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ONTARIO FEDERATION OF LABOUR

**OFL SUBMISSION TO THE ONTARIO MINISTRY OF LABOUR
ON PROPOSED CHANGES TO THE REGULATIONS DEALING
WITH HAZARDOUS SUBSTANCES**



ONTARIO FEDERATION OF LABOUR



Submission to the Ontario Ministry of Labour on Proposed Changes to the Regulations Dealing with Hazardous Substances

June 3, 2016 • Ontario Federation of Labour (OFL)

The Ontario Federation of Labour (OFL) represents 54 unions and one million workers.
It is Canada's largest provincial labour federation.

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INTRODUCTION

The Ontario Federation of Labour (OFL) is the central labour organization in the province of Ontario. The OFL represents 54 unions and speaks for more than a million workers from all regions of the province in the struggle for better working and living conditions. With most unions in Ontario affiliated, membership includes nearly every job category and occupation.

The OFL is Canada's largest provincial labour federation.

As a province-wide central labour body, the OFL works to develop and coordinate policy as passed at our conventions and by our executive bodies. One of the key roles of the OFL is to try to influence public policies that affect all working people, their families and communities. One of the most important areas of public policy that we try to influence is the prevention of work related injuries and illnesses, including occupational cancers.

The OFL commends the government's commitment to improving worker protection from exposures to hazardous substances.

We welcome the opportunity to comment on the proposed revisions to Ontario Regulation 833 – Control of Exposure to Biological or Chemical Agents; Regulation 851 – Industrial Establishments; and Regulation 278 – Asbestos on Construction Projects and in Buildings and Repair Operations.

REVISIONS TO O. REG. 833

Proposed Changes to Exposure Limits

The Ministry of Labour is consulting on exposure limits for 21 substances based on the American Conference of Governmental Industrial Hygienists (ACGIH) Threshold Limit Values (TLVs) for 2014 and 2015. The OFL has repeatedly raised our detailed concerns of the use of these TLVs.

We will not get into the same level of detail in this submission. We will simply say that the overwhelming majority of occupational exposure limits which were set here in Ontario in 1986 were actually established many years prior and based on ACGIH TLVs. These American limits were set based on what the average healthy white male worker could acutely tolerate. Little or no regard was made for the risks of long-term damage to worker's health or reproductive health effects.

Ontario needs a better process to establish exposure limits that will actually protect workers. The OFL is prepared to meet with the MOL to discuss this further.

Respiratory Protection and Air Sampling

The Ministry is proposing to add new respiratory protection and air sampling provisions to O. Reg. 833. We understand that the MOL plan is to adopt similar respiratory and measuring provisions in both O. Reg. 833 and the Designated Substances Regulation (DSR). Unfortunately the proposed revisions to the DSR have not yet been adopted. This makes it difficult to know exactly what we are commenting on.

Respiratory Protection

The current proposal suggests using a limited number of sections from two Canadian Standards Association (CSA) standards:

- CSA Standard Z180.1-13, Compressed Breathing Air and Systems (\$144)
- CSA Standard Z94.4-11, Selection, Use and Care of Respirators (\$183)

We can support the concept of providing workers better protection in the regulation when it is necessary for workers to use a respirator. However, the MOL should be providing the wording it intends to use both in the consultations and in the regulation. The two standards are available for purchase from the CSA at a cost of \$327.00 which is a barrier for workers.

If the MOL is unwilling or unable to provide the wording in the regulation then there will need to be a provision in the regulation which requires the employer to provide a copy of the applicable standard(s) to the worker members of the joint health and safety committee or health and safety representative. Employers should also be required to make a copy available in the workplace for the workers.

Air Sampling

Generally speaking we can accept the references for the collection and analysis of airborne substances. The Occupational Health Clinics of Ontario Workers (OHCOW) made detailed comments on this issue in their 2015 Submission¹ on the proposed changes to the DSR. The OFL supports those comments as they apply to the DSR and to the proposed changes to O. Reg. 833.

Equivalency Clause

The MOL is also proposing an equivalency clause for the new provisions. They are considering language similar to that found in the asbestos in buildings regulation. (Wording inserted here for convenience.)

Use of equivalent measure or procedure

- 23.** A constructor, in the case of a project, or the employer, in any other case, may vary a measure or procedure required by this Regulation if the following conditions are satisfied:
- 1.** The measure or procedure, as varied, affords protection for the health and safety of workers that is at least equal to the protection that would be provided by complying with this Regulation.
 - 2.** The constructor or employer gives written notice of the varied measure or procedure, in advance, to the joint health and safety committee or the health and safety representative, if any, for the workplace.

We can envision the possibility of a biological outbreak such as occurred with SARS or Ebola. It could be possible that disposable respirators are being used faster than the manufacturer can produce them. Workers will still need to be protected. In this scenario respirators may need to come from outside of North America where they have been manufactured to a different standard. We would need to ensure that those respirators provide at least the same level of protection as required by the regulation.

In another scenario, a respirator is developed which provides better protection than those permitted by the regulation. This equivalency clause would allow an employer to switch to the more protective respirator. It would also give worker advocates the ability to argue that the newer respirator should be used by the employer.

In the case of air sampling the proposal is to have the regulation list specific and generally accepted methods. New and more protective methods may well be developed in the future. This equivalency clause would allow an employer to switch to the more protective method. It would also give worker advocates the ability to argue that the newer method should be used by the employer.

When we consider these scenarios we can support the addition of an equivalency clause. The MOL should not allow this clause to be used as a loophole for employers to try to provide cheaper and less protection for workers.

¹ Preventing Occupational Disease through the Designated Substance Codes for Exposure Measurement, Respiratory Protection and Medical Surveillance, A submission regarding the Ontario Ministry of Labour's Consultation on Proposed Changes to Ontario Regulation 490/09 – Designated Substances and the Requirements for Medical Surveillance, Respiratory Protection and Measuring, July 6, 2015. <http://ohcow.on.ca/uploads/OHCOW%20DSR%20submission%20July%206%202015.pdf>.

Joint health and safety committees and health and safety representatives will need to be properly trained to recognize the difference.

MEDICAL EXAMINATIONS

The MOL has proposed changes to medical examinations in O. Reg. 278/05 – Asbestos on Construction Projects and in Buildings and Repair Operations.

The revision to the medical tests required for exposed workers under the regulation would see X-rays and pulmonary function tests go from once every two years to once every five years.

Once again the OHCOW submission² dealt with the issue of medical examinations in detail. The OFL supports those comments as they apply to the DSR and to the proposed changes to O. Reg. 278/05.

OCCUPATIONAL HEALTH RESOURCES

Increasing efforts by unions and community groups to prevent occupational disease, legislative changes, and the public awareness that these generate, are placing greater demands on the resources of the Occupational Health Clinics for Ontario Workers (OHCOW) as well as the Workers Health & Safety Centre (WHSC). The funding for OHCOW & WHSC should be increased to allow them to improve the resources necessary to respond to the emerging trends around occupational disease and increase the role they play in preventing occupational illness.

SUMMARY

A key principle in preventing occupational disease is not to use or produce the toxic substances or toxic processes or other harmful exposures which cause it. Much current industrial production is based on the use of toxic substances or on processes which produce hazardous by-products.

It is a challenging task to alter this situation and it will take more than a public relations exercise. It requires a fundamental shift in how government views the introduction and use of known toxic substances as well as new and potentially deadly agents into Ontario workplaces.

Respectfully submitted,



Chris Buckley
President
Ontario Federation of Labour

2 Ibid

