

**FREQUENTLY ASKED QUESTIONS:
HAITIAN TEMPORARY PROTECTED STATUS (TPS)**

Last updated: August 7, 2024

The Department of Homeland Security (DHS) announced a new 18-month designation of Haiti for Temporary Protected Status (TPS) and extension of the current designation. The new TPS 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 **June 3, 2024**, to file applications for TPS. Haitian nationals currently protected by TPS can file to extend their TPS status.

The 18-month extension and re-designation of Haiti for TPS is effective on August 4, 2024 and will remain in effect for 18 months, through February 3, 2026. Current TPS holders have 60 days to re-register, beginning July 1, 2024 and ending August 30, 2024. Individuals eligible to submit first time TPS applications can register beginning July 1, 2024 through February 3, 2026.

This FAQ addresses eligibility questions and practical application questions. For more detailed instructions, please consult the Federal Register notice.¹

ELIGIBILITY

1. What is TPS?

TPS is a *temporary* immigration status granted to nationals from designated countries that are experiencing difficult conditions, making it unsafe for their nationals to return or be deported to those countries. For more information on TPS, please consult the USCIS link for TPS.²

2. Who is eligible for TPS under this designation for Haiti?

In order to qualify for TPS for Haiti, an individual must:

1. Be a national of Haiti, or a person without nationality who last habitually resided in Haiti
2. Register during the open initial registration or re-registration period for the applicant's country of nationality, or meet the requirements for late initial filing during any extension of the TPS designation
3. Have been continuously residing in the United States since **June 3, 2024**.
4. Have been continuously physically present in the United States since **August 4, 2024**. (Although the law does allow for an exception for brief, casual, and innocent departures from the United States)

¹ Federal Register Notice:

<https://www.federalregister.gov/public-inspection/2024-14247/extension-and-redesignation-of-haiti-for-temporary-protected-status>

² USCIS, Temporary Protected Status: <https://www.uscis.gov/humanitarian/temporary-protected-status>

5. Not be inadmissible to the United States or be barred from asylum for certain criminal or national security-related reasons, such as individuals who have been convicted of any felony or two or more misdemeanors

3. What documents does an individual need to submit with a TPS application?

Individuals should submit documents to show

- Their identity and that they are a national of Haiti such as a birth certificate or passport
- When they entered the United States such as an I-94 or parole document (if available)
- That the individual has been in the United States since June 3, 2024 and that they have been continuously physically present since August 4, 2024 such as shelter letters, leases, rent receipts, and other documents showing the individual's address.

Continuous residence and continuous physical presence documents can often overlap. Individuals can file the same document(s) to prove both as long as they cover the dates required.

4. How can someone check their current immigration status or the status of their application online?

Go to the USCIS website to check an applicant's current immigration status or the status of their application: <https://www.uscis.gov/tools/checking-your-case-status-online>. The applicant will need to have a "Receipt Number" from the last TPS filing or employment filing. This number can be found at the top left corner of a receipt notice, which is a "Form I-797".

To check on an application for employment authorization (Form I-765) which has been pending for more than 90 days, the application status can be checked at <https://egov.uscis.gov/e-request/Intro.do> or by calling the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833).

5. What documents will show someone's TPS status?

A TPS application (I-821) is usually issued a "receipt" which is named a "Notice of Action" on a Form I-797, and a TPS holder may have an Employment Authorization (EAD) Document which is also known as an EAD card, or may have an Arrival/Departure Records (Forms I-94) indicating TPS status.

6. What is the current expiration date for TPS beneficiaries under the TPS designations for Haiti?

Under the new designation, TPS will be valid through **February 3, 2026**. Prior to this, the most recent extension was through August 3, 2024.

7. Do current TPS beneficiaries need to re-register under their current designation?

Yes. Haitian nationals who currently have TPS protection under the prior designation that began in 2022 or earlier, and wish to extend their TPS status must submit an application to DHS to extend their TPS status within the 60-day time period beginning July 1, 2024 ending August 30, 2024 to ensure they do not lose TPS or experience a gap. They must submit an Application for Temporary Protected Status (Form I-821) as a new applicant by selecting "1.b This is my

re-registration application for Temporary Protected Status (TPS). I currently have TPS, and am applying to re-register.”

8. If current TPS beneficiaries have an Employment Authorization Document (EAD) is that automatically extended?

Yes. Current TPS beneficiaries with current employment authorization will have their EADs extended for one year through **August 3, 2025**. Auto-extended EADs will only be valid until August 3, 2025, unless DHS issues additional notices to further extend EADs for current beneficiaries. TPS applicants who want to work for the longest period possible should obtain an EAD that is valid through February 3, 2026. This requires filing an Application for Employment Authorization (Form I-765) when you file to re-register for TPS on Form I-821 and paying the Form I-765 fee (or requesting a fee waiver by submitting a Request for a Fee Waiver (Form I-912)).

As proof of continued employment authorization through August 3, 2025, TPS beneficiaries can show their EAD with the notation A-12 or C-19 under “Category” and a “card expires” date of August 3, 2024 (or other dates listed in the Federal Register notice³) with a copy of the Federal Register notice published on July 1, 2024.⁴

9. If current TPS beneficiaries have an EAD should they apply for a new EAD?

Yes. Current TPS beneficiaries with auto-extended EADs will only have valid EADs until August 3, 2025 unless DHS issues additional notices to further extend EADs for current beneficiaries. TPS applicants who want to work for the longest period of time possible should seek to obtain an EAD valid through February 3, 2026. This requires filing an Application for Employment Authorization (Form I-765) when you file to re-register for TPS on Form I-821 and paying the Form I-765 fee (or request a fee waiver by submitting a Request for a Fee Waiver (Form I-912)).

10. What are the instructions for submitting a TPS application?

An application for TPS must be submitted in accordance with the [form instructions](#), the applicable country-specific Federal Register notice that announces the procedures for TPS registration or re-registration and appropriate fees.⁵

11. How long after filing an application will a decision be made?

Currently, there is no accurate timeline on how long it will take for applications to be processed. Please refer to Question 3 for instructions on checking the status of an application.

³ Other dates listed in the Federal Register Notice: June 30, 2024, February 3, 2023, December 31, 2022, October 4, 2021, January 4, 2021, January 2, 2020, July 22, 2019, January 22, 2018, or July 22, 2017.

⁴ Federal Register Notice:

<https://www.federalregister.gov/public-inspection/2024-14247/extension-and-redesignation-of-haiti-for-temporary-protected-status>

⁵ 8 C.F.R. § 244.6 (a)

12. Does an individual with a currently pending TPS application and/or Employment Authorization Application under TPS need to re-apply under this designation?

No. If a Haitian applied for TPS under the 2022 designation and that application and/or their EAD application under that designation is still pending, they do not need to submit a new application for TPS under this 2024 designation. USCIS will adjudicate any currently pending TPS I-821 applications and/or I-765 Employment Authorization Applications for TPS under the new designation, granting TPS and EADs until February 3, 2026.

13. Does someone with humanitarian parole qualify?

Yes, you may apply even if you have parole or a pending request for re-parole.

14. Does someone with a final order of removal qualify?

Maybe. Applicants with a final order of removal should seek a legal consultation before applying. A removal order is not a bar to TPS, but because TPS is only temporary and does not eliminate the removal order, when TPS expires the removal order will still remain. Also, depending on whether the removal order was based in part on criminal issues or other “bars”, they may be problematic for their TPS application and an experienced immigration lawyer can review.

15. Should folks apply if they have an order of supervision (OSUP)?

Maybe. Applicants with orders of supervision should seek a legal consultation before applying. OSUP is not a bar to TPS, but because TPS is only temporary and does not eliminate OSUP, when TPS expires the OSUP will still remain. Also, depending on whether the OSUP was based in part on criminal issues or other “bars”, they may be problematic for your TPS application and an experienced immigration lawyer can review.

16. Do any of the inadmissibility bars apply to TPS?

Yes. If you are considered "inadmissible" to the U.S., you will not be eligible to file for TPS unless a waiver is available and you file a Form I-601 along with your TPS application. Section 212 of the INA specifies broad inadmissibility grounds on which foreign nationals are considered ineligible to receive visas and ineligible to be admitted to the United States. Section 244(c)(2) in the TPS statute lists which of these grounds of inadmissibility may be waived and which may not be waived.

Examples of Grounds of Inadmissibility that are exempted or may be waived (INA § 244(c)(2)(A)(ii))⁶:

- inadmissible for entry without inspection/permission (INA § 212(a)(6)(A))

⁶ Some grounds of inadmissibility require the filing and approval of [Form I-601](#) in order to be waived, whereas others listed in the [Instructions for Form I-601](#) do not require an application for waiver of grounds of inadmissibility. There are also statutory exceptions to inadmissibility listed in INA § 212(a). *See also*, USCIS, [Draft PM-602-XXXX](#): Clarification of Grounds of Inadmissibility that do not Apply to Applicants for Temporary Protected Status (TPS) and Circumstances Requiring an Individual Waiver of Inadmissibility (2011).

- failure to attend removal proceeding (INA § 212(a)(6)(B))
- misrepresentation of a material fact or of US citizenship (INA § 212(a)(6)(C))
- aliens previously removed, unlawfully present, OR present after previous immigration violations/removal (INA § 212(a)(9))
- Single offense of simple possession of 30 grams or less of marijuana

Examples of Grounds of Inadmissibility that may not be waived (INA § 244(c)(2)(A)(iii)):

- convictions, admissions of committing, or admissions of the essential elements of a “crime of moral turpitude” (INA § 212(a)(2)(A)(i)(I))
- convictions, admissions of committing, or admissions of the essential elements of a crime “relating to a controlled substance” (INA § 212(a)(2)(A)(i)(II) (except for a single offense involving 30 grams or less of marijuana for individual use)
- anyone the Attorney General has “reason to believe” is an illicit trafficker in controlled substances (INA § 212(a)(2)(C))
- national security and terrorism risks (INA § 212(a)(3)(A)–(D))

Even if a TPS applicant is admissible, they may still be ineligible for TPS if they have been convicted of any one of the following: 1) one felony, including Massachusetts misdemeanors where the sentence actually imposed (committed or suspended) is more than one year of incarceration, INA §244(c)(2)(B)(i); 2) two misdemeanors, as defined in the CPCS memo⁷ below, INA §244(c)(2)(B)(i); or 3) a “particularly serious crime” that makes him a danger to the community, INA §§ 244(c)(2)(B)(ii); 208(b)(2)(A)(ii).

17. Can someone who has a pending asylum application apply for TPS?

Yes. TPS is a temporary status. You can file for TPS with a pending asylum application or if you intend to file for asylum later. MIRA has created a document explaining TPS and asylum, available [here](#). If you have questions about applying for TPS with a pending asylum application, you should seek legal advice from an attorney or an accredited representative.

18. How does applying for asylum affect my TPS case?

If you are applying for asylum, you can still apply for TPS. USCIS can still grant asylum with a pending or approved TPS application. If you have TPS and USCIS grants your asylum application, you will have both asylum and TPS.

If USCIS decides not to grant your asylum application, it will issue you a Notice of Intent to Deny (NOID) and give you 16 days to respond to the concerns they outline. After USCIS considers your response, they can either grant or deny your asylum application. If you have TPS and USCIS denies your asylum application, you will remain in TPS status and your case will not be referred to the Immigration Court. If you have a pending TPS case and USCIS denies your asylum case, your asylum case will be transferred to immigration court.

If your asylum case is before the immigration court, you can continue to ask for asylum or apply for TPS. Once you are granted TPS, you can ask the immigration court to terminate or

⁷ Advisory on Criminal Bars to TPS:

<https://www.publiccounsel.net/iuu/wp-content/uploads/sites/15/TPS-Criminal-Bars-Aug-2021.pdf>. If Massachusetts attorneys have a particularly complicated case or specific questions about criminal bars after reviewing the advisory, they can email iiu@publiccounsel.net

administratively close your asylum case while you have TPS status. If an immigration judge terminates your case in immigration court, you will no longer have a pending asylum case. If an immigration judge administratively closes your case in immigration court, your asylum case remains pending until the case is reopened by either you or the government. If you have a strong asylum claim with a hearing date in immigration court soon, you should speak with an immigration attorney or accredited representative about how applying for TPS will affect your asylum case.

19. Does having TPS count as an “inspection” and lawful admission to the U.S.?

No. On June 7, 2021, the Supreme Court issued a decision in *Sanchez v. Mayorkas*, 593 U.S. ____ (2021) clarifying that having TPS does not count as an “inspection” and lawful admission to the U.S., which is generally required by law for somebody to “adjust status” and apply for a green card from within the U.S. instead of having to apply for it abroad. This means that those immigrants who were not inspected or admitted when coming to the U.S. cannot get their green card from within the U.S. However, if a TPS holder was granted TPS Authorization for Travel (I-512T) or the previously issued TPS advance parole they may be able to get a green card from within the U.S.

20. Can someone with TPS travel? Are there risks?

Yes. A TPS beneficiary can travel if they apply for and are granted TPS Authorization for Travel by a Noncitizen to the United States on Form I-512(T) (formerly advance parole). As of July 1, 2022, USCIS is no longer issuing advance parole to TPS beneficiaries but the agency is granting Authorization to Travel on Form I-512(T). This Form I-512(T) document gives beneficiaries permission to leave the United States and return during a specified period of time. TPS beneficiaries still submit the same Form I-131 to apply for Authorization to Travel.

If a TPS beneficiary leaves and reenters the United States during the validity period of their Authorization to Travel Document, they will not break the continuous physical presence requirement for maintaining their TPS. Please note, however, that if they have a TPS or another application pending and they leave the United States on an Authorization to Travel Document, they may miss important notices from USCIS regarding their application, including requests for additional evidence. If they do not respond in a timely manner to these notices, USCIS may deem their application abandoned and, in that event, they will not receive the benefit they seek. If they attempt to return to the U.S. after the allotted time on the Authorization to Travel Document expires, they could be denied entry into the United States. It's also possible that their TPS will be considered abandoned due to a failure to maintain continuous residence in the United States.

Note: USCIS will continue to apply *Matter of Arrabally and Yerrabelly* to TPS travel including on an Authorization to Travel Document Under *Matter of Arrabally and Yerrabelly*, a noncitizen who leaves the United States temporarily with advance parole does not make a “departure” within the meaning of INA section 212(a)(9)(B) and does not trigger the 3- and 10-year unlawful presence bars when they leave.⁸ *Matter of Arrabally and Yerrabelly* does not address other grounds of inadmissibility that may be triggered by a departure.

⁸ *Matter of Arrabally and Yerrabelly*, 25 I&N Dec. 771 (BIA 2012), available at: <https://www.justice.gov/sites/default/files/eoir/legacy/2014/07/25/3748%20%28final%29.pdf>

21. If a person has lived or traveled through other countries before arriving in the U.S. can they still apply for TPS?

Yes, unless the person has “firmly resettled” in another country.⁹ USCIS will examine whether the applicant has an offer of resettlement from another country and may issue a Request for Evidence (RFE) or a Notice of Intent to Deny (NOID) for evidence showing that the person has no right to residency or other benefits in the other country which would support a finding they had “firmly resettled” in another country.

22. If an applicant's child was born outside of Haiti to Haitian nationals, can the child also apply for TPS?

Yes. Under Haitian law, a child born outside of Haiti to Haitian parents inherits his or her parents’ Haitian nationality and may apply for a Haitian passport. However, while dual nationality does not preclude an applicant from meeting the nationality requirement for TPS, USCIS may determine that the child was firmly resettled in his/her birth country. Children do need their own TPS applications. They are not included in their parents’ applications.

⁹ INA § 244(c)(2)(B)(ii); INA § 208(b)(A)(vi).