

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 Rules(s) adopted on February 21, 2008 by the  
Date prior to or same as filing date.

Oregon Transportation Commission, Oregon Department of Transportation 735  
Agency and Division Administrative Rules Chapter Number

Lauri Salsbury 355 Capitol St. NE, Rm. 29, Salem OR 97301 503-986-3171  
Rules Coordinator Address Telephone

to become effective upon filing through August 19, 2008  
Date upon filing or later A maximum of 180 days including the effective date.

**RULE CAPTION**

Release of a Non-Mandatory Report Submitted to DMV  
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:** Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

**AMEND:** OAR 735-076-0005

**SUSPEND:**

ORS 184.616, 184.619, 802.010, 807.340, 809.419 None  
Stats. Auth. Other Authority

ORS 807.340  
Stats. Implemented

**RULE SUMMARY**

The proposed amendment to OAR 735-076-0005 clarifies that a police report submitted to DMV to report a physical or mental impairment affecting driving ability or dangerous or unsafe driving behaviors is not confidential and a copy may be released to the person who is the subject of the report pursuant to a Public Records request.

\_\_\_\_\_  
Authorized Signer Tom McClellan Printed name \_\_\_\_\_ Date

Secretary of State  
**STATEMENT OF NEED AND JUSTIFICATION**  
A Certificate and Order for Filing Temporary Administrative Rules 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 Amendment of OAR 735-076-0005

**Rule Caption:** Release of a Non-Mandatory Report Submitted to DMV

**Statutory Authority:** ORS 184.616, 184.619, 802.010, 807.340, 809.419

**Other Authority:** None

**Statutes Implemented:** ORS 807.340

**Need for the Temporary Rule(s):** When DMV revised this rule in May of 2003 as part of a major revamping of our medical and reexamination (At-Risk Driver) programs we left out language that made available to a person a report submitted to DMV by persons “who submit reexamination requests as part of their occupation.” This included reports submitted by a police officer regarding a driver contacted in the course of an officer’s duties who exhibited a physical or mental impairment affecting driving ability or demonstrated dangerous or unsafe driving behaviors. As a result of changes made to the At-Risk Driver Program, voluntary reports are also made by medical providers. The prior language was too broad because it included these medical providers, whose reports should remain confidential and so it was deleted. This has resulted in confusion as to whether a copy of a report by a police officer submitted under these circumstances may be provided by DMV upon request to the person who is the subject of the report.

The proposed amendment to OAR 735-076-0005 clarifies that a police report submitted to DMV to report a physical or mental impairment affecting driving ability or dangerous or unsafe driving behaviors is not confidential and a copy may be released pursuant to a Public Record request.

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

**Justification of Temporary Rules(s):** DMV finds that following the permanent rulemaking process rather than taking this temporary rulemaking action will result in serious prejudice to the public interest. The current rule has caused confusion as to when a copy of a police report can be provided pursuant to the Public Record laws. Failure to provide a driver with timely access to the report may cause harm if the person is being required to prove to DMV that he or she remains eligible for driving privileges. DMV intends to permanently amend this rule.

\_\_\_\_\_  
Authorized Signer

Tom McClellan  
Printed name

\_\_\_\_\_  
Date