Lessons Learned from the Implementation of Rating and Disclosure Policies in U.S. Cities

Caroline Keicher, Institute for Market Transformation
Jayson Antonoff, City of Seattle Office of Sustainability & Environment
Barry Hooper, City of San Francisco Department of the Environment
Hilary Beber, New York City Mayor's Office of Long Term Planning and Sustainability
Dave Pogue, C.B. Richard Ellis
Leslie Cook, EPA Energy Star Program

ABSTRACT

In 2011, energy rating and disclosure policies for commercial buildings came into effect in New York City, Seattle, and San Francisco. The early results being generated by these policies provide an opportunity to conduct a preliminary review of program structure, compliance strategies, challenges, and successes in these jurisdictions. As more states and cities consider energy performance rating and disclosure requirements for commercial buildings, lessons emerging from these early models will play a significant role in informing and shaping new policies. This paper represents the Institute for Market Transformation's (IMT) second round of early evaluation of these policies. A prior paper reviewed implementation challenges and best practices during the period immediately after adoption, as regulations were issued and communications to affected stakeholders ramped up. This paper builds upon those early observations, further highlighting challenges, lessons learned, and emerging practices that can be applied to future policy development and implementation. This evaluation provides a preliminary overview of the success of various strategies intended to support compliance, including outreach, training, owner support and enforcement, a discussion of the unique challenges for rating and disclosure policies in multifamily and smaller commercial buildings, and considerations for policy impact and next steps.

Introduction

Background

Mandatory rating and disclosure policies, which require the energy performance of buildings to be measured and disclosed to the marketplace, have the potential to transform the real estate sector. By enabling the market to recognize and reward energy efficiency, these policies help drive demand for and investment in strategies and technologies that reduce energy use in buildings. Transparent energy performance data can potentially influence the decisions of businesses, tenants, investors, pension funds, lenders and building owners and operators.

Within the past five years, two U.S. states – California and Washington – and five major cities – New York, Seattle, San Francisco, Austin, and Washington, DC – have passed mandatory rating and disclosure policies that will impact more than four billion square feet of floor space over the next several years (IMT 2011a). In 2011, the policies in New York City, Seattle, and San Francisco came into effect, requiring nearly three billion square feet of floor

space to be benchmarked using ENERGY STAR Portfolio Manager[1] with energy performance reported to local governments for the first time. As local governments look for ways to unlock efficiency in the massive existing building sector, rating and disclosure is increasingly being seen as a powerful way to encourage investment in energy efficiency. Interest continues to grow in cities and states across the country, and the success of these early policies will be watched closely in the coming months and years as best practices continue to come to light.

Policy Overview

New York City. New York City's Local Law 84 (LL84), passed in December of 2009 as part of the Greener, Greater Buildings Plan (GGBP), requires annual energy and water benchmarking and annual public disclosure of benchmarking information for nonresidential and multifamily buildings over 50,000 square feet and for municipal buildings over 10,000 square feet (NYCC 2009a). The initial compliance deadline for reporting benchmarking information to the Mayor's Office of Long-Term Planning and Sustainability (OLTPS) was August 1, 2011, pushed back from May 1, 2011. The city published the results for city government buildings in 2011 and will begin publicly disclosing benchmarking information for nonresidential buildings in September 2012 and for multifamily buildings in September 2013. The city is also requiring comprehensive energy audits and retro-commissioning every 10 years for all buildings over 50,000 square feet, with initial compliance phasing in between 2013 and 2022 (NYCC 2009b). Approximately 26,000 nonresidential and multifamily buildings totaling approximately 2.5 billion square feet of floor space are affected by the city's benchmarking requirement. As of December 31, 2011, 75% of these buildings had complied with the law (Beber 2012). See Table 1 for a policy comparison.

Seattle. Seattle's energy disclosure ordinance, passed in January of 2010, requires annual energy benchmarking and reporting to the Seattle Office of Sustainability and Environment (OSE) for nonresidential buildings over 10,000 square feet and multifamily buildings with five or more units (SCC 2010). Benchmarking information must also be disclosed, upon request, to current tenants, prospective tenants, prospective buyers, and prospective lenders financing or refinancing the building. The initial compliance deadline for nonresidential buildings over 50,000 square feet was October 1, 2011, pushed back from April 1, 2011. Nonresidential buildings 10,000 square feet to 49,999 square feet and 5+ unit multifamily buildings are required to comply with the law on October 1, 2012, pushed back from April 1, 2012. The law is poised to impact nearly 9,000 buildings and almost 95,000 multifamily units, together totaling approximately 281 million square feet of floor space. As of March 2012, around 31% of the roughly 900 buildings over 50,000 square feet had complied with the law (Antonoff 2012).

San Francisco. San Francisco's Existing Commercial Buildings Energy Performance Ordinance, passed in February of 2011, requires annual energy benchmarking and annual public disclosure of benchmarking information for nonresidential buildings over 10,000 square feet (SFBOS 2011). The initial compliance deadline for buildings over 50,000 square feet to report energy benchmarking information to the San Francisco Department of the Environment (SFDOE) and to existing tenants was October 1, 2011. Buildings 25,000 square feet to 49,999 square feet were

[1] ENERGY STAR Portfolio Manager is an online energy management tool that enables building owners and managers to track and compare energy and water consumption in commercial buildings. For more information, visit http://www.energystar.gov/index.cfm?c=evaluate_performance.bus_portfoliomanager.

Table 1. Policy Comparison Chart

	Benchmarking (Building Type and Size)		Disclosure		Compliance		
Jurisdiction	Non-residential	Multi-Family	On public web site	Upon request	Initial reporting deadline	Buildings impacted by initial reporting deadline	Compliance rate at ~6 months
New York City	50k SF+	50k SF+	✓	-	Aug. 1, 2011*	Non-residential and multifamily 50k SF+	75%
Seattle	10k SF+	5+ units	-	✓	Oct. 1, 2011**	Non-residential 50k SF+	31%
San Francisco	10k SF+	-	✓	✓	Oct. 1, 2011	Non-residential 50k SF+	44%

*Original compliance deadline of May 1, 2011 was pushed back to August 1, 2011
**Original compliance deadline of April 1, 2011 was pushed back to October 1, 2011

required to comply with the law beginning April 1, 2012. Buildings 10,000 square feet to 24,999 square feet will be required to comply beginning April 1, 2013. The city will begin publicly disclosing benchmarking information after the second year of reporting for each of the building subsets. The law is poised to impact nearly 2,700 buildings totaling approximately 205 million square feet of floor space. As of April 2012, around 44% of the 900 buildings over 50,000 square feet had complied with the law (Hooper 2012).

Policy Evaluation

Defining and Inventorying the Building Stock

Before cities can notify building owners, track policy compliance, or tailor outreach efforts, they must take inventory of their building stock and identify all buildings impacted by policy requirements. This task has proven to be more complicated than anticipated, with jurisdictions often working to align inaccurate records with complicated building arrangements.

In most instances, jurisdictions have used property tax databases as a starting point. These databases are structured to track property (parcels of land) and changes to the property (such as the installation of a building). While there is a strong association between parcels of land and buildings, it is common for multiple buildings to sit on a single parcel (i.e., a campus) or for a single facility to span multiple parcels. This complicates the use of tax databases for tracking benchmarking policies, which aim to regulate whole buildings, not whole properties.

In San Francisco, where county tax records provide the baseline data for communication and tracking, such one-to-many relationships have significantly slowed tracking, complicated notification of affected stakeholders, and consumed staff time that could otherwise be spent on implementation support activities. New York City already has a system in place to assign each unique building a Building Identification Number (BIN), which has aided in tracking performance data and compliance. However, the city used the Department of Finance's tax assessment database to identify affected buildings. This database fails to include some space types, such as basements, and so does not contain particularly accurate square footage information. Because of this, the city is considering requiring accurate square footage information to be collected as part of the upcoming audit requirements in LL87. Seattle, which also based its inventory on County tax assessment data, has also struggled with the problem of

accuracy, and is requesting and using feedback from owners and managers to ensure that its building information and ownership records are correct.

There has also been a demand for more clarity from building stakeholders on how to deal with mixed-use buildings, campuses with multiple buildings, multiple 'properties' underlying a single building, and the delineation between "buildings" in a retail plaza consisting of adjoining shops with a shared structure but independent energy systems. While EPA guidance exists for benchmarking any building, cities have had to provide additional clarity on the definition of a "building" as it applies to compliance with policy requirements.

Outreach, Training and Partnerships

Given the diverse and decentralized nature of the building sector and its stakeholders – from multinational management companies and institutional property investors to single-asset owners and tenants – cities are recognizing that an effective outreach and education campaign that reaches throughout this expansive range of players is essential to the success of policies.

New York City. City officials in New York City credit their significant initial compliance success in part to a strategic and multi-tiered approach to outreach, education and training that leveraged a variety of partners and resources, as well as to the public exposure and media attention that LL84 received as part of the GGBP package and widely publicized PlaNYC.[2]

Impacted building owners received notification letters from the Department of Finance and, later, warning letters from the Department of Buildings if they had not complied with the law by August 1, 2011, as well as messaging on their quarterly statement of accounts from the Department of Finance. In the future, the city may expand notifications to include the property managers and lawyers, as it has found that the building owner is not necessarily the person most likely to act on the letter. The city also sent email blasts to the large building associations with updates on implementation and deadlines.

In addition to partnering with other city government departments, OLTPS worked with a number of outside organizations and agencies to provide resources to the building community. The consultant firm HR&A conducted a pro-bono study for the city to help determine the most time- and cost-effective strategies for outreach and education (HR&A 2010). The city worked with Urban Green Council and Related Companies to put together a high level checklist for buildings owners that laid out step-by-step compliance guidance.[3] The city created a call-in help center with funding from the New York State Energy Research & Development Authority (NYSERDA) and student interns from the City University of New York (CUNY) who were trained to provide building owners with technical benchmarking support.

Supplemented by funding from NYSERDA, the city worked with the Association for Energy Affordability (AEA) and the EPA to develop a 3-hour Portfolio Manager training specific to the requirements of the LL84. By December 2011, over 200 people had gone through the training. Once a month, the city held an additional outreach event at the Department of Buildings that was open to the general public. Although geared toward building owners and their staff, the trainings were mostly attended by energy consultants from a variety of energy services companies. These consultants then proactively reached out to building owners to educate them about the requirements of the law and to offer their services, both for benchmarking and energy

[2] For more information on PlaNYC, visit http://www.nyc.gov/html/planyc2030/html/home/home.shtml.
[3] To see the checklist, visit http://www.nyc.gov/html/gbee/downloads/pdf/ugc_benchmarking_checklist.pdf.

performance improvements. City officials credit these energy services companies with significantly increasing building owners' awareness of the law.

Seattle. Like New York City, Seattle has undertaken a multi-tiered and wide reaching outreach and education campaign. It hosted a number of open houses at City Hall, presented to the members of local trade and professional organizations, and launched a local media campaign.

The city worked with the Northwest Energy Efficiency Council (NEEC) to create a support hotline to field technical questions about benchmarking in Portfolio Manager. The support hotline, managed by NEEC, was considered to be a critical component of the program, often receiving upwards of 50 calls per day. The city also partnered with the Northwest Energy Efficiency Alliance's (NEEA) BetterBricks program to administer live Portfolio Manager training workshops every two to three weeks, and held weekly 'drop in' sessions where building owners could receive hands-on, in-person technical benchmarking assistance.

These initial efforts have had mixed results reaching the various sectors of the building community. The city heard from a variety of trade organizations, business parks, and multifamily associations that were not part of the original Green Building Task Force and felt that they had not been made aware of the requirements with enough lead time to engage their members. In addition, while news of the ordinance made it into numerous trade journals and articles, these typically were not read by the owners of smaller buildings, which is a large but very fragmented market sector. The city sent notification letters directly to building owners, which were intended to serve as a reminder. However, despite outreach efforts, the letters proved to be the first time that many building owners had heard about the requirement.

Seattle's second phase of outreach aims to target some of these gaps. The city has hired a dedicated, full-time outreach staff member and plans to leverage its technical support staff to proactively reach out to non-compliant building owners and to engage more with environmental organizations and energy services companies. The city received feedback from owners that its web site and support materials should have focused more on how to comply, including simple, user-friendly instructions, and less on why the city was requiring it. As a result, the city replaced its detailed 42-page benchmarking guide with a high level, 1-page, 10-step compliance checklist and an 8-page companion How-To guide, more like the one used in New York City.

The city is also focused on the upcoming challenge of reaching out to and supporting the smaller buildings and multifamily buildings that were initially required to comply in April 2012. After letters were sent to these owners at the end of 2011, the city received pushback from owners who felt they had insufficient time to comply, or that the process was still overly complex. The city has also become aware of a small but vocal contingent of owners (one to two percent) that do not own computers or have email addresses, and are unable to benchmark using Portfolio Manager. As a result, in March 2012, the city announced a six-month grace period, to at least October 1, 2012, during which staff will consider staggering future reporting deadlines as well as modifying the minimum size threshold.

San Francisco. Among implementing cities, San Francisco has had the shortest timeframe between adoption and enactment – a little over a year – in which to design and deploy an outreach and education campaign. Like New York City and Seattle, San Francisco undertook a multi-tiered approach to outreach and education. The city sent notification letters directly to building owners and is following up with a written Notice of Violation to those who fail to comply. Targeted communication to property managers and leasing agents is underway, and

public posting of compliance status is being rolled out as an early enforcement tool.[4] The city worked with local trade organizations, including the San Francisco Chapter of the Building Owners and Managers Association (BOMA-SF), the National Association of Industrial and Office Properties (NAIOP), and the International Facility Management Association (IFMA) to disseminate information to their members. The city provided more than 25 presentations and webinars to these groups, as well as to energy services companies and the general public. A communications partnership with the San Francisco Chamber of Commerce is being developed to help inform chamber members about the ordinance. The city also worked with a media outreach consultant to help garner media attention and increase general awareness around the ordinance, receiving more than 80 media accounts, largely positive.

SF DOE has been providing 90-minute monthly webinars detailing Portfolio Manager, the local ordinance, and how to set up the Automated Benchmarking Service.[5] The city partnered with the Pacific Gas and Electric Company (PG&E), the primary electricity and natural gas utility serving San Francisco, to create a support hotline. PG&E, which is paid by California ratepayers to deliver energy savings and views benchmarking as a gateway to their rebate programs, has been a particularly crucial partner. PG&E provided workshops for a variety of affected sectors, including office, hospitality, and health care, in addition to monthly in-person workshops at its Pacific Energy Center computer lab.

However, San Francisco's outreach efforts, like those of Seattle, have had mixed results reaching all of the sectors of the building community; retail, warehouse, and light industrial properties remain particularly challenging. In addition, San Francisco must now work to engage the smaller buildings (25,000-49,999 square feet). During the second phase of outreach, the city hopes to better leverage professional networks and organizations, responsibility hierarchies within management companies, and other parties involved in decisions related to building energy use. Learning from New York, the city's staff plans to redouble efforts to enable energy services providers to be the 'boots on the ground,' educating customers about requirements in the course of offering their services. There is also a need to provide more direct support to buildings with independent or remote owners, and to reach out directly to major tenants.

Data Access

In order to benchmark, a building owner needs to gather energy consumption information from the most recent 12 months for all energy sources (electricity, gas, steam, etc.) used in the entire building. This seemingly simple task has proven to be one of the most significant hurdles for building owners and for cities working to improve compliance. Access to building energy data depends greatly how individual buildings are metered, as well as on interpretation of often-Byzantine local privacy laws and the willingness or ability of utilities to release this information to building owners. For most large buildings, and especially for multifamily buildings, collecting this information from every tenant is simply too onerous a task. Without the support of the local utilities, these policies become much harder to implement.

[4] To see San Francisco's compliance map, visit www.honestbuildings.com/sf-ecb/.

[5] EPA's Automated Benchmarking System (ABS) allows utilities to securely transfer energy consumption data directly into the accounts of building owners or managers using Portfolio Manager, helping facilitate benchmarking by saving customers time and expense. For more information, visit http://www.energydataalliance.org/wp-content/uploads/2011/07/DATA_Alliance-ABS_Fact_Sheet2.pdf.

Cities working to enable or improve access to this type of data have realized the importance of initiating discussions with utilities as early in the process as possible. In many cases, requirements for the utility to provide aggregated whole-building data, or to master meter buildings, must come from the state level. As a result, data access strategies and processes have been very different across jurisdictions.

New York City. LL84 does not require local utilities to assist customers in collecting energy consumption data for benchmarking. However, New York City began engaging in conversations with Consolidated Edison Company of New York (ConEd), the primary electric utility serving the city, well before LL84 was passed. The result of a rate case brought to the NY State Public Service Commission, ConEd now provides aggregated, whole-building energy consumption data in electronic format when requested by a building owner for $102.50 per-building. National Grid, which provides natural gas service to a subset of customers in the city, is providing whole-building gas consumption data upon request at no charge.

ConEd continues to work with the city to correct problems and provide better data for building owners. While the overall system has been working very well – New York City greatly considers the ease of data collection to be a significant contributing factors to early compliance success – the data provided to owners is not always straight-forward; ConEd has been working to reformat the data report be more consistent and less confusing. The city would also like to see ConEd progress to automatic uploading via ABS.

Seattle. In Seattle, state legislation already requires consumer-owned or investor-owned utilities that serve more than 25,000 customers to maintain customer energy consumption records for at least the most recent 12 months in a format compatible with uploading into a building owner's Portfolio Manager account. In partnership with the city, the three Seattle utilities – Seattle City Light, Puget Sound Energy, and Seattle Steam – have gone even further by creating automated processes for uploading whole-building consumption data. No signed authorization forms from tenants are needed, except for cases where Puget Sound Energy is providing natural gas service for four or fewer tenants in a single building.Despite the clear advantage of automated data upload – the availability of which has set Seattle as the current gold standard for data access and utility support of a rating and disclosure requirement – there are still difficulties in the process. Building owners must request data from each of the three utilities separately, as each utility requires a different combination of user inputs – meter numbers, account numbers, and/or building address – to initiate the process. Utilities rely on building owners to identify or confirm the appropriate meter numbers associated with a particular building, with no quality assurance check, which can lead to potential data errors.

The city would like to move toward an integrated system that would allow building owners to complete one process and request data from all three utilities on the same form, or on the same website. There has been some interest in developing enabling legislation that would provide more consistent guidelines on what the utilities can release with regard to confidentiality of tenant data. However, action on this front is still a long way off.

San Francisco. Utilities in California are required by state law to maintain customer energy consumption records for at least the most recent 12 months and, upon request, to upload consumption data into a building owner's Portfolio Manager account. However, to comply with California's confidentiality rules, utilities require building owners to gather signed consent of all

separately metered tenants prior to uploading consumption data. Since utility data is regulated at the state level, San Francisco has few options available to influence this arrangement.

PG&E provides automated upload services to building owners, though the requirement to collect tenant consent has been a significant hurdle. Aggregating this data at the utility level may be an option that would allow PG&E to protect consumer privacy while removing the onerous task of consent-collecting for building owners. However, there is concern that aggregating data would mask meter errors and inconsistencies (timing of reading, duplicate entries) from those doing the benchmarking. Another possible fix could come from state level. Because building owners must have tenant data in order to comply with the state energy disclosure law, AB 1103, regulators may decide that, through the law, the legislature gave consent for building owners to have access to monthly tenant energy use data, provided that building owners' use of such information was limited to whole-building energy performance analyses. The larger issue of privacy versus public interest is an ongoing debate in California, one that appears unlikely to be resolved in the near future.

Policy Structure

Building Size Thresholds

The question of where to set minimum building size thresholds for benchmarking policies is still under debate, even in cities that are already implementing. The lower the square footage threshold, the more buildings will be covered and the greater the potential policy impact. However, smaller size thresholds also mean greater challenges in outreach and compliance.

Unique issues and challenges arise when smaller buildings are required to benchmark and disclose energy performance information. Cities have recognized that it is much harder to reach small buildings through outreach and education efforts. Small building owners are more likely to own a single property and are less likely to belong to trade organizations. In addition, small building stakeholders may not be used to the compliance and regulatory environment to which larger building stakeholders have become accustomed. Where large buildings may have dedicated energy staff and professional building managers, small buildings are more likely to be managed by the owner. Small building owners are often less sophisticated in terms of energy management and are less likely than large building owners to be benchmarking voluntarily.

New York City set a threshold of 50,000 square feet because, at that level, the policy would impact half the total square footage of the city but only the largest 2% of its buildings. It also meant that the city would only have to actively engage around 26,000 of the city's 1 million buildings – a much more manageable number for city staff. The city does want to engage with smaller buildings, perhaps in an update of PlaNYC, but with requirements that are structured with smaller buildings in mind.

The ordinances in Seattle and San Francisco both eventually go down to 10,000 square feet, and both cities are already experiencing many of the challenges outlined above as they move to engage this subset of buildings. Cities should carefully evaluate their building square footage distribution and weigh the potential policy impact benefits against the added challenges of a lower size threshold before setting a minimum building size. Cities should also leave enough time between phase-in dates to fully engage with impacted subsets of buildings.

Implementation Timeline

Many jurisdictions have been forced to delay implementation because of initial setbacks and because it simply took much longer than anticipated to establish the necessary rules and systems. New York City's law, which took two years to develop, initially left the city with one year after passage to benchmark its own buildings and only one year to focus on rulemaking and outreach for private buildings. Not surprisingly, the rulemaking for commercial buildings was delayed, and the initial compliance deadline was pushed back twice. In New York City's case, an additional 6 to 12 months were needed to get the policy fully launched. However, as an early adopter, the challenge was greater, as most of what the city was doing was without precedent.

Seattle's ordinance moves from the largest buildings down to the smallest in one year, and San Francisco's does the same over 18 months. Both have indicated that initial estimates of time were not sufficient. Appropriate timeline setting will depend greatly on the characteristics of the jurisdiction: the design of the policy, staff time and political will, technical support, participation of the utilities, and financial resources. Cities should, however, carefully structure timelines such that each stage of implementation has a fair chance of success.

Multifamily Buildings

The inclusion of multifamily buildings in a rating and disclosure policy brings unique challenges to implementation. On the whole, the multifamily sector is not as well organized as the commercial sector, and not as sophisticated with regard to energy tracking and management. Similar to small building owners, multifamily owners are less likely to be members of the types of organizations that provide the more usual avenues for outreach to the building community. Also, Portfolio Manager cannot currently provide a 1-100 rating for multifamily buildings, and the closest metric, the Energy Use Intensity (EUI), is harder to interpret and therefore less likely to be meaningful to multifamily owners and tenants.

Residential tenants are more likely to pay their own utility bills, which limits not only the motivation of an owner to invest in improving a building's energy performance, but also the owner's access to the building's energy data (unless the building is master metered or the utility is providing whole-building energy data). Since jurisdictions have been unwilling to impose fines or penalties on residential tenants who refuse to provide a building owner with their utility bills, a building owner's alternative options for gathering the needed data are fairly limited. Despite these challenges, benchmarking requirements in the multifamily sector have the chance to empower individual citizens to incorporate energy efficiency into their rental decisions – a benefit that should not be passed over lightly. In New York City, nearly two-thirds of the buildings over 50,000 square feet are multifamily buildings; leaving them out of the requirement would have significantly reduced the potential impact of the policy.

National Support

There are many efforts on the national level to support the work of these jurisdictions and to help increase access, demand, and transparency of energy performance information for local governments and building owners. The U.S. EPA, which administers the ENERGY STAR Portfolio Manager tool, has played an instrumental role in supporting the work of implementing

cities and states by helping to identify and meet needs related to the Portfolio Manager tool itself, and with regard to trainings and other resources.

In response to mandatory benchmarking requirements, EPA has worked with individual jurisdictions to create a customized reporting feature within Portfolio Manager. The reporting feature allows each jurisdiction to create a customized report template with tailored instructions and desired data entry fields, including a data field for a unique building identifier. Using this report template, building owners can electronically submit their benchmarking results to their jurisdiction from within Portfolio Manager.

Because Portfolio Manager was designed as a voluntary tool, its required use in mandates has highlighted some limitations in the tool and some areas of frustration for building owners. EPA is responding to this feedback with a major upgrade of the tool itself.[6] The new version of Portfolio Manager, expected in 2013, will have a more user-friendly interface – likened to that of Turbo Tax – and increased functionality based on needs expressed by the jurisdictions, building owners, and Automated Benchmarking Service providers. EPA is also working closely with jurisdictions and utilities on the issue of data access. In New York City, EPA has been working on automated water benchmarking to meet the demand of the new water tracking requirement, as well as providing technical support to ConEd with its data request service. EPA worked closely with Seattle on the development of ABS capabilities.

EPA is working to support local training efforts and to increase the capacity of local expertise by co-hosting trainings with city staff, developing jurisdiction-specific content, and providing live and recorded training sessions and materials to distribute to local trainers. The agency has also been working to encourage jurisdictions to invest resources in local expertise capacity building through 'train the trainer' initiatives. EPA has been assisting jurisdictions in reaching out to energy services providers. In Seattle and New York City, EPA coordinated with city staff to hold trainings for energy services professionals to provide them with information on how to support clients (though proper compliance with benchmarking requirements) and grow their business through outreach and marketing around the benefits of benchmarking and actionable next steps. Through its Service and Product Provider partnership program,[7] EPA has established a network of professionals who are trained and already benchmarking that can target outreach in high-demand markets.

Recently, the U.S. Department of Energy (DOE) has gotten more involved with the support of rating and disclosure requirements. DOE has undertaken broad efforts to educate cities and states on the benefits of benchmarking and the use of Portfolio Manager through support programs for the Energy Efficiency and Conservation Block Grant (EECBG) communities. In 2011, DOE announced its work on a new project called the Standard Energy Efficiency Database platform (SEED), a standardized platform and taxonomy that could be used to collect and house energy data metrics related to commercial and residential buildings. The platform, currently in pilot stage, will be a free tool available to jurisdictions that will allow them to easily gather, store, analyze, and, if appropriate, publicize the data being submitted by building owners through the Portfolio Manager tool.

[6] For more information on the Portfolio Manager upgrade project, visit www.energystar.gov/PMupgrade.

[7] For more information on EPA's Service and Product Provider (SPP) program, visit www.energystar.gov/index.cfm?c=spp_res.pt_spps.

Policy Impact and Next Steps

The ultimate goal of any rating and disclosure policy is to increase the energy efficiency of the building sector. Questions are naturally arising about how best to target future outreach, compliance, and policy efforts to achieve that goal. In Seattle, outreach and education efforts have been mainly focused on building owners. The city is now considering how and through what channels to educate potential consumers of this information – renters, buyers, current tenants, and the general public – so that they are aware of its availability and start asking for it. The city also wants to work with the real estate community to ensure that energy performance information is incorporated into listing services and shared with consumers.

Cities are also considering who within the building sector is most able and likely to take action based on energy performance information – owners, managers, operators, tenants – and how to effectively reach them. Benchmarking provides a platform for tenant-owner engagement, but is only one step in toward coordination between these various parties. Highlighting examples of cost-effective improvements and supporting industry efforts to overcome the 'split incentives' that have historically hindered investment in retrofits can provide key opportunities for further engagement and improvement of energy performance. Programs and initiatives that complement energy performance disclosure policies, such as the PlaNYC/ Natural Resources Defense Council (NRDC) Energy Aligned Lease Clause[8] and the Business Council on Climate Change Green Tenant Toolkit in San Francisco, can also support these efforts.

Continued collaboration with utilities and energy services companies is also essential, not only because of the data access issue, but also because rating and disclosure is a valuable tool for driving building owners to complementary utility rebate and financing programs and to energy services companies, which are well-equipped to help buildings achieve significant energy savings. Seattle plans to share analysis of its benchmarking data with utilities so they can be strategic about their incentive and rebate programs.

New York City is currently focused not only on targeting outreach to increase compliance rates, but on improving the quality of the data coming from buildings already in compliance. Early findings indicate that nearly half of all building owners hired third party consultants to benchmark their buildings, and that the majority of those buildings, approximately 80%, were benchmarked by about 20 energy services companies (OLTPS 2012). Given this situation, the city is in a unique position to conduct targeted, hugely impactful outreach. By working with this small group of energy services companies to improve the accuracy of their benchmarking, the city has the opportunity to greatly improve the quality of a significant chunk of data being submitted to the city.

Conclusion

Commercial rating and disclosure policy is likely to continue its rapid proliferation as states and cities across the country follow the example set by cities like New York, Seattle, and San Francisco. As these jurisdictions continue their ground-breaking work solving problems and teasing out the most effective strategies for policy structure and implementation, best practices will continue to emerge. These lessons will be essential in leading the way for jurisdictions working to implement policies already on the books as well as those still in the stages of policy

[8] To view the Energy Aligned Lease Clause, visit http://www.nyc.gov/html/gbee/html/initiatives/clause.shtml.

development and enactment. Strong support from federal agencies will also continue to be crucial as governments work to increase efficiency in a time of tight budgets and understaffed departments. Early adopters always have the difficult job of overcoming unforeseen challenges and working through obstacles to arrive at the best practices. By sharing these emerging lessons, we arm the next round of policy implementers with a roadmap to more effective policies and a more efficient commercial building stock.

References

Antonoff, Jayson (Seattle Office of Sustainability & Environment). 2012. Personal communication. January 20.

Beber, Hilary (New York City Mayor's Office of Long-Term Planning and Sustainability). 2012. Personal communication. February 12.

Hooper, Barry (San Francisco Department of the Environment). 2012. Personal communication. January 24.

[HR&A] HR&A Advisors, Inc. 2010. Greener, Greater Buildings Plan: Outreach & Education Strategy. Unpublished report to the New York City Office of Long-Term Planning and Sustainability.

[IMT] Institute for Market Transformation. "Building Energy Transparency: A Framework for Implementing Commercial Energy Rating and Disclosure Policy." 2011a. Available at: http://www.buildingrating.org/sites/default/files/documents/IMT-Building_Energy_Transparency_Report.pdf. Washington, D.C.: Institute for Market Transformation.

[IMT] Institute for Market Transformation. 2011b. "International Building Energy Rating & Disclosure Policy Fact Sheet." http://imt.org/files/FileUpload/files/International%20Rating%20Policy%20FACTSHEET%2041.pdf. Washington, D.C.: Institute for Market Transformation.

[NYCC] New York City Council. "Local Law No. 84." 2009a. http://www.nyc.gov/html/planyc2030/downloads/pdf/ll84of2009_benchmarking.pdf. New York, N.Y.: New York City Council.

[NYCC] New York City Council. "Local Law No. 87." 2009b. http://www.nyc.gov/html/planyc2030/downloads/pdf/ll87of2009_audits_and_retro-commissioning.pdf. New York, N.Y.: New York City Council.

[OLTPS] City of New York Office of Long-Term Planning and Sustainability. 2012. *2011 Benchmarking Report*. New York, N.Y.: Office of Long-Term Planning and Sustainability.

[SFBOS] San Francisco Board of Supervisors. 2011. "Ordinance No. 17-11, San Francisco Existing Commercial Buildings Energy Performance Ordinance." http://www.sfgsa.org/Modules/ShowDocument.aspx?documentid=7189. San Francisco, Calif.: San Francisco Board of Supervisors.

[SCC] Seattle City Council. 2010. "Ordinance No. 123226." http://clerk.ci.seattle.wa.us/~archives/Ordinances/Ord_123226.pdf. Seattle, Wash.: Seattle City Council.