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# Asbestos NESHAP/Arkansas Department of Environmental Quality Request for a No Action Assurance: U.S. Environmental Protection Agency Approval

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The United States Environmental Protection Agency (“EPA”) granted an Arkansas Department of Environmental Quality (“ADEQ”) request for a No Action Assurance (“Assurance”) related to the provisions of the Asbestos National Emission Standards for Hazardous Air Pollutants (“NESHAP”). 40 C.F.R. Part 61, Subpart M.

ADEQ made the request in light of the record flooding in Arkansas that began in May 2019.

EPA notes that ADEQ is seeking relief from two provisions of the Asbestos NESHAP, which include:

1. The ten-day notification requirement for demolitions and renovations
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.

ADEQ’s rationale for the request for the Assurance was acknowledged with EPA stating:

... You note that there are fifteen counties addressed in the President’s Emergency Declaration and Major Disaster Declaration, issued on May 30, 2019, and June 8, 2019, respectively. I want to acknowledge the extraordinary circumstances facing the State and local communities. The U.S. Environmental Protection Agency (“EPA”) appreciates the efforts of the Arkansas Department of Environmental Quality (ADEQ) to expedite renovation and demolition activities while ensuring the protection of public health and the environment. We think that it is appropriate to proceed cautiously.

EPA’s Assurance provides significant discussion regarding its interpretation of the notification and inspection requirements and its willingness to exercise some enforcement discretion in regards to these provisions.

The scope of the Assurance is stated to apply to:

... owners or operators of renovations or demolitions of structures damaged by the recent flooding of Arkansas counties covered under an emergency and/or disaster declaration made by the President of the

United States. This NAA is in effect commencing today, and terminates on September 11, 2019, at 11:50 PM (CDT). The issuance of an NAA for this period of time is in the public interest.

The Assurance further clarifies that it is not applicable to any other federal requirements that may apply to demolition or renovation activities (other than the asbestos NESHAP provisions addressed in the Assurance).

A copy of the Assurance can be downloaded [here](#).