



**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 436  
**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**  
**WORKERS' COMPENSATION DIVISION**

**FILED**

09/24/2025 11:57 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Implementation of SB 904 (2025), changes to OAR 436-050 Employer/Insurer Coverage Responsibility

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/23/2025 11:55 PM

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

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Filed By:  
Marie Rogers  
Rules Coordinator

**HEARING(S)**

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 10/16/2025

TIME: 1:00 PM

OFFICER: Marie Rogers

**REMOTE HEARING DETAILS**

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 1-503-446-4951

CONFERENCE ID: 247317921808

SPECIAL INSTRUCTIONS:

Virtual only

**NEED FOR THE RULE(S)**

The amendments are needed to ensure that the division is able to revoke the self-insurance certification of a self-insured employer on a timely basis when the employer's security expires without being replaced. The amendments are also needed to implement 2025 legislation allowing self-insured public school districts to apply for exemption from security deposit requirements.

**DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE**

Rulemaking advisory committee records and any written advice. These documents are available for public inspection upon request to the Workers' Compensation Division, 350 Winter Street NE, Salem, Oregon 97301-3879. Please contact Marie Rogers, rules coordinator, 971-286-0316, WCD.Policy@dcbs.oregon.gov.

**STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE**

The proposed rule amendments affect procedures for self-insured employer and self-insured employer groups, and should not have any direct impacts on Oregon workers. However, workers are indirectly affected when a self-insured employer or group defaults or is unable to make payment. Interruptions in benefits may have a greater impact on some racial groups than others. To the extent the proposed rule amendments ensure that security deposit funds are readily available to pay a defaulted self-insured employer's claims, the rules may promote racial equity in Oregon. The agency does not have sufficient data to estimate specific effects on racial equity, but invites public input.

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FISCAL AND ECONOMIC IMPACT:

The agency projects the proposed rule amendments, if adopted, will not affect the agency's cost to carry out its responsibilities under ORS chapter 656 and OAR chapter 436. Possible impacts on stakeholders are included under "Statement of Cost of Compliance" below.

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COST OF COMPLIANCE:

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

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

- a. The agency estimates that proposed rule changes will not increase or decrease costs to state agencies for compliance with the rules.
- b. The agency estimates that proposed rule changes will not increase or decrease costs to units of local government for compliance with the rules, but the agency invites testimony regarding costs.
- c. The agency estimates that proposed rule changes should not significantly increase or decrease costs to the public for compliance with the rules, but the agency invites testimony regarding costs.

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

- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: The businesses affected by the proposed rule amendments are self-insured employers and self-insured employer groups, which are usually not small employers as defined in ORS 183.310.
  - b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: The agency estimates that adoption of the proposed amendments will not increase or decrease costs to small businesses for reporting, recordkeeping, other administrative activities, or professional services required for compliance.
  - c. Equipment, supplies, labor and increased administration required for compliance: The agency estimates that adoption of the proposed amendments will not increase or decrease costs to small businesses for equipment, supplies, labor, or increased administration required for compliance.
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DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The agency sent rule advisory committee invitations to more than 4,500 stakeholders, including representatives of small businesses.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

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RULES PROPOSED:

436-050-0008, 436-050-0110, 436-050-0165, 436-050-0175, 436-050-0180, 436-050-0185, 436-050-0210

AMEND: 436-050-0008

RULE SUMMARY: OAR 0008 is amended to clarify the process a self-insured employer must follow when appealing the revocation of its self-insurance.

CHANGES TO RULE:

436-050-0008

Requests for Hearings or Administrative Review ¶

(1) Request for hearing on an action concerning a worker's right to compensation. Any party, or assigned claims agent, that disagrees with an action taken under these rules that concerns a worker's right to compensation, or the amount of compensation due, may request a hearing by the board under ORS chapter 656 and OAR chapter 438.¶

(2) Request for hearing on proposed revocation of a self-insurance certification. A self-insured employer, or self-insured employer group, that disagrees with a proposed order revoking its certification under ORS 656.430 to 656.440 may request a hearing. To request a hearing, the self-insured employer or self-insured employer group must:¶

(a) Mail or deliver a written request to the division within 10 days of the date it receives the proposed order, or within 30 days of an order subject to ORS 656.430(9); and¶

(b) Specify, in the request, the reasons why the self-insured employer or self-insured employer group disagrees with the proposed order.¶

(3) Request for hearing on proposed sanctions or civil penalties. Any party, or assigned claims agent, that disagrees with a proposed order, or proposed assessment of civil penalty, of the director issued under ORS 656.254, 656.735, or 656.745 may request a hearing ~~by the board~~. To request a hearing, the party or assigned claims agent must:¶

(a) Mail or deliver a written request to the division within 60 days of the mailing date of the proposed order or assessment; and¶

(b) Specify, in the request, the reasons why the party or assigned claims agent disagrees with the proposed order or assessment.¶

(34) Request for administrative review. Any party, or assigned claims agent, that disagrees with an action taken under these rules other than as described in section (1), (2), or (3) of this rule may request the director to conduct an administrative review of the action.¶

(a) To request administrative review, the party or assigned claims agent must:¶

(A) Mail or deliver a written request for review to the division within 90 days of the contested action; and¶

(B) Specify, in the request, the reasons why the party or assigned claims agent disagrees with the action.¶

(b) Requests mailed more than 90 days after the contested action may be considered if the director determines there was good cause for delay, or that substantial injustice may otherwise result.¶

(45) Request for hearing on an action not concerning a worker's right to compensation. Any party, or assigned claims agent, that disagrees with an action or order of the director under these rules other than as described in section (1), (2), or (23) of this rule may request a hearing by filing a request under OAR 436-001-0019 within 30 days of the mailing date of the order or notice of action. OAR 436-001 applies to the hearing.

Statutory/Other Authority: ORS 656.704, 656.726(4)

Statutes/Other Implemented: ORS 656.704, ORS 656.254, 656.704, 656.735, 656.740, 656.745

AMEND: 436-050-0110

RULE SUMMARY: OAR 0110 is amended to make the rule title clearer.

CHANGES TO RULE:

436-050-0110

Notice of Insurers or Service Company's Place of Business in State; Records Insurer Must Maintain ¶¶

(1) Oregon claims processing location required. Except as described in section (4) of this rule, every insurer that is authorized to issue workers' compensation policies to Oregon subject employers must establish and maintain at least one designated Oregon claims processing location as required by ORS 731.475, subject to the following:¶¶

(a) The insurer must conduct all claims processing activities necessary to meet the requirements of ORS chapter 656 and OAR chapter 436 from its designated claims processing locations, including, but not limited to:¶¶

(A) Processing claims;¶¶

(B) Making available all records required under OAR 436-050-0120; and¶¶

(C) Responding to specific claims processing inquiries;¶¶

(b) At the director's request, the insurer must:¶¶

(A) Make claims processing locations accessible during regular business hours or other reasonable times to accommodate periodic audits and examination of records; or¶¶

(B) Provide the director electronic access to the records to be audited or examined.¶¶

(c) The insurer may process claims subject to ORS chapter 656 remotely. As used in this subsection, to "process claims remotely" means to process claims outside of an insurer's Oregon claims processing location, including at the place of residence of an employee of the insurer, as directed from the Oregon claims processing location.¶¶

(A) The insurer may not process claims at places of business outside of Oregon that are maintained or operated by the insurer or a service company, except as follows:¶¶

(i) The insurer may receive claim reports at locations outside of Oregon if claims are forwarded to an Oregon claims processing location for processing; and¶¶

(ii) Payments may be made from outside of Oregon as directed from the Oregon claims processing location.¶¶

(B) The director may suspend an insurer's authority to process claims remotely, subject to the following:¶¶

(i) The director may suspend an insurer's authority to process claims remotely when:¶¶

(I) The director finds the insurer has repeatedly violated ORS chapter 656 or OAR chapter 436; and¶¶

(II) The director has reason to believe that the violations are related to the insurer's practice of processing claims remotely.¶¶

(ii) The director will not suspend an insurer's authority to process claims remotely until the insurer has been given notice and the opportunity to be heard through a show-cause hearing with the director. During the show-cause hearing, the insurer will be provided an opportunity to:¶¶

(I) Present evidence regarding the proposed order to suspend the insurer's authority to process claims remotely; and¶¶

(II) Give reason why the insurer should be permitted to continue processing claims remotely.¶¶

(iii) If the director suspends an insurer's authority to process claims remotely, the insurer may not process claims remotely for a specified period of time, up to two years.¶¶

(iv) The insurer may request the director restore the insurer's authority to process claims remotely by submitting a plan demonstrating its ability and commitment to comply with ORS chapter 656 and OAR chapter 436.¶¶

(v) The insurer may request a hearing on an order of suspension issued under this rule under OAR 436-050-0008(4).¶¶

(2) Notice of insurer's business in Oregon. The insurer must give the director notice of its business in Oregon, subject to the following:¶¶

(a) The notice must be filed with the director not more than 30 days after the insurer is authorized and starts writing workers' compensation insurance policies for Oregon subject employers;¶¶

(b) The notice must include:¶¶

(A) The insurer's:¶¶

(i) Legal name;¶¶

(ii) Federal Employer Identification Number;¶¶

(iii) Identification numbers assigned by the National Association of Insurance Commissioners and the National Council on Compensation Insurance; and¶¶

(iv) Certificate of Authority number issued by the director;¶¶

(B) The insurer's principal place of business, including its street and mailing addresses, telephone number, and a general email address that is monitored on a regular basis, where the director can direct general inquiries;¶¶

(C) A primary contact at the insurer's principal place of business, including the contact's name, title, phone

number, fax number, and email address;¶

(D) If the insurer maintains an Oregon claims processing location:¶

(i) The street and mailing addresses, and telephone number of the claims processing location; and¶

(ii) The name, title, phone number, fax number, and email address of a primary contact for the claims processing location;¶

(E) Contact information for:¶

(i) A designated person or position within the company who will assure payment of penalties and resolution of collections issues; and¶

(ii) A designated person or position within the company who can respond to workers' compensation policy and proof of coverage filing inquiries;¶

(F) If the insurer uses more than one Oregon claims processing location, or locations operated by service companies as described in section (4) of this rule:¶

(i) The name of each service company, if applicable;¶

(ii) The street and mailing addresses of each claims processing location; and¶

(iii) The name, title, phone number, and email address of a contact person at each claims processing location; and¶

(G) Any other information requested by the director;¶

(c) The information provided under this section must reasonably lead an inquirer to an Oregon certified claims examiner who can respond to inquiries regarding workers' compensation policies, claim filing, claims processing, and claims processing location information within 48 hours, not including weekends or legal holidays; and¶

(d) The insurer may use Form 1352, "Insurer's notification of business in Oregon," to satisfy the requirement of this section.¶

(3) Changes in information. An insurer must notify the director of a change in any of the information required under section (2) of this rule, subject to the following:¶

(a) The notice must be filed at least 30 days before the effective date of the change; and¶

(b) The insurer may use Form 5188, "Insurer Contact Update," to satisfy the requirements of this section.¶

(4) Service companies. In lieu of, or in addition to, establishing and maintaining its own claims processing locations in Oregon, the insurer may use Oregon claims processing locations operated by service companies to satisfy the requirements of section (1) of this rule. If an insurer elects to use claims processing locations operated by one or more service companies with respect to all or any portion of its business:¶

(a) Each service company must be incorporated in or authorized to do business in Oregon;¶

(b) The insurer must provide the director with a copy of the service agreement between the insurer and each service company for approval. The director must approve the service agreement before the service company begins processing the insurer's Oregon claims, regardless of the agreement's effective date. To be approved, the service agreement must:¶

(A) Be an agreement for claims processing services between the underwriting insurer and a service company, and must not be between any other third parties;¶

(B) Identify the insurer by company name, or if the agreement includes multiple insurers related by ownership, by the name of the group if it includes all affiliates;¶

(C) Identify the service company by name;¶

(D) Describe the claims processing services to be provided;¶

(E) Identify the effective date of the agreement;¶

(F) Identify the termination date of the agreement, if any;¶

(G) Grant the service company a power of attorney to act for the insurer in workers' compensation coverage and claims proceedings under ORS chapter 656, subject to the following:¶

(i) The power of attorney must be effective the same date of the service agreement;¶

(ii) The power of attorney must not be revocable before all claims processing services provided under the service agreement have concluded;¶

(iii) The power of attorney must be applicable to all claims processed under the agreement, and may not have unspecified limitations; and¶

(iv) The service agreement must use language that clearly grants power of attorney to the service company, such as the words "power of attorney" or "attorney-in-fact"; and¶

(H) Contain only those provisions for workers' compensation activities that are allowed in Oregon, subject to the following:¶

(i) The director may approve an agreement that contains provisions for activities not allowed in Oregon if the agreement or an addendum provides that any services or provisions not allowed under Oregon workers' compensation law will not be applied when processing Oregon claims; and¶

(ii) The director may require existing agreements that contain provisions for activities not allowed in Oregon to be amended accordingly;¶

(c) Each service company must notify the director of its business in Oregon, subject to the following:¶

(A) The notice must include the service company's location, mailing address, telephone number, email address, and any other contact information requested by the director;¶¶

(B) The notice must be filed before the insurer begins using a place of business operated by the service company as a claims processing location; and¶¶

(C) The service company may use Form 4929, "Service Company's Notification of Business in Oregon," to satisfy the requirements of this subsection; and¶¶

(d) The insurer or service company must notify the director of a change in any of the information required under subsection (4)(c) of this rule, subject to the following:¶¶

(A) The notice must be filed at least 30 days before the effective date of the change; and¶¶

(B) The insurer may use Form 5215, "Service Company Contact Update," to satisfy the requirements of this subsection.¶¶

(5) Limit on claims processing locations. The insurer may not have more than eight Oregon claims processing locations at any time. For the purposes of this section:¶¶

(a) Each of the following is considered to be one claims processing location:¶¶

(A) Each physical location where the insurer processes claims or maintains records; and¶¶

(B) Each physical location where a service company processes the insurer's claims or maintains records; and¶¶

(b) If more than one entity, including the insurer or a service company, processes claims at the same physical location, each entity must be counted as a separate claims processing location.¶¶

(6) Changes in claims processing locations. If an insurer intends to change the location where claims are processed or records of claims are stored, the insurer must, at least 10 days before the change is effective:¶¶

(a) Provide notice of the change to any worker, the estate of any deceased worker, or any worker's beneficiary, with an open or active claim that will be processed at the new location, subject to the following:¶¶

(A) The notice must include contact information for the new claims processing location, including the name and title of a contact person, telephone number, email address, and mailing address; and¶¶

(B) The insurer must send a copy of the notice to the worker's attorney, if the worker is represented, and to the worker's attending physician;¶¶

(b) Provide notice of the change to the director, subject to the following:¶¶

(A) The notice must include:¶¶

(i) Contact information for the current claims processing location, including the name of the claims processor, the name and title of a contact person, mailing address, telephone number, and email address;¶¶

(ii) Contact information for the new claims processing location, including the name of the claims processor, the name and title of a contact person, street and mailing address, if different, telephone number, and email address;¶¶

(iii) The effective date of the transfer; and¶¶

(iv) Any other information requested by the director; and¶¶

(B) The notice must specify if all or a portion of the insurer's claims will be transferred, and if closed and denied claims will be included. If only a portion of the insurer's claims will be transferred, the notice must include a listing of the claims being transferred that identifies, for each claim:¶¶

(i) The underwriting insurer;¶¶

(ii) The employer;¶¶

(iii) The claimant's name;¶¶

(iv) The date of injury; and¶¶

(v) The sending processor's claim number; and¶¶

(c) The insurer may use Form 5042, "Claim Move Notice," to satisfy the requirements of this section.

Statutory/Other Authority: ORS 731.475, ORS 656.726(4)

Statutes/Other Implemented: ORS 731.475

AMEND: 436-050-0165

RULE SUMMARY: OAR 0165 is amended to:

- Clarify the obligations of a bank that issues a confirming ISLOC; and
- Provide that when a self-insured employer's security is terminated or nonrenewed by the issuing surety company or bank, the employer must replace its security at least 15 days before it expires.

CHANGES TO RULE:

436-050-0165

Security Deposit Requirements ¶¶

(1) Adoption of standards. The director adopts, by reference, the International Standby Practices 1998 (ISP98), ICC Publication No. 590.¶¶

(a) This publication may be purchased from the International Chamber of Commerce website at <https://2go.iccwbo.org/>; and¶¶

(b) Copies of this publication are available for review during regular business hours at the Workers' Compensation Division, 350 Winter Street NE, Salem OR 97301.¶¶

(2) Required security deposit. Each self-insured employer is required to provide a security deposit that is acceptable to the director as detailed in Bulletin 147. Under the conditions and requirements of this rule, the director may accept:¶¶

(a) An irrevocable standby letter of credit (ISLOC); or¶¶

(b) A surety bond.¶¶

(3) Irrevocable standby letters of credit. An ISLOC may be accepted by the director as all or part of the security deposit.¶¶

(a) The director may accept the ISLOC under the following conditions:¶¶

(A) The ISLOC is issued or confirmed by an Oregon state-chartered bank or a federally chartered bank from which funds will be immediately payable on demand;¶¶

(B) Except for federally chartered instrumentalities of the United States operating under the authority of the Farm Credit Act of 1971, as amended, the issuing bank has a long-term certificate of deposit rating of:¶¶

(i) "A" or better issued by Moody's Investors Service Inc.; or¶¶

(ii) "A" or better issued by S&P Global Ratings;¶¶

(C) An ISLOC issued by a bank that does not meet the rating requirement of paragraph (B) at the time of issuance will only be accepted with a confirming ISLOC issued by an Oregon state-chartered bank or federally chartered bank that meets the rating requirement of paragraph (B). The confirming ISLOC must state that the confirming bank is primarily obligated to pay on demand any amount up to the full amount of the ISLOC regardless of reimbursement from the bank whose ISLOC is being confirmed;¶¶

(D) Form 3640, "Irrevocable Standby Letter of Credit," is used for the ISLOC;¶¶

(E) The ISLOC is issued under the legal name or assumed business name of the self-insured employer as registered with the Oregon Secretary of State;¶¶

(F) The ISLOC names the State of Oregon, acting by and through the Department of Consumer and Business Services, as its beneficiary;¶¶

(G) The ISLOC allows the beneficiary to demand payment immediately if the self-insured employer has:¶¶

(i) Defaulted in payment of its workers' compensation liabilities or obligations, or in payments due to the director under ORS chapter 656;¶¶

(ii) Filed for bankruptcy;¶¶

(iii) Failed to renew the ISLOC or provide acceptable substitute security at least 15 days before the expiration date of the ISLOC; or¶¶

(iv) Failed to provide additional or replacement security after being ordered to do so by the director, notwithstanding written notice to the self-insured employer;¶¶

(H) The ISLOC states that:¶¶

(i) The funds provided by the ISLOC will be available by presentation of the beneficiary's sight draft drawn on the issuing bank, payable within three business days, when accompanied by one of the statements contained in paragraph (G) of this subsection, signed by the director;¶¶

(ii) The ISLOC is not subject to any qualifications or conditions by the issuing bank or confirming bank and is each bank's individual obligation, which is in no way contingent upon reimbursement;¶¶

(iii) The ISLOC will be automatically extended without amendment for one year from the expiration date or any subsequent expiration date, unless, at least 60 days before the expiration date, the bank gives the director written notice by registered mail or overnight delivery that the bank has elected not to extend the ISLOC for another

period;¶

(iv) If the issuing bank or any confirming bank is closed at the time of expiration of the ISLOC for any reason that would prevent delivery of a demand notice during its normal hours of operation, the ISLOC will be automatically extended for a period of 30 days commencing on the next day of operation;¶

(v) Payment of any amount under the ISLOC will be made by wire transfer to a department account with the State Treasurer at a designated bank, as instructed in the demand notice;¶

(vi) All bank charges for the ISLOC will be for the account of the applicant;¶

(vii) Any amendment to the ISLOC must be approved by the beneficiary before the amendment is effective;¶

(viii) The funds provided by the ISLOC are not construed to be an asset of the self-insured employer;¶

(ix) If legal proceedings are initiated by any party with respect to payment of any ISLOC, the proceedings will be subject to the jurisdiction of Oregon courts and application of Oregon law;¶

(I) The ISLOC conforms to and references the International Standby Practices 1998 (ISP98), ICC Publication No. 590;¶

(J) The self-insured employer that submits the ISLOC provides an accompanying Form 3529, "Memorandum of Understanding," affirming the employer's agreement to the following:¶

(i) The ISLOC is provided to the director in place of, or in addition to, a surety bond or other form of security acceptable to the director under this rule;¶

(ii) The ISLOC will remain in force without amendment unless canceled by the issuing bank as provided in (H)(iii) of this subsection;¶

(iii) The ISLOC may be replaced with an ISLOC or surety bond of equal amount that is accepted by the director as substitute security, or a policy of paid-up insurance that is accepted by the director in accordance with OAR 436-050-0200(5);¶

(iv) The director may immediately demand payment under the ISLOC as provided in paragraph (G) of this subsection;¶

(v) The funds provided from a demand for payment under the ISLOC will be administered as provided in subsection (b) of this section and OAR 436-050-0190(1)(b); and¶

(vi) If legal proceedings are initiated by any party with respect to payment of any ISLOC, the proceedings will be subject to the jurisdiction of Oregon courts and application of Oregon law.¶

(b) If the director demands payment under an ISLOC, the funds provided by the ISLOC will be deposited with the State Treasurer in an account separate and distinct from the General Fund.¶

(c) If a bank's rating falls below the ratings required in (a)(B) of this section subsequent to the issuance of the ISLOC, the self-insured employer must, within 60 days of the publication of the lower rating:¶

(A) Have the ISLOC confirmed by an Oregon state-chartered bank or a federally chartered bank that has an acceptable rating;¶

(B) Replace the ISLOC with a security deposit that is accepted by the director in accordance with this rule and that covers all workers' compensation liabilities and obligations that would have been covered by the ISLOC; or¶

(C) Obtain a policy of paid-up insurance that is accepted by the director in accordance with OAR 436-050-0200(5), if the certification of the self-insured employer has been canceled or revoked.¶

(d) If a bank elects not to extend an ISLOC as provided under subparagraph (3)(a)(H)(iii) of this rule, the self-insured employer must provide acceptable substitute security at least 15 days before the expiration date of the ISLOC. Substitute security provided under this subsection must have an effective date no later than the expiration date of the ISLOC.¶

(4) Surety bonds. A surety bond may be accepted by the director as all or part of the security deposit.¶

(a) The director may accept the surety bond under the following conditions:¶

(A) The surety bond is issued by a surety company authorized under ORS chapter 731 to transact surety business in Oregon;¶

(B) The surety company or its parent has:¶

(i) An Insurer Financial Strength Rating of A or better issued by S&P Global Ratings; or¶

(ii) A Financial Strength Rating of B+ or better issued by A.M. Best Rating Services, Inc.;¶

(C) Form 824, "Surety Bond," is used for the surety bond;¶

(D) The surety bond is issued under the legal name or assumed business name of the self-insured employer as registered with the Oregon Secretary of State;¶

(E) The surety bond is continuous in form;¶

(F) The surety bond states that it may only be terminated by the surety company by giving the director and the Principal written notice. The notice must state that the termination will be effective on a date not less than thirty days after the date the notice is received by the director. Termination of a surety bond in no way limits the liability of the surety for defaults of the Principal's liability or obligations under ORS chapter 656 before the effective date of the termination;¶

(G) The surety bond states that the liability of the surety company may only be discharged in the event that the



surety bond is released in writing by the director. The director may release a surety bond when:¶¶

(i) The Principal provides substitute security that is accepted by the director in lieu of the surety bond to be released, covering all past, present, existing, and potential liability of the Principal under ORS chapter 656, in an amount required by the director; or¶¶

(ii) If the certification of the self-insured employer has been canceled or revoked, the employer obtains a policy of paid-up insurance that is accepted by the director in accordance with OAR 436-050-0200(5).¶¶

(H) The surety bond and all surety bond riders are executed by the surety company's attorney-in-fact. The attorney-in-fact's appointment and power of attorney must accompany the surety bond and all riders submitted. The power of attorney must authorize the attorney-in-fact to execute the surety bond in the amount of the penal sum of the bond.¶¶

(b) Form 1810, "Surety Bond Rider" must be used for all department-required increases or authorized decreases in the penal sum of the surety bond and all changes to the name of the Principal. The surety bond rider is not effective until it is accepted by the department.¶¶

(c) If the surety company is placed in conservatorship, is seized, declares insolvency, or has a current credit rating below the ratings required in (a)(B) of this section, the self-insured employer must, within 30 days of receiving notice from the department:¶¶

(A) Replace the surety bond with a security deposit that is accepted by the director in accordance with this rule and that covers all workers' compensation liabilities and obligations that would have been covered by the surety bond; or¶¶

(B) Obtain a policy of paid-up insurance that is accepted by the director in accordance with OAR 436-050-0200(5), if the certification of the self-insured employer has been canceled or revoked.¶¶

(d) If a surety company terminates a surety bond as provided under paragraph (4)(a)(F) of this rule, the self-insured employer must provide acceptable substitute security at least 15 days before the effective date of the termination. Substitute security provided under this subsection must have an effective date no later than the termination date of the surety bond.¶¶

(5) Government securities, certificates of deposit, or time deposit accounts. Government securities, certificates of deposit, or time deposit accounts will not be accepted as security deposits for certified self-insured employers who must increase their security deposit or for employers whose self-insurance certification was granted after January 1, 2004.¶¶

(a) Government securities, certificates of deposit, or time deposit accounts that were accepted by the director as a self-insured employer's or a self-insured employer group's required security deposit before January 1, 2004, may remain as the security deposit until the maturity date of those investments. At that time, the government securities, certificates of deposit, or time deposit accounts pledged to the department as security deposits must be replaced by a surety bond or ISLOC acceptable to the director.¶¶

(b) A self-insured employer that has government securities, certificates of deposit, or time deposit accounts as all or part of its security deposit must complete Form 4023, "Security Agreement and Notice to Intermediary," granting the department a security interest in and control over those financial assets.

Statutory/Other Authority: ORS 656.430, ORS 656.726(4)

Statutes/Other Implemented: ORS 656.430

AMEND: 436-050-0175

RULE SUMMARY: OAR 0175 is amended to:

- Include "active claims," in addition to "open claims" for the purposes of claims loss data reporting.
- Include a reference to self-insured school districts; and
- Clarify what a self-insured employer that is exempt from security deposit requirements must do when the director requests an actuarial study of its loss reserve account.

CHANGES TO RULE:

436-050-0175

#### Annual Reporting Requirements ¶¶

- (1) Annual Financial Report. Every self-insured employer must file an annual financial report with the director, subject to the following:¶¶
- (a) The report must include the employer's audited financial statements or annual report with audited financial statement for the just completed fiscal year, and SEC Form 10K, if issued;¶¶
  - (b) The report must be filed within the following time frames:¶¶
    - (A) A self-insured employer that is not a municipal or public corporation as defined in ORS 297.405 must make the filing within 120 days of the end of its fiscal year; or¶¶
    - (B) A self-insured employer that is a municipal or public corporation as defined in ORS 297.405 must make the filing within 180 days of the end of its fiscal year;¶¶
  - (c) If audited financial statements are not available for filing within the time frames of subsection (b), the self-insured employer may file a financial statement that is certified by the employer that the financial statement is true and accurate and presents the employer's financial condition and results of operations as of the date of the statement. The director may require a self-insured employer to submit an audited financial statement if the certified financial statement submitted is insufficient to evaluate the employer's financial status;¶¶
  - (d) The financial statements and reports must include information sufficient to determine the self-insured employer's financial viability under OAR 436-050-0150 or OAR 436-050-0260; and¶¶
  - (e) All financial statements and annual financial reports filed under this section will be retained by the director for a period of at least three years.¶¶
- (2) Additional requirements for self-insured employer groups. In addition to the requirements of section (1) of this rule, by March 1 of each year each self-insured employer group must file with the director:¶¶
- (a) A statement certifying the group meets or exceeds the combined net worth requirement under OAR 436-050-0260(3)(a), as of the date of the statement;¶¶
  - (b) A copy of the fidelity bond furnished to the group by the administrator or a copy of the comprehensive crime policy obtained by the group, in an amount sufficient to protect the group against the misappropriation or misuse of any moneys or securities. If the group previously filed a copy of a fidelity bond or policy that covers more than one year, and that fidelity bond or policy is still in effect, the group may include a statement in their annual report referring the director to the copy on file in place of providing an additional copy; and¶¶
  - (c) If the self-insured employer group consists of private employer members:¶¶
    - (A) A statement certifying that each member of the group meets the individual net worth requirement under OAR 436-050-0260(3)(b), as of the member's most recent fiscal year end; and¶¶
    - (B) A list of the group's current board members and their professional affiliations.¶¶
- (3) Claim loss data reporting. The self-insured employer must report claim loss data to the director by March 1 of each year for the purposes of experience rating modification, retrospective rating calculations, and determining deposits. Bulletin 209 provides guidelines for self-insured employers and their authorized representatives to use in submitting the required data. The report must be certified to be true and accurate by an authorized representative of the employer, and must include:¶¶
- (a) A report of losses for each year in the experience rating period. The report must cover all claims incurred during the reporting period and must be valued as of January 1 of the current year, and must include:¶¶
    - (A) Contract medical expenses;¶¶
    - (B) Total medical reimbursement amount;¶¶
    - (C) The number of claims for which medical reimbursement is claimed; and¶¶
    - (D) Separate lists including all claims with total incurred losses above and below the National Council on Compensation Insurance split point published in Bulletin 209. The lists must include:¶¶
      - (i) The worker's name, listed in alphabetical order;¶¶
      - (ii) The date of injury;¶¶
      - (iii) The claim number;¶¶

- (iv) The total amount paid;¶
- (v) The medical reimbursement amount claimed, if applicable;¶
- (vi) Outstanding reserves; and¶
- (vii) Total incurred losses;¶
- (b) A report of losses covering the self-insured employer's non-experience period. The report must list all open or active claims and must be valued as of January 1 of the current year, and must include:¶
  - (A) The worker's name, listed in alphabetical order;¶
  - (B) The date of injury;¶
  - (C) The claim number;¶
  - (D) The total amount paid;¶
  - (E) Outstanding reserves; and¶
  - (F) Total incurred losses;¶
- (c) Identification of claims involving:¶
  - (A) Catastrophes;¶
  - (B) The Workers with Disabilities Program;¶
  - (C) Permanent total disability;¶
  - (D) Fatal benefits;¶
  - (E) Third party recoveries; and¶
  - (F) Total incurred losses that exceed, or are expected to exceed, the self-insured retention level of the self-insured employer's excess insurance policy;¶
- (d) If the self-insured employer is a city, county, school district, or qualified self-insured employer group that is exempted from the security deposit requirements under ORS 656.407(3) and OAR 436-050-0185:¶
  - (A) The procedures, methods, and criteria used in the process of determining the amount of their actuarially sound workers' compensation loss ~~reserve account~~, including procedures for determining the amount for injuries incurred but not reported (IBNR); and¶
  - (B) Upon the director's request, an actuarial study that demonstrates ~~the employer's loss reserve account is actuarially sound and adequately funded under OAR 436-050-0185(2)(a)(D)~~. The actuarial study must include an IBNR estimate.¶
- (4) Director's requests for additional information. The director may require a self-insured employer to provide additional information, or submit financial statements, reports, or claims loss data more frequently.¶
- (a) The director may require additional information or financial statements for reasons including, but not limited to:¶
  - (A) Changes in the financial status or viability of a self-insured employer or group; and¶
  - (B) Changes in the net worth, group membership, or private employer group's board membership of a self-insured employer group.¶
- (b) The director may require a self-insured employer to submit additional claim loss data if the nature of the employer's business has changed since the last annual loss report for reasons including, but not limited to, mergers or acquisitions, changes in employment level, nature of employment, or incurred claims costs.¶
- (5) Sanctions for failure to comply with this rule. If a self-insured employer does not comply with the requirements of this rule, the director may:¶
  - (a) Require the self-insured employer to increase its deposit and premium assessments by 25 percent;¶
  - (b) Conduct an audit to obtain the necessary loss information at the self-insured employer's expense;¶
  - (c) Assess civil penalties of up to \$250 per day that the information is not provided beyond the deadline; or¶
  - (d) Revoke the employer's self-insurance certification under OAR 436-050-0200 or OAR 436-050-0340.¶
- (6) Claims reserve audits. To ensure each self-insured employer's claims are valued appropriately for use in deposit, experience rating, and retrospective rating calculations, the director will perform routine claims reserve audits.¶
  - (a) The values determined at audit will be used to calculate the self-insured employer's security deposit, experience rating factor, and retrospective rating adjustment.¶
  - (b) If there is a 10 percent or greater difference between the values determined by the director at audit and the values that were reported by the self-insured employer, the director may assess civil penalties against the employer.

Statutory/Other Authority: ORS 656.407, ORS 656.430, ORS 656.726(4)

Statutes/Other Implemented: ORS 656.407, ORS 656.430

RULE SUMMARY: OAR 0180 is amended to include a reference to self-insured school districts.

CHANGES TO RULE:

436-050-0180

Determination of Amount of Self-Insured Employers Deposit; Effective Date of Order to Increase Deposit ¶

(1) Minimum security deposit. Except for self-insured cities, counties, school districts, or qualified self-insured employer groups ~~who~~that are exempted under ORS 656.407(3) and OAR 436-050-0185, each self-insured employer is required to maintain a security deposit with the director in an amount determined by the director, subject to the following:¶

(a) The deposit will not be less than the greater of:¶

(A) \$100,000;¶

(B) Future claim liability, including losses incurred but not reported (IBNR), a claims processing administrative cost, and the anticipated assessments payable to the director for the employer's next fiscal year; or¶

(C) The annual incurred losses for the self-insured employer's last fiscal year, including IBNR, a claims processing administrative cost, and anticipated assessments payable to the director for the employer's next fiscal year;¶

(b) If the employer is applying for self-insurance, the amount of the initial deposit will not be less than the greater of:¶

(A) The anticipated assessments payable to the director for the employer's next fiscal year, plus an amount equal to 65 percent of the annual premium the employer would pay if carrier-insured using the applicable occupational base rate premium, as such rate is applied to the anticipated payroll of the employer's Oregon operations for the employer's next fiscal year;¶

(B) \$300,000 plus \$30,000 additional for each \$100,000 the employer's net worth is below \$2 million; or¶

(C) The amount of the approved self-insured retention level for the employer's excess workers' compensation insurance;¶

(c) Assessments payable to the director referred to in this section include moneys and assessments due under ORS 656.506, 656.612, and 656.614;¶

(d) Claims processing administrative costs will be determined by developing a percentage rate to be applied against the employer's unpaid losses;¶

(A) The rate will be based on the information contained in Schedule P, Part ID (Workers' Compensation) of the Annual Statement for the previous calendar year as reported to the Insurance Commissioner by SAIF Corporation and the 20 private insurers who had the highest earned premium reported for the preceding calendar year; and¶

(B) The rate will be computed annually to be effective for the subsequent fiscal year. The rate will be 105 percent of the median of ratios determined as follows for each of these insurers:¶

(i) "Loss expenses unpaid" for losses incurred in the latest eight years, divided by¶

(ii) "Losses unpaid" for losses incurred in the latest eight years; and¶

(e) Under this section, "Incurred but not reported" (IBNR) will be calculated by applying a loss development factor determined by the director against the employer's incurred losses.¶

(2) Financial strength adjustment. If the self-insured employer received a financial strength rating equal to "moderate" under OAR 436-050-0150(5) or OAR 436-050-0260(12), the amount of the deposit determined under section (1) will be increased by the following percentage factors:¶

(a) 12 total combined points = no change in calculated deposit;¶

(b) 11 total combined points = no change in calculated deposit;¶

(c) 10 total combined points = 5%;¶

(d) 9 total combined points = 10%;¶

(e) 8 total combined points = 15%; or¶

(f) 7 total combined points = 20%.¶

(3) Certified actuarial study. A self-insured employer may request for its security deposit amount to be determined based on a recommended loss reserve level established by a certified actuarial study in place of the calculations under sections (1) and (2) of this rule. The director may base a self-insured employer's security deposit amount on a certified actuarial study under the following conditions:¶

(a) The actuarial study must be certified by an actuary who is a member in good standing of the American Academy of Actuaries;¶

(b) The actuarial study must be submitted to the director within seven days after the date of the director's notice establishing the security deposit amount calculated under sections (1) and (2) of this rule;¶

(c) The actuarial study must include an estimate or range of estimates of future claim liability and state what provisions for adverse claim development are included in these estimates;¶

(d) The actuarial study must identify the confidence levels associated with the recommended loss reserve level or loss reserve range;¶

(e) The actuarial study must include a statement of future claim liability, including the employer's incurred but not reported (IBNR) losses;¶

(f) Subject to the minimum requirements of ORS 656.407 and this rule, upon the director's review and acceptance of the study, the amount of the security deposit will be based on:¶

(A) The actuarially sound recommended loss reserve level if a single estimate is provided; or¶

(B) The 75% confidence level estimate, if an actuarially sound loss reserve range is provided; and¶

(g) If there is probable cause to believe the recommended loss reserve level or range is not actuarially sound, the director will determine the security deposit based on the calculations under sections (1) and (2) of this rule. Probable cause includes, but is not limited to:¶

(A) The actuarial study not containing a statement by the actuary that the recommended loss reserve level or range is actuarially sound;¶

(B) The actuarial study containing a disclaimer regarding the actuary's qualifications or ability to determine the adequacy of the loss reserve level for current or future liabilities; or¶

(C) The recommended loss reserve level or entire recommended loss reserve range being less than the 75 percent confidence level estimate established in the actuarial study.¶

(4) Additional factors for security deposit amount. In determining the amount of the self-insured employer's security deposit based on the calculations under sections (1) and (2) of this rule, or a certified actuarial study under section (3) of this rule, the director will take the following factors into consideration:¶

(a) The financial ability of the employer to pay compensation and other payments due;¶

(b) The employer's probable continuity of operation;¶

(c) The employer's financial viability, as determined by the director under OAR 436-050-0150 or 436-050-0260;¶

(d) Retention and limitation levels of the employer's excess insurance in relation to the employer's financial status;¶

(e) Changes in the employer's business including, but not limited to, mergers or acquisitions, changes in employment level, nature of employment, incurred claims costs, or material growth in self-insured exposure;¶

(f) The balance of the Self-Insured Employer Adjustment Reserve or the Self-Insured Employer Group Adjustment Reserve; and¶

(g) The employer's credit rating issued by a nationally recognized statistical ratings organization;¶

(5) Time frame for compliance. A self-insured employer must comply with an order of the director to the self-insured employer to increase the amount of its deposit within 30 days of the order. Failure to comply with this rule may result in the assessment of civil penalties, revocation of the employer's self-insurance certification, or both.

Statutory/Other Authority: ORS 656.407, ORS 656.726(4)

Statutes/Other Implemented: ORS 656.407

RULE SUMMARY: OAR 0185 is amended to include references to self-insured school districts and for plain language to enhance clarity.

CHANGES TO RULE:

436-050-0185

Qualifications for Deposit Exemption for Self-Insured Cities, Counties, and Qualified Self-Insured Employer Groups, Application Procedures, Conditions and Requirements, Revocation and Requalification

(1) Requirements to qualify for deposit exemption. A self-insured city, county, school district, or self-insured employer group that is a municipal or public corporation under ORS 297.405 may apply to be exempt from the security deposit requirements of ORS 656.407(2) ~~and OAR 436-050-0150, if it meets, subject to the following requirements:~~

(a) The city, county, school district, or qualified self-insured employer group must have been in compliance with ORS 656.407(2) and OAR 436-050-0180 as ~~an independently self-insured employer or self-insured employer group, but not as a member of a self-insured employer group,~~ for the three consecutive years immediately before applying for the exemption; and

(b) The city, county, school district, or qualified self-insured employer group must have in effect a workers' compensation loss reserve account that is actuarially sound and that is adequately funded, as determined by the annual audit under ORS 297.405 to 297.740, to pay all compensation to injured workers and amounts due the director under ORS chapter 656. The workers' compensation loss reserve account must also be dedicated to, and may only be expended only for, payment of compensation and amounts due the director by the city ~~or county,~~ county, school district, or qualified self-insured employer group under ORS chapter 656.

(2) Application for security deposit exemption. To apply for exemption from ORS 656.407(2), the city, county, school district, or qualified self-insured employer group must submit a written application to the director no later than 45 days before the ~~date the exemption is desired to become~~ desired effective date.

(a) The application must include the following supporting documentation ~~for review and approval:~~

(A) A copy of the city's, county's, school district's or qualified self-insured employer group's most recent annual audit as filed with the Secretary of State under ORS 297.405 to 297.740 that identifies the ~~actuarially sound funded amount in the dedicated workers' compensation loss reserve, if not previously filed as required by this information was not included in the most recent annual financial report filed by the city, county, school district, or qualified self-insured employer group under OAR 436-050-0175(1);~~

(B) A copy of the city's, county's, school district's, or qualified self-insured employer group's ~~current fiscal year's~~ approved budget documents for internal service funds ~~that as of the employer's current fiscal year. The documents must state the budgeted amount for the funded workers' compensation loss reserve account;~~

(C) A copy of a resolution or ordinance passed by the city's, county's, school district's or qualified self-insured employer group's governing body that establishes an actuarially sound and adequately funded workers' compensation loss reserve account ~~that dedicates the workers' compensation. The resolution or ordinance must provide that the loss reserve account is dedicated to, and limits expenditures to only~~ may only be expended for, the payment of compensation and amounts due the director under ORS chapter 656. The resolution ~~must also include or ordinance must also provide that the director has first lien and priority rights to the full amount of the workers' compensation loss reserve account required to pay the present discounted value of all present and future claims under ORS chapter 656; and~~

(D) A statement ~~giving the amount of the~~ that includes:

(i) The amount of the city's, county's, school district's, or qualified self-insured employer group's current reserves for present and future liabilities; ~~the amount funded in the;~~

(ii) The funded amount in its workers' compensation loss reserve account, ~~and~~;

(iii) The procedures, methods, and criteria used in the process of determining the ~~amount funded in their actuarially sound workers' compensation loss fund~~ funded amount its workers' compensation loss reserve account must maintain, including procedures for determining the amount for injuries incurred but not reported.

(i) ~~The statement must include the city's, county (IBNR); and~~

(iv) The city's, county's, school district's, or qualified self-insured employer group's certification that ~~the its workers' compensation loss reserve account is actuarially sound and adequately funded if an actuarial study is not available.~~

(ii) ~~The director may require a~~

(E) Upon the director's request, an actuarial study that demonstrates the city's, county's, school district's, or qualified self-insured employer group ~~to demonstrate its workers' compensation loss reserve account is actuarially sound and adequately funded based on an actuarial study requested under OAR 436-050-0175(3)(d). The actuarial study must include an IBNR estimate and a copy of the study must be provided to the director. The~~

actuarial study must include an IBNR estimate.¶

(b) Within 45 days of receipt of all application materials required under this section, the director will review the application and supporting documentation and notify the city, county, school district, or qualified self-insured employer group that the request for exemption is approved or denied.¶

(A) If denied, the notice will provide the reasons for the denial, any requirements for reconsideration, and the right to administrative review as provided by OAR 436-050-0008.¶

(B) If approved, the notice will include:¶

(i) ~~The confirmation of the effective date of exemption;~~¶

(ii) Authorization for cancellation of any surety bond or ISLOC held as security under ORS 656.407(2) and OAR 436-050-0180; and¶

(iii) Procedures for release of any government securities or time deposits held as security under ORS 656.407(2) and OAR 436-050-0180.¶

(3) Inadequately funded loss reserve accounts. If the director has probable cause to believe ~~thea~~ the city's, county's, school district's, or qualified self-insured employer group's workers' compensation loss reserve account is inadequately funded, the director may order ~~at~~ the city, county, school district, or qualified self-insured employer group to increase the amount of ~~its workers' compensation loss reserve~~ the account and to provide documentation of the increase. The city, county, school district, or qualified self-insured employer group must comply within 30 days of the director's order. Probable cause to believe ~~thea~~ workers' compensation loss reserve account is not actuarially sound includes, but is not limited to:¶

(a) The annual audited financial statement under ORS 297.405 to 297.740 not containing a statement by the auditor that the workers' compensation loss reserve account is adequately funded, or containing a disclaimer regarding the auditor's qualifications or ability to determine adequacy of the loss reserve account; or¶

(b) For cities, counties, school districts, or qualified self-insured employer groups required by the director to conduct an actuarial study under OAR 436-050-0175(3)(d) ~~and or~~ (2)(a)(~~DE~~) of this rule, the actuarial study not containing a statement by the actuary that the loss reserve account is actuarially sound, or containing a disclaimer regarding the actuary's qualifications or ability to determine the adequacy of the reserves for current or future liabilities.¶

(4) Cancellation of self-insurance certification or loss reserve. A city, county, school district, or qualified self-insured employer group that has been exempted from ORS 656.407(2) and desires to cancel its self-insurance certification or elects to discontinue maintaining an actuarially sound and adequately funded workers' compensation loss reserve account must:¶

(a) Submit a written request to the director at least 60 days before:¶

(A) The desired cancellation date of the self-insured certification; or¶

(B) The effective date of discontinuation of the qualifying workers' compensation loss reserve account;¶

(b) If the city, county, school district, or qualified self-insured employer group desires to cancel its self-insurance certification:¶

(A) The request under section (a) must comply with OAR 436-050-0200; and¶

(B) Before the effective date of cancellation the city, county, school district, or qualified self-insured employer group must provide a security deposit, as required by the director, in an amount determined under OAR 436-050-0180 and ORS 656.443; ~~and~~.¶

(c) If the city, county, school district, or qualified self-insured employer group elects to discontinue maintaining an actuarially sound and adequately funded workers' compensation loss reserve account:¶

(A) Before the effective date of discontinuation of the qualifying workers' compensation loss reserve account, the city, county, school district, or qualified self-insured employer group must provide a security deposit as required by the director under ORS 656.407(2) and OAR 436-050-0180; and¶

(B) Failure to provide the required security deposit as required under paragraph (A) will result in revocation of the city's, county's, school district's, or qualified self-insured employer group's self-insurance certification as of that date.

Statutory/Other Authority: ORS 656.407, ORS 656.726(4)

Statutes/Other Implemented: ORS 656.407

AMEND: 436-050-0210

RULE SUMMARY: OAR 0210 is amended to make the rule title clearer.

CHANGES TO RULE:

436-050-0210

Notice of Self-Insurers or Service Company's Place of Business in State; Records Self-Insured Must Maintain ¶

(1) Oregon claims processing location required. Except as described in section (4) of this rule and OAR 436-050-0230, every self-insured employer must establish and maintain at least one designated Oregon claims processing location as required by ORS 656.455, subject to the following:¶

(a) The self-insured employer must conduct all claims processing activities necessary to meet the requirements of ORS chapter 656 and OAR chapter 436 from its designated claims processing locations, including, but not limited to:¶

(A) Processing claims;¶

(B) Making available all records required under OAR 436-050-0220; and¶

(C) Responding to specific claims processing inquiries;¶

(b) At the director's request, the self-insured employer must:¶

(A) Make claims processing locations accessible during regular business hours or other reasonable times to accommodate periodic audits and examination of records; or¶

(B) Provide the director electronic access to the records to be audited or examined.¶

(c) The self-insured employer may process claims subject to ORS chapter 656 remotely. As used in this subsection, to "process claims remotely" means to process claims outside of a self-insured employer's Oregon claims processing location, including at the place of residence of an employee of the employer, as directed from the Oregon claims processing location.¶

(A) The self-insured employer may not process claims at places of business outside of Oregon that are maintained or operated by the employer or a service company, except as follows:¶

(i) The self-insured employer may receive claims reports at locations outside of the state if claims are forwarded to an Oregon claims processing location for processing;¶

(ii) Payments may be made from outside of Oregon as directed from the Oregon claims processing location; and¶

(iii) The self-insured employer may, with prior approval of the director, have one location, in or out of state, for maintaining payroll records pertaining to premium assessments and other assessments and contributions.¶

(B) The director may suspend a self-insured employer's authority to process claims remotely from its designated claims processing locations, subject to the following:¶

(i) The director may suspend a self-insured employer's authority to process claims remotely when:¶

(I) The director finds the self-insured employer has repeatedly violated ORS chapter 656 or OAR chapter 436; and¶

(II) The director has reason to believe that the violations are related to the self-insured employer's practice of processing claims remotely.¶

(ii) The director will not suspend a self-insured employer's authority to process claims remotely until the employer has been given notice and the opportunity to be heard through a show-cause hearing with the director. During the show-cause hearing, the employer will be provided an opportunity to:¶

(I) Present evidence regarding the proposed order to suspend the self-insured employer's authority to process claims remotely; and¶

(II) Give reason why the employer should be permitted to continue processing claims remotely.¶

(iii) If the director suspends a self-insured employer's authority to process claims remotely, the employer may not process claims remotely for a specified period of time, up to two years.¶

(iv) The self-insured employer may request the director restore its authorization by submitting a plan demonstrating its ability and commitment to comply with ORS chapter 656 and OAR chapter 436.¶

(v) A proposed and final order of suspension issued under this rule is a preliminary order subject to revision by the director, and may be appealed under OAR 436-050-0008.¶

(2) Notice of self-insured employer's claims processing location. The self-insured employer must give the director notice of its designated claims processing locations, subject to the following:¶

(a) The notice must be provided upon application for certification as a self-insured employer; and¶

(b) The notice must identify:¶

(A) The self-insured employer's principal place of business, including its street and mailing addresses, telephone number, and a general email address that is monitored on a regular basis, where the director can direct general inquiries;¶

(B) Contact information for a designated person or position within the company who will assure payment of



penalties and resolution of collections issues;¶¶

(C) If the self-insured employer uses more than one claims processing location, or locations operated by service companies as described in section (4) of this rule:¶¶

(i) The name of each service company, if applicable;¶¶

(ii) The street and mailing addresses of each claims processing location; and¶¶

(iii) The name, title, phone number, and email address of a contact person at each claims processing location; and¶¶

(D) Any other information requested by the director; and¶¶

(c) The information provided under this section must reasonably lead an inquirer to an Oregon certified claims examiner who can respond to inquiries regarding workers' compensation policies, claim filing, claims processing, and claims processing location information within 48 hours, not including weekends or legal holidays.¶¶

(3) Changes in place of business. The self-insured employer must notify the director of a change in any of the information required under section (2) of this rule, subject to the following:¶¶

(a) The notice must be filed at least 30 days before the effective date of the change; and¶¶

(b) The self-insured employer may use Form 5188, "Insurer Contact Update," to satisfy the requirements of this section.¶¶

(4) Service companies. In lieu of, or in addition to, establishing its own claims processing locations in this state, the self-insured employer may use Oregon claims processing locations operated by service companies to satisfy the requirements of section (1) of this rule. If an employer elects to use claims processing locations operated by one or more service companies with respect to all or any portion of its business:¶¶

(a) Each service company must be incorporated in or authorized to do business in Oregon;¶¶

(b) The self-insured employer must provide the director with a copy of the service agreement between the employer and each service company for approval. The director must approve the service agreement before the service company begins processing the employer's Oregon claims, regardless of the agreement's effective date. To be approved, the service agreement must:¶¶

(A) Be an agreement for claims processing services between the self-insured employer and a service company, and must not be between any other third parties;¶¶

(B) Identify the self-insured employer by name, and specify the employer's legal or assumed business name as registered with the Oregon Secretary of State;¶¶

(C) Identify the service company by name;¶¶

(D) Describe the claims processing services to be provided;¶¶

(E) Identify the effective date of the agreement;¶¶

(F) Identify the termination date of the agreement, if any;¶¶

(G) Grant the service company a power of attorney to act for the self-insured employer in workers' compensation coverage and claims proceedings under ORS chapter 656, subject to the following:¶¶

(i) The power of attorney must be effective the same date of the service agreement;¶¶

(ii) The power of attorney must not be revocable before all claims processing services provided under the service agreement have concluded;¶¶

(iii) The power of attorney must be applicable to all claims processed under the agreement, and may not have unspecified limitations; and¶¶

(iv) The service agreement must use language that clearly grants power of attorney to the service company, such as the words "power of attorney" or "attorney-in-fact"; and¶¶

(H) Contain only those provisions for workers' compensation activities that are allowed in Oregon; subject to the following:¶¶

(i) The director may approve an agreement that contains provisions for activities not allowed in Oregon if the agreement or an addendum provides that any services or provisions not allowed under Oregon workers' compensation law will not be applied when processing Oregon claims; and¶¶

(ii) The director may require existing agreements that contain provisions for activities not allowed in Oregon to be amended accordingly;¶¶

(c) Each service company must notify the division of its business in Oregon, subject to the following:¶¶

(A) The notice must include the service company's location, mailing address, telephone number, email address, and any other contact information requested by the director;¶¶

(B) The notice must be filed before the self-insured employer begins using a place of business operated by the service company as a claims processing location; and¶¶

(C) The service company may use Form 4929, "Service Company's Notification of Business in Oregon," to satisfy the requirements of this subsection; and¶¶

(d) The self-insured employer or service company must notify the director of a change in any of the information required under (4)(c) of this rule, subject to the following:¶¶

(A) The notice must be filed at least 30 days before the effective date of the change; and¶¶

(B) The self-insured employer or service company may use Form 5215, "Service Company Contact Update," to

satisfy the requirements of this subsection.¶¶

(5) Limit on claims processing locations. The self-insured employer may not have more than three claims processing locations at any time. For the purposes of this section:¶¶

(a) Each of the following is considered to be one claims processing location:¶¶

(A) Each physical location where the self-insured employer processes claims or maintains records; and¶¶

(B) Each physical location where a service company processes the self-insured employer's claims or maintains records; and¶¶

(b) If more than one entity, including the self-insured employer or a service company, processes claims at the same physical location, each entity must be counted as a separate claims processing location.¶¶

(6) Change in claims processing locations. If a self-insured employer intends to change the location where claims are processed or records of claims are stored, the self-insured employer must, at least 10 days before the change is effective:¶¶

(a) Provide notice of the change to any worker, the estate of any deceased worker, or any worker's beneficiary with an open or active claim that will be processed at the new location, subject to the following:¶¶

(A) The notice must include contact information for the new claims processing location, including the name and title of a contact person, telephone number, email address, and mailing address; and¶¶

(B) The self-insured employer must send a copy of the notice to the worker's attorney, if the worker is represented, and to the worker's attending physician.¶¶

(b) Provide notice of the change to the director, subject to the following:¶¶

(A) The notice must include:¶¶

(i) Contact information for the current claims processing location, including the name of the claims processor, the name and title of a contact person, mailing address, telephone number, and email address;¶¶

(ii) Contact information for the new claims processing location, including the name of the claims processor, the name and title of a contact person, street and mailing address, if different, telephone number, and email address;¶¶

(iii) The effective date of the transfer; and¶¶

(iv) Any other information requested by the director; and¶¶

(B) The notice must specify if all or a portion of the self-insured employer's claims will be transferred, and if closed and denied claims will be included. If only a portion of the employer's claims will be transferred, the notice must include a listing of the claims being transferred that identifies, for each claim:¶¶

(i) The claimant's name;¶¶

(ii) The date of injury; and¶¶

(iii) The sending processor's claim number; and¶¶

(c) The self-insured employer may use Form 5042, "Claim Move Notice," to satisfy the requirements of this section.

Statutory/Other Authority: ORS 656.455, ORS 656.726(4)

Statutes/Other Implemented: ORS 656.455