

WorkSafe Services

PO Box 160
Saint John NB E2L 3X9
Phone 506 632-2200
Toll free (Claims) 1 800 222-9775
N.E. Regional Office 1 800 561-2524
Web www.whscc.nb.ca

Services de travail sécuritaire

Case postale 160
Saint John NB E2L 3X9
Téléphone 506 632-2200
Sans frais (Réclamations) 1 800 222-9775
Bureau de la Région du N.-E. 1 800 561-2524
Web www.whscc.nb.ca



February 28, 2005

"The Employer"

The Chief Compliance Officer is writing in response to the employer's letter dated February 9, 2005, in which the employer requests a deviation from the requirement that a service stairway is pitched not more than 50 degrees from the horizontal. The employer's rationale for requesting the deviation is that 1) there is no history of any safety issues with respect to the stairways in question and 2) the employer has amended the employer's work practices to minimize risk.

The employer's letter cites *Occupational Health and Safety Act*, General Regulation 91-191, Sections 115(1) and 115(6). The Chief Compliance Officer believes the section the employer requires a deviation from is Section 115(3) that states:

An employer shall ensure that a service stairway

- (a) is a minimum of 900 mm in width,*
- (b) is pitched not less than 20 degrees and not more than 50 degrees from the horizontal, and*
- (c) has treads constant in width and not less than 150 mm in width.*

There are five sets of steps that provide access to the employer's Palletizing work area from the production floor catwalk. Four of the sets have five steps; one set has six steps. These stairways have been in place from circa 1992. On November 17, 2004, a Health and Safety Officer conducted an inspection of the worksite and observed that the stairs to the crossover on the Palletizers were steep. The stairs were measured and it was discovered that the stairs are at an angle of 62 degrees, which is in excess of the maximum pitch of 50 degrees as cited in Section 115(3)(b).

As a result of the Health and Safety Officer's observation, the employer has amended the work practices to ensure that each employee faces the stairways in question whenever they are going up or down on these stairs. It is the employer's opinion that this will ensure that their foot is placed fully on the stair tread at all times. The employer indicates that this requirement has been communicated to all employees and signs have been posted near the stairways. The employer has included a copy of a memorandum dated November 19, 2004, from the Maintenance Team Leader to all employees that communicates the change in procedure for using the stairs:

"This would result in all employees needing to face the stairs while ascending or descending them and therefore, guarantee that their foot can be placed completely on each step. To be able to do this, we are applying for a variance which would have to be granted by the department of labour."

The employer also states that, to the best of the employer's knowledge, the employer has not had any safety issues with respect to these stairways. The employer has gone so far as to check the employer's written documentation and the employer has canvassed their employees to verify this fact.

WorkSafe • Travail sécuritaire

On February 18, 2005 a Health and Safety Officer and the Chief Compliance Officer visited the site to review the employer's request. The Health and Safety Officer and the Chief Compliance Officer met with JHSC employee representatives and the employer.

After reviewing the situation, the Chief Compliance Officer considered two other possible alternatives to the employer's request:

1. Modification of the stairs to meet the requirements of the legislation or;
2. Replacement of the stairs with ladders that meet the requirements of the legislation.

The first alternative was eliminated by the restricted space required to expand the stairs to meet legislative requirements. While some could be re-designed, it was noted that a tripping hazard could be introduced as a result of those modifications. The second alternative was also eliminated as the installation of ladders to meet the requirements of the regulation would not make it any safer for persons to use if they followed the procedure established for ascending and descending the stairs as it parallels the procedure for ascending and descending a ladder.

As a result, a deviation is granted provided employees follow the established procedure for ascending and descending the stairs.

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

Regards,

Chief Compliance Officer