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OFFICE OF THE MAYOR
THE CITY OF NEW YORK

DENNIS WALCOTT
DEPUTY MAYOR FOR EDUCATION
AND COMMUNITY DEVELOPEMNT

November 19, 2010

Judith Enck
Regional Administrator
U.S. Environmental Protection Agency
290 Broadway
New York, N.Y. 10007-1866

Dear Ms. Enck,

Thank you for meeting with me and other City officials on Monday, November 1st to discuss the ongoing pilot program for testing and remediation of polychlorinated biphenyls (PCBs) in five school buildings. We agreed to meet to discuss our mutual concern that the lighting ballasts in older fluorescent lighting fixtures may contribute to PCBs in air. We also discussed EPA's request that New York City initiate a new program to replace all PCB ballasts in what we estimate is between 750 and 850 buildings operated by the New York City Department of Education prior to the completion of the pilot program (We will be forwarding the results of survey we did of City school buildings to your staff shortly). While I appreciate your agency's continued technical guidance and oversight on these issues, I must respectfully reiterate the City's position that the most prudent course of action is for the City and EPA to complete the pilot program, including Stage 2, which specifically sets forth a detailed process for developing a Citywide PCB Management Plan.

As you know, in 2009, EPA and the City carefully negotiated the detailed terms and conditions of the pilot study over an approximately six-month period. This lengthy negotiation yielded a clear, yet flexible, framework to investigate and address PCBs in caulk, as well as in other building components such as lighting ballasts. As proven by the work this past summer, the pilot study produced not only invaluable environmental data on PCB levels in air, dust, and building materials, but also essential information on, among other things, how to use and apply EPA's new air guidance levels in a real-world environment; how long these projects will take; how much these projects cost; and how to conduct effective public outreach and coordination in school communities.

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This type of information – which will increase as the City begins work at the two remaining pilot schools – will guide the discussions required by Stage 2 of the Pilot. Stage 2 of the Pilot begins with the City submitting a recommended Preferred Remedy to EPA. EPA then must convene an independent peer review panel to evaluate the effectiveness of the recommended Preferred Citywide Remedy and make recommendations to EPA. EPA must also convene a public meeting to receive comments on the Preferred Citywide Remedy. After this peer and public review process, EPA and the City must commence a mandatory sixty-day negotiation on the Preferred Citywide Remedy. Given that a framework for developing a thorough, safe, and peer-reviewed Citywide PCB Management Plan already exists, the City believes it would be counterproductive, at this time, to create additional programs based on the initial findings of the pilot study.

First and foremost, both EPA and the City Department of Health and Mental Hygiene (DOHMH) agree that there is no immediate health risk to students and staff occupying schools buildings that have PCB containing building materials. The primary means of human exposure to PCBs remains food, and PCB levels in people have been declining since the use of PCBs was banned in 1978 despite its presence in building materials. The City does not believe it would be prudent or consistent with existing scientific evidence to abandon or modify significantly the well-crafted pilot study process.

Second, Region 2's request that the City undertake an extensive "revamping" of all public school buildings in addition to the ongoing pilot study, is disproportionate to its current national and regional policies on this issue, especially given the actions already undertaken by the City. The City is leading the country in addressing the issue of PCBs in building materials. It is the only municipality to enter into a pilot agreement with EPA to evaluate ways that PCBs can be managed in a classroom environment. We are not aware of any other similar action that EPA is taking nationally or within Region 2. If EPA has yet to develop a national policy on this issue, the City should not be required to undertake extensive additional measures at this juncture.

We do appreciate your suggestion of issuing RFPs through energy service companies (ESCOs). The City's Department of Citywide Administrative Services (DCAS) is already familiar with the ESCO approach and is exploring this and other ways to supplement the City's efforts to make all City owned buildings energy efficient and achieve our climate action goals. However, it is uncertain to what extent the City can use this approach to further supplement the City's existing efforts to undertake these projects to reduce the City's carbon footprint; especially when one considers our $1 billion estimate to replace all the older fluorescent lighting fixtures in City school buildings. DCAS Deputy Commissioner Ariella Maron, who has previously met with your staff, is available to discuss the potential use of ESCOs in much greater detail so that EPA has a firm understanding of the City's existing efforts to do lighting replacement projects generally and the role, if any, ESCOs might have.

I want to take this opportunity to thank EPA for working so well with the City on the pilot program. We also have agreed to create a working group to discuss these issues further to enhance our collaborative efforts. Please let me know how often you would like this group to meet and who your representatives will be.

Sincerely,

Dennis M. Walcott

Cc: Thomas Farley
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