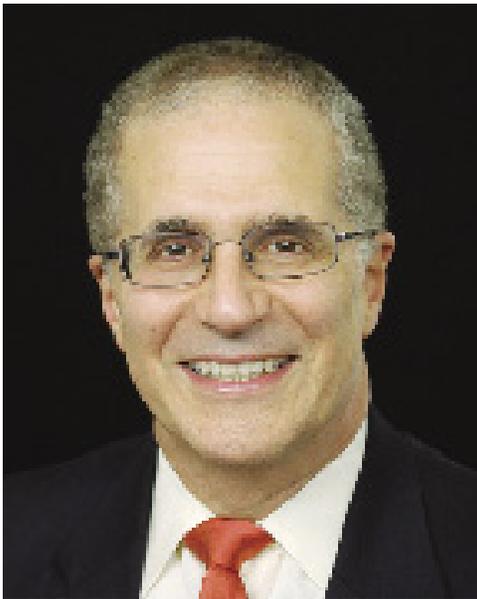


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N.Y.C.'s Greener, Greater Buildings Plan: The time is NOW



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In 2009, mayor Bloomberg, as part of PlaNYC 2030, signed four pieces of legislation regulating the energy and water N.Y.C. Affecting over 20,000 publicly- and privately-owned buildings in NYC, the mayor's "Greener, Greater Buildings Plan" touted itself as being "the most comprehensive set of efficiency laws in the nation." With many of the stated deadlines for compliance with two of these Local Laws - Local Laws 84 and 87 - either past or rapidly-approaching, we expect there to be an increase in litigation and enforcement actions, unless building owners act quickly.

The "benchmark" requirement of Local Law 84, which is intended to assess the "current state" of the relevant buildings - the starting point against which improvements may be measured - has already passed:

For "city buildings" - defined to include (with exceptions) a building (of more than 10,000 gross square feet) that is owned by the city, or for which the city regularly pays all or part of the annual energy bills - the benchmarking was to be completed by May 1, 2010.

For "covered buildings" - defined to include (with exceptions) (i) a building that exceeds 50,000 gross square feet, (ii) two or more buildings on the same tax lot that together exceed 100,000 gross square feet, or (iii) two or more buildings held in the condominium form of ownership that are governed by the same board of managers and that together exceed 100,000 gross square feet - the benchmarking deadline was May 1, 2011.

However, although this benchmark law has passed, it seems unlikely that all of the 20,000 buildings have met these requirements. Moreover, these energy and water-use benchmarking requirements are an annual requirement, with new reports due by May of each year.

As for Local Law 87, it requires building efficiency audits to be performed every 10 years for those same 20,000 "city buildings" and "covered buildings". Based on the results of the audits, Local Law 87 also requires, in certain instances, either retrofitting

(replacement of non-compliant systems) or retro-commissioning (fine-tuning of non-compliant systems), generally within one year of completion of the energy audit.

Deadlines, deadlines, and more deadlines!

The deadlines for Local Law 84 have passed. But the deadlines for Local Law 87 compliance have not: the first set of energy audits will be due in 2013, for those buildings whose tax block number ends in 3 - that's next year! For those buildings whose tax block number ends in 4, their energy audits will be due in 2014, and so on.

Benchmarking the water and energy use of buildings is the first step, with the energy audit and the retrofitting and retro-commissioning being the second step to ultimately meeting the Greener, Greater Buildings Plan's goal of reducing energy and water use in the city by 5% reduction below 2005 greenhouse gas emission levels by 2030.

Building managers who are not very familiar with environmental reporting requirements may be surprised to learn that there are penalties for non-compliance, and thus potential enforcement actions that may land them in court, with all the headaches attendant on such litigation.

To sum up: the deadlines for compliance with Local Laws 84 and 87 have either already passed or are rapidly approaching. Moreover, one compliance deadline can trigger additional compliance deadlines which generally must be met within a relatively short (e.g., one year) time frame. It is therefore imperative that building owners make every effort to avoid non-compliance with the Greener, Greater Building Plan before it's too late - which is when the city finds out about it.

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