NYC 9/11 Public Portal Document

EPA
IG
WTC

Avaltroni, Robert

From: Hoffer, Mark
Sent: Tuesday, June 24, 2003 2:19 PM
To: Avaltroni, Robert; Gilsenan, Michael
Cc: Schiano, Frank
Subject: EPA - WTC - EPA OIG Report

As requested, I've looked at the excerpts EPA has given us from the draft report and discussed it with Frank.

Since most of my knowledge about EPA/DEP dealings is second-hand, I'm probably not the best source of information about this, but I do have some reactions to the draft:

1 - In the excerpts from Chapter 3 "Initial Actions Taken by New York City and EPA",

a - 1st par., 2nd-4th sentences - The gist of this appears to be "EPA offered to help on indoor and outdoor clean-up, but the City turned us away, and we didn't want to raise a fuss with the City so we walked away."

Obviously, someone is trying to shift criticism from EPA to us.

The existing language is not what I understood to have happened. What I understood was that EPA immediately asserted that "it was in charge" and then subsequently discovered that it needed us to get the job done. We volunteered, fairly early on, to do the outside clean-up program (which we completed successfully). EPA then basically sat on its hands on the indoor issue until the community (and Congressman Nadler) forced them to move, and then they turned to us and said "we can't do it; we need your help in getting contractors and managing their work." And we did help.

I suggest something more accurate, replacing the entire 1st par. after the first sentence: "At an early stage, EPA and DEP discussed an exterior clean-up program, aimed at roofs and certain other outdoor surfaces of downtown buildings, where potential contamination was visible. DEP developed such a program with EPA input, and sucessfully completed same by approximately ____. A total of ___ buildings received outdoor cleaning under this program. EPA, in turn, developed an indoor residential testing and clean-up program, and successfully completed same by approximately ___, utilizing assistance from DEP in procuring contractors. A total of ___ residential apartments were cleaned under this program. "

b - 2nd par, captioned "New York City's Initial Response to Indoor Contamination"

The 1st sentence suggests that the City was somehow "wrong" or "sloppy" in deciding that it was the responsibility of individual property owners to clean their buildings. That is absolute nonsense. Property owners are responsible for the safety of their buldings generally, had the access to perform clean-up, and had insurance proceeds (at least in many cases) to perform the clean-up themselves. Conversely, the City had and has no obligation to clean up private property.

As far as I know, EPA had no objection to putting the initial obligation where it belonged: with the property owners.

I suggest replacing the first sentence with something like: "New York City advised building owners that, consistent with their ongoing legal obligation to ensure the safety of their respective properties, the owners were responsible for cleaning their buildings in accordance with applicable laws, rules and regulations, including exteriors and interiors. As previously noted, the City extended assistance to building owners by implementing a City-managed building exterior clean-up program."

If you would like to discuss the above, Frank and I are available at your convenience. If you agree with the above and want me to pass it along to the Law Department, let me know.

NYC-WTC_000153115

Avaltroni, Robert

From: Dunlap.Chris@epamail.epa.gov
Sent: Tuesday, June 17, 2003 4:48 PM
To: RAVALTRONI@DEP.NYC.GOV
Subject: Excerpts From OIG Draft Report

DEP.wpd

Memo to Avalroni.wpd

Mr. Avaltroni,

The second attachment below contains excerpts from our draft report which concern your department. The first attachment contains a transmittal memorandum for these excerpts. As detailed in the transmittal memorandum, please let us know if you have any questions or comments. Thank you for your assistance.

Best Regards,

Chris Dunlap

(See attached file: DEP.wpd) (See attached file: Memo to Avalroni.wpd)

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Excerpts from Background Section of the Draft Report D R A F T

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 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, telephone, and satellite communications. Further, transportation to Lower Manhattan was restricted and 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." 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.

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D R A F T

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.

New York City's Initial Response to Indoor Contamination

New York City officials held building owners responsible for cleaning up their own buildings, including interiors and exteriors. In general, landlords of rental units were responsible for 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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D R A F T

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
09-16-01	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 or included in any newspaper, but was distributed by hand in Lower Manhattan by NYCDEP inspectors (see Appendix M for a copy of the notice).
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. (see Appendix N for a copy of the press release).
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 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. Beginning in September 2001, they said they began visually inspecting the exteriors of over 1,000 buildings and identified 324 buildings with visible dust.

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NYCDEP officials told us that 90 of those 324 buildings 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.

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D R A F T

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 36

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

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
INSPECTOR GENERAL

June 16, 2003

MEMORANDUM

SUBJECT: Excerpts from Draft Evaluation Report:
EPA's Response to the World Trade Center Collapse: Lessons Learned
Assignment No. 2002-0000702

FROM: J Rick Beusse
Director for Program Evaluation, Air Quality Issues

TO: Robert C. Avaltroni
Deputy Commissioner, Bureau of Environmental Compliance
Department of Environmental Protection

Attached are excerpts from a draft evaluation report regarding the Environmental Protection Agency's (EPA's) response to the World Trade Center collapse, conducted by the EPA Office of Inspector General (OIG). These excerpts contain information about your department. These excerpts are subject to revision by the OIG and, therefore, will not necessarily appear in the final report as they are now worded.

These excerpts are being provided to you so that you may have the opportunity to comment on the factual accuracy of the information and provide any additional information or documentation you may want us to consider. We expect to issue our final report in July, 2003. In order for us to incorporate your comments into the final report, we request that you provide your feedback by June 27, 2003.

If you have any questions, please contact me (919-541-5747) or Chris Dunlap (919-541-1029).

Thank you for your assistance.