



## BUILDING PERFORMANCE IMPROVEMENT BOARD MEETING NOTES

Wednesday, September 18, 2024

In attendance:

<b>Name</b>	<b>In-Person</b>	<b>Virtual</b>	<b>Role</b>
Emily Curley	x		DEP staff liaison
Sheena Oliver	x		DEP staff
Cuiyin Wu		x	DEP staff
Lewis Morgante	x		DEP staff
Norelle Thomas		x	DEP staff
Stan Edwards		x	DEP staff
Rhett Tatum		X	Member
Daniel Cleverdon		X	Member
Amanda MacVey		X	Member
Andrew Rivas		X	Member
Lawrence Carroll			Member
Vacant - Nonresidential Building Owner or Manager			Member
Jill Goodrich		X	Member
Luke Lanciano		X	Member
Adam Landsman		X	Member
Mike Dieterich		X	Member
Julie Wolfington		X	Member
Josh McClelland			Member, Deputy Chair
Vacant -Representative of Local Electricity or Natural Gas Utility			Member
Kevin Walton		X	Member, Chair
Gregory Goldstein		X	Member
Lindsey Shaw	x		Ex officio member (DEP)
Bryan Bomer		X	Ex officio member (DPS)
Michael Yambrach			Ex officio member (DGS)

Don Scheuerman			DGS
Alyssa Mrvos		X	DPS
Henry Jordan		X	Member of the public

**Administrative items**

Adam Landsman moved to approve meeting minutes from 7/17/24. Rhett Tatum seconded. Minutes were approved unanimously.

**State BEPS Update**

MDE released a new draft BEPS regulation proposal on Monday, 7/15 and the [full text of the proposed regulation](#) appears in the September 6 [Maryland Register](#) for public comment through October 9th.

MDE will also hold a [virtual public hearing](#) on the proposed regulations on **October 9, 2024, at 1:00 p.m.** Interested persons are invited to attend and express their views.

MDE intends to establish site energy use intensity (EUI) standards in 2027, as required by the Climate Solutions Now Act of 2022 (CSNA), after analyzing 2025 energy use data from covered buildings and submitting a report as required by the Budget Bill (Fiscal Year 2025), SB 360/Chp. 716 of 2024.

Building owners should refer to the site EUI standards [proposed in December 2023](#) as general directional guidance when they plan improvements to their buildings.

Building owners are advised not to install electric resistance heating equipment without considering how the use of such equipment would influence the site EUI, and future regulatory requirements.

MDE will hold a [series of public outreach sessions](#) in August on BEPS. Attendees can [register](#) for the meetings and submit questions in advance.

On other state activities, Bryan Bomer from DPS noted that the state is moving quickly on 2024 building codes as they received funds from a RECI grant.

DPS was selected for an IRA codes grant and is moving into negotiations with DOE on the \$10 funding request that would fund interactive tools, communication / education, technical assistance for under-resourced buildings, and data analysis over the next 3 code cycles with the intent of reaching net zero energy codes for new construction in the 2027 code cycle.

One member asked when the 2027 code cycle would start affecting new buildings. It would be around 2030 as the state has 18 months to adopt code and then the County has one year.

**Benchmarking & BEPS Resources**

DEP staff provided links to several new BEPS documents which can be found in the meeting presentation.

The 2023 benchmarking report will be published on October 1<sup>st</sup> along with the new benchmarking map and target look-up tool.

**County BEPS Regulation Update**

The Council approved another [resolution to extend the deadline](#) for consideration of Executive Regulation 17-23, Building Energy Performance Standards to February 28, 2025.

The Board discussed the most recent [Sept 16 Transportation & Environment Committee listening session on financing and incentive programs](#). Panelists included individuals from the Montgomery County Green Bank, Maryland Department of Housing and Community Development, Maryland Energy Administration, Boland, and federal Loan Programs Office.

BPIB member Julie Wolfington was on the panel and recapped her statements to the committee.

Members discussed one point that was brought up at that listening session which is that lack of regulation is hampering decision making. Customers looking at replacing equipment now are worried about County and State BEPS and unsure how to proceed. Similarly, lack of clarity on fees or citations for non-compliance is making it difficult to assess avoided costs.

Another member reiterated that many building owners are not acting due to incompetence or lack of awareness but because the real estate market, particularly for offices, is very challenged right now.

### **Discussion: Additional Feedback from MF Listening Session**

Since the last BPIB meeting, DEP received additional feedback from the multifamily stakeholder listening session that was held on July 15. The Board spent time discussing each of the recommendations.

1. Expand definition of under-resourced properties to include multifamily housing.

Members had arguments for and against considering all multifamily as “under-resourced.” One member noted that the building needs a lot more housing stock.

Members noted that there is a policy trade-off where older multifamily stock subject to both BEPS and rent control are facing competing priorities of improving buildings vs maintaining affordability. Several members supported considering rent stabilized buildings as under-resourced for BEPS purposes.

One member suggested that perhaps multifamily buildings in equity emphasis areas could be considered under-resourced. To this end, another member suggested that DEP should consider impacts and availability of the technical assistance program and how funds are and could be allocated based on changes to this definition.

One member noted that all common ownership communities (COCs) are considered under-resourced and suggested that doing so is a political decision. Another member noted that condos have less direct control of outcomes due to individual owners owning and maintaining the equipment inside each unit. DEP staff noted that COCs cannot take advantage of PACE financing or property tax credits so are more limited in some financing and incentive options.

2. Modify the regulatory definition of “cost effective” to reflect owner costs and savings instead of property-level costs and savings.

Members discussed the “principle agent” or “split incentive” issue. A member gave a few examples of how different metering structures affect payback to building ownership. In master-metered properties, owners realize savings when upgrading central systems or if tenants do not pay their own utilities. In individually metered buildings, owner investments in new equipment is a capital outlay for the landlord but savings accrue to the tenants who pay their own bills and the owner does not receive a payback.

Another member noted that in some leases, like commercial triple net leases, some of the capital outlay can be passed through to the tenant, so the cost/savings isn’t an all-or nothing test.

3. Expand cost considerations associated with BEPS to include financing costs.

4. Change economic infeasibility from 25 years to the lifespan of new equipment contained within the energy improvement measure package

One member noted that 25 years is more than double what most owners would consider a reasonable payback. Another member said that if the owner cannot get a payback before the end of the useful life of the equipment, there is no payback, as money would need to be invested again to replace that equipment.

Members also noted that changing the 25-year criteria for buildings that are not considered under-resourced could be an alternative option to #1 in which all multifamily buildings would be considered under-resourced.

A member noted that, in practice, owners will look at each project individually rather than as a package and make investment decisions on an equipment-by-equipment basis. Another member countered that as the first step in the BPIP is an energy audit, most audits will bundle projects together to make projects more affordable and group quicker payback measures with those that take longer.

5. Limit the information provided via BPIP covenants to only include essential information.

This suggestion had broad support from the board when discussed at the July meeting.

6. Allow for extensions and BPIP revisions in the case of transferred property ownership

Members supported general flexibility for this option to be open to renegotiate BPIPs and noted that conditions may change with the building, the new building owner, and technology. Some members discussed that as long as the BPIP stays consistent (or better) in terms of savings and timeline, there should be no problem.

7. Modify the renewable energy allowance to allow for offsite renewables.

Members mentioned that the previous board recommendation report had broad support for some form of offsite renewable energy credit with members being split on capping the offsite REA. Members discussed that scope 2 emissions tend to make up the largest share of building emissions and many companies buy RECs to offset 100% of emissions and have contractual documents listing the RECs purchased, locations, etc. Putting a cap on an offsite REA could disincentivize owners from purchasing 100% renewable energy. However, it was also noted that when a building owner purchases RECs for a portfolio of buildings, there needs to be a mechanism to categorize RECs for each covered building without double dipping. Members in favor of a cap or no offsite REA noted that changing equipment is persistent vs short-term REC contracts.

DPS noted that there is currently no mechanism to track REC contracts being purchased to meet the lgCC requirements.

### **Next meeting**

The next meeting will be held on Wednesday, Oct. 16 on Zoom.

For additional information, please visit the Building Energy Performance Standards website at <https://www.montgomerycountymd.gov/green/energy/beps.html> or contact DEP at [energy@montgomerycountymd.gov](mailto:energy@montgomerycountymd.gov).