



Testimony of
Rohit T. Aggarwala
Commissioner
New York City Department of Environmental Protection
before the
New York City Council
Committee on Environmental Protection, Resiliency, and Waterfronts
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The Preliminary Budget for Fiscal Year 2025, The Preliminary Capital Plan for Fiscal Years 2024-2028, Fiscal 2024-2033 Preliminary Ten-Year Capital Strategy and The Fiscal 2024 Preliminary Mayor's Management Report

Good morning, Chairman Gennaro and members of the Environmental Protection, Resiliency, and Waterfronts Committee. I am Rohit Aggarwala and I'm the Commissioner of the Department of Environmental Protection (DEP) and the City's Chief Climate Officer. I am here today with my colleagues — Chief Financial Officer Joe Murin and Chief Operating Officer Kathryn Mallon — to discuss DEP's budget, capital plan, and performance.

DEP protects the public health by providing high-quality drinking water, managing wastewater and stormwater, protecting against coastal inundation, and reducing air, noise, and hazardous materials pollution. This year we continued providing the highest quality services to our customers and communities, while keeping our harbor waters cleaner than they have been in 150 years. We are exceptionally proud of the work DEP's 5,600 men and women do 24/7 to keep our city running, but we are not complacent. We are constantly looking for ways to do more and better serve our neighborhoods.

You have been able to review our budget documents, so I will not go over them, although I am happy to answer questions on them. Instead, I'd like to review a few ways we have invested the \$4.1 billion dollars we received from ratepayers last year and address a few topics that I know are of concern to New Yorkers and to members of this committee.

Protecting Our World-Renowned Water Supply

First, our water supply remains safe, reliable, and delicious. We perform hundreds of thousands of tests each year and our recently released 2023 Water Quality Report shows that we continue to do that core job with excellence.

We have several major projects underway to serve the water supply:

- The Delaware Aqueduct — As many of you know, the Delaware Aqueduct, which carries roughly half of our daily water supply, has been leaking since the 1990s. DEP has been undertaking a \$1.5 billion effort to build a bypass for the leaking section. We hoped to start using the new bypass tunnel last fall, but testing indicated that we needed new pumps to ensure construction-worker safety, so the project was delayed. We are highly confident repairs will begin this fall, which will be one of the largest capital projects in DEP's history. Starting to use the new tunnel requires us to shut down the Delaware

Aqueduct for about six months, but we have been preparing for this shutdown for several years to ensure there is no interruption of water supply either to the city or the upstate communities we serve.

- Hillview treatment facility — We expect to start work in FY25 on a massive upgrade to the buildings where we undertake the final treatment for most of the city’s water at Hillview Reservoir in Yonkers.
- Kensico-Eastview Tunnel — In FY25, we are also planning to begin work on the tunnel that provides critical redundancy to our water supply system by creating a second tunnel between the Kensico Reservoir and our Catskill/Delaware Ultraviolet Treatment Plant. This is expected to cost well over \$1 billion.
- Water Tunnel No. 3 — We continue to make progress on the two final items, shafts 17B and 18B in Queens, which will allow us to place the Brooklyn-Queens leg of Tunnel 3 into service in 2032. I visited that site recently and am pleased to report that we are still on schedule for 2032.



Map of NYC water supply system with the Delaware Aqueduct work site circled in red.



Preventing Water Main Breaks

Water main breaks are disruptive, and while we've had a few significant ones this year, I'm proud to report that in FY24 we are on track to have the fewest number of water main breaks on record. While water main breaks occur in all water systems with some randomness, our success in reducing them is not just luck. We are using system data and improved technology to catch small leaks and weak spots before they become major breaks. When system data identifies potential weak spots, we send out our "pipe doctors" overnight to investigate. Their specialized sound equipment acts like a stethoscope to pinpoint leaks before they become disruptive and expensive water main breaks. This proactive work has paid off; we've reduced leaks by 42% so far this fiscal year.

Further, we are working on a data-driven, risk-based approach to water main replacements that we hope to be ready to integrate into our capital plan over the next year or two. An important finding from this work is that vulnerability is not solely due to aging infrastructure. We found that water mains from the 1950s and 1960s are often twice as likely to break as water mains from the 1800s.

Replacing Lead Service Lines

Across the United States, people are understandably concerned about lead service lines. To be clear, there are no lead water mains in our system. However, we estimate that between 110,000 and 370,000 homes in New York City may have lead service lines — lines that are owned by the homeowner that connect to our water mains. Further, an unknown number of homes have internal plumbing that is lead or has lead solder.

DEP carefully manages and treats the water to minimize any lead leaching from these internal pipes. Nonetheless, we recognize that lead service lines should be replaced. Later this year, the federal Environmental Protection Agency will finalize its revised Lead & Copper Rule, which will essentially require all cities, including New York City, to remove all lead service lines.

Last year, we initiated a NYS grant-funded program to locate and replace lead service lines in disadvantaged communities. We expect that these replacements will get underway in FY25. Further, we're currently developing a proposal for how we would manage replacements to comply with the new Lead & Copper Rule. I will note the Council's support for our efforts to get New York State to treat us fairly when it comes to funding like the federal funding for lead service line replacement. In 2022, New York City applied for nearly \$58 million in federal lead service line grants for six disadvantaged communities in the Bronx and Queens that demonstrated severe financial hardship. The award criteria used by New York State arbitrarily restricted New York City to \$24 million total, representing just 23% of statewide funds. In 2023, we applied for funding for seven communities we received an additional \$24 million to spread over four areas — again, a portion of the funds that is far less than our share of New York State's population or New York State's disadvantaged communities. As a result of these arbitrary restrictions, we expect that New York City residents will bear the bulk of the cost of changing out lead service lines.

Facing Climate Change

All New Yorkers know the challenges we face from climate change. Nowhere is it more apparent than with the increased rain and flooding we have seen this past year alone.



Climate change is bringing sudden, intense rainfall more frequently than ever before. In fact, New York City experienced rain every three days in 2023, and the National Oceanic and Atmospheric Administration (NOAA) has recently reclassified the city as a “humid subtropical” climate. The storm on Sept. 29th was the second most-intense rainfall ever recorded in the five boroughs, exceeded only by Ida in September 2021.

DEP is taking climate change very seriously, but it is not an issue that we can solve quickly. Here’s a sample of what we have been doing:

- **Coastal flooding** — As many of you know, as part of PlaNYC last year, DEP took responsibility for coastal protection and created the new Bureau of Coastal Resiliency within DEP. We have hired a new Deputy Commissioner, Laurian Farrell, to lead this bureau. She is building and training a team, because, as soon as this summer, DEP will be the agency to coordinate the first operating floodgates, which are under construction as part of East Side Coastal Resilience. Very quickly, this new bureau will have simultaneous planning, construction oversight, and maintenance responsibilities.
- **Catch basin cleaning** — I have spoken in the past about our new data-informed catch basin inspection program, which targets more frequent inspections in areas that are most likely to need cleaning. This new schedule has allowed us to increase catch basin cleanings by 22% through the first four months of FY24 while seeing a 45% decrease in the resolution time to clear a clogged catch basin. Now, when someone calls in a 311 complaint about a clogged catch basin, we address it in an average of 2.1 days. We have also begun installing a new catch basin design that includes a second grate on the sidewalk, so the basin can function even if leaves cover the main grate during a storm.
- **Bluebelts** — In his state of the city address, Mayor Adams committed to a five-borough Bluebelt strategy, and we are working to make that real. We are particularly working closely with the Parks Department on several potential bluebelts in all five boroughs. This fiscal year, we inaugurated the Mid-Island Bluebelt in Staten Island, and we are making significant progress on the daylighting of Tibbets Brook in the Bronx.
- **Rain gardens** — DEP added nearly 1,000 rain gardens to our network in 2023, including we’re now at more than 13,000 citywide green infrastructure assets, 10,500 of which are rain gardens and right-of-way assets. Rain gardens were originally placed in targeted locations to reduce combined sewer overflows, but we are now deploying them across the city.
- **Cloudburst projects** — We’ve had great support for cloudburst projects, which design public spaces to retain water during major storm events. I’m pleased that our first cloudburst project, at the South Jamaica Houses of NYCHA, will break ground this summer. We have another four in design that will enter construction over the next two years, and six more that we are seeking funding for. We’ve had great success seeking federal money for these. We have been selected and are awaiting award for \$123 million for cloudburst projects already and are applying for more funding for additional neighborhoods, including East Elmhurst and Central Harlem.

Stormwater management has been a priority for this administration, and our teams have been doing great work. Among our achievements this last year is the completion of an innovative 3D computer model of every one of our pipes in the city. Unlike a traditional static map, this model allows us to examine scenarios and identify



bottlenecks that can cause flooding. We've also engaged in a partnership with Rebuild by Design to create a panel of New Yorkers who will provide advice and feedback on how we create resilience across the city.

Protecting New York Harbor

Finally, roughly \$9 billion of our capital plan and 36% of our expense budget is dedicated to pollution control, the processing and treatment of wastewater. Because of our successes, New York harbor now has dolphins, whales, and seahorses regularly. A few highlights of our work and investments in treatment:

- We're well underway in the construction of four new anaerobic digesters at our Hunts Point treatment plant. We are in the early stages of a major project to bring advanced technology to our wastewater treatment plants, which allows our skilled staff to in-source work that we currently contract out.
- We're pleased to have released the City Council-mandated study on the feasibility of a new wastewater treatment facility on Rikers Island. This study demonstrated that a new treatment plant on Rikers is both feasible and beneficial to DEP and the city, both in terms of financial benefits and especially environmental benefits.

Protecting New Yorkers' Quality of Life

While water consumes the majority of our budget and staff at DEP, we also take our air, noise, hazmat, and asbestos enforcement role very seriously.

We are pleased with the results thus far on our noise camera program, which now has 10 cameras. These cameras don't work well everywhere – for example, near highways – but we are optimistic about their potential, and we have been pleased to work with several Council Members on locations for these cameras in their districts. We will be looking into other technology-based approaches to noise enforcement.

We are proud of the work we have done on air quality and idling. We're on track to process 100,000 citizen-enforced idling violations this year, up from 12,000 in 2021. Such a massive increase in throughput has led to some delays, but I am pleased with how we have ramped up to get this done. Most importantly, we've had some success work with companies to convert to their fleets to electric vehicles as a result of this program, and I'm optimistic that more will follow. The program does require improvement and, we believe, legislative changes, but we're looking to expand participation by investing in a user-friendly app to allow citizens to report violations more easily and without the time and expertise that is currently required.

Improving DEP's Business Processes

We have also been doing internal work to improve DEP functions so we can do more, faster, and more efficiently. A few highlights:

- Over the last two years we've reduced our procurement timelines by 50% compared to procurement rates during the Covid years. Our commitment rate — the rate in which we get projects underway — last year was 103%. We got every budgeted project underway, and even a few extra done ahead of schedule. We plan to be close to that rate again this year.



- Cybersecurity is a prime concern of ours, and we're in the process of building additional system improvements that will help ensure continuity of our IT functions in the event of a disruption at our headquarters in Queens.
- Our DEP police, who protect our critical water infrastructure upstate, will be launching a new class at DEP's Police Academy in Kingston, New York. It's not often appreciated how important our 200 DEP police officers are to protecting the water infrastructure that every New Yorker relies upon. We have a significant vacancy rate among officers and this new class will help.

Finally, I'll note that we have undertaken an exciting effort with the Partnership for New York City, the Environmental Tech Lab. Modeled on their Transit Tech Lab partnership with MTA and DOT, this effort uses a structure process to identify new technology solutions that DEP could use, source solutions to those problems from startups around the world, and test them at DEP. I'm pleased that our first year partnership identified a technology to pilot and another technology so compelling that we skipped the pilot and are moving straight into procurement.

Managing Water Rates

As you know, DEP's water functions are almost exclusively funded by revenue collected from water bills. In FY24, we expect to collect roughly \$4.17 billion in revenue from our water customers.

Most things cost more in New York City than anywhere else, but our water rates are well below those of many large American cities. And we work hard to keep it that way. Of course, the system needs to be funded, and we can only keep rates low for everyone if everyone pays their bills.

Last year, we offered an amnesty program to allow people with outstanding balances to save money on interest if they made down payments and entered into a payment plan. We think the program was very successful. It brought in nearly \$105 million dollars, while helping customers get payments back on track without penalty.

This year, we are focused on enforcement, because we still have roughly \$1.3 billion in unpaid water bills. When people don't pay their bills, they pass the burden on to their neighbors who do. We have programs that can help those who are truly struggling to pay. It's unfair for customers who have the means to simply ignore their bills, so we have started issuing shutoff notices to these properties. I was with the mayor on Wednesday when we issued one of 2,400 water shutoff notices sent this week. We will continue to do so. We'll also be instigating legal action, and alerting condo and co-op owners if their boards and management companies are not paying.

Anyone who owes money should reach out to our Bureau of Customer Service. We will work with you.

Council Members, I also invite your support to improve enforcement. As you know, we no longer have the ability to sell liens on properties for unpaid bills, which means that shut-offs are our only enforcement option.

Looking Forward

I'm proud of the work that this agency has done during the Adams Administration and am excited about what the future holds for DEP. The 5,600 men and women at DEP manage our drinking water, protect our harbor, and are beginning to protect the city against climate change. We have much to do, and we appreciate your support.

Thank you for the opportunity to testify today. My colleagues and I are happy to answer any questions that you have.



**Testimony of Alia Soomro, Deputy Director for New York City Policy
New York League of Conservation Voters
City Council Committee on Environmental Protection, Resiliency, and Waterfronts
FY25 Preliminary Budget Hearing
March 22, 2024**

My name is Alia Soomro and I am the Deputy Director for New York City Policy at the New York League of Conservation Voters (NYLCV). NYLCV is a statewide environmental advocacy organization representing over 30,000 members in New York City. Thank you, Chair Gennaro, as well as members of the Committee on Environmental Protection for the opportunity to comment.

With numerous fiscal challenges facing the City, NYLCV stresses that the City must not lose sight of important climate deadlines and goals. It is imperative that we pass a City budget that is not only bold on climate, but paves the path towards a just and equitable future. For FY25, NYLCV urges the City to provide robust funding for the NYC Department of Environmental Protection (DEP) programs and staffing, as well as the Mayor's Office of Climate and Environmental Justice (MOCEJ), in order to fully implement climate and environmental justice laws and programs.

Eliminate the Proposed Water Rental Payment

First, NYLCV opposes the proposed DEP water rental payment outlined in the [January 2024 Financial Plan](#) (page 36 of the PDF). Essentially this is a mechanism where DEP's water payment revenue is handed over to the City general fund instead of staying with DEP, where they can direct it towards capital infrastructure projects. While the City has done this in the past, NYLCV believes this is a poor policy decision, especially given the urgency of the climate crisis. According to the Plan, DEP would have to hand over \$145 million this FY and \$295 million next FY. As outlined below, DEP needs to keep this revenue to make essential infrastructure upgrades, especially in parts of the City that have historically been neglected and will suffer the brunt of climate change. With estimates showing City tax revenues by more than \$3 billion for the current and upcoming fiscal years, we urge the City to eliminate the water rental payment.

Fund DEP Infrastructure Projects

NYLCV urges the City to continue taking long-term climate projections into account as the City adapts its existing sewer and wastewater infrastructure, especially with regards to the City's wastewater treatment plants' vulnerability to sea level rise, extreme weather events, and rising groundwater. As stated in our [2024 NYC Policy Agenda](#), the City must continue to explore ways to reduce Combined Sewer Overflows (CSOs) through green infrastructure projects such as rain gardens, bioswales, water squares, green and blue roofs, river daylighting, and permeable

pavement that help absorb stormwater, purify the air, and mitigate the urban heat island effect. Moreover, the City must continue updating and modernizing our sewer system and wastewater treatment process to prevent CSOs from dumping unregulated contaminants in our waterways. Both of these goals are aligned with initiatives in [PlaNYC: Getting Sustainability Done](#), such as reducing CSOs by more than 4 billion gallons per year by 2045 and developing a strategy to end the discharge of untreated sewage into the New York Harbor by 2060. Relatedly, there is a way for the City to advance resilience and raise revenue. As stated in our 2024 NYC Policy Agenda, if the state legislature passes the Water Bill Fairness Act (S4169/A4019), the City Council should pass legislation allowing NYC DEP to create an equitable payment structure in which property owners would pay fees calculated by the amount they contribute to stormwater runoff. The more impervious surface, the greater the amount of runoff contributed, and therefore the higher the fee. This would fund stormwater infrastructure improvements and green infrastructure projects. We echo calls by other advocates for the City Council to pass a resolution of support for the Assembly Bill A9435 in the 2023-2024 State Legislative Session, which includes stormwater in the definition of sewage for purposes of certain water, sewer, and water and sewer authorities.

It is more urgent than ever to ensure the City takes a comprehensive approach to tackling climate change and advancing environmental justice. This includes robust funding for DEP's Green Infrastructure and Bluebelt Programs to manage stormwater runoff and reduce the risk of flooding, especially with increasingly worsening climate impacts. Green infrastructure, which uses vegetation, soils, and natural processes to manage water and reduce the risk of flooding, such as rain gardens, green roofs, bioswales, and bluebelts that use natural drainage corridors, should all be considered. These projects should be expanded and implemented equitably so that all neighborhoods can receive the environmental benefits that come with them, with priority for frontline communities that have borne the brunt of environmental racism and climate injustices, including NYCHA campuses. Additionally, we appreciate DEP's leadership on the Bluebelt program and we urge the City to continue expanding the city's bluebelt program to reduce stormwater flooding with careful design and coordination for bluebelts on city parkland. The bluebelt program preserves natural drainage corridors such as streams, creeks, and ponds, and reconstructs them to help control, storm, or filter stormwater runoff. Bluebelts also provide open green space and a habitat for wildlife.

Cloudburst infrastructure is designed to manage extreme rainfall events too intense for traditional stormwater infrastructure, such as stormwater retention basins and permeable pavements. As DEP is set to formally launch the Cloudburst Management program in 2025, the City must ensure there is dedicated and sufficient funding and staffing for the program. Together, these programs can not only help to reduce stormwater runoff and complement existing stormwater infrastructure, but can also help to improve air and water quality, enhance biodiversity, and reduce urban heat island effects.

The City also needs to strengthen the coordination of planning and maintaining our parks and green infrastructure systems. Unlike traditional types of playgrounds and pavements that contribute to flooding and the urban heat island effect, parks and playgrounds with green

infrastructure features help absorb or hold large volumes of stormwater, especially as storms and extreme rainfall become more frequent and severe with climate change.

Moreover, as a member of the New York City Coalition to End Lead Poisoning (NYCCELP), we urge the City to enforce its commitment to eliminating lead poisoning by ensuring robust resources are available to City agencies. As outlined in [NYCCELP's 2024 Lead Agenda](#), we urge the City to continue allocating funding for DEP's water monitoring program and Lead Service Line Replacement Program. While these programs are important, we need the City to go further and pass legislation to establish a mandatory lead service line (LSL) removal program within ten years at no cost to residents. This legislation should allow for occupants of a residence to consent to the work. This legislation should be coupled with long-term funding by the city (i.e., as a capital expense, just like other major water projects such as replacing water mains).

Implement and Fully Fund Climate and EJ Laws and Policies

NYLCV urges the City to prioritize environmental justice and equity in all of its climate and environmental planning, implementation, and policies. We support DEP's prioritization of areas that have been historically overburdened and underinvested in and urge the City to provide robust funding for DEP's mitigation efforts to combat odors and truck traffic problems from treatment plants located in EJ areas. This includes southeast Queens, the "Jewel Streets" neighborhood, Gowanus canal, and many other areas throughout the City. As advocated by other advocates, we urge the City to adequately fund and timely implement the Renewable Rikers Act (Local Laws 16, 17, and 31 of 2021), which could pave the way for installing a wastewater treatment facility, community composting facilities, and a solar farm on the island, potentially generating as much as 14 megawatts of renewable energy, and the City's Environmental Justice for All laws (Local Laws 60 and 64 of 2017) in order to meet these important deadlines.

Additionally, we urge the City to advance the Climate Strong Communities program, which will implement projects that address critical climate risk needs, including street cooling features, solar energy, raised shorelines, and resilience hubs. Complimenting this, the City must also fully implement Local Law 122 of 2021, which requires MOCEJ to develop and implement a citywide climate adaptation plan, prioritizing long-term resilience in vulnerable, frontline communities and for critical infrastructure along our waterfronts, including airports, wastewater treatment plants, NYCHA campuses, and marine transfer stations that are vulnerable to sea level rise, power outages, and storm surge. This law is critical because it will not only increase the transparency of the City's climate risks for residents and officials, but will prioritize comprehensive adaptation strategies and emergency planning to reduce the risk of damage and loss of life. As other advocates have called for, this plan must take a multi-hazard approach to adaptation planning and establish publicly available milestones for its implementation.

Fund PlaNYC Initiatives

We urge the Administration to fund and commit to *PlaNYC* initiatives to ensure our City prioritizes sustainability, resiliency, and equity. This includes, but is not limited to, implementing a

multilayered strategy for flood resilience such as developing a minimum flood resilience standards for shoreline assets by 2026 and creating nature-based stormwater management solutions that provide multiple functions, including shade, water and air quality improvement, and wildlife habitats.

Another initiative that is a priority in *PlaNYC* and is aligned with NYLCV's [2024 NYC Policy Agenda](#) is for a voluntary buyout program. Going forward, we urge the City to leverage funding from the New York State Clean Water, Clean Air, and Green Jobs Environmental Bond Act of 2022 to develop a citywide long term, equitable, and voluntary buyout program for at-risk homes in the most vulnerable areas of the city. The city must begin working with residents, and regional, state, and federal officials to identify funding and proactively begin stakeholder engagement and education. The city should also consider what happens to the land post-buyout, such as wetland and open space restoration, as well as site remediation if the land was contaminated.

Prioritize Agency Staffing

Lastly, and perhaps most importantly, NYLCV stresses the importance of providing sufficient funding for DEP and MOCEJ hiring and retention. With numerous climate-related laws, policies, and programs these agencies must develop and implement, it is vital they have robust resources to carry them through. According to the [Environmental Protection Committee Report](#), DEP has 686 vacancies, or 11%, as of January 2024. While we appreciate that this is much lower than the 1,071 vacancies DEP had at the same time in the previous year, we urge the City to continue prioritizing agency staffing and retention.

Budgets express priorities and we must make our priorities clear: climate change is here and we must be doing everything in our power to fight it and protect New Yorkers, especially for frontline communities. NYLCV urges the City to prioritize funding for DEP and MOCEJ staffing to fully implement a coordinated and unified approach to the City's climate and environmental justice efforts.

Thank you for the opportunity to comment.



**Testimony of Suhali Méndez, Policy and Legislative Coordinator
On behalf of New York Lawyers for the Public Interest
to the New York City Council’s Committee on Environmental Protection,
Resiliency and Waterfronts
March 22, 2024, FY25 Preliminary Budget Hearing**

My name is Suhali Méndez, and I am the Policy and Legislative Coordinator at New York Lawyers for the Public Interest (NYLPI). I would like to thank Chairman Gennaro along with the members of the New York City Council’s Environmental Protection, Resiliency and Waterfronts for giving me the opportunity to present testimony.

Today, I would like the council’s consideration for the following areas the Department of Environmental Protection (DEP)’s proposed rule on the Idling Law, Private Sewer Line Repairs, Rikers Island Power Plant, Anaerobic Digestion of Source-Separated Organic Waste, and the Implementation of Local Law 97.

Department of Environmental Protection’s Proposed Rule of the term “Adjacent”

New York Lawyers for the Public Interest (NYLPI) strongly opposes the DEP’s proposed amendment to its rule of the term “adjacent” set forth in the [New York City Administrative Code, Title 24, Section 24-163](#).

We are puzzled by the DEP’s proposal to severely restrict the instances in which school buses, trucks, and other heavy vehicles would be found to be illegally idling close to schools and parks, as engine idling near schools remains a major problem across our city. Our recent report: [Wake Up and Smell the Fumes](#), found that New York City’s massive school bus fleet has an outsized environmental impact on students and communities. ⁱⁱ We found that as many as one in four of the City’s 9,500 school buses were idling their engines near schools in violation of local law. Idling diesel and gasoline combustion engines spew dangerous emissions that harm human health and the environment.

As a mother who has resided in the Bronx for most of my life, I have witnessed firsthand how vehicle idling can impact communities like mine. Having a child who attended a New York City public school, I got to see firsthand how frequent school buses are idle by schools. It is known that some school buildings can house up to five schools which can affect how many school buses are present during school drop off and pick up. On a given day, there can be up to ten school

buses parked in the overall block of the school. To have legislation that wishes to create a loophole on the definition of adjacent is counterproductive to the city's hopes of having cleaner air in our communities.

We request that the Council take steps to ensure that DEP engage in vigorous enforcement of current idling laws, and pass legislation to make the Citizens Air Complaint Program be more transparent, accessible, and equitable, for all New Yorkers.

We urge the DEP and the Adams Administration to change course, and to work in concert with the City Council to expand the effectiveness of current idling laws, including the citizen complaint system.

For example, we urge you to pass Introduction 0606-2022 (Aviles) which expands the one-minute ban on idling adjacent and within certain parks. In addition, with the reintroduction to a bill Introduction 0005-2024 that expands to the translation the citizens' air complaint program portal into the designated citywide languages. This bill introduction will require the DEP to make program accessible to New Yorkers who are Limited English Proficient (LEP).

We also urge passage of Introduction 684-2022 (Menin) which would increase civil penalties for idling infractions by trucks and buses. This will allow accountability for those who violate the anti-idling provision of the Air Pollution Code.

Private Sewer Line Repairs

NYC homeowners and tenants are already facing chronic sewer backups and flooding that poses major health and financial risks and is rapidly worsening as sea levels rise and extreme weather becomes routine. The Department of Environmental Protection must be adequately staffed and funded to rapidly respond to community requests for sewer maintenance, repair, and replacement especially in disadvantaged communities facing legacies of divestment, redlining, and neglect.

We also hope to collaborate with the Council and DEP to seek innovative funding solutions to ensure that low- and moderate-income homeowners and tenants can make repairs to private sewer lines and connections and install retrofits to prevent flooding and damage. We strongly support state legislation -S8581/A9342 that would authorize state funds to assist with private sewer repairs and urge the City to also seek federal funding to enable DEP and other agencies to assist New Yorkers with these repairs and retrofits to address a major and worsening public health concern.

Rikers Island Power Plant

The plan to transform Rikers Island into a hub for renewable energy, wastewater treatment, and composting, is a key component to creating climate justice and resiliency in New York City. This year's budget demonstrates that realizing the vision of a Renewable Rikers is not a priority for this administration. As the parent agency to the Mayor's Office of Environmental Justice, and as the city agency responsible for enforcing the Air Pollution Control Code, we particularly want

to raise concern to the DEP about increased air pollution coming from the power plant on Rikers Island.

The Department of Corrections operates a power plant on Rikers Island which includes a cogeneration plant with natural-gas powered turbines and eight boilers running on natural gas or distillate oil as a backup. This plant, which provides power to the island, emits significant amounts of harmful pollutants, such as NO_x and PM₁₀, is required to operate under a federal Title V permit administered by the DEC. The plant's Title V permit expired in 2018 and has not yet been renewed, the power plant has thus been emitting major pollutants for six years without a valid permit. The DOC applied to have the emission caps on NO_x and PM₁₀ lifted to reflect the current emissions of the plant. This means that the plant is already exceeding its emission limits under its expired permit. We are distraught about the lack of oversight and accountability of the DOC as it emits harmful pollutants in the area already known as asthma alley, and amongst a population that is forcefully detained on Rikers Island. Given the DEP's responsibilities regarding air pollution control, and MOCEJ's interest in ensuring renewable Rikers, we think this current course of action is antithetical to your duties and goals as an agency and seek to bring it to your attention. We suggest a budget that reduces DOC's energy costs by continuing to operate this dirty power plant, and one that provides DCAS and the DEP with the funding necessary to turn Rikers Island into a renewable energy hub.

Concerns About Anaerobic Digestion of Source-Separated Organic Waste

We strongly support transformative programs including citywide curbside composting and the Commercial Waste Zones program that can greatly reduce the quantities of solid waste currently sent to landfills and incinerators.

However, we are concerned that New York City plans to rely heavily on anaerobic co-digestion of source separated organic waste at wastewater treatment plants. Given both environmental and cost concerns with the co-digestion pilot at Newtown Creek, we recommend that processing of source-separated organics prioritize local and regional composting solutions. We further recommend that the City take steps to make residential and commercial compost collection as efficient as possible, and to avoid any increases to truck traffic in overburdened communities, including:

- Preserving and expanding community composting sites across the City including parks and City-owned sites;
- Investing in new aerobic composting facilities like DSNY's Staten Island facility that can process high volumes of source-separated residential and commercial organic waste within the five boroughs and reduce both greenhouse gas emission and diesel truck miles. Potential sites should include Rikers Island as envisioned in the Renewable Rikers Act;

Local Law 97 Implementation

New York City's most ambitious climate law is at substantial risk of not being implemented equitably and adequately.

Thanks to oversight from the City Council, we learned the troubling news last December that the City's own buildings are not in compliance with the emissions reduction mandates of Local Law 97.¹ This is unacceptable given the urgent need for public sector leadership as a spiraling climate crisis impacts more New Yorkers more severely and more frequently with each passing year.

We remain concerned that for-profit companies continue to promote unproven, energy-intensive technologies like carbon capture, utilization and storage (CCUS) as "quick fixes" to our city's emissions reductions law, when in fact these false climate solutions may exacerbate energy consumption and may create additional health and safety risks for local communities.⁴ We urge the Council to pass explicitly exclude CCUS from any definition of "good faith efforts" the City adopts in future Local Law 97 compliance periods, and to remain vigilant that these false solutions are not subsidized or funded by local or state tax abatements intended to help building owners reduce emissions.

We hope to work closely with the Council, the Mayor's office, and the City's state representatives to advocate for unprecedented and rapid investments in proven solutions including building efficiency retrofits, robust demand response programs, building electrification, and aggressive expansions of renewable energy, storage, and transmission capacity in the City.

Conclusion

I appreciate the time and opportunity for presenting testimony today and ask that the funding for the above matters be heavily considered in implemented for the FY 2025. We look forward to the Council continuing the very important work to improve the environmental needs for New Yorkers.

Suhali Méndez, Policy and Legislative Coordinator

New York Lawyers for the Public Interest

151 West 30th Street, 11th floor

New York, NY 10001

smendez@nylpi.org

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ii <https://www.chalkbeat.org/newyork/2023/3/15/23630378/nyc-schools-students-with-disabilities-bus-delays-chronic-absenteeism/#:~:text=About%20150%2C000%20students%20in%20New%20York%20City%20rely,and%2043%25%20of%20them%20are%20students%20with%20disabilities.:%20Bus%20Com>



PUBLIC TESTIMONY OF WATERFRONT ALLIANCE

March 22, 2024

**New York City Council Committee on Environmental Protection, Resiliency, and Waterfronts Preliminary Budgetary Hearing
RE: Long-term Comprehensive Planning and Funding for Climate Resilience**

Submitted by Maité Duquela, Climate Policy Fellow, Waterfront Alliance

My name is Maité Duquela, climate policy fellow at the Waterfront Alliance. Waterfront Alliance is the leader in waterfront revitalization, climate resilience, and advocacy for the New York-New Jersey Harbor region.

The Waterfront Alliance is committed to sustainability and to mitigating the effects of climate change across the region's hundreds of miles of waterfront. We spearhead the Rise to Resilience Coalition of 100+ groups advocating for policy related to climate resilience, we bring education focused on climate resilience to students in NYC DOE schools through our Estuary Explorers program, and we run the Waterfront Edge Design Guidelines (WEDG®) program for promoting innovation in climate design. We thank the City Council Committee on Environmental Protection, Resilience, and Waterfronts Chair Gennaro for holding this hearing.

I'm grateful to be able to testify in front of you today in favor of sustained, dedicated funding and long-term planning for climate resilience efforts. Over the last few years, New York City has witnessed, firsthand, the risks and impacts that climate change poses to our residents, infrastructure, and natural resources. We can see the dire forecasts that experts at the International Panel on Climate Change (IPCC), and even our own New York Panel on Climate Change (NPCC), have laid out for us.

The reality is that many of the projections are slowly becoming realized. Flooding events are the most common climate-related hazard across the city, such as Hurricanes Irene, Sandy, and Ida.¹ The city has also experienced other types of extreme weather occurrences, including over

¹ Rebuild by Design. *Atlas of Disaster: New York*. <https://rebuildbydesign.org/atlas-of-disaster-new-york-state/>



40 extreme heat events and over 20 winter storm events and extreme winter weather emergencies in the last 10 years.²

Climate risks and impacts are no longer abstract or projections of the future. They are the reality of today. They are tangible, measurable, and – while not avoidable anymore –, they are still abatable. In order to reduce the city’s vulnerability to climate change, direct and bold action must be taken immediately.

That action starts by proactively allocating funds and investments towards advancing climate resilience in its most holistic form. Climate resilience involves repairing, maintaining, and innovating physical infrastructure – such as roads, bridges, transportation, and buildings. It also involves expanding technical capacity within the local agencies with regards to risk mitigation, emergency management, and socioeconomic vulnerabilities in the face of observed and projected climate change impacts. Climate resilience efforts also include raising awareness through educational programs and campaigns. **This cannot be tackled without explicit line items in the City’s budget dedicated towards climate resilience programs.**

Even in the understanding of the current context of constraints, fiscal restrictions, and uncertainties, **spending on climate infrastructure and programs cannot be lost or minimized.** The time to prepare for climate change has been ongoing and the City has yet to take the critical steps necessary to reflect this priority across all agencies and through its budgeting processes.

Moreover, the financial costs of climate impacts will be a burden to the City and to all New Yorkers. Scientists estimate that the costs of climate change in the New York State will rise to \$10 billion annually by 2050.³ **And yet, the costs of inaction are far greater. Studies estimate that the cost of inaction in the state will be \$55 billion in the next decade for coastal storm and flood-event-related damages.**⁴ The millions we invest today is still billions short of the level of investments needed to protect our neighbors, infrastructure, and ecosystems from the climate crisis. **Even without taking into consideration the more than 8 million lives at stake; our homes; our jobs; our communities; and our livelihoods, bold investment in climate resilience and adaptation is proven to be the fiscally responsible**

² NYC Emergency Management. *Hazard History & Consequences Tool*.

<https://nychazardhistory.com/PublicSearch.aspx>

³ Rebuild by Design. *Resilient Infrastructure for New York State*. <https://rebuildbydesign.org/wp-content/uploads/2021/12/1329.pdf>

⁴ Rebuild by Design. *Atlas of Disaster: New York*. <https://rebuildbydesign.org/atlas-of-disaster-new-york-state/>



option. Nearly 7.2 million New Yorkers (about 78 percent of the population) have an urban heat index (UHI) of 8°F or higher, meaning that people in those census tracts feel at least 8°F more heat because of the local built environment.⁵ Additionally, 14 percent of New Yorkers (about 1.3 million people) live within or adjacent to the 100-year floodplain.⁶ **Waterfront Alliance strongly urges the City's budget to reflect this reality.**

The budget must lay the foundation for long-term investments in robust community engagement, green and grey-infrastructure upgrades, and the full spectrum of climate adaptation solutions throughout the City. One example of an innovative way to support the budget for advancing resilience is by restructuring water utility bills to reflect properties' contribution to stormwater runoff entering the sewer and local waterways. This contribution is due to impervious surfaces, which don't allow rain to infiltrate directly into the ground. This results in combined sewer overflows, polluted rivers with fertilizers, oil, and sediment, destroyed valuable aquatic and riparian habitat, and flooded homes and businesses – especially in the context of more frequent and heavy rain events and flooding episodes due to climate change.

By separately and fairly categorizing stormwater runoff contribution, the City will benefit from designated revenues for stormwater management and from incentives for more green infrastructure that reduces flooding events. In fact, the New York City Independent Budget Office released a research report on November 2023, which estimated that the City could perceive revenue ranging from \$266 million to \$892 million per year from a stormwater fee structure, similar to other cities like Seattle, Baltimore, and Philadelphia.⁷ **Waterfront Alliance calls on the City Council to pass a resolution of support for the Assembly Bill A9435, which includes stormwater in the definition of sewage for purposes of certain water, sewer, and water and sewer authorities.**

Furthermore, we would like to see long-term, dedicated, and increased funding for the City's current portfolio of climate resilience. For instance, we applaud the City for investing \$390 million to the **Cloudburst Management Program**, which constructs clustered stormwater

⁵ Climate Central (July 2023) *Urban Heat Spots*, <https://www.climatecentral.org/climate-matters/urban-heat-islands-2023>

⁶ Rebuild by Design. *Who Lives in the NYC Floodplain*. <https://rebuildbydesign.org/reports/who-lives-in-the-nyc-floodplain-2/>

⁷ New York City Independent Budget Office (November 2023). *Raindrops Keep Falling On New York: Potential Implications Of a Stormwater Fee In New York City*. <https://www.ibo.nyc.ny.us/iboreports/raindrops-keep-falling-on-new-york-potential-implications-of-a-stormwater-fee-in-new-york-city-november-2023.pdf>



management projects to better manage intense rainfall events in flood-prone neighborhoods. **We encourage the City to include new sites, especially in communities with intersected vulnerabilities, such as the socioeconomic component, poor drainage infrastructure, and high flood risks. We hope to see the invested capital being promptly implemented and for the City to continue leveraging federal funding toward projects like this.**

We would also like to acknowledge the Bluebelt Program, which preserves natural drainage corridors including streams, ponds, and wetlands, and enhances them to perform their functions of conveying, storing, and filtering runoff precipitation or stormwater. Since it has only been implemented in Staten Island, **we encourage the City to expand out into other boroughs where nature can be a solution to reduce flood risk.**

Waterfront Alliance also supports programs like HomeFix, which provides access to affordable low- or no-interest (and potentially forgivable) loans to eligible homeowners for repairs that address building system(s) or housing deficiencies or conditions which may be hazardous to occupants/residents. This program has potential to serve as a tool for resiliency retrofits and upgrades for homeowners, like elevating critical systems; sealing basements; and adding green infrastructure to properties exposed to flood risk. **This and other climate resilience retrofit options ensure access and establishes incentives for New Yorkers to prepare and reduce their levels of vulnerability to climate-related impacts.**

Additionally, the City committed to launching a Housing Mobility and Land Adaptation Program in the latest PlaNYC. As one of the many solutions we need in the face of the climate crisis, Waterfront Alliance strongly supports voluntary buyouts. However, these types of programs can only be successful with large, committed, and dedicated long-term funding. **We strongly urge the City to leverage the initial \$250 million investment from the NYS Environmental Bond Act and to identify other funding sources to support the implementation of this program and all its components, such as education, mental health and counseling services, and financial assistance.**

However, dedicated, long-term funding is only half of the equation. There is an urgent need for comprehensive, long-term planning for climate resilience in the City, which will dictate how funding can and should be spent. Waterfront Alliance and our Coalition partners led the advocacy around Local Law 122, which established a Five Borough Climate Adaptation Plan led by the Mayor's Office of Climate and Environmental Justice (MOCEJ). This plan would include recommendations for resiliency and adaptation measures to protect residents, property, and infrastructure in the City. It would identify areas that are highly vulnerable to climate hazards to help determine where resiliency and adaptation measures



should first be implemented. It would also consider the potential impact on environmental justice areas. **Local Law 122 has the potential to be the backbone for climate resilience in New York City but only if adequately funded, sustained, and prioritized.**

While the City made the initial step of creating the educational website, known as AdaptNYC, we are still looking for the City to begin to develop and implement a comprehensive climate adaptation plan. One of the citywide climate strategies related to Local Law 122 is the Climate Strong Communities program, however, a long-term vision and plan for climate resilience in the City has yet to be seen. **We strongly urge the City to allocate resources towards the creation of a thorough, detailed plan with specific measures to be taken, timelines, goals, and indicators to track progress over time.**

Thank you for the opportunity to testify today and for your work to ensure New Yorkers are protected from the impacts of the climate crisis. Waterfront Alliance is willing and looking forward to partnering with the City Council to advance any and all of these recommendations and initiatives. I am happy to discuss these items in more detail with you at any point.



March 22, 2024

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Testimony of WE ACT for Environmental Justice to the New York City Council Committee on Environmental Protection, Resiliency and Waterfronts, on March 22, 2024 regarding Fiscal Year 25 Preliminary Budget.

Dear Chair James Gennaro and Committee on Environmental Protection:

WE ACT for Environmental Justice (WE ACT) is writing to testify on the need to invest in the City's future by funding environmental and climate policies and programs. Founded in 1988, WE ACT is a community-based organization in Harlem, New York City. At the city, state and federal levels WE ACT has been fighting environmental racism – racial discrimination in environmental policy-making, enforcement of regulations and laws, and targeting communities of color for toxic waste disposal and siting of polluting industries. We recognize and advocate for community-driven solutions that can remedy the institutionalized harms associated with unjust urban planning policies that have plagued communities of color for generations.

WE ACT is writing to testify in response to Mayor Adams' preliminary Budget for Fiscal Year 2025.

WE ACT opposes the proposed Department of Environmental Protection (DEP) water rental payment outlined in the [January 2024 Financial Plan](#).

This is a mechanism where DEP's water payment revenue is handed over to the City's general fund instead of staying with DEP. We are in the midst of a climate crisis and DEP needs to keep this revenue (\$145 million in Fiscal Year 2025 and \$295 million Fiscal Year 2026) to make essential infrastructure upgrades especially in environmental justice communities. Rate payers do not expect their money to go to the City's general fund but toward DEP capital infrastructure projects. With estimates showing City tax revenues more than \$3 billion for the current and upcoming fiscal years – the City does not need this as a revenue stream for the general funds. We urge the Council to reject the water rental payment in their budget response.

Funds need to go toward the implementation of [PlaNYC: Getting Sustainability Done](#) initiatives. WE ACT advises the Council treat this plan as an investment roadmap and identify initiative that have fiscal needs and make strategic investments in them – emphasizing green infrastructure

New York, NY Office: 1854 Amsterdam Avenue, 2nd Floor | New York, NY 10031 | Phone: (212) 961-1000 | Fax: (212) 961-1015

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www.weact.org



projects such as rain gardens, bioswales, water squares, green and blue roofs, river daylighting, and permeable pavement that help absorb stormwater, purify the air, and mitigate the urban heat island effect. Advocates appreciate plans but we are exhausted by them and we need action and we need direct city investments.

The most at-risk areas have residents that are majority Black and Latinx and represent some of the poorest in New York City. This is just one of the ways communities of color tangibly feel the legacy of racist policies like redlining. Such policies that have discouraged investment in communities of color have resulted in a lack of tree coverage, disparities in generational wealth, and poor building maintenance; all of which render both the inhabitants and the built environment ill-equipped to withstand extreme weather events that will only become more severe and frequent as climate change persists.

Comprehensively bolstering vulnerable communities against flooding and extreme heat requires that the appropriate resources are poured into tree planting, permeable surfaces, as well as solar, cool, and green roof installations. An equitable, fiscally responsible, and resilient New York cannot exist without ensuring frontline communities receive these investments that are long since overdue.

Funding for the Mayor's Office of Climate and Environmental Justice's (MOCEJ) [AdaptNYC](#), particularly the [Climate Strong Communities](#)

program is crucial to underserved communities. This program "... invests in communities left unaddressed by limited Hurricane Sandy recovery funding and with a focus on environmental justice..." and "...leverages existing resiliency and sustainability planning and capital commitments..." The Climate Strong Communities program vital to environmental justice communities like East Harlem who are in desperate need of implementation of the [Vision Plan for a Resilient East Harlem](#). The City must go beyond seeking state and federal funding to do this work and put substantial investment in a true citywide adaptation plan via AdaptNYC.

Funding climate adaptation and resiliency projects to low income neighborhoods first and foremost is not only the most equitable option, but also the most cost-effective. Research conducted by the [Smart Surfaces Coalition](#) demonstrated the cost-to-benefit ratio for implementing projects in low income neighborhoods was consistently favorable across five cities, accounting for energy, financial incentive, stormwater, health, climate resilience, and employment benefits.

WE ACT is concerned that there is a lack of financial support for environmental justice. There have been some challenges and obstacles in



achieving the Mayor's Office of Climate and Environmental Justice's (MOCEJ) goals. Although DEP Commissioner Rohit Aggarwala addressed the reason for the "[MOCEJ Reductions](#)" in the November and Preliminary Plans' Programs to Eliminate the Gap (just over \$4 million in Fiscal Year 2024 and approximately \$2.6 million in Fiscal Year 2025) in his testimony, we want to reiterate that commitments to environmental justice must be supported financially. It has been WE ACT's request the past few years that the Council allocate annual funding of \$1 million to the MOCEJ, starting in the upcoming fiscal year (Fiscal Year 2025). We want assurance that MOCEJ can properly execute its plans and to do meaningful outreach to disadvantaged communities.

There are countless environmental justice issues that need to be identified and addressed in New York City. The Environmental Justice Program has the potential to have a significant, positive impact in improving the lives of New Yorkers who have been systematically denied power and visibility when shaping their communities and neighborhoods. The Environmental Justice Program does require funding in order to right the wrongs of the past and present and to prevent more injustice in the future. The Mayor's commitment to environmental justice must be supported by this committee.

Sincerely,

Lonnie J. Portis

NYC Policy and Advocacy Manager

lonnie@weact.org

646-866-8720



**New York City Council Committee on Environmental Protection, Resiliency and Waterfronts
Friday, March 22, 2024 – Preliminary Budget Hearing
Testimony by Anil Pasram, Jamaica Bay-Rockaway Parks Conservancy**

Summary:

Good afternoon, my name is Anil Pasram, and I'm the Stewardship Coordinator at the Jamaica Bay-Rockaway Parks Conservancy. We are a public-private partnership dedicated to improving 10,000 acres of public parklands throughout Jamaica Bay and the Rockaway peninsula and 18,000 acres of open water and marshlands within Jamaica Bay.

In 2023, we started the Jamaica Bay Wetlands Fellowship, a workforce development program dedicated to training the next generation of wetlands managers. Within 6 months, the Wetland Fellows planted over 70,000 plants, cleared over 5 acres of invasive species, and removed over 6 tons of debris from the shorelines and marshes of Jamaica Bay. Jamaica Bay wetlands are disappearing at a rate of over 40 acres per year. To ensure the sustainability of restoration sites, maintenance must be part of the solution.

Wetlands play a crucial role in climate adaptation. They are natural buffers against flooding, reduce the impacts of extreme weather, and sequester carbon at a rate ten times greater than a forest. Our goal is the restoration of the Jamaica Bay wetlands, which are the first line of defense for the surrounding communities.

The Jamaica Bay Wetlands Fellowship provides opportunities for young adults to experience potential career paths that need to be significantly expanded in NYC. Although New York City Parks has a Wetlands Stewardship team, there just aren't enough Wetlands caretakers needed to fulfill the scope of work that both the restoration and maintenance of our Wetlands demand.

For a city with 520 miles of coastline and a mandate to expand waterfront access -- we will need a massive investment in these jobs and training programs to meet the demand for skilled maintenance and management of these vital ecosystems in the future.

Thank you Chairman Gennaro and all Councilmembers on the committee for allowing me this opportunity to testify before you today.

New York City Council Committee on Environmental Protection, Resiliency and Waterfronts

Friday, March 22, 2024 – Preliminary Budget Hearing
Testimony by Issa Diarra, Jamaica Bay Wetland Fellow

Good afternoon, my name is Issa Diarra, and in 2023, I had the pleasure of being part of the first Jamaica Bay Wetlands Fellowship cohort. I've been a Far Rockaway resident for 18 years, but within the past 5 years, I've started to notice dramatic changes in flooding as it has become more consistent. Smaller rain events now seem like heavy rainstorms and regular high tides are causing flooding throughout the Rockaways more frequently. Not only are people's homes being affected, but also schools and our overall livelihoods as Rockaway residents.

Initially, I grew up thinking someone else would address these issues and protect our community. It was not until I joined the Wetlands Fellowship program that I felt like I became that person who was now stepping up. In addition to learning the importance of Wetlands, as they are the first line of defense against storm surges, it became apparent that they need care, restoration, and further investment. Having the opportunity to work already makes a huge difference, but allowing me to share the many lessons learnt, and show my community that they can also be a part of the solution, makes the experience more meaningful. It was truly a great feeling working alongside locals from neighboring communities, all dedicated to making a difference in our Bay.

These nature-based jobs not only benefit frontline communities like mine, but also create a connection between the community and its surrounding environment, fostering community stewardship from within. Continued investment in our waterfronts, parklands, and Bay means continued investment in our frontline communities. I hope the committee will continue to support workforce development programs like the Wetlands Fellowship and further the discussion in creating more opportunities like this.

Thank you for allowing me this time to speak.

Issa Diarra
Jamaica Bay Wetland Fellow 2023-2024
Jamaica Bay-Rockaway Parks Conservancy
dissa060@gmail.com
(332) 234-4825
5616 Beach Channel Dr, 7G
Arverne, New York 11692

March 22, 2024

Testimony of Hayden Brockett
Founding Member
New York Clean Air Collective

Thank you, Chairman Gennaro, your staff, and Members of the Committee. On behalf of the New York Clean Air Collective (“NYCAC”), and as the father of two children in New York City public schools, I am testifying today in support of increased funding for the DEP’s Bureau of Environmental Compliance, specifically adding headcount and raising salaries for the Citizen Air Complaint Reviewers. These frontline workers have an extremely difficult but highly important job: They help administer the most successful citizen environmental program in the world! With the citizens in the NYCAC, the Citizen Air Complaint Reviewers create a shining example of how citizen enforcement works to combat climate change.

Let’s be clear: Air pollution kills. Vehicle air pollution especially harms children, decreasing brain function, while causing asthma and diabetes. Companies like Amazon, ConEd, Verizon, and Loomis pollute our air to fuel their profits.

The NYCAC is a non-profit organization dedicated to protecting New Yorkers’ right to enjoy clean air, including by supporting the hundreds of participants in the Citizens Air Complaint Program. We hold polluting companies accountable. We work to combat environmental racism and to mitigate the causes and effects of climate change, especially around schools and in and beside New York’s parks. And we conduct trainings and perform advocacy to expand participation in this program throughout the five boroughs.

The NYCAC supports increased funding for Citizen Complaint Reviewers. But we are very concerned about past legislation proposals, including those advanced by DEP, which would have gutted this crucial program. We also strongly oppose the variances that DEP has granted to polluting companies like Loomis, which has absolutely failed in its commitment to protect the air. We look forward to working closely with Chairman Gennaro, Councilwoman Aviles, and DEP leadership to craft legislation that truly benefits the air, rather than discouraging participation in this crucial, successful, and hopeful program.

The Citizens Air Complaint Program is the City’s primary enforcement mechanism for key provisions of the Air Code. Although the Air Code has been in

place for more than 50 years, the idling and dust provisions went unenforced until the Council wisely expanded the citizen reporting provision. **Citizen enforcement works! And it is budget positive.** Together, hundreds of ordinary New Yorkers are helping to clean up our air. In 2023, citizens submitted 82,615 complaints for idling in New York. These complaints resulted in \$38 million in deterrent penalties imposed, up from approximately \$8 million in 2022.

As important as the citizens' work is, trekking the streets and breathing exhaust every day, the Citizen's Complaint Reviewers also have a very tough job, listening daily to many loud videos of illegally idling trucks and buses. That is hard work! Unfortunately, the success of the program means that DEP's reviewers are now issuing violations long after the Council's statutory requirements of 45 days. In addition, new hearings are being set more than one year after a violation. This reality means that DEP needs to dedicate additional resources to the primary enforcement mechanism for the Air Code. That requires higher salaries for front line workers and additional headcount.

In addition, I want to highlight the importance of clean air in and around our parks. **New York's parks are the lungs of our city!** As the Council has recognized in passing Local Law 58 last session, the air around and in our parks must be clean. Otherwise, we will only be letting our children out to be poisoned while they play. Unfortunately, the DEP has proposed a rule that will compromise the City Council's protections for parks, where New York's children find refuge from noise and pollution, and schools, where our kids must travel every day. **DEP's new rule would at least triple the toxic emissions permissible next to schools and thereby harm especially vulnerable New York City children, along with residents and passersby.**

Councilwoman Avilés and a broad coalition, including the NYCAC, New York Lawyers in the Public Interest, WeAct, OpenPlans, and others have opposed the DEP's wrongheaded rule. Under this imprudent proposal, trucks and buses would be permitted to idle for three minutes if they are across the street from a school or even one inch beyond a school property line. The proposed rule is not only unworkable but administratively unnecessary since the current rule works, and works well. The DEP needs to heed the Council's clear legislative intent and withdraw the proposed rule, which will triple the legal pollution limit near schools. Additional information about the problems with the proposed rule are attached below.

In addition to increasing funding for the Bureau of Environmental Compliance, the Council should urgently pass the supermajority-cosponsored Intro. 291, which increases the penalties on companies that let their trucks or buses illegally idle their engines in New York. While we have a great set of idling laws, which are helping clean up our air, the penalties are too low. That means big companies like ConEd, Verizon, and Amazon just pay the fines as a cost of doing business—but don't shut off their engines. Intro 291 will fix this by making the penalties have real teeth to stop illegal idling in and around our parks.

In the DEP budget, the Council must protect our children, environment, and clean air. The Council must also exercise oversight to ensure DEP is following the law and administering the program fairly. The DEP's recent rule proposal is an example of how this agency is thwarting the will of the Council and citizens alike. The NYCAC stands willing to work with Chairman Gennaro, the Committee, and DEP's workforce to protect our air and ensure the continued success of the Citizens Air Complaint Program. Below please find additional information concerning the DEP's proposed rule change, as also referenced by Suhali Mendez of the New York Lawyers in the Public Interest at today's hearing.



March 7, 2024

Founders

Vernice Miller-Travis
Peggy M. Shepard
Chuck Sutton

Comments from WE ACT for Environmental Justice to the New York City Department of Environmental Protection regarding the Adjacent Definition Rule.

Board of Directors

Chair

Jeff Jones

To whom it may concern,

Secretary

Nancy E. Anderson, Ph.D.

My name is Dr. Micaela Martinez, I am the Director of Environmental Health at WE ACT for Environmental Justice. WE ACT for Environmental Justice, an organization based in Harlem, has been fighting environmental racism at the city, state, and federal levels for more than 30 years. We recognize and fight to remedy the negative cumulative impacts of unjust policies that have plagued communities of color for decades. I am writing to let you know that:

Treasurer

Ken P. Mak

WE ACT for Environmental Justice opposes DEP's plan to repeal the existing definition of "adjacent," which has served the city well for years, and replace it with an unworkable, hard-to-understand, and dangerous rule that will increase pollution next to schools.

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Right now, the adjacency rule protects kids in school playgrounds or walking to and from our schools. The proposed rule strips kids in playgrounds of these important protections. And the Department of Environmental Protection (DEP) has failed to take into account any of these harms in proposing this dangerous and harmful rule. According to the Department of Health and Mental Hygiene, Central and East Harlem have 2.5 times the rate of hospitalizations for childhood asthma compared to the citywide average. Increases in vehicle idling near schools will harm our residents, in particular, adding to the cumulative burden of pollution and toxic chemical exposure in environmental justice communities.

Executive Director

Peggy M. Shepard

DEP's flawed rule will increase the amount of legal idling on blocks that have school exits or entrances and increase pollution exposure in children. We would like to highlight some examples illustrating the flaws of this rule: (i) a truck parked across the street from a school will be able to idle three times as long with no penalty, (ii) a vehicle parked one foot past a school line will also not be subject to the one-minute idling penalty, and (iii) a truck parked in a bike lane or on a sidewalk can also pollute for three times longer than under the current rule. **We would like to see the DEP adopt the citizen-proposed rule that will expand the current simple and sensible rule to include parks.**

Sincerely, 

Micaela E. Martinez, Ph.D.

Director of Environmental Health

micaela.martinez@weact.org | 917-597-4282

March 7, 2024

Reference Number: DEP-99: Proposed Rule-Making by the New York City Department of Environmental Protection (“DEP”)

Re: **OPPOSITION to DEP’s Repeal of the Existing Definition of “Adjacent” and Its Proposed, Narrower Replacement**

To Whom It May Concern:

New York Lawyers for the Public Interest and the New York Clean Air Collective writes in strong opposition to DEP’s proposal to repeal its existing definition of “adjacent,” [15 RCNY § 39-02](#), and replace it with a narrow rule that will throw up barriers to enforcing the Air Code, frustrate citizen participation in the Citizens Air Complaint Program, and gravely harm our health, our city, and our environment. DEP should not adopt this rule.

I. DEP’s Proposed Rule Will Harm the Environment of New York City

The present rule is easy to understand and easy to administer: If a vehicle is stopped on any block with a school entrance or exit, it can idle for just one minute. **DEP’s new rule would at least triple the toxic emissions permissible next to schools and thereby harm especially vulnerable New York City children, along with residents and passersby.** Under this imprudent proposal, trucks and buses would be permitted to idle for three minutes if they are across the street from a school or even one inch beyond a school property line. The proposed rule is not only unworkable but administratively unnecessary since the current rule works, and works well.

Rather than replace a time-tested, simple rule that works well with an inscrutable one that would let idlers escape accountability, DEP should instead expand the existing rule to reach parks. That is precisely what we propose in Exhibit A. Like the current rule, our proposal is straightforward, easy to administer, gives clear notice to would-be offenders, and safeguards the environment. DEP should strike its proposed rule and adopt this simple, workable expansion of [15 RCNY § 39-02](#).

Should DEP heedlessly decide to charge ahead with its proposed rule, it will face significant regulatory and litigative challenges. DEP has identified no sound basis to narrow the definition of “adjacent,” never mind any environmental protection

grounds to adopt a rule that will make it *easier* for trucks and buses to pollute school zones. The Air Code, the City’s governing environmental law, states that it “*shall be liberally construed* so as to effectuate the purposes described in this section.” NYC Admin. Code § 24-102 (emphasis added). And as you know, New Yorkers recently approved an amendment that enshrines our right to clean air in the state constitution. The proposed rule turns the law on its head and does the exact opposite. What is more, DEP has failed to conduct and/or publish an environmental review.

II. Our Organizations Are Uniquely Positioned to Help DEP Craft a Better Rule on Adjacency than This Proposal

Founded in 1976, New York Lawyers in the Public Interest (“NYLPI”) is a community-focused organization that advocates for equal access to healthcare, education, government services, housing, and a clean environment. NYLPI’s history of advocacy within City government is unparalleled, and it stands ready to help DEP draft and pass a better rule than the current proposal.

New York Clean Air Collective (“NYCAC”) is a non-profit organization dedicated to protecting New Yorkers’ right to enjoy clean air, including through aiding participants in the Citizens Air Complaint Program. As a non-profit organization comprising active, engaged citizen complainants, NYCAC is uniquely positioned to provide expertise on the new adjacency rule. Its members leverage thousands of hours of experience recording, submitting, and defending air and dust complaints to the Citizen Air Complaint Program, all to defend the right of ordinary New Yorkers’ to breathe clean air.

NYLPI and NYCAC stand ready to help the DEP craft a better rule, one that strengthens our air protections. We know what works, and we know what doesn’t, when it comes to on-the-ground enforcement of the Air Code. The proposal we are attaching in Exhibit A works. This is the rule DEP should adopt.

III. The Current Rule Faithfully Implements the City Council’s Intent to Protect Clean Air

The New York City Department of Environmental Protection has for years used a clear and workable rule to implement NYC Admin. Code [24-163\(f\)](#)’s ban on idling for one minute “adjacent to” any school.

Specifically, [15 RCNY § 39-02](#) reads: “Adjacent’ shall mean on each and every street on which a school is located and has entrances and/or exits to such street. School shall include any building or structure, playground, athletic field or other property that is part of the school.” At present, if a school has an entrance or exit on a block, this simple one-minute law applies on that block.

This rule is clear. This rule is unambiguous. This rule can be understood by citizen–complainants who gather the vast majority of evidence to report vehicle idling, by law enforcement—including DEP air inspectors who review tens of thousands of citizen complaints annually and are empowered to write their own summonses in the field—and by hearing officers at the Office of Administrative Trials and Hearings (“OATH”).

In 2009, the City Council enacted a one-minute idling ban to protect schools in a bill introduced by now–State Senator John Liu that became Local Law 5 of 2009 (“LL5”). Children are among the most vulnerable of New Yorkers when it comes to the broad and significant effects of motor-vehicle pollution. Tailpipe emissions, in both its gaseous and particulate components, is extensively and causally tied to a wide array of serious health effects at every stage of life, from conception through old age, including lung cancer, asthma, and diabetes; increased risk of preterm birth and low birth weight; impaired neurological development and cognition in children; impaired cognitive function together with an increased risk of Parkinson’s, Alzheimer’s, and depression in adults; and early death from cardiovascular and respiratory causes, such as heart disease, stroke, influenza, and pneumonia. Children in New York City suffer from asthma at more than twice the average national rate, and some New York neighborhoods, such as the South Bronx, have among the worst urban air quality in the country. Rigorous scientific research has shown a consistent relationship between reducing air pollution concentrations and improving respiratory health in children and adults in communities that have reduced their levels of year-round particulate pollution.

Beyond children, many other New Yorkers benefit from the stricter enforcement standards around schools, which teach truck and bus operators the vital importance of turning off their engines when they are not needed.

IV. DEP’s Proposed Rule Contravenes the City Council’s Intent to Expand Environmental Protections

In April 2023, New York City Council enacted a bill that became Local Law 58 of 2023 (“LL58”), expanding the one-minute idling limit to include parks. Although LL58 went into effect last August, DEP failed to timely institute the rule to define adjacency to a park, rendering the law unenforceable. Now, rather than promulgate a workable definition to protect the environment, the Department instead weakens both the enforcement of LL58 and the existing law that protects school children by seeking to redefine and narrow the meaning of “adjacent.”

There are two primary ways DEP’s proposed new rule fails. First, it creates an untenable situation in which idling vehicles that are in every other meaningful sense adjacent to a school—and whose toxic emissions unquestionably reach schoolchildren—are not subject to the one-minute rule because they may be across the street, or an inch from a property line, or separated by a bike lane. Air pollution does not respect DEP’s technical roadblocks. The current rule may not be perfect, and sometimes creates scenarios in which proximity to a school does not always subject nearby vehicles to the school-adjacent standard (e.g., when a vehicle is on the next block from a school located at an intersection); but the new rule multiplies those scenarios by an order of magnitude and relies on the false presumption that toxic pollutants will somehow obey traffic laws, lanes of traffic, and parcel boundaries. In some instances the new rule will result in a 99 percent reduction of frontage that is considered “adjacent” on a given block, effectively nullifying 24-163(f). Schoolchildren, of course, must walk to and from their schools and often congregate immediately outside or nearby at the beginning or end of each school day. The existing rule recognizes this commonsense reality; the proposed rule does not.

Second, DEP’s proposed rule fails in that it seeks to replace a simple and clear-cut standard with a complex, abstruse rule that will not only shield trucks and buses from more stringent standards designed to safeguard children, but will also confuse parties at every stage of the idling enforcement process. What standards and procedures will apply when construction activity reroutes lanes and obscures lane markings? When schools are housed in buildings with property boundaries that are not visually apparent? When vehicles are double-parked? When vehicles are oriented perpendicularly across multiple lanes, as is commonplace with infrastructure crews? When sidewalks and other nonstandard areas are parked upon? Such everyday scenarios would seem to be effectively excluded from stricter enforcement. It is reckless and non-practicable to knowingly leave unresolved substantial ambiguities (the above body of questions is hardly exhaustive) to the

interpretation of DEP air inspectors or for the Environmental Control Board to divine intent.

Under the existing rule—which has been tested by time and the courts—none of these thorny questions require scrutiny: A “block” is a block, a definition that is straightforward and clear to ordinary New Yorkers who contribute the bulk of idling complaints, to the law enforcement officers who contribute a minority, to the administrative law judges who assess evidence of violations, and to vehicle operators. Under the new rule, the enforceability morass that DEP presumably sought to avoid in its original rulemaking for Local Law 5 by forsaking specific distance measurements will come to pass. No ordinary citizen will be able to parse the rule and know with confidence how to document an idling vehicle near a park or school. It effectively and comprehensively undermines the clear and laudable intent of Local Laws 5 and 58.

Comprehensive enforcement near schools and parks, under a robust one-minute rule, does much more than just shave off a few minutes of idling. It is also helpful to prevent knowing and extensive evasion of the law in sensitive locations by particularly bad actors. Citizen reporters have documented increasing vigilance by truck and bus operators—especially on school blocks—and arising specifically from efforts to evade detection and recording. For example, individuals have been posted as “lookouts” to either interfere with citizens’ recording of idling vehicles or to warn the vehicle operators when a citizen reporter is nearby. Operators’ countermeasures may enable them to run their engines all day, *except* when citizen reporters are around. But because such countermeasures are much more difficult to carry out within one minute, a robust adjacency rule protects vulnerable areas and encourages commercial vehicle operators to consistently avoid unnecessary idling if they wish to avoid an idling summons.

V. DEP’s Proposed Rule Cannot Withstand Regulatory and Litigative Scrutiny

First, DEP has glaringly provided *no* basis for the new rule grounded in its mandate to protect the environment. Further, DEP has not disclosed that it undertook an environmental review before proposing this rule, despite the proposed rule’s obvious propensity to directly harm the environment. In short, there is no CEQA compliance by DEP, the lead agency.

Moreover, DEP cannot successfully complete an environmental review that will withstand court scrutiny. The only fair reading of DEP’s proposed rule is that it will cause obvious and specific environmental harm by increasing the time idlers are permitted to pollute on most school blocks. By failing either to undertake or to publicize any environmental review, or to even discuss the potential environmental effects, DEP is heavily implying that it *knows* its new rule will harm the environment—and simply doesn’t want to say so.

Finally, the proposed rule is subject to obvious challenge under Article 19 of the New York State Constitution, which guarantees: “Each person shall have a right to clean air and water, and a healthful environment.” A rule that would triple the amount of legal idling next to a school where the most vulnerable New Yorkers are compelled to learn and play invites serious questions of how it can comply with this guarantee.

VI. DEP Should Withdraw Its Present Proposal and Instead Implement a Simple Expansion of Its Current Rule to Include Parks

DEP should withdraw the proposed rule and use the new rulemaking proposal it received in a petition dated April 12, 2023. This petition was drafted by the concerned mother of a one-and-a-half year old toddler who was frequently exposed to harmful fumes in Minetta Playground. This citizen’s proposal builds on the successful school adjacency definition rule DEP already uses every day—and has used for well over a decade—which reads:

“Adjacent” shall mean on each and every street on which a school or park is located and/or has entrances and/or exits to such street. School shall include any building or structure, playground, athletic field or other property that is part of the school. Park shall include any building or structure, playground, field, court, green space, forest, garden, square, plaza, mall, greenstreet, walkway, bikeway, beach, course, pier, promenade, trail, pool, museum, rink, or other property that is part of the park, other than parking lots.

DEP Senior Enforcement Counsel Russell Pecunies promised in an email dated June 14, in response to this proposal, to commence “adjacency” rulemaking “by August 11 at the latest.” DEP’s unexplained dilatory response—a full six-month delay—and its choice to instead propose an unworkable definition which threatens clean air progress and amplifies a wide range of health risks and disparities far

more harmful to the environment than the April 12, 2023, proposal, is inconsistent both with its mission to “enrich the environment and protect public health for all New Yorkers by...reducing air and hazardous materials pollution” and with New Yorkers’ Constitutional right to clean air right.

In closing, we urge DEP to withdraw its proposed rule, which has serious legal infirmities and serves only to harm the environment. Instead of repealing the existing text of [15 RCNY § 39-02](#), DEP should adopt the simple expansion of the existing rule found in Exhibit A.

Sincerely,



Hayden Brockett,
New York Clean Air Collective
Founding Member

/s/

Justin Wood
New York Lawyers for the Public
Interest
jwood@nylpi.org

Exhibit A

§ 39-02 Adjacent to Any Public or Non-Public School or Park

“Adjacent” shall mean on each and every street on which a school or park is located and/or has entrances and/or exits to such street. School shall include any building or structure, playground, athletic field or other property that is part of the school. Park shall include any building or structure, playground, field, court, green space, forest, garden, square, plaza, mall, greenstreet, walkway, bikeway, beach, course, pier, promenade, trail, pool, museum, rink, or other property that is part of the park, other than parking lots.

March 7, 2024

Reference Number: DEP-99

Aaron Jacobs
New York City Teacher
Member of New York Clean Air Collective

Comment in Opposition to DEP's Proposal to Repeal Its Existing Rule on Adjacency and Replace It with a Weaker Rule that Will Harm Children

Dear Commissioner Aggarwala:

As a proud New York City school teacher of 13 years and a participant in the Citizens Air Complaint Program, I write to oppose in the strongest possible terms the DEP's proposed repeal of the existing rule defining what is "adjacent" to a school. The present rule is not only clear, sensible, and effective, but also easy to understand and apply. Instead, DEP proposes to replace it with a rule that is extremely difficult to understand and which will result in more air pollution, harming our kids, my students, and our environment.

I teach 9th graders in the Bronx's Fordham neighborhood, Roosevelt Campus, of District 10—an area plagued with very high traffic. Every day, there are delivery trucks and school buses that idle both next to my school and the middle school just around the corner, both during and after school. This happens even on the mildest of days. Sometimes I can smell the fumes in my classroom, and I'll have to shut the window. The fumes can be so much that I feel like I can taste them. Sometimes I'll even hear some of my students ask, "What is that smell?" and I'll look out the window. Invariably, there will be a truck or a bus idling. My students and I can see, and breathe, the plumes of smoke leaving the exhaust—and exhaust as we all know travels from across the street, or from down the block.

My students have little idea of the dangers they face when they are standing outside near these buses and trucks. As a participant in the Citizens Air Complaint Program, however, I know full well the damage my students incur, because I understand the health impact of air pollution. I also coach baseball at this building. Every day, as we leave to get ready for practice, there are trucks and buses just sitting there needlessly idling with no regard for anyone's health or the environment. There are two other schools in the vicinity, and it's the same problem. I'll walk by to get lunch and the fumes are overwhelmingly strong, sometimes I'll

put a mask on just to pass. As bad as the pollution currently is, this rule change will make it even worse for my students. It absolutely cannot go forward. Whom does the new rule propose to benefit? Clearly children who are meant to be protected under the law with a heightened safety standard that calls for adjacency to be defined derive absolutely no benefit whatsoever from DEP's narrower, less-protective rule that leaves them MORE exposed to toxic fumes.

I also write as a member of the New York Clean Air Collective ("NYCAC"), which is a non-profit organization dedicated to protecting New Yorkers' right to enjoy clean air, including through helping participants in the Citizens Air Complaint Program. The Citizens Air Complaint Program is the City's primary enforcement mechanism for key portions of the Air Code. It is also the most successful citizen environmental program in the world! In 2023, citizens submitted 82,615 complaints for idling in New York. These complaints resulted in \$38 million in deterrent penalties imposed, up from approximately \$8 million in 2022. Shockingly, DEP has not, to our knowledge, even examined the impact this new rule would have on the program.

I and NYCAC oppose the rule for several reasons, each of which DEP must consider and address before adopting any new rule:

1. The existing rule works, both administratively and to protect children.
2. The proposed rule will weaken the existing rule by up to 99 percent.
3. The proposed rule is unclear and will be impossible to administer.
4. The new rule's administrative complexity will discourage participation in the Citizens Air Complaint Program, which is the City's primary enforcement mechanism for the anti-idling law.

1. The existing school rule works well to protect New York's children.

The existing rule is clear: A vehicle may not idle for more than one minute when it is parked, stopped, or standing on a block that has a school entrance or exit. DEP has issued tens of thousands of summonses under this rule, almost all of them issued through the Citizens Air Complaint Program.

The existing rule makes sense because many schools in New York City, especially in Manhattan and Brooklyn, are located within a part of one city block. For that reason, students are required to walk down part or all of a block to get to their school entrance or exit. **Protecting the *entire* block with the one-minute**

rule is necessary to ensure that children do not breathe excessive idling exhaust just to go to school or use outdoor playgrounds. And as the EPA observes, “Not only can diesel exhaust from idling pollute the air in and around the bus, it can also enter school buildings through air intakes, doors, and open windows,” is designated “carcinogenic to humans,” and “contains significant levels of particulate matter [that] lodge deep into the lungs and heart and are linked to premature death, aggravated asthma, and decreased lung function in children who are more susceptible...because their respiratory systems are still developing and they have faster breathing rates.”

(<https://www.epa.gov/dera/school-bus-idle-reduction>.)

As a teacher, I see every day how important the current rule is to protecting my students’ health.

The examples below are trucks that are illegally idling under the existing rule and unquestionably endangering the surrounding area. **DEP’s proposed rule would legalize this idling** and shield offenders from a heightened standard designed to protect school children!







The current rule makes it illegal to idle for more than one minute in each of these common, everyday scenarios. **But DEP's new rule will bless and make this pollution legal.**

As my experience shows, idling by school buses is especially dangerous. Scientific studies show this, too: See <https://www.epa.gov/dera/reducing-diesel-emissions-school-buses> and <https://www.ehhi.org/reports/diesel/dieselintr.pdf>

Here is a real-world example of how the entire block needs to be protected by the existing one-minute rule. Buses from this single school in Manhattan line up, filling the entire block with pollution. Under the new rule, buses not directly in front of the school would be allowed to idle for three minutes, not one. Polluting school buses, which by law are not subject to the stricter emissions standards governing most heavy vehicles, were a main driver of the legislation that created the one-minute school-adjacent law.



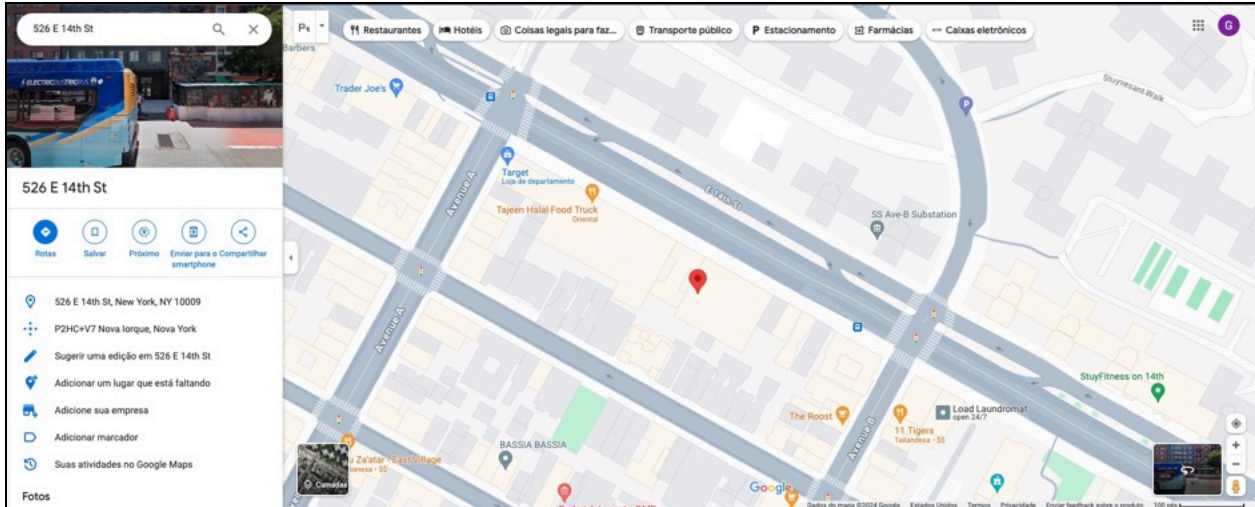


DEP should not implement a rule that would fatally undermine the City Council's one-minute rule, which was intended to protect school children from idling buses, like those shown above.

2. DEP's proposal will dramatically weaken the existing rule by up to 99 percent.

By contrast, DEP's proposed rule reduces the distance from the whole block to just the single traffic lane directly in front of a given school. This change would result in a significant reduction in area covered by the protective one-minute rule and would increase the pollution children breathe on the way to and from school. **Although DEP has offered *no* estimates of how much idling would change and *zero* justification for this rule change, NYCAC has calculated that the new rule will result in a 70–99% reduction in many areas covered by the one-minute rule.**

One school that helps illustrate this reduction is Bright Horizons at East Village, a preschool located at 526 E 14 St in Manhattan. Under the current definition of adjacent, the whole block between Avenue A and Avenue B on E 14 St is covered by the one-minute rule, including the service road across the street. As of February 13, 2024, DEP has issued 137 summonses adjacent to Bright Horizons under the existing one-minute rule.



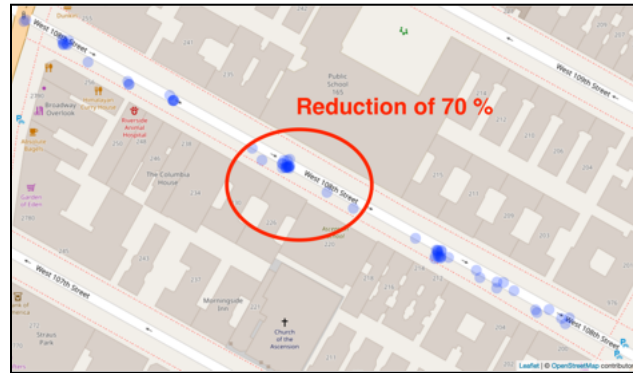
The actual preschool is located in a mixed-use building, with the property lines themselves covering at most 30 feet. On this section of 14 St, vehicles frequently park in the bus lanes and the curb lanes. The area covered as “adjacent” under the current rule is thus about 2,584 feet (i.e., two bus lanes, two travel lanes, multiplied by the 646 foot-long block¹). **By contrast, the new rule would cover, at most, 30 feet of area, or a 99% reduction!**

The new rule’s harmful impact is also apparent when looking at PS 165, in Manhattan which has entrances on West 109th Street and West 108th Street. Over the life of the Citizens Air Complaint Program, DEP has issued 66 summonses for

¹ See here for the distance between Avenue A and Avenue B: <https://stuffnobodycaresabout.com/2012/11/19/all-new-york-city-streets-are-not-created-equal/>

school violations on this block. Based on citizens' periodic observations, these tickets have significantly reduced idling.

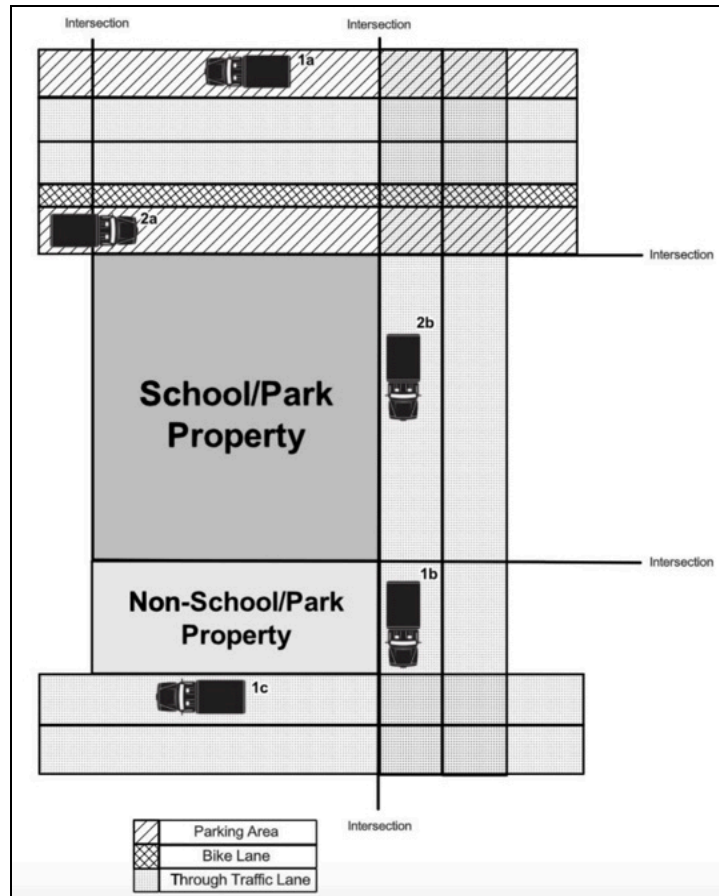
But if DEP had issued one-minute violations for only the address directly in front of the school, it would have issued just 20 tickets—a reduction of 70%!



3. The new rule is unclear and will be impossible to administer.

DEP is charged with enforcing the City's Air Code. Because air pollution is a "menace to the health, welfare and comfort of the people of the city," the City Council has mandated that the Air Code "*shall* be liberally construed so as to effectuate the purposes described in this section." N.Y.C. Admin. Code § 24-102 (emphasis added). Those purposes include "preserv[ing], protect[ing] and improv[ing] the air quality of the city" and "actively regulat[ing] and eliminat[ing] harmful open air] emissions." DEP's new rule is hopelessly unclear, however, and it fails to uphold DEP's mission to "enrich the environment and protect public health for all New Yorkers by...reducing air and hazardous materials pollution."

DEP has included a diagram as to how their definition should be interpreted. But this diagram reveals just how unclear DEP's own rule is and how impossibly difficult it will be to administer.



As complicated as it is, however, the diagram does not address a wide variety of ordinary situations that will affect administration of this rule every single day. These include but are in no way limited to:

- One-way streets;
- When a vehicle is parked illegally in the closest travel lane, bus lane, or bike lane;
- When a vehicle is parked on a sidewalk, “zebra stripe” area, or in other non-traffic areas.
- When road construction and infrastructure activity disrupt, obscure, or reroute lane lines, as often occurs in New York City.
- When vehicles are in the intersection at the corner of a school building, but the planar extension of the property line excludes the intersection.

In each of these cases—and innumerable others—the new rule would TRIPLE the amount of illegal idling, without regard to the fact that the vehicles are proximate to and polluting the air breathed by everyone at the school. That is because DEP’s diagram and definition narrowly define that a vehicle will only be

considered adjacent where the vehicle is in the curb lane or physically abutting school property, meaning that the above situations are not “adjacent.”

What is worse, for each of these scenarios, citizen complainants would have almost no guidance on whether an idling truck is, in fact, adjacent to a school. That is because the rule itself is hopelessly ambiguous. DEP is thus replacing a clear, simple rule with one that is impossible to decipher in numerous, everyday scenarios.

4. DEP has not taken into account the proposal’s negative impacts on the Citizens Air Complaint Program.

The Citizens Air Complaint Program (“program”) administered by DEP has been wildly successful, and is the most successful anti-idling program in the United States. The program is currently the primary mechanism that DEP uses to issue summonses, and thus its primary mechanism for achieving compliance with idling laws.

Under current DEP guidelines, to issue a violation under 24-163(f), DEP does not require any additional documentation from the citizen other than the name of the school. The current practice makes sense, as DEP personnel reviewing complaints can look up the school and the cited place of occurrence from the complaint form, and easily determine whether the violation was adjacent or not.

The new rule will likely raise the required documentary evidence from citizens and increase the administrative burden on DEP personnel reviewing complaints.

1. Historically, OATH has not required highly accurate nor specific locations as long as it was accurate enough for the respondent to form a defense.² As a result, many citizen complainants use location descriptions such as "Intersection of Avenue A and E 14 St" or “E 14 St between Avenue A and Avenue B.” Where an exact house number is currently used (for example, 526 E 14 St), that house number need not be precise, and so, for example, it could be across the street from the actual violation location. Because of the highly specific nature of the new definition of adjacent, these location descriptions

² See Appeal No. 2200769 DEP v. Fedex Custom Critical Inc (Oct. 27, 2022), <https://archive.citylaw.org/wp-content/uploads/sites/12/ecb/2200769.pdf>

would no longer be acceptable for 24-163(f) violations, placing additional burden on citizen complainants.

2. DEP will likely demand additional verification that the vehicle does indeed meet the new, far more stringent definition of adjacent, possibly showing where the school is relative to the vehicle. DEP has not made any statements as to how it intends to change its complaint program best practices based on the new rule. DEP should consider how it will have citizens document property lines, even in shared buildings or cases of ambiguous frontage, as well as any increases in administrative burden for reviewing 24-163(f) violations for its personnel. Even respondents may be confused as to how to mount an affirmative defense.
3. Many citizens are familiar with the current rule, and changing the rule will discourage participation from less active citizen complainants since they have to try to understand the confusing, new rule.

In conclusion, I strongly oppose the proposed rule, which will increase the burden on citizens and DEP personnel, while decreasing participation in the Citizens Air Complaint Program. The proposed rule will also decrease the area covered by the one-minute rule by huge margins, and it will triple the amount of time a truck or bus can legally idle on school blocks. It is a win for polluters and nobody else.

On behalf of my students and all other New Yorkers, I urge DEP to reverse course and withdraw this rule proposal. Instead, DEP should adopt the citizen-proposed expansion of the existing rule on adjacency to cover parks, which is consistent with the City Council's goals in passing anti-idling laws and will help increase the law's protections for our children.

Sincerely,

_____/s/_____
Aaron Jacobs



SBIDC

**Southwest Brooklyn
Industrial Development
Corporation**

2414 1st Street, 2nd Floor
Brooklyn, NY 11232
718-965-3100 fax: 718-577-5858
SBIDC.org

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Executive Director

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March 22, 2024

Dear Chair Gennaro and Committee Members,

SBIDC is a local economic development corporation and membership organization whose mission is to create equal opportunity for the people, businesses, and community of Southwest Brooklyn. We provide free services to over 1,500 small industrial and manufacturing businesses across Sunset Park, Gowanus and Red Hook, and help place 200 jobseekers in full-time industrial jobs every year through our Workforce1 Center.

In the Southwest Brooklyn Industrial Business Zone, businesses and residents have consistently faced issues with sewers overflowing during storm events. Given that Southwest Brooklyn sits in a major flood zone and is largely made-up of lowland communities, the sewer system here is overtaxed. Additionally, the City has failed to prioritize investing in infrastructure upgrades in both industrial areas and low-income communities. During heavy rains, sewage backup flows into homes, as well as business facilities disrupting operations and creating an unsanitary environment for employees and customers. What used to be a once every few years event, now happens multiple times each year with cloudburst storms.

To give one illustrative example: A fabrication business in Red Hook has reported stormwater and sewage backup flowing out of their toilet during every substantial rainstorm – multiple times every year. We worked with DEP to investigate the issue and they ran a camera into the business's sewer line. DEP determined that there was nothing wrong with the business's sewer line, but that the street sewer could not handle the volume of storm water mixed with CSO. This resulted in the backup releasing at the lowest point in the business – the ground floor toilet – resulting in business disruption and lost revenues. As the problem is not with its own line, the business has no direct remedy to prevent these backups in the future.

Given the clear need for infrastructure improvements to expand sewer system capacity, SBIDC urges DEP to begin planning for these long-term capital projects. We recognize that even if approved, such a capital investment would take years to implement. However, in the meantime, DEP should engage in additional efforts to educate property owners – including small businesses – around mitigation strategies. Part of these efforts should include spreading information about available City assistance, for instance, incentives currently available for flood resiliency measures and improvements such as green roofs or catch basins. SBIDC also urges DEP to, in the short-term, increase the amount and capacity of sump pumps used during storm events – such as at the end of Van Brundt Street in Red Hook.

The issues caused by inadequate sewer capacity in our area have only worsened over time due to climate change, cloudburst storms, rising sea levels, and increasing population density. City investment is needed as soon as possible to address these infrastructural problems which impede business activity and quality of life for residents.

Sincerely,

Brady Meixell
Government Relations & Business Services Manager, SBIDC
718-965-3100 ext. 108

Re: Resolution 0271-2024

Thank you for accepting this testimony. I fully support Councilmember Avilés' resolution 0271-2024, "Expressing support of ElectrifyNY and its work to improve the environmental and public health outcomes for communities that are most impacted by the negative effects of the transportation sector's dependency on fossil fuel." I strongly encourage Council to pass it expeditiously.

Fossil fuel-powered transportation is a major and often leading cause of air and climate pollution in communities all over the world, including New York City where more than 3400 people die every year as a result of air pollution.

New Yorkers have the right to a healthy environment, as enshrined in the state constitution, and electrifying transportation is a key part of protecting and upholding that right. Furthermore, electrifying transportation in one region can lead to environmental benefits in other areas as well due to the mobile nature of the sources (the vehicles). Electric vehicles also save owners and fleets time and money due to the cheaper cost of electricity compared to fossil fuels and reductions in maintenance required compared to internal combustion engines.

Given the urgency of the air-pollution and climate crises, I fully support this resolution and encourage the committee and Council to pass it as quickly as possible. Thank you for your time.

Regards,

David J. T. Pedersen

6744 Welch Road, Saanichton,
British Columbia, Canada V8M 1W6

(778) 677-2809

Testimony 5/22/24 Preliminary Budget Hearing - Environmental Protection, Resiliency and Waterfronts

Hi, my name is Hunter Severini. I am a resident of lower Manhattan and am here to testify in support of the Citizen's Air Complaint Program. Thanks in large part to support from the City Council, the program is an ever-increasing success and I am here to ask that you give this program the highest possible consideration in the City budget.

Currently the Department of Environmental Protection is receiving about 300 idling complaints a day from citizens, putting the City on track for over 100,000 complaints this year. This is an enormous workload to manage and would benefit from further resources being allocated. The practical result would be that respondents are notified of violations more quickly and hearing dates are scheduled closer in the future.

To further strengthen this program, I suggest that the Council pass legislation requiring the Department of Environmental Protection to establish and maintain a database of past offenses based on license plate number, to issue summonses with the maximum possible offense based on alleged previous offenses, and to adjourn hearings whenever there are potential previous violations that need to be adjudicated first.

According to <https://idling.nyc/stats.html> which uses open-source data, as of March 22, 2024, there are over 1 million dollars in un-assessed fines, reflecting both under-charged tickets and under-assessed fines. In 2023, over 20% of tickets issued were erroneous. The practical result of this was that companies got large numbers of First Offense summonses for the same license plate, surely not how the system was intended to be working. There is even a public website that shows past offenses <https://idling.nyc/check.html> and this information is also available on NY Open Data.

Additional resources directed towards this program could be of benefit in many ways. As part of the aforementioned proposed database of past offenders, the DEP could maintain more consistency by ensuring all summonses are served to the correct entity based on New York Department of State or US Department of Transportation records. Right now, this is done scarcely and inconsistently. If this were improved, the City would have far better options to pursue collection of violations.

As I mentioned before, the volume of citizen complaints is significant and ever-increasing. I believe that it is necessary to shore up this program before it

becomes even more overwhelming for the City to keep up with. It would be great to have a higher retention of air complaint reviewers and to give them more resources to do their job effectively. When considering the many successes of this program, particularly its effect on the environment and profitability for the City, I believe there is a strong case for further investment. I also believe there is a strong case for passing 0291-2024 which would increase the civil penalties for idling infractions. This law would ensure the continued effectiveness and survivability of this program.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

-----Original Message-----

From: Lois Lynn <llois222@gmail.com>

Sent: Thursday, March 28, 2024 8:39 PM

[REDACTED]

Subject: [EXTERNAL] Composting

[REDACTED]

Dear Council Member,

As a native New Yorker, I am asking you to prioritize funding composting projects in nyc. By the presence of composting projects, New Yorkers can actively participate and understand our connection to the earth, plants, where their food supply comes from and appreciate that connection to their personal nutrition and health.

Thank you for your attention and vote of confidence for this community health building project, Lois

Sent from my iPhone

**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: _____

(PLEASE PRINT)

Name: Rohit Aggarwala

Address: Commissioner

I represent: DEP

Address: _____

**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: _____

(PLEASE PRINT)

Name: Joseph Mucin

Address: Chief Financial Officer

I represent: DEP

Address: _____

**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: _____

(PLEASE PRINT)

Name: Kathryn Mallon

Address: Chief Operating Officer

I represent: DEP

Address: _____

**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: 3-22-24

Name: Mohamed Attia (PLEASE PRINT)

Address: _____

I represent: Street Vendor Project

Address: _____

**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: 3/22/24

Name: Nick Konstantinou (PLEASE PRINT)

Address: 500 2nd AVE

I represent: _____

Address: _____

**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: 03-22-24

Name: ISSA DARRA (PLEASE PRINT)

Address: _____

I represent: _____

Address: _____

P

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: _____

(PLEASE PRINT)

Name: Maite Duque

Address: _____

I represent: Waterfront Alliance

Address: W 36th St 11th Floor

P

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: 3-22-2024

(PLEASE PRINT)

Name: Miranda Massie

Address: _____

I represent: Climate Museum

Address: 195 Wooster Ave NYC

P

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: 3/22/24

(PLEASE PRINT)

Name: Anil Pasram

Address: _____ Jamaica NY 11436

I represent: the Jamaica Bay Ruckaway Parks Conservancy

Address: 11404 Beach Channel drive, Ruckaway Park, NY

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

P
**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: _____

(PLEASE PRINT)

Name: Suhilli Mendez

Address: 151 W. 30th 11th Fl

I represent: NY Lawyers for the Public Interest

Address: _____

P
**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: _____

(PLEASE PRINT)

Name: Hayden Rockett

Address: New York Clean Air Collective

I represent: ↙

Address: UWS

P
**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 0291-2024 Res. No. _____

in favor in opposition

Date: 3/22/24

(PLEASE PRINT)

Name: Hunter Severin

Address: [Redacted] New York, NY 10013

I represent: Myself

Address: _____

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