

Client Services Policy Manual

Policy Number: **PR-10**
Subject: **PRIME Audit for Non Construction Employers**
Chapter: **PRIME**

Background Introduction

The PRIME Program enables eligible employers to qualify for financial refunds based on their compliance with certain health and safety and return to work practices. The Employer Payroll Statement, which is required to be completed and returned to WorkplaceNL by February 28th of each year, will be used by employers to report their status on each practice incentive criteria that applies to them, in accordance with either Policy PR-06 “PRIME Practice Incentive for Provincially Regulated Employers”, or PR-07 “PRIME Practice Incentive for Federally Regulated Employers”. Those employers who report that they meet all the practice incentive criteria under the applicable policy will receive the 5% practice refund and will qualify for any experience refunds only after the Employer Payroll Statement has been processed by WorkplaceNL and verified against WorkplaceNL’s database. Meeting the PRIME practice incentive criteria does not mean that an employer has met his or her legislative requirements under the *Occupational Health and Safety Act and Regulations* for provincially regulated employers, or the *Canada Labour Code Part II* for federally regulated employers.

Policy Statement

This policy applies only to non-construction employers. WorkplaceNL will utilize PRIME audits and information contained in its database to validate employer responses to the practice incentive questions on the Employer Payroll Statement. PRIME audits may be random or targeted to a particular employer or industry, or may be required in response to a request for a Certificate of Clearance. The PRIME audit may include, but is not limited to, a workplace visit, a review of hard copy and/or electronic documentation, interviews with employers and workers, etc.

The onus is on the employer to demonstrate compliance with the PRIME Criteria during the PRIME audit process. To be able to demonstrate this compliance, employers must retain their documentation associated with the PRIME criteria for a period of seven years (including the current year). Where an employer’s responses to the practice incentive criteria cannot be validated, the recommendation to rescind PRIME refunds may affect qualifying for the current year PRIME practice refund and will affect any prior years impacted.

A financial audit conducted in conjunction with a PRIME audit may also result in adjustments to an employer account in accordance

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with Policy PR-03 “PRIME Adjustments”. Such adjustments can result in changes to the experience incentive range and possibly the refunds and charges that have been previously applied to the employer’s account.

General

WorkplaceNL will conduct a PRIME audit either on its own or in conjunction with a financial audit. Where the PRIME audit is conducted in conjunction with a financial audit, only PRIME criteria 1, 2 and 3 (as per Policy PR-06 “PRIME Practice Incentive for Provincially Regulated Employers” or PR-07 “PRIME Practice Incentive for Federally Regulated Employers”) will be verified. A full PRIME audit will include verification of all five PRIME practice incentive criteria (where criteria 1, 2 and 3 have not already been verified through a financial audit).

PRIME Audit Process

Generally, the PRIME audit will be conducted at the workplace(s). Where it is not practical for the employer or WorkplaceNL to conduct the PRIME audit at the workplace (for example, the location of the workplace or limited resources makes a workplace visit impractical) WorkplaceNL may use a mutually acceptable alternate location, or may accept appropriate documentation from the employer by mail, telephone interview(s), fax or electronically, etc.

In cases where an employer has obtained a written deviation in accordance with section 65.1 of the *Occupational Health and Safety Act* (or in the case of federally regulated employers, an exemption under the *Canada Labour Code Part II*), WorkplaceNL will allow the deviation or exemption in determining whether the employer meets the practice incentive criteria. Verbal variances or deviations not verified in writing in accordance with the appropriate legislation will not be accepted by WorkplaceNL.

Where the employer responses cannot be validated by WorkplaceNL’s database or following an audit of the PRIME practice incentive criteria, the employer will be notified in writing of the specific criteria that has not been met. If, after two weeks from the date the employer is notified of the PRIME audit results, and the employer has not been able to provide information to WorkplaceNL that will enable WorkplaceNL to validate the employer’s response(s), it may affect qualifying for the current year practice refund and will affect any prior years impacted.

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Employer Co-operation in the PRIME Audit Process

WorkplaceNL is authorized under section 17 of the *Workplace Health, Safety and Compensation Act* to make examination or inquiry that it considers necessary for the purpose of the Act. A WorkplaceNL representative acting under this section may:

- a. at reasonable times enter a premises;
- b. require the production of books, records or other documents applicable to the examination or inquiry and may examine those books, records or documents or remove them for the purpose of making copies of them; and
- c. require and take affidavits, affirmations or declarations as to a matter of the examination or inquiry and administer oaths and affirmations and take declarations and certify that they have been made.

In cases where WorkplaceNL has obtained copies of documents in accordance with item (b) above, the employer will advise WorkplaceNL whether these copies should be returned to the employer or destroyed by WorkplaceNL following completion of the audit.

Employer co-operation in the PRIME audit process will ensure employers achieve the maximum benefit from PRIME refunds and receive valuable direction on areas where health and safety and return to work practices can be improved.

Employers will be required to designate a contact person who will be responsible for working with WorkplaceNL representative for the purpose of PRIME audits.

WorkplaceNL will provide every reasonable opportunity to facilitate an employer's co-operation in the PRIME audit process, including, but not limited to:

- i. giving the employer a minimum of one week advance notice of the PRIME audit;
- ii. giving consideration to an employer's availability of resources and/or their productivity demands;

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- iii. advising the employer in advance of the documentation that will be necessary to complete the PRIME audit;
- iv. providing feedback to the employer while conducting the audit and at the time that the audit results are known;
- v. ensuring the employer has an opportunity to provide current and relevant information that may impact the outcome of the PRIME audit;
- vi. explaining the audit results to the employer before the written final audit report is released, and
- vii. ensuring any other issues have been considered to allow full co-operation in the PRIME audit.

If, after all reasonable attempts have been made to allow the employer to co-operate in the PRIME audit, the employer does not co-operate, the refund(s) will be rescinded, as WorkplaceNL will be unable to validate the responses to the practice incentive criteria. Where WorkplaceNL attempts to conduct a PRIME audit and the employer is not co-operating in the audit process, the employer will be notified in writing that PRIME refunds may be rescinded. If, after two weeks from the date the employer is notified, the employer has not co-operated in the PRIME audit, the refund will be disallowed for the current year and rescinded for any prior years impacted.

Exceptional Circumstances

In cases where the individual circumstances of a case are such that the provisions of this policy cannot be applied or to do so would result in an unfair or unintended result, WorkplaceNL will decide the case based on its individual merits and justice. Such a decision will be considered for that specific case only and will not be precedent setting. When considering exceptional circumstances under this policy, WorkplaceNL will also consider the health and safety of the workers of the employer.

Implementation

The occupational health and safety and return to work requirements under the PRIME Program will be implemented over a three year period. PRIME audits will be based on the requirements for a specific employer according to whether they are federally or provincially regulated, and the practice year in which they fall (refer

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to Policy PR-06 “PRIME Practice Incentive for Provincially Regulated Employers” or PR-07 “PRIME Practice Incentive for Federally Regulated Employers” for specific requirements during this three year period.) As the practice incentive requirements are changed to meet continuous improvement for Practice Year 4 and beyond, the PRIME audit will be adjusted accordingly.

Reference: *Workplace Health, Safety and Compensation Act* (the Act), Section 17 and 96

Amendment History

<i>Original Effective Date</i>	2006 01 01
<i>Revision #1</i>	2010 02 01