

WorkSafe Services

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Services de travail sécuritaire

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May 7, 2008

"The Employer"

The Chief Compliance Officer is writing in response to the employer's email dated March 26, 2008 and the meeting on April 8, 2008, in which the employer indicated the following:

The employer is presently in the process of a capital project to convert the employer's premises to allow it to produce dissolving pulp. This project is critical to the longevity of the employer's premises and is therefore very important to the surrounding economy. The project requires significant work to be carried out in confined spaces. The employer has contracted the confined space rescue planning and execution to a contractor. The contractor is a national industrial safety services company with operations in Western, Central and Atlantic Canada. The contractor provides a comprehensive and integrated suite of health, safety and environmental monitoring services including confined space rescue.

The employer is requesting a deviation from Section 266(1)(f) Regulation 91-191, which states:

266(1) *An employer shall ensure that*

....

(f) an employee who is trained in the emergency procedures referred to in subsection 263(3) and who is fully informed of the hazards in the confined space is in the immediate vicinity of the confined space to assist in the event of an accident or other emergency.

The request for the deviation is also from the legal interpretation *Confined Space-Rescue Employees (attached)*, which provides guidance on the requirements for determining the number of rescuers during confined space work. The employer will note that the aforementioned document requires a minimum of one rescuer for each confined space where work is being carried out. The employer has provided the Chief Compliance Officer with an alternative rescue plan, which requires less than one rescuer per confined space for the Chief Compliance Officer's consideration. The proposed plan (which could involve work being carried out simultaneously in up to 7 different confined spaces) is as follows:

- The vicinity person will have the following qualifications:
 - Confined Space Rescue
 - First Aid
 - CPR
 - Scba

- The following rescue equipment is centrally located on elevation 361' – capping floor:
 - 3 x Air Bottles with 20 minute air capacity
 - Backboard
 - SCBA gear – 5 sets
 - 7 spreader bars

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- 10 confined space rescue harness
- The following rescue equipment is located in each color zone:
 - Retrieval Lines over 7,8 digesters + 1 retrieval line on monorail over the five tanks (HBL 1-3, NL 1 -2). Mobile retrieval A-frame and man winch for Digesters 1-6.
- The rescue gear for the ERT team is centrally located in the employer's rescue vehicle, which is located 1000 feet from the site, is listed in the attached information.
- Duties of the Vicinity Person:
 - Supply 1st aid.
 - Supply CPR.
 - Supply Oxygen.

Note: Vicinity person to don SCBA before entering the confined space. All Vicinity Person activities required until the arrival of the ERT team.

The employer has provided a table which describes the physical distance from each tank or digester and obstructions that would usually cause problems and drawings with two 3 dimensional models showing the physical layout of the tank farm and digester building area. The access to the tanks will be only through the top access hatch with a hole watch at each tank or digester being accessed.

The employer also provided the following documentation:

- 1) The employer's Digester Entry and Emergency Procedures;
- 2) The contractor's Gas Detection Team
- 3) The contractor's Integrated Confined Space Entry Rescue Preplanning dated April 5, 2008.

On April 8, 2008 the Chief Compliance Officer met with the employer and the contractor's Safety Consultant to review the employer's request.

During the meeting, the following additional information was provided:

- The assigned competent person as required by Section 263 (1) and 263 93) is a representative of the contractor;
- The duration of the Project is approximately four months where confined space work will be on-going;
- Work is to be carried out through 2-10 hour shifts five days/week;
- Work in confined space includes cold work, hot work such welding, grinding and gouging;
- While work may be carried out simultaneously in 7 confined spaces, the majority of the work will be carried in 5; there would be a maximum number of 7 employees carrying out work in one space;
- As required by the Regulation, each confined space will have a stand-by (vicinity person) immediately outside the confined space;

- The proposal will also have 3 rescuers who will be “floating” in the area ready to execute a rescue in any of the confined spaces; however it was further clarified that 1 of the 3 would be required to supervise the rescue and not be available for entry if necessary;
- The plan includes instructions to evacuate employees from the other confined spaces and utilize (if necessary) the vicinity persons overseeing those spaces to assist in a rescue;
- Response time from rescuers in the immediate area where work is being carried out is estimated as 2 minutes; the plant also has an ERT team which could be ready as back-up in 7 minutes;
- It appeared from the discussions that the main benefit of less rescuers would result in cost savings;

While significant planning and training by the contractor and the employer has occurred with respect to this work (and for this the Chief Compliance Officer wishes to acknowledge both employers for the effort), there remains many unknowns (e.g. how would this plan be successfully executed should an emergency occur in more than one confined space) as to whether less than required rescues would suffice in an emergency. From the information provided, the project will involve a variety of work in multiple spaces and the use of equipment and processes each bringing in potential hazards at various stages which, in the Chief Compliance Officer’s opinion, contributes to the unknown of possible emergencies.

Based on the above, the employer’s request for a deviation from Section 266 9(1) and the Legal Interpretation-*Confined Space-Rescue Employees* is denied.

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

Yours truly,

Chief Compliance Officer