

New Proposed NYC LL97 Rules and What They Mean for Building Owners



These proposed rules were open to public comment during an online hearing on October 24, 2023. DOB will review and consider all public comments made during the hearing for inclusion before publishing the final adopted rules later this year. DOB will publish additional rules related to Local Law 97, as needed, in the future.

Concerns about Compliance

Many news article and social media posts have discussed NYC Local Law 97 mandates that require reduction of carbon emissions and impose subsequent fines if buildings are not brought into timely compliance. Building owners are aware that properties may face noncompliance fines, but they may also have concerns about making building upgrades in time or may not fully understand all the terms for compliance. Our summary of the proposed rules can help you plan for ways to manage your activities and reduce risks.

Proposed Rules

On September 12, 2023, the NYC Department of Buildings (DOB) released proposed rules allowing building owners to mitigate fines through good faith efforts. They allow building owners with properties facing fines for the 2024-2029 compliance period to apply for additional time by developing a decarbonization plan outlining the necessary building upgrades to reduce carbon emissions below required limits.

Threshold Requirements and Good Faith Efforts

According to the proposed rules, building owners must meet three threshold requirements and demonstrate one of six good faith efforts. The three threshold requirements are:

1. Submission of the annual building energy performance report in compliance with LL97;
2. Submission of a certification the building complies with Local Law 88 which requires lighting upgrades and submetering; and
3. Submission of energy benchmarking data in compliance with Local Law 84 of 2009.

After meeting these threshold requirements, building owners must complete one of the following good faith efforts:

- Submit a decarbonization plan by a registered design professional detailing the pathway to compliance with carbon limits through 2050. By submitting a decarbonization plan, building owners receive an additional two years to comply with the 2024 emissions limits; within 24 months of submission of the plan, a building owner must demonstrate that the 2024 emissions limit has been met. However, if a decarbonization plan is submitted within this alternate compliance pathway, renewable energy credits (RECs) are not allowed as a compliance tool;
- Provide documentation of a complete application approved by DOB for the work necessary to come into compliance, with a timeline for completion and projections for the emissions reductions to be achieved;
- Confirm the building is currently undergoing electric readiness to replace fossil fuel systems with electric systems;
- Submit verification that the building was in compliance in the previous year;
- Prove the building is a “critical facility” and that payment of the penalty would impact the facility operations; or
- Confirm the owner/building was granted an LL97 adjustment.

By following these steps, the building owner may enter mediated resolutions with DOB, which would defer enforcement proceedings at DOB’s discretion. Though not publicly defined, mediated resolution could include a written agreement stipulating milestones to be achieved within a defined schedule.

NORESCO’s LL97 experts are ready to navigate the compliance path with you to create a decarbonization plan and submit all required documentation to DOB for approval. Contact us at info@noresco.com to sign up for a customized plan and have one less worry on your mind.