

**Comments to NYC DOB
Procedures for Complying with Annual GHG Emissions for Buildings
November 14, 2022**

The American Council of Engineering Companies of New York's (ACEC New York) thanks the NYC Department of Buildings for this opportunity to submit comments regarding the proposed rule.

ACEC New York represents close to 300 consulting engineering and affiliate firms throughout New York, with a concentrated presence in New York City. Our members design and plan the energy, mechanical, electrical structural, fire protection, plumbing, environmental, civil and technology systems for buildings and infrastructure Citywide.

We believe the rule is a major step forward in defining the process for compliance and answering unknowns that had remained since passage of the law. We appreciate the detail and clarity in much of the rule. That said, our Energy Code Committee provides the following observations and recommendations regarding the rule:

Recommendations:

- **DOB should issue Reference Guide required by Local Law 97 in form of DOB bulletin or bulletin.** Local Law 97 establishes an Advisory Board (AB). The law requires the AB to recommend “A reference guide to delineate the responsibilities of the building designer and owners to comply with emissions limits.” Such a guidance document will be critical to stakeholders for various reasons, including to make stakeholders’ responsibilities and necessary coordination clear; and to serve as reference to identify accountability in the case of noncompliance with the law’s requirements, such that corrective measures may be identified. We therefore recommend this reference guide be published in a formal NYC DOB rule or bulletin.
- **Lowered emissions factors may impact capital plans already in progress.** For many typologies, the emissions factors for 2030 are significantly lower than originally published, even inclusive of the lower emissions conversion factor for electrical utility consumption. This creates challenges for compliance and may impact capital planning that was set in motion based on the original law due to changes to emission allowances. Continuity related to 2030 penalties inclusive of lower emissions targets and lowered electrical conversion for all building typologies would add clarity and confidence for projects looking to make improvements going forward.
- **DOB should provide more detailed guidance on how to allocate Energy Star Portfolio Manage (ESPM) property types to various uses in the building.** For example, how granular of a breakdown is allowed and/or required? How should space types not included in ESPM but included in law be assigned (e.g. mechanical space, stairwells, etc)? Without clear guidance there will be inconsistencies in the reporting.
- **DOB should maintain responsibility for issuing Time of Use (TOU) hourly factors ILO of industry.** The proposed TOU methodology is very complex and requires multiple datasets. Without an authoritative single source of TOU information, building owners

will either choose to opt out of using TOU or there will be inconsistencies across the industry in calculation methods.

- **“Good Faith Efforts” should be defined.** The proposed rule does not discuss the criteria or demonstration requirements for owners pursuing Good Faith Efforts to comply with the law. This is critical in a timely fashion for buildings facing 2024 penalties.

Observations:

- It is unclear how the rule will affect buildings that have already pursued and obtained an adjustment for excessive emissions, special uses, or not-for-profit hospitals. Suggest further clarity on when adjustments remain.
- Please confirm that gross floor area will no longer need to be consistent with the reported gross floor area on file with the Department of Finance, which excludes below grade spaces and mechanical rooms.

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