

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING HEARING\***  
A Statement of Need and Fiscal Impact accompanies this form.

Construction Contractors Board (Agency and Division)		OAR 812 (Administrative Rules Chapter Number)
Catherine Dixon (Rules Coordinator)	700 Summer Street NE Suite 300, Salem OR 97310 (Address)	378-4621 ext. 4077 (Telephone)

**RULE CAPTION**

Regarding providing SSN, granting a license to parties with criminal convictions, and criteria for higher bond requirements  
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

August 28, 2007 Hearing Date	11:00 a.m. Time	West Salem Roth's IGA, Santiam Rm., 1130 Wallace Rd., Salem, OR Location	Tom Skaar 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      812-003-0450      812-005-0210

**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, 701.085 and 701.235  
Stat. Auth.: ORS

Other Authority  
ORS 25.270, 25.785, 25.990, 701.005, 701.035, 701.072, 701.075, 701.077, 701.085, 701.105, 701.125 & 701.135  
Stats. Implemented: ORS

**RULE SUMMARY**

- OAR 812-003-0260 is amended to clarify that sole proprietorships and partners in partnership, if partners are human beings, are required to provide their social security number to CCB on their application form.
- OAR 812-003-0450 is amended to establish the conditions under which CCB will grant a license to applicants or licensees who have had a criminal conviction.
- OAR 812-005-0210 is amended to provide objective criteria the agency will use when requiring higher bond levels.

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.

August 28, 2007 at 11:00 a.m.

**Last Day for Public Comment**

Last day to submit written comment to the Rules Coordinator

Signature Catherine Dixon	July 5, 2007
Printed Name	Date

\*The *Oregon Bulletin* is published on the 1<sup>st</sup> 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 15<sup>th</sup> 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](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.)

Regarding providing SSN, granting a license to parties with criminal convictions, and criteria for higher bond requirements

Statutory Authority: ORS 670.310, 701.085 and 701.235

Other Authority:

Stats. Implemented: ORS 25.270, 25.785, 25.990, 701.005, 701.035, 701.072, 701.075, 701.077, 701.085, 701.105, 701.125 & 701.135

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

- OAR 812-003-0260 is amended to clarify that sole proprietorships and partners in partnership, if partners are human beings, are required to provide their social security number to CCB on their application form. This amendment is based on advice from legal counsel.
- OAR 812-003-0450 is amended to establish the conditions under which CCB will grant a license to applicants or licensees who have had a criminal conviction. This amendment is intended to help clear up confusion regarding how far back the agency will review criminal convictions and the conditions under which a license will be granted.
- OAR 812-005-0210 is amended to provide objective criteria the agency will use when requiring higher bond levels. These amendments are intended to clarify the number of complaints received in a specific time frame that will trigger the larger bond requirements.

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, 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.

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

Five of the current eight 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

Catherine Dixon  
\_\_\_\_\_  
Printed Name

July 5, 2007  
\_\_\_\_\_  
Date

## Rule Amendments For August 28, 2007

### 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:

(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, 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) All corporate officers of a corporation;

(F) All trustees of a trust; or

(G) All members of a 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 or members of the entity that is a member of the limited liability company that is the subject of this paragraph.

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

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

(f) Category of license requested as required under OAR 812-003-0130;

(g) Name and identification number of the responsible managing individual who has completed the education and passed the examination required under ORS 701.072 or is otherwise exempt under Division 6 of these rules;

(h) The Standard Industrial Classification (SIC) numbers of the main construction activities of the entity;

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

(j) Litigation, complaint, and licensing history;

(k) Criminal background;

(l) 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; and

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

(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 as required under OAR 812-003-0150; 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

Amended to clarify that sole proprietorships and partners in partnership, if partners are human beings, are required to provide their social security number to CCB on their application form. (KP)

<p>with an explanation of the deficiencies.</p> <p>(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.</p> <p>Stat. Auth.: ORS 670.310 &amp; 701.235</p> <p>Stats. Implemented: ORS 25.270, 25.785, 25.990, 701.035, 701.072, 701.075, 701.085, 701.105, &amp; 701.125</p> <p>(12/04, 8/05, 5/06, 9/06, 12/06)</p>	
<p><b>812-003-0450</b></p> <p><b>License Fitness Standards</b></p> <p>(1) In considering whether to sanction an applicant or licensee pursuant to ORS 701.135(1)(h)(A), (B), (C), (D), (E), or (F), the agency shall consider whether the applicant's or licensee's criminal conduct is substantially related to the fitness and ability of the applicant or licensee to engage in construction contracting. Fitness to engage in construction contracting includes, but is not limited to, the ability to refrain from violent, threatening, intimidating or sexually predatory behavior. Factors to be considered in denying or refusing to issue or renew a license include, but are not limited to, the date of the offense and the circumstances of the crime. In addition, factors relating to rehabilitation, or lack thereof, as evidenced by intervening events include, but are not limited to: failure to complete the criminal sentence, including probation or parole; failure to complete court ordered treatment; or failure to pay court ordered restitution.</p> <p><b><u>(2) Applicants or licensees that meet all of the conditions listed in subsections (2)(a) through (2)(c) of this section will be considered to meet the fitness standards if:</u></b></p> <p><b><u>(a) The conviction is more than five years old;</u></b></p> <p><b><u>(b) The applicant or licensee has been out of prison for at least three years;</u></b></p> <p><b>and</b></p> <p><b><u>(c) The applicant or licensee has been off probation or parole for at least 24 months with no subsequent arrests.</u></b></p> <p><del>[(2)]</del> <b>(3)</b> Upon notice and request from the Board, it will be the duty of an applicant or licensee to provide the requested information in order for the Board to conduct a criminal background check as authorized by ORS 701.135(1)(h)(A), (B), (C), (D), (E), or (F). Requested information includes but is not limited to police reports, record of conviction, parole or probation reports, restitution records, counseling reports, and letters of recommendation.</p> <p><del>[(3)]</del> <b>(4)</b> Failure to provide requested information in (2) of this section may result in the denial of a license.</p> <p><del>[(4)]</del> <b>(5)</b> A contractor licensed under ORS 701 must immediately report to the Board if the contractor is convicted of any crime listed in ORS 701.135(1)(h)(A), (B), (C), (D), (E) or (F).</p> <p>Stat. Auth.: ORS 670.310 &amp; 701.235</p> <p>Stats. Implemented: ORS 701.135</p> <p>(4/07)</p>	<p>Amended to establish the conditions under which CCB will grant a license to applicants or licensees who have had a criminal conviction. (CPS/KP)</p>
<p><b>812-005-0210</b></p> <p><b>Conditions to Require an Increased Bond</b></p> <p>(1) Under ORS 701.085(8), the agency may require a bond of up to five times the normally required amount, if it determines that a current or previous license of</p>	<p>Amended to provide objective criteria the agency will use when requiring higher bond</p>

<p>an owner or officer, as those terms are defined in division 2 of these rules, has:</p> <p>(a) A history of unpaid final orders consisting of two or more final orders unpaid for longer than thirty (30) days following the date of issuance.</p> <p>(b) Five or more breach of contract complaints filed under ORS 701.139 to 701.180 by five or more separate complainants within a one-year period from the date of filing of the most recent Dispute Resolution Services complaint.</p> <p>(c) An unpaid construction debt as defined in ORS 701.005(2) that exceeds the amount of the bond.</p> <p>(2) The amount of the increased bond required under subsection (1)(a) of this rule must conform to the following schedule:</p> <p>(a) If the sum of unpaid amounts on final orders exceeds the licensee’s most recent bond by less than 50 percent, the agency may require a bond two times the amount required under ORS 701.085.</p> <p>(b) If the sum of the unpaid final orders exceeds the licensee’s most recent bond by 50 percent or more, but less than 100 percent, the agency may require a bond three times the bond amount required under ORS 701.085.</p> <p>(c) If the sum of unpaid amounts on final orders exceeds the licensee’s most recent bond by 100 percent or more, the agency may require a bond in the amount of five times the normal amount required under ORS 701.085.</p> <p>(3) The amount of increased bond required under subsection (1)(b) of this rule will be based on the <del>[agency’s estimate of damages and must conform to the following schedule]</del> <b><u>number of complaints filed and the time period that the complaints were received based on the following:</u></b></p> <p>(a) <del>[If the sum of cumulative possible damages exceeds the licensee’s most recent bond by less than 50 percent]</del> <b><u>If five (5) complaints are received within a time period of six (6) months,</u></b> the agency may require a bond two times the amount required under ORS 701.085.</p> <p>(b) <del>[If the sum of cumulative possible damages exceeds the licensee’s most recent bond by 50 percent or more, but less than 100 percent]</del> <b><u>If five complaints are received between a three (3) month time period, but less than (6) months,</u></b> the agency may require a bond three times the bond amount required under ORS 701.085.</p> <p>(c) <del>[If the sum of cumulative possible damages exceeds the licensee’s most recent bond by 100 percent or more]</del> <b><u>If five (5) complaints are received within a time period of less than three (3) months,</u></b> the agency may require a bond in the amount of five times the normal amount required under ORS 701.085.</p> <p>(4) The amount of the increased bond required under subsection (1)(c) of this rule must conform to the following schedule:</p> <p>(a) If the sum of the unpaid construction debt exceeds the licensee’s most recent bond by less than 50 percent, the agency may require a bond two times the bond amount required under ORS 701.085.</p> <p>(b) If the sum of the unpaid construction debt exceeds the licensee’s most recent bond by 50 percent or more, but less than 100 percent, the agency may require a bond three times the bond amount required under ORS 701.085.</p> <p>(c) If the sum of the unpaid construction debt exceeds the licensee’s most recent bond by 100 percent or more, the agency may require a bond five times the bond amount required under ORS 701.085.</p> <p>Stat. Auth.: ORS 670.310, 701.085 &amp; 701.235  Stats. Implemented: ORS 701.005, 701.077 &amp; 701.085  (12/04, 6/05, 12/05, 9/06, 12/06)</p>	<p>levels. (RB)</p>
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