



Testimony

of

**Demetre Daskalakis, MD, MPH
Deputy Commissioner, Disease Control**

New York City Department of Health and Mental Hygiene

before the

New York City Council Committee on Health

on

Drinking Water Tanks

October 30, 2018
City Hall – Committee Room
New York, NY

Good morning Chair Levine, and members of the Health Committee. I am Dr. Demetre Daskalakis, Deputy Commissioner for Disease Control at the New York City Department of Health and Mental Hygiene. I am joined by my colleague Corinne Schiff, Deputy Commissioner for Environmental Health. On behalf of Acting Commissioner Oxiris Barbot, thank you for the opportunity to testify on drinking water tanks, and several related pieces of legislation.

Drinking water tanks are the iconic, round, roofed structures that dot our skyline and provide drinking water to many buildings over six stories tall throughout the city. As you know, our drinking water is of the highest quality; it is tested over 600,000 times per year by the Department of Environmental Protection, and is treated to ensure decontamination and safety. I can assure you today that our tap water is safe to drink. We know this because the Health Department has a comprehensive surveillance system that identifies clusters or outbreaks of disease, and we have never linked a cluster or outbreak of disease to a water tank.

The Health Department's disease surveillance system is among the nation's best, and I would like to take a moment to further describe its impressive capacity. The surveillance system combines a review of mandated reportable disease results with syndromic surveillance, which is electronic information we obtain on patient symptoms and pharmacy medication sales that signal the possible presence of disease. We receive mandated reports on approximately 100 different diseases of public health concern, including Enterohemorrhagic *E. coli* 0157:H7, the most dangerous form of *E. coli*, and daily reports of syndromic data from emergency departments, urgent care, emergency medical services, pharmacies, and school nurses. Our expert disease detectives analyze data from these sources to identify signals that may indicate an increase, cluster, or outbreak. We have never linked a cluster or outbreak of *E. coli* or other pathogen that can potentially be found in water to a water tank. Based on our data and our epidemiologic expertise, we are confident that drinking water tanks do not pose a public health risk to New Yorkers.

Although water tanks do not pose a public health risk, we agree that some regulation of them is appropriate. Indeed, both the Departments of Health and Buildings already do regulate them – the Administrative, Building, Plumbing and Health Codes include requirements for their construction, cleaning, assessment, and reporting. The Administrative Code requires building owners to conduct an annual assessment of the tank, and provide documentation of the results to both the Health Department and their residents upon request. Additionally, Local Law 239 of 2017 passed last year, will further improve transparency about these tanks, as it requires the Health Department to report information about the assessments to the Council annually starting in spring 2019. Additionally, the Health Code requires building owners to report within 24 hours positive sampling for *E. coli* and coliform bacteria to the Health Department. The Building Code, which is enforced by the Department of Buildings, governs construction of rooftop structures, including water tanks, and the Plumbing Code details requirements for drinking water tank components such as the design of the tank, covers to keep out unauthorized persons, dirt, and vermin; disinfection of the tank after it has been cleaned or painted; and a mandate for draining and cleaning the tank at least once per year.

Since last year's Council hearing on drinking water tanks, the Health Department has taken steps to strengthen water tank compliance. For example, we have instituted expansive,

ongoing physical canvassing efforts to identify previously unknown buildings with water tanks, and these buildings will receive summonses if they do not comply with the law and related Health Code provisions by January 15, 2019. Further, we are transitioning our current manual system to an electronic system that will go live in early 2019, which will automatically issue notices of violation to the owner of any building that has not submitted a water tank inspection report or attested that they do not have a drinking water tank. The new system will also generate automated violations for any component of the submitted report that does not comply with Health Code provisions. In addition, last year, we launched a tool on our website that New Yorkers can use to search by building to get information about the drinking water tank servicing that building.

Notwithstanding the laws and regulations the City has in place, and the fact that water tanks have never been linked to disease in New York City, we understand the Council's desire to do everything it can to protect New Yorkers from situations that appear to pose a threat to public health. We have all seen stories and pictures of water tanks that are poorly maintained, and this is unacceptable. Any such condition must be addressed expeditiously and we are dedicated to holding building owners accountable to ensure they meet the existing maintenance, health and safety standards. We believe that water tanks should be properly maintained by building owners, and look forward to discussing the package of bills being considered today. But we are concerned that some of these bills would create mandates that are unnecessary given what the data tells us about the lack of a public health risk associated with water tanks.

Introduction 1157 proposes that people who paint, inspect and perform maintenance work on water tanks hold both Licensed Master Plumber status and a New York State certification. We support the bill's requirement for Licensed Master Plumber status for those who do this work. Currently, the Health Department requires either a permit or proof of being a Licensed Master Plumber to paint, clean or coat water tanks. We would like to discuss further with Council the New York State certification referenced as it does not apply to drinking water treatment or disinfection. We look forward to working with Council to align these requirements in the Administrative Code.

Introduction 1053 would require water tank inspection companies to submit annual reports directly to the Health Department. We believe that concurrent submission to the building owner and the Health Department would meet the goals of this bill. To help ensure the integrity of annual inspection reports, we also want to work with Council to authorize the Health Department to require electronic submission of these reports.

Introduction 1150 requires the inspection of water tanks prior to the annual cleaning. We would like to discuss this bill with Council to better understand the intent. The Health Department's goal is to see that any issues identified during the assessment are addressed prior to the submission of the report to the Department.

Introduction 1056 would require periodic inspections by the Health Department, and **Introduction 1038** would require inspections when bacteria are found in the drinking water tank. Under the existing regulatory structure, when *E. coli* or coliform bacteria are found in the tank, owners are already required to immediately report the findings to the Health Department, and

they must disinfect the tank and take confirmatory samples to verify the absence of bacteria. Existing laws and regulations designed to ensure the sanitary and structural integrity of these tanks are sufficient.

Introduction 1167 requires building owners to repair damaged water tanks within 90 days of receiving notification of the damage; and **Introduction 1169** requires visual documentation to be submitted with the inspection report. The existing requirements under the Administrative Code and the Department of Building-enforced Plumbing and Building Codes address the cleaning and maintenance of these structures. And the annual report includes examination of the tank's integrity and immediate correction of any unsanitary condition. From a public health perspective this is sufficient in order to maintain the necessary water quality standards.

Thank you for the opportunity to testify; we are happy to take questions.

**TESTIMONY OF BRONX BOROUGH PRESIDENT RUBEN
DIAZ JR.**

RE: Intro 1056/Water Tank Inspections

I am Deputy Bronx Borough President Marricka Scott-McFadden, and I am here today to testify in support of legislation introduced at Borough President Ruben Diaz Jr.'s behest, Intro 1056, by Council Members Constantinides, Levine, Torres, Diaz, Ampry-Samuel and Ayala.

This important legislation will require the New York City Department of Health and Mental Hygiene to conduct periodic surprise inspections of water tanks, publicly post the results of those inspections and conduct audits of annual inspection reports. The goal of this legislation is to prevent against many contaminants that can make New Yorkers ill, including but not limited to the Legionella bacteria.

Clean water is crucial to good health, and it is not something we can take for granted in the developed world -even in New York City - without adequate regulation. We have seen time and time again the health crises in this country from unsafe drinking water that have ensued from governmental inaction or malfeasance, the most notable example being the ongoing crisis in Flint, Michigan.

I recognize how important it is that New Yorkers have clean, safe water, and this legislation helps ensure that. Borough President Diaz has been a champion of safe water and safe water-based-systems dating back to the legionella crisis in the summer of 2015 when it became all too apparent that that the system was not working, and needed to be changed.

Today, we are proud to continue to deliver for the city on this important issue through partnership with our colleagues in the New York City Council.

Water tanks are used in more than 10,000 New York City buildings that are typically taller than six stories, according to official estimates. In

recent years, landlords have been required to submit annual inspections to DOHMH that the structures are free of sediments, bacteria, or other harmful substances. Fewer than half did so between 2015 and 2017, the year the requirement became an official law, according to a May expose in *City & State* magazine.

The existing law also allows the inspection to be done immediately after the tank is cleaned, meaning the City does not have a clear picture of how many dead pigeons, rats or cockroaches are floating in the water on any given day.

There is a clear need for further smart regulation, and this bill is just that. I urge The Council to pass this legislation into law.

Thank you.



To: Committee on Health, NYC Council
From: Terence O'Brien, Senior Director, The Plumbing Foundation
Date: Tuesday, October 30, 2018
Re: Testimony on Water tanks-Intro. No. 1157

My name is Terence O'Brien and I am the Senior 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 and related codes.

Broadly, the Foundation strongly supports the entirety of today's agenda, which consists of seven pieces of legislation related to water tanks. In particular, however, we must single out our support for Council Member Levine's bill, Intro. No. 1157, which establishes qualification criteria for those inspecting, cleaning, coating, and painting of water tanks. It must be noted that the issues surrounding water tank cleaning and inspections are topics on which the Foundation has testified at the City Council for decades.

Background of Problem

Under the current Administrative Code,¹ owners of buildings with water tanks, as part of their drinking water supply system, must have such water tanks inspected at least once annually. In 2017, the NYC Council passed Local Law 239, sponsored by current Speaker Corey Johnson and former Council Member Daniel Garodnick, which codified a NYC Department of Health and Mental Hygiene (DOHMH) rule that requires landlords to file building water tank inspections with DOHMH. Those inspection reports are now required to be publicly available. The law also requires DOHMH to report annually to the City Council the estimated number of water tanks in the City, the number of water tank inspections received by DOHMH, and the number of violations issued for non-compliance by landlords including for not completing inspections, not submitting reports, and not correcting unsanitary conditions.

¹ NYC Admin. Code s. 17-194.

While we commend the efforts of the City Council and DOHMH regarding the transparency of water tank inspections, the Administrative Code does not list any criteria for who is qualified to conduct the inspections of water tanks. The Code merely requires that inspections must comply with applicable provisions of the New York City Health Code. The Health Code, however, is silent about qualified persons.

Inspections

First and foremost, there is absolutely no criteria for who can conduct inspections of water tanks anywhere in the Administrative Code, the Health Code, or elsewhere. In fact, Assistant General Counsel to the NYC Department of Health and Mental Hygiene has admitted the Department “does not mandate specific qualifications of those who may perform such inspections. As long as the requirements of [the current Health Code] are met during such inspection and such inspection reports are provided to the Department upon request, the choice of inspector is the responsibility of the water tank owner.”

While the Health Code section 141.07(b) provides standards for the condition of a water tank, it provides no standards for the person conducting such inspection. In reality, and according to the NYC Health Code, anyone can conduct an inspection of a water tank without any proof of experience in identifying the conditions as set forth in section 141.07(b). Someone with no experience is not going to know what should be the condition of the overflow pipes, access ladders, and air vents. Further, someone with no experience would not understand what it means to inspect for “pitting, scaling, blistering or chalking.”

Cleaning, Painting, and Coating

Because water tanks must be inspected annually, in most circumstances that also requires emptying and cleaning the water tank. The Health Code section 141.09(b) requires to clean, paint, or coat water tanks that the person or entity must either (1) hold a permit or (2) be a Licensed Master Plumber.

While the rigorous qualifications to be Licensed Master Plumber are clearly spelled out in the Plumbing Code, it is unclear under the Health Code what the qualifications are to otherwise “hold a permit.”

According to the “NYC Business” website, the application requirements are vague as to the qualifications to hold a permit for cleaning, painting, and coating water tanks. In fact, the only information listed regarding experience required is as follows:

If an individual applicant: proof of previous employment with a company possessing a permit to clean, coat or scale water coils or water tanks, and proof of experience in performing these tasks is required. . If not an individual applicant, proof of knowledge of acceptable procedures for the cleaning, coating, or scaling of water coils or water tanks and written protocols and procedures that the business and individual will follow.

These requirements fail to specifically state what “proof of knowledge of acceptable procedures” actually entails, and fail to specify the amount of experience, if any, an applicant must have for application approval. This seemingly gives the Department the ability to authorize an individual/entity with little to no experience or to an entity which, for example, simply copies and pastes the protocols according to American National Standards Institute, without requiring more rigorous proof such as quantifiable experience or completion of a rigorous training program.

On one hand, a Licensed Plumber—who is required by law to have years of experience in his/her trade, pass licensing exams, and hold general liability insurance—is authorized to clean, paint, and coat water tanks, while on the other hand, anyone else can apply for a permit to do the same work without specific training, examinations, or general liability insurance. The Department’s authorization for “anyone else” to apply for a permit based on unclear standards—meaning the Department has no “real” standards—has dangerous implications for the health and safety of NYC residents.

Intro. 1157 provides clear and specific requirements which an applicant must meet for approval to inspect and to clean, paint, and coat water tanks. In addition to permitting Licensed Master Plumbers to engage in this work, it allows persons with *real* certification, from the New York State Department of Environmental Conservation for Category 7G Applicator, to do such inspections and work. The reason this DEC certification provides for enough experience to inspect, clean, paint, and coat water tanks is because it requires rigorous training and testing in the application of pesticides, which is an industry standard in the cleaning of water tanks.

Further, Intro. No. 1157 requires such persons to have training in fall protection under existing Occupational Health and Safety Administration (OSHA) regulations. This requirement is important to ensure those persons climbing water tanks for inspection or to clean, coat, and paint water tanks are appropriately trained in harnessing, anchoring, and other relevant safety protocols to protect themselves from dangerous falls.

We must commend the Council on Intro. No. 1157 because it will mandate that water tanks are cleaned and inspected by properly trained persons, which will in turn ensure the highest level of safety to both consumers and to those technicians who work on water tanks.

Testing of Potable Water Systems

Finally, as an aside, the New York State Department of Health requires all hospitals and health care facilities in the State, including New York City, to test their potable water systems (drinking water systems) for the presence of legionella. While this is a significant step in the right direction to ensure people are not infected with legionella, potable water systems as part of NYC residential buildings are often the culprit of spreading legionnaires as well. Hospitals, no doubt an extremely important sector of buildings from which potable water should be tested and regulated, are not the only buildings at risk. We strongly recommend the City Council consider legislation which would require testing of all potable water systems in New York City in accordance with CDC standards. We would gladly discuss this concept with other stakeholders and Council Members/staff at a future meeting.

For further questions please contact The Plumbing Foundation City of New York, Inc.

(212) 481-9740

info@plumbingfoundation.nyc

www.plumbingfoundation.nyc



**STATEMENT OF THE NATURAL RESOURCES DEFENSE COUNCIL
BEFORE THE NEW YORK CITY COUNCIL
COMMITTEES ON HEALTH AND HOUSING & BUILDINGS
REGARDING PROPOSED WATER TANK LEGISLATION**

October 30, 2018

Good morning. My name is Jackie Gallant, and I am here on behalf of the Natural Resources Defense Council ("NRDC"). As you probably know, NRDC is a national, non-profit legal and scientific organization that has been active on a wide range of environmental health, natural resource protection, and quality-of-life issues around the world and right here in New York since the organization was founded almost five decades ago. Over the years, one of our top priorities has been to safeguard drinking water quality, both nationally and in New York City. At the federal level, NRDC has been a leading force in support of passage, implementation and enforcement of the Safe Drinking Water Act, the nation's bedrock water protection law. Here in New York City, our primary goal has been to ensure that every New Yorker has access to safe, sufficient and equitably priced drinking water. Among other things, we have been a leading advocate in support of filtration avoidance for New York City's Catskill and Delaware water supplies and have sought to advance pollution prevention and watershed protection strategies to safeguard downstate drinking water at its source.

Thank you for convening this important hearing regarding rooftop water tanks, which serve as the final drinking water distribution point for thousands of New York City multi-story buildings. NRDC has reviewed the bills that are the subject of today's hearing and believes that, while these proposals are all well-intended, additional legislation is needed to safeguard the city's drinking water consumers. In this statement, prepared with Eric A. Goldstein, NRDC's New York City Environment Director, I will highlight NRDC's priorities from among these bills and suggest legislative ideas to require annual cleanings of all water tanks and to heighten enforcement and compliance with the city's existing water tank statutory and regulatory scheme.

Background

New York City has more than 10,000 rooftop drinking water tanks. In buildings taller than five stories, water is pumped up to the roof-mounted tanks and stored until needed in the apartments below. (In smaller buildings, there is sufficient pressure for water from the city's mains to travel through distribution lines and in-building pipes directly up to apartment taps.) For millions of New Yorkers who reside or work in multi-story buildings, rooftop water tanks are the final stop on the journey of water from distant reservoirs to kitchen and bathroom taps. Thus, the

City's substantial efforts to safeguard water quality in our upstate reservoirs is jeopardized if we fail to include rooftop water tanks under the city's protective statutory umbrella.

Unfortunately, investigations conducted in recent years have raised serious questions regarding the physical condition of some rooftop tanks and the quality of water within them. According to a 2014 New York Times article, many water tanks have thick layers of muddy sediment and conditions that "are ripe for the growth of potentially dangerous microorganisms."¹ In a May 2018 follow-up story in City and State New York, written by one of the authors of the original Times' expose, the author interviewed tank repair workers who described finding water tanks with drowned squirrels and pigeons, as well as tanks dirtied from dissolved sediment and sludge. One federal drinking water official quoted in the City and State article concluded that where such conditions are present, they create "real potential for an increase in endemic disease."² To be sure, we believe that overall New York City's tap water is safe for consumers, but continued reports on water tank disrepair and poor maintenance are most definitely cause for concern.

Local laws already on the books regulate rooftop water tanks to some degree. Building owners are responsible for maintaining water tanks. They are required to conduct annual inspections of rooftop tanks and submit documentation of these inspections to the City's Department of Health. Building owners must also maintain inspection documentation for at least five years from the date of the inspections and notify building residents of the availability of this information. Additionally, when unsanitary conditions in water tanks have been identified, building owners are required to "rectify" those conditions, although this directive is ambiguous and enforcement has been lax.

Evidence suggests that many landlords have not been complying with the water tank laws currently in place. Field investigations conducted by the Department of Health in 2010, 2011 and 2012 found that 59%, 42%, and 58% of buildings visited had no proof that their water tanks had been inspected in the previous year. A 2014 report from Public Advocate Letitia James reported that a "survey conducted by the City found that 60% of landlords acknowledged that they did not comply with the [water tank] law[s]."³ And the recent City and State New York investigative analysis found that managers of just 3,527 buildings with water tanks -- an estimated 34 percent of the total -- provided proof that their buildings had completed a tank inspection in 2017.

Moreover, the city's statutory and regulatory program that governs these rooftop water tanks has critical gaps. Although there is a requirement to inspect water tanks annually, there is no across-the-board requirement to clean water tanks. Available reports, referenced above, underscore the urgency of the problem. Making matters worse, the city still lacks essential information about the condition of water tanks. Many landlords have not complied with disclosure requirements; even an exact figure on the number of city-wide water tanks is apparently not available. Tellingly, the Mayor's Management Report fails to provide any data on violations, enforcement or compliance with the city's water tank laws.

¹ Ray Rivera et al., *Inside City's Water Tanks, Layers of Neglect*, N.Y. Times (Jan. 27, 2014).

² Frank G. Runyeon, *Lax Oversight Dubious Testing in Water Tanks Pose Health Risks*, City & State N.Y. (May 28, 2018).

³ Letitia James, *A Year of Action*, Public Advocate for the City of New York (2014).

NRDC Priorities

The bills that are the subject of today's hearing are all well intended. In particular, we support Intro 1053 (Johnson), which would require water tank inspection companies to submit annual inspection reports directly to the Department of Health and Mental Hygiene, Intro 1056 (Constantinides), which would require the Department of Health and Mental Hygiene to conduct periodic, unannounced inspections of water tanks and to post the results of such inspections on line, and Intro 1169 (Torres), which would require the visual-documentation of water tanks during inspections be submitted to the Department of Health and Mental Hygiene, as a regular part of the reporting process.

However, perhaps the most important bill the Council could advance is one that would specifically mandate the annual cleaning of all New York City water tanks should be required by law. As noted above, current law leaves too much discretion to building owners regarding whether or not to periodically clean their water tanks. While the current mandate states that building owners should "rectify" unsanitary conditions, it does not directly require annual cleaning for all tanks, even though annual tank cleaning is a well-recognized (and minimally expensive) best practice for water tank safety.

Accordingly, we recommend that Section 104.7 of the New York City Health Code be amended to include a provision that states that "the owner, agent or other person in control of a building shall have the water tank cleaned at least once annually. The cleaning shall comply with requirements provided in Section 141.09 of this code. Buildings that fail to annually clean their water tanks shall be subject to civil penalties no less than \$1,000 and no greater than \$5,000." The owner, agent, or other person in control of a building should also be required to submit proof of annual cleanings to the Department of Health and Mental Hygiene and retain documentation of cleanings for at least five years from the date of the cleaning.

In addition, we urge the Council to take action so as to ensure that the Department of Health and Mental Hygiene steps up enforcement to on building owners who fail to compliance with their statutory obligations regarding water tank cleaning and maintenance. Evidence suggests that a substantial number of landlords have failed for years to fulfill their obligations in this area. Heightened compliance cannot be achieved without the Department devoting more resources to enforcing water tank regulations. The Council should increase fines, hold additional oversight hearings and use its budgetary authority to secure more forceful enforcement of water tank laws and rules by the Department.

Conclusion

Thank you for holding this hearing. We hope that it will lead to legislative action by the Council to ensure that all New Yorkers are protected from unsanitary conditions in building water tanks. At the Natural Resources Defense Council, we stand ready to work with you to advance this important public health goal.



Testimony Karla M. Cruz, GNY LECET
Topic Committee on Health Hearing
Intro. 1157
Date Tuesday, October 30, 2018

FOR THE RECORD FOR THE RECORD

Good morning, my name is Karla Cruz and I am testifying on behalf of the Greater New York Laborers-Employers Cooperation & Education Trust (GNY LECET), the labor management fund of the Mason Tender's District Council representing 15,000 members and 1,200 signatory contractors. More specifically, we represent over 3,000 asbestos and hazardous waste handlers, who are proud members of Laborers Local 78.

I want to start by thanking Health Committee Chair Mark Levine for the opportunity to testify today and to voice our concerns regarding Intro. 1157, which sets qualifications to conduct annual ~~cooling tower~~ ^{WATER TANK} inspections. We commend Council Member Mark Levine and the entire City Council for putting forth a legislative package that ensures all New Yorkers live in a healthy, toxin free city.

Our concern is that Intro. 1157 ^{SIMILARLY TO INTRO 1150,} only addresses the qualifications needed to conduct the inspections. If upon inspection the presence of hazardous material is determined, standards are not in place for the assessment, remediation or abatement of such material. Due to the significant negative health impacts hazardous material can cause on the worker and on the public at large, standards for the remediation and abatement of such work are crucial.

Similar to OSHA's Hazardous Waste Operations and Emergency Response (HAZWOPER) standards that have largely been a success, Intro. 1157 must establish health and safety requirements for employers engaged in these operations, as well as response plans in case of releases of hazardous substances. HAZWOPER requires that employers follow specific work protocols that aim to protect workers who may be exposed to hazardous substances. The standards provide employers with the information and training necessary to ensure workplace health and safety during hazardous waste, emergency response, and cleanup operations involving hazardous substances. HAZWOPER aims to prevent and minimize the possibility of worker injury and illness resulting from potential exposures to hazardous substances.

Creating these standards will ensure hazardous material is properly handled to ensure that unscrupulous contractors, landlords and business owners are not putting tenants and workers at risk when removing dangerous substances.

Thank you.



266 West 37th Street, Suite 1100 | New York, NY 10018 | 212.452.9300 | 212.452.9318 | gnylect.org

TRUSTEES: Paul O'Brien Chair - Management Trustee | Stephen Flanagan Co-Chair - Labor Trustee | Robert Bonanza Labor Trustee | John O'Hare Management Trustee | Raymond M. Pocino Labor Trustee | Michael Prohaska Labor Trustee | Patrick J. Purcell Jr. Executive Director

AFFILIATES: Mason Tenders District Council of Greater New York & Long Island | General Building Laborers Local 66 | Asbestos, Lead & Hazardous Waste Laborers Local 78 | Construction & General Building Laborers Local 79 | Waste Material, Recycling & General Industrial Laborers Local 108 | Laborers International Union of North America, AFL-CIO/CLC Contractor Associations | Building Contractors Association (BCA)



Comments from the Building Owners and Managers Association of Greater New York on several proposed bills related to water tanks.

The Building Owners and Managers Association of Greater New York (BOMA/NY) appreciates this opportunity to submit the below comments for the record. We look forward to working with Council Members and Council staff on this proposed legislation.

BOMA/NY represents more than 750 property owners, managers, and building professionals who own or manage 400 million square feet of commercial space in New York City. We are an association within BOMA International, a federation of 90 US associations and 19 international affiliates that own and operate approximately 10.5 billion square feet of office space in the United States.

Intro 1053: in relation to requiring water tank inspection companies to submit annual inspection reports directly to the department of health and mental hygiene

There should be additional language stating that tanks used for potable water must be NSF/ANSI 61 certified. This volunteer standard was developed by a range of stakeholders at the behest of EPA. The standard insures the safety of materials, such as coatings or pipe metal, that “indirectly” come into contact with drinking water (i.e., are not added as treatment or for other reasons). The NSF label assures yearly random inspection of facilities and that all raw materials are inspected and tested.

Intro 1157: in relation to qualifications for persons conducting inspections and maintenance on drinking water tanks:

Subdivision (c) of this proposed legislation allows licensed master plumbers and those working directly for them, OR anyone who holds a commercial pesticide applicator certification in category 7G or anyone working under supervision of such a certified person, to conduct inspections required by Subdivision (b) of the proposed bill and to conduct cleaning, coating or painting of water tanks. Section 2 of the bill, however, restricts these activities only to licensed master plumbers or those working under their direct supervision. We believe that those with pesticide applicator certifications should be included in both parts of the proposed bill and should be allowed to do this work. Exclusively allowing licensed master plumbers to do this work could cause a bottleneck that would lead to delays, and it would not have public health benefits.



Alliance to Prevent Legionnaires' Disease

Alliance to Prevent Legionnaires' Disease, Inc.
1200 G Street NW, Suite 800 | Washington, DC 20005
preventlegionnaires.org | 1-202-434-8757

Written Testimony New York City Council Health and Housing and Buildings Committees Hearing on Water Tanks October 30, 2018

To Members of the Committees on Health and Housing and Buildings:

The Alliance to Prevent Legionnaires' Disease (APLD) appreciates being invited to provide testimony on the proposed bills before these committees. Although we are unable to attend in-person, we respectfully request that the following testimony be submitted for the record and reviewed by the committees.

APLD is a nonprofit public health advocacy group dedicated to reducing the occurrence of Legionnaires' disease. We promote public research, education, best practices for water management, and advocating for comprehensive public water supply strategies to combat this preventable disease.

Last year, the Health Committee considered legislation that would similarly increase transparency and accountability relating to water tank inspection results. At that time, APLD testified in support of the intent of the bill and suggested two recommendations that would further prioritize public health in relationship to the management and testing of water tanks.

- First, we recommended the city take a system wide approach to addressing the water quality that supplies these tanks.
- Second, the Alliance supports water tank inspections to include tests for *Legionella* bacteria in addition to the Coliform and E. Coli tests.

Our position on the bills currently before these committees remain the same and we continue to recommend that *Legionella* be tested for in all water tank inspections. Adding *Legionella* to the list of pathogens required to be tested in water tanks will help to *prevent* future cases of LD, rather than to *react* after a diagnosis. LD rates are currently at their highest in New York City. There have been several outbreaks and dangerous levels of *Legionella* bacteria discovered in NYCHA-operated and other buildings across the city.

The overwhelming number of LD cases are sporadic in nature. 96% of cases in fact are single or sporadic according to the federal Centers for Disease Control and Prevention (CDC), for which epidemiology points to the drinking waterⁱ. So far in 2018, weekly CDC data reported over 30 sporadic cases for multiple weeks throughout New York Cityⁱⁱ.

We support proper building water management, which includes appropriate testing and treatment of water tanks. However, attempting to control water quality at the end of a very complex distribution system solely, hasn't proven effective as indicated by the cases of LD to date in NYC. The quality of water received by buildings can vary greatly due to events which take place outside of the building. According the CDC, external events including disruptions due to construction or water main breaks, and even excessive rain contribute to 35% of all LD casesⁱⁱⁱ.

The Alliance urges City Council members and other City officials to look beyond narrow approaches that focus only on one component and examine the system as a whole. We support a comprehensive approach to the prevention of Legionnaires' disease that, in addition to proper management of building equipment, equally focuses on steps that can be taken—both short and long term—to reduce *Legionella* health risks originating in the public water supply system. Some steps include:

- Increased investments in our aging water infrastructure to ensure that corroding pipes do not contaminate our water.
- Better guidelines for communication between water utilities and building managers when water disruption events occur. Building owners should know when there is an increased risk for *Legionella* bacteria.
- Monitoring for *Legionella* in the public water supply to help determine the root cause of cases that take place throughout the City including water tank inspections that detect *Legionella* bacteria and other opportunistic pathogens.
- Consider policies like minimum disinfectant residuals or reinstating water filtration to ensure that the water flowing through public pipes is being treated properly *before* it enters our buildings.

Broad solutions like these will ultimately make building water management more effective and provide safe water to our homes. We appreciate the opportunity to share this information with the members of these committees, and would encourage any questions be directed to Daryn Cline, Director of Technology & Science for the Alliance to Prevent Legionnaires' Disease at dcline@preventlegionnaires.org.

The Alliance to Prevent Legionnaires' Disease is a non-profit, voluntary organization comprising public health/medical professionals, water utility experts, environmental advocates, engineers, water treatment professionals and manufacturers of cooling technologies to advocate for comprehensive approaches to limit the growth and spread of Legionella bacteria and other waterborne pathogens. For more information about the Alliance, please visit www.preventlegionnaires.org.

ⁱ Centers for Disease Control and Prevention Legionellosis: United States, 2000-2009 MMWR, 60 (32) (2011), pp. 1083-1086

ⁱⁱ Centers for Disease Control and Prevention, National Notifiable Infectious Diseases: Weekly Tables (2018). https://wonder.cdc.gov/nndss/nndss_weekly_tables_menu.asp

ⁱⁱⁱ Centers for Disease Control and Prevention (2017). Developing a Water Management Program to Reduce Legionella Growth & Spread in Buildings, pp. 4. <https://www.cdc.gov/legionella/downloads/toolkit.pdf>

**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: 40 West 20 St NY NY 10011

**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: 10-30-2018

(PLEASE PRINT)
Name: Guillermo Vazquez

Address: _____

I represent: Dept. of Buildings

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: JACKIE GALLANT

Address: _____

I represent: NATURAL RESOURCES DEFENSE COUNCIL

Address: 40 WEST 20TH STREET

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1157 Res. No. _____

in favor in opposition

Date: 10/30/18

(PLEASE PRINT)

Name: TERENCE O'BRIEN

Address: _____

I represent: The Plumbing Foundation

Address: 535 8 AVE 17 Floor NY NY

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. 1056 Res. No. _____

in favor in opposition

Date: 10/30/18

(PLEASE PRINT)

Name: Deputy Borough President

Address: Marrickville Scott

I represent: McFadden

Address: 851 Grand Concourse

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: 10/30/18

DR.
Name: Demetre Daskalakis (PLEASE PRINT)

Address: 42-09 28th Street, LIC

I represent: DOHMH

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: 10/30/18

Name: Corinne Schiff (PLEASE PRINT)

Address: 42-09 28th Street, LIC

I represent: DOHMH

Address: _____

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