

DEPARTMENT OF INSURANCE AND FINANCE
WORKERS' COMPENSATION DIVISION
EMPLOYER/INSURER COVERAGE RESPONSIBILITY

EXHIBIT "A"
TEMPORARY OREGON ADMINISTRATIVE RULES
CHAPTER 436, DIVISION 50, RULE 050

EFFECTIVE JULY 1, 1990

436-50-050 Corporate Officers, Partnerships; Subjectivity

(1) A corporate officer who is also a director of the corporation and has a substantial ownership interest in the corporation, regardless of the nature of the work performed by such officer, is a nonsubject worker pursuant to ORS 656.027(9). [For the purpose of identifying noncomplying employers and subject workers:

(a) "Director" means a person authorized to serve as a director by the incorporators in the Articles of Incorporation or elected and qualified as a director in accordance with the Articles of Incorporation or by laws; and

(b) "Substantial ownership" means a percentage of ownership equal to or greater than the average percentage of ownership of all stockholders or 10 percent, whichever is less.]

(2) Notwithstanding section (1) of this rule, if the activities of the corporation involve the commercial harvest of timber or building and construction, the following provisions apply:

(a) The maximum number of exempt corporate officers for the corporation shall be whichever is the greater of the following:

(A) Two corporate officers; or

(B) One corporate officer for each 10 corporate employees.

(b) If a corporation has a variable or fluctuating number of employees, the number of corporate employees for purposes of section (2)(a)(B) of this rule is the average number of full time equivalent corporate employees on the last day of each calendar month of the preceding calendar year.

(c) Each corporation with more than two (2) eligible officers shall designate which of its eligible officers are to be exempt from coverage. An insured corporation shall file this designation with its insurer. A self-insured corporation shall file this designation with the Department. If a corporation with more than two (2) eligible officers does not designate which of its officers are exempt from coverage or if a corporation is noncomplying, then the corporation's exempt officers shall be determined in the order of the following list:

(A) President;

(B) Secretary, if any;

(C) Vice President, if any;

(D) Secretary-Treasurer, if any;

(E) Treasurer, if any;

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WORKERS' COMPENSATION DIVISION
EMPLOYER/INSURER COVERAGE RESPONSIBILITY

(F) All Other Officers, if any.

(d) If there is more than one person in any of the offices listed in section (2)(c)(A) through (F) of this rule, the sequence of those persons will be determined by order of birth, with the youngest first and the oldest last.

(e) Noncomplying corporations, regardless of the number of employees, are limited to two (2) exempt officers, to be determined in accordance with section (2)(c) of this rule.

(f) For the purposes of sections (1) and (2) of this rule:

(A) "Building and construction" means construction, alteration, repair, improvement, moving or demolition of an improvement on real property or appurtenances thereto.

(B) "Director" means a person authorized to serve as a director by the incorporators in the Articles of Incorporation or elected and qualified as a director in accordance with the Articles of Incorporation or bylaws.

(C) "Eligible officer" means a corporate officer who is also a director of the corporation and who has a substantial ownership interest in the corporation, provided however that the total number of eligible officers in a corporation cannot exceed the number set forth in section (2)(a) of this rule.

(D) "Noncomplying" means an employing corporation of subject workers which is in violation of ORS 656.017(1).

(E) "Substantial ownership" means a percentage of ownership equal to or greater than the average percentage of ownership of all stockholders or 10 percent, whichever is less.

[(2)] **(3)** Notwithstanding section (1) of this rule, if the activities of the corporation are conducted on land that receives farm use tax assessment, all individuals identified as directors in the corporate bylaws are nonsubject workers pursuant to ORS 656.027(9), regardless of ownership interest, provided the directors are members of the same family, whether related by blood, marriage or adoption.

[(3)] (4) Partners, when engaged in work in direct connection with the construction, alteration, repair, improvement, moving or demolition of an improvement on real property or appurtenances thereto, are subject workers. For the purposes of this section:

(a) "Engaged" means to physically take part in the work involved.

(b) "Direct connection" means any activity which must be accomplished before the project on the real property is completed.

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