

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 Rule(s) adopted on December 1, 2010
by the _____ Date prior to or same as filing date

Oregon Department of State Police	OAR 257 Division 010	
Agency and Division	Administrative Rules Chapter Number	
Cort Dokken	255 Capitol St NE, Salem OR 97301	503-934-0228
Rules Coordinator	Address	Telephone

to become effective [February 28, 2011]. Rulemaking Notice was published in the [January 2011] Oregon Bulletin.**
Date upon filing or later Month and Year

RULE CAPTION

Revises the authority of Law Enforcement to access Firearm Instant Check System information for criminal investigations
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)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND: 257-010-0055

REPEAL: Temporary rule 257-010-0055

RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: ORS 166.412

Other Auth.:

Stats. Implemented: ORS 166.412

RULE SUMMARY

This rule amends Oregon Administrative Rule (OAR) 257-010-0055 by deleting that portion of subsection (2) that authorizes law enforcement agencies to access the Department's Firearm Instant Background Check System (FICS) when they are conducting general criminal investigations. ORS 166.412(8) provides that "[a] law enforcement agency may inspect the records of a gun dealer relating to transfers of handguns with the consent of a gun dealer in the course of a reasonable inquiry during a criminal investigation or under the authority of a properly authorized subpoena or search warrant." Effective December 7, 2000, the provisions of ORS 166.412 apply to the transfer of firearms other than handguns to the same extent that they apply to the transfer of handguns. See ORS 166.434(1). The Department has recently revised its policy to discontinue the practice of law enforcement accessing FICS for criminal investigatory purposes and this rule implements that policy.

	Chris Brown	12-13-10
Authorized Signer	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 the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday. ARC 930-2005

STATEMENT OF NEED AND FISCAL IMPACT

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

Oregon Department of State Police, Identification Services
Agency and Division

OAR 257 Division 010

Administrative Rules Chapter Number

Revises the authority of Law Enforcement to access Firearm Instant Check System information for criminal investigations
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Amendment of OAR 257-010-0055

Statutory Authority: ORS 166.412

Other Authority:

Stats. Implemented: ORS 166.412

Need for the Rule(s): A recent review of our administrative rule authority for this section resulted in the determination that initial interpretation of the implementing laws has been misapplied. We are removing the language in order to comply with statute.

Documents Relied Upon, and where they are available: NA

Fiscal and Economic Impact: This modification should have no fiscal impact.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No cost

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

This rule change impacts Law Enforcement entities. There should be no impact on businesses

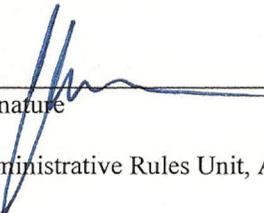
b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: No additional costs or work

c. Equipment, supplies, labor and increased administration required for compliance: None

How were small businesses involved in the development of this rule? They were not as there is no small business impact

Administrative Rule Advisory Committee consulted?: No

If not, why?: As this is a matter of correcting the misapplication of statute, any further discussion impacting customer access would require legislative action. Impacted customers have been notified of the change in process.

Signature 

Chris Brown

Printed name

12-13-10

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form.

Oregon Department of State Police	OAR 257 Division 010	
Agency and Division	Administrative Rules Chapter Number	
Cort Dokken	255 Capitol St NE, 4 th Floor, Salem OR 97301	503-934-0228
Rules Coordinator	Address	Telephone

RULE CAPTION

Revises the authority of Law Enforcement to access Firearm Instant Check System information for criminal investigations.

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

01/25/2011	10:00 a.m.	Department of Public Safety Standards & Training 4190 Aumsville Hwy SE Salem, OR 97317	Patricia Whitfield
Hearing Date	Time	Location	Hearings Officer

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

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND: 257-010-0055

REPEAL: Temporary rule 257-010-0055

RENUMBER:

AMEND & RENUMBER:

Stat. Auth. : ORS 166.412

Other Auth.:

Stats. Implemented: ORS 166.412

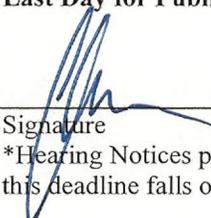
RULE SUMMARY

This rule amends Oregon Administrative Rule (OAR) 257-010-0055 by deleting that portion of subsection (2) that authorizes law enforcement agencies to access the Department's Firearm Instant Background Check System (FICS) when they are conducting general criminal investigations. ORS 166.412(8) provides that "[a] law enforcement agency may inspect the records of a gun dealer relating to transfers of handguns with the consent of a gun dealer in the course of a reasonable inquiry during a criminal investigation or under the authority of a properly authorized subpoena or search warrant." Effective December 7, 2000, the provisions of ORS 166.412 apply to the transfer of firearms other than handguns to the same extent that they apply to the transfer of handguns. See ORS 166.434(1). The Department has recently revised its policy to discontinue the practice of law enforcement accessing FICS for criminal investigatory purposes and this rule implements that policy.

The Agency will accept public comment at the hearing or in writing if received by January 21, 2011.

January 21, 2011

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

	Chris Brown	12-13-10
Signature	Printed name	Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005