

March 16, 2009

"The Employer"

The Chief Compliance Officer is writing in response to the employer's email dated January 22, 2009 requesting a deviation in relation to Personal Floatation Devices.

In the employer's email the employer indicates that the employer asked some follow-up questions of the manufacturer about the standard they quoted which the employer thought would be relevant. The employer provided the Chief Compliance Officer with the questions and the responses.

The employer added one point of clarification that the employer is not looking to have the standard from the existing variance removed, only to have the option of the inflatable PFD's available to employees on patrol. The existing standard meets the needs of staff in all other situations, and employees working from motor boats in the spring still require the ability to wear cold water survival suits

The employer advised that the employer took it upon itself to weigh the duty belt and body armour with two sets of scales used by the employer's staff. The total weight of the equipment (sidearm, ammunition, baton, pepper spray, handcuffs, mini mag and mag flash lights, radio on the belt, and body armour) was 18lbs on 1 scale and 20 lbs on the second. By the employer's math the inflatable PFD's seem to allow for a similar amount of buoyancy as would be found with a regular PFD and no duty gear, and in the employer's opinion seem preferable to the regular PFD when wearing duty gear.

The employer is requesting that a deviation be granted for the employer to allow staff to wear PFD's which meet or exceed the standard - UL1180 with the Canadian Addendum.

In a letter dated July 27, 2004 the employer raised concerns regarding the current regulatory requirements for the wearing of life-jackets while being transported in a boat on moving water, lakes and rivers.

According to the employer's letter, the employer was advised by a nationally recognized and accredited instructor in canoe-skills that the employer may be using the wrong type of safety equipment (the wrong type of buoyancy device) for the nature of the work being carried out by the employer's staff. The employer has attached supporting documentation from this instructor for the Chief Compliance Officer's consideration.

According to the instructor, a properly fitted life-jacket may cause chafing when operating a canoe which in turn can lead to a lack of boat control. In addition, the instructor states that life-jackets provide no protection from hypothermia and may in fact promote hypothermia as the design of life-jackets tends to wet the neck without providing any insulation. Furthermore, the instructor believes that life-jackets are a definite danger to wearers in moving water if a sweeper/strainer tree (a submerged tree) is encountered when employees fall into the water.

The following PFDs were recommended by the instructor:

1. PFDs approved by either D.O.T. and the Canadian Recreational Canoe Association and;
2. For work being carried out over cold water, Floater Coats (with neoprene diaper) and Survival Suits which provide protection from hypothermia.

As the employer is aware, the General Regulation 91-191 (Section 51 (5)) requires that employees wear a life jacket or buoyancy device when being transported in a boat that conforms to *CGSB standard CAN/CGSB-65.7-M88, "Life Jackets, Inherently Buoyant Type"* and does not make reference to life jackets or buoyancy devices that conform with either D.O.T. or the Canadian Recreational Canoe Association.

As a result, in order to consider the use of different equipment from different standards, a deviation from the regulation is required.

After reviewing the information the employer has provided, other CGSB Standards that approve PFDs and survival suits and the fact that the Chief Compliance Officer is not familiar with the Canadian Recreational Canoe Association and D.O.T. as agencies which approve life-jackets and PFDs, the Chief Compliance Officer is prepared to grant the employer a deviation from Section 51 (5) of 91-191 provided that:

1. The PFDs or survival suits conforms to the *CGSB Standard CAN/CGSB-65.11-M88 "Personal Flotation Devices,*
2. Employees do not work alone; and
3. There are sufficient resources to execute an effective rescue.

The reason for the conditions above is that as indicated by the instructor, life-jackets that conform with the *CGSB standard CAN/CGSB-65.7-M88, "Life Jackets, Inherently Buoyant Type"* are designed to prevent persons who wear them to remain face down (roll persons unto their back) while in the water, a safety feature that would be essential should persons who fall in water be unconscious. PFDs do not have this feature thus the conditions for the deviation.

The Chief Compliance Officer will consider equipment that conforms with other standards (i.e. Canadian Recreational Canoe Association or D.O.T.) provided that the employer can demonstrate that they are equivalent to or better than those that conform with the *CGSB Standard CAN/CGSB-65.11-M88 "Personal Flotation Devices.*

By copy of this letter the Chief Compliance Officer has advised the employer's JHSC of the decision.

Yours truly,

Chief Compliance Officer