

PCBs Case Ends With \$1B Cost to Replace Lights in NYC Schools (1)

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- * Case prodded city schools to speed up removal of fluorescent lighting fixtures containing toxic chemical
- * Talks continuing on how to cut PCB exposure from old caulking in schools

By John Herzfeld

(Bloomberg Law) -- A federal judge formally closed a case that prodded New York to speed up a \$1 billion project to remove and replace PCB-containing fluorescent light fixtures in the city's school system.

The city still has to resolve talks with the Environmental Protection Agency on controlling polychlorinated biphenyl (PCB) exposure that originated with old caulk containing the toxic compound in schools, said an attorney with New York Lawyers for the Public Interest, which filed the light-fixture case in 2011.

"Removing the PCB-containing light fixtures from nearly 900 city schools is a huge milestone," Rachel Spector, the group's environmental justice program director, told Bloomberg Environment Feb. 28. "The light fixtures were the most potent source of exposure. But there are still many schools that may have air contamination from PCB-containing caulk."

The city and the EPA agreed in 2010 to study PCB-laden caulk in schools but have yet to agree on a long-term management plan, Spector said. The public interest group isn't a party to the talks.

"What we've seen of the draft plan emphasizes best management practices," such as inspection and cleaning, removal of flaking caulk, and possible use of inexpensive short-term air monitoring technology, she said. "But we're continuing to advocate for better overall ventilation and a better reporting system."

A Feb. 26 order of dismissal in the U.S. District Court for the Eastern District of New York ended the group's lawsuit, which alleged that under the Toxic Substances Control Act the city was lax in its removal of hundreds of thousands of aging light fixtures leaking PCBs into classrooms. The law firm White & Case LLP assisted pro bono in the case.

City Spent \$1B

The city agreed in a 2013 settlement to speed up the removal and replacement of the old light fixtures.

The work was completed in 2016 with a \$1 billion price tag. City-led air sampling in 2017 confirmed that possible PCB residue from light-fixture leaks didn't pose health risks to students or teachers.

The EPA banned the manufacture of PCBs in 1979, but the compounds could still be present in schools and other buildings constructed or renovated between about 1950 and 1978, the public-interest group said. More than 700 city public schools could still contain PCB-contaminated caulk, it said.

The city is "pleased that its aggressive program to address potential contamination from light fixtures has concluded successfully," said Nicholas Paolucci, a spokesman for the city Law Department. "We remain committed to working with EPA on long-term management strategies for dealing with this national issue."

An EPA Region 2 spokeswoman, Tayler Covington, told Bloomberg Environment Feb. 28 that the agency is in the final stages of reviewing a city remediation plan for the remaining PCBs in schools.

"We anticipate successful resolution to this matter in the near future," she said in a statement.

The case is *New York Communities for Change v New York City Dep't of Education*, E.D.N.Y., No. 1:11-cv-03494, dismissal 2/26/18.

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For More Information

The complaint in the case is available at <http://src.bna.com/wIS>.

The settlement is available at <http://src.bna.com/wIT>.

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