

<NOTICE>

<PREAMB>

<AGENCY TYPE='S'>**DEPARTMENT OF HOMELAND SECURITY**

<SUBAGY>**U.S. Customs and Border Protection**

<DEPDOC>**[CBP Dec. 08-48]**

<SUBJECT>**Notice of H-2A Temporary Worker Visa Exit Program Pilot**

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

ACTION: General notice.

SUMMARY: This notice announces that U.S. Customs and Border Protection (CBP) is establishing a new land-border exit system for certain temporary agricultural workers, starting on a pilot basis, at certain designated ports of entry. Under this pilot program, aliens admitted to the United States as H-2A temporary workers who were admitted to the United States at the ports of San Luis, Arizona, or Douglas, Arizona, must depart from either one of those ports and provide certain biographic and biometric information at one of the kiosks established for this purpose. Any nonimmigrant alien admitted under an H-2A nonimmigrant visa at one of the designated ports of entry will be issued a CBP Form I-94, Arrival and Departure Record, and be presented with information material that explains the pilot program requirements.

DATES: The pilot program will commence August 1, 2009.

FOR FURTHER INFORMATION CONTACT: Ms. Erin M. Martin via e-mail at

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SUPPLEMENTARY INFORMATION:

<HD1>**Background**

On February 13, 2008, the Department of Homeland Security (DHS) published a Notice of Proposed Rulemaking in the <E T='04'>**Federal Register**</E> (73 FR 8230) proposing changes to requirements affecting temporary and seasonal agricultural workers within the H-2A nonimmigrant classification and their U.S. employers.¹ Among other things, DHS proposed to establish a visa exit program on a pilot basis that would require temporary agricultural workers within the H-2A nonimmigrant classification to register with CBP at the time of departure from the United States. DHS is publishing the final rule implementing the H-2A program in today's edition of the <E T='04'>**Federal Register**</E>, concurrent with this notice.

Specifically, the final rule implements the pilot program by adding 8 CFR 215.9, which provides that an alien admitted on an H-2A visa at a port of entry participating in the Temporary Worker Visa Exit Program must also depart at the end of his or her authorized period of stay through a port of entry participating in the program and present designated biographic and/or biometric information upon departure. Section 215.9 further states that CBP will publish a notice in the <E T='04'>**Federal Register**</E> designating which H-2A 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.

¹ The H-2A nonimmigrant classification applies to aliens seeking to perform agricultural labor or services of a temporary or seasonal nature in the United States. Immigration and Nationality Act (Act or INA) sec. 101(a)(15)(H)(ii)(a), 8 U.S.C. 1101(a)(15)(H)(ii)(a); see 8 CFR 214.1(a)(2) (designation for H-2A classification).

The final rule indicates that the Temporary Worker Visa Exit Program will begin as a pilot. Accordingly, CBP is implementing the Temporary Worker Visa Exit Program, on a pilot basis. This notice contains all the required elements referenced in 8 CFR 215.9. Any alien subject to the program that is admitted into the United States at a designated port on or after August 1, 2009, is subject to the pilot program.

<HD1>General Requirements of the Temporary Worker Visa Exit Program Pilot

Any alien subject to the Temporary Worker Visa Exit Program must depart from a designated port of entry and must submit certain biographic and biometric information at one of the kiosks established for this purpose.

<HD2>Aliens Subject to the Pilot Program

Any alien admitted into the United States under an H-2A nonimmigrant visa at one of the designated ports.

<HD2>Designated Ports

San Luis, Arizona;

Douglas, Arizona.

<HD2>Entry Procedures

Any nonimmigrant alien admitted under an H-2A nonimmigrant visa at one of the designated ports of entry will be issued a CBP Form I-94, Arrival and Departure Record, and be presented with information material that explains the pilot program requirements. The information material will instruct the alien to appear in person at one of the designated ports of entry and register his or her final departure from the United States at that port on or before the date his or her work authorization expires.

<HD2>Exit Procedures

An alien admitted under an H-2A nonimmigrant visa must depart at a designated port on or before the date his or her work authorization expires. At the time of departure, the alien must present the following biographic and biometric information at a kiosk installed for this purpose:

- 1 – Biographic information – name, date of birth, country of citizenship, passport number, and the name of the Consulate where the alien’s visa was issued. The biographic information will be provided by scanning the alien’s travel document (visa). If the scan of the visa fails, the alien will scan his or her passport. If the scan of the passport fails the alien will manually enter the required biographic information.
- 2 – Biometric information – a 4-finger scan from one hand.
- 3 – The departure portion of the CBP Form I-94 – this must be deposited into the kiosk and the departing alien will receive a receipt verifying a successfully completed checkout registration.

<HD2>Kiosks

Instructions for departure registration will be available in both English and Spanish for use by departing aliens at the kiosks.

Officer assistance will be available in the event that an alien is unable to utilize the designated kiosk to record his or her departure.

Jayson P. Ahern
Acting Commissioner,
U.S. Customs and Border Protection

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