

DHS Reinstates Migrant Protection Protocols, Allowing Officials to Return Applicants to Neighboring Countries

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WASHINGTON – The Department of Homeland Security (DHS) made the following announcement regarding restarting the Migrant Protection Protocols (MPP) immediately.

On January 25, 2019, Department of Homeland Security (DHS) Secretary Kirstjen Nielsen issued Policy Guidance for Implementation of the Migrant Protection Protocols (the MPP Policy). The MPP Policy is an exercise of the authority granted to DHS pursuant to Section 235(b)(2)(c) of the Immigration and Nationality Act (INA). That authority permits the Secretary of DHS to return certain applicants for admission to the adjoining country from which they are arriving pending the completion of removal proceedings pursuant to Section 240 of the INA.

Between Jan. 20, 2021, and Oct. 29, 2021, Acting Secretary David Pekoske, and later Secretary Alejandro Mayorkas, repeatedly attempted to suspend or terminate the MPP Policy. Following a series of legal actions, Secretary Mayorkas’s final attempt to terminate the MPP Policy was stayed by a federal court. See *Order Granting Stay, Texas v. Biden*, 2:21-cv-67 (N.D. Tex. Dec. 15, 2022). The Department of Justice, seven months after that stay was entered, voluntarily dismissed the federal government’s appeal, acquiescing to keeping the MPP Policy in effect for the foreseeable future. See *Texas v. Biden*, No. 23-10143 (5th Cir. Jul. 17, 2023).

According to representations made by the federal government in court, DHS at all times complied with that court order, but the facts on the ground “render[ed] restarting MPP impossible.” Defendants’ Supplemental Response Brief at 10, *Texas v. Biden*, 2:21-cv-67 (N.D. Tex. Oct. 6, 2023). The situation at the border has changed and the facts on the ground are favorable to resuming implementation of the 2019 MPP Policy.

Topics

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Keywords

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