

**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  
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July 28, 2005

**"The Employer"**

This letter is a follow-up to the July 14<sup>th</sup> meeting where the Chief Compliance Officer reviewed a new proposal for the utilization of a Facilities Technician as "Vicinity Person" for the purposes of complying with Section 266 (1)(f) of the General Regulation 91-191 (Section of Confined Space). The meeting was requested by the employer in an attempt to resolve the employer's concerns without the need for a hearing at the Appeals Tribunal.

Attending the meeting were the Employee JHSC Co-Chair and the Health and Safety Group Leader from the employer and a Health and Safety Officer and the Chief Compliance Officer from the WHSCC.

Outlined below is a summary of the meeting and information provided by the employer for the Chief Compliance Officer's consideration:

1. The employer proposes two definitions as well as assigned responsibilities for Vicinity Persons:
  - a. one for when confined space work is located in the area when Facilities Technicians carry out their regular duties. The intent of this definition is to allow the Facilities Technicians to be designated Vicinity Persons during confined space work while performing their regular duties;
  - b. the other for when confined space work is carried out in remote areas of the employer's facility, such as the Tank Farm or at an elevation on a column, vessel or tank. In this instance, the proposal is to designate a trades person working in the crew as the Vicinity Person. This person would be located within sight and shouting distance of the Stand-by person.
2. Both Facilities Technicians and the trades persons would have the necessary equipment located near the confined space area and training to respond to emergency situations involving confined space work.
3. The designated areas for Facilities Technicians cover approximately 100,000 Square feet (200'X500').
4. Because the duties of the facilities Technicians requires them to move around their designated areas to carry such tasks as taking instrument readings, they would not always be within sight and shouting distance of the stand-by person as required by the interpretation.
5. Duties performed by Facilities Technicians during confined space work would affect their ability to cease work to attend to an emergency.
6. Confined space would normally be carried out in one confined space at a time.

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7. During confined space work, radio channels would be set to ensure direct communication between the stand-by person and the Facilities Technician.
8. During confined space work in their area, Facilities Technicians who are required to leave their areas of responsibilities would not do so until back-up personnel are available to take their place as Vicinity Persons.

## Conclusion

Based on the information provided, scenario 2 (which places the Vicinity Person within sight and shouting distance of the Stand-by person) complies with both Section 266 (1) (f) of the Regulation and the associated WHSCC Interpretation on that Section.

Because scenario 1 occasionally places the Facilities Technician outside the range of voice communications and out of sight of the Stand-by person, a deviation would be required to implement this proposal.

The Chief Compliance Officer is prepared to grant a deviation for scenario 1 provided that:

1. The Facilities Technician regularly checks (in person) with the Stand-by person during confined space work. While the frequency of checks is not specified, conditions such as the hazards affiliated with the confined space work (i.e. potential exposure to hydrogen sulphide) and the number of persons who enter the space should be considered when establishing a suitable check schedule for the Technicians;
2. Facilities Technicians would be responsible for one confined space only. Additional confined space work within the operating area would require compliance with section 266 (1) (f) for those additional spaces.
3. During confined space work, back-up personnel for the Facilities Technician would require the necessary training to adequately respond to an emergency.

By copy of this letter the Chief Compliance Officer has informed WHSCC staff and the employer's JHSC of the decision.

Regards,

Chief Compliance Officer