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PCBs tough issue

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ALBANY — Two footnotes in a recent Environmental Conservation Department decision should produce a cold, clammy feeling in anyone concerned about ecological integrity.

They should also produce wonderment at what the government is doing to protect us against poisoning by pollution.

Columbia law professor Abraham D. Sofaer, in a decision that held General Electric had violated state laws by dumping quantities of PCBs — long-lived toxic chemicals that have been shown to cause cancer, reproductive failure and death — into the Hudson River, warned that the public should be concerned about the government's mechanisms for monitoring the "hazardous substances being discharged into our environment."

He also cautioned that, even if properly enforced, the tolerances for toxic materials now set by the federal government may be altogether too low.

In the case of G.E., Sofaer found that the dumping of PCBs from two plants' manufacturing electrical capacitors was "the product of both corporate abuse and regulatory failure." G.E. informed the state and federal authorities of its actions but they "exercised insufficient caution and concern" until Environmental Conservation Commissioner Ogden Reid brought charges against GE.

Although the PCB case has already gotten widespread publicity, it is worth pointing out again what Sofaer made clear in his decision — that the state as long ago as 1973 knew (because the company had filed for a permit to do so), not only that G.E. was dumping PCBs, but the danger that the chemicals posed.

The department knew the danger, not on an abstruse, theoretical basis, but because its own employes were investigating and reporting. Even earlier — in 1970 — private citizens and Sports Illustrated magazine warned of the dangers posed by PCBs. Somehow the warnings never got through to the top levels of the department or, if they did, they were ignored.

In another instance, Sofaer said that the department has yet to come up with a list of hazardous substances and regulations to control their storage and discharge, which the Legislature asked for in June 1973. A proposed list was drafted, but never adopted.

Former Environmental Conservation counsel John Hanna said that it was extraordinarily difficult to properly define what were hazardous substances. "We found that a million gallons of molasses could be hazardous under some circumstances," he said.

A similar situation prevails at the federal level. The Environmental Protection Agency in 1973 was to set effluent standards for toxic pollutants, but still has not done so despite a court suit to compel it to act.

Sofaer's second point is simply that the established limits for PCBs in the environment and wildlife, and by extension, for other materials as well, may be "dangerously low rather than high."

The Federal Food and Drug Administration (FDA) standard, for example, says the edible portion of fish to be consumed by humans must have no more than five parts per million (ppm) of PCBs. Although this is an extremely small amount — one ppm is equivalent, roughly, to one ounce in 31 tons — even that may be too high.

The FDA set its standard in 1971, based largely on a 1968 incident in Japan in which about 1,000 persons were poisoned by eating rice oil contaminated with PCBs. It was estimated then than the average PCB consumption by victims was about two grams in slightly less than a quart of rice oil.

So, using a so-called 10-fold safety factor, the FDA set the permissible limit for PCB consumption at two-tenths of a gram, spread over 1,000 days, on the assumption that human beings could tolerate that much without adverse effects.

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