

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING HEARING\***

A Statement of Need and Fiscal Impact accompanies this form.

Oregon Department of Transportation, Driver and Motor Vehicle Services Division	735
Agency and Division	Administrative Rules Chapter Number
Lauri Kunze      355 Capitol St. NE, Rm. 29, Salem OR 97301      lauri.g.kunze@odot.state.or.us	(503) 986-3171
Rules Coordinator      Address	Telephone

**RULE CAPTION**

Acceptable Proofs of Full Legal Name, Legal Presence, Identity and Date of Birth

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

October 15, 2008	11:00 am	Portland City Hall, Lovejoy Room 1221 SW Fourth Ave, Portland OR 97204	Liz Woods
Hearing Date	Time	Location	Hearings Officer
October 16, 2008	3:00 pm	PUC Main Hearing Room 550 Capitol St NE, Salem OR 97301	Liz Woods
Hearing Date	Time	Location	Hearings Officer

*Auxiliary aids for persons with disabilities are available upon advance request.*

**RULEMAKING ACTION**

**ADOPT:** 735-062-0014

**AMEND:** 735-010-0130, 735-062-0005, 735-062-0015 and 735-062-0020

**REPEAL:**

**RENUMBER:** Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

**AMEND & RENUMBER:** Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

ORS 184.616, 184.619, 802.010, 807.050, 807.150, 807.400 and OL 2008, Ch 1	None
Stat. Auth.	Other Authority
ORS 807.050, 807.062, 807.150, 807.160, 807.220, 807.230, 807.280 and OL 2008, Ch 1	
Stats. Implemented	

**RULE SUMMARY**

DMV implemented the changes required by Oregon Laws 2008, Chapter 1 (SB 1080) on July 1, 2008. Those changes include that all applicants for a driver license, driver permit or identification card must show proof of legal presence in the United States, proof of Social Security number (that must be verified) or proof of not being eligible for a Social Security number, and proof of full legal name.

In implementing the requirements of SB 1080, the department adopted OAR 735-062-0015 and amended OAR 735-062-0020 to require documentation of a legal name change if the applicant's current legal name does not match the name on the document submitted as proof of legal presence or proof of identity. Documentary proof of a legal name change includes a government issued marriage document or certificate of domestic partnership, a judgment of dissolution or annulment, an adoption decree or a court judgment for change of name. DMV has determined that requiring documentary proof of a legal name change unnecessarily limits the proof an applicant may provide as proof of his or her current legal name and is overly burdensome for some applicants.

DMV therefore proposes to adopt a new rule, OAR 735-062-0014, which authorizes DMV to accept an identity document listed in OAR 735-062-0020 as proof of the applicant's current legal name. There must be sufficient connection between the proof of the applicant's legal name and the name on the document submitted as proof of legal presence for DMV to determine the applicant is the person named in the legal presence document. If the applicant's current legal name is not on an identity document, the applicant must provide proof of a legal name change as described above. This proposed rule also clarifies that a document used to provide proof of a legal name change through marriage must be a government-issued marriage document. DMV does not accept a ceremonial marriage certificate that is presented to the couple at the wedding as that document is not the document filed with the state to certify the marriage. The official document recording the marriage is the document filed with the county or state, and it is this document that DMV accepts as proof of a name change. Proposed OAR 735-062-0014 has been in place as an emergency rule since September 15, 2008.

Oregon Laws 2008, Chapter 1, Section 7 allows DMV to verify with the issuing agency the validity and completeness of each identity source document presented by an applicant for a driver license, driver permit or identification card. DMV will soon begin verifying with the issuing agency those documents presented by permanent legal residents in the United States and persons legally in the United

States on a temporary basis. DMV and the United States Department of Homeland Security – U.S. Citizenship and Immigration Services (DHS – USCIS) have an agreement that DMV may verify documents through the Systematic Alien Verification for Entitlements (SAVE) system. DMV plans to begin verifying documents through SAVE in January 2009. DMV proposes to amend OAR 735-062-0015 to specify that DMV will only accept documents verified through SAVE as proof of permanent or temporary legal status in the United States.

Also in January 2009, DMV will place on a person's DMV record an indicator of whether the person's SSN has been verified and whether documentation has been presented providing proof of U.S. citizenship, permanent legal residence or that the person is otherwise legally present in the United States. If the person's DMV record shows that the person's SSN has previously been verified and shows the person is a U.S. citizen or is a permanent legal resident of the United States, the person will not need to provide proof of an SSN and proof of legal presence when renewing, replacing or being issued a driver license, driver permit or identification card. Only a person whose documentation shows they are otherwise legally present in the United States (not a citizen or permanent legal resident) will continue to be required to show documentation at each and every visit to DMV. DMV proposes to amend OAR 735-062-0005 and 735-062-0015 to specify an applicant need not provide proof of an SSN and proof of legal presence when the person's DMV record indicates that DMV has already verified the person's SSN and viewed the person's proof of U.S. citizenship or permanent legal presence in the United States.

DMV proposes to amend OAR 735-062-0015 and 735-062-0020 to remove the section on name change as that information is contained in proposed OAR 735-062-0014.

DMV also proposes to amend OAR 735-062-0020 to include as acceptable proof of identity and date of birth, the person's DMV record, including the digital photo on file with DMV. This amendment will allow a person who provides proof of U.S. citizenship or permanent legal residence in the U.S. on or after January 1, 2009 to renew or replace a driver license, driver permit or identification card without providing any further proof to DMV (as long as the person has not changed names or moved). DMV can verify through the person's DMV record that the person is eligible to renew or replace a driver license, driver permit or identification card.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.oregon.gov/ODOT/CS/RULES/>.

The Agency 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.

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**October 21, 2008**

**Last Day for Public Comment**

Last day to submit written comments to the Rules Coordinator

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Signature

**Lauri Kunze**

Printed name

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Date

Secretary of State  
**STATEMENT OF NEED AND FISCAL IMPACT**

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Department of Transportation, Driver and Motor Vehicle Services Division  
Agency and Division

735  
Administrative Rules Chapter Number

**In the Matter of the** Adoption of OAR 735-062-0014 and Amendment of OAR 735-010-0130, 735-062-0005, 735-062-0015 and 735-062-0020

**Rule Caption:** Acceptable Proofs of Full Legal Name, Legal Presence, Identity and Date of Birth

**Statutory Authority:** ORS 184.616, 184.619, 802.010, 807.050, 807.150, 807.400 and OL 2008, Ch 1

**Other Authority:** None

**Statutes Implemented:** ORS 807.050, 807.062, 807.150, 807.160, 807.220, 807.230, 807.280 and OL 2008, Ch 1

**Need for the Rule(s):** DMV implemented the changes required by Oregon Laws 2008, Chapter 1 (SB 1080) on July 1, 2008. Those changes include that all applicants for a driver license, driver permit or identification card must show proof of legal presence in the United States, proof of Social Security number (that must be verified) or proof of not being eligible for a Social Security number, and proof of full legal name.

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**Documents Relied Upon and where they are available:** None

**Fiscal and Economic Impact, including Statement of Cost of Compliance:**

State agencies and units of local government: DMV estimates the cost of programming the legal presence indicator on a person's DMV record, along with the additional personnel needed for the Systematic Alien Verification for Entitlements (SAVE) checks will be approximately \$760,000 during the current biennium. The actual fee paid by DMV to use SAVE is 50 cents per inquiry. This will be an on-going cost, although the cost only impacts a small percentage of all transactions. DMV estimates that this cost will be about \$4,000 during the first biennium. It is possible that Oregon Vital Records (Department of Human Services – Public Health Division – Center for Health Statistics) will have fewer repeated requests for birth certificates and marriage documents when a person has already proven legal presence to DMV and will not need to again, resulting in decreased revenue. DMV does not have a way of knowing what percentage of applicants must order or re-order birth certificates or other documents from Oregon Vital Records. Counties also may receive fewer requests for certified copies of marriage certificates, divorce decrees, and other legal name change documents. DMV has no way to estimate this potential impact upon county revenues, but it is considered minor. No other state agency or unit of local government will be impacted by these proposed rule changes.

Members of the General Public: Effective July 1, 2008 a person applying for a new, renewal or replacement driver license, driver permit or identification card must provide proof to DMV of legal presence, Social Security number (or ineligibility for a SSN), and full legal name. In addition, applicants must continue to provide proof of identity, date of birth and residence address. Currently such proof must be shown each and every time, even if the person is simply replacing a lost license that was issued two weeks earlier. These proposed rule changes will result in cost savings for certain applicants who will not have the expense of going through a legal name change or the expense of obtaining certified documents from various government agencies in order to prove the person's full legal name. Also, these rules will result in cost savings for applicants who are renewing or replacing a license and will no longer need to provide copies of certified documents to provide proof of an SSN and proof of U.S. citizenship or permanent residence status. DMV is unable to determine the amount of these cost savings because they are determined by the circumstances of each individual applicant.

Businesses, including small businesses: These proposed rule amendments will have no economic impact on businesses, including small businesses.

Projected reporting, recordkeeping and other administrative activities required for compliance. None.

Equipment, supplies, labor and administration required. None. The proposed amendment imposes no reporting requirements and imposes no additional requirements for labor, administration or supplies.

**How were small businesses involved in the development of this rule?** Fourteen groups representing small businesses were notified of the proposed amendments and invited to comment. No comments were received.

**Administrative Rule Advisory Committee consulted?:** No

**If not, why?:** Many of these proposed amendments are based on comments and complaints from DMV customers who experienced difficulty in renewing a driver license or identification card. The other proposed amendments involve DMV internal processes. An advisory committee would not have been helpful in either of these situations. Therefore no advisory committee was used.

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Authorized Signer

Lauri Kunze  
Printed name

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Date

