

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1415 (Delegate Wivell, *et al.*)
Environment and Transportation

Environment - Building Energy Performance Standards and Energy Use
Intensity Targets - Exemptions

This bill prohibits the Maryland Department of the Environment (MDE) from requiring a covered building that received a use and occupancy permit before June 1, 2022, to comply with building energy performance standards (BEPS) or energy use intensity (EUI) targets developed in accordance with the Climate Solutions Now Act (CSNA) until it becomes necessary to replace lighting systems; heating, ventilating, and air conditioning (HVAC) systems; or other major components of the covered building due to component failure or the end of life of those components.

Fiscal Summary

State Effect: General fund expenditures for MDE increase significantly (likely by more than \$1.0 million) in FY 2026 for one-time contractual costs to develop a database; significant general fund expenditure increases continue in the out-years to hire staff. BEPS implementation is delayed for affected covered buildings and State expenditures (multiple funds) may decrease in the near term as a result. Other future effects (anticipated to occur beyond FY 2030), are discussed below.

Local Effect: Local expenditures may decrease, potentially significantly, in the near term due to the bill's prohibition, as discussed below. Other future effects (anticipated to occur beyond FY 2030), are discussed below.

Small Business Effect: Meaningful.

Analysis

Current Law: “Covered building” means a building that (1) is a commercial or multifamily residential building in the State or is owned by the State and (2) has a gross floor area of 35,000 square feet or more (excluding the parking garage area. “Covered building” does not include (1) a building designated as a historic property under federal, State, or local law; (2) a public or nonpublic elementary or secondary school building; (3) a manufacturing building; or (4) an agricultural building.

Climate Solutions Now Act – In General

CSNA made broad changes to the State’s approach to reducing statewide greenhouse gas (GHG) emissions and addressing climate change. Among other things, CSNA accelerated previous statewide GHG emissions reductions targets originally established under the Greenhouse Gas Emissions Reduction Act by requiring the State to develop plans, adopt regulations, and implement programs to (1) reduce GHG emissions by 60% from 2006 levels by 2031 and (2) achieve net-zero statewide GHG emissions by 2045.

Building Energy Performance Standards

To accomplish these goals, among other things, CSNA requires MDE to develop BEPS for covered buildings that achieve (1) a 20% reduction in net direct GHG emissions by January 1, 2030, as compared with 2025 levels for average buildings of similar construction and (2) net-zero direct GHG emissions by January 1, 2040. To facilitate the development of these BEPS, MDE must require covered building owners to measure and report direct emissions data to the department each year beginning in 2025. The provision requiring MDE to set a standard that achieves net-zero direct GHG emissions for covered buildings terminates December 31, 2029.

Implementing Regulations

CSNA also required MDE to adopt regulations to implement BEPS by June 1, 2023. The regulations must meet several specified requirements. Among other things, the regulations must (1) include EUI targets by building type, as specified; (2) provide maximum flexibility to the owners of covered buildings; (3) include an alternative compliance pathway (ACP) allowing the owner to pay a fee for GHG emissions attributable to the building’s failure to meet direct GHG emissions reduction targets; and (4) to the extent authorized by law, include financial incentives recommended by the Building Energy Transition Implementation Task Force.

MDE initiated the regulatory promulgation process to implement the required BEPS regulations in December 2023, but ultimately withdrew the regulations in December 2024.

MDE finalized a second round of BEPS regulations that took effect December 23, 2024. The regulations establish BEPS and related benchmarking and reporting requirements under COMAR 26.28. However, the regulations do not include EUI standards. Under the regulations, beginning in calendar 2025, covered building owners are required to report benchmarking information for the previous calendar year by June 1.

The fiscal 2025 budget as enacted included language restricting funding for the final development and submission of EUI targets and standards regulations until MDE submits, among other things, a report on EUI costs and alternatives to EUI for meeting GHG targets.

State/Local/Small Business Effect:

Maryland Department of the Environment

Although a reliable estimate of the increase in costs for MDE to implement the bill cannot be made at this time, MDE anticipates that its general fund expenditures increase by at least \$1.0 million in fiscal 2026 to develop a database to track permit documents for buildings that received a use and occupancy permit prior to June 1, 2022, and their lighting and HVAC systems in order to determine when it becomes necessary to replace those systems (or other major components of the covered building) and, therefore, when they become subject to BEPS under the bill. MDE also advises that it incurs significant costs to hire staff (likely beginning in fiscal 2027) to conduct thousands of inspections of covered buildings to be able to properly implement the bill's prohibition. MDE notes that there are an estimated 9,000 covered buildings in the State and that it does not currently track much of the information needed to determine which buildings must comply with BEPS under the bill.

As noted above, pursuant to CSNA and its implementing regulations, under BEPS, beginning in calendar 2030, owners of covered buildings may come into compliance with net direct emissions standards by paying an ACP fee for GHG emissions in excess of the standards. Under the bill, implementation of BEPS is likely delayed; thus, special fund revenues for the Maryland Clean Air Fund likely decrease from delayed ACP fees. Any such impact occurs as early as fiscal 2031, when, under current law, ACP fee revenue is anticipated to begin accruing. Although, a reliable estimate of any foregone ACP fee revenue cannot be made at this time, given the number of potentially affected covered buildings in the State, it may be significant.

State/Local/Small Business Effect as Owners of Covered Buildings

Expenditures are likely delayed, and thus decrease, at least in the near term, for owners of covered buildings that received a use and occupancy permit before June 1, 2022, and are no longer required to meet BEPS until it becomes necessary to replace lighting systems,

HVAC systems, or other major components of the covered building due to the failure of those components or as a result of the end of life for those components. Affected covered building owners could include State agencies, local governments, and small businesses. The extent of the delay in BEPS implementation depends on the lifespan of each covered building's lighting systems, HVAC systems, or other major components. The near-term cost savings may be significant for some affected building owners, particularly with respect to covered buildings that would have otherwise required costly retrofits in order to meet BEPS beginning in calendar 2030. However, in the long term, affected entities still need to meet BEPS when the affected components are replaced, and those entities that choose to delay the implementation of BEPS due to the bill will forego any cost savings that otherwise would have been realized from implementing energy efficiency measures under BEPS during that time period.

With respect to covered buildings owned by the State, to the extent any costs that otherwise would have been incurred to implement BEPS would have been funded through the capital budget, there is no effect on total capital spending, which is established annually by the Governor and the General Assembly through the capital budget process. However, any decrease in costs for State capital projects due to a delay in BEPS implementation results in an increase in available funding for other State capital projects.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Prince George's County; University System of Maryland; Morgan State University; St. Mary's College of Maryland; Interagency Commission on School Construction; Maryland Department of the Environment; Department of General Services; Maryland Department of Labor; Maryland Department of Transportation; Department of Legislative Services

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