

WorkSafe Services

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Services de travail sécuritaire

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December 11, 2006

"The Employer"

This is in reply to the employer's letter received July 4, 2006 where the employer requested a Deviation from Section 14 (1) of the *OHS Act* (requesting permission to establish a Provincial (central) JHSC in lieu of four separate committees) and the subsequent meeting on September 21, 2006.

As the employer is aware, a Health and Safety Officer and the Chief Compliance Officer met with the employer and members of the Provincial Joint Health and Safety Committee including employee representatives and employer representatives. Also attending the meeting was an observer.

Outlined below is a summary of the discussions:

- The request for a Provincial Committee is fully supported by the employee representatives that attended the meeting; all those in attendance at the meeting believed that the current committee structure addressed effectively health and safety issues at the employer's premises;
- There were indications that the employer may have been granted such a deviation by the former New Brunswick Occupational Health and Safety Commission but no written evidence was provided confirming that fact;
- The members of the committee had received minimal training on the roles and responsibilities of JHSC's;
- Documentation on terms of reference, communication mechanism of health and safety matters to other employees, etc. was provided by the employer in support of the request;
- No decision on the employer's request would be made until an examination of the current structure on the effectiveness in dealing with health and safety issues was undertaken by the WHSCC;

In support of the employer's request, the employer also provided the following documents reflecting health and initiatives undertaken by the employer:

1. Policy (April 1993)-Joint Health and Safety (analogous to terms of reference);
2. Policy (undated)-Safety Inspections and Procedures Monitoring Head Office and Warehouse (includes template for logging the results of inspections);
3. Samples of Minutes of meetings;

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In the employer's letter dated July 4, the employer indicated that the Committee meets monthly in different locations around the Province, which the employer believes gives members an opportunity to visit the various locations and speak in person with the employees. In addition, the employer stated that there is good communication and relations between the employees with Committee members and all health and safety issues are reviewed and resolved in a timely manner. Minutes are posted on the employer's intranet for all employees to review at any time.

To assist the Chief Compliance Officer in making a decision, the Chief Compliance Officer has requested that WHSCC staff visit a select number of your locations to determine the extent of knowledge of the employees of the Central JHSC Committee's efforts. Seven locations were visited. Summarized below are the findings of the Chief Compliance Officer's review:

- Some employees reported that the current JHSC structure met the needs of the employees and that health and safety issues were addressed effectively;
- Some locations reported that they carried out workplace inspections while others reported that they did not carry out regular workplace inspections
- While some acknowledged that they had received and reviewed the minutes, they could not locate them when requested by the WHSCC representative;
- Some reported that they were not aware of the minutes being posted, including not being aware that they were available on the employer's Intranet system;
- There were reports of non-compliance with WHMIS and first aid provisions of the Regulations;
- Employees at two locations reported that they had no knowledge of the existence of the Central JHSC and felt that their location should establish their own JHSC Committee;

While the Chief Compliance Officer wishes to acknowledge that the employer's current JHSC Central Committee Structure addresses some of the health and safety issues found at the employer's locations, based on the findings of the site visits, the Chief Compliance Officer is of the opinion that the current structure of a Central Committee does not adequately meet the needs of staff where there are 20 or more employees. As a result, the employer's request for a deviation to maintain the employer's Central JHSC Committee structure is denied and the employer is required to establish separate committees at the facilities who regularly employ 20 or more employees.

Based on the information the employer has provided, four locations are affected. Please note that this decision does not prohibit the employer from having a central JHSC committee in addition to the site-specific committees, should the employer wish to maintain such a structure.

By copy of this letter, the Chief Compliance Officer has advised the WHSCC staff and the JHSC co-chairs of the decision. The Chief Compliance Officer also wishes to advise the employer that WHSCC staff are available to provide the employer with assistance in establishing the site specific Committees.

Yours truly,

Chief Compliance Officer