



## ***Migrant Protection Protocols (“Remain in Mexico Policy”)***

*Updated June 11, 2019*

1. **What are the MPP?** [Announced](#) in December 2018, Migrant Protection Protocols (MPP), commonly referred to as the “Remain in Mexico” policy, is a new [policy](#) implemented by the Department of Homeland Security (“DHS”). The MPP allows certain noncitizens entering or seeking admission to the U.S. from Mexico – without papers or proper documentation – to be returned to Mexico and wait outside of the U.S. for the duration of their immigration proceedings.
2. **What is the purpose of the MPP?** In [announcing](#) the MPP, DHS asserted that the new policy is intended to address a purported problem of asylum seekers “trying to game the system” by making groundless asylum claims and then “disappear[ing] into the United States, where many skip their court dates.” However, [critics](#) argue that MPP will unnecessarily place vulnerable asylum seekers at risk, in violation of U.S. and international law.
3. **What authority has DHS cited to support the MPP?** DHS cites to [Section 235\(b\)\(2\)\(C\)](#) of the Immigration and Nationality Act (INA). That section provides that individuals arriving by land from a foreign contiguous territory (i.e., Mexico or Canada)– whether or not at a designated port of entry—generally may be returned, as a matter of enforcement discretion, to the territory from which they are arriving pending a removal proceeding under Section 240 of the INA.
4. **Who is subject to the MPP?** According to [DHS](#), “With certain exceptions, MPP applies to individuals arriving in the U.S. on land from Mexico (including those apprehended along the border) who are not clearly admissible and who are placed in removal proceedings under INA § 240. This includes individuals who claim a fear of return to Mexico at any point during apprehension, processing, or such proceedings, but who have been assessed not to be more likely than not to face persecution or torture in Mexico.” The policy has been in place since January at the [San Ysidro, California](#), port of entry at Tijuana and been [expanded](#) to additional regions. One [news report](#) estimates that the MPP policy has resulted in more than 600 asylum seekers being sent back to Mexico since late January.
5. **What are the policy concerns raised by advocates about the MPP policy?** Advocacy groups and the immigration bar have [expressed](#) concern that the MPP will endanger asylum seekers forced to remain in Mexico for long periods of time and will [hinder their access to counsel](#). They believe MPP [will restrict](#) due process for asylum seekers and subject individuals to dangerous conditions for long periods of time.
6. **Have courts challenged the implementation of the MPP policy?** [Innovation Law Lab v. Nielsen](#) – On April 8, 2019, the U.S. District Court for the Northern District of California enjoined and restrained DHS from continuing to implement or expand the MPP. The decision focused on the narrow issue of whether the MPP complied with the Administrative Procedure

Act (APA). The Court held that the Plaintiffs were likely to show that the MPP does not comply with the APA. On April 9, 2019, the White House released a [statement](#), stating that it intended to appeal the District Court ruling. On May 7, 2019, the Ninth Circuit [granted a motion to stay](#) the district court's injunction. This means that the administration may continue to return asylum seekers to Mexico. The court focused on the statutory language governing applicants for admission, and concluded that DHS will likely prevail on the argument that the "expedited removal" statute only applies to those processed under this statute and that applicants for admission placed in Section 240 removal proceedings may be returned to Mexico pursuant to return provisions in [Section 235\(b\)\(2\)\(C\)](#) of the INA.

7. **Where can I find more resources?** More information can also be found on the [DHS](#), [ACLU](#) or [Human Rights First](#) websites. The Congressional Research Service has also [published a recent brief](#) on the legal issues surrounding MPP.

*The goal of this document is to provide general information regarding the Migrant Protection Protocols and is not meant to act as a substitute to legal advice from an attorney.*