

Section	Policy
50	52.40

Section Title: Prevention and Partnerships
Subject: Prevention Rebate Program
Effective Date: July 1, 2022

A. POLICY PURPOSE

The Workers Compensation Board (WCB) has a mandate to “promote safety and health in workplaces and to prevent and reduce the occurrence of workplace injury and illness”. It is committed to working with its partners to fulfil this mandate.

One of the tools the WCB uses to fulfil its mandate is the Prevention Rebate Program. The program is administered by SAFE Work Manitoba, a division of the WCB responsible for prevention programs and services. The Prevention Rebate Program offers an assessment rebate to eligible Class E employers who achieve and maintain SAFE Work Certification through the process outlined for these employers in Policy 52.30, *SAFE Work Certified Program (SWCP)*. The Prevention Rebate Program and SWCP operate together to encourage a culture of workplace safety.

While SAFE Work Certification is the primary eligibility criterion for the prevention rebate, other conditions must also be met. This policy sets out the goals of the Prevention Rebate Program, the framework under which it operates, and the criteria for eligibility.

B. POLICY

I. Goals

The goals of the Prevention Rebate Program are:

- Reduce the risk of illness and injury by providing employers with a meaningful financial incentive to achieve and maintain SAFE Work Certification and comply with specific statutory obligations; and
- Promote collective responsibility for workplace health and safety by funding the program through the WCB Accident Fund.

II. Eligibility Criteria

Eligibility for the prevention rebate is determined on an annual basis. The eligibility period for each rebate cycle is the 12 month period following the end of the month the Class E employer achieved certification (certification anniversary).

There are two categories of eligibility criteria that must be met by an employer to qualify for a prevention rebate in a given cycle. They are:

- SAFE Work Certification
- Compliance with specific statutory provisions, violation of which can result in an administrative penalty or conviction

Further, in order to be able to calculate and process a rebate, employers must meet a number of requirements related to their assessment accounts.

SAFE Work Certification

To be eligible for the prevention rebate, the Class E employer must have maintained SAFE Work Certification through the SWCP during the 12 months under consideration.

SAFE Work Manitoba will withhold an employer's prevention rebate if the employer's certification status is under review at the time that eligibility for the rebate is determined. Factors that will lead an employer's certification being placed under review are outlined in WCB Policy 52.30, *SAFE Work Certified Program (SWCP)*.

If, following review, the CP confirms the employer's positive certification status, SAFE Work Manitoba will approve the rebate as long as the employer has met all other eligibility criteria for that period.

Compliance with Specific Statutory Requirements, Violation of which Can Lead to an Administrative Penalty or a Conviction

A Class E employer is not eligible for the prevention rebate for the year during which it commits an offence or breach of *The Workers Compensation Act* (the Act) that is ultimately penalized by conviction or administrative penalty. If an employer is under investigation for a violation of one or more of the provisions described below during the 12 month eligibility period under consideration, SAFE Work Manitoba will withhold the prevention rebate for that period until eligibility is determined. If the employer ultimately receives an administrative penalty or conviction, the prevention rebate for the year in which the breach or offence occurred will be denied.

The Workers Compensation Act

- The employer has received an administrative penalty or conviction under:
 - clause 109.7(1)(a), clause 109.7(1)(b) or subsection 109.1(1) (making a false statement to the WCB, or failing to inform the WCB of a material change in circumstances);
 - subclause 109.7(1)(d)(viii) or subsection 19.1(4) (claim suppression or discriminatory action);
 - subclause 109.7(1)(d)(ix) or subsection 19.2(2) (failing to post a notice);
 - subclause 109.7(1)(d)(x) (breach of re-employment obligations);
 - subclause 109.7(1)(d)(xiv) or subsection 99(10) (failing to assist an inspector, or hindering, obstructing or interfering with an inspection); or
 - subclause 109.7(1)(d)(xv) or subsection 99.1(4) (failing to comply with an order to produce documents or records).

The Workplace Safety and Health Act

- The employer receives an administrative penalty or conviction under this Act and its regulations.

Canada Labour Code

- The employer receives a conviction under Part II and its regulations.

Criminal Code of Canada

- A representative of the employer receives conviction under section 217.1 (the "Westray Provision").

An employer cannot be considered ineligible more than once in relation to the same event. In circumstances where an event and its resolution occur in different years, the rebate will be denied for the year in which the event occurred. For example, if an event that results in an employer being charged with an offence occurs in one year and a conviction occurs in a subsequent year, the rebate

would be denied in the year that the event actually occurred, not in the year that the employer was convicted of the offence.

Assessment Requirements

Before the WCB can calculate a prevention rebate, Class E employers must meet the following requirements related to their assessment status:

- Annual payroll must be submitted
- All prior payrolls must be submitted
- Total hours of work must be submitted.

If the employer has not fulfilled these requirements, the WCB is unable to process the prevention rebate until the requirements are met.

III. Calculation of the Rebate

Eligible Class E employers will receive a rebate of 15% of their premium or \$3,000, whichever is greater. The rebate will not exceed 75% of an employer's assessment premium.

The rebate is based on the last actual payroll reported by the employer, and will not be based on projected payroll.

The WCB will not provide pro-rated or partial rebates.

IV. Expiry Date of the Program

The Prevention Rebate Program will expire on December 31, 2028, unless renewed by the Board of Directors.

V. Reconsiderations and Appeals

As described above, eligibility for the prevention rebate in a given year depends on a Class E employer's certification status and their compliance with specific statutory requirements.

Reconsideration or appeal are not available for decisions to issue or deny a rebate in any given year. However, some of the decisions that lead to the denial of a prevention rebate may be subject to reconsideration or appeal.

For example, if an employer is denied a rebate because it has received an administrative penalty under the Act section 19.2 (failure to post a notice), the employer could seek reconsideration of the administrative penalty that led to the denial of the rebate, but not the decision to deny the rebate itself.

Employers seeking review of decisions to impose administrative penalties under the Act may submit a request for reconsideration through the WCB's reconsideration process, in accordance with WCB Policy 20.10, *Reconsiderations*. Parties who disagree with a reconsideration decision may pursue the next level of appeal, which is the external Appeal Commission. The reconsideration must be completed and the decision communicated in writing before the matter can proceed to the Appeal Commission.

Employers may also choose to appeal other decisions that affect their eligibility for the rebate, such as a conviction under the *Criminal Code*.

With respect to an employer's certification status, CPs and SAFE Work Certified auditors make independent decisions regarding whether an employer is entitled to receive or will continue to receive

SAFE Work Certification. Employers who disagree with their audit results and certification status should contact their CP and seek to address the issues identified in the audit that prevent certification. These matters are not subject to reconsideration or appeal under the Act.

C. REFERENCES

The Workers Compensation Act, sections 19.1, 19.2, 49.3, 54.1, 80(1) and (2), 82(6), 86(1)(c), 100 and 109.1(1)

The Workplace Safety and Health Act, sections 53 and 54

Canada Labour Code, Part II, section 148

Criminal Code of Canada, section 271.1

Related WCB Policies:

Policy 20.10, *Reconsiderations*

Policy 31.05.05, *Rate Setting Model for Class E Employers*

Policy 52.30, *SAFE Work Certified Program (SWCP)*

Policy 52.20, *Funding Industry-Based Safety Programs*

History:

1. Policy was established by Board Order No. 39/16 on November 30, 2016, effective January 1, 2018.
2. Reference section of the policy was updated to reflect the name change for Policy 31.05.05, on September 18, 2017.
3. Policy was amended by Board Order 09/21 on April 19, 2021 to better reflect the structure of the program and the nature of decisions subject to appeal.
4. Policy was amended by Board Order 16/22 on June 21, 2022 to accommodate recent changes to the Act. References to statutory provisions creating offences and administrative penalties under the Act have been updated. Contraventions for making false statements and failure to inform of material change in circumstance have been added the list of contraventions or offences which, upon imposition of an administrative penalty or conviction, will lead to ineligibility for a prevention rebate.
5. Policy was updated to confirm that only Class E employers are eligible for a prevention rebate on November 30, 2023.