

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION



**Electronic Data Interchange
Oregon Administrative Rules
Chapter 436, Division 160**

Effective January 1, 2004

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NOTE: Significant revisions are marked with bold lines in the right margins.

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BEFORE THE DIRECTOR
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION

In the Matter of the Amendment of)	
Oregon Administrative Rule (OAR))	
Chapter 436, Division 160)	ORDER OF ADOPTION
Electronic Data Interchange)	No. 03-064

The Director of the Department of Consumer and Business Services, pursuant to the general rulemaking authority under ORS 656.726(4), and in accordance with the procedure provided by ORS 183.335, amends OAR Chapter 436, Division 160, Electronic Data Interchange.

On September 12, 2003, the Workers' Compensation Division filed the *Notice of Proposed Rulemaking/Hearing* with the Secretary of State to amend rules governing Electronic Data Interchange. A Notice of Periodic Review of Rules was contained in the *Notice*. The *Statement of Need and Fiscal Impact* accompanied the *Notice*. Copies of the *Notice* and *Statement* were mailed to interested persons and legislators in accordance with ORS 183.335(1) and OAR 436-001-0000 and posted to the Workers' Compensation Division's web site. The notice was published in the October, 2003 *Oregon Bulletin*.

On October 22, 2003, a public hearing was held as announced. In addition, the record was held open for written testimony through 5:00 p.m. October 27, 2003. A written summary of testimony received and agency responses thereto, as well as principal documents relied upon, will be on file and available for public inspection upon request during regular business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, in the Administrator's Office, Workers' Compensation Division, Labor & Industries Building, 350 Winter Street NE, Salem, Oregon 97301-3879.

RULE SUMMARY:

These rules have been amended in part to reflect Senate Bill 233's changes to ORS chapter 656. SB 233 changed the notification requirements for termination of guaranty contracts and for reporting coverage elections and cancellations of elections. In addition to a number of "housekeeping" amendments, these rules:

- (436-160-0310) Eliminate the requirement for insurers to report Standard Industrial Classification Codes or North American Industry Classification System codes; state that National Council on Compensation Insurance codes are sufficient.
- (436-160-0350) Eliminate the requirement to report coverage elections and cancellation of elections to the director by endorsement to the guaranty contract.
- (436-160-0360) Explain the notice and reporting requirements regarding the insurer's termination of guaranty contracts.

**Order of Adoption
OAR 436-160**

FINDINGS:

Having reviewed and considered the record and being fully informed, I make the following findings:

- (a) The applicable rulemaking procedures have been followed.
- (b) These rules are within the Director's authority.
- (c) The rules being adopted are a reasonable administrative interpretation of the statutes and are required to carry out statutory responsibilities.

IT IS THEREFORE ORDERED THAT:

- 1) Amendments to OAR Chapter 436, Division 050, as set forth in Exhibit "A", attached hereto and incorporated by reference herein, **are adopted on this 3rd day of December 2003 to be effective January 1, 2004.**
- 2) A certified copy of the amended rules adopted herein shall be filed with the Secretary of State.
- 3) A copy of the amended rules with revision marks shall be filed with the Legislative Counsel pursuant to ORS 183.715 within ten (10) days after filing with the Secretary of State.

DATED this 3rd day of December, 2003.

DEPARTMENT OF CONSUMER
AND BUSINESS SERVICES

/s/ John L. Shilts

John L. Shilts, Administrator
Workers' Compensation Division

Pursuant to the Americans with Disabilities Act guidelines, alternative format copies of the rules will be made available to qualified individuals upon request.

Vertical bars in the right margin of the attached rule(s) indicate significant changes.

If you have questions about these rules or need them in an alternate format, contact the Workers' Compensation Division at (503) 947-7810.

Attachments

Distribution: WCD-ID, S0, S2, NM

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
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ELECTRONIC DATA INTERCHANGE**

**EXHIBIT "A"
OREGON ADMINISTRATIVE RULES
CHAPTER 436, DIVISION 160**

General Provisions

436-160-0001 Authority for Rules

These rules are promulgated under the director's authority contained in ORS 656.726(4).

Stat. Authority: ORS 656.264 and ORS 656.726(4)

Stat. Implemented: ORS 656.017, ORS 656.407, ORS 656.419, ORS 656.423, and ORS 656.427

Hist: Adopted 3/17/03 as Admin. Order 03-052, eff 4/1/03

436-160-0002 Purpose

The director's purpose is to allow certain workers' compensation filing or reporting via electronic data interchange.

Stat. Authority: ORS 656.264 and ORS 656.726(4)

Stat. Implemented: ORS 656.017, ORS 656.407, ORS 656.419, ORS 656.423, and ORS 656.427

Hist: Adopted 3/17/03 as Admin. Order 03-052, eff 4/1/03

436-160-0003 Applicability of Rules

(1) These rules apply to workers' compensation related transactions filed with the director via electronic data interchange on or after January 1, 2004.

(2) The director may, unless otherwise obligated by statute, waive any procedural rules in this rule division as justice so requires.

Stat. Authority: ORS 656.726(4)

Stat. Implemented: ORS 656.726(4)

Hist: Adopted 3/17/03 as Admin. Order 03-052, eff 4/1/03

Amended 12/3/03 as Admin. Order 03-064, eff. 1/1/04

436-160-0004 Adoption of Standards

The director adopts, by reference, *IAIABC EDI Implementation Guide for Proof of Coverage*, Release 2, dated May 1, 2002 including the definition of standards and procedures for submitting electronic proof of coverage to the division, unless otherwise provided in these rules.

Stat. Authority: ORS 656.264

Stat. Implemented: ORS 656.017, ORS 656.407, ORS 656.419, ORS 656.423, and ORS 656.427

Hist: Adopted 3/17/03 as Admin. Order 03-052, eff 4/1/03

436-160-0005 General Definitions

For the purpose of these rules, unless it conflicts with statute or rule:

(1) "Conditional data element" means an element that becomes mandatory under certain conditions. Once mandatory, a conditional data element will cause a rejection of the transaction if the data element is omitted or submitted in a format not capable of being processed by the division's information processing system.

(2) "Director" means the Director of the Department of Consumer and Business Services or the director's designee for the matter.

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- (3) "Division" means the Workers' Compensation Division of the Department of Consumer and Business Services.
- (4) "Electronic Data Interchange" or "EDI" means a computer to computer exchange of information in a standardized electronic format.
- (5) "Electronic Record" means information created, generated, sent, communicated, received, or stored by electronic means.
- (6) "FEIN" means the federal employer identification number or other federal reporting number used by the insurer, insured, or employer for federal tax reporting purposes.
- (7) "Header record" means the record that precedes each transmission for the purpose of identifying a sender, the date and time of the transmission, and the transaction set within the transmission.
- (8) "IAIABC" means the International Association of Industrial Accident Boards and Commissions, a professional trade association comprised of state workers' compensation regulators and insurance representatives (www.iaiabc.org).
- (9) "Information" means data, text, images, sounds, codes, computer programs, software, databases, or the like.
- (10) "Industry code" means the code which indicates the nature of the employer's business, which is contained in the Standard Industrial Classification (SIC) manual published by the Federal Office of Management and Budget, or in the North American Industrial Classification System (NAICS) published by the U.S. Census Bureau.
- (11) "Insurer" means workers' compensation insurance carrier providing coverage to an employer, or a self-insured employer.
- (12) "Mandatory data element" means an element that will cause a rejection of a transaction if the data element is omitted or submitted in a format not capable of being processed by the division's information processing system.
- (13) "Optional data element" means an element that an insurer should report to the director if the information is available to the insurer. Optional data elements will not cause a rejection if missing or invalid.
- (14) "Proof of coverage" means an electronic record or set of records identifying an insurer as providing workers' compensation coverage for a specific employer.
- (15) "Record" means electronic record.
- (16) "Sender" means the person or entity reporting electronic data interchange transactions to the division. Sender may include vendors or insurers.
- (17) "Trading partner agreement" means the agreement entered into pursuant to OAR 436-160-0020 between the director and an insurer to conduct transactions via EDI.
- (18) "Trailer record" means the record that designates the end of a transmission and provides a count of transactions contained within the transmission, not including the header and trailer records.

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(19) "Transaction" means a set of EDI records, defined according to standards in OAR 436-160-0004.

(20) "Transmission" means a defined set of transactions, including both header and trailer records to be sent to the division or sender via EDI.

(21) "Vendor" means an agent identified in a trading partner agreement to submit transmissions to the division on behalf of an insurer. Vendors may include service companies, third party administrators, and managing general agents.

Stat. Authority: ORS 656.264 and ORS 656.726(4)

Stat. Implemented: ORS 84.004 and ORS 656.264

Hist: Adopted 3/17/03 as Admin. Order 03-052, eff 4/1/03

436-160-0006 Administration of Rules

Orders issued by the division in carrying out the director's authority to enforce ORS chapter 656 are considered orders of the director.

Stat. Authority: ORS 656.704 and ORS 656.726(4)

Stat. Implemented: ORS 656.704 and ORS 656.726(4)

Hist: Adopted 3/17/03 as Admin. Order 03-052, eff 4/1/03

436-160-0010 Security

(1) The sender will verify that an electronic signature, record, or performance is that of a specific person.

(2) The sender will utilize anti-virus software to eliminate any viruses on all electronic transmissions. The sender will maintain the anti-virus software with the most recent anti-virus update files from the software provider. The sender will notify the director immediately if a virus is detected.

Stat. Authority: ORS 656.264 and ORS 656.726(4)

Stat. Implemented: ORS 656.264

Hist: Adopted 3/17/03 as Admin. Order 03-052, eff 4/1/03

436-160-0020 Trading Partner Agreement

(1) An insurer must enter into a trading partner agreement with the director before the division will begin testing with or accept production electronic transmissions from the insurer or from a vendor on behalf of that insurer.

(2) The trading partner agreement will include:

(a) A statement that the insurer will remain responsible and liable for all electronic records transmitted to the director;

(b) Transmission protocol between sender and director;

(c) A specific description of the form, format, and delivery of electronic transmissions pursuant to OAR 436-160-0004 and 436-160-0050;

(d) Specific identifying information for insurer, third party administrator, if any, and vendor, if any;

(e) Cost allocation of transactions, if any;

(f) The time frame for the director to submit acknowledgements of transmissions; and

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(g) Any other necessary statements, conditions or requirements to facilitate EDI.

Stat. Authority: ORS 656.264 and ORS 656.726(4)

Stat. Implemented: ORS 84.013 and ORS 656.264

Hist: Adopted 3/17/03 as Admin. Order 03-052, eff 4/1/03

436-160-0030 Retention of Electronic Records

Insurers, self-insured employers, and service companies shall retain workers' compensation records pursuant to OAR 436-050-0120 and OAR 436-050-0220. Records may be retained in electronic format if the records can be reproduced.

Stat. Authority: ORS 656.726(4)

Stat. Implemented: ORS 656.455 and ORS 731.475

Hist: Adopted 3/17/03 as Admin. Order 03-052, eff 4/1/03

436-160-0040 Recognized Filing Date

(1) Unless otherwise stated in the trading partner agreement, an electronic record is sent when it:

(a) Is addressed or directed properly to an information processing system designated or used by the division to receive electronic records or information;

(b) Is in a form and format capable of being processed by that system; and

(c) Enters an information processing system outside the control of the sender or enters a region of the information processing system designated or used by the division and that is under control of the division.

(2) Unless otherwise stated in the trading partner agreement an electronic record is received when it:

(a) Enters an information processing system designated or used by the division to receive electronic records or information of the type sent and from which the division is able to retrieve the electronic record; and

(b) Is in a form and format capable of being processed by the division's information processing system.

(3) For the purpose of these rules, an electronic transaction is capable of being processed by the division's information processing system when all the required data elements are in the form and format specified in these rules, in the proper sequence, and in accordance with the terms of the trading partner agreement.

Stat. Authority: ORS 656.264 and ORS 656.726(4)

Stat. Implemented: ORS 84.043 and ORS 656.264

Hist: Adopted 3/17/03 as Admin. Order 03-052, eff 4/1/03

436-160-0050 Form, Format, and Delivery for Electronic Data Reporting

The form, format, and delivery of data elements and definitions will conform to the standards specified in OAR 436-160-0004, or as otherwise identified in the trading partner agreement.

Stat. Authority: ORS 656.726(4)

Stat. Implemented: ORS 84.013 and ORS 656.264

Hist: Adopted 3/17/03 as Admin. Order 03-052, eff 4/1/03

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436-160-0060 Testing Procedures and Requirements

(1) Each transmission for test purposes will conform to the standards specified in OAR 436-160-0004, or as otherwise identified in the trading partner agreement. Test files will be evaluated in terms of whether the data was sent in the correct, standardized format.

(2) To gain approval to send production transmissions, the sender must be able to:

- (a) Transmit records via electronic data interchange; and
- (b) Accomplish secure file transfer protocol uploads and downloads.

(3) To initiate a test for EDI, the sender shall contact the director.

(4) The sender shall demonstrate the ability to send transmissions to the director that are readable, in the correct format, and can be processed through the division's information processing system. A successful EDI test is determined by the resolution of any consistently recurring fatal technical errors identified by the division such that:

- (a) Transmissions are sent to the director without errors in the header or trailer record;
- (b) Transmissions are sent to the director without transaction level technical errors; and
- (c) The sender can receive and process the automated EDI acknowledgement transaction.

(5) To move from test to production, the sender must achieve 90% accuracy for transactions sent for a minimum of three consecutive transmissions during the test (i.e. 90% of the transactions must have been accepted by the division and the sender has received a transaction accepted acknowledgement). The director will consider the sender's anticipated volume of production transactions to determine the number of transactions per test transmission required.

(6) Once approved, sender shall maintain the accuracy as defined in sections (4) and (5) of this rule. Failure to meet technical requirements may result in the revocation of EDI transmission approval.

(7) The director will inform the sender and insurer (if different) if accuracy standards for technical requirements fall below standards prescribed in sections (4) and (5) of this rule during production.

(8) During the EDI test phase, insurer will continue to submit filings via paper. Once the sender becomes approved and moves into production, insurer will not submit same transaction filings via paper. If a problem occurs with EDI transmission during production, insurer may return to paper filing to meet statutory filing requirements until the problem is corrected.

Stat. Authority: ORS 656.726(4)

Stat. Implemented: ORS 84.013 and ORS 656.264

Hist: Adopted 3/17/03 as Admin. Order 03-052, eff 4/1/03

436-160-0070 Electronic signature

The sender's federal employer identification number (FEIN) plus its postal code as reported in the header record and stated in the trading partner agreement is the unique identifier that is the electronic signature for electronic data interchange.

Stat. Authority: ORS 656.726(4)

Stat. Implemented: ORS 84.001-84.061 and ORS 656.264

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Hist: Adopted 3/17/03 as Admin. Order 03-052, eff 4/1/03

436-160-0080 Acknowledgements

(1) The director will respond to the sender with an electronic transaction accepted or transaction rejected acknowledgement of the insurer's transactions.

(2) The insurer shall correct and resubmit any transactions rejected for which law or rule require filing, reporting, or notice to the director.

Stat. Authority: ORS 656.726(4)

Stat. Implemented: ORS 656.264

Hist: Adopted 3/17/03 as Admin. Order 03-052, eff 4/1/03

436-160-0090 Address Reporting

The sender will follow the standard United States Postal Service guidelines in reporting all addresses, as follows:

(1) The physical (street) address, or an attention line, must be in address line one. The attention line, if used, must be in line one.

(2) If the physical address is used in address line one, the mailing address may be used in address line two. If address line one was used as the attention line, then the physical (street) address must be in address line two.

(3) Physical (street) address and attention line must be on separate address lines.

Stat. Authority: ORS 656.726(4)

Stat. Implemented: ORS 656.264

Hist: Adopted 3/17/03 as Admin. Order 03-052, eff 4/1/03

Proof of Coverage

436-160-0300 Proof of Coverage Definitions

(1) Unless otherwise provided in these rules, the definitions and standards identified in OAR 436-160-0004 and OAR 436-160-0005 apply.

(2) For the purpose of OAR 436-160-0300 through OAR 436-160-0360 "establishing documents" is a term used in the *IAIABC EDI Implementation Guide for Proof of Coverage* to denote certain transaction types. The establishing document transaction types listed in OAR 436-160-0350(2)(c) can be used to file a guaranty contract under that rule. In Oregon, a reinstatement, an add location, and an add employer transaction type can also be an establishing document. A change policy number transaction type is not an establishing document.

Stat. Authority: ORS 656.726(4)

Stat. Implemented: ORS 656.419, ORS 656.423 and ORS 656.427

Hist: Adopted 3/17/03 as Admin. Order 03-052, eff 4/1/03

436-160-0310 Proof of Coverage Electronic Filing Requirements

(1) The chart in [Appendix "A"](#) shows all proof of coverage data elements accepted via EDI in Oregon, and whether the data element is mandatory (M), conditional (C), or optional (O) for each transaction type.

(2) Unless otherwise provided in these rules, the data elements shall have the meaning provided in the data dictionary pursuant to OAR 436-160-0004.

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(3) Transactions will be rejected if mandatory or required conditional data elements are omitted or submitted in a format that is not capable of being processed by the division's information processing system designated for proof of coverage transactions.

(4) Optional data element(s) in a transaction will be ignored if the optional data element is either omitted, or submitted in a format that is not capable of being processed by the division's information processing system designated for proof of coverage transactions.

(5) Unless otherwise provided in these rules, an insurer approved for production transmissions will transmit proof of coverage via EDI, and will not submit like paper documents to the director except as provided in OAR 436-160-0340.

Stat. Authority: ORS 656.726(4)

Stat. Implemented: ORS 656.264

Hist: Adopted 3/17/03 as Admin. Order 03-052, eff 4/1/03

Amended 12/3/03 as Admin. Order 03-064, eff. 1/1/04

436-160-0320 Proof of Coverage Acknowledgement

(1) The division will respond to transmissions submitted with either a transaction accepted or a transaction rejected acknowledgement.

(2) A transaction rejected acknowledgement will be sent for all transactions incapable of being processed by the division's information processing system, including, but not limited to:

(a) An omitted mandatory data element;

(b) An improperly populated data element field, e.g. numeric data element field is populated with alpha or alphanumeric data, or is not a valid value;

(c) Transactions or electronic records within the transaction which require matching and cannot be matched to the division's database;

(d) Illogical data in mandatory or required conditional field, e.g. termination date is before coverage effective date;

(e) Duplicate transmission or duplicate transaction within the transmission;

(f) Invalid triplicate code; or

(g) Illogical event sequence relationship between transactions, e.g. endorsement transaction submitted before a policy transaction is submitted.

(3) A transaction accepted acknowledgement will be sent for all transactions that are in a format capable of being processed by the division's information processing system and are not rejected pursuant to section (2) of this rule.

(4) An insurer's obligation to file proof of coverage for the purposes of this rule is not satisfied unless the director acknowledges acceptance of the transaction.

Stat. Authority: ORS 656.726(4)

Stat. Implemented: ORS 656.264

Hist: Adopted 3/17/03 as Admin. Order 03-052, eff 4/1/03

Amended 12/3/03 as Admin. Order 03-064, eff. 1/1/04

436-160-0330 Proof of Coverage Effective Dates

(1) For all binder or new policy establishing document transactions submitted pursuant to OAR 436-160-0350, the coverage effective date will also be the guaranty contract effective date.

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(2) For all other establishing document transactions that meet the guaranty contract filing requirements of OAR 436-160-0350, the transaction set type effective date will also be the guaranty contract effective date.

(3) For reinstatement transactions the transaction set type date will be a new guaranty contract effective date only if the transaction set type effective date is later than the expiration date of guaranty contract liability under ORS 656.427 as calculated by the division. If the transaction set type effective date is on or before the expiration date of guaranty contract liability, that guaranty contract will remain in effect as previously filed.

(4) For all other transactions, the effective date will be the transaction set type effective date.

(5) The policy expiration date submitted on a transaction does not terminate liability under a guaranty contract. Liability under a guaranty contract filed by an insurer continues until it is terminated pursuant to OAR 436-160-0360 and ORS 656.427.

(6) For reissue, renewal, reinstatement, or endorsement transactions, the transaction effective date will be the transaction effective date submitted by the insurer.

Stat. Authority: ORS 656.726(4)

Stat. Implemented: ORS 656.264, ORS 656.419, ORS 656.423 and ORS 656.427

Hist: Adopted 3/17/03 as Admin. Order 03-052, eff 4/1/03

436-160-0340 Proof of Coverage Changes or Corrections

(1) Changes or corrections to proof of coverage information must be submitted pursuant to the standards referenced in OAR 436-160-0004.

(2) To report changes or corrections of an insured employer's name or address pursuant to ORS 656.419(4), or changes or corrections to other data elements, the insurer must transmit the appropriate transaction to specify what data is being changed or corrected.

(3) The insurer's policy number is used to assist in matching each transaction to the appropriate employer. When an insurer changes a policy number, the insurer must report that change with or prior to the next transaction submitted for that policy. Failure to report a change in the policy number will render future filings incapable of being processed by the division's information processing system and the insurer will receive a transaction rejected acknowledgement.

(4) If changing a partner name of an insured or employer does not change the entity, a new guaranty contract does not need to be filed.

(5) A transaction to change the effective date of coverage is capable of being processed by the division's information processing system only if the new date does not create a lapse in coverage. To report a change to the effective date of coverage which results in a lapse, the insurer must submit transactions to terminate the current guaranty contract and file a new guaranty contract.

(6) To add or delete coverage for corporate officers, members of a limited liability company, partners, sole proprietors or other non-subject workers, the insurer must file written notice to the director listing the individual names as required by ORS 656.419.

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(7) Transactions to change the wrap-up indicator, business market, assignment date, and professional employer organization (worker leasing company) indicator are not capable of being processed by the division's information processing system.

Stat. Authority: ORS 656.726(4)

Stat. Implemented: ORS 656.264 and ORS 656.419

Hist: Adopted 3/17/03 as Admin. Order 03-052, eff 4/1/03
Amended 12/3/03 as Admin. Order 03-064, eff. 1/1/04

436-160-0350 Guaranty Contract Filing Requirements

(1) For the purpose of these rules, an electronic guaranty contract consists of an executed trading partner agreement containing the guaranty described in subsection (2)(a) of this rule, and an accepted proof of coverage insured and employer electronic record.

(2) To file a guaranty contract via EDI, an insurer must do all of the following:

(a) Enter into a trading partner agreement with the director pursuant to OAR 436-160-0020 that contains a statement of assumption of liability and guaranty of payment pursuant to ORS 656.419(1);

(b) Transmit an electronic record of the proof of coverage data elements identified as mandatory or required conditional pursuant to OAR 436-160-0310, including a unique FEIN for each legally distinct employer included in the establishing document transaction; and

(c) Transmit an establishing document transaction: binder, new policy, renew policy, rewrite/reissue policy, reinstatement, add location, add employer, or add jurisdiction. A renew policy, add location, or add employer transaction will only establish a guaranty contract if the data elements have not previously been transmitted, the employer FEIN is not a duplicate per section (3) below, and coverage for that unique employer FEIN has not been previously established by the reporting carrier. A reinstatement transaction will only establish a new guaranty contract if there is a lapse in coverage and the requirements of ORS 656.419 and OAR 436-160-0350 are otherwise met.

(3) A duplicate FEIN or a FEIN previously reported under the same policy will be recorded as an additional employer location and/or an assumed business name, but will not establish an additional guaranty contract.

(4) Reinstatement, rewrite, and reissue transaction types must follow a cancellation transaction.

(5) If an employer elects to include any non-subject worker(s) under coverage pursuant to ORS 656.419(2)(d), or subsequently to exclude such workers from coverage, the insurer must submit a transaction with a reason code for including or excluding a corporate officer, partner, member, sole proprietor, or any other person.

Stat. Authority: ORS 656.726(4)

Stat. Implemented: ORS 656.264, ORS 656.419*, ORS 656.423*, and ORS 656.427* *(sections 3, 4, & 5, chapter 170, Oregon Laws 2003)

Hist: Adopted 3/17/03 as Admin. Order 03-052, eff 4/1/03
Amended 12/3/03 as Admin. Order 03-064, eff. 1/1/04

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436-160-0360 Guaranty Contract Terminations

(1) For the purposes of EDI, to terminate a guaranty contract when an insurer receives written notice of cancellation of coverage from an employer pursuant to ORS 656.423, the insurer must:

(a) Provide notice to the director no more than seven calendar days after the effective date of termination by transmitting the transaction type for cancellation by insured or nonrenewal by insured. The "transaction effective date" will be used to report the effective date of termination pursuant to ORS 656.427;

(b) Retain the employer's written notice for inspection by the division; and

(c) Provide written notice to the employer pursuant to ORS 656.427(1) and (3).

(2) For the purposes of EDI, to terminate a guaranty contract for any other reason, the insurer must:

(a) Provide notice to the director no more than seven calendar days after the effective date of termination by transmitting the transaction type for cancellation or nonrenewal pursuant to section (5) below; and

(b) Provide written notice to the employer pursuant to ORS 656.427(1) and (3).

(3) The date of termination must be included in the written notice to the employer to terminate a guaranty contract. For the purposes of notice to the director, the transaction effective date is the termination effective date.

(4) A delete location transaction can be used to notify the director that one or more locations for an employer are no longer workplaces of the employer. This transaction does not meet the requirements of ORS 656.427 for notice of termination.

(5) If the intent of an insurer is to terminate guaranty contract liability for all insureds under a policy, the insurer must use a cancellation or nonrenewal transaction type and must report all covered employers.

(6) Delete jurisdiction transactions are not capable of being processed by the division's information processing system and will result in a transaction rejected acknowledgement being sent to the sender.

(7) Failure to provide timely notice to the director of termination of an insurer's guaranty contract may result in civil penalties pursuant to ORS 656.745.

Stat. Authority: ORS 656.726(4)

Stat. Implemented: ORS 656.264, ORS 656.419*, ORS 656.423* and ORS 656.427* *(sections 3, 4, & 5, chapter 170, Oregon Laws 2003)

Hist: Adopted 3/17/03 as Admin. Order 03-052, eff 4/1/03
Amended 12/3/03 as Admin. Order 03-064, eff. 1/1/04

Data element	Data Element Number	Establishing document transactions	Endorsement	Cancellation or Nonrenewal by Insurer	Cancellation or Nonrenewal by Insured	Reinstatement
INSURED RECORD						
Transaction Set ID	DN001	M	M	M	M	M
Record Sequence Number	DN107	M	M	M	M	M
Transaction Set Purpose Code	DN300	M	M	M	M	M
Jurisdiction Designee Received Date	DN302	M	M	M	M	M
Transaction Set Type Code	DN002	M	M	M	M	M
Transaction Reason Code	DN303	M	M	M	M	M
Transaction Set Type Effective Date	DN304	M	M	M	M	M
Insurer FEIN	DN006	M	M	M	M	M
Insurer Name	DN007	M	O	O	O	O
Issuing Office Name	DN305	O	O	O	O	O
Issuing Office Address Line 1	DN306	O	O	O	O	O
Issuing Office Address Line 2	DN307	O	O	O	O	O
Issuing Office City	DN308	O	O	O	O	O
Issuing Office State	DN309	O	O	O	O	O
Issuing Office Postal Code	DN310	O	O	O	O	O
Issuing Agency Name	DN311	O	O	O	O	O
Issuing Agency City	DN312	O	O	O	O	O
Issuing Agency State	DN313	O	O	O	O	O
Insured FEIN	DN314	M	M	M	M	M
Insured Name	DN017	M	M	M	M	M
Insured Address Line 1	DN315	M	O	O	O	O
Insured Address Line 2	DN316	O	O	O	O	O
Insured City	DN317	M	O	O	O	O
Insured State	DN318	M	O	O	O	O
Insured Postal Code	DN319	M	O	O	O	O
Insured Telephone Number	DN320	O	O	O	O	O
Business Market	DN321	O	O	O	O	O
Wrap-Up Indicator	DN322	C	O	O	O	O
Insured Legal Status	DN323	M	O	O	O	O
Employee Leasing Policy Identification	DN333	M	O	O	O	O
Policy Number	DN028	M	M	M	M	M
Policy Effective Date	DN029	M	O	O	O	M
Policy Expiration Date	DN030	O	O	O	O	O
Prior Policy Number	DN324	C	O	O	O	O
Assignment Date	DN325	O	O	O	O	O
Jurisdiction	DN004	M	M	M	M	M
Governing Class	DN326	M	O	O	O	O
Total Payroll	DN327	O	O	O	O	O
Number of Employers	DN328	M	M	M	M	M
EMPLOYER RECORD						
Transaction Set ID	DN001	M	M	M	N/A	N/A
Record Sequence Number	DN107	M	M	M		
Employer FEIN	DN016	M	M	M		
Employer UI Code	DN329	O	O	O		
Employer Name	DN018	M	M	O		
Employer Address Line 1	DN019	M	O	O		
Employer Address Line 2	DN020	O	O	O		
Employer City	DN021	M	O	O		
Employer State	DN022	M	O	O		
Employer Postal Code	DN023	M	O	O		
Industry Code	DN025	O	O	O		
Number of Employees	DN330	O	O	O		
Employer Notification Date	DN331	O	O	O		

Secretary of State
Certificate and Order for Filing
 PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies* are true, full and correct copies of the
 PERMANENT Rule(s) adopted on

December 3, 2003 by the
 Date prior to or same as filing date

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

OAR chapter 436
 Administrative Rules Chapter No.

Fred Bruyns (503) 947-7717
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to become effective January 1, 2004 was published in the October 2003 *Oregon Bulletin*.**
 Date upon filing or later Month and Year

RULEMAKING ACTION

List each rule number separately, 000-000-0000.

ADOPT: OAR 436-050-0165, 436-050-0480

AMEND: OAR

436-045-0008	436-050-0080	436-050-0180	436-050-0290	436-080-0003	436-080-0070
436-050-0003	436-050-0090	436-050-0185	436-050-0400	436-080-0005	436-080-0080
436-050-0005	436-050-0100	436-050-0190	436-050-0440	436-080-0006	436-085-0008
436-050-0006	436-050-0110	436-050-0195	436-055-0008	436-080-0010	436-150-0008
436-050-0008	436-050-0120	436-050-0200	436-060-0008	436-080-0020	436-160-0003
436-050-0040	436-050-0150	436-050-0210	436-070-0008	436-080-0030	436-160-0310
436-050-0050	436-050-0160	436-050-0220	436-075-0008	436-080-0040	436-160-0320
436-050-0055	436-050-0170	436-050-0260	436-080-0001	436-080-0060	436-160-0340
436-050-0060	436-050-0175	436-050-0270	436-080-0002	436-080-0065	436-160-0350
		436-050-0280			436-160-0360

REPEAL: OAR 436-050-0020, 436-050-0150T, 436-050-0160T 436-050-0165T, OAR 436-080-0050

ORS 656.704, 656.726(4)

Statutory Authority

ORS 183.335; OAR 137-001; OAR 436-001-0000 and 436-001-0005

Other Authority

ORS chapter 656

Statutes being Implemented

RULE SUMMARY

These rules have been amended in part to reflect Senate Bill 233's changes to ORS 656. The time frame for appeal of a proposed order or proposed assessment of civil penalty will no longer be 60 days following the party's receipt of notice, but instead 60 days from the date the order is mailed by the department. SB 233 also eliminated claim closure penalties for non-complying employers and changed the notification requirements for termination of guaranty contracts. In addition, these rules include a number of "housekeeping" amendments and supersede temporary OAR 436-050 rules indicated above after "REPEAL."

Notice of Proposed Rulemaking Hearing

Page 2

These rules:

- Repeal specific requirements affecting service of orders by the director.
- Reduce data reporting requirements for industry codes.
- Eliminate certain requirements to report coverage elections and cancellation of elections.
- Explain the notice and reporting requirements regarding the insurer's termination of guaranty contracts.
- State that active self-insurance certification remains in effect if a guaranty contract has been filed.
- Require notification of workers and other parties at least 10 days prior to changing claims processing locations.
- Require insurers and self-insured employers to keep documentation of dates payments are mailed.
- Require submission of audited financial statements by self-insured employers under certain conditions.
- Provide that an irrevocable standby letter of credit may be accepted by the director as an alternative to a surety bond as a security deposit. This provision has been in effect under authority of temporary rules effective 7/18/03.
- Provide that government securities, certificates of deposit, or time deposit accounts will not be accepted as new or replacement security deposits by self-insured employers effective January 1, 2004; require self-insured employers with existing securities of this type to complete a "Security Agreement and Notice to Intermediary," Form 440-4023, granting the department a security interest in and control over those financial assets.
- Provide that excess insurance coverage must be specific on a per occurrence basis, and that such coverage may include aggregate excess insurance.
- Incorporate annual reporting requirements for self-insured employers formerly published only in Bulletin 209.
- Require that future claim liability estimates or annual incurred losses include losses incurred but not reported.
- Require that a new self-insured employer's deposit is not less than the amount of the approved self-insured employer retention level for the employer's excess workers' compensation insurance.
- Require that each entity included under a self-insurance certification enter into an agreement making the entity jointly and severally liable for payment of compensation and moneys due.
- Require that self-insured employer groups maintain coverage records relating to each member.
- Prohibit a worker leasing company from providing workers' compensation coverage to another leasing company.
- Provide for assessment of civil penalties against worker leasing companies or prospective leasing companies that fail to meet the requirements of relevant rules. Provide penalty matrixes for worker leasing companies that violate these rules and for companies that operate as worker leasing companies without a license

Direct questions to: Fred Bruyns, Rules Coordinator; phone 503-947-7717; fax 503-947-7581; or e-mail fred.h.bruyns@state.or.us. Rules are available on the internet:

<http://www.oregonwcd.org/policy/rules/rules.html#permrules>

For a copy of the rules, contact Publications at 503-947-7627, Fax 503-947-7630.

/s/ John L. Shilts

Authorized Signer

December 3, 2003

Date

John L. Shilts, Administrator, Workers' Compensation Division

Printed name

*Copies include a photocopy of this certificate with paper and electronic copies of each rule listed in the Rulemaking Action.

**The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 p.m. on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 p.m. the preceding workday.