

2006/01/27-07

THE WORKERS' COMPENSATION BOARD OF BRITISH COLUMBIA**RESOLUTION OF THE BOARD OF DIRECTORS**

RE: Amendments to requirements of the *Occupational Health and Safety Regulation* (B.C. Reg. 296/97, as amended), pertaining to cytotoxic drugs

WHEREAS:

Pursuant to section 225(1) of the *Workers Compensation Act*, R.S.B.C. 1996, c. 492 and amendments thereto ("*Act*"), the Workers' Compensation Board ("WCB") may make regulations it considers necessary or advisable in relation to occupational health and safety and occupational environment;

AND WHEREAS:

Part 6 of the *Occupational Health and Safety Regulation* ("*OHSR*") contains requirements relating to cytotoxic drugs;

AND WHEREAS:

A review of the regulatory requirements within Part 6 has been conducted in recognition of a change in cytotoxic drug work practices;

AND WHEREAS:

The WCB, pursuant to its mandate under the *Act*, has proposed amendments to Part 6 of the *OHSR*, and has given notice of the proposed amendments and held a public hearing on the proposed amendments in accordance with section 226(1) of the *Act*;

AND WHEREAS:

The Board of Directors, after due consideration of all presentations to the WCB, considers it necessary and advisable in accordance with the WCB's mandate under the *Act* in relation to occupational health and safety and occupational environment, to amend Part 6 of the *OHSR*;

AND WHEREAS:

Pursuant to the Provincial Government's *Regulatory Reform Policy*, the Board of Directors has evaluated the proposed regulatory amendments according to the established regulatory criteria;

THE BOARD OF DIRECTORS RESOLVES THAT:

1. The regulatory amendments to the *OHSR*, as set out in Appendix A, are approved.
2. The Regulatory Criteria Checklist in Appendix B is approved.
3. The above regulatory amendments will be deposited with the Registrar of Regulations in such form as may be required by the Registrar.
4. The above regulatory amendments come into force 90 days after deposit with the Registrar of Regulations.

DATED at Richmond, British Columbia, January 27, 2006.

By the Workers' Compensation Board

**DOUGLAS J. ENNS, CHAIR
BOARD OF DIRECTORS**

APPENDIX A

THE BOARD OF DIRECTORS RESOLVES THAT:

- 1 *Section 6.44 of the Occupational Health and Safety Regulation, B. C. Reg. 296/97, is amended by striking out “drug is used,” and substituting “drug is received, prepared, administered,”.*
- 2 *Section 6.48 (1) is amended by striking out “drug is used,” and substituting “drug is received, prepared, administered,” and by adding “receiving, storage,” after “applicable aspects of”.*
- 3 *Section 6.53 is amended*
 - (a) *by striking out the marginal note and substituting “Drug preparation and administration”, and*
 - (b) *by renumbering it as section 6.53 (1) and adding the following:*
 - (2) The administration of cytotoxic drugs must be done by following safe work procedures.
- 4 *Section 6.54 is amended by striking out “which prevent disconnection, such as Luer locks.” and substituting “, such as Luer locking fittings, which prevent accidental disconnection.”.*
- 5 *Section 6.55 (2) (a) is repealed and the following substituted:*
 - (a) medical gloves that are manufactured and designed for use when handling cytotoxic drugs,
- 6 *Section 6.57 is renumbered as section 6.57 (1) and the following is added:*
 - (2) Any excreta from a patient being treated with cytotoxic drugs that is handled by a worker must be treated as cytotoxic drug-related waste.
- 7 *Section 6.58 (1) is amended by striking out “cabinet or fume hood,” and substituting “cabinet,”.*
- 8 *The above amendments come into force 90 days after their deposit under the Regulations Act.*

Dated at Richmond,, British Columbia, January 27, 2006.

By the Workers’ Compensation Board

DOUGLAS J. ENNS, CHAIR
BOARD OF DIRECTORS

APPENDIX B

REGULATORY CRITERIA CHECKLIST

Title of Legislation/Regulation* *Occupational Health and Safety Regulation*

**If Regulation, Title of Authorizing Legislation: Workers Compensation Act*

Purpose of Proposal (One-Line Summary): Amendments to requirements for cytotoxic drugs.

If the answer is “No” for any of the criteria, please attach explanation.

Regulatory Criteria	Criteria Met	
1. Reverse Onus: Need for Regulation is Justified	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
2. Regulatory Design is Results-Based	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
3. Transparent Development of Regulatory Requirements	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
4. Cost- Benefit Analysis	Formal Cost-Benefit Analysis Completed <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Not Required If <i>Not Required</i> , Impacts have been Analyzed <input type="checkbox"/> Yes <input type="checkbox"/> No	
5. Competitive Analysis Completed	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
6. Regulatory Requirements Avoid or Eliminate Duplication with Other Jurisdictions	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
7. Timeliness of Regulatory Response	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
8. Plain Language	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
9. Sunset Review and Expiry Provisions	Sunset Review provision <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Sunset Expiry provision <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
10. Replacement Principle Applied	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

Number of Regulatory Requirements to be added: **5**
 Number of Regulatory Requirements to be eliminated: **1**
NET CHANGE: +4

Douglas J. Enns, Chair
Board of Directors

Date

Contact: Mark Ordeman, Policy Analyst
Policy & Research Division
Workers' Compensation Board

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REGULATORY CRITERIA CHECKLIST

A. BACKGROUND

On March 11, 2002 the provincial government introduced a new Regulatory Reform Policy ("Policy"). The Policy is intended to "support the government's commitment to reducing the regulatory burden in British Columbia by one-third over three years." The Policy applies to all proposed legislation and regulations.

The Policy requires the Chair of the Board of Directors ("BOD") to ensure that proposed regulations are evaluated according to regulatory criteria set out in the Policy, and to sign and make public the "Regulatory Criteria Checklist" ("Checklist") when regulations are enacted. The criteria are designed to ensure that all new regulations are results-based and contribute to a more competitive regulatory environment.

The Policy provides for exemptions from the Checklist if the head of the regulatory agency certifies that, in his or her opinion, the regulation satisfies one or more of the following conditions:

- Is non-regulatory in nature;
- Changes fees in respect of a financial year by an annual rate that has been approved by the Treasury Board;
- Relates only to the procedures or practices of a court or tribunal;
- Is required under a national uniform legislation or regulatory scheme, or by federal legislation that has already been assessed against criteria similar to that provided in the Checklist;
- Is fundamentally declaratory or machinery in nature, such as housekeeping changes that clarify or correct a provision without changing procedural requirements;
- Provides for the commencement of an Act or regulation or the commencement of a provision of an Act or regulation;
- Is consolidated and reviewed under the reversion powers in Part 2 of the *Regulations Act*;
- Is transitional in nature;
- The special circumstances of the case, as identified by the responsible minister or head of the regulatory authority, make it impracticable to comply with the Regulatory Criteria.

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The regulatory amendments relating to cytotoxic drug requirements do not meet the criteria for an exemption from the Checklist.

B. REGULATORY AMENDMENTS

Part 6 of the *Occupational Health and Safety Regulation* (“OHSR”) contains requirements that address cytotoxic drugs. These requirements are specific and not responsive to changes in related work practices.

A review of the cytotoxic drug requirements was conducted to respond to changes in workplace practices.

C. EXPLANATORY NOTES

1. Reverse Onus: Need for Regulation is Justified

The regulatory requirements are necessary to maintain reasonable standards for the protection of worker health and safety.

2. Regulatory Design is Results-Based

One of the objectives of the Workers’ Compensation Board’s (“WCB”) ongoing regulation review is to strike a reasonable balance between establishing standards or practices for controlling risk and providing flexibility to enable workplaces to determine appropriate measures for achieving compliance. In the case of cytotoxic drug requirements, the amendments are prescriptive in nature in order to address the serious risk posed to worker health and safety if cytotoxic drugs are handled improperly.

3. Transparent Development of Regulatory Requirements

Section 226 of the *Workers Compensation Act* (“Act”) requires that before making a regulation under Part 3, the WCB must give notice of the proposed regulation in the *BC Gazette* and at least three newspapers and must hold at least one public hearing on the proposed regulation.

The public hearing was conducted between September 23, 2005 (date of formal notice) and November 4, 2005 (due date for written submissions). An oral hearing was conducted in Richmond on November 3, 2005 as part of the public hearing process.

The response to the amendments during the public hearing was moderate and may be characterized as non-controversial. All submissions (ten employer representatives and one worker representative) expressed general support for the proposed amendment package.

Two employer representatives (one from a university and another from health care) suggested changes to both the proposed amendments as well as other existing cytotoxic drug requirements for greater clarity and one submission from the worker

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community (health care) recommended a number of additional amendments including a requirement for mandatory chemotherapy training certification, a process for identifying patients who have received cytotoxic drugs, and for employers to provide protective reassignment for workers who are breast feeding.

4. Cost-Benefit Analysis Completed

A formal cost-benefit analysis was not completed. Generally, cost implications were not raised during the public hearing process.

One of the proposed requirements states that medical gloves manufactured and designed for handling cytotoxic drugs must be used. Gloves made of surgical latex or other material of equal or better protection, as required by the existing *OHSR*, range in cost from about \$45 to \$225 for a box of 50. Medical gloves manufactured and designed for use when handling cytotoxic drugs, as required by the proposed amendment, range in cost from about \$30 to \$100 for a box of 50. It is anticipated that there will be little or no financial impact on employers.

5. Competitive Analysis Completed

A formal competitive analysis was not completed. Requirements pertaining to the use and handling of cytotoxic drugs vary widely between Canadian jurisdictions.

Only BC, Ontario and Saskatchewan have specific requirements in place to safeguard worker health and safety against exposure to cytotoxic drugs including requirements for training, safe work procedures, and the use of a biological safety cabinet for preparing cytotoxic drugs. Four other jurisdictions in Canada have requirements regarding dangerous substances (includes cytotoxic drugs). The requirements are similar to those laid out for cytotoxic drugs in BC, Ontario and Saskatchewan but do not have requirements regarding the use of a biological safety cabinet. The five remaining jurisdictions do not provide any requirements specific to cytotoxic drugs or dangerous substances. In these jurisdictions, general requirements for employers to identify workplace risks and implement programs and procedures to ensure worker safety, along with general requirements around the use of personal protective equipment would apply to workers handling cytotoxic drugs.

6. Avoid or Eliminate Duplication with Other Jurisdictions

The amendments do not duplicate requirements imposed by other regulatory jurisdictions.

7. Timeliness of Regulatory Response

Changes to regulations must be deposited with the Registrar of Regulations and, pursuant to section 227 of the *Act*, may only come into force at least 90 days after their deposit under the *Regulations Act*.

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The amended regulation will be available on the WCB's website and a communications strategy has been developed to ensure workplace parties are made aware of the changes. A guideline has been drafted to provide additional clarity on the new requirements and assist with compliance.

8. Plain Language

The amendments are drafted in plain language.

9. Sunset Review and Expiry Provisions

Sunset review and expiry provisions are not required. Section 228 of the *Act* requires the WCB to undertake a process of ongoing review of and consultation on its regulations to ensure that they are consistent with current workplace practices, technological advances and other changes affecting occupational health and safety and occupational environment.

10. Replacement Principle Applied

The amendments result in a net addition of four regulatory requirements.