Environmental Protection

Emily Lloyd
Commissioner

Angela Licata
Deputy Commissioner
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59-17 Junction Boulevard
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LEAD AGENCY DECLARATION AND NOTICE OF INTENT TO CONDUCT AN ENVIRONMENTAL REVIEW

April 10, 2015

Revisions to the New York City Air Pollution Control Code

CEQR No. 15DEP025Y

The New York City Council is proposing to enact a Local Law by request of the Mayor to amend the Administrative Code of the City of New York, in relation to the Air Pollution Control Code ("the Air Code"). The proposed legislation, known as New York City Council Introduction Number 271-A, would amend numerous sections and create new sections of the Air Code. The Air Code, which is contained within Chapter 1 of Title 24 of the Administrative Code, regulates New York City's air quality in addition to regulations set forth through state and federal standards.

In accordance with New York City Executive Order 91 of 1977 as amended, and Title 62 of the Rules of the City of New York, Chapter 5 (Rules of Procedure for City Environmental Quality Review (CEQR)), including section 5-03(d), the City Council and the Office of the Mayor are co-lead agencies for local legislation actions. This section further states that either of these agencies may at any time delegate to the other its lead agency status. As indicated on the two attached documents, on April 8, 2015, the City Council delegated its lead agency status to the Office of the Mayor and the Office of the Mayor subsequently transferred its lead agency status to the New York City Department of Environmental Protection (DEP). Therefore, DEP has declared itself lead agency for the environmental review of the proposed action and the City Council and Office of the Mayor will serve as involved agencies for this action.

The Environmental Assessment Statement is attached for review.

If you have any comments or questions, please contact:

Lorraine Farrell
Deputy Director
Bureau of Environmental Planning and Analysis
New York City Department of Environmental Protection
59-17 Junction Boulevard, 11th Floor
Flushing, NY 11373
phone: (718) 595-4542
email: lfarrell@dep.nyc.gov

Sincerely,

Angela Licata
Deputy Commissioner

Enclosures:

c: Hon. Ruben Diaz, Jr. – Bronx Borough President
Hon. Eric Adams – Brooklyn Borough President
Hon. Gale Brewer – Manhattan Borough President
Hon. Melinda Katz – Queens Borough President
Hon. James Oddo – Staten Island Borough President
Hon. Melissa Mark-Viverito – Speaker, City Council
Hon. Donovan J. Richards – Chair, Environmental Protection, City Council
Jeffrey Baker – Infrastructure Division, City Council
Nilda Mesa – Mayor's Office of Sustainability
Stephen Ackerman – New York City Corporation Counsel
John Cryan – New York State Department of Environmental Conservation
Michael McSweeney – New York City Clerk
Daniel Kass – New York City Department of Health and Mental Hygiene
Constadino (Gus) Sirakis – New York City Department of Buildings
Emily Lloyd – New York City Department of Environmental Protection

THE COUNCIL
OF
THE CITY OF NEW YORK
CITY HALL
NEW YORK, N.Y. 10007

April 8, 2015

Nilda Mesa, Director
Mayor's Office of Environmental Coordination
100 Gold Street, 2nd Floor
New York, NY 10038

Re: Delegation of CEQR Lead Agency Status for Int. 271-A-2014

Dear Director Mesa:

In accordance with New York City Executive Order 91 of 1977, as amended, and Title 62 of the Rules of the City of New York, Chapter 5 (Rules of Procedure for City Environmental Quality Review (CEQR)), including section 5-03(d), the City Council and the Office of the Mayor are co-lead agencies for local laws. This section further states that either of these agencies may at any time delegate to the other its lead agency status, leaving the other party as the sole lead agency.

Pursuant to this provision of the CEQR Rules, the City Council delegates its lead agency status to the Office of the Mayor for the above referenced project, which will involve local legislation. This delegation is undertaken as a result of discussions between the City Council and the Office of the Mayor and has been agreed to by both agencies.

Please let us know if you have any questions about this delegation.

Sincerely,

Jeffrey Baker, Deputy Director for Infrastructure
For the City Council

c: Reggie Thomas, First Deputy Director, Mayor's Office of City Legislative Affairs

THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, NY 10007

April 8, 2015

Angela Licata
Deputy Commissioner
NYC Department of Environmental Protection
59-17 Junction Boulevard
Flushing, NY 11373

RE: CEQR Transfer of Lead Agency Status for Int. 271-A-2014

Dear Deputy Commissioner Licata:

In accordance with New York City Executive Order 91 of 1977 as amended, and Title 62 of the Rules of the City of New York, Chapter 5 (Rules of Procedure for City Environmental Quality Review (CEQR)), including section 5-03(d), (h), and (i), the New York City Office of the Mayor transfers lead agency status to the New York City Department of Environmental Protection (DEP) for the above-referenced action. This transfer is pursuant to discussions between the Office of the Mayor and DEP, and has been agreed to by both agencies.

Please let me know if you have any questions.

Sincerely,

Nilda Mesa
Assistant to the Mayor

c: Reggie Thomas, First Deputy Director, Mayor's Office of City Legislative Affairs

Environmental Protection

Emily Lloyd
Commissioner

Angela Licata
Deputy Commissioner
of Sustainability
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NEGATIVE DECLARATION

Notice of Determination of Non-Significance

April 10, 2015

Revisions to the New York City Air Pollution Control Code

CEQR No. 15DEP025Y

This Negative Declaration for the proposed Local Law to amend the administrative code of the City of New York, in relation to the Air Pollution Control Code ("the Air Code") of chapter 1 of title 24 of such code has been prepared in accordance with the City Environmental Quality Review Act (CEQR) process as set forth in Executive Order 91 of 1977 and amendments, and Article 8 of the Environmental Conservation Law establishing the State Environmental Quality Review Act (SEQRA) and its regulations as set forth in 6NYCRR Part 617. The New York City Department of Environmental Protection (DEP) was delegated the role of lead agency for the environmental review of the proposed action. Based on a review of information about the project contained in the environmental assessment statement and any attachments hereto, which are incorporated by reference herein, the DEP has determined that the proposed revisions would not have a significant adverse effect on the environment and is herein publishing a Negative Declaration.

PROJECT DESCRIPTION

The New York City Council is proposing to enact a Local Law by request of the Mayor to amend the Administrative Code of the City of New York in relation to the Air Pollution Control Code ("the Air Code"). The proposed legislation would amend numerous sections and create new sections of the Air Code. The Air Code regulates New York City's air quality in addition to regulations set forth through state and federal standards. The DEP is responsible for updating and enforcing the Air Code which has the goal to preserve, protect and improve the air quality of the City.

The proposed action seeks to (1) eliminate obsolete, outdated, and unused provisions and conform to New York state and federal standards where applicable; (2) create greater flexibility to adopt the most current technologies and fuels using rule making authority; and (3) limit emissions and adopt cost-effective controls for certain uncontrolled sources. In addition, the air code amendment would include provisions related to (1) promulgating rules that define the best available retrofit technology, and (2) financial hardship waivers. The proposed revisions to the Air Code will be available from the New York City Council website at http://legistar.council.nyc.gov/Legislation.aspx by searching for Intro 271-A-2014.

PURPOSE AND NEED

Section 24-102 of the Administrative Code of the City of New York declares that it is the public policy of the City to preserve, protect, and improve the air resources of the City because every person is entitled to air that is not detrimental to life, health, and enjoyment of property. Specifically, Section 24-102 declares that it is the policy of the city to actively regulate, control and reduce air pollution. Section 1403(c) of the Charter of the City of New York and Section 24-105 of the Administrative Code authorize the commissioner to regulate and control the emissions of harmful air pollutants into the open air. These pollutants include PM, SO_2, NO_x, and CO.

Over the past two decades, as federal, state, and local regulations have strengthened air quality standards, New York City's air quality has dramatically improved. PlaNYC was developed to address the challenges posed by population growth, climate change, aging infrastructure, and an evolving economy. Air quality is one of the target areas of interest addressed in PlaNYC. And specifically, the Air Code revisions are highlighted as one of the initiatives in PlaNYC. This initiative is aimed at improving New York City air quality.

The DEP recognized that revisions to the Air Code were needed. The Air Code has not undergone a comprehensive overhaul and revision since 1975. Instead, it has been revised in a sporadic and piecemeal manner. This incomplete revision has made the Air Code inflexible to new types of technologies, does not take into account new scientific findings, and is difficult to comply with. Updating the Air Code would streamline compliance processes and encourage innovative ways to reduce local sources of pollution while maintaining rigorous standards to protect public health. The Air Code revisions would improve local conditions and would be aligned with the city's goal set forth in PlaNYC to "achieve the cleanest air quality of any big U.S. city."

STATEMENT OF NO SIGNIFICANT EFFECT

The DEP has determined that, as proposed, the revisions to the Air Code are not anticipated to have any potential significant adverse impacts on the quality of the environment. No significant adverse impacts are anticipated to occur to socioeconomic conditions, air quality or public health. Overall air quality within the City would improve and public health would benefit in having the proposed revisions in place. These conclusions are based on the information and analyses contained within the attached EAS.

SUPPORTING STATEMENTS

The above determination is based on an environmental assessment which finds that the project, as proposed, would not result in significant effects on the environment that would require the preparation of an Environmental Impact Statement.

For further information, please contact:

Lorraine Farrell
Deputy Director
Bureau of Environmental Planning and Analysis
New York City Department of Environmental Protection
59-17 Junction Boulevard, 11th Floor
Flushing, NY 11373
Phone: (718) 595-4542
email: lfarrell@dep.nyc.gov

Sincerely,

Angela Licata
Deputy Commissioner

Enclosures:

c: Hon. Ruben Diaz, Jr. – Bronx Borough President
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Constadino (Gus) Sirakis – New York City Department of Buildings
Emily Lloyd – New York City Department of Environmental Protection

City Environmental Quality Review
ENVIRONMENTAL ASSESSMENT STATEMENT (EAS) SHORT FORM

FOR UNLISTED ACTIONS ONLY • *Please fill out and submit to the appropriate agency* (see instructions)

Part I: GENERAL INFORMATION

1. *Does the Action Exceed Any Type I Threshold in 6 NYCRR Part 617.4 or 43 RCNY §6-15(A) (Executive Order 91 of 1977, as amended)?* ☐ YES ☒ NO

If "yes," **STOP** and **complete the FULL EAS FORM**.

2. *Project Name* Revisions to the New York City Air Pollution Control Code

3. *Reference Numbers*

CEQR REFERENCE NUMBER (to be assigned by lead agency)	BSA REFERENCE NUMBER (if applicable)
15DEP025Y	
ULURP REFERENCE NUMBER (if applicable)	OTHER REFERENCE NUMBER(S) (if applicable) (*e.g.*, legislative intro, CAPA) Intro No. 271-A

4a. *Lead Agency Information*			**4b. *Applicant Information***		
NAME OF LEAD AGENCY New York City Department of Environmental Protection			NAME OF APPLICANT New York City Department of Environmental Protection		
NAME OF LEAD AGENCY CONTACT PERSON Angela Licata, Deputy Commissioner			NAME OF APPLICANT'S REPRESENTATIVE OR CONTACT PERSON Michael Gilsenan, Assistant Commissioner		
ADDRESS 59-17 Junction Boulevard, 11th Floor			ADDRESS 59-17 Junction Boulevard, 11th Floor		
CITY Flushing	STATE NY	ZIP 11373	CITY Flushing	STATE NY	ZIP 11373
TELEPHONE 718-595-4398	EMAIL alicata@dep.nyc.gov		TELEPHONE 718-595-4543	EMAIL michaelgi@dep.nyc.gov	

5. *Project Description*

The New York City Council is proposing to enact a Local Law by request of the Mayor to amend the Administrative Code of the City of New York, in relation to the Air Pollution Control Code ("the Air Code"). These amendments would eliminate obsolete, outdated, and unused provisions and conform to New York state and federal standards where applicable; create greater flexbility to adopt the most current technologies and fuels using rule making authority; and limit emissions and adopt cost-effective controls for certain uncontrolled sources. See Attachment A.

Project Location

BOROUGH	COMMUNITY DISTRICT(S)	STREET ADDRESS
Citywide	Citywide	Citywide
TAX BLOCK(S) AND LOT(S) Citywide		ZIP CODE Citywide
DESCRIPTION OF PROPERTY BY BOUNDING OR CROSS STREETS N/A		
EXISTING ZONING DISTRICT, INCLUDING SPECIAL ZONING DISTRICT DESIGNATION, IF ANY N/A		ZONING SECTIONAL MAP NUMBER N/A

6. *Required Actions or Approvals* (check all that apply)

***City Planning Commission*:** ☐ YES ☒ NO ☐ UNIFORM LAND USE REVIEW PROCEDURE (ULURP)

☐ CITY MAP AMENDMENT	☐ ZONING CERTIFICATION	☐ CONCESSION
☐ ZONING MAP AMENDMENT	☐ ZONING AUTHORIZATION	☐ UDAAP
☐ ZONING TEXT AMENDMENT	☐ ACQUISITION—REAL PROPERTY	☐ REVOCABLE CONSENT
☐ SITE SELECTION—PUBLIC FACILITY	☐ DISPOSITION—REAL PROPERTY	☐ FRANCHISE
☐ HOUSING PLAN & PROJECT	☐ OTHER, explain:	

☐ SPECIAL PERMIT (if appropriate, specify type: ☐ modification; ☐ renewal; ☐ other); EXPIRATION DATE:

SPECIFY AFFECTED SECTIONS OF THE ZONING RESOLUTION

***Board of Standards and Appeals*:** ☐ YES ☒ NO

☐ VARIANCE (use)

☐ VARIANCE (bulk)

☐ SPECIAL PERMIT (if appropriate, specify type: ☐ modification; ☐ renewal; ☐ other); EXPIRATION DATE:

SPECIFY AFFECTED SECTIONS OF THE ZONING RESOLUTION

***Department of Environmental Protection*:** ☐ YES ☒ NO If "yes," specify:

Other City Approvals Subject to CEQR (check all that apply)

- ☒ LEGISLATION
- ☐ RULEMAKING
- ☐ CONSTRUCTION OF PUBLIC FACILITIES
- ☐ 384(b)(4) APPROVAL
- ☐ OTHER, explain:
- ☐ FUNDING OF CONSTRUCTION, specify:
- ☐ POLICY OR PLAN, specify:
- ☐ FUNDING OF PROGRAMS, specify:
- ☐ PERMITS, specify:

Other City Approvals Not Subject to CEQR (check all that apply)

- ☐ PERMITS FROM DOT'S OFFICE OF CONSTRUCTION MITIGATION AND COORDINATION (OCMC)
- ☐ LANDMARKS PRESERVATION COMMISSION APPROVAL
- ☐ OTHER, explain:

***State or Federal Actions/Approvals/Funding*:** ☐ YES ☒ NO If "yes," specify:

7. *Site Description:* *The directly affected area consists of the project site and the area subject to any change in regulatory controls. Except where otherwise indicated, provide the following information with regard to the directly affected area.*

***Graphics*:** *The following graphics must be attached and each box must be checked off before the EAS is complete. Each map must clearly depict the boundaries of the directly affected area or areas and indicate a 400-foot radius drawn from the outer boundaries of the project site. Maps may not exceed 11 x 17 inches in size and, for paper filings, must be folded to 8.5 x 11 inches.*

- ☐ SITE LOCATION MAP
- ☐ ZONING MAP
- ☐ SANBORN OR OTHER LAND USE MAP
- ☐ TAX MAP
- ☐ FOR LARGE AREAS OR MULTIPLE SITES, A GIS SHAPE FILE THAT DEFINES THE PROJECT SITE(S)
- ☐ PHOTOGRAPHS OF THE PROJECT SITE TAKEN WITHIN 6 MONTHS OF EAS SUBMISSION AND KEYED TO THE SITE LOCATION MAP

Physical Setting (both developed and undeveloped areas)

Total directly affected area (sq. ft.): N/A
Waterbody area (sq. ft) and type: N/A
Roads, buildings, and other paved surfaces (sq. ft.): N/A
Other, describe (sq. ft.): N/A

8. *Physical Dimensions and Scale of Project* (if the project affects multiple sites, provide the total development facilitated by the action)

SIZE OF PROJECT TO BE DEVELOPED (gross square feet): N/A
NUMBER OF BUILDINGS: N/A
GROSS FLOOR AREA OF EACH BUILDING (sq. ft.): N/A
HEIGHT OF EACH BUILDING (ft.): N/A
NUMBER OF STORIES OF EACH BUILDING: N/A

Does the proposed project involve changes in zoning on one or more sites? ☐ YES ☒ NO
If "yes," specify: The total square feet owned or controlled by the applicant:
The total square feet not owned or controlled by the applicant:

Does the proposed project involve in-ground excavation or subsurface disturbance, including, but not limited to foundation work, pilings, utility lines, or grading? ☐ YES ☒ NO
If "yes," indicate the estimated area and volume dimensions of subsurface permanent and temporary disturbance (if known):
AREA OF TEMPORARY DISTURBANCE: sq. ft. (width x length) VOLUME OF DISTURBANCE: cubic ft. (width x length x depth)
AREA OF PERMANENT DISTURBANCE: sq. ft. (width x length)

Description of Proposed Uses (please complete the following information as appropriate)

	Residential	***Commercial***	***Community Facility***	***Industrial/Manufacturing***
Size (in gross sq. ft.)	N/A	N/A	N/A	N/A
Type (*e.g.,* retail, office, school)	N/A units	N/A	N/A	N/A

Does the proposed project increase the population of residents and/or on-site workers? ☐ YES ☒ NO
If "yes," please specify: NUMBER OF ADDITIONAL RESIDENTS: NUMBER OF ADDITIONAL WORKERS:
Provide a brief explanation of how these numbers were determined:

Does the proposed project create new open space? ☐ YES ☒ NO If "yes," specify size of project-created open space: sq. ft.

Has a No-Action scenario been defined for this project that differs from the existing condition? ☐ YES ☒ NO
If "yes," see Chapter 2, "Establishing the Analysis Framework" and describe briefly:

9. *Analysis Year* CEQR Technical Manual Chapter 2

ANTICIPATED BUILD YEAR (date the project would be completed and operational): See Attachment A
ANTICIPATED PERIOD OF CONSTRUCTION IN MONTHS: No construction period; See Attachment A
WOULD THE PROJECT BE IMPLEMENTED IN A SINGLE PHASE? ☐ YES ☐ NO IF MULTIPLE PHASES, HOW MANY?
BRIEFLY DESCRIBE PHASES AND CONSTRUCTION SCHEDULE:

10. *Predominant Land Use in the Vicinity of the Project* (check all that apply)

☐ RESIDENTIAL ☐ MANUFACTURING ☐ COMMERCIAL ☐ PARK/FOREST/OPEN SPACE ☒ OTHER, specify: N/A

Part II: TECHNICAL ANALYSIS

INSTRUCTIONS: For each of the analysis categories listed in this section, assess the proposed project's impacts based on the thresholds and criteria presented in the CEQR Technical Manual. Check each box that applies.

- If the proposed project can be demonstrated not to meet or exceed the threshold, check the "no" box.
- If the proposed project will meet or exceed the threshold, or if this cannot be determined, check the "yes" box.
- For each "yes" response, provide additional analyses (and, if needed, attach supporting information) based on guidance in the CEQR Technical Manual to determine whether the potential for significant impacts exists. Please note that a "yes" answer does not mean that an EIS must be prepared—it means that more information may be required for the lead agency to make a determination of significance.
- The lead agency, upon reviewing Part II, may require an applicant to provide additional information to support the Short EAS Form. For example, if a question is answered "no," an agency may request a short explanation for this response.

	YES	NO
1. *LAND USE, ZONING, AND PUBLIC POLICY*: CEQR Technical Manual Chapter 4		
(a) Would the proposed project result in a change in land use different from surrounding land uses?	☐	☒
(b) Would the proposed project result in a change in zoning different from surrounding zoning?	☐	☒
(c) Is there the potential to affect an applicable public policy?	☐	☒
(d) If "yes," to (a), (b), and/or (c), complete a preliminary assessment and attach.		
(e) Is the project a large, publicly sponsored project?	☐	☒
o If "yes," complete a PlaNYC assessment and attach.		
(f) Is any part of the directly affected area within the City's Waterfront Revitalization Program boundaries?	☒	☐
o If "yes," complete the Consistency Assessment Form. See Attachment C		
2. *SOCIOECONOMIC CONDITIONS*: CEQR Technical Manual Chapter 5		
(a) Would the proposed project:		
o Generate a net increase of 200 or more residential units?	☐	☒
o Generate a net increase of 200,000 or more square feet of commercial space?	☐	☒
o Directly displace more than 500 residents?	☐	☒
o Directly displace more than 100 employees?	☐	☒
o Affect conditions in a specific industry?	☐	☒
3. *COMMUNITY FACILITIES*: CEQR Technical Manual Chapter 6		
(a) Direct Effects		
o Would the project directly eliminate, displace, or alter public or publicly funded community facilities such as educational facilities, libraries, hospitals and other health care facilities, day care centers, police stations, or fire stations?	☐	☒
(b) Indirect Effects		
o **Child Care Centers:** Would the project result in 20 or more eligible children under age 6, based on the number of low or low/moderate income residential units? (See Table 6-1 in Chapter 6)	☐	☒
o **Libraries:** Would the project result in a 5 percent or more increase in the ratio of residential units to library branches? (See Table 6-1 in Chapter 6)	☐	☒
o **Public Schools:** Would the project result in 50 or more elementary or middle school students, or 150 or more high school students based on number of residential units? (See Table 6-1 in Chapter 6)	☐	☒
o **Health Care Facilities and Fire/Police Protection:** Would the project result in the introduction of a sizeable new neighborhood?	☐	☒
4. *OPEN SPACE*: CEQR Technical Manual Chapter 7		
(a) Would the proposed project change or eliminate existing open space?	☐	☒
(b) Is the project located within an under-served area in the Bronx, Brooklyn, Manhattan, Queens, or Staten Island?	☒	☐
o If "yes," would the proposed project generate more than 50 additional residents or 125 additional employees?	☐	☒
(c) Is the project located within a well-served area in the Bronx, Brooklyn, Manhattan, Queens, or Staten Island?	☒	☐
o If "yes," would the proposed project generate more than 350 additional residents or 750 additional employees?	☐	☒
(d) If the project in located an area that is neither under-served nor well-served, would it generate more than 200 additional residents or 500 additional employees?	☐	☒

	YES	NO
5. *SHADOWS*: CEQR Technical Manual Chapter 8		
(a) Would the proposed project result in a net height increase of any structure of 50 feet or more?	☐	☒
(b) Would the proposed project result in any increase in structure height and be located adjacent to or across the street from a sunlight-sensitive resource?	☐	☒
6. *HISTORIC AND CULTURAL RESOURCES*: CEQR Technical Manual Chapter 9		
(a) Does the proposed project site or an adjacent site contain any architectural and/or archaeological resource that is eligible for or has been designated (or is calendared for consideration) as a New York City Landmark, Interior Landmark or Scenic Landmark; that is listed or eligible for listing on the New York State or National Register of Historic Places; or that is within a designated or eligible New York City, New York State or National Register Historic District? (See the GIS System for Archaeology and National Register to confirm)	☐	☒
(b) Would the proposed project involve construction resulting in in-ground disturbance to an area not previously excavated?	☐	☒
(c) If "yes" to either of the above, list any identified architectural and/or archaeological resources and attach supporting information on whether the proposed project would potentially affect any architectural or archeological resources.		
7. *URBAN DESIGN AND VISUAL RESOURCES*: CEQR Technical Manual Chapter 10		
(a) Would the proposed project introduce a new building, a new building height, or result in any substantial physical alteration to the streetscape or public space in the vicinity of the proposed project that is not currently allowed by existing zoning?	☐	☒
(b) Would the proposed project result in obstruction of publicly accessible views to visual resources not currently allowed by existing zoning?	☐	☒
8. *NATURAL RESOURCES*: CEQR Technical Manual Chapter 11		
(a) Does the proposed project site or a site adjacent to the project contain natural resources as defined in Section 100 of Chapter 11?	☐	☒
o If "yes," list the resources and attach supporting information on whether the proposed project would affect any of these resources.		
(b) Is any part of the directly affected area within the Jamaica Bay Watershed?	☒	☐
o If "yes," complete the Jamaica Bay Watershed Form, and submit according to its instructions. See Attachment D		
9. *HAZARDOUS MATERIALS*: CEQR Technical Manual Chapter 12		
(a) Would the proposed project allow commercial or residential uses in an area that is currently, or was historically, a manufacturing area that involved hazardous materials?	☐	☒
(b) Does the proposed project site have existing institutional controls (*e.g.*, (E) designation or Restrictive Declaration) relating to hazardous materials that preclude the potential for significant adverse impacts?	☐	☒
(c) Would the project require soil disturbance in a manufacturing area or any development on or near a manufacturing area or existing/historic facilities listed in Appendix 1 (including nonconforming uses)?	☐	☒
(d) Would the project result in the development of a site where there is reason to suspect the presence of hazardous materials, contamination, illegal dumping or fill, or fill material of unknown origin?	☐	☒
(e) Would the project result in development on or near a site that has or had underground and/or aboveground storage tanks (*e.g.*, gas stations, oil storage facilities, heating oil storage)?	☐	☒
(f) Would the project result in renovation of interior existing space on a site with the potential for compromised air quality; vapor intrusion from either on-site or off-site sources; or the presence of asbestos, PCBs, mercury or lead-based paint?	☐	☒
(g) Would the project result in development on or near a site with potential hazardous materials issues such as government-listed voluntary cleanup/brownfield site, current or former power generation/transmission facilities, coal gasification or gas storage sites, railroad tracks or rights-of-way, or municipal incinerators?	☐	☒
(h) Has a Phase I Environmental Site Assessment been performed for the site?	☐	☒
o If "yes," were Recognized Environmental Conditions (RECs) identified? Briefly identify:	☐	☐
10. *WATER AND SEWER INFRASTRUCTURE*: CEQR Technical Manual Chapter 13		
(a) Would the project result in water demand of more than one million gallons per day?	☐	☒
(b) If the proposed project located in a combined sewer area, would it result in at least 1,000 residential units or 250,000 square feet or more of commercial space in Manhattan, or at least 400 residential units or 150,000 square feet or more of commercial space in the Bronx, Brooklyn, Staten Island, or Queens?	☐	☒
(c) If the proposed project located in a separately sewered area, would it result in the same or greater development than the amounts listed in Table 13-1 in Chapter 13?	☐	☒
(d) Would the proposed project involve development on a site that is 5 acres or larger where the amount of impervious surface would increase?	☐	☒
(e) If the project is located within the Jamaica Bay Watershed or in certain specific drainage areas, including Bronx River, Coney Island Creek, Flushing Bay and Creek, Gowanus Canal, Hutchinson River, Newtown Creek, or Westchester Creek, would it involve development on a site that is 1 acre or larger where the amount of impervious surface would increase?	☐	☒

	YES	NO
(f) Would the proposed project be located in an area that is partially sewered or currently unsewered?	☐	☒
(g) Is the project proposing an industrial facility or activity that would contribute industrial discharges to a Wastewater Treatment Plant and/or generate contaminated stormwater in a separate storm sewer system?	☐	☒
(h) Would the project involve construction of a new stormwater outfall that requires federal and/or state permits?	☐	☒
11. *SOLID WASTE AND SANITATION SERVICES*: CEQR Technical Manual Chapter 14		
(a) Using Table 14-1 in Chapter 14, the project's projected operational solid waste generation is estimated to be (pounds per week): N/A		
o Would the proposed project have the potential to generate 100,000 pounds (50 tons) or more of solid waste per week?	☐	☒
(b) Would the proposed project involve a reduction in capacity at a solid waste management facility used for refuse or recyclables generated within the City?	☐	☒
12. *ENERGY*: CEQR Technical Manual Chapter 15		
(a) Using energy modeling or Table 15-1 in Chapter 15, the project's projected energy use is estimated to be (annual BTUs): N/A		
(b) Would the proposed project affect the transmission or generation of energy?	☐	☒
13. *TRANSPORTATION*: CEQR Technical Manual Chapter 16		
(a) Would the proposed project exceed any threshold identified in Table 16-1 in Chapter 16?	☐	☒
(b) If "yes," conduct the screening analyses, attach appropriate back up data as needed for each stage and answer the following questions:		
o Would the proposed project result in 50 or more Passenger Car Equivalents (PCEs) per project peak hour?	☐	☒
If "yes," would the proposed project result in 50 or more vehicle trips per project peak hour at any given intersection? ***It should be noted that the lead agency may require further analysis of intersections of concern even when a project generates fewer than 50 vehicles in the peak hour. See Subsection 313 of Chapter 16 for more information.*	☐	☐
o Would the proposed project result in more than 200 subway/rail or bus trips per project peak hour?	☐	☒
If "yes," would the proposed project result, per project peak hour, in 50 or more bus trips on a single line (in one direction) or 200 subway trips per station or line?	☐	☐
o Would the proposed project result in more than 200 pedestrian trips per project peak hour?	☐	☒
If "yes," would the proposed project result in more than 200 pedestrian trips per project peak hour to any given pedestrian or transit element, crosswalk, subway stair, or bus stop?	☐	☐
14. *AIR QUALITY*: CEQR Technical Manual Chapter 17		
(a) *Mobile Sources*: Would the proposed project result in the conditions outlined in Section 210 in Chapter 17?	☐	☒
(b) *Stationary Sources*: Would the proposed project result in the conditions outlined in Section 220 in Chapter 17?	☐	☒
o If "yes," would the proposed project exceed the thresholds in Figure 17-3, Stationary Source Screen Graph in Chapter 17? (Attach graph as needed)	☐	☐
(c) Does the proposed project involve multiple buildings on the project site?	☐	☒
(d) Does the proposed project require federal approvals, support, licensing, or permits subject to conformity requirements?	☐	☒
(e) Does the proposed project site have existing institutional controls (*e.g.*, (E) designation or Restrictive Declaration) relating to air quality that preclude the potential for significant adverse impacts?	☐	☒
15. *GREENHOUSE GAS EMISSIONS*: CEQR Technical Manual Chapter 18		
(a) Is the proposed project a city capital project or a power generation plant?	☐	☒
(b) Would the proposed project fundamentally change the City's solid waste management system?	☐	☒
(c) If "yes" to any of the above, would the project require a GHG emissions assessment based on the guidance in Chapter 18?	☐	☐
16. *NOISE*: CEQR Technical Manual Chapter 19		
(a) Would the proposed project generate or reroute vehicular traffic?	☐	☒
(b) Would the proposed project introduce new or additional receptors (see Section 124 in Chapter 19) near heavily trafficked roadways, within one horizontal mile of an existing or proposed flight path, or within 1,500 feet of an existing or proposed rail line with a direct line of site to that rail line?	☐	☒
(c) Would the proposed project cause a stationary noise source to operate within 1,500 feet of a receptor with a direct line of sight to that receptor or introduce receptors into an area with high ambient stationary noise?	☐	☒
(d) Does the proposed project site have existing institutional controls (*e.g.*, (E) designation or Restrictive Declaration) relating to noise that preclude the potential for significant adverse impacts?	☐	☒
17. *PUBLIC HEALTH*: CEQR Technical Manual Chapter 20		
(a) Based upon the analyses conducted, do any of the following technical areas require a detailed analysis: Air Quality;	☐	☒

	YES	NO
Hazardous Materials; Noise?		
(b) If "yes," explain why an assessment of public health is or is not warranted based on the guidance in Chapter 20, "Public Health." Attach a preliminary analysis, if necessary.		
18. *NEIGHBORHOOD CHARACTER*: CEQR Technical Manual Chapter 21		
(a) Based upon the analyses conducted, do any of the following technical areas require a detailed analysis: Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Open Space; Historic and Cultural Resources; Urban Design and Visual Resources; Shadows; Transportation; Noise?	☐	☒
(b) If "yes," explain why an assessment of neighborhood character is or is not warranted based on the guidance in Chapter 21, "Neighborhood Character." Attach a preliminary analysis, if necessary.		
19. *CONSTRUCTION*: CEQR Technical Manual Chapter 22		
(a) Would the project's construction activities involve:		
○ Construction activities lasting longer than two years?	☐	☒
○ Construction activities within a Central Business District or along an arterial highway or major thoroughfare?	☐	☒
○ Closing, narrowing, or otherwise impeding traffic, transit, or pedestrian elements (roadways, parking spaces, bicycle routes, sidewalks, crosswalks, corners, *etc.*)?	☐	☒
○ Construction of multiple buildings where there is a potential for on-site receptors on buildings completed before the final build-out?	☐	☒
○ The operation of several pieces of diesel equipment in a single location at peak construction?	☐	☒
○ Closure of a community facility or disruption in its services?	☐	☒
○ Activities within 400 feet of a historic or cultural resource?	☐	☒
○ Disturbance of a site containing or adjacent to a site containing natural resources?	☐	☒
○ Construction on multiple development sites in the same geographic area, such that there is the potential for several construction timelines to overlap or last for more than two years overall?	☐	☒
(b) If any boxes are checked "yes," explain why a preliminary construction assessment is or is not warranted based on the guidance in Chapter 22, "Construction." It should be noted that the nature and extent of any commitment to use the Best Available Technology for construction equipment or Best Management Practices for construction activities should be considered when making this determination.		

20. *APPLICANT'S CERTIFICATION*

I swear or affirm under oath and subject to the penalties for perjury that the information provided in this Environmental Assessment Statement (EAS) is true and accurate to the best of my knowledge and belief, based upon my personal knowledge and familiarity with the information described herein and after examination of the pertinent books and records and/or after inquiry of persons who have personal knowledge of such information or who have examined pertinent books and records.

Still under oath, I further swear or affirm that I make this statement in my capacity as the applicant or representative of the entity that seeks the permits, approvals, funding, or other governmental action(s) described in this EAS.

APPLICANT/REPRESENTATIVE NAME	DATE
Angela Licata, Deputy Commissioner	04/10/2015

SIGNATURE 

PLEASE NOTE THAT APPLICANTS MAY BE REQUIRED TO SUBSTANTIATE RESPONSES IN THIS FORM AT THE DISCRETION OF THE LEAD AGENCY SO THAT IT MAY SUPPORT ITS DETERMINATION OF SIGNIFICANCE.

Part III: DETERMINATION OF SIGNIFICANCE (To Be Completed by Lead Agency)

INSTRUCTIONS: In completing Part III, the lead agency should consult 6 NYCRR 617.7 and 43 RCNY § 6-06 (Executive Order 91 or 1977, as amended), which contain the State and City criteria for determining significance.

1. For each of the impact categories listed below, consider whether the project may have a significant adverse effect on the environment, taking into account its (a) location; (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude.

IMPACT CATEGORY	Potentially Significant Adverse Impact YES	NO
Land Use, Zoning, and Public Policy	☐	☒
Socioeconomic Conditions	☐	☒
Community Facilities and Services	☐	☒
Open Space	☐	☒
Shadows	☐	☒
Historic and Cultural Resources	☐	☒
Urban Design/Visual Resources	☐	☒
Natural Resources	☐	☒
Hazardous Materials	☐	☒
Water and Sewer Infrastructure	☐	☒
Solid Waste and Sanitation Services	☐	☒
Energy	☐	☒
Transportation	☐	☒
Air Quality	☐	☒
Greenhouse Gas Emissions	☐	☒
Noise	☐	☒
Public Health	☐	☒
Neighborhood Character	☐	☒
Construction	☐	☒

2. Are there any aspects of the project relevant to the determination of whether the project may have a significant impact on the environment, such as combined or cumulative impacts, that were not fully covered by other responses and supporting materials? ☐ ☒

If there are such impacts, attach an explanation stating whether, as a result of them, the project may have a significant impact on the environment.

3. Check determination to be issued by the lead agency:

☐ **Positive Declaration**: If the lead agency has determined that the project may have a significant impact on the environment, and if a Conditional Negative Declaration is not appropriate, then the lead agency issues a *Positive Declaration* and prepares a draft Scope of Work for the Environmental Impact Statement (EIS).

☐ **Conditional Negative Declaration:** A *Conditional Negative Declaration* (CND) may be appropriate if there is a private applicant for an Unlisted action AND when conditions imposed by the lead agency will modify the proposed project so that no significant adverse environmental impacts would result. The CND is prepared as a separate document and is subject to the requirements of 6 NYCRR Part 617.

☒ **Negative Declaration:** If the lead agency has determined that the project would not result in potentially significant adverse environmental impacts, then the lead agency issues a *Negative Declaration*. The *Negative Declaration* may be prepared as a separate document (see template) or using the embedded Negative Declaration on the next page.

4. ***LEAD AGENCY'S CERTIFICATION***

TITLE	LEAD AGENCY
Deputy Commissioner	New York City Department of Environmental Protection
NAME	DATE
Angela Licata	04/10/2015
SIGNATURE	

ATTACHMENT A – PROJECT DESCRIPTION

INTRODUCTION

The New York City Council is proposing to enact a Local Law by request of the Mayor to amend the Administrative Code of the City of New York, in relation to the Air Pollution Control Code ("the Air Code"). The Air Code, contained within Chapter 1 of Title 24 of the Administrative Code, regulates New York City's air quality in addition to regulations set forth through state and federal standards. The New York City Department of Environmental Protection (DEP) is responsible for updating and enforcing the Air Code which has the goal to preserve, protect and improve the air quality of the City.

Specifically, the proposed action would amend Chapter 1 of the Air Code to: (1) eliminate obsolete, outdated, and unused provisions and conform to New York State and federal standards where applicable, (2) create greater flexibility to adopt the most current technologies and fuels using rule making authority, and (3) limit emissions and adopt cost-effective controls for certain uncontrolled sources.

Pursuant to City Environmental Quality Review (CEQR), this document analyzes the potential environmental impacts, including a cost benefit analysis, of the proposed amendments to the Air Code.

PROPOSED AIR POLLUTION CONTROL CODE REVISIONS

The Proposed Revised Air Code will be available from the New York City Council website at http://legistar.council.nyc.gov/Legislation.aspx by searching for Intro 271-A-2014. The specific updates proposed for the Air Code revisions are discussed in further detail below.

(1) Eliminate Obsolete, Outdated and Unused Air Code Provisions
Eliminating old, outdated and unused provisions would bring the Air Code into conformance with state and federal standards. The proposed revisions include: (1) incorporating new standards from the New York State Department of Environmental Conservation (DEC) to be consistent with the allowable emissions of particulates from various areas including boiler emissions and air contaminant ratings, and (2) clarifying and removing outdated standards to reflect current emission standards for emission testing, including smoke tests and fuel burning equipment.

(2) Simplify Compliance and Streamline Permitting
The Air Code revisions would simplify compliance and streamline the permitting process by incorporating high technology enhancements and creating greater flexibility to adopt the most current technologies through rule making authority. The commissioner shall have the authority to promulgate rules to permit and encourage new environmentally beneficial technologies as they develop.

To simplify compliance, revisions to the Air Code would include:

- Increasing the threshold for boiler registrations from 2.8 million Btu per hour to 4.2 million Btu per hour. By increasing the threshold, more boilers can be filed through the registration process, which is a simpler form that is currently available for on-line filing. Requiring registrations, not more cumbersome forms to track sources that emit pollutants can reduce work permit review turnaround time by 25 percent.

- Requiring Combustion Efficiency Tests for all permits, reducing the time applicants can respond to a disapproval determination from 60 to 45 days as the number of disapprovals would be less, reducing work load. This combustion efficiency test would also detect malfunctions, and result in more efficient boiler operation. More efficient combustion in the City would result in less fuel usage and less pollution emitted.

To streamline the permitting process, revisions to the Air Code would include:

- Enhancements to DEP's Clean Air Tracking System (CATS) by allowing for online permitting, thereby making it easier to review and access applications and would expedite processing of permits,

- Integrating Work Permits and Certificates of Operation for boilers, and

- Adding hand-held combustion analyzer technology to field inspections, yielding cleaner air emissions and cost efficiencies of 3-5 percent for owners. Hand held combustion analyzers would allow for direct determinations of combustion efficiency and simultaneous emission measurements of more pollutants such as flue gas oxygen and carbon monoxide. Such a device would enable the owner or installer to make necessary tune ups in a more efficient manner.

(3) Limit Emissions from Uncontrolled Sources

It is proposed to revise the Air Code to include new regulations that would limit particulate emissions from previously uncontrolled sectors. These units include char broilers, fireplaces, wood and coal fired ovens, outdoor wood boilers, and mobile food vehicles. It should be noted that the provisions for outdoor wood boilers would incorporate existing DEC requirements. These proposed Air Code revisions would decrease the levels of harmful pollutants emitted into the air. Emissions of particulate matter (PM) are associated with negative health impacts including decreased lung function, aggravated asthma respiratory symptoms and premature death[1]. The proposed revisions would limit emissions (primarily particulate matter) for certain uncontrolled sources. Approximately 1,427 tons of PM per year would be reduced as a result of the proposed revisions. Reduction of particulate matter would protect and improve air quality and public health within New York City, thereby enhancing the quality of life for all New Yorkers.

The proposed revisions to limit emissions for each affected source are discussed further below.

[1] http://www.epa.gov/ttn/oarpg/naaqsfin/pmhealth.html

Commercial Char broilers

- New commercial char broilers (chain-driven and under-fired) or any existing chain-driven char broiler that cooks more than 875 pounds of meat per week shall be equipped with a catalytic oxidizer or other control devices as established by the commissioner. The commissioner may also promulgate rules, on or after January 1, 2020, to regulate emissions from char broilers that cook less than 875 pounds of meat per week.

- Records shall be maintained showing the amount of meat purchased each month. If such amount is greater than 3,750 pounds, such records shall also show the amount of meat cooked per week.

- Rules for existing under-fired char broilers would be promulgated no sooner than three years from the effective date of the Air Code, allowing for advances in control technology.

- All char broilers would require a registration.

Fireplaces

- Residential and commercial fireplaces shall not be used as a primary source of heat, except during emergencies.

- New aesthetic residential or commercial fireplaces would be required to operate only on natural gas. Use of natural gas would be beneficial to the environment as natural gas burns cleaner and emits less air pollution.

- Fireplaces with a closed grate would be able to use certain renewable fuels.

- Existing fireplaces shall use wood with a moisture content not to exceed 20 percent, which would result in a cleaner burn, resulting in less harmful pollutants being emitted into the air.

Cook Stoves

- New wood or coal ovens used for the preparation of food for on-site consumption or retail purchase without the use of control systems as established by the commissioner would be prohibited.

- Existing coal and wood burning ovens must install a control system to meet an emission based standard, as established by the commissioner, by 2020.

Outdoor Wood Boilers

This revised section incorporates by reference existing DEC regulations which include the following:

- The use of a fuel other than clean wood would be prohibited to be burned in an outdoor wood boiler.

- Outdoor wood boilers with a thermal output rating less than or equal to 250,000 Btu/hr must:
    - be certified to meet 6 NYCRR 247.8,
    - be located at least 100 feet from the nearest property boundary line, and
    - be equipped with a permanent stack that is at least 18 feet above ground level.
- Outdoor wood boilers with a thermal output rating greater than 250,000 Btu/hr may not be used.

Mobile Food Vending Units

- Mobile food trucks must idle in order to prevent food from spoiling. However, the auxiliary engines that power these trucks can be dirty and inefficient and can generate odors and fumes. This new provision would control emissions by providing an incentive for mobile food vendors to bring their auxiliary engines up to the latest EPA standards (EPA Tier IV engine or better) or use an alternative fuel. Mobile food vendors who use cleaner engines would have the registration fee for these engines waived provided that cleaner engine is installed within 18 months of the effective date of this section. The registration fee waiver would remain in effect for twelve years or for the duration of the life of the engine, whichever is shorter, provided the engine is registered with DEP.

Wood Burning Heaters

- No person shall operate any wood burning heater unless it is used solely for aesthetic purposes and operates solely on renewable fuel.

(4) Additional Proposed Air Code Revisions

As itemized below, the proposed legislation would amend numerous sections, and create new sections of the Air Code. Below is a summary of the revisions including a comparison of the revised provisions to the current Air Code and other relevant existing laws and regulations.

SUBCHAPTER 1: SHORT TITLE, POLICY, AND DEFINITIONS

24-104 Definitions. This revised section removes outdated definitions, adds new terms including renewable fuels and biodiesel as per Local Law 43 of 2010; defines key terms that were undefined such as generator and flare; defines new terms for new regulations including commercial charbroiler and fireplace; and updates existing language to reflect developments in technology and federal, state, and local regulation of air contaminants.

SUBCHAPTER 2: GENERAL PROVISIONS

24-105 General powers of the commissioner. This section was clarified by expressly adding that the commissioner has the authority to promulgate rules to permit and encourage new

environmentally beneficial technologies as they develop. The commissioner may establish by rule any fees relevant to the provisions of the Air Code.

24-107 Testing by order of commissioner. This revised section now establishes that for any equipment or fuel violation, the commissioner shall order the owner to cure the defect within 30 days.

24-109 Registrations. This section was rewritten and condensed to (1) add affirmative language that there may be other emission sources, such as portable equipment, portable generators, emergency generators, cogeneration systems, flares, gas stations, and commercial charbroilers, that require a registration and that the commissioner may by rule require such a registration, (2) change the requirement from "in the aggregate" Btu measurement to equipment based rating measurement and raised the certificate to operate threshold to 4.2 mBtu/hr (from 2.8 mBtu/hr), and (3) add the requirement that all generators shall receive a permit, pass a smoke test and incorporate the EPA engine tier schedule (40 CFR 89.102). A smoke test shall not apply to a new generator registered for the first time if it is certified to Tier IV. However, upon renewal, the smoke test requirements would apply.

24-110 Variances. This revised section (1) deletes the requirement to publish variances in the City Record, (2) allows variances to governmental agencies, and (3) creates a provision pursuant to which the commissioner may grant variances from the Air Code under emergency conditions.

SUBCHAPTER 3: REFUSE BURNING EQUIPMENT; INCINERATORS AND CREMATORIUMS

24-118 Installation of refuse burning equipment, municipal equipment, incinerators and crematoriums. This section has been renamed from *"Installation of refuse burning equipment, other than municipal prohibited; new installation"*. This revised section (1) adds crematoriums to the list of municipal locations that may burn materials as is allowed by subpart 219-4 to be consistent with what is permitted by DEC and (2) adds that equipment operated on behalf of DSNY in connection with solid waste disposal or processing is permissible for energy generation or other resource recovery, subject to separate independent environmental review for any proposed project, or 3) other resource recovery, as established by rule, is permissible for energy generation.

SUBCHAPTER 4: WORK PERMITS AND CERTIFICATES OF OPERATION

24-120 Installation and alteration; work permit required. This section has been renamed from *"Installation and alteration; permit required"*. This revised section clarifies that permits refers to work permits.

24-121 Work permits, exemptions. This section has been renamed from *"Permits, exemptions"*. This revised section (1) deleted outdated sections including internal combustion engines to power motor vehicles, (2) clarified that all permits refer to work permits, (3) exempted D environmental ratings automatically and C ratings would be exempted based on a certain threshold of less than 2,000 cubic feet per minute, and (4) added the requirement to require a combustion efficiency test.

24-122 Certificates of operation and renewal of certificates of operation; when required. This revised section changed the equipment testing time period to provide for a total of 60 days, allowing the applicant another 30 days to test should there be a need to repair the equipment upon notification to the DEP.

24-127 Expiration of work permits. This section has been renamed from *"Cancellation of installation and alteration permits"*. This section keeps the requirement that the commissioner can cancel a permit for not installing equipment within one year for newly constructed buildings, but allows for an extension if made 30 days before the expiration date. If it does expire, a new work permit shall be filed if an application for reinstatement is not filed within one year of the expiration date of the work permit. An expired work permit can be reinstated if it is filed within one year of the expiration date of the work permit.

24-130 Action on applications for work permits and certificates of operation. This section has been renamed from *"Action on applications for permits and certificates"*. This revised section reduces the review period from 60 days to 45 days in which to approve or disapprove an application and adds a follow-up procedure to allow the DEP to cancel the application after 45 days of serving the disapproval notice.

SUBCHAPTER 5: ASBESTOS.

This subchapter has been renamed from Fee Schedules and the provisions of that subchapter have been deleted because as described in section 24–105 the commissioner may establish by rule any fees relevant to the provisions of the Air Code. This new subchapter incorporates Local Laws 35-39 of 2009 and contains the following provisions as enumerated in the Local Laws:

24-136 Asbestos work.

24-137 Enforcement of the labor law.

24-138 Asbestos abatement permit.

24-139 Smoking at abatement sites.

SUBCHAPTER 6: EMISSION STANDARDS

24-141 Emission of odorous air contaminants. The section has been renamed from *"Emission of air contaminant"*. This revised section (1) makes clear that it is regulating odorous air contaminants and steam, (2) deleted the list as it is difficult to develop standards and measurements for air contaminants, and (3) incorporates DEC standards through the specific emission sections including Environmental Ratings.

24-142 Emission of air contaminants; standard smoke chart. This section established the EPA Method 9 approach or subsequent methods to determine the opacity of emissions.

24-143 Emission of air contaminant from internal combustion engine; visibility standard. This revised section (1) added "continuously" to the 90 yards provision and made the Notice of Violation chargeable to the registered owner or operator, and (2) deleted external combustion engine.

24-145 Emission of particulates. This revised section incorporates by reference current EPA and DEC standards, (40 CFR 63 JJJJJJ; 6 NYCRR subpart 219 et seq.) and specifies that refuse burning emissions is allowable from crematoriums, infectious waste incinerators and for the purpose of energy generation.

24-146 Preventing dust from becoming airborne; spraying of insulating material and demolition regulated. This section was re-written to prohibit activities that cause dust to become airborne without taking precautions to be established by rule. The general requirements for insulating materials are being turned into a rule and a new section has been written to authorize an abatement order should any provision in this section be violated.

24-147 Emission of nitrogen oxides. This revised section incorporates by reference the DEC regulations that established emissions standards based upon the size and fuel type of a boiler (6 NYCRR subpart 227-2).

24-148 Architectural coatings; solvent. This revised section incorporates by reference the standards set forth in 6 NYCRR subpart 205 et seq., by prohibiting the use of those coatings that do not meet the volatile organic compounds levels as established by DEC.

24-149.1 Outdoor wood boilers. This new section incorporates by reference the existing DEC regulations which prohibit the use of a fuel, other than clean wood, to be burned in an outdoor wood boiler. Such boilers that are 250,000 Btu/hr or less must be certified to meet 6 NYCRR subpart 247.8 which includes being at least 100 feet from the nearest property line and a stack that must be at least 18 feet above ground. No person shall operate an outdoor wood boiler that is in excess of 250,000 Btu/hr (DEP is being stricter than DEC).

24-149.2 Fireplaces. This new section requires that new aesthetic fireplaces operate only on natural gas and fireplaces with a closed grate would use certain renewable fuels as defined in this

code or as otherwise defined by rule. The EPA approved emission standard for inserts is incorporated by reference. Existing fireplaces shall use wood with a moisture content not to exceed 20 percent. Also included is an explicit provision for the use of fireplaces during emergencies.

24-149.3 Wood burning heaters. This new section prohibits persons from operating any wood burning heater unless it is used solely for aesthetic purposes and operates solely on renewable fuel as defined in this code or as otherwise defined by rule. Wood burning heaters shall comply with 40 CFR Part 60.

24-149.4 Commercial char broilers. This new section requires that any new commercial char broiler or any existing chain-driven char broiler that cooks more than 875 pounds of meat per week shall be equipped with a catalytic oxidizer or other control devices as established by the commissioner. Also, on or after January 1, 2020, the Commissioner may promulgate rules regulating emissions from char broilers that cook 875 pounds or less of meat per week. Records shall be maintained showing the amount of meat purchased each month. If such amount is greater than 3,750 pounds, such records shall also show the amount of meat cooked per week. The commissioner shall promulgate rules for existing under-fired restaurants, but no sooner than three years from the effective date of the Code. All char broiler restaurants shall obtain a registration.

24-149.5 Cook stoves. This new section prohibits new wood or coal ovens for on-site consumption without the use of control systems as established by the commissioner. Existing wood or coal ovens must install a control system to meet an emission based standard by 2020.

24-149.6 Stationary engines. This new section (1) requires that an engine be certified to Tier IV emission standards established by the EPA on or after January 1, 2018 if the generator is being registered for the first time; and (2) adds a requirement for the renewal of generators to be as stringent with Tier IV emissions as of January 1, 2025. An exception is created if the stationary engine is used as an emergency generator.

24-153 Emissions of air contaminant; environmental ratings. This revised section incorporates DEC regulations (6 NYCRR Part 212 et seq.) for environmental ratings which contain new emission standards and criteria and delineates when air cleaning is needed.

SUBCHAPTER 7: EQUIPMENT AND APPARATUS: USE AND MAINTENANCE

24-163.1 Purchase of cleaner light-duty and medium-duty vehicles. Adds a provision that enables the city to opt out of the requirement of purchasing a ZEV if the city lacks the charging and fueling infrastructure to support use of such a vehicle or if operational constraints prevent the use of ZEVs. The next highest rated vehicle shall be selected.

24-163.2 Alternative fuel buses and sanitation vehicles. Adds a provision that alternative buses are not required for purchase if the only available alternative fuel bus that meets the needs of such agency with respect to bus size, passenger capacity or other special requirement costs more than fifty percent more than other buses that meet such needs of such agency.

24-163.3 Use of ultra-low sulfur diesel fuel (ULSDF) and best available technology (BAT) in nonroad vehicles. This revised section (1) added that BAT can include Tier IV and subsequent standards, (2) clarified the 20 day calendar year exception to explain that it is a total of 20 calendar days and that it is per type of equipment, and (3) requires that the BAT be chosen from the nonroad engine family as opposed to using onroad technology that CARB/EPA certifies as BAT for that particular engine class.

24-163.9 Retrofitting of and age limitations on diesel fuel-powered school buses. This revised section requires that pre-2007 Type A and B buses used for student transport on behalf of the Department of Education must be retired sooner than they would under the existing code. The proposal would require pre-2007 Type A and B school buses to be retired from the Department of Education fleet by September 1, 2020, three years sooner than would have been required under the current code. The existing code currently requires all diesel fuel powered school buses to be retired sixteen years from date of manufacture. The proposal sets forth the accelerated timeframe for these types of buses to be retired, as they cannot be retrofitted with a closed crankcase ventilation system, as required by the current code, due to spatial constraints. The proposed provision would allow the Department of Education to achieve a cleaner school bus fleet more rapidly.

24-163.12 Mobile food vending units. This new section would encourage the use of an auxiliary engine that meets applicable Tier IV emissions standards established by the EPA or uses an alternative fuel as a truck equipped with such engine would be exempt from paying the registration fee for these engines provided that auxiliary engine is installed within 18 months of the effective date of this section. The registration fee waiver would remain in effect for twelve years or for the duration of the life of the engine, whichever is shorter, provided the engine is registered with DEP.

SUBCHAPTER 8: FUEL STANDARDS

24-168 Use of proper fuel in fuel burning equipment. This revised section (1) adds bioheating requirements as per Local Law 43 of 2010, (2) requires heat and hot water boilers to use No. 2 fuel oil, No. 4 fuel oil, and/or natural gas by 2020 and by January 1, 2030, the equipment shall use No. 2 fuel oil or natural gas, and (3) requires all diesel powered generators to use ULSDF.

24-168.1 Clean heating oil. The existing section creates a new subdivision which shall require that building owners who receive shipments of heating oil maintain such records as may be required by the commissioner by rule and make available such records for inspection and audit

by the department for a period of up to three years. Such records may be maintained electronically.

24-169 Sulfur content of fuel restricted. This revised section deleted the old sulfur content and added the new sulfur contents as per Local Law 43 and added the waiver provisions should there be an insufficient supply of No. 2 fuel oil.

24-173 Use of coal. This revised section makes it illegal to burn coal for heating other than for utilities to provide heat and hot water for the generation of electricity and for restaurants to use anthracite for on-site food preparation.

SUBCHAPTER 9: ENFORCEMENT

This revised subchapter deletes all obsolete provisions that have been replaced by the Office of Administrative Trials and Hearings' (OATH's) provisions. In addition, the penalty schedule was simplified.

24-183 Adjudication, settlement, and settlement by stipulation. The section has been renamed from Settlement of proceedings.

PROVISIONS REPEALED FROM CURRENT AIR POLLUTION CONTROL CODE AND NOT DISCUSSED ABOVE

24-117 Existing refuse burning equipment. This section has been deleted as it is not permissible to burn residential refuse and refuse compacting may be more appropriate in New York City Department of Sanitation's Code.

24-119 Garbage grinders; multiple dwellings after may twentieth, nineteen hundred sixty-eight. This section has been deleted as it is not permissible to burn residential refuse and refuse compacting may be more appropriate in New York City Department of Sanitation's Code.

24-124 Information required for applications for permits, sulfur exemption certificates. This section was deleted and the requirements were moved to sections 123 for trade secrets and 169 for sulfur content.

24-133 Denial of permits and certificates; department hearing, stay of action. This section is outdated and has been deleted.

24-136 Permit fee; schedules. This section has been deleted because as described in section 24–105 the commissioner may establish by rule any fees relevant to the provisions of the Air Code.

24-137 Operating certificate fees. This section has been deleted because as described in section 24–105 the commissioner may establish by rule any fees relevant to the provisions of the Air Code.

24-138 Administrative fees. This section has been deleted because as described in section 24–105 the commissioner may establish by rule any fees relevant to the provisions of the Air Code.

24-139 Departmental publication fees. This section has been deleted because as described in section 24–105 the commissioner may establish by rule any fees relevant to the provisions of the Air Code.

24-140 Administrative fees. This section has been deleted because as described in section 24–105 the commissioner may establish by rule any fees relevant to the provisions of the Air Code.

24-140.1 Exemptions. This section has been deleted because as described in section 24–105 the commissioner may establish by rule any fees relevant to the provisions of the Air Code.

24-144 Emission of air contaminant; sulfur compounds; volume standard. This section was deleted as regulation should be based on emissions, and with the combustion efficiency rule that was promulgated, and the fact that coal cannot be used unless for food preparation or for the generation of electricity for utilities, this section becomes outdated.

24-146.1 Asbestos work et al. This section was turned into a new subchapter (subchapter 5) that incorporates Local Laws 35-39 of 2009 as well as deleted outdated provisions.

24-150 Smoking prohibited. This section has been deleted because these provisions are enforced by the New York City Department of Buildings.

24-154 Environmental ratings; applications and appeals. This section has been deleted and incorporated into section 24-153

24-158 Use of department of sanitation refuse burning equipment without control apparatus prohibited. This section is outdated and has been deleted.

24-162 Operation of refuse burning equipment, other than municipal; time restriction. This section is outdated and has been deleted.

24-170 Reporting of fuel supplies. Deleted the existing provision and now require that a person who supplies heating oil shall disclose the amount of gallons used by zip code, the percentage of biodiesel blend, and types of feedstock. Reporting requirements have now been included in section 24-168.1.

24-171 Sulfur exemption certificates. This section is outdated and has been deleted.

24-172 Volatile content of solid fuel restricted. This section is outdated and has been deleted.

24-174 Lead content of gasoline restricted. This section is outdated and has been deleted.

24-175 Volatility limits on gasoline. This section is outdated and has been deleted.

24-179 The board. This section is obsolete and has been deleted and has been replaced by OATH's provisions.

24-181 Written responses. This section is obsolete and has been deleted and has been replaced by OATH's provisions.

24-184 Hearings. This section is obsolete and has been deleted and has been replaced by OATH's provisions.

24-185 Default; vacating a default order. This section is obsolete and has been deleted and has been replaced by OATH's provisions.

24-186 Hearing officer's decision. This section is obsolete and has been deleted and has been replaced by OATH's provisions.

24-187 Board decision and order. This section is obsolete and has been deleted and has been replaced by OATH's provisions.

24-188 Compliance with board decisions; orders and civil penalties. This section is obsolete and has been deleted and has been replaced by OATH's provisions.

24-189 Procedural rules. This section is obsolete and has been deleted and has been replaced by OATH's provisions.

PROVISIONS CLARIFIED FROM CURRENT AIR POLLUTION CONTROL CODE AND NOT DISCUSSED ABOVE

24-102 Declaration of Policy.

24-108 Inspection and samples.

24-111 Interfering with or obstructing department personnel.

24-112 False and misleading statements; unlawful reproduction or alteration of documents.

24-113 Display of permits, certificates and other notices; removal or mutilation prohibited.

24-115 Service of papers.

24-123 General requirements for applications for permits, certificates, and renewal of certificates.

24-125 Standards for granting permits.

24-126 Conditional approval of permits.

24-128 Standards for granting or renewing operating certificates.

24-129 Testing before granting or renewing of operating certificates and sulfur exemption certificates.

24-131 Conditions of permits and certificates to be observed.

24-134 Surrender of permits and certificates.

24-135 Transfer of permits and certificates.

24-152 Malfunctions, breakdowns, and removal from service; emergency action plan.

24-159 Use of less than fully automatic equipment using fuel oil and use of any fuel burning equipment using residual fuel oil; supervision by licensed person.

24-167 Improper use of equipment or apparatus prohibited.

24-176 Fuel information ticket required for shipment or delivery of fuel into New York City.

PURPOSE AND NEED

Section 24-102 of the Administrative Code of the City of New York declares that it is the public policy of the City to preserve, protect, and improve the air resources of the City because every person is entitled to air that is not detrimental to life, health, and enjoyment of property. Specifically, the section declares that it is the policy of the city to actively regulate, control and reduce air pollution. Section 1403(c) of the Charter of the City of New York and Section 24-105 of the Administrative Code authorize the commissioner to regulate and control the emissions of harmful air pollutants into the open air. These pollutants include PM, SO_2, NO_x, and CO.

Over the past two decades, as federal, state, and local regulations have strengthened air quality standards, New York City's air quality has dramatically improved. PlaNYC was developed to further address the challenges posed by population growth, climate change, aging infrastructure,

and an evolving economy. Air quality is one of the target areas of interest addressed in PlaNYC. And specifically, the Air Code revisions are highlighted as one of the initiatives in PlaNYC. This initiative is aimed at improving New York City air quality.

The DEP recognized that revisions to the Air Code were needed. The Air Code has not undergone a comprehensive overhaul and revision since 1975. Instead, it has been revised in a sporadic and piecemeal manner. This incomplete revision has made the Air Code inflexible to new types of technologies, does not take into account new scientific findings, and is difficult to comply with. Updating the Air Code would streamline compliance processes and encourage innovative ways to reduce local sources of pollution while maintaining rigorous standards to protect public health. The Air Code revisions would improve local conditions and would be aligned with the city's goal set forth in PlaNYC to "achieve the cleanest air quality of any big U.S. city."

ATTACHMENT B - ENVIRONMENTAL ASSESSMENT ANALYSES

The environmental review of the proposed revisions to the Air Pollution Control Code ("the Air Code") evaluates the potential for significant adverse impacts that could occur as a result of the modifications. The proposed revisions include clarifications and incorporation of state and federal standards which would not introduce new burdens. In addition, the proposed revisions would include new regulations that would limit particulate emissions from previously uncontrolled sectors. These revisions would enact stricter limits on emissions thereby decreasing the levels of harmful particle pollutants that are emitted into the air.

Below is an assessment of those revisions that require further review. This analysis focuses on potential impacts to socioeconomic conditions and air quality because the proposed changes are only anticipated to have a potential for an impact in these environmental assessment categories.

Socioeconomic Conditions: Under CEQR, a socioeconomic impact is defined based on the potential for a proposed action to result in direct and indirect displacement (also known as secondary displacement) of businesses and residents. Indirect displacement can occur when compliance costs are so high that they could cause businesses or residents to be displaced at a sufficient scale to result in wide sweeping changes to an industry or business sector, or if costs would influence the location of businesses or drive their relocation or the relocation of the sectors of neighborhoods that rely upon them.

Costs associated with complying with the proposed revisions to the Air Code under the provisions regarding work permits (24-121), fireplaces (24-149.2), commercial char broilers (24-149.4), cook stoves (24-149.5), stationary engines (149.6), diesel-fueled school buses (24-163.9) and mobile food vending units (24-163.12) are evaluated for further review and potential for socioeconomic conditions impacts below. The other anticipated changes to the Air Code are not anticipated to result in burden to the public or affected industries. Also, provisions of the revised Air Code which require that the commissioner of DEP adopt rules have not been reviewed in this environmental review. Such rules have not been drafted and requirements have not been determined; the proposed rules would be the subject of future separate environmental reviews in support of those decision-making processes necessary for the rule makings – the City Administrative Procedures Act (CAPA) process.

Work Permits (24-121)
To comply with the new requirements related to renewals for a certificate of operation (24-121), the threshold for requiring a certificate has been raised from 2.8 million Btu to 4.2 million Btu. A combustion efficiency test would be required. The estimated annual cost[1] for a combustion efficiency test is approximately $500 which accounts for the actual test and the cost of a Professional Engineer or Registered Architect to certify the results. This cost is relatively small

[1] United States Department of Energy, Energy Efficiency and Renewable Energy Steam Tip Sheet # 4 (January 2012)

and given the size of the combustion devices, the organization supporting them would be anticipated to have the resources to cover the additional cost with minimal burden since these types of equipment are normally found in large office or apartment buildings.

DEP currently tests boiler combustion efficiency in very large boilers every three years upon permit renewal. New testing equipment makes it possible to test a greater number of regulated combustion devices on a more frequent basis. Annual testing of more boilers, hot water heaters, and other regulation combustion devices would detect malfunctions, permit tuning, and result in more efficient boiler operation. More efficient combustion in the city would result in less fuel and less pollution emitted. This requirement would not be expected to result in the potential for significant adverse socioeconomic impacts.

Fireplaces (24-149.2)
To comply with the new requirements for fireplaces (24-149.2), new aesthetic fireplaces would be required to operate only on natural gas. Fireplaces with a closed grate would be able to use certain renewable fuels and have a United States Environmental Protection Agency (EPA) approved insert. However, fireplaces constructed since 1988 meet this standard and therefore, no additional cost would result from this requirement on new fireplaces. Existing fireplaces shall be required to use a low moisture content wood (moisture content not to exceed 20 percent). This type of wood burns cleaner; can use up to one-third less firewood which is a savings in cost; and shall not have to retrofit the fireplace with an insert. It should be noted that New York State only permits low moisture content wood for commercial sale. Therefore, no substantial additional cost should result from this Air Code revision. These requirements would not be expected to result in the potential for significant adverse socioeconomic impacts.

Commercial Char broilers (24-149.4)
To comply with the new requirements for commercial char broilers (24-149.4), it is expected that new commercial chain-driven or under-fired char broilers or any existing chain-driven char broiler that cooks more than 875 pounds of meat per week shall be equipped with a catalytic oxidizer or other control devices as established by the commissioner. On or after January 1, 2020, the Commissioner may also promulgate rules regulating emissions from char broilers that cook 875 pounds or less of meat per week.

For existing under-fired char broilers, DEP realizes that installation of a control system could result in a substantial burden due to design constraints in retrofitting existing units. Therefore, DEP is awaiting improved technology and delaying implementation of rulemaking that would set forth controls for existing under-fired char broilers. Rules for existing under-fired char broilers would not be promulgated sooner than three years from the effective date of the Air Code, allowing for advances in control technology and reduction on the cost of implementation.

The estimated cost[2] of a catalytic oxidizer for a chain-driven char broiler is $1,400 per unit. The estimated current cost[3] of an emission control system for an under-fired char broiler is between

[2] Estimated cost obtained from Burger King email correspondence (February 2012)

$50,000 and $225,000 per unit, with the low end of this cost range representing new under-fired char broiler restaurants as these should incur less expense since the cost for designing a new control into the construction could be built into the design of the facility. An emission control system for new under-fired char broiler restaurants would therefore be easier and cheaper than retrofitting an existing establishment's devices.

The catalytic oxidizer control technology can save energy and reduce maintenance costs. Energy and maintenance savings have been shown to be as much as 50 percent[4] and considering the overall size of the affected industries, the purchase of a catalytic oxidizer or other control devices for existing chain-driven or new chain-driven or under-fired commercial char broilers would not be expected to result in the potential for significant socioeconomic impact to affected industries.

In addition, all char broiler units shall obtain a registration. The estimated registration fee is approximately $100 per unit for a three year effective date. This registration fee would not be expected to result in the potential for a significant socioeconomic impact; however, the potential effect would be evaluated as part of the environmental review for the rule making that would establish the fee.

Cook Stoves (24-149.5)
To comply with the new requirements for cook stoves (24-149.5), new wood or coal ovens for on-site consumption without the use of control systems as established by the commissioner would be prohibited. In addition, existing units must install a control system to meet an emission based standard by 2020. The estimated cost[5] of a control system is between $7,000 and $30,000 per unit. Controls for new restaurants would cost less than retrofitting existing restaurants as the cost is accounted for in the initial design of the facility. In addition, based on a case study,[6] using ventilation controls have resulted in a 54 percent savings in kWh or approximately $4,000 a year in savings. Over time, the savings per year would pay for the one-time cost of the control for existing or new cook stoves. Therefore, the purchase of a control system would not be expected to result in the potential for significant socioeconomic impact to affected industries.

Stationary engines (24-149.6)
To comply with the requirements for stationary engines (24-149.6), DEP is codifying existing federal requirements as set forth in section 60.4201 of title forty of the code of federal regulations or to any subsequent EPA emissions standard for such engine that is at least as stringent, that newly registered engines shall be Tier IV compliant. Therefore, there is no increase in cost. However, DEP is being stricter in that all engines by 2025, upon renewal of an application, must be Tier IV compliant. There would not be an increase in cost in that these

[3] Estimated costs obtained from conference call with South Coast Air Quality Management District (January 2012) and Small Business Innovation Research program (2010)
[4] BASF CHARCat Catalysts (June 2013)
[5] Estimated costs and savings obtained from Public Interest Energy Research Program, Demand Ventilation Control in Commercial Kitchens – Case Study (June 2007)
[6] Estimated costs and savings obtained from Public Interest Energy Research Program, Demand Ventilation Control in Commercial Kitchens – Case Study (June 2007)

engines through attrition would be phased out by said date. A hardship waiver is also included in this revised provision.

Retrofitting of and age limitations on diesel fuel-powered school buses. (24-163.9)
The proposal would require pre-2007 Type A and B school buses to be retired from the Department of Education (DOE) fleet by September 1, 2020, three years sooner than would have been required under the current code as remaining pre 2007 Type A and B buses without a closed crankcase ventilation system would still have remained in the fleet until 2023. The proposed schedule is as follows:

i. For 1997-1998 engine model years, by September 1, 2014

ii. For 1999 engine model year, by September 1, 2015

iii. For 2000 engine model year, by September 1, 2016

iv. For 2001-2005 engine model years, by September 1, 2017

v. For 2002-2006 engine model years, by September 1, 2020

The existing code currently requires all diesel fuel powered school buses to be retired sixteen years from date of manufacture. The proposed code would require buses to be retired fourteen years from date of manufacture. The proposed code change to require replacement of these types of buses is to address concerns related to the inability to retrofit these types of buses due to spatial constraints. The intent of Local Law 61 of 2009 was to ensure that all Type A and B buses would be retrofitted with a closed crankcase ventilation system, however, due to spatial constraints, such buses could not be retrofitted and only 2007 and later buses were equipped with such technology. By amending this law to include an earlier phase out date of the pre 2007 Type A and B buses, emissions within the cabs of these buses would be substantially reduced. These emissions are particulate matter generated from the crankcase of the buses and can comprise 25 percent of the total PM emissions generated by these types of buses. The use of crankcase filtration systems, which are included in newer buses, can reduce PM within the cabs by more than 90 percent.[7] The estimated cost to replace a bus is $65,000, so to balance the cost of retiring the nearly 1,800 pre-2007 buses three years early, the age out for these buses are being rolled out based on the number of buses in each age distribution as shown above[8]. Although the early retirement would result in upfront costs, the total cost would not increase. It is also anticipated that the additional $210 million in savings from new school bus contracts and public bidding of an additional 4,100 routes would help offset these upfront costs to the DOE budget[9]. The proposed provision would allow DOE to achieve a cleaner school bus fleet more rapidly.

[7] See, e.g., "contributions to Diesel Engine Emissions,
"www.donaldson.com/en/exhaust/support/datalibrary/007431.pdf
[8] See 24-163.9 for the replacement table of the pre 2007 Type A and B buses.
[9] See Mayoral Press Release November 11, 2013, No. 360

Mobile Food Vending Units (24-163.12)
Mobile food trucks must idle in order to prevent food from spoiling. However, the auxiliary engines that power these trucks can be dirty and inefficient and can generate odors and fumes. This new requirement would provide an incentive for mobile food vendors to bring their auxiliary engines up to the latest EPA standards for controlling emissions by waiving the registration fee for these engines for twelve years or for the duration of the life of the engine, whichever is shorter, as the City is preempted by federal law from imposing such requirements.

The estimated cost[10] for these auxiliary engines is approximately $5,000 per unit, and Tier 4 would cost no more than the other Tier engines as that would be the engine that is available. As this is a voluntary requirement and the cost saved by waiving the registration fee ranges from $175 to $450[11] for one three year renewal cycle based upon the size of the engine, thus resulting in a savings of up to $1,800 and therefore partially off-setting the additional cost of updating the auxiliary engines. Therefore, given that implementation of this provision would be voluntary by mobile food vendors and would not result in a substantial cost burden, it is not anticipated that this provision would result in potential significant socioeconomic impacts.

In summary, the additional cost of complying with the proposed revisions, as discussed above, would not result in direct or indirect displacement of businesses or residents from the City. In addition, complying with the proposed revisions would not significantly affect business conditions in any industry or any category of businesses or indirectly substantially reduce employment or impair the economic viability in the industry or category of businesses. Therefore, there would be no potential significant adverse impact on socioeconomic conditions in the City due to the proposed revisions.

Air Quality: Under CEQR, an air quality impact is defined based on the potential for a project to adversely affect the ambient air quality. Complying with the proposed revisions to the Air Code would not result in any adverse air quality impacts. The proposed revisions would be aligned with the goals of the Air Code, which is to preserve, protect, and improve the air resources of the City. The proposed revisions would reduce air pollutant emissions as additional uncontrolled sectors would now be incorporated into the regulations. In addition, the adoption of cost-effective controls would lead to an air quality benefit by limiting air pollutant emissions. The revisions also encourage new environmentally beneficial technologies to be promulgated for use in the City.

As part of the revisions to update and protect the air quality of the city, the code limits the installation of refuse burning equipment, municipal equipment, incinerators and crematoriums, by narrowing the Department of Sanitation's (DSNY) ability to install, operate equipment, or to burn waste material. Currently, DSNY can install refuse burning equipment in connection with

[10] Estimated cost obtained from Grainger Industrial Supply (December 2012)
[11] DEP proposed fee schedule.

solid waste disposal; the proposed revision would limit the ability of DSNY to install, operate or burn such material but only as it relates to solid waste disposal or processing for energy generation or other resource recovery. The revision also clarifies that a facility operated on behalf of DSNY can operate such a facility for these purposes, but that such a facility would be subject to separate independent environmental review and permitting. Therefore, there would be no adverse impact on air quality.

As described in Attachment A, "Project Description" the proposed action would include new regulations that would limit particulate emissions from previously uncontrolled sectors. These units include aesthetic fireplaces, char broilers, wood fired ovens, coal fired ovens, stationary generators and mobile food trucks. It should be noted that the provisions for outdoor wood boilers would incorporate NYSDEC requirements.

This proposed revision would enact stricter limits on emissions thereby decreasing the levels of harmful particle pollutants that are emitted into the air. The projected annual emissions reductions of particulate matter in tons per year due to the proposed Air Code revisions when (1) existing chain-driven and under-fired charbroilers are equipped with a catalytic oxidizer or other emission control devices, (2) existing wood and coal ovens are equipped with a control system (electrostatic precipitator), and (3) existing mobile food trucks using a Tier 1, Tier 2, or Tier 3 certified auxiliary unit use a Tier 4 engine are presented below:

Source	PM Reduction from Existing Emissions (tons per year)	% Emissions Change from Existing Emissions
Char broilers: Chain-driven[12]	172	-83
Char broilers: Under-fired[13]	1,254	-85
Cook Stoves: Wood Ovens[14]	0.011	-90
Cook Stoves: Coal Ovens[15]	0.002	-90
Mobile Food Trucks[16]	0.61	-94.5

[12] The United States Environmental Protection Agency's National Emissions Inventory (2008); South Coast Air Quality Management District, Staff Report for Proposed Rule 1138 – Control of Emissions from Restaurant Operations (October 2007)
[13] The United States Environmental Protection Agency's National Emissions Inventory (2008); South Coast Air Quality Management District, Preliminary Draft Staff Report: Proposed Amended Rule 1138 – Control of Emissions from Restaurant Operations (August 2009)
[14] The United States Environmental Protection Agency's AP-42, Compilation of Air Pollutant Emission Factors Fifth Edition. Volume I Chapter 1: External Combustion Sources; Residential Wood Stoves and Anthracite Coal Combustion (October 1996)
[15] Report on EPA Regulated Emissions Testing for Gaseous and Particulate Emissions Conducted on Patsy Grimaldi's Coal-Fired Pizza Oven Facility Located in Scottsdale, Arizona (December 6, 2006) and The United States Environmental Protection Agency's AP-42, Compilation of Air Pollutant Emission Factors -Fifth Edition. Volume I Chapter 1: External Combustion Sources; Anthracite Coal Combustion (October 1996)
[16] New York City Department of Health and Mental Hygiene (2012); New York State 2007 Distribution of Vehicles by Age; Air & Waste Management Association, Effects of Engine Speed and Accessory Load on Idling Emissions

Approximately 1,427 tons of particulate matter per year would be reduced as a result of the proposed revisions. The decrease in emissions of particulate matter, would improve air quality and public health, and would result in a beneficial improvement.

In addition, the proposed revisions to the Air Code would increase the threshold for boiler registrations from 2.8 million Btu per hour to 4.2 million Btu per hour. These boiler registrations would require an annual combustion efficiency test. Annual testing of more boilers, hot water heaters, and other regulation combustion devices would detect malfunctions, permit tuning, and result in more efficient boiler operation. More efficient combustion in the city would result in less fuel and less pollution emitted.

Therefore, the proposed revisions to the Air Code would not result in a significant adverse air quality impact.

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from Heavy-Duty Diesel Truck Engines (September 2002); United States Environmental Protection Agency's Tier 1-4 Nonroad Diesel Engine Emission Standards

Revisions to the New York City Air Pollution Control Code
Environmental Assessment Statement
CEQR # 15DEP025Y
Attachment C

NEW YORK CITY WATERFRONT REVITALIZATION PROGRAM CONSISTENCY ASSESSMENT FORM

For Internal Use Only:
Date Received: _____

WRP no._____
DOS no._____

NEW YORK CITY WATERFRONT REVITALIZATION PROGRAM
Consistency Assessment Form

Proposed actions that are subject to CEQR, ULURP or other local, state or federal discretionary review procedures, and that are within New York City's designated coastal zone, must be reviewed and assessed for their consistency with the *New York City Waterfront Revitalization Program (WRP)*. The WRP was adopted as a 197-a Plan by the Council of the City of New York on October 13, 1999, and subsequently approved by the New York State Department of State with the concurrence of the United States Department of Commerce pursuant to applicable state and federal law, including the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. As a result of these approvals, state and federal discretionary actions within the city's coastal zone must be consistent to the maximum extent practicable with the WRP policies and the city must be given the opportunity to comment on all state and federal projects within its coastal zone.

This form is intended to assist an applicant in certifying that the proposed activity is consistent with the WRP. It should be completed when the local, state, or federal application is prepared. The completed form and accompanying information will be used by the New York State Department of State, other state agencies or the New York City Department of City Planning in their review of the applicant's certification of consistency.

A. APPLICANT

1. Name: New York City Department of Environmental Protection
2. Address: 59-17 Junction Boulevard, 11th Floor, Flushing, NY 11373
3. Telephone: 718-595-4398 Fax: 718-595-4479 E-mail: alicata@dep.nyc.gov
4. Project site owner: Not applicable.

B. PROPOSED ACTIVITY

1. Brief description of activity:

   A proposed local law (Introduction No. 271A-2014) to amend chapter one of title twenty-four of the Administrative Code of the City of New York. Chapter one is referred to as the New York City Air Pollution Control Code.

2. Purpose of activity:

   To eliminate obsolete, outdated, and unused provisions and conform to New York State and federal standards where applicable; create greater flexibility to adopt the most current technologies and fuels using rule making authority; and limit emissions and adopt cost-effective controls for certain uncontrolled sources.

3. Location of activity: (street address/borough or site description):

   Citywide.

Proposed Activity Cont'd

4. If a federal or state permit or license was issued or is required for the proposed activity, identify the permit type(s), the authorizing agency and provide the application or permit number(s), if known:

   Not Applicable.

5. Is federal or state funding being used to finance the project? If so, please identify the funding source(s).

   No.

6. Will the proposed project require the preparation of an environmental impact statement?
   Yes _____ No ____✓____ If yes, identify Lead Agency:

7. Identify **city** discretionary actions, such as a zoning amendment or adoption of an urban renewal plan, required for the proposed project.

   No City discretionary action is required other than the legislative action by the City Council and Mayor.

C. COASTAL ASSESSMENT

Location Questions:	**Yes**	**No**
1. Is the project site on the waterfront or at the water's edge?	✓	
2. Does the proposed project require a waterfront site?		✓
3. Would the action result in a physical alteration to a waterfront site, including land along the shoreline, land underwater, or coastal waters?		✓

Policy Questions	**Yes**	**No**

The following questions represent, in a broad sense, the policies of the WRP. Numbers in parentheses after each question indicate the policy or policies addressed by the question. The new Waterfront Revitalization Program offers detailed explanations of the policies, including criteria for consistency determinations.

Check either "Yes" or "No" for each of the following questions. For all "yes" responses, provide an attachment assessing the effects of the proposed activity on the relevant policies or standards. Explain how the action would be consistent with the goals of those policies and standards.

4. Will the proposed project result in revitalization or redevelopment of a deteriorated or under-used waterfront site? (1)		✓
5. Is the project site appropriate for residential or commercial redevelopment? (1.1)		✓
6. Will the action result in a change in scale or character of a neighborhood? (1.2)		✓

Policy Questions cont'd	Yes	No
7. Will the proposed activity require provision of new public services or infrastructure in undeveloped or sparsely populated sections of the coastal area? (1.3)		✓
8. Is the action located in one of the designated Significant Maritime and Industrial Areas (SMIA): South Bronx, Newtown Creek, Brooklyn Navy Yard, Red Hook, Sunset Park, or Staten Island? (2)	✓	
9. Are there any waterfront structures, such as piers, docks, bulkheads or wharves, located on the project sites? (2)		✓
10. Would the action involve the siting or construction of a facility essential to the generation or transmission of energy, or a natural gas facility, or would it develop new energy resources? (2.1)		✓
11. Does the action involve the siting of a working waterfront use outside of a SMIA? (2.2)		✓
12. Does the proposed project involve infrastructure improvement, such as construction or repair of piers, docks, or bulkheads? (2.3, 3.2)		✓
13. Would the action involve mining, dredging, or dredge disposal, or placement of dredged or fill materials in coastal waters? (2.3, 3.1, 4, 5.3, 6.3)		✓
14. Would the action be located in a commercial or recreational boating center, such as City Island, Sheepshead Bay or Great Kills or an area devoted to water-dependent transportation? (3)	✓	
15. Would the proposed project have an adverse effect upon the land or water uses within a commercial or recreation boating center or water-dependent transportation center? (3.1)		✓
16. Would the proposed project create any conflicts between commercial and recreational boating? (3.2)		✓
17. Does the proposed project involve any boating activity that would have an impact on the aquatic environment or surrounding land and water uses? (3.3)		✓
18. Is the action located in one of the designated Special Natural Waterfront Areas (SNWA): Long Island Sound- East River, Jamaica Bay, or Northwest Staten Island? (4 and 9.2)	✓	
19. Is the project site in or adjacent to a Significant Coastal Fish and Wildlife Habitat? (4.1)	✓	
20. Is the site located within or adjacent to a Recognized Ecological Complex: South Shore of Staten Island or Riverdale Natural Area District? (4.1and 9.2)	✓	
21. Would the action involve any activity in or near a tidal or freshwater wetland? (4.2)	✓	
22. Does the project site contain a rare ecological community or would the proposed project affect a vulnerable plant, fish, or wildlife species? (4.3)		✓
23. Would the action have any effects on commercial or recreational use of fish resources? (4.4)		✓
24. Would the proposed project in any way affect the water quality classification of nearby waters or be unable to be consistent with that classification? (5)		✓
25. Would the action result in any direct or indirect discharges, including toxins, hazardous substances, or other pollutants, effluent, or waste, into any waterbody? (5.1)		✓
26. Would the action result in the draining of stormwater runoff or sewer overflows into coastal waters? (5.1)		✓
27. Will any activity associated with the project generate nonpoint source pollution? (5.2)		✓
28. Would the action cause violations of the National or State air quality standards? (5.2)		✓

Policy Questions cont'd	Yes	No
29. Would the action result in significant amounts of acid rain precursors (nitrates and sulfates)? (5.2C)		✓
30. Will the project involve the excavation or placing of fill in or near navigable waters, marshes, estuaries, tidal marshes or other wetlands? (5.3)		✓
31. Would the proposed action have any effects on surface or ground water supplies? (5.4)		✓
32. Would the action result in any activities within a federally designated flood hazard area or state-designated erosion hazards area? (6)		✓
33. Would the action result in any construction activities that would lead to erosion? (6)		✓
34. Would the action involve construction or reconstruction of a flood or erosion control structure? (6.1)		✓
35. Would the action involve any new or increased activity on or near any beach, dune, barrier island, or bluff? (6.1)		✓
36. Does the proposed project involve use of public funds for flood prevention or erosion control? (6.2)		✓
37. Would the proposed project affect a non-renewable source of sand ? (6.3)		✓
38. Would the action result in shipping, handling, or storing of solid wastes, hazardous materials, or other pollutants? (7)		✓
39. Would the action affect any sites that have been used as landfills? (7.1)	✓	
40. Would the action result in development of a site that may contain contamination or that has a history of underground fuel tanks, oil spills, or other form or petroleum product use or storage? (7.2)		✓
41. Will the proposed activity result in any transport, storage, treatment, or disposal of solid wastes or hazardous materials, or the siting of a solid or hazardous waste facility? (7.3)		✓
42. Would the action result in a reduction of existing or required access to or along coastal waters, public access areas, or public parks or open spaces? (8)		✓
43. Will the proposed project affect or be located in, on, or adjacent to any federal, state, or city park or other land in public ownership protected for open space preservation? (8)	✓	
44. Would the action result in the provision of open space without provision for its maintenance? (8.1)		✓
45. Would the action result in any development along the shoreline but NOT include new water-enhanced or water-dependent recreational space? (8.2)		✓
46. Will the proposed project impede visual access to coastal lands, waters and open space? (8.3)		✓
47. Does the proposed project involve publicly owned or acquired land that could accommodate waterfront open space or recreation? (8.4)	✓	
48. Does the project site involve lands or waters held in public trust by the state or city? (8.5)		✓
49. Would the action affect natural or built resources that contribute to the scenic quality of a coastal area? (9)	✓	
50. Does the site currently include elements that degrade the area's scenic quality or block views to the water? (9.1)		✓

Policy Questions cont'd	Yes	No
51. Would the proposed action have a significant adverse impact on historic, archeological, or cultural resources? (10)		✓
52. Will the proposed activity affect or be located in, on, or adjacent to an historic resource listed on the National or State Register of Historic Places, or designated as a landmark by the City of New York? (10)	✓	

D. CERTIFICATION

The applicant or agent must certify that the proposed activity is consistent with New York City's Waterfront Revitalization Program, pursuant to the New York State Coastal Management Program. If this certification cannot be made, the proposed activity shall not be undertaken. If the certification can be made, complete this section.

"The proposed activity complies with New York State's Coastal Management Program as expressed in New York City's approved Local Waterfront Revitalization Program, pursuant to New York State's Coastal Management Program, and will be conducted in a manner consistent with such program."

Applicant/Agent Name: Angela Licata, Deputy Commissioner

Address: 59-17 Junction Boulevard, 11th Floor, Flushing, NY 11373

Telephone 718-595-4398

Applicant/Agent Signature: Angela Licata Date: 04/10/2015

ATTACHMENT TO
WATERFRONT REVITALIZATION PROGRAM
Consistency Assessment Form
Revisions to the New York City Air Pollution Control Code

The accompanying Consistency Assessment Form has a number of questions answered "Yes". This attachment identifies and addresses these questions.

Q.8 The New York City Council is proposing to enact a Local Law to amend chapter one of title twenty-four of the Administrative Code of the City of New York. Chapter one is referred to as the New York City Air Pollution Control Code. Specifically, the proposed action would amend chapter one of the Air Pollution Control Code to: (1) eliminate obsolete, outdated, and unused provisions and conform to New York State and federal standards where applicable, (2) create greater flexibility to adopt the most current technologies and fuels using rule making authority, and (3) limit emissions and adopt cost-effective controls for certain uncontrolled sources. It would reduce the emissions of pollutants and could improve the air quality and public health in the waterfront areas.

Q.14 See response to Q.8

Q.18 See response to Q.8

Q.19 See response to Q.8

Q.20 See response to Q.8

Q.21 See response to Q.8

Q.39 See response to Q.8

Q.43 See response to Q.8

Q.47 See response to Q.8

Q.49 The proposed action would limit emissions (primarily particulate matter) from some of the remaining, unregulated sectors. Reduction of particulate matter could protect and improve visual quality in New York City's coastal area.

Q.52 See response to Q.8

Revisions to the New York City Air Pollution Control Code
Environmental Assessment Statement
CEQR # 15DEP025Y
Attachment D

JAMAICA BAY WATERSHED PROGRAM PLAN
PROJECT TRACKING FORM

Print Form

Jamaica Bay Watershed Protection Plan
Project Tracking Form

The Jamaica Bay Watershed Protection Plan, developed pursuant to Local Law 71 of 2005, mandates that the New York City Department of Environmental Protection (DEP) work with the Mayor's Office of Environmental Coordination (MOEC) to review and track proposed development projects in the Jamaica Bay Watershed (http://www.nyc.gov/html/oec/downloads/pdf/ceqr/Jamaica_Bay_Watershed_Map.jpg) that are subject to CEQR in order to monitor growth and trends. If a project is located in the Jamaica Bay Watershed, (the applicant should complete this form and submit it to DEP and MOEC. This form must be updated with any project modifications and resubmitted to DEP and MOEC.

The information below will be used for tracking purposes only. It is not intended to indicate whether further CEQR analysis is needed to substitute for the guidance offered in the relevant chapters of the CEQR Technical Manual.

A. GENERAL PROJECT INFORMATION

1. CEQR Number: 15DEP025Y 1a. Modification ☐
2. Project Name: Revisions to the New York City Air Pollution Control Code
3. Project Description:

   Eliminate obsolete, outdated, & unused provisions; conform to state and federal standards where applicable; create greater flexibility to adopt the most current technologies and fuels using rule making authority; and limit emissions and adopt cost-effective controls for certain uncontrolled sources.

4. Project Sponsor: New York City Department of Environmental Protection
5. Required approvals: Legislation
6. Project schedule (build year and construction schedule): See Attachment A / No construction

B. PROJECT LOCATION:

1. Street address: Citywide
2. Tax block(s): Citywide Tax Lot(s): Citywide
3. Identify existing land use and zoning on the project site: N/A
4. Identify proposed land use and zoning on the project site: N/A
5. Identify land use of adjacent sites (include any open space): N/A
6. Describe existing density on the project site and the proposed density:

Existing Condition	Proposed Condition
N/A	N/A

7. Is project within 100 or 500 year floodplain (specify)? ☒ 100 Year ☒ 500 Year ☐ No

C. GROUND AND GROUNDWATER

1. Total area of in-ground disturbance, if any (in square feet): N/A
2. Will soil be removed (if so, what is the volume in cubic yards)? N/A
3. Subsurface soil classification:
   (per the New York City Soil and Water Conservation Board): N/A
4. If project would change site grade, provide land contours (**attach** map showing existing in 1' contours and proposed in 1' contours).
5. Will groundwater be used (list volumes/rates)? ☐ **Yes** ☒ **No**

   Volumes: N/A Rates: N/A
6. Will project involve dewatering (list volumes/rates)? ☐ **Yes** ☒ **No**

   Volumes: N/A Rates: N/A
7. Describe site elevation above seasonal high groundwater:

   N/A

D. HABITAT

1. Will vegetation be removed, particularly native vegetation? ☐ **Yes** ☒ **No**

   If YES,
   - **Attach** a detailed list (species, size and location on site) of vegetation to be removed (including trees >2" caliper, shrubs, understory planting and groundcover).
   - **List** species to remain on site.
   - **Provide** a detailed list (species and sizes) of proposed landscape restoration plan (including any wetland restoration plans).
2. Is the site used or inhabited by any rare, threatened or endangered species? ☐ **Yes** ☒ **No**
3. Will the project affect habitat characteristics? ☐ **Yes** ☒ **No**

   If YES, describe existing wildlife use and habitat classification using "Ecological Communities of New York State." at http://www.dec.ny.gov/animals/29392.html.
4. Will pesticides, rodenticides or herbicides be used during construction? ☐ **Yes** ☒ **No**

   If YES, estimate quantity, area and duration of application.
5. Will additional lighting be installed? ☐ **Yes** ☒ **No**

   If YES and near existing open space or natural areas, what measures would be taken to reduce light penetration into these areas?

E. SURFACE COVERAGE AND CHARACTERISTICS

(describe the following for both the existing and proposed condition):

	Existing Condition	Proposed Condition
1. ***Surface area:***		
Roof:	N/A	N/A
Pavement/walkway:	N/A	N/A
Grass/softscape:	N/A	N/A
Other (describe):	N/A	N/A
2. ***Wetland*** (regulated or non-regulated) area and classification:	N/A	N/A
3. ***Water surface area:***	N/A	N/A

4. ***Stormwater management*** (describe):

Existing – how is the site drained?

N/A

Proposed – describe, including any infrastructure improvements necessary off-site:

N/A