

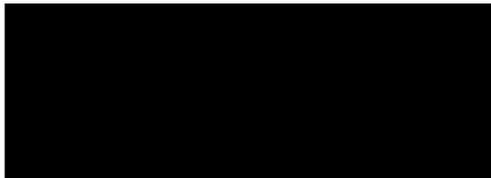
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U.S. Citizenship  
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Services

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FILE: EAC 07 170 54383 Office: VERMONT SERVICE CENTER

Date:

IN RE: Petitioner:  
Beneficiaries:



JUL 08 2007

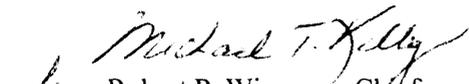
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(ii)(b)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision 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, Chief  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was approved by the Director, Vermont Service Center, and certified to the Administrative Appeals Office (AAO) for review as required by 8 C.F.R. § 214.2(h)(9)(iii)(B)(2)(ii). The decision of the director will be affirmed and the petition will be approved for the period of established need.

The petitioner is a seafood processor. It desires to employ the beneficiaries as deckhand oyster luggers from May 25, 2007 until December 29, 2007. The Department of Labor (DOL) determined that a temporary certification by the Secretary of Labor could not be made.

The director determined that sufficient countervailing evidence has been submitted to show that qualified persons in the United States are not available, that the employment policies of the DOL have been observed and that the need for the services to be performed is seasonal and temporary. The director's recommendation to approve the instant petition is now before the AAO for review.

The regulations at 8 C.F.R. § 214.2(h)(9)(iii)(B)(2) states in pertinent part that :

*(ii) Approval.* In any case where the director decides that approval of the H-2B petition is warranted despite the issuance of a notice by the Secretary of Labor . . . that certification cannot be made, the approval shall be certified by the director to the Commissioner pursuant to 8 C.F.R. § 103.4. . . If approved, the petition is valid for the period of established need not to exceed one year. . . .

The petition indicates at item 8 that the dates of intended employment are from May 25, 2007 until December 29, 2007. To substantiate its need for the intended dates of service, the petitioner provided a copy of its monthly payroll report for the calendar year 2006 for permanent and temporary workers. The report shows that no workers were temporarily employed by the petitioner from January through May of 2006. The report also shows that workers were temporarily employed by the petitioner from June through December of 2006.

After review of the documentary evidence contained in the record, the petition will be approved for the period of established need. The AAO finds that the petitioner has provided sufficient evidence to establish that the need for the beneficiaries' services is from June 2007 through December 2007 and that the need is peakload and temporary. The Vermont Service Center will issue the appropriate approval notice.

**ORDER:** The decision of the director is affirmed. The nonimmigrant visa petition is approved for the period of established need from June 1, 2007 until December 29, 2007.