



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). *See* 90 FR 8399 (Jan 29, 2025). On March 21, 2025, Secretary Noem extended the January 2025 Finding of Mass Influx for 180 days (until September 17, 2025). *See* 90 FR 13,622 (Mar 25, 2025). On September 17, 2025, Secretary Noem extended the March 2025 Finding of Mass Influx for 180 days (until March 21, 2026). *See* 90 FR 45,396 (Sep 22, 2025). On March 21, 2026, Secretary Noem extended the September 2025 Finding of Mass Influx for 180 days (until September 17, 2026). *See* 91 FR 14703. Upon review of the current situation at the border, I am extending that finding for 180 days.

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 discussed in prior notices, for years, our southern border has been overrun. As noted in Proclamation 10888, *Guaranteeing the States Protection Against Invasion*, from 2020 to 2024, “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 14, 2026), available at <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

Second, the ability of DHS to control an influx of aliens at the border continues to be 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).

However, the district court's holding that DHS can no longer directly repatriate apprehended aliens under INA 212(f) but rather must process aliens for expedited removal pursuant to 8 U.S.C. 1225(b)(1), remains in effect.³ Therefore, because of this decision, DHS's implementation of the Invasion Proclamation is still limited. Prior to the court's decision, the Invasion Proclamation disincentivized illegal immigration and contributed to low border encounters throughout much of 2025. As the court's decision is still effective, the concern remains regarding agency resources available to address a mass influx, thereby warranting 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. Specifically, mandatory detention allows the government to effectively vet aliens for criminality or national security threats and ensure that such aliens are not released into the community. 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 thwart appropriate vetting, there is a threat to public safety and national

³ In April 2026, a merits panel of the D.C. Circuit upheld the district court's decision. *RAICES v. Mullin*, 174 F.4th 81 (D.C. Cir. 2026).

security. This does not account for so-called gotaways, of which there have been millions over the last several 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 detain all applicants for admission as required by the INA. *See, e.g.*, 8 U.S.C. 1225(b). As of August 12, 2026, ICE has a detention population of 67,022 with a maximum capacity of 80,700. ICE's facilities are currently at 83% occupancy. Similar to the explanation provided in the March and September 2025 Notices and the March 2026 notice, should this finding not be extended, ICE would face operational constraints and be unable to detain a large number of aliens at the Southwest border despite these aliens being subject to mandatory detention. Additionally, should this finding not be extended, ICE would be required to use bed space to detain some aliens apprehended at the Southwest border at the expense of its interior enforcement priorities, which are designed to enhance and promote public safety.

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. In FY 2025, from October 1, 2024, to September 30, 2025, ICE removed 166,319 aliens with criminal convictions or pending criminal charges. Between October 1, 2025, and August 11, 2026, with 51 days remaining in FY 2026, ICE removed 215,447 aliens with criminal convictions or pending criminal charges. Assuming

the crime rate among 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. However, even if ICE were to continue to remove aliens at the same levels through the rest of this fiscal year, it would still fall short of the total number of aliens removed with criminal convictions or pending criminal charges between FY 2017 and FY 2019, indicating the large, continued presence of criminal aliens in the United States. Where there is an increase in criminal aliens, there is likely to be an increase in criminal activity. This once again shows that ICE must continue to prioritize the removal of 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 July 2026, U.S. Customs and Border Protection's (CBP's) Office of Field Operations (OFO) and U.S. Border Patrol (USBP) encountered 353 criminal aliens. OFO made 750 criminal arrests, and USBP had 33 gang apprehensions. USBP referred 344 smuggling events for prosecution, and OFO referred 347 events for criminal prosecution. Officers and agents seized 24,996.19 pounds of illicit narcotics, including 969.57 pounds of deadly fentanyl. Officers and agents also seized 77 firearms and 11,652 rounds of ammunition, as well as \$859,890.84 in currency. If such significant criminality has been observed even when illegal border crossings are low, these numbers are only likely to increase if border crossings increase and CBP's resources are further stretched.

Fifth, there have been high, unusual, and overwhelming demands on law enforcement officers and agents, which continue to present significant danger to those personnel. For example, in July 2026, CBP records indicate that 22 CBP officers/agents were assaulted. Even while encounter numbers in July 2026 were significantly lower than monthly encounter numbers in previous years, officers and agents at the border still have consistent threats against them, and there are still too many assaults and use of force incidents on officers and agents. ICE records indicate that aliens assaulted or used force against 231 ICE Enforcement and Removal Operations (ERO) officers from February 2026 to the end of July 2026, representing an average of 38.5 per

month. In February 2025, ICE records indicated that aliens assaulted or used force against 10 ICE ERO officers. This 385% increase from February 2025 as well as a continued upward trend 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 August 11, 2026, there are 2,120,058 aliens on the ICE non-detained docket with final orders of removal. Should the finding not be extended, and more aliens placed on the non-detained docket, this number would only continue to increase.

Between March 1, 2026, and August 11, 2026, ICE arrested 214,992 aliens. Of those, 121,055 aliens had criminal convictions or pending criminal charges, 452 were known or suspected terrorists, and 2,700 were 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 (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.

Markwayne Mullin,

Secretary of Homeland Security.

[FR Doc. 2026-19253 Filed: 9/18/2026 8:45 am; Publication Date: 9/21/2026]