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**A Guide for Health and Safety  
Representatives and  
Joint Health and Safety  
Committees  
on Farming Operations**

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## Foreword

*Ontario's Occupational Health and Safety Act applies, with some limitations and exceptions, to all farming operations that have paid workers.*

*This Guide has been prepared to assist employers, workers, and others on farming operations who may have duties respecting health and safety representatives or joint health and safety committees under the Occupational Health and Safety Act ("OHS" or "the Act"). It should not be taken to be a statement of the law. It is intended to provide general answers to questions that may be asked. It is up to each person who has responsibilities under the Occupational Health and Safety Act to determine what is necessary to comply with the Act.*

*Ministry inspectors will assess workplace situations against the relevant provisions in the Act but they do not enforce this Guide, although they may refer to it in determining whether the law has been complied with.*

# **Introduction**

Ontario's Occupational Health and Safety Act is built upon the principle that employees and employers must act together to ensure a healthy and safe workplace environment.

An important way in which this goal may be furthered is through the work of worker health and safety representatives and joint health and safety committees.

This guide describes the work of those representatives and committees and explains their roles and responsibilities in the workplace.

Where the word "should" is used, the action referred to is a recommended practice, not a legal requirement.

## **Which Farming Operations Require a Worker Health and Safety Representative or a Joint Health and Safety Committee?**

### ***When is a joint health and safety committee required on a farming operation?***

A joint health and safety committee is required if there are 20 or more workers who are regularly employed and have duties related to one or more of the following operations:

- Mushroom farming
- Greenhouse farming
- Dairy farming
- Hog farming
- Cattle farming
- Poultry farming.

[Section 9(2) of the Act and sections 3(1) and 3(2) of Ontario Regulation 414/05.]

### ***When is a worker health and safety representative required on a farming operation?***

A worker health and safety representative is required on:

- All farming operations with 6 to 19 regularly employed workers, regardless of the type of farm or commodity, and
- Farming operations that have 20 or more regularly employed workers that are not required to have a joint health and safety committee.

[Section 8(1) of the Act.]

***Who is considered “regularly employed” for the purpose of determining whether a worker health and safety representative or joint health and safety committee is required at a workplace?***

“Regularly employed” means anyone who is employed for a period that exceeds three months. This includes permanent full-time staff, permanent part-time staff, contract staff, and seasonal workers. It also includes managers and supervisors.

There may be situations where there is a high turnover of staff, and a number of different workers fill a particular position, with each person working in it for less than three months. If the term of the position exceeds three months, that position will be included for the purpose of determining whether a health and safety representative or joint health and safety committee is required, even though no single worker occupied that position for more than three months.



# **About Worker Health and Safety Representatives and Joint Health and Safety Committees**

## ***Worker Health and Safety Representatives***

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### ***What is a worker health and safety representative?***

Farming operations with more than five regularly employed workers and no joint health and safety committee must have a worker health and safety representative [section 8(1)]. Worker health and safety representatives are committed to improving health and safety conditions in the workplace. The representative, with input from other workers, identifies potential health and safety problems, and then brings them to the employer's attention.

The health and safety representative is selected by workers at the workplace, and must be someone who does not exercise managerial functions\* [section 8(5)]. The representative does not require special training or certification and is entitled to take paid time to attend inspections and investigations [section 8(15)].

See "Roles and Responsibilities" later on in this document for more information on the functions of a worker health and safety representative.

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\* *For example, an employee who has the authority to discipline, hire, fire or recommend discipline, hiring or firing is considered a managerial employee.*

## ***Joint Health and Safety Committees***

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### ***What is a joint health and safety committee?***

A joint health and safety committee is composed of people who represent the workers and the employer. Together, they are committed to improving health and safety conditions in the workplace. Joint health and safety committees identify potential health and safety problems and bring them to the employer's attention. As well, members must be kept informed of health and safety developments in the workplace.

### ***Why are joint health and safety committees necessary?***

Joint health and safety committees are necessary to provide greater protection against workplace injury and illness, and greater protection means reduced human suffering, work-related accidents and work-related deaths. Joint health and safety committees often involve people from all levels of an operation. This co-operative involvement ensures that everything possible is done to eliminate health and safety hazards.

### ***What is the joint health and safety committee's role?***

The joint health and safety committee is an advisory body that helps to stimulate awareness of safety issues, recognizes workplace risks and then deals with these risks. To achieve its goal, the joint health and safety committee holds meetings and conducts regular workplace inspections.

### ***How large should a joint health and safety committee be?***

In mushroom, greenhouse, dairy, cattle, hog and poultry farming operations where there are between 20 and 49 workers regularly employed, the joint health and safety committee must have a minimum of two members [section 9(6)(a)]. Where there are 50 or more workers regularly employed on these types of operations, the joint health and safety committee must have at least four members

[section 9(6)(b)]. In both cases, at least half the members on a joint health and safety committee must represent workers [section 9(7)], with the balance representing management [section 9(9)].

Whenever possible, joint health and safety committee membership should represent the health and safety concerns of the entire workplace. For example, if a workplace has a greenhouse and a barn, both of these areas should be represented on the joint health and safety committee.

***What if there is a dispute about the establishment or function of a joint health and safety committee?***

The Ministry of Labour should be alerted to any dispute about the establishment, function or composition of a joint health and safety committee. Upon investigation, the Minister of Labour may issue an order to an employer to improve the function of a joint health and safety committee [sections 9(3), 9(5) and 9(39)].

***Joint Health and Safety Committee Members***

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***How are committee members selected?***

At least half the joint health and safety committee members must be worker members: non-management workers at the workplace who are selected by other non-management workers [sections 9(7) and 9(8)].

The employer chooses members as well (employer members) [section 9(9)]. Employer members must be people who exercise managerial functions. For example, an employee who has the authority to discipline, hire, fire or recommend discipline, hiring or firing is considered a managerial employee. It is recommended that the employer select representatives by giving consideration to their knowledge of operations and to their duties and responsibilities as they relate to work procedures and safety.

When dealing with a specific issue, the joint health and safety committee may wish to invite persons with specialized knowledge or experience to attend as advisers or observers. It is recommended that these persons attend meetings only when their specialized knowledge or experience is necessary at the meeting, rather than attending every meeting.

***Do committee members need special training or certification?***

In mushroom, greenhouse, dairy, cattle, hog and poultry operations with **50** or more regularly employed workers, the joint health and safety committee will require at least two members—one representing the employer and one representing workers—to be chosen for special training (as certified members) [section 9(12) of the Act, section 3(3) of Ontario Regulation 414/05]. Among its functions under section 4 of the Workplace Safety and Insurance Act 1997, Ontario’s Workplace Safety and Insurance Board (WSIB) sets the standards for training and certifies joint health and safety committee members who complete approved training programs. Certified health and safety committee members play a key role on the joint health and safety committee and have specific authority and responsibilities.

Other specialized training is available through workplace organizations and outside agencies. Although it is beneficial for all members to have adequate training, it is not a requirement under the Occupational Health and Safety Act.

***How long is a committee member’s term of office?***

A term of at least one year (or at least one full growing season) is recommended. Where there is more than one worker member and one employer member, terms should be staggered to allow continuity. Vacancies should be filled as quickly as possible.

***Do committee members get paid for their time?***

Members are entitled to take time to attend joint health and safety committee meetings, inspections and investigations, as well as to accompany ministry inspectors investigating an accident, potential hazard or a work refusal [sections 9(34) and 54(5)]. Members will be paid at either their regular rate or, where applicable, their premium rate of pay (i.e., **if** they are entitled to premium pay whenever they work extra hours, and their duties as joint health and safety committee members take them beyond their usual hours of work) [section 9(35)].

***Are committee members entitled to paid preparation time?***

Each member will be paid for one hour of preparation time before every joint health and safety committee meeting. If it becomes apparent that one hour is not sufficient, the joint health and safety committee can decide that more paid preparation time is required [section 9(34)(a)].

***Joint Health and Safety Committee Meetings***

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***How often should the joint health and safety committee meet?***

Joint health and safety committee members are required to meet at the workplace at least once every three months. More frequent meetings may be necessary, however, particularly in industries where the work involves hazardous substances or procedures [section 9(33)].

***Who chairs the meeting?***

Joint health and safety committee meetings must be co-chaired by two members. One of the co-chairs is chosen by the members who represent workers, the other by members who represent the employer [section 9(11)]. It is good practice to alternate the chairing of each

meeting between the two chairs, although the joint health and safety committee may find other, more appropriate procedures.

***How is an agenda prepared?***

An agenda should be prepared by the co-chairs and distributed one week in advance of the meeting date. Members who wish to have items added to the agenda should give chairpersons ample notice.

***How are committee members informed of upcoming meetings?***

Meeting dates should be established on a pre-set schedule or at the conclusion of each joint health and safety committee meeting. This date will be recorded in the minutes of the meeting. A copy of the minutes should be distributed to members a few days after the meeting. The dates of upcoming meetings should also be recorded at the top of each agenda.

***Is a quorum needed to hold a meeting?***

Every meeting must have members present who represent the workers and the employer. Beyond that, the joint health and safety committee can determine its own rules for a quorum at meetings.

***Must the minutes be recorded? What should the minutes include?***

Minutes of each meeting must be recorded and available for review by a Ministry of Labour inspector [section 9(22)]. Minutes should contain details of all matters discussed, as well as a full description of problems and their resolution or any action deemed necessary. Minutes should identify members by title and not by name. (Members' names should be used only for attendance purposes.)

Minutes should be signed by the co-chairpersons and posted in the workplace within one week of the meeting.

# **Roles and Responsibilities**

## ***Worker Health and Safety Representatives***

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### ***What responsibilities and authority does a health and safety representative have?***

Generally speaking, a health and safety representative has the same responsibilities and powers as a joint health and safety committee member (which are described in the next section). These include the responsibility to inspect the workplace at least once a month [section 8(6)], and the power to:

- identify workplace hazards [section 8(10)];
- be consulted about workplace testing [section 8(11)];
- make recommendations to the employer [section 8(10)]; and
- investigate work refusals [section 43(4)] and serious accidents [section 8(14)].

## ***Joint Health and Safety Committees***

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### ***What are the committee's principal functions?***

The joint health and safety committee has four principal functions: to identify potential hazards, to evaluate these potential hazards, to recommend corrective action, and to follow up on implemented recommendations. To carry out its functions, the joint health and safety committee is required to hold meetings [section 9(33)] and

carry out regular inspections of the workplace [sections 9(26), 9(27) and 9(28)].

Generally speaking, all joint health and safety committee members should be available to receive worker concerns, complaints and recommendations; to discuss problems and recommend solutions; and to provide input into existing and proposed health and safety programs.

***How often must workplace inspections be carried out?***

Regular inspections help to identify hazards and prevent accidents. The workplace must be inspected at least once a month, unless a different schedule of inspections is ordered by the Ministry of Labour [section 9(26)]. In cases where the workplace is too large or where parts are shut down on a seasonal basis, the joint health and safety committee should establish a monthly inspection schedule that ensures the entire workplace will be inspected at least once a year [section 9(27)].

***Who carries out workplace inspections?***

Joint health and safety committee members who represent workers must select someone in their group to inspect the workplace [section 9(23)]. Where a certified member is required on the joint health and safety committee, the person selected to inspect the workplace should, if possible, be a certified member [section 9(24)]. Where the joint health and safety committee has been established by an order of the Minister of Labour, under section 9(3.1), the joint health and safety committee members may designate a worker who is not on the joint health and safety committee to do the inspection. When a real or potential hazard is discovered, it must be reported to the joint health and safety committee [section 9(30)].

***Do certified members have added responsibilities?***

Because certified members receive special training in workplace health and safety, they are given added responsibilities. For example,



certified employer and worker representatives can, under certain circumstances, act together and order the employer to stop work that is dangerous to a worker [section 45(4)].

## ***Employer***

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### ***What are the employer's responsibilities regarding worker health and safety representatives and joint health and safety committees?***

Employer responsibilities include informing the health and safety representative or joint health and safety committee of any work-related accidents involving injury, death or occupational illness [sections 51 and 52], and providing the health and safety representative or joint health and safety committee with the results of any reports relating to health and safety in the workplace [section 25(2)(1)].

The employer must provide a location for joint health and safety committee meetings [section 25(2)(e)]. The employer must also choose the managerial member or members of the joint health and safety committee. These members must exercise managerial functions, and, if possible, do so at the workplace where the joint health and safety committee is located [section 9(9)].

### ***Must an employer act on recommendations made by a health and safety representative or joint health and safety committee?***

The employer must provide a written response to recommendations within 21 days [sections 8(12) and 9(20)]. If the recommendations are accepted, a timetable for action must be outlined and provided to the health and safety representative or joint health and safety committee [sections 8(13) and 9(21)]. If an employer decides against acting on the recommendations, reasons must be given in writing [sections 8(13) and 9(21)].

## ***Ministry of Labour Inspectors***

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### ***What is the role of Ministry of Labour inspectors?***

Ministry of Labour inspectors uphold and enforce the Act. They inspect the workplace and investigate potentially hazardous situations, accidents and work refusals. An inspector may issue orders where there is a contravention of the Act, and may provide advice where there are disputes between workplace parties.

Appendix C lists powers Ministry of Labour inspectors have under the Occupational Health and Safety Act.

### ***What contact will health and safety representatives and joint health and safety committee members have with the inspector?***

A health and safety representative or joint health and safety committee member must be offered a chance to accompany the inspector on all inspections and investigations [section 54(3)]. When orders are issued by the inspector to an employer, the employer must give a copy of the orders to the representative or joint health and safety committee [section 57(10)]. Inspectors are entitled to review the minutes of joint health and safety committee meetings [section 9(22)], and are expected to do so. Inspectors may attend joint health and safety committee meetings when invited by members.

## General Procedures

### ***Worker Health and Safety Representatives and Joint Health and Safety Committee Members***

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#### ***How does the health and safety representative or joint health and safety committee deal with worker complaints?***

A worker must report any hazard or contravention of the Act to the employer or supervisor [sections 28(1)(c) and 28(1)(d)]. If the matter is not resolved, a worker should then refer it to a health and safety representative or member of the joint health and safety committee.

#### **When such matters are referred to a worker health and safety representative, he or she should:**

- ask a supervisor or person with designated responsibility in the area to take part in resolving the problem; and
- notify the worker who reported the concern once a decision or recommendation has been made.

If a worker complaint cannot be resolved, the representative should inform the employer. If the employer is unable to resolve the issue, either the employer or the worker could contact a Ministry of Labour inspector, who will review the situation and render a decision.

#### **When such matters are referred to a joint health and safety committee member, the member should:**

- ask a supervisor or person with designated responsibility in the area to take part in resolving the problem;

- have this request noted at the next joint health and safety committee meeting and recorded in the minutes; and
- notify the worker who reported the concern of a decision or recommendation made by the joint health and safety committee.

If a worker complaint cannot be resolved, either of the co-chairpersons should inform the employer. If the employer is unable to resolve the issue, either the employer or the worker could contact a Ministry of Labour inspector, who will review the situation and render a decision.

***What should the joint health and safety committee or health and safety representative do in the event of a work refusal?***

The representative or a joint health and safety committee member who represents workers must be present during the investigation of a work refusal [section 43(4)]. This investigation is most often performed by the worker's supervisor.

If the issue is not resolved, the employer, the worker or a joint health and safety committee member/representative must notify a Ministry of Labour inspector [section 43(6)]. The worker member/representative, the employer or employer member, and the worker must be consulted by the inspector who conducts the investigation [section 43(7)].

***What should the committee or health and safety representative do in the event of an injury or death?***

Worker members of the joint health and safety committee must designate one or more worker members to investigate any incident in which a person is killed or critically injured [section 9(31)]. The joint health and safety committee members [section 9(31)] or health and safety representative [section 8(14)] has the right to inspect the place where the incident occurred as well as any relevant machine, device or thing (subject to a general requirement not to disturb the scene of the injury or death).

Following the investigation, all findings must be reported to the Ministry of Labour and, if there is a joint health and safety committee, to the committee [sections 8(14) and 9(31)]. The representative [section 8(10)] or joint health and safety committee [section 9(18)(b)] have the power to evaluate the situation and recommend actions to prevent a similar incident in the future.

***What sort of information can the health and safety representative or joint health and safety committee expect to obtain?***

The representative or joint health and safety committee can expect to obtain information regarding hazardous materials, processes or equipment. As well, the employer must share any knowledge of health and safety practices, tests and standards in the industry [sections 8(11)(a), 8(11)(c), 9(18)(d), 9(18)(e), 11 and 25(2)(l)].

The employer must report to the health and safety representative or joint health and safety committee any lost-time injuries caused by accident, explosion or fire at the workplace, as well as any occupational illnesses of which he or she has knowledge [section 52].

The Workplace Safety and Insurance Board, at the request of the joint health and safety committee or representative, is required to send an annual summary of data relating to the number of fatalities, lost workday cases, workdays lost, non-fatal cases requiring medical care (but not involving lost workdays) and incidence of occupational illnesses [section 12].

***What assistance can the health and safety representative or joint health and safety committee expect from the employer?\****

The Act places a general duty on an employer to assist the functioning of the joint health and safety committee and the

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\* *When acting as the representative of the employer, a supervisor assumes the legal responsibilities of the employer under the Occupational Health and Safety Act.*

representative [section 25(2)(e)]. More specific responsibilities include:

- upon the request of the representative [section 8(11)(c)(i)] or joint health and safety committee [section 9(18)(d)(i)], provide information regarding the identification of potential or existing hazards involving materials, processes or equipment;
- upon request, inform the representative [section 8(11)(c)] or joint health and safety committee [section 9(18)(d)] of changes in work procedures, of the introduction of new machinery or processes, of the use of new chemicals and other materials and of the availability of new safety equipment;
- provide the representative or joint health and safety committee with a copy of all orders or reports issued to the employer by an inspector of the Ministry of Labour [section 57(10)];
- provide a representative or worker member of the joint health and safety committee with the opportunity to accompany a Ministry of Labour inspector on the physical inspection of the workplace [section 54(3)]; and
- afford a worker member of the joint health and safety committee [section 9(26)] or a representative [section 8(6)] the right to inspect the physical condition of the workplace at least once a month, and provide required information and assistance [sections 9(29) and 8(9)].

It is an offence for an employer to knowingly hinder or interfere with, or to give false information to, the joint health and safety committee or to a committee member or a health and safety representative who is in the process of performing his or her duties under the Act.

***What assistance can the health and safety representative or joint health and safety committee expect from workers?***

Workers are expected to provide information and assistance as may be required by a representative or joint health and safety committee member conducting an inspection or investigation. A worker must not interfere or knowingly provide a joint health and safety committee member or representative with false information.

***What are the health and safety representative's and joint health and safety committee's responsibilities regarding confidential information?***

Representatives and joint health and safety committee members are responsible for maintaining rules of confidentiality, except where disclosure of information is specifically required by the Act or by another law [section 63(1)].

In this regard, joint health and safety committee members or representatives must not disclose any secret production process or trade information; any information about any workplace tests or inquiries conducted under the Act or regulations; or the name of any person from whom information is received. Information obtained from medical examinations and tests may be disclosed only in a manner that does not identify anyone [section 63(1)(f)].

# **Appendix A**

## **Ontario Regulation 414/05 – Farming Operations**

### **Application of Act to farming operations**

1. Subject to the limitations and conditions set out in this Regulation, the Act applies to farming operations.

### **Exception**

2. Despite section 1, the Act does not apply to a farming operation operated by a self-employed person without any workers.

### **Limitations, joint health and safety committees**

3. (1) Despite section 1, subsection 9 (2) of the Act applies only to farming operations where 20 or more workers are regularly employed and have duties that include performing work related to one or more of the operations specified in subsection (2).
  - (2) The following are the operations referred to in subsection (1):
    1. Mushroom farming.
    2. Greenhouse farming.
    3. Dairy farming.
    4. Hog farming.
    5. Cattle farming.
    6. Poultry farming.
  - (3) Despite section 1, where a joint health and safety committee is required at a farming operation, the requirement for certified members set out in subsection 9 (12) of the Act applies to that farming operation only if 50 or more workers are regularly employed at it.



#### **Application of certain regulations**

4. (1) Despite section 1 and subject to subsection (2), the regulations made under the Act do not apply to farming operations.
- (2) The following regulations apply to farming operations:
  1. Regulation 834 of the Revised Regulations of Ontario, 1990 (Critical Injury — Defined) made under the Act.
  2. Ontario Regulation 780/94 (Training Programs) made under the Act.
  3. Ontario Regulation 572/99 (Training Requirements for Certain Skill Sets and Trades) made under the Act.

## **Appendix B**

### **Selected Provisions of the Occupational Health and Safety Act Respecting Health and Safety Representatives and Joint Health and Safety Committees on Farming Operations**

#### **Health and Safety Representatives**

8. (1) ... [W]here no [joint health and safety] committee is required under section 9 and where the number of workers regularly exceeds five, the ... employer shall cause the workers to select at least one health and safety representative from among the workers at the workplace who do not exercise managerial functions.

...

(5) The selection of a health and safety representative shall be made by those workers who do not exercise managerial functions and who will be represented by the health and safety representative in the workplace, or the part or parts thereof, as the case may be ...

(6) Unless otherwise required by the regulations or by an order by an inspector, a health and safety representative shall inspect the physical condition of the workplace at least once a month.

(7) If it is not practical to inspect the workplace at least once a month, the health and safety representative shall inspect the physical condition of the workplace at least once a year, inspecting at least a part of the workplace in each month.

(8) The inspection required by subsection (7) shall be undertaken in accordance with a schedule agreed upon by the ... employer and the health and safety representative.

(9) The ... employer and workers shall provide a health and safety representative with such information and assistance as

the member may require for the purpose of carrying out an inspection of the workplace.

(10) A health and safety representative has power to identify situations that may be a source of danger or hazard to workers and to make recommendations or report his or her findings thereon to the employer [and] the workers ...

(11) A health and safety representative has the power,

- (a) to obtain information from the ... employer concerning the conducting or taking of tests of any equipment, machine, device, article, thing, material or biological, chemical or physical agent in or about a workplace for the purpose of occupational health and safety;
- (b) to be consulted about, and be present at the beginning of, testing referred to in clause (a) conducted in or about the workplace if the representative believes his or her presence is required to ensure that valid testing procedures are used or to ensure that the test results are valid; and
- (c) to obtain information from the ... employer respecting,
  - (i) the identification of potential or existing hazards of materials, processes or equipment, and
  - (ii) health and safety experience and work practices and standards in similar or other industries of which the ... employer has knowledge.

(12) A[n] ... employer who receives written recommendations from a health and safety representative shall respond in writing within twenty-one days.

(13) A response of a[n] ... employer under subsection (12) shall contain a timetable for implementing the recommendations the ... employer agrees with and give reasons why the ... employer disagrees with any recommendations that the ... employer does not accept.

(14) Where a person is killed or critically injured at a workplace from any cause, the health and safety representative may, subject to subsection 51 (2), inspect the place where the accident occurred and any machine, device or thing, and shall report his or her findings in writing to a Director.

(15) A health and safety representative is entitled to take such time from work as is necessary to carry out his or her duties under subsections (6) and (14) and the time so spent shall be deemed to be work time for which the representative shall be paid by his or her employer at the representative's regular or premium rate as may be proper.

### **Joint Health and Safety Committees**

#### **Sections 3(1) and (2) of Ontario Regulation 414/05:**

3. (1) Despite section 1, subsection 9 (2) of the Act applies only to farming operations where 20 or more workers are regularly employed and have duties that include performing work related to one or more of the operations specified in subsection (2).
- (2) The following are the operations referred to in subsection (1):
  1. Mushroom farming.
  2. Greenhouse farming.
  3. Dairy farming.
  4. Hog farming.
  5. Cattle farming.
  6. Poultry farming.

**Section 9 of the Act:**

...

- (6) A committee shall consist of,
  - (a) at least two persons, for a workplace where fewer than fifty workers are regularly employed; or
  - (b) at least four persons or such greater number of people as may be prescribed, for a workplace where fifty or more workers are regularly employed.
- (7) At least half the members of a committee shall be workers employed at the workplace who do not exercise managerial functions.
- (8) The members of a committee who represent workers shall be selected by the workers they are to represent ...
- (9) The ... employer shall select the remaining members of a committee from among persons who exercise managerial functions for the ... employer and, to the extent possible, who do so at the workplace.
- (10) A member of the committee who ceases to be employed at the workplace ceases to be a member of the committee.
- (11) Two of the members of a committee shall co-chair the committee, one of whom shall be selected by the members who represent workers and the other of whom shall be selected by the members who exercise managerial functions.
- (12) Unless otherwise prescribed, a[n] ...employer shall ensure that at least one member of the committee representing the ... employer and at least one member representing workers are certified members.

**Section 3(3) of Ontario Regulation 414/05:**

(3) ... [W]here a joint health and safety committee is required at a farming operation, the requirement for certified members set out in subsection 9 (12) of the Act applies to that farming operation only if 50 or more workers are regularly employed at it.

**Section 9 of the Act:**

...

(14) If no member representing workers is a certified member, the workers who selected the members representing workers shall select from among them one or more who are to become certified.

(15) If there is more than one certified member representing workers, the workers who selected the members representing workers shall designate one or more certified members who then become solely entitled to exercise the rights and required to perform the duties under this Act of a certified member representing workers.

(16) If there is more than one certified member representing the ... employer, the ... employer shall designate one or more of them who then become solely entitled to exercise the rights and required to perform the duties under this Act of a certified member representing an employer.

(17) If a certified member resigns or is unable to act, the ... employer shall, within a reasonable time, take all steps necessary to ensure that the requirement set out in subsection (12) is met.

(18) It is the function of a committee and it has power to,

- (a) identify situations that may be a source of danger or hazard to workers;

- (b) make recommendations to the ... employer and the workers for the improvement of the health and safety of workers;
- (c) recommend to the ... employer and the workers the establishment, maintenance and monitoring of programs, measures and procedures respecting the health or safety of workers;
- (d) obtain information from the ... employer respecting,
  - (i) the identification of potential or existing hazards of materials, processes or equipment, and
  - (ii) health and safety experience and work practices and standards in similar or other industries of which the ... employer has knowledge;
- (e) obtain information from the ... employer concerning the conducting or taking of tests of any equipment, machine, device, article, thing, material or biological, chemical or physical agent in or about a workplace for the purpose of occupational health and safety; and
- (f) be consulted about, and have a designated member representing workers be present at the beginning of, testing referred to in clause (e) conducted in or about the workplace if the designated member believes his or her presence is required to ensure that valid testing procedures are used or to ensure that the test results are valid.

(19) The members of the committee who represent workers shall designate one of them who is entitled to be present at the beginning of testing described in clause (18)(f).

(20) A[n] ... employer who receives written recommendations from a committee shall respond in writing within twenty-one days.

(21) A response of a[n] ... employer under subsection (20) shall contain a timetable for implementing the recommendations the ... employer agrees with and give reasons why the ... employer disagrees with any recommendations that the ... employer does not accept.

(22) A committee shall maintain and keep minutes of its proceedings and make the same available for examination and review by an inspector.

(23) Subject to subsection (24), the members of a committee who represent workers shall designate a member representing workers to inspect the physical condition of the workplace.

(24) If possible, the member designated under subsection (23) shall be a certified member.

(25) The members of a committee are not required to designate the same member to perform all inspections or to perform all of a particular inspection.

(26) Unless otherwise required by the regulations or by an order by an inspector, a member designated under subsection (23) shall inspect the physical condition of the workplace at least once a month.

(27) If it is not practical to inspect the workplace at least once a month, the member designated under subsection (23) shall inspect the physical condition of the workplace at least once a year, inspecting at least a part of the workplace in each month.

(28) The inspection required by subsection (27) shall be undertaken in accordance with a schedule established by the committee.



(29) The ... employer and the workers shall provide a member designated under subsection (23) with such information and assistance as the member may require for the purpose of carrying out an inspection of the workplace.

(30) The member shall inform the committee of situations that may be a source of danger or hazard to workers and the committee shall consider such information within a reasonable period of time.

(31) The members of a committee who represent workers shall designate one or more such members to investigate cases where a worker is killed or critically injured at a workplace from any cause and one of those members may, subject to subsection 51 (2), inspect the place where the accident occurred and any machine, device or thing, and shall report his or her findings to a [Ministry of Labour] Director and to the committee.

(32) A[n] ... employer required to establish a committee under this section shall post and keep posted at the workplace the names and work locations of the committee members in a conspicuous place or places where they are most likely to come to the attention of the workers.

(33) A committee shall meet at least once every three months at the workplace and may be required to meet by order of the Minister.

(34) A member of a committee is entitled to,

- (a) one hour or such longer period of time as the committee determines is necessary to prepare for each committee meeting;
- (b) such time as is necessary to attend meetings of the committee; and

(c) such time as is necessary to carry out the member's duties under subsections (26), (27) and (31).

(35) A member of a committee shall be deemed to be at work during the times described in subsection (34) and the member's employer shall pay the member for those times at the member's regular or premium rate as may be proper.

(36) A member of a committee shall be deemed to be at work while the member is fulfilling the requirements for becoming certified by the Workplace Safety and Insurance Board and the member's employer shall pay the member for the time spent at the member's regular or premium rate as may be proper.

(37) Subsection (36) does not apply with respect to workers who are paid by the Workplace Safety and Insurance Board for the time spent fulfilling the requirements for becoming certified.

...

(39) Where a dispute arises as to the application of [the requirement for a joint health and safety committee in s. 3 of O. Reg. 414/05], or the compliance or purported compliance therewith by ... an employer, the dispute shall be decided by the Minister after consulting the ... employer and the workers

...

## Appendix C

### **Selected Provisions of the Occupational Health and Safety Act Respecting Powers of Ministry of Labour Inspectors – sections 54, 55, 56, 56.1, and 62.**

#### **Section 54**

- 54.** (1) An inspector may, for the purposes of carrying out his or her duties and powers under this Act and the regulations,
- (a) subject to subsection (2), enter in or upon any workplace at any time without warrant or notice;
  - (b) take up or use any machine, device, article, thing, material or biological, chemical or physical agent or part thereof;
  - (c) require the production of any drawings, specifications, licence, document, record or report, and inspect, examine and copy the same;
  - (d) upon giving a receipt therefor, remove any drawings, specifications, licence, document, record or report inspected or examined for the purpose of making copies thereof or extracts therefrom, and upon making copies thereof or extracts therefrom, shall promptly return the same to the person who produced or furnished them;
  - (e) conduct or take tests of any equipment, machine, device, article, thing, material or biological, chemical or physical agent in or about a workplace and for such purposes, take and carry away such samples as may be necessary;

- (f) require in writing an employer to cause any tests described in clause (e) to be conducted or taken, at the expense of the employer, by a person possessing such special expert or professional knowledge or qualifications as are specified by the inspector and to provide, at the expense of the employer, a report or assessment by that person;
- (g) in any inspection, examination, inquiry or test, be accompanied and assisted by or take with him or her any person or persons having special, expert or professional knowledge of any matter, take photographs, and take with him or her and use any equipment or materials required for such purpose;
- (h) make inquiries of any person who is or was in a workplace either separate and apart from another person or in the presence of any other person that are or may be relevant to an inspection, examination, inquiry or test;
- (i) require that a workplace or part thereof not be disturbed for a reasonable period of time for the purposes of carrying out an examination, investigation or test;
- (j) require that any equipment, machine, device, article, thing or process be operated or set in motion or that a system or procedure be carried out that may be relevant to an examination, inquiry or test;
- (k) require in writing an employer to have equipment, machinery or devices tested, at the expense of the employer, by a professional engineer and to provide, at the expense of the employer, a report bearing the seal and signature of the professional engineer stating that the equipment, machine or device is not likely to endanger a worker;

- (l) require in writing that any equipment, machinery or device not be used pending testing described in clause (k);
- (m) require in writing an owner ... or employer to provide, at the expense of the owner ... or employer, a report bearing the seal and signature of a professional engineer stating,
  - (i) the load limits of a floor, roof or temporary work or part of a building, structure or temporary work,
  - (ii) that a floor, roof or temporary work is capable of supporting or withstanding the loads being applied to it or likely to be applied to it, or
  - (iii) that a floor, roof or temporary work, or part of a building, structure or temporary work is capable of supporting or withstanding all loads to which it may be subjected without causing the materials therein to be stressed beyond the allowable unit stresses established under the Building Code Act or established by regulation;

...

- (o) require in writing, within such time as is specified, a person who is an employer, manufacturer, producer, importer, distributor or supplier to produce records or information, or to provide, at the expense of the person, a report or evaluation made or to be made by a person or organization having special, expert or professional knowledge or qualifications as are specified by the inspector of any process or biological, chemical or physical agents or combination of such agents present, used

or intended for use in a workplace and the manner of use, including,

- (i) the ingredients thereof and their common or generic name or names,
  - (ii) the composition and the properties thereof,
  - (iii) the toxicological effect thereof,
  - (iv) the effect of exposure thereto whether by contact, inhalation or ingestion,
  - (v) the protective measures used or to be used in respect thereof,
  - (vi) the emergency measures used or to be used to deal with exposure in respect thereof, and
  - (vii) the effect of the use, transport and disposal thereof; and
- (p) require the production of any materials concerning the content, frequency and manner of instruction of any training program and inspect, examine and copy the materials and attend any such program.

(2) An inspector may only enter a dwelling or that part of a dwelling actually being used as a workplace with the consent of the occupier or under the authority of a warrant issued under this Act or the Provincial Offences Act. 2001, c. 26, s. 1.

(3) Where an inspector makes an inspection of a workplace under the powers conferred upon him or her under subsection (1), the ... employer or group of employers shall afford a committee member representing workers or a health and safety representative, if any, ... or ... a worker selected by the workers because of knowledge, training and experience to represent them, the opportunity to accompany the inspector

during his or her physical inspection of a workplace, or any part or parts thereof.

(4) Where there is no committee member representing workers, no health and safety representative or worker selected under subsection (3), the inspector shall endeavour to consult during his or her physical inspection with a reasonable number of the workers concerning matters of health and safety at their work.

(5) The time spent by a committee member representing workers, a health and safety representative or a worker selected in accordance with subsection (3) in accompanying an inspector during his or her physical inspection, shall be deemed to be work time for which he or she shall be paid by his or her employer at his or her regular or premium rate as may be proper.

#### **Section 55**

**55.** Subject to subsection 9 (26), an inspector may in writing direct a health and safety representative or a member designated under subsection 9 (23) to inspect the physical condition of all or part of a workplace at specified intervals.

#### **Section 56**

**56.** (1) On application without notice, a justice of the peace or a provincial judge may issue a warrant authorizing an inspector, subject to this section, to use any investigative technique or procedure or to do any thing described in the warrant if the justice of the peace or provincial judge, as the case may be, is satisfied by information under oath that there are reasonable grounds to believe that an offence against this Act or the regulations has been or is being committed and that information and other evidence concerning the offence will be obtained through the use of the technique or procedure or the doing of the thing.

(1.1) The warrant may authorize persons who have special, expert or professional knowledge to accompany and assist the inspector in the execution of the warrant.

(1.2) The warrant shall authorize the inspector to enter and search the place for which the warrant was issued and, without limiting the powers of the justice of the peace or the provincial judge under subsection (1), the warrant may, in respect of the alleged offence, authorize the inspector to,

- (a) seize or examine and copy any drawings, specifications, licence, document, record or report;
- (b) seize or examine any equipment, machine, device, article, thing, material or biological, chemical or physical agent;
- (c) require a person to produce any item described in clause (a) or (b);
- (d) conduct or take tests of any equipment, machine, device, article, thing, material or biological, chemical or physical agent, and take and carry away samples from the testing;
- (e) take measurements of and record by any means the physical circumstances of the workplace; and
- (f) make inquiries of any person either separate and apart from another person or in the presence of any other person.

(1.3) The warrant is valid for 30 days or for such shorter period as may be specified in it.

(1.4) The warrant may contain terms and conditions in addition to those provided for in subsections (1) to (1.3) as the justice of the peace or provincial judge, as the case may be, considers advisable in the circumstances.

(1.5) A justice of the peace or provincial judge may issue further warrants under subsection (1).



(1.6) Nothing in this section restricts any power or duty of an inspector under this Act or the regulations.

(2) The inspector may remove any thing seized under a warrant from the place from which it was seized or may detain it in that place.

(3) The inspector shall inform the person from whom the thing is seized as to the reason for the seizure and shall give the person a receipt for it.

(4) The inspector shall bring a thing seized under the authority of this section before a provincial judge or justice of the peace or, if that is not reasonably possible, shall report the seizure to a provincial judge or justice of the peace.

(5) Sections 159 and 160 of the *Provincial Offences Act* apply with necessary modifications in respect of a thing seized under the authority of this section.

### **Section 56.1**

**56.1** (1) An inspector who executes a warrant issued under section 56 may seize or examine and copy any drawings, specifications, licence, document, record or report or seize or examine any equipment, machine, device, article, thing, material or biological, chemical or physical agent, in addition to those mentioned in the warrant, that he or she believes on reasonable grounds will afford evidence in respect of an offence under this Act or the regulations.

(2) Although a warrant issued under section 56 would otherwise be required, an inspector may exercise any of the powers described in subsection 56 (1) without a warrant if the conditions for obtaining the warrant exist but by reason of exigent circumstances it would be impracticable to obtain the warrant.

(3) Subsections 56 (3), (4) and (5) apply with necessary modifications to a thing seized under this section.

## **Section 62**

- 62.** (1) No person shall hinder, obstruct, molest or interfere with or attempt to hinder, obstruct, molest or interfere with an inspector in the exercise of a power or the performance of a duty under this Act or the regulations or in the execution of a warrant issued under this Act or the Provincial Offences Act with respect to a matter under this Act or the regulations.
- (2) Every person shall furnish all necessary means in the person's power to facilitate any entry, search, inspection, investigation, examination, testing or inquiry by an inspector,
- (a) in the exercise of his or her powers or the performance of his or her duties under this Act or the regulations; or
  - (b) in the execution of a warrant issued under this Act or the Provincial Offences Act with respect to a matter under this Act or the regulations.
- (3) No person shall knowingly furnish an inspector with false information or neglect or refuse to furnish information required by an inspector,
- (a) in the exercise of his or her powers or the performance of his or her duties under this Act or the regulations; or
  - (b) in the execution of a warrant issued under this Act or the Provincial Offences Act with respect to a matter under this Act or the regulations.
- (4) No person shall interfere with any monitoring equipment or device in a workplace.
- (5) No person shall knowingly,

- (a) hinder or interfere with a committee, a committee member or a health and safety representative in the exercise of a power or performance of a duty under this Act; [or]
- (b) furnish a committee, a committee member or a health and safety representative with false information in the exercise of a power or performance of a duty under this Act; ...

## Appendix D

### Regulations made under the Occupational Health and Safety Act that Apply to Farming Operations

Farming Operations	O. Reg 414/05
Critical Injury Defined	R.R.O. 1990, Reg. 834
Training Requirements for Certain Skill Sets and Trades	O. Reg. 572/99, as amended by O. Reg. 42/02.
Training Programs	O. Reg. 780/94

**NOTE:**

To see these regulations, please refer to the e-Laws website at [www.e-laws.gov.on.ca](http://www.e-laws.gov.on.ca).

## **Appendix E**

### **Ministry of Labour – Occupational Health and Safety Contact Information**

Visit the Ministry of Labour website at [www.labour.gov.on.ca](http://www.labour.gov.on.ca) or check the Blue Pages of your local telephone book to find the nearest Ministry of Labour office.

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**For more information on farming operations health and safety,  
please contact the following:**

**Farm Safety Association Inc.**

101 – 75 Farquhar St. Guelph ON N1H 3N4

519-823-5600 / 1- 800-361-8855

Web: [www.farmsafety.ca](http://www.farmsafety.ca)