

→ Bob A. Altman / FYI



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

NOV 22 2002

Madelyn Wils, Chairperson
Manhattan Community Board No. 1
49 Chambers Street, Room 715
New York, NY 10007-1866

Dear Ms. Wils and the Members of Community Board No. 1:

Thank you for your letter of October 24, 2002 to Regional Administrator Jane Kenny which was referred to me for response. Your letter transmitted the resolution adopted by Community Board No. 1 (CB #1) during its monthly meeting of October 15, 2002. In this resolution CB #1 raised several concerns regarding the environmental aspects of the World Trade Center cleanup being provided to the residents of lower Manhattan. I want to reassure you that the Environmental Protection Agency (EPA) and the City of New York are implementing a comprehensive program to ensure that lower Manhattan residents are protected from potential exposures to harmful dust and debris residuals.

We are faced with many complex scientific analytical issues in the indoor cleanup program we are conducting in cooperation with other federal, state and city partners. EPA's comprehensive cleanup program is providing downtown residents the opportunity to get a professional and very thorough cleaning with followup testing or, if their prefer, they can just ask us to test the air in their home. This action-oriented program will reduce any remaining risk that people may face due to long term exposure to residual World Trade Center dust.

I am pleased to report that the cleanup program is going well. The cleanup program's goal is to protect public from potential exposure to residual dust that could contain pollutants and to provide them information that will help them feel comfortable in their homes. To date, the hotline has received approximately 4,800 requests for cleaning and testing of apartments and an additional 1,100 requests for testing only. We have begun work both on those apartments designated for cleaning and testing and those requesting testing only. Sampling results for a number of apartments are currently available on our website at www.epa.gov/wtc.

I am attaching responses to the concerns expressed in your resolution and look forward to continuing to work with CB #1 and other members of the community as we address the indoor air concerns of the residents of lower Manhattan.

If you have any further questions, please contact Benjamin Barry at 212-637-3651.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kathleen Callahan".

Kathleen Callahan
Assistant Regional Administrator
for New York City Response and Recovery Operations

cc: J. Picciano, FEMA
C. Ward, NYC DEP

Enclosures: Attachment A: Response to Questions
Attachment B: Notes on the National Contingency Plan

Attachment A
Response to Comments

Relationship of the Indoor Air Residential assistance Program-World Trade Center Dust Cleanup to the National Contingency Plan

EPA continues to work supporting federal, state and New York City (NYC) efforts to recover from the federally declared disaster resulting from the September 11 attacks on the World Trade Center (WTC). We do this under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) and in accordance with the applicable procedures and policies of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The NCP applies and is in effect when the Federal Response Plan - the document providing the structure for a coordinated response under the Stafford Act - and some or all of its Emergency Support functions (ESFs) are activated. ESF-10, the Hazardous Material Annex of the Federal Response Plan, is applicable to this disaster response. ESF-10 anticipates the potential for unique situations, in that it contemplates response "to actual or threatened releases of hazardous materials not typically responded to under the NCP but that, as a result of the disaster or emergency, pose a threat to public health or welfare to the environment." In such situations, "applicable policies and procedures in the NCP will be adhered to...."

Our current focus is to address indoor air concerns through an indoor dust cleanup and air sampling program for residential spaces in lower Manhattan. This program responds to a disaster involving a release that is most certainly not typical, not only because of the terrorist act that led to the release, but also because of the unique challenges posed by the presence and potential presence of WTC dust in thousands of lower Manhattan apartments. EPA is implementing a comprehensive program to ensure that lower Manhattan residents are protected from potential exposures to harmful dust and debris residuals. EPA is running this program in cooperation with the Federal Emergency Management Agency (FEMA), New York State, New York City, and other federal agencies. Consistent with the atypical aspects of the release and the response work that we face in lower Manhattan, to the extent practicable we will use all the tools available, including appropriate aspects of the NCP, to achieve this goal as expeditiously as possible.

The NCP, pursuant to CERCLA, authorizes EPA to undertake or direct cleanups in response to releases or threatened releases of hazardous substances into the environment. [See Attachment, Note 1.] As background, you should be aware that sections of the NCP, for example, those dealing with long-term response, are simply not applicable here - for instance, 40 C.F.R. Sections 300.430 and 300.435, addressing remedial investigations and feasibility studies, selection of remedy, remedial design and remedial action, operation and maintenance, and attainment of 10^{-4} to 10^{-6} cancer risk levels. [See Attachment B, Note 2.]

Consistent with the atypical aspects of the release and the response work that we face in lower Manhattan, to the extent practicable and appropriate we are proceeding with this program in a manner consistent with the NCP. Let me give several examples.

- Our efforts are consistent with the NCP provisions regarding the respective roles of different federal agencies and organizational elements, such as the National and Regional Response Teams and the On-Scene Coordinator. [See 40 C.F.R. Part 300 Subpart B.]
- We are responding to residents' concerns in a manner consistent with the NCP. [See, for example, Section 300.415(n) of the NCP ("Community relations in removal actions").] In brief:
 - (a) we have designated spokespersons for our programs related to the attack on the WTC, who respond to inquiries and keep the community informed regarding our actions. They will make available data related to indoor air concerns in lower Manhattan, providing such data in a manner that does not divulge the address of a given residence or the name of a given resident;
 - (b) we have been meeting and will continue to meet with public interest groups or other interested or affected parties, as appropriate, to solicit their concerns and information needs, and find out how or when citizens would like to be involved in the process;
 - (c) we have prepared a draft communications strategy and many fact sheets much of this informational material addresses many of the concerns raised in the meetings with community members;
 - (d) we have established at least one local information repository in lower Manhattan (290 Broadway) which is accessible to the public. At that location we will make available documents which have formed the basis of our actions.
- We have met with interested members of the public on the scope of work that is the basis of NYC's solicitation for the cleanup and testing program. Working with NYC, significant changes were made to the scope based on the recommendations provided by the public.
- We have developed the clearance level (that is, the risk-based cleanup goal) to determine when cleaning can cease at a residence under the Indoor Air Residential Assistance Program - WTC Dust Cleanup. The development of this level has been consistent with the NCP. For example, under the NCP, removals performed either by EPA with Superfund monies or by responsible parties need to attain applicable or relevant and appropriate requirements (ARARs) "to the extent practicable considering the exigencies of the situation." [Section 300.415(j) of the NCP] For the Indoor Air Residential Assistance Program - WTC Dust Cleanup there are not any directly applicable standards. So, as is a common practice in removal actions under the NCP, we have developed a risk-based clearance number for asbestos in air, taking into consideration other standards. We have consulted with peers in the scientific community regarding the use of this level as an extremely protective long-term risk guideline.

I do want to make you aware that achieving this level of high sensitivity in analysis, which will enable us to detect .0009 f/cc of asbestos in air, is a scientific challenge. To attain this low a detection limit in a technically practical manner, a large volume of air needs to be collected. This increases the potential for filter "overload." Filter "overload" creates a problem because it impairs the ability of the microscopist viewing the sample results to see the entire field of vision under the microscope. Filter "overload" in asbestos testing terminology indicates that enough small specks of dust have been captured on the same filter to interfere. The microscope used for asbestos analysis in this program magnifies objects up to 20,000 times, so even the tiniest speck of dirt or dust can obscure small fibers of asbestos. EPA will perform ongoing evaluation of the sampling program as the cleanup progresses and may reduce sample volumes should filter "overload" become a routine occurrence. We will keep all members of the public informed of our results and any related issues.

Accessing the Cleanup Program/Availability of Information

Regional Administrator Kenny, as well as Agency scientists, community relations staff, and other experts working on the WTC response have met with outside scientists, members of 9/11 Environmental Action and the Environment Law and Justice Project, as well as members of the Chinese community, community board members, tenant association leaders, and service organizations to discuss the cleanup program and to get their input.

In addition, the Agency sent out a direct mailing (approximately 38,000) to all lower Manhattan residents in June announcing the cleanup program and hotline call-in number and website for program registration. The Region has issued a number of press releases and this program has been widely reported by local media. EPA is running display ads in several local papers and employees have handed out fliers at subway stations and have distributed fliers to local businesses for display. In addition, program announcements have been delivered to many residential buildings in the project area for posting. Additionally, we have posted fliers in buildings and commercial establishments in lower Manhattan as well as attending public meetings and community WTC related information sessions. We are also working to provide mobile computer availability to those members of the public who do not have access to the internet. In addition, members of the public may use computers at EPA's library located at 290 Broadway if they wish to access the cleanup program via the internet. EPA has also developed a draft Community Relations Plan and will refine this to address further actions we will take to communicate with the public during the cleanup program.

Under the current program a resident can either elect to have their residence tested or cleaned and tested. The work would be performed by contractors to the City of New York with EPA oversight. Together with FEMA and the City of New York, EPA has extended the deadline for registration in the program to December 28, 2002.

Information and data pertaining to the cleanup of lower Manhattan, air testing etc., are available on EPA's website at www.epa.gov/wtc or at EPA's office located at 290 Broadway.

Coordination of Exterior and Interior Building Cleanup of Residual Debris/Dust

NYCDEP is also proceeding with the cleanup of residual dust and debris from building rooftops, facades and canopies as part of their building exterior cleanup project. This work is being done where visual WTC debris is observed and the work includes a variety of techniques to remove the dust/debris including HEPA vacuuming, wet washdown methods and careful handling of all materials for disposal as asbestos containing material. As of mid-September approximately 300 buildings were identified as requiring cleanup. NYCDEP's contractors have completed the cleanup of 194 buildings with an additional 13 currently undergoing cleanup. Building owners have had an additional 98 building exteriors cleaned as well. This will provide further confidence that material is not available to become re-entrained in the air or to recontaminate, potentially, nearby areas. The goal is to accomplish cleanups of these building exteriors prior to doing work in the indoor environments. EPA continues to work with NYCDEP on this program, visiting work sites and staying informed of issues that arise and the status of cleanup.

Addressing Impacted Heating, Ventilation and Air Conditioning (HVAC) Systems

HVAC system assessments and cleanliness inspections shall be conducted by qualified personnel who have an understanding of HVAC system operation and experience in using accepted indoor environmental sampling practices, current industry HVAC cleaning procedures and applicable industry standards. The HVAC system inspection contractor shall be a certified member of the National Air Duct Cleaners Association. Evaluations of building HVAC systems will be made upon request of the building owner or residents.

The building owner must authorize access for entire building evaluations. A checklist will be used in the evaluation consistent with General Specifications for the Cleaning of Commercial Heating, Ventilating and Air Conditioning Systems and the NADA standard ACT 2002.

Where cleaning is requested for an individual residence, portions of the HVAC system dedicated to that residence will be evaluated.

Based upon recommendations of the Project Monitoring contractor's HVAC expert, EPA will approve specific HVAC cleanup activities. If the HVAC system for an entire building requires cleaning, a separate, site specific contract will be awarded by the NYC DEP for this work. If only a portion of the HVAC system needs cleaning, the Cleaning contractor will conduct the cleaning utilizing specialized labor, trained and experienced in duct cleaning. For each residential space to be cleaned, the intake and discharge registers of the HVAC system (if there is one) will be removed and cleaned. The first foot of duct work will also be vacuumed as this is readily accessible from the residential space and will eliminate any dust that may have accumulated in this area. Then the register will be reinstalled and covered with polyethylene sheeting for the duration of the remaining cleanup.

Consistency of Current Program with Existing Laws

As discussed previously, we have developed the clearance level (that is, the risk-based cleanup goal) to determine when cleaning can cease at a residence under the Indoor Air Residential Assistance Program - WTC Dust Cleanup. The development of this level has been consistent with the NCP. For example, under the NCP, removals performed either by EPA with Superfund monies or by responsible parties need to attain applicable or relevant and appropriate requirements (ARARs) "to the extent practicable considering the exigencies of the situation." [Section 300.415(j) of the NCP] For the Indoor Air Residential Assistance Program - WTC Dust Cleanup there are not any directly applicable standards. So, as is a common practice in removal actions under the NCP, we have developed a risk-based clearance number for asbestos in air, taking into consideration other standards. We have consulted with peers in the scientific community regarding the use of this level as an extremely protective long-term risk guideline.

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Cleaning Program and Testing Methods

As you are aware, in early May, EPA, NYC and FEMA announced that direct assistance would be provided to residents of Manhattan living south and west of Canal, Allen and Pike Streets. This direct assistance program offers the residents in this area three options: 1) residents may have their homes professionally cleaned and sampled by licensed asbestos contractors; 2) residents may have their homes sampled for asbestos without cleaning; and 3) residents may be reimbursed for a vacuum cleaner equipped with a high efficiency particulate air filter for their own home use.

The cleanup program also includes both pre- and post-cleaning sampling at 200 of the residences cleaned and testing at 50 of the testing only apartments for dioxin, mercury and the target analyte list (TAL) metals. There are 23 metals on the TAL (aluminum, antimony, arsenic, barium, beryllium, cadmium, calcium, chromium, cobalt, copper, iron, lead, magnesium, manganese, nickel, potassium, selenium, silver, sodium, thallium, vanadium, and zinc).

We are testing for asbestos in air in the cleanup program based on the sampling data indicating that asbestos is the primary contaminant of long term exposure concern, as well as the fact that there is broad agreement among scientists on the sampling and measurement methods. The reason we are testing residences for dioxin, mercury and the TAL metals is primarily to

gather additional data to consider as the program proceeds and confirm efficiency of cleaning techniques.

Cleanup work will be conducted by contractors and workers certified by New York State and New York City. Separate, third party contractors, also licensed by New York State, will oversee the cleanup work and will conduct all the testing. Samples are analyzed at EPA contractor laboratories.

Comprehensive Health Study for Potentially Affected Residents

The federal agency with the lead responsibility for studying long-term effects from the WTC disaster is the Agency for Toxic Substances Disease Registry (ATSDR) within Health and Human Services (HHS). ATSDR has a Congressional mandate to conduct health surveillance and establish disease registries, and has had a great deal of practical experience with such registries in conjunction with EPA's Superfund Program. ATSDR is working with the New York City Department of Health and Mental Hygiene in creating the WTC registry. You may contact Jeffrey P. Koplan, M.D., M.P.H., Administrator, ATSDR at 404-639-7000 or Thomas R. Frieden, M.D., M.P.H., Commissioner, New York City Department of Health at 212-295-5347 for further information.

Attachment B

Notes on the National Contingency Plan (NCP)

Notes

1. While the NCP authorizes EPA to take actions to address the release and threatened release of a hazardous substance into the environment, Section 300.400(I)(3) of the NCP states, "Activities by the federal and state governments in implementing this subpart are discretionary governmental functions. This subpart does not create in any private party a right to federal response or enforcement action. This subpart does not create any duty of the federal government to take any response action at any particular time."

2. Many have commented that this risk range, used for remedial sites under CERCLA, is the one that should apply to the Indoor Air Residential Assistance Program - World Trade Center Dust Cleanup Program. As discussed elsewhere in this letter, EPA has developed a particularly stringent clearance level for asbestos in lower Manhattan residences. Nonetheless, for the following reasons, even if this were a remedial site, the 10^{-6} cancer risk – which is a "point of departure" referenced in the NCP – would not be used because it is impracticable to achieve. All protocols chosen for the Indoor Air Residential Assistance Program - World Trade Center Dust Cleanup Program are designed to reach the lowest level of detection that is reasonable with established methods. For asbestos, the sampling and analytical protocols chosen are designed to attain risk estimates of 1×10^{-4} . To reach estimates of 1×10^{-6} , extraordinary modifications would have to be employed to either significantly increase the volume of air being sampled or to go to extraordinary expense to analyze many more grids on each sample filter. An increase in the sample volume, through an increase in flow rates from 10 to 15 liters/minute to 500 to 1,000 liters/minute would lower the detection level. However, the only equipment available to operate at these rates are large units that are impractical to bring into a residence. Achieving flow rates this high has not been tested using the sampling protocols, and there would be a high likelihood of compromising the sampling filters. To achieve detection levels consistent with 1×10^{-6} risk values by running the equipment for longer periods of time would require increasing the period of sampling from 8 hours to 33 days. These two issues make it impractical to achieve a 1×10^{-6} detection level.