

# Devil in the details on OSHA ergonomics proposal

**PROTECTING WORKERS FROM** repetitive-stress syndrome may sound like a devil of a good idea, but the devil is in the details, and OSHA's proposed ergonomics rule puts US employers between the devil and the deep-blue sea.

IADC strongly opposes the sweeping, encyclopedic proposal. (The preamble alone spans some 1,000 pages.) The proposal was sprung suddenly upon the American public late last year and blitzed nationwide with furious media hype and a dazzling array of slickly designed Internet information pieces.

**Bill Hedrick of Rowan Companies**, who spearheaded IADC's effort to understand and react to the proposal, will testify before the **US Congress** on the issue on 8 May.

IADC opposes the proposal on a number of grounds. First, it is far too broad in its definition of musculoskeletal disorders, or MSD, and its coverage of employers. Many of the MSD conditions the rule seeks to include can be nothing more than a vague complaint—such as back pain.

"It is indisputable that a great number of such complaints are the direct result of activities outside of the workplace, such as recreational pursuits," IADC's comments read. "Similarly, a *specifically qualified* medical physician, not one defined in the proposal as a Health Care Professional (HCP), should be the sole judge as to whether a condition is work-related."

## IF 8 OUT OF 10 DOCTORS FLUNK...

IADC's comments also point out that a recent medical journal stated that 82%—more than 8 in 10—of medical-school graduates failed a valid musculoskeletal competency examination ("The Journal of Bone and Joint Surgery", Vol 80-1, No 10, October 1998, pp 1432-27).

"This startling statistic makes one question how a general physician may properly diagnose an MSD, including causation, and thereafter adhere to the MSD management requirements. Since many licensed physicians have difficulty adequately assessing MSDs, OSHA's inclusion of other fields under its definition of HCP is all the more unacceptable," IADC points out.

The scope of the proposal is far too broad. "The inclusion of manual handling jobs greatly exceeds the scope of the necessary regulation," says IADC. "MSDs have not been properly and scientifically related to manual handling jobs that do not involve repetitive motion."

## SINGLE 'TRIGGER' A FIRST FOR OSHA

IADC also believes the regulation sets a new precedent in OSHA regulation—i.e., that a single MSD report can "trigger" the provisions of the regulation.

"We take particular exception to the inclusion of job categories based upon a single report of an MSD," IADC writes. "This so-called 'trigger' is too low when one considers that literally hundreds of employees perform the same job functions without complaints."

IADC argues that a pattern of MSDs should first be established prior to the commencement of any reasoned regulatory proposal. "It is our belief that this draft standard is the first by

OSHA in which the full requirements of the standard are placed upon the employer after a single triggering event, regardless of the severity—or lack thereof—of the condition. This proposed rulemaking therefore represents a sharp departure from other OSHA rulemakings," IADC continued. "Historically, OSHA has defined a level of exposure that creates the threshold at which an employer is required to initiate remedial action. We question whether or not this proposed rule establishes scientifically defensible permissible exposure limits. As an illustration, OSHA recognized in its hearing-conservation standard that to require no *relevant* triggering mechanism would mean unnecessary use of resources with little benefit to employees."

## POSSIBLE IMPACT ON DRUG TESTING

OSHA also worries that drug-testing procedures could have a "chilling" effect on an employee's willingness to report an MSD. IADC agrees that effective drug-testing policies, such as many members have long had in place, could indeed discourage users of illicit drugs from reporting an incident. IADC, though, is concerned about the effect of this regulation on effective drug-testing policies.

"We are vehemently opposed to any regulation that overtly or by appearance alters or limits the ability of concerned safety-conscious employers to administer post-incident substance-abuse testing," IADC writes. "this proposal is also likely to encroach upon the testing requirements promulgated by the **US Department of Transportation** (FAA and USCG, e.g.) and other governmental entities."

## FINANCIAL FANTASYLAND

On many of its premises and suppositions, the agency is in fantasyland, particularly with regard to financial realities. Here is a sampling of OSHA premises and the facts IADC presented:

- Premise: OSHA states that the private market has not been effective in reducing significant risk of work-related MSD. Fact: Work-related MSDs continue to decline. **Bureau of Labor** data shows a continuous decline in the number of disorders associated with repeated trauma. BLS data for 1997, the latest available, shows that only 4% of recordable incidents were associated with repetitive stress injuries. The incidence rate for this category fell from 0.411 in 1994 to 01.32 in '97. IADC accident statistics show a dramatic decline in overall incidence rate. In addition, 2 years ago, the IADC Safety Engineering by Design Subcommittee was formed to develop specific solutions to ergonomic and safety issues;
- Premise: OSHA defines ergonomics as the science of fitting jobs to people. Fact: The more common definition is that of the **US Department of Health and Human Services**, which defines ergonomics as the "study of the proper and efficient use of the body in work *and recreation* (emphasis added)";
- Premise: Oilfield service companies can recoup compliance costs by raising prices without losing business. Fact: "This is patently false and baseless, reflecting OSHA's failure to comprehend the economic reality confronting the oil and gas service industry." ■