

## LEGISLATIVE INTERPRETATIONS

Topic: Regularly Employed – Definition	Issued by: VP, WorkSafe Services
Statute: <i>Occupational Health and Safety Act</i>	Date Issued: Nov. 15, 2005
Subsections: 8(1), 14(1), 17(1) & 17(2)	Date Revised: Sept. 11, 2007

**8(1)** Every employer with twenty or more employees regularly employed at a place of employment shall establish and file with the Commission a safety policy in respect of that place of employment.

**14(1)** Every employer with twenty or more employees regularly employed at a place of employment shall ensure the establishment of a joint health and safety committee.

**17(1)** Subject to subsection (2), every employer with not fewer than five and not more than nineteen employees regularly employed at a place of employment shall establish a safety policy in respect of that place of employment which may include provision for a health and safety representative.

### Question

What does regularly employed mean?

### Response

Regularly employed is not affected by full-time or part-time status. For example if a business employs 10 full-time employees and 10 part-time employees, the business has 20 employees regularly employed.

The number of hours is only a factor if the pattern of employment is not predictable, meaning not seasonal or repeated in a predictable fashion on a monthly basis. For example, if an employee works 10 hours a week, every week, then that employee is regularly employed.

The length of time is however a factor if the work is not considered hazardous. Employees employed for less than three consecutive months will not be considered regularly employed if the place of employment does not carry out high hazard work. For example, additional retail staff hired for the Christmas rush (from Nov. 15 to Jan. 30) will not be considered regularly employed.

Where high hazard work is carried out, an employer who has 20 or more employees employed for less than three consecutive months, must ensure the establishment of a joint health and safety committee (as required by the legislation) for the duration of the work or allow the

employees to select a health and safety representative as a substitute to the joint health and safety committee. If the employer chooses to allow workers to select a representative, training of the affected person as required by paragraph 14.1(2)(a) would be required within two weeks of the start of the work or at the first available date for a training session as provided by WorkSafeNB.

**High hazard work** is work carried out at a place of employment specified below or, if no place of employment is specified, the work carried out below:

- (a) working at a mine;
- (b) working underground, in confined space or in isolated areas where emergency medical help is not close to the work area;
- (c) working on electrical transmission, generation and distribution systems;
- (d) working at foundries or machine shops;
- (e) working at gas, oil or chemical processing plants, steel or other base metal processing plants;
- (f) working at woodland operations, sawmills or lumber processing plants;
- (g) working at brewery or beverage processing plants, meat packing or processing plants;
- (h) working with explosives or heavy equipment.