Legislation Details (With Text)

File #:	Int 0312-2014	**Version:**	*	**Name:**	Creation of a comprehensive program to respond to air quality alert days.
Type:	Introduction			**Status:**	Filed (End of Session)
				In control:	Committee on Environmental Protection
On agenda:	4/29/2014				
Enactment date:				**Enactment #:**	
Title:	A Local Law to amend the administrative code of the city of New York, in relation to the creation of a comprehensive program to respond to air quality alert days.				
Sponsors:					
Indexes:					
Attachments:	1. Committee Report 5/13/14, 2. Hearing Testimony 5/13/14, 3. Hearing Transcript 5/13/14				

Date	Ver.	Action By	Action	Result
4/29/2014	*	City Council	Introduced by Council	
4/29/2014	*	City Council	Referred to Comm by Council	
5/13/2014	*	Committee on Environmental Protection	Hearing Held by Committee	
5/13/2014	*	Committee on Environmental Protection	Laid Over by Committee	
12/31/2017	*	City Council	Filed (End of Session)	

Int. No. 312

By The Public Advocate (Ms. James) and Council Members Cabrera, Chin, King, Koo, Richards, Rosenthal, Rodriguez and Constantinides

A Local Law to amend the administrative code of the city of New York, in relation to the creation of a comprehensive program to respond to air quality alert days.

Be it enacted by the Council as follows:

Section 1. Legislative findings and intent. The Council finds that air quality in New York City has been consistently in violation of the Clean Air Act criteria air pollutants standards since those standards were put into place. During the summer months ground level ozone and particulate matter (PM) concentrations routinely rise significantly above the national standards stated in the Clean Air Act of 0.075 parts per million (ppm) causing serious health risks, especially for the most vulnerable New York City residents.

Therefore, the Council finds that it is in the best interests of the City to enact a more robust program for

residents of the City, to be notified of, and protected on air quality alert days.

§ 2. Title 17 of the administrative code of the city of New York is amended by adding and new chapter 17 to read as follows:

CHAPTER 17

AIR QUALITY ALERT RESPONSE PROGRAM

§17-1701 Definitions.

§17-1702 Air Quality Alert Response Program.

§17-1701 Definitions. a. For purposes of this section the following terms shall have the following meanings:

1. "Air quality alert day" means a day when the air quality index rises into the unhealthy range pursuant to the federal national ambient air quality standards for ozone and particulate matter and is specifically forecast to be unhealthy for susceptible persons.

2. "Susceptible person" means any person who has a current diagnosis of a breathing problem or a lung disease, such as chronic obstructive pulmonary disease or asthma.

3. "Telework" or "teleworking" means a flexible work arrangement through which an employee performs the duties and responsibilities of his or her employment, and other authorized activities, from a worksite approved by the employer other than the location at which the employee would normally work.

§17-1702 Air quality alert response program. a. The department shall establish an air quality alert response program which shall operate between March fifteenth and September fifteenth each year. This program shall include, at a minimum:

(i) the creation of a notification registry that allows city residents to sign up to receive notification of air quality alerts by telephone, electronic mail or text message. Such alerts shall provide current and forecasted ozone concentrations and recommendations on whether susceptible persons should stay home or avoid exertion out of doors. These alerts shall also contain the following language: "If you have been diagnosed with a

breathing problem or a lung disease such as chronic obstructive pulmonary disease or asthma you may be entitled to a reasonable accommodation from your employer, such as, where feasible, teleworking on days identified as air quality alert days by this notification system.";

(ii) a telework tool kit, to be published on the department's website and available in hardcopy upon request, with recommendations for employers and employees to promote teleworking or other accommodations for employees who are susceptible persons throughout the program period and especially on air quality alert days, which shall include, at a minimum, (i) advice on selecting a telework coordinator and a team dedicated to monitoring and promoting telework initiatives; (ii) advice on how to implement technology that makes more employment positions compatible with teleworking; and (iii) a list of resources available to incentivize teleworking and make it accessible to more employees; and

(iii) outreach to city residents and city employers to increase awareness of the air quality alert response system by such means as the commissioner shall determine by rule.

b. Not later than 3:00 p.m. the day prior to a forecasted air quality alert day, the commissioner shall send air quality notifications to persons who have signed up with the notification registry.

c. No city vehicles, other than those used for emergency response purposes, shall be refueled from 12:30 p.m. until 6:00 p.m. on air quality alert days. On the fourth or subsequent consecutive air quality alert day, all city non-emergency vehicle use shall be reduced by the maximum extent practicable. Every city agency shall designate a person to receive air quality alerts from the commissioner for purposes of determining whether city vehicles will be subject to this restriction on the following day.

d. The department shall encourage the reduction of vehicle use by private vehicles and businesses and teleworking on air quality alert days, and shall conduct an annual survey sampling of public and private entities and, based on such survey, estimate the citywide reduction, attributable to teleworking or other measures implemented on air quality alert days, to (i) net business expenses, (ii) vehicle miles traveled, and (iii) vehicular emissions.

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e. The department shall initiate measures designed to protect the health of susceptible persons and public health, including the health of individuals younger than sixteen years of age and older than sixty-two years of age whether or not they meet the definition of susceptible person set forth herein, in neighborhoods with the highest morbidity and mortality rates due to lung or chronic obstructive pulmonary disease, asthma and other respiratory diseases. Such measures, shall include, but shall not be limited to, a telephone tree to alert susceptible persons who do not have access to the Internet, and a cooling system distribution program aimed at lowering the number of hospitalizations and fatalities in these neighborhoods.

§ 3. This local law shall take effect one hundred eighty days after its enactment, except that the commissioner of health and mental hygiene shall take such measures as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

LS # 245 SS
2/10/14
Int 808-2012