

LEGISLATIVE INTERPRETATIONS

Topic: Health and safety policy – Small Employer	Issued by: V.P., WorkSafe Services
Statute: Occupational Health and Safety Act	Date Issued: April 11, 2006
Subsections: 17(1) and 17(2)	Date Revised:

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.

17(2) Where the nature of employment at a place of employment presents a high risk to the health and safety of employees or where the accident record of a place of employment is higher than is normal for that place of employment or for similar places of employment, the Commission may require an employer to establish and file with the Commission a safety policy that includes provision for a health and safety representative.

Question:

A medium sized manufacturing company near my plant, which employs approximately 35 employees, has advised me that there is a legislative requirement for a health and safety policy and that the policy has to be filed with the WorkSafeNB.

I on the other hand operate a welding shop that employs 7 full-time and 2 part-time employees. Is there a legislative requirement that I also develop a Health and Safety Policy to be filed with WorkSafeNB and if yes, does the legislation outline the requirements of such a policy?

Answer:

Section 8 of the *Act* requires that larger employers (those with 20 or more employees) establish a health and safety policy and file a copy with WorkSafeNB.

The provisions for the requirements of a health and safety policy for employers that have less than 20 employees are found in Sections 17(1) and 17(2) of the *Occupational Health and Safety Act*.

Subsection 17(1) requires that smaller employers (those with between 5 and 19 employees) also establish a health and safety policy but that policy is not required to be filed with the Commission.

This subsection gives these smaller employers the option of determining for themselves that a health and safety representative is or is not needed. This subsection is also subject to 17(2).

Subsection 17(2) states that where the nature of the employment presents a high risk to the health and safety of the employee, the Commission can step in and require that the health and safety policy that is required under 17(1) include a health and safety representative.

The effect of these subsections is that all employers with between 5 and 19 employees must establish a policy. That policy *may* include provision for a health and safety representative.

Subsection (2) allows WorkSafe NB to *require* that the health and safety policy established under (1) have provision for a health and safety representative when certain conditions are found at the workplace and that could require the policy be filed with WorkSafeNB.

Finally, the legislation does not prescribe the contents of such a policy. However, the Commission has developed guidelines to assist workplaces in developing such a policy. The information can found on WorkSafeNB web site

http://www.whscc.nb.ca/522top1b_e.htm.