

Chapter: Employer Assessments

Legislative authority: section 130

Prevention statement

Preventing injuries is one of the most important responsibilities in the workplace. The Workers' Safety and Compensation Act (the 'Act') establishes the responsibilities of all workplace parties to work together to ensure the physical and psychological health and safety of workers. When injuries do occur, workers and employers must continue to work together to facilitate an injured worker's early and safe return to health and work.

Purpose

This policy describes the types of projects that may be considered mega projects and the criteria used in developing alternate assessment arrangements for these projects.

Definitions

assessment premium means the amount determined by the board that an employer is required to pay to the board each year

board means the Workers' Safety and Compensation Board

employer means every association, corporation, individual, partnership, person, society or unincorporated organization or other body having in their service one or more workers in an industry and as further defined in section 77 of the Act

mega project means an individual or collaborative large scale undertaking that involves large capital input, time and resources. These projects tend to have a time-limited duration

payroll means the total amount of all wages and salaries that an employer paid to its workers during a calendar year, including: commissions, tips, remuneration for overtime, piece work, and contract work, bonuses and allowances, the cash equivalent of board and lodging, store certificates, directors fees, indemnities, allowances paid to members of the Legislative Assembly or elected officials of a municipality, and any substitute for money

Policy statement

1. General

In keeping with the objectives of the safety and compensation system, an alternate assessment arrangement developed for a mega project should:

- a. ensure fair and consistent treatment of all employers;
- b. promote high quality prevention and return to work practices at mega project worksites;
- c. allow for reasonable flexibility to address conditions specific to a particular mega project; and
- d. minimize the impact of the mega project on the financial position of the compensation fund, and on assessment rates to the extent practical.

2. Criteria

The board 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 one million dollars (\$1,000,000.00); 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 twenty per cent (20%); or
- c. assessable payroll for the project is expected to decline by at least twenty five per cent (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 is not absorbed by the subclasses involved in the project without significantly impacting their assessment rates.

3. Applying the criteria

The board, 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 board 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 Yukon – where most project participants have stable long term establishments, it may be feasible to recover potential losses from those participants 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 visas – workplace 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.

4. Determining alternate assessment arrangements

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 board strive to achieve protection from losses for claims costs up to two and one-half (2.5) times the amount of the alternate assessment paid; and/or
- d. the board 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 board will make the final decision regarding an appropriate alternate assessment arrangement.

History

EA-11 Mega Projects, effective July 1, 2008, revoked July 1, 2022

AS-26 Mega Projects, effective February 19, 2008, revoked July 1, 2008