

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEES ON CONTRACTS &
SANITATION & SOLID WASTE MANAGEMENT

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January 27, 2012
Start: 10:15am
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HELD AT: Committee Room - 14th Floor
250 Broadway

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CHAIRPERSON JAMES: Good morning and welcome to this joint hearing of the Committee on Sanitation & Solid Waste Management and the Committee on Contracts. I'm Council Member Letitia James, Chairperson of the Sanitation Committee, and Council Member Mealy, the Chair of the Committee on Contracts will be joining us shortly. Back in 2005, the Council passed and the Mayor signed a series of laws pertaining to purchasing products that are better for the environment than other similar products. These bills, taken together, provided a framework for a complex and ambitious program for environmental preference purchasing, or EPP as it is called. And aside from locking in some particular EPP practices for a wide range of products, these bills also paved the way for the city's EPP practices to grow and evolve by calling on the city to regularly update the standards set out in the law. In addition, the law also envisioned growth by establishing a director of EPP, and giving that person policy discretion to continue to find new areas into which we expand and strengthen standards to guide the EPP program.

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2 Today we will hear from the administration, by way
3 of Marla Simpson, and from advocates to see how
4 the city has done with these different
5 opportunities and what if anything needs to be
6 done moving forward to improve the city's EPP
7 practices. The laws we will hear today are local
8 laws 118, 119, 120, 121, 123 of 2005. I'm not
9 going to go into details about each of them.
10 together they do such things as require the city
11 to create a director of Environmental Purchasing,
12 placing Environmental Purchasing officers in the
13 agencies, and require the purchasing of products
14 that achieve such goals as achieving the
15 conservation of energy and water, increasing the
16 use of recycled and reused materials, reducing
17 hazardous substances, with particular emphasis on
18 toxic chemicals -- and I am very much interested
19 in hearing about that -- decreasing greenhouse gas
20 emissions, improving indoor air quality, promoting
21 end-of-life management, and reducing waste. And I
22 will state again, these laws were designed for the
23 extension and improvement over time of the city's
24 EPP practices by calling for positive change and
25 growth. We know that the city has taken many

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2 positive steps forward in meeting the mandates of
3 these laws, and today our EPP practices are way
4 beyond where they were before these bills were
5 passed, and obviously we will hear from a number
6 of advocates who also will state that the city
7 obviously can do more. Nonetheless, it is our
8 understanding that these programs might have
9 stagnated and failed to grow in the way that the
10 laws intended. So as I've said, today we will
11 hear from different stakeholders and see where the
12 successes have been and where we might need to
13 work to improve. Given the truly staggering
14 amount of money the city spends on equipment,
15 appliances and other goods, improving our EPP
16 practices can have a major impact on the
17 environment and help drive the broader market for
18 greener purchasing, and at the same time address
19 the health care needs of a number of individuals
20 throughout the City of New York. Again, thank you
21 for being here this morning for this important
22 hearing, and our first witness today is Ms. Marla
23 Simpson, she is the Director of the Mayor's Office
24 of Contracts, and Ms. Simpson, I will now turn it
25 over to you for your testimony. Good morning and

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2 thank you.

3 MS. SIMPSON: Good morning, Chair
4 James, and I guess as the alumna Chair of the
5 Contracts Committee, you can fill double duty
6 here. All right. Thank you, I'm Marla Simpson, I
7 am the Director of the Mayor's Office of Contract
8 Services, and by designation of Mayor Bloomberg, I
9 am the Director of Environmental Purchasing for
10 the city. So I'm pleased to be here to discuss
11 with you the city's EPP program. As you noted,
12 this program stems from five local laws. Local
13 Law 118 in 2005 established the director position
14 as well as the standards and reporting rules;
15 Local Law 119 addressed energy and water
16 efficiency standards; Local Law 120 addressed the
17 issues of hazardous content of various products;
18 Local Law 121 established standards for recycled
19 and recovered materials content, and Local Law 123
20 addressed the green cleaning program. The
21 administration shares the goals of environmental
22 sustainability that are embodied in the EPP laws.
23 One of the main challenges as we have undertaken
24 to administer the program has been, as I'll
25 illustrate, the fact that these laws apply to a

1 relatively small proportion of our procurement
2 volume. The overwhelming majority of our
3 construction work now falls under the green
4 buildings regulations, and most of our goods
5 purchases refer to product types such as food,
6 fuel, vehicles, and heavy industrial equipment, to
7 which the EPP laws do not apply. Thus the
8 contracts to which EPP does apply are somewhat few
9 and far between. Nevertheless, working with the
10 agencies whose missions require them to use those
11 products, MOCS has implemented the program and is
12 now poised to expand the regulations in a number
13 of key areas which I will highlight. In this
14 testimony I will catalogue the areas where we have
15 made progress, and will identify the areas that we
16 are seeking to address for the remaining EPP
17 mandates. Under Local Law 118, all city agencies
18 have appointed an environmental purchasing officer
19 who is typically the agency chief procurement
20 officer, the ECO or a deputy. EPOs work with MOCS
21 to insure compliance with the standards and
22 attached to, or submitted with my testimony is a
23 list of the city's EPOs. MOCS has established an
24 EPP-related training curriculum for those EPOs and
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2 other agency procurement staff, which is offered
3 through the Procurement Training Institute. The
4 environmentally-preferable purchasing and green
5 buildings class is well-attended, it's a day-long
6 training course that provides participants with an
7 overview of the standards, as well as the
8 reporting requirements as they relate specifically
9 to design and construction projects. Some of the
10 topics include how the standards are incorporated
11 in both our RFPs and competitive bid packages.

12 Also under Local Law 118, MOCS reviews the
13 regulatory landscape each year and publishes
14 citywide data in the annual procurement indicators
15 report, which is used both to insure compliance
16 and to consider potential modifications to the
17 standards. Taking fiscal year 2011 as an example,
18 the report describes the specific types of
19 commodities that are subject to the EPP standards.
20 Most of those goods fall within the purview of
21 DCAS, which is the centralized commodities
22 purchaser for all agencies. For detailed
23 information on the products that were covered by
24 the EPP standards during fiscal year 2011, I have
25 provided with my testimony copies of the EPP data

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2 appendix that accompanied that report. However,
3 even that list of products does not begin to tell
4 the story of the city's EPP track record for the
5 year, as DCAS purchased literally hundreds of
6 millions of dollars-worth of other products that
7 are not governed by any of the EPP standards, but
8 that also further the city's greener-greater
9 agenda. During fiscal year 2011 DCAS registered
10 over \$100 million worth of contracts for such
11 goods as hybrid vehicles, bio-diesel fuel, healthy
12 food products, and various types of equipment that
13 enabled the Department of Environmental Protection
14 to protect the city's water supply, to name but a
15 few. Before I turn to some of the specific EPP
16 categories, I would like to note that Local Law
17 118 allows a significant amount of discretion to
18 waive applicability in its standards and/or to
19 declare substantial dollar volumes to be
20 categorically exempt. We have applied the
21 legally-mandated exemptions that are contained in
22 the bill, meaning that the EPP standards are not
23 applied to emergency purchases, small purchases or
24 purchases off the state and Federal contracts.
25 But we have not formally issued any waivers or

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2 taken any of the categorical exemptions to the EPP
3 standards that are permitted under the law. We
4 initially implemented Local Law 119 for energy
5 efficiency and water use standards for direct
6 goods purchases. Since the enactment of that law,
7 MOCS, together with DCAS and the Office of the
8 Deputy Mayor for Operations, have also taken steps
9 to direct agencies to minimize the power usage of
10 all electronic equipment, and DCAS has included in
11 its bid specifications for those products the
12 ability to facilitate compliance with that
13 requirement. As I indicated earlier, we are now
14 finalizing amendments to the city's EPP rules.
15 Those are in the final stages, and indeed I've
16 just been notified that they have gotten through
17 the Local Law 46 review at the Office of
18 Operations, and have been reviewed by the Law
19 Department, and so we will be beginning the city
20 administrative procedure after a CAPA process very
21 soon. We anticipate that we will get substantial
22 comments during that process, and we will work
23 with you and with other stakeholders on final
24 rules once that CAPA process is under way. The
25 new rules will apply the Local Law 119 standards

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2 that will cover products that are purchased by
3 construction contractors, as well as direct
4 purchases, and will also add a few additional
5 products that are covered by the Federal Energy
6 Management program that fall into categories that
7 are purchased by the city in any kind of
8 substantial quantity. And I will note that there
9 are many products that are covered by that program
10 that we don't buy in other than negligible
11 quantities. Meanwhile, we are moving beyond the
12 EPP energy efficiency standards and are seeking
13 additional tools on an enterprise-wide basis to
14 lessen energy usage. One good example is DCAS's
15 current solicitation, which is for an enterprise
16 print management contract. This would be an all-
17 inclusive printing system whereby a contractor
18 would be responsible for devices, consumables and
19 maintenance, and the city would pay on a per-
20 impression basis, with all of the costs included
21 in the per-impression rate. All of our equipment
22 under that contract would be required to comply
23 with the EPP standards. Under an EPM contract we
24 expect to realize savings by reducing the number
25 of print devices, improving our knowledge of the

1 location, utilization and associated costs of
2 devices, and applying leading strategies that are
3 aimed at changing our employees' printing
4 behavior, all of that in an effort to reduce the
5 city's carbon footprint and electrical consumption
6 by using fewer and more-efficient print devices.

7 Turning to Local Law 120, MOCS originally
8 promulgated rules for hazardous content in such
9 directly-purchased products as electronic devices,
10 carpets, paints and lighting. The rules that we
11 are about to put into CAPA will extend those
12 standards to products obtained in the construction
13 arena, as well as those direct purchases. In
14 addition, the new rules contain standards that
15 will reduce the direct purchase of building
16 products with add urea-formaldehyde resins, such
17 as composite wood and agri-fiber products. While
18 the standards are coming into place somewhat later
19 than we had hoped, significant work has gone into
20 the consideration of what steps to take.

21 Meanwhile, DCAS and MOCS have also met extensively
22 with Staples, which is the vendor that holds the
23 requirement contract for all city office supplies.
24 in order to increase the sale of non-toxic and
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2 PVC-free products. While the city may purchase
3 very small quantities of other types of products
4 that contain PVC, we have targeted office supplies
5 as the area where our purchasing quantities,
6 though still small relative to the size of the
7 market, are at least more than negligible. The
8 Staples contract is a requirement contract,
9 meaning that it encompasses all of the city's
10 office supply needs, and we do not purchase such
11 products through other contracts. It pre-dates
12 the adoption of the EPP laws, but already based on
13 the usage information that we have collected from
14 Staples, we've been able to move city agencies
15 toward the purchase of PVC-free and other
16 environmentally-preferable products. DCAS and
17 Staples are working to establish more-detailed
18 shopping lists that will guide agency users. Once
19 these contracts are finalized, the city will
20 conduct additional educational efforts to inform
21 buyers on their use, and to insure that city
22 buyers select the environmentally-friendly
23 options. Again, our work with Staples in this
24 context has been voluntary on the vendor's part,
25 since the contract, as I note, pre-dates the

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2 imposition of the EPP laws. PVC content is not
3 the only area where we are making incremental
4 progress, as Local Law 120 provided, toward the
5 reduction of products for which combustion poses a
6 risk of dioxin release. The combustion of paper
7 products containing chloride or chloride
8 derivatives, is a large contributor of dioxin into
9 the atmosphere, and we believe that it is the
10 single major product that the city purchases in
11 any large quantity for which those risks exist.
12 DCAS paper specifications now require that the
13 products that we purchase be at least elemental
14 chlorine-free. Elemental chlorine-free refers to
15 paper that is made from pulp bleached with
16 chlorine dioxide or other chlorine derivatives,
17 but not elemental chlorine. DCAS has encouraged
18 vendors to use a process chlorine-free operation,
19 which is paper that would be at least 30% post-
20 consumer recycled content, with no new chlorine or
21 chlorine derivatives introduced during the paper-
22 making process, and for which virgin material
23 would be totally chlorine-free. The rules we are
24 about to launch will set a process chlorine-free
25 purchasing standard for our direct purchases of

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2 paper, and we will work to try and insure that the
3 city bids for those paper products are able to
4 succeed in the marketplace. Local Law 120 also
5 requires a plan for the re-use or recycling of any
6 covered electronic device purchased or leased by
7 the city. The agency safe handling of universal
8 electronic waste program took effect in December
9 of 2010. The Sanitation Department let a citywide
10 contract that is available to all city agencies
11 for the removal and disposal of electronic waste.
12 The contractor offers the labor, equipment,
13 material and support necessary for the removal,
14 transportation, recycling and other proper
15 disposal of universal and electronic waste
16 pursuant to all of the relevant standards. Once
17 an agency properly determines that a piece of
18 equipment has exhausted its useful life and
19 requires disposal, it uses an online ordering
20 system under that contract to arrange for
21 disposal. Our effort to comply with Local Law
22 129's mandate for recycled material standards has
23 also been robust. All of the paper used in our
24 printers and copiers is bought under a DCAS
25 requirement contract, and has 30% minimum recycled

1 content. DCAS additionally has a requirement
2 contract for bond paper with 30% recycled content.
3 DCAS actually sought bids for paper with more than
4 30% recycled content, and the vendors that
5 responded to that solicitation offered the city
6 100% recycled content, but no vendor offered us
7 paper with less than 100% but more than 30%
8 content. In addition, the price differential that
9 we obtained on the 100% recycled content paper
10 exceeded the statutory benchmark, and our agencies
11 determined that they could not afford the
12 increased cost of that product. All of the city's
13 competitive procurement solicitations require
14 vendors to print their responses double-sided,
15 using paper with 30% recycled content. All of our
16 printing services for documents or graphic
17 material are produced on paper with that content
18 and those specifications are required in our
19 contracts. Additionally, city agencies have been
20 instructed to require that printing services from
21 outside vendors be done on a double-sided basis
22 and bear the recycling logo as required. Our new
23 rules package will also supplement the
24 requirements in this area, both by adding a number
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of new categories for goods that are covered by the EPA's comprehensive procurement guidelines for products containing recovered materials, and by applying the new standards and the original standards from Local Law 121 to products purchased under construction contracts as well as direct purchases. Local Law 123 governs green cleaning. Since the Council's last EPP hearing we concluded the green cleaning pilot program and issued recommendations. DCAS has made green cleaning products available to agencies under the DCAS requirement contracts from the central storehouse, and after the adoption of new rules agencies will have access to a wider range of green cleaning products from which to buy. Many products will be accessed through the requirement contracts with the state's preferred source vendors, that would be New York State industries for the disabled, industries for the blind of New York State, and Corcraft, each of which is very active in the green cleaning product market. The new rules implement standards for the purchase of green cleaning products that were successfully tested in a pilot program under Local Law 123. These

standards would apply to bathroom cleaners, degreasers, general-purpose cleaners, glass cleaners and/or sanitizers for products that are purchased by city agencies. In conclusion, for purposes of perspective, I will summarize some of the relevant data from fiscal year 2011. During that year, the city purchased about \$1.2 billion worth of goods, more than \$1.1 billion worth of that value was for purchases of goods that are not connected to the categories covered by the EPP laws. In addition, about \$69 million were products that were covered and compliant with the EPP standards that were then in effect. Another approximately \$108 million worth of purchases were otherwise covered by environmentally-friendly specifications that were voluntarily imposed by the agencies. A small amount of that \$108 million falls into categories for which our new rules would mandate specifications, but most of it falls outside the purview of the EPP laws coverage. All told, at the end of the day, we registered a little over \$6 million worth of contracts citywide for the entire fiscal year in the areas that would have been covered by the EPP standards that have

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2 not yet been adopted. Put differently, there were
3 only about \$6 million worth of contracts that
4 would have been covered by the expansion rules
5 that will be entering the CAPA process soon. I
6 want to assure the Committee that we remain
7 committed to the EPP program, and to the
8 sustainability goals that it embodies.

9 Implementation of some of the provisions has been
10 a challenge for a number of reasons, in some areas
11 we learned that the city doesn't make significant
12 purchases of any of the covered products, at least
13 not under procurements that we can legally apply
14 the standards to. Issues have arisen in a few
15 instances regarding the impact of some potential
16 new rules on existing competition or costs, and
17 the state competitive bidding laws continue to
18 pose some obstacles, although I'm happy to report
19 that there we are optimistic that we finally will
20 have some flexibility, once the state's best value
21 legislation, which I believe the Governor has just
22 signed, takes effect. We expect that that will
23 take effect this spring, and that will provide us
24 a good deal more flexibility to consider both
25 long-term costs, as well as initial prices in our

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2 award process for goods contracts. Precisely
3 because the laws that govern our contracting
4 process are so complex, it is important that the
5 EPP enforcement remain fully integrated within the
6 procurement oversight system, so that MOCS can
7 apply EPP rules to specific procurements and
8 insure agency compliance, and so that the Law
9 Department can review contracts for compliance
10 overall with the regulatory scheme. I recognize
11 and share the disappointment in the fact that we
12 did not achieve all the initial timelines
13 anticipated in these laws for the development of
14 some of the newer expanded standards. I remain
15 accountable to you and to the Mayor for the
16 decisions that we made along the way, and I assure
17 you that we have never lost sight of our EPP
18 mission or its importance as a piece of New York
19 City's environmental strategy for the 21st century.
20 I'm available to answer any questions you may
21 have. Thank you.

22 CHAIRPERSON JAMES: Thank you,
23 we've been joined by Chair Darlene Mealy, who is
24 Chair of Contracts and Madam Chair, do you have
25 any comments at this point in time?

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2 CHAIRPERSON MEALY: No, I'm just
3 looking forward to hearing some ... you answered
4 some of the questions, and I just want to
5 introduce my new legislative director that is
6 doing an excellent job, Dinah Shaw Gross, so I'm
7 looking forward to it.

8 CHAIRPERSON JAMES: Thank you. Ms.
9 Simpson, my first question is, in your testimony
10 you indicated that the city does not make
11 significant purchases of EPP-covered products, and
12 that explains to a certain degree the fact that we
13 have been somewhat slow to comply with the law.
14 In addition, you indicate that there's some legal
15 restrictions as to whether or not we can ... why we
16 ... legal restrictions with respect to applying EPP
17 standards. Can you elaborate a little bit
18 further?

19 MS. SIMPSON: Well, for example,
20 I'll give an example that affects the city's
21 technology purchases. We, the law exempts from
22 its coverage those contracts that are done under
23 the state and Federal laws, and basically all of
24 the city's technology hardware is purchased under
25 state and Federal goods contracts. Now, that's

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2 one side of the coin. If you look at,
3 particularly, both OGS and GSA are very active in
4 the EPP arena, and indeed the city's purchases
5 have moved increasingly into the GSA, the Federal
6 sphere, and I would say that GSA's website in
7 particular is very useful to the agencies and very
8 helpful in identifying the environmentally-
9 preferable alternative. And I think this is
10 something that our buyers and the people who are
11 responsible for the city's overall technology
12 policy, Commissioner Post and her staff, have all
13 been very aware of and involved with. So when we
14 say that they're not covered by the law, we're not
15 saying that this is ... that we lose sight of the
16 goals and the importance of the provisions of the
17 law, we're simply saying that they're basically
18 being regulated under different regulatory
19 schemes, and we, as part of our overall mission,
20 both through the purchasing arena and overall in
21 city government through PlaNYC, have made those
22 issues of paramount importance. It's just that
23 they're achieved through, outside the scope of
24 this law. So when I give you lists of what
25 products are purchased under this law, those are

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2 not there, because they're not covered by this
3 law.

4 CHAIRPERSON JAMES: What is the
5 percentage of procurement contracts in the City of
6 New York that are covered by EPP?

7 MS. SIMPSON: I'd have to get back
8 to you and try to calculate that. It's very, very
9 small. It's ... on the construction side, as you
10 know, the law exempts those contracts that are
11 covered by green buildings, and the overwhelming
12 proportion of the city's contracts today are
13 covered by the green buildings law, and so finding
14 those construction contracts to which the specific
15 provisions of the EPP apply is something of a hunt
16 and peck, you know, game to sort of find them. We
17 do identify them every year on an annual basis, we
18 identify them and we report them as part of the
19 report that we file under Local Law 118. But it's
20 not a large portion of our construction universe,
21 because in fact that's regulated, and in fact
22 obviously we achieve the same environmental goal,
23 through the green buildings law. On the good
24 side, I think it varies a little bit from year to
25 year. I gave you the example with the FY11 data

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2 that was at the end of my testimony, it's a very,
3 very small proportion that's covered by the EPP
4 requirements.

5 CHAIRPERSON JAMES: And the agency
6 environmental purchasing officers, a copy of which
7 you have provided to the Chairs, is this posted
8 anywhere?

9 MS. SIMPSON: I think individual
10 agencies have posted some information, but you're
11 making a good suggestion, and we could certainly
12 add it to the website that we have centrally.

13 CHAIRPERSON JAMES: And the
14 respective agencies, providing them with a buyers
15 list, buyers who obviously can offer ... who comply
16 with EPP, you indicated that you were in the
17 process of ... you were in the process of
18 establishing those guidelines.

19 MS. SIMPSON: I think I was
20 referring specifically to the Staples contract.

21 CHAIRPERSON JAMES: Yes.

22 MS. SIMPSON: And what we have
23 under the Staples contract is a catalogue
24 contract, basically it covers all of the city's
25 office supply requirements, and on that contract

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2 agencies can access virtually everything in the
3 Staples catalogue, there are certain categories
4 that we don't permit them to buy, but basically
5 they have access to the Staples catalogue.

6 Staples itself, as many of the major corporate
7 suppliers, has its own green program, and has been
8 adding PVC-free and other environmentally-friendly
9 products to its catalogue, and what we're trying
10 to do is establish a better visual, so that the
11 agencies that are ordering off that contract, and
12 again, we've been doing this voluntarily, since
13 the contract goes back so far, but our expectation
14 is that we will be able to give the agencies a lot
15 more guidance right on the catalogue website, so
16 that they can see which products offer that
17 option. Now, we've also been tracking usage and
18 we've gotten some cooperation from Staples on that
19 usage, and our usage numbers are way up in general
20 on the environmentally-friendly products. So the
21 agencies are doing a good job on their own sort of
22 finding and identifying and purchasing those
23 products. Going forward in the future eventually
24 this obviously will be a contract that when it
25 goes out the next time will be structured a little

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2 differently and will make all of these
3 requirements a little clearer.

4 CHAIRPERSON JAMES: So the goal
5 obviously at some point in time is to move city
6 agencies towards the purchase of PVC-free and
7 environmentally-preferable products, but we're not
8 there yet.

9 MS. SIMPSON: We're not there yet,
10 we've made ... the law requires that we make efforts
11 to reduce the incidence of this risk, and we have
12 made those efforts and we have reduced the
13 purchases of products that are less
14 environmentally friendly. But we will obviously,
15 as we're able to re-procure ... I mean, that is one
16 of the city's most-complicated and most-
17 significant requirement contracts, and so, as you
18 might imagine, it's a fairly-lengthy period of
19 time. And so when we go out there and re-
20 establish that relationship, we'll be able to make
21 some of these voluntary measures mandatory and to
22 tighten them up.

23 CHAIRPERSON JAMES: And you
24 indicated in your testimony that EPP standards are
25 not applicable to emergency purchases, small

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2 purchases, or purchases off of state and Federal
3 contracts.

4 MS. SIMPSON: That's correct.

5 CHAIRPERSON JAMES: And we have not
6 applied for any waivers as of today.

7 MS. SIMPSON: No agency has asked
8 for a waiver, no waiver has been granted, and we
9 didn't take any accounts formally of the statutory
10 provision for the dollar value waivers.

11 CHAIRPERSON JAMES: And what
12 additions and other changes have the current
13 director of citywide environmental purchasing made
14 to increase the city's environmental purchasing
15 initiatives since the first standards were
16 promulgated in 1977 ... excuse me, in 2007?

17 MS. SIMPSON: I wasn't in New York
18 in 1977.

19 CHAIRPERSON JAMES: Right.

20 MS. SIMPSON: I didn't do much
21 then. The ... I think it's fair to say a couple of
22 things about the ramp-up of the program. First of
23 all, because it is a program that requires
24 provisions to be included in bid specifications,
25 obviously in order to make them real, they have to

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2 be in the initial solicitation. And obviously
3 many of our contracts are multi-year contracts,
4 and so every time we impose a requirement, and
5 there are many different policies that I've
6 testified in front of the Committee on, and each
7 time we impose a new standard like that, it always
8 has a slow period of ramping-up, because it takes
9 a long time for new specs to hit the street and
10 then get turned into contracts and registered and
11 for orders to then be reflected off of those
12 contracts. So I would say our first period of
13 activity was focused on putting the initial
14 regulations into place, and doing a significant
15 amount of training development and outreach within
16 our agency family in order to insure that the
17 specs that the agencies went out with on all these
18 products were compliant. And so after sort of
19 that period evolved, then I think we've had a lot
20 of discussion with various stakeholders, NRDC and
21 others, about ways in which the program could be
22 expanded and the real issue that we've struggled
23 with has been whether to invoke the discretion
24 that's in the bill about including these
25 requirements in construction contracts. At the

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2 end of the day we've chosen that we will include
3 them in construction contracts, but again I want
4 to remind the Committee that we are only including
5 them in the construction contracts that we are
6 able to regulate through EPP, which means every
7 construction contract that relates to green
8 buildings is not in EPP. So because again ... and
9 that's not because those requirements are not
10 kept, it's because they are kept through the green
11 buildings regulatory system, rather than through
12 the EPP system, it's another local law. One of
13 the things that I've tried to do in -- and I'd be
14 interested once you've had a chance to look at the
15 FY11 report again -- we had, in order to try and
16 make it clear to the public that the green
17 buildings law is actually producing EPP-type
18 specs, we are collecting every year the data on
19 the construction contracts that are covered by
20 green buildings, and when we report on our basis
21 how the EPP specs are influencing city purchasing
22 decisions, we always include the data on green
23 buildings construction, because, while it isn't
24 technically covered by EPP, it certainly is green,
25 and so we're trying to make that information

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2 available so that everybody can see it. But it is
3 very confusing, both to the public and to some
4 extent to the agencies, in terms of how these laws
5 interact with each other, because the EPP spec is
6 not incorporated as an EPP spec in the green
7 buildings law.

8 CHAIRPERSON JAMES: So, Ms.
9 Simpson, you know you and I have a history, we
10 used to work together in the attorney general's
11 office, and we are friends, and so the next
12 question is not ... I don't, by no means is it a
13 question to disrespect your position.

14 MS. SIMPSON: Oh oh.

15 CHAIRPERSON JAMES: You hold a lot
16 of hats.

17 MS. SIMPSON: Yes I do.

18 CHAIRPERSON JAMES: You, you know,
19 you come and you testify on a wide range of issues
20 in this
21 Committee and others. You have a lot of
22 responsibilities, and so my question is, why was ...
23 you are now also the director of citywide
24 environmental purchasing, in addition to EEO,
25 Small Business, and the list goes on and on and

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on. That's a lot for one person.

MS. SIMPSON: I have a staff.

CHAIRPERSON JAMES: Okay, I know.

And you have a great staff, but my question is, why did we not hire ... why did the administration not hire someone to handle this separate and apart from all the responsibilities that you currently hold?

MS. SIMPSON: I think the feeling has been that- -

CHAIRPERSON JAMES: (Interposing)
You can do it all.

MS. SIMPSON: Well, that may be the feeling, but that's not the explanation. The issue which I alluded to in my testimony is that New York City doesn't get to make its contracting decisions either in a vacuum or on our own. We are very, very tightly regulated through other laws, and the intricate relationship between what we are allowed to do under the city charter and the associated local laws that this Council has adopted versus what we are required to do under the state competitive bidding law scheme, this is a very intricate and legally-fraught area, and so

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2 there is an oversight system, the charter makes
3 the Mayor accountable for compliance with all of
4 the applicable laws and rules, and there's a
5 certification that my office has to sign for every
6 contract that says we believe that the agency has
7 complied with all applicable laws and rules, and
8 there's a separate certification that has to be
9 signed by the Law Department that the contract is
10 legally-compliant as to its form, and the
11 combination of that oversight role means by
12 definition that every time you have a legal
13 mandate, we end up being accountable for its
14 achievement, you know, whether we succeed in every
15 instance I'll leave, you know, to you and the
16 Committee to judge, but the structure, the legal
17 structure of procurement is set up for a single
18 point of accountability. And EPP is not a ... there
19 are many laws that the administration has worked
20 on with the Council where the end product of the
21 law is a, sort of a planning tool or a generalized
22 policy standard. But in the procurement arena,
23 that's not what we do. And again, the reason that
24 we can't do that in the procurement arena is that
25 there is state law that says we can't enact social

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2 policy applicable to procurement. So there are
3 very specific standards about how as a buyer we
4 can use our leverage in terms of what we need
5 functionally, in order to achieve policy goals,
6 which some people might call social policy, but
7 legally we cannot. And all of that is baked into
8 my oversight system as well, so I guess my point
9 is, there are lots of people around the city who
10 we turn to as stakeholders. We work very closely
11 with the folks in other divisions, at DEP, at
12 Sanitation, at DCAS, at the Office of Operations,
13 it's not like we're doing this in a vacuum. But
14 at the end of the day, the charter makes the Mayor
15 accountable for compliance with all procurement
16 standards and that's why I end up with these
17 responsibilities.

18 CHAIRPERSON JAMES: And have the
19 EPP strategies been reviewed and updated within
20 the last every two years, as Local Law 118
21 requires?

22 MS. SIMPSON: Yes, they're reviewed
23 on an annual basis, what we did not choose to do
24 for some other reasons that I shared with you, is
25 we did not choose until very recently to make

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2 specific amendments to those standards. We
3 certainly modified practice and we certainly
4 worked with agencies for incremental progress in a
5 lot of these areas, we did not make a decision to
6 amend the rules until very recently, but that
7 doesn't mean we didn't review it. We reviewed it
8 at each juncture and publish our annual data, and
9 did not make a decision to at that point amend the
10 rules.

11 CHAIRPERSON JAMES: And what
12 efforts have you done to insure that every agency
13 is compliance?

14 MS. SIMPSON: We monitor that in
15 several ways. Most large-scale bids have to come
16 in for pre-approval at our office, and this is one
17 of the areas that is checked prior to the release
18 of the solicitation. The Law Department also
19 reviews bid packages, and this is on their
20 checklist to insure compliance. And then after
21 the fact, as contracts are registered, we do
22 another pass at the regulatory compliance, we
23 check on a quarterly basis and we report on an
24 annual basis, as the law requires.

25 CHAIRPERSON JAMES: I'm going to

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2 turn it over to Chair Mealy at this point in time,
3 and I'll come back.

4 CHAIRPERSON MEALY: Okay, I just
5 want to ask, Local Law 120, it makes rules about
6 buying types of products that contain hazardous
7 substances, some electronic devices, certain
8 carpets, lamps, mercury products. Could I ask, I
9 guess Local Law 120 of 2005 requires you to
10 promulgate rules regarding hazardous substances.

11 MS. SIMPSON: Yes.

12 CHAIRPERSON MEALY: What barriers
13 have been so difficult to make sure this happens?
14 Because as of now you say no hazardous substance
15 rules have been produced.

16 MS. SIMPSON: No, that's not
17 correct, there are rules that are ... that have ...
18 we've applied the law to all of the categories
19 that are stated in the law, we have not adopted a
20 couple of categories of additional rules, for most
21 notably, I think, on urea-formaldehyde, and on
22 products that have a potential to produce dioxin.
23 Those two sets of rules we are aware are the ones
24 that are in the process now. I will say, as I
25 said in the testimony, that the quantities that

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2 the city has purchased in this area are not of a
3 large amount and fall well within the waiver and
4 exemption provisions of the law.

5 CHAIRPERSON MEALY: I remember
6 that, thank you. How significant did Local Law
7 119 actually change purchasing of products covered
8 by this law?

9 MS. SIMPSON: I don't know that it
10 made a huge difference, particularly in goods
11 purchases, because DCAS was out in front well
12 before 119, for example, on energy star and on a
13 number of the areas that are covered in 119. We
14 have the advantage, of course, whenever you're
15 talking about energy efficiency, there are lots of
16 reasons, I mean, obviously the achievement of
17 environmentally-sustainable results is an
18 important reason for those provisions to be ... for
19 those goals to be sought, but there are also
20 monetary savings associated with energy and water
21 efficiency, so agencies have been highly-motivated
22 in this area for some time. But I think that one
23 of the things that we were able to do was
24 certainly with the energy and water use
25 requirements, we were able to get our requirement

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2 contracts updated so that they include the EPP
3 specs and DCAS does have- -

4 CHAIRPERSON MEALY: (Interposing)
5 Have all contracts been updated?

6 MS. SIMPSON: Yes, in those ... in
7 that, yes, in the Local Law 119 area for direct
8 purchases of goods, yes, our contracts are all ...
9 were all procured with the EPP specs, so we have
10 those in place.

11 CHAIRPERSON MEALY: We have them in
12 place, okay. What actions has the director taken
13 to review other projects not covered by Local Law
14 119?

15 MS. SIMPSON: Well, I think that
16 varies in a lot of areas. I mean, we have ... and I
17 should have mentioned in addition to my staff here
18 with me today, I have the senior staff from DCAS,
19 including Sergio Paneque, the Chief Acquisition
20 Officer for DCAS, and one of the things that I
21 think has been a priority for DCAS and my office
22 in recent, I'd say a year, is that we are moving
23 in a lot of areas to a shared service, shared
24 platform, to insure that agency procurements in a
25 lot of these areas are done on a cross-agency

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2 basis, and are ... they really leverage our buying
3 power. And one of the things that we're doing
4 there in many of those situations is looking for
5 strategies that will be greener, and will enable
6 agencies to address the overall agenda that the
7 city has through PlaNYC and other vehicles. Now,
8 I mentioned the enterprise print management
9 contract in my testimony, that's a key example of
10 an area where we've done that. We have similar
11 activities in the area, for example, of fleet
12 management that I don't, you know, have it at my
13 fingertips, but obviously the Council is well-
14 aware of some of the city's efforts in those
15 areas.

16 CHAIRPERSON MEALY: Okay, I just
17 have about two more. In general how do EPP
18 requirements impact the cost of the city's
19 purchasing and leasing goods?

20 MS. SIMPSON: I think we have found
21 that in general we are able to maintain, as we are
22 required under law, to maintain fair and
23 reasonable prices, and these are very comparable
24 prices.

25 CHAIRPERSON MEALY: Are they

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2 generally more?

3 MS. SIMPSON: No, I don't think
4 that's ... in most cases that they are more. I
5 think we had a disappointing result when we tried
6 to increase our recovered material content in
7 paper, I think we had thought we would be able,
8 and sometimes, you know, we think of New York City
9 as a large jurisdiction with a lot of market
10 power. Sometimes the market sends us a sobering
11 message and says we don't, you know, we're not as
12 important as we think we are. And while thought
13 we would be able to drive the market and get some
14 purchasing levels in an intermediate arena between
15 30% and 100%, we had disappointing results with
16 the bid. Again, I only had a quick opportunity to
17 look at a report that I think NRDC is going to
18 share with you today, and I ... but I do, I think
19 there's some important suggestions there about how
20 advocates and the city can join together to try
21 and again increase and influence market behavior.
22 I mean, paper, if there is a product that I think
23 is associated with government, for better or for
24 worse, and we're trying to change that with a lot
25 of our efforts to move toward electronic

documents, but if there's a product associated with government, it's paper. And if we can't get a price that meets the statutory standard for 100% recycled paper, and we can't even get bids for a company to sell us paper above the 30% standard, then obviously we need to work with stakeholders to try and change that behavior.

CHAIRPERSON MEALY: Thank you. I have one more question. What products has MOCS not designated through this provision?

MS. SIMPSON: I'm not- -

CHAIRPERSON MEALY: (Interposing)
CPG?

MS. SIMPSON: We have not added to the original list of CPG products in the timeframe up until now. We made a decision as we went along that we were going to implement the initial categories, and that we did not choose to exercise the discretion to add categories.

CHAIRPERSON MEALY: (crosstalk)
why?

MS. SIMPSON: A lot of reasons. I mean, again, mostly- -

CHAIRPERSON MEALY: (Interposing)

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Can you explain why?

MS. SIMPSON: I would say, as I said in the testimony, these are categories that we purchase in really small quantities, and so identifying the contracts and finding- -

CHAIRPERSON MEALY: (Interposing) Could you give me an example of one that you could not include?

MS. SIMPSON: Well sure, I can give you some examples of some areas- -

CHAIRPERSON MEALY: (Interposing) I just asked for one.

MS. SIMPSON: Carpet, we're about to add carpet to the rule. Now we do- -

CHAIRPERSON MEALY: (Interposing) I thought we had carpet.

MS. SIMPSON: Carpet on a direct basis, most of it obviously through construction.

CHAIRPERSON MEALY: Certain carpet brands with mercury added? That's Local Law 120, so you already have that in.

MS. SIMPSON: No, again I thought you were talking about recycled content, CPG requirement, and we did ... we had some carpet

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2 listed in the original process, but we are adding
3 a significant amount of carpet and carpet-related
4 products pursuant to the CPG.

5 CHAIRPERSON MEALY: Okay. What are
6 we doing as a city agency, there are a lot of
7 other hazardous waste out there, so how can we, if
8 people are not under our umbrella, how are we
9 making this a safer environment for the city,
10 other than local laws? Has the administration
11 reached out to maybe small carpet dealers that
12 have some of these carpets that are really toxic?
13 Do we get information out to the city, to let them
14 know that we are going greener and safer, and it's
15 their job also, even though they're not under this
16 legislation?

17 MS. SIMPSON: Well, you're really
18 covering a wide spectrum there.

19 CHAIRPERSON MEALY: Because we
20 cover a wide city.

21 MS. SIMPSON: The city has some
22 ability, and I'm not the legal expert on where
23 this falls, but the city obviously has some
24 ability to regulate both the public and private
25 sector market, and sometimes the laws that the

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2 administration and the Council have worked on
3 entail provisions that will apply to a sale in the
4 private market as well. And that's a different,
5 you know, I mean, if we're regulating the whole
6 availability of certain types of products within
7 the city limits of New York, that's one area of
8 regulation I assume largely under the general
9 welfare power. When I look at the potential for
10 specs in the procurement world, again, mostly we
11 look at the functional needs that agencies have,
12 and whether or not there's a way we can marry
13 those functional needs to these environmental
14 goals. And sometimes the answer to that legally
15 is yes, and sometimes the answer is no.

16 CHAIRPERSON MEALY: Do you have a
17 budget for advertising?

18 MS. SIMPSON: My office is a
19 compliance office, it's not- -

20 CHAIRPERSON MEALY: (Interposing)
21 No, I'm talking about, just like we said, that you
22 were going to put these on your website.

23 MS. SIMPSON: Right.

24 CHAIRPERSON MEALY: There's no way
25 we can put something on there just as well, if

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2 anyone looks for contracts, in regards to any of
3 these products, that they would see at least
4 people should be informed and upgraded in selling
5 these toxic chemicals. It's about safety.

6 MS. SIMPSON: Okay, and there
7 really are a couple of things going on here, and
8 I- -

9 CHAIRPERSON MEALY: (Interposing) I
10 know, I'm aware- -

11 MS. SIMPSON: (Interposing) ... I'm
12 just trying to keep them straight.

13 CHAIRPERSON MEALY: I realize that.

14 MS. SIMPSON: The city ... the city
15 has and does in other settings, I mean, I think
16 you've had hearings on PlaNYC, you've had hearings
17 on some of the provisions that will apply. I
18 mean, like for example, I'm not an expert on it,
19 but I believe that the city is applying some of
20 the green building rules outside the framework of
21 just the buildings that we pay for. I think there
22 are certain efforts that we've made as a city to
23 try and move both the private sector market and
24 the public sector market. That's not within the
25 purview of the procurement world, that's separate

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2 from that. What we are doing, and what I referred
3 to in my testimony, is we are targeting our
4 outreach, if you will, and our efforts at
5 education at the hundreds, and perhaps thousands,
6 of individuals in city government who make the
7 buying choices for city government, and want them
8 to know when they look at the products that are
9 available for them, which of them are
10 environmentally-friendly, and that's, you know,
11 some of what we're doing. So yes, we're trying to
12 put that on websites, those are largely internal
13 websites that the buyers use as they access, for
14 example, DCAS or GSA contracts. And those are
15 obviously, that's an important effort for us to
16 make, that we continue to try to strengthen.

17 CHAIRPERSON MEALY: Thank you, I
18 appreciate that.

19 CHAIRPERSON JAMES: Ms. Simpson,
20 the list that you provided to the Chairs, the
21 environmentally-preferable purchasing goods, does
22 this represent the universe of EPP goods?

23 MS. SIMPSON: It represents those
24 products, those contracts that were registered
25 during FY11, to which the EPP laws, by their

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2 terms, technically apply. It is not the universe
3 of everything that we bought that had
4 environmental specs, it is the universe of what
5 was covered by the law.

6 CHAIRPERSON JAMES: Okay. Yeah,
7 because I was looking at the list, and it's kind
8 of paltry.

9 MS. SIMPSON: It's short, yeah.

10 CHAIRPERSON JAMES: It is short,
11 that's my point.

12 MS. SIMPSON: Yeah, the law doesn't
13 apply ... I mean, for example, the green buildings
14 contracts are not there, right, but obviously they
15 contain specs that are completely consistent with
16 the EPP laws. They're not on that list because
17 they're not EPP specs, they're green building
18 specs.

19 CHAIRPERSON JAMES: So the question
20 ... so it begs the question whether or not the law
21 should be expanded, but then on the right side of
22 my brain, I'm arguing with myself saying why
23 should we expand the law when we're having a
24 difficult time complying with the law as it is?

25 MS. SIMPSON: We're not having a

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2 difficult time, again, I'm not saying it's
3 difficult to comply with the law, I'm saying that
4 the law doesn't ... again, I can't give ... I'm
5 neither an architect nor, you know, an engineer,
6 so I don't know ... I don't want to give the right,
7 you know, give an example that won't be completely
8 accurate, but when buildings are spec'ed under the
9 green buildings law, those designs mandate
10 particular materials, mandate the inclusion of
11 particular types of fixtures and appliances, if
12 that's applicable, and those specs that are used
13 in those green buildings projects are fully-
14 compliant with the EPP law. But when I have a
15 reporting requirement under the EPP law that says,
16 report the specs that were issued under the EPP
17 law.

18 CHAIRPERSON JAMES: Right.

19 MS. SIMPSON: It's not going to
20 have that spec. It's not because we didn't happen
21 to comply with the law, it's because technically
22 the law doesn't apply to that bid.

23 CHAIRPERSON JAMES: Right.

24 MS. SIMPSON: Even though that bid
25 did achieve the same goal as the law.

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CHAIRPERSON JAMES: I understand. Agency environmental purchasing officers, I believe in your testimony you indicated they receive one day of training?

MS. SIMPSON: No, no, no, I just said that there is at least a full day course on that particular issue. We have multiple ... we have trainings frequently that we meet with them on a monthly basis, we meet with people, we do a lot of training. There is a very comprehensive course that everybody takes who's going to work in this area, in order to come up to speed initially, but we have ongoing training, both through the ACCO meetings and through the PTI.

CHAIRPERSON JAMES: And the reporting requirements require that each agency give a report on their compliance with the laws?

MS. SIMPSON: Which they do as part of the collection of our indicators data, we comprehensively produce that once a year, as per the law.

CHAIRPERSON JAMES: And is that posted on the web?

MS. SIMPSON: I think some agencies

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2 have some postings, I don't know that the
3 individual ones are posted, but our report is
4 posted, and this year for the first time we
5 released all of the data in downloadable Excel
6 format as well.

7 CHAIRPERSON JAMES: And does your
8 report include the performance of each agency?

9 MS. SIMPSON: Well yes, because it
10 includes literally every ... it gives you a list of
11 literally every contract.

12 CHAIRPERSON JAMES: Okay. And this
13 requirement contract, the Staples contract, which
14 is a requirement contract, can agency users go
15 outside of the requirement contract?

16 MS. SIMPSON: No, they cannot.

17 CHAIRPERSON JAMES: Do they have
18 the ability to contract for items separate apart
19 from Staples?

20 MS. SIMPSON: Not that are in the
21 categories that the Staples contract covers, which
22 for office supplies is comprehensive.

23 CHAIRPERSON JAMES: Is there any
24 reason why they would go outside of the
25 requirements contract? For emergency purposes,

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let's say?

MS. SIMPSON: Well yes, I suppose, if they made an actual emergency purchase, you know, if a water main broke on the weekend and they needed to get something that, you know, they couldn't get otherwise, sure.

CHAIRPERSON JAMES: But in that case EPP would not- -

MS. SIMPSON: (Interposing) That's correct.

CHAIRPERSON JAMES: Correct. And in order to seek a waiver from purchasing from this requirement contract, they would need a waiver, right?

MS. SIMPSON: Yes, I don't know if there's a formal process. Again, the city, in order for us to do the kinds of things that you would contemplate under EPP, we have to be able to enforce our market power. We're never going to get the kind of bids and product offerings from the marketplace if the bidders think that we can't be trusted for our requirement contracts actually to reflect what we are going to buy. So if we let a contract that says it's for a 100% of our office

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2 supplies for all of these categories, and then we
3 start giving random contracts to other parties,
4 the next time around we will not get good bids for
5 that contract. So we enforce the requirement
6 contracts for commodities as strictly as we can.

7 CHAIRPERSON JAMES: When do you
8 think this guide for agencies would be completed?

9 MS. SIMPSON: Definitely in the
10 next, I'd say, three to four months. We've had a
11 significant amount of progress with our meetings
12 with Staples, and I think we will have something
13 that is more user-friendly for our users,
14 certainly by the end of the fiscal year.

15 CHAIRPERSON JAMES: And as part of
16 your training, was there any training with respect
17 to the dangers of dioxin?

18 MS. SIMPSON: I don't know that
19 there's been specific training on that issue.
20 Again, as I noted in the testimony, this is not a
21 large category for us, we have addressed it on ...
22 incrementally on the paper purchase front, and
23 given that we had the Staples contract in place,
24 and we knew it was going to be in place for an
25 extended period of time, we made a decision that

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2 our best shot at reducing exposure was to work
3 with the vendor who had that contract, and that's
4 what we've done.

5 CHAIRPERSON JAMES: To what extent
6 do you believe that the products that we purchase
7 contain the dioxin?

8 MS. SIMPSON: It's a relatively
9 small portion of, obviously overall, I mean, the
10 Staples contract, while it's large is not
11 primarily for products that are in this category.
12 There are some products certainly in the past, I
13 think Staples has transitioned to a lot of the ...
14 we're talking about some of the plastic-type of
15 office products.

16 CHAIRPERSON JAMES: Yes, PVC's.

17 MS. SIMPSON: A couple of things
18 have happened in recent years. Number one, as you
19 might have noticed, a lot of agencies have
20 dramatically cut back on purchasing in this area
21 altogether. It is a function of budget cuts. But
22 certainly more products have been made available
23 that- -

24 CHAIRPERSON JAMES: (Interposing)
25 To the extent that the economy comes back and they

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start purchasing again?

MS. SIMPSON: Agreed, there's no question, and as I said, we will ... we expect to put formal specs in place to address this going forward. We made a decision, since the contract was predating the law, we made a decision to see what we could do with the vendor voluntarily while we were transitioning.

CHAIRPERSON JAMES: And you are right, the law basically requires the city to reduce purchase of products like toxic PVC plastics which release dioxin. My question to you, what is your position with respect to phasing out the purchase of products that create dioxin?

MS. SIMPSON: I don't have enough information to know whether particularly in some of our highly-technical areas ... again, I wouldn't pretend to be an expert on what the, you know, what's used in all of the industrial plants that the city runs in various capacities. Our agencies are highly-attuned to environmental hazards, and it's obviously a high priority for DEP, DOT, Sanitation, whoever. We are focused in our regulatory capacity on the more consumer-type

1 goods that are used widely in city agencies.
2 Whether there are other types of technical
3 products that an individual agency needs for its
4 mission, I can't speak to it today. But that's
5 obviously something we can look at going forward.
6

7 CHAIRPERSON JAMES: And do you,
8 going forward with respect to the training of
9 these environmental purchasing officers, will
10 there be ongoing training with respect to trying
11 to reduce the amount of- -

12 MS. SIMPSON: (Interposing) Sure,
13 as I mentioned in my testimony, we anticipate a
14 significant amount of training, once we can modify
15 the Staples catalogue with the measures that we've
16 been working on voluntarily, and I assume, as that
17 contract is re-procured with new specifications,
18 that will also trigger a substantial amount of
19 training for agency buyers. And when I say agency
20 buyers, on the office supply contract, on the
21 Staples contract, that is a very long list of
22 people, because obviously a lot of folks in a lot
23 of offices are responsible for buy small
24 quantities of office supplies.

25 CHAIRPERSON JAMES: We've been

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2 joined by Council Member Robert Jackson from
3 Manhattan. Do we also as part of that buyers list
4 that you're creating, will you also be developing
5 a list of green cleaning products to be used by
6 city agencies?

7 MS. SIMPSON: Yes, that's included
8 in the rules that we are bringing into the CAPA
9 process shortly.

10 CHAIRPERSON JAMES: And have you
11 ever established a green cleaning product
12 technical advisory committee? Why are you making
13 faces?

14 MS. SIMPSON: I did, we had a
15 committee, it met and it guided us at the pilot.
16 The only reason that we didn't formally have the
17 committee is that we never got the Council's
18 appointees.

19 CHAIRPERSON JAMES: I'm sorry?

20 MS. SIMPSON: We never got the
21 appointees from the Council.

22 CHAIRPERSON JAMES: You never got
23 the ... so did that- -

24 MS. SIMPSON: (Interposing) We
25 appointed the members from the Mayor's Office.

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CHAIRPERSON JAMES: Right.

MS. SIMPSON: And we had asked multiple times and never got the appointments from the Council, so we just did the pilot with our own people.

CHAIRPERSON JAMES: Okay, so we'll look into that to see why the City Council did not make appointees. Are any of the Chairs here appointing ... the appointing person?

MS. SIMPSON: No, and I would say that it's sort of- -

CHAIRPERSON JAMES: (Interposing)
So we're absolved.

MS. SIMPSON: It sort of moot at this point, because the Committee, we had very helpful members, including several folks from academia, who were very knowledgeable, and we were able to run the pilot program with their guidance and, you know, it worked. So at this point I don't know that the advisory committee has any necessary role going forward. We continue to consult with many of the same individuals as stakeholders in EPP generally, but the program itself had a beginning, a middle, and an end, we

1
2 did the pilot, we released the results, and we are
3 now promulgating the regulations.

4 CHAIRPERSON JAMES: Well, I
5 recommend Jarret Hova, my very loyal counsel
6 sitting to my right. And Ms. Simpson, I
7 understand that you have to leave, it is now
8 almost 11:12, and I also understand there's a
9 doctor in the audience that needs to leave as
10 well.

11 MS. SIMPSON: Thank you.

12 CHAIRPERSON JAMES: And thank you
13 for your testimony. She's in this row, okay. Our
14 next panel of witnesses is Eric Goldstein, Natural
15 Resources Defense, Brendan Sexton, representing
16 NRDC, Russell Unger, I hope I pronounced your name
17 correctly, I have a difficult time reading your
18 handwriting, from the Urban Green Council,
19 Penelope Jagessar Chaffer, who is a constituent of
20 mine, living on Claremont Avenue, nice to meet
21 you, and Maya Klein, Dr. Klein. Dr. Klein, are
22 you the one that has to leave early? So Dr. Klein
23 should be the first person to testify. Dr. Klein,
24 if you could give your testimony to the sergeant-
25 at-arms, she will distribute it. Dr. Klein will

1
2 be the first person to testify, gentlemen. You
3 may begin.

4 DR. SHETREAT-KLEIN: Hi, I'm Dr.
5 Maya Shetreat-Klein, I'm a pediatric neurologist
6 and an assistant clinical professor at Albert
7 Einstein College of Medicine. I'm coming to you
8 today from the frontlines of children's health.
9 As a pediatric neurologist who treats children
10 with ADHD, seizures, autism, brain cancers and
11 learning disabilities, I have an interest in the
12 underlying risk factors in these disorders. Today
13 I want to give you a mini-crash course in
14 toxicology, and show how chemical exposure can
15 relate to chronic diseases in adults, and
16 particularly children. Since World War II, more
17 than 85,000 new synthetic chemicals have been
18 released into the environment. Fewer than 50%
19 have been tested for potential toxicity in adults,
20 and almost none have been tested for safety in
21 children. The environmental working group
22 conducts bio-monitoring tests which have detected
23 up to 493 industrial chemicals, pesticides and
24 pollutants in nearly 200 people. In a 2007
25 landmark study of chemicals in newborns, cord

1
2 blood taken at birth showed nearly 200 chemicals
3 on average in the babies tested. This means that
4 infants are born already exposed to a chemical
5 soup, including neuro-toxins, carcinogens,
6 endocrine disruptors, and mutagens. I would like
7 to take a moment to discuss a category of these
8 chemicals, PVC's. PVC's and associated phthalates
9 and dioxins post several health effects in both
10 children and adults through its production, use
11 and disposal. The production of PVC's creates
12 toxic chlorine gas, as well as significant
13 releases of mercury by chloro-alkalide processing
14 facilities. Workers in such plants have higher
15 risks of multiple cancers, as well as many other
16 diseases. There's constant contamination of
17 communities located near PVC facilities with vinyl
18 chloride, a known carcinogen. Endocrines and
19 disrupting chemicals from PVC plasticizers, such
20 as phthalates, cause DNA damage in human sperm,
21 even at background levels. Gaseous emissions from
22 vinyl materials in homes and offices definitively
23 cause respiratory symptoms in workers and
24 asthmatic symptoms in children. Finally, no known
25 methods of disposal, incineration, landfilling,

1 recycling, safely and inexpensively manage PVC
2 waste. Incineration in particular gives rise to
3 dioxins. TCDD, one form of dioxin, has been found
4 to have toxic health impact at one trillionth of a
5 gram, and causes endocrine disruption,
6 neurological damage, cancer, infertility and gene
7 mutations. As testing for environmental chemicals
8 has become more widely available, I've learned
9 through direct clinical experiences how toxins
10 impact my patients. Jeremy, a five-year-old boy,
11 suddenly experienced a significant exacerbation of
12 seizures and new-onset disabling obsessive-
13 compulsive symptoms. We discovered that Jeremy's
14 level of phthalates were sky-high. Within two
15 weeks of eliminating sources of phthalate
16 exposure, and without medication, his symptoms of
17 obsessive-compulsive disorder disappeared and his
18 seizures quieted. I could tell you hundreds of
19 similar stories related to elevated levels of
20 these and other toxins that I measure in my
21 patients. Anecdotes are nice, but what about the
22 scientific literature? The accumulating studies
23 are uniformly disturbing, and have given rise to a
24 new field of science called epigenetics. We have
25

1
2 learned that beyond their direct neuro-toxic,
3 carcinogenic or endocrine effects, dioxins and
4 phthalates alter our actual genetic expression.
5 Rather than causing a mutation in the actual DNA,
6 although they do that as well, they change the
7 labels on our DNA that indicates to proteins where
8 transcription begins or ends. These changes in
9 labeling can have profound effects in every single
10 organ system, including brain development. Most
11 worrisome, these effects are heritable: studies
12 show that the effects of a phthalate exposure in
13 your baby can be transmitted and expressed through
14 several generations. So you would continue to see
15 this effect in your grandchildren and great-
16 grandchildren. With toxic exposures, it's not a
17 question of simply being exposed to X chemical and
18 having immediately Y results. Epigenetic research
19 illustrates that chemical impact is tremendously
20 complex and that the effects are far-reaching in
21 ways we never imagined. If children are exposed
22 to hundreds of different compounds beginning from
23 conception, we have to understand some issues
24 related to toxicology, beginning with the idea of
25 total load, also known as the expose zone. In

1
2 this model our internal sinks fill with all of
3 these chemicals. In many the drain cannot keep
4 up, and the basin will overflow. That overflow is
5 the expression of a variety of clinical symptoms.
6 Toxins affect different individuals differently.
7 In short, certain sub-populations are particularly
8 vulnerable because they have polymorphisms in some
9 or many enzymes that facilitate detoxification,
10 like cytochrome P450 enzymes in the liver or
11 cellular mechanisms of eliminating toxins. These
12 children may have been fine with a small exposure
13 to one or two chemicals, but these days they are
14 awash in chemicals, some of which inhibit the very
15 enzymes necessary to detoxify. As the saying
16 goes, genes load the gun, environment pulls the
17 trigger. Many toxins also have synergistic
18 effects, for example, cigarette smoking increases
19 the risk of lung cancer by tenfold, asbestos
20 exposure increases the risk- -

21 CHAIRPERSON MEALY: (Interposing)

22 Can you kind of wrap it up, because we have a
23 short window.

24 DR. SHETREAT-KLEIN: Sure. What we
25 know about PVC, dioxins and phthalates is terribly

1
2 worrisome, and what we must factor in are genetic
3 environment interactions, multiple exposures,
4 billions of mixtures, windows of vulnerability and
5 long latency effects. New York has long been
6 ahead of the United States in the public health
7 domain, employing the precautionary principles to
8 any applications of chemicals. This principle
9 states that when an activity raises threats of
10 harm to human health and the environment,
11 precautionary measures should be taken, even if
12 some cause-and-effect relationships have not been
13 fully established. However, we are past wondering
14 whether PVC's, dioxins and phthalates cause
15 devastating health effects. At this point we know
16 definitively that they do, cumulatively and
17 beginning in utero. My profession offers me the
18 possibility of treating vulnerable children and
19 adults who are suffering from the effects of these
20 compounds. I treat Tiffany an 11-year-old girl
21 with cancer, Seeoh (phonetic), a three-year-old
22 boy with autism, Aidan, a six-year-old boy with
23 intractable seizures, and thousands of other
24 children like them. These children are uniquely
25 vulnerable to toxins in the environment, and they

1
2 need responsible adults to prevent them from being
3 exposed to even one-trillionth of another gram of
4 PVC's, phthalates or dioxins. Unfortunately, I
5 don't have the power to directly change New York
6 City's purchasing practices, but fortunately you
7 do. Please include PVC-free purchasing goals and
8 provisions and meet the intents of Local Law 120.
9 Thank you.

10 CHAIRPERSON JAMES: Doctor, can you
11 wait until the entire panel testifies, or do you
12 have to leave now?

13 DR. SHETREAT-KLEIN: I have to
14 leave by noon.

15 CHAIRPERSON JAMES: Okay, so you've
16 got a little time

17 DR. SHETREAT-KLEIN: Okay.

18 CHAIRPERSON JAMES: Thank you.

19 MR. SEXTON: Is that right? Thank
20 you very much. I'm Brendan Sexton, and I'm here
21 this morning on behalf of NRDC, Eric Goldstein is
22 also with me. I did a report for NRDC, he is an
23 executive of NRDC, I'm only a consultant, but I
24 did the report on this issue, today's issue,
25 environmentally-preferred purchasing by the city.

1
2 And I want to say first off, and I'll probably
3 conclude with the same note, this is a pretty
4 positive story. The city actually has taken very
5 seriously the goals of green purchasing, and
6 preceded the rest of the country as a major
7 purchaser in this regard, and most of the laws
8 that the city has adopted have been with the
9 cooperation of the administration and the Council,
10 because everybody has been on the same page most
11 of the time. Nonetheless, there are some issues,
12 some problems, and some things we would recommend
13 be done differently, but to begin with, I should
14 say that in my review of the city's purchasing, I
15 guess I should say something on the record, that I
16 was for just over a decade the Chair of the
17 Procurement Policy Board, and before that had been
18 a 20-year employee of the City of New York,
19 including as a Commissioner for several years. So
20 I felt very close to this issue, and I should also
21 say that it was my agency that DCAS helped make
22 the first purchases of recycled paper in the City
23 of New York when I was with the Department of
24 Sanitation and we were announcing the curbside
25 recycling program, my staff insisted that the

1 posters announcing the program had to be on
2 recycled-content material, and nobody knew how to
3 do that. That's how long ago that was. And DCAS
4 saved us, really, and we together made a purchase
5 of the first poster board ever purchased by the
6 City of New York with recycled content. So we go
7 back a long way. The city, however, starting from
8 more or less zero, has in my report I found by
9 fiscal 2010 -- we didn't have the '11 data yet --
10 the EPP purchases strictly defined had come up to
11 \$144 million worth of goods and services. There
12 are others outside that strict definition, but
13 that amounted to about one fifth of all the goods
14 and services purchased by the City of New York,
15 outside capital contracting. On the capital side,
16 complications of that law, I'll go into it a
17 little bit, but Marla already probably depressed
18 you with how complicated it is to try to apply
19 these specifications to the capital side, but
20 nonetheless we found over \$450 million worth of
21 capital contracts that included some
22 environmentally-preferable purchasing specs in
23 that contract. But you can't, from the current
24 reporting system, get exactly which products were
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1
2 purchased at what price, and I do ... one of our
3 recommendations is that that be changed. There
4 are some problems in ... I'm sorry, should I keep
5 going? Okay. There are some problems in the
6 current system, especially what I think we would
7 point to is that there is confusion about who is
8 in charge of, and where do you report to, and
9 especially if you're not a city employee, if you
10 are a vendor or an entrepreneur who wants to be a
11 vendor to the City of New York, it is not clear
12 should you go to DCAS, should you go to MOCS, have
13 you ever heard of MOCS? How do you find out
14 where's the green portal for the City of New York
15 announcing its environmental purchasing goals to
16 the industrial and merchandising communities out
17 there? And I think that my recommendation was
18 that DCAS be clearly identified as the city's
19 chief green procurement arm, and that the websites
20 show this, and that there be promulgation to our
21 vendor relations personnel. This is no reflection
22 on MOCS, who is very sophisticated and a great
23 colleague in this work, but it is just too
24 confusing to the outside world, and purchasing is
25 a matter of relating to the outside world, getting

1 to the vendors, and getting them to bring to us.

2 I also believe that the EPP program has to be

3 extended beyond where it is now, the buyers

4 involved in green procurement have generally done

5 this, but it is not part of the city's ... they have

6 generally tried to do this, but it is not part of

7 their mandated function. Almost every category of

8 material we can point to as a major purchase by

9 the city is undergoing changes in the environment

10 as we're talking, in the merchandising

11 environment. Suppliers out there are constantly

12 upgrading their green performance. I know there

13 was reference to the fact that it's hard to get

14 paper at greater than 30% recycled content or less

15 than 100%, but in fact Staples, our much-respected

16 vendor, is just commercializing as we are

17 speaking, they're rolling out their 50% recycled

18 paper, and we should be constantly aware that

19 these things are changing all the time. Paints

20 were never a matter for recyclability just five

21 years ago, now almost every paint manufacturer can

22 help you determine which of his paints are

23 recyclable, and which are low-DOC volatiles

24 content, etc. That wasn't even an issue in the

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2 paint industry just five or ten years ago. So
3 there has to be an ongoing research and
4 development function. Thirdly, I think that this
5 green construction law definitional and reporting
6 problem is a severe crippling defect. I don't
7 want to overstate it, because clearly a lot of
8 green work is going on under the green billing
9 codes, but it is a crippling defect for we the
10 public in understanding what the heck is going on
11 in the purchasing. There's billions of dollars
12 purchased by our contractors and subcontractors of
13 stuff going into green construction projects, and
14 it's not just new buildings, it's rehab and
15 renovation, and we would want to know that all of
16 it is energy star, it's water sense, it's better
17 than that. We mentioned carpet, that the city
18 doesn't buy that much new clean carpet, but our
19 construction projects buy miles, square miles of
20 carpet, and there are green carpet standards, in
21 fact there are a couple of competing ones, the
22 State of Washington has one and the carpet
23 industry itself has standards for green carpet,
24 low-VOC carpet, recycled-content carpet, and we
25 should know that our green building codes mandate

1
2 one or two or all of these standards, we should be
3 engaged in putting these into our law. And then
4 finally, I suppose, I had recommended in my report
5 that my client and colleague, NRDC, and other
6 advocates work with the city on some of these
7 industry relation problems, like getting better
8 compliance with recycling content in paper,
9 helping with manufacturers who are reluctant ... the
10 city's buyers said to me that ... I was going to
11 name one, but the famous copier manufacturers were
12 worried about, and objecting to, increasing their
13 recycled content of paper, would it jam the
14 copier, etc., and I was able to discover, and I'm
15 sure most of you could as well, that this is
16 essentially an empty fear, and that all the papers
17 marketed meet specs, etc., but unless the copiers
18 are willing ... unless the copier manufacturers are
19 willing to work with the city on how to reassure
20 themselves, etc., etc., that will continue to be
21 an impediment to getting better content. Paper is
22 a very critical material for green procurement
23 because it is an enormous contributor to
24 greenhouse gases, reforestation and deforestation
25 are a very important climate issue, and because,

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2 as Marla said, I'll give her credit, it is the one
3 product most identified with government. And if
4 you're not doing green paper, you're not doing
5 green government purchasing. So I believe that's
6 an area where advocate organizations can help,
7 because I think industry could do more to help the
8 city, and not just the city, by the way. It was a
9 little -- and this will be my last point.

10 CHAIRPERSON MEALY: Thank you.

11 MR. SEXTON: A little confusing,
12 the question of the city and the state and the
13 Federal government purchasing, and whose green
14 specs, they are very largely similar at this
15 point, so helping one level of government helps
16 them all. And that's my statement, thank you very
17 much.

18 CHAIRPERSON MEALY: Eric.

19 MR. GOLDSTEIN: Thank you,
20 Chairwoman Mealy, Chairwoman James, for holding
21 this very important hearing. As you heard, our
22 expert consultant has prepared a detailed report,
23 we're glad to endorse all of his recommendation,
24 and not take very much more time, other than to
25 remind the Committee that NRDC strongly supported

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2 the initial passage of these five laws back in
3 2005, because we know the significant firepower
4 that New York City has in terms of its ability to
5 spend wisely, both enhancing our environmental
6 quality, protecting public health, and ultimately
7 benefiting the city economically as well. This is
8 an area where there is continued innovation and
9 change, and so when these debates began, there was
10 this issue, could copier paper greater than 30%
11 recycled content make it through copy machines and
12 all, and just in over the last five or eight
13 years, the specs have improved, the copy paper has
14 improved, NRDC purchases 100% recycled paper, we
15 do a lot of copying, our contract with a major
16 copying company specifies that we will use 100%
17 recycled paper in all of our machines, and they
18 guarantee them. That is an old issue from the
19 1990's, and there are other areas where it used to
20 be that we could not obtain paper and other
21 products with recycled content, as Commissioner
22 Sexton has said, those are now available. We need
23 to keep pushing the envelope on this, and so we
24 look forward to- -

25 CHAIRPERSON JAMES: (Interposing)

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What's the name of that company?

MR. GOLDSTEIN: ... working ... we look forward to working with you and with the administration to make New York really a national leader on this issue. Thank you.

CHAIRPERSON JAMES: What is the name of that vendor?

MR. GOLDSTEIN: I'll let you know.

CHAIRPERSON JAMES: Okay, I just wanted to give them a shout-out.

MR. GOLDSTEIN: Yes, no.

MR. UNGER: Oh, it's me? I thought I got Eric's 56 seconds and another three minutes. My name is Russell Unger, I am the Executive Director of Urban Green Council, good morning, Chairperson James and Mealy and Council Member Jackson. It's a pleasure to be here, I'm actually kind of a little far afield from what I normally do these days, I work on the green building, there's an overlap between these bills, or these laws, sorry, and green building. But the reason I'm here is because I'm very familiar with these laws, led the negotiations for the Council when they were first created, I spent my first year

1
2 after the Council implementing these laws in the
3 Mayor's Office of Contracts, so I'm just going to
4 give kind of a big picture perspective. I've got
5 to say, I'm a little uncomfortable with what I'm
6 going to say, because I'm not normally in a
7 position of criticizing the city for its
8 environmental efforts. I think without a question
9 Mayor Bloomberg is the leading kind of mayor in
10 the entire country on environmental issues, and
11 MOCS is an extraordinary agency. Every contract
12 in the city ultimately goes through there, they're
13 responsible for making sure ... but, all right, the
14 but is that a couple of hundred million dollars is
15 not much if you are managing billions of dollars,
16 but that's actually a lot of money, and to put
17 some perspective on this, I mean, EPP is important
18 not so much because of the direct effect, if
19 you're buying all this paper and this direct
20 environmental effect. If you're using regular
21 cleaning products versus green cleaning products,
22 that has an impact on the health of the workers
23 who are using that in all the city buildings, and
24 the city is a major marketplace, what the city
25 does affects what vendors are selling, and it

1 affects what the private sector is doing. My ...
2 you know, it's great to hear some recent
3 developments, but my big picture sense is that the
4 city hasn't really done much since 2007, when I
5 was there. If you download their procurement
6 standards for agencies, the date on that document
7 is 2007. This was never set up as a checklist, it
8 was to create a system. We kind have got the
9 Council to push this law to create a set of
10 specific standards to get the city going, and then
11 create an office that had all these
12 responsibilities, to start looking at
13 environmental procurement on a broad scale,
14 working with other levels of government,
15 specifically looking beyond the standards in
16 there. The Committee's report cites a lot of
17 instances where those standards are no longer
18 specific, or consistent with specific directions
19 in the law. For example, the city's purchases of
20 environmentally ... of energy-efficient products is
21 supposed to comply with Federal standards. They
22 did in 2007, they don't any more, if you do a
23 comparison. Again, you know, this, you know, I
24 think basically this has been going on, this was
25

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2 supposed to be dynamic, it's static. I think when
3 we look back in retrospect, really your question,
4 Chair James, is the right one, is MOCS the right
5 place for this. I think EPP got lost in this,
6 MOCS is the right place to execute these
7 standards, I don't know that they're the right
8 place to formulate them, maybe it's time to try
9 DCAS again, but I think that you really have seen,
10 you know, since President Bush was president,
11 since we had President Bush, there hasn't been a
12 change to these things, which says a whole lot.

13 MS. CHAFFER: Thank you. I think
14 the youngest probably to testify. Chairwoman
15 James, Chairwoman Mealy, and fellow New York
16 Council members, my name is Penelope Jagessar
17 Chaffer, and I'm grateful for this opportunity to
18 address you today. I'm here to support the
19 regulation of dioxin into Local Law 120, which I
20 believe to be a crucial piece of legislation that
21 could be instrumental in improving the health and
22 welfare of New York City's youngest and most
23 vulnerable citizens. I sit before you as the
24 mother of two young children. This is Oceana, my
25 daughter, who is one, and I also have a son,

1
2 Zephyr, who is six years old. I also come before
3 you today in my professional capacity as a
4 filmmaker. For the past six years I have been
5 making a feature documentary film, Toxic Baby,
6 which looks at how chemicals like dioxin in our
7 environment affect the health and development of
8 babies and young children. I have interviewed
9 dozens of leading scientists from Europe and the
10 U.S. about the implications of chemical exposure,
11 and I was horrified by what they had to say.

12 Chemicals like dioxins routinely found in our day-
13 to-day environments are poisoning our children.

14 What was particularly heartbreaking is that the
15 roots of these exposures come primarily from what
16 their mothers have been exposed to. Chemicals
17 like dioxin that a mother is exposed to can cross
18 the placenta and enter the baby. Then, when our
19 children are born, they eat, breathe, and absorb
20 chemicals, both from the products we expose them
21 to, and from the manufacture and disposal of the
22 products found in our lives. And this is not a
23 theoretical concern. I was stunned to find out
24 that phthalates and dioxins, the two chemical
25 groups of concern associated with this

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2 legislation, had been found in the umbilical cord
3 blood of newborn babies. The only way these
4 chemicals could be present is from these babies'
5 mothers. American babies are being born already
6 polluted, with dioxin, phthalates and other
7 harmful chemicals. I found it hard to believe
8 that I could have these chemicals in my blood and
9 in my body. Clearly, I don't live anywhere near
10 somewhere like Love Canal, I don't live next to a
11 chemical factory or a chemical waste site, I live
12 in Brooklyn. I'm having the same experience,
13 breathing the same air and living the same life as
14 millions of other New Yorkers. So as part of the
15 film I had my blood tested, and I was convinced
16 that at most I might have the odd chemical here
17 and there, but nothing of consequence. Well, I
18 was deeply horrified, scared and overwhelmed by
19 what was found. I had more dioxins and dioxin-
20 like chemicals than any other group. This is what
21 the doctor who gave me my results said to me: If
22 we look at the health effects you see with
23 dioxins, the list is exorbitant. We see
24 everything from birth defects to disruption of
25 hormonal processes, decreased lung function,

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2 reduced production of blood platelets, immune
3 effects, increased rates of cancer, and indeed
4 increased cancer risks, influence on your thyroid,
5 liver damage, dental problems, behavioral
6 problems, retardation of brain development and
7 cognitive development, and a retardation of sexual
8 development. The list is ongoing, dioxins have an
9 effect on almost every organ in your body. Can
10 you imagine what it's like to have someone tell
11 you this face-to-face? That this is what you have
12 in your body, and this is potentially what could
13 be in store for your children as a result of you
14 carrying these chemicals? The tragedy for me and
15 my children was that there was even more.

16 Phthalates are chemicals used to soften PVC
17 plastic, over 90% of which are used in PVC. So
18 it's not just a dioxin we're exposed to from this
19 plastic. In the film we show two disorders linked
20 to the phthalate group of chemicals. I saw
21 pictures of newborn boys with deformed penises,
22 which require extensive surgery to correct, and we
23 show the pictures of these penises being opened
24 and then sewn up. We also show images of two- and
25 three-year-old girls with breasts and pubic hair,

1
2 some of whom had also started getting their
3 periods, two- and three-year-old girls. And guess
4 what, I had a significant amount of the same
5 phthalate chemicals in my blood, the same
6 phthalates found in PVC plastic purchased by New
7 York City agencies. In some cases I had even
8 higher levels. Remember, I live in Brooklyn,
9 going about my daily life, and this is what is
10 turning up in my blood. Just over a year after
11 getting these results I became pregnant. That
12 baby had a birth defect that is on the rise, and
13 he died while still in the womb. The guilt and
14 grief that I felt was overwhelming. Was this
15 because of the chemicals in my body? Probably.
16 But we will never know for sure. So when Oceana
17 was born, I was desperate with worry. Would she
18 have some horrible condition, or would she be
19 deformed in any way? Thank God she seems fine,
20 but I spend every waking day checking to see if my
21 kids have any symptoms of cancer or any other
22 disease linked to these chemical exposures. Our
23 children are sicker than any other generation in
24 the history of our planet, we have more asthma,
25 more childhood cancer, more developmental

1 disabilities like autism and ADHD, we have more
2 birth defects. All of these conditions link to
3 the thousands of chemicals that we've been exposed
4 to all of our lives. Dioxin and phthalate
5 chemicals released by PVC plastic that New York
6 City purchases are among the worst chemicals, and
7 it's not just me. Almost every single New York
8 City resident has measurable levels of these
9 chemicals in their bodies, every single person in
10 this room, every single member of the New York
11 City Council, even Mayor Bloomberg. Where do they
12 come from? PVC plastic, like the PVC plastic
13 products that New York City agencies purchase. We
14 need to change the way we do things, make things
15 and buy things. New York City can help change
16 this and utilize its purchasing power to shift the
17 market away from this toxic plastic. After all,
18 it's the law that the city has not been following.
19 We have to protect women of childbearing age,
20 mothers, their unborn, and their young children.
21 We now know that exposure to toxic chemicals like
22 dioxin and phthalates at this stage of life is
23 making our children horrendously ill, and this not
24 only affects them, it could affect our children's
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1
2 children as well. So to conclude, New York City
3 has the opportunity to finally implement this
4 dioxin procurement measure, and significantly
5 reduce the city's purchase of toxic PVC plastic,
6 not only to tangibly affect the lives of babies
7 and children who live here. As the greatest city
8 on earth, New York also has the opportunity to
9 stand as a beacon of municipal responsibility to
10 the rest of the country and the world, and I thank
11 you for the opportunity to testify today.

12 CHAIRPERSON JAMES: Thank you, Ms.
13 Chaffer, thank you for your compelling testimony.
14 My first question is to Mr. Unger. Mr. Unger, why
15 was PVC plastic not banned, as opposed to just
16 reduced?

17 MR. UNGER: Well, to say, I mean,
18 the law directs the city to develop standards.
19 Well, the law replies to products that form dioxin
20 upon combustion, PVC is a category of those, so
21 it's a very broad category of products, some of
22 them aren't easily replaceable, like probably
23 around the edge of the room here, that strip above
24 the carpet, that's almost certainly PVC. So to
25 just ban them as a matter of course was kind of a

1
2 strong move, so the idea was we leave this to the
3 city to look at and investigate further, and
4 again, the city is going to build a system that
5 would look at environmentally-preferable
6 purchasing, and see where it could eliminate it,
7 and where it might still have to use it.

8 CHAIRPERSON JAMES: And do you
9 believe as well, as the gentleman from NRDC,
10 believe that we should move the responsibilities
11 of enforcing EPP from MOCS to DCAS?

12 MR. UNGER: That would be my
13 recommendation, yes.

14 CHAIRPERSON JAMES: And was it ...
15 and does DCAS have any current responsibility with
16 respect to procurement in the City of New York?

17 MR. UNGER: They do, I know DCAS is
18 here, they could speak to that. They do, I mean,
19 they're ... they write the actual contracts. So
20 MOCS establishes the standards, any contract goes
21 through MOCS ultimately, any contract, purchasing,
22 construction, ultimately goes through MOCS, but
23 DCAS writes the standards, puts the bids out for
24 procurement of goods.

25 CHAIRPERSON JAMES: And to Brenda

1
2 and Eric, this overlap between EPP and green laws,
3 how do you ... how can we reconcile it, and do you
4 think we should expand the current law to include
5 other products?

6 MR. GOLDSTEIN: If I could start
7 with Mr. Unger's question for a minute.

8 CHAIRPERSON JAMES: Okay.

9 MR. GOLDSTEIN: DCAS employs some
10 very sophisticated and talented buyers, and so if
11 you want to figure out how do you get chlorine out
12 of products, you would ask the people who buy
13 products. By the way, the biggest chlorine,
14 phthalate and dioxin-forming product that we buy
15 now is paper, and if you want to get processed
16 chlorine-free or totally chlorine-free paper, DCAS
17 are the people who go out and spec paper and talk
18 to paper makers, etc. They should be charged with
19 this mission of expanding and enlarging and
20 improving the city's green standards. That's the
21 use ... I believe, and many buyers are glad to have
22 this kind of responsibility, by the way, their job
23 is not that thrilling, unless you provide some,
24 you know, mission to it, like help us control
25 pollution. So I found them very interested in

1
2 trying to advance this stuff, so I would think
3 that they are the place to start. As to the
4 second question, how do you rewrite the law, I
5 have to throw that back to you without ducking the
6 question, but I will be glad to work with the
7 Council. We need legislation, we need to look at
8 the green building code, next to the environmental
9 purchasing, the preferable purchasing laws, and
10 figure out how we can make one more like the
11 other, at least, to begin with, in reporting
12 requirements, so at least we know what is being
13 purchased under the green building code, which
14 does or does not fit our definitions of
15 environmentally-preferred products and services.
16 So I think that I would be glad to sit with, but I
17 think that the Council has to help out the most
18 with that part of the problem, we would need your
19 work, and well, I guess the Mayor's Office also,
20 obviously, of Legislative Affairs. But the law
21 has to be redrawn, it just has to be.

22 CHAIRPERSON JAMES: Right. And Dr.
23 Klein and Ms. Chaffer, could you speak a little
24 bit with respect to exposure? And Dr. Klein, do
25 you see any municipal who are- -

1

2

DR. SHETREAT-KLEIN: (Interposing)

3

I'm sorry, I didn't hear that.

4

CHAIRPERSON JAMES: Any city

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workers with high percentages of dioxin in their

6

blood and with children who exhibit certain birth

7

defects?

8

DR. SHETREAT-KLEIN: So I've

9

certainly, although I do mostly pediatrics, I do

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see adults, and actually a population I see more

11

than most is firefighters who are exposed to quite

12

a bit of incinerated toxic material from

13

buildings, and they as a group are among the most

14

toxic patients that I have in my practice, and

15

their children are more toxic as well.

16

CHAIRPERSON JAMES: So, how do you

17

treat them?

18

DR. SHETREAT-KLEIN: You know, I

19

mean, this is a process, but you know, obviously,

20

number one, two and three of detoxification are

21

avoid the toxins, so that's a huge part, and

22

that's why I'm here today. In other ways, I mean,

23

we, you know, work to use different methods of

24

turning on detoxification pathways in the body,

25

using things like botanicals and changing diet.

1
2 Sometimes we, you know, a large source of dioxins,
3 once the contamination goes out, it's airborne,
4 but it's also actually in milk and meat and eggs,
5 very high amounts. So it goes into our food
6 sources, it goes into breast milk, it's all these
7 different ways that we're being exposed.

8 CHAIRPERSON JAMES: Is PVC in baby
9 bottles?

10 DR. SHETREAT-KLEIN: Less so now,
11 and of course I want to let you also answer this,
12 but PVC is still widely used in children's toys
13 and in, say, shower curtains, a lot of different
14 kinds of places, especially in things that are
15 softer, and they contain phthalates, that's what
16 makes the plastic not rigid but more bendable, so
17 food packaging, it's all over, all over.

18 CHAIRPERSON JAMES: And a last
19 question, Doctor, what would be your
20 recommendation to the City Council? How would you
21 ... what should we do? What would be your
22 recommendations to this body?

23 DR. SHETREAT-KLEIN: Gosh, you
24 know, I think that so far since I've been here,
25 there's sort of this sense of lack of

1
2 accountability, that, you know, there's this
3 department that does that, and these people do
4 that, and kind of no one, it's nobody's problem.
5 And so it ends up being my problem, and the
6 problem of all of the citizens, including, you
7 know, everybody here, as, you know, it was
8 mentioned so eloquently. And I think what I would
9 hope for is that there would be a group within the
10 city that would be focusing, and I think this is
11 what's being discussed on some level, focused
12 entirely on implementing safe products. It's
13 costing the city money in health, you know,
14 Medicaid has many of these kids and many of these
15 adults and we're paying tons of money for their
16 illnesses.

17 CHAIRPERSON JAMES: Thank you. Ms.
18 Chaffer?

19 MS. CHAFFER: I would also just
20 like to mention for the female workers who work in
21 the buildings and are using the products that are
22 bought, PVC products are widely used in that
23 capacity, and, you know, the thing about
24 phthalates is they don't actually stay in the body
25 for huge amounts of time, but if you're constantly

1
2 exposed, you're constantly replacing them. So if
3 you imagine a woman who then becomes pregnant,
4 working in that environment, she's exposed, her
5 unborn child is exposed, and then of course, you
6 know, when they're in the womb, all of these very
7 finite decisions are made as to how the body
8 eventually will grow. You know, all the pathways
9 are set down in the womb, so, you know, we see
10 links to things like breast cancer, testicular
11 germ-cell cancer, loads of other diseases, where
12 you can trace the origins back to that develop
13 time in the womb. So, you know, what you're
14 talking about also will directly affect your
15 health and the health of your co-workers as well.

16 CHAIRPERSON JAMES: And obviously
17 the fact that in our district we live very close
18 to the BQE, obviously that's a major factor.

19 MS. CHAFFER: I live a block away
20 from it.

21 CHAIRPERSON JAMES: Yes, I know.

22 MS. CHAFFER: And, you know, I
23 think that the other great thing about this
24 legislation is the fact that when New York City
25 Council takes on something like this, it

1
2 reverberates throughout the population, you know,
3 the amount of press, the amount of awareness that
4 is raised when something like this happens, means
5 that you have the opportunity here to speak to the
6 widest-possible audience, which is all New
7 Yorkers, and to be aware of the facts that these
8 sorts of exposures, that if you do live a block
9 from the BQE, you might think well, actually I
10 won't keep my windows open at certain times of the
11 day when, you know, there's traffic or during rush
12 hour and that kind of thing. I know to do that
13 because I'm doing this, but you know, potentially
14 by what you're doing, greater information goes out
15 there, people have more incentive to want to find
16 out more, and are able to take these sort of
17 measures themselves.

18 CHAIRPERSON JAMES: Thank you.

19 Chair Mealy? Any questions?

20 CHAIRPERSON MEALY: No.

21 Informative.

22 CHAIRPERSON JAMES: So Ms. Chaffer,
23 could you provide me with a copy of your
24 documentary film?

25 MS. CHAFFER: Yes I can.

CHAIRPERSON JAMES: And if you could take my constituent home now, I'd appreciate it. And Dr. Klein, thank you for your service, and gentlemen, thank you.

MR. SEXTON: Thank you very much.

CHAIRPERSON JAMES: Thank you very much, we've been joined by Council Member Mike Nelson from Brooklyn. Our next panel is Michael Schade, Mr. Miller, David Levine, Peter Syrett. Can we have Lieutenant Eddie Boles? B-O-L?

LT. BOLES: Thank you, I really appreciate it, because I really have to run out the door, but first of all let me introduce myself, my name is Lt. Eddie Boles, Treasurer of the Uniformed Fire Officers' Association, representing over 2,500 fire officers in the New York City Fire Department. I must apologize for not having written testimony today, but I wish to testify in supporting the City Council in examining the city's compliance with environmentally-preferable purchasing laws, and submit written testimony at a later date. Why are we, the UFOA, testifying at this hearing? I almost dropped and my colleague, Deputy Chief

1
2 Richie Alleys (phonetic) almost dropped, when we
3 heard the doctor say that they see firefighters
4 and the firefighters are among the most toxic
5 patients that they see. Please keep that in mind
6 when they attack us in public with our public
7 pensions and all we make, that what we do is not
8 just put our lives on the line at fires, but we do
9 it knowing that the risks that we encounter every
10 day. But why are we here? First of all, to
11 support the City Council, of course, in seeking
12 the city's compliance with these laws, especially
13 those requiring PVC products, like we did in 2004
14 and 2005. We even supported similar state
15 legislation during the same time. Secondly, fire
16 officers taken an oath to protect the lives and
17 property of the citizens of New York City, and
18 it's our obligation to speak out if there's an
19 ongoing threat to the public, if laws regulating
20 the purchasing and use of PVC products by the city
21 are not being complied with. As many of you know,
22 PVC is among the most dangerous to humans in the
23 environment when it is burned. We refer to PVC
24 products as solid petroleum, because it melts to
25 liquid form relatively quickly when exposed to

1
2 fire. In fact, PVC piping, which is used to
3 replace metal piping, softens when exposed to 250
4 degree Fahrenheit, and carbonizes, breaks down, at
5 450 degrees Fahrenheit, which these temperatures
6 are reached within a half a minute at a structural
7 fire. So it's not only the liquid form, but it's
8 also the gases that are emitted when PVC's burn.
9 So PVC creates, burning PVC creates two main
10 deadly byproducts to civilians and firefighters:
11 one, PVC melts to liquid petroleum, which adds
12 fuel to fires, and it adds to the rapid spread and
13 destruction of fires, and then, two, when PVC's
14 burn, it releases dioxins, vinyl chloride and when
15 it mixes with water or moisture, forms
16 hydrochloric acid, which can lead to life-
17 threatening lung damage and serious corrosion to
18 buildings. Additionally, dangerous dioxins
19 released when PVC's burn, like TCDD, is a known
20 human carcinogen and human hormone disruptor which
21 was described by the various panel members before.
22 Modern fires are more dangerous today than 30
23 years ago. They burn with greater rapidity, which
24 causes greater danger to the lives of civilians
25 and firefighters, and more extensive property

1
2 damage. The byproducts of these fires are
3 extremely hazardous to humans because of the
4 increased use of PVC products. So from a fire
5 perspective, we applaud the City Council for this
6 hearing, and we urge compliance of the city to
7 insure a more environmentally-friendly purchasing
8 process. Thank you and, you know, if you have any
9 questions, or you can excuse me.

10 CHAIRPERSON JAMES: We can excuse
11 you, you're excused.

12 LT. BOLES: This is great, this is
13 like school. Thank you for helping us.

14 CHAIRPERSON JAMES: Thank you.

15 LT. BOLES: Thank you.

16 CHAIRPERSON MEALY: Anyone can go
17 first.

18 MR. SYRETT: I'll go first, because
19 I have a schedule conflict. My name is Peter
20 Syrett, I'm an associate principal at Perkins+Will
21 Architects, we are a firm founded in 1935, we're
22 one of the largest architectural firms in the
23 country, we have an office here in New York City,
24 and we have 22 offices across North America and
25 the world. We are very interested as a practice

1
2 in the implications of our actions, we have
3 responsibility as licensed professionals to
4 protect the health and welfare of the occupants of
5 the buildings we design. In that light, in 2009
6 we created the precautionary list, it's a list of
7 25 substances that we urge our clients, whenever
8 by code or policy to seek alternative materials.
9 One of those particular substances is PVC. Our
10 watch list, this list we created, that
11 precautionary list, it's basically what we've
12 taken is 75 regulatory agencies throughout North
13 America and governmental agencies' watch list and
14 compiled it into a single database which we share
15 with the public on our website,
16 transparency.perkinswill.com. PVC itself, besides
17 the immense amount of hazards posed today listed
18 by the various other testimonies, it presents a
19 series of very particular health effects. It's a
20 known carcinogen, a developmental toxin, it's a
21 suspected cardiovascular and blood toxin,
22 endocrine toxin, suspected gastrointestinal and
23 liver toxin, immunity toxin, a kidney toxin, a
24 neurotoxin, reproductive toxin, respiratory toxin,
25 skin and organ toxin, this is all from

1 governmental databases, this is not Perkins+Will,
2 we are not scientists, we are architects and
3 interior designers and planners, trying to provide
4 safe and healthy environments for our clients, and
5 people in the City of New York, and we do work ...
6 we are currently the architect for the Police
7 Academy being built out in Flushing, it is an
8 issue. Unfortunately, the green building movement
9 has not addressed material health beyond indoor
10 air quality to any great depth, and we're
11 beginning to see this growing as an issue of
12 awareness in the market. For example, Leed has a
13 pilot credit on PBT source reduction dioxin and
14 halogen organic compounds which would cover PVC.
15 We would like to urge the City Council to, as
16 other testimony has, to look at the current
17 building codes in relationship to the
18 environmental preferable purchasing policy in that
19 they're often in conflict. For example, light
20 fixtures have PVC wire jacketing, PVC is found in
21 almost every ... I could probably count 30 objects
22 in this room that have PVC in it, by sight. One
23 of them is wire jacketing. That is, to get a
24 labeled fixture that has a UL or appropriate
25

1
2 labeling often has PVC wire jacketing, so the code
3 is in essence enforcing or encouraging or
4 demanding that PVC be put into buildings in direct
5 opposition, I think, to other policy intentions of
6 the city. So for all these reasons we would again
7 like to urge the city to seek alternative
8 materials when possible and permissible for PVC in
9 buildings. Thank you for your time and
10 consideration.

11 CHAIRPERSON JAMES: So I know you
12 too have to leave. First, we've been joined by
13 the environmental expert of the City Council,
14 Council Member Gennaro. So my question to you is,
15 if we were to pursue alternative products.

16 COUNCIL MEMBER GENNARO: Gennaro.

17 CHAIRPERSON JAMES: Gennaro, excuse
18 me. He too is an expert. My question is, if we
19 were to pursue alternative products, would that
20 increase construction costs in the City of New
21 York?

22 MR. SYRETT: Our experience is that
23 has not been the case. As we've ... on Leed
24 projects in particular, we have over 100 certified
25 projects to date, 15 of those are platinum, we

1
2 have not seen a distinct cost increase on
3 material. As a matter of fact, we're trying to
4 figure out if actually it costs less. It does
5 require an extreme amount of diligence and
6 research and a baseline of knowledge for people
7 building buildings to seek this out.
8 Unfortunately, the average professional, if
9 they're not associated with this issue, will
10 struggle a bit, the source materials that are, I
11 would say, embrace precautionary principles to the
12 greatest degree possible. But it is possible, we
13 have not seen a distinct cost increase.

14 CHAIRPERSON JAMES: And to what
15 extent is this an issue within your industry?

16 MR. SYRETT: It's a huge issue,
17 health is important to all of us. We have an
18 obligation as licensed professionals to provide
19 healthy environments, and we honor that and
20 respect that very much.

21 CHAIRPERSON JAMES: And is that ...
22 so when a building gets Leed-certified, does it
23 include a lot of these concerns that you've just
24 discussed?

25 MR. SYRETT: Unfortunately not. It

1
2 does ... Leed as a framework that rates green
3 building performance, addresses certain very
4 precise things, such as VOC's that follow organic
5 compound emissions, added urea-formaldehyde, but
6 has not historically taken on material health in
7 any great depth. There are several studies I'd be
8 happy ... I don't know the names of them off the top
9 of my head, but I'd be happy to share them with
10 the Council on this very topic. That's beginning
11 to change, there are 12 credits that I'm aware of
12 worldwide that address dioxin avoidance in one way
13 or another. They range from the living building
14 challenge to the green guide for health care, the
15 estadamo (phonetic) pro rating system in the
16 Middle East, Green Star in Australia and New
17 Zealand rating system, Leed, as I mentioned
18 earlier, the PBT pilot credit, it's not a base
19 credit, as well as the living building challenge
20 has three credits.

21 CHAIRPERSON JAMES: And that's the
22 only standards upon which New York City rates its
23 buildings?

24 MR. SYRETT: There are requirements
25 for certain structures to meet a certain

performance goal against Leed.

CHAIRPERSON JAMES: Do my colleagues have any questions for this witness, because I understand he has to leave? Thank you, sir, you are excused. Next witness.

MR. LEVINE: Good day, it is afternoon now, I forgot to eat breakfast. My bad. I'm David Levine, and I'm the co-founder and executive director of the American Sustainable Business Council, and the Council is a growing network of business organizations and businesses that represent now well over 100,000 businesses across the country, with many of them here in New York City. And I too am based here in New York City, and those hundreds of thousands of other entrepreneurs and business leaders and investors as well, and I'm here today to also testify on the New York City environmentally-preferable purchasing laws, and the importance of that to our businesses and to the economy of New York City, particularly the implementation of the dioxin procurement ordinance, which has now been signed back in 2005, as we've heard. So for us, you know, there is no real uncertainty around the

1 hazards here that have been posed, but it's been,
2 you know, the concern is, how does that mesh with
3 the environmentally-preferable purchasing laws and
4 the ability to actually implement and push that
5 forward, is what we're hearing today. And it's
6 clear that New York City government has the
7 opportunity to actually lead by example. And
8 that's what we're really looking for today, is to
9 take what is already understood, and push it
10 forward, so more and more of our businesses and
11 other businesses associated with us understand the
12 importance of identifying safer chemicals and
13 developing safer products, free of dioxin and PVC,
14 and they recognize that not only do these protect
15 human and environmental health, but they actually
16 make good economic sense, right, they protect
17 them, you know, from future liabilities from the
18 disposal and management of hazardous waste, you
19 know, to the costs of complying with regulations
20 around these things. So it's a tremendous cost to
21 a business that could be avoided if we drive
22 towards green chemistry and safer materials. And
23 what we're understanding is that, you know, if we
24 can set these clear criteria, set the definitions,
25

1
2 put this in place, that the marketplace will step
3 up as it always does to meet these demands. So
4 you know, for us there's a long list of reasons
5 why, you know, laws like this really help to drive
6 the market, because it increases trust amongst
7 consumers, workers, communities, investors, sort
8 of creating a more positive business environment
9 around these sorts of products. It reduces the
10 costs and risks, you know, it reduces employee
11 illness, increasing productivity when there's a
12 healthier, safer work environment. You know, and
13 in general it's the opportunity to be innovative
14 and entrepreneurial and to create these new
15 materials and products to meet these growing
16 demands. We can set this example here. So what
17 we've heard from certain industry folks and others
18 that have said it can't be done or it takes too
19 much time, then we look to the recent market
20 shifts that show us quite the contrary. In a very
21 short amount of time we've seen companies like
22 Walmart, Sears Holding, Nike, Apple, Microsoft and
23 many others have taken significant steps to reduce
24 their volume, this is overnight, you know,
25 practically they've been able to do this. Target

1
2 has eliminated over 5.5 million pounds of PVC per
3 year, Google has announced that they're
4 eliminating the use of PVC plastic in all new
5 office spaces, over a hundred hospitals and
6 healthcare providers have pledged to reduce or
7 phase out PVC and other phthalates, and just this
8 week the Washington Post covered what Kaiser
9 Permanente has done in eliminating the use of PVC
10 in their medical devices. This conversion affects
11 100 tons of medical equipment, and is expected to
12 save them close to \$5 million a year. So cost
13 savings are implied here. And the largest
14 healthcare producers in October announced that
15 they will be asking suppliers whether or not the
16 products supplied contain PVC at all as well,
17 that's \$135 billion market that they're talking
18 about raising this issue to the forefront. So
19 what we see is that this upheaval in the
20 marketplace proves the capacity of American
21 businesses, New York businesses, to step up to
22 meet these demands, so there's no reason why we
23 can't have these products in place. We're showing
24 that there's \$2.4 trillion in money that wants to
25 be invested in green markets. I just came from a

1 meeting this morning with the New York City
2 Partnership and others talking about the new
3 Benefit Corporation legislation that is passed in
4 this state, which is requiring corporations if
5 they choose to seek to incorporate, to provide
6 environmental and social benefits, a whole new
7 corporate form that's now law in seven states,
8 including New York State. So for us, by
9 implementing the dioxin, PVC, environmental
10 purchasing aspects of this law, along with the
11 others that have been talked about as well, I
12 think we can create the economy of tomorrow today,
13 it can be done, there are businesses, businesses
14 are out there proving that it grows jobs, it will
15 build the local economy, it will help build the
16 national economy, and we can lead the way, if we
17 just make these choices and put these laws into
18 practice, not just as a set of words on a document
19 back from 2005. So I thank you, there was another
20 letter that we brought from one of the other
21 businesses, but we can provide testimony from
22 loads of other businesses that will prove that
23 this can be done from the small businesses to the
24 very largest.
25

2 CHAIRPERSON JAMES: Thank you.

3 Next.

4 MR.SCHADE: Good afternoon, I also
5 forgot to eat breakfast, so if you'll bear with
6 me. So good afternoon, Chairwoman James,
7 Chairwoman Mealy, and members of the Committee,
8 thank you for the opportunity to testify today.
9 My name is Michael Schade, I'm a campaign
10 coordinator with the Center for Health Environment
11 and Justice, we're a national environmental health
12 organization, we've been around for over 30 years
13 now. We were founded by Lois Gibbs who was a
14 community leader from the Love Canal toxic waste
15 dump, which was really the nation's first
16 hazardous waste site, which led to the creation of
17 the Federal Super Fund Program. We've been
18 working on green procurement initiatives here in
19 New York State and across the country for a number
20 of years, and like some of my colleagues here with
21 me, we're going to be focusing our testimony today
22 specifically on the implementation of Local Law
23 120 of 2005. You should have a written copy of my
24 testimony there. So back in 2005, we worked with
25 members of the City Council on this legislation,

1
2 when this and the other green procurement bills
3 were moving through the legislative process. We
4 reviewed and commented on the bills, we commented
5 on ways they could be improved. I remember we
6 testified at a City Council hearing that I
7 remember Council Member Jackson was at. We worked
8 with leadership on the Council also to insure its
9 passage. We worked with a broad coalition of
10 organizations on that initiative, many of them are
11 with me here today. When this legislation passed,
12 we were extremely happy, we were ecstatic that
13 this legislation was enacted, it was a tremendous
14 accomplishment. But unfortunately we've been
15 extremely disappointed by the lack of
16 implementation, particularly of the dioxin
17 procurement law, since then, and specifically in
18 developing the rules to implement the law. The
19 law specifically states, "By January 1st, 2008, the
20 director shall promulgate rules to reduce the
21 city's purchase or release of materials whose
22 combustion may lead to the formation of dioxin or
23 dioxin-like compounds." It has been over six
24 years since that law was passed, it's been over
25 four years since the city was supposed to develop

1 those regulations to implement it. No regulations
2 have been developed, and it's clear that
3 unfortunately the city has not been in compliance
4 with the legislation. And as you've heard, the
5 legislation focused particularly on dioxin,
6 because dioxin is widely considered to be one of
7 the most hazardous chemicals on the planet. For
8 those of you that may remember, dioxin was the
9 chemical that was the main contaminant in Agent
10 Orange that was hazardous to so many of our
11 Vietnam vets. For decades scientists across globe
12 have recognized that dioxin is a global health
13 threat. You've heard from some of the other folks
14 that have testified today, that dioxin is a known
15 carcinogen, it's linked to various reproductive
16 problems, developmental problems, I can go on and
17 on, I have a bullet list of some of those health
18 effects. Because of these health concerns, over
19 170 countries across the world have signed a
20 global treaty to phase out sources of dioxin, 170
21 countries. So that's why the City Council enacted
22 this legislation over six years ago, and that's
23 why we're here today. This is a critically-
24 important public health issue. So if we think
25

1
2 about where does dioxin come from, and how can New
3 York City finally implement this green procurement
4 law, one of the biggest sources of dioxin is this
5 PVC plastic that we've heard of, which stands for
6 polyvinyl chloride. PVC releases dioxin because
7 it's a chlorinated plastic, so that's why you were
8 hearing folks talk about chlorine-bleached paper,
9 it's really the only major chlorinated plastic on
10 the market. So when you manufacture the plastic,
11 dioxin is released into the atmosphere; when it
12 burns in incinerators, when it burns in landfill
13 fires, when it burns in accidental building fires,
14 dioxin is released, which is why the firefighters
15 were with us here today. In New York City a lot
16 of our garbage gets sent to incinerators and
17 landfills, dioxin is released. In fact, New York
18 City ... New York State is the number two state in
19 the country for burning PVC in waste incinerators.
20 Just a couple of weeks ago, the U.S. EPA announced
21 a list of TRI air polluters in America, and they
22 found that the number one emitter of dioxin in
23 America is a PVC plant in Kentucky, and they make
24 PVC building materials and consumer products just
25 like many of the products that New York City

1 agencies purchase. So as you've heard, this is an
2 issue that affects all of us, New York City
3 agencies purchase many different products that are
4 made out of this plastic, office supplies, such as
5 three-ring binders, computers, laptops, report
6 covers, many other products. This also includes
7 building materials, carpeting, flooring,
8 furniture, all sorts of building materials. In
9 fact, most PVC is used in building materials. So
10 clearly we have a big concern about how these
11 green procurement laws have not been affecting
12 building materials. And when the City Council
13 enacted this legislation back in '05, the staff
14 put together a report that explained why the city
15 wanted to tackle dioxin. I've actually provided a
16 copy of that to you. Actually, you'll see on the
17 top that Russell Unger actually wrote that report,
18 interestingly enough. But in this report, the
19 City Council clearly discussed the relationship
20 between dioxin and PVC, and the report really
21 demonstrates that reducing the purchase of PVC in
22 New York City was the intent of the legislation.
23 This report by the City Council Contracts
24 Committee makes that perfectly clear. A couple of
25

1 days after Mayor Bloomberg signed the legislation,
2 an aide to the City Council Speaker's Office,
3 Speaker Gifford Miller at the time, he was quoted
4 in a plastics industry trade journal as saying
5 that, "It's fairly obvious that they'll get to
6 PVC, because it's one of the most widely-purchased
7 chlorinated products." That was over six years
8 ago, and here we are today, and still these rules
9 have not been developed, as they're required to be
10 by the law. The good news is that it's not all
11 gloom and doom, there are safer and cost-
12 competitive alternatives, as Peter from
13 Perkins+Will had mentioned and David has mentioned
14 as well, a number of other cities across the
15 country have adopted PVC-free procurement
16 initiatives. The U.S. Green Building Council has
17 adopted policies that provide incentives to avoid
18 the use of PVC that forms dioxins. As David
19 mentioned, major corporations like Walmart, HP and
20 Apple are going PVC-free, just to give you an
21 example, all the new Apple iPhones are PVC-free,
22 as are their iPads. We heard from Staples,
23 Staples has actually been doing a lot of good work
24 to reduce the use of PVC in recent years. A
25

1 couple of years ago, when this legislation was
2 passed, if you went into their stores, most of the
3 office supplies that they sold that were made out
4 of plastic contained PVC. Thankfully, Staples has
5 been transitioning to safer materials. In fact, I
6 just went to their store on Broadway a couple of
7 months ago, and I was able to buy this binder
8 here, and if you look at the cover here, it says
9 clearly that it's PVC-free. So we think that
10 there is opportunities for the city to continue
11 working with Staples to purchase more and more
12 safer and cost-effective PVC-free office supplies.
13 We're happy to hear that MOCS has begun to do so,
14 we hope that they will continue that. So we think
15 that there is, you know, we're really interested
16 in working with the Bloomberg administration and
17 the City Council to finally implement this
18 critically-important law. This past May, we and a
19 coalition of over 20 environmental organizations,
20 environmental justice organizations, labor
21 organizations, we wrote a letter to the Mayor's
22 Office of Contract Services, and we expressed
23 concern about the lack of implementation of this
24 law. The law (sic) was signed by a broad
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1 coalition of over 20 groups, community groups,
2 environmental justice groups, including UFT, CSEA,
3 NIOSH, Make the Road New York, WE ACT, Mothers on
4 the Move, NRDC, New York Lawyers for the Public
5 Interest, many others. In our letter and here
6 today, the New York Coalition Partners would
7 really like to strongly recommend that the City
8 Council work with the Mayor's Office of Contract
9 Services to finally draft these dioxin regulations
10 and to specifically include PVC-free purchasing
11 goals and provisions, to finally implement this
12 local law, as the law was clearly intended to do.
13 We would really welcome the opportunity to work
14 with leadership on this Committee, on the two
15 Committees, and we also hope to work with the
16 Bloomberg administration, to finally begin
17 implementing this law. We'd really welcome the
18 opportunity to think about ways that potentially
19 new legislation could be introduced to deal with
20 some of these issues that have slipped through the
21 cracks, like building materials, as we've heard
22 today, and I just close by thanking you for the
23 opportunity to be here with you today.

24
25 CHAIRPERSON JAMES: Thank you. For

1
2 the remaining witnesses, let me apologize, I have
3 to leave, I have a commitment at the Navy Yard, a
4 major announcement, and they're calling me now.

5 Council Member Jackson will resume as former Chair
6 of Contracts, and Council Member Mealy will
7 return. Thank you, and I look forward to working
8 with each and every one of you on this very
9 important issue. Thank you.

10 COUNCIL MEMBER JACKSON: Thank you.

11 Next please?

12 MS. MILLER: Thank you, and I'm
13 also a constituent of Chairwoman James, so ... but
14 thank you very much. So good afternoon, thank you
15 for the opportunity to speak about this
16 opportunity that New York has to reduce the public
17 health threat of dioxins through its
18 environmentally-preferable purchasing laws. In
19 our lifetime, we have all watched the steady climb
20 in rates of cancer, developmental disabilities,
21 hormonal illnesses, infertility, autism, birth
22 defects, asthma, obesity, diabetes, and a long
23 list of other serious diseases. Whose friends and
24 family have not been touched by these illnesses?
25 Why are the rates of devastating sicknesses

1
2 skyrocketing? The answer is becoming clear,
3 industrial chemicals surround us. My name is
4 Ansje Miller, and I'm the Eastern States Director
5 for the Center for Environmental Health. For over
6 15 years, CEH has been working to protect people
7 from these toxic chemicals and promote business
8 products and practices that are safe for health
9 and the environment. And now New York City has
10 the opportunity to protect people from one of the
11 most toxic chemicals known to science, dioxin.
12 Dioxin is among the 12 "dirty dozen" chemicals
13 banned by the United Nations Persistent Organic
14 Pollutants treaty, because they can cause serious
15 health effects, as has been illustrated earlier in
16 other people's testimony. Local Law 120 of 2005
17 required the Mayor's Office of Contract Services
18 to promulgate rules to reduce the city's purchase
19 or lease of materials whose combustion may lead to
20 the formation of dioxin or dioxin-like compounds.
21 The deadline was four years ago, and yet we still
22 don't have a rule. One example of how the city
23 could move Local Law 120 forward is to avoid
24 electronics made with PVC. Because of its high
25 chlorine content, PVC is a major source of

1 chlorinated dioxin, and since technology changes
2 so quickly, electronics have a relatively-short
3 life cycle, making end-of-life decisions much more
4 pressing. The plastic components of electronics
5 are usually burned at the end of the life to
6 recover the precious metals that are inside, for
7 example, the coating on a wire that covers the
8 metals inside of it. Recognizing the health
9 threat that PVC poses, as David mentioned, Kaiser
10 Permanente, the largest managed care organization
11 in the United States, adopted a specific
12 environmental criteria for all purchasing
13 decisions, and that is to avoid PVC, so they're
14 totally phasing out PVC's. Promulgating a rule to
15 phase out PVC, including for electronics, would go
16 a long way to reducing dioxin exposure in New York
17 and around the planet, and is relatively-low-
18 hanging fruit, it's easy to do, there are safer,
19 readily-available alternatives available, and in
20 fact we created a shopping guide for finding
21 greener electronics. It provides an overview of
22 companies that are offering consumer electronics
23 that are free of PVC, as well as another highly-
24 toxic class of chemicals called brominated flame
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1
2 retardants, another class of chemicals that are of
3 concern for fire fighters. So this guide and
4 other tools for purchasing greener electronics can
5 be found on our website, www.ceh.org/electronics, I
6 also have a copy here, I only have one copy that I
7 can share with folks. This guide was designed for
8 consumers, but many of those same products are
9 also used in commercial settings, for example, a
10 lot of these offices here in the city. In fact,
11 CEH has worked with major purchasers, including
12 large health care and financial institutions,
13 including Kaiser, as well as one of the nation's
14 largest brokerage firms, in their efforts by
15 providing them with tools and information to help
16 identify greener electronics during their RFP and
17 RFI process, including PVC-free products, and we
18 could do the same with New York City, if that's ...
19 if it's a challenge that needs overcoming. New
20 York City took a bold step to protect public
21 health with its green purchasing law, both for its
22 residents and for its power to change the market.
23 Now it's important for the city to close the deal
24 in phasing out PVC and its contribution as one of
25 the most toxic chemicals, dioxin. There are

1
2 safer, affordable options readily available, and
3 CEH offers support and encourages MOCS to swiftly
4 promulgate a rule on dioxin that would include
5 PVC-free purchasing to implement Local Law 120.

6 COUNCIL MEMBER JACKSON: Thank you.
7 Clearly you've made your recommendation, and
8 obviously ... is there a cost factor, anyone, and
9 obviously when you talk about the health, I mean,
10 you heard the Lieutenant testifying and the
11 doctors testify about the health, namely of
12 everyone, but you know, when you're talking about
13 fire fighters going into fires and breathing all
14 of that poison, and the negative impact it's
15 having on themselves and their families. So is
16 there a, you know, when I guess the government
17 looks at what's the cost factor in doing this?
18 And people look at it from a dollars and cents
19 point of view and not necessarily from cost factor
20 as far as the health of generations. Now you said
21 that switching to, you know, non-PVC's would be a
22 little bit more, maybe, but not a whole lot more.
23 Is there ... has anyone put a cost value on that
24 process of eliminating? I'm just asking a general
25 question. Please identify yourself before you

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2 respond.

3 MR.SCHADE: So yeah, no, that's a
4 really good question, and of course in these tough
5 economic times cost is a factor, and one that
6 we're all very much concerned about. And the good
7 news is that for the most part the alternatives
8 not only perform just as well, but they are cost-
9 competitive. Generally they cost about the same,
10 and in some cases they may be cheaper. So, for
11 example, David told a story about how Kaiser
12 Permanente is saving over \$5 million a year by
13 switching to PVC-free IV bags, so there's not just
14 a health benefit, but also a cost benefit. We
15 worked with Volkswagen on a project down in
16 Chattanooga, Tennessee and they installed safer
17 PVC-free roofing materials, and they saved about
18 \$750,000 just on this one project. In some cases,
19 the alternatives may be more expensive, and I
20 think that for the city we should really be
21 looking at the, as Ansje just said, the low-
22 hanging fruit. So you know, where are the
23 opportunities to purchase PVC-free products, where
24 we know the alternatives are cost-competitive if
25 not cheaper? Some cases the alternatives may be a

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2 little bit more expensive upfront, but they may
3 last longer, and therefore have life cycle cost
4 savings. So for example, if you look at flooring,
5 which is where a lot of vinyl is used, vinyl
6 flooring, while it's cheaper than other
7 alternatives like linoleum, vinyl flooring doesn't
8 last as long as the alternatives, it doesn't last
9 as long as linoleum. And also the vinyl flooring
10 requires the use of these very toxic cleaning
11 products, which are not just hazardous to workers'
12 health, but are also quite expensive. So if you
13 look at the life cycle cost of vinyl flooring,
14 it's actually more expensive in the long term
15 because it doesn't last as long, and because of
16 the hazardous cleaning products that are expensive
17 to use. But generally, to answer your question,
18 for the most part the alternatives are cost-
19 competitive, and that's why we're seeing huge
20 companies like Walmart moving away from PVC, and
21 of course, you know, we all know how Walmart is
22 about money.

23 COUNCIL MEMBER JACKSON: Well, I
24 mean, obviously, in listening to your response, as
25 someone, as a legislator, I basically in listening

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2 to what you responded to my question, as far as
3 the cost factor, it's clear to me that we're going
4 to win, it's going to be a lot cheaper to do
5 business in the long run, and even in the short
6 run, and then some products will be a little more
7 expensive, but the bottom line is, the health of
8 our people should be number one, and when you look
9 at the cost factor, it probably maybe equates
10 itself out, and maybe, you know, not cost any more
11 money whatsoever, in the long run. And I think
12 from a holistic point of view, we should be
13 looking at the health and safety of New Yorkers,
14 and if it's going to cost a little bit more, then
15 so be it. So I want to thank the panel for coming
16 in, and I want to ask my colleagues if they have
17 any questions.

18 MR. LEVINE: So just the other
19 thing.

20 COUNCIL MEMBER JACKSON: Yes.

21 MR. LEVINE: David Levine, I'm from
22 American Sustainable Business Council. The only
23 other piece to add to that is besides the product
24 price-by-price cost is the other cost, when you
25 say health is a primary factor of importance, but

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2 there's the cost of health. There's a cost, you
3 know, look at the billions of dollars that got
4 spent around, you know, asbestos remediation,
5 right? Those external costs that are not built-
6 in, but the city bears the brunt of it, right, in
7 terms of the impact on the workforce and the
8 impact on their communities, the impact on the
9 hospitals needing to treat all these. You know,
10 the disposal of all these things, these are the
11 costs that the city will bear. You know, when we
12 start to look at costs here, then you say, well,
13 actually these products that we're talking about
14 are a lot less expensive, when compared to the PVC
15 or the other toxic chemical products that are out
16 there. So when we have the bigger picture, you
17 know, we see that the cost is not even close to a
18 factor in terms of competition around this.

19 COUNCIL MEMBER JACKSON: Well,
20 thank you, and you're absolutely correct, for
21 sure. I want to thank this panel for coming in,
22 and we appreciate it. Can we call the next panel,
23 please? Counsel? Staff?

24 FEMALE VOICE: Joel Shufro, Ken
25 Diamondstone.

2 COUNCIL MEMBER JACKSON: Oh Joel is
3 here, I didn't see you there.

4 FEMALE VOICE: Irene Van Slyke,
5 Stephen Boese and Arthur Klock, Plumbers Local #1.
6 Ellen Weininger. Our last panel. Sergeant-at-
7 arms?

8 COUNCIL MEMBER JACKSON: All right,
9 Joel, just identify yourself, and you may begin.

10 MR. SHUFRO: Hi, my name is Joel
11 Shufro, I'm Executive Director of the New York
12 Committee for Occupational Safety and Health, and
13 I apologize for wearing the hat, I have a medical
14 condition which you don't want to look at right
15 now.

16 COUNCIL MEMBER JACKSON: That's
17 okay, so many people wear hats these days, you
18 know, and that's- -

19 MR. SHUFRO: (Interposing) Well,
20 I'm very self-conscious, in any case, I thank you
21 for the opportunity to testify on this important
22 issue. NYCOSH is a coalition of about 175 local
23 unions in the New York metropolitan area, we have
24 a 30-year history of providing technical
25 assistance and training to working people

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2 throughout the city about the toxic substances to
3 which they are exposed, how to eliminate them from
4 the workplace. And we are here to testify today
5 in regards to Local Law 120 of 2005, which calls
6 on New York City agencies to phase out the
7 purchase of products that form dioxin. We believe
8 this is an extremely important procurement
9 initiative that will protect the health and safety
10 of workers, not just in New York City, but across
11 this country. We're extremely disappointed with ...
12 that the Mayor's Office of Contract Services has
13 not developed the regulations to implement this
14 green procurement initiative, as they are required
15 to do, and it has been six years since the
16 legislation has been passed, and four years since
17 the city was supposed to develop the regulation.
18 NYCOSH has been concerned about the issue, about
19 the hazards of dioxin exposure for decades, and I
20 need not go into the health hazards, which have
21 been covered here, but to say that from cradle to
22 grave PVC is a threat to the health of workers and
23 the communities in which it is produced and
24 disposed. Research has found that the production
25 and disposal of PVC plastic, a plastic used in

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2 many common products purchased by New York City
3 agencies, is one of the largest sources of dioxin
4 in the United States, and workers are exposed to
5 dioxin from both PVC production and chemical
6 plants, as well as the disposal in incinerators
7 and landfills, and even accidental building fires.
8 In addition to dioxin, workers in PVC plants are
9 exposed to hazardous chemicals harmful to worker
10 health, including a known carcinogen, vinyl
11 chloride, the probable human carcinogen, ethylene
12 dichloride, and endocrine-disrupting phthalates.
13 Studies have documented the links between working
14 in PVC facilities and increased likelihood of
15 developing diseases, including angio-sarcoma, a
16 rare form of liver cancer, brain cancer, lung and
17 liver cancer, lymphomas, leukemia and liver
18 cirrhosis. Here in the United States we have
19 learned about the dangers of PVC's in the 1960's
20 and 70's, when chemical executives kept workers
21 and government health officials in the dark, so
22 very much like the asbestos industry, about the
23 debilitating and sometimes fatal consequences of
24 working with the primary chemical used in making
25 the plastic vinyl chloride. And I just should

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2 say, if you have not read the book "Deceit and
3 Deception", by two professors at Columbia
4 University on the history of vinyl chloride, it is
5 an important book to read, giving the historical
6 background in the way in which the agency operated
7 ... the industry operated. I need not cover, as I
8 did in my testimony, the hazards of firefighters,
9 which has been covered pretty extensively here in
10 this hearing, except to say that we should
11 remember the fire here in New York City in 1975,
12 which was on Second Avenue, the New York Telephone
13 Company. According to New York City firefighter
14 Dan Noonan of Ladder 3, talking to the Daily News,
15 "Virtually every firefighter who responded to the
16 fire's first two alarms has cancer", and that
17 building was just ... the exposure of workers, of
18 firefighters who went into that building was
19 excessive. It was a time, incidentally, long
20 before we understood much of the hazards of some
21 of the chemicals to which firefighters are
22 exposed. In addition to vinyl chloride and dioxin
23 concerns, PVC products contribute to poor indoor
24 air quality in buildings as they off-gas
25 phthalates and volatile organic compounds. VOC's

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2 are harmful to worker health, testing has found
3 that women and children have the highest levels of
4 phthalates in their bodies. Scientific studies
5 have found a correlation between phthalates
6 emitted from PVC building products like flooring
7 and asthma in both adults and children. In New
8 York City asthma is a health and safety issue for
9 teachers and janitorial staff, and is the leading
10 cause of school absenteeism among children, and is
11 the most common cause of hospitalization for
12 children 14 years old and younger. Janitorial
13 staff responsible for cleaning PVC flooring in
14 schools are also exposed to a cocktail of cleaning
15 product chemical products linked to respiratory,
16 reproductive and other diseases. So due to the
17 intrinsic hazards, we support the efforts to
18 identify and use alternative building materials
19 that do not pose the risk as PVC does to workers,
20 firefighters, building occupants and to our
21 communities here in New York City.

22 CHAIRPERSON MEALY: Are you
23 wrapping up?

24 MR. SHUFRO: Thank you?

25 CHAIRPERSON MEALY: No, you can ...

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are you finished?

MR. SHUFRO: I'm finished.

CHAIRPERSON MEALY: Conclusion?

MR. SHUFRO: Oh, conclusion, in summary, you know, we really support the request that the Mayor's Office of Contract Services include PVC-free purchasing goals and provisions in the rules to implement Local Law 120 of 2005.

COUNCIL MEMBER JACKSON:

Immediately. I'm sorry.

MR. SHUFRO: Thank you, I'll end on that.

CHAIRPERSON MEALY: Thank you so much. Next.

MR. SHUFRO: Sorry.

MS. VAN SLYKE: Yes. My name is Irene Van Slyke, I'm the Vice Chair of the Sierra Club, New York City Group. The Sierra Club has 11,000 members in New York City, and more than 36,000 in the State of New York. The Sierra Club commends the City Council on its decision to hold an oversight hearing on the city's implementation of purchasing laws. This comes at a critical time, since President Obama last December signed

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2 new standards limiting emissions of toxic
3 chemicals such as mercury, dioxin, and other
4 dangerous pollutants. The Sierra Club was one of
5 the organizations that pushed EPA standards by
6 filing a petition requesting a schedule for the
7 EPA to promulgate regulations. The Sierra Club's
8 position is that localities should follow EPA
9 regulations and require stringent levels of
10 control, including the elimination of the use of
11 toxic substances and/or the substitution of less-
12 toxic substances. We commend the City Council's
13 foresight when in 2005 it passed three laws
14 calling on the city to purchase products that are
15 more energy-efficient, with a higher recycled
16 content, and reduce the purchase of products with
17 toxic chemicals. There now is awareness of the
18 danger of these chemicals, and there is widespread
19 public support to address the problem of toxic
20 pollution in products we use every day, and that
21 are present in the public buildings we visit and
22 work in. The Sierra Club supports the testimony
23 of the Center for Health, Environment & Justice
24 and other groups before you to implement the
25 dioxin procurement ordinance by adopting

1 regulations to reduce the purchase of PVC by New
2 York City agencies. Many PVC products contain
3 toxic additives such as phthalates, lead, cadmium
4 and organotins, which pose unnecessary hazards to
5 New York City residents and workers. PVC is
6 widely considered to be a major source of dioxin
7 dangerous to human health. To be sure, the most
8 toxic chemicals are the ones that are slow to
9 disintegrate, such as PVC's, accumulate in our
10 bodies and affect our brains and nervous systems,
11 such as mercury, or change to dangerous gases,
12 such as PVC's, that can be inhaled when burned or
13 improperly disposed of. Children, who have small
14 bodies, are especially vulnerable when exposed to
15 these chemicals. We urge the City Council to do
16 its utmost to get the city to include PVC-free
17 purchasing language in the dioxin regulation, as
18 the law requires. It is a shame that the city has
19 not implemented this law as it was required to do
20 by the legislation signed in 2005. And Council
21 Member Mealy, since you asked about the website
22 and how people get information, if you go to the
23 EPA's website, there is a link to the National
24 Partnership for Environmental Priorities, and they
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2 have scores of manufacturers that have safe
3 products, and they have taken the initiative to do
4 it themselves, even before the regulations. So it
5 is something that the industry even has taken the
6 initiative on. And I've put some samples of what
7 is on that website. So the Sierra Club urges- -

8 CHAIRPERSON MEALY: (Interposing)

9 Thank you.

10 MS. VAN SLYKE: ... the City Council
11 to push for the strongest-possible program to
12 reduce or eliminate these dangerous chemicals.
13 That's it.

14 CHAIRPERSON MEALY: Thank you.

15 MR. BOESE: All right, I'm Stephen
16 Boese, Executive Director of the Learning
17 Disabilities Association of New York State, I do
18 have prepared or written ... I do have copies of my
19 testimony here. The Learning Disabilities
20 Association of New York State is the nation's
21 oldest learning disabilities advocacy
22 organization, founded right here in New York City
23 in 1958, we're affiliated with LDA of America,
24 we're affiliated with a number of regional LDA's
25 around the state, including LDA of New York City.

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2 Our priorities are education for ... advocacy for
3 education for children with learning disabilities
4 and related neurological impairments, programs and
5 services for adults with learning disabilities and
6 neurological impairments, and prevention, which is
7 why we're here today. A learning disability is a
8 lifelong neuro-biological disorder that affects
9 the manner in which people think, express
10 information, retain information. It interferes
11 with the development of use in language, and
12 ability to speak, it has a huge impact on
13 someone's self-esteem, education, vocations,
14 socialization, daily living activities, present
15 lifelong challenges to the individuals impacted.
16 There are hidden disabilities, meaning you may not
17 be able to just look at a person and see that they
18 have a disability. And they have a number of
19 impacts that I will get to in a little bit. There
20 is no cure for learning disabilities, they cannot
21 be treated with medication, it is a lifelong
22 disorder. According to the U.S. Centers for
23 Disease Control and Prevention, the CDC, the
24 number of children with learning developmental
25 disabilities has been climbing over the past

1 decade, reaching nearly one in six by 2008. The
2 increasing prevalence of autism and attention
3 deficit hyperactivity disorder accounts for most
4 of this change. The National Academy of
5 Scientists estimates that combinations of
6 environmental factors, including toxic chemicals,
7 along with genetic accessibility, cause or
8 contribute to at least a quarter of learning and
9 developmental disabilities in American children.
10 The incidence of intellectual disability impacts
11 approximately 1.4 million children, ADHD impacts
12 about two million children, and almost 1% of
13 eight-year-old children are diagnosed on the
14 autism spectrum disorder, a tenfold increase over
15 just a 15-year period. The cost of this growing
16 epidemic of neurological impairments and
17 intellectual disabilities in our children and
18 because of the growing recognition that a
19 substantial part of this increase is attributable
20 to environmental exposures, LDA of New York State
21 strongly supports legislative and regulatory
22 initiatives to better regulate chemicals in
23 everyday consumer products that cities like New
24 York City purchase, and to better inform
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1 individuals and families of the chemical exposure
2 risk. We therefore urge New York City to comply
3 with the law and reduce the purchase of toxic PVC
4 plastic, a major source of dioxin in the
5 environment. And Dr. Klein did a great job of
6 talking about the connection with chemicals, but
7 I'd like to talk a little bit about the impact and
8 the cost to the individual families and
9 communities are just incalculable. On average it
10 costs twice as much to educate a child with
11 learning or developmental disabilities as to
12 educate a child who does not. Only 13% of
13 students with learning disabilities have attended
14 a four year post-secondary school, compared to 53%
15 of students in the general population. According
16 to the CDC, individuals with autism spectrum
17 disorder have average medical expenditures that
18 exceed those without the disorder by \$4,000 to
19 \$6,200 per year. Recent studies have estimated
20 that the lifelong cost to care for an individual
21 with ASD is \$3.2 million. A 2006 study reported
22 that the economic costs associated with autism in
23 the United States is approximately \$35 billion per
24 year. Up to 60% of adolescents in treatment for
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2 substance abuse have learning disabilities. 62%
3 of students with learning disabilities are
4 unemployed one year after graduating from school.
5 Nearly half are out of the workforce or
6 unemployed. 50% of females with learning
7 disabilities will be mothers, most of them single,
8 within three to five years of leaving high school.
9 In one study nearly half of the TANF population
10 was found to be people with a learning disability.
11 And half of juvenile delinquents tested in
12 facilities were found to be kids with learning
13 disabilities, and we've done a lot of work in our
14 juvenile detention facilities, and the staff
15 always says that that number has to be way lower
16 than what has been their experience. So it has
17 been said that our children will be the first
18 American generation to be less healthy and live
19 fewer years than their parents, what an awful
20 legacy. Personally, as a son who has lived many
21 years with severe disabilities, it's beyond
22 alarming to see such a dramatic increase in
23 preventable neurological impairments in children,
24 and to see so little being done to look at the
25 root cause and promote effective policies to

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2 prevent further occurrences. We are in the midst
3 of a most tragic epidemic, it is incumbent upon
4 all policy makers to look at this directly and
5 with the determination to do all that can be done
6 to prevent further disability where possible.
7 Control of toxic chemicals is one very important
8 part of this effort. We therefore urge New York
9 City to comply with Local Law 120 of 2005, and
10 restrict the purchase of PVC as one tangible step
11 towards reducing toxic exposure to chemicals like
12 dioxin that cause learning disabilities and
13 related neurological impairments. Thank you for
14 your time.

15 CHAIRPERSON MEALY: Thank you.

16 Next.

17 MR. DIAMONDSTONE: Well, good
18 afternoon, Council members, I'm grateful for the
19 opportunity to testify on this important issue.
20 My name is Ken Diamondstone, I'm here representing
21 the Brooklyn Solid Waste Advisory Board,
22 established under Local Law 19 of 1989, and I'd
23 like to briefly say, we have not addressed the
24 issue of the toxins that prior testimony referred
25 to, but I'd like to add our commitment to the fact

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2 that we would like to see them eliminated from the
3 purchases of New York City, through the
4 elimination of PCB's. We have over many years,
5 beginning when Council Member Stanley Michaels,
6 and then Council Member Michael McMann shared the
7 Sanitation and Solid Waste Committee, been calling
8 on the city to purchase far more environmentally-
9 preferable products in the belief that with its
10 enormous \$15 or \$16 billion in purchasing power,
11 New York City could singly sustain the vendors who
12 produce many of the environmentally-preferable
13 products through repeated and consistent
14 purchases. Imagine how this might result in
15 vendors trying to move closer to their New York
16 City markets, perhaps purchase or lease an
17 industrial property, invest capital for
18 construction, hire a workforce and then pay taxes:
19 truly a win for the producers and for the city.
20 Because of our intense interest in this subject,
21 we are particularly disappointed by the current
22 annual reporting of the environmentally-preferable
23 product purchases under Local Law 118 through 123
24 of 2005, and Local Law 86 of 2005. Our view is
25 that they lack sufficient detail to determine

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2 whether the city is in fact in compliance with
3 environmentally-preferable product purchasing laws
4 or not, if they lack the very detail probably
5 needed to place the city in compliance. And I
6 would again say it's clear that they're out of
7 compliance. It amazes us, for example, that a
8 product such as bio-diesel fuel made from
9 reprocessed animal and vegetable oils are not
10 among the list of environmentally-preferable
11 products. The older 2001 environmentally-
12 preferable purchasing guide referred to the
13 practice of specifying products with attributes
14 such as reusability, reduced packaging, energy
15 efficiency, recycled content or rebuilt or
16 remanufactured, eliminated single-use items, were
17 less toxic or reduced waste through extended
18 product warranties or were leased rather than
19 purchased. In the current annual reports, little
20 or no mention is made of these items, except for
21 toxicity, recycled content and energy star
22 products. Even the energy star category makes no
23 distinction between tier one, tier two or three in
24 energy star ratings, which are considerable. How
25 useful, for example, is a report which having read

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2 about a multi-million dollar furniture purchase
3 from the Herman Miller Company, we don't have a
4 clue whether the furniture is new or
5 remanufactured. Nor do we learn whether the city
6 uses new oil filters, antifreeze or engine oil for
7 its fleets, or do they recycle them after
8 thoroughly cleaning these items. Do we use new
9 tires or retreads, assuming that the
10 specifications qualify all these items, as they
11 do? What about waste prevention products, such as
12 those with reduced packaging, or those food
13 products produced locally which reduce both
14 packaging and fossil fuel emissions, by
15 eliminating long-distance shipping? They're not
16 identified anywhere in these reports. And are
17 higher dollar values for year-over-year purchases
18 the result of increased units of environmentally-
19 preferable products, or from the increased price
20 of a unit? No specifications are given. A basic
21 premise of environmentally-preferable product
22 reporting was that a baseline be set for each
23 agency's purchases, and that annual increases or
24 decreases in types and quantities of
25 environmentally-preferable products be measured.

CHAIRPERSON MEALY: Could you sum up?

MR. DIAMONDSTONE: Sure, I'm almost ... I'm close. This is not occurring, or at least not being reported. Sadly, in 2011 the total reported environmentally-preferable products purchased by New York City amounted to a mere \$16,817,000, plus \$350 million of environmentally-preferable products identified in construction projects. But that's out of a total of over \$13 billion in purchasing in those contracts. We strongly urge that Local Law 118 through 123 and Local Law 86 of 2005 be extensively revised to include a more expansive and comprehensive set of categories for environmentally-preferable products, more specific itemizations of environmentally-preferable products, more comparisons of year-to-year purchases, more accountability by each Mayoral agency for environmentally-preferable product purchases, and require a greater commitment to, and a deeper understanding of the significance of environmentally-preferable purchases and their implications for a sustainable New York in the 21st

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 2 century. And the Brooklyn Solid Waste Advisory
 3 Board would welcome an opportunity to join with
 4 you and other environmental groups in the revision
 5 of these important laws. Finally, and totally
 6 related to the purpose of this hearing, I urge you
 7 to take note of the city of Surrey in Canada's
 8 British Columbia, population of a half a million.
 9 In a much-overlooked area of environmentally-
 10 preferable purchasing by New York City, that is
 11 bio-methane, the city of Surrey will by 2015
 12 convert all curbside organic material municipal
 13 solid waste through anaerobic digestion into a
 14 bio-methane chemical replica of a fossil fuel
 15 natural gas, and use it to power its entire
 16 sanitation fleet, thus dramatically cutting
 17 emissions, tipping fees and fuel costs, with a
 18 rich soil supplement as a byproduct to boot.
 19 Thank you.

20 CHAIRPERSON MEALY: Thank you. Mr.
 21 Arthur Klock.

22 MR. KLOCK, JR.: Did you say I
 23 should go next? I think so, go ahead.

24 MS. WEININGER: Okay. Good
 25 afternoon, Chairpersons, and members of the New

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2 York City Council and other concerned citizens of
3 New York City. Thank you for convening this
4 hearing on a matter that is of utmost urgency to
5 all New Yorkers, my name is Ellen Weininger, I'm
6 the Educational Outreach Coordinator for
7 Grassroots Environmental Education, which is an
8 environmental health non-profit focused on the
9 relationship between environmental toxins and
10 human health. We are particularly concerned about
11 children's unique vulnerability to toxic exposures
12 in our work, due to their immature organs and
13 developing bodies, making it more difficult for
14 them to eliminate certain toxins. Due to their
15 size, children receive proportionally greater
16 doses of chemical contaminants found in air, water
17 and food. Even a small exposure, as has been
18 stated earlier, occurring during a critical window
19 of a child's development could result in a
20 permanent adverse health outcome. Children
21 regularly engage in hand-to-mouth behaviors and
22 spend a great deal of time on the floor and
23 ground, putting them in close contact with toxins
24 that may be ingested. Recently, the President's
25 Cancer Panel in its annual report recommendations

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2 to government, industry and health care
3 professionals stated, opportunities for
4 eliminating or minimizing cancer-causing and
5 cancer-promoting environmental exposures must be
6 acted upon to protect all Americans, but
7 especially children. They are at special risk,
8 due to their smaller body mass and rapid physical
9 development, both of which magnify their
10 vulnerability to known or suspected carcinogens.
11 Numerous environmental contaminants can cross the
12 placental barrier, to a disturbing extent babies
13 are born pre-polluted. Children also can be
14 harmed by genetic or other damage resulting from
15 environmental exposures sustained by the mother
16 and in some cases the father. A recent analysis
17 by Dr. Leo Trasande published in the journal
18 Health Affairs updated and expanded a previous
19 analysis of the annual costs of environmentally-
20 mediated diseases in children in the United
21 States, and I emphasize this is just ... these
22 numbers are just for children. The study found
23 that cost of childhood cancer, asthma and
24 neurological disorders had escalated from \$54.9
25 billion in the 2002 analysis to \$76.6 billion in

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2 2008. Dr. Trasande states that the analysis re-
3 emphasizes for policymakers the implications of
4 failing to prevent toxic chemical exposures, not
5 only for the health of children, but also for the
6 health of the economy. We applaud the members of
7 the New York City Council for recognizing the
8 increasing human health and environmental threats
9 posed by and presented by cumulative toxic
10 chemicals found in many products and the passage
11 of legislation 2005. The dioxin-free purchasing
12 section of legislation was primarily intended to
13 target New York City's purchase of PVC, which is a
14 major, yet preventable, source of dioxin. We've
15 gone on to say, as we said earlier, the formation
16 of dioxins takes place throughout the PVC life
17 cycle, has been well-documented in the production
18 of chlorine, synthesis of ethylene dichloride and
19 vinyl chloride monomer hazardous waste from the
20 production cycle and incineration of PVC products
21 and burning of PVC products in structural and
22 landfill fires. Among the most toxic chemicals
23 known to exist, dioxins are a class of several
24 hundred chemicals that are unintentionally created
25 from the manufacture and disposal of PVC products.

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2 And there are many groups, including the
3 International Agency for Research on Cancer, the
4 U.S. Department of Health & Human Services, and
5 National Toxicology Program, all recognize dioxin
6 as a known human carcinogen. You'll note in the
7 report, and it's been stated already, the EPA
8 draft report also raises concerns, and emphasizes
9 the contribution of PVC to dioxin formation. PVC
10 can cause cancer through inhalation and ingestion,
11 it is known to cause liver, brain and central
12 nervous system cancers, associated with lung
13 cancer, leukemia, lymphoma, it's been linked to
14 circulatory changes, and other acute exposure
15 symptoms that are indicated in my testimony.

16 There are many hazardous substances that are added
17 to PVC products that you've heard a little bit
18 about, phthalates, a group of chemicals that add
19 more flexibility and resistance to breakage in PVC
20 products, and they're found in flooring,
21 furnishings, office supplies, and contribute to
22 indoor air quality problems because of off-
23 gassing. Phthalates are toxic to humans and are
24 known endocrine disrupters, they may be linked to
25 early-onset puberty in girls, which carries an

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2 increased risk of breast cancer risk. They're
3 also shown to negatively impact the development of
4 male reproductive systems, including structural
5 abnormalities and low sperm counts, which you've
6 already heard about. The CDC has reported links
7 between phthalates and liver cancer and several
8 recent studies, most recent studies, have also
9 linked phthalates with increased risk of
10 miscarriage, variations in infant behavior and
11 reflexes and negative impacts on thyroid hormonal
12 levels and children's neuro-development.

13 Significant links have also been reported between
14 PVC flooring, asthma and autism spectrum
15 disorders. Furthermore there's been a link
16 between concentration of phthalates in indoor dust
17 and wheezing among pre-school children.

18 Thankfully, as we've already heard, there are
19 safer, cost-effective alternatives to PVC products
20 that are readily available in the marketplace, and
21 we've heard of many major corporations and medical
22 institutions and government agencies that have
23 already enacted policies to reduce purchases of
24 PVC. I will wrap up. The New York State Advisory
25 Panel on Green Procurement recently voted to

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2 approve a guidance policy requiring all New York
3 State agencies to consider avoiding 85 chemicals
4 of concern in products purchased by the state.
5 The chemicals of concern list includes dioxin,
6 ethylene dichloride, phthalates, vinyl chloride
7 and all hazardous substances associated with PVC
8 products. This provides a critical opportunity
9 for New York City to collaborate with New York
10 State on state PVC contracts. The best way to
11 avoid the negative human health and environmental
12 impacts and economic burden of toxic exposures is
13 to minimize the production and purchase of toxic
14 products. Children and their parents rely on
15 government officials to provide the protections
16 they need for their health and safety. The stakes
17 are too high to deliver anything less than the
18 full implementation of the PVC-free procurement
19 plan for New York City. We urge New York City
20 Office of Contract Services to include PVC-free
21 procurement specifications and the rules to
22 implement Local Law 120 of 2005, and thank you
23 greatly for this opportunity to speak.

24 CHAIRPERSON MEALY: Thank you.

25 MR. KLOCK, JR.: Good afternoon,

Council Member Mealy, Council Member Jackson- -

CHAIRPERSON MEALY: (Interposing)

Would you put the microphone towards you? Thank you.

MR. KLOCK, JR.: Good afternoon, Council Member Mealy, Council Member Jackson, my name is Arthur Klock, I'm Director of Trade Education of Plumbers Local Union #1, thank you for holding this important meeting, allowing me the opportunity to submit testimony. On behalf of the approximately 6,000 members of Plumbers Local 1, I'm appearing before you today to express our strong support of this body's oversight of the administration's failure to implement Local Law 120 of 2005. It's been said ... I've been overwhelmed by some of the testimony here today, and have really been impressed with the level of expertise that's been shown, and for me to go on about the dangers of PVC would be redundant. Why I'm here is because we support rulemaking that would implement Local Law 120 of 2005, but our concern is that those rules will fail to include goals for the reduction of the city's purchasing or leasing of specific types of products that are

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2 major sources of dioxin, which is PVC building
3 materials. There was testimony here about the
4 green code changes, they don't really address
5 this. They don't cover this. After Intro 544 was
6 introduced, the City Council Committees on
7 Environmental Protection and Contracts understood
8 that the toxicity of PVC was extremely dangerous.
9 The Committee report covered this, and the bill
10 required the Director of Environmental Purchasing,
11 in consultation with the Mayor's Office, to
12 develop regulations to phase out the city's
13 purchase of polyvinyl chloride. Despite that
14 clear legislative intent, and after years of
15 complete disregard, we've now reached a point
16 where we're hearing that they're promulgating
17 rules. I think what the concern is, is that these
18 rules that they're going to promulgate do not
19 cover construction materials, PVC construction
20 materials, and that was said earlier today. To
21 name just a few, dioxin has been acknowledged to
22 be both a human carcinogen and a cause of cancer.
23 New York City residents all have some level of
24 dioxin in their bodies, those levels are affected
25 by exposure and increase over time. Rules alone

1 cannot eliminate the production of PVC products
2 and their associated hazards. As a consumer of
3 approximately \$17 billion in supplies and services
4 and construction, in fiscal year 2010 alone New
5 York City has a tremendous opportunity to use its
6 spending power, not only to eliminate the health
7 hazards associated with the products now in use
8 that contain PVC, but also to encourage the
9 widespread use of non-PVC products. As a
10 representative of nearly 6,000 men and women who
11 handle plumbing products on a daily basis,
12 Plumbers Local #1 has been a leading opponent of
13 the use of PVC materials in the construction
14 industry. PVC pipe that becomes the
15 infrastructure of a building, and the scrap pipe
16 that's generated, pose significant health risks.
17 Through this period of rising awareness in green
18 and sustainable building, we in the plumbing
19 industry have continued to explain that piping
20 materials such as cast iron, steel and copper are
21 excellent examples of green materials which can be
22 safely recycled and re-used over and over again.
23 As for PVC plastic, the Association of Post-
24 Consumer Plastic Recyclers declared efforts to
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1
2 recycle PVC a failure, and labeled it a
3 contaminant in 1998. PVC is not green, and it has
4 no future in our homes, places of business, or in
5 our community. Given these risks, the documented
6 detrimental health effects, many of which we've
7 heard about today, and the great many safe
8 alternatives to PVC products, it should be
9 apparent that the city ought to reduce, if not
10 eliminate entirely, its use of PVC products and
11 our particular concern is in the construction
12 industry. Thank you again for your leadership on
13 this issue, and the opportunity to testify.

14 CHAIRPERSON MEALY: Wow, we had
15 some good testimony today. Do you have any
16 questions?

17 COUNCIL MEMBER JACKSON: Well, let
18 me just say, I thank everyone and you're right,
19 clearly everyone is on point, especially almost
20 everyone that testified, either experts in the
21 field or work for an organization that basically
22 advocates to make sure that this law that should
23 have been implemented a long time ago is
24 implemented right away. It was good to hear from
25 the mother with her child right there. It's

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2 obvious to me that we passed a law in ... laws in
3 2005, and we need to act on them, that came across
4 obviously clear. So we need to ask all of you to
5 keep the pressure on us and the City of New York
6 to do what's right on behalf of the people of New
7 York City overall, and as per the question that I
8 asked earlier as far as the cost factor, from the
9 financial point of view, we only talked about
10 additional costs to the city. But based on some
11 cost less and some cost more, that's just one
12 part. But then, as you know, the ... I forgot what
13 his name was ... David, David spoke and he said
14 there's a multi-billion dollar health aspect which
15 also is a cost factor, which, you know, we
16 collectively have to pay for. Not even talking
17 about the conditions of the health of the
18 individuals involved, and especially our emergency
19 responders, you know, as you know, when those
20 PVC's burn up, it's just like poison in the air,
21 for everyone. So I personally want to thank you
22 for coming in, and you helped me to listen again
23 to what we need to do, and I just ask you to keep
24 pushing us to make sure it gets done. Thank you,
25 Madam Chair.

CHAIRPERSON MEALY: Thank you, and apparently ... I have one question for the Local #1, Mr. Klock.

MR. KLOCK, JR.: Yes.

CHAIRPERSON MEALY: You're in the plumbing industry, do you not think that the construction in going to phase out PVC, is it cost-effective? Would contractors feel that it's a hardship?

MR. KLOCK, JR.: Well, PVC, particularly PVC pipe, that's how it's pushed by the plastics industry. It's a cheap alternative to conventional materials. And naturally, as soon as you say, well, I can, you know, I can bring the cost down on the materials, I can bring the cost down on the project. But the difference between using PVC materials, particularly in drainage, or using cast iron, is about 5%. So you're not talking about a big difference, and what you're doing is, you're introducing a material into the building which is going to stay in the building as long as the building stands, which is a toxic material, as opposed to a stable material, and it also is generating a lot of waste, because every

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2 time there's a demolition job done in New York,
3 ripping out PVC, it's garbage that can't be gotten
4 rid of, it's not recyclable. So in the
5 construction phase there's going to be a lot of
6 garbage generated, and in the demolition phase.
7 So these materials are not green, they're not
8 extremely saving a lot of money, they're not
9 extremely economical, but the industry pushes them
10 as a cheaper alternative.

11 CHAIRPERSON MEALY: Thank you. So
12 I clearly say we have dropped the ball since 2005.
13 I just hope that we as a city start stepping up
14 and keep ... you will keep us on our toes to make
15 sure we get stronger legislation. We can't keep
16 talking about it, we've got to really put it in
17 action all over the city. So I want to thank
18 everyone who came out to this hearing, and all the
19 testimony is excellent, I learned so much today.
20 I thank you, being very informative, and it's
21 critical that New York City remain the leader in
22 sustainable procurement, both because we are such
23 a large purchaser, and because jurisdictions
24 around the country and around the world take a cue
25 from us. So we will receive all of today's

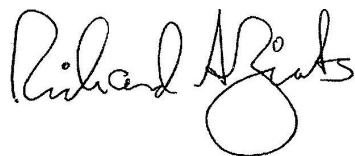
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2 testimony and make sure we look at all the
3 recommendations very closely, and we think about
4 where to move from here, to make sure legislation
5 gets into place, that we can hold everyone
6 accountable. It's supposed to have been done
7 since 2005, 2007, still we made progress, but not
8 enough. So I thank you all for coming, and this
9 meeting is adjourned. Thank you.

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C E R T I F I C A T E

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



Signature _____

Date _____ February 23, 2012 _____