

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Energy and Environment



BEPS Task Force Meeting Notes
May 5, 2020, 2:30-4:30 PM
1200 First St NE, 5th Floor, Washington, DC 20002

Task Force Member Attendees: Katie Bergfeld, Patti Boyd, Jen Croft, Marshall Duer-Balkind, Asa Foss, Maxwell Greninger, Adrian Gross, Reshma Holla, Jessica Jones, Anica Landreneau, Cliff Majersik, Todd Nedwick, Matt Praske, Joe Reilly, Jay Wilson

Public Attendees: Sharon Jaye, Andrew Held, Molly Hofsommer, Kate Johnson, Adefunke Sonaiké, Michael Feldman-Wiencek, Kristian Hoffland, Andrea Foss, Jessica Pitts, Meghan McAvoy, Giuliana Kunkel

Agenda:

1. Administrative Items
 - a. Opened meeting at 2:30pm and started recording. Attendance taken through roll call and chat box (noted above). Quorum acknowledged.
 - b. Katie B. provided update on Campus Carve-out - Made some progress in meetings, but may be altering approach to make sure all issues are addressed. DOEE will not be circumventing TF, but will ensure this extended process will not slow down the rules process. Katie will keep the TF updated
 - c. Sharon J. talked about new format just for May 5. Due to rules timeline and wish to reserve May 12 meeting solely for draft outline of rules, today will be a quicker version of the meeting in order to move through remaining rule topics. DOEE will present its' proposed rule and the Task Force will provide feedback. No voting necessary since Task Force is not providing formal recommendations to DOEE.
2. Standard Target Pathway
 - a. Proposal: Buildings that do not meet the standard must reduce Site EUI by 20% or reduce Source EUI to meet the standard for its property type group. Offer as an alternative compliance path every cycle.
 - b. Comments:
 - i. Distinction between ENERGY STAR score, Site EUI in the performance path, and Source EUI is important to define in rule language. This pathway should be specifically distinct from the performance pathway.
 - ii. DOEE: Note the Perf. Path is site EUI and source EUI has been previously agreed to being the closest approximation of ES Score. DOEE will make sure the language explicitly delineates between metrics.
3. Portfolio goal allowed for property type groups with one owner

- a. DOEE acknowledged the interest in a district-wide credit trading system but stated it is too complicated to set up for the first cycle. Would like to watch what NYC does in setting up their system.
- b. Proposal: In property type groups where one building owner owns all of the properties in that group, the owner would be allowed to use a portfolio goal for the buildings in that group as an alternative compliance path.
- c. Comments:
 - i. DGS supports this proposal
 - ii. Do we know which property type groups this pertains to? DOEE hasn't yet examined property type groups outside of DGS, who owns 100% of 4 different groups. Expecting a few others, but that this will be more relevant as square footage ratchets down in future cycles.
 - iii. Important to plan for what happens if a new building/change of owner occurs which changes a group from 100%
 - iv. Discussion highlighted the importance of the language in that the portfolio goal for this particular rule is for buildings of the same building type, but also applies to the topic in # 4 that portfolio goals should only be allowed for building of the same property type.

4. Portfolio Goal for building owners

- a. Proposal: DOEE will allow Building Owners to apply to use a portfolio goal as an Alternative Compliance Path on a case-by-case basis. Building Ownership determination for that portfolio would have to be part of the application.
- b. Comments:
 - i. Think of this as a pilot program since it's on a case-by-case basis.
 - ii. DOEE could provide guidance or possible criteria with the rules on what could be accepted in the application.
 - iii. Building ownership owned by different LLCs is a pain point and acknowledged by DOEE. If the Building owner can't clear up the ownership to prove the need for a portfolio goal, the application would probably get denied.
 - iv. Change of ownership in the middle of a compliance cycle was brought up multiple times. Discussed point-of-sale disclosure and when during the process to disclose. DOEE will discuss with OGC to investigate further.

5. Deep Retrofit Alternative Compliance Path

- a. Acknowledgments: Affordable Housing will have their own process that takes into account their 15-year financial process. And the existing extension process will be in place if an owner needs more time for project planning or financial reasons for deep retrofit projects.
- b. Proposal: Buildings that do not meet the standard at the beginning of the compliance period may submit to DOEE by the end of the first year of the compliance cycle a

compliance plan that shows a Deep Energy Retrofit with modeled energy savings greater than XX% in return for 2-3 cycles of compliance.

- i. Design/modeling, permitting, construction, and commissioning of the Deep Energy Retrofit must be completed during the first compliance cycle.
 - ii. Savings equal to or greater than the modeled energy savings proposed must be shown by the end of the second compliance cycle otherwise the building will be subject to penalties for both compliance cycles
 - iii. Final % of savings and # of cycles will be determined later when the cost/benefit study is complete.
- c. Comments:
- i. Some doubt that this will be enough of an incentive for deep retrofit, but not opposed to the concept. General unease with what specifics should be for this (especially with language on timing), but generally supportive. Think that having it on the books might be worth the education/visuals that DOEE wants owners to consider deep retrofits a valid option.

6. Alternative Compliance Paths

- a. Proposal: DOEE will allow Building Owners to propose Alternative Compliance Path on a case-by-case basis. DOEE will provide criteria. We'll talk about this more on the May 12.
- b. Comments:
 - i. DOEE: Thinking about publishing approved ACPs on BEPS website. If there are recurring ACP requests, we would update the rules.
 - ii. Important to publish criteria for transparency and streamlining future developments. Look at LEED evaluation model.

7. Historical Districts

- a. Question on Bike Rack: Should properties in Historic Districts receive special treatment in the rules?
- b. DOEE's Assumption: Historic restrictions do not mean efficiency work cannot happen, only that it might take longer/cost more to complete. Current exemption/extension criteria (hardship) cover this scenario.
- c. Comments: TF generally agrees; thinks it should be considered on a case-by-case basis. If wording is added to the extension criteria, it should reflect "buildings", not just "districts" to account for historical buildings that are not in districts.

8. Mixed-Use Properties

- a. Question on Bike Rack: Should mixed-use properties have their own standard?
- b. DOEE's Assumption: Most mixed-use properties in the District are either; a) benchmarking incorrectly, or b) vacant at this time. For the few true mixed-use properties, DOEE can use the National Median (89.3 kBtu/SF), or building owners can

apply for DOEE to create a blended median based on % square footage of each property type.

- c. Comments:
 - i. DOEE will be reaching out to properties that they think are benchmarking incorrectly; Most of the others are campus-like properties with multiple buildings and property types that share utility meters, so the blended medians is the more appropriate solution for a BEPS standard.
 - ii. TF generally agrees; Anica L. noted that AIA uses a blended approach for their 2030 goals

9. District Energy Systems

- a. Question on Bike Rack: Should properties with district energy systems receive special treatment in rules (outside of universities/campuses)?
- b. DOEE's Assumption: Does not think special treatment in the rules is required.
- c. Comments:
 - i. General agreement that it's not worth creating a rule given limited number of affected buildings in DC, better to keep as case-by-case. Most important issue is to encourage buildings get off of estimated bills to actual usage bills.

10. Solar Installations

- a. Question on Bike Rack: Should properties be able to comply by installing solar on their buildings?
- b. DOEE's Assumption: Performance path dictates site EUI, which counts solar the same as other fuel. Standard Target pathway, which will use ENERGY STAR Score or source EUI will allow for on-site-solar to count in a way. Working group recommended solar should count as part of the prescriptive path if paired with other efficiency measures like roof replacement.
- c. Comments:
 - i. Marshall D-B.: The law says performance path uses "normalized Site EUI." Normalized should include counting the solar PV generation, removing from the total site energy for performance period. Marshall suggested DOEE could choose to only count 64% of the solar, to be proportional to the impact on source EUI, but think incentivizing people to use the performance path is good, and so counting solar in full is a good idea. Lots of agreement from the TF
 - ii. DOEE stated that the intent of the law is to improve the efficiency of the building which is why the working group suggested that it should be paired with other efficiency measures.
 - iii. Matt P. noted that if solar won't count toward compliance, owners will instantly be turned off of installing it. TF agrees solar is very important and needs to be incorporated for first cycle.

- iv. DOEE noted for the record that the District goals outline that efficiency must come before large scale renewable deployment and will work towards the right solution to incorporate solar into the compliance pathway.

11. Penalties (cont.) (Andrew)

- a. DOEE reviewed previous slides from April 28 on points of agreement and penalty structure
- b. DOEE presented new idea for “kBtu over Target”. DOEE sees a couple of issues with using this structure because the penalty doesn’t necessarily track with square footage and higher intensity property types could see higher fines.
- c. Should there be a penalty floor?
 - i. What is rationale for a penalty floor? Wouldn’t it penalize teams that get 19% improvement? General consensus is no need for a fine floor, don’t want to disincentivize owners by having a flat fine.
- d. What penalty/fine/fee language should be used in the rules?
 - i. Katie B.: legislation calls these “Alternative Compliance Penalties”
 - ii. Commercial TF representatives are going to discuss the language needed in the rules to be able to allow for pass through to commercial tenants. Will report back at May 12 meeting. DOEE will check with OGC to confirm name of penalty can be changed legally.
 - iii. Concerns about landlords passing down fines to tenants, especially in affordable housing situations, if the building owners is the one not maintaining the building properly.
- e. There are two levels of penalties allowed in the legislation. What are examples of the civil penalties/other penalties?
 - i. Katie B. : to be determined, could be small fine to prevent backsliding. Or additional fine for not benchmarking on top of non-compliance for BEPS.
- f. Final Comments on DOEE’s preference of using Square Footage Bins and Distance from the Target combination
 - i. DOEE believes the sq. ft bins + distance from target are defensible and reduce error to make penalties more equitably applied procedurally. Sq. ft. bins reduce area count variability/difficulty to verify, distance from target is less prone to minute scrutiny of every kBtu. DOEE states that the overall penalty structure does need to be simple to understand and easy to implement/enforce. This option does that.
 - ii. Some concerns about two buildings of equal sq. ft. but very different energy usage amounts should be penalized differently, not inherently the same because of square footage bucket, which would happen in the kBtu scenario. Big discussion on kBtu scenario and accounting for high intensity baseloads. But general consensus that the “DOEE preference” is acceptable.
 - iii. Concern about condos/co-op brought up and put on the bike rack for future discussion.

12. Next Meeting (May 12)

- a. Draft outline of rules
- b. Outstanding Rule issues

13. Announcements

- a. DCSEU – continuing to add support for low-income support services right now. Spread the word!
- b. DCSEU released RFP for [Benchmarking Data Verification Support Services](#) – due May 13, 2020.