

No. 25-5724

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

NATIONAL TPS ALLIANCE, *et al.*,
Plaintiffs and Appellees,

v.

KRISTI NOEM, *et al.*,
Defendants and Appellants.

**On Appeal from the United States District Court
for the Northern District of California**
District Court Case No. 3:25-cv-01766

**BRIEF FOR STATES OF CALIFORNIA, NEW YORK, COLORADO,
DELAWARE, HAWAI'I, ILLINOIS, MAINE, MARYLAND,
MASSACHUSETTS, MINNESOTA, NEVADA, NEW JERSEY,
OREGON, VERMONT, WASHINGTON, AND THE DISTRICT OF
COLUMBIA AS AMICI CURIAE IN SUPPORT OF APPELLEES AND
AFFIRMANCE**

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INTRODUCTION AND INTERESTS OF AMICI CURIAE

In the agency actions that are the subject of this appeal, Defendants purported to prematurely terminate Temporary Protected Status (TPS) for hundreds of thousands of Venezuelan and Haitian nationals who live peacefully and productively throughout the United States. In taking those actions, Defendants failed to consider the significant reliance interests at stake, not only those of individual TPS holders, but also of the families who depend on them for care and support, and of the communities that rely on their contributions. In the decision below, the district court correctly concluded that Defendants' actions are arbitrary, capricious, and contrary to law. Amici States respectfully submit this brief in support of that decision.¹

While Amici support Plaintiffs on all of the issues in this appeal, this brief addresses two elements of the arbitrary and capricious analysis that the States are especially well suited to shed light on: (1) Defendants' failure to consider important aspects of the question whether to continue Venezuela's and Haiti's TPS designations, namely the many harmful impacts on our States that result from

¹ The Amici States are California and New York, together with Colorado, Delaware, Illinois, Hawai'i, Maine, Maryland, Massachusetts, Minnesota, Nevada, New Jersey, Oregon, Vermont, Washington, and the District of Columbia. This brief is filed pursuant to Federal Rule of Appellate Procedure 29(a)(2).

Defendants' actions; and (2) Defendants' failure to weigh the important reliance interests at stake.

TPS holders from Venezuela and Haiti are part of thriving, productive communities across the Amici States. Our States collectively are home to at least 99,800 Venezuelan and 262,400 Haitian immigrants,² many of whom have been protected under the program or have family members who are. These families have fled violence, oppression, and poverty in their home countries, and now make meaningful contributions to our States' economies, public health, and public safety. Accordingly, our States have worked hard to welcome them. For example, California historically allocated \$10 million annually to provide legal services to TPS holders and continues to dedicate resources to this important community through its funding for the immigrant community as a whole—including support for legal services, education, and technical assistance to community organizations.³ New York has also dedicated substantial resources and support to TPS holders and

² See Migration Pol'y Inst., *U.S. Immigrant Population by State and County*, <https://tinyurl.com/US-Immigrant-Population> (last visited Nov. 5, 2025).

³ Cal. Legis. Analyst's Off., *The 2024-2025 Budget: Department of Social Services Immigration and Equity Programs* (Mar. 15, 2024), <https://tinyurl.com/24-25-Budget>; Cal. Dept. Finance, *California Budget 2025-26: Enacted Budget Summary, Health and Human Services* (n.d.), <https://tinyurl.com/CA-Budget-25-26>.

other immigrants, including by assisting with work authorization applications and connecting these TPS holders to employers.⁴

In short, the Amici States have made substantial investments in Venezuelan, Haitian, and other TPS holders. And far from being a burden or threat to our States, TPS holders provide resounding benefits. They are homeowners and neighbors, co-workers, teachers and students, entrepreneurs and job-creators, caregivers, construction workers and union members, and parents. Stripping these individuals of legal status would harm our residents, our economies, and our public health and safety. The Amici States thus have a critical interest in ensuring that their legal status is not unlawfully revoked. The district court's order upholding that status should be affirmed.⁵

⁴ See State of New York, *Governor Hochul, Mayor Adams Announce \$38 Million for Asylum Seeker Legal Services and Case Management* (Oct. 3, 2023), <https://tinyurl.com/38-million-for-asylum>; N.Y. State Office of Temporary and Disability Assistance, *Refugee Services (RS)/Programs*, <https://tinyurl.com/NY-Refugee-Services> (last visited Nov. 5, 2025); N.Y.C. Office of Asylum Seekers Operations, *About the Office of Asylum Seeker Operations*, <https://tinyurl.com/NY-Office-Asylum-Seekers> (last accessed Nov. 5, 2025).

⁵ The Supreme Court recently stayed the district court's summary judgment order (as to Venezuela only) pending appeal. *Noem v. Nat'l TPS All.*, 606 U.S. ___, 2025 WL 2812732, at *1 (Oct. 3, 2025).

ARGUMENT

I. THE DISTRICT COURT CORRECTLY DETERMINED THAT DHS’S ACTIONS WERE ARBITRARY AND CAPRICIOUS

The district court correctly concluded that (1) the extension vacatur and subsequent termination of TPS for Venezuela; and (2) the partial extension vacatur of TPS for Haiti, were arbitrary and capricious under the Administrative Procedure Act (APA).⁶ 1-ER-50, 1-ER-59. In both of these instances, DHS failed to meaningfully consider important aspects of the problem, including the substantial reliance interests created by previously granted TPS extensions and decades of consistent TPS administration.⁷ Agency action taken without such consideration is arbitrary and capricious. *See Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983); *DHS v. Regents of the Univ. of California*, 591 U.S. 1, 33 (2020) (*Regents*) (requiring an agency that is “not

⁶ On July 1, 2025, the United States District Court for the Eastern District of New York, in *Haitian Evangelical Clergy Ass’n v. Trump (HECA)*, declared unlawful and set aside the partial vacatur of Haiti’s TPS designation. 789 F. Supp. 3d 255, 273 (E.D.N.Y. July 1, 2025). The court subsequently entered final judgment. *HECA*, No. 25-cv-01464 (E.D.N.Y. July 15, 2025), ECF No. 65. In granting that relief, the New York district court resolved a portion of the Plaintiffs’ claim at issue here, namely their challenge to the partial vacatur of Haiti’s TPS designation. The government has since appealed that judgment to the Second Circuit. *HECA*, No. 25-cv-1464 (E.D.N.Y. Sept. 25, 2025), ECF No. 72.

⁷ As the district court recognized, “[f]or the first time in the 35-year history of the TPS program, the Trump Administration and DHS Secretary Noem took the extraordinary and unusual act of vacating TPS extensions that had already been granted—specifically, extensions given by the prior administration to Venezuela and Haiti.” 1-ER-4.

writing on a blank slate” to “assess whether there were reliance interests, determine whether they were significant, and weigh any such interests against competing policy concerns”). As the Supreme Court explained in *Regents*, even decisions concerning temporary immigration programs must take into account the reliance interests those programs create. 591 U.S. at 30–31.

Here, the district court correctly concluded that Defendants acted arbitrarily and capriciously for multiple reasons, including their failure to account for Plaintiffs’ substantial reliance interests. 1-ER-45–59. As Amici further demonstrate below, those reliance interests extend well beyond TPS holders themselves. In *Regents*, the Supreme Court recognized the “certainly noteworthy” impacts that radiate outward when someone’s immigration status is unexpectedly revoked—touching on their family members, schools, and employers. 591 U.S. at 31–32. Here, the disruption that would result from the unlawful vacatur and terminations—including the separation of U.S.-citizen children from their parents, disruption of local economies, strain on public health systems, and weakening of community safety—demonstrates both the depth of the reliance interests at stake and the broader important aspects of the problem that DHS failed to consider.

A. Defendants Failed to Consider the Effects of Their Actions on TPS Holders’ U.S.-Citizen Children.

Defendants’ actions were arbitrary and capricious because they failed to consider the “serious reliance interests” of TPS holders and their U.S. citizen

families. *F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009); see also *Regents*, 591 U.S. at 31 (acknowledging the consequences of rescinding immigration status on DACA recipients' U.S.-citizen children). Thousands of TPS holders from Venezuela and Haiti live and work in the Amici States, raising U.S.-citizen children and supporting their families based on the stability that TPS had afforded them before the Secretary's unlawful vacatur and terminations.

In 2022, approximately 54,000 U.S. citizen children and 80,000 U.S. citizen adults lived with a Venezuelan TPS holder, and about 87,000 U.S. citizen children and 116,000 U.S. citizen adults lived with a Haitian TPS holder.⁸ These families have depended on the lawful work authorization and protection from removal that TPS provides to maintain stable homes, support their children, and participate in their communities. The Secretary's unlawful vacatur and terminations abruptly withdrew that authorization and exposed parents to deportation, destroying the reliance interests that TPS created.

That reliance was all the more reasonable because conditions in both Venezuela and Haiti remain unsafe, and families could not have anticipated that the government would suddenly terminate TPS while those conditions persisted. The collapse of Venezuela's oil-dependent economy over the past ten years has

⁸ FWD.us, *Temporary Protected Status Protects Families While Also Boosting the U.S. Economy 2* (Feb. 2024), <https://tinyurl.com/TPS-Protects-Families>.

triggered widespread violence and severe shortages of food, medicine, and other necessities.⁹ The calamity has been described as “an unrelenting humanitarian crisis.”¹⁰ In extending Venezuelan TPS on January 17, 2025, then-Secretary of Homeland Security Alejandro Mayorkas explained that Venezuela’s “humanitarian emergency [is] marked by an economic contraction, deepening poverty, reduced access to food and medicine, a collapse in basic services, fuel shortages, human rights abuses and political repression, [and] crime and violence”¹¹ He supported his conclusion with 52 sources, whereas Secretary Noem did not rely on a single source for her subsequent, unsubstantiated claim that there were “notable improvements in several areas” in Venezuela.¹²

At the time of Secretary Noem’s decision, the U.S. State Department classified (and still classifies) Venezuela as a “Level 4: Do Not Travel” country—its highest risk designation—warning of the “high risk of wrongful detentions, terrorism, kidnapping, the arbitrary enforcement of local laws, crime, civil unrest,

⁹ 2021 Designation of Venezuela for Temporary Protected Status, 86 Fed. Reg. 13574, 13576 (Mar. 9, 2021).

¹⁰ Iván Reyes, *As Election Looms, Venezuelans See-Saw Between Hope and Fear*, The New Humanitarian (July 8, 2024), <https://tinyurl.com/Venezuelans-See-Saw>.

¹¹ Extension of the 2023 Designation of Venezuela for Temporary Protected Status, 90 Fed. Reg. 5961, 5964 (Jan. 17, 2025).

¹² Nat’l Found. for Am. Pol’y, *An Analysis of the DHS Decision to Terminate TPS for Venezuela* 1 (Feb. 2025), <https://tinyurl.com/DHS-Decision-Analysis>; see Termination of the October 3, 2023 Designation of Venezuela for Temporary Protected Status, 90 Fed. Reg. 9040, 9042 (Feb. 5, 2025).

[and] poor health infrastructure.”¹³ As a result of this persistent instability, about 7.7 million people—more than one-quarter of Venezuela’s population—have fled the country.¹⁴ Indeed, the United States suspended embassy and consular operations in Venezuela in 2019 and, to date, such operations remain unavailable in the country.¹⁵

In purporting to vacate Haiti’s TPS designation, Secretary Noem did not even attempt to argue that Haiti’s conditions had improved, but instead speculated that recent developments “might result in an improvement in conditions.”¹⁶ Yet, no such “improvement” has materialized to date: the July 2025 termination notice acknowledged Haiti’s ongoing humanitarian crisis, rampant gang violence, and the absence of a functioning government,¹⁷ and the U.S. State Department continues to classify Haiti as a “Level 4: Do Not Travel” country—its highest risk designation—warning of “kidnapping, crime, civil unrest, and limited health

¹³ U.S. Dep’t of State, *Venezuela Travel Advisory* (May 12, 2025), <https://tinyurl.com/VE-Travel-Adv>.

¹⁴ Karen Aho, *Spotlight on the Economic Contributions of TPS Holders*, Immigr. Impact (Oct. 23, 2023), <https://tinyurl.com/Economic-Contributions-TPS>.

¹⁵ U.S. Dep’t of State, *supra* note 13.

¹⁶ Partial Vacatur of 2024 Temporary Protected Status Decision for Haiti, 90 Fed. Reg. 10511, 10513 (Feb. 24, 2025).

¹⁷ Termination of the Designation of Haiti for Temporary Protected Status, 90 Fed. Reg. 28760, 28763 (July 1, 2025).

care.”¹⁸ The Federal Aviation Administration recently extended its prohibition on commercial aircraft operations in Haiti because “[a]rmed gangs continue to control large portions of the capital, Port-au Prince, and have used small arms to fire on civilian aircraft, helicopters, airports, and related infrastructure on several occasions.”¹⁹ In August 2025, the Haitian government imposed a three-month state of emergency in the country’s central region due to gang violence and resulting food crisis.²⁰

Against the backdrop of these countries’ conditions, revoking the TPS designations puts current TPS holders—particularly those with U.S. citizen children, many of whom live in the Amici States—to an agonizing choice. TPS-holder parents in this situation will be forced to choose between (1) returning to their countries of origin alone, leaving their children behind;²¹ (2) taking their U.S.

¹⁸ U.S. Dep’t of State, *Haiti Travel Advisory* (last updated July 15, 2025), <https://tinyurl.com/Haiti-advisory>; see also U.S. Embassy in Haiti, *Security Alert* (March 26, 2025), <https://tinyurl.com/Haiti-alert>.

¹⁹ Fed. Aviation Admin., *FAA Background Information Regarding U.S. Civil Aviation – Haiti* (Feb. 12, 2025), <https://tinyurl.com/Civil-Aviation-Haiti>; see Fed. Aviation Admin., KICZ A0003/25 NOTAM, United States of America Prohibition Against Certain Flights in the Territory and Airspace of Haiti (Mar. 11, 2025).

²⁰ *Haiti Declares a 3-Month State of Emergency as Gangs Ravage Country’s Central Region*, AP News (Aug. 9, 2025), <https://tinyurl.com/Haiti-State-of-Emergency>.

²¹ Stephen Starr, *The Desperate Drive To Secure Passports for Thousands of Us-Born Haitian Kids—Before It’s Too Late*, The Guardian (July 4, 2025), <https://tinyurl.com/Haitian-Passports-Kids> (describing how children of Haitian TPS holders may lack passports and, if deportations proceed without notarized

(continued...)

citizen children with them to a dangerous country that the children do not know; or (3) staying in the United States without authorization and living with significant fear and uncertainty, knowing that they cannot work legally and could be forcibly removed at any time.

This harrowing dynamic would severely harm the mental health and well-being of countless U.S.-citizen children who reside in the Amici States, who reasonably relied on an orderly TPS policy and whose lives Defendants are seeking to dramatically upend with very little notice. Children of undocumented parents living in the United States frequently experience persistent anxiety, driven by the constant fear that a family member may be deported.²² This fear can profoundly shape their daily lives. For example, the *New York Times* recently reported on a 17-year-old TPS-protected Haitian girl in Columbus, Ohio, whose family is so fearful of deportation and family separation that she and her 9-year-old sister “just go to school and back, school and home”—with her sister often refusing to go to school at all.²³ Similarly, after the government announced it was revoking TPS status for

family plans or custodial arrangements, could face separation from parents and placement in state custody or long-term foster care).

²² Ronald B. Cox et al., *Validation of the Family Fear of Deportation Scale for Youth*, 72 *Family Relations* 734, 736 (2023); see also Lisa Fortuna, et al., *Special Report: U.S. Immigration Policy and the Mental Health of Children and Families*, 60 *Psych. News* 8 (July 25, 2025).

²³ Miriam Jordan, *Fear Shadows Many Children in Immigrant Families*, N.Y. Times (Apr. 12, 2025), <https://tinyurl.com/Fear-Shadows-Children>.

Venezuela, a community leader in Chicago described how parents became too fearful to leave home—skipping school events and even avoiding trips to buy food.²⁴ One study found that 30 percent of Latino student participants—including those born in the United States—altered their routines due to deportation fears.²⁵ This included refraining from driving, seeking medical care, attending religious services, or participating in afterschool activities; taking a different route to school; and staying at home more often.²⁶ These harms will have ripple effects throughout the Amici States and their schools if these unlawful vacatur and terminations are not set aside, with far-reaching and long-term consequences.

When these fears materialize and families are forcibly separated, the consequences are even more severe. Research on U.S.-born Latino children reveals that parental deportation is a deeply traumatic and disruptive event, linked to extreme psychological distress, anxiety, depression, post-traumatic stress disorder (PTSD), externalizing behaviors (such as aggression), and difficulties sleeping.²⁷

²⁴ *Venezuelan Immigrants in Chicago Live in Fear After Loss of Temporary Legal Status*, PBS News Hour (June 27, 2025), <https://tinyurl.com/Venezuelans-Live-In-Fear>.

²⁵ Randy Capps et al., *Immigration Enforcement and the Mental Health of Latino High School Students*, Migration Pol’y Inst. 1, 2–3 (Sept. 2020).

²⁶ *Id.*

²⁷ Miguel Pinedo & Christian Escobar, *Childhood Parental Deportations, Immigration Enforcement Experiences, and Posttraumatic Stress Disorder Among US-Born Latino Adults*, 2021, 114 Am. J. Pub. Health S495, S496 (2024); see also Victoria D. Ojeda et al., *Deported Men’s and Father’s Perspective: The Impacts of* (continued...)

Beyond emotional and psychological harm, these children often face additional hardships, including financial instability, housing and food insecurity, and disruptions in their education, such as increased school absences and lower academic engagement.²⁸ Bullying related to immigration status is also common.²⁹ And the long-term effects of these emotional harms extend into adulthood. Adults who experienced parental deportation during childhood are more than twice as likely to suffer from PTSD as those who did not endure such separation.³⁰

The arbitrary and capricious nature of the TPS terminations is particularly evident given the whiplash nature of the Administration's abrupt policy change. Just last year, approximately 523,000 Haitians qualified for TPS protection under the most recent redesignation, which gave these individuals assurance that they would be protected through February 3, 2026.³¹ No such extension had ever before been vacated prior to the current Administration. Yet, just months after DHS

Family Separation on Children and Families in the U.S., 11 *Frontiers in Psychiatry* 1, 10 (2020).

²⁸ Ojeda et al., *supra* note 27, at 7, 9, 10; Ana Martinez-Donate et al., *Between the Lines: A Mixed-Methods Study on the Impacts of Parental Deportation on the Health and Well-Being of U.S. Citizen Children*, 9 *J. Migration & Health* 1, 5, 7 (2024).

²⁹ Mallika Seshadri, *Research: Immigration Enforcement Hinders Schoolwork; Schools Offer Support*, EdSource (Feb. 16, 2024), <https://tinyurl.com/Hinders-Schoolwork>.

³⁰ Pinedo & Escobar, *supra* note 27, at S501.

³¹ Extension and Redesignation of Haiti for Temporary Protected Status, 89 *Fed. Reg.* 54484, 54485, 54486, 54492 (July 1, 2024).

extended Haiti’s designation, the new administration shattered the plans and prospects of countless Haitian families in the Amici States when it reversed course. And less than two years ago, approximately 472,000 Venezuelans qualified for protection under the 2023 designation.³² Secretary Mayorkas’s January 17, 2025, extension gave these individuals assurance that they would remain protected through October 2, 2026.³³ Yet just 11 days later, in a “vacatur” without precedent, the new Administration again reversed course, while at the same time, falsely accusing law-abiding TPS holders of being gang members and a threat to national security. TPS holders and their families could not have anticipated this sudden dismantling of their lives in the United States. Abrupt mid-term reversal of planned designations without new fact development is itself a hallmark of arbitrary agency action. *See State Farm*, 463 U.S. at 43 (noting that “the agency must examine the relevant data and articulate a satisfactory explanation for its action”).

Because DHS disregarded these reliance interests, ignored binding statutory criteria for TPS, and otherwise failed to consider these family impacts as an important aspect of the problem, the terminations and vacaturs were arbitrary and capricious.

³² Extension and Redesignation of Venezuela for Temporary Protected Status, 88 Fed. Reg. 68130, 68131 (Oct. 3, 2023).

³³ Extension of the 2023 Designation of Venezuela for Temporary Protected Status, *supra* note 11, at 5962.

B. Defendants Failed to Consider the Effects of Their Actions on Local Economies.

TPS holders from Venezuela and Haiti are part of the lawful labor and tax base in the Amici States. Yet, Defendants did not consider how ending their status would impact their employers, upend the Amici States’ workforces, and deprive Amici States of considerable tax revenue on which they reasonably rely. See *Regents*, 591 U.S. at 31 (noting the impact of rescinding DACA on “employers who have invested time and money in training [recipients]” as well as the loss of billions in economic activity and tax revenue); *Thakur v. Trump*, 148 F.4th 1096, 1106–07 (9th Cir. 2025) (finding that the government failed to consider the “hundreds of millions of dollars” taxpayers invested when terminating grant projects).

The Amici States employ TPS holders to perform crucial public services. For example, Massachusetts’s Department of Developmental Services³⁴ alone currently employs about forty Haitian TPS holders, who primarily provide direct care in group home settings to some of Massachusetts’s most vulnerable populations. Haitian TPS holders also serve as personal care attendants, childcare workers, and other crucial roles in and adjacent to the Amici States’ governments. If the

³⁴ See generally, Commonwealth of Massachusetts, *Department of Developmental Services*, <https://tinyurl.com/Mass-Developmental-Services> (last accessed Nov. 10, 2025).

Secretary’s partial vacatur of Haiti’s TPS designation is allowed to take effect—thus stripping such individuals of their legal status and work authorization—the Amici States would face significant challenges in maintaining essential services for vulnerable populations such as children, elders, and developmentally disabled individuals. At minimum, the Amici States would face significant costs to rehire or recruit care workers to fill such positions, because care-giving positions are challenging to fill in both the private and public sector.³⁵

TPS holders are also crucial contributors to the Amici States’ broader economies. Nationally, the annual economic contribution of TPS-eligible Venezuelans is \$11.5 billion.³⁶ Seventy-five percent of Venezuelan immigrants 16 and older were formally employed in 2023,³⁷ with high rates of participation in industries such as transportation, material moving, natural resources, construction, and maintenance.³⁸ Because 48 percent of Venezuelan immigrants have attained at

³⁵ See Kate Johnston, ‘*Our Future Workforce*’: How 41 Haitian Migrants Solved a Marlborough Nonprofit’s Staffing Shortage, Bos. Globe (Oct. 1, 2024), <https://tinyurl.com/Our-Future-Workforce>.

³⁶ FWD.us, *supra* note 8, at 2. “TPS-eligible” includes those who hold TPS as well as those who qualify for TPS but may not have applied or whose application has not yet been granted. *Id.* at 5.

³⁷ Ana Alanis Amaya & Jeanne Batalova, *Venezuelan Immigrants in the United States*, Migration Pol’y Inst. (Feb. 6, 2025), <https://tinyurl.com/Venezuelan-Immigrants-in-US>.

³⁸ *Id.*; see also *Learn About Recent Immigration Actions Under the Trump Administration*, ABC Newsline (Feb. 10, 2025), <https://tinyurl.com/Recent-Immigration-Actions> (national trade organization representing more than 23,000
(continued...))

least a bachelor's degree, the community is well-positioned to contribute to a variety of sectors.³⁹ Moreover, a recent estimate found that 143,000 TPS-eligible Venezuelans work in labor-short industries, defined as those with openings for at least 4 percent of their workforce.⁴⁰

TPS-eligible Haitians contribute \$4.4 billion annually to the U.S. economy.⁴¹ Sixty-nine percent of Haitian immigrants aged sixteen and older were formally employed in 2022, with high rates of participation in healthcare support and service industries.⁴² Moreover, a recent estimate found that 75,000 TPS-eligible Haitians work in labor-short industries.⁴³ In Delaware and Maryland, the Haitian community provides a significant contribution to one of the region's most

members through 67 chapters, calling for “protections for TPS recipients, who have been members of the construction industry workforce for years” and estimating between 70,000-100,000 TPS and DACA recipients work in the construction industry); Kevin Williams, *What Trump's Mass Deportation Plan Would Mean for Immigrant Workers and the Economy*, CNBC (Nov. 11, 2024), <https://tinyurl.com/Mass-Deportation-Plan> (reporting estimates from construction, housing, and technology industries that mass deportations including TPS individuals, would shrink U.S. GDP by \$1.1 trillion to \$1.7 trillion).

³⁹ See Amaya & Batalova, *supra* note 37.

⁴⁰ FWD.us, *supra* note 8, at 2.

⁴¹ *Id.* “TPS-eligible” includes those who hold TPS as well as those who qualify for TPS but may not have applied. *Id.* at 5.

⁴² Beatrice Dain & Jeanne Batalova, *Haitian Immigrants in the United States*, Migration Pol'y Inst. (Nov. 8, 2023), <https://tinyurl.com/Haitian-Immigrants>.

⁴³ FWD.us, *supra* note 8, at 2; see also Stephen Starr, *Midwestern Cities Fear Fallout of Trump Revoking Haitian Residents' Status*, The Guardian (March 3, 2025), <https://tinyurl.com/Midwestern-Cities>.

important sectors, the poultry industry.⁴⁴ Poultry industry leaders are scrambling to plan for the loss of their workforce.⁴⁵ The removal of thousands of people from the region's poultry industry would almost certainly impact the national economy as well as food security, increasing prices and causing food shortages at grocery stores and restaurants.

As a group, TPS holders from all countries have also shown high rates of entrepreneurship—14.5 percent of TPS holders are self-employed, as compared with 9.3 percent of the U.S.-born workforce.⁴⁶ The 2021 TPS population included more than 38,100 entrepreneurs, or self-employed workers, who generated \$1.5 billion in business income.⁴⁷ In California alone, 7,800 self-employed TPS holders generated \$224.8 million in business income.⁴⁸ Many of these entrepreneurs employ U.S. citizens who depend on them for their own income, and thus rely on Defendants to make reasoned decisions regarding TPS designations.⁴⁹

⁴⁴ See Delmarva Chicken Ass'n, *DCA Facts & Figures* (Mar. 24, 2025), <https://tinyurl.com/DCA-Facts-Figures>.

⁴⁵ See Paul Kiefer, *Haitians Found Stability in Maryland's Poultry Plants. It's Now in Jeopardy*, Wash. Post (Aug. 11, 2025), <https://tinyurl.com/Maryland-Poultry-Plants>.

⁴⁶ Aho, *supra* note 14.

⁴⁷ Am. Immigr. Council, *The Contributions of Temporary Protected Status Holders to the U.S. Economy* 4 (Sept. 2023), <https://tinyurl.com/TPS-Economy>.

⁴⁸ *Id.*

⁴⁹ See generally, e.g., Pierre Azoulay, et al., *Immigration and Entrepreneurship in the United States*, 4 Am. Econ. Rev. 71 (2022) (analyzing the impact of immigrant entrepreneurs as job creators in the United States).

The workforce contributions of TPS holders generate substantial state and federal tax revenue. In 2023, TPS holders from all countries paid \$3.1 billion in federal taxes, contributing to programs like Social Security and Medicare, and paid \$2.1 billion in state and local taxes.⁵⁰ These contributions were particularly high in several of the Amici States. In California, New York, and Massachusetts alone, TPS households earned \$4.9 billion in income, paid \$717.7 million in federal taxes and \$588.6 million in state and local taxes, and contributed \$3.66 billion in spending power.⁵¹ Moreover, at least 41 percent of TPS households are homeowners and pay taxes on property having a total value of approximately \$19 billion.⁵²

Revoking these TPS designations would endanger all these economic contributions. Many current TPS holders would have no choice but to return to their countries of origin, taking their economic contributions with them. And those who remain in the country would be stripped of their work authorization, causing

⁵⁰ See Am. Immigr. Council, *Map the Impact: Immigrants in the United States* (updated 2024), <https://tinyurl.com/4yn722kh>.

⁵¹ See Am. Immigr. Council, *Immigrants in Massachusetts*, <https://tinyurl.com/Immigrants-in-Massachusetts> (reflecting data from 2023) (last visited Nov. 10, 2025); Am. Immigr. Council, *Immigrants in California*, <https://tinyurl.com/Immigrants-California> (reflecting data from 2023) (last visited Nov. 10, 2025); Am. Immigr. Council, *Immigrants in New York*, <https://tinyurl.com/Immigrants-in-NewYork> (reflecting data from 2023) (last visited Nov. 10, 2025).

⁵² Aho, *supra* note 14.

them to lose their current employment and forcing them to accept lower paying “off the books” jobs.

The result would be lower wages and less productivity in the Amici States’ economies. The average wage gap between undocumented and legal immigrants exceeds 35 percent,⁵³ with particularly acute impacts for undocumented women. In California, for example, undocumented women make 58 cents for every dollar paid to all men, 44 cents compared to white men, and 67 cents for every dollar paid to all women.⁵⁴ Such lower-wage, unauthorized employment would also inevitably lead to a decline in tax revenues for the Amici States. And the Amici States would likely face a wave of mortgage foreclosures if current TPS holders are forced suddenly to leave the country or else to accept lower-paid employment, thus harming property values and reducing property tax receipts.⁵⁵

In sum, the TPS-holder community, including Venezuelans and Haitians, are dynamic contributors to Amici States’ economies. Yet, Defendants failed to consider these reliance interests or those of the employers, communities, and the

⁵³ See George J. Borjas & Hugh Cassidy, *The Wage Penalty to Undocumented Immigration*, 61 Lab. Econ. 1, 2 (2019).

⁵⁴ Alejandra Reyes-Velarde, ‘Double Disadvantage’: These California Workers’ Pay Gap Is Widest by Far, CalMatters (July 27, 2023), <https://tinyurl.com/CA-Workers-Pay-Gap>.

⁵⁵ See Jacob S. Rugh & Matthew Hall, *Deporting the American Dream: Immigrant Enforcement and Latino Foreclosures*, 3 Socio. Science 1053, 1067–68 (2016).

Amici States that depend on TPS holders as a crucial part of their economies, workforces, and tax revenue.

C. Defendants Failed to Consider the Effects of Their Actions on Public Health.

In addition to the foregoing, Defendants’ actions are also arbitrary and capricious because they were undertaken without consideration of “an important aspect of [the] problem,” *Lands Council v. Powell*, 395 F.3d 1019, 1026 (9th Cir. 2005)—specifically, the significant negative effects that those actions would have on public health in the Amici States and around the country. *See City & Cnty. of S.F. v. U.S. Citizenship & Immigr. Servs.*, 981 F.3d 742, 760 (9th Cir. 2020) (finding that DHS impermissibly failed to consider public health effects when expanding the definition of “public charge”).

To begin, 67 percent of Venezuelan immigrants and 55 percent of Haitian immigrants are covered by private health insurance (often through employer-sponsored insurance programs).⁵⁶ Ending work authorization for hundreds of thousands of Venezuelan and Haitian TPS holders would deprive many of those individuals and their families of their employer-sponsored health insurance. The result would be to increase the Amici States’ health care expenditures—both by increasing the proportion of Venezuelan and Haitian immigrants who are on public

⁵⁶ *See* Amaya & Batalova, *supra* note 37; Dain & Batalova, *supra* note 42.

health insurance and by increasing public expenditures on emergency care provided to uninsured patients (e.g., through emergency health insurance, payments to hospitals and community health centers, and funding for public health programs).⁵⁷ Defendants failed to consider or to account for these substantial costs in deciding to vacate and to terminate Venezuela’s and Haiti’s TPS designations.

Moreover, stripping legal status from hundreds of thousands of Venezuelan and Haitian immigrants would risk serious negative consequences for public health and the public interest.⁵⁸ As courts have noted in other contexts, the “[p]ublic health is served when individuals freely seek preventive care and do not stave off care until they need emergency room treatment in the midst of a health crisis.”

Philadelphia v. Sessions, 280 F. Supp. 3d 579, 609 (E.D. Pa. 2017), *subsequent judgment aff’d in relevant part*, 916 F.3d 276 (3d Cir. 2019). For example, the public greatly benefits when residents seek out diagnostic testing for and treatment

⁵⁷ See, e.g., U.S. Cong. Budget Off., *The Impact of Unauthorized Immigrants on the Budgets of State and Local Governments* 8 (Dec. 2007); Am. Compl., Ex. 83, Decl. of Jesse M. Caplan, *New York v. Trump*, 1:17-cv-05228 (E.D.N.Y. Oct. 4, 2017), ECF No. 55-83 (“Caplan Decl.”); Lila Flavin, et al., *Medical Expenditures on and by Immigrant Populations in the United States: A Systematic Review*, 2018 Int’l J. Health Servs. 601, 617 (2018) (noting that “immigrants often rely on safety-net options” such as public health programs).

⁵⁸ See, e.g., App. in Supp. of Pls.’ Mot. for Provisional Relief at 789–90, *Regents of Univ. of Cal. v. United States Dep’t of Homeland Sec.*, No. 3:17-cv-05211 (N.D. Cal. Nov. 1, 2017), ECF No. 118-1; Caplan Decl., *supra* note 57; Meredith L. King, *Immigrants in the U.S. Health Care System: Five Myths That Misinform the American Public*, Ctr. for Am. Progress 6 (2007), <https://tinyurl.com/Immigrants-Health-Care>.

of (or vaccination against) infectious diseases such as COVID-19, tuberculosis, and HIV.⁵⁹ However, as studies have consistently found for decades, undocumented immigrants are often reluctant to seek medical treatment due to fear of detention and deportation.⁶⁰ This phenomenon is so well documented that health-care providers often take significant steps to combat it—as where one clinic “placed itself right next to a Baptist church in order to prevent raids by [ICE] agents that would scare away its mostly undocumented users.”⁶¹

⁵⁹ See, e.g., Cassandra D. Kelly-Cirino, et al., *Importance of Diagnostics in Epidemic and Pandemic Preparedness*, 4 *BMJ Glob. Health* 1, 1 (2018); Mark Perkins, et al., *Diagnostic Preparedness for Infectious Disease Outbreaks*, 390 *The Lancet* 2211, 2211 (2017); Alejandro Portes, et al., *The U.S. and Immigration: An Institutional Interpretation*, 24 *Socio. Forum* 487 (2009) (manuscript at 10, 14), <https://tinyurl.com/Portes-Manuscript>.

⁶⁰ See, e.g., Sezer Kisa & Adnan Kisa, “*No Papers, No Treatment*”: *A Scoping Review of Challenges Faced by Undocumented Immigrants in Accessing Emergency Healthcare*, 23 *Int’l J. for Equity in Health* 184 (2024) (manuscript at 2, 6, 8), <https://tinyurl.com/Kisa-Manuscript>; Omar Martinez, et al., *Evaluating the Impact of Immigration Policies on Health Status Among Undocumented Immigrants: A Systematic Review*, 17 *J. Immigr. & Minority. Health* 947 (2015) (manuscript at 10), <https://tinyurl.com/Martinez-Manuscript> (immigrants often “refrain from seeking vital services, including medical services, from any local government or private agency—even agencies unrelated to law enforcement—for fear of exposing themselves or their family members to legal sanctions or harassment”); Scott D. Rhodes, et al., *The Impact of Local Immigration Enforcement Policies on the Health of Immigrant Hispanics/Latinos in the United States*, 105 *Am. J. Pub. Health* 329, 332 (2015) (immigrants “reported that they ... did not access or utilize health services for which they were eligible, including preventive services,” because “[t]hey worried that ... their lack of documentation ... would put them at risk for detention and deportation”).

⁶¹ Portes, et al., *supra* note 59, at 14.

Against this well-understood backdrop, stripping Venezuelan and Haitian immigrants of lawful status (by terminating their TPS protection) would risk significant public health consequences. Many immigrants would not only lose employer-sponsored health care but would also be discouraged from seeking medical treatment of any kind due to fear of removal. This would increase the broader community risk and would have many adverse results for individual immigrants and their families. For example, undocumented women are less likely to receive needed health care and preventive screenings than the general U.S. population—leading to significantly higher rates of conditions like cervical cancer, birth complications, neonatal morbidity, respiratory distress syndrome, and seizures for newborns.⁶²

Moreover, newly undocumented former TPS holders may also elect not to seek treatment for their children or other family members, who may themselves be natural-born U.S. citizens.⁶³ For example, studies show that children of undocumented immigrants are often sicker when seeking emergency room care and

⁶²Am. Coll. of Obstetricians & Gynecologists, Comm. Op. No. 627, *Health Care for Unauthorized Immigrants*, 125 *Obstetrics & Gynecology* 755 (2015); see also Am. Coll. of Obstetricians & Gynecologists, Comm. Statement No. 4, *Health Care for Immigrants*, 141 *Obstetrics & Gynecology* 427, 428–29 & nn.8–11 (2023), <https://tinyurl.com/Health-Care-Immigrants>.

⁶³ See Flavin, *supra* note 57, at 18.

frequently miss preventive annual exams.⁶⁴ And the results can be fatal, as where a child in Oklahoma died “when his parents delayed seeking medical treatment because they feared that hospital officials would report them to ICE.”⁶⁵

Defendants’ failure to consider or account for these public health consequences further supports the district court’s determination that their actions are arbitrary and capricious.

D. Defendants Failed to Consider the Effects of Their Actions on Public Safety.

Defendants’ actions are also arbitrary and capricious for the additional reason that they were undertaken without consideration of the effects on public safety, which is also “an important aspect of [the] problem.” *See Lands Council*, 395 F.3d at 1026; *Mozilla Corp. v. Fed. Commc’ns Comm’n*, 940 F.3d 1, 63 (D.C. Cir. 2019) (per curiam) (finding that an agency’s failure to analyze the impact of a telecommunications rule on public safety rendered it arbitrary and capricious).

Because TPS holders and their families have built lives in the United States, some may try to stay in this country even if their TPS status is terminated. But individuals who lack legal status are less likely to report crime—even crimes in

⁶⁴ King, *supra* note 58, at 5; Katherine Yun, et al., *Parental Immigration Status Is Associated With Children’s Health Care Utilization*, 17 *Maternal & Child Health J.* 1913, 1916–19 (2013).

⁶⁵ Elizabeth M. McCormick, *Federal Anti-Sanctuary Law: A Failed Approach to Immigration Enforcement and a Poor Substitute for Real Reform*, 20 *Lewis & Clark L. Rev.* 165, 199 (2016).

which they themselves are victims—if they “fear that [officials] will ask . . . about their immigration status” and increase their perceived risk of being removed.⁶⁶ Fear of removal, or of having a family or community member removed, makes victims and witnesses reluctant to come forward, to testify in court, and even to seek safety in a domestic violence shelter.⁶⁷ When law enforcement is unable to obtain evidence of crimes and maintain witness cooperation at trial, public safety suffers.⁶⁸ Yet, Defendants undertook no analysis of these effects before rendering the challenged decisions.

There is no plausible counterargument that terminating Venezuela’s and Haiti’s TPS status would somehow reduce crime or facilitate the removal of noncitizens convicted of crimes from the country. Contrary to unsubstantiated contentions, recent arrivals of immigrants, including Venezuelans and Haitians, have not led to any “crime wave,” and research shows that immigrants are *less*

⁶⁶ Nik Theodore, *Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement*, Dep’t of Urb. Plan. & Pol’y, Univ. of Ill. at Chi. 14 (May 2013).

⁶⁷ James Queally, *Fearing Deportation, Many Domestic Violence Victims Are Steering Clear of Police and Courts*, L.A. Times (Oct. 9, 2017), <https://tinyurl.com/Undocumented-Crime-Reporting>.

⁶⁸ See, e.g., Tom K. Wong, *The Effects of Sanctuary Policies on Crime and the Economy*, Ctr. for Am. Progress (Jan. 26, 2017), <https://tinyurl.com/Effects-of-Sanctuary-Policies> (sanctuary counties have lower crime rates than comparable nonsanctuary counties); see also Queally, *supra* note 67 (quoting former San Francisco District Attorney George Gascón’s concern that “severe injury or homicide” can result when domestic violence is unreported).

likely than the general population to commit crimes.⁶⁹ Moreover, TPS applicants must meet specified criteria to be granted that status, including screenings for criminal history and background checks.⁷⁰ And conviction for certain criminal offenses can also trigger withdrawal of TPS status. *See* 8 C.F.R. § 244.14(a)(1).

Terminating Venezuela's and Haiti's TPS designations would pose challenges to jurisdictions around the country in enforcing their criminal codes and protecting public safety. Defendants' failure to consider this aspect of the problem compounds the arbitrariness and capriciousness of their actions, and further supports the district court's judgment.

CONCLUSION

The APA does not demand that DHS maintains the TPS designation for Venezuela and Haiti forever; it requires DHS to identify, evaluate, and weigh reliance interests and other important aspects of the problem before reversing

⁶⁹ *See, e.g.,* Ted Hesson & Mica Rosenberg, *Trump Says Migrants Are Fueling Violent Crime. Here Is What the Research Shows*, Reuters (July 16, 2024), <https://tinyurl.com/What-The-Research-Shows>; Maria Cramer, et al., 'Migrant Crime Wave' Not Supported by Data, Despite High-Profile Cases, N.Y. Times (Feb. 15, 2024), <https://tinyurl.com/Crime-Wave-Not-Supported>; Dany Bahar, et al., *Venezuelan Migration, Crime, and Misperceptions: A Review of Data from Colombia, Peru, and Chile*, Migration Pol'y Inst. & Brookings Inst. (Sept. 2020), <https://tinyurl.com/Migration-Crime-Misperceptions>.

⁷⁰ *See* Verónica Egui Brito & Syra Ortiz Blanes, *In a Few Weeks, Hundreds of Thousands of Venezuelans Will Lose TPS. What You Need to Know*, Miami Herald (Feb. 13, 2025), <https://tinyurl.com/Venezuelans-Will-Lose-TPS>.

course. *See Regents*, 591 U.S. at 33. DHS did none of that here. For the foregoing reasons, the district court's ruling should be affirmed.

Dated: November 12, 2025

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- ☒ is an **amicus** brief and complies with the word limit of FRAP 29(a)(5), Cir. R. 29-2(c)(2), or Cir. R. 29-2(c)(3).
- ☐ is for a **death penalty** case and complies with the word limit of Cir. R. 32-4.
- ☐ complies with the longer length limit permitted by Cir. R. 32-2(b) because (*select only one*):
- ☐ it is a joint brief submitted by separately represented parties.
- ☐ a party or parties are filing a single brief in response to multiple briefs.
- ☐ a party or parties are filing a single brief in response to a longer joint brief.
- ☐ complies with the length limit designated by court order dated .
- ☐ is accompanied by a motion to file a longer brief pursuant to Cir. R. 32-2(a).

Signature

Date

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