

If—	Then—
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

### **If My Application for TPS is Still Pending, How Can I Renew My Employment Authorization Document?**

If your application for TPS is still pending and you wish to receive or renew your employment authorization document, you must file with the BCIS Service Center having jurisdiction over your place of residence (1) a Form I-821 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 filing fee or photos will be returned to the applicant. See the chart above to determine whether you must submit the one hundred and twenty (\$120) filing fee with Form I-765.

### **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)(A)(ii); 8 U.S.C. 1254a(c)(2)(B)(ii)).

### **Does This Extension Allow Nationals of El Salvador (or Aliens Having No Nationality Who Last Habitually Resided in El Salvador) Who Entered the United States After February 13, 2001, to File for TPS?**

No. This is a notice of an extension of TPS, not a notice of re-designation of El Salvador 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 El Salvador (or aliens having no nationality who last habitually resided in El Salvador) must have resided continuously in the United States since February 13, 2001, and have been continuously physically present in the United States since March 9, 2001.

### **Who Is Eligible for 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 El Salvador (or alien who has no nationality and who last habitually resided in El Salvador);
- (2) Have been continuously physically present in the United States since March 9, 2001;
- (3) Have continuously resided in the United States since February 13, 2001; 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 March 9, 2001, through September 9, 2002, 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 no later than 60 days after the expiration or termination of the conditions previously described above (8 CFR 244.2(g)).

### **Why Is the Secretary of DHS Automatically Extending the Validity of EADs From September 9, 2003, to March 9, 2004?**

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 El Salvador TPS class members who are eligible for re-registration, re-registrants may 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 6 months, to March 9, 2004 (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 El Salvador (or an alien having no nationality who last habitually resided in El Salvador) who has applied for and received an EAD under the initial TPS designation for El Salvador. This automatic extension is limited to EADs issued on either Form I-766 or Form I-688B bearing an expiration date of September 9, 2003. The EAD must also be either (1) a Form I-766 bearing the notation "A-12" or "C-19" on the face of the card under "Category"; or (2) a Form I-688B bearing the notation "274A.12(A)(12)" or "274A.12(C)(19)" on the face of the card under "Provision of Law".

### **Must Qualified Individuals Apply for the Automatic Extension of Their TPS-Related EADs Until March 9, 2004?**

No, qualified individuals do not have to apply for this automatic employment authorization extension to March 9, 2004. However, qualified individuals must re-register for TPS during the re-registration period that begins on July 16, 2003, and continues through September 15, 2003, in order to be eligible for a new EAD that is valid until March 9, 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 March 9, 2004. 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