

Department of Homeland Security

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(v) Attestations by churches, unions, or other organizations of the applicant's residence by letter which:

- (A) Identifies applicant by name;
- (B) Is signed by an official whose title is also shown;
- (C) Shows inclusive dates of membership;
- (D) States the address where applicant resided during the membership period;
- (E) Includes the seal of the organization impressed on the letter or is on the letterhead of the organization, if the organization has letterhead stationery;

(F) Establishes how the attester knows the applicant; and

(G) Establishes the origin of the information being attested to.

(vi) Additional documents to support the applicant's claim, which may include:

- (A) Money order receipts for money sent in or out of the country;
- (B) Passport entries;
- (C) Birth certificates of children born in the United States;
- (D) Bank books with dated transactions;
- (E) Correspondence between the applicant and other persons or organizations;
- (F) Social Security card;
- (G) Selective Service card;
- (H) Automobile license receipts, title, vehicle registration, etc;
- (I) Deeds, mortgages, contracts to which applicant has been a party;
- (J) Tax receipts;
- (K) Insurance policies, receipts, or letters; and/or
- (L) Any other relevant document.

(3) *Evidence of eligibility under section 244(c)(2) of the Act.* An applicant has the burden of showing that he or she is eligible for benefits under this part.

(4) *Evidence of valid immigrant or non-immigrant status.* In the case of an alien described in §244.2(f)(2), Form I-551 or Form I-94 must be submitted by the applicant.

(b) *Sufficiency of evidence.* The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof the applicant must provide supporting docu-

mentary evidence of eligibility apart from his or her own statements.

(c) *Failure to timely respond.* Failure to timely respond to a request for information, or to appear for a scheduled interview, without good cause, will be deemed an abandonment of the application and will result in a denial of the application for lack of prosecution. Such failure shall be excused if the request for information, or the notice of the interview was not mailed to the applicant's most recent address provided to the Service.

[56 FR 619, Jan. 7, 1991, as amended at 56 FR 23497, May 22, 1991; 58 FR 58937, Nov. 5, 1993. Redesignated at 62 FR 10367, 10382, Mar. 6, 1997, as amended at 63 FR 63596, Nov. 16, 1998]

§ 244.10 Decision by the director or Administrative Appeals Unit (AAU).

(a) *Temporary treatment benefits.* The director shall grant temporary treatment benefits to the applicant if the applicant establishes *prima facie* eligibility for Temporary Protected Status in accordance with §244.5.

(b) *Temporary Protected Status.* Upon review of the evidence presented, the director may approve or deny the application for Temporary Protected Status in the exercise of discretion, consistent with the standards for eligibility in §§ 244.2, 244.3, and 244.4.

(c) *Denial by director.* The decision of the director to deny Temporary Protected Status, a waiver of grounds of inadmissibility, or temporary treatment benefits shall be in writing served in person or by mail to the alien's most recent address provided to the Service and shall state the reason(s) for the denial. Except as otherwise provided in this section, the alien shall be given written notice of his or her right to appeal a decision denying Temporary Protected Status. To exercise such right, the alien shall file a notice of appeal, Form I-290B, with the director who issued the denial. If an appeal is filed, the administrative record shall be forwarded to the AAU for review and decision, pursuant to authority delegated in §103.1(f)(2), except as otherwise provided in this section.

(1) If the basis for the denial of the Temporary Protected Status constitutes a ground for deportability or excludability which renders the alien

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ineligible for Temporary Protected Status under §244.4 or inadmissible under §244.3(c), the decision shall include a charging document which sets forth such ground(s).

(2) If such a charging document is issued, the alien shall not have the right to appeal the director's decision denying Temporary Protected Status as provided in this subsection. The decision shall also apprise the alien of his or her right to a *de novo* determination of his or her eligibility for Temporary Protected Status in deportation or exclusion proceedings pursuant to §§240.11 and 244.18.

(d) *Decision by AAU.* The decision of the AAU shall be in writing served in person, or by mail to the alien's most recent address provided to the Service, and, if the appeal is dismissed, the decision shall state the reason(s) for the denial.

(1) If the appeal is dismissed by the AAU under §240.18(b), the decision shall also apprise the alien of his or her right to a *de novo* determination of eligibility for Temporary Protected Status in deportation or exclusion proceedings.

(2) If the appeal is dismissed by the AAU, the director may issue a charging document if no charging document is presently filed with the Immigration Court.

(3) If a charging document has previously been filed or is pending before the Immigration Court, either party may move to recalendar the case after the decision by the AAU.

(e) *Grant of temporary treatment benefits.* (1) Temporary treatment benefits shall be evidenced by the issuance of an employment authorization document. The alien shall be given, in English and in the language of the designated foreign state or a language that the alien understands, a notice of the registration requirements for Temporary Protected Status and a notice of the following benefits:

(i) Temporary stay of deportation; and

(ii) Temporary employment authorization.

(2) Unless terminated under §244.13, temporary treatment benefits shall remain in effect until a final decision has

been made on the application for Temporary Protected Status.

(f) *Grant of temporary protected status.*

(1) The decision to grant Temporary Protected Status shall be evidenced by the issuance of an alien registration document. For those aliens requesting employment authorization, the employment authorization document will act as alien registration.

(2) The alien shall be provided with a notice, in English and in the language of the designated foreign state or a language that the alien understands, of the following benefits:

(i) The alien shall not be deported while maintaining Temporary Protected Status;

(ii) Employment authorization;

(iii) The privilege to travel abroad with the prior consent of the director as provided in §244.15;

(iv) For the purposes of adjustment of status under section 245 of the Act and change of status under section 248 of the Act, the alien is considered as being in, and maintaining, lawful status as a nonimmigrant while the alien maintains Temporary Protected Status.

(v) An alien eligible to apply for Temporary Protected Status under §244.2(f)(2), who was prevented from filing a late application for registration because the regulations failed to provide him or her with this opportunity, will be considered to have been maintaining lawful status as a nonimmigrant until the benefit is granted.

(3) The benefits contained in the notice are the only benefits the alien is entitled to under Temporary Protected Status.

(4) Such notice shall also advise the alien of the following:

(i) The alien must remain eligible for Temporary Protected Status;

(ii) The alien must register annually with the district office or service center having jurisdiction over the alien's place of residence; and

(iii) The alien's failure to comply with paragraphs (f)(4) (i) or (ii) of this section will result in the withdrawal of Temporary Protected Status, including work authorization granted under this

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Program, and may result in the alien's deportation from the United States.

[56 FR 619, Jan. 7, 1991, as amended at 56 FR 23497, May 22, 1991; 58 FR 58937, Nov. 5, 1993; 60 FR 34090, June 30, 1995. Redesignated at 62 FR 10367, 10382, Mar. 6, 1997, as amended at 63 FR 63596, Nov. 16, 1998; 64 FR 4782, Feb. 1, 1999]

§ 244.11 Renewal of application; appeal to the Board of Immigration Appeals.

If a charging document is served on the alien with a notice of denial or withdrawal of Temporary Protected Status, an alien may renew the application for Temporary Protected Status in deportation or exclusion proceedings. The decision of the immigration judge as to eligibility for Temporary Protected Status may be appealed to the Board of Immigration Appeals pursuant to § 3.3 of this chapter. The provisions of this section do not extend the benefits of Temporary Protected Status beyond the termination of a foreign state's designation pursuant to § 244.19.

[56 FR 619, Jan. 7, 1991, as amended at 56 FR 23497, May 22, 1991. Redesignated at 62 FR 10367, 10382, Mar. 6, 1997, as amended at 63 FR 63596, Nov. 16, 1998]

§ 244.12 Employment authorization.

(a) Upon approval of an application for Temporary Protected Status, the INS shall grant an employment authorization document valid during the initial period of the foreign state's designation (and any extensions of such period).

(b) If the alien's Temporary Protected Status is withdrawn under § 244.14, employment authorization expires upon notice of withdrawal or on the date stated on the employment authorization document, whichever occurs later.

(c) If Temporary Protected Status is denied by the INS, employment authorization shall terminate upon notice of denial or at the expiration of the employment authorization document, whichever occurs later.

(d) If the application is renewed or appealed in deportation or exclusion proceedings, or appealed to the Administrative Appeals Unit pursuant to § 244.18(b), employment authorization

will be extended during the pendency of the renewal and/or appeal.

[56 FR 619, Jan. 7, 1991, as amended at 56 FR 23498, May 22, 1991; 60 FR 21975, May 4, 1995. Redesignated at 62 FR 10367, 10382, Mar. 6, 1997, as amended at 63 FR 63596, Nov. 16, 1998; 64 FR 4782, Feb. 1, 1999]

§ 244.13 Termination of temporary treatment benefits.

(a) Temporary treatment benefits terminate upon a final determination with respect to the alien's eligibility for Temporary Protected Status.

(b) Temporary treatment benefits terminate, in any case, sixty (60) days after the date that notice is published of the termination of a foreign state's designation under section 244(b)(3) of the Act.

[56 FR 619, Jan. 7, 1991. Redesignated at 62 FR 10367, 10382, Mar. 6, 1997, as amended at 63 FR 63596, Nov. 16, 1998]

§ 244.14 Withdrawal of Temporary Protected Status.

(a) *Authority of director.* The director may withdraw the status of an alien granted Temporary Protected Status under section 244 of the Act at any time upon the occurrence of any of the following:

(1) The alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible for such status;

(2) The alien has not remained continuously physically present in the United States from the date the alien was first granted Temporary Protected Status under this part. For the purpose of this provision, an alien granted Temporary Protected Status under this part shall be deemed not to have failed to maintain continuous physical presence in the United States if the alien departs the United States after first obtaining permission from the district director to travel pursuant to § 244.15;

(3) The alien fails without good cause to register with the Attorney General annually within thirty (30) days before the end of each 12-month period after the granting of Temporary Protected Status.

(b) *Decision by director.* (1) Withdrawal of an alien's status under paragraph (a) of this section shall be in writing and served by personal service pursuant to