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**RULE**

**DEPARTMENT OF LABOR  
OFFICE OF WORKERS' COMPENSATION**

**Title 40**

**Labor and Employment**

**Part I. Workers' Compensation Administration**

**Chapter 11: Workers' Compensation Insurance Cost Containment Rules**

**§1101. Purpose**

The purpose of these rules is to establish and implement effective injury control measures for employers in high rate classifications with insurance experience modifier rates of 1.5 or greater.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1178

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 19:896 (July 1993).

**§1103. Forms - Preparation and adoption - Use**

The Office of Workers' Compensation shall prepare and adopt such forms for use in workers' compensation cost containment as it may deem necessary and advisable. Whenever the Office of Workers' Compensation's forms are prescribed and are applicable, they shall be used. A photo ready copy of any form may be procured upon request to the office.

The following forms have been adopted by the Office of Workers' Compensation Administration for use in implementation of the workers' compensation cost containment act:

Forms:

LDOL-WC-Form No. 1021                      Application for attendance at cost containment meeting

LDOL-WC-Form No. 1022                      Certificate of Attendance

LDOL-WC-Form No. 1023                      Application for Implementation of Occupational Safety and Health Program

LDOL-WC-Form No. 1024                      Certificate of Satisfactory Implementation of Occupation Safety & Health Program

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1178

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 19:896 (July 1993).

### **§1105. Cost Containment Meeting**

A number of statewide meetings shall be held between June and September of each year. A Notice of all the meetings scheduled for that year shall be sent to all "eligible employers" as defined in La. R.S. 23:1176. Eligible employers who have not qualified for a reduction in the prior 3 years shall be sent by certified mail return receipt requested at least 30 days prior to the first scheduled meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1178

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 19:896 (July 1993).

### **§1106. Experience modifier rates**

An employers' eligibility shall be based on its experience modifier rate of December 31 of the prior year.

The incentive discount provided in LSA-R.S. 23:1178(c) shall be based on the employers next effective experience modifier rate after December 31 of the prior year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1178.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation Administration LR 19:1331 (October 1993).

### **§1107. Application for attendance at Cost Containment Meeting**

A verified application Form LDOL-WC-Form No. 1021 together with proof that the attendee is a person in a position of authority within the company must be received 15 days prior to the scheduled meeting to guarantee consideration. Proof may include but shall not be limited to a verified job description, annual report to Secretary of State, copy of the preprinted tax form or act of partnership. Notice shall be given 5 days prior to the meeting if the office finds that the designated attendee is not a person in a position of authority within the company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1178

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 19:896 (July 1993).

### **§1109. Proof of Attendance; Certificate**

In order to obtain a certificate of attendance, LDOL-WC-Form No. 1022 at a cost containment meeting, the attendee must have qualified as a designated representative as defined in La. R.S. 23:1176(1). At the meeting the designated representative shall submit pictured identification and sign the roles of attendance.

The certificate shall thereafter be mailed to those eligible employers who have not qualified for a reduction in the prior 3 years. Any application received within 15 days prior to a meeting may not be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1178

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 19:896 (July 1993).

**§1111. Failure to attend; Fines**

After the last scheduled meeting of a year the director upon verification of notice and failure to attend shall send a notice of fine to all eligible employers as provided in La. R.S. 23:1178(D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1178

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 19:896 (July 1993).

**§1113. Application for Participation in the Occupational Safety and Health Program**

Only "eligible employers" who have certificate of attendance Form LDOL-WC-Form No.1022 issued within the last four years may apply for participation in the Occupational Safety and Health program under the cost containment act by submitting LDOL-WC-Form No.1023 to the Occupational Safety and Health section of Office of Workers' Compensation Administration. In scheduling surveys the OWCA will attempt to schedule on the basis of the date the application is received in the office but shall also consider the OSHA High Hazard list and geographical location for maximizing scheduling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1178

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 19:896 (July 1993).

**§1115. Report to the Employer**

Upon completion of surveys of all existing sites of a business, OSHA shall issue to the employer an official inspection report with identified hazards and safety program deficiencies and a timetable for taking corrective actions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1178

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 19:896 (July 1993).

### **§1117. Standard for Satisfactory Implementation**

The standards used by the Office of Workers' Compensation Administration, OSHA Section, in determining a participant's satisfactory implementation of the occupational Safety and Health Program shall be those provided in Title 29 of the Code of Federal Regulations, Sections 1910, 1915, 1918 and 1926 and any regulations of ANSI, NEC and NFPA applicable to the participant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1178

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 19:896 (July 1993).

### **§1119. Inspections**

When the official inspection report contains any recommendation for correction of hazards or program deficiencies the employer must submit proof of compliance. The OSHA section may require a follow up inspection to verify satisfactory implementation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1178

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 19:896 (July 1993).

### **§1121. Certificate of Satisfactory Implementation**

A certificate of satisfactory implementation LDOL-WC-Form No. 1024 shall be issued only to those eligible employers who have not qualified for a reduction pursuant to La. R.S. 23:1179(C) in the prior 3 years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1178

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 19:896 (July 1993).

### **§1123. Cost Credit Earned From Satisfactory Implementation**

A. Any safety and health hazard survey of the work place by the OSHA section consultants, including an evaluation of the employer's safety and health program and on-site interviews with employers and employees under R.S. 23:1179, shall be on-site inspections. All permanent, temporary, and multiple work sites shall be subject to inspection.

B. The on-site inspection of each eligible employer who has attended an authorized cost containment meeting shall be made in two phases; namely, the initial phase and the follow-up phase. The OSHA section shall not determine whether an eligible employer has satisfactorily implemented the OSHA section's occupational safety and health program until the initial and follow-up phases are completed. The effective date of qualification or disqualification of such eligible employer shall be the date of the report issued after the initial and follow-up phases are completed.

1. The initial phase shall be the first of any safety and health hazard surveys of the work place by the OSHA section, including an evaluation of the employer's safety and health program and on-site interviews with employers and employees by the OSHA Section. The effective date of the completion of the initial phase shall be the date that the correction of hazards report is received by the OSHA section. The correction of all hazards identified during the on-site visit shall be made within six months of the visit.

2. The follow-up phase shall be a safety and health hazard survey of the work place by the OSHA section, including an evaluation of the employer's safety and health program and on-site interviews with employers and employees by the OSHA Section. This follow-up phase shall be conducted no earlier than six months after the initial phase is completed.

3. Notwithstanding the provisions of paragraph (B)(2) of this rule, the follow-up phase may be conducted earlier than six months after the initial phase is completed if the company has had an operational safety plan in effect for the prior twelve months, and if the company has satisfied all elements of management commitment and planning, hazard assessment, hazard correction and control, and safety and health training, as provided in Form Consultation-33, for the prior twelve months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1179.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 21:36 (January 1995).

### **§1125. Qualification for Cost Credit under R.S. 23:1179**

Employers shall be eligible for a reduction in their experience modifier rate pursuant to R.S. 23:1179 when all of the following conditions are met:

- A. Satisfactorily implementation of the OSHA section's occupational safety and health program when the initial and follow-up phases are completed;
- B. A loss work day incident rate less than the national average for their respective SIC, as indicated on their completed OSHA 200 form for the prior calendar year; and
- C. No fatalities within the 24 months immediately preceding the initial inspection or, in the case of a reapplication, within the 24 months immediately preceding the date of the reapplication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1179.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 21:36 (January 1995).

### **§1127. Reapplication After Failure to Qualify**

A. An employer that fails to qualify for the reduction in the experience modifier rate under R.S. 23:1179 because of a determination that the employer has not satisfactorily implemented the OSHA section's occupational safety and health program or because of its loss work day incident rate, shall be allowed to reapply for the reduction in the experience modifier rate after 12 months from the date of the final report .

B. An employer that fails to qualify for the reduction in the experience modifier rate under R.S. 23:1179 because of a fatality shall be allowed to reapply no earlier than 24 months from the date of the fatality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1179.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 21:36 (January 1995).

### **§1129. Employer Eligibility for Safety and Health Program Assessment**

A. Comprehensive program assessment shall be accomplished by category and by order that applications are received.

1. Category I shall consist of sites which have 250 employees or less, and 500 or less total employees at all sites controlled by the employer based on the average level of employment during the most recent 12 months. Sites operated by governmental agencies are specifically excluded.

2. Category II shall consist of all sites which do not meet the criteria of Category I.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1179.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 21:36 (January 1995).

### **§1131. Discount Application Period**

A. The incentive discount provided in R.S. 23:1179(B) shall be based on the employer's next effective modifier rate after its certified satisfactory implementation of an approved occupational safety and health program. A certificate shall be issued by the Office of Workers' Compensation evidencing the satisfactory implementation of an occupational safety and health program. Such certificate shall be valid only during the period of the employer's next effective modifier rate after its certified satisfactory implementation of the approved occupational safety and health program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1179.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 21:272 (March 1995).