



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL  
89 KINGS HIGHWAY  
DOVER, DELAWARE 19901

Office of the  
Secretary

Phone: (302) 739-9000  
Fax: (302) 739-6242

**Secretary's Order No.: 2018-CCE-0059**

**RE:            Approving Final Regulations to Amend 7 DE Admin. Code 2105:  
*Evaluation, Measurement & Verification Procedures and Standards ("EM&V Regulations")***

**Date of Issuance: November 8, 2018**

**Effective Date of the Amendment: December 11, 2018**

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC"), pursuant to 29 *Del.C.* §§8058-8059, the following findings of fact based on the record, reasons and conclusions are entered as an Order of the Secretary in the above-referenced regulatory proceeding.

**Background, Procedural History and Findings of Fact**

This Order relates to proposed regulation amendments ("Amendments") to 7 DE Admin. Code 2105: *Evaluation, Measurement & Verification Procedures and Standards ("EM&V", "EM&V Regulations")*. The Department's EM&V Regulations define the standards for evaluation, measurement, and verification procedures as they are administered by the State of Delaware's Energy Efficiency Advisory Council ("EEAC"). The EEAC is a thirteen-person council comprised of energy efficiency stakeholders from DNREC, the Delaware Sustainable Energy Utility, and affected energy providers and representatives from the manufacturing, commercial environmental, agricultural, low-income, and residential sectors. The EEAC assists affected energy providers in the development of energy efficiency, peak demand reduction, and emission-reducing fuel switching programs.

In collaboration with the Delaware Public Advocate and the Public Service Commission, the EEAC is tasked to review energy efficiency program plans to ensure that programs are deployed and energy savings targets are met through EM&V standards. The Department oversees the competitive process for acquiring EEAC consulting services, as well as the management of day-to-day consultant efforts. The Chair of the EEAC, and any subcommittees therein, are charged to plan, implement and review the responsibilities defined within the proposed new EM&V Regulations. The EEAC reviews and recommends programs submitted by Program Administrators<sup>1</sup>, reviews and approves the recommendations of subcommittees, and reviews and recommends portfolio-level EM&V plans and budgets.

Under the authority of, and as required by 29 *Del.C.* §8059(h)(3), the Department initially promulgated its EM&V Regulations in 2017 in order to: (1) develop and govern the overall approach to the evaluation of energy efficiency and demand response programs in Delaware; (2) standardize evaluation approaches for the assessment of energy efficiency and demand response programs; (3) provide specific guidance to Program Administrators, contractors, and stakeholders for the evaluation of energy efficiency and demand response programs; and (4) ensure consistency between Program Administrators' energy efficiency evaluation plans, analysis, and reporting efforts.

The EM&V is a vital tool in creating consensus around the impact of current and future investments to reduce energy use and peak demand in Delaware. Results from EM&V are critical to the assessment of progress in meeting Delaware's energy efficiency and peak demand targets outlined in the Energy Efficiency Resource Standards Act, the State of Delaware's "Lead by Example" policy, and the Delaware Sustainable Energy Utility's legislated goals. The results from EM&V provide valuable feedback to improve programs during implementation or suggest their cancellation, inform the development of new programs, and guide the allocation of resources.

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<sup>1</sup> "Program Administrator (PA)" is a defined term, both statutorily and within the Department's EM&V Regulations, as follows: "...any effected energy providers, as defined by 29 *Del.C.* §8059(h) and any other entities who deliver energy efficiency programs and want the energy savings generated to count toward the statewide energy reductions goals."

The EM&V Regulations include a technical resource manual, the Mid-Atlantic Technical Resource Manual, with an addendum of Delaware-specific measures. In May of 2017, the newest version of this manual was released. Since this manual is incorporated into these regulations and not simply referenced, the EM&V Regulations must be updated to include the newest version. Additionally, the EM&V subcommittee to the EEAC has prepared a list of recommended edits to these regulations. This action is being taken by the Department at this time to update the new Technical Resource Manual and implement recommended edits from the EM&V subcommittee.

The Department has the statutory basis and legal authority to act with regard to promulgation of the proposed amendments to 7 DE Admin. Code 2105: *Evaluation, Measurement & Verification Procedures and Standards*, pursuant to 29 Del.C. §8059(h)(3). The Department published its initial proposed regulation Amendments in the September 1, 2018 *Delaware Register of Regulations*. Thereafter, the public hearing regarding this matter was held on September 25, 2018. Members of the public attended that public hearing. Pursuant to Delaware law, the record remained open for fifteen (15) additional days subsequent to the date of the public hearing for receipt of public comment. The hearing record formally closed with regard to public comment at close of business on October 10, 2018, with no comment having been received by the Department during any phase of this proposed regulatory promulgation. It should be noted that all notification and noticing requirements concerning this matter were met by the Department. Proper notice of the hearing was provided as required by law.

Hearing Officer Lisa A. Vest prepared the Hearing Officer's Report dated October 22, 2018 ("Report"). The Report documents the proper completion of the required regulatory amendment process, establishes the record, and recommends the adoption of the proposed Amendments as attached to the Report as Appendix "A."

## Reasons and Conclusions

Based on the record developed by the Department's experts and established by the Hearing Officer's Report, I find that the proposed regulatory amendments to 7 DE Admin. Code 2105: *Evaluation, Measurement & Verification Procedures and Standards*, are well-supported. Therefore, the recommendations of the Hearing Officer are hereby adopted, and I direct that the proposed regulatory Amendments be promulgated as final. I further find that the Department's experts in the Division of Climate, Coastal and Energy fully developed the record to support adoption of these revised regulatory Amendments.

In conclusion, the following reasons and conclusions are entered:

1. The Department has the statutory basis and legal authority to act with regard to the proposed amendments to 7 DE Admin. Code 2105: *Evaluation, Measurement & Verification Procedures and Standards*, pursuant to 29 *Del.C.* §8059(h)(3);
2. The Department has jurisdiction under its statutory authority, pursuant to 29 *Del.C.* Ch. 101, to issue an Order adopting these proposed Amendments as final;
3. The Department provided adequate public notice of the initial proposed Amendments and all proceedings in a manner required by the law and regulations, and provided the public with an adequate opportunity to comment on the same, including at the time of the public hearing held on September 25, 2018, and during the 15 days subsequent to the hearing (through October 10, 2018), before making any final decision;
4. Promulgation of the revised proposed Amendments to 7 DE Admin. Code 2105: *Evaluation, Measurement & Verification Procedures and Standards*, will enable the Department to update the new Technical Resource Manual and implement recommended edits from the EM&V sub-committee, as referenced above;
5. The Department has reviewed the proposed Amendments in the light of the Regulatory Flexibility Act, consistent with 29 *Del.C.* Ch. 104, and has selected Exemption "A" as this regulation will not apply to small businesses or individuals at all;

6. The Department's Hearing Officer's Report, including its established record and the recommended proposed Amendments as set forth in Appendix "A," are hereby adopted to provide additional reasons and findings for this Order;
7. The Department's proposed regulatory Amendments, as initially published in the September 1, 2018 *Delaware Register of Regulations*, and as set forth in Appendix "A" hereto, are adequately supported, are not arbitrary or capricious, and are consistent with the applicable laws and regulations. Consequently, they are approved as final regulatory Amendments, which shall go into effect ten days after their publication in the next available issue of the *Delaware Register of Regulations*; and
8. The Department shall submit this Order approving as final the proposed Amendments to 7 DE Admin. Code 2105: *Evaluation, Measurement & Verification Procedures and Standards* to the *Delaware Register of Regulations* for publication in its next available issue, and provide such other notice as the law and regulation require and the Department determines is appropriate.



Shawn M. Garvin  
Secretary



## MEMORANDUM

**TO:** The Honorable Shawn M. Garvin  
Cabinet Secretary, Dept. of Natural Resources and Environmental Control

**FROM:** Lisa A. Vest *LAV*  
Public Hearing Officer, Office of the Secretary  
Department of Natural Resources and Environmental Control

**RE:** **Proposed Regulation Amendments to 7 DE Admin. Code 2105:  
*Evaluation, Measurement & Verification Procedures and Standards*  
("EM&V Regulations")**

**DATE:** October 22, 2018

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### I. Background:

A public hearing was held on Tuesday, September 25, 2018, at 6:00 p.m. at the Department of Natural Resources and Environmental Control ("DNREC," "Department"), State Street Commons, 100 W. Water Street, Dover, Delaware to receive comment on proposed amendments ("Amendments") to 7 DE Admin. Code 2105: *Evaluation, Measurement & Verification Procedures and Standards* ("EM&V", "EM&V Regulations"). The Department's EM&V Regulations define the standards for evaluation, measurement, and verification procedures as they are administered by the State of Delaware's Energy Efficiency Advisory Council ("EEAC").

The EEAC is a thirteen-person council comprised of energy efficiency stakeholders from DNREC, the Delaware Sustainable Energy Utility, and affected energy providers and representatives from the manufacturing, commercial environmental, agricultural, low-income, and residential sectors. The EEAC assists affected energy providers in the development of energy efficiency, peak demand reduction, and emission-reducing fuel switching programs.

In collaboration with the Delaware Public Advocate and the Public Service Commission, the EEAC is tasked to review energy efficiency program plans to ensure that programs are deployed and energy savings targets are met through EM&V standards. The Department oversees the competitive process for acquiring EEAC consulting services, as well as the management of day-to-day consultant efforts. The Chair of the EEAC, and any subcommittees therein, are charged to plan, implement and review the responsibilities defined within the proposed new EM&V Regulations. The EEAC reviews and recommends programs submitted by Program Administrators<sup>1</sup>, reviews and approves the recommendations of subcommittees, and reviews and recommends portfolio-level EM&V plans and budgets.

Under the authority of, and as required by 29 *Del.C.* §8059(h)(3), the Department promulgated the EM&V Regulations in order to: (1) develop and govern the overall approach to the evaluation of energy efficiency and demand response programs in Delaware; (2) standardize evaluation approaches for the assessment of energy efficiency and demand response programs; (3) provide specific guidance to Program Administrators, contractors, and stakeholders for the evaluation of energy efficiency and demand response programs; and (4) ensure consistency between Program Administrators' energy efficiency evaluation plans, analysis, and reporting efforts.

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<sup>1</sup> "Program Administrator (PA)" is a defined term, both statutorily and within the Department's EM&V Regulations, as follows: "...any effected energy providers, as defined by 29 *Del.C.* §8059(h) and any other entities who deliver energy efficiency programs and want the energy savings generated to count toward the statewide energy reductions goals."

The EM&V is a vital tool in creating consensus around the impact of current and future investments to reduce energy use and peak demand in Delaware. Results from EM&V are critical to the assessment of progress in meeting Delaware's energy efficiency and peak demand targets outlined in the Energy Efficiency Resource Standards Act, the State of Delaware's "Lead by Example" policy, and the Delaware Sustainable Energy Utility's legislated goals. The results from EM&V provide valuable feedback to improve programs during implementation or suggest their cancellation, inform the development of new programs, and guide the allocation of resources.

The EM&V Regulations include a technical resource manual, the Mid-Atlantic Technical Resource Manual, with an addendum of Delaware-specific measures. In May of 2017, the newest version of this manual was released. Since this manual is incorporated into these regulations and not simply referenced, the EM&V Regulations must be updated to include the newest version. Additionally, the EM&V subcommittee to the EEAC has prepared a list of recommended edits to these regulations. This action is being taken by the Department at this time to update the new Technical Resource Manual and implement recommended edits from the EM&V subcommittee.

The Department has the statutory basis and legal authority to act with regard to promulgation of the proposed amendments to 7 DE Admin. Code 2105: *Evaluation, Measurement & Verification Procedures and Standards*, pursuant to 29 Del. C. §8059(h)(3). The Department published its initial proposed regulation Amendments in the September 1, 2018 *Delaware Register of Regulations*. Thereafter, the public hearing regarding this matter was held on September 25, 2018.

Members of the public attended the aforementioned public hearing. Pursuant to Delaware law, the record remained open for fifteen (15) additional days subsequent to the date of the public hearing for receipt of public comment. The hearing record formally closed with regard to public comment at close of business on October 10, 2018, with no comment having been received by the Department during any phase of this proposed regulatory promulgation.

It should be noted that all notification and noticing requirements concerning this matter were met by the Department. Proper notice of the hearing was provided as required by law.

**II. SUMMARY OF THE PUBLIC HEARING RECORD:**

The public hearing record consists of the following documents: (1) a verbatim transcript; and (2) eight (8) documents introduced by Department staff at the public hearing held on September 25, 2018, and marked by this Hearing Officer accordingly as Department Exhibits 1-8. The Department's person primarily responsible for the drafting and overall promulgation of these proposed Amendments, Patricia Murray, Planner with the Division of Climate, Coastal and Energy, developed the record with the relevant documents in the Department's files.

As stated previously, no comment was received by the Department at any time during the course of this regulatory promulgation. Accordingly, the Department's proposed Amendments are attached hereto as Appendix "A" for the Secretary's review.

### **III. RECOMMENDED FINDINGS AND CONCLUSIONS:**

Based on the record developed, I find and conclude that the Department has provided appropriate reasoning regarding the need for the proposed amendments to 7 DE Admin. Code 2105: *Evaluation, Measurement & Verification Procedures and Standards*, as noted above. Accordingly, I recommend promulgation of the same, in the customary manner provided by law.

Further, I recommend the Secretary adopt the following findings and conclusions:

1. The Department has the statutory basis and legal authority to act with regard to the proposed Amendments to 7 DE Admin. Code 2105: *Evaluation, Measurement & Verification Procedures and Standards*, pursuant to 29 Del.C. §8059(h)(3);
2. The Department has jurisdiction under its statutory authority, pursuant to 29 Del.C. Ch. 101, to issue an Order adopting these proposed Amendments as final;
3. The Department provided adequate public notice of the initial proposed Amendments and all proceedings in a manner required by the law and regulations, and provided the public with an adequate opportunity to comment on the same, including at the time of the public hearing held on September 25, 2018, and during the 15 days subsequent to the hearing (through October 10, 2018), before making any final decision;
4. Promulgation of the proposed Amendments to 7 DE Admin. Code 2105: *Evaluation, Measurement & Verification Procedures and Standards*, will enable the Department to update the new Technical Resource Manual and implement recommended edits from the EM&V sub-committee, as referenced above;

5. The Department has reviewed the proposed Amendments in the light of the Regulatory Flexibility Act, consistent with 29 *Del.C.* Ch. 104, and has selected Exemption “A,” as this regulation will not apply to small businesses or individuals at all;

6. The Department’s proposed regulatory Amendments, as initially published in the September 1, 2018 *Delaware Register of Regulations*, and as set forth in Appendix “A” hereto, are adequately supported, are not arbitrary or capricious, and are consistent with the applicable laws and regulations. Consequently, they should be approved as final regulatory Amendments, which shall go into effect ten days after their publication in the next available issue of the *Delaware Register of Regulations*; and

7. The Department shall submit the proposed Amendments as final regulatory amendments to 7 DE Admin. Code 2105: *Evaluation, Measurement & Verification Procedures and Standards*, to the *Delaware Register of Regulations* for publication in its next available issue, and provide such other notice as the law and regulation require and the Department determines is appropriate.



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LISA A. VEST  
Public Hearing Officer

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Attachments/Appendix:  
Appendix A: Proposed Reg. Amendments

**APPENDIX "A"**



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**PROPOSED REGULATIONS**

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**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL****DIVISION OF CLIMATE, COASTAL AND ENERGY**

Statutory Authority: 29 Delaware Code, Section 8059(h) (29 Del.C. §8059(h))  
7 DE Admin. Code 2105

**REGISTER NOTICE  
SAN # 2017-14****2105 Regulations Governing Evaluation, Measurement, and Verification Procedures and Standards****1. TITLE OF THE REGULATIONS:**

2105 Evaluation, Measurement and Verification Procedures and Standards

**2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:**

These regulations define the standards for evaluation, measurement and verification (EM&V) procedures as they are administered by the Energy Efficiency Advisory Council (EEAC). EM&V is a vital tool in creating consensus around the impact of current and future investments to reduce energy use and peak demand in Delaware. Results from EM&V are critical to the assessment of progress in meeting Delaware's energy efficiency and peak demand targets outlined in the Energy Efficiency Resource Standards Act, the State's "Lead by Example" policy, and the Delaware Sustainable Energy Utility's legislated goals. The results from EM&V provide valuable feedback to improve programs during implementation or suggest their cancellation, inform the development of new programs, and guide the allocation of resources.

The purpose of these EM&V regulations is to: develop an overall approach to the evaluation of energy efficiency and demand response programs in Delaware; standardize evaluation approaches for the assessment of energy efficiency and demand response programs; provide specific guidance to Program Administrators, contractors and stakeholders for the evaluation of energy efficiency and demand response programs; and ensure consistency between Program Administrators' energy efficiency evaluations plans, analysis, and reporting efforts.

**3. POSSIBLE TERMS OF THE AGENCY ACTION:**

None

**4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:**

29 Delaware Code §8059(h)

**5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:**

None

**6. NOTICE OF PUBLIC COMMENT:**

The hearing record on the proposed regulations 2105 Evaluation, Measurement and Verification Procedures and Standards will be open September 1, 2018. Individuals may submit written comments regarding the proposed changes via e-mail to [Lisa.Vest@state.de.us](mailto:Lisa.Vest@state.de.us) or via the USPS to Lisa Vest, Hearing Officer, DNREC, 89 Kings Highway, Dover, DE 19901 (302) 739-9042. A public hearing on the proposed amendment will be held on September 25, 2018 beginning at 6:00 pm in the State Street Commons building located on 100 W. Water Street Dover, DE 19904.

Public comments will be accepted through close of business Wednesday October 10, 2018.

**7. PREPARED BY:**

Patty Murray [patricia.murray@state.de.us](mailto:patricia.murray@state.de.us) (302) 735-3480

**\*Please Note:**

(1) The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:

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<http://regulations.delaware.gov/register/september2018/proposed/22 DE Reg 210RFA 09-01-18.pdf>

(2) Due to the size of the proposed regulation, it is not being published here. A copy of the regulation is available at:

2105 Regulations Governing Evaluation, Measurement, and Verification Procedures and Standards

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**DIVISION OF WATERSHED STEWARDSHIP**

Statutory Authority: 7 Delaware Code, Section 4006(c) (7 Del.C. §4006(c))  
7 DE Admin. Code 5101

**REGISTER NOTICE  
SAN #2015-10**

**5101 Sediment and Stormwater Regulations**

**1. TITLE OF THE REGULATIONS:**

5101 Sediment and Stormwater Regulations

**2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:**

A Superior Court decision of October 7, 2015, upheld by the Supreme Court on April 15, 2016, invalidated the 2013 and 2014 version of the Delaware Sediment and Stormwater Regulations on procedural grounds because the accompanying Technical Document referenced by the regulations was not published in the State Register in accordance with Administrative Procedure Act requirements. The Department issued Emergency Regulation Order 2016-WS-0019 on April 16, 2015 including both the 2014 Sediment and Stormwater Regulations and the latest version of the Technical Document, dated April 2016, as regulation to correct the procedural flaw.

The Sediment and Stormwater Regulatory Advisory Committee has spent approximately 234 hours in public meeting time since November 2015 reviewing the regulations as well as the Technical Document for inclusion of required elements into the regulations.

- All standard plan applicability criteria and conditions have been reviewed and included in subsection 3.7.
- Each of 17 standards and specifications for post construction stormwater management BMPs have been reviewed by the RAC's Technical Subcommittee and required elements brought into the regulation as a new Section 11.0 Post Construction BMP Standards and Specifications.
- Section 12.0 Supplemental Requirements for Best Management Practices was added to provide clear requirements for soil investigation procedures and setbacks for stormwater management BMPs.
- Section 13.0 Stormwater Management Offsets was added to take the place of subsection 1.7 and provide more definition to stormwater management offsets, including fees-in-lieu, banking and stormwater management offset districts.
- Section 5.0 Performance Criteria for Post Construction Stormwater Management has been updated to address compliance methods updated by Senate Bills 253 and 204.

**3. POSSIBLE TERMS OF THE AGENCY ACTION:**

There is no sunset date for these regulations.

**4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:**

Title 7, Delaware Code, Chapter 40, the Sediment and Stormwater Law, Section 4006(c)

**5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:**

None.

**6. NOTICE OF PUBLIC COMMENT:**

The Department of Natural Resources and Environmental Control (DNREC) Division of Watershed Stewardship will conduct a public hearing on proposed revisions to the *Delaware Sediment and Stormwater*



# DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

## DIVISION OF CLIMATE, COASTAL AND ENERGY

Statutory Authority: 29 Delaware Code, Section 8059(h) (29 Del.C. §8059(h))  
7 DE Admin. Code 2105

### PROPOSED

#### REGISTER NOTICE

SAN # 2017-14

#### 2105 Regulations Governing Evaluation, Measurement, and Verification Procedures and Standards

**1. TITLE OF THE REGULATIONS:**

2105 Evaluation, Measurement and Verification Procedures and Standards

**2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:**

These regulations define the standards for evaluation, measurement and verification (EM&V) procedures as they are administered by the Energy Efficiency Advisory Council (EEAC). EM&V is a vital tool in creating consensus around the impact of current and future investments to reduce energy use and peak demand in Delaware. Results from EM&V are critical to the assessment of progress in meeting Delaware's energy efficiency and peak demand targets outlined in the Energy Efficiency Resource Standards Act, the State's "Lead by Example" policy, and the Delaware Sustainable Energy Utility's legislated goals. The results from EM&V provide valuable feedback to improve programs during implementation or suggest their cancellation, inform the development of new programs, and guide the allocation of resources.

The purpose of these EM&V regulations is to: develop an overall approach to the evaluation of energy efficiency and demand response programs in Delaware; standardize evaluation approaches for the assessment of energy efficiency and demand response programs; provide specific guidance to Program Administrators, contractors and stakeholders for the evaluation of energy efficiency and demand response programs; and ensure consistency between Program Administrators' energy efficiency evaluations plans, analysis, and reporting efforts.

**3. POSSIBLE TERMS OF THE AGENCY ACTION:**

None

**4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:**

29 Delaware Code §8059(h)

**5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:**

None

**6. NOTICE OF PUBLIC COMMENT:**

The hearing record on the proposed regulations 2105 Evaluation, Measurement and Verification Procedures and Standards will be open September 1, 2018. Individuals may submit written comments regarding the proposed changes via e-mail to [Lisa.Vest@state.de.us](mailto:Lisa.Vest@state.de.us) or via the USPS to Lisa Vest, Hearing Officer, DNREC, 89 Kings Highway, Dover, DE 19901 (302) 739-9042. A public hearing on the proposed amendment will be held on September 25, 2018 beginning at 6:00 pm in the State Street Commons building located on 100 W. Water Street Dover, DE 19904.

Public comments will be accepted through close of business Wednesday October 10, 2018.

**7. PREPARED BY:**

Patty Murray [patricia.murray@state.de.us](mailto:patricia.murray@state.de.us) (302) 735-3480

#### 2105 Regulations Governing Evaluation, Measurement, and Verification Procedures and Standards

**1.0 Authority**

These regulations are promulgated pursuant to 29 Del.C. §8059(h). Affected energy providers that are not regulated by the Commission may elect to develop, implement and fund programs for energy efficiency and peak demand reduction recommended for approval by the boards of directors for rural electric cooperative or the pertinent local regulatory authorities for municipal electric companies.

**2.0 Purpose**

The purpose of these EM&V regulations is to:

- Develop an overall approach to the evaluation of energy efficiency and demand response programs in Delaware;
- Standardize evaluation approaches for the assessment of energy efficiency and demand response programs;
- Provide specific guidance to Program Administrators, contractors and stakeholders for the evaluation of energy efficiency and demand response programs, and
- Ensure consistency between Program Administrators' energy efficiency evaluations plans, analysis, and reporting efforts.

### 3.0 Definitions

The following words and terms, when used in this regulation, have the following meaning unless the context clearly indicates otherwise:

**"Annual Reconciliation Report"** means an annual report submitted by a PA to the EEAC detailing final year-end program outcomes, including program costs, energy savings, and cost-effectiveness results, whether or not programs have been evaluated.

**"Baseline"** means conditions, including energy consumption and related emissions that would have occurred without implementation of the subject measure or project. Baseline conditions are sometimes referred to as "business-as-usual" conditions and are used to calculate program-related efficiency or emissions savings. Baselines can be defined as either project-specific baselines or performance-standard baselines.

**"Biannual Program Snapshot"** means a twice-yearly report submitted by a PA to the EEAC with preliminary program savings and spending data.

**"Coincident Peak"** means the time period of highest system load; for purposes of this regulation, the definition of coincident peak is equivalent to PJM's definition of energy efficiency performance hours under the Reliability Pricing Model (RPM), defined as the hours ending 15:00 through 18:00 Eastern Prevailing Time (EPT) during all days from June 1 through August 31, inclusive, that is not a weekend or federal holiday.

**"Deemed Savings"** means a measurement of energy savings or demand savings for a single unit of an installed energy efficiency measure or adopted efficiency practice that (a) is determined *ex ante* and applied to all such measures without further measurement or verification, and (b) has been developed from data sources and analytical methods that are widely considered acceptable for the measure and purpose.

~~**"Delaware TRM"** means a Delaware-specific Technical Reference Manual, as that term is defined in this section.~~

**"Demand Response (DR)"** means the temporary reduction of customer energy usage at times of peak usage in order to help system reliability, to reflect market conditions and pricing, or to support infrastructure optimization or deferral of additional infrastructure. Demand response programs may include contractually obligated or voluntary curtailment, direct load control, and pricing strategies.

**"Department of Natural Resources and Environmental Control (DNREC)"** means the entity established by 29 Del.C. §8001.

**"Effective Useful Life (EUL)"** means the average time over which an energy efficiency measure results in energy savings, including the effects of equipment failure, removal, and cessation of use. The ~~Delaware~~ Mid-Atlantic TRM shall be the primary source of EUL data.

**"Energy Efficiency Advisory Council (EEAC or Council)"** means the body created by 29 Del.C. §8059(h)(1)(a).

**"Energy Efficiency (EE) Programs"** means energy efficiency, peak demand reduction, and emission-reducing fuel switching programs which seek to decrease consumption of electric energy or natural gas.

~~**"Equity of service"** means that programs cannot exclude otherwise eligible groups of ratepayers (who are paying into the program) because of their different attitudes or opinions about energy use or energy savings.~~

**"Equivalent Energy Efficiency Measure"** means reductions in the use of fossil fuel other than natural gas or use of other sources of energy not derived from fossil fuel equivalent to a reduction in natural gas consumption or electricity consumption. This excludes all solar photovoltaic, wind, ocean, geothermal, hydroelectric, and other on-site generation except when part of a system that reduces total end-use customer energy consumption, such as with combined heat and power systems.

**"Evaluation"** means the performance of studies and activities aimed at determining the effects of an efficiency program.

**"Evaluation, Measurement and Verification (EM&V)"** means any and all independent research and analytical activities occurring during or after implementation of efficiency programs intended to assess or estimate the accuracy of measure or program impacts, or assessment of the efficiency and effectiveness of the program design and implementation.

**"Ex-Post Evaluated Savings"** means savings estimates developed and reported by an Independent Evaluation Contractor (IEC) resulting from an energy impact evaluation of past efficiency program activity. These can be either gross or net savings, as defined in this section.

**"Free riders"** mean participants who participate in a program, but who would have adopted some or all of the efficiency measures without the benefits of the program.

**"Gross Savings"** means the change in energy consumption and/or demand that results directly from program-related actions taken by participants in a program, regardless of whether the savings are ultimately attributable to the program. Gross savings may be deemed per unit based on ex-ante estimates or evaluated ex-post results.

**"Impact Evaluation"** means an evaluation that quantifies the direct and indirect results and benefits of a program or project using measured or deemed savings methods.

**"Independent Evaluation Contractor (IEC)"** means a contractor hired by a Program Administrator to perform evaluation activities and products.

**"Market Effect"** means the change in the structure or functioning of a market, or the behavior of participants in a market, that results, or is expected to result, from one or more program efforts.

~~**"Measurement and Verification (M&V)"** means data collection, monitoring, and analysis associated with the calculation of gross energy and demand savings from individual sites or projects.~~

**"Mid-Atlantic TRM"** means the Technical Reference Manual applicable to select states within the Mid-Atlantic region, which is developed collaboratively by participating members in the Mid-Atlantic region.

**"Net Present Value (NPV)"** means the value of a stream of future costs and/or benefits converted to a single sum in a specific year, usually the first year of the analysis, using a discount rate as specified in these regulations. It can also be thought of as the equivalent worth of all costs and benefits relative to a base point called the "present." NPV takes into account the time value of money by discounting future streams of costs and benefits.

**"Net Savings"** means (Gross Savings) – (savings attributable to Free Riders) + (savings attributable to Spillover) + (savings attributable to Market Effects). Net savings are the energy savings that are attributable to a program's intervention in the market, exclusive of other reasons for changes in energy use.

**"Net-to-Gross Ratio (NTG)"** means a factor or ratio representing Net Savings divided by Gross Savings.

**"PJM"** means PJM Interconnection LLC, the organization that manages electricity transmission and wholesale electricity market for the region that serves Delaware or its successor at law.

**"Process Evaluation"** means an evaluation that indicates how to improve the structure and delivery of a program or project. These evaluations typically survey program stakeholders, analyze their feedback, and use this information to identify opportunities for program improvement.

**"Program Administrator (PA)"** means any ~~effected~~ affected energy providers, as defined by 29 Del.C. §8059(h) and any other entities who deliver energy efficiency programs and want the energy savings generated to count towards the statewide energy reduction goals.

~~**"Program Implementer"** means an entity hired by the Program Administrator to plan, implement, and deliver EE programs on their behalf.~~

**"Program Year"** means the annual regulatory period for which an approved program operates, and aligns with the program annual budget and impact targets. In Delaware, the energy efficiency program year runs from January 1 through December 31.

**"Public Advocate"** means the entity established by 29 Del.C. §8716.

**"Public Service Commission (PSC)"** means the entity established by 26 Del.C. §103.

**"Realization Rate"** means the ratio of evaluated Gross Savings to initial pre-evaluation claimed Gross Savings. The basis for a realization rate varying from 1.0 can include several considerations such as the following: 1) adjustments for data errors, 2) differences in implemented measure counts as a result of Verification activities, and/or 3) other differences revealed through the evaluation process, such as with respect to adjustments to baseline assumptions or per unit savings estimates.

**"Reliable Reliability Pricing Model (RPM)"** means PJM's capacity market.

**"Renewable Energy Credit (REC)"** means a tradable instrument defined by 26 Del.C. §352(18) used to demonstrate compliance with the percentage requirements set forth in 26 Del.C. §354(a).

**"Rigor"** means the level of effort expended to minimize uncertainty due to factors such as sampling error and bias. The higher the level of rigor, the more confident one is that the results of the evaluation are both accurate and precise.

**"Solar Renewable Energy Credit (SREC)"** means the tradable instrument defined by 26 Del.C. §352(25) used to demonstrate compliance with the percentage requirements set forth in 26 Del.C. §354(a).

**"Spillover (free drivers)"** means EE or DR measures that are not directly counted as resulting from program participation, but are taken as a result of the program's influence on customers or markets. There are two general types of spillover: (1) participant spillover, in which program participants adopt additional efficiency measures or practices that are not counted directly as part of the program tracking system; or (2) non-participant spillover in which actions are taken by non-participants due to the general influence or awareness-raising effects of the program.

**"Technical Reference Manual (TRM)"** means an operating manual that describes the standardized approaches to be used for estimating savings from the installation of energy efficiency measures or adoption of efficiency practices. It provides a common comparable approach for estimating energy savings across programs and market sectors for the measures typically installed via the energy efficiency programs.

**"Three-Year EM&V Plan"** means a plan submitted by a PA to the EEAC detailing the proposed evaluation approaches that will be used to demonstrate that the PA's efficiency programs meet the requirement of these regulations.

**"Verification"** means an independent ex-post assessment of an energy efficiency or demand response program that confirms: (1) the installation rate of measures installed through the programs; (2) the installation meets reasonable quality standards; (3) the measures are operating correctly and have the potential to generate the predicted savings; and (4) tracked savings estimates are properly calculated based on agreed upon deemed values or rules in the TRM. Verification may include one time or multiple activities over the effective useful life of the measures.

#### 4.0 Incorporation by Reference

- 4.1 ~~The Delaware TRM, published by the Delaware Department of Natural Resources and Environmental Control on July 1, 2016, is hereby adopted and incorporated by reference.~~
- 4.2 ~~The Delaware TRM consists of the Mid-Atlantic TRM version 6.0 8.0, as published by the Northeast Energy Efficiency Partnership's Regional EM&V forum in May 20162018, plus additional measures to address Delaware-specific conditions is hereby adopted and incorporated by reference.~~

#### 5.0 EEAC, DNREC, Program Administrators and Independent Evaluation Contractors EM&V Responsibilities

- 5.1 The EEAC and DNREC shall provide oversight of EM&V for PA energy efficiency portfolios in Delaware. These parties will work together to plan, implement, and review evaluations, including impact, process, market assessments, cost-effectiveness analysis, and baseline research. The following entities shall be engaged in and have responsibilities for EM&V in Delaware, as summarized in the remainder of this section, and including all specific responsibilities defined in greater detail in subsequent sections.
- 5.2 EEAC Responsibilities
  - 5.2.1 The EEAC shall oversee, plan and guide Delaware energy-efficiency program evaluations and EM&V related activities both pursuant to and not explicitly expressed in these regulations. The EEAC will approve portfolio-level EM&V plans and budgets.
  - 5.2.2 The EEAC shall establish a schedule for meetings to discuss progress of on-going work and to plan and manage new research. The EEAC may establish subcommittees as needed to handle details best suited for smaller groups or matters that affect a sub-set of all PAs.
  - 5.2.3 The EEAC shall review, approve or ask for modifications to, all EM&V analyses and work products produced by IECs.
  - 5.2.4 The EEAC shall work collaboratively with the PAs to develop EM&V plans. EM&V plans should clearly outline the approach for each program or portfolio evaluation including detailing specifications for the level of expected rigor and reliability of results.
  - 5.2.5 ~~The EEAC shall be responsible for developing or approving the following planning documents related to EM&V in Delaware:~~
    - 5.2.5.1 ~~Three Year Plan: The EEAC shall develop a comprehensive 3-year EM&V plan, including overall EM&V budgets in the year prior to the start of the new 3-year cycle.~~
    - 5.2.5.2 ~~Annual Portfolio Plan Updates: The EEAC shall develop a general plan of EM&V activities to be conducted in the upcoming year. Annual EM&V plans shall allow for modifications, with justification, to the overall Three Year Plan to accommodate new information or program or portfolio changes. The EEAC shall reach agreement on the Annual EM&V plans in advance of the launch of the program year to which the EM&V plan pertains.~~
- 5.3 DNREC Responsibilities
  - 5.3.1 DNREC may hire an EEAC Consultant to represent the EEAC and to assist with the planning and oversight of EM&V activities in Delaware. DNREC's oversight responsibilities related to acquiring EM&V services include: 1) competitively acquiring EEAC Consultant services, and 2) establishing, managing, and overseeing EEAC Consultant service acquisition process and the day-to-day management responsibilities required to successfully implement the EEAC Consultant's efforts.
  - 5.3.2 DNREC will post all final evaluation reports and results on the Delaware EEAC website, except when doing so would compromise customer privacy or data security.
- 5.4 PA Responsibilities

5.4.1 Each PA shall develop a comprehensive Three Year EM&V plan in the year prior to the start of the new three-year cycle, including overall EM&V budgets. The initial three-year energy efficiency program plans are not required to include a Three-Year EM&V plan until after the approval of such program plans by the appropriate regulatory body. After such approval, the Three-Year EM&V plan should be submitted to the EEAC within 6 months for review and recommendation to the appropriate regulatory body.

~~5.4.15.4.2~~ Each PA is expected to be an active participant in the EEAC's EM&V activities. PAs will also shall enter into contracts to procure the IECs and provide day-to-day and contractual management of IECs.

~~5.4.25.4.3~~ PAs are responsible for the direct development and implementation of all EM&V activities required for their energy efficiency portfolio in adherence with these regulations, and for ensuring that efforts are consistent with the policies, procedures, approaches and timelines that meet Delaware's needs.

~~5.4.35.4.4~~ The PAs shall inform the EEAC of major changes to existing programs prior to their implementation so that the EEAC can develop or approve any necessary EM&V plans. Each PA must ensure that data is supplied to IECs as needed and in a timely fashion. The PAs must ensure that their program third-party implementers also track necessary data and cooperate fully with IECs in support of all EM&V activities.

~~5.4.4~~ Each PA shall annually submit an EM&V report to the EEAC highlighting findings from the past program year. The report shall be submitted within 30 days of completion of all annual EM&V reports for the following year and include the following information:

~~5.4.4.1~~ A summary of EM&V activities completed in a manner that is consistent with these regulations and with EM&V Plans approved by the EEAC.

~~5.4.4.2~~ A summary of process evaluation findings, as appropriate by program.

~~5.4.4.3~~ A summary of impact evaluation findings, as appropriate by program and for the portfolio as a whole, showing original PA tracked savings, actual evaluated gross and net savings performance, original program goals, evaluated NTC ratios, and evaluation realization rates. For programs not undergoing impact evaluations for that year, the summary should provide the tracked and claimed gross and net savings consistent with prior agreements, deemed savings and the TRM, and indicate these are unevaluated results.

~~5.4.4.4~~ Estimates of ex post evaluation estimated savings and cost effectiveness results by program and for the portfolio as a whole, performed and calculated in a manner consistent with the EM&V regulations.

~~5.4.5~~ The PAs shall provide quarterly may provide periodic progress reports that include updates on progress towards EM&V goals and expenditures and participate in update meetings as requested by the EEAC. Progress reports may be made to the EEAC during Council meetings verbally or in other forms.

~~5.4.6~~ The PAs shall provide DNREC with information to support the preparation of an annual summary of evaluation results, as described in subsection 6.1.3.

~~5.4.65.4.7~~ PAs are encouraged to offer their eligible program resources into relevant and applicable energy and capacity markets, such as the PJM RPM capacity market so long as it is cost-effective and the evaluation of such resources remains compliant with these regulations.

## 5.5 IEC(s) Responsibilities

5.5.1 The IEC(s) shall provide technical advice and information to the EEAC, develop and recommend EM&V plans and budgets, and conduct all EM&V research and tasks.

## 6.0 Evaluation Requirements

### 6.1 Reporting

6.1.1 EM&V reports shall provide an assessment of EM&V activities completed in a manner that is consistent with these regulations. ~~Reports shall be provided as determined by the EEAC. The final reporting timeline shall be established so that it can efficiently and cost effectively meet the needs of the PAs, EEAC and the PJM RPM capacity market compliance cycle whenever possible.~~

6.1.2 ~~Program cycle reporting shall include both impact and process evaluations findings, as appropriate by program, and will be used to measure performance against program goals. Impact evaluations shall report energy impact estimates for each year of the program's operations and for the program cycle in total, when available. This reporting shall allow the evaluation to document program cycle impacts as well as annual impacts that support program planning and restructuring efforts to maintain high performing programs and portfolios. Each PA shall provide the EEAC with a final report for each completed evaluation study.~~

~~6.1.36.1.2.1~~ Evaluation reports shall contain, at a minimum, the following Evaluation study final reports shall present the results of the study in a clear, concise manner. They should include, at a minimum, the following components:

- 6.1.3.46.1.2.1.1 Cover;
  - 6.1.3.26.1.2.1.2 Title Page;
  - 6.1.3.36.1.2.1.3 Abstract;
  - 6.1.3.46.1.2.1.4 Table of Contents;
  - 6.1.3.56.1.2.1.5 Executive Summary (including impact findings and process recommendations as specified further in subsection 6.1.2.3 of the EM&V Regulation);
  - 6.1.3.66.1.2.1.6 Introduction and ~~Purpose~~ purpose of the ~~Study~~ study;
  - 6.1.3.76.1.2.1.7 Description of ~~Programs~~ programs ~~Covered~~ covered in ~~Study~~ study (markets, measures, and customers included);
  - 6.1.3.86.1.2.1.8 Study Methodology methodology;
  - 6.1.3.96.1.2.1.9 Assessment of the ~~Reliability~~ reliability of ~~Study~~ study ~~Findings~~ findings;
  - 6.1.3.106.1.2.1.10 Detailed ~~Study~~ study ~~Findings~~ findings (impact and process evaluation);
  - 6.1.3.116.1.2.1.11 Recommendations for ~~Program Changes~~ program changes and future studies, and
  - 6.1.3.126.1.2.1.12 For impact studies, *ex-post* cost-effectiveness results.
- 6.1.2.2 The timeline for each study will be unique, described in the Three-Year EM&V Plan, and be subject to change consistent with the work plan of the IEC(s) engaged for each particular activity. The timeline should, whenever possible, meet the needs of the PAs, EEAC, and any relevant PJM market compliance cycles.
- 6.1.4.6.1.2.3 The following information, when applicable, shall be included in a table format or bullet list within both the Executive Summary of the ~~draft and final~~ evaluation reports as well as in the sections of the report in which those items are presented and discussed. The goal of this requirement is to allow efficient and rapid extraction of key results to better understand the study results.
- 6.1.4.16.1.2.3.1 Energy Impact
    - 6.1.4.1.16.1.2.3.1.1 Program and portfolio level first year annualized gross and net energy impacts
    - 6.1.4.1.26.1.2.3.1.2 Program and portfolio level gross and net lifecycle energy impacts
    - 6.1.4.1.36.1.2.3.1.3 For electric programs, program and portfolio level gross and net coincident peak kW
    - 6.1.4.1.46.1.2.3.1.4 Program NTG ratios and estimated components
    - 6.1.4.1.56.1.2.3.1.5 Program and portfolio level first year annualized gross original PA-tracked ex-ante savings
    - 6.1.4.1.66.1.2.3.1.6 Program and portfolio level first year annualized gross realization rates
    - 6.1.4.1.76.1.2.3.1.7 Program and portfolio level impact goals
    - 6.1.4.1.86.1.2.3.1.8 Program and portfolio level achievement as a percentage of goal, based on ex-post evaluation results
    - 6.1.4.1.96.1.2.3.1.9 Program and portfolio level calculated benefit-cost results based on ex-post evaluation net savings
  - 6.1.4.26.1.2.3.2 Process Evaluation
    - 6.1.4.2.16.1.2.3.2.1 Key findings from the process evaluation
    - 6.1.4.2.26.1.2.3.2.2 Summary of recommendations made by the evaluation team
  - 6.1.4.36.1.2.3.3 Market Effects
    - 6.1.4.3.16.1.2.3.3.1 Timeline describing years covered by the reported effects
    - 6.1.4.3.26.1.2.3.3.2 Key findings from the market effects evaluation aligning with priorities identified by the EEAC.
    - 6.1.4.3.36.1.2.3.3.3 Estimated annual and lifecycle net energy savings estimated from market effects (per technology, technology class, or market sector as appropriate)
    - 6.1.4.3.46.1.2.3.3.4 Listing of major technologies and/or practices affected by market effects
- 6.1.3 An annual summary of evaluation results shall be prepared by DNREC to summarize the key findings of all studies conducted in a program or calendar year, in order to provide the EEAC with a consolidated list of findings and recommendations to facilitate discussions of program refinements, evolution, and the next three-year program cycle.
- 6.1.4 Each PA shall prepare and submit to the EEAC a Biannual Program Snapshot that presents information regarding the progress of the PA's efficiency programs.

6.1.4.1 The Biannual Snapshot should include data tables presenting key information regarding the progress of efficiency programs as compared to planned savings and budgeted expenditures. For each program a clearly labeled table should present the following data points, both the projected annual value or budget and the actual year-to-date value, on an ex-ante basis:

- 6.1.4.1.1 Number of projects
- 6.1.4.1.2 Electric energy savings (kWh)
- 6.1.4.1.3 Electric peak demand savings (kW)
- 6.1.4.1.4 Natural gas savings (therms)
- 6.1.4.1.5 Savings from equivalent energy efficiency measures
- 6.1.4.1.6 Program expenditures

6.1.4.2 The Biannual Snapshots should be prepared for presentation to the EEAC in August (for the first half of program year) and February (for the second half of program year).

6.1.5 Each PA shall submit an Annual Program Reconciliation Report to the EEAC highlighting findings from the past program year.

6.1.5.1 The Annual Reconciliation Report is a critical output of the EM&V process. It links together all information and accounting for each efficiency program, demonstrates that savings are accurately reported, and presents the results of cost-effectiveness analysis

6.1.5.2 The report shall be submitted by the end of the 1st quarter after the close of the program year, and should include all completed reports and results that were not included in any previous annual report. It should include the following information.

6.1.5.2.1 A summary of EM&V activities completed in a manner that is consistent with these regulations and with EM&V Plans approved by the EEAC.

6.1.5.2.2 A summary of process evaluation findings, as appropriate by program.

6.1.5.2.3 A summary of impact evaluation findings, as appropriate by program and for the portfolio as a whole, showing original PA tracked savings, actual evaluated gross and net savings performance, original program goals, evaluated NTG ratios, and evaluation realization rates. For programs not undergoing impact evaluations for that year, the summary should provide the tracked and claimed gross and net savings consistent with prior agreements, deemed savings and the Mid-Atlantic TRM, and indicate these are unevaluated results.

6.1.5.2.4 Estimates of ex-post evaluation estimated savings and cost-effectiveness results by program and for the portfolio as a whole, performed and calculated in a manner consistent with the EM&V regulations.

## 6.2 Benefit-Cost Analysis

6.2.1 Energy Efficiency programs and portfolios in Delaware must meet the benefit-cost requirements outlined in these regulations. PAs shall develop program and portfolio plans to achieve positive net benefits based on the cost-effectiveness test described below. PAs are responsible for providing prospective planned cost-effectiveness test results to EEAC for review at the program and portfolio level. In addition, the IECs and PAs must provide the EEAC with retrospective cost-effectiveness test results at the program and portfolio level. Portfolios shall be developed to maximize long term cost-effectiveness and consider investing in the activities and resources needed to establish the groundwork for programs in the future.

### 6.2.2 Cost-Effectiveness Test

6.2.2.1 Programs are considered cost-effective when the benefit-cost ratio as determined by the Total Resource Cost (TRC) test is greater than one. The TRC test compares the costs and benefits of energy efficiency programs as a resource option from the perspective of the entire economy. The formula for the TRC test is:

Benefit-Cost Ratio = Benefits / Costs, where:

Benefits = Net Present Value of (Avoided Supply Costs + Other Benefits)

Costs = Net Present Value of (Participant Costs + Utility Costs – Federal Tax Credits)

6.2.2.2 The costs are the total costs of the program, whether incurred by participants or Program Administrators. Costs include:

- 6.2.2.2.1 equipment and installation costs (but only those that are incremental to baseline costs);
- 6.2.2.2.2 increases (or decreases) in operation and maintenance costs;
- 6.2.2.2.3 cost of removal (less salvage value);
- 6.2.2.2.4 administrative costs directly attributable to the programs, and

- 6.2.2.2.5 costs for EM&V activities, utility performance incentives, and Federal tax credits (as a reduction in cost).
- 6.2.2.3 Benefits include all benefits to the utility, its ratepayers, and other Delaware constituents that result from changes in energy consumption resulting from energy efficiency programs. The benefits calculated in the TRC shall include, when determined by the EEAC to be reasonably quantifiable:
  - 6.2.2.3.1 avoided electric supply costs, based on energy costs in the respective zone of the PJM Regional Transmission Organization;
  - 6.2.2.3.2 avoided electric transmission, distribution, and generation capacity costs, valued at marginal cost for the periods when there is a load reduction, based on relevant costs in the respective zone of the PJM Regional Transmission Organization;
  - 6.2.2.3.3 reduced SREC and RECs requirements;
  - 6.2.2.3.4 avoided gas supply and delivery costs;
  - 6.2.2.3.5 the effect of lower prices for electric and gas energy and capacity in wholesale markets resulting from reductions in the quantity of energy and capacity sold in those markets, sometimes referred to as Demand-Reduction-Induced Price Effect (DRIPE);
  - 6.2.2.3.6 ~~non-primary fuel benefits, such as reduction in heating fuel needs (regardless of fuel type) resulting from improvements in the building envelope or other systems~~ Avoided costs of energy savings in fuels other than electricity and natural gas, or from equivalent energy efficiency measures, such as reduction in delivered heating fuel resulting from improvements in the building envelope or other systems; and
  - 6.2.2.3.7 avoided environmental compliance costs, where such costs can be directly tied to changes in energy use.
- 6.2.2.4 The benefits shall be calculated using net savings.
- 6.2.3 To set a standard that allows TRC tests conducted on Delaware's energy efficiency programs and portfolio to be comparable, the following guidance shall be followed.
  - 6.2.3.1 Net present value - Cost-effectiveness of an energy efficiency measure, program, or portfolio will be calculated based on the net present value of the costs and benefits valued in the TRC test, discounted over the effective useful life of the measures installed.
  - 6.2.3.2 Discount Rates - The discount rate used in energy efficiency and demand reduction cost-effectiveness tests shall be 4.0% on a real basis.
  - 6.2.3.3 EUL - Measures installed via Delaware's energy efficiency programs shall have their energy savings counted and valued over the full EUL of the installed measures.
  - 6.2.3.4 With the exception of program-specific data, inputs to cost-effectiveness tests shall not be different for different programs.
- 6.2.4 Although the TRC test will serve as the primary criterion for determining program cost-effectiveness, customer rate and bill impacts shall be provided in portfolio plans to help inform the planning process. The results of additional cost-effectiveness tests may also be reported.
  - 6.2.4.1 Portfolio plans shall include projected ~~short and long term~~ customer rate and bill impacts over the three-year program for each customer class.
- 6.2.5 EEAC Responsibilities for Benefit-Cost Analysis
  - 6.2.5.1 Develop or approve energy savings forecasts, avoided costs, line losses, and/or other major inputs to the benefit-cost analysis.
  - 6.2.5.2 Monitor that Program Administrators are following the benefit-cost approaches as outlined in these regulations.
  - 6.2.5.3 Review and approve program and portfolio level benefit-cost analysis completed by Program Administrators and/or IECs on energy efficiency portfolios and programs.
  - 6.2.5.4 Coordinate with the PSC and the Public Advocate to provide advice on benefit-cost metrics, metric values, and calculation approaches.
- 6.2.6 Program Administrator Responsibility for Benefit-Cost Analysis
  - 6.2.6.1 Develop estimates of avoided costs and line losses, for review, discussion and approval by the EEAC.
  - 6.2.6.2 Perform benefit-cost analysis for energy efficiency measures, programs and portfolios for planning purposes using ~~Delaware~~ Mid-Atlantic TRM values and best available information as appropriate.
  - 6.2.6.3 Provide For programs evaluated by an IEC, provide IECs with appropriate input data and ensure that the IECs perform required benefit-cost analyses based on ex-post evaluation results and submit timely reports to the EEAC.

- 6.2.6.4 Report planned and ex-post benefit-cost calculation results to EEAC.
- 6.2.6.5 Provide data and benefit-cost analyses models to the EEAC for review, if requested
- 6.3 Energy Impact Baseline
  - 6.3.1 Prescriptive Measures
    - 6.3.1.1 The baseline used for prescriptive measures shall be established in the ~~Delaware~~ Mid-Atlantic TRM. Baselines for prescriptive measures shall follow the approaches outlined below.
    - 6.3.1.2 For program models that are market driven, including replace on failure or end of life, new construction, renovation, remodel, or any other reason the customer is already planning to install equipment, the ~~Delaware~~ Mid-Atlantic TRM shall use one of the following approaches to establish deemed baselines, unless specified in the ~~Delaware~~ Mid-Atlantic TRM to be site or customer-type specific:
      - **Code or standard:** Energy impact baseline is set at the minimum building code or the minimum appliance standard without compliance adjustments
      - **Typical Code or Standard with Compliance Adjustment:** Energy impact baseline is set at the typically applied building code or appliance standard adjusted for estimated compliance
      - **Market Mean or Mode:** Energy impact baseline is set at the mean or mode market practice for that equipment, depending on the distribution
    - 6.3.1.3 For programs models that result in equipment replaced earlier than what would have occurred without the program (early replacement or “retrofit”), or where additional or optional equipment is added to existing equipment of systems, the baseline condition is the energy use condition prior to the program-induced change for the remaining useful life of the replaced measure. Once the remaining useful life has expired, the baseline should be established using one of the three methods outlined in subsection 6.3.1.2 and applied to the remaining useful life.
  - 6.3.2 Custom Measures
    - 6.3.2.1 Baseline conditions for custom measures will be set for each project being evaluated so that it reflects the typical conditions associated with that custom application, consistent with the above guidelines for prescriptive measures. The IEC will review baseline assumptions established by project engineers, and if appropriate, suggest modifications.
  - 6.3.3 EEAC Responsibilities for Energy Impact Baseline
    - 6.3.3.1 Provide guidance to IECs and PAs regarding appropriate baseline approaches, assumptions and estimations.
    - 6.3.3.2 Collaborate with the IECs and PAs on the evaluation efforts and review baseline approaches and savings assumptions to be used in the evaluation efforts ensuring they are developed in a manner consistent with the baseline approach established in these regulations.
    - 6.3.3.3 Work to resolve any disagreements between the IECs and PAs, or other stakeholders, regarding baseline assumptions.
    - 6.3.3.4 Approve any IEC suggested deviations from the required approach for setting baseline conditions if properly justified and explained.
  - 6.3.4 Program Administrator Responsibilities for Energy Impact Baseline
    - 6.3.4.1 Provide guidance to IECs on program baseline assumptions.
    - 6.3.4.2 Develop, in coordination with the IECs, custom baseline assumptions on a project-specific basis to support calculations of custom project gross savings.
- 6.4 Application of Savings
  - 6.4.1 Program results and goal achievement in Delaware shall be reported as Ex-Post Verified Net savings. Gross program savings that are verified by evaluation activities are then adjusted using ~~previously-determined~~ net-to-gross (NTG) ratios determined as described in subsection 6.4.3.1 to yield an ex-post, verified net savings value.
  - 6.4.2 Gross savings will be calculated using the ~~Delaware~~ Mid-Atlantic TRM where applicable. For measures not included in the ~~Delaware~~ Mid-Atlantic TRM, gross savings will be calculated by other appropriate methods.
    - 6.4.2.1 Gross savings do not account for the effects of free riders, spill over or market effects on the total program savings.
    - 6.4.2.2 For deemed savings, ex-post savings shall be verified by the IEC and may reflect installation rate, quantity, and adjustments for errors in data collection.
    - 6.4.2.3 Custom projects shall require engineering, metering, or other evaluation estimates that will be applied retroactively.

- 6.4.3 Net savings, those savings that are caused by the program's intervention in the market and that account for free riders, participant spillover and market effects, shall be used for purposes of assessing goal achievement and to provide program design and marketing guidance that can support planning for upcoming program years. An assessment of net-to-gross ratios may also be used by the EEAC, and other policy makers to assess when a program should be redesigned or terminated as a part of the Delaware portfolio.
  - 6.4.3.1 The EEAC shall develop or approve NTG ratios to be applied to each program prospectively each year. These NTG ratios can be derived from specific research or from other best available information. The EEAC, in consultation with the IEC, shall agree on NTG values to use going forward, informed by evaluations and all other best available information.
  - 6.4.3.2 Estimated net-to-gross assumptions used in portfolio planning analyses shall be included with the portfolio plan submitted to EEAC.
- 6.4.4 Retroactive vs. prospective savings calculation
  - 6.4.4.1 Changes in deemed energy savings or other deemed assumptions that result from program evaluation shall not be applied retrospectively, but shall be applied to the program and portfolio prospectively in the next program cycle.
  - 6.4.4.2 Changes to deemed savings assumptions shall be coordinated through the annual process of updating the ~~Delaware~~ Mid-Atlantic TRM.
- 6.4.5 Transmission and Distribution Losses
  - 6.4.5.1 All transmission and distribution loss factors applied to customer or meter-level savings in order to estimate generation-level savings shall be based on estimates of marginal system line losses rather than average loss factors.
- 6.4.6 EEAC Responsibilities for Savings Calculations
  - 6.4.6.1 The EEAC shall develop or approve gross savings analyses completed by IECs on energy efficiency portfolios and programs.
  - 6.4.6.2 The EEAC shall coordinate with the DNREC to provide updates to the ~~Delaware~~ Mid-Atlantic TRM so that savings used in Delaware reflect the most recent information available, including information gathered through program EM&V completed in Delaware.
  - 6.4.6.3 The EEAC shall review and approve Program Administrator assumptions regarding savings attributable to avoided transmission and distribution system losses.
  - 6.4.6.4 The EEAC shall reach consensus on all forward looking NTG ratios to apply to the following year.
- 6.4.7 PA Responsibilities for Savings Calculations
  - 6.4.7.1 The PAs shall coordinate with the DNREC and the EEAC to provide advice on benefit-cost metrics, metric values, and calculation approaches.
- 6.4.8 IEC Responsibilities for Savings Calculation
  - 6.4.8.1 The IEC shall provide to the EEAC all EM&V reports. Reports shall include, as a minimum, evaluated gross and net savings for each program.
  - ~~6.4.8.2 The IEC shall recommend to the EEAC any proposed prospective modifications to the Delaware TRM or other deemed assumptions.~~
  - ~~6.4.8.3~~ 6.4.8.2 The IEC shall advise the EEAC, as requested, on issues related to reaching consensus on NTG ratios for each program.

## 7.0 Evaluation Budgeting and Budget Management

- 7.1 For any given program cycle, the EEAC will review evaluation budgets proposed by the PAs ~~and the IECs~~ to ensure funding is at a level sufficient to cover EM&V.
- 7.2 The EEAC shall consider the following when approving the proposed EM&V Plans and when recommending EM&V activities:
  - 7.2.1 Programs that are expected to save more energy (in both the near-term and over their measure lifetimes) or have high demand reduction impacts should have evaluation approaches that are more rigorous than those that are expected to save less energy.
  - 7.2.2 Programs that represent larger portions of the portfolio budget should have a level of evaluation rigor that matches the importance of the program's total financial investment.
  - 7.2.3 Measures that have a high risk around the accuracy of the savings should have a high level of evaluation rigor, thus reducing the level of uncertainty around the energy saving estimates of that program and for the portfolio.

- 7.2.4 Field measurement and verification efforts should focus on the programs of the portfolio that have the greatest risk of lowering the reliability of the total impact estimates.
- 7.2.5 Sampling approaches, sample-size targets, and confidence limits should provide the highest level of accuracy achievable balanced with the available resources. Large programs and programs that are important for reaching energy saving targets should have sampling approaches that reflect that importance. Low impact or smaller programs may have lower precision and confidence levels.
- 7.2.6 Budgets devoted to process evaluations should consider the likely opportunities to identify program improvements, the current success of the program in terms of participation and overall program implementation, and the likely duration of the program effort.
- 7.2.7 ~~In order to reduce costs and remain consistent with other regional evaluation efforts, evaluations and related activities shall leverage, to the extent possible, the activities of other entities such as the Northeast Energy Efficiency Partnership's Regional EM&V Forum and the Department of Energy's Uniform Methods Project.~~
- ~~7.2.8~~ 7.2.7 Where possible, evaluation activities should support the ability of the PAs to meet the EM&V requirements for participation in relevant and applicable energy and capacity markets, such as the PJM RPM capacity market.

## 8.0 ~~Delaware~~ Technical Reference Manual (TRM) Purpose and Updating Process

- 8.1 The ~~Delaware~~ Mid-Atlantic TRM shall serve as the source for deemed gross savings and the associated calculation approaches used in Delaware.
- 8.2 ~~Updates to the Delaware TRM will be aligned with the update process for the Mid-Atlantic TRM and shall be completed annually by July 1. The Mid-Atlantic TRM is usually completed in the late spring or early summer each year.~~ PAs planning to launch programs the following January 1 or later will use the updated ~~Delaware~~ Mid-Atlantic TRM in planning for the subsequent year. PAs launching new programs in advance of January 1 of the subsequent year will use the standing values until the start of their next program year, at which time they will adopt the updates from the ~~Delaware~~ Mid-Atlantic TRM for all forward-planning and reporting purposes.
- 8.3 EEAC Responsibilities for ~~Delaware~~ Mid-Atlantic TRM Updates
  - 8.3.1 Participate in the Mid-Atlantic TRM development process.
  - ~~8.3.2 Initiate and manage the update process for the Delaware TRM.~~
  - ~~8.3.3~~ 8.3.2 Lead the various aspects associated with the coordination process to ensure that all necessary information is assembled to inform discussions regarding proposed changes to the TRM.
  - ~~8.3.4~~ 8.3.3 Obtain opinions from evaluation and program implementation experts as needed to inform modification and other update decisions.
  - ~~8.3.5~~ 8.3.4 Solicit feedback from other interested parties as part of the updating process.
  - ~~8.3.6~~ 8.3.5 Develop and document all procedures and policies related to the ~~Delaware~~ Mid-Atlantic TRM, its use, update schedule, and application.
  - ~~8.3.7 Approve the Delaware TRM.~~
- 8.4 PA Responsibilities for ~~Delaware~~ Mid-Atlantic TRM Updates
  - 8.4.1 Develop recommendations for changes and new measures and participate in discussions as appropriate.
  - 8.4.2 Inform the EEAC promptly of the desire for additional and characterization of any new measures to support program design and implementation activities.
  - 8.4.3 Provide feedback and insight into the updating process for the ~~Delaware~~ Mid-Atlantic TRM, including direct feedback and findings resulting from EM&V activity in Delaware.
  - 8.4.4 Provide opinions, comments, or responses on the recommended changes provided by others.
- 8.5 IEC Responsibilities for ~~Delaware~~ Mid-Atlantic TRM Updates
  - 8.5.1 Identify appropriate modifications and updates to the EEAC, provide recommendations for new assumptions, and assist in developing ~~Delaware~~ Mid-Atlantic TRM updates.

**Please Note: Due to the size of the ~~Delaware~~ Mid-Atlantic Technical Reference Manual, it is not being published here. The link to the manual is provided below:**

DE TRM complete 2016 (<http://regulations.delaware.gov/AdminCode/title7/2000/DE-TRM-complete-2016.pdf>)

Mid-Atlantic TRM May 2018 (<http://regulations.delaware.gov/register/september2018/proposed/Mid-Atlantic-TRM-May-2018.pdf>)

20 DE Reg. 558 (01/01/17)

