 70% GHG reduction by 2030, which includes 3% savings from the proposed BPS. BPS is the single most impactful, direct policy action the City can take to reduce GHG emissions.

BPS recommendations were informed by two years of collaboration with local industry representatives, building science experts, jurisdictional partners, and many others, and are further supported by thorough analysis of local data. Recommendations are designed around feasibility, crafting achievable efficiency

targets specific to buildings' unique use types, along with a selection of alternate pathways, or 'safety nets,' provided for buildings with unique circumstances.

A second work session on June 11, 2024, provided details on policy implementation including proposed supporting resources. During this work session, staff spoke to the robust resources that will be critical to support building owners through implementation. Both our local community and other jurisdictions with existing policies have stressed the need for extensive education, citing this as the most important support for building owners. In addition to exploring additional financial incentives and a financial navigator, staff have begun developing the building owner hub and portal outlined in the Implementation Guide submitted with the June 11 work session materials. Additionally, staff have begun partnering with a vendor to develop advanced technical support to provide technical education and assistance managing upgrades. This process will engage building owners in the community, working initially with a small number of buildings to develop technical support that ensures owners understand the best options to come into compliance. This is designed to help shape the robust body of technical support that will be offered to the wider body of covered buildings in the event of policy adoption. Costs to support the larger body of buildings will be offset by a \$4.5 million U.S. Department of Energy grant, anticipated to be distributed beginning in July of 2025.

Economic and Environmental Considerations

Since the June 11, 2024 Council work session, staff have continued to hear feedback about how BPS may impact the community, including high-level concerns that environmental and economic goals may be in conflict. Community feedback included the following themes:

- The proposed BPS has the potential to cause inequitable impacts across building types
- Questions about accuracy of projected policy impacts on all properties
- Building owners do not have sufficient resources to comply

The proposed BPS framework would require about two-thirds of covered building owners to make energy improvements like equipment upgrades or behavioral changes. While all buildings are unique, staff developed the following data points for informed decision making in the development of this policy. Find more information in Attachment 2: BPS supporting data.

Economic:

Economic impacts associated with improved building efficiency were discussed during the April 23, 2024 work session and include building specific factors (such as reduced energy burden, increased occupancy, tenant retention, occupant productivity, and resale value) along with broader societal economic impacts of climate change and climate change mitigation efforts. Economic impacts affect owners of covered buildings who are not currently meeting targets. Out of about 1,400 covered buildings, there are less than 800 local building owners, approximately 550 of which are not already meeting proposed targets.

Estimated collective building owner costs:

- \$226 million before rebates, tax deductions, and without business-as-usual assumptions.
 - On average 1% purchase price
 - On average \$4-5 per square foot
 - On average \$200,000 per building
 - Same cost as average tenant finish over the last 10 years
- By 2050, covered buildings would avoid \$630 million in energy costs
- By 2050, the benefit is \$2.80 for every \$1 spent

- Building upgrades have an average simple payback of approximately eight years
- BPS upfront costs directly benefit rate payers in avoided energy costs

Additional costs not considered herein include broader infrastructure and rate impacts, which affect Utility rate payers across the community. The estimated administrative cost of conserved energy for efficiency is significantly less than the 2024 wholesale cost of electricity, and likewise community BPS costs are lower than rates per unit of electricity. Reducing energy use through efficiency is a critical balance for future electrification; electrifying all buildings and transportation today would triple our current electric load, far surpassing PRPA forecasts of load increase and necessitating increased infrastructure investments. Electrifying inefficient buildings would also be very costly to rate payers.

Environmental:

BPS are associated with significant non-energy benefits, as discussed in the April 23, 2024 work session. Health, safety, comfort, and resilience are tied to improved building efficiency and would directly impact tens of thousands of occupants who live and work in covered buildings, while reductions in natural gas use and GHG emissions benefits the community as a whole. Environmental impacts specifically associated with the proposed policy include:

- About 65,000 fewer metric tons of carbon dioxide equivalent (MTCO₂e) emitted every year once targets have been met
- About 1.5 million MTCO₂e cumulatively avoided by 2050
- Natural gas reduction by 2030:
 - 3 million therms avoided through BPS (compared to 2.5 million therms avoided through electrification efforts)
- BPS supports Council-adopted electrification goals through efficiency, which is a crucial first step for strategic electrification

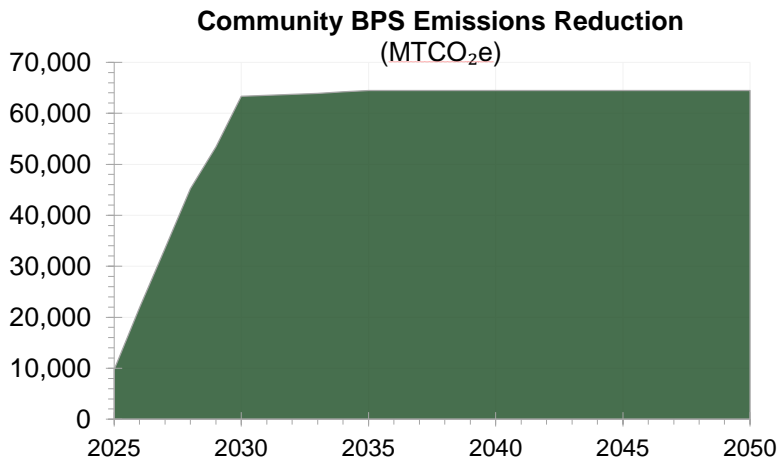


Table 1: Community BPS Emissions Impact

BPS come with significant upfront costs to building owners, and savings accrue more slowly thereafter than may be considered ideal for building owners. Some building owners may only plan to own their buildings for five or 10 years and have shared a general preference for less than three years return on investment. Below are potential levers which could alter associated costs as well as GHG savings. In addition to levers built into the proposed policy framework, the framework itself can be changed by altering the timeline, the maximum reductions required, or the covered buildings.

Policy Levers: Trade-Offs

The recommended policy framework discussed in the April 23, 2024 work session includes levers that can be adjusted throughout implementation, such as increased support (technical, educational, or financial), and altering proposed safety nets. The latter may include changing eligibility criteria for waivers or timeline or target adjustments (alterations which would not impact buildings' progress toward compliance, but rather provide relief for those with non-compliance status upon reaching the target deadline).

Staff stress that a BPS policy framework should allow sufficient flexibility to make any alterations necessary throughout implementation to ensure achievability without significant negative economic repercussions in the short-term. While Fort Collins has access to more local data informing costs and savings than many other jurisdictions creating BPS policies, staff acknowledge there is always the possibility that circumstances change and costs increase, and therefore incorporated safety nets and options for additional support to address those issues. However, changes can be made to the proposed framework itself to further reduce economic impact on building owners. These alterations can be viewed as trade-offs, in that they may reduce costs for all or some building owners, but also may reduce the emission reduction impact of the policy. Three potential alterations, or levers, and the associated tradeoffs are summarized, with more detail below.

- Timeline extension
 - Minimal economic impact
 - Delays environmental impact
 - Moderate administrative impact
- Target (reduce maximum reduction cap)
 - High economic impact
 - High environmental impact
 - Minimal administrative impact
- Covered buildings (excluding small or multi-family buildings)
 - High economic impact
 - High environmental impact
 - Moderate administrative impact

Lever 1: Timeline extension

The recommended BPS framework proposes that commercial and multi-family buildings over 10,000 square feet meet final targets by 2030, while buildings between 5,000-10,000 square feet meet final targets by 2035. These timelines were developed by the BPS Task Force during 2023 as policy recommendations supporting adopted OCF goals. To respect the work done by our community and acknowledge the assumptions they worked within, staff recommend that a 2030 deadline no longer be considered for community buildings if policy adoption is not feasible within 2025. This ensures building owners have an appropriate runway to learn about the policy and take any necessary steps to comply. It is the recommendation of staff, supported by technical experts and experience shared from other jurisdictions with similar policies, that four years is insufficient for this work. However, a staggered implementation could continue to enforce a 2030 deadline for municipal buildings and a later deadline for community owned buildings.

Staff request feedback on the 2030 and 2035 timelines. If policy adoption is delayed, each delayed year the community would emit an estimated 10,000 additional MTCO_{2e}. That equates to a half-percent

removed for every year of delay from the OCF goal of an 80% GHG emissions reduction by 2030. This pathway doesn't prevent savings indefinitely, but rather postpones them.

Lever 2: Reduce maximum reduction caps

The recommended BPS framework includes a maximum reduction cap of 25% for commercial and multi-family buildings over 10,000 square feet, while buildings between 5,000-10,000 square feet are capped at 15%. Factoring in proposed caps, the average reduction on a per building basis is approximately 12%. Maximum reduction caps are one of the proposed safety nets designed to limit the financial and technical investment needed to comply by the most inefficient buildings.

Proposed efficiency targets were determined through a robust technical analysis with near term feasibility as a guiding principle, as were proposed maximum reduction caps. Targets were set based on an analysis of savings that could be achieved within existing systems, rather than assuming systems will be replaced (using what in other jurisdictions would be an interim target methodology).

Staff request feedback on the initially proposed maximum reduction cap. The policy itself can be adjusted by lowering the caps by 5% (from 25% to 20% and 15% to 10%), which would reduce program GHG savings and community costs by about 20%.

Lever 3: Covered Buildings

Accounting for the potential for inequitable impacts to specific buildings, staff continue to build out support for under-resourced buildings (URBs). These buildings were identified through a scoped body of work in 2024, which engaged the community to isolate common barriers faced by URBs. Within the existing policy framework, implementation solutions proposed to address inequitable impacts to URBs include variable levels of support (e.g., higher rebates and more technical support), along with timeline and target adjustments.

Small Buildings (5,000 to 10,000 square feet)

Community contributors participated in robust conversations discussing the appropriate size of buildings to cover, based on potential savings, building specifics, and industry expertise. Through these conversations, contributors landed on including buildings 5,000 square feet and larger but offering both an extended timeline and more attainable targets (through the reduced maximum reduction cap) in buildings between 5,000-10,000 square feet. There are 310 buildings within the small building cohort, that have an average estimated compliance cost of \$4.10-4.55 per square foot. Those buildings constitute about 6% of the total covered square footage.

Staff seek feedback on excluding small businesses from the covered buildings. Not including small buildings in the BPS policy would equate to about a 5% reduction in GHG policy impact, and a similar reduction to covered building owner costs.

Multi-family and Affordable Housing

Housing affordability is a key priority and was discussed at length by community contributors. To exclude the majority of naturally occurring affordable housing (unsubsidized affordable properties), community contributors supported excluding multi-family buildings under three stories, along with those under 5,000 square feet (this removed 97% of local multi-family buildings from the proposed policy). The average size of the remaining covered properties is 80,000 square feet.

Within covered properties, community-based organizations helped the City isolate about a dozen naturally occurring affordable housing properties and requested that staff focus on those properties. If policy implementation demonstrates that benefits outweigh costs in naturally occurring affordable housing, community feedback supported considering future requirements that would include smaller multi-family

properties, so policy benefits could be appreciated by more tenants. The community has shared with staff that energy costs can be exorbitant for multi-family tenants in inefficient properties, some of whom struggle maintaining adequate temperatures. Further feedback included concerns that tenants have minimal agency to improve their living space and may fear retribution if they discuss energy efficiency with landlords. As a regulatory pathway requiring upfront community investment, BPS is unique in that cost savings (along with physical health benefits) impact tenants directly in most cases.

The community desire for safer, more comfortable and resilient housing must be carefully balanced with the risk of increased costs in the near future. Community-based organizations noted that even if multi-family owners or operators have upfront costs fully rebated, there is the risk that rents could rise because improved properties have a higher market value. Community recommendations included increasing support for these properties, even exploring options to provide additional rebates contingent upon minimizing rent increases (potentially aligned with dynamic Colorado Housing and Finance Authority limits).

Staff request feedback on how multi-family properties should be considered in a BPS framework. The proposed policy can be altered by removing those buildings, which would reduce GHG policy impact and costs by about 17%. Multi-family buildings comprise about 30% of total covered square footage. Just over 100 covered campuses are not currently meeting targets, and estimated costs average between \$4-\$5 per square foot before rebates, incentives, and any business-as-usual assumptions.

BPS: A Truly Local Option

BPS policies vary widely across the country, reflecting significant variability in local buildings, community priorities, and sustainability goals. In some existing policies, administrative rules outline specific pathways designed to achieve pre-determined emissions reductions requirements. While our OCF plan sets a community GHG emissions reduction target, there is no local law requiring a specific reduction attributed to BPS. Therefore, proposed requirements were built from the ground up in partnership with informed local contributors, and final recommendations were set with an understanding that achievability is more important than regulating aggressive climate mitigation efforts; unachievable targets not only hurt our community but have broader repercussions due to the potential for Fort Collins to serve as an example to other jurisdictions considering similar policies.

Fort Collins' policy development benefited further in the ability to source our technical assumptions in real, local case studies (see Attachment 1: BPS Case studies). Incentive-based programs in Fort Collins provide over 20 years of examples of how this work has been done locally, providing full costs, savings, and avoided electric use.

Further community engagement in 2024 focused on barriers faced in commercial and multi-family buildings. Community contributors acknowledge that buildings are community assets, and investing in their efficiency benefits many people in Fort Collins. Engaged community members placed a high value on efficiency and indoor air quality, and discussed barriers to improvements including staff capacity, lack of education and awareness, and misalignment between who benefits from efficiency and the decision makers. Economic barriers were discussed holistically, including increased insurance costs and utility bills (both of which were noted as likely to continue to increase due to climate change). More than half of surveyed multi-family tenants said they were interested in making energy efficiency improvements, and another 19% said they were interested, but their owner/management was not.

Learning from Experience

In addition to learning from community examples, the City is leading by example and learning from our own experience. As detailed in a Sept. 10 Council memo, 55% of City-owned buildings are already in compliance with proposed targets (as compared to about 33% of externally-owned buildings). Costs for City buildings to come into compliance are estimated at just over \$5 million, including the full replacement

cost of equipment that is reaching end of life as well as any unrelated updates necessary within those buildings (as all needed updates would ideally be done at the same time). A third-party consultant is providing support, reviewing upcoming projects and aligning them with local, state and federal funding sources, including both tax credits and other upfront funding resources, to complement Budgeting for Outcomes offers.

The local nature of this type of policy does not preclude our learning from other jurisdictions and federal partners, and staff have gained much through collaborative sharing of challenges and successes with partners across the country. Organized groups such as the nationwide BPS Technical Assistance Network (coordinated through the U.S. Department of Energy, U.S. Environmental Protection Agency, Institute for Market Transformation, and other trusted partners) provide regular opportunities for jurisdictions across the country to meet and share knowledge.

In the State of Colorado, there are four adopted BPS policies, and Denver is the furthest along. The Energize Denver platform recently engaged about 1,500 community members. Feedback from their process supports the need for new policy 'safety nets' which are already included in Fort Collins' proposed policy, along with stressing the importance of sufficient support for buildings owners. Specifically, waivers for vacancy and financial distress, maximum reduction caps (Denver now proposes a 42% maximum reduction cap), and target adjustments surfaced as important administrative additions to their program. Denver program staff note a key challenge is that this policy represents a true paradigm shift for many building owners, who may have not previously considered managing energy use applicable to their bottom line.

The Fort Collins BPS policy stands out in comparison to others nationwide as having a relatively short timeline. Our community contributors considered the possibility that the proposed BPS requirements represent an initial wave, which could be expanded upon in years to come to support 2050 goals. Our building community was vocal about requesting we start earlier if we consider a more aggressive regulatory pathway to 2050 that may require changing out building equipment to meet targets.

Legal Challenges

Current legal challenges faced by Denver, the state of Colorado, and other jurisdictions with BPS question if BPS conflicts with the 1975 Energy Policy and Conservation Act (EPCA). EPCA prevents jurisdictions from requiring appliances at a higher level of efficiency than the federal standard. Given these legal challenges, Fort Collins recommendations were set based on efficiencies that could be obtained within existing systems, bypassing any requirement for upgraded appliances. Based on the outcome of ongoing litigation, Fort Collins policy could be further strengthened by administrative updates to target adjustments prior to final citations in 2031.

Accounting for the legal landscape and the nature of BPS as a relatively new jurisdictional tool, BPS Code should allow for (and encourage) administrative rules to be updated throughout implementation as and if warranted, such as proposed updates to Denver's administrative rules based on ongoing community feedback described above. This can be explicit (e.g., "every five years there will be a review and change as appropriate") or implicit (through flexible code language).

NEXT STEPS

Staff seek feedback from Council on the current recommended policy framework which includes a suite of resources to help offset upfront costs and reduce barriers. Alternatively, staff request feedback on the potential to change the proposed policy framework, considering the three structural levers presented in this document.

ATTACHMENTS

1. BPS Case studies
2. BPS Supporting data
3. Presentation