

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
EMPLOYER/INSURER COVERAGE RESPONSIBILITY**

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**EXHIBIT "A"  
OREGON ADMINISTRATIVE RULES  
CHAPTER 436, DIVISION 050, RULES 400 & 420**

**EFFECTIVE FEBRUARY 1, 1995**

**436-050-400      Responsibility for Providing Coverage under a Lease Arrangement**

(1) Every worker-leasing company providing workers to a client shall satisfy the requirements of ORS 656.017 and 656.407.

(2) Every worker-leasing company providing leased workers to a client shall also provide workers' compensation insurance coverage for any subject workers of the client, unless the client has an active guaranty contract on file with the Director or is certified under ORS 656.430 as a self-insured employer. In the latter circumstance, the client's guaranty contract insurer or self-insured employer will be deemed to provide insurance coverage for all leased workers and subject workers of the client.

(3) If an insured client allows its guaranty contract to terminate or if a self-insured client, allows its' certification to terminate and the client continues to employ subject workers or has leased workers, the client shall be considered a noncomplying employer unless the worker leasing company has made the filing with the Director as provided in OAR 436-050-0410(1).

(4) A client can only obtain leased workers from one worker-leasing company at a time unless the client has an active guaranty contract on file with the Director or is certified under ORS 656.430 as a self-insured employer.

**Stat Auth:** ORS 656.704, ORS 656.726(3), ORS 656.850 and ORS 656.855

**Stats. Implemented:** ORS 656.850 and ORS 656.855

**Hist:** Filed 4/1/94 as Admin. Order 94-052, eff. 5/1/94  
Amended 12/23/94 as WCD Admin. Order 94-063, eff. 2/1/95

**436-050-0420      Temporary Worker Distinguished from Leased Worker**

(1) A person who provides a worker to work for a client will be considered to be providing the worker on a "temporary basis" only if there is a contemporaneous written documentation, retained by either the client or the temporary service provider, which indicates the temporary duration of the work performed and the worker is provided under one or more of the following conditions:

(a) To replace an absent worker who will return, such as during a maternity leave, vacation, jury duty, or illness;

(b) To fill a professional skill shortage;

(c) To staff a seasonal workload;

(d) To staff a special assignment or project where the worker will be terminated or assigned to another temporary project upon completion;

(e) Where student trainees are provided through a work experience program which is

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operated by a school district or community college, and in which the trainee is paid by the school district or community college; or

(f) The work contract is part of the client's overall employment selection program, such as where new workers must satisfactorily pass a probationary period before being granted regular employee status.

(2) If a person provides workers, by contract and for a fee, to work for a client and any such workers are not provided on a "temporary basis," that person will be considered a worker-leasing company.

(3) If a person provides both leased workers and workers on a temporary basis, that person shall maintain payroll records that show specifically which workers are provided on a temporary basis. If the payroll records do not specify which workers are provided on a temporary basis, all workers are deemed to be leased workers.

**Stat Auth:** ORS 656.704, ORS 656.726(3), ORS 656.850 and ORS 656.855

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