

**WorkSafe Services**

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**Services de travail sécuritaire**

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April 27, 2006

"The Employer"

The Chief Compliance Officer is writing in response to the employer's letter dated December 20, 2005 (received March 29, 2006), in which the employer requests a deviation from Section 8 subsections (6) of Regulation 2004-130 First Aid.

As the employer is aware, Section 8(6) of the Regulation states:

*"A certificate issued pursuant to this section is valid for 3 years from the date of issue"*

The employer indicates in the employer's letter that the employer's Engineering and Public Works Department is a workforce of approximately one hundred twenty full time employees that supply essential public services as potable water, street plowing, asphalt repairs, sanitary sewer collection and waste water treatment and that the employer has been very proactive in providing a safe work environment and has a performance record which would indicate this.

The employer's rationale for the employer's request is that the employer's department insists that all employees have the training which exceeds the First Aid requirement and that this was positive in that it allowed better flexibility in scheduling and it also allowed all employees to be better able to respond to emergencies on the job (or at home).

It is the employer's feeling that the new regulation is onerous in that it requires a two-day workshop every three years, plus six hours per year of practical training. This will force the employer to retreat from training all staff and, instead, train the minimum under the *Act*. The employer's department will lose flexibility and the employees will lose readiness capabilities. Another concern voiced by the employees, is that the new schedule would be repetitious and boring and this would detract from the intent of the training.

The employer is requesting a deviation from NB Regulation 2004-130 S. 8(6) so that the First Aid Certification for the employees would be valid for five (5) years.

As the employer is aware, Section 3 (3) (b) of the *Occupational Health and Safety Act* allows the Chief Compliance Officer to grant a deviation from the Regulations if it can be demonstrated that the proposed alternative provides protection to employees that is equal to or better than what the Regulation requires. If the Chief Compliance Officer understands the employer's request, what the Chief Compliance Officer is required to consider as equal to or better than the requirements of the Regulation, in this instance, is whether over one hundred employees with first aid training certificates with an expiry date that exceeds two years is equal to or better than the minimum requirement for at least two first aid providers with current certificates.

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While the Chief Compliance Officer applauds the employer's efforts to exceed the requirement of the Regulation by requiring that all of the employees receive the first aid training, the Chief Compliance Officer is unable to grant a deviation that would allow employees with expired first aid certificates to administer first aid to injured employees, as the Chief Compliance Officer is unable to evaluate the loss of knowledge and skills of such employees that could occur after the required three year re-certification expires. As a result, anyone that is designated as a first aid provider must have a current first aid certificate and maintain such a certificate by completing the 6 hours of practice of first aid skills.

However, the employer might want to consider an alternative that would not require a deviation but still maintain an effective first aid program to meet the needs of the employer's workplace. One possible alternative to the employer's proposal that would not require a deviation would be for the employer to ensure that it met the requirements for first aid training to a sufficient number of employees to ensure adequate first aid is available. The additional employees with expired certificates could not be designated first aid providers, however their increased knowledge would be a benefit in providing assistance to a designated first aid provider in the event of a medical emergency.

For the employer's information, the Chief Compliance Officer has attached copies of Legislation Interpretation recently developed to assist employers and employees comply with this legislation.

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

Regards,

Chief Compliance Officer