



U.S. Department of Justice

Immigration and Naturalization Service

DZ

**PUBLIC COPY**

**identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536



File: SRC-02-041-52431 Office: Texas Service Center

Date:

**DEC 27 2002**

IN RE: Petitioner:  
Beneficiary:



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)

IN BEHALF OF PETITIONER:



**INSTRUCTIONS:**

This is the decision 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.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, Texas Service Center, and is now before the Associate Commissioner for Examinations on appeal. The decision of the director will be withdrawn and the petition will be remanded for further consideration and action.

The petitioner is a dairy farm with eight employees and a gross annual income of \$1.72 million. It seeks to employ the beneficiary as its manager of livestock operations for a period of three years. The director determined the petitioner had not established that the proffered position is a specialty occupation.

On appeal, counsel submits a brief.

Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(H)(i)(b), provides in part for nonimmigrant classification to qualified aliens who are coming temporarily to the United States to perform services in a specialty occupation. Section 214(i)(1) of the Act, 8 U.S.C. 1184(i)(1), defines a "specialty occupation" as an occupation that requires theoretical and practical application of a body of highly specialized knowledge, and attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

Pursuant to section 214(i)(2) of the Act, 8 U.S.C. 1184(i)(2), to qualify as an alien coming to perform services in a specialty occupation the beneficiary must hold full state licensure to practice in the occupation, if such licensure is required to practice in the occupation. In addition, the beneficiary must have completed the degree required for the occupation, or have experience in the specialty equivalent to the completion of such degree and recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

The director determined the petitioner had not demonstrated that the proffered position required a baccalaureate degree in a specific specialty.

On appeal, counsel states that the petitioner normally requires a baccalaureate degree in agriculture or its equivalent for the proffered position. Counsel further states that a baccalaureate degree in a specific specialty such as agriculture, dairy science, or a related field is the normal minimum requirement for entry into the occupation and also that the nature of the specific duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a baccalaureate degree in a specific specialty.

The term "specialty occupation" is defined at 8 C.F.R. 214.2(h)(4)(ii) as:

an occupation which requires theoretical and practical application of a body of highly specialized knowledge in fields of human endeavor including, but not limited to, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, business specialties, accounting, law, theology, and the arts, and which requires the attainment of a bachelor's degree or higher in a specific specialty, or its equivalent, as a minimum for entry into the occupation in the United States.

Pursuant to 8 C.F.R. 214.2(h)(4)(iii)(A), to qualify as a specialty occupation, the position must meet one of the following criteria:

1. A baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position;
2. The degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, an employer may show that its particular position is so complex or unique that it can be performed only by an individual with a degree;
3. The employer normally requires a degree or its equivalent for the position; or
4. The nature of the specific duties is so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.

In the initial I-129 petition, the petitioner described the duties of the offered position as follows:

[The beneficiary] will be responsible for the breeding, nutrition and livestock management of our dairy animals.

In his response to a Service request for additional evidence, the owner of [REDACTED] provided the following, expanded description of the duties:

. . . oversee all breeding operations for 500 head of cattle; oversee feeding and nutrition of all cattle; oversee veterinary care of animals; oversee and manage dairy production in line with financial goals of company

and marketing objectives; oversee purchasing of feeds, equipment, medical supplies; obtain necessary credit for large purchases.

The proffered position appears to be that of an agricultural manager. A review of the Department of Labor's Occupational Outlook Handbook, 2002-2003 edition, at pages 48-49, finds that a bachelor's degree in business with a concentration in agriculture is important. In addition to a formal education, several years of work experience in the different aspects of farm and ranch operations are needed in order to qualify for an agricultural manager position.

It is noted that not all agricultural manager positions may be considered specialty occupations. Each position must be evaluated based upon the nature and complexity of the actual duties. In this instance, the duties are of such complexity as to require a baccalaureate degree in a specific specialty. In view of the foregoing, it is concluded that the petitioner has demonstrated that the proffered position is a specialty occupation within the meaning of regulations.

The director has not determined whether the beneficiary qualifies to perform services in the specialty occupation. It is noted that the beneficiary does not have a baccalaureate degree in any field of study. The credentials evaluator found the beneficiary's 22 years of work experience in the field of agricultural business equivalent to a bachelor's degree in agricultural business from an accredited college or university in the United States. The record does not, however, contain any evidence to corroborate this finding such as an evaluation from an official who has authority to grant college-level credit for training and/or experience in the specialty at an accredited college or university which has a program for granting such credit based on an individual's training and/or work experience, as required by 8 C.F.R. 214.2(h)(4)(iii)(D)(1). Accordingly, the matter will be remanded to the director to make such a determination and to review all relevant issues. The director may request any additional evidence she deems necessary. The petitioner may also provide additional documentation within a reasonable period to be determined by the director. Upon receipt of all evidence and representations, the director will enter a new decision.

**ORDER:** The decision of the director is withdrawn. The matter is remanded to her for further action and consideration consistent with the above discussion and entry of a new decision which, if adverse to the petitioner, is to be certified to the Associate Commissioner for review.