ENROLLED ORIGINAL

AN ACT
D.C. ACT 22-583

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
JANUARY 18, 2019

To amend the Renewable Energy Portfolio Standard Act of 2004 to increase the renewable energy portfolio standard to 100% by 2032, to establish a solar energy standard after 2032, and to clarify the factors that the Office of the People's Counsel and the Public Service Commission must consider in making decisions; to amend the Clean and Affordable Energy Act of 2008 to remove restrictions on the types of energy efficiency measures that the Sustainable Energy Utility must offer, to increase the Sustainable Energy Trust Fund fee assessments, to add an assessment on fuel oil, and to expand the uses of the Sustainable Energy Trust Fund; to establish a building energy performance standard program at the Department of Energy and Environment; to amend the Green Building Act of 2006 to expand the Department of Energy and Environment's benchmarking program to include buildings of 10,000 square feet or more by 2024; to establish an energy efficiency program; to amend the District of Columbia Traffic Act to require the Department of Motor Vehicles to issue regulations tying the vehicle excise tax to fuel efficiency; to establish a transportation electrification program, and to authorize the Mayor to commit the District to participation in regional programs with the purpose of limiting greenhouse gas emissions.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "CleanEnergy DC Omnibus Amendment Act of 2018".

TITLE I. RENEWABLE. ENERGY.

Sec. 101. The Renewable Energy Portfolio Standard Act of 2004, effective April 12, 2005 (D.C. Law 15-340; D.C. Official Code § 34-1431 *et seq.*), is amended as follows:

(a) Section 3(10) (D.C. Official Code § 34-1431(10) is amended to read as follows:

"(10) "Renewable energy credit" or "credit" means a credit representing one megawatt-hour of energy produced by:

"(A) A tier one or tier two renewable source located within the PJM Interconnection region; or

"(B) Until January 1, 2029, a tier one or tier two renewable source located within a state that is adjacent to the PJM Interconnection region that was certified by the Commission as of the applicability date of the CleanEnergy DC Omnibus Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-904) ("CleanEnergy Act").".

(b)(1) Section 4(c) (D.C. Official Code § 34-1432(c)) is amended as follows:

(A) Paragraphs (9), (10), (11), (12), (13), (14) (15), (16), (17), (18), (19), (20), (21), and (22) are amended to read as follows:

"(9) In 2019, not less than 17.5% from tier one renewable sources, 0.5% from tier two renewable sources, and not less than 1.85% from solar energy;

"(10) In 2020, not less than 20% from tier one renewable sources, 0% from tier two renewable sources, and not less than 2.175% from solar energy;

"(11) In 2021, not less than 26.25% from tier one renewable sources, 0% from tier two renewable sources, and not less than 2.5% from solar energy;

"(12) In 2022, not less than 32.5% from tier one renewable sources, 0% from tier two renewable sources, and not less than 2.6% from solar energy;

"(13) In 2023, not less than 38.75% from tier one renewable sources, 0% from tier two renewable sources, and not less than 2.85% from solar energy;

"(14) In 2024, not less than 45.0% from tier one renewable sources, 0% from tier two renewable sources, and not less than 3.15% from solar energy;

"(15) In 2025, not less than 52.0% from tier one renewable sources, 0% from tier two renewable sources, and not less than 3.45% from solar energy;

"(16) In 2026, not less than 59.0% from tier one renewable sources, 0% from tier two renewable sources, and not less than 3.75% from solar energy;

"(17) In 2027, not less than 66.0% from tier one renewable sources, 0% from tier two renewable sources, and not less than 4.1% from solar energy;

"(18) In 2028, not less than 73.0% from tier one renewable sources, 0% from tier two renewable sources, and not less than 4.5% from solar energy;

"(19) In 2029, not less than 80.0% from tier one renewable sources, 0% from tier two renewable sources, and not less than 4.75% from solar energy;

"(20) In 2030, not less than 87.0% from tier one renewable sources, 0% from tier two renewable sources, and not less than 5.0% from solar energy;

"(21) In 2031, not less than 94.0% from tier one renewable sources, 0% from tier two renewable sources, and not less than 5.25% from solar energy;

"(22) In 2032, not less than 100% from tier one renewable sources, 0% from tier two renewable sources, and not less than 5.5% from solar energy;".

(B) New paragraphs (23) through (31) are added to read as follows:

"(23) In 2033, not less than 100% from tier one renewable sources, 0% from tier two renewable sources, and not less than 6.0% from solar energy;

"(24) In 2034, not less than 100% from tier one renewable sources, 0% from tier two renewable sources, and not less than 6.5% from solar energy;

"(25) In 2035, not less than 100% from tier one renewable sources, 0% from tier two renewable sources, and not less than 7.0% from solar energy;

"(26) In 2036, not less than 100% from tier one renewable sources, 0% from tier two renewable sources, and not less than 7.5% from solar energy;

"(27) In 2037, not less than 100% from tier one renewable sources, 0% from tier two renewable sources, and not less than 8.0% from solar energy;

"(28) In 2038, not less than 100% from tier one renewable sources, 0% from tier two renewable sources, and not less than 8.5% from solar energy;

"(29) In 2039, not less than 100% from tier one renewable sources, 0% from tier two renewable sources, and not less than 9.0% from solar energy;

"(30) In 2040, not less than 100% from tier one renewable sources, 0% from tier two renewable sources, and not less than 9.5% from solar energy; and

"(31) In 2041 and thereafter, not less than 100% from tier one renewable sources, 0% from tier two renewable sources, and not less than 10% from solar energy.".

(2) For 3 years after January 1, 2019, this subsection shall not apply to any contract entered into before the effective date of the CleanEnergy Act; provided, that this subsection shall apply to an extension or renewal of such a contract.

(c) Section 6 (D.C. Official Code § 34-1434) is amended as follows:

(1) Subsection (b) is amended by adding a new paragraph (1A) to read as follows:

"(1A) In calendar years 2019, 2020, 2021, and 2022 each report shall also include:

"(A) The number of contracts that are exempt from changes to the renewable energy portfolio standard pursuant to section 4 of the Renewable Portfolio Standard Expansion Amendment Act of 2016, effective October 8, 2016 (D.C. Law 21-154; D.C. Official Code § 34-1434, note), the length of each exempt contract, and the amount of electricity associated with each exempt contract; and

"(B) The number of contracts that are exempt from changes to the renewable energy portfolio standard pursuant to section 101(b)(2) of the CleanEnergy DC Omnibus Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-904), the length of each exempt contract, and the amount of electricity associated with each exempt contract.".

(2) A new subsection (c-1) is added to read as follows:

"(c-1) A compliance fee required pursuant to subsection (c) of this section shall be paid to DOEE for deposit into the Fund between October 1 and November 1 following the year the electricity supplier failed to comply with the renewable energy portfolio standard.".

(3) Subsection (c)(3) is amended by striking the phrase "30 cents in 2029 through 2032, and 5 cents in 2033 and thereafter" and inserting the phrase "30 cents in 2029 through 2041, and 10 cents in 2042 and thereafter" in its place.

(d) Section 8 (D.C. Official Code § 34-1436) is amended as follows:

(1) Subsection (b) is amended to read as follows:

"(b)(1) The Fund established by this section shall be administered by DOEE. The DOEE may receive and review applications for loans, grants, rebates, and other financial incentives for eligible projects from the Fund. Except as provided in subsection (c)(1)(F) of this section, loans, grants, rebates, and other financial incentives for eligible projects from the Fund shall be distributed in the following order:

"(A) To qualifying applicants who are certified business enterprises as defined in section 2302(1D) of the Small and Certified Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.02(1D)) ("Act");

"(B) To qualifying applicants who are non-certified business enterprises as defined in the Act.

"(2) On or before May 1 of every year, the DOEE shall provide the Council with a report detailing the number of qualified certified business enterprises that received loans,

grants, rebates, and other financial incentives from the Fund. The report shall also include the eligible project or projects for which the certified business enterprise received funding.".

(2) Subsection (c)(1) is amended as follows:

(A) Subparagraph (E) is amended by striking the word "and" and the end.

(B) Subparagraph (F) is amended by striking the period and inserting a semicolon in its place.

(C) New subparagraphs (G), (H) (I), and (J) are added to read as follows:

"(G)(i) In fiscal year 2020, up to $250,000 shall be used by DOEE to engage an independent third party to conduct a comprehensive study to help DOEE and building owners better understand the potential for cost impacts and benefits of the Building Energy Performance Standards Program, required pursuant to section 301 of the CleanEnergy DC Omnibus Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-904) ("CleanEnergy Act"), to District residents and property owners, or owners of large buildings and affordable housing. The study shall include case studies for different property types of buildings.

"(ii) In creating the specifications for the study, DOEE shall seek the advice of the Building Energy Performance Standards Task Force, established pursuant to section 302 of the CleanEnergy Act.

"(H) Covering any costs to the District associated with implementing section 101(a) and (b) of the Clean Energy Act; and

"(I) In fiscal year 2020, up to $250,000 shall be provided to the District Department of Transportation to prepare the comprehensive clean vehicle transition plan required by section 503 of the CleanEnergy Act.

"(J) In fiscal year 2020, up to $250,000 shall be provided to the Department of General Services to be used to prepare the strategic energy management plan required by section 303 of the CleanEnergy Act.".

(e) Section 10 (D.C. Official Code § 34-1438) is amended as follows:

(1) Subsection (c) is amended by striking the phrase "3 years from the date created" and inserting the phrase "3 years from the date created; provided, that a renewable energy credit from a solar energy system meeting the requirements of section 4(e)(1) shall exist for 5 years from the date created" in its place.

(2) Subsection (d) is amended by striking the phrase "before the expiration of 3 years" and inserting the phrase "before the expiration of 3 or 5 years pursuant to subsection (c)" in its place.

(f) Section 11 (D.C. Official Code § 34-1439) is amended as follows:

(1) Subsection (b) is amended to read as follows:

"(b) On or before May 1 of each year, the Commission shall provide a report to the Council on the implementation of this act, including:

"(1) The availability of tier one renewable sources;

"(2) Certification of the number of renewable energy credits used by electricity suppliers to meet the requirements of section 4;

"(3) The amount of compliance fees paid pursuant to section 6(c) in the previous calendar year;

"(4) The amount of compliance fees estimated to be paid pursuant to section 6(c) in the current calendar year;

"(5) The total amount of the District's electric supply that was exempt from changes to the renewable energy portfolio standard pursuant to section 4 of the Renewable Portfolio Standard Expansion Amendment Act of 2016, effective October 8, 2016 (D.C. Law 21-154; D.C. Official Code § 34-1434, note), for the previous year;

"(6) The total amount of the District's electric supply that is estimated to be exempt from changes to the renewable energy portfolio standard pursuant to section 4 of the Renewable Portfolio Standard Expansion Amendment Act of 2016, effective October 8, 2016 (D.C. Law 21-154; D.C. Official Code § 34-1434, note), for the current calendar year and each subsequent year that the exemption applies;

"(7) The total amount of the District's electric supply that was exempt from changes to the renewable energy portfolio standard pursuant to section 101(b)(2) of the CleanEnergy DC Omnibus Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-904) ("CleanEnergy Act") for the previous calendar year;

"(8) The total amount of the District's electric supply that is estimated to be exempted from changes to the renewable energy portfolio standard pursuant to section 101(b)(2) of the CleanEnergy Act for the current calendar year and each subsequent year that the exemption applies; and

"(9) Any other such information the Commission considers necessary or appropriate.".

(2) A new subsection (b-1) is added to read as follows:

"(b-1) Beginning in July 2019, and every 6 months thereafter, the Commission shall publish on its website the total amount of solar energy from solar energy systems meeting the requirements of section 4(e)(1) for which interconnection requests have been submitted in the previous 6 months.".

Sec. 102. Section 1(e) of An Act To provide a People's Counsel for the Public Service Commission in the District of Columbia, and for other purposes, approved January 2, 1975 (88 Stat. 1975; D.C. Official Code § 34-804(e)), is amended by striking the phrase, "and the preservation of environmental quality" and inserting the phrase "and the preservation of environmental quality, including effects on global climate change and the District's public climate commitments" in its place.

Sec. 103. Section 8(96A) of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, effective October 22, 2008 (D.C. Law 17-250; D.C. Official Code § 34-808.02), is amended by striking the phrase, "and the preservation of environmental quality" and inserting the phrase "and the preservation of environmental quality, including effects on global climate change and the District's public climate commitments" in its place.

TITLE II. ENERGY EFFICIENCY.

Sec. 201. The Clean and Affordable Energy Act of 2008, effective October 22, 2008 (D.C. Law 17-250; D.C. Official Code § 8-1773.01 *et seq.*), is amended as follows:

(a) Section 202 (D.C. Official Code § 8-1774.02) is amended as follows:

(1) Subsection (h) is repealed.

(2) Subsection (i) is repealed.

(3) Subsection (j) is repealed.

(b) Section 207 (D.C. Official Code § 8-1774.07) is amended by adding new subsections (g) and (h) to read as follows:

"(g)(1) Within 90 days of the applicability date of Title II of the CleanEnergy DC Omnibus Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-904), the Commission shall establish a working group, comprising the electric company and gas company, the SEU, and interested public stakeholders, to recommend long-term and annual energy savings metrics, quantitative performance indicators, and cost-effective standards to be adopted by the Commission for electric company or gas company energy efficiency and demand response programs.

"(2) In addition to the recommendations required by paragraph (1) of this subsection, the working group shall consider recommendations regarding:

"(A) Measures the Commission can take to ensure that any energy efficiency and demand response programs offered by the electric company or gas company do not impede District business or nonprofits currently operating in the District that provide energy efficiency and demand response programs; and

"(B) Performance incentive mechanisms that are based on quantitative performance indicators.

"(3) The working group shall transmit its recommendations to the Commission within 90 days after its first scheduled meeting.

"(4) As of the applicability date of Title II of the CleanEnergy DC Omnibus Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-904), the electric company or gas company, after consultation and coordination with the Department of Energy and the Environment and the District SEU and its advisory board, may apply to the Commission to offer energy efficiency and demand reduction programs in the District that the company can demonstrate are not substantially similar to programs offered or in development by the SEU, unless the SEU supports such programs.

"(5) An application submitted by the electric company or gas company pursuant to this subsection shall meet the long-term and annual energy savings metrics, which shall primarily benefit low- and moderate-income residential ratepayers to the extent possible, quantitative performance indicators, and cost-effective standards established by the Commission pursuant to paragraph (1) of this subsection.

"(6) Consistent with the provisions set forth in section 8(2) of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 977; D.C. Official Code § 34-1101), the Commission is authorized to approve an application by the electric company or gas company of energy efficiency and demand

reduction program for their respective customers, including a multi-year program and cost recovery mechanisms to provide full and current cost recovery, including mechanisms to provide for a return on investment on capital and related costs, performance incentives, and surcharge mechanisms to be adjusted on at least an annual basis as approved by the Commission; provided, that the Commission finds the proposed program and cost recovery mechanisms as set forth in the application to be in the public interest and consistent with the District's public climate change commitments as determined by the Mayor, unlikely to harm or diminish existing energy efficiency or demand response markets in which District businesses are operating, and consistent with the long-term and annual energy savings metrics, quantitative performance indicators, and cost-effective standards established by the Commission pursuant to paragraph (1) of this subsection.

"(7) Nothing in this subsection shall be construed to permit the electric company or the gas company to own an energy generation asset, or to otherwise alter the provisions prohibiting such ownership in the Retail Electric Competition and Consumer Protection Act of 1999, effective May 9, 2000 (D.C. Law 13-107; D.C. Official Code § 34-1501 *et seq.*).

"(h) The electric company and gas company shall file an annual filing with the Commission, including independent third-party evaluation, measurement, and verification of their programs, to demonstrate compliance with:

"(1) The energy efficiency and demand reduction program;

"(2) Energy savings metrics, quantitative performance indicators, and cost-effective standards; and

"(3) Cost recovery mechanisms of the program.".

(c) Section 210 (D.C. Official Code § 8-1774.10) is amended as follows:

(1) Subsection (a)(1) is amended by striking the phrase "natural gas and electric companies" and inserting the phrase "natural gas, electric companies, and a person who delivers heating oil or fuel oil to an end-user in the District" in its place.

(2) Subsection (b) is amended as follows:

(A) Paragraph (1) is amended as follows:

(i) Subparagraph (D) is amended by striking the phrase "and each year thereafter." and inserting the phrase "through fiscal year 2019;" in its place.

(ii) New subparagraphs (E), (F), and (G) are added to read as follows:

"(E) The amount of $.04515 in fiscal year 2020 through fiscal year 2026;

"(F) The amount of $.03762 in fiscal year 2027 through fiscal year 2031; and

"(G) The amount of $.0263 in fiscal year 2032 and each year thereafter.".

(B) Paragraph (2) is amended as follows:

(i) Subparagraph (D) is amended by striking the phrase "and each year thereafter." and inserting the phrase "through fiscal year 2019;" in its place.

(ii) New subparagraphs (E), (F), (G), (H), (I), (J), (K), (L), (M), (N), (O), (P), and (Q) are added to read as follows:

"(E) The amount of $.0029016 in fiscal year 2020;
"(F) The amount of $.00279279 in fiscal year 2021;
"(G) The amount of $.0027001 in fiscal year 2022;
"(H) The amount of $.00259935 in fiscal year 2023;
"(I) The amount of $.0024986 in fiscal year 2024;
"(J) The amount of $.00239785 in fiscal year 2025;
"(K) The amount of $.0022971 in fiscal year 2026;
"(L) The amount of $.00219635 in fiscal year 2027;
"(M) The amount of $.0020956 in fiscal year 2028;
"(N) The amount of $.00199485 in fiscal year 2029;
"(O) The amount of $.0018942 in fiscal year 2030;
"(P) The amount of $.00179335 in fiscal year 2031; and
"(Q) The amount of $.001612 in fiscal year 2032 and each year thereafter.".

(C) A new paragraph (2A) is added to read as follows:

"(2A) There shall be imposed upon a person who delivers heating oil or fuel oil to an end-user in the District, whether for industrial, commercial, or residential use, an assessment of $.084 per gallon, calculated on sales.".

(3) Subsection (c) is amended as follows:

(A) Paragraph (2) is amended by striking the phrase "development of" and inserting the phrase "development and implementation of" in its place.

(B) Paragraph (10) is repealed.

(C) Paragraph (11) is amended by striking the period and inserting a semicolon in its place.

(D) New paragraphs (12), (13), (14), (15), (16), and (17) are added to read as follows:

"(12)(A) Beginning in fiscal year 2020, in an amount equal to at least 30% of the funds generated by the increases to the assessments described in subsection (b) of this section contained in the Clean Energy DC Omnibus Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-904) ("CleanEnergy Act"), activities of DOEE or the Sustainable Energy Utility to:

"(i) Benefit low-income residents, which may include energy bill assistance, energy efficiency, and weatherization, including programs making improvements to commercial and institutional buildings that serve primarily low-income residents;

"(ii) Establish workforce development initiatives for District residents in energy efficiency fields; and

"(iii) Establish the Sustainable Energy Infrastructure Capacity Building and Pipeline Program, required by section 401 of the CleanEnergy Act.

"(B) For purposes of this paragraph, "low-income" means persons with household incomes of 80% or less than the area median income;

"(13) Implementation of the Building Energy Performance Standard program required by section 301 of the CleanEnergy Act;

"(14) In fiscal year 2020, transferring $15 million to the Green Finance Authority to support sustainable projects and programs; provided, that such transfer is included in an approved budget and financial plan;

"(15) In fiscal year 2021, transferring $15 million to the Green Finance Authority to support sustainable projects and programs; provided, that such transfer is included in an approved budget and financial plan;

"(16) In fiscal years 2022, 2023, 2024, and 2025, transferring $10 million to the Green Finance Authority to support sustainable projects and programs; provided, that such transfer is included in an approved budget and financial plan; and

"(17) Beginning in fiscal year 2022, at least $3 million annually shall be used by DOEE or the Sustainable Energy Utility, selected pursuant to the Clean and Affordable Energy Act of 2008, effective October 22, 2008 (D.C. Law 17-250; D.C. Official Code § 8-1773.01 *et seq.*), to provide assistance to providers of affordable housing or rent-controlled buildings for energy efficiency upgrades of buildings subject to the Building Energy Performance Standard program required by section 301 of the CleanEnergy Act.

Sec. 202. Title I of the Green Finance Authority Establishment Act of 2018, effective August 22, 2018 (D.C. Law 22-155; D.C. Official Code § 8-173.01 *et seq.*), is amended as follows:

(a) The title heading is amended by striking the word "DEFINITIONS" and inserting the phrase "DECLARATION OF PUBLIC PURPOSE AND DEFINITIONS" in its place.

(b) Section 101 is redesignated as section 102.

(c) A new section 101 is added to read as follows:

"Sec. 101. Declaration of public purpose.

"The Council hereby declares that a public purpose will be served through investment by the District, as authorized in this act, in sustainable projects and programs that contribute to the health, education, safety, and welfare of District residents by reducing the causes of, and mitigating the adverse effects of, climate change, reducing air, water, and other pollution, protecting and conserving natural resources, reducing energy costs in the District, promoting energy efficiency, and otherwise achieving the objectives established in the Comprehensive Energy Plan, developed by the Department of Energy and Environment pursuant to section 5 of the District of Columbia Office of Energy Act of 1980, effective March 4, 1981 (D.C. Law 3-132; D.C. Official Code § 8-171.04). Such investment is in the public interest and for the benefit of the public, and the expenditure of monies pursuant to this act serves valid public purposes.".

TITLE III. BUILDING ENERGY PERFORMANCE STANDARDS AND BENCHMARKING.

Sec. 301. Establishment of a Building Energy Performance Standard Program.

(a) This section shall apply to:

(1) Beginning January 1, 2021, all 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;

(2) Beginning January 1, 2023, all privately-owned buildings with at least 25,000 square feet of gross floor area; and

(3) Beginning January 1, 2026, all privately-owned buildings with at least 10,000 square feet of gross floor area.

(b)(1)(A) No later than January 1, 2021, and every 5 years thereafter, DOEE shall establish property types and building energy performance standards for each property type, or an equivalent metric for buildings that do not receive an ENERGY STAR score.

(B) DOEE shall establish reporting and data verification requirements for each 5-year compliance cycle.

(C)(i) In developing energy performance standards, DOEE shall seek to help the District achieve its short- and long-term climate commitments, including reducing greenhouse gas emissions by 50% by 2032 and carbon neutrality by 2050.

(ii) For buildings that are eligible for an ENERGY STAR score, the building energy performance standard shall be no lower than the District median ENERGY STAR score for buildings of each property type.

(2) DOEE shall establish campus-wide energy performance standards for post-secondary educational institutions and hospitals with multiple buildings in a single location that are owned by a single entity; provided, that the development of any standard by DOEE shall be based upon an analysis of the existing building efficiency of each campus and the compliance pathways shall achieve savings comparable to those outlined in subsection (d)(1) of this section. In establishing specific performance standards, DOEE shall consider:

(A) The existence of any historic buildings and any restrictions related to the treatment of historic buildings or districts;

(B) The diversity of building uses and requirements for the campus and its operations; and

(C) The impact on any zoning regulation or campus plan requirement.

(c) All buildings with a verified ENERGY STAR score below the building energy performance standard for its property type shall have 5 years from the date of the performance standards established pursuant to paragraph (b)(1)(A) to meet the building energy performance requirements established by DOEE.

(d) DOEE shall establish multiple compliance pathways for buildings to meet the building energy performance requirements, including:

(1) A performance pathway, which shall require a building to demonstrate a greater than 20% decrease in normalized site energy use intensity averaged over the last 2 years of the 5-year compliance cycle, as compared to the normalized site energy use intensity averaged over the 2 years preceding the first year of the 5-year compliance cycle; and;

(2) A prescriptive pathway for buildings to achieve compliance by implementing cost-effective energy efficiency measures with savings comparable to the performance pathway; and

(3) Other compliance pathways established by DOEE.

(e)(1) DOEE shall establish exemption criteria for qualifying buildings to delay compliance with the building energy performance requirements for up to 3 years if the owner demonstrates, to the satisfaction of DOEE, financial distress, change of ownership, vacancy,

major renovation, pending demolition, or other acceptable circumstances determined by DOEE by regulation.

(2) DOEE may establish an exemption criterion for qualifying affordable housing buildings to delay compliance with the building energy performance requirements for more than 3 years; provided, that the owner demonstrates, to the satisfaction of DOEE, financial distress, change of ownership, vacancy, major renovation, pending demolition, or other acceptable circumstances as determined by DOEE by regulation.

(f) DOEE shall coordinate with the Sustainable Energy Utility, selected pursuant to the Clean and Affordable Energy Act of 2008, effective October 22, 2008 (D.C. Law 17-250; D.C. Official Code § 8-1773.01 *et seq.*), and the Green Finance Authority, established by section 201 of the Green Finance Authority Establishment Act of 2018, effective August 22, 2018 (D.C. Law 22-155; D.C. Official Code § 8-173.21), to establish an incentive and financial assistance program for qualifying building owners and affordable housing providers to meet building energy performance requirements.

(g) Buildings failing to comply with the building energy performance requirements at the end of the 5-year compliance period shall pay an alternative compliance penalty established by DOEE. Penalties collected pursuant to this provision shall be deposited into the Sustainable Energy Trust Fund.

(h) By January 1, 2023, DOEE shall publish a report assessing whether the building energy performance standard should be revised to a standard based on reducing contribution to greenhouse gas emissions, and if so, recommend a method and timeline for doing so, including any statutory changes needed.

(i) DOEE may impose civil infraction penalties, fines, and fees as sanctions for a violation of this section or a regulation issued pursuant to this section, pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 *et seq.*).

(j) The Attorney General for the District of Columbia may commence a civil action in the Superior Court of the District of Columbia or any other court of competent jurisdiction for damages, cost recovery, reasonable attorney and expert witness fees, and injunctive or other appropriate relief to enforce compliance with this section or a regulation issued pursuant to this section.

(k) For the purposes of this section, the term "affordable housing" means buildings that are primarily residential, contain 5 or more dwelling units, and:

(1) In which use restrictions or other covenants require that at least 50% of all of the building's dwelling units are occupied by households that have household incomes of less than or equal to 80% of the area median income; or

(2) The building owner can demonstrate that at least 50% of the dwelling units rent at levels that are affordable to households with incomes less than or equal to 80% of the area median income.

Sec. 302. The Green Building Act of 2006, effective March 8, 2007 (D.C. Law 16-234; D.C. Official Code § 6-1451.01 *et seq*), is amended as follows:

(a) Section 4(c)(2) (D.C. Official Code § 6-1451.03(c)(2)) is amended as follows:

(1) Subparagraph (B) is amended as follows:

(A) Sub-subparagraph (iii) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(B) Sub-subparagraph (iv) is amended by striking the period at the end and inserting the phrase "; and" in its place.

(C) New sub-subparagraphs (v) and (vi) are added to read as follows:

"(v) January 1, 2021, for a building with 25,000 square feet of gross floor area, or more; and

"(vi) January 1, 2024, for a building with 10,000 square feet of gross floor area, or more.".

(2) A new subparagraph (F) is added to read as follows:

"(F) Every 3 years the owner, or the owner's designee, shall perform a third-party verification of its benchmark and ENERGY STAR statements in accordance with requirements specified by DOEE.".

(b) Section 10 (D.C. Official Code § 6-1451.09) is amended by adding a new subsection (h) to read as follows:

"(h)(1) Within 90 days of the applicability date of this title, the Mayor shall establish the Building Energy Performance Standards Task Force, which shall:

"(A) Advise DOEE on creation of an implementation plan for the Building Energy Performance Program;

"(B) Recommend amendments to proposed regulations issued by DOEE; and

"(C) Recommend complementary programs or policies.

"(2) The task force shall be comprised of representatives, or their designees, from the following entities:

"(A) The Director of DOEE;

"(B) The Director of the Department of General Services;

"(C) The Director of DCRA;

"(D) The Department of Housing and Community Development;

"(E) The Department of Planning and Economic Development;

"(F) A representative from the Green Building Advisory Council;

"(G) A representative from the DC Sustainable Energy Utility;

"(H) A representative who is an affordable housing developer;

"(I) A representative from a rent-controlled apartment building;

"(J) A representative from a market-rate apartment building;

"(K) A representative from a commercial building;

"(L) A representative from the Apartment and Office Buildings Association;

"(M) A representative from the Consortium of Universities in the Washington Metropolitan Area;

"(N) A representative who operates affordable housing;

"(O) A representative of a nonprofit or professional association advocating for energy efficient buildings or a low-carbon built environment;

"(P) A provider of energy efficiency or renewable energy services to large buildings or affordable housing in the District; and

"(Q) A representative from the Green Finance Authority"."

Sec. 303. Strategic energy management plan for District government buildings.

By January 1, 2020, the Department of General Services ("DGS") shall develop a strategic energy management plan for reducing energy and water use across the DGS portfolio of buildings. The plan shall include timelines and cost estimates for implementing:

(1) An energy retrofit program across at least 9% of the DGS portfolio of District government-owned buildings by square footage between 2021 and 2024, prioritizing buildings that have core systems and equipment nearing the end of their useful lives, with a goal of achieving at least 30% reductions in energy and greenhouse gas emissions; and

(2) A net-zero energy retrofit program across at least 12.5% of the DGS portfolio of District government-owned buildings between 2026 and 2032.

Sec. 304. Rulemaking.

The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this title, including rules that increase the minimum size of the solar zone for particular classes of residential buildings.

TITLE IV. SUSTAINABLE ENERGY INFRASTRUCTURE CAPACITY BUILDING AND PIPELINE PROGRAM.

Sec. 401. Sustainable Energy Infrastructure Capacity Building and Pipeline Program; establishment.

(a) There is established within the Department of Energy and Environment ("DOEE") the Sustainable Energy Infrastructure Capacity Building and Pipeline Program ("Program") with the purpose of increasing the participation and capacity of certified business enterprises, as defined in section 2302(1D) of the Small and Certified Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.02(1D)), or eligible businesses in energy efficiency fields.

(b) The Program shall apply to all energy efficiency measures designed to increase the renewable energy portfolio standard, as defined in section 3(11) of the Renewable Energy Portfolio Standard Act of 2004, effective April 12, 2005 (D.C. Law 15-340; D.C. Official Code § 34-1431(11)), to 100% by 2032, including contracts and procurements related to professional services, construction, inspection, maintenance, or installation of energy efficient technology or materials.

(c) DOEE and the Office of Contracting and Procurement shall develop and use procurement criteria that includes Certified Business Enterprise utilization as an evaluation factor when shortlisting and selecting businesses for professional services and when selecting contractors in best value procurements with a contract value of more than $250,000.

Sec. 402. DOEE and DSLBD; memorandum of understanding.

The Department of Energy and Environment shall enter a memorandum of understanding with the Department of Small and Local Business Development to maintain a training and certification program, with a duration of not less than 5 years, for certified business enterprises ("CBE") and CBE-eligible firms to increase their capacity to engage in renewable energy and efficiency design, construction, inspection, and maintenance.

Sec. 403. Reporting requirements.

The Department of Energy and Environment shall submit an annual report to the Mayor and the Council on the program required by section 402, which shall include detailed information on recruitment initiatives and the creation of contracting opportunities.

TITLE V. TRANSPORTATION EMISSION REDUCTION.

Sec. 501. Section 6(j) of The District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03(j)), is amended as follows:

(a) A new paragraph (1A) is added to read as follows:

"(1A)(A) By January 1, 2020, the Department of Motor Vehicles, in consultation with the Department of Energy and Environment, shall issue rules revising the calculation of the vehicle excise tax such that the fee amount shall be applied as either an increase or decrease to the excise tax amount as described in this paragraph.

"(B) The increase or decrease to the excise tax amount shall be based on the difference between the fuel efficiency of the vehicle for which the title is being sought, using window label vehicle fuel efficiency figures, and a benchmark standard.

"(C) Vehicles seeking a title with a fuel efficiency below the benchmark standard shall pay an increased excise tax amount, with the amount of increased tax increasing based on how far below the benchmark standards is the vehicle.

"(D) Vehicles seeking a title with a fuel efficiency above the benchmark standard shall pay a decreased excise tax amount, or receive an excise tax rebate, with the amount of decreased tax decreasing based on how far above the benchmark standards is the vehicle.

"(E) Changes to the vehicle excise tax made pursuant to this paragraph shall be revenue neutral, whereby total expenditures on excise tax decreases to vehicles with fuel efficiencies above the benchmark standards shall equal the total revenue raised by excise tax increases to vehicles with fuel efficiencies below the benchmark standards.

"(F) The Department of Motor Vehicles shall publish and maintain publicly available information to help residents understand the vehicle excise tax described in this paragraph, and how it might affect the cost of obtaining a title in the District.

"(G)(i) The modification of the vehicle excise tax described in this paragraph shall not apply to:

"(I) Vehicles owned by individuals who demonstrate that they claimed and received the District Earned Income Tax Credit for the tax period closest in time (for which a return could be due) to the date the vehicle excise tax is levied; or

"(II) Trailers.

"(ii) The Office of Tax and Revenue shall confirm whether the District Earned Income Tax Credit claimed pursuant to this subparagraph was claimed and received based upon submission of a completed tax information authorization waiver form by the individual.".

(b) Paragraph (3)(J) is amended to read as follows:

"(J) Electric vehicles.".

Sec. 502. Transportation Electrification program.

(a) Within 180 days after the applicability date of this title, the Mayor shall establish a transportation electrification program ("program") that shall require that all public buses, passenger- and light-duty vehicles associated with privately-owned fleets with a capacity of 50 or more passengers or light-duty vehicles licensed to operate in the District of Columbia, commercial motor carriers, limousine-service vehicles, and taxis certified to operate by the District to be only zero-emission vehicles in the District by year 2045.

(b)The transition to zero emission vehicles will be phased in as follows:

(1) By 2030, 50% of public buses, passenger- and light-duty vehicles associated with privately-owned fleets with a capacity of 50 or more passengers or light-duty vehicles licensed to operate by the District of Columbia, commercial motor carriers, limousine-service vehicles, and taxis certified to operate by the District of Columbia shall be low-or-zero-emission vehicles.

(2) By 2035,75% of public buses, passenger- and light-duty vehicles associated with privately-owned fleets with a capacity of 50 or more passengers or light-duty vehicles licensed to operate by the District of Columbia, commercial motor carriers, limousine-service vehicles, and taxis certified to operate by the District of Columbia shall be low-or-zero-emission vehicles.

(3) By 2040, 90% of public buses, passenger- and light-duty vehicles associated with privately-owned fleets with a capacity of 50 or more passengers or light-duty vehicles licensed to operate by the District of Columbia, commercial motor carriers, limousine-service vehicles, and taxis certified to operate by the District of Columbia shall be low-or-zero-emission vehicles.

(4) By 2045, 100% of all public buses, passenger- and light-duty vehicles associated with privately-owned fleets with a capacity of 50 or more passengers or light-duty vehicles licensed to operate by the District of Columbia, commercial motor carriers, limousine-service vehicles, and taxis certified to operate by the District of Columbia shall be zero emission vehicles.

(c)(1) The Public Service Commission may consider an application by the electric company to promote transportation electrification through utility infrastructure ownership and other programs and incentives, including if such application has been made before the applicability date of this title.

(2) The Public Service Commission may approve the application if it finds that it is in the public interest, consistent with the District's public climate change commitments as determined by the Mayor, and consistent with section 8(2) of An Act Making appropriations to

provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 977; D.C. Official Code § 34-1101).

(d)(1) The Mayor may authorize non-compliance fees to be assessed against an owner or operator for failure to meet the standards set forth in this section or rules issued pursuant to this section.

(2) Fees collected pursuant to this subsection may be used to construct and maintain electrification infrastructure.

(e)(1) By January 1, 2022, and every 2 years thereafter, each private vehicle-for-hire company shall develop a greenhouse gas emissions reduction plan. The plan shall include proposals on how to meet targets and goals for reducing emissions by:

(A) Increasing the proportion of participating drivers with zero-emission vehicles using private vehicle-for-hire companies; and

(B) Increasing the proportion of vehicle-miles completed by zero-emission vehicles relative to all vehicle-miles.

(2) By February 1, 2022, and every 2 years thereafter, each private vehicle-for-hire company shall submit the greenhouse gas emissions reduction plan required by paragraph (1) of this subsection to the Public Service Commission and to the chairperson of the Council committee with oversight of the Public Service Commission. Any confidential or trade secret information furnished pursuant to this paragraph shall be confidential.

(f) The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement this section.

Sec. 503. The Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code § 50-921.01 *et seq.*), is amended as follows:

(a) Section 2o (D.C. Official Code § 50-921.23) is redesignated as section 9o.

(b) Subsection (b)(2) of the newly redesignated section 9o is repealed.

(c) A new section 9p is added to read as follows:

"Sec. 9p. Comprehensive clean vehicle transition plan.

"By July 1, 2021, DDOT shall prepare and submit to the Mayor, as well as publish on its website, a comprehensive clean vehicle transition plan outlining strategies that will encourage and promote the adoption of zero-emission vehicles by drivers in the District. In preparing the plan, DDOT shall consult with the Office of the State Superintendent of Education and other stakeholders. The plan shall include recommendations for policies, including cost estimates and timelines, estimated to achieve:

"(1) At least 25% zero-emission vehicle registrations by calendar year 2030;

"(2) 100% replacement of public buses, including school buses, with electric public buses upon the end of their useful life, by calendar year 2021; and

"(3) Implementation of the transportation electrification program established pursuant to section 502 of the CleanEnergy DC Omnibus Amendment Act of 2018, passed on 2nd reading on December 18, 2018 (Enrolled version of Bill 22-904).".

Sec. 504. Authorization to participate in regional programs limiting greenhouse gas emissions.

The Mayor is authorized to:

(1) Commit the District to participation or membership in any regional governmental initiative, agreement, or compact for the purpose of limiting greenhouse gas emissions from the transportation sector; and

(2) Impose a fee on motor fuel sales or distribution; provided, that Maryland or Virginia imposes a state-wide greenhouse gas emissions fee on motor fuel sales or distribution; provided further, that the District fee is no more than that imposed by Maryland or Virginia.

TITLE VI. GENERAL PROVISIONS.

Sec. 601. Applicability.

(a) Titles II, III, IV, and V of this act shall apply upon the date of inclusion of their fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of this act.

Sec. 602. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 603. Effective date.

This act shall take effect following approval of the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

24, 1973 (87 Stat. 813; D.C Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
January 18, 2019

COUNCIL OF THE DISTRICT OF COLUMBIA

WASHINGTON, DC, 20004

Docket No. **B22-0904**

[ ] ITEM ON CONSENT CALENDAR

[X] ACTION & DATE **FIRST READING, Nov 27, 2018**

[X] VOICE VOTE

RECORDED VOTE ON REQUEST **APPROVED**

ABSENT **R. WHITE**

[ ] ROLL CALL VOTE - Result

Council Member	Aye	Nay	NV	AB	Council Member	Aye	Nay	NV	AB	Council Member	Aye	Nay	NV	AB
Chmn. Mendelson	X				Gray	X				Silverman	X			
Allen	X				Grosso	X				T. White	X			
Bonds	X				McDuffie	X				Todd	X			
Cheh	X				Nadeau	X								
Evans	X				R. White				X					
X - Indicate Vote					**AB - Absent**					**NV - Present, Not Voting**				

CERTIFICATION RECORD

Secretary to the Council

1-9-19

Date

Docket No. **B22-0904**

[ ] ITEM ON CONSENT CALENDAR

[X] ACTION & DATE **FINAL READING, Dec 18, 2018**

[X] VOICE VOTE

RECORDED VOTE ON REQUEST **APPROVED**

ABSENT

[ ] ROLL CALL VOTE - Result

Council Member	Aye	Nay	NV	AB	Council Member	Aye	Nay	NV	AB	Council Member	Aye	Nay	NV	AB
Chmn. Mendelson	X				Gray	X				Silverman	X			
Allen	X				Grosso	X				T. White	X			
Bonds	X				McDuffie	X				Todd	X			
Cheh	X				Nadeau	X								
Evans	X				R. White	X								
X - Indicate Vote					**AB - Absent**					**NV - Present, Not Voting**				

CERTIFICATION RECORD

Secretary to the Council

1-9-19

Date

Department of Energy & Environment

coronavirus.dc.gov
Read Mayor Bowser's Presentation on DC's COVID-19 Situational Update: October 26.
DC Entered Phase Two of Reopening on June 22. View the Guidance.

Department of Energy & Environment

Office Hours
Monday to Friday, 9 am to 5 pm

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TTY: (800) 855-1000
Email: doee@dc.gov

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Building Energy Performance Standards

The Building Energy Performance Standards (BEPS) were set forth in Title III of the Clean Energy DC Omnibus Act of 2018. The BEPS is a minimum threshold of energy performance that will be no lower than the local median ENERGY STAR score by property type (or equivalent metric). The standards were created to drive energy performance in existing buildings to help meet the energy and climate goals of the Sustainable DC plan — to reduce greenhouse gas emissions and energy consumption by 50% by 2032.

DOEE will establish the first set of standards by January 1, 2021. Standards will then be set every 6 years, creating BEPS periods (BEPS 1, BEPS 2, etc.). These requirements build upon the success of the District's Energy Benchmarking program, so if you are mandated to benchmark, the BEPS program applies to your building. As the benchmarking requirements ratchet down in square footage over time, buildings will be subject to the BEPS requirements in following periods until all buildings 10,000 sq. ft. and over are following the performance standards.

- BEPS 1: Private buildings >50,000 sq. ft. and DC-owned >10,000 sq. ft.
- BEPS 2: Private buildings >25,000 sq. ft. and DC-owned >10,000 sq. ft.
- BEPS 3: Private buildings and DC-owned >10,000 sq. ft.

Buildings that do not meet the standard for a BEPS period will be placed in a 5-year compliance cycle. The building owner has until the end of the cycle to bring their building into compliance following one of the compliance paths available. More details about the paths will be available once the rules and guidance documents are finalized by DOEE. This is the basic framework of the compliance paths:

- Performance Path: reduce energy usage 20%
- Prescriptive Path: implement cost-effective energy efficiency measures
- Standard Target Path: For property types with standards above the national median, reach the standard
- Alternative Compliance Paths: allows an owner to apply to follow a path with special criteria

In 2020, DOEE will be working with input from the BEPS Task Force and other DC government agencies to establish the rules and policies that will drive the program. To stay involved in the development of the program, use the links below:

- Events & Engagement
- BEPS Task Force
- Energy Benchmarking DC Scorecards
- Frequently Asked Questions (FAQS)
- High-Performance Building Hub

The BEPS Task Force was recognized with the 2020 Community Leader Award for "Excellence in Government, Advocacy, or Policy (Local Government)" by the U.S. Green Building Council National Capital Region at their annual "A Midsummer Night's Green celebration on July 23, 2020. Check out all the awards given to recognize local excellence in high-performance building design, environmental stewardship, community impact, and volunteerism.

If you are interested in learning more about BEPS, please contact us at info.beps@dc.gov.

If you are interested in staying up-to-date on the activities of the BEPS Task Force, please fill out this form >>

Other Resources

- BEPS Overview Presentation
- BEPS One Pager
- C40 Analysis – Final Report
- Clean Energy DC
- Sustainable DC

DC SUSTAINABLE ENERGY UTILITY

Attachment(s):
C40 Analysis – Final Report - 932.2 KB (pdf)
BEPS Overview Presentation - 1.5 MB (pdf)
BEPS One Pager - 280.6 KB (pdf)

Contact TTY: 711

Foam Free DC

The District has banned the use of food service products made of expanded polystyrene. Read More>>

Our Last Straw

Mayor Bowser Joins Our Last Straw Coalition to Say No to Plastic Straws. Businesses, Nonprofits, Individuals, and DC Government Unite in the Effort to Reduce Plastic Waste in the District. Read More>>

Get RiverSmart

RiverSmart programs offer incentives for reducing stormwater pollution.

Skip the Bag - Save the River

District businesses selling food or alcohol are required to charge $.05 for each disposable paper or plastic carryout bag. Find out about DC's Bag Law.




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BEST OF THE
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