

Collection	Total burden hours	Number of respondents	Number of responses per respondent	Total responses	Time per response
Cargo Declaration Outward With Commercial Forms (CBP Form 1302A)	10,000	500	400	200,000	3 minutes.
Importer Security Filing .....	17,739,000	240,000	33.75	8,100,000	2.19 hours.
Vessel Stow Plan (Import) .....	31,803	163	109	17,767	1.79 hours.
Vessel Stow Plan (Export) .....	31,803	163	109	17,767	1.79 hours.
Container Status Messages .....	23,996	60	4,285,000	257,100,000	0.0056 minutes.
Request for Manifest Confidentiality .....	1,260	5,040	1	5,040	15 minutes.
Electronic Air Export Manifest .....	121,711	260	5,640	1,466,400	5 minutes.
Electronic Ocean Export Manifest .....	5,000	500	400	200,000	1.5 minutes.
Electronic Rail Export Manifest .....	2,490	50	300	15,000	10 minutes.
Total .....	20,796,603	289,996	.....	281,217,774	

Dated: July 28, 2017.

**Seth Renkema,**

*Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.*

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**DEPARTMENT OF HOMELAND SECURITY**

**Office of the Secretary**

**Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended**

**AGENCY:** Office of the Secretary, Department of Homeland Security.

**ACTION:** Notice of determination.

**SUMMARY:** The Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international land border of the United States near the city of San Diego in the state of California.

**DATES:** This determination takes effect on August 2, 2017.

**SUPPLEMENTARY INFORMATION:** The principal mission requirements of the Department of Homeland Security (“DHS”) include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation’s national security. Recognizing the critical importance of border security, Congress has ordered DHS to achieve and maintain operational control of the international land border. Secure Fence Act of 2006, Public Law 109-367, 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined “operational control” as the prevention of all unlawful entries into the United States, including entries by terrorists, other

unlawful aliens, instruments of terrorism, narcotics, and other contraband. Secure Fence Act of 2006, Public Law 109-367, 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Consistent with that mandate from Congress, the President’s Executive Order on Border Security and Immigration Enforcement Improvements directed executive departments and agencies to deploy all lawful means to secure the southern border. Executive Order 13767, § 1. To achieve this end, the President directed, among other things, that I take immediate steps to prevent all unlawful entries into the United States, to include the immediate construction of physical infrastructure to prevent illegal entry. Executive Order 13767, § 4(a).

Congress has provided the Secretary of Homeland Security with a number of authorities necessary to carry out DHS’s border security mission, including the border security provisions described above. One of these authorities is found at section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”). Public Law 104-208, Div. C, 110 Stat. 3009-546, 3009-554 (Sept. 30, 1996) (8 U.S.C 1103 note), as amended by the REAL ID Act of 2005, Public Law 109-13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109-367, § 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110-161, Div. E, Title V, § 564, 121 Stat. 2090 (Dec. 26, 2007). In section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In section 102(b) of IIRIRA,

Congress has called for the installation of additional fencing, barriers, roads, lighting, cameras, and sensors on the southwest border. Finally, in section 102(c) of IIRIRA, Congress granted to the Secretary of Homeland Security the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

**Determination and Waiver**

*Section 1*

The United States Border Patrol’s San Diego Sector is one of the busiest Sectors in the Nation. For example, in fiscal year 2016 alone, the United States Border Patrol apprehended over 31,000 illegal aliens and seized approximately 9,167 pounds of marijuana and approximately 1,317 pounds of cocaine in the San Diego Sector. To be sure, the construction of border infrastructure and other operational improvements have improved border security in the San Diego Sector; however, more work needs to be done. The San Diego Sector remains an area of high illegal entry for which there is an immediate need to construct additional border barriers and roads.

To begin to meet the need for additional border infrastructure within the San Diego Sector, DHS will immediately implement various border infrastructure projects. These projects will focus on an approximately fifteen mile segment of the border within the San Diego Sector that starts at the Pacific Ocean and extends eastward. This approximately fifteen mile segment of the border is referred to herein as the “Project Area” and is more specifically described in Section 2 below.

All of the projects that DHS will undertake within the Project Area will further Border Patrol’s ability to deter and prevent illegal crossings. For example, DHS will replace existing primary fencing in the Project Area. The

majority of the existing primary fence in the Project Area was built in the early 1990s using a fence design that is no longer optimal for Border Patrol operations. The new primary barrier will use an operationally effective design that is intended to meet Border Patrol's current requirements. DHS will also build prototype border wall in the Project Area near the eastern terminus of the existing secondary barrier. The construction of border wall prototypes in the Project Area and the robust physical characteristics that are to be incorporated into the border wall prototypes are intended to deter illegal crossings. In addition to deterring illegal crossings in the Project Area, DHS will use the border wall prototypes to evaluate various design features for potential inclusion in a border wall standard that will be developed by the Government and utilized as a part of border wall construction going forward. Importantly, construction of the border wall prototypes in the Project Area also means that DHS can evaluate various design features in the border environment under actual operational conditions. As such, the construction of border wall prototypes will not only deter illegal entry in the Project Area, but evaluation of the border wall prototypes is also critical to and necessary for future border wall design and construction.

### Section 2

I determine that the following area in the vicinity of the United States border, located in the state of California within the United States Border Patrol's San Diego Sector, which is referred to herein as the Project Area, is an area of high illegal entry: Starting at the Pacific Ocean and extending to approximately one mile east of Border Monument 251.

There is presently a need to construct physical barriers and roads, including the infrastructure projects described in Section 1, in the vicinity of the border of the United States to deter illegal crossings in the Project Area. In order to ensure the expeditious construction of the barriers and roads in the Project Area, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of IIRIRA as amended.

Accordingly, pursuant to section 102(c) of IIRIRA, I hereby waive in their entirety, with respect to the construction of roads and physical barriers (including, but not limited to, accessing the Project Area, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of physical barriers, roads,

supporting elements, drainage, erosion controls, and safety features) in the Project Area, the following statutes, including all federal, state, or other laws, regulations and legal requirements of, deriving from, or related to the subject of, the following statutes, as amended: The National Environmental Policy Act (Pub. L. 91-190, 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*)), the Endangered Species Act (Pub. L. 93-205, 87 Stat. 884 (Dec. 28, 1973) (16 U.S.C. 1531 *et seq.*)), the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act (33 U.S.C. 1251 *et seq.*)), the National Historic Preservation Act (Pub. L. 89-665, 80 Stat. 915 (Oct. 15, 1966), as amended, repealed, or replaced by Pub. L. 113-287 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 470 *et seq.*, now codified at 54 U.S.C. 100101 note and 54 U.S.C. 300101 *et seq.*)), the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*), the Migratory Bird Conservation Act (16 U.S.C. 715 *et seq.*), the Clean Air Act (42 U.S.C. 7401 *et seq.*), the Archeological Resources Protection Act (Pub. L. 96-95 (16 U.S.C. 470aa *et seq.*)), the Paleontological Resources Preservation Act (16 U.S.C. 470aaa *et seq.*), the Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4301 *et seq.*), the National Trails System Act (16 U.S.C. 1241 *et seq.*), the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*), the Noise Control Act (42 U.S.C. 4901 *et seq.*), the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*), the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*), the Archeological and Historic Preservation Act (Pub. L. 86-523, as amended, repealed, or replaced by Pub. L. 113-287 (Dec. 19, 2014) (formerly codified at 16 U.S.C. 469 *et seq.*, now codified at 54 U.S.C. 312502 *et seq.*)), the Antiquities Act (formerly codified at 16 U.S.C. 431 *et seq.*, now codified at 54 U.S.C. 320301 *et seq.*), the Historic Sites, Buildings, and Antiquities Act (formerly codified at 16 U.S.C. 461 *et seq.*, now codified at 54 U.S.C. 3201-320303 & 320101-320106), the Wild and Scenic Rivers Act (Pub. L. 90-542 (16 U.S.C. 1281 *et seq.*)), the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*), the Coastal Zone Management Act (Pub. L. 92-583 (16 U.S.C. 1451 *et seq.*)), the Wilderness Act (Pub. L. 88-577 (16 U.S.C. 1131 *et seq.*)), the Federal Land Policy and Management Act (Pub. L. 94-579 (43 U.S.C. 1701 *et seq.*)), the National Wildlife Refuge System Administration Act (Pub. L. 89-669 (16 U.S.C. 668dd-668ee)), the National

Wildlife Refuge System Improvement Act of 1997 (Pub. L. 105-57), National Fish and Wildlife Act of 1956 (Pub. L. 84-1024 (16 U.S.C. 742a, *et seq.*)), the Fish and Wildlife Coordination Act (Pub. L. 73-121 (16 U.S.C. 661 *et seq.*)), the Wild Horse and Burro Act (16 U.S.C. 1331 *et seq.*), an Act of Oct. 30, 2000, Pub. L. 106-398, 1, 114 Stat. 1654 (enacting into law § 2848 of Part II of Subtitle D of Title XXVIII of Division B of H.R. 5408 (114 Stat. 1654A-426), as introduced on Oct. 6, 2000), the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), the Otay Mountain Wilderness Act of 1999 (Pub. L. 106-145), sections 102(29) and 103 of Title I of the California Desert Protection Act (Pub. L. 103-433), the Rivers and Harbors Act of 1899 (33 U.S.C. 403), the Eagle Protection Act (16 U.S.C. 668 *et seq.*), the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*), the American Indian Religious Freedom Act (42 U.S.C. 1996), and the Religious Freedom Restoration Act (42 U.S.C. 2000bb).

This waiver does not repeal the previous waiver published in the **Federal Register** on September 22, 2005 (70 FR 55622).

I reserve the authority to make further waivers from time to time as I may determine to be necessary under section 102 of IIRIRA, as amended.

Dated: July 26, 2017.

**John F. Kelly,**

*Secretary of Homeland Security.*

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## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

[OMB Control Number 1615-0044]

#### Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application for Action on an Approved Application or Petition

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** 30-Day notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of