

# Rules and Regulations

Federal Register

Vol. 78, No. 113

Wednesday, June 12, 2013

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## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

#### 8 CFR Part 235

[Docket No. USCBP-2012-0030; CBP Dec. No. 13-09]

RIN 1651-AA95

#### Extension of Border Zone in the State of New Mexico

**AGENCY:** U.S. Customs and Border Protection, DHS.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends Department of Homeland Security (DHS) regulations to extend the distance that certain nonimmigrant Mexican nationals presenting a Border Crossing Card, or other proper immigration documentation, may travel in New Mexico without obtaining a U.S. Customs and Border Protection (CBP) Form I-94 (Form I-94), Arrival/Departure Record. This change is intended to promote commerce and tourism in southern New Mexico while still ensuring that sufficient safeguards are in place to prevent illegal entry to the United States.

**DATES:** This rule is effective July 12, 2013.

**FOR FURTHER INFORMATION CONTACT:** Colleen Manaher, CBP Office of Field Operations, telephone (202) 344-3003, email: [colleen.m.manaher@cbp.dhs.gov](mailto:colleen.m.manaher@cbp.dhs.gov).

#### SUPPLEMENTARY INFORMATION:

##### Executive Summary

Under current DHS regulations, certain nonimmigrant Mexican nationals presenting a Border Crossing Card (BCC), or other proper immigration documentation, are not required to obtain a Form I-94 if they remain within 25 miles of the U.S.-Mexico

border (75 miles in Arizona).<sup>1</sup> This region is known as the “border zone” and includes portions of Arizona, California, New Mexico, and Texas. The majority of Mexican nationals who are exempt from the Form I-94 requirement possess and apply for admission to the United States with a BCC. The BCC is one of the most secure travel documents used at the border and allows for faster processing at both the port of entry and interior immigration checkpoints. The currently issued BCC is a laminated, credit card style document with many security features, a ten year validity period and vicinity-read Radio Frequency Identification (RFID) technology and a machine-readable zone. Using these features, CBP is able to electronically authenticate the BCC against the Department of State (DOS) issuance records.

Although the border zone, established in 1953, was intended to promote the economic stability of the border region by allowing for freer flow of travel for Mexican visitors with secure documents, New Mexico has no metropolitan areas and few tourist attractions within 25 miles of the border and thus benefits very little from the current 25-mile border zone. In order to facilitate commerce, trade, and tourism in southern New Mexico, while still ensuring that sufficient safeguards are in place to prevent illegal entry to the United States, on August 9, 2012, CBP published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (77 FR 47558), proposing to extend the distance certain Mexican nationals admitted to the United States as nonimmigrant visitors may travel in New Mexico without obtaining a Form I-94 from 25 miles to 55 miles from the U.S.-Mexico border. The NPRM also solicited public comments.

All but two of the 40 comments received were very supportive of the proposal. Those commenters supporting the proposed extension include local and state law enforcement officials, elected officials of the region, as well as individual citizens and other stakeholders in the business and academic communities. Many

commenters stated that the expanded border zone will maintain security of the border while increasing economic activity in New Mexico’s border region and providing a boost to this relatively impoverished region. The two commenters who oppose the proposed expansion cited security concerns. CBP is of the view that the expanded border zone will facilitate commerce, trade, and tourism in southern New Mexico, while still ensuring that sufficient safeguards are in place to prevent illegal entry to the United States. In addition to promoting the economy in this area and facilitating legitimate travel, the extension will increase CBP’s administrative efficiency by reducing unnecessary paperwork burdens associated with the I-94 process and allowing CBP to focus resources on security enhancing activities to the greatest extent possible.

This rule will not impose any new costs on the public or on the United States government. Further, this rule is expected to reduce costs to Mexican visitors to the United States, improve security, and benefit commerce in a relatively impoverished region. The majority of comments that CBP received supported this conclusion.

Therefore, after consideration of the comments, CBP is adopting as final the proposed amendments to 8 CFR 235.1(h).

#### Background

Under § 235.1(h)(1) of the DHS regulations (8 CFR 235.1(h)(1)), each arriving nonimmigrant who is admitted to the United States is issued a Form I-94, Arrival/Departure Record, as evidence of the terms of admission, subject to specified exemptions. This form is not required for a Mexican national admitted as a nonimmigrant visitor with certain documentation if he or she remains within 25 miles of the U.S.-Mexico border (75 miles within Arizona), for no more than either 30 days or 72 hours, depending upon the type of travel document the nonimmigrant visitor possesses. The area bounded by these limits is referred to in this document as the “border zone.”

To be admitted to the border zone without a Form I-94, a Mexican national must be in possession of a

<sup>1</sup> The I-94 requirement and exceptions can be found at 8 CFR 235.1(h). On March 27, 2013, DHS published an Interim Final Rule in the **Federal Register** (78 FR 18457) entitled “Definition of Form I-94 to Include Electronic Format.” The rule makes various amendments to 8 CFR to enable DHS to automate the Form I-94 at air and sea ports of entry.

BCC,<sup>2</sup> or a passport and valid visa, or for a Mexican national who is a member of the Texas Band of Kickapoo Indians or Kickapoo Tribe of Oklahoma, a Form I-872 American Indian Card. See 8 CFR 235.1(h)(1)(iii) and (v). Mexican nationals entering the United States with a BCC or with a Form I-872 may remain in the border zone for up to 30 days without having to obtain a Form I-94. Mexican nationals entering the United States with a passport and visa may remain in the border zone for up to 72 hours without having to obtain an I-94.

Mexican nationals traveling beyond these specified zones, or who will remain beyond the time periods indicated above or seek entry for purposes other than as a temporary visitor for business or pleasure, are required to obtain and complete a Form I-94. At land border ports of entry, the Form I-94 issuance process requires a secondary inspection that includes review of travel documents, examination of belongings, in-depth interview, database queries, collection of biometric data, and collection of a \$6 fee. A Form I-94 issued at a land border is generally valid for multiple entries for six months.

The majority of Mexican nationals who are exempt from the Form I-94 requirement possess and apply for admission to the United States with a BCC. To obtain a BCC, applicants must be vetted extensively by the Department of State (DOS). The vetting process includes collection of information, such as fingerprints, photographs, and other information regarding residence, employment and reason for border crossing, and an interview, as well as security checks to identify any terrorism concerns, disqualifying criminal history, or past immigration violations. The BCC includes many security features such as vicinity-read Radio Frequency Identification (RFID) technology and a machine-readable zone. Using these features, CBP is able to electronically authenticate the BCC and compare the biometrics, photo and fingerprints of the individual presenting the BCC against DOS issuance records in order to confirm that the document is currently valid and that the person presenting the document is the one to whom it was issued.

<sup>2</sup> Effective October 2, 2002, the Form DSP-150, B-1/B-2 Visa and Border Crossing Card became the border crossing card valid for entry into the United States. See 67 FR 71443. The BCC is an approved document to establish identity and citizenship at the border and also serves as a B-1/B-2 visitor's visa.

#### *Notice of Proposed Rulemaking*

On August 9, 2012, CBP published an NPRM in the **Federal Register** (77 FR 47558) proposing to amend the DHS regulations to expand the zone in which Mexican nationals presenting certain documentation may travel in New Mexico without having to obtain a Form I-94. Although the border zone was intended to promote the economic stability of the border region by allowing for freer flow of travel for Mexican visitors with secure documents, New Mexico has no metropolitan areas and few tourist attractions within 25 miles of the border and thus benefits very little from the current 25-mile border zone. In order to facilitate commerce, trade, and tourism in southern New Mexico, while still ensuring that sufficient safeguards are in place to prevent illegal entry to the United States, CBP proposed extending the border zone in New Mexico from 25 miles to 55 miles from the U.S.-Mexico border.

With the extension of the border zone to 55 miles, Mexican nationals meeting the requirements for legal entry into the United States would be able to travel to metropolitan areas in New Mexico, such as the city of Las Cruces or the smaller towns of Deming and Lordsburg, and other destinations, without having to leave their vehicle and wait in line to undergo the additional Form I-94 application process at secondary inspection. This extension would not affect the 30-day time limit of the border zone applicable to BCC holders or the 72-hour time limit of the border zone applicable to Mexican nationals presenting a visa and passport.

Additionally, while the extension of the border zone to 55 miles from the U.S.-Mexico border includes most of Interstate Highway I-10, there is a short stretch of Interstate Highway I-10 that is outside the 55-mile zone. Thus, to facilitate travel, CBP proposed a provision to include all of Interstate Highway I-10 in the state of New Mexico in addition to the extension to 55 miles from the border.

The NPRM also proposed two technical corrections to § 235.1 of title 8 CFR. First, in paragraph (h)(1)(iii), CBP proposed correcting the paragraph citation from (f)(1)(v) to (h)(1)(v), as this citation was inadvertently not changed when paragraph (f) was redesignated as paragraph (h) by the Western Hemisphere Travel Initiative (WHTI) air final rule (71 FR 68412). Second, CBP proposed updating several references to § 212.1 of title 8 CFR to reflect changes contained in the WHTI land and sea final rule (73 FR 18384).

The background section of the NPRM provides more detailed information on the proposed extension, the history and development of the border zone, the BCC and its uses, and the proposed technical corrections. The NPRM provided a 60-day public comment period.

#### *Discussion of Comments*

CBP received 40 comments<sup>3</sup> during the comment period, all of which addressed the proposed expansion of the border zone. No comments were received on the proposed technical corrections. All but two of the comments were in favor of the proposal. Those commenters supporting the expansion of the border zone included state and local law enforcement agencies and elected officials of the region, as well as individual citizens and many other stakeholders in the business and academic communities. The two comments opposing the expansion were both from individuals.

Many of the commenters who support the proposal stated that the expanded border zone will maintain security of the border while increasing economic activity in New Mexico's border region. Some noted that the current geographic limitation on BCC holders limits commerce in a relatively impoverished region. Many commenters were of the view that the 25-mile border zone is antiquated and places the region at a competitive disadvantage compared to border regions in neighboring states. Many also stated that the region experiences high levels of unemployment and poverty, and believed that the extension of the border zone would stimulate the local economy by increasing sales, creating or saving jobs, and bolstering tax revenues. One commenter noted that local agencies with bi-national cooperation agreements are hindered in their work by the limited border zone, and often travel to El Paso for meetings rather than inviting their Mexican counterparts to join them in Las Cruces due to the additional paperwork. A few commenters stated that when the border zone was expanded in Arizona in 1999, retail sales in the area increased and the region experienced a boost in its economy. These commenters were of the view that the same boost would occur in New Mexico if the border zone is expanded there.

Many commenters, including local police and sheriff departments, stated that the expansion would have no

<sup>3</sup> Four of the comments were from one person who sent four separate letters in different capacities.

negative effect on security in the region. A few commenters also noted that the expansion of the zone would increase efficiency of the admission process and allow CBP to focus greater attention on securing the border from illegal entries. A few commenters stated that the expansion of the border zone will foster goodwill with the Mexican communities on the other side of the border.

CBP received comments in support of the proposal from a state senator and a state representative from New Mexico who both noted that the New Mexico Senate and House of Representatives passed a resolution in 2011 in support of extending the border zone, with unanimous and bipartisan support. CBP also received a comment in support of the proposal from Senators Bingaman and Udall and Congressman Pearce of New Mexico. The U.S. Senators and Congressman stated that the expansion of the border zone will result in increased efficiency by allowing low-risk visitors the opportunity to travel to New Mexico to shop, visit family, and conduct business while maintaining border security.

Two commenters opposed the extension of the border zone due to concerns relating to security. They are concerned that extending the border zone would result in increased illegal crossings into the United States and would lead to an increase in criminal activity in the area. One of the commenters is concerned that the extension of the border zone would increase traffic from Mexico and that this would result in decreased scrutiny of aliens entering the United States at the border, which may increase illegal activity.

#### *Response to Comments*

CBP has been very mindful of the potential impact of the extension on local law enforcement efforts as well as the impact to agencies responsible for enforcing the immigration laws along the southwest border. However, CBP believes that the extension of the border zone in New Mexico will not increase illegal crossings or illegal activity in the area. The extension of the border zone will not affect the current visa requirements for foreign nationals wishing to enter the United States nor will it affect the threshold requirements for admission into the United States as a nonimmigrant B-1/B-2 BCC<sup>4</sup> or B visa holder, including residence abroad and no intent to abandon that residence,

<sup>4</sup> The BCC can be used as both a Border Crossing Card and also as a B-1/B-2 visa. The full name of the document is "Form DSP-150, B-1/B-2 Visa and Border Crossing Card." See 8 CFR 212.1(c)(1)(i).

intent to visit temporarily for business or pleasure, and eligibility based on applicable statutory and regulatory requirements. Travelers remain subject to questioning regarding intent and purpose of travel during inspection upon arrival in the United States. CBP Officers are able to verify at the ports of entry through biometric matching (photo and/or fingerprints) that the individual presenting a BCC is the authorized holder and, by comparison against DOS's issuance records in a shared database, that the document is valid. The existing use of Border Patrol checkpoints within 100 miles of the border serve as a second tier of enforcement deterring the further movement of illegal immigration to the interior of the United States.

CBP notes that law enforcement officials in some of the affected areas, including the Chiefs of Police of the cities of Las Cruces, Deming, and Lordsburg, the Sheriffs of Hidalgo and Luna Counties, and the Marshal of the town of Mesilla each stated in their comments that no negative law enforcement ramifications were anticipated.

CBP believes that the expanded border zone will allow CBP to better allocate its resources while enhancing its enforcement posture. The expanded border zone will reduce the number of Mexican nationals required to obtain a Form I-94 and thus will increase CBP's administrative efficiency by reducing unnecessary paperwork burdens associated with the Form I-94 process and allowing CBP to reallocate that staff time to other security enhancing activities.

CBP anticipates that the extension of the border zone will encourage Mexican nationals visiting New Mexico to use the BCC, which will further enhance security in the region. The BCC is CBP's preferred method of identification for Mexican nationals entering the United States at land border ports of entry. The BCC is one of the most secure travel documents used at the border, and BCC holders undergo extensive vetting by CBP and DOS. BCCs contain numerous, layered security features, such as enhanced graphics and technology, that provide protection against fraudulent use. Using existing technology, CBP can very quickly verify the validity of the card, the identity of the cardholder, and other pertinent information about the cardholder. The use of a BCC card has increased security in processing travelers by allowing the ability to affirmatively identify the individual and conduct admissibility checks.

CBP also anticipates that the expansion of the border zone will

enhance security due to the time savings from an increased use of the BCC, which enables CBP to identify more quickly whether travelers present a risk, and allows CBP to reallocate resources that would have been used for processing these travelers to processing for higher risk individuals, both at ports of entry and inland immigration checkpoints. Inspections at the border will remain thorough, but the increased use of travel documents containing RFID technology, such as the BCC, will contribute to reducing individual inspection processing time. Law enforcement queries regarding travelers with RFID travel documents, such as the BCC, are 20 percent faster than for persons with documents containing only a machine-readable zone, and 60 percent faster than manual entry of information from a paper document.<sup>5</sup> The use of RFID technology in the BCC enables CBP to more quickly authenticate the documents, and thus helps CBP more quickly assess whether the traveler presents a risk. Greater use of RFID travel documents such as the BCC will allow CBP to focus its personnel time on higher risk individuals while providing efficiencies in the flow of legitimate trade and travel in the area. CBP anticipates that any delays resulting from the increase in traffic will be offset by more efficient processing and better use of officers assigned to the port of entry.

#### **Adoption of the Proposal**

After review of the comments, CBP has determined to adopt as final the proposed rule published in the **Federal Register** to extend the border zone in New Mexico and to adopt the proposed technical corrections to 8 CFR 235.1. A map of the expanded border zone can be found in the docket for this rulemaking (docket number USCBP-2012-0030) on [www.regulations.gov](http://www.regulations.gov).

#### **Authority**

These regulations are being amended pursuant to 8 U.S.C. 1101, 1103, 1185, 1185 note, and 1225.

#### **Statutory and Regulatory Requirements**

*Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory

<sup>5</sup> Statistics derived from operational data stored in TECS, the official system of record for CBP operational and enforcement data.

approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule is a “significant regulatory action,” although not an economically significant regulatory action, under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget (OMB) has reviewed this regulation.

Mexican nationals entering the United States in New Mexico at land border ports of entry are required to present a BCC or a passport and a visa in order to be admitted to the United States. Visitors intending to travel beyond the border zone, or longer than 30 days (72 hours for certain individuals) are also required to obtain a Form I-94 and use it in conjunction with their BCC or passport and visa. Currently, if the traveler is admitted using a passport and visa, he or she is only able to travel up to 25 miles from the U.S.-Mexico border in New Mexico and remain in the United States for up to 72 hours without obtaining a Form I-94; if the traveler is admitted using a BCC, he or she is able to travel up to 25 miles from the border and stay for up to 30 days without obtaining a Form I-94. Travelers who obtain a Form I-94 are able to travel anywhere in the United States and stay for up to six months.<sup>6</sup>

However, in practice, travelers generally either enter the United States with a BCC and stay within the border zone or obtain a Form I-94, for use with a passport and visa or with a BCC, to go beyond the border zone. In 2011, about 900,000 Mexican nationals entered the United States in New Mexico. About sixty percent, or 540,000, of these travelers used a BCC. The remainder, 360,000, entered using a Form I-94 with their passport and visa. There were approximately 136,000 Form I-94s issued to Mexican nationals at New Mexico land border ports in 2011. Multiple trips are allowed during the Form I-94's validity period, which accounts for the difference in the total number of Form I-94 crossings and the total number of Form I-94's issued.

#### Costs

This final rule expands the geographic limit for BCC holders traveling in New Mexico who have not obtained a Form I-94. Under existing regulations, BCC

holders can travel anywhere within 25 miles of the border without obtaining a Form I-94. This rule allows BCC holders to travel anywhere in New Mexico within 55 miles from the U.S.-Mexico border or as far north as Interstate Highway I-10, whichever is farther north, without obtaining a Form I-94. No new infrastructure is required to support this change, as CBP already has several ports of entry and inland immigration checkpoints in place throughout New Mexico. In addition, federal, state, and local law enforcement officials have indicated that they do not anticipate any security risks with expanding the geographic limit. Given these observations, CBP does not anticipate any significant costs associated with this final rule. CBP sought comments on the possibility of additional costs associated with this rule, but did not receive any.

#### Benefits

This expanded border zone will allow Mexican BCC holders to travel to many New Mexico destinations that currently require a Form I-94 to access, including several cities, state parks, and a major university. To the extent that BCC holders are obtaining Form I-94s for the purpose of visiting destinations within the expanded border zone, there will be fewer Form I-94s that will need to be completed as a result of this final rule, generating both time and cost savings for Mexican nationals and CBP Officers. At land borders, the Form I-94 application process is completed at the port of entry at secondary inspection and includes an interview with a CBP Officer, fingerprinting, electronic vetting, paperwork, and the payment of a \$6 fee. CBP estimates that this process takes eight minutes to complete. CBP maintains two ports of entry along the Mexican border in New Mexico—Columbus and Santa Teresa. Between 2010 and 2011, the port of Columbus issued an average of approximately 27,000 Form I-94s per year, and the port of Santa Teresa issued an average of approximately 114,000 Form I-94s per year. CBP does not know how many of the travelers who are now required to obtain these forms will benefit from the expanded geographic limit, but believes that the percentage benefitting from this final rule will be less than 25 percent. CBP sought comments on this assumption, but did not receive any. CBP believes the percentage will be significantly lower for crossings at Santa Teresa because those crossings are predominantly bound for El Paso, which is already within the current 25-mile border crossing card limit. CBP sought comments on this assumption, but did

not receive any. Eliminating the need for these travelers to leave the vehicle to undergo the additional Form I-94 application process at secondary inspection and pay the \$6 fee could be a significant savings for Mexican travelers who are affected, and could benefit the travel and tourism industry in the U.S.-Mexico border zone. CBP sought comments on the possible savings for Mexican travelers who would no longer complete the Form I-94, but did not receive any. CBP will not be adversely affected by this loss in Form I-94 fee revenue because this fee revenue is used exclusively to pay for the processing of the Form I-94. Therefore, the reduction in revenue will be offset by a reduction in workload.

Because this rule will make it unnecessary for some travelers to obtain a Form I-94, CBP will be able to inspect travelers more efficiently and focus its efforts on higher risk individuals. CBP expects this increase in efficiency to more than offset any new workload caused by a small increase in travelers to the United States that may result from this final rule. CBP may experience additional time savings from this rule with the increased use of BCCs as border crossing documents. The BCC is one of the most secure travel documents used at the border and allows for faster processing at both the port of entry and interior immigration checkpoints. BCCs contain numerous, layered security features, such as enhanced graphics and technology, that provide protection against fraudulent use. Moreover, BCC holders undergo extensive vetting by CBP and DOS. Using existing technology, CBP can very quickly verify the validity of the card, the identity of the cardholder, and other pertinent information about the cardholder. A faster inspection will allow CBP to spend more time inspecting higher risk individuals and could therefore improve security. Several commenters agreed with this conclusion.

Perhaps the greatest benefit of this final rule is the potential for increased economic activity in New Mexico's border region. According to the U.S. Census Bureau's American Community Survey, the estimated poverty rate for the United States in 2006–2010 was 13.8 percent.<sup>7</sup> For the three counties most affected by this change—Doña Ana, Hidalgo, and Luna—the American Community Survey estimates poverty rates of 24.5 percent, 22.6 percent, and

<sup>6</sup> See 8 CFR 235.1(h)(1)(iii) and (v); 8 CFR 212.1(c).

<sup>7</sup> U.S. Census Bureau, American Community Survey five-year estimate (2006 to 2010), table S1701. This data can be queried via the American Fact Finder database located at <http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>.

32.8 percent, respectively. Under existing regulations, main population centers like Las Cruces, New Mexico and other smaller cities in Doña Ana, Hidalgo, and Luna Counties are at a disadvantage in attracting travelers from Mexico because they are outside of the 25-mile border zone. In contrast, many main population centers along the Arizona and Texas borders are within border zone limits (75 miles in Arizona and 25 miles in Texas) and offered more shopping and recreation opportunities for Mexican travelers than New Mexico border zone areas. Such limited travel and tourism opportunities in New Mexico's 25-mile border zone create significant disincentives for Mexican visitors to engage in commerce in New Mexico rather than its neighboring states. This border expansion will increase the number of shopping and recreation options in New Mexico for Mexican travelers, which may spur economic growth in this rule's affected regions. Under existing border zone regulations, visitors from Mexico also face road travel limitations. BCC holders can travel much of the Interstate Highway I-10 corridor in Arizona, but are prevented from continuing into New Mexico unless they have a Form I-94. This rule expands the border zone enough to allow BCC holders to travel on Interstate Highway I-10 from Tucson, Arizona to Las Cruces, New Mexico and El Paso, Texas, benefitting commerce in the entire region. CBP received comments in support of this assumption, as outlined in the "Discussion of Comments" section. This regulatory action is expected to increase access to U.S. markets for Mexican travelers and is expected to result in increased travel through the New Mexico border region, which will lead to increased sales, employment, and local tax revenue. CBP received a number of comments on the possible benefits of expanding the U.S.-Mexico border zone. Many commenters stated that New Mexico communities within the expanded border zone would gain increased sales, jobs, and tax revenue due to rises in Mexican tourists. A few commenters also asserted that the border expansion would allow Mexican nationals to visit family members and medical facilities once outside of the zone limits. These comments are discussed in more detail in the "Discussion of Comments" section above.

#### Net Impact

In summary, by expanding the border zone for BCC holders, this rule will not impose any new costs on the public or on the United States government.

Further, this rule is expected to reduce costs to Mexican visitors to the United States, improve security, and benefit commerce in a relatively impoverished region. The majority of comments that CBP received supported this conclusion. These comments are discussed in more detail in the "Discussion of Comments" section above.

#### The Regulatory Flexibility Act

This section examines the impact of the rule on small entities as required by the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people).

This rule directly regulates individuals rather than small entities. In addition, this rule is purely beneficial to these individuals as it expands the area BCC holders may travel without needing to obtain a Form I-94. As explained above, CBP is not aware of any direct costs imposed on the public by expanding the geographic limit for BCC holders but is aware of a cost savings for the traveling public by expanding the geographic limit. CBP sought comment on this conclusion but did not receive any. Accordingly, DHS certifies that this rule will not have a significant economic impact on a substantial number of small entities.

#### Paperwork Reduction Act

An agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB. CBP's form that is affected by this rule is the Form I-94 (Arrival/Departure Record). CBP anticipates that this rule will result in a slight decrease in the number of Form I-94s filed annually. The Form I-94 was previously reviewed and approved by OMB in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) under OMB Control Number 1651-0111.

This rule would result in an estimated reduction of 12,450 Forms I-94 completed by paper, and an estimated reduction of 1,656 burden hours. The remaining estimated burden associated with the Form I-94 is as follows:

*Estimated Number of Respondents:* 4,387,550.

*Estimated Number of Total Annual Responses:* 4,387,550.

*Estimated Time per Response:* 8 minutes.

*Estimated Total Annual Burden Hours:* 583,544.

#### List of Subjects in 8 CFR Part 235

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

#### Amendments to the Regulations

For the reasons set forth in the preamble, CBP is amending 8 CFR part 235 as set forth below.

### PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

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

**Authority:** 8 U.S.C. 1101 and note, 1103, 1183, 1185 (pursuant to E.O. 13323, 69 FR 241, 3 CFR, 2004 Comp., p.278), 1201, 1224, 1225, 1226, 1228, 1365a note, 1365b, 1379, 1731-32; Title VII of Pub. L. 110-229; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108-458).

■ 2. In § 235.1, revise paragraphs (h)(1)(iii) and (h)(1)(v)(A) and add paragraphs (h)(1)(v)(C) and (D) to read as follows:

#### § 235.1 Scope of examination.

\* \* \* \* \*

(h) \* \* \*

(1) \* \* \*

(iii) Except as provided in paragraph (h)(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) of this chapter and is admitted for a period not to exceed 30 days to visit within 25 miles of the border; or

(B) In possession of a valid visa and passport and is admitted for a period not to exceed 72 hours to visit within 25 miles of the border;

\* \* \* \* \*

(v) \* \* \*

(A) Exempt from a visa and passport pursuant to § 212.1(c)(1) 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 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

(C) Exempt from visa and passport pursuant to § 212.1(c)(1) of this chapter

and is admitted for a period not to exceed 30 days to visit within the State of New Mexico within 55 miles of the border or the area south of and including Interstate Highway I-10, whichever is further north; or

(D) In possession of a valid visa and passport and is admitted for a period not to exceed 72 hours to visit within the State of New Mexico within 55 miles of the border or the area south of and including Interstate Highway I-10, whichever is further north.

\* \* \* \* \*

**Janet Napolitano,**

*Secretary.*

[FR Doc. 2013-13946 Filed 6-11-13; 8:45 am]

BILLING CODE 9111-14-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 29

[Docket No. FAA-2013-0502; Special Conditions No. 29-030-SC]

#### Special Conditions: Eurocopter France, EC175B; Use of 30-Minute Power Rating

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final special conditions; request for comments.

**SUMMARY:** These special conditions are issued for the Eurocopter France Model EC175B helicopter. This model helicopter will have the novel or unusual design feature of a 30-minute power rating, generally intended to be used for hovering at increased power for search and rescue missions. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** The effective date of these special conditions is June 3, 2013. We must receive your comments by July 29, 2013.

**ADDRESSES:** Send comments identified by docket number FAA-2013-0502 using any of the following methods:

- *Federal eRegulations Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M-30, U.S. Department of

Transportation (DOT), 1200 New Jersey Avenue SE., Room W12-140, West Building Ground Floor, Washington, DC, 20590-0001.

- *Hand Delivery of Courier:* Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 8 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at 202-493-2251.

**Privacy:** The FAA will post all comments it receives, without change, to <http://regulations.gov>, including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477-19478), as well as at <http://DocketsInfo.dot.gov>.

**Docket:** Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room @12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Eric Haight, Rotorcraft Standards Staff, ASW-111, Rotorcraft Directorate, Aircraft Certification Service, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222-5204; facsimile (817) 222-5961.

#### SUPPLEMENTARY INFORMATION:

##### Reason for No Prior Notice and Comment before Adoption

The FAA has determined that notice and opportunity for public comment are impractical because we do not expect substantive comments, and because this special condition only affects this one manufacturer. We also considered that these procedures would significantly delay the issuance of the design approval, and thus, the delivery of the affected aircraft. As certification for the Eurocopter France model EC175B is imminent, the FAA finds that good cause exists for making these special conditions effective upon issuance.

##### Comments Invited

While we did not precede this with a notice of proposed special conditions,

we invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

#### Background and Discussion

On March 10, 2008, Eurocopter France applied for a Type Certificate for the new model EC175B. The EC175B is a Transport Category, 14 CFR part 29, twin engine conventional helicopter designed for civil operations. This model will be certificated with Category A performance and under dual pilot instrument flight rules, powered by two Pratt & Whitney PT6C-67E engines with a dual channel Full Authority Digital Engine Control system, have five main rotor blades, a maximum gross weight of 15,400 pounds, and a velocity not to exceed 175 knots. The EC175B model will have an integrated modular avionics suite with four 6x8 inch multi-function displays termed the Common Integrated Global Avionics for Light Helicopters. This rotorcraft will be capable of carrying 16 passengers and 2 crew members. Its initial customer base will be offshore oil and Search and Rescue operations.

Eurocopter France proposes that the EC175B model use a novel and unusual design feature, which is a 30-minute power rating, identified in the Pratt & Whitney Canada PT6C-67E engine type certificate data sheet (TCDS) [FAA TCDS No. E00068EN]. 14 CFR 1.1 defines "rated takeoff power" as limited in use to no more than 5 minutes for takeoff operation. Thus, the use of takeoff power for 30 minutes will require special airworthiness standards, known as special conditions, to address the use of this 30-minute power rating and its effects on the rotorcraft. The use of this power will be limited to 50 minutes per flight based on engine durability considerations. These special conditions will add requirements to the existing airworthiness standards in 14 CFR 29.1049 (Hovering cooling test procedures), § 29.1305 (Powerplant instruments), and § 29.1521 (Powerplant limitations).

For the EC175B, the European Aviation Safety Agency has issued CRI E-01, which documents the special conditions.