During the **2007 Regular Legislative Session** thirty-one pieces of legislation were being monitored by Department of Natural Resources Technology Assessment Division. In the House of Representatives, twenty-two bills were proposed including many duplicate bills. Only three of these house bills passed. The bills proposed by the senate had a far higher rate of passage on the other hand. Of the six bills affecting TAD proposed by the Senate, five were enacted.

Of the thirty-one pieces of legislation being monitored by the Technology Assessment Division only nine were signed into law. **Act 110** and **Act 335** updated the commercial and residential energy conservation codes, respectively. **Act 323** and **Act 467** both supplement the new Standard Uniform Building Code by providing incentives to comply with the code. Also, **Act 270**, in conjunction with **House Resolution 97**, requires that all state buildings meet energy efficient standards. These new laws will together reduce the state's demand for electricity and, in turn, reduce emissions and lower the overall cost of energy. Finally, **Act 173** and **Act 471** will help promote the growth or return of several resources related industries to Louisiana by reducing the burden of taxation on their respective industries. The Technology Assessment Division will continue to adapt, because it will be several years before the full effects of these pieces of legislation are realized.

Act 173, effective June 27, 2007, excludes from the sales and use tax the use, lease, rental, or repair of drilling rigs and component parts which are to be used primarily in outer continental shelf (OCS) waters. **Act 173** seeks to increase revenue generated by the repair of OCS drilling rigs off of the Louisiana coast. This would also reduce the overall cost of OCS drilling by reducing the capital and maintenance costs, thus promoting OCS drilling off of the Louisiana coast.

Act 471, effective July 1, 2007, excludes the cost of natural gas and electricity purchased by paper or wood products manufacturing facilities from state sales and use tax. **Act 471** is meant to reduce operating costs for paper and wood products manufacturing facilities, thus keeping this facilities operating in the state. By retaining these facilities, the state can utilize its forests as a readily renewable resource.

Act 335, effective July 9, 2007, makes three major changes to the State Uniform Construction Code. The bill calls for a Louisiana State Uniform Construction Code Council to serve at the pleasure of the Governor rather than a three year fixed term. The bill changes current law by adopting IRC 2006, with amendments, for one and two-family dwellings. It also requires all jurisdictions to use building code enforcement officers or certified third-party providers contracted by the municipality, parish, or regional planning commission to enforce the code.

Act 335 includes the wind limitations design criteria of the 2003 edition of the International Residential Code (IRC) in lieu of the 2006 edition. However, upon publication, the 2009 IRC, including the wind limitations design criteria, is to be adopted. The administrative, mechanical, plumbing, and electrical portions of IRC 2006 are still excluded under the new law. Finally, the Act states that Appendix J *(Existing Buildings and Structures)* of the IRC may be adopted and enforced at the parish, municipal, or regional planning levels only.

DEPARTMENT OF ENVIRONMENTAL QUALITY

KATHLEEN BABINEAUX BLANCO
GOVERNOR

MIKE D. McDANIEL, Ph.D.
SECRETARY

July 12, 2007

Robert A. Robinson
Managing Director
U.S. Government Accountability Office
Natural Resources & Environment
Room 2T23
441 G Street, N.W.
Washington, D.C. 20548

SUBJECT: GAO Report, "Hurricane Katrina – EPA's Current and Future Environmental Efforts Could Be Enhanced By Addressing Issues and Challenges Faced on the Gulf Coast"

Dear Sir:

For those of us that have been directly engaged in cleanup and recovery efforts during the 22 months since Hurricanes Katrina and Rita, the subject report is a very disappointing document. Although the report contains some segments of good information, it is riddled with unsubstantiated editorial comments, misleading statements and inaccuracies. It overtly promotes baseless allegations, while ignoring facts presented by professionals actually engaged in response to the hurricanes. It trumpets false alarms that create more anxiety for our citizens returning to their homes in the New Orleans area and is a disservice to all the professional environmental scientists, engineers, and regulators that worked so diligently to assure that cleanup and recovery from the hurricanes was accomplished expeditiously and in a manner protective of public health and the environment.

The report's abstract appears to us to have been prepared with a mission to impugn EPA. This mission was furthered by irresponsibly sensationalized headlines. For example, the 6/28/07 *Dallas Morning News* headline reads: "Katrina report: EPA lax – Residents cleanup volunteers exposed to asbestos, GAO says."

In an 18 page letter to GAO's Ms. Christine Fishkin, EPA aptly addressed concerns with several aspects of the report that they viewed as inaccurate or misleading. Although the letter is included in the text of the GAO report, this information appears to have been completely ignored in the report's abstract.

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In the accompanying attachment to this letter, we will provide responses to some of the more serious inaccuracies in the report, along with supporting facts and documentation. We trust that, upon review of our responses, you will understand why we feel the subject report failed to present an accurate and balanced treatment of the environmental issues associated with recovery efforts following Hurricanes Katrina and Rita.

Sincerely,

Mike D. McDaniel

Mike D. McDaniel, Ph.D.
Secretary

c David M. Walker, Comptroller General, GAO
Christine Fishkin, Assistant Director, Natural Resources and Environment, GAO
U. S. Senator David Vitter
U. S. Senator Mary Landrieu
Governor Kathleen Blanco
Steven Johnson, Administrator, US EPA
Richard E. Greene, EPA Region 6 Administrator
Dr. Fred Cerise, Secretary, Louisiana Department of Health and Hospitals
Dr. Howard Frumkin, Director, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry
Brigadier General Robert Crear, U.S. Army Corps of Engineers
Steve Brown, Executive Director, Environmental Council of the States

RESPONSE TO THE JUNE 2007 GAO REPORT, "HURRICANE KATRINA – EPA'S CURRENT AND FUTURE ENVIRONMENTAL EFFORTS COULD BE ENHANCED BY ADDRESSING ISSUES AND CHALLENGES FACED ON THE GULF COAST"

Prepared by

The Louisiana Department of Environmental Quality
July 12, 2007

In the following paragraphs, the Louisiana Department of Environmental Quality (LDEQ) will cite statements from the subject GAO report and will respond to each on a factual basis and with supporting documentation where appropriate.

CONCERNING ASBESTOS

From the report's abstract:

"However, as cleanup continues, EPA's assurance that public health is protected from risks associated with inhalation of asbestos fibers is limited because the agency has not deployed air monitors in and around New Orleans neighborhoods where demolition and renovation activities are concentrated".

"---monitors were not placed in areas undergoing substantial demolition and renovation, such as in the Ninth Ward".

"Further, many thousands of homes being demolished and renovated by or for individual homeowners are generally not subject to EPA's asbestos emissions standards aimed at limiting releases of fibers into the air".

From the body of the report (page 5):

"EPA has neither conducted emissions monitoring at demolition sites nor placed ambient air monitors in neighborhoods with substantial demolition and renovation activities".

LDEQ RESPONSE: The GAO findings that "monitors were not placed in areas undergoing substantial demolition and renovation" are incorrect. This is illustrated by the attached map, "Lower 9th Ward, Arabi Monitoring Site," showing the location of the Arabi monitoring site in relation to the demolition and renovation activity in both the Lower Ninth Ward in Orleans Parish and Arabi in St. Bernard Parish. As prevailing winds in the New Orleans area are southerly, this monitoring site is ideally located to capture fugitive emissions of asbestos from

Baton Rouge, LA (1071 Leesville Ave)
East Baton Rouge Parish, LA (11245 Port Hudson-Pride Rd. Zachary, La)
East Baton Rouge Parish, LA (Highway 964)
Vidalia, LA (2005 Billy Deal Lane)
Port Allen, LA (Highway 1)
Monroe, LA (5296 Southwest)

Most significantly, the US Army Corps of Engineers, OSHA, and the EPA have taken more than 20,000 asbestos samples within, and around the perimeter of demolition sites. LDEQ inspectors have documented that perimeter monitoring for asbestos was conducted at more than 95 percent of the known Regulated Asbestos Containing Material (RACM) demolition sites (see attached chart called RACM Air Monitoring). No measurable amounts of asbestos were found in any of the samples.

In addition, LDEQ hired three licensed asbestos contractors to assess the amount of asbestos-containing materials in residences to be demolished in Orleans Parish. The contract included monitoring ambient air for asbestos. The contract work was conducted Nov. 13-17, 2005. Six samples were run for an 8-hour, time-weighted average. Three locations within the city of New Orleans were sampled. All results showed asbestos as non-detectable.

A protocol for protecting the public during a demolition where asbestos may be present has been in place for decades. The contractor performing the demolition must wet the structure before and during the demolition. The wetting process keeps asbestos fibers from becoming airborne. This requirement is well known throughout the demolition field, and state and federal employees make sure contractors know the proper protocol by delivering the information to them. Additionally, there is a team of inspectors, including some provided through EPA contracts, dedicated to oversight of demolitions to ensure proper adherence to the protocol. The contractor is subject to enforcement action for failing to follow the protocol. Making certain that asbestos fibers don't enter the atmosphere during the demolition and transport of asbestos is the best assurance that the public is not exposed. The EPA and LDEQ monitoring efforts showed that this protocol was working because no asbestos fibers have been detected at any of the numerous monitoring sites.

Homes being demolished by individual homeowners are subject to LDEQ air regulations which prohibit visible emissions during the demolition. A summary of these requirements was delivered to all known demolition contractors in the New Orleans area. Following this protocol effectively prevents release of visible emissions and any asbestos fibers which may be present into the air. Assessments are also made of these demolitions and if any areas of concern are found, the contractor is referred for enforcement action.

The U.S. Army Corps of Engineers, their contractors, and other demolition contractors continue to conduct asbestos monitoring in and around their demolition sites. Demolition contractors are subject to U.S. Occupational Safety and Health Administration requirements for worker safety, on site, during the demolition and transport process. In addition, perimeter monitoring continues in order to ensure that the public is not exposed to asbestos due to the demolition activities.

As the record demonstrates, information was provided to local, state and national media, posted on web sites, and flyers were distributed by EPA, LDEQ and many others to provide people with the information they needed on a variety of topics. This information was being provided even before people were allowed to return home.

CONCERNING PROVIDING SAMPLING INFORMATION IN TIMELY MANNER

In the highlights section, third paragraph under "What GAO found" "EPA's three reports on its environmental sampling in New Orleans conveyed important information on potential health risks from exposure to floodwaters, sediments and air. However, their usefulness was limited by a lack of timeliness and insufficient disclosures about EPA's environmental sampling. For example, EPA did not disclose until August 2006 that its December 2005 assessment summary - which indicated that it was generally safe for residents to return to New Orleans - applied only to short-term visits such as to view the damage to homes."

LDEQ RESPONSE: The storm hit New Orleans on Aug. 29, 2005. By Aug. 31, 80 percent of New Orleans was flooded. LDEQ and EPA emergency responders helped in the rescue of many people stranded by the rising floodwaters. However, by Sept. 2, sampling teams were busy collecting information needed to inform first responders and those who did not evacuate of the environment in which they were working.

Press releases were disseminated in a timely fashion and provided much detail to those who needed information. As would be expected, the floodwaters were tested for contamination because most of the city was flooded and the flooded area was where most first responders would be working and where people were stranded. As stated in the press releases and in information provided to local and national media outlets, people were cautioned to avoid contact with the floodwater because of bacteria.

LDEQ and EPA released their first floodwater data on Sept. 10. That press release stated that EPA and the Center for Disease Control recommended that people should avoid contact with the floodwater when possible.

On Sept. 13, the agencies released information concerning additional sampling of the floodwaters. Once again, the agencies recommended that people avoid the floodwater because of bacteria.

On Sept. 14, the first air sampling results were made public. These samples were taken from 15 sites using the EPA ASPECT plane that is capable of taking air samples and high resolution photos. These sample results showed only one area of concern and detailed that as an area that had been secured.

As the floodwaters receded, EPA and LDEQ immediately began taking sediment samples. The first sediment sampling results were made widely available on Sept. 16, even while a large portion of the area was still inundated by floodwaters. These results stated that there were high levels of bacteria and semi-volatile chemicals such as fuel oils and diesel. The press release warned people not to come in contact with the materials and listed some symptoms of what

From the text of the report (page 6):

"EPA did not remove clearly visible abandoned chemical drums and tanks from several national wildlife refuges in Louisiana as part of its Katrina response activities, in part because FEMA disaster assistance funding generally is not used for debris cleanups on federal land."

LDEQ RESPONSE: To be factually correct, the GAO statements should read "the Department of the Interior (DOI) did not remove..." as the EPA was not responsible for debris cleanups on federal lands. According to FEMA, federal agencies are responsible for their own property and FEMA did not approve the funding request by DOI for the removal of the debris containing hazardous materials.

Although not responsible for debris cleanup on federal lands, the Unified Incident Management Team (EPA, LDEQ, U.S. Coast Guard, and other federal and state agencies as well as representatives from local governments) assisted the DOI and U.S. Fish and Wildlife Service with hazardous debris removal from the refuges once funding was obtained via a supplemental appropriations bill.

CONCERNING EPA'S ROLE IN EMERGENCY DEBRIS DISPOSAL DECISIONS

From the report's abstract:

"Second, because states generally have authority over landfill decisions, EPA does not have an effective role in emergency debris disposal decisions that could cause pollution".

From the body of the report (page 7):

"Along these lines, in its emergency orders following Hurricane Katrina, the state of Louisiana made decisions about landfill sites and the disposal of debris that some studies indicate could have long-term, negative environmental impacts".

LDEQ RESPONSE: Louisiana's Emergency Debris Management Plan was developed in accordance with the applicable state and federal regulations with great emphasis on the protection of public heath and the environment. Recycling and the reuse of resources associated with hurricane generated debris was the preferred option while landfilling ranked at the bottom of debris management option hierarchy. The emergency debris management sites, which included landfills, chipping and grinding wood waste sites and staging areas, were selected based on a set of criteria encompassing state and EPA regulations and FEMA technical requirements. Although EPA does not have a formal role in development of this plan, the agency provided technical assistance to LDEQ on issues relating to several landfills. EPA has been an outstanding partner by providing personnel, resources and technical assistance. In fact, in March of 2007, EPA held a Waste Management Operation in Natural Disasters workshop in Baton Rouge, attracting stakeholders from local, state, and federal agencies. The purpose of this workshop was to discuss lessons learned and to prepare for future disasters

CONCERNING SUPERFUND SITES

From the body of the report (page 33):

"Such contamination was a particular concern in New Orleans, a densely populated, older urban area in proximity to petroleum and chemical industry sites, as well as a number of Superfund sites, from which contaminants may have migrated into residential areas".

LDEQ RESPONSE: Following the passage of Hurricane Katrina there was immediate concern over the potential for the release of toxic or hazardous substances into the environment. The initial environmental threats assessments were performed by way of air reconnaissance over flooded areas that were otherwise inaccessible. Railcars and Tier 2 facilities in the impacted area were prioritized based upon the potential toxicity and volume of material on site. Tier 2 facilities are facilities covered by the Emergency Planning and Community Right to Know Act. EPCRA requires facilities storing any substance for which a material safety data sheet is required by the Occupational Safety and Health Act and in quantities exceeding the Threshold Planning Quantity (specified for Extremely Hazardous Substance or 10,000 pounds for everything else) to report them to the state, local emergency planning committees and fire departments.

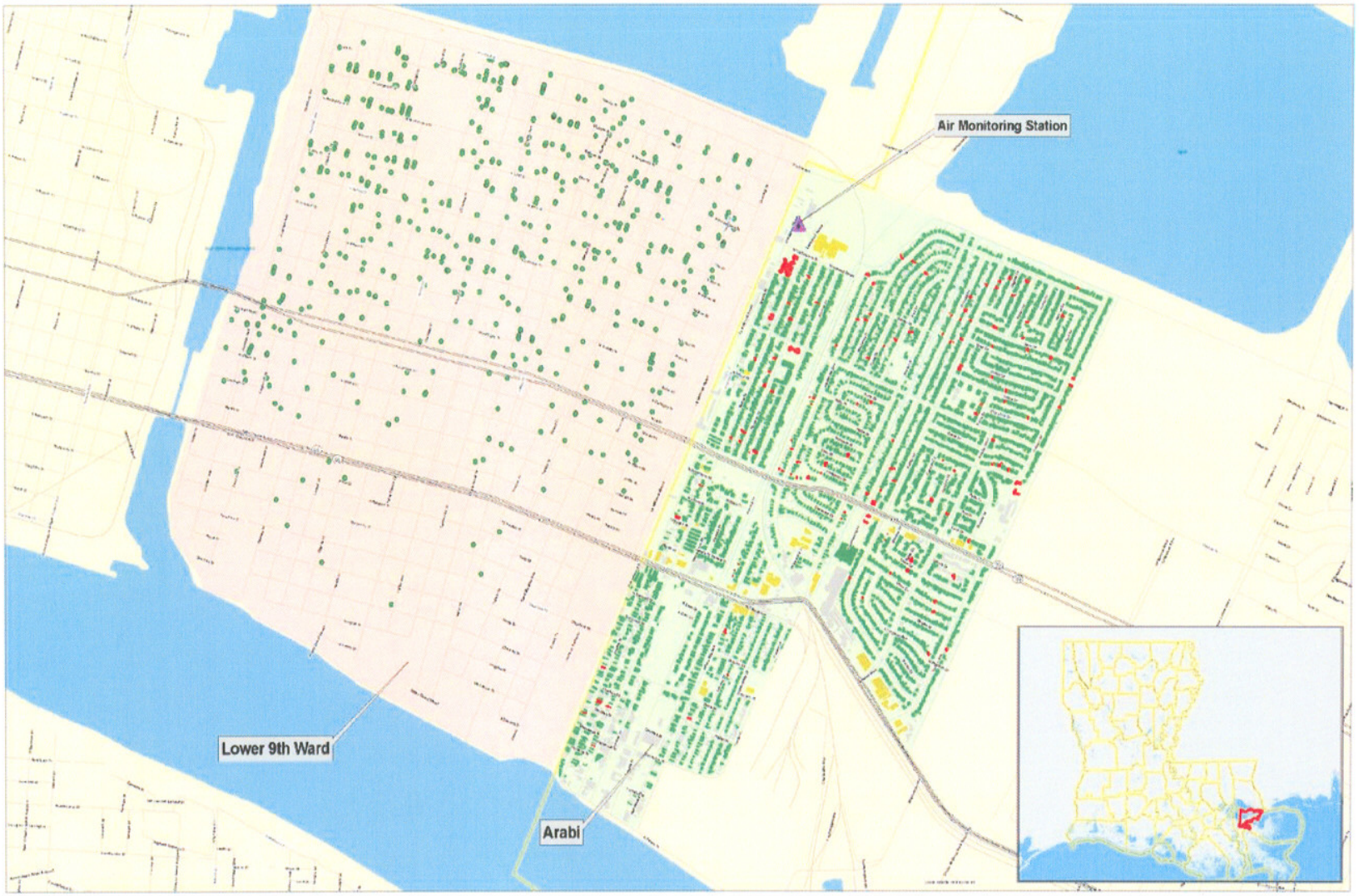
More than 950 inspections were performed in the weeks following Hurricane Katrina in Jefferson, Orleans, Plaquemines, St. Bernard and St. Tammany parishes. These inspections were conducted to determine the extent of flood and wind damage and to locate any immediate environmental hazards. These included 170 inspections of Tier 2 facilities, 558 inspections of underground storage tank locations and 222 inspections of current and past remediation sites.

Special attention was paid to Superfund sites in the impacted area. LDEQ inspected and sampled at Delatte Metals, Madisonville Wood Preserving, Bayou Bonfouca, Southern Ship Building and the Agricultural Street Landfill. In addition, EPA inspected and, where warranted, obtained sediment/soil samples at Superfund sites within the impacted area. This data indicates that there have been no releases and that there are no adverse health impacts that could affect residents returning to this area or to their homes.

CONCERNING THE UNIFIED COMMAND CENTER AND INCIDENT MANAGEMENT TEAM

LDEQ general comment: The GAO researchers seem to have been oblivious to one of the real success stories for the responses to environmental challenges brought by Hurricanes Katrina and Rita. This was the formation and operation of the Unified Command Centers (UCC) and Incident Management Teams set up in each of the hurricane impacted areas. Immediately following Hurricane Katrina, a Unified Command Center was opened in the LDEQ headquarters building.

Representatives from a number of federal and state agencies and local governments with environmental responsibilities broadly collaborated in a unified effort to provide efficient and effective responses to the environmental emergencies. The following organizations were represented at the UCC established for Hurricane Katrina: EPA, US Coast Guard,

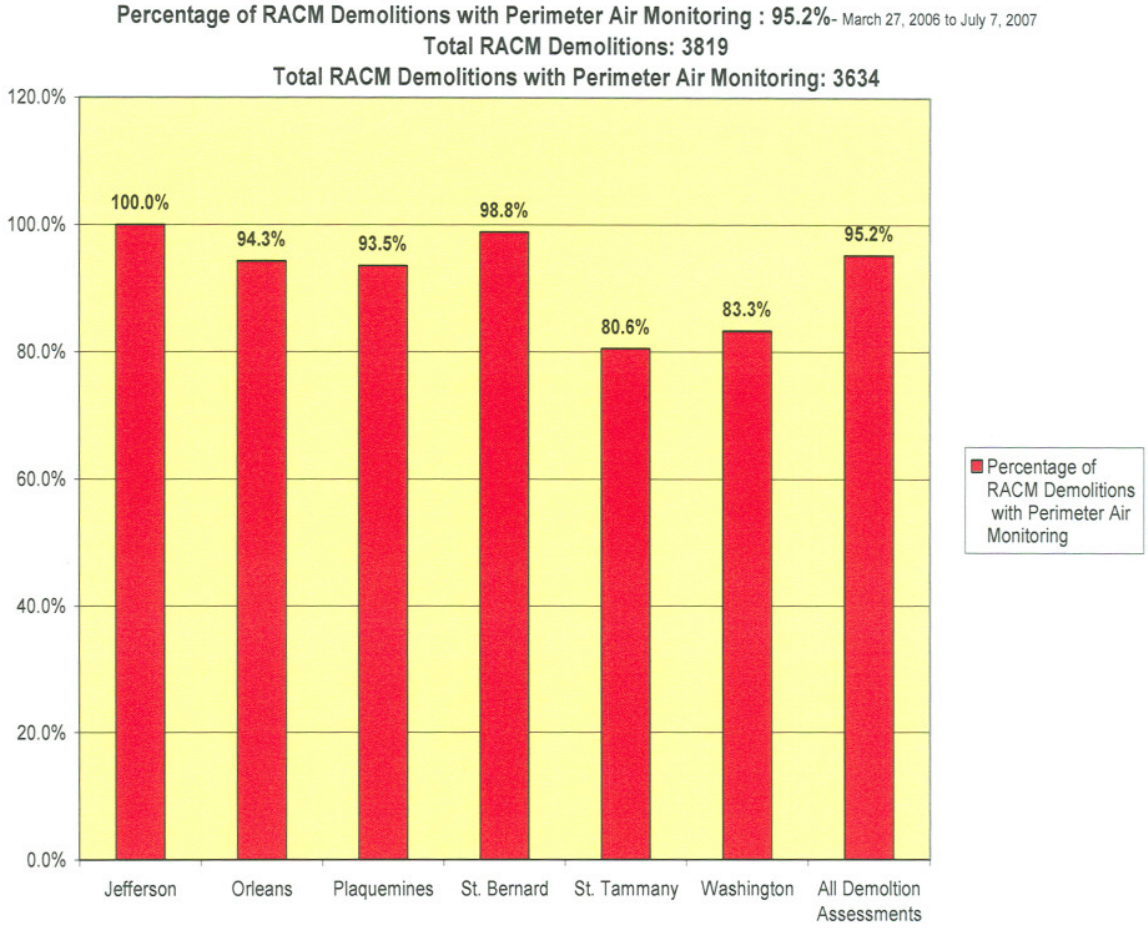


Lower 9th Ward (Orleans Parish)
Arabi (St. Bernard Parish)
Demolition Location

Status
Sulled/Demolished
Pending Demolition
Garage/Shed Not Done
Commercial Property
N/A

Air Monitoring
in Relation to Demolition Locations

0 0.25 0.5 Miles


Percentage of RACM Demolitions with Perimeter Air Monitoring : 95.2%- March 27, 2006 to July 7, 2007
Total RACM Demolitions: 3819
Total RACM Demolitions with Perimeter Air Monitoring: 3634
120.0%
100.0%
80.0%
60.0%
40.0%
20.0%
0.0%
100.0%
94.3%
93.5%
98.8%
80.6%
83.3%
95.2%
Jefferson
Orleans
Plaquemines
St. Bernard
St. Tammany
Washington
All Demoltion Assessments
Percentage of RACM Demolitions with Perimeter Air Monitoring

June 2007

GAO
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Highlights

Highlights of GAO-07-651, a report to congressional committees

HURRICANE KATRINA

EPA's Current and Future Environmental Protection Efforts Could Be Enhanced by Addressing Issues and Challenges Faced on the Gulf Coast

Why GAO Did This Study

In 2005, Hurricane Katrina's impact on the Gulf Coast included damage to the environment from chemical and hazardous materials releases. Also, the widespread demolition and renovation activities still under way in New Orleans may release asbestos fibers into the air, posing a potential additional health risk. This report, conducted at the Comptroller General's initiative, addresses (1) the Environmental Protection Agency's (EPA) actions to assess and mitigate Katrina's environmental impacts, (2) the extent to which EPA has assurance that public health is protected from asbestos inhalation risks in New Orleans, (3) the extent to which EPA's environmental health risk communications provided useful information to the public, and (4) challenges EPA faces in addressing environmental impacts.

What GAO Recommends

GAO recommends that EPA develop an asbestos air monitoring plan for New Orleans, improve its communications on environmental risks for future disasters, and take steps to address several challenges EPA has faced. EPA agreed with all but one recommendation, commenting that other agencies should address the challenge of obtaining timely funding for the removal of hazardous materials from federal lands after disasters. GAO modified its recommendation to include additional relevant agencies with which EPA should work to address the problem GAO identified.

www.gao.gov/cgi-bin/getrpt?GAO-07-651.

To view the full product, including the scope and methodology, click on the link above. For more information, contact John Stephenson at (202) 512-3841 or stephensonj@gao.gov.

What GAO Found

Under challenging circumstances, EPA worked with federal and state partners to respond to chemical and oil spills, collect abandoned chemical containers, coordinate recycling of damaged appliances, and collect and recycle electronic waste. EPA also conducted air, water, sediment, and soil sampling; helped assess drinking water and wastewater infrastructures; and issued timely information to the public on a variety of environmental health risks.

However, as cleanup continues, EPA's assurance that public health is protected from risks associated with inhalation of asbestos fibers is limited because the agency has not deployed air monitors in and around New Orleans neighborhoods where demolition and renovation activities are concentrated. While EPA took steps to monitor asbestos after the hurricane —for example, more than doubling the number of ambient (outdoor) air monitors and monitoring emissions at debris reduction sites—monitors were not placed in areas undergoing substantial demolition and renovation, such as the Ninth Ward. This is problematic because monitors effectively detect releases of asbestos from demolition activities only if they are located immediately adjacent to demolition sites. Further, many thousands of homes being demolished and renovated by or for individual homeowners are generally not subject to EPA's asbestos emissions standards aimed at limiting releases of fibers into the air.

While EPA provided useful environmental health risk information to the public via flyers, public service announcements, and the EPA Web page, the communications were at times unclear and inconsistent on how to mitigate exposure to some contaminants, particularly asbestos and mold. Further, the usefulness of three key reports on EPA's environmental sampling in New Orleans—developed with, among others, the Louisiana Department of Environmental Quality to address potential health risks from exposure to floodwaters, sediments, and air—was limited by a lack of timeliness and insufficient disclosures about EPA's sampling program. For example, EPA did not state until August 2006 that its December 2005 report—which said that the great majority of the data showed that adverse health effects would not be expected from exposure to sediments from previously flooded areas—applied to short-term visits, such as to view damage to homes.

Mitigating several challenges EPA faces addressing Hurricane Katrina could better protect the environment in the future. First, EPA did not remove hazardous materials from national wildlife refuges in a timely manner as part of its response in part because disaster assistance funding generally is not used for debris cleanups on federal lands. Second, because states generally have authority over landfill decisions, EPA does not have an effective role in emergency debris disposal decisions that could cause pollution. Finally, lack of clarity in federal debris management plans and protocols precluded the timely and safe disposal of some appliances and electronic waste.