



Building Performance Improvement Board

7/17/2024

Learn more at <https://www.montgomerycountymd.gov/green/energy/beps.html>

Agenda

- **Admin Items**
- **State BEPS Regulation Update**
- **County BEPS Regulation Update**
- **Building Performance Improvement Plan Discussion**



Administrative Items

Actions

- Approve 6/26 meeting notes



State BEPS Regulation Update

State BEPS Regulations

- MDE released a new draft BEPS regulation proposal on Monday, 7/15
- The revised regulation:
 - Establishes requirements for building owners to report energy use and emissions data to MDE annually starting June 1, 2025, as proposed in December 2023;
 - Establishes other reporting requirements as proposed in December 2023;
 - Establishes net direct emissions standards, as proposed in December 2023;
 - Removes the proposed site energy use intensity (EUI) standards; and
 - Modifies the agricultural building definition, manufacturing building definition, exemption procedure, public infrastructure property types, and the consumer price index for clarification.
- The 2024 BEPS draft proposed regulation can be found [here](#).

State BEPS Regulations – EUI Standards

- 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.

State BEPS Regulations Next Steps

- MDE will hold a [series of public outreach sessions](#) in August on BEPS. Attendees can [register](#) for the meetings and submit questions in advance.
- MDE intends to officially withdraw the December 2023 BEPS regulatory proposal, propose the July 2024 draft regulation in September [in the register for a public comment period], and hold a public hearing on the proposed action in October.



County BEPS Regulation Update

T&E Listening Sessions

Held:

- July 15, market rate multifamily and common ownership communities

Planned:

- September 16: Financing & technical assistance – Montgomery County Green Bank
- September 23: Faith Community

Summary of Reg Recommendations from Multifamily Stakeholders

1. Change EUI standards

- a. Make EUI standards easier for multifamily buildings
- b. Create different standards for different types of MF buildings (perhaps considering age and ownership structure)

2. Add an offsite renewable energy allowance

3. Modify BPIP

- a. Consider all multifamily properties under resourced buildings
- b. In calculating the payback for BPIPs, include interest payments on loans and omit any penalty costs
- c. Provide “more clarity” for BPIP process
- d. Specify that existing systems need not be replaced before the end of their useful lives
- e. Grandfather current HVAC and gas equipment with a mandate to improve or change equipment only at the time of replacement, and only if existing building infrastructure can support new equipment

4. Extend deadlines for compliance (would require change in law)

5. Exempt additional properties (would require change in law)

Full Council Consideration

- The Council approved a [resolution to extend the deadline](#) for consideration of Executive Regulation 17-23, Building Energy Performance Standards to September 30, 2024.
- Likely to be further extended given T&E schedule



Discussion: Building Performance Improvement Plans

BPIP Feedback from Listening Sessions

To date, listening sessions seem to indicate appreciation for flexibility via BPIP process but focus on a preference to modify site EUI standards or change compliance options (like adding an offsite renewable energy allowance) to make performance standards easier to meet

More Detailed BPIP Modification Recommendations

- a. Consider all multifamily properties under resourced buildings (or modify payback threshold for all market rate buildings)
- b. In calculating the payback for BPIPs, include interest payments on loans and omit any penalty costs
- c. Specify that existing systems need not be replaced before the end of their useful lives
- d. Grandfather current HVAC and gas equipment with a mandate to improve or change equipment only at the time of replacement, and only if existing building infrastructure can support new equipment
- e. Provide “more clarity” for BPIP process

Discussion

- Questions that the regulation text does not answer?

Discussion

- Any key issues members have with the regulations?

Discussion

- Thoughts on what could be added/changed for clarity in the regs (which are not the place for detailed technical guidance)?



BPIP Regulation Text

BPIPs in Regulation

- If a covered building owner cannot reasonably meet one or more of the applicable interim or final performance standards due to economic infeasibility or other circumstances beyond the owner's control, the owner may submit a proposed building performance improvement plan to the Department.

Economic Infeasibility

- Economic infeasibility means:
 - 1) circumstances in which the simple payback of the energy improvement measure package required to meet the interim or final standard is more than 25 years, after considering all possible incentives and including avoided penalties defined in program guidance at the time of building performance improvement plan submission; or
 - 2) for under-resourced buildings, circumstances in which the simple payback of the energy improvement measure package required to meet the interim or final standard is more than 10 years, after considering all possible incentives and including avoided penalties defined in program guidance at the time of building performance improvement plan submission.

Under-Resourced Buildings

- Under resourced building means:
 - A qualified affordable housing building (multi-family building that includes at least 50% of dwelling units whose sale or rental price do not exceed that of a moderately-priced dwelling unit under Chapter 25A.),
 - A common-ownership community,
 - A non-profit owned building, or
 - A local small business owned building.

Circumstances Outside the Owner's Control

- Circumstances outside the owner's control may include characteristics inherent to the building or the building's operations or may involve timing events in the building's equipment lifecycles, occupancy, or financing cycles.

BPIP Submission

- The plan must include supporting documentation that demonstrates economic infeasibility or circumstances outside of the owner's control preventing the building from reaching the interim or final target.

BPIP Requirements

1. The building performance improvement plan must include the results of an energy audit that was performed not more than four years earlier that follows the Level 2 Procedures defined in the most current version of ASHRAE Standard 211...and contains engineering calculations of energy savings and a simple payback analysis of each potential energy improvement measure covering, at a minimum:
 - a) operational improvements;
 - b) low and no-cost energy improvement measures;
 - c) retro-commissioning or recommissioning of existing equipment that is planned to remain in service past the final performance standard date; and
 - d) replacement of existing equipment that is planned to be replaced before the final performance standard date.

BPIP Requirements

2. The plan must contain an assessment that evaluates the initial cost and annual energy savings of potential energy upgrades that include:
 - a) replacement options of existing equipment that is planned to remain in service past the final performance standard date;
 - b) electrification feasibility for replacement of fossil fuel combustion equipment; and
 - c) onsite renewable energy systems.

BPIP Requirements

3. The plan must be completed by a recognized energy auditor that possesses an active credential in good standing of one of the following:
 - a) a credentialing program approved by the U.S. Department of Energy Better Buildings Workforce Guidelines for Building Energy Auditors or Energy Managers;
 - b) a Professional Engineer license; or
 - c) another professional license or building energy training program credential recognized by the Director.

BPIP Retrofit Plan

The building performance improvement plan must contain a retrofit plan identifying the **cost-effective energy improvement measures** to be implemented in the building, the **calendar year or qualifying event during which such energy improvement measures will be made**, and the predicted annual energy savings resulting from implementing the energy improvement measures.

The retrofit plan must also:

1. address all building systems, including envelope, heating, cooling, ventilation, domestic hot water, lighting and electrical, elevators, motors, and pumps;
2. if applicable, address building systems located in tenant spaces owned and maintained by the owner;
3. detail energy improvement measures that include operational improvements, equipment retro-commissioning or recommissioning, and equipment replacement; and
4. consist of a package of cost-effective energy improvement measures that maximize energy savings.

BPIP Evaluation

- A. The Director must evaluate a building performance improvement plan based on the completeness of materials submitted and the resulting energy savings, taking into consideration the factors of economic infeasibility or circumstances beyond the owner's control documented in the building performance improvement plan.
- B. The Director may require that additional measures be assessed, additional documentation be provided, or that additional energy performance improvements be included in the plan. The building owner may then submit an updated building performance improvement plan that addresses the Director's requirements for review.
- C. If, after consulting with the Building Performance Improvement Board, the Director approves the building performance improvement plan, the owner must record the building performance improvement plan as a covenant in the County land records and deliver a certified copy of the recorded plan to the Department.
- D. If the Director does not approve the plan, the Director must provide the applicant with a written summary of the grounds for denying the building performance improvement plan and the covered building must satisfy the applicable interim or final standard or be considered noncompliant.

Demonstration of Compliance via a BPIP

- A. After the Director receives the certified copy of the recorded plan, the covered building will be deemed to be in compliance with the applicable interim or final performance standards as long as the owner fulfills the terms of the building performance improvement plan within the timeline specified in the plan.
- B. Building owners must demonstrate fulfilment of the terms of the building performance improvement plan by reporting annually on June 1 of energy improvement measures implemented in the previous calendar year in a form approved by the Director.
- C. Annual building performance improvement plan reporting must also provide information on correcting any noncompliance or deviation from the plan.
- D. If, by the final performance target date, the building's EUI is below the EUI target, or the building has fulfilled all of the requirements of the approved building performance improvement plan, the building owner may submit to the Department a request to terminate the covenant...
- E. If the building has not fulfilled the requirements of the approved building performance improvement plan by the final performance target date, the owner must continue to submit annual building performance improvement plan reports.

Questions?

Emily Curley

Building Energy Performance Programs Manager

Emily.Curley@MontgomeryCountyMD.gov

240-777-7707

BPIB Webpage

<https://www.montgomerycountymd.gov/green/energy/bpib.html>

Stay Informed

Check BEPS website for real-time updates:

<https://www.montgomerycountymd.gov/green/energy/beps.html>

Sign up for [Commercial Energy Newsletter](#)



DEPARTMENT OF
**ENVIRONMENTAL
PROTECTION**