



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

APR 26 2019

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

Catherine Fitzsimmons
Chief, Iowa Air Quality Bureau
Department of Natural Resources
502 E. 9th St.
Des Moines, IA 50319

Re: No Action Assurance Regarding Certain Asbestos NESHAP Requirements Requested by the Iowa
Department of Natural Resources

Dear Ms. Fitzsimmons:

I am in receipt of your April 24, 2019, letter in which you request a no action assurance (NAA) for limited provisions of the asbestos National Emissions Standards for Hazardous Air Pollutants (NESHAP), 40 C.F.R. Part 61, Subpart M. In your letter, you highlight the catastrophic effects from the record flooding in Iowa that began in March. You note that fifty-six of Iowa's counties are included in a Presidential Disaster Declaration which I have enclosed. I want to acknowledge the extraordinary circumstances facing the State and local communities. EPA appreciates the Iowa Department of Natural Resources' (IDNR) efforts to expedite renovation and demolition activities while ensuring the protection of public health and the environment. We think it is appropriate to proceed cautiously. The EPA has been working with IDNR to consider the issues associated with the asbestos NESHAP that you have raised.

In your letter, you are seeking relief from two very limited provisions of the asbestos NESHAP: 1) the ten-day notification requirement for demolitions and renovations (40 C.F.R. § 61.145(b)(3)(i) and (ii)) and; 2) the thorough inspection requirement for renovations and demolition of structures that have been declared structurally unsound and in danger of imminent collapse and ordered by a government agency to be demolished (*Id.* § 61.145(a)).

With regard to the ten-day notification requirement, the regulations already afford flexibility for emergency renovation operations (as defined in 40 C.F.R. § 61.141) and for demolitions of covered facilities occurring under an order of a State or local government agency issued because the facility is structurally unsound and in danger of imminent collapse. *See id.* § 61.145(b)(iii). For both of these situations, notice need only be provided as early as possible before, but not later than, the working day following the renovation or demolition. *See id.* § 61.145(b)(3)(iii). This provision, however, does not apply to other types of renovations or demolitions. Today, I am exercising my enforcement discretion and granting an NAA that allows this flexibility regarding notification to be applied to all renovations and demolitions of facilities damaged by the storms and flooding in counties covered by a disaster

declaration made by the President of the United States, as per your request. This NAA applies on the condition that all other applicable asbestos NESHAP requirements are met, with the exception of the thorough inspection requirement for renovations discussed below.

With regard to the inspection requirement for renovations, the regulations require the owner or operator to thoroughly inspect the affected facility or that part of the affected facility where the renovation operation will occur prior to the commencement of renovation work for the presence of asbestos. *See id.* § 61.145(a). IDNR seeks to allow owners or operators to forgo the required inspection in the context of renovations, provided that all material is treated as if it were, in fact, asbestos-containing and is removed prior to any activity that would break up, dislodge, or similarly disturb the material or preclude access to the material for subsequent removal. IDNR would require all material to be handled, transported, and disposed of in accordance with the asbestos NESHAP regulations applicable to regulated asbestos-containing material. Today, I am exercising my enforcement discretion and granting an NAA to allow the requested inspection flexibility, and associated conditions, to apply to all renovations of structures damaged by the storms and flooding in Iowa counties covered under a disaster declaration made by the President of the United States. This NAA applies on the condition that all other applicable asbestos NESHAP requirements are met, with the exception of the notification requirement for renovations discussed above.

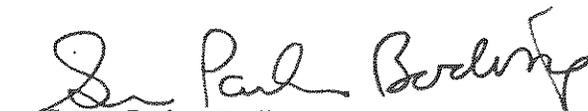
Your letter also requests that inspections be waived for covered facilities demolished under an order of a State or local government agency, where such facilities are structurally unsound and in danger of imminent collapse. We do not believe an NAA is necessary for this because an inspection is not required for these types of facilities under 40 C.F.R. § 61.145(a)(3).

Today's NAA applies to owners or operators of renovations or demolitions of structures damaged by the recent flooding in Iowa counties covered under a disaster declaration made by the President of the United States. This NAA is in effect commencing today, and terminates on July 25, 2019, at 11:59 PM (CDT). The issuance of an NAA for this period of time is in the public interest. Through today's NAA, the EPA is continuing its commitment to address the very difficult circumstances caused by the flooding in the Midwest.

This NAA does not apply to any other federal requirements that may apply to demolition or renovation activities (other than the asbestos NESHAP provisions specifically discussed herein). EPA reserves the right to revoke or modify this NAA.

EPA is committed to continuing to work with IDNR in addressing the difficult circumstances caused by the recent floods. If you have any questions, please contact Rick Duffy, at 202-564-5014, duffy.rick@epa.gov, or DeAndre Singletary, at 913-551-7373, singletary.deandre@epa.gov.

Sincerely,


Susan Parker Bodine

cc: Jim Gulliford, Regional Administrator, Region 7
DeAndre Singletary, Region 7



STATEMENTS & RELEASES

President Donald J. Trump Approves Iowa Disaster Declaration

— LAND & AGRICULTURE

Issued on: March 23, 2019



Today, President Donald J. Trump declared that a major disaster exists in the State of Iowa and ordered Federal aid to supplement State and local recovery efforts in the areas affected by severe storms and flooding beginning on March 12, 2019, and continuing.

The President's action makes Federal funding available to affected individuals in the counties of Fremont, Harrison, Mills, Monona, and Woodbury.

Assistance can include grants for temporary housing and home repairs, low-cost loans to cover uninsured property losses, and other programs to help individuals and business owners recover from the effects of the disaster.

Federal funding is available to the State and to tribal and eligible local governments and certain private nonprofit organizations on a cost-sharing basis for emergency work in the counties of Adair, Allamakee, Audubon, Boone, Bremer, Buena Vista, Butler, Calhoun, Carroll, Cass, Cherokee, Clay, Crawford, Dallas, Decatur, Dickinson, Emmet, Fayette, Franklin, Fremont, Greene, Guthrie, Hamilton, Hancock, Hardin, Harrison, Howard, Humboldt, Ida, Iowa, Jasper, Kossuth, Lyon, Madison, Mahaska, Marshall, Mills, Monona, Montgomery, O'Brien, Osceola, Page, Plymouth, Pocahontas, Polk, Pottawattamie, Sac, Shelby, Sioux, Tama, Union, Webster, Winnebago, Winneshiek, Woodbury, and Wright.

Federal funding is also available on a cost-sharing basis for hazard mitigation measures statewide.

Pete Gaynor, Acting Administrator, Federal Emergency Management Agency (FEMA), Department of Homeland Security, named Timothy J. Scranton as the Federal Coordinating Officer for Federal recovery operations in the affected areas.

Damage assessments are continuing in other areas, and additional areas may be designated for assistance after the assessments are fully completed.

Residents and business owners who sustained losses in the designated counties can begin applying for assistance today by registering online at <http://www.DisasterAssistance.gov> or by calling 1-800-621-FEMA(3362) or 1-800-462-7585 (TTY) for the hearing and speech impaired. The toll-free telephone numbers will operate from 7 a.m. to 10 p.m. (local time) seven days a week until further notice.

FOR FURTHER INFORMATION MEDIA SHOULD CONTACT THE FEMA NEWS DESK AT (202) 646-3272 OR FEMA-NEWS-DESK@FEMA.DHS.GOV.