

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON ENVIRONMENTAL
PROTECTION

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November 21, 2013
Start: 1:20 p.m.
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HELD AT: 250 Broadway, Hearing Room
16th Floor

B E F O R E: James F. Gennaro
Chairperson

COUNCIL MEMBERS:
Elizabeth S. Crowley
G. Oliver Koppell
Brad S. Lander
Steven T. Levin
Donovan Richards
Peter F. Vallone, Jr.

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

Carter Strickland
Commissioner of the NYC Department of
Environmental Protection

Mike Gilsenan
Assistant Commissioner of the NYC Department of
Environmental Protection

Gerry Kelpin
Bureau of Environmental Compliance

David Biederman
National Waste and Recycling

Denise Richardson
General Contractors Association of New York

Felice Farber
General Contractors Association of New York

Jeffery Eichenwald
Startech Engeineering

Jesse Erlbaum
Vice President of New York Motorcycle and Scooter
Task Force

Bill Ferraro
President of Brooklyn Chapter of ABATE

Tonya Cruz
Motorcycle Rider Foundation/American Motorcycle
Association

Alycia Gilde
CALSTART

Rich Kassel
Gladstein, Neandross and Associates

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

James Tripp
Environmental Defense Fund

Angela Pinsky
Real Estate Board of New York

Mary Ann Rothman
Council of New York Cooperative and Condominiums

Andrew Moesel
Restaurant Association

Cecil Corbin-Mark
WE ACT

Joel Kupferman
New York Environmental Law and Justice

Mav Moorhead
NYH2O

John Selento

Rosaria Sinisi

2 CHAIRPERSON GENNARO: Okay, Yeah

3 we're going to--this is like the two minute
4 warning. We're just doing the--We're just doing
5 a little bit of housekeeping here, and then
6 we'll be ready to go. Thank you all. Thanks
7 for your patience. I don't see slips for them.
8 For example, I know Revny's [phonetic] in the
9 room. I don't see a slip for Revny. We're
10 trying to put together panels, and so that's
11 what we're doing now. We're doing selective
12 choreography. So without the slips you might be
13 on a panel that you don't want to be on. Now,
14 the motorcycle guys are all in one. See, they
15 were here and they all signed up. So we got
16 them. [off mic] these things by having panels
17 that are in favor, panels in opposition.
18 Sometimes people don't check the boxes, so I'm
19 going to guess. Okay, I think we're ready.
20 Sergeant, if you could--if you could close the
21 door so we don't get any noise from the hall,
22 but let in Council Member Vallone, please.
23 Okay. Pete, okay. Good seeing you. Okay,
24 yep. Okay, we're ready to go. Sergeant, we
25 good? I mean, we live? Okay. Good afternoon.

1 I'm Council Member Jim Gennaro, Chair of the
2 Committee on Environmental Protection. Today
3 the Committee will hear Intro 1160, which
4 proposes a comprehensive revision of the New
5 York City air code. Reducing air pollution in
6 New York City is a top environmental priority
7 as it contributes to approximately six percent
8 of all deaths in the City. Pollutants of
9 concern include particular matter, nitrogen
10 oxides, elemental carbon, sulfur dioxide, and
11 others. And everyone knows the announcement
12 made by the Mayor recently, we have the
13 cleanest air in the last 50 years. That doesn't
14 happen by accident. It happens by design, and
15 you know, we're realizing now the good health
16 benefits that come from that. I want to pay a
17 special tribute to the Bloomberg administration
18 and Carter and everyone in DEP who has been
19 working on these issues over the years in very
20 close collaboration with the Council. But this
21 is how we do it, you know, one bill at a time.
22 And we've done other things, but this is
23 sweeping. Let me go back to the prepared text.
24 In 1970, New York City passed the Air Pollution
25

1 Control Code to help alleviate the adverse
2 environmental and public health impacts of
3 these and other pollutants. Although parts of
4 the air code have been amended over time, and
5 parts have been added, the code has not been
6 comprehensively revived since its original
7 passage more than 40 years ago. Intro 1160
8 would make such a revision. That is to say
9 this is very big deal and a lot of people have
10 worked on it, and I commend the administration
11 and DEP and BIC and everyone who has been
12 involved in this for their efforts. Over the
13 years, the City Council has demonstrated its
14 unwavering commitment to improving air quality
15 in New York City. Beginning in 1990, the
16 Council enacted more than a dozen local laws
17 designed to improve air quality while
18 simultaneously reducing greenhouse gas
19 emissions. Of course, that was done in
20 partnership with the Bloomberg administration
21 and the administrations prior to that. These
22 measures have included but have not been
23 limited to adopting alternative fuel
24 requirements for heating oil and vehicles,
25

1 mandating that non-road [phonetic] vehicles
2 owned or operated by the City's ultra low
3 sulfur diesel fuel and the cleanest available
4 technologies. This is just the list we just
5 like showing off at this point. So I don't
6 have to go over that. We've--so the Council
7 had done stuff. Good for us. The legislation
8 before us today will build upon this work and
9 move New York City closer to Plan YC's
10 [phonetic] stated goal of having the cleanest
11 air of any large city in the country. Intro
12 1160 proposes to update the existing language
13 in the air code to reflect developments in
14 technology and federal state and local
15 regulation of air contaminants and adds a new
16 definitions that address sources of emissions
17 that will be regulated, you know, should this
18 all pass. The bill also adds new sections,
19 speaking to emissions for motorcycles, outdoor
20 wood boilers, fire places, wood burning
21 heaters, commercial char broilers, cook stoves,
22 and stationary generators. Finally, this
23 legislation updates emission standards to the
24 various sources to conform these standards to
25

1 the most recent state and federal standards.
2 That's, you know, kind of compliance thing. We
3 should all be saying the same thing on the
4 federal, state, and local level. Let me just
5 speak on a personal note of the good meetings
6 that I've, you know, had with the
7 administration on this, all their dedicated
8 work to try to get it to us, you know, but
9 these are hard issues to do and anytime you
10 want to make the air cleaner, you have to talk
11 to people about how they might have to do
12 things differently and that's--and you know,
13 that's the rub. I think I got a pretty good
14 reputation over the last 12 years of being
15 fair. You know, many people remember the air--
16 remember the noise code we did back in 2005.
17 There was a lot of sectors that, you know,
18 were--who had a lot of issues with that, and we
19 worked through them, and we have a quieter city
20 today. But this is something that, you know,
21 not only the Bloomberg administration is deeply
22 committed to, but, you know, I'm deeply
23 committed to, and although the hour is late in
24 the administration I am, you know, really
25

1
2 committed to doing everything we possibly can
3 to get this bill done and to make it fair for
4 all involved, and you know, based on my track
5 record over the last 12 years, no one has to be
6 worried. You're not going to find a lot of
7 people saying that I've been unfair in any way,
8 and so what we'll, you know, have our hearing
9 today. I would imagine that there will be, you
10 know, follow-up meetings with, you know,
11 various stakeholders that would include both
12 the administration and the Council. So you'd be
13 talking to us both at the same time. We don't
14 want to get in situations where people talk to
15 the administration and then they talk, and then
16 the same stakeholders talk to me, and then I
17 got to go back and talk to them, and he said
18 this and she said that, and we're not doing
19 that. And so, we have the administration in
20 the room. They're going to stay for the entire
21 hearing. They're going to hear everything that
22 has to say, that is said by all the witnesses,
23 and so, you know, we're really going to start
24 the process today in earnest to sort of, you
25 know, work out the things that need to be

1 worked out and get us where we, you know, need
2 to be which is, you know, have a new air code
3 that's fully updated and that is fair for all
4 stakeholders. So, you know, there you have it.
5 And so with that being said, let me--I'm really
6 here to kind of hear from everyone and not go
7 on and on, but I'd like to recognize that we're
8 joined by Council Members Koppell, and also
9 Council Member Vallone. It's a pleasure to
10 have them with us. I thank the staff for
11 helping to get this good hearing together, and
12 all of the, you know, years of work on behalf
13 of DEP and other elements of the Bloomberg
14 Administration, you know, to pull this air code
15 together. So with that said, let the hearing
16 begin in earnest, and I would welcome the
17 administration for all of their work. I would
18 ask the Counsel of the Committee to swear in
19 the panel, and then I ask the Commissioner to
20 state his name for the record and proceed with
21 your good testimony.

22
23 COUNSEL: Can you please raise your
24 right hands? Do you swear or affirm to tell the
25

1 truth, the whole truth, and nothing but the
2 truth today?

3
4 CARTER STRICKLAND: I do.

5 CHAIRPERSON GENNARO: Let me just
6 make sure I have the Commissioner's testimony.
7 And I would--I don't know about back in the
8 office. It's a little chilly up here, so
9 Israel, if you could raise it by one or two
10 degrees that would be great. Plus, we want to
11 save energy, right? We want to do that.
12 Please, Commissioner?

13 CARTER STRICKLAND: Okay. Good
14 afternoon, Chairman Gennaro and members. I am
15 Carter Strickland, Commissioner of the New York
16 City Department of Environmental Protection.
17 I'm joined today by a lot of people. There's a
18 lot of folks from City government in the
19 audience here today, and we'll be available per
20 your request to answer questions. I think we
21 want to get this done. It's why we have such a
22 strong showing. I'm joined today at the table
23 by Assistant Commissioner Mike Gilsenan, Bureau
24 of Environmental Compliance, Gerry Kelpin,
25 Director of Air Noise Enforcement and Policy.

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2 In the audience among other folks are Keith
3 Kerman who's the Deputy Commissioner for Fleet
4 Services at DCAS, James Colgate Assistant
5 Commissioner from Department of Buildings, Eric
6 Goldstein, Department of Education who runs the
7 school bus student transportation program,
8 Assistant Commissioner Doctor Tom Matte from
9 Department of Health and Mental Hygiene, Jay
10 Kairam, Chief Operating Officer of the Business
11 Integrity Commission, Assistant Commissioner
12 of Environmental Affairs, Steve Brautigam, and
13 Sprio Kattan, Supervisor of Clean Fuels and
14 Technologies Division both from the Department
15 of Sanitation. We all thank you for the
16 opportunity to testify on the revision of the
17 air code. I would like to thank you
18 personally, Mr. Chairman, and also on behalf of
19 all New Yorkers for your leadership. It's
20 really been tremendous. You, your committee and
21 the Council have been integral to ensuring that
22 the City's sustainability programs have
23 succeeded and are embedded in the charter and
24 administrative code for the benefit of the
25 environment and health of New Yorkers for

1 decades to come. I think it's safe to say that
2 your tenure has been one of the most productive
3 if not the most productive periods for
4 environmental protection in the history of the
5 Council, especially of course, biofuels and
6 heating oil reform which were done in a way
7 that was fair to all stakeholders. I think
8 it's safe to say we know now that cost of
9 compliance had been even less than we had
10 though earlier, and you and your fellow
11 committee members have done a great job.

12
13 CHAIRPERSON GENNARO: Thank you,
14 Commissioner.

15 CARTER STRICKLAND: Today--and thank
16 you. I truly mean that. As a result of those
17 efforts, today New York City's air quality has
18 reached the cleanest levels in more than 50
19 years with dramatic reductions in pollutants in
20 the air since the launch of the
21 Administration's comprehensive long term
22 sustainability blue print PlaNYC. Since 2008,
23 the level of sulfur dioxide in the air has
24 dropped by 69 percent, and since 2007, the
25 level of soot pollution has dropped by 23

1 percent. Under Mayor Bloomberg's leadership
2 and consort with the active role, the Council
3 in passing important legislation and with
4 significant input always from a variety of
5 stakeholders, we have developed sensible
6 regulations that have resulted in this profound
7 improvement in air quality. We have come a long
8 way since the early 1970's when soot blackened
9 the window sills of the City's homes, and
10 before the Clean Air Act came in to effect, and
11 even earlier than that, of course, for those
12 who can remember in the 1960's we had our own
13 version of killer smog, literally, in New York
14 City, and that led to the first passage of the
15 New York City Clean Air Code. Year-round air
16 quality has benefited from reduced emissions
17 from upwind power plants, industrial sources,
18 on and off-road diesel vehicles engines, the
19 stationary engines as a result of federal and
20 state regulations. To address remaining
21 sources of emissions in our densely populated
22 city, we've taken a number of local actions to
23 clean up heating fuel to include more hybrid
24 and electric vehicles in the municipal fleet,

1 to reduce emissions from school buses and
2 construction vehicles, and to install clean
3 diesel retrofits on City fleets. Together,
4 these actions have led to the dramatic progress
5 towards meeting the City's clean air targets.
6 Based on the Health Department's study using
7 EPA methods, we estimate that in 2005 to 2007
8 fine particulate levels in New York City
9 contributed to more than 3,100 deaths, more
10 than 2000 hospitalizations for cardiovascular
11 and respiratory disease and 6,000 emergency
12 department visits for asthma every year. Today,
13 because of the significant improvements in air
14 quality, the Health Department estimates that
15 every year, again, we are preventing
16 approximately 800 deaths and approximately
17 1,600 emergency department visits for asthma,
18 and 460 hospitalizations for respiratory and
19 cardiovascular diseases. But with PM 2.5,
20 that's fine particulate matter, still causing
21 more than 2,000 deaths annually, we need to do
22 more to reduce local emissions. This progress
23 has encouraged us to revisit the New York City
24 Air Pollution Control Code, which has not been
25

1 substantially revised in 42 years. In the
2 1970's, the City led the way and served as a
3 model for the federal Clean Air Act, but now
4 many elements of the code are simply outdated.
5 To fulfill one of PlaNYC's critical goals of
6 having the cleanest air of any major US city,
7 the code must be revised. I want to talk a
8 little bit about outreach and engagement. This
9 revised code is a product of numerous meetings
10 with business, environmental and civic
11 stakeholders and hundreds of hours over the
12 last four years. Groundwork for the revision
13 of the code began in 2009 with a series of
14 meetings with critical stakeholders to develop
15 overarching themes that would be used as a
16 template for the work going forward. Based on
17 these early stakeholder meetings in January
18 2011, DEP began to draft a proposal with the
19 objectives of one, updating emissions
20 standards, two, focusing on previously
21 unregulated sources of particulate matter,
22 three, simplifying compliance requirements for
23 stakeholders, and four, increasing flexibility
24 to address new and developing technologies.
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1
2 Obviously, that was the last theme was an
3 important one because the code itself showed
4 how difficult it can be to keep that body of
5 work updated. Since January 2011, the DEP code
6 revision team engaged major stakeholders in the
7 private and public sectors. This included all
8 relevant city agencies along with a law
9 department of course, and in January 2012,
10 Mayor Bloomberg announced a revision of the air
11 code in his State of the City address. So,
12 this has been in the works for some time. A
13 working draft was completed in April 2012, and
14 this same team interdisciplinary
15 interdepartmental team met with and answered
16 questions from stakeholders, discussed new
17 issues, and reviewed and revised language as
18 necessitated by the review process until its
19 introduction in this September of 2013. Some
20 of the participants in the process for example,
21 have been the Council, Department of Health,
22 Department of Sanitation, BIC, Department of
23 Education, DCAS, Boiler Industry, the
24 Industrial Processing Sector, the real estate
25 industry, the food service industry, and of

1 course, environmental advocates. These
2 meetings, which continue until a few weeks ago
3 and are never really over, and I mean that in a
4 good way, it's a continual dialogue, enabled
5 DEP to prioritize the sections that need to be
6 revised first and ensure the industry and other
7 sectors are not unduly burdened. If I could
8 speak of the emissions standards theme in this
9 code revision. During the past 40 years,
10 emissions have been reduced significantly, but
11 more improvements are necessary as discussed.
12 We had the greatest density of PM emissions
13 than people of any large US city. With many
14 vulnerable groups, exposure to emissions from
15 sources like charbroiling and wood burning are
16 of great concern in New York than in less--
17 greater concern than in less populated
18 jurisdictions. Health standards have also
19 become more astringent. We seek in this
20 revision to further reduce emissions from
21 already regulated sources, and to achieve
22 emissions reductions from smaller localized
23 sources of pollution throughout the City. An
24 important component of improved air quality in
25

1 New York City has been a cleaner, more
2 efficient city fleet. As you all know, the
3 administration and Council has worked together
4 to pass a series of law that require an
5 increased fuel economy for on-road city
6 vehicles, the use of biodiesel in all the
7 City's fleet, the phase out of older, dirtier
8 engines--vehicles and engines, really, and the
9 use of clean vehicles by city construction
10 contractors. This combination of regulations
11 has dramatically reduced emissions from the
12 City's fleet. The estimated average particulate
13 matter emissions percentage reduction per
14 vehicle in fiscal year 2011 through fiscal year
15 2012 is approximately 49 percent. We also want
16 to make sure the commercial waste fleet meets
17 the same standards set for the municipal fleet.
18 In commercial waste generated in the City
19 including construction and demolition waste.
20 That is all hauled by private operators
21 licensed by the Business Integrity Commission.
22 Citizens see these trucks every day as they
23 provide services in commercial corridors and
24 construction sites across the City. As part of
25

1 the revision, all heavy-duty waste trucks that
2 operate in the City will be required to achieve
3 EPA standards for 2007 model year engines by
4 2020. There are over 8,000 trucks in the
5 commercial fleet, 85 percent of which would be
6 potentially affected. Based on current truck
7 turnover rates, 37 percent of the fleet is
8 projected to be at the EPA standard by the
9 compliance date. This requirement would fully
10 expedite that turnover potentially eliminating
11 560 cumulative tons of particulate matter and
12 8,000 cumulative tons of nitrogen oxides by
13 2030. This reflects gains of 40 and 35 percent
14 respectively of PM and particulate matter and
15 knocks emissions totals from the sector
16 compared to the business as usual case. The PM
17 reduction is the equivalent of taking 27,000
18 delivery trucks or 1,300 intercity coach buses
19 off the road every year between 2020 and 2030.
20 To address cost concerns expressed by industry
21 stakeholders who were extensively consulted
22 throughout, this provision provides a six year
23 lead in time, financial hardship waiver, and
24 multiple pathways to compliance. In addition
25

1 to vehicles regulations, this revised code will
2 incorporate updated and revised federal and
3 state regulations for emissions standards. For
4 example, the complicated table of environmental
5 ratings for stationary sources currently
6 include in the code will instead refer to state
7 standards, ensuring that any changes in those
8 state ratings are captures in the City
9 regulations by simple cross reference without
10 having to pass another bill. Similarly, the
11 code incorporates other state standards by
12 reference, including the prohibition of certain
13 architectural coatings that do not meet
14 volatile organic compound levels, the emission
15 of nitrogen oxides from boilers, and the method
16 for determining opacity to use as a proxy for
17 incomplete combustion when smoke is emitted
18 from various sources, including city buildings,
19 and I would say that opacity calls are one of
20 our leading calls to 3-1-1 system in which we
21 send out inspectors to measure the smoke in
22 buildings. Incorporating our standards by
23 reference also allows for the deletion of
24 obsolete and outdated provisions. One of the
25

1 most notable deletions would be eliminations of
2 standards governing refuse burning equipment.
3 At the time the code was passed, of course,
4 this was a common practice in New York City
5 apartment buildings and was shortly thereafter
6 banned, but the whole provision stands. There
7 will now be a general band on refuse burning
8 with a few narrow exceptions, such as state
9 approved medical waste incinerators. We'll
10 also narrow that exemption that permitted the
11 Department of Sanitation to install new refuse
12 burning equipment. Equipment operated by or on
13 behalf of Department of Sanitation used in
14 connection with solid waste disposal or
15 processing for energy generation or other
16 resource recovery will be exempt. Examples of
17 resource recovery may include non-incineration
18 gasification or anaerobic digestion, which do
19 not themselves produce emissions from a stack.
20 Turn now to previously unregulated sources of
21 particulate matter. The revisions to the code
22 over the last 42 years have been limited in
23 scope and focused primarily on the reduction of
24 particulate matter from large sources,
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1 including residential and commercial fuel
2 combustion as well non-road and on-road diesel
3 emissions. The regulation of these large
4 sources now allows the city to focus on
5 smaller, localized sources throughout the City,
6 which viewed as a whole, contribute significant
7 amount particulate matter. And if I can take
8 an aside and address just for a minute, we do
9 have enforcement authority and exercise it
10 against these kind of sources, but only after
11 the fact in response to 311 complaints. So one
12 motivation for addressing this in the code is
13 to give more certainty, predictability towards
14 those sectors and really address those commonly
15 enforced against sectors ahead of time via law
16 or rule. These sources include commercial char
17 broilers, coal and wood fired ovens and fire
18 places. Focusing on these sources will reduce
19 particulate matter emissions, which ultimately
20 saves lives, of course. For example,
21 commercial char broilers throughout the five
22 boroughs emit an estimated 1,400 tons of
23 particulate matter per year. The Department of
24 Health and Mental Hygiene estimates that those
25

1 emissions contribute more than 12 percent of PM
2 2.5 attributable premature deaths annually. In
3 2005 to 2007, about 400 deaths per year in that
4 period. If all commercial char broilers had
5 had controlled technology installed at that
6 time, the reduction in ambient PM 2.5
7 concentrations could have prevented nearly 350
8 of these premature deaths every year. The
9 revisions will require that all new char
10 broilers that cook large amounts of meat, that
11 is more than 875 pounds of meat a week, have
12 control devices. Some control technology is
13 already available for certain types of char
14 broiler and can be installed quickly and at a
15 reasonable cost. That type of technology will
16 be required immediately. For larger or more
17 complex char broilers, the control technology
18 is still being developed and is currently quite
19 costly. Therefore, the code would allow
20 effected entities additional time to install
21 such devices. Similarly, all new commercial
22 coal and wood fired ovens will have to install
23 control technologies, while existing
24 establishments will be given additional time to
25

1
2 comply. This will ultimately reduce localized
3 residential exposure to particulate matter
4 generated by wood and coal burning ovens while
5 still allowing industry to cook all the foods
6 that New Yorkers love. We also propose
7 regulating fire places. As wood as a fuel
8 source is more polluting per pound than coal
9 and less controlled. Smoke resulting from
10 improperly burned wood contains many chemical
11 substances that are considered harmful such as
12 hazardous air pollutants, fine particulate
13 pollution in the form of ash, and volatile
14 organic compounds. Particulate pollution smoke
15 can damage lung tissue and lead to serious
16 respiratory problems when breathed in high
17 concentrations. Low concentrations particulate
18 pollution wood smoke can harm the health of
19 children, the elderly, and those with existing
20 respiratory diseases. The code revision will--
21 proposes to prohibit the installation of any
22 new wood burning fireplaces and requires that
23 all new fireplaces in the City operate only on
24 natural gas or renewable fuels. This is a
25 common provision, especially in western cities

1 with temperature inversions like LA. Existing
2 fireplaces will still be permitted to burn
3 wood, but the moisture content of the wood burn
4 must be 20 percent or less as drier wood burns
5 more cleanly than wood with high moisture
6 content. Again, this is commonly seen around
7 the City when people advertise for kiln dried
8 wood. The new code also provides that
9 fireplaces cannot be used as a primary source
10 of heat. You can't design your house around
11 this as a source of heat. The odors and smoke
12 generated by these previously under regulated
13 emission sources are often the cause of
14 complaints throughout the City. The revised
15 code will strengthen the City's regulation of
16 these localized nuisances to more effectively
17 address sources of emissions that cause
18 discomfort to New Yorkers. Acquiring control
19 technology will help reduce complaints and City
20 resources devoted to responding to them while
21 continuing to protect the health of New
22 Yorkers. Now, I want to turn to simplified
23 compliance requirements, another theme
24 throughout this code revision. The revised
25

1
2 code will simplify compliance requirements for
3 stakeholders and stream line the DEP permitting
4 process. In both the existing and revised code,
5 all boilers are required to obtain either a
6 registration or a certificate of operation, ie
7 a permit, based on the size of the boiler.
8 Getting a certificate of operation or permit is
9 a more involved process than getting a
10 registration. So we are raising the threshold
11 for equipment that will require a certificate.
12 In the existing code, the size range of boilers
13 that require a certificate of operation was
14 based on the fuel choice and emissions rating
15 of boilers from more than 40 years ago. The new
16 code will increase the threshold for boiler
17 certificates of operation from 2.8 million
18 BTU's per hour to 4.2 million BTU's per hour,
19 which will reduce the work permit turn around
20 time by approximately 25 percent and ease the
21 burden on building owners. We also, by the
22 way, have currently have online permitting, and
23 that has already made permitting easier for the
24 building sector. The higher registration
25 threshold, along with new online permitting

1 program will make it easier for applicants to
2 file and receive registrations. Even though
3 this change increases the size range for
4 equipment that will now need a registration, it
5 will not negatively affect the environment as
6 boilers are now required to burn cleaner fuel
7 under DEP's clean heating fuel rules. In
8 addition, the EPA rates boilers as they did not
9 in 1970. Moreover, we believe the engineering
10 audit program, combustion efficiency, and
11 enforcement efforts will be adequately
12 protective. Additionally, owners of boilers
13 requiring a registration will now have to
14 certify that that boiler passed a combustion
15 efficiency test. This test will ensure that
16 the boiler is optimized for efficient
17 performance. Malfunctions will be detected
18 sooner, and the boiler will be tuned and
19 repaired faster. More efficient combustion in
20 the City will result in decreased fuel use
21 which will reduce cost for building owners
22 while also reducing overall pollution.
23 Finally, increased flexibility. The new code
24 will create greater flexibility by enhancing
25

1 rule making authority. It had been difficult
2 to accommodate certain advances in technology
3 under the existing code, which does not allow
4 for the use of certain cost-effective controls
5 as they were not contemplated in 1970. Many
6 areas in the revised code established broadly
7 defined emission controls, but also add
8 language to allow the city to adopt the related
9 implementation methods and standards by rule.
10 This will allow us to more quickly adapt to
11 changing technologies by going through the rule
12 making process rather than having to revise the
13 administrative code. For example, as I
14 previously mentioned, existing coal and wood
15 fired ovens would have to control--would have
16 to have control technology in the future. The
17 code will allow environmentally beneficial cost
18 effective controls to be approved by rule as
19 they develop and stakeholders will have more
20 flexibility to choose appropriate control
21 technologies. I want to add here that under
22 the existing code we often have to approve
23 installations on a custom basis because back in
24 1970 even boilers for buildings were built,
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1
2 each one was built on an ad-hock [phonetic]
3 basis, and we had to approve the piping, the
4 exhaust, the combustion. Now, you buy a
5 boiler, essentially off the shelf. They're
6 big, but you'll buy that off the shelves, and
7 it comes approved by the EPA. In closing, I
8 appreciate your consideration of this important
9 and overdue update of the New York City air
10 pollution code. With the help of our
11 stakeholders, we have crafted a comprehensive
12 revision of the code that will simplify and
13 improve compliance with existing regulations
14 without compromising quality, life, and the
15 environment, a true step towards a more
16 sustainable City. The Bloomberg administration
17 and the City Council have taken many steps to
18 ensure we are providing future generations with
19 a vibrant and healthy that is prepared for a
20 million new residents by 2030. I look forward
21 to your support in updating the air code into a
22 cleaner New York air for all New Yorkers.

23 CHAIRPERSON GENNARO: Thank you,
24 Commissioner. I thank you for your
25 comprehensive testimony and all the work that

1
2 you have done. Again, having--I'm going to
3 restrict my, you know, my own questions. I'm
4 pretty facile with what is in the new code. I'm
5 very eager, of course, to hear from people that
6 want to get their views on the record with me,
7 but I certainly want to recognize the members
8 here that have questions. I'll be limited in
9 what I have to say. As I said, I've kind of
10 been part of the process, and I want to hear
11 from the other stakeholders who want to get
12 their views in the record. I wish to recognize
13 that we're joined by Council Member Crowley.
14 It's always a pleasure to see Liz. Thanks for
15 coming. And we--and Council Member Vallone has
16 signed up for questions, and I recognize
17 Council Member Vallone.

18 COUNCIL MEMBER VALLONE: That's very
19 nice, Jim, thank you. First of all,
20 congratulations on the work both you Jim and
21 you guys have done on this code. I've been a
22 member of this committee for 12 years. It's
23 been an honor to work with both of you and get
24 this done. I do want to just hit one small
25

1
2 part of this code, which I wasn't aware of
3 until my sources--

4 CHAIRPERSON GENNARO: [interposing]
5 Can you hear? Can people hear Pete in the
6 back? Can you hear him?

7 COUNCIL MEMBER VALLONE: I'll move a
8 little closer to the mic. I want to touch on
9 one part dealing with motorcycles, which I
10 wasn't aware of until I saw some guys with
11 exhaust pipes in the lobby before this hearing.
12 I appreciate what you're trying to do when it
13 comes to emissions from motorcycles. I'm a
14 legal biker. There's a big difference between
15 guys like us and guys who shut down highways.
16 A lot of people don't understand that. You
17 know, we have legal bikes with license plates.
18 We do rides for charity. We obey the rules of
19 the road. We don't have illegal dirt bikes
20 that are stolen and shut down highways.
21 There's a huge difference between us. And we
22 try to comply with all the laws, including
23 pipes. Now, I actually looked into what
24 something similar that you guys are doing now
25 in '08 when it comes to requiring emissions

1 stamps on pipes, because as a legal biker I get
2 upset when there's somebody with a pipe that
3 wakes up a baby 10 blocks away, too. So I
4 looked into ways maybe we could work to do
5 that, but after looking at it and meeting with
6 the parties, there didn't appear to be a fair
7 way to get that done, and let me tell you why.
8 There are too many legal pipes available. There
9 are a lot of legal pipes available here and all
10 over the country that don't have this stamp,
11 because apparently the federal government is
12 not requiring this stamp on legal pipes. So
13 there are many many bikes, bikers who put legal
14 pipes on that don't have this stamp. In
15 addition, it's very difficult to find the stamp
16 on these pipes on a bike that's on the street.
17 They have to--the police have told me they
18 don't want--they can't--they don't have the
19 tools necessary nor do they want to go inside
20 these pipes on these bikes. The bikers don't
21 want them inside their bikes. The police don't
22 want to go inside their pipes. There's
23 liability issues. So there did not seem to be a
24 fair way to do this back then that wouldn't
25

1
2 punish legal bikers. So I wanted to know, you
3 might not be aware of this, I wasn't when I put
4 the bill in, so if you weren't aware, that's
5 fine, but I want to know whether you have come
6 up with a way to deal with these issues,
7 whether something has changed in the five years
8 since I tried this and whether or not you've,
9 you know, involved in the stakeholders like you
10 did with the buildings in this issue.

11 CARTER STRICKLAND: Excuse me,
12 because I have a cold, but--'cause Gerry knows
13 more about this. I'm going to ask Gerry Kelpin
14 to address this.

15 GERRY KELPIN: The issues that you
16 raise certainly were problems back there, and
17 what we're doing in this particular provision
18 is adopting the newest EPA regulation, which is
19 actually going forward. So, it only applies to
20 vehicles or to bikes that have engines after
21 2013. So the--so what we're trying to do is to
22 ensure that people that are buying new bikes in
23 the period of time that this particular
24 provision and EPA has enacted are complying
25 with that provision, and all we're actually

1
2 putting in here is the ability for DEP to check
3 bikes that are in the, you know, 2013 and newer
4 that comply with this particular standard, and
5 which is emission sticker. The stickers
6 actually, the stamp is a little bit more
7 obvious going forward. It doesn't address the
8 problem entirely, but it does give us an
9 additional way to make sure that the newer
10 bikes are in compliance, you know, as long as
11 possible.

12 COUNCIL MEMBER VALLONE: Okay.
13 Well, first of all we'd have to change 2014 at
14 a minimum, since by the time this bill gets
15 passed, we don't want to capture bikes that
16 have already been sold, right?

17 GERRY KELPIN: Well, it deals with
18 the manufacturing date of the vehicle and it
19 refers back to the EPA requirements. So we
20 would probably keep it as the 2007, I mean, I'm
21 sorry, 2013 manufacturer, you know, year that
22 the bike is manufactured in.

23 COUNCIL MEMBER VALLONE: Then someone
24 could have bought a bike in 2013 that doesn't--
25 legally, that doesn't meet these standards.

1
2 They would not have been aware of this law that
3 didn't exist.

4 GERRY KELPIN: No, no, it exists in-
5 -it's actually promulgated by EPA. So it is a
6 federal standard already. All we're doing is
7 adopting in the code, the federal standard, so
8 that we can also look at the bike to see if
9 it's compliant with federal standard. There's
10 not a whole lot of enforcement by the federal
11 government of this, and for the bikes that are
12 here in the City, we would like to, you know,
13 try for it.

14 COUNCIL MEMBER VALLONE: I'm looking
15 forward to when they take the stand with these
16 pipes, because you can't--we can't do it now,
17 unfortunately, and unfortunately there's a
18 governmental operations hearing at 2:00, which
19 many of us, including myself, have to be at. So
20 there is--has the EPA law changed recently that
21 I'm unaware of, or is this the same law that
22 was in existence in '08?

23 GERRY KELPIN: I believe that it's
24 been updated because it refers to vehicles that
25 are model year 2013.

2 COUNCIL MEMBER VALLONE: It does,
3 yeah. And this--again, do you know if--you
4 said there's no enforcement, there's not much
5 enforcement. So, it's still going to be
6 possible then for unwary legal bikers to walk
7 into a store and buy a Harley or whatever with
8 pipes that don't have this stamp on them. If no
9 one's checking to see at the federal level
10 whether these bikes are coming in with stamps,
11 and then they're going to risk--I don't know
12 what you're going to do on the streets when you
13 see these bikes. That's another whole problem
14 when it comes to enforcement by the police and
15 whether that'll be taking the bikes off the
16 streets. If the federal government is not
17 ensuring that all new bikes from 2013 on have
18 this stamp, then it's not fair for just the
19 people in New York City to be hit with this
20 penalty.

21 GERRY KELPIN: I believe that the
22 manufacturer is responsible for ensuring that
23 bikes that they produce, 2013 and forward, meet
24 the EPA requirement. This is not inconsistent
25

1 with other EPA requirements for other motor
2 vehicles. So, I mean we can--

3
4 COUNCIL MEMBER VALLONE:

5 [interposing] I mean, I--again, I want everyone
6 to be heard too and I'd like hear from them.

7 GERRY KELPIN: Sure. Certainly.

8 COUNCIL MEMBER VALLONE: Can I get
9 your assurance that you will meet with some of
10 these groups that represent legal bikers to
11 explain, so they can explain to you and you can
12 explain to them how this is going to work,
13 because if--I don't want to become an expert
14 right now and bore the whole room, but I won't
15 be supporting unless you can work this out with
16 the biker group. So, yes--

17 CARTER STRICKLAND: [interposing] We
18 understand that. We'll make--I make that
19 commitment to you. We will absolutely meet with
20 this groups.

21 COUNCIL MEMBER VALLONE: I'll have my
22 office be a conduit between them and you to set
23 this up. Thanks.

24 CHAIRPERSON GENNARO: Thank you
25 Council Member Vallone. And first of all, I

1
2 certainly appreciate your knowledge of, you
3 know, this aspect of the code, and you
4 previously tried to do a law on it, and you
5 ride yourself so, you know, you got your head
6 into this, but I think it would be helpful, you
7 know, during the course of this hearing,
8 because we've already got a commitment from the
9 administration like other than the Commissioner
10 himself who has, you know, many things to do,
11 but all of his people are going to be here and
12 the people from the other City agencies that,
13 you know, once any particular, you know, group
14 of stakeholders testifies, it would be my--and
15 it would be hope that, you know, people from
16 the administration would take the opportunity
17 once the panel, you know, leaves the stand to
18 go out in the hall and have a chat, and like
19 just you know, start that colloquy and just,
20 you know, start that going a little bit. So,
21 you know, we can accomplish more today than
22 just have the administration put its views on
23 the record and have various stakeholders put
24 their views on the record. You know, we can
25 start to get to know one--we can start to get

1 know one another and have like an
2 understanding, and all I'm for, you know,
3 developing that kind of colloquy between, you
4 know, this group and that group and people
5 within the administration. So when we sit down
6 from the formal thing, you know, in these
7 meeting where we work out the details, that
8 won't be like the starting point. I would like
9 that to happen today, and I got a commitment
10 from the administration, and so it's--so I
11 think this hearing, like a lot of the good
12 stuff's going to happen in this room and
13 outside the room, and that--

14 COUNCIL MEMBER VALLONE:

15 [interposing] And, Mr. Chair, that's a great
16 idea, and if they could please stay in the room
17 to listen to the testimony or have someone stay
18 here. Thank you.

19 CARTER STRICKLAND: We make that
20 commitment as well.

21 CHAIRPERSON GENNARO: Yes. Yes.

22 CARTER STRICKLAND: And did to the
23 Chairman, and we will do that and--
24

25

2 CHAIRPERSON GENNARO: Right, that
3 was like our whole plan here, that from here,
4 you know, going forward, you know, all the
5 stakeholders, you know, plus myself and staff
6 and committee and staff to the council and
7 people from the administration going forward,
8 like we're all going to be like together. So
9 it's not going to be folks having conversations
10 with--we're all going to be doing this together
11 in some kind of cooperative way to try to get
12 to where we need to be, and I thank you for
13 your excellent insights. I appreciate that.
14 Let me just make one or two comments, because--
15 you know to look in the testimony and to see
16 the difference that this administration in
17 consort with the Council has been able to, you
18 know, make regarding clean air--you know, the
19 amount of preventable deaths that we are, you
20 know, now preventing and so many more that we
21 could continue to prevent, we not only have an
22 opportunity, but I think we have an obligation
23 to do, you know, whatever we can within reason
24 to get to the clean air that New Yorkers
25 deserve without unduly burdening any

1 stakeholders that have, you know, no legitimate
2 problems. And I thank the administration for
3 their comprehensive multi-year process that led
4 is to, you know, the bill that is before us
5 today, and it's my, you know, honor to hear it
6 and try to do justice to it, and try to do
7 justice to, you know, stakeholders that, you
8 know, have legitimate concerns, and this is
9 what we do. And so I thank everyone for being
10 here today and for being patient, but with that
11 said, I'm going to now dismiss the
12 administration and we're going to hear from
13 other stakeholders. So grateful to you and the
14 administration for making the agreement to have
15 your people stay in the room so they can get
16 the benefit of everyone's views and also to
17 have like a little side conversations as
18 necessary. And with that said, I thank you,
19 Commissioner. Good luck with your cold.
20 There's too much particulate matter out there.
21 I think that's--that could be part of it.

22
23 CARTER STRICKLAND: I think the
24 problem is that I got a flu shot yesterday.
25 So, you know.

2 CHAIRPERSON GENNARO: Oh, I see.

3 CARTER STRICKLAND: You have to
4 suffer a little bit ahead of time--

5 CHAIRPERSON GENNARO: [interposing]
6 Yeah, yeah. Okay.

7 CARTER STRICKLAND: to avoid the big
8 problems.

9 CHAIRPERSON GENNARO: Okay, yep.
10 Yep, yep.

11 CARTER STRICKLAND: Thank you.

12 CHAIRPERSON GENNARO: I get mine
13 tomorrow. Now that's on the record now. I'm
14 getting a flu shot tomorrow. Okay. It's on
15 television now. Everybody knows. Okay. That I
16 haven't gotten yet; shame on me. Everyone
17 should get a flu shot. Okay. Somebody didn't
18 have their phone on vibrate. And the next
19 panel we'll hear from, this is a panel that is
20 in opposition to the bill, David Biederman, the
21 National Waste and, looks like, Recycling
22 Association. I know David well. It's a
23 pleasure to have him among us. Denise
24 Richardson and Felice Farber from the General
25 Coontractors Association, and Jeffery

1 Eichenwald, from the Mechanical Industry. So
2 that will be the next panel, and then
3 ordinarily we alternate panels pro and pro and
4 con. We're joined by Council Member Steve
5 Levin. Okay. So the panel we're going to hear
6 from is in opposition, and the next--you know,
7 we try to alternate. We have more panels that
8 are opposed than are for the legislation. So
9 the panel on deck so to speak would be a panel
10 that's in favor of the bill. We have Rich
11 Castle, representing it looks like Gladsteen
12 and some other name and Associates, and Alicia
13 Guild. I'm hope I'm saying that right. Guildy,
14 Guild? Representing Call Star. That is the
15 panel that is in favor of the bill, and that we
16 be after this distinguished panel, and I
17 welcome you here. Thanks for being here. I'll
18 have the Counsel of the Committee swear in the
19 panel, and then you can proceed with your
20 testimony. If you have a written testimony for
21 us, that can be--you can give it to the
22 sergeant, and then--Oh, and I have, I got Mr.
23 Biderman's, and I got GCA. Okay. And so if
24 you would swear in the panel, Samara
25

1 [phonetic]? Have a little quiet at the other
2 end of the room over there by the panel.
3

4 COUNSEL: Can you please raise your
5 right hands? Do you swear or affirm to tell
6 the truth, the whole truth, and nothing but the
7 truth today?

8 CHAIRPERSON GENNARO: Okay. And
9 we're going to start with ladies first. We'll
10 hear from Denise Richardson. Nice to see you,
11 Denise. If you could state your name for the
12 record and proceed with your good testimony.

13 DENISE RICHARDSON: Thank you,
14 Council Member and the other Council Members
15 for the opportunity to speak today. I'm Denise
16 Richardson, the Managing Director of the
17 General Contractors Association of New York.
18 The GCA represents the unionized heavy
19 construction industry in New York City. Our
20 members build New York's building foundations,
21 parks, bridges, roads, transit systems and
22 water and waste water treatment systems. In the
23 interest of time, I will summarize my written
24 comments. While the GCA supports the overall
25 goal to update New York's air rules and improve

1
2 New York's air quality, the proposed changes to
3 the sections of the bill that impact the
4 construction industry raise a number of serious
5 concerns, and we welcome the opportunity to
6 meet with DEP and the Council staff to work out
7 the provisions that will both accomplish the
8 City's goal and be fair, reasonable, and easily
9 understood by the affected parties. The
10 changes that are proposed create potential
11 gotcha's [phonetic] for many small and medium
12 sized businesses that are unclear as to what
13 equipment must be registered, how much
14 information must be included in the
15 registration, and what the required
16 environmental and retrofit requirements may be.
17 The results is an environment that is right for
18 rampant ticketing and fines of small and
19 growing businesses. We are equally concerned
20 that section 24146 of the legislation allows
21 DEP to orally issue a stop work order and shut
22 down a project for air born dust conditions
23 without giving the contractor and opportunity
24 to cure the deficiency and then not hold a
25 hearing on the contractors appeal for 14 days.

1
2 The criteria for which a stop work order can be
3 issued are vague and the provisions give DEP
4 broad authority over items that may or may not
5 be a threat to human safety. Here are other
6 examples of the types of issues that exist in
7 the legislation that must be clarified if the
8 legislation is going to accomplish its
9 expressed intent. The proposal authorize DEP
10 to require the use of environmentally
11 beneficial technologies by rule rather than by
12 law. Unfortunately, there's no involvement of
13 the construction industry and in advisory role
14 in the adoption of these new rules. Nor is
15 there a requirement that any new requirements
16 be perspective only. This exposes the
17 contractor to significant increased cost post
18 bid and award if requirements change mid
19 project. The consequences to a small and medium
20 sized contractor could be catastrophic.
21 Construction equipment that is over 600
22 horsepower must be registered with DEP and
23 obtain a DEP work permit. This would cover all
24 large cranes that are currently heavily
25 regulated by the Department of Buildings and

1
2 require DOB permits in order to operate in New
3 York City. Pursuant to law local 77, this
4 equipment is already required to be retrofit
5 with the best available technology for reducing
6 air emissions. Therefore, we ask why is
7 additional registration necessary and does this
8 registration come before or after or concurrent
9 with the DOB permit? Moreover, there are no
10 standards for what a work permit allows or how
11 this work permit will relate to DOB approvals.
12 Intro 1160 would also add a requirement to
13 obtain a work permit for generators. The
14 criteria for obtaining a work permit, the cost
15 of the permit, and the use of the permit is
16 also vague and undefined. To provide an
17 example of the confusing manner in which the
18 bill is drafted, here are three related but
19 different registration requirements. A
20 portable engine between 500 horsepower and 600
21 horsepower, except for self-propelled equipment
22 must be registered. A stationary engine
23 between those same guidelines must be
24 registered. In this scenario, any construction
25 equipment on location for more than 12 months

1 would be considered stationary and now must be
2 registered. This requirement becomes an
3 administrative and record keeping challenge for
4 equipment rental companies that own hundreds of
5 pieces of equipment and would be required to
6 determine if a rented item will remain at the
7 same location for 12 months or more and change
8 the registration of that equipment accordingly.
9 An engine greater than 500 horsepower used
10 exclusively at a construction site, unless the
11 engine input is less than 600 horsepower and is
12 used to power self-propelled construction
13 equipment must be registered. It is unclear how
14 this section relates to the portable engine and
15 stationary engine categories. Moreover, it is
16 unclear why there is a need to register large
17 cranes and other alleged construction equipment
18 when they are already governed by DOB, fire
19 department, and other existing city
20 regulations. Finally, in section 24180, DEP
21 removes all of the specificity for what must be
22 included in a notice of violation written by
23 the ECB and allows the Commissioner to--or
24 heard by the ECB, and allows the Commissioner

1
2 to determine the content of the NOV by rule. We
3 strongly urge that this provision be deleted.
4 We believe that there are a number of critical
5 issues that must be resolved before this bill
6 moves forward, and we look forward to working
7 with the Council and the agency to resolve
8 these critical concerns. Thank you.

9 CHAIRPERSON GENNARO: Thank you,
10 Denise. That's exactly the kind of testimony
11 that I'm looking for and that it's very
12 specific. It talks right to it. It's no
13 philosophical. That's what we need. Good for
14 you. So, let me, you know, just hear the rest
15 of the panel, then I'll have my own questions
16 for the panel at large, and so Mr. Eichenwald,
17 right? Okay. Please state your name for the
18 record and proceed.

19 JEFFERY EICHENWALD: Yes, I'm Jeff
20 Eichenwald. I'm a heating consultant in New
21 York City. I'm a member--

22 CHAIRPERSON GENNARO: [interposing]
23 And you have no written testimony, right?

24 JEFFERY EICHENWALD: No.
25

2 CHAIRPERSON GENNARO: I'm just going
3 to listen.

4 JEFFERY EICHENWALD: I brought 20
5 copies of--

6 CHAIRPERSON GENNARO: What's that?

7 JEFFERY EICHENWALD: I brought 20
8 copies of my business card.

9 CHAIRPERSON GENNARO: Okay, that's
10 fair. And now we have--we certainly have our
11 staff taking notes, we have people from DEP,
12 and all the other agencies involved here taking
13 notes. So please proceed.

14 JEFFERY EICHENWALD: Alright. I am a
15 heating consultant in New York City, a member
16 of the Startech Engineering firm, a mechanical
17 firm that deals a lot with boilers in New York
18 City, and that is what I wanted to address in
19 my testimony. Before I continue I want to
20 thank the city council for giving me this
21 opportunity to testify. One of the things that
22 concerns me is is that I am in the unfortunate
23 position of having to testify about what is not
24 in Intro 1160. If as regards to the emissions
25 reduction for fossil fuel burning equipment

1
2 throughout the breadth of this Intro, I want to
3 focus on what I consider the 800 pound gorilla
4 in the room, which is the emissions from
5 boilers in every building in New York City.
6 Currently there are three categories of boilers
7 in New York City, boilers under 350,000 BTU's
8 do not fall under DEP jurisdiction. Boilers
9 between 350,000 and currently 2.8 million only
10 require a certificate of registration, and at
11 present, only boilers above 2.8 million require
12 a work permit with the application for a
13 certificate of operation. Currently, only the
14 boilers in the third category are subject to
15 any combustion testing whatsoever. Anything
16 that requires a certificate of registration
17 currently under no point in time either during
18 the installation of the boiler or subsequent in
19 its life will that boiler ever see any
20 combustion testing. And the boilers under
21 350,000 BTUs currently don't follow under DEP
22 jurisdiction. So what that means is by the
23 elevation of the category of certificate of
24 registration, which is proposed under Intro
25 1160 from 2.8 million to 4.2, while it might be

1
2 beneficial for the paperwork flow for DEP means
3 you're going to be adding tens of thousands of
4 additional boilers that will no longer ever be
5 tested. The only way you can have meaningful
6 reduction of emissions from boiler operations,
7 which is by far second only to motor vehicle
8 operations, the largest contributor of
9 pollution in the City, is to come up with an
10 enforceable standard for combustion testing and
11 require it on an annual basis for every boiler
12 in New York City. Now, I realize there are
13 political implications of boilers under 350,000
14 because that gets into single family and two
15 family homes.

16 CHAIRPERSON GENNARO: I'm out of
17 politics in six weeks, so I'm not worried about
18 politics.

19 JEFFERY EICHENWALD: Alright,
20 alright. Well, but those that follow you will,
21 I'm sure will be worried.

22 CHAIRPERSON GENNARO: That's their
23 problem.

24 JEFFERY EICHENWALD: The point is
25 simply that in other countries where they're

1 really worried about emission, there are no
2 exceptions. Every boiler in the country gets
3 tested, and in fact, in Germany they get tested
4 twice a year, okay. There are no
5 grandfathering issues. So once these standards
6 are raised, everybody's given a certain amount
7 of time, typically three to five years to meet
8 the new standards, or they come and they take
9 your boiler away. Now, I'm not proposing that
10 as an extreme measure, but I have been dealing
11 with DEP for the better part of ten years now.
12 I've been on the Green Coats task force
13 committee for energy and ventilation that made
14 over 300 recommendations to the Mayor's task
15 force. I've met with, at the time, Laurie Kerr
16 [phonetic] from the Mayor's office of long term
17 planning and sustainability, and we had
18 discussions with the issue of at the time we
19 were proposing that since under local law 6291
20 annual boiler safety testing was already
21 required from building owners, why don't we
22 just simply add a combustion test in as part of
23 the annual boiler inspection, and was told that
24 that was the DEP jurisdiction and we couldn't
25

1 have DOB, you know, interfering with DEP
2 issues. And we said, well fine, so let's have
3 DEP come up with a proposal for annual
4 combustion testing, alright, which we've put in
5 the Green Coats Task Force recommendation
6 several years ago. I've met many times, in
7 fact. In May 20th, I met at a DEP hearing
8 presentation, alright, at which they rolled out
9 the implementation of the CATS systems, which
10 is the Clean Air Tracking System.

11
12 CHAIRPERSON GENNARO: Right.

13 JEFFERY EICHENWALD: Alright. And I
14 welcomed that. It's long overdue. The problem
15 is is that out of the 196 pages in Intro 160,
16 there's only one reference to smoke, alright,
17 which is a questionable standard of number one
18 smoke possibly allowing up to a number two
19 smoke for two minutes. There is no reference
20 whatsoever to carbon monoxide anywhere in Intro
21 1160. The only reference to NOX emissions,
22 only reference applies to boilers over 500
23 million BTUs, which currently applies to no
24 boiler in New York City except for possibly a
25 couple [inaudible 01:02:20] power plants.

1
2 Alright? And no--and so the policy has been
3 having dealt with DEP and met with them is is
4 that rather than set standards and try to push
5 through a comprehensive, although phased in,
6 program of annual testing, let's simply get rid
7 of the fuels, make them illegal, clean them up,
8 and then we don't have to worry about
9 combustion testing. That could not be further
10 from the truth. The only way you're going to
11 get clean operations is to have standards.
12 It's easily doable to have third parties be
13 responsible for the testing, and then DEP staff
14 that is currently doing their emissions testing
15 can come in there on an announced basis and do
16 auditing.

17 CHAIRPERSON GENNARO: Okay. I'm going
18 to have to ask you to conclude at this point.

19 JEFFERY EICHENWALD: Alright. So I
20 simply say that there needs to be a
21 comprehensive program and a guideline that does
22 not look at five, 10, 15 year implementation.
23 Alright? We've had no serious combustion
24 testing on a city-wide basis ever in the last
25 45 years.

2 CHAIRPERSON GENNARO: Okay. I got
3 the combustion testing thing.

4 JERFFERY EICHENWALD: Alright, okay.
5 And so without that, you're not going to get
6 the significant reductions in emissions that
7 are proposed.

8 CHAIRPERSON GENNARO: Okay. Well,
9 thank you, and let's hear the last gentleman on
10 the panel and then I'll come back to you with
11 questions and comments. But, you know, thank
12 you Mr. Eichenwald and for your service on the
13 Green Coats Task Force. I appreciate your
14 service. David, good to see you again.

15 DAVID BIEDERMAN: Good afternoon,
16 Chairman Gennaro.

17 CHAIRPERSON GENNARO: Yeah, make
18 sure you stand--right into the mic, otherwise
19 this won't be recorded properly and people
20 won't hear.

21 DAVID BIEDERMAN: Chairman Gennaro,
22 members of the committee and distinguished
23 guests. My name's David Biederman. I'm the
24 general counsel for the National Waste and
25 Recycling Association, which until yesterday

2 was the National Solid Waste Management
3 Association. We literally changed our name
4 yesterday.

5 CHAIRPERSON GENNARO: Oh, okay.

6 DAVID BIEDERMAN: We are a non-profit
7 trade organization that represents the waste
8 and recycling industry. Our members operate in
9 all 50 states, and our members include about 50
10 licensees who collect waste that's generated by
11 commercial customers here in New York City. We
12 actually support the concept in Intro 1160,
13 which is on page 153 for those of you trying to
14 follow along in this lengthy bill, that trade
15 waste collection vehicles operated by carters
16 licensed by or registered with the City's
17 business integrity commission should reduce
18 their emissions. Our industry's actually quite
19 a progressive industry in this area. We
20 generate more renewable energy than either the
21 solar or wind industry, and in fact, we're
22 leading the way in converting our collection
23 vehicles to natural gas. Nearly half of all
24 the waste collection vehicles, the new waste
25 collection vehicles sold in the United States

1 this year are actually fueled by natural gas,
2 which helps reduce our dependence on imported
3 oil and reduces greenhouse gas emissions.
4 However, the cost of adding these vehicles to a
5 carter's fleet is very substantial. New
6 collection vehicles powered by natural gas cost
7 more than 300,000 dollars, and new diesel
8 trucks of the type typically used in New York
9 City cost about 250,000 dollars. So if this
10 legislation is enacted, according to the MJ
11 Bradley and Associates study that was
12 commissioned by the BIC, the cost of converting
13 the Carter's fleets between now and 2020 will
14 be more than one billion dollars. That's not a
15 typo, one billion dollars. Now, obviously, that
16 would have a very significant--that would be a
17 very significant capital expenditure for an
18 industry that operates on very narrow profit
19 margins, and is hand strung by the BIC's rate
20 cap. Also, the study assumes, curiously, that
21 the average cost of the new truck in New York
22 City is less than 150,000 dollars. This is not
23 at all consistent with the current cost of such
24 vehicles and we've been providing the BIC with
25

1 ample evidence of current vehicle costs for the
2 past six months or so. If this provision of
3 the bill is enacted, many carters will be
4 forced to raise their prices as they upgrade
5 their fleets to comply with this new
6 requirement. Commercial establishments in the
7 City should be prepared for these increases.
8 In addition, some carters are likely to go out
9 of business as a result of this new
10 requirement, or if another piece of legislation
11 pending before the Council, the transfer
12 station capacity reduction bill, is enacted,
13 which would reduce the robust competition that
14 currently exists between the hundreds of
15 licensed carters who currently operate in the
16 City. By requiring carters to travel longer
17 distances to dump their loads and putting
18 upward pressure on disposal costs by limiting
19 what some transfer stations can accept, Intro
20 1170 A, which I understand is not before this
21 committee today--

22 CHAIRPERSON GENNARO: Right.

23 DAVID BIEDERMAN: means higher costs
24 and more truck traffic, noise and emissions in
25

1
2 a number of other neighborhoods in New York
3 City. Now, while we embrace the notion that
4 waste collection vehicles operating in the City
5 need to reduce their emissions, we point out
6 that these vehicles comprise a small portion of
7 the overall truck traffic in New York City and
8 a small portion of the overall emissions
9 associated with their pollution in the City.
10 SO if the City's going to require all of the
11 carters to upgrade their trucks, it's only fair
12 to ask that similar requirements be imposed on
13 other fleets that operate in New York City.
14 Finally, the provision includes a provision
15 that authorizes the business integrity
16 commission to issue a limited waiver for a
17 carter who can demonstrate that upgrading its
18 fleet would cause "undue financial hardship."
19 The waste and recycling industry suggests that
20 this authority not reside solely within the
21 Business Integrity Commission, and ask that it
22 be shared by other city agencies, including the
23 Department of Sanitation. I appreciate the
24 opportunity to testify today. We'd be glad to
25 answer any questions. Thank you.

2 CHAIRPERSON GENNARO: Thank you.

3 Thank you. I want to thank this panel for its
4 good testimony, and Denise, you laid out your
5 issues there. We have taken copious notes. I
6 was--and we can't--I can't talk to someone in
7 the audience, but you know, but by show of
8 hand, you know, who's working on like the GCA
9 related stuff in the--who's doing that? Mike,
10 you're doing that? Okay. So, you know, you
11 and Denise should have a chat, okay? Because,
12 you know, and you can have my copy of the
13 testimony. So it just--that's my copy of the
14 testimony. There it is in black and white, and
15 also I want people from the administration to
16 have the same, you know, testimony that we're
17 getting, and so these people taking the time to
18 lay out their testimony, you know, I think you
19 should have the benefit of what they put in
20 writing, and that'll be the basis for--you
21 know, I'm just trying to, you know, just trying
22 to move this along here, you know? And so Mr.
23 Eichenwald, I made notes on the back of yours.
24 Now, we're talking about 2.8 million and above,
25 right, BTU's?

2 JEFFERY EICHENWALD: That's correct.

3 CHAIRPERSON GENNARO: Okay. And then
4 it goes all the way up to--and so and it goes
5 2.8 million to 4.2 is some window that is now--

6 JEFFERY EICHENWALD: [interposing]
7 And changed from--

8 CHAIRPERSON GENNARO: [interposing]
9 You got to talk right into the mic.

10 JEFFERY EICHENWALD: Has been
11 changed from requiring the C of O [phonetic].
12 It will now only require a registration.

13 CHAIRPERSON GENNARO: Right. So from
14 2.8 to 4.2, that's the window that you think
15 should have the combustion testing or even
16 stuff below that?

17 JEFFERY EICHENWALD: No, every
18 boiler in New York City should ultimately be
19 subject to combustion testing. The issue is
20 how you phase it in over time with--

21 CHAIRPERSON GENNARO: [interposing]
22 Okay, but let's just talk for a second. Let me
23 just ask another question. So you got 2.8 to
24 4.2, so like what's below 2.8. Does it-- you
25 have other windows below that, right?

2 JEFFERY EICHENWALD: All the way
3 down to 350,000 are boilers that only require a
4 certificate of registration, and they're
5 currently no requirements--

6 CHAIRPERSON GENNARO: [interposing]
7 Down to what level, 350,000?

8 JEFFEREY EICHENWALD: Yes.

9 CHAIRPERSON GENNARO: And so the
10 boiler in my single family house, like what's
11 that putting out, a single family house?

12 JEFFEREY EICHENWALD: Well, that'll
13 probably be below 350,000.

14 CHAIRPERSON GENNARO: Right.

15 JEFFERY EICHENWALD: So that's not
16 even subject to any DEP--

17 CHAIRPERSON GENNARO: Right. So,
18 350,000 which is where the whole regulatory
19 thing starts on some level--

20 JEFFERY EICHENWALD: [interposing]
21 Right.

22 CHAIRPERSON GENNARO: What's that--
23 what's that heating, something that's of that
24 size?

2 JEFFERY EICHENBALD: Well, 350,000
3 could even conceivably be, you know, a
4 brownstone in New York City--

5 CHAIRPERSON GENNARO: Okay.

6 JEFFERY EICHENWALD: which could be
7 a four or five unit apartment building.

8 CHAIRPERSON GENNARO: Right, I just
9 wanted to get a sense of what. And so, and it
10 would be DEP's position, although I don't speak
11 for them with the new EPA boilers and they're
12 certified or whatever, and so they're kicking
13 in at 4.2 and above, right?

14 JEFFERY EICHENWALD: Right.

15 CHAIRPERSON GENNARO: Above 4.2 has
16 to--but you would argue for combustion testing
17 from 4.2 all the way down to 300,000 and in the
18 case of Germany, they're going to like single
19 family houses or whatever.

20 JEFFERY EICHENWALD: Right.

21 CHAIRPERSON GENNARO: Which--

22 JEFFERY EICHENWALD: [interposing]

23 But more importantly--

24 CHAIRPERSON GENNARO: [interposing]

25 Okay.

1
2 JEFFERY EICHENWALD: More
3 importantly the DEP's current position is that
4 the details on the requirements for combustion
5 testing are rule-making by the agency and do
6 not require City Council approvals. That's why
7 the language in Intro--

8 CHAIRPERSON GENNARO: [interposing]
9 Right.

10 JEFFERY EICHENWALD: 11, in many
11 cases is intentionally vague so that they can
12 then go back and make individual rules to flush
13 it out.

14 CHAIRPERSON GENNARO: Right. Well,
15 I mean, we have lawyers at the Council here--

16 JEFFERY EICHENWALD: [interposing] I
17 understand.

18 CHAIRPERSON GENNARO: and we
19 understand, you know, when we're being asked to
20 give an--like, the administration like a free
21 pass on anything.

22 JEFFERY EICHENWALD: I understand
23 that.

24 CHAIRPERSON GENNARO: You know, and
25 so like we're--

2 JEFFERY EICHENWALD: [interposing]

3 Here's--

4 CHAIRPERSON GENNARO: we're hip to
5 that, you know? Yeah.

6 JEFFERY EICHENWALD: Here's the
7 problem. Yesterday, when the City record,
8 alright, DEP published their current revision
9 for their rules for boiler testing, okay? In
10 the Intro 1160 on page 69--

11 CHAIRPERSON GENNARO: [interposing]
12 Right.

13 JEFFERY EICHENWALD: it refers to a
14 number one smoke. In the rules the DEP
15 published yesterday in the City record, it
16 allows for a number three smoke. So--

17 CHAIRPERSON GENNARO: [interposing]
18 And your point is what?

19 JEFFERY EICHENWALD: Well, the point
20 is is that you, if you leave it out of the City
21 required--

22 CHAIRPERSON GENNARO: [interposing]
23 Right.

24 JEFFERY EICHENWALD: legislation,
25 and you leave the details to the City Council--

1 CHAIRPERSON GENNARO: [interposing]
2
3 Right.

4 JEFFERY EICHENWALD: alright, then
5 in many cases the details are in conflict with
6 the original legislation--

7 CHAIRPERSON GENNARO: [interposing]
8 Okay.

9 JEFFERY EICHENWALD: And in fact,
10 conflict with the DOB regulation.

11 CHAIRPERSON GENNARO: Okay.

12 JEFFERY EICHENWALD: So--

13 CHAIRPERSON GENNARO: [interposing]
14 Why don't we do this--

15 JEFFERY EICHENWALD: [interposing]
16 The city agencies need to get together.

17 CHAIRPERSON GENNARO: In the spirit
18 of moving things along, it is your contention,
19 you came in here and testified that like the
20 lack of combustion testing is going to result
21 in not getting--us not getting the, you know,
22 clean air results that we could get if we did
23 all this combustion testing, and so I would
24 urge you and your industry--I'm going to talk
25 to staff here. You know, I'd like to know what

1 we're sort of losing by not doing this, and
2 what we have to do in terms of inspection and
3 site visits and everything or self-
4 certification and whatever in order to get
5 this. So, you know, everything's a balance,
6 and so this is now of interest of me, and I
7 would like to hear from, you know, DEP, and
8 from any numbers you provide. So you're
9 indicating that we could be getting this amount
10 of, you know, clean air benefit that like we're
11 not getting, and do if that could be
12 substantiated, fine. And then DEP's going to
13 say, "In order to get that benefit, we got to
14 do like all kinds of bureaucratic running
15 around and we don't really have the ability to
16 do that, and we don't think that that number's
17 that big anyway." So that's--so like that's how
18 that's going to go. And so who does the boiler
19 stuff for DEP? Okay. I--yeah. I kind of
20 nominate Elissa [phonetic] if I could, you
21 know. Can I nominate her and have a
22 conversation with this gentleman?

23 [off mic]

2 CHAIRPERSON GENNARO: Oh, fine. But
3 you can't--we can't have this colloquy because
4 you're not on the record. And so, okay. And so
5 someone should talk to Mr. Eichenwald, he's
6 served on the Green Coats Task Force. He's in
7 the industry. He knows all about combustion.
8 It's all good, okay? So, you know, I'm not
9 forgetting this issue, okay? You did a good
10 thing by coming here. And I, you know, this is
11 what happens when, you know, you're six weeks
12 to go and we have to--it's time to fish or cut
13 bait, you know? And but the--no one should,
14 you know, no one should believe that like the
15 pace of the process--in other words, the
16 integrity of the process and the fairness of
17 the process is not going to be compromised by
18 the pace. Okay? Everyone gets that. I can work
19 quickly. I use to be a smart guy, you know,
20 and probably still am a little, you know. Not
21 in my hay day, but you know, there's still
22 something left up there. David, thanks for
23 your--so we got--we got Eichenwald, right?
24 We're good? Okay. And so David, you have this
25 number, you know, a billion dollars, and that's

1 a lot of money, and also with BIC being the,
2 you know, sole arbiter of the undue financial
3 hardship, that's a big issue.

4 DAVID BIEDERMAN: That's correct.

5 CHAIRPERSON GENNARO: Right. And we
6 have a history going back to the air code, and
7 you know I've, you know, I've stood up or your
8 guys and made sure that the right thing
9 happened, and it certainly got my attention
10 with this legis--with the points you made here
11 today and I, you know, never done your business
12 wrong. And but this particular aspect of it is
13 getting a lot of splash. This was like all
14 over the Times the other day, right? This is--
15 there was a whole big article in Times.

16 DAVID BIEDERMAN: Right, there was a
17 big article in the Times about that.

18 CHAIRPERSON GENNARO: Right, right.

19 DAVID BIEDERMAN: That's correct.
20 It's one of several issues--

21 CHAIRPERSON GENNARO: [interposing]
22 Right.

23 DAVID BIEDERMAN: that our industry
24 is focusing on.
25

2 CHAIRPERSON GENNARO: Did you notice
3 the big article about me in the opposite page
4 of the Times that day? Did you happen to look?

5 DAVID BIEDERMAN: I had it brought
6 to my--

7 CHAIRPERSON GENNARO: [interposing]
8 I'm just saying. That happened, but there was
9 a whole article. The first article on the New
10 York section, you know, that day was about
11 this, and so this is, you know, getting a lot
12 of attention and we'd like to try to--you know,
13 we'd like to certainly try to get something,
14 but we want to be fair, and if we could--and so
15 I give you my commitment like I gave you eight
16 years ago with the air code, that we're not
17 going to--you know, that we're not going to
18 hang you out to dry. And so the gentleman here
19 from BIC that could talk to David? Who's here
20 from BIC? Okay, you got that? Alright. And
21 so and I would urge--you know what? Bill of my
22 staff, why don't you kind of, you know, listen
23 to some of these conversations and be sort of
24 like my ears in some of these conversations.
25 Okay? And we got Samara still taking notes on

1
2 the next panel and stuff. So Bill I'm going to
3 like deploy you to, you know, to listen in on
4 some of the chit-chat that's going to go on
5 between this good panel and people from the
6 administration. Okay? And so people from the
7 administration can have like my own copy of the
8 this testimony with my own notes, so they can
9 like see what I'm thinking. Okay? And so with
10 that said I really appreciate you coming here
11 today. You made a, you know, you made a
12 difference. Thank you.

13 DAVID BIEDERMAN: Thank you.

14 CHAIRPERSON GENNARO: Appreciate
15 that. Okay. And the next panel, now we have--
16 the next panel is going to be--you know what?
17 Ordinarily we alternate panels pro, con, pro,
18 con, pro, con. We're not going to be able to
19 really do that today, because most of the
20 panels are in opposition. We only have panel
21 that's going to speak in favor. We're going to
22 kind of out of respect for Council Member
23 Vallone who has a particular interest in the
24 issue regarding cycling. We want to bring up
25 the panelist that are going to speak to the

1
2 motorcycle issue, but I got to tell you,
3 there's like a lot of witnesses here that want
4 to testify. I see six slips. Okay, yeah, and
5 so--and so--okay. Yeah, so I want to, you
6 know, when I see a thick stack of slips,
7 sometimes it leads into a syndrome where every
8 witness is kind of giving the same testimony,
9 and so in this--what's that?

10 [off mic]

11 CHAIRPERSON GENNARO: Okay, so
12 there's a--the lawyer for the cyclist--oh, he
13 defers? Okay. Andre, I can't make out the
14 last name, I t--I g--Okay. Jesse Erlbaum
15 [phonetic]. Okay, Jesse, you're up. You can
16 pronounce your last name for the record. I
17 have Bill Ferraro, Bill Ferraro? Okay, Bill.
18 Okay, I'm calling the panel up. Tonya Cruz?
19 Okay. Tonya, you're on. John Simon? Okay,
20 fine. Okay. So this--let me put this over
21 here, and let me just give a notice to the
22 panel that's on deck. We'll be--my good
23 friend, James T.B. Tripp from EDF, is Jim here?
24 I thought I saw him. Is Jim here? Jim's here,
25 okay. Where is he? Okay, he's around. Okay,

1
2 Jim Tripp. Alycia Gilde, looks like,
3 representing CALSTART, who will speak in favor
4 of the bill. My good friend Rich Kassel, with
5 some firm who's going to represent--he's going
6 to be in favor the bill. And so that is the
7 panel that's on deck. I'm kind of switching
8 the order. It's kind of a collegial thing.
9 You know how we do things here. And so I thank
10 you all very much for being here. I'll have the
11 Council swear the panel, then we can proceed.

12 COUNSEL: Can you please raise your
13 right hands? Do you swear or affirm to tell
14 the truth, the whole truth, and nothing but the
15 truth today?

16 CHAIRPERSON GENNARO: Okay. Here's
17 what we're going to do--Sergeant, we just ask
18 the door to be closed. Just close the door
19 there. And Pete, these are your--this is your
20 issue, and thank you very much for hanging out
21 for this, and I don't see any written testimony
22 which is fine. I'll take my glasses off and
23 listen. We have staff taking notes, and you
24 want to do ladies first? You want to go? You
25 want to go? Okay, fine. Okay. Fine. And so

1
2 thank you very much for being here. If you
3 state your name. So you'd be Jesse, right?

4 JESSE ERLBAUM: Yes.

5 CHAIRPERSON GENNARO: Okay.

6 JESSE ERLBAUM: Jesse Erlbaum.

7 CHAIRPERSON GENNARO: Okay, fine.

8 Like I said, yeah, you have to state your name
9 for the record. You've done that, so, you
10 know, please proceed, and once again, I want to
11 recognize that Council Member Vallone even
12 though he has another meeting to be at, he
13 wanted to be here to hear testimony, and I
14 appreciate him being here and I appreciate you
15 being here.

16 JESSE ERLBAUM: Thank you very much.

17 CHAIRPERSON GENNARO: You bet.

18 JESSE ERLBAUM: Thank you very much
19 to the Committee. My name is Jesse Erlbaum. I
20 am the Vice President of an organization called
21 the New York Motorcycle and Scooter Task Force.
22 It's a all-volunteer group trying to promote
23 safe motorcycling in New York City. And I'll
24 try to keep it pretty short. Specifically, I'm
25 speaking in reference to the section in 1160

1 which wants to change a particular subsection
2 of the administrative code as follows, and I'll
3 just--it's very short. I'll just read it.

4 CHAIRPERSON GENNARO: Right.

5 JESSE ERLBAUM: The motorcycle
6 emissions control. Any motorcycle manufacturer
7 in the year 2013 or thereafter that is present
8 in the City of New York shall display on the
9 exhaust system of such a motorcycle, the
10 emissions label required pursuant to section
11 205.169 of title 40 of the code of federal
12 regulations. So, my point--

13 CHAIRPERSON GENNARO: [interposing]

14 Let me just jump in for a second. And that
15 would show anybody that looked at that, that it
16 is indeed--it is indeed compliant with what the
17 standard whatever it is, right? That's the
18 whole idea.

19 JESSE ERLBAUM: Right.

20 CHAIRPERSON GENNARO: Okay.

21 JESSE ERLBAUM: And the real
22 question is the second part of what you said
23 which is, "whatever it is." The--I know that
24 this provision in 1160 is not about air
25

1
2 pollution, and I know this because the federal
3 law to which it refers, section 205.169 of
4 title 40 is not about air pollution. It's
5 about noise emissions. So, to the extent that
6 it's relevant at all that there be a label on
7 exhaust, that stamp doesn't actually stipulate
8 anything about noi--about pollution--

9 CHAIRPERSON GENNARO: [interposing]
10 Right.

11 JESSE ERLBAUM: emissions.

12 CHAIRPERSON GENNARO: So what you're
13 saying is that there's like a kind of like a
14 noise code item in the air code item.

15 JESSE ERLBAUM: It's the only--it's
16 the only factor related to this stamp.

17 CHAIRPERSON GENNARO: Okay.

18 JESSE ERLBAUM: The stamp is only
19 saying it's, you know, in accordance with noise
20 emissions, and--

21 CHAIRPERSON GENNARO: Right.

22 JESSE ERLBAUM: and I'll get to that
23 in just one very second. There--so to that
24 extend, I don't think it's germane irrelevant
25 to 1160. But putting that to the side for a

1
2 second, my concerns, I'm sure these folks over
3 here are going to echo that as well, are the
4 same as Council Member Vallone's, which is
5 there are a lot of problems with the
6 implementation. First off, we're very
7 concerned that the officer wouldn't be able to
8 even identify if a vehicle was a 2013 vehicle.
9 There's no scanable registration on
10 motorcycles. So implementation-wise, I don't
11 think they'd be able to figure out what is a
12 vehicle or what particular year it is. I'm
13 also a--

14 CHAIRPERSON GENNARO: [interposing]
15 You don't have that? Like my car has a thing
16 on it.

17 JESSE ERLBAUM: No. Yeah,
18 motorcycles--

19 CHAIRPERSON GENNARO: [interposing]
20 Okay.

21 JESSE ERLBAUM: do not have scanable
22 registrations or even visible registrations at
23 all. They have inspection stickers and they
24 have a decal.

25

2 CHAIRPERSON GENNARO: So, you got a
3 license plate and you got like a sticker on the
4 license plate or something?

5 JESSE ERLBAUM: The sticker is saying
6 that it was registered and the year.

7 CHAIRPERSON GENNARO: Right.

8 JESSE ERLBAUM: To indicate it's
9 valid.

10 CHAIRPERSON GENNARO: Right, okay.

11 JESSE ERLBAUM: And--

12 CHAIRPERSON GENNARO: [interposing]
13 Oh, so and because I have a license plate which
14 never changes, but the sticker changes in the
15 window.

16 JESSE ERLBAUM: Precisely.

17 CHAIRPERSON GENNARO: So the bi--
18 with the motorcycle, the little sticker get's
19 updated on the plate.

20 JESSE ERLBAUM: Exactly.

21 CHAIRPERSON GENNARO: Okay, fine.

22 JESSE ERLBAUM: And the second part
23 is even if there was some way for an officer to
24 know what year the vehicle was, the stamps on
25 the exhaust, I'm sure you'll see, even when

1 they're completely legal, are often difficult
2 to find. They're not difficult to find when the
3 remove the part from the vehicle, but most
4 motorcycle it's hidden underneath, sometimes
5 behind fairings. There's no easy way.

7 CHAIRPERSON GENNARO: Right.

8 JESSE ERLBAUM: So what this ends up
9 doing is really at best being a multiplier for
10 some other enforcement effort, and at worst
11 ends up being a situation where an officer
12 unable to find the stamp just tows the vehicle,
13 and then penalizes most riders who are
14 completely legal. And then of course, we come
15 down to this point that even if it was stamped
16 it doesn't say anything about emissions.
17 However, we have as a motorcycle rider, annual
18 inspections which provide plenty opportunity to
19 inspect that our vehicles are in compliance in
20 any number of ways, and I think that that's a
21 good way if we really want to address the issue
22 of air pollution to do that, and for that
23 matter even noise pollution. I hate noisy
24 exhausts.

25 CHAIRPERSON GENNARO: Right.

2 JESSE ERLBAUM: I have children. I
3 don't want to be woken up at night, and I don't
4 like the fact that other people get scared by
5 that, and if this is an issue, and I think it
6 should be something that people talk about, I
7 think there are better ways to do it, and I'm
8 happy to work with anyone who wants to talk
9 seriously about this. Besides my volunteer work
10 for the task force--

11 CHAIRPERSON GENNARO: [interposing]
12 Right.

13 JESSE ERLBAUM: and besides a small
14 business I run, I'm also a member of Community
15 Board Two Manhattan's Traffic and
16 Transportation Committee--

17 CHAIRPERSON GENNARO: [interposing]
18 Right.

19 JESSE ERLBAUM: where I've been for
20 several years. So these are issues which are
21 really important to me, and I think that if we
22 want to include motorcycles at all and a
23 consideration about the environment, maybe one
24 thing we should consider is a total
25

1 environmental picture, which includes things
2 like fuel consumption--

3
4 CHAIRPERSON GENNARO: [interposing]
5 Right.

6 JESSE ERLBAUM: carbon dioxide and
7 congestion, and maybe encourage them. That's
8 it for me.

9 CHAIRPERSON GENNARO: Thank you.
10 That was very compelling testimony. I
11 appreciate you being here. Thank you for your
12 service on the local community board. Mr.
13 Ferraro, please state your name for the record
14 and proceed.

15 BILL FERRARO: My name is--I'm sorry.
16 My name is Bill Ferraro. I am the President of
17 Brooklyn Chapter of ABATE. It's a motorcycle
18 advocacy group. It's the non-profit
19 organization. I would like to just concur what
20 Council has said already, if I may. On the
21 demonstration--

22 CHAIRPERSON GENNARO: [interposing] I
23 mean, I don't want to belabor it--

24 BILL FERRARO: It's about two
25 seconds.

2 CHAIRPERSON GENNARO: but sure. Go
3 ahead, sure. Whatever you got to do, you like
4 got to be talking into a microphone, otherwise
5 it's not going to be on the record.

6 BILL FERRARO: I'm holding a exhaust
7 pipe that comes out of the head of a Harley.
8 This in turn, I may show it--

9 CHAIRPERSON GENNARO: Yeah, maybe
10 somebody holds the mic and you hold the
11 apparatus. Yeah.

12 BILL FERRARO. This in turn come out
13 of the--

14 CHAIRPERSON GENNARO: [interposing]
15 You want to be looking at me.

16 BILL FERRARO: I'm sorry.

17 CHAIRPERSON GENNARO: I'm the
18 audience.

19 BILL FERRARO: You're right. Thank
20 you.

21 CHAIRPERSON GENNARO: Yeah.

22 BILL FERRARO: This in turn comes out
23 of the head.

24 CHAIRPERSON GENNARO: Right.
25

2 BILL FERRARO: This is what you see
3 when you see a motorcycle go by with the
4 chrome.

5 CHAIRPERSON GENNARO: Right.

6 BILL FERRARO: Okay? This is where
7 the number is, underneath the pipe, and that is
8 this low to the ground.

9 CHAIRPERSON GENNARO: Right.

10 BILL FERRARO: Now, the concern here
11 is--

12 CHAIRPERSON GENNARO: [interposing]
13 Is that that little writing that I see there.
14 Is that what that is?

15 BILL FERRARO: Yes, it is.

16 CHAIRPERSON GENNARO: Okay.

17 BILL FERRARO: If you want to take a-
18 -

19 CHAIRPERSON GENNARO: [interposing]
20 No, it's okay, I got it. I got it. I got it.
21 I got it.

22 BILL FERRARO: This in turn is the
23 muffler.

24 CHAIRPERSON GENNARO: Right.

25

1
2 BILL FERRARO: Okay. This is how
3 it's mounted. There's the brackets on the
4 back.

5 CHAIRPERSON GENNARO: Yeah, I see.

6 BILL FERRARO: Underneath. Nobody's
7 going underneath there.

8 CHAIRPERSON GENNARO: Right.

9 BILL FERRARO: [off mic] check that.

10 CHAIRPERSON GENNARO: And once
11 again, that has some writing on the bottom of
12 it?

13 BILL FERRARO: It has the writing.

14 CHAIRPERSON GENNARO: Right.

15 BILL FERRARO: It says it's the EPA,
16 this that--

17 CHAIRPERSON GENNARO: Right, because
18 you don't want that showing because you want it
19 to look shiny, right? You don't want writing
20 and all kinds of stuff, sure.

21 BILL FERRARO: The point here is
22 that anybody that wants to inspect this--

23 CHAIRPERSON GENNARO: [interposing]
24 Right.

2 BILL FERRARO: EPA or law
3 enforcement, don't really bother checking it
4 out. Okay? So they would give you a summons.
5 They would give you a summons for not having it
6 complied with. There you go. And I'd like
7 the--

8 CHAIRPERSON GENNARO: [interposing]
9 I'm good.

10 BILL FERRARO: You're good? If you
11 can, again--

12 CHAIRPERSON GENNARO: [interposing]
13 No, every word he has to say is in the
14 microphone.

15 BILL FERRARO: Again, there's a
16 number underneath here that you barely can make
17 out.

18 CHAIRPERSON GENNARO: Right.

19 BILL FERRARO: But this has a
20 catalytic converter in it, okay? Off here is
21 getting summons is total way of confiscating
22 bike without a correct inspection. There again,
23 inspection is due every year. If I pull this
24 into a bike inspector, he has no way of
25

1 checking the emissions. Brakes, lights,
2 whatever is essential.

3
4 CHAIRPERSON GENNARO: Right.

5 BILL FERRARO: Thank you.

6 CHAIRPERSON GENNARO: Sure. Thank
7 you. Thank you. I, you know, that kind of
8 exhibit, you know, like a picture's worth a
9 thousand words. That exhibit, you know, tells
10 a lot. Thank you. Thank you, Mr. Ferraro. You
11 bet. Ms. Cruz?

12 TONYA CRUZ: Good afternoon. My
13 name is Tonya Cruz. I'm here representing MRF,
14 Motorcycle Rider Foundation as well as AMA,
15 American Motorcycle Association, and as a
16 member of ABATE of New York. I'd like to thank
17 the Council for hearing, and I'd like to extend
18 my--I don't know how to put it, my
19 disappointment in DEP and EPA, because--

20 CHAIRPERSON GENNARO: [interposing]
21 We just kind of have to kind of move forward--

22 TONYA CRUZ: [interposing] We've
23 done this--

24 CHAIRPERSON GENNARO: [interposing]
25 We kind of moved forward here. We need to--

2 TONYA CRUZ: We've done this before.
3 I'm real simple.

4 CHAIRPERSON GENNARO: You got me
5 now. You got me now.

6 TONYA CRUZ: You've seen the
7 illustrations yet again.

8 CHAIRPERSON GENNARO: Right.

9 TONYA CRUZ: The stamping, there's
10 no way to track if it's counterfeit or if it's
11 original. So if to do something like that,
12 you've created a black market. Where are they
13 going to stamp these things? So to have people
14 to look for a stamp that can be easily put on
15 anything, we don't know whether it's legal or
16 illegal, and now we don't have a means to
17 enforce that. So that's not the best way to
18 deal with it. I do believe you have a better
19 opportunity to address the state inspection, to
20 have these exhaust inspected as a point of
21 inspection, and as long as you have a valid--

22 CHAIRPERSON GENNARO: [interposing]
23 Is that not happening now as part of a bike
24 inspection?

2 TONYA CRUZ: No, it's not a point of
3 inspection. So if you have it as a point of
4 inspection, you have resolved any issues--

5 CHAIRPERSON GENNARO: [interposing]
6 Yeah.

7 TONYA CRUZ: about what every
8 decibel levels you require has already been
9 approved and that motorcycle can--

10 CHAIRPERSON GENNARO: [interposing]
11 Right.

12 TONYA CRUZ: ride on the road.

13 CHAIRPERSON GENNARO: So when people
14 take their bikes into be--to have the state
15 inspection, they don't even bother to like take
16 off the loud pipes and put on the quiet ones?
17 Like it doesn't matter, right?

18 TONYA CRUZ: No. No.

19 CHAIRPERSON GENNARO: Because
20 they're not even going to look. They want to--

21 TONYA CRUZ: [interposing] They
22 getting in, getting out.

23 CHAIRPERSON GENNARO: They're
24 checking lights, brakes, this kind of thing,
25 right?

2 TONYA CRUZ: Right.

3 CHAIRPERSON GENNARO: Is this--
4 that's fair to say, right? And is there some
5 kind of emissions thing that they do?

6 TONYA CRUZ: The emissions, they
7 don't really perform that test.

8 CHAIRPERSON GENNARO: Okay.

9 TONYA CRUZ: They'll get you in and
10 get you out--

11 CHAIRPERSON GENNARO: [interposing]
12 So it's really--

13 TONYA CRUZ: [interposing] without
14 doing that.

15 CHAIRPERSON GENNARO: It's really
16 about basic safety of the bike. Do the lights
17 work, the brakes work, this kind of thing,
18 right?

19 TONYA CRUZ: And these stamps are
20 just something that they do that's really from
21 a manufacturer or a dealership.

22 CHAIRPERSON GENNARO: Right.

23 TONYA CRUZ: To actually visit it on
24 the consumer is not the place that you should
25 be visited on.

2 CHAIRPERSON GENNARO: Okay. Well,
3 fair enough. And so we certainly appreciate
4 that testimony, and--

5 TONYA CRUZ: [interposing] And I'd
6 like to thank Council Member Vallone for being
7 vigilant.

8 CHAIRPERSON GENNARO: Yeah, let me
9 recognize Council Member Vallone to talk about
10 this.

11 COUNCIL MEMBER VALLONE: Thank you.
12 Do you know why the state doesn't include that
13 as part of their inspection?

14 TONYA CRUZ: They haven't--

15 COUNCIL MEMBER VALLONE:
16 [interposing] Cars, they do.

17 TONYA CRUZ: made it mandatory.
18 It's up to the inspection centers whether they
19 check it or not. It's not one of those
20 entities that goes into their machine. No, they
21 don't do that. So you--actually, to be honest
22 about motorcycle inspections, it's the riders
23 concern to be safe, not these inspection
24 centers. We check our bikes. Before we get on
25 our bikes every time, we check these points

1
2 because we want to ride safe, not because of a
3 sticker. We have like 15 points that we check
4 every time.

5 COUNCIL MEMBER VALLONE: Right, I
6 mean, but, you know, we understand that. But
7 when you go--when you bring your car in for
8 inspection, it's not just about safety. It's
9 to make sure that the emissions are correct,
10 and that's one of the main things they're
11 checking, but on motorcycles it's not even
12 mandated?

13 TONYA CRUZ: They don't go there.
14 They don't do it.

15 COUNCIL MEMBER VALLONE: That's one--

16 CHAIRPERSON GENNARO: Yeah.

17 COUNCIL MEMBER VALLONE: Maybe call
18 on the state to do that. That would be an
19 interesting way to do it.

20 CHAIRPERSON GENNARO: Yeah. It's
21 just safety only thing

22 COUNCIL MEMBER VALLONE: And I also
23 like the idea of maybe mandating. I know that
24 DEP still here, that dealerships insist that
25 when they sell these things, that's--and we

2 enforce it through consumer affairs or some way
3 like that, that the dealers ensure that these--
4 that bikes that are sold comply as opposed to
5 the unwitting bike on the street that may be
6 towed away because the police officer can't
7 find that stamp, because it's much worse than
8 you see here. When that is on a bike you can't
9 get there, and no police officer's going to put
10 his hand there because it's next to the engine,
11 and it's extremely, extremely hot. So, it
12 sounds like a better way to attack this is at
13 the source. I forgot your name, but--

14 JESSE ERLBAUM: Jesse Erlbaum.

15 COUNCIL MEMBER VALLONE: Jesse, you
16 said there were others way you knew of to
17 combat this. Is there anything other than state
18 inspections, any ideas that you have?

19 JESSE ERLBAUM: Oh, well I was
20 specifically referring to combatting motorcycle
21 noise. I think that with regards to air
22 pollution, state inspections would be the
23 logical place to address and issue of--
24
25

2 COUNCIL MEMBER VALLONE:

3 [interposing] And what about noise? While we
4 have your expertise.

5 JESSE ERLBAUM: I think that dealing
6 with the issue of motorcycle noise requires
7 something which hasn't been done before, New
8 York City, at least not in my memory, and that
9 is having an ongoing open dialogue with the
10 rider community. For the last several years in
11 my entire memory, the only thing that's been
12 going on is an all-stick approach, where it's
13 only been amped up enforcement, things like
14 check points, but no one's ever engaged the
15 community. I will give you just one very brief
16 anecdote. Earlier this year I was noticing for
17 a period of about two weeks at about 10:45 p.m.
18 I would hear going down my block while my wife
19 and I were asleep and the kids were asleep
20 upstairs, a loud motorcycle, every night, 10:45
21 p.m. That one Saturday, I go out pick up
22 bagels for the family and I ride up there, and
23 a fellow comes over and he comments, he's like,
24 "Oh, I see that bike every night." And I see
25 the bike he's riding. He's riding a street

1
2 legal bike that is a single cylinder, and I'm
3 like, "Let me guess, you drive by my block at
4 10:45 p.m. every night." And we had a little
5 conversation about that, and I said, "You know,
6 it's quite loud." And I haven't heard him
7 since. That, a simple conversation like that
8 can actually change minds and explains to
9 people how they're involved.

10 COUNCIL MEMBER VALLONE: Or changed
11 the block he's riding on.

12 JESSE ERLBAUM: Well, perhaps, but I
13 didn't just tell him to get off my block. I
14 didn't say that at all. I just said to him,
15 "You know, it does affect people, people
16 notice." And because of my work in motorcycle
17 advocacy, I'm trying to encourage people to
18 ride. I'm also trying to train the non-riding
19 public to look at us not as a problem, and so I
20 explained that to them as well.

21 CHAIRPERSON GENNARO: Let me say
22 this. There was a former Council Member Gersen
23 [phonetic] from lower Manhattan. He had a
24 couple of bills to--
25

2 JESSE ERLBAUM: [interposing] Former
3 CB2.

4 CHAIRPERSON GENNARO: Yeah, yeah.
5 And so he had a--he tried to advance
6 legislation on this. It never go anywhere. It
7 was complicated. It was like a state thing or
8 whatever. He ran into road blocks. But you
9 know, Pete, you're the--you're part of the
10 community and I'm going to, as far as going
11 forward on this aspect, I'm going to sort of
12 like defer to you a little bit, you know.

13 COUNCIL MEMBER VALLONE: Yeah, I'm
14 done because I do have to get to the other
15 hearing, but I just want to say one last thing.
16 You're absolutely right about the dialogue.
17 Hopefully they're hear, they're listening, and
18 then I want to set up more meetings with you.
19 One of the things I'm working on is the parking
20 situation. You know, people who don't ride
21 don't realize we can't put those parking
22 receipt--

23 JESSE ERLBAUM: [interposing]
24 tickets.

2 COUNCIL MEMBER VALLONE: on the
3 bike, and even if we tried to it would just
4 blow up or someone could just take it. So
5 there's things that the city hasn't even
6 thought of. You know, and as you said it's
7 ecological, it's fuel efficient. There's less
8 emission than cars, 50 miles per gallon. So we
9 should be encouraging legal motorcycle use,
10 working together to get those thugs off the
11 road, and keeping this dialogue going. I wish
12 I could keep doing it. I don't want to impose
13 anymore, and the Chair has been very nice to
14 get you up there so quickly.

15 CHAIRPERSON GENNARO: Yep.

16 COUNCIL MEMBER VALLONE: I'm going to
17 hook you up. Scott is from my office. He's
18 going to talk to you before you leave to get
19 all your information, and I look forward to
20 working with you guys.

21 CHAIRPERSON GENNARO: And just my
22 last word on the motorcycles is it's DEP and
23 the Bloomberg administration. You got Pete, you
24 got me, okay? So that's--

2 JESSE ERLBAUM: [interposing] I
3 appreciate. Thank you very much.

4 CHAIRPERSON GENNARO: Yep, okay. No,
5 trying to be fair. And so thank you very much.
6 Thanks for the--thanks for the hardware.

7 Pretty cool, yeah, pretty cool. [off mic]

8 Yeah, no, no. So, yeah, I'm sure that was a
9 big hit down in the metal detector downstairs,

10 yep. Yeah. I'm sure. Yeah, I bet it did. I

11 bet it did, yeah. And so thank you. We have

12 our one and only panel speaking in favor of the

13 bill. We have my good friend James Todd

14 Baldwin Tripp is going to come up and testify

15 for EDF. We have Rich--please, please Jim,

16 come forward. We have Rich Kassel. Oh, no,

17 just give that to the Sergeant. Give that to

18 the Sergeant. And Rich Kassel, Care of GNA, and

19 Rich can tell us who that firm is, and we have

20 Ms. Gilde from CALSTART. Yes, okay, great.

21 Yep. And so I'm not familiar with the

22 organization CALSTART, but you can let us know

23 about that. And anyone who has written

24 testimony can give it to the Sergeant and it

25 could be distributed. Do we have that written

1 testimony? Who has prepared statement? All
2 three have written statements? Okay. I don't
3 have any of those statements. Sergeant? Just
4 want to get the statements before people
5 proceed. And hang on. I'll just take this
6 moment to set up the next panel. [off mic]
7 Okay. So we're back. Before we swear in this
8 panel, let me just let the next panels know how
9 we're going to sequence this. This is, you
10 know, I guess it regard as the environmental
11 panel. We have an environmental panel who was
12 in favor, that'll be this panel. And then we
13 have industry panel will come after that. They
14 signed up in opposition. That'll be Andrew
15 Mozell of the Restaurant Association, Angela
16 Pinsky of REVNY, Marian Rothman of the Council
17 of New York Co-ops and Condos. That'll be the
18 next panel after this. And the panel and the
19 last panel after the next panel will be--
20 environmental panel seemingly in opposition to
21 the bill. You put Mav [phonetic] as opposed?
22 Are you opposed? Okay. So where we--so we have
23 the environmental panel in favor and then we
24 have, you know, the next industry panel that I
25

2 called, and then we have the--I guess the
3 environmental and, you know, slash community
4 panel which is opposed. That would be Mav
5 Morehead, Rosaria Senesi [phonetic], Joe
6 Cupferman [phonetic] of New York Environmental
7 Law and Justice, John Selento [phonetic]
8 representing himself, a local community member,
9 and Cecil Corbin, everyone knows Cecil from We
10 Act for Environmental Justice. So we got this
11 panel. We got the industry panel, and then we--
12 so we have this panel in favor and the next two
13 panels in opposition, and that's going to be
14 the whole thing. So thank you all very much
15 for coming. Thanks for your patience. We'll
16 ask the Counsel to swear you in and then we can
17 proceed.

18 COUNSEL: Can you please raise your
19 right hands? Do you swear or affirm to tell
20 the truth, the whole truth, and nothing but the
21 truth today?

22 CHAIRPERSON GENNARO: Thank you. I
23 want to--this is going to be a good panel,
24 yeah. Looking for good things. So bring you're
25 "A" game, okay? Jim, Rich, long time since

1
2 I've seen you guys. You look great. Thanks
3 for being here. I really appreciate this. And
4 you can see I'm like in my hurry up offense
5 here, you know, just to try to get through this
6 and make this a good process, make this a fair
7 process and I appreciate you being here, you
8 being the only panel that's going to speak in
9 favor, and so good for you guys. And Ms. Gilde
10 or Gilde? Gilde, okay. We're going to do
11 ladies first, and so if you could state your
12 name for the record and proceed. I have Jim, I
13 have Rich--[off mic] Oh, CALSTART, yes,
14 CALSTART, okay. Okay, Ms. Gilde, if you could
15 state your name for the record and proceed.
16 Thank you. Yeah, you got to turn--I think your
17 mic is off. Try it again.

18 ALYCIA GILDE: Alright. Hi there.

19 CHAIRPERSON GENNARO: Yeah, okay,
20 yep.

21 ALYCIA GILDE: Hi, my name's Alycia
22 Gilde with CALSTART. To the New York City
23 Council, Business Integrity Commission,
24 Commercial Refuse Industry, and community
25 stakeholders I would like to thank you for this

1
2 opportunity to share our testimony on bill
3 number 1160 in relation to the New York City
4 Air Pollution Control Code to phase out pre
5 2007 commercial refuse trucks by 2020 in New
6 York City. My name is Alycia Gilde, and I work
7 for a national non-profit organization called
8 CALSTART with office locations in California,
9 Colorado, Michigan, and New York. Since 1992,
10 CALSTART has worked closely with industry,
11 government, community groups, and the private
12 sector to advance the integration of clean
13 transportation technologies around the world.
14 CALSTART collaborates with more than 150
15 companies and agencies dedicated to expanding
16 and supporting a high tech transportation
17 industry that cleans the air we breathe,
18 promotes energy independence, spurs economic
19 growth and leads us toward a sustainable
20 future. Today our testimony will reflect our
21 support for advancing cleaner vehicle
22 technologies for the commercial refuse sector
23 and why this bill is an important step to
24 driving innovation while creating cleaner
25 communities for New York City. There are three

1 critical points that I would like to address as
2 the City Council considers this important
3 policy. Number one, the technology is
4 available. Number two, recent success stories
5 demonstrate the effectiveness of diesel truck
6 phase out programs. And number three, there are
7 incentives now available to help the industry
8 make this critical transition. New York City
9 businesses rely on the hard work of the private
10 refuse industry to dispose of thousands of tons
11 of the city's commercial garbage, recyclables,
12 construction and demolition debris on a daily
13 basis. It is the durability and the
14 dependability of a diesel truck that helps
15 industry successfully accomplish this task.
16 However, diesel trucks manufactured prior to
17 2007 contribute to significant levels of diesel
18 particulate matter and oxides of nitrogen. With
19 ongoing operations day and night in a very
20 congested and very populated city, the
21 emissions of older diesel refuse trucks pose
22 serious health effects on air quality and our
23 public health. In 2001, the United States
24 Environmental Protection Agency finalized the
25

1
2 2007 highway rule that required diesel engines
3 built in 2007 to reduce emissions by 90
4 percent. As a result of this rule, the
5 integration of cleaner 2007 and most recent
6 2010 diesel engines has resulted in substantial
7 environmental benefits including the reduction
8 of 110,000 tons of particulate matter and the
9 prevention of approximately 8,300 premature
10 deaths and 360,000 asthma attacks each year.
11 Yes, clean vehicle technologies are available
12 and we continue to see the advancement of
13 vehicle technologies that are better for the
14 environment and better for business. In
15 addition to clean diesel technologies, there
16 are a variety of alternative fuel vehicles that
17 have proven successful for refuse collection.
18 These technologies include compressed natural
19 gas, hybrid, and in some cases electric
20 vehicles and should be encouraged under this
21 bill. To a private refuse fleet owner, there
22 are excellent benefits to alternative fuel
23 vehicles such as improved efficiencies, vehicle
24 operation maintenance, cost savings, and long
25 term sustainability. Also available are

2 affordable diesel emission control devices that
3 can be applied to a refuse truck that are
4 effective in reducing diesel emissions, and can
5 help a fleet meet the requirements proposed
6 under the bill we're discussing today. Old
7 diesel truck phase out programs are effective,
8 and with a reasonable timeline for
9 implementation can be achieved successfully.

10 To improve regional air quality and reduce the
11 local impact on communities, ports around the
12 United States have developed truck phase out
13 programs that require port trucks calling to
14 marine terminals to meet specific engine model
15 years. The San Pedro Bay ports of Los Angeles
16 and Long Beach, the Port Authority of New
17 York/New Jersey, and the Port of Seattle have
18 all implemented truck phase out programs that
19 require a pre-2007 ban. Last year, the ports
20 of Long Beach and Los Angeles phased out trucks
21 with engine model year 2006 and older and have
22 already seen a reduction in harbor truck
23 pollution by 90 percent. An important
24 observation to make is that a number of these
25 trucks now run on natural gas. The City of New

1
2 York is taking proactive steps to transition
3 its own fleet of 26,000 vehicles to meet
4 tougher emission control standards. By 2017, 90
5 percent of the City's diesel fleet must meet
6 2007 emissions standards. Already, the City is
7 well on its way meeting this requirement. The
8 mayoral fleet is working with various
9 technology providers to implement clean air
10 solutions to reduce diesel and greenhouse gas
11 emissions. By leveraging grant opportunities,
12 technology demonstrations, and public private
13 partnerships, the City has successfully created
14 the world's largest and most diverse fleet in
15 alternative fuels and diesel emission control
16 devices. Right now, there are two excellent
17 incentive programs available for New York City
18 that can help the commercial refuse industry
19 meet the 2020 timeline. The New York State
20 Energy Research and Development Authority New
21 York Truck Voucher Incentive program and New
22 York City Department of Transportation Hunts
23 Point Clean Trucks program are offering more
24 than 33 million combined in incentives for
25 alternative fuel vehicles and diesel emissions

1 control devices for class three to class eight
2 trucks. By leveraging these important
3 incentives, private refuse haulers can begin to
4 transition their fleets with cleaner vehicle
5 technologies meet the 2020 timeline and
6 experience great business benefits. From
7 CALSTART's experience of working with fleets
8 from various vocations, we understand that
9 there is no one size fits all solution to clean
10 vehicle technologies. It is important that we
11 work together to help the commercial refuse
12 industry meet this important timeline and goal.
13 This can be achieved by crafting regulations
14 that encourage innovation to achieve goals,
15 promoting clean vehicle incentives, providing
16 tools and resources, and holding informational
17 workshops to ensure the commercial refuse
18 industry is equipped with the knowledge to make
19 the right business decision on clean vehicle
20 technologies and be ready to meet the 2020
21 timeline. Again, on behalf of CALSTART, I want
22 to thank you for this important opportunity to
23 provide testimony in support of bill 1160 in
24 relation to the New York City Air Pollution
25

1 Control Code to phase out pre-2007 commercial
2 refuse trucks by 2020 in New York City. I would
3 be happy to provide copies of our testimony.
4 Thank you so much.

5
6 CHAIRPERSON GENNARO: Yes, thank you
7 Ms. Gilde. Thank you for your testimony. You
8 indicate that you--that there's an office in
9 New York City for CALSTART?

10 ALYCIA GILDE: Yes, there is, in
11 Brooklyn.

12 CHAIRPERSON GENNARO: Okay. Oh, in
13 Brooklyn?

14 ALYCIA GILDE: Yes, in DUMBO.

15 CHAIRPERSON GENNARO: Oh, great.
16 Okay. Thank you. I don't believe I've heard
17 testimony before in community, because this is,
18 you know, you guys--that's like a
19 transportation thing. So may--but it's great to
20 become acquainted, you know with--

21 ALYCIA GILDE: [interposing] Thank
22 you. Nice to meet you.

23 CHAIRPERSON GENNARO: Same here.
24 And thanks for coming here to testify in favor
25 of the bill, and we'll hear from the panel,

1 then I'll have questions and comments for the
2 panel. And so going--and we'll just start with
3 you and go from my right to my left. Rich,
4 you're up next, and tell us about Gladstein,
5 yeah. Tell us about that, yeah, please. Yeah,
6 I don't see Kassel up there.

8 RICH KASSEL: No, no, no.

9 CHAIRPERSON GENNARO: I'm going to
10 put Castle--

11 RICH KASSEL: You can put my name in
12 there, that's okay.

13 CHAIRPERSON GENNARO: Yeah, Kassel,
14 Gladstein and so you just got promoted.

15 RICH KASSEL: Yes, my mother will be
16 very happy to hear that.

17 CHAIRPERSON GENNARO: Yeah, okay,
18 yeah. That'll be like a--yes, that'll be
19 great. Okay.

20 RICH KASSEL: Okay. Thank you. My
21 name is Rich Kassel, and I'm very pleased to
22 testify in support of the revisions today and
23 the air code specifically, provision 24.163.12
24 which deals with the trucks that cart the
25 City's commercial waste. I'm a Senior Vice

2 President with the firm of Gladstein, Neandross
3 and Associates, or GNA for short. We're an--

4 CHAIRPERSON GENNARO: [interposing] I
5 just made you a partner.

6 RICH KASSEL: Thank you.

7 CHAIRPERSON GENNARO: You know.

8 RICK KASSEL: I'll let everybody
9 know. We were founded in 1993 and southern
10 California, and today we have a team of more
11 than 40 engineers, economists, technology and
12 fuel experts, policy analysts, lawyers like me
13 who work with private and public fleets,
14 environmental organizations, government
15 agencies, port authorities, and others on
16 programs and projects to reduce transportation
17 emissions, fuel costs, and other environmental
18 impacts of transportation. Last year, GNA
19 opened a new office in New York, which I run,
20 to expand our ability to contribute to the
21 transportation and environmental debates and
22 issues of the City and the region. Our
23 specialty is simple. We specialize in
24 developing and implementing approaches that
25 will reduce emission in the real world while

1 reducing overall costs for the companies
2 involved. That's what we like to do. Here in
3 New York, we've had a number of different
4 projects, examples would include working with
5 the port authority to implement a low cost
6 financing plan that made the truck replacement
7 program there possible, working with NRDC and a
8 wide range of diesel, port, and goods movement
9 projects that are spreading from here all the
10 way to the port of Hong Kong, and working with
11 New York City to Department of Transportation
12 on their programs to reduce truck emission at
13 Hunts Point. I could go on. GNA strongly
14 endorses the goals of this legislation with
15 respect to the private trucks that haul
16 commercial waste. We believe that updating the
17 air code broadly is timely. It'll improve the
18 health and quality of life of all New Yorkers
19 and will be cost effective in the long run. But
20 with respect to this particular provisions, we
21 especially applaud the proposal to reduce
22 emissions from the thousands of trucks that
23 cart commercial waste in the City. Cleaning up
24 these trucks will reduce particulate matter
25

1 emissions in every neighborhood that generates
2 commercial waste, that means every
3 neighborhood, because every neighborhood does
4 generate some amount of commercial waste.
5

6 It'll do more than that, though. It'll also
7 help reduce air pollution in the low income
8 communities and communities of color that bear
9 a disproportionate burden of the current solid
10 waste transfer system program that we have and
11 the way that we manage waste in the City. This
12 is a critical step forward. It's a critical
13 step that was left unresolved by the Solid
14 Waste Management Plan of 2006, and we applaud
15 you and the administration for addressing it
16 and trying to move it forward. Recently, we
17 conducted an analysis of the emissions from
18 these trucks and the potential emission
19 reductions that would result from a program
20 that requires them to install diesel
21 particulate filters or comparable technologies.
22 Now, we haven't yet released this analysis yet,
23 but I can share with you today some preliminary
24 results. In short, we estimate that the
25 private trucks that we're talking about here

1
2 were responsible for more than 90 percent of
3 the fine particulate matter, PM 2.5, and
4 nitrogen oxide emissions that come from non-
5 construction and demolition solid waste removal
6 in New York City. To put it another way, less
7 than 10 percent of the non-CND solid waste
8 related emissions are coming from the
9 Sanitation Department's trucks that haul
10 residential and institutional waste and from
11 the long haul trucks that carry waste from the
12 transfer stations out of the City for eventual
13 disposal elsewhere. Given the emphasis of the
14 solid waste management plan on those two forms
15 of trucking and waste removal, we think that
16 this 90 percent number is especially
17 noteworthy, and again, it's why it's so
18 important to deal with these trucks. Now given
19 the ubiquity of the Sanitation Department's
20 collection trucks on every city street, how
21 could this be true? How could this be so? And
22 the answer lies in the use of diesel
23 particulate filters and alternative fuels like
24 natural gas in the Sanitation Department's
25 collection fleet. Ninety-seven percent of the

1 Sanitization Department trucks have diesel
2 particulate filters on them. These filters
3 eliminate more than 90 percent of the
4 particulate matter that would otherwise come
5 out of the engine as well as the black carbon
6 that's linked with climate change. In
7 addition, roughly two dozen of the trucks that
8 pick up our residential waste are powered by
9 natural gas. They don't have diesel
10 particulate filters because they don't need
11 them. They eliminate the particulates. They
12 don't have the particulates to eliminate.

14 CHAIRPERSON GENNARO: Right.

15 RICH KASSEL: In other words, these
16 are all very very clean trucks in the
17 Sanitation Department fleet at this point.
18 Now, simply put, the thousands of private
19 trucks that haul commercial waste have not gone
20 through the same clean up as the Sanitation
21 Department trucks. Now it's time for them to
22 do so, and your proposal today is a critical
23 first step towards doing this. It'll finally
24 target those trucks for emission reductions,
25 and it'll provide a range of options as Alycia

1 has already outlined, including diesel
2 particulate filters, alternative fuels, hybrid
3 electric technology and so on. There are a lot
4 of different options, and as Alycia said,
5 there's no one size fits all approach, but the
6 key thing is that seven years ago everybody
7 came together to support a Solid Waste
8 Management Plan, and everybody said we're going
9 to do something about residential waste, and
10 we're going to do something about long haul
11 trucking. But what was left aside was doing
12 something about the private trucks that haul
13 the commercial waste, and this today is 90
14 percent of the problem. And so moving forward
15 is just absolutely critical. Now, David
16 Biederman, if I can--Can I throw in 30 more
17 seconds?

19 CHAIRPERSON GENNARO: Yeah, sure,
20 sure, because I mean this is--this is a big
21 matzah ball, this issue.

22 RICK KASSEL: This is a big matzah
23 ball.

24

25

2 CHAIRPERSON GENNARO: You heard
3 Biederman, he gets up there. It's like a
4 billion dollars. It's a lot of money, and so--

5 RICH KASSEL: [interposing] I'm
6 going to suggest it doesn't have to be a
7 billion dollars.

8 CHAIRPERSON GENNARO: Okay. Then
9 this is why we're--this is why we're here.

10 RICH KASSEL: Okay. Just a note on
11 David Biederman's testimony on costs.

12 CHAIRPERSON GENNARO: David's still
13 here, right? David's here?

14 RICH KASSEL: David's still here,
15 yeah.

16 CHAIRPERSON GENNARO: And he's my
17 buddy, so go easy, okay?

18 RICH KASSEL: I'm going to go easy.
19 I'm going to go easy. He cited a cost number
20 that was in the EDF BIC report that I imagine
21 Jim will talk about in a moment.

22 CHAIRPERSON GENNARO: Right.

23 RICH KASSEL: Should have had me go
24 after Jim, by the way.

2 CHAIRPERSON GENNARO: Yeah, he cited
3 the City's number, right? It was--didn't he--
4 wasn't that claimed to be the City's number?

5 RICH KASSEL: I'm not sure.

6 CHAIRPERSON GENNARO: Okay, yeah.
7 Whatever. But this is why--

8 [cross-talk]

9 RICH KASSEL: will clarify that.

10 CHAIRPERSON GENNARO: I mean, this
11 is why we have the hall. This is why we have
12 the hallway.

13 RICH KASSEL: That's why we have the
14 hall, that's right. It's a great study. I
15 encourage you take a look at it. What the
16 study looked at was the cost of bringing in new
17 vehicles to clean up the commercial waste,
18 which is the idea that--

19 CHAIRPERSON GENNARO: [interposing]
20 Well, right because I think the part of David's
21 testimony that talked about--I think the study
22 he said was not the billion dollars, but the
23 other thing about whatever. Okay, but--

24 RICH KASSEL: [interposing] Right,
25 right.

2 CHAIRPERSON GENNARO: this is--we'll
3 figure all that out.

4 RICH KASSEL: We'll figure all that,
5 and all I wanted to say was that there are a
6 number of ways, including retrofitting existing
7 vehicles that can, as you say, be figured out
8 to reduce the cost and the cost effectiveness
9 and improve the cost effectiveness of
10 implementing this program. And we at GNA have a
11 long history of working with fleets. We have a
12 long history of working with government
13 agencies here and around the country--

14 CHAIRPERSON GENNARO: [interposing]
15 Right.

16 RICH KASSEL: to come up with cost
17 effective approaches and we look forward to
18 working with you and David--

19 CHAIRPERSON GENNARO: [interposing]
20 Okay.

21 RICH KASSEL: and all stakeholders.

22 CHAIRPERSON GENNARO: Sure, and then
23 once I--and then once we hear from Jim I'll
24 have, you know, some comments for the panel at
25 large, but--

2 RICH KASSEL: [interposing] Thanks.

3 CHAIRPERSON GENNARO: You bet. Good
4 to see you and congratulations on your new--

5 RICH KASSEL: [interposing] Nice to
6 see you as well.

7 CHAIRPERSON GENNARO: You know, on--
8 last I heard you were doing something else, and
9 like now you're doing this, and it's great.
10 Good for you.

11 RICH KASSEL: I understand I just
12 made partner today, which is fantastic.

13 CHAIRPERSON GENNARO: Yeah. I'm
14 happy to help. Happy to help. Jim, long time,
15 long time no see. Good to see you.

16 JAMES TRIPP: Good to see you,
17 likewise. Mr. Chair, thank you for inviting
18 me.

19 CHAIRPERSON GENNARO: You bet.

20 JAMES TRIPP: My name is James
21 Tripp. I am Senior Counsel for the
22 Environmental Defense Fund, a non-profit
23 environmental organization head quarter in New
24 York City. We have a long history of being
25 interested in New York City solid waste and

1 diesel emission kinds of issues. As you've
2 already heard--well, let me take a step back.
3 We all know that motor vehicles, passenger
4 motor vehicles their emissions have been
5 regulated for a long time, and certainly quite
6 drastically since the early 90's. So the
7 emissions from motor vehicles and light duty
8 vans and so on have dropped precipitously. It
9 wasn't until very recently was left out of the
10 regulatory equation were heavy duty diesel
11 trucks. Part of the reason was the lack of good
12 pollution control technology. Another reason
13 given was the high sulfur levels in some of the
14 diesel fuels. Those issues have been addressed
15 by the 2000--

17 CHAIRPERSON GENNARO: [interposing]
18 Right, because the sulfur like jams up the
19 devices and all that, yeah.

20 JAMES TRIPP: Right. So once the
21 EPA made it very clear that all diesel fuel
22 sold in the United States had to meet a 15
23 parts [inaudible 02:03:32] or less standard
24 than the availability of technology for diesel
25 motor vehicles but most important for our

1
2 purposes, heavy duty diesel trucks became
3 available. So EPA adopted that standard in
4 2007. While there had been some regulations in
5 place before then, they weren't very good. So
6 this is a dramatic step forward. And
7 particulate emissions from 2007 and after heavy
8 duty diesel trucks are 85 to 95 percent lower
9 than pre-2000 trucks. That's a, you know,
10 tremendous difference, big advance. You've
11 already heard that the City has made a
12 commitment to phase out virtually all of its
13 collection trucks that are pre-2007 or don't
14 meet the 2007 standard. Whether they can do--

15 CHAIRPERSON GENNARO: [interposing]
16 Right.

17 JAMES TRIPP: it any of the
18 different ways that Rich Kassel talked about.
19 Somebody bears the cost of that.

20 CHAIRPERSON GENNARO: Right.

21 JAMES TRIPP: And the cost of the
22 being born by the tax payers and you know
23 property owners and so on who pay for it. The
24 question with any kind of environmental
25 regulation is who's going to pay? Should the

1
2 people who benefit from a service pay or make a
3 contribution or should the cost be born by
4 communities through which polluting old dirty
5 diesel trucks move? And in a day and age where
6 we have the technology and the means and the
7 fuel requirements to clean up these trucks,
8 that burden should shift from where it is
9 today. So, the City has made this commitment.
10 Something like--but there are a lot of
11 questions that we'd want to--one would want to
12 know about what are the emission benefits of
13 speeding up the phase out of--

14 CHAIRPERSON GENNARO: [interposing]

15 Right.

16 JAMES TRIPP: these trucks, and what
17 are going to be the costs? So it was for that
18 reason that we retained MJ Bradley to do this
19 report that Mr. Biederman--

20 CHAIRPERSON GENNARO: [interposing]

21 And we, we is EDF?

22 JAMES TRIPP: We, the EDF, and we
23 did this, you know, in cooperation with the
24 Business Integrity Commission.

25 CHAIRPERSON GENNARO: Okay.

2 JAMES TRIPP: They were interested
3 in this issue.

4 CHAIRPERSON GENNARO: Right.

5 JAMES TRIPP: As were we for, you
6 know, a variety of different reasons. So the
7 questions that we asked was, well what's the
8 baseline? How long is it going to take these
9 fleets? And the fleets we're talking about are
10 the sort of the private carter solid waste
11 trucks and the CND trucks. There are about
12 4,000 heavy duty diesel trucks in each fleet,
13 8,000 trucks. How long is it going to be
14 before they're going to be replaced in the
15 normal course of business? So we asked MJ
16 Bradley to come up with a baseline, because
17 there is a ongoing purchase of new--

18 CHAIRPERSON GENNARO: [interposing]
19 Right.

20 JAMES TRIPP: trucks. And so we
21 needed them to know something about the age
22 distribution of these trucks. We needed to know
23 about the emission characteristics and we
24 needed to know about cost. So that's what this
25 study did.

2 CHAIRPERSON GENNARO: Right.

3 JAMES TRIPP: And I would urge you
4 or other members of the City Council to look at
5 it. Your council has a copy of it. So these
6 are the questions that are answered here, and
7 MJ Bradley looked at five different policy
8 cases depending on when this, the deadline for
9 this, you know, replacement should be, and one
10 of those policy cases was to have virtually all
11 the trucks meet the 2007 federal standard by
12 2020, which is a little bit more from six years
13 from now.

14 CHAIRPERSON GENNARO: Right.

15 JAMES TRIPP: And that is more or
16 less what's embodied in this code amendment.
17 Those trucks--

18 CHAIRPERSON GENNARO: In the bill?
19 In the bill? Like that's what's in the bill,
20 yes.

21 JAMES TRIPP: In the bill, yes. In
22 the bill. So the air quality benefits would be
23 enormous. But what in effect is happening is
24 accelerating, is speeding up a replacement
25 that's going to happen eventually anyhow.

2 CHAIRPERSON GENNARO: Right.

3 JAMES TRIPP: So, the--and these
4 all, the trucks in this fleet produce, today,
5 something in the order of 20 percent of all the
6 diesel particulate emissions from all heavy
7 duty trucks that operate, come through, and so
8 on in New York City.

9 CHAIRPERSON GENNARO: Right.

10 JAMES TRIPP: So we're talking about
11 something--

12 CHAIRPERSON GENNARO: [interposing]
13 It's a big number.

14 JAMES TRIPP: It's a big number, and
15 as Rich Kassel pointed out, it would have
16 accelerating the clean up of these trucks would
17 obviously have particular benefits for
18 communities where there are clusters of
19 transfer stations. So we now have that kind of
20 information. Is there a cost to doing this?
21 Yes, there was a cost to the City, bringing its
22 truck fleet more quickly into compliance with
23 this, you know, new standard. Will it be a
24 cost? MJ Bradley estimates the cost closer to
25 half a billion rather than a billion dollars.

1 Even at a billion dollars divided by six,
2 that's 160 million dollars a year. And then
3 there are these other alternatives that they
4 can--

5 CHAIRPERSON GENNARO: [interposing]
6 Divided by six?

7 JAMES TRIPP: A billion divided--
8 there are six years between now and--

9 CHAIRPERSON GENNARO: [interposing]
10 Oh, six ye--okay. Fine. Fine. I didn't know
11 what six came from, okay, fine.

12 JAMES TRIPP: Yeah. So, I mean, the
13 bill doesn't say you have to do it tomorrow.

14 CHAIRPERSON GENNARO: Right.

15 JAMES TRIPP: You have to do it by
16 January 1, 2020. There is a waiver provision
17 that allows up to five years--

18 CHAIRPERSON GENNARO: [interposing]
19 Yeah.

20 JAMES TRIPP: on a showing of
21 financial hardship. But there is going to be a
22 cost. The cost--and who's going to bear that
23 cost, where the cost is whatever it is. It's
24 going to born by--is it going to born by--is it
25

1 going to be born by the firms? Probably not.
2
3 Is it going to be born by the customers, the
4 people who own or operate or the tenants in
5 commercial buildings who are getting the
6 benefit of these services? Yes. Is it going to
7 be born by developers who produce construction,
8 demolition debris, the answer is yes. The
9 question is, is it fair and more reasonable to
10 have those costs born by those commercial folks
11 generating these wastes who, I think, should be
12 expected sooner rather than later to have that
13 waste hauled in clean trucks.

14 CHAIRPERSON GENNARO: Right.

15 JAMES TRIPP: Rather than the old
16 dirty trucks. Or should that cost be born by
17 everyone walking up and down the streets of New
18 York--

19 CHAIRPERSON GENNARO: [interposing]
20 Right.

21 JAMES TRIPP: in particular,
22 people in these neighborhood with lots of
23 transfer stations? So, in our view, this is,
24 you know, a very reasonable way of proceeding.
25 Six years of notice--Yes, MJ Bradley looked at

1 largely, you know, replacement. There are
2 other alternatives that could cost less. Do I
3 think BIC is going to be reasonable in terms of
4 looking at rates? In my view, yes, but you
5 can, you know, ask them. To my knowledge, the
6 haulers of construction and demolition debris,
7 their rates are not regulated in any way. So,
8 if they have to go out and buy a new truck
9 sooner rather than later, they'll figure out
10 what the costs are and so long as the
11 regulation applies to everyone, then everyone
12 bears those costs--

14 CHAIRPERSON GENNARO: Right.

15 JAMES TRIPP: equally. So we think
16 the benefits are enormous and the costs are
17 reasonable, and we urge you to approve this
18 amendment.

19 CHAIRPERSON GENNARO: Thank you.
20 Thank you. And the panel has been great
21 because it's all getting at the same, you know,
22 part of the new code. And we don't have, you
23 know, BIC up here to testify, but, you know,
24 one of the issues that Mr. Biederman brought up
25 is that we're going to be asked to be--to bear

1 no costs, and this is--I'm going to--I'm just
2 going to--this is going to the whole panel now.
3 And so they're being asked to bear new costs,
4 but there's the, you know, rate cap or
5 whatever. But that wouldn't be for CND
6 presumably. That would be for other aspects of
7 their rate for the regulated--

9 JAMES TRIPP: [interposing] I mean,
10 as far as--

11 CHAIRPERSON GENNARO: [interposing]
12 Could you speak right into mic--

13 JAMES TRIPP: [interposing] CND
14 trucks which is about--

15 CHAIRPERSON GENNARO: Yeah, you go
16 to--Jim, you got to talk right into the mic.

17 JAMES TRIPP: I believe my statement
18 was correct, that--

19 CHAIRPERSON GENNARO: [interposing]
20 Yeah.

21 JAMES TRIPP: the CND trucks are not--
22 -their rates are not--are not capped. So,
23 eventually--

24 CHAIRPERSON GENNARO: [interposing]
25 Right.

2 JAMES TRIPP: they're all going to
3 have to apply with the--

4 CHAIRPERSON GENNARO: [interposing]
5 Yeah, but those for those trucks that I guess
6 pick up non CND waste, non-CND commercial waste
7 which I guess would be the putrescible stuff,
8 right, from, you know, restaurants, that kind
9 of thing. I guess they're subject to the BIC
10 rate cap, right? Isn't that how it works? And
11 so--

12 JAMES TRIPP: Yeah, but I--so you
13 should or, you know, talk to the Business
14 Integrity Commission.

15 CHAIRPERSON GENNARO: Yep, yep, yep.

16 JAMES TRIPP: But it's hard to
17 believe that the Business Integrity Commission
18 is going to impose a cost on the industry which
19 it can't in any respect, you know, pass along
20 to customers. So--

21 CHAIRPERSON GENNARO: [interposing]
22 But that would be, again, I'm talking to the
23 environmental panel about something that I'm
24 going to be talking to the administration
25 about, about how this industry that's being

1 asked to bear a cost, I mean, I'm know I'm
2 talking about the CND guys now because it's the
3 wild west, whatever, and it's free market
4 competition, blah, blah, blah. But, you know,
5 those that are working under the cap and now
6 have to bear a cost, that's--and I guess that's
7 why we have--I just feel that if we're going to
8 ask this industry to bear a cost, there's got
9 to be a little give on the rate cap, as if it's
10 for me to say. It's not, but I mean, that's--

12 JAMES TRIPP: [interposing] Yeah, I
13 think the issue is probably you got to be more,
14 not whether there should be some accommodation.
15 The question--I mean, there's a history of
16 industry in this country exaggerating the cost
17 of compliance with environmental--

18 CHAIRPERSON GENNARO: [interposing]
19 Yeah, I've been chair of this committee for 12
20 years. I'm like, you know, not unfamiliar with
21 that phenomenon.

22 [cross-talk]

23 JAMES TRIPP: The issue is going to
24 be more, a further discussion on the
25 refinement--

2 CHAIRPERSON GENNARO: [interposing]

3 Yep.

4 JAMES TRIPP: as to what these costs
5 are going to be and--

6 CHAIRPERSON GENNARO: [interposing]

7 But we, you know, this is a very big very key
8 thing that I would like to try to get done.

9 So, now I'm on the record. My staff is no

10 doubt taking notes about--and again, I'm not

11 the representative for the waste industry, but

12 it's my understanding that for the private

13 carters it's something like you have the really

14 big companies that are maybe, you know, 20

15 percent of the companies pick up like 80

16 percent of the waste or something like that.

17 And then you have like 80 percent of the

18 company is like the mom and pop operations pick

19 up like 20 percent of the waste, and so I think

20 the big boys, so to speak, they're big

21 companies. They got, you know, lots of money

22 there. They're picking up most of the waste in

23 the City. You know, they have to upgrade.

24 They got to do whatever. It just, yeah, it's

25 like I don't think they're going to break a

1
2 sweat. But for like the mom and pops who
3 probably buy the trucks that the big boys use
4 to run, that's who buys them, right? So,
5 you've--so anytime like--I don't want to say
6 names of companies, but these, you know, huge
7 multinational companies or whatever, their
8 trucks get a little old. They sell them.
9 Like, who's buying them? It's just like people
10 in like the mom and pop outfits that buy them.
11 So, it could be a situation where, you know,
12 they just don't have the resources to do that.
13 So can anybody speak to that? I mean, I think
14 it's--I just think it's a valid--I'm on your
15 side. I want to do this. I'm the environmental
16 Chair. This is like a big deal for me, and I
17 want to get this done. I got six weeks to go,
18 and I wouldn't be having this hearing, walking
19 into this, you know, wading into this, you
20 know, this shoot out on like the air code,
21 which is a very big thing to undertake with
22 only a couple weeks to go. So I, but I really
23 want to make this happen, but help me out with
24 the, you know, anyone has anything to say about
25 that. I don't want to belabor this, and I

1 appreciate all of your testimony. I'm just
2 trying to throw things out there. So the
3 administration, I'm kind of testifying to the
4 administration now. Yeah.

6 RICH KASSEL: Let me take a stab at
7 it, Mr. Chair. You know, this industry is
8 actually pretty analogous to what we've seen in
9 the Port Drayage world. Port Drayage is a
10 world of trucks that take containers from the
11 port from the ship and deliver them to trans--
12 to wed [phonetic]. In the solid waste world, we
13 call transfer stations--

14 CHAIRPERSON GENNARO: [interposing]
15 Right.

16 RICH KASSEL: by distribution centers
17 and that--

18 CHAIRPERSON GENNARO: [interposing]
19 Yeah.

20 RICH KASSEL: Alright? And that like
21 the solid waste world, that industry is
22 typified by a small number of large firms that
23 typically have newer, cleaner, more fuel
24 efficient trucks--

2 CHAIRPERSON GENNARO: [interposing]

3 Right.

4 RICH KASSEL: And a large number of
5 small, as you call them, mom and pops that are
6 typically one truck, two truck operations, and
7 those are people who work very hard, very long
8 hours on very low margins, and in that world,
9 which has addressed this exact same issue over
10 the--

11 CHAIRPERSON GENNARO: [interposing]

12 Right.

13 RICH KASSEL: last years, and most
14 of the large ports around the country, we've
15 seen a couple of different things happen.
16 First of all, the big operators as you would
17 guess from your comments buy new trucks. They
18 run new trucks. They're fuel efficient. They
19 run the numbers. They see that the capital,
20 the up front capital cost is worth it for a
21 truck that's more reliable, that needs less
22 maintenance--

23 CHAIRPERSON GENNARO: [interposing]

24 Right.

25

2 RICH KASSEL: and consumes less fuel.

3 The independent owner/operators who are
4 typically involved with the one and two truck
5 operations have a hard time. And nobody, like
6 in this particular niche, nobody likes driving
7 a 20 year old truck. Nobody says, "I want to
8 drive an old--a truck that's old, that's high
9 emitting, that's not fuel efficient, and that
10 is trouble with respect to reliability compared
11 to a new truck." But they can't afford it.
12 They can't afford to get out of the old truck,
13 and that's as often as not either a function of
14 not having the up front capital or not having
15 the access to the financing that would enable
16 them--

17 CHAIRPERSON GENNARO: [interposing]

18 Right.

19 RICH KASSEL: to buy a truck they're
20 willing to buy, because they have a business
21 that can support the--

22 CHAIRPERSON GENNARO: [interposing]

23 Yeah, yeah, yeah.

24 RICH KASSEL: And so what we've done
25 in the port of LA, port of New York and New

1 Jersey and in other locations around the
2 country, is develop low cost financing systems
3 that use a mix of microfinancing [phonetic] of
4 available government funding--
5

6 CHAIRPERSON GENNARO: [interposing]
7 Right.

8 RICH KASSEL: that helps that small,
9 that mom and pop get over the upfront capital
10 cost and get into a loan where it's--where at
11 the end of the day--

12 CHAIRPERSON GENNARO: [interposing]
13 So that's what like GNA does, right?

14 RICH KASSEL: GNA does it.

15 CHAIRPERSON GENNARO: Right.

16 RICH KASSEL: GNA does it, and as you
17 may remember when I was still at NRDC, I co-
18 chaired the effort with the Port Authority to
19 develop this program.

20 CHAIRPERSON GENNARO: Who doesn't
21 know that?

22 RICH KASSEL: Who doesn't? Well you
23 might remember.

24 CHAIRPERSON GENNARO: Everybody
25 knows that.

2 RICH KASSEL: No one else knows it.

3 CHAIRPERSON GENNARO: Everybody
4 knows that.

5 RICH KASSEL: You might remember it
6 because we talked about it in this room.

7 CHAIRPERSON GENNARO: Yeah.

8 RICH KASSEL: But the bottom line is
9 that programs like that enable the small
10 operators to get over that upfront capital
11 cost, and at the end of the day, they end up
12 with a loan that enables them to buy a more
13 reliable, more fuel efficient and cleaner
14 truck, and continue to operate. Now they often
15 will not buy the exact same brand new truck as
16 the larger operator.

17 CHAIRPERSON GENNARO: Yes.

18 RICH KASSEL: Right? They might buy
19 a truck like you said, that's trickled down
20 now.

21 CHAIRPERSON GENNARO: Yeah.

22 RICH KASSEL: But instead of a 20
23 year old truck, they're now in a four year old
24 truck or a five year old truck with a lot of
25 leg still in it. Now, as we look at the solid

1 waste and the industry here, what is exactly
2 done in the Drayage program at the Port of
3 Newark, or the Port of LA, or up at Hunts Point
4 for trucks up there may or may not be exactly
5 the same.

6 CHAIRPERSON GENNARO: Right.

7 RICH KASSEL: But conceptually it's
8 the same idea.

9 CHAIRPERSON GENNARO: Yeah.

10 RICH KASSEL: That there are ways to
11 make sure that the operators can get into
12 cleaner and more efficient and more reliable
13 trucks. It's better for them, and it's much
14 better for all the communities that bear a
15 disproportionate burden of housing transfer
16 stations or being near transfer stations and so
17 they have truck routes going through their
18 neighborhood on route to--

19 CHAIRPERSON GENNARO: [interposing]
20 Right.

21 RICH KASSEL: a transfer stations
22 that may be an industrial site, but you got to
23 drive through a residential neighborhood to get
24 there.

2 CHAIRPERSON GENNARO: Sure.

3 RICH KASSEL: And I think Jim is
4 right. At the end of the day it comes down to
5 who bears the burden, and we have the
6 technology to take away that burden on
7 communities, and--

8 CHAIRPERSON GENNARO: [interposing]
9 And I'm for that.

10 [cross-talk]

11 RICH KASSEL: The key is just working
12 out the details, and I think we can do that.

13 CHAIRPERSON GENNARO: I'm really
14 committed to this. When I, you know, look at
15 the numbers, you know, in the testimony here,
16 you know, how like all the--you know how this
17 is now, you know, 90 percent of the problem,
18 whatever. I just feel absolutely compelled to
19 try to get something, and so--

20 ALYCIA GILDE: Can I add something?

21 CHAIRPERSON GENNARO: Yeah, sure.
22 Sure, Ms. Gilde, yes.

23 ALYCIA GILDE: Thank you. I think
24 what's really important with a number of these
25 phase out programs at the ports is that there's

1
2 always been some type of incentive program
3 available to help get them started, to help
4 them meet that phase out requirement, to give
5 them enough lead time to purchase that new
6 vehicle--

7 CHAIRPERSON GENNARO: [interposing]
8 Right.

9 ALYCIA GILDE: to retrofit that
10 vehicle. Right now, as I mentioned earlier in
11 the testimony, we have 33 million dollars
12 available for New York City private fleets to
13 convert to alternative fuel vehicles. In some
14 cases, purchase brand new diesel trucks.

15 CHAIRPERSON GENNARO: CALSTART does?

16 ALYCIA GILDE: Yes, CALSTART, and
17 then there is--well, CALSTART's managing a
18 program that's providing 19 million dollars
19 available for New York State and New York City--
20 -

21 CHAIRPERSON GENNARO: [interposing]
22 Right.

23 ALYCIA GILDE: for alternative fuel
24 vehicles and diesel emission control
25 technologies. New York City Department of

1 Transportation has a 15 million dollar program
2 where they're focusing on reducing emissions
3 from trucks that are regularly calling in the
4 Hunts Point markets.
5

6 CHAIRPERSON GENNARO: Right.

7 ALYCIA GILDE: This would also apply
8 for refuse collection trucks. These are
9 programs that exist right now. They're first
10 come first serve, but what they do is they help
11 provide an incentive to purchase that new
12 vehicle, and in some cases cover 100 percent of
13 the cost of the emission control device. So
14 for the Hunts Point Clean Trucks Program, it
15 covers 100 percent of the diesel retrofit. For
16 the New York Truck Voucher Incentive Program it
17 covers 80 percent of the technology, plus
18 installation. This is funding that the refuse
19 collection industry can take advantage of right
20 now. And so earlier I talked about the
21 importance why we need to conduct outreach and
22 why we need to make sure that they're informed
23 and they have all the tools and resources to
24 know what technologies are available to them,
25 as well as what incentives are out there that

1 they can take advantage of right now. And I
2 know that the New York City Business Integrity
3 Commission's in the process of organizing an
4 informational workshop to reach out to the
5 waste refuse collection industry to talk about
6 the technologies that are available, to talk
7 about the incentives that are available, and so
8 this is something that CALSTART is taking a big
9 step forward in terms of helping this industry,
10 and we want to be able to help understand the
11 needs--

12
13 CHAIRPERSON GENNARO: [interposing]
14 Right.

15 ALYCIA GILDE: in terms of the
16 business, be able to identify technologies that
17 are vocation specific and meet the needs of
18 that duty cycle, but also provide the
19 incentives to help make it happen.

20 CHAIRPERSON GENNARO: Okay. That--
21 I--this is great. So why don't we do this. If
22 you guys have a few minutes, why don't you meet
23 with David in the hall, and I'd ask you guys
24 to, you know try--David Biederman, of course,
25 try to engage him in a chat. And who's here

1 from BIC? I know you can--somebody's here from
2 BIC? Oh, man. Oh, man. We had a deal. We had
3 a deal. I don't--we had a deal. So who in
4 place of--so who's going to, you know--I'm
5 appointing you. I'm appointing you. Okay.
6 And so--

8 ALYCIA GILDE: [interposing] And
9 CALSTART's supporting Jay on the development of
10 this information workshop.

11 CHAIRPERSON GENNARO: Pardon?

12 ALYCIA GILDE: So, Jay has been
13 working with CALSTART and New York City DOT.

14 CHAIRPERSON GENNARO: Jay?

15 ALYCIA GILDE: Jay [**inaudible**
16 **02:24:04**] with Business--

17 CHAIRPERSON GENNARO: [interposing]
18 Okay, fine.

19 ALYCIA GILDE: I'm sorry.

20 CHAIRPERSON GENNARO: Oh, Jay.

21 ALYCIA GILDE: So we're--

22 CHAIRPERSON GENNARO: Am I a Jim
23 now? You call me Jim. Jay, Jim, whatever.
24 Rich, Jim, you know, Samara. It's a party,
25 yeah. I'm just messing with you. No, I

1 appreciate it. No this is--I'm glad that this,
2 that there's this level of, you know, colloquy
3 going on here between you and the other
4 gentleman from BIC and this is--you know, I
5 just want to get this done. I want to get it
6 done fairly. It looks like what's been
7 presented or that there are options and ways,
8 and if BIC give a little bit on the rate cap,
9 or not that I'm an expert in that whole thing,
10 and then, you know, the resources that, you
11 know, CALSTART and GNA bring to bear, you know,
12 all the brain waves that are brought to the
13 table by EDF and in combination with BIC, and
14 you know, with the full weight of the
15 administration that wants to get this clean air
16 benefit, I got to believe that there's a way to
17 get it done, and so I appreciate that, and it'd
18 be great if that could start right now out in
19 the hall, okay? If that's okay. And Bill, I'm
20 sending you out there to kind of watch that and
21 I actually don't have, Rich, your new business
22 card, and Ms. Gilde, I don't have your card.
23 And I have a lot of your cards, Jim. So, if
24 that could--is that okay? Anything else?
25

1
2 Anybody else have anything else to say? Because
3 I--this is very, very key piece and this is--
4 these numbers are just too compelling not to do
5 something about, you know? And so do that. So
6 Bill, you go out there with them and get their
7 business card. I'll take--Jim, you still at
8 505-2100? Is that still your number? Is that
9 still your number? Okay. [off mic] You've
10 had that same number a long time.

11 JAMES TRIPP: I have the two same
12 middle names, too.

13 CHAIRPERSON GENNARO: Okay. Yeah,
14 not that, you know, Jim and I go back a while,
15 but we go back a while. So, yeah, so if that
16 could happen in our little conference space out
17 in the hall, that would be, you know, that
18 would be--I just want to move things along. I
19 think this kind of colloquy is good and David
20 knows that you heard me, I'm trying to do your
21 talking points, but at the end of the day I
22 want this. So, administration wants it. I want
23 it. I want it. That's--it is what it is.
24 Okay. So let's just work on it, okay? Thank
25 you. Thanks folks. Appreciate that.

2 RICH KASSEL: Thank you.

3 CHAIRPERSON GENNARO: Thanks Jim.

4 Oh, yeah. Give me your card, too. Give me
5 your card. Yeah, okay. Great, okay, thanks.

6 What we're going to do is we're going to swear
7 in the panel. I just--I don't want any

8 testimony. I just have to, you know, check on
9 a medical situation. I'll be back in 60

10 seconds, okay? So nobody get ahead of me here,

11 okay? Okay. You can call the panel and swear

12 them in. [off mic]

13 COUNSEL: Can you ple--Could you

14 please raise your right hand? Do you swear or
15 affirm to tell the truth, the whole truth, and

16 nothing but the truth today? [off mic

17 conversation]

18 CHAIRPERSON GENNARO: Pardon me, I

19 just got a little, you know, discombobulated
20 for a second. God bless you. God bless you.

21 So the Restaurant Association, REVNY, and a

22 report. Okay, this is the report from Jim

23 Tripp, right? Okay. Yes, yes. And this is the

24 preview. Okay, so I got two written

25 statements, and Ms. Rothman and Pinsky and

1 Mozell. Okay. Great. Sorry for the delay. If
2 you can close the door. We're getting a
3 little--Sergeant, close the door. We're
4 getting a little background noise from the
5 hall. I want to give these people my full
6 attention. You've waited a long time to
7 testify. I really appreciate it. Ms. Rothman,
8 it's been a long time since we--oh, you want
9 to--you want to have Angela go first, is that
10 right? Okay, sure, sure. By all means, Ms.
11 Pinsky, we always, you know, like to work with
12 REVNY and appreciate your being here and we
13 thank you for your patience. I saw John Doyle
14 [phonetic] before, and honored to have you.
15 Please, please state your name for the record.
16 Everyone's been sworn, right? Okay, and great.
17 So, I'm going to--this is kind of like gotten
18 to like a first name hearing from the last
19 panel. So, Angela, you're on.

21 ANGELA PINSKY: Okay. Good
22 afternoon, Chairman Gennaro. Oh, my name is
23 Angela Sung Pinsky. I'm the Vice President of
24 Management Services and Government Affairs for
25 the Real Estate Board of New York. Good

1
2 afternoon, Chairman Gennaro and the members of
3 the Environmental Protection Committee. The
4 Real Estate Board of New York representing over
5 14,000 owners, developers, managers, brokers,
6 and brokers of real estate property in New York
7 City thanks you for the opportunity to testify
8 about Intro 1160. While we support the
9 administration's goals of streamlining and
10 clarifying the air code, we have a few serious
11 concerns about some of the changes proposed in
12 the legislation that we feel should be
13 addressed before the City Council passes this
14 bill. Our first concern is that in many places
15 throughout the bill, the language has been
16 added or amended to allow the Commissioner of
17 the Department of Environmental Protection to
18 make policy changes by rule instead of by
19 legislation. So we have testified previously
20 regarding other pieces of legislation. We
21 believe that transparency and predictability is
22 critical for our members as is input into
23 policy changes made by agencies. As a result,
24 we ask the City Council amend this bill to
25 ensure that it retains oversight on future

1 policy changes sought by DEP. The next
2 paragraph I'm going to strike because John
3 Doyle who was here earlier spoke to DEP and we
4 actually got clarification on that paragraph.
5

6 CHAIRPERSON GENNARO: Okay.

7 ANGELA PINSKY: So next, section 24
8 136 of the bill removes the requirement for
9 DEP's Commissioner to approve or deny asbestos
10 plan removal plans within 60 days. As
11 mentioned earlier, it is important for property
12 owners and managers to have a measure of
13 predictability, especially when it comes to
14 time frames for agencies to review and approve
15 construction and abatement work.

16 CHAIRPERSON GENNARO: Oh, I mean,
17 that DEP is removing from themselves this time
18 limit thing, right?

19 ANGELA PINSKY: Correct.

20 CHAIRPERSON GENNARO: Okay.

21 ANGELA PINSKY: Removing the time
22 limit on the review period places an undue time
23 burden on projects which can affect workers,
24 owners, and building tenants. The regulatory
25 approval process is already the longest phase

1
2 of any asbestos related work and the cost of
3 additional construction delays can be
4 substantial. Sixty days is a reasonable time
5 frame for this process and the section of the
6 code should not be removed. Third, Section 24
7 146 would allow DEP to issue a stop work order
8 either orally or in writing for any violations
9 related to air born dust. The criteria under
10 which a stop work order for this type of
11 violation can be issued are vague, and again,
12 are written to be established by department
13 rule instead of by code. This provision would
14 give very broad powers to DEP over something
15 that may or may not be a life safety issue, but
16 could easily cause substantial cost, loss of
17 work for construction workers and delays. Given
18 that the Department of Buildings already has
19 the power to issue a stop work order for
20 hazardous or unsafe conditions, we strongly
21 believe that the authority to issue this type
22 of stop work order should remain within DOB's
23 purview, especially when very few specifics are
24 laid out for what constitutes a violation. We
25 urge the Council to remove this provision.

2 CHAIRPERSON GENNARO: Right, and
3 because I know you're going to be leaving
4 before the rest of the panel speaks, I'm going
5 to take the opportunity to engage you as you go
6 along and perhaps if DEP would have this--so
7 DEP could theoretically inform DOB, and then
8 DOB can do what it has always done with regard
9 to that.

10 ANGELA PINSKY: Correct.

11 CHAIRPERSON GENNARO: Right?

12 ANGELA PINSKY: Correct.

13 CHAIRPERSON GENNARO: Okay. I just
14 wanted to make sure that I got a good feel for
15 that. Yep.

16 ANGELA PINSKY: So fourth, section 24
17 109 regarding the registration of generators,
18 engines, and other devices. This portion of the
19 bill is confusing. It's unclear why generators
20 and engines being used for some purposes must
21 be registered while others are not required to
22 be. There's an exemption for certain
23 generators on construction sites. There's also
24 an exemption for performing smoke tests on
25 title four certified generators when they are

1 first registered, but as these generators will
2 not be available in 2015, we believe that the
3 legislation should also exempt tier four I, I
4 is for interim, or tier four capable engines
5 form testing. Finally, the legislation
6 contains two proposed changes that would create
7 additional burdens on property and rights of
8 managers. Section 16 120.2 would allow the
9 Department of Sanitation to assess civil
10 penalties if refuse compacting systems aren't
11 maintained and operated according to the
12 Department rules as well as if trash isn't
13 compacted. Section 24-168.1 would require
14 building owners who receive shipments of
15 heating oil to maintain records of the
16 shipments and keep them available for auditor
17 inspection for three years when these records
18 are already maintained by the persons who are
19 supplying the heating oil. If this requirement
20 for some reason cannot be removed, we would
21 request that at least the bill be revised to
22 explicitly permit the records to be kept
23 electronically. Thank you very much for
24

1 allowing me the opportunity to speak these
2 issues.

3
4 CHAIRPERSON GENNARO: Yeah. Thank
5 you. Now when you had conversations, and
6 presumably you had conversations with, you
7 know, DEP about this, I guess you were give,
8 you know, some consideration to some of your
9 concerns and that made its way into the bill
10 and some things didn't, right?

11 ANGELA PINSKY: Right.

12 CHAIRPERSON GENNARO: Is that fair to
13 say? Okay.

14 ANGELA PINSKY: Right, so these are
15 the remaining ones.

16 CHAIRPERSON GENNARO: Okay. Yeah,
17 this is pretty straight forward and very
18 detailed, and who did you like primarily deal
19 with when you're dealing with DEP on this?
20 Remember who it was?

21 ANGELA PINSKY: I think the
22 committee was led by Charles Sturkin
23 [phonetic]. I didn't actually attend a
24 personal--

2 CHAIRPERSON GENNARO: [interposing]

3 Yeah, yeah.

4 ANGELA PINSKY: I believe that
5 someone from REVNY attended.

6 CHAIRPERSON GENNARO: Okay. You
7 know what? We won't do a--we, you know, if you--
8 --you got to go and I don't want us to get
9 involved in any kind of, you know, side chats,
10 but your--you know, this looks pretty workable,
11 and in doing things via rule, universal
12 legislation like the time thing. I think I got
13 this, and so, you know, I can engage DEP and
14 you know, certainly the Council will always
15 work--has worked closely with REVNY and you and
16 John and all the good people there. Jim
17 Weylan's [phonetic] there, right?

18 ANGELA PINSKY: Yes.

19 CHAIRPERSON GENNARO: Okay. Yeah,
20 see. Say hi for me.

21 ANGELA PINSKY: I will.

22 CHAIRPERSON GENNARO: We used to work
23 together back in the misty 80's, whatever, a
24 long time ago. Thank you. You know, thank you,
25 Angela. I appreciate your being here today.

2 ANGELA PINSKY: My apologies for
3 having--

4 CHAIRPERSON GENNARO: [interposing]
5 No, no, my--it just--we try to be fair. We'll
6 give people time to speak so the hearings don't
7 drag on. Thank you for your patience. And so,
8 you know, this is me and my stack. And I--
9 where's those slips? [off mic] Ms. Rothman,
10 please. It's a pleasure to see you. Thank you
11 for being here.

12 MARY ROTHMAN: Well thank you very
13 much, and--

14 CHAIRPERSON GENNARO: [interposing]
15 Yeah, just speak right into the microphone so
16 we can--

17 MARY ROTHMAN: It's on when it's red
18 is that correct?

19 CHAIRPERSON GENNARO: Yes, red is--

20 MARY ROTHMAN: [interposing] Good.
21 Then it must be on.

22 CHAIRPERSON GENNARO: Red is on.
23 Red is hot, yep.

24

25

2 MARY ROTHMAN: Okay, my name is Mary
3 Ann Rothman. I'm the Executive Director of the
4 Council of New York Cooperative--

5 CHAIRPERSON GENNARO: [interposing]
6 And Sergeant, I'm going ask for that door to be
7 closed there as well so we don't get the chit
8 chat from the halls or--yeah, okay. Thank you.

9 MARY ROTHMAN: And I want to thank
10 you for this opportunity--

11 CHAIRPERSON GENNARO: [interposing]
12 Sure.

13 MARY ROTHMAN: to express our views.
14 More than 500,000--

15 CHAIRPERSON GENNARO: [interposing]
16 And you don't have a written statement. I'll
17 just--that's fine.

18 MARY ROTHMAN: I scribbled so much
19 that I'm going to e-mail it to you.

20 CHAIRPERSON GENNARO: No, no, no.
21 It's good. It's good. It's good. I'll just
22 take my glasses off and listen.

23 MARY ROTHMAN: okay.

24 CHAIRPERSON GENNARO: And I have the
25 Counsel of the Committee taking, you know,

1
2 copious notes, and she--I know you're going to
3 be e-mailing it to Samara as well.

4 MARY ROTHMAN: I promise to e-mail
5 it today.

6 CHAIRPERSON GENNARO: Yep.

7 MARY ROTHMAN: More than 500,000 New
8 York City families live in housing cooperatives
9 and condominiums. They share ownerships of the
10 buildings where they live. They share the cost
11 of maintaining their buildings and meeting all
12 the mandates established by the City. Quite
13 naturally, these resident owners want their
14 homes to be safe, to have clean air, to be well
15 maintained. Intro 1160 addresses an impressive
16 array of important issues and we generally
17 supportive of them. However, its provisions
18 are ambiguous on many matters of significance,
19 and this legislation leaves the rule making
20 process the task of clarifying these
21 ambiguities and defining the precise
22 responsibilities that our members will face in
23 the many instances where this legislation
24 changes existing law. It has been our
25 experience in the past that organizations such

2 as ours really have no meaningful way to have
3 input on rule making. We attend hearings. We
4 offer commentary, but rarely have we seen any
5 changes in the proposed rules. The legislative
6 process seems to us to be a far more democratic
7 process where hearing such as this one offer
8 genuine opportunities to make suggestions that
9 [off mic] improve a proposed law. We're also
10 concerned about section 16 120.2 of the
11 legislation which creates new penalties for
12 failure to maintain and use existing trash
13 compactors in buildings over four stories. To
14 our knowledge, there has been no demonstration
15 that failure to compact trash is a wide-spread
16 problem in our city. I would hate to suggest
17 that this is a possible revenue source. I'd
18 rather suggest that this provision is
19 unnecessary and should be removed. We
20 respectfully suggest that intro 1160 be amended
21 to include clearer and more specific details on
22 how the new--on the new requirements it imposes
23 as well as reasonable time frames for
24 implementing the required changes. And I thank
25 you for this opportunity to comment.

2 CHAIRPERSON GENNARO: Thank you, Ms.
3 Rothman, and certainly in the people of the
4 Council have great respect not only for you
5 personally but for your leadership of, you
6 know, for Co-ops and condos and your, you know,
7 reasonable record of advocacy on behalf of that
8 community is legendary, and the Council, and
9 you know, once again you've come forward to,
10 you know, to speak to this important matter,
11 and these are people's homes. And so, you
12 know, you can be assured that we'll give them
13 utmost consideration in our dealings with the
14 administration, but of course, we, you know, we
15 urge you to e-mail the details of that to
16 Samara so we can get that, you know, on the
17 record and go to bat for you. Okay?

18 MARY ROTHMAN: Thank you.

19 CHAIRPERSON GENNARO: Okay. But
20 stay, because it would just--we have this
21 gentleman. Although, actually, you know, I
22 think I'm good. I didn't have any further
23 questions for you, but if you--you might want
24 to stay in case you--if there's a possibility
25 you might want to comment on something that the

1 gentleman from the Restaurant Association has,
2 and that's Andrew Moesel. It's good to--good to
3 see you.

4 ANDREW MOESEL: That's me. Yes,
5 indeed. Good morning, members or member--

6 CHAIRPERSON GENNARO: [interposing]
7 Now, just so--hang on. Just for a second. I
8 got a little context. You got the Restaurant
9 Association and you have the Hospitality
10 Alliance.

11 ANDREW MOESEL: Correct.

12 CHAIRPERSON GENNARO: What
13 connection if any is there?

14 ANDREW MOESEL: There is no
15 connection other than--

16 CHAIRPERSON GENNARO: [interposing]
17 Okay.

18 ANDREW MOESEL: some of the members
19 in the Hospitality Alliance used to work for
20 the Restaurant Association.

21 CHAIRPERSON GENNARO: Oh, fine.
22 Okay.

23 ANDREW MOESEL: It's a much newer
24 group.

2 CHAIRPERSON GENNARO: Yeah, yeah.

3 Okay. And then there was a. There used to be
4 a Restaurant Association, and a gentleman, I
5 forget his name, used to run it. I don't know
6 if you know who I'm talking about. I forgot his
7 name, but and then because there was a
8 Restaurant Association, then there was the
9 Nightlife Association.

10 ANDREW MOESEL: There is--well,
11 there's Rob Bookman [phonetic].

12 CHAIRPERSON GENNARO: Right, of
13 course.

14 [cross-talk]

15 CHAIRPERSON GENNARO: Yeah, he's
16 with the Hospitality Alliance.

17 ANDREW MOESEL: Right.

18 CHAIRPERSON GENNARO: And so I'm
19 just trying to--because there's the Restaurant
20 Association and then there's Nightlife
21 Association, and then--

22 ANDREW MOESEL: [interposing] It's a
23 long--so the Nightlife Association--

24 CHAIRPERSON GENNARO: [interposing]
25 They would do a lot of things in consort and

1 then everything sort of went up to this
2 Hospitality Alliance, which includes lots of
3 things.
4

5 ANDREW MOESEL: I mean, the short
6 story is that the, you know, the Restaurant
7 Association has been around for 75 years. It's
8 been a mainstay.

9 CHAIRPERSON GENNARO: Right.

10 ANDREW MOESEL: The Nightlife
11 Association was formed, I believe, around the
12 beginning of the 2000's.

13 CHAIRPERSON GENNARO: Okay.

14 ANDREW MOESEL: Then they actually
15 came under us and became a chapter under or
16 charter.

17 CHAIRPERSON GENNARO: Oh, I see.

18 ANDREW MOESEL: But then they left
19 three years ago, and then that sort of became
20 the Hospitality Alliance.

21 CHAIRPERSON GENNARO: Okay, okay.

22 Well, down here you are, so the floor is yours.
23 That's it.

24 ANDREW MOESEL: Alright.
25

2 CHAIRPERSON GENNARO: So, if you
3 haven't stated your name already for the
4 record, please do so, and commence with your
5 statement.

6 ANDREW MOESEL: Sure. My name is
7 Andrew Moesel. I'm the, I guess the Chair of
8 Public Affairs for the New York State
9 Restaurant Association, New York City Chapter.
10 As I mentioned, we've been here for 75 years
11 and represent 5,000 restaurants in New York
12 City and 10,000 statewide. As I don't need to
13 remind everyone, restaurants employ hundreds of
14 thousands of New Yorkers and are the backbone
15 of our tourism trade. The New York Restaurant
16 Association would like to thank the committee
17 and the Department of environmental protection
18 for including impacted stakeholders in
19 discussions prior to introduction of 1160.
20 Engaging stakeholders always allows the
21 legislative process, excuse me, through more
22 transparent and generally it's the better more
23 meaningful and logical legislation. The
24 Restaurant Association submits these comments
25 specifically in regard to subchapter six of the

1
2 proposed legislation. Subchapter six is also
3 being amended to add new sections, regulating
4 to certain sources of emissions not previously
5 regulated in the air code, including emissions
6 from the commercial char broilers, cook stoves,
7 and stationary generators. Intro 1160 seeks to
8 regulate the installation of new char broilers
9 for FSE's, Food Service Establishments, that
10 char broil 875 pounds of meat per week. The New
11 York Restaurant Association notes that if
12 passed, this legislation will require new char
13 broilers to have the latest technology starting
14 July 1, 2014, less than six months from the
15 proposed enactment date of legislation. This
16 is simply not enough time for the restaurants
17 that are in the process of being developed and
18 built to substitute already purchased or
19 selected equipment. Because of the time and
20 planning necessary to design or redesign an
21 existing restaurant, this actual legislation
22 should not take effect until at least January
23 1, 2015. This is the input we're getting back
24 from our members. We went out. We asked
25 people.

2 CHAIRPERSON GENNARO: Right, but--
3 okay, because this is--

4 ANDREW MOESEL: [interposing] It
5 sounds like--it sounds like a lot of time, but
6 these build outs actually take--a lot of build
7 outs take longer than people think, or build
8 outs will start, and they will purchase
9 equipment, and then it'll start and stop for a
10 while, and then it'll start up again. So we'd
11 just like a little bit more time. In addition--

12 CHAIRPERSON GENNARO: [interposing]
13 Okay.

14 ANDREW MOESEL: but we're not opposed
15 to it conceptually.

16 CHAIRPERSON GENNARO: Okay. So, this
17 last paragraph on the first page is just a
18 timeline thing, right?

19 ANDREW MOESEL: Correct.

20 CHAIRPERSON GENNARO: Now, the whole
21 idea is that if you get it done before January
22 1st, 2015, does that mean like everything you
23 have before then is like grandfathered or
24 something? Is that what happens, or?
25

2 ANDREW MOESEL: I believe there's
3 another provision. This is only for new char
4 broilers. There is a provision, I think it's--
5 someone might help me out, 2020 or 2022 for all
6 char broilers.

7 CHAIRPERSON GENNARO: Okay. Okay.

8 ANDREW MOESEL: But we're actually
9 okay with that, because the lifespan on these
10 things is apparently around eight to 10 years.
11 So--

12 CHAIRPERSON GENNARO: [interposing]
13 Right.

14 ANDREW MOESEL: presumably, anyone
15 who has one now is going to have to replace it
16 before then.

17 CHAIRPERSON GENNARO: Okay. Okay.
18 Okay, keep going. Thank you.

19 ANDREW MOESEL: In addition, the
20 proposed amendment seeks to have SSE's maintain
21 records on the amount of meat they purchase
22 monthly, as well as the amount cooked each week
23 on the char broiler. The maintenance of such
24 records will be highly problematic and
25 difficult for operators as kitchen staff have

2 no means to track exactly what meat is cooked
3 on a char broiler versus other methods. Hence,
4 the New York State Restaurant Association will
5 request that more specific guidance, including
6 model forms acceptable to the DEP be provided
7 before the effected date of the legislation.

8 CHAIRPERSON GENNARO: Oh, so that
9 just--that's just like a clarification thing?

10 ANDREW MOESEL: Well, I mean it's
11 clar--it's a record keeping thing.

12 CHAIRPERSON GENNARO: Yeah.

13 ANDREW MOESEL: It could be possible
14 to talk about how much meat is purchased, but
15 it's virtually impossible to keep track of how
16 it's prepared in the kitchen, and right now,
17 the legislation asks for both because what it's
18 really saying if, you know, this is basically
19 for steakhouses or places that cook hamburgers.

20 CHAIRPERSON GENNARO: Yeah, yeah.

21 ANDREW MOESEL: If you're--if you
22 cook a high volume of those sort of things, we
23 want you to be covered. If this isn't really
24 your thing, if you're a noodle place, maybe
25 not, you don't need to be covered, but--

2 CHAIRPERSON GENNARO: [interposing]

3 Yeah.

4 ANDREW MOESEL: it would be
5 extremely difficult to actually keep track of
6 how much meat is actually cooked on the char
7 broiler or wood stove or stuff like that. So--

8 CHAIRPERSON GENNARO: [interposing]

9 Right, okay. That I think we can sort of work
10 with because I mean, obviously, like big
11 steakhouses, there's no getting around that
12 they're doing 875 pounds of meat, and so these
13 are only--you know, these are establishments
14 that are kind of on the fence, kind of. You
15 know?

16 ANDREW MOESEL: Right, I mean, what
17 our experience with dealing with some agencies
18 is that like the intentions are certainly
19 noble, but the last thing we want is an
20 inspector coming in there and saying, "Where's
21 your documentation for how much meat you've
22 cooked?" and they don't have it or it's
23 insufficient.

24 CHAIRPERSON GENNARO: Yeah, yeah,
25 yeah.

2 ANDREW MOESEL: They get in trouble.

3 CHAIRPERSON GENNARO: Yep, yep,
4 okay. That's dually noted. Please continue.

5 ANDREW MOESEL: Sections of Intro
6 1066 that provide clarity to the DEP and the
7 regulated community are important and are
8 supported. Subsections include revisions to 24
9 142 that provides a clear method for the
10 testing of air containment emissions. The old
11 method of testing emissions was subjected and
12 resulted in unnecessary fines and citations to
13 the restaurant, so we're happy about that. The
14 New York Restaurant Association looks forward
15 to continuing its ongoing work with the City
16 Council to protect the restaurant and
17 hospitality industry, and thank you very much
18 for letting us add our input.

19 CHAIRPERSON GENNARO: Thank you.
20 Thank you, Mr. Moesel. Let me just ask you a
21 question about--it has been explained to me by
22 DEP that people that char broil from above,
23 again, I'm not--just I'm not promoting this
24 particular kind of establishment, I'm going to
25 name one, Burger King, that kind of char broils

1
2 like from above, and there is like off the
3 shelf kind of technology that people can use to
4 kind of deal with those cooking emissions or
5 whatever you want to call them. But those that
6 char broil from below like steakhouses, that's
7 a much bigger deal. It's more expensive and
8 whatever, and you didn't dedicate a lot of your
9 testimony towards that. You guys okay with
10 that?

11 ANDREW MOESEL: I think so. I mean,
12 I think given, you know, given the time if we
13 can extend the timeline out a little bit, I
14 think we're okay, because this--you know, we've
15 thought a lot about it as an industry, our
16 group, about this--

17 CHAIRPERSON GENNARO: [interposing]
18 Right.

19 ANDREW MOESEL: and, you know, we
20 think that this is the way the industry's
21 going.

22 CHAIRPERSON GENNARO: Right.

23 ANDREW MOESEL: We can't make
24 argument that the technology isn't out there.
25 So as long as people have time to adjust to

1 this and we can educate our members about it,
2 we're okay with it. As long as--that's what
3 we're basically we're asking for.

4 CHAIRPERSON GENNARO: Fine, okay.
5 Yeah, great. Great. I'm going to eat in a
6 restaurant to show that I, you know, support
7 your testimony here today.

8 ANDREW MOESEL: Excellent.

9 CHAIRPERSON GENNARO: I make that
10 commitment to you. I happen to know that I'm
11 going to eat in a restaurant today, so this is
12 kind of like one of these vapid, you know,
13 politician things that just gets said, you
14 know. And, but yeah, I'm just--I will be eating
15 at a restaurant tonight. So, there you have it.
16 And thank you both very much for your, you
17 know, compelling and very reasonable testimony.
18 We certainly do appreciate that. And thank you
19 Mr. Moesel. Thank you Ms. Rothman. Appreciate
20 it. And I'm going to call the last panel.
21 Okay. You know what, I'm going to call the
22 panel, but Paul if you can sort of--if you can
23 kind of gather the staff. I need at least Bill
24 and/or Samara to be in here for the next--to

1
2 hear the testimony of the next panel. Cecil
3 Corbin-Mark from We Act? It should be noted
4 that I've received an award from, you know, We
5 Act, so you know what I mean, if I'm
6 particularly nice to this witness, that's why.
7 Thank you. And you pronounce your first name
8 Cecil? Cecil, okay, right. John Selento
9 [phonetic] of Long Island City. Okay. I'm
10 calling you forward as a witness on this panel.
11 Joel Kupfermen, New York Environmental Law and
12 Justice. Rosaria Sinisi representing a group of
13 neighbors. These people are being put together
14 on the panel because they are in opposition to
15 the bill and I'd ask Sergeant to make
16 accommodations for these witnesses and last but
17 certainly not least, my good friend Mav
18 Moorhead of NYH20. So there should be a total
19 of, you know, we're kind of pushing the
20 envelope a little bit with having five
21 witnessed, but this will--this is--if we can
22 make accommodations for five people. If I can
23 ask the sergeant to do that, that would be--
24 While the panel is getting itself together I'll
25 give a shout out to Annie Wilson in the back.

1
2 HI, Annie. How you doing? Okay, good. Still
3 with Sierra Club, right? No longer? Okay.
4 That's not on the record. The record didn't
5 hear that, but let it be said that Annie said
6 she's no longer with the Sierra Club. Stop,
7 stop. You'll talk to me afterwards. You're
8 not on the record. Very bad. Very bad. I'm--
9 but I started it. I started it. Okay. And so,
10 you know what, we'll have the--okay. So we have
11 Samara here. If Samara can swear in the panel,
12 please.

13 COUNSEL: Can you please raise your
14 right hands? Do you swear or affirm to tell
15 the truth, the whole truth, and nothing but the
16 truth today?

17 [off mic]

18 CHAIRPERSON GENNARO: Okay. Thank
19 you all very much. You waited patiently to
20 testify, and it's been a long hearing, and we,
21 you know, very much appreciate your willing to
22 be here and to wait and to give us the benefit
23 of your views and I'm just kind of assimilating
24 the written statements. If we have the

1 statements here. I have a statement from
2 Rosaria and from--no, okay. Okay, and so--

3 UNKNOWN: I'll print it out in a
4 while.
5

6 CHAIRPERSON GENNARO: Yeah, yeah.
7 Okay. And then I have--this looks like Joel,
8 Environmental Law, okay, this is Joel. I have
9 his. What we go there? From Mav, okay. And I
10 think--so there are a total of three written
11 statements, is that right?

12 UNKNOWN: I have a packet of two. One
13 of my interns--

14 CHAIRPERSON GENNARO: Okay, okay,
15 but so of the five witnesses, I have three
16 written statements, which is fine, which is
17 fine. And so let me just put the slips in the
18 order of how people are sitting. Yeah, it's
19 just--just give me a minute. Sorry to make
20 people wait. Sorry. Just give me a minute, but
21 you're all dually sworn. Just hang on a
22 second. Okay, sorry for the delay. Okay. This
23 panel is--it's in place. It's sworn, right?
24 And so in all we got Mav, we have Cecil, then
25 it would be John, Joel, and Rosaria, right? Is

1
2 that right? Okay. Okay. I'm going to--we're
3 going to start with Mav, and we're going to go
4 this way, and I have three prepared statements,
5 one from Mav, one from Joel, and one from
6 Rosaria, right? Okay, and that's what we have.
7 Once again, my apologies for the delay. Mav,
8 please. You've all been dually sworn. Please,
9 you know, state your name for the record, and
10 proceed with your good statement. Okay, there
11 we go.

12 MAV MOORHEAD: Now it's on. I'm Mav
13 Moorhead. I'm with NYH2O as well as Damascus
14 Citizen, our sister organization in
15 Pennsylvania. Understanding the primary focus
16 of today's agenda is bill 1160, the local law
17 to amend the New York City Charter, the
18 administrative code of the New York mechanical
19 code for the city air pollution code. There
20 appears to be at this time an omission of great
21 magnitude that this bill regarding New York
22 City air pollution has not been introduced and
23 addressed concerning the introduction of radon
24 222 at high numbers is a result of our the now
25 November 1st finally hook up of the Spectra

1 pipeline, bringing with it a gas from the
2 Marcellus Shale. This bill definitely does not
3 go far enough. Preventable deaths from
4 exposure to radon 222 should be included in
5 amending the New York City charter and
6 administrative code. Gas from the Marcellus
7 Shale is extremely high in radium. Radon 222,
8 a component of radioactive radium travels with
9 gas. The time travel from the Marcellus Shale
10 is a scant 12 to 15 hours, and New York City
11 previously has received gas from the gulf with
12 lower levels of radon 222 in a travel time of
13 over a week, but radon 222 has a 3.8 day half-
14 life, which when breathed in or ingested before
15 that time, the full strength of its destructive
16 element is cumulatively--easy for me to say,
17 cumulatively harmful resultant in lung cancer,
18 and when ingested, other forms of cancer. The
19 EPA states that zero picocuries is the safe
20 level for radon 222 exposure. Radon 222 is the
21 leading cause of lung cancer in the US among
22 non-smokers, allowing the import of gas from
23 the Marcellus Shale into the City gates without
24 a local law to amend the New York City charter.
25

1
2 Regarding oversight, radon daily testing and
3 compliance with the EPA safety standards of gas
4 import in relation to radon 222 is egregious
5 and alarming to anyone who is aware of this
6 Spectra Pipeline undertaking. New York City
7 apartment dwellers using gas to cook, workers
8 servicing gas burners and burning appliances in
9 restaurants, hospitals, hotels, laundries and
10 boiler superintendents have at this time no
11 protection whatsoever from the import of radon
12 infused gas from the Marcellus Shale. No
13 protection whatsoever, no rules, guidelines or
14 regulations. No current local law amending the
15 City charter to oversee this development have
16 been introduced, even though the issue has been
17 raised for almost two years.

18 CHAIRPERSON GENNARO: Mav, you know
19 what I'm going to do?

20 MAV MOORHEAD: Right.

21 CHAIRPERSON GENNARO: I'm going to--
22 I wanted you to get that section of your
23 statement on the record, and I think the rest
24 I'm going to have entered into the record. I
25 am of the belief that the City of New York, you

1 know, does not have like the legal or
2 regulatory authority to do anything with regard
3 to the radon 222 that is, you know, introduced
4 into the City via Spectra. I just don't believe
5 it's an issue that has the ability to be
6 regulated by the City, and so, you know, that
7 fact notwithstanding, I, you know, wanted you
8 to get your issue on the record in this
9 hearing, because we're talking about air
10 quality and we're talking about everything
11 we're talking about, but, you know, this is
12 beyond the jurisdiction of the City, and so I
13 think--I think the city Health Department, I
14 think the City DEP, I think every New York City
15 entity that has--that has as part of their
16 mandate, you know, to be concerned about health
17 and clean air, like take note of this, but this
18 doesn't get dealt with at the city level. And
19 so I wanted you to get that on the record, and
20 you know, the rest of the points that you have,
21 I'm going to have entered into the record, but
22 this is--this is beyond the City's ability to
23 regulate, you know? And so but I think you're
24 terrific.
25

1 MAV MOORHEAD: It should definitely
2
3 be on the record.

4 CHAIRPERSON GENNARO: Yeah,
5 absolutely. I don't want to--

6 MAV MOORHEAD: [interposing] It
7 should be completely--

8 CHAIRPERSON GENNARO: [interposing]
9 put it on the record.

10 MAV MOORHEAD: [interposing] of the
11 fact that they have been aware of this as a
12 situation for two years, and I'm not sure
13 precisely if anyone has taken steps to try to
14 at least have some kind of oversight on this.

15 CHAIRPERSON GENNARO: Yeah, well we--

16 MAV MOORHEAD: [interposing] At least
17 recognize the issue as something that is
18 profoundly effective in terms of deaths.

19 CHAIRPERSON GENNARO: What we do
20 here in the City, we try to deal with those
21 things that are, you know, within our domain,
22 and within our jurisdiction and other, you
23 know, matters like, you know, that deal with
24 levels of government above us. We can let our
25 voice be heard, but I mean, this is something

1 that is beyond the level of where the city
2 government can go, but I'm very grateful to you
3 for, you know, for putting this on the record,
4 because I think it's a very important issue. I
5 wish the City, you know, had the ability to
6 regulate it. But they don't, but--and we
7 happen to have the, you know, director of the
8 City's, you know, air noise and HAZMAT division
9 sitting five feet from you, and so I think it
10 should be something of interest to the City,
11 but not something the City can regulate.

13 MAV MOORHEAD: Has the--has the City
14 Council expressed to the EPA or the feds at
15 all?

16 CHAIRPERSON GENNARO: I don't--I
17 don't--

18 MAV MOORHEAD: [interposing] Has
19 there been any expression federally from the
20 City?

21 CHAIRPERSON GENNARO: I don't--I've
22 had for 12 years I've taken the position that
23 as Chair of the Committee, I don't answer
24 questions, I ask them, but so I mean, we can
25 have a chat about that, but I don't want to

1
2 break my 12 year protocol of like not answering
3 questions. I ask them, you know.

4 MAV MOORHEAD: Thank you.

5 CHAIRPERSON GENNARO: And so--but
6 Mav, it's always a pleasure to see you, and,
7 you know, just give my best to Buck, you know?
8 But hang out. We're going to have a fun panel.
9 This should be good, okay? Thank you, Mav.
10 Buck is her husband, okay. Just for--we're all

11 family here, so now everybody knows the
12 Moorheads, and yes--and Cecil, Cecil--

13 CECIL CORBIN-MARK: Yes, sir.

14 CHAIRPERSON GENNARO: And you're
15 going to email us your testimony, right?

16 CECIL CORBIN-MARK: Yes.

17 CHAIRPERSON GENNARO: Okay.

18 CECIL CORBIN-MARK: Good afternoon,
19 Chairman Gennaro and other members of the
20 Committee. I want to start by thanking your
21 personally for your 12 distinguished years of
22 service on this committee and to say that it
23 has been a pleasure working with you. I also
24 want to extend my gratitude to your able
25

committee staff, especially your counsel

Samara--

CHAIRPERSON GENNARO: [interposing]

Yeah, she is wonderful.

CECIL CORBIN-MARK: My name is Cecil

Corbin-Mark, and I'm the Deputy Director and

Director of Policy Initiatives at WE ACT for

Environmental Justice. WE ACT is a 25 year old

northern Manhattan community based organization

whose mission is to build healthy communities

by assuring that people of color and/or low

income participate meaningfully in the creation

of sound and fair environmental health and

protection policies and practices. We are a

membership organization with offices in Harlem

and in Washington DC. Our model for change is

simple. We organize with residents in northern

Manhattan to identify key environmental and

environmental health problems in our community.

We engage in community-based participatory

research projects to generate evidence of those

problems with long-standing academic partners

like Columbia University's Mailman School of

Public Health or Mount Sinai School of

1
2 Medicine, University of Pittsburg, and on the
3 list goes. I'm here today to express my
4 organization's opposition to several of the
5 proposed amendments to the New York City air
6 code contained in Intro 1160 of 2013. In New
7 York City, people living in poor neighborhoods
8 have higher death rates than those living in
9 wealthier neighborhoods. Residents of northern
10 Manhattan have as much as 23 percent higher
11 vulnerability rate of health risk from
12 environmental exposure due to poverty.
13 Furthermore, 60 to 74 percent of the children
14 live in fair to poor quality housing where
15 socioeconomic constraints and lack of adequate
16 maintenance lead to disproportionately high
17 exposures to environmental hazards. In
18 Northern Manhattan, rates of asthma morbidity
19 and mortality are still the highest of New York
20 City, six times higher than the national
21 average. According to a recent report of a
22 research study based at Harlem Hospital Center
23 that is testing every school-aged child under
24 the age of 13 in a 24 block area of Central
25 Harlem, 26 percent of children in Central

1
2 Harlem have asthma. The New York Times
3 documented this in an article in April of 2003.
4 Columbia Center for Children's Environmental
5 Health research confirms the high prevalence of
6 poor respiratory health in northern Manhattan
7 is still a reality with 35 percent of children
8 being diagnosed by a local physician as having
9 or may be having asthma. Additional findings
10 from the Center strongly suggest as with lead
11 reduction of exposure to air pollutants,
12 polycyclic aromatic hydrocarbons, or PH's as
13 they're know, pesticides, flame retardants,
14 PBE's and other types of harmful pollutants
15 that those things, those reductions will have
16 significant benefits to the individuals and to
17 society in terms of pre-term birth and low
18 birth weight, developmental laze [phonetic]
19 asthma, obesity, and metabolic disorders. All
20 of them are increasing and are at the highest
21 in low income communities of color.
22 Developmental disorders are attributable in
23 large parts environmental and social stressors
24 that occur in less advantaged populations.
25 There's a need to reduce the air pollution

1
2 exposures to drive health disparities and I
3 think that work requires government
4 professionals, environmental groups, community
5 groups, and all of us to work together to come
6 out with a series of metrics and achievable
7 goals across a variety of sectors. Sadly, 1160
8 for all its many goods is also filled with a
9 few pretty significant flaws that cause us to
10 oppose it. Citizen suits is one of those
11 things. Citizen suits allow private citizens
12 to launch legal proceedings against alleged
13 violators of environmental laws. They open the
14 doors of our legal system and invite ordinary
15 citizens to be active stewards in protecting
16 environment and creating opportunities for
17 government to partner with private citizens and
18 effective enforcement of environmental laws.
19 Major federal statutes that were enacted in the
20 70's, in the 1980 include provisions for
21 allowing citizen suits. For example, under the
22 clean water act, any citizen may commence a
23 civil action on his or her--on her or his
24 behalf against any person who has alleged to be
25 in violation of a standard or a limitation. The

1
2 New York City air code, like several of these
3 federal statutes, contained a citizen suit
4 provision and the current proposal to remove
5 this provision is short-sided at best and
6 wholly undermining of the core principle of our
7 democracy, equal protection under the law at
8 worst. The inclusion of citizen--

9 CHAIRPERSON GENNARO: [interposing]
10 Cecil, I missed that last two sentences. I just
11 got distracted. Something about something was
12 removed?

13 CECIL CORBIN-MARK: So the New York
14 City air code contained a provision for citizen
15 suits--

16 CHAIRPERSON GENNARO: [interposing]
17 And going back to 1970 or whatever, right? Or-
18 -

19 CECIL CORBIN-MARK: [interposing] The
20 federal statutes in 1970--

21 CHAIRPERSON GENNARO: okay.

22 CECIL CORBIN-MARK: enacted that, and
23 then this--the New York City air code modeled
24 those--

2 CHAIRPERSON GENNARO: [interposing]

3 Right.

4 CECIL CORBIN-MARK: those provisions.

5 CHAIRPERSON GENNARO: When it was
6 established in 1970?

7 CECIL CORBIN-MARK: Correct.

8 CHAIRPERSON GENNARO: Right, okay.

9 CECIL CORBIN-MARK: And so I'm saying
10 that those are good things.

11 CHAIRPERSON GENNARO: Right.

12 CECIL CORBIN-MARK: But 1160
13 ultimately is calling for the removal of those.

14 CHAIRPERSON GENNARO: Oh, I see.
15 Okay.

16 CECIL CORBIN-MARK: And so for many
17 communities like northern Manhattan where there
18 is lack--where there's a lack of enforcement,
19 this becomes a critical tool for them
20 protecting both their families and themselves.
21 And removing this, I think, is both short-sided
22 at best, but really wholly undermining of a
23 core principle of our democracy, which is equal
24 protection under the law, at worst.

25 CHAIRPERSON GENNARO: Right.

2 CECIL CORBIN-MARK: So, likewise, I
3 think the Council was deliberate in its
4 approach to do that, because they were, I
5 think, probably recognizing that government
6 can't be everything, right? But where it does
7 work, is sometimes when it can create effective
8 partnerships like this that are prompted by
9 citizen suits, and therefore, taking this away
10 I think in the time of limited resources means
11 that communities that suffer under the burden
12 of poor environmental enforcement--

13 CHAIRPERSON GENNARO: [interposing]
14 Right.

15 CECIL CORBIN-MARK: and the burdens
16 of poor air quality like many EJ communities do
17 across this city will be suffering an even
18 greater burden if this provision were to move
19 forward. So let me move on to my second point
20 because I know I'm on a--

21 CHAIRPERSON GENNARO: [interposing]
22 No, no, but that was a biggie. So I wanted to
23 make sure I got that.

24 CECIL CORBIN-MARK: Yeah, that's my
25 first point for a reason.

2 CHAIRPERSON GENNARO: Yep.

3 CECIL CORBIN-MARK: Also, section 24-
4 141 in the City's air code prohibits emissions
5 of any air contaminant which causes or may
6 cause detriment to the health, safety, welfare
7 or comfort of the person or injury to plant,
8 animal life, blah, blah, blah. I think the
9 problem with Intro 1160 2013 is that it would
10 strike these provisions that existed for
11 decades by inserting the word odorless into the
12 amended law. There is absolutely no health
13 based justification for amending section 24 141
14 to limit its applicability to only odorous air
15 contaminants when there are a wide array of
16 hazardous air contaminants such as ozone,
17 carbon monoxide, radon, just to name a few that
18 are completely odorless. For those of us that
19 live in communities that are hot spots in this
20 city because of their high levels of asthma and
21 other respiratory illnesses. This amendment to
22 New York City air code would almost surely mean
23 greater exposure to life threatening hazardous
24 air pollution. Third, I'm very disappointed
25 that this administration that has through its

1
2 solid waste management plan and other
3 initiatives demonstrated its understanding of
4 the disproportionate burden born by vulnerable
5 communities because of the siting of multiple
6 noxious facilities that occupy their
7 neighborhoods failed to seize an opportunity
8 with their effort to reform the New York City
9 air code by including an environmental justice
10 analysis. The environmental justice movement in
11 the State of New York back in 2003 pushed the
12 New York State Commissioner, DEC Commissioner,
13 to accept a policy that we drafted to improve
14 the permitting process. This came out because
15 of many of our communities recognized that the
16 permitting process was essentially part of the
17 parcel of our problems, right? It was the
18 gateway to getting these noxious facilities in
19 our community. These facilities were permitted
20 on the idea that each facility operated sort of
21 in its own silo and vacuum. Whereas, what was
22 happening in low income communities and
23 communities of color, ie, EJ communities across
24 the state and most definitely in New York City,
25 it's largest most populist municipality was

1 that we were finding that all the noxious uses
 2 were ending up in our communities, and what
 3 they were doing was providing a localized
 4 burden in terms of health cost, lost school
 5 days, missed opportunities of work for parents
 6 who have to take care of those children, and
 7 placing--by placing those facilities in our
 8 communities and then providing a broader burden
 9 to the more wealthier and other parts of the
 10 city--providing a benefit, sorry, to wealthier
 11 other parts of the City. The policy that we
 12 worked out, there are many people that were
 13 engaged in that process, really looked at the
 14 permanent review process of DEC, around the
 15 state Environmental Quality Review Act, and it
 16 incorporated environmental justice concerns
 17 into some aspects of DEC's enforcement program,
 18 grants problems, and public participation
 19 provisions. The policy was written to assist
 20 DEC staff, the regulated community, and the
 21 public and understanding the requirements and
 22 review process. By identifying potential
 23 environmental justice areas, providing
 24 information on environmental justice to
 25

1
2 applicants with proposed projects in those
3 communities, enhancing public participation
4 requirements for proposed project in those
5 communities, establishing requirements for
6 projects in potential environmental justice
7 areas with the potential for at least one
8 significant adverse environmental impact and
9 improve--and providing, sorry, alternative
10 dispute resolution opportunities to allow
11 communities and project sponsors to resolve
12 issues of concern to the community. While not
13 perfect, it certainly helped advance the cause
14 in the State. More recently there's been work
15 done to improve article 10 of the public
16 service law to provide some relief to EJ
17 communities across this state that also bear
18 the brunt of the siting of power generation
19 infrastructure. All of these examples point to
20 some progress on incorporating environmental
21 justice analysis into permitting and siting
22 regulations, and opportunity was missed, I
23 think, sadly by not looking at the opportunity
24 to put environmental justice analysis into this
25 review of the New York City air code. Now, I

1
2 would be remise to say that there are--to not
3 say that there are good things in this law, but
4 those three things that I just cited, for me,
5 far out weight and trump, you know, all the
6 good things that are in here. They are
7 fundamental tenants and a missed opportunity on
8 which policy we believe should be built to
9 protect the most vulnerable communities. Now,
10 having said that, I just definitely want to
11 uplift a couple of things. So, section 24
12 163.9, the school bus issue where you're
13 retiring school buses, you're making sure that
14 cabins of schools buses are protected. That is
15 something that we were passionate about. We
16 conducted what we call the Rosa Parks Study of
17 School Buses, and really I think were one of
18 the first organizations in the city to talk
19 about how you could actually retrofit those
20 cabins so that they weren't, and forgive me for
21 saying this, becoming gas chambers for our
22 children. And this is a good thing. We want
23 that to proceed. Section 124-163.10, the
24 demonstration project for auxiliary power for
25 FDNY ambulances--

2 CHAIRPERSON GENNARO: [interposing]

3 Right.

4 CECIL CORBIN-MARK: a good thing.

5 We want that to proceed. We want not the
6 drivers to be living--

7 CHAIRPERSON GENNARO: [interposing]

8 We just did a bill on that. We did a bill on
9 that.

10 CECIL CORBIN-MARK: Exactly.

11 CHAIRPERSON GENNARO: Ollie Koppell
12 bill.

13 CECIL CORBIN-MARK: Absolutely. And
14 then section 24 163.12, the amendment to waste
15 carrying, waste hauling vehicles. Those
16 provision are absolutely needed to make sure
17 the communities that are strangulated by the,
18 you know, procession of diesel spewing waste
19 trucks in and out of communities, EJ
20 communities across this city are absolutely
21 needed and all very good things, but this mis-
22 mash of a bill, all due respect, is not the way
23 to sort of tackle this very complex issue going
24 out the door. It's too many good thing mixed
25 up with some critically flawed things for this

1
2 to be the way in which we move forward. If
3 this could be separated into, you know, its
4 good parts, and jettisoning of its flawed
5 parts, critically flawed parts, I think that
6 this would be something that, you know, an
7 organization like mine's could get behind, but
8 until such time, I can't. So thank you for your
9 time.

10 CHAIRPERSON GENNARO: Thank you.

11 Thank you. Yeah, and then where we're going to,
12 you know, work this is that we're going to hear
13 the testimony of the panel. I mean, Mav was
14 kind of a special case. I said what I had to
15 say, but I'm really, you know, not going to
16 engage people very directly until the panel is
17 done, and once the panel is done, you know,
18 listen closely. I mean, I will direct comments
19 or questions to individuals on the panel, and
20 the individuals that I direct the questions to,
21 you know, are free to answer those questions,
22 but people who I do not direct the question to
23 are not at liberty--but that's the way I'm
24 running, that--that's the way I'm running
25 things. So, if I ask you a question, good. If

1 I don't, I didn't. Okay? And so Cecil, thanks
2 for your excellent testimony, and we'll get
3 back to you. John--

4 JOHN SELENTO: Selento, yes sir.

5 CHAIRPERSON GENNARO: Selento, yes,
6 and representing yourself. Please proceed.

7 JOHN SELENTO: Yes, sir. Thank you
8 for allowing--

9 CHAIRPERSON GENNARO: [interposing]
10 Sure.

11 JOHN SELENTO: me to speak, Mr.
12 Chairman.

13 CHAIRPERSON GENNARO: It's your
14 right to speak. It's your right to speak.

15 JOHN SELENTO: Well, thank you very
16 much, but I'd like to first state that--let you
17 know that I am an employee of the Department of
18 Environmental Protection, but I'm no way
19 whatsoever an I spokesman for the agency, and I
20 have some comments that might be appropriate, I
21 believe helpful, and if there's any objection,
22 if it's inappropriate for me to make the
23 comments, then I won't. So I will--

2 CHAIRPERSON GENNARO: [interposing]

3 It's--I mean, if you're on your own time--

4 JOHN SELENTO: [interposing] Yes,
5 sir.

6 CHAIRPERSON GENNARO: You're not on
7 the agency clock.

8 JOHN SELENTO: Oh, yes, sir.

9 CHAIRPERSON GENNARO: If you're on
10 your own time.

11 JOHN SELENTO: Yes, sir.

12 CHAIRPERSON GENNARO: It is your
13 right to make your views heard here. Please do
14 so.

15 JOHN SELENTO: Alright. Thank you.
16 I am involved with the part of the agency that
17 used to be Department of Air Resources, and
18 we're involved with the testing of combustion
19 equipment. One of the earlier speakers
20 mentioned that issue. This basically is the
21 heating boilers and burners, oil and/or gas.
22 That gentleman before mentioned the fact that
23 he thought it was not a good idea to reduce or
24 add increase to level at which a registration
25 would be filed rather than a certificate of

1 operation, and I would agree with that. What
2 we do, is we do inspections of equipment and do
3 combustion efficiency tests. We have been
4 doing that since 1973. So, I don't know if
5 that came across properly. The only difference
6 now is that they want to raise the limit of the
7 equipment which we will analyze and inspect.
8 So I would agree that I think that's not a good
9 idea. I think we should continue to do the
10 inspections and the analysis of the equipment
11 of that size. I have a couple of comments. I'll
12 be brief as I can. Reading the whole code,
13 there's a couple of things that I, knowing as
14 little as I do legally may be a problem.
15 Section 24-123C, and paraphrasing it here, that
16 changes the requirement for professional
17 certification for New York State professional
18 engineer or registered architect to accrue any
19 other professional approved by the
20 Commissioner. I don't know exactly what that
21 means, but basically a professional engineer is
22 the person to file applications for fuel
23 burning equipment or industrial processes. An
24 engineer is the person who has that knowledge.
25

1
2 So any other professions, it seems would be
3 wide open, and again, legally I don't know what
4 the implication would be, but that might be
5 addressed. Now there's another section, 24-
6 125(8)(C), and again I'm paraphrasing, accepted
7 equipment can be certified by the applicant,
8 that it meets requisite standards. So is the
9 applicant the owner of the equipment? Would
10 the applicant be the professional who's making
11 the certification, and what is the
12 certification? Now that goes back to our
13 equipment acceptance program, which I think is
14 very good program should be maintained means
15 that the equipment manufacturers give a
16 certified test before we allow the equipment to
17 be installed. So that's been going on for 40
18 years. It's not a very big operation that we
19 have. There's only one person that does
20 equipment acceptance, not me. And our whole
21 operation of field personnel that do these
22 inspections is a total of five at present. We
23 had many more years ago. So for whatever it's
24 worth I'd like to offer that comment and--Okay,
25 there's another one, section 24-145(2). And

1 this says--now this is a hold over from the
2 1971 code. Permissible particulate emission
3 rate from fuel oil burning is to be 0.4 pounds
4 per million BTU, meaning a million BTU of the
5 fuel input to the device. That is a very old
6 standard, and it actually has been superseded
7 many years ago by the New York State, I think
8 it's New York City RR, Rules and Regulations,
9 administered by New York State DEC part 212,
10 the permissible particulate emissions standard
11 is 0.5 grains per cubit foot. Now, without
12 going into detail, working that out, it's about
13 one third of this 0.4 pounds per million BTU.
14 So that standard is already been superseded.
15 Okay. While we're still on the subject of fuel
16 burning equipment, the other gentleman referred
17 to something, which I don't think he quite
18 realized he was on the right track, but didn't
19 quite hit the nail on the head. The
20 permissible smoke shade, there's two different
21 levels. Permissible smoke shade is on the
22 Ringleman [phonetic] scale, going from a one to
23 five, and that is percent of opacity. That's
24 the limit, the scale at which a person could be
25

1 issued a summons or violation by the Bureau of
2 Enforcement for smoke violation. So for
3 example, number one Ringleman is 20 percent
4 opacity looking at the stack. So the
5 enforcement people are qualified to make that
6 observation, and the summons of that regard
7 would go to the environmental control board.
8 Now, for our purposes the equipment passes a
9 combustion efficiency performance test that we
10 perform, and we would do that using a smoke
11 testing instrument. Now, that's what he meant
12 was a number three smoke. It's a number three
13 on the back rack shell [phonetic] scale. And we
14 use an instrument to measure that. An emission
15 in that range would not be visible at the
16 stack. It's below visible emission. So there's
17 two different types of things. In other words,
18 if equipment is some--or even out of adjustment
19 not running right, it would get a visible smoke
20 where you get an enforcement violation. But
21 their tested--my group would do would be on the
22 certification and the tri-annual
23 recertification we perform that test once every
24 three years at present. And if I may also,
25

1 Section 24-153 and this pertains basically to
2 industrial exhaust systems. We have this
3 environmental rating criteria and that's still
4 the same as the code from 1971. It's very
5 general and it's imprecise, and we always had
6 trouble trying to apply that code, and on the
7 printed material, the graphs are not even
8 legible so I think that's something that might
9 be addressed in the process of this--the new
10 regulations. And one more thing, with the fuel
11 standards, use of proper fuel, without going
12 into great detail, I think if the content of
13 the fuel oils, primarily, it should be
14 specified in particular to make sure that
15 there's not material that's being added to the
16 fuel oil that shouldn't be there. I'm not
17 referring to the biofuels and that regard. I'm
18 talking about some other contaminants that are
19 working their way into the fuel oil, and the
20 state agency and the federal agencies are more
21 in tune to that, and I think that's something
22 that DEP might address also. And that will be
23 basically be what I'd like to state, and I
24 thank you very much for having me here.
25

2 CHAIRPERSON GENNARO: Thank you for
3 being here today. Appreciate that. Thank you.
4 Joel? And I have your statement.

5 JOEL KUPFERMAN: I want to thank you,
6 Chairman.

7 CHAIRPERSON GENNARO: Sure.

8 JOEL KUPFERMAN: I think we've been
9 here many, many times.

10 CHAIRPERSON GENNARO: Yes.

11 JOEL KUPFERMAN: Especially starting
12 from 1991 to 2001 to here. I'm with the New
13 York Environmental Law and Justice Project and
14 the Environmental Justice Committee of the
15 National Lawyers Guild, and although there are
16 some good points, as pointed out in this bill.

17 CHAIRPERSON GENNARO: Right.

18 JOEL KUPFERMAN: There's some that
19 really make it bad, okay, that should
20 definitely be noticed and heeded.

21 CHAIRPERSON GENNARO: You know, tell
22 us about that.

23 JOEL KUPFERMAN: Okay.

24 CHAIRPERSON GENNARO: Specifically
25 if you could.

2 JOEL KUPFERMAN: Specifically, okay.

3 I just want to start off is that the air code
4 clearly states that it's public policy of the
5 City that every person is entitled to air that
6 is not detrimental to life, health, enjoyment,
7 his or her property. And a lot that I'm going
8 to--that's in the statement Cecil stated quite
9 aptly, that it's an environmental justice
10 issue. It's who's getting the clean air, who's
11 getting the bad air in the City. That really
12 concerns. It concerns a lot of the actions that
13 the environmental justice project has been
14 working on. Even now, post Sandy, we're getting
15 calls and complaints of--there are emergency
16 generators in Coney Island property--it's just--
17 -

18 CHAIRPERSON GENNARO: [interposing]

19 I'm going to need you to be a little--I'm going
20 to need you to be a little more specific, Joel,
21 because I--we can't go philosophical here.
22 It's got to be like, this is what I want to--
23 this is the code, this is the problem.

24 JOEL KUPFERMAN: Okay.

2 CHAIRPERSON GENNARO: So just try
3 to, you know--

4 JOEL KUPFERMAN: Twenty-four 121 19,
5 the proposed--

6 CHAIRPERSON GENNARO: I got you. I
7 got you, right.

8 JOEL KUPFERMAN: would exempt from
9 DEP's **[inaudible 03:39:34]** program and the
10 equipment or apparatus exempted by the
11 Commissioner by rule. Clearly, a certain
12 measure of flexibility is desirable and any
13 regulatory scheme as comprehensive and complex
14 as the City's air code. However, the proposed
15 section 19 provides no clear standards to
16 finding when and how the Commissioner should
17 grant exemptions to the air codes permit
18 requires by rule. It is therefore an over
19 delegation of legislative authority rather than
20 a thoughtfully designed mechanism for
21 regulatory flexibility. This type of loop hole
22 in the air codes permitting program should not
23 exist as an additional legislative direction to
24 the Commissioner that would provide clear and
25 consistent guidelines for granting exemptions

1
2 by rule. Such guidelines would ensure that
3 exemptions granted by rule strike the same
4 delicate balance between promoting regulatory
5 flexibility, protecting public health apparent
6 and other more carefully drafted provisions of
7 the air code. Amendment of 24 141, section 24
8 141 is the bedrock provision of the City's air
9 code which establishes a fundamental
10 prohibition against the emission of any
11 contaminant which causes or may cause detriment
12 to the health, safety, welfare or comfort of
13 any person or injury to plant or animal life or
14 causes or may cause damage--

15 CHAIRPERSON GENNARO: [interposing]
16 Right.

17 JOEL KUPFERMAN: to property or
18 business. Inexplicably--

19 CHAIRPERSON GENNARO: It's the
20 odorous thing.

21 JOEL KUPFERMAN: Yes.

22 CHAIRPERSON GENNARO: Right, okay.

23 JOEL KUPFERMAN: Okay?

24 CHAIRPERSON GENNARO: Yeah, Cecil
25 made that point, but go ahead.

2 JOEL KUPFERMAN: But I just want to
3 say--

4 CHAIRPERSON GENNARO: [interposing]
5 Yeah.

6 JOEL KUPFERMAN: The worst problems
7 that we face in the City is PM points, you
8 know--

9 CHAIRPERSON GENNARO: [interposing]
10 Yeah.

11 JOEL KUPFERMAN: But when we send
12 inspectors out, we're just letting them use
13 their nose. We're not using all that equipment
14 that costs 300 dollars, 500 dollars or
15 whatever. So we get reports back when we make
16 complaints. We get letters back from the DEP
17 stating that the inspector didn't smell
18 anything, okay? I think it's ti--that's--it's--
19 -

20 CHAIRPERSON GENNARO: [interposing]
21 Right.

22 JOEL KUPFERMAN: very, very
23 important.

24 CHAIRPERSON GENNARO: Yeah.
25

2 JOEL KUPFERMAN: And it's
3 particulate matter.

4 CHAIRPERSON GENNARO: And Cecil
5 talked about that.

6 JOEL KUPFERMAN: Okay.

7 CHAIRPERSON GENNARO: Yeah.

8 JOEL KUPFERMAN: Well, we want to
9 just--

10 CHAIRPERSON GENNARO: [interposing]
11 Yeah, no. Of course--you know, to be
12 reinforced, it's always--you got Cecil's back.
13 That's good. I'm--

14 JOEL KUPFERMAN: [interposing] Okay.

15 CHAIRPERSON GENNARO: I like that.

16 JOEL KUPFERMAN: And as Cecil--but
17 also is that the citizen supervision, citizen
18 complaint division is extremely important.
19 It's the only check and balance that we have,
20 that the public has that's allowed to
21 participate. But I'm really surprised that the
22 City, and this is the bill, you know,
23 introduced by the Mayor that really believes
24 that there's private partnerships on everything
25 out there including schools and everything

1
2 else, and yet, this is the most important
3 private partnership in terms of environmental
4 protection and that was removed. But also it's
5 the way it was removed, Mr. Chairman. There's
6 one reference to the intro to the bill and
7 there's no other word saying complaint. It
8 just has the section, all the way, you know, on
9 page 137. So I think that is not really
10 opening for public comment to public
11 participation. I think that should be noted.
12 And part of the problem is that why the citizen
13 supervision is so important is that most
14 environmental air protection is delegated to
15 the State, but the State admits that it doesn't
16 cover everything. It doesn't cover small
17 amounts in their words. So, the small amounts
18 is the dust that generated by the bad
19 construction site next door, the bad boiler.
20 Most of the environmental detriments that, you
21 know, that we face. Private citizens have to
22 rely on the City. The City tells us over and
23 over again they don't have enough inspectors to
24 go out. Not only that, I think it's important
25 to point out that why we have problems making

1
2 complaints stick is that when inspectors go
3 out, a lot of times the perp knows that this
4 operation is in effect, and they just shut down
5 for an hour, five hours. We've gotten reports
6 where inspectors have gone out and the
7 machine's not working. The, you know, the plug
8 is pulled and the inspector comes back. There's
9 no operation. There's no problem. So we really
10 have to rely on those citizen's eyes that are
11 out there. If we look at the state and
12 federal, many, many of the big cases that end
13 up in court are caused by citizens speaking
14 forth. There's some safety valves there. They
15 have to give notice. They're giving notice to,
16 you know, DEP, and so also as I ride--I even
17 rode the subway there. It says, "If you see
18 something, say something." This law basically
19 says if you see something, just keep on
20 smelling it or not smelling it, because we know
21 that some of these things don't smell. So I
22 really think that this is like the major flaw
23 in this bill, and I have a lot of law students
24 that come in and they read all these provisions
25 and even this, the city code, and they come

1 back, "We could stop it. We could stop it." I-
2 -and then the discussion comes forth is that
3 it's all in the enforcement. The lack of
4 enforcement makes the law not only bad, but
5 also a good law that everyone is proud that,
6 you know, they passed, makes it meaningless.
7 People put down their guard, okay? So that's
8 why the citizen's supervision is not only
9 important, but also the other thing is that we
10 definitely looking at the enforcement part. The
11 fines in this bill are untouched since 1970,
12 okay? Nothing has really gone up. The cost of
13 a house, the cost of construction has gone up.
14 I have a case where DEP and Department of
15 Buildings, the whole combination of those fines
16 ended up as 90,000 dollars, which sounds like a
17 lot. Each floor of that building is a million
18 and a half. The builder and the landlord just
19 totally disregarded those fines. There's no
20 reflection of inflation in these fines, and
21 there's been study after study that show that
22 by what--why fines are important to go up over
23 time. The first is ensure swift compliance
24 with the law. This helps to minimize the
25

1
2 negative impact the continued violation of law
3 could pose. Second, it is to remove any
4 advantage the violator may have obtained by
5 failing to comply with the law. I hear a lot
6 of talk all this time about industry people
7 here, that they want good business and fair
8 business. By letting one builder, you know,
9 get away without, you know, without putting the
10 proper restrictions in, not protecting their
11 workers and not protecting the community, it's
12 unfair competition. And the City, if you look
13 at the records compared to other places, has a
14 low, low record of enforcement. The fines are
15 revenue producing. The fines should also
16 finance those inspectors that are out there.
17 How can the city have 30 inspectors before and
18 now we only have five? Also, it also ensures a
19 level playing field for regulated entities.
20 Finally, penalties of said that level
21 sufficient to discourage future violations.
22 Three thousand dollars, 5,000 dollars is
23 nothing to a lot of builders, landlords, and
24 whatever that are allowing bad operations, you
25 know, to continue. And also, there's no mention

1 here in this bill about a bad actor policy.
2 That where if people--if there's fines imposed
3 to those repeat offenders, all someone has to
4 do is just pay the 2,000 dollars, 3,000 dollars
5 and they continue to do business. They're
6 allowed to continue to build. They're allowed
7 to get permits without any extra over
8 inspection. New York State has a really good
9 policy that basically says that you might be a
10 good contractor, but if you just keep on
11 messing up paying your employees, we're going
12 to put a little extra provision in that permit
13 saying we want an extra bond. We want a
14 million dollar bond, a 500,000 dollar bond,
15 whatever to make sure that those problems don't
16 exist. It's the only way to get people to
17 straighten out. The other is, is that the City
18 is still hiring all these people with these--
19 with repeated fines. One way is for the City
20 to cease hiring those people or allowing
21 contracts. BP, with all those billions of
22 dollars of fines that happened after the Gulf,
23 the one way that really hurt them that they
24 screamed is that the federal government said,
25

1 "We're not going to hire you anymore to federal
2 contracts." That's when they started
3 screaming, and also they started, you know,
4 fixing their actions. So I think there's
5 something there that doesn't cost us any money,
6 but there's got to be a lot more enforceability
7 and also the next point, which ties in even to
8 the fines, is that DEP should come up, you
9 know, with all this technology, they should
10 post everything on a computer, on their
11 website, the fines, the violations, the
12 complaints. Right now, if we make a complaint
13 to the health department that there's a bad
14 health situation they don't even know if DEP
15 was there or not there, you know. When
16 Building Department goes in, they said that
17 it's not our ubric [phonetic]. We have to go
18 to DP. I think it's really important to put
19 that in. Many of our cases, for enforcement
20 purposes and to help the community, we foil
21 DEP. Many times we wait one months, two months-

22 -

23 [cross-talk]

24
25

2 JOEL KUPFERMAN: I don't see any
3 reason why all of the status should be up, and
4 then people could also start following on who's
5 bad, who's been good, and you know, who's been
6 better, but also it allows some accountability.
7 The 311 system also should be changed, and that
8 should be somewhere in the air code bill. When
9 people pull up--if something doesn't fit into
10 that box, the complaint doesn't get into DEP.
11 I think it's really important to somehow have
12 much more accountability of DEP personnel.
13 Just having all those graphics and metrics that
14 the 311 system provides has led to many, many
15 people not getting their complaint registered.
16 Okay? And also there's been very little
17 interaction on the **[inaudible 03:48:47]**. There
18 should be a lot more interaction with other
19 agencies, Department of Buildings, Fire
20 Department, and whatever. We found that it's
21 not taking place. So I think that's it. And so
22 overall, I think you've done a really good job
23 as Chair, but also--

24 CHAIRPERSON GENNARO: [interposing]
25 Thank you.

2 JOEL KUPFERMAN: I think--I hate to
3 see in some ways your legacy go down that this
4 bill leaves out a good part of New York, okay?
5 And as Cecil pointed out, it's people of color.
6 It's low income. It's those people who get hit
7 by things. When they call up a lawyer, the
8 first thing the private lawyer asks is, "Do you
9 have high income? And do you have expensive
10 paintings on the wall?" If there's a mold case
11 or a bad air case. When they say they don't
12 have that, they lawyer just drops the phone. So
13 it's really important that people rely on
14 government, especially DEP [inaudible 03:49:33]
15 place. And also, we shouldn't rely on
16 averages. PM 2.5 might be going down city-
17 wide, but it doesn't help the kid that in the
18 school that's next to a construction site that
19 we can't get stopped, that the dust is actually
20 coming in into the cafeteria. We call up 50
21 times and we get six different agencies saying
22 that, you know, they're not responsible--

23 CHAIRPERSON GENNARO: [interposing]
24 Right.

2 JOEL KUPFERMAN: So I urge you to
3 especially put in the citizen's supervision and
4 make sure the accountability is up, and also I
5 think it's important there that there should be
6 some accountability, possibly even **[inaudible**
7 **03:50:05]** you know, that the EPA has or
8 Inspector General's Office. There should be
9 something here that there's something that
10 people can go to and even City Council can go
11 to to make sure that there's better audits.
12 Thank you.

13 CHAIRPERSON GENNARO: Well, thank
14 you. And I'll come back to you with comments,
15 but I had the option of not even taking this
16 bill up, right? I had--I have a lot to do.
17 Time is short, and I wanted to delve into it,
18 and I wanted to, you know, try to create a
19 result between, you know, now and the end of
20 this calendar year, which is the end of the
21 session of the best work product and the best
22 bill we could possibly have. And against all
23 odds, I wanted to have this hearing, and I
24 wanted to get all the stakeholders, and I
25 really want to make good things happen. So I

1 don't think anyone has anything to worry about
2 that I--I can only do my best, and this is
3 something we're working, you know, in
4 collaboration with the administration. You
5 know, this is the administration's bill. It
6 doesn't give us the ability to work with them
7 to, you know, to you know, modify it, but this
8 is a lot of work, but if something gets passed,
9 I give you--it will be the best thing that I
10 can make happen. And then that always leaves
11 the next administration, the next Council, the
12 next Mayor, the next Speaker, and you know, I'm
13 going to be gone, but you're going to be here.
14 And so--so this is--

16 JOEL KUPFERMAN: [interposing]
17 There's a lot of people that are depending on
18 your--

19 CHAIRPERSON GENNARO: [interposing]
20 Yeah, I know.

21 JOEL KUPFERMAN: judgment or
22 whatever, okay?

23 CHAIRPERSON GENNARO: [interposing]
24 I'm a name brand, I know that, you know, and so
25 I'll do good, and I don't mean that like in a

1
2 flip way. I mean, I have a lot of things that I
3 could be doing today, but it's just like I want
4 to get like a really good air code bill done.
5 There's been a lot of good work done, and I
6 want to get the best product I can. Can I--it's
7 not up to me solely to make all the changes.
8 I'm dealing with my members. I'm dealing with
9 the leadership of the Council. I'm dealing with
10 the administration. I'm dealing with key
11 agencies involved. It's just like it's a, you
12 know, it's--it's not a sausage making process,
13 but I mean, it's a lot. It's big, but I'm--I
14 have confidence in myself. That's why I wanted
15 to do this, and so there you have it. There
16 you have it. And so it sounds like I'm making
17 a speech. I'm like, am I a politician or
18 something? What the? I'm just--the movements
19 and the finger and the, you know, the whole--
20 the whole drama. That's just--and well pardon
21 me. And so--and while I was having my dramatic
22 moment--thank you very much, Joel. It's been
23 wonderful to have you before my committee all
24 these years, even when I was a staff member.

1 Ms. Sinisi [phonetic] is here, and I believe
2 you have a statement, right?

3 ROSARIA SINISI: Yes, I do.

4 CHAIRPERSON GENNARO: Okay.

5 ROSARIA SINISI: Good afternoon. My
6 name is Rosaria Seneci. I'm speaking--

7 CHAIRPERSON GENNARO: [interposing]
8 Make sure that's--make sure that's on.

9 ROSARIA SINISI: It's lit.

10 CHAIRPERSON GENNARO: Oh, it's lit?
11 Okay. Make sure you talk right into the--

12 ROSARIA SINISI: [interposing]
13 Okay, better?

14 CHAIRPERSON GENNARO: Yes.

15 ROSARIA SINISI: I'm speaking in
16 opposition to the proposed amendment abolishing
17 the citizen's complaint provision, and while
18 Cecil and Joel dealt with policy issues, I
19 thought it might be useful for ladies and
20 gentleman of this committee to understand what
21 it's like being boots on the ground in a very
22 small community organization that's being
23 adversely impacted by a polluter, and dealing
24 with 311, which is what you will basically
25

1
2 leave us with if the citizen's complaint
3 provision is deleted. I represent a group of
4 neighbors in Brooklyn who are dealing with a
5 commercial building in close proximity to our
6 residences. For years it's been emitting air
7 born toxins through open windows directly onto
8 the street in violation of DEP regulations. It
9 has no permits from DEP, which are required for
10 the equipment in question. The toxins have
11 been drifting downward from the open windows,
12 and they pile up against the houses across the
13 street. The building is open 24/7, and these
14 clouds accumulate against the façades of our
15 houses, and the concentrations of the toxins
16 are sometimes so strong that they pierce closed
17 doors and windows. They're basically held by
18 the design of the street. There's no place for
19 them to escape, and there isn't adequate
20 ventilation or duct work--

21 CHAIRPERSON GENNARO: [interposing]
22 Right. Well, something that's--something
23 that's very good is I'm going to hook you up
24 with the top people of DEP and my staff--

25

2 ROSARIA SINISI: [interposing] Well,
3 unfortunately, we've been there already, and
4 that's why we're going to be filing a citizen's
5 complaint. So our experience with this
6 situation has given us familiarity with both
7 the 311 system--

8 CHAIRPERSON GENNARO: [interposing]
9 Right.

10 ROSARIA SINISI: And the citizen
11 complaint provision, and I wanted you guys to
12 know what it's like dealing with 311, which
13 supposedly is going to involve DEP, and this is
14 just like the last couple go-arounds with the
15 311 op--first they will ask you about is there
16 an odor. If there isn't an odor, they're not
17 even sure that it should go to a DEP operator,
18 and you have to keep on insisting that you have
19 to get to a DEP specialist. When you get to
20 the DEP specialist, it gets even more fun. On
21 July 31st of this year, I filed a 311 complaint
22 about a highly concentrated emission that
23 penetrated my house through closed doors and
24 windows, and by the way, this is all--

CHAIRPERSON GENNARO: [interposing]

Right.

ROSARIA SINISI: Ninety percent of it is happening like late in the--

CHAIRPERSON GENNARO: [interposing]

Yeah, we're not--

ROSARIA SINISI: [interposing] on the weekends.

CHAIRPERSON GENNARO: We're not going to do this whole thing, yeah.

ROSARIA SINISI: I'm not going to read you the entire statement.

CHAIRPERSON GENNARO: Because--

ROSARIA SINISI: I have asthma.

CHAIRPERSON GENNARO: Right.

ROSARIA SINISI: Other neighbors of mine have asthma or respiratory conditions, and every single time, they'll--five to ten days later an inspector will come over, sniff, and then you'll check the DEP database and it's-- the complaint has been closed. And my favorite one was on September 16th when there was a very large emission, and I checked in a couple days later because the database said that it had

1
2 been referred to Air Resources. So I called
3 the EP back to find out what Air Resources was
4 doing with this, and I got to a supervisor in
5 the DEP division at 311, and I was told that
6 the complaint had been referred to the Right to
7 Know Office, and they gave me a phone number of
8 718-595-4436. Now this is an emission. I
9 wasn't quite sure why it would go to the Right
10 to Know Office. I called that number twice. On
11 both occasions I got voicemail identifying that
12 office DEP's Economic Development Unit. So I
13 left a message requesting a call back about why
14 this complaint had been referred there, whether
15 it had been erroneously referred, whatever.
16 There was no response. So I got annoyed and I
17 called the Inspector General's office.

18 CHAIRPERSON GENNARO: Who's your
19 Council Member?

20 ROSARIA SINISI: We don't even want
21 to deal with our Council Member. We got council
22 right here. We're representing--

23 CHAIRPERSON GENNARO: [interposing]
24 I'm just curious. I'm just--sometimes with
25 these conditions that are like intractable and,

1
2 you know, one of the reasons--and again, people
3 shouldn't have to go to their local City
4 Council Member, but local City Council Member
5 can be pretty handy in getting DEP's attention.

6 ROSARIA SINISI: Our experience, no
7 offense, with our local City Council people is
8 that the entity involved is so politically
9 powerful that they have absolutely no interest
10 in opposing it. I think we're much better off
11 going through the citizen's complaint process,
12 because at least then we're going to have an
13 opportunity to present evidence--

14 CHAIRPERSON GENNARO: [interposing]
15 Right.

16 ROSARIA SINISI: which DEP has
17 actually told us under the--

18 CHAIRPERSON GENNARO: [interposing]
19 Yeah, but your Council Member could fix it in a
20 day, perhaps.

21 ROSARIA SINISI: Not likely.

22 CHAIRPERSON GENNARO: Okay. I'm
23 just--

24

25

2 ROSARIA SINISI: [interposing] No,
3 seriously. I know we're talking about multiple
4 facilities.

5 CHAIRPERSON GENNARO: I get a lot of
6 stuff done for my constituents. I'm just
7 saying.

8 ROSARIA SINISI: Well, so far, DEP
9 has permitted the operation. So, I don't think
10 that going through the regular political
11 process is going to accomplish much for us.
12 We've been fighting this for years, like since
13 2002. We have spoken to, you know, local
14 Council Members and basically have ended up in
15 meetings where, you know, it's been proposed
16 like, "Well, you know, we have to achieve a
17 balance here. You know, they can gas you 50
18 percent of the day, and then the other 50
19 percent you'll be able to breathe." Doesn't
20 work for us. So, I mean--

21 CHAIRPERSON GENNARO: [interposing]
22 So your major point is with the whole citizen
23 suit?

24 ROSARIA SINISI: If you abolish the
25 citizen suit--

2 CHAIRPERSON GENNARO: [interposing]

3 Right.

4 ROSARIA SINISI: we're going to get
5 stuck with a 311 process--

6 CHAIRPERSON GENNARO: [interposing]

7 Right.

8 ROSARIA SINISI: which for our
9 purposes simply doesn't work. They don't come
10 around weekends and evenings. They want to
11 know specifically when is there going to be an
12 emission. If I tell them I got gas at 2:00 in
13 the morning and I was sitting in my backyard in
14 a parka in December because I couldn't breathe
15 in my own house, you think an inspector's going
16 to show up at 2:00 a.m.? Not going to happen.
17 We hired a toxicologist.

18 CHAIRPERSON GENNARO: Right.

19 ROSARIA SINISI: We hired Joel.

20 CHAIRPERSON GENNARO: Yeah.

21 ROSARIA SINISI: We have a lot of
22 evidence, and we're going to go to a citizen's
23 complaint.

24 CHAIRPERSON GENNARO: I mean, this
25 panel has really, you know, really struck a

1 chord with regard to the efficacy of the, you
2 know, citizen complaint. Going back to the
3 points that were made by Joel and by Cecil,
4 with regard to the citizen's suits, with regard
5 to the classification of this, you know,
6 odorous only concept, the lack of an
7 environmental justice analysis, and you know,
8 there was some comments made by Cecil and
9 others regarding, you know, some of the good
10 attributes of the bill, regarding the garbage
11 trucks, the school buses, and all that, but
12 it's fine to talk about what's right with the
13 bill. We want to talk about like what's wrong
14 with the bill. And so it's funny how all the
15 panels have sort of come together and sort of
16 like crystalized on kind of like one issue, and
17 so that's been kind of like the story of
18 today's hearing. So it's been very, you know,
19 consistent. Like each panels had like a
20 message, a theme, and they've been very like on
21 message. That's how this--hearings don't
22 ordinarily go that way, but like this one did
23 and I think it did for a reason. And so I mean,
24 I give you--I give you my word that like the
25

1
2 testimony that was presented by this panel was
3 very compelling. You know, with regard to the
4 citizen's suit, with regard to this
5 classification of odorous only, that doesn't
6 cut it, and, you know, the lack of an overall
7 EJ analysis. And, you know, these are all very
8 compelling--very compelling statements that
9 just put out there and then, you know,
10 reinforce and reinforce the importance of this.
11 So, I think this panel has served a very, very
12 constructive purpose in that, and you really
13 waited a long time to do it because it's been a
14 long hearing, but you came in and you know, you
15 did your jobs. You made your point with the big
16 guy, and you know, you did it well. So thank
17 you all very much, and I--you know, you really,
18 you know, served the City in a profound way by
19 being here today, and I thank you for that.

20 ROSARIA SINISI: Thank you for your
21 time.

22 JOEL KUPFERMAN: This if for you. We
23 wanted to give you more materials to help you
24 battle--

25

2 CHAIRPERSON GENNARO: [interposing]

3 Yes, and so I mean--

4 [off mic]

5 CHAIRPERSON GENNARO: Of course, I
6 mean, you know, we have Samara Swanson
7 [phonetic]. Everyone is wel--you know, she's
8 well-known to everyone. She's going to be part
9 of what we're going to be doing with the
10 administration. Anything, you know, that you
11 have that could--and fortunately, we have all
12 the DEP staff still here, and so they got to
13 hear all of this. Now, that was one thing that
14 I wanted to have the people working on this at
15 DEP, I wanted them to be in the room so they
16 could hear every statement of every witness,
17 and so that was important. Because otherwise,
18 I got a play interpreter, and it's just like
19 Joel said this, and they're like, "Huh? What?"
20 No, so it's like, you know, they're here. You
21 know, they heard it, and that's--

22 JOEL KUPFERMAN: And we commend you
23 for that.

24 CHAIRPERSON GENNARO: What's that?

25 No, this is--you know, they want to get

1 something good done. I want to get something
2 good done. You guys want to get something good.
3 We all, you know, we're all good, you know? So
4 we just have to work together to make--again,
5 this sounds like a slogan, but you know, we
6 want to, you know, work together to make, to
7 get the best possible outcome in the shortest
8 amount of time. And I'll restate what I said
9 before. You know, no one should be troubled
10 that we're going to operate at a pace that like
11 sacrifices integrity. Now, but that may mean
12 that the things that are ultimately included in
13 the bill that passes are very, very good
14 things, and it--I don't want to speculate, but
15 it could be that some things that would be nice
16 to have happened just don't happen because we
17 just can't come like to agreement like with the
18 administration or whatever, and so some things
19 may drop out, and that would be--but, you know,
20 things that go forward, you know, will be good.
21 I would like to get everything. I would like
22 to, you know, do it in a comprehensive way,
23 work out every issue and side issue. I mean,
24 with the amount of time we're looking at, I
25

1 don't know if that's going to happen, but I
2 mean, you know, whatever makes it into law will
3 be a quality product, and you know, they may
4 leave like one or two things like by the
5 roadside. I'm not happy about that, but I, you
6 know, I don't want to let, you know, the good
7 be the enemy of the perfect, and so I would, I
8 guess, rather pass certain sort of like, you
9 know, perfect elements of this bill and get
10 that done rather than kind of schlock certain
11 things that, you know, deserve better, you
12 know? And because then, if you do something
13 schlocky, then the next administration will
14 say, "Oh, we already did that." You know, and
15 so that don't work. And so like whatever gets
16 done on something that's important, you know,
17 should be really good. Do I wish I had a year
18 and six weeks to do this? Yes. I don't have a
19 year and six weeks. I got six weeks, and so,
20 but you're talking to me now. So it's just like
21 I'm a guy who like knows how to make things
22 happen. And so, and how do I get things to
23 happen? By, you know, the good people that
24 help inform me and give me passion and I've
25

1
2 made it very clear to the administration that I
3 kind of want what I want. They want a bill,
4 that's great. I want what I want, and I've been
5 able to make good things happen over the last
6 12 years. I'm not going to let my last big bill
7 be an exception to the way I work. And so
8 another speech, my God. And so, with that
9 being said, I think I got probably this and
10 another hearing left in my City Council career,
11 and I think I will--you know, my biggest
12 influences in my life are my mother and my
13 father, and I will dedicate this hearing and my
14 work on this bill to the memory of my father,
15 and not to give the--not to give away the
16 story, but my next hearing is going to be the
17 memory of my mother. So like you heard it
18 first. So, Mom, I'm getting you next hearing,
19 trust me. But, Pop, this one is for you. I
20 love you. God bless.

21 [gavel]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify there is no relation to any of the parties to this action by blood or marriage, and that there is no interest in the outcome of this matter.



Date 12/05/2013