



Kathleen Sebelius, Governor
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DEPARTMENT OF HEALTH
AND ENVIRONMENT

www.kdheks.gov

Division of Environment

May 27, 2008

KANSAS INFORMATION NOTICE A0801
USE OF MECHANICAL BUFFER IN THE REMOVAL OF ASBESTOS-CONTAINING MASTICS

Addressees

This notice is addressed to all Kansas Licensed Asbestos Abatement Contractors and General Construction Contractors who remove asbestos mastic using mechanical buffers.

Purpose

The purpose of this notice is to clarify whether the use of mechanical buffers in the removal of asbestos-containing mastics renders the mastic friable and therefore regulated under state and federal regulations. The Kansas Asbestos Control statute and regulations can be found on the KDHE website at http://www.kdheks.gov/air-asbestos/resources/ks_asbestos_regulations.pdf. The National Emissions Standards for Hazardous Air Pollutants for asbestos (NESHAP) can be found at <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi>

Description of Circumstances

The need for clarification of the use of mechanical buffers in the removal of mastic asbestos-containing mastics was a result of inspection findings and inquiries to the KDHE office regarding whether Category II nonfriable mastic is made friable through this removal method.

Discussion

Mastics in good condition are considered Category II nonfriable asbestos-containing material (ACM). Category II nonfriable ACM are not considered a Regulated Asbestos-Containing Material (RACM) under the National Emission Standards for Hazardous Air Pollutants (NESHAP) regulations 40 CFR Part 61.141 provided they are handled and/or removed properly. However under the NESHAP RACM means (a) Friable asbestos material, (b) Category I nonfriable asbestos-containing material that has become friable, (c) Category I nonfriable asbestos-containing material that will be or has been subjected to sanding, grinding, cutting, or abrading, or (d) Category II nonfriable asbestos-containing material 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 the demolition or renovation operations.

In an Applicability Determination Index by EPA dated December 5, 2005, EPA states that in paragraph (d) of the definition of RACM, "Category II nonfriable asbestos-containing material

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(Floor Mastic) that has a high probability of becoming or has become crumbled, pulverized or reduced to powder by the forces acting on the material during renovation or demolition operations causes the floor mastic to become regulated.”

EPA further states “It is EPA's position that the use of a mechanical buffer with an abrasive pad on Floor Mastic would cause the Floor Mastic to become friable. Specifically, the application of an abrasive spinning pad creates friction which causes the Floor Mastic to become crumbled, pulverized or reduced to powder during the renovation or demolition operation. Without the application of solvents or any other liquid to the Floor Mastic, the Floor Mastic would create visible emissions. EPA does not attempt to identify which products are abrasive or non-abrasive from a regulatory perspective. It is the responsibility of the owner/operator to make sure the work practices do not violate the asbestos NESHAP.”

Discussion

KDHE has authority to enforce the federal NESHAP regulations in Kansas and the Kansas Asbestos Control Statute and Regulations. The removal of floor Mastic using mechanical buffers causes Category II nonfriable ACM to become friable and therefore must be completed by a licensed asbestos abatement contractor and requires notification to KDHE at least ten (10) working days before the start of the project..

K.S.A. 65-5301(a) Asbestos project means an activity undertaken to remove or encapsulate friable asbestos containing materials.

K.S.A. 65-5301 states that no business entity shall engage in an asbestos project unless the entity holds a license issued by the secretary for that purpose.

K.A.R. 28-50-1(l) defines an asbestos removal project as activities that involve, and are required by these regulations to be carried out in relation to, the removal of a friable asbestos-containing material.

K.A.R. 28-50-8 requires each licensee engaged in an asbestos-removal project shall notify the department of this intent by submitting a properly completed written notification in a manner that will reasonably assure its receipt at the department's offices not later than 10 working days before the project is intended to be started.

If you have any questions please feel free to contact our office.

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