



## DEPARTMENT OF HOMELAND SECURITY

### Finding of Mass Influx of Aliens

On January 23, 2025, the Acting Secretary of Homeland Security issued a Finding of Mass Influx of Aliens. This finding went into effect immediately (on January 23, 2025) and remained in effect for 60 days (until March 23, 2025). The Acting Secretary's finding published in the *Federal Register* on January 29, 2025. See 90 FR 8,399. Upon review of the current situation at the border, I am extending that finding.

The Immigration and Nationality Act (INA), at 8 U.S.C. 1103(a), provides an expansive grant of authority, stating that in the event of a mass influx of aliens off the coast of the United States or a land border, the Secretary may authorize a State or local law enforcement officer, with the consent of the officer's superiors, to perform duties of immigration officers under the INA. In turn, section 65.83 of Title 28 of the Code of Federal Regulations allows the Secretary<sup>1</sup> to "request assistance from a State or local government in the administration of the immigration laws of the United States" under certain specified circumstances. Among those circumstances are when "[t]he [Secretary] determines that there exist circumstances involving the administration of the immigration laws of the United States that endanger the lives, property, safety, or welfare of the residents of a State or locality." 28 CFR 65.83(b).

In making such a determination, the Secretary may also determine that there is an "immigration emergency." The regulations define an immigration emergency as "an actual or imminent mass influx of aliens which either is of such magnitude or exhibits such other characteristics that effective administration of the immigration laws of the United States is

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<sup>1</sup> Although the regulations reference the "Attorney General," Congress has, since the publication of these regulations, transferred the authority and responsibility for administering and enforcing the immigration laws to the Secretary of Homeland Security. See Homeland Security Act of 2002 471, 6 U.S.C. 291 (abolishing the former Immigration and Naturalization Service); id. S 441, 6 U.S.C. 251 (transferring immigration enforcement functions from the Department of Justice to the Department of Homeland Security); Immigration and Nationality Act 103(a)(1), 8 U.S.C. 1103(a)(1) ("the Secretary of Homeland Security shall be charged with the administration and enforcement of this chapter and all other laws relating to the immigration and naturalization of aliens.")

beyond the existing capabilities of [the Department of Homeland Security (DHS)] in the affected area or areas.” 28 CFR 65.83(d)(1) (using identical language as 8 U.S.C. 1103(a)(10)).

Such a determination is based on “the factors set forth in the definitions contained in” 28 CFR 65.81. Characteristics of an influx of aliens, other than magnitude, which may be considered in determining whether an immigration emergency exists include: the likelihood of continued growth in the magnitude of the influx; an apparent connection between the influx and increases in criminal activity; the actual or imminent imposition of unusual and overwhelming demands on law enforcement agencies; and other similar characteristics.

Upon review of the current data, I have determined that there continues to exist circumstances involving the administration of the immigration laws of the United States that endanger the lives, property, safety, or welfare of the residents of all 50 States and that an actual or imminent mass influx of aliens is arriving at the southern border of the United States and presents urgent circumstances requiring a continued federal response. I make this finding for the reasons discussed below.

First, over the last four years, our southern border has been overrun. As noted in Proclamation 10,888, *Guaranteeing the States Protection Against Invasion*, “[o]ver the last 4 years, at least 8 million illegal aliens were encountered along the southern border of the United States, and countless millions more evaded detection and illegally entered the United States.”).

Second,, as of March 12, 2025, DHS estimates that there are likely approximately 20,000 aliens across the Southwest border waiting to illegally enter. While encounters along the southwest border declined in February 2025, historical trends over the past four years strongly indicate that without this finding, aliens are likely to resume crossing the border, and border crossing numbers are likely to rise again before DHS can gain operational control. It is precisely measures, such as this one, that have kept the numbers under control.

Third, as stated in the January 23, 2025 notice, when border crossing numbers are high, much detention capacity is required of U.S. Immigration and Customs Enforcement (ICE).

Mandatory detention of aliens apprehended at the border serves important public safety and national security purposes. Aliens who have not completed this process have not been effectively vetted for criminality or national security threats. Current databases do not allow for comprehensive and rapid searching for foreign convictions or other public safety and national security risks. As a result, the fact that the numbers at the border are effectively forcing DHS to engage in catch-and-release practices is eliminating or thwarting legally mandated screenings and it is threatening public safety and national security. This does not account for so-called gotaways, of which there have been millions over the last four years, who are not screened in any manner. Without controls in place at the border to stem the influx, DHS loses its capacity to hold all aliens as required by the INA. 8 U.S.C. 1225(b). As of March 13, 2025, ICE has a detention population of 47,372, with a maximum capacity of 54,500. ICE's facilities are currently at nearly at 87% occupancy, and ICE's priority for detention space is removing aliens with criminal records, public safety risks, and national security risks. Should this finding not be extended, ICE would be hampered in this critical effort.

Fourth, an influx of aliens presents significant concerns with respect to increased criminal activity. Between FY 2017 and 2019, ICE removed 485,930 aliens with criminal convictions or pending criminal charges. However, between FY 2021 and FY 2023, ICE removed 158,931 aliens with criminal convictions or pending criminal charges. Assuming that the crime rate of foreign nationals has remained unchanged over the year, this 67% decrease (in removals) suggests that tens of thousands of criminal aliens remain in the United States. Where there is an increase in criminal aliens, there is likely to be an increase in criminal activity.

Furthermore, there is still significant criminality present at the Southwest border even though encounter numbers are lower than previously. In February 2025, U.S. Customs and Border Protection's (CBP's) Office of Field Operations (OFO) and U.S. Border Patrol (USBP) encountered 393 criminal aliens. OFO made 645 criminal arrests, and USBP had 12 gang apprehensions. USBP referred 169 smuggling events for prosecution, and OFO referred 110

events for criminal prosecution. Officers and agents seized 14,534.99 pounds of illicit narcotics, including 589.81 pounds of deadly fentanyl. Officers and agents also seized 104 firearms and 13,822 rounds of ammunition, as well as \$1,535,228,67 in currency. These numbers are only likely to increase if encounter numbers increase.

Fifth, when border crossing numbers are high, unusual and overwhelming demands are imposed on law enforcement officers and agencies. There is significant danger presented to officers and agents. For example, in February 2025, CBP records indicate that 30 CBP officers/agents were assaulted. In February 2025, ICE records indicated that aliens assaulted or used force against 10 ICE Enforcement and Removal Operations officers. Even while encounter numbers were lower than average in February 2025, officers and agents at the border have consistent threats against them, and there are too many assaults and use of force incidents on officers and agents.

Additionally, there is a strain on ICE resources, which takes ICE away from its mission to preserve national security and public safety. ICE has many aliens pending removal that entered during prior influxes at the Southwest border. Managing those removals requires a significant expenditure of ICE resources. As of November 24, 2024, there were 1,445,549 aliens on ICE's non-detained docket with final orders of removal. This number will only increase should this finding not be extended.

Since January 20, 2025, ICE has arrested 32,809 aliens and removed 29,033 aliens. The 32,809 arrests include 14,111 that were convicted criminals and 9,980 with pending criminal charges. 1,155 of these aliens were criminal gang members while another 39 were known or suspected terrorists. ICE currently has allocated 7,282 ERO Officers but approximately 1,295 positions, or nearly 18%, are currently vacant. The ability of ICE to properly enforce immigration laws and focus on public safety risks will be greatly hampered should this finding not be extended and the previous influx of aliens resumes unabated.

On the basis of the above facts, I find that these circumstances endanger the lives, property, safety, and welfare of the residents of every State in the Union. The only way to effectively prevent this danger to the States is to maintain operational control of the border, which Congress defined to mean "the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband." Secure Fence Act of 2006, Pub. L. No. 109-367, § 2, 120 Stat. 2638 (2006); 8 U.S.C. 1701 note; see also *id.* (stating that the Secretary of DHS "shall take all actions the Secretary determines necessary and appropriate to achieve and maintain operational control over the entire international land and maritime borders of the United States"). I also find that there is currently an influx of aliens arriving across our entire southern border, which requires a federal response.

Accordingly, pursuant to the authorities under the INA, 8 U.S.C. 1101, et seq., including the implementing regulations identified above, I find "that there exist circumstances involving the administration of the immigration laws of the United States that endanger the lives, property, safety, or welfare of the residents" of all 50 States. I further find that an actual or imminent mass influx of aliens is arriving at the southern border of the United States and presents urgent circumstances requiring an immediate federal response. I therefore request the assistance of State and local governments in all 50 States.

The finding is effective immediately and expires in 180 days. This finding may expire sooner in the event I find that circumstances have changed. Such a finding would be published in the *Federal Register*.

Kristi Noem,  
*Secretary of Homeland Security*

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