



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
on
DEP's Citizen Complaint Programs
September 18, 2024

Good afternoon, Chairman Gennaro and members of the Environmental Protection Committee. I am Rohit T. Aggarwala, Commissioner of the New York City Department of Environmental Protection (DEP). I am joined today by Julie Lubin, DEP's Deputy Commissioner of Environmental Compliance. Julie oversees the Bureau of Environmental Compliance (BEC), which manages enforcement of the noise and air codes, including the citizen complaint programs. Until earlier this year, BEC was managed as part of our Bureau of Sustainability, but I made the decision to bring in a new Deputy Commissioner specifically focused on the agency's air, noise, and asbestos work, reporting directly to me, to ensure that BEC receives the attention it deserves.

While today's focus is on DEP's Citizen Complaint Programs, our main message is that writing tickets for idling is not as an end in itself, but rather is one tool to reach the goal to drive down vehicle emissions. While successful, the program has flaws, particularly in its failure to address pollution in many environmental justice (EJ) communities. With some edits we would like to discuss with the committee, we believe the combination of Intros 5, 291, and 941 can significantly improve the program's impact on air pollution.

We collectively have made great progress on air pollution in New York City. Today, the main impact of air pollution is in EJ neighborhoods.

Mr. Chairman, you and I have worked together on this issue for nearly two decades. You have sponsored some of the most important air quality legislation, including the legislation that enabled DEP to phase out dirty heating oil – one of our most impactful local air quality initiatives.

New York City has made tremendous progress on air quality, driven largely by changes in both vehicle and building fuels, as mandated by federal and local legislation. Over the past 20 years, we've seen a 60% decline in PM2.5 and a 40% reduction in NO2, as found in research by the Department of Health and Mental Hygiene (DOHMH). The health impacts of these improvements have been clear: over that period, the number of asthma-related emergency room visits in NYC dropped by similar amounts.

This success is remarkable. Today, our air is cleaner than it has been since before the Civil War.



The DOHMH study also found that the bulk of this improvement stemmed from fuel quality requirements that were mandated federally for vehicles and locally for heating oil. In other words, we only saw real improvement when changes to equipment and fuels made it physically impossible to pollute. These mandates for mechanical or infrastructure improvements do much more than attempts to change behavior.

Today, the biggest impact of air pollution is on EJ neighborhoods. DOHMH found that the people who really suffer from air pollution are those who live in EJ neighborhoods like the South Bronx, Harlem, the North Shore of Staten Island, East New York, and Brownsville. The reality of pre-existing health conditions and reduced access to health care make air pollution a much greater threat in these neighborhoods compared to wealthier parts of the city.

The Adams Administration has implemented the City Council's air quality laws and is pursuing a further agenda outlined in PlaNYC.

In this administration, we have worked to implement several air quality laws enacted by the City Council. We have accelerated the phase-out of No. 4 heating oil, pursuant to Local Law 32 of 2023. We have implemented the Local Law 38 of 2015 requirement to regulate emissions from restaurants with wood- or coal-burning ovens and are progressing on its requirement to regulate emissions from restaurants with char broilers. These rules have been controversial, but DEP and this administration are committed to improving air quality and public health. We appreciate the Council's continued partnership in this.

We have been dedicated to reducing vehicle emissions. DCAS is aggressively electrifying the City's vehicle fleet and the City recently won a \$15 million federal grant from the U.S. Department of Transportation to build the nation's largest curbside electric vehicle (EV) charging program. We have also embraced 100% renewable fuel for the City's heavy-duty vehicles, and DEP's new on-road diesel vehicles are all equipped with "idle shutdown" technology.

We are also focused on addressing the pollution caused by delivery trucks. As promised in PlaNYC and in the points of agreement related to City of Yes for Economic Opportunity, we are developing a proposal for an "indirect source rule" to reduce emissions from trucks going to and from warehouses, many of which are located in EJ communities. I look forward to speaking to you more about this proposal in the future.

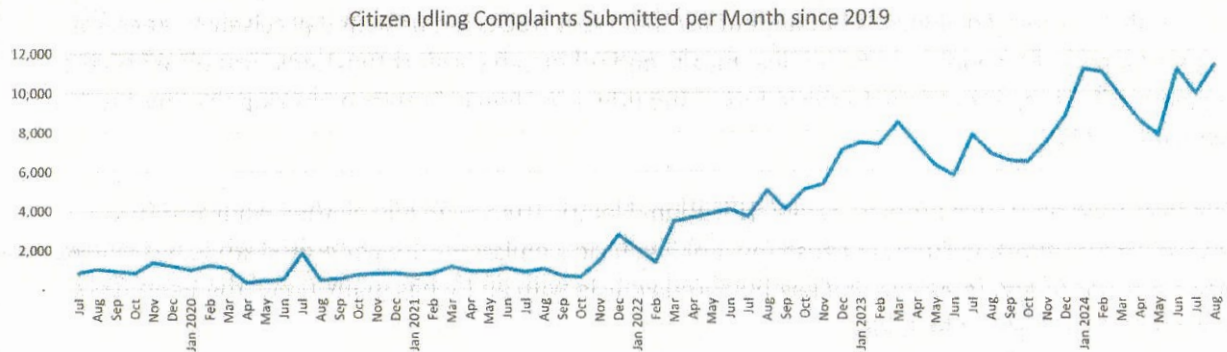
The Adams Administration has worked hard to implement the Citizen Idling Complaint program.

A simple way to reduce vehicle emissions is to reduce idling. The Citizen Complaint Program is a useful tool in that overall effort. Pursuant to Local Law 58 of 2018, DEP has established a formal Citizen Air Complaint Program that invites civilians to report potential idling violations. Anyone can submit evidence of an idling violation (including a video and incident description) to DEP through our website.

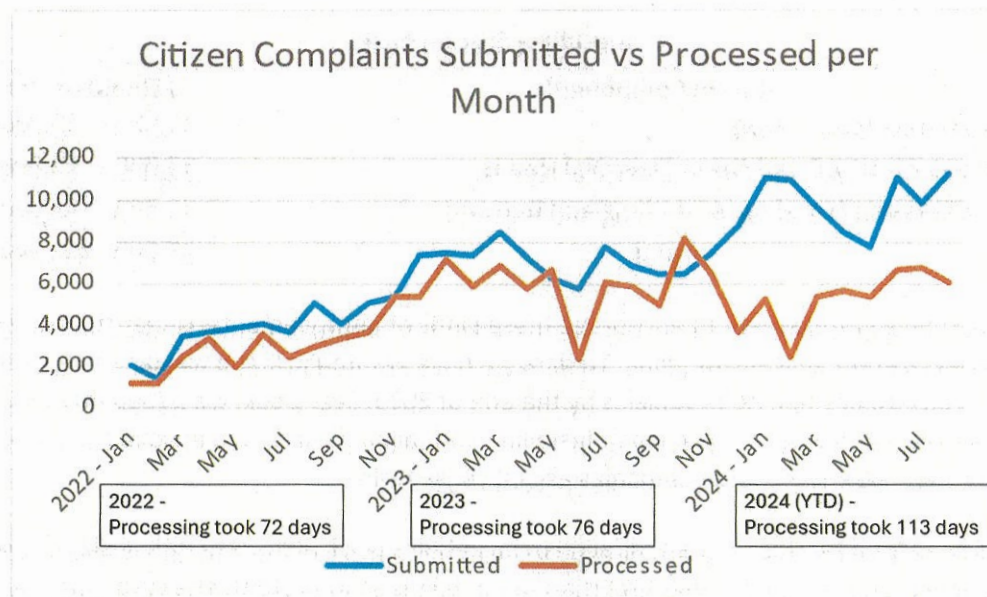
These reports go to the Bureau of Environmental Compliance, under Deputy Commissioner Lubin. BEC inspectors review all of the submissions. If the inspectors determine that the evidence is sufficient, they issue a summons. DEP pursues the vast majority of complaints, which are those that we believe are valid and fully documented. Each of these is reviewed by a DEP air and noise inspector.

If the vehicle owner is found in violation at the subsequent Office of Administrative Trials and Hearings (OATH) hearing, the individual who submitted the evidence receives 25% of the collected fine. If DEP does not issue a summons, the person who submitted the evidence may decide to self-pursue the case at OATH, and is entitled to receive 50% of the collected fine if the self-pursued case leads to a violation.

The program has grown exponentially, with reports increasing from 9,000 in 2019 to over 80,000 in 2023. We have already surpassed 80,000 this year. In 2023, 95% of the cases DEP brought to OATH resulted in a violation.



This administration has invested resources in this program, including increasing the number of BEC staff to process these complaints. At my direction, BEC has also adopted automation processes that have accelerated processing times. Altogether, we have increased our processing capability by five times. However, the number of complaints submitted has gone up nearly ten times. As a result, our processing times have nearly doubled. We continue to pursue efficiencies in our processing, but the fact is that each video must be watched by one of our inspectors, which places a limit on how many we can process.



Several large companies have received many violations. Law Department has pursued the largest violators, reaching agreements with several of them that have resulted in millions of dollars of fines paid to the city.

One shortcoming of the current program is that it does not encourage mechanical solutions.

As I said earlier, our goal is not to issue more fines. Our goal is to reduce air pollution, so we must use the civilian complaint program and idling violations as a tool to do that. As this program has grown, we have found many shortcomings in its design, which we think these bills could help address.

The most important challenge is fundamentally that most trucks are designed precisely to keep the engine running. Air conditioning, heating, music, and other cab comfort functions turn off when the engine is off. Thus, a traditional vehicle forces the driver to choose between obeying the law and his or her own comfort.

The best solution to this problem is electrification. Electric trucks can idle all they want without producing emissions. Further, because most of a vehicle's emissions are generated while it is driving, not while it is stationary, replacing one gas-powered vehicle with an EV has many times the benefits of stopping one vehicle from idling.

A second-best solution is retrofitting. Vehicles can be retrofitted with anti-idling devices. Some shut off the engine after a set amount of time and are installed with batteries that power features like air conditioning and lights. These start-stop devices reduce idling and prevent drivers from facing discomfort. This is a tangible, mechanical solution that would consistently address the problem. These devices do cost money: we estimate between \$5,000 to \$11,000, depending on the battery demand and complexity of installation, per truck to install both anti-idling technology and batteries providing for driver/passenger comfort. The civilian complaint program can be a tool to incentivize companies to install these devices.

Anti-Idling System Cost	
System Component	Estimated Cost Range
Anti-Idling Module (Start-Stop)	\$1,500 - \$2,000
Typical Battery for HVAC and Other Electrical Needs	\$2,000 - \$4,000
Labor for Installation (Total for Anti-Idling and Battery)	\$1,500 - \$5,000
Total	\$5,000 - \$11,000

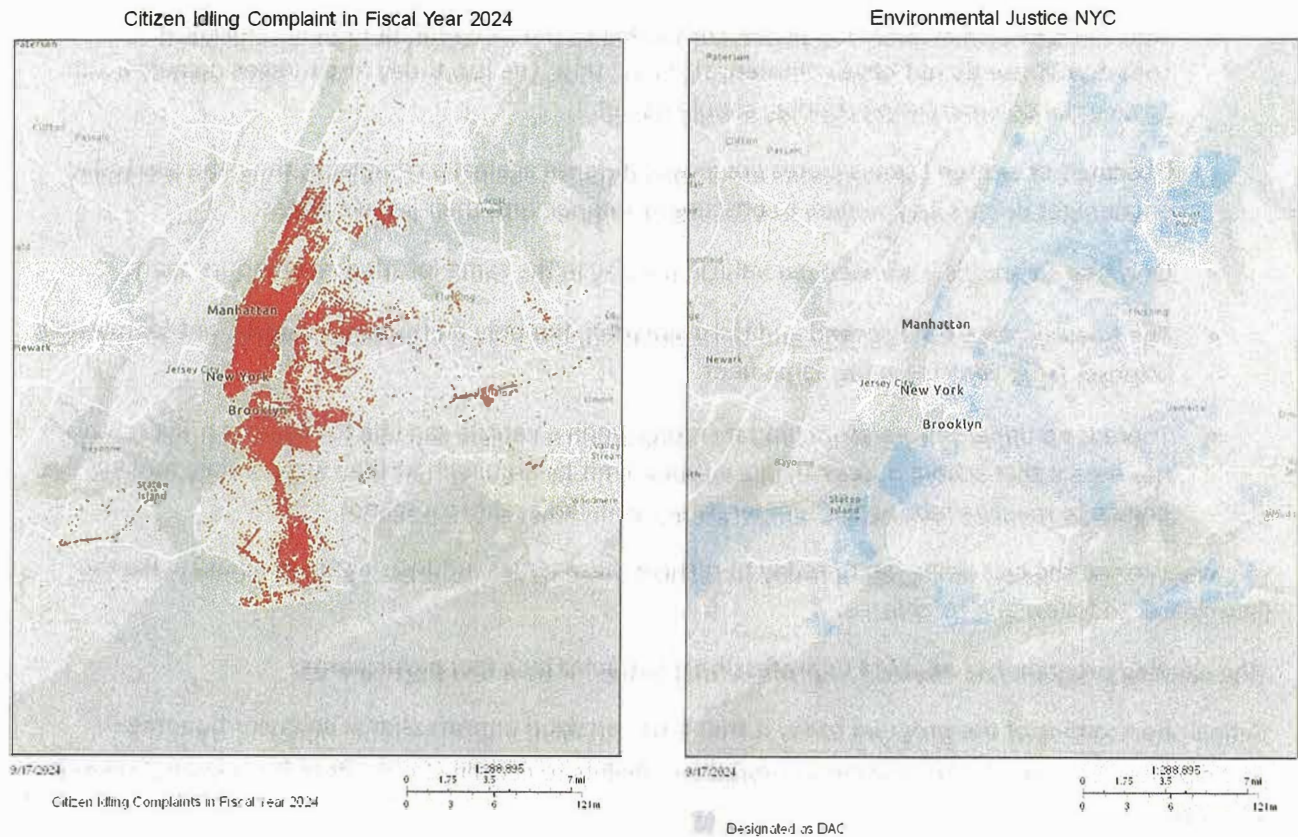
We have used idling enforcement to encourage these kinds of improvements. Under the law, DEP has broad authority to grant waivers for idling. To date we have granted just one waiver – to a fleet that committed to electrifying half of its vehicles by the end of 2025. Last week, we issued three waivers conditional on the applicants' electrifying or installing anti-idling devices. We believe the people of New York would benefit greatly if those companies accept those terms.

But it would be helpful for this program directly to incentivize truck owners to either electrify or install anti-idling devices. This is why the cure provision of Int. 941 is so important. The cure encourages vehicle

owners to spend money on a mechanical change instead of a fine. It encourages the owners to actually address the issue.

The current program has almost no impact on many EJ neighborhoods.

A second problem with the current program is that it has essentially done nothing to improve air quality in many EJ communities. As these two maps show, most civilian complaints issued are in the Manhattan core, wealthier parts of Brooklyn, and western Queens. There is minimal attention to the areas that need it the most.



Data provided from:
https://data.ny.gov/Energy-Environment/Final-Disadvantaged-Communities-DAC-2023/2e6c-s6lp/about_data
for Final Disadvantaged Communities (DAC) 2023

The deterrent effect of this program is mainly limited to trucks idling in Manhattan. In fact, because DEP's air inspectors now spend so much time processing citizen complaints, which are mostly in Manhattan, an unintentional impact of this program has been to shift DEP's own enforcement out of many EJ neighborhoods.

This is another way that a cure provision encouraging anti-idling devices would be impactful. Once installed, the device would be active wherever the truck goes, so a ticket issued in Manhattan could also improve air quality in the Bronx.

The existing law is vague and contains contradictions that have led to dismissals of what we believe are otherwise legitimate complaints.

Another problem is that the Air Code includes provisions that are imprecise or in conflict. As a result, when an OATH judge identifies a point where the law is vague or contradictory, a case is often dismissed. Many of the weak aspects of the law have only become clear as increased enforcement has brought more varieties of circumstances. The bills being heard today are an opportunity to address these issues and strengthen the law.

Issues include:

- Only vehicles with commercial plates are subject to the program, but many vehicles in commercial use do not have commercial plates; thus, the law today discourages owners from getting the commercial plates they should have.
- Obscured or altered license plates are a valid defense against a complaint; thus, the law today encourages drivers and owners to obscure or tamper with their license plates.
- Only one summons is allowed per vehicle per day in the same location, even hours apart.
- The fines increase for a second and third violation, but only on the same vehicle, not for multiple offenses from vehicles in the same fleet.
- There is no upper temperature limit dictating when a vehicle can idle for heat. In practice, this has meant that school buses can idle without limit by arguing that they were simply running the engine to manage internal air temperatures, even adjacent to a school.

We want to use the bills being heard today to resolve these issues. Addressing them would make the law clearer to follow and to enforce.

The existing program has enabled unprofessional behavior by a few participants.

A final shortcoming of the program today is that it has enabled unprofessional behavior by some participants. We should hold those who submit complaints to certain standards of professionalism and integrity.

The first issue relates to the timely submission of complaints. There is currently no time limit on how long a complaint can be filed after it is recorded. DEP's inspectors are expected to report their complaints within nine days of observing the violation, though we typically do so within five days. It is important that civilian complainants be required to do the same. We've observed some complainants saving violations for months and then dumping them all at once. This is unfair to the accused and causes issues for DEP and OATH, which then have to process large volumes of complaints in bunches, slowing down the review process for all complainants.

The second issue is finding instances of fraud among some participants. Submitting false reports is wrong, and it wastes city resources and time. Our inspectors have found:

- The same video being submitted twice, with different allegations with the intent to generate two summonses based on the same event;

- A single complainant submitting videos from different boroughs allegedly taken at the same time; and
- Complainant resubmitting slightly altered evidence after DEP has already found it unacceptable.

To combat fraud, DEP has started issuing summonses to individuals who have committed this egregious behavior. We are not discouraging participation in this program. We are working to ensure that all participation is appropriate. In 2023, more than 900 people submitted at least one idling complaint; summonses were issued to four of them.

A further issue we've been experiencing is that some participants have harassed and verbally attacked civil servants. This behavior of complainants has included:

- Aggressive verbal harassment targeted at specific employees;
- Attempts to access secure government office spaces looking for specific individuals; and
- In one instance, an attempt to assault a staff member.

Such behavior is unacceptable. No one should feel threatened or tolerate abuse or harassment as part of their job. We need to protect our staff from the few individuals who feel they are justified in mistreating our employees.

In sum, civilian complainants should be held to a code of conduct to protect staff and ensure the integrity of the civilian complaint program. Withholding reports, submitting false reports, and harassing staff should not be permitted. If a DEP inspector were accused of any of these actions, we would take them off enforcement duty and investigate. We must recognize the role that civilian participants are playing. They are not just making complaints; they are contributing to the initiation of legal proceedings under the Air Code. There must be a method to address fraudulent submissions and abusive behavior.

The fines are not high enough to encourage the installation of anti-idling devices, but should not be increased unless other problems with the program are fixed.

I've mentioned already how powerful anti-idling devices could be in reducing idling, not only in Manhattan, but citywide. Today, levied fines – which range from \$350 to \$2,000 – appear to be too low to incentivize mechanical change like the installation of anti-idling devices. This is why, in PlaNYC, the Adams Administration clearly stated its support for increasing the fines.

However, fines cannot be increased unless necessary reforms are put in place. The law must be more precise, must encourage cures, and must protect staff and the integrity of the system.

In addition, any fine increase must be coupled by a change in the bounty structure. Today, the payout for the civilian complainant is based on a percentage of the fine imposed. Fines start at \$350 but can increase up to \$2,000 for repeat offenses. We know from published reports that some participants are earning between \$150,000 and \$250,000 per year from this program. If the fine were quadrupled, it would mean that someone could earn a million dollars per year from this program. By contrast, the average salary of a DEP air inspector is roughly \$55,000. While we can and should pay people who do the service of reporting offenses, we do not need to make them millionaires. I don't believe any of the civilian enforcers are doing work that deserves more money than a trained DEP inspector earns. We

suggest a flat rate payout for complainants. Today, complainants earn \$87.50 for first offenses. Instead of quadrupling this, we suggest a flat rate payout of \$100.

Intros. 5, 291, and 941, if amended and enacted together with some minor changes, would improve air quality in New York City.

This brings me to legislation being heard today. We fully support the intent of the four bills being heard today. We do want to recommend a few specific changes that we believe are consistent with the objectives of these bills and would further enhance the program.

Intro. 5

Intro. 5 requires that the citizen's air complaint portal be translated into the designated citywide languages. We encourage New Yorkers of all backgrounds to participate in the complaint program. Currently, the portal has instructions and translations in all of the designated citywide languages. We welcome a discussion of ideas to encourage broader participation.

Intro. 941

Intro. 941 addresses many of the shortcomings of the current program that I have described. We have discussed the need for these changes at previous hearings and are grateful to the Chair for his leadership on this.

I'd particularly like to stress the importance of the cure provision this bill would create. This bill delivers on the idea that air quality, not fines or bounties, is the purpose behind this program. A truck that is retrofitted because of a summons issued in Manhattan will improve air quality everywhere it travels in the City.

Regarding the bounty, Intro. 941 cuts the current percentages in half. As I mentioned, we would recommend fixing the bounty at \$100 for a DEP-pursued claim and \$150 for a self-pursued claim.

Intro. 941 also authorizes DEP to create a code of conduct for participation in the program. We think the bill language should be amended to reflect that a complainant for the same reasons a DEP Air and Noise inspector would be disciplined: submitting fraudulent or falsified evidence; abusing or harassing City staff; or intimidating, harassing, or threatening individuals in connection with a citizen complaint.

Intro. 291

Intro. 291 would raise fines for idling violations, which is consistent with this administration's policy as stated in PlaNYC. In fact, we would like to propose raising the maximum even higher, to \$10,000, for companies that receive significant numbers of repeat offenses in a year – companies like Verizon and Con Ed. This would require assigning repeat violations to companies instead of individual trucks. Additionally, as I noted earlier, we cannot support Intro. 291 unless other important changes to the program are addressed.

We ask the Council to consider these bills as a package to pass together.

Intro. 747

Intro. 747 extends some of these idling citizen complaint program changes to the noise citizen complaint program. Consistent with what I said about Intro. 941, we support the overall idea but would recommend changing the bill to establish a clear and high standard for discipline, and that the language of Intro. 747 should be brought into alignment with what is finalized in Intro. 941.

Conclusion

Both the genius and the challenge with the civilian complaint program is that it creates a clear financial incentive for people to issue complaints. More than 2,500 New Yorkers who have participated in the program since its inception. The vast majority seem to be driven largely by the desire to improve air quality. A small group, however, have turned this into "a lucrative side hustle" (as one participant stated in *The New Yorker*). I have no problem with people making money from doing the work to submit evidence of idling. But this law has created a lobby that has a direct financial stake in more summonses being issued, but not a direct financial stake in improving of air quality. I encourage you to treat these viewpoints with the same skepticism you would treat that of any lobbyist seeking to prevent the reform of a government program from which their client makes millions.

I want to reiterate my and my colleagues' thanks to Chair Gennaro and the committee for your attention to these programs. I recognize that bills being heard today include many of the ideas that we discussed during the noise enforcement hearing last fall. The Council's partnership on these is critical to maximizing the effectiveness of these citizen enforcement programs.

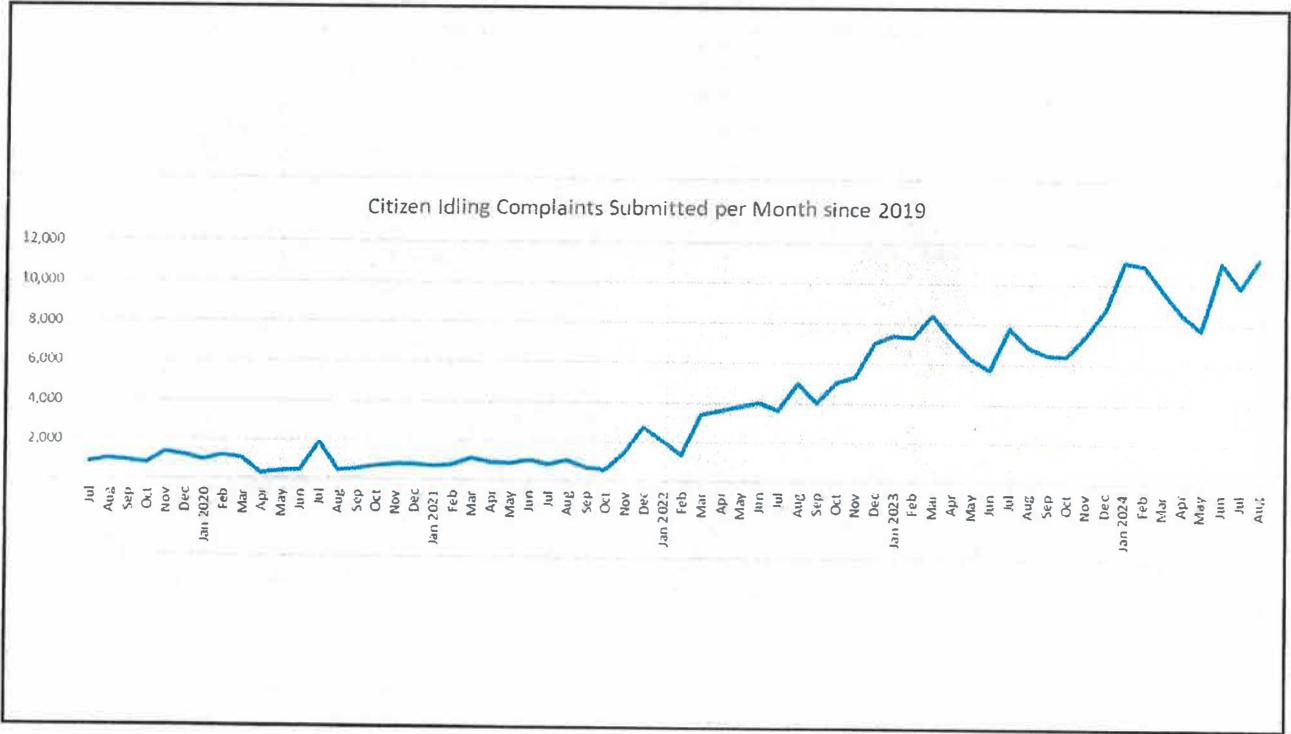
Thank you again for the opportunity to testify about these today. My colleagues and I are happy to answer any questions that you have.

DEP Testimony

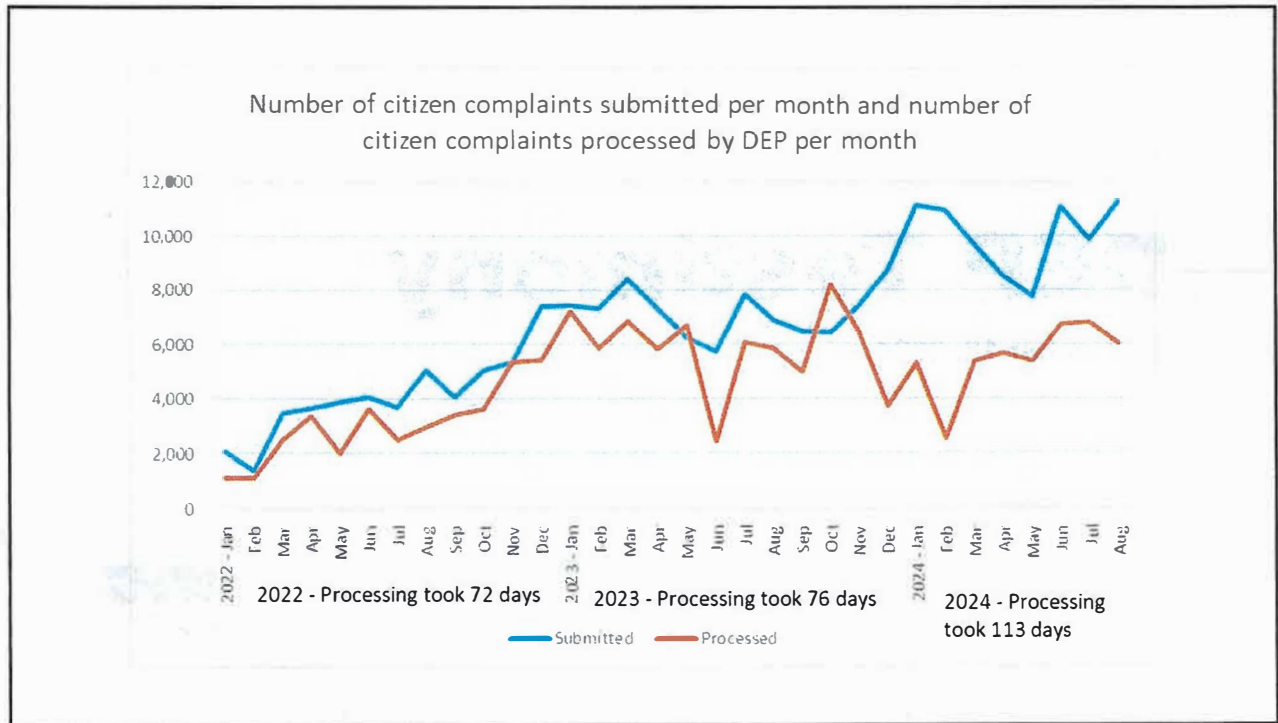
September 18, 2024



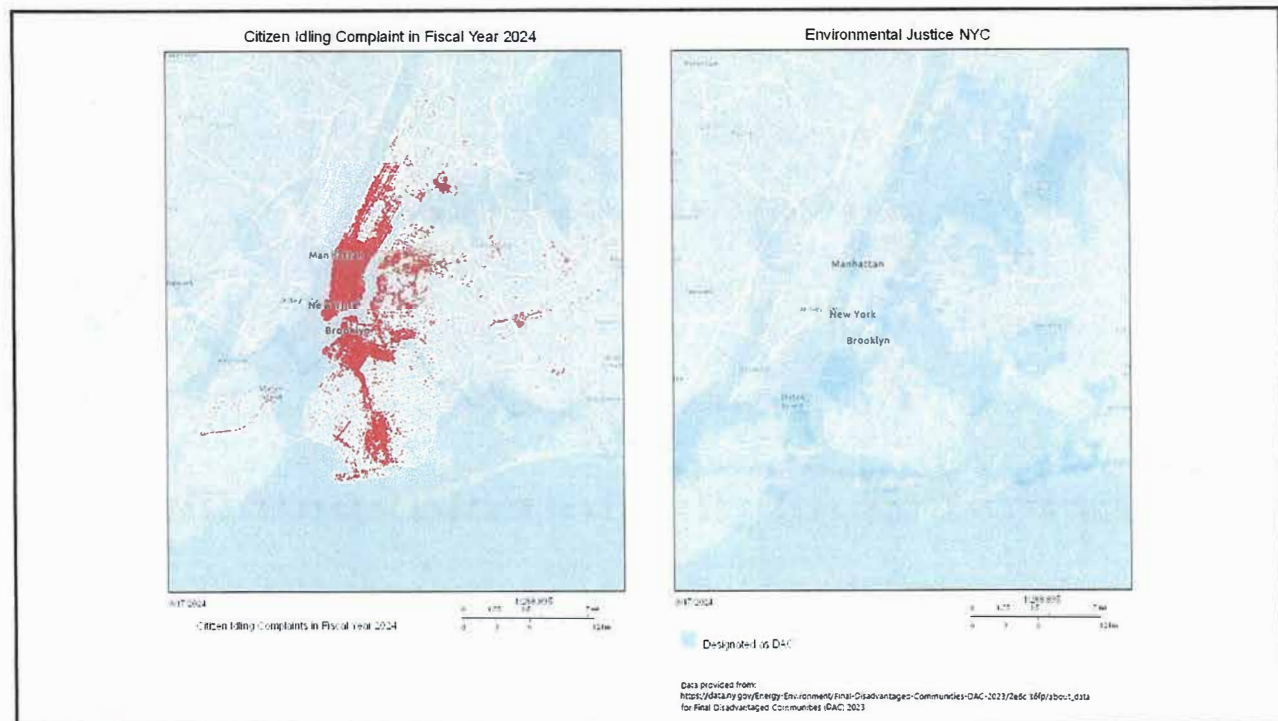
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Anti-Idling Technology

Start-Stop Devices turn off ignitions after set time.

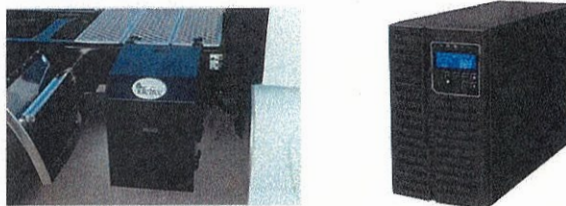
If a battery is added, it will provide power for AC, heat, extra lighting etc.

Typical Start-Stop Device



The Idle Stop box is installed behind the dashboard.

Typical Battery Power Supply Device



The battery is installed wherever space is available.

5

Harassment

Abuse directed at DEP staff from individuals participating in the program:

- "your past grants of these variances may be an attempt to kill yourselves. DEP officials, life is worth living. You do not need to be a danger to yourselves (and others) anymore... Here is the suicide prevention hotline number." *[email to staff member]*
- "...apparent insistence on turning NYC into a deadly gas chamber" *[email to DEP staff member]*
- "Have you given any thought to just strangling minority children in Mott Haven directly, like with your hands, instead of all this runaround" *[email to DEP staff member]*
- "What the DEP cares about is simple. This is a dick-measuring contest. The DEP wants to show it has the power to permit idling whenever it feels like... Congratulations, DEP. Congratulations, [DEP staff member]. Congratulations, [DEP staff member]. Your dicks are enormous. Thank you." *[delivered orally to DEP hearing officers at public hearing as testimony]*

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CHAIRMAN
JUDICIARY

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September 17, 2024

The Honorable Speaker Adams
City Hall
New York, NY 10007

Dear Speaker Adams:

I write to urge passage of two important bills that build on the Council's strong record of protecting our environment by creating and nurturing the Citizens Air Complaint Program ("CACP"). Intro. 5 (CM Avilés) and Intro. 291 (CM Menin) are both set for hearing before the Committee on Environmental Protection, Resiliency, and Waterfronts on September 18, 2024. As you know, these bills enjoy cosponsorship from a supermajority of the Council—as did identical bills last session—and I hope they move to a vote. In addition, I have concerns, however, about Intro. 941, which in my opinion would undermine both the CACP and the First Amendment.

In 1972, the Council enacted New York's City's Air Code, which specifically encouraged citizens to report violations through the CACP. But city agencies failed for decades to enforce the law against illegal engine idling, or to publicize the CACP.

Today, New York City has the most successful citizen enforcement program in the world. Five years ago, the Council wisely passed Local Law 58 of 2018, requiring the Department of Environmental Protection ("DEP") to publicize and provide guidance on the idling law and to reward a fair 25% share to citizens whose reports result in violations paid by polluters. The CACP has quickly become the single-most effective means of enforcing the City's Air Code.

In 2023, citizens submitted over 86,000 complaints against illegally idling trucks and buses—up from just 16 in 2018 before the Council acted. Video-backed citizen-based summonses are more effective, with a lower dismissal rate, than summonses originated by city agencies, and they have resulted in large companies dramatically modifying their behavior. Ordinary citizens' complaints have contributed nearly \$50 million to the City treasury, more than paying for the CACP.

Sadly, there are still far too many barriers to entry for this program. DEP has imposed complicated rules on citizens, which it changes constantly and with no opportunity for public comment. Stopping illegal idling should be as simple as a citizen seeing a violation, recording a video, and sending it to the DEP to issue a ticket.

As you well know, air pollution disproportionately hurts New Yorkers of color. Minority communities in New York [inequitably bear](#) the highest exposure to toxic transportation emissions, especially particulate matter from vehicles such as unnecessarily idling commercial trucks and buses. New Yorkers of Latin descent are exposed to 81% more vehicle pollution than white residents, and African Americans to 72% more. Incredibly, Asian American residents are exposed to *twice as much* particulate pollution as white residents. As the City [recognized](#) in 2020, high levels of fine particulate matter, nitrogen dioxide, and nitric oxide are still found in areas of high traffic density, including the South Bronx, Western Queens, and Northern Brooklyn. My own constituents, including in traffic-dense Hell's Kitchen, home of massive emissions from the Port Authority Bus Terminal and surrounding traffic, likewise suffer a disproportionate share of the burden of air pollution. Intros. 5 and 291 will lessen this injustice, while Intro. 941 will make it drastically worse.

DEP locks out all New Yorkers from the CACP unless they submit their complaints in English. Indeed, DEP's website still specifically states that all complaints must be submitted in English. All New Yorkers have lungs and need to breathe clean air, regardless of the languages they speak. All New Yorkers also have a Right to Clean Air under the New York State Constitution. I hope the Council passes Intro. 5, which will require DEP to accept complaints in all city-wide languages, and end the DEP's discriminatory and unconstitutional policy.

Currently, large companies like ConEd, Verizon, and Amazon still do far too much illegal idling. No company should treat a fine like a simple cost of doing business. That's why in my opinion the Council should pass Intro. 291, which will raise the current idling penalties to a level that will deter giant corporations from harming New Yorkers.

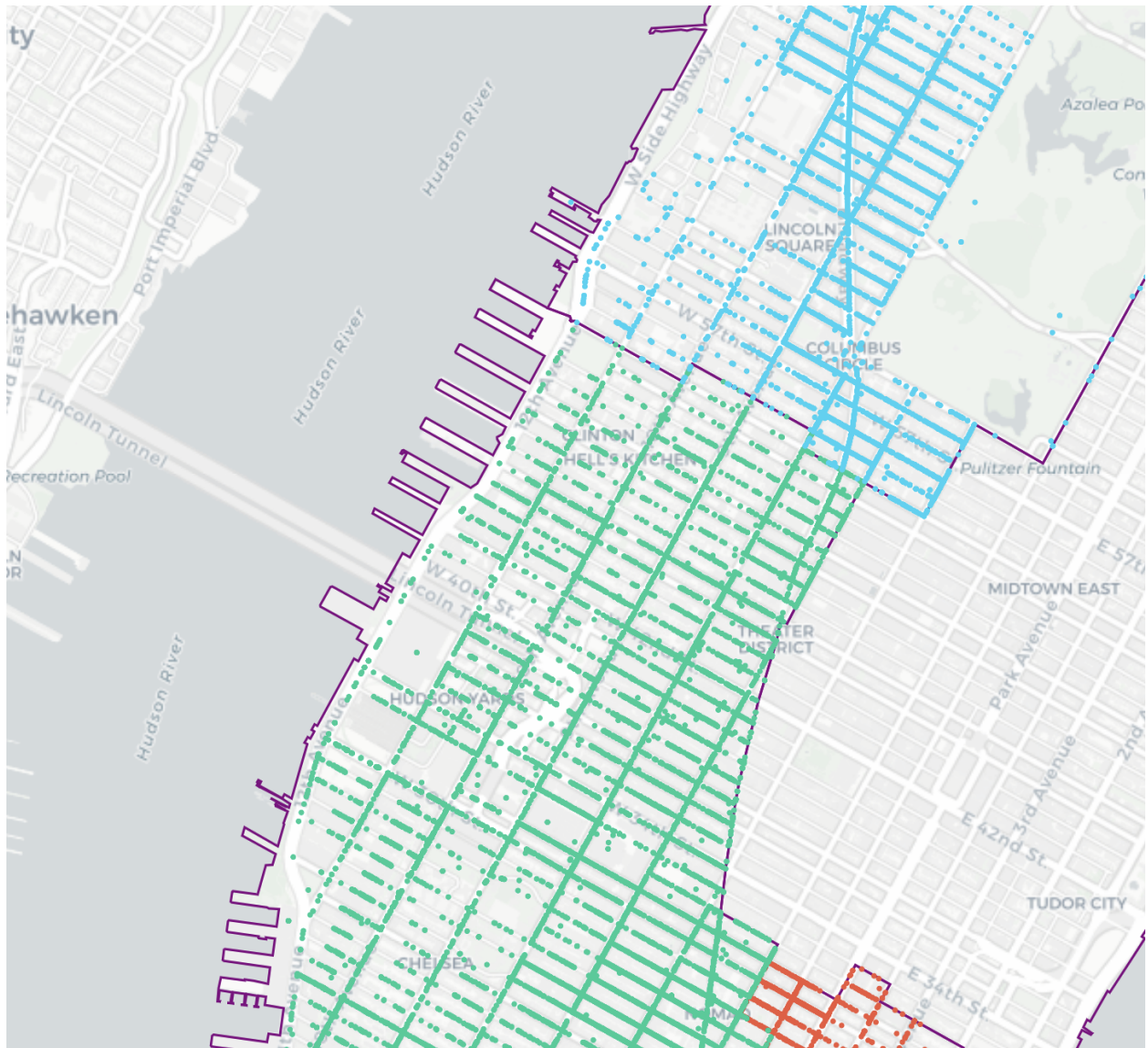
Intro. 941 would erode New York's clean air gains and discourage citizen participation. Unfortunately, Intro. 941 would open new loopholes for the first time since the Council passed the Air Code in 1972. It would drive up pollution from buses and trucks, while imposing new restrictions on citizen participation—when we should be opening this program up to more people. As shown [recently](#) in *New York Magazine*, the bill also punishes citizens who complain about air pollution—or the DEP's handling of it—based solely on their speech. Incredibly, Intro. 941 would let DEP ban any citizen it doesn't like, just by claiming she didn't act in a “dignified, orderly, and decorous manner” or failed to “demonstrate familiarity with [DEP's] rules.” The First Amendment means that the government cannot pass laws like Intro. 941 that chill free speech by banning criticism and requiring citizens to speak in lockstep with government agencies' official positions. Every New Yorker should participate in the CACP, not just those selected by DEP, or those with a particular government-approved viewpoint.

I humbly request that the Council acts to protect our environment and the CACP by voting on Intros. 5 and 291 as soon as possible and rejecting Intro. 941. Thank you and your colleagues for your consideration of this request and stellar service to New Yorkers.

All best regards,

A handwritten signature in black ink that reads "Brad Hoylman-Sigal". The script is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Brad Hoylman-Sigal
State Senator – 47th District





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JESSICA CHAIT
Chair

JESSE R. BODINE
District Manager

Manhattan Community Board 4 Written Testimony
To The Committee on the Environmental
Protection, Resiliency, and Waterfronts
September 20, 2024

Dear Chairman Gennaro and Committee Members:

Manhattan Community Board 4 (MCB4) supports two crucial bills that expand and protect the Citizens Air Complaint Program (“CACP”), Intro. 5 (CM Avilés) and Intro. 291 (CM Menin). Intro. 5 and Intro. 291 help address racial inequality in the air pollution enforcement in New York, and improve the efficacy of law on fleets. They should both be passed immediately. We have serious concerns, however, about the intentions of Intro. 941, which has the consequences of crippling the very successful idling reporting program and potentially undermines the Council’s authority and possibly the First Amendment.

Hell’s Kitchen suffers from especially high levels of truck and bus emissions. We reside in one of the most traffic-choked parts of the City, in part, due to an excess of idling buses in the vicinity of the Port Authority Bus Terminal. We have the third worst air quality in the City. In light of this problem, Manhattan Community Board 4 has written no fewer than three letters, demanding stronger enforcement of our idling laws with respect to commercial trucks and buses. Additionally, our District was a participant in the Community Air Monitoring Initiative initiated in 2021 by the Governor.¹

The CACP is effectively the City’s sole means of enforcing the Air Code (Appendix A). Citizens have collected and contributed far more evidence of idling violations than the Department of Environmental Protection (“DEP”), the NYPD, the Parks Department, the Sanitation Department, and the Business Integrity Commission, *combined*, at a tiny fraction of the cost.² In 2023, citizens’ complaints resulted in over 77,000 violations against illegally idling trucks and buses—whereas city employees wrote just 210 based on their own evidence. Video-backed, citizen-based summonses are more effective, with a higher overall success rate at Office of Administrative Trials and Hearings (OATH (96-97%)), than summonses originated by city agencies, and they have resulted in many companies dramatically modifying their behavior. Ordinary citizens’ complaints have contributed nearly \$50 million to the City treasury while being compensated on the order

¹ <https://cbmanhattan.cityofnewyork.us/cb4/wp-content/uploads/sites/10/2021/11/17-TRANS-Letter-to-DEP-re-Idling-Fines.pdf>

² [New York Clean Air collective.](#)

of 16 to 25% of what the city collects. The intangible benefits include the avoidance of thousands of visits to the emergency rooms.³

With this in mind, we recommend to adopt Intro 5 and 291 and offer the following comments:

Intro. 5 opens the program to all New Yorkers regardless of race or language:

Currently, DEP requires all submissions in English. All New Yorkers have lungs and need to breathe clean air, regardless of the languages they speak – and all New Yorkers also have a Right to Clean Air under the New York State Constitution. Intro. 5 will require DEP to accept complaints in all city-wide languages.

Intro. 291 makes polluting companies pay enough to stop idling. Manhattan Community Board 4 made the necessity of this particular penalty schedule for commercial trucks and buses clear in a letter *five years ago*. While many companies have modified their behavior, too many big companies like ConEd and Verizon still do far too much illegal idling. No company should treat a fine like a simple cost of doing business. Intro. 291 will raise the current idling penalties to a level that will deter giant corporations from killing New Yorkers. However, we recommend that the easy-to-understand VTL definitions of “truck” and “bus” be used in this law.

Just last week, New York State Department of Environmental Conservation (DEC) released the first phase results of the Statewide Community Air Monitoring Initiative.⁴ To complement the release of the study findings, DEC is launching a new anti-idling enforcement blitz in communities significantly impacted by emissions from non-compliant trucks and other heavy-duty vehicles. The press release mentions: “Air quality monitoring in our communities is an important part of ensuring the health and well-being of all New Yorkers, especially those disproportionately impacted by air pollution.” “We look forward to working with our Westchester stakeholders to develop community-led solutions to our air quality challenges.”

These comments point to the importance of increasing idling fines, citizen action and participation of disadvantaged communities.

However, Intro 941 seems very much out of step with its sister bills and New York State directives. **It would appear that Intro. 941 could very well erode New York’s clean air gains and discourage citizen participation.** The proposed legislation would open new loopholes for buses and trucks idle for the first time since the City Council passed the Air Code in 1972

In particular, it would allow buses with passengers inside to idle for 15 minutes if the temperature is above 80 degrees; it would retroactively reduce penalties for companies that agree to install “anti-idling technology,” which may or may not be effective, and give DEP the power to limit what counts as acceptable evidence of an air pollution violation.

³ [New York Clean Air collective](#).

⁴ <https://dec.ny.gov/news/press-releases/2024/8/dec-releases-first-phase-results-of-statewide-community-air-monitoring-initiative>

In addition, it imposes new restrictions on citizen participation: reducing the citizen award to often less than 8%, and provides DEP a severe level of discretion by banning any citizen from reporting by claiming they did not act in a “dignified, orderly, and decorous manner” or failed to “demonstrate familiarity with [DEP’s] rules”.

Instead of such deleterious measures we continue to urge the administration to accelerate public investments in EV vehicles use and fast charging in bus school depots.

Cutting the citizens’ share would drastically undermine participation, thus both increasing air pollution *and* harming the city’s overall financial position. Citizens provide high-quality evidence of idling and other air pollution violations, are paid only when the city is paid, work without benefits, and represent an enormous fiscal value when compared to the miniscule number of air pollution summonses otherwise issued citywide by salaried municipal personnel.

Please ensure that the Council acts swiftly to protect our environment and the CACP by voting in favor of Intros. 5 and 291 (the latter, with technical correction) as soon as possible and by rejecting Intro. 941.

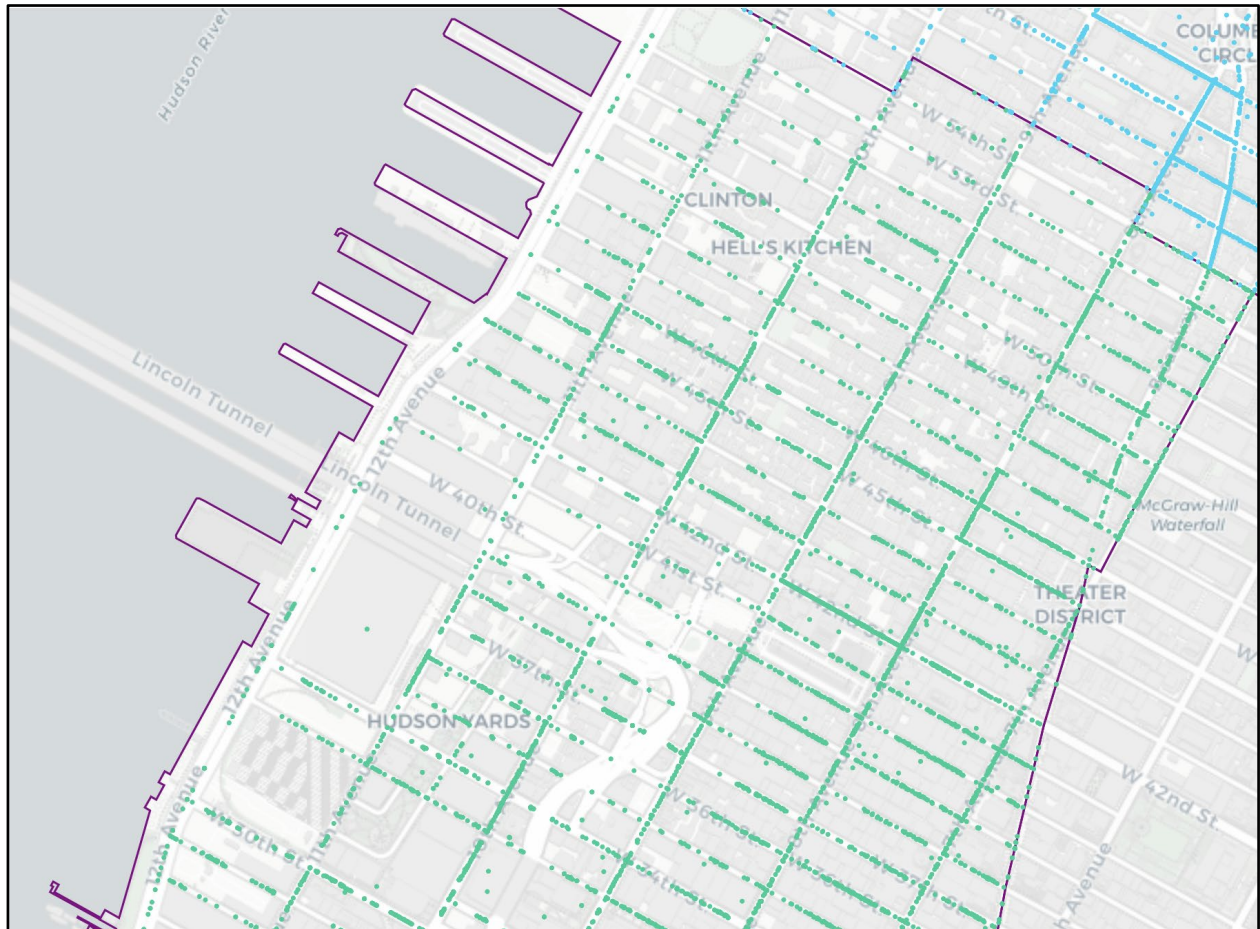
This Testimony was approved unanimously by the Transportation Planning Committee and is subject to ratification by the full board as the deadline to submit testimony expired before the next full board vote.

Sincerely,

Manhattan Community Board 4

Citizens Air Complaint Program Complaints in Hell's Kitchen

Through June 11, 2024



Source: Open Data.

Dear Chairperson Gennaro and members of the Committee on Environmental Protection, Resiliency and Waterfronts,

I have been participating in the Citizen's Complaint Program for the past 2 years and want to thank the committee for the opportunity to make the nation's first serious idling enforcement program even more effective. My feedback on the bills are below.

On intro 5:

This improves the program because it increases access to non-english speaking New Yorkers and allows more violations to be reported.

On intro 291:

This improves the program because the penalties are high enough to force big companies to comply with the law.

Feedback:

- Keep the penalty the same for first time offenders. Increase it for 2nd and 3rd time offenses and their defaults.
- This gives tiny businesses that are new offenders a light slap (despite the law being on the books for decades and heavy media coverage of its enforcement). Big penalties are more painful for new and tiny businesses.

On intro 941:

941's Changes	Feedback
<p><u>1 hour reset</u>¹:</p> <p>A vehicle can be cited a maximum of 1 time per hour.</p> <p><i>Currently:</i> <i>A vehicle can be cited 1 time per location per day.</i></p>	<p>Great! Increases fairness.</p> <ul style="list-style-type: none">• Ties penalties to the amount of time spent idling.• Currently, a sitting truck that idles all day gets 1 ticket whereas a truck that idles briefly at 5 different locations can get 5 tickets.
<p><u>School bus exception</u>²:</p> <p>Permits all buses to idle for 15 minutes each hour when adjacent to a school if below 40F or above 80F.</p> <p><i>Currently:</i> <i>DEP permits school buses to idle within 15 minutes of drop-off/pick-up. All other</i></p>	<p>Moderate improvement, potentially.</p> <ul style="list-style-type: none">• Currently, school buses can idle with impunity by schools.• DEP requires official dismissal schedules (good luck getting that as a non-parent) else rejects the report.• If this change replaces the status quo, then it'll be an improvement. <p>However, this creates a loophole for school buses during the Winter and Summer.</p>

¹ Page 1 line 5, Page 2 lines 14-17

² Page 3 line 3

vehicles get 1 minute.	<ul style="list-style-type: none"> • Most participants will not film for 15 minutes because that is an excessive duration. • OATH limits evidence files to 150MB which a 15-minute video is hard to compress down to.
<p><u>50% reduction cure³:</u></p> <p>Codifies a 50% penalty reduction for trucks with a DEP-approved anti-idling device installed, contingent on sending DEP proper certifications.</p> <p><i>Currently:</i> <i>No codified penalty reductions.</i></p>	<p>Creates a <i>major</i> loophole that needs closing.</p> <ul style="list-style-type: none"> • Many idlers immediately restart their engines after the automatic shut-off which occurs just short of the idling limit. <ul style="list-style-type: none"> ◦ The simple majority of idlers I see idle for ~15+ minutes before or after a job. ◦ They just need to turn their key 3-4 times to maintain their old habits, and they do. • This allows them to escape enforcement by avoiding the current 3 minutes of <i>continuous</i> idling requirement. • Some operators will obey but the ones that don't are now immune. • Companies have no incentive to end this group because both groups get no tickets.
<p><u>5 days to file⁴:</u></p> <p>Reduces participants' filing time to 5 business days.</p> <p><i>Currently:</i> <i>90-day soft deadline.</i></p>	<p>Reduces the time idlers wait to get a summons but drastically increases the reporting difficulty.</p> <p>Currently,</p> <ul style="list-style-type: none"> ◦ Citizens have 90 days. ◦ DEP's turnaround is 4-8 months. • 5-day limit makes participation extremely difficult for New Yorkers with full-time jobs. <ul style="list-style-type: none"> ◦ Sometimes, 1 weekend isn't enough. The participant has to <ul style="list-style-type: none"> ■ compress the video ■ take screenshots ■ verify the company's real address ■ look up priors ■ write a description of the violation ■ log the report into their own personal tracking system <p>5-days is too large a reduction and will significantly reduce participation.</p>
<p><u>90-day DEP turnaround⁵:</u></p> <p>Doubles the DEP's turnaround allowance to 90 days after which the complainant can self-prosecute the respondent.</p>	<p>Decreases fairness for idlers.</p> <ul style="list-style-type: none"> • DEP seems to dislike citizen self-prosecution which can be a release valve when the DEP is backlogged. • DEP should be encouraged to take less time so respondents get notified earlier.

³ Page 3 line 13

⁴ Page 5 line 4

⁵ Page 5 line 12

<p><i>Currently: DEP has 45 days.</i></p>	
<p><u>12.5% Award⁶:</u></p> <p>Reduces participant awards to 12.5% of the fine.</p> <p><i>Currently: 25% award.</i></p>	<p>This may kill the Citizen Complaint Program by reducing participation to below the enforcement threshold needed to end idling.</p> <ul style="list-style-type: none"> • Ultimately, the award determines how quickly the city wants to solve idling. • Given the 2-year payout time, decreases have disproportionately higher effects than increases on participation. • Unless intro 291 passes, I fear this combined with the 50% cure will chill participation <p>This will also half the value of all participants' work for the past 3 years.</p> <ul style="list-style-type: none"> • When the award was reduced for the noise complaint program, violations that occurred in the past were retroactively reduced. OATH ruled that the date the fine was paid, not the violation date, determines if the reduction applies. Idling fines are paid 1-3 years after the idling violation, so this reduction impacts reports filed in the past 3 years. This is unfair. <p>Suggestion: Set the award to fixed amounts by 1st offense, 2nd offense, and 3rd offense and not to exceed 50% of the paid fine (to account for negotiated discounts).</p> <p>The significant yearly growth of the program proves that current award levels work. Don't accidentally break something that's not broken.</p>
<p><u>Banning participants⁷:</u></p> <p>Allows the DEP to set a code of conduct and ban participants for failing to act in a "dignified, orderly, and respectful manner".</p>	<p>Everyone should have the opportunity to report air pollution. We don't deny people from calling 911 for bad behavior.</p>

⁶ Page 6 line 7, 11

⁷ Page 6 lines 4-14

Sincerely,
Wanfang Wu
District 1
Community Board 3
Sept 15, 2024



Dear Chairperson Gennaro and environmental committee members,

I attended the entire hearing and am appending further feedback after hearing testimony from DEP and the trucking lobby.

Intro 941:

On the award: flat fee introduces unexpected reduction in DEP's leverage.

- Commissioner Agarwalla wants to change the award to a \$100 flat fee.
- This will reduce DEP's leverage of getting companies to install anti-idling devices.
- DEP's leverage comes from combining significantly higher fines (especially for repeat offenders) with a 50% cure for installing an anti-idling device. They want the company to put the penalty money into a machine solution to permanently solve the problem.
- However, DEP relies on participants to determine if the idling incident is a second or third violation.

From DEP's citizen [complaint FAQ page](#):

Should I note in my comments if there is a second or third offense and provide the previous summons numbers?



Yes, it is beneficial to DEP to see that notation as well as the summons numbers for DEP to conduct further review. If the information is not provided, DEP will be unable at this time to submit the summons as a second or third offense.

- With a flat fee, most participants will stop doing the required research because this does not affect their payout and is time consuming.
- The publicly available way of looking up priors is to go to OpenData's database of all idling summons, find violations for your plate number, and check if the violation and hearing decision dates fall within the past 2 years. This is lengthy.
- Much of the penalty increases occur for repeat offenders (DEP wants \$10,000 for third offenders). A flat fine will essentially stop the issuance of repeat violation tickets.
- This significantly reduces DEP's leverage to get idlers to install anti-idling devices.

On the award: 50% reduction retroactively affects complaints before the bill passes.

- Halving the award percentage to 12.5% while doubling the penalties may seem to be harmless.
- The effect is that the 50% reduction will retroactively affect awards for complaints made before the bill passes.
- OATH administers awards.
- OATH uses the penalty-paid date in determining if the award cut applies. If the penalty is paid after the bill takes effect, the new award level is applied. This is what OATH does for noise complaints after their awards were reduced.

- Because penalties take 1 - 3+ years to get paid, complaints submitted before the bill passes gets an award reduction. However, there is no penalty increase. Existing participants are punished.
- Thus, unless there are guarantees, any bill with a percentage cut will face intense resistance from the community, preventing attempts to improve the program.

On the award - a proposed solution

- Set flat fees equivalent to 12.5% of the new (non-default) penalties with a ceiling of 25% of the penalties paid
- Fair because
 - 1. This allows OATH to apply a consistent standard to the noise and idling complaints
 - 2. Existing participants won't be punished
 - 3. The cap prevents NYC from losing money if respondent is granted a reduced fine
- Finding a fair way forward for awards will allow the participant community to focus on program improvements

On long DEP processing times

- The truck lobby makes a valid point that the long processing times are painful.
- I think new legislation should also give the DEP more resources or perhaps take effect in 1 year to give DEP time to ramp up

My previously submitted testimony is below.

Sincerely,
Wanfang Wu
District 1
Community Board 3
Sept 21, 2024

Dear Chairperson Gennaro and members of the Committee on Environmental Protection, Resiliency and Waterfronts,

I have been participating in the Citizen's Complaint Program for the past 2 years and want to thank the committee for the opportunity to make the nation's first serious idling enforcement program even more effective. My feedback on the bills are below.

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Sincerely,
Wanfang Wu
District 1
Community Board 3
Sept 15, 2024

**TESTIMONY BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON ENVIRONMENTAL PROTECTION,
RESILIENCY AND WATERFRONTS
SEPTEMBER 18, 2024**

Good afternoon Chair Gennaro and members of the Committee on Environmental Protection, Resiliency and Waterfronts. I am Patrick A. Wehle, Executive Vice President of the Building Trades Employers' Association ("BTEA"). The BTEA represents twenty-four contractor associations and over 1,200 union construction managers, general contractors and specialty trades subcontractors doing business throughout New York. The BTEA appreciates the opportunity to offer testimony on the New York City Department of Environmental Protection's ("Department") Citizens Air Complaint Program and legislation before this Committee.

The Citizens Air Complaint Program ("Program") was designed to enable everyday New Yorkers to submit idling complaints to the City and upon successful adjudication, complainants can be awarded up to half of any penalties paid. The Program was established with the laudable goal of incentivizing New Yorkers to assist in reducing engine idling, which contributes negatively to our health and the environment. Unfortunately, this well-intentioned Program has created a cottage industry of often careless and ill-informed complainants whose primary motivation is to flood the Department with complaints in search of the largest possible payday, without any regard for the enormous burdens placed on small businesses and the Department.

Specific concerns with the Program are many, including the restriction of due process rights resulting from delays in receiving summons that do not provide sufficient means to mount a credible defense, and no procedures in place to limit the litany of frivolous complaints. In response to the increase in frivolous complaints, the Department to its credit established a program to affix a sticker on those vehicles that are exempt from the idling law, in the hopes of dissuading complainants from submitting invalid complaints. BTEA members alone have submitted exemption sticker requests for over 1,500 vehicles.

While Introductory Number 941 does seek modest improvements to the Program, they are insufficient to repair a broken system. For example, the Code of Conduct provided for in the legislation does not go far enough to ensure complainants understand the Program and are acting responsibly. Citizen complainants essentially serve as agents of the City who are not required to demonstrate any capacity to effectively perform their role. Due to the dramatic increase in complaints resulting from this Program, many of which are frivolous, the City has a compelling interest in ensuring complainants are appropriately qualified. As such, a license should be required for complainants to participate in the Program, including a background check, following completion of a training program and exam that demonstrates competency of idling laws and the Program.

In addition, Introductory Number 291 singles out trucks and buses for heightened enforcement, nearly tripling the penalty for idling violations for these vehicles. Under the proposed penalty structure, a complainant can receive as much as \$1,500 for each subsequent offense found in violation. These drastic increases in penalties will greatly increase the number of frivolous complainants and only exacerbate the current problem. It is premature to consider penalty increases until significant reforms are made to the Program.

What is particularly troubling is that currently Certified Clean Idle vehicles are not exempt from the idling law. Certified Clean Idle vehicles include a sophisticated air filtration system and are required for all vehicles licensed by the Business Integrity Commission, in recognition of their environmental benefits. Absurdly, Certified Clean Idle vehicles are treated the same as older trucks without diesel particulate filters and despite them being exempt from idling laws in states such as California and Pennsylvania.

Finally, to assist the Council and public in developing a fuller understanding of the Program, we suggest that the Department report annually to the Council on the Program's efficacy, including the number of complaints it receives under the Program, their disposition, and amounts awarded to complainants.

Thank you for the opportunity to testify and we welcome the opportunity to discuss further.



Statement to NYC Council Committee on Environmental Protection
Re: Bill Intro 0291 2024
September 18 2024

BUS4NYC joins BANY in strongly opposing Bill Intr. 0291-2024. Further, it requests that buses be EXEMPT from summons submitted under the Citizens Air Complaint Program.

- Public & Privately owned buses both serve the same Riding Public. This Common Good is for the benefit of People, Passengers, the Public.
- Public & Privately owned buses carry PEOPLE, not materials, food or truck items.
- Public & Privately owned buses mitigate congestion, creating cleaner air with new technology and greatly reduced emissions, providing public benefits. **55 Cars generate significantly more emissions than a 55 passenger bus.**
- Buses are part of the solution, not the problem. Privately owned buses represent a minor fraction of Motor Carriers regulated by USDOT, FMCSA and NYSDOT. TRUCKS make up the majority.
- Buses are a very efficient mode of public transportation. A 55 passenger bus occupies less street space than 55 cars, 55 bikes, or even 55 pedestrians.
- Buses are not Trucks! Unlike other vehicles, such as refrigerated trucks, buses often need to maintain engine power to generate heat in the winter and a/c in the summer, for the health and safety of passengers. **Passenger Safety and Well Being is paramount.**
- Loading and Unloading of 55 + People, or more, often takes more than 3 minutes. Senior Citizens, Students, Residents and Visitors are the People loading and unloading, notwithstanding engine running or not.
- Bus types include Local, Express, Commuter, Inter-City, Tour/Travel, Airport, Convention Shuttles and Special Operations. Sightseeing Buses may have 80 persons.
- Private Buses also provide government emergency response for Military, Medical, Special Events and Weather-related shutdowns of Airports, Railroads, Schools and other public needs.
- Air Quality is exacerbated by private autos and excessive truck deliveries to residents and workers ordering online. Not People using buses.

For these reasons and those set forth in the Bus Association of NY (BANY) statement, BUS4NYC urges the Committee to exempt or otherwise extend the maximum idling time to a reasonable timeframe for loading and safety (possibly 15 minutes) on all buses, public and private.



PUBLIC TESTIMONY OF THE RISE TO RESILIENCE COALITION

September 18, 2024

New York City Council Committee on Environmental Protection, Resiliency, and Waterfronts Oversight Hearing RE: Citizen Complaints Programs.

I'm **Gregory Smithsimon** and I am grateful to be able to testify in front of you today on behalf of the **Center for the Study of Brooklyn** and the [Rise to Resilience \(R2R\) Coalition](#). Rise to Resilience is a Coalition and campaign of more than 100 groups representing residents, leaders in business, labor community and justice, volunteer organizations, scientists, environmental advocates, and design professionals that collectively call on our federal, state, and local governments to make climate resilience an urgent priority. We thank the City Council Committee on Environmental Protection, Resilience, and Waterfronts and Chair Gennaro for holding this important hearing.

The Rise to Resilience Coalition supports a strong, comprehensive platform for citizen complaints and reporting for flood events. As you know, flooding is impacting every City Council district in New York City. From coastal flood risk factors, like sea level rise, tidal flooding, and storm surge to inland flood risk factors like extreme rainfall—New Yorkers are experiencing more frequent and intense flood events.

Although there is no bill on the Committee agenda for this topic, we believe this is an issue that is relevant to the Oversight Hearing and that the City Council can support.

As these flood risks continue to grow, the Rise to Resilience Coalition recommends that the City coordinate a flood reporting system that includes resources to help those who are at risk of regular flooding. Beyond simply reporting a flood, there is an opportunity to streamline communications and recovery efforts through reporting.

RISE TO RESILIENCE

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For starters, our Coalition believes that NYC311 is the most effective and well known platform for reporting flood complaints and incidents. The basis of this testimony is based on the assumption that NYC311 is the City's preferred mode of reporting flood incidents. If NYC311 is not the primary and preferred mode, we request a more formal conversation with the Council, New York City Emergency Management (NYCEM), and the Mayor's Office of Climate and Environmental Justice (MOCEJ) to ensure consistency among advocates and local government.

With a primary, go-to platform, the City and advocates can work together to advertise and share consistent information to help New Yorkers prepare, respond, and recover from growing flood risks across the five boroughs.

NYC311 is widely known and used to request non-emergency services and information and to report problems. Some of the categories for reporting issues include: "**Highway Flooding**" (a large amount of water on a highway), "**Manhole Flooding**" (a manhole that is overflowing with water or sewage), "**Street Flooding**" (street flooding or ponding), "**Water Leak on Street or Sidewalk**" (water leaking on a street or sidewalk).

It is important to consider the various types of flooding, as the solutions and reporting might trigger different and unique responses. That said, we recommend that all these types of flooding be categorized or classified under one broader, umbrella category: "**Flooding.**" Under a general "Flooding" category, the subcategories can be separated out. Moreover, each instance of flooding should follow a consistent question format.

Currently, under "**Street Flooding**" there is a question that asks "Is it raining now?" However, for "**Highway Flooding**" there is no such question.

Each flood complaint should follow a standardized format that allows for a uniform experience and should be easy to use from a phone, especially during moments of flooding when people might only have seconds and are unlikely to wait for different

RISE TO RESILIENCE

OUR COMMUNITIES, OUR FUTURE

websites to load and fill in longer forms. Currently, the NYC311 app does not allow for easy reporting within the app. When reporting a flood incident, the app redirects the user to a browser version of NYC311. We recommend that the NYC311 app fully integrates flood reporting, based on the recommendations of this testimony.

We also recommend that NYC311 accept photos and videos easily, which contain useful meta-data about location and time-stamping.

Additionally, we would like to express our concern on the fact that there is often no response to these flood reports. Residents have stated they do not get a transparent, detailed response to their instance report. It is critical for the City to follow up on reports of flooding. At a minimum, we recommend that each report be followed by a page that offers solutions and resources to residents. So it is not just reporting but also helping, where the give and take of information feels reciprocal and the citizen gets something in return. That is not the situation currently. This is also an opportunity for the City to show why their data is important and how it is used. For example, following a flood complaint submission, a citizen should get something back: a list of local neighborhood NYCEM resources, or information about DEP mitigation projects in their area.

When reporting a flood, NYC311 should directly connect residents to emergency management resources, such as [Notify NYC](#), [New York City Emergency Management \(NYCEM\) Preparedness Tips](#), [Know Your Zone](#), the [New York City Department of Environmental Protection's \(DEP\) Rainfall Ready NYC Action Plan](#), [FloodHelpNY](#) for flood insurance and retrofitting support, [FloodNet Sensor Suggestion Form](#), and other resources.

By using existing resources, particularly FloodNet and the NYC311 public inventory, the City can ground-truth local science projections for extreme rainfall with local flood reports. If there are discrepancies, those sites can be further revised and researched.

RISE TO RESILIENCE

OUR COMMUNITIES, OUR FUTURE

The NYC DEP's Rainfall Ready NYC Action Plan is intended to help New York City residents prepare for intense rain storms, but it has several user issues. The page lacks a user-centered design and is not user-friendly, focusing mainly on intense storms as a cause of flooding while neglecting other causes and key details about emergency management and weather-related events. Additionally, the page is difficult to find from the DEP's home landing page. The website is hard to navigate, and contains outdated information, making it less effective as a quick-reference resource during emergencies.

Given the various challenges with reporting flooding and connecting to existing citywide resources, there are several quick fixes that could be easily prioritized to enhance the flood reporting system. That said, there are more thorough ways to improve the flood reporting system. For starters, an overall communications and website audit that evaluates the user experience. This audit should include different audiences, beyond app, web, and smartphone users (ex: people with disabilities and non-native English speakers). User experience testing is well-established as a method to map these features and prioritize them. It can take various forms (ex: in-person testing, virtual interviews, labs, softwares, etc.) These methods are widely used in the private sector and smart cities should leverage user experience research to expand access and improve reporting.

By organizing and integrating the currently available resources, the City can provide residents with more helpful information and thorough reports and responses on specific flooding instances. This becomes a more pressing and important issue in the face of climate change impacts, specifically increasing heavy rainfall, storm surges, and extreme weather events.

Ultimately, the City needs to work with residents. Homeowners need expert recommendations on how to make their property more resilient. The city wants residents to make changes, like making more of their property porous, to reduce demands on storm sewers. Tenants want to know how to stay safe. Help for homeowners and renters can benefit everyone.

RISE TO RESILIENCE

OUR COMMUNITIES, OUR FUTURE

We strongly urge the City to integrate reporting systems for flooding, proactively advertise for their use, and expand access to information about making New York properties more resilient to flooding, preparing for an incoming storm, getting through extreme weather events, and requesting services and information following a flood event.



**TESTIMONY BY Dan Rodriguez OF COACH USA
NYC COUNCIL COMMITTEE ON ENVIRONMENTAL PROTECTION, RESILENCY
AND WATERFRONTS**

My name is Dan Rodriguez, and I am the Vice President of Public Affairs at Coach USA. I am here today to request an exemption from the proposed Intro. 291.

At Coach USA we take idling very seriously as we first and foremost want to mitigate carbon emissions to the lowest possible levels. We use state-of-the-art technology to ensure this happens every single day by monitoring every single bus and coach we operate. If, for example, a bus or coach is idling for longer than the approved times, our dispatch teams look to see why, and if unnecessary ensure it stops.

We have been cited for our efforts in this regard by the United States Environmental Protection Agency. For example, our clean diesel engines emit less than four pounds per passenger mile as opposed to over fourteen pounds per passenger mile by the common SUV.

We are required by the United States Department of Transportation through regulation, 49 CFR § 374.313 to maintain bus and coach cabin temperature at certain levels. For example, during summer months at cool temperatures while in winter months at warm temperatures. This at times necessitates that our buses and coaches idle longer than allotted times. Due to this, we have been cited on several occasions which has necessitated our having to go through the administrative process to fight the perceived violation, that I may add due to the cited DOT regulation is dismissed. It is time-consuming and costly for us to do so. We also have instances where we are cited during the off and onboarding of passengers. During those times the bus is idling longer than usual as sometimes there are passengers who require additional time to get on or off due to a disability. Our buses are equipped with cameras both inside and outside of the buses. As the violation goes counter to the American with Disabilities Act, with the visual proof, those too are dismissed.

We are in an industry that has been struggling to get back on its feet since the end of the pandemic, these perceived violations have deleterious impacts on our ability to properly serve our customers in the most cost-effective manner.

You may recall the saying, "Too Big to Fail", well, we're Too Important to Fail. Bus transportation is a vital component for many New Yorkers and others visiting or going to work here.



As well as the most affordable mode of transportation. Levying higher fines on us will only increase the cost for those commuters who need us the most and can ill afford any increase to the cost of their commutes.

We also have safety protocols that our operators must adhere to so as to ensure the safety of their passengers. This at times necessitates that to some may seem meaningless idling, I can assure you it is not the case.

For example, an operator may be conducting a maintenance check or conducting a check of the bus or coach for other safety issues.

We appreciate and understand the desire of this committee to go after those who have a disregard for our environment and the residents of the city, this is not the case for Coach USA and its operators of buses and coaches. We see what we do each and every day as a public benefit, and anything that would dilute or harm that is not acceptable to us.

As the Council has done previously, we hope it will grant an exemption to buses and coaches who are strictly monitoring their carbon emissions as we do.

Thank you for your time and consideration.

Respectfully submitted,

Dan Rodriguez
Vice President of Public Affairs

**Submitted Testimony of Con Edison, National Grid, and Verizon to the New York City Council
Committee on Environmental Protection, Resiliency, and Waterfronts on NYC Council
Introduction 0941-2024
September 20, 2024**

Con Edison, National Grid, and Verizon are pleased to provide this testimony on New York City Council Introduction 0941, a bill regulating the idling of engines and the use of citizen's complaints to enforce laws enforced by the Department of Environmental Protection.

All three companies would like to take this opportunity to highlight the separate actions that we are taking as part of our respective commitments to reduce emissions as part of our society's transition to a clean energy future.

Con Edison would like to emphasize our "Clean Energy Commitment". This commitment outlines our dedication to, and leadership in, the transition to a clean energy future. Con Edison's "Clean Energy Commitment" includes investing in, building, and operating reliable, resilient, and innovative energy infrastructure, electrification of heating and transportation, and providing our customers with 100% clean energy by 2040. A vital component of Con Edison's plan to reduce our carbon footprint is the electrification of our vehicle fleet. Con Edison is in the process of building an electric vehicle charging network across all five boroughs at our company owned facilities. Con Edison's goal is to electrify 80% of our light duty fleet by 2030 and 100% of our light duty fleet electrified by 2035.

National Grid strongly supports New York's Ambitious and essential climate action goals. Climate change is the defining challenge of our time, and National Grid has a critical role to play in reducing greenhouse gas ("GHG") emissions by enabling an effective, affordable, and equitable clean energy transition. Further, our commitment is demonstrated through the development and scaling of programs that we offer to our customers that enable them to reduce their consumption of fossil fuels. National Grid is also taking action to reduce emissions by modernizing natural gas infrastructure and implementing advanced leak detection and repair programs.

Verizon is committed to sustainable operations and reducing our carbon footprint. We're currently building a network of electric vehicle charging stations across New York City and State, supporting the transition to clean energy, and contributing to New York's environmental goals. Verizon's green fleet will play a pivotal role in achieving our sustainability goals, aiming to achieve a 53% reduction in our operational emissions by 2030 and operational net-zero emissions by 2035."

Con Edison, National Grid, and Verizon agree with the intent of Intro 941-2024, legislation to reduce air pollution throughout New York City. All three companies support the bill and believes the bill would be strengthened with a slight amendment to prevent the issuance of idling violations to utility owned vehicles when such vehicles are engaged in necessary utility repair work and/or traffic flow coordination.

The proposed amendment to Int 0941 that we have drafted reads as follows (the language highlighted in red constitutes our proposed amendment) “No person shall cause or permit the engine of a motor vehicle, other than a legally authorized emergency motor vehicle, to idle for longer than [three] 3 minutes in any 60-minute period, except as provided in subdivision (f) of this section, while parking as defined in section [one hundred twenty-nine] 129 of the vehicle and traffic law, standing as defined in section [one hundred forty-five] 145 of the vehicle and traffic law, or stopping as defined in section [one hundred forty-seven] 147 of the vehicle and traffic law, unless the engine is used to operate a loading device, unloading device, or processing device, and/or to power a traffic control lighting system or equipment necessary to repair or install utility systems.”

Con Edison, National Grid, and Verizon believe that this proposed amendment to Int 0941 would be in the best interest of New Yorkers. It would prevent the issuance of unnecessary idling violations to utility owned vehicles that need to run their engines to conduct necessary repairs, installations, and/or power traffic flow control devices that protect the safety of both motorists and pedestrians.

Thank you for the opportunity to provide testimony in support of Intro 941-2024, with the proposed amendment.



HUB TRUCK RENTAL CORPORATION
94 GAZZA BOULEVARD · FARMINGDALE, NEW YORK 11735-1418
631-391-1000 FAX 631-752-1066 or 631-391-1032
www.hubtruck.com

September 17, 2024

NYC City Council
Int – 941 & 747 Support
Int – 291 Against

Good morning, councilmembers of the Environmental Protections Committee. Thank you for the opportunity to speak today regarding New York City's Citizen Air Complaint Program. My name is Christopher Gawarecki, and I am the Compliance Manager for HUB Truck Rental Corp. HUB Truck Rental is particularly interested in this program as it impacts our daily operations.

Support Int 941 and 747

Introductions 941 and 747 are important bills, as they are steps in the right direction for fixing the flawed Citizens Air Complaint Program. With Int 941 and 747, rules would be set forth to address some of the issues raised in my remarks. There are individuals using this program as a full-time job, which was never the intention of the law. It is paramount that rules be established for the complainants so that drivers and the public are not put in unsafe conditions. So we support Int 941 and 747 and urge the Council to pass these bills.

Against Int 291

Int 291 would increase the penalties for idling violations. I do not support this bill as there are many major issues in the program that need to be addressed before penalties are considered to be increased.

These issues are as follows:

Transfer of Liability

Currently, truck owners are penalized for idling violations without a system to transfer liability to the operator. This is especially burdensome on rental & leasing companies, which prevents summonses going to the liable party, which not only discourages changes in behavior, but paints our fleet as a repeat violator when HUB Truck Rental does not operate the vehicle. Every other enforcement system has a built-in mechanism to transfer the liability. We cannot simply bill the customer, since they need to review and possibly litigate these summonses since the lessee is the one responsible for all tickets and violations, as it states on each lease agreement. It simply does not make sense when we see idle violations clearly written to the lessee, and yet since the plate is registered to HUB Truck Rental, the NYC DEP kicks the violation to us when the lessee's information is clearly written on the complaint.



Providing Truck Solutions

HUB TRUCK RENTAL CORPORATION
94 GAZZA BOULEVARD FARMINGDALE, NEW YORK 11735-1418
631-391-1000 FAX 631-752-1066 or 631-391-1032
www.hubtruck.com

Due Process

Due process is a major issue when dealing with the Citizen Air Complaint Program and also OATH. Complaints often come anywhere from 6 to 12 months after the alleged idling violation, with a hearing scheduled another 6-12 months after that. This severely impacts our ability to prepare a defense. Since by this time, the driver may no longer be contracted, or employed, their memory of the conditions leading to the violation may be unclear, or the customer we were servicing may no longer be in operation. Timely issuance of summonses is essential for fair legal proceedings, and correction of behavior. We also find that the violations are issued inefficiently since the same violation is sent to us by three different agencies.

NYC DEP, OATH & NY Dept. of State via certified mail, which costs around \$6.00 per letter. This creates much confusion when you may have already received the summons, and then two more appear for the same violation. I have been in the transportation business for over 30 years, and this is the only system that issues violation/summons in this manner

Compare this to a red light, or a stopped school bus camera summons, where the violation is received within weeks, so the violator can address, and correct the issue in order to change the behavior of the driver, and/or company practices.

Access to Evidence

Summonses lack the evidence needed for a thorough defense at the hearing. Videos or specific details of the complaint are absent from the summons, and only issued at the date of the hearing, unless requested via email to the NYC DEP, which makes no sense as any other violations we receive provide a website that allows full access to the evidence. This lack of transparency hinders the ability to prepare a defense. Ensuring evidence is readily available prior to hearings would allow for fairer and more efficient adjudication of violations.

Closing:

In summary, the Citizens Air Complaint Program is deeply flawed, but Int 941 and 747 begin to address the industry's concerns. We urge your support of Introductions 941 and 747 and ask you to pause on Int 291 until integral parts of the program are fixed. Thank you for your attention to this important matter and I look forward to answering any questions you may have.

Direct - [REDACTED]

HUB TRUCK RENTAL CORP.

Christopher Gawarecki
Customer Compliance Manager

JOINT COUNCIL No. 16

INTERNATIONAL BROTHERHOOD OF TEAMSTERS



265 WEST 14TH STREET - SUITE 1201

NEW YORK, NEW YORK 10011

(212) 924-0002

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Testimony from Demos Demopoulos Secretary/Treasurer, Teamsters Joint Council 16 To the New York City Council Committee on Environmental Protection, Resiliency & Waterfronts

September 18, 2024

Good afternoon, my name is Demos Demopoulos, and I am Secretary-Treasurer of Joint Council 16 of the International Brotherhood of Teamsters.

Thank you Chair Gennaro and to the other members of the Committee on Environmental Protection, Resiliency and Waterfronts for the opportunity to testify before you this afternoon.

I am here today representing both the leadership of Teamsters Joint Council 16 and its thousands of rank-and-file members, many of whom are truck drivers working in New York City.

It is on behalf of them that we strongly urge that the laws regulating idling engines and citizen complaints be fully reimagined before this committee even considers a law increasing penalties for idling infractions as called for in Intro 0291. Indeed, regulations governing idling is already a program defined by all sticks and no carrots.

Having fines jump from \$350 to \$1000 only serves to further incentivize the outrageous and sometimes illegal behavior of the vigilantes earning thousands to allegedly catch trucks idling.

It will also only serve to disincentivize the many trucking and bus companies that have invested millions as part of their full embrace of renewable diesel, electric vehicles, and other sustainable technology.

If the goal of idling legislation is to encourage businesses to invest in renewable energies, raising fines does the opposite.

But as I mentioned before, the laws governing citizen complaints and their use in enforcement need to be fixed as well. Nowhere else in the country have citizens been deputized to catch idling trucks, report them and then share in the penalty. It is the very definition of a process bereft of due process and ripe for abuse. You have a single agency, in this case the DEP, that writes the laws, enforces the laws, and then adjudicates the laws.

It has been reported in the media that these idling vigilantes are making thousands of dollars — some over 6 figures - on reporting these so-called violations and engaging in outrageous and sometimes illegal behavior to get it. These are not concerned citizens worried about the environment, they are taking advantage of a system for their own payday. This current structure is nothing more than a money grab.

We have read and witnessed instances of people disguising themselves and illegally getting onto a business' private property to try to film a truck warming up in the dead of winter, while its driver chips ice off the windshield in preparation for the workday.

Or workers in the heat of summer leaving their truck running so they can cool off when they return from working outside.

What these vigilantes are not catching is that in many instances these trucks are using renewable diesel, or electric and are not contributing to air pollution at all. Even if they did know, I am certain they would not care.

Raising fines will only embolden these individuals to act more recklessly and to what end? A one thousand dollar fine can break a small business, and this fine is being issued without due process.

The current system does not provide for a fair hearing. When there is a hearing, it often does not occur for close to a year after the fine was issued. We know of no other summons that operates under this long-drawn-out timeline. In the interim, the fined company has no access to the evidence until the day of the hearing and by the that time the fined driver may no longer even work at the company, and if they do, it is doubtful that they remember the circumstances surrounding fine many months later.

And what can small businesses owners expect on the day of their hearing? What we and many others have experienced is being told to log into a hearing at a specific time, only to not have your case heard until many hours later. These are people who have businesses to run – they do not have time to wait hours to be heard about a fine they cannot afford.

And now we are proposing raising those fines?

I think what you will hear universally today from small trucking businesses, labor leaders and their representatives who oppose raising fines, is that we understand and support reduction in air pollution.

The embrace of renewable energy is a global effort in which we are fully participating with our investment in renewable diesel and electric and the plans that we continue to put in place to dramatically reduce idling. Relying upon a mob of rogue citizens to take the law into their own hands and divvying out fines meant to destroy small businesses to change a behavior that we are already changing, seems more than a little counterproductive.

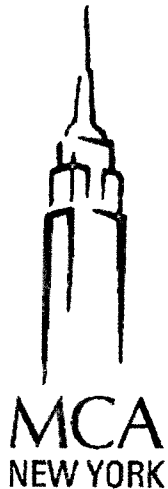
We are engaging in good faith efforts to reduce idling and air pollution that will be foiled by increasing civil penalties.

On behalf of Teamsters Joint Council 16 leadership, rank and file members, and truck drivers, I strongly encourage this committee not to raise fines but fix the underlining citizen complaint component of the idling law. If you revise this law to adhere to the basic tenets of due process and rein in citizens who report violations with a very strict code of conduct, we think you will find an increase in fines will prove to be completely unnecessary.

I appreciate the opportunity to address this committee today. Thank you.

###

Demos Demopoulos
Secretary-Treasurer



MECHANICAL CONTRACTORS ASSOCIATION OF NEW YORK, INC.

To: NYC Council Committee on Environmental Protection, Resiliency and Waterfronts

From: Melissa Barbour, Assistant Director, Mechanical Contractors Association of New York, Inc.

Date: September 18, 2024

Re: Oversight - Citizen Complaint Programs Intro. 291/24, Intro. 941/24 and Intro. 747/24

Good afternoon members of the Council—

My name is Melissa Barbour. I am the Assistant Director of the Mechanical Contractors Association of New York, Inc. Our members perform heating, air conditioning, refrigeration and fire sprinkler installation and service work throughout the five boroughs of New York City. Most of our contractors are small to medium-sized businesses operating in a challenging economic environment.

I am here today submitting testimony regarding the Oversight Hearing on the Citizen Complaint Program as well as expressing our objection to Intro. 291 and support for Intros. 941 and 747.

Our Association has surveyed our membership, consisting of over 400 contractor members performing service and construction work in New York City, to gather data regarding the impact of and experience with the Citizen Complaint Program and idling violations.

Our results found that there are significant inconsistencies between contractor experiences, making it clear that there is no streamlined, fair or reasonable process in place for small businesses to contend with these violations.

We asked our members; "What is the average amount of time it takes from the date of incident to the receipt of the violation?" Answers ranged from a few weeks to 3 months, to 6 months to even 9 months. There was absolutely no consistency.

Next, we asked; "When you receive a violation are you able to view the evidence of the violation (video) that was submitted?" The overwhelming response to this was no. This lack of transparency hinders the ability to prepare a defense. Ensuring evidence is readily available prior to hearings would allow for fairer and more efficient adjudication of violations.

We also asked; "What is the average time period between receipt of violation and the hearing?" The quickest hearing date was 6 months from receipt of violation, the majority were over one year, and some were as high as 2 years!

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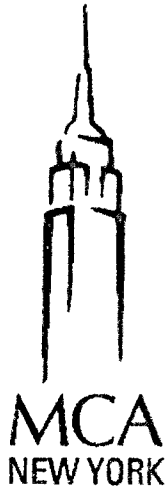
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In addition, the procedure for the actual hearing is difficult and timely. Our members expressed their frustration with trying to get through to call into the hearing, waiting on the phone for all parties to be present or waiting for a call back. Many must decide if disputing the violation is worth the cost of losing a day of work. The lack of timeliness across all facets of this program makes it impossible for a fair legal proceeding to take place.

We strongly support efforts for a cleaner environment; it is important that we achieve this goal rather than creating a revenue stream disguised as an environmental regulation. As currently operating, the Citizens Compliant Program is fraught with inconsistencies and unfair practices. We do not believe that the goal of this program was to create a cottage industry of people who are now making a living reporting violations while costing small businesses countless thousands of dollars without due process. We respectfully request that the Council take immediate steps to address and correct the bureaucratic inequities present with this program.

To that extent, Intro. 291 would simply increase the penalties for idling violations without addressing any of the above issues. Therefore, we are strongly against this bill. We are supportive of Introductions 941 and 747, as they are steps in the right direction for fixing the flawed Citizens Air Complaint Program. However, we also recommend that Intro. 941 be further amended to recognize that there are situations where a commercial vehicle may need to idle for longer than 3 minutes in the best interest of the driver and public safety. For example, idling for heating or air conditioning in extreme weather conditions might be a necessity for all drivers that do not have a reasonable alternative other than remaining in their vehicles. The U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) has clear requirements to protect the health and safety of workers from cold stress hazards and heat-related illnesses. NYC's idling law has the potential to put an employer, especially in the service and construction industry, in a situation of having to choose between violating the idling law or violating OSHA standards. The need to defrost a windshield or de-ice a vehicle prior to being able to drive safely might also necessitate a vehicle running. There are a multitude of reasons why a truck might idle for longer than three minutes. Drivers face real-world challenges where public safety can be compromised if they aren't allowed sufficient idling time.

We hope that the City Council will consider our comments today and embrace the opportunity to make necessary changes to the Citizens Complaint Program and also amend Intro. 941.

Thank you.



Northeast Region

Testimony Against Idling Fines for Commercial Refuse Trucks

National Waste & Recycling Association (NWRA)

Good afternoon,

Thank you for the opportunity to present our views on the proposed changes in idling fines for commercial refuse trucks. My name is Lewis Dubuque, Northeast Region Vice President of the National Waste & Recycling Association (NWRA) and I am here to express our concerns and opposition to the imposition of increased idling fines for private refuse haulers operating in New York City.

Sanitation workers play a crucial role in maintaining the cleanliness and hygiene of our communities. Their job is demanding, and their work often involves complex and challenging conditions. Imposing fines on sanitation trucks for idling could have several negative consequences that outweigh the intended environmental benefits.

It is important to note that DSNY trucks that pick up residential refuse are exempt from idling violations. With the implementation of the Commercial Waste Zone Program, private refuse collection is more like a franchise system run by the City of New York where all aspects of commercial refuse collection are determined by DSNY. This reality minimizes the differences between residential and commercial collections and begs the question of why commercial refuse collections are not exempt from idling violations.

Of greater concern is the disturbing and problematic method of enforcement of idling laws for commercial refuse trucks as part of the Citizen's Idling Complaint Program. While we wholeheartedly support initiatives aimed at reducing emissions and promoting a healthier environment, we believe that this program, particularly as it pertains to commercial sanitation, creates several negative impacts that need to be addressed.

Supercharging the Citizen's Idling Complaint Program

NWRA is strongly opposed to Intro. 291 that would adopt a progressive idling fine schedule increasing idling fines to \$6,000 for a 3rd offense. This significant increase will promote more reckless behavior by citizens / videographers who can receive 25 percent of the fine paid.

Safety and Operational Efficiency

Sanitation trucks are equipped with specialized equipment that needs to remain operational while the vehicle is stationary. Idling allows crucial systems—such as compaction



Northeast Region

mechanisms and hydraulic lifts—to function properly and efficiently. Without idling, these systems could fail or perform sub optimally, leading to delays and potential hazards. For example, during extreme weather conditions, keeping the engine running ensures that the truck's systems are not compromised, which is vital for both the safety of the workers and the effectiveness of the loading process.

Increased Costs and Service Disruptions

Fines for idling will lead to increased operational costs for municipal and private sanitation services. These additional expenses could be passed on to taxpayers or service users. More critically, if sanitation trucks face penalties, there could be a reduction in service quality or frequency as operators may seek to cut corners or reduce maintenance to offset costs. This could result in less effective waste management and lower standards of cleanliness in our communities.

Alternative Solutions

Rather than imposing fines, we should explore alternative methods to reduce emissions from idling. Investments in more efficient technologies, hybrid or electric trucks, and better training for drivers on reducing unnecessary idling could achieve environmental goals without the negative impacts associated with fines. Furthermore, municipalities could consider offering incentives for adopting greener technologies or practices that align with environmental objectives without compromising operational efficiency.

In conclusion, while I understand and support efforts to reduce emissions and environmental impact, idling fines for sanitation trucks could create more problems than they solve. It is essential to approach this issue with solutions that consider the operational realities and welfare of the workers involved. I urge you to consider these factors and seek alternatives that balance environmental goals with practical needs.

Thank you for your attention and consideration.

Sincerely,

Lewis Dubuque

Lewis Dubuque
Northeast Region Vice President
National Waste & Recycling Association

Lewis Dubuque LDubuque@wasterecycling.org

September 17, 2024



TESTIMONY ON BEHALF OF THE
NEW YORK ELECTRICAL CONTRACTORS ASSOCIATION
TO THE NEW YORK CITY COUNCIL
COMMITTEE ON ENVIRONMENTAL PROTECTION, RESILIENCY AND
WATERFRONTS
REGARDING INT. NO. 291
SEPTEMBER 18, 2024
1:00 PM

Environmental Protection Committee Chairperson James F. Gennaro and members of the Committee, and other distinguished members of the City Council, this testimony is submitted on behalf of the New York Electrical Contractors Association (NYECA). We thank you for the opportunity to submit testimony expressing our concerns about Int. 291 (Menin), in relation to increasing civil penalties for idling infractions by trucks and buses. We oppose this legislation.

The New York Electrical Contractors Association (NYECA), the leading association of union electrical contractors in New York City, **OPPOSES** the above referenced bill, which would increase the civil penalty imposed for drivers of buses and trucks who violate the anti-idling provision of the Air Pollution Control code. Before the City even considers increasing fines for violations of the anti-idling law, they should address and fix the many problems with this flawed and exploited program.

While NYECA fully understands the need to curb carbon emissions, creating a more extreme penalty schedule for trucks will unfairly harm NYECA members. As a practical matter, many of our members must drive trucks to carry their equipment to and from their worksites, and continue operating them at those worksites for a variety of reasons. It is unjust to place an enhanced penalty on contractors solely because of the type of vehicle that they must drive to do their job. Additionally, this bill does not differentiate between environmentally friendly trucks (for example, Certified Clean Idle trucks) and older trucks. They are currently held to the same standards as older trucks and will continue to be under this bill. That is simply inexplicable, and should be corrected.

By way of background, New York City made it a priority to curtail idling emissions from motor vehicle engines by enacting the 2018 anti-idling law. To enforce the law, the City called upon citizens to take 3+ minute videos of idling trucks and submit them to the Department of Environmental

Protection (DEP). If a fine is paid as a result of a citizen complaint, that citizen is rewarded with 25% of the amount collected, usually \$87.50. Not surprisingly, this system has been exploited by multiple individuals, some of whom have made in excess of \$60,000 from filing complaints alleging violations of the law. As one might expect, these career complainants have mastered the skill of discreetly and deceptively taking a video, often times angling the camera to avoid the viewer from seeing the legitimate work going on next to the truck that requires idling. Many NYECA members have felt the overwhelming brunt of these flawed summonses because their worksites are literally on the street and the work vehicles are left running to power high-intensity warning lights and/or other equipment needed for the job. They simply have no other choice.

NYECA has therefore long argued that these summonses should be dismissed while their work trucks are involved in contracted work and the vehicle is running in order to power high-intensity warning lights, by way of example. After all, the failure to provide sufficient in-street worksite protection for pedestrians, motor vehicles, and the workers would itself be a violation of NYC Admin. Code §19-109 and Union and OSHA requirements and running such lights without the truck engine on would quickly drain the vehicle's battery. And this is but one example of how the City's anti-idling law is flawed and in need of significant clarification and refinements, before any serious consideration should be given to increasing fines and penalties.

As this law now stands, it is yet another impediment to many small and medium sized New York City businesses just trying to do their jobs, often on behalf of the City itself, and further adds to the impression that New York City is not a business-friendly environment, nor one that adopts reasonable regulations on hard-working New York City business owners. Consideration of making the law even more onerous under such circumstances is unjustified bordering on preposterous. Based on the foregoing reason, NYECA therefore opposes this bill and urges that it not be enacted. First, we ask that you fix the current law.

Thank you for the opportunity to submit testimony on behalf of NYECA. If you have any questions or need additional information, you may contact NYECA Executive Secretary Peter Rescigno at Rescigno@nyeca.org or via phone at 914-497-4896.



Intro. 291 *Must Be Fixed*

Intro. 291 is a great bill that will protect our air. But it needs one simple and **hugely important fix**. The Council has always used the VTL definition of “truck” in anti-idling laws. See 24-163 and 182. The VTL works well—it’s clear, consistent, and enforceable.

Unfortunately, Intro. 291, as currently drafted, references the RCNY. Using the RCNY would open gaping holes in the idling laws. **Each of these trucks would be able to idle all day, penalty-free under the new, RCNY definition—rendering them untouchable by law.**

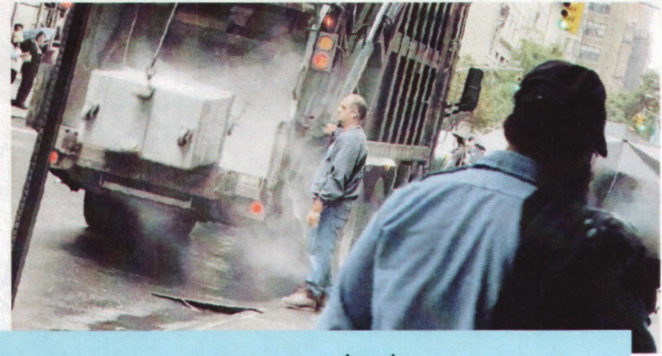
The Council needs to amend Intro. 291 to keep using the same VTL definition already in the law.



☒ The NYCAC supports this bill, with this key fix!

The Citizens Air Complaint Program: How It Works and Why It's Effective

Empowers ordinary New Yorkers to report air pollution violations related to needlessly idling trucks, buses, and hazardous dust emissions.



3 minutes:

Idling limit for trucks and buses.
1 minute near Schools and Parks.



\$350

Penalty for first
offense.



Average wait: 2 years

Up to 5 years for participants to receive
incentive awards. Many awards are never paid.

NYC's Groundbreaking, World-Leading Citizens Air Complaint Program Is Wildly Popular

Daily Show: *Desi Lydic Targets Illegally Idling Vehicles* [\[link\]](#)

Washington Post: *How to bust idlers, bike lane blockers and water wasters — and maybe get paid* [\[link\]](#)

Bloomberg: *Meet New York City's Idle Warrior* [\[link\]](#)

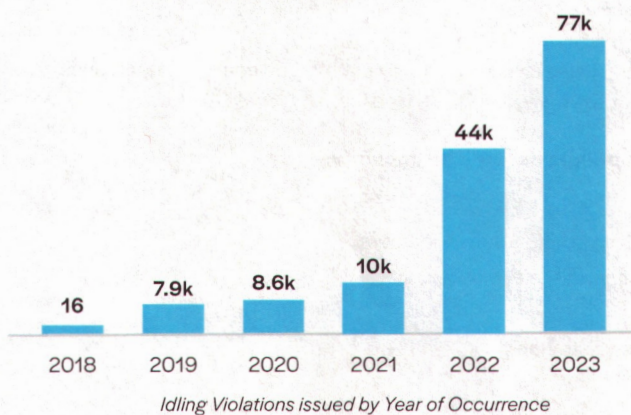
New York Magazine: *Idling Vigilante* [\[link\]](#)

New York Times: *\$87.50 for 3 Minutes: Inside the Hot Market for Videos of Idling Trucks* [\[link\]](#)

Bloomberg: *How to Win the War on Car Idling* [\[link\]](#)

New York Times: *With a Rebel Yell, New York Revs Up Its War on Idling Vehicles* [\[link\]](#)

Popular Program Drives Steady Growth: Rises Year After Year



Citizen Enforcement Dramatically Outpaces Underresourced City Agencies

	Idling Summonses (By Participants)	Idling Summonses (By the City)
2018	16	1,588
2019	7,954	1,278
2020	8,687	284
2021	10,437	383
2022	44,900	445
2023	77,193	210

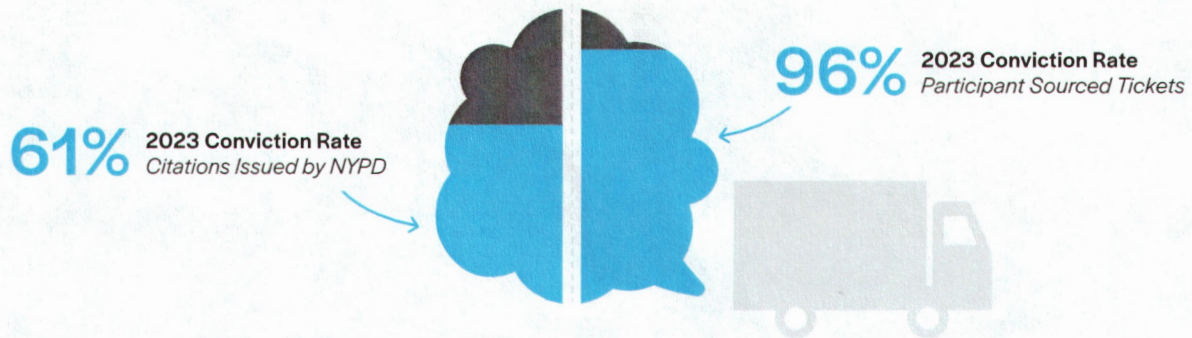
Source: [Opendata](#); Participant idling summonses begin with 0006, 0007, and 0008.

The Citizens Air Complaint Program Is Self-Funding and Boosts City Coffers

Violation Year	2020	2021	2022	2023	Lifetime
Fines paid	\$3.7M	\$5.2M	\$15.7M	\$17.2M	\$49.2M

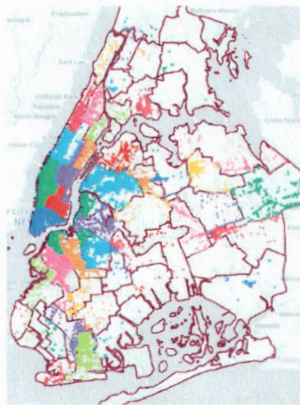
Source: OpenData. Actual values are higher, with a significant number of tickets still unpaid.

Citizen-Curated Evidence Is MORE Effective in Court Than Agency Evidence



Source: Opendata

Participation is highest in Manhattan, Brooklyn, and Queens, but education, incentives, and improved language access will empower growth in underserved communities



Location	2023 Tickets
Manhattan	53,137
Brooklyn	18,314
Queens	5,484
Bronx	602
Staten Is	105

Source: Opendata

It has been unlawful to idle over 3 minutes in New York since 1972, but the anti-idling law went virtually unenforced until the City Council wisely mandated citizen awards and, in 2019, wisely required DEP describe the program on DEP's website. *And it's WORKING!*

Intro 941 will significantly drive down participation and let companies pollute our air with impunity

- ▶ Cuts program incentives that empower ordinary New Yorkers by half
- ▶ Stringent, new 5-day reporting deadlines shut out participants who need more time—like newcomers, working parents, ESL speakers, and individuals with disabilities—plus compromises evidence quality
- ▶ Creates an Orwellian, unconstitutional speech code
- ▶ Surrenders Council authority to define air pollution laws to the Adams administration
- ▶ Please review the detailed handout packed with important information!

Solution: Vote NO on Intro 941 | Choose People Not Polluters

Intro 941: A Lethal Threat to New York's Clean Air and Citizen Enforcement

Intro 941—deceptively labeled an “improvement”—gravely threatens to dismantle the world’s most effective citizen-led clean air enforcement program and undo years of hard-won air quality gains.

Idling vehicles emit toxic pollutants that poison our air, ravage our climate, and endanger the health of New Yorkers, with the heaviest burden falling on our children and our underserved-community neighbors. The Citizens Air Complaint Program is our frontline defense, proven to reduce idling and protect public health. Breaking it would be catastrophic.

Call to Action: Lawmakers must safeguard this vital program and resolutely **OPPOSE** this bill that seeks to silence the very citizens fighting to keep our air clean. The choice is clear: Reject this bill or watch while companies like Con Ed, Verizon, and Amazon steal New York’s breath, one idling engine at a time. **VOTE NO** on Intro 941. Protect our air, our children, and our future. Anything less is a vote for polluters over people.

Dangerous Rollbacks

NYCAC’s Experience-Driven Analysis

Lethal Exemption: Poisonous School Bus Plumes Devastate Young Lungs

1800% Surge: Toxic bill lets buses adjacent to schools idle 16 to 18 full minutes each hour when temperatures fall below 40°F or exceed 80°F

Currently:

Law proscribes all vehicles from idling over 1 minute next to schools

Guts All Enforcement. Filming 16 to 18-minute violations is impractical and technologically unfeasible.

Betrays Council’s Zero-Tolerance, Explicit Protective Intent. New law mocks Council’s clear mandate crafting 1-minute protections to *eliminate* school bus idling. Transforms school zones from safe havens to pollution hotspots and nullifies years of progress in safeguarding air quality.

Completely Unnecessary. OATH decisions already exempt school bus idling *actually* shown to be for the welfare of medically vulnerable children.

50% reduction cure

Polluter’s loophole slashes fines by 50% and rewards fraudulent compliance through sham claims that “anti-idling” devices have been installed. Even when installed, these devices are easily overridden.

Currently:

No loopholes: **Turn it off!** Lawbreakers must face full force of deterrent penalties

Damning Evidence Shatters Illusion of Effectiveness. Irrefutable proof and hundreds of eyewitness accounts expose trucks that idle for upwards of 7, 10, even 20 minutes bypassing “anti-idling” safeguards. [Video proof](#)

Additional video: [Click to watch](#)

Massive Fraud Risk. Overwhelmed agency lacks resources to verify claims ineffective tech has been installed. Polluters can easily fake paperwork (as with temporary license plates) to cheat.

Scofflaws already game the system by changing gears, restarting engines immediately after shut-off, increasing time limiters on aftermarket “anti-idling” devices, misusing DEP exemption stickers, and presenting blatantly fabricated defenses at hearings.

5 days to file

Breakneck reporting deadline slashes participants’ time to submit complaints from 90 to 5 days

Currently:

90-day timeline (imposed by DEP without legal authorization) is proportional to complex evidence-gathering task that ensures thorough documentation and comprehensive reports, reflecting real-world time commitments of citizen complainants

Complex Program, Impossible Deadline. Near-impossible time crunch will crush involvement and cause enforcement to plummet overnight.

Ignores the Real World. Stringent deadline shuts out those with other commitments together with those who need more time, such as new Program participants, working and single parents, ESL speakers, and individuals with disabilities.

Raises Barriers for Citizens that Solely Benefit the Bureaucracy. DEP grants itself a leisurely 90-day review period but squeezes citizen reporters with only 5?

90-days for DEP to serve violations

Doubles DEP’s permitted time to process air pollution complaints from 45 to 90 days

Currently:

DEP must promptly process air pollution complaints in 45 days

A Toxic Double Standard: 90 Days for DEP—5 for Citizens. DEP bloats its review time by 100% while drastically shrinking the citizen reporting window by 95%.

Chronic Delays Suffocate Prompt Compliance. DEP routinely flouts its 45-day deadline—stretching review times to 180 days or more.

Self-Sabotage: Understaffed by Choice, Overwhelmed by Design. Fully funded Program is starved by bureaucratic neglect and is critically understaffed to timely process citizen reports.

Reject DEP’s Dereliction: Demand Action, Not Excuses. Compel appropriate staffing, don’t legitimize delays.



Dangerous Rollbacks

NYCAC's Experience-Driven Analysis

50% award reduction

Slashes participant awards by half, to 12.5%. Penalty revenue that would not exist without citizen involvement

Currently:

25% award

Slashed Incentives Suffocate Clean Air Enforcement. Critical incentives empower ordinary New Yorkers in the City's most affected and marginalized communities with access to take part. Slashing incentives neutralizes a vital, non-salaried workforce responsible for virtually all enforcement.

More pollution, less enforcement. Current award percentages are fairly aligned with the significant time (hours of vigilant monitoring and meticulous documentation), effort (navigating complex reporting systems and potential confrontations), and technology costs required for high-quality evidence gathering. Existing incentives encourage widespread participation across diverse communities. When citizens report, everyone with lungs benefits.

Current hurdles already strain volunteer resolve: Zero award: About 1 in 4 summonses go unpaid. Byzantine bureaucracy: 1.5- to 5-year wait for award compensation. Incorrect revenue sharing: the City already declines to share any portion of idling late-payment penalties it receives with citizens. Slashing incentives to a meager 12.5% share delivers the fatal blow: Veteran watchdogs will quit, institutional knowledge will vanish, and new recruits will dry up.

The Current Share is Fair. Awards are directly tied to penalties generated by citizen enforcement efforts and would not exist without citizen involvement. Every citizen award currently results in a City windfall of 3x as much, frequently 4x or 5x with late payment penalties, which the City keeps entirely for itself.

Overbroad Grant of DEP Rulemaking Authority

Dangerous shift in authority allows DEP to create its own rules for air pollution submissions rather than issue summonses based on air code violations as defined by our elected City Council

Currently:

DEP rightly lacks the bureaucratic fiat to rewrite environmental laws without oversight or to arrogate lawmaking powers reserved for elected representatives

Cedes Authority. Surrenders the Council's legislative power governing environmental violations to the Mayor's Administration and its political whims. DEP usurps legislative power, turning our Air Code into a bureaucratic maze.

DEP Defies Law, Endangers Public. DEP already willfully ignores the clear legislative directive of Local Law 58 of 2023 to protect parks from idling by issuing a mandated, definitional rule—and instead attempts to shrink safeguarded areas around schools, signaling contempt for the Council's authority and disregard for public health mandates.

Discourages Participation: New participants will be unfairly penalized for not understanding complex, frequently changing, and often unwritten byzantine guidelines, discouraging involvement.

Banning participants

Allows DEP to set a code of conduct and ban participants for failing to act in a "dignified, orderly, and decorous manner" or for failing to "demonstrate familiarity with [DEP's] rules"—inviting tyrannical overreach

Currently:

Law respects constitutional boundaries under First Amendment and Due Process guarantees

Current Law v. Proposed Changes:

- ✓ Citizen empowerment v.
- ✗ Public intimidation
- ✓ Protected speech v.
- ✗ Only government-approved discourse
- ✓ Fair process v.
- ✗ Kafkaesque uncertainty and bureaucratic whim

Tramples Free Speech and First Amendment Right to Petition Government. This Orwellian speech code weaponizes rules that chill participation with threats of arbitrary retribution, scares citizens into silence, and makes participants afraid to even engage with DEP by transforming public critique into a punishable offense.

"Indecorous" Power Grab Ensnarers Citizens. DEP's vague "indecorous manner" standard decimates due process, creates an authoritarian nightmare of subjective, undefined offenses, and grants the Department unchecked authority to silence watchdogs who bear inconvenient truths or critique agency performance.

Track Record of Power Abuse. DEP already has weaponized its authority to intimidate and silence by prosecuting citizen complainants in absurd "false statements" witch hunts that demonstrate a willingness to twist rules for bureaucratic vendettas.

OATH, an independent agency separate from DEP, has outright dismissed DEP's cases on multiple occasions: One "false statements" victim was charged for his first-ever idling submission due to DEP's negligence and failure to fix a known website glitch. Another, a pediatrician, spent thousands of dollars on legal representation in order to successfully clear his name. Granting DEP the power to adjudicate the very speech "offenses" it prosecutes poses a serious risk of abuse, effectively positioning the agency as "judge, jury, and executioner." Citizens already have abandoned the Program out of fear of legal risks.

Discourages Participation: New participants will be unfairly penalized for not understanding complex, frequently changing, and often unwritten guidelines, discouraging involvement.

DEP reviewers frequently make (and sometimes later correct) mistakes involving their own guidelines, including the definition of "processing devices" and the applicability of appeals cases. The public should not be banned for likewise failing to "demonstrate familiarity."



★ Brother Hood - Friendship - Safety ★

**Testimony of the Metropolitan Trucking Association
New York City Council Environmental Protection
Hearing - September 18, 2024**

Good afternoon. I would like to thank you for holding this hearing and for allowing me to address the committee. My name is Patrick Hyland and I am the Executive Director of the New York Metropolitan Trucking Association (NY MTA). Our association represents employers who exclusively hire Teamster Local 282 drivers to operate their trucks performing heavy construction delivery and hauling aggregate supply materials throughout the five boroughs of New York City. To be even more specific; our members own dump trucks, dump trailers, flat bed trailers, and flo-boys. Approximately half of these companies are certified M/WBE businesses and the largest fleets we represent are M/WBE's.

Our membership are the sub-contractor(s) trucking companies working on Public Works projects in the city. As you see throughout the city, these projects vary both in size and logistical complexity. Getting materials delivered and excavated materials hauled out of New York City is more difficult than other locations we represent due to traffic, density, the vertical nature of this metropolis, etc. These are the type of conditions that occasionally require the need for trucks be held in line before entering and departing the construction site. Legislators that preceded you in the City Council thought it would be appropriate for the Teamster 282 Drivers

operating these vehicles to constantly turn on and off these machines as they wait for their Building Trade colleagues to tell them they can access the site. It is not the way these quarter of a million-dollar machines are meant to be operated. On the contrary, these vehicles need to warm up for a few minutes at a time when re-started before being put into gear.

Due to the nature of our day-to-day operations in the heavy construction industry, all NY MTA employers are also under the purview of the Business Integrity Commission (BIC) who already mandate that our members own/operate “certified clean idle emission vehicles”. This occurred some years prior, and our members were mandated to sell any vehicle they owned that did not meet these emissions standards and upgrade their fleets. The thank you they received for complying was increased insurance mandates, a citizen idling program, a lack of common sense approach to truck weight allowances, etc. If you operate a vehicle meeting these emission standards, you should be exempt from this onerous law full stop! In the absence of that, we should at least mirror California’s policy of allowing these vehicles to idle for 10 minutes unless adjacent to a school and/or medical facility. If they exceed 10 minutes, they are fined but their fines are dramatically reduced due to the “clean idle” engines. Intro 941 has a 50% reduction clause in the bill and that should at the very least include BIC certified vehicles.

This bill has been a disaster since the day it was written. We thank Councilman Gennaro for addressing it and there is some good language in Introduction 941 that will aid employers. But it does not go far enough. We need to increase the idling time(s) and insert “certified clean idling” provisions before advancing the bill. Additionally, raising the fines for this program is terrible policy...and raising them

before the program is overhauled is insanity! Please put that on hold until this policy is fixed.

Thanks for allowing me to submit my testimony and we welcome further discussions on this in the very near future.



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**Testimony of the New York Civil Liberties Union
Before the New York City Council in Opposition to Int. 0941-2024**

September 18, 2024

The New York Civil Liberties Union (NYCLU) is grateful for the opportunity to submit the following testimony in opposition to proposed Int. 0941-2024, which would amend the administrative code of the city of New York regarding the use of citizen's complaints to enforce laws enforced by the Department of Environmental Protection. The NYCLU advances civil rights and civil liberties so that all New Yorkers can live with dignity, liberty, justice, and equality. Founded in 1951 as the state affiliate of the national ACLU, we marshal an expert mix of litigation, policy advocacy, field organizing, and strategic communications. Informed by the insights of our communities and coalitions and powered by 90,000 member-donors, we work across complex issues to create more justice and liberty for more people.

We write here in opposition to Int. 0941-2024, a bill that would amend Sections 24-182(f)(3) and (g) of the city administrative code to impose a code of conduct upon users of the New York City Department of Environmental Protection's Citizen Complaint portal. The proposed amendment to (f)(3) reads in relevant part:

(3) a code of conduct applicable to all natural persons who serve complaints pursuant to this section upon the department that includes, but is not limited to, requirements that persons conduct themselves in a **dignified, orderly and decorous manner** during all interactions with the department and with persons alleged to be in violation of this code and **demonstrate familiarity with the rules promulgated pursuant to this section.** [emphasis added]

And the new part (g) reads:

(g) When a natural person fails to abide by the standards of conduct set forth in the rules promulgated by the department pursuant to subdivision (f) of this section, the commissioner may, upon notice to such person and a reasonable opportunity to be heard, temporarily or **permanently** disqualify such person from serving complaints pursuant to this section. Such notice shall be sent by certified mail to the address provided in the records of the department for such person. [emphasis added]

Our concern is with the language in bold. Under new part (f)(3), the phrase “dignified, orderly and decorous manner” is unconstitutionally vague under the First and Fourteenth Amendments. Under new part (g), *permanent* disqualifications amount to a violation of both the Petition and Speech clauses of the First Amendment. We address each issue in turn.

The Act would Violate the First Amendment’s Speech and Petition Clauses

As a threshold matter, we assume the City’s environmental complaint portal is a species of limited public forum – a government-owned, traditionally nonpublic space opened by the government for the expression of views on a particular subject.¹

In a limited public forum, the First Amendment allows both content-based and content-neutral restrictions on expression, however, *all* such restrictions must—at a minimum—be both (1) reasonable and (2) viewpoint neutral.² Restrictions may not be applied in an arbitrary or haphazard manner; indeed, the Supreme Court has said that the “state must be able to articulate some sensible basis for distinguishing what may come in from what must stay out.”³ Imprecise and “unmoored” use of undefined terms with multiple meanings will be considered unreasonable.⁴ Lastly, decisions about who may speak and who may not—whether for purposes of punishment or simple order—must also be reasonable, and the Second Circuit has held that restrictions that single out an individual for a complete and permanent ban on all expression in a nonpublic forum are not.⁵

Here, the terms “dignified,” “orderly” and “decorous” are undefined and ambiguous. That ambiguity will lead to enforcement that is at best arbitrary and uneven, and at worst selective and discriminatory. Indeed, it’s not hard to imagine that a great deal of speech intended to complain about environmental conditions in New York City may be seen as less than “dignified,” “decorous” or “orderly” but still worthy of First Amendment protection.⁶

¹ In a nonpublic forum, the City can regulate speech to preserve the forum “for its intended purposes, communicative or otherwise, as long as the regulation on speech is reasonable and not an effort to suppress expression merely because public officials oppose the speaker’s view.” *Minnesota Voters All. v. Mansky*, 585 U.S. 1, 138 S. Ct. 1876, 1887 (2018) (quoting *Perry Ed. Assn. v. Perry Local Educators’ Assn.*, 460 U.S. 37 (1983))

² *Mansky* at 12.

³ *Id.* at 16-17.

⁴ *Id.*, discussing at 17-19.

⁵ *Huminski v. Corsones*, 396 F.3d 53, 92 (2d Cir. 2005) (holding that a trespass notice permanently excluding a troublesome protester from a limited public forum outside a New York courthouse was unreasonable, and **denying qualified immunity**).

⁶ See, e.g., *Matal v. Tam*, 137 S. Ct. 1744, 1763 (2017); 582 U.S. ____ (2017) (“We have said time and again that “the public expression of ideas may not be prohibited merely because the ideas are themselves offensive to some of their hearers.” quoting *Street v. New York*, 394 U. S. 576, 592 (1969)). See also, *U.S. v. Stevens*, 559 U.S. 460, 470 (2010) (“The First Amendment’s guarantee of free speech does not extend only to categories of speech that survive an *ad hoc* balancing of relative social costs and benefits. The First Amendment itself reflects a judgment by the American people that the benefits of its restrictions on the Government outweigh the costs.”); *Texas v. Johnson*, 491 U. S. 397, 414 (1989) (“If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or

What’s more, a complete ban on this *particular* forum—a government complaint portal—would also likely violate the First Amendment’s petition clause. The First Amendment guarantees individuals the right “to petition the Government for a redress of grievances.”⁷ That right “extends to all departments of the Government.”⁸ It includes both the right “to complain to public officials,”⁹ and “to seek [either or both] administrative and judicial relief.”¹⁰ Beyond that, Petition Clause claims are governed by the same First Amendment principles that govern Speech claims.¹¹

Here, those Free Speech principles require that any limit on the Petition Clause’s guarantee of access to the City’s environmental complaint portal be “reasonable.”¹² An outright and permanent ban on someone for petitioning the City in a manner arbitrarily deemed indecorous simply isn’t.

Due Process

Due process requires a law provide fair warning so “persons of ordinary intelligence [have] a reasonable opportunity to know what is prohibited.”¹³ The law must set forth “explicit standards” to law enforcement officials, prosecutors, judges, and juries so as to discourage “arbitrary and discriminatory application.”¹⁴ And lastly, where a law implicates expression protected by the First Amendment, the rules governing vagueness challenges are to be construed *strictly*.¹⁵ This is because a vague statute has a chilling effect that can cause others not to exercise their own right to speak. As the Court emphasized in *Grayned*, a vague statute can “inhibit the exercise” of First Amendment freedoms and may cause speakers to “steer far wider of the unlawful zone . . . than if the boundaries of the forbidden areas were clearly marked.”¹⁶

Here, words like “dignified,” “orderly” and “decorous” violate the Due Process clause for largely the same reason they violate the First Amendment. The use of such broad, undefined,

disagreeable”); *Hustler Magazine, Inc. v. Falwell*, 485 U. S. 46, 55–56 (1988); *Coates v. Cincinnati*, 402 U.S. 611, 615 (1971); *Bachellar v. Maryland*, 397 U. S. 564, 567 (1970); *Tinker v. Des Moines Independent Community School Dist.*, 393 U. S. 503, 509–514 (1969); *Cox v. Louisiana*, 379 U.S. 536, 551 (1965); *Terminiello v. Chicago*, 337 U. S. 1, 4–5 (1949); *et al.*

⁷ U.S. Const. Amdt. 1

⁸ *California Motor Transp. Co. v. Trucking Unlimited*, 404 U.S. 508, 510 (1972)

⁹ *Estate of Morris ex rel. Morris v. Dapolito*, 297 F. Supp. 2d 680, 692 (S.D.N.Y. 2004) (quoting *Gagliardi v. Vill. of Pawling*, 18 F.3d 188, 194 (2d Cir. 1994)) (internal quotation marks omitted)

¹⁰ *Gagliardi* at 194.

¹¹ See *McDonald v. Smith*, 472 U.S. 479, 482 (1985) (characterizing right to petition as “an assurance of a particular freedom of expression”); *Day v. South Park Indep. School Dist.*, 768 F.2d 696 (5th Cir.1985) (right to petition is governed by “public concern” analysis of *Pickering*), *cert. denied*, 474 U.S. 1101 (1986).

¹² *Mansky*, *supra*.

¹³ *Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972).

¹⁴ *Id.*

¹⁵ *Nat’l Ass’n for Advancement of Colored People v. Button*, 371 U.S. 415, 432 (1963)

(“[S]tandards of permissible statutory vagueness are strict in the area of free expression.”).

¹⁶ *Grayned* at 109.

ambiguous terms invites arbitrary, uneven, and discriminatory enforcement, especially when viewed *strictly*, as required under *NAACP v. Button*. Those requirements simply will not survive Due Process review.

* * * *

The NYCLU thanks the City Council for the opportunity to provide testimony and, for all of the reasons included in this testimony, urges lawmakers to reject Int. 0941-2024.



**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
Oversight Hearing on Oversight - Citizen Complaint Programs
September 18, 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). Thank you, Chair Gennaro and members of the Committee on Environmental Protection, Resiliency and Waterfronts for the opportunity to comment.

Everyday thousands of New York City drivers needlessly idle their trucks and cars for minutes, or even hours, harming public health by releasing thousands of tons of pollution into the air, damaging our planet by increasing greenhouse gas emissions, and wasting money by burning millions of gallons of fuel.¹ Most importantly, car and truck idling has detrimental effects on environmental justice neighborhoods throughout the City given the fact that many of these neighborhoods are located near highways, warehouses, and industrial facilities due to environmental racism, residential redlining, and disinvestment. Pollution like smog and soot from vehicle tailpipes can irritate and damage lungs, leading to higher risks of asthma, cancer, and heart disease, especially for vulnerable populations such as seniors and children. These harmful impacts are exemplified by the fact that New York City has one of the country's [highest rates](#) of asthma hospitalizations and deaths among children, young adults, African American and Latino residents, and [residents of high-poverty neighborhoods](#).

The New York City Citizens Air Complaint Program is an important tool for protecting New Yorkers from exposure to air pollution. Since its inception, the amount of complaints that have been filed has increased into the thousands annually. While NYLCV thinks this program is a useful tool to curb vehicle idling, on the whole, the benefits of improved air pollution have not been shown in environmental justice areas of the City and instead have been concentrated in parts of Midtown and Lower Manhattan and have been utilized by a small segment of residents. For instance, [according to a 2021 data analysis](#), twenty citizen reporters filed 85% of all submissions and the #1 citizen reporter filed 20% of all submissions. While there are [many reasons that the program has not been widely utilized](#) across the City, including access to the website for people without consistent internet and language barriers, recording, filing, and following through on citizen complaints requires the privilege of time and understanding of how to navigate the portal and court hearings. With that said, NYLCV does not think Intro 941 is the

¹ According to the American Lung Association and Environmental Defense Fund, New York City drivers waste over \$28 million dollars every year in fuel burned while idling.
https://www.edf.org/sites/default/files/9581_Anti-Idling_FactSheet_April09.pdf.

solution to improve the Citizens Air Complaint Program. For instance, shortening the deadline to submit complaints to 5 days is impractical, especially since the program needs to expand to non-English speakers and historically marginalized communities who experience the brunt of environmental racism.

NYLCV supports Intro 5 requiring DEP to translate the Citizen's Air Complaint portal into languages other than English. Currently, the Citizens Air Complaint portal is only available in English. This blocks many New Yorkers from receiving monetary incentives for reporting and learning about the dangers of air pollution and increased emissions. This is especially a problem because non-English speaking residents are often located in underserved and environmental justice communities suffering the most from transportation pollution. NYLCV also supports Intro 291 increasing the civil penalty imposed for drivers of buses and trucks who violate the anti-idling provision of the Air Pollution Control code.

Ultimately, in addition to the Citizens Air Complaint Program, NYLCV stresses the importance of working towards comprehensive solutions to combat car and truck idling, poor air quality, and, most importantly, poor health outcomes, especially for historically marginalized communities. As a reminder, according to the NYC Department of Health and Mental Hygiene's [December 2022 testimony](#) to the City Council Environmental Protection Committee on air quality, "the most polluted neighborhoods in New York City are not the same neighborhoods that experience the highest burden of air pollution-related health outcomes, including respiratory and cardiac hospitalizations and premature death. We see the highest rates of health impacts in neighborhoods where a majority of residents are people of color. This greater health burden is related to communities that have experienced racist policies and chronic disinvestment which consequently face increased health challenges, putting them at greater risk of air quality impacts." We cannot just rely on this one program but instead need to work towards policies that further equity and environmental justice, including, but not limited to, rolling out neighborhood delivery and loading zones, cargo bikes, marine freight delivery, approving an indirect source rule, and regulations for last mile facilities.

When it comes to citizen complaint programs more broadly, as a member of the Rise to Resilience Coalition, we echo the recommendations made by that Coalition concerning improvements to the 311 system for reporting multiple types of flooding. The Coalition recommends the City to integrate reporting systems for flooding, proactively advertise for their use, and expand access to information about making New York properties more resilient to flooding, preparing for an incoming storm, getting through extreme weather events, and requesting services and information following a flood event.

NYLCV looks forward to working with the City Council, Administration, and advocates to improve air quality and other citizen complaint programs. 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
September 18, 2024**

Good afternoon. My name is Suhali Méndez, and I am the Policy and Legislative Coordinator at New York Lawyers for the Public Interest which is a legal organization with programs in Disability Justice, Environmental Justice, and Health Justice.

I would like to thank the members of the Committee on Environmental Protection, Resiliency and Waterfronts and Chairman Gennaro for holding this very important hearing and allowing the public to testify on these important pieces of legislation.

As someone who was born and raised in the Bronx, I have witnessed firsthand how frequent vehicle idling can impact communities like mine. The spewing of dangerous emissions of buses and other vehicles causes harm to human health and the environment. In our recent report: [*Wake Up and Smell the Fumes*](#), a team of NYLPI interns observed 142 school buses parked outside of 40 different schools in the Bronx, Manhattan and Brooklyn in June 2023. We found that almost one in four of these buses were needlessly idling for longer than one minute near schools.

The review of enforcement data shows significant disparities in the number of idling violations issued across different boroughs. The Citizen Air Complaint System was debuted in 2019 which allows ordinary civilians to earn money by reporting documented instances of illegal idling vehicles around New York City which resulted in an increase of 78% in the amount of air quality complaints filed with DEP.¹ This in turn impacts the pollution of idling vehicles in low-income communities and communities of color in New York City.

We urge the Council to immediately pass [Introduction 0005-2024](#), that expands to the translation of 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). In addition, we support passage of [Introduction 291-2024](#) which would increase civil penalties for idling infractions by trucks and buses. This will increase accountability for large, heavily polluting vehicle fleets and provide a greater incentive for large corporations to comply with our City's Air Pollution Code.

¹ https://www.nyc.gov/assets/operations/downloads/pdf/mmr2023/2023_mmr.pdf

The passage of these two bills would continue to progress the council's commitment to New York City's climate goals.

We do however have concerns about the provisions of [Int. 0941-2024](#) which would alter regulations on the citizen's complaint program to enforce idling laws. We are concerned that this bill would severely weaken the effectiveness of the citizen complaint program by decreasing the financial incentive for New Yorkers to observe, record, and report illegal idling, by imposing a strict 5-day deadline for New Yorkers to submit video evidence of illegal idling, and by allowing DEP to create arbitrary rules excluding some New Yorkers from utilizing the program.

We hope to see the Council mandate proactive measures to expand and reform the Citizens Air Complaint Program, so it is more transparent, accessible, and equitable, for all New Yorkers, especially to residents of disadvantaged communities where health impacts of air pollution, noise pollution, and the environmental impacts of diesel and gasoline combustion engines.

We also recommend that DEP to use a model that is comparable of the New York State Attorney General's recent [settlement](#) with four bus companies throughout New York City which requires companies to make investments towards full fleet electrification which will have both immediate and long-term benefits for public health and climate change. We encourage the Council and DEP to consider using idling violations to create strong electrification incentives for vehicle owners rather than relying solely on anti-idling technology which would do far less to advance New York City and State's climate goals.

We encourage your offices to connect with NYLPI for further discussion on this issue. Please contact Suhali Méndez, Policy & Legislative Coordinator at smendez@nylpi.org.

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SECRETARY

September 18, 2024

**Testimony of Rocco J. Lacertosa
New York State Energy Coalition (NYSEC)**

Before the

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

Regarding

Citizens Air Complaint Program

Good afternoon, Chair Gennaro and members of the Committee on Environmental Protections. My name is Rocco J. Lacertosa, and I am the CEO of the New York State Energy Coalition (NYSEC). Our association has long served as an advocate for the oil heating industry, ensuring that the policies, regulations, and issues that affect our members and their customers are addressed with urgency and foresights. Today, I am here to discuss the serious concerns NYSEC has with the Citizens Air Complaint Program and its impact on our members who provide essential services to New York City.

The Citizens Air Complaint Program has unfortunately become a source of frustration and financial burden for our members. NYSEC represents businesses that provide vital services, including the heating of critical city infrastructure such as police departments, fire stations, and New York City Housing Authority (NYCHA) campuses. These are services that are essential to the safety and well-being of New Yorkers, especially during the colder months when reliable heat is essential.

One of the primary issues with the Citizens Air Complaint Program is the lack of due process. Our members often receive complaints months after the alleged idling violation occurred, making it extremely difficult to respond and prepare an adequate defense. The drawn-out process places an undue burden on businesses that are simply trying to operate within the law. Timely issuance of summonses is not just a matter of fairness – it is essential for ensuring that businesses have a chance to defend themselves properly.

In addition to the delays, the lack of access to evidence is another significant flaw in the program. Summonses often fail to include crucial details such as video evidence or specific information about



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the complaint. Transparency is critical to any fair adjudication process, and this program is no exception. The program also fails to account for the realities of our operations – idling is not a matter of convenience but one of necessity.

It is important to recognize that our industry has long been committed to reducing emissions, independently of this program. NYSEC was instrumental in the adoption of Bioheat, making NYC the first city in the nation to mandate cleaner, renewable heating oil. We continue to lead in sustainability efforts, but the Citizens Air Complaint Program is not the driving force behind these changes – it has been our industry, and our partners here today, that have proactively made efforts to adopt cleaner technologies and practices that have made a difference.

NYSEC opposes Introduction 291, which seeks to increase penalties without addressing these fundamental issues. Instead, NYSEC strongly supports Introductions 941 and 747, which would transparency and fairness to citizens complaint programs. It is concerning that some individuals have turned the Citizens Air Complaint Program into a full-time pursuit, filing complaints as a business rather than out of concern for public health. The original intent of the program was to improve air quality, not to create an avenue for profit. We urge the Council to pass Introductions 941 and 747 to restore fairness and integrity to the system.

NYSEC is committed to working with the Council and all stakeholders to deliver environmentally responsible solutions while protecting the businesses that keep our city operating. We believe that with the right reforms, the Citizens Air Complaint Program can be more effective, fair, and aligned with the shared goal of a cleaner, more sustainable New York City.

Thank you for the opportunity to testify today.



To: NYC Council Committee on Environmental Protection, Resiliency and Waterfronts

From: April McIver, Executive Director, The Plumbing Foundation

Date: September 18, 2024

Re: Oversight - Citizen Complaint Programs

INTRODUCTION

My name is April McIver and I am the Executive Director of the Plumbing Foundation City of New York, Inc. The Plumbing Foundation was founded in 1986 and is a non-profit organization of small and large, union and non-union plumbing contractors, engineering associations, supply houses, and manufacturers whose mission is to protect the public health and safety of New York City through the enactment and enforcement of safe plumbing codes.

On behalf of our members, we have concerns with the Citizens Air Complaint Program whereby private citizens are submitting video complaints of idling vehicles to receive a percentage of the fines recovered by the city. Below outlines our concerns and recommended solutions.

COMMENTS

Due Process Concerns

Over the course of the last two years, I have received countless phone calls and emails from contractors regarding the Citizens Air Complaint Program. The first call I ever received, the contractor explained that he was sent a summons for idling and the summons indicated there was video proof. However, he could not obtain that video proof by any apparent means other than physically attending the hearing, by which point a proper defense could not be established. Further, it seems that the summonses generally do not necessarily set forth a mail-in penalty of \$350 for first time offenders, so respondents either have to wait until they get an offer or proactively call and find out how to get it.

Numerous contractors have told us of similar problems with the process, including a hearing date being held up to 9 months after a summons was received by the employer. In addition, we have heard from our members that they received summonses 6 or more months from the date of the alleged idling incident.

We have also been told service of summons have gone directly to the Secretary of State rather than the registered vehicle owner, which will further delay the process. Finally, it is our understanding that there are thousands of outstanding idling tickets of which owners and/or companies are completely unaware.

It is for these reasons that we believe there are serious due process implications. Due process is a constitutional guarantee of legality and fair procedure.¹ The lack of evidence offered to a respondent and therefore hindrance to a proper defense, as well as the absolutely inconsistent timeline and process of sending summonses and scheduling hearings raises unfair procedural concerns. From a practical standpoint, it is apparent that the goal behind New York City's idling law, to change driver behavior, is hardly achievable if company owners are receiving summonses so far after an idling complaint was sent in, or if complaints are sent in by citizens way after the observation.

Arbitrary & Capricious

The New York State Department of Environmental Conservation (DEC) has determined that it is illegal for on-road heavy-duty vehicles, including non-diesel and diesel trucks and buses with a gross vehicle weight rating (GVWR) of more than 8,500 pounds (3,855.54 kg), to idle for more than five minutes at a time.² New York City has decided to implement an idling law making it illegal for *any vehicle* to idle for more than three minutes, and only one minute if near a school.

Upon information and belief, actual time thresholds determined for idling regulation are completely arbitrary. The general explanation, and of course an agreeable position, is that the less time vehicles are idling, the fewer emissions are emitted into the atmosphere, the better for the environment and public health. However, there is no apparent scientific finding behind the magic number "3" or "1", or even "5." To base an entire citizen-run enforcement operation on a number randomly determined during the rulemaking process, an operation that has already proven to be without clear process and a threshold based on no apparent reason, should disturb this Council.

From a practicality standpoint, using the example of a snowy winter day, a technician has to clear off snow from all windows of the vehicle, including headlights and license plates, as well as defrost all windows for safety before they can depart. This process can absolutely take longer than 3 minutes. There are various levels of nuances to an idling vehicle, especially in the construction field, that neither the rule making body nor an incentivized citizen would understand.

Unless there is a compelling, data-driven explanation for the magic number "3," the Council should consider the lack of reason behind the idling threshold, especially as compared to the State's.

Health & Safety Concerns

The concerns go beyond the legal ones addressed and rise to the level of health and safety of not only our members but the private citizens engaged in the video-recording alike.

First, the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) has a very clear requirement for something called "cold stress" in that "employers have a

¹ Legal Information Institute, Cornell Law School, "Right to Due Process: Overview," available at <https://www.law.cornell.edu/constitution-conan/amendment-5/right-to-due-process-overview> (last visited September 12, 2024).

² 6 NYCRR 217-3.

duty to protect workers from recognized hazards, including cold stress hazards, that are causing or likely to cause death or serious physical harm in the workplace.”³ In February 2023, New York City’s temperature dropped to a low of 3 degrees Fahrenheit,⁴ a temperature no doubt creating an environment for hypothermia, frostbite, chilblains, and trench foot.⁵ Any of these conditions can happen at even warmer temperatures given other factors such as snow and rain. OSHA has a similar requirement on employers to prevent heat-related illnesses.⁶

It puts an employer, especially in the construction field, in an impossible situation to choose between being OSHA-compliant and protecting the health and safety of their employee(s) in extreme weather situations, and the risk of their vehicle being recorded by a citizen for idling and receiving a fine. Again, why were these nuances not considered in creating this program?

The concern for health and safety extends to the incentivized private citizens putting themselves in truly dangerous and very questionable situations to get idling videos. We have heard there are citizens sneaking onto private property and dressing up in disguises (also raising a fraud concern) in order to get these video recordings. And, unfortunately, our city is ridden with crime. The number of felony assaults in August 2024 alone was 2,498 (increase of 10 from the previous August).⁷ There should be a serious consideration by the Council and Department of Environmental Protection (DEP) as to their comfortability with putting citizens in antagonistic situations like video recording someone else. While citizens have the choice to be part of the program, the government has a duty to protect public health and safety.

Recommended Solutions

The first step that the Plumbing Foundation recommends is reforming the program by:

- **Supporting Intro. 747** - This legislation requires the Department of Environmental Protection (DEP) to create a code of conduct applicable to all those who bring noise complaints as part of the citizen noise complaint program. Those who fail to abide by the code of conduct may be disqualified by the DEP commissioner from bringing future noise complaints under the program.
- **Supporting Intro. 941 (with amendments)** - This legislation seeks to reform the Citizens Air Complaint Program by changing the time threshold to 3 minutes within a 60 minute period. We recommend consideration of the state’s existing threshold as well as vehicle type considerations as well. The bill also would allow the exception of 15 minutes in a 60-minute period to provide heating or air-conditioning to passengers on board a bus

³ Occupational Safety and Health Administration, U.S. Department of Labor, “Winter Weather: Cold Stress,” *available at* https://www.osha.gov/winter-weather/cold-stress#cold_prevention (last visited September 12, 2024).

⁴ Extreme Weather Watch, “New York City Weather in 2023,” *available at* <https://www.extremeweatherwatch.com/cities/new-york/year-2023#:~:text=What%20was%20the%20coldest%20temperature%20in%20New%20York,was%203%20%C2%B0F%20which%20happened%20on%20Feb%204> (last visited September 12, 2024).

⁵ *See id.*

⁶ Occupational Safety and Health Administration, U.S. Department of Labor, “Heat: Prevention,” *available at* <https://www.osha.gov/heat-exposure/prevention> (last visited September 12, 2024).

⁷ New York City Police Department, “NYPD ANNOUNCES CITYWIDE CRIME STATISTICS FOR AUGUST 2024,” *available at* <https://www.nyc.gov/site/nypd/news/p0527/nypd-citywide-crime-statistics-august-2024> (last visited September 12, 2024).

when the temperature at the location of the bus is less than 40 degrees Fahrenheit or at least 80 degrees Fahrenheit, respectively. This should be extended to commercial vehicles as well to ensure compliance with OSHA. The bill also proposes reforms to cure deadlines and requires complaints to be filed within 5 days of the observation, as well as prohibits submission of false or misleading complaints. These are good first steps to reforming the program but more should be done to ensure due process fairness is met and evidence is easily and immediately available to the respondent.

- **Rejecting Intro. 291** - This legislation proposes to increase the fines imposed for drivers of buses and trucks who violate the anti-idling provision of the Air Pollution Control code. The existing program as explained above has too many concerns, and places ongoing burdens on respondents, that today's consideration of increasing the fines is poorly timed. The program must be reformed for fairness and safety before consideration of fines increases.

In addition to the bills being heard today, the Council and DEP must take into consideration all legal and safety concerns brought to the Committee today.

CONCLUSION

We thank the NYC Council for their consideration of our comments. Please do not hesitate to contact us for any reason.

Good afternoon. As you know, my name is Samara Swanston, and I recently retired from the City Council, after more than 17 years as Legislative Attorney on this very committee.

In 2018, I helped draft Local Law 58, which expanded access for citizens to report illegal idling—and be paid 25% of fines, which is the correct and fair percentage for this important work. Together with Council Member Helen Rosenthal and George Pakenham, we set the groundwork for today's hugely successful program.

Let me be clear: the program is working today EXACTLY as we intended in 2018. I am here today because I oppose Intro. 941, and I support two very important bills, Intro. 5 and Intro. 291. We need to protect the Citizens Air Complaint Program and expand it even further. Intro. 941 threatens this crucial program, and Intro. 941 must be stopped.

Let me address the elephant in the room: money. First, big companies are paying millions in fines, and they don't like it. Second, some try to complain about individual citizens making a lot of money from the program.

To those people, I say one thing—SO WHAT? Last year, there were over 77,000 citizen idling violations issued—up from just 16 in 2018. Each one represents a truck or bus polluting our air. Who cares if some people put more time into the program and submitted more complaints? We want idling to stop—TODAY. The awards people are earning is exactly what this Committee intended. We want New Yorkers to be excited to get out and report illegal idling—and be paid more for working more. A strong citizen incentive is VITAL.

Intro. 941 also makes it harder for new people to join this important program, and it makes it easier for big companies to pollute our air. This is WRONG. We should not be writing loopholes into the Air Code. We should not be cutting the awards. And I am astonished that I have to come here to City Hall to remind this Committee of that fact.

The issue of air pollution is very personal to me, because I have lost multiple family members to asthma. Sadly, this year, 3,200 New Yorkers will die from air

pollution, and 6,000 adults and children will be rushed to the emergency room because of asthma.

My personal loss of family members is why I helped draft and pass the law expanding the Citizens Air Complaint Program and setting the award at 25%. This program is working, and only Intro. 5 and Intro. 291 should move forward because they combat illegal idling. But Intro. 941 must be stopped TODAY.

New York City Council Testimony, September 18, 2024

Good afternoon, Chair Gennaro and members of the Environmental Protection Committee,

My name is Wayne Arden. I am here to testify on behalf of the Sierra Club, which represents nearly 15,000 members in New York City. I am chair of the Transportation Committee and Vice Chair of the NYC Executive Committee.

We strongly support Intro 291, which if passed will increase idling penalties applicable to trucks and buses. In general, trucks and buses, which are often heavy-duty vehicles, pollute disproportionately more than light- or medium-duty vehicles. We have observed that many drivers do not comply with the existing anti-idling law, and thus to improve compliance, both stiffer penalties and more vigilant enforcement are necessary.

We view Intro 291 as a much-needed but still interim measure. On September 28, 2023, the NYC Council voted unanimously for the ZEV for NYC Act, which Mayor Adams signed into law on October 23. This law, Local Law 140, accelerates the City's purchase and use of zero-emission vehicles. Local Law 140 should be thought of as New York City's North Star regarding transportation emissions. The best way to reduce the harmful pollution generated by internal combustion engines, whether idling or not idling, is to replace them entirely with zero-emission technologies.

In addition, to reduce the pollution generated by idling vehicles, we call upon Governor Hochul to reinstate congestion pricing without delay. Per Bloomberg, New York City suffers from the world's worst traffic congestion. London has implemented congestion pricing, and Transport for London reports that at the end of 2023, roadside nitrogen dioxide (NO₂) emissions were 65% lower in central London and 45% lower in outer London than in 2016.

In summary, we staunchly support Intro 291, but it is one of multiple steps New York City must take to reduce the debilitating effects of transportation emissions.

SILVERMAN SHIN & SCHNEIDER PLLC

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September 10, 2024

Hon. Julie Menin
Member of the City Council
City Hall
New York, NY 10007

Dear Council Member Menin:

We represent New York City DOE school bus contractors who safely transport over 150,000 students each day during the school year. We are writing to express concerns with Intro. 291, which proposes increasing idling fines by up to 300 percent. Since drivers who control the buses are ultimately held responsible for the fines, we are concerned that the proposed increase will cause an exodus of drivers from the school bus industry which is already facing a severe driver shortage. Of equal concern is the disturbing and problematic method of enforcement of idling laws for school buses as part of the Citizen's Idling Complaint Program. While bus contractors wholeheartedly support initiatives aimed at reducing emissions and promoting a healthier environment, they believe that this program, particularly as it pertains to school buses, creates several negative impacts that need to be addressed.

Citizens with stopwatches, sometimes come dangerously close to buses and students and often report idling that is less than five seconds over the legal limit. The bounty program can foster aggressive behavior and conflict among parents, bus drivers, and school officials. Moreover, the Citizens Idling Program creates the potential for danger to school children as well as anxiety on the part of drivers. Do we really want to have a program that could serve as a pretext for unsavory characters filming school buses with students on board?

It generally takes months before drivers are made aware of idling violations based on Citizen reporting. In our experience a substantial portion of Citizens' complaints involve idling for less than ten seconds over the legal limit. Drivers are faced with tight schedules and the need to keep students safe and comfortable during their time on the bus, especially during extreme weather. The fear of being reported or fined can lead to rushed departures and increased safety risks. In many cases, bus drivers are unaware they are being video graphed. In extreme weather conditions, such as extreme cold or heat, it is essential for buses to maintain a suitable cabin temperature to ensure the safety and well-being of the students on board. The need to idle in these situations is a genuine concern that should be taken into consideration. Citizens reporting violations are not aware of exceptions for maintaining interior school bus temperatures.

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Although the bus companies seek to discipline their drivers who violate the anti idling laws, the imposition of fines and services of summons in the first instance on the bus company does not achieve the anti idling goals we all share. It is the drivers who control the bus engines who should be the recipients of a summons in the first instance in order to instill the incentives to properly control their vehicles and where warranted to provide a timely and legally recognized exception to the idling. While the bus companies are doing all within their power to limit bus idling, installing automatic shutoff mechanisms in their fleets and providing comprehensive training as well as fleet monitoring, again it is the bus drivers who ultimately control the vehicles and the idling.

The way the law is currently implemented needs to be improved. First, a citizen observer submits his or her report to the Department of Environmental Protection ("DEP"). Next, the DEP prepares a summons with no investigation and forwards the summons to the Secretary of State for service upon the bus company owner. The actual summons is not received until several months after the incident in question and often results in dismissal at a hearing. A better process would be to have the DEP issue a notice to the bus company upon receipt of the citizen information with a short window to either acknowledge the violation and/or provide documentation demonstrating a permitted exception to the idling. An accelerated notice process will allow for swifter accountability and ultimately a reduction in impermissible idling.

Moreover, a 300% plus increase in fines, if and when levied on the drivers, would result in a loss of drivers in an industry which already suffers severe driver shortages. The imposition of incredibly high fines on drivers, many of whom are from minority communities, will make it impossible to retain the qualified drivers that the bus companies need to transport the children of this City.

Based on these negative impacts, we urge you to reconsider subjecting school buses to idling fines as part of the Citizen's Idling Complaint Program. It would be far more beneficial to foster a collaborative effort that includes open dialogue, education, and incentivized electrification programs for reducing idling without penalizing the very services that ensure the safety and accessibility of education for our children.

In summary, we recommend the following,

Proposed amendments to Intro. 291 with respect to school buses

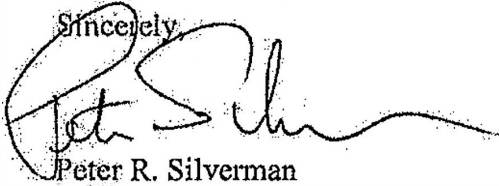
- For the safety of students, parents, and school staff, school buses should not be part of the Citizens Idling Enforcement program. For school buses, summons should come directly from law enforcement including DEP and DOE personnel.
- The school bus industry supports reduced idling. School buses should continue to be subject to the existing fine schedule and be exempt from proposed increases in the fine schedule for trucks and buses found in Intro. 291.

■■■
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- Drivers of school buses should receive summons in person at time of violation and those drivers should be held responsible for the violation.

Thank you for considering our views on this important issue. We look forward to working together to find a balanced solution that supports our children's safety while promoting our environmental goals.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter R. Silverman", with a long, sweeping horizontal line extending to the right.

Peter R. Silverman

cc: Speaker Adrienne Adams
Members on the Environmental Protection, Resiliency & Waterfronts Committee
Bill sponsors
School Chancellor Banks



**TESTIMONY OF FELICE FARBER, EXECUTIVE DIRECTOR
SUBCONTRACTORS TRADE ASSOCIATION
COMMITTEE ON ENVIRONMENTAL PROTECTION, RESILIENCY AND WATERFRONTS
OVERSIGHT HEARING ON CITIZEN AIR COMPLAINT PROGRAMS
AND INTRODUCTIONS 291, 747 AND 941
SEPTEMBER 18, 2024 AT 1:00 PM**

Good morning, Chair Gennaro and members of the Committee on Environmental Protection. My name is Felice Farber and I am the Executive Director of the Subcontractors Trade Association. STA represents 350 union specialty trade contractors and is dedicated to advocating for the rights and interests of union subcontractors in New York City. I appreciate the opportunity to speak with you today regarding the Citizen Air Complaint Program which, while well-intentioned, presents several serious challenges that need to be addressed.

Due Process

One primary concern with the Citizen Air Complaint Program is the lack of due process. Our members report that they do not receive notice of the summons until 6-12 months after it is issued and that it takes on average 18-24 months from the date of violation to the first scheduled hearing. This significant delay severely impacts our members' ability to gather relevant evidence and mount a defense. **We urge the Council to require the timely issuance of summonses and timely hearings to ensure fair legal proceedings and to protect due process rights.**

Access to Evidence

Another critical issue is the lack of access to evidence associated with these complaints. Often, the summonses fail to include videos or specific details of the alleged idling violations. The video evidence is only provided at the hearing leaving no opportunity to check with the driver and respond with a defense. Without this transparency, it is nearly impossible to prepare a thorough and proper defense before the hearing. For justice to be served, our members need timely access to all relevant evidence, including video footage or other details. **We strongly recommend that the Council mandate the availability of evidence well before hearings to facilitate a fair and efficient adjudication process.**

Until these due process issues are corrected, the City Council should not move forward with Intro 291 to increase the penalties on this program.

Vehicle Operator Safety

Furthermore, the one-size-fits-all nature of the current idling regulations fails to consider the real-world challenges drivers face. Truck operators often work in extreme weather conditions—whether it's cold, heat, rain, or snow—that may require more than three minutes of idling to ensure operator safety, such as running air conditioning, heating, or defrost systems while waiting to make a delivery. **Public and driver safety must remain a top priority, and we ask that the Council consider these practical challenges when implementing idling regulations.**

Green Vehicles

Lastly, the current program does not differentiate between trucks based on their environmental impact. Clean idle, compressed natural gas and renewable diesel trucks are treated the same as older, less efficient vehicles. This lack of differentiation discourages investment in greener technologies. Our members have reported receiving idling violations for trucks equipped with regen systems and clean idle technology, including trucks with automatic shutoff features. **We believe penalties should be adjusted based on the type of truck, with reduced penalties for cleaner, more efficient vehicles.** This would incentivize the industry to adopt more environmentally friendly technologies.

Conclusion

In conclusion, while the Citizen Air Complaint Program aims to address air quality concerns, it currently does so in a manner that undermines due process, lacks transparency, and unfairly penalizes certain parties. Intro 941 and 747 would address some of the issues I raised but do not go far enough. We believe that with thoughtful reforms, the program can better achieve its environmental goals without unduly burdening the trucking industry.

Thank you for your time, and I look forward to working with the Council to create a more equitable and effective system.

September 18, 2024

**Comments of Zach Miller
Director of Metro Region Operations
Trucking Association of New York**

before the

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

Good afternoon, Chair Gennaro and members of the Committee on Environmental Protection, Resiliency and Waterfronts. My name is Zach Miller, I am the Director of Metro Region Operations for the Trucking Association of New York (TANY). Since 1932, TANY has advocated on behalf of the trucking industry at all levels of government, providing compliance assistance, safety programs, and educational opportunities to our members, and in the process, creating jobs, supporting the economy, driving safety, and delivering a sustainable future.

I testify today regarding the Citizen's Air Complaint Program and the myriad ways it has gone off the rails. I must start off though by saying that we do not condone unnecessary idling. Enforcement is a key tool to be deployed when an operator is doing something they should not be doing. However, the key to successful enforcement is not to create a profitable cottage industry but to permanently and positively change behavior. This program excels in the former and fails in the latter.

Of immediate concern is the lack of Due Process in the program. On average complaints arrive 9 months after the violation was issued and the hearing is scheduled another 9 months or so after that. This severely impacts fleets and drivers' ability to prepare a defense. By this time the driver may no longer be with the company, may not be able to recall the events of the day, or the customer that was being serviced may no longer be in operation. None of this is speculation, these are real world situations given to us by our members.

Another significant impediment to Due Process is the lack of access to evidence needed for a thorough defense at the hearing. Videos or specific details of the complaint are often absent from the summons. Respondents must ask for videos in advance of the hearing, sometimes that request is granted, sometimes it is not. When it is granted the video link is only active for three days. In fact, I recently saw a ticket issued to the wrong fleet. The fleet tried for months to explain this to DEP with no response. Finally on the hearing date, the video clearly showed a vehicle belonging to a different company. Every other camera issued ticket in New York City is received in a timely manner and a link to the video or a picture is included with the summons, allowing fleets to decide if they wish to fight the ticket or pay it in a timely manner. It is unconscionable that it is not included in the Citizens Air Complaint Program.

Speaking of which, in every other enforcement program from parking tickets, camera tickets, WIM tickets, etc. there is a built-in mechanism to transfer liability, which does not exist here.

This is especially burdensome on rental & leasing companies, as well as fleets utilizing independent contractors. This prevents summonses going to the liable party, which paints them as repeat violators even though they are not operating the equipment.

In each one of the points raised from Due Process to access to evidence; to transfer of liability it makes this program purely punitive while limiting the ability to proactively and constructively change behavior. And yet, the trucking industry is fully committed to reducing emissions and idling through global advancements, independent of this program. We are incorporating clean idle, compressed natural gas, plug-in hybrid, and renewable diesel trucks into operations as we wait for battery electric and hydrogen to become more feasible. These cleaner vehicles do not have the same impact as standard diesel and should not be treated the same. Since, as we've discussed, the bureaucratic tape of the program often prevents the summons from ever reaching the responsible party and correcting operator behavior in an impactful way. Instead, it is the industry's ongoing efforts toward cleaner technology that are responsible for progress made. Our industry supports goals to provide a cleaner and more sustainable future. However, it must not be at the expense of hard-working individuals and small businesses in the trucking industry.

Speaking of our hard-working drivers, they face real-world challenges where public safety can be compromised if they aren't allowed sufficient idling time. For example, they work in cold, heat, rain, fog, and snow, to name a few conditions. They may have to run an AC, heat, or a defrost system which may require more than three minutes for safe driving conditions. There are many unpredictable situations that drivers are put in, which is to say nothing of the nuance of needing to run refrigerated units, processing devices, or regen technology. None of this is to excuse bad operator behavior or to give free reign for idling. It does however illustrate that incentivized bounty hunters who set up back offices in India, or fraudulently represent themselves as Amazon workers, or follow armored cars, or sneak onto construction sites, or climb onto the back of truck are not the best people to arbitrate the actions of others.

In close, though the Citizen's Air Complaint Program is deeply flawed, Int-941 and Int-747 begin to address them. We support both bills but urge you to pause moving forward with Int-291 until integral parts of the program are fixed. Thank you for your attention to this important matter. As always the Trucking Association of New York looks forward to ongoing collaboration with the City Council, DEP, and OATH.

Thank you for your consideration of my comments and for your time.

TRUCK RENTING AND LEASING ASSOCIATION

September 18, 2024

**Comments of Ryan Snyder
Director of Government Relations
Truck Renting and Leasing Association**

before the

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

Chair Gennaro and members of the Committee on Environmental Protection, Resiliency, and Waterfronts, I appreciate the opportunity to testify before you today on behalf of the Truck Renting and Leasing Association – known as TRALA. My name is Ryan Snyder, and I am the Director of Government Relations for TRALA. TRALA is particularly interested in New York City's Citizens Air Complaint Program as it negatively impacts our members' daily operations and those of their customers.

TRALA is a 45-year-old national trade association representing the interests of nearly 500 truck renting and leasing companies and over 100 supplier companies. TRALA's members provide short-term commercial rental vehicles, short-term consumer rental vehicles, and full-service leases to customers who operate a vehicle or fleet of vehicles. Most TRALA members are family-owned businesses that have operated for generations to supply the transportation backbone to small businesses throughout the U.S. Their diverse customer base typically rents or leases less than four trucks per customer. They rely on flexible transportation contracts to manage variable operations and expand their small businesses.

TRALA supports New York City's efforts to reduce transportation-related emissions; however, the Citizens Air Complaint Program is impractical and inconsistent in its delivery of complaints and ultimately does not achieve its goals. Instead, it allows citizens to earn a six-figure wage from merely reporting idling vehicles—an unintentional yet costly consequence. TRALA and its members, therefore, request that the Committee address the following complaints regarding this deeply flawed program.

As the Citizen Air Complaint Program currently stands, truck owners are penalized for idling violations without a system to transfer liability to the operator. This is especially burdensome for rental and leasing companies that own and maintain the vehicles, but do not operate them. Often, trucks are rented for a day or two at a time. In fact, many times a vehicle is rented to new customers multiple times within the same day or week. This creates an environment where the vehicle's owner is fined instead of the operator who was responsible for the suspected idling.

In every existing enforcement program in New York City, from parking tickets and camera tickets to weigh-in-motion tickets, there is a built-in mechanism to transfer liability, which does not exist here. This is especially burdensome on rental & leasing companies as it prevents summonses from going to the liable party. Furthermore, the current practice paints the vehicle owner as a repeat offender even though they are not operating the equipment. The ultimate goal and mission of the Citizens Air Complaint program is to change the behavior of those operating vehicles and reduce unnecessary idling within New York City. The inability to transfer the liability to those who incurred the infraction is a fatal flaw in the program.

Transferring liability to the vehicle operator at the time of the idling incident is not the only concern TRALA has with the Citizens Air Complaint Program; due process is also a significant issue. Complaints are often delivered anywhere from six to twelve months after the alleged idling violation, with a hearing scheduled another six to twelve months after that. In addition, the program often does not send the infraction to the correct mailing location of the registered vehicle. All of this severely impacts our members' ability to prepare a defense and opens companies up to additional fines because of supposed past due amounts that were not paid due to the poor processing of the program. By the time the hearing is scheduled, the driver may no longer be contracted, their memory of the conditions leading to the violation may need clarification, or the customer who rented/leased the vehicle may no longer be in operation. Unfortunately, due to the nature of renting and leasing to smaller businesses, some companies utilizing the vehicle at the time of the alleged violation – and subsequently, the operator of the vehicle at the time of the alleged idling incident – are no longer in business and, therefore, cannot be fined for their idling mishap when the complaint arrives a year after the reported incident. This is unfair and leaves the rental and leasing companies liable or having to defend themselves for an idling infraction in which they were not operating the vehicle.

To reduce vehicle emissions by curbing unnecessary idling, proper training and feedback should occur after the infraction so that future incidents are prevented. Due to the high turnover rates of commercial drivers, these complaints must be delivered promptly. This will ensure proper training is implemented and the goal of reducing transportation-related emissions is achieved.

One suggestion I would like to offer to the Committee would be to remove the current paper system and opt for a digital-friendly version of distribution similar to the toll and parking violation programs already in existence within New York City. This would cut back on the delivery times of the complaints and allow the violator to view their citation sooner. Pairing this with the ability to transfer liability to the vehicle operator will ensure a timely resolution and real-time training for those operators who frequently idle.

Finally, I would like to address three initiatives that are up for debate within the Committee's jurisdiction. The first is **Int #291**, which would increase the penalties for idling violations. TRALA opposes this initiative as many issues in the program need to be addressed before penalties are increased.

The second two initiatives, **Int #941** and **Int #747** are steps in the right direction. These initiatives would set forth rules to address some of the issues I raised within my remarks. It is paramount that rules be established for the complainants so that drivers and the public are not put into unsafe conditions. TRALA supports **Int #941** and **#747** and urges the Council to pass these initiatives.

TRALA supports New York City's goal of reducing vehicle emissions. However, for the Citizens Air Complaint Program to be a success, changes must be made to ensure it is functional and fair to everyone.

Thank you for your attention to this important matter, and I look forward to working with the Council.

Ryan Snyder
Director of Government Relations
Truck Renting and Leasing Association

Walton Hauling

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Testimony for NYC City Council Hearing on Citizen Air Complaint Program, 9/18/24

Name: F. Tommy Kharieh
Company: Walton Hauling
Title: President
Phone: (718)383-1700
Email: ftk@waltonhauling.com

Good afternoon, Council Members.

Today, I want to briefly highlight how modern diesel engines, equipped with Diesel Exhaust Fluid (DEF) and clean idle technology, are making a positive impact on the environment. First, DEF plays a crucial role in reducing harmful nitrogen oxide (NOx) emissions. When injected into the exhaust, DEF helps break down NOx into harmless nitrogen and water vapor, significantly cutting down on air pollution.

In addition, clean idle technology ensures that even when diesel engines are running but not moving-during loading or off-loading they emit far fewer pollutants. This is achieved through advanced engine controls that keep emissions low, even while idling. Together, these innovations make modern diesel engines much cleaner than ever before. They help reduce the environmental impact of heavy-duty vehicles, improving air quality and public health in our city. By encouraging the use of diesel vehicles with DEF and clean idle certifications, we can continue to make progress toward a healthier, greener future. In addition to this, Walton Hauling as an NYC based company has taken steps to use only rd99, a renewable diesel which is helping us greatly reduce our emissions even further than city, state, and federal regulations.

Walton Hauling has taken steps to make sure that every truck purchased in the last several years is equipped with idle shut down features unless the operator is using the liftgate to load and off load the truck.

Thank you for your time and dedication to a cleaner environment.

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Testimony for Citizens Air Complaint Program, 9/18/2024

Name: Ryan O'Toole

Title: Vice President

Company: Walton Hauling

Phone: (718) 383-1700

Email: ryan@waltonhauling.com

Good morning Councilmembers of the Environmental Protections Committee. Thank you for the opportunity to speak today regarding New York City's Citizen Air Complaint Program. My name is Ryan O'Toole, and I am Vice President of Walton Hauling. Walton Hauling is particularly interested in this program as it impacts our operations in a few very important ways.

We are a truck rental house for the film and television industry. As such, a few aspects of the city's current idling violation have proven problematic for us, and we are hoping to see some positive reforms.

The drivers on our vehicles don't work for us, they work for the film production that rents the trucks from us. Since we receive idling summons anywhere from 6 months to over a year after they happen, sometimes the productions are shut down and we have no way to bill the customer. In those cases, we have to pay the violation and eat the cost, even though the driver was not employed by us. We would like to see a much quicker turn around time in the issuance of these summons.

As a rental house, sometimes our trucks are rented out short term to 20 different productions over the span of just a few months. The escalating fees by number of idling violations per truck has become a big problem for us in this area. Sometimes our vehicles are on their 3rd and subsequent violation, but each one of those violations was received by a different customer and driver. In those situations, the customer understandably is willing to pay the \$350 fine but not willing to pay the escalated \$600 fine for the prior violations that other customers received. For this reason, a transfer of liability program would be a

very welcome development so that our customers are not penalized for other customers infractions.

Also, access to video and photograph evidence has been a huge problem for our company. The vast majority of times I request video evidence prior to a hearing, I never receive it. We had a violation we received well over a year ago, and we did not have a plate # in our fleet matching the plate number on the violation. I requested video evidence several times prior to the hearing, but never received anything. So I attended the scheduled hearing a few weeks ago. The video evidence provided during the hearing clearly showed that it was another company's truck that was idling in the video. I pointed that out and just got a notice that the violation has been dismissed. But there should be process where companies like us can easily access video evidence for all idling violations in a timely manner.

Thank you for your time and attention to these issues. There are many issues with the Citizens Air Complaint Program that are making it difficult for businesses like us to operate in New York City. But Int 941 and 747 begin to address some of our concerns, and we urge your support of those Introductions. We ask you to pause on Int 291 until integral parts of the program are fixed. Thank you again for your attention to this, and I look forward to answering any questions you may have.



PUBLIC TESTIMONY OF THE WATERFRONT ALLIANCE AND RISE TO RESILIENCE COALITION

September 18, 2024

New York City Council Committee on Environmental Protection, Resiliency and Waterfronts Oversight Hearing RE: Citizen Complaint Programs

Submitted by Tyler Taba, Director of Resilience, Waterfront Alliance

Thank you, Chair Gennaro and Council Members, for the opportunity to testify. I am Tyler Taba, director of resilience at the Waterfront Alliance. Waterfront Alliance is an alliance of more than 1,100 organizations, businesses, and individuals, and we are the leader in waterfront revitalization and climate resilience advocacy for the New York-New Jersey Harbor region.

Waterfront Alliance is committed to sustainability and to mitigating the effects of climate change across the region's hundreds of miles of waterfront. We convene the Rise to Resilience Coalition of 100+ groups advocating for policy related to climate resilience, we bring climate resilience education to students in NYC DOE schools through our Estuary Explorers program, and we developed and operate the Waterfront Edge Design Guidelines (WEDG®) program for promoting innovation in climate design. Additionally, Waterfront Alliance has been a longstanding advocate for public access to the water, particularly in communities that have been cut off from their waterfronts.

I am grateful to be able to testify in front of you today on behalf of Waterfront Alliance and the [Rise to Resilience \(R2R\) Coalition](#). Rise to Resilience is a Coalition and campaign of more than 100 groups representing residents, leaders in business, labor community and justice, volunteer organizations, scientists, environmental advocates, and design professionals that collectively call on our federal, state, and local governments to make climate resilience an urgent priority. We thank the City Council Committee on Environmental Protection, Resilience, and Waterfronts and Chair Gennaro for holding this important hearing.

Waterfront Alliance and the Rise to Resilience Coalition support a strong, comprehensive platform for citizen complaints and reporting for flood events. As you know, flooding is impacting every City Council district in New York City. From coastal flood risk factors, like sea level rise, tidal flooding, and storm surge to inland flood risk factors like extreme rainfall, -New Yorkers are experiencing more frequent and intense flood events.

Although there is no bill on the Committee agenda for this topic, we believe this is an issue that is relevant to the Oversight Hearing and that the City Council can support.



As these flood risks continue to grow, the Rise to Resilience Coalition recommends that the City coordinate a flood reporting system that includes resources to help those who are at risk of regular flooding. Beyond simply reporting a flood, there is an opportunity to streamline communications and recovery efforts through reporting.

For starters, our Coalition believes that NYC311 is the most effective and well-known platform for reporting flood complaints and incidents. The basis of this testimony is based on the assumption that NYC311 is the City's preferred mode of reporting flood incidents. If NYC311 is not the primary and preferred mode, we request a more formal conversation with the Council, New York City Emergency Management (NYCEM), and the Mayor's Office of Climate and Environmental Justice (MOCEJ) to ensure consistency among advocates and local government.

With a primary, go-to platform, the City and advocates can work together to advertise and share consistent information to help New Yorkers prepare, respond, and recover from growing flood risks across the five boroughs.

NYC311 is widely known and used to request non-emergency services and information and to report problems. Some of the categories for reporting issues include: "**Highway Flooding**" (a large amount of water on a highway), "**Manhole Flooding**" (a manhole that is overflowing with water or sewage), "**Street Flooding**" (street flooding or ponding), "**Water Leak on Street or Sidewalk**" (water leaking on a street or sidewalk).

It is important to consider the various types of flooding, as the solutions and reporting might trigger different and unique responses. That said, we recommend that all these types of flooding be categorized or classified under one broader, umbrella category: "**Flooding**." Under a general "Flooding" category, the subcategories can be separated out. Moreover, each instance of flooding should follow a consistent question format.

Currently, under "**Street Flooding**" there is a question that asks, "Is it raining now?" However, for "**Highway Flooding**" there is no such question.

Each flood complaint should follow a standardized format that allows for a uniform experience and should be easy to use from a phone, especially during moments of flooding when people might only have seconds and are unlikely to wait for different websites to load and fill in longer forms. Currently, the NYC311 app does not allow for easy reporting within the app. When reporting a flood incident, the app redirects the user to a browser version of NYC311. We recommend that the NYC311 app fully integrates flood reporting, based on the recommendations of this testimony.

We also recommend that NYC311 accept photos and videos easily, which contain useful meta-data about location and timestamping.



Additionally, we would like to express our concern on the fact that there is often no response to these flood reports. Residents have stated they do not get a transparent, detailed response to their instance report. It is critical for the City to follow up on reports of flooding. At a minimum, we recommend that each report be followed by a page that offers solutions and resources to residents. This ensures it is not simply reporting but also helping, where the give-and-take of information feels reciprocal, and the citizen is receiving something in return. That is not the situation currently. This is also an opportunity for the City to show why their data is important and how it is used. For example, following a flood complaint submission, a citizen should get something back: a list of local neighborhoods' NYCEM resources, or information about DEP mitigation projects in their area.

When reporting a flood, NYC311 should directly connect residents to emergency management resources, such as [Notify NYC](#), [New York City Emergency Management \(NYCEM\) Preparedness Tips](#), [Know Your Zone](#), the [New York City Department of Environmental Protection's \(DEP\) Rainfall Ready NYC Action Plan](#), [FloodHelpNY](#) for flood insurance and retrofitting support, [FloodNet Sensor Suggestion Form](#), and other resources.

By using existing resources, particularly FloodNet and the NYC311 public inventory, the City can ground-truth local science projections for extreme rainfall with local flood reports. If there are discrepancies, those sites can be further revised and researched.

The NYC DEP's Rainfall Ready NYC Action Plan is intended to help New York City residents prepare for intense rain storms, but it has several user issues. The page lacks a user-centered design and is not user-friendly, focusing mainly on intense storms as a cause of flooding while neglecting other causes and key details about emergency management and weather-related events. Additionally, the page is difficult to find from the DEP's home landing page. The website is hard to navigate, and contains outdated information, making it less effective as a quick-reference resource during emergencies.

Given the various challenges with reporting flooding and connecting to existing citywide resources, there are several quick fixes that could be easily prioritized to enhance the flood reporting system. That said, there are more thorough ways to improve the flood reporting system. For starters, an overall communications and website audit that evaluates the user experience. This audit should include different audiences beyond app, web, and smartphone users (ex: people with disabilities and non-native English speakers). User experience testing is well-established as a method to map these features and prioritize them. It can take various forms (ex: in-person testing, virtual interviews, labs, softwares, etc.). These methods are widely used in the private sector and smart cities should leverage user experience research to expand access and improve reporting.

By organizing and integrating the currently available resources, the City can provide residents with more helpful information and thorough reports and responses on specific flooding instances. This becomes a more pressing and important issue in the face of climate change impacts, specifically increasing heavy rainfall, storm surges, and extreme weather events.



**RISE TO
RESILIENCE**

Ultimately, the City needs to work with residents. Homeowners need expert recommendations on how to make their property more resilient. The City wants residents to make changes, like making more of their property porous, to reduce demands on storm sewers. Tenants want to know how to stay safe. Help for homeowners and renters can benefit everyone.

We strongly urge the City to integrate reporting systems for flooding, proactively advertise for their use, and expand access to information about making New York properties more resilient to flooding, preparing for an incoming storm, getting through extreme weather events, and requesting services and information following a flood event.



September 18, 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 September 18, 2024 regarding Oversight
of Citizen Complaint Programs.**

Dear Chair James Gennaro and Committee on Environmental Protection,
Resiliency and Waterfronts:

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. WE ACT's mission is to build healthy communities by ensuring that low-income and people of color are meaningfully involved in the creation of fair and sound environmental health policies and practices.

WE ACT is writing in support for Int 0005-2024. This bill would require the Department of Environmental Protection to translate the Citizen's Air Complaint portal into the languages other than English that are most commonly spoken by residents of the City with limited English proficiency. All New Yorkers should be able to participate fully in the Citizen's Air Complaint Program regardless of English proficiency. This bill breaks down language barriers that prevent marginalized communities from participating in environmental decision-making. It empowers these communities to report air quality issues, advocate for healthier living conditions, and hold polluters accountable, advancing both environmental justice and public health equity.

WE ACT does not support Int 0941-2024 for the following reasons:

- This bill weakens the anti-idling law by letting buses idle with no penalty, everywhere in the city, at certain temperatures.
- This bill lets violators buy their way out of a fine by promising to install anti-idling technology. This will discourage citizen participation and is also unnecessary, because you do not need any technology; just turn off the engine.
- WE ACT is concerned that this bill jeopardizes the privacy of citizen complainants because violators will have access to the complainant's names and private information. If this passes, citizens will be intimidated into not participating.
- This bill bans complaints unless they are submitted within five business days of observation and then gives the Department of



Environmental Protection (DEP) ninety days to decide on a complaint an increase from the current forty-five days). That is unfair to participants of the Citizen's Air Complaint Program who only have five business days to submit complaints. Participation in this program is already relatively complex, involving many steps, and time and energy to keep track of their complaints. Five days to report and then ninety days to make a decision is imbalanced.

Thank you for holding this hearing on Citizen Complaint Programs and allowing WE ACT to submit testimony.

Sincerely,

Lonnie J. Portis

NYC Policy and Advocacy Manager

lonnie@weact.org



My name is Andrew Vă Brisker. I stand before you today as a first-generation Vietnamese American and a cancer survivor.

1. I OPPOSE Intro 941, which threatens to dismantle the world's most successful Citizen-led clean air enforcement program.
2. I SUPPORT Council Member Avilés's Intro 5, which empowers non-English speakers in New York's most impacted communities to participate, and helps transform the structures and institutions that reinforce and perpetuate inequality in their neighborhoods.

My family resides in Carroll Gardens, Brooklyn, and together with so many others joining us today are passionate allies of New York's Clean Air Community. Each day, my 10-year-old daughter and I walk or bike our City streets to school, the park, to work, or to stores our neighbors own and run. Each day, we breathe in bad air that KILLS.

The clean air laws we have now, including our current idling restrictions, weren't gifted to us. They were hard-won—bought with the blood of those who came before us. They're stained with the stories of children gasping for air, of lives cut short by pollution-induced illness, of communities fighting for their very right to breathe. For people living with lung disease, *every breath* is a battle.

I know this fight firsthand. You see, I'm not just here as a concerned Citizen or a parent today. I'm here as someone who's stared death in the face. Someone who understands all too well the price we pay when we neglect our environment. I know the cost of dirty air.

Four years ago doctors told me, "You have cancer." My first thought was, "I'm going to die. How do I tell my kids?" It shattered my world. Put my career on hold. I endured grueling treatment. Side effects were brutal. Simple tasks became monumental challenges. I missed work, fell behind, and watched my life unravel. I told bill collectors, "I know I owe it. I'll pay when I can."

It opened my eyes to how fragile our health is and the precious nature of the air we breathe.

Scientific studies make clear that tailpipe emissions from idling vehicles are a leading source of toxic pollution in New York that threatens clean air progress

and amplifies a wide range of health risks and disparities. What's more, these toxic emissions from idling trucks and buses *serve no purpose*.

Tailpipe emissions are rife with particulate matter smaller than 2.5 microns in diameter, so-called "PM2.5," which is 20 times smaller than even fine human hair. PM2.5 is the largest environmental health risk factor in the United States and is responsible for a whopping 63 percent of deaths from environmental causes. These particles are small enough to penetrate deep into the lungs, and the smallest can even enter the bloodstream.

The Citizens Air Complaint Program is our frontline defense. Breaking it would be catastrophic.

It is the ONLY means of enforcing the anti-idling air code that works. The law went unenforced for nearly 50 years, leading to tens of thousands of preventable deaths until the City Council wisely passed legislation establishing *Citizen*-enforcement. Threats to this Program will cause more deaths. Last year, ordinary New Yorkers brought 77,193 deterrent penalties. The City and the Department's 65 inspectors? 210. Each summons means cleaner air, fewer children choking on toxic fumes, and less brain and body damage for all of us.

As a first-generation Vietnamese American, I'm especially concerned how Intro 941's new barriers impact non-English speakers in underserved communities, where critical incentives empower ordinary people to engage in "environmental self-defense." An analysis from the Union of Concerned Scientists reports that minority communities in New York inequitably bear the burden from the highest exposure to these toxic transportation emissions. Incredibly, Asian American residents are exposed to twice as much PM2.5 pollution as white residents. New Yorkers of Latin descent are exposed to 81 percent more vehicle pollution than white residents, and African American residents to 72 percent more.

The inequitable exposure of New York's communities of color to transportation pollution reflects decades of decisions about transportation, housing, and land use. Decisions about where to place highways, where to invest in public transportation, and where to build housing have all contributed to a transportation system that concentrates emissions in

communities of color. Today we have an opportunity to begin to rectify this injustice and broaden the Program's access to non-English speakers. And so I implore you to support Council Member Avilés's Intro 5, language-access bill that will lessen this injustice. Intro 941 will make it drastically worse.

Intro 941 is no improvement—it's a death sentence for clean air enforcement.

It hands a victory to polluters at the expense of every New Yorker's Constitutional right to breathe clean air. The trucking industry, business lobbyists, and Adams administration are trying to press Intro 941 to undermine all of the City Council's hard work to clean up our air. A bill that seeks to subsidize corporate financial interests using our health and the health of our loved ones.

Don't let them.

As we consider Intro 941, we must ask ourselves: Who stands to benefit?

Who stands to benefit if you let school buses idle up to 18 minutes near our schools—an 1,800 percent surge from the current limit—in ways that directly contradict the Council's clear mandate crafting one-minute protections to eliminate school bus idling altogether?

NOT our children, whose developing lungs will bear the brunt of increased pollution once school zones are transformed from safe havens into pollution hotspots.

Who stands to benefit if you slash Citizen reporting times from 90 days to a breakneck deadline squeezing Citizen reporters with just 5?

NOT working parents, not English language learners, not new Program participants, not individuals with disabilities, or those from underserved communities who will struggle to participate in this shortened time frame.

NOT evidence quality to ensure companies like ConEd, Verizon, and Amazon that pollute our air with impunity are held to account.

Enforcement will plummet overnight.

And how would doubling the Department's limit to 90 days improve efficiency, rather than simply enable further delays and institutionalize existing inefficiencies?

How does this imbalance align with the City's commitment to environmental justice and inclusive civic engagement in environmental protection—a blatant double standard that seems to prioritize bureaucratic convenience over prompt and equitable environmental action?

Instead: Authorize appropriate staffing—with competitive salaries. Don't legitimize delays.

Who stands to benefit if you break the Program's Citizen enforcement backbone by slashing Citizen incentives to take part by 50 percent, decimating the motivation for our unpaid volunteer army?

NOT the dedicated New Yorkers who give their time and effort to keep our air clean. Slashing incentives neutralizes a vital, non-salaried workforce responsible for virtually all enforcement.

Awards are directly tied to penalties generated by Citizen enforcement efforts and would not exist without Citizen involvement. Have you considered the cost of replacing this civic enforcement army with paid City employees to maintain the same level of oversight?

Current award percentages are fairly aligned with the significant time (hours of vigilant monitoring and meticulous documentation), effort (navigating complex reporting systems and potential confrontations), and technology costs required for high-quality evidence gathering.

SO WHAT if some people are making money! What does it matter to deterrent penalties for polluters and air pollution if 1 person files 1000 complaints or 1000 people each file 1 complaint?

Don't get snookered by distractions! Air pollution is the real issue here.

Current hurdles already strain volunteer resolve: 1 in 4 summonses go unpaid, and there's a 1 to 5-year wait for awards to arrive. Veteran watchdogs will quit, institutional knowledge will vanish, and new recruits will dry up. Given these existing challenges, how does further reducing incentives not create a "civic engagement death spiral" where the effort simply isn't worth it for most

Citizens? Have you considered the collapse of the Program if participation drops below a critical threshold?

Who stands to benefit if you give the Department unchecked powers to create vague rules that replace free speech with government-approved discourse?

NOT those who hold our institutions accountable.

This Orwellian speech code weaponizes rules that chill participation with threats of arbitrary retribution, scares Citizens into silence, and makes participants afraid to even engage with DEP by transforming public critique into a punishable offense.

Isn't this a transparent attempt by the Adams administration—once again—to shield it from legitimate criticism and accountability?

Moreover, how does the Department plan to ensure that these new punitive measures won't have a chilling effect on Citizen participation given the already concerning record of "false statement" prosecutions?

Even the Department's own reviewers make mistakes involving their own guidelines: How is this not an unconstitutional infringement on Citizens' First Amendment rights to petition their government?

Who stands to benefit by granting the Department overbroad rulemaking authority for air pollution submissions that surrenders the Council's legislative power governing environmental violations to the Mayor's administration and its political whims?

NOT the Council who I hope won't require the Mayor's permission slips to set environmental standards.

This dangerous shift in authority allows the Department to create its own rules for air pollution submissions, rather than issue summonses based on environmental laws defined by our elected representatives.

AND—so I ask you again: Who stands to benefit from Intro 941? From rolling back years of progress in air quality?

NOT the people of New York.

NOT our children.

NOT our health.

NOT our climate.

Is this the legacy we want to leave for our City?

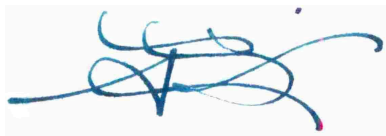
Illness from air pollution shatters lives—it derails careers, drains savings, and devastates families.

YOU have the power to prevent this suffering!

Bring Intro 5 to expand access to the Citizens Air Complaint Program up for a vote without delay. We must encourage more Citizens to take part in the Program if we are to end the scourge of idling. Air pollution does not discriminate, and New York City Agencies must not either.

Reject Intro 941. New Yorkers deserve better. New York has made real progress and cannot afford to backslide.

Anything less is a vote for polluters over people.

A handwritten signature in blue ink, appearing to read 'Andrew Văn BRISKER', with a small red dot at the end of the signature.

Andrew Văn BRISKER
Brooklyn, NY

My name is Anne Diebel, I live in Brooklyn, and I work as a private investigator. I would like to express my opposition to Intro 941.

I recently began submitting complaints under the idling program. When I went for morning walks to the grocery store with my toddler, I would notice utility vans next to the elementary school or big trucks next to the ConEd plant running, for no reason, both on my way out and still going on my way back.

Some of my initial complaints were rejected for reasons that are not entirely clear. There is a learning curve, and the City seems to have very high standards for not calling a submission "frivolous." Thanks to help from more experienced program participants who showed me the ropes, I was able to puzzle through the DEP's requirements. They are already confusing, even to someone with my professional background, who is very used to dealing with municipal bureaucracies and assembling evidence packages.

I oppose Intro 941 for a variety of reasons. One is that submitting complaints within five days of recording would be burdensome for me as a working mother, as I am sure it would be for other participants with busy lives. Other mothers of small children said something similar at the committee hearing. And one participant who works as an Amazon driver explained to the Environment Committee that it could take him six weeks to file if he records around the holiday season rush.

The DEP commissioner himself stated that DEP under current circumstances currently has a problem ruling on complaints in a timely manner, even though the current law requires 45 days. The average is 113. Dropping citizen filing times and giving DEP 90 doesn't seem to help anything, especially since hearing delays are a matter of DEP scheduling, not submission timing. DEP clearly needs more resources to keep this and other enforcement actions going. I am glad to see, as per city records, that DEP inspectors are getting a lot of overtime pay from this program.

I listened to the commissioner's statements on the 18th, and it sounds almost like he thinks of citizens—of whom he demands "professional" conduct—as DEP employees. I am all for polite interaction, and I firmly believe DEP employees deserve to do their jobs with dignity. But if a government agency has five years to cherry-pick statements and the slide the DEP showed is the record of outrageous insults, it does not seem that there is a special need to insulate the executive branch of government in this instance. The existing penal law can deal with harassment or other issues that go beyond protected speech, should they occur.

Intro 941 restricts and weakens what by any measure is a successful program under the guise of "improvement."

Thank you.

Anne Diebel
District 33
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Bryce Stack
PO Box 7286
New York, NY 10116

September 18, 2024

Dear Members of the Committee on Environmental Protection, Resiliency and Waterfronts:

The first time I saw the inside of an emergency room was when my little brother had an asthma attack when he was six years old and couldn't breathe. Thankfully, he made it. Sadly, according to the NYC Department of Health, 2,400 people die in New York City per year, and thousands more end up in the emergency room or are hospitalized for asthma, heart and lung problems.

<https://www.nyc.gov/site/doh/health/health-topics/air-quality-air-pollution-protection.page>

I am just a regular New Yorker who lives in a walk-up rent-stabilized apartment. I am a union member and I work in the public sector full time. I am a participant in the Citizen Air Complaint Program because I care deeply about the children of this city and about cleaning up our air. Today, I lost count of how many participants in the Citizen Air Complaint Program took time off of work to testify in person in front of the committee—we care about our own families, children, and friends who have asthma or other health problems attributable to air pollution.

Unfortunately, there is a provision in Intro 941 which would decrease the payment to the citizen complainant from 25% of the fine paid to 12.5% of the fine paid. Regrettably, economics tells us that this would decrease participation in the program and would discourage those in Environmental Justice communities from spending their time filling out the form to submit the complaint.

The work it takes to submit even just one complaint is real. I would encourage members and their staff to examine the Citizen Air Complaint Program website for themselves—there are myriad policies, procedures, forms, accounts and even apps to navigate before submitting just one complaint.

<https://www.nyc.gov/site/dep/environment/idling-citizens-air-complaint-program.page>

I support expanding the program into Environmental Justice communities by passing Intro 5 and by carefully reconsidering Intro 941. New York City needs every tool available to stop idling and to clean up the air, and expanding the Citizen Air Complaint Program can be part of the solution. The council can and will save lives by preserving the program. Thank you for your time.

Sincerely,

Bryce Stack

Carolyn O'Keefe
City Council District 39
Brooklyn NY
carolyn.okeefe [at] gmail [dot] com

September 16, 2024

Councilmember James Gennaro

Chairperson, Committee on Environmental Protection, Resiliency & Waterfronts
New York City Council

cc: City Council Speaker Adrienne Adams
cc: Shahana Hanif

Re: Protect clean air; pass Int 0005-2024 and Int 0291-2024, and oppose Int 0747-2024 and Int 0941-2024

Dear Chairperson Gennaro,

I don't want to weaken the ability of citizens of New York City to demand clean air. Idling vehicles are a major contributor to this issue. Idling causes higher asthma rates and it unpleasant for pedestrians, in addition to being a contributor to climate change, which is an urgent problem that our city and state leaders are not taking seriously enough.

I see a lot of idling vehicles every day in my neighborhood (Gowanus area), due to the large amount of construction vehicles in the area. They spew pollution every morning (and also block the bike lanes and sidewalks). I have to breathe this air, and so does my son.

We need to pass Int 0005-2024 and Int 0291-2024, and oppose Int 0747-2024 and Int 0941-2024.

Thank you,
Carolyn O'Keefe
Brooklyn, New York

CHARLES KAUFFMAN
Attorney at Law
5101 River Road
Bethesda MD 20816
301 467 9336
Charleskauffman7@gmail.com

September 17th 2024

Hon. James Gennaro
Chair, NYC County Council
Committee on Environmental Protection, Resiliency and Waterfronts

Hon. Adrienne Adams,
Speaker, NYC County Council

Members of the Committee on Environmental Protection, Resiliency and Waterfronts:

Kristy Marmorato
Rafael Salamanca Jr.
Robert F. Holden
Lincoln Restler
Sandy Nurse
Alexa Avilés
Susan Zhuang
Justin Biannan

SUBJECT: STATEMENT AND TESTIMONY IN OPPOSITION: Int 0291-2024 A local law to amend the administrative code of the City of New York, in relation to increasing civil penalties for idling infractions by trucks and buses.

I have practiced law for over 69 years since my admission to the NY Bar in 1955. I was born in Brooklyn, received a BA at the University of Michigan, and a JD at NYU Law School, served in US Army in Germany, practiced law and operated businesses for 50 years in Manhattan. I currently reside in Bethesda MD where I represent several InterCity Bus Companies addressing traffic and "Idling" infractions and other matters I serve on several Maryland and Montgomery County Boards, Commissions and non-profits. I have represented clients in NYC "Idling" cases. I submit this testimony in opposition to the proposed draconian increases in penalties and to address the abuses inflicted on the civil rights of Respondents. I respectfully suggest that further study is necessary on the continuation of the current law as well as the proposed changes in the legislation before this Committee. I want to thank the Committee for this opportunity to share my concerns and suggestions with you.

OUTLINE OF STATEMENT AND TESTIMONY IN OPPOSITION

1. REGULATIONS IMPACTING BUS PASSENGERS MUST DISTINGUISH AND SEPARATE BUS PASSENGER SERVICES FROM COMMERCIAL FREIGHT, CONSTRUCTION AND DELIVERY VEHICLE OPERATIONS
2. THE NEGATIVE EFFECT ON NYC TOURISM FROM REGULATIONS WHICH RAISES COSTS AND FARES AND INCREASE PASSENGER DISCOMFORT
- 3.a. CURRENT BUS REGENERATION SYSTEMS NOW INSTALLED REMOVE POLLUTANTS FROM OUTSIDE AIR
- 3.b "LAST MILE" HYBRID ENGINES WILL BE AVAILABLE SOON
4. ABUSES OF DUE PROCESS RESULTING FROM THE CITIZEN COMPLAINT PROGRAM REQUIRE REVISION
5. SUMMARY

1. REGULATIONS IMPACTING BUS PASSENGERS MUST DISTINGUISH BUS PASSENGER SERVICES FROM COMMERCIAL FREIGHT, CONSTRUCTION AND DELIVERY VEHICLE OPERATIONS

Buses are different physically and functionally from trucks, delivery and construction vehicles. Passenger buses transport people, human beings, passengers, and drivers in safety and comfort. People are not freight, steel beams, trash, dirt or packages, etc. Yet, NYC current laws ignore the practical needs of bus passengers for time required to board and exit buses and their well-being on board. This includes wheelchair boarding. The three minute "idling exception" is clearly necessary and totally inadequate. Even this inadequate exception has been negated by recent OATH hearing officer decisions. This exception must be restored.

There must be reasonable health and comfort exceptions for hot weather. Studies have shown that inside bus temperature is double digits higher than outside temperature in hot weather and similarly in more severe and colder winter conditions. School bus passengers enjoy an "ambient temperature exception". This exception is clearly discriminatory by age among other classifications. This Council should extend the "ambient temperature rule" for the health and well-being of all passengers and drivers. Study should consider possible violations of Federal OSHA laws protecting the health of employees.

2. THE NEGATIVE EFFECT ON NYC TOURISM INCOME FROM REGULATIONS INCREASING COSTS, FARES AND PHYSICAL DISCOMFORT

The gentrification and affordability of Inter-city bus services has greatly increased NYC tourism and provide a major increase in tourism income. Over the past two decades millions of domestic and International guests have enjoyed the luxury and convenience of affordable bus services. Note the current spending proposal of \$10 billion including \$2 billion of NYC funds for upgrading the NYC bus terminal. Clear evidence of the importance of tourism income and bus services to NYC. The Council should be made aware Street loading has cost the city nothing. Although Street loading buses have been a target for idling complaints, bus terminal idling (obviously) the major source of potential idling infractions has not been targeted. Proposed Draconian increased "idling" penalties will drastically raise the cost of travel for millions of visitors and make travel less affordable for many. This "pocketbook issue" should not go unnoticed by Council. Moreover, this cost increase will primarily reduce the number of middle-income travelers, NYC's largest tourist segment.

3.a. CURRENT BUS REGENERATION SYSTEMS NOW INSTALLED REMOVE POLLUTANTS FROM OUTSIDE AIR

The proposed amendments fail to recognize technology the bus industry has made to eliminate pollutants and exceptions should be made in the law for these improvements.

DC TRAILS buses and others have installed Regeneration Systems where outside air goes in and comes out cleaner. Thus, they produce no exhaust pollutants when idling and when boarding and unloading passengers at any time. Current and proposed legislation relies on outdated information. Exceptions for technological improvements should be included in legislation. Every DC Trails bus has emissions filters which produce zero exhaust pollutants and further remove pollutants from outside air. This produces cleaner air.

3.b "LAST MILE" HYBRID ENGINES WILL BE AVAILABLE SOON

Although battery operated electric buses are not practical for long distance bus travel, however new hybrid buses are currently being developed which will provide lithium battery implementation. Battery operation will enable buses to switch to electric upon entry to NYC and thus fill current and future electric capability use. DC TRAILS will eventually replace its entire fleet with hybrid buses. It will incorporate "last mile" implementation. Recognition should be included in proposed all legislation.

4. ABUSES OF DUE PROCESS RESULTING FROM THE CITIZEN COMPLAINT PROGRAM REQUIRE REVISION

The Citizens Complaint Program has incentivized profit seeking vigilantism which in turn has resulted in egregious abuses caused by DEP and OATH "overburn". "Overburn" is an extreme caseload problem which arises when the workload exceeds the number of people available to do it. DEP and OATH have failed miserably to add personnel. This has resulted on OATH imposing procedural limitations which negatively impair Respondent's due process rights, reduced DEP care in avoiding abuses, reduce customary rights of Respondents to pretrial discovery, examination of witnesses, and have expedited OATH hearing abuses. The proposed amendment will increase fines adding obscene

bonuses and huge profits to vigilantes many of whom are currently making a profession of "complaints" and enjoy huge incomes. This Council should end the Citizens Complaint bonus program and instead employ additional DEP AND OATH trained and competent professionals.

In the interest of brevity, I list, without elaborating, some of the many due process problems and some suggested solutions:

1. Local Law 58 (2018) mandated the DEP to establish "Best Practices". Loose "DEP Guidelines" were created but continue to be skirted and ignored.
2. Institute OATH hearings by mail
3. Revisit and revise the settlement process in individual cases and especially in multiple violation situations. Give OATH or DEP the ability to settle individual or multiple cases.
4. Exempt buses with emission reduction devices and hybrid buses in addition to electric buses from prosecution.
5. Enforce timelines for prosecution as set forth in the CPLR. These are currently ignored.
6. Allow idling when temperatures are below 50F and above 75F or institute "ambient temperature" rules.
7. Revive traditional rights to pre-trial Discovery, cross-examination of complainants and witnesses
8. Above all, restore the right to make pre-trial and trial motions.
9. Institute a process for "settlement" and amicable resolution of multiple infractions.
10. Change the "default hearing fine process". It is unusual and unfair. It forces Respondents to defend themselves, to engage lawyers at high hourly rates (\$475) in matters involving fines of small amounts, or to pay thousands of dollars in the event of a default. Proposed increases in penalties will further exacerbate this problem. A simple speeding ticket has a fine stated on its face of one amount and that is the penalty on default.
11. There is no need for a two-tiered OATH default process an atrophy which was derived from an ill-conceived "stipulation" process
12. DEP complaints rely solely on "hearsay" secondhand evidence. The hearsay rule of evidence should be respected.
13. Sever the existing symbiotic relationship of OATH and DEP. OATH should be impartial and independent. It isn't.
14. Sever "personal" relations between Complainants and DEP agents.
15. Summons and Notices are delayed, unclear and fail to apprise clearly on their face penalties.
16. The "3 minute" exception, inadequate as it is, is ignored by hearing officers. The exception has been overruled incorrectly and decisions have been upheld on appeal. Question: why is the language referring to a 3-minute rule in the law if it is not honored?
17. Strained interpretations of what constitutes a "terminal" are neither clear, applicable or practical regarding curbside boarding sites. The 3-minute exception should be applicable to curbside boarding sites
18. Do NY State Idling laws have Supremacy over NYC prosecutions?
19. Recommendation: End the Citizen Complaint Program.

SUMMARY

OATH and DEP have created a complex administrative, expensive, time consuming legal defense process wherein the costs to Respondents to defend themselves greatly exceed the potential penalty. This is not justice. It is intimidation. The financial gains, resulting in a flux of cases benefit a few whiles NYC bears the costs. The flux of cases due to CACP have led to patchwork short cuts impairing basic due process rights infecting the administrative and judicial process. No evidence exists that increasing the current draconian penalties will reduce pollution nor will they do anything but cause added costs and economic harm to the City. Indeed, in view of the progress made by bus companies technologically it is time to end not expand the greed based Citizens Complaint Process. It would be far more beneficial to encourage more companies to adopt prophylactic technology to eliminate pollution. It is also time to restore basic administrative and judicial fairness.

Respectfully Submitted,

CHARLES KAUFFMAN

My name is Chris Hartmann. I am a citizen of New York City, a father, and a public health professor. I ask the Committee on Environmental Protection, Resiliency, & Waterfronts to vote FOR Intros 5 and 291 — if the VTL definition of a “truck” is used — and AGAINST Intro 941.

Health impacts of air pollution

This year, outdoor air pollution will kill an estimated 3,000 New Yorkers — six percent of all premature deaths in the city — cause 2,000 hospitalizations for respiratory and cardiovascular distress, and send 6,000 children and adults with asthma to the emergency room. One in nine New York City school children has asthma. Although everyone is hurt by air pollution, children, the elderly, and low-income, Black, and Hispanic New Yorkers suffer disproportionately. It is a serious public and environmental justice issue.

The Citizen Air Complaint Program: My only recourse to address idling in my neighborhood

I participate in the Citizen Air Complaint Program because I have a young child susceptible to air pollution and because, like probably most of you, someone close to me has asthma.

I have participated in the Citizens Air Complaint Program for several years because it is my only recourse to address unnecessary idling by commercial vehicles in my neighborhood. I have tried using 311 to report idling on multiple occasions. (As Commissioner Aggarwala testified on Sept. 18, 2024, DEP’s responses to 311 complaints are reactive and often do not result in fines because the polluter is long gone.) I tried speaking to businesses and commercial vehicle operators about their idling. It. Did. Not. Work.

What has worked in my neighborhood is reporting unnecessary idling to the Citizen Air Complaint Program. The results have been incredible. On a 60 minute walk around my neighborhood this morning, the private bus company was not idling. Neither was the scaffolding company. Nor the Amazon delivery truck. People have learned — and, sure, several are still learning — not to idle. Importantly, this program is encouraging companies to go electric or adopt anti-idling technologies. And they are doing so without the loopholes included in Intro 941. Don’t give them a free pass for the pollution they’ve already forced on us.

“Certified Clean Idle” is a sham; Intro 941’s cure provision will be too

I was disappointed to hear from several speakers who drive commercial vehicles at the hearing on Sept. 18, 2024, that they should be exempt from the idling law because their vehicle has a “Certified Clean Idle” sticker affixed to it. These stickers are confusing and clearly have led to confusion for truck drivers — such greenwashing is akin to “clean coal.” There is no such thing as “clean coal” just like there is no such thing as “clean idle” for a gasoline or diesel-powered engine. (The certified clean idle sticker is affixed to vehicles that meet certain standards for nitrogen oxide emissions and does not suggest that idling a vehicle is healthy or safe. Further, the sticker, which was developed by the California Air Resources Board, does not give commercial vehicle operators a free pass to idle in residential areas, by schools, hospitals, and other areas.)

I am gravely concerned that the cure provision in Intro 941, which is intended to encourage uptake of “green” technology will further confuse commercial vehicle operators, who may think their idling is permissible, “green,” and/or healthy when in fact it is the opposite: illegal, polluting, and contributing to adverse health impacts.

Further, considering current understaffing at DEP and the long delays in responding to complaints — this morning I received a decision for a complaint filed on May 6, 2024 — I am not convinced that DEP has the adequate people power and resources to certify any “green” technology supposedly added to commercial vehicles.

Lack of Idling Complaints in Environmental Justice Neighborhoods

Commissioner Aggarwala testified on Sept. 18, 2024, that there are many fewer idling submissions in neighborhoods most adversely impacted by environmental injustices than in wealthier (and Whiter) neighborhoods less impacted by environmental injustices. This disparity is likely for several reasons:

- The CACP submission portal remains English only — citizen enforcers must navigate a site written in English and all complaints must be submitted in English. This a huge barrier in a city where 25% of residents are not English proficient. Citizens who are not English proficient are more likely to live in environmental justice areas.

- There has been little, if any, outreach to promote the CACP by DEP. Rather, participation has likely grown because of word-of-mouth and because of media coverage, which, to my knowledge has been in English only language outlets.

- The “Acknowledgement” section of the submission portal may be an important deterrent for people who feel they are over-policed and subjected to additional scrutiny because of historical disenfranchisement, prejudice, or racism. The portal states: “I further affirm that all statements on this form are true and accurate and that I understand false statements are punishable as a Class A Misdemeanor pursuant to section 210.45 of the Penal Law.”

- Finally, the hurdles required to participate in CACP are many. Participation in the program requires access to a computer and internet, as well as a bank account and notarized documents. These demands are burdensome and may be perceived as unnecessarily invasive, especially by people who historically have been marginalized by society and remain marginalized because they live in an environmental justice area.

Changing the Award for Citizen Enforces is a Bad Idea

I’ve heard from some City Council staffers that there is a belief that some people are making too much money submitting idling complaints. Quite frankly, from a public health perspective, I don’t care. If there is less air pollution, if less kids and Black and brown neighbors are suffering, then let’s celebrate! When I read that violent crime rates have dropped, I don’t think: are NYPD officers making too much money? When COVID hospitalization rates at NYC Health & Hospitals drop, I don’t think: are doctors, nurses, and aides making too much money?

People who participate in the Citizens Air Complaint Program are often demonized by the media, powerful lobbyists, and sometimes, the City itself. For those of you here now in the audience who have submitted an idling complaint, I want to take a moment to thank you. I am inspired by you, and public health professionals thank you.

Those of us who work in public health know that changing behaviors is incredibly difficult. This program shows us that reducing idling on a grand scale is possible. And it is possible because

citizens have stepped up, participated, and enforced the anti-idling law. Please vote yes on Intros 5 and 291—if the VTL definition of a “truck” is used— and no on Intro 941.

Appendix A

In addition to the above testimony, I am attaching an article that I wrote for Streetsblog that was published on Sept. 17, 2024.

Thank you for your attention to this matter and for supporting cleaner air in New York City.

Chris Hartmann, PhD

IDLING

Opinion: A Lethal Threat to New York City's Air and Citizen Enforcement

Intro 941 jeopardizes clean air improvements hard-won through the city's citizen enforcement program.

By **Chris Hartmann**

12:01 AM EDT on September 17, 2024



Photo: Ed Reed/Mayoral Photography Office | Billy never idles — and neither should you.

This year, outdoor air pollution will kill an estimated 3,000 New Yorkers — six percent of all premature deaths in the city — cause 2,000 hospitalizations for respiratory and cardiovascular distress, and send 6,000 children and adults with asthma to the emergency room. Although everyone is hurt by air pollution, children, the elderly, and low-income, Black, and Hispanic New Yorkers suffer disproportionately.

Walk a couple of blocks in any borough and the major source of deadly air particles is clear: motor vehicle engines, including exhaust from idling trucks and buses.

The Citizens Air Complaint Program, which was first established in 1972, but only actively promoted by the City starting in 2019, is one very effective tool to hold illegal commercial idling to account. However, Intro 941, which is scheduled to be heard on Wednesday by the Committee on Environmental Protection, Resiliency, and Waterfronts, threatens to upend it by discouraging and outright banning participation. This dangerous bill would make it easier to pollute New York City's air.

Until recently, everyday New Yorkers had little recourse to address unnecessary commercial vehicle exhaust. Responses to 311 calls often take weeks or months — my complaint in 2017 about a tow truck that idled outside my window every evening for weeks provided no remedy — by which time the polluter is likely long gone. City agencies like NYPD, the Parks Department, and the Department of Environmental Protection rarely cite vehicles for illegally polluting our air on their own; in 2023, excluding citizen enforcement, city agencies issued a total of 358 idling violations — fewer than one violation per day in a city with about 6,300 miles of streets.

The CACP provides members of the public the opportunity to reduce illegal commercial idling. It is the only program like it in the world, and it is a resounding success: In 2023, citizens submitted over 86,000 commercial truck and bus idling complaints — an average of 235 per day.

Still, understanding the current idling rules and how to submit complaints is neither intuitive nor straightforward. DEP rejected 10 of the first 11 complaints that I submitted. The agency's instructions can be obtuse, subject to arbitrary change without notice, and difficult to navigate. DEP did provide me some initial feedback, but, thankfully, I found other citizen reporters who took me under their wings to share their hard-won knowledge.

To give you a sense of the system's opaqueness and the hurdles citizens already face submitting complaints, consider, for example:

- Shockingly, DEP does not check its own records for prior idling offenses, which determine the appropriate penalties for recidivist companies. Instead, civilian complainants must look up that information themselves. DEP offers no guidance on how the public can do this research.
- In a city where one in four residents is not English proficient, the complaint submission portal is English only.
- For idling offenses in school zones, citizens must submit information about school start and dismissal times, even though this information is rarely posted online for safety reasons.
- For complaints against vehicles with refrigeration units, citizens must submit documentation that proves the vehicle engine does not need to idle.
- DEP-approved has no tutorial videos showing how to "correctly" capture an idling vehicle or demonstrating recording angles and required engine noise levels.
- DEP will not pursue complaints against commercial vehicles that lack a "commercial" license plate.

In my neighborhood, where several citizens report illegally idling vehicles, I have seen a marked difference in commercial idling in the last two years. Major bus companies, an e-commerce behemoth, several international shipping fleets and

numerous others have stopped or significantly curtailed their idling because of our collective efforts. As much as I would like to think that these big companies share my desire for cleaner air and healthier neighborhoods, I have to be realistic — it was citizen reports and the resulting fines that did the trick.

Recommended

Council Bill Could Chill Citizen Reporting That Dramatically Boosted Idling Enforcement

David Meyer

September 13, 2024



Intro 941 jeopardizes these hard-won clean air improvements in several ways.

First, citizen involvement in the program would plummet if Intro 941 passes. The bill would require citizens to submit complaints within five days, yet extend the time DEP is permitted to serve a violation to 90 days. This double standard ignores the time citizens, who have other real-world commitments like work and childcare, need to prepare claims for submission, including familiarizing themselves with the overcomplicated DEP rules and looking up material that DEP can readily access on its own.

The bill threatens the free speech rights of members of the public who complain about air pollution or DEP or the companies responsible for the idling pollution. Intro 941 lets DEP ban any citizen it doesn't like from filing complaints — as long as the agency claims the individual did not act in a “dignified, orderly, and decorous manner” or failed to “demonstrate familiarity with [DEP's] rules.” Public questioning or critique of DEP — such as this op-ed — would face scrutiny based on DEP's interpretation of this overly broad, downright Orwellian language. This is not an exaggeration: As *Curbed* [recently](#).

documented, DEP has *prosecuted* members of the public for things as simple as a single mistake in a single submission .

Currently, DEP must bring their allegations against citizens before a neutral hearing officer from the city's Office of Administrative and Trial Hearings, a separate agency from DEP. These judges regularly toss out DEP's vindictive charges against individuals it doesn't like. Under Intro 941, the DEP Commissioner alone would be judge, jury and executioner.

Second, Intro 941 would permit buses to idle unnecessarily adjacent to a school for 16 to 18 minutes. This undermines existing law passed by the Council to limit school bus idling to no more than one minute on a school block. It also ignores common sense: children are especially vulnerable to air pollution — one out of every nine New York City children has asthma, the highest rate in the nation; DEP's proposal would subject those kids to even more fumes

Finally, Intro 941 provides a loophole to polluters that is at odds with the DEP's mandate to protect our air. Specifically, the proposed bill retroactively cuts in half any imposed fines if the polluter later installs "anti-idling technology" in the vehicle. The bill gives DEP the power to "promulgate rules relating to the requirements" of what is deemed acceptable anti-idling technology and the documentation required, if any, to certify its installation — effectively ceding the City Council's legislative power to define the scope of idling violations.

This proposal is problematic because "anti-idling technology" already is installed in every vehicle — it's called the ignition switch. The more advanced technology DEP wants rolled out is easily overridden. I have witnessed a well-known armored truck company do this on multiple occasions. Companies can easily falsify paperwork to claim the tech has been installed. DEP claims to be overwhelmed by the recent spike in citizen idling complaints — imagine the massive administrative burden reviewing anti-idling paperwork would create for the city. I support providing additional resources to the DEP and its citizen

idling enforcement program if it is good for public and environmental health, but not if it benefits polluters.

All New Yorkers deserve to live, work, and play in a healthy environment. The Citizen Air Complaint Program is a key mechanism for citizens to reduce unnecessary commercial idling and protect public health. But it is under attack. Don't hold your breath – [email Speaker Adams](#) and [your City Council member](#) to demand they oppose Intro 941.



Chris Hartmann

Chris Hartmann is a public health professor and NYC resident.

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More from Streetsblog New York City

[REDACTED]

From: Daniel Park <dsp2109@gmail.com>
Sent: Tuesday, September 17, 2024 4:21 PM
To: Testimony
Subject: [EXTERNAL] I oppose intro 941

[REDACTED]

There's a very bad bill up for a hearing on ****Wednesday**** before the Committee on Environmental Protection at 1:00pm.

See the above fact sheets about the program and about the bill (<https://static1.squarespace.com/static/6587c92d4aef2b4be055a2a0/t/66cfe068a3eeee331f8afe67/1724899687995/941.pdf>), ****Intro. 941****, which would undermine the tremendous gains we have made towards cleaning up New York's air through the Citizen Air Complaint Program. It will discourage new participants, when we need MORE participation to help clean up our air.

Please prioritize people over delivery businesses. For the sake of our health and our children's

Daniel Park

Delia Kulukundis

On behalf of 350Brooklyn

<https://350brooklyn.org/>



September 17, 2024

Councilmember James Gennaro

Chairperson, Committee on Environmental Protection, Resiliency & Waterfronts
New York City Council

cc: City Council Speaker Adrienne Adams

cc: Committee on Environmental Protection, Resiliency & Waterfronts

Re: Protect clean air; pass Int 0005-2024 and Int 0291-2024, and oppose Int 0747-2024 and Int 0941-2024

Dear Chairperson Gennaro,

I write on behalf of the more than 4000 members of 350Brooklyn, a volunteer group dedicated to fighting the climate crisis and promoting clean air and a safe and stable climate for all. I urge you to strengthen, not weaken, our City's laws against vehicle idling. Everyone deserves to breathe clean air, regardless of the language they speak and the number of delivery vehicles, buses, and trucks that drive through their neighborhood. In the near-total absence of NYPD's or other City Agencies' enforcement of the laws against vehicle idling, the NYC Citizens Air Complaint Program is the only line of defense against the completely preventable air pollution caused by idling vehicles. This program must be strengthened and expanded, not weakened.

I urge you to pass Int 0005-2024 and Int 0291-2024, which would help protect clean air by allowing complaints to be filed in any of the official City languages, and by increasing the penalties for those who break the law. I suggest that the definition of "truck" and "bus" in Int 0291-2024 be changed to the definitions of the Vehicle and Traffic Law (VTL) that are easy to understand and are used elsewhere in the City's Air Code.

I also urge you to withdraw your prime sponsorship of Int 0747-2024 and Int 0941-2024, which would increase the levels of air and noise pollution in our neighborhoods and would benefit the corporations that are responsible for that pollution. Each of Int 0747 and Int

0941 would contradict our First Amendment rights to free speech and would criminalize protest against pollution by allowing the Department of Environmental Protection to permanently ban individuals from submitting pollution complaints if they do not demonstrate sufficient understanding of the DEP's procedures, or if they speak in a manner that, in the DEP's sole judgment, is not sufficiently "dignified," "orderly" or "decorous." This serves no purpose other than to place a chilling effect on the speech of environmentalists. Additionally, Int 0941 would make it next-to-impossible for individuals to file complaints against idling vehicles by introducing unnecessary and onerous requirements for citizens and by relaxing DEP's responsibility to respond to valid complaints. If representatives of the DEP argue that it is burdensome to respond to the number of air quality complaints that the DEP receives, then perhaps more resources need to be devoted to this revenue-positive citizen program. Additionally, our City's various agencies that have the authority to issue idling summonses but have failed to do so, e.g. NYPD, Parks, and the Business Integrity Commission, should help reduce the number of reportable infractions in the first place. Idling vehicles should be ticketed immediately by all responsible agencies, with escalating penalties for repeat infractions; it should not be the sole responsibility of citizens to enforce the law.

Please stand with New Yorkers' constitutional right to clean air and a healthful environment. Pass Int 0005-2024 and Int 0291-2024 today, and oppose Int 0747-2024 and Int 0941-2024 by withdrawing your sponsorship of these two bills.

Sincerely,
Delia Kulukundis

July 9, 2021

Council Member James F. Gennaro
250 Broadway Suite 1773
New York, NY 10007

Re: NYC Citizen Idling Complaint Program

Dear Council Member Gennaro,

Congratulations on your recent electoral victories and your appointment as Chair of the Council's Committee on Environmental Protection.

We are a group of New Yorkers who share your concern for the environment and your commitment to reducing greenhouse gas emissions in our city. Each of us is an active participant in the Citizen Idling Complaint Program, which encourages citizens to report instances of commercial motor vehicle idling in violation of Section 24-163 of the Administrative Code. To encourage us to do so, under a legal revision made in 2017, we collect 25% of each penalty paid to the city as a result of our complaints. Over the past three years, we have collectively documented and submitted more than 8,000 complaints -- a majority of those made under the program.

As you know, the idling of motor vehicles is a major environmental and public health issue in our city. Idling trucks account for the largest source of illegal air emissions in New York City, releasing close to 24 tons of sooty particles, 940 tons of smog-forming nitrogen oxides, over 6,400 tons of carbon monoxide, and about 130,000 tons of the green-house gas carbon dioxide each year.

In a few short years, the Idling Complaint Program has led to a dramatic increase in enforcement, with more than 10,000 citizen idling complaints made during 2020 compared to only 245 idling summonses filed by DEP in all of 2015. Walking the streets of our neighborhoods, we see how the program is making a difference. We are noticing a reduction of commercial vehicles idling on our city streets which has led to much cleaner air, something that has been particularly important during the pandemic.

However, we continue to face significant obstacles in our dealings with the city, including:

- a) burdensome, ever-changing requirements for complaint submission,
- b) payments which do not include the citizen's portion of late fees and penalties paid,
- c) reluctance by DEP to charge repeat violators with higher fines,
- d) failure by the city to seek collection of default idling penalties imposed,
- e) refusal to issue summonses to certain companies (e.g., armored cars, Spectrum),
- f) refusal by OATH, in cases DEP has rejected, to allow citizens to prosecute cases on their own, and

g) delays in the issuance of summons and payments to complainants.

We have continually raised our concerns to supervisors at OATH and DEP, individually and as a group, but to little avail. In fact, we are often made to feel, in our dealings with these agencies, that we are their adversaries instead of their partners in improving air quality in our city. The process has become so frustrating that several of us have stopped filing complaints altogether.

We would greatly appreciate a meeting with you so we can explain these issues in further detail and suggest changes that we believe would improve the program and thereby further reduce the frequency of vehicle idling in New York City.

We look forward to hearing from you soon, and to working with you on this issue.

Sincerely,

Dietmar Detering (Western Queens)
Dominik Eckenstein (Clinton Hill)
Donald Blair (Brooklyn)
George Pakenham (Upper West Side)
Jordan Wyckoff (Gowanus/Park Slope)
Michael Streeter (Brooklyn Heights)
Mitchell Ratchik (Brooklyn)
Patrick Schnell (Boerum Hill)
Paul Slapikas (Woodside)
Sean Basinski (East Midtown)
Zachary Tinkelman (Astoria)
Logan Welde (East Village)

Good afternoon. My name is Dr. Patrick Schnell. As a pediatrician and participant in the Citizens Air Complaint Program, I support Intro. 5, which would end DEP's discrimination against non-English-speaking New Yorkers. I also support Intro. 291, which would raise the penalties high enough to make big corporations stop idling once and for all.

But I oppose Intro. 941 in the strongest possible terms because it is a compilation of proposals that are diametrically opposed to protecting the environment and consequently, human health.

First, this bill would significantly extend the time school buses are allowed to idle throughout the City. Specifically, school buses will be able to idle for 18 minutes at certain temperatures with no penalties at all. It is truly remarkable that in the age of impending climate collapse, we are debating a proposal to increase rather than to limit idling. It is also remarkable that the detrimental effect on the health and well-being of school children does not seem to have any relevance whatsoever to whoever authored this proposal. Children are clearly going to be harmed by this bill.

Second, Intro. 941 would encourage more idling by giving a discount to companies that install so-called "anti-idling technology." In reality, these devices are frequently already installed in trucks in operation today. I have seen truck drivers intermittently tap on their gas pedals to outsmart this technology—they may evade tickets, but they don't stop idling! All these devices do is let companies escape summonses, while still exposing New Yorkers to unnecessary air pollution. As such, these devices actually encourage idling. If Intro. 941 passes, drivers and companies will quickly learn that they are now free to idle as much as they want without having to fear any enforcement. Intro. 941 will therefore cause more pollution, not less.

Third, Intro. 941 reduces incentives for citizens to join the Program, undermining the only effective means of enforcing our anti-idling laws. This Program requires a lot of work, and the City makes three-to-five times what participants make. I realize that \$87.50 may sound like a lot of money for one idling case. But in reality, many fines are never paid, and if they do get paid, it may take two-to-five years. In addition, we have significant expenses and pay local, federal, and state income taxes, reducing the awards by almost half. There is also a huge learning curve to become proficient. With Intro. 941 in place, many current participants will drop off, and nobody in their right mind would ever newly join this program.

The Program is working well now. With the current award structure in place, we Citizen Reporters have not only collectively generated \$50 million dollars in revenue for NYC, we have also finally had a real impact on idling. Large companies such as Amazon, ConEdison, National Grid, Verizon, and many others have significantly reduced their idling. It took many years of hard work to accomplish that. However, there is still ample idling on the streets. Cutting the award in half will mean the end of effective enforcement. The \$50 million generated for NYC dwarfs in comparison with the positive financial and human long-term impact: By eliminating idling, there will be fewer deaths over the next 5-50 years, fewer cancers, fewer hospital admission, fewer New Yorkers diagnosed with heart attacks, strokes, Parkinson's disease, dementia, and Alzheimer's disease, fewer children with asthma, mental health issues, ADHD, and learning difficulties. Perhaps those whose minds are sickened by jealousy should join us in working towards these goals for New Yorkers. That way they will also get to understand that actual work is involved and that the current award structure is entirely appropriate.

Statement of Dr. Patrick Schnell, M.D., FAAP

STATE OF NEW YORK)
) SS.:
COUNTY OF KINGS)

PATRICK SCHNELL, being duly sworn, deposes and says the following statements are true:

1. I am 58 years of age. I have resided in New York since 1994 with the exception of 2 years in which I relocated to Germany from 2001 to 2003.
2. I am a pediatrician and member of the American Academy of Pediatrics with 16 years of clinical experience. I am board-certified in both Germany and the U.S.
3. I have treated children of all ages in both Germany and the U.S., mainly in hospital settings and with a focus on respiratory diseases and oncology.
4. I am currently employed as an Executive Medical Director at BeiGene.
5. I have regularly participated in the City's Citizen Air Complaint Program since 2022.
6. I am an active participant in the program because I am acutely aware of the significant adverse health impact of air pollution on health, particularly on children's brain development, learning, cognition, and mental health. In addition, air pollution causes strokes, heart disease, lung cancer, and asthma exacerbations, and increases the risk of developing osteoporosis, dementia, Parkinson's, and Alzheimer's disease.
7. On October 6, 2022, in Brooklyn, I saw a truck idling between 1:46pm and 1:49pm, in violation of New York City Administrative Code 24-163.
8. I took video of the truck idling with my phone.

9. On October 22, 2022, I submitted Complaint 2022-34301, including the video documentation, about that violation through my Department of Environmental Protection (“DEP”) Idling Complaint System account.

10. In January of 2023, Mr. Mayanglambam Sanahal Meitei had my consent to access my DEP Idling Complaint System account to do some of the clerical work involved in preparing complaints for me to review and submit.

11. That work included inputting data related to violations I had seen, and uploading supporting evidence like videos and screenshots, to prepare complaints for my review.

12. Also at that time, Mr. Meitei was also doing similar work for Mr. Wanfeng Wu, who, like me, makes frequent idling complaints.

13. In late March of 2023, I got Summons Number 000600092N in the mail.

14. I first learned someone had submitted another complaint via my account related to idling on October 6, 2022 when I got that summons.

15. I have since learned that, on January 4, 2023, Mr. Meitei accidentally logged into my DEP account when he meant to log into Mr. Wu’s, and mistakenly submitted Complaint 2023-0696, related to idling Mr. Wu observed and documented in Manhattan on October 6, 2022 between 1:43pm and 1:47pm, on my account.

16. When I got the summons in the mail in late March, I was shocked, as I knew I had not submitted false or misleading information or documents to DEP.

17. I immediately began an investigation.

18. As a result, I learned Mr. Meitei had accidentally submitted a number of complaints and videos taken by Mr. Wu about October 6, 2022 idling conditions that Mr. Wu had

seen and documented in Manhattan, which should have been associated with Mr. Wu's complaints, on my account.

19. Those complaints and videos included Complaint 2023-00696 and the accompanying video Mr. Wu had taken on October 6, 2022 in Manhattan.

20. On April 24, 2023, my attorney wrote DEP's General Counsel a letter voluntarily reporting those mistakes and withdrawing all of those complaints.

21. I have reviewed the video I submitted on October 22, 2022 related to the October 6, 2022 idling I saw in Brooklyn (with Complaint 2022-34301), as well as Mr. Wu's October 6, 2022 video taken in Manhattan (which Mr. Meitei submitted with Complaint 2023-00696).

22. Mr. Wu took that Manhattan video within minutes of me taking the Brooklyn video submitted with Complaint 2022-34301.

23. Mr. Wu's voice – not mine - can be heard clearly on the video he took in Manhattan, which Mr. Meitei submitted with Complaint 2023-00696.

24. Like me, Mr. Wu has a significant and well-established track record of making idling complaints through his own DEP account.

25. I did not, and would not, submit false or misleading information to DEP.

26. Beyond that, it makes no sense for me to have submitted a video that is easily identifiable as Mr. Wu's, and that he recorded in Manhattan at the same time I was recording a violation in Brooklyn, under my account.

27. DEP's Citizen's Air Complaint Program is an outstanding program, which is clearly effective in reducing air pollution by addressing unnecessary idling.

28. As a frequent reporter in the complaint program, a real believer in the program, and someone who wants to keep participating in the program going forward, I have a strong interest in maintaining my credibility and relationship with DEP.

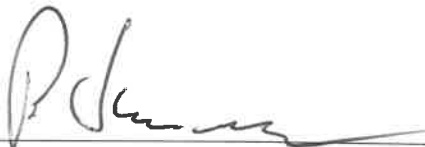
29. Submitting false complaints or videos would threaten to destroy that credibility.

30. I deeply regret Mr. Meitei's unintentional errors.

31. I had no intention of making or submitting – and did not make or submit - false or misleading statements or documents to DEP.

32. I remain enthusiastic about participating in the program and intend to keep doing so as long as New Yorker's health is imperiled by pervasive idling.

DATED: May 1, 2023
Brooklyn, New York


Patrick Schnell, M.D., FAAP

Sworn to before me this
1st day of May, 2023


NOTARY PUBLIC

WAYNE B. BORSICK
Notary Public, State of New York
No. 24-4613119 01/4/2019/9/11/9
Qualified in Kings County
Commission Expires ~~March 30, 2023~~
June 30, 2023



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

<p>Gideon Oliver 277 Broadway #150 New York, NY 10017</p>	<p>Summons No: 000600092N et al. (1 Summons)</p> <p>DEPT OF ENVIRONMENTAL PROTECTION,</p> <p>-against-</p> <p>PATRICK SCHNELL</p> <p>Hearing Date: 05/02/2023</p> <p>Hearing Location: Remote</p> <p>Type of Hearing: By Telephone</p>
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Total Penalty Amount: \$0.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000600092N	Dismissed	10/06/2022	██████████ Queens

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA08	24 -112	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

Respondent PATRICK SCHNELL appeared with Gideon Oliver, Esq. its attorney via telephone on 5/2/2023. Respondent was charged with violating section 24 -112.

Petitioner appeared by Lisa Ally, Esq., and submitted affidavits, photos and videos in support of the violation.

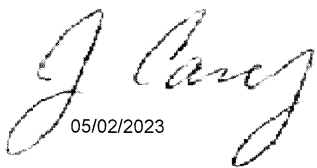
Respondent submitted affidavits and a letter in opposition.

Respondent stated that this was a clerical mistake, and not done knowingly.

I credit the respondent.

I find that Respondent did not knowingly submit a false statement.

The Summons is dismissed.


05/02/2023

05/02/2023

Jacqueline Carey, Hearing Officer

Date

IF YOU ARE FOUND IN VIOLATION, AND ARE NOT ELIGIBLE OR DO NOT CHOOSE COMMUNITY SERVICE, YOU MUST PAY THE PENALTY WITHIN 30 DAYS OF THE DECISION DATE OR 35 DAYS IF MAILED.

- **To pay by mail**, send a check or money order to the Dept. of Finance Commissioner, P.O. Box 2307, Peck Slip Station, New York, NY 10272. The check or money order should be made out to "Finance Commissioner, City of New York." Write the summons number on the check or money order.
- **To pay in person**, bring a check, money order or credit card and this decision to any OATH Hearings Division location between 8:30 a.m. to 4:30 p.m.
- **To pay online** using a credit or debit card, go to www.nyc.gov/citypay/oath

If you do not pay the penalty, the City may: (1) file papers with the Civil Court ("docket a judgment"), (2) charge you a late fee, and (3) continue attempts to collect the debt.

CAN I DO COMMUNITY SERVICE?

If your summons is for the type of offense that gives you a Community Service option you can choose to complete Community Service instead of paying a penalty. Your decision will give you that option. You have to complete your Community Service by the deadline in the decision or else you will end up owing the penalty. You can even do your Community Service on the day you receive your decision.

COMPLETION OF COMMUNITY SERVICE

The Help Center will arrange for you to complete your Community Service. The Help Center is run by the Ombudsperson/*Pro Se* Clerk at OATH and is located at each Hearing Division in all five boroughs. To schedule your Community Service, call, email or visit a Help Center location.

How to Contact the Help Center to Schedule Community Service:

Manhattan: (212) 436-0845 CSmanhattan@oath.nyc.gov
Brooklyn: (718) 923-6216 CSbrooklyn@oath.nyc.gov
Queens: (718) 393-6044 CSqueens@oath.nyc.gov
Bronx: (718) 503-5565 CSbronx@oath.nyc.gov
Staten Island: (718) 876-2314 CSstatenisland@oath.nyc.gov

If you complete your Community Service by the deadline in the decision, you will receive a Certificate of Completion and will not have to pay a penalty. If you need an extension to complete your Community Service, please contact the **Help Center**.

If you do not complete your Community Service by the deadline, you will have to pay the penalty.

NON-DISCLOSURE FOR SUMMONSES ELIGIBLE FOR COMMUNITY SERVICE

If you either completed the Community Service or paid the penalty, OATH will remove your identifying information from public records related to your case.

If you **do not** complete the Community Service or pay the penalty, your identifying information may remain on public records related to your case.

IF YOU DISAGREE WITH THE DECISION, YOU MAY APPEAL IT

To submit your appeal, you **MUST** use OATH's online or mail-in appeal forms available on OATH's website at www.nyc.gov/oath/appeal. Instructions for filing an appeal may be found on the form and OATH's website.

Your appeal **MUST** be received by the OATH Hearings Division **within 30 days** of the decision date, or 35 days if the decision was mailed to you.

To appeal you **may need** to pay the full penalty stated in this decision.

- If you cannot pay because of financial hardship, you may ask to not pre-pay by submitting with your appeal a Financial Hardship Application, available on OATH's website.
- If you are eligible and choose to perform Community Service instead of paying the penalty, you do not have to pay the penalty or complete the Community Service to appeal.

APPEAL BY ENFORCEMENT AGENCY

If you wish to answer an appeal filed by an enforcement agency, you **MUST** use OATH's Response To Appeal form. Instructions for filing an answer may be found on the form and OATH's website.

Your answer must be received **within 30 days** of the date of the enforcement agency's appeal, or 35 days if it was mailed to you.

If the enforcement agency wins the appeal, you may have to pay a penalty or, if eligible, complete Community Service even if your case was originally dismissed after the hearing.

For more information,
visit OATH's website www.nyc.gov/oath
or call 1-844-OATH-NYC

11/2018

[REDACTED]

From: Patrick Schnell <veloschnell@gmail.com>
Sent: Saturday, September 21, 2024 11:30 AM
To: Testimony
Cc: Patrick Schnell
Subject: [EXTERNAL] Testimony in favor of Intro 5 and 291 / and in opposition of Intro 941 and 747

[REDACTED]

Dear Council Members, Dear Chair Gennaro:

For the record, I already testified in person on September 18th, 2024, thank you for the opportunity.

However, I heard Rit Agarwalla speak about these bills and would like to point out that while he made a few good points, he also demonstrated his ignorance about multiple issues, some of which I would like to briefly address here:

1. No matter what changes in the program's structure are envisioned, DEP officers would *never* be able to have even a fraction of the impact that the CACP has, whether in Manhattan or in the remotest "environmental justice communities". What RA stated about the CACP tying DEP officers to their desks and thus being unable to issue summonses completely disregards reality: Namely, no matter the location, only very few summonses would be issued by DEP officers due to their inefficiency and small number. Further, DEP officers would likely drive around in cars to issue summonses, only increasing air pollution, rather than curbing it.

2. Rit Agarwalla slandered several of us by making incorrect statements about what he falsely referred to as 'fraudulent behavior' by citizens. I was one of those "cases" that he referenced. What he said amounted to a misrepresentation to be kind, or perhaps more accurately, a lie. Rit Agarwalla knows, or should have known, that what he said about me (and others) was incorrect and that DEP's initial (rather ridiculous) allegations that led to me having received a summons were thrown out in court. Rit Agarwalla even misrepresented in the hearing the precise nature of the inappropriate summons that was issued to me. My case was about an administrative error and at no point did I have (or could I have had) any knowledge of it whatsoever. I am happy to provide the Council with all the details and documents pertaining to my case.

3. Rit pointed out that the overall goal is not how many summonses are issued, but that idling stops. While this is absolutely true, it is also true that idling *does stop in direct proportion to the number of tickets issued*. Rit Agarwalla does not see, or want to see the reality. Large companies have only taken note of the idling problem after having been inundated with tickets from Citizen Reporters. Not after one of his press conferences, not after some shady deal with companies (such as Loomis) requiring them to present a piece of paper (purchase orders for electric vehicles!). And as far as small companies are concerned, we have observed in many cases that these stopped idling completely as a result of having received one or several tickets for idling.

4. The so-called "cure" about getting companies to install so-called 'anti-idling technology' is a travesty and indicates Rit Agarwalla's complete lack of understanding about what is going on in the streets. Many trucks

already have those installed, but drivers routinely override them by either intermittently tapping on the gas pedal, or by simply turning on the engine immediately after shutoff. Only someone entirely unfamiliar with idling in NYC would ever propose such a pseudo-solution to the idling problem in NYC. *The so-called 'cure' will actually encourage idling.* Because now the drivers/companies are in control. They will never get a ticket for idling if they only time their shutoff device correctly. They will idle for 2:59 minutes, then the engine will turn off, and then the driver will turn it right back on again. The result is practically continuous idling without any repercussions for the idling company. There is really no better way to encourage idling and to increase air pollution than to ask companies to install 'anti-idling technology'.

5. Let's talk about money: It seems for Rit Agarwalla and many Council Members, the amount of money some of us are supposedly making is more important and noteworthy than the beneficial of the CACP on air pollution and the health of New Yorkers. What I keep hearing is: OK, air pollution is bad, but these citizens are making too much money, so let's make sure they get paid less, even though this will *directly* impact the number of reports generated. As far as expanding the pool of Citizen Reporters is concerned, nobody in their right mind would get started with this highly complex and complicated activity for a 12.5% cut of the fine, which in many cases never gets paid. For example, I reported >700 'COVID vans' (btw. work was involved) that were idling for at least 8 hours every day, making COVID worse by worsening air pollution (I can provide medical literature on this), and NYC DEP seems to be willing to let those 'COVID vans' off the hook. Personally, I have started in this work not *at all* because of the money, but because idling is so unbelievably obnoxious, selfish, and harmful, particularly to children. But I freely admit that money has become a partial motivator as well. However, the pay is not as attractive as the uninitiated might believe: We have expenses (computers, phones, dropbox account fees, bikes stolen or crashed, bike maintenance costs), we live dangerously (I crashed on my bike multiple times, I sustained a shoulder injury that took a year of physical therapy to address), and we are exposed occasional unpleasant interactions and to often deafening noise in addition to the horrible exhaust fumes, for which we may one day pay a very heavy price. Plus, of course, we have to pay taxes on any income from idling.

Council Members: If you are driven by greed and your mind is poisoned by jealousy, I invite you to come along with me and see what it is like to locate and record idlers. I am happy to donate my time and explain how it all works and how difficult it can be to document idling. Even Rit Agarwalla is invited. On weekends, I can sit with you at my computer and show you how many hours it might take to enter these cases on the DEP website after compressing and time-stamping the videos. If after having experienced all this you are still interested in this activity, I am happy to continue to help you to report idlers successfully in any way I can. And then you can also become (in Rit Agarwalla's words) a "millionaire".

Good luck with that!

Thanks for considering,
Patrick Schnell, M.D. FAAP

Hi, my name is Duc Le, and I am a proud participant in the Citizens Air Complaint Program.

I was born in Bát Tràng, a small pottery village on the outskirts of Hanoi, Vietnam, where pottery-making has been a tradition for generations. Growing up in a developing country, environmental protection was not a priority, and we experienced the consequences firsthand. My cousin Lam and I were best friends. He was kind, smart, and had a bright future. But tragically, Lam passed away from lung cancer at the age of 16. I remember asking my mother why this happened, and she had no answer other than to tell me he was in a better place.

As I grew older, I learned that our village used coal-fueled kilns to fire pottery, which emitted dangerous toxins into the air. We had significantly higher rates of cancer and lung disease compared to neighboring towns. My cousin's death wasn't just a misfortune—it was a direct result of growing up in an environment poisoned by pollution.

New York City used to have the same issues. As a New York Times article put it, "Once upon a time, you could touch the air in New York. It was that filthy". In 1964, New York City had the worst air pollution among big cities in the United States. It was only after critical environmental protection laws were passed that New York became the cleaner, healthier city we live in today.

When I moved to the U.S. at 18, I immediately noticed the difference. I'll never forget stepping off the plane on August 15, 2011, and breathing in the clean, fresh air—a stark contrast to the environment I had left behind. In America, I saw people drinking water straight from the tap, something unimaginable back home where we had to boil water just to make it safe. In that moment, I realized what a privilege it is to live in a country where clean air and water are taken for granted, and I felt a deep responsibility to help preserve that for future generations.

My first job in the U.S. was with the Clean Air Council, where I worked to protect the environment. While the work was fulfilling, it didn't provide the financial stability I needed, so I eventually transitioned to corporate America. I found financial security, but I lost the sense of purpose that had once driven me.

Last year, a good friend introduced me to the Citizens Air Complaint Program. At first, I was skeptical, but I quickly realized this program is one of the most effective air quality initiatives in the world. It empowers everyday citizens to report illegal idling and hold polluters accountable. The program has made a profound impact—reducing air pollution, improving public health, and generating revenue for the city. It also provides financial incentives to participants, which makes it possible for people like me to do something meaningful while still earning a living. I'm proud to be a part of it.

Unfortunately, Intro 941 threatens to undermine all of this progress. By reducing the financial incentives, this bill discourages the very citizen participation that makes the program so successful. Fewer people will be motivated to report violations, which means more polluters will go unchecked. The beauty of the Citizens Air Complaint Program is that it empowers citizens to take action while also providing financial support—something I wish I had growing up in a place where financial security and environmental protection were worlds apart.

Intro 941 also threatens another fundamental American value: free speech. One of the great things about this country is that you can voice your opinion to the government. But with Intro 941, saying anything the Department of Environmental Protection disagrees with could result in a permanent loss of your right to clean air. This mirrors the authoritarian system I grew up with in Vietnam, where speaking out could cost you dearly.

We cannot afford to let Intro 941 pass. It puts the future of clean air in New York City at risk by weakening a program that works. The current incentives ensure that people remain engaged, active, and committed to protecting our air. If we lose that, we lose the progress we've made.

In short, the Citizens Air Complaint Program works, and Intro 941 will weaken it. For the sake of clean air, for the health of future generations, and for the integrity of this program, we must not pass this bill. Thank you.

Testimony:

Opposing Int. 0941-2024

I am a Queens resident opposed to the modification of the Citizens Air Complaint Program (CACP) by way of Int. 0941-2024. In creating carveouts and discouraging participation in the program this bill, notably, does nothing to actually *help the environment*.

My father was a lifelong environmentalist (many of the street trees he planted in Flushing back in the '60s are still alive today!) and he would have been a proud participant in CACP. The Citizens Air Complaint Program has made a significant positive impact in my neighborhood. For one thing, I have observed that utility and construction companies now routinely turn off their vehicles at local worksites instead of needlessly polluting for hours on end.

The provisions of Int. 0941-2024 are harmful in several regards. First, the language of the bill would not just halve the award for future idling violations documented and paid but, as written, *also* apply retroactively to the tens of thousands of complaints submitted months if not **years** ago [though which have not yet been adjudicated or paid by the respondent]. This would constitute a huge breach of trust with regard to the participants in this program.

Int. 941 would give trucking companies a way out of significant fines by installing “idling reduction” technology [as evaluated by the Department of Environmental Protection (DEP)]. Why? The best solution for reducing idling re: a needlessly polluting truck is by **actively shutting off the truck**; NOT by leaving the engine running, walking away and waiting for the truck to automatically shut off after, say, two minutes and 55 seconds. I've personally seen this technology abused on multiple occasions: some drivers will turn trucks right back on after auto-shutoffs, not just once but *multiple times* in succession. So now we've got the exact same idling, just now with zero consequences for the trucking companies; all while generating more busywork for an already overburdened DEP. Why would the city not just enable but actively reward such behavior?

For every idling truck or bus there is another in the same position whose operator is already engaging in best practices and has already shut off their vehicle. Why should we give handouts to the companies that continue to either refuse or just not care enough to comply with the law?

I agree that respondents should have greater access to the evidence that undergirds the idling summonses citing them. However, it must be made explicitly clear that the personal information of citizen complainants (including name, address, etc.) is **NOT** considered evidence and shall not be provided to either respondents or the Office of Administrative Trials and Hearings (OATH) when summonses are prosecuted by DEP. Currently this this information is shielded in information requests, and the Environmental Control Board (ECB) has repeatedly made clear that citizen information is not considered relevant at OATH hearings once DEP evaluates a complaint and assumes its prosecution. Citizens should not have to endanger their families by having their names and addresses revealed to trucking and utility companies in order to participate in CACP.

I believe all stakeholders can agree that many issues with CACP can be attributed to the need for greater agency funding and staffing. Citizen complainants would benefit from a timelier evaluation of their submissions by DEP. Respondents would benefit from timelier summons issuances. It is in **nobody's** best interest that idling summonses be scheduled for adjudication months, even **two years** after a violation was reported to have occurred. (Note that it is also incumbent upon OATH to grant DEP more scheduling slots for idling hearings to alleviate what is an ever-growing scheduling backlog.) To this end, CACP has generated tens of millions of dollars for the City of New York that could easily finance additional staffing for DEP as well as pay increases for the fine public servants at the agency.

As the ever-increasing volume of citizen idling complaints demonstrates, we still have plenty of work to do when it comes to curbing pointless polluting in our city. Any changes to CACP should be considered with the best interests of the *environment* in mind. Unfortunately, in no way does this proposal accomplish this goal. Rather, Int. 0941-2024 would harm citizen participation in this wildly successful program while allowing opportunistic companies to pollute with impunity.

Thank you for your consideration.

Evan Kalish, Queens

GEORGE PAKENHAM TESTIMONY
September 18th 2024
Environmental Committee

Good Afternoon, City Council members

Let's talk about bill 941 and public health.

Some of you may know me as producer director of the documentary film **Idle Threat, Man on Emission,**

It's the documentary film that first got the attention of City Council in 2013 through Councilwoman Helen Rosenthal and Samara Swanston—The film helped launch intro bill 717a which, once passed, gave the green light for Citizens to enforce Idling laws which the DEP and NYPD had basically ignored since 1972.

So, we gather here today to pick apart that law and, perhaps destroy its essence. I hope not. Let's bolster the law.

Yes, a few of the activists, some of whom are gathered here, are being chastised for being over zealous about clean air. A few are being scolded for making too much money enforcing a law authorities choose to ignore.

Speaking of which, our estimates indicate that the city itself has grossed approximately 50 million dollars on the campaign since February 2018. Not exactly pocket change.

Be that as it may, I believe the Adams administration is missing the point on Bill 941.

The true value of the citizens air complaint campaign lies in that fact that its focus is **on public health**, not how much the city has grossed or individuals have earned.

In this case, Public Health translates into... clean and breathable air.

Simple fact is that needless engine idling is a toxic poison that can affect the well-being of all New Yorkers.

Yet, public health issues, in general, sooner or later, boil down to an individual's personal health.

I started my own campaign on this engine idling matter in 2006. 18 years ago. It was a private effort informing the public of the 1971 law. I made a documentary film about it. Then in 2012 the film was released and City Council took notice.

From 2006 until now I have spent thousands of hours on the streets and sidewalks, gathering data, and acquiring evidence on idling trucks and buses. All the time surrounded by a poisonous stench. What was the effect of this...on me personally?

In 2019, I learned I had developed heart disease. I now have six stents in my heart.

A year later, I learned I had a bulge in a blood vessel in my brain behind my left eye. On Dec 1, 2022, I had brain surgery to cap that aneurysm.

Two years ago, I was diagnosed with Parkinson's disease. This condition has left me with a near constant tremor in my right arm and leg. My penmanship is now scribble. I take an-occasional fall. It's tough getting out of a chair. I have noticed a cognitive decline. Parkinson's has no cure.

Were these dire conditions caused by commercial truck and bus engine exhaust? I can't say for sure, but what we do know for sure is that these deadly emissions from unnecessary idling are harming the health of countless New Yorkers and increasing oil dependence and climate change.

In conclusion, putting aside all my medical issues, I don't regret a moment of the time I have spent over the years in an effort to eradicate needless engine idling. Please use your power to help void Intro. 941.

My name is Hayden Brockett. My wife, two children, and I live on the Upper West Side of Manhattan. I am a union member, a lawyer, and a former federal prosecutor. I also volunteer as part of the nonprofit New York Air Clean Air Collective, which represents the 2,500 ordinary people who work in the Citizens Air Complaints program.

Chairman Gennaro, today we join with the NRDC, the League of Conservation Voters, the New York Civil Liberties Union, New York Lawyers in the Public Interest, and dozens of citizens in **opposing** Intro. 941. I am also grateful that my Council Member Shaun Abreu has expressed his strong concerns about Intro. 941. I am also here to **support** Intro. 5 and Intro. 291.

I can tell you personally how this program works. The stretch of Broadway outside my home used to have Merchants Fleet trucks delivering for Amazon idling all day every day. But thanks to me and the many other reporters, these trucks shut off overnight! The data back up this specific success story. See Attachment A.

Let me be clear—that is exactly what we want—we want to put the idling program out of business. We don't want a truck tax or a "hustle," we want deterrence. That is exactly what Int. 291 does—it raises idling penalties high enough to put the whole idling program out of business by ensuring the companies stop treating illegal idling enforcement as just a cost of doing business.

Intro. 291 does, however, need to be amended to refer to the state Vehicle and Traffic Law rather than the RCNY. This amendment makes Intro. 291 consistent with Intro. 5 and with existing law. It is totally incorrect that, as DEP's representatives testified, the existing law includes only commercial plates. In fact, the existing law *only* includes the VTL definition of truck, which has no reference to the type of plate placed on a vehicle at all. As shown in the attached pamphlet, the Vehicle and Traffic Law definition of "truck" in the current law is the correct definition, and the RCNY reference in the draft would open up giant loopholes that would let gigantic trash, dump, and box trucks idle illegally with no penalties. See Attachment B.

I support Intro. 5 because, while it is true that the Program is not reaching the EJ communities as much as it should, that is largely because DEP locks citizens in these communities out of the Program. Intro. 5 will help fix DEP's discriminatory policies of requiring complaints be submitted only in English. Commissioner Aggarwala misleadingly cited the fact that complaints are not submitted as

frequently in EJ communities as a criticism of the people participating in the program. But he completely ignored that DEP does zero outreach itself to any New Yorkers to encourage participation in the program. And under questioning from CM Alexa Aviles, he tried to deflect blame onto the City Law Department for DEP's discrimination against non-English speakers. But as Commissioner Aggarwala must know, OATH provides translations for all city-wide languages every single day in its hearings. There is simply no legal barrier to using the city-wide languages in OATH proceedings, and there is no justification for DEP illegally preventing non-English speakers from participating in the Program.

Intro. 941 has many bad provisions. It opens up gigantic loopholes in the Air Code for the first time in 52 years. The bill would effectively let school buses idle 24-hours-per-day, anywhere in the city if the temperature is 40 degrees or below or 80 degrees or above. Commissioner Aggarwala incorrectly told the Council that the DEP cannot win cases against school bus companies under the current law. But he is either ignorant or mistaken, because the NYCAC has found that citizen idling reports against five major school bus companies had the exact same low dismissal rate—just 4%—as complaints overall.

I am also including as Attachment C just one example of a recent OATH decision where DEP won against a bus company trying to argue under the current law that it had to illegally idle for passenger comfort. In truth, the current law is balanced against illegal idling in just the right way—a company has to come to court to assert an affirmative defense and provide specific evidence that it had to run its engine for passenger comfort. Intro. 941 flips the burden *in favor of* idling, which will inevitably lead to more pollution and more sick children.

Today, I need to offer my experience as a former prosecutor to let the Council know how dangerous it would be to grant DEP the broad, unchecked authority to ban citizens from participating in the Program. Aside from being nakedly vague and unconstitutional, as set forth in the NYCLU's written testimony in opposition, this measure appears to be largely based on misrepresentations. DEP initiated proceedings against four citizens. The specific cases of dastardly fraud that commissioner Aggarwala referred to—guess what? They were dismissed by OATH Hearing Officers. The person who supposedly accessed a secure area? A decorated former NYPD detective who was at the ticket window with other members of the public trying to pick up some DEP forms.

In fact, DEP has gone 0 for its last 3 prosecutions of citizen reporters. OATH Hearing Officers took one look at DEP's allegations of knowing false statements and dismissed them outright. But what turns my stomach, both as a former prosecutor and as an American, is that DEP has persisted in prosecuting citizen reporters despite itself *knowing* that its claims had no factual basis. That is because I personally wrote to Commissioner Aggarwala and his top leadership last year to tell them that they had it wrong, and that the citizens they were prosecuting had made simple clerical errors.

I am including as Attachment D my emails warning DEP that it was about to persist in unwinnable and baseless charges against citizen idling reporters. Despite this specific notice, DEP went forward with each of these prosecutions, costing citizen reporters tens of thousands of dollars in legal fees and, in some cases, threatening their immigration status and livelihoods.

While under current law, OATH provides a necessary check on DEP's power, Intro. 941 would give this same abusive DEP leadership unchecked authority to ban participants. That is a terrible idea for our air and for clean government. Intro. 941 must be stopped today, and the Council should *reject* any attempt to package this poison pill with the pro-environment Intros. 5 and 291.

Attachment A – City data showing violations against Merchants Fleet.

Attachment B – Illustration of why Intro. 291 must accord with current law and reference the VTL definition of truck, not the RCNY.

Attachment C – Example of an OATH decision where DEP won against a school bus company under the current law.

Attachment D – My emails to DEP leadership warning that they were engaged in abusive and factually unsupported prosecutions of citizen reporters.

Attachment A

Merchants Fleet Notices of Violation (source: OpenData)

Edit



Attachment B

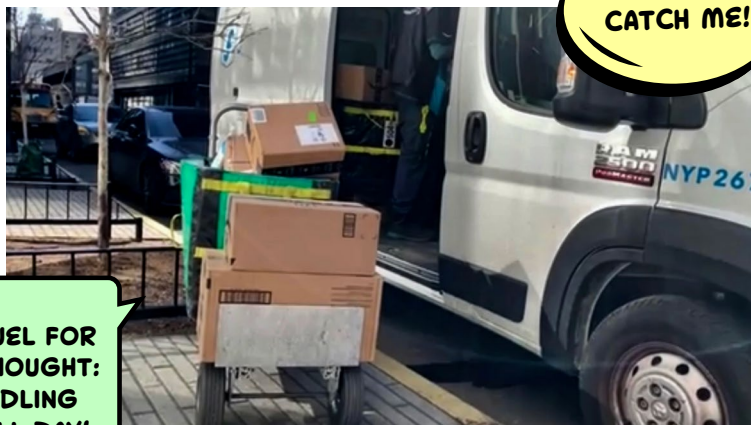
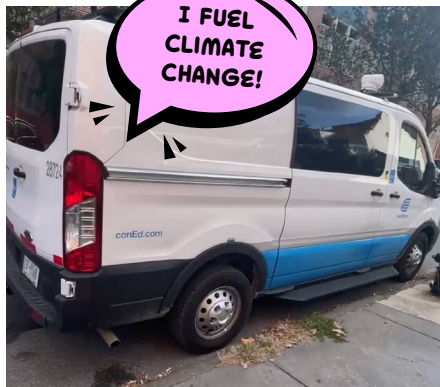
Intro. 291

Must Be Fixed

Intro. 291 is a great bill that will protect our air. But it needs one simple and **hugely important fix**. The Council has always used the VTL definition of “truck” in anti-idling laws. See 24-163 and 182. The VTL works well—it’s clear, consistent, and enforceable.

Unfortunately, Intro. 291, as currently drafted, references the RCNY. Using the RCNY would open gaping holes in the idling laws. **Each of these trucks would be able to idle all day, penalty-free under the new, RCNY definition—rendering them untouchable by law.**

The Council needs to amend Intro. 291 to keep using the same VTL definition already in the law. The technical edits below will ensure Intro. 291 accomplishes its purposes—stopping companies from polluting our air.



Attachment C



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Appeals Division

9 Bond Street, 6th Floor
Brooklyn, NY 11201
Tel: (212) 436-0624

Appeal No. 2301526

DEP v. B&F Skilled Inc

December 21, 2023

APPEAL DECISION

The appeal of Petitioner, Department of Environmental Protection (DEP), is granted. Petitioner appeals from that part of a recommended master hearing decision by Judicial Hearing Officer (JHO) S. Archer, dated August 1, 2023, dismissing two summonses charging Respondent with a violation of § 24-163(f) of the Administrative Code of the City of New York (Code) for idling a motor vehicle for longer than one minute while adjacent to a school. After a full review of the record, the Board finds as follows:

Summons	Law Charged	Hearing Determination	Appeal Determination	Penalty
00753860Y	Code § 24-163(f)	Dismissed	Reversed – In Violation	\$350
00753867R	Code § 24-163(f)	Dismissed	Reversed – In Violation	\$350

In summons no. 00753860Y, the issuing officer (IO) affirmed, as verified through a review of DEP records, that on January 13, 2023, a citizen complainant witnessed Respondent's bus idling for longer than one minute, from 2:10:27 p.m. to 2:12:38 p.m., while adjacent to a school (Brooklyn Friends Upper School) at 116 Lawrence Street in Brooklyn. In summons no. 00753867R, the IO affirmed, as verified through a review of DEP records, that on January 13, 2023, a citizen complainant witnessed a different bus of Respondent idling for longer than one minute, from 2:15:53 p.m. to 2:17:56 p.m., at the same location.

At a telephone hearing, held on August 1, 2023, the representative for Respondent testified as follows. The buses were school buses, the school "dismiss[ed]" at 3:00 p.m., the buses had to be "on" for a few minutes before the children boarded so that the buses would be at a certain temperature for the children "to get on [them] comfortably," and, in the winter, the buses had to be "a little bit warm" before the children boarded. Petitioner did not appear at the hearing and did not submit any evidence.

In the decision, the JHO implicitly credited the testimony of Respondent's representative and dismissed the summons on the ground that the testimony was "sufficient to establish a defense to the charges."

For the following reasons, the Board reverses the JHO's decision. Per § 6-12(b) of Title 48 of the Rules of the City of New York (RCNY), each summons, in which the IO affirmed under penalty of perjury that on the basis of the IO's review of DEP records, the IO verified that a vehicle of Respondent idled for longer than one minute adjacent to a school at the cited date, time, and location, was sufficient to establish Petitioner's prima facie case with respect to that summons. *See DEP v. Nead Electric*, Appeal No. 2300933 (September 28, 2023). Per 48 RCNY § 6-12(a), once Petitioner established its prima facie case, the critical inquiry became whether any credible evidence in the record, such as testimony or affidavits, refuted Petitioner's case or otherwise established an affirmative defense "by a preponderance of the evidence." *See DEP v. Highway Safety Protection Corp.*, Appeal No. 2300922 (September 28, 2023). The Board concludes that no such evidence was presented here. Respondent did not deny that the vehicles that were the subject of the summonses idled for longer than one minute adjacent to the cited school on the specified date and at the specified times. While Code § 24-163(f) provides that "idling of an engine of a school bus may be permitted to the extent necessary . . . to maintain

an appropriate temperature for passenger comfort,” here the testimony of Respondent’s representative for why the buses had to idle—namely, that the buses had to be “on” for a few minutes before the children boarded so that the buses would be at a certain temperature for the children “to get on [them] comfortably”—in fact provided no justification for the idling at issue. According to the representative’s testimony, the school day ended at 3:00 p.m. The idling at issue, however, took place more than forty minutes before 3:00 p.m. In the absence of probative evidence to contest Petitioner’s case or establish an affirmative defense, the summons should have been sustained. *See DEP v. Genco Lee Renovation Inc.*, Appeal No. 2200829 (September 29, 2022).

Accordingly, the Board reverses the JHO’s decision, sustains the charges of violating Code § 24-163(f), and imposes a civil penalty totaling \$700.

By: OATH Appeals Division

Attachment D

From: Hayden Brockett [REDACTED]
Subject: Re: Prosecuting citizens for errors in idling reports
Date: May 30, 2023 at 10:51 PM
To: Aggarwala, Rohit [REDACTED]
Cc: Page, Mark [REDACTED] Preston, Alyssa [REDACTED] Licata, Angela [REDACTED] Genan Zilkha [REDACTED]
[REDACTED]@[REDACTED]

Good evening,

I write to follow up on my emails of March 27 and May 2 and because the Department apparently still persists in prosecuting citizens for making mistakes in complaints about illegal idling. This practice should stop, and DEP should immediately dismiss all remaining complaints prosecuting citizens for allegedly violating NYC Admin. Code § 24-112 in submitting idling complaints, including but not limited to 000600091L, 000600093P, 000600000R, 000600090J, and 000425660R.

Given that DEP is currently choosing to prosecute a journalist, it is tempting to ascribe troubling motives to DEP. While I still want to believe that your staff is simply working with bad facts, DEP should stop this practice today. It is a shame that, rather than speak with these dedicated citizen reporters about mistakes, your Department has chosen to prosecute first, ask questions later. As with Dr. Schnell, these citizens have incurred significant expenses in terms of stress, time, and lawyers' fees for errors that were not knowing false statements and are arguably of DEP's own making.

DEP's persistence in these prosecutions is all the more absurd because its recent actions undermine the theories of prosecution for at least two of them. In one instance, it is my understanding that DEP is prosecuting someone for assisting his wife in filling out the DEP's web form. In addition, it is my understanding that DEP has charged a citizen for filing a false complaint when DEP's own website may have introduced the error. To the best of my knowledge, neither of these scenarios is an exaggeration--that's what will come out in court.

The first theory is untenable because DEP now recognizes the absurdity of preventing citizens from assisting each other in doing data entry. Specifically, DEP recently updated its website to include an option to check a box stating that one citizen helped with data entry. The checkbox then invites citizens to list that assistant's name. This weekend, I took advantage of this checkbox when I listed my name as having assisted my son in submitting complaints he recorded.

I am grateful for DEP's acknowledgement that there is nothing wrong in helping others do data entry, which is a step towards allowing full access to the program, particularly for the disabled. **Yet despite making a change to its website specifically inviting citizens to help each other fill out DEP's forms, your Department is still prosecuting a citizen for helping someone else submit a complaint.** I cannot imagine how DEP plans to convince a Hearing Officer to rule in its favor, and I respectfully request that you dismiss this complaint, which is now set for a hearing in June.

The second theory also must fail because DEP itself helped cause an error, through a programming glitch on its website, that underlies the prosecution of another citizen. DEP knew about this problem, yet failed to fix it. Unfortunately, DEP has also recently introduced new errors into the website that could create additional situations where it believes, wrongly, that citizens have made knowingly false reports. Just this evening, a bug in the website altered my submission by substituting data from a prior submission. I have notified your staff, as I'm sure this is a simple error. **Yet DEP is continuing to prosecute someone for a similar website error.** Again, how can the DEP hope to win this case when its own technical systems continue to introduce the same or similar errors?

Moreover, why is it a good use of your attorneys' time and DEP's resources to persist in prosecuting citizens for making mistakes in submitting complaints? As I wrote earlier this month, DEP has not found any fraud in the program, full stop. These are not "bad actors," as your staff has told the City Council. Although Ms. Preston described these citizens in a public forum as "acting with malice and bad intentions," the facts have shown this public comment to be simply untrue. DEP's only so-called victory came not for a fraud finding, but when it prosecuted an unrepresented citizen reporter who disagreed with DEP's denial of an apparently valid complaint.

Instead of identifying fraud, DEP is pursuing a course of what looks increasingly like vindictive prosecutions, especially now that DEP's recent conduct undermines at least two more of the prosecutions. The appearance of vindictiveness is heightened by the fact that the remaining citizens are 1) a journalist whom your staff knew was reporting on the program; and 2) an individual who has sued the DEP and Mr. Page. Again, I would like to believe that DEP is not engaging in a pattern and practice of stifling citizens' First Amendment rights to seek redress from the government. But this belief is becoming harder and harder to hold.

Please reverse this dangerous course and stop prosecuting citizens for making mistakes. I remain available to discuss anything in this email or regarding the program and these prosecutions. My cell is 860-839-5511.

Thank you,
Hayden Brockett

On Tue, May 2, 2023 at 11:36 PM Hayden Brockett [REDACTED] wrote:
Commissioner Aggarwala,

I write to follow-up on my email of March 27, in which I urged you to investigate DEP's attempts to prosecute citizen reporters for allegedly filing knowingly false statements while participating in the Citizens Air Complaint Program. I received no reply, and to my knowledge, nothing has been done to stop this reckless and abusive practice.

Today, DEP's attorneys appeared in a hearing where they attempted to show that Dr. Patrick Schnell had knowingly made a false statement to the DEP concerning illegal idling. Dr. Schnell is a pediatrician who has filed thousands of citizen complaints reporting illegal idling and has worked with incredible dedication to clean up New York's air. He has treated chronic asthma patients in our city and through his singular climate activism has done more to improve public health than even most citizen reporters. He has also faced personal danger from Loomis drivers who have threatened him on numerous occasions, proof of which he has shared with your Department repeatedly.

It was an embarrassment that your Department ever filed a charge against Dr. Schnell in the first place. Fortunately, the Department's case was dismissed this evening, almost immediately after the hearing. See attached.

If the attorneys working for you had bothered to do the slightest bit of due diligence before bringing this charge, they would have learned what Dr. Schnell's attorney persuasively presented to the Hearing Officer today--that this was a mistake, caused by a simple clerical error. Your attorneys made no such attempts to my knowledge. Instead, your Department shockingly elected to prosecute a doctor and climate activist over an inadvertent error that could have been cleared up with an email or phone call.

The OATH Hearing Officer fortunately saw that justice was done today and overruled your Department's efforts to prosecute a pediatrician for a simple mistake. But Dr. Schnell went through tremendous stress and incurred significant costs to clear his name, none of which he should have experienced.

Currently, the Department of Environmental Protection you run is still planning to proceed against at least four more citizens, one of whom could face immigration consequences as a result of your Department's inhumane and pointless actions. I know that you have likely been told that these individuals are "acting with malice and bad intentions," as one of your lawyers publicly described them. DEP has also told the City Council that these are "bad actors" and used its prosecutions of these citizens to justify radical changes to the Citizen Air Complaint program that would blatantly violate the First Amendment.

But you are being misled. I can assure you that the facts in the remaining cases are even more embarrassing for the Department than those underlying the summary dismissal today in Dr. Schnell's case. In one instance, your attorneys have asserted, and plan to argue in court, that a citizen reporter's complaint was knowingly false in part because of a timestamp error caused by DEP's own website. In fact, this is a known issue with the website that DEP has refused to fix despite being informed about it many times. And when the citizen reported that error to the DEP, your employees elected to prosecute him for filing a false complaint. As I wrote to you before, another of these complaints is literally based on a typo. It is my understanding that all of the conduct charged by your Department as knowing false statements were in fact caused by simple mistakes.

You have the power to stop this embarrassing abuse of power before it goes any further. Please direct that the DEP dismiss all remaining complaints prosecuting citizens for violating NYC Admin. Code § 24-112 in submitting idling complaints, including but not limited to those listed here: 000600091L, 000600093P, 000600000R, 000600090J, and 000425660R.

I also request that DEP cease promoting any draft legislation before the City Council that would restrict participation in the Citizen Air Complaint program based on participants' conduct. The draft language that DEP has proposed is facially unconstitutional and would be struck down as violating the First Amendment immediately. DEP's actions have already poisoned participation in the program enough, without this attempt to place unconstitutional prior restraints on citizens petitioning their government for redress.

I remain available to discuss anything in this email or regarding the program and these prosecutions. My cell is 860-839-5511.

Sincerely,
Hayden Brockett

On Mon, Mar 27, 2023 at 10:55 AM Hayden Brockett [REDACTED] wrote:
Dear Commissioner Aggarwala,

I was shocked to learn yesterday that DEP has filed summonses against at least five citizens who reported illegal idling, claiming that they falsified a submission. In at least one instance, it appears that DEP is prosecuting someone for making a typo. In another, it appears that clerical errors led to the citizen uploading the wrong video. Yet it's my understanding that, without any warning at all, DEP has filed summonses against them for knowingly making a false claim, both calling them liars and also placing their addresses in the public record and threatening their safety. This has the look and feel of targeted harassment.

Are you aware of DEP's behavior? If so, can you please tell me why you have authorized prosecution of citizen reporters for making typos? This is a terrible policy choice, in addition to being a serious injustice to these citizens, some of whom I know personally. They are dedicated climate activists and do not deserve to be targeted like this.

This news is also chilling to me, and it is going to be devastating to the anti-idling program. I am a lawyer by trade and got into this program in part because construction vehicles idled constantly in front of the two schools on my block. My kids walked through exhaust fumes the minute they left my door.

I am now very worried about making any future submissions. We are all only human, and anyone can make a typo or drag-and-drop an incorrect video. But if I make a typo, will I now face a false statement summons from DEP that I will have to report to the bar? How can citizens participate in the program if they fear being targeted by DEP? How can it possibly be a good use of DEP's resources, let alone protect the environment, to harass citizen reporters like this? How can DEP go forward on future submissions from citizens it has (incorrectly, I believe) accused of false statements?

Please kindly acknowledge receipt of this email. I know you are busy, but it would really put my mind at ease if I knew you were looking into this. I would be happy to speak with you about this issue. My personal cell is 860-839-5511.

Sincerely,
Hayden Brockett

City Council Testimony 9/18/24

Hello, my name is Hunter Severini and I am a resident of lower Manhattan that has reported thousands of air code violations all over the five boroughs. I am here to voice my strong support for Int 5 and Int 291 as well as my strong opposition to Int 747 and Int 941.

Int 5 will open up the Citizen's Air Complaint Program to the quarter of New York City residents that are not English-proficient. The requirement to provide government services in other languages is widely acknowledged by the City and I believe deserves to be extended here.

Int 291 is another outstanding bill that should be scheduled for a vote as soon as possible. Considering the limited number of citizen-reporters, increasing idling penalties is the only way to further reduce air pollution. The current system has been effective but illegal idling remains a persistent and widespread problem.

As much as these bills would each improve our collective environment, there are two others that pose the potential to cause lasting and irreversible harm.

Int 747 seeks to impose an unconstitutional and unnecessary code of conduct against citizens, much like its sister bill, Int 941. Both bills mention a "reasonable opportunity to be heard" in regard to disqualifying citizens from serving complaints. In practice, this can mean an "on paper" hearing, as mentioned by Olga Statz, former Deputy Commissioner and General Counsel at OATH, in an internal email that became public as part of a court filing. "On paper" hearings do not allow the accused to be heard or to cross examine witnesses. I have an active lawsuit against DEP and OATH challenging this practice. I also have another active lawsuit challenging DEP's abuse of 24-112 charges against citizen-reporters for allegedly making "false and misleading statements" that has been transferred to the Appellate Division, First Department for disposition. Metadata on Int 941 shows the author as Lisa Ally, a lawyer at DEP who has been involved with these charges against citizens. I believe that introducing legislation authored at least in part by DEP violates the intended separation of powers between the legislative and executive branches of government.

Aside from my thoughts on these bills, there are real and lasting issues with DEP that I have shared with numerous member of the Council and would love to see addressed at some point. There are three main issues I have mentioned over the years:

1 - DEP does not maintain a database of past violations, and often does not cite past offenses when issuing violations.

2 - DEP routinely blocks citizens from self-prosecuting idling complaints which have not been finalized by them within 45 days as the law requires. As DEP mentioned earlier, in 2024 their complaint processing time averages 113 days, so if you look at the practically nonexistent number of self-prosecutions, it's clear the DEP is illegally blocking citizens from pursuing complaints over 45 days old.

3 - DEP almost exclusively uses the anonymous email address nycidling@dep.nyc.gov to communicate with citizens. The following DEP employees use this email address but refuse to personally identify themselves when doing so:

August Buffa 314089
Alyssa Preston 397952
Christine Settineri 1064733
Charles Sturcken 129268
Jayme Miller Todd 1727281
Mark Page 530709

It is highly unlikely that any of this will change barring some sort of further legislative mandate from the Council.

Statz, Olga (OATH) <OStatz@oath.nyc.gov>

Mon, Oct 2, 2023 at 8:26 AM

To: gil perez <gvpesq@gmail.com>, "Jones, Timothy (OATH)" <TJones2@oath.nyc.gov>

Cc: "Ng, Frank (OATH)" <fng@oath.nyc.gov>

We are going to decline an in person hearing. I believe that in Gurmeet or one of the other such cases, one of the judge's clearly stated that the on paper hearings that we provide are sufficient. Could you look that up, Timothy? Let's talk a bit later. Thanks.

Olga Statz, Esq.

Deputy Commissioner and General Counsel

Office of Administrative Trials and Hearings

[100 Church Street](#), 12th Fl.

New York, N.Y. 10007

(212) 933-3003

By Council Member Gennaro.

A Local Law to amend the administrative code the idling of engines and the use of citizen's com of environmental protection

Be it enacted by the Council as follows:

- 1 Section 1. Subdivisions (a), (c), (d), and
- 2 the city of New York, as amended by local law
- 3 as follows:
- 4 (a) No person shall cause or permit the
- 5 authorized emergency motor vehicle, to idle for
- 6 period, except as provided in subdivision (f) of
- 7 [one hundred twenty-nine] 129 of the vehicle and
- 8 hundred forty-five] 145 of the vehicle and tra
- 9 hundred forty-seven] 147 of the vehicle and t
- 10 loading device, unloading device, or processing
- 11 of [forty] 40 degrees Fahrenheit, no person shall
- 12 section one hundred four of the vehicle and traff

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Author: Ally, Lisa

Manager:

Company: Gateway

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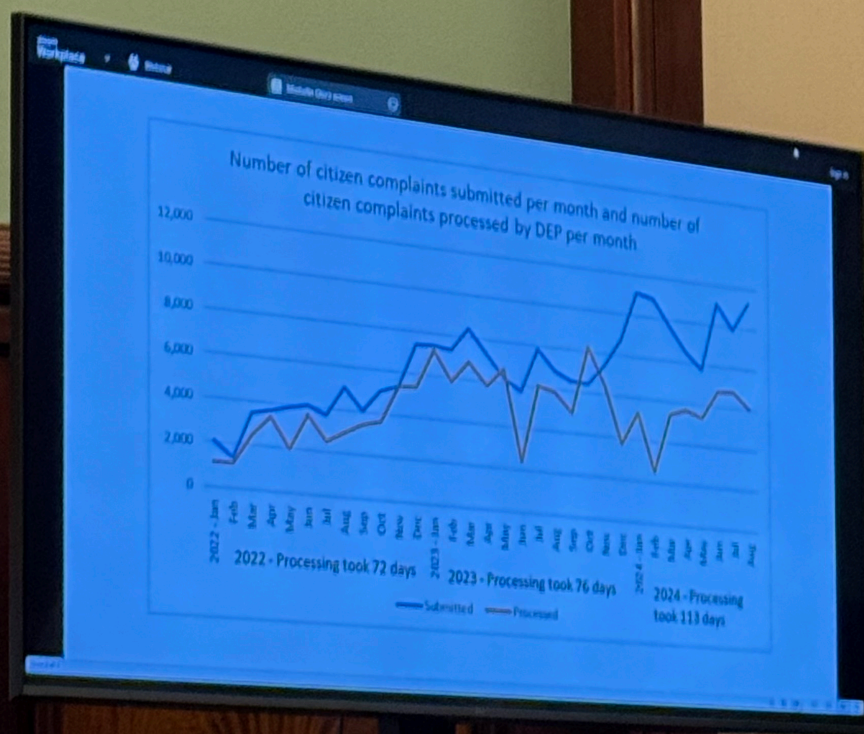
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Supreme Court of the State of
New York, County of New York

Index No.

In the Matter of the Application of
Hunter Severini

Petitioner,

For a Judgment Under article 78 of
the Civil Practice Law and Rules

Verified Petition

Against

The New York City
Department of Environmental Protection
and The Office of Administrative
Trials and Hearings

To: The Supreme Court of the State of New York
County of New York

Your Petitioner, Hunter Severini, by his attorney, Gil V. Perez,
Esq., as and for his Verified Petition respectfully alleges as
follows:

1. That your petitioner is over the age of 18 and is a Citizen
of the United States and is a resident of New York County
2. Respondent New York City Department of Environmental
Protection (DEP) is an administrative agency of the City of
New York responsible, inter alia, for establishment and
enforcement of the New York City Environmental Codes.

3. Respondent New York City Office of Administrative Trials and Hearings (OATH) is charged with organizing and administering hearings for all administrative prosecutions brought by and for the City of New York.
4. The Department of Environmental Protection submits administrative charges to the Office of Administrative Trials and Hearings, a separate body within the City of NY charges with conducting hearings and finding fact with regard to infractions of the Code.

NYC Administrative Code §24-163(a) Idling Law

5. Responding to public demand, the City passed a law prohibiting Idling.
6. The law, uniquely enabled citizens to prosecute those who scoffed at the law.
7. So effective was the rule, that soon, OATH and DEP were overwhelmed by these cases. The air outside is definitely cleaner. The air in the offices at DEP where these cases are handled may be a little less so.
8. Petitioner here, is one of the citizen advocates and has brought some of these cases.
9. Nothing in the administrative code permits the DEP to refuse to prosecute a properly brought idling violation, without

justification and a signed contemporaneous review by an impartial party, which is maintained as a permanent record accessible to the charging party and the public.

10. The instant rejections of the subject violations had no such review.

Instant Online Complaint

11. Petitioner filed a valid complaint against Verizon, a major violator of the Idling Regulation.
12. On information and belief Verizon has not complied with the Idling regulation and instead, conspired with DEP employees to evade prosecution.
13. Petitioner submitted a valid complaint, and for reasons best known to DEP, they rejected the complaint.
14. Petitioner, having successfully resubmitted complaints in the past, resubmitted the instant complaint three times.
15. The DEP rejected the instant complaint three times without note.

ECB Violation

16. On or about 11-3-2022 DEP Enforcement agent Jayme Miller Todd, having reviewed the instant charge file, issued violation 000425660R stating 'Respondent knowingly made false and misleading statements when resubmitting the same

video that has been disqualified by the department four times. ... All videos have the same evidence and license plate which were then altered by address in order to get the video accepted by the department."

17. Inspector Todd appeared at the hearing and testified that the video was at least three minutes in length and showed the vehicle blowing exhaust during the filming.. proving guilt.

18. No valid explanation for the rejection of the video was ever provided. Nothing in the Idling Code permits selective prosecution.

Hearing at ECB

19. ECB conducted a hearing at which the following items were adduced in the record.

20. Inspector Todd is part of the Citizen Complaint review process and vets the videos before writing the summonses (Audio 50:00-50.40)

21. Inspector reviewed all the re submissions by respondent and rejected each because the system said they were duplicative (Audio 51:20-52:26)

22. Inspector Todd never believed that each re submission was for a new violating condition (Audio 51:00 - 56:00)

23. Inspector Todd testified that once a complaint submission is rejected, all re submissions for the same violating condition are rejected for that reason (Audio 50:00-56:00)
24. Inspector Todd back dated the violation to 3-29-2022
25. The subject of re submissions 2022-09411 and 2022-18825 noted in the body of instant summons had not been resubmitted on 3-29-2022.
- OLR CASE UFT, 16 OCB2d 14 (BCB 2023) (Docket No. BCB-4408-20).
26. The union representing Hearing Officers brought an improper labor charge against OATH for changing Hearing Officer procedures, and the decision found fact relevant here.
27. Among other concerns, the ruling found that the relationship between OATH and Hearing Officers was suspect in that Hearing Officers ... "don't get evaluations, [they] don't get disciplinary memos, there's no corrective activity or corrective action taken, generally speaking" instead OATH "wield[s] the schedule, that's the discipline, and I think most hearing officers are aware of that." (Tr. 77).
28. The Decision rendered was reviewed by OATH managers, and issued as the decision of the OATH judge.

29. This might explain why the decision failed to reflect the transcript below and facts adduced.

30. This is especially so where the summons below was defective, and failed to make out a charge under Section 24-112 where no false or misleading statement was made by respondent.

Appeal No. 2300222

31. Respondent submitted a timely appeal of the decision below.

32. The Appeal below recited three points.

33. The hearing officers decision was arbitrary, capricious and based on an incorrrect legal conclusion that the Respondent Misled the DEP.

34. DEP failed to show the required Mens Rea to show Petitioner misled the DEP

35. The hearing officer determined that DEP did not establish that the re submissions contained false information.

36. Respondent DEP responded with a series of specious arguments, and failed to address the deficiency in the summons or the Hearing Officers deviation from precedent.

37. DEP alleges that the Rosaria Sinisi v Pratt Institute case, which on appeal held that the DEP actually had to be

misled, and DEP maintains that the case distinguishes, but fails to explain how.

38. A review of DEP's arguments fails to explain any distinguishing characteristic from the Sinisi holding, where Petitioner here never intended to mislead the DEP, submitted same material four times, the DEP rejected the material without reason four times and the DEP always knew it was identical to prior submissions.

39. DEP does not address the most obvious questions, was the underlying violation submission valid, and was the issuing officer in error in dismissing it four times.

40. It merely asserts that because DEP dismissed the violation, re submission was "misleading".

Addresses are Same Location in GPS and are Irrelevant

41. Each of the addresses submitted were the same GPS location.

42. Timestamp Camera Enterprise taking the location directly the image taken, can assign an address.

43. On information and belief, the addresses all correspond to the location of the video.

44. The exact location of the idling offense is not of consequence to the OATH hearing officer.

45. Merely the fact that the vehicle did not move and idled for the statutory period is sufficient for a violation of the idling law.

46. The violation is served to the Vehicles registration address.

47. For this reason, the address complained of by DEP is simply not material to the summons.

Verizon's Relationship with the DEP being such that they were able to get DEP to reject a just charge of Idling is worthy of review

48. Verizon is a public utility that has great influence on the Department of Environmental Protection.

49. Among other things, Verizon grants the DEP license to use teleswitching devices that control flood water flow in lower Manhattan.

50. For whatever reason, DEP refused to prosecute the instant violation submitted by petitioner.

51. Mere resubmission has resulted in shocking adverse action.

52. DEP's records would show that the reasons for refusal to prosecute these violations has uniquely and unfairly permitted Verizon to scoff at the idling Code.

53. On information and belief, all other utilities have complied with this code.

As and for a First Cause of Action

Respondents DEP and OATH Acted Beyond Their Authority and or failed to act within their authority in Refusing to Prosecute Idling Violation against Verizon

54. The Petitioner repeats and reiterates each and every allegation contained in paragraphs 1 through 53 as if fully set forth herein.

55. Respondent DEP received the instant video reflecting Verizon Vehicle violating idling regulation.

56. For reasons best known to Respondent DEP, they refused to prosecute the instant violation.

57. Nothing in the administrative code provides for Respondent refusing to or failing to prosecute an idling violation. OATH requires violation removal to be by signed document from authorized agency representative.

58. The failure to prosecute the instant violation results in denial of Petitioners entitlements under the administrative code.

59. Respondents failure or refusal to prosecute the instant violation is a failure to act within their authority and a refusal to perform a mandated act.

60. Petitioner has no other remedy at law.

As and for a Second Cause of Action

Charge Against Petitioner below represents an action beyond the Authority of Respondents

61. The Petitioner repeats and reiterates each and every allegation contained in paragraphs 1 through 60 as if fully set forth herein.

62. Respondents acted to charge the Petitioner who furthered the properly made violation against Verizon with filing a false instrument.

63. While the idling complaint was true and in proper form, Respondents proceeded to prosecute the Petitioner - charging party, and oppose the appeal of the resulting decision acting beyond the authority placed in them by the City Charter.

64. The evidence adduced below failed to show the idling charge was untrue, and in fact verified that the underlying complaint was valid and proper.

65. The resulting charge against petitioner was without authority of the instant code or any other code.

66. As such, the action charging Petitioner is beyond the authority of respondent.

67. Petitioner has no other remedy at law.

As and for a Third Cause of Action

Respondents in Determining that Petitioner was guilty of misleading DEP, and Upholding that Determination On Appeal ignored the facts adduced in the record below and their decision was replete with error of law and procedure, and thus was arbitrary and capricious, and as such the Determination should be annulled and set aside.

68. The Petitioner repeats and reiterates each and every allegation contained in paragraphs 1 through 67 as if fully set forth herein.

69. The decision of Hearing Officer Pitter was contrary to the facts adduced and was replete with error of Law and Procedure.

70. The Decision of the Appeals unit dated April 27, 2023 similarly ignores the record below and is contrary to Law and Procedure.

71. The Decision and Appeal should be set aside and annulled by this Court and remanded below for proceedings pursuant to the order of this Court.

72. Petitioner has no other remedy at law.

As and For a Fourth cause of Action

The Record below does not support the decision reached by Respondents.

73. The Petitioner repeats and reiterates each and every allegation contained in paragraphs 1 through 72 as if fully set forth herein

74. The record below consisting of a hearing in which the issuing officer testified, and evidence was presented, lacked sufficient record below, as a matter of law, to conclude that Petitioner mislead Respondents.

75. Where the record below is insufficient to support the conclusions reached, this Court must transfer the case to the Appellate Division for further proceedings pursuant to CPLR Article 78.

76. Petitioner has no other remedy at law.

Conclusion

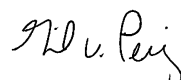
Respondents in charging and finding that Petitioner misled the DEP acted beyond their authority. Where respondents refused to prosecute Verizon for a violation of the Idling code submitted by Petitioner failed to act within their authority. Respondents actions are replete with error and cry out for review.

Wherefore, Petitioner prays that this Court will grant an order and Judgment

1. Declaring Office of Administrative Trials and Hearings decision and appeal decision be annulled and remand the matter below for further proceedings pursuant to this order.
2. Issue a Declaratory Judgment striking the application of Administrative Code § 24-112(a) to Citizen Complaints submitted to DEP with regard to Idling.
3. Declaring that DEP Acted beyond their authority in rejecting Citizen Complaints properly asserting violations of Code §24-163(a) and Mandamussing the DEP to process and submit all such claims to OATH for further proceedings.
4. Mandamussing OATH to evaluate, rate and review hearing Officers and maintain an independent scheduling system that complies with NYS Administrative Code.
5. Mandamus OATH to refuse any Summons submitted by any agency that is back dated, and require auditable electronic date stamp of any summons referred for hearing.
6. Require OATH to review all incoming summons in the same way DEP alleges to here, rejecting any summons that fails to meet minimal criteria set forth.

and Grant whatever other and further relief this Court deems just
and proper.

Dated: August 9, 2023
New York, NY

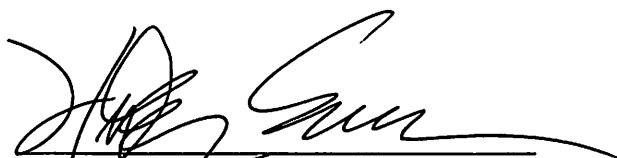


Gil V. Perez, Esq
Attorney for
Hunter Severini
Petitioner
30 Wall Street 8th Fl
NYC, NY 10005
1-212-233-0178
gvpesq@gmail.com

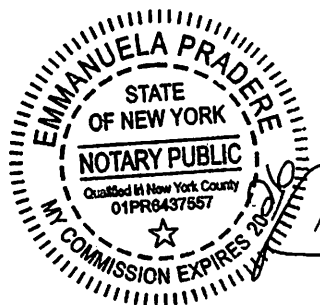
State of New York)
County of New York) ss.:

VERIFICATION

Hunter Severini, being duly sworn, deposes and says:
That he is the petitioner in the within action, that he
has read the foregoing Petition and knows the contents
thereof; that the same is true to his own knowledge,
except as to the matters therein stated to be alleged on
information and belief. And that as to those matters, he
believes them to be true.


Hunter Severini

Sworn before me this
9 day of August, 2023.



SUPREME COURT OF THE STATE OF NEW YORK NEW YORK COUNTY

PRESENT: HON. ARLENE P. BLUTH PART 14

Justice

-----X

IN THE MATTER OF THE APPLICATION OF HUNTER
SEVERINI,

Petitioner,

- v -

NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL
PROTECTION, THE OFFICE OF ADMINISTRATIVE
TRIALS AND HEARINGS

Respondent.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 001) 1- 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32¹

were read on this motion to/for

ARTICLE 78

Upon the foregoing documents, it is

ORDERED that, pursuant to CPLR 7804 (g), the application by petitioner seeking to vacate and annul a determination by respondent is respectfully transferred to the Appellate Division, First Department for disposition. This proceeding involves an issue as to whether a determination made as a result of a hearing held and at which evidence was taken pursuant to direction by law is, on the entire record, supported by substantial evidence (CPLR 7803 [4]); and it is further

ORDERED that petitioner shall serve a copy of this order with notice of entry upon the Clerk of the Court, who is directed to transfer the file to the Appellate Division, First Department; and it is further

¹ The Court denies respondents' request to file a sur-reply.

ORDERED that such service upon the Clerk of the Court shall be made in accordance with the procedures set forth in the Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases (accessible at the “E-Filing” page on the court’s website).

3/12/2024

DATE

CHECK ONE:

☒

CASE DISPOSED

☐

GRANTED

☐

DENIED

APPLICATION:

☐

SETTLE ORDER

CHECK IF APPROPRIATE:

☐

INCLUDES TRANSFER/REASSIGN

☐

NON-FINAL DISPOSITION

☐

GRANTED IN PART

☒

OTHER

☐

SUBMIT ORDER

☐

FIDUCIARY APPOINTMENT

☐

REFERENCE



ARLENE P. BLUTH, J.S.C.

Supreme Court of the State of
New York, County of New York

Index No.

In the Matter of the Application of
Hunter Severini

Petitioner,

For a Judgment Under article 78 of
the Civil Practice Law and Rules

Verified Petition

Against

The City of New York, New York City
Department of Environmental
Protection, The Office of
Administrative Trials and Hearings
and Olga Statz, Corporate Counsel

To: The Supreme Court of the State of New York
County of New York

Your Petitioner, Hunter Severini, by his attorney, Gil V. Perez,
Esq., as and for his Verified Petition respectfully alleges as
follows:

1. That your petitioner is over the age of 18 and is a Citizen
of the United States and is a resident of New York County
2. Respondent City of New York is a municipal Government in the
State of New York.
3. Respondent New York City Department of Environmental
Protection (DEP) is an administrative agency of the City of

New York responsible, inter alia, for establishment and enforcement of the New York City Environmental Codes.

4. Respondent New York City Office of Administrative Trials and Hearings is charged with organizing and administering hearings for all administrative prosecutions brought by and for the City of New York.

5. Olga Statz, is an attorney who serves as Counsel to OATH.

6. The Department of Environmental Protection submits administrative charges to the Office of Administrative Trials and Hearings, a separate body within the City of NY charged with conducting hearings and finding fact with regard to infractions of the Code.

Code §24-163(a) Idling Law

7. Responding to public demand, the City passed a law prohibiting Idling.

8. The law, uniquely enabled citizens to prosecute those who scoffed at the law.

9. So effective was the rule, that soon, OATH and DEP were overwhelmed by these cases. The air outside is definitely cleaner. The air in the offices at DEP where these cases are handled may be a little less so.

10. Petitioner here, is one of the citizen advocates and has brought some of these cases.

Charge Leveled and Punishment Threatened

11. On August 18, 2023 the Office of Administrative Trials and Hearings issued a notice of Charges pursuant to 48 RCNY Section 6-25 (a) (b).
12. In essence, OATH alleged that Petitioner induced or encouraged someone to make a false statement, based on the findings of a hearing which held that Mr. Severini mislead the DEP in submission of a Citizen complaint.
13. RCNY 6-25-a 11 clearly stated that charged individual must further a false statement to OATH, a fact no supported by the underlying ECB hearing result or appeal result.
14. Petitioner challenged the above violation, timely appealed and brought an Article 78 petition in that instance, under index number 158496/2023 the Court upheld the petition and sent it to the Appellate Division for a trial. Petitioner appealed because we believed it should have been remanded.
15. Here, petitioner complains that the DEP and OATH applied rules against those representing others to an individual appearing for himself.

16. More significantly OATH never afforded Petitioner a hearing at which he could cross examine witnesses and present evidence.
17. Petitioner maintains that the charge was improperly applied and that the result is that Petitioner, a material fact witness in mandated hearings regarding air pollution is excluded.
18. Further, the barring from such a tribunal represents a violation of petitioners 1st amendment rights to bring the Air Pollution cases set forth by NYC Legislature.
19. The Legislature placed no such limitation, and thus the application by Respondents is without authority of law.

ECB Violation

20. On or about 11-3-2022 DEP Enforcement agent Jayme Miller Todd, having reviewed the instant charge file, issued violation 000425660R stating 'Respondent knowingly made false and misleading statements when resubmitting the same video that has been disqualified by the department four times. ... All videos have the same evidence and license plate which were then altered by address in order to get the video accepted by the department.
21. Inspector Todd appeared at the hearing and testified that the video was at least three minutes in length and

showed the vehicle blowing exhaust during the filming...

proving guilt.

22. No explanation for the rejection of the video was ever provided. Nothing in the Idling Code permits selective prosecution.

Hearing at ECB

23. ECB conducted a hearing at which the following items were adduced in the record.
24. Inspector Todd is part of the Citizen Complaint review process and vets the videos before writing the summonses (Audio 50:00-50.40)
25. Inspector reviewed all the re submissions by respondent and rejected each because the system said they were duplicativduplicative (Audio 51:20-52:26)
26. Insepctor Todd never believed that each re submission was for a new violating condition (Audio 51:00 - 56:00)
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29. The subject of re submissions 2022-09411 and 2022-1885 noted in the body of instant summons had not been resubmitted on 3-29-2022.

OLR CASE UFT, 16 OCB2d 14 (BCB 2023) (Docket No. BCB-4408-20).

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32. The Decision rendered was reviewed by OATH managers, and issued as the decision of the OATH judge.

33. This might explain why the decision failed to reflect the transcript below and facts adduced.

34. Especially so where the summons below was defective, and failed to make out a charge under Section 24-112 where no false or misleading statement was made by respondent.

Appeal No. 2300222

35. Respondent submitted a timely appeal of the decision below.

36. The Appeal below recited three points.

37. The hearing officers decision was arbitrary, capricious and based on an incorrrect legal conclusion that the Respondent Misled the DEP.

38. Petitioner failed to show the required Mes. Rea to show Respondent misled the DEP

39. The hearing officer determined that Petitioner did not establish that the re submissions contained false information.

Hearing Below on Charge

40. Petitioner submitted opposition to the charge and requested a hearing, where he could examine evidence and cross examine witnesses.

41. The Agency received the opposition and internally wrote among itself that they did not want to afford petitioner a hearing regardless of the merit of his request or the administrative propriety (see Statz Email)

42. Defendants submitted a determination, without any hearing on December 19, 2023.

43. The Board upheld the charge and suspended Mr. Severini for 6 months.

44. Key to the finding was paragraph 1 of the letter which states that OATH Charged Petitioner with attempting to induce the NYC DEP to make a false statement, when in fact the Respondents own hearing officer and Appeal Board found that petitioner made a misleading statement.

45. The Petition in that article 78 was upheld for reasons best known to the Court, but they turned on these same facts. Essentially, no one has found false statement, and in fact the statements made by Petitioner have never been found false. Further no one was ever mislead.

As and for a First cause of action

Petitioner act Beyond the authority of Law

46. The petitioner repeats and reiterates each and every allegation contained in paragraphs 1 through 45 as if fully set forth herein.

47. Oath applies rule 6-25 regarding making false statements to OATH, when in fact Petitioner is alleged to have made a misleading statement to the DEP.

48. OATH in seeking to deny Petitioner access to the tribunal, acts without authority where it creates an

administrative bar to an entitlement afforded by Municipal Legislature.

49. The City rules provided for him to appear and bring charges in air violations.

50. Nothing in the Legislative mandate afforded OATH the latitude to deny access to anyone bringing such a violation.

51. Respondents apply rules pertaining to advocates appearing for others, contrary to the legislative intent here in Air Pollution cases

52. Where OATH and DEP acted to do this, they acted beyond their authority.

53. Petitioner is harmed by the barring of access to the tribunal and denied the opportunity to bring Air Pollution cases.

54. Petitioner has no other remedy at law.

55. Petitioner prays for an order annulling the determination of OATH pursuant to their letter of 12-19-2023 and dismissing their charge dated 8-18-2023 and restoring Petitioner's entitlement to bring Air Pollution cases.

As and For a Second Cause of Action

Hearing Officer Upheld Charge Contrary to Fact and Without Basis in Law

56. The petitioner repeats and reiterates each and every allegation contained in paragraphs 1 through 55 as if fully set forth herein. OATH Conducted the instant hearing without witnesses, or any basis.

57. OATH did no identify the hearing officer.

58. OATH found as fact that Petitioner induced DEP to make a false statement, however nothing in the record, hearing below, decision or appeal decision supports the finding.

59. As such Petitioner maintains OATH found fact and reached a determination without basis in fact or evidence below.

60. Petitioner is without any other remedy at Law.

61. Petitioner seeks an order of this Court annulling the determination of OATH dated 12-19-2023 and striking the charge dated 8-18-2023 and restoring Petitioners entitlement to bring charges for Air Pollution cases before OATH.

As and for a Third Cause of Action

Respondents Denied Petitioner a Fair Hearing

62. The petitioner repeats and reiterates each and every allegation contained in paragraphs 1 through 61 as if fully set forth herein.

63. OATH and the DEP conducted the Hearing with the intent of denying petitioner an opportunity to be heard and or

present his arguments before a fair and impartial hearing officer.

64. Here, OATH gave petitioner an opportunity to submit a response to the letter and determined to proceed with the hearing.

65. Internally within 2 days of receipt, the Agency Counsel wrote that she (among others) had decided to deny a hearing.

66. The 12-19-2023 final determination letter further does not identify who reviewed the charge and submission.

67. Petitioner alleges he was not afforded an opportunity to be heard and that the defendants conspired to deny such an entitlement.

68. Petitioner has no other remedy at law.

69. Petitioner prays for an order setting aside the final determination and remanding the matter below for an actual hearing before an impartial judge on the merits.

Petitioner Common Law Claim for Monetary Damages

70. Petitioner filed a notice of claim on or about September 2023.

71. In the notice of claim he cites loss from Summons to be submitted, defamation, denial of a fair hearing, fraud and conspiracy to defraud him and Ongoing Environmental Harm

from the air pollution that will ensue without issuance of violations.

72. Petitioner has never received any notice of call for a 50 H hearing.

As ad for a Fourth Cause of Action
Claim for Loss

73. The petitioner repeats and reiterates each and every allegation contained in paragraphs 1 through 72 as if fully set forth herein.

74. Respondent's City of New York, DEP, OATH and Statz acted to deprive Plaintiff of his opportunity to submit complaints to DEP regarding Air Pollution and Automobile idling.

75. Respondent;'s did so without authority from and contrary to the Rules of the City of New York.

76. As a result of Respondent's actions, Petitioner experienced a loss of \$85,000.00 in fees arising from such penalties.

77. Petitioner prays for an order of this Court directing a trial on the facts alleged.

As and for a Fifth Cause of Action

Defamation

78. The petitioner repeats and reiterates each and every allegation contained in paragraphs 1 through 76 as if fully set forth herein.

79. Respondents knowingly made false statements regarding Petitioner.

80. These statements damaged the reputation of petitioner and hindered his ability to earn a living.

81. As a result of these defamatory statements, Petitioner has suffered a loss.

82. Petitioner seeks an order of this Court directing a trial on the facts alleged.

As and for a Sixth Causes of Action

83. The petitioner repeats and reiterates each and every allegation contained in paragraphs 1 through 82 as if fully set forth herein.

84. Respondents collectively and amongst themselves conspired to defraud the OATH Tribunal by submitting false statements drawing up false charges and reaching a false result.

85. As a result of the conspiracy, Petitioner suffered a loss in excess of \$100,000.

86. Petitioner seeks an order and judgment of this Court directing s trial on the issue of Conspiracy and fraud.

As and for a Seventh Cause of Action

Environmental Harm

87. The petitioner repeats and reiterates each and every allegation contained in paragraphs 1 through 86 as if fully set forth herein.

88. Petitioners altered the DEP response to Air Pollution without any hearing or consideration other than their own internal review.

89. NYS requires a state Environmental Quality Review procedure before implementing any changes to any policy affecting the environment.

90. SEQOR requires all local, regional, and state government agencies to equally examine the environmental impacts along with the social and economic considerations for a certain project, or *action*, during their discretionary review.

91. Agencies must follow the [multi-step SEQOR Decision Process](#), which requires them to assess the environmental significance of all actions they have the power to approve, fund, or directly assume. If an action consists of multiple phases, sets of activities,

92. if separate agencies are involved, SEQRA requires agencies jointly consider these cumulative impacts during their review. Segmentation of an action into smaller components for an individual review contradicts the intent of the law and may result in legal action.
93. Respondents performed no such analysis
94. The result of Petitioners actions, without SEQRA review is that unknown, but calculable quantities of air pollution are being spread through the City of New York by violators not ticketed as a result of the actions here.
95. Petitioner is harmed by this in an amount to be calculated at trial.
96. Petitioner seeks an order of this Court directing a trial on the issue of ongoing environmental harm caused by petitioners.

Wherefore Petitioner prays for an order of this Court

(a) annulling the determination of OATH pursuant to their letter of 12-19-2023 and dismissing their charge dated 8-18-2023 and restoring Petitioner's entitlement to bring Air Pollution cases.

(b) annulling the determination of OATH dated 12-19-2023 and striking the charge dated 8-18-2023 and restoring Petitioners entitlement to bring charges for Air Pollution cases before OATH.

(c) setting aside the final determination and remanding the matter below for an actual hearing before an impartial judge on the merits.

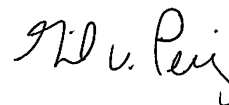
(d) Trial on facts of alleged loss.

(e) directing s trial on the issue of Conspiracy and fraud.

(f) directing a trial on the issue of ongoing environmental harm caused by petitioners.

And for such other relief as to this Court, deems just and proper.

Dated New York, NY
April 18, 2024



Gil V. Perez, Esq.
Attorney for Petitioner
30 Wall Street 8th Fl
NYC, NY 10005
1-212-233-0178

State of New York)
County of New York)ss.:

VERIFICATION

Hunter Severini, being duly sworn, deposes and says:

That he is the petitioner in the within action, that he has read the foregoing Petition and knows the contents thereof; that the same is true to his own knowledge, except as to the matters therein stated to be alleged on information and belief. And that as to those matters, he believes them to be true.



Hunter Severini

Sworn before me this
18 day of April, 2024.

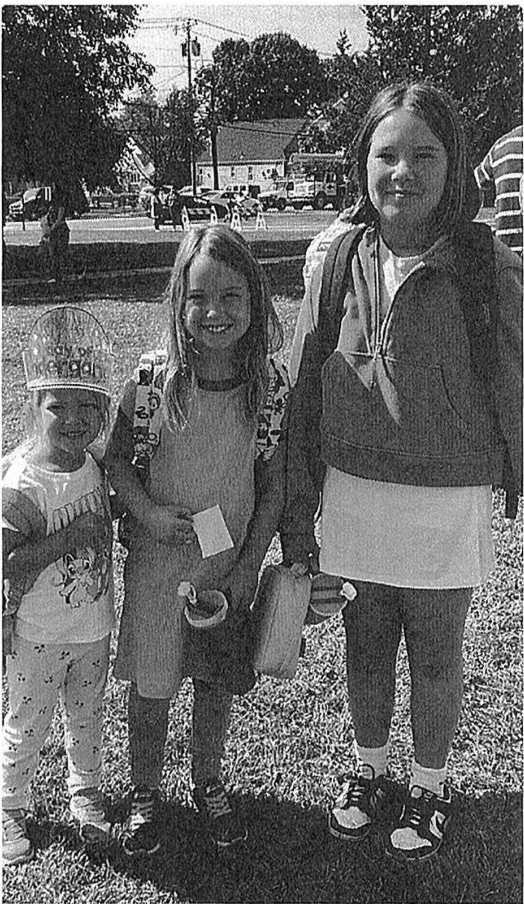


LILY ZHENG
Notary Public, State of New York
Reg. No. 01ZH6362341
Qualified in Queens County
Commission Expires 07/31/2025

Concerns Regarding Intro No. 941 on Air Quality

Hello, my name is Jonathan Robidoux, I have been a participant of the Citizens Air Complaint Program since 2020. In that time, I have observed many idling vehicles. I have seen vehicles idling and left unattended, I have seen vehicles idling with the drivers asleep behind the wheel, I have seen vehicles idling with the driver charging their phone and watching a movie. One time I saw a vehicle left unattended and idling on 3rd Street and LaGuardia for over an hour straight.

I have three daughters, all in elementary school. I am here for them. Whenever the city issues a sufficiently severe air quality alert they aren't permitted outside for recess. My children have already missed months and months of recess in their short lives because of the state of the world. Kids these



days have a lot to be afraid of, even the air. Sometimes I wonder if I've been foolish or selfish to bring them into this world, such as it is. What kind of world am I going to leave to my children, are we going to leave to our children? The Air Program gives me a chance to fight for a cleaner world for them. I owe them that.

And the Air Program works. Trucks from Imperial Bag and Paper always used to idle near my office, now they never do. In 2024 Imperial Bag and Paper has only received a small fraction of the idling complaints that they received in prior years. Their trucks are still there, but they no longer idle.

Intro 941 aims to stifle the promise of cleaner air that the Air Program brings. It will help make egregious idling behavior more prevalent and poison our air, hurting our children and their future. Intros 5 and 291 will help limit this. Please do the right thing and vote against Intro 941, and for Intros 5 and 291.

I promise you that my children will remember what choice you make. Thank you.

Hello, my name is Jonathan Robidoux, I have been a participant of the Citizens Air Complaint Program since 2020. In that time, I have observed many idling vehicles. I have seen vehicles idling and left unattended, I have seen vehicles idling with the drivers asleep behind the wheel, I have seen vehicles idling with the driver charging their phone and watching a movie. One time I saw a guy doing push-ups and sit-ups outside of his idling truck for several minutes. I once even saw a vehicle left unattended and idling on 3rd Street and LaGuardia for over an hour straight. I have seen A LOT of egregious idling behavior. Intro 941 will help make this behavior more prevalent and pollute our air further, Intros 5 and 291 will help limit it. Please do the right thing and vote against Intro 941, and for Intros 5 and 291. Thank you.

Josef Lazar

Resident of 45th City Council district
Brooklyn, NY 11234
pepounlazar@gmail.com

September 16, 2024

Councilmember James Gennaro

Chairperson, Committee on Environmental Protection, Resiliency & Waterfronts
New York City Council

cc: City Council Speaker Adrienne Adams
cc: Councilmember Farah N. Louis

Re: Protect clean air; pass Int 0005-2024 and Int 0291-2024, and oppose Int 0747-2024 and Int 0941-2024

Dear Chairperson Gennaro,

I hope this letter finds you well.

I am writing to you today as a concerned resident of our beautiful city to express my worries about the impacts that bills 0747-2024 and 0941-2024 will have on our environment and air pollution in New York City, and to express my support and enthusiasm for bills 0005-2024 and 0291-2024, which, if passed, will further advance our city in the direction of environmental sustainability and public health improvement.

Allow me to briefly give some background on myself and why these measures are so important to me. I moved to upstate New York four years ago to attend college, and since graduating have made Brooklyn my new home. Living in New York has many great benefits, but the scorching hot summers are not one of them. One summer I lived in an apartment with no air conditioning and it got so hot that I contracted hives and had to go to the emergency room. There are days when just standing outside for a few minutes causes one to become drenched in sweat and seek cool shelter. Heat waves are becoming more prevalent and more dangerous with each passing year. Furthermore, looking beyond our own discomforts, it is clear that the impacts of rising heat are having a devastating effect on our

environment. Many New Yorkers have fond memories of traveling to the Catskills and Adirondacks for summer camps and other nature retreats. These natural wonders are in dire threat due to rising heat, which I'm sure you are aware is caused, in large part, by the CO2 emissions that cars release. It is true that New York has made great progress in the transition to electric vehicles, but it is also the case that we still have a long way to go. While there are still fossil fuel powered vehicles on the road, it is crucial that we do whatever we can to reduce their CO2 emissions. One easy way that this can be achieved is by making our drivers turn their engine off when their car is stopped (idling).

Like many active New Yorkers, I am an avid hiker and nature enthusiast and am deeply concerned that New York's nature will be demolished by our lack of action on environmental protections. Look no further than the recent fires that reduced the Jasper National Park to ashes, or to the fires in Canada last year that caused the sky above New York to become orange and made the air taste like smoke. If this is what is happening today, what will the world be like in ten, twenty, or even fifty years from now? I want to have kids one day, but like many in my generation, I am forced to ask myself: Is it wrong of me to bring kids into a world that is on track for environmental collapse?

If you are at all sympathetic to my distress, then I urge you: Please support bills 0005-2024 and 0291-2024 which will incentives and make it easier for New Yorkers to stop unnecessary fuel burning by expanding language access for submitting idling complaints, and by raising the feels for idling violations which will further disincentive it. Furthermore, please oppose bills 0747-2024 and 0941-2024, which do the exact opposite - they incentivise CO2 emissions by reducing the fines for idling, and they make it harder for activists to take action against this lazy and dangerous practice.

Sincerely,
Josef

Testimony to City Council Committee on Environmental Protection, Resiliency & Waterfronts

Concerns regarding Intro 941

Wednesday September 18, 2024

Josh Bisker

[REDACTED]

Brooklyn, NY 11216

[REDACTED]

Hello everyone. My name is Josh Bisker.

The Citizen's Air Complaint Program lets people like me and my neighbors reduce the number of idling trucks that pollute our neighborhoods. INTRO 941 threatens to destroy it.

This issue is personal. I'm a born New Yorker who has had asthma since childhood, and I'm dedicating this testimony to my beloved neighbor, Miss Pam, who is permanently disabled from the asthma she developed after moving here from Barbados.

This is also an issue where I have expertise. I'm a participant in the program, *and I am also a former delivery driver*. I also know how widespread idling is because I spent seven years at a nonprofit bicycle education organization, and have biked for countless hours through New York City's streets, seeing idling trucks everywhere.

Trucks and other commercial vehicles should not be allowed to pollute the air we breath, and our current Citizens Air Complaint Program should be expanded, not eroded.

INTRO 941 damages the current program in four ways. (1) It creates loopholes that will let polluters escape consequences for idling. (2) It increases the technical barriers that already make it hard for people to submit complaints. (3) It introduces opaque new risks for people who might submit incorrectly. (4) And it cuts the rewards for participation *in half* or even further.

The results will mean fewer people who are able to take part in the program, and more idling trucks polluting the air citywide.

I want to talk for a moment about why **the 25% reward structure has been vital to public participation**. For about two years now I've been working two part-time jobs in the trades and in the service industry while also submitting regular idling complaints, because it took ages to learn how to navigate the submission system, and eighteen months to *start* getting paid out. It turns out that recording complaints is complicated, submitting them is cumbersome, and tracking their progress takes time, skill, and labor. If the reward structure had been HALF what it is now – or

potentially A QUARTER AS MUCH, thanks to polluters obtaining easy fine abatements thanks to 941 – I could not have participated in the program while also keeping bread on my table. Without the promising 25% reward structure, it's almost certain I never would have started submitting complaints. I would simply not have been able to invest the time and rigor required to while also keeping myself above water. In short, the 25% reward has made this program accessible to working class New Yorkers like me.

The reward structure has proven to be even more important than I'd thought two years ago because it turns out that many violators simply refuse to pay their summonses. Many successful complaints therefore never yield rewards at all, even if the polluter is found to be in violation for illegal idling. Only a portion of complaints yield rewards—and those usually take 2-4 years to filter down to the submitter. Anyone who is interested in submitting complaints has to weigh their time and effort against the general struggle it takes to stay afloat in New York City. If we want the program to be effective – meaning, we want trucks to stop needlessly polluting the air – then we need rewards that appropriately incentivize participation.

And I can testify to a discernible reduction in idling trucks year to year as the program has grown. I've watched companies like UPS and Amazon teach their drivers to stop idling, and start electrifying their fleets. I've seen tow truck drivers start turning off their engines when they secure their cargos, and dump truck drivers finally stop idling while receiving loads of construction debris. It's been a slow but seismic change. **I've also seen what this program promises to do for the individual workers at these companies:** one ConEd technician told that he spent ten years driving one of the company's box trucks and had headaches and nausea every single day by the time he was done with his shift. He also told me that ConEd keeps promising the workers that they'll electrify their fleet by 2035. "That's ten years," he said, "but they could do it tomorrow if they really wanted to. Ten years, will I even still be here? Will my kids be okay?"

Each day that I sit with Miss Pam out on our stoop, there's still a FedEx truck that comes down our block, idling five minutes for every twenty-five feet it moves, and belching clouds of choking, toxic smoke. This program is literally all we have to protect each other from that, one complaint at a time, until the pollution stops.

Please stick up for the people's right to clean air everywhere, protect the citizens air complaint program, and say NO to Intro 941.

Thank you very much. I am eager to answer any questions you have now or in the future.

Josh Bisker

Dear Council Members,

I am a citizen participant, resident of Brownsville, Brooklyn and am opposed to the proposed restrictions on the Clean Air Citizen Enforcement program. This program without the proposed changes is a lifeline for individuals trying to reintegrate into society like at-risk-youth and adults who have overcome drug addiction, homelessness, or been incarcerated. For someone working hard to better their situation, participating in this environmental enforcement program provides both financial support and a sense of purpose. The potential earnings from filing complaints help cover basic needs like food and housing and encourage us to contribute positively to our communities.

Reducing the rewards to citizens is unfair if you take into account the learning curve and amount of work that goes into collecting evidence out in the streets and filing paperwork when you are just a regular citizen that doesn't have such experience. Many of these citizens participating in the program are regular working people seeking to make a living while contributing positively to their communities. By diminishing their awards, you are telling them that their efforts and dedication towards clean air for their people does not matter and in fact, should be penalized by taking a chunk of their hard-earned awards.

The proposed bill hurts not just a few, probably underserved, neighborhoods here and there like mine, but the City as a whole. What this proposal is trying to do, in my opinion, is discourage participants and reduce the amount of violation complaints that are being submitted which will cut a source of income for the city, while giving a free pass to polluting companies so they can save a couple dollars at the expense of our health. The city should be encouraging active participation from concerned citizens and demand accountability from polluters.

By changing the program, you will not just be targeting its participants; you will also be taking away from the city a valuable resource in its fight for environmental and public health. No other state has a program like this and those involved in preserving it to lower pollution as much as possible for all our sake should be cheered on. Participating citizens are our eyes and ears on the ground, helping to identify and address violations that may otherwise go unnoticed. They are important to building healthier and safer neighborhoods.

We must recognize and support those who strive to protect our environment while rebuilding their lives. By doing this, we help our communities and ensure a healthier New York City for everyone.

Thank you for considering my testimony and I hope you do not support the proposed bill,

Justin Bernstein

[REDACTED]

From: Kevin McGhee <mckevi@gmail.com>
Sent: Saturday, September 21, 2024 2:59 PM
To: Testimony
Subject: [EXTERNAL] Testimony re: Intros 941, 291, 5

[REDACTED]

I'm an environmental health and safety professional with 20 years of experience in my field. I do have a day job that I am passionate about. Idling complaints is something I do in my spare time, on the way to work, during lunch, etc. Prior to being involved in reporting idling, I had been devoting a large part of my free time to environmental causes such as sustainable street infrastructure. I had also begun a habit early in the COVID-19 pandemic of commuting to work by foot, usually walking up to 12 miles each day. When I learned of the Citizen Air Complaint Program (CACP) in 2022, it seemed like a perfect fit for me to be involved, and has allowed me to sustain the healthy habit of walking most places.

I am submitting testimony to oppose Intro 941, and to support Intros 5 and 291.

This program is the only means of enforcing the idling law that works.

The law went unenforced for almost 50 years, during which idling went unchecked, and the health of New Yorkers was needlessly harmed. Threats to the CACP such as Intro 941 will result in a return to previous levels of idling and will cause more harm and death.

The Commissioner expressed concerns during his testimony about citizens making too much money from this, which I think is red herring. What does it matter to deterrence against air pollution if 1 person files 100 complaints or 100 people each file 1 complaint? Although if the latter scenario sounds better to members of the Council, they should support Intro 5 so that the program can be opened to the 25% of the city that is not fluent in English.

Critical incentives empower ordinary New Yorkers in the City's most affected and marginalized communities with access to take part. It's "environmental self-defense."

Balanced against this incentive, consider that more than 1 in 4 summonses are never paid, and the ones that are paid take 1-3 years to come in. Consider the work involved in overcoming the barriers to participation and learning to submit successful complaints. New citizens in marginalized communities will have little reason to join the effort if they learn that in addition to these challenges, the awards that eventually pay out will be worth only 12.5% of the penalty.

Given these existing challenges, I am deeply concerned about a collapse in citizen engagement if the incentive is gutted by 941, and with it, the end of enforcement. Veteran watchdogs will quit, institutional knowledge will vanish, and new recruits will dry up.

Have you considered the harms to public health if citizen engagement collapses and rampant idling pollution returns, along with it the damage to public health, and the increase in healthcare costs?

I also oppose the cure provision for Intro 941, which would allow Respondents to cut their fines in half if they submit documentation of the installation of anti-idling technology on the vehicles involved in the summons. I have seen how this technology is deployed in the field. Drivers who want to run the air conditioning in their 30,000 lbs dump trucks during their lunch breaks, rather than sitting in the shade or finding a cafe, simply tap the accelerator to override the devices or turn the engines right back on seconds after the timer shuts them off. There is no benefit to offering this incentive when the threat of idling tickets already offers plenty of incentive by itself. Aside from this, the devices simply aren't necessary if drivers are appropriately trained to turn the ignition switch off when appropriate.

Intro 941 imposes a 5-day limit for submission of citizen complainants while doubling the DEP's limit on reviewing submissions to 90 days. 5 days is simply too short considering the work involved in preparing complaints for submission, and considering that most participants have full time jobs with busy lives. This also creates a discouraging barrier for new program participants who may decide to start participating in the program after stumbling across an idling truck and recording a video, but who will almost certainly give up when realizing that they need more than 5 days to figure out the convoluted process for submitting their first complaint.

By far the most common complaint of industry representatives that testified at the 9/18/24 hearing on Intro 941 was about the long delays between violation occurrence, service of summons, and hearings. I strongly agree with this concern and oppose the expansion of the DEP review window from 45 to 90 days. Instead, they must be held tightly to their statutory obligation and provided with the necessary resources to do so. In addition, OATH must be provided with appropriate resources such that hearings are held in a timely manner, rather than the current norm of 12-18 months after complaint occurrence.

I oppose the provision in Intro 941 permitting the lawful idling of school buses for up to 15 minutes per hour. In practice, this means that idling of school buses adjacent to schools will be permitted indefinitely, as it is not practical for a citizen complainant to record for periods in excess of 16 minutes. Children are the most vulnerable population, and this provision is in direct contradiction to the intent of the law that is meant to afford greater protection to such areas.

In addition to this, the Commissioner's testimony asserting fraudulent behavior on the part of citizen complainants is simply false. Very few summonses have been issued against citizens, and the ones that have been issued have mostly been dismissed at OATH because they were very clearly the result of simple clerical errors on the part of complainants, rather than any intent to deceive. The nature of these errors were plainly evident to DEP, but DEP chose to pursue these cases, which were bound to be dismissed, in order to create a false narrative of fraudulent behavior. For example, one citizen who testified at the hearing for Intro 941 on 9/18/24 was issued a summons for his very first complaint because of a simple and clearly evident time zone glitch in the complaint submission web portal. Another person who testified was issued a summons because he did not hear the engine turn off part-way through the recording of one complaint over the background noise (this summons was dismissed on the day after the hearing). Another person was issued a summons for submitting a video that his wife recorded while he was standing across the street from her. These are the examples that the Commissioner is holding up as "fraudulent behavior" requiring creation of a code of conduct.

Intro 941 imposes vague, subjective, and unworkable “requirements that persons conduct themselves in a dignified, orderly and decorous manner during all interactions with the department.” The Commissioner showed examples of “abusive” language that DEP employees have received from citizen complainants. While the rare examples cited are certainly rude and at times vulgar, they are well short of anything that would be considered threatening or criminal. I do wish that the more zealous program participants would moderate their language in such conversations - and I have chastised them privately when I have been copied on such communications - but banning them from petitioning the government over protected speech would certainly violate the first amendment and would result in immediate lawsuits that the city cannot afford to fight. This is especially true considering that the process the DEP proposes is no due process at all, but instead pure bureaucratic fiat. I therefore agree with the NYCLU’s opposition to this bill on these grounds.

Intro 941 also subjects CACP participants to a potential ban by bureaucratic fiat if they do not “demonstrate familiarity with the rules promulgated.” This is yet another deterrent to new participants in marginalized communities, as the DEP’s rules and guidelines for the CACP are poorly explained and constantly changing, with a major learning curve for anyone getting involved in the program, and with even veteran participants frequently finding themselves confused about the shifting rules.

Sincerely,

Kevin McGhee

[REDACTED]

brooklyn, ny 11205

Dear Committee Members,
I live in Sunset Park, Brooklyn and see a lot of trucks and buses idling on the streets. I know, air pollution is very unhealthy and therefore I am glad we have the Citizen's Air Complaint Program. I looked at bill 941 and it seems to me that this bill would result in more idling and less enforcement. More idling would be allowed next to schools, which is a terrible idea. My son is 18 years old and is currently in High School. I do not want him to be exposed to more toxic diesel fumes from school buses. Also, idling reporters would be paid less, which means that fewer people will hold idlers accountable. This is not a good idea. I have actually considered becoming a Citizen reporter, but I have found the work to be too much and the pay not that attractive. If the pay is even lower, fewer people will report idlers. This is not what we need. Therefore I would like to urge you to reject bill 941.

Sincerely,

Ling hong

[REDACTED]

From: Liz Slome <lslome1234@gmail.com>
Sent: Tuesday, September 17, 2024 10:40 AM
To: Testimony
Subject: [EXTERNAL] I oppose intro 941

[REDACTED]

I prefer to live in a city that does not actively pollute its citizens.

Thank you
Liz

From: Marc Schmied

[REDACTED]

Brooklyn NY 11215

September 16, 2024

Councilmember James Gennaro

Chairperson, Committee on Environmental Protection, Resiliency &
Waterfronts, New York City Council

cc: City Council Speaker Adrienne Adams

cc: City Council Member Shahana Hanif

**Re: Protect clean air; pass Int 0005-2024 and Int 0291-2024, and
oppose Int 0747-2024 and Int 0941-2024**

Dear Chairperson Gennaro,

As a New Yorker concerned with the environment (and a big fan of breathable air), I am writing to you today in support of Int 0005-2024 & Int 0291-2024.

These bills make it easier for all New Yorkers to report car, truck and bus engines that are idling and increase the penalties for offenders. If the police are not always available to protect our air quality, then we should be making it easier for concerned citizens to do so.

I oppose Int 0747-2024 & Int 0941-2024. I'm not clear on how making it more difficult to report offenders, reducing fines, and intimidating whistleblowers is in the public's best interest.

Thank you for your attention in this matter,

Marc Schmied

My name is Marlene Morgan. I have an almost 3-year-old daughter, and I've participated in the Citizens Air Complaint program since 2022. I used to film about 25 idling trucks a week in the six or so blocks surrounding my apartment in Greenwich Village. I say "used to" because anecdotally I feel the program has been very effective—I hardly ever see trucks idling in my neighborhood now.

I'll give one example. The truck of a flooring company used to idle at least one morning a week right outside our building's front door. I filmed this truck about six times, and now it never idles—ever. I'm happy it's there—I want our flooring to be fixed—but I'm also happy all of the children—including my daughter—who exit our building every day don't have to go through a cloud of exhaust to do so. There was never any business-related need for this truck to idle. It's amazing that I, as a mother, could actually do something to reduce the air pollution in our neighborhood.

I travel to other cities and see idling trucks everywhere, and I think—New York is such an amazing city. We actually have this amazing enforcement mechanism that actually stops idling from happening.

I think the Citizens Air Complaint program benefits every New Yorker. It benefits our children the most. Air pollution is so damaging to children, and this is air pollution that doesn't have to happen. Please do vote against 941 and for Intros 5 and 291.

[REDACTED]

From: Matthew Dailey <nomadherbs@gmail.com>
Sent: Saturday, September 21, 2024 3:40 PM
To: Testimony
Subject: [EXTERNAL] Details about how 941 will harm NYC

[REDACTED]

Please review the details about how 941 will harm americans living in NYC.

It's a false dichotomy to claim that we cannot protect children and the elderly and it must cost NYC businesses. We simply want to protect residents rights to be able to breathe the air we all need to survive.

<https://static1.squarespace.com/static/6587c92d4aef2b4be055a2a0/t/66cfe068a3eeee331f8afe67/1724899687995/941.pdf>

I appreciate you reading this message!

Intro 941 Testimony
Michael Mandiberg

I would like to express my strong opposition to Intro 941. This bill pretends to be in improvement, but in reality, it poses a grave threat to the success of the Citizens Air Complaint Program.

I oppose:

- this bill's exemption for school buses poisoning the lungs of the vulnerable young
- reduction in the incentives that have made this program successful -- this just looks like the City getting greedy, and will ultimately kill their golden goose
- the changes in timing: totally irrational for the DEP to increase their time by 2x, and reduce the complainant's time by 18x.
- criminalization of civic engagement through a vague "code of conduct" that will be enforced without oversight.

In total, this bill will gravely wound, if not kill this successful program, which we should be working to expand.

Idling vehicles emit toxic pollutants that poison our air, destroy our climate, and endanger the health of New Yorkers, with the heaviest burden falling on our children and our underserved-community neighbors. The Citizens Air Complaint Program is our frontline defense, proven to reduce idling and protect public health. Breaking it would be catastrophic.

Sept. 18, 2024

NYC Council

Committee on Environmental Protection, Resiliency, and Waterfronts

Hon. James F. Gennaro, Chair

Oversight - Citizen Complaint Programs

Thank you for this opportunity to be heard.

My name is Michael McFadden. I am a retired NYPD Detective. I have been witness and sometimes participant in many of the best and worst events that have occurred in NYC during my lifetime.

I joined the NYPD because I wanted to make a difference and do good things for the people living, working and visiting NYC. I had a great sense of satisfaction in the work I was doing during my 30 years of service. The idling complaint program has allowed me to continue to do good for others while in my retired years.

During the pandemic I discovered the citizen idling complaint program by accident, when I was attempting to have the illegally parked and stored large commercial trucks in my neighborhood addressed, without success. In the summer of 2021 I submitted my first idling complaint. I also discovered to my dismay that there was almost no guidance offered, or even available by request, from the DEP or OATH in how to best document or submit idling complaints.

In 1972 NYC passed a law making the unnecessary idling of a motor vehicle illegal. What a great idea. How far ahead NYC was in identifying this hazard to our health and the harms it causes and continues to cause to us and our environment. A real big picture idea and real simple remedy. Turn it off.

Many years later due to the complete lack of enforcement of this law, the City Council passed another big picture law. The law which made Citizen Reporting/Enforcement a reality and required the DEP to inform the public. The public comments by the Council were strongly in support, including those by now Committee Chair Gennaro. The only problem was the citizens were never really and truly informed. I later discovered a group of citizens were assisting each other in how to best make reports and how to do all of the tedious and unnecessary follow-on tasks to see their complaints through until they were fully resolved. These citizens, who I have joined with, are who I call the Exceptional Citizens. They perform outreach and training to enlist, encourage, and assist new participants. Something not being done by NYC in spite of my and others numerous requests. How fantastic it would have been to have citizens as involved, creative, caring, and resourceful as these are during my time in the NYPD. The Adams administration and the DEP have failed to realize or capitalize on what a truly exceptional opportunity they are squandering.

Since 2021, I have had the first hand opportunity to become intimately aware of the very small minded and shortsighted way this program is administered. Almost every change that has been enacted, or proposed has actually been designed to limit both participation of citizens and to reduce the acceptance of valid complaints.

I can very strongly state that in spite of public and official comments made by the administration in favor of reducing unnecessary vehicle idling and the support of this program. That the opposite is actually true and that these changes being proposed will negatively affect the current and future participation in, and the success of the program, in spite of the many hurdles the exceptional citizen participants have and continue to endure.

Please judge these proposals by what they will actually do, and not what is being said by those proposing these changes. These proposals are going to harm the program and by default the health, air, and finances of NYC and its residents and visitors.

I have seen the changes that the successful reporting of idling complaints has made. I state beyond a doubt that many of the trucks I have reported idling are doing so far less frequently or not at all. NYC and all its various enforcement agencies have never come close to properly addressing this pervasive and truly harmful behavior. It is literally a cultural change that must be addressed. The cultural change must be made within the administration, the trucking industry and indeed the public.

Unnecessary idling will be eradicated when the simple equation of risk to reward, tips out of balance, for those who idle unnecessarily. The risk is simply not yet high enough to end it. We need to encourage more participation, not less. The reduction of idling that will occur, will reduce the amounts of complaints made, by the reduction of this illegal action as opposed to discouraging participation and the submission of complaints.

This is the big picture ideal that should be recognized and cultivated. NYC will truly be the example that it intended to be in 1972 and again in passing the law allowing the Citizen Idling Complaint Program.

Please support the effort in reducing UNNECESSARY idling. The benefits to the city, its residents, visitors, and its finances are real. The real reduction in medical and emergency room costs to the city alone are substantial. End the completely unnecessary harm to children, and all who breathe, including the employees actually operating these vehicles. End the disproportionate harm to low income persons and people of color. Not to mention the harm to the environment and the contribution to global warming caused by unnecessary idling of a vehicle. Please support Intro. 5 to help end this unnecessary and harmful idling.

I urge you to reject Intro. 941 as it will harm the ongoing and real reduction in unnecessary vehicle idling and chill citizen participation. Passing Intro.941 would be among the worst decisions a good government could make. I also ask that you reject Intro. 747 for these same reasons, and the unnecessary and unconstitutional behavior and conduct rule, it includes.

I would support Intro. 291 if it was not seeking to weaken the current definition of Truck and Bus as defined in the VTL, to a weaker and not applicable definition in the NYC Rules which is actually specific to commercial vehicle parking in commercial vehicle zones.

This should have nothing to do with determining if a truck is or is not idling.

Who cares if a truck is properly registered as a commercial vehicle, if it is polluting our air??

Our current administrators of this program do, and they refuse to hold trucks accountable if they are not properly registered as a commercial truck, no matter the current law and its definition of truck as defined in the VTL. This is a (rule) disguised as a “best practice” designed only to reduce complaints and excuse the air pollution that is occurring contrary to the actual and current law. Our DEP is actually informed of and excusing Air Pollution.

If the Council makes the proposed changes that will negatively impact the enforcement of the current air code and the Citizens Idling Complaint Program. I would view this as one of the worst events I have witnessed in NYC.

Thank you,

Michael McFadden

P.S. I have had the opportunity to have heard the testimony the DEP made during this hearing and I do believe it to be somewhat less than the plain, honest, and simple truth you are entitled to have heard. I feel that the members of the City Council making decisions as important and consequential as this should be presented with plain, honest, unbiased facts from the city employees who are “advising” the Council.

This is not what was done.

I would also like to inform you that the DEP also had yet another violation dismissed today, after a hearing, in which they charged a citizen complainant with making a false statement. These cases and their circumstances are part of the “reasons” the DEP is seeking a code of conduct. The Council is being misled and each of these dismissals are evidence of that.

As a former law enforcement officer I am truly bothered by the acts that DEP has taken and continues to take in how it enforces the law and exercises discretion in its enforcement actions. They ignore some laws and abuse others, whichever it is that they prefer. This should not be permitted or allowed to occur.

They have actually changed the affirmation a citizen signs when submitting a complaint from a violation of the Penal Law to a violation of the Air Code. This change allows them to charge a citizen directly, without the review that would take place if the charge were a violation of the

Penal Law, as the local District Attorney's Office would ultimately determine if the charge was applicable.

I do not believe that ANY of these cases that were charged by the DEP, for false statements made by these citizen complainants, would have been charged by any of the District Attorney's Office's within NYC.

I believe that this change in the affirmation and the charging of these citizen complainants should be the subject of a separate review by Council.



Michael McFadden <mmcfadden911@gmail.com>

Citizen Idling Complaint Program - New to Program - Repeat Violator

1 message

Michael McFadden <mmcfadden911@gmail.com>
To: gerryk@dep.nyc.gov

Mon, Sep 6, 2021 at 12:17 PM

Happy Labor Ms. Klepin,

I accidentally sent this message earlier, prior to completion. Please see my entire message below.

My name is Michael McFadden. I am a life-long NYC resident and retired NYC employee. I am also a new participant to the DEP citizen idling complaint program that I found out about via the BILLY NEVER IDLES Campaign.

I really felt that this was a worthwhile program and now feel even more strongly due to the continuing and clear catastrophic events that climate change is bringing upon us. I still cannot believe how many NYC residents drowned in this most recent rain storm.

I feel that the program, although well intentioned, has great room for improvement and it seems that you are in position to both hear and enact change due to your position as Director.

The system as it currently is is not user friendly or efficient. It is quite onerous in fact. I continue to learn more about how to effectively use it day by day but it is still quite difficult and frustrating. I have had several complaints rejected for completely arbitrary reasons even though the idling offence was clearly documented.

I have now recently become aware that repeat offenders need to be identified by the citizen complainant, which makes no sense to me. Is this true? What is the reasoning for this?

It would seem DEP would have the most simple and efficient access to these records as DEP issues the violations. This is clearly a lost opportunity for additional revenue, as most citizen complainants would not be aware of this, are not made aware of this, or how to determine if one is a repeat offender. There is also the lost opportunity to change the bad behavior of these repeat offenders through higher penalties.

Another point I would like to make and have answered is why do the citizen complainants need to determine the "proper" party on whom to issue the violation? I truly find this to be one of the most daunting steps in the process, and if not correctly made, likely results once again, in loss of revenue and any educational/corrective value.

I believe that the citizen complainant should be providing the evidence of the violation as already required, including license plate and information posted on the vehicle such as company name and address if posted, as well as DOT#, also if posted. The DEP should then use this information and the DMV records to properly identify the violators and issue the violations correctly and accordingly.

The DEP in not making this determination - is certainly allowing offenders it has the ability to properly identify - escape responsibility. This is of benefit to no one other than the offender and is clearly not in the spirit of this unique program in which the government seeks the public's assistance in curtailing this harmful and unnecessary activity/behavior. What is the reasoning for this? As well as for allowing this inefficient and unproductive process to continue?

In closing, I am hopeful that this program can be improved as it has a real value for all of us. Regardless of politics, climate change is here and needs to be addressed. This program is likely to be modeled in many other cities around the world.

I would also like to take the opportunity to inform you and ask for your help in having a violation that I reported today be issued correctly as a second offense.

Details are:

Complaint# 2021-04972, Statim LLC - Delaware license plate C925999 observed idling 7/7/2021.

PRIOR VIOLATION - 4/20/2021 - NOV# 000677950X - Hearing Date: 8/17/2021, Decision Date: 8/24/2021 - Violation \$350 - Default \$1,000.

Thank you,

I look forward to hearing from you and perhaps improving this worthwhile program.

Michael McFadden

City Council Testimony 9/18/2024

Hi, I am Michael Streeter, a founding member of the New York Clean Air Collective. I've been a participant in and champion of the Citizens Air Complaint Program since 2019. I submit a lot of complaints, but at the same time I have also recruited a lot of new participants, and I have trained and mentored and spent countless hours answering questions for people getting started in the program.

If you saw the segment on the Daily Show a couple of months ago, that was something that came about through me, and I'm very proud of that segment and of the awareness it brought to the program, and even more so the positive response that it had. Look at the 800 comments on Youtube; almost all of them are overwhelmingly positive.

If you think I'm in this for the money, why would I do all that? Wouldn't that put me out of business? Maybe putting myself out of business is exactly my goal.

Many avid participants have done the same, bringing more people to the program. The New York Times Front Page article in 2022 also happened through one of us. We have brought 50 million dollars to the city, and we are also getting the word out ourselves and helping people figure out how it works, because it's overly complicated and confusing. The program just had its biggest month ever in August with about 12,000 submissions. Complaints are up, but make no mistake, idling is DOWN, because there's more of us participating in the program.

Having done this for 5 years now, there are so many companies that I used to catch idling that now barely idle or have outright stopped. Stroehman Line-Haul used to idle in front of Key Foods on Montague St in Brooklyn for about 20 minutes several days a week - whenever they had a delivery. And then one day it just stopped. Completely. Not just the one on Montague St, but all of them. And not just Stroehman Line-Haul. Montague Street used to be filled with idlers. Now I hardly ever catch anyone idling there.

We need to get to a tipping point - a balance, or an equilibrium - where idling is rare but at the same time there are many citizens out there who can take out their camera and record a complaint. That's what needs to happen with the program. Not Intro 941. Intro 941 will discourage participation, it will make recruiting new participants even harder than it already is, and it will cause many companies to revert to their bad behaviors.

If the idea that there are people making a lot of money doing this is the problem, that is a symptom of the way the program is currently set up to where you've got mostly people with post-graduate degrees submitting the majority of the complaints. Here's how you fix that: Don't pass Intro 941. Instead, pass Intro 5, and then make the program less convoluted, more accessible, and easier to use.

Thank you.

Molly Bombonato
Astoria, NY
District 22
molly.bombonato@gmail.com

September 16, 2024

Councilmember James Gennaro
Chairperson, Committee on Environmental Protection,
Resiliency & Waterfronts
New York City Council

cc: City Council Speaker Adrienne Adams
cc: Councilmember Tiffany Cabán

Re: Protect clean air; pass Int 0005-2024 and Int 0291-2024, and oppose Int 0747-2024 and Int 0941-2024

Dear Chairperson Gennaro,

I'm a mother of a two-year-old boy in Astoria that has seen many idling vehicles in the neighborhood. I'm urging you to protect the air we breathe – especially for the vulnerable ones with little lungs - by making it easier, not harder for citizens to report vehicles idling illegally. Please preserve and improve the Citizens Air Complaint Program and reject proposed changes that would make it harder for citizens to report idling vehicles.

The bills I support:

- [Int 0005-2024](#) - Translating the citizen's air complaint program portal into the designated citywide languages. (Sponsored by Brooklyn Councilmember Alexa Aviles)
- [Int 0291-2024](#) - Increasing civil penalties for idling infractions by trucks and buses. (Sponsored by Manhattan Councilmember Julie Menin)

The bills I oppose:

- [Int 0747-2024](#) - Establishing a code of conduct applicable to citizen noise complaints. (Sponsored by Queens Councilmember James Gennaro, chair of the Committee on Environmental Protection, Resiliency and Waterfronts)
- [Int 0941-2024](#) - Regulating the idling of engines and the use of citizen's complaints to enforce laws enforced by the department of environmental protection (Sponsored by Queens Councilmember James Gennaro, chair of the Committee on Environmental Protection, Resiliency and Waterfronts).

Thank you.

Best,

Molly Bombonato

Ms. Pauline Beam

CD 39, Brooklyn, NY 11215
pauline.beam@gmail.com

September 16, 2024

Councilmember James Gennaro

Chairperson, Committee on Environmental Protection, Resiliency & Waterfront New York City Council

cc: City Council Speaker Adrienne Adams

cc: Councilmember Shahana Hanif

Re: Protect clean air; pass Int 0005-2024 and Int 0291-2024, and oppose Int 0747-2024 and Int 0941-2024

Dear Chairperson Gennaro,

I am writing to support preserving and improving the Citizens Air Complaint Program and to oppose any changes that would make it harder for citizens to report idling vehicles. I am an elderly person with chronic lung and heart problems, and sensitive to exhaust fumes. I am not alone. Exhaust triggers asthma, exacerbates chronic lung diseases, and is a special risk for children and older adults.

In my neighborhood, exhaust from idling is especially bad on 5th and 7th Avenues and Flatbush Avenue. Delivery trucks for stores along the avenues sit spewing out sickening, polluting fumes. Cars double park, their engines running, to allow their passengers to run into banks and shops on “short errands”. I arrive home from my errands headachy and short of breath. On bad days, I walk out of my way, taking longer routes along side streets to avoid the worst areas.

Please do not pass Int 0747-2024 and Int 0941-2024, which would make it harder for citizens to make an idling complaint. Rather, please advance measures such as Int 0005-2024 and Int 0291-2024 to strengthen the Citizens Air Complaint Program.

Respectfully submitted,

Pauline Beam

My name is Peder Wessel, and I live in Manhattan with my two small children, 2 and 4 years old. I strongly oppose Intro. 941. Since the Citizens Air Complaint Program was introduced I have witnessed first-hand a significant reduction in idling in my neighborhood. This would not have been possible without the Council's foresight—thank you for creating the Citizens Air Complaint Program.

Let me tell you my story with the Program. When my youngest child was born, I read an article about how New Yorkers have a higher share of asthma than elsewhere in the state. As a parent of a newborn, I was very upset that New Yorkers' have to endure higher asthma levels. But I was also grateful that the City was willing to empower citizens to report excessive idling.

When I started participating in this program in 2022, there was literally excessive idling at every corner of our neighborhood. I have personally made many reports of excessive idling through the Program, and I am glad to report that I have first hand observed a significant decrease of excessive idling around our home. Chairman Gennaro, I can tell you that what used to be 10-20 illegal idlers on a street, is now down to just a few, if any.

Unfortunately, this clean air success story almost didn't happen, at least for me. That is because the DEP prosecuted me personally—and cost me thousands of dollars in legal fees, plus incredible amounts of stress—for simply making an error *in my very first complaint*. I experienced a timezone related challenge, and in part due to a bug on DEP's website relating to timezones. What is worse, I caught the error and told the DEP about it—and they still prosecuted me claiming I had knowingly made a false statement when there was simply a mistake made. Ever more shockingly, part of the error was introduced by a known bug in the DEP's website—a bug the DEP knew about before they prosecuted me. To my knowledge, DEP has still not fixed this bug over a year later.

Fortunately, Intro. 941 was not the law, which meant I got to have a hearing on DEP's charges against me. I was also lucky enough that I could afford a lawyer. At the hearing, a neutral OATH judicial officer heard my case and found that this was clearly not a false statement. I shudder to think of what might have happened to someone with less privilege and education than myself, if they had been prosecuted by DEP for their very first complaint.

Chairman Gennaro, my story shows how dangerous Intro 941 is, because none of this due process would have happened if Intro. 941 were the law

Instead, the same DEP that falsely accused me of making a false statement would be the only authority to decide if a citizen had acted in a "disorderly, undignified, and indecorous" manner—and if the Commissioner said so, on his word alone, a citizen could be banned from the program for ever. Even though a neutral Hearing Officer found DEP's charges against me were baseless, if Intro. 941 passed, I don't know whether I would still be allowed to participate in this program. I am certain of the fact that where my children today play and bike would be experiencing much more pollution, had I not been able to continue to participate in the program. **In other words, Intro. 941 would increase air pollution, plain and simple.**

The Program also helps other aspects of street safety. I saw first hand truck drivers leave their vehicles previously to go to the deli shop and buy something, all while leaving their truck running. That is terrible for the environment, but also extremely dangerous in case someone jumps in and steals the vehicle. There have been multiple terrorist attacks around the world involving vehicles. One such attack occurred in Stockholm in 2017. The hideous attack led to that 5 people needlessly died, and many more got severe injuries, as a terrorist stole a truck where the keys were left inside while the driver was outside the vehicle. I love New York City, and if anyone can relate to horrendous terrorist attacks it us New Yorkers, I fear that bill 941 would allow more idling to occur, and as a result more keys be left in unattended vehicles which needlessly increases the risk of future terrorist attacks.

We do not need Intro. 941. I don't see the need or benefit of switching the power on who can decide who is eligible to participate in the program solely to DEP, without any oversight as exists from OATH today. I don't see what intro 941 is actually trying to improve in terms of the program or air quality in NYC. What benefit would Intro. 941 create for our citizens, and in particular young children who are vulnerable and susceptible to asthma? How does it help our children to punish citizens for innocent mistakes? What good is done for our air to take away the Council's authority to oversee the Program?

The solution to excessive idling is changed behavior, namely upon arriving to a location, turn off the engine. It needs to become muscle memory, and even though we have seen good progress, clearly we are far from done judging by the amount of summons that have occurred year to date. If companies want to install anti-idling technology, they can do so—but it's totally unnecessary and they shouldn't get a break on fines because of it. What we need is a culture change where arriving at a destination is synonymous with turning the engine off, and that is exactly what the Program incentivizes drivers to do today.

I strongly oppose Intro. 941, and I hope you do the same.

To the Members of the Committee, particularly but not solely Chair Gennaro, whom I thank for his extraordinary stamina in running the hearing of September 18th, and CM Restler, who represents me as a constituent.

I am a participant in the Citizens Air Complaint Program. I have submitted both idling and dust complaints numerous times, participated in Council and DEP hearings concerning the Air Code, and reported on the CACP itself in my capacity as a journalist. Obviously, I like the program enough to do it, but I have also had to think critically about where there is room for improvement.

One rewarding outcome of my own participation has been seeing, in my neighborhood, the waste carting trucks that line up next to the playground of PS 307 actually waiting their turn before turning on the engines. Even if they don't spot me walking by! I don't even bother visiting the box trucks down near the ConEd plant, because they have become so good about turning off and using APUs if needed for operator comfort. Contrary to what Commissioner Aggarwala suggested in his testimony, this kind of deterrence is powerful, and pays dividends in other neighborhoods. Drivers, after all, do not wear Lojacks that allow them to idle only in Environmental Justice Communities. The companies I have seen reduce their idling now reduce it *everywhere*. This part of the picture can get lost when the overall number of complaints is rising (as of the beginning of Q4 2024, we already had the same number of complaints drafted or submitted as for all of 2023). But *finding* idling, whether deliberately or accidentally, is getting harder. Those with eyes and ears constantly alert for it agree. Our summonses have not only discouraged idling, they have given the City leverage to bring companies like Brink's and Garda to the negotiating table. While I do not believe these companies need or deserve summonses, any electrification offers that have been extracted are due exclusively to citizen complaints. If they were getting ten summonses a year written from the field by DEP inspectors, they wouldn't bother asking for a variance.

Perhaps my most rewarding experience has come from mentoring new participants. I volunteered last year to train new CACP participants through a nonprofit in Hunts Point. The difference from one year to the next was striking: That polluted street grid, in a neighborhood with terrible air and vanishingly few NOVs, has lit up with summonses. Let us be clear: gatekeeping that has kept this program from EJs is not the doing of other citizens. We are the ones who do the outreach. Currently I am involved in initiatives to train new participants in East New York, and am part of a team that is reaching out to help train CM Marmorato's constituents.

At the same time it has been immensely frustrating to try to explain the City's unnecessarily convoluted management of this program to these new participants. It will be harder when explaining that they cannot count on already uncertain awards in their calculations of whether or not to participate, and that they may be subject to censure over simple mistakes.

Int. 941 proposes not only to increase these complications by giving DEP broad power to rewrite the program whenever it sees fit, but also to ban participants from engaging in protected speech simply because they are—and I quote—"unfamiliar" with those rules or protest them in principle.

For example, by being so bold as to submit a truck with Florida plates, or write to DEP requesting a review of a submission where the department made a mistake. These are against the current rules, after all, yet they are wholly legitimate approaches to the program.

I have experienced the future firsthand. I was one of the administration's five so-called false statement summonses over everyday submission errors. This resulted in a year and a half of OATH proceedings, thousands of dollars in legal fees, and a series of no-shows and, ironically, false statements by DEP employees. In the end, an OATH ALJ dismissed my case on the merits, ruling that a mistake is not a deliberate false statement. The least amount of diligence or outreach on the part of DEP would have concluded the same, yet Commissioner Aggarwala continued to insist that these violations occurred, even after they were dismissed at hearings! These summonses, if I may be plain, were meant to chill participation and create pretext for this bill's misguided speech code. Or are we to believe that there was a hodgepodge of fraud in this program in February 2023 and that now, maybe 140,000 complaints later, nothing? There was never an issue with citizen misconduct, yet if I and others had been subject to a private DEP tribunal, I am sure every one of us would have been permanently banned from the program—after all, the department felt they had enough on us to keep wasting our time, money, and sanity with these charges.

The successful 24-112 cases lately have been limited to *respondents*, turned in by citizen complainants. After all, they are the ones who lie at hearings about where their vehicles were, present false GPS data, and cover their vehicles with stickers and certificates claiming they are exempt from the idling law. Int. 941 would only encourage this behavior, rewarding them if they submit easily falsified purchase orders or, even if they purchase timing limiters, simply override them. When DEP is already stretched thin, expending resources on compliance verification seems a poor use of resources.

I would love to see NYCHA housing protected under a 1-minute limit; to see an OATH fund for small-business vehicle electrification; to see actual outreach by DEP. I actually agree with what many of the trucking industry reps said at the hearings—that hearing dates are too far out. A five-day submission window does not solve that. The 113 days for DEP to deal with submissions are part of it, so give them more resources. The up to 24 months till hearings are definitely part of it, which is a matter of both resources and policy.

Thank you.

Rafil Kroll-Zaidi
District 33

[REDACTED]

From: Robin Warren <rwchakra@gmail.com>
Sent: Saturday, September 21, 2024 12:37 PM
To: Testimony
Subject: [EXTERNAL] Testimony opposing Intro 941

[REDACTED]

Good Afternoon Chairman Gennaro and Councilmembers,

My name is Robin Warren.

I'm here today to help dispel a misconception about who participates in the Citizen's Air complaint program and about who will be most profoundly impacted if the program is diminished, as it certainly will be if Intro 941 passes.

Mine is one of many families for whom the Citizens' Air Complaint program is a lifeline. We are a family of four who live in a 1-bedroom apartment in this city. We are a part of the sandwich generation, caring for children and looking after elders.

This is my family. They are the reason I participate in the Citizens Air Complaint Program.

Our youngest daughter was 4 when she was diagnosed with Acute Respiratory Distress Syndrome. Feeling angry and helpless about the air pollution in our neighborhood, we read about the Citizens' Air Complaint program in the New York Times and decided there was something we could do.

The very next day, my good, principled husband — a brown man in his 50's with a pronounced Bengali accent— hit the streets with cellphone camera at the ready and a photo of our 4 year-old daughter in his wallet.

We learned as we went along, first by watching training videos by WE ACT (the West Harlem Alliance for Environmental Justice), then from fellow clean air activists as we met them on the street. In the rain, in ice and snow, and under the blazing sun.

We learned that this is a labor-intensive endeavor, that it isn't just taking 3-minute videos. We learned how to post each occurrence with all of the requisite documentation in a reasonable window of time. Then we learned how to wait: for an acknowledgement of each submission, for a decision by the DEP to proceed, for a hearing date to be set, for a Notice of Violation to be sent to the respondent, and eventually, for an indicator that the respondent had paid the fine.

Finally, we learned how to send an email to the Office of Administrative Trials and Hearings, asking to be compensated for our labor. One separate email for each idling infraction, asking humbly for a promised 25%, more than a fair trade. A deal for the city.

It took nearly two years before we received a cent.

We were not deterred. We began to notice less motor engine noise in our neighborhood. Habitual idlers started to turn off their engines when they saw us. Then many of them, at last, finally stopped idling altogether. This program works. There is no doubt in my mind that we have saved lives with our efforts.

No one can tell me we're in this for the money.

And those who are? God bless them. Maybe they need it. Who am I to say? The results are the same: breathable air. A longer life for our children. And maybe.. a livable planet after we're long gone.

Would I do this for free? I absolutely would, if I could afford to do so. Nowhere in the United States is the cost of living as high as it is in New York City. Are you aware that a single person in NYC making \$121,000 a year qualifies for the low income housing lottery? And according to a recent study by SmartAssets, using the M.I.T. Cost of Living Calculator, The COL for a family of four in NYC is \$159,203. That is for basic necessities. It does not include money for debt payments, retirement savings, or investments in one's children's future. Please let this sink in for a moment.

There are 1.4 million cost-burdened New Yorkers experiencing food insecurity in our city. Tonight. I'm not ashamed to say that my family was one of them. Before we became involved in the Citizens Air Complaint Program, we relied on SNAP benefits and free produce from the Westside Campaign Against Hunger to get by.

I know we are talking about air pollution today, not poverty. But the two are inextricable —and the Citizen's Air Complaint Program is a powerful force TO ERADICATE BOTH.

Someone said that the sole intention of Local Law 717A was to reduce air pollution, not create a cottage industry. But it has, and that is a remarkable thing! Presidents crow about how many new jobs were created under their administrations, and you have done it without having intended to!

In a city with the shameful distinction of having one of the largest income discrepancies in the world and the absolute largest in the United States, you accidentally created a program with the real potential of turning that around. Congratulations, and thank you.

Mr. Chairman, Members of the Environmental Protection committee: the only need as I see it is to make the Citizens' Air Complaint Program more accessible to the people who need it most —not less, as Intros 941 and 747 would do. Support and expand this program and make it a model for the world, as Muhammad Yunus did with micro-lending in Bangladesh (earning him the Nobel Peace Prize).

Clean Air. A way out of poverty. Make this your legacy.

We can do it together.

Sincerely,

Robin Warren

Mother, Citizen
Member, New York Clean Air Collective
YES on Intros 5 and 291, NO on 941 and 747



[REDACTED]

From: Ryan Lokey <lokeyrs@gmail.com>
Sent: Saturday, September 21, 2024 2:51 PM
To: Ryan Lokey; Testimony
Subject: [EXTERNAL] Testimony against Intro 941

[REDACTED]

To Whom It May Concern,

Please find my testimony against Intro 941 attached.

Sincerely,

Ryan S. Lokey

Good Afternoon. My name is Ryan Lokey.

I am here today to offer testimony regarding Intro 941.

As you have likely noticed, I am wearing an Amazon Delivery Vest.

I am not speaking on behalf of Amazon, but I am speaking as an Amazon delivery driver who spends most of his day in Environmental Justice neighborhoods.

I also live in one.

I applaud the committee for seeking out ideas on how to provide violators the opportunity to reduce their fines in return for reducing pollution going forward.

However, the committee has proposed a solution that will not work in reality.

Many companies have already installed shutoff and idle limiters. I know Amazon has it on many vehicles.

These shutoffs are commonly set for 2.5 minutes.

We know this.

Most drivers will simply allow the vehicle to turn off, and then immediately turn it back on.

This avoids a violation but does almost nothing to stop the pollution.

I have dozens of videos of these shutoffs and restarts and will make them available to any member who would like to view them.

Further, it is unrealistic to expect DEP to oversee the installation and upkeep of these devices.

DEP clearly does not have the manpower or funding to take on anymore administrative tasks at this point.

Further, DEP claims they dont want full time citizen enforcers but for some reason wants citizen enforcers to submit FASTER than a DEP enforcement agent?

As I believe the DEP Officials testified to, an Inspector has 9 days to submit.

This bill would only provide 5 days to citizens.

How is that fair on any level?

I have a demanding full time job. My hours can vary considerably.

Between thanksgiving and Christmas, I may not be able to submit until the holiday season ends - up to six weeks later.

Perhaps a reasonable compromise is in order on the time frame.

But it is not reasonable to expect full time responsiveness from non-full time participants.

I respectfully ask the committee to vote down this bill and instead get to work on a fair bill that works for everyone - DEP, Employers, Participants and EJ Neighborhoods.

Thank you.

From: Sara Susan O'Brien <sarasusanobrien@gmail.com>
Sent: Thursday, September 19, 2024 3:49 AM
To: Testimony <Testimony@council.nyc.gov>
Subject: [EXTERNAL] Sara O'Brien opposition to intro 941

Hello,

Attached is my testimony in opposition to intro 941.

Thank you,

Sara O'Brien

Dear Committee on Environmental Protection, Resiliency, and Waterfronts,

My name is Sara O'Brien and I love New York. I was born here, raised between Manhattan, Queens, and Staten Island. I love the people, culture, and \$1.50 pizza; I love it all! This is why it's so important for me to write to you about my concerns regarding Intro 941.

I just turned twenty two, and I've participated in the citizens idling program for about a year now. In my free time between school and work, I have submitted over 3000 complaints. For this I have been awarded a total of \$287.50. Intro 941 proposes to cut the citizens' reward in half. It is already incredibly time consuming and challenging to submit a complaint. If rewards were to be cut in half, down to 12.5 percent of the fine, citizen participation would decrease, and commercial vehicles would have free rein to idle, destroying the health of our fellow New Yorkers.

Beyond little financial gain, the program has helped to return power to the people of our city by providing the tools necessary to ensure our air policy is respected. I've worked part-time as a teacher, providing free classes through the parks department. At one specific site, the class happened to be at the same time as a commercial garbage pickup. The exhaust and noise was unbearable for the children, many choosing to leave early, and as their teacher, I felt helpless. I would kindly ask the driver to move or turn off the engine and he would laugh. As soon as I made it clear I was starting to report his actions the engine miraculously went off, and the issue was solved. If intro 941 goes into effect, there will be less participation in the program, and commercial vehicles will idle more; We would be moving backwards!

My brother, Adam, has asthma and adult autism. On one occasion, we were out in the city, celebrating his birthday, enjoying a meal outside at a restaurant. We had just placed our order when a massive commercial garbage truck pulled up, right in front of where we were sitting. I was reminded of my experience with my class. I thought, 'it will only be here for a few minutes to remove some trash and be on its way': Oh, was I wrong! The truck idle for a total of 20 minutes. The driver left the truck idling and walked over to the corner bodega: he must've been on his lunch break. He then proceeded to eat in his truck, semi protected from the fumes, smells, and noise he subjugated us to. Because of his actions, we were forced to get our food to go, and could not celebrate my brother's birthday the way we had intended. I would have said something directly to the driver, but, standing at 5'2, I was not prepared to be assaulted again by one of these offenders. I had filmed him, and submitted the video a week later because of my busy schedule.

Intro 941 proposes to cut the time to submit a complaint from 45 to 5 days. If this were to go into effect, busy New Yorker like me and you would not have sufficient opportunity to submit our complaints, leaving offending companies unchecked.

All this to say, I hope you love New York too: Oppose intro 941!

September 20, 2024

Esteemed members of the New York City Council,

As a concerned resident in South Brooklyn, pre-med student at Brooklyn College, and current participant in the Citizens Air Complaint program, I am providing written testimony to express my strong opposition to this proposed bill that aims to devalue the work of citizens who file complaints regarding environmental violations. This program empowers all citizen participants to be of service to their communities by discouraging drivers from polluting and therefore, promoting healthy air quality in residential and recreational areas. This provides relief for the vulnerable and immunocompromised members of our families and neighborhoods.

The reduction of reward proceeds undermines the vital role that engaged citizens play in maintaining environmental protections. This, along with the proposed reduction of the complaint submission window to 5 days, places an unfair burden on individuals who are contributing their time and effort to help safeguard their communities. By significantly reducing financial incentives and complicating the administrative process of complaint submission, the city is effectively discouraging participation from those who might otherwise be motivated to report violations and contribute to the safety of their fellow New Yorkers.

A robust citizen engagement program is vital for environmental enforcement, as it helps hold violators accountable. These proposed reductions could lead to fewer reports thus, weakening community involvement in maintaining air quality and public health. Citizens who invest their time in monitoring compliance with environmental laws should be supported and encouraged, not pushed away by reduced incentives. We need to empower our communities, not create barriers that dissuade them from participating in this essential work.

The implications of these changes extend beyond just the aforementioned; they reflect a broader message about the city's commitment to environmental justice. New Yorkers deserve a system that values and incentivizes their efforts to protect their neighborhoods. We need to foster a culture of accountability and engagement, not one that discourages it.

In conclusion, I urge the City Council to oppose this bill that intends to undermine the protective efforts of concerned citizen participants and the health of our families. Protecting our environment is a shared responsibility that requires active participation from all members of our community. By supporting our citizens and providing adequate incentives, we can work together to ensure a healthier, cleaner New York City for everyone.

Thank you for your time and attention.

Sincerely,

Vlad Kucheryavy

From: William O'Brien <williamobrienidling@gmail.com>
Sent: Thursday, September 19, 2024 3:45 AM
To: Testimony <Testimony@council.nyc.gov>
Subject: [EXTERNAL] William obrien opposition to intro 941

Hello,

Attached is my written testimony in opposition of intro 941.

Thank you,
William O'Brien

Dear Committee on Environmental Protection, Resiliency, and Waterfronts,

My name is William O'Brien. I am a native New Yorker, born and raised on Staten Island. Prior to working 30 years for the city as an elevator mechanic, I served our country as a Navy Seabee mechanic. For many of those years I was a teamster. I see and understand all perspectives when it comes to the concerns addressed in Intro 941. I can't help but sympathize with my fellow teamsters; back in my day, I too may have protested against the citizens idling program. It was only until recently in my old age, now that my poor choices caught up to me, that I became more aware of my health, and specifically, the detrimental impact of Co2 emissions. Ultimately, it's the people's health we should protect. I hope that after reading my story, you chose to vote against Intro 941.

I used to drive a city vehicle. During my prime, on my lunch break, I would leave the vehicle idling and run into NYU hospital to say hello to the nurses. I would often stand next to my vehicle while it idled, not realizing the implications. I regret doing this now that I suffer from asthma, sleep apnea, and hearing loss.

When we become subject to poor standards it's hard to imagine an alternative. We become victims to our poor habits. We mechanics say, 'If it's not broke, why fix it'. It was only until the test of time, that I realized, after so many years of this poor ideology, this should not be the standard for our health. It was only until my old age, when my poor choices caught up to me, that I became aware of Co2 emissions, and the detrimental impact on our health.

Now that I'm retired, after working so many years to pay off my mortgage, I get to enjoy my front porch. This is when I realized the overwhelming amount of commercial vehicles that would idle right outside of my home. From the humming noise, to the black smoke, I could no longer enjoy something that I had been looking forward to for 30 years. I would call 311 and nothing changed. It was only until I discovered the citizens idling program that I was able to take matters into my own hands. Over time, with help from the program, I saw drivers come more mindful of their actions.

Please vote no to Intro 941. Protect our city.

Sincerely,

William O'Brien

To city Council of NYC

Regarding Sept. 18 Environmental Hearing

The current law regarding citizen complaints for idling trucks is working . I do not REPEAT DO NOT support intros941 and 747.

If it ain't broke don't fix it.

William Stanton

The history of the Citizen Air Complaint Program is a history of smart, if perhaps slow, choices by City Council, putting us on a path towards cleaner, healthier air and reduced climate change. In the 1970s, after extensive public testimony and support, City Council wisely made idling more than three minutes illegal, and allowed members of the public to report idling by commercial buses. Yet there was little enforcement, and so this wise law had little effect on cleaning our air.

Fortunately, in 2009, City Council made improvements! Local Law 4, cosponsored by such visionaries as Tish James, John Liu, Gale Brewer, and James Gennaro, allowed idling enforcement by more city agencies, and expanded citizen enforcement to trucks, as sensibly defined in the vehicle and traffic law. Chair Gennaro extolled the greater idling enforcement, stating, "With young children especially susceptible to air pollution, it's important that we take measures to address the problem. This legislation is a breath of fresh air for our schoolchildren."

I share this belief. We must take measures to address the problem, and let children breathe clean air.

Yet, even with the 2009 improvements, none of the city agencies were doing their job and adequately ticketing idling. And the public, with limited exception such as anti-idling advocate and filmmaker George Pakenham, still didn't know about their ability and duty to clean the City's air.

Finally, in 2018, Helen Rosenthal's Local Law 58 lit the fuse that finally brought real enforcement, real clean air for our children. Not only did it adjust the minimum idling penalty upwards, it also guaranteed members of the public a fair 25% share of idling summonses based on their evidence, and required the DEP to publish information about the citizen air complaint program online. Empowered with knowledge and the promise of a fair reward, citizens took up the call and delivered sorely-needed evidence of air pollution by big corporations. Some of these corporations have already gotten the message, and virtually stopped their illegal idling.

To borrow a phrase, "We are not going back." Intro 941, written by the Adams Administration, would not only stifle public speech contrary to the First Amendment, but also undue all the legislative progress of the past fifty years in reducing air pollution and providing our kids with clean air.

On the other hand, Intros 5 and 291 advance our quest for healthy lungs. Intro 5 reverses the Adams Administration's discriminatory practice of limiting citizen air complaints to English-speakers only. Intro 5 would let our immigrant communities breathe free. And Intro 291 would finally bring compliance with idling laws by even the deep-pocketed mega-corporations that have been treating their recidivist idling as a mere cost of doing business.

I urge the Council to pass Intros 5 and 291, and reject the deeply unconstitutional and backwards looking Intros 941 and 747. Thank you.

In addition, I am attaching the following further explanatory and helpful materials:

Exhibit A - My testimony from a prior Environmental hearing of last session specifically setting out and explaining suggested technical changes to Julie Menin's Intro 291 (formerly Intro 684)

Exhibit B - A recent letter and editorial, from Senator Brad Hoylman-Sigal and public health professor Chris Hartmann, with which I am in agreement, explaining the need for Intros 5 and 291, and the harm that would be caused by Intro 941.

Exhibit C - Written testimony from the prior session, with which I am generally in agreement in relevant respect, in support of Intro 291 (formerly Intro 684) and/or Intro 5 (formerly Intro 898)

EXHIBIT A TO TESTIMONY

Thank you for allowing me the opportunity to speak at the December 15th Environmental Committee hearing, in favor of Intros 606 and 684.

As mentioned, I've prepared proposed technical edits to Intro 684, which I include below in redline.

These are largely technical edits, intended to increase Intro 684's clarity and avoid possible ambiguities in interpretation of the idling law (e.g., by OATH and DEP, which are each tasked with this role at various stages of the process).

These are the potential ambiguities intended to be addressed, with the overriding principle being "doing no harm" to the current operation of the idling law:

(1) the air code already references, in several sections, "bus" and "truck" as being defined with reference to the definitions of the vehicle and traffic law, as opposed to the rules of the city of New York. (see e.g. 24-163(a) and 24-182(a)). Avoiding reference to two separate (although in many respects extremely similar) definitions for the same term when OATH adjudicates idling infractions should greatly decrease ambiguity and confusion. Moreover, the vehicle and traffic law definitions, currently referenced in the idling law, are far simpler, easier to understand, and appropriate. The RCNY definitions are unnecessarily complex, and are designed to include a set of benchmarks in order to qualify for preferential parking treatment. They are easily avoided by companies wishing to skirt the idling law, should the RCNY definitions be employed.

(2) OATH has in the past sometimes interpreted words appearing after "including" as limiting the scope of a statute. (<https://archive.citylaw.org/wp-content/uploads/sites/12/ecb/2200691.pdf> - p. 4). Accordingly, to avoid the possibility of unintentionally limiting the scope of the idling law, the reference in 24-163(a) to "including a bus or truck" should preferably be changed to "including but not limited to a bus or truck", to better clarify that police/parks/etc. can still go after other vehicles for the current lower penalty amounts, even if civilians cannot submit evidence pertaining thereto.

(3) the language of 24-163(a)(1)/(2)/(3) should reference "causing" or "permitting" the engine of a motor vehicle to idle, rather than "operating", to harmonize with the conduct prohibited by 24-163(a). Historically, the idling law, in order to be effectively enforced, has been held applicable to various corporate persons who cause or permit the idling, including for example lessor/rental corporations (who are generally the only party identifiable based on video evidence of the vehicle idling). They usually pass the costs of the infraction along to the operator company/person by contract, as was discussed for example during the hearing by Hub Truck Rental.

(4) I'm suggesting adding "person's" to the reference to the "first violation" / "second violation" / "third and subsequent violations", which may clarify that this escalation operates at the corporate person's fleet level, rather than the individual vehicle level. Otherwise, there is ambiguity as to what method should be used to determine subsequent violations, and moreover large fleets will not obtain the intended deterrent effect of being told by OATH, at the corporate level, to stop idling.

(5) Lastly, the penalty table and text should make clear that penalties are applicable to both 24-163(a) and 24-163(f) violations. 24-163(f) summonses are currently issued under a different violation code by the DEP (e.g. in response to citizen complaints), and accordingly it is important not to (again arguably) remove authority for monetary penalties for idling near a school (or near a playground, park, or green space, if Intro 606 passes as well). These violations are of equal importance, have historically been treated the same penalty-wise, and should continue to be treated the same penalty-wise.

INTRO 684 – PROPOSED REDLINE

A Local Law to amend the administrative code of the city of New York, in relation to increasing civil penalties for idling infractions by trucks and buses

Be it enacted by the Council as follows:

Section 1. Section 24-104 of the administrative code of the city of New York, as amended by local law number 119 for the year 2016, is amended by adding new definitions of “bus” and “truck” in alphabetical order to read as follows:

Bus. The term “bus” has the same meaning as set forth in ~~section one hundred four of the vehicle and traffic law~~section 4-01 of title 34 of the rules of the city of New York.

Truck. The term “truck” has the same meaning as set forth in ~~section one hundred fifty eight of the vehicle and traffic law~~section 4-01 of title 34 of the rules of the city of New York.

§ 2. Subdivision a of section 24-163 of the administrative code of the city of New York, as amended by local law number 58 for the year 2018, is amended to read as follows:

(a) No person shall cause or permit the engine of a motor vehicle, including but not limited to a bus or truck, other than a legally authorized emergency motor vehicle, to idle for longer than

three minutes, except as provided in subdivision (f) of this section, while parking as defined in section one hundred twenty-nine of the vehicle and traffic law, standing as defined in section one hundred forty-five of the vehicle and traffic law, or stopping as defined in section one hundred forty-seven of the vehicle and traffic law, unless the engine is used to operate a loading, unloading or processing device. When the ambient temperature is in excess of forty degrees Fahrenheit, no person shall cause or permit the engine of a bus as defined in section one hundred four of the vehicle and traffic law to idle while parking, standing, or stopping (as defined above) at any terminal point, whether or not enclosed, along an established route.

(1) A person ~~operating-causing or permitting the engine of~~ a bus or truck ~~to idle~~ in violation of this subdivision ~~or subdivision (f) of this section~~ shall receive a civil penalty of not less than \$1,000 nor more than \$2,000 for the ~~person's~~ first violation.

(2) A person ~~operating-causing or permitting the engine of~~ a bus or truck ~~to idle~~ in violation of this subdivision ~~or subdivision (f) of this section~~ shall receive a civil penalty of not less than \$2,000 nor more than \$4,000 for the ~~person's~~ second violation.

(3) A person ~~operating-causing or permitting the engine of~~ a bus or truck ~~to idle~~ in violation of this subdivision ~~or subdivision (f) of this section~~ shall receive a civil penalty of not less than \$3,000 nor more than \$6,000 for the ~~person's~~ third and subsequent violations.

§ 3. The line beginning 24-163 in the table of civil penalties following subparagraph (i) of paragraph (3) of subdivision (a) of section 24-178 of the administrative code of the city of New York, as amended by local law 154 for the year 2021, is amended and three new rows, 24-163(a)(1), 24-163(a)(2), and 24-163(a)(3), are added to read as follows:

<u>[24-163] 24-163(a) or 24-163(f)</u>	<u>\$350</u>	<u>\$2,000</u>
<u>24-163(a)(1)</u>	<u>\$1,000</u>	<u>\$2,000</u>
<u>24-163(a)(2)</u>	<u>\$2,000</u>	<u>\$4,000</u>
<u>24-163(a)(3)</u>	<u>\$3,000</u>	<u>\$6,000</u>

§ 4. This local law takes effect 120 days after it becomes law.

EXHIBIT B TO TESTIMONY

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September 17, 2024

The Honorable Speaker Adams
City Hall
New York, NY 10007

Dear Speaker Adams:

I write to urge passage of two important bills that build on the Council's strong record of protecting our environment by creating and nurturing the Citizens Air Complaint Program ("CACP"). Intro. 5 (CM Avilés) and Intro. 291 (CM Menin) are both set for hearing before the Committee on Environmental Protection, Resiliency, and Waterfronts on September 18, 2024. As you know, these bills enjoy cosponsorship from a supermajority of the Council—as did identical bills last session—and I hope they move to a vote. In addition, I have concerns, however, about Intro. 941, which in my opinion would undermine both the CACP and the First Amendment.

In 1972, the Council enacted New York's City's Air Code, which specifically encouraged citizens to report violations through the CACP. But city agencies failed for decades to enforce the law against illegal engine idling, or to publicize the CACP.

Today, New York City has the most successful citizen enforcement program in the world. Five years ago, the Council wisely passed Local Law 58 of 2018, requiring the Department of Environmental Protection ("DEP") to publicize and provide guidance on the idling law and to reward a fair 25% share to citizens whose reports result in violations paid by polluters. The CACP has quickly become the single-most effective means of enforcing the City's Air Code.

In 2023, citizens submitted over 86,000 complaints against illegally idling trucks and buses—up from just 16 in 2018 before the Council acted. Video-backed citizen-based summonses are more effective, with a lower dismissal rate, than summonses originated by city agencies, and they have resulted in large companies dramatically modifying their behavior. Ordinary citizens' complaints have contributed nearly \$50 million to the City treasury, more than paying for the CACP.

Sadly, there are still far too many barriers to entry for this program. DEP has imposed complicated rules on citizens, which it changes constantly and with no opportunity for public comment. Stopping illegal idling should be as simple as a citizen seeing a violation, recording a video, and sending it to the DEP to issue a ticket.

As you well know, air pollution disproportionately hurts New Yorkers of color. Minority communities in New York [inequitably bear](#) the highest exposure to toxic transportation emissions, especially particulate matter from vehicles such as unnecessarily idling commercial trucks and buses. New Yorkers of Latin descent are exposed to 81% more vehicle pollution than white residents, and African Americans to 72% more. Incredibly, Asian American residents are exposed to *twice as much* particulate pollution as white residents. As the City [recognized](#) in 2020, high levels of fine particulate matter, nitrogen dioxide, and nitric oxide are still found in areas of high traffic density, including the South Bronx, Western Queens, and Northern Brooklyn. My own constituents, including in traffic-dense Hell's Kitchen, home of massive emissions from the Port Authority Bus Terminal and surrounding traffic, likewise suffer a disproportionate share of the burden of air pollution. Intros. 5 and 291 will lessen this injustice, while Intro. 941 will make it drastically worse.

DEP locks out all New Yorkers from the CACP unless they submit their complaints in English. Indeed, DEP's website still specifically states that all complaints must be submitted in English. All New Yorkers have lungs and need to breathe clean air, regardless of the languages they speak. All New Yorkers also have a Right to Clean Air under the New York State Constitution. I hope the Council passes Intro. 5, which will require DEP to accept complaints in all city-wide languages, and end the DEP's discriminatory and unconstitutional policy.

Currently, large companies like ConEd, Verizon, and Amazon still do far too much illegal idling. No company should treat a fine like a simple cost of doing business. That's why in my opinion the Council should pass Intro. 291, which will raise the current idling penalties to a level that will deter giant corporations from harming New Yorkers.

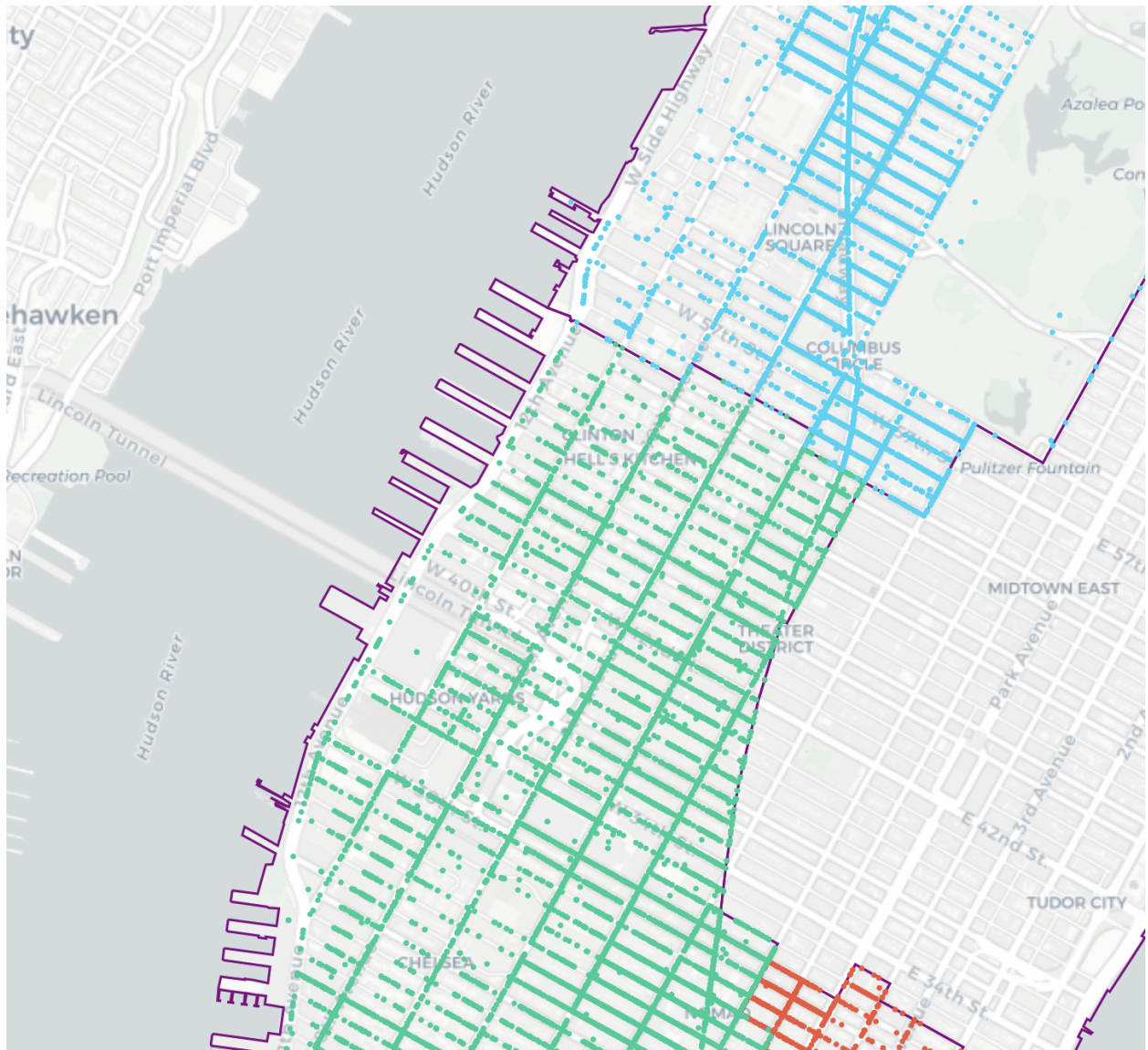
Intro. 941 would erode New York's clean air gains and discourage citizen participation. Unfortunately, Intro. 941 would open new loopholes for the first time since the Council passed the Air Code in 1972. It would drive up pollution from buses and trucks, while imposing new restrictions on citizen participation—when we should be opening this program up to more people. As shown [recently](#) in *New York Magazine*, the bill also punishes citizens who complain about air pollution—or the DEP's handling of it—based solely on their speech. Incredibly, Intro. 941 would let DEP ban any citizen it doesn't like, just by claiming she didn't act in a “dignified, orderly, and decorous manner” or failed to “demonstrate familiarity with [DEP's] rules.” The First Amendment means that the government cannot pass laws like Intro. 941 that chill free speech by banning criticism and requiring citizens to speak in lockstep with government agencies' official positions. Every New Yorker should participate in the CACP, not just those selected by DEP, or those with a particular government-approved viewpoint.

I humbly request that the Council acts to protect our environment and the CACP by voting on Intros. 5 and 291 as soon as possible and rejecting Intro. 941. Thank you and your colleagues for your consideration of this request and stellar service to New Yorkers.

All best regards,

A handwritten signature in black ink that reads "Brad Hoylman-Sigal". The signature is written in a cursive, flowing style.

Brad Hoylman-Sigal
State Senator – 47th District



IDLING

Opinion: A Lethal Threat to New York City's Air and Citizen Enforcement

Intro 941 jeopardizes clean air improvements hard-won through the city's citizen enforcement program.

By **Chris Hartmann**

12:01 AM EDT on September 17, 2024



Photo: Ed Reed/Mayoral Photography Office | Billy never idles — and neither should you.

This year, outdoor air pollution will kill an estimated 3,000 New Yorkers — six percent of all premature deaths in the city — cause 2,000 hospitalizations for respiratory and cardiovascular distress, and send 6,000 children and adults with asthma to the emergency room. Although everyone is hurt by air pollution, children, the elderly, and low-income, Black, and Hispanic New Yorkers suffer disproportionately.

Walk a couple of blocks in any borough and the major source of deadly air particles is clear: motor vehicle engines, including exhaust from idling trucks and buses.

The Citizens Air Complaint Program, which was first established in 1972, but only actively promoted by the City starting in 2019, is one very effective tool to hold illegal commercial idling to account. However, Intro 941, which is scheduled to be heard on Wednesday by the Committee on Environmental Protection, Resiliency, and Waterfronts, threatens to upend it by discouraging and outright banning participation. This dangerous bill would make it easier to pollute New York City's air.

Until recently, everyday New Yorkers had little recourse to address unnecessary commercial vehicle exhaust. Responses to 311 calls often take weeks or months — my complaint in 2017 about a tow truck that idled outside my window every evening for weeks provided no remedy — by which time the polluter is likely long gone. City agencies like NYPD, the Parks Department, and the Department of Environmental Protection rarely cite vehicles for illegally polluting our air on their own; in 2023, excluding citizen enforcement, city agencies issued a total of 358 idling violations — fewer than one violation per day in a city with about 6,300 miles of streets.

The CACP provides members of the public the opportunity to reduce illegal commercial idling. It is the only program like it in the world, and it is a resounding success: In 2023, citizens submitted over 86,000 commercial truck and bus idling complaints — an average of 235 per day.

Still, understanding the current idling rules and how to submit complaints is neither intuitive nor straightforward. DEP rejected 10 of the first 11 complaints that I submitted. The agency's instructions can be obtuse, subject to arbitrary change without notice, and difficult to navigate. DEP did provide me some initial feedback, but, thankfully, I found other citizen reporters who took me under their wings to share their hard-won knowledge.

To give you a sense of the system's opaqueness and the hurdles citizens already face submitting complaints, consider, for example:

- Shockingly, DEP does not check its own records for prior idling offenses, which determine the appropriate penalties for recidivist companies. Instead, civilian complainants must look up that information themselves. DEP offers no guidance on how the public can do this research.
- In a city where one in four residents is not English proficient, the complaint submission portal is English only.
- For idling offenses in school zones, citizens must submit information about school start and dismissal times, even though this information is rarely posted online for safety reasons.
- For complaints against vehicles with refrigeration units, citizens must submit documentation that proves the vehicle engine does not need to idle.
- DEP-approved has no tutorial videos showing how to "correctly" capture an idling vehicle or demonstrating recording angles and required engine noise levels.
- DEP will not pursue complaints against commercial vehicles that lack a "commercial" license plate.

In my neighborhood, where several citizens report illegally idling vehicles, I have seen a marked difference in commercial idling in the last two years. Major bus companies, an e-commerce behemoth, several international shipping fleets

and numerous others have stopped or significantly curtailed their idling because of our collective efforts. As much as I would like to think that these big companies share my desire for cleaner air and healthier neighborhoods, I have to be realistic — it was citizen reports and the resulting fines that did the trick.

Recommended

Council Bill Could Chill Citizen Reporting That Dramatically Boosted Idling Enforcement

David Meyer

September 13, 2024



Intro 941 jeopardizes these hard-won clean air improvements in several ways.

First, citizen involvement in the program would plummet if Intro 941 passes. The bill would require citizens to submit complaints within five days, yet extend the time DEP is permitted to serve a violation to 90 days. This double standard ignores the time citizens, who have other real-world commitments like work and childcare, need to prepare claims for submission, including familiarizing themselves with the overcomplicated DEP rules and looking up material that DEP can readily access on its own.

The bill threatens the free speech rights of members of the public who complain about air pollution or DEP or the companies responsible for the idling pollution. Intro 941 lets DEP ban any citizen it doesn't like from filing complaints — as long as the agency claims the individual did not act in a “dignified, orderly, and decorous manner” or failed to “demonstrate familiarity with [DEP's] rules.” Public questioning or critique of DEP — such as this op-ed — would face scrutiny based on DEP's interpretation of this overly broad, downright Orwellian language. This is not an exaggeration: As *Curbed* [recently](#).

documented, DEP has *prosecuted* members of the public for things as simple as a single mistake in a single submission .

Currently, DEP must bring their allegations against citizens before a neutral hearing officer from the city's Office of Administrative and Trial Hearings, a separate agency from DEP. These judges regularly toss out DEP's vindictive charges against individuals it doesn't like. Under Intro 941, the DEP Commissioner alone would be judge, jury and executioner.

Second, Intro 941 would permit buses to idle unnecessarily adjacent to a school for 16 to 18 minutes. This undermines existing law passed by the Council to limit school bus idling to no more than one minute on a school block. It also ignores common sense: children are especially vulnerable to air pollution — one out of every nine New York City children has asthma, the highest rate in the nation; DEP's proposal would subject those kids to even more fumes

Finally, Intro 941 provides a loophole to polluters that is at odds with the DEP's mandate to protect our air. Specifically, the proposed bill retroactively cuts in half any imposed fines if the polluter later installs "anti-idling technology" in the vehicle. The bill gives DEP the power to "promulgate rules relating to the requirements" of what is deemed acceptable anti-idling technology and the documentation required, if any, to certify its installation — effectively ceding the City Council's legislative power to define the scope of idling violations.

This proposal is problematic because "anti-idling technology" already is installed in every vehicle — it's called the ignition switch. The more advanced technology DEP wants rolled out is easily overridden. I have witnessed a well-known armored truck company do this on multiple occasions. Companies can easily falsify paperwork to claim the tech has been installed. DEP claims to be overwhelmed by the recent spike in citizen idling complaints — imagine the massive administrative burden reviewing anti-idling paperwork would create for the city. I support providing additional resources to the DEP and its citizen

idling enforcement program if it is good for public and environmental health, but not if it benefits polluters.

All New Yorkers deserve to live, work, and play in a healthy environment. The Citizen Air Complaint Program is a key mechanism for citizens to reduce unnecessary commercial idling and protect public health. But it is under attack. Don't hold your breath – [email Speaker Adams](#) and [your City Council member](#) to demand they oppose Intro 941.



Chris Hartmann

Chris Hartmann is a public health professor and NYC resident.

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The Citizen Air Program has done so much to help clean up our air, it’s hard to believe anyone would want to damage it like this. All drivers need to do is turn off their parked trucks!

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Gersh Kuntzman September 20, 2024



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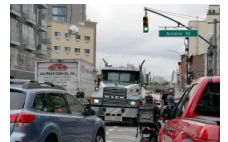
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EXHIBIT C TO TESTIMONY



December 15, 2022

New York City Council
Committee on Environmental Production
250 Broadway
New York, New York 10007

Chairman Gennaro and Members of the Committee:

The American Lung Association writes in support of Int 606 (measures to address idling near parks, green spaces, and playgrounds) and Int 684 (increasing penalties on trucks and buses for idling infractions).

The Lung Association is the oldest voluntary health organization in the United States. For more than 115 years, the Lung Association has been working to save lives by improving lung health and preventing lung disease through education, advocacy, and research. The Lung Association works on behalf of the 37 million Americans living with lung diseases, including over 2.3 million patients with lung disease in New York.

The Lung Association supports the protection of all people from the harm of air pollution, especially those who suffer disproportionate exposure from local sources of emissions. The Lung Association recognizes that major sources of air pollution are often located near where many people, especially communities of color or lower income, live, work, and play, which means their exposure to pollutants emitted can be more immediate and disproportionately harmful. The Lung Association recognizes that, for many reasons, people in those communities also face a greater burden of lung disease, making them even more vulnerable to these pollutants.

For decades, the Lung Association has worked with the Council to improve the air that New Yorkers breathe. While we have made substantial progress, we still have a long way to go. The Lung Association's State of the Air report found that New York City continues to have failing air quality and ranks the New York City Metro Area among the top 25 metro areas with the most polluted air.

Again, the Lung Association offers its support to the Committee of Int 606 and 684 because they would help reduce the impact of in-use heavy-duty vehicles and engines (which account for most of the transportation pollution) have on the air quality and lung health of New Yorkers.

For more information contact: Mike Seilback, National Assistant Vice President, Public Policy, Michael.Seilback@lung.org or Director of Advocacy in New York for the American Lung Association, Trevor.Summerfield@lung.org.



TESTIMONY OF EARTHJUSTICE BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON ENVIRONMENTAL PROTECTION

OVERSIGHT HEARING ON AIR QUALITY AND PUBLIC HEALTH
INTROS. 279, 606, 612, 684, AND 707

DECEMBER 15, 2022

Thank you Chair Gennaro, the Committee on Environmental Protection, and the sponsors of Intros. 279, 606, 612, 684, and 707 for holding this hearing and providing the opportunity to testify today on these important legislative proposals to improve air quality and public health in New York City. Earthjustice, as the nation's first and largest national nonprofit environmental law organization, brings far-reaching change by enforcing and strengthening environmental laws on behalf of hundreds of organizations and communities. We are dedicated to defending the right of all people to a healthy environment, protecting our magnificent wild places and species, and fighting to curb climate change. In New York, Earthjustice is a member of ElectrifyNY and Last-Mile Coalition and is committed to advancing policies to address the environmental injustice associated with air pollution from fossil fuel combustion in transportation.

Earthjustice supports Intros. 279, 606, 612, 684, and 707 and urges the Council to pass these bills without delay. The rest of our testimony details our position on the legislation relating to vehicle emissions and recommends some amendments to strengthen them.

Air Pollution from Combustion Vehicles is a Significant Public Health Threat

Air pollution is a major public health threat in New York State and across the globe. New research concludes that air pollution “is the leading environmental health risk factor globally.”¹ In particular, emissions from fossil fuel combustion have been found to be “the world’s most significant threat to children’s health” and are “major contributors to global inequality and environmental injustice.”²

The New York City metro area is out of compliance with federal health-based air quality standards for ozone. The American Lung Association’s most recent “State of the Air” report gives the Bronx, Queens, and Manhattan an “F” and Staten Island a “D” for the “high ozone

¹ Susan Anenberg et al., Int’l Council on Clean Transp., A Global Snapshot of the Air Pollution-Related Health Impacts of Transportation Sector Emissions in 2010 and 2015 at 38 (2019), https://theicct.org/sites/default/files/publications/Global_health_impacts_transport_emissions_2010-2015_20190226.pdf.

² Frederica Perera, *Pollution from Fossil-Fuel Combustion is the Leading Environmental Threat to Global Pediatric Health and Equity: Solutions Exist*, 15 Int’l J. Env’tl. Res. & Public Health 1, 1 (2018), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5800116/>.



days” indicator.³ Ozone levels have been persistently high in the New York City region, prompting the U.S. Environmental Protection Agency to downgrade its air quality classification to “severe” non-attainment of the 2008 standard.⁴ Ozone-attributable mortality increased in the New York City region from 2000 to 2019, and is now at 540 deaths per year.⁵

Reducing emissions from the transportation sector will have an important and immediate public health benefit because on-road vehicles emit an outsized share of the pollutants that cause ozone. Trucks, buses, and other medium- and heavy-duty vehicles (“MHDVs”) comprise only around 5 percent of all on-road vehicles nationwide, yet contribute 30 percent of the sector’s greenhouse gas (“GHG”) emissions, 42 percent of NO_x emissions, and 51 percent of direct PM_{2.5} emissions. The Ozone Transport Commission, which formed under the Clean Air Act to address high ozone levels in the Northeast, has concluded that emissions from trucks and buses are a “major and growing contributor” of persistently high ozone levels.⁶

New York City ranks 11th out of all cities worldwide for mortality from transportation pollution, with over 1,400 annual premature deaths attributable to transportation emissions.⁷ Despite accounting for just 6% of vehicle miles traveled in the city, trucks and buses are responsible for a majority of New York City’s premature deaths and hospitalizations linked to on-road transportation.⁸ Moreover, these impacts are not evenly distributed throughout the City, with more of the burden falling on residents in low-income neighborhoods.⁹

The City must address this public health and environmental racism issue by fostering a rapid transition to zero-emissions vehicles and taking additional steps to mitigate air pollution in the City’s most vulnerable neighborhoods. While we generally support all the legislation being considered today, our testimony focuses on the bills that promise to drive down exposure to toxic tailpipe emissions from cars, trucks, and buses – which will help clean up the air for all New Yorkers while providing immediate relief to low-income New Yorkers and New Yorkers of color that are disproportionately impacted by vehicle emissions.

³ Am. Lung Ass’n, State of the Air, Report Card: NY, <https://www.lung.org/research/sota/city-rankings/states/new-york> (last accessed Dec. 12, 2022). (The report does not have a grade for Brooklyn.)

⁴ See Lisa Whitley Coleman, *Stricter Air Quality Regulations Ahead for Several States*, EHS Daily Advisor (Oct. 4, 2022), <https://ehsdailyadvisor.blr.com/2022/10/stricter-air-quality-regulations-ahead-for-several-states/>.

⁵ Daniel A. Malashock et al., *Global Trends in Ozone Concentration and Attributable Mortality for Urban, Peri-Urban, and Rural Areas between 2000 and 2019: Supplementary Appendix*, 6 *Lancet Planet Health* e958 (2022), <https://www.thelancet.com/action/showPdf?pii=S2542-5196%2822%2900260-1>.

⁶ OTC, Statement of the Ozone Transport Commission Regarding the Need to Accelerate Electrification of Medium- and Heavy-Duty Vehicles (adopted June 2, 2020), https://otc.air.org/upload/Documents/Formal%20Actions/OTC%20Statement%20on%20MHD%20ZEVs_20200602.pdf.

⁷ Susan Anenberg et al., Int’l Council on Clean Transportation, *A Global Snapshot of the Air Pollution-Related Health Impacts of Transportation Sector Emissions in 2010 and 2015 at i* (2019), https://theicct.org/sites/default/files/publications/Global_health_impacts_transport_emissions_2010-2015_20190226.pdf.

⁸ Iyad Kheirbeck et al., *The Contribution of Motor Vehicle Emissions to Ambient Fine Particulate Matter Public Health Impacts in New York City: a Health Burden Assessment*, 15 *Env’tl. Health* 1, 5-8 (2016), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5002106/pdf/12940_2016_Article_172.pdf.

⁹ *Id.*

Rapidly Electrifying the City's Municipal Vehicle Fleet: Intro 279

Intro. 279 is necessary legislation that will make the City's fleet electrification commitments binding, ensure a transition to electric vehicles rather than dead-end "low-emission" fuels, and allow the City to lead by example as the EV market progresses and consumer patterns change.

New York City operates the largest municipal fleet in the country, and its vehicle fleet is larger than the State's. The City fleet is comprised of roughly 30,000 vehicles: 12,343 light-duty vehicles (41.5%), 4,631 medium-duty vehicles (15.6%), 7,607 heavy-duty vehicles (25.6%), and 5,137 off-road vehicles and equipment (17.3%).¹⁰ These vehicles collectively burned more than 10 million gallons of gasoline, nearly 20 million gallons of diesel, and nearly 3 million gallons of biodiesel and ethanol.¹¹ Collectively, they are an important source of climate-altering greenhouse gas emissions ("GHG") and health-harming air pollution – and, crucially, offer an opportunity for meaningful City action to curb emissions. While the municipal fleet only accounts for 2% of all on-road transportation emissions citywide,¹² the purchase requirements in Int. 279 provide a meaningful opportunity for the City to be a market leader.

Intro. 279's Zero-Emissions Vehicle mandate will course-correct from the City's previous misguided reliance on "low-carbon" alternative fuels to reduce emissions. There are now nearly 20,000 alternative fuel vehicles in the City's fleet – mostly burning biodiesel and ethanol,¹³ which have their own climate and air pollution impacts. The NYC Clean Fleet Plan Update touts the "widespread use" of biodiesel – which can have serious upstream impacts and is likely to increase emissions of health-harming air pollutants like NO_x and Black Carbon.¹⁴ Intro 279 shifts the City away from its emphasis on biofuels and requires zero-emission vehicles. As the National Academies of Sciences, Engineering, and Medicine concluded, "low-carbon" fuels can lead to technological dead-ends that end up delaying more ambitious decarbonization efforts.¹⁵

The figure below demonstrates the scale of the transition needed to meet the City's stated emission reduction targets, compared to a business-as-usual scenario. Clearly, the incremental strategy favoring biofuels cannot be part of a long-term strategy. Achieving transformative change of this magnitude is feasible, but will require a forceful commitment to fully electrify the municipal fleet, starting in the near-term. The ambitious timelines and ZEV purchase mandates

¹⁰ The City of New York, Mayor's Management Report at 441 (2022), https://www.nyc.gov/assets/operations/downloads/pdf/mmr2022/2022_mmr.pdf.

¹¹ See NYC Mayor's Office of Sustainability, Inventory of New York City Greenhouse Gas Emissions, <https://nyc-ghg-inventory.cusp.nyu.edu/#data> (accessed Dec. 9, 2022).

¹² NYC Dep't of Citywide Administrative Services, 2021 Clean Fleet Update at 20 (2021), <https://www1.nyc.gov/assets/dcas/downloads/pdf/fleet/NYC-Clean-Fleet-Update-September-2021.pdf>.

¹³ Mayor's Management Report at 441.

¹⁴ Jane O'Malley & Stephanie Searle, Int'l Council on Clean Transp., Air Quality Impacts of Biodiesel in the United States (2021), <https://theicct.org/publication/air-quality-impacts-of-biodiesel-in-the-united-states/>.

¹⁵ Nat'l Academies Scis., Eng'g, & Med., *Accelerating Deep Decarbonization of the U.S. Energy System* at 48 (2021), <https://nap.nationalacademies.org/read/25932/chapter/1>.

in Intro 279 are necessary to spur the widespread adoption of ZEVs across the fleet and to keep emission reduction targets within reach.

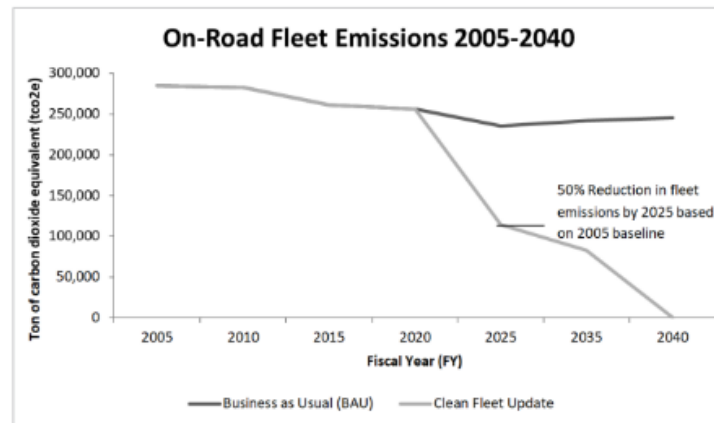


Figure 1

Intro 279's timeline and ZEV purchase requirements are feasible given rapid developments in electric vehicle effectiveness and affordability across vehicle classes. The City's fleet currently includes over 3,000 electric vehicles, along with 91 EV chargers with 1,061 charging ports.¹⁶ Policies recently adopted or under consideration in New York State – such as the Advanced Clean Trucks rule and Advanced Clean Cars II – will ensure that the market for zero-emission vehicles across all sectors is there to support the City in making this transition. At the same time, various city, state and federal programs will boost, and help subsidize, the deployment of charging infrastructure.

New York City should pursue all available strategies to increase adoption of zero-emission vehicles for public and private fleets. Intro 279 is a critical step. Its concrete deadlines to phase out combustion vehicle purchases for the City's fleet of light-duty vehicles and MHDVs will have a sizeable emissions impact in its own right while setting the stage for broader deployment of ZEVs throughout the five boroughs.

Reducing Exposure to Harmful Vehicle Exhaust

Directly exposed communities suffer uniquely from the impact of vehicle tailpipe emissions. A recent federal study concluded that residing in heavily trafficked areas or near major roads can lead to elevated exposures to PM_{2.5} and nitrogen dioxide, and that such exposures are hazardous to pregnant women and “may have significant adverse health effects in the developing offspring.”¹⁷ Air pollution levels are highest within a few hundred feet of major roadways or facilities with significant vehicle volumes, like ports and rail yards. People who live, work, or go

¹⁶ Mayor's Management Report at 441.

¹⁷ Nat'l Toxicology Program, NTP Monograph 07, NTP Monograph on the Systematic Review of Traffic-Related Air Pollution and Hypertensive Disorders of Pregnancy at 75 (2019), https://ntp.niehs.nih.gov/ntp/ohat/trap/mgraph/trap_final_508.pdf.



to school near such areas “have an increased incidence and severity of health problems associated with air pollution exposures related to roadway traffic” like asthma, cardiovascular disease, childhood leukemia, and premature death.¹⁸

Exposure to diesel exhaust is a particularly serious health risk. Many medium-duty (class 2b-3) and nearly all heavy-duty (class 4-8) vehicles on the road today are diesel-powered. Diesel exhaust is a known carcinogen.¹⁹ As the American Public Health Association has declared, limiting or eliminating exposure to diesel exhaust from trucks, buses, and other MHDVs must be an urgent public health priority. For these reasons, we support City Council’s efforts to address exposure to diesel exhaust and help provide relief to New Yorkers who continue to be exposed to these emissions at disproportionate rates.

Int. 606 (in relation to motor vehicles idling adjacent to and within New York city parks, green spaces and playground)

This bill would increase the scope of the City’s existing idling law by prohibiting vehicles from idling for longer than one minute adjacent to New York City parks, greenspaces, or playgrounds. We support this bill and urge the Council to strengthen it by expanding the range of spaces receiving heightened protection, such as public housing developments. We also call for vigorous enforcement by City agencies to fully realize the bill’s benefits.

Int. 684 (in relation to increasing civil penalties for idling infractions by trucks and buses)

This bill would increase civil penalties for entities that violate the City’s anti-idling laws, with penalties increasing after the first and second violations. We are generally supportive of this policy change which, if enforced, should better serve as a disincentive to idling and thus lower exposure to harmful exhaust.

Int. 707 (in relation to air quality monitoring at designated “heavy use” thoroughfares)

This bill would direct the Department of Environmental Protection to designate “heavy use thoroughfares” and install street lever air monitors at recreational areas and major intersections along these designated thoroughfares. The bill would further require mitigation measures where certain air contaminants exceed regulatory standards or constitute an “actual or potential danger” to public health or the environment and/or a “health risk to at-risk populations.”

We support this bill and urge the Council to strengthen it by: (1) broadening the list of contaminants it covers, to include contaminants regulated under state law and other harmful air

¹⁸ U.S. Env’tl. Protection Agency, Near Roadway Air Pollution and Health: Frequently Asked Questions at 2 (2014), https://www.epa.gov/sites/production/files/2015-11/documents/420f14044_0.pdf.

¹⁹ Int’l Agency for Research on Cancer, World Health Org., IARC: Diesel Engine Exhaust Carcinogenic (June 12, 2012), https://templatelab.com/iarc_press_release_213_E/.



pollutants, (2) broadening the definition of “at-risk” populations to include individuals and communities that suffer from elevated rates of asthma and other respiratory conditions, as well as residents of public housing, (3) consider further broadening the definition of “at-risk” populations to consider cumulative exposures to environmental contaminants, and (4) require consultation with the Department of Health and Mental Health in determining when mitigation is required.

Continue to Focus on Other Major Polluting Facilities

While we urge the Council to strengthen and pass the bills being considered today, we also want to draw attention to the fact that more action will be needed to take on the environmental injustices inherent in our current transportation system. These injustices tend to concentrate polluting facilities, harmful emissions, and public health burdens in vulnerable low-income communities and communities of color that are especially threatened by climate change impacts. Additional policies are required to address major disparities in exposure to vehicle exhaust and related health harms, such as preventing major logistics and freight facilities from continuing to cluster in a small handful of communities of color, and prioritizing zero-emission vehicle deployment with a focus on replacing diesel vehicles that operate in environmental justice communities.

Earthjustice looks forward to working with the City Council and the administration in advancing the passage and implementation of these bills and future policies to ensure clean air for all New Yorkers.

Alok Disa
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**Testimony of Hillary Aidun of Earthjustice to the
New York City Council Committee on Environmental Protection
December 15, 2022**

Thank you chair Gennaro and committee members for the opportunity to testify on the important issue of air quality. My name is Hillary Aidun and I am an attorney at Earthjustice, a national environmental law organization. The bills being heard today are critical to realizing New York City's climate and environmental justice commitments and we thank the bill sponsors and the committee for their work.

Earthjustice strongly supports Intro 279, which, as discussed in more detail in written testimony submitted by my colleague Alok Disa, will make the city's fleet electrification commitments binding and be a major step to reduce greenhouse gas emissions and tailpipe pollution.

Intros 606, 684, and 707 aim to address the urgent issue of truck pollution by requiring air quality monitoring and mitigation measures on certain heavily trafficked thoroughfares and expanding and strengthening penalties for idling. Heavy-duty diesel vehicles are responsible for approximately half of on-road tailpipe emissions in the city, emit significant greenhouse gases, have a disproportionate impact on low-income communities and communities of color, and emit particulate matter and precursors to ozone, which can cause damage to the airways, heart attacks, strokes, lung cancer, and more severe and frequent asthma attacks.

The New York City metropolitan area suffers from persistently poor air quality and exceeds federal air quality standards for ozone. Vehicle emissions are a significant contributor to existing ozone levels and are a main driver of neighborhood-level variation in air quality, which concentrates pollution in low-income communities and communities of color.

To combat this dire public health issue, we need to reduce truck traffic and emissions rapidly, especially in communities where truck use is concentrated. Instead, the opposite is happening. Trucks now deliver more than 2.4 million

packages every day in the City. Some predict a 67% increase in truck volume in the city by 2045, or an additional 75,000 trucks on the streets each day.

The proliferation of last mile warehouses compounds these problems by increasing the total number of truck trips for deliveries throughout the city. In the past few years, low-income communities of color in New York City have become the last-mile warehouse epicenter.

We commend the City Council for taking steps to address trucks that are currently on the road, and look forward to working with the city to address, mitigate, and where possible prevent an increase in truck traffic in the months and years to come. Thank you.

Written Testimony in Support of Int 0606-2022 and Int 0684-2022

December 15, 2022

To the honorable members of the New York City Council Committee on Environmental Protection,

Thank you for the opportunity to provide testimony in support of Int 0606-2022 and Int 0684-2022, both of which would protect New York City's most vulnerable residents from harmful air pollutants emitted by idling vehicles. As pediatricians and scientists at the Children's Environmental Health Center of the Icahn School of Medicine at Mount Sinai, we strongly support initiatives that protect the youngest New Yorkers from the health impacts of air pollutants and climate change.

Idling vehicles are a significant source of air pollution and contribute to the climate crisis. Idling vehicles emit an estimated annual 30 million tons of the potent greenhouse gas carbon dioxide (CO₂) each year in the United States, producing two times as much pollution as a moving vehicle. In addition to gaseous emissions, idling vehicles are a major source of particulate air pollution. A report from the NYC Department of Health and Mental Hygiene estimates that between 2015-2017, fine particle pollution alone caused at least 2,000 deaths, 1400 hospitalizations for heart and lung problems, and 3750 emergency department admissions for asthma annually.¹ In addition to the direct impacts of vehicular air pollution on health, idling's contribution to the climate crisis impacts the physical and mental well-being of New Yorkers through more extreme temperature days, creation of heat islands, flooding, extreme storms, more severe allergy seasons, and more.^{2,3} Strong policies to reduce the estimated 130,000 tons of CO₂ produced by idling vehicles in NYC⁴ would have far-reaching positive impacts on health.

Children are uniquely vulnerable to the harmful effects of automobile emissions. Children's higher breathing rates place them at increased risk for inhalational exposures compared with adults, and their rapidly growing organ systems are more susceptible to harm from air pollutants.⁵ Vehicular air pollutants penetrate deep into children's lungs where they enter the bloodstream to impact multiple bodily systems. Thus, in addition to impacting lung function and increasing the risk of developing asthma, exposure is associated with increased risk of learning and behavioral problems, autism, dementia, obesity and diabetes, heart attack and stroke, more severe COVID-19 outcomes, poor pregnancy outcomes, and lower life expectancy.^{6,7}

¹<https://a816-dohbep.nyc.gov/IndicatorPublic/beta/data-explorer/health-impacts-of-air-pollution/?id=2122#display=summary>

² <https://www.dec.ny.gov/energy/94702.html>

³ Bernstein AS, et al. Warm Season and Emergency Department Visits to U.S. Children's Hospitals
Environ Health Perspect. 2022 Jan;130(1):17001.
doi: 10.1289/EHP8083.

⁴ https://www.edf.org/sites/default/files/9236_Idling_Nowhere_2009.pdf

⁵ Bearer, CF. The special and unique vulnerability of children to environmental hazards. *Neurotoxicology* 2000 21: 925-934.

⁶ Manisalidis I, et al. Environmental and Health Impacts of Air Pollution: A Review
Front Public Health. 2020; 8: 14. doi: 10.3389/fpubh.2020.00014

⁷ MontseMarquès and José L.Domingo. Positive association between outdoor air pollution and the incidence and severity of COVID-19. A review of the recent scientific evidences. *Environmental Research*. Volume 203, January 2022, 111930.
<https://doi.org/10.1016/j.envres.2021.111930>.

Automobile idling is an environmental justice issue. Low-income and communities of color bear the greatest burden of exposure to air pollutants and the highest asthma rates in the City. For example, East Harlem, a designated environmental justice (EJ) area⁸ and the neighborhood in which Mount Sinai Hospital is situated, has some of the highest rates of asthma ED admissions in the City at 580 per 10,000 children, compared with just 49 per 10,000 children a few blocks away in the predominantly white, wealthy Upper East Side neighborhood.^{9,10} City-wide, racial inequities in asthma rates in children in grades K-8 are stark, with rates of 12.9%, 11.3%, and 5.3% for Black, Latinx, and white children respectively.¹¹ These inequities place children of color in EJ areas at the highest risk for adverse health impacts from pollutants produced by idling vehicles.

New York City children deserve safe and healthy places to play. Our environmental pediatric clinic counsels families on steps that they can take at home to improve their child's asthma management. This includes guidance on best practices such as proper administration of asthma medication and how to eliminate asthma triggers inside the home. While we also recommend outdoor physical activity and exposure to green spaces for all children, this can be dangerous for asthmatic children on poor air quality days. Unfortunately, families have little control over the air quality in areas where their children play. By enacting and strictly enforcing the proposed legislation, the City can improve air quality in the vicinity of playgrounds, parks, and green spaces, giving most vulnerable New Yorkers access to clean air.

We urge you to support the passage of Int 0606-2022 and Int 0684-2022 to protect the health of New York City residents.

Thank you for your time,



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⁸<https://climate.cityofnewyork.us/topic/environmental-justice/>

⁹<https://www.nyc.gov/assets/doh/downloads/pdf/data/2018chp-mn11.pdf>

¹⁰<https://www.nyc.gov/assets/doh/downloads/pdf/data/2018chp-mn8.pdf>

¹¹<https://www1.nyc.gov/assets/doh/downloads/pdf/epi/databrief126.pdf>



New York City Environmental Justice Alliance

462 36th St, 3F, Brooklyn, NY 11232 | www.NYC-EJA.org

On the ground – and at the table

Good afternoon, members of the Council. My name is Kevin Garcia, and I am the Transportation Planner with the New York City Environmental Justice Alliance (NYC-EJA). Founded in 1991, NYC-EJA is a nonprofit citywide membership network linking grassroots organizations from low-income communities of color in their struggle for environmental justice.

I am here today to testify in support of [Int 279](#), [Int 606](#), [Int 684](#), and [Int 707](#).

Transportation accounts for nearly 30 percent of New York City's emissions and the two million light-duty vehicles registered in the city are responsible for almost 80 percent of the city's transportation emissions. Thus, we must do everything we can to tackle tailpipe emissions and encourage a cleaner transportation sector to achieve New York City's climate and environmental justice targets.

While the air pollution impacts from the transportation sector affect us all, in New York City, low-income communities and communities of color suffer disproportionately from respiratory problems caused by transportation-related air pollution. In New York City alone, respiratory illnesses caused by traffic-related particulate matter led to 320 premature deaths and 870 emergency department visits and hospitalizations every year. Poor air quality from fossil fuel combustion — from vehicles, power plants, and boilers—disproportionately impacts the respiratory health of communities of color and low-income communities. Per the NYC Department of Health, hospitalizations for preventable asthma occur disproportionately in the poorest neighborhoods at a rate up to 30 times more frequent than in the wealthiest communities.

Our city government must do its part to address emissions and air quality by cleaning up its fleet. Requiring the City to purchase zero-emission medium-duty and heavy-duty trucks will accelerate the elimination of traditional truck diesel emissions, which generate pollution that contributes to elevated rates of respiratory diseases in New York City's most vulnerable neighborhoods. New York City has various Electric Vehicle (EV) pilots underway but has not yet deployed a significant percentage of its fleet as EVs. EVs dramatically reduce both direct and indirect emissions versus those of internal combustion engine (ICE) vehicles. To guarantee that the City's fleet is clean and sustainable, we are urging the City Council to adopt Int 279.

Additionally, it is important to monitor and reduce tailpipe emissions from non-City owned vehicles too, in particular, medium- and heavy-duty vehicles used for delivering goods. New York City is experiencing an increase in last-mile warehouses, the facilities from which goods ordered by mail or online are delivered directly to consumers. Last-mile warehouses facilitate the movement of goods in the supply chain to the final destination and minimize the time to complete delivery. Per NYC'S Zoning Resolution, "warehouses" can only be constructed in manufacturing districts and C8 commercial districts and are built "as-of-right" which means they do not need to go through a review process. These districts are located next to residential areas and are more prevalent in neighborhoods with higher population percentages of low-income families and communities of color. The construction and siting of these facilities also do not take into consideration the location of parks, green spaces, or playgrounds.

Today, it is estimated that more than 2.4 million packages are delivered every day in New York City. This has led to an increase in the number of vans and trucks needed to bring goods to last-mile warehouses and to complete the trips to their final destination. According to the U.S. Environmental Protection Agency (EPA), increased truck traffic, especially from diesel exhaust, can lead to serious health conditions like asthma and respiratory illnesses and can worsen existing heart and lung disease, especially in children and the elderly. Because of this, along with the siting of these facilities, communities are bearing the burden of consumer habits for faster deliveries that lead to increases in vehicle traffic, a rise in carbon emissions, and further air pollution.

Thus, we are strongly urging the City Council to not only adopt Int 606 and Int 684 but to go beyond the proposed inclusion of city parks, green spaces, and playgrounds. These two bills will help deter vehicle idling and help us reach our air quality reduction targets. Int 606 will expand on the sensitive receptors that are not considered in relation to vehicle idling. Furthermore, the City Council should include other sensitive receptors in the Int 606 amendment, such as New York City Housing Authority developments and nursing homes. This expansion of receptors, along with adopting Int 684, can help to deter unnecessary vehicle idling that plague our communities.

We are also urging the City Council to adopt Int 707 to help better understand traffic movement and improve air quality monitoring. Designating heavy-use thoroughfares can help us to mitigate the impact of a massive uptick in last-mile warehouses in our city and the vehicles these facilities demand. This increased transparency with regard to air quality data can better inform the public and can help the City with planning mitigation measures to reduce air pollution.

Thank you for the opportunity to speak in support of these bills and to highlight the issues around emissions. We encourage you to pass these bills to help reduce emissions, improve the lives of New Yorkers, and tackle climate change.



**Testimony of Alia Soomro, Deputy Director for New York City Policy
New York League of Conservation Voters
City Council Committee on Environmental Protection
Oversight Hearing on New York City's Air Quality and its Effects on Public Health
December 15, 2022**

Good afternoon, 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 and members of the Committee on Environmental Protection for the opportunity to testify today.

New York City has one of the country's [highest rates](#) of asthma hospitalizations and deaths among children and young adults, African American and Latino patients, and [residents of high-poverty neighborhoods](#). Poor air quality leads to poor health outcomes such as respiratory and cardiovascular diseases, especially for vulnerable populations such as seniors and children. This problem becomes more prevalent near New York City's many major highways, where, too often, these communities are low-income and communities of color due to structural and environmental racism and historic disinvestment. On top of this, existing public health inequities are compounded by climate change.

NYLCV supports Intros 606, 684, and 707, all of which would work towards reducing the amount of pollutants in the air and improving public health, especially for vulnerable New Yorkers such as children and people of color. We support Intro 684, which would increase civil penalties for idling infractions by trucks and buses, and Intro 606, which would curb idling adjacent to New York City parks, green spaces, and playgrounds for longer than one minute. Both of these bills would curb vehicular idling so that the predictable and preventable adverse health effects can be averted. Additionally, NYLCV supports Intro 707, which requires the Department of Environmental Protection (DEP) to designate heavy-use thoroughfares in every borough and install street-level air monitors to track air quality in these areas. The bill also requires DEP to issue a report containing the results of the air quality monitoring and mitigation measures where the results of the air quality monitoring constitute a violation of an existing standard. NYLCV supports Intro 707 because it will provide badly-needed air quality data and shed light on the heavy air pollution burden that low-income and communities of color bear, especially with the proliferation of last-mile facilities since the start of the pandemic. There is much that the City can do on its own to alleviate air pollution caused by heavy traffic, but as the fight for congestion pricing has demonstrated, we also need help from the State and Federal governments to get dirty vehicles off the road and improve public health.

Although NYLCV broadly supports the intent of Intro 279 and the requirements for light-duty vehicles, we have concerns about the feasibility of the timeline for medium- and heavy-duty vehicles, such as garbage and fire trucks, and school buses. Under this bill, New York City would be required to purchase or lease only zero-emission light- and medium-duty vehicles beginning July 1, 2025, including school buses. Additionally, the City would be required to purchase or lease only zero-emission heavy-duty and specialized motor vehicles beginning July 1, 2030. New York City would be required to convert its entire fleet of light-, medium-, and heavy-duty and specialized motor vehicles to zero-emission vehicles by July 1, 2035.

NYLCV does not support revisiting the electric school bus timeline having strongly advocated for Local Law 120 of 2021, which requires the City to ensure that all school buses in use by September 1, 2035, shall be all-electric zero-emission school buses, and the Fiscal 2023 State budget that requires all school bus purchases statewide to be zero-emission starting in 2027. Since existing City and State electric school bus laws were carefully negotiated with many different stakeholders, we need to find a valid reason for it to be revisited.

Moreover, NYLCV, along with the NYC School Bus Umbrella Services (NYCSBUS), World Resources Institute (WRI), the Mobility House, Bronx Community College, and CALSTART have been awarded the New York State Energy Research and Development Authority's (NYSERDA) Clean Transportation Prize through the Electric Truck and Bus Challenge. The winning project, which received \$8 million in prize money, provides a framework to accelerate the deployment of zero-emission school buses in New York City and throughout the State. This project recognizes that acquiring electric vehicles is not the only barrier to a clean energy bus fleet. Bus companies and school districts need to navigate unfamiliar territory, and overburdened school districts often lack the resources and expertise to manage electric school bus adoption on a large scale. We are very encouraged to work with our partners to enable NYCSBUS to serve as a first laboratory and case study for large-scale school bus electrification in New York, documenting not just the proper selection of buses but the even more complicated deployment of charging infrastructure, development of training and operational protocols, and community engagement so that the project is successful.

NYLCV would support the provisions of Intro 279 if the City were to find the timelines for medium- and heavy-duty vehicles feasible given the requirements of the City's capital process, or, if there are amendments to the timeline so that it better balances an ambitious timeline with practicality. We encourage the City Council to continue collaborating with advocates, City agencies such as OMB and DCAS, Con Ed, and National Grid. We also urge the City to produce a plan on capital spending and charging infrastructure for medium- and heavy-duty vehicles under the bill's timeline to identify challenges and solutions for implementation, such as charging infrastructure, funding, and procurement issues.

We are encouraged by a recently announced infusion of over \$69 million in federal funds from the Infrastructure Investment and Jobs Act that will provide New York with 184 electric buses, with 51 of them going to New York City school districts. We urge the City to continue identifying Federal and State funding to electrify our City fleets over the next decade.

NYLCV is encouraged by Intros 606, 684, and 707, which will help fight poor air quality throughout our City. We urge you to co-sponsor Intros 606 and 707 and vote yes on these bills, which are being considered for our 2022 New York City Council Scorecard. While we believe Intro 279 should be amended to better balance feasibility with ambition, we support its intent and look forward to working with the City Council, advocates, and agency officials to electrify our City fleet.

Thank you for the opportunity to speak.

**TESTIMONY
OF THE
NEW YORK PUBLIC INTEREST RESEARCH GROUP
BEFORE THE
NEW YORK CITY COUNCIL
COMMITTEE ON ENVIRONMENTAL PROTECTION
DECEMBER 15, 2022**

Good afternoon. My name is Natasha Elder, and I am the Regional Director for Resiliency and Equity Projects at NYPIRG, the New York Public Interest Research Group. NYPIRG is a non-partisan, not-for-profit research and advocacy organization. Environmental protection, public health, consumer protection, higher education equity, and civic empowerment are our principal areas of concern.

Thank you, Committee Chair Gennaro and members of the Committee on Environmental Protection for the opportunity to testify today. Although all of the issues being brought forth are of importance to protect the health of New Yorkers, we are specifically testifying in support of Intro. 684, which would increase the civil penalty for idling infractions imposed on drivers of buses and trucks.

Nitrogen Oxide, Particulate Matter and Health

Idling is a significant – and usually unnecessary – source of Nitrogen oxides (NOx) and particulate matter (PM2.5), with an estimated 130,000 tons of carbon dioxide emitted in New York City each year. These toxins, mostly produced by diesel-powered vehicles, have been linked to numerous problems, including bronchitis, pneumonia, inflammation of pulmonary tissues, heart attacks, lung cancer, increased asthma-related symptoms, fatigue, heart palpitations, and premature death.¹ Ambient fine particulate pollution is responsible for between 85,000 and 200,000 deaths in the US each year.²

Idling creates air pollution and although people of all ages are affected by it, children are particularly vulnerable, especially in communities of color. Across the country, schools with a higher enrollment of racially and ethnically marginalized children have found higher-than-average amounts of particulate matter and nitrogen oxide in those schools, in contrast to schools where there are lower enrollments of

¹ Wang, G. Bai, S., Ogden, J., “Transportation Research Part D: Transport and Environment, Identifying contributions of on-road motor vehicles to urban air pollution using travel demand model data,” 2009, *Elsevier.com*, see: <http://www.journals.elsevier.com/transportation-research-part-d-transport-and-environment>.

² Tessum CW, Paolella DA, Chambliss SE, Apte JS, Hill JD, Marshall JD. PM2.5 pollutants disproportionately and systemically affect people of color in the United States. *Sci Adv*. 2021 Apr 28;7(18):eabf4491. doi: 10.1126/sciadv.abf4491. PMID: 33910895. Accessed at <https://www.science.org/doi/10.1126/sciadv.abf4491>.

marginalized students.³ This is also the case in New York City.⁴ Recent studies in New York City have found greater rates of premature deaths and hospitalizations for respiratory and cardiovascular conditions in regions with high percentages of poverty.⁵ And diesel truck and bus pollution adds another layer of environmental injustice. Disparities in PM2.5 exposure due to trucks and buses in neighborhoods experiencing poverty are more pronounced than disparities in PM2.5 exposure due to other sources. The resulting health costs are significant, with trucks and buses accounting for half of all traffic pollution-related premature deaths in Black and Hispanic communities.⁶

These poor health outcomes, which exacerbate racial and economic injustice, are well known and are part of the main reasons current idling laws exist. However, paying the current schedule for civil penalties has not deterred enough significantly deterred truck and bus operators from violating the law. Increasing civil penalties for idling trucks and buses who have accrued multiple violations, will create better health outcomes for all New Yorkers by deterring repeat violators. Premature death cannot become an accepted cost of doing business.

Nitrogen Oxide, Particulate Matter and Climate

NYPIRG works with students at college campuses across New York, including 10 here in New York City. Generational climate justice is an issue that's front and center for the students we work with. Today's college students are seeing more severe storms and flash floods, they are reading dire climate reports from the UN's IPCC, and grappling with what their future will look like. Idling wastes large amounts of fossil fuels and results in significant emissions of greenhouse gasses that contribute to climate change.

According to the Department of Environmental Conservation, every gallon of gasoline burned leads to the release of 22 pounds of carbon dioxide, and the transportation sector is responsible for nearly 30% of New York's greenhouse gas emissions.⁷ Reducing vehicle idling by just 5 minutes per day would reduce annual fuel consumption by 10 to 20 gallons of gasoline per vehicle.⁸ With millions of vehicles driven in New York on a daily basis, increasing civil penalties for buses and trucks and reducing idling would result in massive reductions in fuel consumption and a significant decrease in New York's carbon footprint.

³ Cheeseman, M. J., Ford, B., Anenberg, S. C., Cooper, M. J., Fischer, E. V., Hammer, M. S., et al. (2022). Disparities in air pollutants across racial, ethnic, and poverty groups at US public schools. *GeoHealth*, 6, e2022GH000672. <https://doi.org/10.1029/2022GH000672>

⁴ Cheeseman, Ford, et al. (2022). Disparities in air pollutants across racial, ethnic, and poverty groups at US public schools.

⁵ Iyad Kheirbek et al., "Air pollution and the health of New Yorkers: The impact of fine particles and ozone," New York City Department of Health and Mental Hygiene (2011), <https://www1.nyc.gov/assets/doh/downloads/pdf/eode/eode-air-quality-impact.pdf>

⁶ Iyad Kheirbek et al., "The Contribution of Motor Vehicle Emissions to Ambient Fine Particulate Matter Public Health Impacts in New York City: A Health Burden Assessment," *Environmental Health* 15, no. 1 (December 2016): 89, <https://doi.org/10.1186/s12940-016-0172-6>

⁷ New York State Department of Environmental Conservation, "2021 Statewide Greenhouse Gas Emissions Report" see: <https://www.dec.ny.gov/energy/99223.html#Report>

⁸ See Hinkle Charitable Foundation, <http://www.thehcf.org/antiidlingprimer.html>.

Continuing to ignore these facts will not only hurt New Yorkers' health, but also our wallets, as we foot the bill for disaster clean-ups. The National Oceanic and Atmospheric Administration (NOAA) has tallied the cost of New York's climate-fueled storms from 2000 and 2021 at \$50 to \$100 billion dollars.⁹ Superstorm Sandy caused \$19 billion in damages in New York City.¹⁰ After Hurricane Ida, the MTA alone estimated up to \$100 million in damages from the storm, according to MTA Acting Chair Janno Lieber. Moreover, we all pay for increased health care costs, lost work productivity, missed school days and reduced lifetime earnings that result from preventable sickness and death caused by unnecessary vehicle idling emissions.

Being Creative and Reimagining Policy

The negative effects on the health of New Yorkers and our climate as a whole has spawned creative policy solutions. For example, in Hunts Point, where 24.5% of residents identify as Black and 74.5% of residents identify as Hispanic, there has been a connection between diesel fuel trucks and buses and increased asthma rates among children. A rebate incentive program called The Hunts Point Clean Trucks Program was designed –and later evolved– to reduce diesel exhaust emissions by replacing older diesel trucks throughout the city. NYC's electric bus network has also been growing. Coming up with non-truck based transport is another creative solution, as the total weight of freight is expected to increase by 68% by 2045,¹¹ and trucks currently account for 88% of deliveries throughout the city.¹² The Department of Transportation's Smart Truck Management Plan has begun that work with its focus on decreasing emissions. Lastly, Congestion Pricing, or the Central Business District Tolling Program, continues to be another critical piece in the fight to reduce emissions and promote solid environmental justice practices while supporting our critical mass transit system.

Conclusion

We are in a climate crisis and our health is failing. The United States Environmental Protection Agency has identified 21 chemicals in truck and bus exhaust that are known or suspected to cause cancer or other serious health effects. Reducing the idling of trucks and buses will better protect the public health of New Yorkers by improving air quality as well as reducing the unnecessary consumption of hazardous fossil fuels and release of greenhouse gasses. Increasing civil penalties will bolster efforts to meet these goals. We urge passage of Intro 684. Thank you.

⁹ NOAA National Centers for Environmental Information (NCEI) U.S. Billion-Dollar Weather and Climate Disasters (2022). <https://www.ncei.noaa.gov/access/monitoring/billions/>, DOI: 10.25921/stkw-7w73.

¹⁰ 2014 New York Hazard Mitigation Plan, New York State Division of Homeland Security and Emergency Services (January 4, 2014) at 3.12-12. Accessed at www.dhss.ny.gov/oem/mitigation/documents/2014-shmp/Section-3-12-Hurricane.pdf.

¹¹ New York City DOT, "Delivering New York: A smart truck management plan for New York City" (2021), <https://www1.nyc.gov/html/dot/downloads/pdf/smart-truck-management-plan.pdf>.

¹² New York Metropolitan Transportation Council, "Regional Freight Plan 2018–2045" (2018), https://www.nymtc.org/Portals/0/Pdf/RTP/Plan%202045%20Final%20Documents/Plan%202045%20Individual%20Appendices/Appendix%208_Regional%20Freight%20Plan.pdf.



Open Plans' Director of Advocacy and Organizing, Jackson Chabot's, Testimony in support of Int. 606 and 684

Dec. 15th, 2022

Good afternoon, my name is Jackson Chabot, and I am the Director of Advocacy and Organizing at Open Plans, an over 20-year-old non-profit dedicated to safe and livable streets. I want to start by commending this committee on their practical, common-sense solutions to making our streets safer and healthy places. This is the New York we all deserve. The choice is clear; you must pass Int. 606 and 684.

Research shows vehicular-related air pollution, which is neurotoxic, has also been causally linked to strokes, heart attacks, cancers, mental health issues, and dementia. In children, it has been associated with low birth weight, delays in brain maturation, behavioral problems, and learning issues. This information should scare us all, and yet companies operating truck and bus fleets still have free roam over our city as much as pigeon swarms do.

These bills must pass so that we can protect our youngest New Yorkers, those walking to 3K or in strollers, and our oldest New Yorkers who cannot sit outside because the air quality is so bad and whose lungs are most vulnerable.

On top of this, particulate levels are highest near roadways, and those using the nearby sidewalks, bike lanes, and plazas face the highest immediate exposure, especially if they are playing or exercising, or spending a lot of time there. Just considering this reality makes me cringe. What we are saying is that corporations' selfish choice to ignore readily available anti-idling measures is more important than the air we all breathe.

We also need design solutions. If we don't want these trucks and buses idling, then we need to give them places actually to park, and we need to dramatically expand and enforce loading zones. Just this morning I saw delivery trucks parked on an elevated bus stop at the corner of Broadway and Franklin idling away, not a care in the world.

We need action now; we cannot delay. If you care about a safe, livable New York City, you must vote yes on these bills.

Dear Council members, Dear Environmental Committee:

I would like to thank the Council for the opportunity to testify. I am a board-certified pediatrician and have spent many years treating children in Manhattan, Brooklyn, and the Bronx.

I am testifying in support of the anti-idling bills intro 684 and 606.

As we all know, air pollution is associated with asthma exacerbations, so it will not surprise you that I spent a lot of time treating asthma while working in Bronx.

The Bronx has some of the worst air quality and asthma rates in the country. Air quality is even worse in proximity to major highways, and children living close to such highways are much more likely to require hospitalization for asthma. These children

- miss school days from illness or hospitalization
- have poor sleep quality, affecting attention span and learning ability
- suffer side effects from asthma medication
- may be socially ostracized due to inability to fully participate in sports

Physicians and politicians have both known about this for decades.

But what have we done about it?

In 2022 vehicular traffic in New York is worse than ever, and idling continues unabated, as it has for decades. Current Idling laws don't prevent the big companies that have accumulated hundreds or thousands of idling tickets from continuing to idle.

Sadly, we seem to have accepted that kids in the Bronx will suffer from asthma.

So let me tell you about other critical health effects.

Exposure to traffic-related air pollution, especially diesel fumes, affects brain development and intellectual development in children. Air pollution is neurotoxic, impacting the brain and the nervous system. Children exposed in utero and early life to high levels of air pollution from truck traffic, more often suffer

- premature birth
- low birth weight
- delays in brain maturation and
- learning issues

Later in life, they often have

- reduced attention span
- memory issues
- and are at higher risk of developing autism and mental health issues

But not only children are affected. Even adults can develop

- cognitive impairment and even
- dementia
- Alzheimer's disease and
- Parkinson's disease

All as a result of traffic-related air pollution.

And finally, air pollution causes about a quarter of all

- lung cancers,
- strokes, and
- heart attacks

Air pollution has been called the “new tobacco” and a “silent health emergency” by the WHO. It kills almost 10 million people annually worldwide. No New Yorker breathes air meeting WHO's standards for clean air. Air pollution is reducing every New Yorkers life expectancy by months or even years.

So why do we accept this?

There is no valid justification for idling.

We need to take decisive action. Clean air does not just happen. Clean air is a societal responsibility and a political choice. It is up to us to protect the most vulnerable members of our society.

Idling substantially contributes to air pollution in NYC. It is our obligation to create effective deterrents that will result in behavior change. The current fines for idling are clearly insufficient.

Idling pollutes our children's future and all of our health.

It is beyond time that we did something about it.

Thank you.

Patrick Schnell, M.D., FAAP

PS:

1. I spent the first 30 years of my life in Germany and my sister spent 30 years of her life living in Paris. Idling simply does not exist in either country. Neither French nor German even have a word for “idling.” This demonstrates that idling is not necessary. Anyone making an argument for the need to idle would have to come up with an explanation as to why idling is necessary in the U.S, yet not necessary in France or Germany.
2. Please do not be deceived by pseudo-arguments that have been made by those who opposed this bill. There is no such thing as “clean” idling. Even if there was, the whole definition of idling is that of an engine that is running without any purpose whatsoever. So there should be no “clean” idling, just like there should not be any idling.
3. Please consider human health over arguments of convenience.
4. Please consider human health over purported benefits to machinery. Idling is in fact bad for combustion engines.
5. We live in a climate emergency and to stop idling is the very, very least we can do. In fact, I consider it an ethical obligation not to idle. Fines for idling need to be increased, and existing anti-idling laws need to be enforced.

Delia Kulukundis

Thomson Avenue
Long Island City, NY 11101
dkulukundis@gmail.com

December 14, 2022

Councilmember James Gennaro

Chairperson, Committee on Environmental Protection
New York City Council

Re: Pass Intro 0606 and Intro 0684 to deter vehicle idling and improve air quality in New York City

Dear Chairperson Gennaro,

Thank you for your leadership in cosponsoring Intro 0606 and Intro 0684 to reduce air pollution from idling vehicles. I urge you to pass both of these bills this year.

These bills enjoy a supermajority in the Council for good reason - they represent simple changes that would immediately and meaningfully improve life for New Yorkers across the city. The noise and air pollution from idling vehicles harms our health, contributing to serious illnesses like asthma and adult dementia.¹ Yet this pollution is completely unnecessary, by definition - both of these bills include exceptions for vehicle engines to be used for work tasks like running lift gates, concrete mixers, pumps, cranes, drills, and wheelchair lifts. Vehicular air pollution also contributes to global heating. This pollution could be eliminated with the right policies.

Unfortunately NYC's idling laws do not currently do enough to stop the problem. We need meaningful, escalating penalties like the ones in Intro 0684 in order to get the attention of the corporations whose vehicles pollute our air. Companies like Amazon, UPS, and FedEx could start with easy fixes like providing their drivers with inexpensive backup batteries for charging cellphones, or they could choose to install auto-shutoffs on their vehicles.

¹ <https://www.docdroid.net/T4XN2Ls/letter-iso-anti-idling-intros-606-and-684-final-october-17-2022-pdf>

It is especially important to prevent idling by school buses, and by other vehicles in spaces near where children play. The idling laws already have stronger rules in front of schools, given the particular sensitivity of children to exhaust fumes. Alexa Aviles' Intro 606 would extend those same stronger rules to idling by parks, playgrounds, and green-spaces. These spaces are likely even more important to protect than schools, as children will be exercising in them, and breathing lots of air, while being outdoors without any physical barriers between them and the vehicles.

Please pass both Intro 0684 and Intro 0606 to meaningfully reduce air pollution from vehicles, for the sake of all our health and enjoyment of the city.

Sincerely,
Delia Kulukundis

(SUMMARY OF ORAL TESTIMONY)

I'm here to speak on behalf of anti-idling Intros 606 and 684. I'm a local attorney and volunteer on the anti-idling working group arranged by the DEP. We advise the DEP on NYC's existing law and how best to enforce it.

The enforcement is directed against companies whose trucks and buses engines, despite not moving the vehicle or doing anything useful, nonetheless spew exhaust. New York City's 1972 idling law allows running engines to operate work and refrigeration equipment, to heat a bus in low temperatures, and to cool a school bus in high temperatures. So, when a ticket actually is issued, the bus or truck company really has no excuse.

The unnecessary exhaust represents an environmental, health, and noise crisis in New York City. The DEP is receiving about 50,000 idling complaints in 2022, twice the number of helicopter noise complaints. This is so much idling that DEP is forced to schedule hearings years out, as Hub Truck points out. DEP identified that the program needs more funding, and this needs to be provided by City Council and the mayor immediately, to cut back on delays. The investment will more than pay for itself, and provide procedural justice.

Multiple giant, multi-billion dollar corporations, have each received well over 1,000 DEP idling summonses. Given current enforcement capacity, this likely hides millions of uncaught pollution violations by each of these mega-corporations.

The current penalties, clearly, don't deter these big companies from idling. With Intro 684, control can be achieved. Corporations will adopt electric vehicles, install auto-shutoffs, provide workers with battery packs to charge cell phones, or train drivers to shut off the engines. These actions would reduce fuel consumption and engine wear, and actually save the corporations money. By making unnecessary emissions expensive, companies will engage in less of it to maximize their profit.

As to Intro 606, the idling law already has relatively tougher rules for idling in front of schools. Intro 606 simply extends those rules to parks, playgrounds, and green spaces. Children playing outdoors have no physical protection from exhaust emissions, so they must be protected by law.

New Yorkers recently overwhelmingly voted for a Constitutional guarantee of clean air. By passing Intros 606 and 684, City Council will be making good on that guarantee. New Yorkers, and especially the disproportionately affected minority communities of the South Bronx and Central Brooklyn, deserve no less.

I will be submitting some language suggestions for Intro 684 in writing, in the nature of making some technical clarifications. Thank you.

October 17, 2022

New York City Council
ATTN: Environmental Chair James F. Gennaro and Speaker Adrienne E. Adams
New York City Hall
250 Broadway, New York, NY 10007
[By Electronic Mail]

Re: Importance of Promptly Passing Councilmember Alexa Avilés's Intro 606 and Councilmember Julie Menin's Intro 684 to Combat Health Effects of Vehicle Engine Idling

Dear New York City Council,

We write to emphasize the importance of two new City Council bill introductions aimed at reducing vehicle, and particularly truck and bus, engine idling. Specifically, Councilmember Alexa Avilés's 2022 Intro 606 and Councilmember Julie Menin's 2022 Intro 684 are valuable tools for reducing air pollution and its associated adverse health effects in New York City. These health effects are most pronounced in the largely minority communities of the South Bronx and Central Brooklyn, but still pose a substantial degree of risk to all New Yorkers.

Air pollution is a public health emergency and New Yorkers are particularly impacted. New York City is densely populated and New Yorkers are exposed to pollutants from exhaust fumes from vehicular traffic no matter where in the city they live or work. Those who are outside near traffic are breathing in particularly high concentrations of pollutants. This group notably includes children playing in parks, playgrounds, and green-spaces near such traffic. Vehicular idling - that is, needlessly combusting fossil fuels while the vehicle is stationary without any legitimate engine-based work task being performed - significantly and unnecessarily adds to this pollutant exposure.

It is well-known that traffic-related air pollution is causally linked to pediatric (and adult) asthma. However, traffic-related air pollution, which is neurotoxic, has also been causally linked to strokes, heart attacks, cancers, mental health issues, and dementia. In children, it has been associated with low birth weight, intrauterine growth retardation, delays in brain maturation, behavioral problems, and learning issues.

As a society, we have a responsibility and obligation to protect the health of New Yorkers, particularly of vulnerable New Yorkers such as children, by minimizing exposure to these pollutants. While some efforts have been made, we have not lived up to our obligation. Over the

past ten years, New York City has engaged in various anti-idling enforcement and public awareness initiatives, including a two-week crackdown in 2012 and an associated distribution of literature during asthma awareness month, (https://www1.nyc.gov/html/dep/html/press_releases/12-32pr.shtml) encouraging civilians to provide evidence of commercial idling violations to the NYC DEP via various Local Laws, and even engaging rocker Billy Idol in 2020 to remind drivers that “Billy doesn’t idle, so why should you?” (<https://www.youtube.com/watch?v=K7xa0ufQaVE>).

However, by all objective measures, the idling problem has not been adequately addressed, let alone solved. Far from it, this year the NYC DEP has received record volumes of idling complaints. Many large companies refuse to consistently comply with the anti-idling law, with several engaging in such extreme levels of recidivism that their fleet has been caught idling and issued NYC DEP summonses well over **one thousand** times. It is therefore evident that the current fine levels are an insufficient deterrent to idling.

It is critical that we enact measures that are actually effective at stopping, or at a minimum greatly reducing, idling as soon as possible so that the predictable and preventable adverse health effects can be averted. Intros 606 and 684 are extraordinarily well-focused measures towards achieving this goal.

Intro 606 builds on the existing, relatively stringent idling rules that protect children in school zones by applying those same rules to other locations where children are particularly vulnerable to pollutants—such as parks, playgrounds, and green-spaces where children are likely to be playing. Intro 684 overhauls, albeit for commercial trucks and buses only, the current fine structure that is clearly insufficient to deter recidivist corporate violators. The improved fines of Intro 684 – which escalate for recidivists – are positioned at a level that recidivist violators will be incentivized to take measures to avoid idling, for example engaging in driver training, installing back-up power sources for needed equipment, and/or installing auto-shutoffs on trucks and buses.

Both Intros are sorely needed to mitigate the known adverse health effects of traffic-related air pollution in children and adults. Intros 606 and 684 should be promptly heard and passed by the full Council. Doing so will also yield secondary benefits, such as a City that contributes less to climate change, is quieter, and is less full of noxious smells.

Respectfully yours,

NYS AAP–Chapter 2

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American Academy of Pediatrics

DEDICATED TO THE HEALTH OF ALL CHILDREN®



American Academy of Pediatrics
NYS Chapter 2
(Brooklyn, Queens, Nassau, Suffolk)

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NYS Chapter 3 (Bronx, Manhattan, Staten
Island, Westchester, Rockland, Putnam,
Orange, Dutchess)

Patrick Schnell, MD, FAAP
(Fellow, American Academy of Pediatrics)



New York Clinicians for Climate Action

Rebecca Bratspies

Rebecca Bratspies
CUNY Law Professor
Founding Director of the Center for Urban Environmental Reform

Christine M. Berthet
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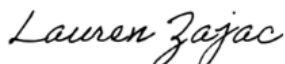
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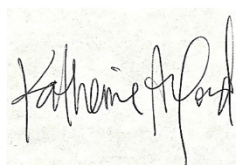
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Th!rd Act NYC

TH!RD ACT NYC

By: Katherine Alford and Pat Almonrode
Co-facilitators



350Brooklyn

From: Hunter Severini <hunter.severini@gmail.com>
Sent: Thursday, December 15, 2022 12:04 PM
To: Testimony
Subject: [EXTERNAL] 12/15/22 testimony in favor of 606 and 684

Hello, my name is Hunter Severini and I am here to speak in support of 606 and 684. As a long-term resident of lower Manhattan, I notice trucks idling virtually every time I leave my apartment. It is clear to me that the current fines are not enough to encourage the necessary changes in behavior by the transportation industry. Despite the ever-increasing amount of enforcement, idling reminds a persistent and widespread problem. The proposed bills will help this by immediately increasing both enforcement and compliance. Considering finite resources, I believe this is the only effective option available to quickly address a problem that threatens the health and livelihoods of millions of people.

After much research, it is clear to me that although New York City is a leader when it comes to environmental laws, we could still be doing much better. Other cities, such as Los Angeles, are looking at our policies as a model and it is imperative that we continue to innovate and set a good example.

606 is obviously well crafted because it encourages commercial vehicles not to idle around parks and playgrounds, where there is a high concentration of children. 684 is likewise necessary to make a more significant impact using existing resources by increasing idling fines, which currently do not appear to be sufficient to discourage the practice. For these and many other reasons, I fully support both bills.

Thank you for your time.

--

Hunter Severini

12/18/2022

To the City Council,

Thank you for the opportunity to offer testimony.

I wish to express my support in favor of Intro 606 and Intro 684 discussed at the 12/15 Environmental Committee hearing.

I did want to take this opportunity to address some comments that were made at the hearing AGAINST Intro 684 and the DEP idling program at large, namely that trucks that are "Certified Clean Idle" should be considered exempt, and hopefully clear up some misconceptions.

1. "Certified Clean Idle" is a bit of a misnomer. Is it really clean? It just means that a vehicle has an engine certified to NOx emission standard of 30 grams per hour or less when idling. While certainly an improvement, this is not clean. It is, at best, "cleaner" or more accurately, "less dirty."

2. Any operator could simply place a "certified clean idle" sticker on their vehicle to deter potential complainants.

3. Most importantly, the argument was made that "Certified Clean Idle" vehicles are exempt from idling laws in California. This is very misleading since California does have major exceptions to these rules:

From <https://www.aqmd.gov/docs/default-source/ab-617-ab-134/steering-committees/southeast-los-angeles/carb-factsheet-idling-july23-2020.pdf>

"Trucks and buses with certified Clean Idle stickers can idle for more than 5 minutes in unrestricted areas, but are still not allowed to idle in restricted areas."

These restricted areas are further clarified: "Exceptions to these rules exist. Truck and bus idling is not allowed in places defined by CARB (California Air Resources Board) as "restricted areas" such as schools, homes, hospitals, and senior and childcare facilities within 100 feet of the property line."

California's "Certified Clean Idle" exemptions clearly protect cities and towns from even "certified clean" truck idling. New York City is much denser and such exemptions would apply to nearly the entire city. Therefore, arguments referencing California's "Certified Clean Idle" exemptions are very misleading.

Overall, clean idle requirements may vary from state to state; what works for one state might not be appropriate for New York City, considering its uniquely high density, already-unacceptable asthma levels, and new constitutional guarantee of clean and healthy air.

Sincerely,

Michael Streeter

I have lived in Queens since the early 1940's. The school I attended for nine years, PS125, was heated with coal and the subways cost only five cents. The subways cost a lot more now-a-days, and my old school no longer burns coal. However, I recently passed by my old school and was appalled to see a line of yellow school buses, all empty, parked and idling right in front of the door I used to enter and exited for nine years. The exhaust fumes from one bus in particular was over-powering.

My wife has asthma, so I take a personal interest in doing all I can to ensure that our environment is not contributing to asthma or the other serious diseases that affect young children. As you might suspect, I support Intro 684, and hope to see it become law.

I do not remember seeing the vast number of vehicles, mostly trucks, parked or stopped with their engines running for no valid reason that I now do. Many times the vehicles are completely empty. The driver is in the nearest coffee shop or the local fast food restaurant. It seems that the only way to stop this behavior is to impose hefty fines on the owners of the idling vehicles. Eventually the word will trickle down to the drivers that idling is a no-no.

Any citizen can report a truck or bus idling illegally, but DEP does not have the wherewithal to process the information in a timely manner. If you check the data available to the public you will discover that once an idling report is received, it could take years, yes, YEARS, before a hearing for the summons is held. This is an indication that this situation is out of control. More enforcement and heavier fines would, hopefully, help to reduce the amount of pollution in our air.

I implore you to support and/or pass any bills or laws that will encourage commercial truck and bus drivers to be better citizens - and to not pollute the air we all breath - 684 would be a good start.

Thank you.



**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
Oversight Hearing on PlaNYC
June 15, 2023**

Good afternoon, 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 and members of the Committee on Environmental Protection, Resiliency and Waterfronts for the opportunity to testify today.

NYLCV was excited to review the City's latest sustainability plan, PlaNYC. This plan presents a roadmap for addressing urgent environmental and climate challenges while leveraging federal and state funding to propel New York City towards a more sustainable and resilient future. We are excited to see the City center equity and environmental justice throughout the plan, in addition to a Public Solar program for one- to four-family low-income homeowners in environmental justice communities by 2025, a goal of achieving 30% tree canopy cover, a voluntary housing mobility and land acquisition program, and more. With that said, we urge Mayor Adams, City agencies, and all stakeholders to collaborate and fully implement the measures outlined in PlaNYC, capitalize on federal and state funding opportunities, and prioritize equity and inclusivity in all sustainability efforts. We appreciate the City Council holding an oversight hearing on this plan, and, on that note, we believe two bills being considered today would further some of the City's goals outlined in PlaNYC.

First, NYLCV supports Intro 898-2023, sponsored by Council Member Avilés, which would require DEP to translate the Citizen's Air Complaint portal into languages other than English. As the largest resident idling complaint program in the United States and the only program that offers monetary incentives for reporting idling, the Citizens Air Complaint Program allows New York City residents to report violations of vehicle idling emissions laws. Vehicular idling can lead to many health problems including asthma and respiratory disease, as well as increase the City's carbon emissions. Currently, the Citizens Air Complaint portal is only available in English. This blocks many New Yorkers from receiving monetary incentives for reporting and learning about the dangers of air pollution and increased emissions. This is especially a problem because non-English speaking residents are often located in underserved and environmental justice communities suffering the most from transportation pollution. Moreover, the Mayor's Office has also made it a goal in PlaNYC to end unlawful truck idling by streamlining the complaint program and increasing participation. Passing Intro 898 would be a step in the right direction to achieve this goal.

We also support Intro 983-2023, sponsored by Council Member Brannan, which would mandate DCAS to install solar canopies on City-owned, or leased, or operated parking lots receiving solar radiation as well as capacity for electric vehicle charging stations in certain parking spaces. As New York City transitions to a more sustainable and resilient future with a switch to clean energy, it is crucial to maximize the City's space for more renewable energy systems. Solar canopies are a smart and cost-effective way to maximize large sun-exposed spaces while also providing shade for parked cars and rest areas. This bill complements one of the goals outlined in PlaNYC, which is to maximize climate infrastructure on City-owned property, including installing solar energy, on all viable City-owned property by 2035. Passing this bill will help New York City reduce our reliance on fossil fuels and help improve public health and environmental justice.

We look forward to working with the Administration and fellow advocates in implementing the goals contained in PlaNYC, as well as the two City Council bills outlined above. Both are vital to making our City more resilient, healthy, and equitable.

Thank you for the opportunity to speak.

6/15/23

Good afternoon,

My name is Aaron Jacobs and I am a resident of Midtown East. I've been participating in the NYC Idling Complaint Program since February of 2022. Since then, I have been responsible for over 700 summonses to commercial vehicles that have left their engines idling for over three minutes. I believe it is imperative to keep this program running and strengthen it in order to hold these companies accountable and improve the air quality of NYC. I have noticed more engines off since I began participating. However, there are many companies who DEFAULT on their payments and simply do not care about these fines. I think it is important to hold them accountable by increasing fines so they can get the message. The DEP oddly goes out of their way to weaken their own program. I'm not sure why since they are the agency tasked with protecting the air that New Yorkers breathe. I write this testimony in my support of this program, as it has caused smaller companies and even some larger companies to turn their engines off when they aren't loading or unloading. Companies such as BRINKS armored cars still seem to think they are above the law, idling everyday in the same exact locations. Please do your part to strengthen this program and keep it alive. No more variances for businesses that are going to idle no matter what.

This is more important than ever, especially since our air quality has diminished in the past week due to the wild fires. Please do your part DEP and hold these idling violators accountable and stop trying to weaken the rules to protect them. Also, it is shameful that the DEP administration NEVER answers emails or inquiries, despite how polite the citizens are in these emails. They fall on deaf ears and it's very disappointing. Remember, the DEP works for the citizens of NYC, not for big business polluters.

Thank you for your time and I hope the DEP makes the right choices for our environment.

Sincerely,
Aaron Jacobs
East 36th St

Testimony of Andrew Văn BRISKER in Support of Introduction 898

Good afternoon. My name is Andrew Văn BRISKER. I am a first-generation Vietnamese American, a Cancer Survivor, and I support Introduction 898, which tears down language barriers and expands access to the Citizens Air Complaint Program.

Thank you Chair Gennaro for convening this hearing, and thank you Council Member Avilés for sponsoring this important Bill.

The Citizens Air Complaint Program is the most successful citizen environmental program in the world! And I applaud the City Council for its strong commitment to broaden access to non-English speakers in this important effort to fight the climate crisis—a crisis made stark last week when an orange haze descended on our City and propelled New York to the worst air quality in the world.

The forest fires affecting Canada are an illustration of both a cause and consequence of the climate crisis. And the hazardous air quality we all could see, smell, and even taste both gave us a glimpse into what air pollution is like elsewhere in the world and reminded us how toxic New York City Air was before other important environmental protection laws like the Clean Air Act were passed. The transportation sector is the largest source of greenhouse gas emissions that drive climate change, which threatens clean air progress, and amplifies a wide range of health risks and disparities.

My family resides in Carroll Gardens, Brooklyn, and together with so many others joining us today are passionate allies of New York's Clean Air Community.

Each day, my 9-year-old daughter and I walk or bike our City streets to school, the park, to work, or to stores our neighbors own and run. Each day we breathe in way too much bad air. Bad air that KILLS.

Scientific studies make clear that tailpipe emissions from cars, trucks, and buses are a leading source of harmful air pollution in New York.

What's more, these toxic emissions from idling trucks and buses serve no purpose at all. Sadly, drivers often idle in front of highly-trafficked pedestrian places, like storefronts, restaurants, schools, playgrounds, and hospitals.

Tailpipe emissions are rife with particulate matter smaller than 2.5 microns in diameter, so-called “PM2.5,” which is 20 times smaller than even fine human hair. PM2.5 is the largest environmental health risk factor in the United States and is responsible for a whopping 63 percent of deaths from environmental causes. These particles are small enough to penetrate deep into the lungs, and the smallest can even enter the bloodstream.

In its 2023 State of the Air Report, The American Lung Association warned that air pollution is tied to a wide array of serious health effects at every stage of life, from conception through old age including lung cancer, asthma, and developing 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. New research from April links people with asthma to an elevated risk for a variety of cancers other than lung cancer, including melanoma as well as blood, kidney, and ovarian cancers.

An analysis from the Union of Concerned Scientists reports that minority communities in New York inequitably bear the burden from the highest exposure to these toxic transportation emissions. That analysis finds Asian American, people of Latin descent, and African American New Yorkers are exposed to higher levels of PM2.5 pollution from cars, trucks, and buses than are white New Yorkers. Incredibly, Asian American residents are exposed to twice as much PM2.5 pollution as white residents. New Yorkers of Latin descent are exposed to 81 percent more vehicle pollution than white residents, and African American residents to 72 percent more.

The inequitable exposure of New York’s communities of color to transportation pollution reflects decades of decisions about transportation, housing, and land use. Decisions about where to place highways, where to invest in public transportation, and where to build housing have all contributed to a transportation system that concentrates emissions in communities of color.

Today we have an opportunity to begin to rectify this injustice.

And the good news is, cleaning up air pollution makes a difference! 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 particle pollution.

THANKFULLY the City Council established the Citizens Air Complaint Program, which empowers ordinary Citizens to safeguard our clean air, together. And it's working! New York's Citizens Air Complaint Program is the most successful citizen environmental program in the world! Hundreds of New Yorkers take part in this Program to submit complaints that document violations of the City's Air Code. Together, these Citizens are making a real difference in our air quality and to help ensure that companies like ConEd, Verizon, and Amazon that pollute our air with impunity are held to account.

I want to return to something important I mentioned at the outset: I'm a first-generation Vietnamese American. My mother fled a war-torn country knowing that those left behind would face torture and retribution from the ruling North Vietnamese.

In America, I still remember how her difficulties with English made daily life challenging: How simple activities like clipping coupons to purchase food, going to the doctor and being unable to read forms or describe ailments, or visiting a government office to process paperwork were so hard to complete. I still remember the frustration from people she interacted with when her accent led to confusion, how she frequently felt slighted, how she often felt shame, and how some lost their patience with her. And I still remember how 9-year-old "Andy"—the very same age my youngest daughter just turned—had to help his mom navigate police reports and insurance questions that time another car blew through the red light and smashed into ours.

Today we have an opportunity to broaden the Program's access to non-English speakers.

To empower non-English speakers in New York's most affected communities to take part, to influence the direction of social change, and to help begin to transform the structures and institutions that reinforce and perpetuate inequality in their communities to create a more just social order.

And so I implore you to support this bill too.

But there is more work to be done. And we must expand access to this Program even further.

Far too many roadblocks still exist: Arbitrary rules and needlessly complicated requirements, which constantly change and make it more difficult for Citizens to file

complaints, are implemented without notice and without any opportunity for public comment. Submitting and tracking a complaint, never mind receiving compensation for the significant investment of time and technology required, is a bewildering process.

Throwing up barriers frustrate Citizen participation and serve only to harm our health, harm our City, and harm our environment.

To that end, the trucking industry and business lobbyists, among others, are now trying to fast-track a new bill that seeks to undermine all of the City Council's hard work to clean up our air. A bill that seeks to subsidize corporate financial interests using our health and the health of our loved ones.

Don't let them.

In 2022, the Department of Environmental Protection issued 36,261 summonses that brought in \$8,365,950 in deterrent penalties. Each one of those fines represents cleaner air, fewer children choking on toxic fumes, and less brain and body damage for all of us.

Specifically, Intro. 1038 guts the Citizens Air Complaint Program by making it harder for ordinary New Yorkers to take part. It destroys incentives to participate. It drives down Citizen participation with the threat of receiving nothing in exchange for significant outlays of effort. It creates massive loopholes that let corporations pollute our air and get off scot free. And it rolls back clean air provisions that have been on the books for decades.

It has been unlawful to idle for more than three minutes in New York since 1972, but the anti-idling law went virtually unenforced until the City Council wisely passed legislation establishing *Citizen*-enforcement under this program.

As the Council found, City employees issued just 245 violations for illegal idling before the Program was established in 2015. This year, the Department received 7,428 complaints in January; 7,304 in February; and 8,431 in March—putting the Program on a trajectory to hit more than 90,000 complaints in 2023. Wow!

The anti-idling Program is working, and now the trucking industry and business lobbyists want to gut it by breaking its backbone: Citizen enforcement. New York has made real progress and simply cannot afford to backslide. These moneyed interests must not prevail. And so I urge you to oppose Intro 1038, this horrible bill.

Clean air is not just aspirational stuff to strive for: It is the law of the land. As you know, New Yorkers recently approved a constitutional amendment that enshrines our right to clean air in the State Constitution.

And so, today, I urge you to bring Intro. 898, this important bill now before us to expand access to the Citizens Air Complaint Program, up for a vote without delay. We must encourage more Citizens to take part in the Program if we are to end the scourge of idling once and for all.

Air pollution does not discriminate, and New York City Agencies must not either.

Thank you for your time and attention.



Andrew Văn BRISKER

Brooklyn, NY

My name is Chris Hartmann, and I strongly support Introduction 898 to broaden access to the Citizen Air Complaint Program. This bill is a good first step for increasing access to the Citizen's Air Complaint portal, which, until recently, was written only in English.

I live in Manhattan, and I have participated in the Citizen Air Complaint Program for approximately two years. In my neighborhood, where most of my complaints were recorded, I have noticed that the number of idling vehicles has decreased substantially. Once-chronic idlers no longer idle (or idle much less than they used to) because of the fines levied thanks to this program. This is excellent news and evidence that the anti-idling program is working!

I want as many New Yorkers as possible to learn about the anti-idling program so that they can participate. Their participation will further reduce air pollution in their neighborhood and across the city.

However, the Citizen Air Complaint Program's requirements – which are subject to change with no notice and little or no input from citizens – are onerous, not publicized well, and difficult to understand. For instance, updates are posted to an obscure website with no advanced notice and no input from citizens. Complicated and legalistic writing is confusing to lay participants like myself. As it currently exists, the Citizen Air Complaint Program falls short of ensuring environmental justice.

Two leading principles of Environmental Justice are representation and process. According to the Delta Stewardship Council, representation in environmental justice refers to "impacted communities are represented in the decision-making process." New York City residents have made this program flourish and should be included in the decision-making process for the Citizen Air Complaint Program. Doing so is just. And the Delta Stewardship Council describes process as "planning processes and decision-making are fair, transparent, accessible, and provide opportunities for impacted communities to participate." Again, it is incumbent on DEP to ensure that all NYC communities, especially those most impacted by air pollution, are encouraged and welcomed to participate in the Citizen Air Complaint Program.

Please bring this important bill to broaden access to the Citizen Air Complaint Program to a vote soon. Further, the Committee should ensure that the principles of environmental justice, including representation and process, are at the forefront of decision-making around the Citizen Air Complaint Program.

From: David Vassar <vassardavid@hotmail.com>
Sent: Monday, June 19, 2023 4:27 PM
To: Testimony
Cc: David Vassar
Subject: [EXTERNAL] My Support of prospective Legislation

Greetings. I listened to Friday's NYC Council hearings on Friday and wish to comment on four of the legislative items taken up; thanks in advance for your attention.

- 1) **Int. No. 286** - in relation to requiring alternating high and low, two-toned signal devices on emergency vehicles

I thank Councilmembers Gale Brewer and Carlina Rivera for strongly supporting a significant reduction in the decibel level of EMS sirens, which for way too long have been maddeningly, injuriously loud devices, a sonic assault, spiking stress levels of everyone in the in the siren's blast zone—pedestrians, cyclists, even those indoors yearning to enjoy a little peace in this already noisy and often chaotic city.

In particular I favor what CM Brewer referred to as the "Rumbler," an ingenious use of vibration to get motorists' attention and much quieter than the standard deafening shriek of EMS sirens. For the well-being, health and sanity of embattled New Yorkers Citywide—whether on the streets or indoors in the siren's vicinity—please enact Int. No. 286, which will help bring about a healthier, more peaceful, human-friendlier NYC.

- 2) **Int. No. 898** - in relation to translating the citizen's air complaint program portal into the designated citywide languages

YES! Making this crucial portal accessible to ALL New Yorkers is a human right, an imperative of any true Democracy.

- 3) **Int. No. 983** – in relation to mandating the construction of solar canopies in certain parking lots

YES! Using so much of our precious urban surface space to accommodate privately owned polluting, space-devouring motor vehicles has always been an outrageous policy.

Let's at least make the most of this tragic status quo by installing as many solar canopies as possible in these otherwise badly misallocated spaces.

- 4) **Res. No. 605** - in relation to prohibiting the discharge of any radiological agent into the waters of New York State

YES! Our proud and longsuffering Hudson River has already suffered way too many industrial abuses for way too long—toxic substances like automotive paint and manufacturing discharges from upriver plants, Con Ed's decades-long wastewater with discharges of poisons like benzene and PCBs, and all manner of toxic maritime vessel discharges.

Tritium, which emits potentially lethal levels of radioactive beta particles during the first 25 years or so of its life, would be present in significant quantity in the wastewater that Holtec proposes to release, way too rapidly, into the Hudson as early as August.

As a necessary alternative, Holtec must aggregate and safely store the wastewater onsite at Indian Point for several decades—i.e., until the water's lethal levels of radioactivity have dropped to an acceptably safe level.

Thank you for your attention to my comments.

David Vassar /
W. 123 St.
New York, NY 10027

When the spirits are low, when the day appears dark, when work becomes monotonous, when hope seems hardly worth having, just mount a bicycle and go out for a good spin down the road, without anything but thought for the ride you are taking. --*Arthur Conan Doyle*

My name is Eric Eisenberg. I'm a local attorney and serve as one of the members of the DEP anti-idling working group.

Our NYS Constitution now makes clear that "EACH PERSON shall have a right to clean air and water, and a healthful environment." The wording is "each person." It's not "each white person." And it's not "each English-speaking person." Every single person has a right to clean air in this State. That should not be a controversial statement.

Yet NYC's Department of Environmental Protection disagrees with it. DEP's online instructions begin: "INSTRUCTIONS FOR CITIZENS AIR COMPLAINTS. All questions are required to be answered in English." This is disgusting. This is racist. Hispanic New Yorkers who speak Spanish, Asian New Yorkers who speak Chinese, Korean or Bengali, and Black New Yorkers who speak Haitian, they all are entitled to the DEP's assistance in achieving clean air in their communities. And foreign language statements are good evidence at OATH. OATH has translators on call and makes them available at every hearing.

City Council must immediately pass Alexa Aviles' Intro 898 to tell the DEP it must stand up for clean air for all New Yorkers, instead of giving in to the DEP's lazy, bureaucratic impulse of limiting its workload by arbitrarily refusing to address air pollution complaints.

Unfortunately, Intro 898 only partially addresses the problem, as DEP's arbitrary policy choices have made its anti-idling and air pollution program inaccessible, and inhospitable, to not just those who speak foreign languages, but to the public at large.

For example, DEP regularly insults citizen participants, by calling their submissions frivolous, based on DEP's questionable interpretations of the idling law. DEP has set arbitrary policies over the years like requiring citizens to run out into the middle of the road to get footage of an idling truck "from all four sides." It has insisted that idling delivery trucks that have fraudulently obtained passenger plates or removed their plates cannot be pursued for idling. It has required footage well beyond the legally mandated 3 minutes. It refuses to pursue idling buses that have simply left their door open while folks occasionally step on and off. It has excused all idling by the armored truck company Loomis, even when the employees simply abandon their idling vehicle to eat lunch.

I encourage all Councilmembers to read the DEP's idling FAQ, and ask themselves whether anyone without legal counsel could make sense of it.

And what's worse, despite the numerous errors DEP makes, when a citizen makes an unintentional error in an idling submission, DEP issues the citizen a summons. For example, DEP issued one to a pediatrician over a file uploading error, who spent over \$5,000 in legal fees successfully clearing his name in administrative court.

This is, to put it mildly, not how you encourage citizen participation or promote clean air.

DEP's arbitrary and obviously unconstitutional policymaking harms our air, harms our planet, and harms the health of New Yorkers of every kind. And, when the city pays for lawyers to defend the DEP's actions in the multiple pending lawsuits seeking to get DEP to do its job, DEP's unconstitutional policymaking harms the city's pocketbook too.

Please, pass Intro 898 to broaden access to the air pollution program, and stand against any attempt by the DEP to give itself more power to engage in environmental harmful rulemaking. That includes removing Section 3 of Julie Menin's Intro 1038-A, which would give DEP near-limitless rulemaking power to harm New Yorkers. City Council, as our City's legislature must write and clarify our idling laws, and not simply leave it to the DEP to continue to eviscerate the constitutional right to clean air of "each person" in New York.

Testimony of Hayden Brockett in Support of Introduction 898

My name is Hayden Brockett, and I support Introduction 898 to broaden access to the Citizen Air Complaint Program. This is almost certainly the most successful citizen environmental program in the world, and I commend the City Council for its commitment to expanding access to this important program to non-English speakers. Thank you to Chairman Gennaro for setting this hearing and to CM Aviles for sponsoring it.

My two sons and I live on the Upper West Side of Manhattan, and together with all New York residents, we are members of the Clean Air Community. Every day, my children and I walk the streets of New York to school, the park, or to work. Every day, like all New Yorkers, we are exposed to far too much air pollution. Air pollution kills. Vehicle exhaust causes dementia, low bone density, and learning difficulties, in addition to asthma and lung cancer. Pollution from idling cars, trucks, and buses is especially troubling because it serves no purpose whatsoever.

Fortunately, the City Council created the Citizen Air Complaint Program, which empowers citizens to protect our clean air together. Hundreds of New Yorkers have registered to participate in this program. A smaller number regularly submit complaints documenting violations of the City's Air Code. Together, these citizens are making a difference in our air quality, causing drivers to shut off their engines while not in use and ensuring that companies like ConEd, Verizon, and Amazon that pollute our air are held accountable. But there is more work to be done, and we need to expand access to this program even further.

There are still far too many barriers to entry for this program. Stopping illegal idling should be as simple as a citizen seeing a violation, recording a video, and sending it to the Department of Environmental Protection to issue a ticket. But DEP has imposed complicated rules on citizens, which it changes constantly and with no opportunities for public comment. The barriers DEP has set up harm our environment by discouraging citizen participation.

To take just a few examples, DEP makes citizens research company names and addresses themselves, something that usually is the task of lawyers or paralegals. DEP also refuses to look up prior violations committed by a given company vehicle, putting that burden on the citizens. DEP further frequently insults citizens who submit complaints, calling their valid complaints "frivolous" when DEP simply has a disagreement with the interpretation of the law against idling.

What is worse, rather than going after polluters, DEP has prosecuted citizens who made errors in submitting complaints. DEP has charged five citizen complainants with making false statements when, to my knowledge, they just made mistakes in using DEP's extremely cumbersome website to submit complaints. Let me be clear: DEP has not found any fraud in the

program. It has only asserted that citizens made false statements, when it appears to me that the citizens made innocent errors. DEP's actions put a serious chill on citizens' participation in this program, which should be open to all New Yorkers.

As a result of DEP's actions, it is extremely complicated to submit a video to DEP, let alone be paid for a successful violation. The DEP should engage with citizens to make this program much more accessible, including by simply releasing an app to let citizens capture a video and send it directly to DEP. And if DEP doesn't want to prosecute a particular complaint, rather than falsely calling a citizen's complaint "frivolous," it should do what the law requires: permit the citizens to bring a case before OATH and let a Hearing Officer decide if it has merit.

I applaud the Committee for today's hearing on Intro. 898. Please bring this important bill to expand access to the Citizen Air Complaint Program up for a vote soon. The Committee should also ensure that DEP stops throwing up barriers to participation in the most successful citizen environmental program in the world.

Testimony in Support of Intro 898

My name is Patrick Schnell, I am a pediatrician who has treated thousands of asthma patients in New York. I am also an active participant in the Citizen's Air Complaint program. Whenever NYC DEP does not interfere with the program's intent, or works against it for example by granting variances to polluters (see Loomis variance from April 25th, 2023), this program is a truly fantastic one. It has changed thing in downtown Brooklyn where a great number of specific trucks that have consistently idled in the past, no longer idle at all (but DEP made sure that this is offset by Loomis trucks now being able to idle now without any accountability). It is becoming harder to 'catch' idlers, which is great, however, many areas of New York are not covered by the small group of people who report idlers at a high volume. The only way this program can truly succeed in achieving a 'cultural' shift from default idling to default not idling is if the volume of reports increase significantly. This can only happen if more people are willing and able to participate. DEP has done its best to discourage people from participating by

1. Wasting their resources by issuing pointless summonses alleged misdeeds, which were in fact typos or clerical errors (and this could have been resolved easily outside of
2. Discouraging reporters by such antagonistic actions
3. Issuing variances on the basis of absolutely no evidence, making a mockery of the public hearings
4. Making the program too complex in general
5. Discouraging reporters to use clerical help
6. Frequently not defining precisely what is acceptable and what is not acceptable to DEP
7. Constantly changing rules, sometimes retrospectively
8. Rejecting cases based on incorrect adjudication (constantly arguing cases are duplicates when they are clearly not)
9. Not following their own guidelines by inappropriately rejecting cases of idling buses when temperature requirements are fulfilled, yet DEP is arguing that children need to be kept "comfortable", as if breathing toxic air contributes to comfort.
10. The list goes on and on and on...

So what is needed is not to make the program more difficult to access, but instead to make it more accessible. We need to broaden and expand the program as quickly as possible, ideally not only by offering it in additional languages, but by offering an app that can be used to submit a video with just the push of a button.

DEP has been offered help in this area years ago, but has refused to cooperate with engaged citizen to move the app idea forward.

Maybe one day DEP will be a partner that we can count on to help New Yorkers breath clean air. At this point, it seems the priority is to target citizen reporters and to gift variances to the worst polluters in exchange for New Yorker's health.

- My name is Wanfang Wu,
- and I support intro 898 to translate the Citizen Air Complaint program to languages beyond English.
- I live in Manhattan Chinatown, where many of the aunties and uncles of the immigrant community I meet aren't fluent in English.
- For example, when sharing news of a great restaurant or sale, they share the house number and street name because not everyone can read the English name of that store.
- DEP's best practices page is more than 2000 words and 5 pages long.
- This is an extremely high hurdle to clear for individuals who aren't fluent in English.
- Offering translations would be a major step forward in allowing equitable and increased participation in the program
- But why does this all matter?
- More participation means we can sooner eliminate one of the major causes of air pollution in the city
- Current air quality levels do not meet the WHO's guidelines for thresholds that are safe for longterm health. These are thresholds are twice as strict as the EPA's.
 - WHO:
 - PM 2.5: 5ug/m3 annually (AQI of about 21)
 - EPA:
 - PM 2.5: 10ug/m3 annually (AQI of about 45)
- New York leads the nation in how seriously it addresses needless vehicular idling.
- I think New York can also lead the nation in having clean air

Sources:

WHO

See table titled "Recommended 2021 AQG levels compared to 2005 air quality guidelines"
<https://www.who.int/news-room/feature-stories/detail/what-are-the-who-air-quality-guidelines>

EPA

<https://www.epa.gov/pm-pollution/national-ambient-air-quality-standards-naaqs-pm>

pm2.5 to AQI calculator:

<https://www.airnow.gov/aqi/aqi-calculator/>

I want to express my disappointment that the City Council would even consider weakening the current anti-idling laws. I won't insult your intelligence by implying you are not aware of the health issues unnecessary diesel exhaust creates, especially in young children. I am familiar with the Citizen's Air Complaint Program, and suspect the only reason we are having the hearing today is because of pressure from companies that are so poorly managed they are unable to control the actions of their drivers. Citizens only report violations. Companies only have to remind their employees that unnecessary idling is unhealthy and illegal.

One example of the program's success happens to be a company that, several years ago, opened a facility on 47th Avenue in Woodside, Queens. Their trucks were among the worst idling offenders in Woodside. After receiving a considerable number of idling summonses, their management woke up and took action. To my knowledge, after checking the publicly available OpenData database, they have not been cited for idling in over a year. Kudos to SkyTrac, and kudos to DEP's Citizen Air Complaint Program.

A recent article in New York Magazine states that our City received over fifty million dollars in revenue, thanks to the Citizen Air Complaint Program. My feeling is, and I quote, *"If it ain't broke, don't fix it."*

Creating the Citizen's Air Complaint Program was a brilliant idea. The NYPD has its hands full with other duties. They do not have the time to stop and take a three minute and one second video of an idling vehicle. They have bigger fish to fry. I compare the Citizen's Air Complaint Program to what Steve Jobs did more than a decade ago. Instead of hiring millions of programmers to write iPhone apps, he allowed anyone to write and submit them. His company supplied the tools, and created the App Store. His idea was brilliant, as was the idea to allow any citizen to file idling complaints. Think of all the money the city will lose if citizens stop submitting idling complaints. And think of the environment. For some reason many truck and bus drivers believe shutting off their diesel engine is against their religion. Maybe they are afraid they won't be able to restart them? If they realize the probability of receiving a summons is almost zero, there will be no incentive to shut off their illegally idling engines..

Instead of reducing the award citizens receive for reporting illegal idling, I believe it should be increased. Instead of a mere 25%, a slight increase to 30% or 35% might encourage more citizens to participate - which will bring in added revenue to our City.

Thank you.

I strongly oppose Intro. 941.

I don't see what intro 941 is actually trying to improve in terms of the program or air quality in NYC. What benefit would Intro. 941 create for the citizens of New York? In particular for our young children who are vulnerable and susceptible to asthma?

Increasing time allowed to idle next to schools seems opposite of what the wishes are of the citizens of New York.

Please do not support this bill.

**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: DAN BARTAGLIA

Address: _____

I represent: COACT BUS

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 941 Res. No. _____

☐ in favor ☒ in opposition

Date: 09/18/2024

(PLEASE PRINT)

Name: PETER WESSEL

Address: [REDACTED] W 30TH ST

I represent: MYSELF

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 941 Res. No. _____

☐ in favor ☒ in opposition

Date: _____

(PLEASE PRINT)

Name: Ann Jacobs

Address: [REDACTED] NY, NY

I represent: Citizens

Address: _____

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 291 Res. No. _____

☒ in favor ☐ in opposition

Date: 9/18/24

(PLEASE PRINT)

Name: Margery Ann Libraker

Address: [REDACTED]

I represent: SELF-Defense Coalition

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 941 Res. No. _____

☐ in favor ☒ in opposition

Date: 5-21

(PLEASE PRINT)

Name: Samara Swanson

Address: [REDACTED]

I represent: _____

Address: NYC NY 10024

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☒ in favor ☒ in opposition

Date: 70941 + 0747

(PLEASE PRINT)

Name: Leslie Broom

Address: Manhattan - LIES

I represent: Citizens Complaint Program

Address: _____

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☒ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Juno Chowla-Sang

Address: _____

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 941 Res. No. _____

☐ in favor ☐ in opposition

Boys Date: 9-15-24

(PLEASE PRINT)

Name: Patrick Hyland

Address: PO Box 41262 SI, NY 10304

I represent: Metro Trucks Assoc

Address: P.O. Box 41262 SI, NY 10304

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 241 Res. No. _____

☐ in favor ☒ in opposition

Date: 9/18/24

(PLEASE PRINT)

Name: Ephraim Dosembe

Address: _____

I represent: _____

Address: _____

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Hayden Brockert

Address: New York Clean Air Collective

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 941 Res. No. _____

☐ in favor ☒ in opposition

Date: _____

(PLEASE PRINT)

Name: Robin Warren

Address: _____

I represent: New York Clean Air Collective

Address: NYCAC

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 941 Res. No. _____

☐ in favor ☒ in opposition

Date: Sept 18, 2024

(PLEASE PRINT)

Name: Sara O'Brien

Address: Staten Island

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 941 Res. No. _____

☒ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Kendra Hems & Tracker

Address: [REDACTED]

I represent: Trucking Association of New York

Address: 3 Corporate Drive, Clifton Park NY

**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: 9/18/24

(PLEASE PRINT)

Name: Zach Miller

Address: _____

I represent: Trucking Association of New York

Address: (TAN)

**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: 9/15/2024

(PLEASE PRINT)

Name: Zach Miller

Address: [REDACTED]

I represent: Trucking Association of New York

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 941 Res. No. _____

☐ in favor ☒ in opposition

Date: 9/18/2024

(PLEASE PRINT)

Name: WANFANG WU

Address: District 1 Manhattan

I represent: self TRADE

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 941 Res. No. _____

☐ in favor ☒ in opposition

Date: 9/18/24

(PLEASE PRINT)

Name: Kevin M. Ghoe

Address: [Redacted] Brooklyn NY 11205

I represent: myself

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: 9/18/24

(PLEASE PRINT)

Name: Felice Farber Subcontractors Trade Assoc

Address: 1325 Ave of The Americas

I represent: Subcontractors Trade Assoc

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 941 Res. No. _____

☐ in favor ☒ in opposition

Date: 09/18/24

(PLEASE PRINT)

Name: Duc Anh Le

Address: Manhattan

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 941 Res. No. _____

☐ in favor ☒ in opposition

Date: 9/18/2024

(PLEASE PRINT)

Name: Guent Abram

Address: [REDACTED] NY, NY 10009

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: _____

(PLEASE PRINT)

Name: Eric Eisenberg

Address: Manhattan

I represent: _____

Address: _____

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 94 Res. No. _____

☐ in favor ☒ in opposition

Date: 9/18/24

(PLEASE PRINT)

Name: ILEANE SPINNER

Address: 2 GRADE CT BKLN

I represent: NY CLEAN AIR

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 5 941 Res. No. _____

☐ in favor ☒ in opposition

Date: 9/19/24

(PLEASE PRINT)

Name: Michael S. Dreeter

Address: 2 Grace St BK

I represent: NYCAC

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 941 Res. No. _____

☐ in favor ☒ in opposition

Date: _____

(PLEASE PRINT)

Name: Chris HARTMANN

Address: _____

I represent: Manhattan

Address: _____

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 941 Res. No. _____

☐ in favor ☒ in opposition

Date: 9-18-2024

(PLEASE PRINT)

Name: PATRICK SCHWELL

Address: Brooklyn NY

I represent: NEW YORK CLEAN AIR COLLECTIVE

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 941 Res. No. _____

☐ in favor ☒ in opposition

Date: _____

(PLEASE PRINT)

Name: LARRY G. LEE

Address: [REDACTED] NYC

I represent: Self

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 941 Res. No. _____

☐ in favor ☒ in opposition

Date: 11-3-24

(PLEASE PRINT)

Name: JOHN-JAN ROBINSON

Address: [REDACTED]

I represent: AL-KODS

Address: _____

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 941 Res. No. _____

☐ in favor ☒ in opposition

Date: 09-18-24

(PLEASE PRINT)

Name: RYAN LOPEZ

Address: _____

I represent: 1080 MYRTLE AVE (BK)

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 291 Res. No. _____

☒ in favor ☒ in opposition

Date: 9/18/2024

(PLEASE PRINT)

Name: April McIVER

Address: _____

I represent: The Plumbing Foundation City of NY

Address: 535 8th Ave, FL 17, New York, NY

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 277 Res. No. _____

☒ in favor ☐ in opposition

Date: 9/18/24

(PLEASE PRINT)

Name: Melissa Barbour

Address: _____

I represent: Metro-North Railroad Assoc. of NY

Address: 535 8th Ave, 17th Fl NY, NY 10018

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 941 Res. No. _____

☒ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Ryan O'Toole

Address: _____

I represent: Walton Hauling

Address: 171 West St, Brooklyn 11222

**THE COUNCIL
THE CITY OF NEW YORK**

Sept 18
2024

Appearance Card

I intend to appear and speak on Int. No. 291 Res. No. _____

☐ in favor ☒ in opposition

Date: Sept 18 2024

(PLEASE PRINT)

Name: PATRICK CONDREN

Address: _____

I represent: BUS 4 NYC Coalition + BANY (BUS Association of New York)

Address: 1444 86th Avenue NY 11228

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 941 Res. No. _____

☒ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Larry Zogby

Address: 37-41 Vernon Blvd, LIC, NY 11101

I represent: RDS Delivery

Address: _____

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Julie Lubin

Address: Deputy Commissioner

I represent: Bureau of Environmental

Address: Compliance, DEP

**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. 941 Res. No. _____

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Bryce Stack

Address: Manhattan

I represent: _____

Address: _____

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: Gurghii Mendez

Address: 151 West 30th St NY, NY 10001

I represent: NY Lawyers for the Public Interest

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: _____

(PLEASE PRINT)

Name: ERIC A. GOLDSTEIN

Address: _____

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. 0291 Res. No. _____

☐ in favor ☒ in opposition

Date: September 18th, 2014

(PLEASE PRINT)

Name: Demos P. Demopoulos

Address: 265 West 14th Street New York NY

I represent: Local 553

Address: same as above

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: George Pakenham

Address: [REDACTED] W. 74th St

I represent: Self

Address: 16

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 291 Res. No. _____

☒ in favor ☐ in opposition

Date: SEP 18 2024

(PLEASE PRINT)

Name: Gregory A. Smithson

Address: 3 [REDACTED] Bklyn NY 11251

I represent: River to Residence Coalition

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 941/99 Res. No. _____

☐ in favor ☐ in opposition

Date: _____

(PLEASE PRINT)

Name: JOHN K. COLLINS

Address: [REDACTED]

I represent: _____

Address: _____

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

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 5211 Res. No. _____

☒ in favor ☒ in opposition

5211 747 941 Date: 1/18/24

(PLEASE PRINT)

Name: Hunter Sevelin

Address: [REDACTED] New York, NY 10013

I represent: _____

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 941/747 Res. No. _____

☐ in favor ☒ in opposition

Date: _____

(PLEASE PRINT)

Name: Tingting Wang

Address: [REDACTED] Brooklyn NY 11216

I represent: _____

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 941 Res. No. _____

☐ in favor ☒ in opposition

Date: 1/18/24

(PLEASE PRINT)

Name: JOSEPH BISKER

Address: [REDACTED] Johns Lane, 11216

I represent: Myself

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: 9/18/2024

(PLEASE PRINT)

Name: Gregory Gonzalez

Address: _____

I represent: Myself

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 291 Res. No. _____

☒ in favor ☐ in opposition

Date: Sept. 18, 2024

(PLEASE PRINT)

Name: Wayne Arden

Address: 331 Sackett St #5, Brooklyn NY 11231

I represent: Sierra Club

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: 9/18/24

(PLEASE PRINT)

Name: Raul Rivera

Address: _____

I represent: _____

Address: _____

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