

March 16, 2026

Ms. Kim Cohen
Marilyn 18 Rest Inc D/B/A Don Giovanni
358 West 44 Street
New York, NY 10036

Roda 18 Rest Corp D/B/A Don Giovanni
214 10 Avenue
New York, NY 10001

Dear Ms. Cohen:

I am writing in response to your December 15, 2025 applications on behalf of two Don Giovanni restaurants, located at the addresses above, for variances from the requirements contained in Section 24-149.5 of the Air Code.

On February 25, 2026, a hearing was held pursuant to Section 24-110 of the Air Code to allow members of the public to testify both in support and in opposition to the request to use solid fuel in your registered cook stoves without an emission control device. DEP reviewed the testimony as well as the application, lab report and cook stove registration, which are attached to this determination. Your variance application or testimony stated that a small amount of firewood and coal are used during operation of the oven. The applications also demonstrate from the lab results that even without an emission control device, these establishments' emissions do not exceed the 10 mg/m³ upper limit for particulate matter.

The applications provided how the testing procedures were conducted as well as the volume of solid fuel used. Specifically, peak load was maintained during testing; sampling was performed using an optical particle counter (OPC) and in accordance with the requirements of the Chapter 62-05 (a)(3); and readings were taken using a sampling probe at a precut hole downstream from the cook stove operating exhaust fan. The average test results showed 0.018 mg/m³ at 214 10th Avenue and 0.085 mg/m³ at 358 West 44th Street which are below the upper limit threshold of 10 mg/m³.

DEP grants your variance subject to the following conditions:

1. The quantities and types of solid fuel are limited to those in the applications.
2. The operation months are limited to those in the applications.
3. The days per month, days per year, and hours per day are limited to those in the applications.
4. The frequency is limited to the amounts in the applications (lbs/hour and lbs/day.)
5. Only the registered cooking equipment described in the applications may be used.

In addition, you must submit an acknowledgement of these conditions by October 30th of each calendar year, and an annual affirmation of compliance with these conditions, due by April 30th of each calendar year.

You must affirmatively accept these conditions for both establishments within 30 days of the date that this conditional variance is issued. To accept, the last page of this letter must be signed by the principal of the company, notarized, and returned. Failure to affirmatively accept the conditions renders the variance null and void.

The variance may be suspended until either reinstated, revoked, or modified by the Department if the conditions are not adhered to.

ACCEPTANCE OF CONDITIONS AND TERMS

I, _____ am the _____ of Marilyn 18 Rest Inc. and Roda 18 Rest Inc. each doing business as Don Giovanni Restaurant and I am authorized to accept the terms of this variance on behalf of Don Giovanni Restaurants. I hereby accept the terms set forth above.

NAME PRINT

SIGNATURE

DATE

The variance petition is therefore conditionally granted.

Sincerely,



Lisa F. Garcia
Commissioner



MARILYN 18 REST INC d/b/a Don Giovanni
358 West 44th Street
New York, NY 10036
Phone: (212) 807-0916 / 212-581-4939
Email: dongiovanniny@gmail.com

Date: November 19th, 2025

To: NYC Department of Environmental Protection (DEP)

To whom it may concern,

1. Reason for Variance Request:

What is the purpose of using solid fuel (wood or coal)?

For over 32 years, our pizzeria has safely operated using anthracite coal-fired brick ovens to prepare our pizzas. This cooking method is essential to our business and creates a product that cannot be replicated with gas, electric, or wood-fired alternatives.

Anthracite coal is the cleanest-burning form of coal, producing significantly less smoke, ash, and emissions than bituminous coal and many common cooking woods. It burns at consistent, controllable temperatures, allowing for precise cooking while maintaining superior air quality standards.

Our three-decade track record demonstrates that anthracite ovens can operate safely and cleanly. This method is integral to our authentic Italian pizza preparation and the distinct flavor profile our customers expect.

Explain why complying with Section 24-149.5 of the Air Code to install a pollution control device to reduce particulate matter from solid fuel cooking emissions would impose an unreasonable hardship.

EMISSIONS COMPLIANCE ALREADY ACHIEVED: Walden Environmental Engineering testing (November 14, 2025) shows our anthracite oven emits **0.085 mg/m³** of particulate matter - **99% below** the NYCDEP threshold of 10.0 mg/m³. Installing pollution control equipment provides zero environmental benefit.

UNREASONABLE HARDSHIP:

1. **Financial Burden:** Significant capital costs for equipment, installation, and multi-agency permitting, with no air quality improvement
2. **Operational Disruption:** Mandatory shutdown during installation threatens our 35-year-established business, employees, and customer base

CONCLUSION: Our emissions are already 99% below allowable limits. Requiring equipment installation when testing proves compliance constitutes unreasonable hardship with no environmental justification.

2. Description of Cooking Equipment:

Application ID:

Marilyn 18 Rest Inc. d/b/a Don Giovanni - application ID # 296782

Provide the oven volume capacity in cubic feet or surface area of the grill in square feet.

Don Giovanni 358 West 44th Street oven volume capacity is 24.75 cubic feet.

During which months of the year will each piece of equipment be in operation, and how many days per month?

The coal pizza oven operates 12 months per year, with the exception of two holidays when the restaurant is closed: Thanksgiving and Christmas.

How many total days per year will each piece of equipment be in operation?

The coal pizza oven operates 363 days per year with the exception of two holidays when the restaurant is closed: Thanksgiving and Christmas, or in the event of unforeseen or exceptional circumstances.

How many hours per day will each piece of equipment be in operation?

From 2:30 PM to 10:00 PM

The pizza oven operates 7.50 hours per day.

Indicate whether the solid fuel is used in combination with natural gas or if only solid fuel is used in each piece of equipment.

We do not use natural gas; Only solid fuel is used in the pizza oven (anthracite coal)

Specify the type of fuel wood and/ or coal used in each piece of equipment. Include the dimensions (length, width, height) and weight (in pounds) of each log of wood and weight (in pounds) of a bag of coal, if applicable. if it is a combination, provide specifics for each solid fuel source

We use bundles of 100% kiln-dried firewood (Maple ash, hickory, oak, cherry, and birch) to start the oven.

The wood ranges in length from 8 to 10 inches, and the weight is around 1.5 to 1.75 lb per piece. The wood is used solely to light the oven. Once started, we use only coal (anthracite) to cook.

Our coal is coming in a bag of 40 pounds, and each individual coal is about 2" X 2" (inches)

How many logs of wood/bags of coal are used per day in each piece of equipment?

Wood: 3 pieces of wood per day

Coal: 1.5 Bags of coal

How many logs of wood/bags of coal are used per day in each piece of equipment?

Wood 3 pieces of wood per day (whole day- 1 shift PM)

We started with 1.5 Bags at 2:30 PM and continued until 10:00 PM.

How many logs of wood/bags of coal are used per hour in each piece of equipment?

We do not use wood or coal on an hourly basis. We use the wood one time to initially turn on the oven around 2:30 PM together with the coal, until the end of the day.

3. Test Date Available

Do you have test data to establish the emission level without controls? Yes

If you have a pollution control device (a/k/a emission control device), what is the % reduction of particulate matter (PM)?

We do not have a pollution control device.

Please attach a summary of the test results and lab test report.

Please see the attached report.

Owner Affirmation

I affirm that all submitted information is true, accurate, and complete.



Signature

Kim Cohen - OWNER

Print Name and Title

December 15, 2025

Date



Delivered via email to dongiovanniny@gmail.com

December 12, 2025
DGRM2501

Kim Cohen
Marilyn 18 Rest Inc.
d/b/a Don Giovanni Restaurant
358 West 44th Street
New York, NY 10036

Re: 1) Cook Stove Total Suspended Particulate
Emission Testing
2) Rules of the City of New York, Title 15,
Chapter 62-05, Testing Requirements for
Emission Control Devices

Dear Ms. Cohen:

This letter summarizes Total Suspended Particulate testing performed at Marilyn 18 Rest Inc., d/b/a Don Giovanni Restaurant on 11/14/2025 by representatives of Walden Environmental Engineering, PLLC (Walden). Testing was conducted at Don Giovanni Restaurant located at 358 West 44th Street, New York, NY 10036 in accordance with the requirements of the Rules of the City of New York, Title 15, Chapter 62-05. Readings were taken as follows:

Run #1:	12:54 P.M.	-	01:04 P.M.	-	<i>Cook Stove Exhaust Fan - Operating</i>
Run #2:	01:04 P.M.	-	01:14 P.M.	-	<i>Cook Stove Exhaust Fan - Operating</i>
Run #3:	01:14 P.M.	-	01:24 P.M.	-	<i>Cook Stove Exhaust Fan - Operating</i>
Run #4:	01:24 P.M.	-	01:34 P.M.	-	<i>Cook Stove Exhaust Fan - Operating</i>

Don Giovanni Restaurant informed Walden that during the test three (3) pieces of wood weighing approximately 1.75 pound each for a total weight of around 5.5 pound were used to start the cook stoves initial coal fire, which consisted of forty (40) pounds of coal for the test. Peak load was maintained in the coal-burning Cook Stove (Pizza Oven) for the duration of testing.

In addition, Walden was also informed that 5.5 pounds of wood and an average of approximately sixty (60) pounds of coal is typically used daily during restaurant operations. Four (4) consecutive Total Suspended Particulate readings were taken using a TSI DustTrak™ II Monitor 8530 at a flow rate of two (2) liters per minute for ten (10) minutes, downstream from the Cook Stoves



operating exhaust fan with the sampling probe inserted into a precut hole. Testing was conducted directly from the cook stoves exhaust; no control device was installed in the facility. The average results were then calculated to determine compliance.

The attached table presents the results of each sampling event for Total Suspended Particulates conducted on 11/14/2025. A summary of the results is as follows:

Run #1: *Cook Stove Exhaust Fan Operating* = 0.107 mg/m³

Run #2: *Cook Stove Exhaust Fan Operating* = 0.094 mg/m³

Run #3: *Cook Stove Exhaust Fan Operating* = 0.078 mg/m³

Run #4: *Cook Stove Exhaust Fan Operating* = 0.061 mg/m³

Average Value Calculation: $\frac{\text{Sum of Values}}{\text{Number of Values}}$

$$\text{Average Cook Stove Emissions} = \frac{0.107 + 0.094 + 0.078 + 0.061}{4} = \mathbf{0.085 \text{ mg/m}^3}$$

Testing conducted at Don Giovanni Restaurant's existing Cook Stove (Pizza Oven) located at 358 West 44th Street, New York, NY 10036 on 11/14/2025 demonstrates an average Total Suspended Particulate Emission of 0.085 mg/m³ which complies with the current NYCDEP upper limit threshold of 10.0 mg/m³.

If you have any questions or require any additional information, please call (516) 624-7200.

Please call if there are any questions.

Very truly yours,
Walden Environmental Engineering, PLLC

Robert A. LoPinto

Robert A. LoPinto, PE
Project Manager III

Lawrence Zeman
Project Scientist III

LZ: RAL

Enc.

Table 1

Total Suspended Particulate Testing Results Summary

Test 001

Instrument		Data Properties	
Model	DustTrak II	Start Date	11/14/2025
Instrument S/N	8530102614	Start Time	12:54:07
		Stop Date	11/14/2025
		Stop Time	13:04:07
		Total Time	0:00:10:00
		Logging Interval	60 seconds

Statistics	
AEROSOL	
Avg	0.107 mg/m ³
Max	0.140 mg/m ³
Max Date	11/14/2025
Max Time	13:01:07
Min	0.086 mg/m ³
Min Date	11/14/2025
Min Time	13:02:07
TWA (8 hr)	N/A
TWA Start Date	11/14/2025
TWA Start Time	12:54:07
TWA End Time	13:04:07

Test Data			
Data Point	Date	Time	AEROSOL mg/m ³
1	11/14/2025	12:55:07	0.108
2	11/14/2025	12:56:07	0.088
3	11/14/2025	12:57:07	0.121
4	11/14/2025	12:58:07	0.093
5	11/14/2025	12:59:07	0.123
6	11/14/2025	13:00:07	0.112
7	11/14/2025	13:01:07	0.140
8	11/14/2025	13:02:07	0.086
9	11/14/2025	13:03:07	0.107
10	11/14/2025	13:04:07	0.088

Test 002

Instrument		Data Properties	
Model	DustTrak II	Start Date	11/14/2025
Instrument S/N	8530102614	Start Time	13:04:14
		Stop Date	11/14/2025
		Stop Time	13:14:14
		Total Time	0:00:10:00
		Logging Interval	60 seconds

Statistics	
	AEROSOL
Avg	0.094 mg/m ³
Max	0.156 mg/m ³
Max Date	11/14/2025
Max Time	13:12:14
Min	0.056 mg/m ³
Min Date	11/14/2025
Min Time	13:14:14
TWA (8 hr)	N/A
TWA Start Date	11/14/2025
TWA Start Time	13:04:14
TWA End Time	13:14:14

Test Data			
Data Point	Date	Time	AEROSOL mg/m ³
1	11/14/2025	13:05:14	0.077
2	11/14/2025	13:06:14	0.075
3	11/14/2025	13:07:14	0.123
4	11/14/2025	13:08:14	0.072
5	11/14/2025	13:09:14	0.062
6	11/14/2025	13:10:14	0.133
7	11/14/2025	13:11:14	0.071
8	11/14/2025	13:12:14	0.156
9	11/14/2025	13:13:14	0.120
10	11/14/2025	13:14:14	0.056

Test 003

Instrument		Data Properties	
Model	DustTrak II	Start Date	11/14/2025
Instrument S/N	8530102614	Start Time	13:14:27
		Stop Date	11/14/2025
		Stop Time	13:24:27
		Total Time	0:00:10:00
		Logging Interval	60 seconds

Statistics	
AEROSOL	
Avg	0.078 mg/m ³
Max	0.163 mg/m ³
Max Date	11/14/2025
Max Time	13:18:27
Min	0.042 mg/m ³
Min Date	11/14/2025
Min Time	13:24:27
TWA (8 hr)	N/A
TWA Start Date	11/14/2025
TWA Start Time	13:14:27
TWA End Time	13:24:27

Test Data			
Data Point	Date	Time	AEROSOL mg/m ³
1	11/14/2025	13:15:27	0.053
2	11/14/2025	13:16:27	0.068
3	11/14/2025	13:17:27	0.094
4	11/14/2025	13:18:27	0.163
5	11/14/2025	13:19:27	0.067
6	11/14/2025	13:20:27	0.130
7	11/14/2025	13:21:27	0.062
8	11/14/2025	13:22:27	0.048
9	11/14/2025	13:23:27	0.048
10	11/14/2025	13:24:27	0.042

Test 004

Instrument		Data Properties	
Model	DustTrak II	Start Date	11/14/2025
Instrument S/N	8530102614	Start Time	13:24:34
		Stop Date	11/14/2025
		Stop Time	13:34:34
		Total Time	0:00:10:00
		Logging Interval	60 seconds

Statistics	
	AEROSOL
Avg	0.061 mg/m ³
Max	0.100 mg/m ³
Max Date	11/14/2025
Max Time	13:34:34
Min	0.046 mg/m ³
Min Date	11/14/2025
Min Time	13:32:34
TWA (8 hr)	N/A
TWA Start Date	11/14/2025
TWA Start Time	13:24:34
TWA End Time	13:34:34

Test Data			
Data Point	Date	Time	AEROSOL mg/m ³
1	11/14/2025	13:25:34	0.050
2	11/14/2025	13:26:34	0.047
3	11/14/2025	13:27:34	0.060
4	11/14/2025	13:28:34	0.051
5	11/14/2025	13:29:34	0.069
6	11/14/2025	13:30:34	0.068
7	11/14/2025	13:31:34	0.066
8	11/14/2025	13:32:34	0.046
9	11/14/2025	13:33:34	0.053
10	11/14/2025	13:34:34	0.100



Environmental Protection

Lisa F. Garcia
Commissioner

THE CITY OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Bureau of Environmental Compliance
59-17 Junction Blvd. 9th Floor, Flushing, NY 11373
Records Control (718) 595-3855

Mark N Page, Jr.
Executive Director
Environmental Compliance

Industrial General Registration

Business Owner Information

Owner Information: Don Giovanni

Owner Address : 358 West 44th Street Manhattan NY 10036

Application ID: **PG001020**

Issued: **3/16/2026**

Expiration: **5/17/2027**

Request ID: **296782**

FACILITY ADDRESS: Don Giovanni, 358 West 44th Street, Manhattan, NY 10036

Type of Process	SolidFuelBurningEquipment	Contaminants	PM
Material Being Processed	Anthracite Coal		
Emission Control Type	Other - None		

Control or Fan Make/Model	Process Equipment
1 Enervex RSHT14	1 AAA Fireplace Inc. Pizza Oven

Total number of units	1	ACFM/ unit	1000
Hours per day	8	Stack Height	45
Days per year	363	Exhaust Location	Roof
Oven Volume (Cu.Ft.)	25	Natural gas startup?	No
Emission Control Installation		Natural Gas MMBTU/hr	
Certified control device?	No	Startup Duration (Hr/Day)	

Fuel	Quantity	Unit per day
Anthracite	60	lbs
Wood	5.5	lbs

Process Description

This is a custom, built-in, coal-fired brick pizza oven. Wood is used only to startup the oven.

Special Conditions

This registration assumes the equipment is in compliance with the rules and regulation set forth by DEP for the duration of this registration permit. A variance was granted pursuant to 24-110 of the Air Code from the requirements contained in 24-149.5 of the Air Code as the application meets the requirements contained in 15 RCNY 62-05 (a)(3).



PG001020

Kit Liang, P.E.
Director of Engineering

DISPLAY REGISTRATION ON PREMISES NEAR EQUIPMENT