

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 217

[INS No. 1786-96]

RIN 115-AB93

Adding Slovenia to the List of Countries Authorized To Participate in the Visa Waiver Pilot Program and Designating Ireland as a Permanent Participating Country (Formerly With Probationary Status)

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends the Immigration and Naturalization Service ("Service") regulations by adding Slovenia to the list of countries designated to participate in the Visa Waiver Pilot Program (VWPP), thereby permitting nationals of Slovenia to apply for admission to the United States for ninety (90) days or less as nonimmigrant visitors for business or pleasure without first obtaining a nonimmigrant visa. This interim rule also eliminates probationary entry status in the VWPP and designates Ireland (the only country formerly designated as a participating country with probationary status) as a permanent participating country. This action will facilitate travel to the United States and benefit United States business.

DATES: *Effective Date.* This interim rule is effective September 30, 1997.

Comment Date: Written comments must be submitted on or before December 1, 1997.

ADDRESSES: Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 5307, Washington, DC 20536. To ensure proper handling please reference INS number 1786-96 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514-3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT:

Dominica Gutierrez, Assistant Chief Inspector, Inspections Division, Immigration and Naturalization Service, 425 I Street NW., Room 4064, Washington, DC 20536, Telephone number: (202) 305-2969.

SUPPLEMENTARY INFORMATION:

Public Law 99-603

Section 313 of the Immigration Reform and Control Act of 1986 (IRCA), Pub. L. 99-603, added section 217 to the Immigration and Nationality Act (Act), 8 U.S.C. 1187, which established the VWPP. The VWPP waives the nonimmigrant visa requirement for the admission of certain aliens to the United States for a period not to exceed ninety (90) days. That original provision authorized the participation of eight countries in the Pilot Program. Accordingly, the Service designated by regulations published in the **Federal Register**, the following eight (8) countries to participate in the VWPP:

Country	Effective date	Federal Register citation
(1) United Kingdom.	July 1, 1988	53 FR 24901, June 30, 1988.
(2) Japan	Dec. 15, 1988.	53 FR 50161, Dec. 13, 1988.
(3) France	July 1, 1989	54 FR 27120, June 27, 1989.
(4) Switzerland.	July 1, 1989	54 FR 27120, June 27, 1989.
(5) Germany	July 15, 1989	54 FR 27120, June 27, 1989.
(6) Sweden ...	July 15, 1989	54 FR 27120, June 27, 1989.
(7) Italy	July 29, 1989	54 FR 27120, June 27, 1989.
(8) Netherlands.	July 29, 1989	54 FR 27120, June 27, 1989.

Public Law 101-649

Section 201 of the Immigration Act of 1990 (IMMACT 90), Pub. L. 101-649, dated November 29, 1990, further amended the VWPP removing the eight-country cap and extending the provisions to all countries that met the qualifying provisions contained in section 217 of the Act. In addition, section 201 of IMMACT 90 also extended the period for the VWPP until September 30, 1994. Subsequently, the Service designated by regulations published in the **Federal Register**, the following sixteen (16) additional countries to participate in the VWPP:

Country	Effective date	Federal Register citation
(1) Andorra ...	Oct. 1, 1991	56 FR 46716, Sept. 13, 1991.

Country	Effective date	Federal Register citation
(2) Austria	Oct. 1, 1991	56 FR 46716, Sept. 13, 1991.
(3) Belgium ...	Oct. 1, 1991	56 FR 46716, Sept. 13, 1991.
(4) Denmark	Oct. 1, 1991	56 FR 46716, Sept. 13, 1991.
(5) Finland	Oct. 1, 1991	56 FR 46716, Sept. 13, 1991.
(6) Iceland	Oct. 1, 1991	56 FR 46716, Sept. 13, 1991.
(7) Liechtenstein.	Oct. 1, 1991	56 FR 46716, Sept. 13, 1991.
(8) Luxembourg.	Oct. 1, 1991	56 FR 46716, Sept. 13, 1991.
(9) Monaco ...	Oct. 1, 1991	56 FR 46716, Sept. 13, 1991.
(10) New Zealand.	Oct. 1, 1991	56 FR 46716, Sept. 13, 1991.
(11) Norway ..	Oct. 1, 1991	56 FR 46716, Sept. 13, 1991.
(12) San Marino.	Oct. 1, 1991	56 FR 46716, Sept. 13, 1991.
(13) Spain	Oct. 1, 1991	56 FR 46716, Sept. 13, 1991.
(14) Brunei ...	July 29, 1993	58 FR 40581, July 29, 1993.
(15) Argentina	July 8, 1996	61 FR 35598, July 8, 1996.
(16) Australia	July 29, 1996	61 FR 39271, July 29, 1996.

Public Law 103-416

Section 210 of the Immigration and Nationality Technical Corrections Act of 1994, Pub. L. 103-416, dated October 25, 1994, extended the expiration date of the VWPP until September 30, 1996.

Public Law 104-208

On September 30, 1996, the President signed Pub. L. 104-208, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). Section 635 of this law again amended section 217 of the Act by extending the Program until September 30, 1997. This law also named the Attorney General as the principal designator of VWPP countries, eliminated probationary VWPP qualification status and made countries then in such status (Ireland being the only country) permanent participating VWPP countries subject to the same disqualification criteria established for other VWPP countries.

Requirements for VWPP Participation (Addition of Slovenia)

For a country to qualify as participant in the VWPP, the country must agree to waive the visa requirement for nationals of the United States entering for business or pleasure for ninety (90) days or less, must meet statutorily prescribed limits on rates of exclusion at Ports-of-Entry and on overstay rates, and must have a machine readable passport program. The Attorney General, in consultation with the Secretary of State, has determined that Slovenia has met these requirements, and Slovenia, therefore, is added, effective September 30, 1997 as a participating country in the Visa Waiver Pilot Program. (See the Department of State rule published elsewhere in this issue of the **Federal Register**.)

Good Cause Exemption

The Service's implementation of this rule as an interim rule, with a 60-day provision for post-promulgation public comments, is based upon the "good cause" exceptions found at 5 U.S.C. 553 (b)(B) and (d)(3). The reasons and the necessity for immediate implementation of this interim rule without prior notice and comment are as follows: This interim rule relieves a restriction and will facilitate business and tourist travel to the United States and Slovenia.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, 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. This rule merely removes a restriction for both the traveling public and United States businesses.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 12612

The regulation adopted herein 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 Executive Order 12612,

it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Unfunded Mandates Reform Act of 1995

This rule will not result in 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 804 of the Small Business Regulatory Enforcement Act of 1996. 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 the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12988 Civil Justice Reform

This interim rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988.

List of Subjects in 8 CFR Part 217

Administrative practices and procedures, Aliens, Nonimmigrants, Passports and visas.

Accordingly, part 217 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 217—VISA WAIVER PILOT PROGRAM

1. The authority citation for part 217 continues to read as follows:

Authority: 8 U.S.C. 1103, 1187; 8 CFR part 2.

2. In § 217.2 paragraph (a) is amended by revising the definition for "Designated country" to read as follows:

§ 217.2 Eligibility.

(a) * * *
* * * * *

Designated country refers to Andorra, Argentina, Australia, Austria, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, the Netherlands, New Zealand, Norway, San Marino, Slovenia, Spain, Sweden,

Switzerland, and the United Kingdom. The United Kingdom refers only to British citizens who have the unrestricted right of permanent abode in the United Kingdom (England, Scotland, Wales, Northern Ireland, the Channel Islands and the Isle of Man); it does not refer to British overseas citizens, British dependent territories' citizens, or citizens of British Commonwealth countries.

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Dated: September 25, 1997.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

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DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Part 245

[EOIR No. 1191; A.G. ORDER No. 2117-97]

RIN 1125-AA20

Adjustment of Status to That of Person Admitted for Permanent Residence

AGENCY: Executive Office for Immigration Review, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule enables the Executive Office for Immigration Review to complete adjudication of timely filed section 245(i) adjustment applications after September 30, 1997.

DATES: *Effective Date:* This rule is effective September 30, 1997. *Comment Date:* Written comments must be received on or before December 1, 1997.

ADDRESSES: Please submit written comments to Margaret M. Philbin, General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, Virginia, 22041.

FOR FURTHER INFORMATION CONTACT: Margaret M. Philbin, General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, Virginia, 22041, telephone (703) 305-0470.

SUPPLEMENTARY INFORMATION: On August 26, 1994, Congress enacted the Department of Commerce, Justice, State, and the Judiciary and Related Agencies Appropriations Act of 1995, Pub. L. 103-317. Section 506(b) of this law added a new section 245(i) to the Immigration and Nationality Act (the Act) which allows certain persons already in the United States to adjust