

Draft rule comments

8.103(8)(A) Definitions – Installed measures

Section § 8124 (d)(2) of Act 18 defines low and moderate income installed measures as follows:

“... installed clean heat measures require capital investments in homes, have measure lives of 10 years or more, and are estimated by the Technical Advisory Group to lower annual energy bills.”¹

In prior discussions on clean heat measures and credit ownership, the EAG had implicitly assumed that installed measures would be generally equivalent to capital investments in homes. However, the EAG has been discussing how new window-based heat pump units, as seen in [pilot projects from the New York City Housing Authority](#) and [Efficiency Vermont](#), may challenge that assumption.

Portable or window heat pumps are small-sized heat pumps utilizing the same technology as traditional non-portable heat pumps and would therefore appear to be included as a type of clean heat measure under Draft Rule Section 8.103(8). However, while these units would be ‘installed’ in a window, and offer savings to lower energy bills (pending approval by the Technical Advisory Group), as laid out under Section 8.101(29), this technology could fail to meet the definition of a “Qualified capital investment” and the definition of “have measure lives of 10 years or more” given the relatively low cost and **short** duration warranty for the unit².

However, this section also speaks to the intent to ensure “Equitable distribution of clean heat measures”. **Port**able heat pump technology has the potential to promote equity by reaching households that cannot easily install traditional heat pumps, including renters, customers living in manufactured homes, or those living in homes with layout or electrical system challenges. Using a definition of “installed measure” reliant on capital investment

¹ <https://legislature.vermont.gov/Documents/2024/Docs/ACTS/ACT018/ACT018%20As%20Enacted.pdf>

² Advanced thermostats and faucet aerators are also discussed in the [Public Service Department Thermal Sector Carbon Reduction Potential Study](#) as potential measures but not explicitly itemized in Act 18 or the Draft Rule Section 8.103(8). These measures may also fail to qualify as qualified capital investments with measure lives of 10 years or more, depending on how this is defined and how they are implemented in projects.

and having a measure life of 10 years or more, may inadvertently reduce access to low- and moderate-income households.

Revisiting the definition of installed measures may also impact Section 8.113(a)(1) of the Draft Rule, which states that for installed measures “the individual or entity that owns the building in which the measure is being implemented is the initial owner of the measure attributes created by the implementation of that measure.”

While the EAG supported that credit ownership definition in initial feedback on credit ownership to the Commission, it may need to be revisited if portable technology is permitted as an eligible installed measure. If a renter purchases a portable window heat pump, the ownership of the credit and any potential related financial benefit from transferring it to an obligated entity, should belong to the renter, not the property owner.

Currently, portable heat pump technology is still largely untested. However, if it can be proven to deliver long-term benefits to customers, the EAG recommends that the Commission – or the Legislature, as applicable – consider revising the definition of installed measures, or creating an avenue where the definition may be revised in the future.

8.103(14) Definitions – Customer

Section 8.103(8)(A) of the Draft Rule states that “When a landlord is the recipient of a clean heat measure, the tenant(s) may be considered a customer for the purpose of determining the measure group.”

The EAG requests clarification on how the customer will be determined for measure group A and B (Section 8.103(27)(A-B)) in multifamily properties. In most buildings, households of different income levels will live in different units throughout a building. Some measures, such as weatherization, may be difficult to attribute to individual units. The EAG is unclear how credits generated from installed measures that benefit entire multi-family properties will be divided into the various measure groups.

To provide clarity, reduce complexity and encourage implementation of clean heat measures in multifamily properties, the EAG suggests that the Commission revisit the definition of “Customer with low income” and “Customer with moderate income”. to allow entire buildings to be considered a low- or moderate-income dwelling. Attribution of clean heat credits to each individual unit within a multifamily property, would require income verification forms to be collected from each individual unit within the building for the purpose of measure group determination. This would be overly administratively burdensome.

The Weatherization Assistance Program (WAP) has existing policy which sets a threshold for when an entire multifamily building can be counted as eligible for WAP services. This threshold requires that a minimum percentage of units within the building are verified as income eligible through the program. The minimum percentage ranges from between 25% to 66% depending on the funding source. The EAG recommends that the CHS rules align with existing WAP policy for multifamily income eligibility requirements at the 25% threshold level. In practice, an obligated party would only need to acquire low-income attestation forms from 25% of the households within a multifamily building for the entire building to count as low-income. This would reduce complexity, administrative burden and mesh well with existing policy.

8.108 – Clean Heat Measure Group

Section 8.103(b) of the Draft Rule states “For Group A, B, C, or D clean heat measures, the person or entity registering the measure, as described in Section 8.111 of this rule, must file an attestation form signed by the customer that states that the customer meets the criteria as a customer with low income or a customer with moderate income. The attestation form is available on the Commission’s website.”

The EAG questions whether obtaining customer attestation of income is necessary if rigorous verification of income is already being performed for the purposes of compliance with other programs.

This will be most important for the Weatherization Assistance Program (WAP), which the EAG assumes would be the initial owner of clean heat credits produced under that program, based on Section 8.113(a)(2) of the Draft Rule related to measures implemented at no cost to the participant. Adding an attestation form on top of extensive verification adds complexity and costs with no evident benefits to participants.

The option to provide verification instead of attestation may also be relevant for the construction of new subsidized affordable housing. The owners of buildings developed with subsidies from the U.S. Department of Housing and Urban Development (HUD) or the Low-Income Housing Tax Credit (LIHTC) are required to reserve units at rents affordable for low-income households and verify compliance for extended periods of time, however the unit may not yet be occupied by the eligible household at the time that the measure is installed and verified.

In addition, for group D and E measures (Section 8.103(27)), entities that plan to meet their obligations through delivered renewable fuels may plan to source low- and moderate-income customers through existing programs such as the Low-Income Home Energy

Assistance Program (LIHEAP) or the Energy Assistance Program (EAP) for Vermont Gas Systems customers.

Under the Draft Rule Section 8.113(a)(3), these credits are already owned by the fuel deliverer, and therefore, an attestation in this case would not be used to release credits, only confirm the income level, which would be already known. Allowing these obligated entities to leverage existing sources of verification could reduce administrative burden. It may also encourage more fuel deliverers to enroll in LIHEAP, providing a benefit to low-income households.

If this suggestion is adopted, the Commission and the Department of Public Service should consider coordinating with the Department of Children and Families Office of Economic Opportunity and other relevant state agencies to create a process for streamlining verification of income for credits.