

CODE RULE 59 OVERVIEW GUIDE

 GCG Risk Management, Inc. (10/2015)

OVERVIEW

The Workplace Safety and Loss Prevention Program was created to reduce workplace injuries and lower Workers' Compensation costs for employers. Specific details of the Program can be found in Section 134 of the Workers' Compensation Law and in the Department of Labor's Code Rule 59, the "Workplace Safety and Loss Prevention Program". Both regulations can be accessed from the Department's website at: www.labor.state.ny.us.

THE NOTIFICATION

The program is required for all employers whose most recent annual payroll is in excess of \$800,000 **and** whose most recent experience rating exceeds the level of 1.2. Employers who meet these criteria are notified by the *New York Compensation Insurance Rating Board* of the need to undergo a Workplace Safety and Loss Prevention Consultation. Notifications are sent out by the Rating Board several times a year as determined by the Board. These notifications become effective on the day each employer receives the notice in the mail.

THE CONSULTATION

The consultation shall include a review of the employer's safety program, an assessment of the employer's compliance with the requirements and a hazard survey of the workplace. The consultation must be performed by a consultant certified by the New York State Department of Labor. A list of consultants, certified by the Department should be enclosed with the notification sent to each employer by the Rating Board.

COMPLIANCE

At the conclusion of the consultation, the consultant will submit a written evaluation to the employer. The employer must then provide a copy to the Department of Labor and to its insurance carrier along with a statement that outlines how, when and who will provide the required remedial action. Subsequently, the insurer will conduct a compliance inspection and provide the employer and the Department of Labor with a copy of the findings. If an employer disagrees with the findings of the insurance carrier, an appeal may be made to the Department of Labor.

Policies in non-compliance receive a 5% surcharge for each year they are in non-compliance.

THE PROCESS

Employer receives notification from New York Compensation Rating Board.

Step 1: Within 30 days of Notice, the Employer makes arrangements to hire a private certified Safety Consultant qualified to conduct this Code Rule 59 Inspection and Report.

Step 2: Within an additional 10 days, the Employer notifies the Department of Labor, in writing when the date when the consultation is scheduled to begin; the date when the consultation must be completed (that date is 75 days from the date the employer actually receives the notice in the mail) and the name and address of the consultant performing the consultation service, and the certification number of the consultant.

Step 3: Within 75 days of the Notice, the Employer has the certified consultant conduct a consultation. The Consultant must send a report to the employer within 30 days of the closeout conference.

Step 4: The Employer must send a copy of this report to the Department of Labor within 30 days of receiving the report from the consultant and include **a letter** informing the Department of the actions the employer plans to take to comply with the recommendations issued by the certified consultant. Names of any organizations, who may help the employer comply with any recommendation, must also be included.

Step 5: The employer has 6 months from the date they receive the report to comply with all recommendations issued by the certified consultant.

Step 7: Employer's current workers' compensation carrier conducts a re-inspection of the workplace and verify compliance with all recommendations issued by the certified consultant.

Step 8: The employer's current carrier must issue a re-inspection report and send it to the Department of Labor. The employer must continuously implement and maintain the required elements of the Workplace Safety and Loss Prevention Program.

Table Based on Receiving the Notice during the 3rd quarter of 2017, actual timeline is based on date the notice is received:

Date of Notice: NYCIRB	July 7, 2017
30 Days to Arrange	August 6, 2017
10 Days to DOL	August 16, 2017
Within 75 Days Report & Consultation	September 20, 2017
Within 30 Days Report to DOL	October 20, 2017
Within 6 Months	March 19, 2018
Within 60 Days Re-Inspection By Carrier	May 18, 2018
Within 45 Days Inspection Report to DOL	July 2, 2018
Within 30 Days Appeal to DOL	August 1, 2018

As the consultant, we will provide the following services:

Code Rule 59 Report Complaint with State IRC-59

Instructions to Submit Notifications and Reports to your carrier & NYSDOL via email

Opportunity for Employer to review Final Draft of Report for Accuracy and Feedback on compliance mandated “Recommendations”

Final Copies of the report for your submission to your carrier & NYSDOL

The following is a list of the services that lead to the creation of the report:

- **Conduct the Mandatory Opening Conference** to Explain CR-59 and the Inspection Process.
- Review of incidents to identify trends over past 4 years.
- Review of all safety policies (Corporate Safety Policy, OSHA Compliance management, Hazard Communication, Lockout/Tagout, Personal Protective Equipment, Forklift, Confined Spaces, Safety Committee, Training Records, etc.)
- Physical Walkthrough of all Employee Locations
- **Mandatory Closing Conference** to Review Preliminary Findings.