



Councilmember Charles Allen

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To declare the existence of an emergency with respect to the need to amend, on an emergency basis, the District Department of the Environment Establishment Act of 2005 to clarify that the Mayor may promulgate rules and regulations to implement the provisions of the District Department of the Environment Establishment Act of 2005, and to eliminate the requirement that all rules and regulations be submitted to the Council for a 45-day active approval period.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Department of Energy and Environment Rulemaking Clarification Emergency Declaration Resolution of 2024”.

Sec. 2. (a) The District Department of the Environment Establishment Act of 2005 (“Act”), effective February 15, 2006 (D.C. Law 16-51; 52 DCR 10812) established the District Department of the Environment as “an agency within the executive branch of the District of Columbia government to consolidate the administration and oversight of environmental laws, regulations, and programs into a single agency.” The Department of the Environment was later renamed the Department of Energy and Environment (“DOEE”).

(b) The original language of the Act required that the Mayor promulgate rules and regulations to implement provisions of the Act within 180 days of its effective date. The Act further specified that proposed rules and regulations promulgated pursuant to that provision must be submitted to the Council for a 45-day period of review, and that the proposed rules were to be deemed disapproved if the Council did not approve or disapprove the proposed rules by resolution

33 – that is, active approval. The rationale for requiring active approval of the rules was to ensure that
34 the Council could review the initial rules and regulations promulgated by the newly established
35 agency.

36 (c) In 2021, the Council enacted the Green Food Purchasing Amendment Act of 2021,
37 effective July 29, 2021 (D.C. Law 24-16; D.C. Official Code § 8-151.09 *et seq.*) (“GFPAA”). The
38 GFPAA amended D.C. Official Code § 8-151.10 to provide rulemaking authority for purposes of
39 implementing provisions of the GFPAA.

40 (d) Due to a drafting error, the GFPAA unintentionally subjects all new rules and
41 regulations promulgated by DOEE to the 45-day active approval period that had been reserved for
42 rules and regulations promulgated during DOEE’s establishment.

43 (e) The resulting uncertainty regarding the Executive’s rulemaking authority pursuant to
44 the Act impairs the ability of the District of Columbia to promulgate rules and regulations
45 necessary for implementing the District’s environmental laws in a timely manner.

46 (f) This emergency legislation is necessary to clarify DOEE’s ability to promulgate rules
47 and regulations without those rules and regulations being subjected to a 45-day active approval
48 process.

49 Sec. 3. The Council of the District of Columbia determines that the circumstances
50 enumerated in section 2 constitute emergency circumstances making it necessary that the
51 Department of Energy and Environment Rulemaking Clarification Emergency Amendment Act of
52 2024 be adopted after a single reading.

53 Sec. 4. This resolution shall take effect immediately.