



## Legislation Text

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### Res. No. 187-A

Resolution calling upon the United States Environmental Protection Agency to abandon its technically and scientifically flawed 2005 Test and Clean Program, and work with the residents and workers, community and labor organizations and elected officials to design and implement an effective, science-based sampling and cleanup program for residences and workplaces in all affected areas.

By Council Members Gerson, Barron, Brewer, Fidler, Gennaro, James, Recchia Jr., Sanders Jr., Liu, Seabrook and Weprin

Whereas, The City of New York was suddenly and deliberately attacked on September 11, 2001; and

Whereas, The destruction of the World Trade Center (WTC) not only killed thousands but also caused multiple contaminants, including polycyclic aromatic hydrocarbons (PAHs), lead, man-made vitreous fibers (MMVF), mercury, asbestos, and other toxic substances, to be deposited upon and within residences, places of employment, schools and mixed-use buildings in Lower Manhattan; and

Whereas, The legal responsibility for ensuring a thorough and responsible cleanup at these places after such acts of terrorism rests with the United States Environmental Protection Agency (EPA), in accordance with the National Contingency Plan, the National Response Plan, and Presidential Decision Directive 62; and

Whereas, In the summer of 2002, EPA implemented a poorly publicized, voluntary residential test and clean program that failed to adequately characterize and clean up WTC contaminants and that provided an inadequate cleanup of only 3,425 of the more than 25,000 apartments below Canal Street; and

Whereas, The August 21, 2003 report of EPA's Office of Inspector General was highly critical of EPA's 2002 test and clean efforts in Lower Manhattan and called on EPA to ensure that cleanup meets minimum Superfund site cleanup goals, to treat impacted buildings as a system, to include workspaces as well as residential buildings, and to include all geographic areas impacted by WTC dust; and

Whereas, In March of 2004, in response to requests from Senator Hillary Rodham Clinton, Congressman Jerrold Nadler, and the affected communities of residents and workers, EPA convened the WTC Expert Technical Review Panel which was charged with characterizing any remaining exposures and risks, identifying unmet public health needs, and recommending steps to further minimize risks associated with the aftermath of the World Trade Center attacks; and

Whereas, The Government Accountability Office (GAO), in its September 8, 2004 report "September 11 Health Effects in the Aftermath of the World Trade Center Attack," described a broad and continuing health impact, based on evidence that thousands of people involved in rescue, recovery, cleanup, as well as those who lived and worked in the WTC vicinity, were treated mainly for respiratory sicknesses; and

Whereas, On October 19, 2004, Manhattan Community Board No.1 unanimously passed a resolution requesting additional EPA testing and clean-up based on 7 key principles, which resolution was subsequently passed by Manhattan Community Boards Nos. 2 and 3; and

Whereas, Medical experts testifying before the EPA WTC Expert Technical Review Panel and the New York City Council, reported finding evidence of serious, ongoing, and still emerging 9/11-related environmental health impacts among Ground Zero workers, and downtown and Brooklyn residents and workers; and

Whereas, Unless proper scientific testing and cleanup are conducted, undetected toxic contaminants from the collapse and fires at the WTC could pose an ongoing threat to public health; and

Whereas, On November 29, 2005, the EPA released a final "Test and Clean Program" that, as currently constituted, is grossly underfunded, inadequate, and technically and scientifically flawed, and will repeat the most serious limitations and deficiencies of the 2002 program as delineated by the Inspector General; and

Whereas, EPA's current program, by reverting to the limited geographic area established in the 2002 program as the area south of Canal Street and west of Pike and Allen Streets and by excluding workplaces,

schools, small businesses and firehouses, will fail to assess the extent of remaining contamination in buildings and in areas known to have been impacted; and

Whereas, EPA's current program, by addressing individual apartments rather than addressing buildings as integrated systems and by failing to provide for proper assessment and cleanup of building mechanical ventilation systems, is likely to result in inadequate cleaning and/or the recontamination of cleaned spaces; and

Whereas, EPA's current program, by failing to use appropriate sampling methodologies and protocols, and failing to properly specify sensitive detection limits, will likely generate a stream of inaccurate data; and

Whereas, EPA's current program, by rendering ineligible apartments previously sampled and cleaned by EPA, will fail to detect and cleanup recontamination; and

Whereas, EPA's current program, by omitting from cleanup criteria sampling results from mechanical ventilation systems, plenums, closets, and other areas known to be reservoirs for contamination, will fail to detect hot spots and to trigger clean up of contamination that may pose a continual health threat; and

Whereas, Although EPA's program results from a 21-month deliberation with the EPA WTC Expert Technical Review Panel, it did not receive the endorsement or support of a single panel member at the final December 13, 2005 panel meeting; and

Whereas, EPA's current program repeats a familiar pattern in which the Agency has sought to downplay the potential risks and convey false assurances regarding World Trade Center contamination, rather than developing a scientifically sound approach to assessing and reducing these risks; and

Whereas, On February 2, 2006, the Federal District Court in Manhattan ruled that a 2004 class action lawsuit against the EPA for failing to warn people of hazardous substances in the air following the collapse of the World Trade Center, and then failing to carry out an adequate cleanup of building interiors, could go forward. Judge Deborah A. Batts wrote, "No reasonable person would have thought that telling thousands of people that it was safe to return to lower Manhattan, while knowing that such return could pose long-term health risks and other dire consequences, was conduct sanctioned by our laws" and called former EPA's chief

Whitman's actions "conscience-shocking"; and

Whereas, At the request of Senator Clinton and Congressman Nadler, the Government Accountability Office (GAO) has begun an investigation into the EPA's failure to establish an effective, science-based testing and clean-up plan in response to the September 11, 2001 terrorist attacks; now, therefore, be it

Resolved, That the Council of the City of New York calls on the United States Environmental Protection Agency to abandon its technically and scientifically flawed 2005 Test and Clean Program, and work with the residents and workers, community and labor organizations and elected officials to design and implement an effective, science-based sampling and cleanup program for residences and workplaces in all affected areas.

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