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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF HOMELAND SECURITY

Designation of an Enhanced Driver's License and Identity Document Issued by the State of Washington as a Travel Document Under the Western Hemisphere Travel Initiative

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice announces that the Secretary of Homeland Security is designating enhanced driver's licenses and identity documents (EDL) issued by the State of Washington as acceptable documents to denote identity and citizenship for purposes of entering the United States at land and sea ports of entry upon implementation of Section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004. U.S. citizens possessing these EDLs will be permitted to present the EDL as an acceptable document under the Western Hemisphere Travel Initiative when entering the United States from Canada and Mexico at land and sea ports of entry.

DATES: This designation will become effective on June 1, 2009.

FOR FURTHER INFORMATION CONTACT: Colleen Manaher, Western Hemisphere Travel Initiative, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Washington, DC 20229, 202-344-1220.

SUPPLEMENTARY INFORMATION:

Background

The Western Hemisphere Travel Initiative

The Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA), as amended, provides that upon implementation, U.S. citizens and Bermudian, Canadian and Mexican nationals will be required to present a

passport or such alternative documents as the Secretary of Homeland Security (Secretary) designates as satisfactorily establishing identity and citizenship when entering the United States. In a final rule published concurrently in this issue of the **Federal Register**, the Department of Homeland Security (DHS) and Department of State (DOS) describe the second phase of a joint plan, known as the Western Hemisphere Travel Initiative (WHTI), to implement these new requirements. That final rule specifies the documents that U.S. citizens and nonimmigrant aliens from Canada, Bermuda, and Mexico will be required to present when entering the United States at land and sea ports-of-entry from within the Western Hemisphere.

As provided for in the WHTI final rule for land and sea, one type of citizenship and identity document that U.S. citizens may present upon entry to the United States is an enhanced driver's license or identification document (EDLs) designated by the Secretary pursuant to section 7209 of IRTPA, as amended. *See* 8 U.S.C. 1185 note. To this end, in the WHTI final rule for land and sea, a new regulatory provision, at 8 CFR 235.1(d), provides:

Upon the designation by the Secretary of Homeland Security of an enhanced driver's license as an acceptable document to denote identity and citizenship for purposes of entering the United States, U.S. citizens and Canadian citizens may be permitted to present these documents in lieu of a passport upon entering or seeking admission to the United States according to the terms of the agreements entered between the Secretary of Homeland Security and the entity. The Secretary of Homeland Security will announce, by publication of a notice in the **Federal Register**, documents designated under this paragraph. A list of the documents designated under this paragraph will also be made available to the public.

EDL Programs

DHS is committed to working with the various U.S. States and the Government of Canada to facilitate the development of state and province issued EDLs as travel documents that denote identity and citizenship; therefore, satisfying section 7209 of IRTPA, as amended. The Secretary believes there is great promise in driver's licenses that are enhanced to satisfy WHTI requirements, namely denoting both identity and citizenship. To establish an EDL program, each State

must enter into agreement with DHS to develop an acceptable EDL document. Each EDL program is specific to each entity based on specific factors such as the entity's level of interest, funding, technology, and other development and implementation factors. Based on the individual development of each EDL program, DHS will announce acceptable State and provincial EDL programs on an ongoing basis by publication in the **Federal Register**.

To be acceptable, EDL documents must satisfy section 7209 by denoting identity and citizenship. Acceptable EDL documents must also have compatible technology, security criteria, and must respond to CBP's operational concerns. The EDL must include technologies that facilitate inspection at ports-of-entry. EDL documents must also be issued in a secure process and include technology that facilitates travel to satisfy WHTI requirements. DHS believes that the use of the EDL will have considerable facilitation benefits because CBP officers currently must inspect over 8,000 different types of documents issued by State and local entities when making admissibility determinations at land and seaports. Based on DHS testing and its experience with its trusted traveler programs, DHS expects that each application for admission will be more efficient and travelers will move through the primary inspection process more quickly with EDLs that will incorporate radio frequency identification (RFID) technology.

DHS is coordinating efforts to ensure that a State enhanced driver's license developed to meet the requirements of WHTI, will also adopt standards that REAL ID requires, as they are defined through the REAL ID rulemaking process. DHS published the REAL ID final rule on January 29, 2008 setting minimum standards for state-issued driver's licenses and identifications cards that be accepted for official purposes in accordance with the REAL ID Act of 2005. *See* Public Law 109-13, 119 Stat. 231, 302 (May 11, 2005) (codified at 49 U.S.C. 30301 note).

Although REAL ID-compliant licenses and identification cards can be issued to non-U.S. citizens upon verification of legal status in the United States, EDLs will only be issued to citizens of the United States or Canada by an authority in each individual's country. DHS will

continue to work closely with states to develop EDLs that meet both REAL ID and WHTI requirements.

Washington State EDLs

The State of Washington has established a voluntary program to develop an enhanced driver's license and identification card that would denote identity and citizenship. On March 23, 2007, the Secretary of Homeland Security and the Governor of Washington signed a Memorandum of Agreement (MOA) to develop, issue, test, and evaluate an enhanced driver's license and identification card with facilitative technology to be used for border crossing purposes. Under the terms of the agreement between DHS and Washington State, the EDL will

only be issued to U.S. citizens. EDLs also may be issued as photo identification cards to non-drivers.

The Secretary has determined that Washington State EDL documents will satisfy section 7209 by denoting identity and citizenship. The Washington State EDL documents will have compatible facilitative technology to meet CBP's operational needs. These documents contain vicinity RFID chips and machine readable zones that will facilitate processing for the holder. The EDL will also include physical security features that guard against tampering. Washington State has already begun issuing EDLs.

This notice announces that the Secretary designates the EDL issued by

the State of Washington, pursuant to the terms of the MOA executed between DHS and the State of Washington, as an acceptable document to denote identity and citizenship for purposes of entering the United States. Therefore, pursuant to 8 CFR 235.1(d), U.S. citizen holders of these Washington State EDLs may present these EDLs as an alternative to a passport upon entering the United States at all land and sea ports of entry when coming from contiguous territory and adjacent islands.

Dated: March 26, 2008.

Michael Chertoff,
Secretary.

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