

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

Modifying requirements for license application information—corporate officer identifiers

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
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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.

AMEND:
812-003-0260

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 670.310 & 701.235

Stat. Auth.: ORS

Other Authority

ORS 25.270, 25.785, 25.990, 701.035, 701.050, 701.056, 701.068, 701.073, 701.081, 701.088 & 701.122

Stats. Implemented: ORS

RULE SUMMARY

OAR 812-003-0260 is amended to correct a previous amendment to the rule. The previous amendment neglected to consider that the name and address of corporate officers is required by statute, namely ORS 701.046, and cannot be removed by rule. The exemption for reporting the driver's license number and date of birth for corporate officers of small-, mid-, large- and mega-cap companies is retained.

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

Signature

Catherine Dixon

Printed Name

May 6, 2008

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

Agency and Division

OAR 812

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.)

Statutory Authority: ORS 670.310 & 701.235

Other Authority:

Stats. Implemented: ORS 25.270, 25.785, 25.990, 701.035, 701.050, 701.056, 701.068, 701.073, 701.081, 701.088 & 701.122

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

OAR 812-003-0260 was amended on March 24, 2008, to exempt small-, mid-, large- and mega-cap companies from the requirement that they provide identifiers for their many corporate officers. The rationale for the rule change was that small-, mid-, large- and mega-cap companies would have no incentive to dissolve their corporate entity to avoid paying construction debts. Additionally, while the burden on small businesses to provide the information is limited, it can be quite substantial for large businesses that have hundreds of corporate officers. Further review of the governing statutes, notably ORS 701.046(1)(h), indicated that, BY STATUTE, ALL businesses must disclose the name and address of their corporate officers. This amendment is made to conform the rule to the statute – under the amended rule, the only exemption for corporations with capitalization in excess of \$300 million is for the driver's license and date of birth identifiers.

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, including a Statement of Cost of Compliance:

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

The rule changes have no known 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)):

Business and Public: Any fiscal impact on businesses or public should be positive, not negative. Large corporations applying for licensure in Oregon will need to spend less money in preparing applications since they will not be required to gather and provide personal identifier information for each of their corporate officers. Additionally, large businesses may be more likely to obtain licensure in Oregon with the elimination of this requirement, resulting in more economic activity in Oregon.

State Agency: CCB will not need to perform as much data entry of corporate officer personal identifier information, resulting in a cost savings for the agency.

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:

Large corporations applying for licensure in Oregon will spend less money in preparing applications since they will not be required to gather and provide personal identifier information for each of their corporate officers.

c. Equipment, supplies, labor and increased administration required for compliance:

Large corporations applying for licensure in Oregon will need to spend less money in preparing applications since they will not be required to gather and provide personal identifier information for each of their corporate officers.

How were small businesses involved in the development of this rule?
Six of the current nine Board members are business owners.

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)

OAR 812-003-0260 was amended on March 24, 2008, to exempt small-, mid-, large- and mega-cap companies from the requirement that they provide identifiers for their many corporate officers. This proposed amendment changes the previous amended rule to indicate that while personal identifiers of corporate officers do not need to be provided, the names and addresses do. This amendment is made to conform the rule to ORS 701.046(1)(h).

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

The amendment is made to conform the rule to ORS 701.046(1)(h).

List of rules adopted or amended:

OAR 812-003-0260

Materials and labor costs increase or savings:

Large corporations applying for licensure in Oregon will spend less money in preparing applications since they will not be required to gather and provide personal identifier information for each of their corporate officers. They will need, however, to provide the names and (business) addresses of those individuals, which should not be particularly costly since presumably that information is maintained by the businesses.

Estimated administrative construction or other costs increase or savings:

Large corporations applying for licensure in Oregon will spend less money in preparing applications since they will not be required to gather and provide personal identifier information for each of their corporate officers.

Land costs increase or savings:

None.

Other costs increase or savings:

CCB will not need to perform as much data entry of corporate officer personal identifier information, resulting in a cost savings for the agency.

*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

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

PROPOSED RULE	EXPLANATION
<p>812-003-0260 Application for New License (1) Each entity must complete an application form prescribed by the agency. Information provided on the form must include, but not be limited to:</p> <p>(a) Name of business entity, all additional business names, including assumed business names, under which business as a contractor is conducted, and Corporation Division registry numbers (if applicable); (b) Mailing and location address of the business entity; (c) Legal name and address (which may be the business address)[-date of birth and driver license number] of: (A) The owner of a sole proprietorship; (B) All partners of a general partnership or limited liability partnership; (C) All joint venturers of a joint venture; (D) All general partners of a limited partnership; (E) [For corporations with a market capitalization of less than \$300 million, all] All corporate officers of a corporation; (F) All trustees of a trust; (G) The manager and all members of a manager-managed limited liability company, and, if one or more of the members is a partnership, limited liability partnership, joint venture, limited partnership, corporation, trust or limited liability company, the general partners, venturers, corporate officers, trustees, managers or members of the entity that is a member of the limited liability company that is the subject of this paragraph; (H) All members of a member-managed limited liability company, and, if one or more of the members is a partnership, limited liability partnership, joint venture, limited partnership, corporation, trust or limited liability company, the general partners, venturers, corporate officers, trustees, managers or members of the entity that is a member of the limited liability company that is the subject of this paragraph; or (I) The responsible managing individual designated by the applicant. <u>(d) Date of birth and driver license number of:</u> <u>(A) The owner of a sole proprietorship;</u> <u>(B) All partners of a general partnership or limited liability partnership;</u> <u>(C) All joint venturers of a joint venture;</u> <u>(D) All general partners of a limited partnership;</u> <u>(E) For corporations with a market capitalization of less than \$300 million, all corporate officers of a corporation;</u> <u>(F) All trustees of a trust;</u> <u>(G) The manager and all members of a manager-managed limited liability company, and, if one or more of the members is a</u></p>	<p>Amended to correct a previous amendment to the rule. The previous amendment neglected to consider that the name and address of corporate officers is required by statute, namely ORS 701.046, and cannot be removed by rule. The exemption for reporting the driver's license number and date of birth for corporate officers of small-, mid-, large- and mega-cap companies is retained. (KD)</p>

partnership, limited liability partnership, joint venture, limited partnership, corporation, trust or limited liability company, the general partners, venturers, corporate officers, trustees, managers or members of the entity that is a member of the limited liability company that is the subject of this paragraph;

(H) All members of a member-managed limited liability company, and, if one or more of the members is a partnership, limited liability partnership, joint venture, limited partnership, corporation, trust or limited liability company, the general partners, venturers, corporate officers, trustees, managers or members of the entity that is a member of the limited liability company that is the subject of this paragraph; or

(I) The responsible managing individual designated by the applicant.

~~[(d)]~~ **(e)** Social security number of the owner of a sole proprietorship or partners, if partners are human beings, in a general partnership;

~~[(e)]~~ **(f)** Class of independent contractor license and employer account numbers as required under OAR 812-003-0250;

~~[(f)]~~ **(g)** License endorsement sought, as provided for under OAR 812-003-0131;

~~[(g)]~~ **(h)** The identification number of the responsible managing individual who has completed the education and passed the examination required under ORS 701.122 or is otherwise exempt under Division 6 of these rules;

~~[(h)]~~ **(i)** The Standard Industrial Classification (SIC) numbers of the main construction activities of the entity;

~~[(i)]~~ **(j)** Names and certification numbers of all certified home inspectors if the entity will do work as a home inspector under ORS 701.350;

~~[(j)]~~ **(k)** For each person described in subsection (1)(c) of this section, the following information if related to construction activities:

(A) If unsatisfied on the date of application, a copy of a final judgment by a court in any state entered within five years preceding the application date that requires the person to pay money to another person or to a public body;

(B) If unsatisfied on the date of application, a copy of a final order by an administrative agency in any state issued within five years preceding the application date that requires the person to pay money to another person or public body;

(C) If pending on the date of application, a copy of a court complaint filed in any state that alleges that the person owes money to another person or public body; or

(D) If pending on the date of application, a copy of an administrative notice of action issued in any state that alleges that the person owes money to another person or public body.

~~[(k)]~~ **(l)** For each person described in subsection (1)(c) of this section, the following information if related to construction activities;

(A) A copy of a judgment of conviction for a crime listed in ORS 701.098(1)(h), entered within five years preceding the application date; or

(B) A copy of an indictment for a crime listed in ORS 701.098(1)(h), entered within five years preceding the application date.

(C) In addition to documents required in paragraphs (1)~~(4)~~(1)(A) and (B) of this section, copies of police reports, parole or probation reports indicating parole or probation officer's name and phone number, and letters of reference.

~~(4)~~ (m) Independent contractor certification statement and a signed acknowledgment that if the licensee qualifies as an independent contractor the licensee understands that the licensee and any heirs of the licensee will not qualify for workers' compensation or unemployment compensation unless specific arrangements have been made for the licensee's insurance coverage and that the licensee's election to be an independent contractor is voluntary and is not a condition of any contract entered into by the licensee;

~~(m)~~ (n) Signature of owner, partner, joint venturer, corporate officer, member or trustee, signifying that the information provided in the application is true and correct; and

(2) A complete license application includes but is not limited to:

(a) A completed application form as provided in section (1) of this rule;

(b) The new application license fee as required under OAR 812-003-0140;

(c) A properly executed bond, letter of credit or assignment of savings as required under OAR 812-003-0152, 812-003-0153, or 812-003-0155; and

(d) The certification of insurance coverage as required under OAR 812-003-0200.

(3) The agency may return an incomplete license application to the applicant with an explanation of the deficiencies.

(4) All entities listed in section (1) of this rule that are otherwise required to be registered with the Oregon Corporation Division must be registered with the Oregon Corporation Division and be active and in good standing. All assumed business names used by persons or entities listed in section (1) of this rule must be registered with the Oregon Corporation Division as the assumed business name of the person or entity using that name.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 25.270, 25.785, 25.990, 701.035, 701.050, 701.056, 701.068, 701.073, 701.081, 701.088 & 701.122

(12/04, 8/05, 5/06, 9/06, 12/06, 8/07, 12/07, 2/08, 3/08)