

Related Services

Immigration

DHS Issues Update on Southwest Border Security and Preparedness Under Court-Ordered Lifting of ‘Title 42’; Termination of ‘Remain in Mexico’ Program Paused

Legal Update

01.12.2023

This article was prepared with the assistance of ABIL, the Alliance of Business Immigration Lawyers, of which Loan Huynh, Fredrikson Immigration Department Chair, is a member.

The Department of Homeland Security (DHS) issued an update on December 13, 2022, on southwest border security and preparedness in anticipation of a court-ordered lifting of Title 42 by December 21, 2022, which was upheld by the D.C. Circuit Court of Appeals in a ruling on December 16, 2022. Title 42 prevented many migrants from seeking asylum in the United States because of COVID-19 concerns and required them to wait in Mexico. DHS said the update “reviews the DHS-led whole-of-government framework guiding preparations for and management of increased encounters of noncitizens at our Southwest border following the lifting of the Title 42 public health order.”

In November, a district court issued the ruling that required the lifting of the Title 42 public health order effective December 21, 2022. DHS said that individuals who cross the border into the United States without legal authorization will be processed for removal and, if unable to establish a legal basis to remain in the United States, promptly removed. DHS said it anticipates that “migration levels will increase as smugglers seek to take advantage of and profit from vulnerable migrants once the Title 42 public health order is lifted. This will likely include spreading false information about what the end of Title 42 will mean.” Reports from some shelters and border areas such as El Paso, Texas, indicate that a recent influx of migrants has been overwhelming local resources.

In other news, a federal judge in Texas paused the termination of the Migrant Protection Protocols, informally known as the “Remain in Mexico” program, which requires some non-Mexican citizens who entered the United States to wait in Mexico during their immigration proceedings instead of allowing them into or detaining them in the United States. A DHS official said the Biden administration disagreed with that decision and was determining “next steps.”