

WorkSafe Services

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Services de travail sécuritaire

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July 19, 2006

“The Employer ”

The Chief Compliance Officer is writing in response to the employer’s fax dated July 11, 2006 in which the employer has requested a deviation from Section 337(1) of Regulation 91-191 under the *Occupational Health and Safety Act* that states:

337(1) An employer shall not employ a diver using SCUBA

- (a) on an underwater construction project,*
- (b) where diving in a confined space,*
- (c) where underwater power tools are used,*
- (d) where water currents, visibility, weather conditions or underwater conditions present hazards to a diver that could be alleviated if the diver were using surface-supplied air,*
- (e) where the diving environment is contaminated,*
- (f) where there is danger of entrapment, or*
- (g) where the depth of the dive may exceed 30 m.*

In the employer’s fax the employer has provided details.

The employer also indicated in the employer’s fax that the employer would like to use SCUBA rather than forced air because the divers would be used for surveying and inspection and will remain in front of the other teams. The divers will identify debris to be removed with buoys and they will scrape mussels off the piers. The job will last approximately 6 weeks and there will be a few dives per week. The water depth varies from 3 to 12 feet.

The Chief Compliance Officer called the employer on July 12th in order to obtain further information to help in determining whether the divers would be involved in an underwater construction project. And the employer provided the following:

- Personnel and equipment on the site
 - 1-45’ boat for the divers and their material
 - 1-16’ aluminum extra boat (as needed)
 - 1 principal diver
 - 1 back-up diver
 - 1 divers helper
 - 2 full SCUBA suits with mask allowing communication at all times between divers and helper

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➤ Principal diver will perform following tasks

1. During the first week, the diver will survey the debris and attach buoys to the debris.
2. A second dive will be necessary to identify and remove marine life and measure piers.
3. Divers will also inspect piers of an older bridge to ensure there is enough room to maneuver boats.
4. Further inspection dives will be necessary to confirm that all debris has been removed and for the DOT final survey inspection
5. There will be no cutting, welding or blasting during the debris removal operation.
6. All SCUBA requirements such as lifeline, back-up diver and communication will be complied with.

Based on the information the employer has provided and the telephone conversation of July 17th, the Chief Compliance Officer feels that the divers will not be involved in an underwater construction project provided the divers are surveying, inspecting and removing marine life without the use of power-tools and that the excavator is not in operation during these tasks. Therefore SCUBA may be used and a deviation from Section 337(1) is not required.

By copy of this letter, the Chief Compliance Officer has informed WHSCC staff of the decision.

Yours truly,

Chief Compliance Officer