



Oregon

John A. Kitzhaber, MD, Governor

Department of Consumer and Business Services
Workers' Compensation Division
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June 20, 2011

Proposed Changes to Workers' Compensation Rules

The Workers' Compensation Division proposes changes to OAR chapter 436, division 050, "Employer/Insurer Coverage Responsibility," that would require Oregon workers' compensation insurers and self-insured employers to report to the director e-mail addresses for their organizations and any service companies (TPAs) that service their claims.

The proposed rules also include some "housekeeping" changes to enhance clarity: use of plain-language and minor reorganization. As an example of reorganization, the requirements to report a "designated person or position within the company who will assure payment of penalties and resolution of collections issues" have been moved to their own subsections. This is not a new reporting obligation, but the changes should make it clear that the contact may be at any company location, not limited to Oregon.

Please review the attached documents for more information about proposed rule changes and projected fiscal impacts.

The division welcomes comment on proposed rule changes and has scheduled a public hearing.

When is the hearing?

July 25, 2011, 9:00 a.m.

Where is the hearing?

Labor & Industries Building, Room F (basement)
350 Winter Street NE, Salem, Oregon 97301

How can I make a comment?

Come to the hearing and speak, send written comments, or do both.
Send written comments to:
Fred Bruyns, rules coordinator
Workers' Compensation Division
350 Winter Street NE (for courier or in-person delivery)
PO Box 14480, Salem, OR 97309-0405
Email - fred.h.bruyns@state.or.us
Phone – 503-947-7717; Fax – 503-947-7514

The closing date for written comments is July 29, 2011.

How can I get copies of the proposed rules?

On the Workers' Compensation Division's website –
www.wcd.oregon.gov/policy/rules/rules.html#proprules

Or call 503-947-7717 to get free paper copies

Questions?

Contact Fred Bruyns, 503-947-7717.

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*

A Statement of Need and Fiscal Impact accompanies this form.

Department of Consumer and Business Services, Workers' Compensation Division	436	
Agency and Division	Administrative Rules Chapter Number	
Fred Bruyns	350 Winter Street NE, PO Box 14480, Salem, OR 97309-0405	503-947-7717
Rules Coordinator	Address	Telephone

RULE CAPTION

Reporting of e-mail addresses for insurers, self-insured employers, and service companies (TPAs)

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

July 25, 2011	9:00 a.m.*	Room F Labor & Industries Building 350 Winter Street NE, Salem, Oregon	Fred Bruyns
Hearing Date	Time	Location	Hearings Officer

*NOTE: The hearing will begin at 9:00 a.m. and end when all present who wish to testify have done so. Written testimony will be accepted through **July 29, 2011**.

Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

AMEND: OAR 436-050-0110, 436-050-0160, 436-050-0210, 436-050-0220, 436-050-0230, 436-050-0260

Stat. Auth.: ORS 656.726(4); 656.430, 656.455; ORS 731.475

Other Auth.:

Stats. Implemented: ORS chapter 656, primarily 656.430 and 656.455; ORS 731.475

RULE SUMMARY

The agency proposes to amend OAR chapter 436, division 050 to require Oregon workers' compensation insurers and self-insured employers to report to the director e-mail addresses for their organizations and any service companies (TPAs) that service their claims. The proposed rules also include some "housekeeping" changes to enhance clarity: use of plain-language and minor reorganization.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

Address questions or requests for paper copies of the rules to: Fred Bruyns, Rules Coordinator; phone 503-947-7717; fax 503-947-7514; e-mail fred.h.bruyns@state.or.us. Proposed rules are available on the Workers' Compensation Division's website: <http://wcd.oregon.gov/policy/rules/rules.html#proprules>

July 29, 2011

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

<i>/s/ John L. Shilts</i>	John L. Shilts	June 15, 2011
Signature	Printed name	Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

Distribution: WCD-S0, S2, S3, S, U, AT, CE, EG, LU, NM, EC, TT, M2, E-mail lists; and legislators under ORS 183.335(15)

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Department of Consumer and Business Services, Workers' Compensation Division
Agency and Division

436

Administrative Rules Chapter Number

Reporting of e-mail addresses for insurers, self-insured employers, and service companies (TPAs)

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Amendment of: OAR 436-050, Employer/Insurer Coverage Responsibility

Statutory Authority: ORS 656.726(4); 656.430, 656.455; ORS 731.475

Other Authority:

Stats. Implemented: ORS chapter 656, primarily 656.430 and 656.455; ORS 731.475

Need for the Rule(s): Rule amendments are needed to allow the agency to publish more of its bulletins and notices electronically. This would reduce the agency's printing and mailing costs, as well as its use of paper. Electronic publication would expedite delivery of publications to stakeholders, and should facilitate distribution of publications within stakeholders' organizations.

Documents Relied Upon, and where they are available: Advisory committee meeting records. These records are available for public inspection in the Workers' Compensation Division of the Department of Consumer and Business Services, 350 Winter Street NE, Salem, Oregon 97301, upon request and between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. Please call 503-947-7717 to request copies.

Fiscal and Economic Impact: The agency projects no significant negative economic impact of the proposed rule changes on any party. The agency projects some positive impacts as described below. (Unless stated otherwise, references to "insurers" mean workers' compensation insurers and self-insured employers.)

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

- The agency estimates its cost savings at approximately \$4,000 per year. Units of local government are not affected. The impacts on the State Accident Insurance Fund (SAIF) Corporation are described under the estimate for insurers.
- The agency projects that the proposed rule changes would have no significant negative economic impact on insurers. Insurers may experience some reduction in the staff time now invested in copying and then distributing agency publications within their organizations; this would be especially true of companies that have paperless work environments that necessitate scanning our publications before distribution and storage.

2. Cost of compliance effect on small business (ORS 183.336):

- Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
 - Based on available information, insurers do not meet the definition of small business under ORS 183.310(10). Approximately 30 service companies (TPAs) contract with insurers to process their claims; one or more of these companies is a small business.
- Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:
 - The agency projects no significant economic impact.
- Equipment, supplies, labor and increased administration required for compliance:
 - The agency projects no significant economic impact.

How were small businesses involved in the development of this rule?

- The agency invited approximately 2,000 parties to volunteer for the rulemaking advisory committee. One TPA representative and the Small Business Ombudsman attended the meeting.

Administrative Rule Advisory Committee consulted?: Yes – meeting held May 18, 2011.

If not, why?

/s/ John L. Shilts

Signature

John L. Shilts

Printed name

June 15, 2011

Date



Employer/Insurer Coverage Responsibility Oregon Administrative Rules Chapter 436, Division 050

Proposed

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Revisions are marked as follows:

Deleted text has a "strike-through" style, as in ~~Deleted~~
Added text is bold and underlined, as in **Added**

436-050-0110 Notice of Insurer's Place of Business in State; Coverage Records Insurer Must Keep in Oregon

(1) Every insurer that is authorized to issue workers' compensation coverage to subject employers as required by ORS ~~Chapter 656 shall~~**must** give the director notice of the **Oregon** location, **postal** mailing address, **e-mail address**, telephone number, and any other contact information in this state where the insurer processes claims and keeps written records of claims and proof of coverage as required by ORS 731.475. ~~The insurer must provide the director contact information for a designated person or position within the company who will assure payment of penalties and resolution of collections issues resulting from orders issued by the director.~~ While the insurer may have more than one location in this state, the information provided to the director must reasonably lead an inquirer to a person who can respond to inquiries as to workers' compensation insurance policy information and to access an in-state Oregon certified claims examiner who can respond within a reasonable time to specific claims processing inquiries. A response time of ~~forty-eight (48) hours~~ or less, not including weekends or legal holidays, would satisfy a reasonable expectation.

(2) Notice under section (1) of this rule ~~shall~~**must**:

(a) be ~~be~~ filed with the director within 30 days after the insurer becomes authorized and starts writing workers' compensation insurance policies for Oregon subject employers;

(b) Include one general delivery e-mail address for the insurer, which may be at any

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company location worldwide; and

(c) Include contact information for a designated person or position within the company who will assure payment of penalties and resolution of collections issues resulting from orders issued by the director.

(3) If an insurer elects to use a service company to satisfy the purposes of ORS 731.475 with respect to all or any portion of its business, the insurer ~~shall, prior to its effective date,~~ **must** file with the division a copy of the agreement between the insurer and each company **before the agreement is effective in Oregon**, and ~~shall~~**must** give the division notice of the location, ~~and~~ **postal** mailing address, **and general delivery e-mail address** of each service company.

(4) For the purpose of this section, those activities conducted at designated in-state location(s) and by the authorized representative(s) of the insurer ~~shall~~**must** include, but need not be limited to:

- (a) Processing and keeping complete records of claims for compensation;
- (b) Responding to specific claims processing inquiries;
- (c) Keeping records of payments for compensation;
- (d) Keeping records in a written form, not necessarily original form, and making those records available upon request; and
- (e) Accommodating periodic in-state audits by the director.

(5) If **the insurer's or its service company's** place of business or **contact information** that of a service company elected in lieu of an in-state place of business is **will** changed, the insurer ~~shall~~**must** notify the director of the new location, **postal** mailing address, **e-mail address**, telephone number, and any other contact information of the place of business at least 30 days ~~prior to~~**before** the effective date of the change.

(6) When an insurer changes claims processing locations, service companies, or self-administration, the insurer must provide at least 10 days prior notice to workers with open or active claims, their attorneys, and attending physicians. The notice must provide the name of a contact person, telephone number, and **postal** mailing address of the new claim processor. The insurer must also notify the director of which claims will be transferred. The notice to the director must include:

- (a) Contact information for both the sending processor and receiving processor of the claims to include a contact person, telephone number, **postal** mailing address, **e-mail address**, and physical address where the claims are to be processed; and
- (b) A listing of the claims being transferred which identifies the sending processor's claim number, claimant name, and date of injury. The list should also include the employer number and claim file number assigned by the Workers' Compensation Division, if known.

(7) Records every insurer is required to keep in this state include all the written records of the insurer that show its insured employers have complied with ORS 656.017, including the records described by OAR 436-050-0120.

Stat. Auth: ORS 731.475, 656.704, and 656.726(4)

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Stats. Implemented: ORS 731.475

Hist: Amended 6/12/08 as Admin. Order 08-057, eff. 7/1/08
 Amended 9/17/08 as WCD Admin. Order 08-061, eff. 7/1/09

436-050-0160 Applying for Certification as a Self-Insured Employer

(1) An employer applying for certification as a self-insured employer must submit the following information:

(a) An application in a form and format prescribed by the director to become a self-insured employer;

(b) Proof of the employer's claims processing ability by employing and retaining at each claims processing location, at least one person that is actually involved in the claims processing function and is qualified in accordance with OAR 436-055-0070; or by contracting with a service company that will have at least one person qualified in accordance with OAR 436-055-0070, that will be processing the employer's claims in this state, pursuant to ORS 656.455(1);

(c) The employer's audited financial statements or audited annual reports for the last three fiscal or calendar years. If the audited financial statements of a parent company are provided in lieu of statements for the employer, the director will not authorize the individual employer to be self-insured under its own program, unless a parental company guarantee can be obtained. Otherwise, it will be necessary for the parent company to be the self-insured employer or to separately insure the employer. In the context of this section, a parent company is a legal entity which owns a majority interest in the employer, or owns a majority interest in another entity or succession of entities which owns a majority interest in the employer;

(d) The employer's most recently promulgated experience rating modification worksheet and supporting documentation. Applicants with prior Oregon experience who do not submit this data will be assigned a 1.50 experience rating modification pending receipt of the data. All those without prior Oregon experience will be assigned a 1.00 experience rating modification;

(e) The type, retention and limitation levels of excess workers' compensation insurance the employer is planning to obtain as required by OAR 436-050-0170;

(f) If applicable, within 30 days after the date of certification, a service agreement between the employer and service company that has been signed by both parties. The agreement ~~shall~~**must** also contain the location, **postal** mailing address, **general delivery e-mail address**, telephone number, and any other contact information of the service company;

(g) Evidence from a surety bond company, admitted to do surety business in this state, that they will issue a surety bond for the employer, as Principal, and the Oregon Department of Consumer and Business Services, Workers' Compensation Division, as Obligee; or evidence from a qualified bank that they will issue an irrevocable standby letter of credit for the employer with the Oregon Department of Consumer and Business Services, as the beneficiary;

(h) Evidence of an occupational safety and health loss control program in accordance with OAR 437-001 as required by ORS 656.430(10); and

(i) Evidence of authorization to do business in this state pursuant to ORS chapters 58, 60, 62, 63, 65, 67, 70, and 648, as applicable.

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(2) Within 30 days of receipt of all information required in section (1) of this rule, the director will review the application and notify the employer that the request for certification as a self-insured employer is denied and the reasons ~~therefore~~; or, that the employer is qualified as a self-insured employer. If the employer qualifies as a self-insured employer, the notice ~~shall~~**will** include:

- (a) The type and the amount of the security deposit required;
- (b) Approval of the type, retention and limitation levels of the excess insurance; or
- (c) The type, retention and limitation levels of excess insurance required.

(3) If approved, the certification of self-insurance will be issued upon receipt of the security deposit and the appropriate excess insurance binder.

(4) Unless a later date is specified by the applicant, the effective date of certification will be the first day of the month following the date the requirements of section (3) of this rule are met.

(5) Notwithstanding subsection (1)(c) of this rule, an employer making application may submit certified financial statements in lieu of audited financial statements or annual reports. However, the director may require the employer to submit audited financial statements if the certified financial statements submitted are insufficient to evaluate the employer's financial status.

Stat. Auth: ORS 656.430, 656.704, and 656.726(4)

Stats. Implemented: ORS 656.430

Hist: Amended 12/3/03 as WCD Admin. Order 03-062, eff. 1/1/04

436-050-0210 Notice of Self-Insurer's Place of Business in State; Records Self-Insured Must Keep in Oregon

(1) Every employer certified as a self-insured employer ~~shall~~**must** give the director notice of location, **postal** mailing address, **e-mail address**, telephone number, and any other contact information of at least one location in this state where claims will be processed and claim records kept as well as other records as required by this rule and OAR 436-050-0220. The employer ~~shall~~**must** give notice of the location, **postal** mailing address, **e-mail address**, telephone number, and any other contact information upon application for certification.

(2) Notice under section (1) of this rule must:

(a) Include one general delivery e-mail address for the insurer, which may be at any company location worldwide; and

(b) Include contact information for a designated person or position within the company who will assure payment of penalties and resolution of collections issues resulting from orders issued by the director.

~~(2)~~**(3)** With the approval of the director, a self-insured employer may use one or more service companies as authorized by ORS 656.455 instead of establishing its own place of business in this state. To obtain approval or to change or add service locations, the employer ~~shall~~**must** file with the director a copy of the agreement entered into between the employer and each company, and ~~shall~~**must** give the director notice of the location, **postal** mailing address,

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general delivery e-mail address, telephone number, and any other contact information of each service company.

~~(3)~~**(4)** For the purpose of this section, those activities conducted at designated in-state location(s) and by the authorized representative(s) of the self-insured employer ~~shall~~ **must** include, but need not be limited to:

- (a) Processing, and keeping complete records of, claims for compensation;
- (b) Responding to specific claims processing inquiries;
- (c) Keeping records of payments for compensation;
- (d) Keeping of records in a written form, not necessarily original form, and making those records available upon request; and
- (e) Accommodating periodic in-state audits by the director.

~~(4)~~**(5)** If a self-insured employer's ~~or its~~ **or** service company's ~~for a self-insured employer changes its~~ place of business **or contact information will change**, the self-insured employer ~~shall~~ **must** notify the director of the new location, **postal** mailing address, **e-mail address**, telephone number, and any other contact information 30 days ~~prior to~~ **before** the effective date of the change.

~~(5)~~**(6)** When a self-insured employer changes claims processing locations, service companies, or self-administration, the employer must provide at least 10 days prior notice to:

- (a) Workers with open or active claims, their attorneys, and attending physicians. The notice must provide the name of a contact person, telephone number, and **postal** mailing address of the new claim processor;
- (b) The director of which claims will be transferred. The notice must include:
 - (A) Contact information for both the sending processor and receiving processor of the claims to include a contact person, telephone number, **postal** mailing address, **e-mail address**, and physical address where the claims are to be processed; and
 - (B) A listing of the claims being transferred which identifies the sending processor's claim number, claimant name, and date of injury. The list should also include the employer's WCD number and WCD's claim number, if known.

~~(6)~~**(7)** Written records every self-insured employer is required to keep in this state include, but are not limited to, the records described by OAR 436-050-0220.

~~(7)~~**(8)** Notwithstanding section (1) of this rule, the director may approve up to two additional claims processing locations, if the self-insured employer can show:

- (a) That meeting the requirements of section (1) of this rule will impose a financial or operational hardship on the employer;
- (b) That such additional locations will result in improved claims processing performance of the employer; and
- (c) That the auditing functions of the director can be met without unnecessary expense to

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the director.

~~(8)~~**(9)** If, upon review of a self-insured employer's claims processing performance, the performance has not remained at the levels as described in OAR 436-060, approval for additional locations provided in section (6) ~~shall~~**will** be withdrawn.

~~(9)~~**(10)** Notwithstanding section (1) of this rule, a self-insured employer may, with the prior approval of the director, make compensation payments from a single location other than the designated claims processing location. Approval of such a location may be revoked if at any time:

(a) Timeliness of compensation payment falls below the minimum standards as established in OAR 436-060;

(b) Written record of compensation payments is not available; or

(c) There is not sufficient written documentation to support the issuance of a check for compensation.

~~(10)~~**(11)** Notwithstanding section (1) of this rule, a self-insured employer may, with prior approval of the director, have one additional location, in or out of state for maintaining payroll records pertaining to premium assessments and assessment/contributions.

Stat. Auth: ORS 656.455, 656.704 and 656.726(4)

Stats. Implemented: ORS 656.455

Hist: Amended 6/12/08 as Admin. Order 08-057, eff. 7/1/08

436-050-0220 Records Self-Insured Employer Must Keep in Oregon; Period to be Retained, Removal and Disposition

~~(1) A self-insured employer must notify the director of the location, mailing address, telephone number, and any other contact information where records are or will be kept and where claims are or will be processed in Oregon. The self-insured employer must provide the director contact information for a designated person or position within the company who will assure payment of penalties and resolution of collections issues resulting from orders issued by the director. The written records self-insured employers are required to keep in this state to ensure compliance with ORS 656.506, 656.612, 656.614, and 656.622 include:~~

~~(a) A record of payroll by National Council on Compensation Insurance classification; and~~

~~(b) Complete records of all assessments, employer and employee contributions, and all such money due the director.~~

~~(2) The self-insured employer must maintain at a place of business in this state, those written records relating to their safety and health program as required by ORS 656.430(10) and in accordance with OAR 437-001.~~

~~(3) The records of claims for compensation that each self-insured employer is required to keep in this state include, but are not limited to:~~

~~(a) Written records used and relied upon in processing claims;~~

~~(b) A written record of all payments made as a result of any claim including~~

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documentation of the date the payment was mailed. Documentation may be the actual mailing date, or an explanation of the time period between the date of issuance and mailing;

(c) A written record as to whether supplemental temporary disability benefits, as required under ORS 656.210(5) for workers employed in more than one job, were approved or denied; and

(d) A summary sheet for each claim showing all payments made, separated into disability, medical, and vocational assistance payments with cumulative totals. The record of disability payments should be limited to statutory benefits and not include any additional employer obligations. Expenses must not be included in any of the three columns required on the summary sheet. "Expenses" are defined in National Council on Compensation Insurance, Workers' Compensation Statistical Plan, Part IV.

(4) Records of a denied claim may be removed from this state after all the appellate procedures have been exhausted and the denial has been affirmed by operation of law.

(5) Records of any claim for a compensable injury may be removed from this state after the expiration of the aggravation rights or not less than one year following the final payment of compensation, whichever is the last to occur.

(6) Notwithstanding sections (4) and (5) of this rule, if administrative or judicial review is requested, the claim records may not be removed from this state or disposed of until after either the review is concluded and the time for an appeal from such review has expired or at least one year after final payment of compensation has been made, whichever is the last to occur.

(7) During administrative or judicial review, if a denied claim is found to be compensable the records of such claim are thereafter subject to section (5) of this rule.

(8) Claim records may be destroyed when all potential for benefits to the injured worker is gone.

(9) Records retained as required by section (1) of this rule may be removed from the state or destroyed at the end of three full calendar years after the calendar year in which the money was remitted.

Stat. Auth: ORS 656.455, 656.704 and 656.726(4)

Stats. Implemented: ORS 656.455

Hist: Amended 6/12/08 as Admin. Order 08-057, eff. 7/1/08

436-050-0230 Out-of-State Recordkeeping and Claims Processing by Self-Insured Employer; Conditions and Procedure for Permit; Revocation

(1) Notwithstanding OAR 436-050-0220, if a self-insured employer wishes to keep the claims records and process claims at a location outside this state, the employer may apply to the director for permission to do so. The application ~~shall~~ **must** contain the reasons for the request and the location, **postal** mailing address, **e-mail address**, telephone number, and any other contact information where the records will be kept and the claims processed. The application must provide the director contact information for a designated person or position within the company who will assure payment of penalties and resolution of collections issues resulting from orders issued by the director. Upon receipt, the director will review the application and notify the employer that the request has been denied and the reasons ~~therefor~~; or, that the employer will be

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allowed to process claims from outside this state.

(2) The director may grant permission to the self-insured employer unless the employer has committed acts or engaged in a course of conduct that would be grounds for revocation of permission or that are contrary to any of the provisions of section (3) of this rule.

(3) A self-insured employer that keeps claims records and processes claims at a location outside this state ~~shall~~**must**:

- (a) Process claims in an accurate and timely manner;
 - (b) Make reports to the director promptly as required by ORS ~~Chapter~~ 656 and the director's administrative rules;
 - (c) Pay to the director promptly all assessments and other money as it becomes due;
 - (d) Increase or decrease its security deposit promptly when directed to do so by the director pursuant to ORS 656.407(2); and
 - (e) Comply with the rules and orders of the director in processing and paying claims for compensation.
- (4) After notice given as required by ORS 656.455(2), permission granted under this section will be revoked by the director if the employer has committed acts or engaged in a course of conduct that are in violation of any provisions of section (3) of this rule.

(5) A self-insured employer ~~shall~~**must** provide written records which have been removed from this state to the director as requested within a reasonable time not to exceed 14 days or as otherwise negotiated.

Stat. Auth: ORS 656.455, 656.704 and 656.726(4)

Stats. Implemented: ORS 656.455

Hist: Amended 12/5/05 as WCD Admin. Order 05-075, eff. 1/1/06

436-050-0260 Qualifications of a Self-Insured Employer Group

Five or more employers may qualify as a self-insured employer group if the employers as a group:

- (1) Incorporate or are a cooperative pursuant to ORS ~~Chapter~~ 60, 62, or 65. If the group is a governmental subdivision, it must have formed a governmental entity as provided under ORS 190.003 to 190.110;
- (2) Designate a board of trustees and an administrator;
- (3) Demonstrate a combined net worth of \$1 million or more and have excess insurance with a retention of \$100,000 or more; or the combined net worth of the employers as a group may be less than \$1 million if the employers as a group obtain excess insurance with less than a \$100,000 retention, in which case the net worth required may be reduced by the same percentage the retention is reduced below \$100,000;
- (4) Obtain excess insurance coverage of the type and amounts approved by the director;
- (5) Demonstrate that accident prevention is likely to improve through self-insurance;
- (6) Engage an adequate staff pursuant to OAR 436-055-0070 qualified to process claims;

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(7) Develop a method approved by the director to notify the director of:

(a) The commencement or termination of membership by employers in the group, and the effect thereof on the net worth of the employers in the group; and

(b) Whether an employer who terminates membership in the group continues to be a subject employer; and if the employer remains a subject employer what arrangements have been made to continue coverage;

(8) Establish a safety and health loss prevention program as required by OAR 437-001;

(9) Create a common claims fund approved by the director;

(10) Designate an entity within or for the group responsible for centralized claims processing, payroll records, safety requirements, recording and submitting assessments and contributions and making such other reports as the director may require. With the approval of the director, a self-insured employer group may use service companies as authorized by ORS 656.455 instead of establishing its own place of business in this state. To obtain approval or to change or add service locations, the employer group ~~shall~~ **must** file with the director a copy of the agreement entered into between the employer group and each company, and ~~shall~~ **must** give the director notice of the location, **postal** mailing address, **general delivery e-mail address**, telephone number, and any other contact information of each service company;

(11) Establish proof of financial ability by providing a security deposit that the director determines is acceptable in accordance with OAR 436-050-0165; and in an amount as determined in accordance with OAR 436-050-0180; and

(12) Comply with the requirements of OAR 436-050-0165, 436-050-0170, 436-050-0175, 436-050-0180, 436-050-195, 436-050-0200, 436-050-0205, 436-050-0210 and 436-050-0220. Failure to comply with these requirements will result in the actions prescribed in those rules.

(13) Every self-insured employer group ~~shall~~ **must** maintain at least one place of business in this state where the employer processes claims, keeps written records of claims and other records as required by OAR 436-050-0210 to 436-050-0220.

(14) Failure of a certified self-insured employer group to maintain the qualifications required in this rule ~~shall~~ **will** result in revocation of the self-insured employer group's certification. The group will be given 30 days written notice of the intent to revoke the self-insured certification, to be effective 30 days from the date of receipt of the revocation notice. If the self-insured employer group complies with the qualification requirements within the 30-day period, the revocation will be canceled and the certification will remain in effect.

Stat. Auth: ORS 656.407, 656.430, 656.704 and 656.726(4)

Stats. Implemented: ORS 656.407 and 656.430

Hist: Amended 12/3/03 as WCD Admin. Order 03-062, eff. 1/1/04