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SAFE ADVANTAGE

POLICY STATEMENT

This policy outlines the Workers' Safety and Compensation Commission (WSCC) Safe Advantage program, including employer inclusion and program administration. The Safe Advantage program's purpose is to increase employer accountability for workplace safety and return to work programs by creating incentives to do so.

DEFINITIONS

Assessment:	"…a charge calculated by the Commission and levied on the employer …" (as per ss. 1(1) of the *Workers' Compensation Acts*).
Annual Average Assessment:	The employer's three year assessment average, calculated using assessments from the reference year and the two preceding years.
Claim Costs:	The monetary value of all claim related costs the WSCC pays and attributes to an employer. Claim costs include payments for medical aid, compensation, vocational rehabilitation and pensions.
Claims Experience Costs:	The calculated adjusted claim costs paid in the reference year for claims registered in the reference year and two preceding years.
Employer:	"The following are considered to be employers for the purposes of this *Act*: a) any person or entity that employs one or more persons under a contract of service; b) any person or entity whom the Commission determines is responsible for performing the obligations of an employer…" (per ss. 8(1) of the *Workers Compensation Acts*).
Experience Incentive Range:	Established annually based on an employer's annual average assessment. The WSCC uses the experience incentive range to determine whether an employer is neutral or eligible for a refund or penalty.

Management Practice Standards:	WSCC standards for prevention and return to work programs.
Minimum Annual Assessment Limit:	The minimum assessment dollar figure, reviewed and established annually by the WSCC, as a criterion for inclusion in the Safe Advantage program.
Proof of Certification:	Requires submitting, to the WSCC, a copy of certification from an approved external audit program and a Letter of Confirmation current with the due date of the Management Practices Questionnaire.
Program Year:	Operates from July of one calendar year to June of the next calendar year. The WSCC calculates an employer's results for the reference year at the end of the program year.
Reference Year:	The calendar year prior to when the WSCC completes claims experience costs calculation.
Release Year:	The calendar year when the WSCC provides Safe Advantage results to the employer.
Year's Maximum Insurable Remuneration (YMIR):	"...a prescribed maximum remuneration for any year for the purposes of determining a) the compensation payable to workers or to a harvester of wildlife deemed to be a worker under subsection 5(1), and b) the assessable payroll of employers for the year." (per ss. 1(1) of the *Workers' Compensation Acts*).

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SAFE ADVANTAGE

POLICY

Employer Inclusion in Safe Advantage

The Safe Advantage program includes employers who:

- are registered with and pay assessments to the WSCC for a minimum of one full calendar year;
- are active in both the Safe Advantage reference and release year; and
- have an annual average assessment (calculated over the most recent three-year period) equal to, or greater than, the minimum annual assessment limit established by the WSCC.

Employers in Safe Advantage remain in the program for the program year and subsequent years as long as they remain active and their three-year annual average assessment is equal to, or greater than, 80 per cent of the established minimum annual assessment limit.

Refunds and Penalties

Safe Advantage refunds provide an incentive for employers to support improvements to workplace safety. Safe Advantage penalties are a deterrent to poor employer performance and a lack of commitment to workplace safety and return to work programs.

The WSCC evaluates employer claims experience costs against their experience incentive range to determine Safe Advantage refunds or penalties. If an employer's claims experience costs are within their experience incentive range, the employer does not receive a refund or penalty. An employer with claims experience costs below their experience incentive range may receive a refund. An employer with claims experience costs above their experience incentive range pay a penalty.

Quality Assurance

The WSCC annually assesses Safe Advantage employers through either:

- a Management Practices Questionnaire (the Questionnaire); or, in lieu of the Questionnaire,
- proof of certification from an approved external audit program.

Management Practices Questionnaire

The Questionnaire includes two sections: prevention and return to work. An employer must achieve a minimum score of 70 per cent on each section to pass the Questionnaire. A failing grade on either section results in failing the entire Questionnaire. Non-submission of the Questionnaire results in failure.

Verification of the Questionnaire

The WSCC verifies the Questionnaire responses to ensure they accurately reflect the state of an employer's prevention and return to work programs. Verifications of the Questionnaire occur at a single worksite where there are ten or more workers, and are under the authority of applicable occupational health and safety legislation; an occupational health and safety committee must exist. For employers who maintain more than one worksite in the Northwest Territories and/or Nunavut at the time of the verification, a worksite is randomly selected by the WSCC to complete the verification.

WSCC verification of the Questionnaire may be through various methods, including but not limited to, on site and documentary verifications, management and employee interviews and information requests. The WSCC usually completes Questionnaire verification on a three-year cycle, although it may verify Questionnaire responses at any time.

Approved External Audit

If a Safe Advantage employer is certified by an external audit program approved by the WSCC, the employer may submit proof of certification in lieu of the Questionnaire. Depending on the specific requirements of the external audit, the WSCC may require the employer to submit either Section One: Prevention or Section Two: Return to Work, in addition to proof of certification. The WSCC retains its discretion to conduct a verification at any time if deemed necessary to ensure compliance with occupational health and safety legislation.

Forfeiting Refunds and Receiving Additional Penalties

The Quality Assurance results impact a Safe Advantage refund or penalty as follows:

- an employer that qualifies for a refund forfeits the refund if they fail or do not submit the Questionnaire or proof of certification;
- an employer that qualifies for a refund forfeits the refund if they are in non-compliance with a safety inspection at the time of the release year. Non-compliance exists when an inspection has occurred and the employer disregards corrective actions within the time frame stipulated by the WSCC;
- an employer that qualifies for a refund forfeits the refund if they have been fined the maximum penalty payable under section 19 of the *Workers' Compensation General Regulations* within a 12-month period prior to the release year; and
- an employer receiving a penalty has their penalty increased by 50 percent if they fail the Questionnaire or fail to provide proof of certification.

Calculations

The WSCC bases an employer's Safe Advantage calculation on the following criteria:

- the employer's annual average assessment;
- claims experience costs;
- the employer's experience incentive range; and
- the Management Practices Questionnaire, verification of the Questionnaire or proof of certification result.

For multiple industry employers the WSCC combines all operations when making Safe Advantage calculations. The WSCC recognizes that it is unfair to hold an employer accountable for small variations in claim costs. Claim costs are adjusted to calculate an employer's claims experience costs. Adjustments made to ensure program equity, include, but are not limited to:

- a maximum claim cost limit for all non-fatal claims (0.5 x YMIR);
- a fixed claim cost for all fatalities (1.5 x YMIR);
- lump sum pension payments made to workers are reflected as if paid monthly;
- occupational disease claim costs are excluded.

To protect the financial viability of an employer, a Safe Advantage penalty:

- cannot exceed 20 percent of the employer's average assessment for the previous three years; and
- cannot increase by more than 20 percent of the average assessment per year in subsequent years.

The WSCC does not pay or collect a refund or penalty less than $50.00. The WSCC considers the minimum prior to any increase in a Safe Advantage penalty.

Recalculation

An employer may request the WSCC recalculate Safe Advantage claims experience cost results when a retroactive adjustment results in a change to an employer's annual average assessment or claims experience costs. The WSCC considers requests on a case by case basis within three years of the release year. If the impact of the recalculation is less than plus or minus one percent of the qualifying minimum assessment limit, the WSCC does not adjust the refund or penalty.

The WSCC does not pay or collect a refund or penalty less than $50.00. The WSCC considers the minimum prior to any increase in a Safe Advantage penalty as a result of a recalculation.

Circumvention

The WSCC may determine that an employer does not meet the management practice standards if it finds an employer acting in a manner intended to increase a refund or decrease a penalty.

Safe Advantage employers may be liable for additional penalties and found guilty of an offence as a result of non-payment, obstruction, failure to comply with an order, providing false information or circumvention of other requirements detailed in the *Workers' Compensation Acts* or other legislation administered by the WSCC.

LEGISLATIVE AUTHORITIES

Northwest Territories *Workers' Compensation Act*:	Sections 76; 77; 78; 149; 156 Subsections 35(1); 71(1); 71(3); 141(1)
Nunavut *Workers' Compensation Act*:	Sections 76;149; 156 Subsections 35(1); 71(1); 71(3); 141)(1)
Northwest Territories *Workers' Compensation General Regulations*:	Section 19 Subsection 5(1)
Nunavut *Workers' Compensation General Regulations*:	Section 19 Subsection 5(1)

Northwest Territories *Safety Act*:	Sections12; 21; 21.1; 22 Subsections 4(1)
Nunavut *Safety Act*:	Sections12; 21; 21.1; 22 Subsections 4(1)
Northwest Territories *General Safety Regulations*:	Sections 3; 4
Nunavut *General Safety Regulations*:	Sections 3; 4
Northwest Territories *Mine Health and Safety Act*:	Sections 8; 9; 10; 11; 12
Nunavut *Mine Health and Safety Act*:	Sections 8; 9; 10; 11; 12
Northwest Territories *Mine Health and Safety Regulations*:	Sections 2; 3
Nunavut *Mine Health and Safety Regulations*:	Sections 2; 3

POLICY RELATED DOCUMENTS

Policy 02.01	Employer Assessments
Policy 04.10	Employer Cost Transfer and Relief
Policy 04.14	Return to Work
Policy 10.04	Investigating Abuses and Offences

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SAFE ADVANTAGE

HISTORY

Policy 02.08 (Jun 12/2014)	Safe Advantage
Policy 02.08 (Dec 7/11)	Safe Advantage Program
Policy 02.10 (Apr 1/08)	Safe Advantage: Return to Work
Policy 02.09 (Apr 1/08)	Safe Advantage: Prevention Programs
Policy 02.08 (Sep 24/09)	Safe Advantage Program
Policy 02.08 (Mar 31/08)	Safe Advantage Program
Policy 02.08 (Jun 13/07)	Safe Advantage Program

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Chairperson