

**Prevention Services Division**

PO Box 160  
Saint John NB E2L 3X9  
Phone 506 738-8411  
Toll free 1 800 222-9781  
Fax 506 738-4099  
Web www.whscc.nb.ca

**Division des services de prévention**

Case postale 160  
Saint John NB E2L 3X9  
Téléphone 506 738-8411  
Sans frais 1 800 222-9781  
Télécopieur 506 738-4099  
Web www.whscc.nb.ca



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"The Employer"

This is in reply to the employer's letter dated June 15, 2004 requesting a deviation from the requirement to have a first aid room where there are more than one hundred employees employed at any one time. This deviation comes from Section 13 (1) from the General Regulation 91-191 that states:

*13(1) Where there are more than one hundred employees employed at any one time at a place of employment, an employer shall provide and maintain a first aid room at the place of employment.*

The employer states in the employer's letter that the design of the employer's present location was done by a project designer from Toronto and that during the planning stages the designer applied the Ontario regulation of the OHS Act which states a Medical Room is required when 200 or more employees work at one time (Article 1101, Section 11). As a result, a first aid room was not incorporated into the original plan. The employer is requesting the deviation as it has only recently come to the employer's attention that the New Brunswick regulations are not the same as Ontario.

The employer also states that the employer currently has many suitable safety systems in place, including:

- The Centre operates 24 hours a day, 7 days a week.
- On a weekly basis the employer operates 70% of the time with less than 100 employees. The only time frame where there would be more than 100 employees on site is between Monday and Friday during the hours from 11:00 am to 5:00 pm when there would be approximately 100-150 employees on site.
- The employer has gone 300 days without an accident and, in fact, over the past 9 years has had only two accidents, neither of which took place in the building in question.
- The building is a one-storey structure with no stairs or elevators.
- The employer has 22 persons who are certified by the Canadian Red Cross in Standard First Aid and CPR.
- The employer's Health and Safety Committee undertakes monthly audits to ensure all pathways are clear, fire extinguishers are checked, First Aid Kits are stocked.
- The fire department is located less than 1 kilometre away – they would respond to 911 calls in the employer's area.
- The employer is prepared to call 911 should an employee become sick or have an accident at work and become incapacitated. The employer is also prepared to ensure transportation with escort to either home or hospital should an employee become sick or have an accident in a non-medical emergency situation.

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Since the only time frame where there would be more than 100 employees on site is between Monday and Friday during the hours from 11:00 am to 5:00 pm (when there would be approximately 100-150 employees on site), the deviation requested would only be required for this time only as compliance with Section 12 (6) of 91-191 is achieved at all other times, provided that the employer has at least one person trained and certified in Standard First Aid and who has been designated to provide first aid during a specified shift.

Based on the nature of the employer's business (low risk), the employer's proximity to emergency services and the information the employer has provided on the employer's health and safety program, a deviation is granted from the requirements of Section 13 (1) provided that at least two persons trained and certified in Standard First Aid have been designated to provide first aid during this time frame, the staff complement does not increase during the aforementioned time frame and that the staff complement does not exceed 100 employees during any other time frame.

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

Yours truly,

Chief Compliance Officer