

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

Sent Via Email.

Dear Sir/Madam,

Canadian Manufacturers and Exporters (CME) appreciates the opportunity to provide comments to the Ministry of Labour, Immigration, Training and Skills Development's (the Ministry) Regulatory Impact Analysis (RIA) of implementing a new heat stress regulation under the *Occupational Health & Safety Act* (OHSA).

As the Government of Ontario moves to establish an Advanced Manufacturing Strategy this fall, we believe it must keep a strong focus on maintaining a balanced and evidence-based regulatory approach that minimizes undue burden and recognizes the work employers already do to maintain worker welfare in a competitive environment. The below reflect our suggestions for the proposed regulation.

Background

The Ministry is proposing a stand-alone heat stress regulation under the OHSA. This new regulation would apply to all workplaces that fall under the OHSA. These new regulations would:

- Introduce heat stress exposure limits based on the American Conference of Governmental Industrial Hygienists (ACGIH) method.
- Provide for the use of other methods to assess a worker's risk of exposure to heat stress.
- Require employers to identify and implement measures and procedures to control heat exposures based on the "hierarchy of controls", and
- Require employers to provide workers with information and instruction on recognizing the signs and symptoms of heat-related illnesses and the measures to protect themselves.

CME Response

CME does not support the development of a prescriptive regulation. We believe that significant advancements in reducing and eliminating the incidence of work-related heat stress can be better achieved through awareness, education, and prevention campaigns, which can be better achieved through a performance-based regulation rather than a prescriptive regulation.

A performance-based regulation is preferred as it would state the objectives which the government is trying to accomplish but it allows individual companies to decide how to achieve those objectives. CME also does not support setting a new regulation in compliance with the ACGIH Standard as it would be based on standards not within the reach of most small businesses.

CME believes that before any regulation is implemented, a thorough review of the data and statistics is necessary for ensuring that any such regulation is based on clear and compelling need. It is not clear to CME that such data need exists given the only data provided in the consultation paper is that “there have been 350 lost-time claims for heat exhaustion for construction workers between 2006 and 2015”.

CME is concerned that, first, the data references by the Ministry relates to the construction sector. Secondly, and more importantly, the data is between 8 and 17 years old. Relying on such data in no way represents “an evidence-based approach” to regulation development. CME believes that before implementing a broad-based regulation, performance based or otherwise, more current data, across all the sectors, should be shared with employers.

The issue of heat stress is an increasingly challenging issue to address given the worldwide problem of global warming. Heat stress is not as simple as being uncomfortable. Heat stress and heat stroke can have long term impacts on a person’s tolerance for heat, which could even potentially cause them to leave a skilled job during a time where keeping and recruiting skilled workers is a huge challenge for employers.

CME maintains that performance-based regulation is the best approach. With this in mind the Ministry is strongly urged not to specifically outline a rigid requirement such as compliance with the Heat Stress TLVs. This will result in adoption of the same technology, and the required action will likely be unduly expensive, ineffective or even counter productive. ACGIH guidelines are helpful for specific high-risk areas or tasks but are not broadly feasible for workplaces spanning vast geographical and weather regions, where conditions are changing from one moment to the next. Controls based on regional weather conditions are more feasible and realistic under this type of scenario. A performance-based regulation would result in more flexibility while still imposing a binding outcome.

There are other hazard-based regulations, and hazard-specific sections in the regulations, and we think it’s a good idea for a general expectation to have a plan and program and to demonstrate the workplace’s controls makes more sense than specific and rigid requirements.

CME also proposed that the wording of any regulation must be clearer and unambiguous for all readers, which the current consultation is not. As an example, the first statement of this proposed regulation to measure a worker’s core body temperature is untenable. Further, workers’ tolerance for heat will vary from worker to worker. Worker safety as a whole must be considered.

CME proposes that performance wording could be taken from the Ministry’s [Guideline No. 33: working in extreme temperature conditions](#) (originally for the film & TV industry):

“The employer should implement a heat stress prevention program that establishes:

- 1. worker training in the hazards, health effects and prevention of heat related illness*
- 2. criteria and monitoring method (e.g., acting on heat wave or alert notices by Environment Canada or calculating humidex from temperature and humidity measurements or WBGT measurements)*
- 3. a monitoring/sampling plan (e.g., when, where and what to measure or monitor)*
- 4. responses or preventative measures (e.g., increase frequency of breaks, reduce the work pace and workload, avoid working in direct sunlight, schedule heavy work for a cooler part of day, wear hat and sunscreen outdoors, etc.)*
- 5. a water supply plan and encourages hydration (e.g., at least 1 cup every 20 min.) and*
- 6. first aid and emergency responses, including monitoring of worker symptoms, and investigating incidents of health-related illnesses.”*

We believe that the requirement for controls to be “In writing” should say that if the hazard of heat stress is present, the employer should document how that hazard along with all other hazards workers are exposed to are being controlled (e.g., in a safe work plan). There shouldn't be a requirement for some separate documentation just for this one hazard.

CME also believes that the regulation should be accompanied by extensive guidance materials to familiarize employers with their new obligation with respect to protecting their workers from heat stress. Smaller less sophisticated employers, who are the likely target for a new heat stress regulation and the companion guidance materials, will need direction in conducting their hazard assessments, how to develop a heat stress prevention program, how to determine the appropriate procedures and controls to put in place in their workplaces, and how to train themselves and their workers.

Education for both employers and workers about heat stress and its possible consequences are paramount and the Health and Safety Associations (HSAs) that are integral partners in the province's health and safety system should be tasked with developing and delivering education/awareness campaigns, subject training, toolbox talks, etc. to their stakeholders.

Lastly, CME questions why the consultation document would talk about sun exposure/cancer risk when that's a different hazard than heat stress. That doesn't appear in the proposed regulation but confuses the intent at the outset of reading the consultation document.

Regarding specific questions posed in the consultation document, CME offers the following response:

Questions posed by the MLITSD.

Q1. Does your workplace potentially expose your workers to thermal conditions that may lead to a heat-related illness or otherwise impact their health and safety?

For many employers, the answer is “Yes”. An active heat stress program has been in place for more than 20 years. The programs are based on excepted standards and guidelines and often regional input by unions, employers and contract companies.

A. What method(s) are used to monitor and assess worker exposure?

Many have a heat stress program based on local Humidex, work activity and clothing. Radiant heat is also considered. The process is based on continuous monitoring and notification to the workforce of hazard level using simplistic methods such as colour code. During certain circumstances such as mandatory work, or when there is a high burden of radiant heat a more comprehensive evaluation is often completed using the ACGIH TLV. The systems are based on an openly communicated, understandable metric, such as Humidex. This metric is the basis of Environment Canada’s public communication regarding heat stress.

B. What engineering controls (for example, shade structures) and other measures and procedures do you think are most effective at protecting workers?

- Air condition and dehumidifiers for confined spaces and hot locations
- Shade from sunlight
- Sheltered workstations in hot locations
- vortex tubes
- use of mechanical assistance to reduce workload
- reflective barrier for radiant heat
- hydration/water stations
- ppe (cooling vest)
- communication of medical aspects including drug risks
- work scheduling for lower heat exposure – rotation of workers

Q2. Are there any additional provisions to protect workers that you think should be included in this proposal?

- Hydration plans
- Acclimatization
- Fitness to work
- Education

Q3. The Ministry is committed to ensuring resources to support the implementation of the proposed new regulation are available. How can the Ministry best help employers, especially small businesses, to implement the proposed new requirements?

- keep it simple
- allow for equivalent methods
- align with existing metric from environment Canada
- ensure workplace parties have the capability to agree to alternate means – variation from the standard
- different approach for smaller workplaces
- wall posters and charts.

Please do not hesitate to contact us should you need any additional information or clarification of the points we have raised above.

Regards,

Maria Marchese
Director
Workplace Safety & Compensation Policy