

Philadelphia Non-Residential Buildings Required to Boost Energy Efficiency Under New Law

Philadelphia's ambitious climate action plan to cut citywide carbon dioxide emissions by 80 percent may impact a commercial or industrial building near you sooner than you realize.

In December 2019, Mayor Kenney signed into law Bill No. 190600, the Building Energy Performance Policy (Performance Policy). The Performance Policy will require owners of most large non-residential buildings to engage a "qualified tune-up specialist" (defined as a qualified professional engineer or certified energy manager) to evaluate building energy and water systems and recommend corrective actions to enhance energy efficiency. Building owners must then tune-up the efficiency of the building's energy and water systems pursuant to the specialist's findings. To fully comply with the Performance Policy, owners of covered buildings must submit to the Philadelphia Office of Sustainability, by specific deadlines, reports demonstrating inspection findings and the owner's subsequent remedial action (Tune-up Reports). Failure to submit a Tune-up Report subjects an owner to civil fines.

This tune-up process will not require major energy system capital upgrades, but rather, as the name suggests, the fine tuning of existing systems and components to promote efficiency of existing systems. While the Performance Policy defines "minor repairs" as low-cost repairs to existing equipment such that the scope of work does not require any permit from the Philadelphia Department of Licenses and Inspections, what ultimately will be required as corrective action will be guided by regulations to be enacted by the Office of Sustainability.

The Performance Policy provides a schedule for the completion and submission of Tune-up Reports starting first with the city's largest non-residential buildings. Tune-up reports must be submitted by building owners as follows: by September 30, 2021, for buildings of 200,000 sf or greater; by September 30, 2022, for buildings between 100,000 and 199,999 sf; by September 30, 2023, for buildings between 70,000 and 99,999 sf; and by September 30, 2024, for buildings between 50,000 sf and 69,999 sf. Building owners are required to submit follow-up Tune-up Reports no later than five years after their previous due date. Owners of commercial buildings of 49,999 sf or less are not required to submit Tune-up Reports under the Performance Policy, and owners of certain buildings already deemed to be energy efficient are exempt from the Performance Policy's tune-up requirements. It is not expected that the Performance Policy will apply to new construction as the city enacted the 2018 International Building Code to include modern energy efficiency measures.

The law will not become effective until the Office of Sustainability completes regulations to fill in critical details on the program, but regulatory action is likely to be fast-tracked due to the initial September 30, 2021, deadline for the city's largest commercial buildings. We will continue to monitor regulatory developments. Meanwhile, commercial building owners should evaluate the size and energy efficiency status of their commercial buildings to be prepared to meet these requirements. In addition, for those owners of buildings not subject to the initial 2021 deadline, they may wish to evaluate whether to take early action on energy efficiency to qualify for exemption to these new requirements while potentially capturing the benefit of reduced energy costs prior to their applicable tune-up reporting deadline.

If you would like additional information or guidance on the implementation of the Building Energy Performance Policy, please contact James Van Orden at (215) 665-4625 or jvanorden@cozen.com or Matt Robbins at (215) 665-4711 or mrobbins@cozen.com.



James F. Van Orden

Member

jvanorden@cozen.com
Phone: (215) 665-4625
Fax: (215) 665-2013



Matthew S. Robbins

Associate

mrobbins@cozen.com
Phone: (215) 665-4711
Fax: (215) 372-2376

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