



N.Y.P.D. looks to regulate environmental detectors

By Julie Shapiro

A far-reaching bill before the City Council would make it illegal to possess a biological, chemical or radiological detector without a permit from the New York Police Department.

The bill, Intro 650, met resistance even among its proponents at a Public Safety Committee hearing Tuesday morning. Because of concerns about the impact of the bill on independent environmental health assessments following a terrorist attack, the committee postponed a vote.

Downtowners in particular were concerned because many relied on independent environmental tests after 9/11 in response to the Environmental Protection Agency's questionable assertions.

In a recent explosion of technology, detection equipment once available only to the military is trickling down into the private sector. The mayor's office, prompted by the Department of Homeland Security, proposed the bill to control the proliferation of these detection devices, sorting the useful from the fraudulent and minimizing false alarms.

There are currently no guidelines on possession of detection devices, and individuals who detect contamination are not required to notify the authorities. The bill, the first of its kind in the country, requires owners of the devices to apply for a free, five-year permit and requires all owners, whether they have permits or not, to inform the city of any contamination.

"Our mutual goal is to prevent false alarms and unnecessary public concern by making sure that we know where these detectors are located and that they conform to standards of quality and reliability," said Richard Falkenrath, N.Y.P.D. deputy commissioner for counter terrorism.

The public generally believes the N.Y.P.D. should be involved and aware of these devices, said Councilmember Peter Vallone, Jr., the bill's sponsor.

However, the broad language of the bill caused concern among several members of the Public Safety Committee and many members of the public, who pointed out that the bill does not explicitly exclude commonplace devices such as smoke and carbon monoxide detectors. Vallone said those devices would not require permits.

Falkenrath promised that the Police Dept. would “whittle down” the coverage of the bill in enforcement, but he implored the council to pass the broad version of the bill. The rapidly evolving technology of detection devices would make it hard for the council to pinpoint which types of devices to regulate, he said. Falkenrath would not commit to publishing a list of approved devices or approved device specifications, because he said that list could give terrorists information about what the city is capable of detecting.

Vallone replied that the council normally does not pass bills with such broad language, but that he would defer to the Police Department’s judgment in this case.

Borough President Scott Stringer, who testified next, was less willing to accept N.Y.P.D.’s reasoning.

“This legislation will undermine an important check on the government,” Stringer said. “It would undermine environmental advocates.”

After 9/11, the first group to sample the air at the World Trade Center site was the National Hazmat Program of the International Union of Operating Engineers, which came from West Virginia. Under the bill, that group would have had to register with the N.Y.P.D. first, substantially delaying the tests, Stringer said.

“Had Intro 650 been in place in 2001, it is possible that we still would not have an accurate understanding of the air quality Downtown,” he said.

Stringer added that he has never heard of a false alarm caused by private monitoring. “This is a fake emergency that doesn’t exist,” he said. “If it’s not a problem, let’s not try to create one.”

In response to the council’s concerns, Falkenrath gave several examples of the types of devices he wants to regulate. The bill would not require permits for radiation equipment used to treat oncology patients, but it would require them for emergency-room radiation detectors, since terrorists whose experimental weapons go wrong often end up there. The bill also would not regulate industrial safety chemical detectors or detectors used for instruction in university classrooms.

Falkenrath emphasized that he wants to keep the application process simple and swift, to keep good devices in good hands.

Vallone was concerned that there is no appeal process for N.Y.P.D.’s decisions. Falkenrath replied that people will be able to resubmit their applications if they make the requested changes.

Vallone also mentioned the widespread concerns about the E.P.A.’s assurances about air quality after 9/11.

“If an independent group wants to verify the air quality, how would the [new] regulations affect that?” he asked Falkenrath.

“Our interest is in weapons,” Falkenrath replied, saying he is less concerned about chemicals like asbestos. However, he said, “An independent group could run into a problem.”

That’s exactly what’s worrying Steve Abramson, who has lived near the World Trade Center since before 9/11. Abramson and the other residents of 114 Liberty St. hired a consultant to test their building after 9/11.

“Frankly, in our building we didn’t trust [the E.P.A.] and we wanted to do it on our own with an independent paid consultant,” Abramson said after the hearing, “so we didn’t have to worry about any government interpretation or anybody using standards we disagreed with.”

As a result of the consultant’s recommendations, Abramson and the other building residents agreed to replace all the central air-conditioning ducts, a measure the E.P.A. did not think was necessary.

“The E.P.A. didn’t feel we needed to go through rigor we went through,” Abramson said. But the residents went with the consultant’s opinion “because at end of day you want it clean not only for your physical health but for your peace of mind, too,” he said.

Abramson does not see why the bill is necessary, and he worried that it would delay future testing by independent contractors. “It sounds like it adds just another layer of bureaucracy onto everything,” he said.

Esther Regelson, a resident of 109 Washington St., was dissatisfied with E.P.A.’s testing of her apartment after 9/11.

“We have reservoirs of dust in and around our building from 9/11 and we should be able to test that if we need to,” she said. “Who would trust E.P.A. after what they told us on 9/11?”

The city seems concerned that people who independently test for contamination will create alarm, Regelson said, but she disagrees. Independent testing “creates an informed population, not an alarmed population,” she said.

At the hearing, City Councilmember John Liu asked about community groups who do air-quality testing in schools and parks.

“Obviously no one is opposed to the N.Y.P.D. keeping us safe,” Liu said. “But it seems to me the administration is asking for a huge amount here.” The bill amounts to a “blank check,” Liu added.

Falkenrath replied that it comes down to an issue of public safety versus public health. The bill would not affect air-quality monitoring in schools, he said, but he would not want to specifically state that in the bill for fear of creating a loophole.

The bill should explicitly refer to weapons detectors, not detectors in general, said Dave Newman, industrial hygienist at New York City Occupational Safety and Health. After

the hearing, Newman added that unions have a right under federal law to bring in outside experts to test environmental conditions.

City Councilmember Alan Gerson has not taken a position on the bill and said he would look into it further. “My immediate reaction is that it’s a little overbroad, or a lot overbroad,” he said.

The committee was originally supposed to vote on the bill after the hearing, but Vallone postponed the vote to give the committee more time to address concerns with the city.