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Deputy Director General, Safety Regulation
Submission on WHS Regulations
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Submitted via email - WHSreform@dmirs.wa.gov.au

Submission on WHS Regulations - WHS Reform

1. The purpose of this letter is to provide feedback from Co-operative Bulk Handling Limited (**CBH**) in response to the request for comment from the Commission for Occupational Safety and Health (**Commission**) regarding the regulations that will support the proposed Work Health and Safety Act for Western Australia (**WHS Regulations**). Following a review of the consultation package, our comments are as follows.

Background - CBH

2. CBH is Australia's largest co-operative and a leader in the Australian grain industry.
3. Established in 1933, CBH operates a large and complex supply chain in regional WA comprising road, rail and port infrastructure and approximately 150 upcountry receival points. CBH employs approximately 1,100 permanent staff, and also engages an average of 1,250 casual employees over the harvest period, as well as various contractors to perform work at its sites throughout the year.
4. Owned and controlled by more than 4,000 Western Australian grain growers, CBH is Australia's largest exporter of grain, with a market share of approximately 30 per cent of aggregated bulk Australian grain exports.
5. In a typical year Deloitte Access Economics calculated that CBH and its grower members contribute almost \$3.5 billion in gross value-add to the WA economy.

Responding to the Consultation Package

1. What is the benefit to workplace participants of a proposal?

6. CBH considers safety regulations that better align arrangements in Western Australia to a national context may be useful (although as a business that operates predominantly in Western Australia, the extent to which CBH will experience the full benefit of any national approach will likely be limited).

2. What is the likely cost for you, your business and the regulator to implement a specific proposal?

7. A change in regulation naturally comes with a requirement for CBH to commit resources to first understand the implications arising out of any change, and then undertake necessary education and training to ensure ongoing compliance. The precise quantum of this requirement is yet to be determined by CBH but is likely to be significant, yet this cannot be accurately determined until after implementation.

3. Is a specific recommendation likely to be effective in achieving healthier and safer workplaces?

8. Nothing specifically, noting that both the current and proposed regulations are both risk-based approaches.

4. Are there any unintended consequences of adopting individual regulations in the model WHS regulations?

9. CBH makes the following comments in relation to specific proposed regulations in the WHS Regulations:

- a) *Regulation 5 - Definition rigging work - 'Rigging work will involve a load being moved by using plant, equipment or members of a building.'*

CBH agrees with the comments in the "*Differences between the "National Model Work Health and Safety Regulations 2019 and the Occupational Safety and Health Regulations 1996"*" that the proposed definition of "rigging work" is unclear. Specifically, it is not clear how a load could be moved by using members of a building. In CBH's view, the definition should be amended to be consistent with the *National Occupational Health and Safety Certification Standard for Equipment* [NOHSC: 1006 (2001)] 3rd Edition July 2001.

- b) *Regulation 21(1)(b) - Health and Safety Representation Training*

Regulation 21(1)(b) prescribes a requirement for an annual, one-day 'refresher' course for health and safety representatives. CBH already provides additional HSR and on-the-job training. This additional requirement would necessitate increased costs in transportation and accommodation to complete a refresher course for limited benefit.

For that reason, CBH suggests that instead of a refresher course, the regulation should require a development course (eg: first aid training or ICAM training) on the basis that it would provide greater benefit to both the Health and Safety Representative (**HSR**) and the Person Conducting the Business or Undertaking (**PCBU**). Alternatively, in circumstances where the PCBU can demonstrate that it already provides additional HSR training on an annual basis, CBH suggests that it could be made clear that it is not required to provide a refresher course in line with regulation 21(1)(b).

- c) *Regulation 44 - Personal Protective Equipment*

Regulation 44 requires the PCBU to provide PPE to workers. The existing regulations only require that PPE is in accordance with the relevant Australian and New Zealand Standards. This change could potentially have a large impact on CBH. Over the WA grain harvest, CBH employs a large number of casual staff (approximately 1,250) to supplement the permanent workforce. The casual workforce are only employed over about a 5-6 month period from late September - early February, many of whom only work for a single harvest. Currently, these staff are required by CBH to provide their own footwear, which CBH ensures are safety boots in line with ASNZS 2210, and long trousers. Casuals typically already own their own safety boots and trousers prior to starting with CBH, and take the safety boots and trousers with them when they finish their employment. All other PPE (eg: hi-vis shirts, safety glasses, gloves, hats etc) are provided to casuals at CBH's expense. CBH suggests that this regulation is amended such that the PCBU's are not required to provide PPE to temporary workers in circumstances where they bring their own PPE (which is checked by the PCBU to be compliant) and retain that PPE post-employment.

- d) *Regulation 57 – Noise exposure*

Regulation 57 requires a PCBU to ensure that the noise a worker is exposed to at a workplace does not exceed the exposure standard for noise. The existing regulation provides the same requirement but is modified by practicability. To ensure consistency and recognising the pragmatic approach of the current regulations (and the new

regulations in other contexts), CBH suggests that a similar practicability requirement is imported into the proposed new regulation.

e) *Regulation 53 - Flammable and combustible material not to be accumulated*

Regulation 53 requires that flammable or combustible substances are kept at lowest practicable quantity. This change will apply to a number of materials CBH currently stores (such as phosphine (a fumigant) but also has operational impacts on grain dust build up. CBH already has robust safety systems in place for control of grain dust at its sites. The implications of this new requirement are currently under review but, given the number of operational sites, may be significant. CBH suggests that more guidance is provided in the regulation or extrinsic materials about what “practicable” will mean in the context of this requirement.

f) *Chapter 8 - Asbestos*

The Chapter 8 requirements relating to asbestos will necessitate additional VET training and licensing requirements for assessors and more onerous requirements relating to the management of asbestos onsite and in residential buildings. The cost and resourcing implication are yet to be determined. More guidance in the regulations or extrinsic material on the practical application of Chapter 8 would be helpful for PCBUs, including CBH, to determine the cost and implications of the requirements.

g) *Regulations 235 and 241 – Duties of PCBU involving the management or control of plant – competent person*

The competent person as defined in regulations 235 and 241 includes the requirement that the person is either registered under a law that provides for the registration of professional engineers, or as determined by the regulator. In WA, however, there is no law that provides for the registration of professional engineers. NSW, which also does not provide for the registration of engineers, has amended the regulation to allow for alternative ways in which a person may be a competent person. CBH suggests that WA takes a similar approach in implementation of the proposed regulations.

h) *Part 4.7 of the model WHS regulations – General Electrical Safety in Workplaces and Energised Electrical Work*

Part 4.7 of the model WHS regulations introduces regulations and some requirements that are inconsistent with the OSH regulations. To avoid those inconsistencies, and reflect existing electricity regulations, CBH's preference is that the OSH regulations are retained, including the references to the Electricity (Licensing) Regulations.

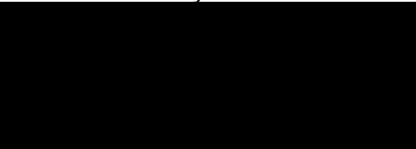
5. If a new requirement is proposed by the model WHS regulations, what are costs and benefits?

10. See above in relation to costs that specific new regulations may require.

To conclude

11. We are grateful for the opportunity to provide feedback and ask that you contact our Government and Industry Relations Manager, Mr David Paton, should there be anything further you require.

Yours sincerely



Ben Macnamara
General Manager Operations