

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON ENVIRONMENTAL PROTECTION

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January 26, 2009
Start: 10:30 am
Recess: 01:58 pm

HELD AT: Hearing Room
250 Broadway, 16th Floor

B E F O R E:
JAMES F. GENNARO
Chairperson

COUNCIL MEMBERS:
Bill de Blasio
G. Oliver Koppell
Domenic M. Recchia Jr.
Peter F. Vallone Jr.
Melissa Mark-Viverito
Thomas White Jr.
Mathieu Eugene
Elizabeth Crowley
John C. Liu
Daniel R. Garodnick
Simcha Felder

A P P E A R A N C E S

Robert Avaltroni
Deputy Commissioner
Department of Environmental Protection

Kizzy M. Charles-Guzman
Policy Adviser on Air Quality
Mayors Office o Long Term Sustainability
And Planning

Geraldine Kelpin
Director of Air Policy and Noise Policy and
Enforcement
Department of Environmental Protection

Dean McCann
Executive Director of Production and Operations
NYC Mayors Office of Film, Theater & Broadcasting

James Basile
Assistant Commissioner for Fleet & Technical Services
FDNY

John Peruggia
Chief of Emergency Medical Service
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Eugene Varnedoe
Student
PS 122

Stuart Match Suna
President
Silvercup Studios

John Johnston
Executive Director
Production Equipment Rental Association

Matthew Miller
President/CEO
Association of Independent Commercial Producers

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

Angela Miele
VP, State Tax Policy
Motion Picture Association of America

Paul Jordan
VP of Environment, Health & Safety
NBC Universal

Clyde Hart
VP of Governmental Affairs
American Bus Association

Isabelle Silverman
Attorney
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Anhthu Hoang
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Claire Barnett
Member
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Tom O'Donnell
Secretary/Treasurer
Theatrical Teamsters Local 817

Simon Broad
COO
ARRI CSC

Faraj Tommy Kharieh
Lightnin Production Rentals

Russell Sagerman
Technical Director
Feature Systems Inc.

Joseph Bellis
Director of Environmental Affairs
Universal Studios

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

Peter L. Burrows
Location PowerSource

Cecilia Galarraga
Program Associate
Asthma Free School Zone

Harriet Picker
Resident
New York City

Rebecca Kalin
Director
Asthma Free School Zone

Thomas Hillgardner
Executive Director
NYC Parking Justice League

Ann Warner Arlen
Environment Committee
Community Board Manhattan

Ellen Peterson-Lewis
Environmental Committee
Community Board 2

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2 CHAIRPERSON GENNARO: Short with
3 their comments. I'm going to hold myself to the
4 same standard. I won't elaborate on each of the
5 bills and what they do. People who are here know
6 the bill that you're hear for. There's no need
7 for me to tell you what the bill is about. With
8 that said, I would ask the counsel to the
9 committee to swear in the panel. Let the record
10 state that the panel is duly sworn. I want to
11 thank you, Bob, and I want to thank you Gerry. I
12 don't know this young lady, but I'm sure Bob will
13 give an introduction.

14 ROBERT AVALTRONI: It's Kizzy M.
15 Charles-Guzman.

16 CHAIRPERSON GENNARO: Kizzy, of
17 course. I would ask that you state your name for
18 the record and proceed with your good testimony.
19 Please to have you here today.

20 ROBERT AVALTRONI: Thank you, Mr.
21 Chairman. Thank you, members of the Council. I'm
22 Bob Avaltroni, Deputy Commissioner of the
23 Department of Environmental Protection. I'm
24 pleased to be here with you today. To my left is
25 Gerry Kelpin. She is our Director of Air Policy

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2 and Noise Policy and Enforcement. To my right is
3 Kizzy M. Charles-Guzman, who is the Policy Advisor
4 on Air Quality in the Mayors Office of Long Term
5 Sustainability and Planning. On behalf of acting
6 Commissioner Steve Lawitts, I thank you for the
7 opportunity to testify on three bills that address
8 aspects of reducing motor vehicle idling in New
9 York City. Mayor Bloomberg, Plan NYC 2030,
10 outlines initiatives on many fronts to improve air
11 quality. A number of them focus on reducing
12 unlawful motor vehicle idling. The administration
13 welcomes the council's partnership is addressing
14 this quality of life issue. In my testimony I
15 will comment on Intro. 631-A, which would restrict
16 motor vehicle idling to one minute adjacent to a
17 school, Intro. 40-A, which proposes to grant
18 enforcement power to the Department of Parks and
19 Recreation and Sanitation, and Intro. 881-A, which
20 would require handheld parking ticket devices
21 utilized by the TEAs to be capable of issuing
22 notice of violation for idling. New York City's
23 prohibition on idling exists in Section 24-163 of
24 Title 24, Chapter One of the Administrative Code
25 and the Rules of the City of New York. Section

24-163 provides that with certain exceptions, no vehicle in the city is allowed to idle more than three minutes while parked, stopped or standing. The DEP enforcement personnel, NYPD officers and some TEAs are authorized to issue notices of violations, returnable to the Environmental Control Board. In 2003 and 2004, personnel of the Department of Parks and Sanitation respectively were delegated by DEP to enforce 24-163 and they too can write NOV's. NOV's written pursuant to 24-163 are adjudicated before ECB, which now is under the Office of Administrative Trials and Hearings. Penalties on a finding of guilt range from \$220 to \$1,000. Intro. 631-A of 2008 would prohibit motor vehicle idling for more than one minute adjacent to a school. School buses are included in the restriction, but with three exceptions: for mechanical work, maintenance of appropriate temperature and emergency evacuations necessitating operation of a wheelchair lift. The bill also directs ECB and the Department of Finance to submit annual reports to the council on violations of the idling law and the total amount of penalties imposed. Finally, the bill would

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2 require that instruction of idling laws be
3 included in the licensing of taxi, van and other
4 drivers. Prohibiting more than one minute of
5 idling adjacent to a school is an improvement over
6 existing law and the administration supports the
7 passage of this bill. However, as I testified
8 previously, and as reflected in the language of
9 the amended bill, the precise meaning of the term
10 adjacent will be defined by DEP rule. It is
11 important for both vehicle operators and
12 enforcement personnel to be able to understand
13 where on the street the one minute restriction
14 applies and DEP rule will need to provide that
15 clarity. Intro. 40-A of 2006 grants issuing
16 authority for idling violations to Parks and
17 Sanitation and extends the scope of an existing,
18 if little used, citizen complaint provision to
19 include trucks as well as buses. As I mentioned
20 at a previous hearing, DEP has delegated that
21 authority in 2003 and 2004 respectively to Parks
22 and Sanitation. DEP's experience with improving
23 enforcement by delegation is very positive.
24 Because it usually occurs in the context of a
25 collaborative effort and as a targeted enforcement

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2 efforts. However, if the council passes this bill
3 and it is signed into law, DEP and its sister
4 agencies will continue their successful
5 collaboration and the target enforcement of the
6 anti-idling laws and DEP supports the legislation,
7 as I'm sure you would support our collaborative
8 effort. DEP staff recollects the citizen
9 complaint provision having been used only a few
10 times. I think it is important to note that the
11 function of this provision has been successfully
12 superseded by 311. Regardless of whether
13 complaints are reported via this provision or 311,
14 DEP enforcement staff experiences difficult
15 enforcing with regard to trucks. Whereas buses
16 tend to lay over and idle at the same locations
17 day after day, trucks generally do not. That
18 said, DEP does not oppose the modification of the
19 citizen complaint provision in Intro. 40-A.
20 Intro. 881-A would require the implementation of
21 technology to allow traffic enforcement agents,
22 TEAs, to issue summonses with their handheld
23 parking ticket device. The devices are not
24 capable of issuing NOVs returnable to ECB, so the
25 summonses would be instead issued pursuant to

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2 Section 4-08P of the city's Traffic Rules which
3 prohibits engine idling in much the same manner as
4 Administrative Code Section 24-163. Thanks to the
5 urging of the council, Finance has already
6 published the proposed rule that will allow TEAs
7 to write summonses to violation of the idling
8 provision contained with the Traffic Rules. A
9 public hearing is scheduled for February 7, 2009
10 and of course we welcome that. Approximately 100
11 TEAs will continue to be able to issue notices of
12 violations returnable to the Environmental Control
13 Board for violation of Section 24-163. But this
14 change will make all 2,300 TEAs available to write
15 summonses in violation of this Traffic Rule,
16 returnable to Finance. We expect that by April
17 the traffic violation will be enforceable.

18 Therefore the worthy goal of Intro. 881-A has
19 already been accomplished by rule using existing
20 authority. The Corporation Counsel recommends
21 that we avoid creating even the impression that
22 authorizing legislation would be needed for this
23 agency rule change. For this reason the
24 administration does not support passage of this
25 legislation. However, if the council still wishes

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2 to pass the legislation, the administration
3 suggests the following language, which improves
4 the accuracy of the provision. I quote. "Parking
5 ticket devices. Parking ticket devices used by
6 the Department to enforce laws, rules and
7 regulations related to parking violations shall be
8 capable of issuing summonses for violations of the
9 engine idling restrictions of Section 4-08 of the
10 Rules of the City of New York, consistent with the
11 rules of the Department of Finance." Again, we
12 are in agreement I think. I think it's just how
13 we get there. Thank you for the opportunity to
14 testify again. We would be glad to answer any
15 questions.

16 CHAIRPERSON GENNARO: Thank you,
17 Bob. I appreciate your statement. Let me
18 introduce some of the members that we have here.
19 I've already indicated the Council Member Tom
20 White is here. We're also joined by Council
21 Member Peter Vallone from Queens. We have Dan
22 Garodnick, who was the author of Intro. 881-A.
23 Nice to have you, Dan. Council Member John Liu,
24 who is the author of Intro. 631-A. I would like
25 to give this opportunity to Council Member John

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2 Liu to make a statement regarding his bill, Intro.
3 40-A and pose any questions that he has. I
4 recognize Council Member Liu.

5 COUNCIL MEMBER LIU: Thank you very
6 much, Mr. Chairman, for holding this hearing and
7 for bringing these bills closer to passage. We
8 are considering an important set of bills that
9 relate to idling or the pervasiveness of idling in
10 New York City. It is high time that we more
11 strictly enforce idling laws that currently exist
12 on the books, as well as make it easier to enforce
13 those idling laws. And in particular to my bill,
14 Intro. 631-A, that's a bill that would strengthen
15 the anti-idling laws, especially on streets right
16 next to schools where day in and day out we see
17 many vehicles idling unnecessarily while kids are
18 in school and therefore breathing in the fumes.
19 We understand that the fumes tend to stay locally
20 and so it makes perfect sense to curb the idling
21 in the immediate vicinity of schools. I think
22 we'll have a number of young leaders of New York
23 City testifying to that effect today. I really
24 want to thank all of the school kids for coming
25 out today to testify on this important issue. We

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2 have dozens more outside and in the lobby. We
3 apologize for the cramped quarters that we have
4 here today. But nonetheless, it only magnifies
5 the importance of this particular issue. I want
6 to say something about the anti-idling laws in
7 general, even before we get to the health aspects.
8 We as a city should send a very strong message,
9 even if it may hurt some people in terms of making
10 it more inconvenient for them that we need people
11 to shut the engines off. In today's world, with
12 modern technology and the technology of vehicles,
13 there really is no reason to keep engines idling.
14 Just shut off and turn it back on whenever you
15 need to get moving again. Unfortunately last week
16 this city was witness to the most horrific tragedy
17 you could possibly imagine where two young kids;
18 Diego Martinez, a 3-year-old and Hayley Ng, a 4-
19 year-old; were mowed down by a commercial van not
20 too far away from where we're sitting right now.
21 These two kids were going along with the rest of
22 their daycare class from the library back to their
23 daycare center, walking on the sidewalk when all
24 of the sudden a van backed into a group of 14
25 little kids, killing these 2 kids. The reason

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2 that the police have ascertained this accident
3 happened was because a van was left idling by the
4 driver. The driver left his van to go into a
5 store, thinking that he had left the van idling in
6 park, when unfortunately it was left in reverse.
7 And so while the van driver thought that he was
8 idling his van, he went inside the store and that
9 van ultimately backed up, picked up speed and
10 backed into this group of small children. I had
11 the unfortunate necessity of having to attend
12 these two incredible heart-wrenching funerals
13 yesterday morning. Really we can't have idling in
14 this city. It just doesn't make any sense. We
15 should be strengthening the anti-idling laws.
16 With regard to our schoolchildren and their
17 health, let's make sure that the laws are
18 strengthened. Let's limit the idling rule to one
19 minute next to schools, not three minutes. It is
20 not about allowing people to count up to 59
21 seconds rather than 3 minutes. The message is
22 clear. Just shut the engine off. When you have
23 to get moving, turn it back on. But for now, if
24 you're going to stick around for any length of
25 time, just shut the engine off. That is what

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2 we're asking. Thank you, Mr. Chairman.

3 CHAIRPERSON GENNARO: Thank you,
4 Council Member Liu.

5 COUNCIL MEMBER LIU: I'm sorry, I
6 do have a question for Deputy Commissioner
7 Avaltroni.

8 CHAIRPERSON GENNARO: I'm going to
9 be saying this throughout the hearing. We have
10 precious little time to get this hearing done. We
11 have many, many, many people that we have to hear
12 from, so let's move as quickly as we can. Council
13 Member Liu has a question for the panel.

14 COUNCIL MEMBER LIU: Thank you. I
15 want to thank Commissioner Avaltroni. Since the
16 last hearing we held, he had pledged to work with
17 us on these issues and he in fact has done so,
18 along with the DEP and the Bloomberg
19 administration. I want to thank them for that.
20 The regs that you would put in to define exactly
21 what adjacent means, are there any ideas on the
22 table in terms of the definition of adjacent? My
23 comments to you the last time was that I didn't
24 think it was that difficult to come up with that
25 concept, but obviously there might be some

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2 examples I hadn't thought about. Has there been
3 any thought, or is that something we'll ponder
4 later on?

5 ROBERT AVALTRONI: We have given it
6 significant thought, Council Member Liu, and I
7 thank you for your comments. We certainly agree
8 with what you said in its entirety. I think what
9 we want to do is we want to really be able to hone
10 in so we have an enforceable environment. The
11 term adjacent has several interpretations. We
12 want to remove any shadow of a doubt with the
13 meaning of adjacent, so it's a clear understanding
14 to those that do not know what adjacent means and
15 where it will be enforced. Again, we're talking
16 specifically by schools. Again, I think I think I
17 alluded in my testimony is getting out the message
18 to people that this is what exists as sort of like
19 a training device. It's a behavior modification.
20 That this is what adjacent means and in fact, if
21 you do not comply with the law as written, you
22 will be subject to enforcement.

23 COUNCIL MEMBER LIU: Thank you very
24 much, Commissioner. Thank you, Mr. Chairman.

25 CHAIRPERSON GENNARO: Thank you,

2 John. I recognize Council Member Garodnick.
3 Before I do that, let me just state for the record
4 that we're joined by Council Member Crowley. I
5 want to congratulate Council Member Crowley for
6 her swearing in ceremony yesterday. Although
7 you've been on the council for two weeks or
8 whatever it is, I know you had a big event
9 yesterday. Congratulations for that. I want to
10 recognize that. Also, Council Member Gerson, who
11 is the author of one of the bills that we're
12 hearing today, has a medical situation and cannot
13 be with us today. I want to put that on the
14 record. With that, I recognize Council Member
15 Garodnick, the author of Intro. 881-A.

16 COUNCIL MEMBER GARODNICK: Thank
17 you, sir. I appreciate it.

18 CHAIRPERSON GENNARO: Also, I've
19 been informed that Council Member Felder is in the
20 room as well. Thank you for being here Council
21 Member Felder. Dan?

22 COUNCIL MEMBER GARODNICK: Thank
23 you, Mr. Chairman. I will be extremely brief. I
24 did want to note that I share the concern of
25 Council Member Liu on the subject of the problem

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2 at hand. I think that you noted that
3 appropriately in your testimony as well. My view
4 is that the idling enforcement is not at the level
5 where it needs to be in this city. I think there
6 were about 500 summonses issued throughout the
7 entire city in the course of a year. That's less
8 than two a day in the entire city. In my view,
9 for all intents and purposes, idling is an un-
10 enforced infraction. I was glad to hear that the
11 Department of Finance, at the urging of this
12 council, has moved to create by rule what we are
13 attempting to do by legislation. This is good
14 news and certainly something that we like to hear.
15 I appreciate your point that the Corp Counsel has
16 said to you that they did not want to prejudice
17 the position of the Department of Finance. That
18 you can do this by rule. Nothing you said today
19 limits or inhibits anybody's ability to do that.
20 I wanted to recognize that point.

21 ROBERT AVALTRONI: That is correct,
22 Councilman.

23 COUNCIL MEMBER GARODNICK: You
24 pointed out that this was already accomplished by
25 Rule. This is not yet a rule, is that correct?

2 ROBERT AVALTRONI: It is a rule, I
3 think, but what we are suggesting is if you do
4 want to make it legislation that the verbiage be
5 changed so I think we could clearly cite the Rule
6 to have an effective enforcement mechanism.

7 COUNCIL MEMBER GARODNICK: What I
8 want to understand here is there is a proposed
9 rule out there. This rule has not yet gone into
10 effect. Is that right?

11 ROBERT AVALTRONI: That is correct.

12 COUNCIL MEMBER GARODNICK: It's
13 your hope and expectation that the Department of
14 Finance will pass this rule and make all 2,300
15 Traffic Enforcement Agents able to issue these
16 violations using the handheld devices sometime in
17 April or in that vicinity. Is that right?

18 ROBERT AVALTRONI: Rather than use
19 the word hope, it is our expectation.

20 COUNCIL MEMBER GARODNICK: Great.
21 So it's not quite fair to say that it already has
22 been accomplished by Rule, right?

23 ROBERT AVALTRONI: That is correct.

24 COUNCIL MEMBER GARODNICK: That's
25 what you had in the testimony and I just want to

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2 clear that up. Also, it is your expectation that
3 it's passed, but nothing happens until it actually
4 happens. So what I'm concerned about is changing
5 our legislation to refer to the Rule where the
6 Rule has not yet been passed. We may pass this
7 legislation tomorrow. We may pass this
8 legislation next week. We could pass this
9 legislation well before April. For us to refer to
10 the Rule which has not yet been passed is a point
11 that concerns me. Do you want to address that?

12 ROBERT AVALTRONI: Yes. I hear
13 your concern. But I think what I said in my
14 testimony, and I think you would agree, is that we
15 are saying it's not necessary to have legislation.
16 We also say that we would support the legislation
17 with the modification of the verbiage. So
18 therefore, I think that is a very clear, 100%
19 support by the administration of your intent.

20 COUNCIL MEMBER GARODNICK: We're
21 delighted to hear that and we look forward to
22 working with you on this. We're glad to hear that
23 everybody seems to be in agreement as to the goals
24 and purposes of this legislation. We thank you
25 for your testimony.

2 ROBERT AVALTRONI: I thank you,
3 Councilman.

4 CHAIRPERSON GENNARO: Thank you,
5 Council Member Garodnick. I want to recognize
6 that we've been joined by Council Member Eugene.
7 A please to have you here. I've been informed
8 that Council Member Vallone has a question for the
9 panel. I recognize Council Member Vallone.

10 COUNCIL MEMBER VALLONE: Thank you,
11 Mr. Chair. I would just like to recognize the
12 children in this room. How many of you are from
13 PS 122? Everybody? Wow. My father went to that
14 school. I went to kindergarten at that school.
15 It's a great school. I want to thank you guys for
16 coming down here and helping us out with this
17 legislation. Just in case you don't know what's
18 happening here is those guys behind that table,
19 that's Bob Avaltroni in the middle. He's the
20 Deputy Commissioner of the bureau that's in charge
21 of keeping our air clean. That means he's a big
22 shot. And so are those other two people over
23 there. Behind this table, this is the City
24 Council. Jim Gennaro is our Chairman in the
25 middle. The rest of these council members all

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2 represent different areas of New York City. I
3 represent your area. It's our job to make sure
4 that we question Mr. Avaltroni and make sure that
5 what we're going to pass today, which is the bill
6 on idling is a good bill. Kids like you are the
7 reason behind this bill. I know that I'm a parent
8 of two kids in public school and I stand outside
9 and I get bombarded with the smoke and the exhaust
10 outside. So I know why you guys are all here
11 today. It's my job to ask questions. But because
12 our Chairman said we have no time today, I'd
13 rather just explain to you what's going on. I'm
14 not going to ask any questions today. Thanks for
15 coming down, kids, and thank you, Mr. Chair.

16 ROBERT AVALTRONI: The only thing I
17 will say is I agree with the councilman's
18 assessment of PS 122. I thank you for coming as
19 well.

20 COUNCIL MEMBER VALLONE: Not the
21 big shot part? Just the 122 part?

22 ROBERT AVALTRONI: Just the 122
23 point.

24 CHAIRPERSON GENNARO: Let me join
25 the chorus of people who are welcoming the

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2 students from PS 122. I'm very grateful to have
3 you here. We're joined by Council Member Koppell,
4 who has a bill on the agenda today. I've been
5 told that Council Member White has a question. I
6 recognize Council Member White.

7 COUNCIL MEMBER WHITE: Thank you
8 very much. Is there currently some sort of an
9 enforcement or rule concerning the idling?

10 ROBERT AVALTRONI: Council Member
11 White, yes, we do enforce against idling. But as
12 the Council has said, and we have recognized, we
13 need to do more. That's why we're here today to
14 support the legislation that you've put forth.

15 COUNCIL MEMBER WHITE: The current
16 enforcement is what I'm concerned with in terms of
17 the number of violations that have been issued to
18 vehicles for if they're double parked and idling
19 and they are being checked for legitimacy as far
20 as driver's license and registrations. And if
21 they do not conform they give them tickets. Am I
22 correct?

23 ROBERT AVALTRONI: We can only do
24 idling. If I can go a step further, I think what
25 we're doing today is taking a very big, bold step

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2 collaboratively with the Council to ensure, for
3 instance, that we restrict from three minutes to
4 one minute. What we're speaking about here are
5 enforcement capabilities that DEP would be
6 relegated to the areas that we have defined
7 before. DEP does not have the authority to check
8 registration and licenses. I think we're going a
9 long way in what we're supporting here today.

10 COUNCIL MEMBER WHITE: No doubt. I
11 was interested in the number of violations that
12 were issued. I believe the number was 500 last
13 year.

14 ROBERT AVALTRONI: I believe that
15 is correct, as Council Member Garodnick did say.

16 COUNCIL MEMBER WHITE: What agency
17 is responsible for issuing those type of
18 violations?

19 ROBERT AVALTRONI: DEP would issue
20 the violations with respect to idling. But as
21 I've alluded to in my testimony, we've given
22 delegation to several other agencies as well.

23 COUNCIL MEMBER WHITE: Such as?

24 ROBERT AVALTRONI: The Department
25 of Sanitation, the Department of Parks and as I

2 said in my testimony to the Council, we work
3 collaboratively with the two agencies by giving
4 them delegation to issue summonses. We will
5 continue to work collaboratively with the passage
6 of this bill. Our intent here is to, again, make
7 us stronger in what we do from an enforcement
8 perspective. And also to really let those that
9 are involved in the process and driving these
10 vehicles clearly know what our intent is and let
11 them clearly know where we will enforce.

12 COUNCIL MEMBER WHITE: I mean I'm
13 in full support. But I'm looking at a half a loaf
14 of bread here. It doesn't include buses.

15 ROBERT AVALTRONI: Yes, it does.
16 It certainly does and it's very specific.

17 COUNCIL MEMBER WHITE: School
18 buses?

19 ROBERT AVALTRONI: Any bus
20 actually. As I said, for the purposes of this
21 hearing, we are focusing in on the school buses,
22 but this would encompass all buses.

23 COUNCIL MEMBER WHITE: I had
24 conversations over the weekend and I was led to
25 believe that because school buses were under the

2 auspices of MTA that they would not be subject to
3 this rule and regulation.

4 ROBERT AVALTRONI: The Transit
5 Authority is well aware of what we're doing and
6 that is not the case, sir.

7 COUNCIL MEMBER WHITE: I'm glad to
8 hear that. Thank you very much.

9 ROBERT AVALTRONI: You're very
10 welcome.

11 CHAIRPERSON GENNARO: I'm talking
12 to counsel here and it seems that Bob put a
13 statement on the record regarding this bill that
14 it would apply to buses. It's really more other
15 vehicles I'm being told. The school buses are
16 dealt with by the state law. I was asked to put
17 that correction on the record.

18 ROBERT AVALTRONI: Chairman, I'm
19 going to let Gerry Kelpin, how is our expert,
20 speak a little bit. Maybe she can qualify our
21 statement.

22 CHAIRPERSON GENNARO: Why don't we
23 do this? I'm going to recognize Council Member
24 Eugene for a question and in the meantime I'm
25 going to ask Gerry Kelpin to talk to Laura Popa

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2 and then we can craft some sort of statement to
3 put on the record that makes the planets realign.
4 Why don't we do that? Gerry, why don't you have a
5 sidebar with Laura Popa. In the meantime I'll
6 recognize Council Member Eugene, who has a
7 question for Bob. Council Member Eugene?

8 COUNCIL MEMBER EUGENE: Thank you
9 very much, Mr. Chair. Thank you, sir, for your
10 testimony. I want to thank also the Chair for
11 this hearing. This is very important. All of us
12 want to have a cleaner and healthier New York. We
13 want to prevent people, especially children, from
14 getting sick. We know prevention is the best
15 medicine for it. I don't know if you said this
16 before. I came late because I had another hearing
17 on the other side of City Hall. By passing this
18 law, how much pollution will we be able to reduce?
19 I don't know if you mentioned that before.

20 ROBERT AVALTRONI: I did not,
21 Council Member Eugene. I don't know that we could
22 qualify it, but obviously what we are doing would
23 have an impact on our air quality. It certainly
24 would reduce pollution because we are enhancing
25 our enforcement capability. We are also changing

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2 the rules so the limited number of minutes that
3 you can have idling is changed significantly.
4 Also I think we're creating an environment of
5 awareness to all those that do idle, for whatever
6 reason, that in fact we are very serious by the
7 fact that we've come collaboratively with the
8 Council to support legislation that's going to
9 create less pollution by enforcing against those
10 that do not cooperate. Of course, our objective
11 is to force the compliance. I think that would be
12 the objective of the Council as well. I think
13 that while we can't put a qualitative measure in
14 terms of exactly how much pollution would be
15 reduced, it certainly will have an impact by
16 creating a behavior modification the reduction of
17 air pollution.

18 COUNCIL MEMBER EUGENE: You
19 probably won't be able to answer this one either.
20 We know pollution can trigger asthma, allergies
21 and a lot of other respiratory diseases. In terms
22 of asthma, do you have an idea how much asthma we
23 would be able to prevent?

24 ROBERT AVALTRONI: I think it would
25 be impossible for us to make a qualitative comment

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2 on that. But I think that our health officials
3 would agree, and that's why the Bloomberg
4 administration supports this completely. As I
5 alluded to in my testimony, the Mayor's Plan 2030,
6 takes into consideration many elements with regard
7 to the environment and the air that we breathe.
8 The mayor is very serious, as you all know, with
9 respect to that initiative. This is something
10 that will just enhance our ability to reduce
11 pollution in the city.

12 COUNCIL MEMBER EUGENE: I was a
13 physician myself. I commend you for that. This
14 is a wonderful thing to do. We have to prevent
15 disease. Reducing pollution is going to be very
16 important to prevent respiratory disease, asthma
17 and other allergies. I have one concern. I know
18 that parents have to drive their children to
19 school and pick up their children from school.
20 Some of the time it is impossible for them to park
21 their car two or three blocks, you know. This is
22 going to put a lot of burden on the parent.
23 They're going to receive a lot of tickets. Do you
24 have something that you envision to alleviate the
25 burden on the parents, especially those who have

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2 physically challenged children? I'm thinking
3 about dropping off their children or picking up
4 their children. And small children cannot cross
5 the street. They have to go close to the school
6 to pick up their children.

7 ROBERT AVALTRONI: This sort of
8 takes me a little off course of what we're talking
9 about. I do agree with your asthma analogy. I
10 appreciate the fact that you know quite well from
11 a medical profession that what we're doing is
12 important. With respect to making things easier,
13 it's something we always want to do. It enhances
14 the quality of life. I don't think it's addressed
15 specifically in the bills that have been proposed
16 by the Council or something that we have talked
17 about at this hearing. Of course, we do want to
18 make it accessible, as you said, to those that are
19 handicapped so that they have entry to the schools
20 without any type of frustration level. We do also
21 want to ensure that parents, as you said, have the
22 opportunity to be close to the school and to have
23 their children arrive very safely. But I don't
24 know that it's really covered in this area. But
25 that's not to preclude us from having a further

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2 dialogue on some of the suggestions that you might
3 have. We're certainly willing to share that in
4 partnership.

5 COUNCIL MEMBER EUGENE: Thank you
6 very much. Thank you, Mr. Chair.

7 CHAIRPERSON GENNARO: Thank you,
8 Council Member Eugene. I recognize Council Member
9 Felder.

10 COUNCIL MEMBER FELDER: Thank you
11 very much, Mr. Chairman. I want to say that it's
12 wonderful to have the children here as well.
13 Sometimes it's possible that we use holy things
14 for impure purposes. I think that the testimony
15 so far was very interesting but not exactly
16 accurate. Of course, the funerals for the two
17 children, who could say that's not a tragedy.
18 That has nothing to do with the law that we're
19 proposing. Somebody left his truck while it was
20 on. That could have been with one minute, ten
21 seconds or twenty seconds. That has nothing to do
22 with the pieces of legislation about idling. The
23 tragedy exists, but I don't know what that has
24 anything to do with what we're talking about.
25 What we are talking about today is the fact that

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2 two pieces of legislation are being proposed that
3 will increase the summonses issued by the city,
4 day in and day out. I hope my prophecy is false.
5 But as it is, we have a problem, not with all, but
6 with certain agents that I would say are vultures
7 waiting to issue summonses. Dr. Eugene brought up
8 a simple example of a parent trying to pick up or
9 drop of their kid. One minute? What is that all
10 about? Idling for one minute. The legislation
11 itself, if it had addressed trucks and buses
12 specifically that would make sense to me. I've
13 done a little research together with my staff
14 about the impact on the environment. People talk
15 about asthma and the environment. The studies
16 that I have seen, I challenge anybody here, and I
17 know there are a number of you here, to show me
18 the significant improvement by decreasing the
19 idling from three minutes to one minute for cars
20 that are dropping off the children. You can't
21 just take everything that is important and make it
22 seem like you're the devil if you oppose it. This
23 is not about the safety of children. This is not
24 about the asthma. This is not about anything else
25 other than the fact that we will have a situation

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2 where parents will be ticketed before they can
3 even turn off their engines. Why are parents
4 driving cars to drop off their children by school
5 going to be ticketed for 61 seconds? Sixty
6 seconds is not a long amount of time. With all
7 due respect to you, Commissioner, they can't
8 quantify it. I'm not saying there is no
9 improvement whatsoever. But with one piece of
10 legislation we are going ahead and giving and
11 opportunity for more departments to issue
12 summonses, as though there's not enough yet.

13 CHAIRPERSON GENNARO: Council
14 Member Felder, I've given you some latitude to
15 make a statement. I think you have been clear in
16 your statement. I'm going to ask you if you have
17 direct questions for the panel to pose those
18 questions.

19 COUNCIL MEMBER FELDER: Can you
20 please tell me whether you've done research on how
21 many more summonses will be issued or you'll be
22 able to issue with cutting down the time from
23 three minutes to one minute?

24 ROBERT AVALTRONI: I'm glad you
25 asked that question, Councilman. The intent is

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2 not to have a revenue stream to increase the
3 issuance of summonses. The intent is to have
4 compliance. The intent is to ensure, as Chairman
5 Gennaro has pointed out, as the various councilmen
6 have pointed, and specifically Councilman Liu, is
7 to change the behavior attitude of those that are
8 idling. It's not meant to be a browbeating form
9 or methodology to be employed that will harass
10 people. We are changing the rules, we agree with
11 this council and this committee and the mayor
12 feels very emphatic about that support. But it's
13 not one that we're looking to browbeat
14 individuals. We are merely asking for compliance.
15 So I hope we are taking away any distinct
16 impression that you have that this bill and our
17 support of the legislation that's put forth here
18 is one to generate revenue for the city. This is
19 about health. I think Council Member Liu brought
20 up a very good point with regard to safety because
21 health, in fact, covers safety. This is not about
22 harassment. It's about getting the message out,
23 as I alluded to in my testimony. Getting the
24 message out to those that choose to idle what the
25 rules and regulations are and what the

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2 expectations are. So I hope I've clarified that
3 point.

4 COUNCIL MEMBER FELDER: Let me just
5 say, if there was any misunderstanding, I never
6 ever believed that the intention was to bring
7 revenue into the city. That wasn't my point.
8 That is ultimately what will happen. Would you be
9 in favor of leaving the three minute rule by
10 schools because parents are not going to be able
11 to pick up or drop off their kids without getting
12 summonses.

13 ROBERT AVALTRONI: The answer to
14 that is no. Again, what we're doing is we're
15 taking a commonsense approach. We are not looking
16 to harass parents. I think we've made it
17 abundantly clear, as this council and this
18 committee has made. We're making it abundantly
19 clear that we care about the health of these kids.
20 We care about the safety of these kids. These
21 bills that are set forward do not compromise that.
22 So there's no form of harassment here. There's a
23 clear message to be sent to all involved. I
24 assure those from PS 122, the parents of PS 122,
25 that that is not the intent of this legislation.

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2 I think most of the council members would agree
3 with me.

4 COUNCIL MEMBER FELDER: I'd just
5 like to conclude by repeating what I said earlier.
6 I never every suggested that was the intent of the
7 bill. So I don't know why you said that twice.
8 But the point that Dr. Eugene made about parents
9 with children who are disabled, they're going to
10 get a minute as well to drop off their children.

11 ROBERT AVALTRONI: It will be
12 consistent. We hope we don't have to enforce at
13 all. We hope we have a steady forum of
14 compliance. We hope that our children arrive
15 safely. We hope they are not inconvenienced. We
16 hope that their health and safety is first and
17 foremost in all our efforts.

18 COUNCIL MEMBER FELDER: Thank you
19 very much.

20 CHAIRPERSON GENNARO: Thank you,
21 Council Member Felder. I recognize Council Member
22 Liu for a very, very brief comment to rebut a
23 statement made.

24 COUNCIL MEMBER LIU: Not so much to
25 rebut, Mr. Chairman. I certainly understand where

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2 Council Member Felder is coming from. Council
3 Member Felder and I are working on legislation
4 that will reduce unnecessary and excessive
5 ticketing of laws and rules that don't make much
6 sense. Here in this case we understand that it's
7 difficult for parents, but nonetheless, there is a
8 distinction that has to be made. No parking and
9 no standing tickets have absolutely nothing to do
10 with whether an engine is on or off. That's an
11 important point that we need to understand.

12 Secondly, remember that it's only a short period
13 of time that parents are dropping off and picking
14 up their kids. During the rest of the day
15 there's a lot of time when cars are excessively
16 idling. We have to take care of the rest of the
17 day when there is really no need for any vehicle
18 to be idling next to a school. Thank you.

19 CHAIRPERSON GENNARO: Thirty
20 seconds. We have to move the hearing forward. We
21 have many other bills and many other topics.

22 COUNCIL MEMBER FELDER: I agree
23 with Council Member Liu. So therefore, the law
24 should only take place the rest of the day, not
25 pick up or drop off time. That would solve the

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problem.

CHAIRPERSON GENNARO: Let's not turn the hearing into a caucus. Duly noted. Earlier there was some misunderstanding and you had a conversation and you want to clarify on the record. I recognize Gerry Kelpin.

ROBERT AVALTRONI: That's a good recognition.

GERALDINE KELPIN: Thank you. I think we were just talking at cross purposes there, so I apologize for the confusion. Just as a way of clarification, the bill that we're considering applies to all vehicles adjacent to schools. The exceptions in the State Education Law for school buses would still apply. Those exceptions are: mechanical work, maintenance of appropriate temperature and emergency evacuations if you needed to keep the lift on. We hope that that clarifies it.

CHAIRPERSON GENNARO: Thank you for that clarification. With no further questions for this panel, I'd like to thank the panel for your testimony and I look forward to working with you.

ROBERT AVALTRONI: Thank you, Mr.

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2 Chairman.

3 CHAIRPERSON GENNARO: We'll have
4 the rest of the speakers from the Bloomberg
5 administration. We're going to be calling
6 representatives of the Bloomberg administration
7 who will testify on the film generator bill,
8 authored by Alan Gerson. That would be Intro.
9 684. We have Dean McCann from the Mayor's Office
10 of Film. Also just to keep things moving, we have
11 a representative from the fire department, James
12 Basile, and John Peruggia, who will speak to the
13 preconsidered Intro, authored by Council Member
14 Koppell. If we can have the representatives of
15 the fire department come forward and be paneled.
16 We're tracking down the representatives of the
17 fire department. We think maybe they spilled over
18 into the other room. Maybe they felt
19 uncomfortable being in a room that violated fire
20 department standards for crowds. It could get a
21 little tricky. You know how that goes. What
22 happens on the 16th Floor stays on the 16th Floor.
23 This is being done in an attempt to keep the
24 hearing moving as quickly as possible. We have
25 Dean McCann from the Mayor's Office of Film, who

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2 will testify on the Alan Gerson bill and
3 representatives of the fire department, who will
4 speak on the Oliver Koppell preconsidered Intro.
5 I would ask counsel to the committee to swear in
6 the panel. Then each member of the panel in turn
7 can state his name for the record and proceed with
8 the testimony.

9 SAMARA SWANSTON: Gentleman, please
10 raise your right hands. Do you swear or affirm to
11 tell the truth, the whole truth and nothing but
12 the truth today?

13 DEAN MCCANN: We do.

14 CHAIRPERSON GENNARO: Thank you,
15 Gentleman, for being here. We appreciate your
16 participation in today's hearing. Without further
17 ado, we'll hear from Dean McCann, Director of the
18 Office of Production and Operations, New York City
19 Mayor's Office of Film, Theater and Broadcasting.
20 Mr. McCann?

21 DEAN MCCANN: Thank you, Mr.
22 Chairman. My name is Dean McCann. I'm the
23 executive director of production operations.

24 CHAIRPERSON GENNARO: Is your
25 microphone on, sir?

DEAN MCCANN: My name is Dean McCann. I'm the executive director of production and operations for the New York City Mayor's Office of Film, Theater and Broadcasting. As a first film commission in the country, the New York City Mayor's Office's mission is to market New York City as a prime location, facilitate location production, provide premier customer service and liaison with business decision makers to grow the media industry in New York. New York City's entertainment industry employs over 100,000 New Yorkers, supports 4,000 ancillary businesses and contributes over \$5 billion to the city's economy annually. Last year, the Mayor's Office of Film, Theater and Broadcasting assisted over 27,000 shoot days on public property. The agency issues one-stop permits for entertainment production on public property, provides police assistance and traffic coordination, promotes New York City as the ultimate location for entertainment production and supports initiatives designed to enhance the city's competitive position as a global center for entertainment production. The permit issued on an expedited basis to an industry that works on

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2 extremely compressed timeframes in an environment
3 where every-increasing competition for
4 entertainment jobs and revenue grows from
5 neighboring regions, such as Connecticut,
6 Massachusetts, Pennsylvania, and New Jersey, just
7 to name a few. The MOFTB permit represents a
8 snapshot of activity occurring at a specific date
9 and time on a specific location, which may include
10 the coordination from other city agencies and
11 services, such as the Buildings, Fire and Police
12 Departments. While our agency issues permits for
13 the general onsite activity, it relies on these
14 sister agencies to regulate activities that are
15 specific to their jurisdiction. The MOFTB is
16 supportive of efforts to green the entertainment
17 industry, including the use of fuels that would
18 reduce the emission of harmful pollutants. Last
19 year we launched a section on our website
20 entitled, "NYC Green Screen," which encourages
21 film and television productions to recycle and
22 employ the best practices when working on
23 location. We are in agreement with the overall
24 goals of Intro. 684, but we respectfully are
25 recommending changes to this bill. First, Intro.

684-A seems to unfairly target the film and television production industry with steeper fines and harsher restrictions than similar events also permitted by New York City. This includes events such as the street activities identified in Intro. 6899. It is MOFTB's understanding that the generators used in film and television production are the same generators used by street fairs, block parties and construction sites. The proposed penalty for violation in Intro. 684-A is \$5,000 versus a penalty of \$500 for violation in Intro. 899, which recommends ULSD fuel and best available technology in generators used for street fairs and other events for which a street activity is permitted. There should be no bias against film and television projects. We suggest equal fines for similar violations. Additionally, Intro. 684-A requires the use of ULSD fuel and best available retrofit technology to reduce at least 85% of particulate matter. This implies the use of such retrofits as diesel particulate filters, DPFs, which can cost upwards of \$6,000. Though situations could arise where a generator could not be retrofitted with this type of

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2 technology, our rules allow for the occasional
3 exception while still demanding the cleanest
4 technology possible. Intro. 899 leaves the
5 determination of best available technology to the
6 DEP commissioner. This could possibly include the
7 use of diesel oxidation catalysts, DOCs, and
8 selective catalytic reduction technology, SCR,
9 reducing a lesser percentage of particulate matter
10 and with costs starting near \$1,000. For the sake
11 of regulatory consistency of generators and in
12 keeping with all of the other bills that have been
13 passed by the council regarding the use of ULSD,
14 the Mayor's Office recommends that the
15 determination of best available technology for
16 retrofits rest with DEP. Intro. 684-A proposes a
17 two-year phase in period for rental companies and
18 production companies. The Mayor's Office of Film,
19 Theater and Broadcasting suggests a phase in
20 period of at least five years for compliance. In
21 addition, at the current levels of film
22 production, film and TV shows are drawing
23 equipment from neighbor states, such as
24 Connecticut, New Jersey, and Pennsylvania, which
25 may not have the same green fuel requirements as

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2 New York City. MOFTB has concerns that a shortage
3 of available equipment with the retrofit
4 technology and/or the required fuel would
5 negatively impact levels of film and television
6 production in New York City. New York State and
7 City tax incentives were created in 2005 to
8 increase film and television production in New
9 York. The success of this program has created
10 thousands of jobs and benefited the economy of New
11 York City. An MPAA memo in opposition to Intro.
12 684-A concludes that with these limitations, along
13 with steep fines associated with noncompliance
14 could lead to a measurable drop in production
15 levels in New York City. New York City is a
16 competitive location for film and television
17 production. In this economic environment, the
18 concern sit that a requirement for costly
19 retrofitting would threaten New York City's
20 standing as an affordable, easy place to work. An
21 imposed regulation that increases the cost of
22 filming in New York City could lessen the allure
23 of the tax credit. MOFTB recommends a waiver
24 provision if compliance with Intro. 684 results in
25 a shortage of generators with best available

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2 technology retrofits and/or the required fuel.
3 DEP stated in their testimony regarding Intro. 899
4 that effective enforcement depends on a shared
5 database of permits. The significant
6 technological progress of the Office of Citywide
7 Events Coordination and Management has made in
8 making data regarding permits accessible should
9 greatly facilitate this aspect of enforcement.
10 MOFTB works with OCECM to coordinate permit
11 activity. The Mayor's Office of Film, Theater and
12 Broadcasting recommends all requirements for
13 generators be consistent across comparable
14 industries. Thank you, Mr. Chairman.

15 CHAIRPERSON GENNARO: Thank you,
16 Mr. McCann. I appreciate your testimony. We'll
17 have questions for you. We would ask that you
18 wait and stay and be a part of the panel while we
19 hear from the fire department and then we'll do
20 sort of a mix of questions from the committee on
21 the Gerson bill and on the Oliver Koppell bill.
22 With that said, we're grateful to have the fire
23 department here. If each of you could state your
24 names for the record and commence with your
25 testimony. I have one copy of testimony. There's

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one statement from the fire department?

JAMES BASILE: One statement.

CHAIRPERSON GENNARO: Please proceed. Please state your name for the record.

JAMES BASILE: My name is James Basile. I'm an assistant commissioner with the New York City Fire Department.

JOHN PERUGGIA: John Peruggia, chief of emergency medical services.

CHAIRPERSON GENNARO: A pleasure to have you here.

JAMES BASILE: Thank you. Good morning, Chairman Gennaro and Council Members. My name is James Basile and I'm the assistant commissioner for the FDNY Fleet and Technical Services. With me is FDNY Chief of Emergency Medical Service, John Peruggia. Thank you for the opportunity to speak with you today regarding the council bill requiring idle reduction technology in ambulances. Since New York City EMS merged into the FDNY in 1996, we have significantly improved response times to medical emergencies, cut response times to cardiac emergencies almost in half and nearly doubled the number of

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2 defibrillator-equipped units on the streets. The
3 most significant accomplishment has been the
4 dramatic decrease of response times to medical
5 emergencies, from 8 minutes 46 seconds in 1996 to
6 6 minutes 38 seconds for EMS responses to the most
7 serious life threatening emergencies in 2008.

8 We're also responding to more calls since the
9 merger. In 2008, most than 1.2 million calls for
10 emergency medical assistance were answered in New
11 York City. Of these, 449,245 were calls for
12 incidents considered to be life threatening. At
13 the time of the merger, we had 637 eight-hour
14 ambulance tours daily. We now have 959, which is
15 a 50% increase. Since the merger we have also
16 increased the FDNY ambulance fleet. At the time
17 of the merger, we had 504 FDNY eight-hour
18 ambulance tours daily. We now have 611, which is
19 a 21% increase. We also continue to augment our
20 fleet of hazardous tactical, HazTac, ambulances,
21 staffed with hazmat trained personnel. The
22 department has now trained and deployed personnel
23 for 35 HazTac ambulances. We had ten just a few
24 years ago. I provide these statistics to point
25 out the progress we have made and the increases we

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2 have seen in our EMS fleet, our tours and our
3 responses. This progress parallels, but is no
4 less significant than the progress we have made in
5 procuring and maintaining an increasingly
6 environmentally friendly fleet of ambulances. As
7 you know, the FDNY is committed to the health and
8 safety of New Yorkers. This includes doing our
9 part to improve the air they breathe. The U.S.
10 Environment Protection Agency, EPA, has regulated
11 on road diesel emissions through the Clean Air Act
12 since 1970. The EPA standards for on and off road
13 engines set maximum allowable levels of emissions
14 for new engines and diesel fuel. In December,
15 2000, the EPA set forth strict emission standards
16 for diesel vehicles with model years 2007 and
17 later and diesel fuel regulations that limit the
18 sulfur content in on-highway diesel fuel to 15
19 parts per million, down from the 500 parts per
20 million. The FDNY is on schedule to comply with
21 all of the prevailing emission requirements by
22 acquiring vehicles that meet the EPA's 2010 diesel
23 emission standards to replace any existing
24 vehicles that are retired from our fleet. In
25 addition, by 2010, we plan to use technology in

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2 which the chemical urea is injected into the
3 diesel engine exhaust to reduce the amount of
4 nitrous oxide emissions. This urea system, known
5 as selective catalytic reduction will work in
6 conjunction with the soot capturing diesel
7 particulate filter. The injection of urea
8 converts the nitrous oxide gasses into inert, non-
9 polluting ammonia. The remaining gaseous vapor is
10 exhausted out the tailpipe. In short, our new
11 ambulances will run cleaner than vehicles that
12 incorporate the idle reduction technology required
13 by the bill. We do have some more general
14 concerns about the bill. If we were to
15 accommodate idle reduction technology, such as an
16 auxiliary power unit, otherwise known as APU, on
17 our ambulances, we would need to acquire
18 ambulances that are longer and wider and have
19 larger chassis than our current fleet. Our
20 current models have no room to accommodate these
21 APUs. If the bill were enacted, we would be
22 required to convert to a fleet of larger vehicles,
23 including redesign of the fleet, negotiations with
24 a vendor and actual procurement, setting our five-
25 year replacement cycle back years. We have 157

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2 ambulances being built this year, all of which
3 have diesel particulate filters installed and thus
4 burn cleanly. The bill provides that "each
5 ambulance acquired by the city or by any 911
6 participating ambulance service providers after
7 the enactment of this law, shall be equipped with
8 verified idle reduction technology, including but
9 not limited to an auxiliary power unit." This law
10 shall take effect 120 days after it is enacted.
11 This is an unrealistic and misguided timeframe.
12 It also ignores the steps we have taken and are
13 continuing to take to make our fleet greener.
14 Moreover, the need for larger ambulances will
15 naturally affect our facilities, training and
16 response times. We would have to retrofit our
17 current ambulance stations to fit the larger
18 vehicles. Larger ambulances could also mean
19 longer response times. Our crews do their best to
20 get to medical emergencies in a dense urban
21 environment as fast as they possibly can. Wider,
22 larger ambulances would make an already tough job
23 much harder. We would have to conduct driver
24 training to familiarize our personnel with the
25 larger vehicles. Maintenance needs would also

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2 increase. According to industry standards, these
3 APUs must be checked every 100 hours. That means
4 an increase in off service time for the entire
5 fleet of ambulances. My understanding is that two
6 New York City hospitals currently use the APUs on
7 their ambulances and are experiencing problems
8 with having these ambulances offline so
9 frequently. All of these factors obviously impact
10 costs, which we believe would be increased
11 significantly. That is not our main concern. We
12 have been cognizant of both the government
13 mandated emission requirements and the latest
14 state of the art technology that makes our
15 vehicles run cleaner than ever before. In fact,
16 though emergency vehicles exempt from Local Law 77
17 of 2003, which requires the use of ultra low
18 sulfur diesel fuel and best available technology,
19 we comply with the law's provisions. In sum, we
20 are taking meaningful steps to bring our fleet
21 into compliance with all prevailing standards of
22 green emission technology. I follow closely the
23 emerging technology for fleet operations. I see
24 that diesel hybrid vehicles will likely become
25 more prevalent in the upcoming decade. Europe is

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2 introducing these vehicles more and more and I
3 would argue our goals should move in that
4 direction also. In conclusion, FDNY EMS is
5 recognized not only as the best pre-hospital
6 emergency care system, but also the busiest in the
7 country. We respond to more than 3,200 medical
8 emergency daily. We remain committed to providing
9 the best possible training, facilities and
10 equipment so that all New Yorkers receive high
11 quality pre-hospital emergency care. We believe
12 that we are doing so using the most environmental
13 friendly technology available. I'd be happy to
14 answer any questions at this time.

15 CHAIRPERSON GENNARO: Thank you for
16 your testimony, Commissioner. I'm going to
17 recognize Council Member Koppell to pose questions
18 to you. First, I just want to recognize that
19 we've been joined by Council Member de Blasio,
20 Council Member Mark-Viverito and Council Member
21 Recchia. I'm grateful for their presence here
22 today. We're going to have a lot of questions on
23 the film-related bill, but for now I want to
24 recognize Council Member Koppell, author of the
25 preconsidered Intro that you testified on for

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questions. I recognize Council Member Koppell.

COUNCIL MEMBER KOPPELL: Thank you, Mr. Chairman. I'm pleased that the ambulance dispatch system is working well and better than it worked before. I don't think that my measure certainly isn't intended to impair that and I don't think it would. I have no quarrel with a lot of the testimony that you gave. Let's talk about the way the ambulances are stationed now. Let me set the stage. How many ambulances are in the fleet that the fire department controls?

JAMES BASILE: We have 525 ambulances currently.

COUNCIL MEMBER KOPPELL What percentage of those ambulances are posted to non-garage locations for dispatch?

JOHN PERUGGIA: Over 95% of the ambulances that are on duty at any one time are posted to street corner locations.

COUNCIL MEMBER KOPPELL So 500 ambulances more or less are posted on street corners throughout the city. When they're posted on street corners, do they have their engines running at all times?

2 JOHN PERUGGIA: We do. We should
3 just clarify. The 500 number that the assistant
4 commissioner gave a few moments ago is the number
5 of vehicles that we own. The maximum number of
6 ambulances in service at any point in time is 362.
7 That's during our day and evening tour, of which,
8 235 are operated by the fire department and the
9 remainder are operated by hospitals.

10 COUNCIL MEMBER KOPPELL Is it 360
11 you say?

12 JOHN PERUGGIA: 362.

13 COUNCIL MEMBER KOPPELL The exact
14 number is not important. There are 362 vehicles
15 out there whose engines are running 24 hours a day
16 in order to provide heat, I assume for the crew,
17 or cooling in the summer for the crew and also
18 provide the necessary temperatures to maintain
19 medicines and other equipment that requires
20 certain temperatures. Is that correct?

21 JOHN PERUGGIA: In addition for
22 environmental controls to the crew and the
23 medications, it's necessary to operate the radio
24 equipment that allows us to know where the
25 vehicles are by way of our GPS technology.

2 COUNCIL MEMBER KOPPELL Have you
3 done any studies at all to determine an
4 alternative to running the engines 24 hours a day
5 in order to keep the environmental controls going
6 and the radio controls? Have you done any
7 studies?

8 JAMES BASILE: The fire department
9 has not, but there are a few hospital-based
10 ambulances that are using these APUs and we have
11 discussed this option with them and they find it
12 to be very problematic. The ambulances that are
13 in the field are of the latest generation for the
14 most part and are burning much cleaner.

15 COUNCIL MEMBER KOPPELL I
16 understand that. I'm sure that's true of a lot of
17 vehicles and yet we're worried about idling for
18 one minute. Here we're talking about idling for
19 24 hours a day. Have you studied the possibility
20 of using electrical connections to maintain the
21 environmental controls in the ambulances?

22 JAMES BASILE: Maybe you could
23 elaborate on that.

24 COUNCIL MEMBER KOPPELL Well
25 they're posted on street corners. Street corners

1
2 generally have electrical connections at the
3 corner or nearby from things like light poles
4 which you could attach an ambulance to. Obviously
5 you would have to develop a system to detach those
6 cords or electrical connections when you dispatch
7 the ambulance. But that would seem to me to be
8 possible to do rather quickly. You could even do
9 it with some sort of an automatic cutoff of sorts.
10 Have you studied that?

11 JAMES BASILE: We have not. The
12 dispatch operation of EMS is very dynamic. More
13 so than not, they may not be on their street
14 corner location. They move ambulances around
15 during the tour of duty based on the time of day,
16 the needs of the department and call volume.

17 COUNCIL MEMBER KOPPELL I think a
18 study would be worthwhile. Obviously in some
19 instances it might not be possible. The bill
20 provides that it should accommodate idle reduction
21 technology. You say in your statement such as
22 auxiliary power units, which is one particular
23 technology. Have you looked into whether there
24 are any other technologies that would be available
25 and that would be approved the agency that

1
2 approves it? Have you looked into any other
3 technology, other than the APU?

4 JAMES BASILE: We are exploring the
5 use of hybrid technology. Some manufacturers of
6 vehicles do have that currently. It's not
7 available at the size vehicle that we currently
8 use for emergency medical service.

9 COUNCIL MEMBER KOPPELL When you
10 say hybrid you mean some sort of battery. Is that
11 what you're talking about?

12 JAMES BASILE: Battery operated.

13 COUNCIL MEMBER KOPPELL Battery
14 operated power. It's my understanding that there
15 is technology available. I'd like you to provide
16 us with a formal report on the various auxiliary
17 power units that might be available. You
18 mentioned that hospitals have indicated a problem.
19 I'd like to see those reports. It seems to me
20 that it's completely inconsistent with mayor's
21 objectives and this council's objective of
22 reducing air pollution to have 360 vehicles around
23 the city running their engines 24 hours a day. I
24 cannot believe that the power necessary to keep
25 the vehicle warm and keep the medicines in

1
2 reasonable temperature or cool in the summer.
3 It's got to be a lot less need for energy than
4 what's needed to operate the vehicle traveling on
5 the streets.

6 JAMES BASILE: That is possible.
7 The other caveat in this is the gasoline motor
8 that is being used as an APU. Though it is
9 smaller, it has no regulated emission controls on
10 these vehicles. So in essences it's spewing more
11 pollutants than this gasoline motor would be.

12 COUNCIL MEMBER KOPPELL I'm not
13 sure that I agree with that. We'll look at it
14 further. It seems to me a matter of first
15 priority. Obviously safety of people is
16 important. But I think it's the first priority
17 for the department to investigate alternative
18 ways. I again say that the ambulance on the
19 street corners could easily be attached to a pole.
20 There is a permit system right now that allows
21 people to tap into the electric lines on the
22 street. You can get a permit to tap into those
23 lines right now. Certainly the fire department
24 would be eligible to do that. It seems to me
25 where possible that ought to be done, other than

1
2 having these engines running.

3 JAMES BASILE: We'd be willing to
4 explore that.

5 COUNCIL MEMBER KOPPELL I think
6 that this really ought to be explored. We'll look
7 into the objections you have. I think this is a
8 matter that ought to be followed up on. Thank
9 you, Mr. Chairman. I look forward to working with
10 the department on this.

11 CHAIRPERSON GENNARO: Thank you,
12 Council Member Koppell. I had your testimony
13 here, Mr. McCann, what did I do with it? I made
14 notes on it. Trying to choreograph all the other
15 witness that will be joining us. Your testimony
16 today is that you support Into. 684 but have a
17 host of changes. Let me ask some questions that
18 get to some of that. We're talking about
19 competition with other jurisdictions and what they
20 may be doing. Presumably there are other
21 locations throughout the country that are trying
22 to go forward and go green. Do we have any sense
23 of what they're doing in California and how this
24 legislation compares to what may be going on
25 there? Do you have any knowledge of that? You've

2 got to speak really close to the microphone. They
3 have our room very full and our microphones on
4 very low.

5 DEAN MCCANN: I've had
6 conversations about it, but I'd probably defer to
7 the expertise at DEP.

8 CHAIRPERSON GENNARO: Gerry, do you
9 know what they're doing? You've got to speak
10 right into the microphone.

11 GERALDINE KELPIN: Most of
12 California's programs are still voluntary. They
13 do have several efforts to bring off road
14 technologies to be retrofitted. As we went
15 through in some of our earlier promulgations of
16 Local Law 77 we came across this New York City has
17 taken the tact rather aggressively of actually
18 mandating these retrofits where we have control.
19 All of the states have the same issue with
20 mandating it at this point. Our experience right
21 now is the retrofits are voluntary for California.
22 We're relying on the conversion to newer vehicles
23 and newer equipment based on EPA's promulgation of
24 standards.

25 CHAIRPERSON GENNARO: Why don't we

1
2 talk about EPA for just a moment. Let's go over
3 what would naturally happen if the EPA standards
4 came in. Because ultimately all of these devices
5 under the new EPA standards would be looking for.
6 We just want to make it happen sooner. Let's talk
7 about what the timeframe would be to convert this
8 equipment if we left it to just the EPA standards
9 kind of running their natural course. What would
10 that scenario look like?

11 GERALDINE KELPIN: It could take a
12 long time. A lot of this equipment has a useful
13 life of 10 to 15 years.

14 CHAIRPERSON GENNARO: What do the
15 EPA standards call for? What does the EPA ask
16 for?

17 GERALDINE KELPIN: On the on-road
18 it's the 2007 engine has particulate
19 concentrations as low as technology will allow,
20 which is a 90% reduction of the current standards.

21 CHAIRPERSON GENNARO: That's in
22 place right now?

23 GERALDINE KELPIN: For on-road
24 vehicles. The off-road is 2010 to 2013 is a phase
25 in.

2 CHAIRPERSON GENNARO: For the
3 generators?

4 GERALDINE KELPIN: They would be a
5 type of engine that would be covered as an off-
6 road engine.

7 CHAIRPERSON GENNARO: If I wanted
8 to buy a diesel generator to use in move
9 production, could I still buy the older more
10 polluting version? I could still do that?

11 GERALDINE KELPIN: The ones that
12 are on the market now are certainly better than
13 those that had produced like 10 years ago or even
14 5 years ago. The next generation will be
15 considered very, very clean.

16 CHAIRPERSON GENNARO: They will be
17 coming in when?

18 GERALDINE KELPIN: 2010 through
19 2013.

20 CHAIRPERSON GENNARO: 2010 through
21 2013. Are they available now?

22 GERALDINE KELPIN: I don't think
23 so. I don't think either of us are saying that
24 retrofit technology for existing is a bad idea.
25 It will certainly improve. Some of the things

1
2 that we're trying to bring out is that should
3 there be a situation where a generator can't
4 immediately be retrofitted with a diesel
5 particulate filter, there is nowhere in this bill
6 that allows an exception. We don't anticipate it.
7 All of the other laws that we currently have
8 there, our best available technology is
9 essentially equivalent to 85%. The only
10 difference is that we do allow on demonstration
11 and it's a fairly arduous demonstration these days
12 as to why you can't put a diesel particulate
13 filter of 85% or better on your equipment. But
14 this bill doesn't allow it. I mean, as much as we
15 try, something always comes up and we're concerned
16 that there's no exception. The other thing is
17 that this type of equipment, in order to compete
18 in the market, does need a reasonable schedule.
19 That's certainly up for consideration as to what
20 would be the best way to do that.

21 CHAIRPERSON GENNARO: Right. And
22 the statement here by Mr. McCann about a phase in
23 period of at least five years versus the proposed
24 two year phase in of 684. That's your statement,
25 right?

2 DEAN MCCANN: Correct.

3 CHAIRPERSON GENNARO: What kind of
4 discussions have you had with the industry before
5 you drafted your testimony and came in today?
6 Have you had discussions with them?

7 DEAN MCCANN: I have engaged in a
8 dialogue with several of the vendors that provide
9 these generators. I think you'll find a number of
10 them are here today and are looking forward to
11 testifying.

12 CHAIRPERSON GENNARO: We look
13 forward to hearing from them.

14 DEAN MCCANN: The bulk of our
15 conversations have been with DEP, as well as the
16 production community. But the bulk of the mayor's
17 office conversations have been with our associate
18 agencies in looking at other bills and other
19 regulations that are in place.

20 CHAIRPERSON GENNARO: How about
21 DEP? Has DEP engaged the industry in discussions
22 to see how this would affect them?

23 GERALDINE KELPIN: No, we have not.

24 DEAN MCCANN: I'm sorry, Mr.
25 Chairman.

2 CHAIRPERSON GENNARO: Go ahead, Mr.
3 McCann.

4 DEAN MCCANN: I have spoken with a
5 number of the vendors that do provide the
6 generators as well as several of the production
7 companies to gain some insight from their
8 perspective.

9 CHAIRPERSON GENNARO: Good.

10 DEAN MCCANN: That's sort of where
11 we drew the line at the five years rather than the
12 two. Our industry as a whole is very proactive
13 with regard to greening the industry per se. But
14 to realistically retrofit and have generators, as
15 DEP mentioned, they're not available until between
16 2010 and 2013. Everyone has an eye towards that
17 moving forward. As I said, they've all been very
18 proactive in their measures to date. But the two
19 year minimum seems to be unachievable. That was
20 what sort of through a flag up for us, which is
21 that if we don't create some form of a waiver for
22 the facilities that haven't begun updating
23 already, they're not looking to use the old
24 generators. They are already retrofitting in some
25 circumstances, but we don't want it to be cost

2 prohibitive or time precluded that suddenly all of
3 the sudden there are no generators. There's a
4 booming industry right now. That was our main
5 concern.

6 CHAIRPERSON GENNARO: You made a
7 statement with regard to the lack of parity, if
8 you will, between the penalties set out in Intro.
9 899 of \$500 and the penalties of 684 are \$5,000.
10 You indicated that you believe that the fines
11 should be equal. I was wondering if you were
12 thinking that they should be equal at \$500 or
13 equal at \$5,000 or something in the middle.

14 DEAN MCCANN: I could argue on both
15 fronts.

16 CHAIRPERSON GENNARO: I'm the
17 politician. I'm the one that argues both ways all
18 the time.

19 DEAN MCCANN: I doubt that it is
20 the intent of the council to protect members of
21 the film community with higher penalties for
22 infractions than it is to protect the civilians
23 attending a block party or a festival. So I could
24 argue that the fines should be higher, but you're
25 looking at mom and pop operations. I mean I know

2 that we look at these shows and some of the movies
3 and it's Hollywood. But it's not. Dick Wolf,
4 behind the three Law and Orders, they're scraping
5 pennies to pull together an episode. I think that
6 it would be more realistic to have the fines
7 aligned at the \$500 per infraction than \$5,000 per
8 day.

9 CHAIRPERSON GENNARO: Thank you,
10 Mr. McCann.

11 DEAN MCCANN: If I could also just
12 make one point. What I've noticed is that the
13 same generators that work on a Parks Department
14 special event on Monday that then work the
15 following Saturday for the Brazilian Festival on
16 Sixth Avenue that are then rented on Tuesday
17 morning at 4 a.m. to work on a commercial
18 production shoot at 6 a.m. that day, it's the
19 exact same generator. So that was part of the
20 reason why we were concerned about the
21 inaccuracies between the two bills. It's the same
22 piece of equipment working special events, SAPO,
23 film shoots, and construction sites in some
24 circumstances.

25 CHAIRPERSON GENNARO: I've been

1
2 told that Council Member Recchia has a question
3 for the panel. I'm going to call on Council
4 Member Recchia and I may come back to you for more
5 questions. But for now, I recognize Council
6 Member Recchia.

7 COUNCIL MEMBER RECCHIA: Good
8 morning. I'm the chairman of the Cultural Affairs
9 Committee. I worked very hard on getting the tax
10 credit to get more movie productions in New York
11 City. The last thing we want to do is to raise
12 costs to scare away the movie production companies
13 from this happening. But yes, I believe we should
14 be going green. You see this as an added cost to
15 the movie industry on this?

16 DEAN MCCANN: It depends how it's
17 phased in. If it's an immediate bump in
18 retrofitting these generator, then they will
19 absolutely pass those costs on to their clientele.
20 What is now a generator that could go for \$700
21 suddenly will become \$1,000 or \$1,100. however,
22 if the industry is provided the opportunity to
23 gradually phase in the new technology in an
24 appropriate manner, it will increase the cost of
25 doing business in New York, but not so

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substantially as the rush to do it immediately.

COUNCIL MEMBER RECCHIA: According to DEP, if I understand correctly, there are rules in place right now, by starting 2010 to go into 2013 that these generators have to be better quality and more green?

GERALDINE KELPIN: New purchases would be meeting the standard that we would essentially be getting with a retrofit of a reasonably in use piece of equipment at this point.

COUNCIL MEMBER RECCHIA: A lot of these business people, mom and pop shops, that have these generators, do you think they would be purchasing these new generators coming out in 2013?

GERALDINE KELPIN: They'll be purchasing them when they can't fix the piece of equipment that they have. Some of the rental companies will purchase sooner because of the wear and tear on it. But someone could hold on to a generator for a fairly long period of time.

COUNCIL MEMBER RECCHIA: What's a fairly long period of time? Ten years or fifteen

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years?

GERALDINE KELPIN: Yes.

COUNCIL MEMBER RECCHIA: DEP, what do you recommend on 684? What's your position on this?

GERALDINE KELPIN: Certainly we're in favor of retrofits being in place on any type of diesel equipment these days. Our issue, as we had raised in another hearing, is that there's sufficient time to allow the retrofits to be purchased, made and put into place. So a phase in schedule somewhere between four and five years is no unrealistic. It could go sooner depending on if there were some type of financial incentives. I don't know if that's available at this point. Two years is very tight to get something like this done.

COUNCIL MEMBER RECCHIA: So you mean like financial incentives where the city would give like a tax credit or a tax break or something like that?

GERALDINE KELPIN: There's might be federal grant money applicable to certain situations for this type of equipment. But since

1
2 it's the same equipment, you might be able to
3 retrofit it under one program and use it in
4 another.

5 COUNCIL MEMBER RECCHIA: Have you
6 spoken to Commissioner Kathy Oliver? What's her
7 position on this?

8 DEAN MCCANN: I'm from her office.

9 COUNCIL MEMBER RECCHIA: All right.
10 So this could hurt the industry. The last thing
11 we want to do is move productions out of here and
12 have them go someplace else. Because people could
13 say there goes New York City again. They're
14 starting to add tax here, tax this, require this
15 and require that. That's what we don't want to
16 happen. That's why we have to really look into
17 this bill.

18 DEAN MCCANN: We appreciate that.
19 That was one of our biggest concerns because so
20 much of what we contend with is perception. If we
21 have individuals from out of this municipality
22 looking at New York as becoming increasingly
23 problematic with unrealistic restrictions, that's
24 one of the reasons why we were so anxious to
25 testify today. Nobody is opposed to greening the

industry.

COUNCIL MEMBER RECCHIA: We all agree on that.

DEAN MCCANN: We just want it done in a reasonable and realistic manner.

COUNCIL MEMBER RECCHIA: On how we get there.

DEAN MCCANN: On how we get there. That's the timeline.

COUNCIL MEMBER RECCHIA: Thank you very much, Mr. Chairman.

CHAIRPERSON GENNARO: Thank you, Domenic. I have no further questions for this panel. I look forward to talking to representatives of the industry and getting their perspective. Thank you for being here today, Gerry and Mr. McCann. Representatives of the fire department, I appreciate everything that you do for us day in and day out. Thank you all for your good testimony. I appreciate it. Just to give a sense of where we're going now. Here's where I kind of play the bad guy a little bit. We have more witnesses than we really have hours in the day. In order to accomplish that we're going to

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2 be taking out the dreaded clock. We're going to
3 put people in a three minute clock. I know people
4 have a lot to say. Some people have come from
5 long distances in order to testify and they have a
6 lot to say. People will be limited to a three-
7 minute statement. However, after your statement
8 is over, I or a member of the panel may ask you a
9 question, in which case you'll have time to speak
10 more. There are many, many, many people here who
11 are here for the idling and many children who
12 wanted to come forward and state their views.
13 Council Member Vallone has graciously interacted
14 with the students and the teachers. We'll have
15 one student that I'll call momentarily, who will
16 read a one-page statement. So that'll be just a
17 brief bit of testimony. We'll have a panel of
18 people from the movie industry to come forward.
19 That'll be a couple of folks. And then we have a
20 representative of the American Bus Association,
21 who has come a very long way. Then we'll have
22 some environmental advocates. Then we'll have
23 another movie panel and then it kind of goes from
24 there. That will be the lineup. Let me announce
25 the next two panels so that people can get ready.

1
2 First we're going to be honored by a student from
3 PS 122. Eugene Varnedoe.

4 EUGENE VARNEDOE: Varnedoe.

5 CHAIRPERSON GENNARO: Varnedoe?

6 Eugene, you're already there. We've got a lot of
7 people from the movies here, Eugene, so give it a
8 good one. But not quite yet. Let me announce the
9 people are going to come after you, Eugene, so
10 they can get ready. We have Stuart Suna from
11 Silver Cup Studios; John Johnston, from Production
12 Equipment Rental Association; Matt Miller, the
13 president of the Association of Independent
14 Commercial Producers; Andrea Miele from the Motion
15 Picture Association of America; and Paul Jordan of
16 NBC. That will be the panel that comes after Mr.
17 Varnedoe, whom we won't swear in because he's too
18 young to take an oath. Mr. Varnedoe, it's a
19 pleasure for you to be here today. We're ready to
20 hear your statement. Now, the way we do it is you
21 state your name for the record into the
22 microphone. Make sure the microphone is right in
23 front of your mouth there. Then read your good
24 statement. Mr. Varnedoe, thank you for coming
25 here to represent so many of your fellow students.

1
2 We'll have your statement. Mr. Varnedoe?

3 EUGENE VARNEDOE: Thank you. I'm
4 Eugene Varnedoe of PS 122 in Queens. Today is
5 Monday the 26th of January. We are here to
6 discuss whether school zones should suffer anymore
7 than they already have in one specific and
8 preventable way. We are here to discuss whether
9 asthma patients, children and adults alike should
10 be forced to deal with the exhaust of idling buses
11 and cars and idling exhaust which unnecessarily
12 and dangerously pollutes the air around their
13 schools. There is no more time to waste. Every
14 breath of air children take of the toxic fumes
15 emitted by buses idling in school zones can damage
16 their lungs, make them dizzy, even nauseous and
17 can even lead to asthma. And for those already
18 with asthma, it leads to even worse effects. I
19 want to thank all the council members supporting
20 Intro. 631-A and 881-A described on Council's
21 website and here today. I support these
22 initiatives greatly. Please let me quickly
23 explain why I support them and why you should too.
24 Last year, many of us gathered in front of City
25 Hall to observe the first Idle Free New York Day,

1
2 or IFNYC Day. My class and I were here then
3 because we thought something was wrong. We
4 thought something needed to change. We knew that
5 the idling buses and cars out in our schools were
6 damaging our lungs, polluting the air and hurting
7 the environment. That idling needed to stop then
8 and it needs to stop now. Last year, as a result
9 of our Project Citizen, a project that we were
10 doing, we had proposed our own one-minute school
11 zone idling law. Now, to be here again on the day
12 that we kind of make our decisions whether it
13 should be passed into law, I am honored. I am
14 honored as a New Yorker and I think we should all
15 be honored. Not only will you the Council be
16 helping the environment by making this anti-idling
17 initiative into law, you'll also be helping
18 schools, kids, bus drivers and parents alike. We
19 can all hope that it won't stop there. School
20 zones may not be the only places that are
21 suffering. People on the streets right outside
22 might be suffering now. I can't speak for all of
23 us, but I hope to see the day when all of New York
24 may go idle free. Thank you. With all respect to
25 Council Member Felder, he stated that this was not

1
2 about the children's health and this was not about
3 the safety of school zones, I would like to
4 disagree. Because I think that's exactly what
5 this bill is going. Thank you.

6 CHAIRPERSON GENNARO: Thank you.
7 Thank you, Mr. Varnedoe. You gave a very poised
8 presentation. I know that you represented your
9 fellow students very well. We're move by your
10 testimony. We're doing everything we can to bring
11 clean air and less idling as soon as we can
12 possibly do it. Your presence here today and the
13 presence of your fellow students and the teachers
14 is a good motivation to move forward. Thank you.
15 I know that Council Member Vallone wishes to thank
16 you as well. I recognize Council Member Vallone.

17 COUNCIL MEMBER VALLONE: I will
18 make sure that Simcha Felder gets your message.
19 I'm also very glad that I will be out of office
20 before you're able to run against me. I want to
21 thank our chair. I know you're dealing with so
22 many witness in such a time constraint. To allow
23 him to testify very quickly was very gracious of
24 you. That's not normally done. I'm going to ask
25 everybody from 122 now to go back to the room that

1
2 you guys started in and I hope you all learned a
3 lot today. Thank you, Mr. Chair.

4 EUGENE VARNEDOE: Thank you.

5 CHAIRPERSON GENNARO: Thank you.

6 EUGENE VARNEDOE: Thank you, Mr.
7 Chairman and Mr. Vallone. I'm honored to be here
8 and to leave.

9 CHAIRPERSON GENNARO: Thank you,
10 Eugene. The next panel, as I indicated, is Stuart
11 Suna, John Johnston, Paul Jordan, Angela Miele,
12 and Matt Miller. The panel that I just called
13 will be followed by Clyde Hart of the American Bus
14 Association, who I know came a long way to be here
15 today. After Mr. Hart we'll hear from Isabelle
16 Silverman of the Environmental Defense Fund;
17 Anhthu Hoang of WE ACT for Environmental Justice;
18 Michael Seilback from the American Lung
19 Association; and Claire Benet of the Health
20 Schools Network. Those will be the next three
21 panels, including the one that we have up here
22 now. With that said, I'd like to welcome this
23 panel. I would like to thank everyone for their
24 patience and cooperation. I'd like to ask the
25 sergeant-at-arms to prepare the clock while I give

1
2 my apologies to the members of the panel and all
3 the subsequent witnesses that have to live by the
4 clock. I don't like to do that but it's just
5 necessary under the circumstances. We just had a
6 very large agenda today. We're trying to do the
7 best we can. I'd like to ask the counsel to swear
8 in the panel. I think these people are all 21 or
9 over, or 18, or whatever the age is.

10 SAMARA SWANSTON: Please raise your
11 right hands. Do you swear or affirm to tell the
12 truth, the whole truth and nothing but the truth
13 today?

14 CHAIRPERSON GENNARO: Thank you.
15 We'll take testimony in the order that I called
16 the panel. We'll start with Stuart Suna of Silver
17 Cup Studios. If anyone has prepared written
18 testimony I'd be happy to have it. Do we have
19 testimony from the panel? Has testimony been
20 distributed from this panel? Okay. So there is
21 testimony. Did you have written testimony?

22 STUART MATCH SUNA: I don't have
23 written testimony.

24 CHAIRPERSON GENNARO: So we're good
25 to go.

2 STUART MATCH SUNA: I'll talk fast.

3 CHAIRPERSON GENNARO: Sure.

4 STUART MATCH SUNA: I'm Stuart
5 Match Suna, president of Silvercup Studios and
6 Silver Trucks. I'm here to testify in opposition
7 of this bill, 684-A. I want to say that I've been
8 a staunch and very active environmentalist for
9 many years. I understand the ideas behind the
10 bill and actually support many of the goals. We
11 do need to have a healthier and greener New York
12 City. Some of you might know that Silvercup
13 Studios also have the largest green roof in New
14 York City. We have been very involved in making
15 it a green planet and greener city. The primary
16 problem with the bill is the timing, which was
17 discussed before. The implementation of the two-
18 year factor. Silver Trucks has five generators.
19 The oldest one is ten years old and the youngest
20 one is two years old. It's over a million dollars
21 worth of equipment. The most recent does
22 compliant with tier three. It would meet your
23 standards and it was bought two years ago. So the
24 industry is actually naturally moving in that
25 direction. There's a misunderstanding here about

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2 retrofitting. You can't just add a filter onto
3 existing generators. Some of the people here are
4 more technical and can explain it. There's an
5 electrical part and a moving part. The combustion
6 engine, which is making the diesel fumes, fits
7 into a house. It has to be sound isolated to meet
8 other DEP requirements and for the movie
9 requirements. We want it to be very quiet. The
10 movie industry, is one of the greenest
11 manufacturing industries in New York City and
12 growing with leaps and bounds thanks to the City
13 Council and the State Legislature and the tax
14 credits. The bottom line is that to retrofit some
15 of the engines that could be retrofitted is about
16 \$30,000 per engine and would take at least a year
17 to do. New engines would cost about \$80,000. I
18 think a more reasonable solution would be either
19 to grandfather in the older engines or to give a
20 ten-year phase in plan. You'll hear from some of
21 the engine manufacturers here that they couldn't
22 even supply New York City with enough engines in
23 the next two years to satisfy our growing
24 industry. One thing I don't think the City
25 Council would want to do is to see Silver Trucks

2 move their older engines that are only five years
3 old and set up shop in Connecticut to start
4 operating and shooting movies in Connecticut which
5 is already stealing a lot of our business. We've
6 stayed away from going into our neighboring
7 cities. It's about letting it evolve in a natural
8 progression. We could be ahead of the EPA. Your
9 bill could go forward and it could be on a ten-
10 year phase in period or grandfather the old ones.
11 I made it in less than three minutes.

12 CHAIRPERSON GENNARO: Thank you,
13 Mr. Suna. We'll come back with questions. The
14 next witness that I had called on this panel is
15 John Johnston of Product Equipment Rental
16 Association. Mr. Johnston?

17 JOHN JOHNSTON: Thank you, Mr.
18 Chairman. I represent two trade associations.

19 CHAIRPERSON GENNARO: Please state
20 your name for the record.

21 JOHN JOHNSTON: John Johnston. I'm
22 executive director of the Production Equipment
23 Rental Association. It's a trade organization of
24 the companies that rent the equipment. I'm also a
25 part of the New York Production Alliance, a

1 coalition of industry companies, the unions,
2 guilds and associations who advocate for
3 employment and growth of the motion picture
4 industry in New York. We work very closely with
5 the Mayor's Office of Film and Television
6 Broadcasting and also with the State Government
7 Office. I can summarize quickly by saying that
8 the industry is one that does, on its own, seek to
9 make the industry green through its own
10 initiatives. Many of these machines have been
11 converted. There are many initiatives, some of
12 which the New York Production Alliance is taking
13 initiatives in. We publish on our website in
14 association with the Producers Guild of America, a
15 green resource guide for productions. We foster
16 education programs within the industry to have
17 discussion about how the industry can act and be
18 more green. We do it in a way that doesn't go
19 against our primary objective which is raising the
20 growth of production and jobs in New York. I can
21 summarize by saying that if this timeline were
22 followed, and I would disagree with Mr. McCann's
23 five-year timeline, that it is simply too short
24 for a conversion of some of this equipment.
25

1
2 Grandfathering the equipment, as Mr. Suna has
3 said, or the ten-year timeline would be well in
4 range. With the companies that have the equipment
5 there, they do run on low sulfur fuel. Many
6 retrofits have been done. The equipment is
7 maintained to very high level standards. To push
8 this and accelerate it to any extent that is
9 suggested in the bill would impose costs on the
10 industry that would trickle down to the cost of
11 production making New York less competitive with
12 competing states that have very generous tax
13 incentives and thereby hurt employment within the
14 industry within New York. It's a great industry.
15 Thank you.

16 CHAIRPERSON GENNARO: Thank you,
17 Mr. Johnston. Next we'll hear from Paul Jordan
18 from NBC Universal. Mr. Jordan, please state your
19 name for the record and proceed with your
20 testimony.

21 PAUL JORDAN: My name is Paul
22 Jordan. I'm the vice president of environment,
23 health and safety for NBC Universal. With that I
24 oversee the production of television and motor
25 picture entities throughout the country. New York

1
2 is one of the biggest areas for production for us.
3 We do several dozen shows every year. We have at
4 least one dozen ongoing TV series that are located
5 here. We do feature productions here. We have
6 concerns with the way the bill is written right
7 now, especially with the timelines. We're very
8 concerned that we're going to have the equipment
9 available to us to continue with our shows here.
10 Again, as everybody has said, our industry is a
11 very proactive industry when it comes to greening
12 our production. We have a very aggressive program
13 looking at different ways to cut down on waste to
14 reduce our carbon footprint. We stand behind what
15 this bill is trying to do. We just have very
16 strong concerns with the way it's written. That's
17 all I have to say. Thank you.

18 CHAIRPERSON GENNARO: Thank you,
19 Mr. Jordan, I appreciate your being here. We'll
20 come back with questions and comments. Next we'll
21 hear from Ms. Miele of the Motion Picture
22 Association of America. Ms. Miele, thank you for
23 being here.

24 ANGELA MIELE: Thank you, Mr.
25 Chairman. My name is Angela Miele. I'm with the

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2 Motion Picture Association of America. Our member
3 companies include Disney, Sony, Warner Brothers,
4 Paramount, Fox and NBC Universal, who is here with
5 us today. Thank you and the Committee for
6 allowing us to share our concerns with 684-A. I
7 won't belabor the fact that this industry has been
8 very green. You'll hear that again and again and
9 different aspects of things that we've been trying
10 to do, especially in California where Paul is
11 located. We've done a lot of initiatives. We've
12 done a lot of recycling programs working with the
13 city to reduce waste and carbon emissions. And
14 even working with the city that had state mandated
15 environmental requirements. We've been working
16 with them voluntarily to help them meet those
17 mandates. The one problem that's come up with
18 Intro is obviously the timeframe, but also the
19 fact that it's limiting the use to ultra low
20 sulfur diesel fuel, which is not really a problem
21 for most of our members, but it precludes the use
22 of other clean fuels such as biodiesel, which may
23 not be available, but it precludes other
24 initiatives that could be used to green these
25 machines. As you heard, the two-year timeframe is

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2 virtually impossible. As I understand it, in
3 California, they had a ten-year implementation
4 period and even the tier four generators, which
5 are the top line generators, are not even
6 available for a year. I know you'll hear more
7 from the generator rental companies that are here
8 represented today. The problem is if our
9 production companies cannot get them from the
10 rental companies, who is going to be at fault.
11 They don't want to necessarily delay production.
12 It's a very mobile industry, as you may be aware.
13 They can go elsewhere. I believe the gentleman
14 from the Film Office talked the fact that they
15 can't tolerate delays and they will go elsewhere.
16 That was evidenced by the fact that this industry
17 came to New York when the incentivized this
18 industry to come here. I'll just leave you with a
19 couple of questions. We'd like to work with you
20 to extend that timeframe because I think that's
21 unworkable. I think that the committee should
22 consider other alternatives and not just limit it
23 to best available technology. That really makes
24 it very difficult to comply with. Using
25 California standards, what if those standards

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2 change? What do we do? We may have invested all
3 of this money to meet these technologies in New
4 York and then all of the sudden a newer technology
5 comes up and then you're going to ask the
6 companies to invest even more money to do this all
7 over again. One of the things that was mentioned
8 today is why would you put limitations on an
9 industry that you've incented to come here and
10 then now it's going to set them back in terms of
11 cost factors. I guess I wasn't as brief as the
12 others. Thank you very much.

13 CHAIRPERSON GENNARO: Thank you,
14 Ms. Miele. Someone please get the door. I don't
15 use this room very much. The other one has a much
16 more professional sounding tone. It sounds like
17 the kind of thing they'd have in a game show.
18 Thank you, Ms. Miele. I have the written
19 testimony from Matt Miller, the president of the
20 AICP. We'd like to hear your statement, Mr.
21 Miller. Please state your name for the record.

22 MATTHEW MILLER: My name is Matthew
23 Miller, Mr. Chairman. I'm president and chief
24 executive officer of the Association of
25 Independent Commercial Producers, which is a

1 national trade association that represents about
2 270 commercial production companies, as well as
3 having about 280 associate members, which are
4 vendors to this industry, which include companies
5 that rent equipment here in New York and around
6 the country. I'm a firm believer that anything
7 that need to be said can be said very well in 60
8 seconds, so I will keep it to that. I will really
9 say that so many of the things that have been said
10 here today really do paint the picture of what is
11 going on. My issues beyond that really deal with
12 the small to mid sized companies that are
13 commercial production companies and the expense
14 that could be trickled down through the industry
15 first by putting a burden that is not attainable
16 on generator owners, the rental companies. And
17 then that cost obviously being passed on to the
18 production industry. It has been said over and
19 over again, we've done so much here in the state
20 to actually attract production, having both fines
21 and the costs that would be incurred by following
22 what is written in the bill 684 as written, would
23 be a real problem. It truly would cause economic
24 impact to the entire system that I don't think
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1 we'd be able to handle. Therefore it would push
2 work out. I think it's very important to
3 understand that the commercial industry as well as
4 the other film industries have all promulgated
5 their own green guidelines and stick to them
6 pretty ardently. I think that we're all behind
7 that. We're making strides even before it's
8 necessary. California did pass, under the
9 California Air Resources Board, a set of
10 guidelines that had ten years to come in and will
11 be in, in the next two years. Many people have
12 been in front of that in California who own
13 generators. Yet, there still is not the number of
14 generators that are open and available for
15 production companies. That sort of exposure, both
16 for the generator companies that can't have their
17 needs met by the manufacturers and by the
18 production companies not knowing whether they
19 could access those generators would cause that
20 doubt and would totally affect the economy of the
21 business and the attractiveness of New York. So
22 for those reasons, I would ask New York not to get
23 in front of this in a way that would create a bill
24 that could potentially be a job killer, but to
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2 stay down the line that we've been going down
3 which is to attract work, work with the industry
4 and work to be good corporate citizens. With
5 that, Mr. Chairman, I'm open for any questions.

6 CHAIRPERSON GENNARO: Thank you,
7 Mr. Miller. I want to thank the entire panel.
8 This is not the only panel that will be
9 representing the industry. We have labor that
10 works in the industry and other people who will
11 speak to some of the concerns that the industry
12 has. We look forward to hearing from them. We
13 thank them for their patience. Do we have Mr.
14 McCann's testimony? Mr. McCann, from the Mayor's
15 Office of Film was talking about a five-year
16 compliance timetable. Was that done with any kind
17 of consultation with you? Do you know who he
18 spoke with to get that information? Didn't
19 interact with you on that? Let the record state
20 that the members of the panel--

21 STUART MATCH SUNA: [interposing]
22 Many of us speak with the mayor's office quite
23 often. I think this is the first time that I
24 heard about it was from Angela from the MPA.
25 Silvercup has had no discussions with the Mayor's

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2 Film Office on this timeframe.

3 ANGELA MIELE: I had one discussion
4 with him, but it was just generic concerns with
5 the bill. It wasn't an option of an increased
6 timeframe at a five-year level, which we would not
7 have supported.

8 CHAIRPERSON GENNARO: Duly noted.
9 Mr. McCann and I guess, by extension, DEP, who
10 worked on this also gives numbers in their
11 testimony in talking about the possibility of
12 \$6,000 to retrofit with a diesel particulate
13 filter. These don't seem to be numbers that
14 reconcile with your statements of these retrofits
15 of new engines costing scores of thousands of
16 dollars, rather than just \$6,000. It would seem
17 that the burden that you're talking about would be
18 much more significant than those that are put
19 forward in the testimony of Mr. McCann and DEP.
20 You stand by your estimates presumably.

21 STUART MATCH SUNA: I'm sworn to
22 oath here. If it was only \$6,000 per generator we
23 would do it in a heartbeat because our clients
24 would much rather have it. Alec Baldwin says to
25 me, Stuart, we want "30 Rock" to be greener. We

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2 want to do more. The talent, the productions
3 companies and NBC all want to be greener. For
4 those dollars it would make us more marketable.
5 You'll hear from some of the engine manufacturing
6 companies and some of the generator companies
7 here. We talked to some of our manufacturers.
8 What you see as a generator on a street is a big
9 box. In that box in the generator and the
10 combustion engine. We're really talking about the
11 combustion engine. What we were told by Crawford,
12 who manufactures a lot of our engines and
13 generators, is that you've got to take the whole
14 house apart and many of them won't fit the new
15 tier three or tier four engines. Not to mention
16 they're not even available on the quantity that we
17 would need. Naturally these generators last about
18 10 or 20 years, depending upon how well they're
19 maintained. They don't pollute that much. They
20 can't be just retrofitted with a \$6,000 muffler or
21 something attached to it.

22 CHAIRPERSON GENNARO: Thank you.

23 The Chair recognizes the significance of not just
24 local entities like Silvercup here, but also in
25 the Motion Picture Association of America, and NBC

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2 Universal these are entities that are nationwide
3 in scope. Your concerns that have been forward
4 are certainly duly noted by the Chair. It would
5 seem that at a minimum we have a lot more work to
6 do and a lot more information sharing and fact
7 finding that needs to happen before we could
8 proceed in the way that we would like to proceed.
9 You're brought value add by being here. Your
10 testimony will certainly inform our thought
11 process going forward. I need to move to some of
12 the other panels. I'll thank you for being here.
13 I'm sorry, Council Member Peter Vallone has a
14 question. Forgive me, Peter, for not looking your
15 way. I recognize Council Member Vallone.

16 COUNCIL MEMBER VALLONE: No
17 problem. Thank you. You've made some very
18 interesting points, which is why I wanted to stay
19 around. Mr. Suna, you mentioned a ten-year
20 implementation period that you would support. If
21 Albany were in charge, ten years might be
22 something we would expect, but not private
23 industry. When was the California law passed
24 which put their ten-year period into effect?

25 STUART MATCH SUNA: One of my

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2 colleagues from Universal is here with me. He's
3 our director of environmental affairs. He would
4 be happy to answer those questions. He's
5 hopefully on one of the next panels.

6 COUNCIL MEMBER VALLONE: Does
7 anyone know a year?

8 STUART MATCH SUNA: I think 1998.

9 COUNCIL MEMBER VALLONE: I guess
10 these questions might be better asked of him. I
11 guess the ten years are up and I think you
12 mentioned that only one type of generator isn't
13 available yet under that law.

14 ANGELA MIELE: I think the
15 California technology requires what's known as a
16 tier three generator. From what I understand even
17 that deadline, had to get pushed several times.
18 I'll ask the gentleman, Joe Bellis [phonetic] from
19 NBC Universal to give you more specifics on that.

20 STUART MATCH SUNA: Also if I could
21 just add to that. The more recent generator we
22 bought in the end of 2006 is a tier three
23 generator. We bought it without even this law
24 just because the industry and our clients all want
25 to be greener.

2 COUNCIL MEMBER VALLONE: You make a
3 good point, which is what I was getting to. If
4 this law says best technology available and you
5 just bought a three and then a four comes out, you
6 would then have to upgrade which doesn't seem fair
7 at all. What language would you want placed in
8 this bill?

9 ANGELA MIELE: We would be happy to
10 work with you. One of the things I understand is
11 that the generators are already using ultra sulfur
12 diesel fuel. That's not a problem. You don't
13 want to preclude the use of other equally energy
14 efficient technology or fuels. That's where it's
15 problematic. Because I think you'll when talking
16 with the front line generator folks that they're
17 all using the ultra low sulfur diesel fuel.
18 That's not the problem. The problem is requiring
19 that and not allowing alternatives and mandating
20 the best available technology. That all combined
21 causes the problem, as well as the two year phase
22 in.

23 STUART MATCH SUNA: If I could just
24 add to that. That's why I said ten years or to
25 grandfather in the older equipment. That so the

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2 industry could naturally move forward into buying
3 the newest technology. As soon as tier four is
4 available, we'll be buying tier fours. We're
5 buying new engines. So naturally you're going to
6 constantly increase. But the generators have a
7 life expectancy of 10 to 20 years, depending upon
8 how many hours they're run and how well they're
9 maintained. So if we just spent a million dollars
10 buying generators over the past eight years, I
11 don't want to know that in the next two years that
12 four out of five of them are obsolete because of
13 this new bill here in New York. I'm going to then
14 be renting them in other states and competing with
15 myself over here, which just doesn't make sense.

16 COUNCIL MEMBER VALLONE: I

17 understand completely. To play devil's advocate,
18 you guy all this stuff and then next year they com
19 up with something that actually improves air
20 quality, I don't want to wait ten years to get
21 that. So there's got to be some way we can work
22 this out where it's not overly burdensome on you.
23 I know that the chair is in a rush. I know you're
24 going to do this anyone, but I would ask that your
25 council does work with them in order to take that

2 language change into consideration. Thank you,
3 Mr. Chair.

4 CHAIRPERSON GENNARO: Thank you,
5 Council Member Vallone. I just wanted to state
6 something on the record with regard to Ms. Miele's
7 reference on biodiesel. Ms. Miele made reference
8 that biodiesel that would be precluded.

9 Apparently that's not precluded in an update to
10 the bill and we just wanted to put that on the
11 record. It doesn't change things, but I just
12 wanted to state that bio would not be precluded.

13 If you want to hear more about what Jim Gennaro
14 has to say about biofuels, you can see me in a
15 movie where I say it. It's called, "Fuel" and it
16 will be premiering February 4th, two days after
17 Groundhog Day, but it's not significant in any
18 way. I'm in a documentary. I talk a lot about
19 biofuels. There you have it, shameless self-
20 promoter that I am. Thank you all. I'm very
21 grateful to have you here. I appreciate
22 everything you gave us today.

23 COUNCIL MEMBER KOPPELL: Mr.
24 Chairman, I might just observe that I think some
25 of the comments are well taken. One thing that

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2 confuses me, Mr. Chairman, is why we should single
3 out these generators particularly if they're
4 similar to other generators that are used at
5 street fairs and construction sites. It seems to
6 me that we should be consistent on the level of
7 the fines as well as the requirements. Because if
8 the same generator is used at a street fair as
9 well as a movie, there's no reason in the world
10 that I can think of for why we should apply
11 different standards or different fines.

12 CHAIRPERSON GENNARO: I recognize
13 that. I'm not currently a sponsor of either of
14 those bills. Before I would add my name as a
15 sponsor, I would have to think long and hard on
16 that and many other issues also. That's duly
17 noted, Council Member Koppell.

18 COUNCIL MEMBER KOPPELL: Well I am
19 a sponsor because I agree fully with the intent.
20 I think we have to move aggressively in this
21 direction. I don't necessarily agree with
22 everything that the witnesses because if we're
23 going to make the planet greener there are going
24 to be burdens placed on people. But the burdens
25 should be fair. That's my point. So I'm happy to

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2 be a sponsor but I think that work needs to be
3 done. I recognize what you said and agree with it
4 entirely. But if the people in the room who are
5 from industry think that government doesn't have
6 an obligation doesn't have an obligation to push
7 people along here, as far as this government
8 official is concerned, they're mistaken.

9 CHAIRPERSON GENNARO: Thank you,
10 Council Member Koppell. We'll hear next from
11 Clyde Hart from the American Bus Association. To
12 be followed, as I indicated, by the next panel,
13 Isabelle Silverman, Anhthu Hoang, and Claire
14 Benett. So we'll have Mr. Hart. We'll have the
15 other panel that I just announced. They'll be
16 next. The panel after that is Tom O'Donnell,
17 Simon Broad, John Van Der Uden, Faraj Tommy
18 Kharieh, and Russell Sagerman. Mr. Hart, thank
19 you for coming here today. I'm going to ask the
20 counsel of the committee to give you the oath and
21 then you can proceed with your testimony.

22 SAMARA SWANSTON: Do you swear or
23 affirm to tell the truth, the whole truth and
24 nothing but the truth today?

25 CLYDE HART: I do.

CHAIRPERSON GENNARO: Mr. Hart,
please state your name for the record and proceed
with your good testimony.

CLYDE HART: Thank you, Mr.
Chairman, members of the Council. My name is
Clyde Hart and I serve as vice president of
government affairs for the American Bus
Association. On behalf of the association, I want
to thank you for the opportunity to testify before
you and to give you some idea of our concerns
about your idling restriction bill. The American
Bus Association is the trade association for the
over the road motor coach industry in North
America. The ABA is made up of 3,400 member
organizations engaged in the tour and travel
industry in North America. Our membership
includes the State of New York, most of the
boroughs in and around the communities and
communities surrounding New York City, the New
York Yankees, the Empire State Building, the
Shubert Theater and NYC and Company. In addition,
ABA has over 800 bus operator members who provide
all manner of transportation services to the
traveling public. In the New York City area, our

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2 membership list includes Academy Bus Tours, which
3 provides commuter services into New York City,
4 Greyhound Bus Lines and Peter Pan Bus Lines that
5 provide intra city bus service as well as bus tour
6 companies such as Coach USA, operating in New York
7 as Gray Line and the New York based companies like
8 Campus Coach and Hampton Jitney. In the time I
9 have, I'd like to give you some appreciation of
10 our concerns about proposed Int. 631-A. Simply
11 stated, it is our position that the present
12 regulation--

13 CHAIRPERSON GENNARO: [interposing]
14 Mr. Hart, I'll grant you a little bit of latitude
15 because you came all the way from Washington.
16 I'll give you a little bit of latitude to make
17 your case as long as you do it quickly.

18 CLYDE HART: The idling restriction
19 is a detriment to tourism. Moreover, the idling
20 regulations do not and cannot reduce air pollution
21 or congestion in the city. Simply stated, there
22 is no way for a fully loaded motor coach to safely
23 load or unload passengers and their baggage within
24 the three minutes or the one minute allowed by the
25 proposed regulation. Any motor coach will just

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2 require more time. In addition, the amount of
3 time required will increase with the age and the
4 passengers' lack of mobility. Furthermore, it is
5 ABA's experience that younger, school aged
6 children will require more, rather than less time
7 to embark or disembark from a bus. Finally, if
8 the passengers are disabled, even more time will
9 be required to see to their needs. Moreover, the
10 idling regulation is untenable from a health and
11 safety perspective. Given the traffic congestion
12 in New York City, particularly Midtown Manhattan,
13 it can be extremely difficult for a motor coach
14 driver to find a place to park to load or unload
15 his passengers safely. Thus, the driver must
16 either double park and then load and unload or
17 drive around the area until the driver can find
18 parking. The former, of course, can expose
19 passengers, pedestrians and other vehicles to
20 danger as the bus is loaded or unloaded. The
21 latter certainly will increase the pollution and
22 congestion on the streets of the city. Another
23 defect in the idling regulation is the prohibition
24 of any idling whenever the ambient temperature is
25 in excess of 40 degree Fahrenheit. The motor

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2 coach is designed to provide air conditioning, as
3 well as heat, to the passengers only when the
4 motor is running. Thus, without idling, there is
5 no cool air for the passengers in the summer or
6 heat in the winter. Even more significantly, the
7 motor coach engine provides power for the brakes
8 to operate. A motor coach requires more than
9 three minutes to power the brakes, to provide air
10 conditioning and heat. Indeed, depending on the
11 severity of the weather, it can take up to 30
12 minutes before the vehicle can provide some
13 modicum of comfort to the passengers. As to the
14 time needed to ensure sufficient power to the
15 brakes, it is clear that any driver who engages
16 the engine after just three minutes cannot be sure
17 that the brakes will function correctly in an
18 emergency situation. Mr. Chairman, I see my time
19 is up. Rather than impose on your good nature,
20 I'll just say, we thank you for this opportunity.
21 We want to ensure you of our continuing efforts to
22 find adequate idling regulations for the City of
23 New York.

24 CHAIRPERSON GENNARO: Thank you,
25 Mr. Hart. Thank you for keeping your testimony

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2 brief. Thank you for coming all this way. I have
3 a lot of respect for your industry and the good
4 service that they provide the people of the City
5 of New York, including many tourists who come here
6 and spend lots and lots of money. As you may
7 know, there were two bills that were scheduled to
8 be voted today. Out of respect for your industry
9 and some others that had concerns, I deferred that
10 vote and I've already directed the council staff
11 to work with you and representatives of your
12 industry and other people that had concerns to do
13 some more information sharing. I think some of
14 your concerns that you put forward today are not
15 necessarily with the bills that are before us but
16 with the regulatory structure that we already have
17 in place for idling. It is my hope that in short
18 order we can have the kind of colloquy with you
19 and others that would allow us to go forward in a
20 sensible way with some of the bills on the agenda
21 for today, while respecting what you and your good
22 industry are trying to do. I thank you for
23 committing to work with the staff so that we can
24 have the kind of colloquy that we need to get done
25 what we need to do regarding these bills and jus

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2 have an overall discussion on what we can do to
3 work with your industry regarding the enforcement
4 of idling restrictions in, the city. With that, I
5 thank you very much, Mr. Hart.

6 CLYDE HART: Thank you, Mr.
7 Chairman. Pleased to work with you and your staff
8 anytime. Thank you very much.

9 CHAIRPERSON GENNARO: Appreciate
10 that very much. Thank you, Mr. Hart. We'll hear
11 next from Isabelle Silverman, Anhthu Hoang,
12 Michael Seilback and Claire Bennett. Please take
13 your seat at the panel and give your statements to
14 the sergeant-at-arms. Ms. Silverman indicated to
15 me that Mr. Seilback from American Lung
16 Association had to go. She asked for the latitude
17 of presenting testimony on his behalf as well as
18 her own testimony. That's latitude that I cannot
19 sort of grant in full. I will try to be
20 considerate. I'll let you go over a little bit.
21 But I cannot yield you his full time. There was
22 another person I called that also is not here. So
23 this is Ms. Hoang. Am I saying that correctly?
24 I'll have the counsel swear in the panel and then
25 you can each make your statement after identifying

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yourselves for the record.

SAMARA SWANSTON: Do you swear or affirm to tell the truth, the whole truth and nothing but the truth today?

ISABELLE SILVERMAN: Yes. Should I start with the idling?

CHAIRPERSON GENNARO: You should start with whatever you want to speak to and then you should talk to Mr. Seilback's issue afterwards. Because you're not going to have as much time for that.

ISABELLE SILVERMAN: He agrees with my testimony. Thank you for the opportunity to testify. I'm giving this testimony on behalf of the Environmental Defense Fund and the American Lung Association. We had a hearing on idling in November. My name is Isabelle Silverman. I work for the Environmental Defense Fund. We had a hearing on idling in November and I testified then. Now I really have something very important to add. I'm urging the Council Members to think about this. The anti-idling bill has been on the book since 1971. That is 38 years. It has been basically un-enforced because have heard 500

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2 tickets a year. Now, City Council obviously wants
3 to pass laws that are enforced, so I'm urging City
4 Council to think really hard about the
5 enforceability of the three minute rule.

6 Obviously there is a problem with the three
7 minutes because an enforcement agent has to
8 observe for three minutes before giving the
9 ticket. Even if the traffic agents now get the
10 authority to give tickets, it might still be
11 business as usual because they don't want to stand
12 there for three minutes. What we really want the
13 public to know is that when you pull over your car
14 and you're removing yourself from traffic, you
15 turn off the engine, unless you're actively
16 loading or unloading. Like a taxi pulling over,
17 you jump out, or even the buses we heard about.
18 If you're actively loading or unloading then you
19 can leave your engine on, otherwise you turn it
20 off. You always turn it off when you're leaving
21 your vehicle. I mean that is just absolutely that
22 the current law allows a driver to leave his or
23 her vehicle with the engine on. This is why these
24 kids are now dead. It really upsets me greatly,
25 as Council Member Liu pointed out, that should be

1
2 absolutely unacceptable. If an enforcement agent
3 comes to a vehicle with no driver behind the wheel
4 and the engine is on, there should be no
5 observation taken, it should be an immediate
6 ticket. That's what you really want the public to
7 know. What is important is that the one minute
8 rule around schools makes the enforcement harder.
9 What is adjacent? Just make it pull over, turn
10 off your engine and then you give some exceptions,
11 like of course, actively unloading and loading.
12 And then exempt the NYPD, you want their
13 cooperation. Exempt them from the idling bill
14 because they're in their vehicles fighting crime.
15 They need temperature control. Exempt them to
16 start out with. So think big, step up, change the
17 law. Don't just make a little amendment here and
18 there. Communicate it to the public so the public
19 knows it's unacceptable to idle your engine. Like
20 President Obama said, change has come to America.
21 Let's start here and let's change the law to
22 facilitate enforcement. Now, diesel generators
23 can be retrofitted.

24 CHAIRPERSON GENNARO: Quickly. I'm
25 not giving you three minutes for this.

2 ISABELLE SILVERMAN: Diesel

3 generators are easy. My name is Isabelle
4 Silverman. I'm giving this testimony on behalf of
5 the Environmental Defense Fund and American Lung
6 Association. I work for the Environmental Defense
7 Fund. Diesel generators have been retrofitted.
8 We heard testimony before that it can't be done.
9 It's too complicated. Go to Lower Manhattan
10 redevelopment site. Generators are retrofitted.
11 They have the filters right on top. He was talking
12 about housing and opening it up. They're on top.
13 It's working. We have the technology in the year
14 2009. We have been testing the retrofit
15 technology since 2004. The reason why the
16 industry here is being targeted is because of the
17 permitting process. We cannot just make it for
18 everybody because they will be preempted by
19 federal law. But when the city has some kind of a
20 bargaining chip with the permit they can put it
21 in. If you figure \$20,000 per generator that runs
22 for ten years, that is rented out 200 days out of
23 the year, that will be \$10 more a day in rental
24 fees. Let's say you have to finance it. You
25 double it. \$20 more in rental fees. It's

1
2 insignificant. But the air benefits we're getting
3 for them is significant. We have a lot of film
4 shoots. Those \$10 or \$20 more of rental fee a day
5 will not scare away the film industry. They're
6 getting a lot of perks to come here such as free
7 permits, et cetera. So I'm urging you to go
8 forward and push the limits. Thank you.

9 CHAIRPERSON GENNARO: Thank you,
10 Ms. Silverman. Mr. Hoang, please state your name
11 for the record and commence your testimony.

12 ANHTHU HOANG: Hello, my name is
13 Anhthu Hoang. I am general counsel for WE ACT for
14 Environmental Justice. On behalf of WE ACT, I'd
15 like to thank the council and the committee for
16 taking this opportunity to once again be the world
17 leader in environmental stewardship and
18 sustainability planning. I'm here to express very
19 strong support for the suite of legislation
20 regarding anti-idling restrictions and the use of
21 ultra low sulfur diesel and best available
22 technology on all diesel engines and generators
23 today. I would just like to echo what Isabelle
24 was saying. In addition to all the clean air
25 issues that the city has, the environmental

1
2 justice communities, like the one that I
3 represent, by far bear the worst of the burden of
4 any air pollution component that you could think
5 of. Many times the equipment operators, busses,
6 generators, film makers and whoever they are
7 reserve their worst, oldest and most dirty
8 emitting equipment for our communities. They
9 flagrantly run their buses and engines in
10 violation of both idling laws and air pollution
11 laws. I think that the city needs to send them a
12 strong message that that's not going to be
13 tolerated anymore. I'm glad that you're expanding
14 the ranks of individuals with authority to enforce
15 our anti-idling laws. But I think that it would
16 be important for you to expand the citizen
17 enforcement provisions and allow citizens to
18 actually make the sort of citizens arrest of sort
19 of idling violators and train our citizens on how
20 to do these clockings, how to do the smoke
21 screenings. WE ACT and other environmental
22 justice advocates would be more than glad to
23 support you and facilitate you in any sort of
24 those trainings that you'd like to come to our
25 communities and do. We also would like to support

1
2 the APU auxiliary power unit bill that is under
3 consideration. I'd like for you to think about
4 expanding that for use with other emergency
5 vehicles and other city vehicles that require some
6 sort of power to load and unload or run equipment
7 while it's being turned off. I think that
8 eventually what we'd like to think about is
9 finding some way for vehicles with these power
10 needs to plug into the grid so that we can cut out
11 all of the diesel uses for non-road functions for
12 these vehicles altogether. Thank you very much.

13 CHAIRPERSON GENNARO: Thank you
14 very much for being here also. Give my best to
15 Peggy and everyone at WE ACT. Ms. Silverman, with
16 respect to your statement in your testimony, or
17 your observation that currently there is no law to
18 prevent one from exiting a vehicle that is
19 running, that makes sense that we should do that.
20 I'm directing my legislative counsel, Costa
21 Constantinides to talk to you. There ought to be
22 a law. If you could have that discussion with him
23 and with the staff to the committee, maybe we
24 could move that forward. I think that would have
25 helped in the situation that resulted in the

1
2 tragic death of two children. Thank you both for
3 being here. I appreciate your work on these
4 issues. Costa, if you'd talk to Ms. Silverman,
5 that'd be great. Thank you. The next panel, as I
6 indicated is Tom O'Donnell of the Theatrical
7 Teamsters Local 817; Simon Broad from ARRIC; John
8 Van Der Uden from ARRI/CSC; Faraj Tommy Kharieh,
9 who deals in lighting production; and Russell
10 Sagerman of Feature Systems, Inc. That would be
11 this panel. Faraj Tommy Kharieh is not here. I
12 just want to give the next panel a sense of what's
13 going on. After this panel we'll hear from Susan
14 Stetzer from Community Board 3. And then we'll
15 have more panels that we'll announce after that.
16 I would ask the counsel to swear in this panel and
17 we can commence.

18 SAMARA SWANSTON: Gentleman, would
19 you please raise your right hands. Do you swear
20 or affirm to tell the truth, the whole truth and
21 nothing but the truth today?

22 CHAIRPERSON GENNARO: I'm just
23 going to ask for testimony in the order that I
24 called the panel. The order doesn't have any
25 particular significance. We'll start with Tom

1
2 O'Donnell from Local 817. Please state your name
3 for the record and commence with your testimony.

4 TOM O'DONNELL: My name is Tom
5 O'Donnell. I'm the secretary/treasurer of
6 Theatrical Teamsters Local 817. Local 817
7 represents over 700 transportation workers in the
8 motion picture, television and commercial
9 production industry. That is the people who drive
10 and operate the generators in question. I'd like
11 to thank Chairman Gennaro and the committee for
12 this opportunity to represent the concerns of my
13 members. I do not have the technical expertise of
14 the generator vendors who are here today, but I do
15 have a collective knowledge of the capacities of
16 all vendors and they firmly believe that they will
17 not be able to meet the retrofitting requirements
18 within the first six months of enactment of the
19 bill, causing each production hundreds of
20 thousands of dollars of fines. I don't think we
21 can begin to prescribe and appropriate time period
22 without first having a published list of
23 acceptable best available technology. As an
24 industry we are completely onboard with being
25 green and leaving as small a footprint as possible

1
2 on the communities where we work and live. Some
3 companies have unilaterally started the use of
4 biodiesel to help reach this goal. At a unique
5 time when we are growing jobs in the city, the
6 hurdles that this legislation would present would
7 undoubtedly cause a loss of jobs in this highly
8 mobile industry. We are in firm opposition of
9 this bill in its present form. Thank you.

10 CHAIRPERSON GENNARO: Thank you,
11 Mr. O'Donnell. If we can keep people quiet in the
12 hall or close the door, that would be appreciated.
13 Thank you, Mr. O'Donnell, I appreciate your
14 testimony. Simon Broad, if you could state your
15 name for the record and tell us what ARRIC means.

16 SIMON BROAD: My name is Simon
17 Broad. I'm the head of ARRI Rental in the United
18 States. ARRI is the world's largest manufacturer
19 of cameras and lights. We have a rental division
20 of which I am the Chief Operating Officer. We
21 have a substantial generator fleet coast to coast
22 working in states across the country. Contrary to
23 the comments made at the previous panel, we take
24 our environmental responsibilities extremely
25 seriously. We spend substantial amounts of money

1
2 on research to ensure the lowest emissions
3 possible from our generators on location. Our
4 extensive research has actually led us to believe
5 that low sulfur diesel with a very on-time
6 servicing policy is the very best way of ensuring
7 clean emissions from our generators. Therefore,
8 we have no problem with the low sulfur diesel. We
9 do have some difficulties with the modifications
10 or the retro modifications and we really see--

11 CHAIRPERSON GENNARO: [interposing]

12 If I can interrupt you for one second and I'll
13 make it up to you on the clock. I'm just asking
14 that the door be closed because we cannot get
15 quiet in here. There's just no other way other
16 than closing the door. Sorry about the
17 interruption.

18 SIMON BROAD: No problem. I was
19 just saying that what we seek is clarification on
20 the retro modifications. Because as stated
21 earlier very well, they would have substantial
22 impact on companies like ours. We would willingly
23 cooperate in any consultation. It has to be
24 pointed out that a company of our size has not
25 actually been asked, up to now, to contribute.

1
2 We'd be very keen to be a part of that
3 consultation. The final point I'd like to make is
4 these are particularly difficult circumstances for
5 our business. Our businesses have been under an
6 economic cloud and under huge difficulties for the
7 last year as a result of industrial action by
8 writers and the threat of industrial action by
9 actors. And now we have an economic downturn.
10 These are particularly difficult times for our
11 business in view of the investment we make. So
12 therefore, we join the request for a much greater
13 lead time in order to be able to carry these
14 modifications out or whatever is ultimately
15 decided and that we can budget accordingly. Thank
16 you.

17 CHAIRPERSON GENNARO: Thank you,
18 Mr. Broad. I appreciate you being here today.
19 John Vanderlinden, please state your name.

20 JOHN VANDERLINDEN: I'm John
21 Vanderlinden. I'm with the ARRI CSC group. I
22 head up 30 of our generators in this area. I've
23 been there 21 years and I can say we've done
24 everything we can to keep them within the realm of
25 clean fuel and having them run at the best of

1
2 their ability. We bought units two and a half
3 years ago and these units met the standards of the
4 emissions with California and here. To come with
5 this law now, you should get at least 20,000 hours
6 out of a unit that's well maintained. To down a
7 unit in five years, ten years, you know, they met
8 standards as of two and a half years ago when they
9 were purchased. I do believe we run a clean
10 fleet.

11 CHAIRPERSON GENNARO: Thank you for
12 being concise. We certainly appreciate that.
13 Thank you, Mr. Vanderlinden. Appreciate your
14 testimony. Russell Sagerman of Feature Systems
15 Inc?

16 RUSSELL SAGERMAN: That's correct.
17 Thank you, Councilman. My name is Russell
18 Sagerman. I am the technical director for Feature
19 Systems. We're a lighting and grip rental company
20 here in New York and other places on the east
21 coast. We just want it to be known that our
22 company, as are the other companies in our
23 industry, very interested in being as green and
24 ecologically sound as possible. We promote green
25 diesel technology. In the last year we've

1
2 invested in no less than eight new trucks that
3 come up to the latest standard of emission
4 control. In our fleet we have several units that
5 meet the emission control from the California
6 Board and quite frankly, that's where most of our
7 generators are built. So they meet their
8 specifications. We'd like to move forward, as
9 much as our industry does, in becoming as
10 ecologically sound as possible. But we feel that
11 the time limit and constraints on the bill as
12 written are just not practical. The standpoint of
13 the generator manufacturers is that quite frankly
14 we can't get the equipment in the time allotted.
15 Engine manufacturers come up with new industry and
16 our industry are the last ones to get the trickle
17 down availability of that equipment. Large
18 trucking manufacturers and fleet manufacturers are
19 the first ones that those engines are made
20 available to. The last people that they're made
21 available to are the small industries like ours.
22 Even though we're out in the forefront and very
23 public, it's not a very large industry. So the
24 equipment is just not available to us in the
25 timeframe that we've been given. I'd like to

1
2 thank you for the opportunity to let you know. In
3 the future we'd like to be brought in for
4 discussion on any possible information put into
5 retrofitting this bill to make it work for both
6 the Council, the public and our industry. Thank
7 you.

8 CHAIRPERSON GENNARO: Thank you,
9 Mr. Sagerman. You can rest assured that any
10 future deliberations on this bill will include all
11 appropriate stakeholders. Of all the things we
12 have to worry about, that's not something we have
13 to worry about now. Faraj Tommy Karieh, please
14 state your name for the record and give your
15 company and I'd be happy to have your testimony.

16 FARAJ TOMMY KARIEH: My name is
17 Faraj Tommy Karieh. I'm here to represent
18 Lightnin Production Rentals. We're one of the
19 local vendors that has been renting to the film
20 industry here in New York City for about nine or
21 ten years. The reason I'm here today is to show
22 that we are against the bill because we are doing
23 everything physically possible to be as green as
24 we can. Giving us a time limit is not fair with
25 the economics and with just getting over a four

1
2 month strike with the writers and a looming strike
3 with the actors. We've implemented new equipment
4 within the past two years. We're running 30%
5 brand new equipment. What I mean by brand new is
6 2008 and 2009. But it's very costly for us to do
7 even more than that. We're trying our best to
8 keep up with being green as we're recycling our
9 equipment. We're recycling our oil. We're
10 recycling our filters. We are recycling
11 everything we can physically recycle to be as
12 green as we possibly can. But to implement a
13 timeline for the generators, especially when a
14 generator costs \$80,000 is very difficult for us
15 to compensate that fund. I don't think it's fair
16 to us as a company to give us a time limit. I'm
17 sorry, I'm nervous. This is the first time I've
18 spoken publicly like this. Being efficient and
19 being available to catch up with the times on a
20 voluntary we've already tried to do it. But to
21 implement it on us and tell us we have to have it
22 done by this time or this date is going to be very
23 difficult. What's going to happen is the vendors,
24 such as J&G, Crawford, and MQ, will increase the
25 value of all the parts when they here there is a

1
2 time limit. They're going to hold it back on us
3 because they know they have us. They're squeezing
4 us because everybody is going to want those parts.
5 You're going to put a lot of companies out of
6 business by doing it with a time limit. I do
7 appreciate everybody for hearing me.

8 CHAIRPERSON GENNARO: Thank you all
9 for being here. I just want to consult with
10 counsel for a minute before I make a question or a
11 comment. Given the hour of the day I'm not going
12 to get involved in a lot of back and forth. First
13 of all, you were very clear in what you had to
14 say. I think one of the problems so far that's
15 been brought out is that so far there hasn't been
16 the kind of communication between all stakeholders
17 that we need. The bill is now in the realm of
18 being worked on by the central staff of the
19 council. You can rest assured that any future
20 deliberations or thought process that we have on
21 this bill will have all the appropriate
22 stakeholders represented. As Chair of the
23 committee I give you my guarantee that that will
24 happen. Your testimony has greatly informed my
25 view of this bill and the kind of process we need

1
2 to go forward on this bill or a bill like it.
3 You'll be invited to the party. Thank you very
4 much for being here today. I would make sure that
5 the staff has all of your contact information. As
6 we go forward, you can rest assured that all of
7 your views will be thoughtfully considered. We
8 appreciate everything you do to give us a lot of
9 good entertainment. Thanks very much for being
10 here, we appreciate your time. I need to consult
11 with my own staff for a minute regarding a meeting
12 that we were supposed to have at the mayor's
13 office at 1:30. Why don't we talk about that for
14 a minute. I have to step out for one minute to
15 have a conversation. It will be one minute and
16 only one minute. During that one minute, the
17 counsel to the committee is going to read names
18 aloud. We want to see who is still here who
19 wishes to be heard from. When I get back we'll
20 know who's still here. We'll take it from there.
21 Thanks for your patience. Thanks for bearing with
22 us. The counsel is going to determine who is
23 still here.

24 SAMARA SWANSTON: Michael Spera?

25 Alta Vista City, Kaufman Studios? Joseph C.

1
2 Bellis, Universal City Studios? Tony Argento,
3 Luna Lighting? Peter L. Burrows, Location Power
4 Source? Adam Flax, Hoboken, New Jersey, Strike
5 Tech? Jack Caravanos? John Caravanos? Edward
6 Ma, Community Board 3? He's still here? You're
7 going to read his statement for him? Cecilia?
8 Harriet Picker? George Pakenham? I thought he
9 was here. Rebecca Kalin? Thomas Hillgardner?
10 Ellen Peterson-Lewis? Ann Warner Arlen? Cecilia
11 Gara and Harriet Picker, listed two times.

12 CHAIRPERSON GENNARO: Thank you for
13 your patience. Sorry for the delay. The panel
14 has been sworn?

15 SAMARA SWANSTON: Gentleman, please
16 raise your right hands. Do you swear or affirm to
17 tell the truth, the whole truth and nothing but
18 the truth today?

19 CHAIRPERSON GENNARO: Thank you
20 both very much. In whatever order you wish,
21 please state your names for the record and give
22 your good testimony.

23 JOSEPH BELLIS: My name is Joseph
24 Bellis and I'm the director of environmental
25 affairs for Universal Studios. I'm based out in

1
2 California. So I wanted to talk to you a little
3 bit about our experience and what we've done out
4 there. I've worked for almost ten years on the
5 permitting of portable equipment, which is the
6 category that these fall in. There is quite a few
7 other engines, other than film engines that fall
8 into that category. Utilities use a lot of them.
9 A lot of them are used in construction. Within
10 the universe of portable engines, the film set
11 generators are pretty small. You can probably go
12 to the ARB website and take a look at who else is
13 running these things. I've also been involved
14 with the on-road and off-road engines. California
15 has developed an air toxic control measure to deal
16 with these toxics for all of those types of
17 engines. It's a comprehensive package. We have
18 the portable diesel engines, we have the off-road
19 diesel engines, which are mostly the construction
20 type of engines, and then all of the on-roads.
21 One of the things I would suggest that we do here
22 is instead of trying to pick it off piecemeal is
23 to do some kind of a comprehensive approach.
24 Understanding the limitation of state preventions
25 especially for on-road, there's a certain amount

1
2 of discretion you have in terms of building
3 permits in the construction industry. So there's
4 many other areas that you could look into, in
5 terms of the numbers of these engines out there.
6 I really think that in terms of the sheer number
7 of operating hours, it's probably pretty small
8 when you look at the total universe. When we were
9 looking at our greenhouse gas footprint, it was
10 only about a thousand tons. We have 20 engines in
11 California. So it's a very small universe. In
12 California we phased in over a ten year period.
13 We're getting to the tier threes right now. The
14 full phase in for tier fours will be 2020. There
15 was quite a bit of time to do that. We'd like
16 your consideration in implementing a similar kind
17 of program out here. Regarding the retrofit
18 package, there were some questions before about
19 the \$6,000 versus \$30,000 package. I know that we
20 had done quite a bit of work several years ago and
21 there's a problem with the temperature profile in
22 terms of how long they're running. So you can't
23 get the cheaper ones up to temperature and the
24 generator can get clogged up. That's one of the
25 things that we have seen. I'd also like to

1
2 support what some of the other people testifying
3 said regarding the shortage of equipment. I know
4 there's a lot of questions about tier three
5 engines in California coming up short. I don't
6 really know the status out here, but I know that's
7 something that we're starting to see in California
8 with the tier three engines in both the portables
9 and the construction end. Thank you very much.

10 CHAIRPERSON GENNARO: Thank you.
11 What's your last name again, sir? Bellis. Thank
12 you for your testimony. We may come back with a
13 question. As you know, I'm going right into a
14 meeting after this, so forgive me for having my
15 pretzel lunch as we legislate here. Thank you for
16 your indulgence. Peter?

17 PETER L. BURROWS: My name is Peter
18 Burrows. I am wearing several hats here today.
19 The first one I represent Location Power Source
20 which is a generator rental company in the movie
21 industry. The second hat is I represent Motor
22 Vengeance, which is a remanufacturer of engines of
23 all types used in many, many industries, both on
24 and off-road vehicles. As part of that, I'm an
25 authorized Cummins Engine dealer. So I think I

1
2 can speak with some authority about the diesel
3 market. Ultra low sulfur diesel fuel is the only
4 fuel that has been available in New York for as
5 long as I can remember. I can't remember back
6 when it wasn't the only one available and it's an
7 age problem for me. Biofuel is coming to the
8 market. It represents huge problems in that there
9 is no consistency of manufacturer. They can be
10 refining corn or they can be doing soy. There is
11 no consistency. It is causing huge industrial
12 problems in the engines. And at below 45 degrees,
13 where we are today, the fuel waxes instantly and
14 the engines shut off.

15 CHAIRPERSON GENNARO: What kind of
16 blend are you using? Like B what?

17 PETER L. BURROWS: This is on B20.

18 CHAIRPERSON GENNARO: That's a lot.

19 PETER L. BURROWS: But this is
20 what's being pushed by the fuel vendors.
21 Everybody is really on the right track except the
22 technology is not quite there to use it. In
23 regards to automotive parts company, we
24 remanufacture these engines amongst many different
25 types of engines for many of the customers in the

1
2 move industry. The young ladies who spoke earlier
3 talked about retrofitting the engines used on the
4 generator sets in relationship to construction
5 engines which are being used in the Lower New York
6 area. The construction engines are all at tier
7 three. To do a New York City job you're not
8 bringing anything on the job site without tier
9 three. However, not to be facetious, in the
10 engine compartment of a construction generator, we
11 could all sit here and have lunch. There is that
12 much room. You can put what is known as a
13 catalytic converter on these as long as they are
14 running at full load all the time. A movie
15 industry generator does not have one spare extra
16 inch. You physically can't fit the cats in it.
17 There is a huge fire problem because of the heat
18 generated running under a heavy load. When
19 they're running under a very light load, they do
20 not work at all. They plug up and the unit shuts
21 down. As a Cummins Engine dealer, I can tell you
22 that several things are happening. One with the
23 downturn of the economy, they are laying off
24 people. Truck sales are in the bottom.

25 CHAIRPERSON GENNARO: I need you to

1
2 conclude. But whatever information that you want
3 to impart to staff after the hearing is fine.

4 PETER L. BURROWS: The EPA is
5 changing the rules in 2010. Those will be the
6 next generation of the engines. In terms of
7 retrofit, if you were to try to retrofit you're
8 going to spend approximately \$60,000 to retrofit
9 an \$80,000 generator. Thank you.

10 CHAIRPERSON GENNARO: Thank you.
11 Mr. Burrows, thank you for that insightful
12 testimony. It was very informative that you're in
13 the engine business. Mr. Bellis, any kind of
14 insight that you would like to transmit to staff
15 regarding your paradigm of this all-encompassing
16 program, we certainly would like to get the
17 opportunity to take a look at that. Right now I'm
18 looking at this with a very sort of blue sky
19 approach. I'm not currently a sponsor of this
20 bill. I just want whatever works. Any kind of
21 different perspective of what we even cover by the
22 bill, we'd be most grateful to get a look at that.
23 Thank you, gentleman. I appreciate you being
24 here. We'll hear next from Edward Ma, Cecilia
25 Galarraga, Harriet Picker and Rebecca Kalin. I

1
2 want to thank everyone for their patience in
3 staying this long. I want to put Thomas
4 Hillgardner on this panel as well. 82-63 170th
5 Street? You're my constituent. I kept you
6 waiting this long to testify? Shame on me. We
7 still have more. This doesn't constitute
8 everyone. There are people that have not been
9 called yet that will be in the next panel. There
10 are multiple slips with the same name.

11 SAMARA SWANSTON: Please raise your
12 right hands. Do you swear or affirm to tell the
13 truth, the whole truth and nothing but the truth
14 today?

15 CHAIRPERSON GENNARO: Thank you for
16 your patience. I don't want to script people, but
17 this is a legislative hearing. We have bills
18 before us. We're hear to get further insight into
19 how we can make the bill better and that kind of
20 thing. There is a tendency sometimes to give a
21 long presentation that like air pollution is bad
22 and we should have less air pollution. I've been
23 working in the environmental community for 33
24 years and I fully understand that air pollution is
25 bad. So we want to do a laser-like focus on the

1
2 legislation. That's what we want to do. With the
3 exception of the very young lady who can say
4 absolutely whatever she wants. When I say young
5 lady, everyone is a young lady there. What I mean
6 was like the young guests is really what I meant.
7 I misspoke. Why don't we start the panel from my
8 left and we'll go that way. Thanks very much. I
9 should just really stop talking.

10 HARRIET PICKER: My name is Harriet
11 Picker. I've lived in New York City for over 30
12 years.

13 CHAIRPERSON GENNARO: Could you
14 make me an appoint for new eyeglasses please?
15 Thank you.

16 HARRIET PICKER: I have suffered
17 from severe asthma for most of my life. Asthma is
18 a condition, as you know, that seriously affects
19 the lifestyle of those who suffer from it.
20 Throughout my school years I was constantly taking
21 medication and seeking medical treatment and
22 missing class. I missed over 100 days of school
23 out of 180 days one year due to asthma related
24 issues. I now have two young children myself, one
25 of them who attends public school. You may be

1 aware that asthma rates in New York City are
2 increasing. Over the past decade or so there has
3 been a steady increase of asthma. There now can
4 be an estimated rate of 7-12% of asthma in New
5 York City school children. This will translate
6 into great harm for the future of our city. We
7 are already seeing an increase in emergency room
8 visits, increased absence from schools and
9 increased education suffering due to asthma, as
10 well as many parents missing work to stay home and
11 take care of children with asthma. In the best
12 interest of the citizens of the city is that we do
13 everything in our power to reduce the irritants
14 that cause and exacerbate asthma. Auto exhaust is
15 a significant contributor to air pollution and
16 asthma. Idling adds irritants to the air in a
17 concentrated manner and is completely preventable.
18 Idling near schools sends pollution directly to
19 the lungs of our young students. Many of our
20 schools are already situation in closed high
21 traffic areas. For example, my son's school, PS
22 110, is located directly underneath the
23 Williamsburg Bridge and is less than 200 feet from
24 the FDR Drive. Thousands of cars drive within a
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1
2 few hundred feet of this school each day. Each of
3 these cars adds harmful pollutants to the air.
4 Each of these cars contributes to asthma rates
5 into our city. But each of these cars drives by
6 and takes their exhaust with them. Sitting in
7 front of the school, in 15 minutes, one idling car
8 can add as much pollution to the school air as
9 several hundred cars driving by. This is totally
10 preventable by simply turning off the car. Our
11 children deserve cleaner air and this simple step
12 will dramatically improve the quality of air and
13 improve the quality of the health of our students'
14 lives. Thank you very much for your time.

15 CHAIRPERSON GENNARO: Thank you
16 very much. Next?

17 CECILIA GALARRAGA: Good afternoon.
18 My name is Cecilia Galarraga and I work with the
19 Asthma Free School Zone. However, today I'm
20 presenting this testimony on behalf of children of
21 the Health Patrol at PS 28 in the Mount Hope
22 neighborhood of the Bronx. The Health Patrol is
23 comprised of third, fourth and fifth graders.
24 Some of these students came last year to our idle-
25 free NYC press conference. Each Health Patrol

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2 member wrote a statement asking for your support
3 of Intro. 631-A. I won't read all of them. I
4 think there's a handout with all of them on it.
5 They all recognize the effect that vehicle
6 pollution has on their lives and on the lives of
7 their peers. Since they were unable to make it
8 today to the hearing, I'd like to read their
9 statements. From Maria O., grade 3, "Air needs to
10 be clean because people can get sick. I want to
11 protect my sister because she's sick from asthma.
12 And I want to protect all people who have asthma."
13 From Brianna Peterkin and Delicia Holly, grade 4,
14 "The air should be clean outside the school
15 because it's wintertime and people are getting
16 sick, and if the air is not clean it will cause
17 more sickness. Many kids go to the hospital and
18 lose learning time." And then from Kenneth Addae,
19 grade 5, "I think people shouldn't idle for more
20 than one minute. They shouldn't do that because
21 it will be harder for people with asthma to
22 breathe. My godbrother has a cousin that has
23 asthma. She doesn't have very good breathing."
24 On behalf of the Health Patrol at PS 28, thank you
25 very much for your time. We hope that you will

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2 support Intro. 631-A and support increased
3 protection for the children of New York.

4 CHAIRPERSON GENNARO: Thank you
5 very much for your testimony.

6 ANN WARNER ARLEN: I'm Ann Arlen.
7 I am a public member of the Environment Committee
8 of Community Board Manhattan and was the chair of
9 the Environment Committee for 14 years, from '89
10 to 2003. During that time the asthma issue was
11 enormous for us. When the three-minute idling law
12 came in, we celebrated. Then we saw that it
13 wasn't enforced. What Asthma Free School Zone is
14 doing is very important because it allows
15 enforcement by allowing the officers to be there
16 in a useful time period, namely only one minute.
17 Ed Ma, which is the chair of our Chinatown
18 Committee has asked me to read his statement. He
19 was here all morning and then had to leave. It's
20 a very short statement. He also is a former
21 member of the New York City Human Rights
22 Commission. His statement is as follows. Engine
23 idling is murdering us slowly by poisoning the
24 air. It also can literally kill our innocent
25 children. This incident just occurred in our

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2 Chinatown four days ago on January 22nd, Thursday,
3 when a car engine was not turned off and the
4 driver walked away. Then the car backed up just
5 as the daycare school children were passing by on
6 the pedestrian walk. Two children were killed
7 instantly, while a dozen of them were injured. We
8 must pass Intro. 631-A now so that we can save
9 lives as well as the earth. Thank you.

10 CHAIRPERSON GENNARO: Thank you
11 very much. Appreciate that.

12 REBECCA KALIN: I'm Rebecca Kalin,
13 director of the Asthma Free School Zone. Since
14 2001 we have targeted idling in school zones. We
15 have worked in a hundred schools, serving 50,000
16 children, 10,000 parents and teachers and we've
17 also done very extensive air quality monitoring in
18 three boroughs at 11 schools. Our air quality
19 monitoring has involved looking at PM 2.5
20 elemental carbon, an indicator of diesel, and
21 doing a minute by minute observational study of
22 who idles, why they idle and how long they idle.
23 I believe that Intro. 631-A is a win/win and it's
24 going to happen. But I'd like to take this
25 opportunity to address Council Member Felder's

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2 concerns and Clyde Hart's concerns. We have gone
3 for two hours in the afternoon prior to dismissal
4 and after dismissal. We have studied the air
5 around these times that Council Member Felder was
6 objecting to. We have seen, through our measuring
7 and our observational studies, that there is a
8 direct correlation between the idling vehicles and
9 the pollution in the air. We also know that fine
10 particle matter has a direct link to cancer, lung
11 disease, heart disease, premature death and all of
12 that. It's important that if there's any time
13 during the day, it should be drop off and
14 dismissal. However, the school zone is a
15 concentration of children all day long. There is
16 absolutely no excuse for not protecting this one
17 of individuals who have an extraordinary
18 vulnerability to pollution. I think Mr. Hart
19 referred to the tour buses as tour coaches of
20 something. They're like rolling apartment houses.
21 For a tour coach to have its air conditioning
22 running next to PS 110 on West 47th Street all day
23 long or all afternoon while it's waiting for
24 theater goers is unacceptable. It's absolutely
25 unacceptable. Just so the temperature is cool

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2 when people come out of the theater is just
3 unacceptable. It just can't happen. That is
4 about it. That's all I'm going to say. Thank you
5 so much. This is a great day for the children of
6 New York and Wednesday will be even a greater day
7 when they vote it in. Thank you.

8 CHAIRPERSON GENNARO: Thank you,
9 Ms. Kalin. Mr. Hillgardner, are you related to
10 Joan?

11 THOMAS HILLGARDNER: Yes. She's my
12 sister.

13 CHAIRPERSON GENNARO: Great. Nice
14 to see you.

15 THOMAS HILLGARDNER: Thank you,
16 it's a pleasure to be here. Thank you for having
17 us.

18 CHAIRPERSON GENNARO: Give her my
19 best please.

20 THOMAS HILLGARDNER: I will. My
21 name is Tom Hillgardner. I'm the executive
22 director of the New York City Parking Justice
23 League. It's a membership organization of owners
24 of motor vehicles who think they're put upon by
25 the city and the parking enforcement system.

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2 Without a doubt, the problems that the
3 Environmental Committee are addressing here are
4 very serious and important. What I want to
5 address today is the enforcement mechanism and
6 giving to the traffic enforcement agents the power
7 to do this. I think it's a big mistake. First of
8 all, the Parking Violations Bureau is without
9 jurisdiction to adjudicate violations of Section
10 24-163 of the Administrative Code. They're
11 limited to parking violations and this is not a
12 parking violation. It has nothing to do with
13 where you're parked. It has to do with operating.
14 More importantly, one of the reasons we're out
15 here today is because we see again and again
16 Finance trying to just grab more jurisdiction to
17 enforce parking to dress something up that's not
18 really parking, call it parking and try to enforce
19 it. This was just recently done with State
20 Legislation involving blocking the box. What
21 makes this despicable is that there's a conspiracy
22 between the police department and Finance
23 concerning the service of notice of parking
24 violations. Notice of parking violations,
25 pursuant to Vehicle and Traffic Law Section 238,

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2 "if the operator is present, the parking ticket
3 must be served on the operator." It's the duty of
4 the TEA to determine who the operator is. Ask
5 them for ID. If they refuse to give it, then they
6 can check a box. Then the can serve it on the
7 owner of the vehicle by conspicuously affixing to
8 it. Now the police department and Finance have
9 just totally done an end run around Vehicle and
10 Traffic Law. They don't care about that anymore.
11 They just issue it to the owner. The name of the
12 game is revenues and collect the money. The owner
13 is the deep pocket, go after them. Now, what you
14 should really be doing here is punishing the
15 people who are idling the engines, not necessarily
16 just the owner of the vehicle who isn't always the
17 person operating the vehicle and can't just reach
18 over and shut it off. You've got to punish the
19 person who is breaking the law. That means it's
20 really important if you're going to be using the
21 Parking Violations Bureau and the traffic
22 enforcement mechanism and the handheld computers
23 to enforce this law, you really need to make sure
24 that you're getting the people who are responsible
25 for committing the act that's really the offence.

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2 Now, with parking, it's understood that it's an
3 incident of the ownership of the vehicle that puts
4 you there. We've decided as a matter of policy to
5 make the owner of the vehicle responsible for
6 paying the ticket. I don't think engine idling
7 sits in the same class of category where it's
8 really right to punish the owner when it's the
9 operator sitting there with the engine on. He's
10 the person and you need to identify that person.
11 I will come out and I will oppose any legislation
12 that asks for any TEAs to have any further
13 jurisdiction to issue anything as long as the city
14 continues with this little conspiracy between
15 Finance and the issuing agents so that they can do
16 an end run around identifying the operators. If
17 they serve these things in compliance with Vehicle
18 and Traffic Law, I wouldn't be here talking to you
19 today. But that conspiracy has got to end. I
20 don't want to see additional jurisdiction and
21 additional power for people to do this when it
22 really is going to spike up. Particularly with
23 this offense because with engine idling the
24 operator is almost always present. By the way,
25 there is a statute against unattended motor

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2 vehicles. You can cite an unattended motor
3 vehicle. The law is already on the books. No,
4 it's not criminal. One last thing, about
5 Paragraph P, the DEP gentleman who started off the
6 testimony today said that Paragraph P of Section
7 4-08 of the City Rules also bars engine idling and
8 that Finance is looking into that. I didn't come
9 prepared to really talk about that today because
10 that's not what the hearing was about. It's about
11 24-163. But if I recall, Paragraph P has no
12 timeline. It just makes it illegal to engine
13 idle, which just will repose to the traffic
14 enforcement agent unfettered discretion to say,
15 one second, too long. You should think about that
16 too.

17 CHAIRPERSON GENNARO: Thomas,
18 please stay after the hearing because I want to
19 interact with you and staff for a second before I
20 go to my meeting.

21 THOMAS HILLGARDNER: Thank you.

22 CHAIRPERSON GENNARO: If you could?

23 THOMAS HILLGARDNER: Yes, I can.

24 CHAIRPERSON GENNARO: Thank you. I
25 want to thank the panel for its good testimony and

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2 patience. I thought it was going to be a big
3 panel, but other people aren't here. Ann Warner
4 Arlen and Ellen Peterson-Lewis.

5 SAMARA SWANSTON: Please raise your
6 right hand. Do you swear or affirm to tell the
7 truth, the whole truth and nothing but the truth
8 today?

9 ELLEN PETERSON-LEWIS: I do.

10 CHAIRPERSON GENNARO: Thank you.
11 Go ahead.

12 ELLEN PETERSON-LEWIS: My name is
13 Ellen Peterson-Lewis. I am a public member of
14 Community Board 2 Environmental Committee. I'm
15 going to skip the first part about the school bus
16 background as well as the comments, in order to
17 save time. I know that you'll read my comments.
18 I'm going to go on to the school bus idling
19 comments. There are five with a summation.
20 Diesel exhaust containing fine particulate matter,
21 as well as carbons and other toxic substances
22 from idling school buses accumulate in and around
23 a bus, thus compromising the health of children
24 waiting to board a bus or disembark from a bus.
25 When idling in front of a school, the diesel

1 exhaust can pollute the air inside the school
2 building through open doors, windows and intake
3 vents, thus, again, compromising the health of
4 students, teachers and staff. Diesel fine
5 particulate matter is suspended in the air for at
6 least 24 hours. With low sulfur fuel, there is
7 still a problem with diesel particulate matter
8 unless there is a diesel particulate exhaust
9 filter. The agreement with the New York State
10 Attorney General concerning an agreement for 75%
11 of bus companies to eliminate unnecessary idling
12 within one block of a school does not solve the
13 problem of diesel fine particulate matter not
14 being introduced into residential buildings,
15 stores and the usually busy pedestrian sidewalks
16 where most schools are located. Also, I'd like to
17 know what about the 25% of the other bus companies
18 that were not included in the agreement. Idling
19 school buses in pre-1996 buses are an immediate
20 health threat to children and youths who have
21 asthma, allergies and those who have compromised
22 immune systems. There is also an immediate health
23 threat to teachers, staff, bus drivers and aides,
24 as well as to the pedestrians, seniors and
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2 residents who are one block from such schools or
3 are adjacent to such schools. Thank you very
4 much.

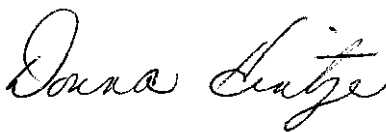
5 CHAIRPERSON GENNARO: Thank you,
6 Ms. Peterson-Lewis. We appreciate your testimony.
7 Thank you for being a public member of a committee
8 of the local community board. We appreciate you
9 being here.

10 ELLEN PETERSON-LEWIS: Thank you.

11 CHAIRPERSON GENNARO: Thank you.
12 With no other witnesses to be heard, I want to
13 thank everyone for being here and for giving us
14 the benefit of your views. This hearing is
15 adjourned.

C E R T I F I C A T E

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



Signature_____

Date February 3, 2009