New York City Department of Buildings Releases Proposed Rules Package for Local Law 97, the GHG Emissions Law

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As part of its ongoing efforts to implement Local Law 97 of 2019, the New York City Department of Buildings (DOB) recently released a package of four new proposed rules; the full text of these proposed rules can be found at Rule 1, Rule 2, Rule 3, and Rule 4. Local Law 97 establishes strict GHG emissions caps for "Covered Buildings," which essentially include all buildings over 25,000 square feet, subject to some exceptions. These GHG emissions caps went into effect on January 1, 2024, and become more stringent over time in five-year increments referred to as compliance periods. Beginning in May 2025, and each May thereafter, building owners are required to submit an annual GHG emissions report for their building. If the actual GHG emissions from the building exceed the GHG emissions cap established by the Law, the building owner will receive a penalty for non-compliance.

The initial compliance period is 2024-2029, when, according to DOB estimates, approximately 10-15 percent of Covered Buildings in the city will exceed the Law's GHG emissions caps. The second compliance period is 2030-2034, when the GHG emissions caps will be reduced by approximately 50 percent and the number of buildings facing Local Law 97 penalties will rise significantly. GHG emissions caps are reduced again in 2035 and 2040, until all Covered Buildings ultimately have a zero GHG emissions cap by 2050.

DOB has previously promulgated rules clarifying several important aspects of Local Law 97, including the methods by which building owners must calculate emissions, limitations on the use of Renewable Energy Certificates as a means of compliance, requirements for building owners seeking an adjustment to the statutory GHG emissions limits for certain "special circumstances," methods of penalty calculation and mitigation, and energy efficiency requirements for exempt buildings.

DOB's proposed new rules seek to further clarify Local Law 97 requirements in several areas. One proposed rule sets forth the requirements for applications for adjustments to the statutory GHG emissions caps for buildings that (1) cannot reasonably comply due to a physical or legal constraint (*e.g.*, buildings with landmark designations); and (2) are subject to a financial hardship. The rule also establishes requirements related to GHG offsets, which may be purchased by building owners to offset actual building emissions.

A second proposed rule establishes the methodology for building owners to calculate emissions related to on-site cogeneration facilities and campus-style electric systems. The new method of calculating emissions from cogeneration plants may provide significant relief for buildings that obtain all or some of their energy from cogeneration.

Finally, the proposed rules establish fees to be paid by building owners for certain applications submitted under Local Law 97, and modify the qualification requirements related to energy auditors.

DOB will hold public hearings on the proposed rules on November 4, 2024. Instructions for those who would like to virtually attend the hearings or otherwise provide comments on the proposed rules are available here.