

October 9, 2009

"The Employer"

The Chief Compliance Officer is writing in response to the employer's letter dated February 25, 2008 requesting a deviation from Section 331(4)(b) of Regulation 91-191 which states:

**331(4)** *A diving supervisor shall ensure that a stage required under subsection (1)*

...

*(b) is large enough to carry at least two divers with their diving equipment and associated equipment in uncramped conditions,*

The employer indicates the following in the employer's request:

- Although the General regulation 91-191 requires the "Diving Supervisor to ensure...", the employer has been providing the diving contractor the stage for diving operations being carried out.
- The primary reason is that, this particular application does not allow a traditional size stage to be utilized. The floor opening, through which the stage is lowered to the water, is compact and restrictive. A specific man basket was purchased for use as a diving stage. Its specifications allow it to meet the requirements of the floor access. While the present stage does meet the access requirement, it doesn't satisfy the section of the diving regulation for accommodating two divers and their equipment.
- The location of the diving activity is in the CW (Cooling Water) Pumphouse. There are times that the employer must use divers to carry out activities in the area below the CW Pumphouse floor when maintenance must be carried out on the inlet screens. (access through floor opening – noted in documents provided).
- From the main floor of the CW Pumphouse to the surface of the water below is dependant upon the tides at the time of the dive. However, the distance from the floor to the surface of the water below, at the average high tide, is 2 metres and the depth of the water is 10 metres (employer provided a photo and a diagram in the employer's request).
- Before any dive can take place, a written dive plan will be developed in consultation with the dive team and plant operations. Items such as work description, emergency procedures and instructions for getting medical assistance will be identified.
- The diving carried out in this area is by surface supply air. The standby diver, tender and diving supervisor will remain at the main floor level of the CW Pumphouse.
- The stage will be fastened to the hoisting apparatus as required by Regulation. The diving stage, with diver, will then be hoisted.

- The diving stage is raised no more than a few inches off the surface of the floor to enable the stage to be moved laterally over the open hatch. The diving stage is then lowered through a 0.85 (2.788') x 0.85 (2.788') hatch in the floor and into the water.
- Once in position, the diver will exit the stage and begin work. The stage will be left in the water. Upon completion of the work the diver will enter the stage, communicate to the surface support staff and be hoisted to the CW Pumphouse main floor.
- In the event of an emergency, the standby diver will be lowered into the water using the stage and facilitate the rescue.
- Modifications will need to be carried insofar as the door opening. Presently the gate opens inward. The employer would propose that the stage's gate be removed and replaced with two chains – aligning the existing mid and top rail. The employer would also propose that the chain latch mechanism be designed such that a diver, with his gloves on, can easily manipulate them. These design modifications will be reviewed by the employer's diving contractor, approved, carried out and the stage certified by an engineer as being capable of safely lifting the diver and his diving equipment.
- The employer is trying to find a safe way to do the job where it cannot be done exactly as prescribed by the regulation. In this case, with the design restraints the employer has to work with, the employer's proposal seems feasible. The employer has discussed the issue with the employer's diving contractor and the diving contractor is in agreement with the proposal. The specific dive plan for this location will reflect the limitations offered by the single diver stage. This issue, of course, will also be reviewed by the site's JHSC.
- The employer wants the employees and contractors to be safe. The employer feels that the use of this single diver stage for this application will enhance the employees' and contractors' safety and not compromise it.

On April 17<sup>th</sup>, 2008, the Chief Compliance Officer met with the employer to review the employer's request and the employer has provided the Chief Compliance Officer with the following information:

- The existing lifting sling that was being used on the diving stage has been discarded and will be replaced with a more adequate sling.
- The diving stage design standard has been designed, built and certified in full compliance with OSHA CFR Part 1926.550(g). Final Rule.
- The employer agreed that while the primary diver is in the water, the stage will be brought back to the Building floor level for possible deployment of stand-by diver. This is in contradiction to a statement made in the employer's initial letter.
- The employer named the contractor for crane maintenance.

During the meeting, the Chief Compliance Officer requested the following information, which the employer has provided for the Chief Compliance Officer's consideration:

- Letter dated July 31, 2009, from the contractor confirming that they have reviewed the proposed modifications to the man-cage and agree with the modified change.

- Photos of the lifting hooks.
- Confirmation from a contractor that they do not have a problem and authorized the employer to remove the gate and install the safety chains and also that the contractor had no problems with the employer putting extra holes in the top of the platform.
- Diagram of the Divers Fifth Safety Line, and
- Pumphouse Diver's Stage Fifth leg and Doorway Modification Details dated July 21, 2009.

Based on the information the employer has provided a deviation is granted on the following conditions:

- Half link installed on the man basket will be done in such a manner that the operation of the door will not be affected;
- The door of the man basket is to be removed when used as a diving stage;
- The proposed fifth leg arrangement will be certified by an engineer;
- Bracket referred to in side view A of the plan dated July 12 / 09 shall be certified by an engineer;
- All chains, connectors and shackles used to secure the cage to the man basket to the load block bracket will be made of stainless steel.
- Load testing of the fifth leg arrangements shall be done in accordance with the requirements outlined on a plan prior to each use.
- The fifth leg component and the man basket shall be washed with fresh water following each use.
- The hoisting apparatus load block shall not be submerged in salt water.

By copy of this letter, the Chief Compliance Officer has advised WorkSafeNB staff of the decision.

Yours truly,

Chief Compliance Officer