

September 18, 2023

Heat Stress Consultation
Health, Safety and Insurance Policy Branch
Ministry of Labour, Immigration, Training and Skills Development
400 University Avenue, 14th Floor
Toronto ON
M7A 1T7

Submitted online through Ontario's Regulatory Registry website and by email to
WebHSpolicy@ontario.ca

Dear Ministry of Labour, Immigration, Training and Skills Development Officials:

RE: 23-MLITSD003 - New Heat Stress Regulation Under the *Occupational Health and Safety Act* (OHSA)

The Ontario Federation of Agriculture (OFA) is pleased to provide comments to the Ministry of Labour, Immigration, Training and Skills Development (MLITSD) regarding the proposed New Heat Stress Regulation under the *Occupational Health and Safety Act* (OHSA). OFA is the largest general farm organization in Ontario, proudly representing more than 38,000 farm family members. OFA has a strong voice for our members and the agri-food industry on issues, legislation and regulations administered by all levels of government. We are passionate and dedicated to ensuring that the agri-food sector and rural communities are considered and consulted with for any new or changing legislation that would impact the sustainability and growth of our farm businesses.

OFA takes the health and safety of farmers and farm workers seriously. We believe that all farm workers, from both Canada and abroad, should be treated with dignity and respect, and be provided with a physically and psychologically safe, fair and rewarding work environment. The majority of agricultural employment involves workers engaged in primary production outside throughout the growing season. Our comments are primarily directed towards the application of a heat stress regulation in outdoor workplaces.

When the Ontario agricultural sector was first brought under OHSA, it was agreed amongst agricultural stakeholders, the Ministry of Agriculture, Food, And Rural Affairs (OMAFRA), and MLITSD that a 'guideline approach' was the best course of action to protect the health and safety of farm workers. Mutually agreed upon guidelines for common work-related hazards were developed to provide flexibility to accommodate the diversity of farm workplaces in Ontario, while being an effective approach to preventing workplace accidents and injuries. OFA maintains that a guideline approach rather than prescriptive regulations is a preferred way to address farm workplace health and safety issues.

When a regulatory approach is sought to resolve an issue, OFA advocates for regulations to be practical, flexible, and present the lowest possible burden on employers to achieve the intended outcomes. **OFA agrees in principle with the concept of a heat stress regulation under OHSA; however, we are concerned that elements of the proposed regulation appear unnecessarily prescriptive and may produce excessive burden on the employer community.**

Additional provisions to protect workers that should be included in this proposal

Heat Stress and the risk of heat-related illness to an individual can be highly subjective and personal. Workers may perceive and react to increased hot environments differently depending on a number of different personal factors including one's acclimatization to higher temperatures, general health and fitness, medical conditions, age, body size and gender. Ultimately, an individual is the best judge of their own perception and reaction to the effects of heat on their body. Workers may also be motivated to *not* report moderate to severe heat stress to their employers or supervisors because of a number of perceived external factors including risk to earning potential, a perceived threat to their employment, or pressure to continue working from their coworkers, regardless of the training and instruction they have received from their employer.

A primary objective of OHSA is to facilitate a strong Internal Responsibility System (IRS) by placing statutory duties on employers, supervisors, and workers to maintain a safe and healthy workplace. The IRS signifies the integral roles and responsibilities of all workplace parties to prevent workplace injuries and illnesses.

As a complement to the heat stress information and instruction to workers that will be required from employers, and in recognition of both a worker's individual perception of increased heat and their reaction to it, **OFA recommends the proposed regulation should include explicit reference to a worker's duty to report signs of heat stress to their employer and/or supervisor and that the worker is required to take appropriate action(s) according to established workplace health and safety policies.**

Details of the regulatory proposal

The nature of farming presents a whole host of workplace circumstances that are not seen in other sectors of the economy. We find there are a number of operational challenges for the agricultural sector that challenge the implementation of prescriptive heat stress exposure limits.

At its core, farming involves the management of biological processes and living organisms that are more often than not subject to the vagaries of climatic and environmental conditions. Farming attempts to control the growth of plants and animals under conditions that are rarely under a farmer's control. And to do this successfully, it requires a very *flexible* approach to managing people, and a *flexible* approach to matching human resources with the demands of food production.

In addition to issues of seasonality and climate, the agriculture sector trades in a highly perishable product. Many of the good things grown in Ontario have a narrow window between emergence and harvest – the speed at which various commodities can begin to lose value before, during and after harvest creates a unique labour management situation.

We are challenged by what appears to be very prescriptive *heat exposure limits* developed by the American Conference of Governmental Industrial Hygienists' (ACGIH) within the context of highly variable weather experienced in Ontario and a subjective, individualized response to heat. We believe this regulation should focus less on prescriptive heat exposure limits and rather focus on raising awareness and education among employers, and building the capacity of employers to develop a workplace heat stress plan.

Should the new regulation proceed, we believe there is a strong need for MLITSD to develop operational guidance on how it will be interpreted within the context of agricultural workplaces to avoid the potential for overly broad or inconsistent interpretation, confusion, or delays that can impact farming operations and threaten Canada's food security. Where applicable, operational guidance should be developed in collaboration with farm employers and Ontario's Health and Safety Associations (HAS) to ensure consistency and bring clarity to definitions and procedures regarding what efforts can reasonably be expected to achieve compliance with heat stress exposure limits.

The majority of Ontario's farms are small to medium sized employers who do not have dedicated human resources department to interpret and implement new regulations at their operations. Farm employers will need significant assistance interpreting and applying this regulation to the wide variety of farm workplaces. Practical guidance will need to include options for small business to comply; printable heat stress posters and resources in multiple languages; worker education and training content in multiple media formats; guidance on how to develop a heat stress mitigation program for small and medium sized businesses; real-world heat measurement options across a wide variety of workplace conditions; record keep requirements; and simple infographics and checklists to assist employers to make decisions on how to organize the workday.

OFA recommends that MLITSD provide significant, early outreach to employers through multiple communication channels explaining clearly how employers may reasonably and practically implement it at the farm workplace.

OFA appreciates the opportunity to comment on the regulatory proposal for a new heat stress regulation under OHSA. As this proposal moves forward, we look forward to further MLITSD consultations with Ontario's farm employers to ensure any resulting regulation is practical, effective, and does not produce unnecessary burden on small and medium sized farm operations.

Sincerely,



Peggy Brekveld
President

cc: OFA Board of Directors