(11) * * *
(iii) * * *
(A) * * *

(*2*) The statement of facts contained in the petition or on the application for a labor certification was not true and correct, inaccurate, fraudulent, or misrepresented a material fact; or

* * * * *

(13) * * *
(i) * * *

(B) When an alien in an H classification has spent the maximum allowable period of stay in the United States, a new petition under sections 101(a)(15)(H) or (L) of the Act may not be approved unless that alien has resided and been physically present outside the United States, except for brief trips for business or pleasure, for the time limit imposed on the particular H classification. Brief trips to the United States for business or pleasure during the required time abroad are not interruptive, but do not count towards fulfillment of the required time abroad. A certain period of absence from the United States of H–2A and H–2B aliens can interrupt the accrual of time spent in such status against the three-year limit. The petitioner shall provide information about the alien's employment, place of residence, and the dates and purposes of any trips to the United States during the period that the alien was required to spend time abroad.

* * * * *

(iv) *H–2B and H–3 limitation on admission.* An H–2B alien who has spent 3 years in the United States under section 101(a)(15)(H) and/or (L) of the Act may not seek extension, change status, or be readmitted to the United States under section 101(a)(15)(H) and/or (L) of the Act unless the alien has resided and been physically present outside the United States for the immediate prior 3 months. An H–3 alien participant in a special education program who has spent 18 months in the United States under section 101(a)(15)(H) and/or (L) of the Act; and an H–3 alien trainee who has spent 24 months in the United States under section 101(a)(15)(H) and/or (L) of the Act may not seek extension, change status, or be readmitted to the United States under section 101(a)(15)(H) and/or (L) of the Act unless the alien has resided and been physically present outside the United States for the immediate prior 6 months.

(v) *Exceptions.* The limitations in paragraph (h)(13)(iii) through (h)(13)(iv) of this section shall not apply to H–1B, H–2B, and H–3 aliens who did not reside continually in the United States and whose employment in the United States was seasonal or intermittent or was for an aggregate of six months or less per year. In addition, the limitations shall not apply to aliens who reside abroad and regularly commute to the United States to engage in part-time employment. An absence from the United States can interrupt the accrual of time spent as an H–2B nonimmigrant against the three-year limit. If the accumulated stay is 18 months or less, an absence is interruptive if it lasts for at least 45 days. If the accumulated stay is greater than 18 months, an absence is interruptive if it last for at least two months. To qualify for this exception, the petitioner and the alien must provide clear and convincing proof that the alien qualifies for such an exception. Such proof shall consist of evidence such as arrival and departure records, copies of tax returns, and records of employment abroad.

* * * * *

PART 215—CONTROLS OF ALIENS DEPARTING FROM THE UNITED STATES

6. The authority citation for part 215 continues to read as follows:

Authority: 8 U.S.C. 1104; 1184; 1185 (pursuant to Executive Order 13323, published January 2, 2004), 1365a note, 1379, 1731–32.

7. Section 215.9 is added to read as follows:

§ 215.9 Temporary Worker Visa Exit Program.

An alien admitted on certain temporary worker visas at a port of entry participating in the Temporary Worker Visa Exit Program must also depart at the end of their authorized period of stay through a port of entry participating in the program and present designated biographic and/or biometric information upon departure. U.S. Customs and Border Protection will publish a Notice in the **Federal Register** designating which temporary workers must participate in the Temporary Worker Visa Exit Program, which ports of entry are participating in the program, which biographical and/or biometric information would be required, and the format for submission of that information by the departing designated temporary workers.

Dated: August 11, 2008.

Michael Chertoff,

Secretary.

[FR Doc. E8–19306 Filed 8–19–08; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 214

[CIS No. 2448–08; DHS Docket No. USCIS–2008–0024]

RIN 1615–AA82

Petitions for Aliens To Perform Nonagricultural Temporary Services or Labor (H–2B): Withdrawal of Proposed Rule

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Withdrawal of proposed rule.

SUMMARY: U.S. Citizenship and Immigration Services (USCIS) is withdrawing the proposed rule, Petitions for Aliens to Perform Nonagricultural Temporary Services or Labor (H–2B), published on January 27, 2005, in the **Federal Register** at 70 FR 3984. The rule proposed significant changes to USCIS' regulations that were designed to increase the effectiveness of the H–2B nonimmigrant visa classification while providing protections for U.S. workers. The H–2B nonimmigrant visa classification applies to foreign workers to perform nonagricultural temporary labor or services. The proposed rule would have established a one-step petition process for U.S. employers seeking H–2B temporary workers eliminating the need for U.S. employers to apply for a labor certification from the Department of Labor (DOL); required electronic filing of the Petition for a Nonimmigrant Worker, Form I–129, within 60 days in advance of the requested employment start date; eliminated the use of agents as H–2B petitioners; and, established new management mechanisms allowing USCIS to maintain the integrity of the program. In light of the public's comments, USCIS is no longer moving forward with the proposed rule as designed and will publish a new proposed rule for public comments.

DATES: The proposed rule, published on January 27, 2005 (70 FR 3984), is withdrawn as of August 20, 2008.

FOR FURTHER INFORMATION CONTACT: Hiroko Witherow, Service Center Operations, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Ave., NW., Washington, DC 20529, telephone (202) 272–8410.

SUPPLEMENTARY INFORMATION:

I. Purpose of the Proposed Rule

The H–2 temporary worker program has existed without substantial modification since 1952. The

Immigration Reform and Control Act of 1986 divided H–2 workers into two categories: Temporary workers to perform agricultural labor or services (H–2A), and all other temporary workers (H–2B). In 1990, Congress attached a limitation on the number of H–2B workers, but otherwise the program has not significantly changed to accommodate employers' needs or to offer worker protections. After consulting with DOL and the Department of State, and reviewing the definitions and procedures used to regulate the H–2B nonagricultural temporary worker program, USCIS determined that the H–2B process should be modified to reduce unnecessary burdens that hinder petitioning employers' ability to effectively use this visa category. The proposed rule was published on January 27, 2005, with its intent being to increase efficiency in the program by removing existing regulatory barriers. 70 FR 3984.

II. Changes Contained in the Proposed Rule

The most significant proposed change was a migration to a one-stop attestation-based process whereby most U.S. employers seeking H–2B temporary workers would only be required to file one application, the Form I–129, Petition for a Nonimmigrant Worker, with USCIS. The proposal would have reduced the paper-based application process by requiring that most Form I–129 petitions be submitted to USCIS electronically through e-filing. The proposal would also have required e-filed petitions to be filed not more than 60 days in advance of the employment need. The proposed rule also would have precluded agents from filing H–2B petitions on behalf of the actual H–2B employer. Finally, the proposed rule included additional changes to ensure the integrity of the program through enforcement mechanisms.

III. Comments Received on the Proposed Rule

USCIS received 125 comments on the proposed rule during the 60-day comment period. The majority of the commenters were opposed to many changes proposed in the rule. The comments are summarized as follows:

- There were a significant number of negative comments regarding the proposal to create a one-stop attestation-based process. Some commenters stated that the existing labor certification process should remain with DOL because DOL, not USCIS, is directly charged with the protection of U.S. workers. Some also expressed concern that this change would lead to widespread fraud and misrepresentation.

A considerable number of commenters were in opposition to the proposed change requiring that petitioners e-file a petition within 60 days in advance of the employment need. Some raised concern that many employers are not necessarily well-versed in the access and use of the Internet.

- A significant number of comments were opposed to the proposal to eliminate agents. Many commenters stressed that agents perform a vital function in the H–2B filing process on behalf of the employers who are not conversant with the applicable laws and regulations related to the H–2B program.
- The majority of the comments stressed that the proposed changes would result in decreased protections for U.S. workers and the likely proliferation of fraud within the program.

Based upon a review of the rulemaking record as a whole, DHS has decided to withdraw the January 27, 2005, proposed rule and terminate the associated proposed rulemaking action. DHS, therefore, will not publish specific responses to each comment.

IV. Withdrawal of the Proposed Rule

For the reasons described in this document, DHS is withdrawing the proposed rule published on January 27, 2005 (FR Doc. 05–1240, 70 FR 3984).

Dated: August 11, 2008.

Michael Chertoff,

Secretary.

[FR Doc. E8–19322 Filed 8–19–08; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Notice No. 90; Docket No. TTB–2008–0009]

RIN 1513–AB57

Proposed Expansions of the Russian River Valley and Northern Sonoma Viticultural Areas (2008R–031P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau proposes to expand the Russian River Valley and Northern Sonoma American viticultural areas in Sonoma County, California. The Russian River Valley viticultural area proposed expansion of 14,044 acres would increase the size of that viticultural area to 169,028 acres. The Northern Sonoma viticultural area proposed expansion of approximately 44,244 acres would increase the size of that viticultural area to 394,088 acres. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. We invite comments on this proposed change to our regulations.

DATES: We must receive written comments on or before October 20, 2008.

ADDRESSES: You may send comments to any of the following addresses:

- *http://www.regulations.gov* (via the online comment form for this notice as posted within Docket No. TTB–2008–0009 at ''Regulations.gov,'' the Federal e-rulemaking portal); or
- Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044–4412.

See the Public Participation section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of this notice, selected supporting materials, and any comments we receive about this proposal at *http://www.regulations.gov* within Docket No. TTB–2008–0009. A link to that docket is posted on the TTB Web site at *http://www.ttb.gov/wine/wine_rulemaking.shtml* under Notice No. 90. You also may view copies of this notice, all related petitions, maps or other supporting materials, and any comments we receive about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. Please call 202–927–2400 to make an appointment.

FOR FURTHER INFORMATION CONTACT: Jennifer Berry, Alcohol and Tobacco Tax and Trade Bureau, Regulations and Rulings Division, P.O. Box 18152, Roanoke, VA 24014; telephone (540) 344–9333.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act requires that these regulations, among