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Memorandum

TO: Field Leadership 

FROM: Donald Neufeld, Acting Associate Director
Domestic Operations

SUBJECT: Publication of the Special Immigrant and Nonimmigrant Religious Worker
Final Rule

Statutory Extension of the Special Immigrant Non-minister Religious Worker Program From the Date of Publication of the Final Religious Workers Rule to March 6, 2009

Revisions to *Adjudicator's Field Manual (AFM)*, Chapters 22.3(b) and 34.5;
New Appendices 22-2 and 34-1 (*AFM Update AD08-09*)

The purpose of this memorandum is to provide guidance for processing and adjudicating Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, filed on behalf of special immigrant religious workers, and Form I-129, Petition for a Nonimmigrant Worker, filed on behalf of R-1 religious worker nonimmigrants. Additionally, this memorandum provides guidance for processing and adjudicating nonminister Form I-360 petitions and Form I-485 applications based on an approved Form I-360 filed prior to October 1, 2008.

1. Background

On November 26, 2008, U.S. Citizenship and Immigration Services (USCIS) published the "Special Immigrant and Nonimmigrant Religious Workers" final rule in the *Federal Register* (FR). 73 FR 72276. This rule became effective immediately upon publication in the *Federal Register*. The final rule establishes significant revisions to the special immigrant (SR/SD) and (R-1) nonimmigrant religious worker classifications. The rule will ensure the integrity of the religious worker program while streamlining the process for legitimate petitioners.

Additionally, on October 17, 2008, the President signed Public Law 110-391, the "Special Immigrant Nonminister Religious Worker Program Act," which extends the special immigrant

visa classification for nonminister religious workers through March 6, 2009. The legislation became effective on November 26, 2008.

2. Guidance

Final Rule Requirements

The key elements for adjudicators to consider when adjudicating petitions and applications are as follows:

Application to Pending Cases. The final rule applies not only to special immigrant and nonimmigrant religious worker petitions filed on or after the effective date of the final rule, but also to all religious worker petitions including appeals that were pending on the rule's effective date. The final rule requires certain documentation not required previously. Therefore, if a case is pending on or after the final rule's effective date and lacks documentation required under the final rule, the adjudicator must issue a request for evidence for the newly required documentation.

For example, prior to publication of the final rule, the petitioning organization did not have to submit a currently valid determination letter from the Internal Revenue Service showing that the organization is tax-exempt. Under the final rule, the petitioning organization must submit a determination letter. 8 CFR 204.5(m)(8); 8 CFR 214.2(r)(9). A tax-exempt determination letter is one issued under section 501(c)(3) of the Internal Revenue Code of 1986 or subsequent amendments or equivalent sections of prior enactments of the Internal Revenue Code. How an organization can establish itself as a tax exempt organization for purposes of filing an I-129R nonimmigrant petition or an I-360 special immigrant petition is discussed in AFM Chapter 22.3(b)(5), Initial Evidence Relating to the Petitioner's Tax Exempt Status.

Petition Requirement for All R-1 Religious Worker Nonimmigrants. Previously, R-1 religious worker nonimmigrants could request a religious worker visa at a consulate or port of entry without any prior, stateside review of their eligibility, the religious organization or job offer, i.e. without the need to first file a petition for R-1 classification with USCIS. The final rule now requires an I-129, Petition for Nonimmigrant Worker, be filed with USCIS for all individuals seeking R-1 religious worker nonimmigrant classification, including those outside of the United States.

Initial Admission Period and Extension of Stay Changes. The final rule reduced the initial period of admission for a nonimmigrant religious worker from three years to a period of up to 30 months, depending on need. Workers will be allowed to request an extension of up to an additional 30 months. As discussed in AFM Chapter 34.5, USCIS will make accommodations for those visa religious workers who received R-1 status before the final rule's effective date and who need to travel.

New and Revised Evidentiary Requirements. The final rule adds new definitions and amends others, including detailed interpretations of the statutory requirements and clear guidelines for

supporting documentation. The revised and additional evidentiary requirements are described in the following *Adjudicator's Field Manual* update.

Furthermore, the final rule requires the petitioner to submit an attestation and, if applicable, a denomination certification. To reflect the differing requirements between special immigrant and nonimmigrant petitions, the special immigrant attestation differs in some respects from the nonimmigrant attestation. The applicable attestation and denomination certification may serve as a checklist for adjudicators as they adjudicate religious worker petitions.

Nonimmigrant Religious Worker Appeals. Previously, petitions for R-1 religious worker nonimmigrants that had been denied could not be appealed. However, under the final rule, a petitioner may appeal the denial of an I-129 petition requesting R-1 religious worker classification to the Administrative Appeals Office. 8 CFR 214.2(r)(17). This appeal, however, is available only to R-1 petitions denied on or after the November 26, 2008 effective date of the final rule. Petitioners seeking review of an R-1 denial issued on or before November 25, 2008, must do so by filing a Motion to Reopen/Motion to Re-consider, with fee.

Extension of Nonminister Special Immigrant Religious Worker Program Requirements

Section 203(b)(4) of the Immigration and Nationality Act (INA) provides for the admission of nonminister "special immigrants" who qualify as professional or other religious workers in a religious vocation or occupation as defined at section 101(a)(27)(C)(ii)(II) and (III) of the INA. This provision expired on October 1, 2008, but was recently extended to March 6, 2009 by Public Law 110-391, the "Special Immigrant Nonminister Religious Worker Program Act," and the publication of the final rule. Prior to this extension, individuals seeking to immigrate under either of these two special immigrant (nonminister) religious worker classifications must have adjusted their status to that of a lawful permanent resident or have been admitted with an immigrant visa before October 1, 2008. This sunset date applies to the accompanying spouse and children of such nonminister special immigrant religious workers. The sunset date does not apply to ministers seeking to immigrate to the United States. *See* section 101(a)(27)(C)(ii)(I) of the INA.

On September 19, 2008, USCIS issued a guidance memorandum for processing nonminister immigrant petitions and applications that were pending on the October 1, 2008 sunset. Also, the September 19 memorandum provided instructions for processing nonminister immigrant petitions and applications that were submitted on or after October 1, 2008. Specifically, the September 19 guidance instructed adjudicators to hold in abeyance any unadjudicated Form I-360 petition or Form I-485 application affected by the October 1 sunset date. The memorandum further stated that nonminister Form I-360 petitions and Form I-485 applications received on or after October 1, 2008 should be rejected.

Due to the passage of the legislation extending the nonminister special immigrant religious worker program to March 6, 2009 and the publication of the final religious worker rule, this memorandum supersedes the September 19, 2008, memorandum. Adjudicators should resume adjudicating the I-360 petitions and I-485 applications for nonministers that were held in

abeyance due to the October 1, 2008 sunset. Because it is not yet known whether there will be a subsequent extension of the March 6, 2009 sunset date, I-360 petitions for special immigrant nonminister religious workers should be processed as expeditiously as possible within the operational constraints of the required site visits, background checks, and timing. In accordance with current operating procedures, petitions and applications should be adjudicated in the order in which they were received; that is, from earliest received to latest received.

However, as explained previously on page 2 of this AFM transmittal memorandum, the evidentiary requirements of the final rule apply not only to special immigrant and nonimmigrant religious worker petitions filed on or after the effective date of the final rule, but to all religious worker petitions that were pending on the rule's effective date. Therefore, the petitions and applications that were held in abeyance must be adjudicated according to the revised evidentiary rules. If a case that was held in abeyance lacks documentation required under the final rule, the adjudicator must issue a request for evidence for the newly required documentation.

In addition, nonminister Form I-360 petitions and Form I-485 applications based on an approved I-360 should be accepted for processing as of November 26, 2008. As a result, all special immigrant religious worker I-360 petitions will no longer need to be sent to the Customer Resolution Unit for manual identification of nonminister petitions. All special immigrant religious worker petitions should now be processed through the mailroom according to normal procedures.

Unless legislation is passed extending the March 6, 2009 sunset date, no petitions for nonminister special immigrant and the related adjustment of status applications may be approved after that date. Further guidance will be provided prior to March 6, 2009, regarding the processing of nonminister cases.

3. Contact

Questions regarding implementation of the special immigrant and nonimmigrant religious workers rule and extension of the nonminister special immigrant religious worker program should be directed to Headquarters Office of Service Center Operations through supervisory channels.

4. Adjudicator's Field Manual (AFM) Update, Chapter 22.3(b) and Appendix 22-2

Chapter 22.3(b) is revised as follows:

(b) Special Immigrant Ministers of Religion & Other Religious Worker Cases. [INSERT DATE OF PUBLICATION]

(1) General.

A U.S. employer or an individual alien may file an I-360 petition for special immigrant religious worker classification. In either case, a U.S. employer must submit certain evidence and an attestation which is now a part of Form I-360 and is required by the final rule in

support of the petition. If applicable, the U.S. employer must submit a Religious Denomination Certification which is also now a part of Form I-360. For at least two years preceding the filing of the petition, the beneficiary must have been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States. The beneficiary must be coming to the United States to work:

- Solely as a minister of the U.S. employer's denomination;
- In a religious vocation either in a professional or nonprofessional capacity; or
- In a religious occupation either in a professional or nonprofessional capacity.

The beneficiary must have been carrying on such work continuously for at least two-years preceding the filing of the petition.

NOTE: All religious workers, other than ministers, immigrating to the United States as special immigrant religious workers must enter the United States with a valid immigrant visa or adjust status to permanent residence (have an approved Form I-485) before March 6, 2009. Statutory amendments may extend this date. USCIS will provide information and further guidance if the date is extended.

(2) Definitions.

There are definitions that apply to both special immigrant religious worker petitions and nonimmigrant R-1 religious worker petitions. Detailed explanations of the definitions for special immigrant religious workers may be found at 8 CFR 204.5(m). Detailed explanations of the definitions for nonimmigrant R-1 religious workers may be found at 8 CFR 214.2(r). Detailed explanations regarding nonimmigrant R-1 religious worker petitions are described in the corresponding AFM Chapter 34.5. The evidence that must be submitted for special immigrant religious worker petitions refers to the following definitions:

Bona Fide Nonprofit Religious Organization in the United States means a religious organization exempt from taxation as described in section 501(c)(3) of the Internal Revenue Service (IRS) Code of 1986, subsequent amendment or equivalent sections of prior enactments of the Internal Revenue Code. The organization must have a currently valid determination letter from the Internal Revenue Service confirming the tax exemption. Unlike the previous regulations, which allowed the religious organization to submit to USCIS the documentation required by the IRS to establish eligibility for exemption under section 501(c)(3) of the Internal Revenue Code of 1986 as it relates to religious organizations, in lieu of the actual tax exempt determination, the final rule requires the IRS tax exempt determination in all cases and no longer permits the submission of alternate documentation. Tax exempt organization is defined below. The religious organization may submit an individual 501(c)(3) determination letter if it has its own ruling from the IRS or a letter for the group if it is covered under a group ruling. See AFM chapter 22.3(b)(5).

Bona Fide Organization That Is Affiliated with the Religious Denomination means an organization that is closely associated with a religious denomination. Religious denomination is defined below. The affiliated organization must be exempt from taxation as described in section 501(c)(3) of the Internal Revenue Code of 1986, subsequent amendment or equivalent sections of prior enactments of the Internal Revenue Code. The organization must have a currently valid determination letter from the IRS confirming the tax exemption. It must also submit the additional documentation discussed in AFM chapter 22.3(b)(5).

Religious Denomination means a religious group or community of believers that is governed or administered under a common type of ecclesiastical government with one or more of the following:

- A recognized common creed or statement of faith shared among the denomination's members;
- A common form of worship;
- A common formal code of doctrine and discipline;
- Common religious services and ceremonies;
- Common established places of religious worship, religious congregations; or
- Comparable evidence of a bona fide religious denomination.

If there is no hierarchical ecclesiastical government, an individual religious organization may qualify as a religious denomination by submitting a description of its internal governing structure.

Denominational Membership means membership during at least the two-year period immediately preceding the filing date of the petition, in the same type of religious denomination as the United States religious organization where the beneficiary will work. This is a new definition added by the final rule.

Minister can take the form of various names, depending on the religion, such as priest, minister, rabbi, and imam, among others, and means an individual who, according to the denomination's standards:

- Is fully authorized by a religious denomination, and fully trained according to the denomination's standards, to conduct religious worship and perform other duties usually performed by authorized members of the clergy of that denomination;
- Is not a lay preacher or a person not authorized to perform duties usually performed by clergy;

- Performs activities with a rational relationship to the religious calling of the minister; and
- Works solely as a minister in the United States which may include administrative duties incidental to the duties of a minister.

Religious Occupation means an occupation which meets all of the following requirements within the religious denomination's standards:

- The duties must primarily relate to a traditional religious function and be recognized as a religious occupation within the denomination;
- The duties must be primarily related to, and must clearly involve, inculcating or carrying out the religious creed and beliefs of the denomination;
- The duties do not include positions which are primarily administrative or support such as janitors, maintenance workers, clerical employees, fund raisers, persons solely involved in the solicitation of donations, or similar positions, although limited administrative duties that are only incidental to religious functions are permissible; and
- Religious study or training for religious work does not constitute a religious occupation, but a religious worker may pursue study or training incident to status.

Religious Vocation means a formal lifetime commitment, through vows, investitures, ceremonies, or similar indicia, to a religious way of life. The religious denomination must have a class of individuals whose lives are dedicated to religious practices and functions, as distinguished from the secular members of the religion. Examples of religious vocations include nuns, monks, and religious brothers and sisters.

Religious Worker means an individual engaged in and, according to the denomination's standards, qualified for a religious occupation or vocation, whether or not in a professional capacity, or as a minister. This definition is new.

Tax Exempt Organization means an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, subsequent amendment, or equivalent sections of prior enactments of the Internal Revenue Code. The means by which a petitioning organization can establish its tax exempt status that will support an I-360 or an I-129R filing and the documentation that must be submitted are discussed at AFM chapter 22.3(b)(5), initial evidence relating to the prospective employer.

(3)Compensation Requirements. A religious worker must receive salaried or non-salaried compensation. Salaried means receiving a traditional paycheck. Non-salaried means receiving support such as room, board, medical care, or transportation instead of a paycheck. The Attestation section below lists the evidence that the U.S. employer must submit regarding compensation.

(4) Attestation Requirements. In addition to completing Form I-360, a prospective U.S. employer must complete an Employer Attestation and a Religious Denomination Certification.

An authorized official of the prospective U.S. employer must complete, sign, and date the Employer Attestation and complete the Religious Denomination Certification. See Appendix 22-2. The authorizing official must sign the attestation, certifying under penalty of perjury that the attestation is true and correct.

If the alien is a self-petitioner and is also an authorized official of the prospective U.S. employer, the self-petitioner may sign the attestation.

Note: The Attestation and Denomination Certification may serve as a checklist for adjudicators as they adjudicate special immigrant religious worker petitions.

On the Employer Attestation form the prospective employer must specifically attest to the following:

- The prospective employer's status as a:
 - Bona fide non-profit religious organization; or
 - Bona fide organization that is affiliated with a religious denomination and is exempt from taxation.
- The number of members of the prospective employer's organization.
- The number of employees who work at the same location where the alien will be employed and a summary of those employees' responsibilities.
- Number of aliens holding special immigrant or nonimmigrant religious worker status currently employed or employed within the past 5 years.
- Number of Special Immigrant Religious Worker I-360 and Nonimmigrant Religious Worker I-129 petitions submitted by the prospective employer within the past 5 years.
- The title of the position offered to the alien.
- The complete package of salaried or non-salaried compensation being offered.
- A detailed description of the alien's proposed daily duties.
- The position being offered to the alien requires at least 35 hours per week of compensated service.

- The specific location(s) of the proposed employment.
- The beneficiary is qualified to perform the duties of the offered position.
- The beneficiary's membership in the prospective employer's denomination for at least 2 years prior to admission to the United States.
- The beneficiary will not be engaged in secular employment and any compensation for religious work will be paid to the alien by the attesting employer.
- The prospective employer's ability and intention to compensate and otherwise support (through housing, for example) the alien at a level at which the alien and accompanying family members will not become public charges.

(5) Initial Evidence Relating to the Petitioner's Tax Exempt Status. There are three different ways that a petitioning organization can establish its tax exempt status to support an I-129R nonimmigrant religious worker or an I-360 special immigrant religious worker filing.

- **As an Individual Religious Organization Granted Individual Tax Exempt Status:** If the petitioner is a religious organization with its own determination from the Internal Revenue Service (IRS) as a tax exempt organization, it must submit a copy of its valid 501(c)(3) determination letter.
- **As an Individual Religious Organization Covered Under a Group Tax Exempt Ruling:** If the petitioner is a religious organization recognized as tax exempt under group IRS tax exempt determination, it must submit a copy of a currently valid 501(c)(3) determination letter for the group.
- **As an individual tax exempt organization affiliated with a religious denomination:** If the petitioner is an individual tax exempt organization affiliated with a religious organization, in addition to a copy of its valid 501(c)(3) determination letter, it must also submit:
 - Documentation establishing its religious nature and purpose, such as a copy of the organizing instrument, specifying the nature and purpose of its own organization;
 - Organizational literature, such as books, articles, brochures, calendars, flyers, and other literature describing the religious purpose and nature of its own activities; and
 - A religious denomination certification, which may be in the form of a letter from the affiliated religious organization certifying that both organizations are affiliated.

(6) Initial Evidence Related to Compensation. The prospective U.S. employer must submit verifiable evidence of how the petitioner intends to compensate the alien. The evidence may include:

- Past evidence of compensation for similar positions;
- Budgets showing monies set aside for salaries, leases, etc.;
- Documentation that food, housing, medical care, or transportation will be provided;
- If IRS documentation, such as IRS Form W-2 or certified tax returns, is available, it must be provided. If IRS documentation is unavailable, the prospective employer must explain why it is unavailable and submit comparable verifiable documentation.
- Specific evidence must be provided if the alien worked in the United States during the 2 years immediately before the petition was filed. If the alien:
 - Received salaried compensation. The prospective employer must submit IRS documentation that the alien received a salary, such as an IRS Form W-2 or certified copies of income tax returns.
 - Received non-salaried compensation. The prospective employer must submit IRS documentation of the non-salaried compensation if available.
 - Received no salary but provided for his or her own support and for any dependents. The prospective employer must show how support was maintained by submitting documents such as audited financial statements, financial institution records, brokerage account statements, trust documents signed by an attorney, or other verifiable evidence acceptable to USCIS.

(7) Initial Evidence Related to the Religious Worker's Prior Employment.

- The religious worker's qualifying experience during the two years immediately preceding the petition (or preceding any acceptable break in the continuity of the religious work) must have occurred after the age of 14.
- If the religious worker was employed in the United States during the two years immediately preceding the filing of the application, the evidence must establish that the employment was authorized under United States immigration law, and if the religious worker:

- Received salaried compensation, the petitioner must submit IRS documentation that the alien received a salary, such as an IRS Form W-2 or certified copies of income tax returns.
- Received non-salaried compensation, the petitioner must submit IRS documentation of the non-salaried compensation if available.
- Received no salary but provided for his or her own support, and provided support for any dependents, the petitioner must show how support was maintained by submitting with the petition additional documents such as audited financial statements, financial institution records, brokerage account statements, trust documents signed by an attorney, or other verifiable evidence acceptable to USCIS.

If the religious worker was employed in the United States and there was an unacceptable break in employment authorization during the 2 years immediately preceding the filing of the I-360 petition, the 2-year clock must re-start. The subsequent 2-year period of qualifying employment may be completed in or outside the United States. If the 2 year period is completed in the U.S., the religious worker must have valid U.S. employment authorization.

- If the religious worker was employed outside the United States during the two years immediately preceding the filing of the application, the petitioner must submit comparable evidence of the religious work.
- A break in the continuity of the work (but not the continuity of the U.S. employment authorization) during the preceding two years will not affect eligibility so long as:
 - The beneficiary was still employed as a religious worker;
 - The break did not exceed two years; and
 - The nature of the break was for further religious training or for sabbatical that did not involve unauthorized work in the United States. However, the beneficiary must have been a member of the petitioner's denomination throughout the two years of qualifying employment.

Additionally, events such as sick leave, pregnancy leave, spousal care, and/or vacations are typical in the normal course of any employment and will not be seen as a break of the two-year requirement as long as the beneficiary is still considered employed during that time and such employment is pursuant to a valid employment authorization.

(8) Initial Evidence Related to a Minister. If filing in behalf of a minister, the petitioner must submit the following additional initial evidence:

- A copy of the religious worker's certificate of ordination or similar documents reflecting acceptance of the religious worker's qualifications as a minister in the religious denomination; and

- Documents reflecting:
 - Acceptance of the religious worker’s qualifications as a minister in the religious denomination;
 - The religious worker’s completion of any course of prescribed theological education at an accredited theological institution normally required or recognized by that religious denomination, including transcripts, curriculum, and documentation that establishes that the theological institution is accredited by the denomination.
- For denominations that do not require a prescribed theological education, the following evidence must be submitted:
 - The denomination’s requirements for ordination to minister;
 - The duties allowed to be performed by virtue of ordination;
 - The denomination’s levels of ordination, if any; and
 - Documentation to establish the alien’s completion of the denomination’s requirements for ordination.

(9) Verification of Evidence. USCIS may verify the submitted evidence through any means that USCIS determines as appropriate, up to and including an on-site inspection. If USCIS decides to conduct a pre-approval inspection, satisfactory completion of such an inspection will be a condition for approval of any petition. The inspection may include:

- A tour of the organization’s facilities and, if appropriate, the organization’s headquarters, or satellite locations;
- An interview with the organization’s officials;
- A review of the organization’s records related to compliance with immigration laws and regulations;
- An interview with any other individuals or review of any other records that USCIS considers pertinent to the integrity of the organization; or
- A visit to the locations where the alien will work or live.

(10) Closing Actions.

- Approval. Using a properly issued approval stamp and security ink, the adjudicator stamps “approved” in the Action Block on the petition and signs the form on a line over the stamp number and below the date of the approval.
- The adjudicator then annotates the proper classification and consulate. The SR1 classification is for an alien working in a professional capacity or a religious vocation or occupation, while the SD1 classification is for an alien working as a minister of religion.
- Denial. Using a properly issued denial stamp and security ink, the adjudicator stamps “denied” in the Action Block on the petition and signs the form on a line over the stamp number and below the date of the denial. If the petition is denied, the petitioner shall be informed of the reasons for denial and of the right to appeal. The denial may be appealed to the Administrative Appeals Office.

(11) Validity of Approved Petitions. An approved petition is valid indefinitely, unless revoked under section 203(e) or 205 of the Act.

(12) Precedent Decisions.

- *Matter of Z-*, 5 I&N Dec. 700 (C.O. 1954). When a priest has been ordained as such in the Catholic Church, he is a member of a religious denomination as contemplated by former section 101(a)(27)(F)(i) of the INA. (See current 101(a)(27)(C) of the INA). The fact that he engaged in a course of study in furtherance of his vocation does not support a conclusion that he has abandoned his calling as a minister. A Catholic priest whose duties in the United States will include teaching in seminaries for the training of priests and brothers and teaching in a boarding school where he is required to teach some academic subjects besides teaching religion and doing religious work is regarded as seeking to enter the United States solely to carry on his vocation as a minister of a religious denomination.

Notes: The decision, as worded, is in some respects narrowly focused on Catholic priests. For instance, it states: “when a priest has been ordained as such in the Catholic Church, he is required under canon law to celebrate holy mass daily, dispense the sacraments and guide the spiritual lives of those whom he so serves.” Decisions relating to non-Catholic clergy (who are not bound by canon law) should take into account this narrow focus.

- *Matter of Bisulca*, 10 I&N Dec. 712 (Reg. Comm. 1963). Petition to accord nonquota status as a minister of a religious denomination, pursuant to former section 101(a)(27)(F) of the INA (see current 101(a)(27)(C) of the INA) is denied since it has not been established he is seeking to enter the United States solely to carry on the vocation of minister since he would receive no salary for his church work and would be required to earn his living by obtaining other employment; neither has it been established that his services are needed as assistant pastor since the church has only 40 members and the present pastor is employed 3 days each week in a different vocation.

Note: Sometimes cited with regard to unpaid religious workers, and the concomitant need for such aliens to seek secular employment. However, be aware of 8 CFR 214.2(r)(11)(ii) pertaining to self-supporting nonimmigrant religious workers under the R-1 classification.

- *Matter of Sinha*, 10 I&N Dec. 758 (Reg. Comm. 1964). A petitioner has failed to establish that it is a religious denomination within the meaning of former section 101(a)(27)(F)(i) of the INA (see current 101(a)(27)(C) of the INA) if:

- (1) its members may be associated with other religious denominations,
- (2) there are no prescribed standards for the selection, training and ordination of its ministers, and
- (3) the society does not have a distinct form of worship.

The petitioning organization is financially unable to pay the beneficiary a salary for his services as minister and therefore failed to establish that the beneficiary will be engaged solely in carrying on the vocation of minister of a religious denomination as required by the statute.

Note: Sometimes cited with Matter of Bisulca (above) to support the negative presumption that, if a religious worker is unpaid, then the alien will necessarily be in a position where he/she will engage in outside employment.

- *Matter of Rhee*, 16 I&N Dec. 607 (BIA 1978). Ordination by a recognized religious organization is not conclusive as to who qualifies as a minister for purposes of the Act. The alien's training, experience, and duties were in the field of music, not theology.

Note: Cited in instances where an alien is deemed a "minister," but without any real ministerial functions.

- *Matter of Varughese*, 17 I&N Dec. 399 (BIA 1980). In determining whether or not one has been ordained as a minister and has carried on the vocation of a minister of a recognized religious denomination, acceptable evidence includes a letter or other appropriate statement signed by the Superior or Principal of the religious denomination. An alien has not carried on the vocation of minister of the church as defined by section 101(a)(27)(C) of the INA, 8 U.S.C. 1101(a)(27)(C), when only 9 hours per week are devoted to church activities, and the position is of a voluntary nature (delegated by the minister).

Note: Cited in cases involving part-time and/or unpaid workers. However, be aware of 8 CFR 214.2(r)(11)(ii) pertaining to self-supporting nonimmigrant religious workers under the R-1 classification.

- *Matter of Hall*, 18 I&N Dec. 203 (BIA 1982). The respondent, who engages in fund-raising activities as part of his missionary work for the Unification Church, is employed within the contemplation of section 245(c)(2) of the Act, 8 U.S.C. 1255(c)(2). Therefore, his employment without the permission of the Immigration and Naturalization Service bars him from adjusting his status in the United States to that of a lawful permanent resident. In considering the

applicability of section 245(c)(2) of the Act, the Government does not improperly dictate to the Unification Church the permissible scope of its missionaries' duties by isolating the respondent's fund-raising activities from his purely ministerial duties. Determining the status or duties of an individual within a religious organization is a distinct question from determining whether that individual qualifies for status or benefits under our immigration laws, and authority over the latter determination lies not with any ecclesiastical body but with the secular authorities of the United States.

Note: Most often cited to show that an alien paid in kind (e.g., room & board, etc.) was "employed" rather than a "volunteer."

Less often cited to distinguish USCIS' role in granting secular benefits vs. claimed constitutional "right" to special immigrant status (i.e., denial of benefit said to infringe on alien's first amendment right to free exercise of religion, or petitioner's right to employ whomever it pleases).

However, be aware of 8 CFR 214.2(r)(11)(ii) pertaining to self-supporting nonimmigrant religious workers under the R-1 classification.

- *Matter of Faith Assembly Church*, 19 I&N Dec. 391 (Commr. 1986). Any minister, who for the previous 2 years has been or will be engaged in part-time ministerial employment, is precluded from the special immigrant classification, which requires the minister to have been and intend to be engaged solely as a minister of the religious denomination.

Note: Frequently cited, particularly when a minister has worked in secular employment.

- *Matter of Church Scientology International*, 19 I&N Dec. 593 (Commr. 1988). A detailed comparison between the Roman Catholic Church and the Church of Scientology with regards to a qualifying relationship between the foreign and U.S. organization for nonimmigrant intra-company transferees. Personnel of religious organizations who meet labor certification and L-1 visa requirements may be granted these benefits.

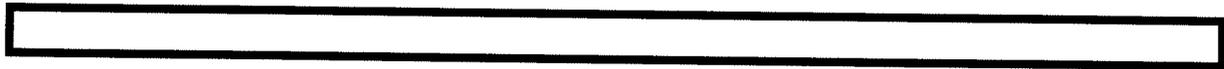
Note: More often cited in L-1 cases. Sometimes tangentially cited in I-360 cases.

Appendix 22-1 is added as follows:

Appendix 22-2 Special Immigrant Religious Worker Attestation and Denomination Certification [Appendix effective (INSERT DATE OF PUBLICATION)]

Note: The Attestation and Denomination Certification may serve as a checklist for adjudicators as they adjudicate special immigrant religious worker petitions.

Employer Attestation



1. Provide the following information about the prospective employer.

Number of members

Number of employees working at the same location where the beneficiary will be employed

Number of aliens holding special immigrant or nonimmigrant religious worker status currently employed or employed within the past 5 years

Number of Special Immigrant Religious Worker I-360 and Nonimmigrant Religious Worker I-129 Petitions Submitted by the prospective employer within the past 5 Years

2. Has the alien or any of the alien's dependent family members previously been admitted to the United States for a period of stay in the R classification for the last five years?

Yes No

If yes, complete the blanks below. List the alien and any dependent family member's prior periods of stay in the R classification in the United States for the last five years. Be sure to list only those periods in which the alien and/or family members were actually in the United States in the R classification.

NOTE: Submit photocopies of Forms I-94 (Arrival Departure Record), I-797 (Notice of Action), and/or other USCIS documents identifying these periods of stay in the R classification. If more space is needed, provide the information on additional sheets of paper.

<i>Alien or Dependent Family Member's Name</i>	<i>Period of Stay (mm/dd/yyyy)</i>	
	<i>From:</i>	<i>To:</i>

3. Provide a summary of the type of responsibilities of those employees who work at the same location where the beneficiary will be employed. If additional space is needed, provide the information on additional sheets of paper.

<i>Position</i>	<i>Summary of the Type of Responsibilities for That Position</i>
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4. Describe the relationship, if any, between the religious organization in the United States and the organization abroad of which the alien is a member.

5. Provide the following information about the prospective employment.

Title of position offered.

Detailed description of the alien's proposed daily duties.

Description of the alien's qualifications for the position offered.

Description of the proposed salaried and/or non-salaried compensation.

List of the specific address(es) or location(s) where the alien will be working.

Does the prospective employer attest to the requirements described in statements 6 through 12 below?

Yes No *If "no," attach explanation(s).*

6. The prospective employer is a bona fide non-profit organization or a bona fide organization that is affiliated with the religious denomination and is tax exempt as described in section 501(c)(3) of the Internal Revenue Code of 1986, subsequent amendment or equivalent sections of prior enactments of the Internal Revenue Code. If the prospective employer is affiliated with the religious denomination, complete the Religious Denomination Certification below.
7. The prospective employer is willing and able to provide salaried and/or non-salaried compensation at a level that the alien and any dependents will not become a public charge.
8. The funds to pay the prospective employee's compensation do not include any monies obtained from the alien, excluding reasonable donations or tithing to the religious organization.
9. If the position is not a religious vocation, the prospective employee will not engage in secular employment, and the prospective employer will provide salaried and/or non-salaried compensation.
10. The offered position is full time, requiring at least an average of 35 hours of work per week.
11. The alien has been a religious worker for at least 2 years immediately before the Form I-360 was filed and is otherwise qualified for the position offered.

12. The alien has been a member of the prospective employer's denomination for at least 2 years immediately before Form I-360 was filed.

I certify under penalty of perjury under the laws of the United States of America that the contents of this attestation and the evidence submitted are true and correct.

Signature
(mm/dd/yyyy)

Date

Printed Name

Title

Employer/Organization Name

Employer/Organization Street Address (*do not use a post office or private mail box*) Suite
Number

City

State

Zip Code

Daytime Phone Number (*with area code*) Fax Number (*if any*) E-mail Address (*if any*)

<i>Religious Denomination Certification</i>
--

I certify under penalty of perjury under the laws of the United States of America that:

Name of Employing Organization

is affiliated with:

Name of Religious Denomination

and that the attesting organization within the religious denomination is tax exempt as described in section 501(c)(3) of the Internal Revenue Code of 1986, subsequent amendment or equivalent sections of prior enactments of the Internal Revenue Code. The contents of this certification are true and correct.

Signature
(mm/dd/yyyy)

Date

Printed Name

Title

Attesting Organization Name

Attesting Organization Street Address (*do not use a post office or private mail box*) Suite
Number

City

State

Zip Code

Daytime Phone Number (*with area code*) Fax Number (*if any*) E-mail Address (*if any*)

5. Adjudicator's Field Manual (AFM) Update, Chapter 34.5 and Appendix 34-5

Chapter 34.5 Nonimmigrant Aliens Employed in Religious Occupations, is revised as follows: [Revision effective (INSERT DATE OF PUBLICATION)]

(a) General. Only a U.S. employer may file a Form I-129, Petition for Nonimmigrant Worker, on behalf of an alien requesting R-1 religious worker nonimmigrant classification; an alien cannot self-petition for R-1 religious worker nonimmigrant classification. Additionally, USCIS requires the filing and approval of a Form I-129, Petition for Nonimmigrant Worker, for all aliens, including those outside of the United States, seeking R-1 religious worker nonimmigrant classification. (Prior to publication of the final rule, nonimmigrants could apply for an R-1 nonimmigrant visa at a consulate or a port of entry without the need for an approved R-1 petition beforehand.).

Effective November 26, 2008, nonimmigrant religious workers may no longer be issued R-1 nonimmigrant visas or R-1 status unless they are the beneficiary of an approved R-1 nonimmigrant visa petition. This requirement also applies to visa exempt religious workers, e.g., Canadians. See 8 CFR 214.2(r)(4)(i), which states in part that, [i]f visa exempt, the alien must present original documentation of the petition approval." Religious workers in possession of valid R-1 nonimmigrant visas issued on or before November 25, 2008, whether based on an

approved R-1 petition or not, may be admitted for the duration of the visa's validity, provided they are otherwise admissible. All subsequent R-1 visa issuance must be in accordance with the November 26, 2008 final rule. Similarly, visa-exempt religious workers with current Form I-94s valid for multiple entries and granted on or before November 25, 2008 without an approved R-1 petition may be admitted for the duration of the I-94's validity, provided they are otherwise admissible, if they are traveling to and from the contiguous U.S. territories for less than 30 days. However, if the visa-exempt religious worker is traveling to and from the contiguous U.S. territories for more than 30 days or beyond the contiguous U.S. territories, the religious worker will be required to present evidence that he or she is the beneficiary of an approved I-129 R-1 nonimmigrant petition in order to be admitted to the United States.

(b) Definitions.

There are definitions that apply to both special immigrant religious worker petitions and nonimmigrant R-1 religious worker petitions. Detailed explanations of the definitions for special immigrant religious workers may be found at 8 CFR 204.5(m). Detailed explanations of the definitions for nonimmigrant R-1 religious workers may be found at 8 CFR 214.2(r). Detailed explanations regarding special immigrant religious worker petitions are described in the corresponding AFM Chapter 22.3(b).

- Bona Fide Nonprofit Religious Organization in the United States
- Bona Fide Organization That Is Affiliated with the Religious Denomination
- Religious Denomination
- Denominational Membership
- Minister
- Religious Occupation
- Religious Vocation
- Religious Worker
- Tax Exempt Organization

Evidence that must be submitted to qualify for R-1 religious worker classification refers to these terms as defined in the regulations. Additionally, the ways in which a petitioning organization can establish its tax exempt status for purposes of an R-1 filing, and the documentation required, are discussed in AFM Chapter 22.3(b)(5).

(c) Jurisdiction and procedures for obtaining R-1 status.

An employer in the United States seeking to employ a religious worker, by initial petition or by change of status, must file an I-129 petition in accordance with the form instructions.

(d) Compensation Requirements. An R-1 religious worker nonimmigrant must receive salaried or non-salaried compensation. In limited instances, self support may qualify as compensation. The Attestation section below lists the evidence that the prospective employer must submit regarding compensation.

- Salaried means receiving traditional pay such as a paycheck.
- Non-salaried means receiving support such as room, board, medical care, or transportation instead of a paycheck or use of personal savings.
- Self-supporting means that the position the alien will hold is part of an established program for temporary, uncompensated missionary work, which is part of a broader international program of missionary work sponsored by the denomination.

(e) Attestation Requirements.

To qualify for R-1 classification, the prospective U.S. employer must complete, sign, and date the Employer Attestation that is included on the Form I-129 Q-1 and R-1 Classification Supplement. See Appendix 34-1. The authorizing official must sign the attestation, certifying under penalty of perjury that the attestation is true and correct.

Note: The Attestation and Denomination Certification may serve as a checklist for adjudicators as they adjudicate nonimmigrant religious worker petitions.

A nonimmigrant religious worker may work for more than one bona fide religious organization. When the alien works for more than one employer, each bona fide religious organization must submit Form I-129 and R Classification Supplement and R-1 Employer Attestation with the appropriate documentation.

The prospective U.S. employer must specifically attest to the following:

- The prospective employer's status as a:
 - Bona fide non-profit organization; or
 - Bona fide organization that is affiliated with a religious denomination and is exempt from taxation.
- The number of members of the prospective employer's organization.
- The number of employees who work at the same location where the alien will be employed and a summary of those employees' responsibilities.
- The number of religious workers holding special immigration religious worker status or R nonimmigrant visa status currently employed or employed within the past 5 years by the prospective employer's organization.

- The number of special immigrant religious worker and R visa petitions and applications filed by or on behalf of any religious workers for employment by the prospective employer in the past five years.
- The title of the position offered to the beneficiary.
- The beneficiary will:
 - Receive salaried or non-salaried compensation from the prospective employer and details of such compensation; or
 - Provide self-support.
- A detailed description of the alien's proposed daily duties.
- That the beneficiary will be employed at least 20 hours per week.
- The specific location(s) of the proposed employment.
- The beneficiary is qualified to perform the duties of the offered position.
- The beneficiary's membership in the denomination for at least 2 years.
- That the beneficiary will not be engaged in secular employment.
- The prospective employer's obligation to notify USCIS within 14 days of any changes in the alien's employment including:
 - Working fewer than the required number of hours; or
 - Having been released or otherwise terminated from employment before the end of the authorized stay in R-1 status.

(f) Nonimmigrant intent. A religious worker classified under section 101(a)(15)(R) of the Act shall maintain an intention to depart the United States upon the expiration or termination of R-1 or R-2 status. However, a nonimmigrant petition, application for initial admission, change of status, or extension of stay in R classification may not be denied solely on the basis of a filed or an approved request for permanent labor certification or immigrant visa preference petition.

(g) Initial Evidence Related to the Petitioner's Tax Exempt Status.

This required evidence is discussed in AFM Chapter 22.3(b)(5) and applies to I-360 special immigrant religious worker petitions and R-1 nonimmigrant religious worker petitions.

(h) Initial Evidence Related to Compensation.

The prospective U.S. employer must submit verifiable evidence of compensation or self-support.

- When the beneficiary will receive salaried or non-salaried compensation, the prospective employer may submit:
 - Past evidence of compensation for similar positions;
 - Budgets showing monies set aside for salaries, leases, etc.;
 - Documentation that food, housing, medical care, or transportation will be provided; and
 - IRS documentation of compensation must be submitted, if available; however, if IRS documentation is unavailable, the prospective employer must explain why it is unavailable and submit comparable verifiable documentation.
- If the beneficiary will be self-supporting, the petitioner must submit documentation establishing that the position the alien will hold is part of an established program for temporary, uncompensated missionary work, which is part of a broader international program of missionary work sponsored by the denomination.

An established program for temporary, uncompensated work is defined to be a missionary program in which:

- Foreign workers, whether compensated or uncompensated, have previously participated in R-1 status;
- Missionary workers are traditionally uncompensated;
- The organization provides formal training for missionaries; and
- Participation in such missionary work is an established element of religious development in that denomination.

The petitioner must submit evidence demonstrating:

- That the organization has an established program for temporary, uncompensated missionary work;
- That the denomination maintains missionary programs both in the United states and abroad;
- The religious worker's acceptance into the missionary program;

- The religious duties and responsibilities associated with the traditionally uncompensated missionary work; and
- Copies of the beneficiary’s bank records, budgets documenting the sources of self-support (including personal or family savings, room and board with host families in the United States, donations from the denomination’s churches), or other verifiable evidence acceptable to USCIS.

(i) Initial Evidence Related to the Beneficiary. Evidence must be submitted to establish that the beneficiary has been a member of the same religious denomination as the petitioning U.S. religious organization for at least the two years immediately preceding the filing of a petition requesting R-1 religious worker nonimmigrant classification.

Additionally, petitions requesting an extension of stay for an R-1 religious worker must include evidence of salaried or non-salaried compensation or self-support if the alien was uncompensated as follows:

- If the beneficiary received salaried compensation, the prospective U.S. employer must submit IRS documentation that the alien received a salary, such as an IRS Form W-2 or certified copies of income tax returns, reflecting such work and compensation for the preceding two years.
- If the beneficiary received non-salaried compensation, the prospective U.S. employer must submit, if available, IRS documentation of the non-salaried compensation. If IRS documentation is unavailable, the prospective employer must explain why and provide verifiable evidence of all financial support. The evidence may include stipends, room, and board. The evidence may also include a description of the location where the beneficiary lived, a lease to establish where the beneficiary lived, or other verifiable documentation acceptable to USCIS.
- If the beneficiary was uncompensated but provided for his or her own support and for any dependents, the prospective employer must show how support was maintained by submitting documents such as audited financial statements, financial institution records, brokerage account statements, trust documents signed by an attorney, or other verifiable evidence acceptable to USCIS.

(j) Initial Evidence Related to a Minister.

If filing a petition on behalf of a minister, the prospective U.S. employer must submit the following additional initial evidence:

- A copy of the beneficiary’s certificate of ordination or similar documents reflecting acceptance of the alien’s qualifications as a minister in the religious denomination; and

- Documents reflecting:
 - Acceptance of the alien’s qualifications as a minister in the religious denomination;
 - The beneficiary’s completion in any course of prescribed theological education at an accredited theological institution normally required or recognized by that religious denomination, including transcripts, curriculum, and documentation that establishes that the theological institution is accredited by the denomination.

NOTE: The certificate of ordination must generally be accompanied by documentation reflecting acceptance of the beneficiary’s qualifications as a minister in the religious denomination and evidence that the educational institution is accredited by the denomination. If, however, the denomination operates under specific laws and regulations regarding the accreditation of a theological institution and the issuance of ordination certificate, a copy of such laws and regulations may be attached to the certificate and be deemed sufficient.

- For denominations that do not require a prescribed theological education, the following evidence should be submitted:
 - The denomination’s requirements for ordination to minister;
 - The duties allowed to be performed by virtue of ordination;
 - The denomination’s levels of ordination, if any; and
 - Documentation to establish the alien’s completion of the denomination’s requirements for ordination.

(k) Verification of Evidence.

USCIS may verify the submitted evidence through any means that USCIS determines as appropriate, up to and including an on-site inspection. If USCIS decides to conduct a pre-approval on-site inspection, satisfactory completion of the inspection will be a condition for approval of any petition. The inspection may include:

- A tour of the organization’s facilities and, if appropriate, the organization’s headquarters or satellite locations;
- An interview with the organization’s officials;
- A review of the organization’s records related to compliance with immigration laws and regulations; or

- A visit to the locations where the alien will work or live.

(l) Admission/Change of Status and Time Limit Requirements.

- If otherwise admissible, an alien may be admitted as an R-1 nonimmigrant or change status to R-1 nonimmigrant classification for an initial period of up to 30 months from date of initial admission.

Extension of stay for an alien whose R-1 nonimmigrant status was granted on or before November 25, 2008:

An I-129 petition requesting an extension of stay in R-1 status for a religious worker who was admitted or granted a change of status to an R-1 prior to the rule's effective date may be approved for the requested period of up to 30 months or for the remaining period in R-1 status within the statutory maximum of five years but not to exceed 30 months, whichever is shorter. The petition must be accompanied by documentation such as Form I-94 showing the period of time the alien spent in the U.S. in R-1 status so that such period would be deducted from the maximum allowable time in determining the validity period of the extension. Evidence of work and compensation, as required under 8 CFR 214.2(r)(12)(i), must also be submitted.

Time limit on filing an I-129 R-1 petition:

Although the Form I-129 instructions indicate that a Form I-129 petition may not generally be filed more than six months prior to the date employment is scheduled to begin, an R-1 nonimmigrant petition may be accepted far in advance of the I-94 expiration date in order to accommodate those religious workers who have upcoming travel plans but do not have an approved R-1 nonimmigrant petition. As mentioned at the beginning of this chapter in the General section, an approved petition is now required in order for an individual to be readmitted into the United States in R-1 status and/or apply for an R-1 nonimmigrant visa stamp. However, as a point of clarification, visa exempt religious workers in possession of a valid Form I-94 and who are traveling to a contiguous U.S. territory for 30 days or less, may continue using that I-94 for the duration of the overall admission without the need to have an R-1 petition filed on their behalf. If an extension is later sought, an R-1 petition must be filed to comply with the November 26, 2008, final rule. For visa exempt religious workers who are traveling to a non-contiguous territory, they cannot be readmitted to the United States unless an R-1 petition has been approved on their behalf. To accommodate visa exempt religious workers affected by the final rule who anticipate the need to travel to a noncontiguous territory, and to ensure compliance with the final rule, USCIS will accept the R-1 petition with a request for an extension, regardless of the I-94 expiration date.

- The spouse and unmarried children under the age of 21 of an R-1 nonimmigrant may request R-2 nonimmigrant classification in order to accompany or follow to join a principal R-1 nonimmigrant, subject to the following conditions:

- R-2 status is granted for the same period of time and subject to the same limits as the principal R-1 nonimmigrant, regardless of the time such spouse and children may have spent in the United States in R-2 status;
- Neither the spouse nor children may accept employment while in the United States in R-2 status; and
- The primary purpose of the spouse or children coming to the United States in R-2 status must be to join or accompany the R-1 nonimmigrant.

(m) Limitation on total stay. An alien who has spent 5 years in the United States in R-1 status may not be readmitted to or receive an extension of stay in the United States under the R visa classification unless the alien has resided abroad and has been physically present outside the United States for the immediate prior year, except for R-1 nonimmigrants who:

- Did not reside continually in the United States and whose employment in the United States was seasonal or intermittent or was for an aggregate of 6 months or less per year.
- Reside abroad and regularly commute to the United States to engage in part-time employment.

To qualify for this exception, the petitioner and the alien must provide clear and convincing proof that the alien qualifies for such an exception. Such proof shall consist of evidence such as:

- Arrival and departure records;
- Transcripts of processed income tax returns; and
- Records of employment abroad.

(n) Closing Actions.

- Approval. The adjudicator indicates in the appropriate section of the petition, the classification, number of beneficiaries (which for R-1 petitions will always be 1), and the validity dates. The adjudicator also completes the block entitled “Classification Approved” and indicates whether the petition is approved for:
 - Consulate, Port of entry, or Pre-Flight Inspection Notification;
 - Extension of Stay; or
 - Change of Status and Extension of Stay.

Finally, using a properly issued approval stamp and security ink, the adjudicator stamps “approved” in the Action Block on the petition and signs the form on a line over the stamp number and below the date of the approval.

For petitions requesting notification to a consulate, a copy of the petition, when provided by the petitioner, is sent to the Department of State via the Kentucky Consular Center (KCC).

If the petitioner requests notification to a port of entry or pre-flight inspection, a copy of the petition, when provided by the petitioner, is sent to the requested location.

- **Denial.** Using a properly issued denial stamp and security ink, the adjudicator stamps “denied” in the Action Block on the petition and signs the form on a line over the stamp number and below the date of the denial. If the petition is denied, the petitioner shall be informed of the reasons for denial and of the right to appeal. The denial may be appealed to the Administrative Appeals Office.

(o) **Precedent Decisions.** There have been no precedent decisions published regarding the R nonimmigrant classification. Precedent decisions involving Special Immigrants employed in religious occupations may provide some guidance. See *AFM* Chapter 22.3(b)(12).

Appendix 34-1 is added as follows:

Appendix 34-1 Nonimmigrant Religious Worker Attestation and Denomination Certification [Appendix effective (INSERT DATE OF PUBLICATION)]

Note: The Attestation and Denomination Certification may serve as a checklist for adjudicators as they adjudicate nonimmigrant religious worker petitions.

Employer Attestation

1. Provide the following information about the prospective employer.

Number of members

Number of employees working at the same location where the beneficiary will be employed

Number of aliens holding special immigrant or nonimmigrant religious worker status currently employed or employed within the past 5 years

Number of Special Immigrant Religious Worker I-360 and Nonimmigrant Religious Worker I-129 Petitions Submitted by the prospective employer within the past 5 Years

2. Has the alien or any of the alien’s dependent family members previously been admitted to the United States for a period of stay in the R visa classification for the last five years?

Yes No

If yes, complete the blanks below. List the alien and any dependent family member’s prior periods of stay in the R visa classification in the United States for the last five years. Be sure

to list only those periods in which the alien and/or family members were actually in the United States in an R classification.

NOTE: Submit photocopies of Forms I-94 (Arrival Departure Record), I-797 (Notice of Action), and/or other USCIS documents identifying these periods of stay in the R classification. If more space is needed, provide the information on additional sheets of paper.

<i>Alien or Dependent Family Member's Name</i>	<i>Period of Stay (mm/dd/yyyy)</i>	
	<i>From:</i>	<i>To:</i>

3. Provide a summary of the type of responsibilities of those employees who work at the same location where the beneficiary will be employed. If additional space is needed, provide the information on additional sheets of paper.

<i>Position</i>	<i>Summary of the Type of Responsibilities for That Position</i>
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4. Describe the relationship, if any, between the religious organization in the United States and the organization abroad of which the alien is a member.

5. Provide the following information about the prospective employment.

Title of position offered.

Detailed description of the alien's proposed daily duties.

Description of the alien's qualifications for the position offered.

Description of the proposed salaried compensation or non-salaried compensation. If the alien will be self-supporting, the petitioner must submit documentation establishing that the position the alien will hold is part of an established program for temporary, uncompensated missionary work, which is part of a broader international program of missionary work sponsored by the denomination.

List of the specific address(es) or location(s) where the alien will be working.

Does the prospective employer attest to the requirements described in statements 6 through 12 below?

Yes No *If "no," attach explanation(s).*

6. The prospective employer is a bona fide non-profit organization or a bona fide organization that is affiliated with the religious denomination and is tax exempt as described in section

501(c)(3) of the Internal Revenue Code of 1986, subsequent amendment or equivalent sections of prior enactments of the Internal Revenue Code. If the petitioner is affiliated with the religious denomination, complete the Form I-129 Religious Denomination Certification.

7. The prospective employer is willing and able to provide salaried or non-salaried compensation to the alien. If the alien will be self-supporting, the petitioner must submit documentation establishing that the position the alien will hold is part of an established program for temporary, uncompensated missionary work, which is part of a broader international program of missionary work sponsored by the denomination.
8. If the alien worked in the United States during the 2 years immediately before the petition was filed, the alien received verifiable salaried or non-salaried compensation, or provided uncompensated self-support.
9. If the position is not a religious vocation, the alien will not engage in secular employment, and the prospective employer will provide salaried or non-salaried compensation. If the position is a traditionally uncompensated and not a religious vocation, the alien will not engage in secular employment, and the alien will provide self-support.
10. If the offered position requires at least 20 hours of work per week, or fewer than 20 hours per week, the compensated service for another religious organization and the compensated service at the petitioning organization will total at least 20 hours per week. If the alien will be self-supporting, the petitioner must submit documentation establishing that the position the alien will hold is part of an established program for temporary, uncompensated missionary work, which is part of a broader international program of missionary work sponsored by the denomination.
11. The alien is qualified to perform the duties of the offered position.
12. The prospective employer will notify USCIS within 14 days of any changes in the alien's employment, including working fewer than the required number of hours or having been released or otherwise terminated from employment before the end of the authorized R-1 stay.

I certify under penalty of perjury under the laws of the United States of America that the contents of this attestation and the evidence submitted with it are true and correct.

Signature
(mm/dd/yyyy)

Date

Printed Name

Title

Employer/Organization Name

Employer/Organization Street Address (*do not use a post office or private mail box*)

Suite

Number

City

State

Zip Code

Daytime Phone Number (*with area code*) Fax Number (*if any*) E-mail Address (*if any*)

Religious Denomination Certification

I certify under penalty of perjury under the laws of the United States of America that:

Name of Employing Organization

is affiliated with:

Name of Religious Denomination

and that the attesting organization within the religious denomination is tax exempt as described in section 501(c)(3) of the Internal Revenue Code of 1986, subsequent amendment or equivalent sections of prior enactments of the Internal Revenue Code. The contents of this certification are true and correct.

Signature
(*mm/dd/yyyy*)

Date

Printed Name

Title

Attesting Organization Name

Attesting Organization Street Address (*do not use a post office or private mail box*) Suite Number

City State Zip Code

Daytime Phone Number (*with area code*) Fax Number (*if any*) E-mail Address (*if any*)

6. **AFM Transmittal Memoranda Revisions.** The *AFM* Transmittal Memoranda button is revised by adding new entries, in numerical order, to read:

AD08-09 [update effective (INSERT DATE OF PUBLICATION)]	Chapters: <ul style="list-style-type: none"> • 22.3(b) • 34.5 • Appendix 22-2 • Appendix 34-1 	<p>This memorandum revises <i>Adjudicator's Field Manual (AFM) Chapters 23.3(b) and 34.5</i> and adds Appendices 22-2 and 34-1 to reflect the publication of the Special Immigrant and Religious Workers final rule in the <i>Federal Register</i> on (INSERT DATE OF PUBLICATION).</p> <p>Also, the revisions and additions reflect the extension of the special immigrant non-minister religious worker program from the date of publication of the final religious workers rule to March 6, 2009.</p>
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