



Eastern Border Transportation Coalition

**Consultation and Approval Guide for
Planning and Constructing Border Crossing Projects**

April 2021



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ABOUT THIS DOCUMENT

Regulatory approvals for international construction projects and website links are based on information available as of April 2021.

Approval categories are arranged in sections with a summary table at the end:

1. International level approvals,
2. U.S. Federal and Canadian Federal approvals,
3. State / province approvals and project management roles.

Permits issued by regulatory agencies typically include additional project specific conditions as part of the permitting process. These conditions are not included.

This document is intended to be a guide to the Canada – U.S. regulatory process for border construction projects.

This document does not provide legal advice.

INTRODUCTION

The Eastern Border Transportation Coalition (EBTC) members are the transportation agencies from the states of Michigan, New York, Vermont, Maine and the provinces of Ontario, Quebec, New Brunswick, and Nova Scotia. They are responsible for highway and bridge infrastructure, including access to the 75 border ports of entry on the Eastern U.S. - Canada border.

The transportation agencies recognized a critical need for consultation and cooperation among the many agencies that provide services at U.S. - Canada border ports of entry. The objective is to create an efficient border processing "system". In this role, EBTC works with U.S. and Canadian federal, state, provincial and local governments, as well as a network of stakeholders, and agencies to identify and address the cross-border needs of business and citizens. Improved cross border collaboration has resulted in more efficient movement of goods and people across the U.S. - Canada border as well as building successful and innovative cross-border partnerships.

This "Consultation and Approval Guide for Planning and Constructing Border Crossing Projects" is an update of the 2007 guide and draws on the experience of EBTC members navigating through the regulatory approval processes in the U.S. and Canada for planning, design, and construction of cross border projects.

Key issues identified in the 2007 guide continue to be central to project success including: 1. Longer lead times for project planning and permitting, 2. Early project notification at the pre planning stage with easily accessible project information, 3. Designate U.S. and Canadian project coordinators to keep the project moving, 4. Expect delays from regulatory agencies with a variety of approval processes and permitting conditions, 5. Consult the public, First Nations, interest groups at all project stages, and 6. Engage legal resources in both the U.S. and Canada for review of legal documents.



U.S. CANADA: INTERNATIONAL AGENCIES

INTERNATIONAL BOUNDARY COMMISSION (IBC)

The IBC is a bi-national organization responsible for surveying and mapping the Canada - United States border. Established in 1908 by a Treaty between the United States and the United Kingdom (representing Canada), each party appointed a Commissioner to mark and maintain the boundary. A treaty signed in 1925 provided for the creation of a permanent Commission that mandated the Canadian and American Commissioners, who jointly head the IBC, to inspect the boundary, repair and rebuild monuments, keep vistas open, place new monuments and report annually to their respective governments.

The United States Commissioner is appointed by the President and reports directly to the Secretary of State. For Canada, the *International Boundary Commission Act* provides that the Surveyor General is Canada's Commissioner. The Canadian Commissioner reports to the Minister of Global Affairs Canada on policy matters and is located within the Department of Natural Resources for administrative and operational purposes.

The United States - Canada border stretches for 8,891 km, or 5,525 miles, from the St. Croix River between Maine and New Brunswick on the Atlantic Ocean to the Strait of Juan de Fuca between Washington State and British Columbia on the Pacific, and from the Tongass Passage between Alaska and British Columbia and the Yukon Territory on the Pacific to the Arctic Ocean. It forms the boundary between ten states, seven provinces and one territory. It also traverses four of the five Great Lakes. This constitutes the world's longest land border between two adjoining countries.

The IBC regulates land uses and is responsible for maintaining a 10-foot clear zone on both sides of the border. Applicants, typically the designated U.S. or Canadian project manager, apply in their home country once a location and design are finalized. This application includes:

1. A detailed letter describing the type of work proposed and its general location (i.e., municipality, town, province/state).
2. Two copies of a drawing showing the location of the proposed work in relation to a boundary monument or boundary reference monument.

IBC approval is a formal letter from the Commission.

<http://www.internationalboundarycommission.org/en/>

INTERNATIONAL JOINT COMMISSION (IJC)

Canada and the United States created the International Joint Commission because they recognized that each country is affected by the other's actions in lake and river systems along the border. The two countries cooperate to manage these waters and to protect them for the benefit of today's citizens and future generations. The Cabinet in Canada and the President of the United States, once confirmed by the Senate, each appoint three of six IJC Commissioners. One Commissioner from each country serve concurrently as Chairs.

The IJC is guided by the Boundary Waters Treaty, signed by Canada and the United States in 1909. The treaty provides general principles for preventing and resolving disputes over waters shared between the two countries and for settling other transboundary issues. The specific application of these principles is decided on a case-by-case basis.

The IJC has two main responsibilities: 1. approving projects that affect water levels and flows across the boundary and 2. investigating transboundary issues and recommending solutions.

The U.S State Department and Global Affairs Canada, in cooperation with both State and Provincial Transportation agencies, determine if bridge construction will affect the boundary water levels and flows and require a permit from the IJC.

If construction does affect the boundary water levels and flows, an application by either federal government, U.S. State Department or Global Affairs Canada, to the Commission may become necessary as part of the domestic permitting process. In the U.S., the process should be coordinated through the U.S. Department of State; in Canada through the Global Affairs Canada department. <https://www.ijc.org/en>





UNITED STATES FEDERAL GOVERNMENT APPROVALS



U.S. DEPARTMENT OF STATE (DOS): PRESIDENTIAL PERMITS

The Department of State (DOS) advises the President in the formulation and execution of foreign policy and promotes the long-range security and well-being of the United States.

DOS: ROLE IN BORDER CONSTRUCTION - LAND PORTS OF ENTRY (LPOE)

Under [Executive Order 13867](#) of April 10, 2019, the Secretary of State has been designated to receive all applications for the issuance or amendment of Presidential permits for the construction, connection, operation, or maintenance, at the international boundaries of the United States of certain cross-border projects. Upon receipt of an application, the Secretary may request additional information from the applicant. After review of the application, the Secretary of State provides an opinion to the President as to whether the issuance or amendment serves the foreign policy interests of the United States.

The President of the United States has authority to require permits for transboundary infrastructure projects based on Constitutional powers over foreign affairs and national security residing with the president. Any decision to issue, deny, or amend a permit is made solely by the President of the United States.

The Bureau of Western Hemisphere Affairs has been designated by the Secretary of State to receive Presidential permit applications for most facilities at the Canadian border, except those covered under other regulatory processes including: liquid petroleum and petroleum product pipelines, electrical transmission lines, natural gas pipelines, and submarine cables. Permit applicants are required to provide their identifying information, a description of the proposed facility, a construction plan, traffic information, financing, details on protected areas, an outline of foreign policy interest, and details on any other U.S. and Canadian approvals.

<https://www.state.gov/presidential-permits-for-border-crossings/>

U.S. DEPARTMENT OF STATE (DOS): AGREEMENTS BETWEEN COUNTRIES

The U.S. Department of State must approve state level agreements that are between countries, governing final design, construction, operation, and maintenance, before they are finalized. As agreements are drafted, they should be forwarded to the DOS local representative by the state DOT for continued review and approval if required.



U.S. COAST GUARD (USCG) BRIDGE PERMIT

The Coast Guard is responsible for approval of the location and plans of bridges and causeways constructed across the navigable waters of the United States. In addition, the Coast Guard is responsible for approval of the location and plans of international bridges and the alteration of bridges found to be unreasonable obstructions to navigation. The Bridge Program carries out this responsibility by executing four functional areas:

1. Permitting for construction or alteration of bridges over navigable waters.
2. Regulation to ensure all bridges meet the reasonable needs of navigation and are properly marked and lit to facilitate safe passage of vessels beneath.
3. Monitoring construction/maintenance/repair operations to ensure minimal impact to navigation.
4. Identification of bridges that are obstructions to navigation to ensure unused or abandoned bridges are removed.

In 1967, the Bridge Program was transferred from the Army Corps of Engineers to the Coast Guard within the Department of Transportation. On 28 February 2003, the Coast Guard became an agency of the Department of Homeland Security. Overall, the Coast Guard monitors and ensures approximately 20,000 bridges crossing navigable waters of the United States are not unreasonable obstructions to navigation. As projects are undertaken to replace aging bridges or to modify bridges to meet changing navigational needs, such as raising the bridge deck to accommodate new post-Panamax vessels, more bridge permit applications are being submitted to the Coast Guard for review and approval.

Pre-application conferences between the state Transportation agency and the USCG are advised as formal application is normally submitted following the approval of all other permit applications and approvals. The USCG will typically direct accept applicants to submit 60% complete plans as part of the application process.

The U.S. Coast Guard issues Bridge Permits as a separate federal action but is subject to compliance with the National Environmental Policy Act (NEPA). One frequent challenge is satisfying the U.S. Coast Guard's requirements for plans to accompany the public notice; consider submitting plans for early review and approval prior to submitting the application.

<https://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Marine-Transportation-Systems-CG-5PW/Office-of-Bridge-Programs/Bridge-Permit-Application-Process/>

THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) OF 1969

The National Environmental Policy Act (NEPA) was signed into law on January 1, 1970. Congress enacted NEPA to establish a national policy for the environment, provide for the establishment of the Council on Environmental Quality (CEQ), and for other purposes. NEPA was the first major environmental law in the United States, and it requires Federal agencies to assess the environmental effects of proposed major Federal actions prior to making decisions.

Section 101 of NEPA sets forth a national policy "to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans." [42 U.S.C. 4331\(a\)](#). This policy requires the federal government to use all practicable means to create and maintain conditions under which man and nature can exist in productive harmony.

Section 102 of NEPA establishes procedural requirements for federal agencies to incorporate environmental considerations in their planning and decision-making through a systematic interdisciplinary approach. Specifically, all Federal agencies are to prepare detailed statements assessing the environmental impact of and alternatives to major Federal actions significantly affecting the environment. These statements are commonly referred to as Environmental Impact Statements (EIS) and Environmental Assessments (EA). [42 U.S.C. 4332\(2\)\(C\)](#)

THE COUNCIL ON ENVIRONMENTAL QUALITY

NEPA established CEQ within the Executive Office of the President to ensure that Federal agencies meet their obligations under NEPA. CEQ oversees NEPA implementation, principally through issuing guidance and interpreting regulations that implement NEPA's procedural requirements. CEQ also reviews and approves Federal agency NEPA procedures, approves alternative arrangements for compliance with NEPA for emergencies, and helps to resolve disputes between Federal agencies and with other governmental entities and members of the public.

One of CEQ's major responsibilities is also to develop and recommend national policies to the President that promote the improvement of environmental quality and meet the Nation's goals. [WhiteHouse.gov/CEQ](https://www.whitehouse.gov/CEQ).

CEQ comprehensively updated its NEPA implementing regulations (40 CFR Parts 1500 to 1508), first issued in 1978 – to modernize provisions, streamline infrastructure project development, and promote better decision making by the Federal government. [eCFR :: Title 40 \(federalregister.gov\)](#) The CEQ directs federal agencies to:

1. integrate the NEPA process into early planning,
2. cooperate and consult among agencies before the report is prepared and resolve any disputes,
3. set the study scope to focus on significant environmental issues, and
4. provide a mechanism for time limits on the environmental impact statement process.

The [CEQ Regulations](#) page for information on the final rule CEQ that was published on July 16, 2020 and became effective on September 14, 2020. [NEPA | National Environmental Policy Act \(doe.gov\)](#)

ROLE OF FEDERAL AGENCIES – NEPA PROCESS

The role of a federal agency in the NEPA process depends on the agency's expertise and relationship to the proposed action. The agency carrying out the federal action is responsible for complying with the requirements of NEPA. In some cases, there may be more than one federal agency involved in the proposed action. In this situation, a lead agency is designated to supervise the preparation of the environmental analysis. Federal agencies, together with state, tribal or local agencies, may act as joint lead agencies. Federal agencies have also developed their own NEPA procedures that supplement the CEQ NEPA regulations. These NEPA procedures vary from agency to agency since they are tailored for the specific mission and activities of the agency. [Find NEPA procedures for specific federal agencies.](#)

Using the NEPA process, agencies evaluate the environmental and related social and economic effects of their proposed actions. Agencies also provide opportunities for public review and comment on those evaluations. The range of actions covered by NEPA is broad and includes: 1. making decisions on permit applications, 2. adopting federal land management actions, and 3. constructing highways and other publicly owned facilities.

NEPA affects every federally funded project and every project requiring federal permitting, change in access control or other significant federal action regardless of funding. The process ensures that information on the environmental impacts of any federal action is available to public officials and citizens before decisions are made and actions are taken. NEPA applies to a very wide range of federal actions including federal construction projects, plans to manage and develop federally owned lands and federal approvals of non-federal activities such as grants, licenses and permits.

The NEPA process is intended to evaluate a wide range of impacts that may have adverse impacts on the natural environment or the citizens in or near the proposed project location including: 1. significant impacts on any natural, cultural, recreational, or historic resource, 2. significant air, noise, or water quality impacts, 3. significant impacts on the transportation system or to travel patterns.

Once a purpose and needs statement is prepared for the proposed improvement, every project must be screened as:

1. a Categorical Exclusion: a low impact project that meets pre-established criteria for no significant impact on the environment, e.g., highway upgrades with no new capacity, noise barrier installation,
2. an Environmental Assessment (EA) Report / Finding of No Significant Impacts (FONSI), where the proposed action is determined to not significantly affect the environment, or
3. an Environmental Impact Statement (EIS) / Record of Decision (ROD) when the action is likely to cause significant environmental impacts.

Final design activities, property acquisition, purchasing of construction materials or rolling stock, or project construction shall not proceed until these steps are completed. An EIS must rigorously explore and objectively evaluate all reasonable alternatives and explain the rationale for eliminating any alternatives from detailed study. Reasonable alternatives are those that are practical or feasible from the technical and economic standpoint and the common-sense viewpoint, even if they are not the preferred alternative. An alternative is not reasonable if it does not satisfy purpose and need.

State, local, and federal agencies, public and private organizations and the public are all allowed to provide input into the preparation of the EIS and then comment on the draft EIS report. The report must identify the preferred alternative, summarize the public outreach process, and detail the actions that will be taken to mitigate any adverse impacts. The EIS must document compliance, to the extent possible, with all applicable environmental laws and Executive orders. Examples of transportation projects that would typically fall into this class include: a new controlled access freeway, a highway project of four or more lanes in a new location, new construction, or extension of fixed rail transit facilities.

After the final EIS report is completed and circulated, a Record of Decision is issued detailing how the findings of the EIS were incorporated into the final decision-making process.

[National Environmental Policy Act | US EPA](#)



ARMY CORPS OF ENGINEERS EPA CLEAN WATER ACT (CWA) SECTION 404

The CWA regulates the discharge of dredged or fill material into the waters and wetlands of the United States. The Army Corps of Engineers administers this program and issues permits, develops policy and guidance, makes jurisdictional determinations, and enforces Section 404 permit provisions. As part of the permit review process, applicants must first show that steps have been taken to avoid impacts to wetlands, streams, and other aquatic resources, that potential impacts have been minimized and that compensation will be provided for all remaining unavoidable impacts.

For potentially significant impacts, an individual permit is issued under a public interest review process and subject to the environmental criteria set forth in the CWA Section 404(b)(1) guidelines and regulations promulgated by EPA. Some states have assumed this permitting authority and regulate these activities.

For most discharges that will have only minimal adverse effects, a general permit may be suitable. General permits are issued on a nationwide, regional, or state basis for particular categories of activities. The general permit process eliminates individual review and allows certain activities to proceed with little or no delay, provided that the general or specific conditions for the general permit are met. Activities that can be considered for a general permit include minor road activities and utility line backfill. States also have a role in Section 404 decisions, through State program permits, water quality certification or program assumption.

Corps permits are also necessary for any work in the Nation's navigable waters. Permits balance the reasonably foreseeable benefits and detriments of proposed projects as well as the essential values of the Nation's aquatic ecosystems to the general public, and the property rights of private citizens who want to use their land. During the permit process, the Corps considers the views of other Federal, State, and local agencies, interest groups and the general public to allow reasonable use of private property, infrastructure development and economic growth, while offsetting the authorized impacts to the waters of the US. Adverse impacts to the aquatic environment require mitigation.

[Obtain a Permit \(army.mil\)](http://army.mil)



FEDERAL HIGHWAY ADMINISTRATION (FHWA)

FHWA is 1 of 10 operating administrations within the U.S. Department of Transportation (USDOT), responsible for supporting State and local governments in the design, construction, and maintenance of the Nation's highway system through the Federal Aid Highway Program and various federally and tribal owned lands through the Federal Lands Highway Program. Four main goals are outlined in the 2019-2022 FHWA Strategic Plan: safety, infrastructure, innovation, and accountability. These align with the higher level USDOT policy priorities: improving safety, encouraging innovation, and maintaining the nation's infrastructure.

The Federal government's investment in highways and roads is particularly important to the nation's highways and places a particular emphasis on investment in the National Highway System (NHS). Fixing America's Surface Transportation (FAST) Act authorized \$305 billion over fiscal years 2016 to 2020 for highway, vehicle and motor carrier safety, public transportation, hazardous materials safety, rail, and research, technology, and statistics programs.

FHWA: ROLE IN BORDER CONSTRUCTION

In its funding / permitting / regulatory role, the FHWA must ensure compliance under the National Environmental Policy Act of 1969. The FHWA is also charged with determining the level of analysis necessary under NEPA, i.e., a categorical exclusion, a Finding of No Significant Impact or a Record of Decision, before construction may begin for a highway project. In this role, FHWA should be consulted early, when the project scope and the purpose and need are being determined leading up to assistance in the determination of the level of analysis that will be necessary.

[Department of Transportation](#)



UNITED STATES CUSTOMS AND BORDER PROTECTION (CBP)

CBP is the largest federal law enforcement agency of the United States under the Department of Homeland Security and is the country's primary border control organization. It is charged with regulating and facilitating international trade, collecting import duties, and enforcing U.S. regulations, including trade, customs, and immigration. CBP has a large workforce of sworn federal agents and officers. CBP headquarters is in Washington, D.C. CBP provides security and facilitation operations at ports of entry throughout the country.

Road infrastructure is directly linked with the ports of entry operated by CBP. Any modification in the way CBP processes passenger and commercial traffic can result in impacts on traffic and the road infrastructure. Any inputs from CBP regarding the customs and processing operations (staff, security requirements, safety programs offered, etc.) should be integrated in the project. Coordination is especially important during the construction phase to maintain fluidity and security when traffic is temporarily diverted.

For CBP Port Location Information, please use this [interactive map](#) to find information specific to air, sea, and land entries.

<https://www.cbp.gov/>



GENERAL SERVICES ADMINISTRATION (GSA)

GSA provides more than \$50 billion in centralized procurement of products, services, and facilities for the federal government via two main service lines, Federal Acquisition Service (FAS) and Public Buildings Service (PBS), as well as the Office of Government-wide Policy (OGP) and a set of staff offices that support the development of government wide policies to support efficient and effective operation of the agency.

The 2018-2022 GSA Strategic Plan sets out four goals to 1. Save taxpayer money through better management of Federal real estate, 2. Establish GSA as the premier provider of efficient and effective acquisition solutions across the Federal Government, 3. Improve the way Federal agencies buy, build, and use technology, and 4. Design and deliver expanded shared services within GSA and across the Federal Government.

GSA's Public Buildings Service (PBS) provides workplaces on behalf of the federal government through new construction and leasing and acts as a caretaker for federal properties across the country. PBS owns or leases assets, maintains an inventory of workspace for federal employees, and preserves properties. PBS is funded primarily through the Federal Buildings Fund, which is supported by rent from federal customer agencies. The PBS is subject to the National Environmental Policy Act (NEPA) and has a Desk Guide to help GSA staff, contractors, and other GSA associates carry out the requirements of NEPA in accordance with the Council on Environmental Quality (CEQ) regulations (40 CFR 1500-1508) and GSA Order ADM 1095.1F [ADM 1095 \(gsa.gov\)](#) on Environmental Consideration in Decision making.

GSA'S ROLE IN BORDER CONSTRUCTION - LAND PORTS OF ENTRY (LPOE)

GSA is responsible for border station facilities at Land Ports of Entry (LPOE) that provide controlled entry into or departure from the United States for persons or materials. These facilities house the U.S. Customs and Border Protection (CBP), and other federal inspection agencies responsible for the enforcement of federal laws pertaining to cross border activities.

In 2019, there were 167 LPOEs on the border with Canada (120) and Mexico (47), of which 102 are GSA owned and operated with the balance either owned and operated by CBP or leased to the government by municipalities, local governments, or private entities such as toll bridges. There are more than 1,900 miles of border between the United States and Mexico, and more than 5,000 miles of border between the U.S. and Canada. Every day, about \$2 billion in trade cross the nation's 167 border crossings, along with more than 350,000 vehicles, 135,000 pedestrians and 30,000 trucks and 88 percent of U.S. merchandise trade by value with Canada and Mexico moves on land.

Within the GSA's Office of Design and Construction, the LPOE Subject Matter Experts (SME) support regional offices and project managers on the design, development, and construction of individual LPOEs. The LPOE SMEs act as GSA's national liaison with other LPOE program stakeholders facilitating the program's successful delivery. SMEs come from both the Expert Resources Division and the Special Programs Office. They also coordinate the long-range space requirements of CBP protection programs, the rolling five-year plan within GSA's annual budget request, and project approval processes in partnership with CBP.

External stakeholders include CBP, Department of Transportation, Federal Highway Administration, state, local and municipal transportation organizations, the U.S. Department of State, Congress, Office of Mexican Border Affairs, Office of Canadian Border Affairs, additional various departments of the Mexican and Canadian governments, U.S. Department of Agriculture Animal and Plant Health Inspection Service, Fish and Wildlife Service, Environmental Protection Agency, Food and Drug Administration, International Boundary and Water Commission, International Business Council, citizen advocacy groups, and U.S. taxpayers.

[Home \(gsa.gov\)](https://gsa.gov)



U.S. DEPARTMENT OF LABOR

U.S. DEPARTMENT OF LABOR (DOL): TEMPORARY FOREIGN WORKERS

DOL provides oversight of the labor market and ensures that U.S. workers have preferred access to all jobs in the U.S. In the case of construction projects, the need for foreign workers is screened under the H-2B Temporary Non-agricultural Program – Foreign Construction Workers. The DOL determines: 1. There are not sufficient U.S. workers who are qualified and who will be available to perform the temporary services or labor for which an employer desires to hire foreign workers; and 2. The employment of H-2B workers will not adversely affect the wages and working conditions of similarly employed U.S. workers. Canada also has a similar program.

To participate in the H-2B program, an applicant must 1. Be an employer with a valid Federal Employer Identification Number (FEIN); 2. Have a place of business (i.e., physical location) in the United States; and 3. Have a means by which it can be contacted for employment.

The employer's job opportunity must be 1. Temporary (i.e., nine months or less, except one-time occurrences); 2. Full-time (i.e., 35 or more hours per week); and 3. Non-agricultural employment within a specified area(s) of intended employment.

The H-2B temporary non-agricultural program permits employers who meet the program requirements to hire non-immigrant workers to temporarily come to the U.S. and perform non-agricultural services or labor based on the employer's temporary need. The employer applicant must establish that its need for non-agricultural services or labor is temporary in nature, regardless of whether the underlying job is permanent or temporary.

Temporary need must be 1. One-time occurrence; 2. Seasonal need; 3. Peak load need; or 4. Intermittent need. Except for a one-time occurrence need which can last up to three years, temporary need will not be approved for longer than nine months.

The Immigration and Nationality Act and regulations issued jointly with the U.S. Department of Homeland Security (DHS) establish employer requirements and worker protections with respect to wages and working conditions. The Department's [Wage and Hour Division](https://www.dol.gov/agencies/eta/foreign-labor/programs/h-2b) has responsibility for enforcing provisions of worker contracts and applicable employment laws. <https://www.dol.gov/agencies/eta/foreign-labor/programs/h-2b>



CANADA: FEDERAL GOVERNMENT APPROVALS



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TRANSPORT CANADA (TC)

Transport Canada is responsible for transportation policies and programs to promote safe, secure, efficient, and environmentally responsible transportation. Transport Canada programs cover the air, rail, road, marine, modes as well as environmental and multi modal transportation. There are funding and non-funding programs that support policies around these modes. <https://tc.canada.ca/en/programs>

The role of the Policy Group is to develop, recommend and coordinate modal and multi-modal policies. The group offers advice, analysis and data on transportation issues, system performance and stakeholder positions and is responsible for approvals under the International Bridges and Tunnels Act. <https://tc.canada.ca/en/corporate-services/policies/policy-group>

TC'S ROLE IN BORDER CONSTRUCTION - INTERNATIONAL BRIDGES AND TUNNELS ACT (IBTA)

Under the International Bridges and Tunnels Act (IBTA), Transport Canada has the authority to approve international bridge and tunnel construction projects that are defined as connecting any place in Canada to any place outside Canada, including approaches and facilities related to the bridge or tunnel. Project leads must submit an application to the Minister for approval by the Governor in Council (GIC) in accordance with the guidelines set by the Policy Group of Transport Canada. This approval must be obtained prior to the start of construction.

Once construction is approved by the Governor in Council, a security risk assessment must be submitted to the Minister before construction begins, construction standards must adhere to *Canadian Highway Bridge Design Code (Code)* or more stringent standards, and construction must begin within five years of the GIC approval date.

As the replacement bridge nears completion, at least 30 days prior to opening the Replacement bridge to traffic, the project lead must provide Transport Canada with the following information:

1. a letter from an independent and qualified engineering firm certifying that the Replacement bridge was constructed in compliance with section 4 of the International Bridges and Tunnels Regulations, in accordance with sound engineering principles, and that it is safe for public use;
2. an updated security risk assessment for the new bridge.

Once the new bridge is approved to be open to traffic, the existing bridge must close to traffic on the same day and be demolished within five years from that date.

<https://tc.canada.ca/en/corporate-services/acts-regulations/international-bridges-tunnels-act-2007-c-1#text>

TC'S ROLE IN BORDER CONSTRUCTION - NAVIGABLE WATERS ACT

Transport Canada has authority under the Canadian Navigable Waters Act to ensure construction projects do not interfere with navigation. The Act provides oversight of navigable waters listed as a schedule under the Act. Changes to the Act made in 2019 expand the regulatory scope to increase the ways to protect navigable waters, streamline the addition of new waterways under the Act, enable regulation of major works and obstructions, including for waterways not on the schedule; setting conditions for minor works on any navigable water in Canada; adding an online registry of projects and approvals; and consideration of Indigenous knowledge and traditional use of the waters. Approval by Transport Canada under the Act is required before the start of construction.

<https://tc.canada.ca/en/marine/about-canadian-navigable-waters-act>



Government
of Canada

Gouvernement
du Canada

FISHERIES AND OCEANS CANADA (DFO)

DFO is the federal lead for safeguarding waters and managing Canada's fisheries, oceans, and freshwater resources. Key goals are support of economic growth in the marine and fisheries sectors, innovation in aquaculture and biotechnology and a healthy and sustainable aquatic ecosystem based on habitat protection and sound science. Fisheries and Oceans Canada's (DFO) and the Canadian Coast Guard (CCG) are headquartered in Ottawa with several DFO and CCG regional offices.

The mandate and role of DFP and CCG is to manage Canada's fisheries and safeguard its waters by sustainably managing fisheries and aquaculture, working with fishers, coastal and Indigenous communities to enable their continued prosperity from fish and seafood, ensuring that Canada's oceans and other aquatic ecosystems are protected from negative impacts, ensuring commercial vessels and recreational boaters can safely navigate our waters, being there to save lives and protect the environment when emergencies arise.

<https://www.dfo-mpo.gc.ca/index-eng.htm>

DFO'S ROLE IN BORDER CONSTRUCTION

DFO requires fish habitat compensation, Indigenous Consultation and provides permits for in water work.



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du Canada

IMPACT ASSESSMENT AGENCY OF CANADA (IAA)

In 2019, the Impact Assessment Agency replaced the Canadian Environmental Assessment Agency (CEAA) and carried an expanded mandate for environmental assessments to include a deeper Indigenous and public engagement process in a more prescribed manner. Five project assessment stages are identified as follows:

1. **Planning Projects** go through a planning phase where the public and Indigenous peoples are invited to provide information and contribute to planning the assessment.
2. **Impact Statement:** The proponent is provided with clear requirements for the information and studies for an Impact Statement. Sound science and Indigenous knowledge inform the Impact Statement.
3. **Impact Assessment:** The assessment considers potential environmental, health, social and economic impacts of proposed projects, including benefits. Potential impacts on Aboriginal treaty rights are also assessed and consulted on. The Agency or review panel uses the information to develop an impact assessment report.
4. **Decision Making:** Public interest is at the centre of decisions. The impact assessment report and Crown consultation outcomes informs the Minister or Governor in Council decision on whether a project's adverse impacts are in the public interest. If yes, the Minister must establish conditions for the proponent. Decision statements set out the rationale for the decision, providing transparency and accountability.
5. **Post Decision:** The Agency will be active in verifying compliance with Decision Statements and correcting non-compliance. There will be greater transparency around follow-up programs, with increased access to key documentation, as well as increased opportunities for Indigenous and community participation in follow-up and monitoring programs.

Indigenous consultation is part of the permit issuing process and consultation must take place with a governing body (council, government, other entity) authorized to act on behalf of an Indigenous group, community or people that holds rights recognized and affirmed by section 35 of the Constitution Act, 1982. Indigenous knowledge means the Indigenous knowledge of the Indigenous peoples of Canada. Indigenous peoples of Canada has the meaning assigned by the definition aboriginal peoples of Canada in subsection 35(2) of the Constitution Act.

<https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/impact-assessment-process-overview.html>



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PUBLIC SERVICE AND PROCUREMENT SERVICE (PSPC)

PSPC is responsible for managing Federal government real property holdings, offering professional and technical real property services, and providing safe, healthy, and productive working environments.

PPSC'S ROLE IN BORDER CONSTRUCTION

PPSC provides planning and technical advice on construction projects that involve border inspection facilities and must also be involved at the start with CBSA in project development. www.tpsgc-pwgsc.gc.ca/comm/index-eng.html



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CANADA BORDER SERVICES AGENCY (CBSA)

The mandate of CBSA is to provide integrated border services that support national security, public safety priorities and facilitate the free flow of persons and goods. The Canada Border Services Agency (CBSA) provides clearance, control and examination services for travelers, importers, and exporters, at ports of entry (POE), including land border offices.

CBSA'S ROLE IN BORDER CONSTRUCTION

At land border crossings, new transportation infrastructure must be coordinated with CBSA border inspection facilities and it is essential CBSA and PSPC be part of the project planning process from the start. At the early stages of the project a formal approval on the general concept should be obtained. Formal approval is also necessary for the final design as the new construction will affect the traffic flow in and around the inspection facilities. CBSA should be informed of any changes on the final design.

It is helpful to have a formal agreement between CBSA and Transportation agencies to clarify responsibilities, define infrastructure management issues, (maintenance, snow plowing, electricity, fees), and identify any ITS components that require the CBSA's participation (data input). Other items for consideration in an agreement include: 1. Data on the nature of traffic at the specific border crossing for need assessment, 2. Trusted Traveller programs

(FAST/EXPRES, Nexus) offered (or to be offered) and impact on infrastructure, 3. Coordination for signing and road marking, 4. Strategy to manage traffic and to maintain fluidity, security, and road safety during the construction phase and to plan alternative itinerary with other port authority if required, 5. Formal agreement on the final design of the project, the schedule for the construction phase.

<https://cbsa-asfc.gc.ca/do-rb/menu-eng.html>



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SERVICE CANADA - TEMPORARY FOREIGN WORKER PROGRAM

Canada recognizes that temporary foreign workers provide important contributions to the Canadian economy. The following information provides a summary of requirements for Temporary Foreign Workers and their employers.

<https://www.canada.ca/en/employment-social-development/services/foreign-workers/employer-compliance/covid-faq.html>

<https://www.canada.ca/en/employment-social-development/programs/temporary-foreign-worker.html>

STATE AND PROVINCIAL TRANSPORTATION AGENCIES

STATE AND PROVINCIAL TRANSPORTATION AGENCIES

State and provincial transportation agencies are typically the driving force for improvements to traffic flow efficiency at U.S. - Canada border crossings since the highway system on both sides of the border feeds into the border ports of entry. Coordination between these transportation agencies and CBP, GSA and CBSA is essential when developing construction projects.

State and provincial transportation agencies work closely to coordinate planning, design and construction around border crossings and corridors of commerce to ensure improvements. Complex construction projects at border crossings require coordination for environmental review processes as well as sign off from the numerous Federal agencies that have regulatory authority in addition to the corresponding state and province regulatory regimes in place as well.

Construction projects at border crossings have international dimensions such that intergovernmental agencies tasked with diplomatic affairs also need to have input.

CANADA REVENUE AGENCY (CRA) HARMONIZED GOODS AND SERVICES TAX – APPLICATION FOR ZERO TAX RATING ON BORDER CONSTRUCTION PROJECTS

In Canada, international bridge construction projects that are led by provincial transportation agencies should apply in writing to the Canada Revenue Agency (CRA) requesting to be deemed an International Bridge Commission in order to qualify for a zero rating under the Harmonized Sales Tax. The construction company awarded the tender to build the new international bridge will collect and remit HST as required for Canadian transactions, but will benefit from a full refund of the HST paid for direct purchases of bridge construction related services.

The EBTC website contains the contacts for Eastern border transportation agencies.

[Eastern Border Transportation Coalition \(ebtc.info\)](http://ebtc.info)

CANADA / UNITED STATES – SUMMARY OF APPROVALS

Planning / Permitting Phase

Agency	Permit / Approval	Role of the Agency - Details
INTERNATIONAL		
International Boundary Commission (IBC)	International Boundary Commission Approval	<p><u>The commission monitors the construction of all works within 3 meters (10 feet) of the boundary, so all construction must first be authorized by the Commission.</u></p> <p>The IBC is responsible for producing and installing the international boundary markers. For an international bridge, two markers are produced for each side of the bridge.</p>
<p>On June 4, 1908, the United States and the United Kingdom (on behalf of Canada) signed a treaty to create the International Boundary Commission (IBC), followed by a second treaty in 1925 between the United States and Canada making the IBC a permanent organization with an American and a Canadian Commissioner to establish and maintain an effective boundary line. The United States Commissioner is appointed by the President and reports directly to the Secretary of State. For Canada, the <i>International Boundary Commission Act</i> provides that the Surveyor General in the Department of Natural Resources is Canada's Commissioner and reports to the Minister of Global Affairs on policy matters.</p>		
<p>Boundary Waters Treaty (1909):</p> <p>International Joint Commission (IJC)</p>	<p>Treaty ratified in the United States and Canada:</p> <p>Global Affairs & State Department review hydrological reports</p>	<p>The IJC has two main responsibilities:</p> <ol style="list-style-type: none"> 1. approving projects that affect water levels and flows across the boundary and 2. investigating transboundary issues and recommending solutions. <p>US Commissioner appointed by the President and reports to the Secretary of State. In Canada, the <i>Boundary Waters Treaty Act</i> assigns the Minister of Global Affairs authority to appoint the Canadian Commissioner.</p> <p>If application is needed – Global Affairs and State Dept. refer project into the IJC process.</p>





<p>U.S. State Department (Federal)</p> <p>Presidential Permit</p>	<p>Transport Canada (Federal)</p> <p>International Bridges and Tunnels Act</p>
<p>The President of the United States has Constitutional powers over foreign affairs and authority to require permits for transboundary infrastructure projects. US, tunnels, ports of entry.</p> <p>https://www.state.gov/presidential-permits-for-border-crossings/</p>	<p>Approval to construct and international bridge or tunnel is required under the International Bridges and Tunnels Act. (https://laws-lois.justice.gc.ca/PDF/I-17.05.pdf) Transport Canada is the responsible agency and has guidelines for applications under this Act.</p>
<p>U.S. State Department: Agreements to construct</p>	<p>Intergovernmental Affairs: Provincial sign off</p>
<p>Secretary of State gives approval of agreements between countries that require final design, construction, operation, and maintenance.</p>	<p>Provincial agency tasked with intergovernmental issues must be included in the approval process to enter into agreements between Provinces and States.</p>
<p>U.S. Coast Guard: Federal Bridge Permit</p>	<p>Transport Canada: Canadian Navigable Waters Act</p>
<p>The Coast Guard is responsible for approval of the location and plans of international bridges.</p> <p>https://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Marine-Transportation-Systems-CG-5PW/Office-of-Bridge-Programs/Bridge-Permit-Application-Process/</p>	<p>Transport Canada regulates works on listed waterways that may interfere with navigation.</p> <p>https://tc.canada.ca/en/marine/about-canadian-navigable-waters-act</p>
<p>Federal Highway Administration (FHWA): National Environmental Policy Act (NEPA)</p>	<p>Impact Assessment Agency of Canada (IAA)</p>
<p>FHWA leads the federal environmental review process. There are 3 categories: 1. categorical exclusion: a low impact project on the environment, e.g., highway upgrades with no new capacity; 2. Environmental Assessment (EA) Report / Finding of No Significant Impacts (FONSI), where the proposed action would not significantly affect the environment, or 3. an Environmental Impact Statement (EIS) / Record of Decision (ROD), when the action is likely to cause significant environmental impacts.</p>	<p>IAA reviews projects through 5 stages: 1. Planning – information gathering with input from the public and Indigenous peoples; 2. Impact Statement – based on science and indigenous knowledge; 3. Impact Assessment – potential adverse effects and benefits are evaluated, effects on Aboriginal Treaty Rights; 4. Decision making based on the public interest; 5. Post decision – follow up, conditions, monitoring.</p>



Federal Highway Administration (FHWA) US DOT Act Section 4f	Provincial Environmental Assessments, Processes and Plans
<p>Section 4(f) of the U.S. Department of Transportation Act protects publicly owned and accessible parks, recreation areas, wildlife, waterfowl refuges and historic sites, regardless of ownership and accessibility. Efforts must be made to preserve the natural beauty of the countryside, public park and recreation lands, wildlife and waterfowl refuges, and historic sites.</p>	<p>Projects must be registered for a Provincial Environmental Assessment process that involves review of technical reports based on field work and input from a variety of technical experts. A product of this process is an Environmental Management Plan that guides activities to have minimal environmental impacts.</p>
National Historic Preservation Act: Compliance with Section 106	Environmental Review Processes: Public & First Nations
<p>Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires federal agencies to consider the effects on historic properties of projects they carry out, assist, fund, permit, license, or approve throughout the country. If a project has the potential to affect historic properties, a Section 106 review will take place to allow public input prior to decision making.</p>	<p>Public and Indigenous input into the planning process is required and includes archeological assessments, or wetlands / habitat compensation, and accommodation of any effects on Aboriginal Treaty rights or title. Some locations may require a site alteration permit based on historical significance. Indigenous Rights are integral for the permit approval process.</p>
Army Corps. Of Engineers: EPA Clean Water Act (CWA) Section 404 & State Environment Agencies	Fisheries and Oceans Canada (DFO): Fisheries Act
<p>As part of the Section 404 permit review process, applicants must show that steps have been taken to avoid impacts to wetlands, streams, and other aquatic resources, that potential impacts have been minimized and that compensation will be provided for all remaining unavoidable impacts. For potentially significant impacts a public interest review process and subject to the environmental criteria. A single application to Federal and State entities is used.</p>	<p>A new Act in 2019 has broader First Nation consultation scope and effects on all fish & fish habitat. Permitting requires drawings of the footprint for temporary and permanent in-river work with the reference shoreline as the location of the water's edge during a 1 in 2-year flood event. Compensation is required for fish habitat impacts through a habitat off-set project. DFO sets the in-water work window that may require more habitat compensation.</p>
	Watercourse, Wetlands Permitting
	<p>Permit for watercourse or wetlands work once DFO and environmental review complete.</p>

Planning / Permitting Phase – Partners

 Approvals	 Approvals
<p>U.S. General Services Administration (GSA) Border Inspection Facilities</p>	<p>Public Service and Procurement Canada (PSPC)</p>
<p>The GSA provides office space for federal agencies, and national leadership, policy direction, and standards for architecture, engineering, urban development, sustainable design, fine arts, historic preservation, construction services, and project management. https://www.gsa.gov/real-estate/design-and-construction-overview</p>	<p>PSPC provides real property management services and has a role to play in construction or alteration of border inspection facilities.</p>
<p>U.S. Customs & Border Protection (CBP)</p>	<p>Canadian Border Services Agency (CBSA)</p>
<p>United States Customs and Border Protection (CBP) is a part of the United States Department of Homeland Security and the country's primary border control organization. CBP regulates and facilitates international trade, collects import duties, enforces U.S. regulations. https://www.cbp.gov/</p>	<p>The Canada Border Services Agency (CBSA) is a federal law enforcement agency that is responsible for border control, immigration enforcement, and customs services in Canada. The CBSA is accountable to Parliament through the Minister of Public Safety and Emergency Preparedness. https://cbsa-asfc.gc.ca/menu-eng.html</p>
<p>U.S. Department of Labor (DOL)</p>	<p>Public Safety Canada</p>
<p>H-2B Temporary Non-agricultural Program U.S. Department of Labor must determine that: 1. There are not sufficient U.S. workers who are qualified and who will be available to perform the temporary services or labor for which an employer desires to hire foreign workers; and 2. The employment of H-2B workers will not adversely affect the wages and working conditions of similarly employed U.S. workers. https://www.dol.gov/agencies/eta/foreign-labor/programs/h-2b</p>	<p>Temporary Foreign Worker Program Canada recognizes that temporary foreign workers provide important contributions to the Canadian economy. The following information provides a summary of requirements for Temporary Foreign Workers and their employers. https://www.canada.ca/en/employment-social-development/services/foreign-workers/employer-compliance/covid-faq.html AND https://www.canada.ca/en/employment-social-development/programs/temporary-foreign-worker.html</p>
	<p>Canada Revenue Agency (CRA)</p>
	<p>Application by the Province for a zero rating of the GST/HST should be submitted once the State/Province agreements are in place.</p>

LIST OF BORDER CROSSINGS IN THE EBTC

ONTARIO / MICHIGAN Canada– US Border Crossings

Land Crossing Name	U.S. Connection	Canadian Connection	
Sault Ste. Marie International Bridge	Sault Ste. Marie	Sault Ste. Marie, Ontario	
Blue Water Bridge	Port Huron	Sarnia, Ontario	
Detroit - Windsor Tunnel	Detroit	Windsor, Ontario	
Ambassador Bridge	Detroit	Windsor, Ontario	
Rail Crossing Name	U.S. Connection	Canadian Connection	
Sault Ste. Marie International Bridge	Sault Ste. Marie	Sault Ste. Marie, Ontario	Canadian National CN
Michigan Central Railway Tunnel	Detroit	Windsor, Ontario	Canadian Pacific CP
Paul M. Tellier Tunnel	Port Huron	Sarnia, Ontario	CN/CP

ONTARIO / NEW YORK Canada– US Border Crossings

Land Crossing Name	U.S. Connection	Canadian Connection	
Alexandria Bay- Thousand Island	Alexandria Bay	Landsdowne	
Lewiston-Queenston Bridge	Lewiston	Queenston, Ontario	
Massena	Roseveltown	Cornwall, Ontario	
Ogdensburg	Ogdensburg	Prescott, Ontario	
Peace Bridge - Buffalo	Buffalo	Fort Erie, Ontario	
Rainbow Bridge - Niagara Falls	Niagara Falls	Niagara Falls,Ont	
Whirlpool Rapids- Niagara Falls	Niagara Falls	Niagara Falls,Ont	
Rail Crossing Name	U.S. Connection	Canadian Connection	Rail Operator
Niagara FallsWhirlpool Rapids Bridge	Niagara Falls	Niagara Falls,Ont	Amtrak/VIA
International Bridge (freight only)	Buffalo	Fort Erie, Ontario	CN RR

QUEBEC / NEW
YORK
Canada – US
Border Crossings

Land Crossing Name	U.S. Connection	Canadian Connection
Burke - Jamisons Line	Burke	Jamieson Line
Cannon Corners	Mooers Forks	Covey Hill
Champlain	Champlain	St-Bernardde-Lacolle
Chateaugay	Chateaugay	Herdman
Churubusco	Churubusco	Franklin Centre
Fort Covington	Fort Covington	Dundee
Mooers	Mooers	Hemmingford
Overton Corners	Rouses Point	Lacolle
Rouses Point St. Johns Hwy	Rouses Point	Lacolle
Trout River	Trout River	Huntingdon
Rail Crossing Name	U.S. Connection	Canadian Connection
Rouses Point	Rouses Point	Cantic
Ft Covington (freight only)	Ft Covington	Dundee

QUEBEC /
VERMONT
Canada –
US Border
Crossings

Land Crossing Name	U.S. Connection	Canadian Connection
Alburg / Noyan	Alburg	Noyan, Quebec
Alburg Springs / Clarenceville	Alburg Springs	Clarenceville, Quebec
Highgate Springs / St Armand	Highgate Springs	St Armand, Quebec
Morses Line / Morses Line	Morses Line	Morses Line, Quebec
West Berkshire / Frelighsbrug	West Berkshire	Frelighsbrug, Quebec
Richford / East Pinnacle	Richford	East Pinnacle, Quebec
Richford / Abercorn	Richford	Abercorn, Quebec
East Richford / Glen Sutton	East Richford	Glen Sutton, Quebec
North Troy / Highwater	North Troy	Highwater, Quebec
Beebe Plain / Stanstead	Beebe Plain	Stanstead, Quebec
Derby Line / Stanstead	Derby Line	Stanstead, Quebec
Derby Line / Stanstead	Derby Line	Stanstead, Quebec
Norton / Stanhope	Norton	Stanhope, Quebec
Canaan / Hereford Road	Canaan	Hereford Road, Quebec
Beecher Falls / East Hereford	Beecher Falls	East Hereford, Quebec
Rail Crossing Name	U.S. Connection	Canadian Connection
Alburg Springs / Clarenceville	Alburg Springs	Clarenceville, Quebec
Richford / Abercorn	Richford	Abercorn, Quebec
North Troy / Highwater	North Troy	Highwater, Quebec
Norton / Stanhope	Norton	Stanhope, Quebec

**QUEBEC /
MAINE
Canada – US
Border
Crossings**

Land Crossing Name	U.S. Connection	Canadian Connection
Coburn Gore / Woburn	Coburn Gore	Woburn
Jackman / Armstrong	Jackman	Armstrong
Sainte-Aurelie	Sainte-Aurelie	Sainte-Aurelie
Sainte Zacharie	Sainte Zacharie	Sainte Zacharie
Sainte Juste / Sainte Just-de-Bretenieres	Sainte Juste, Vt.	Sainte Just-de-Bretenieres
Saint Pamphile	Saint Pamphile	Saint Pamphile
Estcourt Station/ Pohénégamook	Estcourt Station	Pohénégamook, Quebec
Rail Crossing Name	U.S. Connection	Canadian Connection
Jackman / Lac Mégantic	Jackman	Lac Mégantic, Quebec

**NEW
BRUNSWICK
/ MAINE
Canada – US
Border
Crossings**

Land Crossing Name	U.S. Connection	Canadian Connection
Fort Kent / Clair	Fort Kent	Clair
Madawaska / Edmundston	Madawaska	Edmundston
Van Buren / Saint Leonard	Van Buren	Saint Leonard
Hamlin / Grand Falls	Hamlin	Grand Falls
Limestone / Gillespie Portage	Limestone	Gillespie Portage
Fort Fairfield / Perth -Andover	Fort Fairfield	Perth -Andover
Easton / River de Chute Centreville	Easton	River de Chute Centreville
Bridgewater / Centreville	Bridgewater	Centreville
Monticello / Bloomfield	Monticello	Bloomfield
Houlton / Woodstock	Houlton	Woodstock
Orient / Fosterville	Orient	Fosterville
Forest City	Forest City	Forest City
Vanceboro / Saint Croix	Vanceboro	Saint Croix
Calais / Saint Stephen	Calais	Saint Stephen
Milltown / Saint Stephen	Milltown	Saint Stephen
Calais - Ferry Point / Saint Stephen	Calais - Ferry Point	Saint Stephen, New Brunswick
FDR Bridge: Lubec / Campobello Island	Lubec	Campobello Island, New Brunswick
Rail Crossing Name	U.S. Connection	Canadian Connection
Van Buren / Saint Leonard	Van Buren	Saint Leonard, New Brunswick
Vanceboro / Saint Croix	Vanceboro	Saint Croix, New Brunswick
Calais / Saint Stephen	Calais	Saint Stephen, New Brunswick