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<PREAMB>

<AGENCY TYPE='S'>**DEPARTMENT OF HOMELAND SECURITY**

<SUBAGY>**Office of the Secretary**

<CFR>**6 CFR Chapter I**

<SUBJECT>**Temporary Extension of Applicability of Regulations Governing Conduct on Federal Property**

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

**ACTION:** Notification of temporary extension of the applicability of regulations.

**SUMMARY:** The Acting Secretary of Homeland Security, pursuant to the Homeland Security Act of 2002, has temporarily extended the applicability of certain regulations governing conduct on federal property to certain areas within the United States Border Patrol's San Diego Sector allowing for their enforcement. This temporary administrative extension enables the Department of Homeland Security (DHS) to protect and secure Federal property at or near the project areas for border wall prototypes and fence replacement near the city of San Diego, including but not limited to, project sites, staging areas, access roads, and buildings temporarily erected to support construction activities and to carry out its statutory obligations to protect and secure the nation's borders. The project areas for border wall prototype and fence replacement are situated within a geographic area that starts at the Pacific Ocean and extends to approximately one mile east of Border Monument 251.

**DATES:** Pursuant to 40 U.S.C. 1315(d), the extension began on September 19, 2017 and will continue for the duration of the construction activities related to the fence replacement and border wall prototype projects near the city of San Diego.

**FOR FURTHER INFORMATION CONTACT:** Joshua A. Vayer, Division Director, Protective Operations Division, Federal Protective Service, joshua.s.vayer@hq.dhs.gov.

**SUPPLEMENTARY INFORMATION:**

**Background**

Pursuant to section 1706 of the Homeland Security Act of 2002, 40 U.S.C. 1315(a); Pub. L. 107-296, 116 Stat. 2135 (Nov. 25, 2002), the Secretary of Homeland Security is responsible for protecting the buildings, grounds, and property owned, occupied, or secured by the Federal Government (including any agency, instrumentality, or wholly owned or mixed ownership corporation thereof) and the persons on the property. To carry out this mandate, the Department is authorized to enforce the applicable Federal regulations for the protection of persons and property set forth in 41 CFR 102-74, subpart C.<sup>1</sup> These regulations govern conduct on federal property and set forth the relevant criminal penalties. Although these regulations apply to all property under the authority of the General Services Administration and to all person entering in or on such property,<sup>2</sup> the Secretary of Homeland Security is authorized pursuant to 40 U.S.C. 1315(d)(2)(A) to extend the applicability of and to enforce these regulations to any property owned or occupied by the Federal Government.

**Temporary Extension of Applicability of Regulations Governing Conduct on Federal Property to Certain Areas in the Vicinity of the Border Near the City of San Diego**

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<sup>1</sup> Although these regulations were issued prior to the Homeland Security Act, per section 1512 of the Act, these regulations remain the relevant regulations for purposes of the protection and administration of property owned or occupied by the Federal Government.

<sup>2</sup> See 41 CFR 102-74.365.

DHS is replacing existing border fence with bollard wall and constructing border wall prototypes near the city of San Diego in the United States Border Patrol's San Diego Sector pursuant to several statutory and executive directives.<sup>3</sup> In order to protect and secure the property at or near the border wall prototype and fence replacement project areas, including, but not limited to, project sites, staging areas, access roads, and buildings temporarily erected to support construction activities, I temporarily extended the applicability, allowing the enforcement, of regulations governing the conduct of individuals on federal property to areas in or around the fence replacement and border wall prototype project areas, pursuant to 40 U.S.C. 1315(d)(2)(A). The project areas for border wall prototype and fence replacement are situated within a geographic area that starts at the Pacific Ocean and extends to approximately one mile east of Border Monument 251. Specifically, I temporarily extended the applicability, allowing the enforcement, of the regulations in 41 CFR part 102-74, subpart C, to any property owned or occupied by the Federal Government at or near the fence replacement and border wall prototype project areas near the city of San Diego.

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<sup>3</sup> The statutory and executive directives relating to the construction of the border wall prototypes include, but are not limited to, section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. 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, Pub. L. 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, Pub. L. 109-367, section 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Pub. L. 110-161, Div. E, Title V, section 564, 121 Stat. 2090 (Dec. 26, 2007) (8 U.S.C. 1103 note), Section 2 of the Secure Fence Act of 2006, Pub. L. 109-367, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note), and E.O. 13767.

The regulations in 41 CFR part 102-74, subpart C, will remain applicable and enforceable at these locations for the duration of the construction related to the fence replacement and border wall prototypes near the city of San Diego.

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<SIG><NAME>Elaine C. Duke,  
<TITLE>Acting Secretary of Homeland  
Security.</SIG>

<FRDOC> [FR Doc. 2017-20383 Filed 9-22-17; 8:45 am]

<BILCOD> BILLING CODE 4410-10-P

[FR Doc. 2017-20383 Filed: 9/22/2017 8:45 am; Publication Date: 9/25/2017]