

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

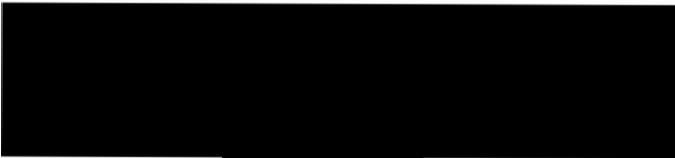
U.S. Department of Homeland Security
20 Massachusetts Avenue, N.W., Rm. 3000
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

B2



FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER Date: FEB 10 2009
LIN 07 148 51882

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

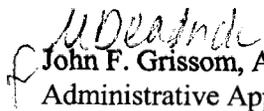
ON BEHALF OF PETITIONER:

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.

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. Please refer to 8 C.F.R. § 103.5 for the specific requirements. 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 \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).


John F. Grissom, Acting Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability in the sciences. The director determined that the petitioner had not established the sustained national or international acclaim requisite to classification as an alien of extraordinary ability.

Section 203(b) of the Act states, in pertinent part:

(1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with Extraordinary Ability. -- An alien is described in this subparagraph if --

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

Specific supporting evidence must accompany the petition to document the "sustained national or international acclaim" that the statute requires. 8 C.F.R. § 204.5(h)(3). An alien can establish sustained national or international acclaim through evidence of a "one-time achievement (that is, a major, international recognized award)." *Id.* Absent such an award, an alien can establish the necessary sustained acclaim by meeting at least three of ten other regulatory criteria. *Id.* However, the weight given to evidence submitted to fulfill the criteria at 8 C.F.R. § 204.5(h)(3), or under 8 C.F.R. § 204.5(h)(4), must depend on the extent to which such evidence demonstrates, reflects, or is consistent with sustained national or international acclaim at the very top of the alien's field of endeavor. A lower evidentiary standard would not be consistent with the regulatory definition of "extraordinary ability" as "a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2).

In this case, the petitioner seeks classification as an alien with extraordinary ability in the sciences, specifically as a meteorologist. The petitioner initially submitted background information on severe weather, membership certificates for two organizations, his resume, copies of his diplomas, publications that he authored or co-authored or presented, emails granting travel support to attend meteorological conferences, seven letters of recommendation, and evidence that he reviewed papers for others. In response to a Request for Evidence ("RFE") dated May 11, 2007, the petitioner submitted information regarding the two societies to which he belongs, four letters of recommendation, information about the "Monthly Weather Review" and the criteria for selecting reviewers, an additional article that he reviewed for a peer, a list of publications citing the petitioner's

work with copies of pages of articles where the citation appears, cover pages from various seminars and presentations given by the petitioner, and employment documents from the Universities of Oklahoma and Colorado.

(i) Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

The petitioner claimed eligibility under this criterion through the award of travel by his employer, the Center for Analysis and Prediction of Storms ("CAPS") at the University of Oklahoma, to attend the 22nd Conference on Severe Local Storms and 11th Conference on Aviation, Range, and Aerospace Meteorology, and the AMS 85th Annual meeting. Grants represent financial support for travel rather than a prize or award. The petitioner presented no evidence that his employer's grant to attend these conferences constituted a prize or award that is recognized by the national or international community nor did he present evidence that the grant was given in recognition of his excellence in the field.

The petitioner also claimed eligibility under this criterion by virtue of the grant of membership by the American Meteorological Society (AMS) and Sigma Xi. Even if we considered the grant of membership to an organization to be a prize or award, which we do not, each criterion under 8 C.F.R. § 204.5(h)(3) is separate and distinct. The petitioner's argument that he won an award by being accepted as a member in an organization means that the membership considered under 8 C.F.R. § 204.5(h)(3)(ii) would also qualify as an award under this criterion. If evidence sufficient to meet one criterion mandated a finding that an alien met another criterion, the requirement that an alien meet at least three criteria would be meaningless. Even if membership in the AMS and Sigma Xi could be considered an award, the petitioner presented no evidence that such an award is nationally or internationally recognized or that such an award is made based on demonstrated excellence in the field (as discussed in more depth under 8 C.F.R. § 204(h)(3)(ii).

For all of the above reasons, the petitioner has not demonstrated eligibility under this criterion.

(ii) Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

In order to demonstrate that membership in an association meets this criterion, a petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. Membership requirements based on employment or activity in a given field, minimum education or experience, proficiency certifications, standardized test scores, grade point average, recommendations by colleagues or current members, or payment of dues do not satisfy this criterion as such requirements do not constitute outstanding achievements. Furthermore, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association's overall reputation.

The petitioner submitted evidence of his membership in Sigma Xi, a scientific research society. The society's webpage states that "an individual who has shown noteworthy achievement as an original investigator in a field of pure or applied science . . . [as] evidenced by publication as a first author on two articles" will be accepted for membership. A noteworthy achievement is not necessarily an outstanding achievement. In fact, the record reveals that the society does not take a particularly strict view of noteworthy achievements as evidenced by the fact that an author of two papers will be accepted for membership. In

addition, the Sigma Xi membership criteria do not include information about who judges the applications to indicate that membership applications are judged by recognized national or international experts in the field.

The petitioner also submitted evidence of his membership in the AMS. The membership criteria for the AMS indicates that members hold a baccalaureate or higher degree in the area of atmospheric or related sciences or have a combination of educational and work experience that is equivalent to such a degree. The AMS membership criteria do not indicate that an outstanding achievement is necessary for membership nor do they indicate that membership applicants are judged for admission by recognized national or international experts in the field.

Because the petitioner failed to demonstrate that either Sigma Xi or the AMS require outstanding achievements for membership or that either organizations uses nationally or internationally recognized experts in the field to judge membership applications, the petitioner has not demonstrated eligibility under this criterion.

(iii) Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.

In general, in order for published material to meet this criterion, it must be primarily about the petitioner and, as stated in the regulation, be printed in professional or major trade publications or other major media. To qualify as major media, the publication should have significant national or international distribution. An alien would not earn acclaim at the national level from a local publication. An alien would not earn acclaim at the national level from a local publication. Some newspapers, such as the *New York Times*, nominally serve a particular locality but would qualify as major media because of significant national distribution, unlike small local community papers.¹

The petitioner claims to meet this criterion, in part, through the use of his work in an article titled "Project CRAFT: A Real Time Delivery System for NEXRAD Level II Data via the Internet" by [REDACTED] et al. First, the petitioner does not submit a full copy of this article, but only submits a copy of three pages of a more than thirty page publication. Second, the petitioner indicates that the article "will be published in the *Bulletin of American Meteorological Society* in August 2007." Any publication of the article occurred subsequent to the petition's filing date. **A petitioner, however, must establish eligibility at the time of filing.** 8 C.F.R. §§ 103.2(b)(1), (12); see *Matter of Katigbak*, 14 I. & N. Dec. 45, 49 (Regl. Commr. 1971). Accordingly, the AAO will not consider this article in this proceeding. Even if the article had been published prior to the petition's filing date, it does not discuss the petitioner's work in depth, but instead only cites the petitioner's work twice.

The petitioner also claims to meet this criterion through the citation of his work by the website for the National Science Foundation Engineering Research Centers. The evidence submitted in support of this claim does not include the petitioner's name on the website page discussing tornado forecasting methods. In addition, the plain language of this regulatory criterion requires that the published material include "the title, date, and author of the

¹ Even with nationally-circulated newspapers, consideration must be given to the placement of the article. For example, an article that appears in the *Washington Post*, but in a section that is distributed only in Fairfax County, Virginia, for instance, cannot serve to spread an individual's reputation outside of that county.

material,” evidence missing from the webpage. Further, there is no evidence showing that this internet site qualifies as a professional or major trade publication or some other form of major media.

Regardless, articles citing the petitioner’s work are primarily about the authors’ work, not the footnoted material identifying the petitioner. With regard to this criterion, a footnoted reference to the alien’s work without evaluation is of minimal probative value. Further, we note that the articles submitted in this proceeding citing the petitioner’s work similarly referenced numerous other authors. The submitted citations to the petitioner’s work do not discuss the merits of his work, his standing in the field, any significant impact that his work has had on the field, or any other aspects of his work consistent with sustained national or international acclaim. The citations of the petitioner’s work are more relevant to the criteria at 8 C.F.R. § 204.5(h)(3)(v) and (vi) and will be further addressed later in this decision.

Accordingly, the petitioner has not demonstrated eligibility under this criterion.

(iv) Evidence of the alien’s participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.

The petitioner claims to meet this criterion due to his review of manuscripts and editorial work for various scientific journals. Because peer review is a common feature of the publication process for many scientific journals, service as a peer reviewer in and of itself will not satisfy this criterion without evidence that the alien has served on the editorial board, completed a substantial number of reviews, or has otherwise conducted peer review of other scientists’ work in a manner consistent with sustained national or international acclaim. Although the petitioner asserts that he is a reviewer for the scientific journals “Monthly Weather Review,” “Geophysical Research Letters,” “Chinese Journal of Atmospheric Sciences,” “Acta Meteor,” and the “Journal of Geophysical Research – Atmospheres,” the petitioner submitted evidence of only one article that he reviewed: “Multiple Radar Data Assimilation and Short-range QPF of a Squall Line Observed during IHOP_2002” for the Monthly Weather Review. Evidence that the petitioner reviewed a single article is not sufficient to establish the level of acclaim required for this highly restrictive classification.

The petitioner also claims to meet this criterion based on his review of applicants to the Research Experiences for Undergraduates (“REU”) program at the National Weather Center. Evidence of the petitioner’s participation as a judge must be evaluated in terms of whether the judging position demonstrates, reflects, or is consistent with sustained national or international acclaim at the very top of the alien’s field of endeavor. 8 C.F.R. § 204.5(h)(2). For example, judging a national competition for top scientists is of far greater probative value than judging a regional youth or student competition. According to the information provided about the REU, the program is open to undergraduate students and the students accepted are decided by a panel of University of Oklahoma employees. This evidence thus does not establish that the request for the petitioner to review these applicants conveyed a level of acclaim consistent with this classification.

For all these reasons, the petitioner has not established that he meets this criterion.

(v) Evidence of the alien’s original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.

The petitioner states that his contributions to the field were recognized through his invitation to serve as a visiting scientist with the National Center for Atmospheric Research, requests by other scientists to assist

them in their work, his publications, and through the use of his simulation by other researchers in their work. The petitioner did not introduce evidence as to why he was asked to be a visiting scientist and did not otherwise show that he was asked to visit based on his original contributions to the field. The e-mails submitted from other scientists asking for the petitioner's input on their papers do not evidence that the petitioner made original contributions of major significance in the field as peer review and collegiality is common among researchers. While the petitioner's research is no doubt of value, it can be argued that any research must be shown to be original and present some benefit if it is to receive funding and attention from the scientific community. Any Ph.D. thesis or postdoctoral research, in order to be accepted for graduation, publication or funding, must offer new and useful information to the pool of knowledge. It does not follow that every researcher who performs original research that adds to the general pool of knowledge has inherently made a contribution of major significance to the field as a whole. As will be stated more thoroughly under 8 C.F.R. § 204.5(h)(3)(vi), the petitioner failed to provide evidence that his simulation is being used by other researchers since the papers that the petitioner refers to do not cite the petitioner's work in depth or otherwise credit the petitioner for those graphs and ideas that the petitioner claims are attributable to his work. While letters of recommendation provide relevant information about an alien's experience and accomplishments, they cannot by themselves establish the alien's eligibility under this criterion because they do not demonstrate that the alien's work is of major significance in his field beyond the limited number of individuals with whom he has worked directly. Even when written by independent experts, letters solicited by an alien in support of an immigration petition carry less weight than preexisting, independent evidence of major contributions that one would expect of an alien who has achieved sustained national or international acclaim. Accordingly, we review the letters as they relate to other evidence of the petitioner's contributions.

██████████, Chief of the Mesoscale Modeling Branch with the Environmental Modeling Center, National Centers for Environmental Prediction, National Weather Service, NOAA, stated that the petitioner "is responsible for arguably unparalleled advancements in radar data assimilation studies." ██████████ also stated that the petitioner's "research has been at the forefront in utilizing radar data for model initialization for the purpose of storm forecasting and will surely gain more importance and benefit the U.S. to a greater degree in the future." He appears to have based his opinion of the petitioner on the petitioner's resume and publication record. He does not indicate that he was aware of the petitioner or his work previously. ██████████ professor in Iowa State University's Department of Geological and Atmospheric Sciences, stated that the petitioner's research benefited the field by making the storm forecasting systems more accurate. Again, however, ██████████'s opinion is not based on any actual knowledge of the petitioner's work. Rather, his opinion appears to be based solely on the petitioner's resume and publications as a result of the petitioner's request for review of these materials. He does not indicate his familiarity with the petitioner's work prior to reviewing the information submitted to him by the petitioner. ██████████, Senior Research Meteorologist, National Severe Storm Laboratory/NOAA, stated that the petitioner "carr[ies] critical investigations related to severe weather forecast and aviation weather forecast" and has "an outstanding ability in computer simulation and application [evident through] his pioneering research in tornado simulation."

██████████, Director, School of Meteorology, University of Oklahoma, who served on the petitioner's PhD committee, stated that the petitioner is "one of two scientists in CAPS conducting very specialized research on cloud analysis using radar reflectivity and other cloud observations." ██████████ Associate Professor of Meteorology at the University of Oklahoma and supervisor of the petitioner's doctoral research, stated that the petitioner "has made tremendous contributions to several projects. . . . [and] has made outstanding contributions to the improvement of both severe weather forecast and aviation weather forecast." ██████████, Chief of the Assimilation and Modeling Branch of the Global Systems Division at the NOAA Earth System Research

Laboratory, stated that the petitioner “has extensive experience in cloud analysis research and has published several journal and conference papers that documented his leading-edge studies on the theories and applications of the cloud analysis procedure for numerical thunderstorm forecasts.” [REDACTED] also stated that the petitioner “has played a key role in improving our nation’s aviation weather prediction.” In response to the RFE, the petitioner submitted a second letter from [REDACTED], which stated that the petitioner “was responsible for the successful development of a new cloud analysis package for a real-time operational data analysis system,” which “included many new functions to efficiently integrate all available cloud observations such as radar and satellite into the initial field of numerical model.”

In response to the RFE, the petitioner also submitted an additional four letters of recommendation from individuals with whom he has not worked directly. [REDACTED], an assistant professor at Japan’s Nagoya University, stated that the petitioner “is doing excellent research” and that the research “is highly advanced and important to the numerical forecast because it significantly reduced the location error of predicted storms from usually 30 km to 10 km.” [REDACTED] also stated that he “believe[s] [that the petitioner] will continue to make important contributions to promote our ability to fight against the threat of hazardous weather like severe storms.” [REDACTED] senior research scientist with the Australian Bureau of Meteorology Research Centre, stated that the petitioner’s work “leads to substantial progress towards the problem-solving and significantly improved the accuracy of numerical prediction of storms.” [REDACTED] characterizes the petitioner as “a valuable and essential contributor to the meteorological research academy.” [REDACTED], senior scientist at the Danish Meteorological Institute, stated that the petitioner “developed high-frequency intermittent assimilation systems ... [that] are essential to explicitly predict[ing] hazardous weather” and that the petitioner’s “work significantly improved the quality of model prediction on [a thunderstorm] event, both in location and time.” None of these letters indicate that the petitioner made an original contribution of major significance to his field as opposed to simply improving upon an existing system. None of the authors of the letters of recommendation describes how they have applied the petitioner’s research, if at all, or otherwise utilized his work consistent with a finding that the petitioner has made an original scientific contribution of major significance in his field.

The petitioner presented evidence that two conference papers titled “Assimilation of Radar Data for Thunderstorm Prediction with Ensemble Kalman Filter: A Real Case Study” and “Combining Phase Error Correction and 3DVAR in Storm-Scale Data Assimilation” were chosen to be displayed at meteorological conferences. The petitioner submitted no evidence to demonstrate the importance these papers had on his field, such as that they were even awards at these conferences or otherwise recognized as making a contribution of major significance to the field.

For all of the above stated reasons, the petitioner has not demonstrated eligibility under this criterion.

(vi) Evidence of the alien’s authorship of scholarly articles in the field, in professional or major trade publications or other major media.

The petitioner provided evidence of five peer reviewed journal papers, seven conference papers, and two poster presentations. The petitioner also submitted an incomplete copy of one paper titled “Numerical Prediction of 8 May 2003 Oklahoma City Supercell Tornado with ARPS and Radar Data Assimilation” with no indication that it had been published and an abstract of what he titles as a conference paper: “Analysis and Prediction of 8 May 2003 Oklahoma City Tornadoic Thunderstorm and Embedded Tornado using ARPS with Assimilation of WSR-88D Radar Data” without evidence that it would be presented at a conference in June 2007. The petitioner also submitted two documents consisting of abstracts in English and pages in Chinese, however, the articles are not

accompanied by certified translations as required by 8 C.F.R. § 103.2(b)(3), so we are unable to evaluate these documents. The petitioner's number of publications pales in comparison to the authors of his letters of recommendations who authored "over 60 refereed journal articles and over 200 conference publications" (Dr. [REDACTED], "37 papers in refereed peer reviewed journals and over 100 extended abstracts in different kinds of scientific proceedings" ([REDACTED]), and "approximately 150 journal publications and articles for proceedings" [REDACTED]).

We note that authoring scholarly articles is inherent to the research field.² For this reason, we will evaluate a citation history or other evidence of the impact of the petitioner's articles when determining their significance to the field. For example, numerous independent citations would provide solid evidence that other researchers have been influenced by the petitioner's work and are familiar with it. On the other hand, few or no citations of an alien's work may indicate that his work has gone largely unnoticed by his field. The record contains evidence that the petitioner's articles have been cited in 16 publications and four dissertations or theses. The 16 publications were not written by 16 individual authors, but instead, the petitioner's work was cited by the same expert in multiple articles. For example, [REDACTED], director of CAPS and the petitioner's former supervisor, was the lead or co-author of seven of the 16 publications citing the petitioner's work; at least six of the other expert authors were involved with two or more articles citing the petitioner's work. This number of citations with the repetition of authorship is not evidence that the petitioner's work is widely cited.

The petitioner included a paper by [REDACTED] which the petitioner states demonstrates that his research is being used by others in the field. The article by [REDACTED] does not mention the petitioner by name nor does it identify any research done by the petitioner. Instead, [REDACTED]'s paper states that he uses "a number of case studies by the CAPS group" and cites three of the petitioner's works in a reference section containing over fifty publications. In his response to the RFE, the petitioner states that the importance of his scholarly articles is evidenced by the use of his work by the Engineering Research Centers ("ERC"). The ERC article submitted also does not mention the petitioner's name or the names of any of his studies or articles. Instead the ERC article mentions only one responsible organization, the Engineering Research Center for Collaborative Adaptive Sensing of the Atmosphere (CASA), with which CAPS is affiliated, however, the petitioner failed to show that he was solely or primarily responsible for the research put out by CASA on the subject. The petitioner submitted a copy of his article on what appears to be the same topic as the ERC article discusses and a copy of the CASA website referencing the same topic as the petitioner's article, however, without some showing of how the petitioner's article influenced the ERC article or how the petitioner's work is used by CASA, we cannot say that the ERC article comprises a recognition of the petitioner's work.

In addition, the petitioner claims that his 2007 presentation at the 18th Conference on Numerical Weather Prediction and 22nd Conference on Weather Analysis and Forecasting constitutes evidence that his scholarship has been recognized as important, however, he submitted no evidence that distinguishes his papers from that of

² The Association of American Universities' Committee on Postdoctoral Education, on page 5 of its Report and Recommendations, March 31, 1998, set forth its recommended definition of a postdoctoral appointment. Among the factors included in this definition was the acknowledgement that "the appointee has the freedom, and is expected, to publish the results of his or her research or scholarship during the period of the appointment." Thus, this national organization considers publication of one's work to be "expected," even among researchers who have not yet begun "a full-time academic and/or research career." This report reinforces USCIS's conclusion that publication of scholarly articles is not presumptive evidence of sustained national or international acclaim.

the other participants. Similarly, other seminars given by the petitioner do not indicate that the findings presented garnered the requisite national or international acclaim.

For all of the above reasons, the petitioner has not demonstrated eligibility under this criterion.

(viii) Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.

To meet this criterion, a petitioner must establish the nature of his role within the entire organization or establishment and the reputation of the organization or establishment. Where an alien has a leading or critical role for a section of a distinguished organization or establishment, the petitioner must establish the reputation of that section independent of the organization itself.

The only information provided about CAPS comes from the website of the organization itself. Information generated by the organization itself is insufficient to prove its distinguished reputation. The petitioner submitted evidence that CAPS “serves as the lead institution” for the Linked Environments for Atmospheric Discovery project and is a member of CASA, but that evidence does not state why CAPS was asked to affiliate with these organizations or how the affiliation with these organizations would impact CAPS’ reputation. The petitioner submitted no outside, objective evidence of CAPS’ standing or reputation, so we cannot conclude that CAPS is an organization or establishment that has a distinguished reputation.

As evidence of his leading or critical role, the petitioner submitted a copy of his performance evaluation from [REDACTED], the Director of CAPS, which contained a notation that the petitioner “has become one of the most productive as well as valuable scientists at CAPS and we surely would like to have him with CAPS and to have him play an increasingly important role in the CAPS research enterprise for years to come[.]” The petitioner also enclosed a letter from the University of Oklahoma indicating that the petitioner would receive a 10% raise instead of the default 3% amount in recognition of his contribution. The letter from [REDACTED] Director of the Oklahoma University School of Meteorology, states that the petitioner’s “continuous research presence here is . . . vital to CAPS’ and [the Federal Aviation Administration’s] missions and irreplaceable by anyone else that I know of.” Although a post-doctoral research fellow is generally a subordinate role designed to provide temporary research training for a future professional career in the field of endeavor, the letter from the head of CAPS demonstrates that the petitioner is a valued employee of CAPS. However, the documentation submitted by the petitioner does not establish that he was responsible for CAPS’ success or standing to a degree consistent with the meaning of “leading or critical role” and indicative of sustained national or international acclaim.

As such, the petitioner has not established that he meets this criterion.

(ix) Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.

The petitioner claims to meet this criterion because CAPS gave him a salary increase of 10% bringing his annual net income to \$49,500. In response to the RFE, the petitioner submitted a May 14, 2007 offer letter from the University of Colorado to appoint him as a research associate at an annual salary of \$60,000. A petitioner, however, must establish eligibility at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12); see *Matter of Katigbak*, 14 I. & N. Dec. at 49. Thus, the evidence of an offer dated after the time of filing will not be considered in the proceeding. Regardless, the petitioner included no evidence regarding how much other meteorological

researchers earn per annum or any other evidence to demonstrate how his annual salary compares to other meteorologists.

As such, the petitioner has not established that he meets this criterion.

In this case, the petitioner has failed to demonstrate receipt of a major, internationally recognized award, or that he meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3). Review of the record does not establish that the petitioner has distinguished himself to such an extent that he may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of his field. The evidence is not persuasive that the petitioner's achievements set him significantly above almost all others in his field at a national or international level. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.