

Landscape Contractors Board
 235 Union Street, NE
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 www.lcb.state.or.us



LCB ON-LINE SURVEY
Please take a moment to let us know what you think!

June 2006
 Issue #48

Inside this issue:

| | |
|----------------------------|---|
| LCB On-Line Survey | 1 |
| Independent Contractor | 1 |
| Newly Licensed | 2 |
| Bonding Requirements | 2 |
| Enforcement | 3 |
| NCCA Exam Accreditation | 5 |
| 2007 Legislative Concepts | 5 |
| Future Board Meeting Dates | 6 |
| Rule Hearing | 6 |

The LCB has an information survey on the website at www.lcb.state.or.us. Please take a moment to let us know what you think of the licensing requirement, the information provided by the LCB and how you prefer hearing from us. This survey will only take approximately 8 minutes and is extremely easy to answer.

INDEPENDENT CONTRACTOR
WHAT'S THAT??
(So you think you know?)

The truth is, what you may think and independent contractor means, compared to what another person thinks it means can be very different and when it comes to the business world, this can create a huge amount of confusion.

The Landscape Contractors Board along with the Construction Contractors Board, Oregon Department of Revenue, the Employment Division and Workers' Compensation Division have had the term defined for them in statute (ORS 670.600) and they have been commissioned to further define the terms associated with this definition in rule so everyone is on the same page. The main criteria for these agencies is the issue of "Direction and Control" of the alleged employer over the person who is performing the work.

What is direction and control? Direction means regulating or directing another's activities, or if not directing, have the power or right to direct another person's activities. Control exists when the person specifies how, when and how the service is to be performed even when there are acceptable alternatives that will produce satisfactory results. When someone contracts for a service but maintains control or sets themselves up to have the right of control, the relationship is one of employer-employee rather than one of independence.

This issue arises many times when businesses do not want to pay the overhead associated with employing people to do work for them so they attempt to avoid this by "contracting" for the work. However, the person to whom they contract to is told, when, where and how to do the work; is paid for the job in a lump sum or paid by the hour and is used again on another project in the same manner. This "smells" of being an employee and in fact would be seen as that type of relationship in which the business would be responsible for employment taxes, workers compensation and withholdings.

Confused, you are not alone.

(continued on page 5)

BOARD MEMBERS
 Martin Seibold, Chair, Bend
 Matt Triplett, V-Chair, Tualatin
 Martin Gascoyne, Cottage Grove*
 Patrick Griffiths, Bend
 Richard Hollenbeck, Portland
 Maia Holliday, Manzanita *
 Ron Overstreet, Eagle Point
 *NEW BOARD MEMBERS

LCB STAFF
 Michael Snyder,
 Administrator
 Kim Gladwill-Rowley,
 Program Manager
 Cindy Clark,
 Office Manager/Licensing
 Ken Roth, Investigator/Mediator

This newsletter is mailed to all actively licensed individual landscape contractors, unlicensed owners and anyone who requests to be on the list.

NEWLY LICENSED LANDSCAPE CONTRACTORS SINCE JAN. 2006

Congratulations to the following who have accomplished passing the exam and becoming licensed:

| | | | | |
|-------|---------------------|--------------|------------------------|----------------------|
| 14962 | MICHAEL J WOODROW | JACKSONVILLE | IRRIGATION ONLY | PLUS BACKFLOW |
| 14963 | JEREMIE K LUCAS | SUNRIVER | ALL PHASES | PLUS BACKFLOW |
| 14964 | PATRICK T PARKS | EUGENE | IRRIGATION ONLY | PLUS BACKFLOW |
| 14965 | BRENT T BECK | WILSONVILLE | IRRIGATION ONLY | PLUS BACKFLOW |
| 14966 | JAYLENE J WALTER | PORTLAND | ALL PHASES | PLUS BACKFLOW |
| 14967 | RANDY J SMITH | INDEPENDENCE | IRRIGATION ONLY | PLUS BACKFLOW |
| 14968 | AUSTIN B WIESNER | SALEM | ALL PHASES | PLUS BACKFLOW |
| 14969 | JEREMY SETH DAVIS | SISTERS | ALL PHASES | PLUS BACKFLOW |
| 14970 | LEIF S AMUNDSON JR | FOREST GROVE | IRRIGATION ONLY | PLUS BACKFLOW |
| 14971 | SABINO A MARTINEZ | OREGON CITY | ALL PHASES | PLUS BACKFLOW |
| 14972 | PAMELA L FLEMING | SESASIDE | STANDARD-NO IRRIGATION | BACKFLOW NOT ALLOWED |
| 14973 | STEVEN F BILLINGS | CORVALLIS | ALL PHASES | PLUS BACKFLOW |
| 14974 | FRANCISCO J URENA | BEAVERTON | IRRIGATION ONLY | PLUS BACKFLOW |
| 14975 | CALEB FOLSOM | SALEM | IRRIGATION ONLY | PLUS BACKFLOW |
| 14976 | SEAN CURLEY | HILLSBORO | IRRIGATION ONLY | PLUS BACKFLOW |
| 14977 | DONALD H ROBERTS II | TIGARD | ALL PHASES | PLUS BACKFLOW |
| 14978 | ALFRED JOHN PAGGI | ROSEBURG | IRRIGATION ONLY | PLUS BACKFLOW |
| 14979 | MICHAEL E GRAVES | MEDFORD | STANDARD-NO IRRIGATION | BACKFLOW NOT ALLOWED |
| 14980 | BENJAMIN W LOGAN | HARRISBURG | IRRIGATION ONLY | PLUS BACKFLOW |
| 14981 | RUSSELL E LUND | SALEM | IRRIGATION ONLY | PLUS BACKFLOW |
| 14982 | TODD M SABROWSKI | OREGON CITY | IRRIGATION ONLY | PLUS BACKFLOW |
| 14983 | KEITH W SCHMITZ | BROOKINGS | STANDARD-NO IRRIGATION | BACKFLOW NOT ALLOWED |

ATTENTION!

LANDSCAPING BUSINESSES

REMEMBER TO CHECK YOUR BONDING AMOUNTS

YOUR CURRENT \$3000 BOND MAY NOT BE ENOUGH!

On January 1, 2006 new legislation went into effect that requires all landscaping businesses to carry surety bonds that are based upon the amount a business charges for a landscape job during the term of the license. Landscape charges are determined by the total of all contracts for a landscape project on a specific site, for a specific owner during a 12 month period. See the chart below for the correct bonding requirement for your business:

| LANDSCAPE PROJECT CHARGES | MINIUMUM BOND AMOUNT REQUIRED |
|----------------------------|--|
| \$1.00 UP TO \$10,000.00 | \$3000.00 |
| \$10,001 UP TO \$25,000.00 | \$10,000.00 (This amount is also required if you are bidding on or installing decks, fences, walkways, driveways, and retaining walls without performing other landscape work which includes planting of lawns and plants or irrigation systems.) |
| Above \$25,001.00 | \$15,000.00 |

This change needs to occur NOW if you are bidding on or performing work in these dollar categories. Failure to have the correct bonding amounts may result in a penalty of license suspension and a civil penalty of \$1500.00. DO NOT wait until renewal. That may be too late!

ENFORCEMENT ACTIONS JANUARY 1, 2006 THROUGH MAY 31, 2006

THESE ACTIONS ARE FOR FINAL ACTIONS ONLY AND ARE NOT THE TOTAL NUMBER OF ACTIONS TAKEN DURING THE PERIOD, SINCE SOME ARE STILL UNDER INVESTIGATION. THIS IS SUMMARY INFORMATION ONLY.

| Name | City | Violation | Final Action |
|--|--------------|---|--|
| Absolute Landscape & Design Inc. | Albany | Failure to pay Civil Penalty | Suspended Business License |
| Aleksandr Nikolayevich Isayev | Gresham | Operating w/o License | \$1,000 Civil Penalty |
| Arturo Chora Aquino | Forest Grove | Operating w/o License | \$1,000 Civil Penalty |
| Brady Sapp | Eugene | Operating w/o License | \$1,600 Civil Penalty; suspend \$1,300 obtain licenses |
| Brendan McMullen | Portland | Operating w/o License & Claim Filed | \$2,000 Civil Penalty |
| Brendan McMullen | Portland | Operating w/o License-2nd offense | \$2,000 Civil Penalty |
| Brendan McMullen | Portland | Operating & Advertising w/o License & Claim Filed | \$3,000 Civil Penalty (\$2,000 for operating and calim filed and \$1,00 for advertising when previous violations occurred - see 06-01-015) |
| Brian C Menten | Coos Bay | Failure to Maintain Insurance | Suspended Business License |
| Brian Callen | Salem | Operating & Advertising w/o License | \$4,600 Civil Penalty |
| Brian Shannon | Clackamas | Operating w/o License | \$1,000 Civil Penalty; Settlement - suspend \$750, obtain licenses |
| Bruno Sotelo Sr | Clackamas | Operating w/o License | \$1,000 Civil Penalty |
| Caleb Folsom | Salem | Working outside scope of License | \$500 Civil Penalty; Settlement - suspend \$250, submit permit and obtain license |
| Concept Resource Enterprises Inc | Portland | Failure to Employ Licensed Contractor | Suspended Business License |
| Custom Landscape Service Inc | Wilsonville | Working w/o a Contract | Warning Issued |
| Daniel Garvin | McMinnville | Advertising w/o License | \$600 Civil Penalty |
| Daniel R Moore | Boring | Failure to Maintain Workers Compensation | \$1,000 Civil Penalty; Settlement - suspend \$800, settle claims quickly |
| Debras Garden Services LLC | Bend | Bond Cancelled | Suspended Business License |
| Dennis Seven Dees Landscaping Inc | Portland | Failure to Comply w/min. Standards for Contracts | Warning Issued |
| Dick Franklin | Salem | Failure to Comply w/min. Standards for Contracts | Warning Issued |
| Donald R Williams Jr | Bend | Failure to Maintain Insurance | \$200 Civil Penalty; Settlement - suspend \$150, quickly settle claims |
| Donald R Williams Jr | Bend | Bond Cancelled | Business License Suspended |
| Eco-Friendly Landscaping and Design | Portland | Advertising w/o License | Warning: removed advertisement from Craigslist |
| Elwoods Tree Service Co | Salem | Failure to Employ Licensed Contractor | Suspended Business License |
| Emerald Services Inc | Salem | Failure to Maintain Insurance | \$200 Civil Penalty; Settlement - suspend \$150, quickly settle claims |
| Enrique & Miguel Ramos-Amaral | St. Helens | Advertising w/o License | \$600 Civil Penalty; Settlement - suspend \$550, remove ad |
| Eric Webers Living Water Landscaping LLC | Newberg | Failure to meet Minimum Standards on Contract | Warning Issued |
| Escape Landscaping Inc | Cornelius | Bond Cancelled | Suspended Business License |
| Evergreen Turf & Lawn Inc | Portland | Failure to Employ Licensed Contractor | Suspended Business License |
| Fred W Swisher | Bend | Failure to Maintain Insurance | \$200 Civil Penalty; Settlement - Suspend \$150, quickly settle claims |
| Gordon R Mobley | Talent | Failure to Maintain Insurance | \$200 Civil Penalty |
| Greenscapes Landscape LLC | Salem | Failure to Maintain Insurance | Suspended Business License |
| Greenway Grounds Maintenance, Inc | Salem | Advertising w/o License | \$600 Civil Penalty; Settlement - suspend \$550, license business |
| Greg DeHaven | Gresham | Bond Cancelled | Suspended Business License |
| Israel Arteaga | Grants Pass | Operating w/o License-2nd offense | \$2,000 Civil Penalty |
| James Donis | Medford | Operating w/o License | \$2,000 Civil Penalty; Settlement - suspend \$1,750, obtained license |
| Javier Leon-Castro | Portland | Advertising w/o License | \$600 Civil Penalty; Settlement - suspend \$550, submit new flyer |
| Jerry Reyes | Aurora | Advertising w/o License | Warning: redo flyer |
| John Darby Landscape Inc | Tigard | Failure to meet Minimum Standards on Contract | Warning Issued |
| John Tim Tomlin | Tigard | Operating w/o License | \$2,000 Civil Penalty |
| Jose Castillo | Sandy | Advertising w/o License | \$600 Civil Penalty; Settlement - Suspended \$550 |
| Joyce & Peter Padilla | Dallas | Advertising w/o License | \$1,000 Civil Penalty |
| Kelly Britz Landscaping, Inc | Lake Oswego | Advertising w/o License | \$600 Civil Penalty |
| Ladd Hostick | Corvallis | Failure to Employ Licensed Contractor | Suspended Business License |
| Landscape Solutions LLC | Tigard | Working w/o a Contract | Warning Issued |
| Landsystems | Bend | Failure to use License Number in Advertising | Warning Issued |
| Leif Montchalin | Grants Pass | Operating w/o License & Claim Filed | \$2,000 Civil Penalty |
| Manuel Ortiz Arellano | Canby | Advertising w/o License | \$600 Civil Penalty; settlement - suspend \$550, destroy business cards |
| Martin Venegas | Monmouth | Operating w/o License | \$1,000 Civil Penalty; Settlement Agreement - suspend \$750, obtain individual and business licenses |
| Marvin Wyatt Keywest Retaining Systems | Wilsonville | Advertising w/o License | \$600 Civil Penalty; Settlement - suspend \$550, will not advertise under heading "Landscape Contractor" |
| Michael & Karla Kamers | Eugene | Advertising w/o License | \$600 Civil Penalty; Settlement - suspend \$550, obtain individual and business license |

| Name | City | Violation Type | Final Action |
|--|---------------|--|---|
| Michael Gephart | Tigard | Advertising w/o License | Civil Penalty: \$1800, suspend \$1750 to remove all advertisements |
| Miller Factors | Portland | Performed Work without Proper Bond Amount | \$1,500 Civil Penalty; Settlement - suspend \$1,250 & no suspension, obtain \$15,000 bond |
| Miquel & Christina Ceballos | Salem | Operating w/o License | \$2,000 Civil Penalty |
| Miquel Ceballos | Salem | Advertising w/o License | \$600 Civil Penalty |
| Miquel Hernandez | Hillsboro | Advertising w/o License | \$600 Civil Penalty |
| Miquel Perez Greenway Scapes, LLC | Salem | Non-licensee installed Backflow | Warning Issued |
| Mitch Davis | Keizer | Failure to meet Minimum Standards on Contract | Warning Issued |
| Mitchell Davis | Keizer | Bond Cancelled | Suspended Business License |
| Moreno | Beaverton | Advertising w/o License | \$600 Civil Penalty |
| Neuman Properties & Development LLC | Ashland | Operating w/o License | \$1,000 Civil Penalty |
| New Horizons Construction Inc | Medford | Operating w/o License | \$1,000 Civil Penalty; Settlement - suspend \$750, obtain license |
| Ngoc Kim Ngo | Portland | Conduct that is Injurious to the Public Welfare | Suspended Business License |
| Octavio Rojas | Hillsboro | Bond Cancelled | Suspended Business License |
| Oregon Native's Landscaping, LLC Bruce Bower | Portland | Advertising w/o License | \$600 Civil Penalty; Settlement - suspend \$550; do not advertise |
| Peter and Mitchel Padilla | Dallas | Advertising w/o License | \$600 Civil Penalty; Settlement - Suspend \$550, destroy existing business cards |
| Philip Valdez | Klamath Falls | Operating w/o License | \$1,000 Civil Penalty; settlement - suspend \$750, promise not to perform l/s work |
| Phillip D Austin | Rogue River | Operating w/o License | \$1,000 Civil Penalty; Settlement - suspend \$750, will not perform landscaping work until properly licensed |
| Ramiro Munoz | Lake Oswego | Operating w/o License | \$1,000 Civil Penalty; Settlement - suspend \$750 obtain individual and business license |
| Rene Menchaca | Hermiston | Working outside scope of License | \$400 Civil Penalty; Settlement - suspend \$300, upgrade license |
| Richard Addison Nichols Jr | Salem | Bond Cancelled | Suspended Business License |
| Richard Franklin | Salem | Failure to Supervise Landscape Work | \$500 Civil Penalty |
| Roadrunner Flooring and Construction, Inc Larry and Donald Redfield | Madras | Operating w/o License | \$1,000 Civil Penalty |
| Rod Surgeon | Central Point | Operating w/o License & Claim Filed | \$2,000 Civil Penalty & referral to DOJ |
| Rogue Air Landscaping Inc | Shady Cover | Conduct that was Dishonest or Fraudulent | Warning Issued |
| Sage & Pine Landscaping LLC | Bend | Failure to Maintain Insurance | \$200 Civil Penalty; Settlement - suspend \$150, quickly settle claims |
| Sammy Joe Kloosterman | Medford | Operating w/o License | \$1,000 Civil Penalty; Settlement - suspend \$250, will not perform l/s work |
| Scott Tenold | Bonanza | Advertising w/o License | \$600 Civil Penalty; Settlement - suspend \$550, submit new flyers |
| Seagraves Landscape LLC | West Linn | Failure to Employ Licensed Contractor | Business License Suspended |
| Sean Bender | Salem | Operating w/o License | \$1,000 Civil Penalty; Settlement, suspend \$750 obtain individual and business licenses |
| Sean Bender | Salem | Operating w/o License-2nd offense | \$1,000 Civil Penalty; Settlement, suspend \$750 obtain individual and business licenses |
| Sean Bender | Salem | Operating w/o License & Claim Filed | \$2,000 Civil Penalty; Settlement, suspend \$1,750 - settle with claimant and obtain individual and business licenses |
| Sean Tannehill | Roseburg | Operating w/o License | \$1,000 Civil Penalty; Settlement - suspend \$750, obtain business license |
| Sergey M Savenko | Keizer | Failure to Employ Licensed Contractor | Suspended Business License |
| Sergio Raymundo | Woodburn | Advertising w/o License | \$600 Civil Penalty; Settlement - suspend \$550, change business name and submit corrected card |
| Steve Billings | Lincoln City | Advertising w/o License | \$600 Civil Penalty; Settlement - obtain individual and business license |
| Steven W Dempsey | Eagle Point | Bond Cancelled | Suspended Business License |
| Suma Pacific Corporation | Grants Pass | Failure to Employ Licensed Contractor | Suspended Business License |
| Terri L Cafazzo | Philomath | Failure to Maintain Insurance | Suspended Business License |
| Thi Em | Portland | Advertising w/o License | \$600 Civil Penalty |
| Thomas Mata | Cornelius | Advertising w/o License | \$600 Civil Penalty; Settlement - suspend \$550, submit corrected business card |
| Tim Davis | Springfield | Advertising w/o License | \$600 Civil Penalty; Settlement - suspend \$550, reinstated individual and business licenses |
| Tim Maeyaert | Eugene | Operating w/o License | \$1,000 Civil Penalty; Settlement - suspend \$750, obtain individual and business licenses |
| Timothy R Clasen | Sisters | Failure to Maintain Insurance | \$200 Civil Penalty; Settlement - suspend \$150, settle all claims |
| TK Squared Enterprises, LLC | Hillsboro | Advertising w/o License | \$600 Civil Penalty |
| Tyler Weston | Seaside | Operating w/o License | \$1,000 Civil Penalty; Settlement - suspend \$750, obtain both licenses |
| Valentin Renteria | Salem | Working w/o a Contract | Warning issued |
| Valley Inspections and Pests Inc | Grants Pass | Bond Cancelled | Suspended Business License |
| Vega Landscaping | Forest Grove | Advertising w/o License | \$600 Civil Penalty |
| West Valley Landscapes, Inc | Salem | Failure to Comply w/min. Standards for Contracts | Warning- first offense |
| Wilbur E Ternyik | Florence | Failure to Maintain Insurance | Suspended Business License |

Independent Contractor?? (continued from Page 1)

However, there are other agencies, such as the Bureau of Labor and Industries, US Department of Labor and the Courts that use criteria commonly known as the economic realities test. The criteria consist of:

- The degree of control exercised by the alleged employer.
- The extent of the relative investments of the worker and the alleged employer.
- The degree to which the workers' opportunity for profit and loss is determined by the employer.
- The skill and initiative required in performing the job.
- The permanency of the relationship.

Understandably, with so many interpretations and definitions of the same law and terms, business owners and workers can become confused. However, it is incumbent upon the business to understand the independent contractor laws and how each agency is enforcing them. This has led to a single source of information on the independent contractor law. The legislature and Governor Ted Kulongoski ordered agencies to work together to produce information for business owners and workers. As a result of this cooperative effort is the formation of a website:

www.OregonIndependentContractors.com. Readers will find a list of resources and agencies, definitions and frequently asked questions to assist them in their understanding of this important law. The site will direct the reader to the appropriate state agency that is most closely related to the given situation of the reader.

Incorrectly interpreting and applying the independent contractor law can be very costly and emotionally devastating, when you thought you knew what you were doing, but in reality didn't understand. Be informed, go on-line and get the facts before committing to a relationship that could end up in disaster for you.

NOTE: The Steering Committee on the independent contractor issue would like to involve you and keep you informed if you are interested. Please let the LCB know if you want to be on the mailing list by sending in your mailing and e-mail address.

LCB TO SEEK NCCA ACCREDITATION FOR THE COMPETENCY EXAM

The Landscape Contractors Board is seeking to have the licensing exam accredited by the National Commission for Certifying Agencies. NCCA is a national certifying body that is part of NOCA (the National Organization for Competency Assurance).

The process of accreditation utilizes the expertise of an outside psychometric statistician. In this process there are four major steps:

1. The task and skill analysis and qualification analysis used to establish the prioritized test segments for licensing will be compared to the exam questions to be sure they match up.
2. A committee of industry experts will review the test questions to establish a proper passing score level.
3. All written materials used in licensing will be analyzed for readability levels.
4. All exam questions will be analyzed to be sure they are accurate and contain no bias.

The purpose of accreditation is to insure the Landscape Contractors Board is utilizing a license test that is of the highest quality, is legally defensible, accurate and fair. This will be a long process with hopes of completion in 2007. If anyone has questions or would like to take part in the process as a volunteer, please contact the Administrator at the LCB office.

LEGISLATIVE CONCEPTS PROPOSED BY THE LCB FOR THE 2007 LEGISLATIVE SESSION

1. **973000/0701- Term changes:** Change the term "Landscape Contractor" to "Landscape Professional" and change the term "Landscaping Business" to "Landscape Contracting Business".
2. **973000/0702 – Continued Education:** Implement a continued education requirement of not more than 10 hours per year for individual landscape contractors. (on line, community colleges, association education courses, CLT, Pesticide, community service, attend board hearings)
3. **973000/0703 - Testing of Owner:** Implement an examination on laws & rules plus business practices for business owners who are not individually licensed.
4. **973000/0704 – Housekeeping:** Change "Landscape Contractor" to "Landscaping business" to correct the qualification requirement of being employed by a "landscape contractor" in ORS 671.570. Also in ORS 671.565 there is no provision for an "owner of a business" to be the licensed individual landscape contractor to supervise the landscape work for the business. Correct this oversight.
5. **973000/0705 - Subcontracting:** Allows Landscaping businesses to subcontract for "site features" outside the current license (constructed surfaces, steps, retaining walls, fences, arbors, trellises, benches, decks, fountains, ponds, waterways, pools or other physical elements constructed or proposed for construction in the landscape). Also makes it possible for general contractors to subcontract to landscaping businesses to perform landscape work. Prohibits landscaping businesses and construction contractors from hiring unlicensed persons for licensed work.

(continued page 6)

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We're on the
Web: www.lcb.state.or.us

Mission Statement
**TO PROMOTE CONSUMER PROTECTION, CONTRACTOR
COMPETENCY AND FAIR COMPETITION IN OREGON'S LANDSCAPE
CONTRACTING INDUSTRY**

FUTURE BOARD MEETINGS:
JULY 21—SALEM
SEPTEMBER 15—TBA
NOVEMBER 17— SALEM

Legislative Concepts for 2007 (Continued)

6. **973000/0706- Non-owner claims:** Allows the LCB to accept non-owner claims, limits the amount that can be claimed and to use mediation as a method of settling disputes between landscaping businesses and consumers.
7. **973000/0707 – Inform Board of adverse decisions:** Requires licensees to notify the board of any adverse decisions from a court or other governing entity that are related to landscape contracting activities.
8. **973000/0708 – Exam Qualifications:** Creates a probationary license for those who take the test without having the normal qualifiers for the exam. Would allow a person to take the exam, set a time limit on passing the exam and if the person passes, the person must either must work for an existing licensed landscaping business for two years before starting his/her own business or file a \$15,000 bond and agree to perform landscape projects that are less than \$15,000 in value for 2 years (another idea is to let them file either a \$3000, \$10,000 or \$15,000 bond and not perform landscape projects in value that exceed the bond amount for 2 years).

RULE HEARING ON JULY 21, 2006

The board will be holding a rule hearing at the July 21st board meeting in Salem to decide on several rules that have been proposed for the board's consideration. The rules deal with:

- New contract requirements including the use of OLCA guidelines and bond amounts in the contract
- Irrigation systems and the inclusion of drip systems as "irrigation systems"
- Requirement that the individual landscape contractor who is to supervise the landscaping work of the business is to be on the payroll every hour the business performs landscape work or meet the salary test if exempt from minimum wage and overtime requirements
- Housekeeping rules changes to deal with the claim process and to include the construction work done under the business license is considered landscape work when done by a licensed landscaping business.