

DEPARTMENT OF INSURANCE AND FINANCE
 WORKERS' COMPENSATION DIVISION
 PREMIUM ASSESSMENT; ASSESSMENTS/CONTRIBUTIONS

Revision-marked copy

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

EFFECTIVE JANUARY 1, 1992

OREGON ADMINISTRATIVE RULES
 CHAPTER 436, DIVISION 085

ADMINISTRATIVE ORDER NO. 15-1991

TABLE OF CONTENTS

RULE	PAGE
436-85-003	Applicability of Rules 1
436-85-008	Administrative Review 1
436-85-010	Assessments/Contributions; Manner and Intervals for Payment: Insurers, Self-Insured Employers and Self-Insured Employer Groups 2
436-85-025	Premium Assessment; Manner and Intervals for Payments: Insurers 3
436-85-060	Assessment of Civil Penalties 4
436-85-065	Issuance/Service of Penalty Orders 4

436-85-003 Applicability of Rules

These rules are effective January 1, [1991]1992 to carry out provisions of:

- (1) ORS 656.506 - Workday Assessment/Contribution payable by workers and employers.
- (2) ORS 656.538 - Assessment for Handicapped Workers Reserve.
- (3) ORS 656.612 - Insurance and Finance Fund; purpose, administration, assessments and collections.
- (4) ORS 656.614 - Self-Insured Employers Adjustment Reserve; Self-Insured Employer Group Adjustment Reserve.
- (5) ORS 656.532 - Assessment for Reopened Claims Reserve.
- (6) ORS 656.745 - Civil penalty for inducing failure to report claims; failure to pay assessments; failure to comply with Director rules or orders; amount; procedure.

Hist: Filed 12/9/85 as WCD Admin. Order 5-1985, eff. 1/1/86.
 Amended 12/18/87 as WCD Admin. Order 5-1987, eff. 1/1/88.
 Amended 11/29/90 as WCD Admin. Order 24-1990, eff. 1/1/91.
Amended 12/13/91 as WCD Admin. Order 15-1991, eff. 1/1/92.

436-85-008 Administrative Review

(1) Any party as defined by ORS 656.005(20) aggrieved by a proposed order or proposed assessment of civil penalty of the [d]Director or division issued pursuant to ORS 656.745 or

**DEPARTMENT OF INSURANCE AND FINANCE
WORKERS' COMPENSATION DIVISION
PREMIUM ASSESSMENT; ASSESSMENTS/CONTRIBUTIONS**

656.750 may request a hearing by the Hearings Division of the Workers' Compensation Board in accordance with ORS 656.740.

(a) The request for hearing must be sent in writing to the [administrator of the Workers' Compensation Division]**Director**. No hearing shall be granted unless the request specifies the grounds upon which the person requesting said hearing contests the proposed order or assessment.

(b) The request for hearing must be filed with the [administrator of the Workers' Compensation Division]**Director** within twenty (20) days of receipt by the aggrieved person of notice of the proposed order or assessment. No hearing shall be granted unless the request is received by the administrator within said twenty (20) days of receipt of notice.

(2) Any party as described in section (1) aggrieved by an action or order of the [a]**Director** or division pursuant to these rules, other than as described in section (1), where such action or order qualifies for review by hearing before the [a]**Director** as a contested case, may request review pursuant to ORS 183.310 through 183.550 as modified by these rules pursuant to ORS 183.315(1). When the matter qualifies for review as a contested case, the process for review shall be as follows:

(a) The request for hearing must be sent in writing to the [administrator of the Workers' Compensation Division]**Director**. No hearing shall be granted unless the request specifies the grounds upon which the action or order is contested and is received by the [administrator]**Director** within thirty (30) days of the action or from the date of mailing or other service of an order.

(b) The hearing shall be conducted by the [a]**Director** or the [a]**Director's** designee.

(c) Any order in a contested case issued by another person on behalf of the [a]**Director** is a proposed order subject to revision by the [a]**Director**. The [a]**Director** may allow objections to the proposed order to be filed for the [a]**Director's** consideration within thirty (30) days of issuance of the proposed order.

Hist: Filed 12/9/85 as WCD Admin. Order 5-1985, eff. 1/1/86.
Amended 12/18/87 as WCD Admin. Order 5-1987, eff. 1/1/88.
Amended 11/29/90 as WCD Admin. Order 24-1990, eff. 1/1/91.
Amended 12/13/91 as WCD Admin. Order 15-1991, eff. 1/1/92.

**436-85-010 Assessments/Contributions; Manner and Intervals for Payment:
Insurers, Self-Insured Employers and Self-Insured Employer Groups**

(1) In lieu of paying assessments/contributions directly to the Department, an insured employer shall pay such money to the employer's insurer for remittance to the Department.

(2) The reporting frequency period established on the guaranty contract or any changes thereto will be the controlling factor in the payment and remittance of assessment/contribution moneys. For the purposes of this section, the reporting frequency period will end on the last day of the calendar quarter.

(3) Assessment/contribution moneys due the Department shall be paid and remitted as follows:

(a) Within [30 days following the last day] **one month** of the employer's reporting frequency period, the employer shall report and remit assessment/contribution moneys to the employer's

**DEPARTMENT OF INSURANCE AND FINANCE
WORKERS' COMPENSATION DIVISION
PREMIUM ASSESSMENT; ASSESSMENTS/CONTRIBUTIONS**

insurer in the manner and form prescribed by the insurer.

(b) Within [45 days following the end of] **two months after** each calendar quarter, the insurer shall report and pay those moneys due the Department for those employers whose reporting frequency period ends during or at the end of the calendar quarter.

(c) An insurer shall submit a report to the Department along with the money due the Department under this rule. A separate report and remittance check shall be submitted for each insurer, including each insurer operating within a group of insurance companies. The report shall be in the form and format and contain such other information as the Director may prescribe.

(4) When reporting in accordance with section (3) (a) an employer for bookkeeping convenience may, unless the worker objects, withhold a fixed sum per month from salaried workers employed by the month in lieu of deducting the designated amount for each day of employment. This option is also applicable to employers' assessments. If this method is used for worker's contributions, it must also be used for employer's assessments and vice versa. The amount to be remitted for worker's contributions and employer's assessments on a monthly basis will be equal to 20 times the applicable daily rate.

(5) Failure of the employer to report and remit moneys due the Department under this rule does not relieve the insurers of their responsibility to report and pay those moneys due the Department.

(6) Notwithstanding the requirements of this section, a self-insured employer or self-insured employer group shall remit moneys due the Department under this rule within [30 days following the end of] **one month after** each calendar quarter. The money due under this rule shall be remitted and reported in a manner prescribed by the Director.

Hist: Filed 12/19/75 as WCB Admin. Order 18-1975, eff. 1/1/76 as Rule 436-55-050
Amended 4/2/80 as WCD Admin. Order 3-1980, eff 4/2/80
Amended 2/10/82 as WCD Admin. Order 4-1982, eff. 2/15/82
Amended 6/30/83 as WCD Admin. Order 1-1983, eff. 7/1/83
Amended 12/22/83 as WCD Admin. Order 7-1983, eff. 12/27/83
Renumbered from OAR 436-51, January 1, 1986
Amended 12/9/85 as WCD Admin. Order 5-1985, eff. 1/1/86
Amended 12/18/87 as WCD Admin. Order 5-1987, eff. 1/1/88
Amended 11/29/90 as WCD Admin. Order 24-1990, eff. 1/1/91
Amended 12/13/91 as WCD Admin. Order 15-1991, eff. 1/1/92

436-85-025 Premium Assessment; Manner and Intervals for Payments: Insurers

Insurers shall report and remit premium assessment moneys to the Department as follows:

(1) Within 45 days [following the last day of] **after** a calendar quarter, the insurer shall report and remit premium assessment based upon the insurer's direct earned premium for that quarter. **Premium assessments based on premium earned for periods after January 1, 1986, are to be calculated at the current premium assessment rate.**

(2) Premium earned for periods prior to January 1, 1986 but established after that date shall be reported separately. All such periods shall be reported and adjusted at the premium assessment rate in effect at the beginning of the insured's policy period.

**DEPARTMENT OF INSURANCE AND FINANCE
WORKERS' COMPENSATION DIVISION
PREMIUM ASSESSMENT; ASSESSMENTS/CONTRIBUTIONS**

(3) Earned premium reported by insurers will be final except for adjustments made as a result of audits by the Insurance Division. All such adjustments will be made at the premium assessment rate, or rates, in effect for the year being adjusted.

(4) A separate report and remittance check shall be submitted for each insurer, including each insurer operating within a group of insurance companies.

(5) The Director, by way of bulletin, shall prescribe the form and format and other contents of the report as well as the method and manner of computing the assessment amounts.

(6) The insurer shall maintain sufficient documentation to support the direct earned premium reported to the Department and any adjustments thereto. The documentation shall be to the extent necessary for the Department to verify the amount reported or adjusted.

(7) For the purpose of this rule, "earned premium" shall be the amount reported to the Oregon Insurance Division on Page 14, Column 3, Line 16 of the Annual Statement, exclusive of Longshore and Harbor Workers', Federal Employers Liability, Jones Acts, Employer Liability premium, and Excess Coverage premium. These premiums:

(a) Exclude reinsurance accepted and are without deduction of reinsurance ceded, and

(b) Are after application of experience rating, premium discounts, retrospective rating, or other individual risk rating adjustments, and are exclusive of deposit premiums.

Hist: Filed 12/9/85 as WCD Admin. Order 5-1985, eff. 1/1/86.
Amended 12/18/87 as WCD Admin. Order 5-1987, eff. 1/1/88.
Amended 11/29/90 as WCD Admin. Order 24-1990, eff. 1/1/91.
Amended 12/13/91 as WCD Admin. Order 15-1991, eff. 1/1/92.

436-85-060 Assessment of Civil Penalties

(1) The Director [through Compliance and] pursuant to ORS 656.745 and 656.750, may assess a civil penalty against an employer, insurer, self-insured employer or self-insured employer group.

(2) A self-insured employer or self-insured employer group may be assessed a civil penalty of up to \$250 a day for each day a violation continues, for failure to comply with ORS 656.455.

(3) An employer, insurer, self-insured employer or self-insured employer group may be assessed a civil penalty of up to \$1,000 for failure to pay premium assessments, assessments/contributions or other payments due the Director under ORS Chapter 656 and is in default.

(4) Each violation or each day a violation continues, shall be considered a separate violation subject to the penalty provisions of this rule.

Hist: Filed 12/9/85 as WCD Admin. Order 5-1985, eff. 1/1/86.
Amended 12/18/87 as WCD Admin. Order 5-1987, eff. 1/1/88.
Amended 12/13/91 as WCD Admin. Order 15-1991, eff. 1/1/92.

436-85-065 Issuance/Service of Penalty Orders

(1) When [Compliance] **the Director** imposes a penalty under provisions of 85-060, the Order, including a notice of the party's appeal rights, shall be served on the party.

DEPARTMENT OF INSURANCE AND FINANCE
WORKERS' COMPENSATION DIVISION
PREMIUM ASSESSMENT; ASSESSMENTS/CONTRIBUTIONS

(2) The Order shall be served by:

(a) Delivering a copy to the party in the manner provided by Rule 7 of Oregon Rules of Civil Procedure, subsection (D)(2); or

(b) Sending a copy to the party by certified mail with instructions to deliver to the addressee only, return receipt requested. If the employer is a corporation, the certified mail may be addressed to any one of the persons named in Rule 7 of Oregon Rules of Civil Procedure D (3)(b)(i).

(3) Orders of [Compliance] **the Director** issued pursuant to these rules shall contain the following notice:

IF YOU DISAGREE WITH THIS ORDER, YOU MAY REQUEST A HEARING. YOUR REQUEST MUST BE IN WRITING, DIRECTED TO THE [WORKERS' COMPENSATION DIVISION] **FISCAL SERVICES SECTION**, DEPARTMENT OF INSURANCE AND FINANCE, **21** LABOR AND INDUSTRIES BUILDING, SALEM, OREGON 97310. THE REQUEST MUST SPECIFY THE GROUNDS UPON WHICH YOU CONTEST THE ORDER. THE REQUEST FOR HEARING MUST BE RECEIVED BY THE DEPARTMENT WITHIN 20 CALENDAR DAYS AFTER YOU RECEIVE THIS ORDER. IF YOU DO NOT FILE A REQUEST FOR A HEARING WITHIN THE TIME ALLOWED, THIS ORDER WILL BECOME FINAL AND WILL NOT BE SUBJECT TO REVIEW BY ANY AGENCY OR COURT.[²]

Hist: Filed 12/9/85 as WCD Admin. Order 5-1985, eff. 1/1/86.
Amended 12/18/87 as WCD Admin. Order 5-1987, eff. 1/1/88.
Amended 12/13/91 as WCD Admin. Order 15-1991, eff. 1/1/92.