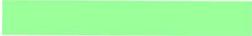


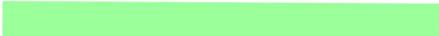


**U.S. Citizenship  
and Immigration  
Services**

(b)(6)

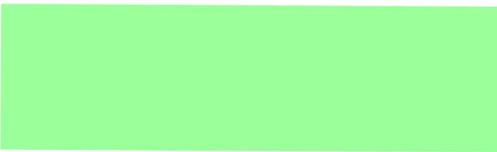


DATE: **MAR 18 2015** OFFICE: VERMONT SERVICE CENTER FILE: 

IN RE: Petitioner:   
Beneficiary: 

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

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg", written over the typed name.

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, revoked the previously approved nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The decision of the director will be withdrawn and the record remanded for the entry of a new decision.

The petitioner submitted a Petition for a Nonimmigrant Worker (Form I-129) to the Vermont Service Center, seeking classification of the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to § 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b). The petition was initially approved; however, thereafter, the director issued a Notice of Intent to Revoke (NOIR) the petition's approval. Subsequently, the director revoked the petition's approval, citing the petitioner's failure to respond to the NOIR. On appeal, the petitioner states that it never received a copy of the NOIR, but acknowledges that it received the revocation notice.

The regulation at 8 C.F.R. § 214.2(h)(11)(iii), which governs revocations that must be preceded by notice, states:

(A) *Grounds for revocation.* The director shall send to the petitioner a notice of intent to revoke the petition in relevant part if he or she finds that:

- (1) The beneficiary is no longer employed by the petitioner in the capacity specified in the petition, or if the beneficiary is no longer receiving training as specified in the petition; or
- (2) The statement of facts contained in the petition was not true and correct; or
- (3) The petitioner violated terms and conditions of the approved petition; or
- (4) The petitioner violated requirements of section 101(a)(15)(H) of the Act or paragraph (h) of this section; or
- (5) The approval of the petition violated paragraph (h) of this section or involved gross error.

(B) *Notice and decision.* The notice of intent to revoke shall contain a detailed statement of the grounds for the revocation and the time period allowed for the petitioner's rebuttal. The petitioner may submit evidence in rebuttal within 30 days of receipt of the notice. The director shall consider all relevant evidence presented in deciding whether to revoke the petition in whole or in part. If the petition is revoked in part, the remainder of the petition shall remain approved and a revised approval notice shall be sent to the petitioner with the revocation notice.

(Emphasis added). Thus, the director is required to send a notice of intent to revoke a petition to the petitioner. *Id.*

Further, the regulation at 8 C.F.R. § 103.8(a)(1)(i) provides:

Routine service consists of mailing the notice by ordinary mail addressed to the affected party and his or her attorney or representative of record at his or her last known address. . . .

The revocation notice indicates that it was addressed and mailed to both the petitioner and its former counsel, and the petitioner acknowledges receipt of such notice. The NOIR, however, was only addressed to the petitioner's former counsel, and there is no indication, in the NOIR or elsewhere in the record, that the petitioner was furnished with a copy of it as required under 8 C.F.R. § 103.8(a)(1)(i) and 8 C.F.R. § 214.2(h)(11)(a).

Therefore, the director's decision will be withdrawn and the matter will be remanded so that the director can properly serve the petitioner and its counsel with the NOIR, take into consideration any evidence submitted by the petitioner in response to the NOIR, and issue a new decision.

**ORDER:** The director's decision is withdrawn. The matter is remanded to the director for action consistent with this decision.