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DEPARTMENT OF HOMELAND SECURITY

8 CFR Chapter I

[DHS Docket No. ICEB-2017-0001]

RIN 1653-AA67

Ratification of Department Action

AGENCY: Department of Homeland Security (DHS).

ACTION: Ratification.

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

DATES: The ratification was signed on April 15, 2021 and relates back to the original date of the action that it ratifies.

FOR FURTHER INFORMATION CONTACT: Leo (Chip) Boucher, Assistant General Counsel, Administrative Law, Office of the General Counsel, Department of Homeland Security, Washington, DC 20528, (202) 282-9822.

SUPPLEMENTARY INFORMATION: On April 15, 2021, the Secretary of Homeland Security ratified a final rule entitled, Procedures and Standards for Declining

Surety Immigration Bonds and Administrative Appeal Requirement for Breaches. See 85 FR 45968 (July 31, 2020). The Department 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.

Signed:

Adam Hunter,

Deputy Assistant Secretary for Immigration Policy, U.S. Department of Homeland Security.

Appendix

Secretary

U.S. Department of Homeland Security
Washington, DC 20528**Homeland
Security****Ratification of the Final Rule Regarding Surety Bonds**

I am affirming and ratifying the delegable action taken by Acting Secretary Wolf, *see* 5 U.S.C. § 3348(a)(2), as listed below, to provide an independent basis to address potential legal challenges to the final rule because of a Government Accountability Office (GAO) opinion, *see* B-331650 (Comp. Gen., Aug. 14, 2020) and actions filed in federal court 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, e.g., 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).

I have full knowledge of the ICE Final Rule: *Procedures and Standards for Declining Surety Immigration Bonds and Administrative Appeal Requirements for Breaches*, approved on July 1, 2020, and I believe that this action was consistent with the Department’s authorities.

Pursuant to the Secretary of Homeland Security’s authorities under, *inter alia*, the Homeland Security Act of 2002, Pub. L. No. 107-296, as amended, and 5 U.S.C. §§ 301-302, I hereby make a detached and considered affirmation and ratification of the above noted action originally taken and approved on July 1, 2020.

A handwritten signature in black ink, appearing to read "Alejandro N. Mayorkas".

Alejandro N. Mayorkas
Secretary

April 15, 2021
Date

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