

**Testimony of Emily Lloyd
Commissioner, New York City Department of Environmental Protection
before the
New York City Council Committee on Environmental Protection
concerning**

**Intro. 271: Relating to the New York City Air Pollution Control Code and Intro. 230:
Relating to Restrictions on Vehicle Idling**

**250 Broadway, 16th Floor
April 23, 2014, 1 pm**

Good afternoon Chairman Richards and Members. I am Emily Lloyd, Commissioner of the New York City Department of Environmental Protection (DEP). I am joined today by Deputy Commissioner for Sustainability Angela Licata, Assistant Commissioner of the Bureau of Environmental Compliance Mike Gilsean, Gerry Kelpin, Director of Air and Noise Policy and Enforcement, and other DEP staff. Also joining me from the Department of Health and Mental Hygiene is Deputy Commissioner for Environmental Health Daniel Kass.

As this is my first appearance before you and the Committee, Mr. Chair, I would like to congratulate you on your appointment and say that I look forward to a productive working relationship between this Committee and DEP in this new administration. Thank you for the opportunity to testify today on the revision of the New York City Air Pollution Control Code.

Today, New York City's air quality has reached the cleanest levels in more than 50 years, with dramatic reductions in air pollutants. Since 2008, the level of sulfur dioxide in the air has dropped by 69 percent, and since 2007 the level of soot pollution (PM_{2.5}) has dropped by 23 percent.

In concert with the active role of the Council in passing important legislation, and with significant feedback from a variety of stakeholders, we have developed sensible regulations that have contributed to this profound improvement in air quality. We have come a long way since the early '70s, when soot regularly obscured the skyline and before the Clean Air Act came into effect. Year-round air quality has benefited from reduced emissions from upwind power plants, industrial sources, on- and off-road diesel vehicle engines, and stationary engines as a result of federal and state regulations. And to address remaining sources of emissions in our densely populated city, we have taken a number of local actions to clean up heating fuel.

An important component of improved air quality in New York City has been a cleaner, more efficient City fleet, achieved through increased fuel economy for on-road City vehicles, the use of biodiesel in all of the City's fleet, the phase-out of older, dirtier vehicles and installation of clean diesel retrofits on City fleets, the use of clean vehicles by City construction contractors, adding more hybrid and electric vehicles in the municipal fleet, and reducing emissions from school buses. These improvements have dramatically reduced emissions from the City's fleet. The estimated average particulate matter emission percentage reduction per vehicle is approximately 49 percent over a two-year period.

Last year, we were also able to make sure that the commercial waste fleet meets the same standards set for the municipal fleet. Commercial waste generated in the City, including construction and demolition waste, is hauled by private operators licensed by the Business Integrity Commission. Citizens see these trucks every day as they provide services in commercial corridors and construction sites across the City.

Pursuant to Local Law 145 of 2013, all heavy-duty waste trucks that operate in the City will now be required to achieve EPA standards for 2007 model year engines by 2020. The PM reduction will be equivalent to taking 27,000 delivery trucks or 1,300 intercity coach buses off the road every year between 2020 and 2030. To address cost concerns expressed by industry stakeholders, who were extensively consulted throughout, this law provides a six-year lead-in time, a financial hardship waiver, and multiple pathways to compliance. Together, these actions are contributing to progress toward meeting the City's clean air targets.

Based on a Department of Health and Mental Hygiene (Health) study using EPA methods, we estimate that in 2005 to 2007, PM_{2.5} levels in New York City contributed to more than 3,100 deaths, more than 2,000 hospitalizations for cardiovascular and respiratory disease, and 6,000 emergency department visits for asthma annually. Today, because of the significant improvements in air quality, Health estimates that every year we are preventing approximately 800 deaths and approximately 1,600 emergency department visits for asthma, and 460 hospitalizations for respiratory and cardiovascular issues. But with PM_{2.5} still causing more than 2,000 deaths annually, we need to do more to reduce local emissions.

This has encouraged us to revisit the New York City Air Pollution Control Code, which has not been substantially revised in 43 years. In the 1970s the City led the way and served as a model for the federal Clean Air Act, but now many elements of the Code are outdated. To reach our shared goal of having the cleanest air of any major U.S. city, the Air Code must be revised.

Outreach and Engagement

This revised Code is the product of numerous meetings with business, environmental and civic stakeholders and hundreds of hours over the last four years. Groundwork for the revision of the Code began with a series of meetings with critical stakeholders to develop overarching themes that would be used as a template for the work going forward. Based on these stakeholder meetings, DEP began to draft a proposal with the objectives of (1) updating emission standards, (2) focusing on previously unregulated sources of particulate matter, (3) simplifying compliance requirements for stakeholders, and (4) increasing flexibility to address new and developing technologies.

The DEP code revision team engaged major stakeholders in the private and public sectors, including all relevant City agencies and the Law Department. This same team met with and answered questions from these stakeholders, discussed new issues, and reviewed and revised language as necessitated by the review process. Some of the participants in the process, for example, have been the Council, the Department of Health and Mental Hygiene, the Department of Sanitation, the Business Integrity Commission, the Department of Education, the Department of Citywide Administrative Services, the HVAC industry, the industrial processing sector, the

real estate industry, the food service industry, and environmental advocates. The information derived from these meetings enabled DEP to prioritize the sections of the Air Code that were most in need of revision, and ensure that industry and other sectors are not unduly burdened.

1. Emission Standards

During the past 43 years, emissions have been reduced significantly but more improvements are necessary. New York City has the greatest density of both PM emissions and people of any large U.S. city. With many vulnerable groups, exposures to emissions from sources like char broiling and wood burning are of greater concern in New York City than in less-populated jurisdictions. Health standards have also become more stringent. We seek in this revision to further reduce emissions from already regulated sources and to achieve emission reductions from smaller, common sources of pollution distributed throughout the City.

This revised Code will incorporate updated and revised federal and state regulations for emission standards. For example, the complicated table of environmental ratings for stationary sources currently included in the Code will instead refer to the state standards, ensuring that any changes in those ratings are captured in the city regulations without having to pass another bill. Similarly, the Code incorporates other state standards by reference, including the prohibition of certain architectural coatings that do not meet volatile organic compound levels, the emission of nitrogen oxides from boilers, and the method for determining opacity, which we use as a proxy for incomplete combustion when smoke is emitted from various sources including city buildings.

Incorporating standards by reference also allows for the deletion of obsolete and outdated provisions. One of the most notable deletions will be the elimination of standards governing refuse-burning equipment. There will now be a general ban on refuse burning with a few narrow exceptions, such as state-approved medical waste incinerators. It will also narrow the exemption that permitted the Department of Sanitation (DSNY) to install new refuse-burning equipment. Equipment operated by or on behalf of DSNY used in connection with solid waste disposal or processing for energy generation or other resource recovery will be exempt. Examples of resource recovery may include non-incineration gasification or anaerobic digestion, which do not themselves produce emissions from a stack.

2. Previously Unregulated Sources of Particulate Matter

The revisions of the Code over the last 43 years have been limited in scope and focused primarily on the reduction of particulate matter from large sources, including residential and commercial fuel combustion, as well as non-road and on-road diesel emissions. The regulation of these large sources now allows the City to focus on smaller, localized sources throughout the City, which, viewed as a whole, contribute a significant amount of particulate matter. These sources include commercial char broilers, coal- and wood-fired ovens, and fireplaces. Focusing on these sources will reduce particulate matter emissions, which will ultimately save lives. For example, commercial char broilers throughout the five boroughs emit an estimated 1,400 tons of particulate matter per year. Health estimates that those emissions contributed to more than 12% of PM_{2.5}-attributable premature deaths annually in 2005 to 2007 or 400 deaths per year in that period; if all commercial char broilers had had control technology installed, the reduction in

ambient PM_{2.5} concentrations could have prevented nearly 350 of these premature deaths each year.

The revised Air Code will require that all new char broilers that cook large amounts of meat, i.e., more than 875 pounds of meat a week, have control devices. Some control technology is already available for a certain type of char broiler and can be installed quickly and at a reasonable cost; that type of technology will be required immediately. For the larger, more complex char broilers, the control technology is still being developed and is currently quite costly. Therefore, the Code will allow affected entities additional time to install such devices. Similarly, all new commercial coal- and wood-fired ovens will have to install control technologies, while existing establishments will be given additional time to comply. This will ultimately reduce localized residential exposure to particulate matter generated by wood- and coal-burning ovens while still allowing the food service industry to cook all the foods that New Yorkers love.

This bill will also regulate fireplaces. As a fuel source, wood is more polluting than coal unless controlled. Smoke resulting from improperly burned wood contains many chemical substances that are considered harmful, such as hazardous air pollutants, fine particles, polycyclic aromatic hydrocarbons, and volatile organic compounds. Particle pollution from burning wood, like particle pollution from other fuel combustion, can harm the health of children, the elderly, and those with existing cardiovascular and respiratory diseases. The Code revision will prohibit the installation of any new wood-burning fireplaces and require all new fireplaces in the City to operate only on natural gas or renewable fuels. Existing fireplaces will still be permitted to burn wood but the moisture content of wood burned must be twenty percent or less as drier wood burns cleaner than wood with high moisture content. The new Code also provides that fireplaces cannot be used as a primary source of heat.

In addition to their contribution to fine particle pollution across the city, the odors and smoke generated by these previously under-regulated emission sources are often the cause of complaints throughout the City. The revised Code will strengthen the City's regulation of these localized nuisances to more effectively address sources of emissions that cause discomfort to New Yorkers. Requiring control technology will help reduce complaints and City resources devoted to responding to them while continuing to protect the health of New Yorkers.

3. Simplified Compliance Requirements

The revised Code will simplify compliance requirements for stakeholders and streamline the DEP permitting process. In both the existing and the revised Code, all boilers are required to obtain either a registration or a certificate of operation based on the size of the boiler. Getting a certificate of operation is a more involved process than getting a registration, so we are raising the threshold for equipment that will require a certificate. In the existing Code, the size range of boilers that require a certificate of operation was based on the fuel choice and emission ratings of boilers from more than 40 years ago.

The new Code will increase the threshold for boiler certificates of operation from 2.8 million Btu per hour to 4.2 million Btu per hour. The higher registration threshold, along with a new online permitting program, will make it easier for applicants to file and receive registrations. These

changes will reduce the work permit turnaround time by approximately 25 percent and ease the burden on building owners.

Due to a variety of advancements since the 1970s and further changes in this bill, we do not predict that increasing the size range for equipment that will now need a registration will negatively affect the environment. Boilers are now required to burn cleaner fuel under DEP's clean heating fuel rules. Moreover, we believe that the engineering audit program, combustion efficiency, and enforcement efforts will be adequately protective. Additionally, owners of boilers requiring a registration will now also have to certify that the boiler passed a combustion efficiency test. This test will ensure the boiler is optimized for efficient performance: malfunctions will be detected sooner, and the boiler will be tuned and repaired faster. More-efficient combustion in the City will result in decreased fuel use, which will reduce costs for building owners while also reducing overall pollution.

4. Increased Flexibility

The new Code will create greater flexibility by enhancing rulemaking authority. It has been difficult to accommodate certain advances in technology under the existing Code, which does not allow for the use of certain cost-effective controls, as they were not contemplated in 1970. Many areas in the revised Code establish broadly defined emission controls, but also add language to allow the City to adopt the related implementation methods and standards by rule. This will help us to more quickly adapt to changing technologies by going through the rulemaking process rather than having to revise the Administrative Code. For example, as I previously mentioned, existing coal- and wood-fired ovens will be required to have control technology in the future. The Code will now allow environmentally beneficial, cost-effective controls to be approved by rule as they develop. And stakeholders will have more flexibility to choose appropriate control technologies.

5. Recommended Amendments

We recognize that further amendments will need to be made and we look forward to working with the Council to make sure that concerns raised by industry stakeholders are addressed. For example, we will continue to consider a committee that will allow for continued dialogue with sister agencies and stakeholders when a rule authorized by the Code requires the inclusion of a mitigation strategy or method to reduce emissions.

An important change that the Administration is proposing is to section 24-163.9, relating to City school buses. The intent of Local Law 61 of 2009 was to ensure that all Type A and B buses (smaller buses) would be retrofitted with a closed crankcase ventilation system (CCVS); however, based on a spatial-constraint issue, such buses could not be retrofitted and only 2007 and later buses were equipped with such technology. The proposed code change would require pre-2007 Type A and B school buses to be gradually phased out from the Department of Education fleet, with all buses utilizing a CCVS by September 1, 2020.

In closing, I appreciate your consideration of this important and overdue update of the New York City Air Pollution Control Code. With the help of our stakeholders we have crafted a

comprehensive revision of the Code that will simplify and improve compliance with existing regulations without compromising quality of life and the environment—a true step toward a more sustainable city. Together, the de Blasio Administration and the City Council can take this next important step to ensure that we are providing future generations with a vibrant and healthy city that is prepared for a million new residents by 2030. I look forward to your support in updating the Air Code and to cleaner air for all New Yorkers.



Testimony for the Environmental Protection Committee of the New York City Council on Int. 271

By Ali Davis

Vice President, Management Services and Government Affairs

Real Estate Board of New York

April 23, 2014

Good afternoon Chairman Richards and members of the Environmental Protection Committee. The Real Estate Board of New York, representing over 15,000 owners, developers, managers and brokers of real property in New York City, thanks you for the opportunity to provide testimony about Intro 271. While we support the goal of streamlining and clarifying the Air Code, we have a few serious concerns about some of the changes proposed in this legislation that we feel must be addressed.

Our first concern is that—in many different places throughout the bill—language has been added or amended to allow the Commissioner of the Department of Environmental Protection (DEP) to make policy changes by rule instead of by legislation. As we have testified previously regarding other pieces of legislation, we believe that transparency and predictability is critical for our members, as is public input into policy changes made by agencies. As a result, we ask that the Council amend this bill to ensure that it retains oversight on future policy changes sought by DEP.

Second, Section 24-136 of the bill (renumbered from 24-140.1) makes changes to the regulation of asbestos, including removing the requirement for DEP's commissioner to approve or deny an asbestos removal plan within 60 days. Although we support the goal of modernizing the code and better aligning it with DEP's current practices—which now include a web-based system for reviewing and approving asbestos removal—we believe that it is important for property owners and managers to have a measure of predictability regarding timeframes for agencies to review and approve construction and abatement work. Removing the limit on the review period places an undue time burden on projects, which can affect workers, owners and building tenants; the regulatory approval process is already the longest phase of any asbestos related work and the cost of additional construction delays can be substantial. Although it may be DEP's current practice to review and approve applications in 21 days or less, it is important that this timeframe be officially codified, and this section of the code should not be removed.

Third, Section 24-146 would allow DEP to issue a stop-work order, either orally or in writing, for any violations related to airborne dust. The criteria under which a stop-work order for this type of violation can be issued are vague—and again, are written to be established by departmental rule instead of by code. This provision would give very broad powers to DEP over something that may not be a life-safety threat, but it could easily cause substantial costs, loss of work for construction, and delays. Given that the Department of Buildings (DOB) already has the power to issue a stop-work order for hazardous or unsafe conditions, we strongly believe that the authority to issue this type of stop-work order should remain within DOB's purview, especially when very few specifics are laid out for what constitutes a violation. We urge the Council to remove this provision in the bill.

Fourth, Section 24-109 regarding the registration of generators, engines and other devices is confusing. It is unclear why generators and engines being used for some purposes must be registered, while others are not required to be. This section should be revised for clarity.

Finally, the legislation contains two proposed changes that would create additional burdens on property owners and managers. Section 16-120.2 would allow the Department of Sanitation to assess civil penalties if refuse compacting systems aren't maintained and operated according to departmental rules, as well as if trash isn't compacted. While some of this section is simply being moved from DEP's section of the code to the Department of Sanitation's (DOS) code, the Council should take the opportunity to require DOS to issue a violation and offer owners and managers a chance to cure the violation before any fines are imposed. The goal of regulation should be compliance, not simply collecting fees. Section 24-168.1 would require building owners who receive shipments of heating oil to maintain records of the shipments and keep them available for audit or inspection for three years, when these records are already maintained by persons who supply heating oil. We believe this requirement is redundant and is an unnecessary increase in the amount of paperwork need to be preserved by property owners and managers. If this requirement cannot be removed, we request that the bill be revised to explicitly permit the records to be kept electronically.

Thank you very much for allowing me the opportunity to provide this testimony.

NYSFAH

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NYSFAH Testimony for the Committee on Environmental Protection on Intro 271
By Alexandra Hanson, NYC Policy Director, NYSFAH
April 23, 2014

The New York State Association for Affordable Housing (NYSFAH), the trade association for New York's affordable housing industry statewide, would like to thank Chair Richards and the members of the Committee on Environmental Protection for the opportunity to submit comments on Intro 271.

NYSFAH commends the Administration's efforts to streamline and clarify the Air Code. While we are generally supportive of the changes outlined in Intro 271, we have concerns regarding the following proposed changes to the Air Code in the legislation:

- **Rulemaking:** NYSFAH is concerned that language added throughout Intro 271 would allow the Commissioner of the Department of Environmental Protection (DEP) to determine policy changes through rule instead of legislation. Transparency and the capacity for public feedback are critical to any policy change the City considers, as is the clarity and predictability of what would be required for our members. As such, Intro 271 should be amended to ensure that the Council maintains the authority to determine policy changes proposed by DEP through the legislative process.
- **Asbestos Removal Plan Approval Section 24-140.1 (renumbered to 24-136):** Intro 271 removes the requirement for the Commissioner to approve or deny an asbestos removal plan within 60 days. While we understand that the intent of removing this provision is part of a larger effort to update the code to reflect the current approvals process, we believe that it is important that a reasonable timeframe for approval of asbestos removal be established in the Air Code. Eliminating the maximum allowable timeframe for approval/denial of a proposed plan may cause unnecessarily delay to future projects. Sixty days is a reasonable timeframe for approval and should be reinstated.
- **Stop Work Orders for Dust Violations Section 24-146:** Intro 271 allows the Commissioner of DEP to issue a stop-work order for any violation related to airborne dust. With little insight into what constitutes a violation, Intro 271 gives broad powers to the DEP Commissioner to issue stop-work orders, including in instances when no imminently hazardous conditions are present due to the vagueness of this provision. This

may unnecessarily delay projects without any commensurate benefit to safety. NYSFAH requests that the Council remove this provision.

- **Heating Oil Records** *Section 24-168.1*: Intro 271 requires building owners who receive shipments of heating oil to maintain records of the shipments and keep them available for audit or inspection for three years. These records are already kept by the shipping companies. The requirement for buildings to do so as well is redundant, and will add to the administrative costs of managing affordable housing without any added value. If this provision cannot be removed, NYSFAH urges the Council to clarify that records may be kept electronically to reduce storage and amount of paper that would be required by this provision if records are required to be kept as hard copies.

We appreciate the opportunity to submit comments on Intro 271 and thank the Council for consideration of NYSFAH's concerns.

NYSFAH's 300 members include for-profit and nonprofit developers, lenders, investors, attorneys, architects and others active in the financing, construction, and operation of affordable housing. Together, NYSFAH's members are responsible for most of the housing built in New York State with federal, state or local subsidies.

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The General Contractors Association of New York
Felice Farber, Director External Affairs
April 23, 2014
Committee on Environmental Protection
Testimony on Intro 271

Thank you Council Member Richards and members of the Environmental Protection Committee for the opportunity to comment today. I am Felice Farber, director of external affairs at the General Contractors Association of New York. The GCA represents the unionized heavy construction industry in New York City. Our members build New York's building foundations, parks, bridges, roads, transit systems, and water and wastewater systems.

While we support the overall goal to update New York's air rules and improve New York's air quality we have a few serious concerns about several provisions in the bill. We appreciate the recent efforts of Council staff and DEP staff to address industry concerns and we welcome the opportunity to continue to work collaboratively on changes to the Air Code that will both accomplish the city's goal and be fair, reasonable and readily understood by the affected parties.

Work Permits

First, the requirement to obtain a work permit for certain types of very large construction equipment is onerous, vague and goes beyond the goals of the air code to improve New York City's air quality.

Very large compressors and generators are occasionally used on some of New York's largest construction projects to power the tools and equipment used on the job site. These compressors and generators can exceed 600 hp and are often on a job site for 12 months or longer making them stationary under the new air code provisions.

Intro 271 would require such equipment to obtain a work permit but a close look at the work permit requirements shows the inapplicability of these requirements to the construction industry.

For example,

- The current work permit application applies to boilers and other building equipment.

- The application must be signed by an architect, engineer or other licensed professional. Equipment rental houses do not keep architects and engineers on staff.
- The equipment owner must demonstrate that the equipment is of a proper size to handle the planned load. This puts DEP in the position of second guessing construction means and methods and provides the contractor with no certainty of what will be acceptable during the bidding process.
- There are no clear standards set forth in the legislation for granting work permits. Those standards would be set by rule leaving the construction community with a vague law and uncertainty about how to obtain a work permit.

If the City's goals are to know the location of large equipment and ensure that such equipment meets current air quality standards, then the work permit requirement misses the mark. As currently written, the work permit requirements are not consistent with these goals and not relevant to the heavy construction industry.

Contractors plan their equipment usage to be most efficient - in terms of lowest overall impact on deliveries to site, intrusion on the community, noise etc and ability to rapidly progress the job. The work permit requirement impedes the contractor - who is taking all the risk for delivering the project - from managing its equipment as he needs to perform the work. Also, as a tool of the trade, there is no place for the architect or engineer to opine as to the suitability of the equipment for accomplishing the work. Telling a contractor whether or not a 600 hp generator is properly sized to the job is like telling a carpenter what kind of hammer to use.

Policy Changes by Rule rather than by Law

Second, there are several locations where Intro 271 authorizes DEP to make changes by rule rather than by law such as *requiring the use of environmentally beneficial technologies, and setting the standards for work permits*. Unfortunately, there is no involvement of any of the affected industries in an advisory role in the adoption of any technologies, nor is there a requirement that any new standards be prospective only. This exposes a contractor to *significant increased costs post bid and award*. *The consequences to a small and medium sized contractor could be catastrophic*. The Noise code provides a good example of how an industry advisory committee could be utilized effectively.

Stop Work Orders

Finally, we are equally concerned that section 24-146 of the legislation allows DEP to orally issue a stop work order and shut down a project for airborne dust conditions without giving the contractor an opportunity to immediately cure the deficiency. Moreover, the Department of Buildings (DOB) already has authority to issue stop work orders for hazardous or unsafe work conditions and this authorization should remain with DOB.

We appreciate the efforts to make sure that New York continues to improve its air quality. We believe there remain a few critical issues that must be resolved before this bill moves forward. We look forward to working with the Council and others to resolve these critical concerns.

Thank you.



Testimony of Michael Seilback

Re: Intro 271 Air Code Modernization
Intro 230 Vehicle Idling

April 23, 2014

Thank you for taking the time for this hearing today. My name is Michael Seilback and I am the Vice President of Public Policy & Communications for the American Lung Association of the Northeast. The Lung Association supports Intros 271 and 230 because they will help give New Yorkers healthier air to breathe.

The American Lung Association celebrates our 110th anniversary this year. For half of our history we have fought for clean and healthy air. Healthy air is central to our mission, which is to save lives by improving lung health and preventing lung disease. We know that polluted air can shorten lives, and worsen lung diseases like asthma and chronic obstructive pulmonary disease and can even cause lung cancer.

Air pollution can harm anyone, even healthy adults, but for many, pollution can threaten their lives and leave them with long-term consequences. Children and teens; older adults; people who have chronic lung diseases, such as asthma; those who have cardiovascular disease and diabetes; and those with low incomes—all are more vulnerable. Children and adolescents are at risk of developing complications now that could follow them around the rest of their lives; lives that may be cut short from exposure to harmful pollutants. We need every step we can take to provide cleaner, healthier air for all of us.

While New York City has made major strides in reducing air pollution over the last several decades, we still have work in achieving the goal of making our air the healthiest air of any major city in the world. One impediment to our progress is the antiquated city's air code.

The American Lung Association supports Intro 271 because it will comprehensively modernize the air code of the City of New York for the first time in decades. As such, the code will better reflect the many different air pollution sources affecting our city today, as well as clean up portions of the code which are outdated, repetitive or irrelevant today.

We are particularly supportive of the sections dealing with outdoor wood boilers, fireplaces, wood stoves, char broilers, cook stoves, and stationary generators. Furthermore, we add our support to the sections dealing with school bus retrofits, ambulance auxiliary power units, motorcycles and diesel engine standards. These sections reflect the issues that the Lung Association often receives the most air-quality complaints about. We also support the proposed revisions in the code to reflect laws which have passed dealing with cleaner heating fuel and secondhand smoke.

We believe these revisions are necessary and will help further reduce air pollutants such as ozone and particle pollution. These pollutants have been linked to exacerbating asthma and COPD; linked to heart attacks, stroke, lung cancer and premature death. Reduction in air pollution levels would protect the health of the public, particularly the most vulnerable populations which include children, senior citizens, and those with chronic lung or cardiovascular disease.

We also support the use of anaerobic digesters in waste-to-energy use, but even though its not addressed in this legislation, we want to reiterate our strong opposition to the use of combustion waste-to energy technologies

Air pollution levels in New York can be so high that they can cause people to become sick and they can cut lives short. The *American Lung Association's annual State of the Air 2013* report found that, while air quality is certainly improving, New York's air is still far too unhealthy.

One of the chronic lung diseases negatively impacted by air pollution is asthma. As a city with higher than average rates of asthma, it is crucial we take steps to prevent asthma attacks that can be triggered by air pollution. Ozone pollution in particular is a widespread pollutant that affects people with asthma and is a significant risk for others; especially children. Other negative health factors that may be worsened by ozone include shortness of breath and chest pain, wheezing and coughing, increased susceptibility to respiratory infections, and the exacerbation of side effects and hospitalization of people with lung diseases like chronic obstructive pulmonary disease (COPD).

The risks that face the youth are particularly troublesome. Youth who grow up in areas of high ozone pollution may never fully develop their lung capacity as a result, potentially putting them at greater risk of lung disease throughout their lives. The population of New York youth under 18 years old is over 4.3 million or over 21 percent of the total population. Other New York populations at risk include approximately 1.5 million adults and 428,000 kids with asthma; over 900,000 with COPD; and approximately 5,000,000 New Yorkers with cardiovascular disease.

Measures, including revising the Air Code, will help reduce air pollution, lead to fewer air quality-related hospitalizations, reduce healthcare costs, and help all of New York City's residents have healthier air to breathe.

With regards to the proposed amendments to the City of New York's idling laws, we support these mostly technical amendments. Motor vehicle, truck, and bus exhaust, especially from diesel engines, is very harmful to human health. Unnecessary idling increases these dangers considerably for members of the public.

Everyday hundreds of drivers needlessly idle their trucks and cars for minutes, or even hours. Idling wastes money by burning millions of gallons of fuel each year, and risks public health by releasing thousands of tons of pollution into the air. Not only is it important to tighten idling restrictions, but also to make sure that all idling laws are better enforced. It is far too common to see vehicles idling while double-parked or sitting in front of a building waiting to pick someone up without any ramifications to the offenders. Idling laws must be enforced if we are going to see true air quality improvements.

Thank you for the opportunity to talk to you about this important issue today.

For more information contact: Michael Seilback, Vice President, Public Policy & Communications for the American Lung Association of the Northeast, 631.415.0946 or mseilback@lungne.org.



**Statement of Ya-Ting Liu
Director, NYC Sustainability Program
New York League of Conservation Voters**

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**City Council Committee on Environmental Protection
April 23, 2014**

Good afternoon. My name is Ya-Ting Liu, and I am Director of the New York City Sustainability Program at the New York League of Conservation Voters (NYLCV). NYLCV represents over 25,000 members in New York City and we are committed to advancing a sustainability agenda that will make our people, our neighborhoods and our economy healthier and more resilient.

NYLCV applauds Mayor de Blasio, Commissioner Lloyd, Speaker Mark-Viverito and Chair Richards for introducing the most sweeping update to New York City's Air Pollution Control Code since 1975. NYLCV supports the proposed revisions in Intro 271 and look forward to working with the administration and Council to reach the PlaNYC goal of achieving the cleanest air quality of any big U.S. city by 2030.

Since the launch of PlaNYC in 2007, the city has pursued concrete strategies to reduce emissions from sources that were within the city's control: buildings, on-road vehicles and other transportation sources. Understanding the scope of New York City's air quality program is critical to developing effective and targeted policies and regulations that yield measurable results. The phase-out of No. 6 and No. 4 heating oils, the creation of the NYC Clean Heat program and the creation of the greenest municipal fleet in the nation are just a handful examples of what the city has already accomplished to improve local air quality.

Updating the New York City air code would allow the city to improve standards for indoor air pollution, cooking emissions and other localized sources that contribute a significant amount of particulate matter throughout the city, but are not currently regulated by the air code. These sources include emissions from motorcycles, outdoor wood boilers, fireplaces, wood-burning heaters, commercial char boilers, cook stoves and stationary generators. The bill would also provide an incentive for mobile food trucks to bring their auxiliary engines up to the latest EPA emission standards.

Air pollution is one the most serious public health threats faced by New Yorkers, especially children, seniors and those with chronic heart or lung conditions. New York City's air code was first enacted in the 1970s and has not been significantly amended since its enactment. The time to update the air code to strengthen existing air quality protections and to regulate new sources of air pollution to further improve the city's overall air quality is now.



My name is Robert Bookman and I am Counsel to the New York City Hospitality Alliance, a trade association representing New York City's restaurants and nightlife establishments that are regulated by the NYC Department of Health and Mental Hygiene, Buildings Department, Consumer Affairs, Dept of Environmental Protection, Fire Dept, just to name a few.

We worked closely with DEP on the portion of this new Air Code which seeks to further regulate Commercial char broilers and cook stoves. (Sections 27 and 28 of the bill). We had a very good working group and we thank them for their outreach.

Two problems remain however. The first, is the date by which new cook stoves and kitchens will have to comply with the new law. When we started talking some time ago July 1, 2014 was more than a year away. Now is little more than a couple months away. Obviously, any change as massive as this needs considerable lead time.

The second issue was raised by us but never resolved as it involves agreement and cooperation between multiple city agencies, so it was kicked down the road a bit. The problem is rooted in the retroactive nature of these sections. Some kitchens will have to be retrofitted by a certain date to comply with new law. That is not common for new codes that require construction work, though not unheard of.

The problem arises when the venting work or other construction work needed to comply either cannot physically be done at an old restaurant space, or if it can be done, the building owner will not grant permission for the work. There is no grandfathering here. This becomes a perfect opportunity for a landlord who wants to get an old mom and pop restaurant tenant out of a long term lease and replace them with a much higher paying chain bank or drug store. We all want to save our neighborhood stores. This can have the opposite effect as all the landlord need do is refuse permission to allow the work to be done in the building.

And at other times, it may be impossible to do the venting work that is required here and still meet all the other codes.

Is it really the intent of this Council and Mayor to close down existing neighborhood businesses by not grandfathering them in? I hope not. This is a concern that needs to be addressed now, not later. If the number of restaurants impacted is small, as we are told, then why not grandfather them or exempt them if they are willing to do the work but cannot for the reasons I just discussed.

**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: 4/23/2014

Name: George Pakenham (PLEASE PRINT)

Address: 161 W 4th St

I represent: TM Film Idle Threat

Address: 161 W 4th St NYC

**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: _____

Name: DAVID EVANS (PLEASE PRINT)

Address: 552 Riverside Drive, 6K

I represent: myself

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

[]

I intend to appear and speak on Int. No. 29/231 Res. No. _____

in favor in opposition

Date: _____

Name: CECIL CORBIN-MARK (PLEASE PRINT)

Address: 1854 AMSTERDAM AVE NY NY 10031

I represent: WE ACT FOR ENVIRONMENTAL JUSTICE

Address: SEE ABOVE

**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: 4.23.14

(PLEASE PRINT)

Name: Denise Katzman

Address: 271 Madison Ave NY, NY 10017

I represent: Environment

Address: Same as Above

**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: 4/23/14

(PLEASE PRINT)

Name: Daniel Kass

Address: Deputy Commissioner, Environmental Health

I represent: DOHMH

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: Andrew Moesel

Address: 152 Madison Ave

I represent: New York State Restaurant Assn.

Address: 1001 6th Ave

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**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: ERIC GOLDSTEIN

Address: 40 W 20 ST NY NY

I represent: Natural Resources Defense Council

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 271 Res. No. _____

in favor in opposition

Date: 4/23/14

(PLEASE PRINT)

Name: Felice Farber

Address: _____

I represent: The General Contractors Association

Address: of NY

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 271 Res. No. _____

in favor in opposition

Date: 4/23/14

(PLEASE PRINT)

Name: Michael Seiback

Address: 21 W 38th Street 3rd fl NY NY

I represent: American Lung Association

Address: _____

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**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 271 Res. No. _____

in favor in opposition

Date: 4/23/14

(PLEASE PRINT)

Name: Robert Bookman

Address: 325 Broadway, NYC

I represent: NYC Hospitality Alliance

Address: See

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**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: Emile Lloyd

Address: 59 W 17 Street Blvd

I represent: DEP

Address: _____

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