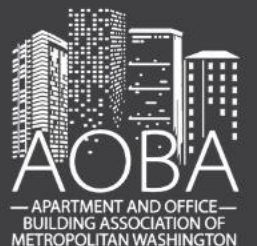




# Washington, DC Building Energy Performance Standards Delays

November 19, 2024



A low-angle, upward-looking perspective of several modern skyscrapers. The buildings are covered in a semi-transparent red overlay, creating a monochromatic effect. The perspective makes the buildings appear to converge towards the top of the frame, emphasizing their height and architectural details like window grids and structural beams.

**How do you feel about your building (or portfolio) meeting this BEPS?**

# Meet Our Speakers



**Chris Pendley**

*Director of Sustainability Policy & Strategy  
AOBA*



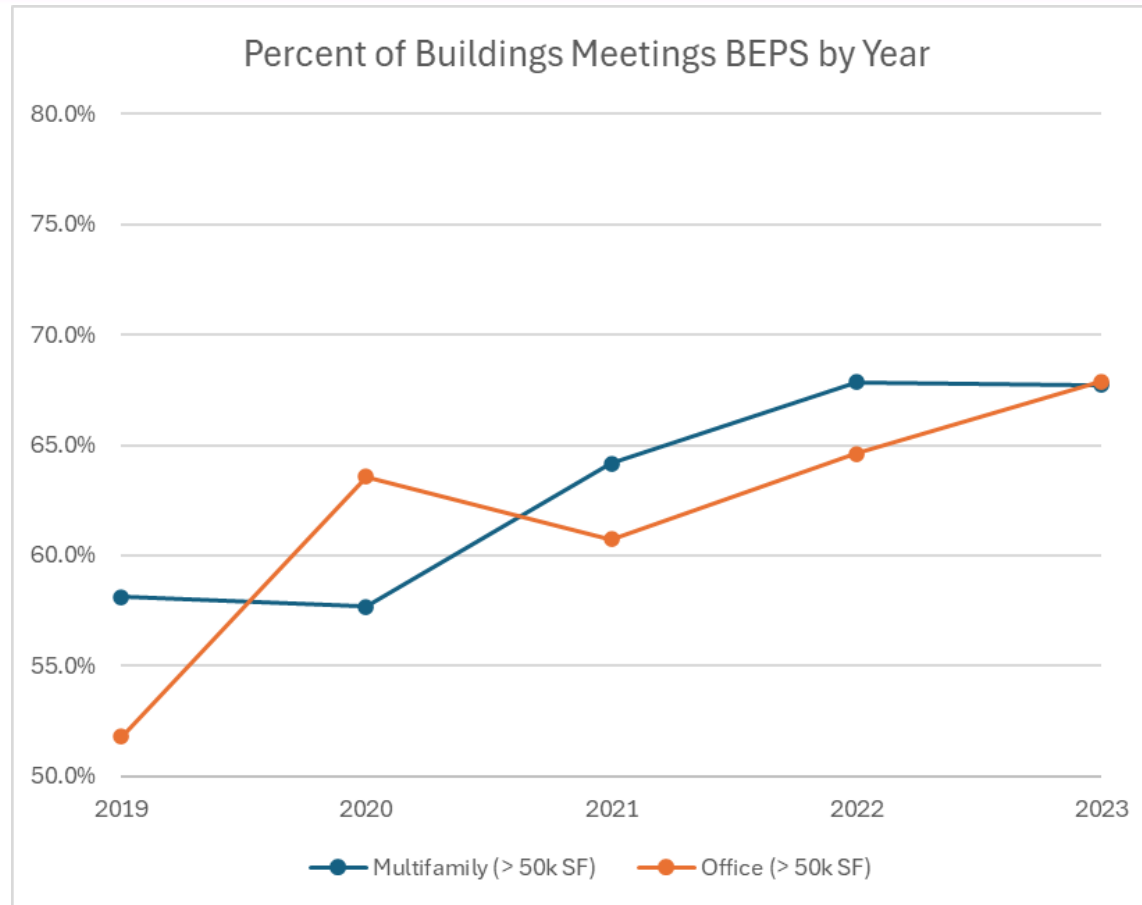
**Katie Bergfeld**

*Branch Chief, Building Performance and  
Enforcement Branch, Data and  
Benchmarking Division  
DOEE*

# Agenda

- Scene-setting
- BEPS Delays
- FAQs from Members
- Open Q&A

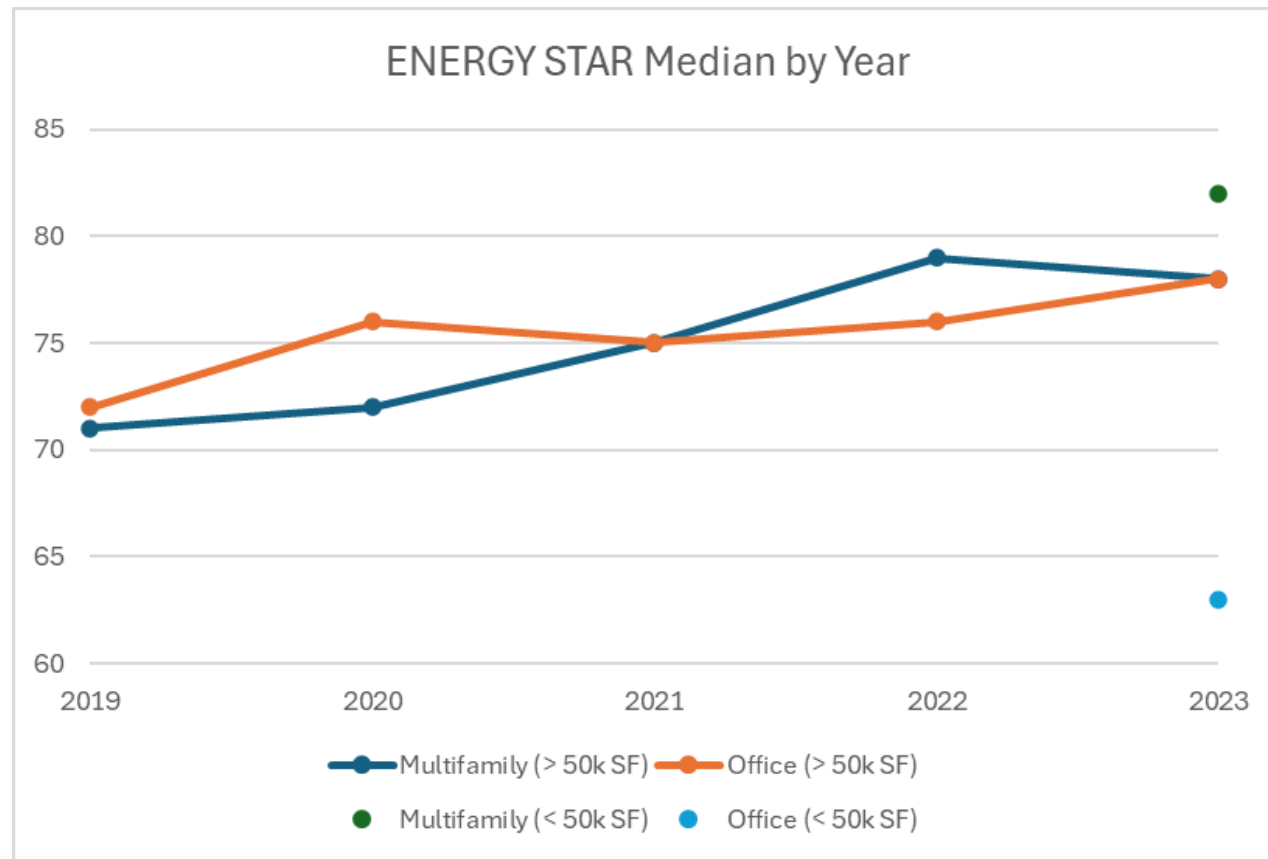
# Year-over-Year BEPS Performance



Have any questions?  
Submit them via chat



# Year-over-Year ENERGY STAR Medians

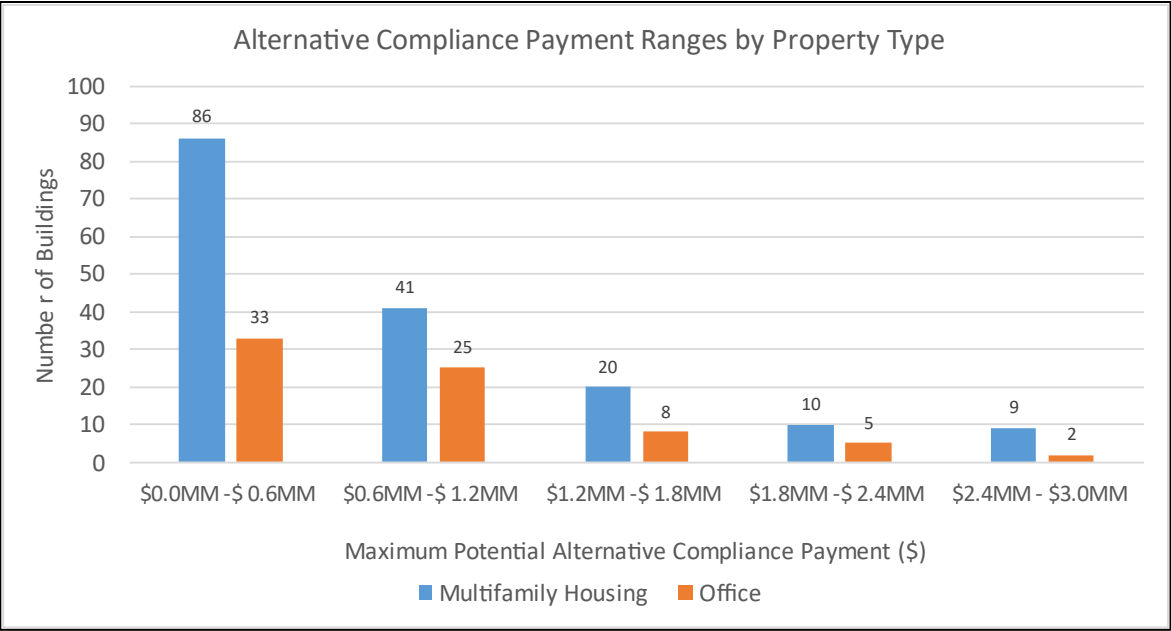


Have any questions?  
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# Alternative Compliance Payment Exposure

Based on November 15, 2024 Data

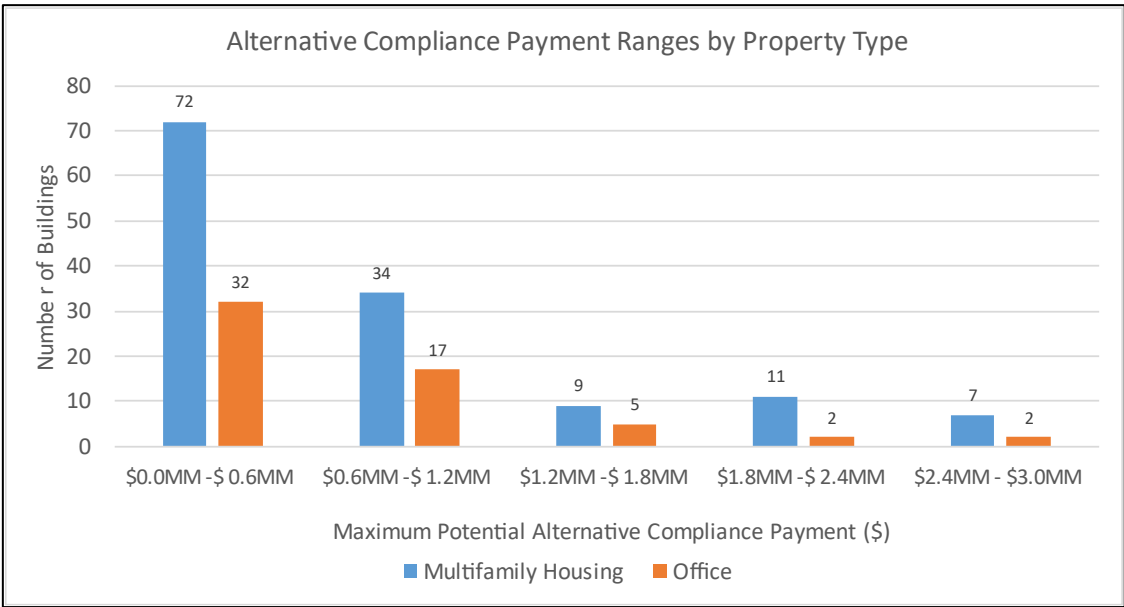
	Mean	Median	Count
Multifamily Housing	\$1,087,984	\$666,630	181
Office	\$1,051,754	\$665,723	78



Graph shows 239 of 259 properties

November 15, 2024 Data with a 5% site EUI Reduction

	Mean	Median	Count
Multifamily Housing	\$954,913	\$556,009	139
Office	\$858,123	\$586,947	62



Graph shows 191 of 214 properties

# Setting the Stage: 2025

- Implement what you can
- Look into delays if it's not enough
- Have a real conversation on if delays are enough

Have any questions?  
Submit them via chat



A low-angle, upward-looking perspective of several modern skyscrapers with glass facades. The image is overlaid with a semi-transparent red filter. The buildings are arranged in a way that creates a sense of height and architectural scale.

# Have you looked into BEPS delay mechanics before?

Have any questions?  
Submit them via chat

# Member Questions – Financial Distress

- Based on legislation pending from Council, will financial distress delays be converted into financial distress exemptions if the legislation passes?
- What are older, rent controlled properties or properties that have affordable covenants to do if they can't meet the new BEPS standards?
- To qualify as "Financial Distress" per BEPS regs would be to admit an inability to pay operating expenses. How will DOEE safeguard this issue?

# Member Questions – Implementing Measures

- What happens if you implemented a plan to reach your 20% site EUI reduction as written out in your Energy Audit but you fall short?
- If buildings are actively pursuing energy efficiency measures, will this reduce fines for that property if they haven't hit their energy efficiency goals?
- What if I'm in the middle of implementing an energy efficiency measure in 2026?

# Member Questions – Other Questions around Delays

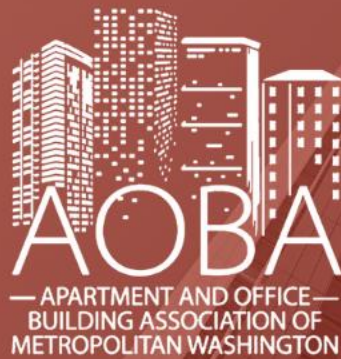
- How do benchmarking reporting errors factor into BEPS delays?
- What should we look for to determine if a delay may be applicable?
- Who do we communicate with to ensure the delay is acknowledged?
- How will DOE approach potential changes in ENERGY STAR in 2025, and will these changes impact any delays?

A low-angle, upward-looking perspective of several modern skyscrapers. The image is heavily overlaid with a semi-transparent red color, creating a monochromatic effect. The perspective makes the buildings appear to converge towards the top of the frame.

# What one thing would you like to know more about?

Have any questions?  
Submit them via chat





# Thank You!

Chris Pendley

Email: [cpendley@aoba-metro.org](mailto:cpendley@aoba-metro.org)

T: (202) 296-3390 - Ext. 209 | M: (202) 809-6512

# Delays of Compliance



# DELAY OF COMPLIANCE – INTRODUCTION

- All buildings may request a delay of up to 3 years
  - COVID-19 PHE delay uses 1 year – up to 2 more available in Cycle 1\*
- DOE is more likely to approve a delay request if building has demonstrated some compliance efforts
- Qualifying affordable housing may request more than 3 years of delay
- Delays will not change:
  - The start of the following BEPS Period
  - The start of a new Compliance Cycle

\* Current BEPS amendment bill would change this

## Postponements

Cannot meet a reporting deadline  
= Extension  
(up to 6 months)

Eligible circumstance makes it practically infeasible to meet energy performance by end of Cycle  
= Delay

# DELAY OF COMPLIANCE – DEFINITION

Building owner must demonstrate good cause by providing evidence that:

- a) A qualifying **circumstance exists**; and
- b) The circumstance makes meeting energy performance requirements **practically infeasible**

# DELAY OF COMPLIANCE – ELIGIBLE CIRCUMSTANCES

Financial Distress\*

Change of Ownership

Major Renovation

Unoccupied Building\*

Pending Demolition

Change in Property Type

Historic Building

Innovative Approach

*\*BEPS amendment bill will allow for full-cycle exemption*



# DELAY OF COMPLIANCE – FINANCIAL DISTRESS



Financial distress means a building owner **cannot honor financial obligations**, including payment of ordinary and necessary business and/or living expenses, that would prevent timely compliance with energy performance requirements.

## Examples of Documentation

Audited financial statements for the most recent three years
Evidence of a current tax lien on the building/property or a lien removed within the two years prior to the delay request
Evidence of a court-appointed receiver in control of the building/property
Evidence of a financial institution owning the building/property due to default by the owner
A deed that has been acquired in lieu of foreclosure within the two years prior to the delay request
A notice of default on the mortgage
Evidence of pursuing support options with the DCSEU, the DC Green Bank, the Building Innovation Hub and finding them to be insufficient

# DELAY OF COMPLIANCE – CHANGE OF OWNERSHIP



Must show how sale of property creates **unavoidable circumstances** which prevent a building from achieving the energy performance requirements

## Examples of Documentation

<a href="#">Change of Ownership Disclosure Acknowledgement Letter</a> signed by both the buyer and seller
Completed Sale of Property Disclosure Report
Narrative explaining, to the satisfaction of DOEE, building owner's inability to comply on time

# DELAY OF COMPLIANCE – MAJOR RENOVATION

Must **affect multiple core building systems** and **cost at least 25% of the value of the building** (as determined based on the District's Office of Tax and Revenue records)

## Examples of Documentation

Alteration permit approval from DOB

≥75% Construction Documents

Financial commitment statement from a public-funding agency, investor, or financial institution demonstrating formal intention to complete a major renovation within the current BEPS Period or, at the latest, within the timeframe established by the delay request.

Other detailed evidence of pending major renovation including executed tenant lease agreements, design documents, scopes of work, owner's project requirements, etc.

# DELAY OF COMPLIANCE – UNOCCUPIED BUILDING



Occupancy must  
fall below  
thresholds  
described in  
**Appendix B of  
BEPS Guidebook**

## Examples of Documentation

Third Party Verified Benchmarking Results and Compliance Report

Documentation from District Government agencies, including DOB, DC's Office of Tax & Revenue (OTR), or the Executive Office of the Mayor (EOM), showing the building is registered as vacant

Site visit by DOEE staff

# DELAY OF COMPLIANCE – PENDING DEMOLITION

An owner planning to demolish a building within three years after the end of a Cycle may apply for a delay. Upon demolition, the building would then be granted an exemption in accordance with Section 2.8.

## Examples of Documentation

DOB Raze Permit or Application



# DELAY OF COMPLIANCE – CHANGE IN PROPERTY TYPE

Building undergoes a modification that would **alter its Property Type in Portfolio Manager**

## Examples of Documentation

Use Change Certificate of Occupancy, permits, or other documentation from DOB

Third Party Verified Benchmarking Results and Compliance Report

Site visit by DOEE staff

# DELAY OF COMPLIANCE – HISTORIC BUILDING

Buildings that are on the [DC Inventory of Historic Sites](#) or are designated as contributing to a historic district **that experience a delay in project implementation due to historic preservation**

## Examples of Documentation

Property must be included on list of DC Inventory of Historic Sites

# DELAY OF COMPLIANCE – INNOVATIVE APPROACH TO ENERGY EFFICIENCY

Buildings **pursuing innovative EEMs** or strategies that have not been widely implemented by the local building industry, which result in delays inherent to novel design (note that **electrification projects** may be an eligible approach)

## Examples of Documentation

Building owner has identified, in detail, the benefits of the innovation, the novelty of the project, demonstrated that the EEM has not been widely implemented by the local building industry, and why delays are anticipated and/or cannot be avoided

# DELAY OF COMPLIANCE – OWNER PROCESS

Building owner submits a Delay of Compliance Request Form that:

1. Documents eligible circumstance(s)
  - Include supporting documentation proving that the circumstance(s) exist
2. Demonstrates infeasibility
  - the building owner must provide a narrative that clearly connects the submitted documents to demonstrate that BEPS implementation is practically infeasible without additional time

DOEE will consider whether there are circumstances beyond the control of the building owner that:

- would impose a significant burden on the building's ability to meet the energy performance requirements during the Compliance Cycle, OR
- render compliance not possible without significant burden that could be avoided if a delay is approved.

# DELAY OF COMPLIANCE – DOEE PROCESS

DOEE will consider whether there are circumstances beyond the control of the building owner that:

- would impose a significant burden on the building's ability to meet the energy performance requirements during the Compliance Cycle, OR
- render compliance not possible without significant burden that could be avoided if a delay is approved.

# DELAY OF COMPLIANCE – TIMELINE

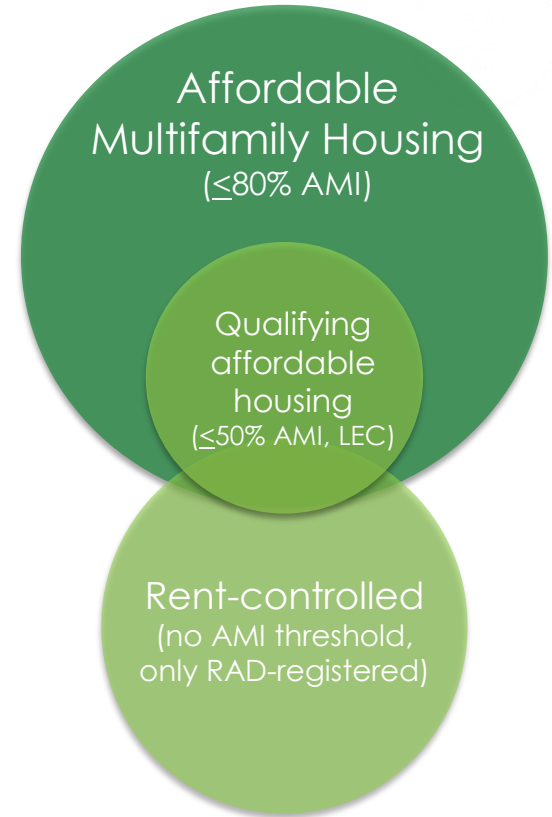


**Delay of Compliance Decision Letter** will include the following:

- status of the decision
- length of the delay granted
- any modifications to existing performance or reporting/verification requirements
- any additional requirements as necessary.

# BEPS DEFINITIONS FOR AFFORDABLE HOUSING

- Affordable Multifamily Housing as defined by the CEDC Act:
  - buildings that are primarily residential, contain 5 or more dwelling units where: use restrictions or other covenants require that at least 50% of all of the building's dwelling units are occupied by households that have household incomes of less than or equal to 80% of the area median income; or the building owner can demonstrate that at least 50% of the dwelling units rent at levels that are affordable to households with incomes less than or equal to 80% of the area median income.
  - Qualifying affordable housing:
    - a building that is primarily residential, contain 5 or more dwelling units, and can demonstrate that: use restrictions or other covenants require that at least 50% of the building's dwelling units are occupied by households have household income of less than 50% of the area median income (AMI); or at least 50% of the dwelling units rent at levels that are affordable to households with incomes less than or equal to 50% of the area median income; or the building is a Limited-equity Cooperative (LEC).
- Rent-controlled:
  - a multifamily housing building that, for the duration of the applicable BEPS Period, has active registration number(s) filed with the Rental Accommodations Division (RAD) of the District's Department of Housing and Community Development (DHCD) applying to greater than 50% of the total number of dwelling units in the building(s) in question and active registered exemption number(s) filed with RAD applying to less than 50% of the total number of dwelling units.





# EXTENDED DELAY – PROCESS

**Step 1:** determine if building meets the definition of qualifying affordable housing

**Step 2:** An extended delay may be requested if the building:

- meets one or more of the delay eligible circumstances described earlier,
- can demonstrate practical infeasibility as described earlier in this presentation after taking advantage of available BEPS support resources to make progress toward compliance during the Cycle, and
- completes an Extended Delay Milestone Plan to demonstrate it has sought compliance assistance and to propose a plan and milestones for moving forward.

DOEE will only approve an extended delay request equal to one (1) Compliance Cycle in length to help maintain Cycle alignment.

# EXTENDED DELAY – INFEASIBILITY NARRATIVE

The narrative should include:

- what efforts were made to attempt on-time compliance,
- why they were unsuccessful and/or why they left needs unmet,
- what technical and/or financial assistance from **at least three of DOE's supporting partners** were pursued to avoid or minimize the need for an extended delay, and
- why a delay would enable compliance better than any alternative.

**REMINDER:** supporting documentation is still required!

Supporting partner examples: DC Green Bank, DCSEU, Building Innovation Hub, other utility-led energy efficiency incentive programs, etc.)

# EXTENDED DELAY MILESTONE PLAN REQUIREMENTS

- Proposed savings target the building will achieve by the end of the extended delay
  - Must be equal to or greater than a 20% Site EUI reduction
- Narrative (as described earlier)
- List of proposed interim cost-effective EEMs that will be implemented throughout the Cycle, including timeline and description of the funding strategy.

Limit the Plan to 10  
pages

Important to identify  
how the building  
plans to address  
future Compliance  
Cycles

Submit through the  
Portal

# EXTENDED DELAY OF COMPLIANCE – TIMELINE



## **Delay of Compliance Decision Letter** will include the following:

- status of the decision
- length of the delay granted
- any modifications to existing performance or reporting/verification requirements
- energy performance and reporting/verification requirements for each Cycle
- deadlines for the Milestone Reports that provide DOEE with an update on progress with supporting documentation requirements
- deadline for the final Milestone Report submitted at the end of the applicable Cycle with supporting documentation requirements on completed actions and final savings achieved
- any additional requirements as necessary

# QUESTIONS?



DEPARTMENT  
OF **ENERGY &  
ENVIRONMENT**

**Katie Bergfeld**

Branch Chief

Building Performance and Enforcement  
Branch

Energy Administration

[building.performance@dc.gov](mailto:building.performance@dc.gov)