

**WorkSafe Services**

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August 5, 2005

**"The Employer"**

The Chief Compliance Officer is writing in response to the employer's email of July 27, 2005, in which the employer requests a deviation from *Occupational Health and Safety Act*, General Regulation 91-191 section 51(6) that states:

*Where an employer provides a rescue boat for use in an emergency procedure, the employer shall ensure that the rescue boat is equipped with at least four life rings or buoys and that each life ring or buoy is attached to 30 m of rope.*

The employer's concern with this section is that there are no specifics as to size, colour, rope type or size of any other safety equipment. This is causing a problem in the employer's department with the serviceability of the rescue boat.

Currently the employer's department uses a 14.5' Zodiac Mark III with a 30 hp Yamaha motor. The boat is used to respond as required in waterways in the employer's jurisdiction. The employer's clients are primarily the citizens and/or visitors of the area and can include stand-by duties for businesses of short duration (e.g. 1 hour) or special circumstances.

The employer has requested that the Transport Canada Small Boat Regulation replace section 51(6) and have identified Part IV sections 26 and 27 as those that would be complied with.

At the Chief Compliance Officer's request, the employer consulted with officials of Transport Canada to determine their regulatory requirements for vessels used by the employer in the circumstances described above. A Senior Marine Inspector \*Expert Maritime en Chef responded to the employer's inquiry on July 28 and provided the following information:

1. The equipment that should be carried on the boat is specified in the Small Vessel Regulations of the Canada Shipping Act.
2. The employer's particular vessel will have to meet Part V of these regulations for the size. Where the regulations state "approved" product this means that the item must be Transport Canada approved.
3. The operation that the employer described would be a "small commercial vessel engaged in rescue operations".
4. The vessel needs to be licensed as a commercial vessel and not a pleasure craft.
5. As the vessel is not considered to be a pleasure craft it must comply with the carriage requirements of the small vessel regulations as well.

In addition, the Chief Compliance Officer also contacted Transport Canada with a request for additional information regarding the use of the vessel in question for rescue purposes and the consequences of requiring four (4) life rings or buoys with 30 meter length ropes on the employer's vessel.

Transport Canada provided the following additional information:

1. Transport Canada reiterated that the Small Vessel Regulations of the Canada Shipping Act identifies the minimum requirements for safety equipment to be carried on a vessel of this size employed in a commercial (non-pleasure) application. The employer (or any other organization) may opt to carry additional equipment in excess of the minimum required by regulation in order to support their role as a rescue craft. Transport Canada did not express any concerns regarding the use of the employer's boat in question as a rescue boat.
2. All non-pleasure crafts are required to be commercially licensed or registered in accordance with the requirements of the Canada Shipping Act and it is the Chief Compliance Officer's understanding that the employer is in the process of requesting that the employer's rescue boat be licensed according to the *Canada Shipping Act*.
3. Under the Small Vessels Regulations the use of a life ring would only apply as an option on vessels over 6 metres in length, and at that time only one (1) would be required to be carried. None of the vessels covered by the Small Vessel Regulations require to carry more than one (1) life ring, regardless of size. The carriage of multiple life rings are required for certain vessel classes covered by the Life Saving Equipment Regulations of the Canada Shipping Act.
4. Transport Canada expressed concerns with the impact of fitting 4 life rings each fitted with 30 metres of line on a vessel of 14.5 length. This would be in addition to the equipment mandated under the Small Vessel Regulations. The congestion on the vessel associated with all this equipment could in itself present a hazard to the safe operation. Transport Canada Regulations are length dependant and generally additional equipment is only required on larger vessels where space is available.
5. There is no performance specification requirement for either piece of equipment (life rings or buoys). Transport Canada has a publication TP7325 which specifies the details of an acceptable life ring and schedule XIV of the Life Saving Equipment Regulations specifies the details of the buoyant line that is required to be fitted to life rings.

Based on the fact that:

1. the employer's boat is used primarily for waterway rescues in the employer's jurisdiction
2. the employer's clients are primarily the citizens and/or visitors of the area;
3. it is the employer's intention to obtain the proper licensing according to the Canada Shipping Act for such vessel including meeting the requirements of Part V of the Small Vessel Regulation and;
4. the General regulation 91-191 does not specify the types of boat required for rescue and;
5. having four life rings or buoys with 30 meter ropes in the employer's boat could render the vessel unsafe,

It is the Chief Compliance Officer's opinion that compliance with Section 51 (6) the General Regulation 91-191 is not required by employer for the circumstances described above.

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

Regards,

Chief Compliance Officer