



Policy Amendment Proposal EA-09 Employer Industry Classification

This policy amendment proposal relating to employer industry classification will reflect the issues consulted on during the engagement for the *Workers' Safety and Compensation Act* (the 'Act') and will align the amendments made in the new legislation.

The new Act comes into force July 1, 2022. The intended effective date of the proposed policy amendments will be July 1, 2022.

The proposed amended Employer Industry Classification policy will reflect minor changes to ensure consistency with the provisions of the Act.

A five-year policy review plan will be developed later in 2022. After July 1, 2022, all amended policies to align with the new Act will be prioritized for a more detailed review.

The purpose of this policy is to outline the principles and criteria used by the Workers' Safety and Compensation Board to assign an employer into an industry and sub-class.

Relevant sections of the Act

The following sections of the Act are relevant:

- 135 employer classification

Proposed minor changes to this policy are highlighted in yellow

- changes to section references, language and definitions;
- new policy title to reflect Act terminology;
- addition of procedures

Board Orders/Regulations

N/A

Current policy

[EA-09 Employers in More Than One Industry](#)



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The board of directors is providing this policy amendment proposal to stakeholders seeking their input, comments, questions and suggestions.

Some questions for consideration:

1. Are there any general comments about this policy proposal?
2. Are there any gaps in this policy proposal?
3. Additional comments?

The views of our stakeholders are important to us. All feedback will be considered prior to the board of directors approving any amendments.

Engagement on this policy proposal closes on **March 31, 2022**. Please provide your feedback by:

1. Downloading a [fillable form](#) on our website and sending it as an attachment to Policy.Feedback@wcb.yk.ca
2. Emailing comments directly to Policy.Feedback@wcb.yk.ca
3. Receipt in our building by March 31, 2022, by mail or drop off at
*Yukon Workers' Compensation Health and Safety Board
401 Strickland Street
Whitehorse, Yukon Y1A 5N8*

By the end of April a summary of all feedback on this policy amendment proposal will be published on our website at www.wcb.yk.ca



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Preventing work-related injuries is the most important job in any workplace. The *Workers' Safety and Compensation 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 outlines the principles and criteria used by the Workers' Safety and Compensation Board to assign an employer into an industry and sub-class.

Definitions

board means the Workers' Safety and Compensation Board

business activity means an activity of the employer that combines inputs, technology, skills and labour to create a product or service for revenue

capital construction means the expansion or addition of physical facilities used in a business

class means the major industrial sector to which an employer's business belongs. There are four major sectors within the board's classification system: Resources and Transportation; Construction; Services; and Government

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

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

sub-class means a further division of an industry based on the products sold or services provided by the employer



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Policy Statement

1. General

The Act provides authority to create classes and sub-classes of industries for the purposes of the collection of assessments from employers. The Board of Directors establishes industry classes and sub-classes and rate groups.

An employer pays assessment premiums based on the rate group of the industry class and sub-class they are assigned to, based on their assessable payroll for the year.

This system helps to ensure that all employers pay their fair share of the costs of the safety and compensation system while adhering to the collective liability principle.

2. Assigning an employer to an industry class and sub-class

As part of the registration process, as outlined in policy EA-02 Employer Registration, employers are required to provide a detailed description of their business activities.

The board reviews the description provided by the employer and assigns an employer to an industry class and sub-class based on the employer's primary business activity, regardless of the occupation of individual workers. The business activity of an employer includes management, administration, marketing and other functions which are supportive of, incidental, or integral to the employer's primary business activity.

The following factors are considered in determining an employer's classification:

- a. nature of products and services provided;
- b. raw materials, equipment and processes used to produce products and services;
- c. customers;
- d. competitors;
- e. ownership;
- f. work locations;
- g. work performed by employees;
- h. work performed by other related companies; and
- i. any other information the board requires to better understand the employer's business and assign the industry of best fit.

The board assigns an employer to the industry class and sub-class that best represents the employer's primary business activity in the Yukon.



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3. Employers operating in more than one industry

Most employers are assigned to only one industry class and sub-class. However, when a single classification does not adequately cover all the business activities being conducted, and the business activities are distinct and independent, the board may consider assigning more than one industry sub-classification.

In order for an employer to be assigned to more than one class and sub-class all the following conditions must be met:

- a) each business activity is not an extension of or incidental to the employer's other business activity and is not provided primarily to support the other business activity;
- b) each business activity is independently viable with separate and distinct sources of revenue;
- c) the employer employs a separate and distinct group of workers for each business activity and the earnings paid to each worker are distinguishable for each business activity; and
- d) each business activity meets at least one of the following conditions:
 - i) it generates an annual assessable payroll that is at least 10 per cent of the gross annual assessable payroll of all the employer's business activities; or
 - ii) it generates an annual revenue that is at least 10 per cent of the gross annual revenue of all the employer's business activities.

If all of these conditions are not met the employer will be assigned to one class and sub-class. The board will assign the employer to the industry sub-class with the highest rate if that business activity accounts for at least 40 per cent of the total assessable payroll of all the employer's business activities. If this is not the case, the next highest applicable industry class and sub-class, based on the employer's business activities, will be assigned.

4. Capital Construction

An employer may choose to use their own workers to undertake a capital construction project to expand, modify or replace facilities necessary for the operation of their business. In this situation, the board will classify this business activity separately from other business activities, as considered appropriate for the capital construction project. This ensures that employers pay an assessment that reflects the level of hazards and risks related to capital construction project; and any claims costs resulting from the capital construction project can be assigned to appropriate industry sub-classification.



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5. Classification Change

If an employer's business activities changes, it is the responsibility of the employer to notify the board in writing or any change in their business activities or the addition of any new business activities.

A review of an employer's classification may be initiated by the board at any time.

Related Policies

EA-02 Employer Registration (policy amendment proposal underway)
