


Councilmember Charles Allen

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A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on an emergency basis, due to congressional review, 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 review 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 Congressional Review Emergency Declaration Resolution of 2025”.

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

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

37 (c) In 2021, the Council passed the Green Food Purchasing Amendment Act of 2021,
38 effective July 29, 2021 (D.C. Law 24-16; 68 DCR 6015) (“GFPAA”). The GFPAA amended D.C.
39 Official Code § 8-151.10 to provide rulemaking authority for purposes of implementing provisions
40 of the GFPAA.

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

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

47 (f) To clarify DOEE’s ability to promulgate rules and regulations without those rules and
48 regulations being subjected to a 45-day active approval process, the Council passed the
49 Department of Energy and Environment Rulemaking Clarification Emergency Amendment Act of
50 2024, effective November 22, 2024 (D.C. Act 25-629; 71 DCR 14456) (“emergency act”). The
51 Council also passed the Department of Energy and Environment Rulemaking Clarification
52 Temporary Amendment Act of 2024 (D.C. Act 25-639; 71 DCR 14478) (“temporary legislation”).

53 (g) This congressional review emergency legislation is necessary to prevent a gap in the
54 law between the expiration of the emergency act and the effective date of the temporary legislation.

55 Sec. 3. The Council of the District of Columbia determines that the circumstances
56 enumerated in section 2 constitute emergency circumstances making it necessary that the

- 57 Department of Energy and Environment Rulemaking Clarification Congressional Emergency
58 Amendment Act of 2025 be adopted after a single reading.
59 Sec. 4. This resolution shall take effect immediately.