



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. On March 21, 2025, I extended the January 23, 2025, Finding of Mass Influx for 180 days (until September 17, 2025). My decision extending the Finding of Mass Influx published in the *Federal Register* on March 25, 2025. See 90 FR 13,622. 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 Secretary¹ 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).

¹ 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.")

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 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, as stated in the January and March 2025 notices, 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.” DHS continues to encounter thousands of aliens on a weekly basis attempting to enter the United States illegally via the Southwest border.²

² *Nationwide Encounters*, U.S. Customs and Border Protection (last modified Aug 12, 2025), available at <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

Second, at this time, the ability of DHS to control an influx of aliens at the border has been hampered due to a federal court decision. On August 1, 2025, the U.S. Court of Appeals for the District of Columbia Circuit issued a decision partially staying an order from the U.S. District Court for the District of Columbia enjoining the implementation of Proclamation 10888, *Guaranteeing the States Protection Against Invasion*, 90 Fed. Reg. 8333 (Jan. 20, 2025) (Invasion Proclamation). See *Refugee and Immigrant Center for Education and Legal Services (RAICES) v. Noem*, No. 25-5243 (D.C. Cir. Aug. 1, 2025). Because of this decision, DHS no longer directly repatriates apprehended aliens or relies upon expedited removal under INA § 212(f), but rather must process aliens for expedited removal pursuant to 8 U.S.C. § 1225(b)(1). Given that DHS's use of the Invasion Proclamation, which previously contributed to low border encounters throughout much of 2025, has been limited, there is a continued need for a finding of mass influx.

Third, as stated in the previous notices, 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 still do not allow for comprehensive and rapid searching for foreign convictions or other public safety and national security risks of recent arrivals. As a result, when numbers at the border are such that DHS is effectively forced to engage in catch-and-release practices which thwarts legally mandated screenings, there is a threat to 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.

In addition, increased enforcement efforts in the interior have resulted in large numbers of aliens in custody. Many of these aliens are applicants for admission who are subject to mandatory detention pending removal proceedings under the INA. 8 U.S.C. 1225(b)(2)(A); see *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) (holding that immigration judges lack

authority to hear bond requests or grant bond to aliens present in the United States without admission and in removal proceedings, based on the plain language of 8 U.S.C. 1225(b)(2)(A)).

As mentioned in the prior findings of mass influx, without controls in place at the border to stem the influx, DHS loses its capacity to hold all aliens as required by the INA. *See, e.g.*, 8 U.S.C. 1225(b). As of September 8, 2025, ICE has a detention population of 59,134, with a maximum capacity of 62,000. ICE's facilities are currently nearly at 95% occupancy, and ICE's priority for detention space is removing aliens with criminal records, public safety risks, and national security risks. Similar to the explanation provided in the March 2025 Notice, should this finding not be extended, ICE would be hampered in this critical effort and be unable to detain a large number of aliens at the Southwest border despite these aliens being subject to mandatory detention.

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. Between FY 2021 and FY 2023, ICE removed 158,931 aliens with criminal convictions or pending criminal charges. As of September 8, 2025, with 22 days left in the fiscal year, ICE removed 144,989 aliens for FY 2025. Assuming that the crime rate of aliens has remained unchanged over the year, this 67% decrease (in removals) between FY 2019 and 2021 and FY 2021 and 2023 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. Although FY 2025 removals are tracking to well outpace the average for between FY 2021 and FY 2023, the number will still represent a 40% decrease than the average between FY 2017 and 2019. This once again shows that ICE needs to continue to prioritize the need to remove criminal aliens rather than divert resources to detain aliens recently apprehended at the Southwest border.

Furthermore, there continues to be significant criminality present at the Southwest border. In August 2025, U.S. Customs and Border Protection's (CBP's) Office of Field Operations

(OFO) and U.S. Border Patrol (USBP) encountered 364 criminal aliens. OFO made 520 criminal arrests, and USBP had 34 gang apprehensions. USBP referred 217 smuggling events for prosecution, and OFO referred 232 events for criminal prosecution. Officers and agents seized 28,082.99 pounds of illicit narcotics, including 678.53 pounds of deadly fentanyl. Officers and agents also seized 82 firearms and 4,700 rounds of ammunition, as well as \$1,178,063.86 in currency. These numbers are only likely to increase if encounter numbers increase.

Fifth, there have been high, unusual, and overwhelming demands on law enforcement officers and agencies, which continue to present significant danger to officers and agents. For example, in August 2025, CBP records indicate that 40 CBP officers/agents were assaulted. Even while encounter numbers were lower than average in August 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. ICE records indicate that aliens assaulted or used force against 18 ICE Enforcement and Removal Operations (ERO) officers in August 2025. In February 2025, ICE records indicated that aliens assaulted or used force against 10 ICE ERO officers. This 80% increase over six months indicates the increasing risk that ICE ERO officers face as they seek to arrest and detain aliens that entered during periods of loose border restrictions.

Additionally, there remains 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 September 8, 2025, there are 1,505,425 aliens on the ICE non-detained docket with final orders of removal. This number will only increase should this finding not be extended.

At present, ICE currently has 6,204 ERO Officers, with 9,960 vacancies due to surge hiring from the One Big Beautiful Bill Act, P.L. 119-21. This represents a 61% vacancy rate for ICE ERO officers. Although ICE is actively engaging in new hiring, this process takes time and includes the hiring, onboarding, and training of these new officers. The current allocation of ICE

ERO officers and prospective new hires is based on the existing number of aliens in the United States. ICE ERO's efforts to properly enforce immigration on the interior, even after this hiring surge, will be impacted should the influx continue at the Southwest border.

Between April 1 and August 31, 2025, ICE arrested 84,215 aliens with criminal convictions or pending criminal charges, 502 arrested aliens were known or suspected terrorists, and 2,356 arrested aliens were suspected gang members. During this period, ICE removed 85,249 aliens with criminal convictions, 561 aliens that were known or suspected terrorists, and 2,651 suspected gang members. Failure to extend this finding will impede the ability of ICE to properly enforce immigration laws and focus on public safety risks.

On the basis of the above facts, I find that these circumstances continue to 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, Public Law 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"). Given that Congress directed DHS to prevent all unlawful entries, the thousands of aliens that DHS continues to encounter on a weekly basis attempting to enter the United States illegally via the Southwest border is an influx. Therefore, I 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.

[FR Doc. 2025-18255 Filed: 9/19/2025 8:45 am; Publication Date: 9/22/2025]