BILLING CODE: 9111-97

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2491-10; DHS Docket No. USCIS]

RIN 1615-ZA96

Designation of Haiti for Temporary Protected Status

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Notice.

SUMMARY: The Department of Homeland Security announces that the Secretary of Homeland Security (Secretary) has designated Haiti for temporary protected status (TPS) for a period of 18 months. Under section 244(b)(1) of the Immigration and Nationality Act, the Secretary is authorized to designate a foreign state for TPS or parts of such state upon finding that such state is experiencing ongoing armed conflict, an environmental disaster, or "extraordinary and temporary conditions." The Secretary may grant TPS to individual nationals of the designated foreign state (or to eligible aliens having no nationality who last habitually resided in such state) who have been both continuously physically present in the United States since the effective date of the designation and continually residing in the United States since a date determined by the Secretary, and who meet other eligibility criteria. TPS is available only to persons who were continuously physically present in the United States as of the effective date of the designation.

Under this designation, Haitian nationals (and aliens having no nationality who last habitually resided in Haiti) who have continuously resided in the United States since

January 12, 2010, and who remain in continual physical presence in the United States from the effective date of the notice, may apply for TPS within the 180-day registration period that begins on the date of publication of the notice. These nationals also may apply for employment authorization documents and for permission to depart from and return to the United States.

This notice also sets forth procedures necessary for nationals of Haiti (or aliens having no nationality who last habitually resided in Haiti) to register and to apply for TPS and employment authorization documents with U.S. Citizenship and Immigration Services.

DATES: This designation of Haiti for TPS is effective on [Insert date of publication in the FEDERAL REGISTER], and will remain in effect through [Insert date 18 months from date of publication in the FEDERAL REGISTER]. The 180-day registration period for eligible individuals to submit their TPS applications begins [Insert date of publication in the FEDERAL REGISTER], and will remain in effect until [Insert date 180 days from date of publication in the FEDERAL REGISTER].

FURTHER INFORMATION:

- For further information on TPS, including guidance on the application process and additional information on eligibility, please visit the USCIS Web site at http://www.uscis.gov. Select "Temporary Protected Status" from the homepage under "Humanitarian." You can find detailed information about this Haitian designation on our Web site at the Haitian Questions & Answers Section.
- Applicants seeking information about the status of their individual cases can check Case Status Online available at the USCIS Web site

(http://www.uscis.gov), or call the USCIS National Customer Service Center at 1-800-375-5283 (TTY 1-800-767-1833).

- Further information will also be available at local USCIS offices upon publication of this Notice.

SUPPLEMENTARY INFORMATION:

Abbreviations and Terms Used in This Document

ASC – USCIS Application Support Center

DHS – Department of Homeland Security

DOS – Department of State

EAD – Employment Authorization Document

Government – United States Government

INA - Immigration and Nationality Act

OSC – U.S. Department of Justice, Office of Special Counsel for Immigration Related Unfair Employment Practices

Secretary – Secretary of Homeland Security

TPS – Temporary Protected Status

USCIS – U.S. Citizenship and Immigration Services

What is Temporary Protected Status?

TPS is a temporary immigration status granted to eligible nationals of a country (or to persons without nationality who last habitually resided in the designated country) that the Secretary has designated for TPS because the country is experiencing an ongoing armed conflict, an environmental disaster, or extraordinary and temporary conditions. During the period for which the Secretary has designated a country for TPS, TPS

beneficiaries are eligible to remain in the United States and may obtain work authorization, so long as they continue to meet the terms and conditions of their TPS status. The granting of TPS is available only to persons who were continuously physically present in the United States as of the effective date of this designation and does not lead to permanent resident status.

When the Secretary terminates a country's TPS designation, beneficiaries return to the same immigration status they maintained before TPS (unless that status has since expired or been terminated) or to any other status they may have obtained while registered for TPS.

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

The Immigration and Nationality Act (INA), authorizes the Secretary, after consultation with appropriate agencies of the government, to designate a foreign State (or part thereof) for TPS.[1] One of the bases for TPS designation is "there exist extraordinary and temporary conditions in the foreign state that prevent aliens who are nationals of the state from returning to the state in safety, *unless* [she] finds that permitting the aliens to remain temporarily in the United States is contrary to the national interest of the United States." INA § 244(b)(1)(C) (emphasis added); 8 U.S.C. 1254a(b)(1)(C). The Secretary has determined, after consulting with the Department of State (DOS) and other government agencies, that there exist in Haiti "extraordinary and temporary conditions," preventing Haitian nationals from returning to Haiti in safety and that permitting eligible

[1] As of March 1, 2003, in accordance with section 1517 of title XV of the Homeland Security Act of 2002 (HSA), Pub. L. No. 107-296, 116 Stat. 2135, any reference to the Attorney General in a provision of the Immigration and Nationality Act describing functions transferred under the HSA from the Department of Justice to the Department of Homeland Security "shall be deemed to refer to the Secretary" of Homeland Security. See 6 U.S.C. § 557 (2003) (codifying HSA, tit. XV, § 1517).

Haitian nationals to remain temporarily in the United States would not be contrary to the national interest.

Following the designation of a country for TPS, the Secretary may grant TPS to eligible nationals of that foreign State (or aliens having no nationality who last habitually resided in that State) who have been both continually physically present in the United States since the effective date of the notice and continually residing in the United States since a date determined by the Secretary, and who meet all other eligibility criteria. INA §§ 244(a)(1)(A) and (c); 8 U.S.C. 1254a(a)(1)(A) and (c). Persons convicted of any felony, or two or more misdemeanors, committed in the United States are ineligible for TPS. Applicants may also be ineligible if one of the bars to asylum eligibility applies. *Id.* at § 244(c)(2)(B)(i – ii).

Why is the Secretary designating Haiti for TPS?

On January 12, 2010, Haiti was struck by a 7.0-magnitude earthquake. DHS and DOS have conducted an initial review of the conditions in Haiti following the earthquake. Based on this review, the Secretary has determined to designate Haiti for TPS for 18-months pursuant to section 244(b)(1)(C) of the INA for reasons discussed below. The Department of State concurs in the designation of Haiti for a period of 18 months.

The epicenter of the earthquake was off the coast of Haiti, and only 17 km from the capital, Port-au-Prince, an area where some three million of the nation's nine million residents reside. Aftershocks have been measured at 5.9 and 5.5 respectively, and more aftershocks are expected.

Reports indicate that the earthquake destroyed most of the capital city. Initial estimates indicate that the death toll is substantial. The International Red Cross indicates

that about three million people – one-third of Haiti's population – have been affected by the earthquake.

Reports also indicate that concrete homes have collapsed and hospitals are overflowing with victims. The Presidential Palace, the Ministry of Justice, Parliament, the tax office and other government buildings, as well as the United Nations headquarters, and the World Bank offices are among the buildings reported to be destroyed or damaged. Hospitals and schools have been destroyed. The Ministry of Public Works and the Ministry of Communication and Culture have also been damaged.

The country's critical infrastructure, including its capacity for the provision of electricity, water, and telephone services, has been severely affected. Food and water are increasingly scarce. Fuel shortages are emerging as an immediate concern.

There is limited access to the capital city. Roads are blocked by debris and other obstacles, and the collapse of the Croix de Mission Bridge has cut off a major artery between Port-au-Prince and the northern part of the country, making it more difficult to transport food, fresh water, and medical supplies. Haiti's main airport in Port-au-Prince, Toussaint L'Ouverture International Airport, also has suffered significant damage that is hindering access to the country.

Haiti has limited resources to cope with a natural disaster, and now has been struck by its strongest earthquake in 200 years. Although a number of organizations and countries have pledged humanitarian aid, the magnitude of the disaster is substantial.

Given the size of the destruction and humanitarian challenges, there clearly exist extraordinary and temporary conditions preventing Haitian nationals from returning to Haiti in safety. Moreover, allowing eligible Haitian nationals to remain temporarily in

the United States, as an important complement to the U.S. government's wider disaster relief and humanitarian aide response underway on the ground in Haiti, would not be contrary to the public interest.

DHS estimates that there are 100,000 to 200,000 nationals of Haiti (or otherwise eligible aliens having no nationality who last habitually resided in Haiti) who are eligible for TPS under this designation.

Designation of Haiti for TPS

Based upon these unique, specific, and extreme factors, the Secretary has determined, after consultation with the appropriate Government agencies, that there exist extraordinary and temporary conditions in Haiti preventing aliens who are nationals of Haiti from returning to Haiti in safety. The Secretary further finds that it is not contrary to the national interest of the United States to permit Haitian nationals (or aliens having no nationality who last habitually resided in Haiti) who meet the eligibility requirements of TPS to remain in the United States temporarily. See INA § 244(b)(1)(C); 8 U.S.C. 1254a(b)(1)(C). On the basis of these findings and determinations, the Secretary concludes that Haiti should be designated for TPS for an 18-month period. See INA § 244(b)(2)(B); 8 U.S.C. 1254a(b)(2)(B).

Nationals of Haiti (and aliens having no nationality who last habitually resided in Haiti) who have been "continuously physically present" in the United States since [Insert date of publication in the FEDERAL REGISTER] and have "continuously resided" in the United States since January 12, 2010, may apply for TPS within the registration period that begins on [Insert date of publication in the FEDERAL REGISTER] and ends on [Insert date 180 days from date of publication in the FEDERAL REGISTER]. Except as

specifically provided in this notice, applications for TPS by nationals of Haiti (and aliens having no nationality who last habitually resided in Haiti) must be filed pursuant to the provisions of 8 CFR part 244. Aliens who wish to apply for TPS must file an Application for Temporary Protected Status, Form I-821, together with an Application for Employment Authorization, Form I-765, in accordance with the form's instructions and applicable regulations during the registration period.

Janet Napolitano,

Secretary.

Required Application Forms and Application Fees to Register for TPS

To register for TPS, an applicant must submit two applications:

1. Form I-821, Application for Temporary Protected Status, and pay the Form I-821 application fee, which is $50. If you are unable to pay the fee, you may submit a fee waiver request with appropriate documentation.
2. Form I-765, Application for Employment Authorization.
    - If you want an employment authorization document (EAD), you must pay the Form I-765 application fee, which is $340, or submit a fee waiver request.
    - However, if you are filing an initial TPS registration and you are under the age of 14 or above the age of 65, you do not pay the Form I-765 fee to obtain an EAD.
    - If you are not requesting an EAD, you do not pay the Form I-765 fee.
3. Individuals who may apply for TPS pursuant to this notice and who are in removal proceedings will be provided an opportunity to apply in accordance with 8 C.F.R. 244.7(d).

You must submit both applications together. For more information on the application forms and application fees for TPS, please visit the USCIS Web site at http://www.uscis.gov.

Biometric Services Fee

Biometrics (such as fingerprints) are required for all applicants 14 years of age or older. Those applicants must submit a biometric services fee of $80. If you are unable to pay the fee, you may submit a fee waiver request with appropriate documentation. For more information on the biometric services fee, please visit the USCIS Web site at http://www.uscis.gov.

Mailing Information

Mail your application for TPS to the proper address in Table 3:

Table 3-Mailing Addresses

Residence	Filing Location
If you live in the state of Florida	US Postal Service: USCIS PO Box 4464 Chicago, IL 60680-4464 For Express mail and courier deliveries: USCIS Attn: Haiti TPS 131 South Dearborn, 3rd Floor Chicago, IL 60603-5520
If you live in the state of New York	US Postal Service: USCIS PO Box 660167 Dallas, TX 75266-0167 For Express mail and courier deliveries: USCIS Attn: Haiti TPS 2501 S. State Hwy. 121 Business Suite 400 Lewisville, TX 75067
All other	US Postal Service:

	USCIS PO Box 24047 Phoenix, AZ 85074-4047 For Express mail and courier deliveries: USCIS Attn: Haiti TPS 1820 E. Skyharbor Circle S Suite 100 Phoenix, AZ 85034

E-Filing

You cannot E-file your application when applying for initial registration for TPS. Please mail your application to the mailing address listed in Table 3 above.

Supporting Documents

What type of basic supporting documentation must I submit?

To meet the basic eligibility requirements for TPS, you must submit evidence that you:

- Are a national of Haiti or an alien of no nationality who last habitually resided in Haiti (such as a copy of your passport, birth certificate with English translation, etc.);
- Continually resided in the United States since January 12, 2010 (see 8 CFR 244.9(a)(2));
- Have been continually physically present in the United States since [Insert date of publication in the FEDERAL REGISTER]; and
- Two color passport-style photographs of yourself.

The filing instructions on Form I-821, Application for Temporary Protected Status, list all the documents needed to establish basic eligibility for TPS.

Do I need to submit additional supporting documentation?

If one or more of the questions listed in Part 4, Question 2 of the Form I-821 applies to you, then you must submit an explanation on a separate sheet(s) of paper, and/or additional documentation. Depending on the nature of the question(s) you are addressing, additional documentation alone may suffice, but usually a written explanation will also be needed.

Employment Authorization Document (EAD)

May I request an interim EAD at my local USCIS office?

No. USCIS will not issue interim EADs to TPS applicants at USCIS local offices.

What documents may a qualified individual show to his or her employer as proof of employment authorization and identity when completing Form I-9, Employment Eligibility Verification?

TPS beneficiaries under the designation of Haiti who have timely registered with USCIS as directed under this Notice and obtained an EAD, may present their valid EAD to their employers as proof of employment authorization and identity. Employers may not accept EADs that are no longer valid.

Individuals may also present any other legally acceptable document or combination of documents listed on the Form I-9 as proof of identity and employment eligibility.

Note to Employers

Employers are reminded that the laws requiring employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This notice does not supersede or in any way limit applicable employment

verification rules and policy guidance, including those rules setting forth re-verification requirements. For questions, employers may call the USCIS Customer Assistance Office at 1-800-357-2099. Employers may also call the U.S. Department of Justice Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) Employer Hotline at 1-800-255-8155.

Note to Employees

Employees or applicants may call the OSC Employee Hotline at 1-800-255-7688 for information. Additional information is available on the OSC Web site at http://www.justice.gov/crt/osc/index.php.