

HEARING OFFICER'S REPORT

TO: The Honorable Gregory Patterson
Cabinet Secretary, Dept. of Natural Resources and Environmental Control

FROM: Theresa Smith, Regulatory Specialist, Office of the Secretary,
Dept. of Natural Resources and Environmental Control

RE: **Proposed Regulation Amendments to 7 DE Admin. Code 2105:
*Regulations Governing Evaluation, Measurement, and Verification
Procedures and Standards***

DATE: October 24, 2025

I. BACKGROUND AND PROCEDURAL HISTORY:

A public hearing was held on Monday, September 22, 2025, at 6:00 p.m. via the State of Delaware's Zoom Video Communication Platform by the Department of Natural Resources and Environmental Control ("DNREC," "Department") to receive comment on proposed amendments to 7 DE Admin. Code 2105 - *Regulations Governing Evaluation, Measurement, and Verification Procedures and Standards* ("Regulation"). The proposed amendments aim to better align the Regulation with current practices, improve consistency, and ensure compliance with energy efficiency goals.

Under the authority of 26 Del. C. Ch. 15, the *Energy Efficiency Resource Standards Act of 2009*, the Department is responsible for overseeing Delaware's statewide energy efficiency efforts. This includes setting standards, guiding implementation, ensuring compliance, and tracking progress toward reducing energy use and environmental impacts. To support these responsibilities, the Department established 7 DE Admin. Code 2105 to provide a consistent framework for evaluating and verifying the performance of energy efficiency and demand response programs that is intended to serve a wide range of users and functions, including: Utilities and efficiency Program Administrators – for cost-effectiveness screening and program planning, tracking, and reporting; Regulatory entities, independent program evaluators, and other parties – for evaluating the performance of efficiency programs relative to statutory goals and

facilitating planning and portfolio review; and Markets, such as PJM’s Reliability Pricing Model (its wholesale capacity market) and future carbon markets – for valuing efficiency resources.

Currently, Delaware’s evaluation, measurement, and verification (EM&V) procedures and standards are based on the *Mid-Atlantic Technical Resource Manual* (Mid-Atlantic TRM), which is incorporated by reference in the Regulation. The EM&V framework helps energy professionals assess program effectiveness and inform future planning. The Mid-Atlantic TRM was established by the Northeast Energy Efficiency Partnership (NEEP), a collaborative partner network that included state and local governments, utilities, energy efficiency program administrators, industry experts, and non-profits across the Northeast and Mid-Atlantic region. This network led the review and updates to the Mid-Atlantic TRM, which was last updated in 2020. During that time the Department participated in NEEP's efforts towards energy efficiency by partnering on the Mid-Atlantic TRM. Since that time, NEEP has shifted its focus from updating the manual. As a result, the Mid-Atlantic TRM no longer reflects current regional best practices or Delaware-specific conditions. Recognizing this, the Department determined that continued reliance on the Mid-Atlantic TRM in its entirety is no longer cost-effective or appropriate for Delaware’s energy efficiency programs.

In an effort to maintain up-to-date EM&V procedure and standards, the Department has created the *Delaware Technical Reference Manual Version 4.0* (“Delaware TRM”), a technical resource manual that reflects measures specific to Delaware. In creating the Delaware TRM, the Department utilized the foundation of *Mid-Atlantic TRM Version 9*, while incorporating targeted updates to better reflect market conditions in Delaware and stakeholder priorities.

More specifically, the Delaware TRM supports Delaware’s rate-funded energy efficiency programs by providing standardized methods and assumptions for planning, implementation, and evaluation of program performance in meeting Delaware’s energy and climate goals. It also facilitates the inclusion of efficiency resources in wholesale

capacity markets and future carbon markets. The Delaware TRM offers a consistent platform for stakeholders to define and compare efficiency measures, assess cost-effectiveness, communicate program impacts, and guide future evaluation and research priorities. Each measure includes algorithms or deemed savings values that reflect representative annual energy and peak demand reductions based on Mid-Atlantic data and engineering equations.

The Department proposes to adopt by reference, the Delaware TRM, rather than the Mid-Atlantic TRM. These amendments will allow flexibility to incorporate program-specific data and local conditions, ensure transparency, comparability, and technical consistency in measuring Delaware's energy efficiency achievements.

In addition, the Department also proposes amendments to the Regulation to add non-energy impacts to the Total Resource Cost ("TRC") test, as approved by the of the Energy Efficiency Advisory Council. In accordance with the Regulation, program administrators must demonstrate that the benefits of their energy efficiency programs and portfolios outweigh their costs by meeting the cost-effectiveness requirements outlined in the Regulation. To do so, program administrators must calculate results using the TRC test which compares the costs and benefits of energy efficiency programs. The Regulation identifies the cost factors that can be considered in this calculation. In addition to the current factors that are considered, the Department proposes to add non-energy impacts. The non-energy impacts represent quantifiable benefits, such as health, comfort, economic benefits, and their inclusion in cost-effectiveness screening provides a more holistic assessment of a program's value. It also supports the Department's goal of reducing greenhouse gas emissions and advancing equity by recognizing the full range of benefits that energy efficiency programs can deliver.

Lastly, the Department proposes updates to definitions, terminology, and units of measurement to ensure consistency with current practices and to enhance clarity within the regulation.

In April 2025, the Department met with stakeholders through the Evaluation, Measurement, and Verification Committee (April 8, 2025) and the Energy Efficiency Advisory Council (April 9, 2025). During these meetings the Department reviewed the proposed amendments and stakeholders shared their support. The proposed amendments aim to enhance accuracy and usability for stakeholders and program administrators.

The Department has the statutory basis and legal authority to act with regard to the proposed amendments pursuant to 26 *Del. C. Ch.15, Energy Efficiency Resource Standards Act of 2009*. The Department published its initial proposed amendments in the September 1, 2025, *Delaware Register of Regulations* and a public hearing that was held on September 22, 2025. There was one (1) member of the public in attendance at the hearing and that person registered to provide verbal comment. At the time of the hearing, the public member advised that a written comment would be submitted instead of providing a verbal comment at the hearing. Pursuant to Delaware law, the hearing record (“Record”) remained open for fifteen (15) additional days subsequent to the date of the public hearing for receipt of written comment. The Record formally closed with regard to public comment at close of business on October 7, 2025. During this phase of the proposed regulatory promulgation, the Department did not receive any written comments.

It should be noted that all notification and noticing requirements concerning this matter were met by the Department as required by law.

II. SUMMARY OF THE PUBLIC HEARING RECORD:

The Record consists of the following documents: (1) a verbatim transcript and (2) nine (9) documents introduced by Department staff at the public hearing held on September 22, 2025, and marked by this Hearing Officer at the time of the hearing accordingly as Department Exhibits 1-9. The Department’s person primarily responsible for the drafting and overall promulgation of the proposed amendments, Anna Keating, Planner II, Division of Climate, Coastal, & Energy, developed the Record with the

relevant documents in the Department's files. 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 - *Regulations Governing Evaluation, Measurement, and Verification Procedures and Standards* to align with current best practices, improve consistency, and ensure compliance with energy efficiency goals. I also find that the proposed amendments are necessary to comply with state law, and I recommend that the Secretary adopt the proposed amendments as the final amendments to 7 DE Admin. Code 2105. The proposed amendments reflect Delaware's commitment to energy efficiency program and initiatives, to protect public health, and the environment. 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:

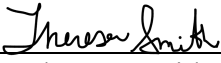
1. The Department has the statutory basis and legal authority to act with regard to this proposed regulatory promulgation, pursuant to 26 *Del. C.* Ch.15;
2. The Department has jurisdiction under its statutory authority, pursuant to 7 *Del. C.* Chapter 60, to issue an Order adopting these proposed amendments as final;
3. The Department provided adequate public notice of the 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 22, 2025, and during the 15 days subsequent to the hearing (through October 7, 2025) before making any final decision;

4. Promulgation of the revised proposed amendments to 7 DE Admin. Code 2105 - *Regulations Governing Evaluation, Measurement, and Verification Procedures and Standards* will enable the Department to align with current best practices, improve consistency, and ensure compliance with energy efficiency goals;
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 determined that the Regulation does not apply to small businesses or individuals;
6. The Department has reviewed the proposed regulatory promulgation in the light of 7 *Del. C.* §10003 and 29 *Del. C.* §10118(b)(3), and has determined that conducting such an assessment regarding the impact of this regulation on the achievement of the State of Delaware's greenhouse gas emissions reduction targets is not practical.
7. The Department's proposed regulatory amendments, as published in the September 1, 2025, *Delaware Register of Regulations*, are set forth in Appendix "A" hereto, and 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*;
8. The Department shall submit the proposed amendments as final regulatory amendments 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; and

9. The Department shall serve and publish its Order on its internet site.



Theresa Smith
Public Hearing Officer