

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>OAR 812</u> (Administrative Rules Chapter Number)
<u>Catherine Dixon</u> (Rules Coordinator)	<u>700 Summer Street NE Suite 300, Salem OR 97310</u> (Address)	<u>378-4621 ext. 4077</u> (Telephone)

RULE CAPTION

Adopt maintenance schedule rule, clarify RMI experience and \$150 material supplier fee, correct cite references and housekeeping.
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

<u>June 24, 2008</u> Hearing Date	<u>11:00 a.m.</u> Time	<u>West Salem Roth's IGA, Santiam Rm., 1130 Wallace Rd., Salem, OR</u> Location	<u>Tom Skaar</u> Hearings Officer
--------------------------------------	---------------------------	--	--------------------------------------

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

RULEMAKING ACTION

ADOPT: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.
812-001-0240

AMEND:
812-003-0175 812-004-0110 812-004-0260 812-004-0320 812-004-0550 812-005-0130 812-005-0500 812-006-0450

REPEAL:

Renumber: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

Amend and Renumber: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

ORS 183.310 to 183.500, 183.415, 670.310, 701.068, 701.088, 701.122, 701.227, 701.235 & 701.992
Stat. Auth.: ORS

Other Authority
ORS 183.415, 183.460, 183.470, 183.480, 279C.590, 701.005, 701.068, 701.088, 701.098, 701.102, 701.122, 701.133, 701.140, 701.143, 701.145, 701.146, 701.227 & 701.335
Stats. Implemented: ORS

RULE SUMMARY

- 812-001-0240 adopt recommended maintenance schedule to comply with ORS 701.335 for new residential construction. The rule specifies the minimum information that a contractor must provide to a first purchaser or owner of new residential structure or dwelling.
- 812-003-0175, 812-004-0110, 812-004-0260, 812-004-0550, 812-005-0130 & 812-005-0500 are amended to correct cite references and housekeeping.
- 812-004-0320 is amended to expand conditions where a complainant may file a second complaint on the same allegations after the first complaint was closed and to clarify that the \$150 limit on material supplier complaints does not include the processing fee.
- 812-006-0450 is amended to clarify responsible managing individual (RMI) experience.

ORS 183.335(2)(b)(G) 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.

June 24, 2008 at 11:00 a.m.

Last Day for Public Comment

Last day to submit written comment to the Rules Coordinator

<u>Signature</u> <u>Catherine Dixon</u> Printed Name	<u>May 6, 2008</u> Date
--	----------------------------

*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 OR 97310 by 5:00 pm 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 pm on 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. If you don't have web access, contact Cathy Dixon at (503) 378-4621 ext. 4077 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

In the Matter of: Amendments to OAR 812

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

Adopt maintenance schedule rule, clarify RMI experience and \$150 material supplier fee, correct cite references and housekeeping.

Statutory Authority: ORS 183.310 to 183.500, 183.415, 670.310, 701.068, 701.088, 701.122, 701.227, 701.235 & 701.992

Other Authority:

Stats. Implemented: ORS 183.415, 183.460, 183.470, 183.480, 279C.590, 701.005, 701.068, 701.088, 701.098, 701.102, 701.122, 701.133, 701.140, 701.143, 701.145, 701.146, 701.227 & 701.335

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

- 812-001-0240 adopt recommended maintenance schedule to comply with ORS 701.335 for new residential construction. The rule specifies the minimum information that a contractor must provide to a first purchaser or owner of new residential structure or dwelling. The rule is needed to implement HB 2654 (2007).
- 812-003-0175, 812-004-0110, 812-004-0260, 812-004-0550, 812-005-0130 & 812-005-0500 are amended to correct cite references.
- 812-004-0320 is amended to expand conditions where a complainant may file a second complaint on the same allegations after the first complaint was closed and to clarify that \$150 limit on material supplier complaints does not include the processing fee. From time to time CCB gets a material supplier complaint that must be dismissed because it is less than \$150. The rule amendment clarifies to the complainants that request a hearing that they cannot add the processing fee to their complaint amount to make it over \$150.
- 812-006-0450 is amended to clarify responsible managing individual (RMI) experience.

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

Fiscal and Economic Impact:

The rule changes have no negative fiscal impact on state agencies, units of local government or the public.

The rule changes have no negative 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)):
No fiscal impact.
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:
This rule amendment does not have an impact on small businesses.
 - b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services.
This rule does not impact reporting, recordkeeping or other administrative activities required for compliance.
 - c. Equipment, supplies, labor and increased administration required for compliance.
OAR 812-001-0240 has a very minimal fiscal impact on contractors, the cost of printing two pieces of paper with the maintenance schedule printed on it and submitting it to consumers of new residential structures. The remaining proposed rule amendments have no fiscal impact.

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

Six of the current nine Board members are business owners. CCB conducted several stakeholder meetings where maintenance schedule implementation was discussed and input on implementation was taken.

Administrative Rule Advisory Committee consulted? The Construction Contractors Board is made up of six contractors; one elected public official, and two public members. They serve as their own Administrative Rule Advisory Committee.

If not, why?:

Authorized Signer
Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

Catherine Dixon
Printed Name

May 6, 2008
Date
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:** June 24, 2008
ADDRESS: 700 Summer St. NE Ste 300
CITY/STATE: Salem OR 97309 **TEMPORARY:** **EFFECTIVE DATE:**
PHONE: (503) 378-4621

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)

- 812-001-0240 adopt recommended maintenance schedule to comply with ORS 701.335 for new residential construction. The rule specifies the minimum information that a contractor must provide to a first purchaser or owner of new residential structure or dwelling.
- 812-003-0175, 812-004-0110, 812-004-0260, 812-004-0550, 812-005-0130 & 812-005-0500 are amended to correct cite references and housekeeping.
- 812-004-0320 is amended to expand conditions where a complainant may file a second complaint on the same allegations after the first complaint was closed and to clarify that the \$150 limit on material supplier complaints does not include the processing fee.
- 812-006-0450 is amended to clarify responsible managing individual (RMI) experience.

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

- 812-001-0240 adopt recommended maintenance schedule to comply with ORS 701.335 for new residential construction. The rule specifies the minimum information that a contractor must provide to a first purchaser or owner of new residential structure or dwelling. The rule is needed to implement HB 2654 (2007).
- 812-003-0175, 812-004-0110, 812-004-0260, 812-004-0550, 812-005-0130 & 812-005-0500 are amended to correct cite references.
- 812-004-0320 is amended to expand conditions where a complainant may file a second complaint on the same allegations after the first complaint was closed and to clarify that \$150 limit on material supplier complaints does not include the processing fee. From time to time CCB gets a material supplier complaint that must be dismissed because it is less than \$150. The rule amendment clarifies to the complainants that request a hearing that they cannot add the processing fee to their complaint amount to make it over \$150.
- 812-006-0450 is amended to clarify responsible managing individual (RMI) experience.

List of rules adopted or amended: OAR 812-003-0150; 812-004-0600

812-001-0240	812-004-0110	812-004-0320	812-005-0130	812-006-0450
812-003-0175	812-004-0260	812-004-0550	812-005-0500	

Materials and labor costs increase or savings: None

OAR 812-001-0240 has a very minimal fiscal impact on contractors, the cost of printing two pieces of paper with the maintenance schedule printed on it and submitting it to consumers of new residential structures. The remaining proposed rule amendments have no fiscal impact.

Estimated administrative, construction or other costs increase or savings: None

Land costs increase or savings: None

Other costs increase or savings: None

*Typical-Single story 3 bedrooms, 1 1/2 bathrooms, attached garage (calculated separately) on land with good soil conditions with no unusual geological hazards.

PREPARERS NAME: Catherine Dixon

EMAIL ADDRESS: catherine.a.dixon@state.or.us

**Rule Amendments for June 24, 2008 Rule Hearing
Rules Effective 7/1/08**

PROPOSED RULE	EXPLANATION
<p><u>812-001-0240</u> <u>Maintenance Schedules</u> <u>(1) A contractor that constructs a new residential structure or zero-lot-line dwelling shall provide a maintenance schedule to the first purchaser or owner of the structure or dwelling. The maintenance schedule will recommend periodic steps that the purchaser or owner should take to prevent moisture intrusion or water damage to the structure or dwelling. The minimum information contained in the maintenance schedule will consist of the information listed below in section (4).</u> <u>(2) “Moisture intrusion” and “water damage” are defined as follows:</u> <u>(a) “Moisture intrusion” means water, whether liquid, frozen, condensed or vaporized, that penetrates into a structure or behind the outside cladding of a structure.</u> <u>(b) “Water damage” means injury or harm caused by moisture intrusion that reduces the value or usefulness of a structure.</u> <u>(3) Moisture intrusion and water damage may occur, for example, from the following:</u> <u>(a) Missing or loose roofing materials or flashing;</u> <u>(b) Window sills or door frames without adequate caulking or weather-stripping;</u> <u>(c) Lack of caulking in siding, mortar in masonry or grout in exterior ceramic tile installations;</u> <u>(d) Degraded paint on exterior siding or surfaces;</u> <u>(e) Overflowing or clogged gutters;</u> <u>(f) Gutter drains or downspouts that are not a sufficient distance from the structure;</u> <u>(g) Improper drainage slope next to foundation;</u> <u>(h) Plant materials too close to the structure or foundation;</u> <u>(i) Sprinklers that overspray onto the structure or foundation;</u> <u>(j) Non-working interior ventilation systems.</u> <u>(4) The recommended maintenance schedule for new residential structures and dwellings, to prevent moisture intrusion and water damage, is as follows:</u> <u>(a) At least once a year:</u> <u>(A) Check roof for damaged, loose or missing shingles. Check flashing around roof stacks, vents, skylights, and chimneys and in roof valleys for missing or loose flashing. Repair or replace if necessary.</u> <u>(B) Check for water stains in the roof of the attic and in the exterior overhangs or soffits. If water stains are present, locate and repair the cause of moisture intrusion.</u> <u>(C) Check and repair missing mortar in exterior masonry.</u> <u>(D) Check painted surfaces for cracking, peeling or fading. Repaint if necessary.</u> <u>(E) Inspect gutters and downspouts for leaks. Repair if necessary. Check alignment of gutters, downspouts and splash blocks to ensure that water is properly diverted away from the structure and foundation. Repair if necessary.</u> <u>(F) Inspect gutters for debris blockage. Remove debris (for example, tree</u></p>	<p>Adopt recommended maintenance schedule to comply with ORS 701.335 for new residential construction. The rule specifies the minimum information that a contractor must provide to a first purchaser or owner of new residential structure or dwelling. (KD)</p>

needles and leaves) from downspouts and gutters.

(G) Check soil around foundation to make sure that it slopes in such a way that water can flow away from the foundation. Fill soil in any areas that have settled around the foundation.

(H) Trim back tree branches, shrubs and other plants to make sure they are not in contact with the structure.

(I) Check landscaping sprinklers to make sure that they are not set so that they will soak siding or form puddles near the foundation. Adjust if necessary.

(b) At least twice a year, check and repair missing, cracked or peeling caulking or weather-stripping around window sills, door frames and in siding gaps.

(c) At least once every two months, check to make sure that interior mechanical ventilation systems (such as bathroom, kitchen and utility room vent fans) are in good working order. Repair if necessary.

(5) Signs of water damage may include, but are not limited to, dampness, staining, mildewing (blackened surfaces with musty smell) and softness in wood members (possible sign of dry rot).

(6) If water damage is discovered, investigation should be made into the source of the water damage. Steps should be taken to repair or replace building components or materials that allowed moisture intrusion leading to the water damage. Additional steps may need to be taken depending on the extent of the water damage.

(7) The maintenance schedule in section (4) contains the minimum information that a contractor of a new residential structure or zero-lot-line dwelling must provide. A contractor may offer a maintenance schedule with additional information, recognizing the uniqueness of each structure and its material components. A contractor may use any form or layout for its maintenance schedule, provided that it contains the information in section (4).

(8) The contractor of a new residential structure or zero-lot-line dwelling shall provide a copy of its maintenance schedule to the first purchaser or owner no later than 60 days after substantial completion of the structure or dwelling, or occupancy of the structure or dwelling, whichever occurs later.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.335

(new)

812-003-0175

Increased Bond, Letter of Credit or Cash Deposit Requirement, Past Unresolved Activity

(1) A business, including an individual person, applying for or renewing a license will file a bond, letter of credit or cash deposit in an amount up to five times the amount required for the category of license under OAR 812-003-0170 or 812-003-0171, if:

(a) The business has unpaid debts under a final order or arbitration award of the board;

(b) An owner or officer of the business has unpaid debts under a final order or arbitration award of the board; or

(c) An owner or officer of the business was an owner or officer of another business at the time the other business incurred a debt that is the subject of a final order or arbitration award of the board and such debt remains unpaid.

(2) For purposes of this rule, "owner" means an "owner" as defined in ORS [701.077] **701.094** and OAR 812-002-0537.

Correct a cite reference. (CD)

<p>(3) For purposes of this rule, “officer” means an “officer” as defined in ORS 701.005(11).</p> <p>(4) Debts due under a final order or arbitration award of the board include amounts not paid by a surety or financial institution on complaints. Stat. Auth.: ORS 670.310, 701.068, 701.088 & 701.235 Stats. Implemented: ORS 701.068, 701.088 (temp. 3/06, 9/06, 12/06, 12/07, 2/08)</p>	
<p>812-004-0110 Complaint Processing Fee; Waiver of Fee</p> <p>(1) The complaint processing fee authorized under ORS 701.147 is \$50 for a complaint filed under ORS 701.145. There is no complaint processing fee for a complaint filed under ORS 701.146.</p> <p>(2) The agency must collect the processing fee under OAR 812-004-0400.</p> <p>(3) A complainant may request that the agency waive the complaint processing fee described in section (1) of this rule by submitting a properly executed waiver request. The waiver request must be submitted on a form provided by the agency.</p> <p>(4) The agency may waive the complaint processing fee if the waiver request submitted by the complainant shows that:</p> <p>(a) The complainant is an individual;</p> <p>(b) The complainant has no significant assets except the home that is the subject of the complaint and one automobile; and</p> <p>(c) The complainant’s gross income does not exceed the 2007 Department of Health and Human Services Poverty Guidelines published in the Federal Register, [<u>Vol. 72, No. 15, January 24, 2007, pp. 3147-3148</u>] Vol. 73, No. 15, January 23, 2008, pp. 3971-3972.</p> <p>(5) A complainant, who requests a waiver of the complaint processing fee under section (3) of this rule, must certify that the information on the request is true.</p> <p>(6) The agency may require that the complainant pay a complaint processing fee of \$97 if the agency finds that the complainant provided false information on a request for a waiver of the complaint processing fee submitted under section (3) of this rule.</p> <p>Stat. Auth.: ORS 670.310 & 701.235 Stats. Implemented: ORS 701.133 & 701.146 [701.147] (12/03, temp. 12/03, 2/04, 5/04, 12/06, 6/07)</p>	<p>Amended to update citation to federal poverty guidelines for purposes of obtaining a waiver from the complaint processing fee. (WJB)</p>
<p>812-004-0260 Order Closing a Complaint</p> <p>(1) If the agency closes a complaint because the complainant did not act in response to a request from the agency, the closure of the complaint is an order that is not an order in a contested case. An order to close a complaint is subject to a motion for reconsideration under ORS 183.484 and OAR 137-004-0080 and an appeal for judicial review under ORS 183.484.</p> <p>(2) The agency may close a complaint under this rule only if it complies with the following:</p> <p>(a) The agency must include notice in its request to the complainant that failure to act as requested may result in closure of the complaint and that closure of the complaint will prevent access to the bond, letter of credit or cash deposit.</p> <p>(b) The agency may not close the complaint sooner than 14 days after giving the notice required in subsection (2)(a) of this rule.</p> <p>(c) The agency must notify the parties to the complaint that the complaint is closed and cite the statutes and rules under which the order may be appealed.</p> <p>(3) The agency may reopen a complaint closed under this rule if the record of</p>	<p>Correct a cite reference. (CD)</p>

the complaint contains evidence that shows that the reason the complainant did not act as requested by the agency was due to excusable neglect by the complainant. The agency may reopen the complaint:

(a) In response to a motion for reconsideration; or

(b) On the agency's own initiative under OAR 137-004-0080 after receiving evidence supporting reconsideration of the order closing the complaint.

(4) At the agency's discretion, the agency may refer a complaint to the Office of Administrative Hearings for a contested case hearing on whether closure of the complaint under this rule is proper.

(5) A party must file a motion for reconsideration of an order closing a complaint under this rule before seeking judicial review of the order.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 183.480, 701.140, 701.145, [701.147 & section 2, chapter 203, Oregon Laws 2007 (HB 2309)] **701.146**

(04/01, 9/01, 5/02, 8/03, 12/04, 12/05, 12/06, 12/07)

812-004-0320

Jurisdictional Requirements

(1) A complaint must be of a type described under ORS 701.140.

(2) A complaint must be filed with the agency within the time allowed under ORS 701.143.

(3) A complaint will be processed only against a licensed entity. Whether a respondent is licensed for purposes of this section must be determined as follows:

(a) For an owner, primary contractor or subcontractor complaint, the respondent will be considered licensed if the respondent was licensed during all or part of the work period.

(b) For a material complaint, the respondent will be considered licensed if one or more invoices involve material delivered while the respondent was licensed. Damages will be awarded only for material delivered within the period of time that the respondent was licensed.

(c) For an employee or employee trust complaint, the respondent will be considered licensed if the respondent was licensed on one or more days that the complainant or the employee that is the subject of the trust performed work that was not paid for. Damages will be awarded only for unpaid wages or benefits provided on days on which the respondent was licensed.

(4)(a) The complainant must have been properly licensed at the time the bid was made or the contract was entered into and must have remained licensed continuously throughout the work period if:

(A) The work at issue in the complaint requires that the complainant be licensed under ORS 701.055 in order to perform the work; and

(B) The complainant files a complaint arising out of a contract to construct the work at issue and the complaint is for unpaid labor or materials furnished under the contract.

(b) As used in section (4) of this rule, "properly licensed" means the complainant:

(A) Had a current valid license issued by the agency and was not on inactive status;

(B) Was licensed for the type of work at issue in the complaint;

(C) Complied with the requirements of ORS 701.035 and OAR 812-003-0250 as they applied to the complainant's license status as an "exempt" or "nonexempt" contractor; and

(D) Complied with any other requirements and restrictions on the complainant's license.

(5) Complaints will be accepted only when one or more of the following

Amended:

- Section (7) amendments: Expand conditions where a complainant may file a second complaint on the same allegations after the first complaint was closed.
- Section (10) is amended to clarify that \$150 limit on material supplier complaints does not include the processing fee. From time to time we get a material supplier complaint that must be dismissed because it is less than \$150. However, if the complainant requests a hearing and adds the processing fee, they may believe that would then make it over \$150 and we should process it. This amendment adds language to clarify that is not so. (WJB) (suggested by SH)

<p>relationships exist between the complainant and the respondent:</p> <p>(a) A direct contractual relationship based on a contract entered into by the complainant and the respondent, or their agents;</p> <p>(b) An employment relationship or assigned relationship arising from a Bureau of Labor and Industries employee claim;</p> <p>(c) A contract between the complainant and the respondent providing that the complainant is a trustee authorized to receive employee benefit payments from the respondent for employees of the respondent; or</p> <p>(d) A real estate purchase conditioned upon an inspection report or repairs made by the respondent.</p> <p>(6) Complaints will be accepted only for work performed within the boundaries of the State of Oregon or for materials or equipment supplied or rented for fabrication into or use upon structures located within the boundaries of the State of Oregon.</p> <p>(7) The agency may refuse to process a complaint or any portion of a complaint that includes an allegation of a breach of contract, negligent or improper work or any other act or omission within the scope of ORS 701.140 that is the same as an allegation contained in a complaint previously filed by the same complainant against the same respondent, except that the agency may process a complaint that would otherwise be dismissed under this section (7) if the previously filed complaint was:</p> <p>(a) Withdrawn before the on-site meeting;</p> <p><u>(b) Closed without a determination on the merits before the on-site meeting;</u></p> <p><u>(c) Closed because the complainant failed to pay the complaint processing fee required under OAR 812-004-0110.</u></p> <p>(d) <u>(d)</u> Closed or dismissed with an explicit provision allowing the subsequent filing of a complaint containing the same allegations as the closed or dismissed complaint; or</p> <p>(e) <u>(e)</u> Closed or withdrawn because the respondent filed bankruptcy.</p> <p>(8) Nothing in section (7) of this rule extends the time limitation for filing a complaint under ORS 701.143.</p> <p>(9) A complaint by a person furnishing material, or renting or supplying equipment to a contractor may not include a complaint for non-payment for tools sold to a licensee, for equipment sold to a licensee and not fabricated into a structure, for interest or service charges on an account, or for materials purchased as stock items.</p> <p>(10) Complaints by a contractor or by persons furnishing material, or renting or supplying equipment to a contractor will not be processed unless they are at least \$150 in amount, <u>not including the processing fee required by 812-004-0110.</u></p> <p>(11) The agency may process a complaint against a licensed contractor whose license was inactive under OAR 812-003-0330, 812-003-0340, 812-003-0350, 812-003-0360 and 812-003-0370 during the work period.</p> <p>Stat. Auth.: ORS 670.310 & 701.235</p> <p>Stats. Implemented: ORS [701.065] <u>701.131, 701.133</u>, 701.139, 701.140, 701.143, 701.145 <u>&</u> 701.146 [& 701.147]</p> <p>(10/98, 6/00, 12/01, 5/02, 3/03, 8/03, 12/03, 10/04, 12/04, 12/05, 12/06)</p>	
<p>812-004-0550</p> <p>Proposed Default Order to Dismiss, Other Resolution of Complaint by Proposed Default Order</p> <p>(1) The agency may issue a proposed default order proposing dismissal of a complaint if the evidence in the complaint record persuades the agency that one of</p>	<p>Amended to correct cite reference. (WJB)</p>

<p>the following grounds for dismissal exists:</p> <p>(a) The complaint is not the type of complaint that the agency has jurisdiction to determine under ORS 701.140.</p> <p>(b) The complaint was not filed within the time limit specified under ORS 701.143.</p> <p>(c) The complainant did not permit the respondent to comply with agency recommendations under [ORS 701.145(3)(b)] ORS 701.145(3)(d).</p> <p>(d) The complaint must be dismissed for lack of jurisdiction under OAR 812-004-0320(4) or (5).</p> <p>(e) The respondent breached a contract or performed work negligently or improperly, but the monetary value of damages sustained by the complainant is less than an amount due to the respondent from the complainant under the terms of the contract.</p> <p>(f) The complainant contends that the respondent did not fulfill the terms of a settlement that resolved the complaint but the agency finds that the respondent fulfilled the respondent's obligation under the settlement agreement.</p> <p>(2) The agency may issue a proposed default order proposing dismissal of a complaint if the agency investigates the complaint and finds that the record of the complaint supports dismissal under OAR 812-004-0535.</p> <p>(3) If the complainant makes a timely request for a hearing after the agency issued a proposed default order under section (1) or (2) of this rule, the agency may:</p> <p>(a) Refer the complaint for an arbitration or contested case hearing solely to determine whether the dismissal was proper; or</p> <p>(b) Require that the complainant file a statement of damages stating an amount the complainant alleges the respondent owes the complainant and refer the complaint for arbitration or a contested case hearing to determine if the complaint should be dismissed and if not, the validity of the complaint and whether the amount alleged, or some lesser amount is proper.</p> <p>(4) The provisions of OAR 812-004-0560 apply to a proposed default order or a referral to the Office of Administrative Hearings issued under this rule.</p> <p>Stat. Auth.: ORS 670.310 & 701.235</p> <p>Stats. Implemented: ORS 183.415, 183.460, 183.470, 701.133 & 701.145 [& 701.147]</p> <p>(temp. 1/00, temp. 3/00, 5/00, 4/01, 5/02, 3/03, 8/03, 2/04, 12/06)</p>	
<p>812-005-0130 Hearing</p> <p>If the agency issues a notice of intent to take an action and an answer or a written request for hearing is timely received, the agency will set an administrative hearing to determine whether the respondent has violated any provision of ORS chapter 701 or of these rules, and if so, the duration of any suspension and the amount of any civil penalty to be assessed.</p> <p>Stat. Auth.: ORS 183.310 to 183.500, 670.310, 701.235 & 701.992</p> <p>Stats. Implemented: ORS 701.098 & 701.102 [701.135]</p> <p>(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)</p>	Correct a cite reference. (CD)
<p>812-005-0500 Form of Complaint Regarding Public Contracts</p> <p>(1) A person providing information to the agency must submit the information on a form provided by the agency if the information is submitted for</p>	Correct a cite reference. (CD)

<p>purposes of:</p> <p>(a) ORS 701.227 alleging that a contractor failed to pay a person who supplied labor or materials within 60 days after the date when the contractor received payment; or</p> <p>(b) ORS 279C.590, in accordance with the subcontractor disclosure requirements pursuant to ORS 279C.370.</p> <p>(2) The agency may require the use of the most recent version of a form submitted under section (1) of this rule.</p> <p>Stat. Auth.: ORS 670.310, [701.135] 701.098, 701.235 & 701.227 Stats. Implemented: ORS [701.135] 701.098, 701.227 & 279C.590 (temp. 5/00, 6/00, 12/01, 3/02, 12/05)</p>	
<p>812-006-0450</p> <p>Experience</p> <p>In order for [an RMI] a <u>responsible managing individual</u> to demonstrate experience under ORS [701.078(1)(b)(B)] 701.005(15)(c)(B):</p> <p>(1) The individual must be listed on the agency's [current] license records <u>before July 1, 2000</u>, as having been a sole proprietor, partner, venturer, member, corporate officer, trustee, or [designated RMI] <u>responsible managing individual</u> of a business licensed under ORS chapter 701 before July 1, 2000;</p> <p>(2) (a) (a) The license of the business described in section (1) of this rule has not lapsed, or if lapsed, has lapsed for not more than the 24 month period prior to the date of the application; [and] or</p> <p><u>(b)(A) If the individual is listed on multiple license records as a sole proprietor, partner, venturer, member, corporate officer, trustee or responsible managing individual, the licensed business with which the individual is currently associated must not have lapsed for more than the 24-month period prior to the date of the application; and</u></p> <p><u>(B) The individual must have been similarly and continuously associated with one or more licensed contractors during the time period beginning before July 1, 2000, until the date of the application.</u></p> <p>(3) The individual must have been listed as a sole proprietor, partner, venturer, member, corporate officer, trustee, or [designated RMI] <u>responsible managing individual</u> of the business described in section (1) or (2)(b) of this rule within the 24 month period prior to date of the application.</p> <p>Stat. Auth.: ORS 670.310, [701.072] 701.122 & 701.235 Stats. Implemented: ORS [701.072 & 701.078] 701.005 & 701.122 (1/92, 2/92, 5/92, 7/92, 8/92, 3/93, 4/93, 5/93, 6/93, 8/93, 12/93, 1/94, 6/94, 7/94, 1/95, 6/95, 10/97, 2/98, 3/99, 5/00, 6/00, 8/00, temp. 5/01, 12/01, 5/02, 6/02, 12/03, 12/04, 5/06, 9/06, 6/07) (Amended and renumbered from 812-006-0020, 9/06)</p>	<p>Amended to clarify responsible managing individual (RMI) experience. (KP)</p>