

Secretary of State
Certificate and Order for Filing
PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rules(s) adopted on November 16, 2011 by the
Date prior to or same as filing date.

Oregon Department of Transportation, Driver and Motor Vehicle Services Division 735
Agency and Division Administrative Rules Chapter Number

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to become effective upon filing Rulemaking Notice was published in the October 2011 Oregon Bulletin.**
Date upon filing or later Month and Year

RULE CAPTION

Police Reports for Implied Consent Suspension

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

RULEMAKING ACTION

List each rule number separately, 000-000-0000.

ADOPT:

AMEND: 735-070-0054

REPEAL:

ORS 184.616, 184.619, 802.010, 813.100 & 813.120 None
Stats. Auth. Other Authority

ORS 813.100, 813.120, 813.130 & 813.404 – 813.460
Stats. Implemented

RULE SUMMARY

OAR 735-070-0054 establishes the information required on the form police send to DMV to suspend driving privileges under the Implied Consent Laws following a driving under the influence arrest and the driver either fails or refuses a chemical test. DMV has removed the requirement that the form indicate if the person holds a commercial driver license, as DMV is also able to determine that information from the person's driving record and amend the form accordingly. DMV has also removed the requirement that the form contain "a suspension period that conforms to the type of suspension in accordance with ORS 813.404 or 813.420." At times the form received by DMV will not indicate the length of suspension. However, the form does include the person's rights and consequences and that section of the form must be read by the police officer to the driver. The rights and consequences clearly state the suspension will be substantially longer if the person refuses a test. The rights and consequences also state: "if you fail or refuse a test, the suspension period will be longer and the wait time for a hardship permit increased if, within the last five years, you have been convicted of DUII, you have had your driving privileges suspended under the Motorist Implied Consent Law, or you have participated in a DUII diversion or similar program." In *Basile v. DMV*, the Oregon Court of Appeals ruled that a specific box indicating suspension length need not be marked on the front of the form for the person to understand that his or her driving privileges are suspended and that the time is longer if he or she refused the test rather than failed the test. Further, the person can understand whether he or she will serve the minimum time or the longer time because of some other act within the last five years as mentioned in the rights and consequences. Because of the case law, DMV enters a suspension on a record even if the form does not indicate the length of suspension.

Authorized Signer Thomas L. McClellan Printed Name _____ Date _____

* With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules.
** The *Oregon Bulletin* is published on the 1st 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, Oregon 97310 by 5:00 pm on the 15th 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 930-2005