

BEPS Seminar Questions

From drettig To All Panelists:

Q: Roughly half of our MD properties are triple net, meaning we don't have access to energy use data. Will estimates be allowed in lieu of actual data?

A: Chris Pendley | Steven Winter Associates:

Utility companies will be required to aggregate meter data and disclose this usage (anonymized) to building owners. You'll need to collect that data from the utility, which should be available to you electronically. However, you may need to collect the meter numbers at your building(s) for the utility company.

A: David Borchardt | Maryland Energy Advisors

Utilities will aggregate data if you have 4 or more tenants. Otherwise, you need your tenants to sign a release which the utilities can provide. Your best route is to have lease language that has disclosure rules. Though some owners are using existing lease language that states tenants must comply with all laws.

A: Michael Powell | Gordon Feinblatt

You should review the language of your leases and, where possible, seek amendments to require tenant cooperation on both data gathering and compliance with the energy standards.

From Reardon Sullivan To All Panelists:

Q: What is the estimated cost to upgrade each building type, all cost in? How are the owners expected to pay for upgrade including electrical service upgrade in the street? How are the green banks funded?

A: David Borchardt | Maryland Energy Advisors

Estimated costs would depend upon building type and systems involved. You would be surprised how efficient you can make an older building with targeted upgrades with very limited capital costs. As for electrical grid upgrades, I think there will be pressure to find a statewide funding mechanism. However, given the timeline it takes to build new electrical infrastructure, there will be a gap of when buildings need to be fully electrified. This gap will probably require a change in the rules.

A: Chris Pendley | Steven Winter Associates

It's tough to say. Each building will have its own set of upgrades that have their own set of challenges, and some of these costs—including any electrical infrastructure costs—are going to be unknown until much later in the project. Utilities are unwilling to offer up how much electrical upgrade costs run until building projects go through design work.

Green Banks are typically funded by a local jurisdiction, but if you have questions about specific funding mechanisms I'd recommend contacting local jurisdictions. From our experience, green banks can be a valuable source of securing funding for these sorts of deeper energy retrofit projects.

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From Reardon Sullivan To All Panelists:

Q: Is it fair to say that the class “C” building will not be cost effective to upgrade? What happens to these buildings, the tenants in those buildings when the cost is passed down and the tax base when these buildings / tenant leave Maryland?

A: David Borchardt | Maryland Energy Advisors

As I said you have a voice in this and should comment on the rules which have not been finalized and speak to your elected officials.

A: Chris Pendley | Steven Winter Associates

Again, it’s tough to say about long-term BEPS compliance for different forms of building stock at this time. Similarly, it’s even tougher to speculate on what may happen to building occupancy patterns. I’d recommend focusing on items more easily within building owners’ control in the near term: get your building(s) benchmarked and conduct an assessment to figure out what may be needed to meet BEPS.

From drettig To All Panelists:

Q: Does NAIOP have sample lease language?

A: From David Borchardt, PE | MD Energy Advisors

There is lease language on the Better Building Challenge Web site and IMT web site. I also recommending speaking to your counsel who helps you draft and negotiate leases

Below are links to lease language.

PROLOGIS'S SOLUTION FOR ACCESSING TENANT UTILITY DATA IN TRIPLE-NET LEASED BUILDINGS

<https://betterbuildingsolutioncenter.energy.gov/implementation-models/prologiss-solution-accessing-tenant-utility-data-triple-net-leased-buildings>

IMT Green Lease Language Examples

<https://www.imt.org/wp-content/uploads/2020/02/IMT-Green-Lease-Language-Examples-January-2020.pdf>

From Hill Management To All Panelists:

Q: If Tenants don't comply, who is responsible for the fine? If it's the building owner, can the fine be passed thru to the tenant?

A: From David Borchardt, PE | MD Energy Advisors To Everyone:

Any fines and the pass through of the fines would be based on your lease. Is the owner or tenant responsible for the building systems and any upgrades or modifications required.

From Reardon Sullivan To All Panelists:

Q: Did Chris's cost study include the utility upgrades outside of the building. i.e., service upgrades?

A: Chris Pendley | Steven Winter Associates

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They did not. You can find a copy of the study [here](#), which goes into more detail on how costs were developed. As noted on a couple of different occasions, electric service upgrade costs would be impossible to know without completing electrical design work, which was not the intent of the study.

From Mike Brodsky To All Panelists:

Q: Please refresh us on the definition of "industrial" buildings' tenant uses that will result in the building being excluded from the BEPS requirements.

A: From Michael Powell | Gordon Feinblatt

The draft regulations do not exempt “industrial” but, instead, exempt “manufacturing.” This is derived from a statutory exemption for manufacturers and uses the statistical definition from the North American Industry Classification System. The Maryland Climate Change Commission is proposing a legislative change to the exemption so the situation may change.

From Reardon Sullivan To All Panelists:

Q: What is the estimated tax increase / cost to upgrade the infrastructure in Maryland per citizen?

A: From David Borchardt, PE | MD Energy Advisors

Beginning on page 26 of the presentation link below is some of the economic analysis regarding the regulations. This was presented at a Air Quality Control Advisory Council Meeting on 9/11/23.

https://mde.maryland.gov/programs/workwithmde/Documents/AQCAC/2023MeetingMaterials/MD%20BEPS%20AQCAC%20Presentation_Final_9.8.2023.pptx.pdf

From Reardon Sullivan To All Panelists:

Q: What are the chances that the BEPS will be mandated out. Any thoughts as to what was driving this legislation?

A: From David Borchardt, PE | MD Energy Advisors

Regardless of the future of this legislation I would benchmark my buildings, from my experience just knowing helps a building owner make better decisions. The reality of climate change is what is driving this, I would not expect this legislation to be mandated out and would expect it to expand to more building types and sizes. However, from what I have seen in DC and Montgomery County I would expect changes as the reality of educating and getting all building owners to comply takes place. The existing infrastructure and building technology have not caught up with all the goals in place.

A: From Michael Powell | Gordon Feinblatt

The regulation is being driven by the passage of the Maryland Climate Solutions Now Act. That statute mandates the most aggressive greenhouse gas reductions of any state in the US (60% reduction by 2031 and net zero by 2045). The General Assembly is unlikely to repeal the Act but

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changes in the draft regulations as the result of legislation or litigation is always possible. Nevertheless, we recommend that you prepare on the assumption that the regulations are enforced as currently proposed.

A: Chris Pendley | Steven Winter Associates

As David and Michael noted (and as I talked about in the webinar), I'd expect some details around BEPS to change. However, I would not expect BEPS to be mandated out.