



240 West 35th Street ■ Suite 302 ■ New York, New York 10001

Testimony on the Implementation of Local Law 97

Submitted to the City Council Committee on Housing and Buildings and Committee on Environmental Protection

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Alex Heil, Vice President for Research, Citizens Budget Commission

Thank you for the opportunity to submit testimony on Local Law 97 (LL97), New York City's ambitious greenhouse gas (GHG) emissions reduction law. I am Alex Heil, Vice President for Research at the Citizens Budget Commission (CBC), a nonprofit, nonpartisan think tank and watchdog dedicated to constructive change in the services, finances, and policies of the New York City and New York State governments.

LL97 can help the City reduce its GHG emissions in a cost-effective way, but only if it is implemented well. The City should use the flexibility in the law to balance the incentives to encourage building owners to reduce energy consumption and convert to low and no emission sources rather than just pay fines.

The law aims to cut emissions from large buildings 40 percent by 2030 and 80 percent by 2050 by setting limits, based on gross square footage and occupancy group, on the annual emissions of buildings larger than 25,000 square feet. Buildings with emissions above the limit will be assessed an annual fine of up to \$268 per metric ton. Emissions limits take effect in 2024 and become increasingly stringent in 2030 and five-year periods thereafter, requiring significant reductions for many affected buildings.

CBC found that today nearly one in four affected buildings do not comply with 2024 levels, rising to three in four when 2030 limits take effect. The median building will need to reduce emissions by 20 percent by 2024 and 33 percent by 2030, with 24 percent of buildings needing to cut emissions by more than half to comply with 2030 standards.

While some owners may be able to comply through relatively minor retrofits like installing thermostatic sensors of heating and cooling systems, for other buildings, compliance may require significant capital investments, including upgrades to the building envelope or the wholesale replacement of a cooling system. For these buildings, reducing emissions may be a costly, long-term effort.

In CBC's report *Balancing Incentives to Maximize Emission Reduction*, we identified four challenges that hinder LL97's ability to create the incentives for building owners to reduce emissions cost-effectively:

1. **Inadequate renewable energy supply:** If owners electrify building systems without a concurrent adequate increase in renewable energy supply, owners may still face fines.
2. **Disincentives for density and certain occupancy use types:** By using the metric of emissions per square foot, LL97 penalizes densely occupied buildings, disincentivizing building owners from hosting tenants that use space densely. Dense use can increase GHG per square foot but can be beneficial citywide. The law disincentivizes some economically important uses that are economically important, including data centers and restaurants;
3. **Lack of clarity and potential lack of feasibility of alternative compliance paths:** DOB rules will substantially affect how buildings will change to comply including the purchase of Renewable Energy Credits (RECS) or use of distributed energy resources. The lack of clarity now and in the future may hamper building owners' ability to plan for and implement changes needed to comply; in some cases, the process may leave insufficient time to design, finance, and complete retrofits ahead of the start of compliance in 2024; and
4. **The COVID-19 pandemic impact on the real estate market:** The pandemic's impact on the real estate market and economy may hamper owners' ability to make the major capital investments required by LL97 in a timely or economically viable manner.

The City can use the rulemaking process to overcome these challenges and secure needed emissions reductions. The Department of Buildings (DOB), in consultation with the advisory board, should tailor the policy and compliance rules to provide building owners the most cost-effective compliance paths. This will promote investments in emissions reduction rather than owners simply paying the penalties.

The following six steps will help ensure that citywide emissions reduction goals are met:

1. **Adjust credits appropriately for lack of renewable energy availability to encourage electrification:** If the greening of the grid is slower than established by the New York State Climate Leadership and Community Protection Act, the law's credits for beneficial electrification should be calculated accounting for those missed goals;

2. Expand allowable RECs to offshore wind and a portion of Tier 2 RECs: Provide buildings with flexibility while the New York City electric grid remains mostly fossil fuel-powered by allowing buildings to purchase unlimited amounts of RECs associated with downstate offshore wind projects and limited amounts of existing RECs from existing generation;
3. Specify, expand, and continue emission limit adjustments for density and specific uses: Alleviate counterproductive disincentives to density and certain economically vital uses by clearly adjusting and extending adjustments past the first compliance period;
4. Specify and extend need-based building-level adjustments: Set an accelerated, public timeline for rulemaking that includes critical rules governing limit adjustments and penalty mitigation and universal criteria so building owners can determine eligibility and adjusted requirements as-of-right, rather than through individual petitions. This will encourage building owners to begin planning for compliance in good faith;
5. Allow carbon trading within an owner's portfolio: Allow owners of multiple buildings to target the most cost-effective emissions reductions across their assets by establishing a carbon trading scheme that allows credits to be traded within a portfolio; and
6. Adjust limits and penalties appropriately to the post-pandemic economy: Study whether LL97 emissions limits or alternative compliance paths in the first compliance period should be modified due to permanent shifts in work patterns, delays in retrofit projects, or financial strain. Adjust limits as necessary to maintain citywide emissions targets.

Following these six recommendations will ensure that cost-effectiveness becomes a key component of meeting New York City's ambitious climate goals.

Thank you.