

LEGISLATIVE INTERPRETATIONS

Topic: Confined space – Resue employee	Issued by: V.P., WorkSafe Services
Statute: Regulation 91-191	Date Issued: June 9, 2004
Section: 266(1)(f)	Date Revised:

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.

Question 1:

Our practice has been to have the rescue employee (referred in Section 266 (1) of 91-191) conducting additional tasks "in the area" either within visual/shouting distance of the competent standby employee OR having radio communication with competent standby employee with the intention that they can respond to the competent standby employee's call for assistance within no later than two minutes. Does this practice meet the requirements of Section 266(1)(f)?

Answer:

WorkSafeNB interprets immediate vicinity for emergency purposes as persons being visible (in sight and within shouting distance) of the confined space (where there are no obstructions or barriers to overcome to reach the space) and therefore must not be in another room or in the parking lot, etc., where the only way to reach them is by radio communication.

Employees who have been assigned rescue responsibilities (as required by 266(1) and are located in the immediate vicinity as described above) are allowed to carry out other duties provided the work they perform does not impede their ability to carry out effectively their rescue duties (able to stop work immediately to carry out the rescue).

Question 2:

Can the rescue person referred to in Section 266(1)(f) be the rescue person for work being carried out in more than one confined space at a time?

Answer:

WorkSafeNB believes that the intent of Section 266(1)(f) was to have one rescue person designated for work being carried out in one confined space only. Work being carried out simultaneously in other confined spaces would require their own dedicated rescue person.

However, employers wishing to have other alternative rescue plans (one rescue person overseeing rescue operations in more than one confined space) considered by WorkSafeNB can do so by applying for a deviation as required by Section 3(3) of the *Occupational Health and Safety Act*.