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apply to the Service for LIFE Legalization adjustment.

(c) *Filing of applications from outside the United States.* An applicant for LIFE Legalization may file an application for LIFE Legalization from abroad. An application for LIFE Legalization filed from outside the United States shall be submitted by mail to the Service according to the instructions on the application. The Missouri Service Center Director shall have jurisdiction over all applications filed with the Service for LIFE Legalization adjustment of status. After reviewing the application and all evidence with the application, the Service shall notify the applicant of any further requests for evidence regarding the application and, if eligible, how an interview will be conducted.

(d) *Application and supporting documentation.* Each applicant for LIFE Legalization adjustment of status must file Form I-485. An applicant should complete Part 2 of Form I-485 by checking box “h—other” and writing “LIFE Legalization” next to that block. Each application must be accompanied by:

- (1) The \$330 application fee.
- (2) The \$25 fee for fingerprinting if the applicant is between the ages of 14 and 75.
- (3) Evidence to establish identity, such as a passport, birth certificate, any national identity document from the alien’s country of origin bearing photo and fingerprint, driver’s license or similar document issued by a state if it contains a photo, or baptismal record/marriage certificate.
- (4) A completed Form G-325A, Biographic Information Sheet, if the applicant is between the ages of 14 and 79.
- (5) A report of medical examination, as specified in §245.5 of this chapter.
- (6) Two photographs, as described in the instructions to Form I-485.
- (7) Proof of application for class membership in *CSS*, *LULAC*, or *Zambrano* class action lawsuits as described in §245a.14.
- (8) Proof of continuous residence in an unlawful status since prior to January 1, 1982, through May 4, 1988, as described in §245a.15.
- (9) Proof of continuous physical presence from November 6, 1986, through May 4, 1988, as described in §245a.16.

(10) Proof of citizenship skills as described in §245a.17.

(e) *Burden of proof.* An alien applying for adjustment of status under this part has the burden of proving by a preponderance of the evidence that he or she has resided in the United States for the requisite periods, is admissible to the United States under the provisions of section 212(a) of the Act, and is otherwise eligible for adjustment of status under this Subpart B. The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification as set forth in paragraph (f) of this section.

(f) *Evidence.* The sufficiency of all evidence produced by the applicant will be judged according to its probative value and credibility. To meet his or her burden of proof, an applicant must provide evidence of eligibility apart from his or her own testimony. In judging the probative value and credibility of the evidence submitted, greater weight will be given to the submission of original documentation.

(g) *Secondary evidence.* Except as otherwise provided in this paragraph, if the primary evidence required in this Subpart B is unavailable, church or school records, or other secondary evidence pertinent to the facts in issue, may be submitted. If such documents are unavailable, statements or other relevant documents may be submitted. In adjudicating the application for LIFE Legalization adjustment of status, the Service shall determine the weight to be given such secondary evidence. Secondary evidence may not be submitted in lieu of the documentation specified in paragraph (d)(3) of this section. However, subject to verification by the Service, if the evidence required to be submitted by the applicant is already contained in the Service’s file relating to the applicant, the applicant may submit a statement to that effect in lieu of the actual documentation.

§ 245a.13 During pendency of application.

(a) *In general.* When an eligible alien in the United States submits a prima facie application for adjustment of status under LIFE Legalization during the

application period, until a final determination on his or her application has been made, the applicant:

(1) May not be deported or removed from the United States;

(2) Is authorized to engage in employment in the United States and is provided with an "employment authorized" endorsement or other appropriate work permit; and

(3) Is allowed to travel and return to the United States as described at paragraph (e) of this section. Any domestic LIFE Legalization applicant who departs the United States while his or her application is pending without advance parole may be denied re-admission to the United States as described at paragraph (e) of this section.

(b) *Determination of filing of claim for class membership.* With respect to each LIFE Legalization application for adjustment of status that is properly filed under this Subpart B during the application period, the Service will first determine whether or not the applicant is an "eligible alien" as defined under § 245a.10 of this Subpart B by virtue of having filed with the Service a claim of class membership in the *CSS*, *LULAC*, or *Zambrano* lawsuit before October 1, 2000. If the Service's records indicate, or if the evidence submitted by the applicant with the application establishes, that the alien had filed the requisite claim of class membership before October 1, 2000, then the Service will proceed to adjudicate the application under the remaining standards of eligibility.

(c) *Prima facie eligibility.* Unless the Service has evidence indicating ineligibility due to criminal grounds of inadmissibility, an application for adjustment of status shall be treated as a prima facie application during the pendency of application, until the Service has made a final determination on the application, if:

(1) The application was properly filed under this Subpart B during the application period; and

(2) The applicant establishes that he or she filed the requisite claim for class membership in the *CSS*, *LULAC*, or *Zambrano* lawsuit.

(d) *Authorization to be employed in the United States while the application is pending.*

(1) *Application for employment authorization.* An applicant for adjustment of status under LIFE Legalization who wishes to obtain initial or continued employment authorization during the pendency of the adjustment application must file a Form I-765, Application for Employment Authorization, with the Service, including the fee as set forth in § 103.7(b)(1) of this chapter. The applicant may submit Form I-765 either concurrently with or subsequent to the filing of the application for adjustment of status benefits on Form I-485.

(2) *Adjudication and issuance.* Until a final determination on the application has been made, an eligible alien who submits a prima facie application for adjustment of status under this Subpart B shall be authorized to engage in employment in the United States and be provided with an "employment authorized" endorsement or other appropriate work permit in accordance with § 274a.12(c)(24) of this chapter. An alien shall not be granted employment authorization pursuant to LIFE Legalization until he or she has submitted a prima facie application for adjustment of status under this Subpart B. If the Service finds that additional evidence is required from the alien in order to establish prima facie eligibility for LIFE Legalization, the Service shall request such evidence from the alien in writing. Nothing in this section shall preclude an applicant for adjustment of status under LIFE Legalization from being granted an initial employment authorization or an extension of employment authorization under any other provision of law or regulation for which the alien may be eligible.

(e) *Travel while the application is pending.* This paragraph is authorized by section 1104(c)(3) of the LIFE Act relating to the ability of an alien to travel abroad and return to the United States while his or her LIFE Legalization adjustment application is pending. Parole authority is granted to the Missouri Service Center Director for the purposes described in this section and may only be exercised pursuant to the standards prescribed in section 212(d)(5) of the Act. Nothing in this section

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shall preclude an applicant for adjustment of status under LIFE Legalization from being granted advance parole or admission into the United States under any other provision of law or regulation for which the alien may be eligible.

(1) An applicant for LIFE Legalization benefits applying from the United States should file, with his or her application for adjustment, a Form I-131, Application for Travel Document, with fee as set forth in §103.7(b)(1) of this chapter. The Service shall approve the Form I-131 and issue an advance parole document, unless the Service finds that the alien's application does not establish a prima facie claim to adjustment of status under LIFE Legalization.

(2) If an alien travels abroad and returns to the United States with a grant of advance parole, the Service shall presume that the alien is entitled to return under section 1104(c)(3)(B) of the LIFE Act, unless, in a removal or expedited removal proceeding, the Service shows by a preponderance of the evidence, that one or more of the provisions of §245a.11(d) makes the alien ineligible for adjustment of status under LIFE Legalization.

(3) If an alien travels abroad and returns without a grant of advance parole, he or she shall be denied admission and shall be subject to removal or expedited removal unless the alien establishes, clearly and beyond doubt, that:

(i) He or she filed an application for adjustment pursuant to LIFE Legalization during the application period that presented a prima facie claim to adjustment of status under LIFE Legalization; and,

(ii) His or her absence was either a brief and casual trip consistent with an intention on the alien's part to pursue his or her LIFE Legalization adjustment application, or was a brief temporary trip that occurred because of the alien's need to tend to family obligations relating to a close relative's death or illness or similar family need. A single absence from the United States of more than thirty (30) days or an aggregate of all absences exceeding ninety (90) days shall not be deemed to be a brief and casual trip unless the alien can establish that due to emer-

gent reasons, his or her return to the United States could not be accomplished within the time period(s) allowed.

(4) An applicant for LIFE Legalization benefits who applies for admission into the United States shall not be subject to the provisions of section 212(a)(9)(B) of the Act.

(5) Denial of admission under this section is not a denial of the alien's application for adjustment. The alien may continue to pursue his or her application for adjustment from abroad, and may also appeal any denial of such application from abroad. Such application shall be adjudicated in the same manner as other applications filed from abroad.

(f) *Stay of final order of exclusion, deportation, or removal.* The filing of a LIFE Legalization adjustment application on or after June 1, 2001, and on or before May 31, 2002, stays the execution of any final order of exclusion, deportation or removal. This stay shall remain in effect until there is a final decision on the LIFE Legalization application, unless the district director who intends to execute the order makes a formal determination that the applicant does not present a prima facie claim to LIFE Legalization eligibility pursuant to §§245a.18(a)(1) or (a)(2), or §§245.18a(c)(2)(i), (c)(2)(ii), or (c)(2)(iii), and serves the applicant with a written decision explaining the reason for this determination. Any such stay determination by the district director is not appealable. Neither an Immigration Judge nor the Board has jurisdiction to adjudicate an application for stay of execution of an exclusion, deportation, or removal order, on the basis of the alien's having filed a LIFE Legalization adjustment application.

§245a.14 Application for class membership in the CSS, LULAC, or Zambrano lawsuit.

The Service will first determine whether an alien filed a written claim for class membership in the CSS, LULAC, or Zambrano lawsuit as reflected in the Service's indices, a review of the alien's administrative file with the Service, and by all evidence provided by the alien. An alien must provide with the application for LIFE