

 Yukon Workers' Compensation Health and Safety Board	<b>Part:</b>	<b>Employer Assessments</b>		
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## MEGA PROJECTS

### GENERAL INFORMATION

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.

### PURPOSE

This policy provides guidelines to protect the Compensation Fund from large, time-limited, high risk mega projects, and defines how such mega projects will be assessed under the *Workers' Compensation Act* S.Y. 2008 (the “Act”) to address the challenges and uniqueness of such projects.

### DEFINITIONS

- 1. 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.
- 2. Assessment Premium:** includes rates, levies, assessments, surcharges, penalties and all other charges for the total project, including contractors and sub contractors, imposed by Yukon Workers' Compensation Health and Safety Board (YWCHSB) under the *Act*.
- 3. Compensation Fund:** is the fund established for the payment of compensation and other outlays and expenses authorized under the *Act*.
- 4. Industry Classification:** is the industrial sector to which an employer belongs (e.g. mining, oil and gas, construction etc.).

**5. 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**

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

1. ensure fair and consistent treatment of all employers;
2. promote high quality prevention and return to work practices at mega project worksites;
3. allow for reasonable flexibility to address conditions specific to a particular mega project; and
4. 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 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.

## 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 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 – 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 two and one-half (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.

## **APPLICATION**

This policy applies to the Board of Directors, President/CEO, staff of the YWCHSB, service providers, employers and workers covered by the *Act* (or predecessor workers' compensation acts) and the *Occupational Health & Safety Act* R.S.Y. 2002 (or predecessor occupational health and safety acts).

## **APPEALS**

Decisions made by the YWCHSB under this policy can be appealed directly in writing to the Board of Directors of the YWCHSB in accordance with subsection 85(1) of the *Act*.

## **ACT REFERENCE**

Sections 66 and 85

## **HISTORY**

AS-26, "Mega Projects", approved February 19, 2008, revoked July 1, 2008.

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Chair