



REAL ID Proposed Guidelines: Questions & Answers

What is REAL ID?

REAL ID is a nationwide effort intended to prevent terrorism, reduce fraud, and improve the reliability and accuracy of identification documents that State governments issue.

Where did this effort originate?

The 9/11 Commission recommended that the U.S. improve its system for issuing secure identification documents. In the Commission's words, "At many entry points to vulnerable facilities, including gates for boarding aircraft, sources of identification are the last opportunity to ensure that people are who they say they are and to check whether they are terrorists." The Commission specifically urged the federal government to "set standards for the issuance of... sources of identification, such as driver's licenses." Congress responded to this key recommendation by passing the Real ID Act

What is a REAL ID license needed for?

The REAL ID Act requires that a REAL ID driver's license be used for "official purposes," as defined by DHS. In the proposed rule, DHS is proposing to limit the official purposes of a REAL ID license to those listed by Congress in the law: accessing a Federal facility; boarding Federally-regulated commercial aircraft; and entering nuclear power plants. DHS may consider expanding these official purposes through future rulemakings to maximize the security benefits of REAL ID.

What was released on March 1?

On March 1, 2007, DHS released a Notice of Proposed Rulemaking (NPRM) for the REAL ID act. This is a major step towards advancing the general requirements of the law into actionable plans for DHS and the States. The text of the NPRM is NOT the final rule. Rather, it is a draft of the rule that is being submitted for public comment. Constructive comments, both affirming and debating items in the NPRM, will help DHS determine the final rule.

Additionally, the NPRM, and the final rule, specify **minimum** requirements. States are encouraged to work beyond the minimum requirements as appropriate for their constituent's needs.

Did DHS consult with the States in the development of the NPRM?

DHS consulted with State officials and State representative associations in the development of this proposed rule through meetings and conference calls in 2005 and 2006. Many States and State representative associations participated in these events and submitted written comments for consideration in the development of this proposed rule.

How does the NPRM protect Privacy of license holders?

Continuing to protect the privacy of license holders was a key consideration for DHS in the development of this NPRM, which contains a detailed analysis of the three key privacy issues posed by the Act: (1) the connectivity of the databases; (2) the protection of the personal information stored in the State databases; and (3) the protection of the personal information stored on machine readable technology on the DL/IDs. We invite comments on whether the steps outlined within the NPRM are appropriate and adequate.

Does DHS support an extension of the May 2008 deadline? Does DHS think that States will be ready?

DHS understands that the States are concerned about the tight timeline required to comply with the REAL ID Act. The Secretary and other DHS officials have discussed this matter with various Governors. Since DHS wants all States to be able to comply with the Act, DHS has set-up a procedure in the NPRM for States to obtain extensions until December 31, 2009. DHS expects States that have been granted an extension to begin issuing compliant licenses no later than January 1, 2010, in most cases with a roll-out of licenses as they expire.

What does a State have to do and when does it have to do it?

States that need an extension from DHS should file a request by February 1, 2008, though States are encouraged to inform DHS of its intention to request an extension as soon as October 1, 2007. DHS can grant an extension through December 31, 2009. A State that is complying with the REAL ID Act must begin issuing REAL ID-compliant licenses and identification cards no later than May 11, 2008. However, States that have been granted an extension will be required to issue compliant licenses and identification cards no later than January 1, 2010. All licenses and identification cards held by individuals from a State must be compliant by May 10, 2013.

The NPRM does not propose to change this practice and would not give the Federal government any greater access to this information than is currently accessible from individual State DMVs.

States contend they do not have the funds to implement REAL ID. How does DHS expect states to pay for REAL ID?

DHS will enable States to use up to 20% of a State's Homeland Security Grant Program funds for REAL ID compliance efforts. This would make substantial funds available to States beginning this calendar year. Congress, not DHS, can appropriate additional funds to help States meet their compliance obligations.

What do DMV's need to do to check documents establishing a person's identity?

All source documents must be verified with their issuing agency. DHS has identified appropriate methods for verifying identity, lawful status, date of birth and SSN with the issuing agency. DHS is also assisting the States in the development of querying services that would assist states in querying other States to determine whether an individual currently holds an active license in another jurisdiction.

How long will a REAL ID license be valid for?

The proposed regulation requires that REAL ID licenses be valid for a period limited to eight years. If a state has maintained the source document images, the DMV may re-verify that information without requiring that the applicant re-present the source documents. If, however, the State does not have the information and images of source documents at the time of the renewal, the State would need to require the applicant to re-submit any appropriate, missing documentation.

Can states continue to accept remote renewals?

Under the proposal, States may continue or establish remote renewals for REAL ID licenses. However, the NPRM states that license holders would need to renew in-person at every other issuance for an updated photo.

Is this a National ID card?

No. The proposed regulations establish common standards for States to issue licenses. The Federal Government is not issuing the licenses, is not collecting information about license holders, and is not requiring States to transmit license holder information to the Federal Government that the Government does not already have (such as a Social Security Number). Most States already routinely collect the information required by the Act and the proposed regulations.

Who will have access to the information that the DMV will be required to collect?

As they do now, authorized DMV officials in the licensing State will have access to DMV records. DMV employees in one State cannot "fish" the records in another State. The proposed rule requires States to include a comprehensive security plan for safeguarding information collected, stored, or disseminated for purposes of complying with the REAL ID Act, including procedures to prevent unauthorized access, use, or dissemination of applicant information and images of source documents retained pursuant to the Act and standards and procedures for document retention and destruction.

Will a national database be created that stores information about every applicant?

No. The REAL ID Act and these regulations do not establish a national database of driver information. States will continue to collect and store information about applicants as they do today. The NPRM does not propose to change this practice and would not give the Federal government any greater access to this information.

Will REAL ID change how my license looks?

The proposed rule does not specify precise designs or layouts of state issued licenses. Instead, DHS is proposing minimum standards that will appear on the face of the card. The proposed regulation would require each of the following on the face of REAL IDs; space available for 39 characters for full legal name; address of principal residence; digital photograph; gender; date of birth; signature, document number; and machine readable technology. Additionally, temporary REAL IDs would need to clearly state that they are temporary. Non-REAL IDs issued by compliant States would need to clearly state on their face that they are not acceptable for Federal official purposes and use a unique design or color that clearly distinguishes them from REAL ID licenses.

Do the proposed regulations require States to collect fingerprints or iris images from drivers?

No. Though States may independently choose to implement biometrics into their driver's license process, the NPRM does not require a State to collect fingerprints, iris images, or other biometric data in connection with obtaining a license and has no plans to serve as a repository for the face images the states will collect.

What is the Machine Readable Technology specified in the NPRM?

The regulations propose the use of the 2-D barcode already used by 46 jurisdictions (45 States and the District of Columbia). DHS leans towards encrypting the data on the barcode as a privacy protection and requests comments on how to proceed given operational considerations.

Will REAL ID driver's licenses include RFID cards?

The NPRM does not specify the use of RFID cards as a minimum standard. States may independently choose to implement an RFID solution, in addition to the standard 2-D barcode, to meet their constituent's needs.

How long is the comment period?

The comment period is 60 days. During this time, we look forward to closely reviewing each comment submitted in advance of issuing the final rule. Moreover, we will invite the Real ID Advisory Group, which was formed under the Intelligence Reform and Terrorism Prevention Act of 2004, to the Department to provide oral comments on the proposed regulation.