



NYCIRB

New York State Code Rules 59 and 60 Programs



Introduction

This pamphlet describes the New York State Code Rules 59 and 60 programs and provides details on compliance incentives and the Rating Board's data validation efforts.

New York State Code Rule 59 Program

Section 134 of the New York State Workers' Compensation Law and Department of Labor Industrial Code Rule 59 work together to form a mandatory workplace safety and loss prevention program ("Code Rule 59"). Code Rule 59 is intended to improve workplace safety and reduce workplace injuries and applies to employers who have (i) an annual payroll in excess of \$800,000 and (ii) a workers' compensation experience rating modification factor of more than 1.20.

The New York Compensation Insurance Rating Board ("Rating Board") utilizes its data and information to identify employers required to participate in the Code Rule 59 program and provides them with Code Rule 59 program notification. After notifications are sent, the New York State Department of Labor ("DOL") is responsible for tracking compliance. In addition, DOL also provides each insurance carrier with a list of their policyholders that are subject to the Code Rule 59 program.



Code Rule 59 Program Requirements

Employers subject to the Code Rule 59 program should review the DOL's guidelines to Code Rule 59 compliance for rules and timelines and contact their workers' compensation carrier. DOL's guidelines are available on its website. To summarize, upon receipt of notice of Code Rule 59 program enrollment, employers are subject to the following requirements:

- Employers must make an appointment for a safety consultation and evaluation within 30 days (safety consultants must be certified by DOL);
- Within 10 days of making the above-referenced appointment, employers must notify their insurance carriers and DOL (by letter or email) of the evaluation date as well as the name, address, and certification number of the engaged consultant; and

- The consultation and evaluation must be completed within 75 days.

Consultation Report

Upon receipt of the consultation report, employers must provide their insurance carrier and DOL with (i) a copy of the consultation report, as well as (ii) a letter stating how and when they intend to comply with the recommendations made by their consultant.

All communications can be submitted to DOL by email or mail. Insurance carriers that issue policies to employers subject to the Code Rule 59 program are required (i) to re-inspect the workplace to ensure compliance with the consultation report, and (ii) notify DOL that the employer is in compliance.



Premium Surcharge

Employers who fail to comply with the requirements of the Code Rule 59 program are subject to a 5% surcharge on their policy premium for the next policy period. The amount of the surcharge increases by 5% each year that an employer remains out of compliance with the Code Rule 59 program requirements (e.g., the surcharge during the second year of noncompliance is 10%). The surcharge will continue to apply until the employer completes the entire process and is in compliance with program rules. Importantly, the surcharge will follow employers that change insurance carriers prior to Code Rule 59 program compliance.

Insurance carriers are required to apply this penalty surcharge. Application of the surcharge is not discretionary and must be added at policy issuance or renewal, via endorsement, or at final audit.

Data Reporting and Validation

Upon issuing a new policy or a renewal policy, insurance carriers are required to submit Code Rule 59 related data to the Rating Board, including data indicating whether a Code Rule 59 surcharge has been applied. The Rating Board's Code Rule 59 related data is reconciled against DOL's compliance records. Surcharge data that is inconsistent with DOL's records will be identified because it is suggestive of a failure to comply with Code Rule 59 program requirements. The Rating Board will notify insurance carriers that the surcharge data cannot be reconciled and request that the insurance carrier investigate employer Code Rule 59 program compliance as well as surcharge compliance and resubmit data for re-validation.

New York State Code Rule 60 Program

Section 134 of the New York State Workers' Compensation Law and Department of Labor Industrial Code Rule 60 work together to form a voluntary safety discount program for employers to incentivize workplace safety – **the Workplace Safety and Loss Prevention Incentive Program ("Code Rule 60")**. To participate in the Code Rule 60 discount program, an employer must (i) pay an annual premium of at least \$5,000, (ii) maintain an experience rating of under 1.30, (iii) not qualify for the Code Rule 59 program, (iv) not be in a recognized safety group with the New York State Insurance Fund, and (v) **implement one or more of the following three voluntary programs:**

- (a) A safety program;
- (b) A drug and alcohol prevention program; or
- (c) A return-to-work program.



Code Rule 60 Premium Credit Schedule

The schedule below sets forth the premium discounts available for participation in the Code Rule 60 program. It is important to note that an employer may receive a discount for more than one program at a time, e.g., an employer who implements a safety program and a drug and alcohol prevention program will receive a 6% discount in year 1.

| Program | Year 1 | Year 2 | Year 3 |
|-----------------------------|--------|--------|--------|
| Safety | 4% | 2% | 2% |
| Return to Work | 4% | 2% | 2% |
| Drug and Alcohol Prevention | 2% | 2% | 2% |

After the initial three-year period, the credit will be reduced to 2% for each year of the renewal period for each program. Each renewal period will be three years. Employers may apply as long as they qualify for each program.

Code Rule 60 Eligibility

An employer must complete and implement one or more of the three voluntary programs, and have their program evaluated by a DOL certified specialist prior to submitting an application with DOL for a Code Rule 60 premium credit. The certified specialist will provide the employer with an evaluation report, which the employer must include with their credit application submission.

Certificate Of Approval

Upon approval of a Code Rule 60 premium credit, DOL will issue and send a Certificate of Approval for each voluntary program to the employer. Employers must provide their insurance carrier with a copy of the Certificate(s) of Approval in order to receive their incentive credit(s).



Data Reporting and Validation

Upon issuing a new policy or a renewal policy, insurance carriers are required to submit Code Rule 60 related data to the Rating Board, including data on Code Rule 60 premium credits. Code Rule 60 related data that is reported by insurance carriers to the Rating Board is reconciled against DOL's certification records. Code Rule 60 related data that is inconsistent with DOL's records will be identified because it is suggestive of improper premium credit issuance. The Rating Board will notify insurance carriers that the Code Rule 60 premium credit cannot be reconciled and request that the insurance carrier investigate program compliance and resubmit data for re-validation.

