

JUSTICE NEWS

Department of Justice

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DOJ and DHS Issue New Asylum Rule**Applies President's authority to suspend entry to asylum**

Acting Attorney General Matthew Whitaker and Department of Homeland Security Secretary Kirstjen Nielsen today announced an Interim Final Rule declaring that those aliens who contravene a presidential suspension or limitation on entry into the United States through the southern border with Mexico issued under section 212(f) or 215(a)(1) of the Immigration and Nationality Act (INA) will be rendered ineligible for asylum.

The Acting Attorney General and the Secretary issued the following joint statement:

“Consistent with our immigration laws, the President has the broad authority to suspend or restrict the entry of aliens into the United States if he determines it to be in the national interest to do so. Today’s rule applies this important principle to aliens who violate such a suspension or restriction regarding the southern border imposed by the President by invoking an express authority provided by Congress to restrict eligibility for asylum. Our asylum system is overwhelmed with too many meritless asylum claims from aliens who place a tremendous burden on our resources, preventing us from being able to expeditiously grant asylum to those who truly deserve it. Today, we are using the authority granted to us by Congress to bar aliens who violate a Presidential suspension of entry or other restriction from asylum eligibility.”

Section 212(f) of the Immigration and INA states that “[w]henver the President finds that the entry of **any aliens or of any class of aliens** into the United States would be detrimental to the interests of the United States, he may by proclamation, and for such period as he shall deem necessary, **suspend the entry of all aliens or any class of aliens** as immigrants or nonimmigrants, or impose on the entry of aliens **any restrictions he may deem to be appropriate**.”

Further, Section 215(a) of the INA states that it is “unlawful...for any alien to depart from or enter or attempt to depart from or enter the United States except under such reasonable rules, regulations, and orders, and subject to such limitations and exceptions as the President may prescribe.”

In Section 208(d)(5)(B) of the INA, Congress specified that the Attorney General “may provide by regulation for any other conditions or limitations on the consideration of an application for asylum.”

Today’s new rule applies to prospective presidential proclamations, and is not retroactive.

Asylum is a discretionary form of relief granted by the Executive Branch on a discretionary basis to those fleeing persecution on the basis of their race, religion, nationality, membership in a particular social group, or political opinion. The rule does not render such aliens ineligible for withholding of removal under the INA or protection from removal under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The Interim Final Rule can be found [here](#).

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Immigration

Component(s):

[Office of the Attorney General](#)

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