

WORK SAFE. FOR LIFE.
WORKERS' COMPENSATION BOARD OF NOVA SCOTIA

*Policy 9.4.2R2 ~Experience Rating - Maximum Merit or Demerit and Surcharge
Minor Policy Revision – Issue Brief and Proposed Draft Policy*

November 27, 2007

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Background:

The Workers Compensation Boards' rate setting program is an insurance model based on the concept of collective liability where all employers are collectively liable for all of the accidents that take place. Under this model employers with poor injury performance do not pay the full costs of their claims.

In 2005, the WCB introduced the *Safety Incentive Program* to encourage employers with consistently poor safety records to improve safety in the workplace.

A component of the *Safety Incentive Program* is the experience rating surcharge. Under this program employers who are significantly and consistently worse than their rate group in terms of accident costs may receive surcharges. To qualify for a surcharge, an employer must have a claims cost to payroll ratio at least 200% greater than the overall rate group ratio. In addition, the number of consecutive years of poor performance required to qualify for a surcharge is dependent on an employer's participation level (size and years of operation).

Overall, the intent of the surcharge is to encourage proactive behaviour and to create a more compelling business case for injury prevention. It was intended that employers with poor safety records be issued two annual warning notices by the WCB before being surcharged. The warning notices are intended to provide these employers with a window of time to implement the appropriate prevention initiatives and improve their injury performance to mitigate or avoid the surcharge.

Policy Issue:

Through the course of setting 2008 assessment rates, it was identified that in certain circumstances an employer could qualify for a surcharge after receiving only one warning notice.

The size of the employer, measured by their participation level in Experience Rating, determines how many consecutive years of poor performance are required to qualify for a surcharge. Situations may arise where an employer migrates between participation levels over the years. For instance, a small employer may begin in a smaller participation category, which requires more years of poor performance before a surcharge is levied, and, as result of growth, move to a larger participation category, which requires fewer years of poor performance. As a result of moving between participation levels an employer may qualify for a surcharge after receiving only a single warning notice.

Levying a surcharge against an employer who has not been issued two warning notices is contrary to the *Safety Incentive Program's* intent of giving the employer the time (2 years) to improve their safety performance and avoid a surcharge.

Proposed Policy Revision:

The current language of Policy 9.4.2R2 ~*Experience Rating - Maximum Merit or Demerit and Surcharge* does not reflect the requirement for an employer to be issued two warning notices prior to being subject to a surcharge. As a result, in situations where an employer has migrated between participation levels it is possible under the policy that the employer could qualify for a surcharge without two warning notices being issued. To ensure the policy language clearly reflects the intent of the *Safety Incentive Program*, it is recommended that a sentence be added to the policy to clarify that two successive warning notices must be issued to the employer by the WCB prior to a surcharge being levied (see proposed revised policy attached).

Consultation:

The WCB would like to hear stakeholders' views on the proposed minor policy change. The Board of Directors will consider the input received from stakeholders before making a final policy decision.

If you would like to comment on the draft policy, please take a few moments to review the paper and provide your feedback by December 31 to:

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Draft Policy:

POLICY

NUMBER: 9. 4. 2R3

Effective Date:

Topic: Experience Rating - Maximum Merit or Demerit and Surcharge

Date Issued:

Section: Assessments and Collections

Date Approved by Board of Directors:

Subsection: Experience Rating

Policy Statement

1. The maximum merit (decrease) in an employer's basic rate as a result of Experience Rating is 30%.
2. The maximum demerit (increase) in an employer's basic rate as a result of Experience Rating is 60%.
3. Notwithstanding paragraph 2, where an employer's claims costs to payroll ratio as calculated for experience rating is at least 200% greater than the overall rate group ratio:
 - a. for four consecutive experience rating assessment statements a surcharge will be applied in the fourth year if the employer participates fully in experience rating;
 - b. for five consecutive experience rating assessment statements a surcharge will be applied in the fifth year if an employer's participation in experience rating, as outlined in Policy 9.4.1R1, ranges from 50% to 99%; and
 - c. for six consecutive experience rating assessment statements a surcharge will be applied in the sixth year if the employer's participation in experience rating, as outlined in Policy 9.4.1R1, is less than 50%.

The surcharge amount will be calculated based on an employer's experience rating participation level in the surcharge year.

4. Notwithstanding paragraph 3, an employer must be issued two successive surcharge warning notices by the WCB prior to a surcharge being applied to its rate.
5. For initial implementation of the surcharge program, the Board will use Experience Rating Statements from 2005 and onward for fully participating employers. For employers

whose participation in experience rating ranges from 50% to 99% the Board will use Experience Rating Statements from 2004 onward. For those employers who participate less than 50% in experience rating, the Board will use Experience Rating Statements from 2003 onward.

6. The experience rating surcharge will be equal to annual increments not greater than 20% of the Rate Group's basic rate. Further, the maximum surcharge a firm will receive is an amount equal to its cost experience percentage above 200% of the rate group ratio of claims costs experience for the assessment year.
7. The amount of the surcharge will be added to the demerit to determine the overall experience rating adjustment.

Application

This Policy applies to 2006 assessment rates onward. It replaces Policy 9.4.2R2, issued on May 2, 2005 and effective April 12, 2005.

References

Workers' Compensation Act (Chapter 10, Acts of 1994 - 95), (as amended), Section 121. Policy 9.4.1R2.

Executive Corporate Secretary