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TITLE 260 – DEPARTMENT OF LABOR AND TRAINING

CHAPTER 50 – INJURED WORKER SERVICES

SUBCHAPTER 05 – WORKERS’ COMPENSATION

PART 10 – WORKERS’ COMPENSATION RULES PURSUANT TO 28-36-15 (LACK OF INSURANCE)

10.1 Purpose

- A. The purpose of these rules is to provide procedural guidelines for enforcement of employer obligations to secure workers' compensation insurance, including with regard to the hearings— suspension of business operations for of employers operating without the required workers' compensation insurance failure to secure the payment of compensation under the provisions of R.I. Gen. Laws § 28-~~29~~36-15(e)(1), as well as and to define the workers' compensation insurance requirements for out of state employers performing work in Rhode Island.~~et seq.~~

10.2 Authority

- A. These rules and regulations are promulgated pursuant to R.I. Gen. Laws § 28-~~36-15~~29-26(a).

10.3 Definitions

- A. “Director” means the Director of the Department of Labor and Training and his or her designee.
- B. “Department” means the Department of Labor and Training

~~10.4 Administrative Hearing to Assess Penalty Pursuant to R.I. Gen. Laws § 28-36-15(c)~~

- ~~A. The Division of Workers’ Compensation shall investigate and make a preliminary determination with respect to the failure to secure payment of compensation pursuant to R.I. Gen. Laws 28-36-15. Preliminary determinations shall be referred to the Director of the Rhode Island Department of Labor and Training. If after review of the preliminary determinations, the Director finds that sufficient cause exists for imposition of a civil penalty in accordance with R.I. Gen. Laws 28-36-15(c), the following procedures shall be followed:~~

- ~~1. All parties in interest shall be given not less than ten (10) days’ notice by mail of the time, place and nature of the hearing.~~

- ~~2. Notice shall contain a short and plain statement of the matter to be considered at the hearing; and a statement of the legal authority and jurisdiction under which the hearing is to be held, with reference to the particular section of the statutes and rules involved.~~
- ~~3. Opportunity shall be afforded all parties at the hearing to respond to and present evidence and argument pertinent to the issues involved. The notice shall advise the parties that they may be represented by counsel.~~
- ~~4. Informal disposition may be made of any contested case by stipulation, agreed settlement, or consent order.~~
- ~~5. The Director may grant extensions of time where in his or her discretion the continuance will not result in undue delay or undue hardship. If a party fails to respond or exercise its right to present evidence or argument of the issues involved after proper notice to said party, the Director shall render a decision based upon the documents and evidence presented at the hearing.~~
- ~~6. The Department will arrange for a stenographer to be present at the formal hearing and transcribe any formal hearings. If a party chooses, it may purchase a transcript. The cost will be borne by the party ordering a transcript.~~
- ~~7. The Director shall submit a written decision of his/her action setting forth the findings of fact, conclusions of law and any applicable administrative penalty which the Director in his/her discretion may assess. All parties shall be notified by mail of any decision.~~

10.45Administrative Hearing to Suspend Business Operations Pursuant to R.I. Gen. Laws § 28-36-15(e)(1) Stop Work Order and Suspend Business Operation Procedures Pursuant to R.I. Gen. Laws § 28-36-15(i)(1)

- A. ~~The Director will review the preliminary determinations of the Workers' Compensation Division finding that an employer continues to operate without required workers' compensation insurance. If after review the Director finds that sufficient cause exists to proceed to further administrative action to suspend the operation of the business, the following procedures will be followed:Employers working in Rhode Island are required to have Workers' Compensation Insurance coverage. Required coverage is determined by the Director of the Department of Labor and Training (hereinafter "Director") in accordance with the provisions of R.I. Gen. Laws Chapters 28-29 through 38 and 27-7.1 et seq. Employers working without the required coverage will be subject to the following procedures:~~
 - ~~1. The Director will issue an order requiring the employer to appear before the Department of Labor and Training to show cause why an order~~

suspending the business operation should not be issued pursuant to R.I. Gen. Laws § 28-36-15(e)(1). The order will provide notice of the hearing date, time, place and nature of the hearing. The Director shall issue and serve a Stop Work Order upon the Employer mandating that the Employer suspend Rhode Island business operations immediately.

~~2. The employer will be given three (3) days' notice of the hearing. The order may be personally served on the employer, the employer's representative or agent or the order may be left at the employer's place of business if the employer is a corporation. The Director has the discretion to provide less than three (3) days' notice in cases presenting a clear and imminent danger of irreparable harm to employees.~~

~~3. The Department will arrange for a stenographer to be present at the formal hearing and transcribe any formal hearings. If a party chooses, it may purchase a transcript. The cost will be borne by the party ordering a transcript.~~

~~4. If the Director determines the employer is operating without required workers' compensation insurance, a Stop Work Order will be issued immediately, suspending the operation of business and setting forth the Director's findings of fact, conclusions of law, and his/her action. Operation of the business will remain suspended until the Director receives satisfactory proof of insurance and evidence sufficient to satisfy the Director that the employer is in full compliance with the provisions of R.I. Gen. Laws Chapters 28-29 through 28-38, inclusive.~~

2. Following the issuance of the Director's Stop Work Order, the Employer has the right to appeal the Director's Stop Work Order, by filing an Appeal with the Workers' Compensation Court pursuant to R.I. Gen. Laws § 28-36-15(i)(1) and the Rhode Island Workers' Compensation Court Rules of Practice. The Employer shall notify the Director of its Appeal, within forty-eight (48) hours, by serving a copy of said Appeal on the Director in accordance with the Rhode Island Workers' Compensation Court Rules of Practice.

3. The Stop Work Order shall be personally served by the Department on the Employer, the Employer's representative, or its registered agent, or may be left at the Employer's Rhode Island worksite, or place of business.

4. Once the Director receives satisfactory evidence that the appropriate coverage has been obtained the Order shall be immediately rescinded.

10.54Administrative Hearing to Assess Penalty Pursuant to R.I. Gen. Laws § 28-36-15 (c) — Enforcement of Stop Work Order

- A. If the Employer continues to operate its business in Rhode Island, after the Director has issued a Stop Work Order, the Director shall immediately file a Petition to Enforce with the Workers' Compensation Court, directing the employer to comply with the Director's Stop Work Order and request an emergency hearing to enforce the Department's Stop Work Order pursuant to R.I. Gen. Laws § 28-36-15(i)(2).
- B. The Director shall effect service of the petition and notice on the employer within forty-eight (48) hours by delivering a copy of the petition and notice to a person individually or, if a private corporation, by delivering a copy of the petition and notice to an officer, or a managing or general agent, or by delivering a copy of the petition and notice at an office of the corporation to a person employed by said corporation, or by delivering a copy of the petition and notice to an agent authorized by appointment or by law to receive service of process. If the employer is a public corporation, body, or authority, service shall be made by delivering a copy of the petition and notice to any officer, director, or manager thereof. The Director shall certify to the court that such service has been affected prior to the time of the hearing.

10.64Administrative Hearing to Assess Penalty Pursuant to R.I. Gen. Laws § 28-36-15 (c) — Temporary Exposure/Out of State Coverage

- A. Out of state Employers working in Rhode Island for temporary periods of time are required to establish to the satisfaction of the director that they have workers' compensation insurance coverage that provides coverage for claims filed in Rhode Island. Such coverage insurance carrier must respond to Rhode Island workers' compensation claims and petitions filed in the Rhode Island Workers' Compensation Court and must provide Rhode Island benefits for compensable claims filed in this state.
- B. -For the purpose of these regulations, "temporary periods of time" shall mean a period not to exceed one hundred eighty (180) days in the aggregate to be applied over a period of twelve (12) months.
- C. Out of state Employers working in Rhode Island for durations in excess of one hundred eighty (180) days over a period of twelve (12) months shall be required to obtain Rhode Island workers' compensation insurance coverage with Rhode Island named in Part 3A of the policy. Employers working for shorter periods of time must have a workers' compensation insurance policy that covers Rhode Island claims.

D. Out of state Employers working in Rhode Island who hire employees in Rhode Island shall be required to obtain Rhode Island workers' compensation insurance coverage with Rhode Island named in Part 3A of the policy.