

**BERDO PHASE 3 REGULATIONS
NOTES FOR WORKING SESSION ON INDIVIDUAL COMPLIANCE SCHEDULES**

APRIL 5, 2023

This document presents a summary of the preliminary regulations proposals presented by the City of Boston for a public technical working session. This meeting focused on regulations on Individual Compliance Schedules (ICS).

<p style="text-align: center;">Preliminary proposals and questions From the City of Boston</p>	<p style="text-align: center;">Feedback and questions from the public</p>
<ul style="list-style-type: none"> ● <i>Proposed Eligibility for Building Portfolios</i> <ul style="list-style-type: none"> ○ <i>Building Portfolios must be approved by the Review Board before applying for an ICS.</i> ○ <i>An ICS for a Building Portfolio shall apply to all the Buildings within the Portfolio.</i> ○ <i>Removing or adding buildings from a Building Portfolio with an approved ICS requires a new application for an updated ICS.</i> 	<ul style="list-style-type: none"> ● <i>So in this proposal would an Owner have to go to the Review Board twice? First to get the Building Portfolio to be approved and then to get the ICS approved?</i> <ul style="list-style-type: none"> ○ <i>Notes from BERDO Team: Yes, this is the initial proposal, but open to alternative suggestions.</i> ● <i>Baseline years for ICS can go back to 2005. Can multiple buildings sequentially be added to a Building Portfolio with an ICS? Do they need to have the same baseline of 2005?</i> ● <i>We have concerns about going to the Review Board twice and prolonging the process of approving both a Building Portfolio and an Individual Compliance Schedule. Could these applications be made at the same time?</i> ● <i>Packaging up the Building Portfolio and ICS applications at the same time would streamline the process.</i> ● <i>We need to consider how often ICS approvals need to</i>

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	<p><i>happen for large institutions whose Building Portfolios change frequently in a year.</i></p> <ul style="list-style-type: none"> ● <i>Can an institution with a large Building Portfolio establish sub-portfolios for BERDO so that new buildings are not in the ICS?</i> ● <i>Custom emissions factors for power plants may not date back to 2005 due to when EPA standards were drafted. Would there be an acceptable alternative for those years? (i.e. average of most recent data or EPA standard)</i> ● <i>Would retroactive custom emissions factors need to be recalculated using the WRI Efficiency Method that was pointed at for reporting going forward?</i> ● <i>Has the city reached out to the utility companies to see if they have records for this historical data?</i> ● <i>Would a third party verification of GHG inventory from a certified-GHG Auditor under ISO 14064 be acceptable?</i>
<ul style="list-style-type: none"> ● <i>Proposed Application Process Requirements</i> <ul style="list-style-type: none"> ○ <i>Owner presents an alternative Emissions reduction schedule that meets the requirements set in the Ordinance (see box on the left).</i> ○ <i>Owner presents a reasoning or argument for the need to use an ICS.</i> ○ <i>Owner presents third-party verified Energy use, Gross Floor Area, Building Use(s), and Emissions Factors data for the year selected as the baseline.</i> <ul style="list-style-type: none"> ■ <i>The Building or Building Portfolio's</i> 	<ul style="list-style-type: none"> ● <i>Depending on granularity, it will be very difficult to provide building use data dating back to an acceptable baseline year for multi-use buildings.</i> ● <i>We understand the challenges of dealing with changes of Building Uses and Gross Floor Area, but maybe amendments can be made to the ICS instead of a full reapplication.</i> ● <i>Amendments would be better because changes can happen very quickly. We want to have the process to be</i>

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<p align="center"><i>current primary uses and respective Gross Floor Areas must not significantly differ those of the selected baseline year.</i></p> <ul style="list-style-type: none"> ■ <i>If the Building or Building Portfolio is using a blended emissions standard, the blended emissions standard for the ICS must match that of the baseline year.</i> ○ <i>Owner presents a description of any energy efficiency improvements or greenhouse gas emissions reduction efforts completed in the Building or Building Portfolio from the baseline year to date.</i> ○ <i>Owner demonstrates that the Building or Building Portfolio is currently in compliance with the Ordinance, including paying any applicable past penalties.</i> ○ <i>If the Building or Building Portfolio is located in Environmental Justice neighborhood(s), Owner identifies potential impacts to Environmental Justice populations.</i> ● <i>Proposed Application Process</i> <ul style="list-style-type: none"> ○ <i>Single Building</i> <ul style="list-style-type: none"> ■ <i>Owner submits application and verified data.</i> ■ <i>Environment Department reviews application for completeness, compliance with requirements, and potential environmental justice impacts if applicable.</i> 	<p><i>as short as possible to avoid missing reporting deadlines and compliance.</i></p> <ul style="list-style-type: none"> ● <i>We need to have a deeper conversation on what entails a “significant” change.</i> ● <i>Could people still be denied an ICS even if they provide all the requested documentation?</i> <ul style="list-style-type: none"> ○ <i>Notes from BERDO Team: Yes, this is possible as the Ordinance establishes that the Review Board has discretion on approving ICS. We are trying to create a standard application process, but the Review Board will have discretion on these decisions.</i> ● <i>Has there been consideration of how 2021 numbers might be skewed by COVID related occupancy patterns?</i> ● <i>Blended emission standards change when buildings change their uses and/or Gross Floor Area. If you can't have any changes to your baseline year, is a blended emission standard even feasible?</i> ● <i>Will the regulations say the Review Board must allow an ICS if it means all requirements or is the approval up to their discretion? This is a lot of work for a chance to be denied.</i> <ul style="list-style-type: none"> ○ <i>Note from BERDO Team: ICS cannot be directly approved by Environment Department staff. ICS need to be approved by the Review Board itself. We will provide more details on the requirements of these applications.</i>

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<ul style="list-style-type: none"> <ul style="list-style-type: none"> ■ If application is complete, Environment Department recommends approval with standard environmental justice reporting, if applicable. ■ Review Board votes at next meeting or may request a hearing. ○ Building Portfolios <ul style="list-style-type: none"> ■ Owner submits application and verified data for all buildings in approved Portfolio. ■ Environment Department reviews application for completeness and compliance with requirements, and potential environmental justice impacts if applicable. ■ If application is complete, Environment Department recommends to proceed with a Review Board Hearing. ■ Review Board evaluates proposal during hearing and may vote at the same hearing or at the next meeting. Review Board may request standard environmental justice reporting, if applicable, as well as other conditions for approval. 	<ul style="list-style-type: none"> ● If an ICS or a portfolio is approved by staff why would a hearing be necessary? <ul style="list-style-type: none"> ○ Note from BERDO Team: ICS cannot be directly approved by Environment Department staff. ICS need to be approved by the Review Board itself. ● Even if ICS needs to be approved by the Review Board, the regulations could lay out what the Review Board would be considering for Owners to focus their energy on those criteria when planning their ICS. ● Would you need to request a new ICS each time you build a building? If it's a ZNC building, would it get added to the Portfolio and either amended or resubmitted?
<ul style="list-style-type: none"> ● Proposed Timeline for Applications and Opt-Out <ul style="list-style-type: none"> ○ Initial applications for ICS may be submitted on a rolling basis until November 1, 2024. 	<ul style="list-style-type: none"> ● No comments or questions on this topic.

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<p><i>Thereafter, applications must be submitted by September 1 of each year for the ICS to be reflected for the following compliance year.</i></p> <ul style="list-style-type: none"> ○ <i>If an Owner of a Building or an approved Building Portfolio applies for an ICS in or after 2030, they must demonstrate that (a) the Building or Building Portfolio is in compliance with the Ordinance for any previous years and (b) they have reduced actual emissions from the baseline year by 50% in 2030.</i> ○ <i>With notification, Owners may opt-out of using an approved ICS by September 1 of each year. Compliance obligations would be revert back to the relevant emissions standards in Table 1 of Ordinance.</i> 	
<ul style="list-style-type: none"> ● <i>Compliance and enforcement</i> <ul style="list-style-type: none"> ○ <i>After the first compliance year in which an ICS is in effect, all compliance and associated penalties will be based on the emissions standards set by the ICS.t</i> 	<ul style="list-style-type: none"> ● <i>No comments or questions on this topic.</i>