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

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[redacted]

FILE: LIN 04 072 51939 Office: NEBRASKA SERVICE CENTER Date:

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 214(e)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1184(e)(2)

ON BEHALF OF PETITIONER:

[redacted]

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.

for Michael T. Kelly
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner is a church/Christian ministry that seeks to employ the beneficiary, a citizen of Mexico, as an accountant. The petitioner, therefore, endeavors to extend the status of the beneficiary as a TN alien to perform services as a professional business person pursuant to section 214(e)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1184(e)(2).

The director denied the petition because the proffered position does not qualify as a professional occupation according to Appendix 1603.D.1 to Annex [redacted] Trade Agreement (NAFTA).

Effective January 1, 2004, an interim rule was promulgated which states that citizens of Mexico requesting an extension of stay for a TN visa must submit the request on Form I-129; however, the extension request made on Form I-129 is not a petition for status within the meaning of section 214(c)(1) of the Act, and does not confer any of the appeal rights normally associated with a petition. The Form I-129 in the context of an application for extension of stay is merely the vehicle by which information is collected to make a determination on the extension application. Under 8 U.S.C. § 214.1(c)(5), there is no appeal of a denial of an application for extension of stay. Therefore, the appeal will be rejected.

ORDER: The appeal is rejected.