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ARCHIVES DIVISION

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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 808
LANDSCAPE CONTRACTORS BOARD

FILED

03/28/2024 10:58 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Allows email correspondence during claim process and corrects reference to OAR 137-003-0520.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 04/26/2024 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S)

Allows email correspondence during a claim process and requires the claimant and respondent to notify the agency if their email address changes. Email communication allows claims to be processed quicker. This rule also updates a reference to OAR 137-003-0520(11).

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

OAR 137-003-0520 and ORS 671.603

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The rule amendment does not affect racial equity.

FISCAL AND ECONOMIC IMPACT:

There is no fiscal and economic impact.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

There is no cost associated to other agencies, this affects approximately 1500 small businesses, there are no reporting or other costs required.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Several Board members are small business owners.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The Board acts as its own Rule Advisory Committee.

RULES PROPOSED:

808-001-0030, 808-002-0540, 808-004-0211, 808-008-0085

AMEND: 808-001-0030

RULE SUMMARY: Corrects reference to OAR 137-003-0520(11).

CHANGES TO RULE:

808-001-0030

When Mail Deemed Delivered; Response Time to Notices ¶¶

(1) Except as provided in section (2) of this rule, mail shall be considered delivered to a person when deposited in the United States mail with the correct amount of postage and addressed to the last known address of record of the person.¶¶

(2) If the agency directs mail to a person who is not a licensee or a claimant under division 4 of these rules, the mail shall not be deemed delivered if it is returned as undeliverable because the person moved with no forwarding address.¶¶

(3) Time for responses to all notices to a person delivered by placement in the United States mail with the correct amount of postage and addressed to the last known address of the person shall run from the date of mailing, unless otherwise specified in the notice.¶¶

(4) OAR 137-003-0520(10~~1~~) shall apply to the computation of time to respond to a notice under this rule, whether the notice is related to a contested case, arbitration or any other matter.

Statutory/Other Authority: ORS 183.415, ORS 670.310, ORS 671.670

Statutes/Other Implemented: ORS 183.415, ~~671~~

AMEND: 808-002-0540

RULE SUMMARY: Removes claimant because because the claimant's last known address of record will be defined in a different rule.

CHANGES TO RULE:

808-002-0540

Last-Known Address of Record ¶¶

"Last-known address of record" for a landscape construction professional; or a landscape contracting business ~~or~~ ~~for a claimant~~, as used in ORS 671.603(2); means the mailing address provided by the landscape construction professional, or landscape contracting business ~~or claimant~~ in writing to the agency.

Statutory/Other Authority: ORS 670.310, ORS 671.670

Statutes/Other Implemented: ORS 671.603

AMEND: 808-004-0211

RULE SUMMARY: Update rule to allow email correspondence during a claim process.

CHANGES TO RULE:

808-004-0211

Address of Claimant and Respondent ¶¶

(1) Initial notice of a contested case or arbitration directed to the last known address of record of a party to a claim shall be considered delivered when deposited in the United States mail and sent registered or certified or post office receipt secured.¶¶

(2) All other communication directed to the last known email address of record or mailing address of record of a party to a claim shall be considered delivered when sent by email or deposited in the United States mail and sent by regular mail. The last known address of a claimant means the email address or mailing address provided by the claimant in writing to the agency when the claim was initially filed or as a change of address as stated in subsection (3). The last known address of the respondent has the same meaning as stated in OAR 808-002-0540.¶¶

(3) A party must notify the agency in writing within 10 days of any change in the party's mailing or email address, withdrawal or change of the party's attorney, or change of mailing or email address of the party's attorney during the processing of the claim and until 90 days after the date the agency notifies the parties that the claim is closed.
Statutory/Other Authority: ORS 670.310, 671.670
Statutes/Other Implemented: ORS 671.603

AMEND: 808-008-0085

RULE SUMMARY: Update rule to include email address as a valid means of communication.

CHANGES TO RULE:

808-008-0085

Filing and Service of Pleadings and Other Documents ¶¶

(1) Unless otherwise provided by these rules, documents, correspondence, motions, pleadings, rulings and orders filed in an arbitration under these rules shall be filed as follows:¶¶

(a) With the agency before a claim or dispute is referred by the agency to the Office of Administrative Hearings.¶¶

(b) With the Office of Administrative Hearings or assigned arbitrator after the agency refers the claim or dispute to the Office of Administrative Hearings and before the arbitrator issues an award.¶¶

(c) With the agency after the arbitrator issues an award.¶¶

(2) After the agency refers a claim or dispute to the Office of Administrative Hearings and before the arbitrator issues an award, a person who files a document such as a correspondence, motion, pleading, ruling or order with the Office of Administrative Hearings or arbitrator in an arbitration shall serve copies of the document filed on the parties to the claim or dispute or their counsel if the parties are represented. Service under this section shall be by hand delivery, by facsimile, by email, or by mail.¶¶

(3) In addition to the requirements of OAR 808-004-0210~~1~~, after the agency refers the claim or dispute to the Office of Administrative hearings and before the arbitrator issues an award a party must notify the Office of Administrative Hearings or arbitrator, and other parties to the claim or dispute of any change in the party's address or email address, withdrawal or change of party's attorney or change of address or email address of the party's attorney.

Statutory/Other Authority: ORS 183.310 - 183.500, ORS 670.310, ORS 671.670

Statutes/Other Implemented: ORS 183. 671