

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****23 CFR Part 1331**

[Docket No. NHTSA-98-3945]

RIN 2127-AG-91

State-Issued Driver's Licenses and Comparable Identification Documents

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.
ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes regulations to implement the requirements contained in section 656(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Section 656(b) of the Act, entitled State-Issued Driver's Licenses and Comparable Identification Documents, provides that a Federal agency may only accept as proof of identity a driver's license or identification document that conforms to specific requirements, in accordance with regulations issued by the Secretary of Transportation. This Notice of Proposed Rulemaking proposes those regulations. The agency requests comments on its proposal.

DATES: Comments must be received by August 3, 1998.

ADDRESSES: Written comments should refer to the docket number and the number of this notice, and be submitted (preferably two copies) to: Docket Management, Room PL-401, National Highway Traffic Safety Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. (Docket hours are Monday-Friday, 10 a.m. to 5 p.m., excluding Federal holidays.)

FOR FURTHER INFORMATION CONTACT: Mr. William Holden, Chief, Driver Register and Traffic Records Division, NTS-32, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590; telephone (202) 366-4800, or Ms. Heidi L. Coleman, Assistant Chief Counsel for General Law, NCC-30, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590; telephone (202) 366-1834.

SUPPLEMENTARY INFORMATION: On September 30, 1996, the Omnibus Consolidated Appropriations Act for Fiscal Year 1997, P.L. 104-208, was signed into law. Included in the Omnibus Act were the provisions of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (hereinafter, the "Immigration Reform Act"). The purpose of the Immigration Reform Act was to improve deterrence of illegal immigration into the United States.

Section 656(b) of the Act, entitled State-Issued Driver's Licenses and Comparable Identification Documents, provides that, after October 1, 2000, Federal agencies may not accept as proof of identity driver's licenses or other comparable identification documents, issued by a State, unless the driver's license or identification document conforms to certain requirements.

A. Statutory Requirements

Section 656(b) establishes three requirements that State-issued driver's licenses or other comparable identification documents must meet, to be acceptable as proof of identity:

1. *Application Process*—The application process for the driver's license or identification document shall include the presentation of such evidence of identity as is required by regulations promulgated by the Secretary of Transportation, after consultation with the American Association of Motor Vehicle Administrators (AAMVA).

2. *Form*—The driver's license or identification document shall be in a form consistent with requirements set forth in regulations promulgated by the Secretary of Transportation, after consultation with AAMVA. The form shall contain security features designed to limit tampering, counterfeiting, photocopying, or otherwise duplicating, the driver's license or identification document for fraudulent purposes and to limit the use of the driver's license or identification document by imposters.

3. *Social Security Number*—The driver's license or identification document shall contain a social security number that can be read visually or by electronic means, unless the State issuing such driver's license or identification document meets certain conditions.

To meet the conditions, the State must not require the driver's license or identification document to contain a social security number and the State must require the submission of the social security number by every applicant for a driver's license or identification document. The State must also require that a State agency verify the validity of the social security number with the Social Security Administration (SSA).

B. Promulgation of Regulations, After Consultation With AAMVA

The Immigration Reform Act requires that the Secretary of Transportation issue regulations governing State-issued driver's licenses and comparable identification documents. The Act

provides, however, that the Department must first consult with the American Association of Motor Vehicle Administrators.

AAMVA is a voluntary, nonprofit, membership organization that represents the State and provincial officials (generally, referred to as motor vehicle administrators) in the United States and Canada who are responsible for the administration and enforcement of laws pertaining to motor vehicles and their use. The issue of fraudulent driver's licenses and identification documents has been of concern to AAMVA for many years. In an effort to address this problem, AAMVA formed a Uniform Identification Working Group to establish uniform identification procedures. In May 1996, the working group published the Uniform Identification Practices Model Program (hereinafter, the "model program").

In accordance with the dictates of the Immigration Reform Act, NHTSA consulted with AAMVA prior to issuing this Notice of Proposed Rulemaking and it considered carefully the contents of the working group's model program. Although not directed to by the legislation, NHTSA also consulted with officials of interested Federal agencies, including the Social Security Administration and the Immigration and Naturalization Service (INS).

C. Requirements in Proposed Regulation

This Notice of Proposed Rulemaking (NPRM) proposes a regulation that would implement the requirements of Section 656(b) of the Immigration Reform Act. The requirements being proposed are discussed below.

1. Evidence of Identity

As explained above, Section 656(b) provides that driver's licenses or other comparable identification documents issued by a State will not, after October 1, 2000, be accepted by a Federal agency for any identification-related purpose unless the application process for the driver's license or identification document shall include the presentation of such evidence of identity as is required by regulations promulgated by the Secretary of Transportation.

Consistent with the working group's model program, NHTSA proposes that identical identification standards be followed for both driver's licenses and identification documents. The proposed rule provides that an applicant would be required to submit one primary and one secondary document for a new or duplicate driver's license or identification document. Renewal applicants would be required to show

only their current driver's license or identification document. If the current driver's license or identification document is unavailable, the applicant would be required to submit instead a primary and secondary document.

The purpose of the primary document is to establish identity. As proposed in this NPRM, the primary document would need to contain the applicant's full legal name (including middle name) and date of birth, and it would need to be verifiable. The purpose of the secondary document is to assist in confirming identity. As proposed in this NPRM, the secondary document would need to contain the applicant's name, plus sufficient substantiating information for all or part of the information contained on the primary document, to confirm the identity of the individual.

The agency proposes to list acceptable primary and secondary documents in appendices to the final rule. As needed, the agency would publish subsequent documents in the **Federal Register**, updating these appendices. Proposed lists of acceptable primary and secondary documents are attached to today's NPRM as Appendix A and Appendix B to part 1331. The proposed rule provides that exceptions to the published lists of acceptable documents could be made by States, provided the exceptions are made in accordance with established procedures and on an infrequent basis and only in extreme circumstances, such as a fire or natural disaster.

2. Form and Security Features

To be acceptable after October 1, 2000, driver's licenses or identification documents shall also be in a form consistent with requirements set forth in regulations promulgated by the Secretary of Transportation. The statute requires that the form shall contain security features designed to limit tampering with, counterfeiting, photocopying, or otherwise duplicating, the driver's license or identification document for fraudulent purposes and to limit the use of the driver's license or identification document by imposters.

Consistent with the working group's model program, NHTSA proposes that, at a minimum, certain features shall be included on both driver's licenses and identification documents. The proposed list of features is included in the proposed regulation. The agency believes that some of the features included on the proposed list will help to limit the use of the driver's license or identification document by imposters, such as the applicant's date of birth and

signature, and a color photograph or image.

"Security features" is also included as an item on the proposed list. The incorporation of security features into a driver's license and identification document will make it more difficult for persons to tamper with, counterfeit, photocopy, or otherwise duplicate, a driver's license or identification document for fraudulent purposes. Various techniques and technologies are currently available to State licensing agencies that are effective at deterring these practices. The proposed rule requires States to include one or more security features on driver's licenses and identification documents. The agency urges States, however, to adopt as many such features as is practicable, because the more features a State includes on its driver's licenses and identification documents, the more difficult it would be for individuals to counterfeit or otherwise misuse these documents.

The agency proposes to provide a list of suggested security features in an appendix to the final rule. As needed, the agency would publish subsequent documents in the **Federal Register**, updating this appendix. A proposed list of such features is attached as Appendix C to part 1331 in today's NPRM.

3. Social Security Number

The Immigration Reform Act provides that, to be acceptable after October 1, 2000, driver's licenses or identification documents shall contain a social security number that can be read visually or by electronic means, except in States that meet certain conditions.

As stated previously, States meet the conditions if they require the submission of the social security number by every applicant for a driver's license or identification document, but do not require that the social security number be included on the driver's license or identification document. The State must also require that an agency of the State verify the validity of the social security number with the Social Security Administration. The NPRM implements this provision by indicating that States may include social security numbers on driver's licenses and identification documents, but must require all applicants to submit their social security number and must verify each applicant's social security number as described below.

a. Validation

The proposed regulation specifies that, with one exception described below, all States shall verify the validity of each applicant's social security

number with the Social Security Administration, whether or not the social security number is to be included on the driver's license or identification document, unless previously validated.

The working group's model program recommended that "key" information, such as social security numbers, should be verified for each transaction. The model program, which was published in May 1996, stated, "Electronic verification with the Social Security Administration is now possible," and the model program urged all States to "take advantage of the electronic access and verify [social security numbers] with the SSA."

For those States that were not capable at that time of performing electronic verification, the model program stated that "manual verification should be required." It was recommended that certain documents could be used to verify social security numbers manually, such as social security cards (but not metal cards), letters from the Social Security Administration, IRS/State tax forms (but not a W-2 form), financial statements containing social security numbers, payroll stubs containing social security numbers or military ID's containing social security numbers.

The agency hopes that, by October 1, 2000, each State will be capable of verifying social security numbers electronically, rather than manually. Therefore, the agency has proposed in the NPRM that, beginning October 1, 2000, each State shall verify each application for a new, duplicate or renewal driver's license or identification document electronically with the Social Security Administration, unless previously validated.

The agency requests comments on this proposed requirement. In particular, the agency seeks comments regarding whether States do not expect to be capable of verifying the social security numbers for all driver's license and identification document applicants by October 1, 2000. If it is expected that any State may not have such a capability by that date, the agency requests that comments include a prediction of the date by which such State may have this capability.

b. Individuals Unable to Obtain Social Security Numbers

The Immigration Reform Act requires all States to request the social security number from every applicant for a driver's license or identification document.

It has been brought to the agency's attention, however, that some individuals who may wish to apply for

a driver's license or identification document may not have a social security number. Many nonimmigrant aliens (such as foreign students) are lawfully present in the United States long enough to need to obtain a State issued driver's license, but may not have INS work authorization or any other reason to be eligible to obtain a social security number. Some States have sought guidance from the agency on how they can comply with the Immigration Reform Act without having to deny a driver's license to "legal aliens" who are prevented by their status from obtaining a social security number.

The Immigration Reform Act was not enacted into law to prevent individuals who are legally in the United States from holding valid driver's licenses or identification documents. Rather, the statute was enacted to deter illegal immigration into the United States.

The agency proposes to permit States to continue processing applications for driver's licenses and identification documents for individuals legally in the United States. At the time of application for a new or duplicate driver's license or identification document, such individuals would be required under the proposed rule to submit (in addition to primary and secondary documents) a document demonstrating their lawful presence in the United States. This "proof of lawful presence" document would need to be verified by confirming that the document reasonably appears on its face to be genuine as it relates to the applicant.

The agency proposes to list acceptable "proof of lawful presence" documents in an appendix to the final rule. As needed, the agency would publish subsequent documents in the **Federal Register**, updating this appendix. A proposed list of acceptable "proof of lawful presence" documents is attached to today's NPRM as Appendix D to part 1331.

States that include an individual's social security number on driver's licenses and identification documents may choose to include instead on documents for individuals who do not have a social security number an alternative numeric identifier. An alternative numeric identifier is a unique identification number issued by a State driver licensing agency to an individual who does not have a social security number. The alternative numeric identifier should not contain the same number sequence as a social security number to protect against confusion with or duplication of a social security number. In addition, the agency proposes that States must require

applicants who claim not to hold social security numbers to sign certifying statements to that effect.

4. Certification of Compliance

The proposed rule provides that States must demonstrate compliance with the requirements of the regulation by submitting a certification to the National Highway Traffic Safety Administration. The certification shall contain a statement by an appropriate State official, that the State's driver's licenses and identification documents conform to the requirements contained in the regulation.

The agency seeks comments regarding whether States expect to be able to meet all requirements of the regulation by October 1, 2000. If it is expected that any State may not be able to meet all requirements by that date, the agency requests comments about whether the regulation should contain a provision setting forth a procedure to allow States to request an extension of time to comply with the requirements of the regulation. If such a provision should be included, the agency seeks comments about what criteria should be used to determine when an extension should be granted.

5. Grants

Section 656(b)(2) requires the Secretary of Transportation to make grants available to the States to assist them in issuing driver's licenses and comparable identification documents that satisfy the requirements of the law. The President included a request for \$325,000 in his fiscal year 1999 budget for these grants. The Department of Transportation is still developing its fiscal year 2000 budget.

Written Comments

Interested persons are invited to comment on this Notice of Proposed Rulemaking. It is requested, but not required, that two copies be submitted.

All comments must be limited to 15 pages in length. Necessary attachments may be appended to those submissions without regard to the 15 page limit. (49 CFR 553.21.) This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

Written comments to the public docket must be received by August 3, 1998. All comments received before the close of business on the comment closing date will be considered and will be available for examination in the docket at the above address before and after that date. To the extent possible, comments received after the closing date will also be considered. However, the rulemaking action may proceed at

any time after that date. NHTSA will continue to file relevant material in the docket as they become available after the closing date, and it is recommended that interested persons continue to examine the docket for new materials. To expedite submission of comments, simultaneous with the issuance of this notice NHTSA will mail copies to all Governor's Representatives for Highway Safety and to the motor vehicle administrators for each State.

Those persons desiring to be notified upon receipt of their comments in the docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Copies of all documents will be placed in Docket No. NHTSA-98-3945; in Docket Management, Room PL-401, Nassif Building, 400 Seventh Street, SW, Washington, DC 20590.

Regulatory Analyses and Notice

Executive Order 12778 (Civil Justice Reform)

This proposed rule would not have any preemptive or retroactive effect. The enabling legislation does not establish a procedure for judicial review of rules promulgated under its provisions. There is no requirement that individuals submit a petition for reconsideration or other administrative proceedings before they may file suit in court.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The agency has examined the impact of the proposed action and has determined that the proposed action is not significant under Executive Order 12866 and the Department of Transportation's Regulatory Policies and Procedures.

The action will not have an annual effect on the economy of \$100 million or more or adversely affect in a material way a sector of the economy, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities. It will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, and it will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. Nor does it raise novel legal or policy issues.

To estimate the costs and benefits of the proposed action, NHTSA prepared a Preliminary Regulatory Evaluation (PRE), assessing the costs and benefits. It has been placed in the docket for this

proceeding and is available for public inspection. Based on the analysis contained in the PRE, NHTSA predicts that States will incur costs to comply with the requirements of the regulation. The costs will be associated with redesigning driver's licenses and identification documents to include social security numbers, adding security and other features to these documents, computer programming changes, verifying social security numbers, rewriting forms and training employees. Based on estimates that it received from five States (Delaware, Iowa, Montana, Utah and Wisconsin), the agency estimates the total national first year costs associated with the regulation to range from \$24,846,652 to \$72,568,996. The total annual estimated national costs thereafter range from \$7,697,984 to \$51,713,028. The primary benefit of the proposed rule is that it will help limit tampering with, counterfeiting, photocopying, or otherwise duplicating, driver's licenses or identification documents for fraudulent purposes. It will also help limit the use of driver's licenses or identification documents by imposters.

The proposed action is not significant under the Department's Regulatory Policies and Procedures because it does not involve important Departmental policies; rather it is being proposed for the purpose of implementing the provisions contained in Public Law 104-208.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612), the agency has evaluated the effects of this proposed action on small entities. Based on the evaluation, we certify that this action will not have a significant impact on a substantial number of small entities. Accordingly, the preparation of a Regulatory Flexibility Analysis is unnecessary.

Paperwork Reduction Act

This notice contains information collection requirements that have been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act. The title, description, and respondent description of the information collection are shown below with an estimate of the annual burden.

Title: Improvements in Identification Related Documents—State-Issued Driver's Licenses and Comparable Identification Documents.

OMB Clearance number: Not assigned.

Description of the need for the information and proposed use of the

information: In order to ensure that States comply with the Act and regulations, NHTSA is proposing to require each State to certify its compliance. Once the State has made the necessary modifications to its procedures and systems and has begun to carry out the requirements of the Act, it would submit to NHTSA a letter certifying that it complies with the regulations.

Description of likely respondents (including estimate of proposed frequency of response to the collection of information): The respondents are the State driver licensing agencies. All respondents would submit to NHTSA a letter certifying compliance with the regulations one time only.

Estimate of total annual reporting and record keeping burden resulting from the collection of information: NHTSA estimates that each respondent will incur 15 minutes in preparing and submitting the certification letter for a total of 13.5 hours (15 minutes × 54 respondents) × \$38.00 per hour employee cost, for a total cost of \$513.00.

Individuals and organizations may submit comments on the information collection requirements by August 3, 1998, and should direct them to the docket for this proceeding and the Office of Management and Budget, New Executive Office Building, Room 10202, Washington D.C. 20503, Attention: Desk Officer for DOT/OST. Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

The agency has analyzed this proposed action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that it would not have any significant impact on the quality of the human environment.

The Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Public Law 104-4) requires agencies to prepare a written assessment of the costs, benefits and other affects of proposed final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually. This proposed rule does not meet the definition of a Federal mandate, because the resulting annual expenditures will not exceed the \$100 million threshold.

Executive Order 12612 (Federalism Assessment)

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this proposed action would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

In consideration of the foregoing, a new Part 1331 is added to chapter III of Title 23 of the Code of Federal Regulations to read as follows:

Part 1331—State-Issued Driver's Licenses and Comparable Identification Documents

Subpart A—General

Sec.
1331.1 Scope.
1331.2 Purpose.
1331.3 Definitions.

Subpart B—Procedures

Sec.
1331.4 Application process.
1331.5 Form and security features.
1331.6 Social security number.
1331.7 Effective date.
1331.8 Certification.

Appendices to Part 1331

Appendix A—Primary documents.
Appendix B—Secondary documents.
Appendix C—Security features.
Appendix D—Proof of lawful presence documents.

Authority: Pub. L. 104-208, 110 Stat. 3009-716 (5 U.S.C. 301) delegation of authority at 49 CFR 1.50.

Subpart A—General

§ 1331.1 Scope.

This part provides procedures for States to comply with the provisions of section 656 (Improvements in Identification—Related Documents) of Title VI (Miscellaneous provisions) of the Omnibus Consolidated Appropriations Act for Fiscal Year 1997 (Public Law 104-208) relating to the acceptance by Federal agencies for identification purposes of a driver's license, or other comparable identification document, issued by a State.

§ 1331.2 Purpose.

The purpose of this part is to implement the provisions of section 656(b) of the Illegal Immigration Reform and Immigrant Responsibility Act, 5 U.S.C. 301.

§ 1331.3 Definitions.

(a) *State* means all fifty States and the District of Columbia, Puerto Rico, Guam, and the Virgin Islands

(b) *Federal agency* means any of the following:

(1) An executive agency (as defined in 5 U.S.C. 105).

(2) A military department (as defined in 5 U.S.C. 102).

(3) An agency in the legislative branch of the Government of the United States.

(4) An agency in the judicial branch of the Government of the United States.

(c) *Driver's license* means a license issued by a State to any individual that authorizes the individual to operate a motor vehicle on highways.

(d) *Other comparable identification document* means a personal identification card issued by a State to non-drivers for identification purposes.

(e) *Primary document* means a verifiable document used to provide evidence of identity which contains an applicant's full legal name (including middle name) and date of birth.

(f) *Secondary document* means a document used to provide additional evidence of identity which contains an applicant's name plus sufficient substantiating information for all or part of the information contained on the primary document.

(g) *Proof of lawful presence document* means a verifiable document used to establish the identity and lawful presence of an individual who does not have and is ineligible to obtain a social security number.

(h) *Valid social security number* means a unique identification number issued by the Social Security Administration to every individual who meets the Agency's requirements to receive a number.

(i) *Alternative numeric identifier* means a unique identification number issued by a driver licensing agency to an individual who does not have a social security number.

Subpart B—Procedures

§ 1331.4 Application process.

A Federal agency may not accept for any identification related purpose a driver's license or other comparable identification document issued by a State, unless the license or document satisfies the following requirements.

(a)(1) The application process for an original or duplicate license or document shall include presentation of one primary and one secondary document. Lists of acceptable primary and secondary documents are attached to this part as Appendix A and Appendix B, respectively.

(2) States may accept documents that are not listed in Appendix A or Appendix B of this part at their discretion in cases where an applicant

cannot submit the required document(s). Such exceptions shall be made only in accordance with established procedures and on an infrequent basis and only in extreme circumstances, such as a fire or natural disaster.

(b) The application process for a renewal license or document shall include presentation of an applicant's current license or document. If the current license or document is unavailable the applicant would be required to submit instead a primary and secondary document.

§ 1331.5 Form and security features.

The license or document shall contain the following features:

- (a) Jurisdiction of issuance;
- (b) Indicator that the document is a driver's license or identification card, whichever is applicable;
- (c) Driver license/ID card number;
- (d) Full name of the applicant;
- (e) Date of birth;
- (f) The license classification, restriction(s), or endorsement(s) (if a driver license);
- (g) Color photograph or image;
- (h) Expiration date;
- (i) Signature;
- (j) Address (mailing or residential, as determined by the issuing agency);
- (k) Issuance date;
- (l) Physical description, which may include sex, height, weight, eye and hair color, and
- (m) One or more security features—A list of suggested security features is included in Appendix C of this part.

§ 1331.6 Social security number.

(a) Before issuing a license or document each State shall:

(1) Require the submission of the social security number by every applicant for a license or document.

(2) Verify electronically the validity of each applicant's social security number with the Social Security Administration.

(b) States may require licenses and documents to contain social security numbers that can be read visually or by electronic means.

(c) Before issuing a license or document to an alien individual who does not possess and is ineligible to obtain a social security number, each State shall:

(1) Require the applicant to present, in addition to the documents required to be presented under § 1331.4 (a) and (b), a document demonstrating lawful presence in the United States in a status in which the applicant may be ineligible to obtain a social security number. A list of acceptable "proof of lawful presence" documents is attached to this part as Appendix D.

(2) Verify the validity of each applicant's "proof of lawful presence" document by confirming that the document reasonably appears on its face to be genuine as it relates to the applicant.

(d) States shall require each applicant who claims not to hold a social security number to sign a certifying statement to that effect.

(e) States may require licenses and documents issued to individuals who do not possess social security numbers to contain an alternative numeric identifier that can be read visually or by electronic means.

§ 1331.7 Effective date.

Sections 1331.4 through 1331.6 shall take effect beginning on October 1, 2000, but shall apply only to licenses or documents issued to an individual for the first time and to replacement or renewal licenses or documents issued according to State law.

§ 1331.8 Certification.

(a) To demonstrate compliance with this part, a State shall certify that its licenses and documents conform to the requirements contained in this regulation. The certification should be submitted by September 30, 2000, to the National Highway Traffic Safety Administration, 400 Seventh St., S.W. Washington D.C. 20590.

(b) The certification shall contain a statement by an appropriate State official, that the State's licenses and documents conform to the requirements of this part.

Appendices to Part 1331

Appendix A—Primary Documents

A primary document must contain the full name and date of birth of the individual, and must be verifiable, i.e., the State must be able to contact the issuing agency to determine the authenticity of the document. Primary documents include:

(1) State issued or Canadian photo driver's license that has not been expired for more than one year.

(2) State issued or Canadian issued photo identification card that has not been expired for more than one year.

(3) Microfilm/copy of a State issued or Canadian driver's license or identification card that has not been expired for more than one year that is certified by the issuing agency.

(4) Original or certified copy of a United States or Canadian birth certificate. The certificate must have a raised seal and be issued by an authorized government agency such as the bureau of Vital Statistics or State Board of Health. Hospital issued certificates and baptismal certificates are not acceptable.

(5) The following Immigration and Naturalization Service (INS) documents are also acceptable, as long as they are original and unexpired:

(a) Certificate of Naturalization (N-550, N-570, or N-578).

(b) Certificate of Citizenship (N-560, N-561, or N-645).

(c) Northern Marianas Card.

(d) American Indian Card.

(e) United States Citizen Identification Card (I-179 or I-197).

(f) Resident Alien Card or Permanent Resident Card (I-551).

(g) Temporary Resident Card (I-688).

(h) Arrival-Departure Record (in a valid foreign passport) (I-94).

(i) Valid foreign passport containing an I-551 stamp.

(j) U.S. Re-entry Permit (I-327).

(k) Refugee Travel Document (I-571).

(l) Employment Authorization Card or Employment Authorization Document (I-688A, I-688B, I-766).

(m) Arrival-Departure Record stamped "refugee" (I-94) (Refugee I-94's will not likely be in a foreign passport).

(6) Canadian Immigration Record and Visa or Record of Landing (IMM 100).

(7) Report of Birth Abroad by a Citizen of the United States, issued by a United States consular officer.

(8) Court order which must contain the individual's full name, date of birth and court seal. Some examples include an adoption document, a name change document, gender change document, etc. It does not include an abstract of criminal or civil conviction.

(9) Active duty, retiree or reservist military identification card.

(10) Valid U.S. or Canadian passport.

(11) State-issued driver's learner permit with a photograph that has not been expired for more than one year.

(12) Canadian Department of Indian Affairs issued identification card. Tribal issued card is not acceptable. A U.S. issued Department of Indian Affairs card is not acceptable.

Appendix B—Secondary Documents

Secondary documents must contain the applicant's name and sufficient substantiating information for all or part of the information contained on the primary document. Foreign documents are acceptable only as specifically authorized. Secondary documents include:

(1) All primary documents.

(2) Bureau of Indian Affairs card or an Indian Treaty card. A Tribal identification card is not acceptable. (Note: Some Tribal identification cards are actually more reliable than Bureau of Indian Affairs cards.

Department of Motor Vehicle Agencies should make a determination about whether to accept a card based on their own research of what is or is not acceptable.)

(3) Driver's license or an identification card that has expired for more than one year.

(4) Court order that does not contain the applicant's date of birth.

(5) Photographic employer identification card.

(6) Foreign birth certificate. It must be translated by an approved translator.

(7) Foreign passport.

(8) Health insurance card, i.e., Blue Cross/Blue Shield, Kaiser, or a health maintenance organization (HMO).

(9) Internal Revenue Service (IRS) or State tax form. A W-2 is not acceptable.

(10) Marriage certificate or license.

(11) Individual's medical records from a doctor or hospital.

(12) Military dependent identification.

(13) Military discharge or separation papers.

(14) Parent or guardian affidavit. The parent or guardian must appear in person and prove their identity and submit a certified or notarized affidavit regarding the child's identity. This policy is only applicable to minors.

(15) Gun permit.

(16) Pilot's license.

(17) Certified school record or transcript.

(18) Social security card. A metal card is not acceptable.

(19) Photographic student identification card.

(20) Vehicle title. A vehicle registration is not acceptable.

(21) Welfare card.

(22) Prison release document.

Appendix C—Security Features

States must use one or more security features on their driver's licenses and identification cards to prevent alteration and tampering of their documents. Suggested security features include, but are not limited to, the following:

(1) Ghost image.

(2) Ghost graphic.

(3) Hologram.

(4) Optical variable device.

(5) Microline printing.

(6) State seal or a signature which overlaps the individual's photograph or information.

(7) Security laminate.

(8) Background containing color, pattern, line or design.

(9) Rainbow printing.

(10) Guilloche pattern or design.

(11) Opacity mark.

(12) Out of gamut colors (i.e., pastel print).

(13) Optical variable ultra-high-resolution lines.

(14) Block graphics.

(15) Security fonts and graphics with known hidden fonts.

(16) Card stock, layer with colors.

(17) Micro-graphics.

(18) Retroreflective security logos.

(19) Machine readable technologies such as magnetic strips, a ID bar code or a 2D bar code.

Appendix D—Proof of lawful presence documents

States must require individuals who do not have and are not eligible to obtain, social security numbers to submit, in addition to primary and secondary documents, a "proof of lawful presence" document when applying for a driver's license or comparable identification document. Acceptable "proof of lawful presence" documents include the following documents as long as they are original and unexpired.

The INS documents listed in Appendix A are not acceptable except for certain Forms I-94 as described below. Note that Appendix D includes documents (such as I-186 Nonresident Alien Mexican Border Crossing Card) that normally are issued to short-term nonresident visitors. States should continue to apply their existing laws and policies regarding requirements and proof of State residence.

(1) Arrival-Departure Record (I-94) (Class A-1, A-2, A-3, B-1, B-2, C-1, C-2, C-3, E-1, E-2, F-1, F-2, G-1, G-2, G-3, G-4, G-5, H-4, I, J-2, K-2, L-2, M-1, M-2, NATO 1-7, O-3, P-4, R-2, S-5, S-6, S-7, TC, TD, Cuban/Haitian Entrant, Parolee.

The form I-94 cannot state "Employment Authorized." If a foreign passport and Form I-94 have been presented as primary or secondary evidence, that Form I-94 is also an acceptable Appendix D document, but only if it fits the Appendix D description.

(2) Visa Waiver Arrival-Departure Record (I-94W) (Class WB, WT).

(3) Crewman's Landing Permit (I-95A).

(4) Alien Crewman Landing Permit and Identification Card (I-184).

(5) Nonresident Alien Canadian Border Crossing Card (I-185).

(6) Nonresident Alien Mexican Border Crossing Card (I-186).

(7) Nonresident Alien Border Crossing Card (I-586).

(8) B-1/B-2 Visa/BCC (DSP-150).

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