



DEPARTMENT OF HOMELAND SECURITY

8 CFR Chapter I

[USCIS Docket No. USCIS-2019-0021]

RIN 1615-AC42

Ratification of Department Action

AGENCY: Department of Homeland Security (DHS).

ACTION: Ratification.

SUMMARY: The Department of Homeland Security is publishing notice of the Secretary of Homeland Security's ratification of a rule.

DATES: The ratification was signed on October 29, 2025 and relates back to the original date of the action that it ratifies.

FOR FURTHER INFORMATION CONTACT: Office of the General Counsel, DHS, Washington, DC 20528 (202) 282-9822.

SUPPLEMENTARY INFORMATION: On October 29, 2025, the Secretary of Homeland Security ratified the approval and issuance of the final rule titled "Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review," as well as the associated notice of proposed rulemaking. *See* 85 FR 80274 (Dec. 11, 2020); 85 FR 36264 (June 15, 2020).

DHS is now publishing the ratification in the **Federal Register** out of an abundance of caution. Neither the ratification nor the publication is a statement that the ratified action would be invalid absent the ratification, whether published or otherwise.

Joseph N. Mazzara,
Acting General Counsel,
U.S. Department of Homeland Security.

APPENDIX



RATIFICATION

Former Acting Secretary Chad Wolf approved and issued two joint Department of Homeland Security (DHS) – Department of Justice (DOJ) actions relevant here:

- 1) *Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review*, 85 Fed. Reg. 36,264 (June 15, 2020) (Notice of Proposed Rulemaking (“NPRM”) (“Global Asylum Rule NPRM”).
- 2) *Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review*, 85 Fed. Reg. 80,274 (Dec. 11, 2020) (final rule) (“Global Asylum Final Rule”).

Out of an abundance of caution, I am affirming and ratifying the approval and issuance of the Global Asylum NPRM and Global Asylum Final Rule to provide an independent basis to address potential legal challenges to the final rule. I am taking this action because of a Government Accountability Office opinion, *see* B-331650 (Comp. Gen., Aug. 14, 2020) and litigation alleging that the April 9, 2019, order of succession issued by former Secretary Kirstjen Nielsen and the November 8, 2019, order of succession issued by former Acting Secretary Kevin McAleenan were not valid. *See Pangea Legal Servs. v. DHS*, 512 F. Supp. 3d 966 (N.D. Cal. 2021) (issuing a preliminary injunction against the Global Asylum Final Rule on the basis of Chad Wolf’s service as Acting Secretary).

Former Acting Secretary Wolf’s approval and issuance of the Global Asylum NPRM and the Global Asylum Final Rule was a delegable action that may be ratified. *See* 5 U.S.C. § 3348(a)(2). *See also, e.g., Gonzales & Gonzales Bonds & Ins. Ag v. U.S. Dep’t of Homeland Sec.*, 107 F.4th 1064 (9th Cir. 2024) (“We conclude that the Secretary had the authority to delegate promulgation of the Rule; it was not a function or duty singularly entrusted to the Secretary. . . . Thus, ratification of the Rule by [the] Secretary . . . cured any defect in the Rule’s promulgation.” (cleaned up)); *Guedes v. Bureau of Alcohol, Tobacco, Firearms, and Explosives*, 920 F.3d 1, 13 (D.C. Cir. 2019) (“We have repeatedly held that a properly appointed official’s ratification of an allegedly improper official’s prior action . . . resolves the claim on the merits by remedy[ing] [the] defect (if any) from the initial appointment.”) (internal quotation marks and citation omitted, brackets in original).

I have familiarized myself with the contents, purpose, and requirements of the Global Asylum Rules. The ratification relates back in time to the original approval and issuance of the Global

Asylum NPRM and Global Asylum Final Rule. Thus, any subsequent actions altering or enjoining the rule have no bearing on this ratification.

Nevertheless, I acknowledge that the following intervening rules have subsequently amended provisions of the Code of Federal Regulations amended by the Global Asylum Final Rule: *Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers*, 87 Fed. Reg. 18,078 (Mar. 29, 2022); *Implementation of the 2022 Additional Protocol to the 2002 U.S.-Canada Agreement for Cooperation in the Examination of Refugee Status Claims From Nationals of Third Countries*, 88 Fed. Reg. 18,227 (Mar. 28, 2023), as corrected by *Implementation of the 2022 Additional Protocol to the 2002 U.S.-Canada Agreement for Cooperation in the Examination of Refugee Status Claims From Nationals of Third Countries; Correction*, 88 Fed. Reg. 23,329 (Apr. 17, 2023); *Circumvention of Lawful Pathways*, 88 Fed. Reg. 31,314 (May 16, 2023); and *Application of Certain Mandatory Bars in Fear Screenings*, 89 Fed. Reg. 103,370 (Dec. 18, 2024). Further, *Security Bars and Processing*, 85 Fed. Reg. 84,160 (Dec. 23, 2020) contained amendments to provisions of the Global Asylum Final Rule, but DHS and DOJ have delayed those amendments, most recently until December 31, 2025. See *Security Bars and Processing; Delay of Effective Date*, 89 Fed. Reg. 105,386 (Dec. 27, 2024).

As a result, while I am approving and ratifying the approval and issuance of the Global Asylum NPRM and Global Asylum Final Rule as published in 2020 in their entirety, I acknowledge that portions of the Global Asylum Final Rule's provisions cannot legally take effect because of the above-listed rules' amendments to the Code of Federal Regulations. I further acknowledge that the provisions of the Global Asylum Final Rule that remain in the Code of Federal Regulations cannot be implemented while the injunction in *Pangea Legal Servs. v. DHS*, 512 F. Supp. 3d 966 (N.D. Cal. 2021), is in effect.

Pursuant to my authority as Secretary of Homeland Security and based on my review of the actions listed above, I hereby make a detached and considered affirmation and ratification of the approval and issuance of the Global Asylum NPRM and the Global Asylum Final Rule.


Kristi Noem
Secretary of Homeland Security

11-29-25
Date