



8/6/2025

Department of Natural Resources and Environmental Control
Division of Climate, Coastal and Energy
Theresa Smith, Hearing Officer
DNREC – Office of the Secretary
89 Kings Highway
Dover, DE 19901

[Electronically Submitted to: DNRECHearingComments@delaware.gov]

RE: Docket #2025-R-CCE-0008 Regulations for State Energy Conservation Code

Dear Miss Smith,

On behalf of Bradford White Corporation (BWC), we would like to express our appreciation for the opportunity to comment on Delaware's Regulations for State Energy Conservation Code.

BWC is an American-owned, full-line manufacturer of residential, commercial, and industrial products for water heating, space heating, combination heating, and water storage. In Delaware, a significant number of individuals, families, and job providers rely on our products for their hot water and space heating needs. Please find our comments below.

Delaware Energy Source Analysis

Natural gas fuels most of Delaware's in-state power generation. Natural gas-fired power plants accounted for 83% of Delaware's total electricity net generation in 2024, up from 51% in 2010.¹ Renewable resources contributed 9% of Delaware's total electricity net generation from utility-scale (1 megawatt and larger) and small-scale (less than 1 megawatt) generating facilities in 2024.

Title 16 Delaware § 7602 became effective on July 1, 2010; with aspirational goals of December 21, 2025 for all new residential building construction shall be zero net capable, and as of December 31, 2030 all new commercial building construction must also be zero net energy capable. Much has changed in the years since those goals were established. Projections from 2010 could not account for the tariffs, undoing of clean energy subsidies, or the price of electricity; the zero-energy landscape today is marked by broad uncertainties across a fast-changing space. Zero energy technologies include solar, onshore wind, battery storage, and electric vehicles.

- Will the State of Delaware be able to provide incentives and subsidies if funding is removed by the One Big Beautiful Bill Act?
- How does the State of Delaware plan to address an inadequate supply of new housing for low- and

¹US States Delaware Analysis, U.S. Energy Information Administration, Last Updated March 20, 2025, [United States - U.S. Energy Information Administration \(EIA\)](#)

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moderate-income homebuyers as increased construction costs are driven in part by supply chain shortages, tariffs, and regulatory compliance²?

- How does the State of Delaware plan to address a 51% increase in electricity generated from natural gas-fired power plants since 2010?
- How does the State of Delaware reconcile its renewable portfolio standard (RPS) was to be 25% by 2025 and 40% by 2035? With renewable resources at 9% in 2025 and not meeting the 25% goal, how will the State of Delaware meet the 2035 40% goal? Cost-effective and technically feasible renewable energy sources will be necessary for the State of Delaware; otherwise the zero net energy capable requirements run the risk of becoming a costly stranded asset to residential homeowners.

Preemption

On March 18, 2024, the International Code Council Board of Directors voted to affirm in part and reject in part nine appeals filed by five appellants to a draft of the 2024 commercial and residential editions of the International Energy Conservation Code (IECC)³. The appeals were focused on the IECC's scope and intent, consensus building approaches, procedural specific issues, and subject specific issues. The International Code Council Board of Directors determined that the scope and intent governing the 2024 IECC prohibited the inclusion of measures that did not directly affect building energy conservation within the base of the draft 2024 IECC, as the intent of both the commercial and residential 2024 IECC codes is limited to "providing minimum efficiency requirements for buildings that result in the maximum level of energy efficiency that is safe, technologically feasible, and life cycle cost effective considering economic feasibility, including potential costs and saving for consumers and building owners, and return on investment." The Board also considered concerns voiced by the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) that provisions in the draft IECC codes were federally preempted by the Energy Policy and Conservation Act. Where the Board determined there was a significant risk of preemption based on case law or the Board had concerns about the ability to comply with provisions using minimum efficiency equipment, the Board decided to move those provisions to a resource with a cautionary note regarding the risk of preemption.

ICC Council Policy-49 Note: In considering whether to adopt the content in this resource, jurisdictions in the United States should note that federal law might be found to preempt the provisions it prescribes.

The 2024 IECC Section R408 Additional Efficiency Requirements states 'Residential buildings shall earn not less than 10 credits...'. Delaware State Energy Conservation Code proposes to increase the additional energy credits from not less than 10 credits to not less than 30 credits. Pacific Northwest National Lab developed a technical support document to accompany the ASHRAE 90.1 energy credit proposal. The 90.1 technical support document reviewed two demonstration packages – one to evaluate cost effectiveness and the other to show a reasonable package without using efficiency improvements for HVAC and service water heating (SWH) equipment subject to EPACT (42 USC 6833) minimum federal efficiencies.

Title 16 Delaware § 7602 provides goals that all new residential construction shall be zero net capable; zero net capable differs from Delaware's State Energy Conservation Code proposal increasing the requirement for additional energy efficiency credits from 10 credits to 30 credits. "Zero net energy capable" describes buildings and homes that are designed to be so energy efficient that they could generate as much or more energy than they consume by adding on-site renewable energy systems. The "capable" aspect means the structure's design, such as its insulation and air-tightness, significantly minimizes energy needs, creating the

² National Association of Home Builders (NAHB), Housing Policy Priorities, December 2024, <https://www.nahb.org/-/media/NAHB/advocacy/docs/housing-policy-priorities.pdf?rev=434c843480b046cab2407918a44953b9>

³ International Code Council, The ICC Board of Directors Makes Final Decision on 2024 IECC Appeals and Addresses Preemption Challenges, March 2024, [The International Code Council Board of Directors Makes Final Decision on 2024 IECC Appeals and Addresses Preemption Challenges - ICC](https://www.iccsafe.org/news/2024/03/18/icc-board-makes-final-decision-on-2024-iecc-appeals-and-addresses-preemption-challenges)

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potential for a "zero net energy" outcome once renewable energy sources are integrated. A requirement to increase the additional energy credits from no less than 10 credits to no less than 30 credits will significantly increase the cost of building new residential housing in Delaware⁴; but not necessarily make new residential buildings any more zero net capable.

The energy codes currently in effect for Delaware are the ASHRAE 90.1-2016 for commercial buildings, and the 2018 IECC for residential. The 2021 IECC was the first edition providing Section R408 Additional Efficiency Package Options; R401.2.5 Additional Energy Efficiency required that one of the additional efficiency package options shall be installed according to Section R408.2. The 2024 IECC further expanded Section R408 Additional Efficiency Requirements; R408.2 states 'Residential buildings shall not earn less than 10 credits from not less than two measures specific in Table R408.2'. Proposals in the 2027 IECC to increase the required additional energy efficiency credits from 10 to 12 were not approved in the 2027 IECC Committee Action Report.

- What studies has Delaware completed to ensure residential buildings can earn not less than 30 credits with minimum efficiency equipment? Please refer to ICC Council Policy-49 Note regarding preemption.
- The 2027 IECC Residential Committee Action Report (CAR) continues to require residential buildings shall not earn less than 10 credits. How did Delaware determine the requirement of not less than 30 credits for residential buildings?

We strongly recommend the State of Delaware align with both the 2024 IECC and upcoming 2027 IECC regarding the requirement for residential buildings to earn not less than 10 credits. Please see our recommended edits below:

R408.2 Additional energy efficiency credit requirements.

Residential buildings shall earn not less than ~~10~~ 30 credits from not less than two measures specified in Table R408.2. Five additional credits shall be earned for dwelling units with more than 5,000 square feet (465 m²) of living space located above grade plane. To earn credit as specified in Table R408.2 for the applicable climate zone, each measure selected for compliance shall comply with the applicable subsections of Section R408. Each dwelling unit or sleeping unit shall comply with the selected measure to earn credit. Interpolation of credits between measures shall not be permitted.

Thank you for continuing to include BWC and other stakeholders in Delaware's Regulations for the State Energy Code. Please let me know if you have any questions, and we stand ready to work with the Department moving forward.

Respectfully Submitted,

Bradford White Corporation

Tom Gervais
Senior Director, Regulatory Affairs

Cc: E. Truskoski; B. Wolfer; B. Ahee

⁴ Government Regulation in the Price of a New Home: 2021, Special Study for Housing Economics, Paul Emrath Ph. D., May 5, 2021

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