



## Technical Bulletin No. 01-2017

# Amendments to the Federal Regulation on Asbestos

### SUMMARY

The Government of Canada has amended the Canada Labour Code and resulting occupational health and safety regulations with regard to asbestos.

One of the most significant changes is lowering the allowable limit for airborne occupational exposure to chrysotile asbestos. Now, the occupational exposure limit (OEL) for all forms of airborne asbestos fibre is not to exceed 0.1 fibre per cubic centimetre. Previously, the OEL was 1 fibre per cubic centimetre (for chrysotile asbestos). This long overdue change brings the Federal Government into alignment with most of the provinces.

This significant set of regulatory changes came into force on July 12, 2017. The new provisions include an asbestos exposure management program, which requires employers to document procedures, control methods, and training for employees involved in asbestos-related work activities, such as handling, removal, repair or disturbance of asbestos-containing materials that could expose employees to asbestos in the workplace.

The goal of the regulations is to lower the risk of workers coming into contact with asbestos in the workplace, while ensuring consistency with most provincial and territorial regulations.

### ASBESTOS DEFINED

The amended regulation has defined an asbestos-containing material (ACM) as 1% by weight. Previously there was no definition of an ACM, which made interpretation difficult. The amended regulation captures all forms of

asbestos, specifically actinolite, amosite, anthophyllite, chrysotile, crocidolite and tremolite.

Although the definition is now set at 1%, the criteria is still notably higher than many provincial jurisdictions, particularly Ontario (0.5%), Quebec (0.1%), Manitoba (0.1% friable, 1% non-friable), Saskatchewan (0.5% friable and 1% non-friable), Alberta (undefined) and BC (0.5%).

### EXPOSURE MANAGEMENT PROGRAM

The amendments require an Asbestos Exposure Management Program when asbestos-containing material is disturbed and where there is the potential for a release of asbestos fibre.

The Asbestos Exposure Management Program includes obligations for a hazard investigation to be carried out by a qualified person that includes an assessment of the asbestos and the potential for fibre release. Based on this assessment the work activity is classified as a low-risk activity, moderate-risk activity or high-risk activity.

All exposed ACM or ACM that will be disturbed must be identified by signs and labels and all friable asbestos is to be controlled by removal, enclosure, encapsulation or any other effective manner to prevent an employee's exposure to asbestos.

The Exposure Management Plan also requires that procedures be developed for moderate and high-risk activities along with worker training.

### AIR SAMPLING

Air sampling is required under the amended regulation and includes daily sample collection in the vicinity of the containment, in the clean room and inside the containment (as necessary) when handling asbestos. The minimum number of air

samples has been defined and ranges from two to five samples depending on the size of the work area.

Clearance air sampling is required prior to dismantling the containment and samples are to be collected by forced air techniques to dislodge any asbestos fibres. This applies to both moderate-risk and high-risk, when a containment has been constructed. The criteria for air clearance is equal to the OEL or 0.1 fibres per cubic centimeter (f/cc). Of note, this is up to 10 times higher than most provincial regulations, where air clearance criteria is 0.01 f/cc. Also of note, the number of clearance samples is not defined, only the number of samples during the abatement.

Air sample results must be made available to workers within 24 hours and a copy of the results is to be posted at the work place.

### **WORK CLASSIFICATIONS**

The amended regulation has provided definitions for work classifications. Low-risk, moderate-risk and high-risk work activities have been defined. The definitions and prescribed activities are now closely aligned with most provincial regulations.

### **APPLICATION**

The regulations apply to work sites under federal jurisdiction and all federal employers have an obligation to comply with the Labour Code, this includes banking, telecommunications, broadcasting, road transportation, shipping, grain elevators, feed and seed mills, Crown Corporations and federal public administration. The amended labour code also includes sectors such as marine, rail, oil and gas and aviation.

According to the published commentary by the Labour Program, the regulations apply to the work site and not the buildings. In the case where the federal employer is a tenant in a provincially regulated building (such as an office building), the federally regulated employer must comply with the federal regulations.

In the case where there are provincially regulated contractors working at a federal work site, the contractors still have to comply with regulations of that province, and the federally regulated employer is required to ensure that the procedures and requirements meet the conditions of the federal Regulations for their own employees.

Coordination will be of the utmost importance with respect to asbestos management at worksites where there are both provincial and federal employers to ensure the safety of all workers.

### **COMMENTARY**

For most federally regulated employers, who tend to follow the local provincial regulation given the lack of federal guidance in the past, there will be minimal impact from the new regulations. The largest change will be the requirements for a formal exposure management program, and the requirement to perform air monitoring during abatement activities.

Pinchin anticipates that more clarifications, guidance and possibly revisions, will be announced over the next few months. There are several contradictory sections in the amendments, and some of the work classifications and air sample requirements are confusing to us as we interpret them for the real world. Stay tuned as more information becomes available.

### **FOR FURTHER INFORMATION**

For details on the amendments, please refer to the Government of Canada link below;

<http://www.gazette.gc.ca/rp-pr/p2/2017/2017-07-12/html/sor-dors132-eng.php>

For further information or assistance, please contact:

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Or contact a local office near you and they can direct your inquiry to the appropriate person.