

PUBLIC COPY

U.S. Department of Homeland Security
Bureau of Citizenship and Immigration Services

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

D4

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536



MAY 13 2003

File: SRC 02 128 53069 Office: Texas Service Center Date:

IN RE: Petitioner:
Beneficiaries



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

ON BEHALF OF PETITIONER: Self-represented

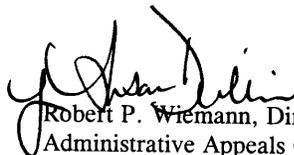
INSTRUCTIONS:

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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Texas Service Center, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as moot.

The petitioner operates a commercial fishing business. It desires to employ the beneficiaries as deckhands for a period of ten months. The petition was accompanied by the required Labor Certification, ETA-750. The director denied the petition because the validity of the certification had already passed.

On appeal, the petitioner submitted a new temporary labor certification valid from August 28, 2002 until May 26, 2003. This certification covers a new period of intended employment not specified in this petition, and therefore, has no bearing in this matter.

The regulation at 8 C.F.R. § 214.2(h)(6)(iv)(A) requires that a petition for temporary employment in the United States be accompanied by a temporary labor certification from the Department of Labor, or notice detailing the reasons why such certification cannot be made.

Upon review, the record does not support the director's decision. The petition was filed on March 18, 2002, with a temporary labor certification valid from September 24, 2001 through May 26, 2002. The petition indicates that the dates of intended employment were for the same time period. The petitioner's need has been shown to be seasonal and for a temporary period.

The regulation at 8 C.F.R. § 214.2(h)(9)(ii)(B) states that if a petition is approved after the date the petitioner indicates that the service will begin, the approved petition and approval notice should show a validity period commencing with the date of approval and ending with the date requested by the petitioner.

The petition should have been approved for the requested time period. To sustain this appeal would have no practical effect because the period of requested employment has now elapsed. Therefore, the issue in this proceeding is moot.

ORDER: The appeal is dismissed.