

February 13, 2014

Re: **Environmental Abatement Council of Ontario (EACO)**
Working with Designated Substances and Hazardous Materials

Dear Sir/Madam:

The Environmental Abatement Council of Ontario (EACO) is an organization serving the environmental abatement industry. Our members represent our industry as a whole including contractor, consultants, engineers, suppliers, government officials and others as stakeholders in the environmental abatement industry.

Amongst our objectives is the promotion and education of industry, government, media, the public and any other group or individuals in the safe handling of hazardous materials. Eleven substances are classified as “designated substances” in Ontario: asbestos, lead, silica, mercury, arsenic, benzene, acrylonitrile, ethylene oxide, isocyanates, vinyl chloride and coke oven emissions.

Other regulatory requirements (and guidelines) apply to control of hazardous materials, including polychlorinated biphenyls (PCBs), ozone-depleting substances (ODS), mould, synthetic vitreous fibres, animal droppings, etc. which require special handling and disposal during renovation and construction activities.

Obligations of Project Owners/Designers and Representative

The Ontario *Occupational Health and Safety Act* requires that a list of all “designated substances” at a project site be provided to all bidders at the tendering stage and that the “Constructor” for a project shall ensure that each prospective contractor and subcontractor for the project has received a copy of the list before entering into a contract. Also, Section 30(3) of the Act states that the owner shall ensure that a prospective contractor of a project has received a copy of the list before entering into a binding contract with the constructor. This also concerns work that is not tendered.

Concerns

Based on feedback from many of our member companies, EACO has the following concerns with respect to designated substances and hazardous materials on construction projects in Ontario.

1. Construction projects are often being tendered without investigation and reporting and provision of designated substances reports to tenderers. This is in contravention of Section 30 of the *Occupational Health and Safety Act*.

2. Regardless of whether designated substances and hazardous materials reports have been or have not been provided, contractors are often asked to undertake the abatement of designated substances and hazardous materials without being provided project-specific technical specifications prepared by qualified consultants. While a designated substances and hazardous materials report identifies the types and locations of designated substances and hazardous materials, it does not generally provide detailed direction to the contractor on how to control or remove the materials. This leads to uncertainty in the tendering process with respect to costing and abatement methodologies, and it requires the General Contractor to assume responsibility of the project design.

How your Association can help

We all have an obligation to ensure that the requirements of the Ontario Occupational Health and Safety Act are followed. We are requesting that the members of your organization:

1. Ensure that a project-specific designated substances and hazardous materials survey report is prepared by a qualified consultant and provided to all tenderers on all construction projects in accordance with Section 30 of the *Occupational Health and Safety Act* and Section 10-4 c of Ontario Regulation 278/05 - Asbestos on Construction Projects and in Buildings and Repair Operations.
2. Ensure that a qualified consultant is retained to:
 - a. Prepare a project-specific designated substances and hazardous materials abatement specification that shall be provided to all tenderers on construction projects.
 - b. Provide inspection, monitoring, verification and reporting of designated substances and hazardous materials abatement.

Conclusion

The preparation of designated substances survey report prior to the commencement of **any** project is a regulatory requirement. The retaining of a qualified consultant (with the appropriate insurance coverage) puts tenderers on a level playing field, and provides assurance and proper documentation for owners, contractors, designers, architects, engineers, project managers and building occupants.

We would be pleased to speak at one of your upcoming Board of Directors meetings to share our position and concerns and answer any questions your members may have. Please contact Betty Quan (the Association Manager) at 416-499-4000 to arrange a meeting or further discussion.

Yours very truly,

The Board of Directors for the Environmental Abatement Council of Ontario