

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

STATE REPRESENTATIVE DAVID M. TRAVIS,
STATE SENATOR FRED RISSER,
STATE REPRESENTATIVE ROBERT K.
ZUKOWSKI, STATE REPRESENTATIVE
EUGENE HAHN, STATE REPRESENTATIVE
MICHAEL D. HUEBSCH, DAVID ZWEIFEL,
PAMELA MOORSHEAD, ROGER D. CROSS, in his
capacity as Administrator of the
Division of Motor Vehicles of the
Wisconsin Department of Transportation,
and the DIVISION OF MOTOR VEHICLES OF
THE WISCONSIN DEPARTMENT OF TRANSPORTATION,

Plaintiffs,

v.

Case No. 97-C-701C

JANET RENO, Attorney General of the
United States, and the
UNITED STATES OF AMERICA,

Defendants.

STATE PLAINTIFFS' MEMORANDUM OF LAW IN OPPOSITION TO
DEFENDANTS' MOTION TO DISMISS AND IN SUPPORT OF
STATE PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Plaintiffs Roger D. Cross and the Division of Motor Vehicles of the Wisconsin Department of Transportation (hereafter the "State Plaintiffs") submit this brief in opposition to defendants' motion to dismiss and in support of their motion pursuant to Fed. R. Civ. P. Rule 56 for summary judgment.

DRAFT

~~Thel/Kerr~~

OGC 71-341 (open)

Maassen/76

APR 05 1999

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

April 1, 1999

WILLIAM K. SUTER
CLERK OF THE COURT

AREA CODE 202
479-3011

James E. Doyle
14 East, State Capitol
P.O. Box 7857
Madison, WI 53707

**RE: Administrator of the Division of Motor Vehicles
of the Wisconsin Department of Transportation, et al.
v. Janet Reno, Attorney General of the United States,
et al.
Application No. 795**

Dear Mr. Doyle:

The Court today entered the enclosed order in the above-entitled case.

Very truly yours,

WILLIAM K. SUTER, Clerk

By



Cynthia Rapp
Staff Attorney

cc: Solicitor General
Jon Dietrich
Clerk, U.S. Court of Appeals
for the Seventh Circuit (Your No. 98-1695)

APR 11 1999

DEPT. OF JUSTICE

RECEIVED

APR 09 1999

WISCONSIN DOT
OFFICE OF GENERAL COUNSEL

Supreme Court of the United States

APR 05 1999

No. A-795

ADMINISTRATOR OF THE DIVISION OF MOTOR VEHICLES OF THE WISCONSIN
DEPARTMENT OF TRANSPORTATION, ET AL,

Applicants

v.

JANET RENO, ATTORNEY GENERAL OF THE UNITED STATES, ET AL.,

Respondents

ORDER

UPON CONSIDERATION of the application of counsel for
the applicants, and the response filed thereto,

IT IS ORDERED that the mandate of the United States
Court of Appeals for the Seventh Circuit, case No. 98-2881,
issued February 22, 1999, is hereby recalled and stayed pending
the timely filing and disposition by this Court of a petition for
a writ of certiorari. Should the petition be denied, this stay
terminates automatically. In the event the petition is granted,
this stay shall continue in effect pending the sending down of
the judgment of this Court.

/s/ John Paul Stevens
Associate Justice of the Supreme
Court of the United States

Dated this 31st day
of March, 1999

VEHICLE/DRIVER RECORD INFORMATION REQUEST

MV2896 97 pursuant to Title 18 USC Section 2721-2725 and s.19.36(1), Wis. Stats.

Wisconsin Department of Transportation

INSTRUCTIONS: This request must be completed before information about a Wisconsin vehicle/driver record can be obtained.
 Note: Knowledge of what is permitted under the listed Federal Acts is the responsibility of the requestor.

Section A - Requestor Information

Name (Individual, Firm or Corporation)	DMV Account No. (if applicable)	(Area Code) Telephone Number	
Name (Person Requesting Information)		(Area Code) Telephone Number	
Street Address	City	State	Zip Code
Mailing Address (if different than above)	City	State	Zip Code

Section B - Request For Record Information (Complete if requesting individual driver/vehicle records only, not for DMV account holders.)

I (we) request the following record information:

Driver license record information (Please complete the following information for each individual driver record that you are requesting.):

Name of Individual about whom record(s) are being requested	Wisconsin Driver License Number	Birth Date
1		
2		
3		
4		
5		

Motor vehicle record information (Please complete the following information for each motor vehicle record that you are requesting.):

Vehicle Year	Make	Vehicle Identification Number	Current License Plate Number	Year Expires
1				
2				
3				
4				
5				

Section C - Authorization (Please check the statement below that allows you authorization to obtain personal information. Sign certification.)

I (we) are authorized under the Federal Driver's Privacy Protection Act to obtain the identified records and personal information based on the following:

- 1. Authorized for use, if the requestor demonstrates that they have obtained the written consent from the individual about whom the information pertains. (Written consent must be presented at time of this request).
- 2. Authorized for use in connection with matters of motor vehicle theft or driver safety; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, and dealers; by motor vehicle manufacturers; and removal of non-owner records from the original owner records of motor vehicle manufacturers. To carry out the purpose of the Automobile Information Disclosure Act, the Motor Vehicle Information and Cost Savings Act of 1966, The anti Car Theft Act of 1992 and the Clean Air Act.
- 3. A government agency (federal, state or local) or employed by such, for the purpose of the government agency to carry out its functions.
- 4. A federal, state, circuit, local or Tribal, or employed by such for the purpose of the court to carry out its functions.
- 5. A Wisconsin or out-of-state law enforcement agency or employed by such, for the purpose of the law enforcement agency to carry out its functions.
- 6. Authorized representative, agent, contractor, or employed by such, of a legitimate business and the vehicle/driving record being requested will be used for normal course of business; but only to:
 - a. verify accuracy of the personal information.
 - b. obtain correct information but only for purposes of preventing fraud, pursuing legal remedies or collecting a debt.

(over)

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 ~~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) 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.~~

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.

[REDACTED]

To meet the conditions, the State must not require the **driver's license** or identification document to contain a [REDACTED] and the State must require the submission of the social security number by every applicant for a **driver's license** or identification document [REDACTED] (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

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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

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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

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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 x 54 respondents) x \$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

Sec. 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.

Sec. 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.

Sec. 1331.3 Definitions.

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

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(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

Sec. 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.

Sec. 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.

Sec. 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 Sec. 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.

Sec. 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.

Sec. 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:

[[Page 33225]]

- (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 flaws.
- (16) Card stock, layer with colors.
- (17) Micro-graphics.
- (18) Retroflective 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.

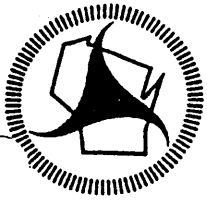
- (1) Arrival-Departure Record (I-94) (Class A-1, A-2, A-3, B-1, B-2, C-1, C-2, C-3, E-1, E-2, F-1, F-2, G-1, G-2, G-3, G-4, G-5, H-4, I, J-2, K-2, L-2, M-1, M-2, NATO 1-7, O-3, P-4, R-2, S-5, S-6, S-7, TC, TD, Cuban/Haitian Entrant, Parolee.

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.

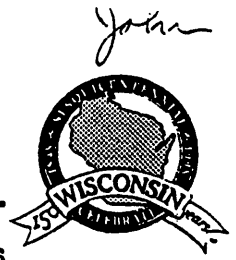
- (2) Visa Waiver Arrival-Departure Record (I-94W) (Class WB, WT).
- (3) Crewman's Landing Permit (I-95A).
- (4) Alien Crewman Landing Permit and Identification Card (I-184).
- (5) Nonresident Alien Canadian Border Crossing Card(I-185).
- (6) Nonresident Alien Mexican Border Crossing Card (I-186).
- (7) Nonresident Alien Border Crossing Card (I-586).
- (8) B-1/B-2 Visa/BCC (DSP-150).

Issued on: June 12, 1998.

Philip R. Recht,
Deputy Administrator, National Highway Traffic, Safety Administration.
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BILLING CODE 4910-59-P



Wisconsin Department of Transportation



Tommy G. Thompson
Governor

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DIVISION OF MOTOR VEHICLES
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P.O. Box 7949
Madison, WI 53707-7949

July 31, 1998

Docket Management Room, PL-401
National Highway Traffic Safety Administration
Nassif Building
400 7th Street, SW
Washington, D.C. 20590

Re: Docket No. NHTSA-98-3945

The Wisconsin Department of Transportation views the enactment of s. 656(b) of the Immigration and Naturalization Act of 1996 unfavorably. State driver license authorities are not extensions of the federal Immigration and Naturalization service. This lawmaking and proposed regulations attempt to force states into such a role. Requiring states to implement federal immigration policy creates a burden on state taxpayers and state officials which should be properly borne by the federal government. Should states, such as Wisconsin, choose to reject this role, we question whether the federal bureaucracy is prepared to deal with the enormous additional workload that will inevitably result from this regulation.

There is a terrific cost to implementing the proposed regulations. These costs are both financial and human in nature. Compliance with the proposed regulation would require State motor vehicle employees to take more time with customers reviewing application materials; many applications for driver licenses will be rejected at first application requiring the person to return. This means that the already long lines at motor vehicle service centers in Wisconsin will grow even longer should the State voluntarily meet these federal "requirements." Simply put, the state cannot simply "absorb" the extra work involved in compliance with these regulations given its current staffing restrictions. This means that Wisconsin's citizenry will pay a human cost in terms of lost time standing in longer and longer lines awaiting service at state motor vehicle service centers.

From a financial cost standpoint, significant data processing and product preparation costs would result from voluntary compliance with these regulations. The Wisconsin's Division of Motor Vehicles has no room in its budget to "absorb" these fixed dollar costs.

ADDITIONAL FEDERAL WORKLOAD.

Should states, such as Wisconsin, choose to simply ignore the rules proposed under s.626(b) of the 1996 Immigration Act, an enormous workload increase will face federal officials. This state agency currently serves over 1.5 million persons per year at 128 field stations across Wisconsin. We make every effort to ensure that we do NOT need to see a person more than one time. Every time a person arrives at one of our stations without the required documentation or forms, and has to return a second time, the lines in our stations grow a little more. For this reason, we make

efforts to ensure that people receive the service they expect from us the FIRST time they enter one of our service centers. We expect officials in federal bureaucracies work under similar constraints.

Section 626(b) will require federal officials to repeatedly reject applicants for federal services who appear at federal facilities expecting to use a driver license as identification. To the extent states do not act as immigration officials and comply with the proposed regulations, federal officials can be expected to deal with unreasonable vociferous constituents who will be rightfully upset that the federal government does not recognize their driver license as proof of their identity. When these people are forced to repeatedly return to federal offices with different identification documents, lines and service demands made on these federal offices will undoubtedly increase.

In short, unless states voluntarily decide to increase the burdens on their taxpayers in order to facilitate this new federal mandate, workloads at federal offices will increase and services at those offices can be expected to decrease.

DEFINITION OF DRIVER LICENSE*

The definition of driver license used in the proposed regulations is overly broad. In Wisconsin, most driver licenses are photo-ID quality cards issued by the Division of Motor Vehicles to eligible drivers. These cards include a picture of the driver and other information. In many situations, however, drivers are issued a temporary license, such as a driving receipt, without these formalities. The state will be incapable of complying with the license format requirements of this proposed regulation with respect to some of these temporary licenses. In other situations, changing internal processes to require photo-ID quality licenses for these temporary documents is cost prohibitive.

Under Wisconsin's implied consent law, for example, temporary driver licenses valid for 30 days are issued to drivers who fail alcohol concentration tests. These licenses are issued at arrest by the arresting officer and are nothing more than a paper receipt. The officer confiscates the person's regular license document. The temporary license is valid for 30 days to afford the person an opportunity to have a due process review of the decision to suspend his or her driver license. Obviously, an officer in the field cannot possibly issue a photo-ID type license document. It is highly unlikely the Wisconsin Legislature would rewrite Wisconsin's drunk driving laws to meet the unfunded federal request set forth in s. 626(b) of the 1996 Immigration Act. Either the regulation needs to exempt these types of licenses from the definition of "driver license" or the State of Wisconsin will be unable to meet the regulatory requirements for compliance.

Wisconsin issues temporary driving receipts for limited periods of time for various other reasons, such as providing a temporary license for a person who wishes to take a driving examination to qualify for a full license. Similarly, instruction permits (valid for up to 6 months) issued to persons learning to drive are another form of license that is issued as a paper receipt rather than a

* For simplicity, this document refers to "driver licenses" to refer generally to both licenses and IDs.

full fledged photo-ID license document. The cost to produce photo-ID quality licenses for all situations where the state currently uses a paper document is prohibitive. Photo-ID quality license documents require a great deal more time to create than a paper document. Naturally, the stock used to produce a photo-ID quality license is also considerably more expensive than the carbon forms used to create temporary licenses, instruction permits and driving receipts.

Wisconsin suggests the definition of "driver license" used in the final rule exclude such temporary license documents which do not comply with the form requirements of the regulation. These documents are not intended to be identity documents; they contain no picture of the license holder. Wisconsin would suggest federal agencies not accept such documents as proof of identification. The fact that Wisconsin issues such documents in limited situations, however, should not prohibit federal agencies from accepting license documents that are intended to be identification documents and that meet regulatory requirements.

IDENTIFICATION REQUIREMENTS - SOCIAL SECURITY NUMBERS.

* Wisconsin currently permits drivers to refuse to provide a social security numbers as part of a driver license application if they express a religious conviction for not providing the number. s. Trans 102.15(5). Similarly, Wisconsin requests, but does not require, a person to provide a social security number as a condition of receiving a state I.D. card. Repealing these provisions of state law will undoubtedly increase workload and headaches at state motor vehicle service centers. Our past experiences with customers who claimed a religious objection to providing a social security number led Wisconsin to adopt this provision. Persons with religious convictions regarding "being assigned a number" by government can be difficult to deal with in a counter-service situation.

The proposed regulations also require the state to verify the social security number before issuing a license or to put the social security number on the license. Putting the social security number on the license document is probably not a politically viable option in Wisconsin. Undoubtedly, concerns would arise that putting the social security number on the license could make identity theft easier and lead to a reduction in perceived privacy.

Verifying each social security number at the time of application, even if done electronically, is not practical and would be very expensive. Wisconsin processes approximately one million license applications per year. A data processing time delay of as little as 30 seconds would require an additional 4 full time positions. No funding to pay for those positions is provided in the 1996 Immigration Act, and the state motor vehicle agency is unable to absorb these costs into existing operations. Moreover, this requirement would again exacerbate the problem the state currently has with unduly long waiting times for service in its motor vehicle service centers.

Wisconsin currently uses a program to screen social security numbers for authenticity by their format and checks the number against other numbers in our system. We believe such safeguards are adequate at the time of license issuance. It would be more cost effective for Wisconsin to use a batch process to provide a list of social security numbers used in this state to the social security administration on a regular basis for the federal government to cross check.

The proposed regulations also fail to establish any mechanism for dealing with the inevitable problem of mismatches. The social security administration has no program in place to immediately deal with social security number snafus that develop. Persons who present valid social security numbers that for some reason are not electronically approved by the Social Security Administration have no recourse for resolving the discrepancy. People's jobs and livelihoods often depend on their being able to drive. Any system that requires authentication before license issuance must include a system for immediate correction of errors and mismatches.

Similarly, if the final regulation does call for social security number matching as an online computer function to be conducted prior to license issuance, provisions must be made for situations where the computer network or computers are not operating correctly. Driver licensing cannot come to a complete halt if the computer system link crashes.

FULL LEGAL NAME OF APPLICANT.

Wisconsin does not currently require a person to list their full legal name on a license document. People commonly use names other than their full legal names in their daily lives, and the driver license reflects the name people use rather than the legal name given to them at birth. John Joseph Doe, for example, may refer to himself as "Joe Doe," and Wisconsin would allow that name to be placed on the license document. Wisconsin may be able to retain the person's full legal name in its database as an alias for the driver, but our current data processing facilities would not permit us to identify a particular name as the driver's official legal name.

Wisconsin previously required full legal names on driver licenses. The state had so many complaints about that requirement that state procedures were changed to permit commonly used names to appear on driver licenses. Requiring a full legal name of each driver would lengthen the time needed to process a driver license renewal. As set forth above, even small changes that increase processing time have significant fiscal and service implications when multiplied by 1,000,000 annual license renewal transactions.

Requiring applicants to use their full legal name on driver licenses will only result in unhappy citizens without serving any useful law enforcement or driver licensing purpose. Wisconsin recommends that if the final regulations do require the capture of the full legal name for social security matching purposes, that they not require that name be placed on the driver license document itself. If full legal names are required at all, resources to pay for the manpower and data processing needed to put the practice into effect are needed.

PHOTOGRAPHS OR IMAGES.

The proposed regulation would require a color photograph of every license applicant appear on the license document. Wisconsin law does not require a photograph on every license, and we could not implement the regulatory requirement as written.

Wisconsin exempts the following persons from the requirement of having a photograph on their license document or ID:

- Persons who claim a sincere religious belief prohibits their image from appearing on a license document;
- Military personnel who are stationed outside of Wisconsin and seek license renewal;
- Persons who are outside of the United States at the time their licenses are up for renewal;
- Persons suffering from physical disfigurement who do not wish to be photographed.
- Persons who are physically incapacitated and are unable to travel to a motor vehicle service center (typically applying for ID rather than a driver license.)

The state would have no means of obtaining photographs for inclusion on license documents of persons who are incapacitated, abroad or in the military. Wisconsin has not found it necessary to require photographs of persons with sincere religious beliefs or physical disfigurement. The state would recommend any federal regulation adopt similar exemptions.

The Supreme Court has held that states MUST provide a religious exemption to persons who do not wish to provide a photograph for religious reasons. This case law finds that the free exercise clause of the constitution prohibits states from uniformly requiring photographs on driver licenses. *Quaring v. Peterson*, 728 F.2d 1121 (8th Cir. 1984), cert. granted, 469 U.S. 815, 105 S. Ct. 79, 83 L. Ed. 2d 27 (1984) and judgment aff'd, 472 U.S. 478, 105 S. Ct. 3492, 86 L. Ed. 2d 383 (1985) (also holding that allowing an applicant with such beliefs to have a license without a photo does not violate the establishment clause).

APPLICATION PROCESSES.

The proposed regulation would require a citizen to produce both primary and secondary documents every time the person seeks an original or duplicate license. It would also require both primary and secondary forms of ID for a license renewal if the person does not have their current license. Wisconsin's experience is that requiring primary proof of identity is not necessary once a person has initially established his or her identity with the state. Wisconsin believes that either a primary or secondary document is sufficient for purposes of renewing or duplicating a license. Requiring both is needlessly bureaucratic.

Wisconsin would suggest that a photograph or electronic image of the driver that has been maintained by the state as part of the state's records for that driver be considered an acceptable primary document establishing proof of identity.

The current regulations also permit field supervisors to make case-by-case exceptions to the documentation requirements based on established procedures. This provision is needed for special circumstances and should be incorporated into the final regulation.

FUTURE TECHNOLOGIES - BIOMETRIC IDENTIFICATION.

One of the developing technologies in driver licensing is the use of biometrics for identity purposes. Wisconsin suggests the regulations permit states to use previously gathered biometric data as primary proof of identity for subsequent license applications.

DOCUMENTATION.

As stated above, Wisconsin recommends any final regulation permit the use of state maintained photographs or biometric data as documentation for identification purposes.

Wisconsin recommends the regulation permit the use of the following as primary identification documents, which Wisconsin will currently accept as primary documentation:

- Notification of birth registration issued by state, county, or city health departments;
- Memorandum of creation of lawful permanent residence.

Wisconsin permits use of the following documents as secondary proof of identity and would recommend the regulation permit use of these documents:

- Driver education certificate
- Employee ID card
- Life insurance policy
- Medicaid card
- Canadian Social Insurance Card
- Professional licenses
- International Driver's License

Finally, Wisconsin frequently encounters the following documents which we believe should also be considered for use as identification documents:

- INS Form I-797C Memorandum providing proof of application for permanent residence.
- Mexican Government ID Card
- Mexican Voter Card
- Law Enforcement Photo documents

Sample copies of those documents available to us are attached to the end of these comments.

EXPIRED DOCUMENTATION.

The proposed regulation allows persons to provide expired documentation to prove their identity. Wisconsin concurs in the decision to permit the use of expired documentation, and encourages that the regulation permit the use of documents that have expired by less than four years rather than the one year limit proposed in the regulation. Naturally, the expired documentation must clearly identify the driver.

Often, in cases where a person's identification documents are stolen, the only available ID for the person is expired documentation that the person had not discarded. Wisconsin has been using such expired documentation that is up to four years old with no reported cases of fraud. We would encourage the regulation to permit use of expired documentation that clearly identifies the driver for up to four (4) years.

IMPLEMENTATION TIMELINE.

The current regulation calls for states to meet the regulatory requirements by October 1, 2000. Wisconsin doubts it could comply with the requirements of the act by that date. Much of the data processing resources at the state level at this time are devoted to year 2000 problem resolution and will be through the beginning of the year 2000. In addition, state law changes are leading the state to completely rebuild several of its computer driver database systems. Developing a system by which the state could exchange information with the Social Security Administration and incorporating that functionality into our online systems by October 1, 2000, is not feasible.

Should Wisconsin choose to comply with these federal guidelines, the earliest we expect it could be accomplished would be January, 2002.

CONCLUSION.

No decision has yet been made at the state level in Wisconsin whether to voluntarily comply with the expensive procedural requirements created by s. 626(b) of the 1996 Immigration Act. Providing adequate resources to pay for compliance would make compliance more likely. Even if financial resources are provided, the state could not meet the electronic data sharing requirements of the regulation before the year 2002.

The proposed regulations will need to be amended before final promulgation to take into account religious objectors to photography requirements. Wisconsin also suggests permitting licenses or IDs to be issued without photographs where obtaining photographs of the applicants is impractical.

Temporary license documents issued by states for instruction permits, temporary driving activities, or as part of the state drunk driving administration procedure should not be subject to the formal requirements of the proposed regulation.

Verification of social security numbers may be accomplished by less burdensome means than online data exchanges between the states and social security administration. Consideration should be given to batch processing of large numbers of social security numbers at a time rather than requiring individual checks before any license is issued. If the proposed system is promulgated in a final regulation, provisions must be made for occasions where the electronic verification system is not working and for clearing up mismatched social security numbers in an immediate fashion.

Regulatory consideration should be given to allowing existing and future state maintained records, including biometric data and images, to be used as a basis for identifying a driver.

Finally, federal agencies should prepare for potential workload increases which could result if states do not voluntarily comply with the proposed regulations.

I hope these comments are useful to you as you prepare a final regulation. Thank you for taking them into consideration.

Sincerely,



Roger D. Cross
Administrator
Wisconsin Division of Motor Vehicles

Attach.

cc: Michael Calvin, AAMVA
William P. Holden, NHTSA

DRIVER LICENSES / SOCIAL SECURITY NUMBERS

ALL STATES

	<i>DL # is SS #</i>	<i>Issued with SS # as DL # or Assigned 8 or 9 Digit #</i>	<i>Includes Separate SS # on Document Upon Request of Applicant</i>	<i>License Application Must Include SS# But Not On Document</i>
TOTALS =	1	13	14	23
Alabama			X	
Alaska			X	
Arizona			X	
Arkansas		X		
California				X
Colorado			X	
Connecticut				X
Delaware				X
District of Columbia			X	
Florida				X
Georgia		X		
Hawaii	X			
Idaho				X
Illinois			X	
Indiana			X	
Iowa		X		
Kansas		X		
Kentucky				X
Louisiana			X	
Maine				X
Maryland				X
Massachusetts		X		
Michigan				X
Minnesota				X
Mississippi		X		
Missouri		X		
Montana		X		
Nebraska				X
Nevada			X	
New Hampshire				X
New Jersey				X
New Mexico				X
New York				X
North Carolina		X		
North Dakota		X		
Ohio			X	
Oklahoma		X		
Oregon				X
Pennsylvania				X
Rhode Island				X
South Carolina				X
South Dakota		X		
Tennessee			X	
Texas				X
Utah			X	
Vermont				X
Virginia		X		
Washington				X
West Virginia			X	
Wisconsin				X
Wyoming			X	

ing the person's operating privilege until the review is completed, unless the delay is at the request of the person seeking the review.

(e) Notwithstanding par. (c), if the court finds that the person is already covered by an assessment or is participating in a driver safety plan or has had evidence presented to it by a county department under s. 51.42 that the person has recently completed assessment, a driver safety plan or both, the court is not required to make an order under par. (c). This paragraph does not prohibit the court from making an order under par. (c), if it deems such an order advisable.

(f) The department may make any order which the court is authorized or required to make under this subsection if the court fails to do so.

(h) The court or department shall provide that the period of suspension or revocation imposed under this subsection shall be reduced by any period of suspension or revocation previously served under s. 343.305 if the suspension or revocation under s. 343.305 and the conviction for violation of s. 346.63 (1) or (2m) or a local ordinance in conformity therewith arise out of the same incident or occurrence. The court or department shall order that the period of suspension or revocation imposed under this subsection run concurrently with any period of time remaining on a suspension or revocation imposed under s. 343.305 arising out of the same incident or occurrence. The court may modify an occupational license authorized under s. 343.305 (8) (d) in accordance with this subsection.

(1z) If a court imposes a driver improvement surcharge under s. 346.655 and the person fails to pay the surcharge within 60 days after the date by which the court ordered the surcharge to be paid, the court may suspend the person's operating privilege until the person pays the surcharge, except that the suspension period may not exceed 5 years. Any period of suspension under this subsection is subject to sub. (1q) (h).

NOTE: Sub. (1z) is amended eff. 5-1-2000 or the date stated in the notice published by the secretary of transportation in the Wisconsin Administrative Register under s. 85.515, whichever is earlier, by 1997 Wis. Act 84 to read:

(1z) If a court imposes a driver improvement surcharge under s. 346.655 and the person fails to pay the surcharge within 60 days after the date by which the court ordered the surcharge to be paid, the court may suspend the person's operating privilege until the person pays the surcharge, except that the suspension period may not exceed 2 years.

(2d) A court may suspend or revoke a person's operating privilege upon conviction of any offense specified under ss. 940.225, 948.02, 948.025 and 948.07, if the court finds that it is inimical to the public safety and welfare for the offender to have operating privileges. The suspension or revocation shall be for one year or until discharge from prison or jail sentence or probation, extended supervision or parole with respect to the offenses specified, whichever date is later. Receipt of a certificate of discharge from the department of corrections or other responsible supervising agency, after one year has elapsed since the suspension or revocation, entitles the holder to reinstatement of operating privileges. The holder may be required to present the certificate to the secretary if the secretary deems necessary.

NOTE: Sub. (2d) is shown below as affected by two acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c) eff. 5-1-2000 or the date stated in the notice published by the secretary of transportation in the Wisconsin Administrative Register under s. 85.515, whichever is earlier.

(2d) A court may suspend a person's operating privilege upon conviction of any offense specified under ss. 940.225, 948.02, 948.025 and 948.07, if the court finds that it is inimical to the public safety and welfare for the offender to have operating privileges. The suspension shall be for one year or until discharge from prison or jail sentence or probation, extended supervision or parole with respect to the offenses specified, whichever date is later. Receipt of a certificate of discharge from the department of corrections or other responsible supervising agency, after one year has elapsed since the suspension, entitles the holder to reinstatement of operating privileges. The holder may be required to present the certificate to the secretary if the secretary deems necessary.

(2g) A court may suspend or revoke a person's operating privilege for any period not exceeding one year upon conviction of that person for violating s. 346.67, 346.68 or 346.69. This subsection does not apply to circumstances that require the department to revoke a person's operating privilege under s. 343.31 (1) (d) or (3) (i) or (j).

NOTE: Sub. (2g) is created eff. 5-1-2000 or the date stated in the notice published by the secretary of transportation in the Wisconsin Administrative Register under s. 85.515, whichever is earlier, by 1997 Wis. Act 84.

(2j) (a) A court may revoke a person's operating privilege upon the person's first conviction for violating s. 346.44 or 346.62 (2m) and shall revoke a person's operating privilege upon the person's 2nd or subsequent conviction within a 5-year period for violating s. 346.44 or 346.62 (2m). The revocation shall be for a period of 6 months. For purposes of determining prior convictions for purposes of this paragraph, the 5-year period shall be measured from the dates of the violations that resulted in the convictions. Each conviction under s. 346.44 or 346.62 (2m) shall be counted, except that convictions under s. 346.44 and 346.62 (2m) arising out of the same incident or occurrence shall be counted as a single conviction.

(2m) A court may suspend a person's operating privilege upon such person's first conviction for violating s. 346.93 and may revoke a person's operating privilege upon such person's second or subsequent conviction for violating s. 346.93. Such suspension or revocation shall be for a period of not less than 30 days nor more than one year.

NOTE: Sub. (2m) is amended eff. 5-1-2000 or the date stated in the notice published by the secretary of transportation in the Wisconsin Administrative Register under s. 85.515, whichever is earlier, by 1997 Wis. Act 84 to read:

(2m) A court may suspend a person's operating privilege upon conviction of the person for violating s. 346.93. Such suspension shall be for a period of not less than 30 days nor more than one year.

(3) The court that ordered the issuance of an occupational license under sub. (4) may revoke the license whenever the court, upon the facts, does not see fit to permit the licensee to retain the occupational license. The revocation shall be for a period of one year.

NOTE: Sub. (3) is amended eff. 5-1-2000 or the date stated in the notice published by the secretary of transportation in the Wisconsin Administrative Register under s. 85.515, whichever is earlier, by 1997 Wis. Act 84 to read:

(3) The court that ordered the issuance of an occupational license under s. 343.10 (4) (b) may withdraw the order to issue the license whenever the court, upon the facts, does not see fit to permit the licensee to retain the occupational license. Upon receiving notice that a court has withdrawn its order to issue an occupational license, the department shall cancel that license.

(4) Whenever a court or judge suspends or revokes an operating privilege under this section, the court or judge shall immediately take possession of any suspended or revoked license and shall forward it as provided in s. 345.48 to the department together with the record of conviction and notice of suspension or revocation. Whenever a court or judge restricts the operating privilege of a person, the court or judge shall forward notice of the restriction to the department.

(5) No information concerning a juvenile's operating privilege under ch. 938, the department of transportation shall not disclose information concerning or relating to the revocation, suspension or restriction to any person other than a court, district attorney, county corporation counsel, city, village or town attorney, law enforcement agency, or the minor whose operating privilege is revoked, suspended or restricted, or his or her parent or guardian. Persons entitled to receive this information shall not disclose the information to other persons or agencies.

(6) (a) In this subsection, "violation" means a violation of s. 125.07 (4) (a) or (b), 125.085 (3) (b) or 125.09 (2) or a local ordinance that strictly conforms to one of those statutes or a law of a federally recognized American Indian tribe or band in this state that strictly conforms to one of those statutes.

(b) If a court imposes suspension or revocation of a person's operating privilege under s. 125.07 (4) (c) or 938.344 (2), (2b) or (2d), the suspension or revocation imposed shall be one of the following:

NOTE: Par. (b) (intro.) is amended eff. 5-1-2000 or the date stated in the notice published by the secretary of transportation in the Wisconsin Administrative Register under s. 85.515, whichever is earlier, by 1997 Wis. Act 84 to read:

343.305

2000 LMC

AGREEMENT

In accordance with the provisions of 1995 Wisconsin Act 113 (as amended by 1997 Assembly Bill 100), this agreement is made and entered on the date last signed by and between the State of Wisconsin Department of Transportation, Division of Motor Vehicles, (hereafter called "Department") and RAM Center, Inc. d/b/a Explore Information Services (hereafter called "Explore"). This agreement shall remain in effect until canceled or modified as provided herein.

STATEMENT OF INTENDED USE

Explore intends to use the Records (as that term is defined below) to the extent permitted under the Driver's Privacy Protection section of the Violent Crime Control and Law Enforcement Act of 1994.

Clients of Explore will provide Explore with lists of drivers. The Records received from the Department will be compared with those lists. If any drivers on those lists are in the Records provided by the Department, Explore will report any and all of the drivers and their citation(s) to Explore's clients as part of Explore's services to its clients. Clients will use the information for insurance re-underwriting purposes. Information will not be available for any other purpose. Explore's clients may include other information services companies.

IT IS MUTUALLY AGREED AS FOLLOWS:

- (1) The DEPARTMENT agrees to furnish to Explore a copy of all non-confidential records on computer tape or other electronic media that contain information from files of uniform traffic citations and which were produced for or developed by the Department for purposes related to maintenance of the Department's operating record file data base (the "Records") on a monthly basis or, on another schedule mutually agreed upon in advance. The method of data transmittal shall be via computer tape or such other mutually agreed upon method.
- (2) Explore agrees to pay the Department for the Records in accordance with the formula set forth in Appendix A and attached hereto. Should Explore's business mix significantly change the Department and Explore agree to renegotiate, in a timely manner, the formula set forth in Appendix A. This agreement and the charges for the Records may be reviewed and adjusted by the written consent of both parties.
- (3) The DEPARTMENT agrees to label all shipments as to contents and to direct the Records to: Explore Information Services, Attention: Computer Operations, 115 W. College Drive, Marshall, Minnesota 56258.
- (4) The cost of shipment of data will be assumed by Explore. Data will be sent via Federal Express Overnight mail and will be charged directly to Explore's Federal Express Collect Account.

GENERAL PROVISIONS

prevented by reason of any strike or similar labor difficulty, accident, fire, explosion, flood, mobilization, war, hostilities, riot, rebellion, revolution, blockade, act of public enemies, act of God, act of the Federal or state government, or by any other cause, whether or not the nature specifically enumerated above, which is beyond the reasonable control of the parties, then the parties shall be excused from performance of any obligation under this agreement. In the event either party is excused from the performance of any obligation pursuant to this provision, the parties shall consult and make an equitable adjustment to the payment or other provisions of this agreement.

- (9) This agreement shall be governed under the laws of the State of Wisconsin. Explore agrees to, at all times, comply with and observe all federal and state laws and regulations, and local ordinances and laws that are in effect during the term of this agreement and which, in any manner, affect access to, use of or distribution of the Records .
- (10) Explore may not refer to or use the names of the State of Wisconsin, the Department or any state official or employee for commercial purposes. News releases pertaining to execution or implementation of this agreement may not be made without the prior written approval of the Department. Notwithstanding the foregoing, Explore may disclose that the Department is the provider of the Records to Explore.
- (11) Explore certifies that no officers, director or employee of Explore is an employee of the Department and agrees that it will not knowingly employ an employee of the Department during the period of this agreement without the approval of the Department and subject to Explore's obligations under applicable laws.
- (12) In case of any disagreement between Explore and the Department arising under or relating to the performance of this Agreement, the parties shall, upon written request of either party, consult and work together in good faith and in a timely manner to resolve the disagreement. Any dispute that is not resolved by means of consultation within thirty (30) days of the written request for consultation shall be decided by the Secretary or his designee (who shall not be an employee of the Division of Motor Vehicles). The Secretary's decision is subject to arbitration as provided under state law.
- (13) Official notices or communications arising out of performance of this Agreement to be given by Explore to the Department shall be sent to or hand delivered to the Department at:

modification is grounds for termination pursuant to paragraph 7.

- (20) Explore agrees and recognizes the Department's right to audit Explore's records for the limited purpose of verification of the number of citation files actually used by Explore. The Department agrees that any information provided by Explore under this provision is confidential, and the Department will hold such information as confidential until agreed otherwise by the parties, or unless the Department is ordered to release the information by a court of competent jurisdiction. The Department assumes no liability if any information obtained by audit is ordered released by a court of competent jurisdiction.

Any other records or information furnished to the Department by Explore in the performance of this Agreement shall be presumed to be public record unless otherwise reasonably and clearly marked as proprietary. In such an instance the Department will treat the information as confidential, but will release such information by order of a court of competent jurisdiction. The Department assumes no liability if any information marked as proprietary is ordered released by a court of competent jurisdiction.

Explore agrees to pay all of the Department's legal costs associated with the Department defending Explore's claim that any information is confidential or proprietary, except in that instance where a court of competent jurisdiction determines that release by the Department was willfully negligent.

- (21) If any provision of this Agreement should be found to be illegal, invalid or otherwise void, it shall be considered severable. The remaining provisions shall be impaired and the Agreement shall be interpreted, as far as is possible, to give effect to the parties intent.
- (22) In connection with the performance of work under this Agreement, Explore agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, creed, marital status, disability, sex, physical condition, developmental disability as defined in Wis. Stats. § 51.01(5), sexual orientation as defined in Wis. Stats. § 111.32(13M) or national origin. This provision shall include, but not be limited to, the following: employment, promotion, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay, employment related benefits or other forms of compensation and selection for training including apprenticeship.
- (23) Explore agrees that the formula for monthly payment set forth in Appendix A shall be retroactive to payments made from August 1998 through February 1999. Therefore, Explore agrees to pay the Department \$135,766.44 in equal installments of \$11,313.87 in the months of April 1999 through March 2000 in addition to the equation for monthly data set forth in Appendix A.

**APPENDIX A TO AGREEMENT BETWEEN
WISCONSIN DEPARTMENT OF TRANSPORTATION
AND RAM CENTER, INC. (d/b/a EXPLORE
INFORMATION SERVICES)**

Formula for Monthly Payment

Number of drivers monitored by Explore x .29 ÷ 12 x \$3.00 x 1.015

Monthly Procedures

1. By the 25th of each month, Explore will supply WisDOT with the number of drivers monitored by Explore as of the 15th of the month. The information supplied will include a breakdown of the number of drivers who were insured by standard insurance companies, the number of drivers insured by non-standard insurance companies, and the number of drivers insured by companies who use the information from Explore as a pointer system to order an MVR. This number shall be faxed or e-mailed to the attention of Marge Knuth, WisDOT DMV, System Support Unit Rm. 294, FAX # 608-267-6966.
2. On the last business day of each month, WisDOT will produce the citation data for Explore and send it the next business day via Federal Express overnight delivery using Explore's collect account number. Included will be a report listing the number of citations on the file by charge code and an invoice for the current month's tape.
3. By the 6th of each month, WisDOT will send to Jim Carroll a listing of citations processed for the preceding month.
4. WisDOT will ensure that the previous month's invoice has been paid before the next month's data will be run.

Last Revised 8/99

CURRENT DMV CONTRACTS

Contracts can be viewed on X:\DMV\contracts in near future

CONTRACT WITH	EFF DATE	ACCT #	LOGON GROUP	ACCESS TO	ACCESS WHERE	# of USERS	# PCS/PRINTERS	AGENCY CONTACT/ADDRESS
Milw Municipal Court	12/08/94	00000629	MSC	RP/RV/RT/RHAS/DI/DHAS	Milw Cnty Courthouse	27		Larry Larsen 414-286-3291
Milw Dept of Neighborhood Services	7/1/99	6000000035	MSC	D/DHAS/RP/RV/RT/RHAS	two locations	6	3	Skip Seager 414-286-3445
Milw Police Dept	rev 8/99	000000627	MSC	DHAS/DI/RP/RV/RT/RHAS	749 W. State Milw	20		Lt. John Michalak 414-935-7410
Milw Health Dept	rev 8/99	00000619	MSC	D/DI/DHAS	Milw-Bur. of Consumer Protec	7	1	Gregory Carmichael
CCAP-Vilas County Courthouse	1998			on-line transmission of citations to DMV				330 Court St Eagle River WI
Data Shop	1998			citation vendor				1230 Plainfield Av Janesville
NBS	1998			citation vendor				1001 Touch Av Suite 250 DesPlaines, IL
	1993	501031000	MSC		Racine Correctional Institution	4	4	DeNeal Erickson 414-886-3214 (w), FAX 414-884-9903 414-884-8805 (h)
Dept of Corrections	Jun-98					8-10	15 max	Anthony Streveter 608-266-3831
IRS-Chinual Invest. Div	03/22/91	00000614	IRS	D/DHAS/RP/RV/RHAS				Diane V. Svoboda
IRS-Collection Div	10/06/89	00000613	IRS	RP/RV/RT/RHAS/CREGV/DI/DI/DHAS	350 E 22 St Lombard, IL 60148	142 FH		Ray Reznutka/312-886-3135
IRS-Racine, WI	05/01/96	00000612	IRS	FH	Racine and Milwaukee, WI	1 FH		Pete Mulholland/414-297-3976
IRS-Collection Div	05/09/89	00000612	IRS	RP/RV/RT/RHAS/CREGV/DI/DI/DHAS	1111 CIGS			
Green Bay Police	11/23/89	6	DOT/DIT	RP/RV/RT/RHAS/DI/DI/DHAS/DIP	307 S Adams Green Bay 54301			Sgt. Lampkin 414-436-3800
DOT-DITD	8/1/99		DOT/DIT	D/DHAS	one loc in each of 8 districts	15		list attached to contract
Wisc DNR-wardens/sups	06/01/88		DNR	DI	statewide			George Meyer/Mike Held-266-7366
Wisc DNR-law enforce.	06/27/88		DNR	D/DHAS/RHAS/RP/RV/RT/POSTQ	GEF1 5th floor		1	Ron Novak
Wisc DNR-Southeast Dist			DNR	D/DHAS	generic logon at counter			Martlyn Davis
MOU with DNR for License Agents	Oct-98			Driver ID from driver license mag strip and all DNR license sales outlets	monthly extract of 4 mil rec in driver file			
Wisc Dept of Justice	08/01/84			TIME system access	Madison		1	Jim Donovan 123 W. Wash 266-7394
Wisc Dept of Revenue	10/23/89		REV	DHAS/DI/DI	Madison-GEFIII			Pat Zimmerman 125 S Webster
DWD-Fraud Investigation Unit	06/28/94		IUB,IUT (JI)	DI, DHAS,RP,RV,RT,RHAS	GEF 1	28		Karl Broehm Rm 251X GEF1
DWD & County Child Support	Aug-99		WSR	computer linkage for data	GEF-1, 72 county sites	300	225/30	John Verberkmoes 266-2527
H&FS-Cares/Kids	being revised 9/99				1 W. Wilson	8 lines	0	Barbara Stiefvater-GEF 1
DWD-Div UI	Aug-98		(JI)		call centers-Madison, Milw		30/30	
DWD-Div UI-field audit staff	Jul-98				GEF-1	59		Bob Flennel 266-9715
DWD-Worker's Comp Div	5/19/98				GEF-1		8/3	Greg Krohn-WC Administrator

X:\DIP\contracts.xls

9/7/3/99

Last Revised 8/99

CURRENT DMV CONTRACTS

Contracts can be viewed on X:\DMV\contracts in near future

CONTRACT WITH	EFF DATE	ACCT #	LOGON GROUP	ACCESS TO	ACCESS WHERE	# of USERS	# PCS/PRINTERS	AGENCY CONTACT/ADDRESS
Fed Hwy Ad-Mtr Carriers Fed Hwy-law enforce. WIS DOT-DTD R.L.Polk-Fuel Tax R.L.Polk Dealers	08/15/88 08/94 8/11/1999 6/98-6/01 9/96	00000601 310	MSC MSC DOT/DIT	D/DHAS/RP/RPT/RHAS DHAS/DJ/DM/plus reg screens D/DHAS IFTA data files all reg and title (incl IRP) transactions RP/RV/RT/RPL/RHAS	Region 5-Wisconsin 8 Transportation Districts Cincinnati, Oh why on tape to Conway, AR Statewide	3 7 16	8	separate for each district-see contract. William Weber 400 Pike St Cincinnati, OH Larry Majerus, VP-General mgr
TRW EXPLORE	Aug-96 1996			title & reg (incl IRP) via tape (?) Driver data through monthly file on tape	sent to Allen, Texas weekly			Julie Bufford Red Wing < MN 1-800-531-9125
General Casualty	07/94	05028888	MSC	ACI/SRI (Accident and Safety Resp Inquiry)	Statewide	50		Amy Wescott 608-825-5468 General Casualty Ins One General Dr Sun Prairie WI 53596
American Family Ins.	11/22/93	05028888	MSC	ACI/SRI (Accident and Safety Resp Inquiry)	Statewide, Duluth MN	120		Patrick Noles 608-249-2111 Ext 44266 John M. Karr 608-249-9777 Ext 44239 American Family Ins 6000 American Pkwy Madison WI 53783
Other Insurance Companies Memominee Indian Mtr Vh Washington County Alcohol/Drug	As of 1999, 1592 logon ids exist for insurance companies with access to driver abstracts through DOTI-the interactive voice response system 05/93 1998-design work in process		DITYMS	DI/DHAS/RHAS/RV/RT/RP on-line transmission of assessment data to DMV	Keshena	2		Yvette Snow 414-799-5100 1625 E Washington St Ste 300 West Bend W
AAMVANET-PDPS AAMVANET-CDLIS								4301 Wilson Blvd Ste 400 Arlington VA 4301 Wilson Blvd Ste 400 Arlington VA Maureen Connolly 800-743-7891 ext 3017
TML Information DAC Services ChoicePoint Tiberion-CLUES POSTQ	04/98 none 07/98	02502500 02502502 02502501	TML,2,3,4 DACI CPSI	DI None-contract not written and signed as of this date DI	nationwide on-line indirect acc nationwide on-line indirect acc	4		1000 Alderman Dr Alphaeta GA 30005
Waukesha Cnty Sheriff CVR	11/21/96		CVR1	Accident extract files via PC SAS FH Reg info	Waukesha County Access by dealers through CVR155 contracts Not direct access	3	1	Dave Laurent 1-800-668-9711 118 Centerpoint Dr LaPalma CA 90623

X:\DIP\Contracts.;

**AGREEMENT BETWEEN
DIVISION OF TRANSPORTATION DISTRICTS (DTD)
AND THE
DIVISION OF MOTOR VEHICLES (DMV)
BUREAU OF DRIVER SERVICES (BDS)**

This agreement is entered into between the Wisconsin Department of Transportation, Division of Transportation Districts, and the Division of Motor Vehicles, Bureau of Driver Services. The purpose of this agreement is to allow on-line access to the drivers' license files.

This agreement shall be effective as of August 1, 1999, and shall remain in effect until the parties agree to amend or terminate it. This contract shall be reviewed annually by DMV.

Written notice shall be sent by DMV to DTD after the review stating either the Division's intent to continue the agreement as originally written or the reasons for which the agreement needs to be amended, including an amended copy of the agreement for approval and signature by DTD.

All parties agree to provide a data processing contact to address both security and data processing issues.

Certain information maintained by the DMV is confidential and protected by state and federal law. Severe penalties may be imposed for disclosing this type of information to a person or persons not specifically identified in the law.

Under this agreement, the Division of Transportation Districts agree as follows:

1. To complete all programming work within the Divisions necessary to electronically access DMV drivers' record files and to pay the cost for that work. Programming updates to maintain this access will be provided by the DTD.
2. To provide and maintain terminals, personal computers and printers at eight (8) DTD district locations agreed to by both parties.
3. ~~_____ information accessed is not shared or provided outside the DTD either by phone or through printed medium.~~
4. To take precautions necessary to ensure that only authorized personnel are given access to on-line DMV files. To ensure individuals will not share assigned logon Ids or passwords. To ensure individuals will comply with Wis. Statutes on Computer Crime s.943.70. To provide a list of individuals requiring access and a completed Logon User Access Request Form (DT1591) or abbreviated version from each individual requesting access.
5. To take precautions to ensure that all personnel with access to the information covered by this agreement will adhere to the policies and procedures of DMV, DTD and DOT regarding confidentiality and that the information secured by DTD through electronic access to DMV files will be used for approved agency business only.
6. If required by DMV, to reimburse it for the actual costs for providing query access, as determined by the DMV and DOA Division of Information Technology. Rates cost are controlled by DITS.
8. To provide training for personnel authorized after the initial training by DMV staff.

9. To provide an agency contact who will notify DMV when personnel should be added or deleted.

The following are the contact person in each district responsible for ensuring confidentiality issues and authorizing access changes for their respective district.

Name	Location	Position	Phone Number
Pat Jackson-Ward	D-1 Madison	Business Services Chief	608/ 246-3805
Carrie Pierce	D-2 Waukesha	Business Services Chief	414/ 548-5905
Deb Kono	D-3 Green Bay	Business Services Chief	920/ 492-5664
Cliff Doro	D-4 Wis Rapids	Business Services Chief	715/ 421-8361
Abe Kaalele	D-5 La Crosse	Business Services Chief	608/ 785-9027
John Fitzpatrick	D-6 Eau Claire	Business Services Chief	715/ 836-2080
Will Dorsey	D-7 Rhinelander	Business Services Chief	715/ 365-5721
Barb Lund	D-8 Superior	Business Services Chief	715/ 392-7928

Under this agreement, the Division of Motor Vehicles, Bureau of Driver Services, agrees as follows:

1. To provide query access to Division of Motor Vehicles, Bureau of Driver Services data functions via DTD hardware.

The functions available are limited to:

DI/Driver License Number or Driver Name, Sex, Date of Birth
DHAS/Alphabetical By Driver Name

2. To issue logon IDs and passwords to authorized personnel. To provide copies of policy and procedures regarding security rules. Logon IDs inactive for 6 months will be deleted without notice .
3. To provide the initial training to DTD staff. DMV will determine the training site.

The DMV data processing contact is:

Judith Poplawski, DMV IT Manager,
Phone (608) 266-3898 Fax: (608) 267-6974
email: judith.poplawski@dot.state.wi.us

This agreement is entered into by:

Daniel B. Pritchard, Administrator
Division of Transportation Districts
Department of Transportation

Roger D. Cross, Administrator
Division of Motor Vehicles
Department of Transportation

Date: _____

Date: _____

DIVISION OF TRANSPORTATION DISTRICTS
DMV Driver Records Contact/Access Report

The following information is provided to identify DTD staff who will have access to DMV, Bureau of Driver Services drivers' record files and the DTD contact person at each location access is provided.

DTD STAFF NAME	LOCATION	DOTLOGONID	ORG CODE
D-1 Madison			
Pat Jackson-Ward.....	DOTPYW.....	03-01-01-00	
Jean Mancheski.....	DOTJ4M.....	03-01-01-00	
D-2 Waukesha			
Gail Miller.....	DOTG2M.....	03-02-21-01-00	
Barbara Severson.....	DOTBXS.....	03-02-21-01-00	
D-3 Green Bay			
Brenda M. Veaser.....	DOTBMV.....	03-03-21-02-00	
Peggy A. Geurts.....	DOTPAG.....	03-03-21-02-00	
D-4 Wis Rapids			
Clifford Doro.....	DOTCDD.....	03-04-21-00-00	
Maria Blossfield.....	DOTMDB.....	03-04-21-00-00	
Jean Revak.....	DOTJNR.....	03-04-21-02-00	
D-5 La Crosse			
Grace E. Bernu.....	DOTG3B.....	03-05-21-02-00	
Kim A. Smith.....	DOTKAS.....	03-05-21-02-00	
D-6 Eau Claire			
Lavane Hessler.....	DOTLYH.....	03-06-21-02-00	
John Fitzpatrick.....	DOTTJ5F.....	03-06-21-00-00	
D-7 Rhinelander			
Terri L. Detert.....	DOTTLD.....	03-07-21-02-00	
D-8 Superior			
William Arbuckle.....	DOTWHA.....	03-08-21-02-00	

The following are the contact person in each district responsible for ensuring confidentiality issues and authorizing access changes for their respective district.

Name	Location	Position	Phone Number
Pat Jackson-Ward	D-1 Madison	Business Services Chief	608/ 246-3805
Carrie Pierce	D-2 Waukesha	Business Services Chief	414/ 548-5905
Deb Kono	D-3 Green Bay	Business Services Chief	920/ 492-5664
Cliff Doro	D-4 Wis Rapids	Business Services Chief	715/ 421-8361
Abe Kaalele	D-5 La Crosse	Business Services Chief	608/ 785-9027
John Fitzpatrick	D-6 Eau Claire	Business Services Chief	715/ 836-2080
Will Dorsey	D-7 Rhinelander	Business Services Chief	715/ 365-5721
Barb Lund	D-8 Superior	Business Services Chief	715/ 392-7928



State of Wisconsin • DEPARTMENT OF REVENUE

4838 UNIVERSITY AVENUE • P.O. BOX 8901 • MADISON, WISCONSIN 53708-8901
FAX (608) 261-8978 • E-MAIL: delinqtax@mail.state.wi.us

Vikki

Valene
Karen Schwartz
Julie
Karen Porter
Tom Smith
Joel Wasser

March 12, 1999

Carson Frazier
Department of Transportation
Room 253
4802 Sheboygan Avenue
Madison WI 53705

Dear Carson:

Enclosed is a copy of the Memorandum of Understanding for occupational licensing, signed by both Secretaries.

Gary Garczynski is working on a set of procedures and confidentiality information. He also developed a card your agency can give taxpayers which provides our agency's phone number and mailing address. You should receive this information shortly.

Thank you for all of the help you provided throughout the past year. I look forward to working with your agency in the future.

Sincerely,

Catherine Bink, Chief
Central Collection Section
(608) 266-8510

cc: G. Garczynski

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE WISCONSIN DEPARTMENT OF REVENUE (DOR)
AND
THE WISCONSIN DEPARTMENT OF TRANSPORTATION (DOT)**

PURPOSE:

The purpose of this Memorandum of Understanding is to identify the processes to be used in the withdrawal and revocation of occupational licenses and credentials issued by DOT under Chapter 218, Wis. Stats., and under section 343.61 and section 343.62, Wis. Stats., based on nonpayment of delinquent state taxes owed to DOR by the licensee. This Memorandum of Understanding is entered into to accomplish the statutory requirement under section 73.0301, Wis. Stats., which becomes effective as of January 1, 1999.

DEFINITIONS:

"Occupational licenses and credentials" means licenses referred to in section 73.0301(1)(d)7., Wis. Stats.

"Withdrawal" means suspension of licenses.

SERVICES TO BE PERFORMED:

1. DOT will send to applicants for initial licensure and license renewal issued under Ch. 218, Wis., Stats., and section 343.61 and section 343.62, Wis. Stats., an application which, among other things, requires the applicant's Social Security Number (SSN) or Federal Employer Identification Number (FEIN).
2. DOT will quarterly give DOR for licenses issued under Ch. 218 and semi-annually for licenses issued under section 343.61 and section 343.62, an electronic file containing each individual and company/corporation/entity names, addresses, SSN or FEIN, and type of license for each licensee.
3. DOR will match the DOT file with DOR information to identify delinquent taxpayers who have licenses issued under Ch. 218 or under section 343.61 or section 343.62.
4. DOR will compare the names and identification numbers from the DOT file to DOR records.
5. DOR will send a letter to the licensees on the matching list who are delinquent that provides the licensee 10 days to satisfy the delinquency.
6. If the licensee does not resolve the delinquency after receiving the 10-day letter, DOR will inform DOT that the applicant is delinquent.

7. For those licensees identified as remaining delinquent in paragraph "6" above, who have a current license issued under Ch. 218 or under section 343.61 or section 343.62, DOR will notify DOT to withdraw the licenses of these delinquent taxpayers. DOR notification to DOT will be in paper statement transmitted either by fax or by inter-departmental mail, and will contain all the same information which DOT originally sent to DOR (i.e., individual and company/corporation/entity name, address, SSN or FEIN, and type of license).
8. DOT will withdraw the license of those delinquent taxpayers identified in paragraph "7" within 3 working days of receipt of notice. The withdrawal will notify the licensee of their right to have the certification of tax delinquency on which the license withdrawal is based reviewed at a hearing before DOR under section 73.0301(5)(a). The notice from DOT to the licensee will include the law wording as set forth in section 73.0301(5)(a), provided by DOR, and will give telephone number and address provided by DOR, for the licensee to contact, and will tell the person to contact DOR to discharge the tax obligation. DOT notification will be in writing and will be mailed to the person.
9. DOT will maintain the license withdrawal until DOR sends DOT a tax clearance certificate. This notification should include the individual and company/corporation/entity name, address, SSN or FEIN and type of license. DOR will send DOT a separate notification for reinstatements under Ch. 218, which will be sent to the contact person listed for Ch. 218, and for reinstatements under Ch. 343, which will be sent to the contact person listed for Ch. 343.
10. If the licensee appeals under section 73.0301(5)(a), DOR will hold an appeal hearing before a hearing examiner and will notify DOT of the results of the hearing. DOR notification to DOT will be in writing transmitted either by fax or by inter-departmental mail, and will contain all the same information which DOT originally sent to DOR (i.e., individual and company/corporation/entity name, address, SSN or FEIN, and type of license). DOR will send DOT a separate notification for licenses under Ch. 218, which will be sent to the contact person listed for Ch. 218, and for licenses under Ch. 343, which will be sent to the contact person listed for Ch. 343. DOT will affirm DOR's determination, which affirmation by DOT is appealable to the Dane County Circuit Court under section 73.0301(2)(b)2.
11. DOT will maintain the license withdrawal until the original expiration date of the license, if DOT receives no tax clearance certificate. Upon expiration of the license, the former licensee would be required to apply for a license from DOT under Ch. 218 or under section 343.61 or section 343.62. DOT applications for license under Ch. 218 and under section 343.61 and section 343.62 require an applicant to state, under penalty or fraudulent application, whether the applicant has ever had a license withdrawn. DOT will make every attempt to not issue a license to an applicant whose expired license was withdrawn for tax delinquency at expiration. If through error DOT issues a license to an applicant whose expired license was withdrawn for tax delinquency at expiration, DOT will take steps to withdraw the license as soon as known. DOT will work with DOR toward a long-term solution for an automated procedure to flag a record to indicate that an applicant was suspended for tax delinquency at the time of license expiration.

12. On rare occasions, DOR will request DOT to initiate license revocation proceedings against delinquent taxpayers outside of the matching process set forth above. These cases will be handled on a case-by-case basis, rather than through an automated process. DOR will consult with DOT before making the request. Any disputes between DOT and DOR on revocations will be settled if needed between the secretaries of both Departments or their designees.
13. DOR and DOT will maintain regular contact in order to monitor the process described in the Memorandum of Understanding and address any problems.

CONFIDENTIALITY:

DOT will not disclose a SSN obtained from an applicant for license or credential issuance or renewal under Ch. 218 or under section 343.61 or section 343.62 to any person except authorized employees of DOR for those purposes as set forth in Chapter 73, Wis. Stats., and as otherwise permitted by federal or state law.


Information on electronic format shall be stored and processed in such a way that access is limited by password security within the DOT information system. Any taxpayer information received by DOT from DOR shall only be used to the extent necessary to assist in the valid administrative needs of DOT in carrying out this agreement. DOT personnel with access to the information covered by this Memorandum of Understanding will adhere to the policies and procedures of DOR regarding confidentiality that DOT should reasonably be expected to be aware of and any such policies and procedures that DOR specifically identifies.

CONTACT PERSONS:

The contact person for DOR is Catherine Bink, Central Collection section Chief, Compliance Bureau, Income, Sales and Excise Tax Division, phone (608)266-8510.

The contact person for DOT issuance under Ch. 218 is Vikki VanDeventer, Supervisor, Business Licensing Unit, Dealer section, Bureau of Vehicle Services, DMV, phone (608)266-0965.

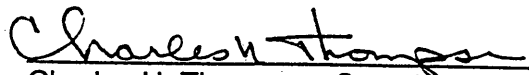
The contact person for DOT issuance under section 343.61 and section 343.62 is Valerie Elmer, Program Supervisor, Record and Licensing Information section, Bureau of Driver Services, DMV, phone (608)264-7170.



Cate Zeuske, Secretary
Wisconsin Department of Revenue

3.10.99

Date



Charles H. Thompson, Secretary
Wisconsin Department of Transportation

2/11/99

Date