9 FAM 41.51 EXHIBIT II EXCERPTS FROM THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES (USCIS) AJUDICATORS FIELD MANUAL RELATING TO THE EVALUATION OF CRITERIA PERTAINING TO SPECIAL OCCUPATIONS

(CT:VISA-981; 07-22-2008)
(Office of Origin: CA/VO/L/R)

Chapter 31.3

(g) Adjudicative Issues.

(1) Deciding If the Proposed Employment Is a Specialty Occupation. Although the definition of specialty occupation is included in the statute itself and the regulations are specific regarding the criteria for determining what qualifies as a specialty occupation, approval or denial often comes down to a judgment call by the adjudicating officer. There are numerous references available (such as the DOL's Occupational Outlook Handbook) to describe specific vocational preparation for various occupations. However, it is important to note that occupations are rapidly evolving and job titles themselves are often meaningless. In order to correctly adjudicate a case, it is necessary to consider all the facts surrounding the petition: the beneficiary's education and work experience, the nature of the petitioner's business, industry practice, and salary (both offered to the beneficiary and typical for the industry). It is important not to be so influenced by a single factor, such as the job title or salary, that other indicators are overlooked. If significant doubts exist regarding t he beneficiary's work experience, the adjudicating officer may request an overseas investigation (see Chapter 10.5(d)) or refer the case to the appropriate local ICE office for interview, field examination (see Chapter 17), or local investigation.