CITY OF HAMILTON - CORPORATE SAFETY GUIDELINE

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DETERMINING WHICH SECTOR REGULATIONS APPLY TO VARIOUS CITY OF HAMILTON WORK ACTIVITIES

PURPOSE:

This guideline is intended to assist Managers, Supervisors, Lead Hands, and Joint Health and Safety Committees in determining which specific sector regulation, under the Occupational Health and Safety Act, applies to the various types of work that the City undertakes.

SCOPE:

The City of Hamilton, its facilities and various work practices, are generally covered under one or more or a combination of, the three main Health and Safety Regulations under the Occupational Health and Safety Act and various Regulations respecting Designated Substances:

Industrial Establishments Regulations – Regulation 851
Construction Projects Regulations – O. Reg. 213/91
Health Care Regulations – O. Reg. 67/93

Designated Substance -
Asbestos on Construction Projects and in Building and Repair Operations
Benzene
Isocyanates
Lead
Mercury
Silica

Various other Regulations under different jurisdictions may also apply:
WSIB Act and Regulations
First Aid Regulations under the WSIB Act
Highway Traffic Act
Building Code Act
Fire Marshall’s Act
Fire Code
Book 7 (Traffic Control)
Book 4 (Flammable Liquid Storage and Use)
CONSTRUCTION PROJECTS REGULATION:

In determining whether the CONSTRUCTION PROJECTS Regulation applies, the definitions of “construction” and of “project”, as found in the OHSA, need to be reviewed. The following checklist may be utilized to assist in this determination.

DEFINITIONS:

Definition of Construction:
Includes:
- Erection;
- Alteration;
- Repair;
- Dismantling;
- Demolition;
- Structural Maintenance;
- Painting;
- Land Clearing;
- Earth Moving;
- Grading;
- Excavating;
- Trenching;
- Digging;
- Boring;
- Drilling;
- Blasting;
- Concreting;
- Installation of any machinery or plant;
- Any work or undertaking in connection with a project but does not include any work or undertaking in a mine;

Definition of a Project:
A project means a construction project, whether public or private, including:
- 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, water main, service connection, telegraph, telephone or electrical cable, pipe line, duct or well, or any combination thereof;
- The moving of a building or structure, and
- Any work or undertaking, or any lands or appurtenances used in connection with construction.

In order for the Construction Projects Regulations to be applicable, both these definition must be applied to the same work process. For example “painting”, which is defined as a construction related activity would only be covered under the Construction Projects regulation if the painting was undertaken on a Construction Project.

Example: Building a new roadway from scratch would be “construction project” and would include the painting of traffic lines on the newly paved surface. Re-painting an existing roadway, even though it involves the same operation and identical equipment, would be deemed industrial, as it is considered maintenance of an existing roadway, as no new construction is involved.

Even though this general guideline would generally apply, project managers are encouraged to review the two options and if they differ, to implement the stricter of the two regulations, as normal practice.
INDUSTRIAL ESTABLISHMENT REGULATIONS:

In determining whether the INDUSTRIAL ESTABLISHMENT REGULATIONS applies the following definition needs to be considered before a determination can be made:

Definition of a Workplace:
A Workplace means any land, premises, location or thing at, upon, in or near which a worker works.

The Industrial Establishments Regulations applies to all industrial establishments. (This includes offices, libraries, schools, retail outlets, factories, service centers, garages and any similar types of activities.)

HEALTH CARE REGULATIONS:

The Health Care Regulation applies to:

- A Nursing Home as defined in the Nursing Homes Act
- A home as defined in the Homes for the Aged and Rest Homes Act

It must be noted that simply because a City facility or work process generally falls within a certain sector regulation that does not automatically infer that other regulation/s may not need to be considered.

As an example – in an office type environment, where the Industrial Establishment Regulations applies primarily, should scaffolding be utilized for any purpose, the Construction Projects Regulations would apply to the scaffolding operation as there is no reference to scaffolding in the Industrial Establishments Regulation.

Generally, if the process involves the building, erection or dismantling/demolition of anything it would be considered “construction”. If the process involves repairing an existing structure, it would be considered “industrial”.

As such, each work activity and/or project must be carefully evaluated prior to the commencement of work activity to determine which primary regulation needs to be applied.

Should a work location or work activity be covered under two separate regulations, it is a City requirement that the stricter of the two regulations be applied to the work in progress.

Any inquiries should be directed to your Department Health, Safety and Wellness Specialist or the Workplace Safety Section, Human Resources.