



Georgia Department of Audits and Accounts

Performance Audit Division

Greg S. Griffin, State Auditor

Leslie McGuire, Director

Why we did this review

In compliance with Governmental Accounting Standards Board (GASB) Statement No. 49, the State Accounting Office (SAO) requires state entities to annually disclose any pollution remediation obligations (PRO) resulting from releases of hazardous substances as part of year-end financial reporting.

To assess agencies' compliance with GASB 49 and remediation requirements, we reviewed 20 remediation projects occurring at six state entities during fiscal years 2014 through 2017. We determined if state entities 1) met regulatory notification requirements when substances were released, 2) met regulatory and procedural requirements for the remediation of releases, and 3) accurately and completely reported all known releases that created long-term liabilities.

About PRO

PRO is "an obligation to address the current or potential detrimental effects of existing pollution by participating in pollution remediation activities." These activities include pre-cleanup, clean-up, oversight and enforcement, and operation and maintenance of a remedy, such as post-remediation monitoring. As a result of our work, state entities' recorded liabilities resulting from PRO increased from \$9.2 million in fiscal year 2017 to \$31.8 million in fiscal year 2018.

Pollution Remediation by State Entities

Improvements Needed in Oversight and Financial Reporting of State Pollution Remediation Obligations

What we found

State entities and contractors are responsible for following certain laws, regulations, and guidance which establish requirements for the cleanup of hazardous substances and financial reporting. Contractors and subcontractors generally complied with asbestos project notification requirements, but remediation requirements for the types of asbestos projects undertaken by state entities are not currently being enforced by the Environmental Protection Division (EPD) due to budget cuts. Most asbestos and lead-based paint contractors and subcontractors also met licensing requirements and held all but one type of insurance recommended for high risk activities. In addition, a lack of understanding of GASB 49 requirements and communication between state entity accounting and programmatic staff has impacted the completeness and accuracy of pollution remediation liabilities reported to SAO.

Asbestos Notifications

EPD has the authority to inspect and investigate asbestos remediation work sites and to enforce contractor compliance with work practices. However, EPD has not monitored or enforced compliance with federal asbestos requirements since 2009 due to budget cuts. Despite the lack of compliance activity, EPD has continued to accept initial asbestos remediation project notifications and fees from contractors, as required by law. In fiscal year 2018, EPD collected 2,400 asbestos project notification forms and \$340,000 in project fees, which were deposited into the state general fund.

Though not enforced by EPD, our review found that contractors were generally compliant with initial notification requirements but were not submitting required completion notices. Of the 13 asbestos projects reviewed, notifications were submitted for nine projects, though four were not submitted on time. None of the 13 projects had completion notices on file at EPD.

Contractor Licensing and Insurance

Of the 20 pollution remediation projects reviewed, 17 had licensed contractors conduct the remediation of either asbestos or lead-based paint (LBP) as required or recommended. In addition, of nine projects reviewed for compliance with insurance coverages, contractors held all but one of the insurance types recommended by the Department of Administrative Services for high risk activities—Contractor's Pollution Liability insurance, which covers loss or damages to contractors/subcontractors caused by their exposure to hazardous substances.

Financial Reporting

During the review, we identified PRO-related expenditures at five of six state entities that were misreported (both under- and over-reported) as part of their year-end financial reporting to the State Accounting Office (SAO). Issues with misreporting resulted from unclear definitions of the terms "obligating event" and "site". In addition, PRO-related expenditures had not been identified by one state entity because the work was conducted by a subcontractor, versus a general contractor. Because the project was managed by the Georgia State Finance and Investment Commission (GSFIC), it was also unclear whether GSFIC or the state entity was responsible for reporting the liability.

As a result of bringing these issues to the attention of state entities, reported PRO increased from \$9.2 million in 2017 to \$31.8 million in 2018 to \$60.5 million in 2019. These liabilities are primarily related to sites included in the state's Hazardous Site Inventory and sites containing underground storage tanks that are enrolled for remediation coverage in the Georgia Underground Storage Tank Program. While PRO amounts identified in this review are not material to the state's Comprehensive Annual Financial Report (CAFR), they should be completely and accurately reported as required by GASB 49.

What we recommend

The General Assembly should consider appropriating an amount equivalent to the project fees collected for asbestos remediation to allow EPD to fully enforce asbestos requirements. However, in the meantime, EPD should continue to seek ways to monitor contractor compliance. When hiring contractors to perform asbestos and lead-based paint work, state entities should ensure contractors are appropriately licensed and hold all insurance types recommended for high risk activities. Finally, SAO and USG should continue efforts to improve guidance available to state entities to ensure complete and accurate financial reporting of pollution remediation liabilities.

See [Appendix A](#) for a detailed listing of recommendations included in this report.

EPD's Response: In response to recommendations directly applicable to the Environmental Protection Division, EPD indicated areas of agreement and provided technical comments, suggestions, and clarifications.

SAO's Response: The State Accounting Office is in agreement with the report.

USG's Response: The University System of Georgia is in agreement with the report.

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Purpose of the Audit

This audit examines the notification, remediation and reporting required following the release of hazardous substances when they occur on state-owned properties or in instances in which the state has financial responsibility for remediation. Specifically, the audit determined if state entities 1) met regulatory notification requirements when substances were released, 2) met regulatory and procedural requirements for the remediation of releases, and 3) accurately and completely reported all known releases that created long-term liabilities.

To review compliance with regulatory, contracting, and financial reporting requirements, we reviewed pollution-related activity at three state agencies and three institutions of the University System of Georgia (USG) from 2014 to 2017. We identified 20 pollution remediation projects for these entities during the time period. Our review was limited to federal requirements that apply to the types of projects reviewed for selected entities. We also reviewed activity associated with state trust funds used for the cleanup of pollution on state-owned or privately-owned property.

A description of the objectives, scope, and methodology used in this review is included in [Appendix B](#). A draft of the report was provided to the state entities involved, and pertinent responses were incorporated into the report.

Background

The U.S. Environmental Protection Agency (EPA) defines pollution as “the presence of a substance in the environment that because of its chemical composition or quantity prevents the function of natural processes and produces undesirable environmental and health effects.” Pollution must be cleaned up, or remediated, to ensure there is no ongoing harm to humans or the environment in the vicinity of the pollution. The instances reviewed for this report all resulted from hazardous substances being released into the environment, either through a planned release (e.g., through a planned renovation project) or an unplanned release (e.g., a chemical leak).¹

Pollution can include: chemical spills, asbestos renovation or abatement, leaks from underground storage tanks, and lead-based paint abatements.

At the federal level, EPA sets policy and grants states the authority to administer federal environmental laws.² At the state level, Georgia’s Environmental Protection Division (EPD) of the Department of Natural Resources (DNR) sets regulations, based on federal and state laws, related to pollution, the release of hazardous substances, and the remediation of the pollution, including contractor licensure requirements. Owners and operators of private or public property in Georgia are required to notify EPD when they discover pollution of specified types and amounts. The Department of Administrative Services (DOAS) and the University System of Georgia (USG) set policies for their respective agencies and institutions regarding hiring of contractors to remediate the pollution. The Georgia State Financing and Investment Commission

¹ A hazardous substance is any substance, chemical or item that is a health or physical hazard which can cause harm to people, plants, or animals when released (e.g., spilling, leaking, discharging, leaching, or dumping into the environment). Whether a substance is deemed hazardous is determined by the severity of contamination.

² In addition to licensing requirements, the federal government also sets safety requirements to protect workers who come into contact with hazardous substances. These requirements may be established by EPA and the Occupational Safety and Health Administration (OSHA).

(GSFIC) may also become involved in the hiring of contractors if the remediation is part of a building renovation or construction project it is managing.

The contractors hired to remediate pollution hold licenses and certifications, typically issued by EPD, which demonstrate they are trained and equipped to safely perform cleanups.³ To be licensed, contractors have to complete a certain number of training hours specific to the type of remediation they are performing.⁴

Notification and Remediation

The notification and remediation processes vary depending on the type and quantity of the release. Emergency situations (e.g., a chemical spill in a river) also require a different type of response. Exhibit 1 describes the harm caused by four types of pollution most likely to occur on state-owned properties. As discussed in the following sections, the response to a release involves notifying EPD as required, hiring contractors, remediating the release, and, as deemed necessary, investigating or monitoring the process.

Exhibit 1 Harmful Effects of Pollution Vary by Type

Underground Storage Tank (UST) Leak

Petroleum products or other UST contents may leak from damaged or obsolete tanks, potentially contaminating soil and groundwater. Currently state entities own approximately 350 USTs.



Chemical/Hazardous Substance Spill

Release of hazardous substances may affect soil and groundwater. Affected soil and ground water may take years to cleanup.

As of 2017, the state owns 26 sites that produced hazardous waste.

Asbestos

Asbestos can be found in common building materials such as pipe insulation, floor tiles, and roofing shingles.

Exposure to asbestos may lead to respiratory disorders and rare forms of lung cancer.



Lead-Based Paint

Lead-based paint was commonly used in buildings that were constructed before 1978. Currently, the state owns 1,850 buildings that were built prior to 1978.

Exposure to lead-based paint may cause damage to the nervous system of children and have negative effects on brain development.

Source: EPA, EPD, Georgia Environmental Facilities Authority, and the State Properties Commission

³ EPD maintains a list of licensed abatement contractors on its website.

⁴ For certain types of remediation, federal and state regulations require the project be supervised by a Professional Geologist or Professional Engineer. These licenses are awarded by a state advisory board and maintained by the Secretary of State's office.

Notification

When a UST leak or chemical/hazardous substance spill is discovered, the state entity that owns the property is responsible for notifying EPD. Asbestos and LBP abatements are planned activities usually performed by contractors; as such, the contractor is responsible for notifying EPD.⁵ The notification timeframes are set by law and vary based on the type and amount of pollution. For example, a suspected UST leak must be reported to EPD within 24 hours of detection. However, an asbestos release may be part of a planned renovation; in such a case, the contractor must notify EPD at least 10 working days prior to the planned release.⁶ The amount of the pollution also determines the reporting requirement. Exhibit 2 provides additional detail about the notification requirements and general descriptions of remediation for the four types of pollution addressed in this audit.

Exhibit 2

Some Common Types of Pollution have Similar Notification and Remediation Processes

Type of Pollution	Required Notification Timeframe	Party Required to Make Notification	EPD Subdivision to be Notified	General Remediation Process
<i>Underground Storage Tank (UST) Release</i>	Within 24 hours	Property Owner ¹	UST Program ²	Contractor conducts soil testing; UST owner submits engineering study to EPD; if needed, certified geologist/engineer submits corrective action plan (CAP) to EPD; owner provides public notice; specialized contractor conducts corrective action/monitoring as needed; owner reports on progress to EPD; certifies work is complete, submits completion notice to EPD.
<i>Chemical & Hazardous Substance Releases</i>	Immediately for emergencies; Within 30 days for non-emergencies	Property Owner ¹	Response and Remediation Program ¹	Responsible party (RP) conducts site evaluation, submits information to EPD; if reportable quantity or poses imminent danger, EPD lists site on Hazardous Site Inventory (HSI); RP provides public notice; if needed, RP submits CAP, status reports to EPD; certifies to EPD that site is in compliance with applicable standards; EPD removes site from HSI.
<i>Lead-based Paint (LBP)</i>	No notification required for renovation project; 15 days prior to start of abatement project	Contractor	Asbestos & Lead-based Paint Program	For renovations, certified person or firm conducts initial assessment; provides written information to building occupants, posts signs prior to project start; conducts renovation activities in accordance with specified standards; performs post-cleanup visual inspection and verification or, if required, dust clearance sampling; submits final notice of compliance to building owners/occupants.
<i>Asbestos</i>	10 days prior to start of any demolition or renovation/abatement project	Contractor	Asbestos & Lead-based Paint Program	Licensed inspector conducts initial testing; licensed contractor submits asbestos project notification (which includes estimate of quantity of asbestos) to EPD; contractor conducts removal or encapsulation; inspector conducts post-abatement testing; contractor submits completion notice to EPD.

¹ In this review, all property owners are state agencies.
² Notifications can also be made through the EPD's Emergency Response Program 24-hour hotline.
Source: Federal and state law; EPD Regulations

⁵ This is the case for the types of pollution reviewed in this report; in the case of another type of pollution, the entity may notify the federal government.

⁶ The 10-day requirement does not apply to valid emergency projects.

Hiring Contractors

In almost all cases, each state entity hires a contractor to remediate the pollution. For example, if a significant spill occurs in a chemical lab at a university, the institution would contract for remediation services. Similarly, if pollution is discovered during a renovation project that is managed by a state agency, the general contractor would have to subcontract for remediation services.⁷ When the Georgia State Financing and Investment Commission (GSFIC) is involved in the construction or renovation of a building where pollution is identified, it may also be involved in the hiring of remediation contractors. Because contractors specialize in certain types of remediation, the type of contractor hired depends on the type of pollution that occurred.

State law requires certain insurance coverages for all contractors; in some cases, additional types of insurance may be recommended by DOAS. Contractors may also be required to hold a surety bond, which protects the state if the contractor fails to meet the requirements of the contract.

Investigation and Monitoring

EPD has authority to investigate any complaints it receives of potential pollution, even if no release has been confirmed. In addition to investigative authority, EPD can monitor remediation worksites to ensure proper procedures are employed. This monitoring may take the form of requiring contractors to provide reports on activities at specified intervals or having EPD employees conduct site visits.

Funding Remediation Projects

State entities are usually responsible for the costs of remediation projects through their general fund appropriations. However, for projects that are more specialized, additional sources of funding may be available as discussed below.

- *Asbestos and lead-based paint abatements*, which are part of a larger construction or renovation project, may be funded through general obligation bonds. For example, in a bond-funded building renovation, a portion of the funding could be specified for remediation (e.g., demolition of walls containing asbestos).
- *Remediation of leaking underground storage tanks* that participate in the voluntary Georgia Underground Storage Tank (GUST) Trust Fund, which sets aside money specifically for this purpose by charging a per gallon fee for fuel storage, may be covered. According to EPD, GUST-funded cleanups may take several months or years and can cost anywhere from \$10,000-\$1,000,000.
- *Remediation of abandoned properties* relies on the state's Hazardous Waste Trust Fund (HWTF), which is funded through such sources as fees collected by EPD on hazardous waste generated in the state and tipping fees for solid waste. The state's portion of remediation of federal Superfund sites may also be covered by the HWTF.

⁷ If a contingency is not already included in the contract, the contract would need to be amended to cover the cost of these services.

Financial Reporting

In 2006, the Governmental Accounting Standards Board (GASB) set standards regarding how governments estimate and report pollution remediation costs.⁸ GASB's Statement No. 49, known as GASB 49, directs that pollution remediation obligations (PRO) be estimated after one of five obligating events has occurred (see text box below). This required reporting ensures state and local governments consistently estimate and report PRO in their financial statements.

GASB Statement No. 49

*This statement was intended, in part, to ensure financial statements were comparable between governments regarding **when** they reported a pollution remediation liability and **how** that liability was estimated. To meet these goals, GASB 49 specifies that once a government determines an obligating event has occurred, it should determine if it has to report a remediation liability, take steps to estimate the liability, and report the liability in its financial statements. If the liability cannot be estimated, GASB 49 requires the government to describe the nature of the pollution remediation activities in the notes to the financial statements.*

The five events and circumstances recognized by GASB Statement No. 49 are listed below:

- **Imminent danger** – The government is compelled into action because pollution creates an imminent endangerment to public health or welfare or the environment, even if no law applies.
- **Permit violation** – The government is in violation of a prevention-related permit or license issued under state or federal law.
- **Named as a potentially responsible party** – The government is named or evidence indicates that it will be named by a regulator as a responsible party or potentially responsible party for remediation, or as a government responsible for sharing costs.
- **Named in a lawsuit** – The government is compelled to participate in remediation by being named in a lawsuit.
- **Voluntary remediation** – The government begins or legally obligates itself to begin cleanup activities or monitoring or operation and maintenance.

To implement GASB 49, the State Accounting Office (SAO) sets policies and provides training for state agencies. These policies set financial thresholds for what PRO entities must report. SAO requires an entity report any PRO that exceeds \$100,000 per site or combined entity-wide obligations that exceed \$1 million. At the close of each fiscal year, state entities must provide SAO with an estimate of any outstanding PRO. Most state agencies report this information directly to SAO as part of their annual financial reporting.⁹

USG provides guidance and training to its member institutions regarding financial reporting of PRO. It does not set a reporting threshold; rather, it directs institutions to report all PRO. USG collects and compiles PRO information from its institutions.

⁸ GASB is an independent, private-sector organization that establishes accounting and financial standards for U.S. state and local governments that follow Generally Accepted Accounting Principles (GAAP).

⁹ USG, as well as some authorities and commissions, provide this information to SAO through their independent financial audits.

While not statutorily required to do so, USG management indicated that it generally follows SAO policy. Similar to state agencies, USG reports PRO information to SAO.

SAO includes PRO in the state's Comprehensive Annual Financial Report (CAFR) as a portion of its liabilities to ensure completeness and accuracy. Between fiscal years 2010-2018, state entities reported PRO ranging from \$1.3 million to \$31.8 million per year (see Exhibit 3).

Exhibit 3
Some State Entities Consistently Report PRO, Fiscal Years 2010-2018

Fiscal Year	Total Reported Liability	Number of Entities Reporting a PRO Liability
2010	\$1,348,343	1 – University System of Georgia (USG) ¹
2011	\$1,669,564	2 – USG ¹ & Georgia Department of Transportation (GDOT)
2012	\$4,210,000	5 – USG ¹ , GDOT, Georgia Department of Defense (GaDoD), Department of Juvenile Justice (DJJ), & Georgia Ports Authority (GPA)
2013 ²	\$11,330,000	6 – USG ¹ , GDOT, GaDoD, DJJ, GPA & Georgia Department of Agriculture (GDA) ³
2014 ²	\$9,501,000	5 – USG ¹ , GDOT, GaDoD, GPA & GDA ³
2015 ²	\$8,500,000	5 – USG ¹ , GDOT, GaDoD, GPA & GDA ³
2016 ²	\$8,600,000	5 – USG ¹ , GDOT, GaDoD, GPA & GDA ³
2017 ²	\$9,200,000	5 – USG ¹ , GDOT, GaDoD, GPA & GDA ³
2018 ⁴	\$31,800,000	5 – USG ¹ , GDOT, GaDoD, GDA ³ & Department of Natural Resources (DNR)

¹Includes amounts reported for multiple USG institutions.

²PRO began increasing in 2013 due to an ongoing lawsuit by a USG institution against a developer for damages spent on mold remediation. Anticipated recoveries of \$6.8 million were reported until fiscal year 2017 when a payment plan was introduced.

³GDA disclosed that it is named in a lawsuit, but that no potential liability amount is estimated.

⁴Amounts increased due to pollution remediation liabilities primarily associated with sites included in the Hazardous Site Inventory that had not been previously reported by DNR. The amount reported for fiscal year 2018 is \$30.4 million.

Source: Comprehensive Annual Financial Reports, FY 2010–2018

Findings and Recommendations

Finding 1: Contractors generally met initial notification requirements, but did not submit required completion notices. However, contractor compliance with requirements for asbestos projects regulated under federal NESHAP regulations were minimally monitored and not enforced by EPD during the review period.

NESHAP requires owners or operators (e.g., contractors) of renovation or demolition projects to notify the appropriate delegated entity (EPD) before any work begins on buildings containing 160 square feet/260 linear feet of regulated asbestos-containing material.

Our review found that contractors generally complied with initial notification requirements, but none submitted completion notices for the 13 asbestos projects subject to federal Asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP) regulations.^{10, 11} Initial notifications are intended to alert EPD of a planned remediation project and trigger compliance monitoring, while completion notices signify the end of a project. While EPD collects notifications and an asbestos project fee, it has not actively monitored or enforced contractor compliance with NESHAP standards since 2009. EPD, through a public communication, indicated that it would cease to conduct NESHAP inspections, investigations, and enforcement activities due to state budget cuts. As a result, there is reduced assurance that cleanup practices at these sites properly control the release of asbestos fibers into the air and reduce asbestos exposure.

Initial and Completion Notifications

Though EPD ceased its monitoring and enforcement role for NESHAP projects, it continued to collect the required asbestos project notifications and related fees, which were remitted to the state treasury as required by law. The status of projects we reviewed is discussed below and summarized in **Exhibit 4**.

- **Initial notifications:** Under NESHAP, contractors must submit notification to EPD within 10 working days of commencing an asbestos abatement project. Our review found that contractors submitted notifications for nine of the 13 asbestos projects reviewed; however, four were submitted late. We could not identify why contractors had not submitted required notices for four projects, but issues may have existed with EPD's management of hardcopy files.
- **Asbestos project fees:** According to EPD regulations, initial notifications are to be accompanied by a project fee, which is based on the estimated amount of friable asbestos containing material (ACM) involved in the project. For the approximately 2,400 asbestos project notifications filed each year, we found that EPD collects more than \$340,000 in fees annually, the equivalent of which

¹⁰ Any demolition or renovation of any structure that contains a certain threshold amount of asbestos containing material (excluding residential buildings that have four or fewer units) is regulated by NESHAP. Other federal regulations provide additional protections that apply to child care facilities and targeted housing.

¹¹ Initial asbestos project notifications are required by the federal Asbestos NESHAP and the Georgia Asbestos Safety Act. Completion notices are required by the Georgia Asbestos Safety Act.

could fund three additional asbestos inspector positions.¹² However, fee collections are currently deposited into the general fund of the State Treasury.¹³

- *Completion notices:* State law requires contractors to certify that asbestos abatement work was conducted according to standards, report the actual amount of ACM involved, and pay additional fees (if more than initially estimated). However, none of the 13 projects had completion notices on file.

Exhibit 4

Of 13 Projects, Nine had Initial Notifications On File at EPD and None had Completion Notices

	USG Institution Projects						State Agency Projects						
	1	2	3	4	5	6 ¹	7	8	9	10	11	12	13
Was the notification form on file at EPD?	✓	✓	✓	✓	✓	✗	✓	✓	✓	✓	✗	✗	✗
Did EPD receive the form 10 days before the project start date?	✓	✓	✗	✗	✗	NA	✓	✓	✗	✓	NA	NA	NA
Was a completion notice on file at EPD?	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
¹ Form provided by institution staff, but not on file at EPD.													
Source: EPD files and USG Institution staff													

Clean-up Requirements

NESHAP requires renovation or demolition projects involving threshold amounts of ACM be inspected prior to work beginning and work practice standards that control asbestos emissions. Regulated work practices include removal, wetting, sealing, and disposal of ACM. The work practice standards are designed to minimize the release of asbestos fibers.

Because EPD has not monitored or enforced contractor compliance with NESHAP regulations, we were unable to confirm the extent to which contractors met federally required work standards for controlling the release of asbestos fibers during renovation or demolition projects. EPD ceased compliance monitoring (e.g., inspections) and enforcement activities because budget cuts reduced the number of EPD staff assigned to do the work. While EPD maintains its delegated authority for Asbestos NESHAP, its involvement in NESHAP projects is limited to providing relevant information to EPA, including sharing notifications upon request and forwarding complaints, per its fiscal year 2019 Air Planning Agreement with EPA.

In turn, EPA assumes responsibility for conducting inspections, following up on complaints, and taking enforcement action as necessary.

However, a significant number of NESHAP projects were not likely to be inspected and enforced by EPA. According to EPA staff, its primary method of identifying NESHAP projects for inspection/investigation is through tips and complaints. In addition, EPA staff assigned to conducting asbestos NESHAP compliance and enforcement work in Georgia are also responsible for seven other southeastern states in EPA's Region 4. EPA staff indicated that 27 inspections and seven enforcement

¹² Based on the average cost of two asbestos positions removed from EPD's budget in 2009 (\$89,500), with an adjustment for inflation.

¹³ Estimate based on asbestos notification transactions for fiscal years 2014-2016. After fiscal year 2016, asbestos notification transactions were not separately tracked.

actions were associated with asbestos projects in Georgia during federal fiscal year 2019.

Based on a 2018 annual report to EPA and our recent discussions with EPD staff, EPD maintained that it is not committed to conducting compliance and enforcement work on NESHAP projects.¹⁴ EPD recently obtained and filled a new state-funded inspector position that will conduct additional work on asbestos abatement projects that fall under state requirements (e.g., involving regulated asbestos-containing material equal to or greater than 10 square feet/10 linear feet and less than 160 square feet/260 linear feet).¹⁵ In addition, EPD indicated that since 2013 it has reviewed asbestos projects that meet federal NESHAP requirements at the same time they conduct lead-based paint compliance monitoring work, and referred projects to EPA as needed. According to EPD, this has provided additional coverage of projects that fall under NESHAP.

RECOMMENDATIONS

1. The General Assembly should consider appropriating an amount equivalent to the fees collected for asbestos to EPD for the enforcement of state and federal asbestos requirements or to provide for adequate monitoring and full enforcement of asbestos remediation projects, as EPD is authorized to do.
2. If EPD continues to operate the Asbestos Program at current funding levels, it should continue to identify opportunities to ensure NESHAP projects are monitored for compliance and enforcement action is taken when non-compliance is detected.
3. EPD should ensure project notifications are submitted as required. In addition, it should take steps to ensure that, for every initial notification form it has on file, a corresponding completion form has been submitted by the contractor.

EPD's Response:

Recommendation No. 2: "EPD concurs with this recommendation, though our current focus is compliance with state rather than federal law. We will continue our work to identify potential opportunities to redirect existing funding for additional staff to enforce the Georgia Asbestos Safety Act. As evidence of this effort, EPD redirected funds in its FY19 budget (effective July 2018) to create a new inspector position to focus upon the Metro-Atlanta home renovation and demolition projects. When funds are identified, however, resource needs in the asbestos program must be balanced against other pressing agency priorities."

Recommendation No. 3: "EPD concurs with the first part of this recommendation. EPD implemented electronic submission of project notifications in June 2018. This change has made project submission easier and should improve compliance. No other changes to the current project notification processes are proposed at this time."

¹⁴ As part of its Performance Partnership Grant, EPD annually reports to EPA progress on meeting its commitments.

¹⁵ According to EPD, the new inspector position is focused on home renovation and demolition projects in the Metro-Atlanta area that are subject to the Georgia Asbestos Safety Act.

“EPD concurs with the second part of this recommendation if additional resources are appropriated to the program. Directing limited staff time to ensuring that completion notification forms are submitted would not be an efficient use of existing resources. These [completion] forms are not required by federal NESHAP regulations and do not contribute significantly to completion of project requirements or to protection of human health. [Our] response will be reevaluated if additional funds are appropriated to the program.”

Finding 2: While we could not confirm all asbestos and lead-based paint remediation contractors hired by the state were licensed, most were licensed.

Of the 20 pollution remediation projects reviewed, 17 used licensed contractors to conduct the remediation of either asbestos or lead-based paint (LBP) as required or recommended. In the remaining three projects, which occurred at two state agencies, we could not confirm licensure.

While it is not illegal for state agencies to hire unlicensed contractors for asbestos or LBP remediations, asbestos contractors are legally required to be licensed. Licensure demonstrates they have been trained in an EPD approved course on how to handle and remove asbestos, before performing remediation. In Georgia, LBP projects occurring in certain facilities are the only ones required to be conducted by lead certified contractors.¹⁶ However, program staff at EPD agreed that it is a best practice for state agencies to hire lead certified contractors when conducting any LBP remediation. The details of our review are discussed below:

- In two asbestos projects reviewed, the hiring agencies could not identify the subcontractors that performed the work; therefore, the subcontractors' licensure status could not be confirmed. We determined that the general contractors overseeing the remediation projects were not licensed to perform the abatements. Therefore, to comply with the requirement, the subcontractors would have had to be licensed.
- In one LBP project reviewed, EPD confirmed that the contractor was not licensed to conduct LBP remediation services. According to EPD's online database, the contractor did not obtain the recommended Renovation, Repair, and Painting (RRP) license until two years after the project occurred.

The training required for licensure ensures contractors know how to remediate in the safest possible manner, and reduce the risk that workers are exposed to harmful substances. According to state contracts for asbestos abatement, “the contractor shall comply with all laws, rules ... and shall ensure the compliance of his subcontractors.” Without proof of licensure, the state does not have assurance that contractors have complied with the licensure requirement. According to EPD, agencies can make LBP licensure requirements mandatory for their projects by stating the requirement in the project specifications or scope of work. Using licensed contractors helps control asbestos and lead hazards, reduce legal liability, and protect the environment.

¹⁶ Contractors are required to be certified to perform LBP remediations in housing constructed before 1978 or in “child-occupied” facilities.

RECOMMENDATIONS

1. State entities should ensure that asbestos abatements are conducted by licensed contractors and subcontractors and require evidence of that licensure.
2. State entities should adhere to best practices of hiring licensed contractors and subcontractors to perform LBP remediations and should obtain evidence of that licensure.

Finding 3: With the exception of Pollution Liability insurance, asbestos and lead-based paint contractors held the recommended types of insurance.

Our review of nine projects, found that contractors generally held five of six recommended types of insurance for projects involving hazardous substances.¹⁷ According to guidelines issued by the Department of Administrative Services (DOAS), state entities should minimize their exposure to property and personnel damage when engaging in high risk activities by acquiring increased insurance coverages. High risk activities include asbestos abatements and building remodeling and construction that involves hazardous substances. As shown in [Exhibit 5](#), the contractors in our sample held Worker's Compensation, Commercial General Liability, Automobile Liability, Umbrella Liability and Professional Liability insurance as recommended. (See [Appendix C](#) for further description of the coverages.)

However, in four of the nine contracts reviewed, the contractor hired did not hold Contractor's Pollution Liability insurance, which covers loss or damages to the contractor and/or subcontractor caused by their exposure to a hazardous substance. These types of exposure are not covered by standard liability insurances. As shown in [Exhibit 5](#), state agencies accounted for three of the four projects missing coverage.

Failing to have Contractor's Pollution Liability insurance exposes state entities and general contractors to potential lawsuits if a subcontracted worker claims injury or losses from performing remediation on behalf of the state agency. We did not, however, find evidence of damage to, or claims filed by, any subcontractors.

¹⁷ The review was limited to projects over \$100,000. It included 7 asbestos and 2 LBP projects.

Exhibit 5¹**Projects Reviewed were Generally Compliant with Insurance Recommendations
Fiscal Years 2014-2017**

	USG Institution Projects					State Agency Projects			
	A	B	C	D	E	F	G	H	I
DOAS Recommended "High Risk" Insurance									
Contractor's Pollution Liability	✓	✓	✗	✓	✓	✗	✗	✗	✓
Worker's Compensation	✓	✓	✓	✓	✓	✓	✓	✓	✓
Commercial General Liability	✓	✓	✓	✓	✓	✓	✓	✓	✓
Automobile Liability	✓	✓	✓	✓	✓	✓	✓	✓	✓
Umbrella Liability	✓	✓	✓	✓	✓	✓	✓	✓	✓
Professional Liability	✓	✓	✓	✓	✓	✓	✓	✓	✓
¹ For a more detailed explanation of DOAS recommended insurance, see Appendix C on page 21.									
Source: GSFIC/USG and State Entities									

RECOMMENDATIONS

1. State entities should continue to follow DOAS guidelines regarding insurance coverage for projects involving high risk activities and ensure contractors or subcontractors hold the Contractor Pollution Liability insurance when appropriate.

USG's Response: "We concur with this finding and recommendation. The USG will coordinate with Georgia State Financing and Investment Commission's Construction Division to add contract language that encourages contractors and subcontractors performing high risk projects involving hazardous substances to follow the Department of Administrative Service's recommended guidelines related to contractor's pollution liability insurance, when appropriate. The proposed action will be implemented by July 1, 2020."

Finding 4: State entities did not report to SAO all known pollution remediation obligations that could have been reported in the CAFR.

Materiality is the magnitude of an omission or misstatement of accounting information that, in the light of surrounding circumstances, makes it likely that a reasonable person's judgement would have been changed.

During the review, we identified PRO-related expenditures at five of six state entities that were misreported (both under- and over-reported) as part of their year-end financial reporting to SAO (see Exhibit 6). While SAO has established guidance to assist state entities in complying with year-end financial reporting requirements, the guidance could be improved to decrease the risk of misreporting PRO. Also, a lack of understanding of GASB 49 requirements and communication between state entity program personnel and state entity accounting staff has impacted the completeness and accuracy of financial reporting to SAO.

As a result of bringing these issues to the attention of state entities, reported PRO increased from \$9.2 million in 2017 to \$31.8 million in 2018 to \$60.5 million in 2019. While PRO amounts identified in this review are not material to the CAFR, they should be completely and accurately reported. Details regarding the interpretation

and state entities' identification of pollution remediation are discussed below and in Exhibit 6.

Interpretation Issues

*As described on page 5, **obligating events** are occurrences that signal a government to determine if it has to report a remediation liability.*

- *Interpretation of “obligating event”* –We identified an asbestos and a LBP project that had not been reported to SAO; however, each met the definition of an “obligating event” and met SAO’s reporting threshold of \$100,000.¹⁸ In both cases, staff did not understand that GASB 49 applied to renovation projects that included asbestos and LBP remediation. However, GASB 49 does not specify types of releases as a condition of reporting.

The SAO guidance on reporting PRO references GASB 49 and the obligating events. It does not provide additional explanation or examples of obligating events to help staff determine when an obligating event has occurred. As a result of excluding these two projects from reporting, the state’s PRO liability was misreported by \$193,700 and \$860,883 respectively.

- *Definition of “Site”* – We identified one institution that reported over 50 individual purchase orders for remediation related costs to USG. While USG generally follows SAO’s guidance, it has not established a reporting threshold and instead requires member institutions to report all known PRO regardless of amount. As noted earlier, SAO’s threshold is \$100,000 per site or combined entity-wide obligations that exceed \$1 million, which the institution’s costs did not meet (see Exhibit 6).

Currently, neither SAO nor USG has explicitly defined “site.” Staff at this institution indicated that they defined “site” as the campus because that is the definition used when applying for EPD permits. According to SAO staff, while not explicitly defined, they would expect site to refer to an individual building.

The information was reported to SAO by USG and included in the CAFR. As a result, the PRO liability was misreported by \$443,715.

¹⁸ Obligating events are further defined on page 5.

Exhibit 6**Interpretation and Identification Issues Led to Misreported PRO, Fiscal Years 2014-2017**

Entity Type	Impact on Reported Liability	Amount ¹	Issue Type	Description
USG Institution	Decreased	\$193,700	Interpretation	LBP building exterior renovation.
State Agency	Decreased	\$860,883	Interpretation	Asbestos abatement of five buildings located on a single agency campus.
USG Institution	Increased	\$443,715	Interpretation	More than 50 separate purchase orders at a single campus, combined and reported to USG. The orders ranged from a \$15 to \$48,000.
USG Institution	Decreased	\$111,756	Agency identification	Asbestos abatement subcontract included in a \$8.1 million general contract for building renovation. Institution staff did not identify the project because the general contract was not pollution specific.
State-Managed Trust Funds that create remediation liabilities²				
State Agency	Decreased	Unknown	Agency identification	Obligations paid through the Hazardous Waste Trust Fund (HWTF) for cleanup of polluted properties abandoned by their owners.
State Agency	Decreased	Unknown	Agency identification	Obligations paid through HWTF for ongoing operations and maintenance of Superfund sites.
State Agency	Decreased	Unknown	Agency identification	Obligations to Georgia Underground Storage Tank Trust Fund (GUST) participants seeking reimbursement for remediation costs.
¹ The year in which identified instances of misreported PRO occurred varied by entity. ² Due to the way PRO for these types of projects is currently defined by SAO, it was not possible to isolate the amount misreported in prior years. Source: DOAA review of state entity files				

Agency Identification Methods

- *Subcontracts* – We identified an asbestos abatement at a USG institution that had not been reported but met GASB reporting requirements and SAO's thresholds. The abatement was conducted through a subcontract of a larger building renovation project. Staff indicated that, because it was handled through a subcontract, they did not consider this PRO reportable.

Neither SAO's nor USG's training and instructions distinguish between general or subcontracted services when defining reporting requirements. As a result of omitting this asbestos abatement, the PRO liability was misreported by \$111,756.

- *Entity responsible for reporting* – In the example described above, the Georgia State Financing and Investment Commission (GSFIC), managed the general contract. GSFIC can report PRO on projects it manages. GSFIC staff indicated they were aware of the pollution remediation subcontract. However, they did not report the PRO because of concerns over the potential for duplicate reporting if the institution had also reported it.

Neither SAO's nor USG's guidance specifies who is responsible for reporting when state entity projects are managed by GSFIC.

- *Intra-agency communication* – Four of six entities reviewed had established communication channels between accounting and programmatic staff to discuss reportable PRO. Because management is often split, with programmatic staff (e.g., facilities and environmental health and safety staff) handling the construction/remediation projects and accounting staff handling the end-of-year reporting, communication is important to ensure all PRO is appropriately identified. SAO and USG guidance does not address or recommend the need for intra-agency communication. We found that one of the remaining two agencies had misreported PRO as a result of the lack of communication, as described in the next section.

To aid in the process of identifying PRO, accounting staff at one USG institution we reviewed queried financial information for key terms related to pollution and for vendors known to provide remediation services. Following this, they solicited input from programmatic staff to aid in year-end reporting.

- *Other previously unidentified PRO* – Prior to fiscal year 2018, cleanup costs associated with privately-owned abandoned hazardous waste sites and underground storage tanks were not reported as PRO. As an obligating event, GASB 49 requires governments to determine if costs associated with remediation it voluntarily commences or, as a responsible party, is legally obligated to conduct should be reported as a liability. As a result of the Department of Audit's work, SAO determined that a total of approximately \$30 million in clean-up costs for abandoned sites funded by the HWTF and reimbursements to GUST participants for remediation of UST leaks were reported as remediation liabilities in the 2018 CAFR.

RECOMMENDATIONS

1. SAO and USG should continue to revise guidance and training by:
 - providing additional definitions and examples of “obligating events”;
 - developing a common definition of “site”;
 - encouraging communication between programmatic and accounting staff at state entities to ensure PRO is identified and reported;
 - recommending accounting staff take additional steps to identify PRO (e.g., analyzing financial data to flag key pollution terms or vendors known to perform remediation services); and
 - determining which entity should report when projects are managed by GSFIC.
2. State entities should ensure appropriate communication between their programmatic staff and their accounting staff to ensure PRO is identified and reported. In addition, accounting staff should take additional steps to identify pollution remediation activities (e.g., analyzing financial data).
3. SAO should continue to monitor reported remediation liabilities associated with obligations to fund clean-up of abandoned hazardous waste sites, reimbursements to UST owners, and clean-up of federal Superfund sites.

SAO's Response: "We concur with this finding and recommendation. The SAO will work to establish, or update as needed, consistent definitions and reporting requirements for pollution remediation obligations. Additionally, SAO will continue to train and educate accounting staff at the various organizations on pollution remediation requirements and will continue to encourage accounting staff to work with programmatic staff as needed. SAO will monitor reported remediation liabilities when deemed appropriate. The proposed action will be implemented prior to June 30, 2020."

USG's Response: "We concur with this finding and recommendation. The USG will work in tandem with the State Accounting Office to ensure consistent definitions and reporting requirements for pollution remediation obligations are established and followed. Additionally, the USG will continue to train and educate accounting and programmatic personnel on pollution remediation reporting requirements. The proposed action will be completely implemented prior to June 30, 2020."

EPD's Response:

Recommendation No. 2: EPD and SAO "have agreed upon new criteria to determine when liability for expenditure[s] from the state Hazardous Waste Trust Fund and [Georgia] Underground Storage Tank Trust Fund must be reported. EPD began implementing that new agreement in FY2018. EPD's prior criteria were based on its reading of Georgia law regarding these trust funds and its understanding of GASB 49."

Appendix A: Table of Recommendations

Finding 1: Contractors generally met initial notification requirements, but did not submit required completion notices. However, contractor compliance with requirements for asbestos projects regulated under federal NESHAP regulations were minimally monitored and not enforced by EPD during the review period. (p. 7)

1. The General Assembly should consider appropriating an amount equivalent to the fees collected for asbestos to EPD for the enforcement of state and federal asbestos requirements or to provide for adequate monitoring and full enforcement of asbestos remediation projects, as EPD is authorized to do.
2. If EPD continues to operate the Asbestos Program at current funding levels, it should continue to identify opportunities to ensure NESHAP projects are monitored for compliance and enforcement action is taken when non-compliance is detected.
3. EPD should ensure project notifications are submitted as required. In addition, it should take steps to ensure that, for every initial notification form it has on file, a corresponding completion form has been submitted by the contractor.

Finding 2: While we could not confirm all asbestos and lead-based paint remediation contractors hired by the state were licensed, most were licensed. (p. 10)

4. State entities should ensure that asbestos abatements are conducted by licensed contractors and subcontractors and require evidence of that licensure.
5. State entities should adhere to best practices of hiring licensed contractors and subcontractors to perform LBP remediations and should obtain evidence of that licensure.

Finding 3: With the exception of Pollution Liability insurance, asbestos and lead-based paint contractors held the recommended types of insurance. (p. 11)

6. State entities should continue to follow DOAS guidelines regarding insurance coverage for projects involving high risk activities and ensure contractors or subcontractors hold the Contractor Pollution Liability insurance when appropriate.

Finding 4: State entities did not report to SAO all known pollution remediation obligations that could have been reported in the CAFR. (p. 12)

7. SAO and USG should continue to revise guidance and training by:
 - providing additional definitions and examples of “obligating events”;
 - developing a common definition of “site”;
 - encouraging communication between programmatic and accounting staff at state entities to ensure PRO is identified and reported;
 - recommending accounting staff take additional steps to identify PRO (e.g., analyzing financial data to flag key pollution terms or vendors known to perform remediation services); and
 - determining which entity should report when projects are managed by GSFIC.
8. State entities should ensure appropriate communication between their programmatic staff and their accounting staff to ensure PRO is identified and reported. In addition, accounting staff should take additional steps to identify pollution remediation activities (e.g., analyzing financial data).
9. SAO should continue to monitor reported remediation liabilities associated with obligations to fund clean-up of abandoned hazardous waste sites, reimbursements to UST owners, and clean-up of federal Superfund sites.

Appendix B: Objectives, Scope, and Methodology

Objectives

This report examines pollution remediation activities conducted by state entities resulting from releases of hazardous substances. Specifically, our audit set out to determine the following:

- Are state agencies meeting regulatory requirements for reporting releases of hazardous substances?
- Are state agencies meeting regulatory and procedural requirements for cleanup of releases?
- Is the state accurately and completely reporting all known releases that create long-term liabilities?

Scope

The audit generally covered activity related to pollution remediation that occurred in fiscal years 2014 through 2017, with consideration of earlier or later periods when relevant. Information in this audit was obtained by: reviewing relevant laws, rules, and regulations; policies and procedures; prior audit reports; and documentation obtained from a sample of six state entities (see below). Additionally, we obtained information by interviewing staff from the State Accounting Office (SAO), University System of Georgia (USG), Environmental Protection Division (EPD) of the Department of Natural Resources, Georgia State Financing and Investment Commission (GSFIC), Department of Administrative Services (DOAS), and the Georgia Environmental Finance Authority (GEFA). We also interviewed representatives of the six state entities included in our review.

We addressed the audit objectives by reviewing remediation projects that occurred at a sample of six state entities: the Georgia Department of Corrections (GDC), Department of Juvenile Justice (DJJ), the Department of Natural Resources (DNR), Georgia Institute of Technology (Georgia Tech), Georgia Southern University (GSU), and Georgia College and State University (GCSU). These entities were selected by reviewing building inventories from the State Properties Commission and University System of Georgia (USG) and analyzing data from EPD (including underground storage tank activity data and fees associated with releases of hazardous substances and hazardous waste generation). Other factors considered included size of the entity and mission. The sample state entities were used in a case study approach to the objectives; therefore, the results of our analysis of remediation projects at these entities cannot be applied across all state entities.

We primarily relied on two large financial data systems, TeamWorks (which is managed by SAO) and GeorgiaFirst (which is managed by USG), to identify pollution remediation projects. In addition, because USG research institutions use their own independent financial systems, one research institution provided a listing of pollution remediation activities that was extracted from its financial data system; the data provided was limited to 2017. We determined the financial data obtained from these systems to be sufficiently reliable for our analyses.

From the data obtained, we identified 46 projects for further review. Based on our reviews of documentation provided by those entities, we determined 20 of the 46 projects involved pollution remediation.

Government auditing standards require that we also report the scope of our work on internal control that is significant within the context of the audit objectives. All of our objectives address aspects of pollution remediation internal controls. Specific information related to the scope of our internal control work is described by objective in the methodology section below.

Methodology

To determine the extent to which state entities met regulatory requirements for reporting releases of hazardous substances, we obtained project specific payments and documentation from the six state entities. Using this information to identify if and when pollution occurred, we compared it to records maintained by various EPD divisions. These included paper files of asbestos project notifications and project completion reports, which were reviewed at EPD's office. For hazardous substance spills or releases, we reviewed EPD's publicly available Complaint Tracking System (CTS) for specific records. We also obtained an extract of complaint data from EPD's Emergency Response Program for fiscal years 2014 through 2017). The data was examined to identify complaints related to asbestos, fuel spills, UST leaks and other incidents involving hazardous substances. We assessed the controls over data used from CTS and determined it was sufficiently reliable for corroborating other evidence of releases, but was not sufficiently reliable to be used as a sole source of identifying releases. We compared the timeframes of any identified releases to notification standards.

To determine the extent to which state entities met regulatory and procedural requirements for cleanup of releases, we reviewed state and federal laws and policies for cleaning pollution. We compared those regulations to supporting documentation obtained for remediation projects that occurred at the sample state entities to determine if contractors were appropriately licensed to conduct specialized services and followed cleanup procedures. This included a review of licenses maintained by EPD and the Secretary of State's office, as applicable. In addition, for projects in excess of \$100,000 we utilized DOAS and USG requirements for procurement, specifically DOAS' guidelines for insurance and bonding. Construction, facility, environmental, and financial staff were interviewed at each entity to obtain context for each project and supporting documentation.

To determine if state entities accurately and completely reports all known releases that create long-term liabilities, we reviewed statewide financial reports for fiscal years 2014-2018. We examined the end-of-year reporting forms completed by sample entities and determined if they followed instructions and guidance. Interviews with financial and programmatic staff at each state entity allowed us to understand and assess their individual processes for identifying pollution remediation projects. We coordinated our efforts with the Department of Audits and Accounts Financial Audits Division.

This performance audit was conducted in accordance with generally accepted government auditing standards (GAGAS), with one exception. Because the State Auditor serves as a member on the Georgia Environmental Facilities Authority and Georgia State Finance and Investment Commission boards as required by state law, standards consider this role to be an impairment to independence [3.36(j) and 3.49)]. To reduce the threat, the State Auditor recused himself from oversight and review of the audit. The Deputy State Auditor reviewed the final report.

GAGAS 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix C: Department of Administrative Services Recommended High Risk Insurance

<i>Insurance Type</i>	<i>General Description</i>
Contractor's Pollution Liability¹	Additional coverage to manage environmental liabilities left uncovered by standard General Liabilities with pollution exemptions.
Worker's Compensation	Provides medical, disability, & rehabilitation benefits to injured employees of the contractor.
Commercial General Liability	Pays for property damage & bodily injury to others resulting from contractor negligence.
Automobile Liability	Pays for bodily injury or property damage resulting from a motor vehicle accident.
Umbrella Liability	Provides limits beyond that of an underlying liability policy.
Professional Liability	Covers individuals with extensive technical knowledge or training in an area of expertise for acts of negligence. (also known as Errors & Omissions Coverage)
¹ Only insurance not required by state law and Georgia State Financing and Investment Commission (GSFIC). Source: DOAS	

The Performance Audit Division was established in 1971 to conduct in-depth reviews of state-funded programs. Our reviews determine if programs are meeting goals and objectives; measure program results and effectiveness; identify alternate methods to meet goals; evaluate efficiency of resource allocation; assess compliance with laws and regulations; and provide credible management information to decision makers. For more information, contact us at (404)656-2180 or visit our website at www.audits.ga.gov.