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NYC Building Owners Seek Clarity on Local Law 97

BY DAVID WORFORD

New York City recently released proposed rules for a buildings emissions law that is set to go into effect in 2024 but many developers and landlords are still wondering how they'll meet the decarbonization deadline.

Local Law 97 caps carbon emissions on most buildings larger than 25,000 square feet in the city. The requirements get stricter over time, with a goal of eventually reducing emissions by 80% through 2050.

The law was passed in 2019 but has led to questions about how building owners will meet the standards. Earlier in October 2022, New York City released proposed rules to attempt to clarify how to determine each building's impact, the allowable emissions, and what needs to be done to make buildings compliant.

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Ariel Aufgang,
Principal, Aufgang.
An Architecture, Engineering, and Design
Consulting Group

The proposed rules include adding the types of buildings that are covered, outlining an emissions number per property type, ways to calculate a building's emissions from energy use, and offering ways to offset carbon emissions through renewable energy credits.

Local Law 97 is among the most ambitious building emissions regulations enacted by any city, according to Urban Green Council. It covers nearly 50,000 buildings in New York City, 41% of which are commercial. Buildings account for more than 37% of the city's emissions.

If building owners don't meet the requirements, they could be fined \$268 for every ton of emissions emitted above the specified limit. The proposed rules are open to public comment until a Nov. 14, 2022, hearing, and are expected to be finalized by the end of the year.

Building operators have questions

Until then, many building owners are unsure how to begin making improvements.

"Until all the variables are fixed, it is difficult to make any decisions," Durst Organization spokesperson Jordan Borowitz said in The City. The real estate company said in the New York Times it potentially faces millions of dollars in fines for its One Bryant Park building in Manhattan.

Ariel Aufgang, principal of the architecture, engineering, and design consulting group Aufgang, says the regulations are explicit and complex but need to be clarified. The firm has designed new and repurposed buildings in each of the city's five boroughs and has been working on reducing and eliminating fossil fuels for years, he says.

He says there are a variety of ways to make retrofits including solar installations and heat pumps. Incentives from the Inflation Reduction Act should also help accelerate energy-efficient improvements, Aufgang says. RMI reported after the federal legislation was passed that commercial building retrofits could help make at least 10% of the emissions reductions needed to hit US emissions goals.

“But success is in the details, and New York’s decarbonization regulations need to be clarified, and building owners and developers must be assured about the commitment of our elected leaders and regulators for consistency in these requirements,” Aufgang says.

What are some other building emissions initiatives?

Denver is another city that recently passed tough building emissions restrictions and building owners there have raised many of the same concerns as in New York. The Denver law could reduce building emissions there by 80% through 2040, according to the city. Seattle recently allocated \$2.3 million to get city-owned buildings off fossil fuels by 2035.

The Department of Energy is also distributing \$225 million to state and local governments as part of the Bipartisan Infrastructure Law to make buildings more energy efficient. New York has implemented other building energy programs, such as the NYC Carbon Challenge, which includes more than 3,000 buildings and hopes to reduce emissions by 1.5 million metric tons.

Overall, Local Law 97 requires a 40% reduction in building emissions by 2030 on a 2005 baseline. That will require a carbon reduction of 5.3 million metric tons, or the equivalent of San Francisco’s citywide emissions, according to the Urban Green Council.

In June 2022, the New York City Council approved \$2.4 million for the Department of Buildings Office of Building Energy Emissions Performance to oversee the implementation of the law. The first compliance report for the law will be due in May 2025.

“The release of these proposed rules, on track to meet our commitments under the law, is a critical step to provide the clarity property owners and industry professionals need as we approach the first emission cap deadline in 2024,” says Department of Buildings Commissioner Eric Ulrich.