

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

#### 8 CFR Part 235

[CBP Dec. 09–18]

#### Western Hemisphere Travel Initiative: Designation of Enhanced Driver's Licenses and Identity Documents Issued by the States of Vermont and Michigan and the Provinces of Quebec, Manitoba, British Columbia, and Ontario as Acceptable Documents To Denote Identity and Citizenship

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

**ACTION:** Notice.

**SUMMARY:** This document announces that the Commissioner of U.S. Customs and Border Protection is designating enhanced driver's licenses and identification documents issued by the States of Vermont and Michigan and the Canadian Provinces of Quebec, Manitoba, British Columbia, and Ontario as acceptable documents for purposes of the Western Hemisphere Travel Initiative. These documents may be used to denote identity and citizenship of, as appropriate, U.S. or Canadian citizens entering the United States from within the Western Hemisphere at land and sea ports of entry.

**DATES:** This designation is 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), Public Law 108–458, 118 Stat. 3638 (Dec. 17, 2004), as amended, provides that upon full 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. See 8 U.S.C. 1185 note. On April 3, 2008, the Department of Homeland Security (DHS) and the Department of State (DOS) promulgated

a joint final rule, effective on June 1, 2009, that implements the Western Hemisphere Travel Initiative (WHTI) at U.S. land and sea ports of entry. See 73 FR 18384 (the land and sea final rule). The land and sea 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 (which includes contiguous territories and adjacent islands of the United States).

Under the land and sea final rule, one type of citizenship and identity document that U.S. or Canadian citizens may present upon entry to the United States is an enhanced driver's license or identification document<sup>1</sup> (EDL) designated as an acceptable document to denote identity and citizenship by the Secretary, pursuant to section 7209 of IRTPA, as amended. Section 235.1(d) of title 8 of the Code of Federal Regulations (CFR), as amended by the WHTI land and sea final rule, states:

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 Canadians 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 designated documents will also be made available to the public.

##### *EDL Programs*

DHS is committed to working with the various States of the United States and the Government of Canada to facilitate the development of State and province-issued EDLs as travel documents that denote identity and citizenship. To establish an EDL program, each State or province<sup>2</sup> must enter into an agreement with DHS or U.S. Customs and Border Protection (CBP) to develop an acceptable EDL document. Each EDL program is specific to each State or province based on

<sup>1</sup> The “enhanced driver's license or identification document” may be in one of two forms, as decided by the issuing authority, provided that the document (card) denotes identity and citizenship and meets technical requirements: (1) An enhanced driver's license or (2) an enhanced identity card. The designation “EDL” covers both documents.

<sup>2</sup> For a province of Canada, the agreement will be between DHS/CBP and the Canada Border Services Agency working with and representing the province.

specific factors, such as the State's or province's funding, technology, and other developments and implementation factors. Acceptable EDL documents must have compatible technology and security criteria, and must respond to CBP's operational concerns. The EDL must include technologies that facilitate inspection at ports of entry. EDL documents also must be issued via a secure process and include technology that facilitates travel to satisfy WHTI requirements.

On an ongoing basis, DHS will announce, by publication of a notice in the **Federal Register**, that a State's and/or province's EDL has been designated as a WHTI-compliant document for purposes of entering the United States by land or sea from within the Western Hemisphere. (See the designations at 73 FR 18421 (April 3, 2008) for EDLs issued by the State of Washington and at 73 FR 73343 (December 2, 2008) for EDLs issued by the State of New York.) DHS will make available to the public a list of the documents designated as WHTI compliant. A list of States and provinces that issue EDLs is available at <http://www.getyouhome.gov>. The Secretary delegated to the Commissioner of CBP the authority to designate certain documents as acceptable border crossing documents for persons arriving in the United States by land or sea from within the Western Hemisphere, including State-specific enhanced driver's licenses and identity documents and Canadian province-specific enhanced driver's licenses and identity documents.

##### *Vermont EDL Program*

Vermont has established a voluntary program to develop enhanced driver's licenses and identification cards (EDLs) that would denote identity and U.S. citizenship. On September 26, 2007, DHS and the State of Vermont signed a Memorandum of Agreement (MOA) to develop, issue, test, and evaluate EDLs with facilitative technology to be used for border crossing purposes. On February 15, 2008, CBP approved the plan outlining the business process for the implementation of the Vermont EDL program. Under the terms of this MOA and business plan, Vermont EDLs will be issued only to Vermont residents that can establish both identity and U.S. citizenship.

Following successful field and technical testing, the Commissioner of CBP has determined that the EDLs issued by the State of Vermont according to the terms of the above agreement and business plan meet the requirements of section 7209 of the IRTPA and are acceptable documents to

denote identity and U.S. citizenship for purposes of entering the United States at land and sea ports of entry from within the Western Hemisphere under the final rule.

#### *Michigan EDL Program*

Michigan has established a voluntary program to develop enhanced driver's licenses and identification cards (EDLs) that would denote identity and U.S. citizenship. On October 13, 2008, DHS and the State of Michigan signed a Memorandum of Agreement (MOA) to develop, issue, test, and evaluate EDLs with facilitative technology to be used for border crossing purposes. On the same date, CBP and the State of Michigan reached agreement on the plan outlining the business process for the implementation of the Michigan EDL program. Under the terms of this MOA and business plan, Michigan EDLs will be issued only to Michigan residents that can establish both identity and U.S. citizenship.

Following successful field and technical testing, the Commissioner of CBP has determined that the EDLs issued by the State of Michigan according to the terms of the above agreement and business plan meet the requirements of section 7209 of the IRTPA and are acceptable documents to denote identity and U.S. citizenship for purposes of entering the United States at land and sea ports of entry from within the Western Hemisphere under the final rule.

#### *Quebec EDL Program*

The Province of Quebec has established a voluntary program to develop an enhanced driver's license that would denote identity and Canadian citizenship. On April 1, 2008, CBP and the Canada Border Services Agency (CBSA) entered into a Memorandum of Understanding Regarding the Use, Disclosure and Storage of Canadian Enhanced Driver's License Information relating to CBP's access to EDL information for documents, including the Quebec EDL for border crossing purposes. On January 16, 2009, following negotiations between CBP and the Canadian and Quebec governments in November 2008, the CBSA and Citizenship and Immigration Canada transmitted to CBP the Province of Quebec's official business plan outlining the approach and process by which the Société de l'assurance automobile du Québec (SAAQ) will make available enhanced driver's licenses and identification cards to qualified Canadian citizens residing in the Province of Quebec. On February 2, 2009, CBP determined that,

contingent upon successful technical testing, SAAQ Driver's Licenses Plus produced in accordance with the Province of Quebec's business plan were anticipated to be designated as documents denoting identity and Canadian citizenship for purposes of entering the United States by land or sea.

Following successful field and technical testing, the Commissioner of CBP has determined that Driver's Licenses Plus issued by the Province of Quebec according to the terms of the business plan approved by CBP meet the requirements of section 7209 of the IRTPA and are acceptable documents to denote identity and Canadian citizenship for purposes of entering the United States at land and sea ports of entry from within the Western Hemisphere under the final rule.

#### *Manitoba EDL Program*

The Province of Manitoba has established a voluntary program to develop enhanced driver's licenses and identification cards (EDLs) that would denote identity and Canadian citizenship. On April 1, 2008, CBP and the CBSA entered into a Memorandum of Understanding Regarding the Use, Disclosure and Storage of Canadian Enhanced Driver's License Information relating to CBP's access to EDL information for documents, including the Manitoba EDL for border crossing purposes. On June 12, 2008, following negotiations between CBP and the Canadian and Manitoba governments, the CBSA and Citizenship and Immigration Canada transmitted to CBP the Province of Manitoba's official business plan outlining the approach and process by which Manitoba will make available EDLs to qualified Canadian citizens residing in the Province of Manitoba. On July 3, 2008, CBP determined that, contingent upon successful technical testing, Manitoba EDLs produced in accordance with the Province of Manitoba's business plan were anticipated to be designated as documents denoting identity and Canadian citizenship for purposes of entering the United States by land or sea.

Following successful field and technical testing, the Commissioner of CBP has determined that the EDLs issued by the Province of Manitoba according to the terms of the business plan approved by CBP meet the requirements of section 7209 of the IRTPA and are acceptable documents to denote identity and Canadian citizenship for purposes of entering the United States at land and sea ports of

entry from within the Western Hemisphere under the final rule.

#### *British Columbia EDL Program*

The Province of British Columbia has established a voluntary program to develop enhanced driver's licenses and identification cards (EDLs) that would denote identity and Canadian citizenship. On April 1, 2008, CBP and the CBSA entered into a Memorandum of Understanding Regarding the Use, Disclosure and Storage of Canadian Enhanced Driver's License Information relating to CBP's access to EDL information for documents, including the British Columbia EDL for border crossing purposes. On April 9, 2009, following negotiations between CBP and the Canadian and British Columbia governments, the CBSA and Citizenship and Immigration Canada transmitted to CBP the Province of British Columbia's official business plan outlining the approach and process by which British Columbia will make available EDLs to qualified Canadian citizens residing in the Province of British Columbia. On April 16, 2009, CBP determined that, contingent upon successful technical testing, British Columbia's EDLs produced in accordance with the province's business plan were anticipated to be designated as documents denoting identity and Canadian citizenship for purposes of entering the United States by land or sea.

Following successful field and technical testing, the Commissioner of CBP has determined that the EDLs issued by the Province of British Columbia according to the terms of the business plan approved by CBP meet the requirements of section 7209 of the IRTPA and are acceptable documents to denote identity and Canadian citizenship for purposes of entering the United States at land and sea ports of entry from within the Western Hemisphere under the final rule.

#### *Ontario EDL Program*

The Province of Ontario has established a voluntary program to develop enhanced driver's licenses and identification cards (EDLs). On April 1, 2008, CBP and CBSA entered into a Memorandum of Understanding Regarding the Use, Disclosure and Storage of Canadian Enhanced Driver's License Information relating to CBP's access to EDL information for documents, including the Ontario EDL for border crossing purposes. On May 6, 2009, following negotiations between the parties, CBSA transmitted to CBP the Province of Ontario's official business plan outlining the approach

and process by which Ontario will make available EDLs to qualified Canadian citizens residing in the Province of Ontario. On May 11, 2009, CBP determined that, contingent upon successful technical testing, Ontario EDLs produced in accordance with the Province of Ontario's business plan were anticipated to be designated as documents denoting identity and Canadian citizenship for purposes of entering the United States by land or sea.

Following successful field and technical testing, the Commissioner of CBP has determined that the EDLs issued by the Province of Ontario according to the terms of the business plan approved by CBP meet the requirements of section 7209 of the IRTPA and are acceptable documents to denote identity and Canadian citizenship for purposes of entering the United States at land and sea ports of entry from within the Western Hemisphere under the final rule.

#### Designation

This notice announces that the Commissioner of CBP has designated the EDLs issued by the States of Vermont and Michigan and the Provinces of Quebec, Manitoba, British Columbia, and Ontario as acceptable documents to denote identity and citizenship for purposes of entering the United States at land and sea ports of entry from within the Western Hemisphere, pursuant to section 7209 of IRTPA and the final rule, 8 CFR 235.1(d)

Dated: May 20, 2009.

**Jayson P. Ahern,**

*Acting Commissioner, Customs and Border Protection.*

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## FEDERAL RESERVE SYSTEM

### 12 CFR Part 204

[Regulation D; Docket Nos. R-1334 and R-1350]

#### Reserve Requirements for Depository Institutions

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** The Board is adopting, with certain revisions, its interim final rule that amended Regulation D (Reserve Requirements of Depository Institutions) to direct Federal Reserve Banks to pay interest on certain balances held at Federal Reserve Banks by or on behalf

of certain depository institutions. The Board is also amending Regulation D to authorize the establishment of limited-purpose accounts, called "excess balance accounts," at Federal Reserve Banks for the maintenance of excess balances of eligible institutions. These excess balance accounts are intended to permit eligible institutions to earn interest on their excess balances without significantly disrupting established business relationships with their correspondents.

**DATES:** This final rule is effective July 2, 2009.

**FOR FURTHER INFORMATION CONTACT:** Sophia H. Allison, Senior Counsel (202/452-3565), or Dena L. Milligan, Attorney (202/452-3900), Legal Division, or Seth Carpenter, Deputy Associate Director (202/452-2385), or Margaret Gillis DeBoer, Section Chief (202/452-3139), Division of Monetary Affairs; for information with respect to the clearing balance policy and float calculations, contact Jonathan Mueller, Senior Financial Analyst (202/530-6291), Division of Reserve Bank Operations and Payment Systems; for users of Telecommunications Device for the Deaf (TDD) only, contact 202/263-4869; Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

#### SUPPLEMENTARY INFORMATION:

##### I. Interest on Balances at Federal Reserve Banks

###### A. Background

For monetary policy purposes, section 19 of the Federal Reserve Act ("the Act") imposes reserve requirements on certain types of deposits and other liabilities of depository institutions. Title II of the Financial Services Regulatory Relief Act of 2006 (the "2006 Act") (Pub. L. 109-351, 120 Stat. 1966 (Oct. 13, 2006)) amended section 19 of the Act by authorizing the Federal Reserve Banks ("Reserve Banks") to pay earnings on balances maintained at the Reserve Banks by or on behalf of certain depository institutions. The original effective date of this authority was October 1, 2011. Section 128 of the Emergency Economic Stabilization Act of 2008 (the "2008 Act") (Pub. L. 110-343, 122 Stat. 3765 (Oct. 3, 2008)) accelerated the effective date of this authority to October 1, 2008.

Section 19 of the Act now provides that Reserve Banks may pay earnings on balances held at the Reserve Banks by or on behalf of certain depository institutions at least once each quarter at a rate not to exceed the general level of short-term interest rates. Depository

institutions that are eligible to receive earnings on their balances held at Reserve Banks include the institutions described in section 19(b)(1)(A) of the Act<sup>1</sup> and "any trust company, corporation organized under section 25A or having an agreement with the Board under section 25, or any branch or agency of a foreign bank (as defined in section 1(b) of the International Banking Act of 1978)."<sup>2</sup> The Act also provides that the Board may prescribe regulations concerning the payment of earnings, the distribution of earnings to the depository institutions that maintain balances or on whose behalf balances are maintained, and "the responsibilities of depository institutions, Federal Home Loan Banks, and the National Credit Union Administration Central Liquidity Facility with respect to the crediting and distribution of earnings attributable to balances maintained \* \* \* in a Federal Reserve bank by any such entity on behalf of depository institutions."<sup>3</sup>

Regulation D, which implements the provisions of section 19 of the Act, also provides that a depository institution must maintain its required reserves in the form of cash in its vault, or if vault cash is insufficient, in the form of a balance in an account at a Reserve Bank.<sup>4</sup> A depository institution may maintain balances at a Reserve Bank in an account in its own name, or it may choose another institution as its "pass-through correspondent."<sup>5</sup> Under a

<sup>1</sup> Section 19(b)(1)(A) defines "depository institution" as "(i) any insured bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act; (ii) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act; (iii) any savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act; (iv) any insured credit union as defined in section 101 of the Federal Credit Union Act or any credit union which is eligible to make application to become an insured credit union pursuant to section 201 of such Act; (v) any member as defined in section 2 of the Federal Home Loan Bank Act; [and] (vi) any savings association (as defined in section 3 of the Federal Deposit Insurance Act) which is an insured depository institution (as defined in such Act) or is eligible to apply to become an insured depository institution under the Federal Deposit Insurance Act." 12 U.S.C. 461(b)(1)(A).

<sup>2</sup> Federal Reserve Act section 19(b)(12)(C), 12 U.S.C. 461(b)(12)(C).

<sup>3</sup> Federal Reserve Act section 19(b)(12), 12 U.S.C. 461(b)(12).

<sup>4</sup> 12 CFR 204.5(a)(1) (formerly 12 CFR 204.3(b)(1)).

<sup>5</sup> The 2006 Act amended section 19 of the Act to authorize member banks to enter into pass-through account arrangements. Prior to the 2006 Act, only nonmember banks were authorized to enter into such arrangements. As published in today's **Federal**