

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION
NONCOMPLYING EMPLOYERS

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[Bracketed 8 point text is deleted]; bold/underlined text is added

EFFECTIVE JANUARY 23, 1998

OREGON ADMINISTRATIVE RULES
CHAPTER 436, DIVISION 080

NOTE: Only adopted, amended, and repealed rules are included in this document:

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436-080-0003 Applicability of Rules

These rules are effective January [5, 1996] 23, 1998 and carry out the provisions of:

- (1) ORS 656.017 - Employer required to pay compensation and perform other obligations and duties.
- (2) ORS 656.052 - Prohibition against employment without coverage; proposed order declaring noncomplying employer; effect of failure to comply.
- (3) ORS 656.054 - Claim of injured worker of noncomplying employers; notice of proposed penalty; recovery of costs from noncomplying employer.
- (4) ORS 656.735 - Civil penalty for noncomplying employers; amount; liability of corporate officers; effect of final order; penalty as preferred claim; disposition of moneys collected.
- (5) ORS 656.740 - Review of proposed order declaring noncomplying employer, proposed assessment or civil penalty; insurer as party; hearing.

Stat. Auth.: ORS 656.054, ORS 656.726
Stats. Implemented: ORS 656.726
Hist: WCB 4-1973 (Temp), f. & ef. 12-6-73;
 WCB 4-1974, f. 2-13-74, ef. 3-11-74;
 WCB 15-1975, f. 9-22-75, ef. 10-11-75;
 WCD 5-1978 (Admin), f. 3-31-78, ef. 4-1-78
 Amended 12-18-87 as WCD Admin. Order 7-1987, ef. 1-1-88
 Amended 12/22/89 as WCD Admin. Order 4-1989, ef. 1-1-90
 Amended 11/29/90 as WCD Admin. Order 28-1990, ef. 12/26/90
 Amended 01/10/92 as WCD Admin. Order 3-1992, ef. 2/1/92
 Amended 1/2/96 as WCD Admin. Order 95-073, ef. 1/5/96
 Amended 1/9/98 as WCD Admin. Order 98-051 eff. 1/23/98

436-080-0060 When a Worker Files a Claim for an Injury

(1) When the Division issues an order under OAR 436-080-0010 declaring an employer a noncomplying employer, and a subject worker has filed a claim for an injury sustained during the period of noncompliance while the worker was employed by such employer, the Division shall:

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(a) Refer the claim with a copy of the order and the results of its investigation to the assigned claims agent for processing as required by ORS 656.054; and

(b) Inform the worker, the worker's representative, if represented and the employer that the claim has been referred to the assigned claims agent;

(c) The notice to the employer shall inform the employer of the right to object to the claim.

(d) If the employer wishes to object to the claim, the employer shall request a hearing. The request for hearing must be filed within 90 days from the date of the mailing of the Notice of Referral.

(2) When the assigned claims agent accepts or denies the claim, it shall notify the worker, employer, and the Division of its action within the time provided by ORS 656.262.

(3) When the Division finds that at the time of the injury, either the worker was not a subject worker or the employer was not a subject employer, the worker and employer shall be notified of such determination. The worker may request a hearing [before the Workers' Compensation Board Hearings Division] **by filing a hearing request within 30 days of service of the determination. The hearing request must be sent to the Workers' Compensation Division, Compliance Section, 350 Winter St. NE, Room 330, Salem, OR 97310.** The worker and employer shall be parties to any such hearing, and shall be notified by the Hearings Division of the time and place set for hearing.

Stat. Auth.: ORS 656.726

Stats. Implemented: ORS 656.054,

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Amended 11/29/90 as WCD Admin. Order 28-1990, ef. 12/26/90
Amended 4/15/92 as WCD Admin. Order 8-1992, ef. 4/15/92 (Temporary)
Amended 10/13/92 as WCD Admin. Order 16-1992, ef. 10/13/92
Amended 1/2/96 as WCD Admin. Order 95-073, ef. 1/5/96
Amended 1/9/98 as WCD Admin. Order 98-051 eff. 1/23/98