



DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2693-21; DHS Docket No. USCIS-2014-0001]

RIN 1615-ZB70

Designation of Haiti for Temporary Protected Status

AGENCY: U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security (DHS).

ACTION: Notice of Temporary Protected Status (TPS) designation.

SUMMARY: Through this Notice, the Department of Homeland Security (DHS) announces that the Secretary of Homeland Security (Secretary) is designating Haiti for Temporary Protected Status (TPS) for 18 months, effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], 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 [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] 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 this Notice.

DATES: *Designation of Haiti for TPS:* The 18-month designation of Haiti for TPS is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and will remain in effect for 18 months, through February 3, 2023. The registration period for eligible individuals to submit TPS applications begins [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], and will remain in effect through February 3, 2023.

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, Department of Homeland Security, by mail at 5900 Capital Gateway Drive, Camp Springs, MD 20746, or by phone at 800-375-5283.

ADDRESSES: For further information on TPS, including guidance on the registration process and additional information on eligibility, please visit the USCIS TPS webpage at uscis.gov/tps. You can find specific information about Haiti’s TPS designation by selecting “Haiti” from the menu on the left side of the TPS webpage.

If you have additional questions about TPS, please visit 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 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 uscis.gov, or visit the USCIS Contact Center at 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

DOS – U.S. Department of State

EAD – Employment Authorization Document

FNC – Final Nonconfirmation

Form I-765 – Application for Employment Authorization

Form I-797 – Notice of Action (Approval Notice)

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

FR – Federal Register

Government – U.S. Government

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

IJ – Immigration Judge

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

U.S.C. – United States Code

Purpose of this Action (TPS)

Through this Notice, DHS sets forth procedures necessary for beneficiaries whose TPS has been continued pursuant to court orders, as described in 85 FR 79208 (Dec. 9, 2020), to newly apply for TPS.¹ This Notice also sets forth procedures for other eligible nationals of Haiti (or

¹ Since its first litigation compliance Federal Register notice, DHS has repeatedly emphasized and reserved its statutory authority to conduct re-registration of beneficiaries, including those under the Haiti TPS designation, whose TPS is presently continued under the preliminary injunctions issued in *Ramos, et al. v. Nielsen, et al.*, No. 18-cv-01554 (N.D. Cal. Oct. 3, 2018) (“*Ramos*”), on appeal 975 F.3d 872 (9th Cir. 2020), petition for en banc rehearing filed Nov. 30, 2020 (No. 18-16981); *Saget, et al., v. Trump, et al.*, No. 18-cv-1599 (E.D.N.Y. Apr. 11, 2019) (“*Saget*”) appeal filed, No. 19-1685 (2d Cir.); and *Bhattarai v. Nielsen*, No. 19-cv-00731 (N.D. Cal. Mar. 12,

individuals having no nationality who last habitually resided in Haiti) to submit an initial registration application under the designation of Haiti for TPS and apply for an EAD. Under the designation, individuals may submit an initial Application for Temporary Protected Status (Form I-821), and they may also submit an Application for Employment Authorization (Form I-765) during the registration period that runs from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] through February 3, 2023. Under section 244(b)(1)(C) of the Immigration and Nationality Act (INA), 8 U.S.C. 1254a(b)(1)(C), the Secretary is authorized to designate a foreign state (or any part thereof) for TPS upon finding that extraordinary and temporary conditions in the foreign state prevent its nationals from returning safely, unless permitting the foreign state's nationals to remain temporarily in the United States is contrary to the national interest of the United States.

In addition to demonstrating continuous residence in the United States since July 29, 2021, and meeting other eligibility criteria, applicants for TPS under this designation must demonstrate that they have been continuously physically present in the United States since [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], the effective date of this designation of Haiti, for USCIS to grant them TPS. USCIS estimates that approximately 155,000 individuals are eligible to apply for TPS under the designation of Haiti.²

2019) (“*Bhattarai*”). See 85 FR at 79209-10; 84 FR 59403, 59406 (Nov. 4, 2019); 84 FR 7103, 7105 (March 1, 2019); 84 FR 45764, 45765-66 (Oct. 31, 2018). See also *infra* for discussion of these lawsuits.

² In general, individuals must be given an initial registration period of no less than 180 days to register for TPS, but the Secretary has discretion to provide for a longer registration period. See 8 USC 1254a(c)(1)(A)(iv). Historically, the length of the initial registration period has varied. Compare 66 FR 14214 (March 9, 2001) (18 month initial registration period for applicants under TPS designation for El Salvador) with 80 FR 36346 (June 24, 2015) (180-day initial registration period for applicants under TPS designation for Nepal). In recent years this period has generally been limited to the statutory minimum of 180 days, although later extensions of the initial registration period have also been announced for some countries. See, e.g., 81 FR 4051 (Jan. 25, 2016) (setting 180-day initial registration period during extension and redesignation of South Sudan for TPS); 78 FR 1866 (Jan. 9, 2013) (setting 180-day initial registration period during extension and redesignation of Sudan for TPS); 75 FR 39957 (July 13, 2010) (extension of previously announced initial 180-day registration period for Haiti TPS applicants to allow more time for individuals to apply). After evaluating whether to limit the initial registration period for TPS under this new designation of Haiti to the statutory minimum of 180 days, DHS has determined that it will provide the full 18 months of this designation for applicants to file their initial registration Form I-821 and, if desired, Form I-765 to obtain employment authorization documentation. Limiting the initial registration period to 180 days may place a burden on applicants who are unable to timely file but would otherwise be eligible for a grant of TPS. In addition, permitting registration throughout the entirety of the designation period could reduce the operational burden on

What Is Temporary Protected Status (TPS)?

- TPS is a temporary immigration status granted to eligible nationals of a foreign state designated for TPS under the INA, or to eligible individuals without nationality who last habitually resided in the designated foreign state.
- 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 also apply for and be granted travel authorization as a matter of discretion.
- 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 terminates a foreign state'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 terminated); or
 - Any other lawfully obtained immigration status or category they received while registered for TPS, as long as it is still valid beyond the date TPS terminates.

Is Haiti's previous designation for TPS still in effect?

On January 21, 2010, former Secretary of Homeland Security Janet Napolitano designated Haiti for TPS under INA section 244(b)(1)(C) based on extraordinary and temporary conditions within the country, specifically the effects of the 7.0-magnitude earthquake that

USCIS, as incoming applications may be spread out over a longer period of time. This extended registration period is both in keeping with the humanitarian purpose of TPS and will better advance the goal of ensuring "the Federal Government eliminates...barriers that prevent immigrants from accessing government services available to them." See Executive Order 14012, Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans, 86 FR 8277 (Feb. 5, 2021).

occurred on January 12, 2010.³ In 2011, Haiti’s designation was extended, and Haiti was also redesignated for TPS at the same time, expanding the number of Haitians in the United States eligible for TPS.⁴ Haiti’s designation was subsequently extended⁵ several additional times before the termination was announced on January 18, 2018.⁶

The termination of Haiti’s TPS designation is being challenged in several separate lawsuits, and court injunctions currently require DHS to continue TPS temporarily for Haiti pending further court order.⁷ There are approximately 55,000 beneficiaries under the TPS designation for Haiti that the courts have continued and whose TPS-related documentation is automatically extended at least through October 4, 2021, in compliance with the court orders, unless a beneficiary’s TPS is withdrawn for individual ineligibility.⁸ Beneficiaries under the TPS designation for Haiti that continues under the *Ramos* and *Saget* preliminary injunctions who maintain individual eligibility for TPS will maintain their status as long as the injunctions in these lawsuits remain in effect and in accordance with the compliance notice that DHS published on December 9, 2020, unless superseded by future court orders or compliance notices.⁹ The continuation of the 2011 designation of Haiti required by the preliminary injunctions is not a statutory “extension” of the designation determined by the Secretary as described in section 244(b)(3)(C) of the INA. Individuals with existing TPS who are covered by those injunctions

³ See Designation of Haiti for Temporary Protected Status, 75 FR 3476 (Jan. 21, 2010).

⁴ See Extension and Redesignation of Haiti for Temporary Protected Status, 76 FR 29000 (May 19, 2011),

⁵ See Extension of the Designation of Haiti for Temporary Protected Status, 77 FR 59943 (Oct. 1, 2012), Extension of the Designation of Haiti for Temporary Protected Status, 79 FR 11808 (March 3, 2014); Extension of the Designation of Haiti for Temporary Protected Status, 80 FR 51582 (Aug 25, 2015); Extension of the Designation of Haiti for Temporary Protected Status, 82 FR 23830 (May 24, 2017).

⁶ See Termination of the Designation of Haiti for Temporary Protected Status, 83 FR 2648 (January 18, 2018).

⁷ See *Ramos v. Wolf*, 975 F.3d 872 (9th Cir. 2020), *petition for en banc rehearing* filed Nov. 30, 2020 (No. 18-16981)(district court’s preliminary injunction against termination of four countries’ TPS, including TPS for Haiti remains in effect pending 9th Circuit consideration of plaintiffs’ request for en banc rehearing of appellate panel decision to vacate the district court injunction); *Saget v. Trump*, No. 1:18-cv-1599 (E.D.N.Y.) (preliminary injunction against termination of Haiti’s TPS), *appeal filed*, No. 19-1685 (2d Cir.); *NAACP v. DHS*, No. 18-cv-00239 (D. Md.); and *Centro Presente v. Trump*, No. 18-cv-10340 (D. Mass).

⁸ TPS-related documentation includes certain Employment Authorization Documents (EADs); Notices of Action (Forms I-797); and Arrival/Departure Records (Forms I-94) as described in Continuation of Documentation for Beneficiaries of Temporary Protected Status Designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal, 85 FR 79208, (Dec. 9, 2020). If necessary, DHS will publish subsequent notices to ensure its continued compliance with court orders that may remain in effect beyond October 4, 2021.

⁹ *Id.*

should newly apply for TPS under this designation. This will help ensure that eligible individuals maintain TPS under this new designation of Haiti even if the injunctions cease to be in effect. An estimated additional 100,000 nationals of Haiti (and individuals having no nationality who last habitually resided in Haiti), regardless of their country of birth, will become eligible for TPS under this new designation, for an estimated total of 155,000 individuals who could potentially apply or re-apply for TPS under the new TPS designation.

Why was Haiti newly designated for TPS?

DHS and the Department of State (DOS) have reviewed conditions in Haiti. Based on this review and after consulting with DOS, the Secretary has determined that an 18-month designation is warranted because of extraordinary and temporary conditions described below.

Overview

Haiti is grappling with a deteriorating political crisis, violence, and a staggering increase in human rights abuses.¹⁰ Within this context, as noted by the United Nations Children’s Fund (UNICEF), Haiti faces the challenges of “rising food insecurity and malnutrition, [...] waterborne disease epidemics, and high vulnerability to natural hazards, all of which have been further exacerbated by the coronavirus disease 2019 (COVID-19) pandemic.”¹¹

Context

Haiti is a constitutional republic with a multiparty political system. The most recent national legislative elections were held in November 2016. Jovenel Moïse was elected as president for a 5-year term and took office in February 2017. Due to political gridlock and the failure of parliament to approve an elections law and a national budget, parliamentary elections scheduled for October 2019 did not take place. In January 2020, parliament lapsed, leaving only

¹⁰See e.g. Charles, Jacqueline, “Haitian Journalists Injured as Nation Plunges Deeper into Turmoil Amid Constitutional Crisis,” Miami Herald, Feb. 10, 2021, <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article249163765.html> and “A Cycle of Instability’: Haiti’s Constitutional Crisis,” CSIS, Feb. 8, 2021, <https://www.csis.org/analysis/cycle-instability-haitis-constitutional-crisis>.

¹¹ ‘Humanitarian Action for Children: Haiti,’ United Nations Children’s Fund (UNICEF), 2021, <https://www.unicef.org/media/87006/file/2021-HAC-Haiti.pdf>.

10 senators and no deputies remaining in office, and on February 7, 2020, President Moïse began to rule by decree, without a legislative body.¹²

In March 2020, President Moïse appointed Joseph Jouthe as prime minister to head a new government. The president subsequently reappointed or replaced all elected mayors throughout the country when their terms ended in July 2020. As of November 2020, the president was the sole nationally elected leader empowered to act, as the 10 senators remaining in office were unable to conduct legislative activities due to a lack of quorum.¹³

President Moïse used executive decrees to schedule a vote on a new constitution June 27, 2021, and then elections for a new president and legislature on September 19, 2021. However, these moves were met with criticism from opposition parties who feared that these actions may allow President Moïse's party to retain power indefinitely.¹⁴ Further, the international community has expressed the need to address election-related security, transparency and logistical issues so voting can take place. For example, on March 24, 2021, the U.N. Security Council underscored the need for Haiti to address "essential security, transparency and logistical considerations and also reiterated the urgent need to hold free, fair, transparent and credible legislative elections, overdue since October 2019."¹⁵ On May 24, 2021, U.S. Ambassador to the United Nations Linda Thomas-Greenfield met with President Moïse and conveyed deep concern regarding Haiti's ongoing political impasse, a lack of accountability for human rights violations, and deteriorating security conditions. Ambassador Thomas-Greenfield noted that to date, preparations for the constitutional referendum scheduled for June 27, 2021, had not been

¹² "2020 Country Reports on Human Rights Practices: Haiti," United States Department of State, March 30, 2021, <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/haiti/>.

¹³ Id.

¹⁴ See e.g. Andre Paultre and Sarah Marsh "The battle for democracy goes on in Haiti as Moïse gains power," The Christian Science Monitor, March 30, 2021, <https://www.csmonitor.com/World/Americas/2021/0330/The-battle-for-democracy-goes-on-in-Haiti-as-Moise-gains-power>.

¹⁵ Security Council Presidential Statement Expresses Deep Concern over Multiple Crises in Haiti, Stressing Government's Primary Duty to Tackle Instability, United Nations Security Council Press Release, March 24, 2021

sufficiently transparent or inclusive, and reiterated that Haiti must hold free, fair, and transparent legislative and presidential elections in 2021.¹⁶

Human Rights Violations and Abuses

President Moïse became increasingly authoritarian through reliance on executive decrees to accomplish his agenda, including the creation of an intelligence agency accountable only to the president.¹⁷ The Human Rights Component of the United Nations Integrated Office in Haiti and the Office of the High Commissioner for Human Rights reported a staggering 333% increase in the number of human rights violations and abuses by law enforcement officials and non-state actors, respectively, against the rights to life and security of person in the period between July 2018 and December 2019.¹⁸ The *Miami Herald* has reported “an atmosphere of heightened tension between the government and the press,” citing as an example a February 2021 attack against journalists who were covering protests.¹⁹ Also, on February 8, 2021 Moïse dismissed three Supreme Court judges who had been approached by the opposition as possible interim leaders to replace Moïse and head a transitional government.²⁰ In response to these events, the U.S. Embassy in Haiti issued a statement expressing concerns about “any actions that risk damaging Haiti’s democratic institutions.”²¹ On March 24, 2021, the United Nations Security Council noted “with concern reported violations and abuses of international human rights, including some involving the alleged use of deadly force against protesters and reported arbitrary

¹⁶ “Readout of a Meeting Between Ambassador Linda Thomas-Greenfield and Haiti’s President Jovenel Moïse,” United States Mission to the United Nations, May 24, 2021.

¹⁷ Andre Paultre and Sarah Marsh “The battle for democracy goes on in Haiti as Moïse gains power,” *The Christian Science Monitor*, March 30, 2021, <https://www.csmonitor.com/World/Americas/2021/0330/The-battle-for-democracy-goes-on-in-Haiti-as-Moise-gains-power>.

¹⁸ Unrest in Haiti: Their Impact on Human Rights and the State’s Obligation to Protect all Citizens, United Nations Office of the High Commissioner for Human Rights/United National Integrated Office in Haiti, Jan. 18, 2021, <https://binuh.unmissions.org/en/unrest-haiti-their-impact-human-rights-and-state%E2%80%99s-obligation-protect-all-citizens-0>.

¹⁹ Charles, Jacqueline, “Haitian Journalists Injured as Nation Plunges Deeper into Turmoil Amid Constitutional Crisis,” *Miami Herald*, Feb. 10, 2021, <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article249163765.html>.

²⁰ Paultre, Andre, “Haitian Protesters, Police Clash After President Moves Against Top Judges,” *Reuters*, Feb. 10, 2021, <https://www.reuters.com/article/us-haiti-politics/haitian-protesters-police-clash-after-president-moves-against-top-judges-idUSKBN2AA2X6>.

²¹ U.S. Embassy Statement on February 9, 2021, U.S. Embassy in Haiti, Feb. 9, 2021, <https://ht.usembassy.gov/u-s-embassy-statement-on-february-9-2021/>.

arrests and detentions” and called on the Government to respect the freedoms of expression and association. It also called on the Inspector General of the Haitian National Police to conduct a thorough investigation of the reported incidents.²²

Serious Security Concerns

Violent criminal gangs pose a growing challenge to state authority, including de facto control of territory. From 2019-2021 a new federation emerged, uniting urban criminal gangs that control entire neighborhoods in the capital city of Port-au-Prince.²³ DOS’s Overseas Security Advisory Council (OSAC) reported in 2020 that gang activity was also on the rise outside of Port-au-Prince, and noting that the last weeks in November 2020 were particularly dangerous, with 14 kidnappings reported at that time.²⁴ In January 2021, a leading Haitian human rights organization, the Center for the Analysis and Research of Human Rights (CARDH), stated in its 2020 annual report that over a third of Haiti’s voters now live in areas controlled by criminal gangs.²⁵ In January of 2021 the U.S. Agency for International Development (USAID) said, “Security conditions have deteriorated in Port-au-Prince since late November [2020] due to an increase in kidnappings and political protests.”²⁶

In March 2021, the UN Security Council expressed its deep concern regarding the protracted political, constitutional, humanitarian, and security crises in Haiti.²⁷

On April 21, 2021, DOS issued a Level 4 Travel Advisory for Haiti, advising travelers not to visit Haiti because of kidnapping, crime, and civil unrest.²⁸ Media outlets characterized

²² Statement by the President of the Security Council, United Nations Security Council, March 24, 2021.

²³ See e.g. “4 Police Die in Raid on Haiti Gang Stronghold”, Voice of America, March 13, 2021 (“Criminal networks exercise total control over several poor, densely populated neighborhoods of the capital, creating no-go zones where they hold kidnap victims.”)

²⁴ Haiti 2020 Crime and Safety Report, Overseas Security Advisory Council (OSAC), U.S. Department of State, Apr. 29, 2020, and December 17, 2020, <https://www.osac.gov/Content/Report/09752c66-7cac-47f7-a92e-188fe7af0f75>.

²⁵ See <https://cardh.org/archives/1519>.

²⁶ Haiti – Complex Emergency Fact Sheet #1, Fiscal Year 2021, U.S. Agency for International Development (USAID), Jan. 19, 2021, <https://reliefweb.int/report/haiti/haiti-complex-emergency-fact-sheet-1-fiscal-year-fy-2021>.

²⁷ Statement by the President of the Security Council on Haiti, March 24, 2021.

²⁸ Haiti Travel Advisory, U.S. Department of State, Apr. 21, 2021, <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/haiti-travel-advisory.html>.

Haiti as suffering from “escalating violence,” including kidnappings and homicides,²⁹ and a “public security free fall.”³⁰ In early April 2021, *Agence France-Presse* reported that “Kidnappings for ransom have surged in recent months in Port-au-Prince and other provinces, reflecting the growing influence of armed gangs.”³¹ The *Miami Herald* reported that “Reports of kidnappings in Haiti continue to make headlines on a near daily basis, drawing alarm from international allies and humanitarian groups,”³² while the *Associated Press* noted that kidnapping “has become so common that radio stations often broadcast pleas for help.”³³ On April 11, 2021, 10 individuals were kidnapped in the town of Croix-des-Bouquets—including seven members of the Catholic clergy.³⁴ In response, the Archdiocese of Port-au-Prince issued a statement warning that the country “is facing a ‘descent into hell’” and criticizing the Haitian government for its inaction.³⁵ In mid-April 2021, rising levels of violence led schools, businesses, and banks across Haiti to close in protest.³⁶

In an April 2021 report by Harvard Law School’s International Human Rights Clinic and a consortium of Haitian civil society organizations, the authors describe complicity of state officials and police in gang attacks that left hundreds of people dead.³⁷ The report’s authors

²⁹ Sanon, Evens, and Coto, Dánica, “Surge in violence rattles Haiti as poverty, fear deepens,” *The Associated Press*, Apr. 16, 2021, <https://apnews.com/article/port-au-prince-kidnapping-violence-poverty-haiti-06ba2725c9639a532a69ac3c6645d916>.

³⁰ Tim Padgett, “Haitian Prime Minister Resigns As Economic And Public Security Collapse Deepens,” *Miami NPR affiliate WLRN*, April 14, 2021, <https://www.wlrn.org/news/2021-04-14/haitian-prime-minister-resigns-as-economic-and-public-security-collapse-deepens>.

³¹ “Catholic church says Haiti faces ‘descent into hell’ after clergy kidnappings,” *Agence France-Presse*, Apr. 12, 2021, <https://www.theguardian.com/world/2021/apr/12/catholic-clergy-abducted-ransom-haiti-france>.

³² Charles, Jacqueline, “Haiti orphanage attacked by armed bandits, children sexually assaulted,” manager says, *Miami Herald*, Apr. 13, 2021, <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article250622224.html>.

³³ Sanon, Evens, and Coto, Dánica, “Surge in violence rattles Haiti as poverty, fear deepens,” *The Associated Press*, Apr. 16, 2021, <https://apnews.com/article/port-au-prince-kidnapping-violence-poverty-haiti-06ba2725c9639a532a69ac3c6645d916>.

³⁴ Sanon, Evens, “Catholic officials halt activity in Haiti for 9 kidnapped,” *The Associated Press*, Apr. 21, 2021, <https://apnews.com/article/latin-america-haiti-kidnapping-port-au-prince-europe-9cd7e6f7077009e30830f277ece721db>.

³⁵ “Catholic church says Haiti faces ‘descent into hell’ after clergy kidnappings,” *Agence France-Presse*, Apr. 12, 2021, <https://www.theguardian.com/world/2021/apr/12/catholic-clergy-abducted-ransom-haiti-france>.

³⁶ Sanon, Evens, and Coto, Dánica, “Surge in violence rattles Haiti as poverty, fear deepens,” *The Associated Press*, Apr. 16, 2021, <https://apnews.com/article/port-au-prince-kidnapping-violence-poverty-haiti-06ba2725c9639a532a69ac3c6645d916>.

³⁷ Harvard Law School International Human Rights Clinic and Observatoire Haïtien des crimes contre l’humanité, *Killing With Impunity, State-Sanctioned Massacres in Haiti*, http://hrp.law.harvard.edu/wp-content/uploads/2021/04/Killing_With_Impunity-1.pdf, April 2021.

asserted that the government has helped to unleash criminal violence on poor neighborhoods, including by providing gangs with money, weapons, police uniforms, and government vehicles and that such support has encouraged the gangs to grow to the point where they can no longer be reined in, allowing criminality to explode. According to the report, the United Nations warned that a lack of accountability contributed to an increase in gang attacks throughout 2020, including attacks on Cité Soleil, where police resources were reportedly used on multiple occasions.

In early April 2021, the *Miami Herald* reported on increasing violence on public transportation in Haiti, noting, “Already driven to despair in Haiti by brutal poverty and a paralyzing political crisis, bus drivers and commuters are now having to grapple with surging violence on the country’s public transportation. Robberies and kidnappings have become a daily reality as buses get intercepted by armed gangs controlling access to large swaths of the country.”³⁸

On June 10, 2021, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) reported an upsurge in deadly clashes between gangs in Port-au-Prince displaced more than 5,000 people since the beginning of June.³⁹ According to OCHA, the displacement brings the overall number to some 10,000 residents who have been displaced in the past 12 months due to similar incidents.⁴⁰ Starting June 24, 2021, multiple news organizations reported one of Haiti's most powerful gang leaders warned that he was launching a “revolution” against the country's business and political elites, signaling a likely further escalation of violence

³⁸ Charles, Jacqueline, “When we aren’t killed, they kidnap us.’ Riding a bus in Haiti now a dangerous quest,” *Miami Herald*, Apr. 8, 2021, <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article248908489.html>.

³⁹Daily Noon Briefing Highlights, United Nations Office for the Coordination of Humanitarian Affairs, 10 June 2021, <https://www.unocha.org/story/daily-noon-briefing-highlights-ethiopia-haiti>.

⁴⁰ Id.

in Haiti.⁴¹ On July 7, 2021 a group of assailants attacked President Moise's residence and killed him. No one has claimed responsibility for the assassination.

Economic Situation

According to the World Bank, Haiti's economic and social development continue to be hindered by political instability, governance issues, and fragility. With a Gross Domestic Product (GDP) per capita of US\$1,149.50 and a Human Development Index ranking of 170 out of 189 countries in 2020, Haiti remains the poorest country in the Latin America and Caribbean region and among the poorest countries in the world.⁴² The World Bank further reports that even before the COVID-19 pandemic, the economy was contracting and facing significant fiscal imbalances. Following a contraction of 1.7% percent in 2019 in the context of the political turmoil and social discontent, GDP contracted by an estimated 3.8% in 2020, as the COVID-19 pandemic exacerbated the already weak economy and political instability.⁴³ It further reports that past marginal gains in poverty reduction have been undone by these recent shocks, with current estimates pointing to a poverty rate of nearly 60% in 2020 compared to the last official national estimate of 58.5% in 2012. About two thirds of the poor live in rural areas. The welfare gap between urban and rural areas is largely due to adverse conditions for agricultural production.⁴⁴ The Congressional Research Service (CRS) reported in March 2020 that "Public frustration with economic woes has contributed greatly to ongoing demonstrations, some of which have become violent."⁴⁵ Protests have been spurred in part by the elimination of fuel subsidies in 2018 and

⁴¹ See e.g. "Haiti Gang Leader Launches 'Revolution' as Violence Escalates", U.S. News and World Report, June 24, 2021, <https://www.usnews.com/news/world/articles/2021-06-24/haiti-gang-leader-launches-revolution-as-violence-escalates>, and "Haiti gang leader threatens 'revolution'", The New York Carib News, June 26, 2021, <https://www.nycaribnews.com/articles/haiti-gang-leader-threatens-revolution/>.

⁴² "The World Bank in Haiti", World Bank, April 26, 2021.

⁴³ Id.

⁴⁴ Id.

⁴⁵ Taft-Morales, Maureen, "Haiti's Political and Economic Conditions," Congressional Research Service (CRS), p.5, Mar. 5, 2020, <https://fas.org/sgp/crs/row/R45034.pdf>.

subsequent increases in fuel prices.⁴⁶ In late 2019, protests in response to rising fuel costs precipitated a halt in nearly all economic activity for a period of about eight weeks.

The United Nations Integrated Office in Haiti reports that, as a result of multiple crises including political instability and COVID-19, Haiti's economy contracted by 1.2% in 2019. Factories are operating at reduced capacity, unemployment is rising, the Haitian gourde continues to lose value against the United States dollar, inflation consistently exceeds 20%.⁴⁷

On June 8, OCHA reported that the unprecedented level of violence and subsequent displacements as a result of gang violence is creating a host of secondary issues, such as the disruption of community-level social functioning, family separation, increased financial burdens on host families, forced school closures, loss of livelihoods and a general fear among the affected populations.⁴⁸

Healthcare Situation

USAID reported in January 2020 that insufficient funding, a weak health service delivery system, a lack of qualified health professionals, and the lingering impact of the 2010 earthquake and Hurricane Matthew in 2016 pose key challenges to the delivery of healthcare services to Haiti's population.⁴⁹ In March 2020, the independent humanitarian analysis organization ACAPS reported on a severe lack of healthcare services and infrastructure across the country, noting that only 31% of Haitians have access to healthcare services.⁵⁰ Several vector-borne diseases are prevalent in Haiti, including malaria, chikungunya, dengue, and Zika.⁵¹ Diphtheria

⁴⁶ "World Report 2021 – Haiti," Human Rights Watch, Jan. 13, 2021, <https://www.hrw.org/world-report/2021/country-chapters/haiti>.

⁴⁷ "United Nations Integrated Office in Haiti: Report of the Secretary-General," United Nations Security Council, pg 9, Feb. 11, 2021, <https://reliefweb.int/report/haiti/united-nations-integrated-office-haiti-report-secretary-general-s2021133>.

⁴⁸ "HAITI: Displacement in Port-au-Prince Situation Report No. 1", OCHA, June 1-8, 2021.

⁴⁹ "Haiti Health Fact Sheet," U.S. Agency for International Development (USAID), Jan. 2020, https://www.usaid.gov/sites/default/files/documents/1862/USAID_Haiti_Health_Fact_Sheet_-_January_2020.pdf.

⁵⁰ "Briefing Note: Haiti," ACAPS, p.4, Mar. 23, 2020, https://www.acaps.org/sites/acaps/files/products/files/20200323_acaps_briefing_note_complex_crisis_in_haiti.pdf.

⁵¹ Brown, Clive M.; Ejike-King, Lacreisha; Gracia, J. Nadine; and Sampson, Dana M.; Chapter 10: Haiti, Yellow Book, Centers for Disease Control and Prevention, last reviewed Jun. 24, 2019, accessed Feb. 12, 2021, <https://wwwnc.cdc.gov/travel/yellowbook/2020/popular-itineraries/haiti>.

is endemic, and cases have increased in recent years.⁵² Treatment of these types of diseases is hampered by a lack of healthcare infrastructure and medication, and a low vaccination rate.⁵³ The current epidemiological situation of cholera in Haiti has improved overall, but the medical community appears divided on cholera's current prevalence in Haiti.⁵⁴ Special Representative of the Secretary General La Lime said the COVID-19 pandemic is stretching the country's fragile health system: In a country of more than 11 million inhabitants, La Lime explained that Haiti only has the capacity to treat a few hundred patients at a time, due to suboptimal coordination within the state apparatus, inadequate funding of the national response plan, and staunch opposition by local communities to the opening of these centers, a manifestation of the lingering climate of denial, stigma and discrimination.⁵⁵

COVID-19's Exacerbation of Food Insecurity and Lack of Access to Basic Services

High rates of poverty and natural disasters, including earthquakes and hurricanes, have contributed to elevated levels of food insecurity in Haiti.⁵⁶ According to the World Food Programme (WFP), Haiti has one of the highest levels of food insecurity in the world.⁵⁷ More than half of the population is chronically food insecure.⁵⁸ According to UNICEF, 4.1 million Haitians (nearly 40 per cent of the Haitian population) are estimated to be food insecure, and the estimated number of children suffering from acute malnutrition has risen to 167,000 as of May 2020.⁵⁹

⁵² Brown, Clive M.; Ejike-King, Lacreisha; Gracia, J. Nadine; and Sampson, Dana M.; Chapter 10: Haiti, Yellow Book, Centers for Disease Control and Prevention, last reviewed Jun. 24, 2019, accessed Feb. 12, 2021, <https://wwwnc.cdc.gov/travel/yellowbook/2020/popular-itineraries/haiti>.

⁵³ "Briefing Note: Haiti," ACAPS, p.4, Mar. 23, 2020, https://www.acaps.org/sites/acaps/files/products/files/20200323_acaps_briefing_note_complex_crisis_in_haiti.pdf.

⁵⁴ See e.g. Henrys, Jean et al, "Cholera in Haiti," The Lancet, Dec. 2020, [https://www.thelancet.com/journals/langlo/article/PIIS2214-109X\(20\)30450-2/fulltext?rss=yes](https://www.thelancet.com/journals/langlo/article/PIIS2214-109X(20)30450-2/fulltext?rss=yes).

⁵⁵ "Haiti's Stability in Peril without Strong Response to COVID-19, Legal Expert Tells Security Council," June 19, 2020, <https://www.un.org/press/en/2020/sc14218.doc.htm>.

⁵⁶ "Country Brief – Haiti," World Food Programme (WFP), p. 1, Oct. 2020, <https://reliefweb.int/report/haiti/wfp-haiti-country-brief-october-2020>.

⁵⁷ "Haiti," World Food Programme (WFP), accessed Feb. 5, 2021, <https://www.wfp.org/countries/haiti>.

⁵⁸ "Country Brief – Haiti," World Food Programme (WFP), p. 1, Oct. 2020, <https://reliefweb.int/report/haiti/wfp-haiti-country-brief-october-2020>.

⁵⁹ "Haiti Humanitarian Situation Report", UNICEF, January – December 2020, <https://www.unicef.org/media/94046/file/Haiti-SitRep-December-2020.pdf>

In an October 2020 report, the Food and Agriculture Organization of the United Nations (FAO) and the WFP identified Haiti as one of 20 “acute food insecurity hotspots”⁶⁰ in the world.⁶¹ The report also noted that “COVID-19-related restrictions have exacerbated an already high acute food insecurity situation, reducing availability of and access to food.”⁶²

In mid-March 2021, FAO stated that the effects of the COVID-19 pandemic—combined with economic instability, civil unrest, and recurring shocks linked to natural disasters including droughts, earthquakes, floods and hurricanes, have led to increased food insecurity and other humanitarian needs throughout the country.⁶³

In early May 2021, USAID reported that the socioeconomic impacts of coronavirus disease (COVID-19) mitigation measures—along with ongoing violence and instability and persistent economic challenges—continue to affect access to services for vulnerable people in Haiti, where approximately 4.4 million people are in need of humanitarian assistance, according to the UN.⁶⁴

On June 10, 2021, OCHA reported that as a result of deadly gang clashes, the displaced are in need of urgent humanitarian assistance and protection. Priority needs include sanitation, shelter, access to clean water and food.⁶⁵

What authority does the Secretary have to designate Haiti for TPS?

Section 244(b)(1) of the INA, 8 U.S.C. 1254a(b)(1), authorizes the Secretary,⁶⁶ after consultation with appropriate agencies of the U.S. Government, to designate a foreign state (or

⁶⁰ “FAO-WFP Early Warning Analysis of Acute Food Insecurity Hotspots: October 2020,” Food and Agriculture Organization of the United Nations (FAO) and the World Food Programme (WFP), p.6, Nov. 2020, <http://www.fao.org/3/cb1907en/CB1907EN.pdf>.

⁶¹ *Id.* at p.5-6,12.

⁶² *Id.* at p.12.

⁶³ “Haiti | Humanitarian Response Plan 2021,” Food and Agriculture Organization of the United Nations (FAO), p.1, Mar. 11, 2021, <https://reliefweb.int/report/haiti/haiti-humanitarian-response-plan-2021>.

⁶⁴ “Haiti - Complex Emergency Fact Sheet #2, Fiscal Year (FY) 2021,” U.S. Agency for International Development (USAID), p.2, May 4, 2021, <https://reliefweb.int/report/haiti/haiti-complex-emergency-fact-sheet-2-fiscal-year-fy-2021>.

⁶⁵ Daily Noon Briefing Highlights, United Nations Office for the Coordination of Humanitarian Affairs, 10 June 2021, <https://www.unocha.org/story/daily-noon-briefing-highlights-ethiopia-haiti>

⁶⁶ INA § 244(b)(1) prescribes this power to the Attorney General. Congress transferred this authority from the Attorney General to the Secretary of Homeland Security. *See* Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135.

part thereof) for TPS if the Secretary determines that certain country conditions exist. The decision to designate any foreign state (or part thereof) is a discretionary decision, and there is no judicial review of any determination with respect to the designation, or termination of or extension of a designation. *See* INA section 244(b)(5)(A); 8 U.S.C. 1254a(b)(5)(A).⁶⁷ The Secretary, in his or her discretion, may then grant TPS to eligible nationals of that foreign state (or individuals having no nationality who last habitually resided in the designated foreign state). *See* INA section 244(a)(1)(A), 8 U.S.C. 1254a(a)(1)(A).

At least 60 days before the expiration of a foreign state's TPS designation or extension, the Secretary, after consultation with appropriate U.S. Government agencies, must review the conditions in the foreign state designated for TPS to determine whether they continue to meet the conditions for the TPS designation. *See* INA section 244(b)(3)(A), 8 U.S.C. 1254a(b)(3)(A). If the Secretary determines that the foreign state meets the conditions for TPS designation, the designation will be extended for an additional period of 6 months or, in the Secretary's discretion, 12 or 18 months. *See* INA section 244(b)(3)(A), (C), 8 U.S.C. 1254a(b)(3)(A), (C). If the Secretary determines that the foreign state no longer meets the conditions for TPS designation, the Secretary must terminate the designation. *See* INA section 244(b)(3)(B), 8 U.S.C. 1254a(b)(3)(B).

Notice of the Designation of Haiti for TPS

By the authority vested in me as Secretary under INA section 244, 8 U.S.C. 1254a, I have determined, after consultation with the appropriate U.S. Government agencies, the statutory conditions supporting Haiti's designation for TPS on the basis of extraordinary and temporary conditions are met. *See* INA section 244(b)(1)(C), 8 U.S.C. 1254a(b)(1)(C). I estimate approximately 155,000 individuals are eligible to apply for TPS under the designation of Haiti. On the basis of this determination, I am designating Haiti for TPS for 18 months, from [INSERT

⁶⁷ This availability of judicial review is under consideration by the courts in the TPS litigation referenced supra.

DATE OF PUBLICATION IN THE FEDERAL REGISTER] through February 3, 2023. See

INA section 244(b)(1)(C) and (b)(2); 8 U.S.C. 1254a(b)(1)(C), and (b)(2).

Alejandro N. Mayorkas

Secretary,

U.S. Department of Homeland Security

Eligibility and Employment Authorization for TPS

Required Application Forms and Application Fees to register for TPS: ALL APPLICANTS, including individuals whose TPS under the previous designation of Haiti has been continued under preliminary injunctions issued by certain courts and 85 FR 79208 (Dec. 9, 2020), should follow these instructions: You must submit an Application for Temporary Protected Status (Form I-821) as a new applicant by selecting “1.a This is my initial (first time) application for Temporary Protected Status (TPS). I do not currently have TPS,” along with the required \$50 fee for Form I-821 or request for fee waiver. If your TPS is currently continuing under the court orders in *Ramos* and *Saget*, checking this 1.a. box as an initial applicant under this new designation of Haiti does not affect the continuation of your TPS while those orders remain. However, if those orders are no longer in effect applying for TPS under this Federal Register Notice will help ensure that you have TPS until the end of the designation as long as you remain eligible. USCIS understands that you do currently have TPS if you are covered by the court orders, and checking Box 1.a. will not be deemed a misrepresentation on your part.

You may request a fee waiver by submitting a Request for a Fee Waiver (Form I-912). You must also pay the biometrics services fee if you are age 14 or older, unless USCIS grants a fee waiver. Please see additional information under the “Biometric Services Fee” section of this Notice. You are not required to submit an I-765 or have an EAD, but see below for more information if you want to work in the United States.

How TPS Beneficiaries Can Obtain an Employment Authorization Document (EAD)

Everyone must provide their employer with documentation showing that they have the legal right to work in the United States. TPS beneficiaries are eligible to apply for and obtain an EAD, which proves their legal right to work. TPS applicants who want to obtain an EAD valid through February 3, 2023 must file an Application for Employment Authorization (Form I-765) and pay the Form I-765 fee (or request a fee waiver by submitting a Request for a Fee Waiver (Form I-

912)). TPS applicants may file this form along with their TPS application, or at a later date, provided their TPS application is still pending or has been approved.

For more information on the application forms and fees for TPS, please visit the USCIS TPS webpage at uscis.gov/tps. Fees for the Form I-821, the Form I-765, and biometric services are also described in 8 CFR 103.7(b)(1)(i).

Refiling a TPS Registration Application after Receiving a Denial of a Fee Waiver Request

If you receive a denial of a fee waiver request, you must refile your Form I-821 for TPS along with the required fees during the registration period, which extends until February 3, 2023, in order to continue seeking initial TPS or to newly register to avoid losing protection in the event that the court injunctions are lifted.. You may also file for your Employment Authorization Document on Form I-765 with payment of the fee along with your TPS application or at any later date you decide you want to request an EAD during the registration period.

Filing Information

USCIS offers the option to applicants for TPS under Haiti's designation to file Form I-821 and related requests for EADs online or by mail. When filing an initial TPS application, applicants can also request an EAD by submitting a completed Form I-765, Request for Employment Authorization, with their Form I-821.

Online filing: Form I-821 and I-765 are available for concurrent filing online.⁶⁸ To file these forms online, you must first create a USCIS online account.⁶⁹

Mail filing: Mail your application for TPS to the proper address in Table 1.

Table 1-Mailing Addresses

⁶⁸ Find information about online filing at Forms Available to File Online, <https://www.uscis.gov/file-online/forms-available-to-file-online>.

⁶⁹ https://myaccount.uscis.gov/users/sign_up.

Mail your completed Application for Temporary Protected Status (Form I-821) and Application for Employment Authorization (Form I-765), Form I-912 for a fee waiver (if applicable) and supporting documentation to the proper address in Table 1.

Table 1-Mailing Addresses

If you...	Mail to...
<p>Are a beneficiary under the TPS designation for Haiti and you live in the following states: Florida, New York</p>	<p>U.S. Postal Service (USPS) U.S. Citizenship and Immigration Services Attn: TPS Haiti P.O. Box 660167 Dallas, TX 75266-0167</p> <p>FedEx, UPS, or DHL: U.S. Citizenship and Immigration Services Attn: TPS Haiti (Box 660167) 2501 S. State Highway, 121 Business Suite 400 Lewisville, TX 75067-8003</p>
<p>Are a beneficiary under the TPS designation for Haiti and you live in any other state</p>	<p>U.S. Postal Service (USPS) U.S. Citizenship and Immigration Services, Attn: TPS Haiti P.O. Box 24047 Phoenix, AZ 85074-4047</p> <p>FedEx, UPS, or DHL: U.S. Citizenship and Immigration Services Attn: TPS Haiti (Box 24047)</p>

	1820 E. Skyharbor Circle S Suite 100 Phoenix, AZ 85034
--	--

If you were granted TPS by an immigration judge (IJ) or the Board of Immigration Appeals (BIA) and you wish to request an EAD, please mail your Form I-765 application to the appropriate mailing address in Table 1. When you are requesting an EAD based on an IJ/BIA grant of TPS, please include a copy of the IJ or BIA order granting you TPS with your application. This will help us verify your grant of TPS and process your application.

Supporting Documents

The filing instructions on the Form I-821 list all the documents needed to establish eligibility for TPS. You may also find information on the acceptable documentation and other requirements for applying or registering for TPS on the USCIS website at uscis.gov/tps under “Haiti.”

Biometric Services Fee for TPS

Biometrics (such as fingerprints) are required for all applicants 14 years of age and older. Those applicants must generally submit a biometric services fee. As previously stated, if you demonstrate an inability to pay the biometric services fee you may be able to have the fee waived. A fee waiver may be requested 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 webpage at uscis.gov/tps. If necessary, you may be required to visit an Application Support Center to have your biometrics captured. For additional information on the USCIS biometric screening process, please see the USCIS Customer Profile Management Service Privacy Impact Assessment, available at dhs.gov/privacy.

General employment-related information for TPS applicants and their employers:

How can I obtain information on the status of my TPS application and EAD request?

To get case status information about your TPS application, as well as the status of your TPS-based EAD request, you can check Case Status Online at uscis.gov, or visit the USCIS Contact Center at uscis.gov/contactcenter. If your Form I-765 has been pending for more than 90 days, and you still need assistance, you may ask a question about your case online at egov.uscis.gov/e-request/Intro.do or call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833).

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

You can find the Lists of Acceptable Documents on the third page of Form I-9, Employment Eligibility Verification, as well as the Acceptable Documents webpage at 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 document from List A (which provides evidence of both identity and employment authorization) or one document from List B (which provides evidence of your identity) together with one document from List C (which provides evidence of employment authorization), or you may present an acceptable receipt as described in the Form I-9 Instructions. The TPS EADs that DHS automatically extended in the December 9, 2020 compliance notice will remain valid until at least October 4, 2021.⁷⁰ Employers may not reject a document based on the fact that it has been automatically extended, or due to a future expiration date. An EAD is an acceptable document under List A. Individuals whose existing TPS-related documentation continues through October 4, 2021, in accordance with the court orders in *Ramos* and *Saget* and the DHS Federal Register notice at 85 FR 79208 (Dec. 9, 2020), may present

⁷⁰ See Continuation of Documentation for Beneficiaries of Temporary Protected Status Designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal, 85 FR 79208, (Dec. 9, 2020).

documentation as described in that notice to their employers for purposes of demonstrating employment eligibility through October 4, 2021. Additional information about Form I-9 is available on the I-9 Central webpage at uscis.gov/I-9Central.

If I have an EAD based on another immigration status, can I obtain a new TPS-based EAD?

Yes, if you are eligible for TPS, you can obtain a new EAD, regardless of whether you have an EAD or work authorization based on another immigration status. If you want to obtain a new TPS-based EAD valid through February 3, 2023, then you must file Form I-765, Application for Employment Authorization, and pay the associated fee (unless USCIS grants your fee waiver request).

Can my employer require that I provide any other documentation such as evidence of my status or proof of my Haitian citizenship or a Form I-797C showing that I registered for TPS for Form I-9 completion?

No. When completing Form I-9, employers must accept any documentation you choose to present from 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. Employers may not request proof of Haitian citizenship or proof of registration for TPS when completing Form I-9 for new hires or reverifying the employment authorization of current employees. 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. Employers can refer to the compliance notice that DHS published on December 9, 2020 for information on how to complete the Form I-9 with TPS EADs that DHS extended through

October 4, 2021.⁷¹

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 I-9Central@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, 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.

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 I-9Central@uscis.dhs.gov. USCIS accepts calls in English, Spanish and many other languages. Employees or job applicants may also call the IER Worker Hotline at 800-255-7688 (TTY 800-237-2515) for information regarding employment discrimination based on 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

⁷¹ See Continuation of Documentation for Beneficiaries of Temporary Protected Status Designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal, 85 FR 79208, (Dec. 9, 2020).

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 Form I-9 differs from records available to DHS.

Employers may not terminate, suspend, delay training, withhold or lower pay, or take any adverse action against an employee because of a TNC while the case is still pending with E-Verify. A Final Nonconfirmation (FNC) case result is received when E-Verify cannot confirm 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 justice.gov/ier and the USCIS and E-Verify websites at uscis.gov/i-9-central and e-verify.gov.

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

This *Federal Register* Notice does not invalidate the compliance notice DHS issued on December 9, 2020, which extended the validity of certain TPS documentation through October 4, 2021, and does not require individuals to present an I-797, Notice of Action. For Federal purposes, individuals approved for TPS may show their Form I-797, Notice of Action, indicating approval of their Form I-821 application, or their A12 EAD (including those that have been extended) to prove that they have TPS. USCIS can also confirm whether an individual has TPS

if they show a C19 EAD, which indicates prima facie eligibility for TPS. 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 they require you 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 covered under TPS or show you are authorized to work based on TPS. Examples of such documents are:

- Your new EAD with a category code of A12 or C19 for TPS;
- Your Form I-94, Arrival/Departure Record; or
- Your Form I-797, the notice of approval, for a current Form I-821, if you received one from USCIS.

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

Some benefit-granting agencies use the Systematic Alien Verification for Entitlements (SAVE) program to confirm the current immigration status of applicants for public benefits. SAVE can verify when an individual has TPS based on the documents above. 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 uscis.gov/save/save-casecheck, then by clicking the “Check Your Case” button. CaseCheck is a free service that lets you follow the progress of your SAVE verification using your date of birth and SAVE verification case number or an immigration identifier number that you provided to the benefit-granting agency. 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 on or will act on a SAVE verification and you do not believe the response is correct, find detailed information on how to make corrections or update your immigration record,

make an appointment, or submit a written request for information about correcting records on the SAVE website at www.uscis.gov/save.

[FR Doc. 2021-16481 Filed: 7/30/2021 8:45 am; Publication Date: 8/3/2021]