

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 [12/13/2011] by the

Oregon Department of State Police

Date prior to or same as filing date

257

Agency and Division

Administrative Rules Chapter Number

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to become effective [December 15, 2011] through [June 15, 2012].
Date upon filing or later A maximum of 180 days including the effective date.

RULE CAPTION

Adopts rules allowing OSP to gather, access, maintain, and transmit mental health info to NICS.
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 257-010-0060

AMEND:

SUSPEND:

FILED

DEC 13 2011

**ARCHIVES DIVISION
SECRETARY OF STATE**

Stat. Auth.: ORS 181.740; Oregon Laws 2009, chapter 826 (House Bill 2853) (See note 4 to ORS 166.274).

Other Auth.:

Stats. Implemented: ORS 181.740; Oregon Laws 2009, chapter 826 (House Bill 2853) (See note 4 to ORS 166.274).

RULE SUMMARY

The federal Brady Handgun Violence Prevention Act of 1993 (Brady Act), the United States Attorney General is required to establish the National Instant Criminal Background Check System (NICS), which allows federal firearm licensees to instantly contact the Federal Bureau of Investigation and determine whether a prospective firearm transfer would violate federal or state law. The federal NICS Improvement Amendment Act of 2007 (NIAA) became effective January 8, 2008 and requires states to transmit to NICS all state records of individuals who are subject to a federal firearm ban under 18 USC §922(d) and (g), including those individuals with mental health issues or state mental health commitments. The NIAA also requires states to adopt procedures whereby persons with mental health issues or state mental health commitments and who are prohibited from purchasing, possessing, transporting or receiving a firearm under 18 USC §922(d)(4) and (g)(4), may petition to have their federal firearm rights restored. Oregon Laws 2009, chapter 826 (House Bill 2853) implements the requirements of the NIAA by not only requiring certain state agencies in possession of records of individuals with mental health issues or state mental health commitments to transmit "minimum information" of those persons to the department for maintenance of that information, but requires the department to transmit that "minimum information" to NICS. Oregon Laws 2009, chapter 826 (House Bill 2853) further implements the NIAA by allowing the Psychiatric Security Review Board (PSRB) to conduct contested case administrative hearings to determine whether a person subject to either a federal firearm prohibition under 18 USC §922(d)(4) and (g)(4), a state firearm prohibition under ORS 166.250(1)(c)(D) or (E), or a state firearm prohibition under ORS 166.470(1)(e) or (f), should be granted relief and their gun rights restored.

This administrative rule creates the means and manner by which "minimum information" of persons prohibited under 18 U.S.C. §922(d)(4) and (g)(4) from purchasing, possessing, transporting or receiving a firearm is received and maintained, as well as transmitted to the federal government for inclusion in the NICS database, by the department. It creates the means and manner by which "minimum information" of persons prohibited from possessing a firearm under ORS 166.250 (1)(c)(D) or (E), or prohibited

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from receiving a firearm under ORS 166.470 (1)(e) or (f), is received and maintained by the department. Creates the means and manner by which the department processes, maintains, updates, and transmits to the federal government, records of relief from firearm prohibitions granted by either the Psychiatric Security Review Board or an appellate court. Specifically defines "designated agencies" for purposes of the rule to mean the Oregon Department of Human Services (DHS), the Oregon Health Authority (OHA), the PSRB, and the Oregon Judicial Department (OJD). Defines "minimum information" to mean only those data elements or identifying information that is minimally or nominally required under federal law to accurately identify a person prohibited under 18 U.S.C. §922(d)(4) and (g)(4) from purchasing, possessing, transporting or receiving a firearm, and includes the person's name, date of birth, gender and reference information that identifies the originating agency or court. Defines "PPF" to mean a Prohibited Persons File created by the department and to which "minimum information" from designated agencies is deposited and maintained by the department, and from which "minimum information" is transmitted to NICS for persons prohibited under 18 U.S.C. §922(d)(4) and (g)(4) from purchasing, possessing, transporting or receiving a firearm. Requires designated agencies to send to the department all current and former client "minimum information" in a single file as required under ORS 181.740 in order for the department to enter that information into the PPF and transmit the PPF to NICS. Requires designated agencies to provide subsequent "minimum information" for their clients to the department immediately to OSP or as soon as such client "minimum information" becomes available, in an electronic format approved by the department. Requires the department to transmit subsequent "minimum information" obtained from designated agencies contained in the PPF to NICS on a daily basis through a secure electronic message via the Law Enforcement Message Switch (LEMS). Requires the department to request NICS to send the department a report every 3 months that details Oregon's mental health prohibited person record data located in NICS for comparison with the data contained in the department's PPF. Requires the department to refer any discrepancies between NICS and the PPF back to the agency that originally created the mental health record of the prohibited person for resolution, and requires designated agencies to include any updates made to previously submitted "minimum information" by originating agencies in their subsequent electronic transmissions of "minimal information" to the department. Requires the PSRB to send an electronic notification alerting the department to update the PPF if the PSRB grants relief from the prohibitions under 18 U.S.C. §922(d)(4) and (g)(4) for the purchase, possession, transportation or receipt of a firearm, and requires the department to transmit the record of relief to NICS on the day the department receives the electronic notification, either in its daily PPF transmission to NICS or in a separate transmission to NICS. Requires the department to transmit an appellate judgment granting relief from the prohibitions under 18 U.S.C. §922(d)(4) and (g)(4) for the purchase, possession, transportation or receipt of a firearm to NICS on the day OSP receives the appellate judgment, either in its daily PPF transmission to NICS or in a separate transmission to NICS. Specifies that when the PSRB grants relief from the prohibitions under 18 U.S.C. §922(d)(4) and (g)(4) for the purchase, possession, transportation or receipt of a firearm, or grants additional or alternative relief from either the prohibition on possessing a firearm under ORS 166.250 (1)(c)(D) or (E), or the prohibition on receiving a firearm under ORS 166.470 (1)(e) or (f), the PSRB shall send the minimum information of the person for whom relief is granted electronically to OSP and that OSP, upon receipt of the minimum information from the PSRB, shall then update the PPF and transmit the minimum information and notification of relief to NICS on the same day that OSP receives the minimum information from the PSRB. Requires that when a person files a petition for judicial review with an appellate court following a final order of the PSRB that denies relief, and an appellate court subsequently grants the person relief from the prohibitions under 18 U.S.C. §922(d)(4) and (g)(4) for the purchase, possession, transportation or receipt of a firearm, or grants additional or alternative relief from either the prohibition on possessing a firearm under ORS 166.250 (1)(c)(D) or (E), or the prohibition on receiving a firearm under ORS 166.470 (1)(e) or (f), the Oregon Judicial Department (OJD) shall send the minimum information of the person for whom relief is granted electronically to OSP and that OSP, upon receipt of the minimum information from OJD, shall update the PPF and transmit the minimum information and notification of relief to NICS on the same day OSP receives the minimum information from OJD. Requires a person granted relief under the following situations to provide OSP with a certified copy of either the PSRB written order or appellate judgment granting relief and a copy of the person's fingerprint card: a) the person granted relief was found responsible except for insanity for an act under ORS 419C.411, b) the person granted relief was found guilty except for insanity of a crime under ORS 161.295 to 161.370 and the person has an existing criminal history, or c) the person granted relief was found by a court to lack fitness to proceed under ORS 161.370 and the person has an existing criminal history.



Authorized Signer

Cort Dokken

Printed name

12/13/2011

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

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: **Amending OAR 257 division 010**

Rule Caption: **Adopts rules allowing OSP to gather, access, maintain, and transmit mental health info to NICS.**

Statutory Authority: **ORS 181.740; Oregon Laws 2009, chapter 826 (House Bill 2853) (See note 4 to ORS 166.274).**

Other Authority: **None**

Stats. Implemented: **ORS 181.740; Oregon Laws 2009, chapter 826 (House Bill 2853) (See note 4 to ORS 166.274).**

Need for the Temporary Rule(s):

As part of the federal Brady Handgun Violence Prevention Act of 1993 (Brady Act), the United States Attorney General is required to establish the National Instant Criminal Background Check System (NICS), which allows federal firearm licensees to instantly contact the Federal Bureau of Investigation and determine whether a prospective firearm transfer would violate federal or state law. Under 18 USC §922(d) and (g), the following persons meeting any of the following criteria are prohibited under federal law from possessing or receiving a firearm:

- Convictions in any court of a crime punishable by imprisonment for a term exceeding one year;
- Fugitives from justice;
- Unlawful user of or addicted to any controlled substance;
- Persons adjudicated as a mental defective or who have been committed to a mental institution;
- Illegal or unlawful aliens or a non-immigrant aliens (with certain exceptions);
- Dishonorable discharges from the Armed Forces;
- Citizens of the United States who renounced their citizenship;
- Domestic violence protection orders that meets certain requirements;
- Convictions in any court of a misdemeanor crime of domestic violence; or
- Indictment for a crime punishable by imprisonment for a term exceeding one year.

The NICS Improvement Amendment Act of 2007 (NIAA) became effective January 8, 2008 and first requires states to transmit to NICS all state records of individuals who are subject to a federal firearm ban under 18 USC §922(d) and (g), including those individuals with adjudicated mental health issues or mental health commitments.

In response to the NIAA mandate regarding state transmission of its records to NICS for individuals with adjudicated mental health issues or mental health commitments, the 2009 legislature enacted Oregon Laws 2009, chapter 826 (House Bill 2853) *codified in part at* ORS 181.740. ORS 181.740 requires the Oregon Department of Human Services (DHS), the Oregon Health Authority (OHA), the Psychiatric Security Review Board (PSRB), and the Oregon Judicial Department (OJD) to provide the department with "minimum information" necessary to identify persons who:

- Have been committed by a court to the Oregon Health Authority under ORS 426.130, based on a finding that the person is dangerous to self or others;
- Are subject to a court order under ORS 426.130 prohibiting the person from purchasing or possessing a firearm;
- Have been committed by a court to the Department of Human Services under ORS 427.290, based on a finding that the person is dangerous to self or others;
- Have been found by a court to lack fitness to proceed under ORS 161.370;
- Have been found guilty except for insanity of a crime under ORS 161.295 to 161.370;
- Have been found responsible except for insanity for an act under ORS 419C.411;
- Have been placed under the jurisdiction of the Psychiatric Security Review Board by a court; or
- Have been committed to a state hospital or facility under ORS 161.327, 161.336 to 161.351 or 419C.529 to 419C.544.

ORS 181.740 further requires the department to access and maintain that "minimum information," and to transmit it to the federal government as required under federal law for inclusion into NICS. Finally, ORS 181.740 requires the department, after consulting with DHS, OHA, the PSRB, and OJD, to adopt administrative rules that describe both the

type of "minimum information" provided to the department of State Police and the method and manner of maintaining the "minimum information" and transmitting that information to the federal government.

Second, the NIAA requires states to adopt procedures whereby persons who have been adjudicated as a "mental defective" or who have been "committed to a mental institution," and are therefore prohibited under federal law from purchasing, possessing, transporting or receiving a firearm under 18 USC §922(d)(4) and (g)(4), may petition to have their federal firearm rights restored. As part of HB 2853 (2009), the Oregon legislature gave the PSRB authority to conduct contested case hearings, make written findings of fact, conclusions of law, and written orders concerning whether such a persons, as well as persons prohibited from possessing firearms under ORS 166.250(1)(c)(D) or (E) or prohibited from receiving firearms under ORS 166.470(1)(e) or (f), should have their firearm rights restored. *See* Or. Laws 2009, ch. 826 §5 (HB2853); *see also* ORS 166.274 n4. The PSRB is required to grant a petition and order a person's firearm rights restored if the person demonstrates, based on the person's reputation, the person's record, the circumstances surrounding the firearm disability and any other evidence in the record, that the person will not be likely to act in a manner that is dangerous to public safety and that granting the relief would not be contrary to the public interest. If the PSRB grants relief and orders a person's firearm rights restored, the Board is required to provide to the department the "minimum information" of the person so that the department may not only maintain "minimum information" of the person subject to a federal firearm prohibition under 18 USC §922(d)(4) and (g)(4) and transmit that "minimum information" to the federal government as required under federal law for inclusion into NICS, but maintain a record of the person's relief from the disqualification to possess or receive a firearm under ORS 166.250 (1)(c)(D) or (E) or 166.470 (1)(e) or (f) as well.

Temporary OAR 257-010-0060 is needed to fulfill the above-referenced requirements of the NIAA, and to carry out the statutory requirements placed on the department under Or. Laws 2009, ch. 826 (HB2853).

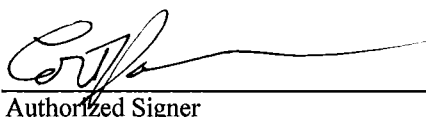
Documents Relied Upon, and where they are available: None

Justification of Temporary Rule(s):

Congress enacted the NIAA, Pub. L. No. 110-180, 121 Stat. 2559 (2008), in the wake of the April 16, 2007 shooting tragedy at the Virginia Polytechnic Institute and State University (Virginia Tech). The Virginia Tech shooter was able to purchase firearms from a federal firearm licensee because information mental health history, which federally prohibited his purchase of a firearm, was not available to NICS and therefore, NICS was unable to deny the transfer of the firearms used in the shootings. In passing the NIAA, Congress acknowledged the public policy goal and need to have relevant firearm prohibition information held by the states transferred to NICS. However, prior to Congress enacting the NIAA, concerns were expressed that 18 USC §922 effectively placed a lifetime firearm ban on individuals whose mental health adjudication or commitment records would be provided to the NICS under the NIAA's provisions. In order to address these concerns, Congress not only included provisions to require states to share information about qualifying mental health disabilities for use by the NICS, but also included provisions that require states to establish procedures and programs that allow such individuals to seek relief from the federal mental health firearms disability.

The Oregon legislature enacted HB 2853 (2009) as a means of complying with the Congressional intent and requirements contained in the NIAA. HB 2853 (2009) required the PSRB to adopt an administrative rule indicating that it received a sufficient legislative appropriation or federal funding in order to carry out the requirements of the Act that the PSRB hold administrative hearings and determine whether persons subject to a federal firearm prohibition under 18 USC §922(d)(4) and (g)(4), a state firearm prohibition under ORS 166.250 (1)(c)(D) or (E), or a state firearm prohibition under 166.470 (1)(e) or (f) should be granted relief. *See* Or. Laws 2009, ch. 826 §13 (HB 2853). In turn, HB 2853 (2009) first conditioned the authority of designated agencies to transmit "minimum information" to the department on the PSRB adoption of its funding administrative rule. *Id.* at §12. Additionally, HB 2853 (2009) also conditioned the authority of designated agencies to transmit "minimum information" to the department on either each and every designated agency adopting an administrative rule indicating that each agency received a sufficient legislative appropriation or federal funding in order to carry out the requirements of the Act or January 2, 2012, whichever occurred *later*. *Id.* Despite the PSRB having adopted its funding administrative rule required under HB 2853 (2009), despite the remainder of the designated agencies having adopted their funding administrative rules required under HB 2853 (2009), and despite the designated agencies and the department working together to reconcile the various mental health records maintained by each designated agency and drafting these administrative rules, because of the language in section 12 of HB 2853, the designated agencies were necessarily prohibited from transmitting any "minimum information" to the department until the *later* date of January 2, 2012, unless the legislature amended HB 2853. Effective June 21, 2011, the legislature repealed the condition contained in Or. Laws 2009, ch. 826 §12 (HB 2853) that prohibited the designated agencies from transmitting any "minimum information" to the department until the *later* date of January 2, 2012. *See* Oregon Laws 2011, chapter 448 §1 (House Bill 2662). Designated agencies are now authorized to transmit "minimum information" to the department as soon as the department adopts these administrative rules governing the method and manner of maintaining the "minimum information" and transmitting it to the federal government.

With the passage of HB 2662 (2011), as well as the department and designated agencies having conferred on OAR 257-010-0060, the department finds that its failure to act promptly in adopting OAR 257-010-0060 will result in serious prejudice to the public interest because the state has currently transmitted only approximately ten (10) percent of mental health records that meet the federal firearm prohibition under 18 USC §922 to NICS. Failure to transmit the "minimum information" contained in its mental health records would cause serious prejudice to the public interest by allowing individuals who are otherwise prohibited under state or federal law to purchase, possess, receive, or transport firearms, both in this state and in other states throughout the country. Adoption of these rules will convey to the federal government information about persons in this state who are prohibited from possessing or receiving firearms. If these rules are not in place, one of those persons could attempt to purchase a firearm and the federal government through NICS would not have the necessary information to inform the federal firearm licensee (gun dealer) that the person is prohibited from possessing or purchasing firearms. This could result in transfers of firearms to persons who cannot legally possess them. This is contrary to federal and state law at a minimum, and at worst, could cause a serious risk to public safety if one of those firearms were used in a manner harmful to human life. The department further finds that its failure to act promptly in adopting OAR 257-010-0060 will result in serious prejudice to individuals who seek relief from a state or federal mental health firearm prohibition because the department will not have methods, manners, or procedures in place for the maintenance and transmission of relief orders or judgments to NICS, thus frustrating the intent of the legislature and Congress that individuals to whom relief is granted should have their firearm rights restored. Specifically, the PSRB has scheduled its first contested case firearm prohibition relief administrative hearing for January, 2012, and the department finds that completing the permanent rulemaking process, rather than adopting temporary rules, would result in serious prejudice to that individual, and others like him, should the PSRB grant relief but the department not have rules in place to receive, maintain, and transmit the relief granted to NICS.



Authorized Signer

Cort Dokken

Printed name

12/13/2011

Date

257-010-0060

Mental Health Information Reporting to NICS

(1) Definitions. As used in this administrative rule:

(a) "Designated Agencies" means the Oregon Department of Human Services (DHS), the Oregon Health Authority (OHA), the Psychiatric Review Board (PSRB), and the Oregon Judicial Department (OJD).

(b) "Minimum Information" means only those data elements or identifying information that is minimally or nominally necessary to accurately identify a person listed under ORS 181.740(1) and who is prohibited under either 18 U.S.C. §922(d)(4) and (g)(4) from purchasing, possessing, transporting or receiving a firearm, ORS 166.250 (1)(c)(D) or (E) from possessing a firearm, or ORS 166.470 (1)(e) or (f) from receiving a firearm. "Minimum information" includes at least the person's name, date of birth, gender and ORI number of the designated agency or originating court that originally created the underlying record or file of the person. "Minimum information" does not include any medical, psychiatric or psychological information, case histories or files of a person, or any record or file of a designated agency or originating court.

(c) "NICS" means the National Instant Criminal Background Check System mandated by the Brady Handgun Violence Prevention Act of 1993 (Pub. L. 103-159, 107 Stat. 1536).

(d) "ORI" means the Law Enforcement Data System (LEDS) and FBI National Crime Information Center (NCIC) originating agency identifier code.

(e) "Originating court" means the Oregon county circuit court that transmits a mental health record to OSP as required under either ORS 426.160 or 427.293.

(f) "Prohibited Persons File" (PPF) means a data table created by OSP that contains minimum information, as reported to OSP by the designated agencies or originating courts responsible for maintaining Oregon mental health records, for individuals that are prohibited under either 18 U.S.C. §922(d)(4) and (g)(4) from purchasing, possessing, transporting or receiving a firearm, ORS 166.250 (1)(c)(D) or (E) from possessing a firearm, or ORS 166.470 (1)(e) or (f) from receiving a firearm. This file will be maintained by OSP in LEDS. The agencies contributing to the file will be responsible for ensuring the data is accurate. Information in this file is confidential and not to be accessed for any purpose other than:

(A) Maintaining the minimum information in the PPF;

(B) Reporting minimum information to NICS as required by federal and state law; or

(C) Conducting instant firearm criminal history checks as defined under ORS 166.432.

(2) Transmission of Existing Minimum Information to OSP and NICS.

(a) As soon as a designated agency is capable of electronically transmitting existing minimum information to OSP, the designated agency shall provide OSP with all current and former client minimum information as required under ORS 181.740.

(b) Each designated agency shall provide all of its current and former client information to OSP in one single electronic file. The single electronic file shall

contain all minimum information data elements in an electronic format that is capable of being individually searched and copied.

(c) Notwithstanding subsection (2)(b) of this rule, designated agencies may provide minimum information to OSP in a non-electronic format, on a client-by-client basis and only as approved by OSP.

(d) Given the current limitations of the Oregon Judicial Department's information systems, OJD shall continue working with OSP and designated agencies to accomplish reconciliation of its records to those records of the other designated agencies. OJD shall continue its efforts to upgrade its information systems in order for OJD to provide minimum information to OSP as required under ORS 181.740. Upon OJD having the capability of providing minimum information to OSP from its information systems, OJD shall provide all of its current and former minimum information to OSP in one single electronic file, as provided in section (2)(b) of this rule.

(e) Upon receipt of any designated agency's minimum information, OSP may search, use, copy, and maintain that minimum information. OSP shall enter the minimum information into the PPF and electronically transmit it from the PPF to NICS.

(3) Transmission of Subsequent Minimum Information to OSP and NICS.

(a) Upon providing OSP with minimum information as provided under subsection 2 of this rule, designated agencies shall thereafter provide subsequent client information to OSP in electronic format, in a format approved by OSP.

Designated agencies and originating courts shall electronically transmit subsequent minimum information to OSP as soon as such client minimum information becomes available for transmission and inclusion into the PPF. Designated agencies shall not delay in transmitting minimum information to OSP and shall transmit minimum information to OSP immediately upon such information becoming available to the designated agency.

(b) Designated agencies shall provide minimum information data elements to OSP in an electronic format that is capable of being individually searched and copied.

(c) Upon OJD having the capability of providing minimum information to OSP from its information systems, OJD shall thereafter provide subsequent minimum information to OSP, including information from originating courts, as provided in section (3)(a) of this rule.

(d) Upon receipt of any designated agency's minimum information, OSP may search, use, copy, and maintain that minimum information. OSP shall enter the minimum information into the PPF and electronically transmit it from the PPF to NICS on a daily basis through a secure electronic message via the Law Enforcement Message Switch (LEMS).

(e) Notwithstanding subsection (3)(b) of this rule, designated agencies may provide minimum information to OSP in a non-electronic format, on a client-by-client basis and only as approved by OSP. In the event that OSP accepts minimum information from a designated agency in a non-electronic format, OSP shall electronically enter the minimum information for that particular person into the PPF, and return the non-electronically formatted minimum information to the designated agency.

(4) PPF and Minimum Information Maintenance. OSP shall request a report from NICS every 3 months that details Oregon's mental health prohibited person record data located in NICS for comparison with the data in the PPF. OSP shall send data discrepancies to the submitting designated agency for resolution.

Based on ORI number, designated agencies may further re-direct challenges to the court of original jurisdiction for resolution. Designated agencies shall include any changes or amendments to previously submitted minimum information in their subsequent electronic transmissions of minimum information to OSP.

(5) Challenges to Minimum Information. All minimum information and data elements maintained by OSP in the PPF is the minimum information and data elements directly submitted to OSP by designated agencies. Any and all challenges to minimum information data elements submitted to OSP by a designated agency and that are contained or maintained by OSP in the PPF and transmitted to NICS will be re-directed to the submitting designated agency for resolution. Based on ORI number, designated agencies may further re-direct challenges to the court of original jurisdiction for resolution.

(6) Relief Maintenance.

(a) When the PSRB grants relief from the prohibitions under 18 U.S.C. §922(d)(4) and (g)(4) for the purchase, possession, transportation or receipt of a firearm, or grants additional or alternative relief from either the prohibition on possessing a firearm under ORS 166.250 (1)(c)(D) or (E), or the prohibition on receiving a firearm under ORS 166.470 (1)(e) or (f), the PSRB shall send the minimum information of the person for whom relief is granted electronically to OSP. Upon receipt of the minimum information from the PSRB, OSP shall update the PPF and transmit the minimum information and notification of relief to NICS on the same day OSP receives the minimum information from the PSRB.

(b) When a person files a petition for judicial review with an appellate court following a final order of the PSRB that denies relief, and the appellate court subsequently grants the person relief from the prohibitions under 18 U.S.C. §922(d)(4) and (g)(4) for the purchase, possession, transportation or receipt of a firearm, or grants additional or alternative relief from either the prohibition on possessing a firearm under ORS 166.250 (1)(c)(D) or (E), or the prohibition on receiving a firearm under ORS 166.470 (1)(e) or (f), OJD shall send the minimum information of the person for whom relief is granted electronically to OSP as provided in subsection 3(b) of this rule. Upon receipt of the minimum information from OJD, OSP shall update the PPF and transmit the minimum information and notification of relief to NICS on the same day OSP receives the minimum information from OJD.

(c) In addition to the requirements set forth in 6 (a), whenever the PSRB or an appellate court grants relief under the following circumstances, the person granted relief shall provide a certified copy of either the PSRB written final order or appellate judgment and the person's fingerprint card to OSP for the purposes of updating the petitioner's Computerized Criminal History:

(A) The person granted relief was found responsible except for insanity for an act under ORS 419C.411;

(B) The person granted relief was found guilty except for insanity of a crime under ORS 161.295 to 161.370 and the person has an existing criminal history; or

(C) The person granted relief was found by a court to lack fitness to proceed under ORS 161.370 and the person has an existing criminal history.

Stat. Auth.: ORS 181.740, 426.130, 426.160, 427.290, 427.293, 161.370, 161.295 to 161.370, 419C.411, 161.327, 161.336 to 161.351, & 419C.529 to 419C.544 & 192.440