

**WorkSafe Services**

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**Services de travail sécuritaire**

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August 18, 2005

"The Employer"

The Chief Compliance Officer is writing in response to the employer's letter dated August 11, 2005, in which the employer requests a deviation from *Occupational Health and Safety Act*, General Regulation 91-191 section 147(1) that states:

*147(1) Subject to subsection 148(2), an employer shall ensure that a blasting operation is conducted by a blaster who holds an appropriate certificate of qualification issued under the Apprenticeship and Occupational Certification Act for the work involved.*

The employer states, in the employer's letter, that the employer has been contacted to perform the explosives felling of five shipbuilding cranes. The date of performance for the felling of the cranes is currently August 28, 2005. The employer's reasons for requesting the deviation are as follows:

- inadequate time for the blaster in charge to take the practical and written examination necessary to obtain the New Brunswick Certificate of Qualification;
- the lack of reciprocity for using a Certificate of Qualification from another Canadian province; and
- the Blaster in Charge has over 33 years of hands-on explosives handling experience.

The employer has provided the following documentation to support the employer's deviation request:

- an employee's expired blasting certificates for British Columbia, Manitoba and Alberta;
- an employee's CV, Letter of Clearance as issued by the US Department Justice Bureau of Alcohol, Tobacco Firearms & Explosives; and
- a list of current licenses that the employee presently holds for various states and cities in the US.

To assist the Chief Compliance Officer on this matter, the Chief Compliance Officer contacted officials at the Department of Training and Employment Development (TED) in the Apprenticeship and Certification Branch (the division responsible for blasting certificates) to advise the Chief Compliance Officer on the equivalency of the British Columbia, Alberta and Manitoba blasting certificates. As the employer is aware, TED officials advised the Chief Compliance Officer that they would be unable to grant a New Brunswick certificate of qualification for blasting, as there are no reciprocal agreements with British Columbia, Alberta and Manitoba. The Chief Compliance Officer also contacted the British Columbia Worker's Compensation Board, the issuer of the most recent expired Canadian certificate obtained by the employee, to determine the importance of an expired blasting certificate. In British Columbia, blasters need to retest and re-interview in order to renew their blasting certificate. As a result, the Chief Compliance Officer advised the employer last Friday that the Chief Compliance Officer was unable to grant a deviation.

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In order for the employer to perform the explosives felling of five shipbuilding cranes, it would have to be under the supervision of a blaster with a NB certification of qualification. As mentioned, this can be achieved by either:

- obtaining the services of a blaster with a New Brunswick Certificate of Qualification to supervise the blasting operation, or
- the employee passing the practical and written examination and obtaining a New Brunswick Certificate of Qualification.

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

Regards,

Chief Compliance Officer