

## FREQUENTLY ASKED QUESTIONS

### **1 RCNY 103-14: Procedures for Reporting on and Complying with Annual Greenhouse Gas Emissions for Certain Buildings**

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#### **ALTERNATIVE FUELS**

**Q1. Will Local Law 97 of 2019 ([Articles 320 & 321](#) of the 2022 NYC Administrative Code) rulemaking provide for the use of renewable natural gas as a path towards reducing building emissions?**

**A1.** The City will evaluate low or carbon free forms of energy as it implements Local Law 97. More guidance will be provided in the future.

#### **BENCHMARKING, ENERGY GRADES & OTHER RELATED LAWS**

**Q1. Does DOB plan on assessing potential overlap between Local Law 84 of 2009 (LL84) and Local Law 97 (LL97) to streamline compliance with both laws?**

**A1.** DOB is assessing the overlap and the interplay between various emissions and energy efficiency laws (i.e. LL84 and LL87) to streamline compliance requirements.

#### **BUILDING EMISSIONS LIMITS & PROPERTY TYPES**

**Q1. Are there minimum square footages when entering a space into Energy Star Portfolio Manager (ESPM) for the purposes of complying with LL97? How should ancillary spaces be treated? And how does an owner assign a property type to a vacant space?**

**A1.** There is no minimum square footage requirement when entering a space into ESPM for the purposes of complying with LL97. Where ancillary spaces serve multiple occupancy types, the ancillary space should be prorated and assigned proportionally across the different occupancy types in a building. DOB suggests that an owner work with a Registered Design Professional (RDP) to properly assign all the spaces in their property, including vacant and ancillary spaces. Future rulemaking will guide owners and RDPs on how to address vacant space in reporting.

**Q2. Did DOB account for all observable property types in New York City (NYC) in converting to ESPM property types?**

**A2.** The covered building uses should be assigned per the descriptions in the Property Types section of the Energy Star Portfolio Manager (ESPM) glossary. Every space use on every floor in the building must be assigned to a property type. Where ancillary spaces, including but not limited to shafts, stairwells or egress paths, mechanical spaces, and incidental uses, are associated with a single occupancy, they should be assigned that occupancy class. Where ancillary spaces serve multiple occupancy types, the ancillary space should be prorated and assigned proportionally

across the different occupancy types in a building. If you believe your property contains a property type not accounted for in DOB's conversion to ESPM property types, please contact [ghgemissions@buildings.nyc.gov](mailto:ghgemissions@buildings.nyc.gov).

- Q3. Does DOB plan on revising its conversion of New York City Building Code occupancy groups to ESPM property types?**
- A3. DOB continues to work closely with its partners at Energy Star to ensure it has properly characterized all the possible property types of LL97 covered buildings.
- Q4. I am the owner of a Local Law 97 (LL97) covered building with a property type that isn't listed specifically in [Rule 103-14](#), and I need help determining which Energy Star Portfolio Manager (ESPM) Property Type category is the right one for my LL97 greenhouse gas (GHG) emissions reporting. Can the Department help determine which ESPM Property Type categories are the most appropriate for my building?**
- A4. Owners must work with a [registered design professional \(RDP\)](#) to determine which ESPM Property Type categories best represent the uses in their building. The categories should be based on occupancy type, usage patterns, and energy consumption patterns. Owners and RDPs should refer to [Property Types in Portfolio Manager](#) to get started. Should an owner wish to have an ESPM category reviewed and approved by the Department prior to submission of a GHG emissions report, they must submit a [Construction Code Determination \(CCD1\)](#) for review. A CCD1 is not mandatory for LL97 reporting - owners are able to rely on the discretion of the RDP. As per [Section 28-101.5, Definitions](#), in the 2022 Administrative Code, a registered design professional is an architect or engineer that is **licensed to practice in New York State**.

## CARBON CAPTURE & STORAGE (CCS)

- Q1. Can my building use carbon capture and storage (CCS) as a compliance pathway for Local Law 97 of 2019 (LL97)?**
- A1. LL97 does not currently allow for the use of CCS as a compliance pathway for LL97, absent further government action. DOB is engaging with stakeholders to better understand how CCS technology works and what methodology is used to account for captured carbon and other criteria pollutants, including how much carbon is permanently removed through each phase of capture, transport, and mineralization with third-party verification. DOB is also seeking information on the scope and the landscape of markets that handle captured carbon.
- Q2. How does DOB review CCS permit applications?**
- A2. DOB reviews and approves applications for alternative materials, like CCS technology, in accordance with Section 28-113.2.2 of the 2022 Administrative Code. The evaluation required for approval under the Administrative Code requires alternative materials to comply *"with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety."* New technology like CCS is also reviewed by **the Innovation Review Board (IRB)** in accordance with Section 28-103.1.3 of the 2022 Administrative Code. The IRB includes representatives from DOB, the Department of Environmental Protection, the Department of Health and Mental Hygiene, the Department of Design and Construction, and the Department of City Planning. Other agencies that have participated in IRB review of CCS

technology are the Fire Department, the Department of Transportation, and the Department of Sanitation. Future applications for CCS technology will continue to be subject to these processes. Please note that the Building Sustainability Board (BSB) established by Executive Order from DOB also discussed the issue of CCS technology. BSB is made up of industry experts from both the public and private sector coming from a range of technical disciplines, such as architecture and engineering. For more information on the IRB and BSB, please visit the DOB's webpage at <https://www.nyc.gov/site/buildings/codes/sustainability-boards.page>.

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## **COMPLIANCE: COMMERCIAL TENANTS**

**Q1. Does LL97 provide a mechanism for issuing fines to a sub metered tenant with standalone energy systems?**

A1. LL97 does not provide a mechanism for issuing LL97-related fines to tenants.

## **COMPLIANCE: DISTRIBUTED ENERGY RESOURCES (DERs)**

**Q1. Can you clarify the allowable double-counting for clean DER?**

A1. DOB will be addressing the reporting of clean DERs in a filing guide.

## **COMPLIANCE: FINES**

**Q1. Will an owner be able to put the fines it would otherwise pay directly to the City toward upgrades to their property?**

A1. DOB is engaged in rulemaking related to penalties and is assessing all forms of assistance to building owners, which may include flexibility to achieve more aggressive emissions reductions over time, to ensure that buildings reduce their carbon emissions. Continue to check DOB's Rules webpage for updates at <https://www.nyc.gov/site/buildings/codes/rules.page>.

## **COMPLIANCE: OFFSETS**

### **Q1. What types of offsets has DOB deemed allowable under LL97?**

- A1. As directed by [§320.3.6.2 of the 2022 NYC Administrative Code](#), DOB is assessing the use of offsets and will engage in future rulemaking on this issue.

## **COMPLIANCE: OTHER**

### **Q1. Will DOB provide guidance regarding what must be included in an annual LL97 report?**

- A1. DOB will provide guidance regarding how to comply with LL97 reporting requirements.

## **LL97 COVERED BUILDINGS LIST**

### **Q1. How would the owner of a covered building demonstrate that the building qualifies for Exception #2 of the Covered Buildings definition in [§28-320.1](#) or Exception #1 of the Covered Buildings definition in [§28-321.1](#), “garden style apartments,” and should not be considered a covered building under Local Law 97 of 2019 (LL97)?**

- A1. The owner of a covered building must submit documentation signed and stamped by a registered design professional (RDP) including all the following information:
- documentation demonstrating the covered building is three stories or less.
  - DOF tax records classifying the covered building as residential Property Type
  - proof of the occupancy group on the CofO
  - provide a statement that no central HVAC or hot-water systems in the covered building serve more than 25,000 (2322.5 m<sup>2</sup>) gross square feet
  - provide a date stamped picture of the property, within the past year, with a geo-tag.
  - a single letter may cover multiple lots, blocks, or BBLs, as long as they are contiguous and under the same ownership in DOF records.

## **DOB NOW**

***“The alteration work in this application is intended to reduce carbon emissions in accordance with Local Law 97 of 2019.” (Applicant answers Yes or No)***

***If Yes, then ask the following question: “What is the Estimated Job Cost (\$) that directly supports LL97 compliance?”***

### **Q1. For alteration work, I’m being asked a question whether the alteration work is intended to reduce carbon emissions in accordance with Local Law 97 of 2019 (LL97). When should I select yes or no?**

- A1. You should select yes if the building undergoing an alteration is subject to LL97 and the scope of work of the alteration is intended to reduce carbon emissions. If a building is not subject to LL97

or the alteration work being done is not intended to reduce carbon emissions, then the applicant should select no.

**Q2. The alteration work that is in the scope of my application will effectively be more energy efficient due to updated Energy Codes. Should I include the cost estimate of this scope of work as intended to reduce carbon emissions?**

A2. The intent of this question is to get an understanding of what type of work is being done and how much it's costing to comply with LL97. The cost estimate should be provided for work done specifically for purposes of reducing carbon emissions (e.g., converting boiler to Heat Pump, lighting retrofit, adding heat recovery, façade replacement, etc.). We are not asking for the cost of any energy consuming equipment that is for a standard tenant fit out and by the nature may be more efficient and less carbon intense than the prior.

## **FUEL COEFFICIENTS**

**Q1. Why hasn't DOB released coefficients beyond 2034?**

A1. DOB needs to assess how the grid has changed before developing those coefficients. DOB plans to address coefficients beyond 2034 in future rulemaking. However, the state has indicated that the electric grid will be 100% carbon free by 2040.

## **FURTHER INFORMATION**

**Q1. Will DOB publish a comprehensive list of all incentives and rebates available to property owners?**

A1. Owners should reach out to the [NYC Accelerator](#) to obtain assistance in identifying available financing options for building retrofits and energy efficiency measures. DOB does outline a variety of resources on its website to support building owners with LL97 compliance. These resources include programs that provide technical assistance, PACE financing, and incentives the New York State Energy Research and Development Agency, National Grid, and ConEd. Find additional information at <https://www.nyc.gov/site/sustainablebuildings/tools-and-links/tools-and-links.page>.

## **FUTURE RULES**

**Q1. Will owners be penalized if the grid does not decarbonize as fast as expected?**

A1. DOB is engaged with partner agencies and utilities to ensure future rulemaking reflects realistic expectations regarding the decarbonization of the grid. Continue to visit the DOB Rules webpage for updates.

## **LAW STRUCTURE & METHODOLOGY**

### **Q1. Did DOB use benchmarking data prior to 2017 in the formulation of coefficients or limits?**

- A1. The emissions limits are based on an analysis that uses 2018 data. DOB has published a report containing the methodology of this analysis. To review a copy of the LL97 ESPM Methodology document visit the DOB's [Emissions Limits](#) webpage.

## **PENALTIES**

### **Q1. How will the lifespan of certain building equipment and systems effect LL97 compliance?**

- A1. DOB is engaged in rulemaking related to penalties and assessing issues related to the lifespan of certain building equipment and systems and efforts of building owners to reduce carbon emissions and increase energy efficiency.

## **POST-2050**

### **Q1. How does DOB intend to treat carbon starting in 2050?**

- A1. The City and New York State have set targets for carbon neutrality by 2050. Greenhouse gasses emitted into the atmosphere by any entity beyond 2050 will need to be offset.

## **RENEWABLE ENERGY CREDITS (RECs)**

### **Q1. Will DOB address RECs further beyond the issuance of [1 RCNY 103-14](#)?**

- A1. [1 RCNY 103-14](#) clarifies that RECs can only be applied to electricity emissions. DOB is assessing how to further address RECs in the future.

## **REPORTING REQUIREMENTS & CALCULATIONS**

### **Q1. What building energy use data is required for compliance with LL97 in 2025?**

- A1. When filing its LL97 report, a property is required to use the previous year's building energy use data. In other words, for compliance in 2025, the owner will provide data for calendar year 2024. This data will be based on information typically reported for compliance with LL84 (Energy Benchmarking), however other information may be required, depending on how an owner approaches compliance with LL97. Further detail will be addressed in future rulemaking and additional guidance issued by the Department.

### **Q2. What source does DOB recommend an owner use to determine and report on a property's gross square footage?**

- A2. How gross floor area is defined is not consistent across city agencies and differs based on each agency's mission. Per §320.3.7 of the 2022 NYC Administrative Code, the owner of a covered building is required to submit a report annually of GHG emissions, which is certified by a registered design professional (RDP). In the event of a discrepancy between a building's actual gross square

footage and a previously reported gross square footage for the building, we recommend that the owner work with RDP to provide DOB with the most accurate data possible, consistent with the definition of “gross floor area” in 1 RCNY 103-14.

If you believe your property is erroneously listed on the Covered Buildings List due to the square footage of your building, contact DOB at **[benchmarking@finance.nyc.gov](mailto:benchmarking@finance.nyc.gov)**. Please include the following in the email:

- the borough, block, and lot number of the building
- contact information: name, email address, telephone number and
- an explanation of your dispute.

## **UTILITIES, GRID PLANNING, & RENEWABLES**

**Q1. How is DOB using the implementation of LL97 to advocate with its partners for clean energy improvements to the grid?**

**A1.** DOB is working closely with utilities and government to reach our collective clean energy and energy efficiency goals. This includes ensuring 70% of all New York’s electricity comes from renewable sources by 2030 and 100% is carbon-free by 2040, as well prioritizing energy efficiency and ensuring the grid is resilient to meet new electricity demands.

*These FAQs have been provided for general information purposes only. The information provided through these FAQs does not relieve any person from compliance with Local Law 97 of 2019 ([Articles 320 & 321 of the 2022 NYC Administrative Code](#)) and other applicable laws and rules.*