



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

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

July 19, 2021

Jeffery F. Koerner, Director  
Division of Air Resource Management  
Florida Department of Environmental Protection  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

RE: Amended EPA Asbestos NESHAP No Action Assurance to the State of Florida for Champlain Tower Condominiums in Surfside, Florida

Dear Mr. Koerner:

In your revised July 3, 2021 letter, you requested, on behalf of Governor Ron DeSantis, 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. Your letter highlighted the partial collapse of the Champlain Tower South on June 24, 2021, and the work being performed by search and rescue personnel. The President of the United States also approved an emergency declaration for Florida as a result of the partial tower collapse. Your letter discussed how the instability of the remaining one-third of the tower hampered both the ongoing search and rescue operations and presented a danger to emergency response personnel, and further stated that to address this situation it would be necessary to conduct an emergency demolition of the remaining one-third of the tower. EPA has been working with the Florida Department of Environmental Protection (FDEP) to consider the issues associated with the Asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP) that you have raised.

To that end, on July 3, 2021, I issued a NAA addressing the demolition of the remaining one-third of the tower, as well as the requirement to keep in situ debris adequately wet following demolition. We understand that the demolition of the remaining section of the tower occurred on July 4, 2021. Your letter also asked for a NAA to address debris handling issues. Today's amended NAA supersedes the July 3, 2021 NAA, and addresses those additional issues.

As the U.S. Environmental Protection Agency and the Florida Department of Environmental Protection (FDEP) have discussed and agreed, preventing exposure of first responders, survivors, victim's families, and the public to potentially harmful pollutants is of utmost importance. While only a portion of the debris is subject to the Asbestos NESHAP ("subject debris"), we recommend all parties involved with the recovery and investigatory efforts take all steps possible to prevent exposure to potentially hazardous materials.

EPA has been working with FDEP to address the requests for relief in your July 3, 2021, letter from the following provisions of the Asbestos NESHAP to address the needs to continue recovery and investigatory efforts, including your July 19, 2021, modified request to explicitly include the collection and return of personal effects within the limited purpose of recovery operations. Specifically:

- 1) The requirement at 40 C.F.R. § 61.145(c)(9) that material be kept adequately wet “during the wrecking operation,” because demolition of the remaining portion of the Champlain Tower South may not be able to be kept adequately wet during the demolition operation. FDEP states that operations to adequately wet the material will commence upon demolition.

This request was addressed in the July 3, 2021, NAA. However, because the remaining one-third of the tower has now been demolished, that portion of your request is moot and this amended NAA does not contain enforcement discretion for demolition.

The other requests for relief include:

- 2) The requirement at 40 C.F.R. § 61.150(a)(3) to adequately wet asbestos-containing material at all times after demolition and keep wet during handling and loading for transport to a disposal site, because debris from demolition of the Champlain Tower South will be staged for investigatory purposes and other recovery operations that may not allow all the material to be kept adequately wet at all times; and
- 3) The requirement at 40 C.F.R. § 61.150(b)(1) that asbestos-containing materials be deposited as soon as practical at a permitted asbestos landfill. According to the FDEP, the large amount of debris resulting from the demolition of the Champlain Tower South may not allow all of the material to be sent to an appropriately permitted landfill. Efforts are being made to sort the debris for limited purposes, including recovery operations for human remains and investigatory purposes (for both criminal and engineering inquiries) that will not be sent to an asbestos-permitted landfill.

It is my understanding, from FDEP’s request and ongoing conversations between FDEP and my staff, that efforts are being made to sort and stage the debris for limited purposes, including recovery operations for human remains, recovery of personal effects, and investigatory purposes (for both criminal and engineering inquiries). It is our understanding that FDEP is concerned that subject debris may not be able to be kept adequately wet during handling for these purposes, and that some limited debris will not be sent to an asbestos-permitted landfill (e.g., human remains, personal effects, debris set aside for further investigative review).

EPA recognizes the critical need to sort, segregate, and dispose of debris from the site for investigatory and recovery purposes. EPA believes that limited, temporary relief from the 40 C.F.R. § 61.150(a)(3) requirement to adequately wet debris post-demolition and the 40 C.F.R. § 61.150(b)(1) disposal requirement is both necessary and appropriate. Thus, EPA will exercise its enforcement discretion to not pursue enforcement regarding:

- 1) The requirement to adequately wet asbestos-containing waste material at all times after demolition, for subject debris kept in-situ or moved to an offsite location for recovery and investigatory purposes (40 C.F.R. § 61.150(a)(3)).

- 2) The requirement to deposit debris at a permitted asbestos landfill “as soon as practical” for the subject debris that is part of the recovery of human remains and personal effects and investigatory efforts (40 C.F.R. § 61.150(b)(1)).
- 3) The requirement to deposit debris at a permitted asbestos landfill for debris that is segregated because it is (a) human remains, (b) personal effects, or (c) being segregated for future additional investigation. (40 C.F.R. § 61.150(b)(1)).

Today’s NAA applies to the subject debris, subject to the following conditions:

- 1) The subject debris must be handled to limit potential exposure to the asbestos containing material to the best extent practicable, in accordance with standard operating procedures provided in the July 14<sup>th</sup>, 2021 Miami Dade County memorandum: “Asbestos-Containing Materials Hazard Mitigation Points”;
- 2) Any subject debris recovered for investigatory purposes that will need eventual disposal, must be disposed of in a permitted asbestos facility after the debris is no longer needed;
- 3) Any personal effects recovered from the subject debris must be able to be decontaminated properly (e.g., can properly remove fibers from the personal effects);
- 4) Any personal effects recovered from the subject debris must be decontaminated appropriately prior to the transfer of those personal effects to survivors or victims; and
- 5) All other subject debris that was not segregated because it is (a) human remains or (b) personal effects must be disposed of in a permitted asbestos landfill.

This NAA is in effect commencing today, and terminates on August 20, 2021, at 11:59 PM (EDT). The issuance of an NAA for this period of time is in the public interest by supporting the recovery of human remains, personal effects, and investigative efforts at the Champlain Tower South. Through today’s NAA, EPA is continuing its commitment to address the very difficult circumstances caused by the tower’s collapse.

This NAA does not apply to any other federal requirements that may apply to demolition and disposal activities. EPA reserves the right to revoke or modify this NAA at any time.

EPA is committed to continuing to work with FDEP to address the difficult circumstances caused by the tower’s collapse. If you have any questions, please contact Tony Miller, Acting Director of the Monitoring, Assistance, and Media Programs Division, at 202-875-0999 or [miller.anthony@epa.gov](mailto:miller.anthony@epa.gov), or Carol Kemker, Director of the EPA Region 4 Enforcement and Compliance Assurance Division, at 404-562-8975 or [kemker.carol@epa.gov](mailto:kemker.carol@epa.gov).

Sincerely,

Lawrence E. Starfield  
Acting Assistant Administrator

cc: Hastings Read, Deputy Director, FDEP, Division of Air Resource Management  
John Blevins, Acting EPA Region 4 Administrator  
Carol Kemker, Director, EPA Region 4 Enforcement and Compliance Assurance Division