



Date: December 21, 1989

In the Matter of

Case No. 90-TLC-3

TED CROWDER,  
Employer

Before: JEFFREY TURECK  
Administrative Law Judge

DECISION AND ORDER

The above-captioned employer requested expedited administrative review under 20 C.F.R. §655.112 from the November 24, 1989 denial by Regional Administrator ("RA") Daniel L. Lowry of a temporary labor certification for five farm workers to be employed from January 5, 1990 to October 15, 1990. The case filed was received by this Office on December 18, 1989.<sup>1</sup>

The RA denied certification because "over the past several months by changing the anticipated period of need such that an entire twelve month period has been covered, you have shown us that the position is not temporary or seasonal in nature." (Emphasis in original).

Employer's argument on appeal is insufficient, and misconstrues the RA's position. It is not the length of the proposed periods of employment upon which the RA based his denial of certification. Rather, that these various proposed periods of employment cover the entire calendar year indicates, contrary to employer's assertions, that the job's duties are year-round rather than seasonal.

On the basis of the record before me, the RA's denial of the temporary labor certification was appropriate, and it is AFFIRMED.

JEFFREY TURECK  
Administrative Law Judge

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<sup>1</sup> Although 20 C.F.R. §655.112(a) requires the RA to send a certified copy of the file to this Office "by means normally assuring next-day delivery . . .", the RA sent the file by regular first class mail. Moreover, it was not mailed until December 14th.