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**Final Convening Assessment Report
for the
Negotiated Rulemaking Process to Develop
Minimum Standards for State-Issued Driver's Licenses
and Personal Identification Cards**

**as required under the
9/11 Commission Implementation Act of the
Intelligence Reform and
Terrorism Prevention Act of 2004
(Public Law No. 108-458)**

**Prepared for the
U.S. Department of Transportation
in consultation with the
U.S. Department of Homeland Security**

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INTRODUCTION

In accordance with the 9/11 Commission Implementation Act of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law No. 108-458), the U.S. Department of Transportation, in consultation with the U.S. Department of Homeland Security, is required to promulgate Minimum Standards for State-Issued Driver's Licenses and Personal Identification Cards, and to do so through a negotiated rulemaking process. This report describes the findings and recommendations of Susan Podziba of Susan Podziba & Associates, the Convener, regarding the negotiated rulemaking process that will be undertaken to develop minimum standards for driver's licenses and personal identification cards.

Negotiated rulemaking is a process whereby a committee composed of representatives of stakeholder groups that will be significantly affected by a proposed rule is charged with the goal of reaching consensus on the text of that proposed rule. The federal agency responsible for the regulation, "to the maximum extent possible consistent with the legal obligations of the agency, will use the consensus of the committee with respect to the proposed rule as the basis for the rule proposed by the agency for notice and comment" (Negotiated Rulemaking Act of 1996, §563(a)(7)).

This convening assessment report is a compilation of information obtained through interviews with federal officials and representatives of potential stakeholders. It is divided into sections on background, categories of stakeholders, key issues across stakeholder groups, key issues by stakeholder group, dynamics affecting the negotiated rulemaking process, participation, process design, organizational protocols, and conclusion.

BACKGROUND

On December 17, 2004, the President signed into law the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law No. 108-458). Title VII of that Act is known as the 9/11 Commission Implementation Act of 2004 (the 9/11 Act). Subtitle B of the 9/11 Act addresses terrorist travel and effective screening and includes a

mandate for the issuance of minimum standards for a variety of identity documents, including driver's licenses and personal identification cards (§7212).

This provision was enacted in response to the following recommendation in the 9/11 Commission report:

Secure identification should begin in the United States. The federal government should set standards for the issuance of birth certificates and sources of identification, such as driver's licenses. Fraud in identification documents is no longer just a problem of theft. At many entry points to vulnerable facilities, including gates for boarding aircraft, sources of identification are the last opportunity to ensure that people are who they say they are and to check whether they are terrorists.

In making that recommendation, the Commission noted:

All but one of the 9/11 hijackers acquired some form of U.S. identification document, some by fraud. Acquisition of these forms of identification would have assisted them in boarding commercial flights, renting cars, and other necessary activities.

For additional legislative detail on the statutory mandate for Minimum Standards for Driver's Licenses and Personal Identification Cards as required under the Intelligence Reform and Terrorism Prevention Act of 2004, Title VII, Subtitle B, §7212, see Appendix A.

Susan Podziba (Convener) interviewed 57 representatives of the U.S. Department of Transportation, the U.S. Department of Homeland Security, state offices that issue driver's licenses and personal identification cards, state elected officials, organizations that represent applicants for and holder of driver's licenses – including consumer organizations and those that represent immigrants and non-citizens, privacy and civil liberties groups, law enforcement officials, the 9/11 Commission, and organizations with technological and operational expertise in document security. (See Appendix C: List of Interviewees). In accordance with the framework set out in the Negotiated Rulemaking Act¹, the purpose of the convening was to identify:

the principal categories of stakeholders that will be affected by and are interested in the minimum standards;

¹ The convening assessment often includes a determination of the feasibility for application of a negotiated rulemaking process to the candidate rule. Since Congress mandated the use of a negotiated rulemaking process to develop the minimum standards, the Convener did not seek to determine feasibility.

key issues and concerns of stakeholders relative to the minimum standards and the interdependence of interests among stakeholders;

organizations that can best represent the views and perspectives of each category of relevant stakeholders for the negotiated rulemaking; and

a balanced committee of representatives of stakeholders who are willing and able to participate in the negotiation process in good faith.

CATEGORIES OF STAKEHOLDERS

The 9/11 Act, §7212(b)(4)(B), identified the following federal agencies and categories of stakeholders for representation on the Negotiated Rulemaking Advisory Committee on Minimum Standards for State-Issued Driver's Licenses and Personal Identification Cards (DL/ID Reg Neg Committee): U.S. Department of Transportation (DOT), U.S. Department of Homeland Security (DHS), state² offices that issue driver's licenses or personal identification cards; state elected officials; and other interested parties.

In its February 23, 2005 Federal Register Notice of intent to form a negotiated rulemaking advisory committee concerning Driver's Licenses and Personal Identification Cards (Appendix D), and in accordance with the relevant U.S. Senate Conference Report³, DOT defined "other interested parties" as groups or organizations representing the interests of applicants for and holders of driver's licenses and personal identification cards (DL/IDs) including consumers and non-citizens/immigrants, privacy and civil liberties groups, law enforcement officials, and organizations with technological and operational expertise in document security.

Based on the convening process, the Convener confirmed the following categories of stakeholders:

Federal Government

- o Department of Transportation
- o Department of Homeland Security

State offices that issue driver's licenses or personal identification cards

Representatives of elected state officials

Groups or organizations representing the interests of applicants for and holders of driver's licenses and personal identification cards

- o Consumers
- o Non-citizens/Immigrants

² For the purposes of this report, "state" refers to the 51 jurisdictions in the U.S. which issue driver's licenses and personal identification cards.

³ U.S. Senate Committee Colloquy on Driver's License and Personal Identification Card Provisions, Conference Report on the Intelligence Reform Bill, December 8, 2004

Privacy and civil liberties groups
Law enforcement officials
Organizations with technological and operational expertise in document security.

KEY ISSUES ACROSS STAKEHOLDER GROUPS

Many key issues were identified by interviewees in multiple stakeholder categories. Below is a description of each of these issues.

Driver's License as De Facto ID: Many interviewees stated that first and foremost the driver's license is proof of ability to operate a motor vehicle. Others asserted that state driver's licenses function as de facto national identification because they serve as the "key to the kingdom," in that they are used to gain access to most commercial and government services. Most agree that the driver's license has evolved from what had in some states been simply a postcard, to a form of identification that today must be secure.

One license, one jurisdiction, one identity: For many stakeholders, a key goal of the minimum standards is to produce a system in which there is one license for one identity, linked to one jurisdiction. This would suggest an issuance process to determine the unique identity of each individual applying for or holding a DL/ID and would preclude applicants from having a DL/ID from more than one state in the nation. However, some interviewees think that it will be impossible to confirm that all applicants had rescinded their licenses in other states, and stated that a more reasonable goal might be to ensure that no individual had more than one license in a particular state.

Security requirements for the driver's license issuance programs: Interviewees identified the need to address security requirements of four distinct components of DL/ID issuance programs. They are:

- Documents accepted for proof of identity ("breeder documents") and the verifiability of those documents;
- Security of the actual driver's license document, including features that verify authenticity and resist tampering;
- Protection against corruption at processing locations; and
- Protection of materials and technology used to create the DL/ID documents.

Standardization vs. Flexibility: Some stakeholders support increased standardization and uniformity in the DL/ID issuance process and in design of the actual cards. In their view, greater adherence to best practices would produce more secure processes and credentials. Others emphasize the need for different approaches to issuance and card design. They are concerned that a uniform approach would be less secure because it

would be more susceptible to counterfeiting and limit states' ability to innovate solutions as new problems arise and technologies emerge.

Breeder Documents: A key element of determining a unique identity for each DL/ID applicant is the validity of the documents used to prove identity in the issuance process, known as "breeder documents." Many interviewees stressed that the use of driver's licenses for proving cardholders' identity will only be as valid as the breeder documents used to issue them. Some interviewees support strategies for increased verifiability of documents such as birth certificates including the ability to scan them into databases for future verification. Others seek to maintain flexibility on allowable breeder documents to maintain access to DL/IDs for people with non-traditional documentation, such as refugees or the homeless. These interviewees supported strategies to determine reliability of these documents rather than verifiability. Interviewees identified various means used to verify documents presented by applicants to prove identity and residency. Some states currently verify social security cards through the Social Security Administration's on-line database and confirm immigration status through U.S. Citizen and Immigrations Service (USCIS) Systemic Alien Verification for Entitlements (SAVE).

Centralized v. De-centralized (State-level) Databases: Although many discussed a centralized (national) database of DL/ID card data, most interviewees believe such a database is currently technically impossible. Most prefer decentralized databases both for privacy and security reasons. Interviewees suggested that a centralized database would be more vulnerable to infiltration than decentralized databases and would create a single target for hackers and identity thieves. Interviewees discussed the value in linking state databases and the need to share data across states and with federal law enforcement. Interviewees acknowledge the paradox of security goals: the more uniform the database, the easier to share information about potential security threats, but also the more vulnerable the information.

Protection of Personal Data: Interviewees identified various issues related to protecting personal information collected for DL/ID purposes. They are:

- Personal data to be collected;
- Knowledge by person that data was collected;
- Ability to correct errors in data;
- Authorized access to data;
- Protections against unauthorized access;
- Protections against unauthorized release of data;
- Protections against use of data for purposes other than the purpose for which it was collected; and
- Protections against criminal invasion of data system (and punishment for criminal activity).

Reviews of Applicants: Currently, all states participate in the National Driver Register (NDR), which by federal statute, requires states to check an applicant against the NDR before issuing or renewing a driver's license. The NDR is a database of the names of individuals with suspended licenses or outstanding tickets. Many states also participate

in the Driver's License Compact, which requires member states to determine whether new applicants are or were licensed in another member state. Additionally, some states check applicant names against the National Criminal Information Center (NCIC) database, and Terrorist Watch Lists.

Legal Presence Requirements: The 9/11 Act prohibits the minimum standards from infringing on a state's ability to set criteria concerning the categories of individuals eligible to obtain a DL/ID from that State (§7212(b)(3)(B)). The issue of legal presence is seen as an immigration issue by some and as a state's rights issue by others. Those that support legal presence to obtain a driver's license do not want to tacitly approve illegal immigration. The eleven states that do not require legal presence generally do so to increase driver safety and the number of insured drivers, as they expect that illegal immigrants will drive with or without a driver's license. In terms of security goals, some point to the difficulty of verifying foreign breeder documents, whereas others point to the value of having information about who is in the country.

Securing the Driver's License Document: There are numerous technologies available to create secure documents. Most states' DL/IDs include a layering of overt and covert security features to protect against counterfeiting. There is a sense that states must continuously upgrade their security features to stay ahead of sophisticated counterfeiters. Examples of security features include: coatings in lamination, micro-writing, 1-dimensional and 2-dimensional bar code, magnetic stripe, ultra-violet light, digital watermarking, biometric, photo, fingerprinting, digitized signature, optical variable device, hologram, and kinogram.

Standards for transliteration of names spelled with non-Roman alphabet letters: A related issue raised by multiple interviewees concerns the need to develop standardized transliteration rules for languages that have different alphabets, such as Chinese and Arabic.

KEY CONCERNS OF DOT, DHS AND STAKEHOLDER GROUPS

U.S. Department of Transportation (DOT)

Congress mandated that DOT create minimum standards for State-Issued Driver's Licenses and Personal Identification Cards under the Intelligence Reform and Terrorist Prevention Act, §7212(b)(2) (The 9/11 Act).

DOT will ensure that the rulemaking effectively carries out the language of the statute and achieves the goals that Congress intended. DOT's focus is on ensuring that the negotiated rulemaking process allows stakeholders to work with the Federal government to establish minimum standards for drivers' licenses and identification cards.

U.S. Department of Homeland Security (DHS)

Congress mandated DOT consultation with DHS in the creation of the minimum standards for State-issued DL/IDs under the 9/11 Act.

The primary interest of DHS regarding this standard is to increase the security and reliability of the documents covered by §7212. DHS seeks to ensure that the individual presenting a driver's license or personal identification card at a U.S. border, airport, or other federal facility, is who he or she claims to be and that the information on the document presented enables DHS personnel to identify terrorists.

Under the Homeland Security Act of 2002, DHS is statutorily prohibited from creating a national identification card (Title XV, Subtitle B, §1514. National Identification System Not Authorized). In addition, according to the Homeland Security Act of 2002, any federal agency creating a new database of personal information must provide to DHS a Privacy Impact Statement (§222).

DHS operates under a range of existing laws governing information sharing among local, state, tribal, and federal law authorities. DHS does not anticipate that the minimum standards will affect those laws and is not seeking to create additional authorities within the minimum standards for DL/IDs.

State Offices that Issue Driver's Licenses or Personal ID's

The key concern of state offices that issue DL/IDs is to ensure that their programs are sufficiently secure. Interviewees from these offices stated that the national security derived from secure driver's license processes is only as strong as its weakest link. No state wants to be that weak link, given evidence suggesting "forum shopping" by the 9/11 hijackers. State offices do not want a one-size fits all standard, but rather want flexibility to enable states to tailor programs to their unique needs and to sustain state innovation. On the other hand, they want programs that are easily understandable by their staff and that maintain conveniences for the driving public.

Interviewees identified a range of strategies used to develop secure programs, including specific breeder documentation requirements, document verification, security features of the DL/ID document, staff training to identify fraudulent documents, protections against staff fraud, and investigation and protection against the creation of fraudulent documents.

States accept a variety of breeder documents, and most require a combination of primary and secondary documents. Some states verify breeder documents through databases such as the Social Security Administration's on-line database or the U.S. Citizen and Immigrations Service (USCIS) Systemic Alien Verification for Entitlements (SAVE) database.

State offices that issue DL/ID's want clarity and ease in their programs to be better able to train their staff. They support a move to easily verifiable breeder and immigration documents to reduce the likelihood of employee error.

Cases involving personnel at state motor vehicles offices who illegally issued driver's licenses to individuals lacking proper documentation have led some states to employ internal management strategies to detect employee fraud. Examples include a two-stop process in which all new applicants see two clerks, random audits whereby computers freeze up and must be unlocked by a supervisor, and reviews of transactions by individual clerks. Some interviewees raised concerns about offices where transaction records are generated but not reviewed, analyzed, or acted upon.

In addition to security issues, states want to maintain conveniences for the public. Convenience is typically measured in time required to obtain or renew a DL/ID, which is affected by the need to verify documents, DL/ID validity periods, and opportunities to renew via internet. Some states provide DL/ID cards immediately, "over-the-counter," to applicants, while others prefer to use a centralized system in which the DL/ID is mailed to an applicant at the address on the document.

Validity periods for licenses range across states; the shortest validity period is four years. In Arizona, an original driver's license does not need to be replaced until the individual holding the driver's license reaches the age of 65, after which the license must be renewed every five years. Some states link the expiration dates of licenses issued to non-U.S. residents to the expiration dates of visas.

Representatives of Elected State officials

The key concerns of elected state officials are the costs of implementing the minimum standards, which they consider an unfunded mandate, and the timeframe required for compliance. In addition, states see themselves as best positioned to determine their driver's license processes and oppose a federal standard that would dictate one solution for all states.

State elected officials are concerned about the costs for developing and sustaining new DL/ID processes. They anticipate costs related to the design of a new issuance process; design and creation of secure DL/ID documents; technology needed to create, read, and upgrade the documents; technology to collect, store, and protect personal data; and technology to read covert security mechanisms such as bar codes, smart cards, or magnetic stripes.

State elected officials are also concerned about costs and time involved in verifying breeder documents. For example, interviewees pointed to the difficulties associated with verifying birth certificates, especially from small hospitals, which may not have electronic databases. Verification of immigration status also proves difficult. Interviewees suggested that on-line database checks through the SAVE program were

successful in approximately 60% of cases. False positives require time consuming mailings to DHS, which has limited resources to research paper files. Given the high number of different visas and other documents that confirm legal presence, state officials believe the federal government should create a simple process to enable states to determine the validity of immigration documents rather than require states to assume this responsibility.

In addition, the phase-in time for compliance with the minimum standards is expected to greatly impact costs. For example, state elected officials are concerned that a requirement to re-issue licenses prior to current expiration dates will create a significant cost burden for states as they would need to add administrative capabilities to process the increased number of applicants or else cause significant inconvenience to the driving public. They also fear that if states are unable to comply with required time frames because resources are not made available by either federal grants or state legislatures, DL/ID holders from those states are at risk for being denied access to air travel and other federal facilities.

Elected state officials will look closely at projected costs for proposed elements of the minimum standards. Given their constituents' great concerns regarding identity theft, they hope that strategies selected will address both national security and identity theft, which may increase state funding opportunities.

Finally, state elected officials are looking to the federal minimum standards as a means to create a baseline, or minimum threshold, to ensure security without pre-empting state policy decisions or state innovation. For example, issues of eligibility for state-issued driver's licenses have been and are being fought out in state legislatures. Some states have large pools of uninsured motorists and have legislated eligibility requirements to increase the number of licensed and insured drivers in their states. States want flexibility to maintain state innovation and opportunities to benefit from technological advances. They see a diversity of strategies across states as contributing to security.

Interviewees prefer scattered state databases and oppose a centralized national database because of concerns about privacy and civil liberties. They are concerned that a centralized database would increase possibilities of law enforcement "fishing" for individuals. They are also concerned about identity theft. As one interviewee said, "Scattered data is protected data."

Organizations Representing the Interests of Applicants for and Holders of DL/IDs

Consumer organizations

The key concerns of consumer organizations are to ensure safety on the road and, secondly, consumer convenience. They are concerned that resources spent to implement the minimum standards may reduce safety and convenience. In short,

consumer organizations view the issue of minimum standards as a question of how much security the public is willing to pay for.

Consumer organizations expressed concern about the cost burdens the minimum standards will place on state offices that issue DL/IDs. They fear additional resources will be diverted from road safety programs to improving security of the DL/ID processes and documents. In addition, they are concerned that if state legislatures do not allocate the necessary funding, some states may not implement the minimum standards, and consumers will be unable to access federal facilities and airports.

Consumer group interviewees, who have experience with state databases used to identify and remove dangerous drivers from the road, raised concerns about privacy issues of a federal database, but also are skeptical about successfully linking databases across states, given states' difficulties maintaining their own databases. Drivers convicted of operating under the influence have found ways to avoid detection through state databases. As a result, consumer groups have doubts about the success of linking databases to track individuals posing security threats.

Organization Representing Non-Citizens/Immigrants

The primary interests of organizations representing immigrants and non-citizens are to maintain access to and eligibility for DL/IDs for their constituents and to increase the security of DL/ID processes and documents. Interviewees representing immigrants are concerned about the special challenges for immigrants to prove identity and, where required, legal immigration status, in the DL/ID application process.

Immigrants and non-citizens prove identity and status using a wide array of documents, many of which are not in standard formats. Interviewees explained that in some cases, the only proof of legal immigration status might be a judge's decision or combination of documents in an applicant's file. Interviewees expressed the need for DL/ID issuance processes that account for this diversity of documentation to ensure that DL/IDs are not denied to eligible applicants.

Interviewees reject a two-tier system that provides an alternative DL/ID or "driving certificate" to applicants unable to provide certain identity or immigration documents. Their constituents with such certificates have complained of being treated with increased suspicion by law enforcement and of discrimination when they present their certificates. They have also faced higher car-insurance premiums and are fearful of the immigration consequences of having a certificate based on immigration status.

Organizations representing immigrants and non-citizens support the national security goals of the minimum standards. They support increased security in DL/ID processes and in features of the actual DL/ID cards. Interviewees favor a system in which as many immigrants as possible are included to assist the government in knowing who is in the country and to reduce the market for counterfeit documents.

Privacy and Civil Liberties Groups

Privacy and civil liberties groups are primarily concerned about what information is collected by government agencies, who has access to that information and for what purposes, and what will protect against illegal access and use. Interviewees questioned the actual security benefits arising from federal minimum standards for DL/IDs. All oppose a “national ID,” which some defined as a nationally uniform card linked to a national database and others defined as any card meeting national standards.

Interviewees want limited information to be collected and stored on the card. They oppose features with large capacities for storage of data on the DL/ID because of concerns about future usage. They support such technologies as magnetic stripes or bar codes only to determine whether the visible information on the card is accurate and only with protections against misuse of the stored information. Interviewees related stories, for example, where bars have scanned information from DL/IDs and sold the information collected.

Privacy and civil liberties groups oppose a centralized national database. They prefer individual state databases. Although they support the concept of “one license – one identity – one jurisdiction,” they point to difficulties within individual states to ensure one license per person within that state. If databases are to become linked, privacy and civil liberties representatives want established and enforceable protections against the use and sharing of data. Interviewees stated that individuals whose data is misused could be significantly harmed, despite future criminal prosecutions of those responsible for the misuse. Some interviewees expressed a preference for “1-to-1 matches” versus “1-to-many matches,” given that the former provides merely a confirmation of the validity of identity information, while the latter makes it possible for those with access to the data to “fish” for individuals’ personal data.

The worst case scenario for these groups is one in which individuals enjoy less privacy and less control over their personal data but get no significant increase in security.

Interviewees suggested ways to increase the security of DL/ID documents and issuance processes without increasing the release and sharing of individuals’ personal data. They suggested internal management controls to protect against DMV clerk corruption, citing cases in which employees had been bribed to provide credentials to individuals without the necessary breeder documents. They support securing the machines, papers, inks, and other materials used to make the documents; creating tamper-proof cards; and training DMV employees to better identify fraudulent breeder documents.

Overall, privacy and civil liberties groups are concerned about the vulnerability of personal data stored on DL/IDs and in databases. Interviewees raised concerns about “mission creep,” or the potential for data collected for one purpose to be used for another, citing the widespread use of Social Security Numbers for identification, despite its initial prohibition.

Law Enforcement Officials

The primary interest of law enforcement officials is to know and be able to verify that the person presenting a DL/ID is the person the document identifies them to be. They will look to the minimum standards to create sufficient safeguards to deter, to the greatest extent possible, individuals from tampering with or fraudulently obtaining a DL/ID, and as a means to facilitate verification by law enforcement officials.

Law enforcement officials support all means for securing the DL/ID issuance process and the document. They are dependent upon driver's licenses to identify individuals during traffic stops. If an officer has cause for reasonable suspicion, he or she may check the information on the driver's license through a state driver's license database, National Crime Information Center (NCIC) database, or Terrorist Watch Lists. Many arrests for violent crimes are made as a result of routine traffic stops in which the suspects were identified by their driver's license information. Law enforcement officials view DL/IDs as tools to identify individuals who may be suspected of criminal or terrorist activity.

Law enforcement does not expect to check a driver against a 50-state database, given the time it would take to do so. Some officers have laptop computers in their cars and/or can scan bar codes or magnetic stripes. Others need to call their central dispatchers to run checks for them. A traffic stop for a moving violation that nears 30 minutes would likely be considered an illegal detention by most courts.

Law enforcement officials support means to easily determine the integrity of DL/ID documents that are not likely to require costly equipment that must be added to their cars or on their belts. If an officer determines a DL/ID is fraudulent, officers in many states can arrest the individual for possessing the fraudulent document and can seize it as a "tool of the crime."

Organizations with Technological and Operational Expertise in Document Security

The primary interest for organizations with technological and operational expertise in document security is to ensure that the minimum standards are technically sound and functional and open to a wide variety of potential technical solutions. For example, DL/ID documents are best secured from tampering by layering different categories of overt, covert, substrate (e.g. papers and laminates), bio-metric-based, and machine-readable strategies. Combining particular features among these categories increases the security of the document.

In addition, these organizations have concerns about the proper management of databases, security of data, protections against unauthorized access, means for interoperability among different state databases, and creation of flexible infrastructures.

Finally, these organizations represent the vendors that produce and create various security products and do not want to limit innovation in security technologies, which will help government agencies keep ahead of counterfeiters.

DYNAMICS AFFECTING THE NEGOTIATED RULEMAKING PROCESS

There are six key dynamics that are expected to affect the negotiated rulemaking process to develop minimum standards for driver's licenses and personal identification cards: statutory mandate for negotiated rulemaking, statutory deadlines, schedule, technical expertise, issues to be negotiated and cost-benefit analysis, and active legislation. Each is described below.

Statutory Mandate for Negotiated Rulemaking: The Negotiated Rulemaking Process to Develop Minimum Standards for State-Issued Driver's Licenses and Personal Identification Cards is required under §7212(b)(4) of the 9/11 Commission Act. As stated in its February 23, 2005 Federal Register Notice, DOT plans to provide adequate resources and administrative support for the process and will ensure the DL/ID Reg Neg Committee has the appropriate resources it requires to complete its work in a timely fashion. To the extent possible, consistent with its legal obligations, DOT plans to use any consensus arising from the Committee as the basis for the proposed minimum standards to be published as a Notice of Proposed Rulemaking (NPRM).

Given that this is a statutorily mandated negotiated rulemaking process, the Convener did not determine feasibility, as such determinations are used by government agencies to decide whether or not to proceed to the negotiation phase of voluntary negotiated rulemaking processes. DOT's current efforts to implement the negotiated rulemaking process are consistent with the experience of the Convener with regard to implementation of previous federal negotiated rulemaking processes.

Statutory Deadlines: The 9/11 Act requires that recommendations of the DL/ID Reg Neg Committee be submitted to the Secretary of Transportation no later than 9 months after the date of enactment, that is, by September 17, 2005. The Secretary must issue a final rule establishing the standards no later than 18 months after the date of enactment, that is, by June 17, 2006.

Schedule: To meet the statutory deadlines, the negotiated rulemaking process will require a demanding schedule. The proposed schedule, as outlined in the March 29, 2005 Federal Register Notice, contemplates five meetings of three or three-and-a-half days, for a total of 17 meeting days. The first meeting is scheduled for April 19-21, 2005 and the last meeting is scheduled for July 12-15, 2005. (See Appendix E for Federal Register Meeting Notice) DOT staff will have two months to prepare supporting

documents for the Report to the Secretary based on the DL/ID Reg Neg Committee's recommendations.

Technical Expertise: The DL/ID Reg Neg Committee members have varying levels of expertise on document security features, driver's license processes, and privacy issues stemming from databases of personal information. To assist negotiators in their deliberations, panel presentations will be provided on technical subjects of interest to the committee. For example, the first meeting will include a presentation on document security and fraud to be provided by officials from the U.S. Secret Service, Forensic Services Division. Technical presentations will be assembled at the request of the DL/ID Reg Neg Committee. The presenters will be drawn from the memberships of the organizations represented on the committee as well as from the Document Security Alliance, a public-private partnership.

Issues to be Negotiated and Cost-Benefit Analysis: The DL/ID Reg Neg Committee will begin its discussions based on the issues outlined in §7212 (B) of the 9/11 Act. This list includes a cost-benefit analysis of the committee's recommendations. DOT has an internal team that will prepare this analysis on behalf of and with input and feedback from the committee.

Active Legislation: H.R. 418: Real ID Act is currently under consideration by the U.S. Senate. If enacted and signed into law as passed by the U.S. House of Representatives, it would repeal §7212 of the 9/11 Act and thus terminate the negotiated rulemaking process. DOT, in consultation with DHS, is working to implement the negotiated rulemaking in accordance with current law, and the DL/ID Reg Neg Committee has been chartered under FACA for this purpose.

PARTICIPATION

Within the six non-federal categories of stakeholders, the Convener recommends that the Department of Transportation invite fourteen organizations to participate as members of the Negotiated Rulemaking Advisory Committee on Minimum Standards for State-Issued Driver's Licenses and Personal Identification Cards. Each organizational member has identified a principal negotiator and an alternate, who will participate in the absence of the principal negotiator.

In proposing organizational members of the DL/ID Reg Neg Committee, the Convener sought to create a balanced committee of relevant stakeholders, which includes a combination of organizations that represent individuals who will be directly affected by the minimum standards, individuals who will interact directly with the public in implementation of the minimum standards, and those who will work on various components of implementation of the minimum standards.

Efforts were made to propose state members that represented diversity among the states with regard to size, geographic region, rural/urban character, proximity to foreign borders, and over-the-counter/centralized system for delivering licenses.

Many individual companies sought membership on the DL/ID Reg Neg Committee within the stakeholder category of organizations with technological and operational expertise in document security. Rather than select from among companies, the Convener proposes participation by non-profit membership organizations that include among their members, most, if not all, of the individual companies that were nominated. It is expected that these non-profit organizations will assist in accessing the expertise of their members for panel presentations as requested by committee members.

In the category of applicants or holder of driver's licenses/personal identification cards, some nominees identified interests related to highly specific elements of an issue, such as religious objections to photograph requirements or the need for flexibility for homeless people in providing breeder documents and proof of state residency requirements. For this category of stakeholders, the Convener recommended organizations with broader sets of interests, which include many of the specific elements identified by other nominees.

Based on the convening process and in accordance with §7212(B) of the 9/11 Act, the Federal Advisory Committee Act, and the Negotiated Rulemaking Act, Susan Podziba, Convener, recommends the following organizational members:

Federal Agencies⁴

U.S. Department of Transportation
U.S. Department of Homeland Security

State Offices that Issue Driver's Licenses or Personal ID's

American Association of Motor Vehicle Administrators
New York State Department of Motor Vehicles
Alabama Department of Public Safety, Driver License Division

Representatives of Elected State Officials

National Governors Association
National Conference of State Legislators

Groups or Organizations Representing the Interests of Applicants for and Holders of Driver's Licenses and Personal Identification Cards

American Automobile Association
National Immigration Law Center

⁴ Other federal agencies with interests in the minimum standards will participate in an inter-agency federal partners workgroup. DOT and DHS will represent the concerns of other federal agencies during the negotiations.

Privacy and Civil Liberties Groups

American Civil Liberties Union

Markle Foundation/Center For Democracy and Technology

Law Enforcement Officials

International Association of Chiefs of Police

Texas Department of Public Safety

Florida Department of Highway Safety and Motor Vehicles

Organizations with Technological and Operational Expertise in Document Security⁵

Information Technology Association of America

Industry Advisory Board to AAMVA

See Appendix B for the individuals selected by these organizations to serve as their principal negotiators.

There are other means of participation for individuals and groups that identify themselves as having interests and expertise relevant to the development of the minimum standards, but who have not been appointed to the DL/ID Reg Neg Committee by the Secretary of Transportation. Individuals and organizations with specific technological and/or operational expertise may be called to serve on panels or work groups. Members of the public may address the DL/ID Reg Neg Committee during the public comment period that will be provided during each meeting as required under the Federal Advisory Committee Act. In addition, comments and written materials may be submitted to the Docket for distribution to committee members. To keep abreast of the negotiated rulemaking process, individuals may sign up for inclusion on a public e-mail list through which committee documents will be distributed.

PROCESS DESIGN

DOT has established the Negotiated Rulemaking Advisory Committee on Minimum Standards for State-Issued Driver's Licenses and Personal Identification Cards as a formal advisory committee, in accordance with the Federal Advisory Committee Act (FACA). As required under FACA, all meetings of the DL/ID Reg Neg Committee will be announced in the Federal Register and open to the public.

⁵ The Document Security Alliance is a public/private partnership of government and private organizations and academics that focuses on how best to respond to the production and distribution of counterfeit documents. It is expected that DSA will assist the DL/ID Reg Neg Committee by providing panel presentations on specific security features, as requested.

The negotiated rulemaking process will consist of a series of five negotiating sessions and communications with and among negotiators between meetings. A public policy mediator/facilitator will manage the process. If the DL/ID Reg Neg Committee decides to make use of a drafting work group to develop proposals for committee review, part of these meetings may be set aside for such drafting.

The first negotiating session will begin with discussion and decisions regarding preliminary issues including: organizational protocols or ground rules, informational needs, list of issues to be negotiated, schedule of future meetings, and overview of the negotiated rulemaking process.

The preliminary issues will be followed by discussion of the substantive issues under negotiation. Negotiators will identify their key interests relative to the minimum standards and then work toward agreements in concept for each issue. DOT will prepare draft regulatory text to reflect agreements in concept and options generated for unresolved issues. During the negotiating sessions, the DL/ID Reg Neg Committee will work through its list of issues to be negotiated, which will include all requirements of §7212 (b)(2) of the 9/11 Act. It is typical in a negotiated rulemaking for some sections of the rule to be more easily resolved than others. The Committee will determine when it has reached "tentative agreement" on a section, indicating that the draft is satisfactory pending resolution of all other sections. Tentative agreements may be reviewed when decisions concerning a particular section impact a prior tentative agreement.

As the series of negotiating sessions proceeds, the meeting agenda will consist of the remaining issues for which tentative agreements have not been reached and any tentative agreements that must be reviewed, until all is resolved. The final draft of the regulatory language will then be reviewed in total. For the five scheduled meetings, the DL/ID Reg Neg Committee will meet until agreement is reached on all regulatory language or it is determined that agreements on some issues cannot be reached.

To the maximum extent possible, consistent with its legal obligations, DOT will use the consensus of the DL/ID Reg Neg Committee as the basis for the NPRM to be published in the Federal Register for notice and comment. The DL/ID Reg Neg Committee may be reconvened to review and address the comments received on the NPRM prior to issuance of the final rule.

ORGANIZATIONAL PROTOCOLS

At its preliminary meeting, the DL/ID Reg Neg Committee will develop organizational protocols (ground rules) that will govern its discussions and negotiations. The ground rules will cover issues including:

- mission of the DL/ID Reg Neg Committee;

- participation, including composition of the committee and its ability to add members, use alternates, use workgroups to develop proposals, and hold caucuses;
- decision-making rule (definition of consensus);
- determination that agreements have been reached and meaning of those agreements;
- procedures to ensure the protection of confidential information;
- the recognition that meetings are open to the public;
- the manner in which a record of the sessions will be kept and distributed;
- roles and responsibilities of committee members; and
- roles and responsibilities of the mediators/facilitators.

CONCLUSION

As required under the 9/11 Commission Implementation Act of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law No. 108-458), the U.S. Department of Transportation, in consultation with the U.S. Department of Homeland Security, will implement a negotiated rulemaking process to develop minimum standards for state-issued driver's licenses and personal identification cards.

The negotiated rulemaking process is being implemented in accordance with the framework established under the Negotiated Rulemaking Act of 1990, the Federal Advisory Committee Act, and pursuant to §7212 of the 9/11 Act. DOT plans to provide adequate resources and administrative support for the process and will ensure the DL/ID Reg Neg Committee has the appropriate resources it requires to complete its work in a timely fashion. To the extent possible, consistent with its legal obligations, DOT plans to use any consensus arising from the negotiated rulemaking process as the basis for the proposed minimum standards to be published as a Notice of Proposed Rulemaking (NPRM).

This process will be implemented to ensure that the report and recommendations of the DL/ID Reg Neg Committee are submitted to the Secretary of Transportation in compliance with the statutory deadline of September 17, 2005.

APPENDIX A:
9/11 Commission Act of the
Intelligence Reform and Terrorism Prevention Act of 2004
Title VII, Subtitle B, §7212

Section 7212(b)(2) of the 9/11 Act requires that standards to be established by the Secretary of Transportation include:

- (A) standards for documentation required as proof of identity of an applicant for a driver's license or personal identification card;
- (B) standards for the verifiability of documents used to obtain a driver's license or personal identification card;
- (C) standards for the processing of applications for driver's licenses and personal identification cards to prevent fraud;
- (D) standards for information to be included on each driver's license or personal identification card, including—
 - (i) the person's full legal name;
 - (ii) the person's date of birth;
 - (iii) the person's gender;
 - (iv) the person's driver's license or personal identification card number;
 - (v) a digital photograph of the person;
 - (vi) the person's address of principal residence; and
 - (vii) the person's signature;⁶
- (E) standards for common machine-readable identity information to be included on each driver's license or personal identification card, including defined minimum data elements;
- (F) security standards to ensure that driver's licenses and personal identification cards are—
 - (i) resistant to tampering, alteration, or counterfeiting; and
 - (ii) capable of accommodating and ensuring the security of a digital photograph or other unique identifier; and

⁶ Section 7214 of the Act prohibits no State or subdivision thereof may "display a social security account number issued by the Commissioner of Social Security (or any derivative of such number) on any driver's license, motor vehicle registration, or personal identification card (as defined in section 7212(a)(2) of the 9/11 Commission Implementation Act of 2004), or include, on any such license, registration, or personal identification card, a magnetic stripe, bar code, or other means of communication which conveys such number (or derivative thereof)."

(G) a requirement that a State confiscate a driver's license or personal identification card if any component or security feature of the license or identification card is compromised.

Section 7212(b)(3) requires further that the standards--

(A) shall facilitate communication between the chief driver licensing official of a State, an appropriate official of a Federal agency and other relevant officials, to verify the authenticity of documents, as appropriate, issued by such Federal agency or entity and presented to prove the identity of an individual;

(B) may not infringe on a State's power to set criteria concerning what categories of individuals are eligible to obtain a driver's license or personal identification card from that State;

(C) may not require a State to comply with any such regulation that conflicts with or otherwise interferes with the full enforcement of State criteria concerning the categories of individuals that are eligible to obtain a driver's license or personal identification card from that State;

(D) may not require a single design to which driver's licenses or personal identification cards issued by all States must conform; and

(E) shall include procedures and requirements to protect the privacy rights of individuals who apply for and hold driver's licenses and personal identification cards.

APPENDIX B:

Recommended Organizational Members of the Negotiated Rulemaking Advisory Committee on Minimum Standards for State-Issued Driver's Licenses and Personal Identification Cards (DL/ID Reg Neg Committee)

PRINCIPAL NEGOTIATORS

State offices that issue driver's licenses or personal ID's

American Association of Motor Vehicle Administrators
Linda Lewis-Pickett, President and CEO

New York State Department of Motor Vehicles
Raymond Martinez, Commissioner

Alabama Department of Public Safety, Driver License Division
Major Roscoe Howell, Division Chief

Representatives of elected State officials

National Governors Association
Matthew Dunlap, Secretary of State, State of Maine

National Conference of State Legislators
Michael Balboni, Senator, New York State Senate *Alternate:*

Groups or organizations representing the interests of applicants for and holders of driver's licenses and personal identification cards

Consumer organization

American Automobile Association
Elizabeth Vermette, Director, State Government Relations

Organization representing non-citizens/immigrants

National Immigration Law Center
Joan Friedland, Immigration Policy Attorney

Privacy and civil liberties groups

American Civil Liberties Union
Barry Steinhardt, Director, Technology and Liberty Project

Markle Foundation and Center For Democracy and Technology
Ari Schwartz, Associate Director, Center for Democracy and Technology

Law enforcement officials

International Association of Chiefs of Police

Colonel Mark V. Trostel, Chief, Colorado State Patrol

Texas Department of Public Safety

Major Robert Burroughs, Texas Highway Patrol Division

Florida Department of Highway Safety and Motor Vehicles

Lt. Colonel (Ret.) Billy Dickson

Organizations with technological and operational expertise in document security

Information Technology Association of America

Brendan M. Peter, Co-Chair, ID Management Subcommittee of the Homeland Security Committee

Industry Advisory Board to AAMVA

Barry Goleman, Chair of the Board

Federal Government

U.S. Department of Transportation

Tyler Duvall, Acting Assistant Secretary for Transportation Policy

U.S. Department of Homeland Security

Elaine Dezenski, Acting Assistant Secretary for Policy & Planning, Border & Transportation Security

**APPENDIX C:
LIST OF INTERVIEWEES**

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Assistant Chief Counsel for Vehicle
Safety Standards and Harmonization
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National Highway Traffic Safety
Administration
U.S. Department of Transportation
400 7th Street, SW
Washington, DC 20590

Declined to be interviewed
Electronic Privacy Information Center
National Immigration Forum

**Unable to arrange interview within
available timeframe**
National Association of Attorneys
General
Tohono O'odham Nation Police
Department

**Declined to be considered for
membership on DL/ID Reg Neg
Committee**
Cato Institute
Free Congress Foundation
9/11 Public Discourse Project

**APPENDIX D:
FEDERAL REGISTER NOTICE OF INTENT TO
ESTABLISH A NEGOTIATE RULEMAKING ADVISORY COMMITTEE**

* * * * *

[FR Doc. 05-3451 Filed 2-22-05; 8:45 am]

BILLING CODE 6560-50-U

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 271**

[FRL-7875-6]

Mississippi: Final Authorization of State Hazardous Waste Management Program Revisions**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: Mississippi has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Mississippi for RCRA Clusters IV through X. In the "Rules and Regulations" section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by March 25, 2005.

ADDRESSES: Submit your comments by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- E-mail: middlebrooks.gail@epa.gov.
- Fax: (404) 562-8439 (prior to faxing, please notify the EPA contact listed below).
- Mail: Send written comments to Gail Middlebrooks at the address listed below.

Instructions: Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov>, or e-mail. The *Federal regulations.gov* Web site is an

"anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comments. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit.

You can view and copy Mississippi's applications from 8 a.m. to 4:30 p.m. at the following addresses: Mississippi Department of Environmental Quality, Hazardous Waste Division, 101 W. Capital, Suite 100, Jackson, Mississippi 39201; and EPA, Region 4, Library, 9th Floor, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303-3104; (404) 562-8190.

FOR FURTHER INFORMATION CONTACT: Gail Middlebrooks, RCRA Services Section, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, Region 4, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303-3104; (404) 562-8494.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the "Rules and Regulations" section of this **Federal Register**.

Dated: February 2, 2005.

A. Stanley Meilburg,

Acting Regional Administrator, Region 4.

[FR Doc. 05-3364 Filed 2-22-05; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION**Office of the Secretary****49 CFR Subtitle A**

[Docket No. OST-2005-20434]

Driver's Licenses and Personal Identification Cards

AGENCY: Office of the Secretary (OST), DOT.

ACTION: Notice of intent to form a negotiated rulemaking advisory committee.

SUMMARY: Pursuant to the portion of the Intelligence Reform and Terrorism Prevention Act of 2004 known as the 9/11 Commission Implementation Act of 2004, the Office of the Secretary, DOT, is establishing a committee to develop, through negotiated rulemaking procedures, recommendations for minimum standards to tighten the security for driver's licenses and personal identification cards issued by

States, in order for these documents to qualify for use by Federal agencies for identification purposes. The committee will consist of persons who represent the interests affected by the proposed rule, *i.e.*, State offices that issue driver's licenses or personal identification cards, elected State officials, the Departments of Transportation and Homeland Security, and other interested parties. The purpose of this document is to invite interested parties to submit comments on the issues to be discussed and the interests and organizations to be considered for representation on the committee.

DATES: You should submit your comments or applications for membership or nominations for membership on the negotiated rulemaking committee early enough to ensure that the Department's Docket Management System (DMS) receives them not later than March 25, 2005. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You should mention the docket number of this document in your comments or application/nomination for membership and submit them in writing to: Docket Management System (DMS), Room PL-401, 400 Seventh Street, SW., Washington, DC 20590. Commenters may also submit their comments electronically. Instructions for electronic submission may be found at the following Web address: <http://dms.dot.gov/submit/>.

You may call the Docket at 202-366-9324, and visit it from 10 a.m. to 5 p.m., Monday through Friday. Interested persons may view docketed materials on the Internet at any time. Instructions for doing so are found at the end of this notice.

You may read the comments received by DMS at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location.

You may also review all documents in the docket via the internet. To read docket materials on the internet, take the following steps:

1. Go to the DMS Web page of the Department of Transportation (<http://dms.dot.gov/>).
2. On that page, click on "search."
3. On the next page (<http://dms.dot.gov/search/>), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were OST-2005-1234, you would type "1234." After typing the docket number, click on "search."
4. On the next page, which contains docket summary information for the

docket you selected, click on the desired comments. You may download the comments. The comments are word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

FOR FURTHER INFORMATION CONTACT:

Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Office of the General Counsel, at 202-366-9310 (bob.ashby@dot.gov), or Steve Wood, Assistant Chief Counsel for Vehicle Safety Standards and Harmonization, Office of the Chief Counsel, National Highway Traffic Safety Administration, 202-366-2992 (steve.wood@nhtsa.dot.gov). Their mailing addresses are at the Department of Transportation, 400 7th Street, SW., Washington, DC 20590, at rooms 10424 and 5219, respectively.

SUPPLEMENTARY INFORMATION:

I. Background

On December 17, 2004, the President signed into law the Intelligence Reform and Terrorism Prevention Act of 2004. (Public Law No. 108-458). Title VII of that Act is known as the 9/11 Commission Implementation Act of 2004 (the 9/11 Act). Subtitle B of the 9/11 Act addresses terrorist travel and effective screening. Among other things, subtitle B mandates the issuance of minimum standards for Federal acceptance of birth certificates (section 7211), and driver's licenses and personal identification cards (section 7212). It also establishes requirements for enhancing the security of social security cards (section 7213). This notice concerns section 7212.

A bill currently under consideration in Congress (H.R. 418), if enacted and signed into law as passed by the House, would terminate the Department's negotiated rulemaking. The Administration has endorsed this bill, which would repeal section 7212 which is the basis for the Department's rulemaking. Until and unless such legislation is enacted, however, the Department is taking the steps necessary to meet the existing statutory deadline. This notice describes the procedure that we propose to use in implementing section 7212, as long as it remains in effect.

II. Statutory Mandate for Minimum Standards on Driver's Licenses and Personal Identification Cards

Section 7212 of the 9/11 Act requires the Secretary of Transportation, in consultation with the Secretary of Homeland Security, to establish, by regulation, minimum standards for driver's licenses or personal identification cards issued by a State in order to qualify for use by Federal agencies for identification purposes.

This provision was enacted in response to the following recommendation in the 9/11 Commission report:

Recommendation: Secure identification should begin in the United States. The Federal government should set standards for the issuance of birth certificates and sources of identification, such as drivers licenses. Fraud in identification documents is no longer just a problem of theft. At many entry points to vulnerable facilities, including gates for boarding aircraft, sources of identification are the last opportunity to ensure that people are who they say they are and to check whether they are terrorists.¹

In making that recommendation, the Commission noted:

All but one of the 9/11 hijackers acquired some form of U.S. identification document, some by fraud. Acquisition of these forms of identification would have assisted them in boarding commercial flights, renting cars, and other necessary activities.²

A. Substance of the Standards

Section 7212(b)(2) of the 9/11 Act requires that the standards to be established by the Secretary of Transportation include—

- (A) standards for documentation required as proof of identity of an applicant for a driver's license or personal identification card;
- (B) standards for the verifiability of documents used to obtain a driver's license or personal identification card;
- (C) standards for the processing of applications for driver's licenses and personal identification cards to prevent fraud;
- (D) standards for information to be included on each driver's license or personal identification card, including—
 - (i) the person's full legal name;
 - (ii) the person's date of birth;
 - (iii) the person's gender;
 - (iv) the person's driver's license or personal identification card number;
 - (v) a digital photograph of the person;
 - (vi) the person's address of principal residence; and

¹ 9/11 Commission Report, page 390.

² *Ibid.*

(vii) the person's signature;³
 (E) standards for common machine-readable identity information to be included on each driver's license or personal identification card, including defined minimum data elements;

(F) security standards to ensure that driver's licenses and personal identification cards are—

- (i) resistant to tampering, alteration, or counterfeiting; and
- (ii) capable of accommodating and ensuring the security of a digital photograph or other unique identifier; and

(C) a requirement that a State confiscate a driver's license or personal identification card if any component or security feature of the license or identification card is compromised.

Section 7212(b)(3) requires further that the standards—

(A) shall facilitate communication between the chief driver licensing official of a State, an appropriate official of a Federal agency and other relevant officials, to verify the authenticity of documents, as appropriate, issued by such Federal agency or entity and presented to prove the identity of an individual;

(B) may not infringe on a State's power to set criteria concerning what categories of individuals are eligible to obtain a driver's license or personal identification card from that State;

(C) may not require a State to comply with any such regulation that conflicts with or otherwise interferes with the full enforcement of State criteria concerning the categories of individuals that are eligible to obtain a driver's license or personal identification card from that State;

(D) may not require a single design to which driver's licenses or personal identification cards issued by all States must conform; and

(E) shall include procedures and requirements to protect the privacy rights of individuals who apply for and hold driver's licenses and personal identification cards.

B. Process for Developing Recommendations for Proposed Standards

The 9/11 Act requires that before publishing proposed minimum

³ Section 7214 of the Act provides that no State or subdivision thereof may "display a social security account number issued by the Commissioner of Social Security (or any derivative of such number) on any driver's license, motor vehicle registration, or personal identification card (as defined in section 7212(a)(2) of the 9/11 Commission Implementation Act of 2004), or include, on any such license, registration, or personal identification card, a magnetic strip, bar code, or other means of communication which conveys such number (or derivative thereof)."

standards, the Secretary of Transportation must establish a negotiated rulemaking process pursuant to 5 U.S.C. 561 *et seq.*,⁴ and receive such recommendations regarding a proposed as the regulatory negotiation committee may adopt. The committee must include representatives from—

- (i) among State offices that issue driver's licenses or personal identification cards;
- (ii) among State elected officials;
- (iii) the Department of Homeland Security; and
- (iv) among interested parties.⁵

C. Schedule for Submitting Recommendations and Establishing the Standards

The recommendations of the negotiated rulemaking committee must be submitted to the Secretary of Transportation not later than 9 months after the date of enactment, *i.e.*, by September 17, 2005.⁶ The Secretary must issue a final rule establishing the standards not later than 18 months after the date of enactment, *i.e.*, by June 17, 2006.⁷

D. Implementation of the Standards

Section 7212(b)(1)(C) provides that each State must certify to the Secretary of Transportation that the State is in compliance with the requirements of this section. The certifications are to be made at such intervals and in such a manner as the Secretary of Transportation may prescribe by regulation.

Further, Section 7212(b)(1)(A) bars all Federal agencies from accepting, for any official purpose, a driver's license or personal identification card that is newly issued by a State more than 2 years after the issuance of the minimum standards (*i.e.*, by June 17, 2008) unless the driver's license or personal identification card conforms to those standards.⁸ As to all driver's licenses and personal identification cards, regardless of when they were issued, the Secretary of Transportation, in consultation with the Secretary of Homeland Security, is required by Section 7212(b)(1)(B) to set a date after which all Federal agencies are barred from accepting any driver's license or personal identification card for any

official purpose unless such driver's license or personal identification card conforms to the minimum standards.

III. Negotiated Rulemaking

As required by Section 7212 (b)(4)(C), the Office of the Secretary will conduct the mandated negotiated rulemaking in accordance with the Negotiated Rulemaking Act of 1990, Public Law 101-648 (NRA) (5 U.S.C. 561, *et seq.*). The NRA establishes a framework for the conduct of a negotiated rulemaking and encourages agencies to use negotiated rulemaking to enhance the informal rulemaking process. Pursuant to Section 7212 and the NRA, OST will form an advisory committee consisting of representatives of the affected interests for the purpose of reaching consensus, if possible, on the proposed rule.

A. The Concept of Negotiated Rulemaking

Usually, DOT develops a rulemaking proposal using its own staff and consultant resources. The concerns of affected parties are made known through means such as various informal contacts and advance notices of proposed rulemaking published in the **Federal Register**. After the notice of proposed rulemaking is published for comment, affected parties may submit arguments and data defining and supporting their positions with regard to the issues raised in the proposed rule. All comments from affected parties are directed to the Department's docket for the rulemaking. In general, there is limited communication among parties representing different interests. Many times, effective regulations have resulted from such a process.

However, as Congress noted in the NRA, such regulatory development procedures may "discourage the affected parties from meeting and communicating with each other, and may cause parties with different interests to assume conflicting and antagonistic positions * * *" (Sec. 2(2) of Pub. L. No. 101-648). Congress also stated "adversarial rulemaking deprives the affected parties and the public of the benefits of face-to-face negotiations and cooperation in developing and reaching agreement on a rule. It also deprives them of the benefits of shared information, knowledge, expertise, and technical abilities possessed by the affected parties." (Sec. 2(3) of Pub. L. No. 101-648).

Using negotiated rulemaking to develop the proposed rule is fundamentally different. Negotiated rulemaking is a process in which a proposed rule is developed by a

committee composed of representatives of all those interests that will be significantly affected by the rule. Decisions are made by some form of consensus, which generally requires a measure of concurrence among the interests represented.⁹ An agency desiring to initiate the process does so by carefully identifying all interests potentially affected by the rulemaking under consideration. To help in this identification process, the agency publishes a notice, such as this one, which identifies a preliminary list of interests and requests public comment on that list. Following receipt of the comments, the agency establishes an advisory committee representing these various interests to negotiate a consensus on the terms of a proposed rule. The committee is chartered under the Federal Advisory Committee Act (FACA; 5 U.S.C. App. 2). Representation on the committee may be direct, that is, each member represents a specific interest, or may be indirect, through coalitions of parties formed for this purpose. The establishing agency has a member of the committee representing the Federal government's own set of interests.¹⁰ A facilitator or mediator can assist the negotiated rulemaking advisory committee by facilitating the negotiation process. The role of this mediator, or facilitator, is to apply proven consensus building techniques to the advisory committee setting.

Once a regulatory negotiation advisory committee reaches consensus on the provisions of a proposed rule, the agency, consistent with its legal obligations, uses this consensus as the basis of its proposed rule and publishes it in the **Federal Register**. This provides the required public notice under the Administrative Procedure Act (APA; 5 U.S.C. 551 *et seq.*) and allows for a public comment period. Under the APA, the public retains the right to comment. The Department anticipates, however, that the pre-proposal consensus agreed upon by this committee will effectively address virtually all major issues prior to publication of a proposed rulemaking.

⁹The Negotiated Rulemaking Act defines "consensus" as "unanimous concurrence among the interests represented on a negotiated rulemaking committee * * * unless such committee (A) agrees to define such term to mean a general but not unanimous concurrence; or (B) agrees upon another specified definition." 5 U.S.C. 562(2).

¹⁰In this regulatory negotiation, both the Departments of Transportation and Homeland Security are required by statute to represent the Federal government's interests.

⁴Section 7212(b)(4)(A).

⁵Section 7212(b)(4)(B).

⁶Section 7212(b)(4)(C)(i).

⁷Section 7212(b)(2). See also Section 7212(b)(4)(C)(ii).

⁸Section 7212(d) provides that the Secretary may extend this date "for up to 2 years for driver's licenses issued by a State if the Secretary determines that the State made reasonable efforts to comply with the date under * * * [section 7212(b)] * * * but was unable to do so."

B. The Department of Transportation's Commitment

In initiating this regulatory negotiation process, the Department plans to provide adequate resources to ensure timely and successful completion of the process. This includes making the process a priority activity for all representatives, components, officials, and personnel of the Department who need to be involved in the rulemaking, from the time of initiation until such time as a final rule is issued or the process is expressly terminated. The Department will provide administrative support for the process and will take steps to ensure that the negotiated rulemaking committee has the appropriate resources it requires to complete its work in a timely fashion. These include the provision or procurement of such support services as properly equipped space adequate for public meetings and caucuses; logistical support; word processing and distribution of background information; the services of a convenor/facilitator; and such additional research and other technical assistance as may be necessary.

To the extent possible, consistent with its legal obligations, the Department currently plans to use any consensus arising from the regulatory negotiation committee as the basis for the proposed minimum standards to be published for public notice and comment.¹¹

C. Negotiating Consensus

As discussed above, the negotiated rulemaking process is fundamentally different from the usual development process for developing a proposed rule. Negotiation allows interested and affected parties to discuss possible approaches to various issues rather than simply being asked in a regular notice and comment rulemaking proceeding to respond to details on a proposal developed and issued by an agency. The negotiation process involves a mutual education of the parties by each other on the practical concerns about the impact of various approaches. Each committee member participates in resolving the interests and concerns of other members, rather than leaving it up

to the agency to bridge different points of view.

A key principle of negotiated rulemaking is that agreement is by consensus. Thus, no one interest or group of interests is able to control the process. Under the NRA as noted above, "consensus" usually means the unanimous concurrence among interests represented on a negotiated rulemaking committee, though a different definition may be employed in some cases. In addition, experience has demonstrated that using a professional mediator to facilitate this process will assist all potential parties, including helping to identify their interests in the rule and enabling them to reevaluate previously stated positions on issues involved in the rulemaking effort.

D. Key Issues for Negotiation; Invitation to Comment on Issues To Be Addressed

As noted above, Section 7212 sets forth considerable detail regarding the issues to be addressed in developing and promulgating the mandated minimum standards. The Department invites comment on the issues regarding the particular aspects of the standards that the negotiating committee should address in developing its recommendations or report.

The Department is aware of the considerable work that has been and is being done at Federal and State levels and in the private sector to improve various types of identification documents, including driver's licenses. We invite comment on which of these past and ongoing efforts are most relevant to this rulemaking, and on what implications those efforts have for the recommendations and choices to be made in this rulemaking.

IV. Procedures and Guidelines for This Regulatory Negotiation

The following proposed procedures and guidelines will apply to the regulatory negotiation process, subject to appropriate changes made as a result of comments on this Notice or as determined to be necessary during the negotiating process.

A. Notice of Intent To Establish Advisory Committee and Request for Comment

In accordance with the requirements of FACA, an agency of the Federal government cannot establish or utilize a group of people in the interest of obtaining consensus advice or recommendations unless that group is chartered as a Federal advisory committee. It is the purpose of this Notice to indicate the Department's intent to create a Federal advisory

committee, to identify the issues involved in the rulemaking, to identify the interests affected by the rulemaking, to identify potential participants who will adequately represent those interests, and to ask for comment on the identification of the issues, interests, procedures, and participants.

B. Facilitator

Pursuant to the NRA (5 U.S.C. 566), a facilitator will be selected to serve as an impartial chair of the meetings; assist committee members to conduct discussions and negotiations; and manage the keeping of minutes and records as required by FACA. The facilitator will chair the negotiations, may offer alternative suggestions to committee members to help achieve the desired consensus, will help participants define and reach consensus, and will determine the feasibility of negotiating particular issues. The Department has selected Ms. Susan Podziba, an experienced mediator, as its convenor/facilitator for this regulatory negotiation.

C. Membership

The NRA provides that the agency establishing the regulatory negotiation advisory committee "shall limit membership to 25 members, unless the agency head determines that a greater number of members is necessary for the functioning of the committee or to achieve balanced membership." The purpose of the limit on membership is to promote committee efficiency in deliberating and reaching decisions on recommendations. The Department of Transportation's current inclination is to observe that limit. However, the Department notes that its experience with regulatory negotiations indicates that limiting membership to fewer than 25 members is often desirable.

D. Interests Likely To Be Affected; Representation of Those Interests

The committee will include a representative from the Department of Transportation and from the interests and organizations listed below. Each representative may also name an alternate, who will be encouraged to attend all committee meetings and will serve in place of the representative if necessary. The DOT representative is the Designated Federal Official (DFO) and will participate in the deliberations and activities of the committee with the same rights and responsibilities as other committee members. The DFO will be authorized to fully represent the Department in the discussions and negotiations of the committee.

¹¹ The Department of Transportation is obligated under Section 7212 to propose and adopt minimum standards regardless of whether the committee to be established pursuant to Section 7212 is able to achieve consensus on all required elements of those standards. Thus, if the committee were unable to reach consensus on any of the elements, the Department of Transportation would, in consultation with the Department of Homeland Security, independently develop proposals regarding those elements.

The Department has tentatively identified the following organizations or interests to participate in the negotiated rulemaking. The convenor will contact these and other organizations to determine their interests and willingness to serve on the committee.

- (1) Department of Transportation.
- (2) Department of Homeland Security.
- (3) State offices that issue driver's licenses or personal identification cards; American Association of Motor Vehicle Administrators.
- (4) Representatives of elected State officials; National Governors Association; National Conference of State Legislatures; National Association of Attorneys General.
- (5) Other interested parties.
 - (a) Groups or organizations presenting the interests of applicants for and holders of driver's licenses and personal identification cards.
 - (i) Consumer organization.
 - (ii) Organization representing non-citizens/immigrants.
 - (b) Organizations with technological and operational expertise in document security.
 - (c) Privacy and civil liberties groups.
 - (d) Law enforcement officials.

The first four interests identified above are required by the statute to participate in the negotiated rulemaking.¹² The "other interests" mentioned are those that appear to the Department to have potentially important roles in helping achieve consensus on recommendations on the issues involved. The Department seeks comment on whether there are additional interests that should be represented on the committee. The Department also seeks comments on particular organizations and individuals who would appropriately represent interests on the committee. Please identify such organizations and interests if they exist and explain why they should have separate representation on the committee.

The list of potential parties specifically named above is not presented as a complete or exclusive list from which committee members will be selected, nor does inclusion on the list of potential parties mean that a party on the list has agreed to participate as a member of the committee or as a member of a coalition, or will necessarily be invited to serve on the committee. The list merely indicates parties that DOT has tentatively identified as representing significantly affected interests in the outcome of the proposed rule. This document gives notice of this process to other potential

participants and affords them the opportunity to request representation in the negotiations. The procedure for requesting such representation is set out below. In addition, comments and suggestions on this tentative list are invited.

The Department is aware that there are many more potential participants, whether they are listed here or not, than there are membership slots on the committee. We do not believe, nor does the NRA contemplate, that each potentially affected group must participate directly in the negotiations. What is important is that each affected interest be adequately represented. To have a successful negotiation, it is important for interested parties to identify and form coalitions that adequately represent significantly affected interests. These coalitions, to provide adequate representation, must agree to support, both financially and technically, a member to the committee whom they will choose to represent their "interest." Those selected, it should be noted, represent one or more interests, not just themselves or their organizations.

It is very important to recognize that interested parties who are not selected to membership on the committee can make valuable contributions to this negotiated rulemaking effort in any of several ways:

- The person or organization could request to be placed on the committee mailing list, submitting written comments, as appropriate;
- Any member of the public could attend the committee meetings, caucus with his or her interest's member on the committee, and, as provided in FACA, speak to the committee. Time will be set aside during each meeting for this purpose, consistent with the committee's need for sufficient time to complete its deliberations; or
- The person or organization could assist in the work of a workgroup that might be established by the committee.

Informal workgroups are usually established by an advisory committee to assist the committee in "staffing" various technical matters (e.g., researching or preparing summaries of the technical literature or comments on particular matters such as economic issues) before the committee so as to facilitate committee deliberations. They also might assist in estimating costs and drafting regulatory text on issues associated with the analysis of the costs and benefits addressed, and formulating drafts of the various provisions and their justification previously developed by the committee. Given their staffing function, workgroups usually consist of

participants who have expertise or particular interest in the technical matter(s) being studied.

E. Applications for Membership

Each application for membership or nomination to the committee should include:

- (i) the name of the applicant or nominee and the interest(s) such person would represent;
- (ii) evidence that the applicant or nominee is authorized to represent parties related to the interest(s) the person proposes to represent; and
- (iii) a written commitment that the applicant or nominee would participate in good faith.

Please be aware that each individual or organization affected by a final rule need not have its own representative on the committee. Rather, each interest must be adequately represented, and the committee should be fairly balanced.

F. Good Faith Negotiation

Committee members should be willing to negotiate in good faith and have the authority from his or her constituency to do so. The first step is to ensure that each member has good communications with his or her constituencies. An intra-interest network of communication should be established to bring information from the support organization to the member at the table, and to take information from the table back to the support organization. Second, each organization or coalition should, therefore, designate as its representative an official with credibility and authority to insure that needed information is provided and decisions are made in a timely fashion. Negotiated rulemaking efforts can require a very significant contribution of time by the appointed members for the duration of the negotiation process. Other qualities that are very helpful are negotiating experience and skills, and sufficient technical knowledge to participate in substantive negotiations.

Certain concepts are central to negotiating in good faith. One is the willingness to bring all issues to the bargaining table in an attempt to reach a consensus, instead of keeping key issues in reserve. The second is a willingness to promote and protect the ability of the committee to conduct its negotiations. Finally, good faith includes a willingness to move away from the type of positions usually taken in a more traditional rulemaking process, and instead explore openly with other parties all ideas that may emerge from the discussions of the committee.

¹² Section 7212(b)(4)(B).

G. Notice of Establishment

After evaluating comments received as a result of this Notice, the Department will issue a notice announcing the establishment and composition of the committee. After the committee is chartered, the negotiations will begin.

H. Administrative Support and Meetings

Staff support will be provided by the Department. Meetings are currently expected to take place in Washington, DC.

I. Notice of Proposed Rulemaking

The committee's objective will be to prepare a report, consisting of its consensus recommendations for the regulatory text of a draft notice of proposed rulemaking. This report may also include suggestions for the NPRM preamble, regulatory evaluation, or other supplemental documents. If the committee cannot achieve consensus on some aspects of the proposed regulatory text, it will, pursuant to the "ground rules" the committee has established, identify in its report those areas of disagreement, and provide explanations for any disagreement. The Department will use the information and recommendations from the committee report to draft a notice of proposed rulemaking and, as appropriate,

supporting documents. Committee recommendations and other documents produced by the committee will be placed in the rulemaking docket.

In the event that the Department's NPRM differs from the committee's consensus recommendations, the preamble to an NPRM addressing the issues that were the subject of the negotiations will explain the reasons for the decision to depart from the committee's recommendations.

Following the issuance of NPRM and comment period, the Department will prepare and provide to the committee a comment summary. The committee will then be asked to determine whether the committee should reconvene to discuss changes to the NPRM based on the comments.

J. Committee Procedures

Under the general guidance of the facilitator, and subject to legal requirements, the committee will establish detailed procedures for the meetings. The meetings of the committee will be open to the public. Any person attending the committee meetings may address the committee if time permits or file statements with the committee.

K. Record of Meetings

In accordance with FACA requirements, the facilitator will prepare

summaries of all committee meetings. These summaries will be placed in the public docket for this rulemaking.

L. Tentative Schedule

The Department is seeking to convene the first of the committee's meetings by the last week of March 2005. The date and exact location of that meeting will be announced in the agency's notice of establishment of the advisory committee. Meetings are expected to last approximately three and a half days each. The negotiation process will proceed according to a schedule of specific dates for subsequent meetings that the committee devises at its first meeting. We will publish a single notice of the schedule of all future meetings in the **Federal Register**, but will amend the notice through subsequent **Federal Register** notices if it becomes necessary to do so. The interval between meetings will be approximately two weeks.

The first meeting will commence with an overview of the regulatory negotiation process conducted by the facilitator.

Issued this 17th day of February, 2005, in Washington, DC.

Jeffrey A. Rosen,
General Counsel.

[FR Doc. 05-3458 Filed 2-17-05; 4:26 pm]

BILLING CODE 4910-62-P

**APPENDIX E:
FEDERAL REGISTER NOTICE OF MEETING SCHEDULE**

Negotiated Rulemaking on
Minimum Standards for Driver's Licenses and Personal Identification Cards
Final Convening Assessment Report
Susan Podziba & Associates
April 15, 2005

Drug Paraphernalia**§ 102-41.210 What are some examples of drug paraphernalia?**

Some examples of drug paraphernalia are:

- (e) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
- (b) Water pipes;
- (c) Carburetion tubes and devices;
- (d) Smoking and carburetion masks;
- (e) Roach clips (objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand);
- (f) Miniature spoons with level capacities of one-tenth cubic centimeter or less;
- (g) Chamber pipes;
- (h) Carburetor pipes;
- (i) Electric pipes;
- (j) Air-driven pipes;
- (k) Chillums;
- (l) Bongs;
- (m) Ice pipes or chillers;
- (n) Wired cigarette papers; or
- (o) Cocaine freebase kits.

§ 102-41.215 Do we report to GSA all forfeited, voluntarily abandoned, or unclaimed drug paraphernalia not required for official use?

No, only report drug paraphernalia that has been seized and forfeited for a violation of 21 U.S.C. 863. Unless statutorily authorized to do otherwise, destroy all other forfeited, voluntarily abandoned, or unclaimed drug paraphernalia. You must ensure the destruction is performed in the presence of two witnesses (employees of your agency), and retain in your records a signed certification of destruction.

§ 102-41.220 Is drug paraphernalia forfeited under 21 U.S.C. 863 available for transfer to other Federal agencies or donation through a State agency for surplus property (SASP)?

Yes, but GSA will only transfer or donate forfeited drug paraphernalia for law enforcement or educational purposes and only for use by Federal, State, or local authorities. Federal or SASP requests for such items must be processed through the General Services Administration, Property Management Branch (3FPD), Washington, DC 20407. The recipient must certify on the transfer document that the drug paraphernalia will be used for law enforcement or educational purposes only.

§ 102-41.225 Are there special provisions to reporting and transferring drug paraphernalia forfeited under 21 U.S.C. 863?

Yes, you must ensure that such drug paraphernalia does not lose its identity as forfeited property. Reports of excess and transfer documents for such drug paraphernalia must include the annotation that the property was seized and forfeited under 21 U.S.C. 863.

§ 102-41.230 May SASPs pick up or store donated drug paraphernalia in their distribution centers?

No, you must release donated drug paraphernalia directly to the donee as designated on the transfer document.

§ 102-41.235 May we sell forfeited drug paraphernalia?

No, you must destroy any forfeited drug paraphernalia not needed for transfer or donation and document the destruction as specified in § 102-41.215.

[FR Doc. 05-6101 Filed 3-28-05; 8:45 am]

BILLING CODE 6820-14-S

DEPARTMENT OF TRANSPORTATION**Office of the Secretary****49 CFR Subtitle A**

[Docket No. OST-2005-20434]

Negotiated Rulemaking Advisory Committee on Minimum Standards for Driver's Licenses and Personal Identification Cards

AGENCY: Office of the Secretary (OST), DOT.

ACTION: Notice of meetings of advisory committee.

SUMMARY: This document sets forth the schedule for the meetings of the Negotiated Rulemaking Advisory Committee on Minimum Standards for Driver's Licenses and Personal Identification Cards. Pursuant to section 7212 of the Intelligence Reform and Terrorism Prevention Act of 2004, the Office of the Secretary, DOT, is establishing a committee to develop, through negotiated rulemaking procedures, recommendations for minimum standards to tighten the security for driver's licenses and personal identification cards issued by States, in order for these documents to be accepted for use by Federal agencies for any official purpose, including identification, a given time after the final rule goes into effect. The committee will consist of persons who represent the interests affected by the proposed rule, i.e., State offices that

issue driver's licenses or personal identification cards, elected State officials, the Departments of Transportation and Homeland Security, and other interested parties.

DATES: Meetings of the committee will take place on the dates listed below under **SUPPLEMENTARY INFORMATION**. All meetings are open to the public.

ADDRESSES: The committee's meetings will take place at the locations listed below under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT:

Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Office of the General Counsel, at (202) 366-9310 (bob.ashby@dot.gov), or Steve Wood, Assistant Chief Counsel for Vehicle Safety Standards and Harmonization, Office of the Chief Counsel, National Highway Traffic Safety Administration, (202) 366-2992 (steve.wood@nhtsa.dot.gov). Their mailing addresses are at the Department of Transportation, 400 7th Street, SW, Washington DC, 20590, rooms 10424 and 5219, respectively.

SUPPLEMENTARY INFORMATION: On December 17, 2004, the President signed into law the Intelligence Reform and Terrorism Prevention Act of 2004. (Public Law 108-458). Title VII of that Act is known as the 9/11 Commission Implementation Act of 2004 (the 9/11 Act). Subtitle B of the 9/11 Act addresses terrorist travel and effective screening. Among other things, Subtitle B, section 7212, mandates the issuance of minimum standards for State-issued driver's licenses and personal identification cards (Section 7212) that will be accepted by Federal agencies for official purposes.

Section 7212 directs the Department of Transportation to issue rules with the assistance of a negotiated rulemaking advisory committee, composed of representatives of the Departments of Transportation and Homeland Security, State agencies that issue driver's licenses, State elected officials, and other interested parties.

To carry out this requirement, the Department recently published a notice of intent to form this advisory committee, consistent with the standards of the Federal Advisory Committee Act (FACA) and Negotiated Rulemaking Act (NRA). See 70 FR 8756, February 23, 2005. The comment period for this notice extends through March 25, 2005. During the comment period, the Department will file a charter for the committee with the General Services Administration, and the convener will begin contacting potential participants.

After evaluating comments received as a result of the February 23 notice, the Department will issue a notice announcing the establishment and composition of the committee.

The statutory timetable for this rulemaking is short. Section 7212 of the Intelligence Reform and Terrorism Act specifies that the recommendations of the negotiated rulemaking committee must be submitted to the Secretary of Transportation no later than 9 months after the date of enactment, *i.e.*, by September 17, 2005. Section 7212 further specifies that the Secretary must issue a final rule establishing the minimum standards no later than 18 months after the date of enactment, *i.e.*, by June 17, 2006. To meet these deadlines, the Department must begin, in the very near future, a very compressed schedule of regulatory negotiation meetings. The Department has scheduled five meetings on the following dates:

Meeting 1: April 19–21, 2005.

Meeting 2: May 10–13, 2005.

Meeting 3: May 31, June 1–3, 2005.

Meeting 4: June 21–24, 2005.

Meeting 5: July 12–15, 2005.

The meetings will take place in the Department of Transportation headquarters building, 400 7th Street, SW., Washington, DC 20590, in Room 2230. Meetings are scheduled to begin at 9 a.m. and conclude at 5:30 p.m.

The meetings of the committee are open to the public (unless portions of the meeting are held in closed session, as provided under FACA). Attendance will necessarily be limited by the size of the meeting room. Members of the public wishing to attend meetings held in Department of Transportation buildings or other Federal facilities will have to enter through designated security checkpoints.

The visitor entry point for the Department of Transportation headquarters building is in the southwest corner entrance to the building (*i.e.*, the entrance nearest the corner of 7th and E Streets, SW.). Visitors must be escorted into and out of the building. Because it can take some time for large numbers of visitors to process through security, we request that visitors arrive between 8:30 and 8:45 a.m. to undergo the screening process. DOT personnel will then escort groups of visitors to the meeting room. This group escort process will also be followed for persons entering following the lunch break and for persons leaving the building for lunch and at the end of each day's meeting.

As a general matter, the committee will make one hour available for public comments on the Wednesdays of each

meeting from 2–3 p.m. Individuals wishing to address the committee should sign up on the public comment sign-in sheet before lunch and the time available will be reasonably divided among those who have signed up, but no one will have more than 15 minutes even if less than 4 people have signed up. Written comments and reports can be given to the facilitator for distribution to the committee members. Persons wanting to present written materials to the committee should make enough copies for all committee members.

The agenda topics for the meetings will include, but not necessarily be limited to, discussion of the following issues:

1. Documentation required as proof of identity of an applicant for a driver's license or personal identification card, including the scope of personal identification cards covered by the requirement.

2. Verifiability of documents used to obtain a driver's license or personal identification card.

3. Processing of applications for driver's licenses and personal identification cards to prevent fraud.

4. Information to be included on each driver's license or personal identification card.

5. Common machine-readable identity information to be included on each driver's license or personal identification card, including defined minimum data elements.

6. Security standards to ensure that driver's licenses and personal identification cards are—(i) resistant to tampering, alteration, or counterfeiting; and (ii) capable of accommodating and ensuring the security of a digital photograph or other unique identifier.

7. Requirement that a State confiscate a driver's license or personal identification card if any component or security feature of the license or identification card is compromised.

8. Requirement that rules facilitate communication between the chief driver licensing official of a State, an appropriate official of a Federal agency and other relevant officials, to verify the authenticity of documents, as appropriate, issued by such Federal agency or entity and presented to prove the identity of an individual.

9. Ensuring that standards do not infringe on a State's power to set criteria concerning what categories of individuals are eligible to obtain a driver's license or personal identification card from that State.

10. Prohibition on requiring a State to comply with any such regulation that conflicts with or otherwise interferes

with the full enforcement of State criteria concerning the categories of individuals that are eligible to obtain a driver's license or personal identification card from that State.

11. Prohibition on requiring a single design to which driver's licenses or personal identification cards issued by all States must conform.

12. Procedures and requirements to protect the privacy rights of individuals who apply for and hold driver's licenses and personal identification cards.

13. Assessment of the benefits and costs of the recommendations.

The committee may alter this schedule, including the agenda items. The agenda topics presented in this notice are necessarily very general since the direction and nature of the advisory committee discussions will shape each subsequent meeting. The Department may issue additional notices, as needed, with respect to changes in the schedule or agenda topics.

Issued this 22nd day of March, 2005, at Washington, DC.

Jeffrey A. Rosen,
General Counsel.

[FR Doc. 05–6167 Filed 3–24–05; 2:43 pm]

BILLING CODE 4910–62–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 15

RIN 1018–AH89

Importation of Exotic Wild Birds Into the United States; Notice of Reopening of Comment Period on the Proposed Rule To Add Blue-Fronted Amazon Parrots From Argentina's Sustainable-Use Management Plan to the Approved List of Non-Captive-Bred Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of reopening of comment period.

SUMMARY: We, the Fish and Wildlife Service (Service), give notice that we are reopening the comment period on the proposed rule to add blue-fronted amazon parrots (*Amazona aestiva*) from Argentina's sustainable-use management plan to the approved list of non-captive-bred (wild-caught) species under the Wild Bird Conservation Act of 1992 (WBCA). We are reopening the public comment period to enter into the record Dr. Jorge Rabinovich's 2004 study, "Modeling the Sustainable Use of the Blue-Fronted Parrot (*Amazona aestiva*) in the Dry Chaco Region of

Rulemaking Search Results				
Displaying 1 thru 4 of 4 Records				
RIN	Stage	Mode	Title	Priority
2132-AA67	Withdrawal	FTA	School Bus Operations	Substantive, Nonsignificant
2132-AA76	Final Rule	FTA	Rail Fixed Guideway Systems: State Safety Oversight	Other Significant
2132-AA78	Final Rule	FTA	Environmental Impact and Related Procedures	Info/Admin/Other
2132-AA78	Final Rule	FTA	Environmental Impact and Related Procedures	Info/Admin/Other

[Reverse Order](#)