(C) When disclosure of the information is made by any officer or employee of the United States—

(*1*) To either House of Congress, or to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee thereof or subcommittee of any such joint committee; or

(*2*) To the Comptroller General, or any authorized representative of the Comptroller General, in the course of the performance of the duties of the Government Accountability Office.

(ii) If any officer or employee of the United States makes any disclosure pursuant to these exceptions, contemporaneous written notification must be provided to DHS through the PCII Program Manager.

(2) Consistent with the authority to disclose information for any of the purposes of the CII Act, disclosure of PCII may be made, without the written consent of the person or entity submitting such information, to the DHS Inspector General.

(g) *Responding to requests made under the Freedom of Information Act or State, local, and tribal information access laws.* PCII shall be treated as exempt from disclosure under the Freedom of Information Act and any State or local law requiring disclosure of records or information. Any Federal, State, local, or tribal government agency with questions regarding the protection of PCII from public disclosure shall contact the PCII Program Manager, who shall in turn consult with the DHS Office of the General Counsel.

(h) *Ex parte communications with decisionmaking officials.* Pursuant to section 214(a)(1)(B) of the Homeland Security Act of 2002, PCII is not subject to any agency rules or judicial doctrine regarding ex parte communications with a decisionmaking official.

(i) *Restriction on use of PCII in civil actions.* Pursuant to section 214(a)(1)(C) of the Homeland Security Act of 2002, PCII shall not, without the written consent of the person or entity submitting such information, be used directly by any Federal, State or local authority, or by any third party, in any civil action arising under Federal, State, local, or tribal law.

§ 29.9 Investigation and reporting of violation of PCII procedures.

(a) *Reporting of possible violations.* Persons authorized to have access to PCII shall report any suspected violation of security procedures, the loss or misplacement of PCII, and any suspected unauthorized disclosure of PCII immediately to the PCII Program Manager or the PCII Program Manager's designees. Suspected violations may also be reported to the DHS Inspector General. The PCII Program Manager or the PCII Program Manager's designees shall in turn report the incident to the appropriate Security Officer and to the DHS Inspector General.

(b) *Review and investigation of written report.* The PCII Program Manager, or the appropriate Security Officer shall notify the DHS Inspector General of their intent to investigate any alleged violation of procedures, loss of information, and/or unauthorized disclosure, prior to initiating any such investigation. Evidence of wrongdoing resulting from any such investigations by agencies other than the DHS Inspector General shall be reported to the Department of Justice, Criminal Division, through the DHS Office of the General Counsel. The DHS Inspector General also has authority to conduct such investigations, and shall report any evidence of wrongdoing to the Department of Justice, Criminal Division, for consideration of prosecution.

(c) *Notification to originator of PCII.* If the PCII Program Manager or the appropriate Security Officer determines that a loss of information or an unauthorized disclosure has occurred, the PCII Program Manager or the PCII Program Manager's designees shall notify the person or entity that submitted the PCII, unless providing such notification could reasonably be expected to hamper the relevant investigation or adversely affect any other law enforcement, national security, or homeland security interest.

(d) *Criminal and administrative penalties.* (1) As established in section 214(f) of the CII Act, whoever, being an officer or employee of the United States or of any department or agency thereof, knowingly publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by

law, any information protected from disclosure by the CII Act coming to the officer or employee in the course of his or her employment or official duties or by reason of any examination or investigation made by, or return, report, or record made to or filed with, such department or agency or officer or employee thereof, shall be fined under title 18 of the United States Code, imprisoned not more than one year, or both, and shall be removed from office or employment.

(2) In addition to the penalties set forth in paragraph (d)(1) of this section, if the PCII Program Manager determines that an entity or person who has received PCII has violated the provisions of this part or used PCII for an inappropriate purpose, the PCII Program Manager may disqualify that entity or person from future receipt of any PCII or future receipt of any sensitive homeland security information under section 892 of the Homeland Security Act, provided, however, that any such decision by the PCII Program Manager may be appealed to the Office of the Under Secretary for Preparedness.

PART 37—REAL ID DRIVER'S LICENSES AND IDENTIFICATION CARDS

Subpart A—General

Subpart B—Minimum Documentation, Verification, and Card Issuance Requirements

Subpart C—Other Requirements

Subpart D—Security at DMVs and Driver's License and Identification Card Production Facilities

Subpart E—Procedures for Determining State Compliance

Subpart F—Driver's Licenses and Identification Cards Issued Under section 202(d)(11) of the REAL ID Act

AUTHORITY: 49 U.S.C. 30301 note; 6 U.S.C. 111, 112.

SOURCE: 73 FR 5331, Jan. 29, 2008, unless otherwise noted.

Subpart A—General

§ 37.1 Applicability.

(a) Subparts A through E of this part apply to States and U.S. territories that choose to issue driver's licenses and identification cards that can be accepted by Federal agencies for official purposes.

(b) Subpart F establishes certain standards for State-issued driver's licenses and identification cards issued by States that participate in REAL ID, but that are not intended to be accepted by Federal agencies for official purpose under section 202(d)(11) of the REAL ID Act.