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

TO: Theresa Smith, Hearing Officer

THROUGH: Kimberly Cole, Director, Feb 10, 2026
Thomas Noyes, Administrator, Thomas Noyes (Feb 10, 2026 15:13:43 EST) Feb 10, 2026

FROM: Anna Keating, Planner III

DATE: February 10, 2026

SUBJECT: Technical Response Memorandum - Docket No. 2025-R-CCE-0008/7 DE Admin. Code 2101 Regulations for State Energy Conservation Code

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The proposed 2101 Regulations for State Energy Conservation Code adopts the 2024 International Energy Conservation Code (IECC) for residential buildings and the 2024 IECC and American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) 90.1-2022 for commercial and high-rise residential buildings. The proposed regulation also adopts Appendix RE: EV Charging Infrastructure and Appendix CB: Solar-Ready Zone with amendments to align with corresponding statutory requirements.

Following a public hearing that was held on July 22, 2025, and a decision by the Secretary of the Delaware Department of Natural Resources and Environmental Control (DNREC) declining to approve the regulation as proposed, the State Energy Office (SEO) published a revised regulation on December 1, 2025, and re-opened the public comment period for 30 days. A total of 8 public comments were received by DNREC. This Technical Response Memorandum (TRM) contains responses from the SEO to the public comments received. This TRM is intended to assist with the completion of the Hearing Officer's Report and recommendations to the Secretary.

Public comments are compiled, summarized, and answered below:

Public Comment: EV Charging Infrastructure

Public commenters expressed both opposition to and support of the adoption of Appendix RE: EV Charging Infrastructure. Those in opposition to the adoption of Appendix RE claimed that it will increase the burden imposed by 16 Del.C. Ch. 80, worsen the housing affordability crisis, and

burden affordable housing providers without benefiting low-income residents. Some public commenters requested the removal of Appendix RE, while others requested an exemption for affordable housing units. Those in support of the adoption of Appendix RE claimed that it is a convenient and cost-effective way to support vehicle electrification and prepare Delaware's housing stock for the transition to electric vehicles.

SEO Response: EV Charging Infrastructure

84 Del. Laws, c. 145, § 2 gives the SEO (by delegation from the Secretary of DNREC) the authority to adopt an updated energy code that matches or exceeds the residential electric vehicle charging infrastructure standards that are adopted by this Act. This Act already applies to single-family residential dwellings for which a building permit was issued on or after January 1, 2024, and to multi-family residential dwellings for which an application for final site plan approval was submitted on or after January 1, 2025.[1] The proposed version of Appendix RE does not impose a significantly higher burden than the law already requires. In order to lessen the potential burden on builders, the SEO reduced the percentage of electric vehicle (EV) ready or electric vehicle supply equipment (EVSE) spaces that are required for R-2 buildings in the 2024 IECC's version of Appendix RE.

The SEO believes that the inclusion of Appendix RE in the proposed regulation is essential to the clean energy transition and to achieving the emissions reduction goals that are outlined in the Climate Change Solutions Act of 2023.[2] Transportation accounts for 30% of the state's total greenhouse gas emissions and the expansion of residential electric vehicle charging infrastructure is a key strategy in Delaware's State Energy Plan to achieve a 50% reduction in emissions by 2030.[3]

Home Innovation Research Labs prepared a 2024 IECC cost analysis that used a single-family reference house to estimate that the added building cost would be $536 to comply with the EV ready measure and $821 to comply with the EVSE measure.[4] The proposed version of Appendix RE would require that a single-family dwelling be provided with one EV ready or EVSE space. According to the estimates in the Home Innovation Research Labs report, a single-family dwelling could be compliant with the requirements of Appendix RE for only $536 in additional costs to the builder. The SEO believes that low-income households should not be excluded from the transition to clean energy and that affordable housing units should provide the same opportunities for electric vehicle charging infrastructure as other residential new construction projects. DNREC upholds its commitment to environmental justice and energy equity through the administration of clean vehicle and EV charging equipment rebate programs that enable applicants to own EVs and install the necessary charging equipment. Creating an exemption for affordable housing developers

[1] 16 Del.C. §8003(a)
[2] 84 Del. Laws, c. 141
[3] Delaware State Energy Office, *2024–2028 Delaware State Energy Plan* (Department of Natural Resources and Environmental Control, December 2024), https://documents.dnrec.delaware.gov/energy/2024-DE-Energy-Plan.pdf
[4] Home Innovation Research Labs, *2024 IECC Cost Analysis for Single-Family Homes* (National Association of Home Builders, January 2025), https://www.nahb.org/-/media/NAHB/advocacy/docs/top-priorities/codes/code-adoption/2024-iecc-cost-analysis-hirl.pdf?rev=1c0950edb89e4e6195e99facb0a376f9&hash=2AB3239971E23F1EC5813048B05B188C

would create a gap in opportunity for low-income households to feasibly own EVs. The adoption of Appendix RE would make it easier for consumers, including low-income residents, to make the transition to vehicle electrification and ultimately reduce emissions, save money on fuel costs, and improve public health.

Public Comment: Ventilation & Insulation

A public commenter expressed support for the adoption of the 2024 IECC but raised concerns regarding technical issues he has witnessed in the field regarding ventilation in tight homes and the quality assurance of spray foam as a primary insulation method. This public commenter believes that ASHRAE 62.2-2022 should be adopted in addition to the 2024 IECC to ensure that standards for whole-house mechanical ventilation keep up with tight-envelope construction. This public commenter stated that tested mechanical ventilation rates should be listed on IECC compliance reports for county inspectors to review. This public commenter also requests that, in instances where spray foam is used as the primary insulation method, third-party spray foam certificates are required of installers, simple record-keeping is required of builders, and that county inspectors have the authority to conduct random spot core checks.

SEO Response: Ventilation & Insulation

Given the six-year jump in code from the current 2018 IECC to the proposed 2024 IECC, the SEO believes that ASHRAE 62.2-2022 should not be an additional residential requirement for builders at this time. However, the most recent ASHRAE 62.2 residential mechanical ventilation standards should be adopted in addition to the IECC in the next triennial update of the State Energy Conservation Code. This will align adoption of the new ASHRAE standards with only a three-year jump in the existing code and will give builders time to prepare for the additional residential code requirements. The SEO recommends that 16 Del.C. §7602 is revisited by the Delaware General Assembly and that they consider amending the code to explicitly authorize the SEO to adopt ASHRAE standards for new detached 1- and 2- story family dwellings and all other new residential buildings 3 stories or less in height. In the meantime, local jurisdictions have the authority to adopt ASHRAE 62.2-2022 standards through stretch codes. Additional technical concerns can be addressed through training sessions and materials that will be provided by the SEO following the promulgation of the proposed regulation.

Public Comment: Zero Net Energy Capable Construction

A public commenter recommended that Appendix RG: 2024 IECC Stretch Code is incorporated as an optional compliance overlay to the base code to help prepare the construction industry to eventually reach zero net energy (ZNE) capable goals. In order to assist those who are already prepared to build to ZNE capable standards, this public commenter also recommended including the Passive House and Department of Energy Zero Energy Ready Home (DOE ZERH) optional compliance pathways that were proposed as ZNE capable amendments in the previous version of the State Energy Conservation Code. This public commenter noted that there is a "void in guidance" for those who are ready to build to ZNE capable construction.

SEO Response: Zero Net Energy Capable Construction

Through the regulatory adoption of the 2024 IECC in its entirety, all appendices attached to this code are available, optional resources to the construction industry. Builders may use Appendix RG as a resource to begin building to higher energy efficiency standards in preparation for future ZNE capable requirements. Additionally, local jurisdictions have the authority to adopt appendices as requirements through stretch codes.

The SEO intends to incentivize and provide guidance for ZNE capable construction through the development of new programs utilizing the 2024 IECC appendices and other international and national resources. The SEO believes that Appendix RG, Passive House Standards, and the DOE ZERH program will be more effectively implemented as DNREC programs than as additions to the proposed code. This approach will limit variations from the base code, reduce confusion throughout the training and implementation process, and encourage participation. The establishment of optional programs to prepare the construction industry will be essential in adopting a ZNE capable code in the near future. The SEO is collaborating with the American Council for an Energy-Efficient Economy (ACEEE) as they conduct workgroups to develop model residential codes to form actionable pathways to achieving zero energy capable, near zero, and zero energy construction. The SEO will continue to collaborate with other state agencies and organizations to reevaluate our approach to ZNE capable code and programs.

Public Comment: Support for the Proposed Regulation

Public commenters voiced support for the proposed regulation as written, particularly the adoption of the 2024 IECC and Appendix RE. Public commenters noted that the 2024 IECC will improve the energy usage, reduce the emissions, and increase the resiliency of buildings in Delaware.

SEO Response: Support for the Proposed Regulation

The SEO is in full agreement that the proposed regulation will improve building quality, grid resiliency, emissions reductions, public health, and energy affordability for building owners and occupants across the state.