



REGION 4

ATLANTA, GA 30303

ELECTRONIC MAIL

CONFIRMATION OF EMAIL RECEIPT REQUESTED

Angel Nieves
LS3P Associates LTD.
321 West Congress Street
Savannah, Georgia 31401
angelnieves@ls3p.com

Re: Request for Information Pursuant to Section 114(a) of the Clean Air Act

Dear Angel Nieves:

The U.S. Environmental Protection Agency, Region 4 is requesting information associated with demolition activities conducted at a commercial building located at 32 Bull Street in Savannah, Georgia (the Facility). LS3P Associates LTD., obtained permit # 23-09990-BC for the interior demolition of the Facility from the City of Savannah on December 19, 2023. The EPA is requesting this information to determine compliance with 40 C.F.R. Part 61, Subpart M, "National Emission Standard for Asbestos," promulgated pursuant to Section 112 of the Clean Air Act (the Act), 42 U.S.C. § 7412.

Pursuant to Section 114(a) of the Act, 42 U.S.C. § 7414(a), the Administrator of the EPA is authorized to require any person who owns or operates any emission source, or who is subject to any requirement of the Act, to establish and maintain such records, make such reports, and provide such other information as the Administrator may reasonably require for the purposes of determining whether such person is in violation of any provision of the Act. This authority has been duly delegated to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review and follow the instructions in and, where required, complete the following enclosures: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), and Information Request Form (Enclosure 4).

The requested information shall be submitted to the EPA electronically, per the instructions in Enclosure 1. The responses shall be submitted **no later than seven (7) calendar days from the date of receipt of this letter** as determined by the date of the EPA's electronic mail transmitting this request, unless the EPA, for good cause shown, extends in writing the deadline for responding to this request. This information must be submitted electronically to the following individual:

Tony Spann
Air Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4
spann.tony@epa.gov

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) issuance of an order requiring compliance with this request; (2) issuance of an administrative penalty order pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d); (3) commencement of a civil action in accordance with Section 113(b) of the Act, 42 U.S.C. § 7413(b); and/or (4) any other action authorized under the Act.

Under Section 114(c) of the Act, 42 U.S.C. § 7414(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA that involves trade secrets and which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to you. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

Without making a determination that your business or organization is a small business, the EPA is also providing you with a link to this Small Business Resources Information Sheet (<https://www.epa.gov/compliance/small-business-resources-information-sheet>) which provides an array of resources to help small businesses understand and comply with federal and state environmental laws.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this request, please contact Tony Spann of the EPA Region 4 staff at (404) 562-8971 or by email at spann.tony@epa.gov.

Sincerely,

**KERIEMA
NEWMAN**

 Digitally signed by KERIEMA
NEWMAN
Date: 2024.06.04 15:42:43 -04'00'

Keriema S. Newman
Director
Enforcement and Compliance Assurance Division

cc: Lena Chambless, Acting Lead and Asbestos Manager
Land Protection Branch
Georgia Environmental Protection Division

ENCLOSURE 1

Instructions

Please follow these instructions for completing the Information Request Form:

1. Please type or clearly print your responses to the information request on the attached Information Request Form (Enclosure 4). A Microsoft word version of the Information Request Form has been included for your convenience.
2. Where documents or information necessary for a response are not in your possession, you must make every effort to obtain such information. If through your best efforts to obtain such information you are not successful, describe in Section 12 of the Information Request Form or on a separate page your efforts to obtain such information. In addition, if you are unable to obtain the information, identify any source that either possesses or is likely to possess such information.
3. Please submit your response to this information request to the EPA electronically. You may submit your response using either of the following options: (A) As an attachment sent via email to Tony Spann at spann.tony@epa.gov; or (B) by requesting a link from the EPA for a secure file transfer site where you may upload your response. You may request a link by sending an email to Tony Spann at spann.tony@epa.gov.
4. Please do not submit compressed files (.zip) via email. If you wish to submit compressed files, please select option B.
5. Please do not send documents that you have claimed as confidential business information (CBI) to the EPA by email (option A). If you are submitting documents that you have claimed as CBI, please upload them to the EPA's secure file transfer site (option B).
6. Prior to submitting your response, please send an email to Tony Spann at spann.tony@epa.gov indicating which option or combination of options (A and/or B) you have selected to submit your response to this request.

ENCLOSURE 2

Definitions

The definitions below are, in part, the definitions found in 40 C.F.R. § 61.141 and are applicable to the standard for demolition and renovation (40 C.F.R. § 61.145) and the standard for waste disposal for manufacturing, fabricating, demolition, renovation and spraying operations (40 C.F.R. § 61.150).

1. *Asbestos-containing waste materials* means mill tailings or any waste that contains commercial asbestos and is generated by a source subject to the provisions of this subpart. This term includes filters from control devices, friable asbestos waste material, and bags or other similar packaging contaminated with commercial asbestos. As applied to demolition and renovation operations, this term also includes regulated asbestos-containing material waste and materials contaminated with asbestos including disposable equipment and clothing.
2. *Category I nonfriable asbestos-containing material (ACM)* means asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos as determined using the method specified in appendix E, subpart E, 40 C.F.R part 763, section 1, Polarized Light Microscopy.
3. *Category II nonfriable ACM* means any material, excluding Category I nonfriable ACM, containing more than 1 percent asbestos as determined using the methods specified in appendix E, subpart E, 40 C.F.R. part 763, section 1, Polarized Light Microscopy that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.
4. *Demolition* means the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any facility.
5. *Emergency renovation operation* means a renovation operation that was not planned but results from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, is necessary to protect equipment from damage, or is necessary to avoid imposing an unreasonable financial burden. This term includes operations necessitated by nonroutine failures of equipment.
6. *Facility* means any institutional, commercial, public, industrial, or residential structure, installation, or building (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units); any ship; and any active or inactive waste disposal site. For purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling is not considered a residential structure, installation, or building. Any structure, installation or building that was previously subject to this subpart is not excluded, regardless of its current use or function.
7. *Friable asbestos material* means any material containing more than 1 percent asbestos as determined using the method specified in appendix E, subpart E, 40 C.F.R. part 763, section 1,

Polarized Light Microscopy, that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure. If the asbestos content is less than 10 percent as determined by a method other than point counting by polarized light microscopy (PLM), verify the asbestos content by point counting using PLM.

8. *Installation* means any building or structure or any group of buildings or structures at a single demolition or renovation site that are under the control of the same owner or operator (or owner or operator under common control).
9. *Owner or operator of a demolition or renovation activity* means any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both.
10. *Regulated asbestos-containing material (RACM)* means (a) Friable asbestos material, (b) Category I nonfriable ACM that has become friable, (c) Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading, or (d) Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by this subpart.
11. *Renovation* means altering a facility or one or more facility components in any way, including the stripping or removal of RACM from a facility component. Operations in which load-supporting structural members are wrecked or taken out are demolitions.
12. *Waste shipment record* means the shipping document, required to be originated and signed by the waste generator, used to track and substantiate the disposition of asbestos-containing waste material.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret” or “proprietary” or “business confidential” and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 114(c) of the Act and 40 C.F.R. Part 2, Subpart B. The EPA will construe the failure to furnish a confidentiality claim with your response to the attached letter as a waiver of that claim, and the information may be made available to the public without further notice to you.

Please segregate personnel, medical and similar files from your responses and include that information on separate sheet(s) marked as “Personal Privacy Information” given that disclosure of such information to the general public may constitute an invasion of privacy.

B. Substantiation Requirements

All confidentiality claims are subject to EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B.¹ You bear the burden of substantiating your confidentiality claim and must satisfactorily show, among other things, that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so and that the information is not, and has not been, reasonably obtainable by legitimate means without your consent. Conclusory allegations will be given little or no weight.

¹ 40 C.F.R. § 2.208(e) conflicts with the holding in *Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356, 2366 (2019) (*Argus Leader*). In light of the *Argus Leader* decision, the Agency will not consider 40 C.F.R. § 2.208(e) in this determination. The Agency anticipates amending 40 C.F.R. § 2.208 so that it is consistent with the decision in *Argus Leader*.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering several questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA's determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
8. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.

9. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
10. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data or effluent data).

Please note that emission data provided under Section 114 of the Act, 42 U.S.C. § 7414, is *not* entitled to confidential treatment under Section 114(c) of the Act, 42 U.S.C. § 7414(c) or 40 C.F.R. Part 2.

“Emission data” means, with reference to any source of emission of any substance into the air –

(A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing;

(B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source). 40 C.F.R.

§§ 2.301(a)(2)(i)(A), (B) and (C).

Information designated confidential will be disclosed by EPA only to the extent allowed by, and by means of procedures set forth in, 40 C.F.R. Part 2, Subpart B. If you fail to claim the information as confidential, it may be made available to the public without further notice to you.

ENCLOSURE 4

Information Request Form

You are hereby required, in accordance with Section 114(a) of the Clean Air Act, 42 U.S.C. § 7414(a), to provide the following information pertaining to the demolition activities conducted at a commercial building located at 32 Bull Street in Savannah, Georgia 31401.

INFORMATION REQUEST FORM				32 Bull Street, Savannah, Georgia 31401							
1. <u>Individual Completing this Form</u>											
Name (Printed):											
Title:						Phone:					
Company:											
Address:											
City:				State:		Zip code:					
Signature:						Date:					
2. <u>Facility Information</u>											
Facility Type:		Structure		Installation		Building		Ship		Disposal Site	
Facility Use:		Institutional		Commercial		Public		Industrial		Residential	
If Residential, Identify:		One Single Family Home or One Multi-Family Building (four or less units)									
		More than One Single Family Home and/or Multi-Family Building									
		Multi-Family Building (more than four units)									
Facility Name at Last Use:											
Address (physical not mailing):											
City:				State:		Zip code:					
3. <u>Property Owner Information</u> (At the time of Demolition/Renovation/Asbestos Abatement)											
Name:											
Address:											
City:				State:		Zip code:					
Contact:						Phone No.					
Contact Title:											
Date Property Purchased:				Date Property Sold (if applicable):							

4.	<u>General Contractor</u>	Was a general contractor involved?		Yes (if so, complete below)		No
	Company Name:					
	Address:					
	City:		State:		Zip code:	
	Contact:		Phone No.			
	Contact Title:					
5.	<u>Asbestos Inspection</u>	Was an inspection conducted?		Yes (if so, complete below)		No
	Company Name:					
	Address:					
	City:		State:		Zip code:	
	Contact:		Phone No.			
	Contact Title:					
	Start Date:		End Date:		Report Date:	
	(Submit a copy of the asbestos inspection report (if more than 20 pages only submit a summary))					
6.	<u>Asbestos Abatement</u>	Was asbestos stripped or removed?		Yes (if so, complete below)		No
	Company Name:					
	Address:					
	City:		State:		Zip code:	
	Contact:		Phone No.			
	Contact Title:					
	Actual Start Date:		Actual Completion Date:			
	Amount of RACM Removed:		Linear Ft.		Square Ft.	Cubic Ft.
	Was an abatement notice submitted?	Yes	No	(If yes, submit a copy with this request)		
	Were any revised abatement notices submitted?	Yes	No	(If yes, submit copies of each)		
	Was this an emergency?	Yes	No	(If yes, submit a written description of the emergency)		
7.	<u>Asbestos-Containing Waste Transportation</u>			Yes (if so, complete below)		No
	Company Name:					
	Address:					
	City:		State:		Zip code:	
	Contact:		Phone No.			

	Contact Title:											
	Number of times asbestos-containing waste transported off-site:											
	Were shipment records completed for the disposal of asbestos-containing waste?								Yes		No	
	(Submit a copy of each asbestos-containing waste shipment record)											
8.	<u>Asbestos-Containing Waste Disposal Site</u>											NA
	Site Name:											
	Address:											
	City:					State:		Zip code:				
	Contact:					Phone No.						
	Contact Title:											
9.	<u>Renovation</u>											NA
	Company Name:											
	Address:											
	City:					State:		Zip code:				
	Contact:					Phone No.						
	Contact Title:											
	Actual Start Date:					Actual Completion Date:						
	Was a renovation notice submitted?		Yes		No	(If yes, submit a copy of the notice)						
	Were any revised renovation notices submitted?		Yes		No	(If yes, submit copies of each)						
	Was this an emergency?		Yes		No	(If yes, submit a written description of the emergency)						
	Was a permit issued?		Yes		No	(If yes, submit a copy of the permit)						
10.	<u>Demolition</u>											NA
	Company Name:											
	Address:											
	City:					State:		Zip code:				
	Contact:					Phone No.						
	Contact Title:											
	Actual Start Date:					Actual Completion Date:						
	Was a demolition notice submitted?		Yes		No	(If yes, submit a copy of the notice)						
	Were any revised demolition notices submitted?		Yes		No	(If yes, submit copies of each)						

	Was this an emergency?		Yes		No	(If yes, submit a written description of the emergency)			
	Was a permit issued?		Yes		No	(If yes, submit a copy of the permit)			
	Was the demolition ordered by a State or local agency?					Yes		No	
	(If yes, submit a copy of the order)								
11.	<u>Identify the Documents You Are Providing In Response To This Request (check as applicable)</u>								
	Complete Asbestos Survey/Inspection Report or Summary					Yes		No	NA
	Notice(s)					Yes		No	NA
		Check all applicable:		Abatement		Renovation		Demolition	
	Revised Notice(s)					Yes		No	NA
		Check all applicable:		Abatement		Renovation		Demolition	
	Written Description of the Emergency (if an attachment)					Yes		No	NA
	Asbestos-Containing Waste Shipment Records(s)					Yes		No	NA
	Permit						Yes		No
		Check all applicable:		Abatement		Renovation		Demolition	
	Demolition Order					Yes		No	NA
	Other Attachments (Identify below)						Yes		No
12.	<u>Additional Information – Written Response To Questions Above Or Other Relevant Information or Comments You Wish to Provide</u> (additional pages may be attached if necessary)								
