



Rate Setting Review - Program Policy Background Paper

Proposed Program Policy Changes Related to Rate Setting Enhancements

December 2011

Table of Contents

PURPOSE OF THIS PAPER	3
RATE SETTING MODEL ENHANCEMENTS	3
PROPOSED PROGRAM POLICY APPROACH	6
PROVIDING YOUR COMMENTS	8
APPENDIX A – STRAIGHT TO SURCHARGE DRAFT POLICY CHANGES	9
APPENDIX B – LINKAGE WITH FATALITIES DRAFT POLICY CHANGES	11
APPENDIX C – CONDITIONAL SURCHARGE REFUND DRAFT POLICY	13

Purpose of this Paper

In 2005, the WCB of Nova Scotia implemented the first phase of an incentive program aimed at motivating employers to implement effective health and safety systems and processes in their workplaces. Changes included applying weighting factors to Rate Setting and Experience Rating costs to ensure that recent trends are better reflected in assessment rates; doubling the impact of serious injuries and fatalities for Experience Rating; and applying a surcharge to employers that are consistently worse than their rate group.

Following on this first phase, the WCB is proposing further enhancements to motivate employers to embrace a safety culture. This discussion paper provides an overview of the proposed Rate Setting Model enhancements and the accompanying proposed program policy changes.

This paper kicks off Stage 2 consultation for the package of policy changes accompanying the Rate Setting Model enhancements. The WCB normally uses a small stakeholder working group for Stage 1 consultation. However, given the complexity of the rate setting model, Stage 1 consultation proceeded by way of numerous one-on-one consultations with key stakeholders over the summer and fall of 2011 to gather their views on proposed Rate Setting Model enhancements. The input received from stakeholders during Stage 1 consultation was considered by the WCB and informed the development of these proposed program policy changes.

Prior to finalizing these proposed program policy changes, the WCB would like to hear stakeholders' views. The Board of Directors will consider the input received and determine whether revisions are required to the draft program policy before making a final decision.

DEADLINE FOR COMMENTS: January 31, 2012

Please review the background paper and draft program policy changes, and provide your written feedback to:

Janet Rutherford, Policy Analyst
WCB of Nova Scotia
PO Box 1150
Halifax NS B3J 2Y2
902-491-8902
E-mail: janet.rutherford@wcb.gov.ns.ca

This paper is also available at www.wcb.ns.ca under News & Events.

Rate Setting Model Enhancements

The proposed Rate Setting Model enhancements build upon the rate incentive program changes implemented in 2005 and are designed to use financial levers to promote and encourage safe work practices with the aim of minimizing workplace injuries and the losses attributable to them. Implementation of health and safety systems and processes can assist

employers in identifying unsafe acts and conditions that can then be mitigated to reduce the risk of injury and illness. However, this can only be achieved when senior management is committed to the reduction of injury and illness and the associated WCB costs that flow from this.

Overall, the goal of the proposed Rate Setting Model enhancements is to encourage employers with high injury costs to reduce their number of workplace injuries and to recognize and reward those employers who promote safe workplaces. Specific enhancements include:

1. Modifications to the Surcharge Program to waive the surcharge warning notices if improvements in employers' accident costs relative to their rate group are not sustained.

Under the Surcharge Program, employers whose accident costs are significantly and consistently worse than their rate group may receive surcharges. Currently, an employer is issued two successive warning notices prior to a surcharge being applied to the employer's assessment rate. The intent of this enhancement is to encourage previously surcharged employers to continue health & safety investments to reduce their workplace injuries even further. If improvements in employers' accident costs relative to their rate group are temporary (defined as less than three years) and the employer is once again in a surcharge position, the WCB will waive the surcharge warning notices and apply the surcharge immediately. The surcharge amount will restart at an annual increment not greater than 20% of the rate group's basic rate.

2. Modifications to Experience Rating to minimize the likelihood that an employer with a compensable fatality will receive an experience rating merit.

Under Experience Rating, an individual employer's claim-cost experience is compared to the average experience for their rate group as a whole. Any adjustment to the employer's rate will be based in part on this comparison. Employers with a better than average accident experience will pay lower assessment rates than those with a higher than average accident experience.

Currently, for the purpose of experience rating, the costs used for fatal claims are twice the maximum assessable earnings level for the year of the accident, rather than the actual cost of the accident. For 2011, this represents a cost of \$104,000 for a fatal claim¹. While these costs are significant, there is still a chance that this employer could receive an experience rating merit, based on the experience rating comparison. This means WCB would be rewarding an employer that has had a recent workplace fatality.

The WCB takes workplace fatalities very seriously. This enhancement will modify Experience Rating to increase the costs used for fatal claims to five times the maximum assessable earnings for the year of the accident. The intent is to minimize the likelihood that an employer with a compensable fatality will receive an experience rating merit. This proposed change would apply to 2013 assessment rates onward.

¹ Maximum assessable earnings for 2011 are \$52,000.

Experience Rating is driven by costs per payroll dollar. For small to medium-sized employers, any significant cost will have a large impact on their rate due to their small payroll. Therefore, increasing the fatality factor to 5 times will likely not impact small to medium-sized employers as they would already be at or near the maximum demerit using the current 2x factor. This change will mostly affect larger employers, as their payrolls are such that even a fatality factor of 2x will not necessarily move them to the maximum demerit. Moving to a 5x factor will affect them and move them closer to the maximum demerit.

3. A conditional surcharge refund program which will provide employers an opportunity to be refunded the money paid in surcharge premiums for investments made in safety.

The intent of this enhancement is to incent employers that are currently or have recently been in a surcharge position to make investments in safety to reduce their workplace injuries. This new proposed program would provide employers an opportunity to be refunded the money paid in surcharge premiums for the previous calendar year for investments made in safety in the previous calendar year. A refund will be forfeited if more than 12 months has elapsed since the end of the year the surcharge was applied. For example, employers that paid surcharge premiums in 2013 and made an investment in safety in 2013 will be able to get a refund in 2014. After year-end 2014, any remaining 2013 surcharge premiums not requested will be forfeited and allocated to the WCB general accident fund.

The intent of the Conditional Surcharge Refund program is to encourage positive behaviour in employers to reduce workplace injuries; not to fund employers to meet minimum requirements under the Occupational Health & Safety Act. In order to be eligible for a refund, the investment in safety must fall under the following categories:

- Safety training (for manager/supervisor or employees)
- Third party safety audit of worksite
- Health & Safety programming (i.e. specific prevention programs)
- New equipment purchase or upgrade to prevent injury
- Hire or contract dedicated Occupational Health & Safety personnel

In addition, the intent of this program is not to minimize the Surcharge Program's financial levers to incent positive behaviour. If an employer does not show at least 25% improvement in their cost experience three years following the initial conditional surcharge refund, they will not be eligible for future refunds from this point forward until they can show this minimum level of improvement. Recognizing that it takes time to see improvements from safety investments, the employer will have three years to make safety investments with refunded surcharge money before the WCB will assess improvements.

This proposed conditional surcharge refund program would not be retroactive and would be available for surcharge premiums paid in 2013 onwards. Employer or industry assessment rates will not be impacted by this program – no additional funds are required to pay for the refunds.

4. A practice incentive rebate program which rewards employers who implement effective health and safety systems based on an independent assessment of the safety system.

The intent of the proposed Practice Incentive Rebate program is to encourage employers to implement effective health and safety systems as an important step towards reducing the risk of workplace injury. Employers whose health and safety system successfully meets the requirements of a recognized health and safety accreditation program will be eligible to receive a rebate of a given percentage of their assessment premiums. The WCB intends to test this proposed incentive program with one or more industries prior to a full launch to all industries.

Certain key details for the proposed incentive program are still being determined. As a result, we have not yet drafted program policy language to support implementation of this new program. Once the details of the program are finalized, the WCB will draft program policy language and consult stakeholders on the proposed program policy that will support implementation of the program. It is anticipated this will occur in the first half of 2012.

There are other changes being implemented as part of the Rate Setting Model review, in particular changing the internal limit that caps experience rating demerit to enhance responsiveness of the model. No program policy changes are required to support this change.

Proposed Program Policy Approach

1. Modifications to the Surcharge Program to waive the surcharge warning notices if improvements in employers' accident costs relative to their rate group are not sustained.

To incorporate this rate setting model enhancement, the WCB proposes changes to existing Policy 9.4.2R3 *Experience Rating – Maximum Merit or Demerit and Surcharge*. Please see Appendix A for a copy of the proposed program policy changes.

The following is an overview of the proposed program policy changes.

Policy Statement

Section 5 – Add this section to indicate that if improvements made by an employer are not sustained, the surcharge warning notices will be waived for subsequent surcharges. Not sustained means an employer is out of surcharge position for less than three years.

Section 6 (changed to Section 7) – Proposed changes made to clarify the surcharge amount if an employer is out of surcharge position for less than three years. In this circumstance, the surcharge amount will restart at an annual increment not greater than 20% of the rate group's basic rate.

Application

Changes will apply to 2013 assessment rates onward.

2. Modifications to Experience Rating to minimize the likelihood that an employer with a compensable fatality will receive an experience rating merit.

To incorporate this rate setting model enhancement, the WCB proposes changes to existing Policy 9.4.5R1 *Costs Used for Fatal Claims for Experience Rating* and Policy 9.4.4R1 *Claims Costs Which are Excluded from Experience Rating*. Please see Appendix B for a copy of the proposed program policy changes.

The following is an overview of the proposed program policy changes.

(a) Policy 9.4.5R1 *Costs Used for Fatal Claims for Experience Rating*

Policy Statement

Proposed change made to increase factor for fatal claims from two to five times the maximum assessable earnings level for the year of the accident.

Application

Changes will apply to 2013 assessment rates onward.

(b) Policy 9.4.4R1 *Claims Costs Which are Excluded from Experience Rating*

Policy Statement

Section 1.5 – This section currently states that experience rating will exclude claims costs that are beyond twice the maximum assessable earnings level for the year of the accident. Proposed change will exclude the cost for fatal claims from this section to ensure that the increase in the factor for fatal claims (to five times) can be applied.

Application

The exclusion of fatality claim costs in Section 1.5 applies to 2013 assessment rates onward.

3. A conditional surcharge refund program which will provide employers an opportunity to be refunded the money paid in surcharge premiums for investments made in safety.

The WCB proposes a new program policy that will outline the key elements of the conditional surcharge refund program. Please see Appendix C for a copy of the proposed program policy.

The following is an overview of the proposed new program policy.

Preamble

The preamble section of the proposed program policy provides a brief description of the Surcharge Program and the Conditional Surcharge Refund Program. It establishes the purpose of the policy and provides context for the policy statements that follow.

Policy Statement

Section 1 – Eligibility Criteria: This section details the criteria an employer must meet to be eligible for the conditional surcharge refund. In particular, this section details the categories of investment in safety that will be eligible for refund.

Section 2 – Refund: This section outlines how the conditional surcharge refund will be payable, including the timing of the refund, the timing of the investment(s) in safety, and the timeline for how long the refund is available. In addition, it details the minimum improvement that must be met three years following the initial conditional surcharge refund to continue to be eligible for future conditional surcharge refunds.

Application

This program policy applies to 2013 assessment rates onward.

4. A practice incentive rebate program which rewards employers who implement effective health and safety systems based on an independent assessment of the safety system.

The WCB proposes a new program policy that outlines criteria and key details of the Practice Incentive Rebate Program. We have not yet drafted program policy language for the proposed practice incentive rebate program, as key program details have not yet been finalized. We will do this over the coming months and will come back to stakeholders within the first half of 2012 with a new proposed program policy on the Practice Incentives Rebate Program, for your review and input.

Providing Your Comments

We would like to hear your comments on program policy changes proposed as part of the rate setting model enhancements and the information presented in this paper. In particular, we encourage you to consider whether there **are any recommended changes you would like considered in finalizing the proposed program policy changes**. Comments received will assist the WCB in ensuring that all issues are considered in the development of these new/revised program policies.

You may provide comments by e-mail to Janet Rutherford at janet.rutherford@wcb.gov.ns.ca, or by mail at:

Janet Rutherford, Policy Analyst
Workers' Compensation Board of Nova Scotia
PO Box 1150, Halifax, NS B3J 2Y2
Phone: (902) 491-8902

The deadline for comments is **January 31, 2012**

APPENDIX A – STRAIGHT TO SURCHARGE DRAFT POLICY CHANGES

(deletions are ~~striketroughs~~, additions are **bold and underlined**)

PROGRAM POLICY

NUMBER: 9.4.2R4

Effective Date: ~~January 24, 2008~~ to be inserted

**Topic: Experience Rating –
Maximum Merit or
Demerit Surcharge**

Date Issued: ~~February 12, 2008~~ to be inserted

Section: Assessments and Collections

Date Approved by Board of Directors: ~~January 24, 2008~~ to be inserted

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. **Notwithstanding paragraph 4, surcharge warning notices will not be issued where a previously surcharged employer is out of surcharge position for less than three years.**
6. 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.
7. 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. **Where a previously surcharged employer returns to a surcharge position, surcharge amount will re-commence at an annual increment not greater than 20% of the Rate Group's basic rate.**

8. The amount of the surcharge will be added to the demerit to determine the overall experience rating adjustment.

APPLICATION

This Policy applies to ~~2006-2013~~ assessment rates onward. It replaces ~~Policy 9.4.2R2, issued on May 2, 2005 and effective April 12, 2005~~ **Policy 9.4.2R3, issued on February 12, 2008 and effective January 24, 2008.**

REFERENCES

Workers' Compensation Act (Chapter 10, Acts of 1994-95), (as amended), Section 121. Policy 9.4.1R1.

APPENDIX B – LINKAGE WITH FATALITIES DRAFT POLICY CHANGES

(Deletions are ~~striketroughs~~, additions are **bold and underlined**)

PROGRAM POLICY

NUMBER: 9.4.5R2

Effective Date: ~~April 12, 2005~~ to be inserted

**Topic: Costs Used for Fatal Claims
for Experience Rating**

Date Issued: ~~May 2, 2005~~ to be inserted

Section: Assessments and Collections

Date Approved by Board of Directors: ~~April 12, 2005~~ to
be inserted

Subsection: Experience Rating

POLICY STATEMENT

For the purposes of Experience Rating, the costs used for fatal claims for the three-year period will be ~~twice~~ **five times** the maximum assessable earnings level for the year of the accident, rather than the actual cost of the accident.

APPLICATION

This Policy applies to ~~2006~~ **2013** assessment rates onward. It replaces ~~Policy 9.4.5R, issued on May 27, 2002 and effective May 27, 2002~~ **Policy 9.4.5R1, issued on May 2, 2005 and effective April 12, 2005.**

REFERENCES

[Workers' Compensation Act](#) (Chapter 10, Acts of 1994-95), Section 121(1)(4).

PROGRAM POLICY

NUMBER: 9.4.4R2

Effective Date: ~~April 12, 2005~~ to be inserted

Topic: Claims Costs Which are Excluded from Experience Rating

Date Issued: ~~May 2, 2005~~ to be inserted

Section: Assessments and Collections

Date Approved by Board of Directors: ~~April 12, 2005~~ to be inserted

Subsection: Experience Rating

POLICY STATEMENT

1. The following are claims costs which are excluded from consideration for calculating a firm's experience rate.
 - 1.1 Costs recovered by way of a third party action.
 - 1.2 Compensation costs paid out prior to the disallowing of a claim.
 - 1.3 Costs transferred to another employer or fund.
 - 1.4 Occupational disease claims which on average require exposure for two or more years before manifestation into a disability.
 - 1.5 Prior to the application of the weighting factors, the costs for a specific claim that are beyond twice the maximum assessable earnings level for the year of the accident. **This does not apply to fatal claims.**
 - 1.6 Capitalization costs for claims which qualify for long term disability.
 - 1.7 Disasters.
 - 1.8 Costs associated with payment of interest pursuant to [Policy 3.9.10](#).

APPLICATION

This Policy applies to 2006 assessment rates onward. It replaces ~~Policy 9.4.4R, issued on May 2, 1997 and effective January 9, 1997~~ **Policy 9.4.4R1, issued on May 2, 2005 and effective April 12, 2005.**

The exclusion of fatal claim costs in Section 1.5 of this Policy applies to 2013 assessment rates onward.

REFERENCES

[Workers' Compensation Act](#) (Chapter 10, Acts of 1994-95), Section 121(1)(2)(3). Policy 9.4.3R1

APPENDIX C – CONDITIONAL SURCHARGE REFUND DRAFT POLICY

PROGRAM POLICY

NUMBER: 11.1.4

Effective Date: to be inserted

Topic: Conditional Surcharge Refund Program

Date Issued: to be inserted

Section: Prevention

Date Approved by Board of Directors: to be inserted

Subsection: Conditional Surcharge Refund Program

Preamble

In 2005, the WCB introduced the Surcharge Program to encourage employers with consistently poor safety and return to work records to improve safety and return to work outcomes in the workplace. Under the Surcharge Program, employers whose accident costs are significantly and consistently worse than their rate group may receive surcharges. Policy 9.4.2R4 *Experience Rating - Maximum Merit or Demerit Surcharge* describes when a surcharge is applied.

The Conditional Surcharge Refund Program provides employers an opportunity to be refunded the money they have paid in surcharges where they have made investments in safety. The purpose of this program policy is to describe the criteria WCB registered employers must meet to be eligible for the Conditional Surcharge Refund Program and to provide details of how the refund is payable.

Definitions

“cost experience ratio” is an employer’s weighted 3-year experience rating costs relative to the employer’s 3-year assessable payroll.

Policy Statement

1.

Eligibility Criteria

To be eligible for the Conditional Surcharge Refund Program in a given calendar year, an employer must meet the following criteria:

- Employer must be in good standing
- Employer must have paid surcharge premiums in the previous calendar year
- Employer must make investment(s) in safety in the previous calendar year, which fall under the following categories:
 - Safety training for managers/supervisors and/or employees;
 - Third party safety audit of employer worksite;
 - Health & Safety programming, such as specific prevention programs;
 - New equipment purchase or upgrade to existing equipment to prevent injury;
 - Hire or contract dedicated Occupational Health & Safety personnel

- The investment(s) in safety must benefit workers working in Nova Scotia.
- Employer must be able to show proof of the investment(s) in safety, through either an invoice or confirmation of monies paid to hired or contracted Occupational Health & Safety personnel.

2. Refund

If an employer meets the above criteria they will be eligible to receive a conditional surcharge refund, payable as follows:

- Refund is equal to the amount invested in safety in the previous calendar year up to a maximum equal to the employer's surcharge premium paid in the previous calendar year.
- Proof of the investment(s) in safety is required before a refund will be issued.
- Refund will be forfeited if more than 12 months has elapsed since the end of the year the surcharge was applied. For example, employers that pay surcharge premiums in 2013 and make an investment in safety in 2013 will be able to receive a refund in 2014. If a refund is not requested by the end of 2014, the money is forfeited.
- If an employer does not show a minimum of 25% improvement in their cost experience ratio three years following the initial conditional surcharge refund, they will not be eligible for further refunds from this point forward until they can show this minimum improvement.

Application This Program Policy applies to 2013 assessment rates onward.

References *Workers' Compensation Act* (Chapter 10, Acts of 1994-95), Section 121(5).