



Building Performance Improvement Board

9/18/2024

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

Agenda

- **Admin Items**
- **State BEPS Regulation Update**
- **County BEPS Regulation Update**
 - **Recap 9/16 BEPS listening session**
 - **Discussion on additional recommendations from multifamily listening session**



Administrative Items

Actions

- Approve 7/17 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 – Public Comment Period

- The full text of the proposed regulation appears in the September 6 Maryland Register
 - Comments to MDE are being accepted 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.

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.

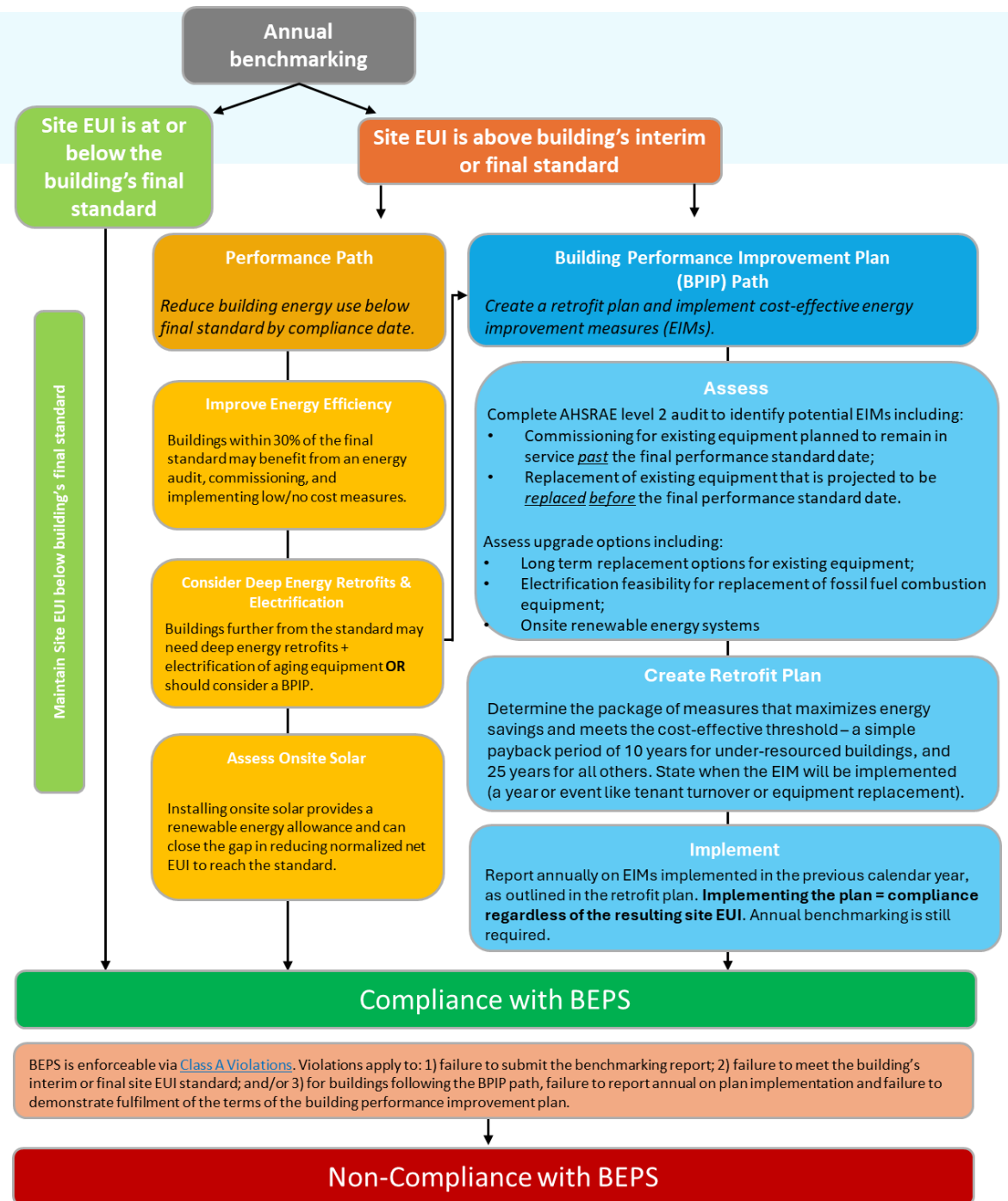


Benchmarking & BEPS Resources

New Resources

New resources on [BEPS website](#):

- Short [overview of BEPS regulations](#)



New Resources

BEPS and Rent Stabilization overview:

- Of the roughly 350 rental properties covered by BEPS, approximately 60% were built before 2001, as reported by the owner via energy benchmarking. As such, many, but not all, rental properties covered by BEPS are also subject to rent stabilization requirements.
- Landlords of rent-stabilized properties have multiple options for covering the cost of capital improvements, whether related to BEPS or not.
 - Capital Improvements Petition
 - Substantial Renovation Exemption Application
 - Fair Return Petition

New Resources

Benchmarking [Disclosed Data & Reports](#)

- 2023 benchmarking [disclosure spreadsheet](#) available now
- Annual Benchmarking Report will be published on October 1
- New benchmarking map will be published on October 1
- New BEPS target look-up tool will be published on October 1
- Benchmarking scorecards will be emailed to reporters around October 1

New Resources

[BEPS and Rent Stabilization overview:](#)

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County BEPS Regulation Update

Full Council Consideration

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

T&E Listening Sessions

Held:

- Hospitals
- Life Sciences
- Affordable Housing
- Market rate multifamily and common ownership communities
- Financing & technical assistance – Montgomery County Green Bank

Planned:

- September 23, 1:30 – 4:30, Council Office Building 7th fl conference room and online: Faith Community

Financing & technical assistance listening session

Panelists:

- Montgomery County Green Bank
- MD Department of Housing and Community Development
- Maryland Energy Administration
- Julie Wolfington
- Federal Loans Program Office

Additional Feedback from MF Listening Session

1. Expand definition of under-resourced properties to include multifamily housing.
2. Modify the regulatory definition of “cost effective” to reflect owner costs and savings instead of property-level costs and savings.
3. Expand cost considerations associated with BEPS to include financing costs.
4. Change economic infeasibility from 25 years
5. Limit the information provided via BPIP covenants to only include essential information.
6. Allow for extensions and BPIP revisions in the case of transferred property ownership
7. Modify the renewable energy allowance to allow for offsite renewables.

Additional Feedback from MF Listening Session

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

Regs specify which multifamily buildings are under-resourced:

- All common ownership communities
- Affordable housing (a 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)
 - Regulated affordable housing
 - Naturally occurring affordable housing

For consideration:

- Consider all multifamily under resourced?
- Consider rent stabilized apartments under resourced? (Would apply to ~60% of apartments covered by BEPS)
- Other?

Additional Feedback from MF Listening Session

- *Modify the regulatory definition of “cost effective” to reflect owner costs and savings instead of property-level costs and savings.*
 - *When a property owner identifies cost-effective measures to implement, they look at their capital outlays compared to their potential benefits—e.g., their potential utility savings, which may not be the same as the building-level utility savings. This is particularly relevant in the case of direct metered properties.*

For consideration:

- If tenants reap utility savings benefit, landlord could adjust rent?
- If property is rent stabilized could recoup investment via capital improvement surcharge?

Additional Feedback from MF Listening Session

- *Expand cost considerations associated with BEPS to include financing costs.*
 - *Take the total cost of interest divided by the lifespan of the loan and add it into the project costs*

For consideration:

- The cost effectiveness test determines which projects need to be included in the retrofit plan based on the cost and savings of each measure, regardless of each owner's financing ability.
- Inability to finance a measure included in the retrofit plan is something that would be reported on during plan implementation, with proper documentation to be outlined in technical guidance.

Additional Feedback from MF Listening Session

- *Change payback from 25 years to a payback that exceeds the typical equipment lifespan of most new equipment.*
 - *Economic infeasibility = energy improvement measure package required to meet the interim or final standard is more the lifespan of new equipment contained within the energy improvement measure package*

For consideration:

- Each building's retrofit package may include equipment with a varying lifespan (e.g. windows, heat pumps, lights, etc)
- Could prime owners to intentionally omit longer lasting projects (like envelope improvements).
- Energy improvement measures in a retrofit package are commonly bundled such that projects with longer paybacks are offset by projects with quicker paybacks.

Additional Feedback from MF Listening Session

- *Limit the information provided via BPIP covenants to only include essential information.*
 - *E.g. an executive summary that contains basic information like the measures agreed to within the BPIP, a schedule of upgrades, and expected financial outlay*

For consideration:

- Would this kind of summary provide enough information in the case of a change of ownership, for the new owner to implement the plan

Additional Feedback from MF Listening Session

- *Allow for extensions and BPIP revisions in the case of transferred property ownership*
 - *When transferring property ownership, schedules in the approved BPIP are likely to change based on different capital needs*
 - *BPIP should have flexibility to be modified according to new owner's schedule*
 - *Allow owner to change approaches to a BPIP*

For consideration:

- Reactions to the above?
- The reason that BPIPs are to be recorded in a land covenant is so that new building owners have visibility into the retrofit package specific to that building.
- The concept of how to account for and report on deviations from the BPIP schedule, including for new owners, could be considered in technical guidance.

Additional Feedback from MF Listening Session

- *Modify the renewable energy allowance to allow for offsite renewables.*

For consideration:

- A majority of BPIB members were in support of providing some kind of offsite renewable energy allowance.
- Board generally agreed that if offsite renewable energy is only given a small allowance, there may not be much need to carefully track offsite renewable energy contracts and locations outside of what Portfolio Manager already captures. For instance, if the offsite REA is capped at 10%, the County may opt to be less strict on verifying details about these contracts.