



JUL 10 2025

**U.S. Customs and
Border Protection**

Commissioner

MEMORANDUM FOR:

Diane J. Sabatino
Acting Executive Assistant Commissioner
Office of Field Operations

Michael W. Banks
Chief
U.S. Border Patrol

Jonathan P. Miller
Executive Assistant Commissioner
Air and Marine Operations

FROM:

Rodney S. Scott
Commissioner

A blue ink signature of Rodney S. Scott.

SUBJECT:

Detention of Applicants for Admission

The Department of Homeland Security (DHS)'s authority to detain, and its authority or lack of authority to release, an alien from immigration detention varies based upon the circumstances of the case. This memorandum serves as notice that DHS, in coordination with the Department of Justice (DOJ), has revisited its legal position on detention and release authorities. DHS has determined that section 235 of the Immigration and Nationality Act (INA), rather than section 236, is the applicable immigration detention authority for all applicants for admission.

An “applicant for admission” is an alien present in the United States who has not been admitted or who arrives in the United States, whether or not at a designated port of arrival. INA § 235(a)(1). This includes all aliens who are encountering DHS for the first time, regardless of when or where that first encounter occurs. **Effective immediately, it is the position of DHS that applicants for admission are subject to mandatory detention under INA § 235(b) and may not be released from DHS custody except by INA § 212(d)(5) parole.** For custody purposes, these aliens are now treated in the same manner that “arriving aliens” have historically been treated. The only aliens eligible for a custody determination and release on recognizance, bond, or conditional parole under INA § 236(a) are aliens admitted to the United States and chargeable with deportability under INA § 237, with the exception of those subject to mandatory detention under INA § 236(c).

Use of the Warrant of Arrest (I-200), Notice of Custody Determination (I-286), and Release on Own Recognizance (I-220A) will no longer be an option for applicants for admission. Applicants for admission will be detained under INA § 235(b) unless parole under INA § 212(d)(5) is appropriate.