



441 G St. N.W.  
Washington, DC 20548

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February 6, 2025

The Honorable Ted Cruz  
Chairman  
The Honorable Maria Cantwell  
Ranking Member  
Committee on Commerce, Science, and Transportation  
United States Senate

The Honorable Mark Green  
Chairman  
The Honorable Bennie Thompson  
Ranking Member  
Committee on Homeland Security  
House of Representatives

Subject: *Department of Homeland Security, Transportation Security Administration: Minimum Standards for Driver's Licenses and Identification Cards Acceptable by Federal Agencies for Official Purposes; Phased Approach for Card-Based Enforcement*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Homeland Security (DHS), Transportation Security Administration titled "Minimum Standards for Driver's Licenses and Identification Cards Acceptable by Federal Agencies for Official Purposes; Phased Approach for Card-Based Enforcement" (RIN: 1652-AA77). We received the rule on January 22, 2025. It was published in the *Federal Register* on January 14, 2025. 90 Fed. Reg. 3472. The stated effective date of the rule is January 14, 2025.

According to DHS, this rule ensures that federal agencies have appropriate flexibility to implement the card-based enforcement provisions of the REAL ID regulations after the May 7, 2025, enforcement deadline by explicitly permitting agencies to implement these provisions in phases. See generally *Real ID Driver's Licenses and Identification Cards*, 6 C.F.R. part 37. DHS stated that the rule allows agencies to implement the card-based enforcement provisions through a phased enforcement plan if they determine it is appropriate upon consideration of relevant factors including security, operational feasibility, and public impact. DHS also stated that the rule requires agencies to coordinate their plans with them, make the plans publicly available, and achieve full enforcement by May 5, 2027.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). This rule was published in the *Federal Register* on January 14, 2025. Both houses of Congress received the rule on January 22, 2025. Email from Chief Counsel's Office, TSA, to GAO, Subject: *CRA Submission - Minimum Standards for Driver's Licenses and Identification Cards Acceptable by Federal Agencies for Official*

*Purposes; Phased Approach for Card-Based Enforcement* (Jan. 22, 2025). The rule has a stated effective date of January 14, 2025. Therefore, the stated effective date is less than 60 days from the date of receipt by Congress.<sup>1</sup>

Enclosed is our assessment of DHS's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Charlie McKiver, Assistant General Counsel, at (202) 512-5992.



Shirley A. Jones  
Managing Associate General Counsel

Enclosure

cc: Thomas B. Payne  
Assistant Chief Counsel  
Transportation Security Administration

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<sup>1</sup> DHS stated that there is good cause to make this rule effective upon publication in the *Federal Register*. 90 Fed. Reg. at 3488. CRA includes two exceptions to its 60-day delayed effective date requirement for major rules. 5 U.S.C. § 808. The rule clearly does not meet the first exception, which applies to rules related to “hunting, fishing, or camping.” *Id.* at § 808(1). The second exception only applies when the agency has found good cause to waive notice and public procedure requirements when promulgating the rule and incorporates the finding and a brief statement thereof in the rule. 5 U.S.C. § 808(2). Because DHS did not make a finding that notice and public procedure were impracticable, unnecessary, or contrary to the public interest, this exception also does not apply. See 89 Fed. Reg. 74137 (Sept. 12, 2024).

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF HOMELAND SECURITY,  
TRANSPORTATION SECURITY ADMINISTRATION  
TITLED  
“MINIMUM STANDARDS FOR DRIVER’S LICENSES AND IDENTIFICATION CARDS  
ACCEPTABLE BY FEDERAL AGENCIES FOR OFFICIAL PURPOSES;  
PHASED APPROACH FOR CARD-BASED ENFORCEMENT”  
(RIN: 1652-AA77)

(i) Cost-benefit analysis

The Department of Homeland Security (DHS) and the Transportation Security Administration prepared an analysis of the costs and benefits of this rule. DHS described several benefits resulting from the rule, including reduced security vulnerabilities, decreased operational disruptions, and minimized public impact. 90 Fed. Reg. 3472–3473 (Jan. 14, 2025). DHS estimates the cost of the rule, over 2 years, is \$1.73 million undiscounted and \$1.70 million discounted at 2 percent. *Id.* DHS stated that they, as the agency administering the REAL ID program, and other federal agencies will largely bear the cost of the rule related to facilitating phased enforcement. *Id.* DHS also stated that, as a result of a phased-in implementation approach for the REAL ID program, the full security benefits associated with the program will not be realized until full enforcement occurs. *Id.*

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

The Secretary of DHS certified that this rule will not have a significant impact on a substantial number of small entities because the rule only applies to federal agencies. 90 Fed. Reg. at 3489.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

DHS determined that this rule will not have an effect on state, local, or tribal governments, in the aggregate, or on the private sector, of \$100 million in 1995 dollars, updated annually for inflation, in any one year. See 90 Fed. Reg. at 3489.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On September 12, 2024, DHS issued a proposed rule. 89 Fed. Reg. 74137. DHS stated that it carefully considered every comment received as part of the official record. 90 Fed. Reg. at 3480. DHS addressed comments throughout the preamble of this rule. See *id.*

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

DHS stated that this rule does not directly call for a new collection of information under PRA. But agencies that utilize a phased enforcement plan may need to submit or modify an Office of Management and Budget (OMB) information collection request. 90 Fed. Reg. at 3489.

Statutory authorization for the rule

DHS promulgated this rule pursuant to section 30301 note of title 49, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

DHS stated that OMB determined that this rule is a significant regulatory action under the Order, and they submitted it to OMB for review. 90 Fed. Reg. at 3489.

Executive Order No. 13132 (Federalism)

DHS determined that this rule does not have federalism implications. See 90 Fed. Reg. at 3489.