

City of Boston BERDO Review Board  
Public Meeting Minutes  
Zoom Virtual Meeting  
October 2, 2023 at 4:30 pm  
[View recording here](#)

**Board Members in Attendance:** Rashida Boyd, Stephen Ellis, Lovette Jacobs, Lee Matsueda, Jack Nelson, Matt O'Malley

**Board Members not in Attendance:** Councilor Kendra Lara, Gail Latimore, Kai Palmer-Dunning

**Staff Present:** Diana Vasquez, Claudia Diezmartinez, Aladdine Joroff

**Others:** Approximately 12 members of the public attended this meeting.

---

#### **Motion to Nominate Acting Chair**

**4:34 pm:** Environment staff, D. Vasquez, led a vote for Acting Chair. Board Member M. O'Malley made a motion to nominate Board Member L. Matsueda to serve as Acting Chair. Board Member J. Nelson seconded the motion. All Board Members in attendance (6) were in favor. The motion carried at 4:34 pm.

---

#### **Call Meeting to Order**

**4:36 pm:** A meeting of the Building Emissions Reduction and Disclosure Ordinance, hereafter referred to as (BERDO), within the Air Pollution Control Commission, was called to order on October 2, 2023 at 4:36 pm. This meeting was held virtually.

---

#### **Roll Call**

**4:37 pm:** The following BERDO Review Board members were in attendance: Acting Chair Lee Matsueda, Rashida Boyd, Stephen Ellis, Lovette Jacobs, Jack Nelson, Matt O'Malley.

The following Environment Department staff were in attendance: Diana Vasquez, Claudia Diezmartinez, Aladdine Joroff.

**Others:** Approximately 12 members of the public attended this meeting.

---

#### **First Agenda Item: Approval of Meeting Minutes**

**4:39 pm:** The Review Board voted on approving [September 11 Meeting Minutes](#). Board Member R. Boyd made a motion to approve the meeting minutes. Board Member O' Malley seconded the motion. All Board Members in attendance (6) voted in favor. The motion

carried at 4:40 pm.

---

## **Second Agenda Item: Updates and Discussion on BERDO Phase 3 Regulations Development.**

**4:42 pm:** D. Vasquez reviewed activities completed and topics covered thus far in Phase 3 of BERDO Regulations Development. Topics discussed include: Building Portfolios, Individual Compliance Schedules, Hardship Compliance Plans, and the Equitable Emissions Investment Fund. She also presented a [summary of organizations](#) that provided feedback and [main themes of comments received](#) during a second formal comment period on Building Portfolios and Individual Compliance Schedules.

C. Diezmartinez presented [red-line revisions](#) made to regulation language relating to Building Portfolios and Individual Compliance Schedules in response to submitted comments. Environment staff shared that the Air Pollution Control Commission voted to adopt these regulations and policies on September 27, 2023. Full versions of adopted regulations and policies can be found on [boston.gov/berdo](https://boston.gov/berdo).

### **4:50 pm: Board Q&A Session**

- M. O'Malley asked if it's possible a new building that would come under the recently adopted strengthened stretch code would not be in compliance with BERDO.
  - A. Joroff believed that there was a possibility depending if the building used fossil fuels.
- J. Nelson asked a clarifying question about what was available online. Were [application templates for Building Portfolios and Individual Compliance Schedules](#) available or a list of requirements?
  - D. Vasquez explained they are templates that are open for public input and may change as a result of received input.
  - C. Diezmartinez added that previous feedback included a request to review standard forms by the public.
- L. Matsueda asked for a reminder behind the intent of the "Environmental Justice Mapping" tool.
  - C. Diezmartinez explained that one of the potential application pathways for Building Portfolios includes an Environmental Justice review. Applications that require an EJ review will have to submit maps that mark the buildings in their proposed portfolio with the following layers: Massachusetts'

Environmental Justice criteria, asthma prevalence, air toxics respiratory hazard index, and urban heat island index. The Environment staff are working to create a tool to simplify this process for applicants.

- S. Ellis asked the Environment Department to clarify what was changed relating to zoning requirements.
  - A. Joroff explained that the change was a clarification that a more stringent requirement would come from zoning.
- S. Ellis asked how Environment staff decided to switch from total building square footage to building-by-building for the criteria that states Building Portfolio square footage cannot decrease by more than 10%.
  - C. Diezmartinez explained that previous iterations of regulations changed to allow a Building Portfolio to have different baseline years. With this change, the Environment staff believed it would be simpler to switch to a building-by-building model rather than portfolio-level given the ability for a portfolio to contain differing baseline years.
- S. Ellis commented that this information could potentially be overwhelming for staff to manage when applications start being submitted.
  - C. Diezmartinez mentioned a spreadsheet template that is linked in the application standard form that Environment staff created to simplify the data for applicants, but mentions staff is open to feedback on edits.

**5:02 pm:** Acting Chair L. Matsueda opened a public comment period.

**5:03 pm:** Acting Chair L. Matsueda closed the public comment period.

**5:04 pm:** D. Vasquez presented a [summary of organizations](#) that provided feedback and [main themes of comments received](#) during an informal comment period on Hardship Compliance Plans and the Equitable Emissions Investment Fund straw proposals.

C. Diezmartinez presented [draft regulation language](#) on Hardship Compliance Plans. She covered what is included in the Ordinance, structure of a Hardship Compliance Plan, circumstances and characteristics that could lead to a hardship, eligibility to apply, types of relief, and application process, conditions, and modification and/or termination.

**5:25 pm:** Board Q&A Session

- S. Ellis asked what the relationship of state agencies is relating to Hardship Compliance Plans.

- A. Joroff said that the new administration at the state has had more discussion regarding BERDO and a lot of state buildings are reporting, but it is an ongoing conversation. Including language on state buildings comes from case law about situations where state agencies may be subject to local regulations and what the limits of that could be.
- S. Ellis asked a clarifying question that fees for applying for a Hardship Compliance Plan would not go into the Equitable Emissions Investment Fund.
  - A. Joroff confirmed that was correct and added that the current plan is to pool the fees to be used to hire outside consultants or independent contractors should the Review Board require such services.
- S. Ellis asked about the decision to make a 6-month application deadline for short-term Hardship Compliance Plans and a 12-month application deadline for long-term Hardship Compliance Plans given that this does not allow enough time for people to apply ahead of 2025.
  - A. Joroff clarified that for 2025 emissions targets, the deadline to apply will be July 1, 2024. For proceeding deadlines, the timeline will be extended to a full year for long-term hardship.
- L. Matsueda wanted to get a better understanding about who might apply for this and a status update on buildings who have not yet reported.
  - A. Joroff provided a high-level overview of who has not reported yet. Smaller buildings who were more recently subjected to BERDO with the passage of BERDO 2.0 will not have a target emissions until 2030, so it is difficult to estimate how many will want to apply for a Hardship Compliance Plan. Based on already reported data, the City could estimate types of buildings that are not on track to meeting 2025 emissions targets because they are more likely to want to apply for a Hardship Compliance Plan.
- J. Nelson wanted clarification on how the Environment Department will be set up to review these applications or whether it is expected for the Review Board to review all of them in depth with a hired consultant.
  - A. Joroff explained that it will likely be a combination of Environment staff supporting the Review Board. The BERDO team will flush out policies to streamline processes as much as is reasonable. In addition, the intent behind charging an application fee Hardship Compliance Plans is to have funds if hiring a consultant becomes necessary for technical applications.

- M. O'Malley asked if the Environment staff has heard from those subject to BERDO who are trying to prepare as a potential indicator of what to expect when applications start being submitted for Hardship Compliance Plans and Individual Compliance Schedules.
  - A. Joroff mentioned that there have been some inquiries from the Retrofit Resource Hub, but that may not be the best indicator. Larger Building owners typically have in-house capacity.
- M. O'Malley believes it's worth reiterating some building owners do not have that in-house capacity so it is important to continue reaching them. He also asked about when a Building owner would voluntarily terminate their Hardship Compliance Plan.
  - A. Joroff provided examples where circumstances changed and a building owner no longer faced a particular hardship. Long-term Hardship Compliance Plans require a check in every 5-years and a Building owner may voluntarily notify the Review Board that they no longer face a hardship ahead of the check-in.

**5:39 pm:** C. Diezmartinez presented [draft regulation language](#) for the Equitable Emissions Investment Fund. She covered what is included in the Ordinance, eligibility for funding, application processes, funding decision making, and conditions. She also shared that the Air Pollution Control Commission voted to open a 21-day formal comment period regarding Hardship Compliance Plans and the Equitable Emissions Investment Fund that will close on Friday, October 20, 2023 at 12 pm.

**5:50 pm:** Board Q&A Session

- J. Nelson asked who will review potential projects on their technical merits. He also asked if there is a requirement that these projects bid.
  - A. Joroff shared that there is currently no requirement for bidding projects. Larger projects may be required to answer if they received more than one bid, there is flexibility to ask for additional questions. The determination of technical viability is up to the Board's discretion and whether a consultant should be hired.
- L. Matsueda cautioned against expending too much staff time and energy on navigating fund disbursement, based on past experience it can become unwieldy.
  - A. Joroff agreed and recommended ensuring that application deadlines for the Fund not be near September 1.

- S. Ellis suggested it may be helpful to see a visual of all the application deadlines. He also asked for clarification on the process for hiring a consultant for the Review Board.
  - A. Joroff agreed about the visual timeline as it may be helpful for the public as well. She also explained that the process for hiring a consultant was something that needed to be flushed out but the team will use existing policies from the Boston Conservation Commission as guidance.

**5:58 pm:** Acting Chair L. Matsueda opened a public comment period.

- Weezy Waldstein commented that existing mechanisms for selecting contractors or bidding can have embedded structures of exclusion and discrimination. This is an opportunity to hire local BIPOC workers and recommended the regulations team keep that in mind moving forward.

**6:00 pm:** Acting Chair L. Matsueda closed the public comment period.

---

### **Third Agenda Item: Administrative Updates**

**6:01 pm:** D. Vasquez shared that an additional BERDO position has been approved, a BERDO Review Board Assistant. She also mentioned that the Air Pollution Control Commission added a new Commissioner, Paul Chan. Finally she reminded Board Members that the following meeting is scheduled for October 23, 2023.

**6:03 pm:** Acting Chair L. Matsueda accepted a public comment.

- Weezy Waldstein wanted to ensure that labor, in the context of evaluation criteria for the Fund, does not exclusively mean labor unions and echoed R. Boyd's comment appreciating tenant protections being included as an evaluation criterion.

---

### **Meeting Adjournment**

**6:04 pm:** Board Member M. O'Malley made a motion to adjourn the meeting. Board Member J. Nelson seconded. All (6) were in favor and the motion carried at 6:04 pm.