



**DEPARTMENT OF HOMELAND SECURITY**

**U.S. Citizenship and Immigration Services**

**[CIS No. 2676-21; DHS Docket No. USCIS-2019-0020]**

**RIN 1615-ZB83**

**Continuation of Documentation for Beneficiaries of Temporary Protected Status Designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal**

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** Notice of Continuation of Temporary Protected Status and related documentation for Certain TPS beneficiaries.

**SUMMARY:** Through this notice, the Department of Homeland Security (DHS) announces actions to ensure its continued compliance with the preliminary injunction orders of the U.S. District Court for the Northern District of California in *Ramos, et al. v. Nielsen, et. al.*, No. 18-cv-01554 (N.D. Cal. Oct. 3, 2018) (“*Ramos*”) and the U.S. District Court for the Eastern District of New York in *Saget, et. al., v. Trump, et. al.*, No. 18-cv-1599 (E.D.N.Y. Apr. 11, 2019) (“*Saget*”), and with the order of the U.S. District Court for the Northern District of California to stay proceedings in *Bhattarai v. Nielsen*, No. 19-cv-00731 (N.D. Cal. Mar. 12, 2019) (“*Bhattarai*”). Beneficiaries under the Temporary Protected Status (TPS) designations for El Salvador, Nicaragua, Sudan, Honduras, and Nepal will retain their TPS while the preliminary injunction in *Ramos* and the *Bhattarai* orders remain in effect, provided that their TPS is not withdrawn because of individual ineligibility. Beneficiaries under the TPS designation for Haiti will retain their TPS while either of the preliminary injunctions in *Ramos* or *Saget* remain in effect, provided that their TPS is not withdrawn because of individual ineligibility. However, on August

3, 2021, DHS issued a new designation for Haiti TPS, and in order to secure TPS pursuant to the new Haiti designation, eligible individuals must apply before the close of the registration period on Feb. 3, 2023. Eligible individuals are strongly encouraged to apply at the earliest practicable date, to ensure that their TPS continues beyond the court-ordered extensions and without any gaps in status. See Designation of Haiti for Temporary Protected Status. In addition, eligible individuals who do not register for the new TPS designation during the registration period, may be prohibited from filing a late initial registration during any subsequent extension of the designation if they do not meet certain conditions.. This notice further provides information on the automatic extension of the validity of TPS-related Employment Authorization Documents (EADs); Notices of Action (Forms I-797); and Arrival/Departure Records (Forms I-94), (collectively “TPS-related documentation”); for those beneficiaries under the TPS designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal.

**DATES:** DHS is automatically extending the validity of TPS-related documentation for beneficiaries under the TPS designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal through December 31, 2022, from the current expiration date of October 4, 2021.

**FOR FURTHER INFORMATION CONTACT:**

- You may contact Andria Strano, Acting Chief, Humanitarian Affairs Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, U.S. Department of Homeland Security, by mail at 5900 Capital Gateway Dr, Camp Springs, MD 20529-2140; or by phone at 800-375-5283.
- For further information on TPS, please visit the USCIS TPS web page at [www.uscis.gov/tps](http://www.uscis.gov/tps).
- If you have additional questions about TPS, please visit [uscis.gov/tools](http://uscis.gov/tools). Our online virtual assistant, Emma, can answer many of your questions and point you to

additional information on our website. If you are unable to find your answers there, you may also call our U.S. Citizenship and Immigration Services (USCIS) Contact Center at 800-375-5283 (TTY 800-767-1833).

- Applicants seeking information about the status of their individual cases may check Case Status Online, available on the USCIS website at [www.uscis.gov](http://www.uscis.gov), or visit the USCIS Contact Center at [uscis.gov/contactcenter](http://uscis.gov/contactcenter).
- Further information will also be available at local USCIS offices upon publication of this notice.

## **SUPPLEMENTARY INFORMATION:**

### **Table of Abbreviations**

BIA – Board of Immigration Appeals

CFR – Code of Federal Regulations

DHS – U.S. Department of Homeland Security

EAD – Employment Authorization Document

EOIR – Executive Office for Immigration Review

FNC – Final Nonconfirmation

Form I-765 – Application for Employment Authorization

Form I-797 – Notice of Action

Form I-821 – Application for Temporary Protected Status

Form I-9 – Employment Eligibility Verification

Form I-912 – Request for Fee Waiver

Form I-94 – Arrival/Departure Record

Government – U.S. Government

IER – U.S. Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section

INA – Immigration and Nationality Act

SAVE – USCIS Systematic Alien Verification for Entitlements Program

Secretary – Secretary of Homeland Security

TNC – Tentative Nonconfirmation

TPS – Temporary Protected Status

TTY – Text Telephone

USCIS – U.S. Citizenship and Immigration Services

### **Background on TPS**

- TPS is a temporary immigration status granted to eligible nationals of a country designated for TPS under the Immigration and Nationality Act (INA) or to eligible persons without nationality who last habitually resided in the designated country.
- During the TPS designation period, TPS beneficiaries are eligible to remain in the United States, may not be removed, and are authorized to obtain EADs so long as they continue to meet the requirements of TPS.
- TPS beneficiaries may travel abroad temporarily with the prior consent of DHS.
- The granting of TPS does not result in or lead to lawful permanent resident status.
- To qualify for TPS, beneficiaries must meet the eligibility standards at INA section 244(c)(1)–(2), 8 U.S.C. 1254a(c)(1)–(2).
- When the Secretary of Homeland Security (the Secretary) terminates a country’s TPS designation, beneficiaries return to one of the following:
  - The same immigration status or category that they maintained before TPS, if any (unless that status or category has since expired or been terminated); or
  - Any other lawfully obtained immigration status or category they received while registered for TPS, as long as it is still valid on the date TPS terminates.

### **Purpose of this Action**

This notice ensures DHS’s continued compliance with various court orders issued by the federal district courts in the *Ramos*, *Bhattarai*, and *Saget* lawsuits that require DHS to

maintain the TPS designations for El Salvador, Haiti, Sudan, Nicaragua, Honduras, and Nepal, as well as the TPS and TPS-related documentation for eligible affected beneficiaries.<sup>1</sup> The U.S. Court of Appeals for the Ninth Circuit vacated the district court's preliminary injunction in *Ramos* on September 14, 2020, holding that the plaintiffs' claims under the Administrative Procedures Act were not subject to judicial review. However, the appellate order is not currently effective because the Ninth Circuit has not issued its "mandate" to the federal district court to carry out the order, as the plaintiffs' petition for rehearing en banc remains pending.<sup>2</sup> Therefore, the *Ramos* preliminary injunction remains in effect. In addition, the order of the district court in *Bhattarai* staying proceedings and approving the parties' stipulated agreement to continue TPS and TPS-related documentation for eligible beneficiaries from Nepal and Honduras remains in effect. The *Saget* district court order prohibiting the termination of TPS for Haiti also remains in effect while the decision is on appeal to the U.S. Court of Appeals for the Second Circuit. Affected TPS beneficiaries from the six countries will retain their status, provided they continue to meet all the individual requirements for TPS eligibility described in INA section 244(c) and 8 CFR 244. As necessary, DHS will publish future information in the *Federal Register* to ensure its compliance with any relevant court orders that may be issued after the date of this notice.

DHS initially published notices to ensure its compliance with the *Ramos* preliminary injunction on October 31, 2018 and March 1, 2019, and the *Bhattarai* order to stay proceedings on May 10, 2019. See 83 FR 54764; 84 FR 7103; and 84 FR 20647.

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<sup>1</sup> See *Ramos, et al. v. Nielsen, et al.*, No. 18-cv-01554 (N.D. Cal. Oct. 3, 2018) (district court granted preliminary injunction against terminations of TPS for El Salvador, Haiti, Sudan, and Nicaragua) ("*Ramos*"); *Saget, et al., v. Trump, et al.*, No. 18-cv-1599 (E.D.N.Y. Apr. 11, 2019) (district court granted preliminary injunction against termination of TPS for Haiti) ("*Saget*"); and *Bhattarai, et al. v. Nielsen, et al.*, No. 19-cv-00731 (N.D. Cal. Mar. 12, 2019) (district court stayed proceedings until *Ramos* appeal decided and approved parties' stipulation for continued TPS and issuance of TPS-related documentation to eligible, affected beneficiaries of TPS for Honduras and Nepal during the stay and pendency of the appeal ("*Bhattarai*").

<sup>2</sup> See *Ramos, et al., v. Wolf, et al.*, No. 18-16981 (9th Cir., September 14, 2020).

The Department later published a notice to ensure its continued compliance with the combined orders in *Ramos*, *Bhattarai*, and *Saget* on November 4, 2019. That notice automatically extended certain TPS and TPS-related documentation through January 4, 2021 for all eligible TPS beneficiaries covered by the courts' orders. *See* 84 FR 59403. The Department last published a notice to ensure its continued compliance with these combined court orders on December 9, 2020. That notice again automatically extended certain TPS and TPS-related documentation through October 4, 2021 for all eligible TPS beneficiaries covered by the courts' orders. *See* 85 FR 79208. Through this *Federal Register* notice, DHS announces actions to ensure its continued compliance with the district court orders in these three lawsuits while those orders remain in effect.

The TPS designations for El Salvador, Nicaragua, and Sudan will remain in effect, as required by the *Ramos* district court order, so long as the preliminary injunction remains in effect. The 2011 TPS designation for Haiti will remain in effect, as required by the preliminary injunction orders in both *Ramos* and *Saget*, so long as either of those preliminary injunctions remain in effect. The TPS designations for Honduras and Nepal will remain in effect so long as the *Bhattarai* order staying proceedings and approving the parties' stipulated agreements continues in effect. Affected TPS beneficiaries under the TPS designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal will retain their TPS and their TPS-related documentation will continue to be valid in accordance with the specific orders that affect the TPS designations regarding their individual countries, provided that the affected beneficiaries continue to meet all the individual requirements for TPS. *See* INA section 244(c)(3). *See also* 8 CFR 244.14. DHS will not terminate TPS for any of the affected countries pending final disposition of the *Ramos* appeal, including through any additional appellate channels in which relief may be sought, or by other orders of the court. Following consideration of current country conditions, the Secretary has already newly designated Haiti for TPS for eighteen

months, allowing individuals covered by the *Ramos* and *Saget* injunctions as well as other eligible individuals to register for and maintain TPS through February 3, 2023.

DHS is further announcing it is automatically extending, through December 31, 2022, the validity of certain TPS-related documentation, as specified in this notice, for beneficiaries under the TPS designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal provided that the affected beneficiaries remain individually eligible for TPS.

**Automatic Extension of EADs Issued Under the TPS designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal**

Through this *Federal Register* notice, DHS automatically extends the validity of EADs listed in Table 1 below issued to beneficiaries under the TPS designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal. Such beneficiaries may show their EADs to employers to demonstrate they have employment authorization and may choose to also show employers this *Federal Register* notice to explain that their TPS-Related Documentation has been automatically extended through December 31, 2022. This notice explains how TPS beneficiaries, their employers, and benefit-granting agencies may determine which EADs are automatically extended and how this affects the Form I-9, Employment Eligibility Verification; E-Verify; and USCIS Systematic Alien Verification for Entitlements (SAVE) processes. Additionally, a beneficiary under the TPS designation for any of these countries who has applied for a new EAD but who has not yet received his or her new EAD is covered by this automatic extension, provided that the EAD he or she possesses contains one of the expiration dates listed in Table 1 below.

<b>Table 1. Affected EADs</b>	
<b>If an EAD has a category code of A-12 or C-19 and an expiration date of:</b>	<b>Then the validity of the EAD is extended through:</b>
07/22/2017	12/31/2022
11/02/2017	12/31/2022
01/05/2018	12/31/2022
01/22/2018	12/31/2022

03/09/2018	12/31/2022
06/24/2018	12/31/2022
07/05/2018	12/31/2022
11/02/2018	12/31/2022
01/05/2019	12/31/2022
04/02/2019	12/31/2022
06/24/2019	12/31/2022
07/22/2019	12/31/2022
09/09/2019	12/31/2022
01/02/2020	12/31/2022
01/05/2020	12/31/2022
03/24/2020	12/31/2022
01/04/2021	12/31/2022
10/04/2021	12/31/2022

### **Automatic Extension of Forms I-94 and Forms I-797**

Also through this *Federal Register* notice, DHS automatically extends the validity periods of the Forms I-94 and Forms I-797 listed in Table 2 below previously issued to beneficiaries under the TPS designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal. These extensions apply only if the TPS beneficiary properly filed for re-registration during either the most recent DHS-announced registration period for their country, or any applicable previous DHS-announced re-registration periods for the beneficiary's country,<sup>3</sup> or has a re-registration application that remains pending. This notice does not extend the validity periods of Forms I-94 or Forms I-797 for any TPS beneficiary who failed to file for TPS re-registration during one of the applicable previous DHS-announced re-registration periods, or for whom a re-registration request has been denied. In addition, the extensions do not apply for any beneficiary from whom TPS has been withdrawn.

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<sup>3</sup>El Salvador: July 8-Sept. 6, 2016, or Jan. 18-Mar. 19, 2018;  
Haiti: Aug. 25-Oct. 26, 2015, May 24-July 24, 2017, or Jan. 18-Mar. 19, 2018;  
Honduras: May 16-July 16, 2016; Dec. 15, 2017-Feb. 13, 2018 or June 5-Aug. 6, 2018;  
Nepal: Oct. 26-Dec. 27, 2016 or May 22-July 23, 2018;  
Nicaragua: May 16-July 15, 2016 or Dec. 15, 2017-Feb. 13, 2018;  
Sudan: Jan. 25-March 25, 2016 or Oct. 11, 2017-Dec. 11, 2017.



<b>Table 2. Affected Forms I-94 and I-797<sup>4</sup></b>			
<b>Country</b>	<b>Beginning date of validity:</b>	<b>End date of validity:</b>	<b>Validity of Forms I-94 and I-797 extended through:</b>
El Salvador	Sept. 10, 2016	Mar. 9, 2018	12/31/2022
	Mar. 10, 2018	Sept. 9, 2019	12/31/2022
	Sept. 10, 2019	Oct. 4, 2021	12/31/2022
Haiti	Jan. 23, 2016	July 22, 2017	12/31/2022
	July 23, 2017	Jan. 22, 2018	12/31/2022
	Jan. 23, 2018	July 22, 2019	12/31/2022
	July 23, 2019	Oct. 4, 2021	12/31/2022
Honduras	July 6, 2016	Jan. 5, 2018	12/31/2022
	Jan. 6, 2018	July 5, 2018	12/31/2022
	July 6, 2018	Jan. 5, 2020	12/31/2022
	Jan. 6, 2020	Oct. 4, 2021	12/31/2022
Nepal	Dec. 25, 2016	June 24, 2018	12/31/2022
	June 25, 2018	June 24, 2019	12/31/2022
	June 25, 2019	Oct. 4, 2021	12/31/2022
Nicaragua	July 6, 2016	Jan. 5, 2018	12/31/2022
	Jan. 6, 2018	Jan. 5, 2019	12/31/2022
	Jan. 6, 2019	Oct. 4, 2021	12/31/2022
Sudan	May 3, 2016	Nov. 2, 2017	12/31/2022
	Nov. 3, 2017	Nov. 2, 2018	12/31/2022
	Nov. 3, 2018	Oct. 4, 2021	12/31/2022

### **Application Procedures**

Current beneficiaries covered by the court orders that continue the TPS designations for El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan do not need to pay a fee or file any application, including Application for Employment Authorization (Form I-765), to maintain their TPS benefits through December 31, 2022 under this notice, provided that they have properly re-registered for TPS during either the most recent DHS-announced registration period for their country, or any applicable previous re-registration period described in Footnote 3. However, in order to secure TPS pursuant to the new Haiti designation, eligible individuals must apply before the close of the registration period on Feb. 3, 2023. Eligible individuals for the new TPS Haiti designation are

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<sup>4</sup> Your Forms I-94 and I-797 may show a different beginning date of validity than those listed here if you were a late initial filer (LIF) at the time because the forms would have the date of approval of your LIF application for TPS. As long as they bear an end date of validity listed in this chart, then they are automatically extended by this Notice.

strongly encouraged to apply at the earliest practicable date, to ensure that their TPS continues beyond the court-ordered extensions and without any gaps in status.

In addition, eligible individuals who do not register for the new TPS designation during the registration period, may be prohibited from filing a late initial registration during any subsequent extension of the designation if they do not meet certain conditions. See 8 CFR 244.2(f)(2).

TPS beneficiaries who have failed to re-register properly for TPS during any of these re-registration periods may still file an Application for Temporary Protected Status (Form I-821), but must demonstrate “good cause” for failing to re-register on time, as required by law. See INA section 244(c)(3)(C) (TPS beneficiary's failure to register without good cause in form and manner specified by DHS is ground for TPS withdrawal); 8 CFR 244.17(b) and Form I-821 instructions.<sup>5</sup>

Any currently eligible beneficiary who does not presently have a pending EAD application under the TPS designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras or Nepal may file Form I-765 with appropriate fee in order to obtain a new EAD with a printed expiration date of December 31, 2022.

### **Possible Future Actions**

In order to comply with statutory requirements for TPS while the district courts' orders or any superseding court order concerning the beneficiaries under the TPS designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal remain in effect, DHS may require these beneficiaries to re-register and will announce the re-registration procedures in a future *Federal Register* notice. DHS has the authority to conduct TPS re-registration in accordance with INA section 244(c)(3)(C) and 8 CFR 244.17. Through the re-registration process, which is generally conducted every twelve

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<sup>5</sup> An applicant for TPS Haiti who applies under the procedures announced in the Notice regarding the new TPS designation of Haiti at 86 FR 41863(Aug. 3, 2021) is an initial applicant and does not have to demonstrate “good cause” for failing to re-register under prior TPS Haiti designations.

to eighteen months while a country is designated for TPS, USCIS determines whether each TPS beneficiary is continuing to maintain individual eligibility for TPS, including but not limited to, the requirements related to disqualifying criminal or security issues. See *id.*; INA section 244(c)(2); 8 CFR 244.2, 244.3, and 244.4 (describing individual TPS eligibility requirements, including mandatory criminal and security bars).

The Secretary has already newly designated Haiti for TPS for eighteen months through February 3, 2023. 86 FR 41863. Eligible Haitian nationals (and individuals having no nationality who last habitually resided in Haiti) who wish to receive or continue their existing TPS through that date are encouraged to submit their applications for TPS by following the instructions in the *Federal Register* notice, Designation of Haiti for Temporary Protected Status, at 86 FR 41863. Failure to submit an application under the new designation of Haiti, however, does not affect the continuation of the validity of the TPS and TPS documents through December 31, 2022 as described in this notice.

The Government has appealed both the *Ramos* and *Saget* preliminary injunctions. The U.S. Court of Appeals for the Ninth Circuit ruled for the Government and vacated the *Ramos* preliminary injunction on September 14, 2020. However, the preliminary injunction remains in effect because the appellate court has not issued its directive (*i.e.*, the mandate) to the district court to implement the panel's decision due to the pendency of the plaintiffs' petition for rehearing en banc. Should the Government ultimately prevail in its challenge to the *Ramos* preliminary injunction, and absent any further change in the TPS designations for Nicaragua, Sudan, Honduras, and Nepal, the Secretary's determination to terminate TPS for those countries would take effect no earlier than 120 days from the issuance of any appellate mandate to the district court. Absent any further change in the TPS designation for El Salvador, the Secretary's determination to terminate TPS for that country will take effect no earlier than 365 days from the issuance of any appellate mandate to the *Ramos* district court. DHS provides

this additional time for El Salvador TPS beneficiaries in part because there are almost 100,000 more such beneficiaries than in the combined TPS beneficiary populations of all the other five countries covered by this notice.<sup>6</sup> The additional period of 245 days beyond 120 days would permit an orderly transition for beneficiaries of TPS from El Salvador as they return to their homeland. If the Government prevails in its appeals, DHS will also continue to monitor the circumstances of the affected beneficiaries under the other five TPS country designations covered by this notice. *See* INA section 244(d)(3).

To the extent that a *Federal Register* notice has automatically extended TPS-related documentation beyond 120 days from the issuance of any appellate mandate to the District Court, DHS reserves the right to issue a subsequent *Federal Register* notice announcing an expiration date for the documentation that corresponds to the last day of the 120-day period for Sudan, Nicaragua, Honduras, and Nepal. Should the Government move to vacate the *Bhattarai* order to stay proceedings in light of an appellate decision affirming the preliminary injunction in *Ramos* that suggests a basis on which to distinguish the determinations to terminate the TPS designations for Honduras and Nepal from the TPS terminations at issue in *Ramos*, TPS will remain in effect for Honduras and Nepal for at least 180 days following an order of the District Court vacating the stay in proceedings.

The Secretary has announced a new 18-month designation of Haiti for TPS, which continues through February 3, 2023. Application procedures for TPS under this new Haiti designation, including for individuals who currently have TPS pursuant to the court orders, are provided in the notice published at 86 FR 41863.

### **Additional Notes**

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<sup>6</sup> As of December 31, 2019, the number of TPS beneficiaries covered under the affected designations were: El Salvador 247,412; Haiti 55,218; Nicaragua 4,409; Sudan 771; Honduras 79,290; Nepal 14,549.

Nothing in this notice affects DHS's ongoing authority to determine on a case-by-case basis whether a TPS beneficiary continues to meet the eligibility requirements for TPS described in INA section 244(c) and the implementing regulations in part 244 of Title 8 of the Code of Federal Regulations.

**Notice of Compliance with the “Order Enjoining the Implementation and Enforcement of Determinations to Terminate the TPS Designations for El Salvador, Haiti, Nicaragua, and Sudan” in *Ramos*, the “Order Enjoining the Implementation of Enforcement of Determination to Terminate the TPS Designation of Haiti” in *Saget*, and the “Order to Stay Proceedings and Agreement to Stay the Determinations to Terminate the TPS Designations for Honduras and Nepal” in *Bhattarai***

The previously announced determinations to terminate the existing designations of TPS for El Salvador, Nicaragua, and Sudan<sup>7</sup> will not be implemented or enforced unless and until the district court's order in *Ramos* is reversed and that reversal becomes final. The previously announced determination to terminate the 2011 designation of TPS for Haiti will not be implemented or enforced unless and until the district court's order in *Saget* is reversed and the reversal becomes final.<sup>8</sup> As required by the order to stay proceedings in *Bhattarai*, DHS will not implement or enforce the previously announced determinations to terminate the existing TPS designations for Honduras and Nepal<sup>9</sup> unless and until the district court's order in *Ramos* enjoining implementation and enforcement of the determinations to terminate the TPS designations for El Salvador, Haiti, Nicaragua, and Sudan is reversed and that reversal becomes final for some or all of

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<sup>7</sup> See Termination of the Designation of El Salvador for Temporary Protected Status, 83 FR 2654 (Jan. 18, 2018); Termination of the Designation of Nicaragua for Temporary Protected Status, 82 FR 59636 (Dec. 15, 2017); Termination of the Designation of Sudan for Temporary Protected Status, 82 FR 47228 (Oct. 11, 2017).

<sup>8</sup> See Termination of the Designation of Haiti for Temporary Protected Status, 83 FR 2648 (Jan. 18, 2018).

<sup>9</sup> See Termination of the Designation of Honduras for Temporary Protected Status, 83 FR 26074 (June 5, 2018); Termination of the Designation of Nepal for Temporary Protected Status, 83 FR 23705 (May 22, 2018).

the affected countries, or by other order of the court. Any termination of TPS-related documentation for beneficiaries under the TPS designations for Nicaragua, Sudan, Honduras, and Nepal will go into effect no earlier than 120 days, and no earlier than 365 days for beneficiaries under the TPS designation for El Salvador, following the issuance of any mandate to the district court, as described in the “Possible Future Action” section of this *Federal Register* notice.<sup>10</sup>

In further compliance with the still-valid district court orders, DHS is publishing this notice automatically extending the validity of the TPS-related documentation specified in the Supplementary Information section of this notice through **December 31, 2022**, for eligible beneficiaries under the TPS designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal. DHS will continue to issue notices that will automatically extend TPS-related documentation for all affected beneficiaries under the TPS designations for El Salvador, Nicaragua, Sudan, Honduras and Nepal, so long as the *Ramos* preliminary injunction and *Bhattarai* order to stay proceedings remain in place; for Haiti as long as the *Ramos* or *Saget* preliminary injunctions remain in place; or by other order of the court. However, should compliance with the *Ramos*, *Bhattarai*, and/or *Saget* court orders remain necessary, DHS may announce periodic re-registration procedures for eligible TPS beneficiaries in accordance with the INA and DHS regulations. DHS further continues its commitment to a transition period, as described above.

All TPS beneficiaries must continue to maintain their TPS eligibility by meeting the requirements for TPS in INA section 244(c) and 8 CFR part 244. DHS will continue to adjudicate any pending TPS re-registration and pending late initial applications for

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<sup>10</sup> An additional provision in the *Bhattarai* Order to Stay Proceedings states that if the preliminary injunction in *Ramos* is upheld, but the Government moves to vacate the *Bhattarai* Order based on reasons for distinguishing the terminations of TPS for Honduras and Nepal from those under the injunction in *Ramos*, TPS will remain in effect for Honduras and Nepal for at least 180 days following an order of the District Court vacating its stay of proceedings order.

affected beneficiaries under the TPS designations for El Salvador, Nicaragua, Sudan, Honduras, and Nepal. Nationals of Haiti (and individuals having no nationality who last habitually resided in Haiti) are encouraged to apply under the new designation for Haiti announced at 86 FR 41863.<sup>11</sup> DHS will also continue to make appropriate individual TPS withdrawal decisions in accordance with existing procedures if an individual no longer maintains TPS eligibility. DHS will take appropriate steps to continue its compliance with the orders, and with all statutory requirements.

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**Alejandro N. Mayorkas**

Secretary,

U.S. Department of Homeland Security

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<sup>11</sup> As noted above, the Department of Homeland Security (DHS) announced that the Secretary of Homeland Security (Secretary) has newly designated Haiti for TPS for eighteen months, effective August 3, 2021 through February 3, 2023. This designation allows eligible Haitian nationals (and individuals having no nationality who last habitually resided in Haiti) who have continuously resided in the United States since July 29, 2021, and who have been continuously physically present in the United States since August 3, 2021 to apply for TPS. TPS beneficiaries whose TPS has been continued pursuant to court orders, as described in 85 FR 79208 (Dec. 9, 2020), should newly apply for TPS following the instructions in Federal Register Notice Designation of Haiti for Temporary Protected Status at 86 FR 41863.

## **Approved Documentation To Demonstrate Continuation of Lawful Status and TPS-Related Employment Authorization**

- Documentation automatically extended through this Federal Register notice dated [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]
  - Certain TPS-related documentation, including EADs, of affected beneficiaries under the TPS designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal, that are automatically extended through this Federal Register notice through December 31, 2022.
  - Regardless of their country of birth, a beneficiary granted TPS under the designation for El Salvador, Haiti, Nicaragua, Sudan, Honduras, or Nepal may show his or her EAD that has been automatically extended to his or her employer to demonstrate identity and continued TPS-related employment eligibility to meet Employment Eligibility Verification (Form I-9) requirements. A beneficiary granted TPS under a designation for one of these countries may also choose to show an employer this *Federal Register* notice, which explains that his or her EAD has been automatically extended.
  - As evidence of his or her lawful status, a TPS beneficiary may show his or her EAD that has been automatically extended, or Form I-94, or Form I-797, along with a copy of this *Federal Register* notice, to law enforcement, federal, state, and local government agencies, and private entities.
- Unexpired EAD
- Alternatively, such a TPS beneficiary may choose to show other acceptable documents that are evidence of identity and employment eligibility as described in the instructions to Form I-9.

**Am I eligible to receive an automatic extension of my current EAD using this *Federal Register* notice?**



Yes. Provided that you currently have a TPS-related EAD with the specified expiration dates below, this notice automatically extends your EAD as stated in Table 3 below.

<b>Table 3. Affected EADs</b>	
If your EAD has category code of A-12 or C-19 and an expiration date of:	Then this <i>Federal Register</i> notice extends your EAD through:
07/22/2017	12/31/2022
11/02/2017	12/31/2022
01/05/2018	12/31/2022
01/22/2018	12/31/2022
03/09/2018	12/31/2022
06/24/2018	12/31/2022
07/05/2018	12/31/2022
11/02/2018	12/31/2022
01/05/2019	12/31/2022
04/02/2019	12/31/2022
06/24/2019	12/31/2022
07/22/2019	12/31/2022
09/09/2019	12/31/2022
01/02/2020	12/31/2022
01/05/2020	12/31/2022
03/24/2020	12/31/2022
01/04/2021	12/31/2022
10/04/2021	12/31/2022

**When hired, what documentation may I show to my employer as evidence of employment authorization and identity when completing Form I-9?**

You can find the Lists of Acceptable Documents on the third page of Form I-9 as well as the Acceptable Documents web page at [www.uscis.gov/i-9-central/acceptable-documents](http://www.uscis.gov/i-9-central/acceptable-documents). Employers must complete Form I-9 to verify the identity and employment authorization of all new employees. Within three days of hire, employees must present acceptable documents to their employers as evidence of identity and employment authorization to satisfy Form I-9 requirements.

You may present any documentation from List A (which provides evidence of both your identity and employment authorization) or documentation from List B (which provides evidence of your identity) together with documentation from List C (which

provides evidence of your employment authorization), or you may present an acceptable receipt as described in the Form I-9 instructions. Employers may not reject a document based on a future expiration date. You can find additional information about Form I-9 on the I-9 Central web page at [www.uscis.gov/I-9Central](http://www.uscis.gov/I-9Central).

An EAD is an acceptable document under List A. See the section “How do my employer and I complete Form I-9 using my automatically extended employment authorization for a new job?” of this *Federal Register* notice for further information. If your EAD has one of the expiration dates in Table 4 and states A-12 or C-19 under Category, it has been extended automatically by virtue of this *Federal Register* notice, and you may choose to present it to your employer as proof of identity and employment eligibility for Form I-9 through December 31, 2022, unless your TPS has been withdrawn or your request for TPS has been denied.

<b>Table 4. Affected EADs and Form I-9</b>		
If your EAD has category code of A-12 or C-19 and an expiration date of:	Enter this date in Section 1 of Form I-9:	Your employer must reverify your employment authorization by:
07/22/2017	12/31/2022	01/01/2023
11/02/2017	12/31/2022	01/01/2023
01/05/2018	12/31/2022	01/01/2023
01/22/2018	12/31/2022	01/01/2023
03/09/2018	12/31/2022	01/01/2023
06/24/2018	12/31/2022	01/01/2023
07/05/2018	12/31/2022	01/01/2023
11/02/2018	12/31/2022	01/01/2023
01/05/2019	12/31/2022	01/01/2023
04/02/2019	12/31/2022	01/01/2023
06/24/2019	12/31/2022	01/01/2023
07/22/2019	12/31/2022	01/01/2023
09/09/2019	12/31/2022	01/01/2023
01/02/2020	12/31/2022	01/01/2023
01/05/2020	12/31/2022	01/01/2023
03/24/2020	12/31/2022	01/01/2023
01/04/2021	12/31/2022	01/01/2023
10/04/2021	12/31/2022	01/01/2023

**What documentation may I present to my employer for Form I-9 if I am already employed but my current TPS-related EAD is set to expire?**

Even though your EAD has been automatically extended, your employer is required by law to ask you about your continued employment authorization. Your employer may need to re-inspect your automatically extended EAD to check the Card Expires date and Category code if your employer did not keep a copy of your EAD when you initially presented it. Once your employer has reviewed the Card Expires date and Category code, your employer should update the EAD expiration date in Section 2 of Form I-9. *See* the section, “What updates should my current employer make to Form I-9 if my EAD has been automatically extended?” of this *Federal Register* notice for further information. You may show this *Federal Register* notice to your employer to explain what to do for Form I-9 and to show that your EAD has been automatically extended through December 31, 2022 as indicated in the above chart, but you are not required to do so.

The last day of the automatic extension for your EAD is December 31, 2022. On or before you start work on January 1, 2023, your employer is required by law to reverify your employment authorization in Section 3 of Form I-9. By that time, you must present any document from List A or any document from List C on Form I-9, Lists of Acceptable Documents, or an acceptable List A or List C receipt described in the Form I-9 instructions to reverify employment authorization.

Your employer may not specify which List A or List C document you must present and cannot reject an acceptable receipt.

**Can I obtain a new EAD?**

Yes, if you remain eligible for TPS and apply for a new EAD, you can obtain a new EAD. However, you do not need to apply for a new EAD in order to benefit from this automatic extension. If you are a beneficiary under the TPS designations for El

Salvador, Haiti, Nicaragua, Sudan, Honduras, or Nepal and want to obtain a new EAD valid through December 31, 2022, then you must file Form I-765 and pay the associated fee (or obtain a fee waiver). If you do not want a new EAD, you do not have to file Form I-765 or pay the Form I-765 fee. If you do not want to request a new EAD now, you may file Form I-765 at a later date and pay the fee (or request a fee waiver), provided that you still have TPS or a pending TPS application.

If you are unable to pay the application fee and/or biometric services fee, you may request a fee waiver by submitting a Request for Fee Waiver (Form I-912). For more information on the application forms and fees for TPS, please visit the USCIS TPS web page at [www.uscis.gov/tps](http://www.uscis.gov/tps).

If you have a Form I-821 and/or Form I-765 application that is still pending under the TPS designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, or Nepal, then you should not file either application again. If your pending Form I-821 is approved, you will be issued Forms I-797 and I-94 through December 31, 2022. Similarly, if you have a pending TPS-related Form I-765 that is approved, your new EAD will be valid through December 31, 2022. Your TPS itself continues as long as the preliminary injunction impacting your country's TPS designation remains in effect and in accordance with any relevant future *Federal Register* notices that DHS may issue respecting your country's TPS designation, or until your TPS is finally withdrawn for individual ineligibility under INA section 244(c), or the applicable TPS designation is terminated as discussed in the "Possible Future Action" section of this *Federal Register* notice.

**Can my employer require that I provide any other documentation to prove my status, such as proof of my citizenship from El Salvador, Haiti, Nicaragua, Sudan, Honduras, or Nepal?**

No. When completing Form I-9, including reverifying employment authorization, employers must accept any documentation that appears on the Form I-9 Lists of

Acceptable Documents that reasonably appears to be genuine and that relates to you, or an acceptable List A, List B, or List C receipt. Employers need not reverify List B identity documents. Therefore, employers may not request proof of citizenship or proof of re-registration for TPS when completing Form I-9 for new hires or reverifying the employment authorization of current employees. If you present an EAD that has been automatically extended, employers should accept it as a valid List A document, so long as the EAD reasonably appears to be genuine and relates to the employee. Refer to the “Note to Employees” section of this *Federal Register* notice for important information about your rights if your employer rejects lawful documentation, requires additional documentation, or otherwise discriminates against you based on your citizenship or immigration status, or your national origin.

**How do my employer and I complete Form I-9 using my automatically extended employment authorization for a new job?**

See Table 4 in the question “When hired, what documentation may I show to my employer as evidence of employment authorization and identity when completing Form I-9?” to determine if your EAD has been automatically extended.

1. For Section 1, you should:
  - a. Check “An alien authorized to work until” and enter December 31, 2022, as the expiration date; and
  - b. Enter your USCIS number or A-Number where indicated. (Your EAD or other document from DHS will have your USCIS number or A-Number printed on it; the USCIS number is the same as your A-Number without the A prefix).
2. For Section 2, employers should:
  - a. Determine if your EAD has been automatically extended by using Table 4 in the question “When hired, what documentation may I show to my employer as evidence of employment authorization and identity when completing Form I-9?”

- b. Write in the document title;
- c. Enter the issuing authority;
- d. Provide the document number; and
- e. Write December 31, 2022, as the expiration date.

On or before the start of work on January 1, 2023, employers must reverify the employee's employment authorization in Section 3 of Form I-9.

**What updates should my current employer make to Form I-9 if my employment authorization has been automatically extended?**

If you presented a TPS-related EAD that was valid when you first started your job and your EAD has now been automatically extended, your employer may need to re-inspect your current EAD if they do not have a copy of the EAD on file. See Table 4 in the question "When hired, what documentation may I show to my employer as evidence of employment authorization and identity when completing Form I-9?" to determine if your EAD has been automatically extended.

If your employer determines that your EAD has been automatically extended, your employer should update Section 2 of your previously completed Form I-9 as follows:

- a. Write EAD EXT and December 31, 2022, as the last day of the automatic extension in the Additional Information field; and
- b. Initial and date the correction.

Note: This is not considered a reverification. Employers should not complete Section 3 until either this notice's automatic extension of EADs has ended, or the employee presents a new document to show continued employment authorization, whichever is sooner. By January 1, 2023, when the employee's automatically extended EAD has expired, employers are required by law to reverify the employee's employment authorization in Section 3.

**If I am an employer enrolled in E-Verify, how do I verify a new employee whose EAD has been automatically extended?**

Employers may create a case in E-Verify for a new employee by entering the number from the Document Number field on Form I-9 into the document number field in E-Verify. Employers should enter December 31, 2022, as the expiration date for EADs that have been automatically extended under this *Federal Register* notice.

**If I am an employer enrolled in E-Verify, what do I do when I receive a “Work Authorization Documents Expiration” alert for an automatically extended EAD?**

E-Verify has automated the verification process for TPS-related EADs that are automatically extended. If you have employees who provided a TPS-related EAD when they first started working for you, you will receive a “Work Authorization Documents Expiring” case alert when the auto-extension period for this EAD is about to expire. On or before this employee starts work on January 1, 2023, you must reverify his or her employment authorization in Section 3 of Form I-9. Employers may not use E-Verify for reverification.

**If I already have TPS for Haiti, do I need to apply under the new TPS designation for Haiti?**

TPS beneficiaries under the Haiti designation whose TPS has been continued pursuant to court orders, and as described in this notice, are strongly encouraged to apply for TPS before the close of the registration period on Feb. 3, 2023, following the instructions in the August 3, 2021 *Federal Register* notice regarding the new Designation of Haiti for Temporary Protected Status at 86 FR 41863. Eligible individuals are strongly encouraged to apply at the earliest practicable date, to ensure that their TPS continues beyond the court-ordered extensions and without any gaps in status. Eligible individuals who do not register for the new TPS designation during the registration period may be

prohibited from filing a late initial registration during any subsequent extension of the designation if they do not meet certain conditions. See 8 CFR 244.2(f)(2).

If you are found eligible for TPS under the new Haiti designation, your TPS will continue through February 3, 2023, even if the current court orders in *Ramos* and *Saget* that continue TPS are no longer in effect.

### **Note to All Employers**

Employers are reminded that the laws requiring proper employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This *Federal Register* notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those rules setting forth reverification requirements. For general questions about the employment eligibility verification process, employers may call USCIS at 888-464-4218 (TTY 877-875-6028) or email USCIS at [I9Central@uscis.dhs.gov](mailto:I9Central@uscis.dhs.gov). USCIS accepts calls and emails in English and many other languages. For questions about avoiding discrimination during the employment eligibility verification process (Form I-9 and E-Verify), employers may call the U.S. Department of Justice's Civil Rights Division, Immigrant and Employee Rights Section (IER) Employer Hotline at 800-255-8155 (TTY 800-237-2515). IER offers language interpretation in numerous languages. Employers may also email IER at [IER@usdoj.gov](mailto:IER@usdoj.gov).

### **Note to Employees**

For general questions about the employment eligibility verification process, employees may call USCIS at 888-897-7781 (TTY 877-875-6028) or email USCIS at [I9Central@uscis.dhs.gov](mailto:I9Central@uscis.dhs.gov). USCIS accepts calls in English, Spanish, and many other languages. Employees or applicants may also call the IER Worker Hotline at 800-255-7688 (TTY 800-237-2515) for information regarding employment discrimination based upon citizenship, immigration status, or national origin, including discrimination related



to Form I-9 and E-Verify. The IER Worker Hotline provides language interpretation in numerous languages.

To comply with the law, employers must accept any document or combination of documents from the Lists of Acceptable Documents if the documentation reasonably appears to be genuine and to relate to the employee, or an acceptable List A, List B, or List C receipt as described in the Form I-9 instructions. Employers may not require extra or additional documentation beyond what is required for Form I-9 completion. Further, employers participating in E-Verify who receive an E-Verify case result of “Tentative Nonconfirmation” (TNC) must promptly inform employees of the TNC and give such employees an opportunity to contest the TNC. A TNC case result means that the information entered into E-Verify from an employee’s Form I-9 differs from records available to DHS.

Employers may not terminate, suspend, delay training, withhold or lower pay, or take any other adverse action against an employee because of the TNC while the case is still pending with E-Verify. A Final Nonconfirmation (FNC) case result is received when E-Verify cannot verify an employee’s employment eligibility. An employer may terminate employment based on a case result of FNC. Work-authorized employees who receive an FNC may call USCIS for assistance at 888-897-7781 (TTY 877-875-6028). For more information about E-Verify-related discrimination or to report an employer for discrimination in the E-Verify process based on citizenship, immigration status, or national origin, contact IER’s Worker Hotline at 800-255-7688 (TTY 800-237-2515). Additional information about proper nondiscriminatory Form I-9 and E-Verify procedures is available on the IER website at [www.justice.gov/ier](http://www.justice.gov/ier) and on the USCIS and E-Verify websites at [www.uscis.gov/i-9-central](http://www.uscis.gov/i-9-central) and [www.e-verify.gov](http://www.e-verify.gov).

**Note Regarding Federal, State, and Local Government Agencies (Such as Departments of Motor Vehicles)**

For Federal purposes, TPS beneficiaries presenting an automatically extended EAD as referenced in this *Federal Register* notice do not need to show any other document, such as an I-797C Notice of Action receipt notice or this *Federal Register* notice, to prove that they qualify for this extension. However, while federal government agencies must follow the guidelines laid out by the federal government, state and local government agencies establish their own rules and guidelines when granting certain benefits. Each state may have different laws, requirements, and determinations about what documents you need to provide to prove eligibility for certain benefits. Whether you are applying for a federal, state, or local government benefit, you may need to provide the government agency with documents that show you are a TPS beneficiary, show you are authorized to work based on TPS or other status, and/or that may be used by DHS to determine whether you have TPS or other immigration status. Examples of such documents are:

- Your current EAD;
- Your automatically extended EAD with a TPS category code of A-12 or C-19 and an expiration date shown in Table 3 in the question “Am I eligible to receive an automatic extension of my current EAD using this *Federal Register* notice?”; or
- Your Form I-94, Arrival/Departure Record or Form I-797 as shown in Table 2.

Check with the government agency regarding which document(s) the agency will accept.

Some benefit-granting agencies use the USCIS Systematic Alien Verification for Entitlements Program (SAVE) program to confirm the current immigration status of applicants for public benefits. While SAVE can verify when an individual has TPS, each agency’s procedures govern whether they will accept an unexpired EAD, Form I-797, or Form I-94, Arrival/Departure Record. If an agency accepts the type of TPS-related document you are presenting, such as an EAD, the agency should accept your

automatically extended TPS-related document, regardless of your country of birth. It may assist the agency if you:

- a. Present the agency with a copy of this *Federal Register* notice showing the extension of TPS-related documentation, in addition to your most recent TPS-related document with your A-Number, USCIS number or Form I-94 number;
- b. Explain that SAVE will be able to verify the continuation of your TPS using this information; and
- c. Ask the agency to initiate a SAVE query with your information and follow through with additional verification steps, if necessary, to receive a final SAVE response verifying your TPS and TPS-related benefits.

You can also ask the agency to look for SAVE notices or contact SAVE if they have any questions about your immigration status or automatic extension of TPS-related documentation. In most cases, SAVE provides an automated electronic response to benefit-granting agencies within seconds, but, occasionally, verification can be delayed.

You can check the status of your SAVE verification by using CaseCheck at [save.uscis.gov/casecheck/](http://save.uscis.gov/casecheck/). CaseCheck is a free service that lets you follow the progress of your SAVE verification case using your date of birth and one immigration identifier number (A-Number, USCIS number, or Form I-94 number) or Verification Case Number). If an agency has denied your application based solely or in part on a SAVE response, the agency must offer you the opportunity to appeal the decision in accordance with the agency's procedures. If the agency has received and acted upon or will act upon a SAVE verification case and you do not believe the SAVE response is correct, the SAVE website, <http://www.uscis.gov/save>, has information on how to correct or update your immigration record, make an appointment, or submit a written request to correct records.

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