

§ 244.18

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INS designated office, completed Forms I-821 and I-765 within the thirty (30) day period prior to the anniversary of the grant of Temporary Protected Status (inclusive of such anniversary date). Form I-821 will be filed without fee. Form I-765 will be filed with fee only if the alien is requesting employment authorization. Completing the block on the I-821 attesting to the continued maintenance of the conditions of eligibility will generally preclude the need for supporting documents or evidence. The Service, however, reserves the right to request additional information and/or documentation on a case-by-case basis.

(b) Unless the Service determines otherwise, registration by mail shall suffice to meet the alien's registration requirements. However, as part of the registration process, an alien will generally have to appear in person in order to secure a renewal of employment authorization unless the Service determines that employment authorization will be extended in another fashion due to operational need. The Service may also request that an alien appear in person as part of the registration process. In such cases, failure to appear without good cause shall be deemed a failure to register under this chapter.

(c) Failure to register without good cause will result in the withdrawal of the alien's Temporary Protected Status.

[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 63597, Nov. 16, 1998]

§ 244.18 Issuance of charging documents; detention.

(a) A charging document may be issued against an alien granted Temporary Protected Status on grounds of deportability or excludability which would have rendered the alien statutorily ineligible for such status pursuant to §§ 244.3(c) and 244.4. Aliens shall not be deported for a particular offense for which the Service has expressly granted a waiver. If the alien is deportable on a waivable ground, and no such waiver for the charged offense has been previously granted, then the alien may seek such a waiver in deportation or exclusion proceedings. The charging

document shall constitute notice to the alien that his or her status in the United States is subject to withdrawal. A final order of deportation or exclusion against an alien granted Temporary Protected Status shall constitute a withdrawal of such status.

(b) The filing of the charging document by the Service with the Immigration Court renders inapplicable any other administrative, adjudication or review of eligibility for Temporary Protected Status. The alien shall have the right to a *de novo* determination of his or her eligibility for Temporary Protected Status in the deportation or exclusion proceedings. Review by the Board of Immigration Appeals shall be the exclusive administrative appellate review procedure. If an appeal is already pending before the Administrative Appeals Unit, the director shall notify the Administrative Appeals Unit of the filing of the charging document, in which case the pending appeal shall be dismissed and the record of proceeding returned to the jurisdiction where the charging document was filed.

(c) Upon denial of Temporary Protected Status by the Administrative Appeals Unit, the Administrative Appeals Unit shall immediately forward the record of proceeding to the director having jurisdiction over the alien's place of residence. The director shall, as soon as practicable, file a charging document with the Immigration Court if the alien is then deportable or excludable under section 241(a) or section 212(a) of the Act, respectively.

(d) An alien who is determined by the Service to be deportable or excludable upon grounds which would have rendered the alien ineligible for such status as provided in §§ 240.3(c) and 240.4 may be detained under the provisions of this chapter pending deportation or exclusion proceedings. Such alien may be removed from the United States upon entry of a final order of deportation or exclusion.

[56 FR 619, Jan. 7, 1991, as amended at 56 FR 23498, May 22, 1991; 60 FR 34090, June 30, 1995. Redesignated at 62 FR 10367, 10382, Mar. 6, 1997, as amended at 63 FR 63597, Nov. 16, 1998; 64 FR 4782, Feb. 1, 1999]