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HUFF POST GREEN

State Environmental Agency Heads Pass Resolution About PCBs

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Last week during their annual conference in Colorado Springs, Colorado, the Environmental Council of the States (ECOS), which is the national non-profit, non-partisan association of state and territorial environmental agency leaders, passed a resolution addressed to the EPA that laid out several points about how to best address levels of polychlorinated biphenyls (PCBs) in wastewater discharges to our nation's waterbodies.

Almost as significant and interesting as the leaders of all of the state environmental commissioners coming together to address this very important water quality and human health issue was, the story of the problem itself and some of the background forces working to shed light on the issue may be just as noteworthy.

But first a little background on the issue. Once considered a miracle chemical, PCBs were manufactured in the United States from 1929 until they were banned in 1979. They were used in hundreds of industrial and commercial applications, including as dielectric (insulating) and coolant fluids in transformers, capacitors, electric motors and other electrical devices. PCBs entered the environment during their manufacture and use and also frequently leaked or were released from electrical equipment. They became a fiendish toxic hazard because, once in the environment, they do not readily break down and may cycle between air, water and soil for many years. To this day they remain one of the largest obstacles to clean water -- and to restoring the health of many of our nation's waterbodies.

PCBs cause serious health effects, including cancer and non cancer effects, such as effects on the immune system, reproductive system, nervous system, and endocrine system. In addition to being toxic, PCBs are also persistent and bioaccumulative, meaning they remain in the environment for long periods of time and increase in concentration within organisms or within the food chain. PCB contaminated fish are the primary source of PCBs for people, and many of our fish are too contaminated to eat safely, leading to fish advisories. In 2010 there were 1,084 fish advisories for PCBs in 40 states

So how does a product that was banned for production in the U.S. in 1979 under the Federal Toxic Substances Control Act (TSCA), still find a way to interrupt the health and wellbeing of our nation's waterbodies and citizens in the form of new sources? The answer lies in a regulatory loophole, an issue that two environmental groups in Spokane, WA and one of the region's largest industries, Inland Empire Paper Co. are working together to address.

In a nutshell, TSCA regulations currently allow imported products to contain PCB concentrations up to 50 ppm (parts per million), while surface water quality standards are levels of magnitude stronger. Take Washington State for example. The Washington state water quality criteria for PCBs is 170 parts per quadrillion in water, or about 700 million times lower than what is allowed under TSCA. On the Spokane River where the Spokane Tribe has its own water quality criteria, the criteria for PCBs is 3.37 parts per quadrillion, which has been described as if you were to hide a dollar bill somewhere in Canada and ask someone to find it. That's how small 3.37 parts per quadrillion is. While TSCA certainly regulates PCBs, it gives regulatory leeway to companies who produce PCBs as unintentional impurities, a loophole that has the effect of allowing the import and/or manufacture of pigments that contain as much as 50 ppm, a small concentration to be sure but one that is still vastly higher than what compliance with the Clean Water Act. Remember your math here, the difference between a part per million and a part per quadrillion is nine zeros.

The U.S. supposedly eliminated the manufacture and distribution of PCBs in 1978, yet here we are in 2012 talking about a pollution source that continues to contaminate our environment.

The inadvertent generation of PCBs can be caused by the combination of carbon, chlorine, and high temperatures. It is believed that up to 200 chemical processes may create PCB byproducts. Some products that inadvertently containing PCBs include paint, the aforementioned pigments or inks, ag chemicals, plastics, and detergent. Inland Empire Paper Co, one of the largest industries in the Spokane region is such the case. As one of the nation's largest paper recycling companies, they create a PCB problem for the Spokane River, not because of their generation of PCBs, but because of their end-of-pipe responsibility for an outside source of PCBs that is allowed thru Federal regulations. In 2010 Inland Empire Paper Company along with Spokane Riverkeeper and The Lands Council wrote a letter to the EPA alerting them of this issue. You can see the letter HERE and the background story HERE.

That letter, and that combining of forces, made last week's ECOS resolution to EPA the next step in addressing a very critical water quality issue in our nation.

"The passage of the resolution was really a significant event," said Ted Sturdevant the director of the Washington state Department of Ecology. "State environmental regulators heard the exact same message from industry, academia and the environmental community -- we need to turn off the faucet that is allowing this pollution stream to continue. That allowed a

very diverse gathering of states to agree to a strong statement calling for a national solution. The states are fed up with trying to solve pollution problems at the end of the pipe, when the solutions are best found through prevention at the national level. It's why ECOS has called for comprehensive reform of the federal law governing toxic substances, and why we'll keep pushing at the national level, and within our own states, until we get there."

There are currently 5,578 lakes, rivers, streams, and bays in the United States that do not meet water quality standards for PCBs. Water bodies that do not meet applicable water quality standards with technology-based controls alone are placed on a state's 303(d) list of water bodies not meeting standards. Water bodies on the 303(d) list require development of a Total Maximum Daily Load (TMDL), or a cleanup plan.

"This resolution shows that our country is waking up to the fact that preventing toxic pollution is smarter, cheaper and healthier than how we've approached this in the past," said Sturdevant. "Allowing an ongoing stream of PCB pollution that contaminates our waters, our fish and our citizens, and that places a costly or even impossible regulatory burden on permitted dischargers makes no sense. It is time that we solve our pollution problems by preventing them in the first place, and this resolution is a step in that direction."

In the resolution that was passed in Colorado Springs, ECOS laid out several steps for EPA:

ECOS recommends that EPA, industry, and states work together on alternatives to chlorinated solvents used in pigment and ink manufacturing to develop manufacturing processes in the next five years that do not generate PCBs.

ECOS supports a national approach to the problem of inadvertently created PCBs in inks and pigments.

ECOS supports EPA's proposed rulemaking to reassess the current use authorizations for PCBs, which includes products with PCBs less than 50 ppm and inadvertently generated PCBs in products at less than 25 ppm. EPA should move forward with this rulemaking to better protect human health and the environment.

ECOS recommends that EPA continue its efforts reduce PCBs and work with the international community on the elimination of PCBs.

PCBs are just one of many toxics that are threatening our nation's waterbodies. That said, what happened in Colorado Springs is a big step in finding a sensible solution to the problem. Since the passing of the ECOS resolution, a letter of support signed by an array of Waterkeeper organizations across the United States has been submitted to EPA director Lisa Jackson echoing the sentiments and suggestions of the ECOS resolution.

"Forty years ago this year we were given the Clean Water Act as a tool to clean up our nation's waterways," said attorney and Clean Water Act expert Rick Eichstaedt, the Executive Director of the Center For Justice in Spokane, who was in Colorado Springs at the ECOS meeting presenting in support of the resolution to EPA. "While the law isn't perfect, and while we have struggled with certain areas of implementation of the law, it's beyond encouraging seeing the leaders of the state's environmental regulatory agencies come together and address an inequality that is contributing to poor water quality in our country. If we expect to see the goals of the Clean Water Act realized, we need to make sure that other laws, like TSCA, compliment rather than conflict with our water quality standards."

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