LL97: Unpacking the Proposed Rules (2023)
Panelists

Laura Popa • Deputy Commissioner for Sustainability, NYC Department of Buildings

Gina Bocra • Chief Sustainability Officer, NYC Department of Buildings

Emily Hoffman • Director of Building Energy & Emissions Performance, NYC Department of Buildings

Beth Golub • Director of Sustainability Policy and Legal Matters, NYC Department of Buildings

Danielle Manley (Moderator) • Manager, Policy, Urban Green Council
MOBILIZATION PLAN

- Enhanced funding and financing
  - Federal, state, utility, and city funding and financing targeted to LL97 compliance
- Comprehensive outreach with NYC Accelerator
- Implementation task forces
  - Workforce/retrofit companies; Building owners and managers; Financers
- Enforcement
  - Rulemaking
LL97 CONTEXT

- Applies to 25,000+ sq. ft. buildings
- Accounts for different building types and sizes
- Special rules for affordable housing (35% or more rent regulated units) and houses of worship
- Provides relief in cases of financial hardship
- Provides relief from unavoidable implementation hurdles
- Provides for penalty mitigation and good faith efforts
SECOND MAJOR LL97 RULE PACKAGE

1. Penalty Framework, Beneficial Electrification Credit and Various Technical Amendments

2. Article 321 (Prescriptive Path) Requirements for Compliance and Penalties for Non-Compliance

3. Local Law 88 - Defining Lighting and Sub-metering compliance
LL97 ARTICLE 320 PENALTY FRAMEWORK

Properties have two main compliance responsibilities

Submit building emissions report
Penalty = (Floor Area x $0.50)/month
Meet emissions limits
Penalty = ((Emissions – Limit) x $268)/yr

Penalty mitigation opportunities*
(2024-2029)

Good Faith Efforts

Unexpected or Unforeseeable Event

Building Emissions Report and Compliance with Any Adjustment
Benchmarking
Lighting & Sub-metering (LL88 rule)

Complete all of these AND one of these

Decarbonization Plan (see next slide)
Complete Application for the Work Approved by DOB
Building out electrification readiness
Previous Compliance with Emissions Limits
Critical Facility
Financing (28-320.7 (2) Adjustment)

*Adjustments available for hospitals, nonprofits, landmarks and buildings with special circumstances or financial hardship.
A plan for reaching net zero carbon emissions by 2050, including:

- Energy audit
- Inventory of major equipment
- List of alterations needed for compliance, consisting of:
  - Timeline
  - Financing plan
  - Expected emissions reductions

Additionally:

No RECs in the first compliance period.

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<tr>
<th>Important Decarb Plan Dates:</th>
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<tr>
<td>Submit the decarb plan by:</td>
<td>May 1, 2025</td>
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<td>Meet the 2024 emissions limit by:</td>
<td>May 1, 2027</td>
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<td>Demonstrate* that the work for 2030 compliance is underway by:</td>
<td>May 1, 2028</td>
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<tr>
<td>*Complete Application for the Work Approved by DOB</td>
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ENFORCEMENT FRAMEWORK

If a building is over their emissions limit:

**Issuing Penalties**
- DOB issues NOV with full penalty amount
  - Pay penalty
  - Adjudication by trial at OATH

**Mediated Resolution**
- For qualifying buildings, DOB may offer a legally binding agreement between DOB and the building owner
  - Noncompliance with this agreement
  - Submit the next annual building emissions report

- Penalties will be adjudicated at OATH with a DOB enforcement attorney
- If a building owner does not comply with the terms of the mediated resolution, DOB can issue back penalties
BENEFICIAL ELECTRIFICATION

• Owners that replace fossil fuel equipment early with high-efficiency space conditioning or water heating equipment receive a credit against emissions limits for the first or second compliance period

• A negative coefficient may be applied against a building’s emissions reducing penalties for buildings that convert to heat pumps:
  • Double the emissions reduction for owners taking action between 2021-2026
  • 1x the emissions reduction for owners taking action between 2027-2029
**BENEFICIAL ELECTRIFICATION**

- Draft electricity emissions calculation with BE "Credit":

\[
\text{GHG Emissions for Annual Electric Consumption} = ((\text{Total annual kWh} - \text{BE kWh}) \times 0.000288962) + (\text{Beneficial kWh} \times -0.00065)
\]

- Calculation examples will be provided in DOB's LL97 Filing Guide
  - Deemed approach, based on capacity, for smaller installations
  - Metered approach, based on actual kWh, for larger installations

- Banking of BE Credits
  - BE credit for one year must be applied in whole to a future year
  - Multiple BE credits may not be combined for use in a single year
  - BE credits can be applied for each year of operation
TECHNICAL CHANGES

• Clarifies that eligible properties must be calculated using either Building Code Occupancy Groups OR ESPM Property Types, but cannot be a combination of both.

• Adds a marginal emissions coefficient for natural gas fuel cells for equipment installed prior to January 19, 2023.

• Requires Distributed Energy Resources to be sub-metered for reporting.

• Corrects numbering of equations.
ARTICLE 321 COMPLIANCE

- Meet the Article 320 emissions limits for 2030 in 2024
- Prescriptive Energy Conservation Measures (One-time report due May 1, 2025)

- Adjusting temperature set points for heat and hot water
- Repairing all heating system leaks
- Maintaining heating systems
- Installing individual temperature controls or insulated radiator enclosures with temperature controls
- Insulating all pipes for heating and/or hot water
- Insulating steam system condensate tank or water tank
- Installing indoor and outdoor heating system sensors and boiler controls
- Replacing or repairing all steam traps
- Installing or upgrading steam system master venting
- Upgrading lighting
- Weatherizing and air sealing
- Installing timers on exhaust fans
- Installing radiant barriers behind all radiators.
ARTICLE 321 COMPLIANCE

- Rule clarifies that reporting may be submitted by a "qualified" RCx Agent
  - Registered design professional; OR
  - Certified refrigerating system operating engineer; OR
  - Licensed high-pressure boiler operating engineer

- PECMs documentation requirements
  - 9 PECMs require attestations
  - 4 PECMs require detailed inspection reports

- DOB will be issuing a guide for Article 321 with sampling requirements and additional clarification along with reporting templates for the 4 detailed PECMs
LL97 Article 321 Penalty Framework

Properties have two requirements

- Submit required report
  - Penalty = $10,000
- Demonstrate compliance
  - Penalty = $10,000

Penalty mitigation opportunities

- Unexpected or Unforeseeable Event
- Eligible Energy Conservation Project
- Mediated Resolution

Penalty = $10,000
LOCAL LAW 88

• **Upgrade of lighting systems (Article 310):**
  • Lighting power & controls comply with the NYCECC in effect at project install
  • Upgraded between July 1, 2010 and Dec. 31, 2024
  • Applies to Residential & Commercial Buildings (dwelling units excluded)

• **Electrical sub-metering in tenant spaces (Article 311):**
  • Floors or tenant spaces over 5,000 gross sq. ft.; OR
  • Tenant spaces over 5,000 sq. ft.
  • Commercial tenant spaces ONLY
LOCAL LAW 88

Rule includes information on:

• How to report compliance:
  • Attestation due May 1, 2025 with LL97 reporting

• Who can report:
  • RDP (NY State licensed PE or RA); OR
  • Licensed Master Electrician; OR
  • Licensed Special Electrician

• Penalties for failing to report compliance:
  • Failure to file lighting upgrade report: $1,500
  • Failure to file sub-meter installation report: $1,500
    • $500 for each covered tenant space where a sub-meter has not been installed
NEXT STEPS

■ Guidance
■ Rule Hearings
  - October 24 at 11am
    - LL97 Article 320 Penalty Framework
    - LL97 Article 321 Compliance and Penalty Framework
  - October 26 at 11am
    - LL88 Lighting and Submetering
■ Studies
  - Industry
  - EE metric
  - Hospitals and non-profits
■ Future Rules
  - Cogen / DER
  - 320.7 Adjustments (financial hardship and legal limitations)
  - Alignment of sustainability laws
What Is NYC Accelerator?

+ A City program that provides **free** resources, training, and personalized expert guidance to help building stakeholders (owners, property managers, condo, and co-op boards) improve energy efficiency and reduce carbon emissions from privately owned buildings 5,000 square feet or larger.

- Offers no-cost building operator trainings and supports green workforce development.
- Connects building stakeholders directly with service providers to implement decarbonization projects.
- Helps buildings identify applicable financial incentives and financing, such as NYC Accelerator PACE.

+ NYC Accelerator experts conduct high-level building reviews to determine what solutions could be pursued to reduce carbon emissions and reach compliance.

- Provides guidance to building stakeholders for the type of services they should seek from the marketplace of engineers, contractors, and lenders.

+ **Already completed compliance assistance for 5,000 buildings.**
Contact NYC Accelerator Team of Experts

Web: accelerator.nyc/II97
Email: info@accelerator.nyc
Phone: 212-656-9202
Thank you!

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