

DISCLAIMER: *The following information is not legal advice. It is for educational and informational purposes only. If you need legal advice, consult a licensed immigration attorney or an accredited representative from a Board of Immigration Appeals (BIA) recognized agency. An undocumented immigrant should not seek legal advice from a notario or an "immigration consultant" who is not accredited by the BIA.*

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What Is Temporary Protected Status or TPS

People from Haiti who were present in the United States on Tuesday January 12, 2010, have been granted TPS. Under the TPS program, the Secretary of the Department of Homeland Security determines whether conditions exist in certain countries that make it dangerous for nationals of that country to return. This is called a TPS designation. When the Secretary designates a country for TPS, nationals of that country are allowed to stay in the United States, and may be given permission to work.

Designating a Country for TPS

Before designating a country for TPS, the Secretary of Homeland Security will consult with other government agencies to see if one of three conditions exist in that country:

- There is an armed conflict in the country which threatens the personal safety of any nationals who return.
- The country has requested TPS designation because of an environmental disaster. The disaster must result in a substantial, temporary disruption of the living conditions within that country causing the country to be unable to handle the return of its nationals.
- Extraordinary conditions exist in the country, which are temporary, that prevent that country's nationals from returning in safety. The Secretary, however, may determine that permitting the nationals from that country to stay in the United States is contrary to the national interests of the United States, and thus choose not to make the designation.

Length of the TPS Designation

When the Secretary designates a country for TPS, that initial designation will last for at least six months, and can last for as long as of eighteen months. Before the TPS designation expires, the Secretary must review the conditions in the country to see if there is reason to continue the TPS designation. If the conditions that led to the TPS designation continue, the Secretary may extend the TPS designation for six, twelve or eighteen months. If the conditions that led to TPS designation

no longer exist, the Secretary will terminate the TPS designation.

Persons Who Can Apply for TPS

A person can apply for TPS if he or she meets the following requirements:

- The person is a national of a country with a TPS designation.
- The person applies during the registration period.

- The person has been continuously present in the United States since the TPS designation was made.
- The person has lived in the United States since the date specified by the Department of Homeland Security in the Federal Register notice.
- The person is otherwise admissible to the United States under U.S. law.

Application Process

To apply for TPS protection, a person must fill-out the Application for Temporary Protected Status, which is Form I-821. The person submits this form to USCIS, along with a fee, and copies of documents that prove the person's identity, nationality and place of residence. For persons who are fourteen years old or older, there will also be a fee for biometric services. If the person applying

for TPS protection wants to be able to work in the United States, he or she must also submit a Form I-765, with another fee.

If the TPS designation of the country is extended, then all persons receiving TPS protection must re-register. Failure to re-register will result in TPS protection being withdrawn. To re-register, a person submits another Form I-821, and another Form I-765 for work authorization. There will not be an additional fee for the Form I-821. However, there will be an additional fee for the Form I-765.

Travel

A person with TPS protection may travel inside the United States. However, to continue TPS protection, the person must be continuously physically present in the United States. The person may not travel abroad without first applying for advance parole. If a person travels abroad without receiving an advance parole, TPS protection will be withdrawn. Once TPS protection is withdrawn

from a person, the U.S. Government may begin removal proceedings, or re-start removal proceedings.

TPS Protection is Temporary

As the name of the program suggests, TPS protection is temporary. Unlike asylum, TPS protection does not lead to permanent residency or citizenship.

When the TPS designation for the country ends, or when TPS protection for a person is withdrawn, the person returns to whatever immigration status he or she had before the TPS designation, unless the person has been granted a visa or some other immigration status in the meantime.

This means that if a person does not have a visa, once the TPS designation expires, that person will be required to leave the United States. A person with TPS protection may apply for a visa while the protection is in place. However, if the visa has not been granted before the TPS designation ends, that person cannot remain in the United States to wait for the visa to be granted.

If a person has applied for a visa based on a family relation, this could mean that the person will be required to wait for some time, possibly years, before a visa becomes available. That person must return to his home country, and cannot remain in the United States, until the visa becomes available.