

Report to the Minister of Labour

**RECOMMENDATIONS ON STRATEGIES TO
REDUCE WORK-RELATED MUSCULOSKELETAL
DISORDERS IN ONTARIO**

SUPPLEMENTARY REPORT

January 2006



Ergonomics Sub-Committee
of the Manufacturing Panel,
Health and Safety Action Group

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INTRODUCTION

On September 29, 2005, the Ergonomics Sub-Committee of the Manufacturing Panel, Health and Safety Action Group, presented its recommendations to the Minister of Labour, Steve Peters, in a report titled “Recommendations on Strategies to Reduce Work-Related Musculoskeletal Disorders in Ontario”.

A Working Group of Sub-Committee members was formed to continue discussions on the merits, principles, and scope of a possible ergonomics regulation. The Group met six times, from September 2005 through November 2005. This supplementary report details the results of the discussions and areas of agreement to be considered by the Minister regarding enforcement instruments for the prevention of musculoskeletal disorders (MSD).

Working Group Members

- John Macnamara
President
Business Council on Occupational Health and Safety
- Mark Nantais
President
Canadian Vehicle Manufacturers' Association
- Vern Edwards
Occupational Health and Safety Director
Ontario Federation of Labour
- Cathy Walker
National Health and Safety Director
Canadian Auto Workers

REVIEW OF ERGONOMICS IN OTHER JURISDICTIONS

The Working Group examined numerous regulations and codes of practice for ergonomics, materials handling, display screen equipment, and vibration from other jurisdictions as well as a jurisdictional overview provided to them by Ministry of Labour (MOL) and Workplace Safety and Insurance Board (WSIB) staff.

There is a wide range and variety of mechanisms that have been implemented in various jurisdictions, including:

- Embedding ergonomics provisions in legislation.
- Adding ergonomics provisions within existing regulations.
- Developing a new stand-alone ergonomics regulation.
- Developing separate regulations for manual handling, display screen equipment work, vibration, etc.
- Using very general provisions in legislation or regulation and providing detailed measures in guidance or a code of practice to meet those provisions.

The approach of the ergonomics provisions also varies widely among jurisdictions:

- A few jurisdictions have very prescriptive measures for preventing ergonomics-related injuries, detailing the types of procedures and equipment that must be used in certain work processes.
- Other jurisdictions take a risk-based approach, where the results of a risk assessment dictate the need for preventive measures.
- Some jurisdictions have broader risk assessment requirements, which include an ergonomics risk assessment, while other jurisdictions detail a risk assessment process specific to ergonomics.
- Many jurisdictions focus specifically on one issue, such as manual handling or display screen equipment, in a separate regulation. In these instances, other ergonomic issues such as temperature and noise may be included in the general sections of the regulations.
- Most jurisdictions require some degree of training for workers performing tasks in which there may be a risk of ergonomics-related injury.
- Often the roles of employers, supervisors, health and safety representatives, workers, and outside consultants in risk assessment and injury prevention processes are detailed in ergonomics laws.
- The government of Canada set up an Ergonomics Working Group to discuss the regulation of ergonomics. To date it has reviewed the positions of employer and labour representatives with respect to an ergonomics regulation.

ENFORCEMENT OF ERGONOMICS IN ONTARIO

The enforcement of ergonomics by Ministry of Labour field staff is carried out by inspectors and five ergonomists. Orders for ergonomic assessments, worker training on proper body mechanics and lifting, adapting workstations, etc. are issued under Section 25(2)(h) of the Occupational Health and Safety Act (OHSA), also referred to as the general duty clause, which requires employers to take all precautions reasonable in the circumstances to protect their workers. In addition, orders are issued under various related regulatory requirements, such as safe handling of materials under the Industrial Establishments Regulation, and provision of adequate lighting in regulations for the industrial, health care and mining sectors.

The Role of Ministry of Labour Ergonomists

There are currently five MOL ergonomists who provide professional support to the inspectorate during investigations of events, such as work refusals, accidents and complaints. In addition to investigations, they also undertake proactive inspections and provide advice to workplace parties. MOL health and safety programs (Industrial, Construction, Mining) consider ergonomics in their sector planning, and ergonomists assist each program. The ergonomists also review reports submitted for review under section 54 of the OHSA and the Health Care and Residential Facilities Regulation. Field visits may result from some of these reviews.

Priority Hazards

The following hazards are considered during inspections by the regional ergonomists (15% of allocated field visits):

- Manual handling, lifting, moving, pulling, loading and unloading equipment
- Extended and elevated reaches
- Repetitive work tasks
- Awkward postures
- Use of hand tools

Frequently Issued Orders (1999-2004)

The following are the most frequently issued orders by MOL ergonomists:

- General Employer Duties
- Manual Materials Handling
- Lighting
- Procedures (Health Care and Residential Facilities Regulation)

During this time period, 334 ergonomics-related orders were issued under Section 25 of the OHSA – general employer duties. Most orders were issued under section 25(2)(h), the general duty clause, and Section 25(2)(d), employers' duty to acquaint their workers with hazards.

Two-hundred-and-sixty-six orders were issued under Section 45 of the Industrial Establishments Regulation, regarding lifting and moving of materials.

Thirteen orders were issued under Section 21 of the Industrial Establishments Regulation, requiring the provision of adequate artificial lighting.

Eighty-four orders were issued under the Health Care and Residential Facilities Regulation, the majority of which were issued under sections 8 and 9 (employer's duty to establish procedures for such things as patient handling).

Currently, the MOL database does not specifically track ergonomic orders issued by inspectors other than ergonomists.

KEY PRINCIPLES

The working group members agreed that the discussion would be focused on key principles related to enforcement instruments, which could include a regulation, standards, policy, a code of practice, guidance material, etc. Working Group members recommend that MOL, WSIB, and Health and Safety Association (HSA) staff, especially those who interact directly with the workplace, and MOL inspectors, receive consistent information and training and use a similar approach and strategy in workplaces. In addition, as recommended in the Occupational Health and Safety Council of Ontario (OHSCO) strategy, the health and safety system should develop similar terminology and approaches, and continue to align the roles of MOL, WSIB, and the HSAs.

The principles outlined in this document should apply to the implementation of the recommendations from the first report of the Ergonomics Sub-Committee, including the development of guidance materials and policy by any of the system partners.

1. Ergonomics Should Be Proactive

An ergonomic strategy should be proactive. The aim should be to prevent MSD before they happen. For example, the application of the strategy or enforcement instruments to workplaces should not be triggered only by a MSD injury or claim to the WSIB.

2. MSD Prevention Should be Performance-Based with a Risk-Based Approach

An ergonomic strategy need not be prescriptive. It requires flexibility for application to a variety of sectors, tasks, and processes. Details may be included in supplementary information, such as sector-based guidance, industry guidance, etc.

An evaluation should consider work-task elements that contribute to MSD. This would allow for a preliminary evaluation or determination of whether a more detailed analysis is warranted, e.g. risk assessment.

3. Hazard Elimination and Control

The performance objective of a strategy should be clearly stated.

Where the risk of injury exists, the employer must eliminate the risk, or if not reasonably practicable, take appropriate steps to reduce the risk to the lowest level reasonably practicable. In addition, where there is a delay in implementation of final measures, interim measures should be put in place.

Examples of hazard elimination and control provisions in other jurisdictions include:

- Australia: “to prevent the occurrence of injury and/or reduce the severity of injuries”.
- European Union: “remedy the risks found” (DSE Directive) or “reduce the risk” (Manual Handling Directive). For example, the European Union directives require employers to take appropriate organizational measures or appropriate means to avoid the need for manual handling of loads or, if it cannot be avoided, reduce the risk (undertake an assessment). Risk avoidance and evaluation of risk that cannot be avoided is a general principle of prevention adopted by the European Council.
- United Kingdom: “Take appropriate steps to reduce the risk of injury to those employees...to the lowest level reasonably practicable” (Manual Handling Regulation and DSE Regulation). The United Kingdom regulation requires employers, as far as is reasonably practicable, to avoid the need for manual handling that involves a risk of being injured, or where it is not reasonably practicable to avoid the need, to undertake a risk assessment and take steps to reduce the risk to the lowest level reasonably practicable.
- British Columbia: “The employer must eliminate, or if that is not practicable, minimize the risk of MSI to workers... The employer must, without delay, implement interim control measures when the introduction of permanent control measures will be delayed.”

4. Meaningful Participation of Workplace Parties

An ergonomic strategy should always encourage meaningful participation in both program design and implementation. Workplace parties, including workers, supervisors, Joint Health and Safety Committee members and Health and Safety Representatives, should be involved, as appropriate, in the following:

- Identification of problems
- Participation in a risk assessment
- Implementation of a strategy to eliminate or reduce MSD
- Evaluation stage of any control measures taken.

This is particularly significant for workers who are exposed to risk factors, and who would be affected by an intervention strategy.

5. Training and Education

Workplace parties should receive relevant training and education in the following areas:

- Risk factors
- Early signs and symptoms
- Use of equipment, tools, and work organization factors
- Control measures and procedures

It is important to educate workplace parties in risk identification related to work, signs, symptoms and health effects and to train workers who must work with control measures in the use of such measures and procedures.

6. Method of Assessment

The method of assessing risk of injury or illness must be practical, relevant to the workplace, and easy to use, e.g. a checklist of risk factors, surveys.

Common methodologies should be developed for use by all stakeholders and should be based on sound science and proven effectiveness.

The method of assessing risk should consider the number of workers and work-task elements involved, in order to ensure a meaningful assessment.

7. Evaluate the Strategy

Organizations should engage in both qualitative and quantitative measurement activities to evaluate the effectiveness of an intervention strategy and track change in performance.

STATEMENT OF MEMBER POSITIONS

EMPLOYER POSITION

The Ergonomics Sub-Committee spent considerable time evaluating the current state of work-related MSD in Ontario and other jurisdictions. With careful and considered thought it made recommendations on actions that would help employers and employees make significant progress in preventing work-related MSD. The recommendations, if implemented, will ensure that meaningful and effective tools and resources are made available to the workplace stakeholders.

The recommendations and the principles contained in this supplementary report are designed to enhance and work in concert with the enforcement instruments to prevent MSD. Other than the recommendation to develop guidance material consistent with the principles, there does not appear to be any compelling reason to add to the list of instruments as ergonomic improvements are enforceable through the use of the general duty clause. By nature, the general duty clause is not specific, and allows enforcement agencies to issue orders on unsafe acts and conditions that are not covered in the more specific regulations.

LABOUR POSITION

Government is in the government business. The Ministry of Labour's role is to make laws and to enforce them. The WSIB reports that 40 per cent of Ontario's lost-time injuries are for MSD that could be prevented by the use of proper ergonomics in the workplace. Yet Ontario has no ergonomics regulation to prevent these painful, disabling and costly injuries from occurring. Instead, it relies in the main on the general duty clause, which requires employers to take every precaution reasonable in the circumstance for the prevention of a worker injury. This clause is not specific enough to provide direction to employers who want to make workplace changes to prevent MSD. And those who do not want, who cannot be bothered, who think it too costly or too much trouble, must be persuaded, by law and by the enforcement of the law, to do the right thing and protect workers from harm.

British Columbia and Saskatchewan have ergonomics regulations. The federal government is moving ahead with an ergonomics regulation that will protect 10 per cent of the Ontario workforce from MSD. What about the 90 per cent of the Ontario workforce that is in the provincial jurisdiction? In Ontario, we have many provincial health and safety regulations stipulating many issues in detail, from work-rest dimensions for grinding wheels to numerous chemicals that we cannot even pronounce. How can we have no ergonomics regulation in effect to prevent 40 per cent of the injuries in the province?

Mr. Justice Cory had this to say about government regulations in 1991 in Wholesale Travel, a decision of the Supreme Court of Canada:

“It is difficult to think of an aspect of our lives that is not regulated for our benefit and for the protection of society as a whole. From cradle to grave we are protected by regulations. They apply to the doctors attending our entry into this world and to the morticians present at our departure. Every day from waking to sleeping we profit from regulatory measures which we often take for granted. On rising, we use various forms of energy whose safe distribution and use are governed by regulation. The trains, buses and other vehicles that get us to work are regulated for our safety. The food we eat and the beverages we drink are subject to regulation for the protection of our health. In short, regulation is absolutely essential for our protection and well being as individuals, and for the effective function in society. It is properly present throughout our lives. The more complex the activity the greater the need for and the greater our reliance upon regulation and its enforcement. For example, most people would have no idea what regulations are required for air transport or how they should be enforced. Of necessity society relies on government regulation for its safety.”

