

Regulatory Interpretation Memo

June 12, 2024

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:	Classification of the removal of asbestos-containing plaster, stucco and other hard surfaces.
JURSDICTION:	Ontario
LEGISLATION:	1. Ontario Occupational Health and Safety Act, RSO 1990, c O.1 https://www.ontario.ca/laws/statute/90o01 2. Designated Substance - Asbestos on Construction Projects and in Buildings and Repair Operations, Ontario Regulation 278/05 https://www.ontario.ca/laws/regulation/050278
DEFINITIONS FROM O.REG. 278/05:	1. “asbestos-containing material” means material that contains 0.5 per cent or more asbestos by dry weight; 2. “friable material” means material that, (a) when dry, can be crumbled, pulverized or powdered by hand pressure, or (b) is crumbled, pulverized or powdered;
GUIDANCE DOCUMENTS:	1. Ontario Ministry of Labour, Immigration, Training and Skills Development, “A Guide to the Regulation Respecting Asbestos on Construction Projects and in Buildings and Repair Operations”, May 2011. https://www.labour.gov.on.ca/english/hs/pubs/asbestos/
LIMITATIONS:	1. Hazard classification is a culmination of hazard investigations and risk assessments. 2. Hazard investigations and risk assessments must be completed by professionals that are deemed as “competent” in the jurisdiction where work is being completed. 3. Legislative obligations are considered the minimum regulatory requirements that must be achieved. 4. In some instances the level of risk determined by a risk assessment may require classifications of work, and corresponding work measures and procedures, that exceed minimum regulatory requirements.
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 memo does not constitute legal advice.

- 1) "Friable material" means material that,
 - (a) when dry, can be crumbled, pulverized or powdered by hand pressure, or
 - (b) is crumbled, pulverized or powdered; O. Reg. 278/05, s. 1 (1).
 - 2) Classification of an asbestos operation is based on the state of the material prior to disturbance. The state of the material prior to disturbance and the possibility of releasing fibres must be considered for classification. Proper work classification is important, as this anticipates the change in state of the material once disturbed. Classification of the material does not change during disturbance.
 - 3) The removal of asbestos-containing plaster, stucco and other hard finishes can be classified as a Type 2 operation based on the following paragraph from Ontario Regulation 278/05, and as stipulated by Item 4) of this Memo.
 11. An operation that,
 - i. is not mentioned in any of paragraphs 1 to 10,
 - ii. may expose a worker to asbestos, and
 - iii. is not classified as a Type 1 or Type 3 operation. O. Reg. 278/05, s. 12 (3).
 - 4) The classification as a Type 2 operation requires compliance with the following paragraphs from sub-section 12(3) of Ontario Regulation 278/05.
 6. Breaking, cutting, drilling, abrading, grinding, sanding or vibrating non-friable asbestos-containing material if,
 - i. the material is not wetted to control the spread of dust or fibres, and
 - ii. the work is done only by means of non-powered hand-held tools.

OR

 8. Breaking, cutting, drilling, abrading, grinding, sanding or vibrating non-friable asbestos-containing material if the work is done by means of power tools that are attached to dust-collecting devices equipped with HEPA filters O. Reg. 278/05, s. 12 (3).
 - 5) This interpretation is supported by the Ontario Ministry of Labour, Immigration, Training and Skills Development document, "A Guide to the Regulation Respecting Asbestos on Construction Projects and in Buildings and Repair Operations", May 2011 (<https://www.labour.gov.on.ca/english/hs/pubs/asbestos/>).
- Section 10 specifically speaks to the classification of work and is referenced below.

10. Classification of Work

- Issued: November 2007
- Content last reviewed: May 2011

Disclaimer: This resource has been prepared to help the workplace parties understand some of their obligations under the Occupational Health and Safety Act (OHSA) and regulations. It is not legal advice. It is not intended to replace the OHSA or the regulations.

For further information see full disclaimer.

What does the classification of work determine?

The classification of the work determines what other provisions of the Regulation apply to an operation; for example, notification requirements (section 11), measures and procedures (sections 14, 15, 16, 17, and 18), medical surveillance (section 22), record keeping (sections 21 and 22), and training and certification requirements for workers involved Type 3 operations (section 20). As the classification of the work goes from Type 1 to Type 3, the corresponding requirements of the Regulation become increasingly more stringent. The Regulation does not specify who is to do the classification, but, in most cases, it will be the constructor or employer, often in consultation with an appropriately qualified consultant.

What is the difference between the classifications of work?

The three classifications of operations (Type 1, Type 2 and Type 3) have been established according to the asbestos hazard presented by the work, both to those doing the work and to others outside the work area. They can be thought of as being associated with a low, medium, and high risk of exposure. Activities have been assigned to one of the three types of operations based on an assessment of the risk of exposure. Factors that affect worker exposure to asbestos include the type of asbestos, the type of binder or matrix, the type of work, and the type of control measures used.

What operations fall within Type 1 Operation?

Type 1 operations present the lowest exposure risk, generally including the installation or removal of ACM products that are non-friable, that is, material that is not easily crumbled between the thumb and the fingers, or is not already crumbled. The work must be done without damaging the material, or where the material will be damaged, the spread of fibres must be controlled by wetting the material and using non-powered handheld tools. Type 1 operations include:

- installation or removal of ACM ceiling tiles (less than 7.5 m²) without damage [*];
- installation or removal of non-friable ACM, other than ceiling tiles, without damage;
- breaking, cutting, drilling, abrading, grinding, sanding or vibrating non-friable ACM that is wetted and where the work is done using non-powered hand-held tools; and,
- removal of less than one square metre of drywall where ACM joint-filling compounds were used.

[*] damage includes breakage, cutting, abrading, grinding, sanding, and vibration.

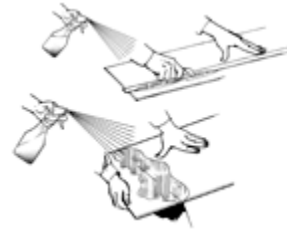
Examples of Type 1 Operations



Hand Sawing Asbestos Cement Pipe



Manual Pipe Cutter



Scribing and Breaking Asbestos Cement

Source: Construction Safety Association of Ontario

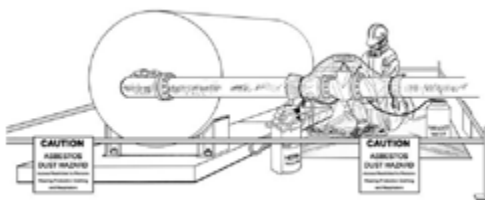
What operations fall within Type 2 Operation?

The following types of operations are classified as Type 2 operations:

- the removal of all or part of a false ceiling to access a work area, if ACM is likely to be lying on the surface of the false ceiling;
- enclosure of friable ACM;
- application of tape, a sealant or other covering to pipe or boiler insulation that is ACM;
- installing or removing ACM ceiling tiles that cover an area of 7.5 m² or more if the work is done without damaging the tiles;
- breaking, cutting, drilling, abrading, grinding, sanding, or vibrating non-friable ACM using non-powered hand-held tools if the material is not wetted;
- cleaning or removing filters used in air handling equipment in a building that has sprayed ACM fireproofing;
- removal or disturbance of one square metre or less of friable ACM during the repair, alteration, maintenance or demolition of all or part of machinery or equipment or a building, aircraft, locomotive, railway car; and
- glove bag removals of ACM insulation.

Work that may expose a worker to asbestos and that is not classified as a Type 1 or Type 3 operation, is also to be classified as a Type 2 operation.

Example of Type 2 Operation



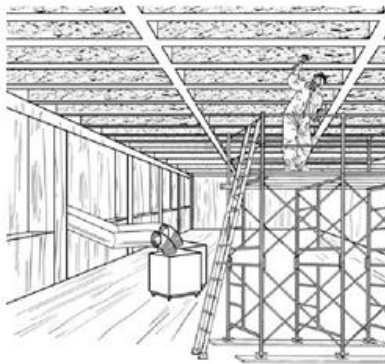
Source: Construction Safety Association of Ontario

What operations fall within Type 3 Operation?

Work with friable or non-friable ACM that has the potential to generate high concentrations of asbestos fibres in air is classified as Type 3. Type 3 operations include:

- removal or disturbance of more than one square metre of friable ACM;
- spray application of a sealant to friable ACM;
- cleaning or removal of air-handling equipment, including rigid ducting but not including filters, in a building that has sprayed ACM fireproofing;
- repair, alteration or demolition of a kiln or furnace made, in part, of refractory materials that are ACM;
- breaking, cutting, drilling, abrading, grinding, sanding or vibrating non-friable ACM with power tools not attached to dust-collecting devices with HEPA filters; and,
- repair, alteration or demolition of a building in which asbestos products were manufactured, unless the asbestos was cleaned up and removed before March 16, 1986.

Example of Type 3 Operation



Removal of more than one square meter of Friable Asbestos

Source: Construction Safety Association of Ontario

What kinds of problems occur in classifying asbestos work?

Problems in classifying asbestos work may arise either because the Regulation does not say how a particular job is to be classified or because there is a dispute regarding the classification of the work. Any work with asbestos that is not mentioned in the Regulation as Type 1 or Type 3 is to be classified as Type 2 (see paragraph 11 of subsection 12(3)). Subsection 12(6) says that disputes regarding the classification of the work can be referred to a Ministry of Labour inspector, nearest the workplace of the dispute, by anyone involved in the dispute. The inspector will investigate and provide a written decision. Work on the operation must cease until the inspector has given a decision in writing.

The referral of a dispute to a Ministry inspector does not affect an inspector's power to issue an order for a contravention of the Regulation.

How is work on plaster, stucco and other hard finishes that are ACM but not explicitly mentioned in the Regulation classified?

It is the Ministry's position that wetting does not adequately control the spread of dust and fibres during the breaking, cutting, drilling, abrading, grinding, sanding or vibrating of asbestos-containing plaster, stucco and other hard finishes by means of non-powered hand-held tools. As such, Type 1 procedures cannot be used for work on these materials. The work will likely be classified as a Type 2 (subsection 12(3), paragraph 6, subsection 12(3) paragraph 8) or Type 3 (subsection 12(4) paragraph 5) operation depending on the tools used.

CONCLUSION:

In summary the removal of asbestos-containing plaster, stucco and other hard finishes must implement measures and procedures that involve a Type 2 or Type 3 operation to meet the regulatory requirements in Ontario. The removal of asbestos-containing plaster, stucco and other hard finishes cannot be undertaken as a Type 1 operation.

In order to determine whether a Type 2 or Type 3 operation is applicable, the physical state of the material prior to disturbance and the possibility of releasing fibres must be considered before determining the work classification.

Proper work classification is important, as this anticipates the change in physical state of the material once disturbed. Classification of the material does not change during disturbance, so prior to disturbance, it must be determined if the measures and procedures to be used are better suited for a Type 2 operation or a Type 3 operation.

The regulation requires proper work classification based on the possibility of releasing fibres and to implement appropriate measures and procedures. EACC strongly recommends that proper work classification and risk assessments be completed by a competent person, for each Project, to determine the proper health and safety measures and procedures required and whether a Type 2 or Type 3 operation is appropriate.

This Regulatory Interpretation Memo 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**