Urban Land Institute

DecarbonizeNOW
The IRA, Strategic Financing and Compliance

Webinar #3, Putting It All Together: Compliance and Reporting to Better Your Portfolio

ULI NORTHWEST

SEPTEMBER 2024

Agenda

- Welcomes and Introductions- Marta Schantz (5 mins)
- Speaker Presentations on the Carrots and Sticks of Building Decarbonization (20 mins)
- Panelist Discussion
- Audience Q&A

Introductions

Marta Schantz
Urban Land Institute

Cliff Majersik
Institute for Market Transformation

Anna Waldren
Moss Adams

Chris Forney
Brightworks Sustainability

Jesse Stanley
KBKG

Cliff Majersik

Institute for Market Transformation

Urban Land Institute

Compliance to Better Your Portfolio:
Building Performance Standards

September 30, 2024
ULI

What is a Building Performance Standard?

- Establishes successively more ambitious requirements for building to improve performance across one or more quantitative objective measurements (e.g. to reduce site energy use intensity)
- Applies to a large swath of public and private buildings over a certain size (usually 25-50k sq. ft.) on preset dates (no trigger needed)
- Complements building codes

IMT
INSTITUTE FOR MARKET TRANSFORMATION

What Makes a BPS Different?

Requires Improvement Across a Wide Range of Buildings

Yields Deep Retrofits at Scale

Drives Private Value-Creating Investment in Private Buildings

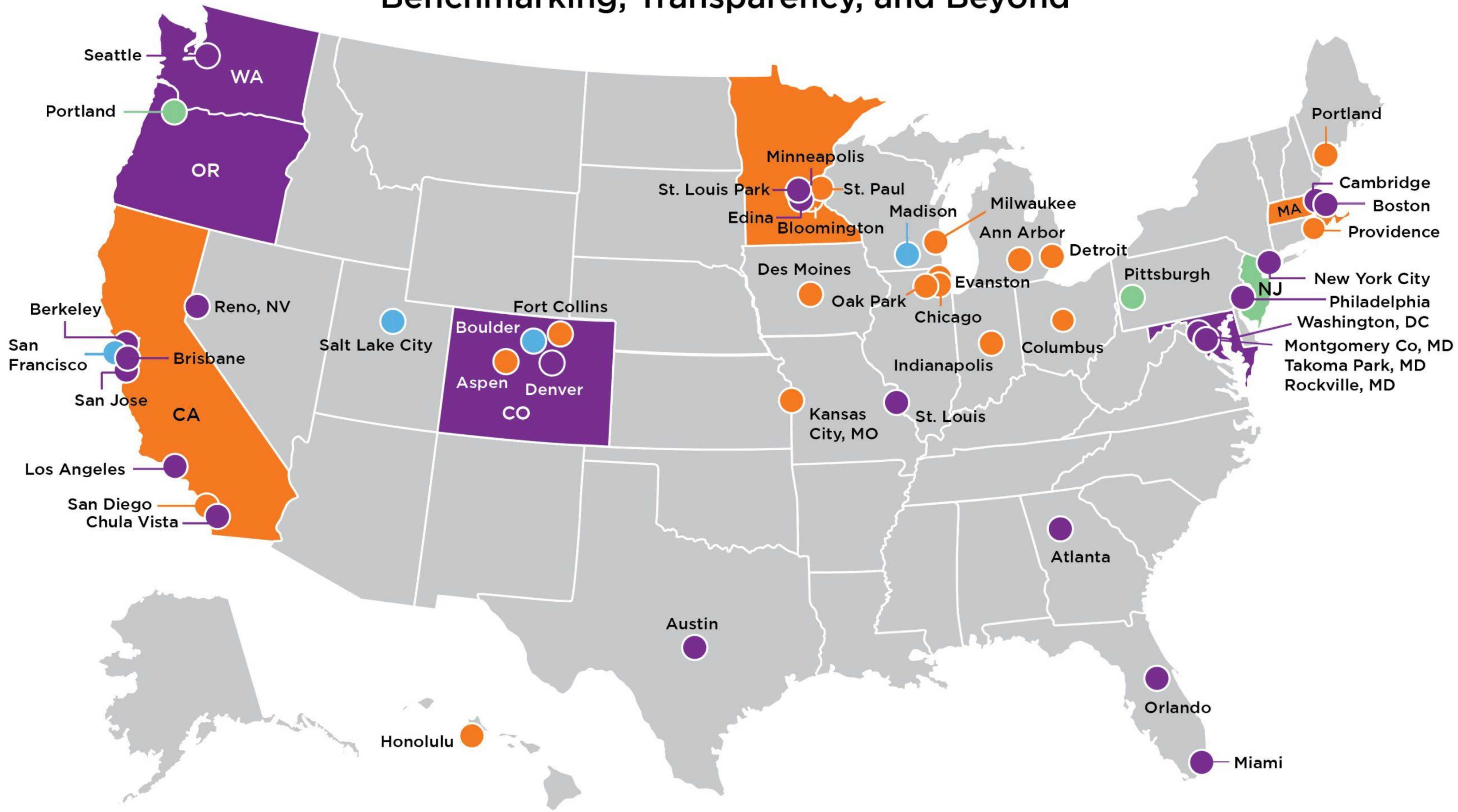
Provides Comprehensive Approach to Performance

Balances Flexibility and Immediate Action

Sends Long-Term Signal

6

U.S. City, County, and State Policies for Existing Buildings: Benchmarking, Transparency, and Beyond



- Benchmarking required for public and commercial buildings
- Benchmarking required for public, commercial, and multifamily buildings
- Benchmarking and additional actions required for public and commercial buildings
- Benchmarking and additional actions required for public, commercial, and multifamily buildings

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The State of Building Performance Standards (BPS) in the U.S.

Members of the National BPS Coalition as of July 2024

Passed BPS   Committed to passage of BPS

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BPS Impact

Washington, DC estimates that its BPS will **reduce energy** use in buildings **by 20%,** over 1M tons of CO_2 annually

Washington State projects its BPS will reduce annual **CO_2** emissions by **14M tons by 2035**

New York City projects a reduction of 6M tons of CO_2 annually by 2030 and the creation of ~**126,000 green jobs***

Expert panel predicts the NYC energy retrofit market represents a mid range market opportunity **of $20B**

Source: Urban Green Council https://www.urbangreencouncil.org/sites/default/files/urban_green_retrofit_market_analysis.pdf

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BPS in the Pacific Northwest

	Washington State	Seattle	Oregon
Year Enacted	2019	2023	2023
Minimum Bldg sq ft	20,000	20,000	20k (non-res) 35k (res)
1st deadline	2025 for >220k sq ft	2030 for >220k sq ft	2027 for 200k+ sq. ft.
BPS Metric	Site EUI	GHG intensity (GHGI)	Site EUI
Consequence	$5,000 + up to $1/sq. ft.	Up to $10/sq. ft. (non-res) or $7.5/sq. ft. (res)	$5,000/day up to $1/sq. ft.

Source: IMT https://imt.org/resources/comparison-of-u-s-building-performance-standards/

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Key Takeaways for Building Owners

- Focus on benchmarking, understand BPS, begin **now** to incorporate building performance (e.g. EUI) into
  - Capital plans
  - Due diligence checklists
  - Performance-based leases (see greenleaseleaders.com for resources)
  - Performance specs for new construction
  - Job descriptions and evaluation for property managers, building engineers, etc.
- Access federal, state, and utility incentives and loans

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Key Takeaways for Service Providers

- BPS are a huge and growing driver of demand for your services
- Help your clients proactively position to profit from current and future BPS
- Owners and operators will look to you for BPS guidance. So, get smart **now** on BPS requirements
- Incorporate BPS into ROI calculations, etc.
- Present solutions to enable **long-term** compliance with BPS
- Include federal, state, and utility incentives and loans

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Anna Waldren

Moss Adams

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ESG Compliance and Regulations

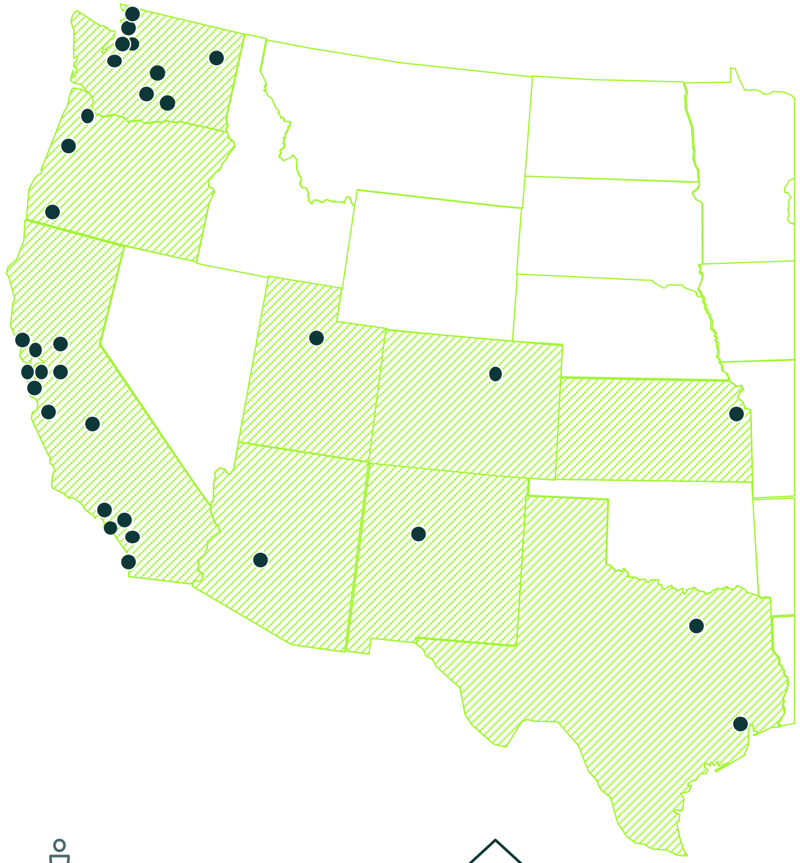
Anna Waldren, CPA
Senior Manager, Assurance

Firm Overview

Moss Adams is more than just a one-and-done accounting firm. We're a full-service firm, offering a portfolio of accounting, consulting, and wealth management services to meet your needs. Our clients consider us a trusted business resource and valuable part of their team.

Moss Adams is one of the 15 largest professional services firms in the nation—and the largest headquartered in the western United States. Our staff of 4,750 work across more than 30 conveniently located offices. No matter where you grow, we have the expertise and bench strength to support you there.

- **110+** years in business
- **4,750+** professionals
- **30+** industries served
- **30+** locations west of the Mississippi
- **$1.26B** in annual revenue earned
- **120+** countries served through *Praxity*



Accounting
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Consulting
IT
STRATEGY & OPERATIONS
TRANSACTIONS
SPECIALTY

Wealth Management
INDIVIDUAL
INSTITUTIONAL

The Intersection of ESG and Assurance

- Voluntary sustainability reporting/ risk of greenwashing
- Green loans/green bonds
- CDP reporting
- Supplier requirements
- Mandatory reporting regulations (California senate bills, SEC, CSRD, etc.)

SB-253 Overview

What is this?

SB-253, the Climate Corporate Data Accountability Act (CCDAA), requires all organizations exceeding $1 billion in annual revenue with operations in California to publicly disclose their greenhouse gas (GHG) emissions in line with the GHG Protocol's definitions of Scope 1, Scope 2 and Scope 3.

Why is this important?

Although this bill covers large organizations doing business in California with at least $1 billion in annual revenue, private organizations not accustomed to mandatory ESG disclosures may find themselves subject to the requirements of this bill. Organizations that conduct relatively limited business activities in California could also find themselves impacted. Successful compliance will require effective cross-functional collaboration across your organization to gather, assess and report on the necessary data.

SB-253 Overview (continued)

Reporting Requirements	• Disclosure must adhere to the Greenhouse Gas Protocol standards and guidance, including specific methodologies for calculating emissions across different scopes. • The state board is authorized to seek administrative penalties for non-compliance with reporting requirements under SB-253. Penalties imposed for violations, such as non-filing or late filing, may result in financial liabilities that impact financial statements.
Assurance Requirements	• Reporting entities must obtain assurance engagements from independent third-party assurance providers to validate the accuracy and reliability of their emissions disclosures. • Assurance engagements are required for scope 1 and scope 2 emissions starting in 2026, and for scope 3 emissions starting in 2030.
Timing Requirements	• Reporting entities are required to disclose their greenhouse gas emissions annually. • Scope 1 and scope 2 emissions must be disclosed **starting in 2026**, with scope 3 emissions disclosed annually starting in 2027.

SB-261 Overview

What is this?

SB-261, the Climate-Related Financial Risk Act (CRFRA), requires all organizations exceeding $500 million in annual revenue with operations in California to prepare a climate-related financial risk report disclosing the organization's climate-related financial risk and the measures adopted to reduce and adapt to this risk.

Timing Requirements

Covered entities are required to make their climate-related financial risk reports publicly available on or before **January 1, 2026**, and biennially thereafter.

SB-261 Overview (continued)

Reporting Requirements	• Covered entities are required to disclose climate-related risks that are reasonably likely to have a material impact on their business, results of operations, or financial condition. • Covered entities have the option to prepare their reports using recognized frameworks such as the TCFD recommendations. If they choose alternative reporting methods, they must ensure that their disclosures meet the criteria specified in SB 261. • The report should include information on various aspects of climate-related financial risks, such as risks to corporate operations, supply chains, employee health and safety, financial investments, and market stability.
Assurance Requirements	• While SB 261 does not explicitly require external assurance of climate-related financial risk reports, organizations may choose to engage third-party assurance providers to provide independent verification of their disclosures.

SEC Climate Disclosure Rule Overview

What is this?

The SEC issued a final rule on March 6, 2024 requiring registrants to disclose climate-related information in their registration statements and annual reports, including both financial and non-financial disclosures.

Compliance Dates under the Final Rules

On April 4, 2024, the SEC stayed the rule's effective date, originally scheduled to become effective on May 28, 2024, pending judicial review. This may delay the compliance dates noted in the final rule.

High-Level Summary

APPLICABILITY

Essentially applies to all registrants, including emerging growth companies (EGCs), smaller reporting companies (SRCs), and foreign private issuers (FPIs)

LOCATION OF DISCLOSURES

- Registration statements
- Annual reports

MATERIALITY

- US Supreme Court's definition of materiality
- Certain financial statement disclosures are subject to specific thresholds

COMPLIANCE DATES

Disclosure compliance dates depend on a registrant's filer status and the type of disclosure. As the rule is currently written, the rules will be phased in starting FYB 2025 for large accelerated filers.

Disclosure Requirements

Nonfinancial Statement Disclosures (Regulation S-K)

Strategy	• Climate-related risks that have had or are reasonably likely to have a material impact on the registrant's business strategy, results of operations, or financial condition. • Actual and potential material impacts of any identified climate-related risks on the registrant's strategy, business model, and outlook. • Quantitative and qualitative description of material expenditures incurred and material impacts on financial estimates and assumptions that directly result from activities undertaken to mitigate or adapt to a material climate-related risk. • Specified disclosures regarding a registrant's activities, if any, to mitigate or adapt to a material climate-related risk, including the use of transition plans, scenario analysis, or internal carbon prices, if any.
Governance	• Any oversight by the board of directors of climate-related risks and any role by management in assessing and managing the registrant's material climate-related risks.
Risk management	• Any processes the registrant has for identifying, assessing, and managing material climate-related risks and, if the registrant is managing those risks, whether and how any such processes are integrated into the registrant's overall risk management system or processes.
Targets and goals	• Information about a registrant's climate-related targets or goals, if any, that have materially affected or are reasonably likely to materially affect the registrant's business, results of operations, or financial condition. Disclosures include material expenditures and material impacts on financial estimates and assumptions as a direct result of the target or goal or actions taken to make progress toward meeting such target or goal.

Disclosure Requirements Continued

Nonfinancial Statement Disclosures (Regulation S-K)

- Greenhouse Gas Emission Disclosures (when material)
- Scope 1 and 2 emissions only if materiality threshold is met.

Financial Statement Disclosures (Regulations S-X)

- Capitalized costs, expenditures, charges, and losses incurred as a result of severe weather events and other natural conditions
- Capitalized costs, expenditures expensed, and losses related to carbon offsets and renewable energy credits or certificates (RECs) if used as a material component of a registrant's plan to achieve its climate-related targets or goals.
- If financial statement estimates and assumptions are materially impacted by risks associated with severe weather events and other natural conditions—or any disclosed climate-related targets or transition plans—a qualitative description of how the development of such estimates and assumptions were impacted.

Contact Anna

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Urban Land Institute

IRA DECARBONIZATION IN ACTION

Brightworks Sustainability

Christopher Forney

PARTNER

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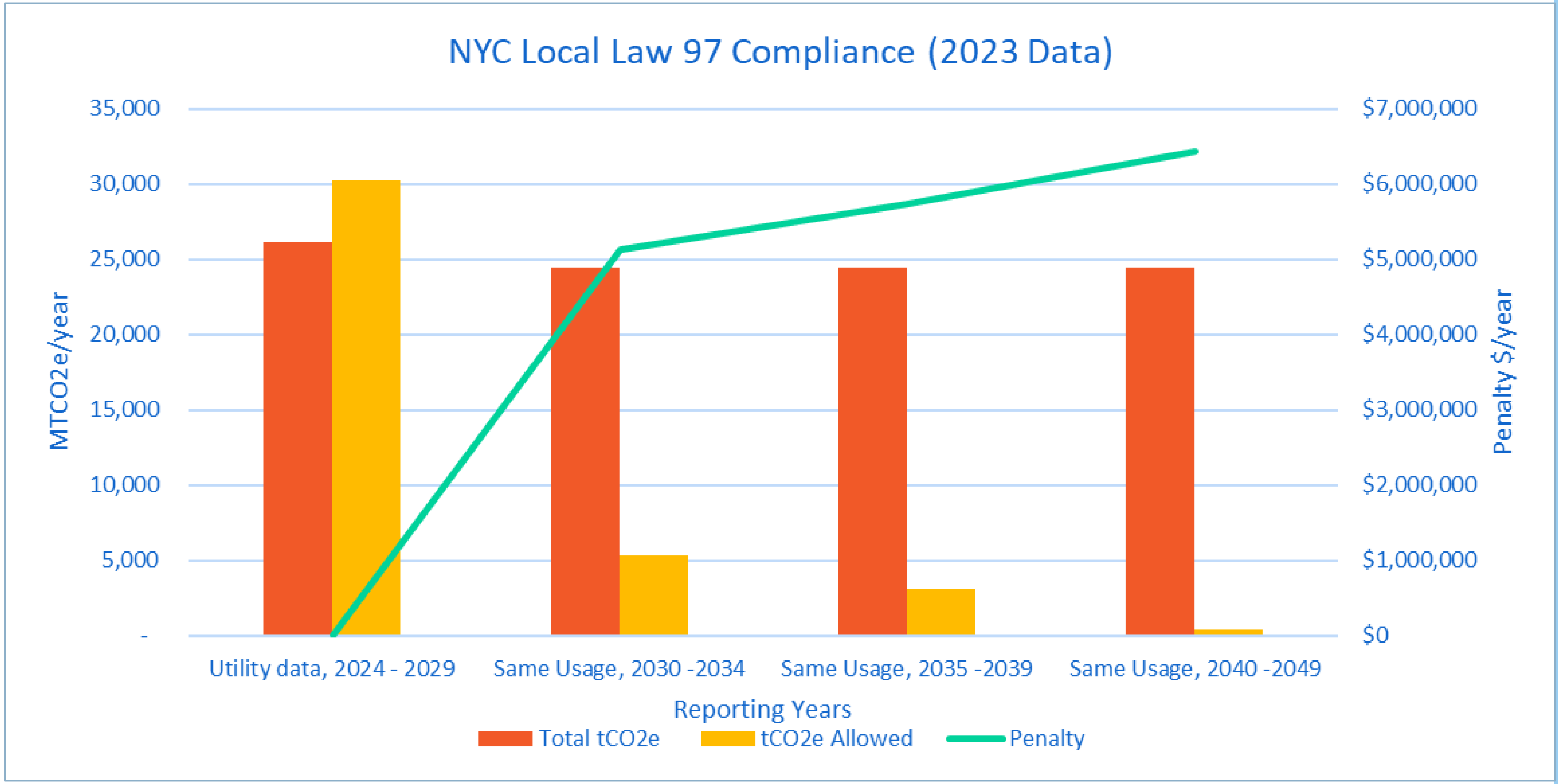
BRIGHTWORKS SUSTAINABILITY

Greater NYC Property – Current (2023)



Takeaway:
Property may have to pay fines starting in **2030** if no energy improvements are made.

(Data from existing ESPM profile.)

Financial Incentives

Utility Cash Rebates

Energy Trust of Oregon (ETO)
Puget Sound Energy (PSE)
Seattle Power & Light (SPL)
Sacramento Municipal Utility District (SMUD)
Los Angeles Department of Water & Power (LADWP)

Cash Rebates

- Heat Pumps / Water Heaters
- Lighting
- Insulation
- Windows
- Water Fixtures
- EV Chargers
- Retro-Commissioning
- Commissioning
- Energy Modeling

Table 4 Energy Efficiency Measure Summary

Measure Name	Est. Energy Savings ($/yr)**		Carbon Savings (Mt CO2e/yr)		Est. Cost of Implementation Incl. Rebates	Payback (yrs) Incl. Rebates
	Total**	Peak Demand	Scope 1	Scope 2		
Lighting	$1,420	$20	(0.03)	1.03	$3,891	2.74
Lavatory	$3,540	$-	2.65	-	$2,400	0.68
Thermostats	$26,090	$50	-	19.15	$32,200	1.23
Pools and spas	$50	$-	0.19	-	$120	2.4
Appliances	$(21,370)	$(60)	9.57	(17.05)	$440,000	None
Electrification	$(60,460)	$(170)	209.46	(74.55)	$2,059,242	None


COST-EFFECTIVENESS Fact Sheet

DETERMINING WHEN EFFICIENCY IS THE BEST ENERGY BUY FOR ALL UTILITY CUSTOMERS

COST-EFFECTIVENESS TESTS: GUIDELINES ENERGY TRUST OF OREGON FOLLOWS WHEN MAKING INVESTMENT DECISIONS

Energy Trust of Oregon is dedicated to serving utility customers with energy-saving and renewable power solutions. By investing in cost-effective energy-efficiency projects in homes and businesses, we help utilities avoid having to invest in new, higher-cost resources to meet customer energy needs.

Energy efficiency is one of the most affordable resources and helps keep overall energy costs for utility ratepayers lower than they otherwise would have been. This handout provides an overview for how Energy Trust applies cost-effectiveness guidelines when making investment decisions.

grams to determine whether and how

ctive energy efficiency. The Oregon
the cost-effectiveness requirement and
ctiveness tests. The OPUC has directed
nd Utility Cost Test benefit cost ratio to

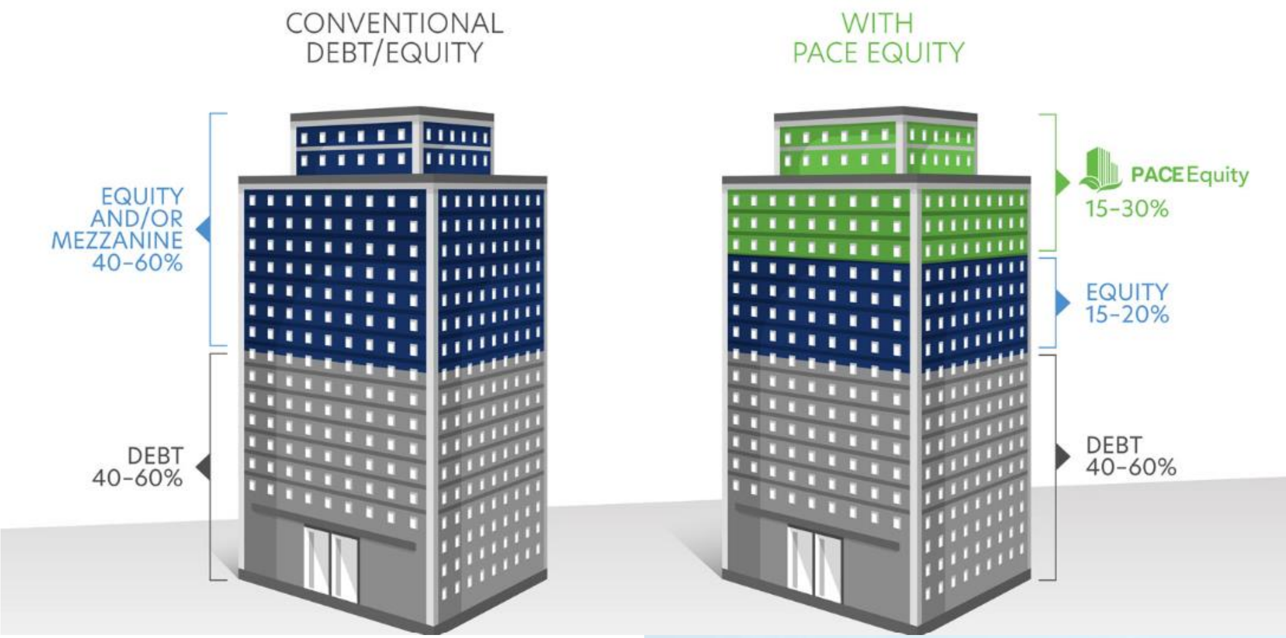
he investment from two viewpoints.
nt compared to a utility supplying the
e best energy buy for all utility customers.
idual decision to invest in a project.

EnergyTrust of Oregon

Property Assessed Clean Energy (PACE)

PACE

- Private capital funding
- Fixed-rate, long-term (30 year) financing
- Covers 100% of project cost
- No out-of-pocket expense
- Energy, water-use, renewable energy, or building resiliency
- For more capital-intensive investments
- Defined underwriting methodology
- Low-Carbon / Green Certified



CALGreen Part 11, Title 24 (effective July 2024)

Nonresidential commercial building projects over 100,000 square feet and school building projects over 50,000 square feet will be required to comply with one of three pathways:

- **Building Reuse:** Reuse at least 45% of an existing structure and exterior. When reuse is combined with new construction, the total addition area using this pathway is limited to double the area of the existing structure. Section 5.105.2
- **Performance:** Complete a whole building lifecycle assessment (WBLCA) demonstrating 10% lower embodied carbon emission than a baseline project design Section 5.409.2
- **Prescriptive:** Document environmental product declarations (EPDs) for listed materials (steel, glass, mineral wool, concrete) that are on average lower than a specified threshold of global warming potential. Section 5.409.3


Concrete


Softwood Lumber


Vinyl Flooring & Carpet

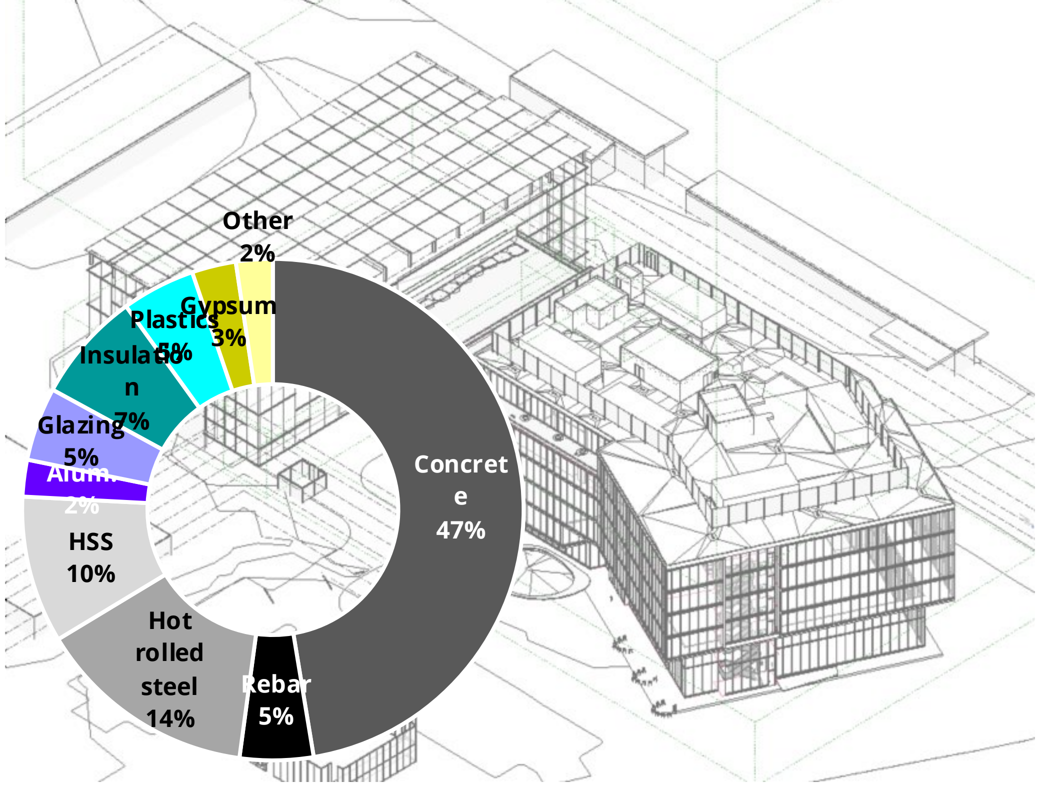

Mineral Wool Insulation


Wood/Mixed material doors

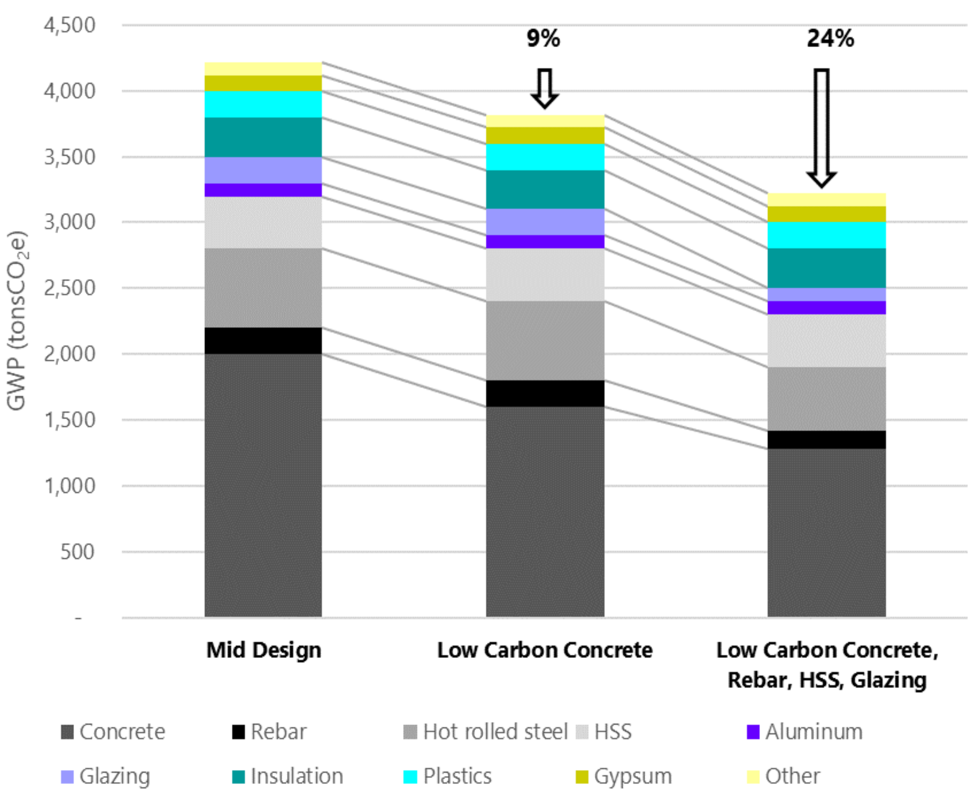
Estimate & Reduce

WBLCA Process

Mid Design Embodied Carbon Breakdown



Reduction Pathways



First; Take a GHG Protocol Inventory

There are five main reasons that a company should adopt a complete reporting boundary. Each point has a supplementary section with more details and references.

1	**Organizational Boundaries**	Organizational boundaries define approaches for how a reporting company allocates its wholly owned assets between scopes 1 & 2 and 3.
2	**Financial Reporting Alignment**	It is widely recommended that companies align their emissions reporting with their financial statements. This means accounting for all wholly owned assets, joint ventures, and investments consistently.
3	**Industry Best Practices**	GRESB, SBTi, and PCAF guidance all require or recommend whole building energy and emissions disclosure, even when data is unknown and must be estimated. This best practice is also demonstrated in peer groups.
4	**Data Estimates**	The GHG Protocol, SBTi, CDP, PCAF and more accept data estimates. In most cases, data estimates are anticipated as the norm for REITs and landlord companies.
5	**Risks of Existing Approach**	In past reporting, Client has not disclosed any exclusions within its targets or boundaries, and has defined its downstream leased assets as "tenant emissions" without safeguards or disclaimers.

Thank You

Looking to decarbonize? Let’s Stay in Touch

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DecarbonizeNOW

The IRA, Strategic Financing and Compliance

Webinar #3, Putting It All Together: Compliance and Reporting to Better Your Portfolio

INFLATION REDUCTION ACT'S IMPACT ON REAL ESTATE 179D - 45L + ITC 48

Presented September 2024

NATIONWIDE SERVICE | 877.525.4462 | KBKG.COM

• Jesse has nearly 20 years of experience in the Energy, Sustainability, and Tax Consulting industries. Jesse is a licensed Mechanical Engineer in 38 States. He is a subject matter expert on energy efficiency in buildings, sustainability, mechanical system design, building controls, and daylighting design having presented to ASHRAE Conferences, Former Congressmen, federal agencies, and state government officials.

• John Frack is a Sr. Account Director and team lead for KBKG. He is an accomplished client sales and business development professional with over 20 years of experience in client and customer relationship management, business unit strategies and cross-functional business planning. John is recognized for building long-lasting relationships with the highest level of integrity, trust, and service by utilizing his vast background of knowledge and professional skill set in leading end-to-end projects. John is based out of Pacific Northwest.

Jesse Stanley

Principal – 179D and Practice Leader

John Frack

Senior Regional Director –
Pacific Northwest

KBKG

SOLUTIONS FOR TAX PROFESSIONALS AND BUSINESSES
TAX CREDITS · INCENTIVES · COST RECOVERY

ABOUT KBKG

Established in 1999 with offices in major markets throughout the US, KBKG is one of the oldest and largest independent providers of specialty tax studies in the country. By focusing exclusively on value-added tax services, we complement your traditional tax and accounting team.

SINGLE SOURCE SOLUTION

We are unique in the marketplace as we offer a single source solution for a number of specialty tax services.
We provide you with a single point of contact who will interject the appropriate subject matter expert within our team as necessary. We help determine which tax programs benefit clients and stay committed to handling each relationship with care and diligence.

SEAMLESS TEAMWORK & COLLABORATION

Our ability to work seamlessly with your team is the reason so many tax professionals and businesses across the nation trust KBKG.

Our practice is staffed by full-time specialists with engineering, valuation, "green" building, estimating, and construction backgrounds as well as tax professionals, attorneys, and CPAs.

SERVICES

- R&D Tax Credits
- Cost Segregation for Buildings and Improvements
- Green Building Tax Incentives
- Transfer Pricing Services
- IC-DISC
- Fixed Asset Review
- Repair vs. Capitalization Review
- Employment Tax Credits

LOCATIONS

WEST

Pasadena, CA
Woodland Hills, CA
West Los Angeles, CA
San Diego, CA
Orange County, CA
San Francisco, CA
Portland, OR
Spokane, WA
Seattle, WA

MIDWEST

Chicago, IL
Cleveland, OH
Detroit, MI

SOUTHEAST

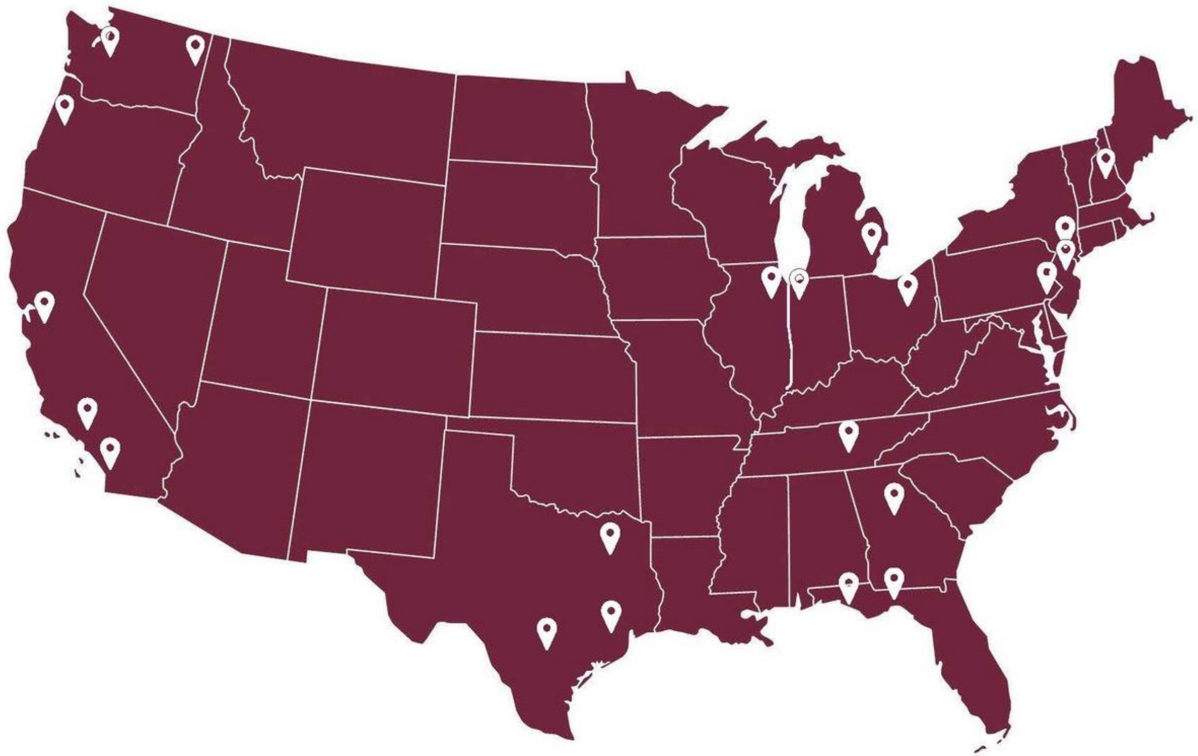
Atlanta, GA
Chattanooga, TN
Santa Rosa Beach, FL
Boca Raton, FL

SOUTH

Dallas / Fort Worth, TX
Houston, TX
San Antonio, TX

NORTHEAST

New York City, NY
Philadelphia, PA



Nationwide Services

KBKG has offices strategically placed nationwide to better serve our clients.

Our representatives, located all over the country, are experienced in the local markets and regions they support.

2023 Affordable Housing Case Study

- *106 units / 65,000 Sq Ft in Houston, TX*
- *Financed w HUD Loan*
- *$1,000,000 in Solar Panels*
- *$600,000 in EV Chargers*

- 45L Tax Credits ($5,000 per Unit)
  - **$530,000** in Tax Credits
- 179D Tax Deductions ($5 per sf)
  - **$325,000** In Tax Deductions
- 70% Tax Credit for Solar Panels
  - **$700,000** in Tax Credits
  - **$520,000** in 80% Bonus Depreciation Tax Deductions
- 30% Tax Credit for EV Chargers
  - **$180,000** in Tax Credits
  - **$336,000** in 80% Bonus Depreciation Tax Deductions

179D

Overview of 179D

179D

Created as part of EPACT 2005

Designers of these buildings can receive the deduction from the government or tax-exempt owner

Incentive to reduce energy use in buildings

Made permanent in 2020

The US Government is largest single owner of buildings

Cornerstone of Federal Energy Legislation in Inflation Reduction Act of 2022

How does the Inflation Reduction Act Make 179D *more valuable*?

NEW Eligibility

Tax-exempt entities

- charitable organizations
- churches & religious organizations
- private schools & universities
- private foundations
- political organizations
- other non-profits
- Native American tribal governments
- Alaska Native Corporations

Prevailing Wages

Requirements

Required for Max Benefit on Construction 1/29/2023 and later

Safe Harbor Exists

Benefit Changes

Significant increase!

- The Inflation Reduction Act expands both the impact and scope of the 179D tax deduction.
- Beginning January 1, 2023, the maximum allowable benefit increases from **$1.88/sf** to **$5.36/sf** of building area.

How does the Inflation Reduction Act Make 179D *more valuable*?

Allocating Entities

- Federal, State, Local Governments
- charitable organizations
- churches & religious organizations
- private schools & universities
- private foundations
- political organizations
- other non-profits
- Native American tribal governments
- Alaska Native Corporations

Allocations are limited and typically first come first serve.

High likelihood of reduced or no benefit for last to act Designer

Summary of 179D Tax Deductions in detail

Compliance Path		Savings Requirement	Tax Deduction			
			taxable years before 2021	taxable year beginning 2021	taxable year beginning 2022	taxable year beginning 2023*
Fully Qualifying Property		25%	na	na	na	$2.5/ft^2$
		50%	$1.80/ft^2$	$1.82/ft^2$	$1.88/ft^2$	$5.00/ft^2$
Partially Qualifying Property	Envelope	10%	$0.60/ft2	$0.61/ft2	$0.63/ft2	na
	HVAC and HW	15%				
	Lighting	25%				
Interim Lighting Rule		25% - 40% lower lighting power density (50% for warehouses)	$0.60/ft2	$0.61/ft2	$0.63/ft2	na

**with prevailing wages*

Example Case Study:

- *3 New Construction Buildings each at 500,000 sf*
- *2022 year, Total Potential Deduction of $2,820,000 at 1.88 $/sf*
- *2023+, Total Potential Deduction of $7,500,000 at 5.00 $/sf*

Summary of 179D Changes

	179D (2006 through 2022)	179D (2023 and forward)
Range of Deductions	$0.30 to $1.88 per sf	$0.50 to $1.00+ per sf
Range of Deductions w Prevailing Wages + Apprenticeship	N/A	$2.50 to $5.00+ per sf
Ground Up Construction Baseline	ASHRAE 90.1	ASHRAE 90.1
Retrofit Baseline	ASHRAE 90.1	ASHRAE 90.1 or Pre-Retrofit EUI
Age Requirement for Building to be eligible for Retrofit Deduction	None	5 years or older
Eligibility for Retrofits of Low-Rise Residential (3 stories or less)	No	Yes
Applicable to REITs	No	Yes
Allocable to Designers of Government Buildings	Yes	Yes
Allocable to Designers of Tax Exempt Buildings	No	Yes
Deduction reset for Commercial Buildings	None	After 3 years
Deduction reset for Government & Tax Exempt Buildings	None	After 4 years

Ideal 179D Candidates (50,000 sf and up)

	179D (2006 through 2022)	179D (2023 and forward)
Designers of Govt Buildings	☑	☑
Designers of Nonprofit/Tax Exempt Buildings		☑
Commercial Building Owners	☑	☑
Mid-Rise & High-Rise Multifamily Owners	☑	☑
Low-Rise Multifamily Owners doing Retrofits (3-stories or less)		☑
REITs		☑

45L Tax Credit for Energy Efficient New Homes

Summary of 45L Changes

	45L (2019 to 2022)	45L (2023 to 2032)
When to Start 45L Tax Credit Process	Anytime	Before Construction Starts
Credit per Single Family Home for Homebuilders	$2,000	$2,500 to $5,000
Credit per Unit for Multifamily Developers	$2,000	$500 to $1,000
Credit per Unit for Multifamily Developers (Meets Prevailing Wage Requirements)	$2,000	$2,500 to $5,000
Story Height Limit	3 Stories or Less	None
Reduce basis for calculating LIHTC	Yes	No

Ideal 45L Candidates

	45L (2020 through 2022)	45L (2023 and forward)
Homebuilders	☑	☑ *
Market Rate Developers	☑	☑
Affordable Housing Developers	☑	☑

** In 2023 and forward, homebuilders will typically quantify the tax credits given alignment with industry practices.*

Other Energy Credits – §48/48E/30C

§48 Energy Investment Tax Credit – 2022 to 2024

- Existing eligible technologies with 30%/6% rate include:
  - **Solar energy property**
  - Solar lighting property
  - Small wind energy property
  - **Geothermal property**
  - **Combined heat and power (CHP) system property**

- In 2023, additional eligible properties will include:
  - **Dynamic glass**
  - **Energy storage technology**
  - Qualified biogas property
  - Microgrid controllers
  - Interconnection property
  - Clean hydrogen property (requires election)

Transferring Certain Energy Credits Starts in 2023

- Taxpayers can now transfer certain energy tax credits such as:
  - §48 Energy Investment Tax Credit
  - §48E Clean Energy Investment Tax Credit
  - §30C EV Charging Station Tax Credit

- How is transfer made?
  - Transferor must make an irrevocable election
  - Transferor must reduce basis by amount of credit transferred
  - All or portion of credit can be transferred
  - Cannot transfer any portion of credit which has been previously transferred
  - Cannot transfer carryforwards or carrybacks
  - Transferee must pay cash to transferor
    - Payment is not tax deductible to transferee
    - Payment is not included in transferor's gross income

- REITs can transfer eligible energy tax credits

Direct Pay of Energy Credits Starts in 2023

- Tax-Exempt entities (including state & local governments) get direct pay for certain energy tax credits such as:
  - §48 Energy Investment Tax Credit
  - §48E Clean Energy Investment Tax Credit
  - §30C EV Charging Station Tax Credit

§48 Energy Investment Tax Credit – 2022 to 2024

- Energy credit is reduced, modified and expanded
  - 30% base credit rate is reduced to 6%; bonus credit rate is 30%
  - 10% base credit rate is reduced to 2% for microturbines; bonus credit rate is 10%
  - 5x bonus rate can apply if:
    - Prevailing wage & apprenticeship requirements are met,
    - ***Construction starts before 1/29/23, or***
    - ***Net output of "energy project" is less than 1 megawatt***

- Timing
  - Construction must begin before 2025

§48E Clean Electricity Investment Tax Credit – 2025 & Later

- Transition from 48 to 48E
  - Construction starts in 2025 or later
  - Technology neutral
    - Anticipated greenhouse gas emissions rate doesn't exceed zero

- Similar 6% base rate/30% bonus rate rules like Section 48
- Similar additional +2%/10% bonuses
  - Placed in service within an "energy community" or
  - Satisfies "domestic content" rules
- Similar 10% or 20% bonus for placing in service in qualified "low-income communities"

- Credit Phase Out
  - Starts later of 2032 or year where Treasury determines annual greenhouse gas emissions from US electricity production are equal or less than 25% of those in 2022
    - Over time, goes to 0 for construction that begins after fourth year after the initial phase out year

§30C EV Charging Station Tax Credit – 2023 to 2032

- Extended through 2032
- Same 6% Base Rate/30% Bonus Rate
- Same prevailing wage/apprenticeship safe harbor
  - ***Construction starts before 1/29/23 eligible for 30% bonus credit rate***
- Credit is capped at $100K (instead of $30K) for each charging station
- Must be in eligible census tract
  - Low-income or high-poverty Census tract under NMTC or
  - Not an “urban area” as designated by the Secretary of Commerce

2023 Affordable Housing Case Study

- *106 units / 65,000 Sq Ft in Houston, TX*
- *Financed w HUD Loan*
- *$1,000,000 in Solar Panels*
- *$600,000 in EV Chargers*

- 45L Tax Credits ($5,000 per Unit)
  - **$530,000** in Tax Credits
- 179D Tax Deductions ($5 per sf)
  - **$325,000** In Tax Deductions
- 70% Tax Credit for Solar Panels
  - **$700,000** in Tax Credits
  - **$520,000** in 80% Bonus Depreciation Tax Deductions
- 30% Tax Credit for EV Chargers
  - **$180,000** in Tax Credits
  - **$336,000** in 80% Bonus Depreciation Tax Deductions

Tax Planning Opportunities

Tax Planning Opportunities

- Double dip on 179D deductions & 45L credits in 2023.
    - Mid-rise and high rise residential will be eligible for both 179D & 45L
    - And 179D will apply to retrofits of low-rise residential

- Use 179D to take more deductions in later years when Bonus Depreciation was wiping out taxable income for a given property.

- Claim prior missed 45L tax credits for partnerships (especially complex ones) by filing an AAR.
    - Building designers that are partnerships can file AAR for 179D.

- Use Cost Seg to increase the basis in Section 48/48E/30C credits and maximize credits while further increasing accelerated depreciation benefit of 5 year property.

Tax Planning Opportunities

- REIT strategies for 2023
  - Increase energy credits via Cost Seg to monetize by selling to other taxpayers
  - Take advantage of 179D deductions, especially if there's state conformity;
    - Consider looking back; accounting method change via Form 3115 can push missed deductions as far back as 2006 into 2023 when E&P conformity exists

- Plan retrofits to maximize 179D Deductions

- Designers of government buildings & tax-exempt/nonprofit buildings
  - More opportunities for 5x deductions in states with prevailing wage laws (i.e. NY, CA)

- Advise clients to look at other financial incentives for energy efficiency & renewable energy before starting construction.
  - Dsireusa.org is a great database for incentives by technology & state

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