

Dated: February 16, 2016.

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Executive Director, Laboratories and  
Scientific Services Directorate.

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## DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS-2016-0009]

### Office of Chief Information Officer; Agency Information Collection Activities: REAL ID: Minimum Standards for Driver's Licenses and Identification Cards Acceptable by Federal Agencies for Official Purposes

**AGENCY:** Office of the Secretary, DHS.

**ACTION:** 60-Day notice and request for  
comments; reinstatement with change,  
1601-0005.

**SUMMARY:** The Department of Homeland  
Security, Office of the Secretary, will  
submit the following Information  
Collection Request (ICR) to the Office of  
Management and Budget (OMB) for  
review and clearance in accordance  
with the Paperwork Reduction Act of  
1995 (Pub. L. 104-13, 44 U.S.C. Chapter  
35).

**DATES:** Comments are encouraged and  
will be accepted until April 22, 2016.  
This process is conducted in accordance  
with 5 CFR 1320.1.

**ADDRESSES:** You may submit comments,  
identified by docket number 2016-0009,  
by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Please follow the instructions for submitting comments.
- *Email:* [dhs.pra@hq.dhs.gov](mailto:dhs.pra@hq.dhs.gov). Please include docket number DHS-2016-0009 in the subject line of the message.

**SUPPLEMENTARY INFORMATION:** The REAL  
ID Act of 2005 (the Act) prohibits  
Federal agencies from accepting State-  
issued drivers' licenses or identification  
cards for any official purpose—defined  
by the Act and regulations as boarding  
commercial aircraft, accessing federal  
facilities, or entering nuclear power  
plants—unless the license or card is  
issued by a State that meets the  
requirements set forth in the Act. Title  
II of Division B of Public Law 109-13,  
codified at 49 U.S.C. 30301 note. The  
REAL ID regulations, which DHS issued  
in January 2008, establish the minimum  
standards that States must meet to  
comply with the Act. See 73 FR 5272,  
also 6 CFR part 37 (Jan. 29, 2008). These  
include requirements for presentation  
and verification of documents to  
establish identity and lawful status,  
standards for document issuance and

security, and physical security  
requirements for drivers' license  
production facilities. For a State to  
achieve full compliance, the Department  
of Homeland Security (DHS) must make  
a final determination that the State has  
met the requirements contained in the  
regulations and is compliant with the  
Act. The regulations include new  
information reporting and record  
keeping requirements for States seeking  
a full compliance determination by  
DHS. As discussed in more detail  
below, States seeking DHS's full  
compliance determination must certify  
that they are meeting certain standards  
in the issuance of drivers' licenses and  
identification cards and submit security  
plans covering physical security of  
document production and storage  
facilities as well as security of  
personally identifiable information. 6  
CFR 37.55(a). States also must conduct  
background checks and training for  
employees involved in the document  
production and issuance processes and  
retain and store applicant photographs  
and other source documents. 6 CFR  
37.31 and 37.45. States must recertify  
compliance with REAL ID every three  
years on a rolling basis as determined  
by the Secretary of Homeland Security. 6  
CFR 37.55.

*Certification Process Generally*—  
Section 202(a)(2) of the REAL ID Act  
requires the Secretary to determine  
whether a state is meeting its  
requirements, "based on certifications  
made by the State to the Secretary." To  
assist DHS in making a final compliance  
determination, 37.55 of the rule requires  
the submission of the following  
materials: (1) A certification by the  
highest level Executive official in the  
State overseeing the DMV that the State  
has implemented a program for issuing  
driver's licenses and identification cards  
in compliance with the REAL ID Act; (2)  
A letter from the Attorney General of the  
State confirming the State has the legal  
authority to impose requirements  
necessary to meet the standards; (3) A  
description of a State's exceptions  
process to accept alternate documents to  
establish identity and lawful status and  
wavier process used when conducting  
background checks for individuals  
involved in the document production  
process; and (4) The State's security  
plan.

Additionally, after a final compliance  
determination by DHS, states must  
recertify compliance every three years  
on a rolling basis as determined by DHS.  
6 CFR 37.55(b).

State REAL ID programs will be  
subject to DHS review to determine  
whether the State meets the  
requirements for compliance. States

must cooperate with DHS's compliance  
review and provide any reasonable  
information requested by DHS relevant  
to determining compliance. Under the  
rule, DHS may inspect sites associated  
with the enrollment of applicants and  
the production, manufacture,  
personalization, and issuance of driver's  
licenses or identification cards. DHS  
also may conduct interviews of  
employees and contractors involved in  
the document issuance, verification, and  
production processes. 6 CFR 37.59(a).

Following a review of a State's  
certification package, DHS may make a  
preliminary determination that the State  
needs to take corrective actions to  
achieve full compliance. In such cases,  
a State may have to respond to DHS and  
explain the actions it took or plans to  
take to correct any deficiencies cited in  
the preliminary determination or  
alternatively, detail why the DHS  
preliminary determination is incorrect.  
6 CFR 37.59(b).

*Security Plans*—In order for States to  
be in compliance with the Act, they  
must ensure the security of production  
facilities and materials and conduct  
background checks and fraudulent  
document training for employees  
involved in document issuance and  
production. REAL ID Act sec. 202(d)(7)–  
(9). The Act also requires compliant  
licenses and identification cards to  
include features to prevent tampering,  
counterfeiting, or duplication. REAL ID  
Act sec. 202(b). To document  
compliance with these requirements,  
the regulations require States to prepare  
a security plan and submit it as part of  
their certification package. 6 CFR 37.41.  
At a minimum, the security plan must  
address steps the State is taking to  
ensure: The physical security of  
production materials and storage and  
production facilities; security of  
personally identifiable information  
maintained at DMVs including a privacy  
policy and standards and procedures for  
document retention and destruction;  
document security features including a  
description of the use of biometrics and  
the technical standards used; facility  
access control including credentialing  
and background checks; fraudulent  
document and security awareness  
training; emergency response; internal  
audit controls; and an affirmation that  
the state possesses the authority and  
means to protect the confidentiality of  
REAL ID documents issued in support  
of criminal justice agencies or similar  
programs. The security plan also must  
include a report on card security and  
integrity.

*Background checks and waiver  
process*—Within its security plans, the  
rule requires States to outline their

approach to conducting background checks of certain DMV employees involved in the card production process. 6 CFR 37.45. Specifically, States are required to perform background checks on persons who are involved in the manufacture or production of REAL ID driver's licenses and identification cards, as well as on individuals who have the ability to affect the identity information that appears on the driver's license or identification card and on current employees who will be assigned to such positions. The background check must include a name-based and fingerprint-based criminal history records check, an employment eligibility check, and for newer employees a prior employment reference check. The regulation permits a State to establish procedures to allow for a waiver for certain background check requirements in cases, for example, where the employee has been arrested, but no final disposition of the matter has been reached.

**Exceptions Process**—Under the rule, a State DMV may choose to establish written, defined exceptions process for persons who, for reasons beyond their control, are unable to present all necessary documents and must rely on alternate documents to establish identity and date of birth. 6 CFR 37.11(h). Alternative documents to demonstrate lawful status will only be allowed to demonstrate U.S. citizenship. The State must retain copies or images of the alternate documents accepted under the exceptions process and submit a report with a copy of the exceptions process as part of its certification package.

**Recordkeeping**—The rule requires States to maintain photographs of applicants and records of certain source documents. Paper or microfiche copies of these documents must be retained for a minimum of seven years. Digital images of these documents must be retained for a minimum of ten years. 6 CFR 37.31.

**Extension Requests**—Pursuant to § 37.63 of the Final Rule, States granted an initial extension may file a request for an additional extension. Subsequent extensions will be granted at the discretion of the Secretary.

The collection of the information will support the information needs of DHS in its efforts to determine State compliance with requirements for issuing REAL ID driver's licenses and identification cards. States may submit the required documents in any format that they choose. DHS has not defined specific format submission requirements for States. DHS will use all of the submitted documentation to evaluate

State progress in implementing the requirements of the REAL ID Final Rule. DHS has used information provided under the current collection to grant extensions and track state progress.

Submission of the security plan helps to ensure the integrity of the license and identification card issuance and production process and outlines the measures taken to protect personal information collected, maintained, and used by State DMVs. Additionally, the collection will assist other Federal and State agencies conducting or assisting with necessary background and immigration checks for certain employees. The purpose of the name-based and fingerprint based CHRC requirement is to ensure the suitability and trustworthiness of individuals who have the ability to affect the identity information that appears on the license; have access to the production process; or who are involved in the manufacture or issuance of the licenses and identification cards.

In compliance with GPEA, States will be permitted to electronically submit the information for their security plans, certification packages, recertifications, extensions, and written exceptions processes. States will be permitted to submit electronic signatures but must keep the original signature on file. Additionally, because they contain sensitive security information (SSI), the security plans must be handled and protected in accordance with 49 CFR part 1520. 6 CFR 37.41(c). The final rule does not dictate how States must submit their employees' fingerprints to the FBI for background checks; however it is assumed States will do so via electronic means or another means determined by the FBI.

Information provided will be protected from disclosure to the extent appropriate under applicable provisions of the Freedom of Information Act, the Privacy Act of 1974, the Driver's Privacy Protection Act, as well as DHS's Privacy Impact Assessment for the REAL ID Act.

There have been no program changes or new requirements established as a result of this collection request. Extensions were covered in the initial request however it was incorrectly removed from the subsequent request.

The Office of Management and Budget is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the

proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

#### Analysis

*Agency:* Office of the Secretary, DHS.  
*Title:* REAL ID: Minimum Standards for Driver's Licenses and Identification Cards Acceptable by Federal Agencies for Official Purposes.

*OMB Number:* 1601-0005.

*Frequency:* Annually.

*Affected Public:* State, local, and tribal governments.

*Number of Respondents:* 56.

*Estimated Time per Respondent:* 1,178 hours.

*Total Burden Hours:* 446,246 hours.

Dated: February 12, 2016.

**Carlene C. Iletto,**

*Executive Director, Enterprise Business Management Office.*

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## DEPARTMENT OF HOMELAND SECURITY

**Office of the Citizenship and Immigration Services Ombudsman; Agency Information Collection Activities: Office of the Citizenship and Immigration Services Ombudsman Customer Satisfaction and Needs Assessment Survey (Ombudsman Form DHS-NEW)**

**AGENCY:** Office of the Citizenship and Immigration Services Ombudsman (CISOMB), DHS.

**ACTION:** 30-Day notice and request for comments; new collection, 1601-NEW.

**SUMMARY:** The Department of Homeland Security (DHS), Office of the Citizenship and Immigration Services Ombudsman (CISOMB), will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). DHS previously published this information collection request (ICR) in the **Federal Register** on Monday, November 9, 2015 at 80 FR