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Temporary Protected Status and Deferred Enforced Departure

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SUMMARY

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Temporary Protected Status and Deferred Enforced Departure

When civil unrest, violence, or natural disasters erupt in countries around the world, concerns arise over the ability of foreign nationals present in the United States who are from those countries to safely return. Provisions in the Immigration and Nationality Act (INA) provide for temporary protected status (TPS) and other forms of relief from removal under specified circumstances. The Secretary of Homeland Security has the discretion to designate a country for TPS for periods of 6 to 18 months and can extend these periods if the country continues to meet the conditions for designation. Congress has also provided TPS legislatively. A foreign national from a designated country who is granted TPS receives a registration document and employment authorization for the duration of the TPS designation.

In addition to TPS, there is another form of blanket relief from removal known as deferred enforced departure (DED). DED is a temporary, discretionary, administrative stay of removal granted to aliens from designated countries. Unlike TPS, a DED designation emanates from the President's constitutional powers to conduct foreign relations and has no statutory basis.

As of March 11, 2021, approximately 320,000 foreign nationals from 10 countries who are living in the United States were protected by TPS: El Salvador, Haiti, Honduras, Nepal, Nicaragua, Somalia, South Sudan, Sudan, Syria, and Yemen. The Trump Administration terminated TPS designations for six countries—El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan—but these terminations have not taken effect due to litigation. In March 2021, the Biden Administration designated two more countries for TPS: Venezuela and Burma; and in May 2021 the Administration announced a new TPS designation for Haiti. Certain Liberians, Venezuelans, and residents of Hong Kong present in the United States currently maintain relief under DED.

Multiple measures related to TPS were introduced in the 116th Congress. They included provisions to add new TPS designations (e.g., Venezuela or Hong Kong) and prohibit gang members or those without lawful status from receiving TPS. There is ongoing debate about whether foreign nationals who have been living in the United States for long periods of time with TPS or DED should have a pathway to lawful permanent resident (LPR) status. Legislation to provide such a pathway passed the House in the 116th Congress. A provision to allow Liberians who had been continuously present in the United States since 2014 to apply for LPR status was enacted in December 2019 as part of the FY2020 National Defense Authorization Act (P.L. 116-92). In the 117th Congress, legislation (H.R. 6 and H.R. 1603) that would provide a pathway to LPR status for TPS and DED recipients has passed the House.

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Background

Federal law provides that all aliens[1] attempting to enter the United States must do so pursuant to the Immigration and Nationality Act (INA). The INA allows for the admission of (1) immigrants, who are admitted to the United States permanently, and (2) nonimmigrants, who are admitted for temporary durations and specific purposes (e.g., students, tourists, temporary workers, or business travelers). Foreign nationals who lack lawful immigration status generally fall into three categories: (1) those who are admitted legally and then overstay their nonimmigrant visas, (2) those who enter the country surreptitiously without inspection, and (3) those who are admitted on the basis of fraudulent documents. In all three instances, the aliens are in the United States in violation of the INA and subject to removal.

The executive branch has discretion to grant temporary reprieves from removal to aliens present in the United States in violation of the INA.[2] Temporary Protected Status (TPS), codified in INA Section 244,[3] provides temporary relief from removal and work authorization to foreign nationals—regardless of their immigration status—in the United States from countries experiencing armed conflict, natural disaster, or other extraordinary circumstances that prevent their safe return. This report begins by situating TPS in the context of humanitarian responses to migration. Another form of blanket relief[4] from removal—Deferred Enforced Departure (DED)—is also described, as is the historical use of these relief mechanisms. This report then provides data on each of the countries currently designated for TPS, including the conditions that have contributed to their designation. Past legislation to provide lawful permanent resident (LPR) status to certain TPS-designated foreign nationals is also described. The report concludes with a discussion of legislative activity in the 116th and 117th Congresses related to TPS.

Humanitarian Response

As a State Party to the 1967 United Nations Protocol Relating to the Status of Refugees (U.N. Protocol),[5] the United States agrees to the principle of *nonrefoulement*, which asserts that a refugee should not be returned to a country where he or she faces serious threats to his or her life or freedom on account of race, religion, nationality, membership in a particular social group, or political opinion. (This is now considered a rule of customary international law.) *Nonrefoulement* is embodied in several provisions of U.S. immigration law. Most notably, it is reflected in INA

[1] *Alien* is the term used in law and is defined as anyone who is not a citizen or national of the United States. A U.S. *national* is a person owing permanent allegiance to the United States and includes citizens. Noncitizen nationals are individuals who were born either in American Samoa or on Swains Island to parents who are not citizens of the United States. In this report, the terms *alien* and *foreign national* are used interchangeably.

[2] For more information, see CRS Report R45158, *An Overview of Discretionary Reprieves from Removal: Deferred Action, DACA, TPS, and Others*.

[3] 8 U.S.C. §1254a.

[4] The term *blanket relief* in this report refers to relief from removal that is administered to a group of individuals based on their ties to a foreign country; this stands in contrast to asylum, which is a form of relief administered on a case-by-case basis to individuals based on their personal circumstances.

[5] The 1951 United Nations Convention Relating to the Status of Refugees, which was amended by its 1967 Protocol, defines who is a refugee and sets out the legal, social, and other kinds of protections that refugees and those seeking asylum are entitled to receive. It also states the responsibilities of nations that grant asylum. United Nations High Commission for Refugees, *Convention Relating to the Status of Refugees and Its 1967 Protocol*, Geneva, Switzerland, https://www.unhcr.org/en-us/about-us/background/4ec262df9/1951-convention-relating-status-refugees-its-1967-protocol.html.

provisions requiring the government to withhold the removal of a foreign national to a country in which his or her life or freedom would be threatened on the basis of race, religion, nationality, membership in a particular social group, or political opinion.[6]

The definition of a refugee in the INA, which is consistent with the U.N. Protocol, specifies that a refugee is a person who is unwilling or unable to return to his/her country of nationality or habitual residence because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.[7] This definition also applies to individuals seeking asylum. Under the INA, refugees and asylees differ on the physical location of the persons seeking the status: those abroad apply for refugee status while those in the United States or at a U.S. port of entry apply for asylum.[8] Those admitted as refugees or granted asylum can apply for LPR status after one year.

Other foreign nationals in the United States who might elicit a humanitarian response may not qualify for asylum because they do not meet the legal definition of a refugee; under certain circumstances these persons may be eligible for relief from removal through TPS or DED.

Temporary Protected Status

TPS is a blanket form of humanitarian relief.[9] It is the statutory embodiment of safe haven for foreign nationals within the United States[10] who may not qualify for asylum but are nonetheless fleeing—or reluctant to return to—potentially dangerous situations. TPS was established by Congress as part of the Immigration Act of 1990 (P.L. 101-649). The statute gives the Secretary of the Department of Homeland Security (DHS),[11] in consultation with other government agencies (most notably the Department of State), the authority to designate a country for TPS under one or more of the following conditions:

(1) ongoing armed conflict in a foreign state that poses a serious threat to personal safety;

(2) a foreign state request for TPS because it temporarily cannot handle the return of its nationals due to an environmental disaster; or

(3) extraordinary and temporary conditions in a foreign state that prevent its nationals from safely returning.

A foreign state may not be designated for TPS if the Secretary of DHS finds that allowing its nationals to temporarily stay in the United States is against the U.S. national interest.[12]

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[6] INA §208 (8 U.S.C. §1158); INA §241(b)(3) (8 U.S.C. §1231(b)(3)); and INA § 101(a)(42) (8 U.S.C. §1101(a)(42)).

[7] INA §101(a)(42) (8 U.S.C. §1101(a)(42)). In certain circumstances specified in INA §101(a)(42)(B), a refugee may be within his/her country of nationality or habitual residence.

[8] See CRS Report R45539, *Immigration: U.S. Asylum Policy*; and CRS Report RL31269, *Refugee Admissions and Resettlement Policy*.

[9] The term *blanket relief* refers to relief from removal that is administered to a group of individuals based on their ties to a foreign country; this stands in contrast to asylum, which is a form of relief administered on a case-by-case basis to individuals based on their personal circumstances.

[10] Foreign nationals outside the United States are not eligible to apply for TPS.

[11] When TPS was enacted in 1990, most immigration-related functions, including designating countries for TPS, fell under the authority of the Attorney General. With the creation of the Department of Homeland Security in 2002 (P.L. 107-296), most of the Attorney General's immigration-related authority transferred to the Secretary of DHS as of March 1, 2003.

[12] INA §244(b)(1) (8 U.S.C. §1254a(b)(1)).

The Secretary of DHS may designate a country for TPS for periods of 6 to 18 months and can extend these periods if the country continues to meet the conditions for designation.[13] Each designation specifies the date by which individuals must have continuously resided in the United States in order to qualify.[14] If a designation is extended, the arrival date may be moved forward in order to allow those who arrived later to qualify, an action referred to as *redesignation*.[15]

To obtain TPS, nationals[16] of foreign countries designated for TPS must pay specified fees[17] and submit an application to DHS's U.S. Citizenship and Immigration Services (USCIS) before the deadline set forth in the *Federal Register* notice announcing the TPS designation. The application must include supporting documentation as evidence of eligibility (e.g., a passport issued by the designated country and records showing continuous physical presence in the United States since the date established in the TPS designation).[18] The statute specifies *grounds of inadmissibility* that cannot be waived, including those relating to criminal convictions, drug offenses, terrorist activity, and the persecution of others.[19] Foreign nationals outside the United States are not eligible to apply for TPS.

Individuals granted TPS are eligible for employment authorization, cannot be detained on the basis of their immigration status, and are not subject to removal while they retain TPS.[20] They may be deemed ineligible for public assistance by a state; they may travel abroad with the prior consent of the DHS Secretary.[21] TPS does not provide a path to lawful permanent residence or citizenship, but a TPS recipient is not barred from acquiring nonimmigrant or immigrant status if he or she meets the requirements.[22] DHS has indicated that information it collects when an individual registers for TPS may be used to enforce immigration law or in any criminal proceeding.[23] In addition, withdrawal of an alien's TPS may subject the alien to exclusion or deportation proceedings.[24]

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[13] There is no limit on the number of extensions a country can receive.

[14] This date is typically the same or very near to the date of the designation announcement.

[15] Redesignation is not defined in law; it also refers to cases in which a country is designated for TPS for a different or additional reason than previously designated (e.g., initially designated on the basis of armed conflict, and subsequently designated on the basis of a natural disaster).

[16] In addition to nationals of designated countries, TPS statute provides that aliens with no nationality who "last habitually resided in such designated state" are eligible to apply. INA §244(a)(1) (8 U.S.C. §1254a(a)(1)).

[17] Fees for initial applicants include a $50 application fee (may not exceed $50 per 8 U.S.C. §1254a(c)(1)(B)), a $410 filing fee for employment authorization (if applying for employment authorization and between the ages of 14 and 65), and an $85 biometrics services fee for those age 14 and over. Applicants may request a waiver of the application and biometrics fees per 8 C.F.R. §103.7(c). Re-registration does not require the $50 application fee, but the other fees apply.

[18] See 8 C.F.R. §244.9 for details on evidence that must be submitted.

[19] Section 212 of the INA specifies broad 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.

[20] INA §244(a)(1)(A), (a)(1)(B), (d)(4) (8 USC §1254a (a)(1)(A), (a)(1)(B), (d)(4)).

[21] INA §244(f) (8 U.S.C. §1254a(f)).

[22] For purposes of adjustment to lawful permanent resident status or a change to a nonimmigrant status, an alien granted TPS is considered as being in and maintaining "lawful status as a nonimmigrant" during the period in which the alien is granted TPS. INA §244(f)(4) (8 U.S.C. §1254a(f)(4)).

[23] 8 C.F.R. §244.16.

[24] 8 C.F.R. §244.14.

Deferred Enforced Departure

In addition to TPS, there is another form of blanket relief from removal known as deferred enforced departure (DED),[25] formerly known as extended voluntary departure (EVD).[26] DED is a temporary, discretionary, administrative stay of removal granted to aliens from designated countries. Unlike TPS, a DED designation emanates from the President's constitutional powers to conduct foreign relations and has no statutory basis. DED was first used in 1990 and has been applied to seven countries (see "Historical Use of Blanket Relief"). Liberia, Venezuela, and Hong Kong are currently covered by DED.

DED and EVD have been used on country-specific bases to provide relief from removal at the President's discretion, usually in response to war, civil unrest, or natural disasters.[27] When Presidents grant DED through an executive order or presidential memorandum, they generally provide eligibility guidelines and direct the Secretary of Homeland Security to allow DED-eligible individuals to apply for employment authorization. Unlike TPS, the Secretary of State does not need to be consulted when DED is granted. In contrast to recipients of TPS, individuals who benefit from DED are not required to register for the status with USCIS unless they are applying for work authorization.[28] Instead, DED is triggered when a protected individual is identified for removal.

Historical Use of Blanket Relief

In 1990, when Congress enacted the TPS statute, it also granted TPS for 18 months to Salvadoran nationals who were residing in the United States. Since then, the Attorney General (and later, the Secretary of DHS), in consultation with the Secretary of State, granted and subsequently terminated TPS for foreign nationals in the United States from the following countries: Angola, Bosnia-Herzegovina, Burundi, Guinea, Guinea-Bissau, the Kosovo Province of Serbia, Kuwait, Lebanon, Liberia, Montserrat, Rwanda, and Sierra Leone.[29]

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[25] DED is not to be confused with deferred action, which the Department of Homeland Security defines as "a discretionary determination to defer removal action of an individual as an act of prosecutorial discretion." For more information, see CRS Report R45158, *An Overview of Discretionary Reprieves from Removal: Deferred Action, DACA, TPS, and Others* and CRS Report R45995, *Unauthorized Childhood Arrivals, DACA, and Related Legislation*.

[26] EVD status, which was used from 1960 to 1990, was given to nationals of Iran, Lebanon, Nicaragua, Poland, and Uganda. Other countries whose nationals have benefitted in the past from a status similar to EVD include Cambodia, Chile, Cuba, Czechoslovakia, Dominican Republic, Hungary, Laos, Romania, and Vietnam.

[27] See, for example, Executive Order 12711, "Policy Implementation With Respect to Nationals of the People's Republic of China," *Public Papers of the Presidents of the United States: George Bush XLI, President of the United States: 1989-1993* (Washington: GPO, 1990); The White House (President Obama), Office of the Press Secretary, "Deferred Enforced Departure for Liberians," presidential memorandum for the Secretary of Homeland Security, September 28, 2016; The White House (President Trump), Office of the Press Secretary, "Deferred Enforced Departure for Certain Venezuelans," presidential memorandum for the Secretary of State and the Secretary of Homeland Security, January 19, 2021.

[28] In general, the President directs executive agencies to implement procedures to provide DED and related benefits, such as employment authorization. See, for example, U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, *Temporary Protected Status (TPS) and Deferred Enforced Departure (DED)*, https://www.uscis.gov/sites/default/files/USCIS/About%20Us/Electronic%20Reading%20Room/Customer%20Service%20Reference%20Guide/TempProtectedStatus.pdf.

[29] For a current and historical list of TPS designations by country and links to *Federal Register* announcements, see U.S. Department of Justice, Executive Office for Immigration Review, *Temporary Protected Status*, https://www.justice.gov/eoir/temporary-protected-status. For a graph showing effective dates, bases for designation,

Rather than extending the initial Salvadoran TPS when it expired in 1992, President George H. W. Bush granted DED to an estimated 190,000 Salvadorans through December 1994. President Bush also granted DED to about 80,000 Chinese nationals in the United States following the Tiananmen Square massacre in June 1989, and these individuals retained DED status through January 1994.[30] From 1991 to 1996, DED was also granted to about 2,200 Kuwaiti Persian Gulf evacuees who were airlifted to the United States after the 1990 invasion of Kuwait. In December 1997, President Clinton instructed the Attorney General to grant DED for one year to Haitian nationals in the United States, providing time for the Administration to work with Congress on long-term legislative relief for Haitians.[31] President George W. Bush directed that DED be provided to Liberian nationals whose TPS was expiring in September 2007; Liberian DED was extended several times by President Obama.[32] President Trump terminated DED for Liberians, but provided for extended wind-down periods that lasted until January 10, 2021 (for more details, see the "Liberia" section).[33]

Current TPS and DED Designations

As of March 11, 2021, approximately 320,000 foreign nationals from the following 10 countries were protected by TPS: El Salvador, Haiti, Honduras, Nepal, Nicaragua, Somalia, South Sudan, Sudan, Syria, and Yemen.[34] Three countries have been newly designated for TPS since President Biden took office: Venezuela on March 8, 2021; Burma on March 12, 2021; and Haiti on May 22, 2021;[35] each for 18 months. An estimated 323,000 Venezuelans, 1,600 Burmese, and 155,000 Haitian nationals could be eligible to apply for TPS under these designations.[36]

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and types of TPS decisions for FY1990–FY2019, see U.S. Government Accountability Office, *Temporary Protected Status: Steps Taken to Inform and Communicate Secretary of Homeland Security's Decisions*, GAO-20-134, April 2020, p. 11, https://www.gao.gov/assets/gao-20-134.pdf.

[30] Many of the beneficiaries of this DED grant were able to adjust to LPR status through the Chinese Student Protection Act of 1992 (P.L. 102-404).

[31] The Nicaraguan Adjustment and Central American Relief Act (NACARA) (Title II of P.L. 105-100) was enacted in 1997 and provided eligibility for LPR status to certain Nicaraguans, Cubans, Guatemalans, Salvadorans, and nationals of the former Soviet bloc. President Clinton, among others, argued that Haitians deserved similar statutory treatment. The Haitian Refugee Immigration Fairness Act (HRIFA) (P.L. 105-277) was enacted in 1998, allowing certain Haitian nationals who were in the United States before December 31, 1995 to adjust to LPR status. For more information, see archived CRS Report RS21349, *U.S. Immigration Policy on Haitian Migrants*.

[32] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "DED Granted Country - Liberia," https://www.uscis.gov/humanitarian/deferred-enforced-departure/ded-granted-country-liberia/ded-granted-country-liberia.

[33] The White House (President Trump), Office of the Press Secretary, "Extending the Wind-Down Period for Deferred Enforced Departure for Liberians," presidential memorandum for the Secretary of State and the Secretary of Homeland Security, March 30, 2020; The White House (President Trump), Office of the Press Secretary, "Extension of Deferred Enforced Departure for Liberians," presidential memorandum for the Secretary of State and the Secretary of Homeland Security, March 28, 2019. The White House (President Trump), Office of the Press Secretary, "Expiration of Deferred Enforced Departure for Liberians," presidential memorandum for the Secretary of State and the Secretary of Homeland Security, March 27, 2018.

[34] This number is lower than what was reported in prior versions of this report due to the fact that USCIS recently provided data on individuals with TPS only, while prior data releases included individuals with both TPS and a permanent status (i.e., LPR status or citizenship).

[35] The May 2021 designation of Haiti is distinct from the designation that began in 2010. Haitian nationals who have been covered by the 2010 designation and wish to be covered by the new designation must submit a new application to DHS. See the "Haiti" section below for more details.

[36] U.S. Citizenship and Immigration Services, "Designation of Venezuela for Temporary Protected Status and Implementation of Employment Authorization for Venezuelans Covered by Deferred Enforced Departure," 86 *Federal*

The Trump Administration terminated TPS for six countries (El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan). Several lawsuits were filed challenging the terminations; as a result, the terminations have not yet taken effect.[37]

Table 1 lists the TPS-designated countries as of the date of this report, the most recent decision—to extend or terminate—by the Secretary of DHS, the date from which individuals are required to have continuously resided in the United States, and the designation's current expiration date. In addition, **Table 1** shows the number of individuals protected by TPS as of March 11, 2021.[38]

Table 1. Countries Currently Designated for TPS

Country	Most Recent Decision	Required Arrival Date[a]	Expiration Date[b]	Individuals with TPS[c]
Burma	New designation	March 11, 2021	November 25, 2022	N/A[d]
El Salvador	Termination*	February 13, 2001	September 9, 2019	198,420
Haiti (2010)	Termination*	January 12, 2011	July 22, 2019	40,865
Haiti (2021)	New designation	July 29, 2021	February 3, 2023	N/A[d]
Honduras	Termination*	December 30, 1998	January 5, 2020	60,350
Nepal	Termination*	June 24, 2015	June 24, 2019	10,160
Nicaragua	Termination*	December 30, 1998	January 5, 2019	3,200
Somalia	Extension and redesignation	July 19, 2021	March 17, 2023	385
South Sudan	Extension	January 25, 2016	May 2, 2022	80
Sudan	Termination*	January 9, 2013	November 2, 2018	550
Syria	Extension and redesignation	March 19, 2021	September 30, 2022	3,945
Venezuela	New designation	March 8, 2021	September 9, 2022	N/A[d]
Yemen	Extension and redesignation	July 5, 2021	March 3, 2023	1,385
Total				**319,465**

Sources: CRS compilation of information from *Federal Register* announcements or press releases; numbers provided to CRS by USCIS.

Note: *Due to legal challenges, the termination has not yet taken effect. Numbers may not sum to total due to rounding.

a. The arrival date represents the date from which individuals are required to have continuously resided in the United States in order to qualify for TPS and is indicated in the most recent TPS designation for that country. Unless a country is re-designated for TPS, the required arrival date does not change. A foreign

Register 13574-13581, March 9, 2021; U.S. Citizenship and Immigration Services, "Designation of Burma (Myanmar) for Temporary Protected Status," 86 *Federal Register* 28132-28137, May 25, 2021; United States Citizenship and Immigration Services, "Designation of Haiti for Temporary Protected Status," 86 *Federal Register* 41863-41871, August 3, 2021. Estimates of potential TPS beneficiaries are typically based on a variety of sources, including Census data on the foreign-born population, DHS encounters and admissions data, and asylum application data.

[37] For more information on litigation related to TPS terminations, see CRS Legal Sidebar LSB10541, *Ninth Circuit Decision Allows Termination of Temporary Protected Status for Sudan, Nicaragua, and El Salvador to Go Forward*.

[38] Prior USCIS data on TPS recipients included some individuals who also had LPR status and some who had become naturalized U.S. citizens. USCIS recently published data on TPS recipients who do *not* have LPR status or U.S. citizenship. Thus, the numbers used in this report are lower than those in prior versions of this report and more accurately reflect those who rely on TPS to remain in the United States.

national is not considered to have failed this requirement for a "brief, casual, and innocent" absence. 8 U.S.C. §1254a(c) and 8 C.F.R. §244.1.

b. The expiration date represents the end of the most recent designation period and is subject to change based on future decisions of the Secretary of DHS.

c. These data reflect the number of individuals (rounded to the nearest five by USCIS) with an approved TPS application as of March 11, 2021, who had not obtained LPR status or U.S. citizenship. The data may include individuals who have left the country or died since their last TPS approval, and do not necessarily include all nationals from the specified countries who are in the United States and are eligible for the status.

d. Because the application period just began, data are not yet available.

In addition to the countries designated for TPS, certain nationals from Liberia and Venezuela are covered by DED, as are certain Hong Kong residents currently present in the United States (see the "Hong Kong," "Liberia," and "Venezuela" sections). **Table 2** shows the dates associated with these grants. Individuals covered by DED are not required to register for the status with USCIS unless they are applying for work authorization. As a result, USCIS does not maintain data on the total population covered by DED.

Table 2. Countries/Regions Currently Under a DED Grant

Country/Region	Required Arrival Date[a]	Expiration Date[b]
Hong Kong	August 5, 2021	February 5, 2023
Liberia	October 1, 2002	June 30, 2022
Venezuela	January 20, 2021	July 20, 2022

Source: CRS compilation of information from *Federal Register* announcements and White House press releases.

a. The arrival date represents the date from which individuals are required to have continuously resided in the United States in order to qualify for DED.

b. The expiration date represents the end of the most recent DED grant and is subject to change based on future decisions of the President.

Countries

Burma

On February 1, 2021, Burma's military seized control of Burma's Union Government and detained State Counselor Aung San Suu Kyi (the country's de facto civilian leader) and members of her political party. The military's action was widely condemned internationally as a blow to Burma's partial transition from military rule to democracy.[39] In subsequent weeks, the military used lethal force against peaceful protesters several times. In a press release announcing the decision to designate Burma for TPS on the basis of extraordinary and temporary conditions, Secretary Mayorkas stated, "Due to the military coup and security forces' brutal violence against civilians, the people of Burma are suffering a complex and deteriorating humanitarian crisis in many parts of the country."[40] The press release also noted, "The coup has led to continuing violence, pervasive arbitrary detentions, the use of lethal violence against peaceful protesters, and

[39] CRS Insight IN11594, *Coup in Burma (Myanmar): Issues for U.S. Policy*.

[40] Department of Homeland Security, "Secretary Mayorkas Designates Burma for Temporary Protected Status," press release, March 12, 2021, https://www.dhs.gov/news/2021/03/12/secretary-mayorkas-designates-burma-temporary-protected-status.

intimidation of the people of Burma. The coup has worsened humanitarian conditions in several areas by limiting access to life-saving assistance, disrupting flights carrying humanitarian and medical aid, and spurring an economic crisis."[41]

Burma's designation is for 18 months. Burmese nationals who can demonstrate that they were present in the United States as of March 11, 2021 are eligible. DHS estimates that 1,600 individuals may be eligible under this designation.[42]

Central American Countries

The only time Congress has granted TPS was in 1990 (as part of P.L. 101-649, the law establishing TPS) to eligible Salvadoran nationals in the United States.[43] In the aftermath of Hurricane Mitch in November 1998, then-Attorney General Janet Reno announced that she would temporarily suspend the deportation of nationals from El Salvador, Guatemala, Honduras, and Nicaragua. On January 5, 1999, former Attorney General Reno designated Honduras and Nicaragua for TPS due to "severe flooding and associated damage" and "substantial disruption of living conditions" caused by Hurricane Mitch.[44] Prior to leaving office in January 2001, President Clinton said that his Administration would temporarily suspend deportations to El Salvador because of a major earthquake. In 2001, the George W. Bush Administration granted TPS to Salvadoran nationals following two earthquakes that rocked the country.[45]

Over the years, the George W. Bush Administration and the Obama Administration extended TPS for Central Americans from El Salvador, Honduras, and Nicaragua on the rationale that it was still unsafe for their nationals to return due to the disruption of living conditions from environmental disasters.

Beginning in late 2017, the Trump Administration announced decisions to terminate TPS for Nicaragua and El Salvador and to put on hold a decision about Honduras. In November 2017, DHS announced that TPS for Nicaragua would end on January 5, 2019—12 months after its last designation would have expired—due to "recovery efforts relating to Hurricane Mitch [that] have largely been completed."[46] On the same day, DHS announced that more information was necessary to make a determination about TPS for Honduras; as a result, statute dictates that its status be extended for six months.[47] On May 4, 2018, DHS announced its decision to terminate

[41] Ibid.

[42] U.S. Citizenship and Immigration Services, "Designation of Burma (Myanmar) for Temporary Protected Status," 86 *Federal Register* 28132-28137, May 25, 2021; Michele Kelemen, "U.S. Offers Protected Status For People From Myanmar As Coup Leaders Crack Down," National Public Radio, March 12, 2021; Simon Lewis and Humeyra Pamuk, "U.S. grants Myanmar nationals relief from deportation after military coup," *Reuters*, March 12, 2021; Joe Walsh, "Biden Offers Deportation Relief To Myanmar Nationals Amid Coup Chaos," *Forbes*, March 12, 2021.

[43] For historical analysis, see archived CRS Report IB87205, *Immigration Status of Salvadorans and Nicaraguans* (available to congressional clients upon request).

[44] U.S. Department of Justice, Immigration and Naturalization Service, "The Designation of Honduras Under Temporary Protected Status," 64 *Federal Register* 524-526, January 5, 1999; U.S. Department of Justice, Immigration and Naturalization Service, "The Designation of Nicaragua Under Temporary Protected Status," 64 *Federal Register* 526-528, January 5, 1999.

[45] U.S. Department of Justice Immigration and Naturalization Service, "The Designation of El Salvador Under Temporary Protected Status," 66 *Federal Register* 14214-14216, March 9, 2001.

[46] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Termination of the Designation of Nicaragua for Temporary Protected Status," 82 *Federal Register* 59636-59642, December 15, 2017.

[47] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Extension of the Designation of Honduras for Temporary Protected Status,"82 *Federal Register* 59630-59636, December 15, 2017.

the TPS designation for Honduras, with an 18-month delay (until January 5, 2020) to allow for an orderly transition.[48] The terminations for Nicaragua and Honduras are on hold due to a legal challenge.[49]

On January 8, 2018, DHS announced its decision to terminate TPS for El Salvador—whose nationals account for about 60% of all current TPS recipients—after an 18-month transition period. El Salvador's TPS designation was scheduled to end on September 9, 2019,[50] but the termination has not yet taken effect due to a legal challenge.[51] DHS announced in October 2019—as part of agreements with El Salvador related to information sharing and security—that it would extend the validity of work permits through January 4, 2021, for Salvadorans with TPS. (To comply with court orders, DHS has since extended TPS-related documentation through October 4, 2021, for individuals from El Salvador, Nicaragua, Honduras, and other specified countries.[52]) The October 2019 announcement also stated that Salvadorans with TPS would have "an additional 365 days after the conclusion of the TPS-related lawsuits to repatriate back to their home country."[53] These actions do not equate to a TPS extension, as defined in statute.[54]

The large number of Central Americans with TPS, along with their length of U.S. residence and resulting substantial economic and family ties, have led some to support extending TPS—or providing LPR status—for Central Americans and Salvadorans in particular. Supporters have argued that ongoing violence, political unrest, and subsequent natural disasters have left these countries unable to adequately handle the return of their nationals and that a large-scale return could have negative consequences for the U.S. economy and labor supply, American families, foreign relations, and the flow of remittances sent by Central Americans living in the United States to their relatives in Central America.[55] Opponents have argued that ending the TPS designations for these countries is consistent with its original intent—to provide *temporary* safe haven.

Haiti

On May 22, 2021, Secretary Mayorkas announced a new, 18-month TPS designation for Haiti based on extraordinary and temporary conditions, stating, "Haiti is currently experiencing serious security concerns, social unrest, an increase in human rights abuses, crippling poverty, and lack of

[48] U.S. Department of Homeland Security, "Secretary of Homeland Security Kirstjen M. Nielsen Announcement on Temporary Protected Status for Honduras," press release, May 4, 2018, https://www.dhs.gov/news/2018/05/04/secretary-homeland-security-kirstjen-m-nielsen-announcement-temporary-protected.

[49] For more information on litigation related to TPS terminations, see CRS Legal Sidebar LSB10541, *Ninth Circuit Decision Allows Termination of Temporary Protected Status for Sudan, Nicaragua, and El Salvador to Go Forward*.

[50] U.S. Department of Homeland Security, "Secretary of Homeland Security Kirstjen M. Nielsen Announcement on Temporary Protected Status for El Salvador," press release, January 8, 2018, https://www.dhs.gov/news/2018/01/08/secretary-homeland-security-kirstjen-m-nielsen-announcement-temporary-protected.

[51] For more information on litigation related to TPS terminations, see CRS Legal Sidebar LSB10541, *Ninth Circuit Decision Allows Termination of Temporary Protected Status for Sudan, Nicaragua, and El Salvador to Go Forward*.

[52] For more information, see Department of Homeland Security, U.S. Citizenship and Immigration Services, "Continuation of Documentation for Beneficiaries of Temporary Protected Status Designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal," 85 *Federal Register* 79208-79215, December 9, 2020.

[53] U.S. Department of Homeland Security, "U.S. and El Salvador Sign Arrangements on Security and Information Sharing; Give Salvadorans with TPS More Time," press release, October 28, 2019, https://www.dhs.gov/news/2019/10/28/us-and-el-salvador-sign-arrangements-security-information-sharing-give-salvadorans.

[54] See INA §244(b)(3) (8 U.S.C. §1254a(b)(3)).

[55] For information on country conditions, see CRS Report R43616, *El Salvador: Background and U.S. Relations*; CRS Report R44560, *Nicaragua: In Brief*; and CRS Report RL34027, *Honduras: Background and U.S. Relations*.

basic resources, which are exacerbated by the COVID-19 pandemic."[56] The announcement followed months of pressure from immigration advocates and some Members of Congress, including the chair and ranking member of the Senate Foreign Relations Committee.[57] DHS estimates that 155,000 Haitians may be eligible under this designation,[58] which includes individuals who are currently covered by the separate TPS designation that began in 2010.

The 2010 designation was made after the January 12, 2010 earthquake in Haiti prompted calls for the Obama Administration to grant TPS to Haitian nationals in the United States.[59] The scale of the humanitarian crisis after the earthquake—with estimates of thousands of Haitians dead and reports of the total collapse of Port au Prince's infrastructure—led DHS to grant TPS for 18 months to Haitian nationals who were in the United States as of January 12, 2010.[60] At the time, then-DHS Secretary Janet Napolitano stated: "Providing a temporary refuge for Haitian nationals who are currently in the United States and whose personal safety would be endangered by returning to Haiti is part of this Administration's continuing efforts to support Haiti's recovery."[61] On July 13, 2010, DHS announced a six-month extension of the TPS registration period for Haitian nationals, citing difficulties nationals were experiencing in obtaining documents to establish identity and nationality, and in gathering funds required to apply for TPS.[62]

DHS extended the TPS designation for Haiti in May 2011, providing another 18 months of TPS, through January 22, 2013.[63] At the same time, DHS issued a redesignation, enabling eligible Haitian nationals who had arrived in the United States up to one year after the earthquake to receive TPS. The redesignation targeted individuals who were allowed to enter the United States immediately after the earthquake on temporary visas or humanitarian parole,[64] but were not

[56] Department of Homeland Security, "Secretary Mayorkas Designates Haiti for Temporary Protected Status for 18 months," press release, May 22, 2021, https://www.dhs.gov/news/2021/05/22/secretary-mayorkas-designates-haiti-temporary-protected-status-18-months. For further information on country conditions, see the "Haiti" section in CRS Report R46781, *Latin America and the Caribbean: U.S. Policy and Key Issues in the 117th Congress*, coordinated by Mark P. Sullivan.

[57] Senate Foreign Relations Committee, "Menendez, Rubio Urge Biden Administration to Re-designate Haiti for TPS," press release, March 12, 2021, https://www.foreign.senate.gov/press/chair/release/-menendez-rubio-urge-biden-administration-to_re-designate-haiti-for-tps.

[58] United States Citizenship and Immigration Services, "Designation of Haiti for Temporary Protected Status," 86 *Federal Register* 41863-41871, August 3, 2021.

[59] The issue of Haitian TPS had arisen several times prior, most notably after the U.S. Ambassador declared Haiti a disaster in September 2004 due to the magnitude of the effects of Tropical Storm Jeanne. A series of tropical cyclones in 2008 resulted in hundreds of deaths and led some to label the city of Gonaives uninhabitable. The George W. Bush Administration did not grant TPS or another form of blanket relief to Haitians, nor was legislation enacted that would have provided TPS to Haitians, such as H.R. 522 in the 110th Congress. For background information on Haitian migration to the United States, see archived CRS Report RS21349, *U.S. Immigration Policy on Haitian Migrants*.

[60] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Designation of Haiti for Temporary Protected Status," 75 *Federal Register* 3476-3479, January 21, 2010.

[61] U.S. Department of Homeland Security, "Statement from Secretary Janet Napolitano," press release, January 15, 2010.

[62] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Extension of the Initial Registration Period for Haitians under the Temporary Protected Status Program," 75 *Federal Register* 39957, July 13, 2010.

[63] U.S. Department of Homeland Security, "Secretary Napolitano Announces Extension of Temporary Protected Status for Haitian Beneficiaries," press release, May 17, 2011.

[64] Parole allows an individual, who may be inadmissible or otherwise ineligible for admission into the United States, to be granted authorization to enter the United State for a temporary period. INA §212(d)(5) (8 U.S.C. §1182(d)(5)). For more information, see CRS Report R46570, *Immigration Parole*.

covered by the initial TPS designation.[65] Subsequently, then-Secretary Jeh Johnson extended Haiti's designation several more times, through July 22, 2017.[66]

A May 2, 2017 letter from members of the Congressional Black Caucus to then-DHS Secretary John Kelly urged another 18-month extension of TPS for Haiti, citing continued recovery difficulties from the 2010 earthquake that killed over 300,000 people, an ongoing cholera epidemic, and additional damages from Hurricane Matthew in 2016.[67] On May 24, 2017, Kelly extended Haiti's TPS designation for six months (the minimum allowed by statute), from its planned expiration on July 22, 2017, to January 22, 2018, and encouraged beneficiaries to prepare to return to Haiti should its designation be terminated after six months.[68] An October 4, 2017, letter from the Haitian ambassador to then-Acting DHS Secretary Elaine Duke requested that Haiti's designation be extended for an additional 18 months.[69] On November 20, 2017, DHS announced its decision to terminate TPS for Haiti, with an 18-month transition period. Its designation was set to terminate on July 22, 2019,[70] but the termination has not yet taken effect due to legal challenges.[71] Haitian nationals who have been covered under the designation that began in 2010 and wish to be covered by the new designation must submit a new application to DHS.

Hong Kong

Following large-scale protests in 2019, China imposed a sweeping National Security Law on Hong Kong in 2020 that many see as violating a 1984 Sino-British treaty which stated that Hong Kong's social and economic systems and individual rights and freedoms would remain unchanged until at least 2047 and in which China promised to give Hong Kong a "high degree of autonomy."[72] In February 2021, after Hong Kong authorities charged pro-democracy politicians and activists with subversion under the new law, U.S. Secretary of State Antony Blinken called for their immediate release, tweeting, "Political participation and freedom of expression should not be crimes."[73] On August 5, 2021, President Biden granted DED to certain Hong Kong residents currently in the United States citing the "significant erosion" of human rights and fundamental freedoms.[74] Under this directive, eligible individuals may apply to DHS for work authorization and are not subject to removal from the United States for the next 18 months.

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[65] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Extension and Re-designation of Haiti for Temporary Protected Status," 76 *Federal Register* 29000-29004, May 19, 2011.

[66] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Extension of the Designation of Haiti for Temporary Protected Status," 80 *Federal Register* 51582-51588, August 25, 2015.

[67] For conditions following Hurricane Matthew, see CRS In Focus IF10502, *Haiti: Cholera, the United Nations, and Hurricane Matthew*.

[68] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Extension of the Designation of Haiti for Temporary Protected Status," 82 *Federal Register* 23830-23837, May 24, 2017.

[69] Letter from Paul G. Altidor, Ambassador to the United States from Haiti, to Elaine C. Duke, Acting Secretary of the Department of Homeland Security, October 4, 2017.

[70] U.S. Department of Homeland Security, "Acting Secretary Elaine Duke Announcement On Temporary Protected Status For Haiti," press release, November 20, 2017, https://www.dhs.gov/news/2017/11/20/acting-secretary-elaine-duke-announcement-temporary-protected-status-haiti.

[71] For more information on litigation related to TPS terminations, see CRS Legal Sidebar LSB10541, *Ninth Circuit Decision Allows Termination of Temporary Protected Status for Sudan, Nicaragua, and El Salvador to Go Forward*.

[72] CRS In Focus IF10119, *China Primer: U.S.-China Relations*.

[73] Ibid.

[74] The White House (President Biden), Office of the Press Secretary, "Memorandum on the Deferred Enforced Departure for Certain Hong Kong Residents," presidential memorandum for the Secretary of State and the Secretary of

Liberia

Liberians in the United States first received TPS in March 1991 following the outbreak of civil war. Although that war ended, a second civil war began in 1999 and escalated in 2000.[75] In 1999, President Clinton authorized DED for an estimated 10,000 Liberians in the United States after their TPS designation expired. DED was subsequently extended by President Clinton and President George W. Bush to September 29, 2002. On October 1, 2002, Liberia was designated again for TPS due to ongoing armed conflict.[76] In 2006, the George W. Bush Administration announced that TPS for Liberia would expire on October 1, 2007, but that covered Liberians would be eligible for DED until March 31, 2009. On March 23, 2009, President Obama extended DED for those Liberians until March 31, 2010, and several times thereafter.[77]

As a result of the 2014-2016 Ebola outbreak in West Africa, eligible Liberians were again granted TPS, as were eligible Sierra Leoneans and Guineans.[78] On September 26, 2016, DHS issued a notice terminating TPS for Liberia with an effective date of May 21, 2017; this date provided a six-month extension past when it was previously set to expire, in order to provide an "orderly transition" for beneficiaries to "prepare for and arrange their departure from the United States or … to apply for other immigration benefits for which they are eligible."[79] Similar termination notices were issued for Sierra Leone and Guinea.

For a specially designated population of Liberians who had been residing in the United States since October 2002, their DED status was extended by President Obama through March 31, 2018.[80] President Trump announced on March 27, 2018, that extending DED again for these Liberians was not warranted due to improved conditions in Liberia, but that the U.S. foreign policy interests warranted a 12-month wind-down period.[81] A lawsuit challenging the termination was filed in federal court on March 8, 2019.[82] Three days before the effective termination date, President Trump—citing congressional efforts to provide longer-term relief for Liberians—

Homeland Security, August 5, 2021.

[75] See archived CRS Report RL32243, *Liberia: Transition to Peace*.

[76] U.S. Department of Justice, Immigration and Naturalization Service, "Designation of Liberia Under the Temporary Protected Status Program," 67 *Federal Register* 61664-61667, October 1, 2002.

[77] See, for example, U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Filing Procedures and Automatic Extension of Employment Authorization and Related Documentation for Liberians Provided Deferred Enforced Departure," 75 *Federal Register* 15715, March 30, 2010; The White House (President Obama), Office of the Press Secretary, "Deferred Enforced Departure for Liberians," presidential memorandum for the Secretary of Homeland Security, September 28, 2016.

[78] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Designation of Liberia for Temporary Protected Status," 79 *Federal Register* 69502-69502, November 21, 2014; and U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Extension of the Initial Registration Period for Guinea, Liberia and Sierra Leone for Temporary Protected Status," 80 *Federal Register, Number 122, 36551-36552,* June 25, 2015.

[79] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Six-Month Extension of Temporary Protected Status Benefits for Orderly Transition Before Termination of Liberia's Designation for Temporary Protected Status," 81 *Federal Register* 66059-66064, September 26, 2016.

[80] The White House (President Obama), Office of the Press Secretary, "Deferred Enforced Departure for Liberians," presidential memorandum for the Secretary of Homeland Security, September 28, 2016.

[81] The White House (President Trump), Office of the Press Secretary, "Expiration of Deferred Enforced Departure for Liberians," presidential memorandum for the Secretary of State and the Secretary of Homeland Security, March 27, 2018.

[82] Complaint, African Cmtys. Together v. Trump, No. 1:19-cv-10432 (D. Mass. Mar. 8, 2019).

announced a 12-month extension of the wind-down period, to last through March 30, 2020.[83] On March 30, 2020, President Trump again delayed the effective date of the termination (this time to January 10, 2021) in order to provide continuous employment authorization to Liberians eligible to adjust their status under the recently enacted Liberian Refugee Immigration Fairness provision (see next paragraph). Approximately 589 Liberians have approved employment authorization documents (EADs) under this DED directive.[84] This number does not reflect all Liberians who might be covered under this DED announcement—only those who applied for and received an EAD.[85] On January 20, 2021, his first day in office, President Biden reinstated DED for Liberians who had been covered by the prior DED grant.[86] The current DED grant is for 18 months.

The 116th Congress incorporated Liberian Refugee Immigration Fairness (LRIF) provisions into the FY2020 National Defense Authorization Act (NDAA). LRIF allows Liberians who have been continuously present in the United States since November 2014 and their family members to apply for LPR status. President Trump signed the FY2020 NDAA into law on December 20, 2019 (P.L. 116-92, Section 7611).[87]

Nepal

Nepal was devastated by a massive earthquake on April 25, 2015, killing over 8,000 people. The earthquake and subsequent aftershocks demolished much of Nepal's housing and infrastructure in many areas. Over half a million homes were reportedly destroyed.[88] On June 24, 2015, citing a substantial but temporary disruption in living conditions as a result of the earthquake, then-DHS Secretary Jeh Johnson designated Nepal for TPS for an 18-month period.[89] TPS for Nepal was extended for 18 months in October 2016.[90] On April 26, 2018, then-Secretary Kirstjen Nielsen announced her decision to terminate the TPS designation for Nepal, citing her assessment that the original conditions under which the country was designated were no longer substantial and that Nepal could adequately handle the return of its nationals.[91] A 12-month delay of the termination date to allow for an orderly transition was also announced; the TPS designation for Nepal was

[83] The White House (President Trump), Office of the Press Secretary, "Extension of Deferred Enforced Departure for Liberians," presidential memorandum for the Secretary of State and the Secretary of Homeland Security, March 28, 2019.

[84] Numbers provided to CRS by USCIS and represent individuals with a valid EAD as of February 4, 2020.

[85] Individuals who benefit from DED are not required to register for the status with USCIS unless they are applying for work authorization. In its February 25, 2021 webinar, "Liberian Refugee Immigration Fairness (LRIF) and Deferred Enforced Departure (DED) for Liberians," USCIS stated that the total number of Liberians currently covered by DED is, at most, 2,800. This number is based on the number of individuals who were eligible for the TPS designation that ended on September 30, 2007 minus those who have since adjusted to LPR status.

[86] The White House (President Biden), Office of the Press Secretary, "Reinstating Deferred Enforced Departure for Liberians," presidential memorandum for the Secretary of State and the Secretary of Homeland Security, January 20, 2021.

[87] Section 901 of the Consolidated Appropriations Act, 2021 (P.L. 116-260) extended by one year the deadline to apply for LRIF (to December 20, 2021).

[88] See CRS Report R44303, *Nepal: Political Developments and U.S. Relations*. For information on more recent country conditions, see CRS In Focus IF10216, *Nepal*.

[89] U.S. Department of Justice, Immigration and Nationalization Service, "Designation of Nepal for Temporary Protected Status," 80 *Federal Register* 36346-36350, June 24, 2015.

[90] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Extensions of the Designation of Nepal for Temporary Protected Status," 81 *Federal Register* 74470-74475, October 26, 2016.

[91] U.S. Department of Homeland Security, "Secretary Kirstjen M. Nielsen Announcement on Temporary Protected Status for Nepal," press release, April 26, 2018, https://www.dhs.gov/news/2018/04/26/secretary-kirstjen-m-nielsen-announcement-temporary-protected-status-nepal.

thus set to terminate on June 24, 2019.[92] The termination has not yet taken effect due to a legal challenge.[93]

Somalia

Somalia has endured decades of chronic instability and humanitarian crises. Since the collapse of the authoritarian Siad Barre regime in 1991, it has lacked a viable central authority capable of exerting territorial control, securing its borders, or providing security and services to its people.[94] Somalia was first designated for TPS in 1991 based on "extraordinary and temporary conditions … that prevent aliens who are nationals of Somalia from returning to Somalia in safety."[95] Through 25 subsequent extensions or redesignations, Somalia has maintained TPS due to insecurity and ongoing armed conflict that present serious threats to the safety of returnees. Most recently, DHS Secretary Mayorkas extended Somalia's designation for another 18 months through March 17, 2023; at the same time, he redesignated Somalia, moving the cutoff date forward and thereby allowing additional individuals who have been continuously residing in the United States since July 19, 2021, to apply.[96]

Sudan and South Sudan

Decades of civil war preceded South Sudan's secession from the Republic of Sudan in 2011.[97] Citing both ongoing armed conflict and extraordinary and temporary conditions that would prevent the safe return of Sudanese nationals, the Attorney General designated Sudan for TPS on November 4, 1997. Since then, Sudan has been redesignated or had its designation extended 14 times.

On July 9, 2011, South Sudan became a new nation.[98] With South Sudan's independence from the Republic of Sudan, questions arose about whether nationals of the new nation would continue to be eligible for TPS. In response, then-Secretary Napolitano designated South Sudan for TPS on October 17, 2011.[99] TPS has been extended or redesignated seven times since then due to ongoing armed conflict and extraordinary and temporary conditions in South Sudan, including "ongoing civil war marked by brutal violence against civilians, egregious human rights violations and abuses, and a humanitarian disaster on a devastating scale across the country."[100] The latest extension was for 18 months and expires on May 2, 2022.[101]

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[92] Ibid.

[93] For more information on litigation related to TPS terminations, see CRS Legal Sidebar LSB10541, *Ninth Circuit Decision Allows Termination of Temporary Protected Status for Sudan, Nicaragua, and El Salvador to Go Forward*.

[94] See CRS In Focus IF10155, *Somalia*.

[95] U.S. Department of Justice, Immigration and Nationalization Service, "Designation of Nationals of Somalia for Temporary Protected Status," 56 *Federal Register* 46804-46805, September 16, 1991.

[96] United States Citizenship and Immigration Services, "Extension and Redesignation of Somalia for Temporary Protected Status," 86 *Federal Register* 38744-38753, July 22, 2021.

[97] See CRS In Focus IF10182, *Sudan*.

[98] See CRS In Focus IF10218, *South Sudan*.

[99] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Designation of Republic of South Sudan for Temporary Protected Status," 76 *Federal Register* 63629-63635, October 13, 2011.

[100] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Extension of South Sudan for Temporary Protected Status," 82 *Federal Register* 44205-44211, September 21, 2017.

[101] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Alert," https://www.uscis.gov/humanitarian/temporary-protected-status. (As of the date of this report, the *Federal Register* notice extending the

Meanwhile, citing improved conditions in Sudan, including a reduction in violence and an increase in food harvests, then-Acting DHS Secretary Duke announced in September 2017 that Sudan's TPS designation would expire on November 2, 2018.[102] The termination has not yet taken effect due to a legal challenge.[103]

Syria

The political uprising of 2011 in Syria grew into an intensely violent civil war that has led to 5.6 million Syrians fleeing the country and 6.2 million more internally displaced as of early 2020.[104] On March 29, 2012, then-Secretary of Homeland Security Janet Napolitano designated Syria for TPS through September 30, 2013, citing temporary extraordinary conditions that would make it unsafe for Syrian nationals already in the United States to return to the country.[105] In that initial granting of TPS, Secretary Napolitano made clear that DHS would conduct full background checks on Syrians registering for TPS.[106] TPS for Syrian nationals has since been extended. The 18-month extension on August 1, 2016, was accompanied by a redesignation, which updated the required arrival date into the United States for Syrians from January 5, 2015, to August 1, 2016.[107] On January 31, 2018, then-Secretary Nielsen announced her decision to extend the TPS designation for Syria for another 18 months, citing the ongoing armed conflict and extraordinary conditions that prompted the original designation.[108] This announcement did not include a redesignation; thus, Syrians who entered the United States after August 1, 2016, remained ineligible.[109] The Trump Administration issued another 18-month extension (without redesignation) for Syria through March 31, 2021.[110] On January 29, 2021, the Biden Administration announced a redesignation and 18-month extension of Syria's TPS. This action enables eligible Syrian nationals to retain their TPS through September 2022 and allows approximately 1,800 additional individuals to file initial applications to obtain such status.[111]

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designation had not been published.)

[102] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Termination of the Designation of Sudan for Temporary Protected Status," 82 *Federal Register* 47228-47234, October 11, 2017.

[103] For more information on litigation related to TPS terminations, see CRS Legal Sidebar LSB10541, *Ninth Circuit Decision Allows Termination of Temporary Protected Status for Sudan, Nicaragua, and El Salvador to Go Forward*.

[104] See CRS Report R43119, *Syria: Overview of the Humanitarian Response*; and CRS Report RL33487, *Armed Conflict in Syria: Overview and U.S. Response*.

[105] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Designation of Syrian Arab Republic for Temporary Protected Status," 61 *Federal Register* 19026-19030, March 29, 2012.

[106] Secretary of Homeland Security Janet Napolitano, "Temporary Protected Status (TPS) for Syrian Nationals," press release, March 23, 2012, https://www.dhs.gov/ynews/releases/20120323-napolitano-statement-syria-tps.shtm.

[107] Previously, Syrians who had arrived in the United States after January 5, 2015, were not eligible for TPS. The redesignation allows Syrians that arrived between January 5, 2015, and August 1, 2016, to be eligible for TPS. U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Extension and Redesignation of Syria for Temporary Protected Status," 81 *Federal Register* 50533-50541, August 1, 2016.

[108] U.S. Department of Homeland Security, "Secretary of Homeland Security Kirstjen M. Nielsen Announcement On Temporary Protected Status For Syria," press release, January 31, 2018, https://www.dhs.gov/news/2018/01/31/secretary-homeland-security-kirstjen-m-nielsen-announcement-temporary-protected.

[109] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Extension of the Designation Syria for Temporary Protected Status," 83 *Federal Register* 9329-9336, March 5, 2018.

[110] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Extension of the Designation Syria for Temporary Protected Status," 84 *Federal Register* 49751-49757, September 23, 2019.

[111] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Extension and Redesignation of Syria for Temporary Protected Status," 86 *Federal Register* 14946-14952, March 19, 2021.

Venezuela

Venezuela is in a deep crisis under the authoritarian rule of Nicolás Maduro. Narrowly elected in 2013 after the death of populist President Hugo Chávez, Maduro began a second term in January 2019 that is widely considered illegitimate.[112] By most accounts, Maduro's government has mismanaged the economy and engaged in massive corruption, exacerbating the effects of a decline in global oil prices and production on the country's economy. Shortages in food and medicine, declines in purchasing power, and a collapse of social services have created a humanitarian crisis.[113]

During 2019, some Members of Congress and nonprofit organizations requested that the Trump Administration designate Venezuela for TPS,[114] and the House passed a bill that would have designated Venezuela for TPS for 18 months.[115] A Senate effort in July 2020 to pass H.R. 549 by unanimous consent failed. In response to a letter requesting TPS for Venezuela, the Acting Director of USCIS stated that USCIS would not recommend any new countries for TPS "until such time as federal courts resume following federal law," referring to court decisions to enjoin the Trump Administration's terminations of TPS designations for several countries.[116] The Trump Administration never designated Venezuela for TPS. However, on his last full day in office, President Trump granted DED for Venezuelans present in the United States as of January 20, 2021, asserting that the Maduro regime is responsible for "the worst humanitarian crisis in the Western Hemisphere in recent memory."[117]

The Biden Administration determined that Venezuela met the statutory conditions for a TPS designation on the basis of extraordinary and temporary conditions. Unlike DED, designating Venezuela for TPS allows those who qualify to obtain an immigration status and documentation thereof; it also requires that the Administration reconsider country conditions on a periodic basis and extend or terminate the status accordingly. On March 8, DHS Secretary Mayorkas announced an 18-month TPS designation for Venezuela, citing the following factors:

> economic contraction; inflation and hyperinflation; deepening poverty; high levels of unemployment; reduced access to and shortages of food and medicine; a severely weakened medical system; the reappearance or increased incidence of certain communicable diseases; a collapse in basic services; water, electricity, and fuel shortages; political polarization; institutional and political tensions; human rights abuses and repression; crime and violence; corruption; increased human mobility and displacement

[112] CRS In Focus IF10230, *Venezuela: Political Crisis and U.S. Policy*.

[113] Ibid.

[114] See, for example, letter from 24 U.S. Senators to President Donald J. Trump, March 7, 2019, https://www.durbin.senate.gov/imo/media/doc/March7%20Venezuela%20TPS%20Letter%20FINAL%20SIGNED.pdf; and letter from 23 U.S. Representatives to Kevin McAleenan, acting Secretary of DHS, May 10, 2019, https://www.uscis.gov/sites/default/files/document/foia/TPS_-_Venezuela_-_Representative_Mucarsel-Powell.pdf.

[115] H.R. 549, 116th Congress.

[116] Letter from Ken Cucinelli II, acting director, USCIS, to Leith Anderson, president, National Association of Evangelicals, October 24, 2019, https://www.uscis.gov/sites/default/files/document/foia/TPS_-_Venezuela_-_Anderson.pdf. For information on the TPS-related injunctions, see CRS Legal Sidebar LSB10215, *Federal District Court Enjoins the Department of Homeland Security from Terminating Temporary Protected Status*.

[117] The White House (President Trump), Office of the Press Secretary, "Deferred Enforced Departure for Certain Venezuelans," presidential memorandum for the Secretary of State and the Secretary of Homeland Security, January 19, 2021.

(including internal migration, emigration, and return); and the impact of the COVID-19 pandemic, among other factors.[118]

USCIS estimates that approximately 323,000 individuals are eligible to file applications for TPS under the designation of Venezuela.[119]

Because Venezuela is currently designated for both TPS and DED, Venezuelans may apply for work authorization pursuant to either type of relief.[120] DHS encourages Venezuelans who are eligible for both TPS and DED to apply for TPS during the initial registration period (March 9, 2021-September 5, 2021) since they may not qualify for TPS after DED has expired.[121]

Yemen

On September 3, 2015, then-DHS Secretary Johnson designated Yemen for TPS through March 3, 2017, due to ongoing armed conflict in the country.[122] A 2015 DHS press release stated that "requiring Yemeni nationals in the United States to return to Yemen would pose a serious threat to their personal safety."[123] Since 2015, the war in Yemen has killed over 100,000 people, including civilians as well as combatants. According to the United Nations, Yemen is the world's worst humanitarian crisis, with 80% of the population in need of assistance. Relief efforts in the region have been complicated by ongoing violence and considerable damage to the country's infrastructure.[124] On January 4, 2017, DHS extended and redesignated Yemen's current TPS designation through September 3, 2018. The redesignation updated the required arrival date into the United States for individuals from Yemen from September 3, 2015, to January 4, 2017.[125] The *Federal Register* notice explained that the "continued deterioration of the conditions for civilians in Yemen and the resulting need to offer protection to individuals who have arrived in the United States after the eligibility cutoff dates" warranted the redesignation of TPS.[126] The Trump Administration twice extended Yemen's TPS designation for durations of 18 months each, but kept the arrival cutoff date the same.[127] In July 2021, the Biden Administration extended Yemen's

[118] U.S. Department of Homeland Security, "Designation of Venezuela for Temporary Protected Status and Implementation of Employment Authorization for Venezuelans Covered by Deferred Enforced Departure," 86 *Federal Register* 13574-13581, March 9, 2021.

[119] Ibid.

[120] Those who are approved for work authorization pursuant to their TPS application are to receive an employment authorization document (EAD) valid through September 9, 2022; if Venezuela's TPS designation is subsequently extended, such an EAD would be eligible for renewal. Venezuelans who are approved for an EAD pursuant to DED will receive an EAD valid through July 20, 2022; if the President does not extend Venezuela's DED, such an EAD would expire on July 20, 2022.

[121] In limited circumstances, an individual may apply for TPS after the initial registration period has ended. See 8 C.F.R. §244.2(f)(2).

[122] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Designation of the Republic of Yemen for Temporary Protected Status," 80 *Federal Register* 53319-53323, September 3, 2015.

[123] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "DHS Announces Temporary Protected Status Designation for Yemen," press release, September 3, 2015, https://www.uscis.gov/news/dhs-announces-temporary-protected-status-designation-yemen.

[124] See CRS Report R43960, *Yemen: Civil War and Regional Intervention*.

[125] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Extension and Redesignation of the Republic of Yemen for Temporary Protected Status," 82 *Federal Register* 859-866, January 4, 2017.

[126] Ibid.

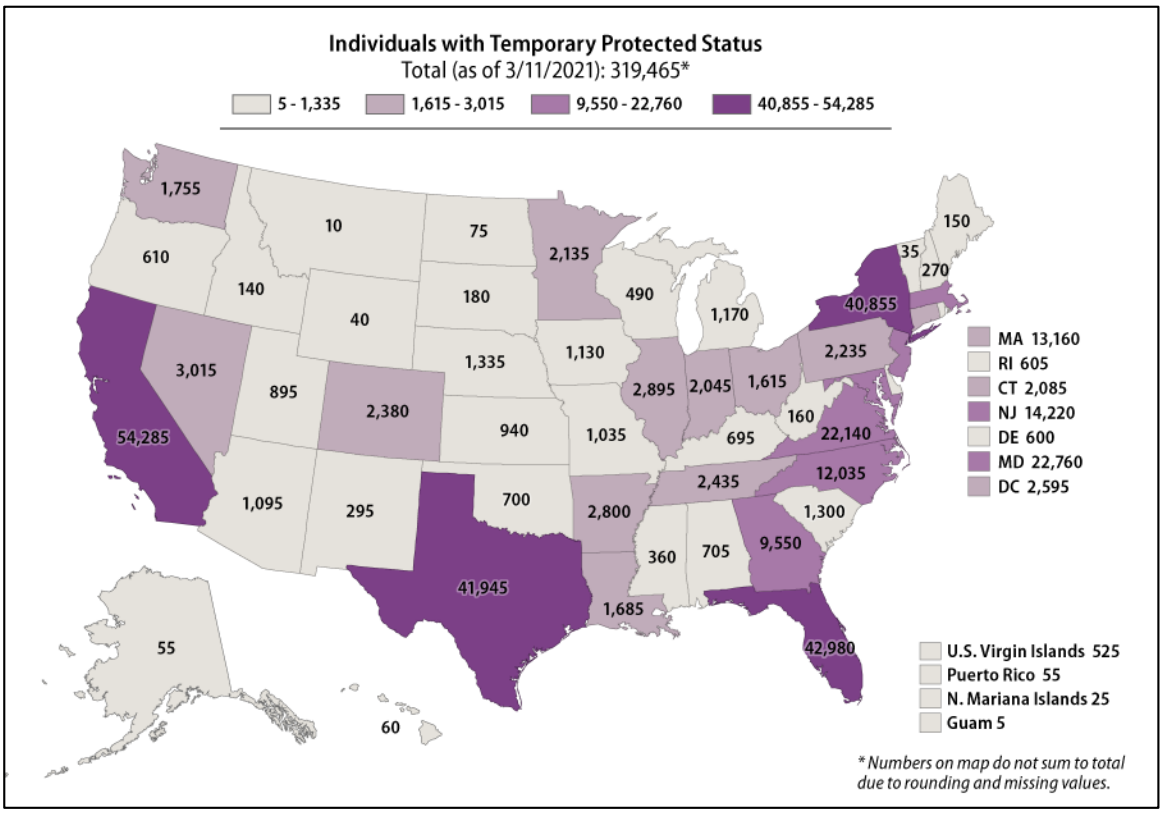
[127] U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Extension of the Designation of Yemen for Temporary Protected Status," 83 *Federal Register* 40307-40313, August 14, 2018; U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, "Extension of the Designation of Yemen for

designation for 18 months and, at the same time, redesignated the country, thereby allowing additional individuals who have been continuously residing in the United States since July 5, 2021, to apply.[128]

State of Residence of TPS Recipients

Individuals with TPS reside in all 50 states, the District of Columbia, and the U.S. territories. The largest populations live in traditional immigrant gateway states: California, Florida, Texas, and New York. In addition, five other states had at least 10,000 TPS recipients as of March 2021: Maryland, Virginia, New Jersey, Massachusetts, and North Carolina. See **Figure 1** and **Table A-1**.

Figure 1. Individuals with Temporary Protected Status by State of Residence



Source: CRS presentation of data provided by USCIS.

Notes: These data reflect the number of individuals (rounded to the nearest five) with an approved TPS application as of March 11, 2021, who had not obtained LPR status or U.S. citizenship. The data may include individuals who have moved to another state, left the country, or died since their last TPS approval, and do not necessarily include all nationals from the specified countries who are in the United States and are eligible for the status.

Temporary Protected Status," 85 *Federal Register* 12313-12319, March 2, 2020.

[128] United States Citizenship and Immigration Services, "Extension and Redesignation of Yemen for Temporary Protected Status," 86 *Federal Register* 36295-36302, July 9, 2021.

Adjustment of Status

A grant of TPS does not provide a recipient with a designated pathway to LPR status; however, a TPS recipient is not barred from acquiring nonimmigrant or immigrant status if he or she meets the requirements.[129] There are statutory limitations on Congress providing adjustment of status to TPS recipients. Section 244(h) of the INA (8 U.S.C. §1254a(h)) states that the consideration of any bill, resolution, or amendment that provides for the adjustment to lawful temporary or lawful permanent resident status for any TPS recipient requires a supermajority in the Senate (i.e., three-fifths of all Senators) voting affirmatively.

Over the years, Congress has provided for the adjustment to LPR status for groups of nationals who had been given TPS or DED. In 1992, Congress enacted legislation allowing Chinese nationals who had DED following the Tiananmen Square massacre to adjust to LPR status (P.L. 102-404). The Nicaraguan Adjustment and Central American Relief Act (NACARA) (Title II of P.L. 105-100), which became law in 1997, provided eligibility for LPR status to certain Nicaraguans, Cubans, Guatemalans, Salvadorans (some of whom were covered by TPS), and nationals of the former Soviet bloc who had applied for asylum and had been living in the United States for a certain period of time. The 116th Congress incorporated Liberian Refugee Immigration Fairness provisions into the FY2020 National Defense Authorization Act; it allows Liberians who have been continuously present in the United States since November 2014 and their family members to apply for LPR status. President Trump signed it into law on December 20, 2019 (P.L. 116-92, Section 7611).

Other legislation to allow persons with TPS to adjust to LPR status received action in past Congresses; this legislation was not enacted. For instance, the Senate-passed comprehensive immigration reform bill in the 113th Congress (S. 744) did not include specific provisions for foreign nationals with TPS to adjust status, but many would have qualified for the registered provisional immigrant status that S. 744 would have established.[130]

Selected Legislative Activity in the 116th and 117th Congresses

Various proposals related to TPS and DED were introduced in the 116th Congress. These included bills that would have extended current TPS designations or added new designations for TPS (e.g., Venezuela or Hong Kong),[131] prohibited federal funds from being used to remove TPS recipients,[132] made TPS or DED recipients eligible for federal financial aid for higher

[129] In order to adjust to LPR status, an individual generally must have been "inspected and admitted or paroled" into the United States (INA §245(a), 8 U.S.C. §1255(a)). In recent years, some federal courts have addressed whether aliens who unlawfully entered the United States but later received TPS are considered to be "inspected and admitted" into the United States. Circuit courts were split on this issue. On June 7, 2021, the Supreme Court ruled unanimously that TPS does not constitute an admission. For more information, see CRS Legal Sidebar LSB10607, *Supreme Court: Unlawful Entrants with Temporary Protected Status Cannot Adjust to Lawful Permanent Resident Status*.

[130] See archived CRS Report R43097, *Comprehensive Immigration Reform in the 113th Congress: Major Provisions in Senate-Passed S. 744*.

[131] H.R. 549, H.R. 1926, H.R. 2413, H.R. 2783, H.R. 4112, H.R. 4272, H.R. 4303, H.R. 8428, S. 636, S. 2176, and S. 2478, for example.

[132] H.R. 3931, for example.

education,[133] or provided for adjustment to LPR status for TPS and DED recipients who had been living in the United States for several years.[134] Other bills introduced in the 116th Congress variously sought to limit TPS by transferring authority from DHS to Congress to designate foreign states[135] or making ineligible for TPS aliens who lack a lawful immigration status or who are members of criminal gangs.[136] The House passed H.R. 549, which would have designated Venezuela for TPS for a period of 18 months. In July 2020, a Senate effort to pass H.R. 549 by unanimous consent failed.

As noted earlier, in the 116th Congress the National Defense Authorization Act for Fiscal Year 2020 (S. 1790) included Section 7611 (Liberian Refugee Immigration Fairness), which allows certain Liberian nationals to apply for LPR status. S. 1790 was signed into law by President Trump on December 20, 2019, and became P.L. 116-92.

Two bills that would have provided LPR status to TPS recipients passed the House in the 116th Congress; these bills were not taken up by the Senate. Title II of the American Dream and Promise Act of 2019 (H.R. 6) would have allowed individuals who were eligible for TPS or DED as of January 1, 2017, and who had been living in the United States for at least three years before the date of enactment to become LPRs. These provisions would have applied to nationals of 13 countries. Certain individuals with TPS or DED protection would have also been covered by the legalization provisions in Title I of H.R. 6. It passed the House on June 4, 2019. The Farm Workforce Modernization Act of 2019 (H.R. 5038) would have established a process for certain farm workers in the United States to obtain a legal temporary status and then LPR status. TPS and DED recipients who met the farm work and other requirements under the bill, would have been eligible. H.R. 5038 passed the House on December 11, 2019.

Bills similar to these two were introduced in the 117th Congress (H.R. 6 and H.R. 1603, respectively) and passed the House on March 18, 2021. The 117th Congress version of H.R. 6 would allow individuals who were eligible for TPS as of January 1, 2017, or DED as of January 20, 2021, and who accumulate three years of continuous presence in the United States to become LPRs. These provisions would apply to nationals of 14 countries (the same 13 countries eligible under the version of the bill that passed the 116th Congress, plus Venezuela). The 117th Congress version adds a provision (Section 203) that would clarify that TPS recipients are considered "inspected and admitted" for purposes of adjustment to LPR status.[137] The 117th Congress version of the Farm Workforce Modernization Act (H.R. 1603) is highly similar to H.R. 5038 from the 116th Congress. Like H.R. 5038, it would establish a process for certain farm workers in the United States (including those with TPS or DED) to obtain a legal temporary status and then LPR status.

[133] H.R. 1298, H.R. 4674, and S. 1346, for example.

[134] H.R. 6, H.R. 1169, H.R. 2783, S. 456, S. 874, S. 879, and S. 1790, for example.

[135] H.R. 3899, for example.

[136] H.R. 98, H.R. 574, H.R. 1106, H.R. 3899, and S. 599, for example.

[137] For more information, see CRS Legal Sidebar LSB10607, *Supreme Court: Unlawful Entrants with Temporary Protected Status Cannot Adjust to Lawful Permanent Resident Status*.

Appendix.

Table A-1. Individuals with Temporary Protected Status by State of Residence

State	Individuals with TPS	State	Individuals with TPS
Alabama	705	Nevada	3,015
Alaska	55	New Hampshire	270
Arizona	1,095	New Jersey	14,220
Arkansas	2,800	New Mexico	295
California	54,285	New York	40,855
Colorado	2,380	North Carolina	12,035
Connecticut	2,085	North Dakota	75
Delaware	600	Ohio	1,615
District of Columbia	2,595	Oklahoma	700
Florida	42,980	Oregon	610
Georgia	9,550	Pennsylvania	2,235
Hawaii	60	Rhode Island	605
Idaho	140	South Carolina	1,300
Illinois	2,895	South Dakota	180
Indiana	2,045	Tennessee	2,435
Iowa	1,130	Texas	41,945
Kansas	940	Utah	895
Kentucky	695	Vermont	35
Louisiana	1,685	Virginia	22,140
Maine	150	Washington	1,755
Maryland	22,760	West Virginia	160
Massachusetts	13,160	Wisconsin	490
Michigan	1,170	Wyoming	40
Minnesota	2,135	U.S. Virgin Islands	525
Mississippi	360	Puerto Rico	55
Missouri	1,035	Northern Mariana Islands	25
Montana	10	Other/Unknown	105
Nebraska	1,335	**Total**	**319,465**

Source: Data provided to CRS by USCIS.

Notes: These data reflect individuals (rounded to the nearest five) with TPS as of March 11, 2021, who had not obtained LPR status or U.S. citizenship. The data may include individuals who have left the country or died since their last TPS approval, and do not necessarily include all nationals from the specified countries who are in the United States and are eligible for the status. "Other" includes Federated States of Micronesia, Guam, Marshall Islands, and the Armed Forces.

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