

Proposed Regulatory Changes to the Religious Worker Visa Program (RWVP)

The provisions of the proposed rule, Special Immigrant and Nonimmigrant Religious Workers, 72 FR 20442, published in the Federal Register on April 25, 2007 will substantially change the Religious Worker Visa Program. The following are examples of challenges that the rule will pose.

- An approved USCIS petition will be required prior to the application for an R-1 nonimmigrant visa at a U.S. Consulate. The religious worker will no longer be able to obtain an R-1 visa at a U.S. Consulate abroad or at a port-of-entry without prior approval of the Form I-129 (Petition for a Nonimmigrant Worker) by USCIS. This added step will significantly lengthen the application process and delay a religious worker's entry to the United States.
- The standard admission period for a nonimmigrant religious worker will be shortened from three years to one year. After that, requests for two potential extensions of two years each will be considered.
- Full-time compensation will be required for a religious worker for the two years immediately preceding the filing of the special immigrant petition. "Full-time compensation" is not defined in the proposed regulations. Since many religious workers do not receive a salary, it is imperative that "full-time compensation" not be limited to full-time salary. It must include other types of compensation such as room and board.
- Under the proposed rule, the definition of "bona fide nonprofit religious organization" will mean a religious organization possessing a valid determination letter from the IRS. We are concerned that adjudicators will request such a letter from all religious organizations despite the fact that they would not have an IRS determination letter since they fall under a group tax exemption.
- Mandatory on-site inspections will continue to cause delays in the adjudication of petitions and applications. The proposed rule does not contain standards or guidelines that explain the manner in which such inspections are to be performed. Nor does it contain a requirement that the religious organization or the attorney of record be notified of the inspection.
- Under the proposed rule, the term "religious vocation" is narrowly defined as a formal lifetime commitment. This narrow definition may exclude seminarians, postulants, novices, as well as religious brothers and sisters who have not yet taken perpetual vows from meeting the requirements for the R-1 nonimmigrant visa and from obtaining special immigrant religious worker classification. Such classification is a necessary part of the immigrant visa process, which is the first step in the green card process.
- Religious workers provide needed services to local residents through their ministry in parishes, schools, hospitals, and social service programs. Due to its restrictive and overly burdensome nature, the proposed rule would limit the ability of such religious workers and organizations to provide critical services and ministry to members.