**FAQ from DOB’s Third LL97 Rule Package Webinar with Urban Green Council**

**Deductions from reported annual building emissions for offsets (the Affordable Housing Reinvestment Fund):**

**Q:** Can Article 321 buildings purchase offsets to achieve compliance with LL97?

**A:** An Article 321 building pursuing compliance pursuant §28-321.2.1, the emissions performance path, can purchase offsets to apply towards compliance, similar to an Article 320 building.

**Q:** What is the current anticipated inventory of offsets? Are there more available than the projected excess emissions?

**A:** There is an established pipeline of projects for the Affordable Housing Reinvestment Fund. DOB and HPD will be monitoring the offset purchases and responding to demand as necessary.

**Q:** Can you provide some information about how the third-party administrator is compensated for their role?

**A:** The City is finalizing the contract with the third-party administrator.

**Q:** If the offset value is 3-5 tons of GHG reductions per dwelling unit per year, over 20 years, do these need to be only purchased once every 20 years? Or do you have to buy them every year?

**A:** Offsets for LL97 compliance must be purchased each year the building owner intends to use them for LL97 compliance.

**Q:** What's the process for acquiring offsets? Any details on providers who can facilitate? Any preliminary information regarding costs?

**A:** The price for an offset representing one tCO2e will be $268. DOB, in collaboration with HPD and the fund administrator, will be publishing guidance early in 2025, on the process for purchasing offsets.

**Adjustments to annual building emission limits in accordance with section 28-320.7:**

**Q:** Can a building have an adjustment under multiple adjustment programs?

**A:** Yes, a building may qualify for an adjustment under multiple adjustment programs.

**Q:** Will you require audited financials to demonstrate debt service coverage ratio, increase costs, etc.-? How many years of financials are required?

**A:** DOB will provide templates that must be completed by a certified public accountant to show the building meets the applicable financial standard. The years of financial information required depend on the standard as follows:

(a) For buildings held in a condominium or cooperative form of ownership: a 3-year average increase in annual carrying charges per unit of 5% above the average rate of inflation for the same **3-year period**; or

(b) For buildings exempt from real property taxes pursuant to sections 420-a, 420-b, 446 or 462 of the real property tax law and applicable local law: the building owner had negative revenue after subtraction of expenses for the combined **2 years** prior to the application; or

(c) For buildings that are party to an affordable housing regulatory agreement and buildings with no debt: the building’s income-expense ratio **for the most recent calendar year**, as calculated pursuant to guidance issued by the department, is less than 1.05; or

(d) For all other building types: the building’s debt service coverage ratio **for the most recent calendar year**, as calculated pursuant to guidance issued by the department, is less than 1.15.

**Q:** What does avail of all incentives available mean?

**A:** For the 320.7 adjustment program, the NYC Accelerator will attest to this for the building owner’s adjustment application with DOB. DOB in collaboration with NYC Accelerator will be publishing guidance early in 2025 on the adjustment application process.

For the financial constraint adjustment, the building owner has to work with NYC Accelerator to develop a scope of work for achieving compliance with the building’s emissions limit, and NYC Accelerator will help the owner pursue all relevant city, state, federal, private, and utility incentives for such work, as well as programs funded by the city or enabled by local law that provide financing for the purposes of energy reduction or sustainability measures. Note, for building owners applying for the adjustment in 2025, the owner can submit the financial constraint template prepared by a Certified Public Accountant and an attestation from the NYC Accelerator that the full application process is underway.

For the 320.7 adjustment for external constraints, the building owner has to provide a technical explanation of the building’s efforts to achieve compliance with the annual building emissions limit to the maximum extent possible, including an attestation from the NYC Accelerator that the building availed itself of all city, state, federal, private, and utility incentive programs related to energy reduction or renewable energy, for which they could reasonably apply.

**GHG coefficients for qualified generation facilities (“cogen”):**

**Q:** If a cogen system and a boiler share the same gas line, how can we determine the gas used by cogen?

**A:** The total useful heat recovered, and total electricity produced by the cogen system, must be determined to calculate the average annual system efficiency. The system will need to be sub metered to determine the amount of gas used by the cogen system. If the system is not sub metered, the RDP may use an alternative methodology to determine the gas consumption of the system. Supporting documentation is required to confirm the methodology’s assumptions.

**Q:** What requirements will be in place for properly reporting the cogen output in a building?

**A:** The RDP will need to provide sub metered electricity and thermal output of the system. The LL97 reporting portal - Building Energy Analysis Manager (BEAM) - will allow the alternative GHG coefficient methodology to be used and supporting documentation to be uploaded.

**Q:** Must existing cogen systems cease operation after the phaseout or will they be able to continue to operate through their useful life? In other words, does the phaseout apply to new cogen systems only?

**A:** The proposed rule does not require that cogen systems discontinue operation. The proposed rule provides an alternative methodology (GHG coefficient) for qualified generation facilities that may be used until such systems are no longer cleaner than the grid, based on the annual operating efficiency of the system. The alternative methodology only applies to cogen systems permitted prior to September 1, 2024.

**Q:** For the cogen methodology, does the grid emissions consider baseline conditions, or marginal conditions (when peaker plants might be needed to meet demand)?

**A:** The alternative cogen methodology considers annual emissions, not marginal conditions. Note, owners may choose to report LL97 emissions using the Time of Use methodology, which considers marginal conditions.

**Filing Fees:**

**Q:** Filing fees are different for simple vs complex reports. What is the definition of each of those?

**A:** [See this brief on the LL97 reporting process for more information](https://www.nyc.gov/assets/buildings/pdf/ll97-compliance-report-process.pdf). A simple report is one building on a lot that is not sharing energy systems or utilizing deductions other than offsets and/or RECs. All other reports are considered complex.

Q: Is an extension required to be filed for Article 321 buildings where the 12/31/2024 construction is not met but will be by the 1st report filing due on May 1, 2025?

A: As long as the construction is complete and attested to by the May 1 2025 reporting date, an extension is not required.

**LL87:**

**Q:** For the LL87 amendment, does this only apply to buildings that also qualify for LL97 or is it across the board?

**A:** The amendments to 1 RCNY § 103-07 apply to all covered buildings under LL87. For buildings that have filed LL87 reports in the past and have accrued violations with unpaid penalties, those violations remain open and penalties are required to be paid.

**Q:** Is LL87 still done on the BBL? or planning to move it to BIN level similar to LL97?

**A:** LL87 compliance is required for each BIN on a BBL where the buildings together or separately meet the square foot threshold.