

PART 60 – WORKPLACE SAFETY AND LOSS PREVENTION
INCENTIVE PROGRAM LABOR LAW REGULATION SUMMARY

Section 60-1.2 defines: (a) Accommodate; (b) Attorney General; (c) Board; (d) Certification; (e) Certified; (f) Chair; (g) Commissioner; (h) Department; (i) Drug and Alcohol Prevention Program; (j) Evaluation; (k) Incentive; (l) Monitoring; (m) Qualified Organization; (n) Return to Work Program; (o) Review; (p) Safety Incentive Program; (q) Specialist; (r) Superintendent; (s) Verification; (t) Workplace Safety and Loss Prevention Incentive Program (WSLPIP).

Section 60-1.3 describes:

(a) the intent of this Rule to: (1) reduce occupational injuries and illnesses in the workplace; (2) return injured or ill employees to work; (3) reduce workers' compensation costs for employers; and (4) reward employers that have implemented a quality WSLPIP;

(b) the purpose of this Rule to set forth: (1) the procedures that must be followed in order for an employer to apply for and receive approval of a WSLPIP; (2) the minimum requirements for each WSLPIP; (3) the basic education or experience required of an individual to be Certified as a Specialist;

Section 60-1.4 (a) describes the eligibility requirements for an employer insured by the New York State Insurance Fund or any other authorized insurer that issues policies of workers' compensation insurance; (b) describes the eligibility requirements of an individually self-insured employer; (c) requires compliance with the procedures set forth in this Part and with New York State Labor Law and Workers' Compensation Law; (d) excludes employers required to implement a mandatory safety and loss prevention program from WSLPIP eligibility; (e) includes employers that have a preexisting program that complies with this Part in eligibility; and (f) subjects a group member's eligibility to the authorization of and limitations set by the Chair in addition to the requirements set forth in this Part.

Section 60-1.5 (a) describes the resources available to employers in establishing a compliant WSLPIP; (b) requires an implemented WSLPIP to undergo an Evaluation by a Certified Specialist and describes the employer's options for obtaining those services; (c) allows for the eligibility of previously implemented programs that meet the requirements

of this Part; (d) describes the fees for Evaluations conducted by Department staff; (e) requires the Evaluation be conducted according to the criteria set forth by this Part; and (f) allows an employer implementing more than one WSLPIP to undergo a single Consultation and Evaluation for all of its programs.

Section 60-1.6 (a) requires that an employer apply for WSLPIP approval using Department forms no later than 120 calendar days prior to the employer's annual policy renewal date, or the end of the calendar year for individually self-insured employers, and to provide a copy of the application to the employer's insurer or to the Board; for those employers who have an annual policy renewal date that falls between January 1, 2010 and March 31, 2010 and who have a preexisting program that meets the criteria for any of the three incentive programs set out in these regulations, the Department will accept their initial application if postmarked no later than 90 calendar days prior to their annual policy renewal date; (b) requires that the employer use a Specialist to perform the Evaluation prior to application; (c) describes the application fees; (d) describes the information required on the application; (e) describes notification of approval, approval duration, and Incentive effective date; (f) describes the employer's responsibility for notification; (g) provides that the Department will notify the employer's insurer, the Superintendent, and the Board of the approval; and (h) requires employer record-keeping and continued compliance.

Section 60-1.7 (a) requires approved employers to submit an annual report in order to receive the Incentive in the second and third year of initial and renewal approval periods; (b) describes the information to be included on the annual report; (c) describes notification of approval; (d) describes the employer's responsibility for notification; (e) provides that the Department will notify the employer's insurer, the Superintendent, and the Board of the Review and approval; and (f) requires the employer to notify the Department and its insurer or the Board if it discontinues a WSLPIP during an approval period.

Section 60-1.8 (a) requires that Incentive renewal be sought by the employer no later than 90 days prior to the end of the initial three year approval period using Department forms; (b) describes the renewal application fees; (c) describes the information required on the renewal application; (d) requires that the WSLPIP report and Verification comply

with the procedures in Section 60-1.8; (e) describes notification of approval and Incentive effective date; (f) describes the employer's responsibility for notification; (g) provides that the Department will notify the employer's insurer, the Superintendent, and the Board of the approval; and (h) requires employer record-keeping and continued compliance.

Section 60-1.9 provides that: (a) the Incentive provided to insured employers for implementation and renewal of each WSLPIP shall be in accordance with Section 134 (6) of the Workers' Compensation Law; and (b) the reduction in the security deposit provided to individually self-insured employers for implementation and renewal of each WSLPIP shall be pursuant to Section 134 (7) of the Workers' Compensation Law.

Section 60-1.10 (a) describes the reasons why and method by which the Department may deny, revoke, or suspend Incentives and the procedure the employer may follow to correct their deficiencies; (b) subjects any approved WSLPIP to Monitoring by the Department and describes potential Monitoring activities; and (c) describes an employer's appeal rights should their application for Incentive be denied, revoked, or suspended.

Section 60-1.11 requires the employer to: (a) post the certificate of approval issued by the Department for each WSLPIP prominently in all work locations; (b) provide access to personnel, facilities, records, and documents required to carry out this Part to the Department and various parties identified by the Department and describes the penalty for failure to do so; (c) notify the Department about changes that relate to the WSLPIP; and (d) represent the status of a WSLPIP truthfully to the Department and describes the penalties for misrepresentation.

Section 60-1.12 (a) requires the insurer to apply each Incentive granted by the Department and the Superintendent to the employer's policy renewal period following the date of the Department's approval certificate; (b) requires an insurer to continue to apply an approved Incentive to a new policy that was originally provided by a prior insurer; (c) requires the insurer to report annually to the Commissioner and the Superintendent and describes the information to be reported; and (d) provides that the Chair of the Board shall maintain the information required by this Part and provide it to the Commissioner and the Superintendent on behalf of individually self-insured employers.

Section 60-1.13 describes: (a) the purpose and methods of a Safety Incentive Program; (b) the parties who may provide the services related to a Safety Incentive Program; (c) the documentation of a Safety Incentive Program required to qualify for an Incentive; (d) the elements required to be included in an acceptable Safety Incentive Program; and (e) the required dissemination and availability of the approved Safety Incentive Program plan to employees.

Section 60-1.14 describes: (a) the purpose and methods of a Drug and Alcohol Prevention Program; (b) the parties who may provide the services related to a Drug and Alcohol Prevention Program; (c) the documentation of a Drug and Alcohol Prevention Program required to qualify for an Incentive; (d) the elements required to be included in an acceptable Drug and Alcohol Prevention Program; and (e) the required dissemination and availability of the approved Drug and Alcohol Prevention Program plan to employees.

Section 60-1.15 describes: (a) the purpose and methods of a Return to Work Program; (b) the parties who may provide the services related to a Return to Work Program; (c) the documentation of a Return to Work Program required to qualify for an Incentive; (d) the elements required to be included in an acceptable Return to Work Program; and (e) the required dissemination and availability of the approved Return to Work Program plan to employees.

Section 60-1.16 describes: (a) the process a Safety and Loss Management Specialist must follow when conducting a WSLPIP Consultation and Evaluation, including communication with stakeholders, collection of information, analysis of historical loss and claim information, and industrial hygiene sampling procedures; and (b) the information required on the Evaluation Report.

Section 60-1.17 (a) requires a Specialist performing services identified in this Part to be Certified by the Department; (b) provides for designated Department employees to be automatically Certified and exempt from application requirements; (c) describes the qualifications required for Certification to conduct a Consultation and Evaluation of a Safety Incentive Program; (d) describes the qualifications required for Certification to conduct a Consultation and Evaluation of a Drug and Alcohol Prevention Program and provides for collaboration between the Department and the Office of Alcoholism and

Substance Abuse Services in developing evaluation criteria to determine the acceptability of an applicant's experience; (e) describes the qualifications required for Certification to conduct a Consultation and Evaluation of a Return to Work Program; (f) describes the requirements for Certification as a Specialist in multiple Incentive Programs; (g) defines "professional experience;" (h) limits Specialists' activities to their area(s) of expertise as Certified by the Department; (i) describes the Specialist application and Recertification processes and their associated fees; (j) requires a Specialist applying for Recertification to advise the Department of any circumstance which would disqualify the Specialist from Recertification; (k) describes the circumstances under which the Department may deny, suspend, or revoke a Specialist's Certification; (l) requires an investigation, formal hearing, and written notification to revoke or suspend a Specialist's Certification; (m) describes the circumstances under which a Specialist's Certification may be reinstated; and (n) subjects a Specialist applying for reinstatement of Certification to those procedures pertaining to application for an original Certification.

Section 60-1.18 indicates that variances from the provisions of this Part may be granted in accordance with Article 2, Section 30 of the Labor Law.

Section 60-1.19 declares the provisions of this Part to be severable.

Section 60-1.20 declares that nothing contained in this Part shall abrogate or otherwise limit the responsibility of an employer to comply with all requirements set forth in State and Federal safety and health standards to which the employer would otherwise be subject, nor abrogate or otherwise limit the liability of such employer to fines or other penalties to which it would otherwise be subject for failure to comply with such Rules and Regulations.