

Avaltroni, Robert

From: Hoffer, Mark
Sent: Wednesday, July 09, 2003 3:50 PM
To: Avaltroni, Robert; Gilsenan, Michael
Subject: FW: Excerpts from Background Section of the Draft Report

FYI

-----Original Message-----

From: Cohen, Jay [mailto:jcohen@law.nyc.gov]
Sent: Tuesday, July 08, 2003 12:11 PM
To: 'varolid@ddc.nyc.gov'; 'kmckinne@health.nyc.gov'; 'mhoffer@dep.nyc.gov'; 'lyee@oem.nyc.gov'; 'phyllisa@buildings.nyc.gov'; 'LevineM@omb.nyc.gov'
Subject: Excerpts from Background Section of the Draft Report



EPA-DEP
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Excerpts from Background Section of the Draft Report

Early Response

Various circumstances complicated the Government's and EPA's ability to respond to environmental concerns in what was an unprecedented and extremely difficult situation. The New York City Office of Emergency Management's Emergency Operations Center (EOC) was destroyed in the attacks. EPA's Region 2 office, about a half-mile from the WTC site, was evacuated and not re-opened until 2 weeks after the attacks. Electrical power was lost in Lower Manhattan, as well as radio, and telephone, and satellite communications. Further, transportation to Lower Manhattan was halted, as well as restricted and commercial air travel was halted nationwide.

As with most disasters, local authorities were the first responders. "Ground Zero," as the seven-building WTC area site would become known, was initially a search and rescue effort under the direction of the Fire Department of New York and, subsequently, a recovery operation under the jurisdiction of the New York City Office of Emergency Management. During the recovery phase, which began November 1, 2001, the New York City Department of Design and Construction and the Fire Department of New York were co-incident commanders. According to New York City's Deputy Assistant Chief of the Fire Department, "the complexity of the activity performed at one site – rescue, recovery, demolition, and construction – at one time is unprecedented." This unprecedented complexity is evidenced by the fact that the New York City Office of Emergency Management immediately undertook to coordinate the response efforts of approximately 150 City, State and Federal agencies and non-governmental organizations. Initial meetings were held to request assistance from State and Federal agencies, including the EPA and to set procedures for coordination and accomplishment of various tasks. Immediate response actions to save lives and meet basic human needs took precedence over other considerations, such as characterizing the site's environmental conditions. Further complicating the situation was the fact that the area was treated as a crime scene, with law enforcement authorities strictly limiting access for agencies such as the EPA for the first day or two.

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Excerpts from Chapter 3 of the Draft Report

Initial Actions Taken by New York City and EPA

In the immediate aftermath of the disaster, EPA undertook several activities to address various issues related to indoor air. However, according to EPA documentation, New York City officials stated on September 30, 2001, that the City would not be requesting assistance from EPA regarding residential sampling or reoccupation issues, or roof debris cleanup. According to EPA Region 2 officials, since the City declined EPA's offer of assistance on cleaning issues, EPA did not want to force itself into a lead agency role. Further, EPA Region 2 officials told us that a more assertive stance from EPA would have caused a level of confrontation that might have been counterproductive to the overall effort. This view of circumstances by EPA is contradicted by information provided by New York City agencies. City officials stated that they requested assistance from EPA with respect to air sample monitoring on September 11, 2001. Furthermore, City officials stated that the EPA was thoroughly involved and integrated into the health and safety process concerning the response to the terrorist attacks. For example, EPA chaired the Environmental Sampling and Assessment Workgroup. EPA was provided and reviewed and commented concerning the health and safety plan for the site. EPA provided the truck mounted HEPA vacuum units to clean the sidewalks and streets in the vicinity of the site. In the City's view, EPA was a full and equal partner concerning environmental issues with respect to the response to the terrorist attacks. Consequently, if EPA had offered assistance it would have been accepted. Moreover, EPA's taking a more assertive stance would not have caused a level of confrontation that would have been counterproductive as the City recognized that the EPA is the lead agency for Emergency Support Function 10, hazardous materials, under the Federal Response Plan. City officials do not recall that the subject of residential sampling and reoccupation and roof debris cleanup was raised by the EPA on September 30, 2001, or any time before then. City officials recall discussing the issue of indoor cleaning of residences with EPA at some time after September 30, 2001 and that EPA's response was that they would conduct a study and provide information to the City in six to nine months.

New York City's Initial Response to Indoor Contamination

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After consultation with FEMA and with the agreement of the EPA, New York City officials held building owners responsible for cleaning up their own buildings, including interiors and exteriors. This was as a result of an initial position by FEMA that pursuant to the Stafford Act, which governs federal disaster relief activities, it would not reimburse the City for such cleaning. In general, landlords of rental units were responsible for assessing, and based on those assessments, taking the appropriate cleaning actions. ~~cleaning apartment walls, ceilings, and floors; common areas, such as hallways and lobbies; and heating, ventilation, and air conditioning (HVAC) systems.~~ Renters were responsible for cleaning their personal belongings. In the case of resident-owned condominiums, residents were responsible for cleaning their units, while building owners were responsible for cleaning common areas and HVAC systems.

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Table 3-1 notes three key instructions New York City provided to building owners and residents regarding the potential for indoor contamination resulting from the collapse of the WTC towers and steps for cleaning the indoor contamination:

Table 3-1: Actions by New York City

Date	Key Statement
09-14-01	<u>DEP issued instructions for cleaning up asbestos containing materials to building owners in the affected areas. The instructions required building owners to comply with the requirements of Title 15, Chapter 1 of the rules of the City of New York, including notification of asbestos projects. A similar memorandum to building owners, dated September 26, 2001, was also disseminated by NYCDEP.</u>
09-16-01	<u>The New York City Department of Environmental Protection (NYCDEP) issued a "Public Notice" flyer to building owners that discussed building maintenance issues. The notice stated that building owners/managers should have possible contamination problems reviewed by competent professionals. NYCDEP officials said the notice was not mailed as mail was not being delivered in the affected area. The notice was also not included in any newspaper as there were numerous press releases and press briefings concerning the subject. Information was also published on the NYCDEP website concerning this topic. The notice was however, hand-delivered by NYCDEP inspectors, who went building to building in the affected area to deliver the notice to a responsible person, where possible. City officials believed that this method would insure the widest possible dissemination of the notice. These notices were also distributed at Business Information Center at 110 Maiden Lane. Finally, NYCDEP established a special hotline for questions concerning asbestos issues, but was distributed by hand in Lower Manhattan by NYCDEP inspectors (see Appendix M for a copy of the notice).</u>

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Date	Key Statement
09-17-01	NYCDOH issued a press release that recommended that individuals reentering their residences and places of work remove dust by using a wet rag or wet mop, and vacuum with a HEPA (high efficiency particulate air) filtration vacuum. If a HEPA vacuum was not available, the press release recommended using HEPA bags or dust allergen bags with a regular vacuum cleaner. <u>The procedures in this press release were referred to multiple times by EPA officials in press releases and included in the EPA website concerning the World Trade Center attacks. (see Appendix N for a copy of the press release).</u>
10-25-01	NYCDEP described benchmarks and guidelines used to evaluate environmental conditions in a letter to Lower Manhattan residents dated October 25. In regard to cleaning indoor spaces the letter stated: "If more than 1 percent asbestos was found and testing and cleaning was necessary, it had to be performed by certified personnel." In addition, the statement indicated landlords should not reopen any building until a competent professional had properly inspected their building. The City's Asbestos Abatement Program requires that building owners file a written notification with the NYCDEP for asbestos abatement projects that do not require plan or permit approval from the City's Buildings Department. NYCDEP officials told us this notification applied to buildings owners who found more than 1 percent asbestos in the dust in their buildings (see Appendix O for a copy of the instructions).

NYCDEP officials told us that there is no regulatory or statutory authority to they did not conduct a certification program to determine the level of compliance with their instructions regarding the testing and cleaning of asbestos inside buildings. This is a purely voluntary program. In January and February 2002, NYCDEP contacted building owners by express mail and asked them to file reports. This was followed up by a second mailing to building owners who did not respond, and by visits, but not inspections, by inspectors to building owners, who had not responded. The only authority to conduct inspections of buildings is if a complaint is made, or if the building owner filed notification with NYCDEP as a result of finding bulk samples containing more than 1% asbestos. NYCDEP received over 300 complaints with respect to asbestos inside buildings and conducted inspections in cases where inspections were warranted concerning every complaint. In conducting these inspections, NYCDEP found only 1 case where a bulk sample exceeded 1% asbestos. There were 56 instances, pursuant to the Asbestos Control Program, where building owners reported bulk sample levels of 1% or more, as per the submitted ACP-7s. Inspections were conducted in every instance

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for all cases in which ACP-7's were filed. Beginning in Following September 2001, and during a formal program that began January 2002, City officials along with EPA officials they said they began visually inspecting the exteriors of over 1,000 buildings and identified 324 323 buildings with visible dust. NYCDEP officials told us that out of the 323 buildings identified as having visible debris, 221 were cleaned by DEP contractors using FEMA funds, and the remaining 102 buildings were cleaned by the owners and verified as clean by DEP inspections. 90 of these 324 building exteriors were subsequently cleaned by the building owners and the remaining owners stated they could not afford to clean their buildings. These remaining owners were eligible to have their buildings cleaned by NYCDEP with funding provided by FEMA.

In order to determine the extent of indoor contamination in Lower Manhattan residences, the NYCDOH and ATSDR initiated an indoor air study in November 2001. The sampling phase was completed in December 2001, and the final report was issued by ATSDR in September 2002. The results of this study are discussed later in this chapter on page xx.

[Evaluator's Note: a DEP "Public Notice" about WTC, dated September 16, 2001, is included in its entirety as an exhibit to the draft report.]

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