



YUKON WORKERS'
COMPENSATION
HEALTH AND
SAFETY BOARD

SUBJECT: Assessments

POLICY NO.: AS-26

BOARD APPROVAL:

APPROVAL DATE: February 19, 2008

BOARD ORDER NO:

EFFECTIVE DATE: February 19, 2008

POLICY STATEMENT

POLICY: **MEGA PROJECTS**

APPLICATION

This policy applies to the Board of Directors, President/CEO, staff of the Yukon Workers' Compensation Health and Safety Board (YWCHSB), service providers, employers and workers covered by the *Workers' Compensation Act* R.S.Y., 2002 (or predecessor *Workers' Compensation Acts*) and the *Occupational Health & Safety Act* R.S.Y. 2002 (or predecessor *Occupational Health & Safety Acts*), collectively, "the Acts".

SECTION REFERENCE

Section 64 of the *Workers' Compensation Act* R.S.Y. 2002 (*the Act*) states that the Board shall assess employers for any sums that the Board may require for the administration of the Act. Assessments shall be paid in the manner, form and procedure directed by the Board.

OBJECTIVE

The objective of this policy is to protect the fund from large, time-limited, high risk Mega Projects, and to define how such Mega Projects will be assessed

under the Act in regard to assessment levies to address the challenges and uniqueness of a project.

DEFINITIONS

Compensation Fund, means the fund established for the payment of compensation and other outlays and expenses authorized under the *Workers' Compensation Act* R.S.Y. 2002 ("the Act").

Assessable Payroll, means the total earnings earned in a year by all workers employed by an employer engaged in an industry. If the worker is paid less than the Maximum Wage Rate, all of his/her remuneration is included in assessable payroll. If the worker is paid over the Maximum Wage Rate, only the amount up to the Maximum Wage Rate is included in assessable payroll.

Assessment Premium, includes rates, levies, assessments, surcharges, penalties and all other charges for the total project, including contractors and sub contractors, imposed by YWCHSB under the Act.

Industry Classification, is the industrial sector to which an employer belongs (e.g., mining, oil & gas, construction etc).

Mega Project, means an individual or collaborative large scale undertaking that involves large capital input, time and resources. These projects that tend to have a time-limited duration will be identified by the criteria set out in this policy.

POLICY STATEMENT

This policy describes the types of projects that may be considered "Mega Projects", and the criteria to be used in developing adequate financial arrangements (i.e. alternate assessment arrangements) for these projects. In keeping with the objectives of the workers' compensation system, an alternate assessment arrangement developed for a Mega Project should:

- Ensure fair and consistent treatment of all employers;
- Promote high quality prevention and Return-To-Work practices at Mega Project worksites;
- Allow for reasonable flexibility to address conditions specific to a particular Mega Project; and
- Minimize the impact of the Mega Project on the financial position of the Compensation Fund, and on assessment rates to the extent practical.

1. CRITERIA

The YWCHSB will apply the following criteria to identify projects that may be considered Mega Projects:

- (a) The project is anticipated to have total assessment premiums of at least \$1,000,000; or
- (b) The project is expected to cause an increase in payroll for any of the subclasses (i.e. industry groups) involved in the project of at least 20%; or
- (c) Assessable payroll for the project is expected to decline by at least 25% from its peak level once the project is completed; or
- (d) The fluctuation in assessable payroll is not part of the normal business cycle of the subclasses involved; and/or
- (e) The potential adverse financial impact of poor injury experience are not absorbed by the subclasses involved in the project without significantly impacting their assessment rates.

2. APPLYING THE CRITERIA

The YWCHSB, at the direction of the President/CEO and in conjunction with the actuary, will examine each potential Mega Project against the criteria to determine first, whether or not the project is a Mega Project and second, whether or not an alternate assessment arrangement should be developed for the Mega Project. In making the decision on how a Mega Project is to be assessed, the YWCHSB will consider, but not be limited to considering, the following attributes of the project:

- (a) *The duration of the project* – longer projects are less risky because there is an opportunity to raise assessment rates to recover a portion of losses before the project is complete;
- (b) *Whether or not the primary project participants have stable long term establishments in the Yukon* – where most project participants have stable long term establishments, it may be feasible to recover potential losses from those participant through regular or special assessments after the project has been completed;

- (c) *The number of foreign workers (outside Canada and United States) employed on the project under temporary work Visa's – occupational health and safety education and monitoring may be more difficult given increased cultural and language barriers, thereby increasing the risk of injury on the project;*
- (d) *The number of separately managed sub-projects and locations involved in the project – some projects are composed of very distinct sub-projects completed in different locations at different times. Where there are several different sub-projects in different locations, there may be less concentration of risk; and*
- (e) *The legal arrangements between the project developer(s) and the operator(s) of the facilities after development – if the operator of the facilities and the project developer are one and the same or are closely connected, it may be possible to recover potential losses through regular or special assessments after the project has been completed.*

3. DETERMINING ASSESSMENTS

In order to provide for consistency of treatment of employers and allow for enough flexibility to develop the right solution for each Mega Project, the development of an alternate assessment arrangement will require that:

- (a) sufficient time be allowed to establish discussions with the project developer(s) in the planning stages of the project;
- (b) arrangements the primary project developer may have with subcontractors are clarified when negotiating;
- (c) the YWCHSB strive to achieve protection from losses for claims costs up to 2.5 times the amount of the alternate assessment paid; and/or
- (d) the YWCHSB should be prepared to consider sharing gains (and losses) with project participants.

While every effort will be made to work with the Mega Project proponents to develop a mutually acceptable financial arrangement, the YWCHSB will make the final decision regarding an appropriate alternate assessment arrangement.

Chair

REVIEW & APPEAL RIGHTS

Decisions made by the YWCHSB under this policy, can be appealed directly in writing to the Board of Directors of the Yukon Workers' Compensation Health and Safety Board in accordance with subsection 82(1) of the *Workers' Compensation Act*.

Chair