

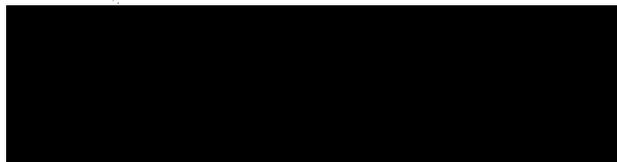
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U.S. Citizenship  
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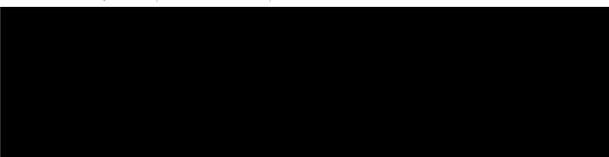
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FILE: WAC 02 194 51793 Office: CALIFORNIA SERVICE CENTER Date: **MAR 18 2005**

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the  
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

*Robert P. Wiemann*  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The Director of the California Service Center denied the nonimmigrant visa petition and the Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is again before the AAO on motion to reopen or reconsider. The motion will be dismissed.

The petitioner is a California restaurant with three branches. It seeks to employ the beneficiary as a market research analyst. The director denied the petition on the basis that the proffered position is not a specialty occupation.

On motion to reconsider, the petitioner states that the submitted job postings established that a baccalaureate or higher degree or its equivalent is the normal minimum requirement for entry into the particular position; that neither the Department of Labor's *Occupational Outlook Handbook* (the *Handbook*) nor the submitted job postings distinguish the types of business of companies employing a market research analyst; and that the proffered position is that of a market research analyst as described in the *Handbook*.

A motion to reconsider must: (1) state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or CIS policy; and (2) establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3). Although the petitioner states the reasons for reconsideration, the reasons are not supported by any pertinent precedent decisions to establish that the AAO's decision was based on an incorrect application of law or CIS policy. Accordingly, the petitioner fails to satisfy the requirements of a motion to reconsider.

A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4). In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

**ORDER:** The motion is dismissed. The previous decision of the AAO, dated December 24, 2003, is affirmed. The petition is denied.