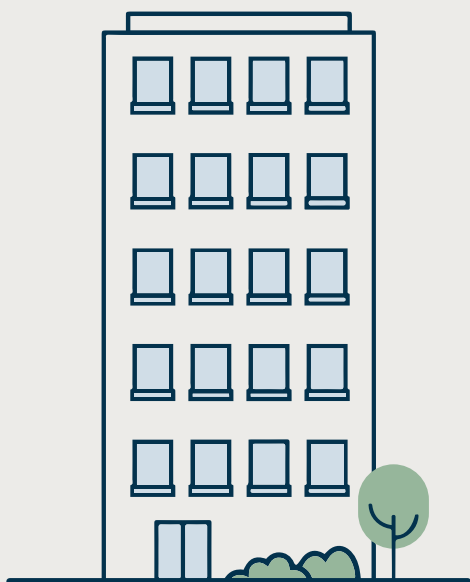


# Building Performance Standards Overview for Lenders and Servicers

## What are Building Performance Standards (BPS)?

Jurisdictions around the country are adopting Building Performance Standards (BPS) laws, which require buildings to meet certain energy or carbon emissions performance standards. Borrowers with properties in jurisdictions that are adopting BPS may be required to make efficiency upgrades to meet the standards. When a building's energy consumption or emissions are over the jurisdiction's cap, the owner may be subject to fines.

As of August 2024, 13 jurisdictions have adopted BPS policies, with 12 of these jurisdictions' policies applying to multifamily properties. The Institute of Market Transformation (IMT) maintains an [up-to-date list of all BPS laws in the U.S.](#) More jurisdictions are expected to adopt BPS in the coming years – 34 jurisdictions have committed to passing BPS as part of the [National BPS Coalition](#).



## How are BPS fines determined?

BPS policies, including how fines are assessed, are unique to each jurisdiction, but many BPS policies include the following components. Each jurisdiction may have its own

- **Square footage threshold:** Buildings above a certain square footage may be subject to BPS laws. In some jurisdictions, the square footage threshold will decrease over time, thereby increasing the population of properties required to comply.
- **Energy usage or emissions thresholds:** Buildings may be fined if a certain threshold of annual energy usage or annual emissions per square foot is exceeded. The thresholds typically become more stringent over time and may vary based on building type.
- **Fine frequency:** Some jurisdictions assess fines annually, while other jurisdictions assess fines once per compliance cycle. Compliance cycles are typically 3-6 years long.
- **Methods for calculating fines:** Each jurisdiction that has adopted a fine structure has a unique way of calculating those fines for properties that do not meet their energy or emissions thresholds. Our initial estimates suggest that fines for non-compliance can range from less than \$100 per unit per year to over \$10,000 per unit per year in some cases.
- **Alternative pathways for compliance:** Most jurisdictions have one or more alternative compliance pathways for properties with affordable housing, due to the cost of efficiency or electrification upgrades required for compliance with BPS. These pathways may include longer timelines for compliance, portfolio-level compliance plans, or sets of prescriptive efficiency measures. Prescriptive measures are typically less costly to implement than measures that would lead to full compliance with the thresholds. The details of these pathways vary widely by jurisdiction.



# Building Performance Standards Overview for Lenders and Servicers

## What can I do to prepare for BPS laws?

- **Understand the risks of BPS to your portfolio.** Refer to [IMT's BPS Matrix](#) to understand existing BPS laws and determine which properties may be subject to BPS. Utilize fine calculators, such as the [BE-Exchange NYC LL97 calculator](#) or [Energize Denver's Building Performance Calculator](#), to analyze existing energy usage and potential BPS fines at properties in NYC or Denver.
- **Identify measures and costs for compliance with BPS.** For properties located in the 12 jurisdictions with multifamily BPS, request that your Borrowers work with a consultant to conduct an energy audit. The audit can outline measures available for installation to reduce properties' energy use and emissions to comply with the local BPS.
- **Identify incentives and financing for energy upgrades.** Inform Borrowers of funding options including [local utility programs](#), Inflation Reduction Act (IRA) incentives<sup>1</sup>, and other financing such as [Fannie Mae's Green Rewards Mortgage Loan program](#). Borrowers can leverage these options to help cover the cost of installing measures to reduce their properties' energy use and emissions.

<sup>1</sup>[The Inflation Reduction Act: Benefits for Builders of Multifamily Housing](#) | U.S. Department of the Treasury

## Current Jurisdictions with BPS Policies

1. Boston, MA
2. Cambridge, MA (non-residential only)
3. Chula Vista, CA
4. Denver, CO
5. New York City, NY
6. Seattle, WA
7. St. Louis, MO
8. Washington, D.C
9. Montgomery County, MD
10. Colorado
11. Maryland
12. Oregon
13. Washington



### What if we have further questions?

Additional information is available on [Fannie Mae's Green Financing website](#). Please contact [FannieMaeGreen@brightpower.com](mailto:FannieMaeGreen@brightpower.com) or call (646) 780-1207 with questions at any time.