

TESTIMONY OF STEWART O'BRIEN, EXECUTIVE DIRECTOR OF
THE PLUMBING FOUNDATION OF THE CITY OF NEW YORK, INC.
BEFORE THE ENVIRONMENTAL PROTECTION COMMITTEE OF
THE CITY COUNCIL REGARDING INTRO. 935, NOVEMBER 19, 2009

Our system of government, with its appropriately balanced separation of powers, works very well. The legislative branch makes the law and the executive branch enforces it. And while the legislative branch may provide oversight over executive branch functions, agencies should not be required to directly report their performance to the legislative branch except in rare and compelling instances. This is one such instance.

For decades DEP has repeatedly failed to enforce a health law that is routinely and effectively enforced outside of New York City. Commissioner after Commissioner repeatedly promised that DEP would complete the inspection of the 22,000 High Hazard buildings it designated as requiring backflow devices and then repeatedly failed to achieve those promises. Skipping over DEP's failure to enforce this important health law in the 1980s and 1990s

we enter the 21st century. DEP's own 2000 Report on this subject indicated that the inspection of the High Hazard universe of 22,000 buildings would be complete by May 2005. It failed to keep that promise. (If anyone would like a chronological list of documents proving DEP's failed efforts over the years, I have attached to my testimony today, my testimony of June 11, 2008. Also, behind me are exhibits including DEP's own reports and compliance figures).

DEP's track record was so poor and was so unresponsive to the Council's formal and informal requests for information on this subject, that this Committee held an Oversight hearing on June 11, 2008. At that hearing, DEP acknowledged that 13,000 of the 22,000 high hazard buildings had still not yet been inspected and then made yet another promise—within one year the remaining uninspected buildings would be inspected by utilizing a private vendor under a RFP that DEP was developing. Its now November 2009. No RFP has even been issued. Another broken promise.

Perhaps even more troubling is that this poor performance is in the most dangerous universe, high hazard buildings. There are tens of thousands of other buildings that are required to comply with this health law. DEP's enforcement efforts in these buildings are undoubtedly even lower.

There comes a time when agency promises can no longer be relied upon and the Council must force an agency to report on its compliance efforts on an important health law. This is why the Council should pass Intro. 935 which requires DEP to submit a semi annual report to the City Council on its efforts to enforce the backflow law.



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Executive Director
STEWART D. O'BRIEN

Stewart O'Brien, Executive Director of the Plumbing Foundation of the City of New York, released the following statement today at the New York City Council-Oversight Hearing, Prevention of Backflow of Contaminants into the City's Potable Water Supply:

I am Stewart O'Brien, Executive Director of the Plumbing Foundation City of New York, Inc., a not for profit organization whose mission is to insure the enactment and enforcement of codes that protect the public health.

Throughout the country various states and municipalities have laws to protect against cross contamination of the public water supply, that is, discharge water from sinks, drains, boilers, cooling towers, etc. from within a building "crossing over" to the fresh water supply for other buildings. An example of how this can happen--a water main breaks so that the pressure supplying water into the building is lost. The loss in pressure creates a suction effect that can bring contaminated water into the fresh water supply of other buildings downstream of the event. There are numerous technical experts here today who can explain how these backflow incidents occur and the effects on public health. I would like to concentrate on the law in New York that is designed to prevent major incidents from occurring and how it is not being enforced in New York City.

Section 5-1.31 of the State Sanitary Code requires that each supplier of water protect the public water supply by requiring containment of backflows through the installation of certain devices, e.g. air gap, double check valve, reduced pressure zone. (In New York City the supplier of water is DEP.) The type of device is dependent on the degree of hazard in the building. In 1981 the NYS Department of Health, which has responsibility for ensuring that suppliers of water comply with this section, issued "Public Water Supply Cross Connection Control Guidelines" on how suppliers of water should classify buildings by the degree of hazardous material within the building.

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PLUMBING PROTECTS THE HEALTH OF THE NATION

The Plumbing Foundation City of New York, Inc., represents Licensed Plumbing Contractors and Plumbing Contractor Organizations throughout New York City

Accordingly, on July 13, 1999, some 18 years after the State Department of Health issued its Guidelines, New York City's DEP wrote to the City Council and identified approximately 105,000 existing buildings in New York City that could require the installation of a device. That same letter went on, though, to identify 22,765 of the 105,000 as posing the greatest risk, "hazardous buildings". The types of buildings identified as "hazardous" by DEP---factories, gasoline stations, hospitals, funeral homes, and other COMMERCIAL buildings. No residential buildings were included, indeed, one and two family homes are classified as non hazardous and not requiring any device by the 1981 State DOH Guidelines.

Following the 1998 letter to the City Council the DEP Commissioner then formed a Task Force of representatives of the real estate, plumbing engineering and contracting community which was headed by the Chief Engineer of DEP. Its mission was to develop an implementation plan. On May 1, 2000 the Chief Engineer of DEP issued a Report to the DEP Commissioner. Highlights of the Report:

- it reconfirmed the universe of existing hazardous buildings at 22,765¹
- it reconfirmed that there were an additional 82,235 buildings which also may require a device
- it stated that the first priority should be given to achieving compliance in the 22,765 "hazardous" buildings
- it targeted compliance in these hazardous buildings by May 2005
- it recommended a program to educate commercial property on their obligations under the law²

On June 22, 2006, 25 years after the 1981 mandate, 7 years after DEP identified the high hazard universe and 1 year after DEP sought 100% compliance, DEP reported compliance at only 15.6%.³

In 2007 DEP issued a draft "New York City Filtration Determination" in which it stated that it planned ONLY 225 enforcement actions against non compliant hazardous buildings. In its Annual Cross Connection Control Report for 2007, DEP reported ONLY 151 violations issued and 0 tap shut offs for not installing backflow devices in "High Hazard" buildings. Eighteen years after the initial mandate, 9 years after DEP identified the hazardous universe and 2 years after 100% compliance was supposed to be achieved, these numbers are paltry and demonstrate a lack of commitment to this health and safety law.

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¹ All new buildings constructed since the 1980s are required to have a device installed before a C of O is issued. Initially, DEP included the installation of devices in new buildings in its compliance statistics on the 22,765 existing buildings which incorrectly raised the reported compliance level significantly.

² In 2000 and 2001 the American Society of Plumbing Engineers, American Society of Sanitary Engineers and the Plumbing Foundation undertook a public relations campaign in real estate publications educating owners of the importance of installing backflow devices and their legal obligation to comply with the law. Given the poor compliance rates achieved by 2006, it does not appear that the educational route was favorably received.

³ Based upon DEP's research of 17,572 buildings out of a hazardous building universe then identified as 21,530.

In June and July 2007 the Chair of this Committee and the Plumbing Foundation separately wrote to the DEP Commissioner following a backflow incident in Southeast Queens. We asked a simple question—how long will it take DEP to report on the 22,000 hazardous buildings and put each in one of three categories—1) it was misclassified as a hazardous building, 2) device has been installed or 3) device is required but not installed and a violation has been issued. Neither you nor the Foundation received a response, EVER! All that was sought was a simple report detailing DEPs efforts to enforce the law. Unfortunately, DEP decided not to respond.

The issue is simple—when an agency has a 27 year track record of dragging its feet on an important health issue, should the Council accept its word when the agency NOW says, “your right, we need to focus on this. We are revamping the entire process and will make it better.” Or do the citizens of New York City deserve more? Commercial landlords may balk at installing these devices but it is **the law**. In addition, other municipalities enforce the law, why do the citizens of New York City deserve less. In other counties in New York, if a commercial landlord does not install a device as required by law, the supplier of water turns it off. In 2007 that never happened in New York City and has hardly ever happened.

To make sure that the lack of compliance does not continue indefinitely, we propose that the Council pass legislation. The legislation would require that by January 1, 2010, DEP Report to the Council whether each hazardous building is in compliance or that enforcement action (a violation) has been issued. Normally, we do not believe the legislature should intervene in executive matters. But given this long track record of lack of commitment, a legislative mandate is necessary.

In its 2007 Annual Report DEP disclosed 3 cross connection incidents. Fortunately no one was injured or killed. We need to make sure that DEP no longer drags its feet and that future incidents do not occur.

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Testimony of James Roberts, P.E.
Deputy Commissioner
New York City Department of Environmental Protection
before the Council of the City of New York
Committee on Environmental Protection
concerning Introduction 935 – Backflow prevention device reporting and
certification
City Hall, November 19, 2009

Good afternoon, Chairman Gennaro and Members of the Committee. I am James Roberts, deputy commissioner of the Bureau of Water and Sewer Operations of the Department of Environmental Protection (DEP).

Thank you for the opportunity to testify on Introduction 935, which addresses backflow prevention device reporting and certification. Protecting New York City's public water supply is of paramount importance, and backflow prevention is one aspect of affording this protection. I would like to mention at the outset, however, that DEP's extensive water quality testing and monitoring program is the front-line defense in ensuring the quality of water in the distribution system. New York City tests its finished tap water – which is the term we use for water that is ready to be distributed for consumption – for approximately 240 chemical constituents, well above regulatory requirements. We perform more than 1,200 tests daily; 35,000 monthly; and 420,000 on an annual basis from up to 1,000 sampling locations throughout the City. Test results are reported to our regulators and are summarized in our annual report on the quality of New York City's drinking water.

While we agree with the intent of this bill, we believe that the goal of protecting the water supply would be better served by modifying the distribution lists of the extensive reporting requirements already in place rather than mandating new requirements. And we believe that the proposed duties of reporting and certification already exist in current law. But before I address the provisions of the bill, I would like to report to the Council on the progress DEP has made in its identification, inspection, enforcement and outreach activities since DEP last testified in June 2008. I think you will agree that our active program far exceeds our commitments to the New York State Department of Health (NYSDOH) and continues our progress towards ensuring that any facility that requires a backflow prevention device (BPD) has one.

Backflow prevention devices, also known as cross connection controls, function by preventing potential contamination within premises from entering the public water supply. The possibility of contamination is caused by various kinds of plumbing configurations and/or equipment that uses water under pressure. If the water pressure in the internal system in a medical facility like a hospital, for example, is greater than the pressure in the public water supply system, dangerous chemicals can be inadvertently forced back into the public supply unless a properly functioning backflow prevention device is in place to keep that from happening.

The New York State Sanitary Code (Code), contained in the Public Health Law, mandates that public water suppliers require certain users to install cross connection controls. The Code requires the submission of plans to local public water suppliers – including DEP – for the installation of the

devices, as well as annual testing and reporting once the devices have been installed.

The New York State Department of Health's guidance for the Code divides users into three categories: non-hazardous, such as a one- or two-family home or a cell phone/computer shop in a strip mall; aesthetically objectionable, such as residential building with an elevated storage tank ; and hazardous, such as an auto repair shop or dry cleaner. DEP's efforts with regard to inspection and enforcement have focused on what we have characterized as "high hazard" facilities.

The definition from NYSDOH's Cross Connection Guidance for "Hazardous Facility" is: "A building that potentially contains substances that if introduced into the public water supply would or may endanger or have an adverse effect on the health of other water consumers." Typical examples in addition to those previously mentioned are laboratories, hospitals, sewage treatment plants, industrial or chemical plants, mortuaries, etc. The NYSDOH Cross-Connection Guidance defines the type of activity performed at each site that makes it hazardous.

The term "high hazard" was developed by DEP staff in 1998 to generate a priority list of hazardous sites. This "high hazard" list was compiled from a list of all activities defined in the NYSDOH guidance as hazardous and requiring a backflow prevention device on their water service lines compared with Department of Finance Records on building classifications. It was intended to merely establish a "probability" that a property might

require a device. Whether or not all of these properties actually required a device must be based on a physical inspection.

Currently, it is the duty of the licensed professional – either a registered architect (RA) or professional engineer (PE) – to determine at the planning stage of building or renovation whether a BPD is necessary, and if so, to prepare and submit plans for its installation to DEP. After DEP approves the plans, the owner must hire a licensed master plumber (LMP) to file a DOB application for the BPD. Once installed, the LMP must call DOB for an inspection and, in addition, the BPD must be tested by a state-certified BPD tester who is either a licensed master plumber or employed by one, and inspected by a PE or RA; this ‘tester’ will certify that the installation is in accordance with the approved plans. The completed test report must be sent to DEP and DOB. The owner must then have the BPD tested by a certified tester annually and submit a report to DEP. The new Plumbing Code, enacted in July 2008, has added requirements for a BPD on equipment such as boilers and cooling towers, which are not otherwise regulated by other agencies.

In addition to the requirements of the State Sanitary Code, DEP reports on its cross-connection activities as part of the federally-monitored Filtration Avoidance Determination (FAD) for the Catskill / Delaware part of our water supply; and the 2007 FAD specifies the milestones that DEP is required to meet as it implements its Cross Connection Control Program. Our compliance significantly exceeds these requirements, and I will share those statistics with you later in my testimony.

DEP created the inter-agency Cross Connection Control Task Force in 2001. Members of the task force include the Department of Health & Mental Hygiene's (DOHMH) Office of Public Health Engineering (PHE), DOB, the Plumbing Foundation, the Engineer's Society, and the Real Estate Board. The task force helped develop a more comprehensive approach and disseminate policy regarding DEP's cross connection program. PHE reviews the Cross Connection Program's reports required for FAD compliance, monitors the program's progress and conducts its own inspections and investigations of potentially high hazard facilities.

Another reporting mechanism instituted in conjunction with the Task Force is that DEP shares inspection information with PHE, which permits groundwater wells; these wells are of particular concern with regard to cross connections because a groundwater well can easily become contaminated and any interconnection could compromise our city's drinking water. Greater cooperation and coordination with DOHMH has proven beneficial to protecting public health.

Since I was appointed deputy commissioner in 2006, we have reviewed the work of the Task Force, including the original list of 22,765 potentially hazardous properties, which was compiled based on Department of Finance building classifications. Since that time, I have reorganized the cross connection control program, including the addition of the former Chief of DOHMH's PHE. We have instituted a system of information sharing with our Bureau of Environmental Compliance, which plays a role in tracking facilities with hazardous chemicals, to better leverage our institutional knowledge and allow us to more quickly identify potential problem facilities

without devices on record. Also, we have determined where immediate attention is needed and quickened the pace by having staff target hazardous facilities by using market sector research, and most recently by engaging a consultant engineering firm to conduct the field inspections for the elimination of the inventory of the 1998 priority high hazard properties that may require installation of BPDs. My staff and I also determined that a significant percentage of the properties on the original list were not appropriate for inclusion in a list of potentially high hazard properties.

In previous testimony DEP detailed the process by which we refined the data derived from the 1998 report and a follow-up report in 1999. We used a potential hazard barometer to identify buildings requiring backflow preventers. Those among them that met a standard for “high hazard” – indicated high priority for risk. What DEP did not have available in 1998 or 1999 is inspection-based information on all of the properties of concern. It is important to note that since 1987, all new buildings are either required to have backflow prevention devices or to be found exempt in order to qualify for a certificate of occupancy. Therefore, once this backlog of pre-1987 buildings needing evaluation is eliminated, we will have a complete inventory of existing high hazard properties. We expect to have this task completed by the end of 2011.

We have been compiling more detailed and current information about the number of buildings in New York City that require backflow prevention devices by data mining and field inspection. Generally speaking, residential properties are not the subject of concern except where they operate large boilers that use chemically treated water. Our approach has been to target

our inspection resources more efficiently by identifying the types of commercial and residential properties that are most likely to pose a risk. We continue to fill the gap in our knowledge by getting inspectors into the field and doing the labor-intensive job of going to previously identified properties. For example, in the 2007 FAD Annual Report, of 4,232 potentially high hazard properties that were inspected, 2,572 – fully 60% – did not need a BPD. The report also shows that of the total 6,552 inspections in calendar year 2007, 4,326 – 66% – of the premises did not need a device. By the end of October 2009 we had inspected or eliminated 13,659 of the inventory of 22,675 high hazard locations. We determined that 8,705 do not need a BPD or are exempt, 9,053 still require inspection and 3,873 have had BPDs installed.

In order to expedite this process, beginning in January, for an anticipated one-year duration, a consulting engineering firm, AG Consulting Engineers, will perform inspections of approximately 11,000 properties identified by address and block and lot numbers. At the completion of this contract we will have inspected all of the over 22,000 properties originally designated as potentially high hazard.

As an example of continuing progress, I can report that the number of BPDs tested was up from 5,659 in 2007 to 8,310 in 2008 – a 48% increase – and that we are at 4,034 for the first half of 2009. Devices installed and tested went from 2,306 in 2007 to 3,799 in 2008 – a 65% increase – and 2,097 for the first half of 2009. We are now also tracking address verification visits, which confirm that the facility on the property is actually high hazard; this will better focus the consultant's work. Sometimes a business use changes

and can be eliminated from the list. We have completed 4,770 such visits in January to June 2009.

The annual FAD deliverable for cross connections states that DEP is obligated to issue 200 notices of violation (NOVs) for failure to test a cross connection control annually; and the deliverable for full inspections requires DEP to conduct between 300 and 450 full inspections of potentially hazardous premises. DEP is in full compliance with these requirements, well exceeding each of the US Environmental Protection Agency prescribed deliverables. In 2008, DEP issued 586 NOVs and conducted 3,207 full inspections of high hazard properties. In the first six months of 2009, 315 NOVs were issued and 1,564 inspections were performed. The FAD also sets 400 as the minimum for both the number of approvals of backflow preventer plans and the number of exemption requests processed. Here, too, DEP exceeds the target deliverables, with 2,624 plans approved and 1,160 exemption requests processed for 2008; and 1,387 plans approved and 342 exemption requests processed for the first six months of 2009. The targeted deliverable of 225 for enforcement against high hazard premises was exceeded as well, with 1,124 in '08 and 629 in the first half of '09.

We have also significantly increased our enforcement efforts. The Administrative Code provides for various enforcement measures, from issuance of Notices of Violation (NOVs) returnable to the Environmental Control Board and associated penalties, to termination of water service and disabling of equipment that creates risk to the public water supply. In 2007, DEP issued 720 NOVs for failure to test or install a BPD; 1,226 in 2008 and 697 in the first six months of 2009. Prior to the issuance of NOVs, DEP

issues letters or orders directing the owner to install a BPD. In 2007, 2,765 letter or orders were issued, 1,914 in 2008 and 1,193 from January to June 2009.

Our enforcement efforts do not stop with the issuance of an NOV. In addition to the penalties and enforcement actions I just described, our Cross Connection Unit reviews the list of properties cited to evaluate whether re-inspection is warranted based on failure to submit a report or install a device. We then cross check to ascertain whether another City or State agency – e.g., NYS Dept of Education for hair salons, DEC for dry cleaners, NYC Consumer Affairs for auto repair, NYSDOH for medical/dental – can collaborate on enforcement by advising it that it is operating in violation of city and state law by not having backflow prevention installed at the premises. Continuing non-compliance can result in further measures.

As we develop a more accurate assessment of the premises of greatest concern, DEP is also working to foster quicker compliance with backflow prevention requirements through procedural improvements.

DEP has the support of the plumbing industry in its efforts to identify users who ignore the requirement to install BPDs. The self-certification program, introduced in January 2007 and approved by NYSDOH, simplifies and expedites compliance, and we hope to see the level of participation rise. Until recently, before installation of all backflow prevention devices, a property owner submitted a plan for installation. That plan had to be reviewed and approved by DEP staff. For the installation of the simplest devices, such as the installation of a double check valve device, 2” or smaller, with no complex plumbing or drainage issues, plan review and

approval are unnecessary in terms of public health and is burdensome to the applicant. DEP will continue to require plan review and approval for the more sophisticated devices that are required at the more hazardous properties. We also conduct post-installation audits of self-certified installations.

As part of our revamping of internal procedures, DEP has instituted further changes that have simplified the certification process but still maintain accountability. For instance, we have eliminated the post-inspection advisory letter, which did not prove to be an effective means for improving compliance. Now, upon determination by our field inspector that a BPD is needed, DEP issues a Commissioner's Order directing the property owner to install a device. We recently posted on our website the application for exemption and self-certification. This was done in an effort to make the path to compliance more user-friendly. Additionally, we are revising the current guidelines and the review/approval process to create a more user-friendly environment for obtaining compliance.

While we have significantly improved and increased our enforcement efforts through the use of such things as Orders and NOV's, I want to be clear that our objective is to simply achieve and maintain compliance where necessary. Enforcement is an unavoidable necessity in achieving this compliance, not our primary objective.

As an adjunct to enforcement, DEP will be sending out a mailing to owners of properties where high hazard businesses are located. These properties have been targeted by the same process of refining the original database of

high hazard properties. Each will receive a letter and brochure outlining essential information on the process of installing BPDs under the auspices of the Cross Connection Control Program. The brochure is being translated into the six languages designated in Mayor Bloomberg's executive order to translate all essential documents. The database includes nearly 5,000 property owners citywide, and we are continuing to conduct inspections in order to refine and update our information.

In closing, I would like to offer some comments on the provisions of Introduction 935. Although the goal of BPD installation where needed is laudable, we believe it is already adequately covered by current laws and rules. We view Section 2(c) of Intro. 935, which contains reporting, certification and repair requirements as duplicating existing requirements in Title 15 Chapter 20-04 of the Rules of the City of New York. Under those rules, property owners have an affirmative duty to install a BPD where a cross connection presents a potential hazard as determined by the commissioner of DEP, as well as the inspection and reporting requirements outlined earlier in my testimony.

The reporting requirements in Section 2(d) capture some of the key management indicators for the work of this program, and they are already part of the FAD deliverables I mentioned earlier. We would certainly be glad to include the Council in the list of recipients of the FAD deliverables and any other reporting of these statistics. Creating stand-alone reporting requirements is redundant and diverts resources from the core mission of ensuring protection of the public water supply from cross connection. We

can work with the Mayor's Office to capture what the Council is interested in receiving.

Section 2(b) places an affirmative duty on licensed master plumbers and plumbers who discover a cross connection – presumably one without an appropriate BPD – prior to undertaking work or if discovered in the course of emergency work to report it to DEP and the owner. Given that the Plumbing Foundation has consistently advocated for the active identification and outreach program DEP is now engaged in, it is hard to imagine that the licensed members of the trade it represents would neglect to report the existence of such a threat to public health. As with the other requirements proposed in the bill, it appears that this provision might be effectuated by means other than additional legislation.

We are also very concerned about the potential additional administrative burden this law would place on us. We at DEP have devoted considerable effort to creating a new organizational structure and protocol for cross-connection controls to both eliminate a backlog and move forward expeditiously. It is essential that this momentum not be impeded by isolated reports that are not being evaluated according to the same strict criteria that our engineering staff are applying. We are also particularly concerned about small businesses - of course those where backflow preventers need to be installed - but we must ensure that rigorous evaluation goes into making that determination; otherwise small businesses may experience it as an excessive regulatory burden.

The definition of hazardous facility in the bill conforms to the existing definition of hazardous facility in the NYSDOH Guidelines. But as I mentioned, the term 'high hazard facility' is a term of art internal to DEP that was used to help in prioritizing its identification and targeted enforcement efforts. The definition high hazard in the bill applies to facilities at risk from explosive dust and the like and does not apply to facilities that present a risk from faulty backflow prevention; it could be eliminated, though, since the term 'hazardous facility' is sufficient.

Thank you for the opportunity to testify. I will be glad to answer any questions.

PROTECTING OUR WATER:

New York City's Cross Connection Control Program

INTRODUCTION:

The New York City Department of Environmental Protection (DEP) is responsible for providing a continuous supply of safe, clean drinking water to more than nine million residents and visitors throughout the City and New York State. To protect New York City's drinking water supply systems from contamination, DEP has a robust water quality monitoring program and regularly performs sampling throughout the City to ensure all relevant State and federal standards are met.

DEP also works to prevent contamination before it occurs by ensuring that local businesses comply with all relevant City and State codes. A key component of this enforcement and inspection initiative is DEP's Cross Connection Control Program, which requires certain businesses to

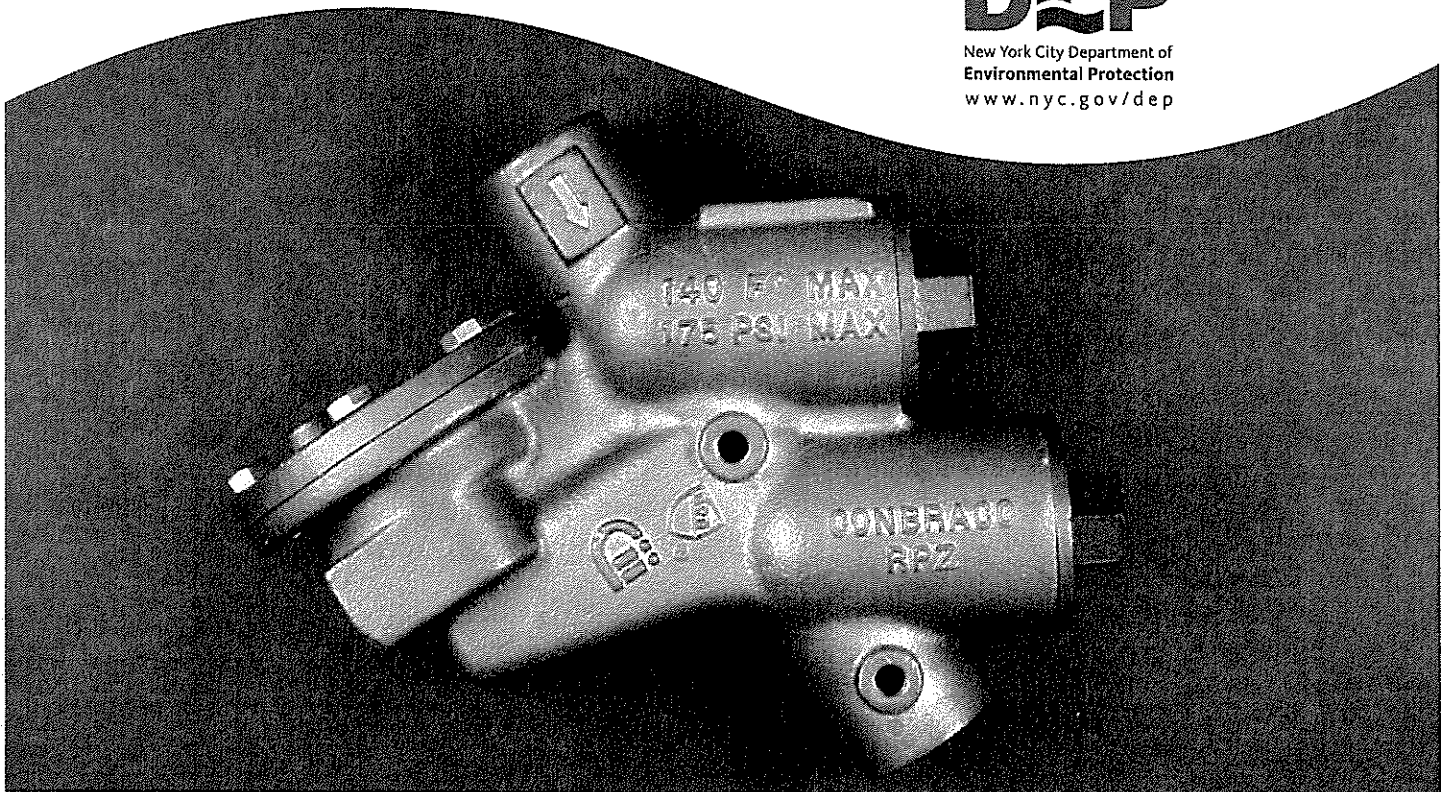
install and operate approved backflow prevention devices and enforces Part 5 Section 5-1.31 of the State Sanitary Code and Title 15, Chapter 20 of the Rules of the City of New York.

WHAT IS A BACKFLOW PREVENTION DEVICE?

Backflow devices prevent contaminated water or chemicals from flowing back into the drinking water supply if there is a sudden or unexpected change in water pressure. If a property requires a backflow prevention device, they must be installed on all water service lines to the property. Appropriate backflow prevention devices can be identified by a Professional Engineer (PE), Registered Architect (RA) or Licensed Master Plumber (LMP).



New York City Department of
Environmental Protection
www.nyc.gov/dep



WHAT PROPERTY TYPES MUST INSTALL BACKFLOW PREVENTION DEVICES?

Unless they receive a specific exemption from DEP, the following types of businesses are required to use backflow preventers:

- Metal Plating Operations
- Photo-Processing Facilities
- Laundries and Dry Cleaners
- Commercial Car Washes
- Greenhouses
- Hospitals, Clinics and Laboratories (Including Veterinary Hospitals)
- Medical and Dental Offices
- Funeral Parlors
- Food Processing Plants, and Meat or Fish Packers
- Dye Plants
- Paper Processors
- Auto Repair Shops
- Breweries
- Tanneries
- Exterminators
- Large Residential Dwellings with Treated Water Boilers
- Sewage Treatment Plants or Handling Facilities
- Premises with Multiple Water Service Lines
- Premises with Roof Tanks and Elevated Storage Lines
- Canneries
- Shipyards and Marinas
- Schools and Colleges
- Food Processing Facilities
- Nursing Homes
- Barber Shops and Beauty Salons
- Properties with In-Ground Irrigation Sprinklers

If your property or business type is not included in the above list and you have a specific question about your legal requirements, please call 311 and you will be directed to an appropriate DEP representative.

HOW DO I COMPLY WITH THE LAW?

1. First, you must hire a Professional Engineer (PE) or Registered Architect (RA) to prepare two sets of backflow prevention plans for your property. These must be submitted with two application forms to DEP's Cross Connection Control Unit for approval. If approved, DEP will notify you via mail and return a copy of the plans to your PE or RA.
2. The backflow prevention device must then be installed by a Licensed Master Plumber (LMP) in accordance with the DEP-approved plans. Installation must comply with NYC Department of Buildings regulations and requirements.

3. Once installed, the device must be tested by a New York State Certified Backflow Prevention Device Tester. For a list of State Certified Testers, contact the State Department of Health at (800) 458-1158 ext. 27650.
4. Once testing is completed, a test report must be filed immediately with DEP (within 30 days of device installation). In the event of an improper installation, DEP will notify you or your PE/RA. The device will need to be fixed and then resubmitted for inspection and certification.
5. Your backflow prevention device must be properly maintained, and will be subject to annual testing and inspection by a certified tester.

If you believe your property is exempt from backflow prevention requirements, you must hire a PE, RA, or an LMP to submit a formal exemption request.

All relevant application, test reporting and exemption forms are available online at www.nyc.gov/dep.

FURTHER QUESTIONS

If you have any questions about DEP's Cross Connection Control Program, please call 311.

Si a usted le gustaría una copia de este folleto en español, por favor visite el sitio Web de DEP en www.nyc.gov/dep, o llame al 311.

Если Вы хотите получить копию данной брошюры на русском языке, посетите, пожалуйста, сайт Управления охраны окружающей среды (DEP) www.nyc.gov/dep, или позвоните по номеру 311.

Si ou ta renmen jwenn yon kopi tiliv sa a nan lang Kreyòl Ayisyen, tanpri ale sou sit wèb DEP, www.nyc.gov/dep, oswa rele 311.

如果您想要這份冊子的中文本，請訪問 DEP 的網站 www.nyc.gov/dep，或者撥打 311。

본 안내서의 한국어 버전이 필요하시면 DEP 웹사이트 www.nyc.gov/dep 를 방문하시거나 311 번으로 전화해 주십시오.

Se desiderate una copia in italiano del presente opuscolo, siete pregati di visitare il sito di DEP: www.nyc.gov/dep, o di chiamare il 311.

New York City Department of Environmental Protection
59-17 Junction Boulevard, Flushing, NY 11373

Michael R. Bloomberg, Mayor
Steven W. Lawitts, Acting Commissioner

City Council Hearing
Intro 935– Backflow prevention device reporting and certification
19 November 2009

I started working as a consulting engineer 20-years ago, working with my family's business on long island.

At that time, the requirement to install backflow preventers was relatively new. Both Nassau and Suffolk counties were very strict and aggressive about enforcement of the regulations and installation of the devices – I think that Suffolk was more strict than Nassau.

But, the building owners knew that they either had to comply with the regulations or that they would face stiff penalties. At first the installation of backflow preventers was a big deal. There was confusion and people had to adjust to the requirements.

But now, the installation of backflow preventers is standard practice. People understand the requirements and have accepted the devices as just another part of the water service.

It's hard to believe that 20-years later we are still talking about backflow preventer installations.

When you consider the risk that a Hazardous facility poses to the public water supply and the damage that a cross connection can do, then you can understand why jurisdictions like Nassau and Suffolk counties were so aggressive, and why these counties have backflow devices installed on nearly every hazardous connection.

New York City can not make that claim. The fact is that many, many of the most hazardous facilities in New York do not have backflow preventers - a condition which is polluting our water each and every day.

And yet, the New York City Department of Environmental Protection is the custodian of the public water system. They are responsible for keeping the water safe for all of the people of New York.

You have to ask yourself: why are so many facilities in New York allowed to continue without basic back flow prevention?

Or better yet, ask the DEP why - Why are these facilities allowed to continue to pollute our water and what are we going to do about it.

The City Council must hold the DEP to task. Have them explain what they have done and what they are going to do to protect our water.

Respectfully submitted,
William Connors, PE

INTRO 935 HEARING – KEN KLEIN TESTIMONY

NOVEMBER 19, 2009

Good Morning my name is Kenneth Klein, I am a registered professional engineer with 50 years experience. I have been involved with the NYC backflow program for over 20 years. In 1990 I was instrumental in writing the "Backflow Prevention Device Bill" signed into law by Governor Cuomo in 1990. From 2003-2007 I was a member of the Plumbing sub-committee that wrote the 2008 NYC Plumbing code. Presently I am a member of the DOB Plumbing Operators Committee.

I was a member of a DEP backflow committee in 1990 when DEP themselves identified 22,765 hazardous facilities.

To date DEP's compliance rate is under 30% which is totally unacceptable and is putting the public at risk for a major event. The DEP is dragging its feet on the issue of compliance. To insure accountability by DEP I urge you to pass a local law requiring DEP to submit a report to council outlining their activities related to backflow prevention.



PLUMBERS AND GASFITTERS LOCAL UNION NO. 1
OF THE
**UNITED ASSOCIATION OF JOURNEYMEN AND APPRENTICES OF THE PLUMBING
AND PIPE FITTING INDUSTRY OF THE UNITED STATES AND CANADA**
NEW YORK CITY

GEORGE W. REILLY
Business Manager

JOHN J. MURPHY
Financial Secretary-Treasurer

Business Agent-At-Large
DONALD T. DOHERTY, JR.

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MICHAEL APUZZO
KEVIN BRADY
FREDDY DELLIGATTI
THOMAS W. KEMPF
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JOHN FILOSA
BILL SPRINGER
JOHN TOTINO

Inside Sentry
CARL L. JOHNSON, JR.

Testimony Before the

New York City Council

Committee on Environmental Protection

Int. No. 935

Daniel Lucarelli
Business Agent
UA Plumbers Local No. 1

Thursday, November 19, 2009





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Chairman Gennaro & Members of the Committee on Environmental Protection:

I am Daniel Lucarelli, a Business Agent for the Plumbers and Gasfitters Local Union No. 1. On behalf of the Union and its membership, I am appearing before you today to express our strong support of the legislation under consideration—Intro. 935. As this Committee determined from its Oversight hearing on June 11, 2008, the potential for cross-contamination of potable water supply in the City of New York poses a very real and significant safety hazard, which, while not always readily ascertainable after cross-contamination occurs, can be ameliorated by unburdensome preventative measures. This legislation does just that.

Specifically, this legislation will make it incumbent on: 1) licensed plumbers and master plumbers to report any discovered or identified existences of cross-connections between potable water and non-potable substance piping systems to the New York City Department of Environmental Protection ("DEP"); 2) owners and operators of buildings to correct backflows or backsiphonages of hazardous materials into potable water supply when identified and certify the problem has been cured through the installation of a prevention device; and 3) the DEP to submit semi-annual reports outlining the number of prevention devices installed and the number of buildings that require such devices.

Even though Section 5-1.31 of the New York State Sanitary Code requires that suppliers of water protect their water supplies by preventing backflows of harmful materials, for nearly three decades and despite various reports, surveys, and data acknowledging that thousands of buildings across the City may be at risk for backflow of hazardous materials, the DEP has consistently ignored the command of the State law. Thus, this is not a case of duplicitous legislation. Rather, the legislation would assist in effecting the goals of the State law by setting out guidelines for the DEP to ensure compliance; providing it with information about known instances of cross-connections; and allowing the City Council to continually and regularly monitor the DEP's progress.

Local 1, as the representative of licensed plumbers and master plumbers, is certainly aware that this legislation would impose disclosure requirements on its members. Despite this added responsibility, the Union and its members welcome this legislation as a proactive means to ensure a reliable and safe supply of potable water for New York City. We thank the Committee for holding this hearing, and we urge its members to approve the legislation currently under consideration.



City Council Hearing
Intro 935– Backflow prevention device reporting and certification
19 November 2009

I started working as a consulting engineer 20-years ago, working with my family's business on long island.

At that time, the requirement to install backflow preventers was relatively new. Both Nassau and Suffolk counties were very strict and aggressive about enforcement of the regulations and installation of the devices – I think that Suffolk was more strict than Nassau.

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The City Council must hold the DEP to task. Have them explain what they have done and what they are going to do to protect our water.

Respectfully submitted,

William Connors, PE

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 11 19 09

Name: James Roberts, P.E. (PLEASE PRINT)

Address: Deputy Commissioner

I represent: NYCDEP

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 935 Res. No. _____

in favor in opposition

Date: 11/19/09

Name: Stewart O'Brien (PLEASE PRINT)

Address: 44 W 28th St

I represent: Plumbing Foundation, City of NY Inc

Address: Same

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 935 Res. No. _____

in favor in opposition

Date: 11/20/09

Name: Daniel Locarelli (PLEASE PRINT)

Address: 158-29 Crossbay Blvd. Howard Beach, NY

I represent: Plumber Local Union # 110

Address: 158-29 Crossbay Blvd, Howard Beach, NY

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 935 Res. No. _____

in favor in opposition

Date: 11/19/09

(PLEASE PRINT)

Name: WILLIAM CONNORS, PE

Address: ~~2467~~ LILKE & ASSOCIATES, 1001 Ave of AMER-
NY NY

I represent: AMERICAN SOCIETY OF PLUMBING ENGINEERS

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 935 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Kenneth Klein, PE

Address: 99 Rogers Dr. New Rochelle, NY

I represent: ASSE (American Society of Sanitary Eng)

Address: NJC.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 935 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: John J. Murphy

Address: 39 Richard Lane, Thornwood, NY 10594

I represent: UA Plumbers Local No. 1

Address: 158-29 George Meany Blvd Howard Beach
NY, 11414

Please complete this card and return to the Sergeant-at-Arms