

**DEPARTMENT OF HOMELAND SECURITY****Bureau of Citizenship and Immigration Services**

[CIS No. 2270-03]

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**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

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**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 the 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