

A RESOLUTION

25-454

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 5, 2024

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, effective October 22, 2008 (D.C. Law 17-250; 55 DCR 9225), through amendments to the Green Building Act of 2006, effective March 8, 2007 (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 were applicable, as of January 1, 2021, was privately-owned buildings with at least 50,000 square feet of gross floor area and all District-owned or District instrumentality-owned buildings with at least 10,000 square feet of gross floor area. The second tier will apply as of January 1, 2027, to all privately-owned buildings with at least 25,000 square feet of gross floor area. The third tier will apply as of January 1, 2033, to all privately-owned buildings with at least 10,000 square feet of gross floor area.

(c) Also in the CleanEnergy DC Omnibus, the Council created a Building Energy Performance Standards Task Force (“Task Force”) to advise DOEE on the creation of an implementation plan for the BEPS Program, recommend amendments to proposed regulations issued by DOEE, and recommend complementary programs or policies. The Task Force members include DOEE, the Department of General Services, the Department of Housing and

Community Development, affordable housing developers, representatives from rent-controlled and market-rate apartment and commercial buildings, and a representative from the Apartment and Office Buildings Association.

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

(e) One of the Task Force's recommended amendments relates to a requirement that building owners report their energy usage data annually by April 1 and perform third-party verifications of these data by April 1 every 3 years. The Task Force recommended an amendment to the deadline for submitting the third-party verification report to one to 3 months after the benchmarking deadline to allow for the completion of the report and then the subsequent verification arguing that completion of both benchmarking and verification by April 1 is challenging.

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

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

Sec. 4. This resolution shall take effect immediately.