


Council of the District of Columbia

MEMORANDUM

1350 Pennsylvania Avenue, NW, Washington, DC 20004

TO: Chairman Phil Mendelson
FROM: Councilmember Charles Allen 
RE: Request to Agendize Measures for the October 29, 2024 Additional Meeting
DATE: October 24, 2024

I request that the following measures be placed on the agenda for the October 29, 2024 Additional Meeting:

Emergency Legislation

- “Department of Energy and Environment Rulemaking Clarification Emergency Declaration Resolution of 2024”
- “Department of Energy and Environment Rulemaking Clarification Emergency Amendment Act of 2024”
- “Department of Energy and Environment Rulemaking Clarification Temporary Amendment Act of 2024”

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”).

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

In 2021, the Council enacted the Green Food Purchasing Amendment Act of 2021, effective July 29, 2021 (D.C. Law 24-16; D.C. Official Code § 8-151.09 et seq.) (“GFPAA”). The GFPAA amended D.C. Official Code § 8-151.10 to provide rulemaking authority for purposes of implementing provisions of the GFPAA. However, due to a drafting error, the GFPAA unintentionally subjects all new rules and regulations promulgated by DOEE to the 45-day active review period that had been reserved for rules and regulations promulgated during DOEE’s establishment. The resulting uncertainty regarding the Executive’s rulemaking authority pursuant to the Act impairs the ability of the District of Columbia to promulgate rules and regulations necessary for implementing the District’s environmental laws in a timely manner.

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

Ceremonial Resolution

- “Pedestrian Safety Awareness Day Recognition Resolution of 2024”

This measure recognizes October 31, 2024 as Pedestrian Safety Awareness Day in the District of Columbia.

Copies of these measures are attached. Please contact Kevin Whitfield, Committee Director, at kwhitfield@dccouncil.gov with any questions.

cc: Members, Council of the District of Columbia
Office of the Budget Director
Office of the General Counsel
Office of the Secretary