

INFORMATION COLLECTION SUPPORTING STATEMENT

Minimum Standards for Driver's licenses and Identification Cards Acceptable by Federal Agencies for Official Purposes

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information. (Annotate the CFR parts/sections affected).**

The Department of Homeland Security (DHS) is establishing, through publication of this Final Rule, minimum standards for State-issued driver's licenses and identification cards that Federal agencies may accept for official purposes¹ after May 11, 2008, in accordance with the REAL ID Act of 2005 (Act) (Division B—REAL ID Act of 2005, the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, Pub. L. 109-13, 119 Stat. 231, 302 (2005) (codified at 49 U.S.C. 30301 note). The Secretary of Homeland Security is authorized under section 203 of the Act to issue regulations as necessary to set the standards required under the Act.

The information collection described in detail below includes the following reporting and recordkeeping requirements for the first three years of the program:

- a) States seeking an extension to the May 11, 2008 statutory deadline shall submit a letter request for extension. This extension shall be valid until no later than January 1, 2010. This is due the first year.
- b) States seeking an additional extension beyond January 1, 2010 shall submit a Material Compliance Checklist form documenting state compliance with REAL ID program benchmarks. This is due the second year.

1. Extension Requests

Pursuant to § 37.63 of the Final Rule, a State may request an initial extension by filing a request (i.e., write a letter) with the Secretary within 60 days after publication of the rule. In the absence of extraordinary circumstances, such an extension request will be deemed justified for a period lasting until, but not beyond, December 31, 2009. The extension request is due the first year.

2. Material Compliance Checklists

States granted an initial extension may file a request (no later than October 11, 2009) for an additional extension lasting until no later than May 10, 2011, doing so by submitting a Material Compliance Checklist (two page document) demonstrating material compliance which requires checking a box indicating that its program complies with the eighteen specific elements of Subparts A through D. These elements focus on measures that produce the

¹ The Rule defines "official purpose" as "accessing Federal facilities, boarding Federally-regulated commercial aircraft, and entering nuclear power plants."

greatest gain in security in the shortest period of time and at reasonable costs. The Material Compliance Checklist is due the second year.

- 2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.***

The purpose of requiring States to submit the initial certifications and Material Compliance Checklist is to ensure the integrity of the license and identification card production process. Further, these requirements are an important safeguard for the personal information collected, maintained, and used by State DMVs.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden. [Effective 03/22/01, your response must SPECIFICALLY reference the Government Paperwork Elimination Act (GPEA), which addresses electronic filing and recordkeeping, and what you are doing to adhere to it. You must explain how you will provide a fully electronic reporting option by October 2003, or an explanation of why this is not practicable.]***

At this time, REAL ID does not allow for electronic submission of either the Extension Request Material Compliance Checklist. In the future, REAL ID plans to allow for all documentation to be submitted electronically.

- 4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose(s) described in Item 2 above.***

This information would be collected directly from the States and applicants and cannot be obtained anywhere else.

- 5. If the collection of information has a significant impact on a substantial number of small businesses or other small entities (Item 5 of the Paperwork Reduction Act submission form), describe the methods used to minimize burden.***

The information collection discussed in this analysis applies to States, State agencies, and driver's license or identification card applicants. Therefore, it is DHS's belief that the information collection does not have a significant impact on a substantial number of small businesses.

6. ***Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.***

If this collection were not conducted, States would not be able to comply with sections 202(d)(7)² and (d)(8)³ of the REAL ID Act; licenses issued by States not in compliance with the REAL ID Act would not be accepted as identification for official purposes.

7. ***Explain any special circumstances that require the collection to be conducted in a manner inconsistent with the general information collection guidelines in 5 CFR 1320.5(d)(2).***

The information collected in this information collection will not be conducted in a manner inconsistent with the general information collection guidelines in 5 CFR 1320.5(d)(2).

8. ***Describe efforts to consult persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d) soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.***

DHS formed an interagency work group, which included the Department of Transportation (DOT) and other Federal agencies, to develop the proposed regulations. DHS also consulted with State officials and State representative associations in the development of this rule through meetings and conference calls in 2005 and 2006 and public hearings in 2007. DHS also met with various non-governmental organizations (NGOs), particularly civil rights, privacy and religious groups. During the comment period, DHS hosted meetings with the public and various stakeholder groups to receive comments on the NPRM and answer questions. On April 12, 2007, DHS hosted a session that was available via webcast across the country to engage State Governors' chiefs of staff, homeland security directors in the States, and State motor vehicles administrators. On April 16, 2007, DHS convened the various stakeholder representatives that were identified as participants in the negotiated rulemaking group established under section 7212 of the Intelligence Reform and Terrorism Prevention Act of 2004. Participants for that meeting included State representatives, the American Civil Liberties Union (ACLU); the National Governors Association (NGA), the National Conference of State Legislatures (NCSL), and the American Association of Motor Vehicle Administrators (AAMVA); the Fraternal Order of Police, the Center for Democracy and Technology, the Information Technology Association of America, the International Association of Chiefs of Police, and the National Immigration Law Center. On

² This section of the Act calls for DHS to issue regulations that “ensure the physical security of locations where licenses and identification cards are produced and the security of document materials and papers from which drivers’ licenses and identification cards are produced.”

³ This section of the Act requires that “all persons authorized to manufacture or produce drivers’ licenses and identification cards” must undergo “appropriate security clearance requirements.”

May 1, 2007, DHS held a public meeting in Sacramento, California that was available nationwide via the web and received comments from the public on a variety of topics. Finally, on May 4, 2007, the Department held another webcast session for State legislators.

DHS provided notice of this collection through its NPRM (**Federal Register** /Vol. 72, No. 46 / Friday, March 9, 2007, pp. 10820-58).

DHS did not receive specific comments on the cost or hour burden described in the PRA summary in the preamble to the NPRM.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

DHS will not provide any payment or gift to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

No specific assurances of confidentiality will be provided to individuals. Information provided by individuals will be protected from disclosure to the extent appropriate under applicable provisions of the Freedom of Information Act, the Privacy Act of 1974 and the Driver's Privacy Protection Act. Data will be collected and transmitted in accordance with the Privacy Act.

11. Provide additional justification for any questions of sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

DHS will not ask any questions of a sensitive nature.

12. Provide estimates of hour burden of the collection of information.

The table below includes the estimated annualized burden hours for the first three years of this information collection.

In year one, States (respondents = 51) will submit an extension request. There is no form associated with this request as they are being sent via email. Estimated burden per response is one hour for a total of 51 hours for the first year. (The estimated cost per hour is \$26.46. see *Figure V-87 Summary of Certification Related Costs in the Regulatory Evaluation*).

In year two, States (respondents = 51) will submit a Material Compliance Checklist, DHS Form 411, which will take approximately 80 hours per respondent or 4080 total burden hours (51 X 80 = 4080).

The total burden is 4,131 hours.

Table A.12: Estimated Annualized Burden Hours and Costs (A x B x C=D); D x E = F

Type of Respondent: States	Form Name and Number	A No. of Respondents	B No. of Responses per Respondent	C Avg. Burden per Response (in hours)	D Total Annual Burden (in hours)	E Avg. Hourly Wage Rate	F Total Annual Respondent Cost
Extension Request	No form.	51	1	1	51	\$26.46	\$1,350.
Certification and Other Requirements	DHS Form 411. Material Compliance Checklist	51	1	80	4,080	\$26.46	\$107,957
Total		102	2	81	4,131	\$26.46	\$109,307

At a later date, a separate ICR will be submitted to include the full REAL ID information collection to include the recordkeeping requirements within the program.

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information.

There are no recordkeeping requirements, capital start-up costs and maintenance costs burdens to the respondents.

14. Provide estimates of annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, and other expenses that would not have been incurred without this collection of information.

There are no annualized costs to the Federal government in collecting both extension requests and Material Compliance Checklists under the REAL ID final rule.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

This is a new information collection request.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

DHS will not publish the results of this collection.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

DHS is not seeking such approval. Other than the Material Compliance Checklist, all other information gathered under this rule will be in formats governed by individual State requirements and formats, thus display of the OMB number would be inappropriate.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

DHS is not seeking any exceptions.