

Client Services Policy Manual

Policy Number: **PR-09**
Subject: **PRIME Practice Incentive for Federally Regulated Construction Employers**
Chapter: **PRIME**

Policy Statement

Construction employers are those employers primarily engaged in construction (as defined in Policy RE-19 “Construction Industry”). Federally regulated construction employers who are eligible for the practice incentive component under PRIME in accordance with Policy PR-01 “PRIME Overview” may qualify for a 5% practice refund, based on their compliance with certain health and safety and return to work practices in each year of participation in the PRIME Program.

General

This policy defines the requirements that have been set by WorkplaceNL for the purpose of qualifying for the practice refund for the first three years in which the PRIME program is being phased-in. Meeting these requirements does not mean that a federally regulated construction employer has met the legislative requirements under the *Canada Labour Code Part II*.

PRIME Practice Incentive Criteria

To qualify for a PRIME practice refund, federally regulated construction employers must meet all the requirements of this policy for each of the five practice incentive criteria that apply to them based on:

- i) the number of employees they employ; and
- ii) whether they are considered a large PRIME assessment employer or a small PRIME assessment employer as defined in Policy PR-01 “PRIME Overview”; and
- iii) the PRIME practice year in which they fall.

To qualify for a PRIME practice refund in the first two years of the three-year phase-in period, federally regulated construction employers have two options. They must either meet the requirements defined by WorkplaceNL which are summarized in the following table and discussed in detail at the end of the table, or they must have a valid *Certificate of Recognition* issued by the Newfoundland and Labrador Construction Safety Association (NLCSA). To qualify for a refund in 2007, all federally regulated construction employers must have a valid *Certificate of Recognition* issued by the NLCSA.

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PRIME Criteria	Which Federally Regulated Construction Employers?
1. Occupational Health and Safety Policy and Return to Work Policy.	ALL construction employers.
2. Appropriately Trained Health and Safety Representative and/or Workplace or Policy Health and Safety Committee.	ALL construction employers.
3. Injury Reporting System.	ALL construction employers.
4. Occupational Health and Safety Program Requirements for 2005, 2006 and 2007.	ALL construction employers.
5. Return to Work Program Requirements for 2005, 2006 and 2007.	All large PRIME assessment construction employers whose assessments are greater than or equal to \$54,000.

For this policy, 2005 is the first year of the three-year phase-in of PRIME; 2006 is the second year and 2007 is the third year. The PRIME program will be fully implemented by 2008. Practice refunds in that year will be based on eligible employers meeting all the practice incentive criteria by the end of 2007 (refer to Policy PR-01 “PRIME Overview”).

Criteria 1. Occupational Health and Safety Policy and Return to Work Policy

All federally regulated construction employers are required to have an occupational health and safety policy and a return to work policy. These may be separate or combined into a single policy. In all cases, the policy(ies) must be signed and dated by the highest ranking official or designate, posted in a prominent place in hard copy and/or available electronically. The policy(ies) must be reviewed at least annually and updated, as required. Federally regulated construction employers must ensure that all employees are informed of the policy(ies) and the application to their specific workplace(s).

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An occupational health and safety policy must be developed in consultation with the Policy Health and Safety Committee (for workplaces with 300 or more employees) or in the absence of a Policy Health and Safety Committee, with the Workplace Health and Safety Committee or Health and Safety Representative and must include a statement of the employer's commitment to co-operate with the Workplace Health and Safety Committee or Health and Safety Representative in the workplace. It must outline the respective responsibilities of the employer, supervisors, Policy Health and Safety Committee/Workplace Health and Safety Committee and/or Health and Safety Representative, other employees as well as other persons (including contractors and visitors) granted access to the workplace in carrying out their collective responsibility for health and safety in the workplace.

A return to work policy must demonstrate the employer's commitment to return to work for injured employees, in accordance with WorkplaceNL's policy RE-18 "Hierarchy of Return to Work and Accommodation" and section 89 of the *Workplace Health, Safety and Compensation Act*. If the employer has a re-employment obligation under section 89.1 of the *Workplace Health, Safety and Compensation Act* (refer to Policy RE-05 "Re-employment Obligation"), the return to work policy must reflect that re-employment obligation. It must include references to: communicating with the employee during the return to work process; the protection of confidential information; commitment to co-operation, as well as outline the roles and responsibilities of the parties involved in return to work including, but not limited to: the employer, injured employee, health care provider(s), co-workers, WorkplaceNL, and where appropriate, the union, return to work representatives, etc.

For large PRIME assessment federally regulated construction employers, the occupational health and safety policy and the return to work policy must be developed in joint meaningful consultation with employees as defined in Criteria 5 of this policy.

Criteria 2. *Appropriately Trained Health and Safety Representative, Workplace Health and Safety Committee, Policy Health and Safety Committee*

The number of employees at each workplace is used to determine

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the requirement for a Health and Safety Representative, Workplace Health and Safety Committee and/or Policy Health and Safety Committee.

Workplaces with 1 – 19 employees:

Workplaces with one employee but fewer than 20 employees must appoint a Health and Safety representative. The *Canada Labour Code Part II* requires the employer to ensure that Health and Safety Representatives receive the necessary training in health and safety and are informed of their responsibilities.

Workplaces with 20 or more employees:

Workplaces with 20 or more employees must establish a Workplace Health and Safety Committee. The *Canada Labour Code Part II* requires the employer to ensure that members of the Workplace Health and Safety Committee receive the necessary training in health and safety and are informed of their responsibilities.

Workplace Health and Safety Committees are required to meet at least nine times a year, at regular intervals and during regular working hours. The Workplace Health and Safety Committee is required to participate in the development of health and safety policies and programs (in the absence of a Policy Committee required for workplaces with 300 or more employees as outlined in the next section), and keep accurate records of all matters that come before it, as well as minutes of all meetings.

Workplaces with 300 or more employees:

All federally regulated construction employers with 300 or more employees must establish a Policy Health and Safety Committee. The *Canada Labour Code Part II* requires the employer to ensure that members of the Policy Health and Safety Committee receive the necessary training in health and safety and are informed of their responsibilities.

Policy Health and Safety Committees are required to meet at least four times a year, at regular intervals and during regular working hours. The Policy Health and Safety Committee is required to participate in the development of health and safety policies and programs and keep accurate records of all matters that come before it, as well as minutes of all meetings.

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Criteria 3. Injury Reporting System

Federally regulated construction employers are required to have an injury reporting system that ensures that all workplace parties are aware of how to report a work-related injury. This injury reporting system is separate from the accident reporting that is required under the *Canada Labour Code Regulations, Part XV*, section 15. The requirements for an injury reporting system for federally regulated construction employers are:

- i. A written process communicated to all employees which outlines the steps to be taken in the event of a work injury, including but not limited to: a designated person(s) to whom an injury(ies) will be reported, employer transport of the employee to appropriate medical care (as per section 87 of the *Workplace Health, Safety and Compensation Act*), submitting forms to WorkplaceNL (e.g., injured employee return of the employer's copy of the Physician's Report of Injury or Chiropractor's Report of Injury), and
- ii. WorkplaceNL forms must be available either in paper copy or through on-line access. These forms include:
 - a. Form 6 - Worker's Report of Injury;
 - b. Form 7 - Employer's Report of Injury, and
 - c. Early and Safe Return to Work Plan Form or an alternate form acceptable to WorkplaceNL.

For large PRIME assessment federally regulated construction employers, the injury reporting system must be developed in joint meaningful consultation with employees as defined in Criteria 5 of this policy.

Criteria 4. Occupational Health and Safety Program

Federally regulated construction employers are required to have an occupational health and safety program for all workplaces. This can be achieved by obtaining a valid *Certificate of Recognition* issued by the NLCSA or by meeting the requirements outlined in this policy.

This program shall be established in consultation with the Health

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and Safety Representative/Workplace Health and Safety Committee/Policy Health and Safety Committee.

Requirements for an Occupational Health and Safety Program in 2005 for Federally Regulated Construction Employers with Less Than 20 Employees

To meet the PRIME requirements for an occupational health and safety program in 2005, federally regulated construction employers with less than 20 employees must have a valid *Certificate of Recognition* issued by the NLCSA or, in addition to meeting criteria 1, 2 and 3 above, they must have a valid Letter of Good Standing issued by the NLCSA.

Requirements for an Occupational Health and Safety Program in 2005 for Federally Regulated Construction Employers with 20 or More Employees

To meet the PRIME requirements for an occupational health and safety program in 2005, federally regulated construction employers with 20 or more employees must have a valid *Certificate of Recognition* issued by the NLCSA or, in addition to meeting criteria 1, 2 and 3 above, they must have a valid Letter of Good Standing and the following occupational health and safety program elements.

- i. *Leadership and Administration*: federally regulated construction employers who meet the requirements for Criteria 1 will be considered as having the element of leadership and administration;
- ii. *Policy Health and Safety Committee/Workplace Health and Safety Committee*: federally regulated construction employers who meet the requirements for Criteria 2 will be considered as having the element of a Policy Health and Safety Committee/Workplace Health and Safety Committee;
- iii. *Education and Training*: an orientation program for all employees that reviews the basic rights of employees under the *Canada Labour Code Part II*, the occupational health and safety policy of the employer and all applicable health and safety rules

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and systems which exist in 2005;

- iv. *Communication*: a process for communication of occupational health and safety information that exists in 2005.
- v. *Workplace Inspections*: scheduled workplace inspections that identify existing and potential hazards and their underlying cause(s), including recommendations for corrective actions and communication to workplace parties, and
- vi. *Accident/Incident Investigations*: procedures to ensure that all hazardous occurrences are promptly reported and investigated as required to determine why the accident or incident occurred and the corrective actions to be taken to prevent recurrences.

Requirements for an Occupational Health and Safety Program in 2006 for Federally Regulated Construction Employers with Less Than 20 Employees

All the requirements for 2005 must be maintained in 2006. Federally regulated construction employers with less than 20 employees must have a valid *Certificate of Recognition* issued by the NLCSA, or the following additional program elements in 2006.

- i. *Leadership and Administration*: Employers who meet the requirements for Criteria 1 will be considered as having the element of leadership and administration;
- ii. *Health and Safety Representative*: Employers who meet the requirements for Criteria 2 will be considered as having the element of a Health and Safety Representative;
- iii. *Education and Training*: an orientation program for all employees that reviews the basic rights of employees under the *Canada Labour Code Part II*, the occupational health and safety policy of the employer and all applicable health and safety rules and systems which exist in 2006;
- iv. *Communication*: a process for communication of occupational health and safety information that exists in 2006;

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- v. *Workplace Inspections*: scheduled workplace inspections that identify existing and potential hazards and their underlying cause(s), including recommendations for corrective actions and communication to workplace parties;
- vi. *Accident/Incident Investigations*: procedures to ensure that all hazardous occurrences are promptly reported and investigated as required to determine why the accident or incident occurred and the corrective actions to be taken to prevent recurrences;
- vii. *Hazard Recognition, Evaluation and Control*: a system for hazard recognition, evaluation and control. This system includes a procedure(s) for recognizing hazards and may include, but is not limited to, any or all of the following: workplace inspections, accident/incident investigations, Workplace Hazardous Materials Information System (WHMIS), job safety analyses, and accident/incident trends and outlines how hazards will be recognized and evaluated based on risk and how measures will be identified and implemented to control them, and
- viii. *Emergency Preparedness*: a documented emergency preparedness/response plan.

Requirements for an Occupational Health and Safety Program in 2006 for Federally Regulated Construction Employers with 20 or More Employees

All the requirements for 2005 must be maintained in 2006. Federally regulated construction employers with 20 or more employees must have a valid *Certificate of Recognition* issued by the NLCSA, or the following additional program elements in 2006:

- i. *Hazard Recognition, Evaluation and Control*: a system for hazard recognition, evaluation and control. This system includes a procedure(s) for recognizing hazards and may include, but is not limited to, any or all of the following: workplace inspections, accident/incident investigations, Workplace Hazardous Materials Information System (WHMIS), job safety analyses, and accident/incident trends and outlines how hazards will be recognized and evaluated based on risk and how measures will

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be identified and implemented to control them;

- ii. *Emergency Preparedness*: a documented emergency preparedness/response plan;
- iii. *Communication*: a process for communication of occupational health and safety information that exists in 2006, and
- iv. *Education and Training*: an orientation program for all employees that reviews the basic rights of employees under the *Canada Labour Code Part II*, the occupational health and safety policy of the employer and all applicable health and safety rules and systems which exist in 2006.

Requirements for an Occupational Health and Safety Program in 2007 for Federally Regulated Construction Employers with Less Than 20 Employees

In 2007, federally regulated construction employers with less than 20 employees must have a valid *Certificate of Recognition* issued by the NLCSA.

Requirements for an Occupational Health and Safety Program in 2007 for Federally Regulated Construction Employers with 20 or More Employees

In 2007, federally regulated construction employers with 20 or more employees must have a valid *Certificate of Recognition* issued by the NLCSA.

WorkplaceNL will engage in a periodic review of the NLCSA's *Certification of Recognition* requirements to ensure that they are meeting the objectives of PRIME.

Criteria 5. Return to Work Program

Large PRIME assessment federally regulated construction employers as defined in Policy PR-01 "PRIME Overview" are required to have a return to work program.

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All of the elements of the return to work program required in 2005 and 2006 must be developed by federally regulated construction employers through a joint mechanism for meaningful consultation with their employees designated either by their co-workers or through the union constitution, where applicable. Half the participants in the joint mechanism for consultation must be representatives of employees; however, more employee participation may be agreed to by the parties. Meaningful consultation is consultation that:

- (1) provides information to all parties to enable full participation,
- (2) provides opportunities for input, and
- (3) assesses the input of the parties in the program design, implementation, monitoring, evaluation and revision.

To facilitate education of and communication with employees regarding return to work in the event of a work-related injury or illness, the employer's orientation program for employees must include a discussion of the return to work program elements that are in place as appropriate in each of the years 2005, 2006 and 2007.

Requirements for a Return to Work Program in 2005

Large PRIME assessment federally regulated construction employers must have a valid *Certificate of Recognition* issued by the NLCSA or, in addition to meeting criteria 1, 2, 3 and 4 above, they must have a valid Letter of Good Standing issued by the NLCSA and the following return to work program elements:

- i. *Commitment*: a demonstrated commitment to return to work of injured employees by having a return to work policy as described in Criteria 1. This statement must also include a reference to joint consultation with employees in the development, monitoring, evaluation and revision of the return to work program.
- ii. *Injury Reporting System*: Federally regulated construction employers who meet the requirements for Criteria 3 will be considered as having the element of an injury reporting system.

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- iii. *Return to Work Planning*: a return to work protocol which supports the legislative requirements of the duty to co-operate in return to work under section 89 of the *Workplace Health, Safety and Compensation Act* (refer to Policy RE-02 “The Goal of Early and Safe Return to Work and the Roles of the Parties”) and the duty to accommodate and re-employment obligations outlined in section 89.1 (refer to Policy RE-05 “Re-employment Obligation”). Having a return to work protocol in place does not mean that an employer has met his or her legislative requirements under section 56 of the *Workplace Health, Safety and Compensation Act*.

The return to work planning protocol must outline the steps to be followed from the time of the injury to the completion of return to work, and reflect policy RE-18 “Hierarchy of Return to Work and Accommodation”. It must be supported by appropriate forms (i.e., Early and Safe Return to Work Plan Forms or alternate forms acceptable to WorkplaceNL) to ensure injured employees are involved in the development of the return to work plan. It must protect the confidentiality of the information being used (refer to Policy RE-03 “Functional Abilities Information for Return to Work”). It must also include communication with WorkplaceNL as required by section 89 of the *Workplace Health, Safety and Compensation Act*.

Requirements for a Return to Work Program in 2006

All the requirements for 2005 must be maintained in 2006. Large PRIME assessment federally regulated construction employers must have a valid *Certificate of Recognition* issued by the NLCSA or the following additional return to work program elements in 2006.

- i. *Return to Work Program Documentation*: policies and procedures which outline the roles, responsibilities and accountabilities of the parties involved in the return to work program as defined in the return to work policy statement, including guidelines for addressing accommodation issues required by legislation for the specific employer as well as guidelines for advising WorkplaceNL of disputes between the workplace parties regarding a return to work plan (refer to policy RE-04 “Mediation Services”), and

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- ii. *Joint Mechanism for Consultation*: a mechanism for consultation between management and employees which, in addition to providing meaningful consultation on the return to work program elements, provides advice on complex return to work issues. This mechanism is not intended for the day-to-day development or management of return to work plans for individual injured employees.

Requirements for a Return to Work Program in 2007

In 2007, large PRIME assessment federally regulated construction employers must have a valid *Certificate of Recognition* issued by the NLCSA and a return to work program.

The table at the end of this policy summarizes the occupational health and safety and return to work program elements for the years 2005, 2006 and 2007.

Validation of Compliance with the PRIME Practice Incentive Criteria

WorkplaceNL will determine whether the practice incentive criteria outlined in this policy have been met based on the employer's responses to the practice incentive questions on the annual Employer Payroll Statement and validation using WorkplaceNL's information database. Where the employer confirms that it meets all the applicable requirements and that confirmation is supported by the information available in WorkplaceNL's database or from the NLCSA, the employer is entitled to receive a practice refund calculated in accordance with Policy PR-02 "PRIME Calculations". Federally regulated construction employers who are entitled to a practice refund may also qualify for an experience refund.

WorkplaceNL may also determine whether these practice incentive criteria have been met using PRIME audits and/or information provided by the NLCSA. Federally regulated construction employers will be responsible for providing documentation and evidence of implementation of the practice incentive criteria through the auditing process (refer to Policy PR-10 "PRIME Audits"). Therefore, federally regulated construction employers are advised to ensure documentation is an integral part of their occupational health and safety and return to work practices.

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Any adjustments to PRIME refunds or charges resulting from the auditing process will be made in accordance with Policy PR-03 "PRIME Adjustments".

Implementation

The PRIME Program will be transitioned into effect in phases subject to the provisions of Policy PR-11 "PRIME Transitional Policy". In 2005, federally regulated construction employers must achieve compliance with requirements for that year in order to qualify for a practice refund in 2006.

Reference: *Workplace Health, Safety and Compensation Act, Sections 56, 87, 89, 89.1, 89.3 and 96*
Canada Labour Code Part II, Section 125, 125.1, 135 and 136
Newfoundland and Labrador Construction Safety Association, Certificate of Recognition Requirements

Amendment History

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<i>Revision #1</i>	2005 12 01
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Less Than 20 Employees		
2005	2006	2007
<ul style="list-style-type: none"> • OH&S Policy (can be combined with RTW Policy); • RTW Policy (can be combined with OH&S Policy); • Health and Safety Representatives established and trained; • Injury Reporting System, and • <i>Letter of Good Standing</i> issued by the NLCSA. 	<ul style="list-style-type: none"> • 2005 requirements plus: • Orientation re OH&S; • Workplace Inspections; • Accident/incident investigation; • Hazard recognition, evaluation and control, and • Emergency preparedness. 	<ul style="list-style-type: none"> • a <i>Certificate of Recognition</i> issued by the NLCSA.
OR a <i>Certificate of Recognition</i> issued by the NLCSA.	OR a <i>Certificate of Recognition</i> issued by the NLCSA.	

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20 or More Employees		
2005	2006	2007
<ul style="list-style-type: none"> • OH&S Policy (can be combined with RTW Policy); • RTW Policy (can be combined with OH&S Policy); • Policy Health and Safety Committee/Workplace Health and Safety Committee/established and trained; • Orientation re OH&S and RTW (covering 2005 requirements); • Joint RTW consultation mechanism established (consult on policy, Injury Reporting and RTW Planning) if required for large PRIME assessment employers; • Injury Reporting System; • RTW Planning (using RE-18, RTW plan forms, involvement of the employee); • Workplace Inspections; • Accident/incident investigation, and • <i>Letter of Good Standing</i> issued by the NLCSA. 	<ul style="list-style-type: none"> • 2005 requirements plus: • RTW Program (developed in consultation with employees) if required for large PRIME assessment employers; • Hazard recognition, evaluation and control; • Emergency preparedness, and • Orientation re OH&S and RTW (covering 2006 requirements). 	<ul style="list-style-type: none"> • a <i>Certificate of Recognition</i> issued by the NLCSA which includes a return to work program, if required for large PRIME assessment employers.
OR a <i>Certificate of Recognition</i> issued by the NLCSA.	OR a <i>Certificate of Recognition</i> issued by the NLCSA.	