

# Advancing Mandatory Building Performance Standards in Canada: A Call for Federal Leadership

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## Introduction

This briefing note delves into the critical role the federal government can play in advancing Mandatory Building Performance Standards (MBPS) in Canada. Through a concise exploration of four strategic approaches—direct investment, design, leading by implementation and regulation—this brief aims to present solutions to expedite the adoption of MBPS.

## Current state and urgency

The acute national impact of climate change necessitates broad transformative actions, particularly in the building sector. Globally, jurisdictions are increasingly turning to mandatory policies, with a notable focus on MBPS. This pivotal [outcome-based policy](#) is set to play a key role in increasing the retrofit rate and reducing the environmental impact of large poorly performing buildings.

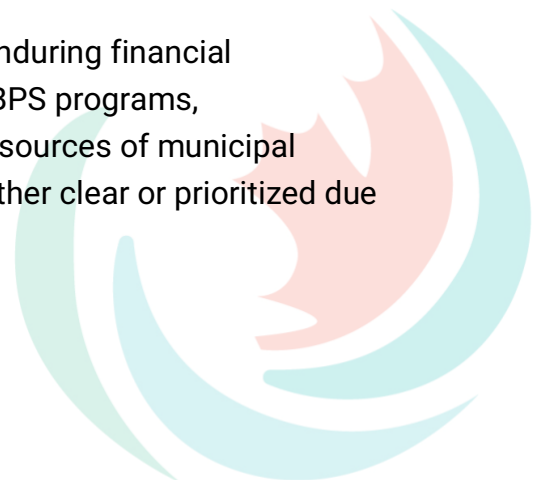
While the United States made substantial progress since 2018,<sup>1</sup> only four Canadian jurisdictions—[Vancouver](#), [Metro Vancouver](#), [Toronto](#) and [Quebec](#)—have expressed intent to adopt MBPS to address emissions from large commercial and multi-unit residential buildings. Meanwhile, voluntary programs are on the rise, albeit with a limited impact thus far. Federal intervention is needed to address this lackluster progress in order to reduce [market barriers](#) and accelerate nationwide adoption of this critical policy.

## Options for federal intervention

Building decarbonization can be accelerated at scale by leveraging successful strategies from other sectors and jurisdictions. The following sections lay out several of these approaches, presenting both their primary benefits and challenges, which are further detailed in Table 1.

### Enabling by direct investment

Retrofitting buildings at scale requires substantial and enduring financial commitment. To establish and sustain multi-decadal MBPS programs, municipalities need to explore sustained and innovative sources of municipal revenue.<sup>2</sup> For building owners, the path to net-zero is neither clear or prioritized due to the high cost.



To address cost barriers, the federal government can allocate funds through existing mechanisms, such as the [Codes Acceleration Fund](#) and the [Green Municipal Fund](#), to support the development and implementation of MBPS programs. Furthermore, this investment will enable the establishment of [concierge services](#) offering technical and financial assistance to building owners.<sup>3</sup> Such support is critical for under-resourced building owners, increasing their ability to comply with the MBPS policies.

Additionally, the federal government can leverage [new or existing tax credits](#), such as the Clean Technology and Electricity Credits, to support building owners while also facilitating compliance through advancements in critical data access and aggregation services provided by utilities.

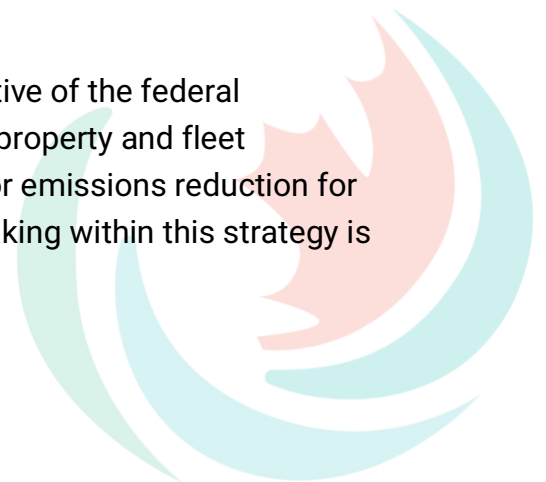
#### Enabling by design

For decades, the federal government has played a significant role in shaping building policies through the development of model building codes, national standards, toolkits, guidelines, and other resources. Using its vast infrastructure and extensive experience in building operations, the federal government can design programs and tools to reduce administrative burdens on jurisdictions, preventing a patchwork of policies while ensuring effective performance requirements are developed and implemented.

Natural Resources Canada is currently developing a Building Performance Standards (BPS) toolkit, scheduled to be released in early 2024. This valuable resource will provide practical guidance to jurisdictions considering or developing their MBPS programs. To complement this, Natural Resources Canada and the National Research Council can develop tools to support data collection, reporting, management, and compliance, thereby reducing the implementation costs for jurisdictions and length of the design phase.<sup>4</sup>

#### Enabling by implementation

The [Greening Government Strategy](#), a cornerstone initiative of the federal government, aims to achieve net-zero emissions in real property and fleet operations by 2050. This strategy sets interim targets for emissions reduction for major retrofit projects and leased facilities. Decision-making within this strategy is



informed by a [life-cycle cost approach](#), which determines which investments will eventually result in reduced GHG emissions and deliver life-cycle cost savings.<sup>5</sup>

Notably, the Greening Government Strategy and a standard MBPS program share some similarities. Both programs outline the covered buildings and performance targets. However, MBPS programs tend to be more transparent, providing detailed information of exempted building types, the selected metrics for evaluation, performance pathways, and explicit details regarding compliance fees and fines.<sup>6</sup>

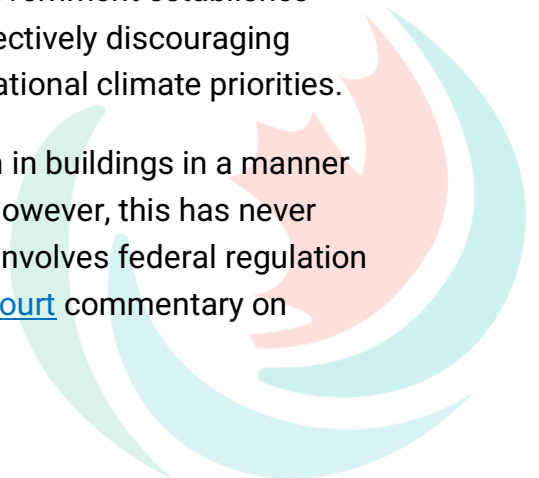
Given its role as the largest owner and manager of Canada's building portfolio, the federal government is well-positioned to demonstrate the practical application of MBPS policy. By integrating additional MBPS elements into the Greening Government Strategy, it can serve as a model for other jurisdictions and portfolio managers. The diverse range of building types across various climate zones offers strong evidence of the feasibility and versatility of this policy, further enhancing its demonstrative impact. A “federal building performance standard” will act as a benchmark that local advocates can point towards and Provinces and municipalities could adopt.

### Enabling by regulation

The federal government uses its criminal law and residuary powers to regulate emissions in two key legislative tools: the *Canadian Environmental Protection Act, 1999* (“CEPA”) and *Greenhouse Gas Pollution Pricing Act*<sup>8</sup> (“GGPPA”).

The *Canadian Environmental Protection Act* plays a crucial role in limiting emissions from various sources, including coal-fired electricity generation, liquid fossil fuels and on-road vehicles.<sup>9</sup> The *Greenhouse Gas Pollution Pricing Act* establishes a minimum national pricing scheme for GHG emissions, encouraging uniformity across Canada and acting as a backstop for provinces lacking stringent pricing systems. Through these measures, the federal government establishes limits on activities with a high environmental impact, effectively discouraging actions or infrastructural investments not aligned with national climate priorities.

The federal government could move to regulate pollution in buildings in a manner similar to its regulations on power plants and vehicles. However, this has never been done before and could be controversial because it involves federal regulation in a traditional area of provincial control. The [Supreme Court](#) commentary on



federal legislative powers, in the GGPPA ruling, noted its decision on carbon pricing did not necessarily open the door to regulating buildings.

The federal government currently uses CEPA to regulate GHG emissions as a pollutant. Its use might have stronger justification if focused directly on emission-producing equipment within buildings, like fossil fuel heating systems. From an economic efficiency and administrative point of view, regulating total building performance (e.g. GHG emissions per floor area) might be preferred, as it would enable total building data collection for compliance and give building owners flexibility to reduce emissions through several strategies, such as insulation, heating replacement, smart energy management systems, etc.

A federal government seriously focused on decarbonizing buildings in the context of the climate emergency should be actively considering its regulatory tools. If it opts to not use them, it will need to put more resources on the other three strategies noted above, requiring larger federal investments, implementation within its own properties and lands, and design of readily usable model building performance standards for lower levels of government.

Approach	Main benefits	Main challenges
Enabling by direct investment	<ul style="list-style-type: none"> <li>- Supports lower levels of government</li> <li>- Less complex implementation</li> <li>- Uses existing financial structures</li> <li>- Early adopters share critical lessons and best practices regarding design and implementation strategies</li> </ul>	<ul style="list-style-type: none"> <li>- Requires long-term federal budgetary commitments, potentially at-risk during periods of fiscal restraint or agenda change</li> <li>- Favors early adopters and larger corporations who are likely to be early participants, raising equity concerns with an underclass of low-performance buildings</li> </ul>
Enabling by design	<ul style="list-style-type: none"> <li>- Consistency and uniformity for stakeholders</li> <li>- Cost-effective, reducing redundant local investment in design</li> <li>- Leverages and potentially expedites code development process</li> </ul>	<ul style="list-style-type: none"> <li>- Does not address local variations in municipal authority</li> <li>- Difficult to design a policy that captures the diverse needs of municipalities (e.g., urban vs. rural) and stakeholders</li> </ul>

Enabling by implementation using federal buildings	<ul style="list-style-type: none"> <li>- Provides a clear template and benchmark for lower levels of government</li> <li>- Provides greater transparency on federal portfolio management</li> </ul>	<ul style="list-style-type: none"> <li>- Subject to agenda changes</li> <li>- Likely no inherent consequences or penalties for noncompliance</li> <li>- Does not guarantee subnational action or directly address existing market barriers</li> </ul>
Enabling by regulation	<ul style="list-style-type: none"> <li>- Establishes a nationwide standard for building performance and emissions reduction</li> <li>- Avoids burdensome conflicts over municipal authority and uneven implementation across provinces</li> <li>- Could encourage subnational progress to avoid federal oversight (similar to provincial carbon pricing)</li> </ul>	<ul style="list-style-type: none"> <li>- May be viewed as federal encroachment on buildings as traditional area under provincial authority</li> <li>- Administrative and enforcement challenges in implementing, validating, and tracking progress long term</li> <li>- Standard may be less stringent and coverage less broad, to account for the diverse need of building owners</li> </ul>

Table 1: Benefits and drawbacks of federal intervention via MBPS policies

## Conclusion

The adoption of Mandatory Building Performance Standards in Canada demands a direct yet nuanced federal strategy. The federal government could use one or all of these policies. By combining elements of direct investment, design, implementation and regulation, the federal government can help overcome existing market challenges, positioning Canada as a global leader in building decarbonization.



## Citations

<sup>1</sup> Since 2018, the United States has embraced MBPS, with the adoption of 14 programs at the city (9), state (4) and federal levels (1). These programs focus on energy and/or emissions reduction from large commercial and multifamily buildings, promising to achieve an 8-63% reduction in economy-wide emissions.

<sup>2</sup> <https://secure.toronto.ca/council/agenda-item.do?item=2023.EX7.1>

<sup>3</sup> In the United States, concierge services are often offered through high-performance hubs or one-stop shops. Hubs have been launched in [Washington, DC](#), [New York City](#), [St. Louis](#), [Seattle](#), and [Kansas City](#).

<sup>4</sup> <https://buildingdata.energy.gov/#/>

<sup>5</sup> The life cycle cost analysis assumes a 40-year life cycle and a carbon shadow price of \$300 per tonne CO<sub>2e</sub>.

<sup>6</sup> Compliance fees and fines are unlikely to be applicable to a federal MBPS program.

<sup>7</sup> [Canadian Environmental Protection Act, 1999](#), SC 1999 c 33, as amended ["CEPA"].

<sup>8</sup> <https://laws-lois.justice.gc.ca/eng/acts/G-11.55/page-1.html>

<sup>9</sup> Currently, it is instrumental in crafting Clean Electricity Regulations to support economy-wide decarbonization. <https://www.gazette.gc.ca/rp-pr/p1/2023/2023-08-19/html/reg1-eng.html>

