

CONCISE EXPLANATORY STATEMENT

In accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-2.6, following is a concise explanatory statement:

AGENCY: Department of Revenue

DIVISION: Division of Motor Vehicles

RULE IDENTIFIER: 280-RICR-30-00-1

RULE TITLE: Rules of Practice and Procedure for the Division of Motor Vehicles

REASON FOR RULEMAKING: The Division of Motor Vehicles is amending its Rules of Practice and Procedure to update the documentation requirements for obtaining an operator's license, chauffeurs' license or identification card. The revised documentation requirements afford applicants the option to obtain credentials that are REAL ID compliant, in accordance with the requirements of 6 C.F.R. Part 37, or credentials that are non-REAL ID compliant. The amended regulations also clarify language regarding DMV hearing procedures.

TESTIMONY AND COMMENTS: The DMV received a comment that it was unclear under Section 1.4.1(F) of the proposed regulation whether this section would ensure that both current and past Deferred Action for Childhood Arrivals (DACA) recipients who are entitled to a license pursuant to state law would be able to qualify for one, that this section did not state what document(s) would be acceptable to the DMV to prove DACA eligibility, and that this section does not provide guidance to other individuals who might want to apply for an alternative license as to how that process will work. The DMV amended Section 1.4.1(F) in response to this comment to make it explicit that current or past DACA recipients will be eligible for non-REAL ID compliant credentials upon the presentation of an employment authorization document (EAD) issued by DHS, Form I-766, that indicates a grant of deferred action under the DACA Program, in accordance with P.L. 2018, ch. 035 and P.L. 2018, ch. 036. No additional amendments to Section

1.4.1(F) are necessary as the document requirements for applicants to obtain a non-REAL ID compliant credential are clearly stated.

The DMV received comments that the proposed regulation does not address the operations of the DMV's Enforcement Unit, whose procedures for examining foreign documents and making determinations on the qualifications of licensees, particularly holders of "Green Cards", lack consistency and transparency. While the qualifications and requirements to obtain a credential are appropriately set forth in this regulation, the DMV will take additional steps to monitor its business units to ensure the uniform application of such requirements. The DMV will be conducting outreach with stakeholders to address concerns about its uniform application of credential requirements.

The DMV received comments that the decision to require two documents to demonstrate proof of Rhode Island residency warrants further attention. The DMV's decision to increase the number of documents required to demonstrate proof of Rhode Island residency from one to two is driven by the federal REAL ID requirements. The DMV made the decision to apply this requirement to both REAL ID and non-REAL ID compliant credentials to avoid confusion for residents and staff, and to ensure that both credentials followed the same general process. To make it easier for all Rhode Islanders to comply with this requirement, the DMV increased the number of documents that can provide proof of Rhode Island residency from 10 to 17.

The DMV received comments that it is impractical to require an otherwise qualified licensee without a social security number to obtain a letter from the Social Security Administration stating that the applicant is not eligible to receive a social security number because it is unclear if such letters are issued. These letters are common and are issued the same day of the request at the Social Security Administration field offices in Rhode Island, including the Warwick field office which is located less than five miles from the main Rhode Island DMV office in Cranston. The DMV's requirement that applicants demonstrate their inability to obtain a social security

number in the form of a letter from the Social Security Administration is warranted and practical, and reflects current practice. The DMV presently receives such letters from applicants, most commonly applicants who are spouses of H1-B Visa holders. The decision to require this letter is also consistent with the practices of other states that issue REAL ID compliant credentials, including Massachusetts and Connecticut.

CHANGE TO TEXT OF THE RULE: Section 1.4.1(F)(6) adds an additional identity document that an applicant can present to obtain a credential that does not meet the requirements of 6 C.F.R. Part 37. The DMV added this provision to the final rule to make it explicit that current or past DACA recipients will be eligible for non-REAL ID compliant credentials upon the presentation of an employment authorization document (EAD) issued by DHS, Form I-766, that indicates a grant of deferred action under the DACA Program, in accordance with P.L. 2018, ch. 035 and P.L. 2018, ch. 036.