


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 the Green Building Act of 2006 to delay the submission of benchmark and Energy Star statements of energy performance by privately-owned buildings to the Department of Energy and Environment from April 1, 2024, to July 1, 2024.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Energy Benchmarking Reporting Extension Emergency Declaration Resolution of 2024”.

Sec. 2. (a) In the CleanEnergy DC Omnibus Amendment Act of 2018, effective March 22, 2019 (D.C. Law 22-257; 66 DCR 1344) (“CleanEnergy DC Omnibus”), the Council established a Building Energy Performance Standard Program (“BEPS Program”) at the Department of Energy and Environment (“DOEE”). This program built on preexisting requirements for buildings to benchmark their energy use and report it to DOEE by April 1 of each year, as established by the Council in the Clean and Affordable Energy Act of 2008 (D.C. Law 17-250; 55 DCR 9225), through amendments to the Green Building Act of 2006 (D.C. Law 16-234; 54 DCR 377).

(b) The BEPS Program requires privately- and District-owned buildings in the District to reduce their energy use and emissions over time based on the property type and DOEE-established building energy performance standards. The first tier of properties to which these standards are applicable, as of January 1, 2021, was privately-owned buildings with at least 50,000 square feet

34 of gross floor area and all District-owned or District instrumentality-owned buildings with at least
35 10,000 square feet of gross floor area. The second tier will apply as of January 1, 2027, to all
36 privately-owned buildings with at least 25,000 square feet of gross floor area. The third tier will
37 apply as of January 1, 2033, to all privately-owned buildings with at least 10,000 square feet of
38 gross floor area.

39 (c) Also in the CleanEnergy DC Omnibus, the Council created a Building Energy
40 Performance Standards Task Force (“Task Force”) to advise DOEE on the creation of an
41 implementation plan for the BEPS Program, recommend amendments to proposed regulations
42 issued by DOEE, and recommend complementary programs or policies. The Task Force members
43 include DOEE, the Department of General Services, the Department of Housing and Community
44 Development, affordable housing developers, representatives from rent-controlled and market-rate
45 apartment and commercial buildings, and a representative from the Apartment and Office
46 Buildings Association.

47 (d) The Task Force has been meeting twice per month since late 2019 to advise on the
48 implementation of BEPS, engage with stakeholders, and advise DOEE on the design of the
49 program and development of technical support documents. The Task Force has recently
50 recommended legislative and regulatory amendments to the BEPS Program, developed by a
51 consensus process and approved by the Task Force via majority vote.

52 (e) One of the Task Force’s recommended amendments relates to a requirement that
53 building owners report their energy usage data annually by April 1 and perform third-party
54 verifications of these data by April 1 every three years. The Task Force recommended an
55 amendment to the deadline for submitting the third-party verification report to one to three months
56 after the benchmarking deadline, to allow for the completion of the report and then the subsequent

57 verification, arguing that “completion of both benchmarking and verification by April 1 is
58 challenging.”

59 (f) The Committee intends to consider permanent legislation reflecting the entirety of the
60 Task Force’s recommendations, and given that intent, it is reasonable to provide time before
61 penalties are assessed or civil actions can be commenced for violations of the April 1, 2024 energy
62 usage and third-party verification deadline. This emergency legislation, developed at the request
63 of the Executive, delays this deadline by 90 days to July 1, 2024.

64 Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute
65 emergency circumstances making it necessary that the Energy Benchmarking Reporting Extension
66 Emergency Amendment Act of 2024 be adopted after a single reading.

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