



FOLLOW-UP REVIEW • REPORT NUMBER 22-03 • JULY 2022

# Pollution Remediation by State Entities

## Some actions taken to address audit findings

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### Why we did this review

This follow-up review was conducted to determine the extent to which state agencies and University System of Georgia institutions addressed the recommendations presented in our December 2019 performance audit (Report #17-19).

The audit reviewed 20 remediation projects at six state entities during fiscal years 2014 through 2017 and determined whether 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

Pollution Remediation Obligation (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, cleanup, oversight and enforcement, and operation and maintenance of a remedy, such as post-remediation monitoring.

## Pollution Remediation by State Entities

### Some actions taken to address audit findings

#### What we found

State entities have taken action to address some issues identified in our 2019 performance audit, which reviewed pollution remediation activities at three state agencies and three University System of Georgia (USG) institutions. The Environmental Protection Division (EPD) continues to use its existing resources to monitor compliance with federal asbestos requirements. In addition, state entities have taken some steps to ensure contractors are licensed and hold recommended insurance types for high-risk activities, though some entities have yet to fully implement planned actions. Actions taken by USG and the State Accounting Office (SAO) have also minimized the risk of misreporting pollution remediation obligations.

#### Asbestos Compliance

We found that contractors and subcontractors generally complied with federal asbestos remediation project notification requirements, but EPD had not fully monitored or enforced the requirements since 2009 due to budget cuts. We recommended the General Assembly consider appropriating an amount equivalent to the asbestos remediation project fees collected to allow EPD to fully enforce asbestos requirements.

The General Assembly has not appropriated additional funds to allow EPD to fully monitor and enforce federal asbestos requirements, as recommended. However, EPD continues to use existing state funds to pay for an inspector position. While this position is focused on metro Atlanta home renovation and demolition projects subject to state asbestos requirements, any violations of federal asbestos regulations detected are reported to the U.S. Environmental Protection Agency (EPA) for investigation and enforcement. In addition, EPD continues to cross train its lead-based paint inspectors to identify asbestos hazards while doing their work, and violations are referred to the EPA. EPD also continues to rely on its electronic submission process to ensure project

notification forms are submitted prior to commencing certain asbestos projects, as required by federal law. However, EPD has not taken action to ensure contractors submit completion notices for every project notification form it has on file, as required by state law.

### ***Contractor Licensing and Insurance***

We found most pollution remediation projects at the six state entities included in our review used licensed asbestos and lead-based paint remediation contractors and subcontractors as required or recommended. These contractors and subcontractors had all but one type of recommended insurance for high-risk activities (Contractor's Pollution Liability). We recommended state entities ensure contractors and subcontractors are licensed and insured, as appropriate.

State entities that could not previously document hiring licensed contractors/subcontractors to perform asbestos and lead-based paint abatements currently have a process in place (or plan to establish a process) to ensure contractors are licensed. These entities also provided evidence of hiring licensed contractors for recent projects. Similarly, state entities that had previously hired contractors who lacked Contractor's Pollution Liability insurance have either amended contract language to require the insurance when projects involve hazardous materials or have plans to amend contracts and/or related policies.

### ***Financial Reporting***

While not material to the state's Annual Comprehensive Financial Report, we found five of six state entities misreported pollution remediation expenditures as part of their year-end reporting to SAO in fiscal years 2014-2017. We recommended SAO and USG continue efforts to improve guidance available to state entities to ensure complete and accurate financial reporting of pollution remediation liabilities.

Since the original audit, SAO and USG have enhanced the training provided to accounting personnel on pollution remediation reporting requirements. In addition, state entities have taken action to increase communication between programmatic and accounting staff.

***EPD's Response:*** *EPD agreed with the current status of relevant findings as presented in the following table though it "believes no additional steps can be taken at this time" to address issues related to compliance with federal NESHAP regulations and completion notification requirements under state law.*

***SAO's Response:*** *SAO agreed with the current status as presented in the following table.*

***USG's Response:*** *USG agreed with the current status of relevant findings as presented in the following table. USG noted that it implemented the audit recommendations and is "fully committed to continuing to train and educate across the system to ensure that pollution remediation is properly addressed and reported."*

The following table summarizes the findings and recommendations in our 2019 report and actions taken to address them. A copy of the 2019 performance audit report (#17-19) may be accessed at: [Pollution Remediation by State Entities Performance Audit Report](#).

## Pollution Remediation by State Entities Follow-Up Review, July 2022

Original Findings/Recommendations	Current Status
<p><b>Contractors generally met initial notification requirements but did not submit required completion notices. However, contractor compliance with requirements for asbestos projects regulated under federal National Emission Standards for Hazardous Air Pollutants (NESHAP) regulations were minimally monitored and not enforced by EPD.</b></p> <p>During the original audit, we reviewed 13 asbestos projects and found that contractors had adhered to some but not all federal and state requirements. Contractors submitted initial notification forms for 9 of the 13 asbestos projects as required by federal NESHAP regulations; however, none submitted completion notices required by state law. While EPD collected notification forms (and associated asbestos project fees), it had not actively monitored or enforced contractor compliance with NESHAP standards since 2009 due to budget cuts. As a result, there was reduced assurance that cleanup practices at the project sites properly controlled the release of asbestos fibers into the air and reduced asbestos exposure.</p> <p>We recommended the General Assembly consider appropriating an amount equivalent to the project fees collected for asbestos remediation to allow EPD to ensure contractor compliance and fully enforce asbestos requirements. If EPD continued to operate the Asbestos Program with existing resources, we recommended it continue to seek ways to monitor compliance with federal NESHAP requirements. In addition, we recommended EPD ensure project notifications and corresponding completion forms are submitted by contractors as required.</p>	<p><b>Partially Addressed</b> - EPD continues to primarily monitor contractor compliance with state and federal asbestos requirements through inspections and its electronic submission process. The General Assembly has not appropriated additional funding to EPD to more fully monitor and enforce compliance with federal NESHAP regulations.</p> <p>During the original audit, EPD redirected state funds to an inspector position focused on home renovation and demolition projects in the metro Atlanta area that were subject to the Georgia Asbestos Safety Act. EPD continues to fund the single inspector position, which—though focused on compliance with state requirements—may identify federal NESHAP violations. Any federal violations are referred to the U.S. Environmental Protection Agency (EPA) for investigation and enforcement.</p> <p>In addition, because asbestos is often co-located with lead-based paint, EPD continues to cross train its other inspectors to identify asbestos hazards while conducting lead-based paint inspections. As noted above, any federal violations identified are referred to the EPA.</p> <p>EPD also continues to rely on its electronic submission process to ensure contractors submit asbestos project notification forms prior to commencing a project, as required by federal regulations. According to EPD, this process (which began in 2018 during the original audit) encourages compliance by simplifying the form submission process for the regulated community.</p> <p>EPD has not taken action to ensure asbestos project completion forms are submitted as required by state law. According to EPD, ensuring the forms are submitted is an inefficient use of resources. EPD also noted that it has experienced significant turnover in the asbestos and lead programs.</p>

## Pollution Remediation by State Entities Follow-Up Review, July 2022

Original Findings/Recommendations	Current Status
<p><b>While we could not confirm all asbestos and lead-based paint remediation contractors hired by the state were licensed, most were licensed.</b></p> <p>Of the 20 pollution remediation projects reviewed during the original audit, 17 had licensed contractors conduct the remediation of either asbestos or lead-based paint as required or recommended. We could not confirm that contractors for the remaining three projects, which occurred at two state agencies, were licensed.</p> <p>We recommended that state entities ensure that asbestos abatements and lead-based paint remediations are conducted by licensed contractors and subcontractors by requiring evidence of that licensure.</p>	<p><b>Partially Addressed</b> – State agencies have taken some action to ensure asbestos and lead-based paint contractors are licensed.</p> <p>Staff at the two state entities from the original audit stated they either have a process in place or are establishing a process to ensure contractors have appropriate licensure. One agency indicated that for any projects involving hazardous materials (e.g., lead or asbestos), specifications for how these materials should be handled, including licensure requirements, are included in the contracts. It also provided documentation that its current preferred contractor is licensed to conduct lead-based paint and asbestos projects. The other state agency stated it is revising its policy on hazardous materials; however, the policy is not expected to be finalized prior to this report's release.</p>



## Pollution Remediation by State Entities Follow-Up Review, July 2022

Original Findings/Recommendations	Current Status
<p><b>With the exception of Pollution Liability insurance, asbestos and lead-based paint contractors held the recommended types of insurance.</b></p> <p>Of nine projects reviewed for compliance with insurance recommendations, we found that contractors generally held the insurance types recommended by the Department of Administrative Services (DOAS) for high-risk activities. However, in four of the nine projects reviewed, contractors did not hold Contractor's Pollution Liability insurance, which covers loss or damages to contractors/subcontractors caused by their exposure to hazardous substances. These projects occurred at one University System of Georgia (USG) institution and three state agencies.</p> <p>We recommended that state entities 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.</p>	<p><b>Partially Addressed</b> – USG has taken action to ensure contractors involved in high-risk activities, such as those involving hazardous materials, have Pollution Liability insurance. The three state agencies plan to take similar action.</p> <p>For all construction contracts as of March 1, 2022, USG added standard language that states the "contractor shall procure and maintain a broad form contractor's liability insurance policy when the Scope of Work involves removal, abatement, encapsulation or other treatment, disposal or remediation of asbestos or other hazardous materials or an exposure to pollutants or impairment of the environment..."</p> <p>None of the three state agencies have amended contracts to include pollution liability insurance provisions, but all three indicated they plan to do so. In addition, two agencies provided evidence that recent contractors held pollution liability coverage.</p> <p>Additionally, the Georgia State Finance and Investment Commission (GSFIC) manages certain construction projects for both USG and individual state agencies. To address our finding, GSFIC amended the supplementary general requirements in its Design-Bid-Build contract to include Pollution Liability Insurance provisions (applicable only for projects involving removal, remediation, etc. of hazardous materials).</p>

## Pollution Remediation by State Entities Follow-Up Review, July 2022

Original Findings/Recommendations	Current Status
<p><b>State entities did not report to the State Accounting Office (SAO) all known pollution remediation obligations (PRO) that could have been reported in the Comprehensive Annual Financial Report (now known as the Annual Consolidated Financial Report).</b></p> <p>During the original audit, we identified PRO-related expenditures at five state agencies and USG institutions that were misreported in their year-end financial reporting to SAO. Issues with misreporting resulted from unclear guidance, misinterpreting PRO reporting standards (GASB 49), and limited communication between state entity program personnel and their accounting staff.</p> <p>To ensure PRO amounts are completely and accurately reported, we recommended that:</p> <ul style="list-style-type: none"> <li>• SAO and USG continue efforts to improve guidance;</li> <li>• State entities ensure appropriate communication between their programmatic and accounting staff and take additional steps to identify pollution remediation activities (e.g., analyzing financial data); and</li> <li>• SAO continue to monitor obligations to fund cleanup of abandoned hazardous waste sites, reimbursements to underground storage tank owners, and cleanup of federal Superfund sites.</li> </ul>	<p><b>Fully Addressed</b> – State entities have made improvements to reduce the risk of misreporting pollution remediation liabilities.</p> <p>In an effort to clarify guidance, minimize inconsistent interpretations of GASB 49 requirements, and ensure complete reporting, SAO and USG worked to update training and guidance materials provided to accounting staff at state agencies and USG institutions. Materials were updated to include:</p> <ul style="list-style-type: none"> <li>• Examples of obligating events, noting asbestos and lead-based paint remediation as activities that should be reported;</li> <li>• Guidance to staff that states projects starting and ending in the same year must be reported;</li> <li>• Steps accounting staff could take to identify PRO (e.g., searching purchase order line details for terms such as “asbestos”);</li> <li>• Clarification of responsibility for reporting PRO when projects are managed by GSFIC (e.g., GSFIC will report on GSFIC-managed projects, while agencies/USG institutions are responsible for reporting on projects they manage); and</li> <li>• Content encouraging accounting staff to communicate with facilities personnel to identify PRO.</li> </ul> <p>State agencies and USG institutions have also taken steps to improve internal communications, which further ensures complete and accurate PRO reporting. For example, agencies reported embedding programmatic staff with accounting staff and scheduling weekly meetings between programmatic and accounting staff.</p> <p>SAO continues to monitor reported remediation liabilities through its annual survey of all state entities to identify PRO. According to SAO, it reviews this information and follows up with agencies if it has questions. This includes state agencies overseeing fund sources to clean up abandoned hazardous waste sites, reimbursements to underground storage tank owners, and cleanup of federal Superfund sites.</p>

<b>Pollution Remediation by State Entities Follow-Up Review, July 2022</b>	
<b>Original Findings/Recommendations</b>	<b>Current Status</b>
4 Findings	1 Fully Addressed 3 Partially Addressed 0 Not Addressed 0 No Recommendations



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