

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON ENVIRONMENTAL PROTECTION

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May 28, 2010
Start: 10:00am
Recess: 12:27pm

HELD AT: Council Chambers
City Hall

B E F O R E:
G. OLIVER KOPPELL
Acting Chairperson

COUNCIL MEMBERS:
Elizabeth S. Crowley
James F. Gennaro
Brad S. Lander
Stephen T. Levin
Peter F. Vallone, Jr.
Thomas White, Jr.

A P P E A R A N C E S

Caswell F. Holloway
Commissioner
Department of Environmental Protection

Dan Kass
Deputy Commissioner for Environmental Health
Department of Health and Mental Hygiene

A P P E A R A N C E S (CONTINUED)

Rohit Aggarwala
Director
Mayor's Office of Long-Term Planning & Sustainability

Brent Baker
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Chief Executive Officer
Castle Oil Corporation

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Richard Kassel
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A P P E A R A N C E S (CONTINUED)

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American Lung Association

Michael Heimbinder
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Jason Schwartz
Legal Fellow
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2 CHAIRPERSON KOPPELL: Good morning,
3 everyone. I'm city councilman Oliver Koppell,
4 member of this committee. Unfortunately, the
5 chair, Jim Gennaro, was slightly injured but--he's
6 disabled with his back and therefore could not be
7 here today. He sends his apologies and of course
8 the staff of the committee is present and I'm
9 present and we have a fellow member of the
10 committee, Brad Lander, who is to my right.
11 Welcome this morning--

12 COUNCIL MEMBER LANDER: Thank you.

13 CHAIRPERSON KOPPELL: --and I
14 expect other members to be joining us in the
15 course of the hearing. We are first going to hear
16 from the administration. We welcome them. I'm
17 going to ask them to introduce themselves in a
18 moment.

19 I'm going to read this statement
20 and, although I'm reading it, it is really the
21 statement of the chairman. The United States uses
22 more oil every day than any other nation in the
23 world, consuming more than 20 million barrels of
24 petroleum daily. Of these, 60%, or more than 12
25 million barrels per day, are imported with more

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2 than 700,000 barrels per day imported from the
3 Organization of Petroleum Exporting Countries--
4 OPEC. Importation of foreign oil is expensive.
5 The United States spends more than \$200,000 per
6 minute on foreign oil and, with just 3% of the
7 world's oil reserves, would appear to have little
8 choice in its dependence on foreign oil. In the
9 Northeast more than 47% of petroleum used is for
10 residential heating and oil prices have been
11 rising most every year. High oil prices have
12 resulted in reduced economic growth in the years
13 since World War II and have cost as much as \$305
14 billion annually.

15 New York, like other places, faces
16 the dual challenge of achieving economic growth
17 and environmental sustainability. Achieving
18 sustainability has been linked with the use of
19 renewable resources such as biofuels generally,
20 and biodiesel for use in residential heating. The
21 alternative of burning of petroleum based fuels
22 for heating without biofuels results in the
23 emission of more particulate matter, more oxides
24 of sulphur and nitrogen, air toxics, heat trapping
25 gases such as carbon dioxide, and other

1
2 pollutants. They all can cause an array of
3 environmental and public health problems. Since
4 it can be domestically produced, the use of
5 biodiesel can reduce the amount of petroleum
6 imported and burn less heating oil. The use of
7 biodiesel can also help lessen some of the
8 environmental harms associated with the
9 consumption of purely petroleum based fuels.
10 Biofuels in general and biodiesel in particular
11 may alleviate, to a degree, our dependence on
12 foreign oil and will reduce particulate matter,
13 nitrogen oxides, carbon dioxide, and sulphur
14 oxides. To make biodiesel more competitive, the
15 Governor included a four-year biodiesel tax credit
16 in the executive budget two years ago.

17 The bill being heard today will
18 also reduce sulphur in number four heating oil
19 used in larger buildings. Sulphur dioxide, which
20 converts in the atmosphere to sulphur particles,
21 results in a number of negative health and
22 environmental impacts, including adverse effects
23 on breathing, increased respiratory symptoms, and
24 aggravation of existing heart disease. Sulphur
25 dioxide also contributes to lower visibility and

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2 acid deposition, the latter of which has been of
3 great concern to New York. While biofuels are no
4 silver bullet to energy shortages of foreign oil,
5 today's hearing on Proposed Introduction Number
6 194 will examine specific legislative measures
7 proposed today to reduce air pollution by use of
8 2% biodiesel, and reduce sulphur in number four
9 heating oil. These measures are expected to
10 reduce environmental disease. Proposed Intro
11 Number 194 will also increase energy independence
12 and stability.

13 At this hearing we'll hear from the
14 administration, biofuel advocates, and
15 environmental and public health advocates as we
16 review the opportunity presented by the bill for
17 cleaner heating oil in New York City. I might
18 mention today's newspaper carries a story on a
19 report that I think we're going to hear about
20 later today. Let me also just mention the names
21 of the staff that's working on this matter and has
22 worked on many environmental matters. Samara
23 Swanston, counsel, who's to my right; Siobhan
24 Watson, policy analyst; Nathan Toth, finance; and
25 Anthony Hoglebe, communications for the committee.

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2 To my left is Jamin Sewell who's my counsel and
3 works on all the legislative matters that I'm
4 concerned with. Thank you for coming. We're now
5 going to hear from the administration, and we have
6 an all-star cast from the administration this
7 morning, which we're grateful for, for your taking
8 the time to come. We have Commissioner Holloway
9 from the DEP, we have Dan Kass, Deputy
10 Commissioner from the Department of Health and
11 Mental Hygiene, and we have Rohit Aggarwala from
12 the Mayor's Office of Sustainability, and maybe
13 others. You can go in whichever order you wish,
14 and we look forward to hearing testimony from the
15 administration on these measures.

16 DANIEL KASS: Thank you.

17 CHAIRPERSON KOPPELL: Just
18 introduce yourself when you start so we have a
19 record.

20 DANIEL KASS: My name is Daniel
21 [off-mic].

22 CHAIRPERSON KOPPELL: Push the
23 button. It's opposite from the way it used to be.

24 DANIEL KASS: Let's try that.
25 Okay. My name's Daniel Kass. I'm the Deputy

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2 Commissioner for Environmental Health at the City
3 Department of Health and Mental Hygiene. Thank
4 you for having us. On behalf of Commissioner
5 Farley I'd like to testify regarding Intro 194 as
6 it relates to clean heating fuel in New York City.
7 I'm going to briefly touch on the health risks of
8 pollution attributable to the use of these fuels,
9 the health benefits of the proposed reduction in
10 sulphur content, and the emissions reduction that
11 will be associated with this bill.

12 There's a large body of scientific
13 evidence linking exposure to air pollution to
14 adverse health outcomes in premature mortality.
15 The air pollutants that are most prevalent in New
16 York City are mainly products of fuel combustion,
17 and they include fine particles, gaseous
18 pollutants such as nitrogen dioxide and sulphur
19 dioxide. Fine particles are small airborne pieces
20 of solid material composed of many different
21 elements in metals. Once inhaled, fine particles
22 can penetrate deep into the lungs causing
23 inflammation of the airways and the blood vessels.
24 Research has shown that chronic exposures to fine
25 particles can increase the prevalence and the

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2 severity of respiratory and cardiovascular
3 illnesses, and premature mortality.

4 Cardiovascular disease in New York
5 City is the number one cause of death, killing
6 over 22,500 people each year. Nitrogen dioxide is
7 emitted when fuels are burned at high
8 temperatures. It causes irritation of the lungs
9 and has been linked to emergency department visits
10 and hospital admissions for respiratory illnesses,
11 including asthma. Nitrogen oxides also contribute
12 to the formation of ozone and to fine
13 particulates, also known as PM2.5. Sulphur
14 dioxide is produced by burning sulphur-containing
15 fuels.

16 In New York City, where we long ago
17 eliminated the burning of coal, the principal
18 source of sulphur dioxide is from the burning of
19 number four and number six fuel oils, which have
20 the highest sulphur content of all of the fuels
21 commonly used for heating. Sulphur dioxide can
22 exacerbate asthma and may contribute to other
23 forms of respiratory and cardio-vascular
24 illnesses. Residual fuel oil emissions contain
25 large amounts of sulphur, Nichol, vanadium, and

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2 other metals and, as a result, burning number six
3 residual fuel releases PM2.5 with relatively
4 higher levels of Nichol. Likewise, number four
5 fuel oil, which is a mix of number six residual
6 oil and cleaner burning distillate oil, also
7 increases airborne Nichol concentrations.

8 Growing scientific evidence
9 suggests that fine particles from residual oil
10 burning may have especially strong adverse health
11 effects. Laboratory research, including animal
12 exposure studies and human cell studies, suggest
13 that these particulates can directly impact the
14 respiratory and cardio-vascular systems, as well
15 as cause changes in the immune system. Two recent
16 epidemiologic studies show that PM2.5 with higher
17 Nichol content may, in fact, have greater health
18 effects in humans than other particulates. In
19 2007 PlaNYC charged the Health Department with
20 developing the New York City Community Air Survey--
21 -also known as NYCCAS--one of the largest urban
22 air pollution studies conducted to date.

23 Launched in 2008, NYCCAS involves
24 measurement of street-level air pollution at 150
25 locations throughout the city in every season of

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2 the year. NYCCAS set out to evaluate how air
3 quality varies across the city. Our first report
4 on wintertime air pollution was released in
5 December 2009, and demonstrated that the strongest
6 predictor of PM2.5 and sulphur dioxide was the
7 density of nearby buildings and specifically the
8 density of buildings burning fuel oil.

9 Another way to state that is that
10 areas with the greatest concentrations of
11 buildings burning these fuels had the highest
12 levels of PM2.5 and SO2. Earlier this week we
13 issued a second report detailing the variation in
14 airborne concentrations of Nichol across New York
15 City. The principal source of Nichol in New York
16 City is from the burning of number four and number
17 six fuel oil. Nichol levels were highest in
18 neighborhoods that the highest density of boilers
19 burning these particular fuels, principally in
20 Manhattan and in the Bronx and in parts of Queens.
21 Nichol levels in areas with a high density of
22 number four and number six oil burning units were
23 nearly four times those in areas with low density
24 of these units. In fact, the difference in the
25 number of these boilers explained about 60% of the

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2 variability in Nichol across the city.

3 Our air monitoring also found that
4 sulphur dioxide levels were one and a half times
5 greater in areas of high compared to low density
6 number four and number six burning units,
7 explained by the high sulphur content of the
8 residual fuel oils. Again, the difference in the
9 number of these boilers explained about half of
10 the variability across the city. The levels of
11 these pollutants in New York City contribute
12 significantly to illness and loss of life, and
13 scientific evidence suggests that the combined
14 exposures to multiple air pollutants may be
15 especially harmful. Preliminary analyses indicate
16 the current PM2.5 levels in New York City are
17 associated with potentially thousands of premature
18 deaths and hospital admissions due to respiratory
19 and cardiovascular illnesses annually.

20 By extension, even modest
21 incremental reductions in the emissions of those
22 most harmful pollutants will have significant
23 public health benefits and increase life
24 expectancy. Although the precise health benefits
25 of a residual oil phase-out strategy are currently

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2 unknown, epidemiologic evidence indicates that
3 reducing exposures to harmful air pollutants,
4 particularly those linked to number four and
5 number six fuel oils, would result in a reduction
6 in the number of asthma hospitalizations, heart
7 attacks, reduced prevalence of cardiovascular
8 disease, and the reduction in the number of
9 premature deaths. Thank you for the opportunity
10 to testify.

11 CHAIRPERSON KOPPELL: Thank you.
12 We're going to hear from other representatives.
13 Thank you, Commissioner.

14 CASWELL F. HOLLOWAY: Hello?

15 CHAIRPERSON KOPPELL: Okay. All
16 right.

17 CASWELL HOLLOWAY: Good. Thanks.
18 I'm Cas Holloway, Commissioner in the Department
19 of Environmental Protection. Councilmember
20 Koppell, thank you for the opportunity to testify
21 today. Councilmember Lander and--I'm sorry that
22 Councilmember Gennaro couldn't be here, but we'll
23 make sure to answer any questions that he has
24 following up on this important bill. I'm going to
25 talk about the specifics of the bill, DEP's role

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2 in air quality generally and in connection with
3 the bill, and then Rohit is going to explain this
4 in the context of the overall mayor's goal in
5 PlaNYC and, you know, the regulatory context and
6 how we got here. I think that's about right,
7 Rohit?

8 ROHIT AGGARWALA: Whatever you say.

9 CASWELL HOLLOWAY: Yeah. Thank
10 you. Thank you for the opportunity to testify
11 today on the use of clean heating oil in New York
12 State--

13 CHAIRPERSON KOPPELL: Commissioner,
14 I'm just going to interrupt and say that we
15 welcome your testimony and it's quite long and
16 there's so many people here. So if you could
17 summarize a little bit it would be helpful.

18 CASWELL HOLLOWAY: Sure.

19 CHAIRPERSON KOPPELL: We want to
20 hear everything you have to say but it's quite a
21 long statement and I'm a little nervous about
22 getting everybody in, so.

23 CASWELL HOLLOWAY: Great. Okay.
24 So I'll do my best. So this is a PlaNYC
25 commitment that the mayor recently reiterated and

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2 Intro 194 takes a substantial step towards filling
3 that commitment.

4 DEP is responsible for regulating
5 air quality in the city and, as you've already
6 heard from Deputy Commissioner Kass, air
7 pollutants, such as particulate matter, sulphur
8 dioxide, and sulphur oxides, are associated with
9 many negative health impacts, which recent studies
10 have validated in New York City. Approximately
11 14% of local emissions of particulate matter
12 results from combustion of fuels used for heat and
13 hot water.

14 There are three ways to deal with
15 this problem. Burn less fuel, burn cleaner fuel,
16 and cleaning emissions after burning through
17 scrubbers or other technology. Our experience and
18 study shows that the most effective--cost-
19 effective and efficient was to do this is to burn
20 cleaner fuel. And that's what Intro 194 does. In
21 fact, Intro 194 adopts a cap on the amount of
22 sulphur and heating oil and institutes an across-
23 the-board requirement that all heating oil contain
24 at least 2% biodiesel fuel, which contains no
25 sulphur or heavy metals.

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2 Now, as I'm sure the committee
3 knows, New York City has a long history in
4 regulating air quality and taking decisive action
5 when it's necessary. I won't go through all of
6 that history now. We did stop burning coal long
7 ago, as Deputy Commissioner Kass said, and now
8 what we have left is one of the most significant
9 remaining sources of sulphur dioxide and
10 particulate matter comes from the burning of
11 number four and number six fuel oils. They have
12 the highest sulphur content of all commonly used
13 oils for heating and, in fact, New York City is
14 one of the only cities left that those heating
15 fuels are still used in substantial quantities.

16 The boilers using number four and
17 number six oil pollute more than other fuels and
18 it's readily observable by the general public.
19 The boilers are commonly the subjects of 311
20 complaints about the emission of smoke from a
21 building chimney that is caused by incomplete
22 combustion. That's because boilers using heavier
23 grades of oil are more difficult to operate and
24 properly maintain, and in fiscal year 2009 we had
25 approximately 2,200 complaints at DEP and issued

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2 about 500 violations in connection with these
3 types of boilers. Intro 194 has the two principal
4 components that I briefly mentioned. It caps the
5 allowable sulphur content in number four fuel oil
6 at 2,000 parts per million of sulphur--which is
7 the equivalent of number two fuel oil--and the
8 lowering of sulphur caps in number four and number
9 six is important because most pollution from the
10 building heating sector comes from the combustion
11 of those grades of oil. Of the city's million
12 buildings, less than 10,000 use number four and
13 number six heating oil and the rest use number two
14 heating oil, which is much cleaner, or natural
15 gas. Intro 194 is part of the mayor's long-term
16 strategy to improve air quality and Rohit's going
17 to testify more about that, but in terms of what
18 is the potential impact of the bill to prepare
19 boilers to be able to deal with this, we estimate
20 that it's relatively minor and, in most cases, to
21 do a tune-up that would be required it would cost
22 \$10,000 or less.

23 Now DEP issues permits for boilers
24 over a certain size--generally greater than the
25 units used in a one or two family home and smaller

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2 than those that are used in power plants. Those
3 are regulated by the state under Title V of the
4 Federal Clean Air Act. We regulate the heating
5 units in multi-family and commercial buildings and
6 we issue--we currently have about 67,000 permits
7 for combustion devices. Approximately 10,000 of
8 those use number four and number six oil. About
9 6,000 of those use number six oil and 4,000 use
10 number four oil. Some of them are dual burning.
11 Some use natural gas and have a capacity to use a
12 number of others and then there are some other
13 certificates of operation that are out there.
14 That's in preparation to put a boiler in. But you
15 still have--we're on top of what's out there and
16 we regulate it closely so we know--that's why we
17 have a good fix on the benefits and the potential
18 cost of this bill.

19 In connection with the bill we are
20 considering a follow-on rule that would require
21 that all equipment that currently burns number
22 four or number six fuel oil would have to use low
23 sulphur number fuel oil upon permit renewal. This
24 would effectively require the conversion of all
25 number four and number six boilers that we

1 regulate to low sulphur number four oil over the
2 three-year cycle that would end in 2015. So by
3 2015 we would effectively end the use of number
4 six oil in New York City. A shift from number
5 four to number six oil to low sulphur number four
6 fuel oil would result in dramatically lower
7 emissions of conventional pollutants. The
8 projected minimum annual reductions of pollutants
9 from the existing residual oil boilers would be
10 274 tons of particulate matter, 228 tons of fine
11 particulates, 2,231 tons of nitrogen oxides, 3,600
12 tons of sulphur dioxide and 76,000--almost 77,000
13 tons of carbon dioxide. This is the equivalent
14 particulate matter--2.5 reduction of eliminating
15 1.5 billion to 3.3 billion miles of heavy duty
16 truck traffic from New York City every year.

18 Moreover, we expect the use of low
19 sulphur number four oil to reduce Nichol emissions
20 by completely displacing number six oil and the
21 recent study that Deputy Commissioner Kass talked
22 about covered that ground. We've heard concerns
23 regarding this bill about whether there will be
24 enough low sulphur number four oil to meet demand
25 but we believe that concern is overstated.

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2 Producing enough low number four oil to meet the
3 increased demand will not be difficult. Existing
4 number four oil is made by blending number six and
5 number two oil into New York City's current
6 sulphur specifications.

7 Our market research shows that low
8 sulphur number four can be easily made by blending
9 number six oil with ultra low sulphur number two,
10 which has a sulphur content of less than 15 parts
11 per million. I know that in 1966 and '71 when the
12 council first considered the ground-breaking
13 legislation which started to regulate these
14 emissions in a significant way, the similar
15 argument about boutique fuel and the
16 unavailability was made and it didn't happen. We
17 think the same will happen here. Intro 194 also
18 requires that all grades of oil used in the city
19 contain 2% biodiesel.

20 In addition to the substantial air
21 quality benefits of the bill, this part of the
22 bill would also have a substantial impact on our
23 sewer infrastructure and improve water quality in
24 New York City. That's also of particular interest
25 to me at DEP. Why is that? Because a major

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2 source of the oil needed to create biodiesel fuel
3 is yellow grease. The city's more than 20,000
4 restaurants produce a tremendous amount of yellow
5 and brown grease every year and, while you're
6 prohibited from dumping that in catch basins and
7 down the drain, the fact is--and you just have to
8 go to one of our waste water treatment plants to
9 see it--we get a lot of grease. That grease
10 coagulates in our sewer system and causes sewer
11 backups. I've been out in the field and seen it
12 myself, and one way to eliminate that is to
13 incentivize the recycling and use of this yellow
14 grease.

15 This bill does that and, frankly,
16 the more incentives we can have to get people to
17 follow the law, in addition to, you know, the
18 prospect of violations, which are effective, but I
19 think if you have an economic incentive it can be
20 also effective and we think this at least goes
21 down the road of giving people a place where they
22 can take their yellow grease. So that's going to
23 have an immediate--that will have a direct impact,
24 we think, on the number of sewer backups and help
25 us deal with that problem as well. So, for me,

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2 that's also a significant issue and a benefit of
3 this bill.

4 Just to wrap up, as you heard from
5 Deputy Commissioner Kass, the combustion of
6 residual heating fuel oil has significant negative
7 impacts on public health. I urge you to pass this
8 bill, look forward to working with you on it and
9 the rules that would follow on from it, and we
10 think that this is a really important part of our
11 air quality bill. Thank you.

12 CHAIRPERSON KOPPELL: Thank you
13 very much, and thank you, also, for summarizing,
14 to some extent, and I saw you did that, and it
15 made it quicker and I hope other witnesses will
16 learn from what you did. Aggarwala.

17 ROHIT AGGARWALA: Yes. Thank you.
18 I'll go--oh, thanks--and hit the highlights of my
19 testimony.

20 CHAIRPERSON KOPPELL: Thank you.

21 ROHIT AGGARWALA: As you can tell,
22 this is a piece of legislation, an issue that the
23 administration cares deeply about, which is why we
24 have so much that we would like to say about it.
25 My name is Rohit T. Aggarwala. I'm the director

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2 of the Mayor's Office of Long-Term Planning and
3 Sustainability, and what I'm hoping to do is
4 really focus on a couple of key points about this
5 legislation, in part because the two issues that
6 this bill addresses are not new issues for the
7 administration to express opinions on, and one of
8 the things I'd like to do is explain why we see
9 now is the time, why we think this bill addresses
10 concerns that we've raised in the past.

11 As the commissioner pointed out, of
12 course air quality is an overarching goal of
13 PlaNYC. With your help on this committee and with
14 the city council and the speaker's leadership
15 we've done a lot. We've addressed school buses,
16 we've worked on hybrid taxicabs, we have been
17 working on construction vehicles, we are working
18 to reduce the city government's own consumption of
19 fuel oil and the emissions of the criteria
20 pollutants including, as you know, the PlaNYC
21 initiative to invest a huge sum of money in the
22 conversion of our public schools away from dirty
23 heating oil to clean natural gas, and we're making
24 great progress on that.

25 I'd also point out that nearly a

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2 decade ago NYCCA already completed the conversion
3 from dirty heating oil to natural gas. They use
4 virtually no heating oil on their properties and
5 one of the reasons they did so is that they find
6 that their maintenance costs and their fuel costs
7 are actually lower.

8 We've also, as you know--and I
9 won't go into the details that are in my written
10 testimony--we have piloted biodiesel in a number
11 of forms and to a number of levels at a series of
12 city facilities--the parks department, sanitation,
13 DEP, a number of other places, and by and large
14 what we've found is that there have not been any
15 operational issues. And we've used up to B20
16 levels, 20% bio, and at the 2% level that this
17 bill would require we're fairly confident that it
18 will be virtually a transparent shift with no
19 operational impact on the city's existing boilers
20 and, as I say, we know that from our own
21 experience. We've had very good results.

22 As you know, over the last three
23 years the administration has, and we in my office
24 have, raised some concerns about the potential for
25 mandating biofuel, and some of our concerns there

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2 have been addressed already by the EPA's analysis
3 that shows that even with the expected national
4 mix of biofuel sources, the fact is that we expect
5 biofuel, even if some of the biofuel comes from
6 food and other sources of supply, overall biofuel
7 is going to be both a carbon and a criteria
8 pollutant benefit and so I think that issue has
9 been addressed and particularly at the 2% level,
10 as the Commissioner pointed out, where we believe
11 roughly half of the supply of biofuel needed to
12 meet the B2 mandate could come from our own
13 product of yellow grease.

14 All right, the potential negative
15 impact on global food stocks, on land use patterns
16 across the world, et cetera, that have been
17 addressed were raised with some more aggressive
18 potential mandates. We don't believe those risks
19 are present with this modest incremental level
20 that would, nonetheless, foster a local green
21 economy, stimulate innovation, provide the sewage
22 benefits that the commissioner talked about, and
23 also have a 2% across-the-board reduction in
24 emissions of criteria pollutants which biofuels
25 would have.

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2 As a result we're pretty content
3 with the sustainability component of the biofuel
4 aspect of Intro 194. We have also in the past
5 testified on sulphur caps for heating oil in the
6 city and in January of 2008 we were reluctant to
7 support a city-wide sulphur cap on all forms of
8 heating oil, in part because we were fully
9 expecting, as the state had been promised, that
10 the state would be enacting, as part of a mid-
11 Atlantic and Northeast region, a set of
12 requirements for heating oil to go to 500 parts
13 per million sulphur or less by 2012, and 15 ppm or
14 less by 2016.

15 I note that it's now two plus years
16 down the road from that. There's been no action
17 at the state level. The argument against such an
18 action is always that we need more time. Of
19 course, that's two and a half years that, had we
20 actually set a date, we could have done it and, as
21 the Commissioner pointed out, thirty-some odd
22 years ago when the council first passed
23 legislation requiring a sulphur cap, the argument
24 was that it would take four to five years to
25 convert and, in fact, the implementation was

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2 accomplished in two years because the supply
3 constraints just did not materialize. And as a
4 result we think now is the time, in part because
5 number four, for historical reasons, was lumped
6 into the same standard as number six, even though
7 it's a different blend of fuel and therefore
8 doesn't need to have the same sulphur standard.

9 We think this is very different
10 from thinking about a broader two, four, and six
11 sulphur cap that has been proposed, and we also
12 think that it is absolutely necessary to start
13 this process on the local level so that we can
14 have further action at the state level. But we
15 can't wait for the state to act any longer. I
16 know a number of concerns have been expressed
17 about the potential cost impacts of this bill, and
18 as I conclude I'd like to just point out some of
19 the things that we've seen in the discussion and
20 the various analyses that we've done, and we've
21 worked with stake holders on many sides over the
22 last year and a half that we've been looking into
23 this issue about the potential cost impacts, and,
24 of course, whenever you do cost analyses the
25 potential for the misuse of statistics is quite

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present.

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And so what I'd like to do is just point out some of the areas where I have seen a lot of misuse of statistics. First of all, I'd point out that because of the sulphur caps that the city council enacted 40 and 38 years ago, the fact is that the high sulphur number four and six heating oil that's sold in New York City is different from that sold in the rest of New York State and certainly different from what's sold in the rest of the United States. As a result, if you hear price comparisons between six and four oil and low sulphur number four and natural gas or number two oil, you have to ask whether the reference point is what we're actually legally allowed to sell in the city or whether the reference point is something that's used elsewhere. If you use national or state-wide statistics on the price of number six or four, you're getting bad information and you're significantly overstating the incremental costs that Intro 194 and any other regulatory action would impose.

So I would encourage you always to

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2 ask whether you've got New York City prices being
3 cited. Another issue, as the Commissioner pointed
4 out, is the argument that we've heard that ultra-
5 low sulphur diesel as a blend stock to create
6 number six, which is--number six and number two
7 have to be combined to create number four, but
8 it's essentially unavailable because it's a
9 transportation fuel. The fact is that although
10 the dye is different because of a taxation regime,
11 number two and diesel oil are the same except for
12 the fact that the EPA has now mandated 15 parts
13 per million. That's the standard for
14 transportation on-road diesel fuel sold in the
15 United States.

16 The argument is sometimes made that
17 the price of ultra-low sulphur diesel, because it
18 is a transportation fuel, is more volatile and
19 fluctuates more wildly than heating oil, and that,
20 therefore, there are price spikes that are much
21 more extreme than one would see in heating oil,
22 and I just do not believe this to be the case.
23 First of all, the amount of ultra-low sulphur
24 diesel that would be necessary to blend with
25 number six to comply with the provisions of this

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2 bill, given that the total consumption of number
3 four oil in the five boroughs is about 84 million
4 gallons a year, is absolutely dwarfed by the
5 roughly 1.2 billion gallons of on-road diesel fuel
6 that is sold in New York State alone. And so
7 getting the roughly 50% of that 84 million gallons
8 a year from the transportation supply, as you can
9 see, is not going to significantly move that
10 market or create a shortage in diesel fuel that
11 would create price spikes. Another area that has
12 been identified of concern is the impact on rent
13 regulated buildings and what cost impact there
14 might be for tenants.

15 And I would caution you to remember
16 that, as the Commissioner pointed out, only a
17 minority of units in the city, and only a minority
18 of units in the rent-regulated stock, use number
19 four oil, and even a minority of those units only
20 use number four and six oil. So if you look at
21 the rent guidelines for the most recent price
22 index of operating costs, total fuel costs as in
23 the basket in which the rent guidelines where it
24 considers rent increase petitions, fuel costs are
25 between 10 and 11 percent of the total costs of

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2 buildings. However, only 1.47%, not 11%, is
3 number four oil. Only 1.47% is number four oil.
4 So if you want to consider the impact that Intro
5 194 would have on the overall cost of operating
6 the building stock in New York City, any potential
7 increase can only take place on the 1.47 that is
8 the cost of number four oil. It is not applicable
9 to the overall cost of the overall 10 to 11
10 percent because the majority of that is actually
11 number two oil already. Even if you consider
12 number four and number six oil, the total is still
13 only 3.95% of total operating costs, not the total
14 10 to 11 percent that is fuel costs in that
15 operating costs index.

16 So I think that's a very important
17 point to raise because as we've tried to think
18 through what the costs are, we have struggled to
19 understand what the cost would be that might
20 eventually get passed on to tenants. And at first
21 it's very easy to say, well, oh, 11% and whatever
22 price hike there might be on a base of 11% could
23 get passed on. In fact, that's a mistake and we
24 learned the hard way and I think you should be
25 protected against making that mistake, as well.

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2 One of the interesting things I'd also point out
3 in that most recent study from the rent guidelines
4 board--and I'll just quote from it in terms of the
5 relative availability and the price trajectories
6 of these different fuels, quote--over the past
7 eleven months fuel oil prices increased 6.7%. The
8 price for number two oil, which comprises more
9 than half of this component, declined 1.9%. In
10 contrast, prices for number four and number six
11 fuel oil increased, rising 15.6 and 22.5 percent,
12 respectively. That's in the report that was just
13 released two weeks ago by the rent guidelines
14 board.

15 Again, not to read my testimony,
16 there's some more in the written version, but
17 respecting the time constraints, Councilmember,
18 I'll just sum up to say that overall, as the
19 Deputy Commissioner and the Commissioner pointed
20 out, Intro 194 is a bill that will improve air
21 quality and public health, encourage green jobs,
22 foster the recycling of waste grease, and
23 accomplish all of this at a marginal cost.

24 I encourage you to act on this
25 Intro and we look forward to working with you on

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the details. Thank you.

CHAIRPERSON KOPPELL: Thank you very much. We've been joined by Council Member Elizabeth Crowley from Queens, member of the committee. Anyone else? No. I have a few questions and I'll also call on my colleagues in a moment. I'm a little bit confused as to the regulatory scheme here and who has power to do what.

Commissioner Holloway, in your statement you say in connection with Intro 194 DEP is considering a rule that would require that all equipment that currently burns number four and number six fuel oil would have to use low sulphur number four fuel oil would have to use low sulphur number four fuel oil upon permit renewal. Now-- well, I'll finish this. This would effectively require that conversion of all number four and number six boilers they we regulate to low sulphur number four over a three-year cycle ending in 2015.

I guess the first question I have is, I mean, if you can do all this by a rule, why do you need the legislation?

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2 CASWELL HOLLOWAY: That is a
3 question that we have grappled with and the short
4 answer is that in order to ensure that the
5 standard that gets set is, you know, really safe
6 from challenge, because we have the ability to
7 regulate certain aspects of the way that--of fuel
8 that is used, the materials that are used to be
9 combusted, but this Intro essentially defines a
10 fuel standard which we, you know, we were
11 concerned that, even though we think, you know, we
12 could do it by rule, it's more susceptible to
13 challenge and it really needs to be in
14 legislation.

15 CHAIRPERSON KOPPELL: Well, should
16 we maybe also consider your rule in the
17 legislation? That sounds good to me. I mean I
18 know I'm going to hear from people in the industry
19 who may disagree with this. I'm not taking those--
20 -I'm not taking those concerns lightly, but it
21 sounds good to me to eliminate the use of the
22 number six oil altogether. Why shouldn't we do
23 that in this legislation if your rule is subject
24 to a challenge?

25 CASWELL HOLLOWAY: Well, we'll do a

1 two-part answer there. First, just on the subject
2 of legislating where you can do rule-making, it is
3 important to note that it is more challenging and
4 difficult as a general matter to pass legislation
5 than it is to do rule-making and so, in terms of
6 flexibility and being able to make adjustments in
7 rules once you set the parameters, which this
8 legislation does, it gives us the ability to, you
9 know, make adjustments, and I'm not--you know, I
10 don't even have in my mind what those adjustments
11 would be down the road, but, you know, you want to
12 have a regime where you're able to respond to what
13 you're finding in the marketplace and in terms of
14 the overall impacts of the rule-making. So I
15 think that's why I would, you know, say I don't
16 think you want to legislate an entire
17 administrative regime and, Rohit, do you want to--
18 I mean, and in terms of the graduated nature of
19 the phase-out, we have been looking at this entire
20 issue in terms of what's affordable and what's
21 reasonable to do on what kind of a time-frame, and
22 that has been the product of many months of
23 consultation with stakeholders across the
24 spectrum.
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2 CHAIRPERSON KOPPELL: Well, I don't
3 want to belabor the point. I think that the
4 lawyers both for the council and for the
5 administration can discuss this. It seems to me
6 that if we're doing this and contemplating this
7 rule, maybe we ought to tie it up a little bit
8 more tightly and put your proposed rule into the
9 legislation. But I'll let the lawyers for the
10 committee look at that further. We've been joined
11 by--I think it's Peter Vallone down there. He's
12 kind of hiding and dressed in civilian clothes,
13 so.

14 COUNCIL MEMBER VALLONE: It's my
15 Friday from - - weekend protest.

16 CHAIRPERSON KOPPELL: Very good,
17 Counsel.

18 ROHIT AGGARWALA: Councilmember,
19 could I just add--

20 CHAIRPERSON KOPPELL: Sure.

21 ROHIT AGGARWALA: --one point the
22 Commissioner just made?

23 CHAIRPERSON KOPPELL: Yes.

24 ROHIT AGGARWALA: You know, one way
25 to think about the--what Intro 194 does in some

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2 ways is just amend the process or the regime that
3 the council established back in 1971. But what
4 the council did was essentially define number six
5 and number four as the same, and what we--and the
6 regulatory regime that was set up in those two
7 laws of '66 and '71 basically gave the department,
8 which was then, I think, the Department of Air
9 Quality, the ability to regulate around those two
10 oils, but it treated those two oils as one. What
11 Intro 194 does is it actually does much a more
12 precise definition and recognizes that number four
13 is different from number six, warrants a different
14 cap, but essentially preserves the rest of the
15 existing administrative regime.

16 CHAIRPERSON KOPPELL: But you are
17 confident that you could eliminate the number six
18 by rule.

19 ROHIT AGGARWALA: Today we believe
20 we have the legal authority to eliminate number
21 six. However, we would be eliminating, probably,
22 number four at the same time, and we think that
23 this rule would give us a much more precise way to
24 think about actively managing air quality at the
25 lowest possible cost.

2 CHAIRPERSON KOPPELL: Okay. Well,
3 as I say, the lawyers can look at that further.
4 It seems a little puzzling to me, but I understand
5 what you are saying. We've been joined by
6 Councilmember Steve Levin from Brooklyn. Welcome.
7 I don't know who wants to answer this, but on the
8 biodiesel, are there any fears of other possible
9 adverse health effects from the use of biodiesel,
10 or do we have conclusive evidence that the use of
11 biodiesel, whatever source that the biodiesel
12 comes from, is not going to be in any way
13 hazardous?

14 CASWELL HOLLOWAY: I don't know of
15 any information that would suggest that the 2% mix
16 would lead to adverse health outcomes. The
17 direction of this bill and of the possible rule-
18 making by DEP would certainly have substantial
19 health benefits overall.

20 CHAIRPERSON KOPPELL: So there's no
21 evidence that any adverse pathogens or other thing
22 coming from this grease that comes out of the
23 restaurants--it doesn't seem like a particularly
24 nice substance to me--that putting this into the
25 air, that's not going to cause any kind of

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problem?

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ROHIT AGGARWALA: No, I mean

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there's a further refinement process once grease

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is collected, before it becomes biodiesel fuel.

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But no, there's no direct problem associated with

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it. There may, in fact be additional consequences

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which commissioner Holloway did not mention, by

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removing some grease in the sewer system that we

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struggle with all the time, which is to try to

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reduce the rat population in New York City.

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CHAIRPERSON KOPPELL: Is there any

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way that we could have another benefit from this,

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in that--and to encourage the cultivation of any

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kind of plants that might help the agricultural

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sector? These plants could then be converted into

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biodiesel?

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CASWELL HOLLOWAY: Well, just on

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the land use and feedstock issue, that was the

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only source of concern that we had would be--you

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know, you hear concerns about whether it will just

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be palm oil that would lead to rain forest

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clearing or something like that. But again, at

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the 2% level the impacts are very small, and

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because half of it--I mean, New York's best

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2 agricultural product may well be the yellow grease
3 and, therefore, encouraging a market for that is
4 probably the best thing we could possibly do.

5 CHAIRPERSON KOPPELL: Uh-huh.

6 Okay. It was suggested that maybe there were some
7 crops that could be grown locally so we'd be
8 helping the agricultural sector. There's no
9 evidence of that, as far as you know, is that
10 right?

11 CASWELL HOLLOWAY: Not that I know
12 of, but I think the biofuel industry is still in
13 its early days. This will help foster innovation,
14 help it to grow, and it starts out at a very low
15 level and if, five, ten years from now a higher
16 level is feasible and the market is there then
17 there may be other benefits.

18 CHAIRPERSON KOPPELL: Okay.

19 ROHIT AGGARWALA: We have plenty of
20 grease, though.

21 CHAIRPERSON KOPPELL: Yeah. Well,
22 I imagine so. Councilmember Lander has a
23 question?

24 COUNCILMEMBER LANDER: Thank you,
25 Mr. Chairman. I have a few so let me know when

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2 you'd like the mic back.

3 CHAIRPERSON KOPPELL: Well, no,
4 just--you know, my only concern is we have so many
5 people who want to testify.

6 COUNCILMEMBER LANDER: Okay.

7 CHAIRPERSON KOPPELL: But go ahead,
8 please.

9 COUNCIL MEMBER LANDER: All right.
10 Well, first of all, thank you very much. It's
11 great to be here. I really appreciate the three
12 of you testifying. I appreciate the work you've
13 done. It's interesting to hear we used to have a
14 Department of Air Quality. But even without it I
15 really appreciate the work you've been doing.

16 The Community Air Study is
17 magnificent and I've heard a lot of positive
18 things from constituents about it and I think this
19 serious effort to move forward here is great. And
20 despite that I know we'll hear, in a few minutes,
21 from building owners, I'm especially excited to
22 hear about the anticipated rules change, whether
23 it's done by legislation or done by rules change.
24 While I think that this--194 is a great step
25 forward, getting us off of number six is

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2 obviously, as the studies have shown, the much
3 more significant health improver and air quality
4 improver in terms of sulphur dioxide, in terms of
5 particulate matter in particular. So I'm eager to
6 make sure that we thoughtfully move that forward.

7 And I will ask in a minute about
8 just the process and timetable on that. But I
9 want to first pick up on this question of where
10 the biodiesel's coming from because, while I
11 appreciate that at a lower level, more of it could
12 be fulfilled through the yellow grease, if the
13 cost of importing Malaysian palm oil is lower than
14 the cost of treating and providing yellow grease,
15 we're still not going to wind up not using the
16 yellow grease. So what steps are we taking, what
17 steps can we take, to make sure that the recycled
18 yellow grease is price competitive with the other
19 alternative sources of biodiesel so that that's
20 what is use--so we can get it used, rather than
21 just still the problem of it being collected and
22 not used.

23 ROHIT AGGARWALA: All right. It's
24 a very good question. I think that there are two
25 aspects to the answer I'd give. One is that we,

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2 in conjunction with the council and the Speaker's
3 office and a number of other entities around the
4 city have been working with the private non-profit
5 sector to foster the recycling--the collection and
6 recycling of waste grease. I think you're going
7 to hear later on from some folks in the industry
8 who can talk about a partnership that we've
9 encourage between the DOE [phonetic] fund and
10 metro fuel oils that would foster that.

11 We know, in fact, already that some
12 portion of the yellow grease is already being
13 taken out of state to be refined and sold to other
14 places as biofuel, so, in fact, we don't think
15 that on a systematic level the price difference
16 between, say, Malaysian palm oil and recycled
17 local yellow grease is such that we'll have
18 nothing but the palm oil.

19 COUNCIL MEMBER LANDER: Do we have
20 any sense of what that price difference is?

21 ROHIT AGGARWALA: I don't have it
22 at my fingertips. Again, it's about--when you
23 factor in the transportation and the fact that
24 essentially the stuff is free to start because
25 it's a waste product, we're reasonably confident

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2 that essentially the market--as long as we have
3 the right partnerships in place it will
4 essentially absorb up the yellow grease first.

5 I think the other answer to your
6 question is, there is a provision in the bill that
7 is one of the issues that I think we'd like to
8 work with the council and the staff on the details
9 of, just to make sure that this is truly a
10 renewable fuel in that way.

11 COUNCIL MEMBER LANDER: Now,
12 Commissioner Holloway, you said that about half of
13 the restaurants have the yellow grease picked up
14 by a licensed hauler. The other half are supposed
15 to, and aren't complying, or the other half just
16 decide not to, or?

17 CASWELL HOLLOWAY: Well, the other
18 half, we are not sure. And I recently, a week--
19 about two weeks ago met with the Business
20 Integrity Commission, who regulates haulers and
21 also has the ability to get information from
22 haulers, and we are going to look at increasing
23 the amount of information that we get from haulers
24 through BIC [phonetic] so that we know if they're
25 picking up. That'll give us a sense of how much,

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2 exactly, haulers are picking up, and then can give
3 us a way to go out and try to do--and I mean this
4 is a way to pick up enforcement, right? To figure
5 out who's doing it and who's not doing it. So I
6 don't think it's the case that the full 50% are
7 not complying, but we need to get our hands on
8 better information so we're taking the steps to do
9 that.

10 COUNCIL MEMBER LANDER: All right.
11 I just--as you can hear, my concern is that while
12 well intentioned, if we don't get the price of the
13 recycled grease down it's not what's going to wind
14 up as the blend, and so whatever we can do,
15 whether that's putting more regulatory pressure on
16 restaurants so we have a bigger supply, whether
17 that's helping with subsidies or regulatory relief
18 to the folks who are making it, and then I think
19 definitely tracking over time what is getting
20 blended in is going to be pretty important,
21 because I think we probably don't want to start by
22 requiring by law that it's recycled yellow grease
23 rather than Malaysian palm oil, but we need to do
24 everything we can to make sure that it is, or
25 else, you know, we're--anyway. So that's great.

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2 Thank you and I would like to--it'd
3 be great if you could keep us updated on that.

4 DANIEL KASS: I totally agree. I
5 mean I think in connection with rolling this out
6 you would have to have a pretty aggressive
7 information campaign and I think regulating it at
8 the hauler level will be an effective way to at
9 least get information about what is being captured
10 because 22,000 restaurants versus the number of
11 haulers is much less, so.

12 ROHIT AGGARWALA: I'll also just
13 add that there is a provision in the legislation
14 now and one that also we would like to work with
15 you on, that the data collection from the fuel
16 distributors is a critical piece of knowing what's
17 being sold where, where they're getting their
18 supplies from, and therefore we can see, roughly
19 speaking, you know not down to the individual
20 block level, not even necessarily that we would
21 want to publish at the distributor level because
22 there is some proprietary information there. But
23 if we have reliable data, for example, that shows
24 that of X million gallons that were supposed to be
25 sold to biofuel, the collective fuel distributors

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2 in New York City purchased X percent of their
3 biofuel component from soybeans and X percent was
4 recycled yellow grease and X percent came from
5 Malaysia. All right, that will give us,
6 essentially, a way to make sure that there is no
7 dramatic adverse effect.

8 COUNCIL MEMBER LANDER: Great.

9 So I would like a little more information on
10 your anticipated rule making because I'm eager to
11 see that get done. 2015 is a better year than I
12 had heard being discussed, and, you know, I'm not--
13 -I don't know if it--I mean I think Councilmember
14 Koppell's question about whether it should be by
15 local law or rule making is a good one, but
16 what's--can you give us a little more information
17 on the anticipated time table, tell me a little
18 about your rule making process, which I don't know
19 enough about.

20 So, when do you anticipate putting
21 out a draft, what's the review process, what's the
22 adoption process?

23 DANIEL KASS: Well, rule making is
24 done through the city CAPP [phonetic] process and
25 generally the agency puts the rule into the CAPP

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2 process and then there's a comment period, which
3 is a 30-day period, and then those comments are
4 taken into consideration by the agency and then a
5 final rule is published and then, generally within
6 another 30 days the rule becomes effective and the
7 rule can set its own terms in terms of when its
8 terms are applicable. We've been working on--we
9 are very close to having a good draft internally
10 on this, so we would be prepared to move very
11 quickly.

12 COUNCIL MEMBER LANDER: Great.

13 ROHIT AGGARWALA: I think one of
14 the key questions, insofar as Intro 194 does
15 essentially refine the existing regulatory
16 authority that DEP has in this area, the passage
17 of this bill is probably the critical step to the
18 administration finalizing and moving forward on
19 the best strategy. I think Intro 194 would give
20 us a much more precise cost effective set of tools
21 to use towards the cleanup of the overall problem
22 than if we have to make a rule without Intro 194.

23 COUNCIL MEMBER LANDER: Okay. And
24 let me just one more question now and then if I'll
25 just--then I'll get out of the way. But housing

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2 affordability is something that I certainly care a
3 lot about, so I appreciate your specific reference
4 to it. That, I think, relates a lot more to the
5 rule that's being anticipated than it really does
6 to 194, and I wonder, given the relatively
7 confined nature of the buildings that we're
8 talking about here, whether you've had some
9 dialogue with HPD or whether you could have some
10 dialogue with HPD about either using one of their
11 loan subsidy programs, their participation loan
12 program, or the Article 8A program to offer
13 financial incentives for conversion.

14 I mean you're going to be requiring
15 it, anyway, it sounds like, if you make the rule,
16 but if we could offer the financial incentives and
17 then, in exchange, folks who took them would not
18 be able to pass major capitol increases on to
19 their tenants.

20 This is a broad benefit, right?
21 The broad benefit of this conversion is helping
22 all New Yorkers. And so it certainly is a benefit
23 to the tenants in these buildings, to be sure, but
24 asking them to shoulder the cost of doing it, if
25 we could spread it out amongst the rest of us, it

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would be great to do.

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So I hope, as you're considering the rule, you will have some conversations with them about doing it. I might add, if we need some additional resources to be able to provide that subsidy, I'd be happy to think about doing it through some sort of surcharge on whatever percent of six keeps getting burned, even over time. You know, those folks who are burning four at that point, so that, essentially, you would have, like, a sulphur tax or something. We would have to have Albany work with that on us on it, but--with us on it, but maybe we could talk to them about continuing to incentivize burning two or switching to natural gas by considering a surcharge on six and finding some way to use those resources to help provide financial incentives for conversion. That's a lot of questions, but I only had one left, so I had to put them all in.

ROHIT AGGARWALA: Yeah. Let me see if I can at least start an answer to some of those. You know, one interesting point that you identify is there is a bit of an anomaly in that natural gas is taxed by the city whereas, in fact,

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heating oil is not.

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So, ironically, we're probably disincentivizing the cleanest fuel option. But that aside, I think the--you know, one point I'd make is that, of course, the boiler conversions that might be required to comply with any sort of these requirements, number one, only come from the regulations. Intro 194, it's important to note, requires no change in capital equipment for anyone.

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All right, that's a critical point. Obviously the regulatory path the Commissioner identified would. One of the key reasons that Intro 194 would allow us to take a more cost effective approach towards the cleanup of the overall heating oil challenge is that a conversion from six to low sulphur number four does not require a major capital upgrade. You do not, in most cases, need to replace the boiler. In fact you never need to replace the boiler for that. You may need to replace the burner, but only in a minority. It's otherwise a tune-up and a fuel tank test. And so this gives us a much finer tool to get the cost effective change done first and

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2 then think about the more expensive change over
3 time, perhaps on replacement, what have you,
4 rather than a more aggressive approach that just
5 says you've got to make a major capital change at
6 a scheduled point, which would be equally
7 impactful in terms of the underlying big problem
8 with number six, but would probably have an
9 overall higher cost for the same air quality
10 benefit.

11 So this Intro really would allow
12 the most cost effective approach to what we're
13 seeking--what we're all seeking to take place.
14 The final thing I'll just point out is that
15 virtually all of the capital changes that would be
16 necessary to go from six to four or six to two or
17 six to natural gas are already eligible for J51.
18 Right? So there is already a program in place
19 that would incentivize this.

20 DANIEL KASS: And Commissioner
21 Cestero and I have worked closely on all manner of
22 issues in terms of programs. We worked closely
23 together on the water data systems program that
24 we'd--you know, that the mayor set up for--in
25 connection with our lean sale this year. We'll

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2 certainly get together with him and look at, you
3 know, depending on--you move forward with this and
4 rule making, how can we make the impact as
5 bearable as possible?

6 CASWELL HOLLOWAY: I just--I think
7 it might be worth exploring essentially creating a
8 specific version of one of their loan programs--
9 participation loan program or 8A that would be
10 sort of specifically for conversions. You would
11 still get the J51, but you might also be able to
12 get low interest loan, essentially, to do it,
13 which might be worth doing. And if it were sort
14 of the same thing each time it might even be
15 faster and easier to process. So thank you very
16 much.

17 CHAIRPERSON KOPPELL: Thank you.
18 Have any of my other colleagues have any questions
19 to ask? I would just observe on the housing cost
20 issue, Mr. Aggarwala, while I appreciate what
21 you're saying about the percentage, we do also
22 have to be a little bit mindful of the impact on
23 particular owners, so that while it is true that
24 since a minority of owners use the more expensive
25 oil, if an increase is granted and it's a small

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2 increase because on the overall cost is less, that
3 doesn't mean that the person who uses the more
4 expensive oil isn't going to be particularly
5 adversely impacted, even though he won't get the
6 rent increase because he's only a small
7 percentage. So I realize that fuel oil is only a-
8 -altogether only about a 10% component, so it's
9 perhaps not of the most urgent importance, but I
10 think it's a little unfair, if I'm here and I use
11 the more expensive oil and you say, oh, well, this
12 isn't going to cost the tenants too much because
13 we're not going to give a big rent increase, then
14 I look at that and I say, yeah, but it's impacting
15 me. So I think you've got to be careful with
16 those numbers.

17 ROHIT AGGARWALA: Well, I think
18 that's [off-mic] got that one, sorry. That's a
19 very fair point, Councilmember. However, the way
20 I would think about it first of all is that from
21 the tenant's perspective you're right. What I was
22 saying is true but not--

23 CHAIRPERSON KOPPELL: Yes.

24 ROHIT AGGARWALA: --necessarily
25 from the individual landlord's perspective.

2 CHAIRPERSON KOPPELL: Right.

3 Right.

4 ROHIT AGGARWALA: However, when you
5 think about the fact that you've got 10,000
6 buildings that account for this massive portion of
7 our air pollution, and when you think about the
8 fact that already the majority of the rent
9 regulated stock is using the more expensive
10 cleaner fuel or has made the investment to convert
11 to natural gas, which is certainly at the moment,
12 it's predicted for the future, will save money
13 versus heating oil. Essentially what's happening
14 is the tenants, since everybody gets the same rent
15 hike--

16 CHAIRPERSON KOPPELL: Right.

17 ROHIT AGGARWALA: --the tenants or
18 the landlords who are burning the dirtier oil are
19 getting a windfall that the Rent Guidelines Board
20 is essentially evening out. All right, so that
21 the people who are already accepting the higher
22 cost, doing the more responsible thing are, in
23 fact, given smaller margins than those who are
24 burning four and six--

25 CHAIRPERSON KOPPELL: I think--

2 ROHIT AGGARWALA: -- -- .

3 CHAIRPERSON KOPPELL: --that's a
4 fair point. I just wanted to point out that the
5 statistical way you presented it ignores the
6 effect on an individual owner. I'm not saying I'm
7 opposed to it. I'm not opposed to it. I'm all in
8 favor of reducing the sulphur content. I'm not
9 opposed to it. Okay, I think, if no one has any
10 other questions we're going to go to the next--

11 COUNCIL MEMBER LANDER: Could I--I
12 just--I would--

13 CHAIRPERSON KOPPELL: Go ahead.

14 COUNCIL MEMBER LANDER: -- -- for
15 the one part of my question that--and I mean if
16 you don't want to give an answer today it's all
17 right but, especially given that the state
18 standards you discussed on sulphur in particular
19 are actually substantially lower than we would be
20 requiring by law today, so there's still clearly a
21 lot of room to make progress. I wonder what you
22 would think about, at a state level, considering
23 some sort of surcharge, either specifically on
24 sulphur or on particulates, or specifically on
25 what percent of number six people continue to

1 choose to burn.

2
3 ROHIT AGGARWALA: I think that's an
4 interesting angle we could think about in the
5 overall context. I think, you know, we believe
6 that the phase-out approach probably makes more
7 sense than just a taxation approach, but I'd also
8 point out to your point, the 500 or 15 parts per
9 million that's being considered at the state level
10 would actually be about number two oil, which is
11 currently at 2,000 parts per million in the city,
12 and not the four and six oil, which is at 3,000
13 parts per million.

14 COUNCIL MEMBER LANDER: None of
15 what I was saying was as an alternative to what
16 you're discussing as an addition, looking long-
17 term past the point at which there still would be
18 a lot of number four being burned.

19 DANIEL KASS: Well, the regime that
20 we're contemplating here is with Intro 194 and the
21 rule that we have, that you would basically
22 eliminate, from a heating oil perspective, the use
23 of number six oil by 2015. Right?

24 COUNCIL MEMBER LANDER: Well,
25 there'd still be some amount of it blended to the

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number--to the--

DANIEL KASS: Yes.

COUNCIL MEMBER LANDER: --low sulphur number four, so that's what I mean--

DANIEL KASS: Sure.

COUNCIL MEMBER LANDER: --when I say the continued use of six past.

DANIEL KASS: Right. Well, we want to get moving.

COUNCIL MEMBER LANDER: Good. This--I--this--none--again, all of this is a footnote to saying I support this effort and I look forward to helping move it forward.

CHAIRPERSON KOPPELL: Thank you. Thank you all very much. Thank you for--

DANIEL KASS: Could I--

CHAIRPERSON KOPPELL: --com--yes.

DANIEL KASS: --just say one thing before I--I must--

CHAIRPERSON KOPPELL: Yes.

DANIEL KASS: --note this is the final city council hearing for Rohit Aggarwala, the--

CHAIRPERSON KOPPELL: Oh.

1
2 DANIEL KASS: --Director of the
3 Mayor's Office of Long Term Planning and
4 Sustainability. It is a tremendous loss, but I
5 think the--just that the effort and where the city
6 is in terms of our sustainability efforts--there's
7 just no question that, without Rohit, who knows
8 where we would be. So I'm just going to say thank
9 you.

10 CHAIRPERSON KOPPELL: I think, on
11 behalf of all of my fellow members, the efforts
12 that you've made in the last few years of putting
13 together the plan and suggestions and already your
14 implemented plans really make a difference in the
15 life of this city, so thank you very much, on
16 behalf of the speaker and the council.

17 I want to try and sort of balance
18 the witnesses, so I'm now going to call some
19 industry witnesses, and then after that I'm going
20 to call some environmental advocates, and I'm
21 doing it in that order so that we have kind of
22 balance. We now have the proposal before us. We
23 will hear what some of the industry witnesses have
24 to say. Brent Baker, Tri-State Biodiesel; Don
25 Scott, National Biodiesel Board; Richard Nelson,

National Biodiesel Board; and John Maniscalco, New York Heating Association--Oil Heating Association.

You can go in that order or if you have some preference for different order it's Okay with me.

You have another one?

MALE VOICE: Yeah.

CHAIRPERSON KOPPELL: Two more.

One more.

MALE VOICE: Two more? One more?

CHAIRPERSON KOPPELL: Who's going to go first? Who's going first? Go ahead, please. Introduce yourself so we have it on the record and then please proceed.

BRENT BAKER: I'm Brent Baker. I'm a life-long environmentalist who's been an advocate for combating global warming for about 20 years. About 15 of those years has been advocacy of biodiesel as a very effective way to lower carbon emissions and pollution. So I take slight offense to being saying--as an industry, and not an environmentalist. I'm actually both and first an environmentalist who started a company to--

CHAIRPERSON KOPPELL: I stand corrected.

1
2 BRENT BAKER: --to further those
3 goals. So thank you. Thank you very much to the
4 council members and the Mayor's office for having
5 this important debate, and I'm very honored to be
6 the first speaker here. So thank you very much.
7 And I will tell the truth. That usually happens,
8 but, you know. Usually they swear us in. I've
9 done this a bunch of times. It's been probably
10 five years since we've been talking about this
11 bill, so I hope we can get it passed this time.

12 CHAIRPERSON KOPPELL: Let me say,
13 incidentally, because, you know, I've limited the
14 other speakers, but the administration, we let
15 them go on. But we're now going to have a time
16 limit so we can get through witnesses, and we're
17 going to have a five minute time limit per witness
18 and that doesn't include questions. Five minutes,
19 and we'll be setting the clock when the sergeant
20 gets a chance, but go ahead, please.

21 BRENT BAKER: Okay, you got it.
22 Well, I'm going to go right through these. First
23 thing I'm going to talk about today is global
24 warming. Some of you may have heard of this
25 concept. It's a very, very important development

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on the planet earth. It affects all human beings.

The sulphur content of heating oil has no effect on global warming, whether there's tons of sulphur or no sulphur in heating oil, it has no effect on global warming. What affects global warming, people, is carbon, and all of the environmentalists in the room should know that. So in order to lower the carbon content of this fuel, the biodiesel component is very, very important.

I believe, as an environmentalist, that we need to go to a carbon-neutral society, and I think that that belief is shared by all of the major environmental organizations and hopefully someday will be shared by all the population. We need a carbon-neutral society. Biodiesel, grown in a responsible way, made from waste, made from algae, can be a carbon-neutral fuel that can service industry, that can service the sector of our society that runs trains, trucks, boilers. That's why it's important. It's not the magic bullet for everything but it's a very important part of that magic shotgun that gets us to a carbon-neutral world and a

1 sustainable world.

2
3 So let's not gloss over carbon
4 today. I didn't hear anyone earlier talking about
5 that so I wanted to mention that. The impact of
6 just 2% in our heating oil is the carbon
7 equivalent, by my calculations, of removing 30,000
8 vehicles from the road every year here in the
9 city. Thirty thousand vehicles. That's more than
10 significant. That, I believe, is on par with what
11 we were looking at with carbon--with the
12 congestion pricing that was so vigorously debated.
13 And guess what? The cost of this to New Yorkers
14 is virtually nil. So I really applaud this bill.

15 I think this bill is going in
16 exactly the right direction. Two percent is a
17 great place to start but I hope that will
18 increase. There's a lot of bad information out
19 there about biodiesel. A lot of what I do as an
20 owner of a company is educate. So I want to talk
21 about soybean oil.

22 Well, first of all I'll say that
23 Tri-State Biodiesel is the first company in the
24 city that said we're going to make a company
25 that's going to recycle cooking oil, make it into

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2 biodiesel. We've been doing it for five years. I
3 believe we're the biggest recycler of cooking oil
4 in the city. We're on track to do about two
5 million a year right now. That's where we are
6 now. We hope to continue to increase that and
7 we're doing it because we believe in it. Now for
8 years we talked about soy biodiesel and the issue
9 of food and indirect land use. This is
10 significant for biodiesel because a lot of the
11 feedstock for biodiesel in the United States comes
12 from soybeans.

13 Well, for years we said, well, the
14 EPA's having a debate about this. Well, finally,
15 earlier this year the EPA, after looking at the
16 issue of indirect land use and other unintended
17 consequences of using soybean oil, made a ruling.
18 And their ruling was that soybean oil biodiesel--
19 and biodiesel in general is the only advanced
20 biofuel. It's the only commercially available
21 fuel that qualifies as advanced biofuel. So when
22 you go and look at that EPA finding you'll see
23 that biodiesel stands alone as the only advanced
24 biofuel that's commercially available in America.
25 This is the best fuel available. So we don't have

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2 to be as concerned about soybean oil. Soybean oil
3 is not a bad thing.

4 The studies that were done by the
5 EPA looked at everything from the far left peak
6 oil people to all the different science studies.
7 They did a year and a half, they heard from all
8 the players. Their determination was that, on
9 average, soybean oil biodiesel was a 57% reduction
10 in lifecycle carbon. That includes all the
11 fertilizers, that includes any offsets for land
12 use. Fifty-seven percent reduction overnight when
13 you use soybean biodiesel. And if you buy
14 biodiesel from us, that's made from cooking oil,
15 your reduction, on average, is between 85 and 100%
16 carbon reduction on that gallon of biodiesel you
17 use. So this is huge. This is huge. And so it's
18 important to understand that all biofuels are not
19 the same, and soybean biodiesel is actually great,
20 always cooking oil bio is great, and so is animal
21 fat bio. Those are the three feed stocks that we
22 have in New York.

23 I'm in the industry, I trade it
24 every day, I know all the manufacturers in the
25 region, I talk to them every week. I know most of

1
2 the marketers. Some of them are here--a lot of
3 them are here today. The feed stocks that we use
4 for biodiesel in New York today--primarily soybean
5 oil, waste cooking oil, waste animal fats. that's
6 what's going in--waste animal fats and waste
7 cooking oil, on average, 85% carbon reduction;
8 soybean oil 57% carbon reduction. So, using those
9 numbers we come up with a carbon reduction 30,000-
10 -it's actually 337 million pounds of carbon
11 reduction per year, just on the 2% bill. It's
12 removing 30,000 cars from the road. The average
13 car is 11,000 pounds carbon. Okay, so this is a
14 great thing. It's going in the right direction.

15 I also have statistics that I'm
16 happy to share that look at the sulphur content.
17 There is zero sulphur in biodiesel. I don't care
18 if it's from palm oil, soybean oil, whatever.
19 It's zero sulphur. So those that are concerned
20 with sulphur, let's put more biodiesel in, because
21 when we lower the sulphur in petroleum we're doing
22 something great for health. But we put biodiesel
23 in petroleum, we lower the sulphur and we're doing
24 something great for the environment by lowering
25 the carbon content. So, thank you, and I'd be

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glad to answer some more questions.

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CHAIRPERSON KOPPELL: Thank you.

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Next.

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DON SCOTT: Good morning. My name is Don Scott. I appreciate the opportunity to be here. I serve as Director of Sustainability for the National Biodiesel Board. It was also my pleasure to present to this committee in February of 2009 about the environmental benefits of biodiesel, and there've been lots of significant improvements in lifecycle analysis in the past year and I wanted to share some of those findings with you.

In late September of 2009 the United States Department of Agriculture published a study on the energy lifecycle assessment of soybean biodiesel that concluded the renewable energy ratio of soy biodiesel will reach 5.4 by 2015. This means that for every unit of energy we put into making biodiesel, 5.4 units of usable energy are produced. And the study's finding a strong trend in that improvement--improvements in farming technology, improvement in biodiesel production. And so as petroleum supplies are

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2 diminishing, getting harder to access, harder to
3 extract and harder to refine, biodiesel continues
4 to get better.

5 So the relative improvement for
6 biodiesel is going to improve with time, as well.
7 And while that study from USDA included the
8 planting and harvesting and production of soybeans
9 and processing the biodiesel, it's also important
10 to note that biodiesel is made of lots of
11 different feed stocks in the U.S. In 2009 soy
12 biodiesel was 46% of the biodiesel produced in the
13 U.S. So more than half of the biodiesel produced
14 in the U.S. was made from other feed stocks
15 including the animal fats and recycled greases,
16 and that's really the trend that we expect going
17 forward. We expect that volume of soy biodiesel
18 to remain relatively steady, and while we support
19 the growing industry we can incentivize innovation
20 that brings about utilization of more wastes and
21 recycled products. In February of this year EPA
22 published their lifecycle analysis, as Brent
23 discussed. I won't repeat the GHG numbers that
24 Brent described. I will point out that, while we
25 support the direct emissions that EPA calculated

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2 for biodiesel, they didn't quite give us the full
3 credit for the efficiency of biodiesel today. EPA
4 recognized that biodiesel will improve between now
5 and 2022, but, in fact, biodiesel production today
6 is more efficient than they include even in their
7 projections to the future.

8 Something that I think you'll find
9 interesting about EPA's rule for the renewable
10 fuel standard is that they have published life
11 cycle analysis for the waste greases and animal
12 fats and for the soy biodiesel, but they have not
13 published lifecycle analysis for palm oil
14 biodiesel or other forms of vegetable oil
15 biodiesel. And so that means until EPA publishes
16 lifecycle analyses for palm oil biodiesel that
17 shows it also meets the 50% greenhouse gas
18 reduction, those fuels are not eligible for the
19 RFS, and so they won't compete on a level playing
20 field with the local forms of biodiesel. So as I
21 tried to imply, the science of evaluating
22 biodiesels is always improving or continually
23 improve as biodiesel itself improves. In March of
24 this year the latest lifecycle inventory in
25 existence was released by the United Soybean

1 Board. This was conducted in accordance with the
2 standards of the International Standards
3 Organization and includes data that wasn't
4 previously available to EPA and other lifecycle
5 analyses. A few of the highlights of this latest
6 study show that annual production of soybean in
7 the U.S. sequesters an amount of carbon dioxide
8 equivalent to taking 21 million vehicles off of
9 the road. The new studies showed that soybean
10 crushing facilities reduced their energy
11 consumption by 45%, increased yield of oil by 11%,
12 and increased yield of protein meal by 4%, and
13 that 20% less energy is now needed to produce
14 biodiesel compared to previous estimates. That
15 study goes on to conclude that biodiesel is
16 superior to petroleum production not only in
17 global warming potential but also in reducing
18 acidification potential, smog formation, potential
19 human toxicity for cancer and non-cancer related
20 illnesses.
21

22 Once again, I thank you for the
23 opportunity to be here today. I thank you for
24 your leadership on issues related to biodiesel and
25 green energy. The National Biodiesel Board is

1
2 committed to rigorous scientific analysis of
3 biodiesel and its environmental impacts. As
4 always, we're glad to answer any questions you may
5 have.

6 CHAIRPERSON KOPPELL: Thank you.
7 Who would like to go next, please?

8 RICHARD NELSON: Good morning. My
9 name is Richard Nelson. I work with the Center
10 for Sustainable Energy at Kansas State University.
11 I'm a contractor to the National Biodiesel Board.
12 I've also worked in this area for about 20 years
13 doing a lot of consulting work with the National
14 Energy Laboratories, and presently I am a member
15 of the California Resources Board Low Carbon Fuel
16 Standard Expert Working Group that is examining
17 issues associated with indirect land use. And I
18 won't touch on some of the areas that have been
19 touched on before, but my testimony today is to
20 talk about the fact that the number for the
21 lifecycle analysis, including all the indirect
22 land use effects, how it has been--the EPA
23 accepted study now is at 57%, as was said before,
24 for waste grease is it's roughly 85%.

25 And the key with this is, when the

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2 numbers first came out and looked at this, they
3 weren't anywhere close to this and, by getting the
4 right people involved and getting the agricultural
5 community, and doing some sound scientific and
6 technical engineering aspects, putting those into
7 the analysis and looking at this--because a lot of
8 the things that came out at the very first we
9 didn't know a lot about. There just wasn't hard
10 data, there wasn't real world data, which was very
11 important, especially from the agricultural
12 community. We were able to lower that number, and
13 it gives what is, we believe, is obviously a very
14 real world number associated with the--including
15 the indirect land use effects. So it is
16 sustainable versus the 2005 petroleum base line
17 that EPA set of 50%. This work will continue on.
18 As I said, I am a member of the CARBS Expert
19 Working Group on this, and we're examining more
20 issues to get better data all throughout the world
21 looking at land use effects with this. And we are
22 looking at different feed stocks like canola and
23 camelina, also looking at some of the more waste
24 feed stocks as well. So the key point I want to
25 make here today is, this is an evolving process.

2 Yes, we've got the number below the 50% but we're
3 going to keep working on that number to get better
4 scientific data that'll benefit all different
5 areas of biofuels as well. So with that I'll give
6 you some time back. I'll be glad to answer any
7 questions.

8 CHAIRPERSON KOPPELL: Thank you.

9 Thank you.

10 RICHARD NELSON: We're from Kansas.

11 We're short.

12 CHAIRPERSON KOPPELL: Thank you
13 very much. Thank you for coming today, by the
14 way. Did you come all the way from Kansas?

15 RICHARD NELSON: I came from
16 Manhattan.

17 CHAIRPERSON KOPPELL: Oh, okay.

18 RICHARD NELSON: The little apple.

19 JOHN MANISCALCO: Good morning
20 Councilman Koppell and members of the
21 Environmental Protection Committee. My name is
22 John Maniscalco and I'm the CEO of the New York
23 Oil Heating Association, New York City's primary
24 heating oil trade association that has been
25 advocating on behalf of heating oil terminals,

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2 retailers, and heating oil associated businesses
3 for 71 years. Our members are primarily family
4 owned businesses located throughout the five
5 boroughs. Thank you for the opportunity to
6 testify on Intro 194 which requires that all
7 heating oil sold in the City of New York contain
8 at least 2% biodiesel beginning in 2011 heating
9 season. In other words, all heating oil must be
10 what is called the B2 blend or higher, and I
11 always strongly support this measure. Today
12 heating oil in New York City is already by far the
13 cleanest heating oil sold anywhere in the United
14 States. However, there are additional steps that
15 we can take to further improve this critically
16 important fuel for the 1.1 million heating oil
17 households in New York City. Intro 194 represents
18 a significant step in accomplishing this and
19 should be passed as soon as possible. Biodiesel
20 has proven successful in several different blend
21 levels and all heating oil grades. Several of our
22 member companies have been selling biodiesel up to
23 a B20 blend for many years now, and report high
24 customer satisfaction. Several more companies
25 would like to start selling biodiesel for their

1 customers, which is cleaner than traditional
2 heating oil but have been reluctant for a variety
3 of reasons, including lack of available tank
4 storage that would require for a separate fuel.
5 Requiring all heating oil companies to stock and
6 sell a bio-blended product creates a new standard
7 and ensures a level playing field. Approximately
8 one billion gallons of heating oil is sold in New
9 York City, requiring that 20 million of those
10 gallons would be replaced by renewable fuel that
11 has zero sulphur is highly significant. While
12 fossil fuels such as petroleum and natural gas are
13 not going to be replaced entirely by renewable
14 fuels, the B2 bio-heating oil requirement is a
15 good and necessary step toward making our country
16 more energy independent. Eventually we would hope
17 to be at the place where B20 becomes the standard.
18 This all being said I have some specific concerns
19 that I ask the committee to consider. The bill
20 requires all heating oil dealers to provide, on an
21 annual basis, information about the fuel it is
22 selling, including volume, percentages of
23 biodiesel, and, I quote, the average sulphur and
24 ash content of each fuel sold that year in each of
25

1 the five boroughs, unquote. First of all, short
2 of a costly lab analysis, I am unaware of how to
3 calculate the ash content or what, exactly, that
4 means. Secondly, I am concerned about providing
5 numbers that are specific to each borough because
6 most of my company's computer systems--computer
7 systems are not set up to capture this information
8 by borough or zip code. While I understand that
9 the city is trying to get the most accurate read
10 of heating oil usage possible, I am very concerned
11 that these requirements would impose an unfair
12 economic burden on those already heavily regulated
13 companies. The bill recognizes NYOHA's role as an
14 industry representative by enabling NYOHA to act
15 as an aggregator of fuel. That is so as to
16 protect member companies from revealing
17 confidential information about their volume and
18 customer base. In the same vein I would like see
19 NYOHA consulted by the city before issuing any
20 waivers to agencies or building owners. NYOHA is
21 uniquely positioned to provide useful market
22 information pertaining to most waiver criteria,
23 including cost and supply of biodiesel, and would
24 like the opportunity to weigh in with the city.
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2 NYOHA's concerns about the quality, supply, and
3 cost are largely answered in the bill's language,
4 although I believe that the 20% price disparity
5 threshold that is required for waiver
6 consideration is too high. A 15% threshold would
7 give consumers and industry a higher degree of
8 comfort. It's critical to--important that the
9 biodiesel meets ASTND6751 and that the heating oil
10 meets ASTND396 as stated in the bill. Finally,
11 Intro 194 imposes a sulphur standard for number
12 four oil. Number four oil is a blend of number
13 two and six, the latter being heavy residential
14 oil. The number four and six oil market is highly
15 specialized within the heating oil industry and is
16 a good degree smaller than the two oil market.
17 Very few companies handle these products. The
18 bill empowers the commissioner, which I presume
19 with DEP, to impose anything between 1,000 and
20 2,000 parts per million. I would like to point
21 out to the committee that, at the highest end of
22 the spectrum, number four oil would have the same
23 sulphur content as today's number two oil and,
24 therefore, yield the same environmental benefits
25 as when the six oil building converts to two. As

2 to whether this can technically be accomplished in
3 an economical manner by 2012, the time frame which
4 is stated in the bill, I would defer to those
5 terminals in New York City that produce this
6 product and encourage that you listen to any
7 concerns they may have. Thank you very much.

8 CHAIRPERSON KOPPELL: Thank you
9 very much for that positive testimony. We
10 appreciate that and we understand and make note of
11 your concerns. Thank you. Thank you very much.
12 Mr. Nelson, you meant Manhattan, Kansas--

13 RICHARD NELSON: That's correct.

14 CHAIRPERSON KOPPELL: --or
15 Manhattan, New York?

16 RICHARD NELSON: No, Manhattan,
17 Kansas.

18 CHAIRPERSON KOPPELL: Yeah, I think
19 people thought you meant Manhattan here--

20 RICHARD NELSON: No.

21 CHAIRPERSON KOPPELL: --but I
22 wanted to make it clear you did come from Kansas.

23 RICHARD NELSON: I did come from
24 Kansas.

25 CHAIRPERSON KOPPELL: Okay. I know

1
2 that's not a very technical question, but I
3 thought people maybe misunderstood that. Do you
4 have a question, Councilman?

5 COUNCILMEMBER LANDER: Yeah, just a
6 question or two for the gentleman from Tri-State.

7 CHAIRPERSON KOPPELL: Please.

8 COUNCILMEMBER LANDER: First, thank
9 you for raising the carbon issue and flagging it
10 for us. And second, on the difference between
11 recycled grease and fat and other oils I
12 appreciate your testimony and I certainly didn't
13 mean to imply in my earlier questions that we're
14 against the use of those other fuels. I think the
15 challenge is to figure out what we can do to
16 incentivize the recycling of the grease and the
17 fat, which has a range of benefits, as you heard
18 from the commissioner. So as my first question
19 is, what do you experience the price--you know,
20 how do you think the price--what's the price
21 differential between the biodiesel that you're
22 recycling and able to sell and biodiesel today
23 that's coming in from soy or canola or other--palm
24 or other sources? And I guess the second part is,
25 are there things you think the city could do to be

1
2 helpful in enabling you to sell at a competitive
3 price so that, as we increase the requirement, we
4 can have confidence that more of it's going to be
5 recycled grease?

6 BRENT BAKER: Sure. Thank you.

7 The economics dictate that the waste materials as
8 a feedstock for biodiesel tend to be cheaper, as
9 one might think. So although the pricing
10 structure of different companies is all related to
11 transportation production cost, in the case of
12 wastes of collection cost, so they will vary
13 within but, in general, you would expect to see
14 the virgin soybean oil be a higher price than your
15 waste cooking oil or your animal fat based
16 biodiesel. And that is why, in our region,
17 particular, because we're not a big farmland area,
18 that we see a pretty high percentage in our region
19 of the waste feed stocks for the biodiesel versus,
20 say, Kansas, where there's a lot of croplands and
21 there's a lot of folks that are able to grow and
22 get that soy biodiesel to market pretty
23 effectively right in their local area. And they
24 probably don't have as many fast foods. So when,
25 you know, the mayor's folks said our crop is waste

1
2 cooking oil, that's true. Also animal fats, all
3 of the, you know, the meat industry, whether it's
4 out the tail end from the butcher shops or at the
5 factory level that manufactures the meat products,
6 there's actually a waste stream from that, too,
7 that goes into biodiesel, and that makes a good
8 low-cost biodiesel. So economically, I think
9 that, you know, we're not going to have to, you
10 know, if I was a politician I wouldn't feel like I
11 had to legislate it because I would know
12 economically it's naturally going to gravitate to
13 the lower cost feed stocks. And one thing about
14 palm oil--and I know that's a concern. It's a
15 concern of mine, too. Two things I'll say about
16 palm oil. One is, not all palm oil is burning
17 down villages in Malaysia. I mean, there are
18 actually legitimate farms that have sustainable
19 farming practices. That's a real thing. But palm
20 oil--the physical property of it is that it gels
21 at about 55 to 60 degrees. It turns to Vaseline.
22 So we don't use palm oil. Having nothing to do
23 with the cost, who wants jelly in their--you know,
24 we're trying to get rid of that. We're dealing
25 with liquid products. So, you're not going to see

1 a lot of palm oil in New York in the winter
2 because it's just--it's not a good functioning
3 fuel. You have to heat it the whole way, and, you
4 know, most people aren't set up to do that, so you
5 are going to gravitate, again, to the low-cost
6 cold flow guys, and that's going to be waste
7 cooking oil. And by our analysis there's enough
8 waste cooking oil to go almost the whole way, just
9 in the five boroughs. So I think this is going
10 the right direction and this will encourage people
11 to invest in the next generation, which is algae,
12 which is crops that are more efficient. And guess
13 what? There's a lot of farmland upstate. Guys
14 could be growing crops there and make food and
15 fuel on the same cropland and get some jobs, too.
16 So thank you.

17
18 COUNCILMEMBER LANDER: Thank you.

19 CHAIRPERSON KOPPELL: Thank you
20 very much, gentlemen. Thank you for your
21 testimony. I'd like to now call two additional
22 industry representatives--Michael Romita, Castle
23 Oil, and Gene Pullo, Metro Terminals.

24 MALE VOICE: [Off-mic]

25 CHAIRPERSON KOPPELL: Sure. We

1
2 also have some comments submitted by Hess' F.
3 Borden Walker. They'll be included in the record.
4 They were not able to testify today.

5 MICHAEL ROMITA: Good morning. My
6 name is Michael N. Romita. I am the Executive
7 Vice-President of Castle Oil Corporation, an
8 independent fuel oil distributor in New York City.
9 Castle was founded in 1928 by my grandfather and
10 it remains 100% family owned and operated. From
11 our operations in the Bronx, Castle supplies all
12 grades of fuel oil to thousands of buildings and
13 institutions in every borough of New York City.
14 We employ union workers through our terminal
15 service and delivery operations. On behalf of
16 Castle, and in the interest of our customers and
17 employees, I appreciate the opportunity to comment
18 on the proposed legislation. Together with the
19 real estate community and organized labor, Castle
20 has been actively engaged in discussions with the
21 Mayor's Office of Long-Term Planning and
22 Sustainability and the Department of Environmental
23 Protection concerning the proposed phase-out of
24 certain types of residual fuel oils, numbers four
25 and six oil. This is a highly complex issue that

1 involves a major change in the quantity and type
2 of energy used in New York City. The issue
3 encompasses a wide variety of important
4 considerations, including energy supply and
5 availability, energy infrastructure, air quality,
6 energy prices and price risks, affordable housing,
7 and union jobs. It will have a great impact on
8 consumers, businesses, and workers in the city.
9 Under proposed city council legislation addressing
10 fuel oils used for residential and commercial
11 heating, distributors of number four fuel oil, a
12 product used in apartment houses, schools, and
13 small business establishments would be required to
14 sell a fuel oil with a substantially lower sulphur
15 content than is currently used today. The
16 Department of Environmental Protection would be
17 granted the discretion to establish a new lower
18 sulphur content between .1 and .2 percent. Castle
19 supports the efforts to codify a lower sulphur
20 standard for number four fuel oil in the broader
21 context of other changes that it has discussed
22 with the Bloomberg administration. However, in
23 its present form the draft legislation under
24 consideration by the City Council does not fully
25

1
2 consider the practicalities of the local fuel oil
3 market and will cause significant harm to the
4 city's homeowners and other consumers. It'll
5 result in higher energy prices and risk
6 substantial unanticipated price spikes. These
7 adverse consequences can be avoided to a
8 significant degree as long as the new lower
9 sulphur standard for number four fuel oil, one, is
10 not set below .2% by weight, and two, does not
11 become effective before 2015 when the market for
12 lower sulphur blended components, ultralow sulphur
13 diesel, or a lower sulphur home heating oil that
14 are used to produce number four fuel oil has more
15 fully matured. Number four fuel oil is a blend of
16 number six fuel oil and number two heating oil in
17 ratios designed to meet specific physical
18 properties which make the fuels suitable for use
19 in certain kinds of heating equipment. The
20 current sulphur standard for both number four and
21 number six fuel oil is .3%. The current sulphur
22 standard for number two heating oil is .2%. To
23 reduce the sulphur standard of number four fuel
24 oil currently, producers will have to blend number
25 six fuel oil with ultralow sulphur diesel, a

1 transportation fuel with a sulphur content of
2 .0015%, or a lower sulphur number two heating oil.
3 Both are more expensive than the number two
4 heating oil used today to produce number four fuel
5 oil. More importantly, reducing the sulphur
6 content of number four fuel oil below .2%, the
7 current standard for number two heating oil, will
8 require the use of a much higher percentage of the
9 more expensive blending component than is
10 currently required. For example, today a producer
11 of number four oil may use approximately 35%
12 number two heating oil in its blend. To meet a
13 substantially lower sulphur standard, below 2,000
14 parts per million, or .2, a producer will likely
15 use about 65% of the lower sulphur and more
16 expensive heating oil component. Thus the cost of
17 number four fuel oil will be increased.
18 Historical data indicates that a 1% sulphur
19 standard at the low end of the proposed range
20 would have cost consumers using number four fuel
21 oil about 20 cents more per gallon over the past
22 three years, the only period for which ULSD
23 pricing is available. During certain periods the
24 price premium on this hypothetical fuel blend
25

1 would have approached 60 cents a gallon. If
2 forced to switch fuels, consumers of number six
3 fuel oil would have had to pay almost 40 cents and
4 up to a dollar more per gallon during this same
5 period. These increases would fall hardest on the
6 city's low income and rent stabilized housing
7 sectors and raise rents for tenants in these types
8 of buildings by \$76 to \$91 per month. These risks
9 remain if the sulphur standard for number four
10 fuel oil was set below .2%, even after 2015. The
11 proposed timeframe of October 2015 for a .2%
12 sulphur standard will provide the refining
13 industry with sufficient lead time to make lower
14 sulphur heating oil readily available to markets
15 throughout the mid-Atlantic states and readily
16 available for number four fuel oil blending at
17 more stable prices. The petroleum refining sector
18 has publicly announced that it can begin producing
19 low sulphur number two heating oil for the mid-
20 Atlantic states by 2015, and it has openly
21 advocated this position on pending low sulphur
22 heating oil legislation currently under
23 consideration by the New York state legislature.
24 The timeframe would also place the city in a
25

1 position consistent with various legislative
2 efforts in surrounding states, as well as
3 coordinated regional government initiatives
4 focused on responsibly phasing in low sulphur
5 number two heating oil. These initiatives include
6 the Mid-Atlantic Northeast Visibility Union and
7 the Northeast States for Coordinated Air Use
8 Management. As proposed by members of the real
9 estate community, Castle further supports the
10 introduction of a mechanism to determine whether
11 an adequate supply of low sulphur heating oil
12 exists at competitive prices and quantities
13 necessary to produce the expected demand for
14 number four fuel oil as the low sulphur deadline
15 approaches. Castle's position is allied with the
16 city's major real estate organizations and
17 organized labor. Collectively, we believe it is
18 possible to reach a consensus with the city that
19 moves consumers towards a cleaner burning fuel oil
20 in a responsible and practical fashion. However,
21 if the sulphur standard for number fuel oil is set
22 below .2% at any point, and if the current sulphur
23 is lowered prior to 2015 the city's actions will
24 unnecessarily expose these consumers to much
25

1 higher fuel prices and greater price volatility.
2 I have three submissions in support of my
3 testimony which I won't read into the record, but
4 I have copies available. And I thank you again
5 for my opportunity to comment on the legislation
6 and I'd be happy to answer any questions you may
7 have.
8

9 CHAIRPERSON KOPPELL: Do you have--
10 where are those submissions? What would they
11 consist of?

12 MICHAEL ROMITA: They are three
13 studies. One is prepared by a group called
14 Environ International Corporation and its title is
15 The Potential Impacts of Proposed Amendments to
16 Title XV, Chapter Two, Rules of the City of New
17 York Pertaining to the Prohibition of the Use of
18 Number Four and Six Fuel Oil. There is a study
19 prepared by the Energy Policy Research Foundation
20 entitled The Economic Costs and Financial Risks of
21 Reducing the Sulphur Content of Number Four Fuel
22 Oil in New York City, Preliminary Conclusions, and
23 there's an additional study by the same
24 foundation, EPRINC, called Costs and Supply Risks
25 to Prohibitions on the Use of Number Four and

Number Six oil in New York City.

CHAIRPERSON KOPPELL: And where did you put those studies? Sergeant, do you have those studies that he's referring to? Where are they?

MICHAEL ROMITA: Counsel will bring them over right now.

CHAIRPERSON KOPPELL: Oh, okay. You can leave them--well, you can bring them up. Just give them to Counsel, to the committee. Or the sergeant will take them. Fine. Why don't you proceed?

MICHAEL ROMITA: Yeah. Just the bottom piece. Yeah. Thank you.

CHAIRPERSON KOPPELL: Okay. Thank you. Next. I'm glad I asked. Now.

GENE PULLO: Good morning--

CHAIRPERSON KOPPELL: Now.

GENE PULLO: Good morning, Mr. Chair and members of the Environmental Protection Committee, and thank you for the opportunity to testify on Intro 194 today. My name is Gene Pullo and I'm president of Metro Terminals, a family owned fuel oil terminal and energy services

1
2 company that has been in continuous operation in
3 Greenpoint Brooklyn for 68 years. In 1942 my
4 grandmother, Pauline Pullo, started a small
5 heating oil company because she felt that coal was
6 dirty and represented the past while heating oil
7 was a much cleaner product that represented the
8 future.

9 Over the years we've expanded our
10 operations and are presently one of the largest
11 independent fuel oil terminals and marketers in
12 the New York metropolitan area. In 2005 my
13 brother and I decided to take a page from our
14 pioneering grandmother and invest in biodiesel,
15 which had already been used extensively in Europe
16 and which we believed to represent a cleaner
17 future for both motor fuel and heating oil in the
18 United States. Biodiesel is a renewable
19 alternative fuel that can be produced domestically
20 from various domestic feed stocks, including soy
21 and used cooking oil. When blended with heating
22 oil it improves air quality due to reduction of
23 sulphur, nitrogen oxide, particulate matter, and
24 lowers our carbon footprint and reduces our
25 country's dependence on foreign oil. Biodiesel

1 has exceeded international testing expectations.

2 The American Society for Testing
3 and Materials, ASTM, published fuel specs, a sign
4 of growing industry demand, as well as acceptance
5 in the scientific community. Equipment
6 manufacturers now warranty their products to
7 accept biodiesel. Most importantly, consumers of
8 bio heating oil, as large as an 885 megawatt power
9 plant, and as small as a single family home, have
10 reported overwhelming positive results.

11 Currently, Metro sells BQ-9000 quality certified
12 bio heating oil to residential, commercial, and
13 municipal building owners. We sell blends as low
14 as B2 and as high as B20 in all grades of heating
15 oil, number two, number four, and number six. We
16 are now in the final stages of building a 110
17 million gallon a year biodiesel processing
18 facility adjacent to our terminal in Greenpoint,
19 Brooklyn, which will create 60 green collar jobs
20 and hundreds of indirect jobs throughout the city
21 and the state. Metro will be able to make
22 biodiesel from a variety of raw materials that
23 range from used cooking oil and soy to eventually
24 algae and other next generation feed stocks.
25

1
2 Metro has entered into a partnership with the Doe
3 Fund, an outstanding New York City not-for-profit
4 that provides jobs to formerly homeless
5 individuals. Metro will purchase the used cooking
6 oil that the Doe Fund employees collect from New
7 York City area restaurants and process it into
8 biodiesel. In most cases, the entire lifecycle of
9 biodiesel, from collection of the feedstock to
10 consumption of the fuel, will be entirely within
11 the five boroughs.

12 However, while Metro expects to
13 process high volumes of used vegetable oil, it's
14 important to retain the flexibility to use other
15 sustainable feed stocks to ensure adequate supply
16 and affordability. Intro 194 requires all heating
17 oil to contain at least 2% biodiesel. This is an
18 easy call. B2, which is 2% biodiesel, is usually
19 priced the same as straight number 2 heating oil.
20 It requires no new equipment and no retrofitting.
21 Its shelf life is the same as heating oil. It is
22 widely available through a variety of sources in
23 New York City, and when the EPA released its
24 latest renewable fuel standard, RFS2, in February,
25 biodiesel far exceeded the threshold that biofuels

1
2 must be at least 50% better on greenhouse gas
3 reductions than petroleum. New York City uses
4 nearly one billion gallons of heating oil
5 annually, the most of any city in the world.
6 We're talking about displacing 20 million gallons
7 of petroleum a year, eliminating nearly 320
8 million pounds of carbon, and significantly
9 reducing sulphur and particulate matter along with
10 other air emissions.

11 Intro 194 requires a reduction in
12 the sulphur content of number four heating oil.
13 Metro is one of the few terminals that blends this
14 product. An additional step towards improving
15 overall air quality, we have been helping our
16 customers switch from straight number four and
17 number six to biodiesel blends of number four and
18 number six, and to great success. However, more
19 can be done. We support a lower sulphur number
20 four oil as outlined in the bill. Intro 194 will
21 positively impact millions of people that live,
22 work, and breathe air in the City of New York. It
23 balances the need to go green with the need to
24 ensure that it is done responsibly and affordably.
25 The saying a little goes a long way comes to mind.

1
2 But what also comes to mind is something my
3 grandfather once told me and stuck with me my
4 entire life. Without change, there will be no
5 progress. Thank you.

6 CHAIRPERSON KOPPELL: Thank you very
7 much. Since, at the end of your testimony, you
8 supported the idea of reducing the sulphur content
9 that's included in the bill, have you looked at
10 the cost predictions that Mr. Romita made? Where
11 he said that if you look at past history costs
12 would go up quite substantially?

13 GENE PULLO: I don't agree with his
14 testimony.

15 CHAIRPERSON KOPPELL: So you don't
16 think it would have a significant increase in
17 cost?

18 GENE PULLO: No. I think market
19 conditions will demand that the price be
20 competitive. There is a tremendous amount of
21 ultralow sulphur diesel being exported out of the
22 northeastern United States to Europe because
23 there's no market here for it. So if the market
24 is created, the fuel will stay in the United
25 States.

1
2 CHAIRPERSON KOPPELL: That's a very
3 interesting perspective. Thank you. Do you have
4 a question?

5 COUNCILMEMBER LANDER: Mr. Romita,
6 can you explain why what you are asking for is a
7 phase-in and not just a delay? I'm trying to
8 understand what the difference between this year
9 and 2015 would be in changing the standard. It
10 seems to me that what's going to affect the market
11 is setting the new standard and then the price
12 will reset because there'll be the increased
13 demand. What would happen between now and 2015 if
14 we don't set the new standard in the market place
15 that's going to make any different what would
16 happen then from what would happen now? Why is
17 there any benefit--there's no phase-in--as you
18 asking for a delay that would have the same impact
19 then as it would have now, not something that
20 would be changed over those next couple of years?

21 MICHAEL ROMITA: I see. So, if
22 your question is am I advocating for a phase-in or
23 a delay to 2015, I'm advocating that the
24 legislation passed actually doesn't implicate a
25 lower sulphur standard until 2015. In discussions

1
2 with the mayor's office the broader issue of a
3 phase-out of residual fuels and a phase-in of two
4 oil and natural gas, that's in which I use the
5 term phase-in in that context.

6 COUNCILMEMBER LANDER: Okay. But,
7 well, I guess I heard you saying that by waiting
8 until 2015 somehow the market will be more mature,
9 but I don't see any reason to see why--it seems to
10 me what's going to mature the market is setting
11 the new standard and that, I think, will be in the
12 exact same--the conversion will be the same, we'd
13 just lose three more years of the opportunity to
14 reduce our sulphur level.

15 MICHAEL ROMITA: Okay. I
16 understand your question now. The 2015 date is a
17 date which has been advocated by the refining
18 sector. In other words, the people who blend four
19 oil in the City of New York are product takers,
20 with the exception of one large multinational
21 company. So we're buying the components of the
22 blend from the refineries. And the refineries
23 have said that they cannot start producing in
24 quantities sufficient to meet the needs of the New
25 York heating oil market, a lower sulphur heating

1
2 oil, until the 2015 time frame. That's what
3 they've advocated before the New York State
4 legislature and that's what they have continuously
5 advocated on the national level.

6 COUNCILMAN LANDER: I mean I
7 understand that they've advocated for it, but
8 you're not explaining to me at all why later is
9 better. I understand why later is worse, but I
10 don't understand at all why from--if there's
11 anything going to be different in 2015 that would
12 allow them, then to--is something expected to
13 happen in 2014 that would actually make it more
14 feasible then?

15 MICHAEL ROMITA: On a regional
16 basis, what's going on in the state houses in
17 other states, as well as what's being advocated by
18 the initiatives from the Governor's Office in
19 various states, they're all aiming at a 2015 time
20 frame for lowering the sulphur standard
21 significantly in heating oil--number two heating
22 oil, as opposed to ULSD transportation fuel.

23 COUNCILMAN LANDER: And I'll leave
24 it there, but you keep giving me a political
25 answer which is we would prefer to do it later,

1
2 not an economic answer as to why it can't be done
3 now or why later has any economic benefits at all.

4 MICHAEL ROMITA: Sure. And I don't
5 want to be confusing. The availability of an
6 ultralow sulphur diesel blend stock is there at
7 significant price risk and volatility today and,
8 if you take the refiners at their word, those
9 dangers largely evaporate by the year 2015.

10 COUNCILMAN LANDER: You still
11 haven't said anything about why or how that is,
12 other than that they just keep saying it, so I
13 don't understand what it is between now and 20--
14 anyway, I appreciate your testimony. I appreciate
15 your taking the time to come here and engaging
16 seriously with the goals that we're setting, but--

17 MICHAEL ROMITA: Thank you.

18 COUNCILMAN LANDER: Thank you.

19 CHAIRPERSON KOPPELL: I mean, in
20 answer to the councilman's question--I think it
21 would be interesting to learn, by maybe contacting
22 the refiners, why they have that view. I mean is
23 it supply, is it capacity of their plants? I
24 mean, there must be some basis.

25 MICHAEL ROMITA: Yes. They have to

1
2 spend I don't know how many millions of dollars it
3 is to install desulphurizing equipment, you know,
4 over whatever period of time it takes them to
5 basically install this equipment and start
6 producing this lower sulphur heating oil.

7 COUNCILMAN LANDER: That's just an
8 argument that they want to do it later because
9 they'd rather spend money later than spend money
10 now, which is not actually an argument that
11 there's any reason why it couldn't be done today,
12 except that they'd rather spend the exact same
13 amount of money three years from now than spend it
14 today which, I mean, of course they would, but
15 that's not an argument that anything happens in
16 the intervening years that affects supply or the
17 economy, as I understand it, and that that would
18 make 2015 any better than tomorrow, except that
19 laying out the money would come a few years from
20 now rather than laying it out today.

21 MICHAEL ROMITA: Well, the
22 consumers of the city would be beholden to the
23 timelines, the timeframes in which the refiners
24 are rolling this out. We don't have any control
25 over it and neither do the city's consumers.

2 CHAIRPERSON KOPPELL: Well, I think
3 it would be interesting--I mean, your colleague
4 who's testifying with you thinks that it may be a
5 sufficient supply right now. It'd be also
6 interesting to know how long it takes to do
7 whatever conversions or additional equipment is
8 needed, if that's an argument or not an argument.
9 I mean, that would be [off-mic] guess for us. But
10 we'd need--really need to see some evidence of
11 that. Maybe you can get evidence of that. Maybe
12 it's in your papers you gave. I don't know.

13 MICHAEL ROMITA: Sure.

14 CHAIRPERSON KOPPELL: We'll take a
15 look.

16 MICHAEL ROMITA: Now, again, the
17 availability of ULSD today, pulling from the
18 transportation sector, it does exist at great
19 additional cost and historically, with all due
20 respect to Mr. Pullo's testimony, what we've seen
21 is that there's a significant price difference
22 that exists this very day.

23 COUNCILMAN LANDER: But it's--
24 there's no--you haven't given us any reason to
25 believe that the cost required for conversion or

1
2 the cost differential would be any less in 2015
3 than it would be today.

4 MICHAEL ROMITA: The cost to
5 convert heating equipment and buildings would be
6 the same. The cost of purchasing the fuel would
7 be--the risks of the price spikes would be
8 minimized. I mean, I can't predict what the
9 price--

10 COUNCILMAN LANDER: How would--

11 MICHAEL ROMITA: -- - - .

12 COUNCILMAN LANDER: --the risks of
13 the price spikes--the risks of the price spikes
14 would be put off, but you haven't said one thing
15 that explains how the risks of the price spikes
16 would be minimized. There are risks--there are
17 risks today and there'll be risks in 2015, but I
18 still haven't heard one argument for why they're
19 less in 2015, except--

20 MICHAEL ROMITA: Well, the--

21 COUNCILMAN LANDER: --that it's
22 just out there for the--

23 MICHAEL ROMITA: Sure. Well, the
24 supply infrastructure needs sufficient time to
25 ramp up for this. And by that I mean the

1
2 refineries need sufficient time to ramp up for
3 this new kind of fuel. That they're--that they're
4 doing. This ultralow sulphur two oil, as opposed
5 to ULSD hear--transportation fuel.

6 COUNCILMAN LANDER: It sounds to me
7 like what they need to make that change is
8 somebody to change the standard. So until we
9 change the standard I don't see why anyone's going
10 to get started.

11 MICHAEL ROMITA: If that change is
12 made on a regional scale as opposed to just inside
13 the city, that is, in fact, true. And that's what
14 I'm saying is that on a regional scale, all the
15 surrounding states, not just New York City, and
16 what the surrounding--what the governors' offices--
17 -what their people from the surrounding states are
18 advocating is to allow this timeline--this 2015
19 timeframe for this.

20 COUNCILMAN LANDER: Sounds like a
21 great argument for the rest of the region to join
22 us in adopting it in 2012.

23 CHAIRPERSON KOPPELL: Okay, I think
24 we got--

25 COUNCILMAN LANDER: Thank you.

2 CHAIRPERSON KOPPELL: --we got the
3 point.

4 GENE PULLO: I'd just like to--

5 CHAIRPERSON KOPPELL: Thank you,
6 gentlemen.

7 GENE PULLO: I'd just like to add
8 one point. There are refineries that no longer
9 will be making the high sulphur number two oil
10 after this year, so the refineries are already
11 starting.

12 CHAIRPERSON KOPPELL: Thank you.
13 Thank you both very much. And now we'll hear from
14 people from the environmental community--Rich
15 Kassel from the National Resources Defense
16 Council, Isabel Silverman from the Environmental
17 Defense Fund, and Steven Dallas from the New York
18 League of Conservation Voters.

19 [Off-mic]

20 CHAIRPERSON KOPPELL: She can come
21 and sit here. Looks better than [off-mic]. You
22 can--I called you in a particular order, but you
23 can go in whichever order you prefer.

24 RICHARD KASSEL: Your order is fine
25 with us, I think?

1
2 ISABEL SILVERMAN: Yeah.

3 RICHARD KASSEL: Yeah? Okay. My
4 name is Richard Kassel. That's K-A-S-S-E-L, no
5 relation to C-A-S-T-L-E Fuel Company and as I
6 think we'll see in the next five minutes, our
7 viewpoint on some of the key issues is
8 considerably different. I'm a Senior Attorney
9 with the Natural Resources Defense Counsel, and at
10 NRDC I direct all of our work on diesel and fuels
11 issues at the city, state, and federal level, and
12 I greatly appreciate the opportunity to speak
13 today. And in the interest of time I will
14 summarize some of my testimony and try to address
15 some of the issues that have already been raised
16 by other witnesses in the time that I have.

17 In our view, Intro 194 is a
18 critically important step toward solving a
19 longstanding problem--a pollution problem and a
20 health problem from heating oil in the city. We
21 all know and accept that heating oil is a critical
22 component of the multi-fuel heating strategy for
23 New York City to ensure that New York City have
24 reliable affordable heat and hot water in the
25 winter. Unfortunately, we also know and accept

1 the unfortunate reality that it's a significant
2 contributor to local air pollution, problems that
3 have been outlined already today by Deputy
4 Commissioner Kass and that I won't repeat. I will
5 repeat, though, one item that was in the press
6 release that went along with the release of the
7 Community Air Survey yesterday, which was a
8 statement by Commissioner Farley, who said, quote,
9 the time has come to phase out residual oil, close
10 quote. I think that summarizes a lot of work that
11 has been done by the Department of Health. We
12 would agree with that statement, but we would add
13 that passing Intro 194 is an important step toward
14 reducing the impacts of residual oil while it is
15 still used. By requiring all heating oil to use
16 2% biodiesel it would reduce our dependence on
17 oil, help support a growing local biodiesel
18 industry, and reduce greenhouse and health related
19 emissions. We've already heard Brent Baker and
20 others address that. By lowering sulphur levels
21 in number four oil it would reduce the particulate
22 matter emissions that are at the core of NRDC's
23 concerns from a health perspective with respect to
24 the heating oil problem.
25

Now, as you move towards adopting Intro 194 we encourage you to incorporate three proposed suggestions that we have, and I'll spend the rest of my time addressing those. First, we believe that the city must include a strong commitment to ensuring that only advanced sustainable biodiesel is used to heat the city's buildings. I think that's a consensus position among all the speakers we've heard today, but I want to put specificity on that. In EPA's March 26th rule-making on renewable fuels--the so-called RFS2 rule--EPA created a voluntary biomass based diesel certification that ensures that biodiesel certified to this level would reduce greenhouse gas emissions by at least 50% compared to conventional diesel. We've already heard the numbers from Tri-State, that both soy and local waste oils would meet that and then some. By including the direct and indirect impacts of biodiesel production in its lifecycle analysis, EPA certification addresses the sustainability concerns that we raised more than a year ago when we appeared before the committee. We are satisfied and we applauded EPA for that standard.

1
2 We urge you, now, to amend the
3 current draft to require tat all biodiesel used in
4 the city's heating oil must meet the RFS2
5 definition as a baseline performance standard.
6 It's worth reiterating that this RFS2 program
7 definition is not a mandatory certification. It's
8 a voluntary program so requiring it as your
9 baseline would mean that the city would be
10 addressing sustainability concerns that have been
11 raised in the past about biodiesel, and it would
12 steer our local market towards the preferred fuel.
13 It would guarantee that the numbers that we want
14 to hit are being hit, and it would guarantee that
15 we would not have sub-RFS2 biodiesel in our local
16 market. The second suggestion has to do with
17 ensuring waste oil actually gets used. We
18 strongly urge the council to add a requirement
19 that at least 75% of the biodiesel used meets--to
20 meet Intro 194's requirements be waste vegetable
21 oil.

22 Now, it's been widely reported that
23 the local industry says it can meet roughly 50 to
24 75% of the B2 mandate. At this time we're not
25 urging local sourcing requirements in this bill.

1 We think such a requirement would be very
2 difficult to enforce, and it isn't necessary,
3 based on how the market is developing, and
4 particularly if we're concerned about any cost
5 issues to consumers. We'd rather take a look at a
6 mix of incentives to ensure that the local market
7 develops, take a look at that 50 to 75% range
8 that's been discussed, and use that as a baseline
9 for a waste vegetable oil content requirement and
10 we suggest the high end, since we're not
11 restricting to local only waste oils. Last, we
12 encourage you, strongly, to tighten the sulphur
13 provisions in Intro 194. A range of 1,000 to
14 2,000 ppm means a cap of 2,000 ppm, plain and
15 simple. In our view, the appropriate cap should
16 be 1,500 parts per million, which would be a blend
17 of ultralow sulphur number two with the higher
18 residual oil, as we've heard. We think that will
19 provide pollution and health benefits. We also
20 think it's entirely feasible and, frankly, as
21 feasible in the 2011 timeframe of the B2
22 requirement, and certainly we do not need five
23 years.
24

25 Now let me take 29 seconds to

1 address the comments of Castle Oil with respect to
2 timetable. The entire United States highway
3 diesel fuel stream was switched from a high
4 sulphur standard to ultralow levels in a six year
5 period. Every gallon of highway diesel fuel, six
6 years. Castle Oil is suggesting they need five
7 years to just shift the heating oil in New York
8 City. Now, Councilman Lander, I couldn't agree
9 with you more in your sentiment that this is a
10 political request and is not based on anything.
11 As of next year, all the highway diesel will be
12 ultralow sulphur, all the non-road diesel being
13 sold will be ultralow sulphur--in other words, for
14 construction, for farming, for industrial uses and
15 so on. There will be no supply problems. We've
16 already heard from Metro that ultralow sulphur is
17 being exported now. There's a surplus of it.
18 There's absolutely no problem getting ultralow
19 sulphur. If anything, the high sulphur fuels are
20 being moved out of the market and, to the extent
21 there's supply restraints in years to come, it's
22 going to be in the high sulphur end of the
23 business, not the ultralow sulphur.

24
25 CHAIRPERSON KOPPELL: Thank you.

2 RICHARD KASSEL: And I'll close
3 there. Thank--

4 CHAIRPERSON KOPPELL: - - .

5 RICHARD KASSEL: --you very much.

6 CHAIRPERSON KOPPELL: --close.
7 Thank you. Thank you very much for--

8 RICHARD KASSEL: Thank you.

9 CHAIRPERSON KOPPELL: --that last
10 information. Miss Silverman?

11 ISABEL SILVERMAN: Hello, my name is
12 Isabel Silverman. I'm an attorney with
13 Environmental Defense Fund, and some of my
14 testimony is, of course, the same as NRDC's
15 testimony, so maybe at first we'll start with some
16 of the things that were said earlier just to make
17 sure I have enough time.

18 Just so you're aware the tune-up,
19 if a boiler has to go from six to four oil, the
20 administration testified the tune-up costs are
21 minor. It's below \$10,000. It's just, you know,
22 it's about 5 to \$7,000 and that includes all the
23 re-filing of papers so it's not that much and,
24 obviously, it's not a major capital improvement.
25 So that's good news. And, as was said earlier--

1
2 let's see here about this--about sulphur levels,
3 number two oil has currently 2,000 parts per
4 million sulphur levels, and it was said that then
5 number four oil would go lower at 1,500 parts per
6 million and that is kind of strange because number
7 two oil is higher--would then have sulphur content
8 than number four oil. But keep in mind that we
9 are trying to also reduce sulphur content of
10 number two heating oil down to 15 parts per
11 million eventually. So that is coming down. So
12 number two heating oil sulphur levels will come
13 down and so will sulphur levels of number four
14 heating oil with this bill so it all goes
15 together. So to say, oh, that doesn't make sense
16 for number two heating oil to be so much higher
17 than number four oil, number two heating oil will
18 follow as well, hopefully. And, in terms of the
19 costs to low income people, and if what Castle Oil
20 testified that number four oil prices will go up--
21 always keep in mind also the high health cost
22 here. We have very high asthma rates in the city.
23 If a child has an asthma attack and cannot go to
24 school that means a parent has to stay home with
25 that child so it's not just the hospitalization

1 costs and all this--and the lost school days, also
2 the lost workday of the parent, which can be very
3 significant, particularly in low income--for low
4 income people. So that, also, has to be kept in
5 mind. And then what Rich Kassel said about the
6 supply and Rohit Aggarwala. Yeah, the 80 million
7 gallons of ultralow sulphur number two heating
8 oil, or ultralow sulphur diesel, same thing, that
9 will have to be available by 2012 to make the
10 number four oil at 1,500 parts per million. It's
11 dwarfed in the amount of ultralow sulphur diesel
12 we have. So I don't think that will be a problem
13 and we have just heard it's even being exported.

14 So, just to go through my testimony
15 in two minutes--yes, EDF also strongly urges city
16 council to cap number four oil at 1,500 parts per
17 million and, like we've just heard, it's very
18 important to do this because when they mix the
19 number two oil and the number six oil, what we
20 exactly don't want to happen is that all of a
21 sudden 60% of this mix is number six oil. We want
22 60% of this mix to be to be the ultralow sulphur
23 number two oil. That's what we need for air
24 quality benefits. So by lowering the sulphur
25

1
2 limits of number four oil to 1,500 and not keeping
3 it the same as number six oil as it is now, you're
4 ensuring a much better mix and less and less
5 number six oil being used in the number four oil.

6 And then, also in the bill language there's some
7 discretionary language for the commissioner to set
8 the sulphur limit or, if the economy doesn't, you
9 know, economic reasons don't allow it, to even
10 void it. That, yeah, we don't want that. It
11 should be at 1,500 parts per million. We believe
12 it's doable and somebody has to set the standards.

13 Otherwise we have catch-22. number two heating
14 oil is not moving and number four oil is not
15 moving. We just have to start. And then, of
16 course we also strongly urge the sustainability
17 standards in the bill and we agree and already see
18 that it should be 75% or so waste vegetable oil
19 and then also animal fat like we heard today. So
20 both of these could be making up 75% and--because
21 we don't want to cancel out any advantages that
22 the biodiesel gives us by trucking it in from far
23 away, for example, and adding thousands of trucks
24 to our roads. And, yeah, so I think pretty much
25 everything else has been said. And then the

1 reporting requirement is very important. That has
2 been touched on, too. So city council in a few
3 years can really evaluate what feedstock was used,
4 where did it come from, and how was it transported
5 here? So, thank you very much for moving this
6 bill forward fast.
7

8 CHAIRPERSON KOPPELL: Thank you.

9 Thank you. Mr. Dallas?

10 STEVEN DALLAS: Good morning, Mr.
11 Chairman, and members of the Committee on
12 Environmental Protection. Thank you for providing
13 me with this opportunity to present our position
14 on this important piece of legislation. I'm
15 Steven Dallas, testifying on behalf of Marcia
16 Bystryn, President of the New York League of
17 Conservation Voters, an environmental advocacy and
18 educational organization. I'm here today to
19 express our support for Intro 194, which will
20 create a bioheating fuel standard and reduce the
21 permissible sulphur content of all number four
22 heating oil burned in New York City. In addition,
23 I will take this opportunity to offer
24 recommendations that will improve the
25 sustainability and public health goals of this

1
2 legislation.

3 Despite laudable improvements from
4 past decades to New York City air quality, the
5 city struggles to comply with federal clean air
6 standards for fine particle pollution, PM2.5, and
7 ozone. Linked to aggravated asthma, cancer, lung
8 and heart disease, high levels of PM2.5 emissions
9 have devastating impacts on public health. In
10 fact, New York City has twice the national asthma
11 hospitalization rate among children zero to 14
12 years. The highest asthma rates are in the city's
13 lowest income and minority neighborhoods,
14 indicating an environmental justice imperative to
15 improve New York City's air quality. In addition
16 to public health implications, cost to the city
17 linked to high PM2.5 levels cannot be overlooked.
18 According to Environmental Defense Fund's recent
19 report, *The Bottom of the Barrel*, in the year 2000
20 asthma hospitalizations will then cost the
21 government and individuals more than \$240 million.
22 Improving the city's air quality makes public
23 health as well as economic sense. The necessity
24 to mitigate climate change is an additional
25 rationale for supporting Intro 194. Scientific

1
2 researchers have provided robust evidence that the
3 earth's climate is warming due to increasing
4 levels of greenhouse gases, carbon dioxide,
5 methane, and nitrous oxide in the atmosphere. The
6 improved combustion of biodiesel reduces emissions
7 of greenhouse gases, particularly carbon dioxide.
8 By requiring low sulphur number four heating oil
9 and mandating a 2% biodiesel blend for all New
10 York City heating oil, passage of Intro 194 is a
11 significant step in the right direction to address
12 the environmental, economic, and sustainability
13 concerns mentioned above.

14 However, while the New York League
15 of Conservation Voters supports this legislation,
16 we believe that the following recommendations will
17 dramatically improve the sustainability and public
18 health goals set forth in Intro 194. Regarding
19 the use of biodiesel fuels, we believe it critical
20 to include a sustainability provision that
21 requires the biodiesel product used in heating New
22 York City buildings have a lower aggregate
23 greenhouse gas lifecycle than the numbers two,
24 four, or six heating oil it would replace.
25 Perhaps the easiest way to ensure this is to

1
2 require that 50% to 60% of biodiesel come from New
3 York City waste vegetable oil. Using local waste
4 vegetable oil will divert this product from the
5 waste stream, create a local market, and ensure
6 reduced aggregate greenhouse gas lifecycle. We
7 recommend using the Environmental Protection
8 Agency's national renewable fuels standard program
9 as a model for analyzing the aggregate greenhouse
10 gas lifecycle of biodiesel fuel. Further, Intro
11 194 mandates a 1,000 to 2,000 parts per million
12 range for low sulphur number four heating oil. We
13 believe that the legislation should be simplified
14 by requiring that all number four heating oil used
15 in New York City buildings have a maximum of 1,500
16 parts per million sulphur content, thereby
17 guaranteeing greater public health benefits.
18 These two achievable recommendations will go a
19 long way to ensuring this already laudable
20 legislation achieves its intention of creating a
21 more sustainable and healthier New York City.
22 City residents deserve to live in healthy
23 communities and this legislation is an important
24 step toward that aim.

25 I thank you Mr. Chairman and

1
2 members of this committee for taking the lead on
3 this legislation, and offer New York League of
4 Conservation Voters support in any way possible to
5 help the goals set forth in this legislation
6 become a reality. Thank you.

7 CHAIRPERSON KOPPELL: Thank you
8 very much and thank--yes? Did you want to say
9 something else?

10 ISABEL SILVERMAN: Oh, yeah.
11 Sorry. There's--just--what would I be without my
12 props? So I live in a building that burns number
13 six oil. My super took some out of the tank.
14 That's what it looks like. It's only half full.
15 It's so sludgy and thick, and that's what we want
16 to replace it with, number two heating oil or
17 natural gas. So it's a huge difference you can
18 see. And earlier today somebody mentioned that
19 ultralow, you know, the low sulphur number four
20 oil will be the same as number two heating oil.
21 That's, of course, not true, in terms of emissions
22 because, look, when you mix that 50-50 you're
23 still going to burn 50% of that, so there's still
24 going to be a lot of nickel, a lot of PM that is
25 coming out of the number four oil but we can make

1 progress towards a cleaner oil in the interim with
2 the number four low sulphur.
3

4 CHAIRPERSON KOPPELL: Thank you.

5 It does look very dramatically different. I hope
6 it is different, in fact, as it looks. Thank you
7 very much. We now have people from different
8 industry sectors--Demos Demopoulos from the
9 Teamsters, Frank Ricci from Rent Stabilization
10 Association, Angela--I can't read your last name,
11 Angela--from REMNY [phonetic], and Mary Ann
12 Rothman from the Council of New York Co-ops. Just
13 give it to the sergeant, Mary Ann. Thank you.
14 Good afternoon.

15 DEMOS DEMOPOULOS: Good afternoon,
16 Acting Chairman Koppell and members of the
17 Committee on Environmental Protection. I am Demos
18 Peter Demopoulos, Secretary Treasurer and
19 Executive Officer of Teamsters Local 553, one of
20 the oldest Teamster locals in New York, chartered
21 in 1907, representing over 1,500 workers of the
22 gasoline, jet fuel, heating oil industry, and
23 horse carriage drivers. I'm also Secretary
24 Treasurer of Teamsters Joint Council 16, which
25 represents 125,000 Teamsters in New York City, and

1
2 an affiliate of the International Brotherhood of
3 Teamsters representing 1.4 million members.

4 As the only union that represents
5 the heating oil industry in New York, I testify
6 today in support of Intro 194. I appreciate
7 Councilmember Gennero's hard work on this issue
8 and that of the Speaker and her office. I do have
9 some minor concerns which I hope to continue to
10 discuss regarding timetable and sulphur content,
11 but I look forward to offering my congratulations
12 on this legislation. The teamsters support
13 efforts to make the fuels using to heat and move
14 New York greener. We are advocates for the
15 passage of S1145A in Albany to mandate lower
16 sulphur for number two oil throughout the State of
17 New York. The Teamsters are involved nationally
18 with strong support from Mayor Bloomberg with the
19 clean and safe ports campaign that allow trucks
20 and equipment using ports to use low sulphur
21 diesel and biofuels, reducing vehicle emissions.
22 New York's heating oil companies must be able to
23 remain competitive with the monopolistic gas
24 companies. This is important not only to protect
25 good union jobs, benefits, and the families they

1 support, but also consumers, the real estate
2 community--commercial and residential--condo and
3 co-op owners, home owners, rent paying apartment
4 tenants, hospitals, schools. Affordable housing
5 must come with affordable heat. And I just want
6 to add that earlier Deputy Commissioner Kass made
7 mention of coal. My local was chartered with the
8 Teamsters in 1907 but, going back from the late
9 1800s the members of my Local 553 delivered coal
10 by horse and wagon all throughout the city. With
11 the advent of heating oil, we switched to that.
12 So I hope we'll be driving biodiesel trucks some
13 day, too. But I want to thank you for the
14 opportunity.

15
16 CHAIRPERSON KOPPELL: Thank you
17 very much and thank you for your support of the
18 legislation. Angela, would you give us your last
19 name, please, because I can't read the card.

20 ANGELA SUNG: It's Sung. S-U-N-G.

21 CHAIRPERSON KOPPELL: Okay, very
22 good.

23 ANGELA SUNG: So I'm representing
24 the Real Estate Board of New York, representing
25 nearly 12,000 owners, managers, and developers and

1
2 brokers of real property in New York, which
3 supports the bill Intro 194, but opposes certain
4 portions of it in its current form. The Real
5 Estate Board has been actively engaged in
6 discussions over the past year with the Mayor's
7 Office of Long Term Planning and Sustainability,
8 as well as the Department of Environmental
9 Protection regarding the rule to phase out the
10 burning of residual fuel oils number six and
11 number four. We have also been supportive of the
12 goals of the PlaNYC with its ambitious plans of
13 making the city a greener, healthier place to live
14 in by the year 2030. And, although we laud the
15 goals and principals of the bill, we have serious
16 concerns about the practical application and
17 feasibility of this legislation, particularly in
18 the timeframe currently proposed. It is our
19 concern that there may not be a sufficient supply
20 of heating oil by 2012 and at the low levels of
21 sulphur that Intro 194 requires. The concern has
22 been echoed by providers, as well, as you've heard
23 before, and the levels of 1,000 to 2,000 ppm of
24 sulphur for number four oil are lower than the
25 current standards for number two distillate oil.

1
2 We believe pushing the deadline back to 2015 would
3 give the heating oil industry time to ramp up
4 supply and comply with the new sulphur levels.
5 Bringing these low levels of sulphur to the market
6 within a compressed time frame will lead to severe
7 price volatility. The higher prices caused by
8 this market dislocation would adversely affect
9 both building owners and tenants and hurt the
10 affordability of housing stock in the city. And,
11 although we appreciate the city's analysis, we
12 also do not consider only rent regulated
13 apartments to be those apartments that are
14 economically sensitive.

15 We recommend at this point in time-
16 -I'm sorry. We recommend at a point in time prior
17 to enactment--at least one year prior--the city
18 should ensure there is adequate supply of the
19 predicted demand for the low sulphur number four
20 oil at a price that does not greatly exceed the
21 other widely available fuel oils. Appropriate
22 criteria should determine that the price of the
23 acquired low sulphur oil is not at a cost
24 prohibitive option to building managers or tenants
25 and could include requirements that at least

1
2 several of the oil suppliers to service the market
3 area, an assessment of demand and combined
4 commitment of availability by suppliers, an
5 assessment of pricing of the supply of available
6 oils at the demand level, and setting a threshold
7 cap of no more than X%, which is--as determined by
8 the city over other widely available options.

9 This would ensure a safe transition to lower
10 sulphur levels without causing cost prohibitive
11 situations for managers or tenants. Thank you for
12 the opportunity to comment.

13 CHAIRPERSON KOPPELL: Thank you
14 very much. Ms. Rothman.

15 MARY ANN ROTHMAN: Afternoon. I'm
16 Mary Ann Rothman, Executive Director of the
17 Council of New York Cooperatives and Condominiums,
18 which is a membership organization comprised of
19 housing cooperatives and condominiums located
20 throughout the five boroughs of New York City.
21 More than 170,000 New York families make their
22 homes in our member buildings.

23 Like all New Yorkers, we want clean
24 air to breathe and a clean city in which to live,
25 but we're also mindful of the cost of mandates

1 that impose new responsibilities and new
2 investments on our members. And we're aware of
3 instances when well-intentioned legislation has
4 set standards that are so high that they cannot be
5 achieved in the marketplace. We acknowledge the
6 care and concern that have gone into crafting
7 Intro 194, but we respectfully request that
8 sulphur standards be reviewed and the timeframes
9 for compliance be extended to ensure that there
10 will be sufficient supply of quality fuel without
11 steep price increases. In the past some of our
12 member cooperatives and condominiums have taken
13 part in programs where they received incentives
14 for using number two oil mixed with biodiesel. We
15 found no difference in the quality of the heat
16 produced but, absent the incentive programs, the
17 cost of the new product would have exceeded the
18 market price of number two oil by a considerable
19 margin. As fuel companies modify their equipment
20 to try to produce the mixtures required by Intro
21 194, in sufficient quantities to meet the needs of
22 all their clients by October of 2012, it is our
23 belief that steep increases in the cost of this
24 fuel will be inevitable. And this will be a harsh
25

1
2 blow for all building owners in our city as they
3 struggle to meet the myriad of increased costs
4 that we all face--property taxes increase, double-
5 digit water rate increases, additional costs for
6 elevator inspections, additional costs for meeting
7 the benchmarking requirements of the recently
8 passed green bills. A more gradual deadline
9 should be produced--should produce a smother
10 transition to biodiesel and should help ensure
11 sufficient supply for all customers.

12 CNYC joins industry experts in
13 suggesting 2015 as a target date for complete
14 transition to biodiesel and would suggest
15 incentives, as opposed to mandates, to encourage
16 earlier compliance whenever possible. We would
17 also encourage further research to determine with
18 certainty what particulate levels are achievable
19 within reasonable time, quality, and cost
20 constraints. Thanks.

21 CHAIRPERSON KOPPELL: Thank you.
22 Is there someone--I may have said the name wrong.
23 Is there someone here representing Rent
24 Stabilization Association?

25 [Off-mic]

2 CHAIRPERSON KOPPELL: No? Okay.

3 Miss Rothman, your testimony suggests some sort of
4 a phase-in, but the--and I think this sort of
5 mirrors some of Councilmember Lander's questions.
6 I mean, how would you do a phase-in, or are you
7 just suggesting a delay?

8 MARY ANN ROTHMAN: I'm suggesting
9 that even what's suggested as modest cost of 5 to
10 \$7,000 for retooling equipment is a significant
11 investment in cooperatives and condominiums where
12 people have nowhere to go but to their own
13 pockets, which pockets have been severely strained
14 by increases in property taxes, water rates, and
15 the rest, and that time is required to plan for
16 those things. We're in a very, very difficult
17 economic time now. Lots of people have lost their
18 jobs or didn't receive raises, et cetera, that
19 they had anticipated, lenders are very, very,
20 very, very, very reluctant to lend money for
21 projects like this, so very often, where co-ops or
22 condos might have borrowed in the past, they have
23 to look only to their shareholders and unit owners
24 to find that 5 to \$7,000 or whatever the amount
25 actually turns out to be. So I'm suggesting that

2 time for planning, balanced by incentives,
 3 perhaps, for those who can make a transition
 4 faster, is a better policy than a very tight and
 5 therefore a potentially very costly deadline.

6 Thank you.

7 CHAIRPERSON KOPPELL: What--do you-
 8 -where is this 5, to \$7,000 going to be incurred?
 9 In changing the equipment for the--for the low
 10 sulphur fuel or for the--

11 MARY ANN ROTHMAN: [Off-mic]

12 CHAIRPERSON KOPPELL: --biodiesel?

13 MARY ANN ROTHMAN: Well, I think
 14 that Rohit had suggested \$10,000 and Ms. Silver--

15 ISABEL SILVERMAN: [Off-mic].

16 CHAIRPERSON KOPPELL: Well--

17 ISABEL SILVERMAN: [Off-mic].

18 CHAIRPERSON KOPPELL: Wait. If
 19 you're going to test--come back to the microphone
 20 because we want it recorded. We will hear from
 21 you, since you--

22 ISABEL SILVERMAN: No, no, no. I
 23 just--I just said in my testimony earlier that
 24 it's--were--what I have researched is that it
 25 costs between 5 and \$7,000. It's a tuning of the

burner when you go from number six oil to number four oil.

CHAIRPERSON KOPPELL: Right. So it--

ISABEL SILVERMAN: And--

CHAIRPERSON KOPPELL: --has nothing to do with the biodiesel, right?

ISABEL SILVERMAN: No. That is regarding--

CHAIRPERSON KOPPELL: Right.

ISABEL SILVERMAN: --the number four oil.

CHAIRPERSON KOPPELL: Right.

ISABEL SILVERMAN: Switch--it actually--actually we're going to switch from six to four oil.

CHAIRPERSON KOPPELL: Right.

ISABEL SILVERMAN: It's not even--

CHAIRPERSON KOPPELL: Right. Right.

ISABEL SILVERMAN: -- - - -

CHAIRPERSON KOPPELL: Understood.

ISABEL SILVERMAN: --sulphur limit.

CHAIRPERSON KOPPELL: Understood.

2 ISABEL SILVERMAN: Yes.

3 [Off-mic]

4 DEMOS DEMOPOULOS: Is that union
5 labor or non-union?

6 CHAIRPERSON KOPPELL: Well, I do
7 hear your concern over the--and it--and we will
8 look at it in terms of the installation costs. I
9 mean it's significant but not overwhelmingly
10 significant. But we'll take a look at it. I mean
11 if that is there plus the possibility of the price
12 being higher in the conversion time, which is what
13 the gentleman from Castle, I think, testified to,
14 that would be a concern and we'll certainly take a
15 look at it.

16 MARY ANN ROTHMAN: Thank you. I
17 appreciate it.

18 CHAIRPERSON KOPPELL: Yeah,
19 absolutely. Thank you all very much. Thank you
20 for testifying. We now--oh.

21 [Off-mic]

22 CHAIRPERSON KOPPELL: Okay. The
23 remaining witnesses are Michael--looks like
24 Sealback. Okay. Michael Halbinder, and Jason
25 Schwartz. Mr. Seilback is from the Lung

1
2 Association, Mr. Heimbinder is from HabitatMap,
3 Mr. Schwartz is from Institute for Policy
4 Integrity.

5 MICHAEL SEILBACK: Good afternoon,
6 Councilman Koppell and the committee. My name's
7 Michael Seilback, Vice President, Public Policy
8 and Communications for the American Lung
9 Association in New York. I'm also delivering
10 these remarks on behalf of the American Cancer
11 Society, who couldn't be here today but join us in
12 our support.

13 I hope this hearing today is going
14 to lead to quick action by this council to clean
15 up the heating oil that New York has used to heat
16 their homes, because the fact remains that over
17 one million New York City residents still have
18 asthma, 300,000 of which are children. You've
19 heard from Deputy Commissioner Kass about the
20 health effects of home heating oil. New Yorkers
21 are exposed to some of the most unhealthy air
22 pollution levels in the country. Just last month
23 we released the newest version of our state of the
24 air report, and once again it showed that New York
25 City's out to air quality is toxic. Additionally,

1
2 just yesterday DOHMH came out with a report which
3 illustrates, again, the profound effect that air
4 pollution from heating oil is having on New
5 Yorkers.

6 In order to significantly improve
7 the air quality right here in New York, our
8 association has long advocated for cleaning up
9 home heating oil. The combustion of sulphur laden
10 home oil contributes significantly to our high
11 ambient concentrations of ozone and fine
12 particles. To that end we're strong advocates for
13 the use of biodiesel in the home heating sector to
14 address this significant source of pollution. We
15 also strong advocate for the mandatory reduction
16 of sulphur, similar to what we've seen federally
17 in the on-road and non-road sectors. New York's
18 is one of the--New York is a large consumer of
19 home heating oil, yet many New Yorkers are not
20 aware that this is a significant source of air
21 pollution in their homes and that there's
22 alternative, cleaner fuels that exist for home
23 heating purposes.

24 The use of a B2 blend is an
25 alternative that New York City should require as a

1 cleaner, cost effective option. Promoting the use
2 of B2 in combination with low sulphur or ultralow
3 sulphur fuel will begin to reduce the sulphur
4 dioxide emissions from heating oil use. As
5 bioheat blend up to B20 are used a very
6 significant air quality and public health benefit
7 could be gained. With regards to Intro 194, the
8 American Lung Association in New York supports the
9 bill.

11 We do have a couple of
12 recommendations regarding the details. We agree
13 with many of our environmental colleagues that the
14 bill should have a robust waste vegetable oil
15 component. As you know, waste vegetable oil could
16 be both produced locally and refined locally,
17 therefore drastically reducing some of the
18 lifecycle problems we see some--from some other
19 sources of biodiesel. With regards to the sulphur
20 component, we continue to work hard on the state
21 level to pass legislation which will require the
22 use of ultralow sulphur number two heating oil,
23 and with the Bloomberg administration on ways to
24 phase out the use of number six, as Commissioner
25 Holloway and Rohit laid out earlier. In this

1
2 legislation we believe that the sulphur level of
3 number four home heating oil should be kept at no
4 more than 1,500 parts per million, effective in
5 2011. These sulphur reductions will have
6 immediate public health benefits. You've heard
7 today some arguments against the bill. The
8 arguments that you've heard are the same arguments
9 we've heard every time a hearing is held on a
10 proposal to clean up diesel fuel. We know
11 industry will meet these guidelines because
12 industry always meets the guidelines that local,
13 state, and federal governments have put out. We
14 hear that there won't be supply, yet time and time
15 again supply is met at the same time that these
16 refiners are making record-breaking profits. So I
17 applaud industry for always raising their bar and
18 meeting the guidelines that we make, while also
19 cleaning up the air.

20 New York's the largest source of
21 this market, so when we hear arguments that
22 refiners aren't going to be able to meet the
23 market, well, they're going to be missing a pretty
24 big sector if they decide to not produce the oil
25 that New York City needs. The time is now to

1
2 clean up the air we breathe. We know that it's
3 doable, we know that it's needed, so let's pass
4 Intro 194 quickly and bring New York City closer
5 to a day where the air we breathe is not making
6 people sick. Thank you for the opportunity to
7 comment.

8 CHAIRPERSON KOPPELL: Thank you.

9 Mm-hmm.

10 MICHAEL HEIMBINDER: Hi. My name
11 is Michael Heimbinder. I'm Executive Director of
12 HabitatMap. HabitatMap is a Brooklyn based
13 environmental health justice nonprofit. I want to
14 thank the Environmental Protection Committee for
15 inviting testimony today regarding Introduction
16 194.

17 If signing a law, Introduction 194
18 would change the chemistry of the heating oil we
19 currently consume in two ways. It would cap the
20 sulphur content of number four heating oil and
21 would mix at least 2% biodiesel into all heating
22 oil. I would like to address these two changes
23 separately, as each raises fundamentally different
24 issues for the environment, the heating oil
25 industry, building owners, and New Yorkers.

1
2 Currently a handful of buildings burn the dirtiest
3 number four and number six heating oil which
4 contains up to 3,000 parts per million sulphur.
5 Emissions from boilers burning this dirty diesel
6 are the largest source of fine particulate matter
7 in New York City, accounting for nearly a third of
8 the total. Able to penetrate into the deepest
9 portion of the lungs, fine particulate matter
10 contributes to premature death from heart and lung
11 disease, cardiac arrhythmias, heart attacks,
12 asthma attacks, and bronchitis. Removing the
13 sulphur from heating oil is the quickest and
14 easiest way to dramatically improve air quality in
15 New York City. By mandating ultralow sulphur
16 diesel heating oil, which contains less than 15
17 parts per million sulphur, we can cut fine
18 particulate matter emissions from the city's
19 boilers by more than two-thirds. Unfortunately,
20 Introduction 194 will only remove sulphur from
21 number four heating oil, which accounts for less
22 than 10% of the New York City market, and it will
23 only remove one-third to two-thirds of the
24 sulphur, leaving upwards of 1,000 parts per
25 million sulphur in all heating oil and continuing

1
2 to allow levels as high as 3,000 parts per
3 million. This is a huge disappointment
4 considering the enormous benefits and small cost
5 of implementing an ultralow sulphur diesel
6 mandate. Yes, there will be capital expenses for
7 buildings that need to retrofit or replace their
8 boilers so they can burn cleaner fuels, but these
9 costs will only be incurred by the one percent--
10 one percent--of New York City buildings with the
11 dirtiest boilers. In addition, increased boiler
12 efficiency will help offset a portion of these
13 costs by decreasing fuel consumption, reducing
14 maintenance expenses, and, for low income
15 buildings, variances in public subsidies can help
16 ease the financial burden of making the
17 transition.

18 In 2006 the EPA mandated that all
19 on-road diesel vehicles fill up with ultralow
20 sulphur diesel containing less than 15 parts per
21 million sulphur. If we require ultralow sulphur
22 diesel for our cars and trucks then why should our
23 homes and businesses be an exception? Moving on,
24 I'd like to address the legislation's 2% biodiesel
25 requirement. Let me begin by simply stating there

1
2 are good biofuels and there are bad biofuels, and
3 the difference between the two is primarily
4 determined by what feedstock is used and how that
5 feedstock is produced. For instance, by producing
6 feedstock from recycled restaurant grease
7 collected from New York City restaurants,
8 businesses like Tri-State Biodiesel lead the way
9 in the production of an environmentally friendly
10 biofuels. Unfortunately, however, there just
11 isn't enough good biodiesel to go around.

12 According to the National Biodiesel
13 Board, recycled and waste vegetable oil accounts
14 for less than 0.005% of the feedstock used to
15 produce biodiesel in the U.S., and the U.S.
16 Subsidies and Tariffs makes soybean oil the
17 dominate feedstock for biodiesel production. So
18 when we evaluate whether we are fueling up with
19 good or bad biodiesel, we primarily need to
20 consider where our soybeans are coming from and
21 how those soybeans are being produced. Most of
22 the soybeans in the U.S. come from the Midwest and
23 Mississippi corridor with average farm operations
24 of hundreds of acres. These are industrialized
25 monoculture mega-farms that devour and destroy

1 enormous quantities of nonrenewable and
2 irreplaceable resources. Powering the machines
3 that plow, plant, harvest, cast fertilizer, spray
4 pesticides, pump irrigation water, et cetera, is
5 energy intensive. The fossil fuels consumed by
6 on-farm operations release significant quantities
7 of greenhouse gases and toxic air emissions.
8 Adding the soybean agriculture's formidable fossil
9 fuel tally, large amounts of natural gas are
10 needed to produce nitrogen based fertilizers that
11 promote their growth. Of the 70 million acres of
12 soybeans grown in the U.S., less than 0.2% is
13 certified organic by the USDA. That means that at
14 least 99% of the vegetable oil used to produce
15 biodiesel is coming from conventional agro-
16 industrial farms that are anything but
17 environmentally friendly. This fact raises the
18 fundamental question, how can biodiesel be
19 environmentally friendly when it's primarily
20 produced from crops that were cultivated using
21 environmentally destructive practices? Section I,
22 paragraph II of Introduction 194 states that
23 estimates of the waste grease market in New York
24 City show that it could supply between 1 and 1-

1/2% of the number two heating oil market and that a blending requirement set at or slightly above that level will not raise sustainability concerns. This claim is highly suspect considering the legislation contains no provision specifying the type of feedstock that could be used to produce biodiesel that will fill a B2 mandate. Tri-State Biodiesel, which produces good biodiesel from recycled restaurant grease, has an unverified future annual production estimate of five million gallons. This is a drop in the bucket compared to the 100 million gallons of primarily virgin feedstock biodiesel that will be available through Metro Fuel when their Greenpoint refinery comes online. National, the same disparity between good and bad biodiesel is even more pronounced with recycled waste and vegetable oil accounting for less than .005%. Without a certification system in place to ensure biodiesel sourcing and production practices are environmentally friendly, the dominance and availability of soy-based biodiesel virtually guarantees that a New York City BT Heating oil mandate will primarily source bad biodiesel. Thank you for your time and

1
2 consideration.

3 CHAIRPERSON KOPPELL: Thank you,
4 and thank you for bringing that particular concern
5 to our attention. Appreciate it. Next, please.

6 JASON SCHWARTZ: Good afternoon.
7 My name is Jason Schwartz. I'm a legal fellow
8 with the Institute for Policy Integrity at NYU
9 School of Law. Policy Integrity is a nonpartisan
10 think tank that promotes rational government
11 policies based on balanced economic analysis.
12 Policy Integrity has collaborated with public
13 health experts at NYU School of Medicine to
14 analyze the health and environmental benefits of
15 reducing the fine particulate matter emitted by
16 dirty heating oil in New York City. Our full
17 methodology is detailed in our January 2010
18 report, Residual Risks--

19 CHAIRPERSON KOPPELL: - - report -
20 - .

21 JASON SCHWARTZ: --as well as our
22 May update, both which have been submitted as
23 written testimony. Our analysis finds that a full
24 conversion of all residential, commercial, and
25 institutional boilers from residual oil to low

1 sulphur number four oil would likely save 84 lives
2 per year in New York City, as a result of fewer
3 fatal heart attacks and other deaths from
4 cardiovascular and respiratory conditions
5 aggravated by particulate matter. Saving lives,
6 preventing illness, and generally improving public
7 health delivers quantifiable benefits that can be
8 assigned a monetary value. Not only can the cost
9 of illness be calculated in terms of medical
10 resources used, lost productivity, and so forth,
11 but individuals and society have a willingness to
12 pay to avoid negative health outcomes. Government
13 agencies routinely calculate and apply such
14 monetary values when deciding whether to regulate
15 a dangerous substance to determine if the health
16 benefits justify the economic costs. Using
17 conservative estimates, the net present value for
18 a full conversion from residual oil to low sulphur
19 number four from the year 2012 through 2040 is at
20 least \$7.2 billion worth of health benefits. And
21 that figure does not reflect additional benefits
22 from preventing hundreds of cases of chronic
23 bronchitis, hundreds of cases of acute childhood
24 bronchitis, hundreds of nonfatal heart attacks,
25

1
2 and thousands of lost work days over that 30-year
3 period. Predicting the precise costs of a
4 conversion to low sulphur number four is
5 challenging, but unofficial results from one model
6 suggest total costs from 2012 through 2040 could
7 be up to a few billion dollars. Some today have
8 suggested in their testimony the cost could be
9 much less. Compared to \$7.2 billion in calculated
10 health benefits, including 2,439 lives saved along
11 with additional valuable health and environmental
12 effects, the benefits of that switch should easily
13 exceed costs by a factor of at least two to one.
14 Lowering the sulphur content of heating oil is an
15 admirable goal that will deliver undeniably
16 important health benefits to New York City. Any
17 action on this crucial public health threat is
18 overdue and welcome. But lowering the sulphur
19 content, alone, cannot fully address the negative
20 impacts of dirty heating oil. Our analysis
21 reveals that, while low sulphur fuels offer a
22 significant improvement over the status quo, they
23 are ultimately only a first step in the right
24 direction. Switching to natural gas would
25 generate the greatest health, environmental and

1 economic benefits for New York City. In
2 particular, a full conversion from residual oil to
3 natural gas would likely save 259 lives per year,
4 or about \$22 billion of health benefits over a 30-
5 year period. Switching to natural gas would also
6 achieve substantial greenhouse gas reductions,
7 worth over \$6 billion in climate benefits. And
8 those tremendous benefits could be realized at a
9 possible net financial savings to New York
10 citizens thanks to the lower projected price for
11 natural gas. We have not conducted any extensive
12 analysis on biodiesel, but we strongly advise the
13 committee to consider the full lifecycle costs and
14 benefits of fuel production. Others have already
15 testified on this today so I'll move on.

17 To summarize, a switch to low
18 sulphur fuels is clearly cost benefit justified.
19 While it will not deliver the same cost savings
20 and dramatic health benefits as natural gas, it is
21 a step in the right direction. In either case,
22 given the number of lives affected and the low
23 cost of switching to cleaner fuels, swift action
24 to wean New York City off dirty heating oil is
25 both urgently needed and economically justified.

2 Thank you for the opportunity to testify on this
3 vital public health issue.

4 CHAIRPERSON KOPPELL: Thank you
5 very much, and thank you and NYU for this
6 comprehensive study that you've presented to us
7 which supports your testimony and we appreciate--

8 JASON SCHWARTZ: You're quite
9 welcome.

10 CHAIRPERSON KOPPELL: --having that
11 information. I don't have any specific questions
12 but I want--appreciate your testimony. Thank you
13 very much. I don't have any other slips of people
14 who are still here--

15 FEMALE VOICE: Can you mention the
16 [off-mic]?

17 CHAIRPERSON KOPPELL: Sure.

18 FEMALE VOICE: [Off-mic]--

19 CHAIRPERSON KOPPELL: Sure.

20 FEMALE VOICE:--[off-mic].

21 CHAIRPERSON KOPPELL: Yeah, I want
22 to say, for the record, that we have a statement
23 from Tenants and Neighbors, we have a statement
24 from Urban Justice Center, and we have a statement
25 from Sprague Energy. All of those statements will

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be included in the record of these proceedings.

3

Is anybody else who has something to contribute?

4

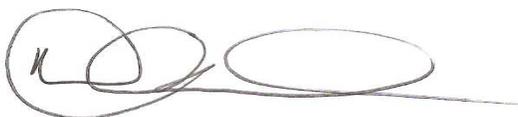
If not, the hearing's adjourned. Sorry, you were

5

a little late. Your hand went up a little late.

C E R T I F I C A T E

I, Shanti Navarre, certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

A handwritten signature in dark ink, consisting of several loops and a long horizontal stroke extending to the right.

Signature _____

Date June 9, 2010 _____