



Date: **October 15, 2023**

RE: **Air Quality Control Commission – Regulation No. 28**

In an effort to reduce greenhouse gas emissions for certain commercial, multifamily and public buildings in the State of Colorado, the Air Quality Control Commission (AQCC) of the Colorado Department of Public Health and Environment (CDPHE) recently established new energy performance standards for buildings larger than 50,000 square feet. The standards have been established with a goal of reducing greenhouse gas (GHG) emissions from large buildings by 7% by 2026 and 20% by 2030 based on baseline energy usage from 2021. These energy performance standards have been established in CDPHE's new [Regulation No. 28](#) which was adopted on August 17, 2023 and became effective on October 15, 2023.

Who's Applicable?

Reg. 28 applies to most **"covered buildings"** located in the state of Colorado. Reg. 28 defines a "covered buildings" as a building comprising a gross floor area of 50,000-square feet or more that is occupied by a single occupant or a group of tenants.

Who's Not Applicable?

If your building does not meet the definition of covered buildings above, then your building is not required to follow any of the new Reg. 28 requirements.

Public buildings are exempt from the Reg. 28 requirements until the building completes any construction or renovation project that has an estimated cost of at least \$500,000 and impacts at least 25% of the building's square footage, excluding upgrades such as painting, flooring or tenant finishes that do not impact energy use.

Additionally, there are several exemptions to the regulation; however, there may still be annual exemption requirements. Building owners can request an exemption from Reg. 28 for the following:

1. Covered buildings that are a storage facility, stand-alone parking garage, or an airplane hangar that lacks heating and cooling;
2. A building in which more than half of the gross floor area is used for manufacturing, industrial, or agricultural purposes; or
3. A single-family home, duplex, or triplex.

If you are uncertain if your building is applicable to Regulation 28, Aquionix is happy to assist in the determination and filing of exemptions to the State.

In addition to exemptions, there are certain cases where a waiver may be applicable if your building meets the criteria. Covered building owners seeking a waiver must submit waiver documentation to the CEO between June 1, 2023, and May 1, 2024. A full list of conditions where waivers apply can be found in [Regulation 28](#).



What Do I Do If My Building Is Applicable?

If your building meets the definition of a “covered building” as defined above, then you are required to meet several reporting requirements and likely energy use reductions to meet the standards discussed below.

- **Annual Energy Benchmarking:** By June 1st of each year, building owners must submit their energy use from the previous calendar year to the State through the [Energy Star Portfolio Manager Portal](#).
- **Building Performance Standards and Compliance Pathways:** Based on baseline GHG emissions of a building based on the annual energy benchmarking, buildings must reduce these emissions through following a compliance pathway. The state is offering several different compliance pathways to allow for flexibility in buildings reducing their emissions. The various compliance pathways are:
 - **Energy Efficiency Pathway:** Owners must reduce energy consumption through efficiency measures to meet the site Energy Use Intensity (EUI) target. EUI is calculated by dividing total energy consumption by total floor area of the building. For owners with a waiver or no benchmarking data, a target is assigned based on similar property types. Owners unable to meet the site EUI target may comply through a standard percent reduction:
 - In 2026, a 13% reduction from the 2021 baseline EUI.
 - In 2030, a 29% reduction from the 2021 baseline EUI.
 - **Greenhouse Gas Intensity Reductions Pathway:** Owners unable to meet performance standards in the Energy Efficiency Pathway may demonstrate compliance through a reduction of GHG emissions attributable to the building’s energy use through energy efficiency, replacing fossil fuel equipment with high-efficiency electric equipment or other approved alternative measures. The process of obtaining approval for an alternative compliance pathway will involve additional communication with the State and likely require an energy audit to demonstrate building owners have exhausted cost-effective energy efficiency and electrification measure to reduce emissions.

What’s Next?

Building owners have until June 1, 2024 to submit their 2023 energy benchmarking and choose a compliance pathway that will be followed in order to achieve the 2026 emission targets established in Reg. 28.

We Can Help!

Aquionix provides high quality, efficient and responsive environmental, health and safety products, services, programs and support. We help our clients effectively manage compliance while promoting workplace safety, occupational health and corporate sustainability. If you have any questions regarding Regulation 28, energy benchmarking, exemption filings, establishing a compliance pathway, or any other EHS needs, please contact us at info@aquionix.com or visit our website at [Aquionix Inc.](#)