

WHTI and US-VISIT Evermore Acronyms for Immigration and Security

By Stephanie L. Browning*

WHTI

If you're planning to take a ski or beach vacation this winter to, say, Whistler, Canada or the British Virgin Islands, or anywhere outside of the United States within the Western Hemisphere, to return home you'll need something that you've never needed before—a passport. Pursuant to the Intelligence Reform and Terrorism Prevention Act of December 2004, the State Department and the Department of Homeland Security (DHS) have jointly rolled out a new travel measure known as the Western Hemisphere Travel Initiative (WHTI).

Where previously U.S. citizens were able to return to the United States with a mere driver's license if coming from Canada, Mexico, the Caribbean, or Central and South America, passports (or other new documents in development) will be necessary come January 23, 2007, for any arrivals by *air*. This is Phase I of the initiative. By January 2008, passports will be mandated for entry at all air, sea, and land ports. The passport requirement to enter the United States extends to Canadians, Mexicans, and citizens of Bermuda as well (these groups previously were able to enter with any other documents that could prove their identities and citizenship).

What is behind the WHTI? Security and travel facilitation. By passage of the Intelligence Reform Act, Congress mandated increased security at all types of ports-of-entry, and a sophisticated document-based entry system that allowed for more efficient entry, especially for individuals who routinely cross a border. The initiative also serves to reduce the market in stolen documents and to thwart theft of passport identification. The State Department and DHS have been working for two years to develop an initiative that would both shore up the borders and speed up the entries for legitimate travelers. For at least Phase I, the passport became their primary focus because it is an existing document that packs a lot of information. Moreover, a single standardized passport issued to U.S. citizens would eliminate the need for border patrol agents to check different driver's licenses from every state and territory. Such standardization is expected to improve efficiency as well as reduce document fraud.

By complete implementation of the WHTI in 2008, there might be more choices in documents that will better fit different types of travelers, particularly under registered traveler programs. For instance,

* Stephanie L. Browning is an associate of Klasko, Rulon, Stock & Seltzer, LLP. She can be reached at sbrowning@klaskolaw.com. Stephanie joined the firm in September. Prior to joining the firm, Stephanie served as the Senior Legal Editor for the American Immigration Lawyers Association. Her credits include serving as Editor-in-Chief of AILA's [Immigration and Nationality Law Handbook](#). A graduate of the University of Chicago (B.A. with honors 1996), she received her law degree from the University of Michigan Law School in May 2002. While at Michigan, she served as Editor-in-Chief of the [Michigan Journal of International Law](#).

Mexican national frequent crossers can continue to use the Border Crossing Card (BCC) or obtain a SENTRI card, which requires proof of Mexican citizenship and background checks; frequent border crossers from Canada can use a document called NEXUS, which has requirements similar to SENTRI; and commercial truck drivers who cross the Canadian and Mexican borders might have by 2008 a crossing card called FAST (Free and Secure Trade) specifically for their trade.

The State Department and DHS are encouraging individuals who travel in the Western Hemisphere to obtain passports. Since the initiative was first proposed in 2005, passport applications have hit a record high, and the State Department anticipates further record-breaking in 2007 and 2008. There are more than 6000 passport acceptance facilities in the United States, and the State Department has stepped up new hires and shifts to handle the increase in applications due to the new initiative. So, enjoy the winter trips to our neighboring countries that you have planned, but don't forget to get a passport before you leave.

US-VISIT

Even though it would behoove U.S. citizens to now have a passport whenever they travel out of the country, it's still simple for them to leave. However, for foreign nationals visiting or working in the United States, there are new exit requirements. The US-VISIT program is another joint initiative by the State Department and DHS, whereby all foreign nationals (with limited exceptions) must enroll in the database. When a foreign national applies for a visa at a U.S. embassy overseas, the consular officer takes digital finger scans and photos. If the individual is traveling under the Visa Waiver Program—a reciprocal program with certain countries whereby neither country's nationals need a visa for a short visit—he or she will only have a passport, but the United States has begun requiring the partner countries to include biometrics (*i.e.*, fingerprints) in the passports.

Upon arrival at a port-of-entry, the foreign national undergoes many of the same procedures that have been in place for years, only now he or she also has two fingers again digitally scanned to prove that the person who received the visa is the same one entering on that visa.

The unfamiliar part of the US-VISIT applies during the foreign national's exit. US-VISIT exit procedures are still in a testing/pilot phase. However, one of the twelve test airports is Philadelphia International (BWI and Newark Liberty are the other two mid-Atlantic airports with the exit facilities). Now, foreign nationals must essentially "check-out" of the United States. And to complete this process, the foreign national must go through finger scanning, have his or her visa and/or passport scanned, and have a photo taken at the airport before departure. This exit process all takes place at a kiosk that resembles an ATM machine, making US-VISIT Exit a bit tricky. At Philadelphia International, the kiosks are located in terminal A West. Additionally, border patrol attendants are available for assistance.

Given the rush of catching flights, the relative obscurity of the kiosks, and the risk that some foreign national visitors don't even know about US-VISIT Exit, you could be doing yourself, colleagues, and clients who are foreign nationals a tremendous service by informing them about the exit procedures. Make 2007 the year to get savvy about international travel, and stay ahead of all the reforms from both sides of the border.