

812-005-0800

Schedule of Penalties

The agency may assess penalties, not to exceed the amounts shown in the following guidelines:

- (1) \$600 for advertising or submitting a bid to do work as a contractor in violation of ORS 701.021 and OAR 812-003-0120, which may be reduced to \$200 if the respondent becomes licensed or to \$50 if the advertisement or bid is withdrawn immediately upon notification from the agency that a violation has occurred and no work was accepted as a result of the advertisement or bid; and
- (2) \$700 per offense without possibility of reduction for advertising or submitting a bid to do work as a contractor in violation of ORS 701.021 and OAR 812-003-0120, when one or more previous violations have occurred, or when an inactive, lapsed, invalid, or misleading license number has been used; and
- (3) \$1,000 per offense for performing work as a contractor in violation of ORS 701.021 when the Board has no evidence that the person has worked previously without having a license and no consumer has suffered damages from the work, which may be reduced to \$700 if the respondent becomes licensed within a specified time; and
- (4)(a) \$5,000 per offense for performing work as a contractor in violation of ORS 701.021, when an owner has filed a complaint for damages caused by performance of that work, which may be reduced to \$700 if the contractor becomes licensed within a specified time and settles or makes reasonable attempts to settle with the owner.
 - (b) A “complaint for damages” as used in section (4) of this rule includes, but is not limited to:
 - (A) A Construction Contractors Board Dispute Resolution Services (DRS) complaint; or
 - (B) A letter to Construction Contractors Board indicating that a citizen has been damaged by the contractor; and
- (5) \$5,000 per offense for performing work as a contractor in violation of ORS 701.021, when one or more violations have occurred, or when an inactive, lapsed, invalid, or misleading license number has been used; and
- (6) \$500 per offense for failure to respond to the agency’s request for the list of subcontractors required in ORS 701.345; and
- (7) \$1,000 per offense for hiring a unlicensed subcontractor; and
- (8) For failing to provide an “Information Notice to Owners about Construction Liens” as provided in ORS 87.093, when no lien has been filed, \$200 for the first offense, \$400 for the second offense, \$600 for the third offense, \$1,000 for each subsequent offense. Any time a lien has been filed upon the improvement, \$1,000.
- (9) Failure to include license number in advertising or on contracts, in violation of OAR 812-003-0120: First offense \$100, second offense \$200, subsequent offenses \$400.
- (10) Failure to list with the Construction Contractors Board a business name under which business as a contractor is conducted in violation of OAR 812-003-0260 or 812-003-0280: First offense \$50, second offense \$100, subsequent offenses \$200.
- (11) Failure to notify the Construction Contractors Board of a new or additional business name or personal surname (for sole proprietors) under which business as a contractor is conducted, in violation of OAR 812-003-0320: First offense \$50, second offense \$100, subsequent offenses \$200.
- (12) Failing to use a written contract as required by ORS 701.305: \$500 for the first offense; \$1,000 for the second offense; and \$5,000 for subsequent offenses.
- (13) Violation of OAR 812-012-0130(1), failure to provide a Consumer Notification form; \$100 first offense; \$500 second offense; \$1,000 third offense; and \$5,000 for subsequent offenses. Civil penalties

shall not be reduced unless the agency determines from clear and convincing evidence that compelling circumstances require a suspension of a portion of the penalty in the interest of justice. In no event shall a civil penalty for this offense be reduced below \$100.

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

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

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

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

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

(17) Violating an order to stop work as authorized by ORS 701.225(6), \$1,000 per day.

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

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

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

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

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

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

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

(d) Failing to comply with the payroll certification requirements of ORS 279C.845; or

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

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

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

(23) When, as set forth in ORS 701.098(1)(h), the number of licensed contractors working together on the same task on the same job site, where one of the contractors is licensed exempt under ORS 701.035(2)(b), exceeded two sole proprietors, one partnership, or one limited liability company, penalties shall be imposed on each of the persons to whom the contract is awarded and each of the persons who award the

contract, as follows: \$1,000 for the first offense, \$2,000 for the second offense, six month suspension of the license for the third offense, and three-year revocation of license for a fourth offense.

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

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

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

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

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

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

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

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

(32) Violation of OAR 812-007-0100, 812-007-0200 or 812-007-0300: first offense, \$1,000; second offense, \$3,000; and third offense, \$5,000. The civil penalty is payable to the Construction Contractors Board Lead-Based Paint (LBP) Activities Fund as provided in ORS 701.995 and OAR 812-007-0025.

(33) Violation of ORS 279C.590:

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

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

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

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

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

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

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

- (37) Failing to provide a written contract with the contractual terms provided by ORS 701.305 or OAR 812-012-0110: \$200 for the first offense; \$500 for the second offense; and \$1,000 for subsequent offenses.
- (38) Working while the license is suspended if the licensee was required to provide an increased bond under ORS 701.068(5), 701.068(6), or OAR 812-003-0175: revocation.
- (39) Working while the license is suspended for any violation of ORS 701.098(4)(a)(A) or ORS 701.098(4)(a)(B): \$5,000 for first offense, and revocation for second or subsequent offense.
- (40) Working while the license is suspended for any reason except as otherwise provided for by this rule: revocation.
- (41) Failure to comply with ORS 701.106(1)(a); \$1,000 for the first offense, \$5,000 for the second offense; \$5,000 and permanent revocation of CCB license for the third offense.
- (42) Failure to deliver as required by ORS 701.109(2) a copy of a final judgment; \$200 first offense, \$400 second offense; \$600 for the third offense; \$1,000 for each subsequent offense.
- (43) Failure to maintain insurance as required under ORS 701.073 or to provide proof of insurance as required under OAR 812-003-0200, where there is no claim of loss submitted to the insurance company: first offense, \$500; second offense, \$1,000; third and subsequent offenses, \$5,000.
- (44) Failure to maintain insurance as required under ORS 701.073 or to provide proof of insurance as required under OAR 812-003-0200, where there is a claim of loss submitted to the insurance company: first offense, \$2,000; second and subsequent offenses, \$5,000.
- (45) Undertaking, offering to undertake, or submitting a bid to work as a locksmith when an individual is not certified as a locksmith or otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.
- (46) Undertaking, offering to undertake, or submitting a bid to provide locksmith services when a business is not a licensed construction contractor or otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.
- (47) Using the title of locksmith, locksmith professional, commercial locksmith, lock installer or any title using a form of the word "locksmith" that indicates or tends to indicate that the individual is a locksmith, unless an individual is certified as a locksmith or otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.
- (48) Using the title of locksmith, locksmith professional, commercial locksmith, lock installer or any title using a form of the word "locksmith" that indicates or tends to indicate that the business providing locksmith services, unless a business: (a) is a licensed construction contractor, and (b) is owned by or employs a certified locksmith or is otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.
- (49) Violating any applicable provision of the rules in division 30, including violating any standard of professional conduct other than OAR 812-030-0300(4): first offense, \$1,000; second offense, \$3,000; third offense, \$5,000 and revocation of the certificate.
- (50) Violating OAR 812-030-0300(4): first offense, \$200; second offense, \$500; third offense, \$1,000.
- Stat. Auth.: ORS 183.310 to 183.500, 670.310, 701.235, 701.515, 701.992 & 701.995
- Stats. Implemented: ORS 87.093, 279C.590, 701.005, 701.021, 701.026, 701.042, 701.046, 701.073, 701.091, 701.098, 701.106, 701.109, 701.227, 701.305, 701.315, 701.330, 701.345, 701.480, 701.485, 701.510, 701.515, 701.992 & 701.995
- (4/82, 10/82, 1/83, 3/83, 10/83, 3/84, 5/84, 3/85, 4/85, 1/87, 3/87, 1/88, 2/88, 6/88, 1/89, 11/89, 2/90, 3/90, 4/90, 5/90, 6/90, 7/90, 10/90, 11/90, 3/91, 9/91, 1/92, 2/92, 4/92, 6/92, 5/93, 12/93, 1/95, 9/95,

10/95, 8/96, 10/98), temp. 11/99, 5/00, 6/00, temp. 11/00, 4/01, 12/01, temp. 3/02, 3/02, 6/02, 9/02, 12/03, 6/04, 12/04, 12/05, 1/06, 6/06, 12/06, 6/07, 2/08, 6/08, 9/08, 11/08, 1/09 eff. 2/1/09, 5/09, 2/10, 4/10, temp. 7/10, 2/11 eff. 3/1/11, 6/11 eff. 7/1/11, 9/11 eff. 10/1/11, 12/11 eff. 1/1/12, 3/12, 4/12 eff. 5/1/12, 6/14 eff. 7/1/14, 8/17 eff. 9/1/17)

812-007-0000

Authority, Purpose, Scope

(1) Authority. These rules are promulgated in accordance with and under the authority of ORS 701.505 to 701.520 and 701.995.

(2) Purpose. These rules establish a system to license contractors as lead-based paint (LBP) activities contractors and as certified LBP renovation contractors.

(3) Scope. These rules:

(a) Prescribe the requirements for, and the manner of, licensing applicants.

(b) Establish fees.

(c) Prescribe actions that constitute failure to achieve or maintain licensing requirements, or that otherwise are contrary to the public interest, for which the board may deny, suspend or revoke a license.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

(6/96, 11/96, 1/97, 5/97, 6/00, 12/06, 2/10, 9/11 eff. 10/1/11, 8/17 eff. 9/1/17)

812-007-0015

Federal Regulations Adopted by Reference

(1) Except as indicated herein, the board adopts, by reference, 40 CFR 745, Subpart D (Lead-Based Paint Hazards), Subpart E, (Residential Property Renovation) and Subpart L (Lead-Based Paint Activities).

(2) The board does not adopt the following regulations:

(a) 40 CFR § 745.87 (Enforcement and inspections);

(b) 40 CFR §745.91 (Suspending, revoking, or modifying an individual's or firm's certification);

(c) 40 CFR §745.225 (Accreditation of training programs);

(d) 40 CFR §745.226 (Certification of individuals and firms engaged in lead-based paint activities: target housing and child-occupied facilities);

(e) 40 CFR §745.235 (Enforcement);

(f) 40 CFR §745.237 (Inspections);

(g) 40 CFR §745.238 (Fees for accreditation and certification of lead-based paint activities);

(h) 40 CFR §745.239 (Effective dates).

(3) Notwithstanding 40 CFR 745:

(a) All fees are as established in OAR 812-007-0031, 812-007-0160, 812-007-0260 and 812-007-0360.

(b) All license issuance, denial, renewal, reissuance, suspension, and revocation are as established in OAR 812, division 7.

(c) Where "Administrator" or "EPA" appears in 40 CFR 745, Subparts D, E and L, "Construction Contractors Board" or "board" is substituted, unless the context suggests otherwise.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

(8/17 eff. 9/1/17)

812-007-0020

Definitions

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

- (1) “Abatement” 40 CFR 745.223.
- (2) “Accredited training program” means a training program provisionally accredited or accredited by the OHA, the Environmental Protection Agency (EPA) or an EPA-authorized state or tribal program.
- (3) “Certified lead-based paint renovation contractor” means a construction contractor that is licensed by the board to conduct LBP renovation under ORS 701.515.
- (4) “Certified renovator” 40 CFR 745.83.
- (5) “Child-occupied facility” 40 CFR 745.83, 745.223.
- (6) “Component or building component” 40 CFR 745.83, 745.223.
- (7) “Course completion certificate” means documentation issued by an accredited training program to an individual as proof of successful completion of an accredited renovator training program (initial or refresher).
- (8) “Deteriorated lead-based paint” 40 CFR 745.223.
- (9) “Dust-lead hazard” 40 CFR 745.65.
- (10) “Emergency renovation operations” 40 CFR 745.80.
- (11) “Inspection” 40 CFR 745.223.
- (12) “Lead abatement contractor” means a construction contractor that is licensed by the board to perform abatement.
- (13) “Lead assessor” or “risk assessor” 40 CFR 745.223.
- (14) “Lead-based paint” or “LBP” 40 CFR 745.223.
- (15) “Lead-based paint activities” 40 CFR 745.223.
- (16) “Lead inspection contractor” means a construction contractor that is licensed by the board to perform inspections or risk assessments.
- (17) “Lead inspector” 40 CFR 745.223.
- (18) “Lead supervisor” 40 CFR 745.223.
- (19) “Lead worker” or “lead abatement worker” 40 CFR 745.223.
- (20) “Minor repair and maintenance” 40 CFR 745.83.
- (21) “Prohibited or restricted work activities” 40 CFR 745.85(a)(3).
- (22) “Recognized test kit” 40 CFR 745.83.
- (23) “Renovation” 40 CFR 745.83.
- (24) “Renovation Right Pamphlet”-40 CFR 745.83.
- (25) “Risk assessment” 40 CFR 745.223.
- (26) “Soil lead hazard” 40 CFR 745.65.
- (27) “Target housing” 40 CFR 745.223.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.505-701.520

(6/96, 11/96, 1/97, 5/97, 11/97, 10/98, 3/99, 6/00, 12/06, 2/10, temp. 3/11/10 eff. 3/11/10, temp. 6/1/10 eff. 6/1/10, 8/10 eff. 9/1/10, 9/11 eff. 10/1/11, 3/12, 10/12 eff. 11/1/12, 8/17 eff. 9/1/17)

812-007-0150

Denial, Suspension or Revocation of Lead-Based Paint Activity Licenses – Individuals

- (1) The board may deny, suspend, or revoke an individual’s license on the following grounds:

- (a) Obtaining OHA certification through misrepresentation of certification requirements such as education, training, professional registration, or experience;
- (b) Gaining admission to or completing continuing education by misrepresenting initial or previous education;
- (c) Obtaining a license through invalid documentation;
- (d) Permitting the duplication or use of the license by another;
- (e) Failing to comply with applicable work practice standards in 40 CFR 745.227; or
- (f) Being subject to a final administrative order or criminal conviction based on engaging in a prohibited act under rules of OHA or the board.

(2) Hearings on denial, suspension or revocation of a license shall be conducted as a contested case in accordance with ORS 183.310 to 183.470.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

(2/10, 9/11 eff. 10/1/11, 8/17 eff. 9/1/17)

812-007-0250

Denial, Suspension or Revocation of License for Lead-Based Paint Activities – Contractors

(1) The board may deny, suspend, or revoke a license of a lead abatement contractor or a lead inspection contractor on the following grounds:

- (a) Obtaining OHA certification through misrepresentation of certification requirements such as education, training, professional registration, or experience;
- (b) Obtaining a license through invalid documentation;
- (c) Performing work requiring a license without having a current valid original license identification card available at the job site for inspection;
- (d) Performing work for which there is no current, appropriate certification issued by OHA;
- (e) Permitting the duplication or use of the license by another;
- (f) Failing to comply with applicable work practice standards in 40 CFR 745.227;
- (g) Failing to comply with local, state, or federal statutes or regulations including execution of a consent agreement in settlement of an enforcement action;
- (h) Failing to maintain required records;
- (i) Being subject to a final administrative order or criminal conviction based on engaging in a prohibited act under rules of the Department or the board;
- (j) Failing to comply with a consent agreement in settlement of an enforcement action;
- (k) For a lead abatement contractor, failing to have an owner or employee that is a licensed lead supervisor or lead worker; or
- (l) For a lead inspection contractor, failing to have an owner or employee that is a licensed lead inspector or licensed lead assessor.

(2) Hearings on denial, suspension or revocation of a license shall be conducted as a contested case in accordance with ORS 183.310 to 183.470.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.510 & 701.515

(2/10, 9/11 eff. 10/1/11, 8/17 eff. 9/1/17)

812-007-0310

Application and Eligibility Requirements for Certified Lead-Based Paint Renovation Contractor

A person applying to become a certified LBP renovation contractor must submit the following:

- (1) Completed application on a form provided by the board;
- (2) Proof that the person is licensed by the board as a construction contractor;
- (3) The fee established in OAR 812-007-0360; and
- (4) Proof that the licensee is owned by or employs at least one individual who has a current and valid course completion certificate evidencing that the individual is a certified renovator as provided in 40 CFR 745.83.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

(2/10, 4/10, 8/17 eff. 9/1/17)

812-007-0330

Renewal of Certified Lead-Based Paint Renovation Contractor License

Persons licensed under these rules may renew their licenses by submitting the following:

- (1) A properly completed application for license renewal on a form provided by the board;
- (2) Proof that the person is licensed by the board as a construction contractor;
- (3) The fee established in OAR 812-007-0360; and
- (4) Proof that the licensee is owned by or employs at least one individual who has a current and valid course completion certificate evidencing that the individual is a certified renovator as provided in 40 CFR 745.83.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

(2/10, 4/10, 8/17 eff. 9/1/17)

812-007-0350

Denial, Suspension or Revocation of Certified Lead-Based Paint Renovation Contractor License

(1) The board may deny, suspend, or revoke a license of a certified LBP renovation contractor on the following grounds:

- (a) Obtaining a license through invalid documentation;
- (b) Permitting the duplication or use of the license by another;
- (c) Violating a rule of the board; or.
- (d) Violating 40 CFR §745.84 (information distribution requirements), 40 CFR §745.85 (work practice standards), or 40 CFR §745.86 (recordkeeping and reporting requirements).

(2) Hearings on denial, suspension or revocation of a license shall be conducted as a contested case in accordance with ORS 183.310 to 183.470.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.510 & 701.515

(2/10, 4/10, 9/11 eff. 10/1/11, 3/12, 8/17 eff. 9/1/17)

[812-007-0140 Repealed 9/1/17]

[812-007-0240 Repealed 9/1/17]

[812-007-0302 Repealed 9/1/17]

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[812-007-0372 Repealed 9/1/17]

[812-007-0374 Repealed 9/1/17]