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U.S. Citizenship
and Immigration
Services

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JUN 29 2007

FILE: EAC 07 136 54107 Office: VERMONT SERVICE CENTER Date:

IN RE: Petitioner:
Beneficiaries:



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.

for 
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). Upon review, the AAO withdrew the director's decision and remanded it to the director for further action and consideration. The director has now issued a new decision and certified it to the AAO for review. The director's decision will be affirmed and the petition will be approved.

The petitioner operates a produce stand in the Cape Cod area of Massachusetts. It desires to employ the beneficiaries as stock clerks from February 15, 2007 to November 15, 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 had been submitted to overcome the objections of the DOL, and approved the petition. Upon review, the AAO determined that the petitioner established a temporary need from April 1, 2007 to November 15, 2007. The AAO withdrew the director's decision and remanded the case to the director for further action. The director has issued a new decision that recommends approval of the petition. That decision to approve the petition has now been certified to the AAO for review.

Upon careful review of the entire record of proceeding, the AAO finds that the evidence of record does support the director's decision to approve the petition. The AAO finds 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 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 April 1, 2007 to November 15, 2007.