



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

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Partnering with states and other stakeholders*

Delayed Cleanup of Asbestos Debris at the Old Davis Hospital Site Necessitates Changes for EPA Region 4 and North Carolina

Report No. 18-P-0271

September 18, 2018



Report Contributors:

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Abbreviations

CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFR	Code of Federal Regulations
EPA	U.S. Environmental Protection Agency
NESHAP	National Emission Standards for Hazardous Air Pollutants
OIG	Office of Inspector General
OSC	On-Scene Coordinator

Cover Photo: Debris pile in the basement area of the Old Davis Hospital demolition site as of June 2, 2016. (EPA photo)

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At a Glance

Why We Did This Project

Our objective was to determine whether EPA Region 4 and the state of North Carolina followed appropriate procedures in addressing claims of an improper asbestos demolition at the Old Davis Hospital site in Statesville, North Carolina.

Under the National Emission Standards for Hazardous Air Pollutants (NESHAP), specific work practices must be implemented by the property owner to control the release of asbestos fibers into the air.

In October 2015, a caller contacted the National Response Center with a complaint that a potentially improper demolition was underway at the Old Davis Hospital site and that an unspecified amount of asbestos was potentially released.

This report addresses the following:

- *Cleaning up and revitalizing land.*
- *Partnering with states and other stakeholders.*

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Delayed Cleanup of Asbestos Debris at the Old Davis Hospital Site Necessitates Changes for EPA Region 4 and North Carolina

What We Found

EPA Region 4 and the state of North Carolina followed appropriate procedures at the Old Davis Hospital site. In late October 2015, personnel from the state of North Carolina observed piles of debris at the site suspected of containing asbestos, which they later verified. However, it took over 7 months for the state to request the EPA's assistance in performing a removal of asbestos at the site in early June 2016, during which time there was a potential threat of asbestos exposure.

EPA Region 4 and North Carolina followed procedures at the Old Davis Hospital site; however, those procedures did not result in the timely removal of asbestos that posed a potential threat to human health and the environment.

EPA Region 4 followed its established procedures when it referred the National Response Center notification to North Carolina for review, as North Carolina had delegated authority. However, the state did not take action to timely remediate the site's asbestos-containing waste material and demolition debris. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) provides federal authority for responding to releases and potential releases of hazardous substances that may endanger public health or the environment, but North Carolina does not have CERCLA authority. State officials did not fully understand the extent to which the EPA could assist in the removal.

As a result of the state's lack of action, individuals near the demolition site were at risk of asbestos exposure. In June 2016, the EPA used its CERCLA authority to conduct a time-critical removal at the site. In September 2016, the EPA on-scene coordinator reported that the \$1.4 million cleanup of the Old Davis Hospital site was complete.

Recommendations and Planned Agency Corrective Actions

We recommend that EPA Region 4, in coordination with appropriate North Carolina state officials, document clarification of the existing NESHAP authorities. We also recommend that EPA Region 4 implement internal controls to verify North Carolina's enforcement of work practices under the Asbestos NESHAP at demolition and renovation sites, specifically in regard to keeping asbestos-containing debris wet until the debris can be transported to an approved landfill. EPA Region 4 concurred with our draft report findings, with comment, and provided acceptable corrective actions.



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

THE INSPECTOR GENERAL

September 18, 2018

MEMORANDUM

SUBJECT: Delayed Cleanup of Asbestos Debris at the Old Davis Hospital Site
Necessitates Changes for EPA Region 4 and North Carolina
Report No. 18-P-0271

FROM: Arthur A. Elkins Jr.

A handwritten signature in black ink, appearing to read "Arthur A. Elkins Jr.", is written over the printed name.

TO: Onis "Trey" Glenn III, Regional Administrator
EPA Region 4

This is our report on the subject audit conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). The project number for this audit was OPE-FY17-0010. This report contains findings that describes the problems the OIG has identified and corrective actions the OIG recommends.

In EPA Region 4, the Air, Pesticides, and Toxics Management Division and the Superfund Division are the responsible offices for the issues discussed in this report.

In accordance with EPA Manual 2750, your office provided acceptable corrective actions and milestone dates in response to the OIG recommendations. All recommendations are resolved and no final response to this report is required. However, if you submit a response, it will be posted on the OIG's website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal along with corresponding justification.

We will post this report to our website at www.epa.gov/oig.

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Purpose

Our objective was to determine whether U.S. Environmental Protection Agency (EPA) Region 4 and the state of North Carolina followed appropriate procedures to address claims of an improper asbestos demolition at the Old Davis Hospital in Statesville, North Carolina.

Background

The Old Davis Hospital site, also known as the Old Statesville Hospital, is a closed and abandoned hospital complex that operated from the 1920s into the 1980s. In October 2015, a caller contacted the National Response Center¹ with a complaint



Debris pile with asbestos-containing material at the Old Davis Hospital site, with a multi-family dwelling in the background. (EPA photo)

that the demolition of an old hospital was causing “friable asbestos” to be emitted into the atmosphere in dust form. In addition, a report by the EPA Region 4’s On-Scene Coordinator (OSC) indicated the presence of friable asbestos in debris² piles generated by demolition activities at the site. The site is in close proximity to a residential community. The National Response Center relayed the complaint to EPA Region 4, which referred it to the state of North Carolina for review, in accordance with North Carolina’s delegated National Emission Standards for Hazardous Air Pollutants (NESHAP) authority.

North Carolina’s Health Hazards Control Unit³ confirmed the presence of asbestos at the site, indicating a violation of the NESHAP. A NESHAP violation is an indication that persons at or near the site could potentially be exposed to hazardous air pollutants, which may be a threat to their health.

Under the Asbestos NESHAP, specific work practices must be implemented to control the release of asbestos fibers into the air to reduce the possibility that the public will be exposed to dangerous levels of asbestos through demolitions. When the asbestos is not removed prior to demolition, the approved method of minimizing asbestos exposure to the air is to adequately wet the demolition debris⁴

¹ The National Response Center is part of the federally established National Response System and is the designated federal point of contact for reporting all oil, chemical, radiological, biological and etiological discharges into the environment anywhere in the United States and its territories.

² The term “debris” as used throughout the report refers to “asbestos-containing waste material.”

³ The North Carolina Department of Health Hazards Control Unit is the state agency that implements the asbestos program in North Carolina.

⁴ As applied to demolition operations, the term “asbestos-containing waste material” is quite broad. It includes any waste containing commercial asbestos that is generated by a source subject to 40 CFR Part 61, Subpart M. It also includes regulated asbestos-containing material waste and materials contaminated with asbestos, including disposable equipment and clothing.

and seal it in a leak-tight container while awaiting transport to an approved landfill. The Clean Air Act details fines and penalties for noncompliance with the Asbestos NESHAP. The Asbestos NESHAP does not specifically address the removal of asbestos debris when the Asbestos NESHAP is not followed.

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), also known as “Superfund,” authorizes broad federal authority to respond to a release or substantial threat of a release of any hazardous substance or pollutant that may endanger public health or the environment. The Superfund Enforcement Program employs an “Enforcement First” policy. A major component of the policy is that potentially responsible parties should conduct removal actions whenever possible. However, the EPA can fund a direct removal action of contaminates from a site through Superfund to protect human health, which is the course of action the agency pursued at the Old Davis Hospital. Accordingly, EPA Region 4 began a time-critical cleanup of asbestos debris at the hospital in June 2016. According to the final OSC report, site demobilization and cleanup were completed in September 2016. The cost of the cleanup totaled \$1.4 million. The Federal Remediation Branch within North Carolina’s Division of Waste Management works cooperatively with the EPA to implement the federal Superfund Program under CERCLA through its Federal Remediation Branch of the Superfund Section. The Superfund Section helps the EPA to apply resources on sites with severe contamination and on those needing immediate emergency actions.



The Old Davis Hospital as of June 2, 2016. (EPA photo)

Figure 1 outlines the responsibilities of the responsible party, the National Response Center and EPA regional OSCs when a release or spill occurs; Appendix A provides a more detailed flowchart.

Figure 1: Designated responsibilities under the National Response System flowchart when a spill or release occurs

1. When a release or spill of oil or a regulated hazardous material occurs, the organization responsible for the release or spill is required by law to notify the National Response Center.
2. Once a report is made, the National Response Center immediately notifies a designated federal OSC in the impacted region as well as tribal, local and state emergency personnel.
3. The federal OSC coordinates with the state, other personnel on site, and the potentially responsible party to determine the status of the response.
4. The federal OSC determines whether, or how much, federal involvement is necessary and deploys the needed resources.

Source: National Response System flowchart (see Appendix A).

Responsible Offices

In EPA Region 4, the Air, Pesticides, and Toxics Management Division and the Superfund Division are the responsible offices for the issues discussed in this report.

Scope and Methodology

We conducted this performance audit from March 2017 to May 2018 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

To perform our work, we interviewed personnel and obtained information from the EPA Region 4's Air, Pesticides, and Toxics Management Division and the Superfund Division. We also interviewed personnel and obtained information from the North Carolina Health Hazards Control Unit regarding the actions taken in response to the demolition at the Old Davis Hospital. Further, we obtained and reviewed CERCLA, which provides federal authority for responding to releases and potential releases of hazardous substances that may endanger public health or the environment. We also reviewed the Asbestos NESHAP, which establishes the specific work practices to be employed by owners, operators, contractors and service providers when conducting demolition and renovations of asbestos-containing structures.

Results

EPA Region 4 followed prescribed National Response Center procedures when it referred what was described as a potentially improper demolition and NESHAP violation to the state of North Carolina to address. North Carolina also followed its procedures in addressing the demolition. However, it took over 7 months for time-critical removal of asbestos debris at the Old Davis Hospital to start. The delay occurred because North Carolina officials said they did not have the authority or resources to conduct mitigation actions, and did not fully understand the extent to which the EPA could assist. As a result, due to the state's lack of action, individuals near the demolition site were at risk of asbestos exposure.

Region 4 Actions Adhered to Policy

EPA Region 4 followed its procedures when it referred the National Response Center report to the state of North Carolina in October 2015 for review. The National Response Center report alleged that asbestos (a known hazardous material) was released. However, the actual amount potentially released, if any, was unknown when Region 4 referred the incident to North Carolina to be

addressed. In addition to facilitating incident referrals, the task of determining the appropriate federal response and resources are determined by the Region 4 OSC.

In October 2015, the state of North Carolina collected samples from the Old Davis Hospital site suspected of having asbestos-containing material. Of the 53 samples collected, 21 were confirmed to contain asbestos. After the North Carolina Health Hazards Control Unit's confirmation of asbestos at the site, EPA Region 4 was informed that the state's findings exceeded NESHAP thresholds, thereby constituting a NESHAP violation. However, according to EPA Region 4, a referral for a Superfund Removal Site Evaluation was not initiated at that time because North Carolina chose to follow its own enforcement process to address the issue. We found no other evidence of communication between the parties on this issue until May 2016.

North Carolina Followed Procedures but Cited a Lack of Authority and Resources to Remediate the Site



Eastern side of the Old Davis Hospital site cleared of debris, as of July 26, 2016. (EPA photo)

Using its NESHAP authority over a 7-month period, North Carolina was in regular communication with the property owner regarding the cleanup of debris at the Old Davis Hospital site. North Carolina officials said that the property owner declined to clean up the site despite an estimated \$20,000 in fines being levied. EPA Region 4 officials provided documentation showing that the site cleanup costs totaled \$1.4 million, which is substantially more than the fines.

North Carolina officials told us the state did not have statutory mitigation authority or the resources to clean up the site, and did not fully understand the extent to which the EPA could use its CERCLA authority. North Carolina officials cited these factors as reasons for the delay in remediating the site. The North Carolina Division of Waste Management works cooperatively with the EPA to implement CERCLA. However, North Carolina and EPA Region 4 do not have a policy requiring the state personnel to confirm the validity of a complaint with the EPA. Additionally, we found that EPA Region 4 and North Carolina did not have a policy where the state would inform the EPA that it lacked the authority and resources to address an Asbestos NESHAP violation.

EPA Region 4 Inquiry Found a Time-Critical Cleanup Was Necessary

In May 2016, EPA Region 4 requested more information regarding the Old Davis Hospital demolition from North Carolina. The OIG inquiry was based on press

reports that seemed to indicate that an improper demolition had occurred and that the public may be facing prolonged exposure to asbestos. Upon receiving additional information, EPA Region 4 determined that the violation prompted a time-critical cleanup using its CERCLA authority.

Delay Resulted in Potential Public Health Risk at Site

The asbestos debris at the Old Davis Hospital site was known to be an Asbestos NESHAP violation as early as October 2015. The Asbestos NESHAP requires the property owner or contractor to appropriately conduct the cleanup. Enforcement of this requirement was the responsibility of North Carolina, as it was delegated Asbestos NESHAP authority. However, the state could not compel the property owner to take action. North Carolina officials said that the local fire department may have kept the debris wet but they have no records of these actions. EPA Region 4 personnel said they found no evidence of wetting at the site. Therefore, there is no evidence that the asbestos debris was kept wet as required. The public was not informed of the potential danger from the site until June 2016. On June 7, 2016, the site owner allowed the EPA to secure the site with fencing, signage and security as necessary.

EPA Region 4 said that the potential exposure and health consequences cannot be determined. To address public concerns, the EPA assigned a community involvement coordinator to the site, provided fact sheets in response to residents' questions, and provided local government officials with pollution and sampling reports for the site.

Recommendations

We recommend that the Regional Administrator, EPA Region 4:

1. In coordination with appropriate North Carolina state officials, document clarification of the existing National Emission Standards for Hazardous Air Pollutants authorities.
2. Implement internal controls to verify North Carolina's enforcement of work practices under the Asbestos National Emission Standards for Hazardous Air Pollutants at demolition and renovation sites, specifically in regard to keeping asbestos-containing debris wet until it can be transported to an approved landfill.

Agency Response and OIG Evaluation

On August 3, 2018 the Region 4 Regional Administrator provided a response to our report, and we obtained additional clarification by email on August 6, 2018. Based on the communication, the EPA agreed to the following:

- For Recommendation 1, the corrective action is to meet with the state and produce documentation that will clarify the existing NESHAP authorities. It was the region's intent to complete the corrective action by August 30, 2018.
- For Recommendation 2, the corrective action is to implement and document the controls to verify enforcement of NESHAP work practices by August 30, 2018.

Therefore, the recommendations are resolved with verification of completed corrective actions pending.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS

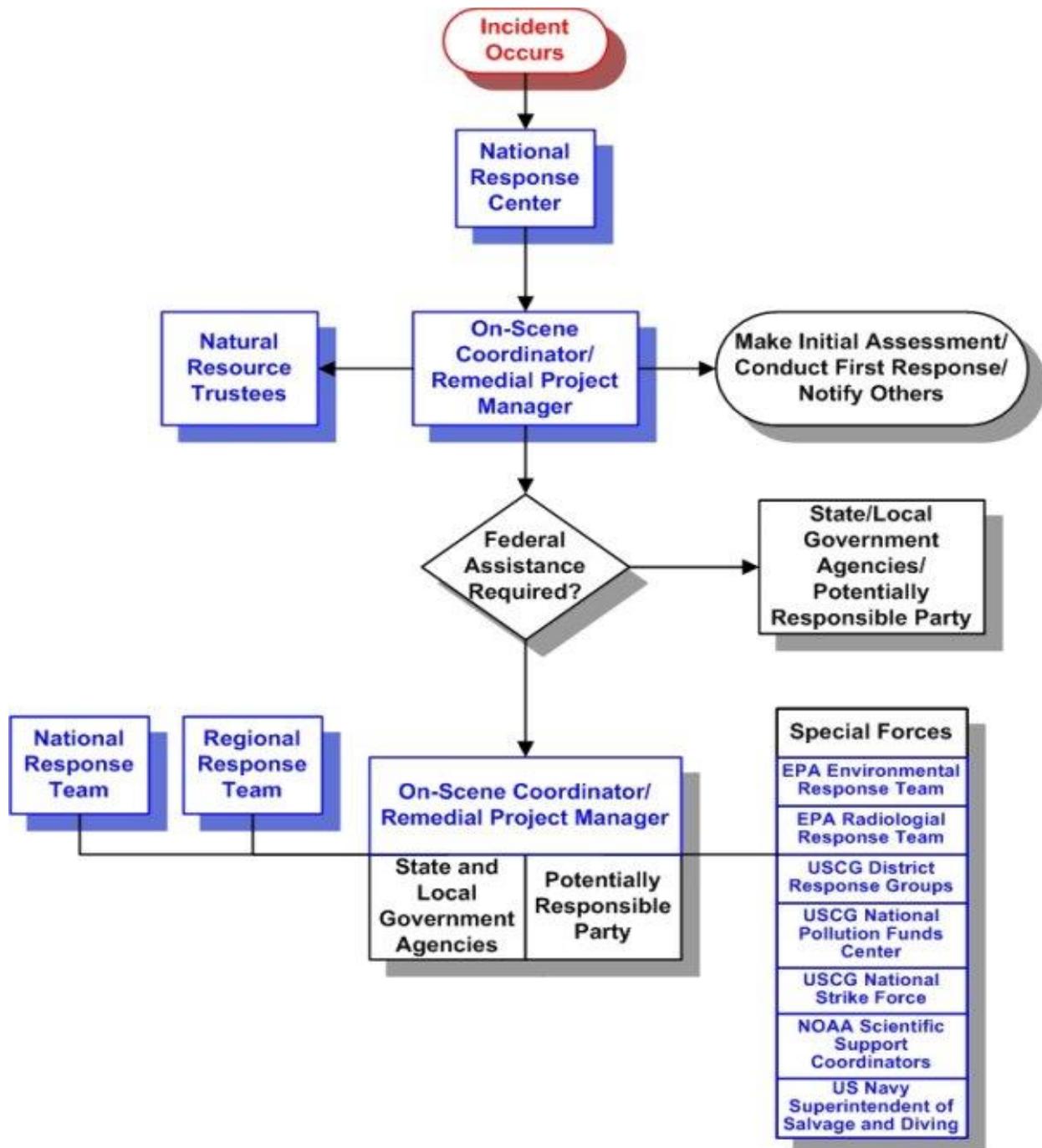
Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Potential Monetary Benefits (in \$000s)
1	5	In coordination with appropriate North Carolina state officials, document clarification of the existing National Emission Standards for Hazardous Air Pollutants authorities.	R	Regional Administrator, EPA Region 4,	8/30/18	
2	5	Implement internal controls to verify North Carolina's enforcement of work practices under the Asbestos National Emission Standards for Hazardous Air Pollutants at demolition and renovation sites, specifically in regard to keeping asbestos-containing debris wet until it can be transported to an approved landfill.	R	Regional Administrator, EPA Region 4	8/30/18	

¹ C = Corrective action completed.

R = Recommendation resolved with verification of completed corrective action pending.

U = Recommendation unresolved with resolution efforts in progress.

National Response System Flowchart



Source: The EPA's [National Response System website](#).

Agency Response



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
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ATLANTA, GEORGIA 30303-8960

AUG 3 2018

Mr. Eric Lewis
Director
Office of Audit and Program
Evaluation Office of Inspector
General
1200 Pennsylvania
Avenue, N.W.
Washington, DC 20460

Dear Mr. Lewis:

Thank you for the opportunity to review the report summarizing the findings of the Office of Inspector General's investigation of the Old Davis Hospital (Project # OPE-FY17-0010; draft dated May 16, 2018). The U.S. Environmental Protection Agency Region 4 concurs with the findings and the final amended recommendations. The EPA Region 4 will coordinate with the appropriate North Carolina environmental programs to develop and implement corrective actions no later than August 30, 2018. Please let me know if you have any questions. You can also address specific questions to Beverly H. Banister of the EPA Region 4 staff at 404-562-9326 or banister.beverly@epa.gov.

Sincerely,
//s//
Onis "Trey" Glenn, III
Regional Administrator

Distribution

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