This interim rule does not alter the geographic limitation.

**Why Has the Department Decided To Extend the Time Restriction?**

With passage of the North American Free Trade Agreement in 1994, commerce, tourism, and trade across the United States and Mexico border into neighboring communities have increased the economic interdependence among cities located in the border area. However, under the current regulations, Mexican BCC holders can only spend up to 72 hours in the United States without obtaining additional immigration documentation. This interim rule extends the 72-hour time limit to 30 days. The extension of the 72-hour time limit will help to facilitate commerce, tourism, and trade along the southern border of the United States. If Mexican nationals are able to remain in the United States for a longer period of time, they will aid the economic development of the southern border states.

In addition, this change will result in greater parity between the treatment of Mexican and Canadian nationals. With few exceptions, Canadian nationals may be admitted to the United States for up to six months without obtaining an additional travel document. Because Mexican BCC holders can already obtain a Form I–94 to remain in the United States for an additional period of time, this interim rule promotes administrative efficiency by extending the time limit from 72 hours to 30 days without requiring additional paperwork.

**Border Protection and National Security**

Pursuant to 8 U.S.C. 1101(a)(6), each BCC must include a biometric identifier (such as the fingerprints or digital photograph of the alien) that is machine readable. Prior to issuing a BCC to a Mexican national, the Department of State conducts biographic and biometric checks on the individual (including an interview), and the fingerprints and photograph of the Mexican national are then embedded into the machine-readable BCC. The Mexican national must also provide information regarding residence, employment, and the reason for frequent border crossing. At time of entry into the United States, a holder of a BCC is inspected to determine that he or she is the rightful bearer of the
document when crossing through a U.S. port-of-entry.

The Department will monitor and evaluate any changes in the patterns of violations of terms of admission that may occur. In addition, the Department will monitor data on apprehensions of those Mexican BCC holders who do not have an approved Form I–94 and who violate their terms of admission by traveling beyond the 25 mile limit (75 miles in Arizona) or who remain in the United States for more than the 30-day limit set by this rule.

**Does This Rule Extend the Time Limitation for Other Mexican Nationals Who Are Not Required To Obtain a Form I–94?**

No. The 72-hour time limit for Mexican nationals entering solely for the purpose of applying for a Mexican passport or other official Mexican document at a Mexican consular office in the United States under 8 CFR 212.1(c)(1)(ii) remains unchanged. The 72-hour time limit for Mexican nationals in possession of a passport and valid visa who are admitted as nonimmigrant visitors without a prior public notice and comment would be impracticable and contrary to the public interest.

In addition, DHS finds that good cause exists under the Congressional Review Act, 5 U.S.C. 808, to implement this interim rule immediately upon publication in the Federal Register.

**Comments**

The Department will consider any written comments timely submitted to the Department in preparing a final rule, including comments on the clarity of this interim rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and CBP regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, Bureau of Customs and Border Protection, Department of Homeland Security, 799 9th Street, NW., Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

**The Regulatory Flexibility Act**

The Regulatory Flexibility Act (RFA) (5 U.S.C. 605(b)), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996 (SBREFA), requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). Section 603(a) of the RFA requires that agencies prepare and make available for public comment an initial regulatory flexibility analysis whenever the agency is required by law to publish a general notice of proposed rulemaking. Because good cause exists under 5 U.S.C. 553(b) for issuing this regulation as an interim rule, no regulatory flexibility analysis is required under the RFA. Accordingly, the Department has not prepared an initial regulatory flexibility analysis for this rule.

**Unfunded Mandates Reform Act of 1995**

This interim final rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually.

**Paperwork Reduction Act**

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all departments are required to submit to the Office of Management and Budget (OMB), for review and approval, any reporting or recordkeeping requirements inherent in a final rule. This interim rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act. However, DHS anticipates that there will be a reduction in the number of I–94s issued as a result of this interim rule, which will reduce the burden hours associated with the I–94 collection by an estimated 5,313 hours. The OMB control number is 1651–0111.

**Executive Order 12866, Regulatory Planning and Review**

The Department has examined the economic implications of this interim final rule as required by Executive Order 12866. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Executive Order 12866 classifies a rule as significant if it meets any one of a number of specified conditions, including: Having an annual effect on the economy of $100 million, adversely affecting a sector of the economy in a material way, adversely affecting competition, or adversely affecting jobs. A regulation is also considered a significant regulatory action if it raises novel legal or policy issues. The Department concludes that this interim final rule is not an economically significant regulatory action under section 3(f)(1) of the Executive Order, since it does not have an annual effect on the economy of $100 million or more. The Department also concludes, however, that this interim final rule raises novel legal and policy issues under section 3(f)(4), and is therefore a significant regulatory action under the Executive Order.

**Costs**

DHS expects the costs of this rulemaking to be negligible. Because Mexican BCC holders already can obtain a Form I–94 to remain in the United States for the 72-hour period, the only additional cost would be the 72-hour stay at the border. Any additional costs, such as those associated with obtaining a passport or BCC, would be incurred by the traveler, not the government.
States for an additional period of time, this interim rule simply promotes administrative efficiency by expanding the time limit from 72 hours to 30 days without requiring additional paperwork.

Benefits. This rule will affect those BCC holders issued I–94s for the purpose of staying in the country, within 25 miles of the border, for longer than 3 days but less than 30 days. DHS assumes that approximately 1%, or approximately 21,250, of the total I–94s are currently issued to BCC holders for this purpose and therefore those I–94s would no longer be required to be issued under this interim rule. DHS acknowledges that this estimate is uncertain and requests comment.

BCC holders will benefit from no longer being required to obtain an I–94 in order to remain along the border for an extended period of time. These individuals will no longer be required to request and receive an I–94 which is done in secondary examination at the land border ports. The process requires an interview, the payment of a $6.00 fee, and often requires the BCC holder to produce documentation concerning their intentions in the United States. The process takes an average of approximately 15 minutes.

In addition to the previously mentioned BCC holders who will no longer be required to obtain I–94’s, DHS estimates that between 200,000 and 400,000 BCC holders will utilize the expanded time period to remain in the United States for longer than the current 72 hours limit. Additionally, this interim rule will likely motivate more Mexican nationals without BCC’s to obtain BCCs in order to take advantage of the extended time-limit. These factors will facilitate commerce along the U.S. border and increase the demand by BCC holders for goods and services provided by border communities in the United States. As more Mexican nationals take advantage of the extended time-limit and remain in the United States for a longer period of time, the border communities in the United States will also benefit from a greater demand for goods and services provided by those communities.

Executive Order 13132, Federalism

This interim rule will not have federalism implications because the regulations will not have financial or other effects on States, the relationship between the Federal Government and the States, or the distribution of power and responsibilities among the various levels of government.

Drafting Information

The principal author of this document was Christopher W. Pappas, Regulations Branch, Office of Regulations and Rulings, Bureau of Customs and Border Protection. However, personnel from other offices participated in its development.

List of Subjects in 8 CFR Part 235

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

Amendment to the Regulations

Part 235 of title 8 of the Code of Federal Regulations (8 CFR part 235) is amended as follows:

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

§ 235.1 Scope of Examination.

1. The authority citation for part 235 continues to read as follows:


2. Section 235.1 is amended by:

a. Revising paragraph (f)(1)(iii); and

b. Revising paragraph (f)(1)(v), to read as follows:

§ 235.1 Scope of Examination.

* * * * *

(f) * * * *

(1) * * * *

(iii) Except as provided in paragraph (f)(1)(v) of this section, any Mexican national admitted as a nonimmigrant visitor who is:

(A) Exempt from a visa and passport pursuant to § 212.1(c)(1)(ii) of this chapter and is admitted at the Mexican border POEs in the State of Arizona at Sasabe, Nogales, Mariposa, Naco or Douglas to visit within the State of Arizona within 75 miles of the border for a period not to exceed 72 hours; or

(B) In possession of a valid visa and passport pursuant to § 212.1(c)(1)(ii) of this chapter; and is admitted at the Mexican border POEs in the State of Arizona at Sasabe, Nogales, Mariposa, Naco or Douglas to visit within the State of Arizona within 75 miles of the border for a period not to exceed 72 hours.

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§ 235.1 Scope of Examination.

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(f) * * * *

(1) * * * *

(iii) Except as provided in paragraph (f)(1)(v) of this section, any Mexican national admitted as a nonimmigrant visitor who is:

(A) Exempt from a visa and passport pursuant to § 212.1(c)(1)(i) of this chapter and is admitted at the Mexican border POEs in the State of Arizona at Sasabe, Nogales, Mariposa, Naco or Douglas to visit within the State of Arizona within 75 miles of the border for a period not to exceed 30 days; or

(B) In possession of a valid visa and passport or exempt from a visa and passport pursuant to § 212.1(c)(1)(i) of this chapter; and is admitted at the Mexican border POEs in the State of Arizona at Sasabe, Nogales, Mariposa, Naco or Douglas to visit within the State of Arizona within 75 miles of the border for a period not to exceed 72 hours.

* * * * *


Tom Ridge,

Secretary of Homeland Security.

[FR Doc. 04–18651 Filed 8–12–04; 8:45 am]

BILLING CODE 4410–10–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AH50

List of Approved Spent Fuel Storage Casks: NAC–MPC Revision

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations revising the NAC International, Inc., NAC–MPC cask system listing within the “List of Approved Spent Fuel Storage Casks” to include Amendment No. 4 to Certificate of Compliance (CoC) Number 1025. Amendment No. 4 will modify the present cask system design to incorporate vacuum drying enhancements under a general license. Specifically, the amendment will increase vacuum drying time limits, delete canister removal from concrete cask requirements, revise surface contamination removal time limits, and revise allowable contents fuel assembly limits.

DATES: The final rule is effective October 27, 2004, unless significant adverse comments are received by September 13, 2004. A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule’s underlying premise or approach, or would be ineffective or unacceptable without a change. If the rule is withdrawn, timely notice will be published in the Federal Register.