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November 4, 2005

Policy and Research Division
Workers' Compensation Board of British Columbia
P.O. Box 5350
Station Terminal
Vancouver, BC
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Dear Sir or Madam:

Re: Written Submission – Proposed Amendments to the Occupational Health and Safety Regulation

Please accept this letter as our submission concerning the proposed changes currently under consideration. I have identified each of the areas that we will be commenting on.

Part 3, Section 3.1

We welcome this change in the Regulation to clarify the intent of when an occupational health and safety program would be required.

Part 6, Section 6.1 - Definitions

The change to delete the reference to the WCB's own analytical method makes some degree of sense in light of the closure of the WCB's lab, however, given that this analytical method was acceptable for many, many years and given that some of the labs within the province that specialize in asbestos identification still use this method, it would be prudent to allow it to continue to be referenced.

Perhaps the wording of Section 6.1 could retain the "... by WCB Method 0205..." and then add the NIOSH method and reference to other methods acceptable to the Board. Alternatively, include (retain) WCB Method 0205 in a guideline as being a method acceptable to the Board.

If the references to "x-ray diffraction" is to be dropped from the Regulation, there should be a revised guideline developed that identifies what methods are acceptable to the Board. The current guideline does not match this proposed Regulation and since no proposed guideline revision is attached, this may lead to some confusion. The current guideline also references an EPA Test Method, but since it is not specifically identified in the proposed regulation change, that raises the question of whether the EPA method is still acceptable.

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It is also interesting that the proposed wording of the amended regulation concerning the "title" of the NIOSH Method 9002 does not match the wording of the same "title" of the NIOSH Method stated in the current guideline. There should be some degree of consistency between these two documents issued by the WCB.

Part 6, Sections 6.44 to 6.58 – Cytotoxic Drugs

Under Section 6.44 the requirement exists for specific topics of information that must be available to workers. Unfortunately, there is no guideline that explains to anyone what types of reference materials would satisfy the requirement of this regulation. For drug products of any type, it is normal to rely on the drug monograph provided by the drug manufacturer and/or consulting the standard health care reference manual, the Compendium of Pharmaceuticals and Specialties (CPS) produced annually by the Canadian Pharmaceutical Association. Recent discussions with a Vancouver Island Board Officer have indicated that, in his opinion, neither of those references satisfies this regulation.

That position is difficult to argue when neither the Board Officer nor the employer has any guideline as to what reference material is acceptable. Considering one of the above information sources comes from the drug manufacturer and one comes from the association that governs pharmacists in Canada, we are at a loss to ascertain what better sources of data on cytotoxic drugs there might be.

Clarification within this section of the Regulation, or the creation of a suitable guideline would assist everyone in achieving compliance, as well as creating a safer work environment.

Under Section 6.53 (2), the proposed change is the addition of the following:

"(2) The administration of cytotoxic drugs must be done by following safe work procedures."

Again, consistency is lacking within the proposed change and elsewhere in the Regulation. The wording should be changed to read:

"(2) The administration of cytotoxic drugs must be done by following written safe work procedures."
[emphasis added]

The word "written" is included with the phrase safe work procedures in 6.48 but not in the proposed addition of 6.53 (2). Elsewhere in the existing Regulation under section 6.58 (1) it refers to "... written emergency procedures to address spills ..." as being necessary. If some portions of the regulation require "written safe work procedures" (or "written emergency procedures") and some sections merely require "safe work procedures" there is the implied indication that not all safe work procedures need to be written and therefore "unwritten" safe work procedures are acceptable. That is a grave error. When dealing with something as potentially hazardous as cytotoxic drugs, the procedures required should be written out for reference of all.

As a side comment, at the next regulation revision, the word "written" should be added to all those sections of the Regulation where the phrase "safe work procedures" appears to eliminate the potential for confusion and to enhance consistency within the Regulation.

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In reviewing these proposed changes for these sections of the Regulation, it became apparent that some of the terminology used in the regulation is not clarified in either the Regulation itself or in the existing guideline. Either now, during this amendment, or in the near future, or perhaps as an amended guideline, terms that should be defined to avoid confusion, are:

- "administrative sets"
- "intravenous sets"
- "excreta" (used in proposed amendment for 6.57)

Under Section 6.55 (2) (a) the proposal is made to delete the reference to surgical latex or other material type gloves and replace it with a statement to use "... medical gloves that are manufactured and designed for use when handling cytotoxic drugs ...". An internet search for such gloves provided no specific results. There were several references that identified that different glove materials provided protection from different cytotoxic drugs, but no indication of any single material that provided broad spectrum protection from all cytotoxic drugs. What was obvious was that it was imperative for the user of a specific cytotoxic drug to select gloves of a material that appeared to have reasonable resistance to that specific drug and to use two pairs of gloves at once (i.e. double glove). It would seem to be more productive for the proposed revision to Section 6.65 to emphasize proper selection of glove materials that provided good protection (based on reliable data) and to require double gloving of the person working with the cytotoxic drugs.

Under Section 6.55 (2) (d), although not specifically identified for a proposed change, it would be prudent of the WCB to include the word "appropriate" in front of "eye and face protection", so that this section read:

(d) if there is a risk of eye contact, appropriate eye and face protection. [emphasis added]

Safety glasses are considered as "eye protection", however they are not appropriate eye protection for use with cytotoxic drugs, since they do not provide adequate protection. Only chemical splash goggles that properly fit the facial features of the wearer would provide adequate protection and prevent contact with the eyes, particularly, since any chemical contact with unprotected eyes is considered to have an absorption rate of 100% (reference source WCB publication).

Under Section 6.57 it specifies the types of containers that cytotoxic drug-related waste is to be packaged, but it provides no useful information on how that waste is to be handled and disposed of. The addition of subsection (2) that requires that "excreta" must be treated as "cytotoxic drug-related waste", but provides no information on what that means. There are no current or proposed guidelines on this topic. As mentioned previously, the term "excreta" is undefined. Does it include "sweat" as well as feces, vomit, and urine?

Under Section 6.58 (2) although not specifically identified for a proposed change it should have the word "receiving" added to the locations where spill kits should be present, since these materials are often received at locations different from where they are prepared and stored. The change would be minor and should be captured at this time. It should read:

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"(2) Spill kits, clearly labelled, must be kept in or near cytotoxic drug receiving, preparation, administration and storage areas and a sign detailing spill procedures must be posted in all such areas." [emphasis added]

Proposed Guideline

The only proposed Guideline is G6.53(2) and is improperly titled in that it states "Safe procedures for ..." instead of "Safe Work Procedures for ..."

This guideline suggests that this is the only safe work procedure. Is that the WCB's intent, or should the guideline indicate that the procedure included therein is "typical"?

In addition, information on a suitable spill kit should be included in this guideline, as well as some discussion as to how the "cytotoxic drug-related waste" should be handled once packaged.

Part 8, Personal Protective Clothing and Equipment and Part 31 (related section)

The updating to the 2002 edition of the CSA Standard is a wise move, however since not every workplace has access to the CSA Standard the heavy reliance on such documentation has a negative effect on some employers achieving compliance.

Under Section 8.1 the explanatory note is misleading in that it advises that the definition for "fit check" is being deleted because it is "currently defined in section 8.41". That is untrue, since the term "fit check" is never defined in the regulation. In fact, in both Section 8.40 and 8.41 the term "fit check" is replaced by the term "user seal check".

We recognize the concern of the Board over the potential confusion between the terms "fit check" and "fit test", however rather than attempt to eliminate "fit check" and replace it with the CSA Standard term that is more cumbersome, it would be in the best interests of the WCB to include both terms and cross reference them to indicate that they mean the same thing. That would be an educative approach to making this change.

The decision to retain the annual fit testing requirement is endorsed and welcomed. The balance of the proposed changes in this Part are acknowledged and agreed with.

Part 11, Fall Protection – Section 11.6, Anchors

Although the intent of these proposed changes is to "... clarify the existing requirement ..." it has missed the mark.

These changes have eliminated the previously acceptable anchor load capacity for a permanent fall restraint system of two times the maximum arrest force and made it 22 kN (5000 pounds). That is a retrograde step and not consistent with fall restraint system anchors currently in use throughout Canada. Since reference to permanent fall restraint system under subsection (3) has been eliminated and subsection (4) added to specify that all permanent anchors must have an ultimate load capacity of 22 kN (5000 pounds).

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Since the load expectations on a fall restraint system anchor are static and not dynamic, they are considerably less than the load expectations on a fall arrest system anchor (which are potentially dynamic). The proposed changes between subsection (3) and (4) eliminate the lower anchor capacity normally acceptable for fall restraint systems.

While "fall restraint systems (FRS)" and "fall arrest systems (FAS)" are individual types of "fall protection systems (FPS)", their expectations, characteristics and loadings are markedly different. There is no rationale justification for requiring a permanent anchor used for a fall restraint system to require an ultimate load capacity of 22 kN (5000 pounds), particularly when the temporary anchor requirements for a fall restraint system is only 3.5 kN (800 pounds). This section of the Regulation should be left as is.

The proposed guideline is full of incorrect statements and invalid assumptions, but since the guidelines are not regulations and therefore not enforceable, we see little point in commenting in more detail. Unfortunately, poorly written guidelines mislead both Board Officers and novice fall protection system users that are not familiar with the intricacies of fall protection.

Part 13, Ladders, Scaffolds and Temporary Work Platforms

Under Section 13.33 (1) the proposed change substitutes a new type of anchor, i.e. "... a suitable and substantial anchor ..." rather than refer to one of the two types of anchors specified in Part 11 (i.e. a temporary or permanent anchor).

It begs the question of what "... a suitable and substantial anchor ..." actually is and what is the minimum ultimate load capacity that is expected for such an anchor. Is it 3.5 kN (800 pounds); two times the maximum arrest force (MAF); 22 kN (5000 pounds); or something else.

It should also be pointed out that there is at least one serious error in the "explanatory note". Specifically, the last sentence which states in part:

"... or the fall protection lanyard can be looped around the boom section."

Unless the lanyard is specifically manufactured to allow tie back upon itself (e.g. Miller® Back Biter™ Lanyard, North® Ty-Rite™ Lanyard, DBI-Sala® Wrap-Bax™ Lanyard), the described method of attaching a standard lanyard is prohibited by most manufacturers, the applicable CSA Standards for lanyards and by recognized safe work practices for fall protection systems. Most lanyards have terminal hooks that are forged and have a minimum breaking strength of 22 kN (5000 pounds), however the "gate" of the hook (that portion which allows attachment to other hardware) is soft metal, not rated at 22 kN (5000 pounds) and will deform under the load if hooked back upon itself. For the WCB to suggest that such an action is acceptable is not only ludicrous but actually highly dangerous.

Part 12, Tools, Machinery and Equipment

Under Section 12.74, only the ANSI standard is indicated and the usual inclusive statement of "other standards acceptable to the Board" is missing. There are several Australia / New Zealand standards that should be considered when evaluating the suitability of such devices, specifically:

- AS/NZS 2538:2004 - Vehicle support stands
- AS/NZS 2615:2004 - Hydraulic Trolley Jacks

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- AS/NZS 2693:2003 – Vehicle Jacks

Either these Standards should be included in the regulation for those types of devices or at least the "other standards acceptable to the Board" statement should be included.

Otherwise the proposed changes within this Part should increase the level of safety in automotive shops when using various types of lifts and vehicle supports.

Part 26, Forestry Operations

Under Section 26.65, Bullboards the proposed change has become self limiting by being too closely tied to the Motor Vehicle Act Regulations (MVAR). By doing that, the WCB is presuming that the regulations apply only to "highway style log trucks". Unfortunately that is not the case since there are many "off highway" style logging trucks that are in service.

Not only do some of those have cabs that are 2.6 metres in width or larger, but they should have the added protection of the 15 cm (6 inch) extra on the sides of the cab. "Off highway" log trucks are rarely "operated" on highways and therefore not subject to the provisions of the MVAR. If they are "moved" along highways, they would operate under a special permit for an "over width load".

As the regulation currently exists, both "highway" and "off highway" trucks were accommodated and the proposed change, if enacted, may inadvertently provide poorer protection for the drivers of off highway log trucks.

It would be preferable if the regulation concerning bullboards under subsection (b) was modified to read:
"is at least 15 cm (6 in) wider than the cab, but in the case of highway style log trucks, does not exceed 2.6 m (102 in) in width."

Thank you for your attention in reviewing our submission. Should you have any questions regarding this, please do not hesitate to contact the undersigned.

Yours truly,



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