

**DEPARTMENT OF HOMELAND SECURITY**

**Bureau of Citizenship and Immigration Services**

[CIS No. 2270-03]

RIN 1615-AA04

**Extension of the Designation of Nicaragua Under Temporary Protected Status Program; Automatic Extension of Employment Authorization Documentation for Nicaraguans**

**AGENCY:** Bureau of Citizenship and Immigration Services, Homeland Security.

**ACTION:** Notice.

**SUMMARY:** The designation of Nicaragua under the Temporary Protected Status (TPS) Program will expire on July 5, 2003. This notice extends the Secretary of Homeland Security's designation of Nicaragua for 18 months until January 5, 2005, and sets forth procedures necessary for nationals of Nicaragua (or aliens having no nationality who last habitually resided in Nicaragua) with TPS to re-register and to apply for an extension of their employment authorization documentation for the additional 18-month period. Re-registration is limited to persons who registered under the initial designation (which ended on August 20, 1999) and also timely re-registered under the extensions of designation. Certain nationals of Nicaragua (or aliens having no nationality who last habitually resided in Nicaragua) who previously have not applied for TPS may be eligible to apply under the late initial registration provisions.

Given the large number of Nicaraguans affected by this notice, the Department of Homeland Security (DHS) recognizes that many re-registrants will not receive their new Employment Authorization Documents (EADs) until after their current EADs expire on July 5, 2003. Accordingly, this notice automatically extends, until December 5, 2003, the validity of EADs issued pursuant to the Nicaragua TPS program, and explains how TPS beneficiaries or their employers may determine which EADs are automatically extended.

**EFFECTIVE DATES:** The extension of Nicaragua's TPS designation is effective July 5, 2003, and will remain in effect until January 5, 2005. The 60-day re-registration period begins May 5, 2003 and will remain in effect until July 7, 2003.

**FOR FURTHER INFORMATION CONTACT:** Naheed Qureshi, Department of

Homeland Security, Bureau of Citizenship and Immigration Services, 425 "I" Street, NW, Room 3040, Washington, DC 20536, telephone (202) 514-4754.

**SUPPLEMENTARY INFORMATION:**

**What Authority Does the Secretary of the Department of Homeland Security Have To Extend the Designation of Nicaragua Under the TPS Program?**

On March 1, 2003, the Immigration and Naturalization Service (INS) transferred from the Department of Justice to the Department of Homeland Security (DHS) pursuant to the Homeland Security Act of 2002, Public Law 107-296. The responsibilities for administering the TPS program were transferred to the Bureau of Citizenship and Immigration Services (BCIS).

Under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. 1254a, the Secretary of DHS, after consultation with appropriate agencies of the Government, is authorized to designate a foreign state or (part thereof) for TPS. The Secretary of DHS may then grant TPS to eligible nationals of that foreign state (or aliens having no nationality who last habitually resided in that state).

Section 244(b)(3)(A) of the Act requires the Secretary of DHS to review, at least 60 days before the end of the TPS designation or any extension thereof, the conditions in a foreign state designated under the TPS program to determine whether the conditions for a TPS designation continue to be met and, if so, the length of an extension of TPS. (8 U.S.C. 1254a(b)(3)(A)). If the Secretary of DHS determines that the foreign state no longer meets the conditions for TPS designation, he shall terminate the designation, as provided in section 244(b)(3)(B) of the Act (8 U.S.C. 1254a(b)(3)(B)). Finally, if the Secretary of DHS does not make the required determination prior to the 60-day period prescribed by statute, section 244(b)(3)(C) of the Act provides for an automatic extension of TPS for an additional period of 6 months (or, in the discretion of the Secretary of DHS, a period of 12 or 18 months) (8 U.S.C. 1254a(b)(3)(C)).

**Why Did the Attorney General Designate Honduras for TPS?**

On January 5, 1999, the Attorney General designated Nicaragua under the TPS program for a period of 18 months based on the severe flooding and mudslides caused by Hurricane Mitch (64 FR 524). The fierce storm that swept through the country killed more than 3,000 people, left 150,000 people homeless, and washed away roads,

bridges, schools, and hospitals (See BCIS Resource Information Center Report (April 2000)). Following the initial designation, the Departments of Justice (DOJ) and State (DOS) kept a close watch over the progress of reconstruction in Nicaragua and consulted with relevant government agencies regularly. Given the amount of reconstruction necessary, the Attorney General extended the Nicaragua TPS designation three times, on May 11, 2000, (65 FR 30440), May 8, 2001, (66 FR 23271), and May 3, 2002, (67 FR 22454). Each decision to extend the TPS designation was made on the determination that the conditions that warranted the TPS designation initially continued to exist.

**Why Did the Secretary of DHS Decide To Extend the TPS Designation for Nicaragua?**

After the extension of Nicaragua's TPS designation on May 3, 2002, the DHS and DOS have continued to monitor the conditions in that country. Prior to making his decision to extend the Nicaragua TPS designation, the Secretary consulted with relevant government agencies to determine whether conditions warranting the TPS designation continue to exist in Nicaragua. Although there are strong indications of progress in recovery efforts, recent droughts as well as flooding from Hurricane Michelle in 2001 have added to the humanitarian, economic, and social problems initially brought on by Hurricane Mitch in 1998, making the country unable, temporarily, to handle the return of approximately 6,000 nationals with TPS at this time.

This assessment is consistent with a recent Department of State report finding that although a significant amount of reconstruction has been completed since Hurricane Mitch, Nicaragua is, "seriously affected by a drought and Hurricane Michelle in 2001 causing further destruction and emergency conditions," and "much remains to be done." Department of State Recommendation, March 25, 2003 (DOS Report). Such repeated environmental catastrophes have interrupted Nicaragua's ability to recover from Hurricane Mitch and, as a result, the country continues to lack the needed stability and infrastructure to support the return of its nationals. The BCIS Resource Information Center confirmed that a prolonged drought as well as flooding from Hurricane Michelle have compromised food security and disrupted reconstruction efforts. (RIC Report 2003.) Additionally, the Department of State reports that while significant reconstruction has

occurred, Nicaragua's reconstruction efforts have been hindered by delays in disbursements of aid needed to rebuild. (DOS Report.) Many of the European Union projects began only within the last year. *Id.* This delay in acquiring foreign aid prevented rapid completion of reconstruction. Hurricane Michelle and the drought exacerbated the situation. Consequently, the conditions under which Nicaragua was designated for TPS have not ceased to exist, and therefore, Nicaragua remains temporarily unable to handle adequately the return of its nationals.

Based on this review, the Secretary of DHS finds that the conditions that prompted designation of Nicaragua under the TPS program continue to be met (8 U.S.C. 1254a(b)(3)(C)). There continues to be a substantial, but temporary, disruption of living conditions in Nicaragua as the result of an environmental disaster, and Nicaragua continues to be unable, temporarily, to handle adequately the return of its nationals (8 U.S.C. 1254a(b)(1)(B)(i)-(ii)). On the basis of these findings, the Secretary of DHS concludes that the TPS designation for Nicaragua should be extended for an additional 18-month period.

#### **If I Currently Have TPS Through the Nicaragua TPS Program, Do I Still Re-Register for TPS?**

Yes. If you already have received TPS benefits through the Nicaragua TPS program, your benefits will expire on July 5, 2003. Accordingly, individual TPS beneficiaries must comply with the re-registration requirements described below in order to maintain their TPS benefits through January 5, 2005. TPS benefits include temporary protection against removal from the United States, as well as work authorization, during the TPS designation period and any extension thereof (8 U.S.C. 1254a(a)(1)).

#### **If My Initial Nicaragua TPS Application Is Pending, Do I Still Re-Register for TPS?**

Yes. If your initial TPS application is still pending approval, you must re-register for TPS during the re-registration period in order to be eligible for this extension. See the following re-registration instructions.

#### **If I Am Currently Registered for TPS, How Do I Re-Register for an Extension?**

All persons previously granted TPS under the Nicaragua program who wish to maintain such status must apply for an extension by filing (1) a Form I-821, Application for Temporary Protected Status, without the filing fee; (2) a Form I-765, Application for Employment

Authorization; and (3) two identification photographs (1½ inches x 1½ inches). Applications submitted without the required fee and/or photos will be rejected. See the chart below to determine whether you must submit the one hundred and twenty dollar (\$120) filing fee with Form I-765. Applicants for an extension of TPS benefits do not need to be re-fingerprinted and thus need not pay the \$50 fingerprint fee. Children beneficiaries of TPS who have reached the age of fourteen (14) but were not previously fingerprinted must pay the fifty dollar (\$50) fingerprint fee with the application for extension.

Submit the completed forms and applicable fee, if any, to the BCIS service center having jurisdiction over your place of residence during the 60-day re-registration period that begins May 5, 2003 and ends July 1, 2003 (inclusive of such end date).

If—	Then—
You are applying for employment authorization until January 5, 2005.	You must complete and file the Form I-765, Application for Employment Authorization, with the \$120 fee.
You already have employment authorization or do not require employment authorization.	You must complete and file Form I-765 with no fee. <sup>1</sup>
You are applying for employment authorization and are requesting a fee waiver.	You must complete and file: (1) Form I-765 and (2) a fee waiver request and affidavit (and any other information) in accordance with 8 CFR 244.20.

<sup>1</sup> An applicant who does not seek employment authorization documentation does not need to submit the \$120 fee, but must still complete and submit Form I-765 for data gathering purposes.

#### **How Does an Application for TPS Affect My Application for Asylum or Other Immigration Benefits?**

An application for TPS does not affect an application for asylum or any other immigration benefit, and vice versa. Denial of an application for asylum or any other immigration benefit does not affect an applicant's TPS eligibility, although the grounds for denying one form of relief may also be grounds for denying TPS. For example, a person who has been convicted of a particularly serious crime is not eligible for asylum or TPS (8 U.S.C. 1158(b)(2); 8 U.S.C. 1254a(c)(2)(B)(i)).

#### **Does This Extension Allow Nationals of Nicaragua (or Aliens Having No Nationality Who Last Habitually Resided in Nicaragua) Who Entered the United States After December 30, 1998, To File for TPS?**

No. This is a notice of an extension of TPS, not a notice of re-designation of Nicaragua under the TPS program. An extension of TPS does not change the required dates of continuous residence and continuous physical presence in the United States. This extension does not expand TPS availability to those who are not already TPS class members. To be eligible for benefits under this extension, nationals of Nicaragua (or aliens having no nationality who last habitually resided in Nicaragua) must have resided continuously in the United States since December 30, 1998, and have been continuously physically present in the United States since January 5, 1999.

#### **What Is Late Initial Registration?**

Some persons may be eligible for late initial registration under 8 CFR 244.2(f)(2). To apply for late initial registration an applicant must:

- (1) Be a national of Nicaragua (or alien who has no nationality and who last habitually resided in Nicaragua);
- (2) Have been continuously physically present in the United States since January 5, 1999;
- (3) Have continuously resided in the United States since December 30, 1998; and
- (4) Be both admissible as an immigrant, except as provided under section 244(c)(2)(A) of the Act, and not ineligible under section 244(c)(2)(B) of the Act.

Additionally, the applicant must be able to demonstrate that during the registration period from January 5, 1999, through August 20, 1999, he or she:

- (1) Was a nonimmigrant or had been granted voluntary departure status or any relief from removal;
- (2) Had an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal or change of status pending or subject to further review or appeal;
- (3) Was a parolee or had a pending request for parole; or
- (4) Was the spouse or child of an alien currently eligible to be a TPS registrant.

An applicant for late initial registration must file an application for late registration within a 60-day period immediately following the expiration or termination of the conditions described above (8 CFR 244.2(g)).

### **Why Is the Secretary of DHS Automatically Extending the Validity of EADs From July 5, 2003, to December 5, 2003?**

The Secretary of DHS has decided to extend automatically the validity of EADs to prevent a lapse in employment authorization documentation for qualified re-registrants during the time that re-registration applications are processed. Given the large number of Nicaraguan TPS class members who are eligible for re-registration, re-registrants would receive their new EADs only after their current EADs have expired. To prevent a gap in employment authorization documentation for qualified re-registrants, the Secretary of DHS is extending automatically the validity of the applicable EADs for a period of 5 months, to December 5, 2003 (8 U.S.C. 1254a(a)(2); 1254a(d)(1)-(2)).

### **Who Is Eligible To Receive an Automatic Extension of His or Her EAD?**

To receive an automatic extension of his or her EAD, an individual must be a national of Nicaragua (or an alien having no nationality who last habitually resided in Nicaragua) who has applied for and received an EAD under the initial TPS designation for Nicaragua. This automatic extension is limited to EADs bearing an expiration date of July 5, 2003, and the notation: "A-12" or "C-19" on the face of the card under "Category" for EADs issued on Form I-766 or "274A.12(A)(12)" or "274A.12(C)(19)" on the face of the card under "Provision of Law" for EADs issued on Form I-688B.

TPS applicants who have not yet received their initial or provisional EAD, including those who apply after the date of this notice but before the re-registration period closes on July 5, 2003, may receive an EAD that facially expires on July 5, 2003. Such an EAD is covered by the automatic extension described above.

### **Must Qualified Individuals Apply for the Automatic Extension of Their TPS-Related EADs?**

No, qualified individuals do not have to apply for this automatic employment authorization extension to December 5, 2003. However, qualified individuals must re-register for TPS during the re-registration period that begins on May 5, 2003, and continues through, July 7, 2003, in order to be eligible for a new EAD that is valid until January 5, 2005.

### **What Documents May a Qualified Individual Show to His or Her Employer as Proof of Employment Authorization and Identity When Completing the Employment Eligibility Verification Form (Form I-9)?**

For completion of the Form I-9 at the time of hire or re-verification, qualified individuals who have received an extension of employment authorization by virtue of this **Federal Register** notice may present to their employer a TPS-related EAD as proof of identity and employment authorization until December 5, 2003. To minimize confusion over this extension at the time of hire or re-verification, qualified individuals may also present to their employer a copy of this **Federal Register** notice regarding the automatic extension of employment authorization documentation to December 5, 2003. In the alternative, any legally acceptable document or combination of documents listed in List A, List B, or List C of the Form I-9 may be presented as proof of identity and employment eligibility; it is the choice of the employee.

### **How May Employers Determine Which EADs That Have Been Automatically Extended Through December 5, 2003, Are Acceptable for Completion of the Form I-9?**

For purposes of verifying identity and employment eligibility or re-verifying employment eligibility on the Form I-9 until December 5, 2003, employers of Nicaragua TPS class members whose employment authorization has been automatically extended by this notice must accept an EAD that contains an expiration date of July 5, 2003, and that bears one of the following notations: "A-12" or "C-19" on the face of the card under "Category" for EADs issued on Form I-766; or, "274A.12(A)(12)" or "274A.12(c)(19)" on the face of the card under "Provision of Law" for EADs issued on Form I-688B. New EADs or extension stickers showing the December 5, 2003, expiration date will not be issued.

Employers should not request proof of Nicaraguan citizenship. Employers presented with an EAD that this **Federal Register** notice has extended automatically, that appears to be genuine and that relates to the employee should accept the document as a valid "List A" document and should not ask for additional Form I-9 documentation. This action by the Secretary of the DHS through this **Federal Register** notice does not affect the right of an employee to present any legally acceptable document as proof of identity and eligibility for employment.

Employers are reminded that the laws prohibiting unfair immigration-related employment practices remain in full force. For questions, employers may call the BCIS' Office of Business Liaison Employer Hotline at 1-800-357-2099 to speak to a BCIS representative. Also, employers may call the U.S. Department of Justice Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) Employer Hotline at 1-800-255-8155, or 1-800-362-2735 (TDD). Employees or applicants may call the OSC Employee Hotline at 1-800-255-7688, or 1-800-237-2515 (TDD) for information regarding the automatic extension. Additional information is available on the OSC Web site at <http://www.usdoj.gov/crt/osc/index.html>.

### **What Happens When This Extension of TPS Expires on January 5, 2005?**

At least 60 days before this extension of TPS expires on January 5, 2005, the Secretary of DHS will review conditions in Nicaragua and determine whether the conditions for designation under the TPS program continue to be met at that time, or whether the TPS designation should be terminated. Notice of that determination, including the basis for the determination, will be published in the **Federal Register**.

If the TPS designation is extended at that time, an alien who has received TPS benefits must re-register under the extension in order to maintain TPS benefits. If, however, the Secretary of DHS terminates the TPS designation, TPS beneficiaries will maintain the immigration status they had before TPS (unless that status had since expired or been terminated) or any other status they may have acquired while registered for TPS. Accordingly, if an alien had no lawful immigration status prior to receiving TPS and did not obtain any status during the TPS period, he or she will revert to that unlawful status upon termination of the TPS designation.

### **Notice of Extension of Designation of Nicaragua under the TPS Program**

By the authority vested in me as Secretary of DHS under sections 244(b)(1)(B), (b)(3)(A), and (b)(3)(C) of the Act, I have consulted with the appropriate government agencies and determine that the conditions that prompted designation of Nicaragua for TPS continue to be met (8 U.S.C. 1254a(b)(3)(A)). Accordingly, I order as follows:

(1) The designation of Nicaragua under section 244(b) of the Act is extended for an additional 18-month period from July 5, 2003, to January 5, 2005 (8 U.S.C. 1254a(b)(3)(C)).

(2) There are approximately 6,000 nationals of Nicaragua (or aliens having no nationality who last habitually resided in Nicaragua) who have been granted TPS and who are eligible for re-registration.

(3) To maintain TPS, a national of Nicaragua (or an alien having no nationality who last habitually resided in Nicaragua) who received TPS during the initial designation period must re-register for TPS during the 60-day re-registration period from May 5, 2003 until July 7, 2003.

(4) To re-register, the applicant must file the following: (1) Form I-821, Application for Temporary Protected Status; (2) Form I-765, Application for Employment Authorization; and (3) two identification photographs (1½ inches by 1½ inches). Applications submitted without the required fee and/or photos will be rejected. There is no fee for filing a Form I-821 filed as part of the re-registration application. If the applicant requests employment authorization, he or she must submit one hundred and twenty dollars (\$120) or a properly documented fee waiver request, pursuant to 8 CFR 244.20, with the Form I-765. An applicant who does not request employment authorization must nonetheless file Form I-765 along with Form I-821, but is not required to submit the fee. The fifty-dollar (\$50) fingerprint fee is required only for children beneficiaries of TPS who have reached the age of 14 but were not previously fingerprinted. Failure to re-register without good cause will result in the withdrawal of TPS (8 CFR 244.17(c)). Some persons who had not previously applied for TPS may be eligible for late initial registration under 8 CFR 244.2.

(5) At least 60 days before this extension terminates on January 5, 2005, the Attorney General will review the designation of Nicaragua under the TPS program and determine whether the conditions for designation continue to be met (8 U.S.C. 1254a(b)(3)(A)). Notice of that determination, including the basis for the determination, will be published in the **Federal Register** (8 U.S.C. 1254a(b)(3)(A)).

(6) TPS-related Employment Authorization Documents that expire on July 5, 2003, are extended automatically until December 5, 2003, for qualified Nicaraguans.

(7) Information concerning the extension of designation of Nicaragua under the TPS program will be available at local BCIS offices upon publication of this notice and on the BCIS Web site at <http://www.immigration.gov/graphics/index.htm>.

Dated: April 29, 2003.

**Tom Ridge,**

*Secretary of Homeland Security.*

[FR Doc. 03-10962 Filed 4-30-03; 10:31 am]

**BILLING CODE 4410-10-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

[USCG-2003-14814]

#### Great Lakes Pilotage Advisory Committee; Meeting Cancellation

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of meeting cancellation.

**SUMMARY:** The Great Lakes Pilotage Advisory Committee (GLPAC) meeting scheduled for May 5 and 6, 2003, and announced in the **Federal Register** on April 3, 2003 (68 FR 16299), has been cancelled. A notice of meeting will be published in the **Federal Register** when the meeting is rescheduled.

**FOR FURTHER INFORMATION CONTACT:**

Margie Hegy, Executive Director of GLPAC, telephone 202-267-0415, fax 202-267-4700 or e-mail: [Mhegy@comdt.uscg.mil](mailto:Mhegy@comdt.uscg.mil).

Dated: April 28, 2003.

**L.L. Hereth,**

*Rear Admiral, U.S. Coast Guard, Acting Assistant Commandant for Marine Safety, Security and Environmental Protection.*

[FR Doc. 03-10943 Filed 5-2-03; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4820-N-20]

#### Notice of Proposed Information Collection: Comment Request; New Approach to the Anti-Drug Program

**AGENCY:** Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** *Comments Due Date:* July 7, 2003.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to

the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Building, Room 8003, Washington, DC 20410, or [Wayne\\_Eddins@hud.gov](mailto:Wayne_Eddins@hud.gov).

**FOR FURTHER INFORMATION CONTACT:**

Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6152, Washington, DC 20410; (202) 708-3000 (this is not a toll free number) for copies of the proposed forms and other available information.

**SUPPLEMENTARY INFORMATION:**

The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:* New Approach to the Anti-Drug Program.

*OMB Control Number:* 2502-0520.

*Description of the need for the information and proposed use:* The New Approach to the Anti-Drug Program (formerly known as the Safe Neighborhood Action Grant Program) was authorized through yearly appropriations. Owners are eligible to apply for grants to fund security, and crime elimination activity in federally assisted low-income housing projects. Funding for this program has not been appropriated since Fiscal Year 2001, but quarterly progress reports are still required for all active grants.

*Agency Form Numbers, if applicable:* HUD-50080-SNGP & SF-269.

*Estimation of the total numbers of hours needed to prepare the information collection including number of*