

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON SANITATION AND SOLID WASTE MANAGEMENT

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May 4, 2009
Start: 10:03am
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HELD AT: Council Chambers
City Hall

B E F O R E:
SIMCHA FELDER
Chairperson

COUNCIL MEMBERS:
James F. Gennaro
Larry Seabrook
David Yassky
Maria del Carmen Arroyo
Lewis A. Fidler
Daniel R. Garodnick
John C. Liu
Jessica S. Lappin

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

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Steven Brautigam
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OSRAM SYLVANIA

Ray Graczyk
President
Association of Lighting and Mercury Recyclers

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2 CHAIRPERSON FELDER: Good morning,
3 ladies and gentlemen and welcome to this hearing
4 on the Committee of Sanitation and Solid Waste
5 Management. My name is Simcha Felder. I'm Chair
6 of the Committee. And before I begin I'd like to
7 recognize the two primary sponsors of this bill,
8 Council Members Lewis Fidler and Bill de Blasio.
9 I hope they'll be joining us later and have some
10 comments about their legislation. I'd also like
11 to acknowledge the staff of the Committee that
12 prepared for today's hearing. On my right is
13 Jarret Hova, Counsel to the Committee.

14 [Pause]

15 CHAIRPERSON FELDER: And to my left
16 is my legislative Director, Jaydeep Dargon
17 [phonetic]. And I'd like to discuss the bill in
18 some way now.

19 [Pause]

20 CHAIRPERSON FELDER: We're here
21 today to discuss Intro number 922. This bill
22 concerns the collection and safe handling of
23 mercury containing light bulbs. In essence this
24 bill seeks to establish a citywide program for the
25 collection and recycling of fluorescent light

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2 bulbs. As many of us already know, fluorescent
3 light bulbs are widely considered to be an
4 effective tool in this country and this city's
5 effort to go green. The fastest growing form of
6 fluorescent light bulbs, known as CFLs, are said
7 to use 75% less energy than incandescent bulbs and
8 last up to ten times longer. Our federal
9 government has encouraged and underwritten the
10 production of more affordable CFLs. This has
11 contributed to a significant increase in the sale
12 of CFLs over the last ten years. In 2007,
13 Americans purchased more than 400 million CFLs,
14 nearly double the amount sold the previous year
15 and equal to the amount of CFLs sold in six years
16 between 2000 and 2005. Most expect those sales
17 will increase even more since federal legislation
18 limiting the use of incandescent bulbs will go
19 into effect in 2012. The increase in the sale of
20 fluorescent bulbs presents a challenge because of
21 the mercury these bulbs contain. When discarded
22 into the normal waste stream, the mercury released
23 by broken bulbs can get into our food chain and
24 drinking water, potentially risking harm to human
25 health and ecology. Recycling CFLs ensures that

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2 any mercury from these bulbs stays out of the
3 regular waste stream. Intro number 922 has three
4 primary components to address this issue. One,
5 manufacturers of mercury containing light bulbs
6 will be required to submit and put into action a
7 plan ensuring proper end of life management of
8 these bulbs including methods for collection and
9 recycling. Two, large retail stores and chains
10 who sell these bulbs would be required to accept
11 intact bulbs for collection. Manufacturers will
12 ultimately be required to reimburse retailers for
13 any expenses associated with this collection. And
14 three, finally this bill includes a disposal ban,
15 which would prohibit any person from throwing out
16 a mercury-containing bulb into the regular waste
17 system. And I assume summoning, what we commonly
18 know as ticketing people, after that if they don't
19 adhere. As always I'd like to ensure that we use
20 this hearing today to take a thorough look at this
21 legislation. While most of us would agree that
22 more mercury in our waste stream is a bad thing,
23 thank you, I want to be sure that we are clear on
24 the benefits and costs of enacting the
25 legislation. I'd like to better understand the

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2 potential health and ecological risks that the
3 CFLs present to the people of New York. I'd also
4 like to ask members of the administration if any
5 of the City's existing recycling initiatives are
6 similar to this proposed program and if those
7 initiatives provide any guidance or insight for
8 this bill, meaning how or how not has the previous
9 bills that have been passed regarding waste and
10 things like that, are they working? Do we have
11 any proof that they're working or not? Finally we
12 need to better understand whether requiring
13 manufacturers to recycle CFLs will drive up their
14 price and thereby discourage consumers from buying
15 them in the first place. Before we begin today's
16 hearing I'd like to emphasize that it is the
17 policy, my policy as chair of this Committee to
18 ensure that the hearings begin on time. And
19 therefore the rule is that only those individuals
20 who sign up to testify within the first 15 minutes
21 of the start of the hearing will be permitted to
22 testify. Additionally, I ask witnesses to refrain
23 from repeating points made by previous witnesses.
24 If someone said something and the point was made
25 adequately, it's enough for you to note your

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2 agreement. You don't have to go into any great
3 detail. If you have something to add, then
4 obviously we'd appreciate it. It is also the
5 policy of this Committee Chair during oversight
6 hearings to allow the public to testify before the
7 administration, but during hearings where
8 legislation is being proposed, the policy is for
9 the administration to testify first in order to
10 discuss the legislation and explain their views on
11 it. And finally, today we will be trying
12 something new, and very exciting. It's not in my
13 notes. That I added. Just very exciting, that
14 for our witnesses rather than having all the
15 witnesses who agree on an issue or disagree on an
16 issue testify separately, today we will be
17 inviting witnesses with differing opinions on the
18 legislation to testify together. This way
19 witnesses with different and opposing views can
20 more easily address points with which they
21 disagree and ultimately contribute to a more
22 enriched dialogue. And certainly our numbers on
23 the public TV channel will go up.

24 [Pause]

25 CHAIRPERSON FELDER: With that

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2 said, I'd like to acknowledge the presence of my
3 esteemed colleague, David-- I'm back in history.
4 Councilman David Yassky would like to say
5 something.

6 COUNCIL MEMBER YASSKY: First I
7 have a meeting downstairs and I'm going to excuse
8 myself and I hope to return after. I just want to
9 say how thrilled I am to be serving on this
10 committee now under your leadership. And I know
11 it's standard for politicians to do that kind of
12 thing, but I want to say very genuinely, I am very
13 much looking forward to my remaining time on this
14 Committee working with you, Chair Felder, because
15 I know that you are going to bring a level of
16 substantive engagement that will equal the record
17 of the previous Chair. And I think you're going
18 to bring a lot to this and I'm very much looking
19 forward and I just want to commend you on the
20 great start that you're off to. I think that
21 you're absolutely right having-- being able to
22 have some dialogue among the witnesses will make
23 for better policy. Thank you.

24 [Pause]

25 CHAIRPERSON FELDER: On the mic?

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2 Okay. So until 25 after you can take testimony,
3 people who want to sign up. Okay? Go ahead
4 whenever you're ready.

5 Good morning Chairman Felder and
6 members of the Committee on Sanitation and Solid
7 Waste Management. I am Robert Orlin, Deputy
8 Commissioner for Legal Affairs of the New York
9 City Department of Sanitation. I welcome the
10 opportunity to appear before you on behalf of
11 Sanitation Commissioner John Doherty to testify on
12 Intro 922 under consideration today. With me this
13 morning from the Department is Steven Brautigam,
14 Assistant Commissioner for Environmental Affairs.
15 Also joining us is Rohit Aggerwala, Director of
16 the Mayor's Office of Long Term Planning and
17 Sustainability, who will deliver a separate
18 statement. As proposed, Intro number 922 places
19 the responsibility on manufacturers and retailers
20 of mercury-containing light bulbs to develop a
21 program for safely managing discarded mercury-
22 containing light bulbs. The bill requires every
23 manufacturer of mercury-containing light bulbs
24 that are sold, offered for sale or distributed in
25 New York City to develop a plan for the proper end

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2 of life management for collecting and recycling
3 these bulbs. Such a plan will identify the method
4 the manufacturer will utilize for free and
5 convenient collection of mercury-containing light
6 bulbs from all persons in the City and the method
7 the manufacturer will utilize to properly manage
8 the bulbs collected. Additionally, this bill
9 requires the City's retail stores which sell
10 mercury-containing light bulbs to accept at no
11 charge up to ten intact mercury-containing light
12 bulbs per day from any individual. Manufacturers
13 and retailers are also required to educate
14 consumers about collection opportunities for
15 mercury-containing light bulbs. I wish to note at
16 the outset that the Department currently collects
17 discarded fluorescent bulbs from all residential
18 households in the City on its regular refuse
19 collection routes. It does not collect discarded
20 bulbs from any New York City agency or department.
21 The Department of Citywide Administrative Services
22 has in place a contract with vendors to collect
23 and properly dispose of discarded bulbs from a
24 DCAS managed buildings throughout the City.
25 Additionally, the Department does not collect

discarded bulbs from any commercial buildings in the City. While the Department believes that it is important to safely manage mercury-containing light bulbs at the end of their useful life, the Department also believes that retailers should not be unduly burdened in regard to the collection and handling of these bulbs. Consumer is a broadly defined term under this bill, referring to anyone who purchases mercury-containing light bulbs.

Accordingly, returned mercury-containing light bulbs may range in size from compact fluorescent light bulbs primarily marketed for home usage to large industrial sized fluorescent light bulbs that are more common in commercial and manufacturing spaces. Given that the bill covers any retailer selling mercury-containing light bulbs that is part of a chain of stores or is over 5,000 square feet in size, some retail locations covered by the bill may lack the storage space necessary to accommodate the number of mercury-containing light bulbs that could be returned. For example, a smaller retail store covered by this bill that sells only compact fluorescent bulbs would be required to accept large

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2 fluorescent bulbs. A retailer that only sells
3 compact fluorescent bulbs in particular may not
4 have the storage capacity to accept such larger
5 mercury-containing bulbs. Another concern
6 stemming from the required collection of bulbs by
7 the retailers is that these bulbs are handled
8 safely and remain intact. Breakage of these bulbs
9 must be kept to a minimum in order to protect the
10 safety of store employees and to avoid potential
11 environmental problems. Because many of these
12 bulbs will be returned without packaging, the
13 potential for accidental breakage exists.

14 Consequently, if the bill passes, any store
15 employee who may be handling returned mercury-
16 containing light bulbs should receive training in
17 the proper method for handling these bulbs.

18 Additionally, the use of compact fluorescent light
19 bulbs is beneficial to the environment, as you
20 pointed out, Chairman. The compact fluorescent
21 bulb is three to four times more energy efficient
22 and lasts up to ten times longer than a standard
23 incandescent bulb. Further, many of the compact
24 fluorescent bulbs do not contain hazardous levels
25 of mercury, and green lighting technology is

1 significantly reducing the amount of mercury used
2 in compact fluorescent bulbs. Therefore in
3 passing any bill that we would hope would have a
4 positive environmental impact, we should be
5 careful not to discourage the use of this
6 environmentally beneficial product. Rohit
7 Aggerwala will be addressing this issue in greater
8 detail in his testimony. Thank you for the
9 opportunity to testify this morning. We look
10 forward to listening to the testimony of other
11 interested parties. And now Mr. Aggerwala will
12 now speak on the bill, after which we will be
13 happy to answer any of your questions.

15 ROHIT AGGERWALA: Thank you, Bob
16 and thank you Mr. Chairman. My name is Rohit T.
17 Aggerwala and I'm the director of the Office of
18 Long Term Planning and Sustainability. I'd like
19 to thank you for the opportunity to speak today on
20 this bill. As my colleague noted, the City agrees
21 with the overall goal of the bill, which is to
22 encourage recycling and to prevent dangerous
23 materials from entering our waste stream. But we
24 have some very serious reservations about the
25 approach that this bill would use to get there.

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2 Overall we're concerned that it would wind up
3 having its greatest impact on those bulbs that in
4 fact have the lowest mercury content of the
5 fluorescent bulbs that are out there, and that it
6 would wind up reducing the availability and the
7 popularity of the CFLs themselves, particularly at
8 the retailers, which for the average New Yorker is
9 really how they have to get their bulbs. Overall
10 that could have a negative consequence on the
11 environment, because of the efficiency of these
12 bulbs. I'll talk about that further. Energy is
13 one of our most critical issues as a nation. I
14 won't go into detail; it's in my written testimony
15 all of the various things that as you know, often
16 in partnership with the City Council and the
17 Speaker, we're doing to improve the environment
18 and to reduce energy and to improve energy
19 efficiency in our buildings. One of the most
20 cost-effective investments available to New
21 Yorkers to save money and reduce their
22 environmental impact is to use compact
23 fluorescents rather than incandescent bulbs.
24 Compact fluorescent as you pointed out uses only a
25 quarter of the energy that an incandescent needs.

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2 It lasts up to 12 times longer. It will save a
3 New Yorker over \$107 over the course of its
4 lifetime. And in PlaNYC we estimated that if New
5 Yorkers replaced all their incandescent bulbs at
6 home, with CFLs the electricity savings could run
7 the subway system. So this is a big opportunity.
8 Because the bill does not distinguish among
9 mercury-containing bulbs, whether a bulb has a
10 trace or a great deal, this bill treats them
11 equally. This presents a major problem. While
12 mercury in CFLs is a valid concern, the amount of
13 mercury found in them has dramatically decreased
14 in recent years. While for example the old pre-
15 1988 T12 Fluorescent lamps, the big tubes,
16 contained 45 to 48 milligrams of mercury, today's
17 CFLs contain an average of four milligrams, and
18 the Department of Energy reports that the average
19 is decreasing, decreased 20% between 2007 and
20 2008, and the state of the art bulb right now is
21 getting only 1.4 to 2.5 milligrams. So what we're
22 seeing is that relatively quickly because the
23 world is moving towards these things the
24 manufacturers are responding to solve this problem
25 before it really does expand. This bill however

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2 would wind up having a much greater impact on CFLs
3 than on the fluorescent tubes, large fluorescent
4 tubes are mainly used in commercial and industrial
5 settings, not by individuals and therefore these
6 are not generally purchased from retail stores and
7 their waste is primarily handled by private
8 carters, whose activities are already covered by
9 existing laws regarding the safe disposal of
10 commercial waste. Therefore we must expect this
11 bill's main impact to be on the sale and disposal
12 of retail residential use CFLs, which are mainly
13 purchased at retailers by individuals and are most
14 likely to be disposed of in household trash. The
15 bill's requirements on manufacturers and retailers
16 and individuals are likely to make the sale and
17 purchase of CFLs less likely. One of the main
18 challenges we face in promoting energy efficiency
19 is that CFLs cost more. Although they last longer
20 and use electricity, paying for themselves in
21 months, many consumers are dissuaded from buying
22 them due to their initial cost. Any bill that
23 leads manufactures and retailers to mark up CFLs,
24 therefore is likely to reduce their sale further.
25 Further, because CFLs are still a fraction of the

1 market, many stores may well choose simply not to
2 carry them. A look at the selection of bulbs in
3 any of the kinds of chain stores likely to carry
4 these will make it clear that CFLs are not
5 currently an important product line in most
6 retailer's inventories. Finally, a law that makes
7 it illegal to dispose of a product will
8 necessarily increase public suspicion about
9 purchasing such a bulb in the first place. Simply
10 the hassle factor of having to remember to return
11 the bulb or be legally liable might be enough to
12 convince a busy New Yorker not to bother, and that
13 would be a terrible injustice to the environment
14 and to the economy of New York City. Even in
15 terms of the total mercury emitted, CFLs are a net
16 positive for the environment. The average CFL has
17 four milligrams of mercury. Yet over the lifetime
18 of one CFL the equivalent light from incandescent
19 bulbs will result in the emission of more than
20 five milligrams of mercury from power plants
21 because of the additional electricity the
22 incandescent bulb requires. Thus, even if our
23 main concern is about mercury in landfills, this
24 bill proposes a dangerous unintended consequence.
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2 There is no question this bill seeks to address an
3 important issue and the Council and the bill's
4 sponsors should be commended for raising this
5 issue. Nonetheless, we believe that this bill
6 will have serious consequences that would cancel
7 out its benefits and as a result we oppose the
8 bill's passage. Thank you for the opportunity to
9 testify today. I would be happy to answer any
10 questions.

11 CHAIRPERSON FELDER: Thank you.
12 I'm sorry. We've been joined by Councilman Lou
13 Fidler, the sponsor of the bill, and we'll get--
14 we will get to Councilman Fidler in a moment. I
15 just wanted to ask a few questions, and whoever
16 wants to answer them should do so.

17 [Pause]

18 CHAIRPERSON FELDER: Eric Dorsch,
19 do you want to testify?

20 ROBERT ORLIN: This is Steve
21 Brautigam, who works in--

22 CHAIRPERSON FELDER: [Interposing]
23 Well who is Eric Dorsch?

24 ROBERT ORLIN: Eric Dorsch is
25 General Counsel for the Business Integrity

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Commission.

CHAIRPERSON FELDER: That has nothing to do with you.

ROBERT ORLIN: Yeah, he's not--

CHAIRPERSON FELDER: [Interposing]
And we don't want to have anything to do with Integrity, certainly.

[Laughter]

CHAIRPERSON FELDER: Right? Okay. Some of the things you mentioned earlier were very interesting. Can you tell me or tell us I should say, what percentage of these bulbs would you say, of the sale of these bulbs, are going to City-- either served by City Administrative Services, City buildings or commercial buildings? And when you say commercial, a-- for example a large co-op building, you don't consider-- that's not part of what you said when you were discussing that they are recycled separately now, right?

ROBERT ORLIN: Right. If it's a residential building the Department of Sanitation picks up--

CHAIRPERSON FELDER: [Interposing]
So what percentage of the bulbs that are out there

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2 are currently under legislation that exists are
3 being recycled already?

4 ROBERT ORLIN: I don't know if I
5 can give you a percentage. What I can do is
6 describe what the laws are now. Under federal
7 law, any commercial entity that has a bulb that
8 would test hazardous must either properly dispose
9 of it as hazardous waste or recycle it. The State
10 passed a law a couple years ago that's even
11 broader. The State under State law now any
12 commercial entity that has a mercury-containing
13 bulb, whether or not the bulb would test hazardous
14 must dispose of it as hazardous waste or recycle
15 it. Those requirements do not apply to residents.

16 CHAIRPERSON FELDER: So not for
17 today, maybe for tomorrow or whatever, if somebody
18 can tell us, I think that that's important. If we
19 can find out, approximately, you know not exactly,
20 approximately what are we talking about correcting
21 when we're talking about recycling, what are we
22 addressing, what percentage of those bulbs?

23 ROHIT AGGERWALA: Could I add just
24 as a general rule--

25 CHAIRPERSON FELDER: [Interposing]

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2 Yeah.

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ROHIT AGGERWALA: This distinction between compact fluorescents and the large tubes, and I don't know the answer about the laws about co-ops as corporations, but if you think about a large co-op, there are relatively few places that they would be using the large tube-style bulbs, right? Maybe in a laundry room, maybe in a basement; generally speaking in a hallway and certainly in all of the residential units you're not going to see the large fluorescent tubes, you're going to see the compact fluorescent bulbs. Thus, as a rule of thumb, the way we think about it is that CFLs are a residential device. The tubes are a commercial device.

CHAIRPERSON FELDER: And the testimony offered earlier is that there's a miniscule amount-- I shouldn't say miniscule, a very small amount of mercury in those. Is that it?

ROHIT AGGERWALA: Correct, and it is declining.

CHAIRPERSON FELDER: So like the bulbs in that chandelier in the hall right out of

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2 the chambers, they're supposed to replace the
3 others but they have to replace the ceiling first,
4 I think, that's what you would be referring to as
5 small amounts of mercury, right?

6 ROHIT AGGERWALA: That's correct.
7 That's a CFL.

8 CHAIRPERSON FELDER: Okay. The
9 other thing is, under the proposed legislation
10 those bulbs would be-- you'd be allowed to bring
11 them into any retail shop that sells the bulbs,
12 any type of bulb. Is that true?

13 ROBERT ORLIN: Yes. Under the bill
14 any business or any City agency could bring a bulb
15 back to a store and even if the store only sells
16 compact fluorescent bulbs, they could bring an
17 industrial sized fluorescent tube back to the
18 store.

19 CHAIRPERSON FELDER: But besides
20 the point that you've been making, which I
21 understand, if they sell-- you know there is such
22 a variety of these bulbs, if they sold any type of
23 bulb like this, you would be permitted to bring
24 back any type of bulb whether you purchased it
25 there or anywhere else. True?

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ROBERT ORLIN: That's correct.

CHAIRPERSON FELDER: All right. Do you have any-- and again, you may have consumers for example that go to Costco or Lowe's, one of the large places, buys wholesale a dozen bulbs and, you know, gets it much cheaper than a retail shop, and I'm not advertising for them, but you do, you get it much cheaper. It burns out, I'm just thinking about myself, I'm not going back to Costco to bring these bulbs, I would go to the neighborhood store where I normally purchase anything else, make keys or other things like that, and bring the bulb back. I'm not going to spend the time, you know, holding on to it until the next time I shop. And they-- do you have concerns about that? And the only reason I'm asking is because I'm trying-- the past bills on e-waste and other stuff is really much different. But do we have-- let me just has another component to the question that has nothing to do with the first part, which is, do we have any data to see how the legislation that we've passed so far, new legislation on recycling, how that's been going?

ROBERT ORLIN: Do you want me to

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answer the second question first?

CHAIRPERSON FELDER: I'm confusing you anyway, so you should do whatever you want. Do whatever you want.

ROBERT ORLIN: Okay. Well there are two other pieces of legislation that I guess are somewhat similar to this bill. The first, as you mentioned, is e-waste. E-waste we don't really have any data yet on how the law is working, but the Department promulgated final rules on electronic waste on April 15th, 2009 that requires manufacturers to submit plans to the Department by June 15th, so the electronic waste program in New York City really hasn't begun until we start getting the plans in from the manufacturers. So, we don't have really any data on that. There was a program on rechargeable batteries. A law was passed about three years ago that requires the recycling of rechargeable batteries. On that the recycling of those batteries has grown over the last couple of years. There's now approximately 20 tons of rechargeable batteries recycled per year in the city, and the number of locations accepting rechargeable

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2 batteries for recycling has increased, in part due
3 to sanitation enforcement, from about 600 sites to
4 2,000 sites around the City. Obviously it's
5 different. It's different from lights. I mean
6 they're much smaller; they're easier to store. So
7 some of the concerns that we have with this bill
8 are different. As you mentioned in the first part
9 of your question, we think it can be a problem for
10 a chain store. I mean there are some small Ace
11 Hardware stores, some small Duane Reades, some
12 small drugstores that do sell compact fluorescent
13 lights, and they only sell the residential type,
14 they don't sell the industrial size. And we do
15 have concerns about both the proper handling of
16 those bulbs and storage space in particular at
17 certain chain stores and whether they'd be able to
18 find a proper place to store them.

19 CHAIRPERSON FELDER: Well forget
20 about the chain stores. I'm talking about the
21 small hardware store where you go in and these
22 days besides keys they sell a lot of things that I
23 would say are not hardware, but certainly bulbs,
24 they sell bulbs, but you will not find 15 variety
25 of bulbs in the neighborhood store. When you go

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2 to a Loews, you will find many. And you have to
3 go-- most people go there; it's a destination to
4 go. You don't just walk around the corner to
5 Loews. It's usually in a place that's not
6 residential and you go there and wind up buying a
7 lot more than you intended to buy. And you pass
8 by, you wind up passing by an aisle and it says
9 sale on these bulbs-- even if it's not a sale, but
10 assume it's a sale-- and you buy a lot of them.
11 But under the recycling that exists, under this
12 bill at least it would seem that the average
13 person is going to, for convenience, will go to
14 the neighborhood store and bring back the bulbs.

15 ROBERT ORLIN: Under the bill a
16 consumer can do that as long as the neighborhood
17 store is 5,000 square feet in size and I'm not
18 really able to give you an estimate of how large
19 that is in terms of a typical--

20 CHAIRPERSON FELDER: [Interposing]
21 Oh, that's an important question. How large is
22 5,000 square feet? If you had to measure this
23 room, is anyone on your staff-- can you give me an
24 idea? You're not under oath. I didn't swear you
25 in. Just about.

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ROBERT ORLIN: It's 50' by 100'.

CHAIRPERSON FELDER: What do you say? Is it about the size of the room? Larger? All right. So then the real small stores wouldn't be affected. You know, so that's not a problem, right?

ROBERT ORLIN: Unless it's part of a chain, right. That's correct.

CHAIRPERSON FELDER: Right. Okay. So that allays my fears of penalizing a neighborhood mom and pop hardware store from having to deal with it. We've been joined by Council Member Larry Seabrook, Council Member Dan Garodnick, and Council Member John Liu, who joined us.

[Pause]

CHAIRPERSON FELDER: I'm going to turn it over to Council Member Lou Fidler, who is a sponsor of this bill, and who I'm proud to say is a mentor, is my mentor-- not the only mentor; I don't want him to ruin his reputation, but one of the people who I consider a mentor, to talk about the legislation and the questions he has.

COUNCIL MEMBER FIDLER: Thanks for

1 saving my reputation there, Simcha. Good morning
2 and I apologize for having walked in a couple of
3 moments late. The Veterans' Committee, of which
4 I'm a member, was also convening at 10:00 a.m.
5 this morning. And I did get a chance to quickly
6 read the testimony that you had given before I
7 walked into the room. And I have to say, try as I
8 might to get on the same page as the Bloomberg
9 Administration on environmental matters, it just
10 doesn't seem to happen. I guess not only are we
11 not on the same page with CFL recycling or
12 hydrogen fuel cells, as much as I try and push you
13 guys, I don't seem to see any progress. I don't
14 know if it's me or if it's you. But, we're
15 clearly not on the same page here. You talked
16 about the injustice to the environment if we
17 somehow depress the sale. And I guess that's, you
18 know, a real glass half full way to look at this,
19 since we are actively encouraging to people to use
20 CFLs, because they are so good for our
21 environment, because they are so energy saving, it
22 would be a crime to our environment if we
23 succeeded and then had not put into place a way to
24 deal with all the mercury that we would be putting
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2 into our water, into our ground and whatnot. I
3 mean the idea here is that if we are promoting
4 something, that we ought to be dealing with the
5 consequences of what we're promoting before we
6 create the problem. So, that's the theory here.
7 So I guess-- let me start off by asking, you know,
8 how much mercury is too much mercury? I mean it's
9 great that the CFLs are coming down in the
10 quantity of mercury in each bulb. But how much is
11 too much? At what point do you become concerned
12 with the amount of mercury that's in a bulb that
13 is mishandled or not properly dealt with once the
14 bulb is burnt out?

15 ROHIT AGGERWALA: Well I think the
16 correct way to think about that is the fact that,
17 as my testimony points out, over its lifecycle a
18 CFL, even if it goes straight into a waste stream,
19 is a net reduction in mercury admitted into the
20 environment. And we cant lose sight of the fact
21 that because CFLs last up to 12 times longer, if
22 we depress the sale of one CFL, that's not one
23 incandescent bulb that goes into the waste stream,
24 it's 12 incandescent bulbs that goes into the
25 waste stream. The manufacture of the 12 bulbs

1
2 versus the one bulb consumes energy, consumes
3 glass, consumes resources. The electricity
4 generated to power the four times the amount of
5 electricity that the CFL uses therefore also
6 produces a lot of mercury. So from a life-cycle
7 point of view, even with no protections on how
8 they are disposed of, a CFL still reduces mercury
9 in the environment.

10 COUNCIL MEMBER FIDLER: And that
11 clearly did not answer the question that I asked.
12 All right. And I mean I understand that it's the
13 argument you want to make, but I appreciate it if
14 you'd answer the question I asked, which is what
15 amount of mercury in a bulb would concern you? I
16 mean, I'll just read one paragraph from the
17 Committee report about mercury. When discarded
18 into the regular waste stream and disposed of in a
19 landfill not specifically designed to handle
20 hazardous waste, mercury can seep into the ground
21 water and when incinerated mercury molecules
22 eventually settle into water or on to land where
23 they can be washed into water, which can result in
24 contaminated drinking water. In addition, once
25 mercury is deposited in water, certain

1
2 microorganisms convert the mercury into methyl
3 mercury, a highly toxic form that builds up in
4 fish, shellfish and animals. You know, I know
5 that you're-- we're on the same page. We want to
6 encourage people to use CFLs, because they're good
7 for the environment. They're energy saving. I'm
8 not ignorant as to the notion that producing
9 energy, you know, is not a zero sum game. There
10 is energy sometimes used to produce it that might
11 have other bad effects. But my question to you
12 again is at what point do you get concerned with
13 the amount of mercury in these bulbs that are
14 discarded, because if we are successful there are
15 going to be many millions more of them.

16 [Pause]

17 COUNCIL MEMBER FIDLER: Going into
18 our landfill, untreated; seeping into our water,
19 untreated.

20 ROHIT AGGERWALA: Once again
21 though, Council Member, I'm sorry, I don't have a
22 number for you and in fact I think the reason I
23 don't have a number for you is because I think the
24 question itself is problematic. It's not about
25 the mercury just in the bulb, it's about the

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2 mercury in the lifecycle of the total production
3 of light and light bulbs, and that is what the
4 right thing to compare.

5 COUNCIL MEMBER FIDLER: I get that,
6 but the mercury in this bulb is finite and
7 capturable. All right? It is in one unit. Okay?
8 And you're basically saying that because this is
9 better than what we were doing before, that's good
10 enough. And what I'm saying to you is that we
11 have an ability to do a lot better than that. And
12 I am as concerned as any other councilman in this
13 body about burdens placed upon business. But I'm
14 also concerned about what we drink and toxic
15 things that we put into our ground. All right?
16 Because I think we have an opportunity here. All
17 right? Even in your testimony you pointed out,
18 well you know, some manufacturers are reducing the
19 amount of mercury in the CFLs and, you know,
20 almost to a trace amount and this bill doesn't
21 distinguish between the amount of mercury in the
22 bill. All right. Where would you draw the line?
23 Where would you make that distinction? How much
24 mercury in the bulb troubles you.

25 ROHIT AGGERWALA: I don't have a

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2 number for you. That is, I'm sure, something that
3 could be researched and analyzed over time, but
4 that's not something that I'm prepared to answer.
5 I don't know if the Sanitation Department has
6 that.

7 ROBERT ORLIN: Well, what we were
8 going to do is address your concerns about impacts
9 to drinking water and I'll give a short statement
10 and Steven Brautigam can enhance what I say is
11 that the landfills that take the City waste, City
12 residential waste are all state of the art
13 landfills, you know, passing state and federal
14 standards. They have, you know, full leeching
15 treatment collection systems-- they're double
16 lined, clay liners, geo membranes. And so they
17 are very effective in capturing contaminates
18 coming from the landfill and I'll let Steve talk
19 more about that.

20 STEVEN BRAUTIGAM: I could just add
21 to that. Steve Brautigam, Department of
22 Sanitation Legal Affairs. The landfills that New
23 York City sends its waste to under the solid waste
24 management plan approved by the Council include
25 landfills in South Carolina, landfills in Virginia

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2 and they'll be getting the bulk of the waste. And
3 as Bob Orlin mentioned, those all have to meet
4 strict federal standards for impermeability.

5 COUNCIL MEMBER FIDLER: So mercury
6 is no longer a contaminant of issue because we
7 contain it so well that it's not going to get into
8 the fish, it's not going to get into drinking
9 water. Is that what you're telling me?

10 STEVEN BRAUTIGAM: What I'm saying
11 is that--

12 COUNCIL MEMBER FIDLER:
13 [Interposing] Or are you just telling me that it's
14 South Carolina's problem?

15 STEVEN BRAUTIGAM: No. What I'm
16 saying is that these facilities are not the old
17 landfills. These are now state of the art
18 landfills. All the old ones without liners have
19 been-- are closed. That's why we phased out the
20 Fresh Kills Landfill; it didn't have a liner. So
21 this is not we're sending it to substandard
22 landfills-- these are approved landfills to be
23 safe for all kinds of waste; mercury is not the
24 only hazardous component in household waste. But-

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COUNCIL MEMBER FIDLER:

[Interposing] So then you are saying what I said, which is that we no longer have to worry about mercury seeping in to water or anything like that because we now contain our landfills in an environmentally safe way. Is that what you're saying?

STEVEN BRAUTIGAM: I'm saying a properly engineered landfill is a safe place to put waste. Now part of the City's waste also goes to a waste to energy facility as it does now, and there are strict controls and permit requirements including limits on mercury emissions. That's, as you know under the solid waste plan, proposed to continue by the combustion of the waste there it actually offsets the burning of fossil fuels including coal, which also can produce mercury emissions about on the order of, I believe, 42 tons of mercury emissions from coal powered plants nationwide. There are some emissions from waste energy plants too, but it's order of magnitude less than that, on the order I think two tons for the over 100 plants nationwide. So those permit levels are set to protect human health. There

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2 have been waste to energy facilities in the New
3 York Metro area, Northern New Jersey, for 20 years
4 and there has never been a problem, to my
5 knowledge in the New York City water supply system
6 from those emissions.

7 COUNCIL MEMBER FIDLER: You know I
8 mean, and thank God if that's the case that there
9 haven't been. But my point is, is that we are
10 encouraging people to replace-- and the Department
11 of Education sat in that chair and I encouraged
12 them to replace every light bulb in New York City
13 school facilities, DOE facility, with a CFL, just
14 as a budgetary matter it would save the City Of
15 New York \$10 million a year. All right? So we
16 are encouraging people to use these things.
17 They're going to, God willing, hear that message
18 and start to have-- there should be a day when the
19 old light bulb as we knew it doesn't exist anymore
20 because everyone is using these because they're
21 better for our environment. Are you not at all
22 concerned that if they are disposed in the
23 ordinary sanitation stream, because that's what
24 happens to them now-- you take them and throw them
25 into your garbage can-- that they will not become

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2 a problem-- with the amount of mercury that is
3 contained in millions of them-- will not become a
4 problem? Can you assure me of that?

5 ROBERT ORLIN: Council Member, I
6 think once again the question has to be not just
7 whether we are worried about the mercury itself,
8 but also whether this is the right set of
9 solutions to that concerns, and I think that's
10 where we may in fact have some agreement and then
11 the rest of our disagreement. Enacting this
12 legislation now I think would wind up having far
13 greater an impact of chilling the availability can
14 consumption of the use of CFLs than it would in
15 actually protecting mercury from entering the
16 waste stream. There are a number of different
17 approaches, most of which are in fact best done
18 outside of-- or at other levels of government than
19 the City that will ultimately address this. As
20 Chairman Felder's opening remarks pointed out in
21 fact incandescent bulbs are going to be phased out
22 in the United States, just as they are being
23 phased out in Europe. And the first country that
24 will ban incandescent bulbs will be Australia, and
25 I forget, I think it's next year or the year

1
2 after; so it's very soon. So worldwide this is an
3 issue of increasing concern. The real answer, of
4 course, is to get the mercury down to trace
5 levels, and this is where it's so relevant that at
6 the same time as the consumption of CFLs has
7 expanded so dramatically, the mercury content of
8 them has declined quite dramatically as well. And
9 so we are at a point where we are going to get
10 increasingly smaller amounts. Second issue is
11 that if we're going to deal with this as a
12 national policy, the right solution is not to
13 think of restrictions on disposal, which in fact I
14 think would wind up leading most consumers to
15 decide that these things aren't worth the candle,
16 because it's so difficult-- if I can't take it
17 back to my local bodega, even if I can buy it
18 there and I have to save them up and take it to
19 Costco, but I have to take back an intact bulb, so
20 god forbid one of them breaks while I'm storing
21 it-- that's a much bigger issue and in fact
22 probably a greater health hazard if it breaks in
23 the apartment than if it goes into the waste
24 stream. So I just don't think that this set of
25 solutions becomes overall a set that actually

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2 optimizes the benefit to the environment. I think
3 there are other things that we could consider
4 doing, but the first one is to in fact study and
5 answer the questions that you're asking because I
6 don't think anybody knows.

7 COUNCIL MEMBER FIDLER: I think
8 that first of all my first reaction would be that
9 maybe you ought to set a standard in the bill for
10 the amount of mercury in a CFL that would require
11 it to be recycled and that might drive
12 manufacturers to seek to get below that level so
13 that the bulb didn't have to be recycled. It's
14 something that I've suggested about hydrogen fuel
15 cells in vehicles as well. So maybe that-- you
16 know, if you're looking at the reaction of the
17 market to a piece of legislation like this, and I
18 know you expressed a concern that the hassle
19 involved would result in a decrease in the number
20 of people who were willing to buy these bulbs and
21 maybe that would have an effect on manufacturers,
22 if we said, all right you've got to bring it below
23 this level or it has to be recycled. So, maybe
24 you can think about that. I just also wonder
25 whether or not the same market logic has crossed

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2 your mind when you talk about charging for plastic
3 bags and things like that. You know, in every one
4 of these programs you are placing a burden upon
5 people that they're going to have to overcome in
6 their own long-term best interests. And if we
7 acknowledge that mercury getting into our
8 environment, getting into our water stream is a
9 bad thing for all of us over the long term, and I
10 don't think we have disagreement about that, then
11 I think you have to consider the fact that we may
12 be creating a pipeline of mercury that we can in
13 fact deal with. In the overall energy management
14 scheme of things is it less mercury? You know, I
15 hope so. I think that's a good thing. But if it
16 is a finite thing where we can actually say, you
17 know, and we can get rid of the rest of it safely,
18 it's an opportunity for us to do something for our
19 City, for our environment, for our earth, that we
20 ought to be doing. And this is the first hearing
21 on the bill. I am more than willing, you know, to
22 discuss with you options that, you know, will meet
23 the goal and not in any way in the long term, and
24 I'll use the word long term, depress our efforts
25 to get people to use CFLs instead of other types

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2 of lighting. But I think we need to get there and
3 I think we need to take advantage of the
4 opportunity that is presented here and understand
5 that if we are encouraging people to use these
6 things we are responsible for the consequences of
7 it.

8 CHAIRPERSON FELDER: Thank you very
9 much. I just want to ask you a couple of
10 questions. Would it be possible upon passing this
11 bill for the City somehow to measure, whether it's
12 your agency, sanitation or consumer affairs, I'm
13 not sure who, to measure periodically and
14 determine the impact that the recycling has on the
15 cost of CFLs to consumers? In other words, the
16 recycling, the obligation to recycle and to handle
17 it later what that will impact.

18 ROBERT ORLIN: Well if the bill
19 passes as proposed you mean?

20 CHAIRPERSON FELDER: Yeah.

21 ROBERT ORLIN: Which obviously the
22 City has taken the position that it shouldn't pass
23 as proposed.

24 CHAIRPERSON FELDER: Yeah.

25 ROBERT ORLIN: Well it wouldn't be

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2 the Department of Sanitation obviously, that would
3 not be the Department's expertise.

4 CHAIRPERSON FELDER: Right.

5 ROBERT ORLIN: We could work with
6 another City agency to try to figure out if that's
7 possible. I'm not able to tell you this morning
8 if that can be done or not, but we will reach out
9 and try to get back to you.

10 CHAIRPERSON FELDER: Because that's
11 something-- I think it's important to see whether
12 or not, and I assume the cost has to go up in some
13 way for the retailers to handle it. The very
14 large store may-- who have the real space-- may be
15 able to do it as a public relations thing. But
16 the smaller sized stores may or may not. And in
17 terms of the ban, is a disposal ban necessary to
18 start-- let me just say, would you consider
19 starting off without a ban entirely, sort of
20 starting it off by encouraging people? What I'm
21 talking about your ticketing homeowners for--
22 someone who does decide I'm not interesting and
23 puts the bulb in his garbage can, I assume is
24 going to be subject to at ticket under the law.
25 Is that true?

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2 ROBERT ORLIN: As the bill is
3 written, yes.

4 CHAIRPERSON FELDER: What type of
5 ticket?

6 ROBERT ORLIN: Failure to recycle,
7 improper disposal.

8 CHAIRPERSON FELDER: So what is
9 that now? How much is that \$100?

10 ROBERT ORLIN: \$100 I believe, yes.

11 CHAIRPERSON FELDER: Right. \$100.
12 And each bulb would be \$100 or...?

13 ROBERT ORLIN: Potentially. I mean
14 we'd have to work-- if the bill passed as is we'd
15 have to sit with the commissioner and--

16 CHAIRPERSON FELDER: [Interposing]
17 Because on the recycling, you find five items or
18 something like that-- this you...?

19 ROBERT ORLIN: Right. I mean this
20 could be improper disposal, which you wouldn't
21 necessarily need five items. I mean if the bill
22 passed as it is we'd have to speak with the
23 Commissioner and figure out how to use our
24 enforcement authority. But if there's an item
25 that's not supposed to be thrown out in the

1 garbage, that would be improper disposal as well.

2 CHAIRPERSON FELDER: So without
3 answering the question, maybe also a consideration
4 would be at least initially not ticketing
5 homeowners. I know you're against the bill, but
6 if the bill happened to pass despite your being
7 against it?
8

9 [Pause]

10 CHAIRPERSON FELDER: Okay. If the
11 bill passed, instead of ticketing people
12 immediately, especially with something like this,
13 maybe it would also be something to consider
14 either a warning, which I know you would probably
15 be opposed to, or at a minimum a phase in period
16 where people for six months or a year, give them a
17 chance to get used to doing it. Councilman
18 Fidler, do you have any other questions for this
19 panel? Thank you very much. We are now going to
20 call on-- I expect that somebody from the
21 Department will remain to listen to the rest of
22 the testimony. We're going to call a panel of
23 four. Can I ask the Sergeant-At-Arms to add one
24 chair to the table, please? We're going to call
25 Eric Goldstein from the National Resource Defense

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2 Council.

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[Pause]

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CHAIRPERSON FELDER: I should come
5 in? Lawrence A. Mandelker; Robert LaPinto from
6 the-- and Ray Graczyk. I'm taking a two-minute
7 break to be able to vote and come back. I
8 apologize.

9

[Pause]

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CHAIRPERSON FELDER: It's two and
11 two. Where's the fourth person?

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[Pause]

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CHAIRPERSON FELDER: Jarrett? Who
14 is the fourth person.

14

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[Pause]

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CHAIRPERSON FELDER: Jarrett? The
17 fourth person. Let me-- let's get this. Eric
18 Goldstein? Fine. Lawrence Mandelker? And Ray--
19 who was the first one? Robert LaPinto? Are you
20 here? Then we're going to just call everybody up.
21 Ray Graczyk. Good. Ric Erdheim, you can come up?
22 And we need one more chair, if I can-- yeah,
23 please. No, we need one more. And Jennifer
24 Dolin, if you could please come up?

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[Pause]

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CHAIRPERSON FELDER: All right.

Mr. Mandelker, are you ready? I'm not setting a time limit under the assumption that you'll be able to convey your message clearly in an appropriate amount of time.

LAWRENCE A. MANDELKER: Thank you, Mr. Chairman.

CHAIRPERSON FELDER: Thank you.

LAWRENCE A. MANDELKER: My name is Lawrence Mandelker. I represent the New York Metropolitan Retail Association and I see my testimony may just be coming in by Pony Express. I'm testifying on another bill this afternoon and I brought the wrong file for this morning.

CHAIRPERSON FELDER: We're much more curious about your other testimony.

LAWRENCE A. MANDELKER: It's much more interesting.

CHAIRPERSON FELDER: Okay.

LAWRENCE A. MANDELKER: The members of NMRA are national chain retailers operating in the City. It's my pleasure to be among the Committee today. Because compact fluorescent light bulbs contain mercury, beginning on July 1,

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2 2010, this bill would prohibit the disposal of
3 intact CFLs within the City as solid waste.

4 Although not directly before us today, but raised
5 in the last testimony, one cannot miss the irony
6 of having a policy that seeks to reduce carbon
7 emissions by encouraging the use of a product that
8 is too dangerous to be included in the City's
9 solid waste stream. People should think about
10 that a little bit. NYMRA was prepared to support
11 this legislation until we heard the preceding
12 panel. If the preceding panel is correct, that
13 there is no danger from CFLs, then the legislation
14 is unnecessary and there should be no burdens put
15 on retailers. But if they're wrong and if there
16 is a problem with mercury, then we support this
17 bill in concept and we would urge its passage with
18 some amendments. The bill requires manufacturers
19 to submit end of life management plans for CFLs
20 including methods for collection and recycling.

21 And beginning on January 1, 2010, retail stores
22 would be required to accept at no charge up to ten
23 intact CFLs from any individual who presents them.

24 Now I said CFLs, because as a practical matter,
25 that's what this bill is about, CFLs. Because if

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2 we're talking about long bulbs, consumers are not
3 going to bring ten long bulbs back; they're going
4 to bring small CFLs and basically the market, the
5 retail market is for the CFLs, not for the long
6 bulbs. Because if we're required to accept long
7 bulbs back, that's going to be a different burden.
8 But I don't think we have to address that today.
9 Stores are going to be required to provide
10 information about the collection at the retail
11 location and on their websites and are required to
12 post a sign in public view clearly indicating that
13 mercury-containing bulbs are accepted for
14 recycling during normal business hours, which
15 hours are to be specified. A number of our
16 members sell CFLs and therefore would be
17 considered stores under the bill. Here's our
18 suggestion for improving it, assuming that we're
19 talking about CFLs. A manufacturer is required to
20 submit its plan to the Department of Consumer
21 Affairs for approval. We can recommend that prior
22 to approval consumer affairs should be required to
23 consult with retailers on issue of costs they will
24 incur and the burden on their resources and
25 facilities under the proposed plan. The reason

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2 that we don't really object to this bill is the
3 manufacturers are supposed to reimburse the
4 retailers for any additional costs we incur. And
5 we just have to make sure that the costs are
6 fairly stated and one of the costs is how quickly
7 these bulbs are going to be collected. If we have
8 to hold on to CFLs for six months before they're
9 collected as opposed to holding on to them for two
10 days before they're collected, that's a very
11 different burden, the latter being virtually non-
12 existent, the former being quite considerable. So
13 we want the Department to be sensitive to those
14 kind of issues. I thank the Committee for the
15 opportunity to testify and hope that my comments
16 will be taken into consideration as you move
17 forward in considering this bill. Should you need
18 any assistance that NYMRA is able to provide,
19 we'll be more than happy to do so.

20 [Pause]

21 CHAIRPERSON FELDER: If anyone is
22 wondering in what order, I'm doing it backwards
23 alphabetically, that's all.

24 [Pause]

25 RAY GRACZYK: Good morning, Mr.

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2 Chairman and members of the Committee. My name is
3 Ray Graczyk and I'm from NLR Inc. And we're
4 located in East Windsor, Connecticut and we've
5 been in the Mercury Lamp Recycling business for 14
6 years. But I am here today to testify for the
7 Association of Lighting and Mercury Recyclers,
8 which I am currently the president of. And the
9 association of Lighting and Mercury Recyclers,
10 ALMR, is a national non-profit organization
11 representing members of the mercury recycling
12 industry. ALMR represents the majority of the
13 mercury recycling firms and the majority of lamp
14 recycling in the US, operating from 58 locations
15 in 25 states with service everywhere. These
16 companies process and treat mercury-containing
17 waste, specifically to remove the mercury and
18 prevent it from entering the environment or
19 impacting human health. They have been serving
20 thousands of New York City customers for 20 year.
21 The ALMR also serves as an educational and
22 information resource for government, business and
23 the public for proper mercury reclamation. An
24 important part of our mission is to promote
25 programs, policies and practices that divert

mercury bearing waste from solid waste streams and the environment. We have always supported policies such as 16-472 of the bill that encourage the collection and safe handling of fluorescent light bulbs. However, as introduced in number 922 will be disruptive to lamp recycling and will undermine all that we have achieved to develop recycling programs for lamp generators for the past 20 years. Neither the cost of administration of these proposals or the amount of new bureaucracy are known at this time. We think there are unintended negative impacts on the recycling industry and that these provisions should not be included in proposed legislation. Number 16-471, requirements for manufacturers. The bill forces manufacturers of lighting to set up infrastructure that includes retail stores they do not control and for end of life management, a regulated hazardous waste activity that should not be forced on them. It also forces manufacturers to pay for all this and take financial control of the market for recycling. Producer control will 1, interfere with existing state and federal RCRA Hazardous Waste laws, regulations; 2, usurp

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2 liability under CERCLA laws, which cannot be
3 subrogated; 3, be impossible for enforcement
4 programs to regulate; and 4, interfere with
5 contracts between generators and authorized
6 recyclers. There is also the potential to create
7 anti-trust and interstate commerce problems.
8 Moreover the measure require that both
9 manufacturers and retailers engage in commerce
10 with regulated generators, such as commercial
11 buildings and with exempt generators such as
12 households. It is intended that any generator of
13 any size can return up to ten lamps per day to a
14 retail store for free. Would all major commercial
15 industrial generators get free recycling for
16 unlimited bulbs by simply metering them to a
17 retail location of their choice? The most cost
18 effective collection, shipping and recycling
19 program for mercury lamps is free market based
20 with competition, where cost efficiencies are
21 volume driven and use of existing infrastructure
22 is maximized. The recycling industry already has
23 the infrastructure for end of life management.
24 The commerce of recycling can incorporate any new
25 collection locations. They become new customers.

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2 Help for consumers can come from those individuals
3 in the distribution retail sales of lighting and
4 this stimulates commerce and it also offers
5 consumers local and easy access to recycling.

6 Convenient community drop off locations can be
7 developed without new bureaucracy or new
8 appropriations for money if the existing
9 infrastructure is fully used. There are several
10 examples of successful programs to help consumers
11 where funding is supplied and commerce is not
12 disrupted. For example, IKEA, Home Depot, the
13 City of San Francisco, McClellans' and Barbell's
14 in the Pacific Northwest, Ace/True Value in the
15 Northeast, all have programs that do not require
16 additional funding for administration or more
17 bureaucracy. Mail back programs are another
18 sustainable example throughout the country.

19 Mercury lamp management is not like other
20 products. The value of the original product is
21 low and the value of the materials after recycling
22 recovery is zero or negative. Recycling costs
23 relative to lamp life cycle costs are
24 insignificant, but recycling costs relative to new
25 product cost are large enough to impact lamp

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2 usage. At the same time, mercury lamps are
3 regulated as hazardous waste and there are
4 significant compliance costs for the management of
5 this material. Lamp recyclers operate in a very
6 highly regulated environment with oversight.

7 Lamps are fragile and easily break if not properly
8 handled. There has never been a way to collect
9 good data on lamp recycling. Generators do not
10 have reporting requirements. Lamps are shipped to
11 recyclers out of state that have no reporting
12 obligations. Shippers and intermediaries do not
13 have mandatory tracking requirements. There is
14 basically no accountability for what people do
15 with used lamps, and there has been very little
16 regulatory enforcement throughout the country.

17 This is why we have estimated the overall
18 recycling rate may be as low as 25%, with the
19 consumer sector as low as 2%. These are our best
20 industry estimates and manufacturers do not have
21 the ability to develop more accurate data or
22 create city-by-city reports. It is certainly not
23 possible to measure performance against arbitrary
24 performance goals. To summarize, the ALMR
25 supports policies that encourage the use of

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2 existing infrastructure, that increase local
3 collection locations to help consumers without
4 adversely impacting anyone. We also support
5 policies that require the recycling of all mercury
6 lamps. Uniform policies that treat all lamps
7 equally are the easiest to administer and enforce.
8 We urge you to oppose this costly and disruptive
9 measure. Thank you very much.

10 ERIC GOLDSTEIN: Good afternoon,
11 Chairman Felder-- good morning Chairman Felder and
12 Councilman Fidler. My name is Eric Goldstein.
13 I'm an attorney with the Natural Resources Defense
14 Council, which as you know is a national non-
15 profit environmental group that's been active on
16 solid waste issues both around the country and in
17 New York for a number of years. First, let me
18 congratulate you, Mr. Chairman, on your assuming
19 the chairmanship of this important committee. We
20 had the opportunity to observe you in action at
21 the recent Sanitation Department Budget Hearings.
22 We were impressed by your enthusiasm, particularly
23 on the issue of recycling collections on Mondays
24 following holidays. And we very much look forward
25 to working with you over the coming months and

1
2 year. We know your predecessor has gone on to
3 bigger and even grander challenges. We hope that
4 maybe some day that will happen for you. But for
5 now we think there's a huge amount of good things
6 that you can do as the Chair of this Committee.
7 We very much are pleased by your presence. We're
8 pleased to be here today to provide testimony on
9 Intro 922. NRDC supports the philosophy and the
10 objectives of this bill. We support the concept
11 of producer responsibility, which is an innovative
12 approach to solid waste management that shifts the
13 burdens and costs of managing waste from
14 municipalities and their taxpayers to the product
15 manufacturers. This concept also encourages
16 manufacturers to internalize the cost of handling
17 their discarded products, and to design products
18 that are less toxic and easier to recycle in the
19 first place. We've supported this approach with
20 respect to other legislation that's come before
21 the Council, particularly electronics waste and
22 rechargeable batteries. We also share the concern
23 that's implicit in this legislation, of the
24 problems posed by the release of mercury into the
25 environment. NRDC has long sought in many

1
2 different forms for many years to reduce such
3 releases. However in assessing this legislation
4 or any legislation, it's important to examine its
5 complete environmental implications and to look at
6 the fully life cycle impacts. Mercury-containing
7 lighting, compact fluorescents are among the most
8 energy-efficient lighting products currently
9 available. And their benefits in terms of energy
10 consumption and therefore impacts on the global
11 warming problem are considerable. Compact
12 fluorescent bulbs are the environmentally
13 preferred lighting product because they use
14 electricity than incandescent bulbs on the market.
15 And specifically and importantly, all lighting
16 products are responsible for mercury emissions,
17 because they all use electricity and electricity
18 generated by coal burning power plants is a
19 primary source of mercury emissions into the
20 environment. Depending on the electric generation
21 mix, the mercury contribution of inefficient
22 incandescent lighting products is often greater
23 than the mercury-containing efficient compact
24 fluorescents. So NRDC is concern that the added
25 cost of an extended producer responsibility based

1 recycling program for compact fluorescents, if
2 it's applied only to those bulbs, could lead to
3 increased environmental mercury if it drives
4 purchasers to incandescent bulbs. Now admittedly
5 the retail price impact of this proposed
6 legislation on compact fluorescents are not well
7 understood. The current cost of recycling a
8 compact fluorescent could range from .60 to \$1.00
9 per bulb, although that retail cost could be
10 driven down if manufacturers spread their costs
11 across their product lines and geographic markets.
12 But basically right now there's a lack of clear
13 information on the potential price impacts of this
14 legislation on compact fluorescents, and that
15 remains a concern to NRDC. Significantly there
16 are federal lighting standards that when fully
17 implemented in 2020 will require that all lighting
18 products reach compact fluorescent efficiency
19 levels. At that point the increased cost of a
20 compact fluorescent recycling program will have no
21 adverse impacts as discussed above. But these
22 federal standards won't reach full effect until
23 2020 and until then less efficient lighting will
24 presumably be available and could be perversely
25

1
2 favored over compact fluorescents by the proposed
3 legislation. So under these circumstances, NRDC
4 supports the thrust of Intro 922, but would
5 support this legislation only if it were amended
6 in at least two ways. First, the bill should
7 require the Department of Sanitation or Consumer
8 Affairs or some other City agency, to monitor the
9 retail affects of the program on compact
10 fluorescents and report annually on those impacts
11 to the council. And second, the legislation
12 should specify that if the cost of compact
13 fluorescents is determined to have increased more
14 than a set percentage over time, a certain defined
15 period of time, say a year or two, as a result of
16 this program, then implementation of the program
17 would be delayed until the full implementation of
18 phase two of the federal lighting efficiency
19 standards took place. In other words, we would
20 defer any further impact of this legislation on
21 the cost of compact fluorescents until 2020 when
22 the marketplace would be equalized. And we thank
23 you for the opportunity to testify today and we
24 look forward to working with you to address the
25 concerns we have with the bill and to lending our

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support to an amended version. Thank you.

2

3

CHAIRPERSON FELDER: Ric Erdheim?

4

RIC ERDHEIM: Thank you very much.

5

Thank you very much, Mr. Chairman.

6

CHAIRPERSON FELDER: Thank you.

7

RIC ERDHEIM: My name is Ric

8

Erdheim. I'm senior counsel for Philips

9

Electronics. Philips Lighting is one of our three

10

major lines of businesses. Philips Lighting is

11

the world's largest lighting company. I'm here

12

with Jen Dolan from OSRAM SYLVANIA, here

13

representing the National Electrical Manufacturers

14

Association, which represents many of the major

15

manufacturers of lighting. And we're here to

16

indicate our opposition to Intro 922.

17

CHAIRPERSON FELDER: Are you both

18

testifying?

19

RIC ERDHEIM: What we're going to

20

do, Mr. Chairman, is we're going to split the

21

testimony. So what I'm going to talk-- is the

22

general issue of mercury, because there's been a

23

lot of questions about that.

24

CHAIRPERSON FELDER: Right.

25

RIC ERDHEIM: And then I'm going to

1
2 talk about the commercial aspect, because you have
3 been talking about CFLs, but the bill is not
4 written to deal with CFLs. The bill is written to
5 deal with all lamps used by anyone in the City.

6 CHAIRPERSON FELDER: That's fine.

7 RIC ERDHEIM: So I'm going to talk
8 about the commercial aspect and then Ms. Dolan is
9 going to talk about the residential aspect.

10 CHAIRPERSON FELDER: Whatever you
11 want to do is fine.

12 RIC ERDHEIM: Okay.

13 CHAIRPERSON FELDER: I just wanted
14 to be sure that--

15 RIC ERDHEIM: [Interposing] We will
16 not be repeating ourselves.

17 CHAIRPERSON FELDER: Right. Very
18 good. You anticipated my point. Thank you.

19 RIC ERDHEIM: Thank you very much.
20 As much has been made about the energy efficiency
21 of mercury-containing lamps, in doing anything on
22 mercury-containing lamps, you want to have two
23 goals. One is you want to promote their use and
24 second is you want to encourage responsible
25 development, responsible management of bulbs at

1
2 the end of life. This bill does not do that. It
3 fails to achieve these goals because it would
4 increase the cost of energy efficient lighting,
5 discouraging their use. We've heard other people
6 talk about that. It ignores the existing
7 recycling infrastructure that Mr. Graczyk already
8 talked about. It would put local wholesalers and
9 local retailers at a disadvantage, because if we
10 have to increase the price of our products sold
11 into the City, than the price of products are
12 going to be more expensive in the City than in
13 surrounding jurisdictions. And as Ms. Dolan will
14 get into, by putting the price of the recycling
15 into the price of the product, it actually has the
16 largest impact on the consumer-- in other words
17 it's the most expensive thing for the consumer, so
18 therefore we're opposed to the bill. So let me
19 talk about mercury use because there's been a lot
20 of questions about that and wed' be happy to
21 respond to those. In 1990 our members made 500
22 million lamps and used 23 tons of mercury-- I'm
23 sorry, 24 tons of mercury. In 2003, we made 650
24 million lamps and used 7 tons of mercury. If we
25 had used 1990 technology in 2003 we would have

1
2 used 31 tons of mercury. So Mr. Chairman and
3 representative-- Councilman Fidler, we've already
4 taken care of most of the problem by source
5 reduction, by reducing the amount of mercury. My
6 testimony has lots of data which back up how we've
7 gotten to that point. I know there's been a lot
8 of concern about the increase in CFLs. There has
9 been an increase in CFLs, but we've been reducing
10 mercury so much that if you look at 2004 and 2007
11 and 2007 was the really big year for CFLs, you see
12 mercury use in the industry is constant or
13 relatively constant. And that's because we're
14 reducing not only mercury in the industrial bulbs,
15 but we're also reducing them in the CFLs. As
16 someone talked about, in some models we go as low
17 as-- Philips goes as low as one. I know OSRAM
18 goes as low as one milligram. But the industry a
19 couple of years ago adopted a voluntary limit of
20 five milligrams of mercury. All the major
21 manufacturers of CFLs are already way below that
22 and are continuing to go low. So, in terms of
23 total amount of mercury, we've had a significant
24 reduction. The total amount of mercury is not
25 going up, at least as of yet, notwithstanding the

1
2 very large increase in sales. And I think anyone
3 who would look at this would say that this is a
4 huge environmental benefit, a huge win by making
5 more energy efficient products, reducing our use
6 of energy, all the pollutants that come out of
7 power plants and doing it at the same time by
8 reducing mercury. Now we've not only reduced the
9 amount of mercury, we've also increased product
10 life. And in my testimony I give you an example
11 of our-- Philips major line of lamps before 2006
12 and after 2006, and you'll see all of them now
13 have longer life. In terms of our CFLs, all of
14 our CFLs I think are now rated 10,000, minimum
15 10,000 hours and I'm sure that OSRAM will say the
16 same thing. They used to be rated as low as 6,000
17 hours. So we're making them longer, which means
18 that you need less of them. We're also making
19 them to be more energy efficient, reducing
20 wattage. So when you put this all together and
21 attached to my testimony I have a report that we
22 did a few years ago. So as of 2004 we can
23 document a reduction of 24 tons of mercury,
24 billions of pounds of CO₂, millions of pounds of
25 traditional air pollutants like sulfur dioxide and

1 carbon monoxide and 1,500 pounds of mercury
2 emissions from fossil fuel power plants. Now
3 that's on a nationwide basis. We wouldn't have
4 New York City data. But that's not the end of it.
5 We're also now starting to develop non-mercury
6 products. And I think the best way to describe
7 this is-- talk about televisions. You know, we've
8 switched from analog TV to digital TV. Well we're
9 going through a similar transformation. We're at
10 the start of a similar transformation in lighting.
11 Whereas we're going from mercury containing
12 lighting to more efficient non-mercury containing
13 lighting, more efficient than historical CFLs--
14 I'm sorry, historical incandescents. Not as
15 efficient as compact fluorescents, but more
16 efficient, without mercury. And then we're also
17 on the brink of starting the revolution to light
18 emitting diodes. Now I can't tell you when we're
19 going to have those products there. But what I
20 can tell you is we've heard about creating
21 incentives for manufacturers to make better
22 products. My company alone has invested \$5
23 billion, b as in billion, in purchasing additional
24 companies or other companies involved in the LED
25

1
2 business, in addition to our own very significant
3 effort, to move the country toward LEDs. So all
4 of this is going on at the same time and we think
5 that our record of extreme accomplishment, and one
6 that we're very proud of and we hope you would be
7 as well. Now, so let me switch then to talk about
8 collection of non-residential lamps. Again,
9 although you have referred to CFLs, and there's
10 been a lot of talk about CFLs, the bill addresses
11 all mercury-containing lamps. So the bill-- the
12 lights used in the Empire State Building, which
13 get recycled, are covered by this bill.

14 Manufacturers would have to pay for the recycling
15 of those lamps. So question number one is, you
16 know, do you even want to address that? And as
17 Mr. Graczyk has pointed out, we already have a
18 large infrastructure that's prepared and is taking
19 these lamps. We did some back of the envelope
20 calculations. We think the recycling rate for
21 non-residential lamps is probably in the high 30
22 percents nationwide. And what we see in urban
23 areas is obviously a lot higher. So we look at
24 this bill and we look at it as a solution for a
25 problem that we don't think even exists. We have

1
2 the infrastructure. Building owners now know to
3 recycle their lamps. There are companies like Mr.
4 Gracyzk's and others, that will collect the lamps.
5 And we don't see any reason, in fact there's no
6 one in any jurisdiction that I'm aware of now
7 that's actually considering any type of
8 legislation like this to deal with non-residential
9 lamps. The only issues have come up with
10 residential lamps. So I would conclude by saying
11 we think that this bill is off base in terms of
12 addressing the non-residential lamp sector. Thank
13 you very much, and I'd be happy to answer any
14 questions.

15 JENNIFER DOLAN: Oh, is this on?
16 Thank you very much for this opportunity. You
17 heard kind of an instruction from Ric Erdheim.
18 I'm From OSRAM SYLVANIA. We are a leading
19 lighting manufacturer here in-- well up in
20 Massachusetts. We manufacture about 75% of our
21 lighting in the United States and we are a member
22 of the National Electrical Manufacturers
23 Association, NEMA, here to oppose Intro 922. The
24 lighting industry and OSRAM SYLVANIA in
25 particular, support lamp recycling as the proper

1
2 method for lamp disposal. To that extent we do
3 support the end goals of Intro 922, but we don't
4 support the proposed means to achieve these goals.
5 I am going to talk mostly about CFLs, but I did
6 want to point out a couple of points that have
7 been raised already about the need for reducing
8 energy consumption. And as we know, that relates
9 to overall carbon emissions and carbon footprint.
10 And in fact president Obama and Governor Patterson
11 and Mayor Bloomberg have all set goals for
12 reducing carbon footprint for the country, the
13 state and the City. And one of the most
14 important-- one of the easiest things for
15 consumers to do to reduce their own carbon
16 footprints is to use CFLs instead of
17 incandescents, as we all know. Not only do they
18 use 75% less energy, they do last up to ten times
19 longer and that's-- well 15 times longer in the
20 new generation of this technology. And in fact in
21 2007 NYSERDA spent \$7 million to offset the cost
22 of these CFLs. So there is the recognition that
23 these lamps cost-- we call bulb, lamp. In the
24 industry a bulb is a lamp. So I apologize if I go
25 back and forth. These lamps or bulbs do have a

1 significant cost and there are currently programs
2 to reduce those costs for consumers so that while
3 they're not comparable to an incandescent, they're
4 at least available to residents of all income
5 brackets. CFLs, like all mercury-containing
6 lamps, contain a small amount of mercury. And
7 that has been reduced over time, as you've heard,
8 but fluorescent technology does not work
9 efficiently without mercury. All of the
10 manufacturers have had their R & D departments,
11 which consist of many PhDs, working their way down
12 the periodic table to find another element that we
13 can use in these CFLs, and we have not been able
14 to find one. What we have done is to undertake
15 substantial source reduction. And as you've
16 heard, we've gone from about ten or 15 milligrams
17 of mercury in these CFLs in the mid 90s now down
18 to one milligram of mercury. You've heard that
19 the NEMA companies have set maximum mercury
20 content. In fact the EnergyStar specifications
21 that pretty much guide what the retailers are
22 purchasing and selling to consumers, the
23 EnergyStar specifications adopted that five-
24 milligram level. So that is pretty much--
25

1
2 anything that carries an EnergyStar label in the
3 CFL-- which is currently pretty much the standard
4 for energy efficiency, will guarantee that they
5 have no more than five milligrams of mercury. We
6 also label our packaging with messages About the
7 fact that it contains mercury, managed in
8 accordance to proper disposal laws, state and
9 local government laws, and we have a website and a
10 manufacturer specific 1-800 number on each
11 package. The lighting manufacturers share the
12 Committee's concern about the proper management of
13 lamps at end of life. We also work in tandem with
14 our trade association. We run a website, we get
15 60,000 hits per month. We're doing quite a bit of
16 education, and that is another component of
17 education that is important, because you can, you
18 know, set up the laws but getting people to
19 actually recycle is another issue, and I'll come
20 to that in a second. I'm not going to repeat some
21 of the stuff here, but I do want to point out that
22 Home Depot, as you heard Ray Graczyk say, does
23 collect CFLs at their own cost. And their program
24 nationally, and in Canada as well, is working very
25 successfully. Manufacturer take back of CFLs as

1 required in Intro 922 is an ineffective approach
2 that will not achieve the goals of recycling CFLs.
3 In fact we've seen many states considering
4 legislation that is similar, and have decided not
5 to pursue this issue. Washington State was one,
6 the State of Vermont is also currently
7 considering; they have not concluded their
8 decision, but they are considering not pursuing,
9 and keep in mind that they have a state landfill
10 ban. Washington State have local landfill bans
11 that affect 50 to 60% of their population. With
12 the phase out of incandescent light bulbs set to
13 begin in 2012 with the 100 watt and followed by
14 the 75 watt and followed again by the 60 and 40
15 watt, so it is a gradual phase in, or phase in, I
16 guess-- phase in of the phase out of incandescent
17 light bulbs, the utilities as we are hearing are
18 planning to reduce their subsidies because in
19 their policies they're saying well, if the CFLs
20 are pretty much the only think that people can by
21 then we're not going to subsidize them; they'll be
22 the de facto light bulb of choice. This change in
23 policy alone will increase the cost of CFLs
24 without the additional internalized recycling
25

1 costs and added fees. And I'm going to-- I have
2 four points here that outline our concerns with
3 respect to CFL collection. First, this is the
4 most cost inefficient proposal. This will
5 substantially increase the cost of energy
6 efficient lighting. CFLs-- light bulbs in general
7 are very price sensitive. Recycling costs can add
8 up to 150% more to the cost of a single light
9 bulb. Manufacturers would need to add recycling
10 costs, collection costs, administrative fees to
11 retailers, education costs, administrative
12 overhead into the purchase price of a CFL. Higher
13 prices, as we've heard, discourage the use of
14 energy-efficient CFLs, which is contrary to the
15 energy policy objectives of the City. In
16 February, and this is in my testimony if you want
17 to flip it over to the last page, in February 2009
18 the Minnesota Center for Energy and Environment
19 released the results of a survey to homeowners.
20 And they asked if you had to increase the cost--
21 there's an added cost of 50 cents a CFL,
22 homeowners would pretty much buy as many as they
23 are now. You increase it to \$1.00 or \$1.50 and
24 they will decrease their purchase by 58%. While
25

1
2 50 cents may be the true cost, 60 cents, what have
3 you, of recycling a CFL through a voluntary
4 program-- I honestly don't know what Home Depot is
5 incurring but I do know it's fairly low, what
6 Intro 922 does is double or triple these costs
7 with cost internalization, added administrative
8 fees, additional retail reimbursements, etcetera.

9 The second concern we have is the fact that-- is
10 the enforcement of non-US companies. And here you
11 have Philips and SYLVANIA sitting before you. We
12 have GE in the room as well. And we are US
13 manufacturers, but in fact if you look at the
14 EnergyStar website, there are 100 manufacturers of
15 CFLs who claim to manufacture CFLs to EnergyStar
16 specifications and sell in the United States. A
17 majority of them are not US based. And so we are
18 concerned, we're very concerned that these
19 manufacturers would not participate in a take back
20 program and US based companies who fund the
21 collection of CFLs through increased prices would
22 incur all of the costs while the manufacturers
23 overseas would not raise their costs. So it would
24 be a concern on competition. Third, the
25 requirement that every store will, and I'm quoting

1
2 in the bill, ensure that each mercury-containing
3 bulb accepted is returned to the manufacturer of
4 the bulb in accordance with the end of life
5 management plan of that manufacturer is burdensome
6 and unfeasible. If you have 100 manufacturers,
7 you may be selling a certain type, but you're
8 going to have to collect everyone's. That means
9 100 buckets and separating every one. And I'm
10 sure in 5,000 square feet if you look in this
11 room; setting up 100 buckets wouldn't be such a
12 good idea. And businesses today can recycle all
13 of their lamps with one pick up, regardless of the
14 manufacturer. It's a very different system. This
15 bill places a huge burden on the retailers as well
16 as the manufacturers. And fourth, the reporting
17 requirements are unrealistic. This bill requires
18 manufacturers to report to the Department on the
19 effectiveness of the plans including the amount of
20 mercury recovered for recycling. This is an
21 impossible task. As the CFLs recovered will have
22 been sold anywhere from one to ten years or even
23 15 years prior. Keep in mind they're lasting
24 seven, ten years, even longer. So what we're
25 recycling today were sold seven, ten years ago.

1
2 Estimating the amount of mercury that's collecting
3 is impossible. Lastly, while we support lamp
4 recycling, such a prescriptive approach will not
5 necessarily lead to higher recycling-- or to a
6 high recycling rate. For example, consider that
7 New York City requires the residents to recycle
8 paper, cardboard, beverage cartons, bottles and
9 cans. Residents don't have to leave their
10 buildings to do that. It's in their apartment
11 buildings. It's essentially curbside, if you want
12 to extend that term flexibly, service by the
13 Department of Sanitation. Currently the recycling
14 rate citywide is 20%. In Minnesota where
15 utilities are required to provide and fund
16 recycling, recent data shows that their recycling
17 rate is 40%. Utilities are also offering
18 significant rebates to consumers to keep that
19 purchasing price low. So imagine if the cost of
20 CFLs were to increase 150% and utility rebates
21 were to disappear. We would see a drop in the
22 usage of CFLs, an increase in energy consumption,
23 an increase in CO₂ emissions, and no guarantee that
24 residents would in fact return CFLs. And as I was
25 sitting here listening to the testimony, I

1 realized that one of the other loopholes in this
2 bill is that there's \$100 fine for a resident who
3 throws away an intact bulb. There's no fine if
4 they break a bulb; if there's a broken bulb thrown
5 away. So I would hope that the intent is not that
6 people would end up breaking their bulbs so they
7 could avoid the \$100 fee. I'm sure you recognize
8 that that's probably the worst thing that we would
9 want to happen in a home or an apartment. So in
10 summary, manufacturers work continually with
11 stakeholder groups to seek the best, least cost
12 solutions to lamp recycling while simultaneously
13 lowering mercury levels and developing
14 alternatives. We view Intro 922 as an inefficient
15 unnecessary response to a problem that
16 stakeholders are working to resolve. We're happy
17 to provide information, answer questions, discuss
18 our views. Thank you very much for this
19 opportunity.
20

21 CHAIRPERSON FELDER: Thank you.

22 Councilman Fidler?

23 COUNCIL MEMBER FIDLER: Thank you
24 Mr. Chairman. You know, it's a daunting task to
25 have to cross examine five witnesses and remember

1
2 what each one of them said and what you had to say
3 to them, so I'll try and do my best. And I guess
4 I'll start with Mr. Mandelker, and I guess we
5 should put on the record that, I don't know if you
6 represented me or I represented you-- we were co-
7 counsel together, but we have some prior history.
8 It should be disclosed on any open record, I
9 guess. Having now heard the testimony of the
10 other four witnesses, each of whom has talked
11 about setting maximum amounts of mercury in a
12 bulb, reducing the amount of mercury that's being
13 used in bulbs, the importance of keeping mercury
14 safely inside the bulb, do you know acknowledge
15 that mercury is a problem and therefore your
16 initial testimony that if mercury is a problem
17 then therefore you would support the bill?

18 LAWRENCE A. MANDELKER: I don't
19 think it's for retailers to acknowledge or not
20 acknowledge it. The scientists, the
21 manufacturers, the people who know this,
22 consumers, we're consumer driver. If consumers
23 believe there's a problem, we believe that there's
24 a problem. I don't know if there's a problem or
25 not. I thought there was a problem when I walked

1
2 in until I heard Mr. Aggerwala. It seems to me
3 that this is a problem that's being controlled.

4 COUNCIL MEMBER FIDLER: Anyone ever
5 asked you or suggest to you that you not eat fresh
6 fish more than twice a week because there might be
7 mercury content in it?

8 LAWRENCE A. MANDELKER: I think my
9 entire family, but I ignore them all the time.

10 COUNCIL MEMBER FIDLER: I'm not
11 asking you whether you ignore them or not. I
12 mean, you know, I certainly have ignored a lot of
13 good advice about what I eat too, but.

14 LAWRENCE A. MANDELKER: I'd like to
15 glow in the dark, so this way I don't need to buy
16 a CFL. The point is from a retailer's
17 perspective, I mean I've heard about all these
18 burdens of the bill and I don't doubt any of them.
19 But the way the bill is written now, from our
20 perspective we're like a pass through. We sell
21 them. We take them back. We don't pay for the
22 recycling, etcetera, etcetera. Is the cost going
23 to go up? Yes. It will cost more for us. We're
24 going to raise our prices. It will cost more for
25 the consumers. But that's-- you know, we like to

1
2 keep prices down but it's not really going to
3 affect us. So, understand the perspective, you
4 know, where I stand depends where I sit. And
5 understand, we're a retailer. We're not a
6 manufacturer. We're not a city regulator. We're
7 not any of the people. I'm a little bit concerned
8 that I didn't hear any out and out I love this
9 bill, pass it immediately this whole day,
10 particularly even from Mr. Goldstein. I thought
11 you were going to put me next to Mr. Goldstein;
12 Mr. Goldstein's going to say this is the greatest
13 thing since sliced bread.

14 COUNCIL MEMBER FIDLER: I was a
15 little disappointed too.

16 LAWRENCE A. MANDELKER: And he
17 didn't, and I have to tell you, that gave me some
18 pause. And Mr. Aggerwala, whom I know, gave me
19 some pause. So, just understand where I'm sitting
20 and what I am saying; it's pretty circumscribe
21 testimony.

22 COUNCIL MEMBER FIDLER: All kidding
23 aside, you came in saying you were prepared to
24 support this bill, then you heard that maybe
25 mercury wasn't a problem. And I think the point

1
2 I'm just trying to make, and we'll get to cost
3 with some of the other witnesses. The point I was
4 trying to make is inherent and implicit in
5 everything that everyone else said, mercury is a
6 problem. All right? Now how you deal with it, we
7 are differing on. But mercury is a problem. I
8 mean we've looked-- we've gone down the periodic
9 chart looking for an alternative to mercury. We
10 used 24 tons of mercury and now we're only down to
11 seven, and that's something we're going to
12 applaud. Implicit in that is that mercury is not
13 a healthful element to be in our water supply or
14 in our food and I think that's the point I'm just
15 driving home in terms of your testimony.

16 LAWRENCE A. MANDELKER: Well, if
17 you remember what I said right at the outset, I
18 said there is a certain irony in promoting energy
19 efficiency and reduction of carbon footprint by
20 encouraging people to use a product that's too
21 dangerous to put in the waste stream. That's
22 where I started.

23 COUNCIL MEMBER FIDLER: And I
24 recognize that irony and understand that sitting
25 here, you know, I believe that we should convert

1 every light bulb to a CFL, every one that we can.
2 And the ones that are incapable of doing it, we
3 should try and make them capable of doing it,
4 because overall it's good for the planet. Okay?
5 Now that doesn't mean that you ignore the end
6 consequence of that, even though it is better than
7 what we're doing now, doesn't mean that we can't
8 do better than that.

10 LAWRENCE A. MANDELKER: Let me make
11 your argument better.

12 COUNCIL MEMBER FIDLER: That's why
13 we co-counsel, so.

14 LAWRENCE A. MANDELKER: Okay. The
15 issue isn't what's in a bulb. The issue is at the
16 end of the day you're going to have many bulbs and
17 is that going to overwhelm the existing solid
18 waste infrastructure. That's really what your
19 point of view is.

20 COUNCIL MEMBER FIDLER: Kind of.

21 LAWRENCE A. MANDELKER: Right. And
22 what the others have said is no matter how many
23 bulbs you sell the net reductions in mercury
24 because of more efficient energy use, etcetera,
25 etcetera, makes it a positive. Understanding that

1
2 and being able to evaluate that is above my
3 educational and pay grade; but that's framing the
4 issue. All I'm saying is that from a retailers
5 point of view, if this is a real problem, we're
6 willing to do our part-- limited part. If it's
7 not a problem, don't burden us.

8 COUNCIL MEMBER FIDLER: And that's
9 fair. And all I'm trying to say to you is I do
10 believe it's a problem. I mean we always hear
11 some elected official stand up in front of the
12 room and say, crime is down and then they always
13 feel the need to say, of course we know that one
14 crime is too many. And it's a wonderful thing
15 that mercury use is down in the bulbs and that the
16 energy efficient light bulbs reduce the emission
17 of mercury and other greenhouse gases and whatnot
18 into our environment and that it's a net positive
19 thing, but there's still too much. Because, you
20 know, eventually I'm going to read a little blurb
21 about what happened to someone who broke a CFL and
22 what they felt was appropriate. And so you get
23 the gist of that. And you know, I appreciate
24 certainly not wishing to burden not just retailers
25 but any business in this City if it's unnecessary.

1 I'd be the first person to vote no, and maybe the
2 second behind Simcha. But, you know, I do see a
3 problem. Let me try the-- I'm sorry, I'm glad I
4 can remember the substance, I'm certainly not
5 going to remember the names, the gentleman from
6 the recycling industry and gee, I would have
7 thought that you would be here with flags waving
8 saying more recycling, this is good. Let me just
9 start off by saying to all of you it was not the
10 intention of this bill to capture the commercial
11 long bulbs. You know, clearly not my intent when
12 I asked this bill to be written and clearly
13 something that we'd have to change because that's--
14 - it wasn't supposed to go there. So all those
15 arguments now can be put aside. They'd be a red
16 herring in discussing the ultimate version of this
17 bill because it will not include it. But you made
18 some astonishing claims, sir, that this increases
19 bureaucracy and that it could be a federal anti-
20 trust violation. Now in as much as-- well I'll
21 take the second one first because it's been a long
22 time since I sat through an anti-trust course and
23 I can't say that I was fully awake during the
24 entire period of time I was in the class. How
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could this be an anti-trust violation?

RAY GRACZYK: May I defer to Mr. Erdheim, the attorney? But I believe it has something to do with interstate commerce.

COUNCIL MEMBER FIDLER: But I believe you said it. I mean, so.

RAY GRACZYK: Well in fixing prices is where I believe it--

COUNCIL MEMBER FIDLER:
[Interposing] In fixing prices? What in this bill requires you to fix prices? Because that gets to the second point which is, this bill just says that the manufacturers need to come up with schema to get this done. It doesn't say do it this way. In fact I would think that in all likelihood the manufacturers would get together and say, send it to you. All right? We don't need our bulb back and let's get together and find ways to go to the existing mercury recyclers and use them. I would think this would be a boon for your industry, sir.

RAY GRACZYK: Well I did say that our goal and it always has been, is to recycle every mercury-containing lamp manufactured in the country. That's our goal as recyclers. It's just

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that--

COUNCIL MEMBER FIDLER:

[Interposing] And just for Mr. Mandelker's benefit, why is that?

RAY GRACZYK: Pardon me?

COUNCIL MEMBER FIDLER: Why is

that?

RAY GRACZYK: To keep mercury out of the environment.

COUNCIL MEMBER FIDLER: Thank you.

RAY GRACZYK: I'm with you on that.

We're talking about cumulative effect here. If you have billions of compact fluorescent lamps, then you have billions of milligrams of mercury that are available to the environment. So our industry supports recycling of all lamps. As far as--

COUNCIL MEMBER FIDLER:

[Interposing] So what is it about this bill that makes you think that it's going to be a bureaucratic nightmare?

RAY GRACZYK: I'll give you a quick example of what we do with a customer of ours in the City, Rudin Management, who has voluntarily

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2 set up their apartment buildings to collect
3 compact fluorescent lamps. What they do is they
4 set up five-gallon containers on each floor.
5 Their tenants deposit the lamps in those
6 containers. The janitors take them down,
7 consolidate them, we go and pick them up. Rudin
8 pays us X amount of cents to recycle those bulbs.
9 That's the end of it. It doesn't go to a third
10 party for-- to be cleared, to be accounted for,
11 anything along those lines. There's a direct--

12 COUNCIL MEMBER FIDLER:

13 [Interposing] So it's the reporting requirements
14 that you think would be bureaucratic.

15 RAY GRACZYK: Well all this costs
16 money. The least expensive part of this process
17 is the recycling of the bulb. It's the
18 transportation and anything that gets added in
19 between.

20 COUNCIL MEMBER FIDLER: That may
21 well be a fair point and I think--

22 RAY GRACZYK: [Interposing] That
23 costs money.

24 COUNCIL MEMBER FIDLER: --that the
25 reason that we put in reporting requirements is to

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2 make sure that A, the law is being followed, and
3 B, that we're not dealing with a problem that
4 doesn't exist. We like to know. So, you know, I
5 could be persuaded that the reporting requirement
6 may be unnecessary.

7 RAY GRACZYK: Reporting is very
8 difficult. Massachusetts passed a law a few years
9 ago in their mercury act that requires reporting,
10 reporting from, well manufacturers to raise, to
11 get to certain levels of compliance, 40%, 50%,
12 60%. They have discovered in the last couple
13 years, we report as recyclers to NEMA through a
14 confidential reporting method about how many lamps
15 we recycle from Massachusetts. They can't
16 quantify it. They have no way of knowing. The
17 burden falls back on the manufacturers. They're
18 going to be fining them a million dollars because
19 they're not complying and they're not getting
20 their recycling rates up high enough. They have
21 no way of knowing where these lamps are coming
22 from. Home Depot is bringing lamps in from God
23 knows where and they could be sending them out to
24 be recycled through contractors that are bringing
25 them somewhere into the Midwest or down south.

1
2 Therefore, they're not being reported. There's no
3 way to quantify any of this unless you make the
4 generators report what they are doing with their
5 lamps. That's the only way you can know.

6 COUNCIL MEMBER FIDLER: Or if the
7 scheme required, actually required that the lamp
8 be returned to its point of origin, and I don't
9 think it does that and if it does then it's
10 something we should probably change. I just, you
11 know, obviously and again Massachusetts obviously
12 feels mercury is an issue, and in spite of the
13 fact that perhaps Washington and maybe Vermont are
14 moving away from these things or not, because I
15 haven't heard from Washington or Vermont, there's
16 clearly a need to monitor the mercury that we are
17 dispensing in to our environment. Now--

18 RAY GRACZYK: [Interposing] I don't
19 think anybody disagrees with you on that. I think
20 the manufacturers are on record as supporting
21 recycling and they're on record as saying that
22 every lamp manufactured should be recycled.
23 They're not opposed to recycling. It's just--

24 COUNCIL MEMBER FIDLER:
25 [Interposing] It sure sounded like it.

1
2 RAY GRACZYK: We're looking at this
3 as interfering with our commerce and something
4 that we've developed over the last 15 to 20 years.

5 COUNCIL MEMBER FIDLER: Well sir, I
6 was with you up until we're interfering with your
7 commerce.

8 [Crosstalk]

9 COUNCIL MEMBER FIDLER: Because
10 quite frankly, you know, CFLs are not being
11 recycled at all. So you know, other than God
12 bless Home Depot's voluntary project, which I'm
13 not aware of even though I've been in Home Depot,
14 you know, that's got to be diminimus in terms of
15 the number of CFLs that are being used and God
16 willing will be used over future years when we
17 continue to promote their use. So I mean, if it's
18 not being done on a wide scale basis voluntarily,
19 then you'll excuse me for interfering in your
20 commerce, you're interfering in my environment.
21 So I mean it's--

22 RAY GRACZYK: [Interposing] You
23 know again, we're talking about these things just
24 starting so we're looking two or three years down
25 the road or four years down the road.

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2 COUNCIL MEMBER FIDLER: And we're
3 looking to push, okay? So that two or three years
4 down the road when the number of CFLs has doubled
5 and doubled again, as it has over the last three
6 years, that we will not first be waking up and
7 saying, oh my goodness, look at what we've done.
8 All right? That we've taken a good thing and
9 amplified a bad thing. That's what we're talking
10 about here. Now I, as I said before, this is a
11 first hearing on a bill that clearly needs to be
12 amended. It obviously reached places that,
13 certainly in the commercial market, that we had no
14 intention of going, and there are other points
15 being raised here today that, you know, have to be
16 dealt with. But, you know, and I guess that's my
17 segue to Mr. Goldstein. And I guess, Mr.
18 Goldstein, you disappointed me the most. You
19 know? I was kind of hoping to hear something a
20 little bit more positive coming from the NRDC,
21 specifically because this mirrors the approach we
22 used on e-waste and the objections that we're
23 hearing are the exact same objections we heard on
24 the e-waste bill which we passed and passed, I
25 believe, over the Mayor's veto anyway. And you

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2 know, it's really more of a comment than a
3 question. You know, to suggest as all the other
4 witnesses have that there will be an incremental
5 additional cost and that will set us back, you
6 know, because of the short sightedness of the
7 American consumer not recognizing that even if we
8 add something marginally to the cost of a CFL that
9 the consumer isn't actually saving money, forget
10 about the environment, they're saving money over
11 the life of a CFL. I apologize for a Star Trek
12 reference, I think it was the fourth movie where
13 we had to come back to Planet Earth because we had
14 killed all the whales and it was our own short-
15 sightedness that was destroying our planet and I
16 think that is the point to be made here, and I
17 would certainly hope the NRDC would help overcome
18 the ignorance of the American consumer about the
19 fact that not only is this bad for the planet, you
20 know, if mercury is disposed of improperly, but
21 that you are saving money every time you buy a
22 CFL, maybe not on the day you buy it but by the
23 time you dispose of it.

24 ERIC GOLDSTEIN: Well you are
25 correct, Council Member, that that is a fact and

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2 it's very important to remind consumers of that.
3 On the other hand, consumers are price sensitive.
4 It's always troubling for me to disappoint a
5 friend, but I feel the analogy between the
6 electronic waste bill and this bill, they're
7 similar in many ways but not the same.
8 Electronics waste like computers or television
9 sets, if they're not returned to the manufacturer,
10 what happens to them, they're sent often overseas
11 where pounds of lead and mercury and other
12 contaminants are released into the environment.
13 If they are collected as part of a recycling
14 program what happens? They are often returned in
15 ways in which those contaminants can be captured.
16 Now let's compare that to what would happen under
17 this program. First, to answer your question is
18 mercury bad for the environment-- certainly. Of
19 course it is. Will this bill reduce the amount of
20 mercury into the environment? Quite possibly not.
21 We're not certain of that. But we are certain
22 that it's likely--

23 COUNCIL MEMBER FIDLER:

24 [Interposing] Why?

25 ERIC GOLDSTEIN: Well, the bill

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2 will almost certainly raise prices for compact
3 fluorescents. And thus, it will likely discourage
4 compact fluorescent use because we've already seen
5 the history in the marketplace when the price
6 disparity between compact fluorescents and
7 incandescents is great, consumers don't buy them.
8 When the price comes down either through subsidies
9 or other programs, consumers are willing to buy
10 them. And if we reduce compact fluorescent use,
11 more incandescents will be used. They will
12 generate-- they will require more power from
13 fossil fuel burning power plants--

14 COUNCIL MEMBER FIDLER:

15 [Interposing] I mean I--

16 ERIC GOLDSTEIN: [Interposing] --

17 and so it's likely that they will be--

18 COUNCIL MEMBER FIDLER:

19 [Interposing] I get the argument.

20 ERIC GOLDSTEIN: --discharging.

21 COUNCIL MEMBER FIDLER: I mean the
22 argument again is because we are-- because there's
23 an incremental cost involved here we're going to
24 have fewer CFLs and therefore, you know, the
25 inefficiency of the incandescent bulbs will offset

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2 that by more than we're saving. You know, I get
3 that argument and I think it's a very defeatist
4 argument especially since you would agree that
5 over the life of a CFL the economy of the bulb is
6 still cheaper than if someone went out and put an
7 incandescent bulb in, paid for the four time the
8 electrical cost, had to replace it three times,
9 four times, five times during the life of the CFL,
10 so that it's really, you know, a bad long-term
11 decision just on the dollars. Right?

12 ERIC GOLDSTEIN: Well it may well
13 be. Of course we don't know exactly what the
14 costs will be so it's hard to make-- as Yogi said,
15 it's hard to make projections, especially about
16 the future. We don't know what the costs of a
17 return and recycling system will be. We could
18 assume that still over the long-term it could well
19 save consumers money. But as we know, consumers
20 don't often think of how is this going to effect
21 me over the next ten years. They think, how is it
22 going to affect me now? And we have evidence in
23 the marketplace today that the higher costs of
24 CFLs now has discouraged many consumers from
25 buying them.

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2 COUNCIL MEMBER FIDLER: So as long
3 as we're-- you're going to be in the nanny state
4 environment that we're in, maybe we should just
5 tax incandescent bulbs to support the cost of
6 CFLs, right?

7 ERIC GOLDSTEIN: Well that might
8 not be a bad strategy.

9 COUNCIL MEMBER FIDLER: I had a
10 feeling you'd like that.

11 ERIC GOLDSTEIN: NRDC might favor
12 that. Can I respond to one other question you
13 asked before?

14 COUNCIL MEMBER FIDLER: Sure.

15 ERIC GOLDSTEIN: Because I think
16 it's important. Because you're on definitely the
17 right track in seeking to reduce mercury in the
18 environment. You had talked before about the
19 impacts of mercury on drinking water. And this is
20 a subject that we've spent some time examining
21 more broadly, the protection of the City's water
22 supply. And we can say that primary source of
23 mercury in New York City's 19 upstate reservoirs
24 is not from the disposal of compact fluorescents,
25 but from airborne disposition of mercury from

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2 power plants that are burning fossil fuels,
3 primarily in the Midwest. And so the expanded use
4 of compact fluorescents is likely to reduce the
5 amount of mercury that ends up falling into our
6 reservoirs and thereby in our water supply rather
7 than the reverse.

8 COUNCIL MEMBER FIDLER: I invite
9 you to the Environmental Protection Committee
10 hearing that we're going to have on hydrogen fuel
11 cells and we could talk about energy production in
12 another way, so.

13 ERIC GOLDSTEIN: Great.

14 COUNCIL MEMBER FIDLER: But, look.
15 Again, I understand that in the overall sum of
16 things that every time we use a CFL we are
17 decreasing a variety of emissions that are bad for
18 our environment, which is why we need to encourage
19 the use of CFLs. But that doesn't change the fact
20 that we are still, you know, we still have the
21 mercury in the CFLs that we have to deal with, and
22 we can deal with it because it's now, you know,
23 containable. And there's no excuse for not
24 dealing with it. So let me segue that to our
25 representatives from the manufacturers who-- and

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2 by the way, to the gentleman from the recycling
3 industry, clearly we can see that at least
4 SYLVANIA and Philips can get together here to
5 oppose the bill, so they can probably get together
6 on some kind of cooperative effort on developing a
7 scheme in which the recycling can be done industry
8 wide or in groups and clusters within the industry
9 as opposed to asking each of the 100 different
10 companies that manufacture CFLs to take care of
11 their own. I have a feeling that could happen.

12 RIC ERDHEIM: Can I respond to
13 that?

14 COUNCIL MEMBER FIDLER: Sure.

15 RIC ERDHEIM: What we can't do, and
16 this is what Mr. Graczyk was talking about, is
17 under the anti-trust laws we can't come around and
18 say, here's how we're going to pay for this--
19 we're going to increase our prices this way, we're
20 going to put it on this product, on that product.
21 We are prohibited from talking about any price
22 issues, completely prohibited. So we can develop
23 a plan, but what we can't talk about is how we pay
24 for the plan.

25 COUNCIL MEMBER FIDLER: You know,

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2 and the interesting thing is I have to confess to
3 being an attorney, and I don't think that's an
4 objection in the least. Because you will come to
5 a cooperative effort in terms of the plan itself.
6 How you then choose to allocate the cost at your
7 company, that's what you can't discuss.

8 RIC ERDHEIM: That's correct.

9 COUNCIL MEMBER FIDLER: But if
10 you're going to say, you know, look I think
11 SYLVANIA is responsible-- we sell 25% of the CFLs
12 in this country, we're going to bear 25% of this
13 contract that we are entering into with these
14 recyclers. I don't think there's any anti-trust
15 violation in that. And I think I was awake enough
16 in class to get that. But then turning around and
17 saying, hey, SYLVANIA you add 37 cents to the cost
18 of your light bulb and we're going to add 37 cents
19 to the cost of ours, I think that's where you run
20 into an anti trust problem.

21 RIC ERDHEIM: That's correct. And
22 I also confess reluctantly to being an attorney,
23 but you're exactly right, and that's the only
24 point I was making.

25 COUNCIL MEMBER FIDLER: My anti-

1 trust professor would be proud. Okay. Now let me
2 ask you-- well first of all let me go to the very
3 last comment was the only thing that I really
4 bristled at here, was would this bill encourage
5 people to break CFLs. I just want to read--
6 there's one item here, I'm not even sure what the
7 source of it is here, but Counsel handed it to me
8 right before you actually made that remark, which
9 was really kind of ridiculous. In March of last
10 year, Brandi Bridges, a mother in the town of
11 Prospect, Maine in the United States, heard the
12 publicity about the new energy saving light bulbs
13 and went out and purchased two dozen of the CFLs
14 for the family home. While installing one in her
15 young daughter's bedroom, Bridges accidentally
16 broke the new CFL bulb, which shattered and fell
17 to the carpet. Remembering that the bulbs
18 contained a trace amount of mercury, she called
19 around for advice, eventually hitting the Maine
20 Department of Environmental Protection, who
21 suggested that she call in a hazardous waste crew.
22 When the hazard contractor quoted \$2,000 to clean
23 the bedroom Bridges decided simply to seal off the
24 room and make her daughter sleep elsewhere in the
25

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2 house. I don't think anyone is going to be
3 breaking CFLs voluntarily to avoid the possibility
4 that if they can't get off their tuchis [phonetic]
5 and bring it to Home Depot that they're going to
6 be fined a hundred bucks. I mean that to me is
7 ludicrous.

8 RIC ERDHEIM: Could we respond to
9 that? Do you want to go ahead?

10 JENNIFER DOLAN: Yeah. Brandi
11 Bridges is well-known in the industry. The story
12 is-- actually I've heard it everywhere from \$2,000
13 to \$20,000 for the cost. I was not suggesting
14 that people should-- obviously not suggesting that
15 people should break them, but an unintended
16 consequence may be that people feel that, oh, well
17 if my light bulb, I throw it in the garbage and it
18 breaks I'm not going to get fined. You're
19 probably right--

20 COUNCIL MEMBER FIDLER:
21 [Interposing] And I think the point is kind of
22 silly though.

23 JENNIFER DOLAN: You're probably
24 right.

25 COUNCIL MEMBER FIDLER: Thank you.

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I'll accept, you're probably right.

JENNIFER DOLAN: We're pointing out a loop hole that--

COUNCIL MEMBER FIDLER:
[Interposing] Sometimes better to stay in the frying pan and not jump right into the fire; you're back right in to the frying pan and why don't you leave it there.

JENNIFER DOLAN: But I do want to point out with the Brandi Bridges issue in Maine, what happened, our understanding is that she called Home Depot where she bought the CFL, they didn't know. They sent her-- it went up the chain and she eventually was told to call a Hazmat team. What the DEP did say in their article and in their response was that if she had opened the window for 15 minutes per the EPA and the state department of DEP's guidance, that would have pretty much mitigated the issue. There were a lot of things that came out in the media or did not come out in the media and in that article that the Maine Department of Environmental Protection did mention. And there are-- EPA has revised its cleanup guidelines. That was a miscommunication.

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2 There is quite a bit more information out there
3 about what to do to handle a CFL. And, you know,
4 and that was 2006? A couple years ago, three
5 years ago?

6 COUNCIL MEMBER FIDLER: I don't
7 believe everything I read in the papers either and
8 I understand how some of these stories come about.
9 But it goes to mindset and intent, which is really
10 what your comment went to. And I know-- I mean I
11 can remember going back as far as when I was in
12 elementary school and we had fluorescent bulbs.
13 And if a fluorescent bulb broke, you know,
14 everyone get away, don't touch it. You know, an
15 adult must handle it. So there's a mindset that
16 no one is going to break a CFL deliberately. We
17 all know there's mercury in it and we all at least
18 imagine that it is more dangerous than maybe it
19 is. So no one is going to do that to avoid
20 recycling. No one in their right mind is going
21 to do that to avoid recycling. So that's my first
22 point. Now, I'm going to ask the two of you from
23 the industry a question maybe you don't know, and
24 it would be interesting if you do. I'd love to
25 hear it. How many light bulbs, or lamps, are

1
2 there in the United States and what percentage of
3 them are CFLs?

4 JENNIFER DOLAN: We do know.

5 RIC ERDHEIM: I think there's four
6 billion.

7 JENNIFER DOLAN: Six billion.

8 RIC ERDHEIM: Six billion sockets
9 and--

10 JENNIFER DOLAN: [Interposing] 20%
11 are filled with a CFL. But keep in mind, this is
12 EnergyStar coming up with their numbers, and as we
13 know, they're based on sales. They're based on
14 census data coming in-- not census-- Department of
15 Commerce data of what is imported. And we also
16 heard-- people go to Costco. They're going to buy
17 ten at a time; they're not necessarily going to be
18 putting them in ten different sockets. So one out
19 of five sales, we estimate, to be a CFL. The
20 usage is--

21 COUNCIL MEMBER FIDLER:

22 [Interposing] Well all right. It's a rational
23 basis, and as I already indicated I wasn't a math
24 major, but it would tell me that there are 4.8
25 billion incandescent bulbs that we would all love

1
2 to see replaced with CFLs. Is that pretty much
3 accurate?

4 RIC ERDHEIM: I think we would like
5 to see them replaced with energy-efficient bulbs.
6 Which very well--

7 COUNCIL MEMBER FIDLER:
8 [Interposing] Right now the state of technology is
9 that's a CFL. We haven't gotten to nirvana yet.
10 I mean--

11 RIC ERDHEIM: [Interposing] I
12 wouldn't agree with that. We've had-- I'll just
13 speak for my company, but we've had for the last
14 year, late last year and a half, an energy-
15 efficient halogen bulb that meets the phase out--
16 when the federal phase out comes in, that bulb
17 already meets those standards. It has no mercury;
18 it's 30% more efficient than a common incandescent
19 bulb. It's not as efficient as a CFL, but it's
20 fully dimmable, which is one of the problems with
21 CFLs--

22 COUNCIL MEMBER FIDLER:
23 [Interposing] But it requires a different socket,
24 does it not?

25 RIC ERDHEIM: It does not.

1
2 COUNCIL MEMBER FIDLER: A halogen
3 does not?

4 RIC ERDHEIM: No.

5 COUNCIL MEMBER FIDLER: Okay.

6 RIC ERDHEIM: It's a screw-- what
7 we're talking about are lamps that would screw in
8 to existing sockets.

9 COUNCIL MEMBER FIDLER: Okay. And
10 how many of your competitors have that product?

11 JENNIFER DOLAN: I'm sure by the
12 time the phase in begins we will all.

13 COUNCIL MEMBER FIDLER: Yeah, but
14 that's ten years from now. I'm asking now.

15 JENNIFER DOLAN: No, no. It's two
16 years. The phase in begins in 2012.

17 COUNCIL MEMBER FIDLER: Right.

18 JENNIFER DOLAN: And I mean I can--
19 you know, I can't say what our timeframes are, nor
20 can I speak for other manufacturers, but I can
21 pretty much guarantee that more manufacturers, if
22 we don't have them now, we will have them in the
23 next few months or years.

24 COUNCIL MEMBER FIDLER: And have we
25 dealt with the problem of halogen bulbs being

1
2 extremely hot or is that just another
3 misconception?

4 JENNIFER DOLAN: Halogen is a type
5 of incandescent. It's a different, slightly
6 different, technology. So technology is as it is.
7 So, the fluorescents are cooler. The
8 incandescents are not.

9 COUNCIL MEMBER FIDLER: Okay. So
10 my perception that, you know, that little desk
11 lamp I have with the halogen bulb, you know, when
12 I touch the outside of the thing, my hand like,
13 went wow.

14 JENNIFER DOLAN: Yeah, don't touch
15 it.

16 COUNCIL MEMBER FIDLER: That's
17 still reality. So I think that's going to be--
18 may inhibit your market for halogen a little bit.

19 RIC ERDHEIM: Mr. Chairman,
20 whenever I take out an incandescent--

21 COUNCIL MEMBER FIDLER:
22 [Interposing] He's the chairman.

23 RIC ERDHEIM: I'm sorry.
24 Representative-- Councilman Fidler, whenever I
25 take out an incandescent bulb or have to take it

1
2 out for the few that we have left, I'm always sure
3 to let it cool down first because you have a heat
4 aspect, in fact that's the energy inefficiency as
5 it goes most to heat as opposed to--

6 COUNCIL MEMBER FIDLER:

7 [Interposing] Right, right.

8 RIC ERDHEIM: So you really have
9 that with any type of that technology. But right
10 now the biggest problem with our selling that lamp
11 is the cost. It's not the touch or anything like
12 that. It costs more money because it's a much
13 better lamp.

14 COUNCIL MEMBER FIDLER: All right.

15 So--

16 RIC ERDHEIM: [Interposing] The
17 only point I wanted to make is that all of the
18 manufacturers, and we can't talk about this
19 because a lot of this stuff is in labs and things
20 that we're doing, but we are-- by the time we have
21 the phase out, we will have different types of
22 technologies, some of which you've heard about
23 such as LEDs, but some of which you may not have
24 even heard about, to start bringing more energy
25 efficient lighting. And I just want to make clear

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2 that you understand this is not going to be 100%
3 CFLs. That's the only point I want to make.

4 COUNCIL MEMBER FIDLER: All right.
5 I get that. So let's say that half become CFLs
6 and half are some other product to be named later.
7 So that would be 2.4 billion lamps at about no
8 more than five milligrams of mercury per lamp.
9 How many tons of mercury would that be if we got
10 to our goal for energy efficient lighting? How
11 many tons of mercury would that need?

12 RIC ERDHEIM: Mr. Chairman we can,
13 Mr. Chairman-- just let him be the chairman, okay.
14 Sorry to do that to you, Mr. Chairman. Council
15 Member, we can come up with a figure. There's no
16 problem about that. You'd have to make certain
17 assumptions, how much mercury is in the lamp, how
18 many bulbs are going to be sold. You talked about
19 2.4 billion--

20 COUNCIL MEMBER FIDLER:
21 [Interposing] Well what's the average amount of
22 mercury in a CFL now? It's certainly no more than
23 five. I'll allow you to bring the number down.
24 What it is?

25 RIC ERDHEIM: Based on what I've

1
2 heard, which is not a scientific survey, we have
3 not done a survey, I believe it's about three.

4 COUNCIL MEMBER FIDLER: Okay. So
5 that would be three milligrams times 2.4 billion.

6 JENNIFER DOLAN: I'm sorry. What
7 we were discussing is we can pretty much
8 accurately guess what the NEMA companies, our 16
9 members of the lighting section--

10 COUNCIL MEMBER FIDLER:
11 [Interposing] Ah. So there are 84 companies out
12 there that aren't adhering to the five milligrams,
13 right?

14 JENNIFER DOLAN: True. And they're
15 straight from China.

16 COUNCIL MEMBER FIDLER: So let's
17 assume that only the good guys are selling CFLs
18 and that they're three milligrams a piece because
19 we now know it's probably more than that, that's
20 7.2 billion milligrams of mercury and I couldn't
21 possibly try to convert that to tons. I have no
22 clue.

23 RIC ERDHEIM: Right. But those
24 bulbs are going to be sold over a many year
25 period. It's not every year, because what you

1
2 have is, is when you replace an incandescent with
3 a CFL, that CFL will last for a long time--

4 COUNCIL MEMBER FIDLER:

5 [Interposing] Yeah, but that's--

6 RIC ERDHEIM: [Interposing] So the
7 reason we have this phase out is to try to smooth
8 out the process so we don't have everyone buying
9 CFLs in year number one and then years two through
10 nine no one buys any CFLs--

11 COUNCIL MEMBER FIDLER:

12 [Interposing] That would be very bad for business,
13 but what's the life of mercury once it's released
14 into our environment?

15 RIC ERDHEIM: The life of mercury
16 its infinite.

17 JENNIFER DOLAN: It's an element.

18 RIC ERDHEIM: It's an element, it
19 goes on forever.

20 COUNCIL MEMBER FIDLER: Yeah. You
21 know, I kind of knew the answer. So it doesn't
22 really matter how long it takes to replace those
23 bulbs. The mercury--

24 RIC ERDHEIM: [Interposing] No,
25 what I'm saying is that--

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COUNCIL MEMBER FIDLER:

[Interposing] If released into the environment will stay with us during that entire phase in, phase out--

RIC ERDHEIM: [Interposing] Right, but you've made an assumption--

COUNCIL MEMBER FIDLER:

[Interposing] And the lives of my children and grandchildren.

RIC ERDHEIM: But you've made an assumption again that by the time we switch out all those bulbs that 50% are going to be CFLs. And what I would tell you is just as we saw a transition from analog to digital televisions; you're going to see a huge change. I cannot predict what it will be. I cannot tell you--

COUNCIL MEMBER FIDLER:

[Interposing] Or when.

RIC ERDHEIM: Or when. And the only thing I can be assured of is that in 2015 if you were to hold a hearing on this subject, I'll be retired. But other than that, I can't tell you--

COUNCIL MEMBER FIDLER:

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2 [Interposing] And I'll be term limited, so I
3 wouldn't be holding the hearing.

4 RIC ERDHEIM: There you go.

5 COUNCIL MEMBER FIDLER: Probably.
6 I don't know if the people are skeptical about
7 that.

8 RIC ERDHEIM: We simply don't-- I
9 mean you can give us assumptions and we can do a
10 calculation for you, but what I can't tell you is
11 what's going to happen because we're in a time of
12 tremendous change in the industry and I simply,
13 speaking for me and I think from our company, we
14 can't tell you what things are going to be like
15 even a couple of years out.

16 COUNCIL MEMBER FIDLER: You know, I
17 accept that and I think that's the premise of why
18 we're here. It's about what's going to happen in
19 the future with a chemical that is harmful and
20 that will not go away. You know, if I were the
21 king, you couldn't sell incandescent bulbs in this
22 country any more. If I were the king, we would be
23 phasing out over five years gasoline combustion
24 automobile engines. But I'm not the king; I'm
25 just a councilman from Brooklyn. And so, I can't

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2 mandate the kind of behavior from consumers that
3 will press your industry, the automobile industry,
4 industries like you from selling environmentally
5 conscientious products so that we don't do to
6 ourselves what we're doing.

7 RIC ERDHEIM: Well let me--

8 COUNCIL MEMBER FIDLER:

9 [Interposing] And that's the point. And if it
10 takes you five years or ten years, if CFLs, if
11 halogen, you know, your product for some reason
12 doesn't catch on, if we don't-- you know, if LED's
13 don't become popular, you know, for 100 reasons
14 that I would never know because I'm not a-- you
15 know, a physics major, I'm not an energy-- you
16 will still be pumping three milligrams, at least,
17 of mercury into our environment over and over and
18 over again until it stops. And that could be five
19 years. It could be ten years. God willing it
20 will be two years.

21 RIC ERDHEIM: Even that you're
22 assuming that we won't make any changes so that
23 three stays the limit. When you look at the
24 industry's record there's a very strong record of
25 continuing to decline. But let me just say if

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2 you--

3 COUNCIL MEMBER FIDLER:

4 [Interposing] And that's great. And that's great
5 and if you get down to trace amounts of mercury in
6 every CFL, we won't need to recycle anymore, you
7 know? And our colleagues who will be here after
8 us will repeal this piece of legislation as an
9 unnecessary burden on local businesses because it
10 will no longer be an environmental issue. But
11 until it is, until we reach that reality, I think
12 we have a responsibility.

13 RIC ERDHEIM: Two points. I'm
14 sorry did you...?

15 RAY GRACZYK: I just wanted to
16 comment on something that was said earlier about
17 disposal and the safety of landfills. Well,
18 again, mercury lamps are kind of a unique product.
19 They never make it to the landfill. When they go
20 into the dumpster or the garbage cans or the
21 garbage trucks, they get broken. So the vapor is
22 released into the environment and the mercury for
23 the most part is washed out of the trucks or
24 receptacles in rainwater. There's been studies
25 done on this in New Jersey and other places. So,

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2 that mercury is available to the environment when
3 the product goes in to the garbage.

4 COUNCIL MEMBER FIDLER: And so
5 therefore the mere fact that we're allowing people
6 to put them into the garbage is already a defeat
7 in trying to keep the mercury out of our
8 environment. So I guess your point is it doesn't
9 matter how safe the landfill is, they're getting
10 broken in the garbage can.

11 RAY GRACZYK: They would have to go
12 to a hazardous waste landfill. They would have to
13 be brought there intact and they would have to be
14 encapsulated in order to be disposed of properly,
15 not the landfill the gentleman here was talking
16 about, lined landfill in Carolina or Pennsylvania-
17 -

18 COUNCIL MEMBER FIDLER:
19 [Interposing] So it's all the more important that
20 we make people recycle them so that they're not
21 throwing them into the garbage and having them
22 break?

23 RAY GRACZYK: Correct.

24 COUNCIL MEMBER FIDLER: Thank you.

25 RAY GRACZYK: We only say these

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2 mercury products are a problem if they're disposed
3 of improperly. If they're sent to a recycler
4 intact, it's not an issue.

5 RIC ERDHEIM: If I could, one more
6 second. You are correctly saying that lamps
7 should be recycled. There's no one here saying
8 that you're wrong. What we're talking about is
9 the manner that it's being done. So if we really
10 want to move forward, then we need to stop talking
11 about should they be recycled, because as Mr.
12 Graczyk says, they're all going to be broken,
13 that's where the real harm occurs, but what's the
14 most efficient, effective way to do it? We don't
15 think what you proposed--

16 COUNCIL MEMBER FIDLER:

17 [Interposing] Okay, so answer that question for
18 me.

19 RIC ERDHEIM: What we think is the
20 most effective, efficient way is to not increase
21 the price of the product so that you avoid these
22 adverse effects. What has been done in a couple
23 of states, Minnesota being the prime example, is
24 that they use a line item on their utility charges
25 to pay, to tell the utilities to set up recycling

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2 programs and then the utilities get to recover
3 that money. So that's spread across the entire
4 utility rate base. It has a very miniscule
5 impact, but the price of the product doesn't go
6 up. Then you work with the retailers to set up
7 collection points on a voluntary basis, and many
8 of them are doing it, and to offset their costs so
9 that they agree to participate. And many of them
10 have participated. We've seen this in other
11 states. They don't even have to be mandated to do
12 it. Many of them will do it because it's a
13 service. As you were saying, Mr. Chairman, if
14 your local guy said, hey, I'll take back your
15 CFLs, maybe you'd go to him. Maybe you'd go into
16 his store. And what's the likelihood you're going
17 to go into his store and drop off a CFL and not
18 buy anything else? Probably not high. So there
19 are ways to achieve the goals you want to get in
20 the most cost-effective way possible, at the same
21 time not interfering with the energy conservation
22 benefits that we all want to see. And so I think,
23 so that's what we would recommend. Now as an
24 outsider, although I was born in New York and saw
25 my first baseball game at Ebbets Field, I'm not

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2 familiar with everything in New York City. So I
3 can't tell you what among a number of options make
4 the most sense for this city, and I wouldn't
5 pretend to do that. But what you would be looking
6 for is some broad based approach to raise the
7 funds to pay for retailers to have collection
8 programs on a voluntary basis. You don't need
9 every retailer. You just need a lot of-- you just
10 need a certain number of retailers so that people
11 have convenient options and then you keep the
12 price of the CFLs as low as possible. That's what
13 we would recommend.

14 COUNCIL MEMBER FIDLER: Well first
15 of all, let me say shame on you for moving out of
16 New York.

17 RIC ERDHEIM: It was this woman.

18 [Laughter]

19 COUNCIL MEMBER FIDLER: It always
20 comes down to a woman.

21 RIC ERDHEIM: You know how it goes.
22 It always comes down to a woman.

23 COUNCIL MEMBER FIDLER: Which is
24 why--

25 RIC ERDHEIM: [Interposing] I'll

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tell my wife tonight that.

COUNCIL MEMBER FIDLER: --you have to meet a Brooklyn girl, you know. All right. I guess, you know, unfortunately there's a bit of a mentality here in New York that if I don't have to, I'm not going to. So I'm not sure if asking all of our retailers to do something voluntary necessarily works. But I just want to get to this question, you know, let me presume for a moment that ConEdison is sitting here, and you know, I'm not shocked to hear the manufacturers say, hey this is a great idea but don't put it on me. Why are we putting it on ConEd? I mean, you know, why should they bear the cost by adding a charge to their bill? I mean you know, lord knows they have to explain 17 taxes that people don't understand on the utility bill to begin with. Why is it their problem?

RIC ERDHEIM: Just to be clear, we don't want to impose it on ConEd. What we're talking about is using the existing utility rate system where people are paying for that to collect a very small additional amount of money that would be used to pay for the recycling program. Why do

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2 it? Because we're all interested in this, because
3 lamps reduce energy, reduce electric use. It's
4 the most efficient thing that you or the chairman
5 or the staff can do to reduce energy use, is to
6 take out an incandescent bulb and screw in a
7 compact fluorescent bulb. That's why the
8 utilities are promoting the heck out of these
9 products. They're all doing it to reduce energy
10 use. So what we're saying is if you have a broad
11 based system that has very little impact on any
12 individual consumer and you keep the price low.
13 But let me make clear, I gave you that as an
14 example. I can't, as an outsider, come in and
15 tell you what other alternatives there would be.
16 What I can tell you that the general concept would
17 be, is to have a broad-based system that raises
18 the funds for the recycling such that you don't
19 have to increase the price of the product that we
20 want people to buy.

21 JENNIFER DOLAN: And if I could add
22 something. The City of San Francisco for example
23 does the same sort of thing with their own version
24 of the Department of Sanitation not that I'm again
25 fingering one or the other. But that is another

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alternative. And when--

COUNCIL MEMBER FIDLER:

[Interposing] You're telling me that San Francisco charges people to pick up their garbage?

JENNIFER DOLAN: They add a line item to that cost, yes, specifically for hazardous waste.

COUNCIL MEMBER FIDLER: Things haven't gotten that bad here yet that we're charging people to pick up their garbage, thank god. So I don't know if that would work here.

JENNIFER DOLAN: But I'm just giving you another example of another way to spread-- that other municipalities are spreading the costs.

COUNCIL MEMBER FIDLER: And is the recycling of CFLs mandatory in San Francisco

JENNIFER DOLAN: I believe it is, yes.

COUNCIL MEMBER FIDLER: Mandatory can work, you just, you know.

JENNIFER DOLAN: I think there's a landfill, but you know what, I honestly don't know.

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2 COUNCIL MEMBER FIDLER: What's San
3 Francisco's recycling rate for CFLs, do we know?

4 JENNIFER DOLAN: I can find that
5 out. We don't know. But my point there was that
6 when you spread the costs across the entire rate
7 base, it is a very small amount and what you're
8 doing is reimbursing for those lamps that do get
9 collected. And right now we're selling 300
10 million nationally. What is available for
11 recycling is what was sold seven to ten years ago.
12 So if you make manufacturers responsible today, we
13 have to assume 100% recycling. So we're going to
14 have to charge for the true cost of everything for
15 every single lamp that is sold.

16 COUNCIL MEMBER FIDLER: Well not
17 really. You're going to say you're going to
18 assume 100% recycling, but you and I know--

19 JENNIFER DOLAN: [Interposing] Well
20 isn't that the goal?

21 COUNCIL MEMBER FIDLER: --that will
22 never happen, and so you're building a profit into
23 it.

24 JENNIFER DOLAN: But that's the
25 goal.

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2 RIC ERDHEIM: But you did go to law
3 school, and you do know-- maybe you should have
4 been an accountant also, but when you impose a
5 liability on a manufacturer, our auditors are
6 going to say you have to pay or be ready to pay
7 for 100%. Because you didn't say collect 50%.

8 COUNCIL MEMBER FIDLER: No, your
9 auditors are going to tell you, you have to be
10 prepared to meet the rational costs of the
11 liability you've assumed.

12 RIC ERDHEIM: Right. And your bill
13 says--

14 COUNCIL MEMBER FIDLER:
15 [Interposing] I would love to meet the auditor
16 that's going to assume 100% recycling of anything.
17 I mean that would strike me as a ridiculous
18 standard. I know the Chairman is an accountant,
19 maybe he could, you know, speak to it. But it
20 just seems to me that that would be an absurd
21 standard for an auditor to set. So you know, I
22 don't think we need to argue about it, though. I
23 mean it's not-- I am intrigued by the
24 alternatives. And I certainly will look into
25 them.

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2 JENNIFER DOLAN: And then the other
3 issue is again, seven to ten years ago the people
4 who were selling bulbs into the City may not be
5 the people who are selling today. So if you
6 spread across, you know, the entire rate base and
7 ask everyone to pitch in a small amount for what
8 they have used or should be using, then you're not
9 trying to figure out who is still in business,
10 what did you sell, what's your market share seven
11 years ago. We don't know that information. So
12 that is another barrier that we think if you
13 looked at it from what can you collect up to that
14 100% recycling rate maybe seven years from now,
15 then what is the lowest cost, most effective
16 approach.

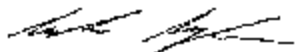
17 COUNCIL MEMBER FIDLER: Mr.
18 Chairman, I'll just conclude with this. I mean I
19 think we've found some common ground here. You
20 know, we have an issue that I think needs to be
21 dealt with and there are other approaches to the
22 one that, you know, our bill takes. I don't know
23 that-- I certainly would imagine that no one wants
24 to be the person who is responsible for bearing
25 the costs, and yet there clearly is a cost

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2 associated with it and I think we've also heard
3 from everybody sitting here that there's a benefit
4 associated with it as well. And we need to find a
5 way to marry those factors in the most acceptable
6 way without putting an undue burden on people who
7 really are going to suffer the consequences of
8 their own short sightedness. And that is what we
9 need to do as we bring this bill forward. Thank
10 you.

11 COUNCIL MEMBER FELDER: Thank you
12 very much. And with that this hearing is hereby
13 closed.
14

C E R T I F I C A T E

I, Erika Swyler 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 May 18, 2009 _____