

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING HEARING\***

A Statement of Need and Fiscal Impact accompanies this form.

<u>Construction Contractors Board</u> (Agency and Division)	<u>    </u> (Administrative Rules Chapter Number)
Catherine Dixon (Rules Coordinator)	700 Summer Street NE Suite 300, Salem OR 97310 (Address) (503) 934-2185 (Telephone)

**RULE CAPTION**

Housekeeping, emergency suspension authority, petition to reduce larger bond requirement, & LBPR emergency renovation operations

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

February 28, 2012	11:00 a.m.	West Salem Roth's IGA, Santiam Rm., 425 Glen Creek Rd., Salem, OR	Rob Yorke
Hearing Date	Time	Location	Hearings Officer

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

**RULEMAKING ACTION**

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

**ADOPT:**

**AMEND:**

812-002-0443      812-005-0140      812-005-0250      812-005-0800      812-007-0020      812-007-0302  
812-007-0350

**REPEAL:**

812-005-0140T

**RENUMBER:**

**AMEND & RENUMBER:**

Stat. Auth.: ORS 183.310 to 183.500, 670.310, 701.068, 701.085 (2005), 701.088, 701.235, 701.515, 701.992 & 701.995

Other Auth.:

Stats. Implemented: ORS 87.093, 279C.590, 701.005, 701.021, 701.026, 701.042, 701.046, 701.068, 701.073, 701.085 (2005), 701.088, 701.091, 701.098, 701.102, 701.106, 701.109, 701.227, 701.305, 701.315, 701.330, 701.345, 701.480, 701.485, 701.505-701.520, 701.510, 701.515, 701.992 & 701.995

**RULE SUMMARY**

- 812-002-0443 is amended to correct a cite reference.
- 812-005-0140 is amended to make the rule consistent with ORS 701.098(4) and make the rule retroactive and effective on the date the statute was changed (1/1/08).
- 812-005-0250 is amended to:
  - Section (1): Remove references to 2005 statutes. There should no longer be any licensees or applicants affected by those statutes. Consolidate old sections (1) and (2) into one section for simplicity and clarity. Refer to "agency" rather than "Board." This is consistent with the remainder of the rule. Extend minimum period to operate under increased bond from two to three years.
  - Section (2): Change petition requirement from an explanation why there is no longer an "increased risk to the public" to describing the factors for consideration in Section (3).
  - Section (3): Change basis for review to clearly articulated standards for approval or denial.
  - Section (3)(a): Expand the class of agency "orders" to recognize DRS arbitration awards and (new) determinations.
  - Section (4): Explain that if petitioner fails to satisfy all of the requirements in Section (3), the agency will not allow the reduced bond for an additional three years. After that time, the applicant or licensee may again petition the agency.

- Section (5): Clarify that agency will notify petitioner of its decision within 30 days of receiving the petition.
- Section (6): Change procedure from contested case review (Office of Administrative Hearings) to an order in other than a contested case (Circuit Court).
- 812-005-0800 is amended to clarify that sanction in section (16) is not subject to authorization in ORS 701.106 and to correct cross-reference in section (22).
- 812-007-0020 is amended to provide an exemption for emergency renovation operations, as the Oregon Health Authority (OHA) rules do. Definitions are amended to make CCB's rules consistent with the OHA rules.
- 812-007-0302 is amended to provide an exemption for emergency renovation operations, as the Oregon Health Authority (OHA) rules do. Exemption rules are amended to make CCB's rules consistent with OHA's rules.
- 812-007-0350 is amended (1)(d) adds a missing word "refer" between the words "Authority" and "to the board".

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

February 28, 2012, Close of Hearing

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

Catherine Dixon

January 9, 2012

Signature

Printed name

Date

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

*NOTE:* In order to save postage and printing costs in these difficult times, CCB is only providing a copy of the notice. To view the language of each individual rule change, please go to our web site at [http://www.oregon.gov/CCB/Laws\\_Rules.shtml#Administrative\\_Rule\\_Notices](http://www.oregon.gov/CCB/Laws_Rules.shtml#Administrative_Rule_Notices). If you don't have web access, contact Rules Coordinator Cathy Dixon at (503) 934-2185 for assistance in receiving a copy.

Secretary of State  
**STATEMENT OF NEED AND FISCAL IMPACT**  
A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Construction Contractors Board

OAR 812

Agency and Division

Administrative Rules Chapter Number

Housekeeping, emergency suspension authority, petition to reduce larger bond requirement, & LBPR emergency renovation operations

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

In the Matter of: Amendments to OAR 812

Statutory Authority: ORS 183.310 to 183.500, 670.310, 701.068, 701.085 (2005), 701.088, 701.235, 701.515, 701.992 & 701.995

Other Authority:

Stats. Implemented: ORS 87.093, 279C.590, 701.005, 701.021, 701.026, 701.042, 701.046, 701.068, 701.073, 701.085 (2005), 701.088, 701.091, 701.098, 701.102, 701.106, 701.109, 701.227, 701.305, 701.315, 701.330, 701.345, 701.480, 701.485, 701.505-701.520, 701.510, 701.515, 701.992 & 701.995

Need for the Rule(s): (Explain how the rule is intended to meet the need).

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- 812-005-0250 is amended to:
  - Section (1): Remove references to 2005 statutes. There should no longer be any licensees or applicants affected by those statutes. Consolidate old sections (1) and (2) into one section for simplicity and clarity. Refer to "agency" rather than "Board." This is consistent with the remainder of the rule. Extend minimum period to operate under increased bond from two to three years.
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- 812-007-0302 is amended to provide an exemption for emergency renovation operations, as the Oregon Health Authority (OHA) rules do. Exemption rules are amended to make CCB's rules consistent with OHA's rules.
- 812-007-0350 is amended (1)(d) adds a missing word "refer" between the words "Authority" and "to the board".

Documents Relied Upon, and where they are available: ORS 701 and OAR 812. Documents are on the agency website at [www.oregon.gov/ccb](http://www.oregon.gov/ccb) or a paper copy is available upon request.

Fiscal and Economic Impact:

The rule changes have no known fiscal or economic impact on state agencies, units of local government or the public. The rule changes do not increase the reporting, recordkeeping or other administrative activities for businesses. The rule changes will not increase costs of compliance for businesses. The rule changes will not increase the cost of a new single-family dwelling.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):  
The rule changes have no known fiscal impact on state agencies, units of local government or the public.
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:  
Theses rule amendments do not have an impact on small businesses.
  - b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:  
Theses rule amendments do not impact reporting, recordkeeping or other administrative activities required for compliance.
  - c. Equipment, supplies, labor and increased administration required for compliance:  
These rule amendments do have an impact on equipment, supplies, labor or increased administration requirements.

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

The agency works with its Board to develop administrative rules. Six of the current nine Board members are business owners.

Administrative Rule Advisory Committee consulted? No

If not, why?: The agency uses its Board which is made up of six contractors; one elected public official, and two public members who review and approve agency's administrative rules. Some of the Board members are members of industry associations who discuss proposed rules with their associations.

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Authorized Signer	Catherine Dixon Printed Name	January 9, 2012 Date
Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.		ARC 925-2007

## HOUSING COST IMPACT STATEMENT

FOR ESTIMATING THE EFFECT OF A PROPOSED RULE OR ORDINANCE ON THE COST OF DEVELOPING  
A \*TYPICAL 1,200 SQ FT DETACHED SINGLE FAMILY DWELLING ON A 6,000 SQ FT PARCEL OF LAND.  
(ORS 183.534)

FOR ADMINISTRATIVE RULES

AGENCY NAME: Construction Contractors Board      PERMANENT:       HEARING DATE: February 28, 2011  
ADDRESS: 700 Summer St. NE Ste 300  
CITY/STATE: Salem OR 97309      TEMPORARY:       EFFECTIVE DATE:  
PHONE: (503) 934-2185

### BELOW PLEASE PROVIDE A DESCRIPTION OF THE ESTIMATED SAVINGS OR ADDITIONAL COSTS THAT WILL RESULT FROM THIS PROPOSED CHANGE.

PROVIDE A BRIEF EXPLANATION OF HOW THE COST OR SAVINGS ESTIMATE WAS DETERMINED.  
IDENTIFY HOW CHANGE IMPACTS COSTS IN CATEGORIES SPECIFIED

#### Description of proposed change: (Please attach any draft or permanent rule or ordinance)

- 812-002-0443 is amended to correct a cite reference.
- 812-005-0140 is amended to make the rule consistent with ORS 701.098(4) and make the rule retroactive and effective on the date the statute was changed (1/1/08).
- 812-005-0250 is amended to:
  - Section (1): Remove references to 2005 statutes. There should no longer be any licensees or applicants affected by those statutes. Consolidate old sections (1) and (2) into one section for simplicity and clarity. Refer to “agency” rather than “Board.” This is consistent with the remainder of the rule. Extend minimum period to operate under increased bond from two to three years.
  - Section (2): Change petition requirement from an explanation why there is no longer an “increased risk to the public” to describing the factors for consideration in Section (3).
  - Section (3): Change basis for review to clearly articulated standards for approval or denial.
  - Section (3)(a): Expand the class of agency “orders” to recognize DRS arbitration awards and (new) determinations.
  - Section (4): Explain that if petitioner fails to satisfy all of the requirements in Section (3), the agency will not allow the reduced bond for an additional three years. After that time, the applicant or licensee may again petition the agency.
  - Section (5): Clarify that agency will notify petitioner of its decision within 30 days of receiving the petition.
  - Section (6): Change procedure from contested case review (Office of Administrative Hearings) to an order in other than a contested case (Circuit Court).
- 812-005-0800 is amended to clarify that sanction in section (16) is not subject to authorization in ORS 701.106 and to correct cross-reference in section (22).
- 812-007-0020 is amended to provide an exemption for emergency renovation operations, as the Oregon Health Authority (OHA) rules do. Definitions are amended to make CCB’s rules consistent with the OHA rules.
- 812-007-0302 is amended to provide an exemption for emergency renovation operations, as the Oregon Health Authority (OHA) rules do. Exemption rules are amended to make CCB’s rules consistent with OHA’s rules.
- 812-007-0350 is amended (1)(d) adds a missing word “refer” between the words “Authority” and “to the board”.

#### Description of the need for, and objectives of the rule:

- 812-002-0443 is amended to correct a cite reference.
- 812-005-0140 is amended to make the rule consistent with ORS 701.098(4) and make the rule retroactive and effective on the date the statute was changed (1/1/08). CCB can only emergency suspend *in accordance with administrative rules adopted by the Board*. If CCB is limited by OAR 812-005-0140, it will not be able to emergency suspend for failure to pay a construction debt, which will adversely impact consumer protection.
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**List of rules adopted or amended:**

Amend:

812-002-443                      812-005-0140                      812-005-0250                      812-005-800                      812-007-0020                      812-007-0302  
812-007-0350

Repeal: 812-005-0140T

**Materials and labor costs increase or savings:**

The rule amendments have no known impact on materials and labor costs.

**Estimated administrative construction or other costs increase or savings:**

The rule amendments have no measurable impact on administrative construction or other cost increases or savings.

**Land costs increase or savings:**

The rule amendments have no measurable impact on the cost of new home or a building lot.

**Other costs increase or savings:**

The proposed rules have no known fiscal impact on state agencies, units of local government or the public.

\*Typical-Single story 3 bedrooms, 1 ½ bathrooms, attached garage (calculated separately) on land with good soil conditions with no unusual geological hazards.

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**PREPARERS NAME: Catherine Dixon**

**EMAIL ADDRESS: [catherine.a.dixon@state.or.us](mailto:catherine.a.dixon@state.or.us)**

Proposed Rule	Explanation
<p><b>812-002-0443</b>  <b>Legal Capacity to Enter into Contracts</b>  “Legal capacity to enter into contracts” as used in ORS <del>[701.046(2)(b)]</del> <b>701.046(3)(b)</b>, means the attaining of the age of 18 for any sole proprietor, partner of any general partnership, limited liability partnership, limited partnership or joint venture, corporate officer, member, or any other persons similarly situated who holds or could hold the authority to enter into a contract on behalf of the licensed entity.  Stat. Auth.: ORS 670.310 &amp; 701.235  Stats. Implemented: ORS 701.046  (12/01, 12/05, 6/08)</p>	<p>Housekeeping:  Amended to correct cite reference.  The rule states 701.046(2)(b) and it should read 701.046(3)(b).  (CD)</p>
<p><b>812-005-0140</b>  <b>Emergency Suspension</b>  <b>Effective January 1, 2008</b>, the Administrator of the Board may immediately suspend or refuse to renew a license without a prior hearing, in accordance with ORS 701.098(4), in cases where the Administrator of the Board has in its possession a prima facie case of a wrongful act as described in ORS 701.098(4)(a)(A)-<del>[(D)]</del> <b>(E)</b> having been committed by a contractor and upon a finding by the Administrator that the contractor is a serious danger to the public welfare. The respondent shall be entitled to a hearing on the Administrator’s action if the respondent requests such a hearing within 90 days after the date of the notice to the respondent, as provided in ORS 701.098(4)(b).  Stat. Auth.: ORS 183.310 to 183.500, 670.310, 701.235 &amp; 701.992  Stats. Implemented: ORS 701.098 &amp; 701.102  (7/80, 8/80, 11/80, 12/80, 2/81, 6/81, 1/82, 3/82, 4/82, 10/82, 1/83, 3/83, 4/85, 12/85, 3/87, 12/87, 1/88, 1/89, 11/89, 2/90, 5/90, 6/90, 2/91, 3/91, 6/91, 7/91, 9/91, 2/92, 4/92, 7/92, 12/92, 5/93, 12/93, 1/94, 6/94, 7/94, 10/95, 11/97, 10/98, 6/00, 12/05, 6/08, Temp. 10/24/11)</p>	<p>Housekeeping:  <i>(Note: Currently a temporary rule.)</i>  Amended to correspond to statute section that was amended in 2007 (statute effective date Jan. 1, 2008).</p>
<p><b>812-005-0250</b>  <b>Repeal of Increased Bond, Letter of Credit or Cash Deposit Requirement</b>  (1) Under ORS <del>[701.085(7) or (8) (2005)]</del>, 701.068 or 701.088 after <del>[two]</del> <b>three</b> years of operating under the increased bond, letter of credit or cash deposit, an applicant or licensee may submit a written request to the <del>[Board]</del> <b>agency</b> <del>[appealing the agency’s determination requiring an increased bond, letter of credit or cash deposit amount.</del>  (2) <del>A licensee required to file a bond, letter of credit or cash deposit of up to five times the normal amount may petition the agency] to be relieved of that obligation after demonstrating [to the agency two]</del> <b>three</b> full years of acceptable business practices while having posted the increased bond, letter of credit or cash deposit.  <del>[(3)]</del> <b>(2)</b> Petitions for return to normal bond, letter of credit or cash deposit requirements under ORS <del>[701.085 (2005)]</del>, 701.068 or 701.088 must be made in writing and delivered to the agency. <del>[Such petitions must provide a full explanation why the licensee no longer poses an increased risk to the public and should be granted a license at the regular</del></p>	<p>Moderate Policy Change:  Amended as follows:  <b>Section (1):</b> Remove references to 2005 statutes. There should no longer be any licensees or applicants affected by those statutes.  <b>Sections (1):</b> Consolidate old sections (1) and (2) into one section for simplicity and clarity. Refer to “agency” rather than “Board.” This is consistent with the remainder of the rule.  <b>Section (1):</b> Extend minimum period to operate under increased bond from two to three years.</p>

<p><del>bond, letter of credit or cash deposit amount.]</del> <b><u>The petition should address each requirement set forth in section (3) of this rule.</u></b></p> <p><del>[(4)]</del> <b><u>(3) The agency shall consider the [following factors while considering the] applicant’s or licensee’s petition[.]. The agency shall grant the petition for return to a normal bond if, within three years preceding the date of the petition, applicant or licensee satisfies all of the following requirements.</u></b></p> <p><del>[(a) After the increased bond, letter of credit or cash deposit requirement, whether the petitioner has:</del></p> <p><del>(A) A history of paying Dispute Resolution Services complaints within ten (10) days of the order becoming final; or</del></p> <p><del>(B) Incurred any unpaid court judgments;</del></p> <p><del>(b) A review of the petitioner’s CCB enforcement/discipline history; and</del></p> <p><del>(c) A criminal history background check.]</del></p> <p><b><u>(a) The applicant or licensee paid Dispute Resolution Services final orders, arbitration awards and determinations within thirty (30) days of its issuance.</u></b></p> <p><b><u>(b) The applicant or licensee paid unpaid court judgments issued against the applicant or licensee.</u></b></p> <p><b><u>(c) The agency did not issue any enforcement final order against the applicant or licensee.</u></b></p> <p><b><u>(d) There were no criminal convictions entered against the applicant or licensee, its owners or officers.</u></b></p> <p><b><u>(4) If the applicant or licensee fails to satisfy all of the conditions set forth in section (3), the agency will require the applicant or licensee to maintain the increased bond for an additional three years from the date of the agency’s decision. After that three year period, the applicant or licensee may again petition to return to a normal bond.</u></b></p> <p>(5) The agency shall notify the licensee or applicant in writing <b><u>of the agency’s decision</u></b> within 30 days of <del>[the agency’s decision regarding]</del> <b><u>receiving</u></b> the petition.</p> <p><del>(6) If the agency [proposes to deny] denies the petition, the agency shall notify the licensee or applicant of the [basis for its proposed] reasons for the denial. [and provide notice and an opportunity for hearing, as provided for in ORS 183.415.]</del> <b><u>The licensee or applicant may seek judicial review of the agency’s denial as an order in other than a contested case.</u></b></p> <p>Stat. Auth.: ORS 670.310, 701.068, 701.085 (2005), 701.088 &amp; 701.235  Stats. Implemented: ORS 701.068, 701.085 (2005), 701.088 (9/06, 12/07, 6/08)</p>	<p><b><u>Sections (2):</u></b> Change petition requirement from an explanation why there is no longer an “increased risk to the public” to describing the factors for consideration in Section (3).</p> <p><b><u>Section (3):</u></b> Change basis for review to clearly articulated standards for approval or denial.</p> <p><b><u>Section (3)(a):</u></b> Expand the class of agency “orders” to recognize DRS arbitration awards and (new) determinations.</p> <p><b><u>Section (4):</u></b> Explain that if petitioner fails to satisfy all of the requirements in Section (3), the agency will not allow the reduced bond for an additional three years. After that time, the applicant or licensee may again petition the agency.</p> <p><b><u>Section (5):</u></b> Clarify that agency will notify petitioner of its decision within 30 days of receiving the petition.</p> <p><b><u>Section (6):</u></b> Change procedure from contested case review (Office of Administrative Hearings) to an order in other than a contested case (Circuit Court).</p>
<p><b>812-005-0800</b>  <b>Schedule of Penalties</b></p> <p>The agency may assess penalties, not to exceed the amounts shown in the following guidelines:</p> <p>(1) \$600 for advertising or submitting a bid to do work as a contractor in violation of ORS 701.021 and OAR 812-003-0120, which may be reduced to \$200 if the respondent becomes licensed or to \$50 if</p>	<p>Housekeeping rule amendment to clarify that sanction in section (16) is not subject to authorization in ORS 701.106.</p> <p>Housekeeping rule amendment to</p>

<p>the advertisement or bid is withdrawn immediately upon notification from the agency that a violation has occurred and no work was accepted as a result of the advertisement or bid; and</p> <p>(2) \$700 per offense without possibility of reduction for advertising or submitting a bid to do work as a contractor in violation of ORS 701.021 and OAR 812-003-0120, when one or more previous violations have occurred, or when an inactive, lapsed, invalid, or misleading license number has been used; and</p> <p>(3) \$1,000 per offense for performing work as a contractor in violation of ORS 701.021 when the Board has no evidence that the person has worked previously without having a license and no consumer has suffered damages from the work, which may be reduced to \$700 if the respondent becomes licensed within a specified time; and</p> <p>(4) \$5,000 per offense for performing work as a contractor in violation of ORS 701.021, when an owner has filed a complaint for damages caused by performance of that work, which may be reduced to \$700 if the contractor becomes licensed within a specified time and settles or makes reasonable attempts to settle with the owner.</p> <p>(a) A “complaint for damages” as used in section (4) of this rule includes, but is not limited to:</p> <p>(A) A Construction Contractors Board Dispute Resolution Services (DRS) complaint; or</p> <p>(B) A letter to Construction Contractors Board indicating that a citizen has been damaged by the contractor; and</p> <p>(5) \$5,000 per offense for performing work as a contractor in violation of ORS 701.021, when one or more violations have occurred, or when an inactive, lapsed, invalid, or misleading license number has been used; and</p> <p>(6) \$500 per offense for failure to respond to the agency’s request for the list of subcontractors required in ORS 701.345; and</p> <p>(7) \$1,000 per offense for hiring a unlicensed subcontractor; and</p> <p>(8) For failing to provide an “Information Notice to Owners about Construction Liens” as provided in ORS 87.093, when no lien has been filed, \$200 for the first offense, \$400 for the second offense, \$600 for the third offense, \$1,000 for each subsequent offense. Any time a lien has been filed upon the improvement, \$1,000.</p> <p>(9) Failure to include license number in advertising or on contracts, in violation of OAR 812-003-0120: First offense \$100, second offense \$200, subsequent offenses \$400.</p> <p>(10) Failure to list with the Construction Contractors Board a business name under which business as a contractor is conducted in violation of OAR 812-003-0260: First offense \$50, second offense \$100, subsequent offenses \$200.</p> <p>(11) Failure to notify the Construction Contractors Board of a new or additional business name or personal surname (for sole proprietors) under which business as a contractor is conducted, in violation of OAR 812-003-0320: First offense warning, second offense \$50, subsequent offenses \$200.</p> <p>(12) Failing to use a written contract as required by ORS 701.305: \$500 for the first offense; \$1,000 for the second offense; and \$5,000 for subsequent offenses.</p>	<p>correct cross-reference in section (22).</p>
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(13) Violation of OAR 812-012-0130(1), failure to provide a Consumer Notification form; \$100 first offense; \$500 second offense; \$1,000 third offense; and \$5,000 for subsequent offenses. Civil penalties shall not be reduced unless the agency determines from clear and convincing evidence that compelling circumstances require a suspension of a portion of the penalty in the interest of justice. In no event shall a civil penalty for this offense be reduced below \$100.

(14) Failure to conform to information provided on the application in violation of ORS 701.046(4), issuance of a \$5,000 civil penalty, and suspension of the license until the contractor provides the agency with proof of conformance with the application and the terms of the application.

(a) If the violator is a limited contractor or residential limited contractor working in violation of the conditions established pursuant to OAR 812-003-0130 or 812-003-0131, the licensee shall be permanently barred from licensure in the limited contractor category or residential limited contractor endorsement.

(b) If the violator is a licensed developer, residential developer or commercial developer working in violation of the conditions established pursuant to ORS 701.005(3), (6) or (14) or 701.042, the licensee shall be permanently barred from licensure in the licensed developer category or residential developer or commercial developer endorsement.

(15) Knowingly assisting an unlicensed contractor to act in violation of ORS chapter 701, \$1,000.

(16) Failure to comply with any part of ORS chapters 316, 656, or 657[-] **or with ORS** 701.035, 701.046 or 701.091, [~~as authorized by ORS 701.106,~~] \$1,000 and suspension of the license until the contractor provides the agency with proof of compliance with the statute.

(17) Violating an order to stop work as authorized by ORS 701.225(3), \$1,000 per day.

(18) Working without a construction permit in violation of ORS 701.098, \$1,000 for the first offense; \$2,000 and suspension of CCB license for three (3) months for the second offense; \$5,000 and permanent revocation of CCB license for the third and subsequent offenses.

(19) Failure to comply with an investigatory order issued by the Board, \$500 and suspension of the license until the contractor complies with the order.

(20) Violation of ORS 701.098(1)(L) by engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public: first offense, \$1,000, suspension of the license or both; second and subsequent offenses, \$5,000, per violation, revocation or suspension of the license until the fraudulent conduct is mitigated in a manner satisfactory to the agency or both.

(21) Engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public by:

(a) Not paying prevailing wage on a public works job; or

(b) Violating the federal Davis-Bacon Act; or

(c) Failing to pay minimum wages or overtime wages as required under state and federal law; or

(d) Failing to comply with the payroll certification requirements of

ORS 279C.845; or

(e) Failing to comply with the posting requirements of ORS 279C.840:

\$1,000 and suspension of the license until the money required as wages for employees is paid in full and the contractor is in compliance with the appropriate state and federal laws.

(22) Violation of ORS 701.098(1)(L) by engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public, as described in [~~subparagraphs (19) or (20)~~] **sections (20) or (21)**, where more than two violations have occurred: \$5,000 and revocation of the license.

(23) When, as set forth in ORS 701.098(1)(h), the number of licensed contractors working together on the same task on the same job site, where one of the contractors is licensed exempt under ORS 701.035(2)(b), exceeded two sole proprietors, one partnership, or one limited liability company, penalties shall be imposed on each of the persons to whom the contract is awarded and each of the persons who award the contract, as follows: \$1,000 for the first offense, \$2,000 for the second offense, six month suspension of the license for the third offense, and three-year revocation of license for a fourth offense.

(24) Performing home inspections without being an Oregon certified home inspector in violation of OAR 812-008-0030(1): \$5,000.

(25) Using the title Oregon certified home inspector in advertising, bidding or otherwise holding out as a home inspector in violation of OAR 812-008-0030(3): \$5,000.

(26) Failure to conform to the Standards of Practice in violation of OAR 812-008-0202 through 812-008-0214: \$750 per offense.

(27) Failure to conform to the Standards of Behavior in OAR 812-008-0201(2)-(4): \$750 per offense.

(28) Offering to undertake, bidding to undertake or undertaking repairs on a structure inspected by an owner or employee of the business entity within 12 months following the inspection in violation of ORS 701.355: \$5,000 per offense.

(29) Failure to include certification number in all written reports, bids, contracts, and an individual's business cards in violation of OAR 812-008-0202(4): \$400 per offense.

(30) Violation of work practice standards for lead-based paint (LBP) activity pursuant to OAR 812-007-0140 or 812-007-0240 first offense, \$1,000; second offense, \$3,000; and third offense, \$5,000 plus suspension of license for up to one year. The civil penalty is payable to the Construction Contractors Board LBP Activities Fund as provided in ORS 701.995 and OAR 812-007-0025.

(31) Violation of work practice standards for LBP renovation pursuant to OAR 812-007-0340 or violation of recordkeeping and reporting requirements pursuant to OAR 333-070-0110: first offense, \$1,000; second offense, \$3,000; and third offense, \$5,000 and suspension of the certified LBP renovation contractor license for up to one year. The civil penalty is payable to the Construction Contractors Board LBP Activities Fund as provided in ORS 701.995 and OAR 812-007-0025.

(32) Violation of OAR 812-007-0100, 812-007-0200 or 812-007-

0300: first offense, \$1,000; second offense, \$3,000; and third offense, \$5,000. The civil penalty is payable to the Construction Contractors Board Lead-Based Paint (LBP) Activities Fund as provided in ORS 701.995 and OAR 812-007-0025.

(33) Violation of ORS 279C.590:

(a) Imposition of a civil penalty on the contractor of up to ten percent of the amount of the subcontract bid submitted by the complaining subcontractor to the contractor or \$15,000, whichever is less; and

(b) Imposition of a civil penalty on the contractor of up to \$1,000; and

(c) Placement of the contractor on a list of contractors not eligible to bid on public contracts established to ORS 701.227(4), for a period of up to six months for a second offense if the offense occurs within three years of the first offense.

(d) Placement of the contractor on a list of contractors not eligible to bid on public contracts established to ORS 701.227(4), for a period of up to one year for a third or subsequent offense if the offense occurs within three years of the first offense.

(34) Violation of ORS 701.315, inclusion of provisions in a contract that preclude a homeowner from filing a breach of contract complaint with the Board: \$1,000 for the first offense, \$2,000 for the second offense, and \$5,000 for the third and subsequent offenses.

(35) Violation of ORS 701.345, failure to maintain the list of subcontractors: \$1,000 for the first offense; \$2,000 for the second offense, and \$5,000 for the third and subsequent offenses.

(36) Violation of 701.098(1)(f), knowingly providing false information to the Board: \$1,000 and suspension of the license for up to three months for the first offense; \$2,000 and suspension of the license for up to one year for the second offense; and \$5,000 and permanent revocation of license for the third offense.

(37) Failing to provide a written contract with the contractual terms provided by ORS 701.305 or OAR 812-012-0110: \$200 for the first offense; \$500 for the second offense; and \$1,000 for subsequent offenses.

(38) Working while the license is suspended if the licensee was required to provide an increased bond under ORS 701.068(5), 701.068(6), or OAR 812-003-0175: revocation.

(39) Working while the license is suspended for any violation of ORS 701.098(4)(a)(A) or ORS 701.098(4)(a)(B): \$5,000 for first offense, and revocation for second or subsequent offense.

(40) Working while the license is suspended for any reason except as otherwise provided for by this rule: revocation.

(41) Failure to comply with ORS 701.106(1)(a); \$1,000 for the first offense, \$5,000 for the second offense; \$5,000 and permanent revocation of CCB license for the third offense.

(42) Failure to deliver as required by ORS 701.109(2) a copy of a final judgment; \$200 first offense, \$400 second offense; \$600 for the third offense; \$1,000 for each subsequent offense.

(43) Failure to maintain insurance as required under ORS 701.073 or to provide proof of insurance as required under OAR 812-003-0200,

where there is no claim of loss submitted to the insurance company: first offense, \$500; second offense, \$1,000; third and subsequent offenses, \$5,000.

(44) Failure to maintain insurance as required under ORS 701.073 or to provide proof of insurance as required under OAR 812-003-0200, where there is a claim of loss submitted to the insurance company: first offense, \$2,000; second and subsequent offenses, \$5,000.

(45) Undertaking, offering to undertake, or submitting a bid to work as a locksmith when an individual is not certified as a locksmith or otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(46) Undertaking, offering to undertake, or submitting a bid to provide locksmith services when a business is not a licensed construction contractor or otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(47) Using the title of locksmith, locksmith professional, commercial locksmith, lock installer or any title using a form of the word "locksmith" that indicates or tends to indicate that the individual is a locksmith, unless an individual is certified as a locksmith or otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(48) Using the title of locksmith, locksmith professional, commercial locksmith, lock installer or any title using a form of the word "locksmith" that indicates or tends to indicate that the business providing locksmith services, unless a business (a) is a licensed construction contractor and (b) is owned by or employs a certified locksmith or is otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(49) Violating any applicable provision of the rules in division 30, including violating any standard of professional conduct other than OAR 812-030-0300(4): first offense, \$1,000; second offense, \$3,000; third offense, \$5,000 and revocation of the certificate.

(50) Violating OAR 812-030-0300(4): first offense, \$200; second offense, \$500; third offense, \$1,000.

Stat. Auth.: ORS 183.310 to 183.500, 670.310, 701.235, 701.515, 701.992 & 701.995

Stats. Implemented: ORS 87.093, 279C.590, 701.005, 701.021, 701.026, 701.042, 701.046, 701.073, 701.091, 701.098, 701.106, 701.109, 701.227, 701.305, 701.315, 701.330, 701.345, 701.480, 701.485, 701.510, 701.515, 701.992 & 701.995

(4/82, 10/82, 1/83, 3/83, 10/83, 3/84, 5/84, 3/85, 4/85, 1/87, 3/87, 1/88, 2/88, 6/88, 1/89, 11/89, 2/90, 3/90, 4/90, 5/90, 6/90, 7/90, 10/90, 11/90, 3/91, 9/91, 1/92, 2/92, 4/92, 6/92, 5/93, 12/93, 1/95, 9/95, 10/95, 8/96, 10/98), temp. 11/99, 5/00, 6/00, temp. 11/00, 4/01, 12/01, temp. 3/02, 3/02, 6/02, 9/02, 12/03, 6/04, 12/04, 12/05, 1/06, 6/06, 12/06, 6/07, 2/08, 6/08, 9/08, 11/08, 1/09 (eff. 2/1/09), 5/09, 2/10, 4/10, temp. 7/10, 2/11 eff. 3/1/11, 6/11 eff. 7/1/11, 9/11 eff. 10/1/11, 12/11 eff. 1/1/12)

**812-007-0020**

**Definitions**

The following definitions apply to division 7 of OAR chapter 812.

(1) "Abatement" means any measure or set of measures designed to permanently eliminate LBP hazards.

(2) "Accredited training program" means a training program provisionally accredited or accredited by the OHA, the Environmental Protection Agency (EPA) or an EPA-authorized state or tribal program.

(3) "Certified" means certified by OHA to perform LBP activities.

(4) "Certified lead-based paint renovation contractor" means a construction contractor that is licensed by the board to conduct LBP renovation under ORS 701.515.

(5) "Certified renovator" means an individual who has successfully completed a renovator course accredited by OHA, EPA, or EPA authorized program.

(6) "Child-occupied facility" means a building, or portion of a building, constructed before 1978 and visited regularly by the same child, under age six, on at least two different days within any week (Sunday through Saturday), provided that each day's visit lasts at least three hours and the combined weekly visit lasts at least six hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may include, but are not limited to, day-care centers, preschools and kindergarten classrooms. Child-occupied facilities may be located in target housing or in public or commercial buildings. With respect to common areas in public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only those common areas that are routinely used by children under age six, such as restrooms and cafeterias. Common areas that children under age six only pass through, such as hallways, stairways, and garages are not included. In addition, with respect to exteriors of public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only the exterior sides of the building that are immediately adjacent to the child-occupied facility or the common areas routinely used by children under age six.

(7) "Component or building component" means specific design or structural elements or fixtures of a building or residential dwelling that are distinguished from each other by form, function, and location. These include, but are not limited to: interior components such as ceilings, crown molding, walls, chair rails, doors, door trim, floors, fireplaces, radiators and other heating units, shelves, shelf supports, stair treads, stair risers, stair stringers, newel posts, railing caps, balustrades, windows and tri (including sashes, window heads, jambs, sills or stools and troughs), built-in cabinets, columns, beams, bathroom vanities, counter tops, and air conditioners; and exterior components such as painted roofing, chimneys, flashing, gutters and downspouts, ceilings, soffits, fascias, rake boards, corner boards, bulkheads, doors and door trim, fences, floors, joists, lattice work, railings and railing caps, siding, handrails, stair risers and treads, stair stringers, columns, balustrades, window sills or stools and troughs, casings, sashes and wells, and air conditioners.

(8) "Course completion certificate" means documentation issued by

Housekeeping-Minor Policy Change:

an accredited training program to an individual as proof of successful completion of an accredited renovator training program (initial or refresher).

(9) “Deteriorated lead-based paint (LBP)” means any interior or exterior paint or other covering that is peeling, chipping, chalking, cracking, flaking or any paint or coating located on an interior or exterior surface or fixture that is otherwise damaged or separated from the substrate.

(10) “Dust-lead hazard” means surface dust that contains a mass-per-area concentration of lead equal to or exceeding 40 µg/ft<sup>2</sup> on floors or 250 µg/ft<sup>2</sup> on interior windows or 400 µg/ft<sup>2</sup> in troughs based on wipe samples.

**(11) "Emergency" means a situation in which failure to act promptly would likely result in immediate harm to persons or property.**

**(12) "Emergency renovation operations" means renovation activities, such as operations necessitated by non-routine failures of equipment, that were not planned but result from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, or threatens equipment or property with significant damage. Interim controls performed in response to an elevated blood lead level in a resident child are also emergency renovations.**

~~[(11)]~~ **(13)** “Inspection” means a surface-to-surface investigation to determine the presence of LBP and an accompanying report explaining the results of the investigation.

~~[(12)]~~ **(14)** “Lead abatement contractor” means a construction contractor that is licensed by the board to perform abatement.

~~[(13)]~~ **(15)** “Lead assessor” or “risk assessor” means an individual who has been trained by an accredited training program and certified by the Department to conduct risk assessments.

~~[(14)]~~ **(16)** “Lead-based paint” or “LBP” means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5 percent by weight.

~~[(15)]~~ **(17)** “Lead-based paint activities” means, in the case of target housing and child-occupied facilities, inspection, risk assessment, and abatement.

~~[(16)]~~ **(18)** “Lead inspection contractor” means a construction contractor that is licensed by the board to perform inspections or risk assessments.

~~[(17)]~~ **(19)** “Lead inspector” means an individual who has been trained by an accredited training program and certified by OHA to conduct inspections.

~~[(18)]~~ **(20)** “Lead supervisor” means an individual who has been trained by an accredited training program and certified by OHA to supervise and conduct abatements and prepare abatement reports.

~~[(19)]~~ **(21)** “Lead worker” or “lead abatement worker” means an individual who has been trained by an accredited training program and certified by OHA to perform abatements.

~~[(20)]~~ **(22)** “Minor repair and maintenance” means activities, (including minor heating, ventilation, air conditioning work, electrical

Amended –CCB’s rules do not provide an exemption for emergency renovation operations, as do the Oregon Health Authority (OHA) rules.

Definitions are amended to make CCB’s rules consistent with the OHA rules. Sections (11) and (12) parallel OHA rules OAR 333-070-0085(29) and (30).

work, or plumbing) that disrupt 6 square feet or less of painted surface per room for interior activities or 20 square feet or less of painted surface for exterior activities, that do not involve prohibited or restricted work activities and do not involve window replacement or painted surface demolition. Jobs, other than emergency renovations, performed within the same 30 days must be considered the same job for the purpose of determining whether the job is a minor repair and maintenance activity.

~~[(21)]~~ **(23)** “Prohibited or restricted work activities” include:

(a) Open flame burning or torching;

(b) Machines to remove paint through high-speed operation without HEPA exhaust control; and

(c) Operating a heat gun at temperatures at or above 1100 degrees Fahrenheit.

~~[(22)]~~ **(24)** “Recognized test kit” means a commercially available kit recognized by EPA under 40 CFR § 745.88 as being capable of allowing a user to determine the presence of lead at levels equal to or in excess of 1.0 milligrams per square centimeter, or more than 0.5 percent lead by weight, in a paint chip, paint powder, or painted surface.

~~[(23)]~~ **(25)** “Renovation” means the modification of any existing structure, or portion thereof, which results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement. The term renovation includes, but is not limited to:

(a) Removal, modification or repair of painted surfaces or painted components, such as modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping or other such activities that may generate paint dust);

(b) The removal of building components, such as walls, ceilings, plumbing and windows;

(c) Window replacement;

(d) Weatherization projects, such as cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, or planing thresholds to install weather-stripping;

(e) Interim controls that disturb painted surfaces.

A renovation for the purpose of converting a building, or part of a building, into target housing or a child-occupied facility is a renovation. The term “renovation” does not include minor repair and maintenance.

~~[(24)]~~ **(26)** “Renovation Right Pamphlet” means the pamphlet entitled *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools* or any pamphlet approved by the Environmental Protection Agency (EPA) for the same purpose.

~~[(25)]~~ **(27)** “Risk assessment” means an on-site investigation to determine the existence, nature, severity, and location of a LBP hazard and an accompanying report explaining the results of the investigation and options for reducing LBP hazards.

~~[(26)]~~ **(28)** “Soil lead hazard” means 400 ppm of lead in child play areas or 1200 ppm in non-child play areas.

~~[(27)]~~ **(29)** “Target housing” means any housing constructed before 1978, except housing for the elderly or persons with disabilities or any housing with no bedrooms.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

<p>Stats. Implemented: ORS 701.505-701.520 (6/96, 11/96, 1/97, 5/97, 11/97, 10/98, 3/99, 6/00, 12/06, 2/10, temp. 3/11/10 eff. 3/11/10, temp. 6/1/10 eff. 6/1/10, 8/10 eff. 9/1/10, 9/11 eff. 10/1/11)</p>	
<p><b>812-007-0302</b> <b>Applicability of and Exceptions to Rules Relating to Lead-Based Paint Renovation</b></p> <p><b>(1)</b> OAR 812-007-0300 to OAR 812-007-0374 apply to all renovations performed for compensation in target housing and child-occupied facilities, except for renovations in target housing or child-occupied facilities in which:</p> <p>[(+)] <b>(a)</b> A lead assessor or lead inspector has made a written determination that the components affected by the renovation are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams/per square centimeter (mg/cm<sup>2</sup>) or 0.5 percent by weight. The person performing the renovation must obtain a copy of the written determination.</p> <p>[(-)] <b>(b)</b> A certified renovator, using a recognized test kit, has tested each component affected by the renovation and determined that the components are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams/per square centimeter (mg/cm<sup>2</sup>) or 0.5 percent by weight. The certified renovator must follow the kit manufacturer’s instructions.</p> <p><b>(2) <u>The notification requirements in OAR 812-007-0370 to 812-007-0374 do not apply to emergency renovation operations. Emergency renovations other than interim controls are also exempt from the warning sign, containment, waste handling, training, and certification requirements in OAR 333-070-0105 to the extent necessary to respond to the emergency. Emergency renovations are not exempt from:</u></b></p> <p><b><u>(a) The cleaning requirements of OAR 333-070-0090 (applicable to LBP renovation contractors by OAR 812-007-0340), which must be performed by certified renovators or individuals trained in accordance with OAR 333-070-0100;</u></b></p> <p><b><u>(b) The cleaning verification requirements of OAR 333-070-0090, which must be performed by certified renovators; and</u></b></p> <p><b><u>(c) The recordkeeping requirements of OAR 333-070-0110. Once the immediate emergency is over, lead safe work practices and all the requirements of these rules shall be in effect.</u></b></p> <p>Stat. Auth.: ORS 670.310 &amp; 701.235 &amp; 701.515 Stats. Implemented: ORS 701.505-701.520 (8/10 eff. 9/1/10)</p>	<p>Housekeeping – Minor Policy Change: Amended – CCB’s rules do not provide an exemption for emergency renovation operations, as do the Oregon Health Authority (OHA) rules.</p> <p>Exemption rules are amended to make CCB’s rules consistent with the OHA rules. Section (2) parallels OHA rule OAR 333-070-0075(3)(b).</p>
<p><b>812-007-0350</b> <b>Denial, Suspension or Revocation of Certified Lead-Based Paint Renovation Contractor License</b></p> <p>(1) The board may deny, suspend, or revoke a license of a certified LBP renovation contractor on the following grounds:</p> <p>(a) Obtaining a license through invalid documentation;</p> <p>(b) Permitting the duplication or use of the license by another;</p>	<p>Housekeeping: Amended - OAR 812-007-0350(1)(d) has a word missing. The word “refer” should be placed between the words ‘Authority’ and ‘to the board.’ It appears to have been an inadvertent omission.</p>

<p>(c) Violating a rule of the board; or.</p> <p>(d) Violating OAR 333-070-0090 (work practice standards), 333-070-0100(4) (renovator responsibilities), or 333-070-0110 (recordkeeping and reporting requirements.) For purposes of recordkeeping and reporting requirements, as used in OAR 333-070-0110, the terms “Oregon Health Authority” and “Authority” <b>refer</b> to the board.</p> <p>(2) Hearings on denial, suspension or revocation of a license shall be conducted as a contested case in accordance with ORS 183.310 to 183.470.</p> <p>Stat. Auth.: ORS 670.310, 701.235 &amp; 701.515 Stats. Implemented: ORS 701.510 &amp; 701.515 (2/10, 4/10, 9/11 eff. 10/1/11)</p>	
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