

Secretary of State  
Certificate and Order for Filing  
**TEMPORARY ADMINISTRATIVE RULES**  
A Statement of Need and Justification accompanies this form..

I certify that the attached copies\* are true, full and correct copies of the TEMPORARY Rule(s) adopted on [12/22/09] by the  
Date prior to or same as filing date

**Oregon Department of State Police** 257  
Agency and Division Administrative Rules Chapter Number

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Rules Coordinator Address Telephone

to become effective [ **January 01, 2010** ] through [ **June 29, 2010** ].  
Date upon filing or later A maximum of 180 days including the effective date.

**RULE CAPTION**

**Creates hearing process for vehicle tows conducted by OSP pursuant to ORS 819.110 and 819.120.**  
**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 rules) with the Administrative Rules Unit prior to filing

**ADOPT: OAR 257-045-0010 to 257-045-0050.**

**AMEND: OAR 257-001-0005.**

**SUSPEND:**

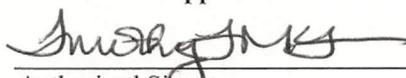
Stat. Auth.: **Oregon Laws (2009), chapter 371 (House Bill 2739).**

Other Auth.: **N/A**

Stats. Implemented: **Oregon Laws (2009), chapter 371 (House Bill 2739).**

**RULE SUMMARY**

Effective January 1, 2010, the Oregon legislature amended ORS chapter 819 to require that if the department is the agency that proposes to remove, or has taken into custody, either an abandoned vehicle or a vehicle that constitutes a hazard that is located upon the right of way of a state highway, an interstate highway that is part of the National System of Interstate and Defense Highways, or state property, the department will now be responsible for exercising authority over the vehicle, as well as conducting hearings to determine the validity of the vehicle being taken into custody and towed, as well as the reasonableness of the tow fees and storage costs. See Oregon Laws (2009), chapter 371 (House Bill 2739). Currently, the department does not have an administrative hearing process in place to conduct the hearings required by the amendment to ORS chapter 819. The amendment of 257-001-0005 authorizes the department to use the new informal hearing process created under 257 division 045, rather than the Model Rules of Procedure promulgated by the Attorney General of the State of Oregon, for vehicles taken into custody or towed under ORS 819.110 or 819.120. The new temporary rules under OAR 257 division 045 generally create an informal hearing process within the department. The temporary rules define the scope of the hearing and who may request a hearing, and under what circumstances a hearing will be rescheduled when a petitioner fails to appear at a scheduled hearing. Moreover, the temporary rules govern when a hearing request must be received by the department, and who within the department will act as the hearing officers. Finally, the temporary rules dictate what must be contained within a written order of the hearing officer, depending on whether the hearing officer determines the taking into custody and tow of the vehicle to be valid or invalid, and whether the hearing officer's written order can be appealed.

  
Authorized Signer

**TIMOTHY MCLAW**  
Printed name

**12/22/09**  
Date

\*With this original and Statement of Need, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. ARC 940-2005

Secretary of State  
**STATEMENT OF NEED AND JUSTIFICATION**

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

**Oregon Department of State Police**

**257**

Agency and Division

Administrative Rules Chapter Number

In the Matter of: **The amendment of 257-001-0005 and the adoption of OAR 257-045-0010 to 257-045-0050.**

Rule Caption: **Creates hearing process for vehicle tows conducted by OSP pursuant to ORS 819.110 and 819.120.**

Statutory Authority: **Oregon Laws (2009), chapter 371 (House Bill 2739).**

Other Authority: **N/A**

Stats. Implemented: **Oregon Laws (2009), chapter 371 (House Bill 2739).**

Need for the Temporary Rule(s):

Under current ORS chapter 819, when the department proposes to remove, or has taken into custody, either an abandoned vehicle or a vehicle that constitutes a hazard that is located upon the right of way of a state highway, an interstate highway that is part of the National System of Interstate and Defense Highways, or state property, the department is required to notify either the sheriff or appropriate authority of the county in which the vehicle is located. Once notified, either the sheriff or the authority notified is required to exercise authority over the vehicle, as well as the power to conduct a hearing to determine the validity of the vehicle being taken into custody and towed, as well as the reasonableness of the tow fees and storage costs. Effective January 1, 2010, the Oregon legislature amended ORS chapter 819 to require that if the department is the agency that proposes to remove, or has taken into custody, either an abandoned vehicle or a vehicle that constitutes a hazard, the department will be responsible for exercising authority over the vehicle, as well as conducting hearings to determine the validity of the vehicle being taken into custody and towed, as well as the reasonableness of the tow fees and storage costs. See Oregon Laws (2009), chapter 371 (House Bill 2739). Currently, the department does not have an administrative hearing process in place to conduct the hearing required by the amendment to ORS chapter 819. Temporary rules are needed so that the department complies with the legislative changes contained in House Bill 2739.

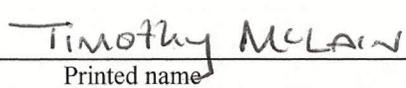
Documents Relied Upon, and where they are available: **N/A**

Justification of Temporary Rule(s):

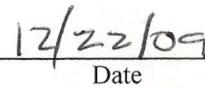
The Oregon Department of State Police finds that failing to act promptly will result in serious prejudice to those individuals whose vehicles are towed because without a hearing process, those individuals will not be able to contest the validity of the vehicle being taken into custody and towed, as well as the reasonableness of the tow fees and storage costs. A temporary rule is therefore needed so that after January 1, 2010, a hearing process will remain in effect for individuals wishing to contest the department's proposed removal, or taking into custody, of either an abandoned vehicle or a vehicle that constitutes a hazard, that is located upon the right of way of a state highway, an interstate highway that is part of the National System of Interstate and Defense Highways, or state property, as well as the reasonableness of the tow fees and storage costs. The temporary rules insure that there is not a "gap" in the hearing process between January 1, 2010 and the date the department adopts permanent rules.



Authorized Signer



Printed name



Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 945-2005