



25 Massachusetts Avenue, NW  
Suite 335  
Washington, DC 20001  
202.232.5590 | 202.464.3590(fax)  
www.irli.org

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*Founded in 1986, the Immigration Reform Law Institute (IRLI) is a public-interest legal education and advocacy law firm dedicated to achieving responsible immigration policies that serve national interests.*

*IRLI is a supporting organization of the Federation for American Immigration Reform.*

<sup>1</sup> Admitted in DC & IN

<sup>2</sup> Admitted in DC & PA

<sup>3</sup> Admitted in DC & MD

<sup>4</sup> Admitted in DC, VA, MD, NY, & CT

<sup>5</sup> Admitted in DC & VA

<sup>6</sup> Admitted in DC & MD

<sup>7</sup> Admitted in DC, NJ, & NY

June 17, 2019

Mr. Scott Ewalt  
Acting Executive Director  
Enterprise Business Management Office  
Office of the Secretary  
U.S. Department of Homeland Security

VIA E-MAIL: [dhs.pra@hq.dhs.gov](mailto:dhs.pra@hq.dhs.gov)

**Docket No. DHS-2019—0018**

Dear Director Ewalt:

The Immigration Reform Law Institute (IRLI) submits the following public comments in response to the Department's notice published in the Federal Register: REAL ID Minimum Standards for Driver's Licenses and Identification Cards Acceptable by Federal Agencies for Office Purposes, 84 Fed. Reg. 15624 (April 16, 2019).

The long-awaited final compliance deadline approaches, after which every state and territory resident will need to present a REAL ID compliant license or ID (or other acceptable form of identification) for accessing federal facilities, entering nuclear power plants, and boarding commercial aircraft. IRLI commends the Department for stepping up to the plate and bringing the regrettable policy of routinely granting states decades of compliance certification extensions to an end.

IRLI strongly agrees that DHS's continued collection of information in support of state recertification requirements is a necessary and indeed critical agency function. The United States and its citizens are now demonstrably more secure when accessing federal facilities and boarding commercial aircraft than was the case immediately after the 9/11 attacks.

An historic national security milestone will be reached by the October 1, 2020 final certification compliance deadline. The Notice appropriately focuses attention on the next phase of REAL ID compliance, the rolling state recertification program.

IRLI believes that recertification will be an essential DHS national security function for the foreseeable future. This will be particularly so for the disturbing large number of states that have chosen to provide non-compliant licenses and ID cards to persons who do not meet existing REAL ID standards. These persons are overwhelmingly unlawfully present aliens.

Data collection for recertification uses would be more practical and effective if DHS modified the rolling three-year certification process to provide for more frequent and comprehensive inspections and audits of states that issue non-compliant licenses and IDs. These jurisdictions are, in general, the most likely to encourage and support state and local resistance to cooperation with federal immigration authorities. Official state policies of passive resistance to federal immigration control functions create a disturbing disincentive for state political appointees and civil service employees to do only the bare minimum required by federal regulation to maintain REAL ID compliance.

IRLI recommends that the Secretary of DHS evaluate the effectiveness of reducing the recertification audit period for these resistant states from three to two years. As part of the recertification process for states with non-compliant license and ID programs, DHS should use statistical sampling and other robust data integrity technologies to cross-verify state databases of REAL ID licenses with other directly related federal immigration databases, to screen for ineligible unqualified recipients who have improperly obtained REAL ID documents.

This concern is not merely theoretical, and should be the highest priority for DHS authorities responsible for the integrity of the REAL ID licensing system. Millions of citizens and lawfully present individuals have spent substantial time to comply with REAL ID standards. Should compliance rates begin to degrade because certain state officials are indifferent or hostile to the compelling national interests embodied in the REAL ID Act, millions of citizens and lawfully present individuals will have been subjected to an ineffective but highly intrusive federal burden.

Although IRLI is not technically qualified to assess the effectiveness of the current requirements for security plans, background checks, and other program integrity and anti-corruption standards imposed by the Act's regulations, IRLI recognizes that these standards are critical to the congressional goal of denying alien terrorists and other illegal entrants access to critical national infrastructures. As document security and biodata technologies continue their rapid advance, DHS should ensure that current information collection programs have the capability and authority to adapt to new technologies—and technological threats—on an ongoing basis. Technical requirements should, however, always promote and ensure maximum interoperability despite any differing information technologies adopted by individual states.

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In this regard, IRLI strongly supports the requirement in 8 C.F.R. § 37.11(h) that any exceptions or waivers granted to persons who for purely benign reasons cannot present all necessary documents to establish lawful status absolutely be limited to persons seeking to demonstrate United States citizenship.

Respectfully submitted on behalf of Immigration Reform Law Institute,

by Michael M. Hethmon  
DC Bar No. 1019386  
Senior Counsel