



BRITISH
COLUMBIA

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Ref: 3641

U.S. Customs and Border Protection
Office of International Trade
Office of Regulations and Rulings
Border Security Regulations Branch
1300 Pennsylvania Ave., NW (Mint Annex)
Washington, D.C. 20229
By Fax: (202) 282-8401

Dear Department of Homeland Security:

RE: Regulatory Information Number 1651 - AA69 USCBP-2007-0061
Western Hemisphere Travel Initiative

On behalf of the Government of British Columbia, please accept our comments on the Notice of Proposed Rulemaking (NPRM) pertaining to the implementation of the land and sea portions of the Western Hemisphere Travel Initiative (WHTI).

British Columbia shares the security concerns of the United States of America. As neighbours and close allies of the United States, we support efforts to strengthen the security of our two countries. At the same time, we are deeply concerned about the detrimental impacts of the WHTI on cross border travel, trade, and tourism which are already starting to be felt with implementation of the WHTI air rules in January of this year.

By working together in a cooperative and coordinated manner, we can both increase our security and ensure the free flow of people and goods across our borders.

The Government of British Columbia has reviewed the NPRM and has identified the following areas which need to be addressed:

- 1) Canadian Enhanced Driver's Licenses
- 2) Avoiding Border Congestion
- 3) Implementation Dates
- 4) NEXUS and FAST

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5) Coordinated Canada-U.S. Communications Campaign

6) Exemptions for children

I. Canadian Enhanced Driver's Licenses

British Columbia strongly urges the U.S. to accept the B.C. enhanced driver's license (EDL) as an alternative to the passport as well as to work with us to launch this initiative in a timely way. British Columbia and stakeholders view the EDL as a practical, secure, and convenient alternative to the WHTI passport requirement. The EDL initiative will play a significant role in preparing the Pacific Northwest for the 2010 Olympic and Paralympic Winter Games in Vancouver.

British Columbia is seriously concerned about the detrimental impacts of the WHTI measures on trade and tourism as it continues to affect the daily lives of individuals, families, and communities, especially those living close to the border. Spontaneous travel represents a large proportion of Canada-U.S. border crossings. With this in mind, it is critical that our two countries work together to ensure that WHTI measures do not result in the shut down of our borders due to high congestion levels and do not have negative effects on economic activity.

Statistics from the *Statistics Canada International Travel Service Bulletin* released in April 2007 show a sharp decline in cross-border crossings. In addition, the Conference Board of Canada's 2006 report on the potential impacts of the WHTI estimates a loss of 14.1 million inbound visits from the U.S. to Canada between 2005 and 2010, with a gross shortfall of \$3.6 billion in international export receipts to Canada.¹ British Columbia and Ontario are expected to be the most affected by WHTI implementation given the amount of trade and tourism occurring daily between these provinces and the U.S. border.

U.S. tourists are primary clients for British Columbia but U.S. visitation has been decreasing. From January to April of this year, the number² of:

- U.S. overnight visitors to B.C. dropped 3 percent, while the number of U.S. overnight travellers to Canada dropped 8.1 percent to 2.5 million.
- U.S. same day visitors to B.C. dropped 12.7 percent, while the number of U.S. same day visitors to Canada dropped 22.7 percent.

We are concerned that this significant drop in U.S. visitation to Canada and B.C., and the resulting economic impact, will be further exacerbated by the lingering confusion around WHTI implementation dates and uncertainty around acceptable alternative identity documents for land and sea travel.

¹ *An Update on the Potential Impact of the Western Hemisphere Travel Initiative on Canada's Tourism Industry*, Report prepared by The Conference Board of Canada for Industry Canada, August 2006.

² All numbers for U.S. visitors obtained from Tourism British Columbia Overnight Customs Entries to B.C. and Canada, April 2007.

It is important to recognize that the detrimental effects of the WHTI are and will be felt in the U.S. as well. An estimated \$US 1.2 billion in trade crosses the Canada-U.S. border daily, supporting 5.2 million jobs. Last year, Canadians visiting the U.S. spent roughly \$10 billion, nearly 80% of which supported activities like dining, hotel stays, and retail purchases. Canadian spending in the U.S. has increased 39% over the last ten years and is one of the key areas where Americans enjoy a trade surplus. These figures should have been expected to rise as the Canadian dollar strengthened in the last two years, yet given

real and perceived difficulties in border crossings, Canadian visits to the U.S. have seen no significant increase. Total annual crossings in 2005 compared to 1995 show as much as a 50% decline.

With this in mind, British Columbia and the State of Washington partnered in June 2006 to find a secure, practical, and reliable alternative identity document to address the challenges posed by the WHTI passport requirement for land and sea travel. The *British Columbia-Washington State Working Group on Border Security and Identity Documents* was established by Premier Gordon Campbell and Governor Christine O. Gregoire to investigate, amongst other alternatives, the feasibility of an EDL.

British Columbia welcomed the news on March 23, 2007 that U.S. Department of Homeland Security Secretary Michael Chertoff and Governor Gregoire signed a Memorandum of Agreement to work together on the development of an EDL for the State of Washington. This represents a key milestone in our joint efforts to find workable solutions to the challenges we face. We continue to work cooperatively with Washington on marketing their EDL and ensuring that other U.S. states and Canadian provinces are able to learn from the best practice of BC/Washington cooperation in developing the EDL.

Regrettably, the NPRM does not explicitly accept Canadian enhanced drivers' licenses as an acceptable alternative to the passport requirement. We urge the Department of Homeland Security to explicitly recognize in the final Rule that the British Columbia EDL will be acceptable for border crossing into the United States.

British Columbia is committed to working closely with the Governments of Canada and the United States towards the successful launch of the EDL project by January 2008. The B.C. EDL project is backed by government and also by the Pacific North West Economic Region (PNWER), the Council of Tourism Associations (COTA) of British Columbia, and the Business for Economic Security, Trade and Tourism Coalition of the US & Canada (BESTT) Coalition, all of which are supportive of the initiative to get the EDL accepted by DHS.

In particular, BESTT has stated that EDLs represent the preferred method of addressing the mobility restrictions created by WHTI. Acceptance of EDLs by DHS must take place sooner rather than later and provinces, territories, and states must be provided as much lead time as possible to prepare for WHTI timelines and implement their respective EDL initiatives.

The State of Washington has been a steadfast partner on the EDL front and we welcome the recognition by DHS that Washington's EDL project can serve as a model for other states. British Columbia has studied closely Washington's EDL business plan and mirrored key aspects

in our EDL Business Plan. While British Columbia awaits the endorsement of the Government of Canada and the U.S. Department of Homeland Security to launch its EDL initiative, we continue to work cooperatively with the relevant federal government departments. We also look forward to swiftly finalizing with the Government of Canada a Memorandum of Understanding which can serve as a template for other provinces and territories interested in the EDL initiative. British Columbia wants to underscore its commitment to improving security and its willingness to work with both federal governments to meet appropriate standards for EDLs.

British Columbia strongly recommends that DHS support U.S. states in their attempts to pursue and promote the EDL initiative and coordinate such efforts with the Canadian federal and provincial governments. Such an approach would ensure that the development of solutions and guidelines, policies, and procedures for the EDL is carried out in a coordinated fashion between our two countries. British Columbia encourages the widespread implementation and acceptance of U.S. state-issued EDLs.

II. Avoiding Border Congestion

Currently, the B.C.-Washington land border is experiencing wait times as long as three hours at peak crossing times. This directly affects travellers. The WHTI requirement to have documentation to cross the border means a cessation of oral declarations of citizenship. This may result in even longer delays at the border as documentation is scrutinized. Both Canadian and U.S. customs agencies should be prepared for this. There is no desire to have a repeat of line-ups and delays experienced at passport offices a scant year and a half in advance of the 2010 Olympic and Paralympic Winter Games in Vancouver. We recommend that the border crossing agencies implement a plan to anticipate and mitigate longer waits at key border crossings.

III. Implementation Dates

There is too much uncertainty surrounding WHTI implementation dates. This uncertainty is fostering continuous traveller confusion, a situation that is extremely damaging to the U.S. and Canadian tourism industries. This situation has been further exacerbated by the fact that while June 2009 is the date for final implementation in measures that are being considered in the U.S. Congress, earlier dates continue to be reflected in the Advance NPRM.

Travellers on both sides of the border are confused with the ongoing adjustments to dates and uncertainty regarding acceptable alternatives to the passport requirement for land and sea travel. British Columbia targets January 2008 as the date for implementation of its EDL initiative, and we are actively working to secure the necessary approvals to meet that target. We note that the NPRM cites the summer of 2008 as the full implementation date for WHTI. There are other interested Canadian provinces and territories and U.S. states whose planning and development of EDL initiatives may not be as advanced. The NPRM timeframe may not provide ample time for those other interested Canadian provinces and territories and U.S. states to launch EDL initiatives and effectively comply with WHTI requirements. With this in mind while British Columbia continues to hold January 2008 as its target implementation date, we call for flexibility and a phased implementation approach from DHS with regard to the introduction of border documentation requirements. This will enable both governments to avoid the long delays

in passport issuance and last-minute exemptions that have taken place earlier this year with the introduction of the passport requirement for air travel.

The Government of British Columbia requests that DHS approve B.C.'s plans for a phased implementation of WHTI, with realistic timelines that are clearly communicated to stakeholders and the public on both sides of the border.

IV. NEXUS and FAST

The Government of British Columbia supports trusted traveller programs such as NEXUS which contribute to expediting border clearance for low-risk, pre-approved travellers into Canada and the U.S., enabling border officials to focus greater attention on higher-risk movements. This risk management approach is an important way to enhance border security. We support the work that has taken place to date towards integrating NEXUS air, land, and sea programs and efforts to market the NEXUS card as a secure identity document.

However, more needs to be done if the NEXUS program is to reach critical mass and deflect low risk traffic away from congested border crossings. At present, NEXUS only has approximately 120,000 members enrolled after 5 years. Almost half of those enrolled in the program are in the B.C.-Washington area.

We encourage much greater promotion of the NEXUS program to improve awareness and foster wider adoption of NEXUS on both sides of the border. We also recommend expansion of the NEXUS program to accommodate tourists, particularly families, who may find it prohibitive to acquire a card for each family member. DHS may consider including a more cost-effective option for families, such as a one card/one fee per family program. An extension of the validity period to 10 years for NEXUS cards should also be considered and easier renewals of existing cards may also be a worthwhile option.

We ask that DHS recognize the NEXUS and FAST cards for entry in non-dedicated lanes also.

V. Coordinated Canada-U.S. Communications Campaign

WHTI cannot be implemented in a communications vacuum. More robust coordination between Canada and the U.S. with provinces, territories, states, and industry stakeholders is critical for successful WHTI implementation. We strongly recommend that DHS, in collaboration with the Government of Canada, implement a public awareness campaign immediately so that the travelling public on both sides of the border knows when the new rules will be implemented. Anything short of this will not only create longer delays and more confusion, but could be detrimental to the economy of the region.

VI. Exemptions for children

We commend and support the provisions being made for children traveling with their families or in groups with chaperones. These provisions are important for border communities, and we

encourage DHS to continue to ensure children are not impacted in their ability to access the border.

Children travelling with a parent, guardian, or legitimate organization such as a religious, cultural, or sports authority and who have the necessary proof of approval by one or both custodial parents should be exempt from WHTI requirements.

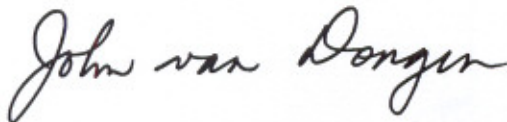
Conclusion

On behalf of the Government of British Columbia, I thank you for reviewing our official comments on the NPRM for the land and sea portion of the WHTI.

We wish to reassure you that the Government of British Columbia takes border security very seriously. We are committed to ensuring that law enforcement and intelligence agencies on both sides of the border continue to work cooperatively and effectively to strengthen security and reduce crime. We share your expectations for successful implementation of the WHTI. At the same time, we are deeply concerned about economic security and the detrimental impacts of the WHTI on cross border travel, trade, and tourism and encourage DHS to consider the full-range of policy options available for implementation of WHTI.

In particular, we request explicit endorsement of British Columbia's EDL initiative. We are confident that if this initiative is approved by DHS, developed in a coordinated manner between the respective Canadian and U.S. agencies, and marketed successfully, we have a unique opportunity to continue to promote the legitimate movement of people and goods across our shared border and foster the historic ties that bind our two nations.

Sincerely,



Honourable John van Dongen
Minister of State for Intergovernmental Relations
Government of British Columbia

cc: The Hon. Stockwell Day,
Minister of Public Safety