



to 1-1506(a) ....

In commenting on this last sentence of § 13(a), the Corporation Counsel opined: "Thus, every District agency must provide to each affected ANC 30 days written notice of any proposed action considered to be rulemaking, pursuant to sec. 13(a) of D.C. Law I-88...." 2 Op.C.C.D.C. 290 (1978) •

Subsection (b) of § 13, D.C. Code § 1-261(b), provides in pertinent part that:

Thirty days written notice of such District government actions or proposed actions shall be given by mail to each Commission affected by said actions, except... in the case of an emergency and such notice shall be published in the District of Columbia Register. The Register shall be made available, without cost to each Commission. [Emphasis added.]

The underscored portion of subsection (b) makes clear that the 30-day prior notice requirement does not apply to action taken by an agency on an emergency basis..! Thus, as in the instant situation, the Director may adopt a rule on an emergency basis without giving the ANCs any prior notice. The Director must promptly cause a notice of the adoption of the emergency rule to be published in the D.C. Register, and this publication serves as notice to the ANCs.<sup>2</sup> Here, as noted above, the Director caused to be published in the D.C. Register a notice of emergency and proposed rulemaking. The affected ANC or ANCs will then have at least 30 days during which to submit recommendations to the Director concerning whether the proposed rule should or should not be adopted as a final rule. See also D.C. Code § 1-1506(c) (1992), the emergency rulemaking provision of the D.C. Administrative Procedure Act.

In sum, the assertion by ANC 2-B that the Director's emergency rule regarding user fees at Francis Swimming Pool violated the ANC statute and the D.C. Administrative Procedure Act because ANC 2-B was not given prior notice is without merit.

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Under the D.C. Administrative Procedure Act, an emergency rule may not remain in effect "longer than 120 days after the date of its adoption." D.C. Code § 1-1506(c) (1992).

<sup>2</sup> On May 26, 1977, this Office issued an opinion ruling that, generally speaking, publication of a document, such as a notice of emergency and proposed rulemaking, in the D.C. Register meets the notice requirements of section 13(b) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-261(b) (1992). See 2 Op.C.C.D.C. 48 (1977).