

Regulations and other Acts

Gouvernement du Québec

O.C. 476-2013, 8 May 2013

An Act respecting occupational health and safety
(chapter S-2.1)

Occupational health and safety

— Amendment

Safety Code for the construction industry

— Amendment

Regulation to amend the Regulation respecting occupational health and safety and the Safety Code for the construction industry

WHEREAS, under subparagraphs 7, 10, 19 and 42 of the first paragraph of section 223 of the Act respecting occupational health and safety (chapter S-2.1), the Commission de la santé et de la sécurité du travail may make regulations on the matters set forth therein;

WHEREAS, under the second paragraph of section 223, the content of the regulations may vary according to the categories of persons, workers, employers, workplaces, establishments or construction sites to which they apply;

WHEREAS, under the third paragraph of section 223, a regulation may refer to an approval, certification or homologation of the Bureau de normalisation du Québec or of another standardizing body;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation to amend the Regulation respecting occupational health and safety and the Safety Code for the construction industry was published in Part 2 of the *Gazette officielle du Québec* of 27 December 2012 with a notice that it could be made by the Commission and submitted to the Government for approval on the expiry of 45 days following that publication;

WHEREAS the Commission made the Regulation without amendment at its sitting of 26 March 2013;

WHEREAS, under section 224 of the Act respecting occupational health and safety, every draft regulation made by the Commission under section 223 is to be submitted to the Government for approval;

WHEREAS it is expedient for the Government to approve the Regulation;

IT IS ORDERED, therefore, on the recommendation of the Minister of Labour:

THAT the Regulation to amend the Regulation respecting occupational health and safety and the Safety Code for the construction industry, attached to this Order in Council, be approved.

JEAN ST-GELAIS,

Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting occupational health and safety and the Safety Code for the construction industry

An Act respecting occupational health and safety (chapter S-2.1, s. 223, 1st par., subpars. 7, 10, 19 and 42, and 2nd and 3rd pars.)

1. The Regulation respecting occupational health and safety (chapter S-2.1, r. 13) is amended by revoking section 61.

2. Section 62 is amended by inserting the following after the first paragraph:

“For the purposes of this section, the second paragraph of section 69.5 applies.”.

3. The following Division is inserted after section 69:

“DIVISION IX.1 PROVISIONS ON THE SAFE MANAGEMENT OF ASBESTOS

69.1. Definitions: In this Division,

“flocking” means a mixture of friable materials applied by spray to cover a surface; (*flocage*)

“heat insulating material” means insulating material that covers a facility or equipment to prevent heat loss. (*calorifuge*)

69.2. Concentration: For the purposes of this Division, a material, product, flocking or heat insulating material contains asbestos where the asbestos concentration is at least 0.1%.

§1. Flocking and heat insulating material

69.3. Inspection: Every building built before 15 February 1990 must be inspected in order to locate flocking containing asbestos.

Every building built before 20 May 1999 must be inspected in order to locate heat insulating material containing asbestos.

It is the employer's responsibility to locate flocking and heat insulating material in respect of any building under the employer's authority.

69.4. Demonstration: Flocking and heat insulating material are presumed to contain asbestos unless demonstrated otherwise by

(1) verifiable documentary information, such as a technical description or a material safety data sheet, which establishes the composition of flocking and heat insulating material or the date of their installation; or

(2) a sampling report complying with section 69.7 including the results of an analysis carried out on a sufficient number of representative samples so that the presence of asbestos on flocking and heat insulating material may be shown in accordance with section 69.5.

69.5. Analysis: The analysis of samples must be carried out according to one of the methods specified in the Sampling Guide for Air Contaminants in the Workplace, published by the Institut de recherche Robert-Sauvé en santé et en sécurité du travail, as it reads at the time that it is applied, or according to a method enabling to obtain an equivalent accuracy.

Depending on the analysis method used, a concentration result greater than trace is equivalent to an asbestos concentration of at least 0.1%.

The laboratory that carries out the analysis must participate in an interlaboratory quality control program.

69.6. Results: Flocking or heat insulating material from which a sample was taken is deemed to contain asbestos if the sample's asbestos concentration is at least 0.1%.

69.7. Sampling report: The employer must obtain a sampling report where samples are taken for analysis from flocking and heat insulating material.

Such a report must contain the following information:

(1) the name and qualification of the person responsible of the sampling report;

(2) for each flocking and heat insulating material, a list of the samples taken and their location;

(3) the analysis report of the samples;

(4) the analysis method used; and

(5) the name and address of the laboratory having carried out the analyses and the identification of the interlaboratory quality control program in which the laboratory participates.

69.8. Frequency of inspections: The employer must check, during the initial inspection and every two years thereafter, flocking and heat insulating material containing asbestos, except if they are entirely enclosed in a permanent structure resistant to fibres and access to flocking and heat insulating material is only possible by a destructive operation of the structure.

For the purposes of this section, the protective coating of heat insulating material does not constitute a permanent structure.

69.9. Corrective measures: Where flocking or heat insulating material is liable to produce asbestos dust emissions, the employer must, taking into account the degradation and dispersal factors, remove it, enclose it entirely in a permanent structure resistant to fibres, coat it with or soak it in a binder, or cover it with material resistant to fibres.

§2. Materials and products containing asbestos

69.10. Exclusions: For the purposes of this subdivision, gypsum boards and joint compounds manufactured after 1 January 1980 are presumed not to contain asbestos.

69.11. Verification: Before undertaking work liable to generate dust by a direct or indirect action on or inside a building or any civil engineering works under the employer's authority, the employer must check for the presence of asbestos in the materials and products likely to contain some.

Depending on the availability of information, the employer must also check for the presence of asbestos when purchasing those materials or products.

The employer may be exempted from the obligation imposed by the first paragraph if the employer shows that the work to be carried out is not liable to produce asbestos dust emissions.

69.12. Applicable provisions: Sections 69.4 to 69.7 apply to a material or product likely to contain asbestos, adapted as required.

69.13. Corrective measures: Where an interior finish likely to contain asbestos may emit dust because of its state, the employer must repair it or remove it taking into account the degradation and dispersal factors.

69.14. Control of dust emissions: The employer must take the required measures to control the emission of asbestos dust before undertaking work on materials or products, including flocking and heat insulating material, containing asbestos. The employer has, in that respect, the same obligations as those provided for in the Safety Code for the construction industry (chapter S-2.1, r. 4) as it reads at the time it applies.

The employer may be exempted from the obligations imposed by the first paragraph if the employer shows that the work to be carried out is not liable to produce asbestos dust emissions.

69.15. Training and information: Before undertaking work liable to produce asbestos dust emissions, the employer must train and inform the worker of the risks, prevention methods and safe working methods relevant to the work to be carried out.

§3. Recording and disclosure of information

69.16. Register: The employer must keep and update a register that must contain the following entries and documents:

(1) the location of flocking and heat insulating material that were inspected and the location of the materials and products that were checked;

(2) the presence and type of asbestos or the absence of asbestos, in flocking and heat insulating material, materials and products, and the verifiable documentary information or sampling reports carried out by the employer indicating the types of asbestos or showing the absence of asbestos;

(3) the dates and results of the inspections of flocking and heat insulating material containing asbestos conducted in accordance with sections 69.3 and 69.8 and the dates and results of any other verification of materials and products; and

(4) the nature and the date of the work carried out on flocking, heat insulating material, materials and products containing asbestos.

The employer must keep the register provided for in the first paragraph for as long as the building or civil engineer works are under the employer's authority.

The employer must put the register at the disposal of workers and their representatives who work in the employer's establishment.

69.17. Disclosure of information: The employer must disclose to every person who plans to or will carry out work liable to produce asbestos dust emissions the entries relevant to that work that are noted in the register provided for in section 69.16, so that the person may plan and implement the required measures.

Every person who plans to or will carry out work liable to produce asbestos dust emissions must so inform all the workers likely to be exposed to asbestos dust.”

4. The Safety Code for the construction industry is amended by revoking paragraph 12 of section 1.1.

5. The following is inserted after the heading of subdivision 3.23 of Division III:

“**3.23.0.1.** For the purposes of this subdivision, any material and product contains asbestos where the asbestos concentration is of at least 0.1%.

In that respect, the second paragraph of section 69.5 of the Regulation respecting occupational health and safety applies.”

6. The location of flocking and heat insulating material of the buildings referred to in section 69.3 of the Regulation respecting occupational health and safety must be carried out within 2 years of the coming into force of this Regulation.

7. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.