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## NOTICE OF PROPOSED RULEMAKING

### INCLUDING STATEMENT OF NEED & FISCAL IMPACT

#### CHAPTER 735

#### DEPARTMENT OF TRANSPORTATION

#### DRIVER AND MOTOR VEHICLE SERVICES DIVISION

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**FILED: 09/03/2026 2:03 PM**

ARCHIVES DIVISION SECRETARY OF STATE

FILING CAPTION: Hearing Location for Implied Consent Hearings

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/21/2026 5:00 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

*A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later.*

*If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.*

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#### NEED FOR THE RULE(S):

The Oregon Department of Transportation, Driver and Motor Vehicle Services Division (DMV), proposes to amend OAR 735 090 0101 by adding a new provision that authorizes an additional circumstance in which the Office of Administrative Hearings (OAH) may conduct implied consent hearings by telephonic means. Under current rule language, telephonic hearings are permitted, but not in the specific situation addressed by this amendment.

This change creates a new option allowing OAH to schedule a telephonic hearing when an implied consent hearing has already been rescheduled under ORS 813.440 and both the petitioning party and the Department's witness agree to conduct the hearing remotely. While DMV does not have documented instances showing that in person hearing locations have created procedural or logistical difficulties, OAH has indicated that informal requests to change hearing formats or locations do occur from time to time for convenience. This change is therefore being proposed proactively to improve efficiency, reduce travel burdens, and modernize hearing procedures.

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#### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

None.

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STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE:

DMV does not believe the proposed rule amendment will have any impact on racial equity. The change affects hearing scheduling procedures only and does not create disparate effects for any racial or ethnic group.

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FISCAL AND ECONOMIC IMPACT:

See below.

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COST OF COMPLIANCE:

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

(1) State and local law enforcement agencies may experience a positive economic impact from the proposed rule amendment because law enforcement personnel would no longer need to travel to appear at hearings subject to the proposed rule. DMV recognizes there may be minor beneficial impacts for members of the public, judges, petitioners, attorneys, OAH, DMV, and witnesses who may avoid travel-related costs when a hearing is conducted by telephone. DMV does not anticipate any costs to the agency, and this change is not expected to create any new expenses beyond normal hearing operations.

(2) DMV does not believe the proposed rule amendment will have any effect on small businesses.

(2)(a) No small businesses are subject to the proposed rule amendment.

(2)(b) There are no reporting, recordkeeping, or administrative activities required for small businesses to comply with the proposed rule amendment.

(2)(c) There are no costs of professional services, equipment, labor, or administration required for small businesses to comply with the proposed rule amendment.

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DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

DMV sent draft rules to 14 organizations representing small businesses. No responses were received.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

DMV did not convene a Rulemaking Advisory Committee because the changes are limited in scope, do not create new compliance obligations for the public or regulated entities, and have no impact on small businesses. The amendment simply adds an additional circumstance in which a telephonic hearing may be conducted and DMV does not anticipate any fiscal, operational, or equity impacts that would require advisory committee input.

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AMEND: 735-090-0101

RULE SUMMARY: DMV proposes to amend OAR 735-090-0101 by adding a new provision that authorizes an additional circumstance in which the Office of Administrative Hearings (OAH) may conduct implied consent hearings by telephonic means.

CHANGES TO RULE:

735-090-0101  
Hearing Location **II**

(1) Except as provided in section (2) of this rule, an in-person hearing will be held either in the county where the alleged offense occurred or at any place within 100 air miles of the place where the offense is alleged to have occurred. There is no location restriction when a hearing is conducted by telephone or other two-way electronic communication device.¶

(2) If there is a mutual agreement between the petitioning party and DMV, an in-person hearing may be held at a location outside of either the county where the alleged offense occurred or 100 air miles of the place where the offense is alleged to have occurred.¶

(3) Notwithstanding a request from either the petitioning party or a reporting police officer that the hearing be conducted in person, nothing shall preclude OAH from scheduling a hearing by telephonic means in circumstances where the hearing has been previously rescheduled pursuant to ORS 813.440 and both the officer appearing as the Department's witness and the petitioning party agree to conduct the hearing by telephone.

Statutory/Other Authority: ORS 183.341, ~~184.616~~, 184.619, 802.010, 813.410, 813.440

Statutes/Other Implemented: ORS 813.410, 813.440