

Motor Vehicle Division Informational Memo # 21-37

REAL ID Requirements and Operator Examinations Administrative Rule Updates

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FROM: MVD Policy & Compliance Team

TO: All Motor Vehicle Division staff, Iowa County Treasurers and County Treasurer's staff that issue driver's licenses and non-operator's identification cards

SUBJECT

This informational memo explains updates to administrative rule chapters 761—601, Application for License and 761—604, License Examination and is most applicable to staff involved with processing REAL ID transactions and answering questions about driver's license examination and issuance.

SUMMARY

The updates to these rule chapters implement several efficiencies to the REAL ID driver's license (DL) and identification card (ID) issuance process and align the operator examination results with existing legal authority and department practice. Specifically, the rule changes do the following:

- Conform the rules to 2020 federal law, which allowed us to begin accepting any document listing a customer full social security number (SSN) as valid proof of SSN for a REAL ID transaction.
- No longer require the customer's date of birth to be included in a court order used to prove the customer's legal name change.
- Clarify recent U.S. Department of Homeland Security (DHS) guidance that allows us to confirm a customer's legal name change using the social security online verification (SSOLV) system when the customer's Iowa record already reflects the customer's current legal name.
- Add the existing REAL ID exceptions process to administrative rules.
- Outlines a new process based on existing legal authority for issuing a REAL ID to a refugee, asylee, or parolee based on presentation of a valid I-94, which is used as proof of identity, date of birth, and lawful status, with confirmation of such documentation occurring via the Systematic Alien Verification for Entitlements (SAVE).
- Allow noncommercial operator knowledge and driving exam results to be valid for 180 days rather than 90 days and clarify that there is no minimum waiting period for repeating a failed operator knowledge and driving test. This administrative rule change also applies to motorcycle knowledge and skills tests.

For the proof of SSN change, you may wish to review the previous policy memo (PM 21-01) we issued when the federal law changed for more information about the background of the REAL ID Modernization Act.

For internal DOT employees, you may find PM 21-01 in the W drive at: *W:\MotorVehicle\Memorandums\Driver's license issuance (DL, REAL ID, CDL)*

For County Treasurers and staff, you may find PM 21-01 at the link to the county treasurer's manual: <https://iowadot.gov/mvd/ctmanual/memos/PM-21-01.pdf>

The administrative rule amendments are effective January 5, 2022.

LINK TO ADMINISTRATIVE RULES

<https://www.legis.iowa.gov/docs/aco/arc/6059C.pdf>

CURRENT

Currently, the rules:

- Do not conform to the federal law change allowing us to accept any document listing a customer's full SSN as proof of SSN for REAL ID purposes;
- Require a customer's date of birth to be listed in the court order used to prove a legal name change under REAL ID;
- Do not address the use of SSOLV to confirm a legal name change for an existing Iowa customer;
- Do not contain our existing REAL ID exceptions process;
- Do not outline the process for issuing a REAL ID to a refugee, asylee, or parolee based on presentation of a valid I-94;
- State that noncommercial operator knowledge and driving exam results are only valid for 90 days; and
- Require one business day to elapse between a failed operator knowledge test and a retake.

NEW

As of January 5, 2022, the rules will implement the processes outlined in the summary above.

BUSINESS IMPACT

Proof of SSN for REAL ID issuance: The change to the proof of SSN rule will not significantly impact the way that MVD operates because we have already updated our processes and programming to allow a customer to submit any document containing the customer's full SSN as proof of SSN under the REAL ID requirements.

Use of SSOLV to confirm legal name change for established customers. The rules now authorize us to utilize SSOLV to confirm the legal name change of an existing Iowa customer who is seeking a REAL ID, thereby exempting them from the need to provide the traditional legal name change documents. Specifically, if a customer's name on their Iowa credential is their current legal name, we can now complete a double SSOLV check to confirm the connection between the name on their identity document and their current name instead of requiring the trail of legal name change documents.

REAL ID issuance for refugees, parolees, and asylees: Federal and state REAL ID regulations typically require a temporary foreign national who does not have another type of identity/date of birth document to produce *both* an unexpired foreign passport and an I-94 to be issued a REAL ID. With the rule change, staff will still be able to issue a REAL ID to a refugee, parolee, or asylee using only the I-94 as valid proof of identity, date of birth, and lawful status, but moving forward, **issuance staff must complete Form [430307](#) prior to issuing the credential and scan the form in ERMS with the I-94.** The purpose of new Form 430307 is to document that the first-time issuance of the REAL ID for the refugee, parolee, or asylee is occurring as allowed under the REAL ID exceptions process. Form 430307 can be found on the internal DOT forms website, and can be completed electronically or printed by staff, **but must be saved in ERMS with the I-94.** Staff will be able to scan both the I-94 and Form 430307 together under the "I-94" code in ERMS using the document feeder option.

The changes to the court-ordered name change requirement, REAL ID exceptions process, and noncommercial operator knowledge and driving exam results and retests conform to existing procedures and are explained in further detail in the questions and answers below.

QUESTIONS AND ANSWERS

The following questions and answers may provide additional clarification for staff and customers.

WHY DID WE REMOVE THE DATE OF BIRTH REQUIREMENT FROM THE COURT-ORDERED NAME CHANGE?

A court order is one of the documents a customer can use to prove a legal name change under the REAL ID requirements. Prior to the rule change, the rule required the court order to list the customer's date of birth. However, in practice, we found that court orders documenting a customer's legal name change often did not include the customer's date of birth. For example, a divorce decree can be used to document a legal name change, but often does not include the customer's date of birth. Having the customer's date of birth in the order is not necessary because we can appropriately link the customer's court order to their other documents using the customer's name.

WERE ANY CHANGES MADE TO THE REAL ID EXCEPTIONS PROCESS?

Except for one change related to refugees, parolees, and asylees described in further detail below, there were no changes made to the REAL ID exceptions process for customer services staff. Rather, the existing REAL ID exceptions process was simply added to our administrative rules. There will be some changes for the Policy & Compliance team that currently processes REAL ID exceptions requests, but there will be nothing new (other than the refugee/parolee/asylee change) for any other MVD staff person. The existing REAL ID exceptions process is described on page B-5 of the Examiner's manual.

WHY ARE WE CHANGING THE PROCESS FOR REAL ID ISSUANCE TO REFUGEES, PAROLEES, AND ASYLEES?

Prior to this rulemaking, our process was to issue a REAL ID to a refugee, parolee, or asylee who presented a valid I-94 document, that was confirmed through USCIS, even if the customer did not also present their unexpired foreign passport, because we know that they do not have a foreign passport due to reasons beyond their control. Nevertheless, the REAL ID regulations traditionally require a temporary foreign national whose proof of identity and date of birth includes an I-94 to also present an unexpired foreign passport for REAL ID issuance. This was acceptable under the REAL ID exceptions process; however, the previous process did not follow all the required steps of the REAL ID exceptions process. By now requiring staff to complete and store form 430307 for customers with refugee, parolee, and asylee status, along with collecting the I-94 and verifying lawful status in SAVE, we can ensure full compliance with REAL ID regulations.

WHY DID WE CHANGE THE VALIDITY OF THE OPERATOR EXAM RESULTS FROM 90 TO 180 DAYS?

Allowing the exam results to be valid for 180 days aligns with current practice and ARTS programming, and also ensures a consistent standard is applied to customers throughout the state. Please note, this rule change also applies to motorcycle tests.

WHEN CAN WE USE SSOLV TO CONFIRM LEGAL NAME CHANGE?

With these new administrative rules, we are now authorized to rely on a positive SSOLV match instead of requiring the trail of legal name change documents, if all of the following are true:

- The customer's current legal name is name already on their non-REAL ID Iowa record,
- We complete a manual SSOLV check on both the identity document name and the current legal name, and we receive a match on the customer's name, SSN, and date of birth both times, and
- The customer's most recent card was issued in Iowa (even if expired), and they have not held an out-of-state credential since their last Iowa issuance.

Regardless of how many name changes have occurred in between the name on a customer's identity document and their current legal name, if SSOLV returns a match with both the name on their identity document and their current legal name on their Iowa record, we can issue a REAL ID. Importantly, once a person is issued a REAL ID under one name, any subsequent name changes need to be documented through the normal legal name change documents (marriage certificate, court order, etc).

WHAT CHANGES WERE MADE TO THE TIME BETWEEN RETESTS FOR OPERATOR AND MOTORCYCLE KNOWLEDGE TESTS?

Prior to this rulemaking, the rules required at least one business day between a failed operator or motorcycle knowledge test and a retake of the test, however there was no such one-day requirement between tests for the operator or motorcycle driving test. The rule now allows a customer to retake a knowledge test the same day, which is permissible since the knowledge test is generated from a random bank of questions and does not result in the customer receiving all of the same questions between the different tests. Still, the staff administering the operator or motorcycle knowledge and driving tests may use discretion when determining whether to allow a customer to immediately retake either test.

WILL BEING ABLE TO RETAKE THE KNOWLEDGE EXAM THE SAME DAY IMPACT SKIP THE TRIP AND SKIP THE TRIP AT HOME?

No, this administrative rule change does not impact how Skip the Trip and Skip the Trip at Home are currently set up. Any changes to Skip the Trip would first require a change to the agreement that school and parent proctors are required to sign to offer the test.

IS THERE ANY MAXIMUM LIMIT ON THE NUMBER ON KNOWLEDGE TESTS A CUSTOMER CAN RETAKE IN ONE DAY?

There is no limit on the number of retakes in one day, however, the administrative rule says that the examiner may use their discretion in allowing the customer to retake the test. This rule change was meant to give staff the flexibility to allow the customer to retake the test the same day, but was not meant to establish the expectation (or requirement) that a customer would be able to sit all day that the issuance location and keep repeating the test.

CAN A DRIVER'S LICENSE SERVICE CENTER OR COUNTY LOCATION LIMIT THE NUMBER OF TEST REPEATS IN A DAY TO KEEP THE TESTING COMPUTER AVAILABLE FOR OTHER CUSTOMERS?

Yes. The administrative rule change in no way requires us to allow a customer to repeat a test the same day. The rule change is just giving staff the flexibility to allow a repeat test if that makes sense for the situation and the location's schedule that day. This rule change also ensures we aren't out of compliance with our own administrative rules if a customer immediately goes to another service center or county location to retake a test (known as "station hopping.")

ARE CUSTOMERS ABLE TO RETAKE THE MOTORCYCLE KNOWLEDGE TEST OR THE CDL KNOWLEDGE TEST IN THE SAME DAY?

With this rule change, the customer *is* eligible to retake the **motorcycle knowledge test** the same day. However, just like we have noted above with the operator knowledge test, allowing retakes is an option, not a requirement.

Regarding the **CDL knowledge test**, this rule change does *not* allow the customer to repeat the CDL knowledge test the same day. The CDL knowledge test requirements are governed by a different rule than the one that was changed as part of this administrative rulemaking.

HOW DOES THE RULE CHANGE ALLOWING KNOWLEDGE TESTING RETAKES ON THE SAME DAY IMPACT RE-EXAMS?

As noted above, being able to retake the test the same day is not required, it is simply an option at the examiner's discretion. However, it is important to remember that retesting for re-exams/incapables is subject to the limitations in administrative rule 604.40(2). That rule requires us to issue a SUS or DEN145 after the first test failure, then if the customer appeals, they are allowed three additional unsuccessful attempts maximum before needing to wait 6 months to retest.