

Migrant Protection Protocols

Migrant Protection Protocols (MPP) was initially implemented at the San Ysidro, CA POE on January 28, 2019 and has since expanded to include the Calexico, CA and El Paso, TX POEs as well as the San Diego, CA, El Centro, CA, and El Paso, TX Border Patrol Sectors.

MPP expansion plan calls for additional locations throughout the southwest border.

Expansion is contingent upon DHS negotiations and agreements with the Government of Mexico (GoM), resource availability, and construction or leasing of hearing locations to include soft sided temporary hearing facilities.

DHS establishes local procedures (agreements with GoM) in each location where MPP is implemented.

Both the Office of Field Operations and U.S. Border Patrol will apply MPP to eligible aliens attempting to enter the U.S. illegally or without documentation, including those who claim asylum.

General Protocols

- Aliens who have been found to have a **reasonable fear** of harm in Mexico will be excluded from MPP.
- **Vulnerable populations**, i.e., unaccompanied alien children, individuals with serious physical or mental health issues, etc., will be excluded from MPP.
- Aliens with **criminal convictions** and other individuals of interest will not be subject to MPP.

MPP Background

- **What Are the Migrant Protection Protocols?**
 - The Migrant Protection Protocols (MPP) are a U.S. Government action whereby certain foreign individuals entering or seeking admission to the U.S. from Mexico – illegally or without proper documentation – may be returned to Mexico and wait outside of the U.S. for the duration of their immigration proceedings, where Mexico will provide them with all appropriate humanitarian protections for the duration of their stay.
- **What Gives DHS the Authority to Implement MPP?**
 - Section 235 of the Immigration and Nationality Act (INA) addresses the inspection of aliens seeking to be admitted into the U.S. and provides specific procedures regarding the treatment of those not clearly entitled to admission, including those who apply for asylum. Section 235(b)(2)(C) provides that *“in the case of an alien . . . who is arriving on land (whether or not at a designated port of arrival) from a foreign territory contiguous to the U.S.,”* the Secretary of Homeland Security *“may return the alien to that territory pending a [removal] proceeding under § 240” of the INA.* The U.S. has notified the Government of Mexico that it is implementing these procedures under U.S. law.
- **Who is Subject to MPP?**
 - With certain exceptions, MPP applies to aliens 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 aliens who claim a fear of return to Mexico at any point during apprehension, processing, or such

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proceedings, but who have been assessed not to be more likely than not to face persecution or torture in Mexico. Unaccompanied alien children and aliens in expedited removal proceedings will not be subject to MPP. Other individuals from vulnerable populations may be excluded on a case-by-case basis.

- **How Will MPP Work Operationally?**

- Certain aliens attempting to enter the U.S. illegally or without documentation, including those who claim asylum, will no longer be released into the country, where they often fail to file an asylum application and/or disappear before an immigration judge can determine the merits of any claim. Instead, these aliens will be given a “Notice to Appear” for their immigration court hearing and will be returned to Mexico until their hearing date.
- While aliens await their hearings in Mexico, the Mexican government has made its own determination to provide such individuals the ability to stay in Mexico, under applicable protection based on the type of status given to them.
- Aliens who need to return to the U.S. to attend their immigration court hearings will be allowed to enter and attend those hearings. Aliens whose claims are found meritorious by an immigration judge will be allowed to remain in the U.S. Those determined to be without valid claims will be removed from the U.S. to their country of nationality or citizenship.
- DHS is working closely with the U.S. Department of Justice’s Executive Office for Immigration Review to streamline the process and conclude removal proceedings as expeditiously as possible.

- **Will Migrants in MPP Have Access to Counsel?**

- Consistent with the law, aliens in removal proceedings can use counsel of their choosing at no expense to the U.S. Government. Aliens subject to MPP will be afforded the same right and provided with a list of legal services providers in the area which offer services at little or no expense to the migrant.

- **What Are the Anticipated Benefits of MPP?**

- Every month, tens of thousands of individuals arrive unlawfully at the Southern Border. MPP will reduce the number of aliens taking advantage of U.S. law and discourage false asylum claims. Aliens will not be permitted to disappear into the U.S. before a court issues a final decision on whether they will be admitted and provided protection under U.S. law. Instead, they will await a determination in Mexico and receive appropriate humanitarian protections there. This will allow DHS to more effectively assist legitimate asylum-seekers and individuals fleeing persecution, as migrants with non-meritorious or even fraudulent claims will no longer have an incentive for making the journey. Moreover, MPP will reduce the extraordinary strain on our border security and immigration system, freeing up personnel and resources to better protect our sovereignty and the rule of law by restoring integrity to the American immigration system.