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Comments on the proposed LL97 rules issued by the Department of Buildings on September 12, 2023.

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NYC-EJA and CW4A have serious concerns with the rules proposed by DOB on September 12th, as they offer loopholes that would delay some buildings' effective compliance with the law and allow them to continue polluting without facing penalties.

Our major concerns include the following:

- The proposed rules gives DOB new authority and discretion to mitigate penalties and allow mediated resolutions.
 - LL97 already sets in place an “adjustment” process for building owners who have difficulty meeting their annual emissions limits, but language in the proposed rules gives DOB new authority to set up a “mediated resolution” process instead. This could allow DOB to adjust a building’s emissions limits even without the owners demonstrating that they have truly tried to comply with LL97’s requirements to the maximum extent possible.
- The proposed definition of ‘good faith efforts’ is too broad and offers too many loopholes
 - (as many have stated before me) The current definition would give building owners up to 2 years to delay compliance if they submit a “decarbonization plan” which is deeply concerning.

AND FINALLY

- The proposed rules fail to set a limit on the use of Renewable Energy credits as required by LL77 of 2023 and share any analysis of how the 3 items in regard to RECs mentioned in the law have been considered, specifically EJ impacts. This is in spite of the LL97 advisory board and a report from the NYC Comptroller's office both recommend a limit on the use of RECs!
 - Limiting RECs to electricity is a step in the right direction, but without additional restrictions RECs could severely undermine the impact of LL97. By strictly limiting RECs to 10% of a building’s emissions overage, DOB can ensure that buildings transition off of fossil fuel sources and reduce air pollution, thereby reducing the

use of outdated and inefficient technologies, making our homes and workplaces safe, and protecting residents of environmental justice communities.

We are calling on the DOB to revise the proposed rules to ensure that penalties cannot be evaded, good faith provisions are not taken advantage of, and a limitation on the use of RECs be clearly included.