



8 CFR Chapter I

[USCIS Docket No. USCIS 2020-0013]

RIN 1615-AC57

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 December 15, 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 December 15, 2025, the Secretary of Homeland Security ratified the approval and issuance of the final rule titled "Security Bars and Processing," as well as the associated notice of proposed rulemaking. *See* 85 FR 41201 (July 9, 2020); 85 FR 84160 (Dec. 23, 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.

James H. Percival II,
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) *Security Bars and Processing*, 85 Fed. Reg. 41,201 (July 9, 2020) (Notice of Proposed Rulemaking (“NPRM”)) (“Security Bars NPRM”).
- 2) *Security Bars and Processing*, 85 Fed. Reg. 84,160 (Dec. 23, 2020) (Final Rule) (“Security Bars Final Rule”).

Out of an abundance of caution, I am affirming and ratifying the approval and issuance of the Security Bars NPRM and Security Bars Final Rule. I am taking this action because of a Government Accountability Office opinion, *see* B-331650 (Comp. Gen., Aug. 14, 2020) stating 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. U.S. Dep’t of Homeland Sec.*, 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 Security Bars NPRM and the Security Bars 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, 1067-68 (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 Security Bars NPRM and the Security Bars Final Rule. The ratification relates back in time to the original approval and issuance of the Security Bars NPRM and the Security Bars Final Rule. Thus, any subsequent actions altering or delaying the rule have no bearing on this ratification.

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 Security Bars NPRM and the Security Bars Final Rule.



Kristi Noem,
Secretary of Homeland Security

12/15/2025

Date