alien would be able, of course, to find employment in his or her own country where the student continues to reside.

A border commuter student who wishes to engage in employment in the United States that is not authorized by this rule must obtain the appropriate visa, or enroll as a full-time F–1 or M–1 student, in which case the student will not be governed by the limitations of this rule.

Does This Rule Affect Canadian or Mexican Nationals Who Are Authorized To Enter and Work in the U.S. Under the Provisions of NAFTA?

This rule simply provides a means for certain Canadian and Mexican nationals who commute into the U.S. to attend school on a part-time basis to be able to obtain proper status as an F–1 or M–1 nonimmigrant.

The United States Government's obligations under NAFTA do not address students and this rule in no way affects the rights of Canadian or Mexican nationals to temporary entry and employment in the U.S. under NAFTA. Canadian or Mexican nationals are admitted as TN nonimmigrants, or in some cases in a different work-related nonimmigrant classification under NAFTA depending on their circumstances. If a Canadian or Mexican national has been already admitted to the United States in a work-related nonimmigrant classification pursuant to NAFTA, it is permissible for them to attend school incidental to their NAFTA-based classification, and that is not affected by this interim rule.

Does This Rule Affect Canadian or Mexican Nationals Attending School on a Full-Time Basis?

No. Canadian or Mexican nationals attending school in the United States on a full-time basis continue to be governed by the rules that apply to their respective classifications. A Canadian or Mexican national admitted to attend school in the United States on a full-time basis as an F–1 or M–1 student may seek authorization from a DSO for a reduced course load, but must comply with the aspects of this rule requiring residence in Canada or Mexico, or otherwise qualify for reduced course load under 8 CFR 214.2(f)(6)(iii).

Will Canadian or Mexican Nationals Be Eligible for Nonimmigrant Student Status To Attend Public Elementary or Secondary Schools or Publicly-Funded Adult Education Programs?

Section 214(m) of the Act prohibits an F–1 student from attending a public high school for more than 12 months in the aggregate. Because of the statutory limitation, an F–1 student at a public high school can only be admitted for an aggregate of 12 months of study. Section 214(m) also requires that the alien, prior to being issued the F–1 visa, demonstrate that he or she has reimbursed the local school district for the full, unsubsidized per capita cost of providing the high school education for the period of the alien's attendance.

Also, under section 214(m) of the Act, as amended by sections 625 and 107(e)(2) of IIRIRA, a nonimmigrant may not be accorded status as an F–1 student to pursue a course of study at a public elementary school or a publicly funded adult education program.

Does This Rule Affect Any Other Processes and Procedures Applicable to the F and M Classifications?

No. Except for the change this rule makes regarding enrollment in a full course of study for border commuter students, all other requirements, processes, and procedures remain in effect. For example, a border commuter student may transfer between qualifying institutions within the 75-mile limit under the same rules as any other F–1 student. Such a student would also be able to transfer to a school outside the 75-mile limit, under the established procedures, but the student would not be eligible, at the new school, for the special part-time provision created by this rule. Similarly, a Canadian or Mexican national who is currently a full-time student may transfer to a qualifying school as a border commuter student provided that he or she meets the requirements of this rule.

Good Cause Exception

The Service's implementation of this rule as an interim rule is based on the ''good cause'' exceptions found at 5 U.S.C. 553(b)(B) and (d)(3). The reason and necessity for the immediate promulgation of this rule are as follows:

Adherence to the notice and comment period normally required under 5 U.S.C. 553(b) by promulgation of a proposed rule prior to an interim rule would cause a disruption in studies. As noted in the supplementary information to this rule, the emphasis on the proper classification for the activity affected by this rule has led to increased enforcement and has had the effect of ceasing studies by affected students. In order to allow those students to recommence studies in a proper and regulated format in time for the upcoming fall academic term, an interim rule is necessary.

Furthermore, this rule enhances security and reduces risk because it places the activity it governs in a regulated context. As noted in this rule, the activity sanctioned by this rule has taken place on the border for some time, but has taken place in a classification, such as the B nonimmigrant classification, that is not appropriate. Thus, to avoid disruption it is necessary that this rule be designated an interim rule.

Therefore, the Service finds that it would be impractical and contrary to the public interest to adopt this rule with the prior notice and comment period normally required under 5 U.S.C. 553(b).

This rule is also made effective upon publication in the **Federal Register.** This action is necessary in order to avoid the disruption in the enrollment of border community students in the upcoming academic term, as discussed above. It will also facilitate the use of this provision by the affected communities as soon as possible after publication. Because this rule removes a restriction and imposes no new burdens or requirements on the public, the Service is not required to delay the effective date of this rule for 30 days under 5 U.S.C. 553(d), and concludes that it would be contrary to the public interest to do so.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule allows border community students to enroll part-time in United States schools who accept them for admission. Although some of these border-area schools may be considered as small entities as that term is defined in 5 U.S.C. 601(6), the effect of this rule would be to benefit those schools by allowing them to continue to enroll certain part-time students who commute into the United States to attend school.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.