

approximately 15%, while the number of U.S. port-of-entry intercepts increased approximately 320%. In 2002, Uruguayan nationals were two to three times more likely than all nonimmigrants on average to have been denied admission at the border.

In Fiscal Year ("FY") 2001, there were 16,878,477 visits to the United States from citizens of the 29 VWP countries. Of that total, 72,915 visits were from Uruguayan citizens. In FY 2001, 151 Uruguayans were denied admission to the United States. In FY 2001, the INS confirmed that 1,194 Uruguayans had overstayed before departing the U.S.

The termination of Uruguay in the VWP is based on the significant increase in the number of inadmissible Uruguayans seeking admission to the United States since Argentina was terminated from the VWP on February 21, 2002. For the past three years Uruguay has experienced a recession that has caused its citizens to seek to use the VWP to live and work illegally in the United States. Uruguayan air arrivals had an apparent overstay rate of 37%, more than twice the rate of the average apparent overstay rate for all air arrival nonimmigrants (14.9%).

In May 2001, the United States Government notified the Government of Uruguay of its concerns regarding Uruguayan abuse of the VWP. Notwithstanding the efforts of the Government of Uruguay, the number of Uruguayan nationals intercepted more than doubled from 151 in FY 2001 to 356 in FY 2002.

Accordingly, the Attorney General is terminating Uruguay's participation in the VWP under sections 217(c)(5)(A)(i)(II) of the Immigration and Nationality Act (8 U.S.C. 1187(c)(5)(A)(i)(II)). This section authorizes the Attorney General, in consultation with the Secretary of State, to terminate a country's VWP designation after the periodic evaluation. The abuse of the VWP by Uruguayan nationals seeking to remain permanently in the United States is inconsistent with the enforcement of U.S. immigration laws. The Attorney General also is rescinding the designation of Uruguay under section 217(d) of the Immigration and Nationality Act (8 U.S.C. 1187(d)), which permits the Attorney General, in consultation with the Secretary of State, to rescind any designation "for any reason."

#### **What Is the Legal Status of a Uruguayan National Who Was Admitted to the United States Under the VWP Before April 15, 2003, and Who Has Time Remaining on His or Her Period of Admission?**

As long as the alien lawfully gained admission under the VWP before the effective date of this termination of designation rule, and continues to be in compliance with the terms of his or her admission, he or she may remain in the United States for the period of time authorized on the date of admission.

The Department notes, however, that an alien admitted as a visitor for business or pleasure under the VWP is not eligible for change or extension of nonimmigrant status under the existing regulations.

#### **Good Cause Exception**

This interim rule is effective April 15, 2003, although the Service invites post-promulgation comments and will address any such comments in a final rule. The visa waiver program statute provides that "[a] termination of the designation of a country under [8 U.S.C. 1187(c)(5)(A)(i)] shall take effect on the date determined by the Attorney General, in consultation with the Secretary of State." 8 U.S.C. 1187(c)(5)(A)(ii). Additionally, a rescission of a designation under 8 U.S.C. 1187(d) may be made "at any time." 8 U.S.C. 1187(d). If the provisions of 5 U.S.C. 553 are otherwise applicable, however, the Service finds that good cause exists for adopting this rule without the prior notice and comment period ordinarily required by 5 U.S.C. 553 for the following reasons.

Reestablishing the normal nonimmigrant visa requirements for Uruguayan nationals will have the effect of stemming the flow of unauthorized immigration to the United States by such nationals. This action must be taken as soon as possible. The effective date of the termination, April 15, 2003, will allow travelers who have travel plans in the near future to proceed with those plans and will allow the Department of State sufficient time to prepare for the additional workload resulting from the termination. Because further delaying the effective date of this interim rule is contrary to the public interest, there is good cause under 5 U.S.C. 553 to make this rule effective on April 15, 2003 without notice and comment.

#### **Regulatory Flexibility Act**

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this

regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. Although individuals doing business with small entities will no longer be allowed to enter the United States without having a visa, they will be able to seek admission to the United States by obtaining a nonimmigrant visa at a United States consulate or embassy prior to arrival in the United States. This action is necessary to further the law enforcement and national security interests of the United States.

#### **Executive Order 12866**

This rule is considered by the Department of Justice, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this rule has been submitted to the Office of Management and Budget (OMB) for review.

#### **Executive Order 13132**

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

#### **Unfunded Mandates Reform Act of 1995**

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### **Small Business Regulatory Enforcement Fairness Act of 1996**

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Act of 1996. 5 U.S.C. 804. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-