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MEMBERS PRESENT:

Lt. Dan Albano, Esq. - Police Department  
Robert Carver, Esq. - Citizen Member  
Hon. Ernest J. Cavallo - Citizen Member  
Renaldo Hylton - Exec. Dir., Dept. of Buildings  
Elizabeth Knauer, Esq. - Citizen Member  
Tayo Kurzman, Esq. - Fire Department  
Emily Lally - Citizen Member  
Thomas Shpetner, Esq. - Citizen Member  
Jorge Martinez, Esq., - Dept. of Health & Mental Hygiene  
Russell Pecunies, Esq. - Dept. of Environmental Protection  
Douglas Swann - Citizen Member

ALSO PRESENT:

Julie Amadeo - Intern, ECB  
Zoe Atlas - Intern, OATH  
Steven Ballew - Intern NYPD  
Helaine Balsam, Esq. - Deputy General Counsel, OATH  
Denis Brogan - Assistant General Counsel, OATH  
Caitlin Corcoran - Intern, Dept. of Environ. Protection  
Ellen Cooper - Department of Sanitation  
Jesse DeSalvo - Administrative Justice Coordinator  
Fana Garrick - Public Affairs Assistant, ECB  
David Goldin, Esq. - Administrative Justice Coordinator  
Katherine Harrigan - Intern, NYPD  
Megan Houston - Intern, Dept. of Environ. Protection  
Petel Hwang, Esq. - Agency Attorney Intern, OATH  
Kyoung Jung - Intern, OATH  
Maria Kalousi-Tatum - Intern, Dept. of Environ. Protection  
Mark H. Leeds, Esq. - Special Counsel, ECB  
Jim Macron, Esq. - Counsel to the Board, ECB  
Maria Marchiano, Esq. - Senior General Counsel  
Kyle Madden-Peister Intern, Dept. of Environ. Protection  
Amelia Maddox - Intern, OATH  
Dallas O'Dell - Intern, Dept. of Environ. Protection  
Kelsey Penrose - Intern, ECB  
Ali Raymond - Intern, ECB  
Peter Schulman, Esq. - Deputy Supervising Attorney, Appeals, ECB  
Marisa Senigo - Assistant Commissioner for Public Affairs & Communications  
Amy Slifka, Esq. - Deputy Commissioner/Executive Director, ECB  
Thomas Southwick, Esq. - Supervising Attorney, Appeals, ECB  
Ron Su - Intern, ECB  
Andrew Tabenkin - Intern, OATH  
Helen Terrero - Intern, ECB  
Bianca Vitale - Intern, NYPD  
Eftyhia Xidias, Esq. - Hearing Officer, ECB
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(The public hearing commenced at 9:20 A.M.)

MS. AMY SLIFKA, ESQ., DEPUTY COMMISSIONER/EXECUTIVE DIRECTOR, ECB, OATH: Is there a motion to approve? Okay. Any abstentions? No abstentions. Alright. And now this is a Russell Pecunies show -- his show, his meeting. So --

MR. RUSSELL PECUNIES, ESQ., DEPARTMENT OF ENVIRONMENTAL PROTECTION: Is the PowerPoint ready to go? Or I can do the other penalty schedule thing first if the PowerPoint is not --

MR. MICHAEL HARRIS, OATH IT: They're still adjusting it. So --

MS. SLIFKA: They're still adjusting it? Alright. Do you want to go forward with the penalty schedules first. And then we'll go with the other part.

MR. PECUNIES: Penalty schedule first?

Okay.

MS. SLIFKA: Okay.

MR. PECUNIES: Okay. Good morning. DEP has for the Board's consideration this month
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several requests for changes to penalty schedules. There are changes to the air code penalty schedule. The first one pertains to a new rule that took effect in February, relating to posting requirements for dry cleaners.

This rule was promulgated because of the growing use of so-called green cleaning agents at dry cleaners as alternatives to Perc, which is the usual substance that's used. The use of Perc is being phased out. Many dry cleaners are now using these new solvents. Many people had no idea what these solvents were. And so in order to address that, the current posting requirement, which basically just said that you have to post what the State requires for the use of Perc, was amended so that dry cleaners that don't use Perc now have to post something that has a link that people can go to, to see the material safety datasheet for whatever chemical or chemicals they are using.

We have obviously not begun to enforce this yet, even though it took effect in February. There is an extensive outreach effort to the dry
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cleaners that has been going on for months and
will continue to be going on for a while, while
this change to the penalty schedule goes through
the CAPA process.

So for the new subdivisions, the
existing requirement to post the State sign is
still in effect and that is 12-18A. And there is
an existing penalty for that which remains
intact. For the new subdivisions, 12-18B, C and
D, the Department is proposing a first offense
penalty of $220, a second offense penalty of $440
and a default penalty of $875. And those numbers
come from the minimum and maximum in the air code
penalty schedule that apply to basically all
other sections. So do we want to do these one at
a time or separately?

MS. SLIFKA: I think we should do them
one at a time.

MR. PECUNIES: One at a time?

MS. SLIFKA: Okay. So are there any
questions on this?

MR. PECUNIES: Yeah?

MS. ELIZABETH KNAUER, ESQ., CITIZEN
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MEMBER: I actually have a question about the rule. When, when I would just look at the excerpt that was presented -- I'm sorry about my voice; I'm sorry, it's Elizabeth Knauer, Citizen Member.

MR. PECUNIES: That's okay.

MS. KNAUER: When I just look at the excerpt that was provided in the materials, it suggests that subdivision A still applies even to those dry cleaners that aren't using Perc. I mean, it's just reading the plain language of it, that you would still have to provide the State notice regarding Perc even if you're not using it; is that the case?

MR. PECUNIES: Well, no. My understanding is that the State sign and I'll take a look at it -- we'll take a look at it, if the rule needs to be fixed, then we'll; but my understanding is that the State rule is for -- is for Perc. But if that's -- that's not the way it reads to you?

MS. KNAUER: Well, it just says the facility owner must post the notice required by the State rules --

MR. PECUNIES: By State law.
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MS. KNAUER: -- in a conspicuous location. So are you saying that the State -- the State law only --

MR. PECUNIES: The State sign is for Perc.

MS. KNAUER: It's only -- but it's only required for dry cleaners that use Perc?

MR. PECUNIES: That use Perc, yes.

MS. KNAUER: Okay, okay.

MR. JORGE MARTINEZ, ESQ., - DEPT. OF HEALTH & MENTAL HYGIENE: Jorge Martinez, Department of Health. How come the penalty amounts for the State notice are slightly higher than the penalty amounts for the City notice, at least with respect to the first offense?

MR. PECUNIES: One of the things that the dry cleaning industry was told is that if we did this rule that the penalties will be the minimum possible penalties. So we did the rule. A lot of the dry cleaners were somewhat unhappy about it. Although even all it does is actually require them to print out one piece of paper and put it up. But we, we had agreed that we would
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ask for the minimum penalty and that's why we're asking for the lowest possible penalty.

MS. SLIFKA: Any other questions? Okay. Let's take a vote on this schedule. All in -- is there a motion to approve? Okay. All in favor? Okay. I think that's everybody. No abstentions? Okay. Alright. So, we'll go forward on this.

Please continue.

MR. PECUNIES: Okay. The next one is also an air-related one. It is for -- pertains to, to new rules that have recently been promulgated; the first being under Chapter Two of DEP's rules. This is a very extensive rule that had dated back to the 1970's. It set various engineering criteria for boilers. It's -- it had become very outmoded. So it was completely overhauled. And it now requires boilers to be periodically, actually annually tuned up and tested. The only charging section in the rule is really the requirement under 209, that there be records maintained of that tune-up and that test.

In addition there was also a recently promulgated rule on emergency generators. Again,
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the charging section in the rule is the section
that requires recordkeeping. So for these new
recordkeeping requirements, DEP is requesting
additions to the air penalty schedule under 2-09
and 40-02B, calling for a first offense penalty
of 350, a second offense penalty of 545 and a
default penalty of 875. These are the same as
existing air code recordkeeping related
penalties.

MS. SLIFKA: Any questions? Renaldo
Hylton?

MR. RENALDO HYLTON, EXECUTIVE DIRECTOR,
DEPARTMENT OF BUILDINGS: Yeah, I have questions
on it. This is Renaldo -- Renaldo of DOB. The
stip offers the same as the offense -- the first
offense?

MR. PECUNIES: That's the way -- under
air and noise the stip amount and the penalty
amount are the same.

MR. HYLTON: Okay.

MR. PECUNIES: There's no reduction.

MR. HYLTON: I just have a question
about emergency generators. This is still in the
commercial use?

MR. PECUNIES: Hmm?

MR. HYLTON: Emergency generator -- is this for like the first, if you may have a home and a emergency generator and these are done by --

MR. PECUNIES: No. Well, for like a home generator, it would fall below the threshold. These are like for the emergency generators like at our sewage treatment plants and facilities like that.

MR. HYLTON: Okay, got it.

MR. PECUNIES: Yeah.


MR. PECUNIES: Okay. And then the last one under the air penalties schedule relates to a local law that was enacted back in 2010, that we're going to be starting to enforce. And this relates to the deliveries of heating oil; specifically two, four and six oil. And these oils now must contain at least two percent
biodiesel by volume. The penalties provisions that were put in the local law are very specific for the use of oil that does not contain at least two percent biodiesel. The law requires that the penalties be as per Schedule E, which is an existing schedule and the penalties depend on the size of the equipment and BTU.

And for the delivery of such oil, the penalties again are explicitly set forth in the law. For a first offense, the penalty is $2,000. A second offense, the penalty is $4,000. And in both cases, it would be plus an aggravated penalty for excess profit. This is something that the City Council has put in several air code provisions. And it would require a calculation of how much the supplier of the fuel had profited by not putting enough biodiesel in it. Again, I'm not sure how that would actually work in practice. It's never come up so far with any of these provisions but that is the explicit language in the bill. So that's what we have to ask for in the -- in the penalty schedule.

MS. SLIFKA: Any questions? Dan Albano?
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LT. DAN ALBANO, ESQ., POLICE DEPARTMENT:
Dan Albano. I notice the fuel oil refers to is
two, four and six. Wasn't there a change to the
type of fuel there that you have to use?

MR. PECUNIES: In terms of just in
general?

LT. ALBANO: Right.

MR. PECUNIES: We're going to actually
get to that. Yes. Six is going to be out as of
next year.

LT. ALBANO: Right.

MR. PECUNIES: And four will be banned
in 2030.

LT. ALBANO: Right. Okay, thank you.

MS. EMILY LALLY, CITIZEN MEMBER: I was

MS. SLIFKA: Oh, Emily Lally, Citizen
Member?

MS. LALLY: I was just wondering who the
penalty and violation gets written to? Is it
possible that the owner or who person who's
getting the delivery is charged? Or is it only on
the oil company?
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MR. PECUNIES: Oh, could you repeat the question?

MS. SLIFKA: Oh, she wanted to know who is going to be issued the violation? Will it be the person getting the delivery? Or will it be the person delivering -- the oil company delivering the oil?

MR. PECUNIES: The enforcement -- there's a separate provision to enforce again for use and for delivery. We would -- I would think that it would be primarily targeted at the person who is supplying the oil that didn't comply. People using it might not even be aware that what they were getting from the supplier was not in, you know, in compliance with the law. So, I think if we ever do enforce this, it would be much more likely that we would do it against the supplier. But the, the -- what, the way the law was passed, it provides for specific penalties for both. So --

MS. SLIFKA: Elizabeth --

MS. KNAUER: -- Knauer, Citizen Member.

I just had a question about the third and
subsequent offense. There are no penalties listed for that. Does that mean that --

MR. PECUNIES: They were not set forth in the law.

MS. KNAUER: So that it would just be the same for the second offense?

MR. PECUNIES: We would -- if we, if anybody ever violated this more than twice, they would just be cited again as a second offender. Although I would think if it was a supplier and they were habitually doing this, then it might be referred to other -- potentially to other law enforcement, besides getting a notice of violation.


MR. PECUNIES: Okay. The next one is for an addition to the asbestos penalty schedule. And this relates to a new law that the Council passed in January, overriding Mayor Bloomberg's veto of
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it in December. This establishes a new program, which DEP is required to administer, for registering individuals as master environmental hazard remediation technicians.

And in order to get this certificate, one has to be a licensed asbestos handler, a licensed lead abatement worker. And you must complete specified training in hazardous materials, microbial remediation, water damage restoration, fire damage restoration, PCB awareness, lead-borne pathogens and infection control. And once you have completed all of these trainings, you would submit the evidence of all of this to DEP. And DEP would then issue you this certificate. I would point out that the certificate itself does not entitle you to do anything; that the other trainings are what entitle you to do the various things.

There is only one charging section in the new law, which is 24-10-02C; which makes it unlawful to say that you are one of these people when you are not in fact one of these people. The law provides for a minimum penalty of $1,000 and
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no maximum penalty. Since the asbestos control program is going to be administering this program, what we decided to do is to establish penalties that were similar to those in the asbestos penalty schedule. So for the first offense, it would $1,200, with a stipulation offer of a thousand. Second offense would be $2,400 with a stipulation offer of $1,500. And the default penalty would be $10,000.

MR. HYLTON: I have a question on this. Renaldo Hylton from Buildings. So if this title doesn't entitle you to anything, what would make someone hold them self out to be a master environmental hazardous --

MR. PECUNIES: It, it appears that this bill was something that the environmental contractors were pushing for, specifically the unionized ones. Many of these trainings that you need to get this certificate are only available through union administrated programs. So that appears to be the reason why they passed this bill. I assume that they want to hold their workers out as having this certificate for sort
of marketing purposes.

LT. ALBANO: And so you can charge more.

MS. SLIFKA: Right.

MR. HYLTON: I'm just wondering how does DEP intend to like even --

MR. PECUNIES: We intend to -- we are setting up a program. And if people come into us with all these certificates that they have done all these trainings, we will give them this registration. And again, it doesn't entitle you to do anything that you wouldn't ordinarily otherwise be entitled to do. So, we really do not have any enforcement type of program in mind. It's more of just a license issuing program at this point.

MR. HYLTON: Right. Besides this, so that's -- my point is why do we need to develop a penalty schedule for it? Why --

MR. PECUNIES: Because the law does provide that it's illegal if you hold yourself out to be one of these people if you're not one of them. And that it's really the only -- it's the only charging section in the law. In the
unlikely event that anybody ever did that, we
decided that we should have a penalty available.
I mean, I, I don't know whether we'll ever issue
a ticket for this. But --

MR. HYLTON: And you have no miscellan-,
I'm sorry, I don't know about your penalty
schedule for this specifically; but do you have
like a miscellaneous charging section that you
could technically --

MR. PECUNIES: No. Because this, this
law has a penalty provision in it that says a
violation of this law shall carry a minimum
penalty of $1,000. There's no maximum but it says
a minimum of 1,000. So, since the asbestos group
is going to administer this, we decided to just
basically use the lowest category of asbestos
penalties.

MS. SLIFKA: Any other questions? Is
there a motion to approve? Okay. All approve?
Vote for approval? How many do we have now? One,
two, three, four, five, six. Any abstentions?
Two. Any no's? And one no.

MR. PECUNIES: That's a total of nine.
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MS. SLIFKA: Alright, who did we miss?
Okay. All approve? Could we get it again? Eight.
Abstentions? We'll just go through it again. Two.
And one no. That's good? Okay.

MR. PECUNIES: And finally we have a
section in the asbestos rules that obviously is
not issued very often. But we recently discovered
that it had been omitted from the asbestos
penalty schedule. It probably has been so omitted
for a long time: 1-91N, which relates to proper
installation of air ducting. And we're just
requesting that the Board add that to the
asbestos penalty schedule at the lowest level of
penalty.

MS. SLIFKA: Any questions? Okay. Motion
to approve? Okay. All approve? Any abstentions?
[Unintelligible][00:19:37].

MR. PECUNIES: And obviously, I abstain
on all of these, right?

MS. SLIFKA: Right. Like obviously.

MR. PECUNIES: Obviously.

MS. SLIFKA: Alright. Okay. Russ, you're
up again. I think we have --
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MR. PECUNIES: Here's the PowerPoint.

MS. SLIFKA: We have the PowerPoint?

Alright.

MR. PECUNIES: We have the slides.

MS. SLIFKA: We do have the slides on the printout.

MR. PECUNIES: Everybody has the handout.

MS. SLIFKA: Yes. We put them all on there.

MR. PECUNIES: The DEP [unintelligible] [00:20:13].

MS. SLIFKA: Alright. Well, as we wait to find out if we have the PowerPoint presentation up; Russ was going to go forward on the request for C&D's.

MR. PECUNIES: Okay. So this month in terms of cease and desist requests, DEP has 20 -- the usual 28 requests for cease and desist orders relating to failure to install backflow prevention devices. So, those all follow the usual pattern. So, if anybody has any questions about any of those?
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MR. PECUNIES: Okay. Then under the noise code, there are two requests for cease and desist orders. The first is relating to Fav or Fave Pizza Corp. at 186 Columbus Avenue. This restaurant has been cited on four occasions for noise from its kitchen exhaust; most recently in May. And based on the repeated violations and continuing failure to come into compliance, DEP is requesting an order to cease and desist.

I can do the other noise one or we can do the noise one separately?

MS. SLIFKA: Does anybody have any questions on this one? No. But you can do them both together.

MR. PECUNIES: Do them both? Okay. The other one relates to the 7/11 located at 170 Avenue A. And this one is for noise from the refrigeration system. It has been cited three times, most recently also in May. And again due to the repeated violations and continuing failure
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to comply, DEP is requesting an order to cease and desist.

MS. SLIFKA: Any questions? Okay. Is there a motion to approve? Okay. And all approve? Any abstentions? You're approving?

MR. HYLTON: I approved.


MR. PECUNIES: And lastly, we have I believe 23 requests for cease and desist orders relating to failure to have operating certificates for boilers using number six fuel oil. The increase in the number of these requests and there will probably continue to be this many requests at every Board meeting for about the next year or so is the reason why we had decided to do this PowerPoint. But we have 23 of these today. These are all locations where the current certificate of operation is expired. It is for use of number six fuel oil. Respondent has been given the notice of violations, been adjudicated in violation. The time for correction has passed and they still have not renewed the certificate
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for another type of fuel.

MS. SLIFKA: Okay. There's a question.

MR. DOUGLAS SWANN, CITIZEN MEMBER:
Douglas Swann, Citizen Member. I just wanted to know if you are maybe to consider to target areas in Harlem and the Bronx first, because they have historically high asthma rates?

MR. PECUNIES: Well, with -- when, when, if, when we do the PowerPoint and we look at the maps, you'll see that in the borough, in each borough -- not in all of them; but particularly in Manhattan and the Bronx, number six boilers are heavily concentrated in certain areas. And we are in fact targeting the areas where they have the most number. But the law requires that everybody stop doing -- stop using this fuel by June of next year. So really, it's an -- it's an effort that's Citywide. But extra attention is being paid to the areas that have the greatest number of these installations.

MS. SLIFKA: Okay. Any other questions?
Is there a motion for approval? Okay. And all approve? [Unintelligible][00:24:35].
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MR. SWANN: No, there's one abstention.

MS. SLIFKA: One -- oh, I'm sorry. One abstention, wait, let's go back. Okay. Everybody who's for it, please raise your hand. Okay. Any abstentions?

MR. MARTINEZ: Yes. One abstention for the request for order to cease and desist covering 21 Holland Avenue in the Bronx.

MR. PECUNIES: Okay.

MS. SLIFKA: Any other abstentions?

Alright. Russ, I think we're ready for your PowerPoint presentation. Okay.

MR. PECUNIES: We are.

MS. SLIFKA: Alright. Just to let everybody know: apparently, the date that was on the board that shows up in the back was incorrect. It said March 27th and obviously today is June 26th, I hope, right? June 26, 2014, okay then.

MR. PECUNIES: Okay. So again, since we're going to be asking the Board to approve a lot of these cease and desist requests over the next year, probably almost about the same number
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every month as we're doing now for the backflow, like 20 to 25 requests; we had thought that it would be a good idea to do a real quick PowerPoint for the Board to explain why all of this is going on and what the big rush is.

So, just by way of a little historical background. May of 2011, the rule change provided that no new certificates of operation for boilers could be issued for number four or number six oil. So these are new, brand new certificates of operation. As of July 1st of 2012, there would be no more renewals of existing certificates of operation to use number six. So certificates of operation are good for three years. So the last valid number six certificates will be expiring on June 30th of next year.

So as you can see, on July 1st of next year, number six is no longer allowed. In terms of enforcement, there may be some people next June who are still in the process of converting. And so we will basically let those conversions go through even if they don't quite finish by July 1st. And for that same reason, enforcement may
also extend beyond July 1st of next year. There will probably be some holdover people that we'll still be enforcing against in the second half of next year. And then in 15 years, number four use has to be discontinued as well.

So number six fuel oil, this is what it is. This is what it looks like. You see it's a very heavy, thick, tarry substance. And it's manufactured basically from crude oil. When all of the other products are made from crude oil: gasoline, jet fuel, everything else; number six is what's left. And that's why they call it residual fuel oil as well. And that's why all of the impurities in the crude oil are left behind in this stuff. All of the heavy metals, all of the sulfur, everything that was not -- that when they cooked off the gasoline and all of the other products, all that stuff gets left in this gunk, which is number six fuel oil. And that's why it is something that we want people to stop using.

So as you can see from this chart, which goes up to 2009, in a 20-year period the use of this oil has decreased substantially. And the
green part, which is commercial and residential use, has by 2009 almost completely disappeared. If anybody has any questions, they can just -- whenever anything comes up? Again, you see that beginning in -- on this chart, in 1940; the production of this and the supply of this peaked in the 1970's and has been continuously going down ever since.

And so this is really why we're doing this. If you look at the top line in the 2008 numbers, that was the amount of various pollutants that were being generated by the use of number six oil. And you have particulate material, nitrogen oxides, sulfur dioxide, carbon monoxide and carbon dioxide. And the numbers below are the reductions if the use of number six had been changed completely to each of those different fuels. So for example under sulfur dioxide, you can see that if everybody who was using number six in 2008 switched to natural gas, the sulfur -- the sulfur emission would have essentially completely vanished because natural gas has no sulfur in it and number six fuel oil
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has a lot of sulfur in it.

So as you can see by getting people to
switch to these cleaner fuels, there will be
tremendous reductions in these pollutants, with
the exception of carbon monoxide, which is --
actually would increase. The reason for that
being that number six is very dense and it has a
lot of energy in it; so you don't have to burn
that much of it to generate the energy. The other
fuels are much lighter and you have to burn more
of them. And that actually results in an increase
-- a slight increase but an increase in carbon
monoxide; but a tremendous decrease in, in all of
the other pollutants.

Just to quickly go through the status of
where we are in some of these pollutants. Under
US EPA, New York City right now is not in
containment with the ozone standard, which is
caused by the nitrogen oxide; which the banning
of number six will reduce substantially. We are
finally now in compliance with particulate matter
standard. But this is still a very harmful
pollutant that we want to reduce as much as
possible. And you can see that both PM and ozone are linked to many different physical problems.

And on the next slide, you can see specifically with regard to asthma that New York City is -- this is ten years ago but I think it still holds true; substantially above the national average in terms of asthma hospitalizations for children, particularly in the Bronx. And as we'll see when we get to the maps, you'll see that the Bronx has an unusually high concentration of boilers that are still using number six.

So in June of 2011, we had 5,300 certificates of operation for number six fuel oil. As of March of this year, that has been reduced by 3,200. So as of March, we had 2,100 left; of which 950 were expired and 1,150 were still valid. So obviously all of these cease and desist orders that you're seeing requests for are from that 950 group. And as you see on the bottom, from the 950 we've issued as of March, 880 notices of violation; which have resulted in 450 conversions. And as of the time this slide
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was prepared, we had only requested 15 cease and desist orders. But that went up last month and now it has increased again by the ones from this.

So in Manhattan the comparison between 2011 and 2014, you see that each dot represents a boiler that's using number six. So you can see that it's somewhat less dense. And you can see where the concentrations are in Manhattan: on the Upper East Side, the Upper West Side and in midtown. And you'll see in the Bronx that there are also a lot of these and it's basically in the corridor that -- I think that's the Grand Concourse; along the Grand Concourse, in that vicinity, there are a lot of buildings that use number six fuel.

In Brooklyn it's more scattered but mostly around Prospect Park. And you can see that it's decreased in Brooklyn quite a bit from 2011 to 2014. In Queens, it's mostly in northern Queens and again it's decreased quite a bit. And so by next June, all of these dots are supposed to be gone and Staten Island only have --

MS. SLIFKA: Questions?
MR. PECUNIES: So, any questions?

MS. KNAUER: I just was wondering if the concentration in certain areas is due to the age of the buildings in those areas or is it something else?

MR. PECUNIES: Yeah, a lot of these are apartment buildings and they're sort of pre-war apartment buildings. A lot of them I think were originally built to use coal. And then in the 1940's with the graph, everybody started using this number six fuel. I think a lot of them in that timeframe of like the 40's to the 70's converted to boilers that used this fuel. But there were people up until three years ago when it was banned, who were still looking to install new number six boilers because the fuel is cheap.

So, that's another -- as we ban this and people stop using it, one of the things that will probably happen is that the fuel is going to start to become much harder to get in this part of the country. This -- New York City is really the last bastion of this in the northeast. So as it gets less and less used, the suppliers are
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really going to convert to using -- to producing
and supplying other fuels. So we hope that will
be an incentive for hold-outs to convert.

MR. HYLTON: This is Renaldo Hylton from
Buildings. I think we had passed this before,
this money; number six, the supply is still legal
right? It's still going to be legal but you have
to convert?

MR. PECUNIES: Yeah. Oh, yeah, well, Con
Ed has a plant that runs on it. So, yes, it, it's
-- there are other uses. This is -- it's banned
for use in boilers and hot water heaters that
require a certificate of operation from us under
the air code. For power generation, for use in
ships; in one of the slides -- actually I didn't
mention it, but the main use of this going
forward is going to be in ships. It's called
bunker fuel. And so it will continue to be made
and used. But, so yeah, the ban only applies to
things that need a certificate of operation under
the air code.

MR. HYLTON: Yeah, but wouldn't, I mean,
to speak a little frenetic, if the City had
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banned its supply to these particular use -- for these particular uses in the City of New York so that the fuel would be --

MR. PECUNIES: Well, that would involve; it specifically would involve a major Con Ed --

MR. HYLTON: No. Well, you can exempt, you know, companies, right? I'm talking about supplying, supplying these to these residential and commercial buildings that use them now and having a ban --

MR. PECUNIES: Well, they, they'll -- the ones that have valid certificates are legal until June.

MR. HYLTON: I understand. But after, you know, where I'm going with this is I don't know how much enforcement you're going to have really at issuing some violations. Because you really can't turn people's heat off in the wintertime. So for those guys --

MR. PECUNIES: Well, we will -- we will seal people who fail to comply with this. Probably not right now. But we will ultimately; we will seal people who don't comply with this.
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That decision has been made at the -- at the Commissioner level.

MR. HYLTON: Yeah, I understand. So in sealing those folks, the City's prepared I guess to --

MR. PECUNIES: They'll be given every possible notice and warning first. But if they ultimately decide that for whatever reason they're not going to do it, then next, next summer they will be sealed.

MS. SLIFKA: There's another air question?

MR. PECUNIES: Yes?

MS. LALLY: Emily Lally, Citizen Member. How does this relate to the other section about having two percent biodiesel delivery? Does that cover --

MR. PECUNIES: Biodiesel has to be used in all of these fuels, except obviously natural gas. But for two, four and six, biodiesel has to be used in all of them.

MS. LALLY: So maybe they get cited under that section.
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MR. HYLTON: It's just that sometimes, you know, it's going to be easier to just pay these penalties.

MR. PECUNIES: Oh, we, we have -- we have a very; we, we know who the suppliers are and we are monitoring them, how that's going. And, yeah -- and, and they are, you know, as the market for it is contracting, they are getting out of the number six business.

MS. SLIFKA: Okay. Any other questions?

Alright.

MR. PECUNIES: Okay.

MS. SLIFKA: Thank you, Russ.

MR. PECUNIES: Thanks a lot.

MS. SLIFKA: Okay. Helaine Balsam is going to make a presentation on the sanitation penalty schedule.

MS. HELAINE BALSAM, ESQ., DEPUTY GENERAL COUNSEL, OATH: Okay. So we have a final rule. This is -- was a technical rule. It was -- it involved re-lettering two subdivisions relating to the City yard waste collection program. Nobody appeared at the public hearing. Any questions?
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MS. BALSAM: Thank.

MS. SLIFKA: Okay, very good. Okay.

Effie Xidias is going to present on the presealing reports.

MS. EFTYHIA XIDIAS, ESQ., HEARING OFFICER, ECB: Good morning. There are 13 reports for today's Board; all of which were issued after live hearings and all of which are presealing reports. One of the presealing reports recommends that the C and D action be discontinued in light of the fact the named respondent, 2995 Botanical Square, did not own the cited property at the time of NOV. And nine of the presealing reports recommend that there be no sealing given respondent's compliance and are therefore unremarkable.

However, I would like to bring to the Board's attention to the presealing reports issued in C&D orders 2013A, 2013D and 2014O. In C&D order 2013A, the predicate NOV was issued to
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Willett Town Marketing doing business as Ira's Takeaway. The premise is located at 16 Columbia Street in Brooklyn -- for odor emanating from its premises on May 12, 2012. The C and D was approved by the Board in January 2013, following respondent's default and the issuance of three NOVs for odor emissions.

At the presealing held on June 10th, respondent's representative testified that an exhaust fan and duct had been installed and provided proof of purchase and installation. Therefore, based upon the foregoing, ALJ Julie Jaffee recommended that the premises remain unsealed pending reinspection by DEP and further reinspection confirming no violation.

In C&D order 2013D, the predicate NOV was issued to Abbott Management, the premises located at 53 92nd Street in Brooklyn for noise coming from respondent's cooling tower in violation of the New York City noise code. A C&D was approved by the Board in August 2013, following the issuance of two additional NOVs for noise violations.
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On June 10th, respondent's counsel appeared at a presealing hearing to report that respondent had removed the cited cooling tower and replaced it with a new cooling tower, which is in compliance with the New York City noise code. Therefore, based upon the foregoing, ALJ Jaffee recommended that there be a reinspection of the equipment to confirm that the old equipment had been removed and new equipment had indeed been installed.

Finally, and C&D order 20140, the predicate NOV was issued to Café Talulah, premises located at 240 Columbus Avenue in New York, for noise coming from the respondent's kitchen exhaust unit. A C&D was approved by the Board in April 2014, following the issuance of two additional NOVs. At the presealing hearing conducted recently on June 17th, respondent presented proof that a soundproof enclosure had been installed around the exhaust fan on the roof of the cited premises, as well as a letter from its acoustic engineer confirming compliance with the noise code. Therefore, based upon the
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foregoing, ALJ Jaffee recommended the equipment remain unsealed pending initial reinspection confirming no violation and reinspection 180 days thereafter. Thank you.


Okay. We're now going into executive session. Everyone not a part of ECB, I'm going to have to ask you to leave. Thank you.

[OFF THE RECORD]

[ON THE RECORD]

MS. SLIFKA: And it was quick.

MS. BALSAM: That's everyone.

MS. SLIFKA: That's everyone? Okay.

We're back in public session. So all those in favor of affirming the appeals decisions from June 5, 2014 and June 19, 2014 appeals panel presented? Okay. That looks like everybody. Okay.

Before we adjourn this meeting or before I ask for a motion to adjourn, I just want to make sure all attendees have signed the attendance sheet.
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And now is there a motion to adjourn the meeting?

    MR. HYLTON: Before you do that?
    MR. PECUNIES: Okay.
    MR. HYLTON: Can I make another motion?
    MS. SLIFKA: Okay.
    MR. HYLTON: I would like a motion that this Board declares its support for the US Men's Soccer Team.
    MS. SLIFKA: Is there a motion to approve?

    MR. THOMAS SHPETNER, ESQ. - CITIZEN MEMBER: It's ultra-virus, but I like it.
    MS. SLIFKA: Alrighty. So now is there a motion to adjourn? Okay. This meeting's adjourned. Thank you.

(The public hearing concluded at 10:15 A.M.)
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CERTIFICATE OF ACCURACY

I, Andrew Slawsky, certify that the foregoing transcript of Environmental Control Board on June 26, 2014 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By

Date: June 30, 2014

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