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Guidance Document

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The Environmental Abatement Council of Canada (EACC) is committed to the betterment and promotion of the environmental abatement and hazardous materials industry. This regulatory interpretation is intended to assist EACC members during projects and to facilitate consistency in the hazardous materials industry.

TITLE:	**Project-Specific Scope of Work vs Pre-Construction Designated Substances and Hazardous Materials Assessments, For Construction Renovation and Demolition Projects.**
JURISDICTION:	Ontario
LEGISLATION:	1. Ontario Occupational Health and Safety Act, RSO 1990, c O.1 https://www.ontario.ca/laws/statute/90o01 2. Prohibition of Asbestos and Products Containing Asbestos Regulations (SOR/2018-196) https://www.laws-lois.justice.gc.ca/eng/regulations/SOR-2018-196/page-1.html 3. O. Reg. 278/05: Designated Substance – Asbestos on Construction Projects and in Buildings and Repair Operations https://www.ontario.ca/laws/regulation/050278 4. O. Reg. 490/09: Designated Substances https://www.ontario.ca/laws/regulation/090490 5. R.R.O. 1990, Reg. 833/90: Control of Exposure to Biological or Chemical Agents https://www.ontario.ca/laws/regulation/900833 6. R.R.O. 1990, Reg. 860: Workplace Hazardous Materials Information System (WHMIS) https://www.ontario.ca/laws/regulation/900860 7. O. Reg. 213/91: Construction Projects https://www.ontario.ca/laws/regulation/910213 8. R.R.O. 1990, Reg. 347: General – Waste Management https://www.ontario.ca/laws/regulation/900347
INDUSTRY RESOURCES:	1. EACC, Pre-Construction Designated Substances and Hazardous Materials Assessments, Guideline for Construction, Renovation and Demolition Projects, March 2021 https://www.eaccan.com/guidelines
OHSA PROJECT DEFINITION	"project" means a construction project, whether public or private, including, (a) the construction of a building, bridge, structure, industrial establishment, mining plant, shaft, tunnel, caisson, trench, excavation, highway, railway, street, runway, parking lot, cofferdam, conduit, sewer, watermain, service connection, telegraph, telephone or electrical cable, pipe line, duct or well, or any combination thereof, (b) the moving of a building or structure, and

	(c) any work or undertaking, or any lands or appurtenances used in connection with construction.
DISCLAIMER:	1. It is the user's responsibility to judge the suitability of guidance, its application to a workplace or project, and integration with Client Policies, Standard Operating Procedures, established safe work practices and safe job procedures, and a project's scope of work or specification. 2. It is the responsibility of workplace parties to ensure compliance with legislation. Guidance in this document does not constitute legal advice. 3. Legislative obligations are considered the minimum regulatory requirements that must be achieved.

1. PURPOSE

The purpose of this guidance document is to establish requirements for the identification, assessment, and control of designated substances in compliance with the Occupational Health and Safety Act (OHSA), and where applicable, Ontario Regulation 278/05 – Asbestos on Construction Projects and in Buildings and Repair Operations.

This guidance document defines roles and requirements for:

- Building Management Designated Substances (DS) and Hazardous Building Materials (HM) Assessments
- Project-specific Pre-Construction Designated Substances and Hazardous Building Materials (DSHM) Assessments. The DSHM assessment is not a specification or a scope of work for abatement and does not include procedures for worker protection when handling hazardous materials.
- Project-Specific Scope of Work for handling, disturbance, removal and disposal of Designated Substances

This guidance document establishes a framework to provide appropriate information at the time of tender to comply with Ontario Regulations, provide appropriate protection of workers and occupants, and obtain fair, accurate and comparable bids for abatement/management of designated substances during construction activities.

2. SCOPE

A list of designated substances at a project location is required prior to tendering for that project, and the list must be provided to prospective bidders at the time of tendering. In addition to this list, in order to obtain fair, accurate and comparable bids for abatement/management of designated substances, an owner should prepare a project-specific scope of work that specifically identifies the designated substances that will be impacted (including location, quantity and accessibility) and how those substances will be managed during the project.

O. Reg. 490/09: *Designated Substances* under the Act lists/defines the Designated Substances and provides the associated exposure limits:

- Acrylonitrile
- Arsenic
- Asbestos
- Benzene
- Coke Oven Emissions
- Ethylene Oxide
- Isocyanates
- Lead
- Mercury
- Silica, and
- Vinyl Chloride

It should be noted that Section 14 of O. Reg. 490/09 indicates that the regulation does not apply:

> (a) to an employer who engages in construction; or
> (b) to the workers of an employer described in clause (a) who are engaged in construction.

O. Reg. 490/09 does not apply to construction; however, it is frequently referred to as defining Designated Substances. The exposure limits prescribed by O. Reg. 490/09 are consistent with exposure limits prescribed by O. Reg. 833/90, which in recent amendments, no longer excludes construction.

Additional worker protection requirements are required under OHSA Section 25(2)h, and Revised Regulations of Ontario (RRO) 1990 Regs 347and 860, O. Regs. 213/91 and 278/05, which do apply to construction and worker protection.

3. LEGISLATIVE REQUIREMENTS

For relevant Regulations and Guidelines, refer to the links provided in Legislation and Industry Resources at the beginning of this guidance document. For a brief overview of the relevant Regulations and Guidelines, refer to the Environmental Abatement Council of Canada (EACC) guideline on Pre-Construction Designated Substances and Hazardous Materials Assessments for Construction, Renovation and Demolition Projects that is available at https://www.eaccan.com/guidelines

4. BUILDING MANAGEMENT DESIGNATED SUBSTANCES AND HAZARDOUS MATERIALS ASSESSMENTS

4.1 Purpose

To provide a baseline inventory of designated substances within a building to support ongoing management and regulatory compliance. Building management DSHM assessments **should not be used for construction or projects**.

4.2 Requirements

- Must identify known or suspected designated substances
- May include representative sampling and/or presumptions
- Must be documented and maintained by the building owner/employer
- Must be made available to workers, contractors, and Joint Health & Safety Committee upon request
- Must be Kept current and updated as conditions change and when new information becomes available, annually at minimum
- May require the preparation of management plans to control exposure

4.3 Limitations

- Generally insufficient for projects and scoping/pricing by contractors bidding on the project work
- Generally insufficient for projects that involve construction, renovation, demolition, or all maintenance and repair activities
- May not fully identify or warn of concealed or inaccessible materials

4.4 Benefits

- Supports reduction in worker exposure when management plans implemented
- Supports long-term hazard identification and management
- Assists in maintenance and capital planning and budgeting, asset retirement obligations and planning estimates
- Provides general regulatory compliance as it applies to building materials

5. PRE-CONSTRUCTION DESIGNATED SUBSTANCES AND HAZARDOUS MATERIALS ASSESSMENTS

5.1 Purpose

To identify and quantify designated substances within a defined work area and quantify within the project area prior to any disturbance. Environmental Abatement Council of Canada (EACC) has prepared a guideline on Pre-Construction Designated Substances and Hazardous Materials Assessments for Construction, Renovation and Demolition Projects that is available at https://www.eaccan.com/guidelines

5.2 Requirements

- Completed before any construction, renovation, or demolition work begins
- Issued with tender documents
- Comprehensive and, where necessary, sampling to evaluate materials and concealed areas (e.g., in pipe chases, behind walls, above ceilings, under roofs)
- Must confirm presence or absence of designated substances
- Must include:
    - Laboratory analytical results
    - Approximate quantities of materials that are confirmed or may contain designated substances

  - Specific locations (descriptions, drawings, tables and/or photographs as applicable and appropriate)
- Must be:
  - Kept current and updated as conditions change and when new information becomes available, annually at minimum.
  - Readily accessible on site
  - Retained in accordance with company and regulatory requirements

5.3 Regulatory Role

- Satisfies OHSA requirement to identify hazards, assess exposure risk, and implement necessary controls required prior to tendering a project (work/disturbance)
- Forms the basis for contractor planning, appropriate execution of work, appropriate bidding

5.4 Benefits

- Protects the health and safety of workers and occupants
- Regulatory Compliance
- Limits/Reduces unexpected DSHM discoveries and risk of exposure
- Improves accuracy of budget and scheduling
- Assists in design of construction project and planning for abatement activities

The pre-construction DSHM assessment is not a specification or a scope of work for abatement and does not include procedures for worker protection when handling hazardous materials.

6. PROJECT-SPECIFIC SCOPE OF WORK/SPECIFICATIONS FOR DISTURBANCE, HANDLING AND REMOVAL OF DESIGNATED SUBSTANCES FOLLOWING PRE-CONSTRUCTION DESIGNATED SUBSTANCES AND HAZARDOUS MATERIALS ASSESSMENTS

6.1 Purpose

Project-specific scope of work/specifications should be prepared for all projects being tendered.

The Project-specific scope of work/specifications should clearly denote the DSHM present in the project area, the DSHM to be abated, and include detailed methodology in compliance with regulatory minimums or client specific requirements above/beyond said regulatory minimums.

Where appropriate, project-specific scope of work/specifications should include drawings identifying locations of confirmed or assumed designated substances to be impacted during the project.

6.2 Requirements

- Must be developed when exposure risk is identified and required control measures
- Must include:
  - Classification of operation (e.g. Type, Class, Level) as prescribed by applicable Acts, codes, regulations, standards, guidelines
  - Detailed removal and disposal measures and procedures

  - Work area containment requirements if applicable
  - Personal protective equipment (PPE) requirements if applicable
  - Engineering controls (e.g., ventilation, enclosures) if applicable
  - Air monitoring/clearance requirements (where applicable) if applicable
  - Waste handling and disposal procedures
- Must be:
  - Kept current and updated as conditions change and when new information becomes available, and/or if the scope of the project changes.
  - Readily accessible on site
  - Retained in accordance with company and regulatory requirements

6.3 Implementation

- Followed by all contractors, sub-contractors and workers
- Communicated prior to work commencement
- Enforced by project management, supervisors and employers

6.4 Requirements for project specifications

- Often in a standard format (e.g., National Master Specifications produced by the National Research Council Canada)
- Accurate location, quantity and accessibility of known or suspected DS to be impacted during the project (e.g., table, drawing, photograph)
- Detailed procedures (or references to appropriate regulations and guidance documents that specify removal procedures) including:
  - Administrative requirements
  - Engineering controls (e.g., ventilation, enclosures)
  - Personal protective equipment (PPE) requirements, including respirators
- Air monitoring/clearance requirements (where prescribed by regulation/applicable)
- Waste handling and disposal procedures
- Emergency procedures
- Forms part of the contract for the project
- Must be followed/enforced by all parties

6.5 Benefits and Reduced Project Risks

- In addition to meeting regulatory requirements and compliance; accurate documentation at the time of tendering provides the following:
  - Improves Health & Safety and reduces risk to workers, occupants, and public
  - Enables easier comparison of bids
  - More accurate pricing with fewer assumptions/uncertainties, which results in overall lower cost for DS abatement/removal on a whole-project basis
  - Fewer delays, change orders and work stoppages after work starts
  - Reduces risk for regulatory penalties

7. ROLES AND RESPONSIBILITIES

7.1 Project Owner

- Accountable for ensuring pre-construction DSHM assessments are completed when and where required
- Accountable for preparing and implementing a control/management program or project-specific scope of work
- Responsible for maintaining and updating DSHM control/management plans and communicating same to affected parties [e.g., employees, joint health and safety committee (JHSC), tenants, contractors)
- Responsible to provide DSHM-related information at the time of tender
- Accountable for safe removal, handling and disposal of designated substances and for worker health and safety
- Update the DSHM record whenever the owner becomes aware of new information relating to DSHM.

7.2 Environmental Consultant

- Conduct surveys and sampling on behalf of the owner
- Provide accurate reporting and documentation
- Develop project-specific scope of work, where directed by an owner

7.3 Contractors

- Review all provided documentation
- Follow project-specific scope of work and regulatory requirements
- Use required/prescribed PPE, measures, procedures and controls
- Implement procedures in specifications for the safe removal and disposal of DSHM
- Conduct pre-bid Site inspection and identify to owner any expected deviations from specifications so these can be captured at the tender stage, avoiding future delays and change orders
- Retains competent workers with appropriate training to perform abatement activities
- Reports to owner any deviation from specifications or discovery of known or suspected DSHM not identified in specifications immediately

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CONCLUSION:

Building Management Designated Substances and Hazardous Materials Assessments, Pre-Construction Designated Substances and Hazardous Materials Assessments, and Project-Specific Scope of Work documents each serve a distinct purpose and should not be used interchangeably. Together, they support effective hazard identification, regulatory compliance, worker protection, and the safe management of designated substances while helping owners, consultants, and contractors clearly define project requirements, improve tender accuracy, reduce project risk, and minimize unexpected hazardous material discoveries, project delays, change orders, and worker exposure.

Building Management grade and preconstruction DSHM assessments alone are **not** suitable for tendering abatement work. Project specific scope of works or specifications should be provided for abatement activities, which include procedures for worker protection when handling hazardous materials.

EACC disclaims any liability or risk resulting from the use of the work practices and recommendations discussed in the guideline. It is the user's responsibility to ensure that work practices and recommendations discussed in the guideline apply to specific workplaces and projects and to ensure compliance with all other applicable federal, provincial and local acts, codes and regulations.

This guidance document has been prepared in consultation with members of the Environmental Abatement Council of Canada Asbestos Committee, Consultants Committee and the Contractors Committee.

Approved by: **Board of Directors of the Environmental Abatement Council of Canada**