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U.S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services



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FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: **FEB 25 2011**

IN RE: Petitioner: [redacted]  
Beneficiary: [redacted]

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

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Jerry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the director, California Service Center. The Administrative Appeals Office (AAO) dismissed the subsequently filed appeal and affirmed the director's decision to deny the petition. The matter is now before the AAO as an appeal. The appeal will be rejected.

The petitioner is an electrical and lighting distributor that seeks to employ the beneficiary as a trainee pursuant to section 101(a)(15)(H)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(H)(iii) for the period from September 13, 2008 until March 13, 2010.

The director denied the petition on the following ground: (1) the petitioner failed to establish that the proposed training is unavailable in the beneficiary's home country; (2) the petitioner failed to establish that the proposed training will benefit the beneficiary in pursuing a career outside the United States; (3) the petitioner failed to set forth, with specificity, the type of training and supervision to be given, and the structure of the training program; and, (4) the petitioner failed to establish that it possesses physical plant space and sufficiently trained manpower to provide the training specified.

The AAO affirmed the director's decision and dismissed the appeal. On March 22, 2010, the petitioner filed a Form I-290B and identified it as an appeal. The instructions on the cover sheet of the AAO's decision, dated February 16, 2010, states that "if you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen." The instructions clearly state that the petitioner could only file a motion to reopen or reconsider and can not file an appeal as requested on the Form I-290B. Thus, the appeal will be rejected.

**ORDER:** The appeal is rejected.