

newsletter

WSIB Conducts Funding Review

John Bartolomeo

A report by the Auditor General painted a grim picture for the Workplace Safety and Insurance Board. With an unfunded liability over \$11 billion dollars, the Auditor General's report became the priority for the WSIB.

Although suggesting that this report will not affect benefits, there already has been a shift in the way the WSIB handles claims. Injured workers are now more likely to return to their injury employer (a nomenclature change from accident employer). This is

done to avoid the costs of retraining a worker.

A funding review to be headed by Professor Harry Arthurs will spearhead the examination of the issue. The WSIB funding review has invited all interested parties to make a submission for consideration. The funding review has a mandate to consider the appropriate level of funding, rate groups and premiums. In addition, the review will also examine payment for partial injuries and occupational disease. O

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**Triangle Waist Company factory fire
New York City, 25 March 1911
see page 6.**

case & comment —

**UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, San Francisco:
USA v COMPREHENSIVE DRUG TESTING, INC.
*MAJOR LEAGUE BASEBALL PLAYERS ASSOCIATION v USA.***

John Bartolomeo

US Government Strikes Out Over Privacy Concerns

As a follow-up on our last article on employee drug testing and the baseball season on the horizon, it is worthwhile to examine the curve balls thrown by the United States Government. As many baseball fans may know, the US Government has been looking to strike out drug use and issued

warrants to seize information held by Major League Baseball. The defendants cried foul and the US Ninth Circuit Court of Appeal called the Government out.

This appeal by the US Government was another inning in the clash between the parties. Playing hardball, the US Government seized the

records held by Major League Baseball of every player. This raises privacy concerns. The court accepted that the seizure was illegal. The Court provided guidance in the execution of search warrants of databases where there is additional information held beyond the contents of warrant. O¹²³⁴

Thoughts on Articling at TWH&SLC.

Shane Martínez

In July 2010 I began articling¹ with the Toronto Workers' Health & Safety Legal Clinic. Articling, for those who are unfamiliar with the term, is a period of apprenticeship that must be completed by a law school graduate before he or she can become a lawyer. My placement with the Clinic was part of a rotation between three legal clinics, in which my responsibility is to provide advocacy for

Latin American & Caribbean migrant farm workers.

Once I arrived at Toronto Workers', the staff immediately made me feel as though I was a part of the Clinic. Doors were always open if I had questions, and I was encouraged to be creative in my approach to the cases I worked on. The scope of my duties ranged from drafting

and filing human rights applications, to conducting educational seminars, to providing legal support for a migrant worker pilgrimage between Leamington and Windsor. My experiences were as diverse as I could have imagined, and I was able to enjoy a steady stream of complex and challenging work that ensured I put my education to full use.

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My time at Toronto Workers' provided me with invaluable knowledge which I have used frequently during my second placement, and which I will undoubtedly help me throughout my

legal career. It also showed me that the Clinic is an extremely important asset to our communities, and it is one that we must be sure to protect in this time of increasing austerity measures by the state. I

extend my sincerest gratitude to Linda, John, Carl and Sandra for their support and guidance, and for their dedicated service to the working class people of Toronto. O

in the press -

M In the *Toronto Star*: "Federal probe of Agent Orange use urged / Minister says chemical was 'very widely used.' "²

M Also in the *Toronto Star*: "No Thanksgiving for migrant workers / Most migrants find themselves essentially bonded to one employer."³

M In the *The Jamaica Gleaner* : "Lawyer hired to secure dead Jamaican farm workers' money" "The Ministry of Labour has retained the services of a private counsel in Canada to settle legal claims on behalf of the two Jamaican farm workers who died there last week." "Paul Roach and Ralston White died from environmental suffocation while attempting to fix a malfunctioning tank on an apple farm on which they worked. Their bodies are to be returned this week. ..." ^{4 5 6}

M In *The Globe and Mail*: "KIMBERLEY PROCESS / Battle over sale of blood diamonds turns nasty / Jerusalem meeting to hammer out conditions for certifying Zimbabwe stones 'conflict free.' " ⁷ "... human-rights abuses in diamond-producing zones ..."

M Also in *The Globe and Mail*: "MINING / No miracles for most trapped miners / Demand for minerals and high commodity prices induce operators to cut corners and reopen mines closed for unsafe conditions."⁸

M Also in *The Globe and Mail*: "MINING / Asbestos exports harm the health of the world, medical journal tells Quebec."^{9 10}

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M Also in *The Globe and Mail*: "Newfoundland seeks independent agency to monitor offshore oil safety / Push comes as result of probe into helicopter crash that killed 17 people in 2009." ¹¹

M Also in *The Globe and Mail*: "Oil sands report takes aim at all parties / Ottawa fails to 'keep pace' on monitoring, while Alberta denounced for weak regulatory system; environmental groups criticized too." ¹²

M Also in *The Globe and Mail*: "CRIME / Three charged in deaths of migrant workers who fell 13 storeys from scaffold / Accused face up to 20 years in jail if convicted." ¹³

M Also in *The Globe and Mail*: "Mercury ban spells the end of the glass thermometer / Ottawa moves to prohibit all but a few uses of the ubiquitous toxic substance" ¹⁴

M Also in *The Globe and Mail*: "VOLUNTEERS HONOURED / Small town grieves for firefighters who died in action / Pair entered burning dollar store in Listowel, Ont., to rescue any shoppers who might have been trapped." ¹⁵

M In the *NATIONAL POST* : "Down the mine, up the mine." ¹⁶

M In *The New York Times*: "Toxic Metals Tied to Work In [US] Prisons / Electronic Recycling Is Focus of Report / Finding exposure to hazardous material, but no immediate link to health problems." ¹⁷

M Also in *The New York Times*, EDITORIAL : "Since Big Branch [West Virginia coal, April 2010]." ¹⁸

M Readers may recall reference in this *newsletter*¹⁹ to professional sports concussion. Again in *The New York Times* : "As Concussions Rise, Little Movement on Making Helmets

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Safer."²⁰ "Protecting Players, but Facing Some Challenges / Defenders Criticize N.F.L.'s Crackdown²¹ / Hockey Urged to Ban All Blows to Head."²²
 And, in *The Globe and Mail* : "Sports concussions taking bigger toll."^{23 24 25}

M And, in *The New Yorker* : "Should football be banned? / DOES FOOTBALL HAVE A FUTURE? / The N.F.L. and the concussion crisis."²⁶

M Also in *The New York Times* : "After [China's] Rare Earth Embargo, a New Calculus for Toxic Work ..." ^{27 28 29}

21	Sc	Scandium
39	Y	Yttrium
57	La	Lanthanum
58	Ce	Cerium
59	Pr	Praseodymium
60	Nd	Neodymium
61	Pm	Promethium
62	Sm	Samarium
63	Eu	Europium
64	Gd	Gadolinium
65	Tb	Terbium
66	Dy	Dysprosium
67	Ho	Holmium
68	Er	Erbium
69	Tm	Thulium
70	Yb	Ytterbium
71	Lu	Lutetium

30 31 32 33

M Also in *The New York Times* : "Workers poisoned at Chinese Factory Wait for Apple to Fulfill a Pledge" ³⁴ "... n-hexane ..."



M Also in *The New York Times*, EDITORIAL : "One Penny More a Pound" "... tomato fields of Florida, where farmworkers have won a remarkable victory ..." ³⁹

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M Also in *The New York Times* : "A Century Later, the Roll Call of the Dead In a Factory Fire Now Has All 146 Names." ⁴⁰⁴¹⁴²⁴³⁴⁴⁴⁵ "... the final six unidentified victims of the Triangle Waist Company factory fire ... influenced building codes, labor laws and politics in the years that followed."

23-29 Washington Place
Manhattan
New York City
25 March 1911

46

Maria Giuseppa Laletti
Max Florin
Concetta Prestifilippo
Josephine Cammarata
Dora Evans
Fannie Rosen

M Also in *The New York Times* : "Child-Product Makers Seek To Soften New [US] Safety Rules." ^{47 48}

M In the *THE NEW YORKER* : "Death at the Wal-Mart sale / ... on the science of crowd control / ANNALS OF DISASTER / CRUSH POINT / When large crowds assemble, is there a way to keep them safe?" ⁴⁹ "... [US OSHA] cited Wal-Mart ... General Duty Clause of the *OSHA Act* ..."

M Also, in the *THE NEW YORKER* : "DEPT. OF RUBBERNECKING / LOOK OUT!" ⁵⁰ "... 'Spider-Man ...' ... Broadway musical ..."

M More on photo-ops for prominent people in relation to workplace **personal protective equipment** -- see in this *newsletter*:⁵¹⁵²⁵³⁵⁴⁵⁵ The Prime Minister and protective eyewear was mentioned.⁵⁶ But since then, in the *NATIONAL POST*, he is pictured "... tour[ing]... a metal fabrication plant in Thetford Mines, Que. ..." ⁵⁷ **with protective eyewear**. And, in *The Globe and Mail*⁵⁸ and the *NATIONAL POST*⁵⁹ "... tours the Bell Helicopter Textron Canada Ltd. factory ... Mirabel ... " **To see the photos** : ^{60 61} Some other news photos, other than of the PM, with⁶² and without⁶³ protective eyewear: ^{64 65} O

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more on ACGIH® TLVs®

CONTROL OF EXPOSURE TO BIOLOGICAL OR CHEMICAL AGENTS RRO 1990, REGULATION 833 s.4 -- 2 :
"... If the agent is not listed in the Ontario Table but is listed in the ACGIH Table, exposure shall not exceed the TWA, STEL, or C set out in the ACGIH Table. ..."

6768

Canada Labour Code, Canada Occupational Health and Safety Regulations, s.10.19(1)(a) :
"... Control of Hazards ... An employee shall be kept free from exposure to a concentration of (a) an airborne chemical agent, other than grain dust or airborne chrysotile asbestos, in excess of the value for that chemical agent adopted by the American Conference of Governmental Industrial Hygienists, in its publication entitled Threshold Limit Values and Biological Exposure Indices, dated 1994-1995, as amended from time to time; ..."

697071

In the previous issue of this newsletter¹ opinion was given on the Ontario Ministry of Labour's proposed new exposure limits, and the use of ACGIH®-published² data --

used in a way ACGIH® appears not to prefer.

Since then, unrelated to our newsletter, our Clinic has received, from Cincinnati, the new ACGIH®

book (\$45.95US):³ 2010 TLVs® and BEIs®.⁴

As it did previously,^{5,6} ACGIH® continues to caution about the use of its data; from the inside front cover:⁷

POLICY STATEMENT ON THE USES OF TLVs® AND BEIs®

The Threshold Limit Values (TLVs®) and Biological Exposure Indices (BEIs®) are developed as guidelines to assist in the control of health hazards. These recommendations or guidelines are intended for use in the practice of industrial hygiene, to be interpreted and applied only by a person trained in this discipline. They are not developed for use as legal standards and ACGIH® does not advocate their use as such. However, it is recognized that in certain circumstances individuals or organizations may wish to make use of these recommendations or guidelines as a supplement to their occupational safety and health program. ACGIH® will not oppose their use in this manner, if the use of TLVs® and BEIs® in these instances will contribute to the overall improvement in worker protection. However, the user must recognize the constraints and limitations subject to their proper use and bear the responsibility for such use.

The Introductions to the TLV®/BEI® Book and the TLV®/BEI® *Documentation* provide the philosophical and practical bases for the uses and limitations of the TLVs® and BEIs®. To extend those uses of the TLVs® and BEIs® to include other applications, such as use without the judgment of an industrial hygienist, application to a different population, development of new exposure/recovery time models, or new effect endpoints, stretches the reliability and even viability of the database for the TLV® or BEI® as evidenced by the individual *Documentation*.

It is not appropriate for individuals or organizations to impose on the TLVs® or the BEIs® their concepts of what the TLVs® or BEIs® should be or how they should be applied or to transfer regulatory standards requirements to the TLVs® or BEIs®.

Approved by the ACGIH® Board of Directors on March 1, 1988.

Special Note to User

The values listed in this book are intended for use in the practice of industrial hygiene as guidelines or recommendations to assist in the control of potential workplace health hazards and for no other use. These values are not fine lines between safe and dangerous concentrations and *should not* be used by anyone untrained in the discipline of industrial hygiene. **It is imperative that the user of this book read the Introduction to each section and be familiar with the *Documentation* of the TLVs® and BEIs® before applying the recommendations contained herein.** ACGIH® disclaims liability with respect to the use of the TLVs® and BEIs®.

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NOTES:

WSIB Conducts Funding Review

Opinions expressed here are the writer's, and are not necessarily of the Clinic; he may be contacted: bartolj@lao.on.ca .

MAJOR LEAGUE BASEBALL PLAYERS ASSOCIATION v USA.

Opinions expressed here are the writer's, and are not necessarily of the Clinic; he may be contacted: bartolj@lao.on.ca .

¹ UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT: UNITED STATES OF AMERICA, Plaintiff-Appellant, v COMPREHENSIVE DRUG TESTING, INC., Defendant-Appellee, Appeal from the United States District Court for the Northern District of California.

MAJOR LEAGUE BASEBALL PLAYERS ASSOCIATION, Petitioner-Appellee, v UNITED STATES OF AMERICA, Respondent-Appellant, Appeal from the United States District Court for the District of Nevada.

² U.S. Court of Appeals for the Ninth Circuit, San Francisco, California, 94119-3939

<http://www.ca9.uscourts.gov/>

³<http://www.ca9.uscourts.gov/datastore/opinions/2010/09/13/05-10067.pdf>

⁴ -- see also Michael S. Schmidt, "Drug List Appeal Is Again Rejected [in US Ninth Circuit Court of Appeals (from US Court for the Northern District of California)]," *The New York Times*, 14 September 2010, page B14. "... federal prosecutors illegally seized drug testing information for more than 100 baseball players who tested positive for steroids in 2003 ..."

articling student report Opinions expressed here are the writer's, and are not necessarily of the Clinic; may be contacted: through the Clinic.

¹See in this *newsletter*, September 2009. Vol. 17, No.4, pages 7 & 8.

in the press -

² **Agent Orange** Tanya Talaga & Diana Zlomislic, "Federal probe of Agent Orange use urged / Minister says chemical was 'very widely used.'" *Toronto Star*, 01 March 2011, page A3.

³ **migrant** David Goutor & Chris Ramsaroop, "No Thanksgiving for migrant workers / Most migrants find themselves essentially bonded to one employer," *Toronto Star*, OPINION, 08 October 2010, page A23.

⁴ Nadisha Hunter & Daraine Luton, *Gleaner* Writers, "Lawyer hired to secure dead Jamaican farm workers' money," *The Jamaica Gleaner*, 16 September 2010. <http://www.jamaica-gleaner.com/gleaner/20100916/news/news1.html>

<http://www.jamaica-gleaner.com/index.html>

⁵<http://www.jamaica-gleaner.com/gleaner/20100916/news/news1.html>

⁶ -- see also -- from a search of <http://www.jamaica-gleaner.com/index.html> for "ontario migrant" :

1. [Jamaica Gleaner - No evidence of foul play - Labour ministry ...](http://www.jamaica-gleaner.com/gleaner/20050312/news/news4.html)

12 Mar 2005 ... "We will be putting the pressure on the Provincial Government of Ontario and make an appeal that migrant farmers are treated with dignity." ...

www.jamaica-gleaner.com/gleaner/20050312/news/news4.html

2. [Jamaica Gleaner News - Eighteen Jamaicans sent home from Canadian ...](http://www.jamaica-gleaner.com/gleaner/20081229/lead/lead5.php)

29 Dec 2008... of 18 Jamaican workers employed to a mushroom farm in Ontario, Canada. ... UFCW is fearful that more migrant workers under the programme ...

mobile.jamaicagleaner.com/20081229/lead/lead5.php

3. [Jamaica Gleaner - Farm work danger - <->Canadian lobby group wants ...](http://www.jamaica-gleaner.com/gleaner/20041220/lead/lead1.html)

20 Dec 2004 ... JUSTICE FOR Migrant Workers (J4MW), a Canadian lobby group, ... the 2002 death of a Jamaican farm worker in Branford, Ontario in Canada. ...

www.jamaica-gleaner.com/gleaner/20041220/lead/lead1.html

4. [Jamaica Gleaner News - Primary school dropout transforming lives ...](http://www.jamaica-gleaner.com/gleaner/20090525/flair/flair13.php)

25 May 2009 ... Enter Jonathon Graham, another Jamaican migrant. ... After university, he taught in the Catholic school system in Brompton, Ontario. ...

mobile.jamaicagleaner.com/20090525/flair/flair13.php

5. [Jamaica Gleaner - News - Saturday | March 12, 2005](http://www.jamaica-gleaner.com/gleaner/20050312/news/Saturday%20March%2012%202005)

12 Mar 2005... not be supporting Canadian human rights group, Justice for Migrant Workers (J4MW) in putting pressure on the chief coroner of Ontario. ...

[www.jamaica-gleaner.com/gleaner/20050312/news/Jamaica Gleaner - Welcome Mr Julian Fantino - Monday | February ...](http://www.jamaica-gleaner.com/gleaner/20050312/news/Jamaica%20Gleaner%20-%20Welcome%20Mr%20Julian%20Fantino%20-%20Monday%20February%2010%202003)

10 Feb 2003... the strains and complexities of a large migrant population. He has recommended the decriminalisation of ganja in Ontario and developed a ...

www.jamaica-gleaner.com/gleaner/20030210/cleisure/cleisure1.html

7. [Jamaica Gleaner - A distinguished career - Monday | May 5, 2003](http://www.jamaica-gleaner.com/gleaner/20030505/.../cleisure1.html)

5 May 2003... Committee and Chief Commissioner of the Ontario Human Rights Committee. ... especially by those of recent migrant vintage, it is good to ...

www.jamaica-gleaner.com/gleaner/20030505/.../cleisure1.html

8. [Jamaica Gleaner - Farm workers in Canada - Friday | January 9, 2004](http://www.jamaica-gleaner.com/gleaner/20040109/letters/letters3.html)

9 Jan 2004... of the notion that Jamaican migrant workers are indispensable to Canadian farmers. ... Toronto, Ontario, Canada. Via Go-Jamaica ...

www.jamaica-gleaner.com/gleaner/20040109/letters/letters3.html

⁷ **blood diamonds** Geoffrey York, Johannesburg, "KIMBERLEY PROCESS / Battle over sale of blood diamonds turns nasty / Jerusalem meeting to hammer out conditions for certifying Zimbabwe stones 'conflict free,'" *The Globe and Mail*, 30 Oct. 2010, page A23.

⁸ **MINING** Anthony Reinhart, "MINING / No miracles for most trapped miners / Demand for minerals and high commodity prices induce operators to cut

corners and reopen mines closed for unsafe conditions," *The Globe and Mail*, 18 Oct. 2010, page A13.

⁹ **MINING / Asbestos** Rhéal Sòguin, & Carly Weeks, "MINING / Asbestos exports harm the health of the world, medical journal tells Quebec," *The Globe and Mail*, 09 Dec. 2010, page A11.

¹⁰ -- see also Andrew Chung, "Asbestos mine draws ire," *Toronto Star*, 08 December 2010, page A10.

¹¹ **offshore oil safety** Sue Bailey, St. John's, "Newfoundland seeks independent agency to monitor offshore oil safety / Push comes as result of probe into helicopter crash that killed 17 people in 2009," *The Globe and Mail*, 14 Dec. 2010, page A6.

¹² **Oil Sands** Josh Wingrove, Edmonton, "Oil sands report takes aim at all parties / Ottawa fails to 'keep pace' on monitoring, while Alberta denounced for weak regulatory system; environmental groups criticized too," *The Globe and Mail*, 15 December 2010, page A15.

¹³ **scaffold** Anthony Reinhart, "CRIME / Three charged in deaths of migrant workers who fell 13 storeys from scaffold / Accused face up to 20 years in jail if convicted," *The Globe and Mail*, 14 October 2010, page A12.

¹⁴ **mercury** Tamara Baluja, "Mercury ban spells the end of the glass thermometer / Ottawa moves to prohibit all but a few uses of the ubiquitous toxic substance," *The Globe and Mail*, 01 March 2011, page A7.

¹⁵ **firefighters** The Canadian Press, "VOLUNTEERS HONOURED / Small town grieves for firefighters who died in action / Pair entered burning dollar store in Listowel, Ont., to rescue any shoppers who might have been trapped," *The Globe and Mail*, 19 March 2011, page A14.

¹⁶ **Down the mine** Jonathan Kay, "Down the mine, up the mine," *NATIONAL POST*, 15 Oct. 2010, page A16.

¹⁷ **Toxic Metals** Leslie Kaufman, "Toxic Metals Tied to Work In [US] Prisons / Electronic Recycling Is Focus of Report / Finding exposure to hazardous material, but no immediate link to health problems," *The New York Times*, 27 October 2010, page A12.

¹⁸ **Big Branch** EDITORIAL, "Since Big Branch [West Virginia, April 2010]," *The New York Times*, 19 October 2010, page A24.

¹⁹ **Concussions** Vol.18, No.4 , October 2010 page 9; Vol.18, No.2 , April 2010,page 4

²⁰ Alan Schwarz, "As Concussions Rise, Little Movement on Making Helmets Safer / Helmet Safety Unchanged as Concerns About Injury Rise," *The New York Times*, 21 October 2010, pages A1, A22, A23.

²¹ Judy Battista, "Protecting Players, but Facing Some Challenges / Defenders Criticize N.F.L.'s Crackdown," *The New York Times*, SPORTS MEDICINE, 21 October 2010, page B18.

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²² Jeff Z. Klein, "Protecting Players, but Facing Some Challenges / Hockey Urged to Ban All Blows to Head." *The New York Times*, SPORTS MEDICINE, 21 October 2010, page B18.

²³ James Christie, David Shoalts & Allan Maki, "Sports concussions taking bigger toll," *The Globe and Mail*, 02 November 2010, pages A1 & A22.

²⁴ -- see also, "HEAD INJURIES SIDNEY CROSBY / Blind to what millions saw," Editorial, *The Globe and Mail*, 14 January 2011, page A16.

²⁵ -- see also: Daniel Michaels, "Getting These Cyclists to Use Helmets Is Like Tilting at Windmills / Bicycle-Loving Dutch Hate Headgear; 'We Are Not in Germany' / The Dutch Love Their Bicycles, But Helmets Aren't 'Cool,'" *THE WALL STREET JOURNAL*, 02 November 2010, pages A1 & A16.

²⁶ **football** Ben McGrath, "Should football be banned? / DOES FOOTBALL HAVE A FUTURE? / The N.F.L. and the concussion crisis," *THE NEW YORKER*, 31 January 2011, cover & pages 40 & 51.

²⁷ **Rare Earth** Keith Bradsher, Baotou, China, "After Rare Earth Embargo, a New Calculus for Toxic Work / After China's Embargo, A New Rare Earth Calculus," *The New York Times*, 30 October 2010, pages B1 & B4.

²⁸ -- see also Keith Bradsher, "In a Deep Hole on Rare Earths / Report Calls on U.S. to Reduce Reliance on China for Minerals," *The New York Times*, 15 December 2010, pages B1 & B11.

²⁹ -- see also James T. Areddy, "China Cites Pollution in Tightening Rare-Earth Exports," *The Wall Street Journal*, 15 November 2010, page A14.

³⁰ <http://en.wikipedia.org/wiki/Rare-earth>

³¹ American Chemical Society - Periodic Table <http://acswebcontent.acs.org/games/pt.html>

³² -- see also: Mitch Jacoby, *C&EN*, Chicago, & Jessie Jiang, *C&EN*, Beijing, "SECURING THE SUPPLY OF RARE EARTHS / Green-energy and high-tech industries grow anxious over CHINA'S MONOPOLY on these valuable resources," *Chemical & Engineering News*, 20 August 2010, cover & pages 9 & 12.

³³ -- see also: Edwin E. Slosson, *CREATIVE CHEMISTRY / DESCRIPTIVE OF RECENT ACHIEVEMENTS IN THE CHEMICAL INDUSTRIES*, The Century Books of Useful Science, The Century Co., New York, 1917; pages 286 & 288 (in CHAPTER XIV - "METALS, OLD AND NEW") & 308 (READING REFERENCES).

³⁴ **n-hexane** David Barboza, "Workers poisoned at Chinese Factory Wait for Apple to Fulfill a Pledge," *The New York Times*, 23 February 2011, pages B1 & B7.

³⁵ -- re CAS -- see in this newsletter - July 2008. Vol.16, No.03, page 4 & 7.

³⁶ <http://en.wikipedia.org/wiki/Hexane>

³⁷

H H H H H H

HcCcCcCcCcCcC H *n-hexane*

H H H H H H

CAS **110-54-3** 86.18 g/mol

³⁸ <http://msds.chem.ox.ac.uk/HE/hexane.html>

³⁹ **tomato fields of Florida** EDITORIAL, "One Penny More a Pound," *The New York Times*, 04 December 2010, page A18.

⁴⁰ **Triangle Waist Company fire** Joseph Berger, "A Century Later, the Roll Call of the Dead In a Factory Fire Now Has All 146 Names," *The New York Times*, 21 February 2011, pages A13 & A15.

⁴¹ <http://www.nytimes.com/2011/02/21/nyregion/21triangle.html>

⁴² <http://history1900s.about.com/od/1910s/p/trianglefire.htm>

⁴³ http://en.wikipedia.org/wiki/Triangle_Shirtwaist_Factory_fire

⁴⁴ <http://www.ilr.cornell.edu/trianglefire/>

⁴⁵ -- see also: Peter Applebome, "In Newark, Wrestling a Fatal Factory Fire [26 November 1910] From Oblivion," *The New York Times*, 24 February 2011, page A22.

⁴⁶ EDITORIAL, "The Fire That Changed Everything," *The New York Times*, 23 February 2011, page A18.

⁴⁷ **Child-Product Makers** Andrew Martin, "Child-Product Makers Seek To Soften New Safety Rules," *The New York Times*, 22 February 2011, pages B1 & B4.

⁴⁸ -- see also: EDITORIAL, "How Quickly They Forget," *The New York Times*, 24 February 2011, page A26.

⁴⁹ **crowd control** John Seabrook, "Death at the Wal-Mart sale / ... on the science of crowd control / ANNALS OF DISASTER / CRUSH POINT / When large crowds assemble, is there a way to keep them safe?" *THE NEW YORKER*, 07 February 2011, cover, pages 32 & 38.

⁵⁰ **LOOK OUT!** Michael Shulman, "DEPT. OF RUBBERNECKING / LOOK OUT!" *THE NEW YORKER*, 17 January 2011, pages 21 & 22.

51 personal protective equipment

⁵² April 2010, Vol.18 No.2 page 4.

⁵³ April 2009, Vol.17 No.02, page 5.

⁵⁴ March 2010, Vol.18 No.01, page 2.

⁵⁵ Oct. 2010. Vol.18 No.4. page 8.

⁵⁶ April 2009, Vol.17 No.02, page 5.

⁵⁷ Shaun Best, REUTERS, *NATIONAL POST*, 20 Dec. 2010, page A8.

⁵⁸ Shaun Best, REUTERS, *The Globe and Mail*, 15 Jan. 2011, page A3.

⁵⁹ Shaun Best, REUTERS, *NATIONAL POST*, 15 Jan. 2011.

⁶⁰ <http://www.nationalpost.com/todays-paper/Harper+gets+high+marks+military+economy/4002105/story.html>

⁶¹ <http://www.nationalpost.com/scripts/Tories+fishal+promises+unfulfilled/4113155/story.html>

⁶² Jewel Samad, AFP, GETTY IMAGES, "U.S. President Barack Obama ... Manitowoc, Wisc. ..." *The Globe and Mail*, 27 Jan. 2011, page A17.

⁶³ Mauricio Lima, AFP, GETTY IMAGES, "... scientific advances ..." *The Globe and Mail*, 27 Dec. 2011, page B2.

⁶⁴ http://www.gettyimages.ca/Editorial_#108357508US

President Barack Obama holds energy e By: JEWEL SAMAD AFP

⁶⁵ Barrie McKenna, "Has innovation hit a brick wall?" Dec 27, 2010 9:52AM EST http://www.theglobeandmail.com/report-on-business/commentary/barrie-mckenna/The_Globe_and_Mail_27_Dec_2011_page_B2

more on TLVs.

⁶⁷ Ontario *Occupational Health and Safety Act*, CONTROL OF EXPOSURE TO BIOLOGICAL OR CHEMICAL AGENTS, R.R.O. 1990, REGULATION 833

⁶⁸ http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_900833_e.htm

⁶⁹ *Canada Labour Code*

<http://laws.justice.gc.ca/en/L-2/>

⁷⁰ *Canada Occupational Health and Safety Regulations*

<http://laws.justice.gc.ca/en/SOR-86-304/>

⁷¹ -- see in this newsletter Vol.17, No.3, June 2009, page 4; Vol.17, No.4, September 2009, page 3.

¹ Vol. 18, No.4, October 2010, pages 5 & 6.

² in its website, and elsewhere, "®" -- indicating registered trademarks -- is used extensively.

³ <http://www.acgih.org/store/ProductDetail.cfm?id=2105>

⁴ **2010 TLVs® and BEIs®**, ACGIH® Publication #0110, \$US49.95, ISBN 978-1-607260-19-6; ©2010, 272 pages; American Conference of Governmental Industrial Hygienists, 1330 Kemper Meadow Drive, Cincinnati, Ohio, 45240; 513 742 2020. <http://www.acgih.org/>

⁵ see in this newsletter, June 2009, Vol. 17, No.3, at page 4; and at pages 11 & 12; & references cited therein.

⁶ -- about ACGIH -- see in this newsletter, Vol.17, No.3, June 2009, at page 11.

⁷ From ACGIH®, *2010 TLV's® and BEI's® Book*. Copyright 2010. Reprinted with permission.

¹ **ACGIH Permission Request** Friday, December 3, 2010 9:28 AM

From: "Amie Hahn" <ahahn@acgih.org> To: d441267@yahoo.ca

Message contains attachments

2 Files (144KB)

· M Grossman Letter.pdf

· TLV Statement

Mr. Grossman:

I have attached a letter regarding your request for permission to reproduce ACGIH copyrighted material from the 2010 TLVs and BEIs Book. Also attached is the ACGIH "Statement of Position Regarding the TLVs and BEIs." Please read the letter and contact me with any questions.

Regards,

Amie L. Hahn
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ACGIH®: Defining the Science of Occupational and Environmental Health

TORONTO WORKERS' HEALTH & SAFETY LEGAL CLINIC

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December 3, 2010

Michael Grossman, BS, PhD, LLB
Barrister & Solicitor
P.O. Box 5954, Station A
Toronto, Ontario M5W 1P3
Canada

Dear Mr. Grossman:

We are in receipt of your request dated November 15, 2010 to reproduce the "Policy Statement on the Use of TLVs® and BEIs®" from the front cover of the 2010 *TLVs® and BEIs®* Book. In our understanding that you will be reproducing the policy statement in the next newsletter for Toronto's Workers' Health & Safety Legal Clinic.

Permission is granted for a one-time use provided that both the ACGIH® *Statement of Position Regarding the TLVs® and BEIs®* and the reproduction are included in the newsletter and accompanied by the following statement:

"From ACGIH®, 2010 *TLVs® and BEIs®* Book. Copyright 2010. Reprinted with permission."

ACGIH® is a not-for-profit association dedicated to defining the science of occupational and environmental health. The *TLVs® and BEIs®* Book reflects our commitment to this goal. Thank you for your interest in ACGIH®. We are pleased to be of service to you.

Sincerely,

Rita L. Williams
Communications Manager

Enclosure

for future issues:

- *Maquila*. www.maquilasolidarity.org
- Canadian federal OH&S inspections.*
- US Chemical Safety & Hazard Investigation Board
- case & comment: *Ontario (Ministry of Labour) v United Independent Operators Ltd.* 104 OR (3d) 29 April 2011, pages 1 & 15.
- book review: *Occupational Health & Safety - Theory, Strategy & Industry Practice, 2nd Edition*. LexisNexis <http://www.lexisnexis.ca/bookstore/bookinfo.php?pid=2089>

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(PLEASE CALL THE CLINIC IF YOU WOULD LIKE TO RECEIVE OUR NEWSLETTER VIA e-MAIL)

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not legal advice. This newsletter includes information considered correct and up-to-date according to its context. It also contains opinions. But nothing here should be taken as legal advice. Legal advice should be obtained from professional counsel, which might include our Clinic's lawyers, when acting on a lawyer-client basis.

Errors and misstatements happen, although we try to be careful and strive for accuracy. We would try to correct as soon as possible. Please let us know if you see any needed corrections or explanations.

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ACGIH® Statement of Position Regarding the TLVs® and BEIs®

The American Conference of Governmental Industrial Hygienists (ACGIH®) is a private not-for-profit, non-governmental corporation whose members are industrial hygienists or other occupational health and safety professionals dedicated to promoting health and safety within the workplace. ACGIH® is a scientific association. ACGIH® is not a standards setting body. As a scientific organization, it has established committees that review the existing published, peer-reviewed scientific literature. ACGIH® publishes guidelines known as Threshold Limit Values (TLVs®) and Biological Exposure Indices (BEIs®) for use by industrial hygienists in making decisions regarding safe levels of exposure to various chemical and physical agents found in the workplace. In using these guidelines, industrial hygienists are cautioned that the TLVs® and BEIs® are only one of multiple factors to be considered in evaluating specific workplace situations and conditions.

Each year ACGIH® publishes its TLVs® and BEIs® in a book. In the introduction to the book, ACGIH® states that the TLVs® and BEIs® are guidelines to be used by professionals trained in the practice of industrial hygiene. The TLVs® and BEIs® are not designed to be used as standards. Nevertheless, ACGIH® is aware that in certain instances the TLVs® and BEIs® are used as standards by national, state, or local governments.

Governmental bodies establish public health standards based on statutory and legal frameworks that include definitions and criteria concerning the approach to be used in assessing and managing risk. In most instances, governmental bodies that set workplace health and safety standards are required to evaluate health effects, economic and technical feasibility, and the availability of acceptable methods to determine compliance.

ACGIH® TLVs® and BEIs® are not consensus standards. Voluntary consensus standards are developed or adopted by voluntary consensus standards bodies. The consensus standards process involves canvassing the opinions, views and positions of all interested parties and then developing a consensus position that is acceptable to these parties. While the process used to develop a TLV® or BEI® includes public notice and requests for all available and relevant scientific data, the TLV® or BEI® does not represent a consensus position that addresses all issues raised by all interested parties (e.g., issues of technical or economic feasibility). The TLVs® and BEIs® represent a scientific opinion based on a review of existing peer-reviewed scientific literature by committees of experts in public health and related sciences.

ACGIH® TLVs® and BEIs® are health-based values. ACGIH® TLVs® and BEIs® are established by committees that review existing published and peer-reviewed literature in various scientific disciplines (e.g., industrial hygiene, toxicology, occupational medicine, and epidemiology). Based on the available information, ACGIH® formulates a conclusion on the level of exposure that the typical worker can experience without adverse health effects. The TLVs® and BEIs® represent conditions under which ACGIH® believes that nearly all workers may be repeatedly exposed without adverse health effects. They are not fine lines between safe and dangerous exposures, nor are they a relative index of toxicity. The TLVs® and BEIs® are not quantitative estimates of risk at different exposure levels or by different routes of exposure.

Since ACGIH® TLVs® and BEIs® are based solely on health factors, there is no consideration given to economic or technical feasibility. Regulatory agencies should not assume that it is economically or technically feasible for an industry or employer to meet TLVs® or BEIs®. Similarly, although there are usually valid methods to measure workplace exposures at TLVs® and BEIs®, there are instances where such reliable test methods have not yet been validated. Obviously, such a situation can create major enforcement difficulties if a TLV® or BEI® was adopted as a standard.

ACGIH® does not believe that TLVs® and BEIs® should be adopted as standards without full compliance with applicable regulatory procedures including an analysis of other factors necessary to make appropriate risk management decisions. However, ACGIH® does believe that regulatory bodies should consider TLVs® or BEIs® as valuable input into the risk characterization process (hazard identification, dose-response relationships, and exposure assessment). Regulatory bodies should view TLVs® and BEIs® as an expression of scientific opinion.

ACGIH® is proud of the scientists and the many members who volunteer their time to work on the TLV® and BEI® Committees. These experts develop written documentation that include an expression of scientific opinion and a description of the basis, rationale, and limitations of the conclusions reached by ACGIH®. The documentation provides a comprehensive list and analysis of all the major published peer-reviewed studies that ACGIH® relied upon in formulating its scientific opinion. Regulatory agencies dealing with hazards addressed by a TLV® or BEI® should obtain a copy of the full written documentation for the TLV® or BEI®. Any use of a TLV® or BEI® in a regulatory context should include a careful evaluation of the information in the written documentation and consideration of all other factors as required by the statutes which govern the regulatory process of the governmental body involved.

- ACGIH® is a not-for-profit scientific association.
- ACGIH® proposes guidelines known as TLVs® and BEIs® for use by industrial hygienists in making decisions regarding safe levels of exposure to various hazards found in the workplace.
- ACGIH® is not a standards setting body.
- Regulatory bodies should view TLVs® and BEIs® as an expression of scientific opinion.
- TLVs® and BEIs® are not consensus standards.
- ACGIH® TLVs® and BEIs® are based solely on health factors; there is no consideration given to economic or technical feasibility. Regulatory agencies should not assume that it is economically or technically feasible to meet established TLVs® or BEIs®.
- ACGIH® believes that TLVs® and BEIs® should NOT be adopted as standards without an analysis of other factors necessary to make appropriate risk management decisions.
- TLVs® and BEIs® can provide valuable input into the risk characterization process. Regulatory agencies dealing with hazards addressed by a TLV® or BEI® should review the full written documentation for the numerical TLV® or BEI®.

4 ACGIH® publishing this Statement in order to assist ACGIH® members, government regulators, and industry groups in understanding the basis and limitations of the TLVs® and BEIs® when used in a regulatory context. This Statement was adopted by the ACGIH® Board of Directors on March 1, 2002.