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 Acting 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 in Webb County, Texas, and Zapata County, Texas.

DATES: This determination takes effect on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

SUPPLEMENTARY INFORMATION:

Important 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 mandated DHS to achieve and maintain operational control of the international land border. Secure Fence Act of 2006, Public Law 109-367, section 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. Id. 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, section 1. In order to achieve that end, the President directed, among other things, that I take immediate steps to prevent all unlawful entries into the United States, including the immediate construction of physical infrastructure to prevent illegal entry. Executive Order 13767, section 4(a).

DETERMINATION AND WAIVER:

Section 1

The United States Border Patrol’s (Border Patrol) Laredo Sector is an area of high illegal entry. In fiscal year 2019, the Border Patrol apprehended over 38,000 illegal aliens attempting to enter the United States between border crossings in the Laredo Sector. In that same time period, the Border Patrol had over 400 drug-related events between border crossings in the Laredo Sector, through which it seized over 36,000 pounds of marijuana, over 500 pounds of cocaine, over 28 pounds of heroin, and over 500 pounds of methamphetamine.

Owing to the high levels of illegal entry within the Laredo Sector, I must use my authority under section 102 of IIRIRA to install additional physical barriers and roads in the Laredo Sector. Therefore, DHS will take immediate action to construct barriers and roads. The area in the vicinity of the border within which such construction will occur is more specifically described in Section 2 below.

Section 2

I determine that the following area in the vicinity of the United States border, located in the State of Texas within the Laredo Sector, is an area of high illegal entry (the “project area”):

- Starting at the Columbia Solidarity International Bridge and generally following the Rio Grande River south and east to approximately one-half (0.5) of a mile south of the southern boundary of the city limits of San Ignacio, Texas.

There is presently an acute and immediate need to construct physical barriers and roads in the vicinity of the border of the United States in order to prevent unlawful entries into the United States in the project area pursuant to sections 102(a) and 102(b) of IIRIRA. 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.
Accordingly, pursuant to section 102(c) of IIRIRA, I hereby waive in their entirety, with respect to the construction of physical barriers and roads (including, but not limited to, accessing the project areas, 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, safety features, lighting, cameras, and sensors) in the project area, all of 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:


This waiver does not revoke or supersede any other waiver determination made pursuant to section 102(c) of IIRIRA. Such waivers shall remain in full force and effect in accordance with their terms. I reserve the authority to execute further waivers from time to time as I may determine to be necessary under section 102 of IIRIRA.

SIGNATURE

The Acting Secretary of Homeland Security, Chad F. Wolf, having reviewed and approved this document, is delegating the authority to electronically sign this document to Chad R. Mizelle, who is the Senior Official Performing the Duties of the General Counsel for DHS, for purposes of publication in the Federal Register.

Chad R. Mizelle,

Senior Official Performing the Duties of the General Counsel.

[FR Doc. 2020-10383 Filed: 5/14/2020 8:45 am; Publication Date: 5/15/2020]