

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

Construction Contractors Board (Agency and Division Number)	700 Summer Street NE Suite 300, Salem OR 97310 (Address)	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**

Fee increase, employee complaints, lay representation and housekeeping  
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

April 27, 2010 Hearing Date	11:00 a.m. Time	West Salem Roth's IGA, Santiam Rm., 1130 Wallace Rd., Salem, OR Location	Rob Hernandez 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:**  
812-003-0140                      812-004-0340                      812-009-0340                      812-012-0110

**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 183.550, 670.310, 701.238, 701.235, 701.305, 701.315, 701.320, 701.330, & 701.335  
Stat. Auth.: ORS

Other Authority  
ORS 183.450, 701.056, 701.063, 701.139, 701.140, 701.143, 701.145, 701.146, 701.238, 701.305, 701.330 & 701.335  
Stats. Implemented: ORS

**RULE SUMMARY**

- OAR 812-003-0140 is amended to establish a fee increase to the CCB licensing fee from \$260 to \$325 for a two-year license effective July 1, 2010 as authorized by the CCB Legislatively Approved Budget (LAB) (budget). At the January 26, 2010, Construction Contractors Board meeting, Board members determined that a license fee increase was needed to adequately fund the CCB for the 2010-12 biennium. This is an increase of \$32.50 per year or \$65/two year license period.
- 812-004-0340 is amended to set forth the evidence that is necessary to submit an employee complaint. If no time cards, paycheck stubs, or W-4 forms are available, the agency's current practice is to require a sworn affidavit from a non-related party. The rule, as amended, would permit a third-person (including a related person) to prepare and submit a written declaration under perjury. The Oregon Rules of Civil Procedure allow such declarations in lieu of affidavits. ORCP Rule 1.E.
- 812-009-0340 is amended in 2007, the Oregon legislature changed several statutes. In 2008 the Attorney General changed the format for lay representation rules. There are some very basic cases not previously included (e.g., bond suspensions, insurance cancellations) in which the agency needs to appear. For all of the matters covered by the rule, the Attorney General authorized the agency, by letter of June 12, 2008, to represent the agency.
- 812-012-0110 is amended to remove date in subsection (1)(c) because date has passed; revise subsection (1)(d) to correspond with language in ORS 701.305(2)(d), and delete subsection (1)(e) because it was removed by Oregon Laws 2009, chapter 409 (SB 205), Section 1. See ORS 701.305(2).

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.

April 27, 2010 at 11:00 a.m.

Last Day for Public Comment

Last day to submit written comment to Rules Coordinator, Catherine Dixon

PO Box 14140, Salem OR 97309

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Signature

Catherine Dixon

Printed Name

March 3, 2010

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.)

Fee increase, employee complaints, lay representation and housekeeping

Statutory Authority: ORS 183.310 to 183.550, 670.310, 701.238, 701.235, 701.305, 701.315, 701.320, 701.330, & 701.335

Other Authority:

Stats. Implemented: ORS 183.450, 701.056, 701.063, 701.139, 701.140, 701.143, 701.145, 701.146, 701.238, 701.305, 701.330 & 701.335

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

- OAR 812-003-0140 is amended to establish a fee increase to the CCB licensing fee from \$260 to \$325 for a two-year license effective July 1, 2010 as authorized by the CCB Legislatively Approved Budget (LAB) (budget). At the January 26, 2010, Construction Contractors Board meeting, Board members determined that a license fee increase was needed to adequately fund the CCB for the 2010-12 biennium. This is an increase of \$32.50 per year or \$65/two year license period.
- 812-004-0340 is amended to set forth the evidence that is necessary to submit an employee complaint. If no time cards, paycheck stubs, or W-4 forms are available, the agency's current practice is to require a sworn affidavit from a non-related party. The rule, as amended, would permit a third-person (including a related person) to prepare and submit a written declaration under perjury. The Oregon Rules of Civil Procedure allow such declarations in lieu of affidavits. ORCP Rule 1.E.
- 812-009-0340 is amended in 2007, the Oregon legislature changed several statutes. In 2008 the Attorney General changed the format for lay representation rules. There are some very basic cases not previously included (e.g., bond suspensions, insurance cancellations) in which the agency needs to appear. For all of the matters covered by the rule, the Attorney General authorized the agency, by letter of June 12, 2008, to represent the agency. The revised rule will accomplish the following: 1) Revise the rule to follow the format in the AG's Administrative Law Manual (January 1, 2008), at page A-28; and 2) Revise the rule to incorporate reference to OAR 812-005-0280(1), the "fitness" rule adopted by the board in 2008.
- 812-012-0110 is amended to remove date in subsection (1)(c) because date has passed; revise subsection (1)(d) to correspond with language in ORS 701.305(2)(d), and delete subsection (1)(e) because it was removed by Oregon Laws 2009, chapter 409 (SB 205), Section 1. See ORS 701.305(2).

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:

OAR 812-003-0140 establishes a CCB licensing fee increase from \$260 to \$325 for a two-year license effective July 1, 2010. At the January 26, 2010, Construction Contractors Board meeting, Board members determined that a license fee increase was needed to adequately fund the CCB for the 2010-12 biennium. This is an increase of \$32.50 per year or \$65/two year license period. This fee increase will affect all CCB licensees.

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:

OAR 812-003-0140 establishes a CCB licensing fee increase from \$260 to \$325 for a two-year license effective July 1, 2010. At the January 26, 2010, Construction Contractors Board meeting, Board members determined that a license fee increase was needed to adequately fund the CCB for the 2010-12 biennium. This is an increase of \$32.50 per year or \$65/two year license period. This fee increase will affect all CCB licensees.

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 except OAR 812-003-0140, which establishes a CCB licensing fee increase from \$260 to \$325 for a two-year license effective July 1, 2010. This is an increase of \$2.71 per month, or \$32.50 per year or \$65/two year license period. This fee increase will affect all CCB licensees. The cost of compliance is minimal.
  - 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: No impact.

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

March 3, 2010  
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: April 27, 2010  
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)

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- 812-004-0340 is amended to set forth the evidence that is necessary to submit an employee complaint. If no time cards, paycheck stubs, or W-4 forms are available, the agency's current practice is to require a sworn affidavit from a non-related party. The rule, as amended, would permit a third-person (including a related person) to prepare and submit a written declaration under perjury. The Oregon Rules of Civil Procedure allow such declarations in lieu of affidavits. ORCP Rule 1.E.
- 812-009-0340 is amended in 2007, the Oregon legislature changed several statutes. In 2008 the Attorney General changed the format for lay representation rules. There are some very basic cases not previously included (e.g., bond suspensions, insurance cancellations) in which the agency needs to appear. For all of the matters covered by the rule, the Attorney General authorized the agency, by letter of June 12, 2008, to represent the agency.
- 812-012-0110 is amended to remove date in subsection (1)(c) because date has passed; revise subsection (1)(d) to correspond with language in ORS 701.305(2)(d), and delete subsection (1)(e) because it was removed by Oregon Laws 2009, chapter 409 (SB 205), Section 1. See ORS 701.305(2).

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

- OAR 812-003-0140 is amended to establish a fee increase to the CCB licensing fee from \$260 to \$325 for a two-year license effective July 1, 2010 as authorized by the CCB Legislatively Approved Budget (LAB) (budget). At the January 26, 2010, Construction Contractors Board meeting, Board members determined that a license fee increase was needed to adequately fund the CCB for the 2010-12 biennium. This is an increase of \$32.50 per year or \$65/two year license period.
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- 812-012-0110 is amended to remove date in subsection (1)(c) because date has passed; revise subsection (1)(d) to correspond with language in ORS 701.305(2)(d), and delete subsection (1)(e) because it was removed by Oregon Laws 2009, chapter 409 (SB 205), Section 1. See ORS 701.305(2).

**List of rules adopted or amended:**

812-003-0140      812-004-0340      812-009-0340      812-012-0110

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

None.

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

None. See other costs below.

**Land costs increase or savings:**

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

**Other costs increase or savings:**

These rule amendments do not have an impact on small businesses except OAR 812-003-0140, which establishes a CCB licensing fee increase from \$260 to \$325 for a two-year license effective July 1, 2010. This is an increase of \$2.71 per month, or \$32.50 per year or \$65/two year license period. This fee increase will affect all CCB licensees.

\*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 Rules for April 27, 2010 Rulemaking Hearing

Proposed Rule	Explanation
<p><b>812-003-0140</b> <b>License Application Fees</b></p> <p>(1) The application fee for all new, renewal, or reissued licenses is [<del>\$260</del>] <b>\$325</b>.</p> <p>(2) Except as provided in section (3) of this rule, application fees will not be refunded or transferred.</p> <p>(3) If a licensee submits an application to renew a license and the agency cannot renew the license because the applicant has formed a new business entity, the agency may refund the renewal application fee, less a \$40 processing fee.</p> <p>(4)(a) Any licensee in the United States armed forces need not pay a license renewal fee if such fee would be due during the licensee's active duty service.</p> <p>(b) A licensee in the United States armed forces shall pay the next license renewal fee that will become due after the licensee is discharged from active duty service.</p> <p>(c) The agency may request that the licensee provide documentation of active duty status and of discharge.</p> <p>(d) Section (4) of this rule applies to licensees that are sole proprietors or partners in a general partnership.</p> <p>Stat. Auth.: ORS 670.310, 701.238 &amp; 701.235 Stats. Implemented: ORS 701.056, 701.063, &amp; 701.238 (12/04, 8/05, 12/06, 2/08, 1/09 (eff. 2/1/09), 9/09, 11/09 (eff. 1/1/10))</p>	<p>Amended to increase the licensing fee from \$260 to \$325 effective July 1, 2010. Board voted to amend the rule at the January 26, 2010 Board meeting. (CPS)</p>
<p><b>812-004-0340</b> <b>Form of Complaints, Pre-Complaint Notice</b></p> <p>(1) A complaint must be submitted on a complaint form provided by the agency. The complaint form shall be entitled "Breach of Contract Complaint." The agency may require the use of the most recent revision of the complaint form.</p> <p>(2) The complainant must submit the following information on or with the complaint form required under section (1) of this rule if applicable:</p> <p>(a) The name, address and telephone number of the complainant;</p> <p>(b) The name, address, telephone number and license number of the licensee;</p> <p>(c) The amount, if known at the time the complaint is filed, that the complainant alleges is due from the licensee after crediting payments, offsets and counterclaims in favor of the licensee to which the complainant agrees;</p> <p>(d) Identification of the type of complaint;</p> <p>(e) The date on which the contract was entered into;</p> <p>(f) If the contract was in writing, a copy of the contract, including all relevant attachments, if any;</p> <p>(g) The location of the work at issue in the complaint, described by a postal address or other description sufficient to locate the work site on a map and on the ground;</p> <p>(h) The beginning and ending date of the work or invoices;</p> <p>(i) Payments, offsets and counterclaims of the contractor, if known;</p> <p>(j) Whether the project involves work on a residential, small commercial or large commercial structure;</p> <p>(k) A certification by the complainant that the information provided on the complaint form is true;</p> <p>(l) If a court judgment or arbitration award is the basis for the complaint, a copy of the judgment or award, the original complaint and any answers or counter-suits related to the parties to the complaint filed in the court action or arbitration;</p> <p>(m) Documents described in section (9) of this rule that are related to the pre-complaint notice requirement in ORS 701.133.</p>	<p>Amended: The rule expressly sets forth the evidence that is necessary to submit an employee claim.</p> <p>If no time cards, paycheck stubs or W-4 forms are available, the agency's current practice is to require a sworn affidavit from a non-related party. The rule, as amended, would permit a third-person (including a related person) to prepare and submit a written declaration under perjury. The Oregon Rules of Civil Procedure allow such declarations in lieu of affidavits. ORCP Rule 1.E. (WJB)</p>

(n) Additional information required under sections (3) through (8) of this rule.

(3) A subcontractor complaint must include copies of each original invoice relating to the complaint.

(4) An employee complaint must include [~~copies of time cards or other evidence of the amount of wages or benefits requested~~] **evidence that an employee worked for a contractor and evidence of the amount of unpaid wages or benefits. Evidence may include:**

**(a) Time cards;**

**(b) Paycheck stubs;**

**(c) W-4 forms; or**

**(d) A sworn affidavit or written declaration under perjury of a third-person stating facts that indicate the employee worked for the contractor. A written declaration under perjury must contain the following statement, "I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury."**

(5) An employee trust complaint must include the name of each employee that is the subject of the complaint, the dates that employee worked without payment of employee benefits and the following information for each date and employee:

(a) The hours worked without payment of employee benefits;

(b) The amount of the unpaid benefits;

(c) The address of the job site where the employee worked; and

(d) Whether the structure at the job site is a residential structure, small commercial structure or large commercial structure.

(6) A construction lien complaint must include evidence that the complainant paid the primary contractor, a copy of the notice of right to lien, a copy of the lien bearing the county recorder's stamp and signature, a copy of each invoice or billing constituting the basis of the lien, a copy of the ledger sheet or other accounting of invoices from the lienor, if applicable, and any foreclosure documents.

(7) A material complaint must include recapitulation of the indebtedness showing the job site address, the date of each invoice, each invoice number, each invoice amount and a copy of each original invoice relating to the complaint.

(8) A complaint involving negligent or improper work must include a list of the alleged negligent or improper work. A complaint involving a breach of contract must describe the nature of the breach of contract.

(9) A complaint must include one of the following:

(a) A copy of the pre-complaint notice required under ORS 701.133 and of the certified or registered mail receipt for the pre-complaint notice; or

(b) Written evidence that the respondent had actual notice of the dispute that is the subject of the complaint at least 30 days before the complainant filed the complaint. The agency will only accept evidence under this subsection (9)(b) if it is in one of the following forms:

(A) A return receipt signed by the respondent indicating receipt of a notice of intent to file a complaint sent to the respondent by the complainant; or

(B) A letter signed by the respondent acknowledging receipt of a notice of intent to file a complaint.

(c) Written evidence that the complainant and the respondent are parties to mediation, arbitration or a court action arising from the same contract or issues that are the subject of the complaint. The agency will only accept evidence under this subsection (9)(c) if it is in one of the following forms:

(A) Copies of a complaint or answer in the court action; or

(B) Copies of a document that initiated the mediation or arbitration.

(d) Evidence that the complainant and the respondent are parties to another complaint filed with the agency arising from the same contract or issues that are the subject of the complaint.

(10) Except as provided in subsections (9)(c) and (9)(d), the agency may not accept

<p>a statement by the complainant alleging that the respondent had actual knowledge of the dispute as written evidence required under section (9) of this rule.</p> <p>(11) The completed complaint form must be signed by the complainant or an agent of the complainant.</p> <p>(12) A complaint form submitted to the agency that does not comply with the requirements of this rule is subject to OAR 812-004-0350.</p> <p>Stat. Auth.: ORS 670.310 &amp; 701.235</p> <p>Stats. Implemented: ORS 701.139, 701.140, 701.143, 701.145 &amp; 701.146 (10/98, 6/00, 4/01, 12/01, 5/02, 3/03, 12/03, 12/05, 12/06, 6/08)</p>	
<p><b>812-009-0340</b>  <b>Agency Representation by Officer or Employee</b></p> <p>(1) <del>[As authorized by]</del> <b><u>Subject to the approval of</u></b> the Attorney General as provided in ORS 183.452, agency officers and employees may appear, but not make legal argument, on behalf of the agency in <del>[compliance hearings involving]</del> <b><u>the following types of hearings conducted by the agency:</u></b></p> <p>(a) <b><u>Hearings involving the possible imposition</u></b> <del>[Imposition]</del> of civil penalties <b><u>for violations of statutes or regulations;</u></b> <del>[and]</del></p> <p>(b) <del>[Refusals to reissue and suspensions in the following classes of hearings:</del></p> <p>(A) <del>Failure of a licensee to pay a final order of the Board;</del></p> <p>(B) <del>Violations of employer status regulations, including violations of ORS chapters 656, 657, and 316, in accordance with ORS 701.106; and</del></p> <p>(c) <del>Other compliance and claims hearings as approved in writing by the Attorney General on an individual case basis.]</del> <b><u>Hearings involving refusals to issue, reissue or renew, or suspensions, which will be lifted upon correction of a deficiency, payment of a penalty or payment of a construction debt, based upon:</u></b></p> <p><b><u>(A) ORS 701.098(4)(a)(A) (no bond);</u></b></p> <p><b><u>(B) ORS 701.098(4)(a)(B) (no insurance);</u></b></p> <p><b><u>(C) ORS 701.098(4)(a)(E) (unpaid construction debt);</u></b></p> <p><b><u>(D) ORS 701.102 (unpaid construction debt);</u></b></p> <p><b><u>(E) ORS 701.106, where the violation is based on a final order issued</u></b></p> <p><b><u>by:</u></b></p> <p><b><u>(i) Department of Consumer and Business Services, Building Codes Division;</u></b></p> <p><b><u>(ii) Department of Consumer and Business Services, Workers' Compensation Division;</u></b></p> <p><b><u>(iii) Department of Consumer and Business Services, Oregon-OSHA,</u></b></p> <p><b><u>(iv) Employment Department;</u></b></p> <p><b><u>(v) Department of Revenue; or</u></b></p> <p><b><u>(vi) Landscape Contractors Board.</u></b></p> <p><b><u>(F) Failure to pay an outstanding obligation, as required by OAR 812-005-0280(1);</u></b></p> <p><b><u>(G) Failure to obtain or maintain an increased bond, as required by ORS 701.068(5) or (6).</u></b></p> <p><b><u>(H) Failure to provide information such as a date of birth or driver's license number, as required under ORS 701.046.</u></b></p> <p>(2) <del>[Legal argument as used in ORS 183.457 has the same meaning as in OAR 137-003-0008.]</del> <b><u>The agency representative may not make legal argument on behalf of the agency.</u></b></p>	<p>Amend : In 2007, the Oregon legislature changed several statutes. In 2008 the Attorney General changed the format for lay representation rules. There are some very basic cases not previously included (e.g., bond suspensions, insurance cancellations) in which the agency needs to appear. For all of the matters covered by the rule, the Attorney General authorized the agency, by letter of June 12, 2008, to represent the agency.</p> <p>The revised rule will accomplish the following:</p> <ul style="list-style-type: none"> <li>• Revise the rule to follow the format in the AG's Administrative Law Manual (January 1, 2008), at page A-28.</li> <li>• Revise the rule to incorporate reference to OAR 812-005-0280(1), the "fitness" rule adopted by the board in 2008.</li> </ul> <p>(KD)</p> <p><i>Note: currently a temporary rule filed 2/3/10.</i></p>

<p><b><u>(a) “Legal argument” includes argument on:</u></b>  <b><u>(A) The jurisdiction of the agency to hear the contested case;</u></b>  <b><u>(B) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency; and</u></b>  <b><u>(C) The application of court precedent to the facts of the particular contested case proceeding.</u></b>  <b><u>(b) “Legal argument” does not include presentation of motions, evidence, examination and cross-examination of witnesses or presentation of factual argument or arguments on:</u></b>  <b><u>(A) The application of the statutes or rules to the facts in the contested case;</u></b>  <b><u>(B) Comparison of prior actions of the agency in handling similar situations;</u></b>  <b><u>(C) The literal meaning of the statute or rules directly applicable to the issues in the contested case;</u></b>  <b><u>(D) The admissibility of evidence;</u></b>  <b><u>(E) The correctness of procedures being followed in the contested case hearing.</u></b>  Stat. Auth.: ORS 183.310 to 183.550, 670.310 &amp; 701.235  Stats. Implemented: ORS 183.450  (3/87, 12/87, 1/88, 5/93, 12/93, 1/94, 6/94, 7.94, 10/98, 6/00, 6/08, 2 temp. 2/10 eff. 2/3/10)</p>	
<p><b>812-012-0110</b>  <b>Terms of Written Contract</b>  (1) If a contractor is required to have a written contract under ORS 701.305, the written contract or attached addendum to the written contract must contain the following:  (a) A statement that the contractor is licensed by the Construction Contractors Board.  (b) The contractor’s name, address, phone number and license number issued by the board as shown on board records.  (c) <del>Effective July 1, 2008, an</del> <b>An</b> acknowledgment of a written offer of a warranty, if an offer is required by ORS 701.320, and indication of the acceptance or rejection of the offered warranty;  (d) A list of the notices required under ORS 87.093<del>[-,701.330]</del> or under rules adopted under ORS <b>701.330 and</b> 701.335(2)<del>[-];</del>  <del>[(e) Effective July 1, 2008, acknowledgment of the receipt of the maintenance information required by the board under ORS 701.335;]</del>  <del>[(f)]</del> <b>(e)</b> An explanation of the property owner’s rights under the contract, including, but not limited to, the ability to file a complaint with the board and the existence of any mediation or arbitration provision in the contract, set forth in a conspicuous manner as defined by the board by rule<del>[-];</del>  <del>[(g)]</del> <b>(f)</b> Customer’s name and address;  <del>[(h)]</del> <b>(g)</b> Address where the work is to be performed;  <del>[(i)]</del> <b>(h)</b> A description of the work to be performed; <b>and</b>  <del>[(j)]</del> <b>(i)</b> Price and payment terms<del>[-];</del>  (2) The information described in section (1) of this rule must be legible and in dark ink.  Stat. Auth.: ORS 670.310, 701.235, 701.305, 701.315, 701.320, 701.330 &amp; 701.335  Stats. Implemented: ORS 701.305, 701.330 &amp; 701.335  (12/07, 6/08, 12/09 (eff. 1/1/2010))</p>	<p>Remove date in subsection (1)(c) because date has passed.</p> <p>Revise subsection (1)(d) to correspond with language in ORS 701.305(2)(d).</p> <p>Delete subsection (1)(e) because it was removed by Oregon Laws 2009, chapter 409 (SB 205), Section 1. See ORS 701.305(2).  (KD)</p>

