



NEWS RELEASE

March 21, 2000

INS Publishes Final Regulations for NACARA Section 202

WASHINGTON - The Immigration and Naturalization Service (INS) today announced the publication of final regulations governing the procedures under which eligible Nicaraguans and Cubans may apply for benefits under section 202 of the Nicaraguan and Central American Relief Act (NACARA). **These final regulations will be published in the Federal Register on March 23, 2000 and take effect that same date.** These rules replace the interim rules that were published on May 21, 1998.

NACARA, which President Clinton signed into law November 19, 1997, provides various immigrant benefits and relief from deportation to certain Central Americans, Cubans and nationals of former Soviet bloc countries. Specifically, the law allows eligible Nicaraguans or Cubans to be considered for adjustment of status to permanent resident alien.

To be eligible for NACARA benefits, Nicaraguans and Cubans must have been physically present in the United States continuously since December 1, 1995, and be admissible to the United States under all provisions of section 212(a) of the Immigration and Nationality Act, except those provisions specifically excepted by NACARA. Continuously physically present means having spent no more than a total of 180 days outside the United States between December 1, 1995, and the date the NACARA adjustment application is granted. **All applications must be properly filed on or before March 31, 2000.** INS estimates that approximately 50,000 Nicaraguans and 10,000 Cubans are eligible to apply for NACARA benefits. Most Cubans, however, are expected to apply for adjustment of status under the Cuban Adjustment Act.

"Continuously physically present" means having spent no more than a total of 180 days outside the United States between December 1, 1995 and the date the NACARA adjustment application is granted.

Following a 60-day public comment period and a thorough review by officials of the Department of Justice, Executive Office for Immigration Review and INS, the final rules include several changes to the NACARA 202 rules:

The Final Rule

Commencement of physical presence requirements:

- The final rule allows the applicant to submit private and religious school records if they represent a period when the applicant was under 21 years old.

- Allows the applicant to submit copies of other documents for which a government record exists. This would include copies of documents submitted to any level of government, not just issued by government, (e.g., tax returns, applications and other documents which demonstrate presence in the United States).

Continuity of physical presence requirements:

- The final rule will allow the applicant to submit documents pertaining to other family members, once a family household has been established.
- Allows for the submission of records from any organization chartered by the government (e.g., public utilities, banks, etc.).
- The final rule removes the "90-days guideline" which requires applicants to provide one document every 3 months to demonstrate continuity of physical presence in the United States.
- Provides that the police clearance requirement will be waived if a community is known not to provide such documentation. (Where applicable, however, applicants are required to provide a local police clearance for all locations where an applicant has lived for 6 months or longer since 14 years of age.)
- Provides a stay of removal request (Form I-246) will be granted in the absence of overriding negative factors.

Changes in Procedures for NACARA

- Given the tight deadline, applications may be submitted at any local INS district office, sub office or service center during the March 27-31, 2000 time period.
- On Friday, March 31, 2000, INS district offices, sub offices and service centers will make special arrangements for last-minute NACARA section 202 filers up until midnight that day.
- A NACARA adjustment application will not be rejected if it is properly completed and signed, identifies the applicant as a NACARA applicant, and is accompanied by correct fee or a fee waiver request.
- If an applicant submits his or her application before the filing deadline (March 31, 2000) with a request for a waiver of the filing fee, but that fee waiver request is subsequently denied by INS, the applicant will be sent a written notice of that decision. He or she will then have 30 days from the date of the decision in which to submit the required filing fee. If the fee is submitted within that 30-day period, the application will be considered to have been filed by the statutory filing deadline, even if the fee is received after April 1, 2000.

Further information regarding NACARA section 202 can be obtained by accessing the INS Web site, www.ins.usdoj.gov, or through INS' customer service number, 1-800 375-5283, or TTY, 1-800 767-1833, (Monday – Friday, 8 a.m. to 6 p.m. Eastern Time). All NACARA section 202 forms can be obtained through the INS Web site or by calling the INS toll-free number 1-800-870-3676, 24 hours a day.